
AGENDA

ASTORIA CITY COUNCIL MEETING

June 3, 2013

7:00 p.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) Boards and Commission Minutes
 - (1) Historic Landmarks Commission Meeting of 4/16/13
 - (2) Library Board Meeting of 4/23/13
- (b) Contract Award – Astoria Senior Center Renovation Grant Management (Community Development)
- (c) Intergovernmental Agreement with Oregon Department of Transportation for Old Youngs Bay Bridge Temporary Construction Easement (Public Works)
- (d) Resolution Closing Fund 156, the Aquatic Facility Activity Fund (Finance)
- (e) Resolution Declaring Intent to Receive State Shared Revenues (Finance)

6. REGULAR AGENDA ITEMS

- (a) Public Hearing and Resolution Adopting Supplemental Budget for FYE June 30, 2013 (Finance)
- (b) Public Hearing and Resolution Adopting Budget for Fiscal Year 2013-14 (Finance)
- (c) Ordinance regarding Amendment Request (A13-01) by Rising Tide Enterprises LLC to the Land Use and Zoning Map to Rezone an Area at 16th and Exchange Streets from C-3 to R-3 (2nd reading & adoption) (Community Development)
- (d) Ordinance regarding Amendment Request (A13-02) by Cannery Loft Holdings LLC to the Land Use and Zoning Map to Rezone a Parcel from G1 to S-2A (2nd reading & adoption) (Community Development)
- (e) Authorization to Award 5th and Duane Street Landslide Clean Up (Public Works)
- (f) Pay Adjustment #2 – Garden of Surging Waves, Sequence A (Community Development)
- (g) Irving Avenue: 19th Street Bridge Replacement – Pedestrian Access through the Construction Site (Public Works)
- (h) Authorization of Contract for Specialty Inspection and Material Testing Services for Wastewater Treatment Plant Effluent Treatment Upgrades (Public Works)

- (i) Request from Melissa Yowell of 690 17th Street to Top/Trim Trees on City Property (Public Works)
- (j) Public Hearing to Exempt Contract from Competitive Solicitation Requirements for Astoria Library Renovation, Resolution Adopting Findings, and Award Contract for Project Consultant (Library/Community Development)

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

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.



CITY OF ASTORIA

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May 30, 2013

MEMORANDUM

TO: ASTORIA CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL MEETING OF JUNE 3, 2013

CONSENT CALENDAR

Item 5(a): Boards and Commissions Minutes

The minutes of the (1) Historic Landmarks Commission meeting of 4/16/13, and (2) Library Board meeting of 4/23/13, are enclosed. Unless there are any questions or comments regarding the contents of these minutes, they are presented for information only.

Item 5(b): Contract Award – Astoria Senior Center Renovation Grant Management (Community Development)

At the May 6, 2013 meeting, Council authorized staff to advertise for a grant administrator for the Astoria Senior Center (ASC) Community Development Block Grant. The grant administrator will be responsible for ensuring that the City is in compliance with all State and Federal regulations. Staff circulated a request for statements of qualifications to three potential consultants, Mary McArthur of Col-Pac, Vicki Goodman of VLG Consulting, and Mark Barnes, a local consultant. One response was received from Mary McArthur of Col-Pac on May 13, 2013. City and ASC staff evaluated the proposal and determined that Ms. McArthur is qualified and would be a good choice. It is recommended that the City Council authorize a contract with Col-Pac in an amount not to exceed \$55,000 for grant administration services for the Astoria Senior Center CDBG. All costs associated with this contract will be covered by grant funding.

Item 5(c): Intergovernmental Agreement with Oregon Department of Transportation for Old Youngs Bay Bridge Temporary Construction Easement (Public Works)

The Oregon Department of Transportation (ODOT) will begin work to repair and paint the Old Youngs Bay Bridge in the fall of 2013. In order to access the bridge, ODOT required a temporary construction easement through City

property adjacent to the former Yacht Club. This easement is for construction access only; no material staging or associated construction work is permitted. No exchange of funds is proposed for the easement. The agreement will expire no later than October 1, 2017 or once work is completed. ODOT will return the temporary easement area to the pre-construction condition at their expense. The City Attorney has reviewed the attached agreement and has approved it as to legal form.

In addition to the construction access agreement, the City may need to relocate a small section of existing waterline to eliminate a conflict with an ODOT proposed stormwater treatment vault. Public Works staff is coordinating with ODOT to develop a reasonable solution to the conflict. It is recommended that Council enter into an Intergovernmental Agreement to allow construction access across City property to support repairs, improvements, and painting of the Old Youngs Bay Bridge.

Item 5(d): Resolution Closing Fund 156, the Aquatic Facility Activity Fund (Finance)

Fund 156, the Aquatic Facility Activity Fund, was established to account for the receipt and disbursement of funds for the operation of the Aquatic Facility from its inception through FYE June 30, 2012. In May of 2012, Council authorized combining the activities of this fund along with the General Fund activities related to Parks and Recreation and Maintenance into a single new fund #158, the Parks Operation Fund. With that Council action, there is no longer a need for this fund. It is recommended that Council adopt the resolution closing this fund.

Item 5(e): Resolution Declaring Intent to Receive State Shared Revenues (Finance)

Oregon Revised Statute 221.770 requires the City to adopt a resolution to declare its intent to receive state revenue for each new fiscal year. The attached resolution would accomplish that. It is recommended that Council adopt the proposed resolution.

REGULAR AGENDA ITEMS

Item 6(a): Public Hearing and Resolution Adopting Supplemental Budget for FYE June 30, 2013 (Finance)

Oregon Revised Statute (ORS) 294.471 / 473 provides that a municipality may adopt a supplemental budget by publishing a notice, holding a hearing on the supplemental budget, and adopting the budget by resolution. The supplemental budgets are necessary for the following reasons: As approved by Council, the Promote Astoria Fund received proceeds of \$350,000 for a borrowing from Clatsop Community Bank. The purpose of the borrowing is to support the development of the Heritage Square project. The supplemental budget will transfer funds to the Parks Project Fund to continue the Heritage Square project. The Parks Project Fund requires a supplemental budget to appropriate

the transfer described above and to receive additional funds from the Astor East Urban Renewal District (AEURD) so that the funds may be expended. It is recommended that Council hold the public hearing and adopt the proposed resolution.

Item 6(b): Public Hearing and Resolution Adopting Budget for Fiscal Year 2013-14 (Finance)

Oregon Local Budget Law requires that the City Council hold a public hearing on the budget, as approved by the Budget Committee. Notice of this hearing, scheduled for June 3, 2013, was published in the Daily Astorian on Friday, May 17, 2013. The Budget Committee approved the FYE June 30, 2014 budget at its meeting on April 25, 2013. The only adjustments by the Budget Committee to the Proposed Budget were related to the distribution of funds in response to requests by community organizations and the set aside of \$30,000 in the Promote Astoria fund for organizations promoting Astoria. Copies of the budget were previously distributed to the Council and Budget Committee. Copies are available from the Finance Department upon request and are posted on the City's website. It is recommended that Council conduct the public hearing and adopt the proposed resolution.

Item 6(c): Ordinance regarding Amendment Request (A13-01) by Rising Tide Enterprises LLC to the Land Use and Zoning Map to Rezone an Area at 16th and Exchange Streets from C-3 to R-3 (2nd reading & adoption) (Community Development)

This proposed ordinance received its first reading at the May 20, 2013 City Council meeting. The ordinance amends the Land Use and Zoning Map to rezone an area at 16th and Exchange Streets from the C-3 Zone to the R-3 Zone. It is recommended that the City Council conduct a second reading and adopt the ordinance.

Item 6(d): Ordinance regarding Amendment Request (A13-02) by Cannery Loft Holdings LLC to the Land Use and Zoning Map to Rezone a Parcel from GI to S-2A (2nd reading & adoption) (Community Development)

This proposed ordinance received its first reading at the May 20, 2013 City Council meeting. The ordinance amends the Land Use and Zoning Map to rezone a parcel from the GI Zone to the S-2A zone on the north side of Abbey Lane east of 39th Street. It is recommended that the City Council conduct a second reading and adopt the ordinance.

Item 6(e): Authorization to Award 5th and Duane Street Landslide Clean Up (Public Works)

In December 2012 a landslide occurred on City owned property impacting the south side of Duane Street between 5th and 6th Street. Movement continued over the next several weeks bringing several large trees and a more substantial volume of soil onto the road. Landslide Technology (on-call Geotechnical firm)

helped evaluate the slide and provided recommendations to guide the clean-up effort.

Since mid-February, the area has remained relatively stable. Public Works staff has developed a project to address additional debris removal and erosion control. The project includes loose slide debris removal, removal of concrete blocks and installation of erosion control measures, and hydroseeding.

Staff used the Request for Quotes process (RFQ) as the Engineer's estimate for the project is \$20,000 with a 15% contingency.

Contractor	Total Bid
TFT Construction Inc.	\$13,618.00
North Pacific Excavation	\$15,817.82
Bergeman Construction	\$28,034.20
Big River Construction	\$32,030.00

It is recommended that Council authorize a contract for \$13,618.00 with TFT Construction Inc., for the 5th and Duane Street Slide Clean-up Project. Funds for the project are available in the Capital Improvement Fund.

Item 6(f): Pay Adjustment #2 – Garden of Surging Waves, Sequence A (Community Development)

The City Council previously authorized the award of a construction contract to Robinson Construction Company in the amount of \$798,498 for the first sequence of the Garden of Surging Waves. One pay adjustment has been processed to date with the second presented in this memo for consideration. Adjustment #2, in the amount of \$6,223.64, addresses the need for additional electrical junction boxes within the project site. Not all of the site light fixtures are going to be installed within Sequence A. In order to install these fixtures in later Sequences, the added junction boxes are needed at this time. The junction boxes will facilitate the smooth connection and pulling of electrical wire, thereby avoiding additional costs for installation during a later Sequence. The total pay adjustments would be a 2% change in the contract amount. The pay adjustment would be paid from the budgeted project contingency of \$142,106 and would leave approximately 89% of the contingency remaining. It is recommended that the City Council authorize Pay Adjustment #2 in the amount of \$6223.64 with Robinson Construction for the Garden of Surging Waves.

Item 6(g): Irving Avenue: 19th Street Bridge Replacement – Pedestrian Access through the Construction Site (Public Works)

On July 19, 2010, Council approved entering into an Intergovernmental Agreement with ODOT to secure grant funding through the Highway Bridge Program (HBP) for the replacement of the Irving Avenue Bridge. The total estimated project cost is \$5,877,000. The agreement provides HBP grant funds in the amount of \$5,273,432 with the City being responsible for a match of

\$603,568. In February, Council authorized staff and the engineering consultant, David, Evans and Associates (DEA), to commence work on a single-span bridge design. On May 20, 2013, City staff and DEA updated Council on the design, showcasing a photo simulation of the completed bridge. A public open house was held the following evening at the Astoria Recreation Center. According to the sign-in sheet, nine people attended and were in support of the project. One person inquired about pedestrian access during construction and the project team explained the estimated cost of \$300,000 for a formal pedestrian access through the construction site that must meet Federal requirements. This person agreed that the cost was not worth the temporary inconvenience to pedestrians during construction.

DEA will evaluate the possibility of sequencing construction activities to allow pedestrians on the new bridge as soon as possible. It is recommended that Council authorize DEA to continue bridge design without pedestrian access through the construction site for the Irving Avenue: 19th Street Bridge Replacement project.

Item 6(h): Authorization of Contract for Specialty Inspection and Material Testing Services for Wastewater Treatment Plant Effluent Treatment Upgrades (Public Works)

The upcoming Wastewater Treatment Plant (WWTP) Effluent Treatment Upgrades project includes the following improvements:

- Dechlorination equipment and instrumentation
- Chlorine contact chamber upgrades
- Wastewater effluent flow meter replacement
- Wastewater effluent pH adjustment equipment and instrumentation
- Chlorine feed system upgrades and instrumentation

In November 2012, R&G Excavating (R&G) was awarded a construction contract for the project. They have been working through the submittal process and procuring long-lead time equipment. On May 22, 2013, R&G mobilized to the site and began installing fill material that will need to settle over the next month or so. Primary construction activities will take place during the summer months when the flows to the treatment plant are at their lowest point.

To ensure quality control during construction, specialty inspection and materials testing will need to be performed. Staff requested a scope and fee from Mayes Testing Engineers, Inc., in the amount of \$10,600 to provide these services. It is recommended that the City Council award the specialty inspection and materials testing services contract for the WWTP Effluent Treatment Upgrades project to Mayes Testing Engineers, Inc., for \$10,600. Funds are available for this project through IFA funding.

Item 6(i): Request from Melissa Yowell of 690 17th Street to Top/Trim Trees on City Property (Public Works)

Melissa Yowell of 690 17th Street has submitted an application for permission to top trees on city property. The city owned property is to the east of Ms. Yowell's property and includes Tax Lot 2800, Map 80908DC. On March 4, 2013 Council denied a tree cutting permit submitted by Ms. Yowell. The primary reason for the denial was an adjacent neighbor's opposition. Ms. Yowell was not present at the meeting to respond to her neighbor's concerns.

In a newly submitted permit, Ms. Yowell is requesting permission to top or trim nine Red Alders and Norway Maple saplings with diameters of approximately 8 inches as per her arborist's professional judgment. Based on arborist's recommendations and from a technical standpoint, staff supports the proposed topping/trimming. All adjacent property owners will be notified that this request will be heard by the Council at the June 3, 2013 meeting.

It is recommended that the City Council either reconsider its decision on the original request or approve the current modified proposal for trimming/topping. In either case, we recommend that any approval be conditioned as follows:

- 1) Applicant will provide a letter of concurrence from the project arborist certifying that the work was completed in strict compliance with all recommendations of the report and our permit.
- 2) Applicant shall employ any erosion control measures recommended by the project arborist and take any other measures required to stabilize all disturbed areas and assure that new growth is fully established.

Item 6(j): Public Hearing to Exempt Contract from Competitive Solicitation Requirements for Astoria Library Renovation, Resolution Adopting Findings, and Award Contract for Project Consultant (Library/ Community Development)

The Astoria City Council Goals for Fiscal Year 2012-2013 included a goal which states: Develop plans, budget requirements and a projected schedule for renovation of the Astoria Library. Furthermore, at the May 6, 2013 City Council meeting, the Council adopted their goals for 2013-2014, which included a goal to "Continue with Development of Plans for Renovation of the Astoria Library". Over the past few months, the Library Board and staff have been taking steps to move forward with the renovation process.

At the March and April 2013 Library Board meetings, the Board discussed next steps in the renovation process. A key next step recommended by the Board is to secure the services of a library planner / futurist to assist in development of a building program for a potential remodel. The library planner / futurist would be able to provide information on where libraries are headed in the future. Furthermore, they would engage the public to understand the needs and

desires of the community. Ultimately, a building program would be developed which would include details as what would occur in the library and the specifications pertaining to adjacencies and spatial requirements for all that will be in the library.

Ruth Metz, MLS of Ruth Metz Associates (RMA) is a seasoned library practitioner and former administrator for libraries in Michigan, Colorado, California and Oregon, including Multnomah County Library. She has been a full time consultant for eight years, specializing in strategic planning, organizational development, and leadership development. The Astoria Library has worked with Ruth Metz for approximately 12 years. She has served as a consultant to the City under a grant federal project to explore creation of a two county library system. In addition, Ruth assisted the City as consultant to Library ROCC, Rural Outreach to Clatsop County youth, and with the University of Oregon programming class students.

Staff believes it to be in the best interest of the City to exempt this contract from the standard competitive bid process and directly appoint RMA. Such an exemption requires a public hearing be held and findings supporting this special solicitation method be adopted. It is recommended that Council conduct a public and consider adopting findings that would authorize the direct appointment, and approve a contract with Ruth Metz Associates to provide library renovation planning services in the amount of \$52,000.

HISTORIC LANDMARKS COMMISSION MEETING

City Council Chambers

April 16, 2013

CALL TO ORDER – ITEM 1:

A regular meeting of the Astoria Historic Landmarks Commission (HLC) was held at the above place at the hour of 5:15 p.m.

ROLL CALL – ITEM 2:

Commissioners Present: President LJ Gunderson, Vice President Michelle Dieffenbach, Commissioners Jack Osterberg, Thomas Stanley, and Paul Caruana.

Commissioners Excused: Kevin McHone, one vacant position

Staff Present: Planner Rosemary Johnson.

APPROVAL OF MINUTES – ITEM 3(a):

President Gunderson asked if there were any changes to the minutes. Commissioner Caruana noted that Page 3, paragraph 1 should read, "Commissioner Caruana Osterberg asked if additional roof vents would be added." Also on Page 3, paragraph 4 should read, "Commissioner Caruana Osterberg stated he was not in favor of cutting a hole in the roof." On Page 4, paragraph 6 reads, "Commissioner Caruana noted the proposed roof would have a 5:12 pitch." He clarified it was written as a 5:12 pitch; however, the drawing showed more of a 10:12 pitch. Commissioner Caruana explained he was trying to be clear that he was in favor of the roof pitch on the proposed garage matching the roof pitch of the house, and the 5:12 pitch was far from matching the house. The 10:12 pitch shown in the drawing the Applicant had was accurate. Planner Johnson confirmed it should be rewritten that Commissioner Caruana recommended that the roof pitch match the house.

Commissioner Osterberg stated he did not believe he commented on the skylight in the roof. He recalled commenting on the whether there should be a window or a vent on the garage. Commissioner Caruana stated there was a discussion about adding a skylight and a Commissioner raised a question about additional roof vents being cut in for ventilation, as there did not seem to be any vents on the roof. Commissioner Osterberg stated he did recall asking about roof vents, but not a skylight. Planner Johnson stated she would edit the minutes to reflect that "a Commissioner" mentioned the skylight. Commissioner Osterberg believed that the Applicant, Mr. Holen, mentioned cutting a hole in the roof. Planner Johnson added that if the audio was unclear, the minutes would simply state that the question was raised.

President Gunderson stated that on Page 5, paragraph 3, lines 1 and 10, Commissioner Osterberg spoke, not Commissioner McHone. Commissioner Osterberg confirmed this was correct.

Commissioner Osterberg moved to approve the minutes of March 19, 2013 with the following changes: 1) Page 3, paragraph 1, Line 1 should read, "Commissioner Osterberg asked if additional roof vents would be added."; 2) Page 3, paragraph 4, Line 1 to read "A Commissioner stated he was not in favor of cutting a hole in a perfectly good roof." 3) Page 4, paragraph 6, Line 2 should read, "... 10:12 pitch. The pitch of the garage roof should match the pitch of the house roof. Mr. Mills explained. . ."; seconded by Commissioner Caruana. Motion unanimously approved.

PUBLIC HEARINGS:

President Gunderson explained the procedures governing the conduct of public hearings to the audience and advised that the significant criteria applicable to each application were listed in the Staff report.

ITEM 4(a):

EX 13-04 Exterior Alteration EX13-04 by William Kuehl to construct an 8' x 12' deck on the north rear elevation of an existing single family dwelling at 96 W. Commercial in the R-3, High Density Residential zone.

President Gunderson asked if anyone objected to the jurisdiction of the HLC to hear this matter at this time. There were no objections. President Gunderson asked if any member of the HLC had a conflict of interest, or any ex parte contacts to declare. None declared. President Gunderson requested a presentation of the Staff Report.

Planner Johnson presented the Findings and Conclusions contained in the Staff report and recommended approval with conditions. No correspondence has been received.

President Gunderson opened public testimony for the hearing and asked for the applicant's presentation.

William Kuehl, 96 W. Commercial, stated that he has received positive comments on the building of the deck; many saying it is about time something were done with the house. He did not realize there were recent changes on the required spindle gap, which used to be 5 3/4" and now it was 4" maximum, but making updates to meet the criteria was not a problem. He explained that invasion of privacy is difficult for him, as he is a Vietnam Veteran with Post Traumatic Stress Disorder issues. What saved him from being extremely angry was that he only received one negative comment about this project. He added he would like to take advantage of the weather so that he can finish the work.

Seeing no one else in the audience, President Gunderson closed the public testimony portion of the hearing and called for Commission discussion and deliberation.

Vice President Dieffenbach believed this was a good resolution that will give the building a historic look.

Commissioner Osterberg stated it was good to see that Staff and the Applicant worked together to arrive at a suitable design compromise that is satisfactory for the house.

Commissioner Stanley moved that the Historic Landmarks Commission adopt the Findings and Conclusions contained in the Staff report and approve Exterior Alteration EX 13-04 by William Kuehl with conditions; seconded by Vice President Dieffenbach. Motion passed unanimously.

President Gunderson read the rules of appeal into the record.

Planner Johnson advised Mr. Kuehl that she would call him as soon as the permit was ready to issue. Mr. Kuehl noted the Staff report did not include completion of the vertical risers up the stairwell so it all matches.

Commissioner Stanley believed the HLC assumed this would be done. Mr. Kuehl thanked the Commission, adding that he prefers that things be done correctly and that his work had been interrupted, which made him uneasy. Mr. Kuehl believed he was going to have to redesign everything but he could not find the statement in the Staff Report that he wanted the balustrades to match, too.

President Gunderson stated the Applicant simply needed to meet with Planner Johnson and the building inspector. Planner Johnson confirmed that the Staff Report was being amended to include the balustrade on the stairs.

Commissioner Caruana moved that the Historic Landmarks Commission amend Exterior Alteration EX 13-04 by William Kuehl, to add the condition "4. The balustrade on the east side stairs may be reconstructed with a balustrade to match the proposed deck balustrade in design, dimension, and material."; seconded by Commissioner Stanley. Motion passed unanimously.

REPORTS OF OFFICERS There were none.

NEW BUSINESS

ITEM 5(a): Dr. Harvey Historic Preservation Award Nominations — Planner Johnson noted the Dr. Edward Harvey Historic Preservation Award nominees in the residential category, which were included in the meeting packets, and briefly described the details of the preservation work done on the four residential properties as follows: 1) 225 Alameda – Bob & Nancy Ross; 2) 2961 Grand – Mike Covert, Covert Properties LLC; 3) 1188 Harrison – Peter & Jan Hackett; 4) 634 Grand – David & Judith McElroy.

She explained that the Mayor will award one property in each category and that the HLC can give as many Honorable Mentions as they want. She briefly described some background regarding the rules and awards to be presented, noting that this year's nominees can be nominated again next year because preservation work must have been completed within the last two years. All four residential properties have completed their work within the last year. In response to a question, she stated that properties that have received Honorable Mentions could be nominated again next year. She clarified that the property owners may not be aware they have been nominated. The City only notifies the nominees after a decision has been made.

Commissioner Caruana believed all the nominees should be recognized for being nominated. The three remaining properties should receive Honorable Mentions so they know they were nominated for the award and to encourage property owners to continue restoration work. Planner Johnson said the City could send a letter to let nominees know they were nominated or give an Honorable Mention. Commissioner Caruana preferred having one award winner and then letting the property owners know they were nominated. Commissioner Stanley added so much effort is made and money spent on restoration, he liked it when there were more awards. Honorable Mentions receive a plaque. It is important to encourage and reward people who do positive things for the community. Any support the HLC can give furthers the cause of historic preservation.

The Commissioners agreed all the remaining nominees should be honored with an Honorable Mention.

Vice President Dieffenbach stated that the HLC must choose the award recipient.

Commissioner Osterberg suggested that the HLC add categories, perhaps dividing the residential category into single-family and multi-family categories.

Commissioner Caruana nominated Mike Covert's property on Duane because it seems to have undergone the most physical transformation. The property on Harrison appears to be restoration of existing details, whereas the property on Duane looks as if details have been added that were previously removed. Vice President Dieffenbach agreed the property on Duane resulted in a greater contrast. It appears as if Mr. Covert tried to restore the property without changing it. The Ross's added some things that were not historic. There is a visual difference with the Covert's property as it was restored to its original condition compared to the other three properties.

President Gunderson stated she was undecided between 225 Alameda and 2961 Grand, but Vice President Dieffenbach's comments helped her make a decision.

Commissioner Stanley noted the house on Alameda was a disaster and he was shocked to see how lovely it turned out after the restoration work despite some non-historic additions. He does not agree that Mike Covert's house is completely historic. Both of the properties were done well. He was leaning toward the property on Alameda because that area needs more restoration work. This area is in the heart of the Alameda District in Uniontown. He prefers this property because of its location.

Commissioner Osterberg agreed with Commissioner Stanley's comments about the neighborhood surrounding the Alameda property. Although he believes the houses on 2961 Grand and 1188 Harrison were the best as they both exhibit the greatest amount of removal of non-historic features and restoration of historically accurate features. He is undecided between Mr. Covert's property and Mr. Hackett's property.

Commissioner Caruana stated that the dormers and porches on Mr. Hackett's house have been there for as long as he can remember. He had been reading to figure out what had been changed or what details had been restored that were previously removed. The restoration work on the Alameda property is nice, but the front porches probably would not have had solid walls, they would have had balustrades. Other details on the house are not historic. Mr. Covert's property looks more historic and had the most added to it that would have closely resembled the original structure.

Commissioner Osterberg agreed that Mr. Covert's property does seem to have undergone the greatest amount of change. Commissioner Caruana added the changes were historic; they were the right types of changes.

President Gunderson asked Planner Johnson if she had any input on the properties at 225 Alameda and 2961 Grand. Planner Johnson believed the majority of the HLC preferred the property at 2961 Grand. After noting some confusion about the addresses, Commissioner Stanley clarified that he preferred the two properties at 225 Alameda and 2961 Grand. All four property owners have done a wonderful job. Astoria is very fortunate that these houses have been restored.

Vice President Dieffenbach moved that the Historic Landmarks Commission grant the Dr. Edward Harvey Historic Preservation Award to the property at 2961 Grand and give Honorable Mentions to all other nominated properties for the residential category; seconded by Commissioner Caruana. Motion passed unanimously.

Planner Johnson stated that the HLC could recommend nominees to be nominated again next year. While this has never been done, it could be considered.

Commissioner Caruana believed the property at 225 Alameda should be renominated if the residential category were split into multi-family and single family categories. He noted that commercial and industrial were two different categories. Commissioner Osterberg encouraged the HLC to consider dividing residential into two categories, though he did not support splitting the category into owner-occupied and rental. Planner Johnson said she would ask the Mayor if he would agree to split the residential category into multi-family and single family.

Commissioner Caruana moved that the Historic Landmarks Commission grant the Dr. Edward Harvey Historic Preservation Award to the property at 225 Alameda in the multi-family residential category should this category be added by the Mayor; seconded by President Gunderson. Motion passed unanimously.

Planner Johnson stated only one property has been nominated for the commercial category at 1004-1008 Commercial Street owned by Ted Osborn. Staff recommends this nomination be held over until next year because the restoration work is not complete. Extensive remodeling and exterior restoration have been completed, which she briefly described, noting some brick work and painting has not been completed.

Planner Johnson continued, noting the Maritime Museum's train depot has been nominated for the Institutional category. She reviewed the details of the restoration work which has been completed, noting the applicant had complied with the HLC's recommendations. Commissioner Osterberg noted the awnings are free-standing and do not rely on the structure of the building. Planner Johnson recalled some previous award recipients in the Institutional category, briefly noting some of the work done on the projects.

Commissioner Stanley confirmed that there would be no award recipient in the commercial category this year. Planner Johnson added there was no residential award recipient last year. President Gunderson stated there have been several years when few residential properties were nominated. She was unsure about dividing the category. Commissioner Osterberg believed dividing the residential category would be helpful and appropriate. Commissioner Stanley noted it would encourage more owners of multi-family dwellings to do restoration work. Commissioner Osterberg believed it important to recognize the multi-family housing stock in the City.

Planner Johnson explained that apartment buildings are residential. The category definitions for the purpose of this award differ from the definitions in the building codes. Building codes state that a tri-plex or larger is considered a commercial property. For the purposes of the Dr. Harvey Award, if a building is used as a residence, it is nominated in the residential category. One exception is the John Jacob Astor building because the ground floor contains commercial facilities. The Franklin Apartments would be considered residential.

Commissioner Caruana noted the apartment building would compete with the houses nominated in the residential category. Owners of the larger buildings should be encouraged to do restoration work. These buildings are different from houses and do not look residential. He suggested Planner Johnson pass these statements on to the Mayor. It was not just the difference between a duplex and a house. It would be great to see the eight-plex across from the Star of the Sea School restored, but it should be in its own category.

City Attorney Henningsgaard said he was speaking to the Mayor via text message and reported the Mayor said his issue with splitting the residential category was that too many awards with Dr. Harvey's name become meaningless. He did not mind adding multi-family, but believes the awards should be limited to two awards per year no matter the category. He continued reading the Mayor's message stating the Mayor prefers two awards, three is acceptable, but four awards are too many.

Commissioner Caruana believed the commercial category is unnecessary because businesses have an economic interest in renovating their properties. They receive a return on their investment and do not need the award. The award is more meaningful to an individual. The better a commercial or multi-family building looks, the more money the business will bring in and that is their reward.

Commissioner Stanley commented that businesses would take pride in being recognized. He stated there are three categories this year, so next year, the HLC can request four categories. Commissioner Caruana suggested having one commercial and two residential categories. Planner Johnson understood the Mayor to say that a multi-family residence, single-family residence and institutional property could receive awards this year.

Commissioner Caruana believed institutional and commercial categories seemed like the same thing. Planner Johnson stated a government entity doing the work versus a private citizen is very different. Commissioner Caruana did not believe anyone reading about the award in the newspaper would realize the difference between the categories. Planner Johnson clarified that a church and a bridge would both be considered institutional.

The HLC agreed that multi-family residential should remain a separate category should their current recommendation be approved. Commissioner Stanley added that if nominees are received in all four categories next year, the HLC can decide then how to proceed. Most commercial renovation projects in this area involve an individual or group of individuals who have received financing to improve a structure. Funding is limited and they do not always experience the economic success desired, so recognition is helpful.

Commissioner Caruana suggested publishing the list of nominees in the newspaper. He asked if the HLC must always specify categories. The HLC could choose which categories the award recipients go into depending on how compelling the project is. Planner Johnson stated she would ask the Mayor, because previously he wanted a maximum of three awards, one award for each of the three categories: commercial, industrial, and residential. Mr. Henningsgaard believed the Mayor did not care what the categories were as long as there were no more than two, maybe three awards.

Commissioner Caruana said it would be nice to have flexibility within the categories. A great multi-family property could be nominated along with a commercial property that the HLC is not really impressed with. All nominees will have to be considered before agreeing to approve any property in any individual category.

President Gunderson moved to award the Maritime Museum Train Depot the Dr. Edward Harvey Historic Preservation Award in the Institutional category; seconded by Commissioner Caruana. Motion passed unanimously.

STATUS REPORTS

ITEM 6(a): Planner Johnson has included status report photographs of the following: EX11-04 for 637 14th Street and EX11-05 for 646 16th Street. The projects are complete and conditions have been met. This status report is for Commission information.

MISCELLANEOUS

Planner Johnson announced that the Marine and Environmental Research and Training Station (MERTS) campus is hosting an open house on May 6, 2013 from 1 p.m. to 6 p.m. with a barbeque starting at 4:30 p.m. They asked the HLC to consider having a booth that promotes historic preservation at the event. City Staff is not able to work the booth due to other commitments. The event will offer interactive and vendor displays, and a rock-climbing wall. The Lower Columbia Preservation Society (LCPS) will have a booth. Planner Johnson suggested HLC and LCPS share a booth if a member of the HLC would be available. She asked the Commissioners to check their schedules and let Staff know if they are available. The booth attendant would need to answer questions about historic preservation in Astoria. The City has some brochures and information that can be handed out.

Planner Johnson recalled the Historic Preservation Fair where the HLC gave a presentation, displayed pictures, handed out brochures, and provided information to historic property owners. The booth attendant at this event could advise people about the historic process if they plan to renovate.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 6:12 p.m.

ATTEST:

APPROVED:

Secretary

Planner/Historic Preservation Officer

Astoria Public Library
Astoria Library Board Meeting
April 23, 2013
3:30 p.m.

Present: Library Board members David Oser, Gregory Lumbra, Arlene LaMear, and Susan Brooks. ALFA representative Charlotte Langsev; and staff Library Director Jane Tucker. Community Development Director Brett Estes arrived during the Library Director's Report.

Call to Order: Chairman David Oser called the meeting to order at 3:30 p.m.

Approval of Minutes:

Chairman Oser noted that Steve Emmons was the ALFA Representative at the March 11, 2013 meeting and added Mr. Emmons' last name where appropriate in the minutes.

The minutes of the March 11, 2013 and March 26, 2013 meetings were approved with changes as noted.

Susan Brooks arrived at this time.

Approval of Agenda: Chairman Oser asked that the Open Board Member Position and an Update on the Library Futurist Planner be added to the agenda.

The Agenda was unanimously approved with the additional two items.

Library Director's Report:

Director Tucker distributed her report for March 2013 and reviewed the statistics, which show that the library continues to remain busy. The library averaged 93.18 circulation transactions per open hour. The library's value to the community was \$141,466. If library patrons had purchased every book at \$15 each, they would have spent \$62,520. Additional key discussion items were as follows:

- The Plinkit website, supplied by the Oregon State Library free of charge, was discontinued on April 15, 2013, when the City's new website went live.
- She agreed to speak to staff about the calculations used for the library's value to the community as audio books cost much more than \$15 each and magazines cost closer to \$8 each while the calculator uses \$2 per magazine.
- The construction workers have been very nice, even allowing the story time program outside where the construction company had someone speak to the children. Dump trucks were driving by and cranes operating. The library has not received many complaints about the construction and construction has not reduced the number of library patrons; the library has been busier than ever.
- She noted the second presentation of the students' renovation ideas was well attended on April 16th.
- She noted the handout titled "*Notes for Library Budget 2013/2014*" that was distributed to the Board, adding that City Manager Benoit and Finance Director Carlson are both aware of the anticipated questions and probable answers discussed in the handout. She confirmed that Mr. Lumbra and Councilor LaMear would attend the budget meeting on Wednesday, April 24, 2013. Director Tucker would be available via cell phone during the budget meeting as she would be attending the Oregon Library Association meeting. Ms. Brooks will try to attend, but is unsure if she will be able to make it.
- Director Tucker clarified the budget for library materials had been reduced by \$7,075; the library's total budget reductions were about \$15,000.

The Library Board discussed budgeting for attendance to the Public Library Association (PLA) conference. Director Tucker believed attending the PLA in Indianapolis would be beneficial given the upcoming renovations. Initially, funding was budgeted for two people to attend; however, the budget was reduced to allow one person to attend. The PLA conference is held every other year, so the budget fluctuates significantly from year to year. The PLA conference is held in a different location each time, which also affects the amount of funding required.

Board Reports: No reports.

Update on ALFA Activities:

Ms. Langsev reported that ALFA's current balance is \$4,388.75. This balance will be reduced by \$675 as the Board just approved the purchase of rigid plastic stands that allow books to be displayed with their front cover

showing. These stands will allow the library to promote various titles. Director Tucker stated the stands would be installed in the New Books area of the library. She thanked ALFA for purchasing the stands.

New Business: No New Business.

Old Business:

Two items were added to the agenda under Old Business.

8a. Update on the Library Futurist Planner

Director Estes stated that he and Director Tucker are working to refine the scope of work and have discussed public involvement. They anticipate a couple of town hall meetings. One meeting would be held towards the beginning of the process to get input from the public and one would be held toward the end of the process to report the consultant's findings to the public and allow for questions.

- The Sunday Market provides a good opportunity to obtain public feedback throughout the process and was successful during the Trails Master Plan and Riverfront Vision Plan. Public meetings on the Trails Master Plan were also well attended. The City advertised on radio and in the newspaper about being at Sunday Market and about 120 people provided feedback at the Sunday Market [05 1:10] The Sunday Market has given the City the space for free as long as the City pays the tent rental fee of \$10, should they choose to use a tent. The City has to provide a table and chairs. He suggested having a booth at the Sunday Market only at targeted times, not every week. Some people love town hall meetings and others prefer to spend five or ten minutes giving feedback.

He explained that staff is working with City Attorney Henningsgaard as to the appropriate process to hire a Library Planner / Futurist. It is anticipated that this will be brought to the City Council at their May 20, 2013 meeting for consideration.

Councilor LaMear added that the timing of the town hall meetings will depend on when a contract is approved.

Chairman Oser noted that the Library Board does not meet again until May 28, 2013 and asked if the Board could review the proposal that will go before City Council. Director Estes explained that any scope of work develop will match the bullet points presented at the March 26, 2013 Library Board meeting; however, the City will be requesting a bit more with regard to public involvement. There are certain sensitivities with a board negotiating a scope of work, but Director Tucker can informally share via email the scope of work and explain the process.

Chairman Oser explained he wants to attend the City Council meeting with an understanding of what will be presented. Director Estes noted the memos are prepared a week in advance of the meeting to allow the public to review the information prior to the meeting.

Chairman Oser understood City Council will be looking for active involvement by the Library Board. Director Estes replied Council recognizes that the Library Board will be actively involved in the process and relies on the Board to make a recommendation where the issues have been fully vetted.

Chairman Oser noted the importance of increasing the number of board members, which is even more critical now; especially given the needs to staff Sunday Market and so forth.

Director Estes described the differences between the RFP/RFQ and direct appointment processes. In the case of an RFP/RFQ, Staff would identify specifically what is needed and each candidate or firm would submit a scope of work detailing who would do the work, their qualifications and how they would address the library's needs. A committee would review and grade the submitted proposals according to the items discussed at the March 26th meeting.

Chairman Oser asked that Staff provide the Library Board with the proper information and input to enable the process to proceed smoothly. Director Estes noted that feedback from Library Board at the last meeting about what they wanted in a consultant team has allowed Staff to move forward. He believed they were achieving the goals that have been set. Chairman Oser clarified he was simply asking that Staff reach out to the Board or its members to provide any needed assistance. Director Estes stated that any Board member can attend the City Council meeting when a contract is considered. Library Board recommendations will be included in the memo to City Council.

8b. Open Board Member Position

Chairman Oser said he was uncertain about the best way to find new Board members. Director Estes encouraged the Board members to recommend individuals and identify their strengths to Director Tucker, who would forward the recommendations to the mayor, who takes the appointment of Board members seriously and is open to ideas and suggestions. Director Tucker stated she would resend the list of desired qualities the board is looking for in a new member. Director Estes suggested recommending specific people and listing each person's strengths which will help the Mayor make a decision. The Mayor may still make a different appointment, but will appoint a qualified person.

Chairman Oser suggested each Board member find several qualified people for Director Tucker to recommend.

Director Estes thanked those who assisted with the open houses, adding he believed the newspaper coverage was great.

Director Tucker thanked the Board for recognizing Staff on National Library Worker Day. Staff enjoyed the cake, which had a picture of the library on top. Councilor LaMear explained that an employee at Fred Meyer actually took the photo specifically for the cake.

Board Member Comments: No Board Comments.

Public Comments: No Public Comments.

Items for Next Meeting's Agenda:

Councilor LaMear noted the Library Board would need to follow up on the Old Business items discussed today. Director Estes added Staff would present the next steps in the process of hiring a futurist planner, as the Library Board will meet after City Council. He hoped to hear back from City Attorney Henningsgaard by next week.

Councilor LaMear added the Board would need to discuss names for the revitalization project.

Chairman Oser asked that Board expansion be added to the agenda sometime soon. He believed it would be good to recommend those who are interested in a Board position as well as solicit people that Board members believed would be good to have on the Board.

Director Tucker asked that specific names and contact information be emailed to her, along with a little background as to why they were recommended. Councilor LaMear believed finding someone who was not already involved with other Boards or committees would be beneficial.

Director Tucker noted Director Estes had received as a gift the loan of Juanita B. Price's Building Program from March 1965 for the Astoria Library Building. Copies of the loan would be made as the original is in delicate condition. Director Estes explained that someone from Berkley, California was the consultant who developed the building program for the library building. Ms. Price was the children's librarian at the time. She is now 92 years old and found the document in her records. She also had a clip of the newspaper article that featured an interview with the library consultant. The original document will be returned to Ms. Price after copies have been made.

Director Estes believed that even though this document originated in 1964, it will serve as a good example of a building program. He and Director Tucker noted some of the details of the document. The Board briefly discussed how library needs have changed since then. Director Tucker stated her goal was to include enough flexibility in the new building plan to accommodate the library needs for 20 or 30 more years.

Adjournment: There being no further business, the meeting was adjourned at 4:25 p.m.

Respectfully submitted,

Jane Tucker, Library Director



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 21, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **CONTRACT AWARD – ASTORIA SENIOR CENTER RENOVATION GRANT
MANAGEMENT**

DISCUSSION/ANALYSIS

At the May 6, 2013 meeting, the Council authorized staff to advertise for a grant administrator for the Astoria Senior Center (ASC) Community Development Block Grant. The grant administrator will be responsible for ensuring that the City is in compliance with all State and Federal regulations. Staff has circulated a request for statements of qualifications to three potential consultants, Mary McArthur, Executive Director of Columbia Pacific Economic Development District (Col-Pac), Vicki Goodman of VLG Consulting and Mark Barnes, a local consultant. One response was received from Mary McArthur of Col-Pac on May 13. City and ASC staff evaluated the proposal and determined that Ms. McArthur is qualified and would be a good choice.

Originally the City understood from the State that the environmental review could be performed in-house and charged to the grant; however, staff recently learned that City staff cannot draw on the grant to do the environmental review. Therefore, Col-Pac will be conducting the review. The original amount of \$40,000 that was advertised in the solicitation has been increased to \$55,000. An amount not to exceed \$15,000 was originally budgeted for the in-house review and has been added to the Col-Pac contract. The environmental review may not require all the funds budgeted. Fees for these services will be covered by the Community Development Block Grant.

RECOMMENDATION

It is recommended that the City Council authorize a contract with Col-Pac in an amount not to exceed \$55,000 for grant administration services for the Astoria Senior Center Community Development Block Grant.

Submitted By


Brett Estes, Community Development
Director/Assistant City Manager

Prepared By


Mike Morgan, Project Consultant

<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 Columbia Pacific Economic Development District, PO Box 534, Columbia City, Oregon 97018 hereinafter called "CONSULTANT", duly authorized to perform such services 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 grant management for Astoria Senior Center Renovation project.

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 \$55,000 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 Paul Benoit, City Manager, Special Projects consultant, City of Astoria, 1095 Duane Street, Astoria, Oregon, 97103, (503) 325-5824.

5. CONSULTANT'S REPRESENTATIVE

For purposes hereof, the CONSULTANT'S authorized representative will be Mary McArthur, Executive Director, Columbia Pacific Economic Development District, Post Office 534, Columbia City, Oregon 97018.

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 disabled provided the party so disabled 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

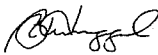
If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability shall survive termination of this Agreement for any cause.

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:


Digitally signed by Blair Henningsgaard
DN: cn=Blair Henningsgaard, o,
ou, email=blair@astoriafire.net,
c=US
Date: 2013.05.14 08:34:31 -08'00'

Attorney

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

BY: _____
Mayor Date

BY: _____
City Manager Date

BY: _____
Consultant Date

**Astoria Senior Center Renovation
Community Development Block Grant
Grant Administration**

Scope of Services

The Grant Administrator will coordinate all grant activities and administer all grant-related contracts, including:

Activities	Percentage of Time
1. Conduct an Environmental Assessment of the property in accordance with CDBG requirements: <ul style="list-style-type: none"> • Historic preservation • Floodplain management • Wetlands protection • Sole source aquifers • Endangered Species Act • Wild and Scenic Rivers Act • Flood insurance • Air quality • Farmland Project Policy Act • Environmental justice • Noise abatement and control • Toxic/Hazardous/Radioactive materials, contamination, chemicals or gases • Airport clear zones and accident potential zones • Coastal zone management 	25%
2. Assist and coordinate procurement of architect/engineering services and construction contractors <ul style="list-style-type: none"> • Comply with state and local procurement laws and ordinances • Prepare Requests for Proposals and/or Requests for Qualifications • Coordinate drafting and reviewing of contracts to ensure compliance with federal requirements • Prepare scope of services for each contract and obtain approval by appropriate regulatory authorities • Ensure state review of all project related contracts • Prepare contract amendments or requests to state for grant contract amendments when needed 	7%
3. Complete "first draw" requirements prior to requesting drawdown of grant funds for non-construction activities including, but not limited to: <ul style="list-style-type: none"> • Ensure adoption and publication of a Fair Housing Resolution • Obtain firm commitment of all other project funds • Ensure compliance with the state of Oregon's Residential Anti-displacement and Relocation Assistance Plan, if applicable • Ensure completion of Self Evaluation for Compliance with Section 504 Disability Accessibility Checklist and related requirements • For recipients with 15 or more employees, assure a current Policy of 	7%

<p>Nondiscrimination on the Basis of Handicapped Status and related grievance procedures are in place</p> <ul style="list-style-type: none"> • Complete an OBDD reviewed Section 3 Plan • Ensure an OBDD reviewed Limited English Proficiency Language Access Plan (LAP) has been completed 	
<p>4. Complete "first draw" requirements prior to requesting drawdown of grant funds for construction activities, including but not limited to: :</p> <ul style="list-style-type: none"> • Obtain review of plans, specifications and all bid documents, including the advertisement (call) for bids, at least 10 days before anticipated advertisement date • Ensure that the appropriate environmental review process occurred and was completed BEFORE construction contract is awarded. This includes: <ul style="list-style-type: none"> – Publication of appropriate notice; – Request for Release of Funds submitted to OBDD. (Note: OBDD must send recipient a Release of Funds notice, signifying completion of environmental review requirements BEFORE the recipient signs any construction contract.) • Submit a copy of preconstruction conference meeting minutes signed by the recipient and contractor(s) • Submit notice of construction contract award and start of construction • Submit copies of certified payroll reports from the general or subcontractor(s) whose work is covered by the drawdown request 	7%
<p>5. Ensure grant recipient meets all conditions of the grant contract and that contractors fulfill contractual obligations</p>	7%
<p>6. Ensure compliance with federal labor standards such as but not limited to:</p> <ul style="list-style-type: none"> • Include correct federal Davis-Bacon and Oregon BOLI prevailing wage rates in the construction bid documents • Call the Department ten days prior to bid opening to obtain current Davis-Bacon and BOLI wage decisions • Ensure that all contractor/subcontractor agreement and fringe benefit summary forms are received from all contractors on the job site • Review certified payrolls, perform worker interviews, verify that correct base wage rates and fringe benefits are paid • Ensure that corrective action is taken for any noncompliance with federal labor standards provisions 	25%
<p>7. Monitor project progress against grant contract scope of work and budget and report progress to elected officials and the state</p>	15%
<p>8. Complete "final" draw requirements and project closeout such as but not limited to:</p> <ul style="list-style-type: none"> • Submit a completed Minority, Women and Emerging Small Business Activity Report • Submit a completed Section 3 Summary Report, if applicable • Ensure holding of Second Public Hearing and submission of all necessary documentation 	7%
	100%

Oregon Community Development Block Grant
Required Federal Contract Clauses
Use for **Non-Construction Contracts** Where the Grant Award **Exceeds \$100,000**

1. Source of Funds

“Work under this contract will be funded [in part/in its entirety] with federal grant funds from the Oregon Community Development Block Grant program.”

2. Conflict of Interest

No employee, agent, consultant, officer, elected official or appointed official of the city or county grant recipient or any of its sub-recipients (sub-grantees) receiving CDBG funds who exercise or have exercised any functions or responsibilities with respect to CDBG activities who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity or have an interest or benefit from the activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds there under, either for themselves or those with whom that have family or business ties, during their tenure or for one year thereafter, in accordance with 24 CFR Part 570.489(h).

3. Minority, Women and Emerging Small Business (*Instruction: Include if contract is \$10,000 or more*)

Before the final payment to Contractor is made, Contractor shall submit the attached “Minority, Women and Emerging Small Business Activity Report”.

4. Section 3 - Economic Opportunities for Low- and Very Low-Income Persons (This clause is applicable only if the Community Development Block Grant exceeds \$100,000 the funded activity leads to construction i.e. engineering, program management etc.)

- A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD’s regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers’ representative of the contractor’s commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire,

Exhibit 5E (2013) – Grant award exceeds \$100,000 - Non-Construction Contracts

availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been in violation of the regulations in 24 CFR part 135.
 - E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations in 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
 - F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD-assisted contracts.
5. Prohibition on the Use of Federal Funds for Lobbying
As evidenced by execution of this contract, Contractor certifies, to the best of their knowledge and belief that:

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Exhibit 5E (2013) – Grant award exceeds \$100,000 - Non-Construction Contracts

- C. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signed (Contractor)

Title / Firm

Date

Minority, Women and Emerging Small Business Activity Report

The **report** on the following page is to be completed by grantees, developers, sponsors, builders, agencies, and/or project owners for reporting contract and subcontract activities of \$10,000 or more under the following programs: Community Development Block Grants (entitlement and small cities); Urban Development Action Grants; Housing Development Grants; Multi-family Insured and Noninsured; Public and Indian Housing Authorities; and contracts entered into by recipients of CDBG rehabilitation assistance.

Contracts/subcontracts of less than \$10,000 need be reported only if such contracts represent a significant portion of your total contracting activity. Include only contracts executed during this reporting period.

This form has been modified to capture Section 3 contract data in columns 7g and 7i. Section 3 requires that the employment and other economic opportunities generated by HUD financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing. Recipients using this form to report Section 3 contract data must also use Part I of form HUD-60002 to report employment and training opportunities data. Form HUD-2516 is to be completed for public and Indian housing and most community development programs. Form HUD-60002 is to be completed by all other HUD programs including State administered community development programs covered under Section 3.

A Section 3 contractor/subcontractor is a business concern that provides economic opportunities to low- and very low-income residents of the metropolitan area (or non-metropolitan county), including a business concern that is 51 percent or more owned by low- or very low-income residents; employs a substantial number of low- or very low-income residents; or provides subcontracting or business development opportunities to businesses owned by low- or very low-income residents. Low- and very low-income residents include participants in Youth build programs established under Subtitle D of Title IV of the Cranston-Gonzalez National Affordable Housing Act.

The terms “low-income persons” and “very low-income persons” have the same meanings given the terms in section 3(b)(2) of the United States Housing Act of 1937. Low-income persons mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families. Very low-income persons means low-income families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of unusually high or low family incomes.

Attachment B

- 1 = White Americans
- 2 = Black Americans
- 3 = Native Americans
- 4 = Hispanic Americans
- 5 = Asian/Pacific Americans
- 6 = Hasidic Jews

Explanation of Codes

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1. Grantee: Enter the name of the unit of government submitting this report.</p> <p>3. Contact Person: Enter name and phone of person responsible for maintaining and submitting contract/subcontract data.</p> <p>7a. Grant Number: Enter the HUD Community Development Block Grant Identification Number (with dashes). For example: B-32-MC-25-0034. For Entitlement Programs and Small City multi-year comprehensive programs, enter the latest approved grant number.</p> <p>7b. Amount of Contract/Subcontract: Enter the dollar amount rounded to the nearest dollar. If subcontractor ID number were provided in 7f, the dollar figure would be for the subcontract only and not for the prime contract.</p> <p>7c. Type of Trade: Enter the numeric codes which best indicates the contractor's/subcontractor's service. If subcontractor ID number were provided in 7f, the type of trade code would be for the subcontractor only and not for the prime contractor. The "other" category includes supply, professional services and all other activities except construction and education/training activities.</p> | <p>7d. Business Racial/Ethnic Code: Enter the numeric code, which indicates the racial/ethnic character of the owner(s) and controller(s) of 51% of the business. When 51% or more is not owned and controlled by any single racial/ethnic category, enter the code that seems most appropriate. If the subcontractor ID number were provided, the code would apply to the subcontractor and not to the prime contractor.</p> <p>7e. Woman Owned Business: Enter Yes or No.</p> <p>7f. Contractor Identification (ID) Number: Enter the Employer (IRS) Number of the Prime Contractor as the unique identifier for prime recipient of HUD funds. Note that the Employer (IRS) Number must be provided for each contract/subcontract awarded.</p> <p>7g. Section 3 Contractor: Enter Yes or No.</p> <p>7h. Subcontractor Identification (ID) Number: Enter the Employer (IRS) Number of the subcontractor as the unique identifier for each subcontract awarded from HUD funds. When the subcontractor ID Number is provided, the respective Prime Contractor ID Number must also be provided.</p> <p>7i. Section 3 Contractor: Enter Yes or No.</p> <p>7j. Contractor/Subcontractor Name and Address: Enter this information for each firm receiving contract/subcontract activity only one time on each report for each firm.</p> |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 23, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **OLD YOUNG'S BAY BRIDGE – CONSTRUCTION ACCESS AGREEMENT**

DISCUSSION/ANALYSIS

The Oregon Department of Transportation (ODOT) will begin work to repair and paint the Old Young's Bay Bridge in the Fall of 2013. In order to access the bridge for repair, ODOT will require a temporary construction easement through City property adjacent to the former Yacht Club. This temporary easement is for construction access only. It will not interfere with access or use of the Yacht Club or Astoria Park's facility. No material staging or associated construction work is permitted in the easement.

No exchange of funds is proposed for the temporary easement. The agreement will expire on October 1, 2017 or earlier, once work has been completed. Upon completion of construction, ODOT will return the temporary easement area to the pre-construction condition at their expense. The construction access agreement and exhibit map are attached to this memo. The City attorney has reviewed the attached agreement and has approved it as to legal form.

In addition to the construction access agreement, the City may need to relocate a small section of existing water line to eliminate a conflict with an ODOT proposed stormwater treatment vault. Public Works Department staff is coordinating with ODOT to develop a plan to possibly avoid the conflict. If the relocation work becomes necessary, the City's Public Works department will complete the construction in-house.

RECOMMENDATION

It is recommended that City Council enter into an Intergovernmental Agreement to allow construction access across City property to support repairs, improvements, and painting of the Old Young's Bay Bridge.

Submitted By: _____


Ken P. Cook, Public Works Director

Prepared By: _____


Nathan Crater, Assistant City Engineer

INTERGOVERNMENTAL AGREEMENT

Construction Access Agreement

US 101B: Old Youngs Bay & Lewis and Clark River Bridges
City of Astoria

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State;" and the CITY OF ASTORIA, acting by and through its designated officials, hereinafter referred to as "City," both herein referred to individually or collectively as "Party" or "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statute (ORS) 190.110, state agencies may enter into agreements with units of local government for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. US 101B (Warrenton-Astoria Highway) is part of the state highway under the jurisdiction and control of the Oregon Transportation Commission (OTC). Old Young's Bay Bridge is located on US 101B.
3. State's Bridge project Key No. 18078, US 101B: Old Youngs Bay and Lewis and Clark River Bridges is the construction phase for the combined Lewis & Clark River Bridge (Key No. 16736) and Old Youngs Bay Bridge (Key No. 16038) projects. This Agreement addresses the work to be conducted specifically for the Old Youngs Bay Bridge.
4. In order to perform the repairs and painting of the Old Youngs Bay Bridge, State will require access only through City property until October 2017.

NOW THEREFORE, the premises being in general as stated in the foregoing Recitals, it is agreed by and between the Parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, City agrees to grant to State access through City property as required to conduct repairs and repaint the Old Young's Bay Bridge No. 00330, hereinafter referred to as "Project". State will not block access to City property nor park/stage equipment within City property at any time of this Agreement. The location of City property is approximately as shown by the red hatched lines on the map attached hereto, marked "Exhibit A," and by this reference is made a part hereof.
2. There is no exchange of funds for this Project. Each Party shall be responsible for their own costs.

3. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate on October 1, 2017, or sooner if the work associated with the Old Youngs Bay Bridge is completed prior to the termination date. State will notify City once the access through City property is no longer required.
4. Upon Project completion, State shall return City property to its same condition prior to start of Project.

CITY OBLIGATIONS

1. City shall grant State access to City property in order to perform the Project.
2. City certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on behalf of City, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind City.
3. City's contact for this Agreement is Nathan Crater, P.E., Assistant City Engineer, City of Astoria, 1095 Duane Street, Astoria, Oregon 97103; phone: (503) 338-5173; email: ncrater@astoria.or.us, or assigned designee upon individual's absence. City shall notify the other Party in writing of any contact information changes during the term of this Agreement.

STATE OBLIGATIONS

1. Upon completion, State will return, at its own expense, City property used for this Project back to its pre-construction condition.
2. State's contact for this Agreement is Bill Jablonski, Project Leader, ODOT, Area 1, 350 W. Marine Drive, Astoria, Oregon 97103; phone: (503) 338-7334; email: william.r.jablonski@odot.state.or.us, or assigned designee upon individual's absence. State shall notify the other Party in writing of any contact information changes during the term of this Agreement.

GENERAL PROVISIONS

1. This Agreement may be terminated by mutual written consent of both Parties.
2. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the Parties prior to termination.
3. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against State or City with respect to which the other Party may have liability, the notified Party must promptly notify the other Party in writing of the Third Party Claim and deliver to the other Party a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party

Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.

4. With respect to a Third Party Claim for which State is jointly liable with City (or would be if joined in the Third Party Claim), State shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by City in such proportion as is appropriate to reflect the relative fault of State on the one hand and of City on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of State on the one hand and of City on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. State's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if State had sole liability in the proceeding.
5. With respect to a Third Party Claim for which City is jointly liable with State (or would be if joined in the Third Party Claim), City shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by State in such proportion as is appropriate to reflect the relative fault of City on the one hand and of State on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of City on the one hand and of State on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. City's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.
6. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
7. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.

8. This Agreement and attached exhibits constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either Party unless in writing and signed by both Parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

This Project is in the 2012-2015 Statewide Transportation Improvement Program, (Key No. 18078) that was adopted by the Oregon Transportation Commission on March 21, 2012 (or subsequently approved by amendment to the STIP).

SIGNATURE PAGE FOLLOWS

CITY OF ASTORIA, by and through its
designated officials

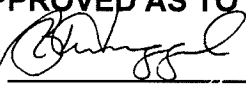
By _____
Mayor

Date _____

By _____
City Manager

Date _____

APPROVED AS TO LEGAL FORM

By  _____
City Counsel

Date _____

City Contact:

Nathan Crater, P.E., Assistant City Engineer
City of Astoria
1095 Duane Street
Astoria, OR 97103
Phone: (503) 338-5173
Email: ncrater@astoria.or.us

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 2 Manager

Date _____

APPROVAL RECOMMENDED

By _____
Region 2 Right of Way Manager

Date _____

By _____
Area 1 Manager

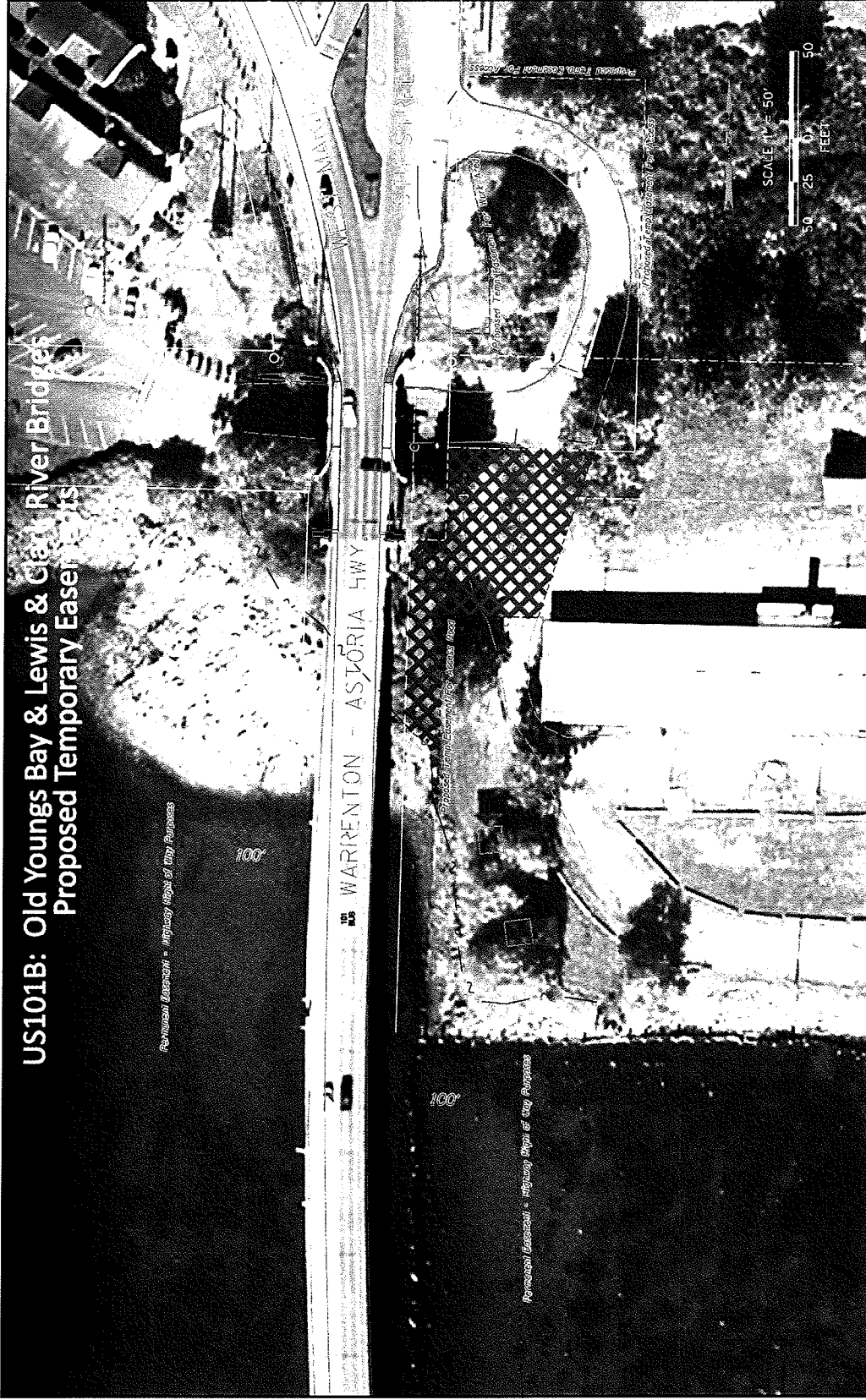
Date _____

State Contact:

Bill Jablonski, Project Leader
ODOT, Area 1
350 W. Marine Drive
Astoria, OR 97103-6206
Phone: (503) 338-7334
Email: william.r.jablonski@odot.state.or.us

EXHIBIT A

US101B: Old Youngs Bay & Lewis & Clark River Bridges
Proposed Temporary Easements





CITY OF ASTORIA

Founded 1811 • Incorporated 1856

May 23, 2013

MEMORANDUM

TO: ASTORIA CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ELIMINATE FUND 156, THE AQUATIC FACILITY ACTIVITY FUND

DISCUSSION/ANALYSIS

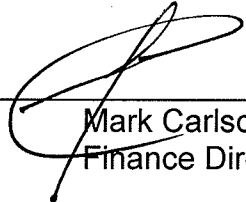
A "Fund" is a set of accounts that cities establish for the purpose of reporting the financial status of specific functions or purposes. In this instance, Fund 156, the Aquatic Facility Activity Fund was established to account for the receipt and disbursement of funds for the operation of the Aquatic Facility from its inception through FYE June 30, 2012. In May of 2012, the Council authorized combining the activities of this fund along with the General Fund activities related to Parks and Recreation and Maintenance into a single new fund #158, the Parks Operation Fund. With that Council action, there is no longer a need for this fund.

ORS 294.353 allows Council to eliminate unnecessary funds by passing a resolution. The attached resolution describes the status of Fund 156, the Aquatic Facility Activity Fund. The resolution indicates that the cash balance of \$3,273.07 should be transferred to Fund 158, the Parks Operation Fund.

RECOMMENDATION

Staff is requesting that the Council consider passing this resolution to eliminate Fund 156, the Aquatic Facility Activity Fund.

By: _____


Mark Carlson, CPA
Finance Director

Resolution No. 13-

A RESOLUTION ELIMINATING UNNECESSARY FUNDS.

WHEREAS, ORS 294.353 allows the City to eliminate an unnecessary fund and dispose of its remaining balance after enactment of an appropriate resolution, and;

WHEREAS Fund 156, the Aquatic Facility Activity Fund, has accomplished its purpose to account for transactions relating only to the Aquatic Facility operations;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ASTORIA:

Section 1. That Fund 156, Aquatic Facility Activity Fund, be deleted from the roster of funds for the City of Astoria.

Section 2. That its cash balance of \$3,273.07 be transferred to Fund 158, the Parks Operations Fund.

ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2013.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION

YEA NAY ABSENT

Commissioner LaMear
Herzig
Mellin
Warr

Mayor Van Dusen



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

May 24, 2012

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: RESOLUTION TO ELECT TO RECEIVE STATE SHARED REVENUES

DISCUSSION/ANALYSIS

Oregon Revised Statute 221.770 requires the City to adopt a resolution to declare its intent to receive state revenue for each new fiscal year. The attached resolution would accomplish that.

RECOMMENDATION

It is recommended that the City Council consider this resolution for adoption.

By:



Mark Carlson, CPA
Finance Director

Resolution No. 13-

A RESOLUTION DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ASTORIA:

Section 1. That, in accordance with ORS 221.770, the City of Astoria hereby elects to receive state revenues for fiscal year 2012-2013.

ADOPTED BY THE CITY COUNCIL THIS 3RD DAY OF JUNE, 2013.

APPROVED BY THE MAYOR THIS 3RD DAY OF JUNE, 2013.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION

YEA

NAY

ABSENT

Councilor

LaMear

Herzig

Mellin

Warr

Mayor

Van Dusen



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 14, 2013

MEMORANDUM

TO: City Council

FROM:  Paul Benoit, City Manager

SUBJECT: Supplemental Budget for FYE June 30, 2013

Discussion & Analysis

Oregon Revised Statute (ORS) 294.471 / 473 provides that a municipality may adopt a supplemental budget by publishing a notice, holding a hearing on the supplemental budget and adopting the budget by resolution. A supplemental budget is a budget adjustment to fund unexpected needs or to spend revenues not anticipated at the time the regular budget was adopted.

It is necessary to prepare supplemental budgets for the Promote Astoria and the Parks Project Funds for the FYE June 30, 2013. A notice of the required public hearing was published on May 24, 2013 indicating that a public hearing would be held at the June 3, 2013 City Council meeting.

The supplemental budgets are necessary for the following reasons:

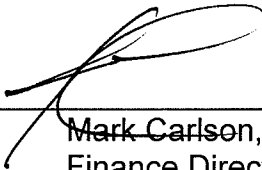
As approved by Council, the Promote Astoria Fund received proceeds of \$350,000 for a borrowing from Clatsop Community Bank. The purpose of the borrowing is to support the development of the Heritage Square project. The supplemental budget will transfer \$350,000 to the Parks Project Fund to continue the Heritage Square project;

The Parks Project Fund requires a supplemental budget to appropriate the transfer described above and to receive additional funds from the Astor East Urban Renewal District (AEURD) so that the funds may be expended. These additional funds are the remaining balance from a loan taken by the AEURD at the end of the 11-12 fiscal year. Approximately \$220,000 of the \$375,000 net loan proceeds were utilized for the sidewalk repair along Duane and 11th streets adjacent to the Garden of Surging Waves. The balance of \$156,000 will be used for the construction of the Garden itself.

Recommendation

It is recommended that the City Council conduct the public hearing on the proposed supplemental budget and consider the resolution to adopt the supplemental budget.

By: _____


Mark Carlson, CPA
Finance Director

Resolution No. 13-

A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET FOR THE CITY OF ASTORIA.

WHEREAS, a supplemental budget is required for the Parks Project and Promote Astoria Funds to budget resources received after the FY 2012-13 budget was adopted.

WHEREAS, the supplemental budgets are on file in the office of the Finance Director at City Hall.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF ASTORIA:

Parks Project Fund

<u>Resources</u>	<u>Amount</u>
Beginning Fund Balance	\$ 206,500
Gifts and Bequests	200,000
Transfer from	
Astor East Urban Renewal District	156,350
Promote Astoria Fund	350,000
Interest Earnings	<u>600</u>
Total Resources	<u>\$913,450</u>
 <u>Requirements</u>	 <u>Amount</u>
Materials & Services	
Professional Services	\$ 30,000
Capital Outlay	
Improvements Other than Buildings	700,000
Contingency	100,000
Ending Fund Balance	<u>83,450</u>
Total Requirements	<u>\$913,450</u>

Promote Astoria Fund:

<u>Resources</u>	<u>Amount</u>
Beginning Fund Balance	\$ 423,700
Interest Earnings	1,700
Motel Tax	475,570
Loan Proceeds	<u>348,500</u>
Total Resources	<u>\$ 1,249,470</u>

<u>Requirements</u>	<u>Amount</u>
Materials & Services	550,750
Debt Service	20,000
Transfer to Parks Project Fund	350,000
Contingency	75,000
Ending fund Balance	<u>253,720</u>
Total Requirements	<u>\$1,249,470</u>

ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____,
2013.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2013.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION

YEA NAY ABSENT

Commissioner La Mear
 Herzig
 Mellin
 Warr

Mayor Van Dusen



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 24, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: Public Hearing for the FY 2013-14 Budget as approved by the Budget Committee

DISCUSSION/ANALYSIS

Oregon Local Budget Law requires that the City Council hold a public hearing on the budget, as approved by the Budget Committee. Notice of this hearing, scheduled for June 3, 2013, was published in the Daily Astorian on Friday, May 17, 2013.

The Budget Committee approved the FYE June 30, 2014 budget at its meeting on April 25, 2013. The only adjustments by the Budget Committee to the Proposed Budget were related to the distribution of funds in response to requests by community organizations and the set aside of \$30,000 in the Promote Astoria fund for organizations promoting Astoria. Copies of the budget were previously distributed to the Council and Budget Committee. Copies are available from the Finance Department upon request and are posted on the Cities website.

A resolution adopting the budget for FYE June 30, 2014 is attached for Council consideration.

Recommendation

It is recommended that the City Council conduct a public hearing on the FYE 6/30/14 budget as approved by the Budget Committee. After the hearing, it is recommended that Council consider the resolution to adopt this budget.

By:



Mark Carlson, CPA
Finance Director

Resolution No. 13-

WHEREAS, in accordance with ORS 294.435, the City Council is required to adopt the budget, make appropriations, declare tax levies and categorize taxes by resolution; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASTORIA:

Section 1. That the City Council of the City of Astoria hereby adopts the budget as approved by the Budget Committee for 2013-14 in the total sum of **\$37,694,600.00**, now on file at City Hall.

Section 2. That the expenditures for the fiscal year beginning July 1, 2013, and for the purposes shown below, are hereby appropriated as follows:

General Fund

City Council	13,220
City Manager	269,980
Municipal Court	162,540
Finance	592,870
City Attorney	84,900
Community Development	340,580
City Hall	51,460
Non & Interdepartmental	679,940
Fire	1,638,460
Police	2,156,830
Library	439,260
Contingency	1,430,080
Transfers to Other Funds	<u>1,142,220</u>
FUND TOTAL	<u>9,002,340</u>

Capital Improvement Fund

Materials & Services	1,605,200
Capital Outlay	130,970
Debt Service	40,480
Contingency	43,800
Ending Fund Balance	<u>146,550</u>
FUND TOTAL	<u>1,967,000</u>

Unemployment Fund

Personnel Services	35,000
Contingency	<u>480</u>
FUND TOTAL	<u>35,480</u>

Revolving Loan Fund

Special Payments	80,000
Contingency	30,000
Ending Fund Balance	<u>27,290</u>
FUND TOTAL	<u>137,290</u>

Housing Rehabilitation Loan Fund

Materials & Services	5,160
Contingency	770
Ending Fund Balance	<u>30,280</u>
FUND TOTAL	<u>36,210</u>

Building Inspection Fund

Personnel Services	164,450
Materials & Services	34,770
Contingency	2,500
Transfers to Other Funds	15,210
Ending Fund Balance	<u>3,850</u>
FUND TOTAL	<u>220,780</u>

Emergency Communications Fund

Personnel Services	814,120
Materials & Services	116,820
Capital Outlay	39,800
Transfers to Other Funds	21,000
Contingency	30,000
Ending Fund Balance	<u>178,390</u>
FUND TOTAL	<u>1,200,130</u>

Community Policing Fund

Materials & Services	5,000
Contingency	<u>400</u>
FUND TOTAL	<u>5,400</u>

Parks Project Fund

Materials & Services	100,000
Capital Outlay	<u>1,270,600</u>
FUND TOTAL	<u>1,370,600</u>

Maritime Memorial Fund

Materials & Services	15,000
Capital Outlay	67,000
Contingency	<u>8,600</u>
FUND TOTAL	<u>90,600</u>

East Astoria Waterline Debt Service Fund

Debt Service	68,970
Ending Fund Balance	<u>86,420</u>
FUND TOTAL	<u>155,390</u>

Combined Sewer Overflow (CSO) Debt Service Fund

Materials & Services	33,630
Debt Service	1,074,280
Ending Fund Balance	<u>824,290</u>
FUND TOTAL	<u>1,932,200</u>

Parks Operation Fund

Aquatics	440,080
Recreation/Administration	710,960
Maintenance	457,100
FUND TOTAL	1,608,140

Astoria Road District Fund

Materials & Services	10,000
Capital Outlay	859,070
Contingency	-
FUND TOTAL	869,070

State Tax Street Fund

Contingency	13,130
Transfer to Other Funds	607,200
FUND TOTAL	620,330

Trails Reserve Fund

Materials & Services	5,000
Capital Outlay	13,370
FUND TOTAL	18,370

Public Works Improvement Fund

Materials & Services	1,897,000
Capital Outlay	171,000
Debt Service	471,810
Transfer to Other Funds	200,000
Contingency	158,310
FUND TOTAL	2,898,120

Public Works Improvement Fund

Capital Outlay	400,000
FUND TOTAL	400,000

CSO Projects Fund

Personnel Services	67,000
Materials & Services	646,200
Capital Outlay	6,010,000
Contingency	1,740
Ending Fund Balance	1,000
FUND TOTAL	6,725,940

Local Impr. Debt Service Fund

Debt Service	190,000
Contingency	2,230
Transfer to Other Funds	22,000
FUND TOTAL	214,230

Cemetery Irreducible Fund

Ending Fund Balance	716,320
FUND TOTAL	716,320

Logan Memorial Library

Materials & Services	100,000
Contingency	15,000
Ending Fund Balance	813,600
FUND TOTAL	928,600

Public Works Fund

Engineering	938,760
Shop & Yard	426,650
Streets	524,390
Sanitation	64,640
Sewer	1,158,990
Stormwater	219,370
Water	1,514,390
Contingency	189,210
FUND TOTAL	5,036,400

Cemetery Fund

Capital Outlay	61,000
Contingency	9,000
Ending Fund Balance	40,000
FUND TOTAL	110,000

17th Street Dock Fund

Materials & Services	10,000
Capital Outlay	41,040
Debt Service	136,560
Contingency	27,000
FUND TOTAL	214,600

Aquatic Facility Trust

Materials & Services	1,040
Ending Fund Balance	6,390
FUND TOTAL	7,430

Astoria Public Library Endowment Fund

Materials & Services	24,230
Contingency	-
Ending Fund Balance	111,920
FUND TOTAL	136,150

Promote Astoria Fund

Materials & Services	550,750
Debt Service	80,000
Contingency	75,000
Ending Fund Balance	172,220

FUND TOTAL

877,970

7th Street Dock LID Debt Svc Fund

Debt Service	14,090
Ending Fund Balance	24,420
FUND TOTAL	38,510

Landfill Reserve Fund

Materials & Services	50,000
Contingency	20,000
Transfer to Other Funds	24,640
Ending Fund Balance	26,360
FUND TOTAL	121,000

TOTAL

APPROPRIATIONS 37,694,600

Section 3. That the City Council of the City of Astoria hereby imposes taxes provided for in the adopted budget at the rate of \$8.1738 per \$1,000 of assessed value for operations.

Section 4. That, in accordance with ORS 310.060(2), the taxes imposed in Section 3 are categorized as General Government taxes subject to the limits of Section 2, Article XI of the Oregon Constitution.

Section 7. That the Finance Director will file this resolution with the Clatsop County Clerk and the County Assessor on or before July 15, 2013.

ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2013.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION

YEA

NAY

ABSENT

Councilor - LaMear

Herzig

Mellin

Warr

Mayor Van Dusen



May 22, 2013

TO: ASTORIA CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: AMENDMENT REQUEST (A13-01) BY RISING TIDE ENTERPRISES LLC TO THE LAND USE AND ZONING MAP TO REZONE AN AREA AT 16TH AND EXCHANGE STREETS FROM C-3 (GENERAL COMMERCIAL) TO R-3 (HIGH DENSITY RESIDENTIAL)

BACKGROUND

The property proposed for rezone is generally located at the southwest corner of 16th and Exchange Streets between Exchange Street and Franklin Avenue. The site has a vacant lot, and two lots developed with a single-family dwelling on 16th Street and a dwelling on Exchange Street that is a single-family dwelling but approved for use up to four units. The applicant owns the parcel located at 1585 Exchange which is designated as historic within the Downtown National Register Historic District. The other two property owners have signed in agreement with the proposed zone change. The site is situated in a transition area between the residentially and commercially developed areas and could be a cohesive part of either development area. Access to the sites would be from Exchange and 16th Streets.

The building at 1585 Exchange Street has gone through several different owners and uses over the last few years. It was a single-family dwelling for many years as a non-conforming, grandfathered use in the C-3 Zone. It was then converted to a restaurant/bakery on the ground floor with residence above. Within the C-3 Zone, a single-family residential unit is only permitted above or below the first floor with commercial facilities on the first floor of the structure. It sat vacant for several years and then a tattoo parlor located on the ground floor with residence above. Over the years, most of the inquiries for purchase of this property has been for use as a single-family dwelling. However, since the building had been used commercially, it was no longer "grandfathered" and therefore could not return to a single-family dwelling. While the site is close to downtown, it is not in the mainstream of downtown traffic and activity. The building was originally built as a dwelling, and is more conducive to that use rather than commercial use.

The building at 539 16th Street is currently used as a single-family dwelling. This is a non-conforming, grandfathered use in the C-3 Zone. The vacant lot is small (25' x 100') and any development on the site would require off-street parking which would limit the development opportunities.

At its April 23, 2013 meeting, the Astoria Planning Commission held a public hearing and recommended that the City Council adopt the proposed amendment. A copy of the Staff

Report and Findings of Fact as adopted by the Planning Commission is attached. Also attached to this memo is the proposed ordinance. A public hearing and first reading of the Amendment was held at the May 20, 2013 City Council meeting.

RECOMMENDATION

If the Council is in agreement, it would be in order for Council to hold a second reading and adoption of the Ordinance.

The following is sample language for a motion for adoption of the Findings of Fact and Ordinance:


"I move that the Astoria City Council adopt the findings and conclusions contained in the staff report, and adopt the Ordinance amending the Astoria Land Use and Zoning Map."

By:



Rosemary Johnson, Planner

Through:



Brett Estes, Community Development Director

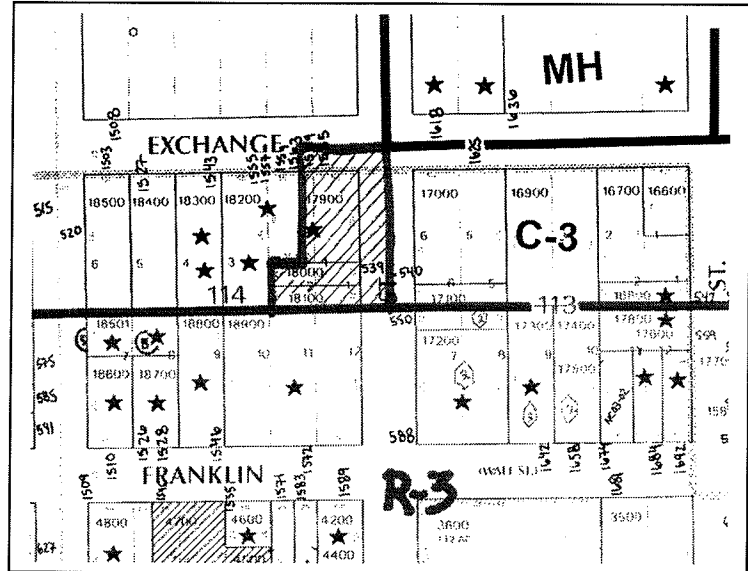
ORDINANCE NO. 13-_____

AN ORDINANCE AMENDING THE ASTORIA LAND USE AND ZONING MAP BY REZONING PARCELS AT 1585 EXCHANGE, 539 16TH, AND VACANT LOT ADJACENT TO 539 16TH FROM C-3 (GENERAL COMMERCIAL) TO R-3 (HIGH DENSITY RESIDENTIAL)

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. The 1992 Astoria Land Use and Zoning Map is amended to rezone the following area from C-3 (General Commercial) to R-3 (High Density Residential) as indicated on the map:

Map T8N-R9W Section
8DC, Tax Lots 17900,
18000, 18100; Lot 1, east
15' Lot 2, west 35' of south
50' Lot, Block 114, Shively



Section 2. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS _____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2013.

ATTEST:

Mayor

Paul Benoit, City Manager

ROLL CALL ON ADOPTION:

YEA

NAY

ABSENT

Commissioner LaMear
 Herzig
 Mellin
 Warr
Mayor Van Dusen

FINDINGS OF FACT

April 10, 2013

TO: PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER



SUBJECT: AMENDMENT REQUEST (A13-01) BY RISING TIDE ENTERPRISES LLC TO THE LAND USE AND ZONING MAP TO REZONE AN AREA AT 15TH AND EXCHANGE STREETS FROM C-3 (GENERAL COMMERCIAL) TO R-3 (HIGH DENSITY RESIDENTIAL)

I. BACKGROUND SUMMARY

A. Applicant: Robert Stang
Rising Tide Enterprises LLC
3834 Franklin Avenue
Astoria OR 97103

B. Owner: Rising Tide Enterprises LLC (1585 Exchange)
3834 Franklin Avenue
Astoria OR 97103

Michael Petersen (539 16th Street)
539 16th Street
Astoria OR 97103

Michael B Henderson (vacant lot on 16th)
Emily P Henderson
381 Bon Haven Road
Maysville KY 41056-9772

C. Request: Amend the Astoria Land Use and Zoning Map by rezoning Tax Lot 17900 at 1585 Exchange Street, Tax Lot 18000 at 539 16th Street, and Tax Lot 18100 a vacant lot on 16th Street from C-3 (General Commercial) to R-3 (High Density Residential)

D. Location: 1585 Exchange Street; Map T8N-R9W Section 8DC, Tax Lot 17900; north 100' Lot 1 and east 15' of north 100' Lot 2, Block 114, Shively

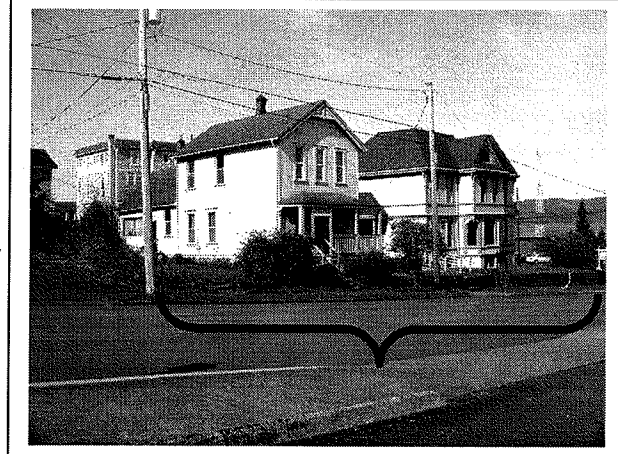
539 16th Street; Map T8N-R9W Section 8DC, Tax Lot 18000; north 25' of south 50' Lots 1 & 2, Block 114, Shively

Vacant lot on west side of 500 block 16th Street; Map T8N-R9W
Section 8DC, Tax Lot 18100; south 50' Lots 1 & 2, Block 114,
Shively

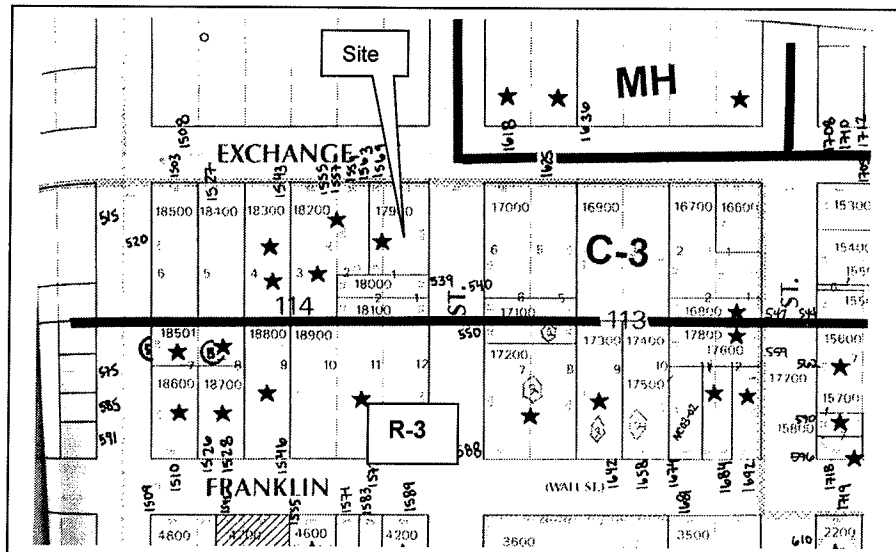
E. Zone: Current: C-3 (General Commercial)
Proposed: R-3 (High Density Residential)

II. BACKGROUND

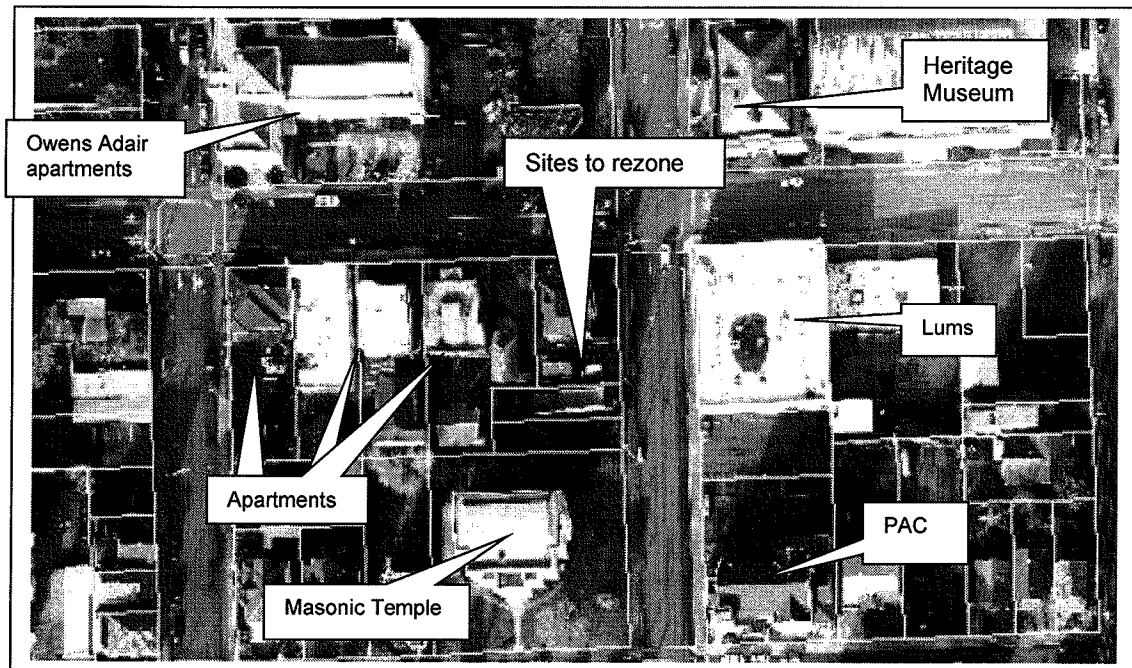
The property proposed for rezone is generally located on 16th and Exchange Streets between Exchange Street and Franklin Avenue. The property is sloped up from the north to south. The site has a vacant lot, and is developed with a single-family dwelling on 16th Street and a dwelling on Exchange Street that is a single-family dwelling but approved for use up to four units. The applicant owns the parcel located at 1585 Exchange which is designated as historic within the Downtown National Register Historic District (NRHD) and any new construction or exterior alterations would require historic design review by the Historic Landmarks Commission.



The site is located on the boundary of three zones and in the transition area between the residential and commercial development. The site is bounded on the north across the Exchange Street right-of-way by the C-3 and MH Zones with Owens Adair apartments and the Heritage Museum; to the south is the R-3 Zone and a mixture of single-family and multi-family dwellings neighborhood along with the Masonic Temple and Clatsop Community College Performing Arts Center; to the east is the C-3 Zone and former Lums Auto sales and service building; to the west is the C-3 Zone with multi-family apartment buildings.



The proposed R-3 Zone would extend into the C-3 Zone.



The site is situated in a transition area between the residentially and commercially developed areas and could be a cohesive part of either development area. Access to the sites would be from Exchange and 16th Streets.

The building at 1585 Exchange Street has gone through several different owners and uses over the last few years. It was a single-family dwelling for many years as a non-conforming, grandfathered use in the C-3 Zone. It was then converted to a restaurant/bakery on the ground floor with residence above. It sat vacant for several years and then a tattoo parlor located on the ground floor with residence above. Over the years, most of the inquiries for purchase of this property was for use as a single-family dwelling. However, since the building had been used commercially, it was no longer was "grandfathered" and therefore could not return to a single-family dwelling. While the site is close to downtown, it is not in the mainstream of downtown traffic and activity. The building was originally built as a dwelling, and is more conducive to that use rather than commercial use.

The building at 539 16th Street is on a small 25' x 100' lot and has been used as a two-family dwelling but is currently used as a single-family dwelling. This is a non-conforming, grandfathered use in the C-3 Zone. The owner has agreed to the rezone.

The vacant lot is small (25' x 100') and any development on the site would require off-street parking and historic design review. The owner of this property has expressed interest in donating the lot to a local non-profit to be used as a community garden. The property owner has not yet submitted a signature agreeing to the proposed zone amendment. Since only the property owner, or City can apply for a zone amendment on a property, this parcel cannot be rezoned without the property owner's signature.

Staff has been working with the owner to obtain permission but have not yet received it. Should the property owner determine that she does not want to be included in the proposed amendment, the vacant parcel would be removed from the request and would remain C-3 Zone.

The APC recommendation will be forwarded to the City Council for consideration tentatively at their May 20, 2013 meeting.

III. PUBLIC REVIEW AND COMMENT

A. Planning Commission

A public notice was mailed to Neighborhood Associations and property owners within 100' of the proposed zone boundary change area on April 1, 2013. In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on April 16, 2013. The proposed amendment is quasi-judicial as it applies to only three parcels of land. Any comments received will be made available at the Planning Commission meeting.

B. City Council

A public notice will be mailed to Neighborhood Associations and property owners within 100' of the proposed zone boundary area on April 26, 2013. In accordance with Section 9.020, a notice of public hearing will be published in the Daily Astorian on May 13, 2013. Any comments received will be made available at the City Council meeting.

IV. FINDINGS OF FACT

- A. Development Code Section 10.020(B) states that *"an amendment to a zone boundary may only be initiated by the City Council, Planning Commission, the Community Development Director, or the owner or owners of the property for which the change is proposed."*

Finding: The proposed amendment to the zoning map boundary is being initiated by the owner(s) of the property proposed to be rezoned. The lead applicant owns 1585 Exchange and the owner of 539 16th has signed a form in support of the application. The owner of the vacant lot has indicated support for the application but has not yet submitted anything in writing. Should she determine that she does not want to be included in the proposed amendment, the vacant parcel would be removed from the request and would remain C-3 Zone. A condition has been recommended which states that *"The vacant parcel on west side of 500 block 16th Street; Map T8N-R9W Section 8DC, Tax Lot 18100; south 50' Lots 1 & 2, Block 114, Shively shall remain C-3 Zone if the property owner does not agree to the amendment request for a rezone of the property by May 8, 2013."*

- B. Section 10.050(B) states that *"The following amendment actions are considered quasi-judicial under this Code:*

1. *A zone change that affects a limited area or a limited number of property owners."*

Finding: The proposed amendment is to amend the Astoria Land Use and Zoning Map to rezone a limited area site with only three property owners from C-3 to R-3 Zone. Processing as a quasi-judicial action would be appropriate.

- C. Section 10.070(B.1) requires that *"The amendment is consistent with the Comprehensive Plan."*

CP.025(2) concerning Policies Pertaining to Land Use Categories and Density Requirements states that *"Changes in the land use and zoning map may be made by boundary amendment so long as such change is consistent with the goals and policies of the Comprehensive Plan."*

1. CP.005(5) concerning General Plan Philosophy and Policy Statement states that local comprehensive plans *"Shall be regularly reviewed, and, if necessary, revised to keep them consistent with the changing needs and desires of the public they are designed to serve."*

CP.040, Central Residential Area description, states that *"The Central Residential Area is the City's oldest neighborhood, and extends generally from Second Street to 18th Street and from Bond Street to Niagara Street excluding the central business district."*

CP.050, Downtown Area description, states that downtown *"extends from 5th Street to 16th Street, and from the pierhead line in the Columbia River to Exchange Street."*

Finding: The Comprehensive Plan and Development Code establish designated land use areas and zones. The general development of the Downtown area has been consistent since the 1920's. The Central area is the oldest neighborhood and the two buildings located in the area proposed to be rezoned were built in 1880 and 1890 and have been used residentially except for a few recent years that the 1585 Exchange property had some commercial use. The Comprehensive Plan area descriptions could be interpreted that these properties are in the Central Residential Neighborhood and not within the Downtown Area as they are on the south side of Exchange Street which is the south boundary line of the Downtown.

With the historic designation of the one building and others in the neighborhood, and the existing development pattern, major changes are not anticipated that would warrant keeping the proposed properties

within the C-3 Zone which allows more intense commercial development in this transition commercial/residential neighborhood. A change in zone to include these lots within the adjacent residential R-3 Zone is consistent with the current trends of development and vision for this area.

2. CP.015(1) concerning General Land and Water Use Goals states that *"It is the primary goal of the Comprehensive Plan to maintain Astoria's existing character by encouraging a compact urban form, by strengthening the downtown core and waterfront areas, and by protecting the residential and historic character of the City's neighborhoods. It is the intent of the plan to promote Astoria as the commercial, industrial, tourist, and cultural center of the area."*

CP. 015(2) concerning General Land and Water Use Goals states that *"It is a goal of the plan to encourage the development of public and private lands within the City limits, particularly areas that are presently serviced with sewer and water, prior to the extension of public facilities to areas outside the City."*

CP.220 concerning Housing Policies states that the City should
"6. Protect neighborhoods from incompatible uses, including large scale commercial, industrial, and public uses or activities."

Finding: The proposed amendment would allow for continued compact urban form development of an area currently serviced by City utilities. Astoria is becoming the cultural center of the region with its numerous historic properties and districts. This property is within a historic district and adjacent to other historic properties. New construction would require historic design review. The vacant parcel abuts residential development and the potential for incompatible commercial development on this lot could be a concern.

The neighborhood was developed over the years with a mixture of multi-family residential apartment buildings, Owens Adair residential apartments which was the former St. Mary's Hospital, automotive sales and service building (Lum's), and the former City Hall which is now the Heritage Center Museum. Property in the 1500 block of Exchange is all residential. East of 16th Street is the start of a separate commercially developed area of the City leading into the Gateway Master Plan area. While the C-3 Zone may have been appropriate when this neighborhood was more automotive and business related, the rezone to R-3 is appropriate for the transition commercial/residential neighborhood now that these uses are gone from this edge of downtown area. The proposed R-3 Zone would extend into the C-3 Zone for this area only. Changing the zone from commercial to residential would keep the commercial uses closer to the downtown core, prevent new automotive

related businesses from locating in this neighborhood, and prevent the expansion of commercial uses into the otherwise residential neighborhood.

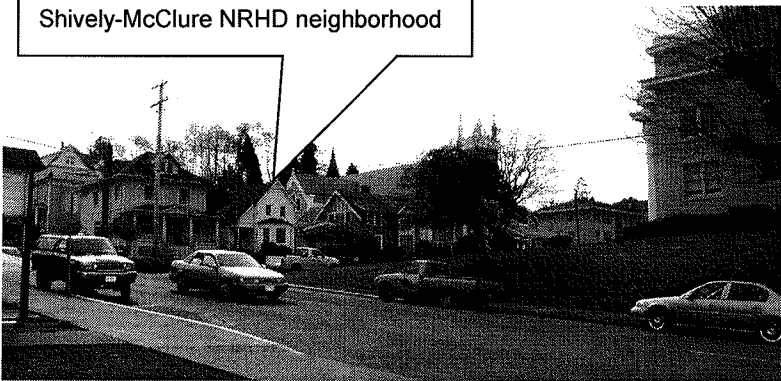
3. CP.020(6) concerning Community Growth, Plan Strategy states that *"The City encourages historic preservation generally, the restoration or reuse of existing buildings. However, these structures must be improved in a timely manner."*

CP.200(6) concerning Economic Development Goals states that *"Encourage the preservation of Astoria's historic buildings, neighborhoods and sites and unique waterfront location in order to attract visitors and new industry."*

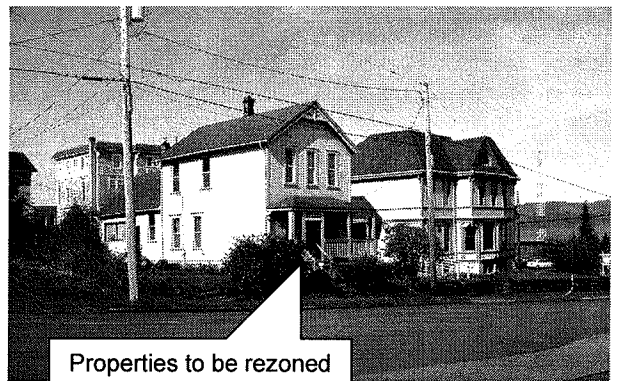
CP.250(1) concerning Historic Preservation Goals states that *"The City will promote and encourage, by voluntary means whenever possible, the preservation, restoration and adaptive use of sites, areas, buildings, structures, appurtenances, places and elements that are indicative of Astoria's historical heritage."*

Finding: The dwellings were built in 1880 and 1890. The structure at 1585 Exchange is designated as historic. There have been many interested buyers who want to restore the building for a single-family dwelling. However, with the current zoning, that was not possible. Rezoning the property to R-3 would help with the preservation of the historic neighborhood to the south.

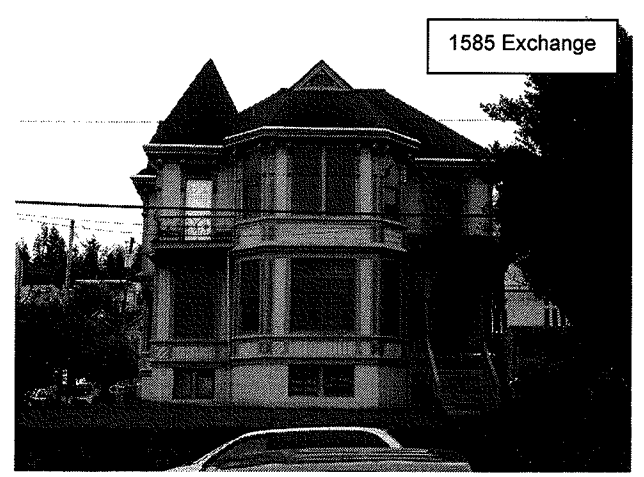
Shively-McClure NRHD neighborhood



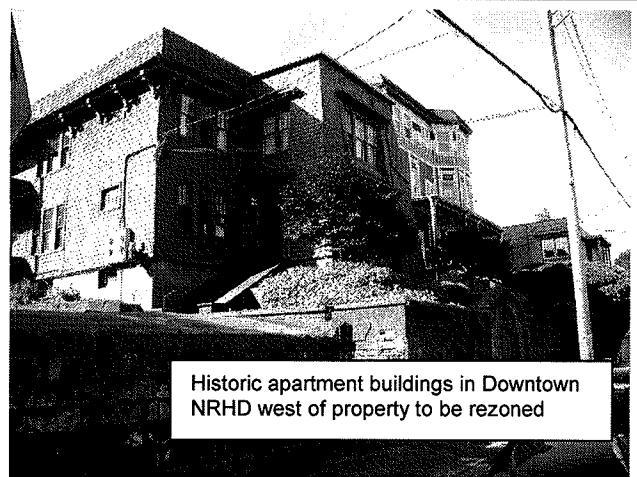
Properties to be rezoned



1585 Exchange



Historic apartment buildings in Downtown NRHD west of property to be rezoned



Rezoning of the area from C-3 to R-3 would comply with these CP Sections encouraging preservation of historic streetscapes and neighborhoods.

4. CP.220 concerning Housing Policies states that the City should
- "2. Provide residential areas with services and facilities necessary for safe, healthful, and convenient urban living."*
 - "18. Zone adequate land to meet identified future housing needs for a broad range of housing types, including single-family attached and detached homes, manufactured homes, two-family dwellings, and multi-family dwellings."*
 - "20. Allow for, encourage, and support the development of housing units in conjunction with commercial development (e.g. housing located above commercial uses) to provide diversity and security in commercial areas and a range of housing options."*

CP.223 concerning Housing Tools and Actions states that the City should

- "18. Work proactively with owners of large vacant or underutilized properties to identify opportunities and develop plans to meet future housing needs, including provisions for ensuring a mix of housing types and price ranges in these areas."*

Finding: The parcels proposed for rezone to R-3 contain one vacant lot and two residentially developed lots. The rezone to residential would allow the continuation of use as housing adjacent to the urban area and possibly the development of otherwise under-utilized land. The vacant lot could be developed currently with a commercial activity which could be a negative impact to the residential area, or with a zone change, it could be developed with a single-family dwelling or combined with other properties to bring them more into conformance with the minimum lot sizes required by the code. Either zone would allow the current owner to proceed with their goal to donate the land for a community garden. The structure at 1585 Exchange has been a single-family dwelling but has also been approved for up to four dwelling units. For several years, the majority of interest in this property has been for use as a single-family dwelling. With the R-3 Zone, it could be one to four units.

The City conducted a Buildable Lands Inventory (BLI) which was adopted in 2011. The report states that *"A comparison of need and supply of industrial and other employment lands indicates an overall surplus of approximately 6.7 acres of employment land. While there is sufficient land for industrial uses, there is a deficit of land zoned for commercial and particularly retail use. However, a portion of the land identified as "Other" can accommodate specific commercial, industrial,*

and high-density residential development and help meet the need for additional commercial land.” There is an overall deficit of residentially zoned land. There appears to be sufficient R-3 zoning and not enough R-1 zone and the subject properties would be able to accommodate potentially three single-family dwellings with the one lot able to accommodate up to four units.

Estimated Net Land Surplus/(Deficit) by Zoning Designation, Astoria UGB, 2027 *Source: Wingard Planning & Development Services*

Type of Use	R1	R2	R3	AH-MP	Total
Land Need	115.4	51.2	67.0	2.7	236.4
Land Supply	25.20	74.99	119.18	1.49	220.86
Surplus/(Deficit)	(90.20)	23.79	52.18	(1.21)	(15.54)

Growth Scenario	Type of Use	Commercial (Office/Retail)	Industrial/Other	Total
Medium	Land Need	38.2	11.5	49.7
	Land Supply	17.1	39.3	56.4
	Surplus/(Deficit)	(21.1)	27.8	6.7

Source: Cogan Owens Cogan

The rezone would remove approximately 0.3 acres (9,400 square feet) from commercial zone to residential and help with the overall deficit of residentially zoned land. With other amendments since the BLI, the figures have not changed dramatically as they have balanced each other out and would be as follows:

Type of Use	Commercial (Office/Retail)	Industrial/Other	Employment Total	R1	R2	R3	AH-MP	Residential Total
Land Need	38.2	11.5	49.7	115.4	51.2	67.0	2.7	236.4
Land Supply	17.1	39.3	56.4	25.20	74.99	119.18	1.49	220.86
A11-05	-0.3					+0.3		
A12-02				-0.8	+0.8			
A12-03	+0.46				-0.46			
BLI Surplus/(Deficit)	(21.1)	27.8	6.7	(90.20)	23.79	52.18	(1.21)	(15.54)
Final Surplus/(Deficit)	(20.94)	27.8	6.86	(91.0)	24.13	52.48	(1.21)	(15.6)

Finding: The request is consistent with the Comprehensive Plan as a result of the findings stated above.

- D. Section 10.070(A)(2) requires that *“The amendment will:*
- Satisfy land and water use needs; or*
 - Meet the transportation demands; or*
 - Provide community facilities and services.”*

Finding: The proposed amendment would change the former allowable use of the buildings eliminating possible commercial uses in the future. Existing utilities and services are available for the allowable uses. There is a need for residentially zoned properties in Astoria as indicated in the Buildable Lands

Inventory as noted above. The proposed amendment will satisfy land and water use needs.

- E. Section 10.070(B.3) states that *"The land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations."*

Finding: The site is sloped up to the south from Exchange toward Franklin Avenue. There is no known geologic hazard within 100' of the site. The site is within the Flood Zone X, Other Areas determined to be outside the 0.2% annual change floodplain, Flood Insurance Rate Map 410028-0229-E, dated 9-17-10.

The site sits above the street level with stair access from Exchange and a handicap ramp from the 16th Street elevation into the rear of the structure. There is only room for one vehicle to park on the site. The structure is designated as historic which limits the extent of alterations allowed to the building exterior and site. With the limited at grade access and the lack of parking, the site is not as desirable for commercial use. The site could be used for a work/live unit, but demand for this type of facility is minimal. It has been challenging to find a suitable commercial use for the building given the topographic and parking constraints. The land is suited to residential use.

- F. Section 10.070(B.4) states that *"Resource lands, such as wetlands are preserved."*

Finding: There are no known wetlands on the site. The structure located at 1585 Exchange is designated as historic in the Downtown National Register Historic District.

- G. Section 10.070(B.5) states that *"The amendment is compatible with the land use development pattern in the vicinity of the request."*

Finding: The site is situated in a transition area between the residentially and commercially developed areas and could be a cohesive part of either development area. Due to its close proximity to other dwellings and separation from the main portion of the downtown commercial district, the residential zone would be more consistent with the development pattern.

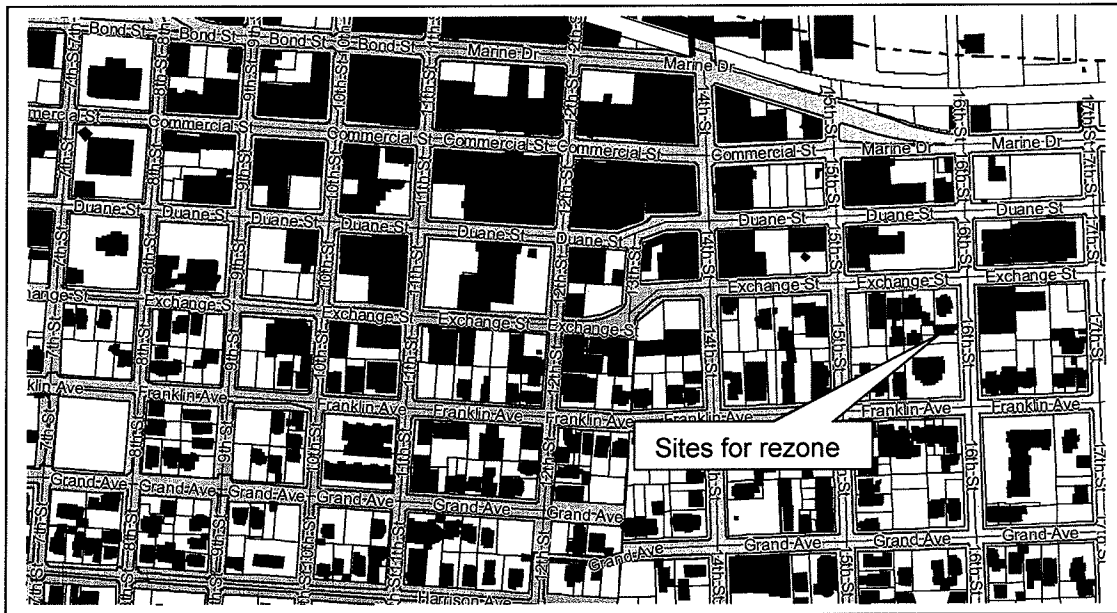
- H. Statewide Planning Goal 12 concerning Transportation requires that cities review transportation related issues when considering land use amendments. Oregon Administrative Rules (OAR) Section 660-012-0060(1) concerning Transportation Planning Rule (TPR) - Plan and Land Use Regulation Amendments stated that *"Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in Section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and*

performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. . .” The OAR text continues to identify the requirements for compliance with the TPR and specific review that must be made to show compliance. The full text is not copied in this staff report but is available upon request.

Finding: The proposed amendment would change the area from a more automotive intensive General Commercial Zone (C-3) to the lower impact, pedestrian oriented High Density Residential Zone (R-3). Changes in the allowable uses within the zone could impact the transportation facilities in and adjacent to the zone. The amendment is subject to review under the TPR.

Most of the commercial uses would be eliminated as allowable uses with only low impact uses such as home occupations, family day care centers, etc. remaining as allowed. The following is a comparison of some of the uses within the zones. Not all of the commercial uses eliminated are listed, but it is clear that the traffic impact would be less with the limited uses allowed in the R-3 Zone.

USE	R-3 Zone	C-3 Zone
Bed & Breakfast or Inn	Conditional Use	Outright
Day care center	Conditional Use	Conditional Use
Home Occupation	Outright	Outright
Family day care center	Outright	Outright
Multi-family dwelling	Outright	Outright
Motel/hotel		Outright
Transportation service		Outright
Automotive sales, service, & gas station		Conditional Use
Indoor family entertainment		Outright
Business & education service		Outright
Eating & drinking establishment		Outright
Personal & Professional services		Outright
Repair services		Outright
Retail sales		Outright
Light manufacturing		Conditional Use



The site is accessed from City streets including Exchange and 16th and is located two blocks from Marine Drive and Commercial Street which are State highways. Duane, Exchange, and 16th Streets are classified as “collector” streets, Commercial Street and Marine Drive are “arterial” streets. Any new development at this site would be subject to review by the City to assure that the existing transportation facilities (roads, intersections, etc.) are sufficient to accommodate the proposed development.

The Astoria Transportation System Plan, dated July 1999, did not identified potential transportation system improvements for this general area as it is not a major transportation route.

The R-3 Zone would have less transportation impact than the C-3 Zone due to the elimination of the commercial, traffic-oriented uses.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code. Staff recommends that the Planning Commission recommend approval of the proposed amendment to the City Council for adoption with the following condition:

1. The vacant parcel on west side of 500 block 16th Street; Map T8N-R9W Section 8DC, Tax Lot 18100; south 50' Lots 1 & 2, Block 114, Shively shall remain C-3 Zone if the property owner does not agree to the amendment request for a rezone of the property by May 8, 2013.



May 22, 2013

TO: ASTORIA CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: AMENDMENT REQUEST (A13-02) BY CANNERY LOFT HOLDINGS LLC TO THE LAND USE AND ZONING MAP TO REZONE A PARCEL FROM GI ZONE (GENERAL INDUSTRIAL) TO S-2A (TOURIST ORIENTED SHORELAND)

BACKGROUND

The parcel proposed to be rezoned is located on the north side of Abbey Lane east of 39th Street. It was one of three platted lots approved for development with three Cannery Loft Condominium buildings. Only two of the approved buildings were constructed and the third lot remains vacant. Approximately half of the lot is a designated wetland area and is not buildable. The site was originally zoned S-1 (Marine Industrial Shoreland) but was rezoned to GI in 1992 (A92-03) as the parcels were not feasible for shoreland activities as they were cut off from the River and shoreland development opportunities.

The current GI Zone limits the variety of commercial uses allowed and mainly focuses on general industrial uses, but does allow for multi-family dwellings above the ground floor under a conditional use permit. The site was included in the Cannery Loft Condominium development proposal and approved under Conditional Use permit (CU04-04) as amended by AEP05-05 for construction of a multi-family dwelling. That permit is still valid and would allow multi-family dwelling construction on the site with general industrial use on the ground floor. The original owners were never able to complete construction of the third building and the lot subsequently changed ownership. The property to the west of 39th Street (Hampton Inn & Suites) was changed from S-1 Zone (Marine Industrial Shoreland) to S-2A Zone (Tourist Oriented Shoreland) to allow for the development of the new hotel which would support the East End Mooring Basin activities more than the industrial uses allowed by the S-1 Zone. The request to rezone the parcel at 4050 Abbey Lane to S-2A would continue with the tourist oriented shoreland possibilities while allowing for broader multi-family dwelling opportunities on all floors of a building.

The applicant proposes to potentially sell the property for redevelopment as a multi-family dwelling with some potential commercial activities such as professional offices and non-tourist oriented retail sales. They have submitted a conditional use application for those proposed uses which is being processed concurrently with the proposed zone map amendment. The Planning Commission approved the conditional use permit on April 23, 2013 with the condition that it would be contingent upon approval of the zone amendment.

At its April 23, 2013 meeting, the Astoria Planning Commission held a public hearing and recommended that the City Council adopt the proposed amendment. A copy of the Staff Report and Findings of Fact as adopted by the Planning Commission is attached. Also attached to this memo is the proposed ordinance. A public hearing and first reading on the Amendment was held at the May 20, 2013 City Council meeting.


RECOMMENDATION

If the Council is in agreement, it would be in order for Council to hold a second reading and adoption of the Ordinance.

The following is sample language for a motion for adoption of the Findings of Fact and Ordinance:

"I move that the Astoria City Council adopt the findings and conclusions contained in the staff report, and adopt the Ordinance amending the Astoria Land Use and Zoning Map."

By:



Rosemary Johnson, Planner

Through:



Brett Estes, Community Development Director

STAFF REPORT AND FINDINGS OF FACT

April 8, 2013

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER



SUBJECT: Amendment Request (A13-02) by Cannery Loft Holdings LLC to amend the Land Use and Zoning Map to rezone the property at 4050 Abbey Lane from GI Zone (General Industrial) to S-2A Zone (Tourist-Oriented Shoreland)

I. BACKGROUND SUMMARY

- A. Applicant: Cannery Loft Holdings LLC
4380 SW Macadam Suite 190
Portland OR 97239
- 210 Developers LLC (Proposed Developers)
427 W Cevallos
San Antonio TX 78204
- B. Owner: Cannery Loft Partners LLC
c/o Cannery Loft Holdings LLC
4380 SW Macadam Suite 190
Portland OR 97239-6404
- C. Request: Amend the Land Use and Zoning Map to rezone the vacant lot at 4050 Abbey Lane from GI (General Industrial) to S-2A Zone (Tourist-Oriented Shoreland)
- D. Location: 4050 Abbey Lane; Map T8N-R9W Section 9AA, Tax Lot 500; Lot 5, Astoria Business Park
- E. Current Zone: GI (General Industrial)
- Proposed Zone: S-2A (Tourist-Oriented Shoreland)

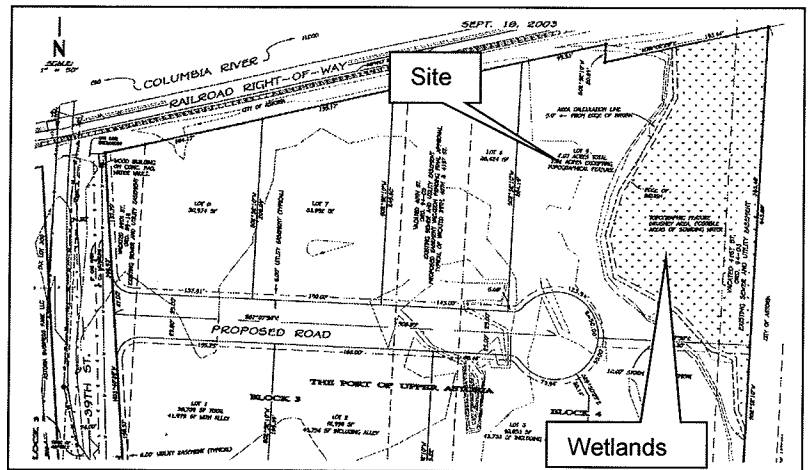
II. BACKGROUND

Subject Site:

The property to be rezoned is approximately 2.09 acres in size and is part of the Astoria Business Park general industrial area. It is located on the dead end cul-de-sac of Abbey Lane accessed from 39th Street off Lief Erikson Drive.



The lot was one of three platted lots approved for development with three Cannery Loft Condominium buildings. Only two of the approved buildings were constructed and the third lot remains vacant. The site is flat and approximately half of the lot is a designated wetland area and is not buildable. A portion of the lot has been paved with parking for the Cannery Loft Building B at 3990 Abbey Lane. That parking is part of a joint use/access easement.



The site was originally zoned S-1 (Marine Industrial Shoreland) but was rezoned to GI in 1992 (A92-03) as the parcels were not feasible for shoreland activities as they were cut off from the River and shoreland development opportunities. With the change to GI Zone, the property is no longer included in the City's inventory of Goal 17 shorelands, or those lands which are Especially Suited for Water Dependent (ESWD) uses. An amendment was approved in 2001 (A01-03) which increased some of the allowable uses within the GI Zone.

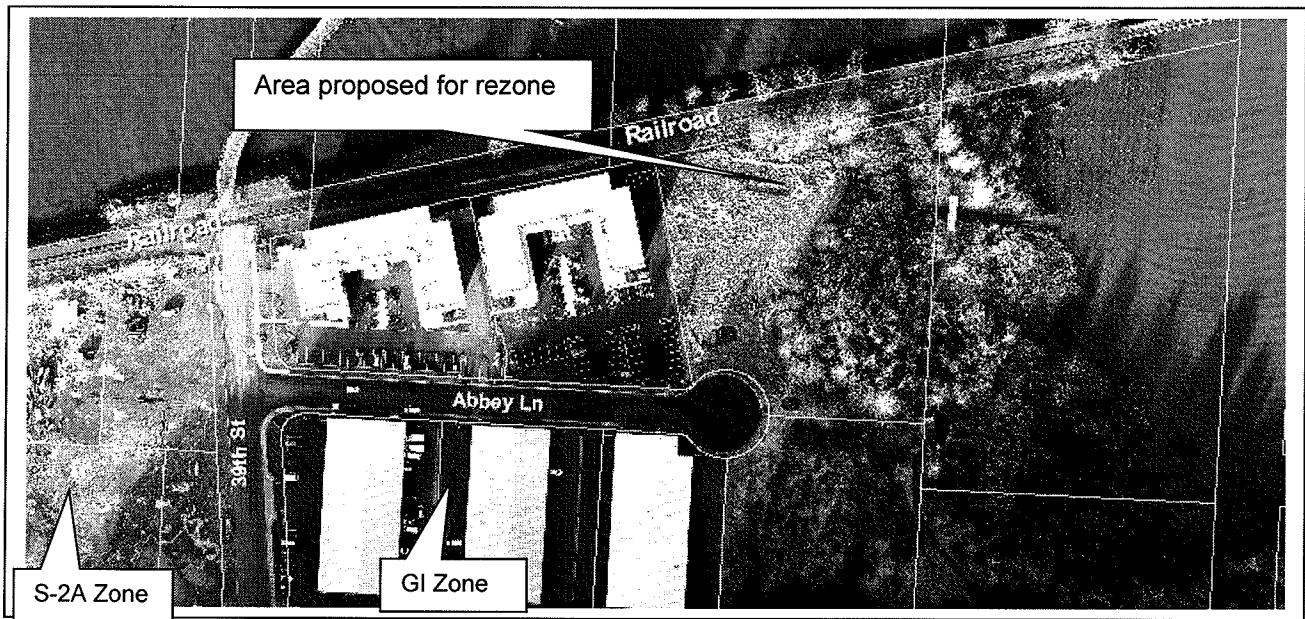
The current GI Zone limits the variety of commercial uses allowed and mainly focuses on general industrial uses, but does allow for multi-family dwellings above the ground floor under a conditional use permit. The site was included in the Cannery Loft Condominium development proposal and approved under Conditional Use permit (CU04-04) as amended by AEP05-05 for construction of a multi-family dwelling. That permit is still valid and would allow multi-family dwelling construction on the site with general industrial use on the ground floor. The original owners were never able to complete construction of the third building and the lot subsequently changed ownership.

The property to the west of 39th Street was changed from S-1 Zone (Marine Industrial Shoreland) to S-2A Zone (Tourist Oriented Shoreland) to allow for the development of the new hotel which would support the East End Mooring Basin activities more than the industrial uses allowed by the S-1 Zone. The request to rezone the parcel at 4050 Abbey Lane to S-2A would continue with the tourist oriented shoreland possibilities while allowing for broader multi-family dwelling opportunities on all floors of a building.

The new owner has stated that the nature of the two existing condominium buildings has not been conducive to general industrial uses and much of the ground floor spaces have remained vacant. There was a recent code amendment to allow mini storage in the two existing buildings to expand the allowable uses within those buildings. The requested zone change to S-2A would return the property to a waterfront zoning while allowing more flexibility in the range of commercial and tourist-oriented uses allowed.

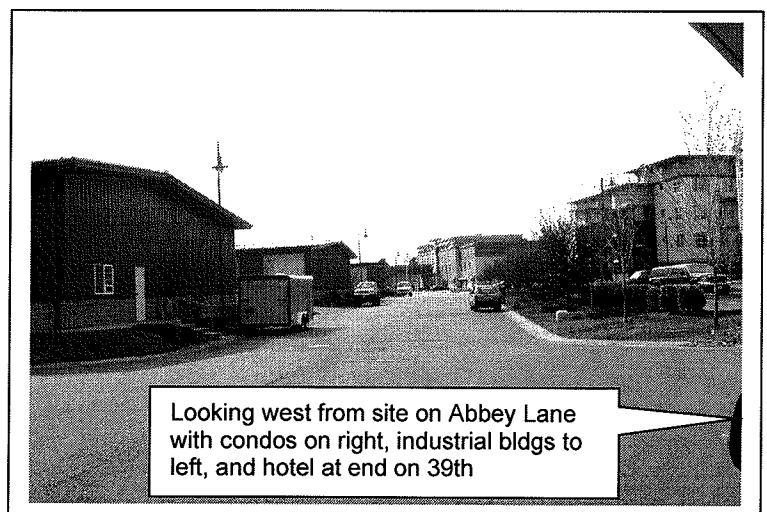
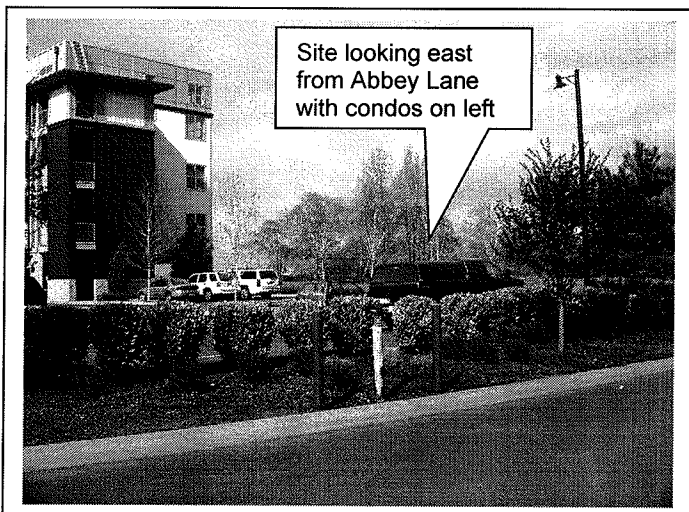
The applicant proposes to potentially sell the property for redevelopment as a multi-family dwelling with some potential commercial activities such as professional offices and non-tourist oriented retail sales. They have submitted a conditional use application for those

proposed uses which is being processed concurrently with the proposed zone map amendment and would be contingent upon approval of the zone amendment.



Neighborhood:

To the west is the two Cannery Loft Condominium buildings and across the 39th Street right-of-way is the Hampton Inn Hotel; to the northwest is the East End Mooring Basin, water area; to the north is the Columbia River, Pier 39, and River Trail (the trolley line ends at 39th Street); to the east is the Alderbrook Lagoon and wetlands; to the south are four industrial lots developed with three industrial buildings on the south side of Abbey Lane adjacent to Lief Erikson Drive. The area to the east is zoned A-3 (Aquatic Conservation). Properties to the west and south are zoned GI Zone (General Industrial). The area west of 39th Street is zoned S-2A (Tourist Oriented Shoreland).



III. PUBLIC REVIEW AND COMMENT

A public notice was mailed to all property owners within 100 feet, pursuant to Section 9.020 on March 29, 2013. In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on April 16, 2013. Any comments received will be made available at the Planning Commission meeting.

IV. FINDINGS OF FACT

- A. Section 10.020(B) states that *"An amendment to a zone boundary may only be initiated by the City Council, Planning Commission, the Community Development Director, or the owner or owners of the property for which the change is proposed."*

Finding: The proposed amendment to the zone boundary is being initiated by the property owner.

- B. Section 10.050(B) states that *"The following amendment actions are considered quasi-judicial under this Code:*

1. *A zone change that affects a limited area or a limited number of property owners."*

Finding: The proposed amendment is to amend the Astoria Land Use and Zoning Map to rezone a limited area site with only one property owner from GI to S-2A Zone. Processing as a quasi-judicial action would be appropriate.

- C. Section 10.070(B.1) concerning a Map Amendment states that *"Before an amendment to a zone boundary is approved, findings will be made that the following criteria are satisfied: 1. The amendment be consistent with the Comprehensive Plan."*

1. CP.010(2) concerning General Development Policies for Natural Features states that *"The City will cooperate to foster a high quality of development through the use of flexible development standards, cluster or open space subdivisions, the sale or use of public lands, and other techniques. Site design which conforms with the natural topography and protects natural vegetation will be encouraged. Protection of scenic views and vistas will be encouraged."*

Finding: At the time development application(s) are submitted for review by the City, issues such as site design will be addressed. No site design issues are being considered as a part of this request.

2. CP.015(4) concerning General Land and Water Use Goals states that *"Because of the City's strong water orientation, the Plan supports continuing regional efforts to manage the Columbia River estuary and shorelands. The City's land use controls, within this regional context, will be aimed at protecting the estuary environment and at promoting the best use of the City's shorelands."*

CP.020(3) concerning Community Growth-Plan Strategy states that *"The Columbia River waterfront is considered a multiple use area. The development of this area is to be encouraged in a flexible manner, under the shorelands and estuary section."*

Finding: The City will continue regional efforts to manage the Columbia River estuary and shorelands regardless of the zone change request. The property was rezoned in 1992 from a shoreland zone to GI and no longer retains the shoreland designation. However, the proposed zone would return the classification to a shoreland designation but with a tourist orientation. Removing this 2.09 acre parcel from the GI Zone and rezoning it S-2A (Tourist-Oriented Shoreland) will allow for an increased variety of uses to potentially occur on this property. This will allow for the redevelopment of the site in a flexible manner and allow for multiple uses.

3. CP.015(6) concerning General Land and Water Use Goals states that *"The plan establishes the goal of encouraging development which the City is capable of servicing. New industry or housing development should be permitted if public facilities such as sewer, water, police and fire protection, and schools, are capable of accommodating increased demand."*

Finding: The property is currently vacant and while capable of being served by public facilities, the actual demand on those services and ability to serve the increased demand cannot be determined until the actual use is proposed. The change in allowable uses could add a variety of commercial, tourist-oriented, and residential uses to the industrial, warehousing, light manufacturing, and other industrial-related uses. It is anticipated that public facilities should be sufficient to serve expanded uses in this area.

4. CP.020.9, Community Growth - Plan Strategy, states *"The Buildable Lands Inventory completed in April 2011 identified a deficit of 15.54 net acres of residential buildable lands. In order to address this deficit, OAR 660-24-0050 requires that the City amend the Plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the boundary or by expanding the UGB, or both."*

Finding: The City conducted a Buildable Lands Inventory which was adopted in 2011. The report states that *"A comparison of need and supply of industrial and other employment lands indicates an overall surplus of approximately 6.7 acres of employment land. While there is sufficient land for industrial uses (27.8 acre surplus), there is a deficit of land zoned for commercial and particularly retail use. However, a portion of the land identified as "Other" can accommodate specific commercial, industrial, and high-density residential development and help meet the need for additional commercial land."* There is an overall deficit of residentially zoned land of 15.54 acres. The subject property currently is zoned GI which allows multi-family residential units above the first floor but the proposed S-2A Zone

would allow multi-family dwellings on all floors increasing the possibility for additional residential development. The rezone would take approximately 2.09 acres (approximately 91,404 square feet) from GI Zone (industrial) to S-2A Zone (commercial/shoreland). It would reduce the industrial land surplus to 25.7 acres and would help with the overall deficit of commercially zoned employment land particularly for office/retail use by reducing the deficit to (19.01).

Estimated Net Land Surplus/(Deficit) by Zoning Designation, Astoria UGB, 2027				
Growth Scenario	Type of Use	Commercial (Office/Retail)	Industrial/Other	Total
Medium	Land Need	38.2	11.5	49.7
	Land Supply	17.1	39.3	56.4
Surplus/(Deficit)	Surplus/(Deficit)	(21.1)	27.8	6.7
Source: Cogan Owens Cogan				

Estimated Net Land Surplus/(Deficit) by Zoning Designation, Astoria UGB, 2027

Type of Use	R1	R2	R3	AH-MP	Total
Land Need	115.4	51.2	67.0	2.7	236.4
Land Supply	25.20	74.99	119.18	1.49	220.86
Surplus/(Deficit)	(90.20)	23.79	52.18	(1.21)	(15.54)

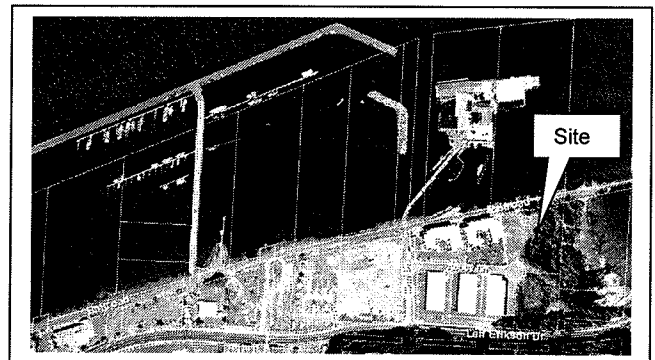
Source: Wingard Planning & Development Services

5. CP.175(E, Paragraphs 1, 2 & 3) concerning Uppertown/Alderbrook Subarea Plan Issues states that *"Shorelands in this subarea do not have direct access to deep water. The ship channel is 2,000 to 4,000 feet from the shoreline, though several ship anchorages are south of the channel."*

The Corps of Engineers has completed improvements to the East End Mooring Basin breakwaters that correct the surge problem. Eliminating the surge opens the basin to a large number of vessels and increases the need for dredging and for backup land to support basin operations. Vacant shorelands should be reserved for support uses.

Most of the subarea shorelands are already developed and there are no large vacant parcels. Between 35th and 41st Streets, however, is mostly vacant land with the potential to support water-dependent and water-related uses associated with the boat basin."

Finding: The area is no longer zoned shoreland but is within the Uppertown / Alderbrook Subarea Plan area. The S-2A zone would include uses which would support the East Moorage Basin.



6. CP.200 concerning Economic Development Goal 1 Policies states that *"The City of Astoria will:*
 4. *Encourage private development such as retail, restaurants, commercial services, transient lodging.*
 5. *Provide a supportive environment for new business.*
 6. *Encourage a diversity of businesses, target firms to add to the business mix and strengthen the overall economic base. . .*
 8. *Encourage the broadening of the economy, particularly in areas which help balance the seasonal nature of existing industries."*

Finding: In addition to multi-family residential uses, the S-2A zone would permit other uses outright such as tourist-oriented retail sales, hotels, and restaurants. The S-2A zone would allow uses to develop which would support the existing mooring basin, hotel, industrial, and condominium development.

7. CP.210(1) concerning Economic Development Recommendations states that *"The City should reevaluate its Plan and zoning designation for its waterfront in light of the decline of the fishing industry. The reevaluation should focus on the waterfront's potential for tourist-oriented development. Plan policies and implementing measures should be developed to encourage and promote tourist oriented development of the waterfront. Possible rezonings should include the A-1 area between 6th and 10th Streets, and in the vicinity of the Samuel Elmore Cannery."*

Finding: The East Mooring Basin is used for smaller fishing operations as well as recreational fishing operations. The S-2A zone would allow for more tourist-based uses to develop on the site which could potentially take advantage of the character of the adjacent working waterfront and historic Pier 39 development.

Finding: The request is in compliance with the Comprehensive Plan.

- D. Section 10.070(B.2) requires that *"The amendment will:*
 - a. *Satisfy land and water use needs; or*
 - b. *Meet transportation demands; or*
 - c. *Provide community facilities and services."*

Finding: The site is located on Abbey Lane accessed from Lief Erikson Drive (Highway 30) via 39th Street. There are no traffic lights, however there is a turn lane on Lief Erikson Drive at this intersection. In accordance with Statewide Planning Goal 12 concerning Transportation, and the Transportation Planning Rule (TPR) (OAR 660-12-060), any plan amendment having a significant effect on a transportation facility (i.e. Highway 30) must assure that the allowed land uses are consistent with the function, capacity, and level of service of the facility. In addition, OAR 734-051-0080, and OAR 734-051-0100 state that a proposed development or land use action where an on-site review indicates that operational or safety concerns may be present requires a Traffic Impact Study.

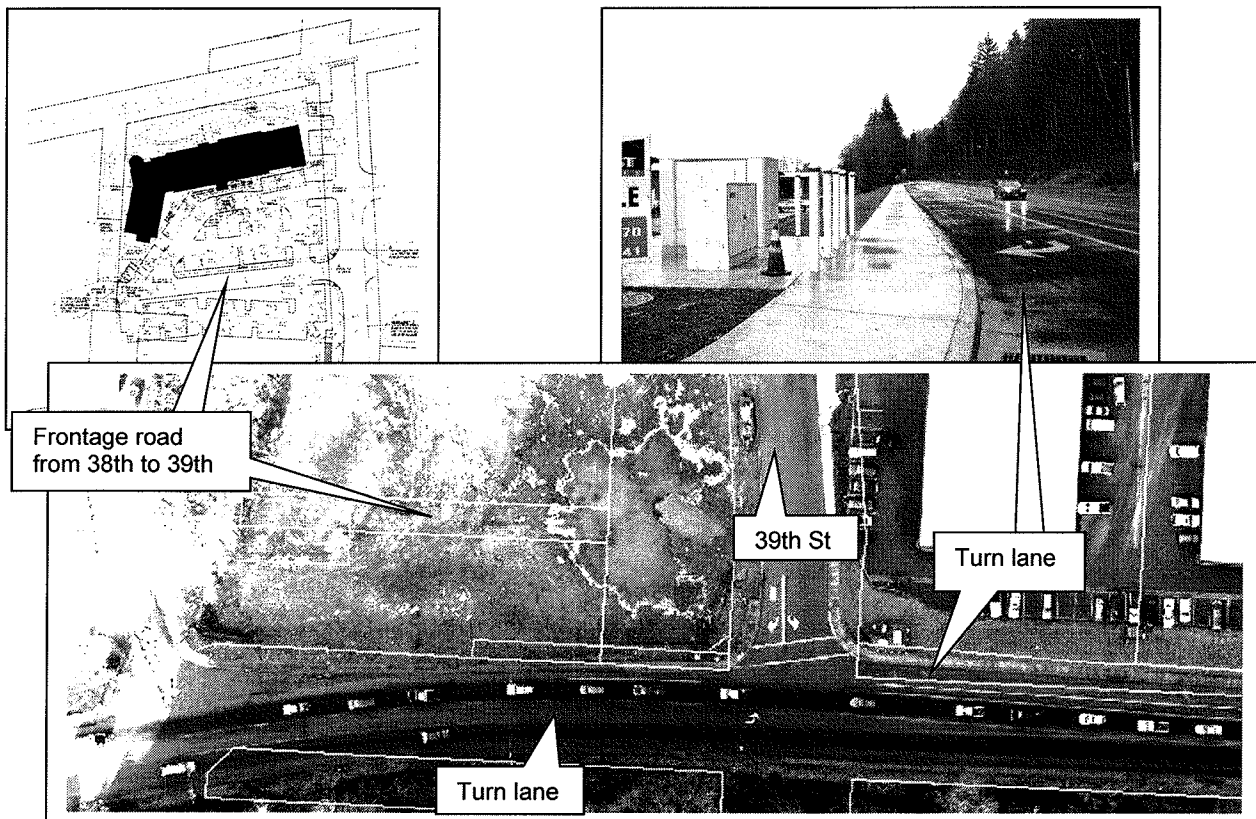
The traffic impact of each proposed use on the existing transportation system would be addressed at the time of a future permit application. The following is a comparison of some of the uses for both the existing and proposed zones.

Uses	GI		S-2A	
	Outright	CU	Outright	CU
Seafood receiving and processing.			X	
Small boat building and repair.			X	
Boat and/or marine equipment sales.			X	
Automotive repair, service, and garage; bulk fuel, ice processing; truck & equipment storage	X			
Commercial testing laboratory	X			
Laundry, cleaning, and garment services	X		X	
Specialized food store, such as bakery, delicatessen and seafood market			X	
Food and kindred products processing		X		
Tourist oriented retail sales establishment.			X	
Non-tourist oriented retail sales establishment.		X with limitations		X
Light manufacturing, photo lab, graphic services, research lab, construction office & storage	X			
Eating, drinking and entertainment establishment without drive-through facility		X with limitations	X	
Park and museum; theater; conference center			X	
Arts and crafts studio.				X
Commercial or public parking lot.				X
Repair service establishment,	X			X not including automotive, heavy equipment, or other major repair service.
Professional and business office.		X with limitations		X
Temporary use meeting the requirements of Section 3.240				X
Hotel, motel, inn, bed and breakfast			X	
Theater			X	
Public or semi-public use appropriate to and compatible with the district.	X no semi-public use			X
Multi-family dwelling		X above 1st floor		X

The zone change to S-2A will provide for a wider variety of uses within the 2.09 acre site, increasing some water-related commercial uses, but eliminating some of the heavier industrial uses. All City utility services are available to the area. The change in allowable uses would be an increase in potential vehicle trips to the site. With the more tourist-oriented uses, the nature of the traffic would be private vehicles versus the larger commercial trucks associated with the industrial uses. Approximately half of the site is designated wetlands and not buildable. Due to the

small size of the site, and the fact that one of the largest traffic generators is multi-family dwelling which is allowed in both zones, the change in traffic impact to the area should not be significant.

In February 2007, the City Council adopted the East Gateway Transportation System Plan. This Plan was conducted by the City of Astoria in conjunction with the Oregon Department of Transportation (ODOT) and studied the existing and forecasted transportation needs in this area. In a letter dated November 5, 2007 concerning the proposed rezone (A07-01) of the area on the west side of 39th Street from S-1 to S-2A, ODOT staff stated that following review of the East Gateway Transportation System Plan, they believed that proposed zone change would comply with the provisions contained in the Transportation Planning Rule. The East Gateway Transportation System Plan recommended a new frontage road connection between 36th and 39th Streets in order to improve safety and operational issues. At the time of that rezone, ODOT staff stated that from their assessment, there was capacity at the Highway 30 / 39th Street intersection provided a parallel road was developed between 38th and 39th Streets to accommodate the zone change. A new road connection between 38th and 39th Streets was constructed with the new Hampton Inn Hotel in 2012. In addition, the East Gateway TSP recommended a turn lane be constructed on Lief Erikson Drive to accommodate the projected development on 39th Street. Those turn lanes have been constructed.



Since this property is accessed from two City streets and not directly from the State Highway, ODOT no longer comments on the TPR review. From the existing East Gateway TSP and projected traffic volumes and projected uses, it appears

that the transportation facilities in this area are sufficient to accommodate the uses allowed in the S-2A Zone.

- E. Section 10.070(B)(3) requires that *"the land is physically suitable for the uses to be allowed, in terms of slope, geologic stability, flood hazard and other relevant considerations."*

Finding: The location of this land is parallel to the former railroad right-of-way (current trolley line). The site is slightly below the grade of Highway 30 road improvements and is relatively flat.

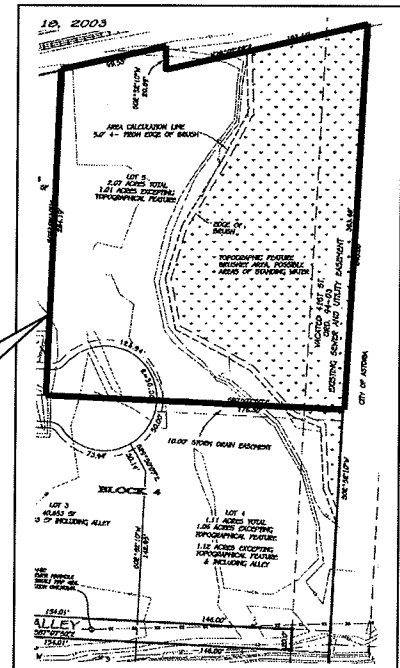
The west portion of the land area is in flood Zone X, "Areas determined to be outside the 0.2% annual chance floodplain", of the Flood Insurance Rate Map, Community Panel Number 410028-233-E, dated September 17, 2010. The east portion of the site is a designated wetland and is in Flood Hazard Overlay Zone (FHO) X "Areas of 0.2% annual chance flood" and AE "Special Flood Hazard Area subject to inundation by the 1% annual chance flood - (Base Flood Elevation 12')". Any new construction is required to meet first-floor elevation standards, as set by the National Flood Insurance Program; however, the land area is not within a flood zone requiring this construction standard and the areas within the flood zones is a wetland and there would be no construction in this area. The site is located within an "Extreme Risk" Tsunami Inundation Zone as determined by the Oregon Department of Geology and Mineral Industries (map publication IMS-11) and governed by rules contained in Oregon Administrative Rules 632-005 et seq. The subject property is not adjacent to an area of known geologic instability.

Any construction proposed for the site would be reviewed at the time of the proposal for compliance with the site development constraints.

- D. Section 10.070(B.4) requires that *"resource lands, such as wetlands, are protected."*

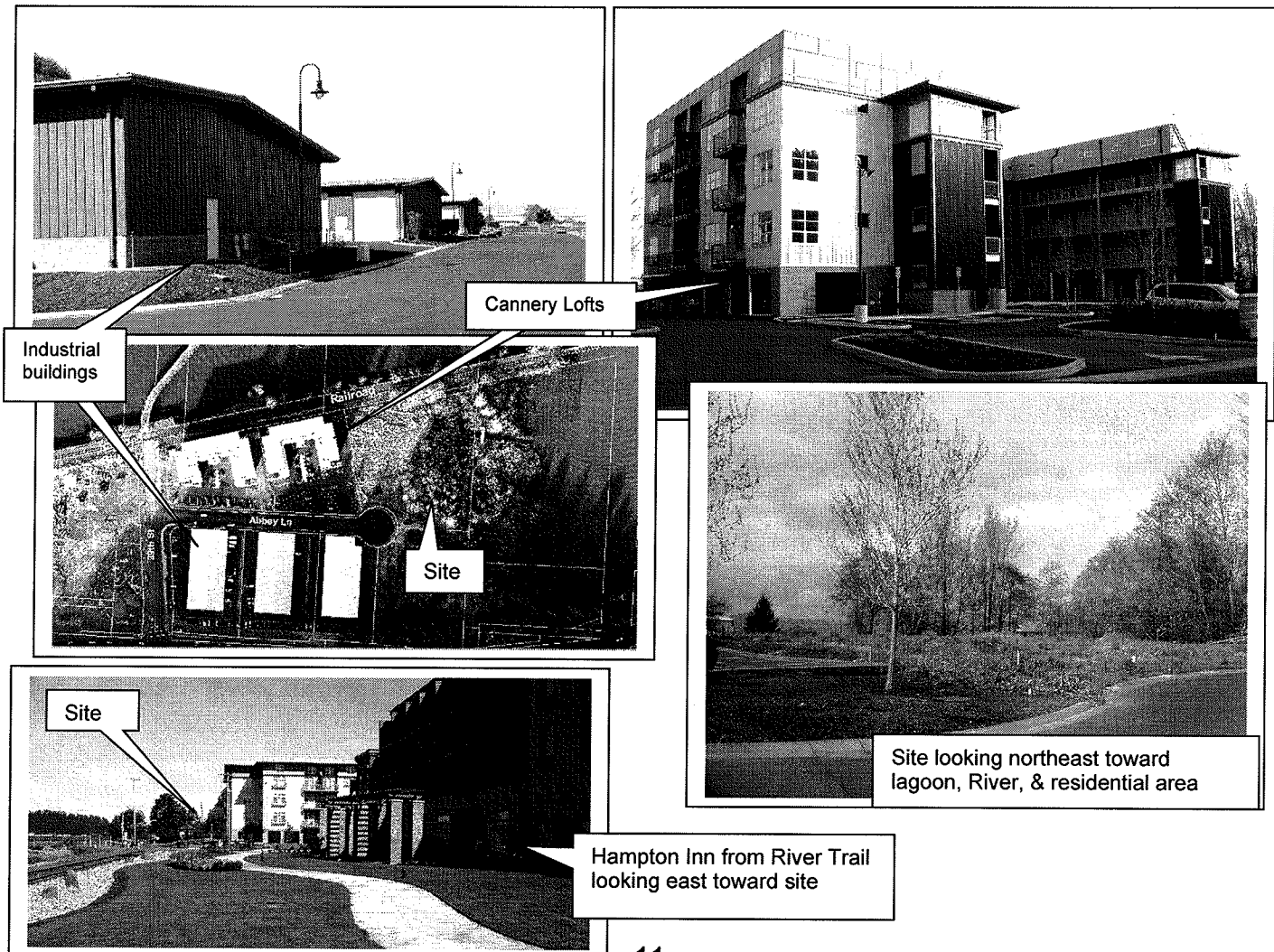
Finding: There are known wetlands on the site and these areas are identified and would be protected during any proposed construction.

Area proposed to be rezoned with wetlands (unbuildable) area noted.



- E. Section 10.070(B.5) requires that *"the amendment is compatible with the land use development pattern in the vicinity of the request."*

Finding: The 39th Street area has a variety of development. On the west side of 39th is an S-2A Zone developed with the Hampton Inn Hotel with the East End Mooring Basin to the west of that; on the north is the Columbia River, trolley line, and Pier 39 with restaurant, museum, scuba shop, offices, transient lodging facility, and boat storage; to the west on the adjacent lots is the Cannery Loft Condominiums with multi-family dwelling units above industrial/commercial facilities on the ground floor; to the south across Abbey Lane right-of-way is the Astoria Business Park industrial development with auto detailing, carpet store, AAMCO store, Fastenal supplies, and martial arts / gym facility; to the east is a lagoon and the start of the Alderbrook residential neighborhood. Development Code Section 2.700 includes the purpose statement for the S-2A zone which states that the S-2A district ". . . is intended to provide for mixed-use tourist oriented development that retains and takes advantage of the working waterfront character of the area." Across the Lief Erikson Drive right-of-way is a forested hillside and residential with some neighborhood commercial development. The vicinity is effectively bordered to the south by Lief Erikson Drive and the north by the Columbia River.



The River Trail now extends the full length of the developed portion of the Columbia River in Astoria from Pier 3 at the Port to the Alderbrook Lagoon at 54th Street. The Trail in the area of 39th Street is developed more aesthetically with the hotel lawn, trolley stop, Cannery Loft Condominiums, benches, etc. The S-2A Zone would allow development of this site adjacent to the River Trail with uses that would complement the River Trail while keeping a working waterfront zone designation. With the mixture of uses in this neighborhood, the proposed S-2A Zone would be compatible as it would allow uses that would be able to service the other uses in the area. Multi-family dwelling development is allowed in both the GI and S-2A zones, so this possible use would not change. The site to be rezoned is small and allowable S-2A development would not be a major impact to the area.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code, and staff recommends that the Planning Commission recommend to the City Council that the proposed amendment to the Land Use and Zoning Map be adopted.

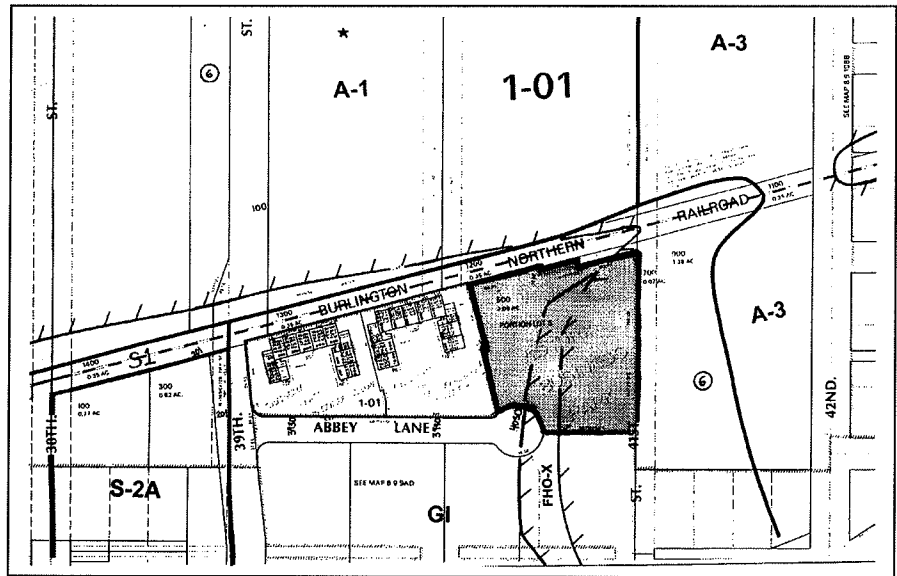
ORDINANCE NO. 13-_____

AN ORDINANCE AMENDING THE ASTORIA LAND USE AND ZONING MAP BY REZONING A PARCEL AT 4050 ABBEY LANE FROM GI (GENERAL INDUSTRIAL) TO S-2A (TOURIST-ORIENTED SHORELAND)

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. The 1992 Astoria Land Use and Zoning Map is amended to rezone the following area from GI (General Industrial) to S-2A (Tourist-Oriented Shoreland) as indicated on the map:

Map T8N-R9W Section
9AA, Tax Lot 500; Lot 5,
Astoria Business Park



Section 2. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

ADOPTED BY THE COMMON COUNCIL THIS _____ DAY OF _____, 2013.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2013.

ATTEST:

Mayor

Paul Benoit, City Manager

ROLL CALL ON ADOPTION:

YEA

NAY

ABSENT

Commissioner	LaMear
	Herzig
	Mellin
	Warr
Mayor	Van Dusen



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 23, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **5th & DUANE STREET SLIDE CLEAN-UP AUTHORIZATION TO AWARD**

DISCUSSION/ANALYSIS

In December 2012, a landslide occurred on City owned property, impacting the south side of Duane Street between 5th and 6th Street. The initial event brought several Alder trees and soil down a steep embankment, blocking Duane Street. Movement continued over the next several weeks bringing several large trees and a more substantial volume of soil onto the road.

Several local contractors assisted the City with emergency slide clean-up and debris removal. Landslide Technology (on-call Geotechnical firm) helped evaluate the slide and provided recommendations to guide the clean-up effort.

Since mid-February, the area has remained relatively stable allowing the Public Works Department to plan a project to address additional debris removal and erosion control. The scope of this project includes loose slide debris removal, relocation of concrete blocks to City Shops, installation of erosion control measures, and hydroseeding.

Staff used the informal Request for Quotes process (RFQ) since the work was estimated to cost less than \$100,000. The following competitive quotes were received:

Contractor	Total Bid
TFT Construction Inc.	\$13,618.00
North Pacific Excavation	\$15,817.82
Bergeman Construction	\$28,034.20
Big River Construction	\$32,030.00

The Engineer's Estimate prepared for the project is \$20,000 with a 15% contingency.

RECOMMENDATION

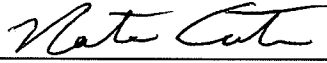
It is recommended that City Council authorize staff to award a construction contract to TFT Construction Inc. in the amount of \$13,618.00 for the 5th & Duane Street Slide Clean-up Project. Funds for the project are available in the Capital Improvement Fund.

Submitted By



Ken P. Cook, Public Works Director

Prepared By:



Nathan Crater, Assistant City Engineer

60.01.00 - GENERAL

THIS AGREEMENT, made and entered into this ____ day of _____, 2013, by and between TFT Construction, Inc., 53990 West Lane Road, Scappoose, OR 97056, hereinafter called "**CONTRACTOR**" and the City of Astoria, a municipal corporation, hereinafter called "**CITY**."

WITNESSETH:

That the said **CONTRACTOR** and the said **CITY**, for the consideration hereinafter named agree as follows:

60.2.00 - DESCRIPTION OF WORK

The **CONTRACTOR** agrees to perform the work of:

5TH AND DUANE STREET SLIDE CLEAN UP

and do all things required of it as per his bid, all in accordance with the described bid, a copy of which is hereto attached and made a part of this contract.

60.3.00 - COMPLETION OF CONTRACT

The **CONTRACTOR** agrees that the work under this contract shall be performed within 30 calendar days of Notice to Proceed. If conditions beyond the control of the **CONTRACTOR** prevents completion of the project within the time set, **CONTRACTOR** may request a reasonable extension of time in accordance with APWA General Requirements. If said **CONTRACTOR** has not fully completed this contract within the time set or any extension thereof, he shall pay liquidated damages in accordance with Section 108.6.00 of the Supplementary Conditions to General Requirements.

60.4.00 - CONTRACT PRICE

The contract price for this project is \$13,618.00. Payment will be made in accordance with ORS 279C.560 including progress payments at the end of each month. Retainage will be withheld in accordance with ORS 279C.550 - .565.

60.5.00 - CONTRACT DOCUMENTS

The **CONTRACTOR** and the **CITY** agree that the plans, specifications (including the APWA Oregon Chapter 1990 Standard Specifications for Public Works Construction with 1996 revisions), general conditions, supplementary conditions, call for bids, special provisions to the engineering specifications, instructions to bidders, all addenda and all modifications thereto and bid are, by this reference, incorporated into this contract and are fully a part of this contract.

60.6.00 - CHANGES IN WORK

With the consent of the **CONTRACTOR's** surety, the **CITY** may change the plans, specification, character of the work, or quantity of work, provided the total value of all such changes, both additive and deductive, does not exceed the following:

A. An increase or decrease of more than 25 percent of the total cost of the work calculated from the original proposal quantities and the unit contract prices; or,

B. An increase or decrease of more than 25 percent in the quantity of any one major contract item.

For condition b) above, a major item is defined as any item that amounts to 10 percent or more of the total contract price. If it is necessary to exceed this limitation, the change shall be by written supplemental agreement between the **CONTRACTOR** and **CITY**.

Any change shall be in writing and state the dollar value, method of payment, and any adjustments in contract time, and shall provide for the signatures of the **CONTRACTOR** and **CITY**.

Changes in plans and specifications, requested in writing by the **CONTRACTOR**, which do not materially affect the work, may be granted by the Engineer. Payment will be made in accordance with Section 60.4.00 of this contract.

60.7.00 - COMPLIANCE

The **CONTRACTOR** specifically agrees to comply with all laws, ordinances, and regulations applicable to municipal contracts and to make prompt payment of all amounts that may be due from said **CONTRACTOR** in the way of taxes or lawful deductions and to make prompt payment of all labor and materials, and save the **CITY** harmless from any damages or claims whatsoever in the performance of this contract.

The **CONTRACTOR** further agrees to comply with all laws, ordinances, rules, orders and regulations relating to the performance of the work, the protection of adjacent property, and the maintenance of passageways, guard fences, or other protective facilities.

CONTRACTOR agrees to take every precaution against injuries to persons or damage to property.

The **CONTRACTOR** agrees that the work will be done to the satisfaction and approval of the Engineer of the **CITY** of Astoria.

CONTRACTOR agrees to store his apparatus, materials, supplies and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of their work or the work of any other employees or persons.

CONTRACTOR agrees to hold the **CITY** free and harmless from all liability to persons and property for failure to leave the premises in a safe condition and to make payment to all persons employed by them in such project.

60.8.00 - ADDITIONAL CONTRACTOR RESPONSIBILITIES

CONTRACTOR is responsible for obtaining and paying for all necessary permits.

CONTRACTOR shall verify existing conditions and locations of all utilities and shall notify the Engineer of any discrepancies that may affect the work.

CONTRACTOR is responsible for contacting the utilities to have the lines relocated or repaired as necessary.

60.9.00 - CONTRACTOR IS INDEPENDENT CONTRACTOR

A. CONTRACTOR's services shall be provided under the general supervision of **CITY's** project director or his designee, but **CONTRACTOR** shall be an independent **CONTRACTOR** for all purposes and shall be entitled to no compensation other than the compensation provided for under Section 60.4.00 of this Contract.

B. CONTRACTOR acknowledges that for all purposes related to this Contract, **CONTRACTOR** is and shall be deemed to be an independent **CONTRACTOR** and not an employee of **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 **CONTRACTOR** 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 repayment of any amounts from **CONTRACTOR** under the terms of the Contract; to the full extent of any benefits or other remuneration **CONTRACTOR** 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 **CONTRACTOR** or to a third party) as a result of said finding.

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

60.10.00 SUBCONTRACTS - RELATIONS WITH SUBCONTRACTORS, ASSIGNMENTS AND DELEGATION

A. CONTRACTOR shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by **CITY** of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between subcontractor and **CITY**.

B. CONTRACTOR's relations with subcontractors shall comply with ORS 279C.580. In accordance with that statute:

1. **CONTRACTOR** shall include in each subcontract for property or services entered into by the **CONTRACTOR** and a first-tier subcontractor, including a material supplier, for the purpose of performing a construction contract:

(a) A payment clause that obligates the **CONTRACTOR** to pay the first-tier subcontractor for satisfactory performance under its subcontract within 10 day out of such amounts as are paid to the **CONTRACTOR** by the contracting agency under the contract; and

(b) An interest penalty clause that obligates the **CONTRACTOR**, if payment is not made within 30 days after receipt of payment from the contracting agency, to pay to the first -

tier subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract under paragraph (a) of this subsection. A **CONTRACTOR** or first-tier sub-contractor may not be obligated to pay an interest penalty if the only reason that the **CONTRACTOR** or first-tier sub-contractor did not make payment when payment was due is that the **CONTRACTOR** or first-tier subcontractor did not receive payment from the contracting agency or **CONTRACTOR** when payment was due. The interest penalty shall be: (A) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and (B) Computed at the rate specified on ORS 279C.515 (2).

2. **CONTRACTOR** shall include in each of the **CONTRACTOR's** subcontracts, for the purpose of performance of such contract condition, a provision requiring the first-tier subcontractor to include a payment clause and an interest penalty clause conforming to the standards of subsection (1) of this section in each of the first-tier subcontractor's subcontracts and to require each of the first-tier subcontractor's subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

The above required clauses are required by ORS 279C.580 (3) and (4) and all the provisions of ORS 279C.580 are applicable.

C. **CONTRACTOR** certifies that all subcontractors performing work described in ORS 701.005(3) or ORS 671.520(1) will be registered with the Construction Contractors Board or by the State Landscape Contractors Board before the subcontractors commence work under this contract.

D. Assignment or Transfer Restricted. The **CONTRACTOR** shall not assign, sell, dispose of, or transfer rights nor delegate duties under the contract, either in whole or in part, without the **CITY's** prior written consent. Unless otherwise agreed by the **CITY** in writing, such consent shall not relieve the **CONTRACTOR** of any obligations under the contract. Any assignee or transferee shall be considered the agent of the **CONTRACTOR** and be bound to abide by all provisions the contract. If the **CITY** consents in writing to an assignment, sale, disposal or transfer of the **CONTRACTOR's** rights or delegation of the **CONTRACTOR's** duties, the **CONTRACTOR** and its surety, if any, shall remain liable to the **CITY** for complete performance of the contract as if no such assignment, sale, disposal, transfer or delegation had occurred unless the **CITY** otherwise agrees in writing.

E. **CONTRACTOR** certifies that **CONTRACTOR** has not discriminated and will not discriminate against minority, women or small business enterprises in obtaining any required subcontracts.

60.11.00 - EARLY TERMINATION

A. This Contract may be terminated without cause by mutual written consent of the parties. In addition, the parties may agree to terminate the contract:

1. If work under the Contract is suspended by an order of a public agency for any reason considered to be in the public interest other than by a labor dispute or by reason of any third party judicial proceeding relating to the work other than a suit or action filed in regard to a labor dispute; or

2. If the circumstances or conditions are such that it is impracticable within a reasonable time to proceed with a substantial portion of the Contract.

B. Payment. When a Contract, or any divisible portion thereof, is terminated pursuant to this section, the **CITY** shall pay the **CONTRACTOR** a reasonable amount of compensation for preparatory work completed and for costs and expenses arising out of termination. The **CITY** shall also pay for all work completed, based on the contract price. Unless the work completed is subject to unit or itemized pricing under the Contract, payment shall be calculated based on percent of contract completed. No claim for loss anticipated profits will be allowed.

C. Responsibility for Completed Work. Termination of the contract or a divisible portion thereof pursuant to this section shall not relieve either the **CONTRACTOR** or its surety of liability for claims arising out of the work performed.

D. Termination under any provision of this paragraph shall not affect any right, obligation or liability of **CONTRACTOR** or **CITY** which accrued prior to such termination.

E. If work is suspended under circumstances described in A (1) but the contract is not terminated, the **CONTRACTOR** is entitled to a reasonable extension of time to complete the contract, and reasonable compensation for all costs resulting from the suspension plus reasonable allowance for overhead with respect to such costs.

60.12.00 - CANCELLATION FOR CAUSE

CITY may cancel all or any part of the Contract if **CONTRACTOR** breaches any of the terms herein or in the event of any of the following: Insolvency of **CONTRACTOR**; voluntary or involuntary petition in bankruptcy by or against **CONTRACTOR**; appointment of a receiver or trustee for **CONTRACTOR**, or an assignment for benefit of creditors of **CONTRACTOR**. 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.

60.13.00 - NONWAIVER

The failure of the **CITY** to insist upon or enforce strict performance by **CONTRACTOR** 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.

60.13.01 - REMEDIES

Consequences for **Contractor's** failure to perform the scope of work identified in the invitation to bid or the **Contractor's** failure to meet established performance standards may include, but are not limited to:

(A) Reducing or withholding payment;

(B) Requiring the contractor to perform, at the contractor's expense, additional work necessary to perform the identified scope of work or meet the establish performance standards; or

(C) Declaring a default, terminating the public contract, and seeking damages and other relief available under the terms of the public contract or other applicable law.

(D) Liquidated damages as calculated in Division 98, Supplementary Conditions, Section 108.6.00

60.14.00 - SUIT OR ACTION

In the event suit or action is instituted to enforce any of the terms of this agreement, 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.

60.15.00 - 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 bid of the **CONTRACTOR**, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said bid conflicting herewith.

60.16.00 - INDEMNIFICATION

The **CONTRACTOR** agrees to indemnify and to hold harmless the **CITY**, its officers, employees and agents against and from any and all loss, claims, actions, suits, including costs and attorney's fees, for or on account of injury, bodily or otherwise, to, or death of persons, damage to or destruction of property belonging to **CITY**, **CONTRACTOR** or others, resulting from **CONTRACTOR's** negligence.

60.17.00 - WORKERS' COMPENSATION

All employers, including **CONTRACTOR**, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. **CONTRACTOR** shall ensure that each of its subcontractors complies with these requirements. (ORS 279C.530 (2)).

60.18.00 - LABORERS AND MATERIALMEN, CONTRIBUTIONS TO INDUSTRIAL ACCIDENT FUND, LIENS AND WITHHOLDING TAXES

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

CONTRACTOR shall pay all contributions or amounts due the Industrial Accident Fund from **CONTRACTOR** or any subcontractor incurred in the performance of the contract.

CONTRACTOR 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.

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

60.19.00 - PAYMENT OF CLAIMS BY PUBLIC OFFICERS; PAYMENT TO PERSONS FURNISHING LABOR AND MATERIALS; AND COMPLAINTS

A. If the **CONTRACTOR** fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the **CONTRACTOR** or a subcontractor by any person in connection with the public contract as such claim becomes due, the proper officer or officers representing the municipality may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the **CONTRACTOR** by reason of such contract.

B. If the **CONTRACTOR** or a first-tier subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within 30 days after receipt of payment from the public contracting agency or a **CONTRACTOR**, the **CONTRACTOR** or first-tier subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 30-day period that payment is due under ORS 279C.580 and ending upon final payment, unless payment is subject to a good faith dispute as defined in 279C.580. The interest penalty shall be as provided in ORS 279C.580.

C. If the **CONTRACTOR** or a sub-contractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580.

D. The payment of a claim in the manner here authorized shall not relieve the **CONTRACTOR** or the **CONTRACTOR's** surety from obligation with respect to any unpaid claims.

60.20.00 - HOURS OF LABOR

No person shall be employed for more than 10 hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases, the employee shall be paid at least time and a half pay:

A For all overtime in excess of eight hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or

B. For all overtime in excess of 10 hours in any one day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; and

C. For all work performed on Saturday and on any legal holiday specified in ORS 279C.540.

D. **CONTRACTOR** must give notice to employees who work on a public contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees of the number of hours per day and days per week that the employees may be required to work.

E. CONTRACTOR will comply with the requirements of ORS 279.C545 regarding time limitation or claim for overtime, posting of circular.

60.21.00 - PAYMENT OF MEDICAL CARE

CONTRACTOR 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 **CONTRACTOR**, of all sums which the **CONTRACTOR** agrees to pay for such services and all moneys and sums which the **CONTRACTOR** 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.

60.22.00 - DRUG TESTING PROGRAM

CONTRACTOR shall demonstrate, to the satisfaction of the Public Works Director that an employee drug-testing program is in place. **CONTRACTOR** may attach hereto a written description of his drug testing program, or a copy of the adopted drug-testing program, to comply with this condition.

60.23.00 – PREVAILING WAGE RATE

A. Prevailing Wage Rate. If this contract is subject to both ORS 279C.800 to ORS 279C.870 and the Davis-Bacon Act (40 USC 3141 *et seq*) every contract and subcontract must provide that the worker whom the **CONTRACTOR**, subcontractor, or other person who is a party to the contract uses in performing all or part of this contract, must be paid not less than the higher of the applicable state prevailing rate of wage for each trade or occupation as defined by the Commissioner of the Bureau of Labor and Industries in the applicable publication entitled *Definitions of Covered Occupations for Public Works Contracts in Oregon* or federal prevailing rate of wage. A current copy (title page only) of Prevailing wage Rates for Public Works contracts in Oregon is included in Section 40 of the specifications. A web site where these publications are available is <http://egov.oregon.gov/BOLI/WHD/PWR/pwr.state.shtml>.

B. Statutory Public Works Bond. **CONTRACTOR** shall have a Public Works bond on file with the Construction Contractors Board before starting work on the project, unless exempt under the terms of ORS 279C.836. **CONTRACTOR** shall include a provision in every subcontract requiring the subcontractor to have a public works bond on file with the Construction Contractors Board before starting work on the project, unless exempt under the terms of ORS 279C.836.

C. Certified Payroll Reports. **CONTRACTOR** or **CONTRACTOR's** surety and every subcontractor or subcontractor's surety shall file certified payroll reports with the **CITY** in conformance with ORS 279C.845. The **CITY** is required to withhold 25% of amounts earned by **CONTRACTOR** if certified payroll reports are not submitted as required.

60.24.00 – INSURANCE

A. Commercial General Liability. **CONTRACTOR** shall obtain, at **CONTRACTOR'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 \$1,000,000 per occurrence

and the annual aggregate not less than \$2,000,000. Coverage shall include contractors, subcontractors 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, and coverage will be primary, not contributory. 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 limit will not be less than \$2,000,000.

B. Automobile Liability. Contract shall obtain, at Contractor'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 **CONTRACTOR'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, **CONTRACTOR** 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. 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 **CONTRACTOR** 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.

60.25.00 - PERFORMANCE AND PAYMENT BOND

The **CONTRACTOR** further agrees to furnish a performance bond and a payment bond in approved forms each in the amount of 100% for the full performance and payment of the terms of this contract.

60.26.00 - CERTIFICATION OF COMPLIANCE WITH TAX LAWS

As required by ORS 305.385(6), **CONTRACTOR** certifies under penalty of perjury that the **CONTRACTOR**, to the best of **CONTRACTOR's** knowledge, is not in violation of any of the tax laws described in ORS 305.380(4).

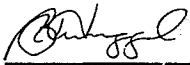
60.26.01 - CITY OCCUPATION TAX

Prior to starting work, **Contractor** shall pay the City occupation tax and provide the Public Works Department with a copy of occupation tax receipt. **Contractor** shall, likewise, require all subcontractors to pay the City occupation tax and provide a copy of the receipt to the Public Works Department prior to commencement of work.

60.27.00 - NO THIRD PARTY BENEFICIARIES

This agreement and each and every provision is for the sole benefit of the **CITY** and **CONTRACTOR** and no third parties have any rights or benefits except to the extent expressly provided herein.

APPROVED AS TO FORM:



City Attorney

Digitally signed by Blair
Henningsgaard
DN: cn=Blair Henningsgaard, o,
ou,email=blair@astorialaw.net,
c=US
Date: 2013.05.14 08:38:00 -08'00'

CITY OF ASTORIA, a municipal of the
State of Oregon

BY: _____

Mayor

_____ Date

ATTEST:

Contractor

Date

City Manager

Date



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

5TH & DUANE STREET SLIDE CLEAN-UP REQUEST FOR QUOTES

The City of Astoria Engineering Division is requesting quotes to furnish all labor, equipment and material to complete an initial mitigation effort for the 5th and Duane Street Slide. This will include the removal of excess slide debris, installation of erosion control measures, and removal of concrete blocks.

Scope of work:

- Remove slide debris as indicated in attached photos. This includes loose soil, organic material, tree debris, etc. Hydroseeding shall comply with Section 01030 – Seeding of the 2008 Oregon Standard Specifications for Construction.
- Remove concrete blocks (33 – 6'x2'x2') and deliver to Astoria Public Works Shops at 550 30th Street. A machine will be available at the shop to unload the blocks.
- Install erosion control measures.
 - Hydroseed exposed soil with native seed mix appropriate for steep slope stabilization applications.
 - Install supported sediment fence at the toe of slope (see Oregon Standard Drawing RD1040 attached).
 - Install straw wattles (type 3 sediment barrier) 10' on-center in exposed soil area (see Oregon Standard Drawing RD 1035)
 - Install sediment sacks (type 3 inlet protection) in two catch basins on the corner of 6th and Duane Street. (see Oregon Standard Drawing RD1010)

#	Item Description	Quantity	Unit	Unit Price	Total
1	Mobilization	1	LS	\$	\$ 415.50
2	Slide debris removal	250	CY	\$ 24.66	\$ 6165.00
3	Remove and deliver concrete block	1	LS	\$	\$ 2625.00
4	Hydroseed	0.50	Acre	\$ 4950.00	\$ 2475.00
5	Supported sediment fence	170	LF	\$ 3.39	\$ 576.30
6	Straw wattles	500	LF	\$ 2.48	\$ 1240.00
7	Catch basin sediment sacks	2	EA	\$ 60.60	\$ 121.20
Total Quote					\$ 13,618.00

Please review the attached Exhibit Maps, Geotechnical information and sample City construction contract. The City will execute this contract with the selected Contractor.

The selected contractor will be required to furnish a performance bond and a payment bond on approved forms each in the amount of 100% for the full performance and payment of the terms of this contract.

The City may modify the project scope to match the available funding.

Contractor shall read and comply with the attached documents before finalizing a quote. **Quotes are due May 13th, 2013 by 2:00 p.m.**

Please send sealed quotes to:

Nathan Crater, P.E.
Assistant City Engineer
1095 Duane St
Astoria, OR 97103

Fax and emailed quotes are acceptable, but will require acknowledgement of receipt. All work and material shall meet APWA and City of Astoria Standards and Special Provisions.

Total Quote: \$ 13,618.00

5/13/2013
DATE SIGNED

TET Construction, Inc.
OFFEROR

Kale M. Snell Estimator/P.M.

SIGNED (NAME AND TITLE)

53990 West Lane Road

MAILING ADDRESS

Scappoose, OR. 97056

CITY, STATE, AND ZIP CODE

PHONE NUMBER: 503-250-0148

CORPORATION: X YES NO

IF NO, TAX ID NUMBER OR SOCIAL

SECURITY NUMBER: 93-1298914

CONTRACTOR BOARD NO. 104648



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 24, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: PAY ADJUSTMENT #2 – GARDEN OF SURGING WAVES, SEQUENCE A

DISCUSSION/ANALYSIS

On February 19, 2013, City Council authorized the award of a construction contract to Robinson Construction Company in the amount of \$798,498 for the first sequence of the Garden of Surging Waves. One pay adjustment has been processed to date with the second presented in this memo for consideration.

Adjustment #1, in the amount of \$9,979.19, included deductions which resulted from cost savings on the final light fixtures ordered and cost savings from utility construction which was determined to not be necessary through value engineering. Adjustment #1 also included items such as addition of asphalt installation on the parking lot south of the Garden (to replace that which was removed during the earlier sidewalk repair); additional costs associated with unexpected asphalt thickness during site construction, unexpected buried concrete rubble and debris that had to be removed during site preparation; inclusion of the bronze lantern and inclusion of the stone columns. With this contract amendment items included in Sequence B will now be constructed as a part of the current construction project.


Adjustment #2 in the amount of \$6,223.64 addresses the need for additional electrical junction boxes within the project site. Not all of the site light fixtures are going to be installed within Sequence A. In order to install these fixtures in later Sequences, the added junction boxes are needed at this time. The junction boxes will facilitate the smooth connection and pulling of electrical wire, thereby avoiding additional costs for installation during a later Sequence.

With proposed Pay Adjustment #2, the total pay adjustments would be a 2% change in the contract amount. The pay adjustment would be paid from the budgeted project contingency of \$142,106 and would leave approximately 89% of the contingency remaining.

RECOMMENDATION

It is recommended that the City Council authorize Pay Adjustment #2 in the amount of \$6223.64 with Robinson Construction for the Garden of Surging Waves.

Submitted By



**Brett Estes, Community Development Director /
Assistant City Manager**



Jeff Harrington PE, City Engineer

ROBINSON

CONSTRUCTION CO.

CHANGE ORDER
No. 002

21360 NW Amberwood Drive, Hillsboro, OR 97124 Phone: 503-645-8531 Fax: 503-645-5357 OR CCB#63147 WA #ROBINCC*125L5

TITLE: Contract Ammendment #2

DATE: 5/28/2013

PROJECT: Astoria Heritage Square

JOB: 1312

TO: Robinson Construction Co.
Attn: Nicholas Pennington
21360 NW Amberwood Drive
Hillsboro, OR 97124
Phone: 503-645-8531 Fax: 503-645-5357

CONTRACT NO: 1312-000

YOU ARE HEREBY DIRECTED TO MAKE THE FOLLOWING CHANGES TO THIS CONTRACT. THIS CHANGE IS SUBJECT TO ALL THE CONDITIONS AND TERMS OF THE ORIGINAL SUBCONTRACT OR PURCHASE AGREEMENT AND WILL BECOME A PART OF SAID DOCUMENTS.

Due to the sequencing of the project, not all site light fixtures will be installed in Sequence A. In order to facilitate a simpler install of these fixtures in later sequences, additional junction boxes are required.

COLLECTED CHANGES

Type	Number	Title	Change Mgmt. No.	Cost
PCO	00012	Owner Change Order: Fixture Boxes	00017	\$6,223.64
Total of Collected Changes:				\$6,223.64

This change shall be final and binding unless Subcontractor gives Contractor written notice disputing such change order within forty-eight (48) hours. Such written notice shall state the basis for the protest, including all backup, and shall cite any provision of the Contract Documents relied on by Subcontractor in disputing this change order. FAILURE TO PROVIDE WRITTEN NOTICE WITHIN THE TIME SPECIFIED SHALL CONSTITUTE A WAIVER OF ANY RIGHT TO PROTEST OR APPEAL THIS CHANGE ORDER.

The Original Contract Sum was	\$798,498.00
Net Change by Previously Authorized Requests and Changes	\$9,979.19
The Contract Sum Prior to This Change Order was	\$808,477.19
The Contract Sum Will be Increased	\$6,223.64
The New Contract Sum Including This Change Order	\$814,700.83
The Contract Time Will Not Be Changed	
The Date of Substantial Completion as of this Change Order Therefore is ...	

ACCEPTED:

Robinson Construction Co.

City of Astoria

Wilkins Constulting

By: _____

By: _____

By: _____

Nicholas Pennington

Brett Estes

Jim Wilkins

Date: 5/28/2013

Date: _____

Date: _____



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 27, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **IRVING AVENUE: 19th STREET BRIDGE REPLACEMENT –
PEDESTRIAN ACCESS THROUGH THE CONSTRUCTION SITE**

DISCUSSION/ANALYSIS

The Irving Avenue Bridge near 19th Street is a steel structure that was 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 for heavy loads such as school buses, garbage trucks and fire trucks.

On July 19, 2010, Council approved staff's request to enter into an Intergovernmental Agreement with ODOT to secure grant funding through the Highway Bridge Program (HBP) for the replacement of the Irving Avenue Bridge. The total estimated project cost is \$5,877,000. The agreement provides HBP grant funds in the amount of \$5,273,432 with the City being responsible for a match of \$603,568.

In February, Council authorized City staff and the engineering consultant, David, Evans and Associates (DEA), to commence work on a single-span bridge design with Texas railing and allowing for full road closure detour during construction of the Irving Bridge Replacement project. With this direction from the Council, DEA proceeded to develop and complete a Type, Size and Location Report (30% design completion).

On May 20th, City staff and DEA conducted a presentation to the Council to provide an update of work to date, and to showcase a photo simulation of the completed bridge. A public open house was held the following evening at the Astoria Recreation Center. According to the sign-in sheet, 9 people attended the open house and were in support of the project. One person inquired about pedestrian access during construction. The project team explained that a temporary pedestrian access through the construction site has been estimated to cost \$300,000. Any temporary pedestrian structure would be required to meet Federal American Disability Act requirements. The complexity of constructing a safe temporary structure that would maintain level or near level conditions across the span of the deep ravine is cost prohibitive. The citizen agreed that the cost was not worth the temporary inconvenience to pedestrians during construction.

Staff recommends allowing DEA to continue with the bridge design without consideration for a pedestrian access through the construction zone due to excessive cost and potential delays to the construction schedule. DEA will evaluate the possibility of sequencing construction activities to allow pedestrians on the new bridge as soon as possible, perhaps even before the bridge is ready for vehicles.

RECOMMENDATION

Recommend Council authorize DEA to continue bridge design without pedestrian access through the construction site for the Irving Avenue: 19th Street Bridge Replacement project.

Submitted By: _____


Ken P. Cook, Public Works Director

Prepared By: _____


Cindy D. Moore, City Support Engineer



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 27, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **WASTEWATER TREATMENT PLANT EFFLUENT TREATMENT
UPGRADES – AUTHORIZE CONTRACT FOR SPECIALTY INSPECTION
AND MATERIAL TESTING SERVICES**

DISCUSSION/ANALYSIS

The upcoming Wastewater Treatment Plant (WWTP) Effluent Treatment Upgrades project includes the following improvements:

- Dechlorination equipment and instrumentation
- Chlorine contact chamber upgrades
- Wastewater effluent flow meter replacement
- Wastewater effluent pH adjustment equipment and instrumentation
- Chlorine feed system upgrades and instrumentation

In November 2012, the construction contract was awarded to R&G Excavating (R&G). Since that time R&G has been working through the submittal process and procuring long-lead time equipment. On May 22nd, R&G mobilized to the site and began installing fill material for the equipment structure. The fill will be allowed to settle over the next month or so. Due to the nature of the improvements, the primary construction activity needs to occur during the drier summer months when the flows to the treatment plant are at their lowest point. The start of the major construction effort is scheduled to begin at the end of June.

To ensure quality control during the construction of the WWTP Effluent Treatment Upgrades project, the City will need to provide specialty inspection and materials testing services. These services include inspection of reinforced concrete, proprietary anchors, structural steel and pin pile welding and concrete strength tests. These services must be provided by a specialty consulting firm. Staff requested a scope and fee from Mayes Testing Engineers, Inc. to provide these services. They provided a fee schedule for services that will be performed on a time and materials basis for an estimated not to exceed amount of \$10,600, which has been evaluated by staff and determined to be appropriate and reasonable for the type of services requested.

RECOMMENDATION

It is recommended that the City Council award the specialty inspection and materials testing services contract for the WWTP Effluent Treatment Upgrades project to Mayes Testing Engineers, Inc. for \$10,600. Funds are available for this project through IFA funding.

Submitted By: _____


Ken P. Cook, Public Works Director

Prepared By: _____


Cindy D. Moore, City Support 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 Mayes Testing Engineers, Inc., 7911 NE 33rd Drive, Suite 190, Portland, Oregon 97211 hereinafter called "CONSULTANT", duly authorized to perform such services in Oregon.

W I T N E S S E T H

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 material testing and special inspection services, as outlined in the Attachment A, to the City of Astoria during construction of the Wastewater Treatment Plant Effluent Treatment Upgrades project.

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. All work shall be completed no later than February 2014.

2. COMPENSATION

A. The CITY agrees to pay CONSULTANT a total not to exceed \$10,600.00 for performance of those services provided herein;

B. The CONSULTANT will submit monthly billings for payment which will be based upon the time and materials for 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 Cindy Moore, 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 Michael J. Mayes, Mayes Testing Engineers, Inc., 7911 NE 33rd Drive, Suite 190, Portland, Oregon 97211, (425) 742-9360.

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.

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:

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

Attorney

BY: _____
Mayor Date

BY: _____
City Manager Date

BY: _____
Consultant Date

MAYES TESTING ENGINEERS, INC.

Seattle Office
20225 Cedar Valley Road
Suite 110
Lynnwood, WA 98036
ph 425.742.9360
fax 425.745.1737

Tacoma Office
10029 S. Tacoma Way
Suite E-2
Tacoma, WA 98499
ph 253.584.3720
fax 253.584.3707

Portland Office
7911 NE 33rd Drive
Suite 190
Portland, OR 97211
ph 503.281.7515
fax 503.281.7579

May 23, 2013

Ms. Cindy Moore
City of Astoria
1095 Duane Street
Astoria, OR 97103

Re: Testing and Inspection Services
City of Astoria Wastewater Treatment Plant Effluent Treatment Upgrades
Astoria, OR
Mayes Testing Engineers Proposal No. 13373P

Dear Ms. Moore,

We are pleased to provide you with our proposal for testing and inspection services for the City of Astoria Wastewater Treatment Plant Effluent Treatment Upgrades project. This proposal is based on our review of the plans dated 9/12/2012 and discussion of the project with Del Bibler of R&G Excavating. No construction schedule is available for review at this time. We would be happy to review and revise our estimate when more information becomes available.

We understand our scope of work to include:

- Reinforced Concrete Inspection
- Proprietary Anchor Inspection
- Structural Steel Erection Inspection
- Pin Pile Welding Inspection

We will provide concrete inspection for the chemical feed building, generator pad and miscellaneous concrete pours. We assume all soils related testing and inspection will be performed by the geotechnical engineer of record. Welding inspection will be required for pin pile splices and support steel for new piping and hardware.

Mayes Testing Engineers, Inc. is a locally owned and operated testing and inspection agency. We are fully certified and perform all tests in accordance with ASTM and IBC standards. We have a large staff of OBOA registered inspectors ready to support this project. Oregon State Professional Engineers directly supervise all inspection activities.

As an integral part of the project team, we work with our clients to provide realistic testing and inspection budgets. Our clients are not charged for cylinder pick-up or secretarial services. Our clients will only be invoiced for actual work performed. A four-hour minimum charge applies to all inspections and time will be charged portal-to-portal from our Portland office. A premium rate of 1.5 times the regular rate will be charged for all work outside of normal working hours or in excess of 8 hours per day and on Saturdays, Sundays and Legal Holidays. Payment is net 30 days from date on invoice. This proposal is valid for 90 days from the date of this letter. Final costs may vary up or down depending on the contractor's scheduling of the work. All services will be billed in accordance with the attached fee schedule. For this project, we propose to reduce our rates by 11% (the attached estimate and fee schedule represent this discount).

Page 2 of 2
Ms. Cindy Moore
May 23, 2013
Mayes Testing Engineers Proposal No.: 13373P

We trust that this provides you with the information you require. If you have any questions or if we may be of further assistance, please do not hesitate to call. If you find this proposal acceptable, please sign and return one copy to our office. We look forward to your favorable response.

Respectfully Submitted,
MAYES TESTING ENGINEERS, INC.

Accepted By: _____
Title: _____
Date: _____

Attachments: Cost Estimate
Fee Schedule "E1" and General Conditions

MAYES TESTING ENGINEERS, INC.

City of Astoria
Wastewater Treatment Plant Effluent Treatment Upgrades
Testing and Inspection Services
Mayes Testing Engineers Cost Estimate No. 13373P

Item	Estimated No. of Units	Unit Price	Extended Total
Inspection Services			
Reinforced Concrete Inspection Estimate 6 inspections at 8 hours per inspection	48 Hours	50.00 /hr	2,400.00
Proprietary Anchor Inspection Estimate 2 inspections at 6 hours per inspection	12 Hours	50.00 /hr	600.00
Structural Steel Erection Inspection Estimate 3 inspections at 6 hours per inspection	18 Hours	55.00 /hr	990.00
Pin Pile Welding Inspection Estimate 3 inspections at 8 hours per inspection	24 Hours	55.00 /hr	1,320.00
Project Management <i>(Includes meetings, site visits, report review, mix design review, misc. consultation and project closeout)</i>	6 Hours	95.00 /hr	570.00
Laboratory Services			
Concrete Compressive Strength Cylinder Test	30 Each	22.00 ea	660.00
Miscellaneous Services			
Sample Pick-up Estimate 6 trips at 4 hours per round trip	24 Hours	50.00 /hr	1,200.00
Mileage Estimate 22 trips at 200 miles per round trip	4400 Miles	0.65 /mile	2,860.00
Secretarial Services <i>(Types reports, mail, postage, etc.)</i>			No Charge
Total Estimated Costs:			\$10,600.00

A four-hour minimum charge per call applies to all inspections. A premium rate of 1.5 times the regular will be charged for all work outside of normal working hours in excess of 8 hours per day and on Saturdays, Sundays and Legal Holidays. Payment is net 30 days. This estimate is valid for 90 days.

MAYES TESTING ENGINEERS, INC.

MAYES TESTING ENGINEERS, INC.
E1 FEE SCHEDULE AND GENERAL CONDITIONS

Inspection Services

Concrete Inspection (<i>includes Reinforcing Steel, Concrete Placement, Shotcrete, Augercast Grout, Grout, Batchplant</i>)	50.00 /hour
Post Tension Concrete Inspection (<i>includes placement and stressing</i>)	50.00 /hour
Proprietary Anchor Inspection (<i>includes Epoxy Grouted and Expansion Anchors</i>)	50.00 /hour
Masonry Inspection (<i>includes cmu and brick veneer</i>)	50.00 /hour
Lateral Framing Inspection (<i>includes wood and light gauge</i>)	50.00 /hour
Seismic Resistance System Inspection	50.00 /hour
Fiber-Reinforced Polymer Inspection	50.00 /hour
Fireproofing Inspection	50.00 /hour
Intumescent Paint Inspection	57.00 /hour
Soils Technician (<i>includes nuclear densometer</i>)	57.00 /hour
Asphalt Technician (<i>includes nuclear densometer</i>)	57.00 /hour
Asphalt or Concrete Coring Technician	75.00 /hour
Laboratory Technician	75.00 /hour
Lead Inspector	55.00 /hour
Structural Steel/Welding Inspection (<i>includes bolting</i>)	55.00 /hour
Non-Destructive Testing (<i>includes Dye Penetrant, Magnetic Particle, Ultrasonic Testing</i>)	62.00 /hour

Laboratory Services

Concrete Testing

Air Dry Unit Weight Test	40.00 each
Concrete Absorption, Unit Weight and Moisture Content Test	45.00 each
Concrete, Augercast Grout or Nonshrink Compressive Strength Cylinder Test (<i>includes Curing, Breaking & Report</i>)	22.00 each
Concrete Compressive High Strength Cylinder Test (<i>over 10,000 psi</i>)	30.00 each
Concrete Core Compressive Strength Test (<i>includes trimming and testing</i>)	66.00 each
Concrete Flexural Strength Beam Test	50.00 each
Concrete Shrinkage Test (<i>ASTM C157 - set of 3</i>)	300.00 each
Length of Concrete Core Test (<i>ASTM C174</i>)	30.00 each
Mix Design 1 Point Verification & 3 Point Water Cement Curve	quoted on request
Modulus of Elasticity Test	100.00 each
Shotcrete Panel Test (<i>includes 4 cores</i>)	140.00 each
Voids and Density of Hardened Concrete Test (<i>ASTM C642</i>)	75.00 each

Masonry Testing

Brick Absorption Test (<i>24 hour soak</i>)	45.00 each
Brick Absorption Test (<i>5 hour boil</i>)	70.00 each
Brick or Masonry Efflorescence Test (<i>set of 5</i>)	85.00 each
Brick or Concrete Paver Compression Test	45.00 each
Masonry Absorption, Unit Wt. And Moisture Content Test	45.00 each
Masonry Unit Compression Test	55.00 each
Masonry Drying Shrinkage Test (<i>set of 3</i>)	300.00 each
Masonry Grout or Mortar Compressive Strength Test	22.00 each
Masonry Prism Test (<i>grouted or ungrouted</i>)	110.00 each
Retaining Wall Unit Absorption Test	45.00 each
Retaining Wall Unit Compression Test	110.00 each

Asphalt Testing

Asphalt Marshall Mix Design Test (<i>5 points</i>)	3500.00 each
Asphalt Core Density Test	35.00 each
Asphalt Ignition & Gradation Test	250.00 each
Asphalt Ignition Oven Correction	450.00 each
Asphalt Marshall Set Test (<i>flow, stability, voids</i>)	440.00 each
Asphalt Oil Content Test	80.00 each
Asphalt Rice Density Test	100.00 each
Asphalt Stripping Test	30.00 each
Asphalt Superpave Set Test (<i>VMA, VFA and VA</i>)	550.00 each

Laboratory Services**Soils and Aggregate Testing**

Atterberg Limits Tests	120.00 each
Liquid Limit Only Test	75.00 each
Plastic Limit Only Test	55.00 each
California Bearing Ratio Test (<i>CBR - with proctor</i>)	550.00 each
Clay Lumps and Friable Particles Test	90.00 each
Degradation Test	135.00 each
Flat and Elongated Particles Test	90.00 each
Fractured Face Count Test	75.00 each
LA Abrasion Test	150.00 each
Lightweight Pieces in Aggregate Test (<i>coal and lignite</i>)	80.00 each
Organic Impurities Test	45.00 each
Organic Matter Analysis (<i>loss on ignition by weight</i>)	60.00 each
R-Value Test	325.00 each
Sand Equivalent Test	60.00 each
Sieve Analysis Test (<i>dry only</i>)	130.00 each
Sieve Analysis Test (<i>includes particles finer than #200</i>)	200.00 each
Sodium Sulfate Soundness Test	250.00 each
Soil Hydrometer Analysis	225.00 each
Soil Moisture Content Test (<i>natural</i>)	30.00 each
Soil Moisture Density Relationship Test (<i>proctor</i>)	200.00 each
Soil Relative Density Test	225.00 each
Soil Specific Gravity Test	85.00 each
Specific Gravities Coarse Aggregate Test	55.00 each
Specific Gravities Fine Aggregate Test	85.00 each
Unit Weight Test	45.00 each

Miscellaneous Testing

Fiber-Reinforced Polymer Tensile Test (<i>set of 5</i>)	675.00 each
Fireproofing Density Test	80.00 each
Machining Tensile Test	Cost + 15%
Macroetch Test (<i>evaluation only or sample preparation</i>)	50.00 each
Moisture Emission Test Kits	30.00 each
Reduced Section Tensile Coupons Test	45.00 each
Reinforcing Steel #10 - #18 Tensile Test	85.00 each
Reinforcing Steel #3 - #9 Tensile Test	60.00 each
Splitting Tensile Test	80.00 each
Stressing Strand Tensile Test (<i>breaking strength only</i>)	60.00 each
Tensile Test on Coupon Assembly (<i>with slippage #3 - #9</i>)	80.00 each
Tensile Test on Coupon Assembly (<i>with slippage #10 - #18</i>)	105.00 each
Universal Test Machine & Operator	125.00 /hour
Weld Fracture Test	80.00 each

Engineering Services

NDE Level III Consultation	150.00 /hour
Principal Engineer	150.00 /hour
Staff Engineer (<i>includes Pachometer Testing, Floor Flatness Testing, Impact Echo Testing, Load Testing & Moisture Emissions Testing</i>)	125.00 /hour
Engineering Technician	105.00 /hour
Project Manager	95.00 /hour

Other

Mileage (<i>charged only outside our regular service area</i>)	0.65 /mile
Subsistence (<i>lower 48 states</i>)	Federal GSA Rate
Reimbursable Expenses (<i>commercial travel, rentals, consumables, etc.</i>)	Cost + 15%
Subconsultants	Cost + 15%

*A four hour minimum charge applies to all inspections. Overtime rate of 1.5 times the regular rate applies to all work performed outside of normal working hours, weekends and holidays.

GENERAL CONDITIONS

- 1) A four-hour minimum charge per call applies to all Mayes Testing Engineers, Inc. (MTE) inspections. A premium rate of 1.5 times the regular will be charged for all work outside of normal working hours in excess of 8 hours per day and on Saturdays, Sundays and Legal Holidays. MTE requests 48 hours advance notice for scheduling our services. For service requested with less than 24 hours notice, MTE may not be able to guarantee service.
- 2) The client understands that no final letter of compliance will be issued to the building department for the project until all outstanding invoices have been paid.
- 3) Unless otherwise stated in writing, Client assumes sole responsibility for determining whether the quantity and the nature of work ordered by Client is adequate and sufficient for Client's intended purpose. Client shall communicate these General Conditions to each and every third party to whom Client transmits any part of MTE's work. MTE shall have no duty or obligation to any third party greater than that set forth in MTE's proposal, Client's acceptance thereof and these General Conditions. The ordering of work from MTE shall constitute acceptance of the terms of MTE's proposal and these General Conditions.
- 4) Client shall cause all tests and inspections of the site, materials and work performed by MTE or others to be timely and properly performed in accordance with the plans, specifications and contract documents, and MTE's recommendations. No claims for loss, damage or injury shall be brought against MTE by Client or any third party unless all tests and inspections have been so performed and unless MTE's recommendations have been followed. Client agrees to indemnify, defend and hold MTE, its officers, employees and agents harmless from any and all claims, suits, losses, costs and expenses, including, but not limited to, court costs and reasonable attorney's fees in the event that all such tests and inspections are not so performed, or MTE's recommendations are not so followed except to the extent that such failure is the result of the negligence, willful or wanton act or omission of MTE, its officers, agents or employees.
- 5) MTE's work shall not include determining, supervising or implementing the means, methods, techniques, sequences or procedures of construction. MTE shall not be responsible for evaluating, reporting or affecting job conditions concerning health, safety or welfare. MTE's work or failure to perform same shall not in any way excuse any contractor, subcontractor or supplier from performance of its work in accordance with the contract documents.
- 6) Unless otherwise agreed, test specimens or samples will be disposed of immediately upon completion of the test.
- 7) Invoices are due and payable upon receipt. Invoices not paid within 30 days of the date rendered will be assessed a finance charge of one and a half percent per month, or fraction thereof, for each month beyond 30 days past due. Invoices not paid within 60 days may result in MTE stopping work until such invoices rendered are paid in full. Client will be responsible for all expenses incurred in the collection of any unpaid balance, including collection agency fees, attorney's fees, and other legal fees.
- 8) The extension of unit prices herein with quantities to establish a total estimated cost does not guarantee a maximum cost to complete the inspection and/or testing for a construction project. The quantities when given are estimates based on contract documents and schedules made available at the time of proposal preparation. Since schedule, performance, production and charges are directed and/or controlled by others, any quantity extensions must be considered as estimated and not a guarantee of maximum cost. The term "Cost Estimate" does not imply a maximum contract amount, but only the extension value of our unit prices at the time of proposal preparation. All rates and fees are subject to annual review.
- 9) MTE is covered by General Liability Insurance for bodily injury and property damage arising directly from our negligent acts or omissions, with a combined single limit of \$2,000,000 dollars aggregate. If Client requires additional coverage in excess of this amount, and if procurable, MTE will take out additional General Liability Insurance to the limits Client requires at client's expense.
- 10) MTE will provide its professional services to Client, as defined by its scope of work with that degree of care and skill ordinarily exercised under similar circumstances by members of its profession. This representation is in lieu of any warranties or other representations, either expressed or implied. It is also understood and agreed that statements made in MTE reports are opinions based on engineering judgment, and should not be construed to be conclusive representations of fact. If conditions different from what are indicated in the reports come to Client's attention after receipt of the reports, it is recommended that Client contact MTE immediately to authorize further appropriate evaluation. MTE agrees to hold harmless and to indemnify Client on account of any damages due to bodily injury or property damage, or breach of contract, arising directly out of a negligent act or omission in the performance of professional services by MTE; provided, however, that any such liability, or liability to any third party arising out of MTE's performance of professional services, shall not exceed Fifty Thousand Dollars (\$50,000.00), or the total amount of the fee paid to MTE for its work performed pursuant to this agreement, whichever amount is greater. In the event Client is unable to accept this limitation, a surcharge of five percent (5%) of the total monthly invoice for services performed by MTE will be added to MTE's invoice to Client.
- 11) Except to the extent specifically addressed in Paragraph 10, Client agrees to indemnify, defend and hold MTE, its officers, employees, agents and independent contractors harmless from any and all claims, suits, losses, costs and expenses, including but not limited to, court costs and reasonable attorneys fees arising or alleging to have arisen out of the performance of MTE's work. In the event that Client or Client's principal shall bring any suit, cause of action, claim or counterclaim against MTE to the extent that MTE shall prevail in such suit, cause of action, claim or counterclaim, the party initiating such action shall pay to MTE the costs and expenses incurred by MTE to answer and/or defend such suit, cause of action, claim or counterclaim, including reasonable attorneys fees, court costs, witness fees and other related expenses.



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 29, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **REQUEST TO TOP/TRIM TREES ON CITY PROPERTY**

DISCUSSION/ANALYSIS

Melissa Yowell of 690 17th Street has submitted an application for permission to top trees on city property. The city owned property is to the east of Ms. Yowell's property and includes Tax Lot 2800, Map 80908DC.

Ms. Yowell has previously applied for a tree cutting permit and staff recommended approval. The Council considered the request at their March 4, 2013 meeting. At that meeting, a neighbor to the north expressed opposition to the request. Ms. Yowell was not present at the meeting to respond to his neighbor's comments. After hearing testimony, the Council denied the request.

The subject property had a permit in 2003 which stated the lot was maintained and the trees had been trimmed for the previous 8 years. The majority of the work requested on the current permit is the topping/trimming of 9 Red Alders and Norway Maple saplings with diameters of approximately 8 inches as per arborist's professional judgment.


As was the case with the initial request, the applicant has had a certified arborist review the proposed activity. Based on the arborist's recommendations and from a technical standpoint, staff supports the proposed topping/trimming.


The applicant has attempted to receive concurrence from adjacent property owners. The property owner to the north (674 17th Street) would not give concurrence and the property owner to the east (1766 Grand Avenue) concurred verbally but would not sign the application. All adjacent property owners will be notified that this request will be heard by the Council at the June 3rd meeting.

RECOMMENDATION

It is recommended that the City Council either reconsider its decision on the original request presented at the March 4, 2013 Council meeting or approve the current modified proposal for trimming/topping. In either case, we recommend that any approval be conditioned as follows:

- 1) Applicant will provide a letter of concurrence from the project arborist certifying that the work was completed in strict compliance with all recommendations of the report and our permit.
- 2) Applicant shall employ any erosion control measures recommended by the project arborist and take any other measures required to stabilize all disturbed areas and assure that new growth is fully established.

Submitted By 
Ken P. Cook, Public Works Director

Prepared By JEFF HARRINGTON 
Jeff Harrington, PE, City Engineer

Melissa Yowell Tree Topping Permit Request

656 17th St.
Charles & Ursula
Gunn

674 17th St.
Karl Johnson

Melissa Yowell
Property 690 17th

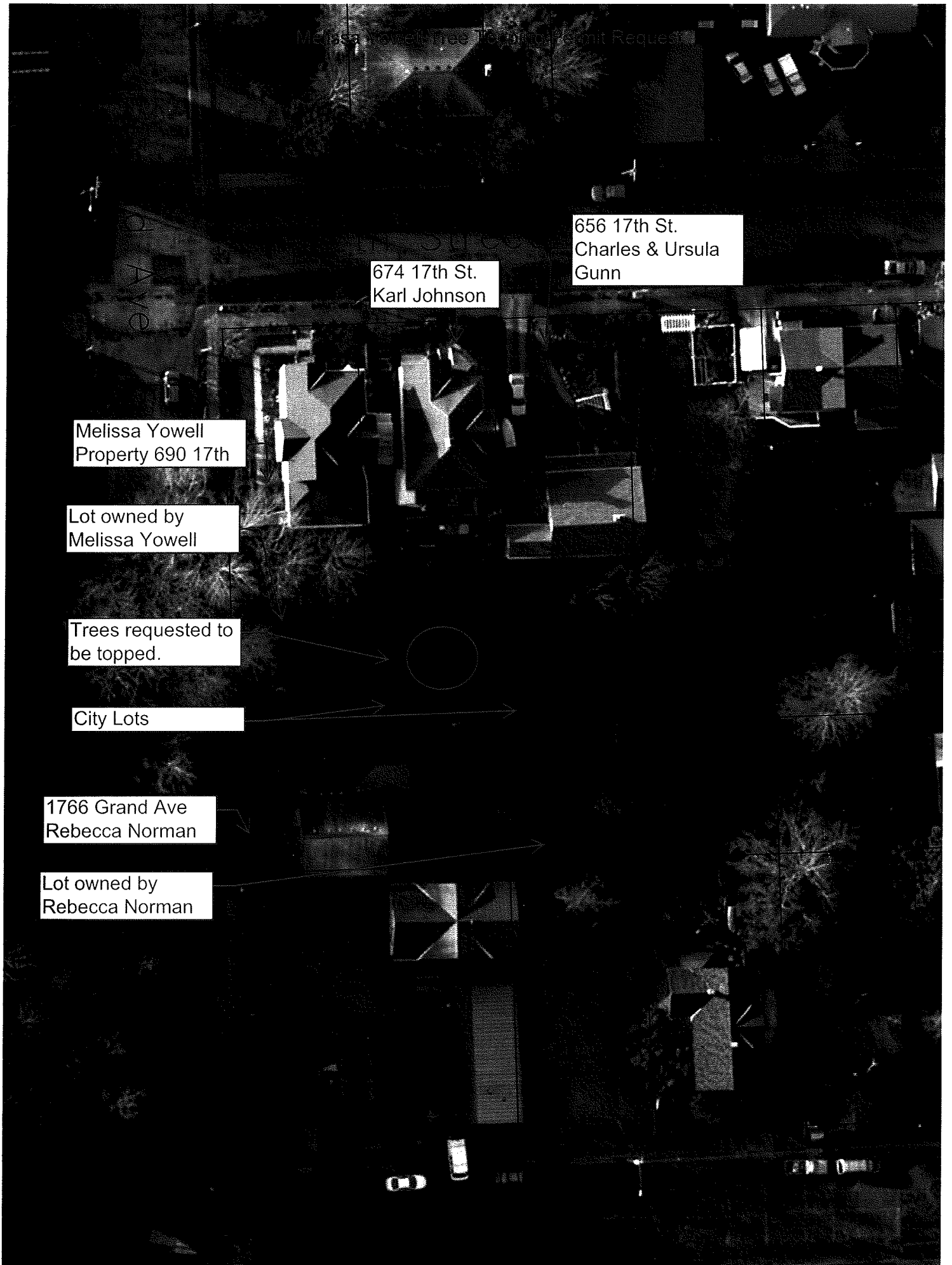
Lot owned by
Melissa Yowell

Trees requested to
be topped.

City Lots

1766 Grand Ave
Rebecca Norman

Lot owned by
Rebecca Norman





CITY OF ASTORIA
Founded 1811 • Incorporated 1856

May 24, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ASTORIA LIBRARY RENOVATION PROJECT – PUBLIC HEARING ON
COMPETITIVE SOLICITATION REQUIREMENTS AND CONSIDERATION
OF CONTRACT WITH RUTH METZ ASSOCIATES

DISCUSSION/ANALYSIS

The Astoria City Council Goals for Fiscal Year 2012-2013 included a goal which states: Develop plans, budget requirements and a projected schedule for renovation of the Astoria Library. Furthermore, at the May 6, 2013 City Council meeting, the Council adopted their goals for 2013-2014, which included a goal to “Continue with Development of Plans for Renovation of the Astoria Library”. Over the past few months, the Library Board and staff have been taking steps to move forward with the renovation process.

Library Board members and staff visited several library facilities to learn about their recent renovation projects. The group wished to understand what design elements worked best and how they funded their respective projects. Additionally, the Board and staff worked with a group of architecture students from the University of Oregon School of Architecture and their professor, Yosa Huggins, to engage in a visioning exercise for a renovated Astoria Library. This included a Saturday work session with the students and a follow up review of their ideas. To start the conversation regarding a library renovation, the panels from the students’ presentations were shared with the public on April 6, 2013 and again on April 16, 2013. A number of community members attended these events.

At the March and April 2013 Library Board meetings, the Board discussed next steps in the renovation process. A key next step recommended by the Board is to secure the services of a library planner / futurist to assist in development of a building program for a potential remodel. The library planner / futurist would be able to provide information on where libraries are headed in the future. Furthermore, they would engage the public to understand the needs and desires of the community. Ultimately, a building program would be developed which would include a description in detail of what would occur in the library and the specifications pertaining to adjacencies and spatial requirements for all that will be in the library (including collections, seating, computers, etc.). This would include a review and analysis of needed technology to serve library patrons. The library building program is a document that an architect would use in a latter phase to guide

the design process. At the April 23, 2013 Library Board meeting the Board recommended to City Council that a library planner / futurist be secured.

Ruth Metz, MLS of Ruth Metz Associates (RMA) is a seasoned library practitioner and former administrator for libraries in Michigan, Colorado, California and Oregon, including Multnomah County Library. She has been a full time consultant for eight years, specializing in strategic planning, organizational development, and leadership development. The Astoria Library has worked with Ruth Metz for approximately 12 years. She has served as a consultant to the City under a grant federal project to explore creation of a two county library system. In addition, Ruth assisted the City as consultant to Library ROCC, Rural Outreach to Clatsop County youth, and with the University of Oregon programming class students.

Staff believes it to be in the best interest of the City to exempt this contract from the standard competitive bid process and directly appoint RMA. Such an exemption requires a public hearing be held and findings supporting this special solicitation method be adopted (see Findings detailed below).

Findings for an Exemption from the Competitive Solicitation Requirements (per City Code Section 1.966) are as follows:

(1) The nature of the contract or class of contracts for which the special solicitation or exemption is requested;

The contract class for which the exemption is requested is a personal services contract for Library Renovation Planner/Futurist.

(2) The estimated contract price or cost of the project, if relevant;

The estimated contract cost is \$52,000.

(3) Findings to support substantial cost savings, enhancement in quality or performance or other public benefit anticipated by the proposed selection method or exemption from competitive solicitation;

The Astoria Public Library has worked with Ruth Metz Associates for approximately 12 years in the following capacities.

- Ruth Metz Associates was selected by a consortium of cities, including the City of Astoria, in an RFQ process as part of the Oregon State Library LSTA grant to explore a multi county library district, 2001 - 2004.
- Ruth Metz Associates was selected by the City of Astoria in an RFQ process to be the consultant for Libraries ROCC, a three year LSTA grant to extend library service to the unserved in Clatsop County, 2010- 2014. Work on this project continues today whereby Ruth Metz Associates has developed an in-depth working knowledge of the Astoria Library.
- Ruth Metz Associates was contracted by the City of Astoria to assist the Astoria Library Advisory Board in a planning and goal setting capacity relative to the renovation project. Ruth Metz Associates developed a work plan for this project and has continued to monitor progress.

In these capacities, Ruth Metz and Associates (RMA) has acquired an extensive and detailed knowledge of the Astoria Library, its operations, and its strategic plans. RMA is thoroughly familiar with the City of Astoria, surrounding libraries, and Clatsop County. This knowledge base would be unparalleled in other consultant teams. In addition to RMA being able to provide an enhanced product and public benefit from their in depth knowledge of the Astoria Library, the City would realize cost benefits as there would not be a learning curve to understand the workings of the Library.

(4) Findings to support the reason that approval of the request would be unlikely to encourage favoritism or diminish competition for the public contract or class of public contracts, or would otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with the solicitation requirements that would otherwise be applicable under these regulations;

Ruth Metz Associates has a documented familiarity and working relationship with the City of Astoria Public Library and its past 12 years of operation, which will result in efficiencies, cost savings and insights which would not be the case with other consultants. Working through a Qualifications Based Selection process, that necessarily includes the steps of selecting a qualified consultant and then negotiating a scope of work and price for the needed services, would produce similar outcomes to this proposed direct appointment.

(5) A description of the proposed alternative contracting methods to be employed;

Direct Appointment.

(6) The estimated date by which it would be necessary to let the contract(s);

To build upon the momentum created by the showing of the University of Oregon student's work staff is recommending Ruth Metz Associates be awarded a contract after City Council's consideration of the proposed exemption.

RECOMMENDATION

It is recommended that Council conduct a public hearing for the purpose of taking public comment on the findings for exemption from the competitive solicitation requirements, adopt findings that authorize the direct appointment, and approve a contract with Ruth Metz Associates to provide library renovation planning services in the amount of \$52,000.

Submitted By Brett Estes
Brett Estes, Community Development
Director / Assistant City Manager

Submitted By Jane Tucker
Jane Tucker, Library Director

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

CONTRACT:

This Contract, made and entered into this 3rd day of June, 2013 by and between the City of Astoria, a municipal corporation of the State of Oregon, hereinafter called "CITY", and Ruth Metz Associates (RMA), 17335 NW Lucy Reeder Road, Portland, OR 97231 hereinafter called "CONSULTANT", duly authorized to perform such services 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 library renovation project.

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. All work shall be completed no later than the end of September, 2013.

2. COMPENSATION

A. The CITY agrees to pay CONSULTANT a total not to exceed \$52,000 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 representatives will be Jane Tucker, Library Director and Brett Estes, Community Development Director 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 Ruth Metz.

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 CONTRACTOR

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 contractor 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 contractor 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. Consultant shall provide proof of auto insurance satisfactory to City and such insurance shall not be cancelled or reduced without 30 day notice to City.

B. 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 CONTRACTOR 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 subconsultant 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 PREPARED 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

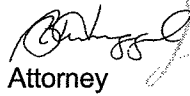
If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability shall survive termination of this Agreement for any cause.

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: 2013.05.22 16:07:00 -08'00'

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

BY: _____
Mayor Date

BY: _____
City Manager Date

BY: _____
Consultant Date



May 20, 2013

Dear Brett and Jane:

Thank you for the opportunity to submit this proposal for the next phase of planning for the Astoria Public Library. My associates and I are prepared to take up the project in June. My firm will complete the project by the end of September.

Working with the City's library planners and the Library Board, RMA would do the following:

1. Conduct a focused facility and space needs assessment, including review of relevant data and stakeholder and key informant interviews.
2. Help plan and facilitate with the Client representatives a process that informs and involves the general public. This will include 2 public town hall meetings, assistance with a focused survey for verifying preliminary assessment findings, and 5-7 stakeholder and key informant interviews, as well as interviews with the Client and City representatives, for about a dozen individual and group interviews. One of the public town hall meetings will include a slide presentation and facilitated dialog about national library trends and future directions in services, facilities, and technology as applied to Astoria.
3. Conduct a library technology review targeted to the Astoria Library and its capacity to realize the building program services.
4. Conduct a detailed facility review that results in the identification of current library building physical limitations with consideration for programmatic needs. Provide a cost estimate for renovation.
5. Provide a detailed, architect-ready building program, incorporating service model elements that allow the library program to function at its optimum.
6. Provide the library board with a list of possible funding sources and recommendations to secure funds for the project.

The product of all of this work would be a written needs assessment and a library building program and cost estimate for renovation of the existing Astoria Public Library.

I also understand there may be other options for the City, such as making use of the building adjacent to the library and City Hall, if not now, then possibly in the future. I understand this other possibility will be part of the conversation.

Project Coordination, Needs Assessment, Public Process, Funding Source Consultation

I will be the principal consultant and coordinator for the project. I will take the lead in conducting the facility and space needs assessment. As part of that process, I will conduct interviews with the City and Library representatives and Library Board, conduct stakeholder and key informant interviews (5-7), and will develop an e- survey which the City will administer to verify certain initial needs assessment findings. I will plan with the client two town hall meetings: one after the initial needs assessment has been completed and another after the building program and cost estimate has been completed. I will facilitate these meetings, while the City and Library representatives will publicize them and provide appropriate meeting space and hospitality for the meetings. The consultant team will jointly develop service model recommendations and align these with the building program. I will provide guidance and recommendations to the Library Board concerning possible funding sources for the building renovation.

Building Program

The library building program is a document that describes in detail that which will be occurring in the library and the specifications pertaining to adjacencies, spatial requirements for all that will be in the library, including collections, seating, computers, and so forth. The library building program is a document that an architect in a subsequent design phase would need. RMA will produce the final library building program in digital form. The City will provide copies in its desired quantity.

Technology Review

The technology review assesses the current library technology capacity against the future service model and building program as well as the City's ability to support the library's needs as detailed in the library building program. The technology review will inform and help shape service model recommendations consistent with the library building program.

Facility Assessment and Renovation Cost Estimate

RMA will provide a preliminary cost estimate for the renovation of the Astoria Library that includes the following:

- Demolition
- Site Work
- Building Construction
- Indirect Construction Costs

Public Process

Note that the public process which began with meetings to review the University of Oregon graduate student concepts this spring will pick up where that phase left off. RMA will advise and assist the Client in designing its public communication plan for this project, the goal of which is to inform and involve the general public as well as stakeholders.

Cost Proposal

RMA will provide these services for an amount not to exceed \$52,000. This includes about 350 hours at \$150 per hour and travel expenses.

I am very excited at the possibility of working with you on the proposed project. I look forward to meeting with you and the rest of the library renovation planning team at your earliest opportunity, at which time we can review, clarify, and refine the work plan as needed.

Sincerely,

A handwritten signature in cursive script that reads "Ruth Metz". The signature is written in black ink and is positioned below the word "Sincerely,".

Ruth Metz