



# **AGENDA**

## **ASTORIA CITY COUNCIL**

**June 2, 2014**

**7:00 p.m.**

**2<sup>nd</sup> 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. PRESENTATIONS**

- (a) Goonies House Neighborhood Report

**6. 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) Library Board Meeting of 4/22/14  
(2) Parks Board Meeting of 4/2/14

**7. REGULAR AGENDA ITEMS**

- (a) Public Hearing and Resolution Adopting Supplemental Budgets for Fiscal Year 2013-2014 (Finance)  
(b) Resolution to Elect to Receive State Shared Revenues (Finance)  
(c) Public Hearing and Resolution Adopting Budget for Fiscal Year 2014-2015 (Finance)  
(d) Liquor License Application from Brad Smithart, dba The Arc at 1084 Commercial Street, for a New Outlet for a Limited On-Premises Sales License (Police and Finance)  
(e) Liquor License Application from Marvin James Sawyer, Jr., dba Port of Call at 894 Commercial Street, for a New Outlet for a Full On-Premises Sales Commercial Establishment License (Finance)  
(f) Ordinance Regarding Vacation of a Portion of West Niagara Avenue Adjacent to United States Coast Guard Housing (2<sup>nd</sup> reading & adoption) (Public Works)  
(g) Power Purchase Agreement with PacifiCorp for the Hydroelectric Project at Bear Creek (Public Works)  
(h) Authorization to Bid Bear Creek Dam Hydroelectric Project (Public Works)  
(i) Authorization to Award Contract for Mainline Improvement Harvest 2014 (Public Works)

**8. 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 YUILL, CITY MANAGER'S OFFICE, 503-325-5824.**






CITY OF ASTORIA  
Founded 1811 • Incorporated 1856

May 30, 2014

## MEMORANDUM

TO: MAYOR AND CITY COUNCIL  
FROM:  BRETT ESTES, CITY MANAGER PRO TEM  
SUBJECT: ASTORIA CITY COUNCIL MEETING OF JUNE 2, 2014

### PRESENTATIONS

**Item 5(a): Goonies House Neighborhood Status Report**

Residents from the Goonies House neighborhood will make a presentation to the City Council.

### CONSENT CALENDAR

**Item 6(a): Boards and Commissions Minutes**

The minutes of the (1) Library Board meeting of 4/22/14, and (2) Parks Board meeting of 4/2/14 are enclosed. Unless there are any questions or comments regarding the contents of these minutes, they are presented for information only.

### REGULAR AGENDA ITEMS

**Item 7(a): Public Hearing and Resolution Adopting Supplemental Budgets for Fiscal Year 2013-2014 (Finance)**

ORS 294.473 provides a procedure for a municipality to pass a supplemental budget that adjusts for changes that happen during a fiscal year. As the fiscal year 2014-15 reaches completion, staff has determined that the 17<sup>th</sup> Street Dock and Capital Improvement Funds require adjustments because these funds have resources and expenditures that were not anticipated when these budgets were originally appropriated. Staff anticipated that the reconstruction of the 17<sup>th</sup> Street Dock would be completed before the end of last fiscal year ending June 30, 2013. As the completion deadline approached there were construction delays for completion that related particularly to electrical system design and installation of the transformers. The result is that \$284,455.75 of expenses



were incurred to complete the dock construction that did not have an appropriation in the budget for FY 2013-14. It should be noted that these expenditures were within the contractually obligated bid for the dock construction. They were just not allocated in the budget for FY 2013-14. The Capital Improvement Fund has received grant reimbursements for prior year expenditures that increase the funds available in this fund. Land and timber sales have provided an increase of resources. During this fiscal year expenditures for departmental copiers, the Parks van, the Heritage Square brownfield project and the emergency repairs for the 5<sup>th</sup> and Duane Street slide were approved by Council at the time they occurred. The appropriate notice was advertised on May 28, 2014. It is recommended that Council hold a public hearing for the advertised supplemental budgets and consider adopting the resolution.

**Item 7(b): Resolution to Elect to Receive State Shares Revenues (Finance)**

Oregon Revised Statutes 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 the City Council consider this resolution for adoption.

**Item 7(c): Public Hearing and Resolution Adopting Budget for Fiscal Year 2014-2015 (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 2, 2014, was published in the Daily Astorian on Friday, May 16, 2014. The Budget Committee approved the FY2014-2015 budget at its meeting on April 24, 2014. Copies of the budget were previously distributed to the Council and Budget Committee. They were also posted on the City's website and were available in hard copy at the Finance Department and Library. The attached resolution will adopt resources and appropriations and authorize the collection of taxes at a rate of \$8.1738 per thousand for FYE June 30, 2015. It is recommended that Council conduct the public hearing and consider the proposed resolution adopting the budget.

**Item 7(d): Liquor License Application from Brad Smithart, dba The Arc at 1084 Commercial Street, for a New Outlet for a Limited On-Premises Sales License (Police and Finance)**

A liquor license application has been filed by Brad Smithart, doing business as The Arc, located at 1084 Commercial Street, Astoria. The application is for a New Outlet for a Limited On-Premises Sales License. The appropriate departments have reviewed the application. After research, which is more fully described in the memo accompanying this item, the Police Department recommends that the City Council deny the application by Mr. Smithart as the applicant made false statements on the liquor license application; has been



convicted in violating laws substantially related to maintaining licensing; and has demonstrated an inability to comply with financial requirements associated with other businesses owned by Mr. Smithart.

**Item 7(e): Liquor License Application from Marvin James Sawyer, Jr., dba Port of Call at 894 Commercial Street, for a New Outlet for a Full On-Premises Sales Commercial Establishment License (Finance)**

A liquor license application has been filed by Marvin James Sawyer, Jr., doing business as Port of Call, located at 894 Commercial Street, Astoria. The application is for a New Outlet for a Full On-Premises Sales Commercial Establishment License. The appropriate departments have reviewed the application and it is recommended that Council consider approval.

**Item 7(f): Ordinance Regarding Vacation of a Portion of West Niagara Avenue Adjacent to United States Coast Guard Housing (2<sup>nd</sup> reading & adoption) (Public Works)**

The City has received a request from the United States Coast Guard (USCG) for the vacation of the north 30 feet of the West Niagara Avenue right-of-way adjacent to Lots 1 to 10, Block 12, West Slope and the south 30' of the West Niagara Avenue right-of-way adjacent to Lots 1 to 11, Block 13, West Slope. The USCG plans to expand their housing development with a road and new housing extending north from Klaskanine Avenue. At their meeting of May 19, 2014, the Council conducted the first reading of the ordinance of vacation. It is recommended that the Astoria City Council conduct the second reading and adopt the ordinance to vacate of a portion of the West Niagara Avenue right of way adjacent to the United States Coast Guard Housing development.

**Item 7(g): Power Purchase Agreement with PacifiCorp for the Hydroelectric Project at Bear Creek (Public Works)**

As part of the installation of a small hydroelectric generator at Bear Creek Dam, the City must sign a Power Purchase Agreement with PacifiCorp. This agreement allows the utility to purchase the excess power generated by the turbine and feed it back into the system. The turbine is estimated to generate an average of 154,645 kilowatt hours (kWh) annually. The City's water treatment system utilizes approximately 90,000 to 100,000 kWh annually, at an approximate cost of \$9,000. This charge would be eliminated by the power generated by the turbine and excess power would be sold to PacifiCorp at regulated rates. These rates are significantly lower than the amount the City is paying, so it is advantageous to "reverse the meter" before selling the power back into the system. The Power Purchase Agreement, if approved, is for 15 years. It is recommended that the City Council approve the Power Purchase Agreement and authorize the Mayor and City Manager Pro Tem to sign the document.



**Item 7(h): Authorization to Bid Bear Creek Dam Hydroelectric Project (Public Works)**

The engineering firm, Murray Smith Associates (MSA) has completed the plans for the Bear Creek Dam Hydroelectric Project. The engineer's estimate for the project is \$322,000. The City has received funding commitments for the project in the following amounts:

<b>Funding Source</b>	<b>Amount</b>
Infrastructure Finance Authority	\$ 87,600
Pacific Corp Blue Sky Grant	\$169,000
Energy Trust of Oregon	\$143,000
Total Funding	\$399,600

If Council authorizes staff to advertise for bids after June 2, 2014, award of the bid could be on July 21, 2014, with the notice to proceed in late July, 2014. Depending on the winning bidder, assembly and manufacturing of the vault and the turbine could take three months. Installation of the vault and turbine is anticipated to take about one month. Interconnection and testing will be carried out thereafter, and the project should be complete and operational by the end of January, 2015. This is consistent with the deadlines agreed to by the funding agencies. It is recommended that City Council authorize staff to solicit bids for the Bear Creek Hydroelectric Project.

**Item 7(i): Authorization to Award Contract for Mainline Improvement Harvest 2014 (Public Works)**

At their May 5, 2014 meeting, the City Council authorized staff to solicit bids for a timber harvest the City's Watershed. The harvest operation will remove selected mature timber and will allow for the planting of seedlings to create a diversity of tree species and age classes as identified in the forest management. Improvements, which will include placing crushed rock and culverts on the Watershed Mainline, will also be part of the project.

On May 28, 2014 the following bid was received:

Hampton Tree Farms Incorporated - \$377,749.00.

The City Attorney has reviewed the attached contract and approved as to form. After project costs and reforestation costs, the net revenue is anticipated to be \$300,000 and will be deposited in the Capital Improvement Fund. It is recommended that Astoria City Council award a contract to Hampton Trees Incorporated for the Mainline Improvement Harvest.



## **Astoria Library Board Meeting**

City Hall  
April 22, 2014  
5:30 p.m.

**Present:** Library Board members David Oser, Gregory Lumbrá, Arline LaMear, Susan Brooks, and Iliana Arroyo. Staff Library Director Jane Tucker, Community Development Director Brett Estes, and ALFA Representatives Charlotte Langsev and Steve Emmons.

**Others Present:** Ruth Metz (via phone)

**Call to Order:** Chairman David Oser called the meeting to order at 5:30 p.m.

### **Renovation Update:**

#### **Item 2(a): Presentation and Adoption of Renovation Road Map**

Director Tucker explained that the Renovation Road Map is a model for organizing the project. The library conducted strategic planning from 2007 through 2012, which revealed that the only way to offer the comfortable spaces desired by the public was through renovation. She noted that Ruth Metz of Ruth Metz Associates had been asked to meet with the Library Board to develop a strategic plan to assist with the renovation and funding.

Ruth Metz noted that initially, the general belief was that repairs could be made to the library. She was asked to guide the Library Board through a process of developing a strategic plan that would enable the Board to engage the public on the library renovations. The library had its own Strategic Plan, but the Board's strategic plan would provide a unique and purposeful way for the public process to influence and play a role in the building renovation, which was one of the main goals in the Board's strategic plan.

Director Tucker said one product of that strategic plan was a letter to the City Manager expressing the Board's enthusiasm for being a part of the process and outlining ways the Board wanted to help. In 2013, planning for the renovation became a City Council goal, and on July 1, 2014, implementing the library renovation will be a City Council goal. She reviewed the actions taken to date, including the development of a Needs Assessment, Cost Estimate, and Building Program, as well as tours taken by the Board of recently renovated libraries and met with a panel of others who had successfully built new library buildings. Today, information in the Astoria Library Renovation Study Report would be organized for implementation. She and City Manager Pro Tem/Community Development Director Estes met with Ms. Metz earlier to discuss how to organize the information to begin work on the renovation.

Ms. Metz noted that during that meeting, she suggested that next steps include meeting with a small group of people representing the Library Board and other individuals in the community that Staff believed could help launch the project. Her idea was that this group would create a kind of think tank. This meeting occurred in February 2014. She explained that Ginnie Cooper had renovated all of the libraries in Multnomah County, the Brooklyn NY Public Libraries, and the Washington D.C. Public Libraries before retiring to Portland. Ms. Metz asked her to attend the think tank meeting where she and Ms. Cooper facilitated a conversation about developing a game plan. Six action items were identified, including the acquisition of the Waldorf, funding, and forming a foundation. The Renovation Road Map organizes these six action items into next steps and identifies who is responsible for each task.

Director Tucker added that many people have edited the Road Map and she believes it was a good product that would stand the test of time and be flexible yet strong enough to last throughout the project. Director Estes said that in response to Board member feedback, the goal was to create a document that provided more clarity to the roles of the Library Board, the Committee, City Staff, and Library Staff. Director Tucker hoped the Library Board could vote on the Road Map at this meeting, so she and Director Estes can begin working from it, and so that she and Arline LaMear could take the Road Map to the Mayor to get next steps. She read the Renovation Road Map which facilitated the following comments and discussion.



Chairman Oser believed it was important to stress that Director Tucker would be the day-to-day boss of the renovation project. Director Tucker believed the Road Map perfectly captured the spirit of the position, but noted someone else could serve as the Project Manager in the future.

Director Tucker noted the paragraph regarding the Steering Committee had been revised by Chairman Oser, so it was different than that distributed earlier to the Board.

- Chairman Oser believed the entire Library Board should have been included in the meeting with Ms. Metz and Ms. Cooper in February. It was essential that the Board, as an institution, be at the heart of the project. The individuals willing to serve on the Board must see their role as being expanded from what it might have been a few years ago. The renovation requires a different quality and quantity of work from Board members today. This project demands people who are willing to make more of a commitment than just attending an hour-long meeting each month; however, this does not mean people are expected to do things they are not comfortable with.
- Director Tucker noted the original Road Map called for a steering committee that reported to the Library Board. However, she edited the document to include revisions written by Chairman Oser that call for the steering committee to be a subcommittee of the Library Board that would include all Board members.

Director Estes explained that both the City and the foundation could be eligible for grants, but there may be a strategy that leads a granting entity to give to one over the other. Both entities must work together to ensure efforts are not being duplicated.

- Director Tucker noted Chairman Oser suggested adding the subsequent tasks shown under the initial tasks of forming a private non-profit foundation identified in the Road Map. These included conducting a capital campaign for the renovation and creating a sustainable plan for post renovation campaign to supplement library services, programs, collections and other library needs.
- Chairman Oser did not believe that anyone who agrees to serve on the foundation would end up leading the foundation. One main task of the initial group will be to identify other people to be on the foundation board, particularly someone with a lot of standing in the community, who is well-known, has good fundraising abilities, loves the library and has the time and energy to devote to the position.

Director Estes believed the community engagement component gives everyone involved in the project, regardless of which board they sit on, the information and tools necessary to talk about and get the community excited about the project.

Ms. LaMear suggested that maintaining the physical plant and library collections be added to the new strategic plan. Director Tucker noted maintaining the facilities was one of City Council's goals. She agreed to add maintenance of the physical plant and library collections to the Road Map.

Chairman Oser said the foundation board has scheduled its first meeting for May 1, 2014. Heather Reynolds would have documents and by-laws for the foundation to review at this meeting. Over the next few months, he would be preparing the IRS documents necessary to designate the foundation as a non-profit organization. He spoke with a local granting agency, who has offered to pay for some of the initial filing fees.

Susan Brooks reported that as part of the First \$10,000 Campaign, Kiwanis had received an initial match of \$500 and a \$1,500 match from the Pacific Northwest Foundation for a total of \$2,500. She just received another donation that she has not yet opened. Kiwanis has sent letters to other area organizations officially requesting donations. The donations are being held by Kiwanis until the foundation can be established. Kiwanis expects to collect the \$10,000 by the end of the year and would like to donate the entire amount at one time to the foundation, which should be fully operational by that time. Kiwanis has not earmarked the campaign money for a specific use.

Director Tucker recalled that ALFA had discussed helping the foundation with filing fees.

Director Estes reported that since the last Library Board meeting, he met with the owner of the Waldorf Building. The relationship between the City and the owner is positive. Any negotiations would need to be coordinated with and approved by City Council. Staff will update the Library Board as the City moves forward on this.



Chairman Oser noted the Library Board needed to endorse the Renovation Road Map. Director Tucker reminded that all of the Library Board's regular works still needed to be completed during the renovation.

The Library Board and Staff discussed how helpful the Road Map was, noting that detailed work plans would be developed later.

Arline LaMear moved that the Astoria Library Board accept the Astoria Library Renovation Road Map as amended, seconded by Susan Brooks.

Gregory Lumbra said he would like the last sentence under Construction Process be edited to state, "A construction manager ~~may~~ **will** be secured to assist in ~~run the~~ day to day management of the ~~work~~ job." A construction manager would need to ensure safety on scaffolding, that the temperature for pouring concrete was correct, etc., which he did not believe Director Tucker is qualified to do.

Director Estes explained that the City always appoints a construction manager on building projects, which is sometimes a member of Staff with the necessary skills. There will be a construction manager on the library renovation. He added that during the renovation of the Public Safety Building, the Police Chief served as construction manager with the help of an outside consultant. He suggested the sentence state that "a construction manager should be secured."

The Library Board and Staff agreed to use the following sentence, "The Public Works Department may assist in developing construction contracts, and assignment of a construction manager should be secured to assist in day to day management of the work." Director Estes added the construction manager would be on site day to day to deal with change orders, inspections, and to delegate work. Mr. Lumbra added Director Tucker could handle the money and talk to the construction manager about scheduling and changes.

Chairman Oser asked if the Board was comfortable with the recommendation to the Mayor regarding the role of the Library Board members over the next several years; were Board members comfortable serving on the Steering Committee for the next several years.

Ms. LaMear said she was comfortable being on the Steering Committee and understood it would be a time commitment.

Ms. Brooks believed serving on the Steering Committee was necessary to have continuity and understanding. It is difficult to be in an advisory position without understanding what one is advising on, and serving on the Steering Committee was the only way to ensure a seamless process. She agreed it would be a time commitment.

Director Tucker added it was important for Board members to communicate any reservations or any issues they are uncomfortable with.

Ms. Arroyo confirmed she would be unable to commit more time to a Steering Committee.

Ms. Brooks stated she would not continue to serve on the Library Board after her term ends in June as the regular meetings conflict with her job. She would continue to support the library in every way possible, but not as a Board member. The Board needs members who have the time to serve.

Director Tucker asked how Board members with limited time could still be part of the renovation. Chairman Oser responded there were several ways; the Steering Committee would have non-board members and the foundation would have a large board. Director Tucker believed Ms. Arroyo could remain on the Board to work on day-to-day and operational tasks outside of the renovation. Ms. Arroyo added she would love to find a way to stay involved with the Board even though she did not have extra time to commit to the renovation. Director Estes confirmed Library Board members would not be required to attend every Steering Committee meeting.

Chairman Oser said he was concerned that there could be a division; the Library Board and Steering Committee should move in the same direction, work together, and avoid rivalry.



Ms. Brooks noted it was difficult to move forward with the same message when two independent factions are doing their own thing under their own guidelines. Crossover is necessary and she fully agreed with the direction of the Road Map.

Chairman Oser believed the Road Map provided a good indication to the Mayor that the scope of this committee's appointment would be different.

Ms. LaMear agreed, adding people needed to know the time commitment the project would require.

Director Tucker reiterated the need to be honest and open considering the work ahead. She added that she could use some help with record keeping and preferred someone with an accounting background. Ms. Arroyo agreed to speak with Director Tucker about assisting with the record keeping.

Mr. Lumbra referred to the Architectural Process section of the Road Map, noting he did not believe the Road Map should spell out the tasks of the architect. Director Estes explained the City would develop a scope of work for a certain set of services. The procurement process offers different routes for selecting architects. After receiving Requests for Qualifications, a scope of work and a price are negotiated before signing a contract. A committee, generally comprised of engineers, construction managers and others with appropriate expertise, typically reviews the qualifications and recommends an architect to City Council.

The motion passed unanimously.

Director Estes, Steve Emmons and Ms. Metz excused themselves from the meeting at 6:31 p.m.

**Approval of Agenda:** The agenda was approved as submitted.

**Approval of Minutes:** Ms. Brooks noted that in the fourth paragraph of Page 1, Rotary needed to be changed to Kiwanis with regard to the First \$10,000 Campaign. The minutes March 25, 2014 were approved as amended.

**Board Reports:** No reports.

**Library Director's Report:**

Director Tucker confirmed that the Board members had received the statistics and reported the following:

- Ami Kreider will no longer be a full time employee at the library as she will be serving as a firefighter with the Oregon Department of Forestry. During her off-season, she will work at the library as a temporary, part-time employee. Ms. Kreider's last day as a full time employee will be June 12, 2014.
- There will be no library database services May 17 to 19, 2014, while the database is migrated to the cloud. She has advertised that while the library will be open and programming will continue, there will be no circulation services during the migration. The technicians have indicated the transition will be better if the database is closed down. Staff is having weekly meetings about the transition and training.
- The ROCC fifth year grant application has been submitted. Warrenton is a full partner in the grant. She and the Seaside Library Director have met with the County Manager and will be making a presentation to the County Commission in September 2014.
- The Summer Reading Program will be implemented soon. The current grant financials must close out by June 30, 2014, which will be time consuming. Seaside will be the fiscal agent for the fifth year. This year, the library will self-evaluate rather than meet with a grant evaluator.
- Director Tucker will speak to the Lions on April 29, 2014 about ROCC and the renovation. She will speak to the Rotary on May 5, 2014.

**Update on ALFA Activities:**

Charlotte Langsev reported that the ALFA account balance was almost \$5,000 and the booth at Phog Bounders has been remodeled by Pat Staton Thomas. The library's copier had been cleaned for the first time since it had been purchased for \$1,850 nine years ago. The price of copies had to be increased to \$0.20 per page because the price of toner has increased.



**New Business:**

Director Tucker confirmed the library would be accepting donations for the Summer Reading Program. Ms. Brooks said Kiwanis would be collecting cans at the Crab Festival in specific receptacles and money from the cans will be donated to the Summer Reading Program. Director Tucker added the library ran card campaigns at Jewel School and Knappa School, which will both be open for the summer.

Mr. Lumbra asked Director Tucker for her thoughts on serving as renovation project manager. He believed the additional tasks could be overwhelming with her current duties and that she would need some support. Director Tucker confirmed she would need help with the record keeping as the processes would need to be carefully documented. However, she has the support of Staff. She expected a learning curve, but noted that Director Estes has been supportive.

**Old Business:****Item 10(a): American Library Association (ALA) Statements**

The Library Board agreed to postpone the discussion about the ALA statements.

Ms. LaMear stated she was really concerned about the book drop, noting that vandalism was occurring all over the city. She believed the book drop should be removed if many books were being lost. She did not believe people were aware of the drop box issues and suggested publishing an article in the newspaper to explain the situation and note that a solution would be offered as a result of the renovation.

Ms. Brooks suggested placing smaller collection boxes in businesses that are open longer hours than the library, or at the police station, which is open 24 hours. The box would be monitored there and Staff is always going to City Hall. Vandalism could be prevented by having a box inside the police department. She did not believe the drop box should be open when the library is open.

Director Tucker suggested documenting stolen or lost materials for a couple of months noting that theft still occurs even at indoor book drops that are monitored. The sign on the current book drop could be changed to include "unaccounted for". When materials are unaccounted for, the library has no way to determine when a book has been lost or stolen from the book drop.

The Library Board and Staff discussed finding a solution to the book drop issues and writing an article to alert the public about the vandalism occurring throughout town, including the book drop. Director Tucker agreed the issue needed to be resolved, but Staff's current work load with the work plan and data migration and training prevented her from taking action immediately. She agreed to do a bit of research and address the issue in a few months.

**Public Comments:** There were none.

**Items for Next Meeting's Agenda:**

**Adjournment:** There being no further business, the meeting was adjourned at 6:57 p.m.

Respectfully submitted,

---

Paula Pinyerd, ABC Transcription Services, Inc.



## **Parks Advisory Board Meeting Minutes**

### **April 2, 2014**

Present- Brad Johnston, Councilor Karen Mellin, Grace Laman, Tammy Loughran and Howard Rub

Absent- Kim Williams, Jay Flint and Norma Hernandez

Guests-Councilor Drew Herzig

Staff- Terra Patterson, Pam Pearce, Jonah Dart-McLean and Phil Elkins

Meeting was called to Order at 6:49 a.m. by Vice chairperson Tammy Loughran. The minutes from the February meeting were reviewed. Brad Johnston motioned to approve and Grace Laman seconded.

#### **Chair Person Section**

1. What do you hear- Councilor Mellin mentioned concerns about replacing the engravings at the Maritime Memorial wall. Director Cosby updated the board on progress. Councilor Mellin asked about using the space for a memorial service. She also expressed feedback on the location for the mutt mitt station at the Fort Astoria park. The tobacco free coalition is also interested in moving towards smoke free parks. Angela said we will add it to the agenda for the next meeting.
2. Brad Johnston mentioned he has talked to several people who have moved to the aquatic center from other gyms. The police are also working on clearing out homeless people from people's park. He expressed positive feedback about the 9<sup>th</sup> Street Park and the way it turned out. Councilor Herzig talked about Curves closing and Silver Sneakers program.

#### **Old Business**

- A. Friends of the Column had a board meeting recently. They are still working on design plans with the landscape architect. They are also planning to hold some events at the Column this summer. Tammy Loughran asked about planned fundraisers for the group, they currently don't have any planned. The friends group is also planning a clean-up this coming weekend.
- B. Tammy gave an update on the Parks foundation reviewing what the foundation has been working on. She talked about progress with the Lindstrom bathroom project and working with the MOMS club to they are having a fundraiser May 10th. They continue to work with the friends of the dog park group. Both groups plan to be at Tapiola Park for the Chip in event on April 27.
- C. The Chip-In project was reviewed, Clatsop Behavioral Health sponsored the first event at Children's Park. The next event will be held at April 27 at Tapiola Park. This will be a much larger project and staff is hoping for more volunteers for the event. There will be a staff training prior to the event at 10am.
- D. Way finding signage progress was updated. A contract has been awarded with Greenworks. They will be hosting a reception for the public to get feedback. The signage will tie in with signs through the downtown area although Parks Department will only be working towards setting up way finding signs along the River Walk.



- E. Terra Patterson reviewed the Cemetery software progress to date. College volunteers have completed their dedicated hours for the project and contractor Mark Scott continues to work on scanning "blue cards" for data entry. Terra reviewed what data the blue cards contain. At this point, staff is working with the college staff to see if works study students for spring quarter can be obtained.
- F. Ocean View Cemetery water well construction was reviewed by Staff Phil Elkins. The company has surveyed the area, brought out equipment and is ready to begin construction.
- G. Column lights will be tinted teal this evening in recognition of Sexual Assault Awareness month. Councilor Drew Herzig briefly discussed the event.
- H. The dog park group is still working on a location for the park they are considering two locations. The Pacific power location near Youngs Bay is still an option; the Pacific Power company is still working on environmental assessment. The second location is the grassy area above the baseball field at Tapiola Park.

### **New Business**

- A. Employee of the Month- Danielle Allen was introduced by Pam Pearce. She is a lead guard at the aquatic center. Pam recognized Danielle's strong leadership and mentoring the younger staff. Angela also discussed the center's audits and award for being in the top 30% of facilities in audit results. The center was also recently audited and received their highest score ever on the audit.
- B. Angela introduced new grounds coordinator Jonah Dart McLean. Jonah talked a little about himself and the projects he has worked on in the past three weeks.
- C. Angela reviewed department project reports. Phil discussed maintenance projects, struggles with extreme bathroom vandalism, and how staff is dealing with these vandalism issues. The staffing challenge at Lil' Sprouts was discussed. The facility has to turn clients away at times due to lack of staff. Terra discussed the recreation programs, the volleyball program and partnership with the high school was reviewed. Terra also reviewed the continued positive growth of the adult fitness programs. Pam reviewed aquatics report. She discussed life guard classes, staffing challenges, improvements for staff training, water safety classes, challenges with showers and the challenges with the increased use of the pool's use of CO2.
- D. Ms. Cosby reviewed the budget updates.
- E. Director Cosby also reviewed upcoming events.
- F. Other matters initiated- A concerned citizen discussed the River Walk and concerns on the condition of the strip along the River Walk past Safeway. Brad reviewed issues with privately owned property and what the city can do on this matter. Councilor Mellin talked about the Garden of Surging Waves and expressed concern about potential graffiti. Councilor Herzig suggested that the Wayfinding signage point out the "natural area" of the River Walk.

**Next meeting will be held Wednesday, April 30<sup>th</sup> at 6:45am**






CITY OF ASTORIA

Founded 1811 • Incorporated 1856

May 22, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER PRO TEM

SUBJECT: SUPPLEMENTAL BUDGETS FOR FY 2013-14

**DISCUSSION/ANALYSIS**

ORS 294.473 provides a procedure for a municipality to pass a supplemental budget that adjusts for changes that happen during a fiscal year. The process is to advertise a supplemental budget not more than 5 days before a Council meeting. The regulation stipulates that the Council should hold a public hearing for the proposed supplemental budgets and, then, consider a resolution that would adopt the proposed supplemental budgets.

As the fiscal year 2014-15 reaches completion, staff has determined that two funds require adjustments because these funds have resources and expenditures that were not anticipated when these budget were originally appropriated. The two funds are the 17<sup>th</sup> Street Dock and Capital Improvement Funds.

**17<sup>th</sup> Street Dock Fund**

Staff anticipated that the reconstruction of the 17<sup>th</sup> Street Dock would be completed before the end of last fiscal year ending June 30, 2013. Consequently, there was no appropriation made for capital improvements for the 17<sup>th</sup> Street Dock Fund. As the completion deadline approached there were construction delays for completion that related particularly to electrical system design and installation of the transformers. This delay and project expenditures to finalize the project in the current fiscal year 2013-14 were not able to be anticipated when the budget for this fiscal year was planned.

The result is that \$284,455.75 of expenses were incurred to complete the dock construction that did not have an appropriation. The attached resolution makes the adjustments required. It should be noted that these expenditures were within the contractually obligated bid for the dock construction. They were just not allocated in the budget for FY 2013-14.

**Capital Improvement Fund**

The Capital Improvement Fund has received grant reimbursements for prior year expenditures that increase the funds available in this fund. Land and timber sales have provided an increase of resources. During this fiscal year a variety of items have




required expenditures that were approved by Council at the time they occurred. Examples of this are expenditures for departmental copiers, the Parks van, the Heritage Square brownfield project that will be reimbursed by EPA grant funds and the emergency repairs for the 5<sup>th</sup> and Duane Street slide. At the time of approval, funds were available to cover the item. The attached resolution provides for budget adjustments to appropriate for these expenditures.

The appropriate notice was advertised on May 28, 2014.

**RECOMMENDATION**

Staff recommends that Council hold a public hearing for the advertised supplemental budgets and consider adopting the resolution.

By: \_\_\_\_\_

  
John Snyder, Financial Analyst



Resolution No. 14-

A RESOLUTION ADOPTING THREE SUPPLEMENTAL BUDGETS FOR THE  
CITY OF ASTORIA.

WHEREAS, supplemental budgets are required for the 17<sup>th</sup> Street Dock, Public Works and Capital Improvement Funds to budget resources received after the FY 2013-14 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:

**17<sup>th</sup> Street Dock Fund**

<u>Resources</u>	<u>Amount</u>
Beginning Fund Balance	\$ 100,000
Grants	550,000
Fees	177,200
Interest Earnings	<u>700</u>
Total Resources	\$827,900
<u>Requirements</u>	<u>Amount</u>
Personnel Services	11,500
Materials & Services	41,040
Capital Outlay	
Improvements Other than Buildings	290,000
Debt Service	136,560
Contingency	100,000
Ending Fund Balance	<u>248,800</u>
Total Requirements	<u>\$827,900</u>

**Capital Improvement Fund**

<u>Resources</u>	<u>Amount</u>
Beginning Fund Balance	\$ 1,650
Interest Earnings	1,250
Grants	430,680
State Shared Revenue	187,730
Timber and Land Sales	<u>437,750</u>
Total Resources	<u>\$ 1,059,060</u>



<u>Requirements</u>	<u>Amount</u>
Personnel Services	5,500
Materials & Services	600,000
Capital Outlay	260,970
Debt Service	40,480
Contingency	43,800
Ending fund Balance	<u>108,310</u>
Total Requirements	<u>\$1,059,060</u>

ADOPTED BY THE CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager

ROLL CALL ON ADOPTION

YEA   NAY   ABSENT

Commissioner   La Mear  
Herzig  
Mellin  
Warr

Mayor Van Dusen



## FUNDS NOT REQUIRING A PROPERTY TAX TO BE LEVIED

A public meeting of the Astoria City Council will be held on June 2, 2014 at 7 PM at the Astoria Council Chambers,  
1095 Duane Street, Astoria, Oregon. A public hearing will be held regarding the supplemental budgets shown below.

A copy of this notice is on the City of Astoria website: [www.astoria.or.us](http://www.astoria.or.us)

Contact: John Snyder, Financial Analyst Telephone: 503-298-2426 Email: [jsnyder@astoria.or.us](mailto:jsnyder@astoria.or.us)

Publish ONLY completed portion of this page. Total Anticipated Requirements must equal Total Resources. ☐ Republication

NAME OF FUND		Adopted Budget	Proposed Supplemental
		This Year 2013-14	This Year 2013-14
<b>17th Street Dock Fund</b>			
1.	Total Personal Services . . . . .	10,000	11,500
2.	Total Materials and Services . . . . .	41,040	41,040
3.	Total Capital Outlay . . . . .	0	290,000
4.	Total Debt Service . . . . .	136,560	136,560
5.	Total Transfers . . . . .	0	0
6.	Total Contingencies . . . . .	27,000	100,000
7.	Total All Other Expenditures and Requirements	0	0
8.	Total Unappropriated or Ending Fund Balance	0	248,800
9.	Total Requirements . . . . .	214,600	827,900
10.	Total Resources Except Property Taxes . . . . .	214,600	827,900

NAME OF FUND		Adopted Budget	Proposed Supplemental
		This Year 2013-14	This Year 2013-14
<b>Capital Improvement Fund</b>			
1.	Total Personal Services . . . . .	0	5,500
2.	Total Materials and Services . . . . .	1,605,200	600,000
3.	Total Capital Outlay . . . . .	130,970	260,970
4.	Total Debt Service . . . . .	40,480	40,480
5.	Total Transfers . . . . .	0	0
6.	Total Contingencies . . . . .	43,800	43,800
7.	Total All Other Expenditures and Requirements	0	0
8.	Total Unappropriated or Ending Fund Balance	146,550	108,310
9.	Total Requirements . . . . .	1,967,000	1,059,060
10.	Total Resources Except Property Taxes . . . . .	1,967,550	1,059,060






CITY OF ASTORIA

Founded 1811 • Incorporated 1856

May 22, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER PRO TEM

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: \_\_\_\_\_

  
John Snyder, CPA  
Financial Analyst



**RESOLUTION NO. 14-\_\_\_\_\_**

**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 2014-2015.

ADOPTED BY THE CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager Pro Tem

ROLL CALL ON ADOPTION	YEA	NAY	ABSENT
Councilor LaMear			
Herzig			
Mellin			
Warr			
Mayor Van Dusen			






## CITY OF ASTORIA

Founded 1811 • Incorporated 1856

May 22, 2014

### MEMORANDUM

TO: Mayor and City Council

FROM:  Brett Estes, City Manager Pro Tem

SUBJECT: Public Hearing and Resolution to Adopt the City of Astoria  
Budget for FYE June 30, 2015

#### 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 2, 2014, was published in the Daily Astorian on Friday, May 16, 2014.

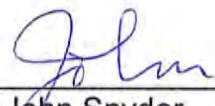
The budget for the City of Astoria, as discussed and approved by the Budget Committee, is ready for the City Council to consider for adoption. Copies of the approved budget were previously distributed to the Council. They were also posted on the City's website and were available in hard copy at the finance department and the library.

The attached resolution will adopt resources and appropriations and authorize the collection of taxes at a rate of \$8.1738 per thousand for FYE June 30, 2015.

#### Recommendation

It is recommended that the City Council hold a public hearing on the FYE June 30, 2015 budget as approved by the Budget Committee. After the hearing, it is recommended that the Council consider the resolution to adopt this budget.

By: \_\_\_\_\_

  
John Snyder  
Financial Analyst



Resolution No. 14-

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 2014-15 in the total sum of **\$37,254,500.00**, now on file at City Hall.

Section 2. That the expenditures for the fiscal year beginning July 1, 2014, and for the purposes shown below, are hereby appropriated as follows:

**General Fund**

City Council	13,220
City Manager	263,160
Municipal Court	162,850
Finance	645,380
City Attorney	84,900
Community Development	373,560
City Hall	51,460
Non & Interdepartmental	666,980
Fire	1,703,590
Police	2,216,610
Library	458,640
Contingency	1,412,190
Transfers to Other Funds	<u>1,156,140</u>
FUND TOTAL	<u>9,208,680</u>

**Capital Improvement Fund**

Materials & Services	1,199,200
Capital Outlay	210,310
Debt Service	40,480
Contingency	150,000
Ending Fund Balance	<u>178,450</u>
FUND TOTAL	<u>1,778,440</u>

**Unemployment Fund**

Personnel Services	33,110
Contingency	-
FUND TOTAL	<u>33,110</u>

**Revolving Loan Fund**

Special Payments	80,000
Contingency	12,000
Ending Fund Balance	<u>47,760</u>
FUND TOTAL	<u>139,760</u>

**Housing Rehabilitation Loan Fund**

Materials & Services	50,000
Contingency	7,500
Ending Fund Balance	<u>12,380</u>
FUND TOTAL	<u>69,880</u>

**Building Inspection Fund**

Personnel Services	130,630
Materials & Services	34,410
Contingency	2,500
Transfers to Other Funds	15,210
Ending Fund Balance	<u>91,490</u>
FUND TOTAL	<u>274,240</u>

**Emergency Communications Fund**

Personnel Services	847,460
Materials & Services	122,730
Capital Outlay	58,300
Transfers to Other Funds	21,000
Contingency	30,000
Ending Fund Balance	<u>234,620</u>
FUND TOTAL	<u>1,314,110</u>

**Community Policing Fund**

Materials & Services	7,800
Contingency	-
FUND TOTAL	<u>7,800</u>

**Parks Project Fund**

Transfer to Other Fund	160,000
Ending Fund Balance	<u>260</u>
FUND TOTAL	<u>160,260</u>

**Maritime Memorial Fund**

Materials & Services	15,000
Capital Outlay	48,000
Contingency	9,930
FUND TOTAL	<u>72,930</u>

**East Astoria Waterline Debt Service Fund**

Debt Service	66,720
Ending Fund Balance	<u>69,650</u>
FUND TOTAL	<u>136,370</u>

**Combined Sewer Overflow (CSO) Debt Service Fund**

Materials & Services	49,850
Debt Service	1,413,960
Contingency	22,520
Ending Fund Balance	<u>800,000</u>
FUND TOTAL	<u>2,286,330</u>

**Parks Operation Fund**

Aquatics	478,320
Recreation/Administration	675,710
Maintenance	520,490
FUND TOTAL	1,674,520

**Astoria Road District Fund**

Materials & Services	10,000
Capital Outlay	1,000,000
Contingency	52,450
FUND TOTAL	1,062,450

**State Tax Street Fund**

Contingency	39,630
Transfer to Other Funds	590,000
FUND TOTAL	629,630

**Trails Reserve Fund**

Materials & Services	5,000
Capital Outlay	23,290
FUND TOTAL	28,290

**Public Works Improvement Fund**

Materials & Services	1,130,000
Capital Outlay	247,000
Debt Service	626,160
Transfer to Other Funds	200,000
Contingency	169,960
FUND TOTAL	2,373,120

**Public Works Improvement Fund**

Capital Outlay	600,000
FUND TOTAL	600,000

**CSO Projects Fund**

Personnel Services	-
Materials & Services	750,000
Capital Outlay	5,053,000
Contingency	-
Ending Fund Balance	-
FUND TOTAL	5,803,000

**Local Impr. Debt Service Fund**

Debt Service	-
Ending Fund Balance	662,140
Transfer to Other Funds	22,000
FUND TOTAL	684,140

**Cemetery Irreducible Fund**

Ending Fund Balance	848,980
FUND TOTAL	848,980

**Logan Memorial Library**

Materials & Services	100,000
Contingency	15,000
Ending Fund Balance	751,380
FUND TOTAL	866,380

**Public Works Fund**

Engineering	1,001,580
Shop & Yard	432,560
Streets	489,380
Sanitation	61,090
Sewer	1,208,550
Stormwater	257,490
Water	1,557,730
Contingency	206,620
FUND TOTAL	5,215,000

**Cemetery Fund**

Capital Outlay	72,200
Contingency	-
Ending Fund Balance	-
FUND TOTAL	72,200

**17th Street Dock Fund**

Personnel Services	10,000
Materials & Services	61,150
Capital Outlay	175,000
Debt Service	36,420
Transfer to Other Funds	75,000
Contingency	60,000
Ending Fund Balance	210,130
FUND TOTAL	627,700

**Aquatic Facility Trust**

Materials & Services	1,060
Ending Fund Balance	6,390
FUND TOTAL	7,450

**Astoria Public Library Endowment Fund**

Materials & Services	28,130
Contingency	-
Ending Fund Balance	111,920
FUND TOTAL	140,050

**Promote Astoria Fund**

Materials & Services	585,750
Debt Service	78,680
Contingency	75,000
Ending Fund Balance	364,790

FUND TOTAL	1,104,220
------------	-----------

**7th Street Dock LID Debt Svc Fund**

Debt Service	14,090
Ending Fund Balance	21,370
FUND TOTAL	35,460

TOTAL APPROPRIATIONS	37,254,500
----------------------	------------



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 Financial Analyst will file this resolution with the Clatsop County Clerk and the County Assessor on or before July 15, 2014.

ADOPTED BY THE CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

APPROVED BY THE MAYOR THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Manager

ROLL CALL ON ADOPTION

YEA

NAY

ABSENT

Councilor - LaMear

Herzig

Mellin

Warr

Mayor Van Dusen




CITY OF ASTORIA  
POLICE  
DEPARTMENT

May 28, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER PRO-TEM

SUBJECT: LIQUOR LICENSE APPLICATION – BRAD SMITHART DBA THE ARC

**DISCUSSION/ANALYSIS**

Brad Smithart, doing business as The Arc, is proposing to operate a new business which would be an arcade serving liquor and ancillary food. The Police Department has reviewed the application and researched the background of the applicant as to the creation of a new licensed business at 1084 Commercial Street. Mr. Smithart has said that he wishes to open a licensed premise that has a primary purpose of being an arcade. He offers that the primary function of the business is gaming.

Mr. Smithart indicates that ultimately he would have 85 machines and occupancy of 50-100 people. He plans to have a bar along the side of the business that will be physically split by a passageway for employees that serves soda and ice cream on one side and beer, wine and cider on the other side. Seating will be at the gaming machines. Mr. Smithart indicated that he will have food service consisting of hot dogs prepared in a steamer and toppings provided by other downtown restaurants that will be kept warm in crock pots and warming trays (as allowed by the Health Department). He will have a monitor and speaker stack in the center of the store that in the future could be used for DJ music. The Astoria Planning Commission approved a conditional use permit for "Indoor Family Entertainment" at their May 6, 2014 meeting.

Because this is a new model of licensed premise in Astoria, the Police Department researched similar businesses in Oregon. There were three found: Ground Kontrol in Portland, Level Up in Eugene, and The Coin Jam in Salem. Ground Kontrol has classic arcade games, substantial food service and a full service bar. They allow minors until 5:00 p.m. and become a 21 and over business after 5:00 p.m. Level Up has classic arcade games, a full service bar and substantial food service. Minors are allowed until 9:00 p.m. after which the business is 21 and over. The Coin Jam is a 21 and over business that provides substantial food service, classic arcade games, and beer and wine service. The Police Department checked with OLCC and local law enforcement and have not found substantial problems with any of the existing businesses. Some of these businesses host special events, hosted by breweries or liquor companies for free



play that appear to substantially swing the nature of the businesses from gaming toward liquor consumption.

Regarding the liquor license, the Astoria Police Department found a failure by Mr. Smithart to disclose suspensions on the subject liquor license application and a significant history of driver's license suspensions. Additionally, Mr. Smithart operates a motel in the City of Astoria. He is in a negotiated settlement on back transient room taxes and is past due in reporting and paying his current transient room taxes. Mr. Smithart leases the property on which his motel is located from the Port of Astoria. He is overdue on the lease payments.

Officers surveyed neighboring businesses. Most businesses were non committal about the business. Two businesses questioned the need for another licensed premises since there were two within half a block of the business (Silver Salmon and Astoria Coffee House).

### **RECOMMENDATION**

It is recommended that the City Council deny the application by Mr. Smithart as the applicant made false statements on the liquor license application; has been convicted in violating laws substantially related to maintaining licensing; and has demonstrated an inability to comply with financial requirements associated with other businesses owned by Mr. Smithart.

A handwritten signature in dark ink, consisting of several fluid, overlapping strokes that form a stylized representation of the name Brad Johnston.

---

Brad Johnston, Deputy Chief of Police



# OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

Application is being made for:

## LICENSE TYPES

- ☐ Full On-Premises Sales (\$402.60/yr)  
☐ Commercial Establishment  
☐ Caterer  
☐ Passenger Carrier  
☐ Other Public Location  
☐ Private Club  
☒ Limited On-Premises Sales (\$202.60/yr)  
☐ Off-Premises Sales (\$100/yr)  
☐ with Fuel Pumps  
☐ Brewery Public House (\$252.60)  
☐ Winery (\$250/yr)  
☐ Other: \_\_\_\_\_

## ACTIONS

- ☐ Change Ownership  
☒ New Outlet  
☐ Greater Privilege  
☐ Additional Privilege  
☐ Other: \_\_\_\_\_

## 90-DAY AUTHORITY

☐ Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

## APPLYING AS:

- ☐ Limited Partnership ☐ Corporation ☒ Limited Liability Company ☐ Individuals

## CITY AND COUNTY USE ONLY

Date application received: 4-15-14

The City Council or County Commission:

City of Astoria  
(name of city or county)

recommends that this license be:

☐ Granted ☐ Denied

By: \_\_\_\_\_  
(signature) (date)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## OLCC USE ONLY

Application Rec'd by: \_\_\_\_\_

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

90-day authority: ☐ Yes ☐ No

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① Brad Smithart ③ \_\_\_\_\_  
② \_\_\_\_\_ ④ \_\_\_\_\_

2. Trade Name (dba): The Arc

3. Business Location: 1084 Commercial St, Astoria, Clatsop, OR 97103  
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 1650 9th St, Astoria, OR 97103  
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: (503) 791-9081 (503) 468-0521  
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☐ Yes ☒ No

7. If yes to whom: \_\_\_\_\_ Type of License: \_\_\_\_\_

8. Former Business Name: \_\_\_\_\_

9. Will you have a manager? ☐ Yes ☒ No Name: \_\_\_\_\_  
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? Astoria  
(name of city or county)

11. Contact person for this application: Brad Smithart (503) 791-9081  
(name) (phone number(s))

1650 9th St, Astoria OR 97103 (503) 468-0521 bsmithart@gmail.com  
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Brad Smithart Date 4/21/14 ③ \_\_\_\_\_ Date \_\_\_\_\_

② \_\_\_\_\_ Date \_\_\_\_\_ ④ \_\_\_\_\_ Date \_\_\_\_\_





# OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: Brad Smithart Phone: (503) 791-9081

Trade Name (dba): The Arc

Business Location Address: 1084 Commercial St

City: Astoria ZIP Code: 97103

## DAYS AND HOURS OF OPERATION

### Business Hours:

Sunday 11am to 11pm  
Monday 10am to 12am  
Tuesday 10am to 12am  
Wednesday 10am to 12am  
Thursday 10am to 1am  
Friday 10am to 2am  
Saturday 10am to 2am

### Outdoor Area Hours:

Sunday \_\_\_\_\_ to \_\_\_\_\_  
Monday \_\_\_\_\_ to \_\_\_\_\_  
Tuesday \_\_\_\_\_ to \_\_\_\_\_  
Wednesday \_\_\_\_\_ to \_\_\_\_\_  
Thursday \_\_\_\_\_ to \_\_\_\_\_  
Friday \_\_\_\_\_ to \_\_\_\_\_  
Saturday \_\_\_\_\_ to \_\_\_\_\_

The outdoor area is used for:

☐ Food service Hours: \_\_\_\_\_ to \_\_\_\_\_  
☐ Alcohol service Hours: \_\_\_\_\_ to \_\_\_\_\_  
☐ Enclosed, how \_\_\_\_\_

The exterior area is adequately viewed and/or supervised by Service Permittees.

\_\_\_\_\_  
(Investigator's Initials)

Seasonal Variations: ☐ Yes ☐ No If yes, explain: \_\_\_\_\_

## ENTERTAINMENT

Check all that apply:

- |  |   |
|--|---|
| <input type="checkbox"/> Live Music        | <input type="checkbox"/> Karaoke                        |
| <input type="checkbox"/> Recorded Music    | <input checked="" type="checkbox"/> Coin-operated Games |
| <input type="checkbox"/> DJ Music          | <input type="checkbox"/> Video Lottery Machines         |
| <input type="checkbox"/> Dancing           | <input type="checkbox"/> Social Gaming                  |
| <input type="checkbox"/> Nude Entertainers | <input type="checkbox"/> Pool Tables                    |
|  | <input type="checkbox"/> Other: _____                   |

## DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday \_\_\_\_\_ to \_\_\_\_\_  
Monday \_\_\_\_\_ to \_\_\_\_\_  
Tuesday \_\_\_\_\_ to \_\_\_\_\_  
Wednesday \_\_\_\_\_ to \_\_\_\_\_  
Thursday \_\_\_\_\_ to \_\_\_\_\_  
Friday \_\_\_\_\_ to \_\_\_\_\_  
Saturday \_\_\_\_\_ to \_\_\_\_\_

## SEATING COUNT

Restaurant: \_\_\_\_\_ Outdoor: \_\_\_\_\_

Lounge: \_\_\_\_\_ Other (explain): \_\_\_\_\_

Banquet: \_\_\_\_\_ Total Seating: \_\_\_\_\_

### OLCC USE ONLY

Investigator Verified Seating: \_\_\_\_ (Y) \_\_\_\_ (N)

Investigator Initials: \_\_\_\_\_

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

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: [Signature] Date: 3/21/14

1-800-452-OLCC (6522)

[www.oregon.gov/olcc](http://www.oregon.gov/olcc)

(rev 12/07)



# OREGON LIQUOR CONTROL COMMISSION FLOOR PLAN

- **Your floor plan must be submitted on this form.**
- Use a separate Floor Plan Form for each level or floor of the building.
- Applicants must provide a sketch that shows the specific area of the premises (e.g. dining area, bar, lounge, kitchen and restrooms). Full On-Premises (commercial establishments) applicants must also show dining tables. See example on back.

Applicant Name

The Arc

Trade Name (dba):

Astoria 97103

City and ZIP Code

.....OLCC USE ONLY.....  
MINOR POSTING ASSIGNMENT(S)

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

1-800-452-OLCC (6522)  
[www.oregon.gov/olcc](http://www.oregon.gov/olcc)

(rev. 12/07)






CITY OF ASTORIA

Founded 1811 • Incorporated 1856

May 23, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL  
FROM:  BRETT ESTES, CITY MANAGER PRO TEM  
SUBJECT: LIQUOR LICENSE APPLICATION

Discussion & Analysis

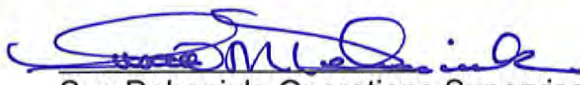
A liquor license application has been filed by Marvin James Sawyer, Jr., doing business as Port of Call at 894 Commercial Street, Astoria. The application is an New Outlet for a Full On-Premises Sales Commercial Establishment License. A copy of the application is attached.

The appropriate departments have reviewed the application. No objections to approval were noted.

Recommendation

Staff recommends that the City Council consider this application for approval.

Respectfully submitted,

  
Sue Dohaniuk, Operations Supervisor  
Finance Department



# OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

Application is being made for:

## LICENSE TYPES

- ☒ Full On-Premises Sales (\$402.60/yr)  
☒ Commercial Establishment  
☐ Caterer  
☐ Passenger Carrier  
☐ Other Public Location  
☐ Private Club  
  
☐ Limited On-Premises Sales (\$202.60/yr)  
☐ Off-Premises Sales (\$100/yr)  
☐ with Fuel Pumps  
☐ Brewery Public House (\$252.60)  
☐ Winery (\$250/yr)  
☐ Other: \_\_\_\_\_

## ACTIONS

- ☐ Change Ownership  
☒ New Outlet  
☐ Greater Privilege  
☐ Additional Privilege  
☒ Other Catering  
Pre-Approval Request

## CITY AND COUNTY USE ONLY

Date application received: 5-8-14

The City Council or County Commission:

City of Astoria  
(name of city or county)

recommends that this license be:

☐ Granted ☐ Denied

By: \_\_\_\_\_  
(signature) (date)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## OLCC USE ONLY

Application Rec'd by: \_\_\_\_\_

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

90-day authority: ☐ Yes ☐ No

## 90-DAY AUTHORITY

☐ Check here if you are applying for a change of ownership at a business that has a current liquor license, or if you are applying for an Off-Premises Sales license and are requesting a 90-Day Temporary Authority

## APPLYING AS:

- ☐ Limited Partnership ☐ Corporation ☐ Limited Liability Company ☒ Individuals

1. Entity or Individuals applying for the license: [See SECTION 1 of the Guide]

① Marvin James Sawyer Jr ③ \_\_\_\_\_

② \_\_\_\_\_ ④ \_\_\_\_\_

2. Trade Name (dba): Port of Call

3. Business Location: 894 Commercial St Astoria Clatsop Oregon 97103  
(number, street, rural route) (city) (county) (state) (ZIP code)

4. Business Mailing Address: 894 Commercial St Astoria Oregon 97103  
(PO box, number, street, rural route) (city) (state) (ZIP code)

5. Business Numbers: \_\_\_\_\_  
(phone) (fax)

6. Is the business at this location currently licensed by OLCC? ☐ Yes ☒ No

7. If yes to whom: \_\_\_\_\_ Type of License: \_\_\_\_\_

8. Former Business Name: Shipyard

9. Will you have a manager? ☐ Yes ☒ No Name: \_\_\_\_\_  
(manager must fill out an Individual History form)

10. What is the local governing body where your business is located? City of Astoria  
(name of city or county)

11. Contact person for this application: Marvin James Sawyer Jr. 208-353-3826  
(name) (phone number(s))  
411 Walnut St #6741, Green Cove Springs, FL 32043 m\_james\_sawyer@yahoo.com  
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Marvin James Sawyer Jr. Date 2-18-14 ③ \_\_\_\_\_ Date \_\_\_\_\_

② \_\_\_\_\_ Date \_\_\_\_\_ ④ \_\_\_\_\_ Date \_\_\_\_\_





# OREGON LIQUOR CONTROL COMMISSION BUSINESS INFORMATION

Please Print or Type

Applicant Name: Marvin James Sawyer Jr. Phone: 208-353-3826

Trade Name (dba): Port of Call

Business Location Address: 894 Commercial St.

City: Astoria

ZIP Code: 97103

## DAYS AND HOURS OF OPERATION

### Business Hours:

Sunday 11 AM to 2 AM  
Monday 11 AM to 2 AM  
Tuesday 11 AM to 2 AM  
Wednesday 11 AM to 2 AM  
Thursday 11 AM to 2 AM  
Friday 11 AM to 2 AM  
Saturday 11 AM to 2 AM

### Outdoor Area Hours:

Sunday \_\_\_\_\_ to \_\_\_\_\_  
Monday \_\_\_\_\_ to \_\_\_\_\_  
Tuesday \_\_\_\_\_ to \_\_\_\_\_  
Wednesday \_\_\_\_\_ to \_\_\_\_\_  
Thursday \_\_\_\_\_ to \_\_\_\_\_  
Friday \_\_\_\_\_ to \_\_\_\_\_  
Saturday \_\_\_\_\_ to \_\_\_\_\_

The outdoor area is used for:

☐ Food service Hours: \_\_\_\_\_ to \_\_\_\_\_  
☐ Alcohol service Hours: \_\_\_\_\_ to \_\_\_\_\_  
☐ Enclosed, how \_\_\_\_\_

The exterior area is adequately viewed and/or supervised by Service Permittees.

\_\_\_\_\_  
(Investigator's Initials)

Seasonal Variations: ☐ Yes ☒ No If yes, explain: \_\_\_\_\_

## ENTERTAINMENT

Check all that apply:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Live Music     | <input checked="" type="checkbox"/> Karaoke     |
| <input checked="" type="checkbox"/> Recorded Music | <input type="checkbox"/> Coin-operated Games    |
| <input checked="" type="checkbox"/> DJ Music       | <input type="checkbox"/> Video Lottery Machines |
| <input checked="" type="checkbox"/> Dancing        | <input type="checkbox"/> Social Gaming          |
| <input type="checkbox"/> Nude Entertainers         | <input checked="" type="checkbox"/> Pool Tables |
|  | <input type="checkbox"/> Other: _____           |

## DAYS & HOURS OF LIVE OR DJ MUSIC

Sunday \_\_\_\_\_ to \_\_\_\_\_  
Monday \_\_\_\_\_ to \_\_\_\_\_  
Tuesday \_\_\_\_\_ to \_\_\_\_\_  
Wednesday \_\_\_\_\_ to \_\_\_\_\_  
Thursday 8 pm to 2 AM  
Friday 8 pm to 2 AM  
Saturday 8 pm to 2 AM

## SEATING COUNT

Restaurant: 75

Outdoor: \_\_\_\_\_

Lounge: 14

Other (explain): \_\_\_\_\_

Banquet: \_\_\_\_\_

Total Seating: 89

### OLCC USE ONLY

Investigator Verified Seating: \_\_\_\_ (Y) \_\_\_\_ (N)

Investigator Initials: \_\_\_\_\_

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

I understand if my answers are not true and complete, the OLCC may deny my license application.

Applicant Signature: Marvin James Sawyer Jr. Date: 2-18-14

1-800-452-OLCC (6522)

[www.oregon.gov/olcc](http://www.oregon.gov/olcc)


(rev. 12/07)



**CITY OF ASTORIA**  
Founded 1811 • Incorporated 1856

May 27, 2014

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER PRO TEM

SUBJECT: **SECOND READING OF ORDINANCE TO VACATE A PORTION OF WEST  
NIAGARA AVENUE ADJACENT TO UNITED STATES COAST GUARD HOUSING**

**DISCUSSION/ANALYSIS**

The City received a request from the United States Coast Guard (USCG) for the vacation of a portion of the West Niagara Avenue right-of-way of approximately 0.94 acres (41,000 square feet). The area proposed for vacation is the north 30' of the West Niagara Avenue right-of-way adjacent to Lots 1 to 10, Block 12, West Slope and the south 30' of the West Niagara Avenue right-of-way adjacent to Lots 1 to 11, Block 13, West Slope) as detailed on the attached exhibit. The USCG plans to expand their housing development with a road and new housing extending north from Klaskanine Avenue and the existing housing which would be partially constructed within the existing platted West Niagara right-of-way. At the time the City sold the property to the USCG in 1991 for future housing, the West Niagara right-of-way was retained as a platted street. It transects the USCG property east to west at the northern portion of their parcels.

At their meeting of May 19, 2014, the Council held a public hearing and conducted the first reading of the ordinance of vacation.

**RECOMMENDATION**

It is recommended that the Astoria City Council conduct the second reading and adopt the ordinance to vacate of a portion of the West Niagara Avenue right of way adjacent to the United States Coast Guard Housing development.

Submitted By



Ken Cook, Public Works Director



Date: April 1, 2014



This aerial map illustrates a proposed street vacation in West Niagara. A red line indicates the proposed right-of-way, which is approximately 60 feet wide and 680 feet long. The map shows the intersection of Lexington Pl, Madison Ave, and Wilkaskahine Ave. A callout points to the 'Approximate location of proposed right-of-way' along the red line. Another callout points to the 'Existing USCG' building. The map also shows other streets like Wilkaskahine Ave, Wilkaskahine Ave, and Wilkaskahine Ave.



## **Ordinance No. 14-**

### **AN ORDINANCE GRANTING THE PETITION FOR THE VACATION OF A PORTION OF THE WEST NIAGARA AVENUE RIGHT OF WAY LOCATED WITHIN THE UNITED STATES COAST GUARD HOUSING DEVELOPMENT**

The City of Astoria does ordain as follows:

Section 1. Vacation Allowed. That the petition for vacation of the right-of-way is described as follows is hereby granted:

Approximately 0.94 acres (41,000 square feet) area of the north 30' of the West Niagara Avenue right-of-way adjacent to Lots 1 to 10, Block 12, West Slope (map T8N R9W Section 18AC, Tax Lot 2200), and the south 30' of the West Niagara Avenue right-of-way adjacent to Lots 1 to 11, Block 13, West Slope (map T8N R9W Section 18AC, Tax Lot 2300) as detailed on the attached survey by HLB Otak, dated October 14, 2011.

Section 2. Combining Lots. The above described vacated right-of-way and property is hereby combined into one lot and may not be separated except in compliance with Astoria Development Code and other applicable land use regulations.

#### Section 3. Other Provisions.

In consideration of the exchange of land in lieu of monetary compensation for the West Niagara Avenue right-of-way vacation, the United States Coast Guard shall dedicate a 40' wide right-of-way north approximately 1,000' (41,000 square feet) from West Klaskanine Avenue through the United States Coast Guard property identified as Blocks 12 & 13, West Slope (map T8N R9W Section 18AC, Tax Lots 2300 and 2400). This right-of-way shall be dedicated at the time of the construction of the US Coast Guard Housing Project proposed for 2014-2015 and shall be processed in accordance with City procedures for the dedication of rights-of-way. Should this project be delayed or amended, the US Coast Guard shall dedicate a right-of-way at the time of the construction of a new road in the US Coast Guard Housing Area.

Section 4. Reservations. Nothing in this ordinance or in the action to vacate that portion of the right-of-way or alley described in Section 1 shall cause or require the removal or abandonment of any Franchise Utility of any kind, wire, pole, or object used or intended to be used for any public service, and the right hereby is reserved for the owner of any such utility or object to maintain, continue, repair, reconstruct, renew, replace, rebuild or enlarge all utilities and objects.



Section 5. Effective Date. The provisions of this ordinance shall take effect 30 days after its passage.

The vacation of that portion of the right-of-way as described in Section 1 of this ordinance is ordered and allowed, subject to the provisions and restrictions contained in Section 2.250 and 2.310 of the Astoria Code.

ADOPTED BY THE COMMON COUNCIL THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2014.

APPROVED BY THE MAYOR THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2014.

\_\_\_\_\_  
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 21, 2014

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER PRO TEM

SUBJECT: **POWER PURCHASE AGREEMENT WITH PACIFICORP FOR THE  
HYDROELECTRIC PROJECT AT BEAR CREEK**

**DISCUSSION/ANALYSIS**

As part of the installation of a small hydroelectric generator at Bear Creek Dam, the City must sign a power purchase agreement with PacifiCorp, as attached. This agreement allows the utility to purchase the excess power generated by the turbine, and feed it back into the system.

The turbine is estimated to generate an average of 154,645 kilowatt hours (kWh) annually. The City's water treatment system utilizes approximately 90,000 to 100,000 kWh annually, at a cost of about \$9,000. This charge would be eliminated by the power generated by the turbine, and excess power (estimated at up to 60,000 kWh) would be sold to PacifiCorp at regulated rates. These "buy back" rates are significantly lower than the amount the City is paying, so it is advantageous to "reverse the meter" to use power generated by our hydroelectric facility before selling the power back into the system.

The scheduled date for startup of the system is March 1, 2015. However, this date may be moved up depending on the speed of construction. The Power Purchase Agreement, if approved, is for 15 years. The draft agreement has been reviewed and approved as to form by City Attorney Henningsgaard.

**RECOMMENDATION**

It is recommended that the City Council approve the Power Purchase Agreement and authorize the Mayor and City Manager Pro Tem to sign the document

Submitted By: \_\_\_\_\_

  
Ken P. Cook, Public Works Director

Prepared By: \_\_\_\_\_

   
Mike Morgan, Special Projects Consultant



# POWER PURCHASE AGREEMENT

BETWEEN

CITY OF ASTORIA

[a new Firm Qualifying Facility with 10,000 kW Facility Capacity Rating, or Less and  
not an Intermittent Resource]

AND

PACIFICORP

Section 1: Definitions .....	2
Section 2: Term; Commercial Operation Date .....	6
Section 3: Representations and Warranties .....	6
Section 4: Delivery of Power .....	9
Section 5: Purchase Prices .....	10
Section 6: Operation and Control .....	11
Section 7: Fuel/Motive Force .....	12
Section 8: Metering .....	12
Section 9: Billings, Computations, and Payments .....	13
Section 10: Security .....	13
Section 11: Defaults and Remedies .....	16
Section 12: Indemnification and Liability .....	19
Section 13: Insurance ( <i>Facilities over 200kW only</i> ) .....	20
Section 14: Force Majeure .....	21
Section 15: Several Obligations .....	22
Section 16: Choice of Law .....	22
Section 17: Partial Invalidity .....	22
Section 18: Waiver .....	22
Section 19: Governmental Jurisdictions and Authorizations .....	22
Section 20: Repeal of PURPA .....	22
Section 21: Successors and Assigns .....	23
Section 22: Entire Agreement .....	23
Section 23: Notices .....	23

## POWER PURCHASE AGREEMENT

THIS POWER PURCHASE AGREEMENT, entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, is between the City of Astoria, "**Seller**" and PacifiCorp (d/b/a Pacific Power & Light Company), an Oregon corporation acting in its regulated utility capacity, "**PacifiCorp**." (Seller and PacifiCorp are referred to individually as a "**Party**" or collectively as the "**Parties**").

### RECITALS

A. Seller intends to construct, own, operate and maintain a hydroelectric facility for the generation of electric power, including interconnection facilities, located in Clatsop County, Oregon with a Facility Capacity Rating of 30 -kilowatts (kW) as further described in **Exhibit A** and **Exhibit B ("Facility")**; and

B. Seller intends to commence delivery of Net Output under this Agreement, for the purpose of Start-up Testing, on February 1, 2015 ("**Scheduled Initial Delivery Date**"); and

C. Seller intends to operate the Facility as a Qualifying Facility, commencing commercial operations on March 1, 2015 ("**Scheduled Commercial Operation Date**"); and

D. Seller estimates that the average annual Net Energy to be delivered by the Facility to PacifiCorp is 154,645 kilowatt-hours (kWh), which amount of energy PacifiCorp will include in its resource planning; and

E. Seller shall (choose one) \_\_\_\_ sell all Net Output to PacifiCorp and purchase its full electric requirements from PacifiCorp ☒ sell Net Output surplus to its needs at the Facility site to PacifiCorp and purchase partial electric requirements service from PacifiCorp, in accordance with the terms and conditions of this Agreement; and

F. This Agreement is a "New QF Contract" under the PacifiCorp Inter-Jurisdictional Cost Allocation Revised Protocol.



## AGREEMENT

NOW, THEREFORE, the Parties mutually agree as follows:

### SECTION 1: DEFINITIONS

When used in this Agreement, the following terms shall have the following meanings:

1.1 **"As-built Supplement"** shall be a supplement to **Exhibit A** and **Exhibit B**, provided by Seller following completion of construction of the Facility, describing the Facility as actually built.

1.2 **"Average Annual Generation"** shall have the meaning set forth in Section 4.2.

1.3 **"Billing Period"** means, unless otherwise agreed to, the time period between PacifiCorp's consecutive readings of its power purchase billing meter at the Facility in the normal course of PacifiCorp's business. Such periods typically range between twenty-seven (27) and thirty-four (34) days and may not coincide with calendar months.

1.4 **"Commercial Operation Date"** means the date that the Facility is deemed by PacifiCorp to be fully operational and reliable, which shall require, among other things, that all of the following events have occurred:

1.4.1 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer stating (a) the Facility Capacity Rating of the Facility at the anticipated Commercial Operation Date; and (b) that the Facility is able to generate electric power reliably in amounts required by this Agreement and in accordance with all other terms and conditions of this Agreement;

1.4.2 The Facility has completed Start-Up Testing;

1.4.3 PacifiCorp has received a certificate addressed to PacifiCorp from a Licensed Professional Engineer stating that, (a), in accordance with the Generation Interconnection Agreement, all required interconnection facilities have been constructed, all required interconnection tests have been completed and the Facility is physically interconnected with PacifiCorp's electric system, or (b) if the Facility is interconnected with another electric utility that will wheel Net Output to PacifiCorp, all required interconnection facilities have been completed and tested and are in place to allow for such wheeling;

1.4.4 PacifiCorp has received a certificate addressed to PacifiCorp from an attorney in good standing in the State of Oregon stating that Seller has obtained all Required Facility Documents and if requested by PacifiCorp, in writing, has provided copies of any or all such requested Required Facility Documents. (Facilities over 200 kW only).



1.4.5 Seller has complied with the security requirements of Section 10.

1.4.6 PacifiCorp has received an executed copy of **Exhibit F**—Seller's Interconnection Request.

1.5 "**Commission**" means the Oregon Public Utilities Commission.

1.6 "**Contract Price**" means the applicable price for capacity or energy, or both capacity and energy, stated in Sections 5.1 and 5.2.

1.7 "**Contract Year**" means a twelve (12) month period commencing at 00:00 hours Pacific Prevailing Time ("PPT") on January 1 and ending on 24:00 hours PPT on December 31; *provided, however*, that the first Contract Year shall commence on the Commercial Operation Date and end on the next succeeding December 31, and the last Contract Year shall end on the Termination Date.

1.8 "**Credit Requirements**" means a long-term credit rating (corporate or long-term senior unsecured debt) of (1) "Baa3" or greater by Moody's, or (2) "BBB-" or greater by S&P, or such other indicia of creditworthiness acceptable to PacifiCorp in its reasonable judgment.

1.9 "**Default Security**", unless otherwise agreed to by the Parties in writing, means the amount of either a Letter of Credit or cash placed in an escrow account sufficient to replace twelve (12) average months of replacement power costs over the term of this Agreement, and shall be calculated by taking the average, over the term of this Agreement, of the positive difference between (a) the monthly forward power prices at **Mid-C** (as determined by PacifiCorp in good faith using information from a commercially reasonable independent source), multiplied by 110%, minus (b) the average of the Fixed Avoided Cost Prices specified in Schedule 37, and multiplying such difference by (c) the Minimum Annual Delivery; *provided, however*, the amount of Default Security shall in no event be less than the amount equal to the payments PacifiCorp would make for three (3) average months based on Seller's average monthly volume over the term of this Agreement and utilizing the average Fixed Avoided Cost Prices specified in Schedule 37. Such amount shall be fixed at the Effective Date of this Agreement.

1.10 "**Effective Date**" shall have the meaning set forth in Section 2.1.

1.11 "**Energy Delivery Schedule**" shall have the meaning set forth in Section 4.5.

1.12 "**Environmental Attributes**" shall have the meaning set forth in Section 5.5.

1.13 "**Excess Output**" shall mean any increment of Net Output delivered at a rate, on an hourly basis, exceeding the Facility Capacity Rating.

1.14 "**Facility**" shall have the meaning set forth in Recital A.

1.15 "**Facility Capacity Rating**" means the sum of the Nameplate Capacity Ratings for all generators comprising the Facility.

1.16 "**FERC**" means the Federal Energy Regulatory Commission, or its successor.



1.17 **"Generation Interconnection Agreement"** means the generation interconnection agreement to be entered into separately between Seller and PacifiCorp's transmission or distribution department, as applicable, providing for the construction, operation, and maintenance of PacifiCorp's interconnection facilities required to accommodate deliveries of Seller's Net Output if the Facility is to be interconnected directly with PacifiCorp rather than another electric utility.

1.18 **"Letter of Credit"** means an irrevocable standby letter of credit, from an institution that has a long-term senior unsecured debt rating of "A" or greater from S&P or "A2" or greater from Moody's, in a form reasonably acceptable to PacifiCorp, naming PacifiCorp as the party entitled to demand payment and present draw requests thereunder.

1.19 **"Licensed Professional Engineer"** means a person acceptable to PacifiCorp in its reasonable judgment who is licensed to practice engineering in the state of Oregon, who has no economic relationship, association, or nexus with the Seller, and who is not a representative of a consulting engineer, contractor, designer or other individual involved in the development of the Facility, or of a manufacturer or supplier of any equipment installed in the Facility. Such Licensed Professional Engineer shall be licensed in an appropriate engineering discipline for the required certification being made.

1.20 **"Material Adverse Change"** means the occurrence of any event of default under any material agreement to which Seller is a party and of any other development, financial or otherwise, which would have a material adverse effect on Seller, the Facility or Seller's ability to develop, construct, operate, maintain or own the Facility as provided in this Agreement

1.21 **"Maximum Annual Delivery"** shall have the meaning set forth in Section 4.3.

1.22 **"Minimum Annual Delivery"** shall have the meaning set forth in Section 4.3.

1.23 **"Nameplate Capacity Rating"** means the full-load electrical quantities assigned by the designer to a generator and its prime mover or other piece of electrical equipment, such as transformers and circuit breakers, under standardized conditions, expressed in amperes, kilovoltamperes, kilowatts, volts, or other appropriate units. Usually indicated on a nameplate attached to the individual machine or device.

1.24 **"Net Energy"** means the energy component, in kWh, of Net Output.

1.25 **"Net Output"** means all energy and capacity produced by the Facility, less station use and less transformation and transmission losses and other adjustments (e.g., Seller's load other than station use), if any. For purposes of calculating payment under this Agreement, Net Output of energy shall be the amount of energy flowing through the Point of Delivery.

1.26 **"Net Replacement Power Costs"** shall have the meaning set forth in Section 11.4.1.

1.27 **"Off-Peak Hours"** means all hours of the week that are not On-Peak Hours.



1.28 **"On-Peak Hours"** means the hours between 6 a.m. Pacific Prevailing Time ("PPT") and 10 p.m. PPT, Mondays through Saturdays, excluding all hours occurring on holidays as provided in Schedule 37.

1.29 **"Point of Delivery"** means the high side of the Seller's step-up transformer(s) located at the point of interconnection between the Facility and PacifiCorp's distribution/transmission system, as specified in the Generation Interconnection Agreement, or, if the Facility is not interconnected directly with PacifiCorp, the point at which another utility will deliver the Net Output to PacifiCorp as specified in **Exhibit B**.

1.30 **"Prime Rate"** means the publicly announced prime rate for commercial loans to large businesses with the highest credit rating in the United States in effect from time to time quoted by Citibank, N.A. If a Citibank, N.A. prime rate is not available, the applicable Prime Rate shall be the announced prime rate for commercial loans in effect from time to time quoted by a bank with \$10 billion or more in assets in New York City, New York, selected by the Party to whom interest based on the Prime Rate is being paid.

1.31 **"Prudent Electrical Practices"** means any of the practices, methods and acts engaged in or approved by a significant portion of the electrical utility industry or any of the practices, methods or acts, which, in the exercise of reasonable judgment in the light of the facts known at the time a decision is made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with reliability, safety and expedition. Prudent Electrical Practices is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts.

1.32 **"QF"** means **"Qualifying Facility,"** as that term is defined in the FERC regulations (codified at 18 CFR Part 292) in effect on the Effective Date.

1.33 **"Replacement Price"** means the price at which PacifiCorp, acting in a commercially reasonable manner, purchases for delivery at the Point of Delivery a replacement for any Net Output that Seller is required to deliver under this Agreement plus (i) costs reasonably incurred by PacifiCorp in purchasing such replacement Net Output, and (ii) additional transmission charges, if any, reasonably incurred by PacifiCorp in causing replacement energy to be delivered to the Point of Delivery. If PacifiCorp elects not to make such a purchase, the Replacement Price shall be the market price at the Mid-Columbia trading hub for such energy not delivered, plus any additional cost or expense incurred as a result of Seller's failure to deliver, as determined by PacifiCorp in a commercially reasonable manner (but not including any penalties, ratcheted demand or similar charges).

1.34 **"Required Facility Documents"** means all licenses, permits, authorizations, and agreements, including a Generation Interconnection Agreement or equivalent, necessary for construction, operation, and maintenance of the Facility consistent with the terms of this Agreement, including without limitation those set forth in **Exhibit C**.

1.35 **"Schedule 37"** means the Schedule 37 of Pacific Power & Light Company's Commission-approved tariffs, providing pricing options for Qualifying Facilities of 10,000 kW



or less, which is in effect on the Effective Date of this Agreement. A copy of that Schedule 37 is attached as **Exhibit G**.

1.36 "**Scheduled Commercial Operation Date**" shall have the meaning set forth in Recital C.

1.37 "**Scheduled Initial Delivery Date**" shall have the meaning set forth in Recital B.

1.38 "**Start-Up Testing**" means the completion of required factory and start-up tests as set forth in **Exhibit E** hereto.

1.39 "**Termination Date**" shall have the meaning set forth in Section 2.4.

## **SECTION 2: TERM; COMMERCIAL OPERATION DATE**

2.1 This Agreement shall become effective after execution by both Parties ("**Effective Date**").

2.2 **Time is of the essence for this Agreement**, and Seller's ability to meet certain requirements prior to the Commercial Operation Date and to deliver Net Output by the Scheduled Commercial Operation Date is critically important. Therefore,

2.2.1 By December 1, 2014, Seller shall provide PacifiCorp with a copy of an executed Generation Interconnection Agreement, or wheeling agreement, as applicable, which shall be consistent with all material terms and requirements of this Agreement.

2.2.2 Upon completion of construction, Seller, in accordance with Section 6.1, shall provide PacifiCorp with an As-built Supplement acceptable to PacifiCorp;

2.2.3 By the date thirty (30) days after the Effective Date, Seller shall provide Default Security required under Sections 10.1 or 10.2, as applicable.

2.3 Seller shall cause the Facility to achieve Commercial Operation on or before the Scheduled Commercial Operation Date. If Commercial Operation occurs after the Scheduled Commercial Operation Date, Seller shall be in default, and liable for delay damages specified in Section 11.

2.4 Except as otherwise provided herein, this Agreement shall terminate on December 31, 2030.

## **SECTION 3: REPRESENTATIONS AND WARRANTIES**

3.1 PacifiCorp represents, covenants, and warrants to Seller that:

- 3.1.1 PacifiCorp is duly organized and validly existing under the laws of the State of Oregon.
  - 3.1.2 PacifiCorp has the requisite corporate power and authority to enter into this Agreement and to perform according to the terms of this Agreement.
  - 3.1.3 PacifiCorp has taken all corporate actions required to be taken by it to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.
  - 3.1.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on PacifiCorp or any valid order of any court, or any regulatory agency or other body having authority to which PacifiCorp is subject.
  - 3.1.5 This Agreement is a valid and legally binding obligation of PacifiCorp, enforceable against PacifiCorp in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).
- 3.2 Seller represents, covenants, and warrants to PacifiCorp that:
- 3.2.1 Seller is a city duly organized and validly existing under the laws of Oregon.
  - 3.2.2 Seller has the requisite power and authority to enter into this Agreement and to perform according to the terms hereof, including all required regulatory authority to make wholesale sales from the Facility.
  - 3.2.3 Seller has taken all actions required to authorize the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby.
  - 3.2.4 The execution and delivery of this Agreement does not contravene any provision of, or constitute a default under, any indenture, mortgage, or other material agreement binding on Seller or any valid order of any court, or any regulatory agency or other body having authority to which Seller is subject.
  - 3.2.5 This Agreement is a valid and legally binding obligation of Seller, enforceable against Seller in accordance with its terms (except as the enforceability of this Agreement may be limited by bankruptcy, insolvency, bank moratorium or similar laws affecting creditors' rights



generally and laws restricting the availability of equitable remedies and except as the enforceability of this Agreement may be subject to general principles of equity, whether or not such enforceability is considered in a proceeding at equity or in law).

- 3.2.6 The Facility is and shall for the term of this Agreement continue to be a QF, and Seller will operate the Facility in a manner consistent with its FERC QF certification. Seller has provided to PacifiCorp the appropriate QF certification (which may include a FERC self-certification) prior to PacifiCorp's execution of this Agreement. At any time during the term of this Agreement, PacifiCorp may require Seller to provide PacifiCorp with evidence satisfactory to PacifiCorp in its reasonable discretion that the Facility continues to qualify as a QF under all applicable requirements and, if PacifiCorp is not satisfied that the Facility qualifies for such status, a written legal opinion from an attorney who is (a) in good standing in the state of Oregon, and (b) who has no economic relationship, association or nexus with the Seller or the Facility, stating that the Facility is a QF and providing sufficient proof (including copies of all documents and data as PacifiCorp may request) demonstrating that Seller has maintained and will continue to maintain the Facility as a QF.
- 3.2.7 Compliance with Partial Stipulation in Commission Proceeding No. UM-1129. Seller will not make any changes in its ownership, control, or management during the term of this Agreement that would cause it to not be in compliance with the definition of a Small Cogeneration Facility or Small Power Production Facility provided in PacifiCorp's Schedule 37 tariff approved by the Commission at the time this Agreement is executed. Seller will provide, upon request by PacifiCorp not more frequently than every 36 months, such documentation and information as reasonably may be required to establish Seller's continued compliance with such Definition. PacifiCorp agrees to take reasonable steps to maintain the confidentiality of any portion of the above-described documentation and information that the Seller identifies as confidential except PacifiCorp will provide all such confidential information the Public Utility Commission of Oregon upon the Commission's request.
- 3.2.8 Additional Seller Creditworthiness Warranties. Seller need not post security under Section 10 for PacifiCorp's benefit in the event of Seller default, provided that Seller warrants all of the following:
- (a) Neither the Seller nor any of its principal equity owners is or has within the past two (2) years been the debtor in any bankruptcy proceeding, is unable to pay its bills in the ordinary course of its business, or is the subject of any legal or regulatory action, the result of which could reasonably be expected to impair Seller's ability to own and operate the Facility in accordance with the terms of this Agreement.



- (b) Seller has not at any time defaulted in any of its payment obligations for electricity purchased from PacifiCorp.
- (c) Seller is not in default under any of its other agreements and is current on all of its financial obligations, including construction related financial obligations.
- (d) Seller owns, and will continue to own for the term of this Agreement, all right, title and interest in and to the Facility, free and clear of all liens and encumbrances other than liens and encumbrances related to third-party financing of the Facility.
- (e) **[Applicable only to Seller's with a Facility having a Facility Capacity Rating greater than 3,000 kW]** Seller meets the Credit Requirements.

KPC Seller affirms and adopts all warranties of this Section 3.2.8, and therefore is not required to post security under Section 10;  
or

\_\_\_\_\_ Seller does not affirm and adopt all warranties of this Section 3.2.8, and therefore Seller elects to post the security specified in Section 10.

3.3 Notice. If at any time during this Agreement, any Party obtains actual knowledge of any event or information which would have caused any of the representations and warranties in this Section 3 to have been materially untrue or misleading when made, such Party shall provide the other Party with written notice of the event or information, the representations and warranties affected, and the action, if any, which such Party intends to take to make the representations and warranties true and correct. The notice required pursuant to this Section shall be given as soon as practicable after the occurrence of each such event.

#### **SECTION 4: DELIVERY OF POWER**

4.1 Commencing on the Commercial Operation Date, unless otherwise provided herein, Seller will sell and PacifiCorp will purchase all Net Output from the Facility delivered to the Point of Delivery.

4.2 Average Annual Generation. Seller estimates that the Facility will generate, on average, 154,645 kWh per Contract Year ("**Average Annual Generation**"). Seller may, upon at least six months prior written notice, modify the Average Annual Generation every other Contract Year.

4.3 Minimum and Maximum Delivery. Seller shall make available from the Facility a minimum of 25,000 kWh of Net Output during each Contract Year, provided that such minimum for the first Contract Year shall be reduced pro rata to reflect the Commercial Operation Date, and further provided that such minimum Net Output shall be reduced on a pro-rata basis for any



periods during a Contract Year that the Facility was prevented from generating electricity for reasons of Force Majeure ("**Minimum Annual Delivery**"). Seller estimates, for informational purposes, that it will make available from the Facility a maximum of 175,915 kWh of Net Output during each Contract Year ("**Maximum Annual Delivery**"). Seller's basis for determining the Minimum and Maximum Annual Delivery amounts is set forth in **Exhibit D**.

4.4 Deliveries in Deficit of Delivery Obligation. Seller's failure to deliver the Minimum Annual Delivery in any Contract Year (prorated if necessary) shall be a default, and Seller shall be liable for damages in accordance with Section 11.

4.5 Energy Delivery Schedule. Seller has provided a monthly schedule of Net Energy expected to be delivered by the Facility ("**Energy Delivery Schedule**"), incorporated into **Exhibit D**.

## **SECTION 5: PURCHASE PRICES**

5.1 Seller shall have the option to select one of four pricing options: Fixed Avoided Cost Prices ("Fixed Price"), Firm Market Indexed Avoided Cost Prices ("Firm Electric Market"), Gas Market Indexed Avoided Cost Prices ("Gas Market"), or Banded Gas Market Indexed Avoided Cost Prices ("Banded Gas Market"), as published in Schedule 37. Once an option is selected the option will remain in effect for the duration of the Facility's contract. Seller has selected the following (Seller to initial one):

KPC	Fixed Price
_____	Firm Electric Market
_____	Gas Market
_____	Banded Gas Market

A copy of Schedule 37, and a table summarizing the purchase prices under the pricing option selected by Seller, is attached as **Exhibit G**.

5.2 (Fixed Price Sellers Only). In the event Seller elects the Fixed Price payment method, PacifiCorp shall pay Seller the applicable On-Peak and Off-Peak rates specified in **Schedule 37** during the first fifteen (15) years after the Scheduled Initial Delivery Date. Thereafter, PacifiCorp shall pay Seller market-based rates, using the following pricing option (Seller to initial one):

KPC	Firm Electric Market
_____	Gas Market
_____	Banded Gas Market

5.3 If the Seller elects a gas market indexed price option, the index shall be the Opal Gas Market Index as provided in Schedule 37. In the event that Platt ceases to publish the Opal Gas Market Index, the Company shall replace the index with a similar gas index.

5.4 For all Excess Output and for all Net Output delivered prior to the Commercial Operation Date, PacifiCorp shall pay Seller a blended market index price for day-ahead non-firm



energy at Mid-Columbia, California Oregon Border (COB), Four Corners and Palo Verde market indices as reported by Dow Jones, for the On-Peak and Off-Peak periods. PacifiCorp shall document its calculation of the blended rate, upon request, to Seller. Such payment will be accomplished by adjustments pursuant to Section 9.2.

5.5 Environmental Attributes. PacifiCorp waives any claim to Seller's ownership of Environmental Attributes under this Agreement. Environmental Attributes include, but are not limited to, Green Tags, Green Certificates, Renewable Energy Credits (RECs) and Tradable Renewable Certificates (TRCs) (as those terms are commonly used in the regional electric utility industry) directly associated with the production of energy from the Seller's Facility.

## **SECTION 6: OPERATION AND CONTROL**

6.1 As-Built Supplement. Upon completion of initial (and any subsequent) construction of the Facility, Seller shall provide PacifiCorp an As-built Supplement to specify the actual Facility as built. The As-built Supplement must be reviewed and approved by PacifiCorp, which approval shall not unreasonably be withheld, conditioned or delayed.

6.2 Incremental Utility Upgrades. At start-up (and at any other time upon at least six month's prior written notice), Seller may increase Net Output, if such increase is due to normal variances in estimated versus actual performance, changed Facility operations, or improvements in Facility efficiency. Seller may not increase Net Output under this Agreement by installing additional generating units. In the case of substantial upgrades, PacifiCorp may require Seller to comply with Section 3.2.8(e) (in the event that the Facility upgrade causes the Facility Capacity Rating to exceed 3,000 kW) and increase its Minimum Annual Delivery obligation in Section 4.3 (if appropriate). PacifiCorp may also update Seller's security obligation (if applicable). So long as the Facility Capacity Rating after the upgrade is 10,000 kW or less, Seller will continue to receive the Contract Price for the Net Output, as set forth in Sections 5.1 and 5.2 of this Agreement. If Seller increases the Facility Capacity Rating above 10,000 kW, then (on a going forward basis) PacifiCorp shall pay Seller the Contract Price for the fraction of total Net Output equal to 10,000 kW divided by the Facility Capacity Rating of the upgraded Facility. For the remaining fraction of Net Output, PacifiCorp and Seller shall agree to a new negotiated rate. Seller shall be responsible for ensuring that any planned increase in the Facility Capacity Rating or the maximum instantaneous capacity of the Facility complies with Seller's Generation Interconnection Agreement and any other agreements with PacifiCorp.

6.3 Seller shall operate and maintain the Facility in a safe manner in accordance with the Generation Interconnection Agreement (if applicable), Prudent Electrical Practices and in accordance with the requirements of all applicable federal, state and local laws and the National Electric Safety Code as such laws and code may be amended from time to time. PacifiCorp shall have no obligation to purchase Net Output from the Facility to the extent the interconnection between the Facility and PacifiCorp's electric system is disconnected, suspended or interrupted, in whole or in part, pursuant to the Generation Interconnection Agreement, or to the extent generation curtailment is required as a result of Seller's non-compliance with the Generation Interconnection Agreement. PacifiCorp shall have the right to inspect the Facility to confirm that Seller is operating the Facility in accordance with the provisions of this Section 6.3 upon



reasonable notice to Seller. Seller is solely responsible for the operation and maintenance of the Facility. PacifiCorp shall not, by reason of its decision to inspect or not to inspect the Facility, or by any action or inaction taken with respect to any such inspection, assume or be held responsible for any liability or occurrence arising from the operation and maintenance by Seller of the Facility.

6.4 Scheduled Outages. Seller may cease operation of the entire Facility or individual units, if applicable, for maintenance or other purposes. Seller shall exercise its best efforts to notify PacifiCorp of planned outages at least ninety (90) days prior, and shall reasonably accommodate PacifiCorp's request, if any, to reschedule such planned outage in order to accommodate PacifiCorp's need for Facility operation.

6.5 Unplanned Outages. In the event of an unscheduled outage or curtailment exceeding twenty-five (25) percent of the Facility Capacity Rating (other than curtailments due to lack of motive force), Seller immediately shall notify PacifiCorp of the necessity of such unscheduled outage or curtailment, the time when such has occurred or will occur and the anticipated duration. Seller shall take all reasonable measures and exercise its best efforts to avoid unscheduled outage or curtailment, to limit the duration of such, and to perform unscheduled maintenance during Off-Peak hours.

## **SECTION 7: FUEL/MOTIVE FORCE**

Prior to the Effective Date of this Agreement, Seller provided to PacifiCorp a fuel or motive force plan acceptable to PacifiCorp in its reasonable discretion and attached hereto as **Exhibit D-1**, together with a certification from a Licensed Professional Engineer to PacifiCorp attached hereto as **Exhibit D-2**, certifying that the implementation of the fuel or motive force plan can reasonably be expected to provide fuel or motive force to the Facility for the duration of this Agreement adequate to generate power and energy in quantities necessary to deliver the Minimum Annual Delivery set forth by Seller in Section 4.

## **SECTION 8: METERING**

8.1 PacifiCorp shall design, furnish, install, own, inspect, test, maintain and replace all metering equipment required pursuant to the Generation Interconnection Agreement, if applicable.

8.2 Metering shall be performed at the location and in a manner consistent with this Agreement and as specified in the Generation Interconnection Agreement, or, if the Net Output is to be wheeled to PacifiCorp by another utility, metering will be performed in accordance with the terms of PacifiCorp's interconnection agreement with such other utility. All quantities of energy purchased hereunder shall be adjusted to account for electrical losses, if any between the point of metering and the Point of Delivery, so that the purchased amount reflects the net amount of energy flowing into PacifiCorp's system at the Point of Delivery.

8.3 PacifiCorp shall periodically inspect, test, repair and replace the metering equipment as provided in the Generation Interconnection Agreement, if applicable. If the Net



Output is to be wheeled to PacifiCorp by another utility, meter inspection, testing, repair and replacement will be performed in accordance with the terms of PacifiCorp's interconnection agreement with such utility. If any of the inspections or tests discloses an error exceeding two percent (2%), either fast or slow, proper correction, based upon the inaccuracy found, shall be made of previous readings for the actual period during which the metering equipment rendered inaccurate measurements if that period can be ascertained. If the actual period cannot be ascertained, the proper correction shall be made to the measurements taken during the time the metering equipment was in service since last tested, but not exceeding three (3) Billing Periods, in the amount the metering equipment shall have been shown to be in error by such test. Any correction in billings or payments resulting from a correction in the meter records shall be made in the next monthly billing or payment rendered following the repair of the meter.

### **SECTION 9: BILLINGS, COMPUTATIONS, AND PAYMENTS**

9.1 On or before the thirtieth (30th) day following the end of each Billing Period, PacifiCorp shall send to Seller payment for Seller's deliveries of Net Output to PacifiCorp, together with computations supporting such payment. PacifiCorp may offset any such payment to reflect amounts owing from Seller to PacifiCorp pursuant to this Agreement, the Generation Interconnection Agreement, or any other agreement between the Parties.

9.2 Corrections. PacifiCorp shall have up to eighteen months to adjust any payment made pursuant to Section 9.1. In the event PacifiCorp determines it has overpaid Seller (for Excess Output or otherwise), PacifiCorp may adjust Seller's future payment accordingly in order to recapture any overpayment in a reasonable time.

9.3 Any amounts owing after the due date thereof shall bear interest at the Prime Rate plus two percent (2%) from the date due until paid; *provided, however*, that the interest rate shall at no time exceed the maximum rate allowed by applicable law.

### **SECTION 10: SECURITY**

Unless Seller has adopted the creditworthiness warranties contained in Section 3.2.8, Seller must provide security (if requested by PacifiCorp) in the form of a cash escrow, letter of credit, senior lien, or step-in rights. Seller hereby elects to provide, in accordance with the applicable terms of this Section 10, the following security (Seller to initial one selection only):

- ☐ Cash Escrow
- ☐ Letter of Credit
- ☐ Senior Lien
- ☐ Step-in Rights
- ☐ Seller has adopted the Creditworthiness Warranties of Section 3.2.8.

In the event Seller's obligation to post default security (under Section 10 or Section 11.1.4) arises solely from Seller's delinquent performance of construction-related financial obligations,



upon Seller's request, PacifiCorp will excuse Seller from such obligation in the event Seller has negotiated financial arrangements with its construction lenders that mitigate Seller's financial risks to PacifiCorp's reasonable satisfaction.

**[SKIP THIS SECTION 10.1 UNLESS SELLER SELECTED CASH ESCROW ALTERNATIVE]**

10.1 Cash Escrow Security. Seller shall deposit in an escrow account established by PacifiCorp in a banking institution acceptable to both Parties, the Default Security. Such sum shall earn interest at the rate applicable to money market deposits at such banking institution from time to time. To the extent PacifiCorp receives payment from the Default Security, Seller shall, within fifteen (15) days, restore the Default Security as if no such deduction had occurred.

**[SKIP THIS SECTION 10.2 UNLESS SELLER SELECTED LETTER OF CREDIT ALTERNATIVE]**

10.2 Letter of Credit Security. Seller shall post and maintain in an amount equal to the Default Security: (a) a guaranty from a party that satisfies the Credit Requirements, in a form acceptable to PacifiCorp in its discretion, or (b) a Letter of Credit in favor of PacifiCorp. To the extent PacifiCorp receives payment from the Default Security, Seller shall, within fifteen (15) days, restore the Default Security as if no such deduction had occurred.

**[SKIP THIS SECTION 10.3 UNLESS SELLER SELECTED SENIOR LIEN ALTERNATIVE]**

10.3 Senior Lien. Before the Scheduled Commercial Operation Date, Seller shall grant PacifiCorp a senior, unsubordinated lien on the Facility and its assets as security for performance of this Agreement by executing, acknowledging and delivering a security agreement and a deed of trust or a mortgage, in a recordable form (each in a form satisfactory to PacifiCorp in the reasonable exercise of its discretion). Pending delivery of the senior lien to PacifiCorp, Seller shall not cause or permit the Facility or its assets to be burdened by liens or other encumbrances that would be superior to PacifiCorp's, other than workers', mechanics', suppliers' or similar liens, or tax liens, in each case arising in the ordinary course of business that are either not yet due and payable or that have been released by means of a performance bond posted within eight (8) calendar days of the commencement of any proceeding to foreclose the lien.

**[SKIP THIS SECTION 10.4 UNLESS SELLER SELECTED STEP-IN RIGHTS ALTERNATIVE]**

10.4 Step-in Rights (Operation by PacifiCorp Following Event of Default of Seller).

10.4.1 Prior to any termination of this Agreement due to an Event of Default of Seller, as identified in Section 11, PacifiCorp shall have the right, but not the obligation, to possess, assume control of, and operate the Facility as agent for Seller (in accordance with Seller's rights, obligations, and interest under this Agreement) during the period provided for herein. Seller shall not grant any person, other than the lending institution providing financing to the Seller for construction of the Facility ("Facility



Lender”), a right to possess, assume control of, and operate the Facility that is equal to or superior to PacifiCorp’s right under this Section 10.4.

10.4.2 PacifiCorp shall give Seller ten (10) calendar days notice in advance of the contemplated exercise of PacifiCorp’s rights under this Section 10.4. Upon such notice, Seller shall collect and have available at a convenient, central location at the Facility all documents, contracts, books, manuals, reports, and records required to construct, operate, and maintain the Facility in accordance with Prudent Electrical Practices. Upon such notice, PacifiCorp, its employees, contractors, or designated third parties shall have the unrestricted right to enter the Facility for the purpose of constructing and/or operating the Facility. Seller hereby irrevocably appoints PacifiCorp as Seller’s attorney-in-fact for the exclusive purpose of executing such documents and taking such other actions as PacifiCorp may reasonably deem necessary or appropriate to exercise PacifiCorp’s step-in rights under this Section 10.4.

10.4.3 During any period that PacifiCorp is in possession of and constructing and/or operating the Facility, no proceeds or other monies attributed to operation of the Facility shall be remitted to or otherwise provided to the account of Seller until all Events of Default of Seller have been cured.

10.4.4 During any period that PacifiCorp is in possession of and operating the Facility, Seller shall retain legal title to and ownership of the Facility and PacifiCorp shall assume possession, operation, and control solely as agent for Seller.

(a) In the event PacifiCorp is in possession and control of the Facility for an interim period, Seller shall resume operation and PacifiCorp shall relinquish its right to operate when Seller demonstrates to PacifiCorp’s reasonable satisfaction that it will remove those grounds that originally gave rise to PacifiCorp’s right to operate the Facility, as provided above, in that Seller (i) will resume operation of the Facility in accordance with the provisions of this Agreement, and (ii) has cured any Events of Default of Seller which allowed PacifiCorp to exercise its rights under this Section 10.4.

(b) In the event that PacifiCorp is in possession and control of the Facility for an interim period, the Facility Lender, or any nominee or transferee thereof, may foreclose and take possession of and operate the Facility and PacifiCorp shall relinquish its right to operate when the Facility Lender or any nominee or transferee thereof, requests such relinquishment.

10.4.5 PacifiCorp’s exercise of its rights hereunder to possess and operate the Facility shall not be deemed an assumption by PacifiCorp of any liability



attributable to Seller. If at any time after exercising its rights to take possession of and operate the Facility PacifiCorp elects to return such possession and operation to Seller, PacifiCorp shall provide Seller with at least fifteen (15) calendar days advance notice of the date PacifiCorp intends to return such possession and operation, and upon receipt of such notice Seller shall take all measures necessary to resume possession and operation of the Facility on such date.

## **SECTION 11: DEFAULTS AND REMEDIES**

11.1 Events of Default. The following events shall constitute defaults under this Agreement:

11.1.1 Breach of Material Term. Failure of a Party to perform any material obligation imposed upon that Party by this Agreement (including but not limited to failure by Seller to meet any deadline set forth in Section 2) or breach by a Party of a representation or warranty set forth in this Agreement.

11.1.2 Default on Other Agreements. Seller's failure to cure any default under any commercial or financing agreements or instrument (including the Generation Interconnection Agreement) within the time allowed for a cure under such agreement or instrument.

11.1.3 Insolvency. A Party (a) makes an assignment for the benefit of its creditors; (b) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy or similar law for the protection of creditors, or has such a petition filed against it and such petition is not withdrawn or dismissed within sixty (60) days after such filing; (c) becomes insolvent; or (d) is unable to pay its debts when due.

11.1.4 Material Adverse Change. A Material Adverse Change has occurred with respect to Seller and Seller fails to provide such performance assurances as are reasonably requested by PacifiCorp, including without limitation the posting of additional Default Security, within thirty (30) days from the date of such request;

11.1.5 Delayed Commercial Operations. Seller's failure to achieve the Commercial Operation Date by the Scheduled Commercial Operation Date.

11.1.6 Underdelivery. If Seller's Facility has a Facility Capacity Rating of 100 kW or less, Seller's failure to satisfy the minimum delivery obligation of Section 4.3 for two (2) consecutive years; else Seller's failure to satisfy the minimum delivery obligation of Section 4.3 for one year.



## 11.2 Notice; Opportunity to Cure.

11.2.1 Notice. In the event of any default hereunder, the non-defaulting Party must notify the defaulting Party in writing of the circumstances indicating the default and outlining the requirements to cure the default.

11.2.2 Opportunity to Cure. A Party defaulting under Section 11.1.1 or 11.1.5 shall have thirty (30) days to cure after receipt of proper notice from the non-defaulting Party. This thirty (30) day period shall be extended by an additional ninety (90) days if (a) the failure cannot reasonably be cured within the thirty (30) day period despite diligent efforts, (b) the default is capable of being cured within the additional ninety (90) day period, and (c) the defaulting Party commences the cure within the original thirty (30) day period and is at all times thereafter diligently and continuously proceeding to cure the failure.

11.2.3 Seller Default Under Other Agreements. Seller shall cause any notices of default under any of its commercial or financing agreements or instruments to be sent by the other party to such agreements or instruments, or immediately forwarded, to PacifiCorp as a notice in accordance with Section 23.

11.2.4 Seller Delinquent on Construction-related Financial Obligations. Seller promptly shall notify PacifiCorp (or cause PacifiCorp to be notified) anytime it becomes delinquent under any construction related financing agreement or instrument related to the Facility. Such delinquency may constitute a Material Adverse Change, subject to Section 11.1.4.

## 11.3 Termination.

11.3.1 Notice of Termination. If a default described herein has not been cured within the prescribed time, above, the non-defaulting Party may terminate this Agreement at its sole discretion by delivering written notice to the other Party and may pursue any and all legal or equitable remedies provided by law or pursuant to this Agreement; *provided, however* that PacifiCorp shall not terminate: (a) for a default under Section 11.1.5 unless PacifiCorp is in a resource deficient state during the period Commercial Operation is delayed; or (b) for a default under Section 11.1.6, unless such default is material. The rights provided in Section 10 and this Section 11 are cumulative such that the exercise of one or more rights shall not constitute a waiver of any other rights. Further, the Parties may by mutual written agreement amend this Agreement in lieu of a Party's exercise of its right to terminate.

11.3.2 In the event this Agreement is terminated because of Seller's default and Seller wishes to again sell Net Output to PacifiCorp following such termination, PacifiCorp in its sole discretion may require that Seller shall



do so subject to the terms of this Agreement, including but not limited to the Contract Price, until the Termination Date (as set forth in Section 2.4). At such time Seller and PacifiCorp agree to execute a written document ratifying the terms of this Agreement.

11.3.3 Damages. If this Agreement is terminated as a result of Seller's default, Seller shall pay PacifiCorp the positive difference, if any, obtained by subtracting the Contract Price from the sum of the Replacement Price for the Minimum Annual Delivery that Seller was otherwise obligated to provide for a period of twenty-four (24) months from the date of termination plus any cost incurred for transmission purchased to deliver the replacement power to the Point of Delivery, and the estimated administrative cost to the utility to acquire replacement power. Amounts owed by Seller pursuant to this paragraph shall be due within five (5) business days after any invoice from PacifiCorp for the same.

11.3.4 If this Agreement is terminated because of Seller's default, PacifiCorp may foreclose upon any security provided pursuant to Section 10 to satisfy any amounts that Seller owes PacifiCorp arising from such default.

#### 11.4 Damages.

11.4.1 Failure to Deliver Net Output. In the event of Seller default under Subsection 11.1.5 or Subsection 11.1.6, then Seller shall pay PacifiCorp the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price for any energy and capacity that Seller was otherwise obligated (under Section 4.3) to provide during the period of default ("**Net Replacement Power Costs**"); *provided, however*, that the positive difference obtained by subtracting the Contract Price from the Replacement Price shall not exceed the Contract Price, and the period of default under this Section 11.4.1 shall not exceed one Contract Year.

#### 11.4.2 Recoupment of Damages.

- (a) Default Security Available. If Seller has posted Default Security, PacifiCorp may draw upon that security to satisfy any damages, above.
- (b) Default Security Unavailable. If Seller has not posted Default Security, or if PacifiCorp has exhausted the Default Security, PacifiCorp may collect any remaining amount owing by partially withholding future payments to Seller over a reasonable period of time, which period shall not be less than the period over which the default occurred. PacifiCorp and Seller shall work together in good faith to establish the period, and monthly amounts, of such withholding so as to avoid Seller's default on its commercial or



financing agreements necessary for its continued operation of the Facility.

## **SECTION 12: INDEMNIFICATION AND LIABILITY**

### **12.1 Indemnities.**

12.1.1 **Indemnity by Seller.** Seller shall release, indemnify and hold harmless PacifiCorp, its directors, officers, agents, and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with (a) the energy delivered by Seller under this Agreement to and at the Point of Delivery, (b) any facilities on Seller's side of the Point of Delivery, (c) Seller's operation and/or maintenance of the Facility, or (d) arising from this Agreement, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property belonging to PacifiCorp, Seller or others, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of PacifiCorp, its directors, officers, employees, agents or representatives.

12.1.2 **Indemnity by PacifiCorp.** PacifiCorp shall release, indemnify and hold harmless Seller, its directors, officers, agents, Lenders and representatives against and from any and all loss, fines, penalties, claims, actions or suits, including costs and attorney's fees, both at trial and on appeal, resulting from, or arising out of or in any way connected with the energy delivered by Seller under this Agreement after the Point of Delivery, including without limitation any loss, claim, action or suit, for or on account of injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction or economic loss of property, excepting only such loss, claim, action or suit as may be caused solely by the fault or gross negligence of Seller, its directors, officers, employees, agents, Lenders or representatives.

12.2 **No Dedication.** Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any person not a Party to this Agreement. No undertaking by one Party to the other under any provision of this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public, nor affect the status of PacifiCorp as an independent public utility corporation or Seller as an independent individual or entity.

12.3 **No Consequential Damages.** EXCEPT TO THE EXTENT SUCH DAMAGES ARE INCLUDED IN THE LIQUIDATED DAMAGES, DELAY DAMAGES, COST TO COVER DAMAGES OR OTHER SPECIFIED MEASURE OF DAMAGES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE



OTHER PARTY FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, WHETHER SUCH DAMAGES ARE ALLOWED OR PROVIDED BY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, STATUTE OR OTHERWISE.

### **SECTION 13: INSURANCE (FACILITIES OVER 200KW ONLY)**

13.1 Certificates. Prior to connection of the Facility to PacifiCorp's electric system, or another utility's electric system if delivery to PacifiCorp is to be accomplished by wheeling, Seller shall secure and continuously carry insurance in compliance with the requirements of this Section. Seller shall provide PacifiCorp insurance certificate(s) (of "ACORD Form" or the equivalent) certifying Seller's compliance with the insurance requirements hereunder. Commercial General Liability coverage written on a "claims-made" basis, if any, shall be specifically identified on the certificate. If requested by PacifiCorp, a copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, shall be furnished to PacifiCorp.

13.2 Required Policies and Coverages. Without limiting any liabilities or any other obligations of Seller under this Agreement, Seller shall secure and continuously carry with an insurance company or companies rated not lower than "B+" by the A.M. Best Company the insurance coverage specified below:

13.2.1 Commercial General Liability insurance, to include contractual liability, with a minimum single limit of \$1,000,000 to protect against and from all loss by reason of injury to persons or damage to property based upon and arising out of the activity under this Agreement.

13.2.2 All Risk Property insurance providing coverage in an amount at least equal to the full replacement value of the Facility against "all risks" of physical loss or damage, including coverage for earth movement, flood, and boiler and machinery. The Risk policy may contain separate sub-limits and deductibles subject to insurance company underwriting guidelines. The Risk Policy will be maintained in accordance with terms available in the insurance market for similar facilities.

13.3 The Commercial General Liability policy required herein shall include i) provisions or endorsements naming PacifiCorp, its Board of Directors, Officers and employees as additional insureds, and ii) cross liability coverage so that the insurance applies separately to each insured against whom claim is made or suit is brought, even in instances where one insured claims against or sues another insured.

13.4 All liability policies required by this Agreement shall include provisions that such insurance is primary insurance with respect to the interests of PacifiCorp and that any other insurance maintained by PacifiCorp is excess and not contributory insurance with the insurance required hereunder, and provisions that such policies shall not be canceled or their limits of liability reduced without 1) ten (10) days prior written notice to PacifiCorp if canceled for



nonpayment of premium, or 2) thirty (30) days prior written notice to PacifiCorp if canceled for any other reason.

13.5 Insurance coverage provided on a "claims-made" basis shall be maintained by Seller for a minimum period of five (5) years after the completion of this Agreement and for such other length of time necessary to cover liabilities arising out of the activities under this Agreement.

#### **SECTION 14: FORCE MAJEURE**

14.1 As used in this Agreement, "Force Majeure" or "an event of Force Majeure" means any cause beyond the reasonable control of the Seller or of PacifiCorp which, despite the exercise of due diligence, such Party is unable to prevent or overcome. By way of example, Force Majeure may include but is not limited to acts of God, fire, flood, storms, wars, hostilities, civil strife, strikes, and other labor disturbances, earthquakes, fires, lightning, epidemics, sabotage, restraint by court order or other delay or failure in the performance as a result of any action or inaction on behalf of a public authority which by the exercise of reasonable foresight such Party could not reasonably have been expected to avoid and by the exercise of due diligence, it shall be unable to overcome, subject, in each case, to the requirements of the first sentence of this paragraph. Force Majeure, however, specifically excludes the cost or availability of fuel or motive force resources to operate the Facility or changes in market conditions that affect the price of energy or transmission. If either Party is rendered wholly or in part unable to perform its obligation under this Agreement because of an event of Force Majeure, that Party shall be excused from whatever performance is affected by the event of Force Majeure to the extent and for the duration of the event of Force Majeure, after which such Party shall recommence performance of such obligation, provided that:

14.1.1 the non-performing Party, shall, within two (2) weeks after the occurrence of the Force Majeure, give the other Party written notice describing the particulars of the occurrence; and

14.1.2 the suspension of performance shall be of no greater scope and of no longer duration than is required by the event of Force Majeure; and

14.1.3 the non-performing Party uses its best efforts to remedy its inability to perform.

14.2 No obligations of either Party which arose before the Force Majeure causing the suspension of performance shall be excused as a result of the event of Force Majeure.

14.3 Neither Party shall be required to settle any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to the Party's best interests.

14.4 PacifiCorp may terminate the Agreement if Seller fails to remedy Seller's inability to perform, due to an event of Force Majeure, within six months after the occurrence of the event.



#### **SECTION 15: SEVERAL OBLIGATIONS**

Nothing contained in this Agreement shall ever be construed to create an association, trust, partnership or joint venture or to impose a trust or partnership duty, obligation or liability between the Parties. If Seller includes two or more parties, each such party shall be jointly and severally liable for Seller's obligations under this Agreement.

#### **SECTION 16: CHOICE OF LAW**

This Agreement shall be interpreted and enforced in accordance with the laws of the State of Oregon, excluding any choice of law rules which may direct the application of the laws of another jurisdiction.

#### **SECTION 17: PARTIAL INVALIDITY**

It is not the intention of the Parties to violate any laws governing the subject matter of this Agreement. If any of the terms of the Agreement are finally held or determined to be invalid, illegal or void as being contrary to any applicable law or public policy, all other terms of the Agreement shall remain in effect. If any terms are finally held or determined to be invalid, illegal or void, the Parties shall enter into negotiations concerning the terms affected by such decision for the purpose of achieving conformity with requirements of any applicable law and the intent of the Parties to this Agreement.

#### **SECTION 18: WAIVER**

Any waiver at any time by either Party of its rights with respect to a default under this Agreement or with respect to any other matters arising in connection with this Agreement must be in writing, and such waiver shall not be deemed a waiver with respect to any subsequent default or other matter.

#### **SECTION 19: GOVERNMENTAL JURISDICTIONS AND AUTHORIZATIONS**

This Agreement is subject to the jurisdiction of those governmental agencies having control over either Party or this Agreement. Seller shall at all times maintain in effect all local, state and federal licenses, permits and other approvals as then may be required by law for the construction, operation and maintenance of the Facility, and shall provide upon request copies of the same to PacifiCorp.

#### **SECTION 20: REPEAL OF PURPA**

This Agreement shall not terminate upon the repeal of the PURPA, unless such termination is mandated by federal or state law.

## **SECTION 21: SUCCESSORS AND ASSIGNS**

This Agreement and all of the terms hereof shall be binding upon and inure to the benefit of the respective successors and assigns of the Parties. No assignment hereof by either Party shall become effective without the written consent of the other Party being first obtained and such consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, either Party may assign this Agreement without the other Party's consent to a lender as part of a financing transaction or as part of (a) a sale of all or substantially all of the assigning Party's assets, or (b) a merger, consolidation or other reorganization of the assigning Party.

## **SECTION 22: ENTIRE AGREEMENT**

22.1 This Agreement supersedes all prior agreements, proposals, representations, negotiations, discussions or letters, whether oral or in writing, regarding PacifiCorp's purchase of Net Output from the Facility. No modification of this Agreement shall be effective unless it is in writing and signed by both Parties.

22.2 By executing this Agreement, Seller releases PacifiCorp from any claims, known or unknown, that may have arisen prior to the Effective Date.

## **SECTION 23: NOTICES**

23.1 All notices except as otherwise provided in this Agreement shall be in writing, shall be directed as follows and shall be considered delivered if delivered in person or when deposited in the U.S. Mail, postage prepaid by certified or registered mail and return receipt requested.

Notices	PacifiCorp	Seller
<b>All Notices</b>	PacifiCorp 825 NE Multnomah Street Portland, OR 97232 Attn: Contract Administration, Suite 600 Phone: (503) 813 - 5380 Facsimile: (503) 813 - 6291 Duns: 00-790-9013 Federal Tax ID Number: 93-0246090	City of Astoria Attn: Ken P. Cook 1095 Duane St. Astoria, OR 97103 Phone: 503-338-5177
<b>All Invoices:</b>	(same as street address above) Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	
<b>Scheduling:</b>	(same as street address above) Attn: Resource Planning, Suite 600 Phone: (503) 813 - 6090 Facsimile: (503) 813 - 6265	
<b>Payments:</b>	(same as street address above)	



Notices	PacifiCorp	Seller
	Attn: Back Office, Suite 700 Phone: (503) 813 - 5578 Facsimile: (503) 813 - 5580	
<b>Wire Transfer:</b>	Bank One N.A. ABA: ACCT: NAME: PacifiCorp Wholesale	
<b>Credit and Collections:</b>	(same as street address above) Attn: Credit Manager, Suite 1900 Phone: (503) 813 - 5684 Facsimile: (503) 813 - 5609	
<b>With Additional Notices of an Event of Default or Potential Event of Default to:</b>	(same as street address above) Attn: PacifiCorp General Counsel Phone: (503) 813-5029 Facsimile: (503) 813-7252	City of Astoria Attn: Ken P. Cook 1095 Duane St. Astoria, OR 97103 Phone: 503-338-5177

23.2 The Parties may change the person to whom such notices are addressed, or their addresses, by providing written notices thereof in accordance with this Section 23.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names as of the date first above written.

PacifiCorp

Seller

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: Bruce Griswold

Name: \_\_\_\_\_

Title: Director, Short Term Origination  
and QF Contracts

Title: \_\_\_\_\_

**APPROVED AS TO LEGAL SUFFICIENCY**



Digitally signed by  
com.apple.idms.appleid.prd.49317566476d4a  
3867754144546f59324e744d354e773d3d  
DN:  
cn=com.apple.idms.appleid.prd.49317566476  
d4a3867754144546f59324e744d354e773d3d  
Date: 2014.05.14 10:19:05 -08'00'

**EXHIBIT A**  
**DESCRIPTION OF SELLER'S FACILITY**  
**[Seller to Complete]**

Seller's Facility consists of one (1) hydroelectric generators manufactured by Soar Technologies. More specifically, each generator at the Facility is described as:

**Type (synchronous or inductive):** Inverteee Based Mico Hydro

**Model:**

**Number of Phases:** 1

**Rated Output (kW):** 30

**Rated Output (kVA):** 30

**Rated Voltage (line to line):**

**Rated Current (A):** Stator: 240 Volt     A; Rotor: A

**Maximum kW Output:** 30 kW     **Maximum kVA Output:** 30 kVA

**Minimum kW Output:** 6. 2 kW

**Manufacturer's Guaranteed Cut-in Wind Speed [if applicable]:** NA

**Facility Capacity Rating:** 30 kW at 102 ft, 3.5 cfs

Identify the maximum output of the generator(s) and describe any differences between that output and the Nameplate Capacity Rating:

**Station service requirements, and other loads served by the Facility, if any, are described as follows:** The project does not anticipate any station service requirement.

**Location of the Facility:** The Facility is to be constructed in the vicinity of the Bear Creek Watershed in Clatsop County, Oregon. The location is more particularly described as follows:

46.7' 4.95 'N

123.38' 25.44' W

**Power factor requirements:**

**Rated Power Factor (PF) or reactive load (kVAR):** > 0.995



## **EXHIBIT B**

### **SELLER'S INTERCONNECTION FACILITIES**

[Seller to provide its own diagram and description]

### **POINT OF DELIVERY / SELLER'S INTERCONNECTION FACILITIES**

Instructions to Seller:

1. Include description of point of metering, and Point of *Delivery to be determined by PacifiCorp Interconnection Department*
  2. Provide interconnection single line drawing of Facility including any transmission facilities on Seller's side of the Point of Delivery. *See Attached*
- 
1. Point of delivery: Astoria Headworks, 92526 Headworks Road, Astoria, OR 97103. Also known as the Headworks Lab Building, Astoria Water Treatment Facility, Bear Creek Dam area, 46.7', 4.95N, 123.38', 25.44W.



**WSA**  
Murray Smith & Associates, Inc.  
Engineers Planners  
121 St. Albans, Suite 300  
Medical, Oregon 97141  
Phone 503-637-4600  
Fax 503-637-4020



**CITY OF ASTORIA  
ASTORIA HEADWORKS  
HYDROELECTRIC  
PROJECT**

## POWER SCHEMATIC

**90% SUBMITTAL**

**RAW**  
ENGINEERING, INC.  
Engineering, Design and Construction  
1010 N. 1st Avenue, Suite 200  
Bloomington, Oregon 97001  
Phone: (503) 831-4100  
Fax: (503) 831-4100  
E-mail: [info@raw-inc.com](mailto:info@raw-inc.com)

E-3



**EXHIBIT C**  
**REQUIRED FACILITY DOCUMENTS**

**REQUIRED OF ALL FACILITIES:**

QF Certification: Not required project is less than 1,000 KW  
Interconnection Agreement: City of Astoria OGIQ0352  
Fuel Supply Agreement, if applicable: NA

**REQUIRED IF SELLER ELECTS TO GRANT SENIOR LIEN OR STEP-IN RIGHTS:**

Deed or Lease to Facility Premises  
Preliminary Title Report of Premises  
Proof of ownership of Facility  
Off-take sale agreements, e.g. surplus heat sale contract, if applicable

**REQUIRED OF ALL HYDRO FACILITIES:**

FERC License: Docket CD13-6-000 Letter dated November 21, 2013  
Power Generation Water Rights: PC 898, Certificate 89004

Depending upon the type of Facility and its specific characteristics, additional Required Facility Documents may be requested.

**EXHIBIT D-1**  
**SELLER'S MOTIVE FORCE PLAN**

**A. MONTHLY DELIVERY SCHEDULES AND SCHEDULED MAINTENANCE**

<b>Month</b>	<b>Average Energy (kWh)</b>
January	8,083
February	10,179
March	13,105
April	11,971
May	15,076
June	15,221
July	15,888
August	16,128
September	15,607
October	15,306
November	9,249
December	8,831

Seller will provide an estimate of the average monthly Net Output of the Facility, and explain the basis for the estimate. Average generation is based on flow date for the years 2005, 2006, 2012, and 2013. See Motive Force Plan for Assumptions.

**B. MINIMUM ANNUAL DELIVERY CALCULATION**

Seller specifies the Minimum Annual Delivery of the Facility, and explain the basis for the estimate. NOTE: The Minimum Annual Delivery should be based on the most adverse natural motive force conditions reasonably expected and should take into account maintenance and Seller's load (if any). Minimum generation, 75,000 KWH is based on flow date for the years 2005, 2006, 2012, and 2013. See Motive Force Plan for Assumptions.

**C. MAXIMUM ANNUAL DELIVERY CALCULATION**

Seller specifies the estimated Maximum Annual Delivery of the Facility, and explain the basis for the estimate. Maximum generation, 175,915 KWH is based on flow date for the years 2005, 2006, 2012, and 2013. See Motive Force Plan for Assumptions.



**EXHIBIT D-2**  
**ENGINEER'S CERTIFICATION**  
**OF**  
**MOTIVE FORCE PLAN**

*Seller provide a written declaration from a Licensed Professional Engineer to PacifiCorp that the Facility is likely capable under average conditions foreseeable during the term of this Agreement of meeting Seller's estimated average, maximum, and minimum Net Output.*

Certified Motive Force Plan is attached.

**Motive Force Calculations**  
Bear Creek Hydroelectric Project  
SOAR Technologies, Inc. - 5/9/14, NS

I, Nathan Smith, certify that the Bear Creek Hydroelectric facility is likely capable under average conditions foreseeable during the term of this PPA of meeting seller's estimated average, maximum, and minimum net output as indicated in the Motive Force Plan prepared by SOAR Technologies, Inc.

Nathan Smith, PE  
WA #50618



**Motive Force Calculations**  
 Bear Creek Hydroelectric Project  
 SOAR Technologies, Inc. - 2/4/14, NS

**General Notes:**

Calculations based on data Range from Jan '05 - Dec '06 and from Jan '12 - Dec '13.  
 Upstream Head: 105Ft, Downstream Head: 2Ft, Approximate Design Head: 103Ft  
 Approximate Flow Range of Bear Creek Effluent: 2.0CFS up to 4.25CFS  
 Approximate Turbine Design Flow Rate: 3.50CFS  
 Turbine-Generator Equipment: Induction based 6TR3 1200RPM turbine with Flow Control Valve in Series.

**Values Used in Calculations:**

Generator Efficiency: 92%  
 Net Head: 100Ft  
 Turbine Efficiency: See Efficiency Curve  
 Hours/Day Operating: 21.6Hrs (90% Run Time)

Month	Minimum			Average			Maximum		
	Turbine Flow (CFS)	Power (kW)	kWh	Turbine Flow (CFS)	Power (kW)	kWh	Turbine Flow (CFS)	Power (kW)	kWh
January	1.97	6.15	4,120.31	2.58	12.07	8,082.65	3.01	17.15	11,482.26
February	2.64	12.54	7,584.76	3.00	16.83	10,178.92	3.36	21.88	13,232.94
March	2.66	12.75	8,536.03	3.20	19.57	13,105.23	3.46	23.39	15,662.43
April	2.67	13.00	8,423.65	3.11	18.47	11,970.58	3.42	22.94	14,863.97
May	2.98	16.62	11,128.37	3.39	22.52	15,076.13	3.49	24.05	16,102.40
June	3.08	18.20	11,792.32	3.46	23.49	15,221.09	3.50	24.08	15,601.92
July	3.03	17.54	11,741.97	3.48	23.73	15,888.05	3.50	24.09	16,127.72
August	3.28	21.17	14,175.20	3.50	24.09	16,127.72	3.50	24.09	16,127.72
September	3.46	23.46	15,199.98	3.50	24.09	15,607.47	3.50	24.09	15,607.47
October	2.95	16.50	11,046.81	3.42	22.86	15,306.43	3.50	24.09	16,127.72
November	2.36	9.77	6,327.92	2.79	14.27	9,249.16	3.25	20.32	13,167.10
December	2.29	8.03	5,379.88	2.70	13.19	8,831.45	3.04	17.64	11,811.78
<b>Total (kWh):</b>			<b>115,457</b>			<b>154,645</b>			<b>175,915</b>



kWh Production Estimates  
SOAR Technologies, Inc.  
Created: 1-29-14, ns

Revised: -

**11** **collegio**  
collegio di medicina

**General Notes:**

Upstream Head: 105ft

Downstream Head: 25' (

Approximate Design Head: 102 ft

Approximate Elbow Range: 30000 - 40000

Approximate Design Flow Rate: 3.5 cfs

**Approximate Design Flow Rate: 3.50 CFS**

**turbine Equipment: Induction based 6TR3 1200RPM turbine with Flow Control Valve In Series.**

Generator Efficiency:	92.0%
Net Head:	100.0'
Turbine Efficiency:	See Chart
Turbine Design Flow:	3.5 cfs
Hours/Day Operating:	2116

Ft (Assuming additional head loss from added piping will occur)

CFS (Assuming 6TR3 @ 1200rpm)

Hrs (Assuming 90% Run-Time)

0.18-0.004m Energy With Flow Control Valve	% Flow	System Efficiency
	0%	0.760
	5%	0.000
	10%	0.000
	15%	0.000
	20%	0.000
	25%	0.000
	30%	0.000
	35%	0.000
	40%	0.000
	45%	0.000
	50%	0.000
	55%	0.000
	60%	0.434
	65%	0.402
	70%	0.546
	75%	0.594
	80%	0.855
	85%	0.710
	90%	0.751
	95%	0.820
	100%	0.800

Date / Day	2005	2006	2012	2013
1-Jan	2.73	2.30	2.56	1.89
2-Jan	2.73	2.30	2.61	1.78
3-Jan	2.73	2.30	2.45	1.78
4-Jan	2.73	2.30	2.67	1.78
5-Jan	2.72	2.30	2.67	0.50
6-Jan	2.72	2.30	2.67	0.51
7-Jan	2.72	2.30	2.74	0.45
8-Jan	2.72	2.30	2.72	1.11
9-Jan	2.72	2.30	2.67	0.45
10-Jan	2.72	2.19	2.67	1.78
11-Jan	2.73	2.30	2.67	4.01
12-Jan	2.72	1.84	2.67	3.01
13-Jan	2.73	1.84	2.67	3.03
14-Jan	2.73	3.14	2.76	2.67
15-Jan	2.72	3.24	2.74	2.90
16-Jan	2.73	3.26	2.34	2.90
17-Jan	2.73	3.26	2.23	2.90
18-Jan	2.73	2.58	2.23	2.90
19-Jan	2.74	2.35	2.23	3.19
20-Jan	2.74	2.90	2.23	2.66
21-Jan	2.74	3.15	2.34	3.20
22-Jan	2.74	3.16	2.27	2.90
23-Jan	2.74	3.16	2.23	2.90
24-Jan	2.74	3.15	2.23	2.90
25-Jan	2.74	3.15	2.23	2.67
26-Jan	2.74	3.16	2.67	2.60
27-Jan	2.74	3.16	2.67	2.84
28-Jan	2.74	3.15	2.76	2.23
29-Jan	2.74	3.15	2.72	2.23
30-Jan	2.74	3.15	2.67	2.90
31-Jan	2.75	3.16	2.67	2.67

Minimum Flow From 05/06/12-13 Data / Minimum Power Generation Estimates					kWh	
Min. Flow (CFS)	Flow Through Turbine (CFS)	% of Turbine Design Flow	Power (kW)			
1.89	1.89	55.0%	0.00	0		
1.78	1.78	50.0%	0.00	0		
1.78	1.78	50.0%	0.00	0		
1.78	1.78	50.0%	0.00	0		
0.50	0.50	15.0%	0.00	0		
0.51	0.51	15.0%	0.00	0		
0.45	0.45	15.0%	0.00	0		
1.11	1.11	30.0%	0.00	0		
0.45	0.45	15.0%	0.00	0		
1.78	1.78	50.0%	0.00	0		
2.30	2.30	65.0%	9.04	195		
1.84	1.84	55.0%	0.00	0		
2.67	2.67	75.0%	12.42	268		
2.72	2.72	80.0%	13.96	301		
2.34	2.34	65.0%	9.18	198		
2.23	2.23	65.0%	8.75	189		
2.23	2.23	65.0%	8.75	189		
2.23	2.23	65.0%	8.75	189		
2.23	2.23	65.0%	8.75	189		
2.34	2.34	65.0%	9.18	198		
2.27	2.27	65.0%	8.92	193		
2.23	2.23	65.0%	8.75	189		
2.23	2.23	65.0%	8.75	189		
2.23	2.23	65.0%	8.75	189		
2.60	2.60	75.0%	12.06	261		
2.67	2.67	75.0%	12.42	268		
2.23	2.23	65.0%	8.75	189		
2.23	2.23	65.0%	8.75	189		
2.67	2.67	75.0%	12.42	268		

Minimum Flow/Power Summary				
Month	Turbine Flow (cfs)	Power (kW)	Power (kWh)	
January	1.97	6.2	4,120	
February	2.64	12.5	7,585	
March	2.66	12.7	8,536	
April	2.67	13.0	8,424	
May	2.98	16.6	11,128	
June	3.08	18.2	11,792	
July	3.03	17.5	11,742	
August	3.28	21.2	14,175	
September	3.46	23.5	15,200	
October	2.95	16.5	11,047	
November	2.36	9.8	6,328	
December	2.29	8.0	5,380	
Total:			115,457	



Average Flow from 09/05/10 to 01/01/17 Minimum Flow Generation						
Date / Day	Average Flow (CFS)	Flow Through Turbine (CFS)	% of Turbine Design Flow	Power (kW)	kWh	
1-Jan	2.37	2.37	70.0%	10.12	219	
2-Jan	2.35	2.35	65.0%	9.24	200	
3-Jan	2.32	2.32	65.0%	9.09	196	
4-Jan	2.37	2.37	70.0%	10.12	219	
5-Jan	2.05	2.05	60.0%	6.96	150	
6-Jan	2.05	2.05	60.0%	6.96	150	
7-Jan	2.05	2.05	60.0%	6.96	150	
8-Jan	2.21	2.21	65.0%	8.69	188	
9-Jan	2.04	2.04	60.0%	6.91	149	
10-Jan	2.34	2.34	65.0%	9.20	199	
11-Jan	2.93	2.93	85.0%	16.26	351	
12-Jan	2.56	2.56	75.0%	11.90	257	
13-Jan	2.57	2.57	75.0%	11.92	258	
14-Jan	2.83	2.83	80.0%	14.48	313	
15-Jan	2.90	2.90	85.0%	16.10	348	
16-Jan	2.81	2.81	80.0%	14.37	310	
17-Jan	2.78	2.78	80.0%	14.23	307	
18-Jan	2.61	2.61	75.0%	12.12	262	
19-Jan	2.63	2.63	75.0%	12.20	264	
20-Jan	2.63	2.63	75.0%	12.23	264	
21-Jan	2.86	2.86	80.0%	14.63	316	
22-Jan	2.77	2.77	80.0%	14.17	306	
23-Jan	2.76	2.76	80.0%	14.12	305	
24-Jan	2.76	2.76	80.0%	14.11	305	
25-Jan	2.70	2.70	75.0%	12.54	271	
26-Jan	2.79	2.79	80.0%	14.30	309	
27-Jan	2.85	2.85	80.0%	14.62	316	
28-Jan	2.72	2.72	80.0%	13.94	301	
29-Jan	2.71	2.71	75.0%	12.60	272	
30-Jan	2.87	2.87	80.0%	14.69	317	
31-Jan	2.81	2.81	80.0%	14.41	311	

Average Flow / Power Summary				
Month	Turbine Flow (CFS)	Power (kW)	kWh	
January	2.58	12.1	8,083	
February	3.00	16.8	10,179	
March	3.20	19.6	13,105	
April	3.11	18.5	11,971	
May	3.39	22.5	15,076	
June	3.46	23.5	15,221	
July	3.48	23.7	15,888	
August	3.50	24.1	16,128	
September	3.50	24.1	15,607	
October	3.42	22.9	15,306	
November	2.79	14.3	9,249	
December	2.70	13.2	8,831	
Total:			154,645	

Maximum Flow From 1995/96 to 1999/00 Data / Minimum Power Generation					
Date / Day	Max. Flow (CFS)	Flow Through Turbine (CFS)	% of Turbine Design Flow	Power (kW)	kWh
1-Jan	2.73	2.73	80.0%	13.97	302
2-Jan	2.73	2.73	80.0%	13.99	302
3-Jan	2.73	2.73	80.0%	13.99	302
4-Jan	2.73	2.73	80.0%	13.97	302
5-Jan	2.72	2.72	80.0%	13.96	301
6-Jan	2.72	2.72	80.0%	13.96	301
7-Jan	2.74	2.74	80.0%	14.04	303
8-Jan	2.72	2.72	80.0%	13.93	301
9-Jan	2.72	2.72	80.0%	13.96	301
10-Jan	2.72	2.72	80.0%	13.96	301
11-Jan	4.01	3.50	100.0%	24.09	520
12-Jan	3.01	3.01	85.0%	16.74	361
13-Jan	3.03	3.03	85.0%	16.80	363
14-Jan	3.14	3.14	90.0%	18.44	398
15-Jan	3.24	3.24	90.0%	19.01	411
16-Jan	3.26	3.26	95.0%	20.90	452
17-Jan	3.26	3.26	95.0%	20.89	451
18-Jan	2.90	2.90	85.0%	16.08	347
19-Jan	3.19	3.19	90.0%	18.71	404
20-Jan	2.90	2.90	85.0%	16.12	348
21-Jan	3.20	3.20	90.0%	18.77	405
22-Jan	3.16	3.16	90.0%	18.54	400
23-Jan	3.16	3.16	90.0%	18.55	401
24-Jan	3.15	3.15	90.0%	18.52	400
25-Jan	3.15	3.15	90.0%	18.52	400
26-Jan	3.16	3.16	90.0%	18.54	400
27-Jan	3.16	3.16	90.0%	18.54	400
28-Jan	3.15	3.15	90.0%	18.52	400
29-Jan	3.15	3.15	90.0%	18.53	400
30-Jan	3.15	3.15	90.0%	18.53	400
31-Jan	3.16	3.16	90.0%	18.55	401

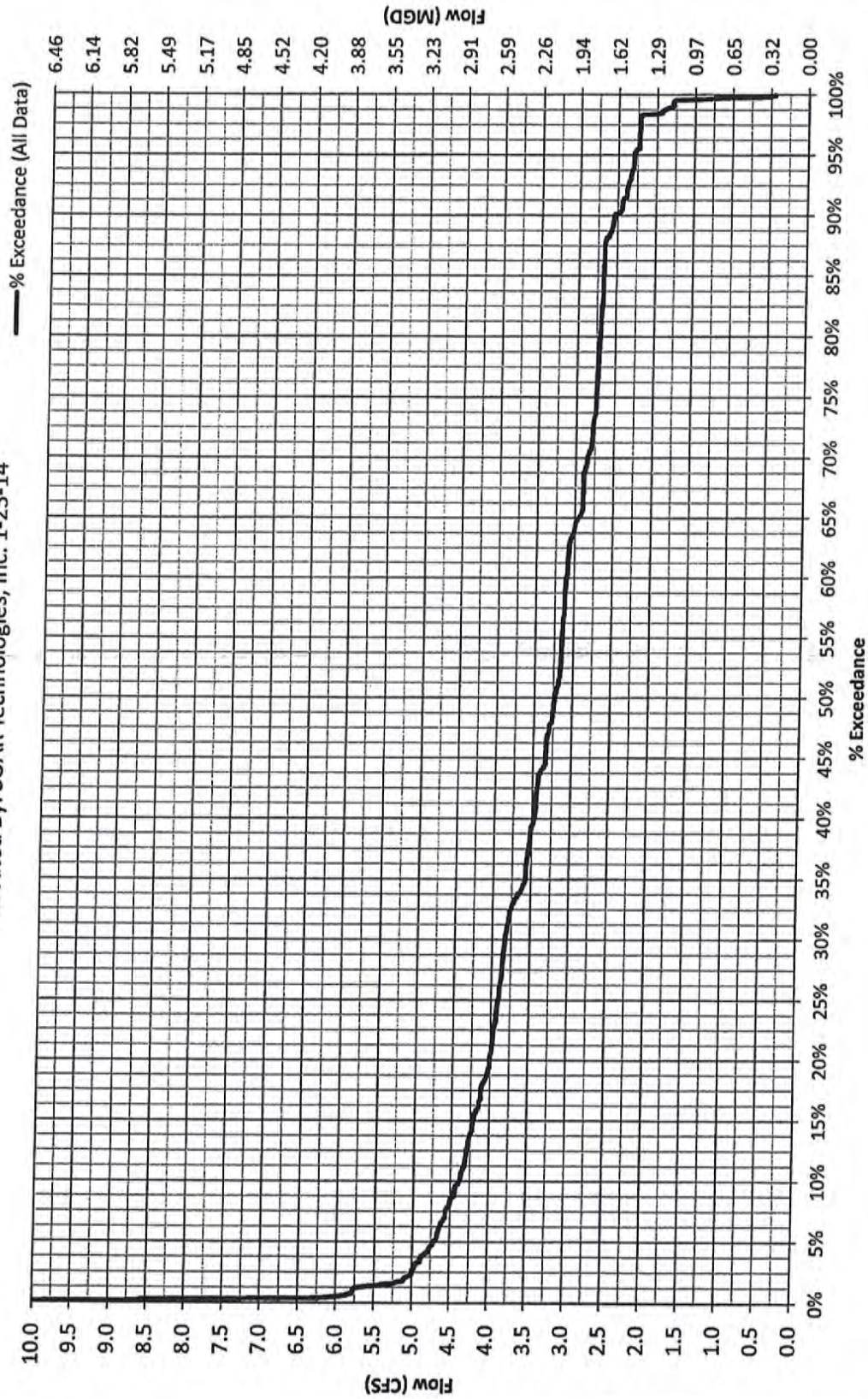
Maximum Flow / Power Summary			
Month	Turbine Flow (CFS)	Power (kW)	kWh
January	3.01	17.1	11,482
February	3.36	21.9	13,233
March	3.46	23.4	15,662
April	3.42	22.9	14,864
May	3.49	24.0	16,102
June	3.50	24.1	15,602
July	3.50	24.1	16,128
August	3.50	24.1	16,128
September	3.50	24.1	15,607
October	3.50	24.1	16,128
November	3.25	20.3	13,167
December	3.04	17.6	11,812
Total:			75,915



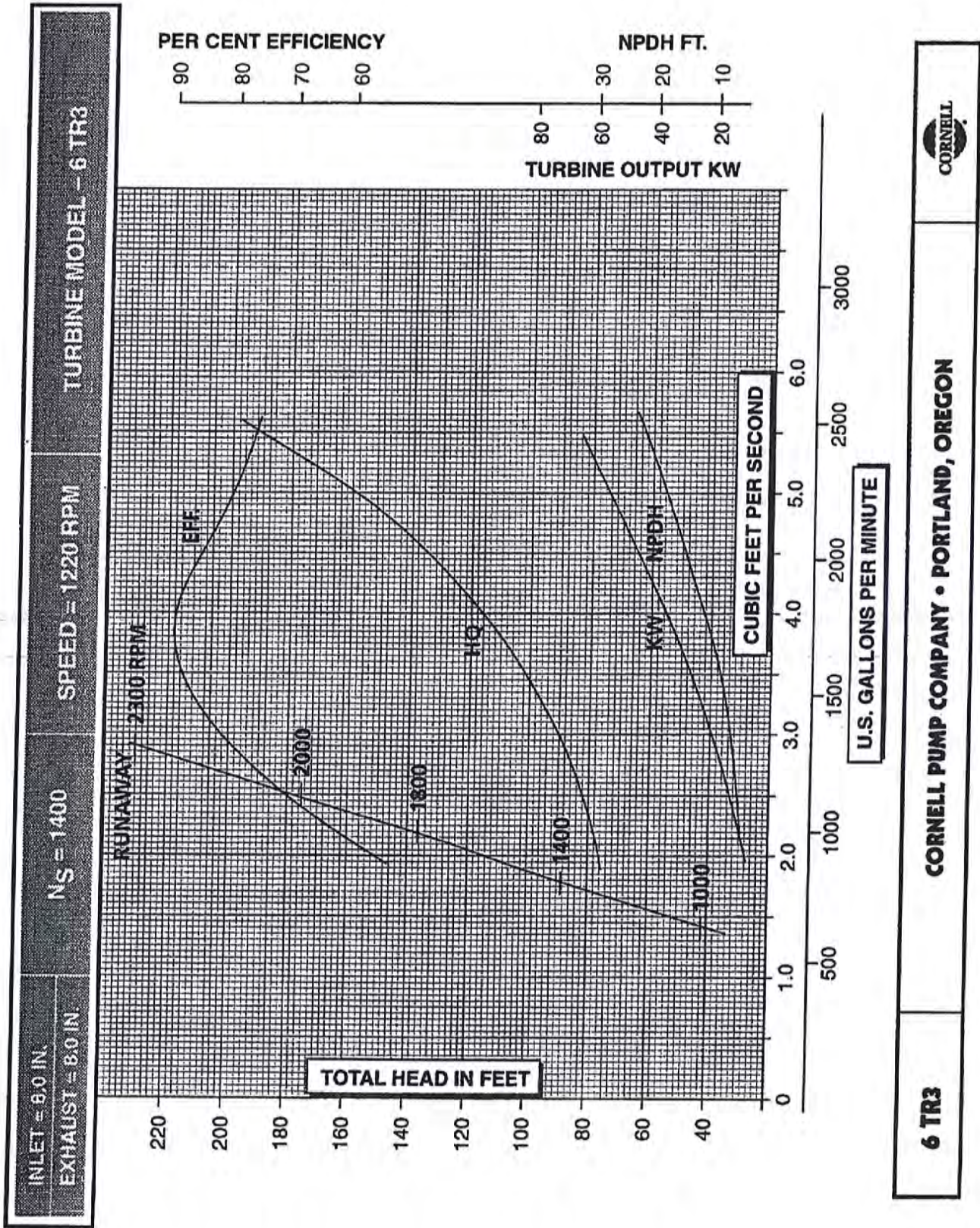
# Flow Exceedance Curve - Bear Creek Hydroelectric

Data Range: SSF Effluent Flow Jan 2005 to Dec 2006 and Jan 2012- Dec 2013

Created By: SOAR Technologies, Inc. 1-23-14

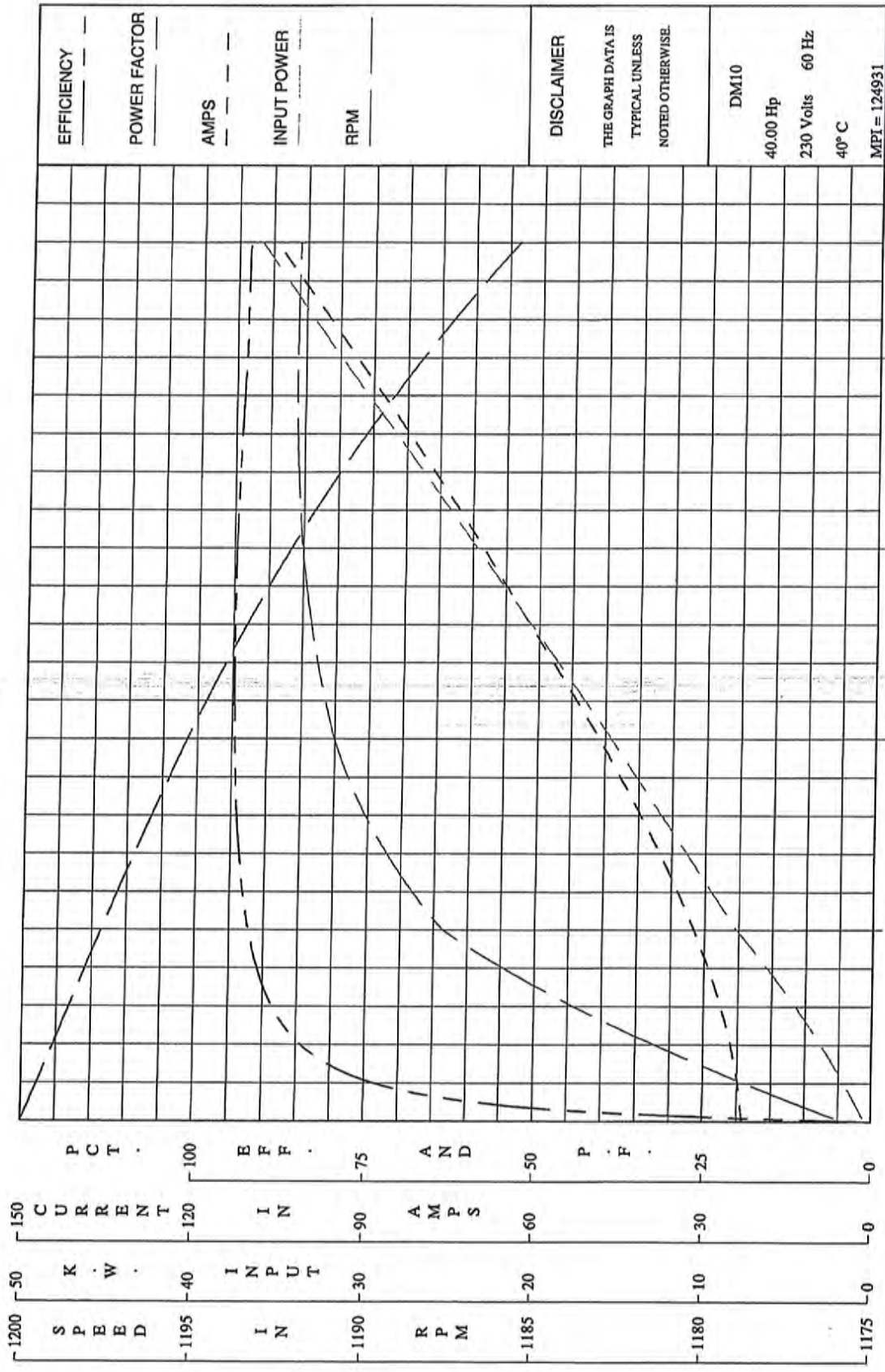








# Preliminary Generator Performance Curve SOAR Technologies, Inc. 2-7-14



EFFICIENCY \_\_\_\_\_  
 POWER FACTOR \_\_\_\_\_  
 AMPS \_\_\_\_\_  
 INPUT POWER \_\_\_\_\_  
 RPM \_\_\_\_\_

DISCLAIMER  
 THE GRAPH DATA IS  
 TYPICAL UNLESS  
 NOTED OTHERWISE

DM10  
 40.00 Hp  
 230 Volts 60 Hz  
 40° C  
 MPI = 124931

02-07-2014

NIDEC MOTOR CORPORATION  
 ST. LOUIS, MISSOURI

# Estimated System Performance Curve - SOAR Technologies, Inc. 2-7-14

## Small Hydro Turbine Characteristics

## Estimate

## Notes/Range

Gross head	ft	103.00
Design flow	ft <sup>3</sup> /s	3.500
Turbine type	-	Other
Number of turbines	turbine	1
Small hydro turbine manufacturer		SOAR
Small hydro turbine model		
Efficiency adjustment	%	0%
Turbine efficiency at design flow	%	88.0%

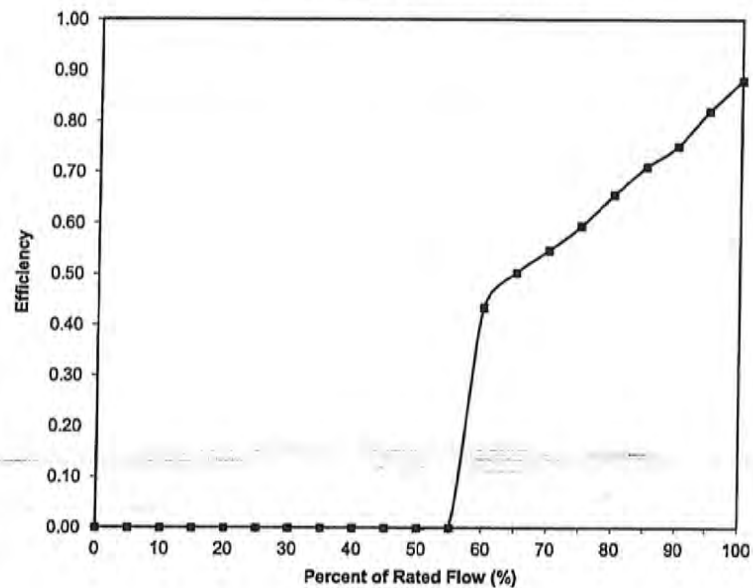
[See Product Database](#)

-5% to 5%

## Turbine Efficiency Curve Data

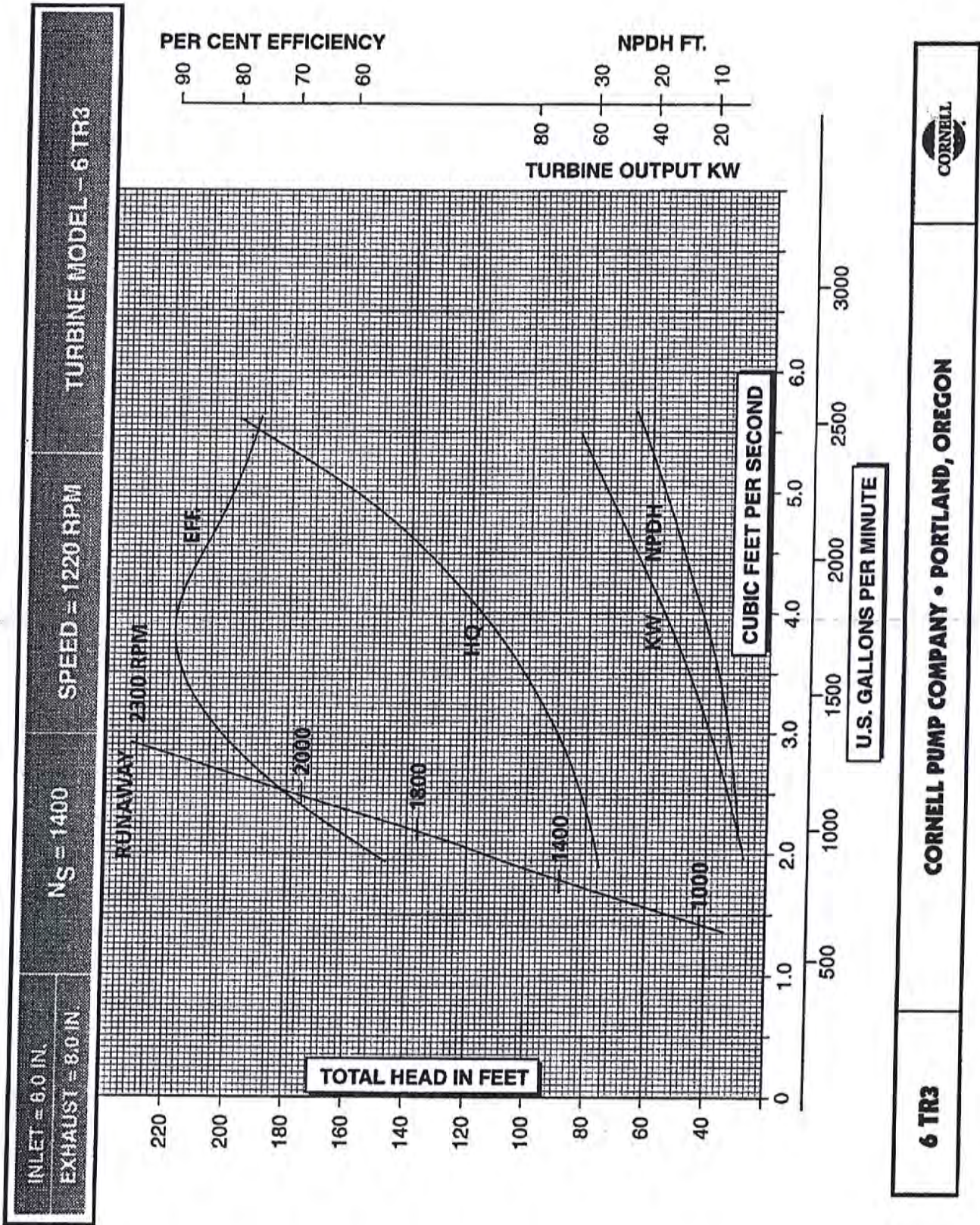
Flow (%)	Turbine efficiency	Turbines running #	Combined turbine efficiency
0%		0	0.00
5%		1	0.00
10%		1	0.00
15%		1	0.00
20%		1	0.00
25%		1	0.00
30%		1	0.00
35%		1	0.00
40%		1	0.00
45%		1	0.00
50%		1	0.00
55%	0.00	1	0.00
60%	0.43	1	0.43
65%	0.50	1	0.50
70%	0.55	1	0.55
75%	0.59	1	0.59
80%	0.66	1	0.66
85%	0.71	1	0.71
90%	0.75	1	0.75
95%	0.82	1	0.82
100%	0.88	1	0.88

Efficiency Curve - 1 Turbine(s)



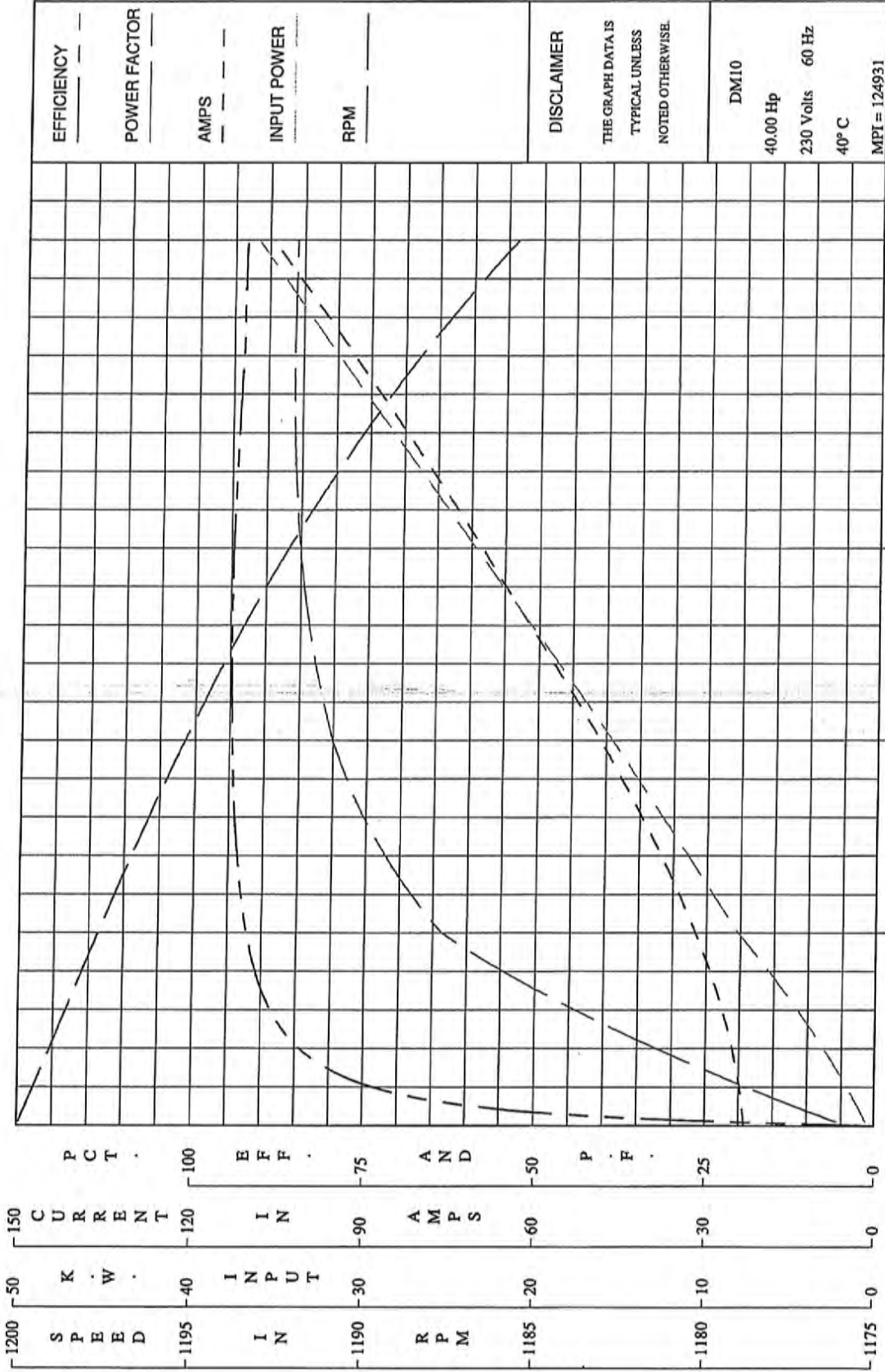
[Return to Energy Model sheet](#)







# Preliminary Generator Performance Curve SOAR Technologies, Inc. 2-7-14



02-07-2014

NIDEC MOTOR CORPORATION  
ST. LOUIS, MISSOURI



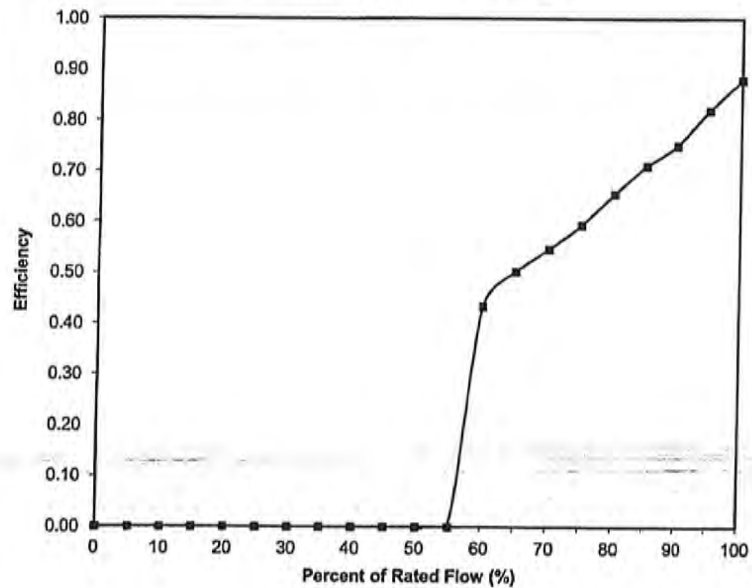
## Estimated System Performance Curve - SOAR Technologies, Inc. 2-7-14

Small Hydro Turbine Characteristics		Estimate	Notes/Range
Gross head	ft	103.00	
Design flow	ft <sup>3</sup> /s	3.500	
Turbine type	-	Other	<a href="#">See Product Database</a>
Number of turbines	turbine	1	
Small hydro turbine manufacturer		SOAR	
Small hydro turbine model			
Efficiency adjustment	%	0%	-5% to 5%
Turbine efficiency at design flow	%	88.0%	

### Turbine Efficiency Curve Data

Flow (%)	Turbine efficiency	Turbines running #	Combined turbine efficiency
0%		0	0.00
5%		1	0.00
10%		1	0.00
15%		1	0.00
20%		1	0.00
25%		1	0.00
30%		1	0.00
35%		1	0.00
40%		1	0.00
45%		1	0.00
50%		1	0.00
55%	0.00	1	0.00
60%	0.43	1	0.43
65%	0.50	1	0.50
70%	0.55	1	0.55
75%	0.59	1	0.59
80%	0.66	1	0.66
85%	0.71	1	0.71
90%	0.75	1	0.75
95%	0.82	1	0.82
100%	0.88	1	0.88

Efficiency Curve - 1 Turbine(s)



[Return to  
Energy Model sheet](#)

## EXHIBIT E

### START-UP TESTING

Required factory testing includes such checks and tests necessary to determine that the equipment systems and subsystems have been properly manufactured and installed, function properly, and are in a condition to permit safe and efficient start-up of the Facility, which may include but are not limited to (as applicable): **[Seller identify appropriate tests]**

1. Pressure tests of all steam system equipment;
2. Calibration of all pressure, level, flow, temperature and monitoring instruments;
3. Operating tests of all valves, operators, motor starters and motor;
4. Alarms, signals, and fail-safe or system shutdown control tests;
5. Insulation resistance and point-to-point continuity tests;
6. Bench tests of all protective devices;
7. Tests required by manufacturer of equipment; and
8. Complete pre-parallel checks with PacifiCorp.

Required start-up tests are those checks and tests necessary to determine that all features and equipment, systems, and subsystems have been properly designed, manufactured, installed and adjusted, function properly, and are capable of operating simultaneously in such condition that the Facility is capable of continuous delivery into PacifiCorp's electrical system, which may include but are not limited to (as applicable):

1. Turbine/generator mechanical runs including shaft, vibration, and bearing temperature measurements;
2. Running tests to establish tolerances and inspections for final adjustment of bearings, shaft run-outs;
3. Brake tests;
4. Energization of transformers;
5. Synchronizing tests (manual and auto);
6. Stator windings dielectric test;
7. Armature and field windings resistance tests;
8. Load rejection tests in incremental stages from 5, 25, 50, 75 and 100 percent load;
9. Heat runs;
10. Tests required by manufacturer of equipment;
11. Excitation and voltage regulation operation tests;
12. Open circuit and short circuit; saturation tests;
13. Governor system steady state stability test;
14. Phase angle and magnitude of all PT and CT secondary voltages and currents to protective relays, indicating instruments and metering;
15. Auto stop/start sequence;
16. Level control system tests; and
17. Completion of all state and federal environmental testing requirements.



**EXHIBIT F**

**Seller Authorization to Release Generation Data to PacifiCorp**  
*[Interconnection Customer Letterhead]*

See attached consent.



**CITY OF ASTORIA**  
Founded 1811 • Incorporated 1856

May 10, 2014

Transmission Services  
Attn: Senior Vice President, Transmission Services  
825 NE Multnomah, Suite 1600  
Portland, OR 97232

**RE: CITY OF ASTORIA INTERCONNECTION REQUEST**

Dear Sir:

The City of Astoria hereby voluntarily authorizes PacifiCorp's Transmission business unit to share the City of Astoria's generator interconnection information and generator meter data with Marketing Affiliate employees of PacifiCorp Energy, including, but not limited to those in the Commercial and Trading group. The City of Astoria acknowledges that PacifiCorp did not provide it any preferences, either operational or rate-related, in exchange for this voluntary consent.

Sincerely,

THE CITY OF ASTORIA

Ken P. Cook  
Public Works Director



**EXHIBIT G**  
**SCHEDULE 37 and PRICING SUMMARY TABLE**

**(see attached)**

Exhibit G

Sch 37 Required Information	Provided by City of Astoria 1/24/14	Comments by PacifiCorp 1/24/14
(a) Demonstration ability to obtain QF status	Can Obtain but not required. Generation is <1MW	Complete
(b) Design capacity (MW), station service requirements, and net amount of power delivered to the Company's electric system	Design Capacity: 0.030MW Station Service Rqmnt: 0.00MW Net Power Delivered: 0.024MW	
(c) Generation technology and other related technology applicable to the site	PM Generator, Inverters, Pump-As-Turbine	
(d) proposed site location	46.7°.4.95"N 123.38°25.44"W	Provide geographic coordinates
(e) Schedule of monthly power deliveries	See Motive Force Plan	
(f) Calculation or determination of minimum and maximum annual deliveries	See Motive Force Plan	
(g) Motive force or fuel plan	Hydropower / Water – See Attached	
(h) proposed on-line date and other significant dates required to complete milestones	Proposed on-line date: February 2014	
(i) proposed contract term and pricing provisions (i.e. fixed, deadband, gas indexed)	PPA In work. Term and Pricing TBD By PacifiCorp. 20 years requested.	Provide Term. Price will be based on the current Schedule 37 avoided cost prices
(j) Status of interconnection or transmission arrangement	Prelim. Interconnection application submitted	Provide system impact study and Queue number.
(k) point of delivery or interconnection	Distribution	Provide delivery substation
<b>Additional Required Information</b>		
FERC License	Not Required. See FERC Docket No. CD13-6-000 Attached	
Production water rights	Attached	Provide hydroelectric generation water right
ETO funding, REC ownership status	ETO Funding=Yes REC Ownership=ETO	Complete



STATE OF OREGON  
COUNTY OF CLATSOP  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO:

CITY OF ASTORIA  
1095 DUANE STREET  
ASTORIA, OR 97103

confirms the right to use up to 6.0 CUBIC FEET PER SECOND (cfs) of the waters of BEAR CREEK and BEAR CREEK RESERVOIR for HYDROELECTRIC PRODUCTION of 68.2 THEORETICAL HORSEPOWER (THP).

The use of water for hydroelectric purposes shall be in conjunction with water used under the right of the City of Astoria for municipal purposes, as evidenced by Certificate 82236. Use of water shall be limited to periods when the water user's water right under Certificate 82236 is put to beneficial use without waste. The amount of water used shall not be greater than the quantity of water diverted to satisfy the authorized specific use under Certificate 82236. The use of water shall be limited by rate, duty, season and any other limitations of Certificate 82236. ORS 543.765(5)(b) and (c).

The applicant shall measure and report the quantity of water diverted. ORS 543.765(5)(d).

This right was filed under application PC 898.

The point of diversion is located: 1160 FEET NORTH AND 2340 FEET WEST FROM SE CORNER OF SECTION 2, being within the SW  $\frac{1}{4}$  SE  $\frac{1}{4}$  SECTION 2, TOWNSHIP 7 NORTH, RANGE 8 WEST, W.M.

**NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW**

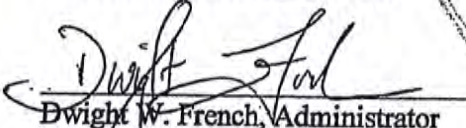
This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484 and ORS 536.075. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 183.484, ORS 536.075 and OAR 137-004-0080, you may petition for judicial review and petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate within three months after issuance of the certificate.

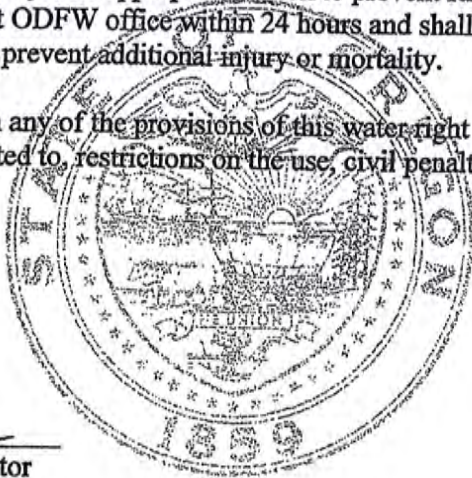
This statement of judicial review rights does not create a right to judicial review of this order if judicial review is otherwise precluded by law.



8. This certificate does not have its own priority date. The Department shall not regulate for or against this certificate. This certificate does not grant a right to divert water for hydroelectric purposes other than in conjunction with the water right as used under Certificate 82236. ORS 543.765 (6) and (7).
9. This certificate is subject to review by the Department 50 years after the date of issuance pursuant to ORS 543.765(9).
10. The water right holder shall pay, upon receiving an invoice from OWRD, an annual fee to OWRD under ORS 543.078. This amount shall be due by the date specified on the invoice. ORS 543.765 (11) and (12).
11. The water right holder shall pay, upon receiving an invoice from OWRD, an annual Fish Passage Restoration fee to OWRD under Oregon Laws 2013, Chapter 674. This amount shall be due by the date specified on the invoice. ORS 543.765 (11) and (12). Pursuant to Oregon Laws 2013, Chapter 674, this annual Fish Passage Restoration fee may be terminated after the project commences operation if the project provides fish passages, or there is an agreement between the water right holder and ODFW providing for fish passages associated with the project, or a waiver or exemption has been issued under ORS 509.585 for the project.
12. If at any time, unanticipated circumstances or emergency situations arise in which fish or wildlife are being killed, harmed or endangered by any of the project facilities the City of Astoria shall immediately take appropriate action to prevent further loss. The City of Astoria shall notify the nearest ODFW office within 24 hours and shall comply with measures required by ODFW to prevent additional injury or mortality.
13. Failure to comply with any of the provisions of this water right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the water right.

Issued December 11, 2013

  
Dwight W. French, Administrator  
Water Right Services Division, for  
Phillip C. Ward, Director  
Oregon Water Resources Department



Recorded in State Record of Water Right Certificates numbered 89004






**CITY OF ASTORIA**  
Founded 1811 • Incorporated 1856

Date: May 22, 2014

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER PRO TEM

SUBJECT: **AUTHORIZATION TO BID BEAR CREEK DAM HYDROELECTRIC PROJECT**

**DISCUSSION/ANALYSIS**

The engineering firm, Murray Smith Associates (MSA) has completed the plans for the Bear Creek Dam Hydroelectric Project. The engineer's estimate for the project is \$322,000. The City has received funding commitments for the project in the following amounts:

Funding Source	Amount
Infrastructure Finance Authority	\$87,600
Pacific Corp Blue Sky Grant	\$169,000
Energy Trust of Oregon	\$143,000
Total Funding	\$399,600

The project is now ready for solicitation and staff is requesting Council's authorization to advertise.

If Council authorizes staff to advertise for bids after June 2, 2014, award of the bid could be on July 21, 2014, with the notice to proceed in late July, 2014. Depending on the winning bidder, assembly and manufacturing of the vault and the turbine could take three months. Installation of the vault and turbine is anticipated to take about one month. Interconnection and testing will be carried out thereafter, and the project should be complete and operational by the end of January, 2015. This is consistent with the deadlines agreed to by the funding agencies.

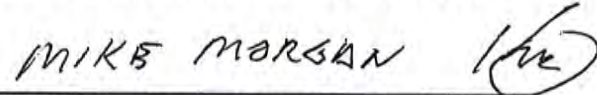
**RECOMMENDATION**

It is recommended that City Council authorize staff to solicit bids for the Bear Creek Dam Hydroelectric Project.

Submitted By

  
Ken Cook, Public Works Director

Prepared By

  
Mike Morgan, Special Projects




**CITY OF ASTORIA**  
Founded 1811 • Incorporated 1856

May 28, 2014

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER PRO TEM

SUBJECT: **AUTHORIZATION TO AWARD CONTRACT - MAINLINE IMPROVEMENT HARVEST 2014**

**DISCUSSION/ANALYSIS**

At their May 5, 2014 meeting, the City Council authorized staff to solicit bids for a timber harvest the City's Watershed. The harvest operation will remove selected mature timber and will allow for the planting of seedlings to create a diversity of tree species and age classes as identified in the forest management. Improvements, which will include placing crushed rock and culverts on the Watershed Mainline, will also be part of the project. The mainline is the major road that traverses from the Headworks area to the radio transmission towers on Wickiup Ridge. The majority of the rocking will occur from the Headworks area to Wickiup reservoir. All additional watershed roads are accessed from the mainline.

On May 28, 2014 the following bid was received:

Hampton Tree Farms Incorporated - \$377,749.00.

The City Attorney has reviewed the attached contract and approved as to form. After project costs and reforestation costs, the net revenue is anticipated to be \$300,000, which is above the original estimate of \$200,000, and will be deposited in the Capital Improvement Fund.

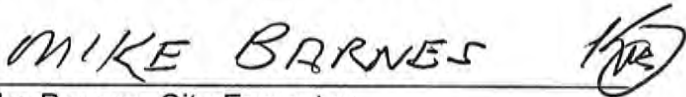
**RECOMMENDATION**

It is recommended that Astoria City Council award a contract to Hampton Trees Incorporated for the Mainline Improvement Harvest.

Submitted By: \_\_\_\_\_

  
Ken P. Cook, Public Works Director

Prepared By: \_\_\_\_\_

  
Mike Barnes, City Forrester



**CITY OF ASTORIA**  
**Mainline Improvement Harvest 2014**

This Contract, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the CITY of Astoria, a municipal corporation of the State of Oregon, hereinafter called "CITY", and Hampton Tree Farms, Inc., PO Box 2315, Salem, OR 97308, hereinafter called "PURCHASER".

W I T N E S S E T H

WHEREAS, the CITY sells to PURCHASER and PURCHASER buys from CITY trees designated and described in Scope of Work; and

WHEREAS, PURCHASER is able and prepared to harvest designated timber 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. PURCHASER SERVICES

A. PURCHASER'S responsibilities are defined solely by this Contract and its attachment and not by any other contract or agreement that may be associated with this project.

B. The PURCHASER'S work shall be performed as expeditiously as is consistent with safety and the orderly progress of work. All work shall be completed no later than **October 31, 2014**.

2. PAYMENT TO CITY

A. PURCHASER agrees to pay CITY  
\$468.96 mbf for Hemlock/Pacific Silver Fir  
\$521.00 mbf for Douglas-fir

\$200.00 per mbf for Sitka Spruce  
\$ 7.00 per ton for Pulp logs

B. An initial payment of \$37,774.90 shall be made to the City prior to commencement of activities.

C. Payment schedule shall be based upon terms as outlined in Section 16 of the attached Scope of Work.

3. TITLE TO TREES

During the period of this Contract, and any extension, PURCHASER shall have the right to cut and remove designated trees. Such right shall be conditioned upon PURCHASER complying with the provisions of this Contract. PURCHASER shall be listed as timber owner on the Notification of Operation, as filed with the Oregon Department of Forestry.

Any right of PURCHASER to cut and remove the trees shall expire and end at the time this Contract, or any extension, terminates. All rights and interests of PURCHASER in and to trees and logs remaining in the project area shall, at that time, automatically revert to and revest in the CITY, without compensation to PURCHASER.



4. PURCHASER IDENTIFICATION

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

5. PURCHASER'S REPRESENTATIVE

For purposes hereof, the PURCHASER'S authorized representative will be David Kunert.

6. CITY'S OBLIGATIONS

In order to facilitate the work of the PURCHASER as above outlined, the CITY shall furnish to the PURCHASER 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 PURCHASER, assisting the PURCHASER with making contacts and facilitating meetings, as necessary.

7. PURCHASER IS INDEPENDENT PURCHASER

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

B. PURCHASER acknowledges that for all purposes related to this Contract, PURCHASER is and shall be deemed to be an independent PURCHASER 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 PURCHASER 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 PURCHASER under the terms of the Contract, to the full extent of any benefits or other remuneration PURCHASER 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 PURCHASER or a third party) as a result of said finding.

C. The undersigned PURCHASER 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 PURCHASER, either directly or indirectly, in connection with the letting or performance of this Contract, except as specifically declared in writing.

8. ASSIGNMENT OF CONTRACT.

PURCHASER shall not assign, sell, or transfer rights, or delegate responsibilities under this Contract, in whole or in part, without the prior consent of the CITY. CITY will consent only when assignment is consistent with CITY'S fiduciary duties. No such written approval shall relieve PURCHASER of any obligations under this Contract, and any transferee shall be considered the agent of the PURCHASER and bound to perform in accordance with the Contract. PURCHASER shall remain liable as between the original parties to the Contract as if no assignment had occurred.

9. SUBCONTRACTING

PURCHASER acknowledges and agrees that if PURCHASER subcontracts all or any part of the Operations, such subcontracting shall in no way relieve PURCHASER of any responsibility under this Contract. PURCHASER shall notify CITY in writing of the names and addresses of each subcontractor prior to the commencement of any Contract work by the subcontractor.



10. CANCELLATION FOR CAUSE

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

11. 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.

12. FORCE MAJEURE

Neither CITY nor PURCHASER 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.

13. NONWAIVER

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

14. 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.

15. 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.

16. 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 PURCHASER, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

17. INDEMNIFICATION

With regard to Comprehensive General Liability, PURCHASER 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, PURCHASER, or others resulting from or arising out of PURCHASER'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 PURCHASER 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 PURCHASER.



With regard to Personal Liability, PURCHASER 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 arising out of PURCHASER'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 PURCHASER and the Client, this indemnification and agreement to assume defense costs applies only to the extent of negligence of PURCHASER.

With respect to Commercial Liability and Personal Liability, PURCHASER reserves the right to approve the choice of counsel.

18. INSURANCE

PURCHASER shall obtain and maintain the following insurance: \$2,000,000 Commercial General Liability, \$1,000,000 Automobile Liability, \$1,000,000 Logger's Broad Form and \$1,000,000 excess or umbrella policy. CITY will be listed as an "Additional Insured" on each policy. Such insurance shall provide a waiver of subrogation in favor of City. Coverage shall include PURCHASER, Sub-contractors, and anyone directly or indirectly employed by either. The comprehensive general liability shall be combined single limit for broad form liability property damage and bodily injury. Such insurance shall not be canceled or its limits of liability reduced without thirty (30) days prior notice to CITY. A copy of an insurance certificate in form satisfactory to CITY certifying the issuance of such insurance shall be furnished to CITY. Such insurance shall not be canceled or its limits of liability reduced without thirty (30) days written notice to CITY.

19. WORKMEN'S COMPENSATION

The PURCHASER, its sub-contractors, and all employers working under this Agreement are 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. PURCHASER shall provide proof of worker's compensation coverage to CITY.

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

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

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

PURCHASER 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.

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

21. PAYMENT OF CLAIMS BY PUBLIC OFFICERS

If the PURCHASER fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the PURCHASER or a subPURCHASER 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 PURCHASER by reason of such contract.

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

22. PAYMENT OF MEDICAL CARE

PURCHASER 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 PURCHASER, of all



sums which the PURCHASER agrees to pay for such services and all moneys and sums which the PURCHASER 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.

23. OVERTIME

Employees shall be paid at least time and a half for all overtime work in excess of 40 hours in any one-week, except for individuals under these contracts who are excluded under ORS 653.010 to 653.261 or under 29 U.S.C. sections 201 to 209 from receiving overtime.

24. NO THIRD PARTY BENEFICIARIES

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

25. 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.

26. HARVEST TAX LIABILITY

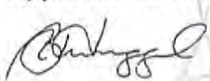
PURCHASER shall be responsible for payment of all Department of Revenue Timber Harvest Taxes.

27. COMPLETE CONTRACT

This Contract and its referenced attachments constitute the complete contract between CITY and PURCHASER and supersedes all prior written or oral discussions or agreements. PURCHASER 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  
cn=com.apple.idms.appleid.prd.4931756647  
6d4a386775414454d6f59324e744d354e7  
73d3d  
DN:  
cn=com.apple.idms.appleid.prd.4931756  
6476d4a386775414454d6f59324e744d35  
4e773d3d  
Date: 2014.05.28 12:27:52 -0800

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

BY: \_\_\_\_\_  
Mayor Date

BY: \_\_\_\_\_  
City Manager Date

BY: \_\_\_\_\_  
Purchaser Date

BID FORM

CITY OF ASTORIA  
Mainline Improvement Harvest 2014

Bid Opening May 28, 2014  
10:00 AM Pacific Daylight Savings Time

Submitted to: City of Astoria  
Public Works Department  
Attn: Ken P. Cook  
1095 Duane St.  
Astoria, Oregon 97103

The following bid is for timber only described under the terms described in the invitation to bid.

Bidder acknowledges that this offer is for **Timber Only**, "As Is" and that the City reserves the right to reject any and all bids. Bidder has made a careful and independent determination of the conditions requisite to the transaction contemplated herein.

Bidder has submitted a **\$10,000 Bid Deposit**, which must be included with this bid, in the form of a cashier's or certified check.

Bid Species	Hemlock/Silver Fir	\$ 468.96 per/mbf
	(minimum bid- \$295.00/mbf)	
	Douglas-fir	\$ 521.00 per/mbf
	(minimum bid- \$410.00/mbf)	

No Bid Species	
Sitka Spruce	\$200.00/mbf
Pulp Log	\$ 7.00/ton

Bidder: HAMPTON TREE FARMS, INC

Tax ID No.: 93-0347681

Address: PO Box 2315  
SALEM, OR. 97308

Phone: (503) 365-8400

Authorized Representative  FORESTER  
(Signature and Title)

Printed Name DAVID KUNERT

Date MAY 28, 2014



**CERTIFICATION OF ELIGIBILITY  
TO BID ON CITY TIMBER**

HAMPTON TREE FARMS, INC hereby certifies that they:

**EXPORT**

- (a) Will not export the unprocessed city timber as defined in OAR 629-031-0020 which is the subject of this transaction;
- (b) Will not sell, transfer, exchange, or otherwise convey the unprocessed timber as defined above which is the subject of this transaction to any other person without first obtaining a certification from that person which meets the requirements of OAR 629-031-0030.
- (c) Are not prohibited by OAR's 629-031-0005 from bidding for unprocessed city timber.
- (d) Understand that falsely entering into this certification is a violation of the Forest Resources Conservation Amendments Act of 1993 and OAR Chapter 629, Division 31, and is subject to any and all penalties contained therein.
- (e) Have not exported unprocessed timber originating from private lands in Oregon in the last 24 months.

**DEFAULT, TERMINATION, AND OTHER RELATED MATTERS**

- (a) Are not currently in default status under any timber sale contract sold by the City.
- (b) Has not, within a 3-year period preceding this bid, had one or more Federal, State, or local timber sales terminated for cause or default.
- (c) If (b) above is Yes, has submitted an explanation, in writing, with this bid for consideration by City. Any such explanation shall be submitted at the time of bid on a separate piece of paper.

Signed



Title

*FORESTER*

Dated

*MAY 28, 2014*

[Note: For the purpose of this form, the definition of unprocessed timber is the same as in OAR 629-031-0005.]