



AGENDA

ASTORIA CITY COUNCIL WORK SESSION

May 16, 2016

*****6:00 p.m.*****

**2nd Floor Council Chambers
1095 Duane Street · Astoria OR 97103**

- 1. CALL TO ORDER**

- 2. ROLL CALL**

- 3. PARKS MASTER PLAN**

- 4. ADJOURNMENT**

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



AGENDA

ASTORIA CITY COUNCIL

May 16, 2016

7:00 p.m.

2nd Floor Council Chambers
1095 Duane Street · Astoria OR 97103

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **REPORTS OF COUNCILORS**

4. **CHANGES TO AGENDA**

5. **PROCLAMATIONS**

- (a) Official Tenor Guitar Weekend in Astoria

6. **PRESENTATIONS**

- (a) Waterfront Bridges Replacement Project for 6th – 11th Streets (Public Works)
(b) Cascadia Rising / City of Astoria Emergency Preparedness Town Hall

7. **CONSENT CALENDAR**

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

- (a) City Council Minutes of 4/18/16
(b) Authorization to Bid Spur 14 Water Line Project (Public Works)
(c) Authorization to Award Contract for Spur 18 Combo Timber Sale 2016 (Public Works)
(d) Federal Emergency Management Agency (FEMA) December Storm Damage Public Assistance Grant Contract (Public Works)

8. **REGULAR AGENDA ITEMS**

All agenda items are open for public comment following deliberation by the City Council. Rather than asking for public comment after each agenda item, the Mayor asks that audience members raise their hands if they want to speak to the item and they will be recognized. In order to respect everyone's time, comments will be limited to 3 minutes.

- (a) Liquor License Application from Linda Middleton, dba Annie's Saloon LLC, Located at 2897 Marine Drive, for Greater Privilege for a Full On-Premises Sales Commercial Establishment License (Finance)
(b) Approve Loan Guarantee using Revolving Loan Funds for Renovation of Astoria Armory (Community Development)
(c) Agreement between the Verna S. Oller Aquatic Trust and the City of Astoria (Parks)
(d) Change First Meeting Date in July 2016

9. **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 12, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL WORK SESSION AND REGULAR MEETING OF
MAY 16, 2016

6:00 P.M. WORK SESSION

Item 3: Parks Master Plan

Parks staff will provide an update on work completed to date on the Parks Master Plan.

7:00 P.M. REGULAR MEETING

PROCLAMATIONS

Item 5(a): Official Tenor Guitar Weekend in Astoria

Mayor LaMear will proclaim May 25-29, 2016 as “Official Tenor Guitar Weekend in Astoria”.

PRESENTATIONS

Item 6(a): Waterfront Bridges Replacement Project for 6th – 11th Streets (Public Works)

Where each of the City's numbered streets between 6th and 11th Streets meet the Columbia River, a short bridge connects the solid-ground road to the over-water pier structure. These waterfront bridge structures are important to the City as they provide access to a critical portion of our waterfront. In September 2014, the City entered into an Intergovernmental Agreement with the Oregon Department of Transportation (ODOT) for the design phase of the Waterfront Bridges Replacement Project. In April 2015, OBEC Consulting Engineers, Inc., (OBEC) was hired by ODOT as the design consultant and has performed preliminary investigations and design to about 20 percent completion. Designs for the bridges are expected to be complete by spring 2017 and construction is anticipated to begin in fall 2017. Construction will be staged over 2 years with the odd numbered streets (7th, 9th and 11th Streets) being constructed from fall 2017 to spring 2018 and the even numbered streets (6th, 8th and 10th Streets) being constructed from fall 2018 to spring 2019. Construction schedule is dependent

on permit issuance. Public Works staff will update the City Council regarding the status of the Waterfront Bridges Replacement Project.

Item 6(b): Cascadia Rising / City of Astoria Emergency Preparedness Town Hall

Tiffany Brown, Clatsop County Emergency Manager, will brief the City Council regarding the upcoming Cascadia Rising exercise. Fire Chief Ames will also provide a reminder about the upcoming City of Astoria Emergency Preparedness Town Hall scheduled for May 31, 2016 at the Liberty Theater.

CONSENT CALENDAR

Item 7(a): City Council Minutes

The minutes of the City Council meeting of April 18, 2016 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

Item 7(b): Authorization to Bid Spur 14 Water Line Project (Public Works)

In April 2015, City Council authorized Staff to move forward with design for the Spur 14 Water Line Project. The project goal is to provide a direct connection to the City's best available source of water. City Staff and CH2M design consultants have been working on design plans and contract documents for the project. The Engineer's construction cost estimate is \$290,000, including a 10% contingency. The project is budgeted in the FY16/17 Capital Improvement Fund as part of a \$450,000 allocation to the Public Works for two projects. This budget has been initially approved by the Budget Committee and awaits final City Council approval. The engineer's preliminary estimate at the time the budget was presented to the Committee was \$230,000. Since that time, project has been more fully developed and costs refined. The current estimate is \$290,000. The necessary \$60,000 adjustment would increase the Public Works allocation to \$510,000 and reduce the ending fund balance (\$397,090) of the Capital Improvement Fund. Should Council authorize staff to solicit the bid, the revised allocations will be included in the FY 16/17 budget, when presented to Council at their June 6, 2016. It is recommended that City Council authorize staff to solicit bids for the Spur 14 Water Line Project. Funds are anticipated to be available from the Capital Improvement Fund FY16/17 budget.

Item 7(c): Authorization to Award Contract for Spur 18 Combo Timber Sale 2016 (Public Works)

A commercial thinning on 40 acres is proposed for the summer of 2016. The Douglas fir in the area is infected with Swiss Needle Cast. The thinning will focus on removing the Douglas fir and improving the growing conditions for the healthy Hemlock. Three small patch cuts dominated by disease-infected Douglas fir will be prepared for planting with Hemlock. The major access road that crosses the upper portion of the watershed has deteriorated and will be improved as part of this project. The net proceeds from this thinning operation

are estimated to be \$200,000 after harvest and reforestation costs. Proceeds will be deposited in the Capital Improvement Fund.

At their April 18, 2016 meeting, Council authorized staff to solicit bids for the sale. On May 3, 2016, one bid was received from Hampton Tree Farms, LLC in the following amounts:

- Hemlock/Pacific Silver Fir \$234.43 per mbf
- Douglas Fir \$365.22 per mbf
- Sitka Spruce \$250.00 per mbf
- Pulp Logs \$7.00 per ton

The Combo Harvest should result in gross revenue of \$217,774.50.

It is recommended that Council award a contract to Hampton Farms LLC for the Spur 18 Combo Timber sale.

Item 7(d): Federal Emergency Management Agency (FEMA) December Storm Damage Public Assistance Grant Contract (Public Works)

During the period of December 6 through 23, 2015, Oregon experienced a severe weather pattern that caused damaging winter storms, flooding, and landslides. The City of Astoria experienced erosion along the Columbia River shoreline and a washout along Pipeline Road. As a result of the widespread damage, a Federal declaration of emergency was declared on February 17, 2016 and FEMA Public Assistance Program funds became available to assist communities with the repair of their damages. Staff submitted an Initial Damage Assessment to the State Office of Emergency Management (OEM) for program funding. The Infrastructure Finance Authority (IFA) also has grant funds available to provide match for FEMA funds. The current repair estimate is \$250,000 for all of the damage identified to this point. FEMA will fund 75 percent of the project (\$187,500) and IFA will provide grant funds (\$62,500) for the match. The OEM grant contract is now ready for signature. It is recommended that Council accept the grant from FEMA/OEM for an estimated amount of \$187,500. The grant will pay 75 percent of the City's actual costs.

REGULAR AGENDA ITEMS

Item 8(a): Liquor License Application from Linda Middleton, dba Annie's Saloon LLC, Located at 2897 Marine Drive, for Greater Privilege for a Full On-Premises Sales Commercial Establishment License (Finance)

A Liquor License Application has been filed by Linda Middleton for Annie's Saloon LLC. This Application is a Greater Privilege for a Full On-Premises Sales Commercial Establishment Licensee. This establishment currently has a Limited-On Premises Sales License. The appropriate Departments have reviewed the Application. A memo from the Police Department is attached along with the Application. It is recommended that Council consider the request.

Item 8(b): Approve Loan Guarantee Using Revolving Loan Funds for Renovation of Astoria Armory (Community Development)

Craft3, a local Community Development Financial Institution, purchased the Astoria Armory on behalf of the community in 2014. The City of Astoria provided a loan guarantee for the acquisition using the Revolving Loan Fund (also referred to as the “DQ Fund”). The Friends of Astoria Armory (Friends) is a local, 501c3 non-profit that formed to own and operate the Armory for the community. The Friends have negotiated a low interest USDA loan through Craft3 to purchase and operate the building and immediately begin a capital campaign. Craft3 recently approved this loan package. The Friends, in conjunction with Craft3, have requested the use of the Revolving Loan Fund to offset the cost of new windows at the historic building. The Historic Landmarks Commission approved a restoration plan using metal windows in January 2016. The USDA will not provide loan funds for the window restoration because they do directly generate revenue for the operations and therefore cannot be used to underwrite a loan.

The City funds would be allocated in the form of a loan guarantee that would backstop the USDA loan. This is a low risk method of providing City support. These funds would be tied up for the duration of the loan period. The cost of the window project is approximately \$90,000 and so the City’s funds would be used to guarantee over a five year period as the Friends pay down the debt. City staff requested a few items from Craft3 to protect the City’s investment: 1) charge loan fees in lieu of interest on a loan that would go back into the revolving loan fund for another project, 2) allow staff to review loan disbursements and construction progress reports before signing off disbursements, and 3) Craft3 has pledged to work with City staff on a future project that would effectively replace City funding that is tied up for the five year period assuming the type of project meets project goals and objectives for both organizations.

Attached are supporting documents for Council’s reference. Also attached is a Memorandum of Understanding between the City and Craft 3 which memorializes the use of Revolving Loan funds for the Armory project. City Attorney Henningsgaard has reviewed and approved it as to form. It is recommended that Council approve the Memorandum of Understanding with Craft3 to utilize the Revolving Loan funds to guarantee a loan with the Friends of the Astoria Armory.

Item 8(c): Agreement between the Verna S. Oller Aquatic Trust and the City of Astoria (Parks)

In May 2010 at her passing, Verna S. Oller made a \$4 million gift to the residents of South Pacific County, Washington to build an Aquatic Center in Long Beach, Washington; however, in 2013 the City of Long Beach Officials declined the money after determining that the City could not afford the day-to-day expenses and the long-term operational costs not covered by the bequest. Following this, the managers of Verna S. Oller’s Trust succeeded in modifying the trust to make it easier to pursue swimming-related projects and contacted

the City of Astoria's Parks and Recreation Department to partner in providing services to the residents of South Pacific County, Washington. City of Astoria Parks staff subsequently negotiated terms for consideration by the Astoria City Council. A Pool Use Agreement has been drafted, and approved as to form by the City Attorney, that provides residents of South Pacific County admission to the Astoria Aquatic Center without charge for the facilities "drop-in" and "group swim lesson" programs. In return, the Verna S. Oller Aquatic Trust will pay the City of Astoria the full admission cost for each service rendered. Due to the positive financial impact to the Parks and Recreation Department, it is recommended that City Council approve Pool Use Agreement with the Verna S. Oller Aquatic Center Trust.

Item 8(d): Change First Meeting Date in July 2016

Astoria City Hall will be closed on Monday, July 4, 2016 for the 4th of July holiday; therefore, the first meeting date in July will need to be changed. In years prior it has been the tradition to hold City Council on the following day. It is recommended that Council set an alternate meeting date.



CITY OF ASTORIA

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PROCLAMATION

WHEREAS, the 7th annual Tenor Guitar Gathering will be held in Astoria, Oregon on May 25, 26, 27, 28, 29, 2016; and

WHEREAS, this is the largest tenor guitar gathering in the world; and

WHEREAS, 5 days of workshops and concerts will be offered; and

WHEREAS, there will be over 20 musicians performing, including Josh Reynolds, son of Nick Reynolds of the Kingston Trio; and

WHEREAS, events will be held at many venues throughout Astoria; and

WHEREAS, there will be jam sessions for tenor guitars, ukuleles, and mandolins and all other acoustic instruments.

NOW, THEREFORE, I, Arline LaMear, Mayor of Astoria, do proclaim May 25-29, 2016 as

OFFICIAL TENOR GUITAR WEEKEND IN ASTORIA

and invite all citizens to join in the events celebrating Tenor Guitar Weekend in Astoria.

IN WITNESS WHEREOF, I have herewith set my hand and caused the Seal of the City of Astoria to be affixed this 9th day of May, 2016.

Mayor



May 2, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: **WATERFRONT BRIDGES REPLACEMENT PROJECT (6TH – 11TH STREETS)
PRESENTATION**

DISCUSSION

Where each of the City's numbered streets between 6th and 11th Streets meet the Columbia River, a short bridge connects the solid-ground road to the over-water pier structure. These waterfront bridge structures are of utmost importance to the City as they provide access to a critical portion of our waterfront. In September 2014, the City entered into an Intergovernmental Agreement with the Oregon Department of Transportation (ODOT) for the design phase of the Waterfront Bridges Replacement Project that will replace these six bridge structures. Then in April 2015, OBEC Consulting Engineers, Inc. (OBEC) was hired by ODOT as the engineering design consultant for this project. Since this time, OBEC has performed preliminary investigations and design to about 20 percent completion.

On March 29th, the City held a public open house for this project. At the open house, discussion centered on construction access to businesses directly adjacent to the project. Other topics included project schedule, detour routes and replacement of railing. Project team members gathered important input from the public and will factor it into the project design.

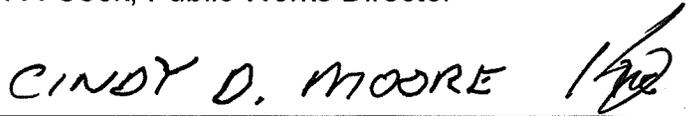
Designs for the bridges are expected to be complete by spring 2017 and construction is anticipated to begin in fall 2017. Construction will be staged over 2 years with the odd numbered streets (7th, 9th and 11th Streets) being constructed from fall 2017 to spring 2018 and the even numbered streets (6th, 8th and 10th Streets) being constructed from fall 2018 to spring 2019. Construction schedule is dependent on permit issuance.

Submitted By:



Ken P. Cook, Public Works Director

Prepared By:



Cindy D. Moore, City Support Engineer



Community Emergency Preparedness Forum

Presented by the City of Astoria on

Tuesday, May 31, 2016

Presentations from 6:00 p.m. to 8:30 p.m.

At the

Liberty Theater

1203 Commercial Street

Doors will open at 5:30 p.m.

Speakers to Include: Dr. Althea Rizzo, Geologic Hazards Program Manager
Oregon Emergency Management

Tyree Wilde, Warning Coordination Meteorologist
National Oceanic & Atmospheric Administration

Patrick Corcoran, Coastal Natural Hazards Specialist
Oregon State University, Oregon Sea Grant

Neal Bond, Protection Unity Forester
Oregon Department of Forestry

A question and answer period will immediately follow each presentation. A final question and answer period will be available at the conclusion of the evening.

Tables with handouts, printed materials and examples of emergency preparedness tools and kits will be available in the Lobby.

City and County Emergency Management and Response personnel will be available to answer questions and provide information.

A regular meeting of the Astoria Common Council was held at the above place at the hour of 7:00 pm.

Councilors Present: Nemlowill, Herzig, Warr, Price, Mayor LaMear

Councilors Excused: None

Staff Present: City Manager Estes, Police Chief Johnston, Community Development Director Cronin, Planner Ferber, Parks and Recreation Director Cosby, Finance Director Brooks, Fire Chief Ames, Library Director Tucker, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS

Item 3(a): Councilor Warr had no reports.

Item 3(b): Councilor Price reported that Suzanne Bonamici was in Astoria over the weekend and announced her opposition to liquefied natural gas (LNG) at the mouth of the Columbia River. Three days later, Leucadia refused to finance Oregon LNG. She thanked Cheryl Johnson, Laurie Caplan, and everyone else who participated in the effort. The process was long and drawn out and the people who stood against Oregon LNG exhibited perseverance, grit, and faced many challenges and setbacks. She also reported that Loretta Maxwell, who regularly attends City Council meetings, takes art classes at Clatsop Community College, and manages the Grandview Bed and Breakfast, was recently named on the Dean's List at Eastern Oregon University. She is a great example of a lifelong commitment to continuing education.

Item 3(c): Councilor Herzig reported that he spoke with Mark Buffington at Oregon Department of Transportation (ODOT) about several years of complaints about the pedestrian crossing signals on Commercial and Marine. The crossing signal is shown for about five seconds before the red hand is shown. Mr. Buffington did some research and explained that if a pedestrian has not entered the crosswalk after five seconds it is dangerous to proceed, especially when moving slowly. He did not believe that message was clear. ODOT is gradually transitioning to countdown pedestrian signals. The setting on the existing signal cannot be changed because it conveys ODOT principles, despite the apparent indication to go back.

- He attended the monthly National Alliance on Mental Illness meeting, where Sumner Watkins and Warren Zimmermann reported on the respite center. There is still no firm opening date, but the center hopes to open by summer. The center will have 16 beds in their small residential treatment center. The treatment will be voluntary, no doctor or security will be present, and nurses will not be present in the evening. However, the center will have a secure ward with four beds because local law enforcement said they were promised a secure ward. All four beds will be locked down in a single unit, so if one person causes a problem the other three people would have to be removed from the area. He was confused by the lack of security and the voluntary admission, but the residential treatment center will be a good thing. He was bothered by the lack of a doctor. The center will only admit people with up-to-date medical records that they have available. This is to avoid admitting people with physical ailments that result in signs of psychosis. If the police pick up someone off the street who has issues, they would still have to go to the emergency room to get a diagnosis before they could be admitted to the respite center.
- He also attended the Cannon Beach Housing Taskforce meeting. Cannon Beach admits they allowed the short-term vacation rentals to get out of control. In 2010, only 440 out of 1,812 units were owner-occupied and 1,053 units were vacant. Astoria needs to get in front of this issue. Cannon Beach cannot implement after-the-fact legislation and there is very little incentive for vacation rental owners to turn their properties into long-term rentals or owner-occupied units. Astoria should try to learn from Cannon Beach's mistakes.

Item 3(d): Councilor Nemlowill agreed with Councilor Herzig. Astoria's year-round community provides so much positive livability and economy for local businesses and a unique character. It is great to see democracy alive in the community. She had been thinking a lot about the people who have dedicated their time to standing up for what they believe in and fighting LNG on the Lower Columbia for so many years. Several people in Astoria have said they feel unsafe at the intersection of 8th and Irving, so the Public Works Department made improvements to the intersection. Now, it is very clear what a driver is supposed to do and there is a new stop sign at the intersection. City Council received an email from Bobbi Bryce, who lives near the intersection,

thanking the City for the improvements. She thanked Engineer Harrington and the Public Works Department for completing the improvements.

Item 3(e): Mayor LaMear reported that she held a Meet the Mayor meeting and attended the Parks Master Plan Open House. Yesterday, there was a CHIP-in event at McClure Park at 8th and Franklin. A 30-foot slide is being installed in the park, which was the site of the old Central School. A volunteer named Parker was there working on his Eagle Scout badge and he arranged for a delivery of dirt and helped spread and reseed the dirt to form a baseball diamond.

Laurie Caplan, 766 Lexington Avenue, Astoria, said she was co-chair of Columbia Pacific Common Sense, a local grassroots group opposed to the LNG proposals. The group thought it would take 1,000 cuts to defeat Oregon LNG and it did. On Friday, she learned that Oregon LNG is gone. For the last 11.5 years, hundreds of people worked to stop the LNG terminals and pipelines proposed for the county. On behalf of all of those people and thousands of others, she thanked Astoria City Council for speaking up in opposition to Oregon LNG. Investors and regulators paid attention to Astoria's resolution and to Mayor LaMear when she testified against the proposal to a state agency. She thanked Astoria for speaking up to protect the town and the planet from Oregon LNG. The group looks forward to a green and sustainable future for all.

CHANGES TO AGENDA

Mayor LaMear requested the addition of Item 7(g): Strategic Plan. The agenda was approved with changes.

PRESENTATIONS

Item 5(a): Pacific Power

Alisa Dunlap, Regional Business Manager for PacifiCorp, will make a presentation regarding Pacific Power's activities.

Alisa Dunlap said according to PacificCorp's contract with Astoria, she is required to give an annual report. She made handouts available and reported on 2015 franchise fees, corporate and philanthropic giving in the community, street lighting policies and practices, renewable energy standards and costs, and the Blue Sky program.

Councilor Price asked if PacifiCorp installs a particular color of LED lights when replacing streetlight bulbs. Ms. Dunlap explained that the lights are procured in bulk and she believed the standard bulb was a whiter version. She was not sure if PacifiCorp was flexible with the color.

City Manager Estes noted that the draft FY2016-2017 budget included a project to convert the decorative streetlights along Commercial to LED. The light in front of River Sea Gallery has already been replaced with an LED bulb of a color similar to the other lights. He encouraged people to look at the light and submit comments to Staff.

Ms. Dunlap confirmed she could work with the City to ensure the LEDs installed by PacifiCorp would match Astoria's ornamental lights.

Mayor LaMear said she heard at a PacifiCorp meeting that Oregon would purchase solar power from and sell wind power to California. When Oregon has wind, California needs power and when California has sun, Oregon needs power, so this trade provides power through different seasons. Ms. Dunlap explained that the energy imbalance market allows utilities in the Northwest to shift power from renewables at a much quicker pace and to more efficiently mesh the power with hydropower.

Councilor Nemlowill confirmed that PacifiCorp was phasing out coal and the State requires half of the energy to come from renewable sources by 2030. She asked if PacifiCorp had plans to bury the power lines in Astoria. Ms. Dunlap said undergrounding is a very difficult endeavor, extremely expensive, and does not always protect a city or area from outages. Sometimes, outages are more sustained because it is much more difficult to see where the problem is located. PacifiCorp has no major plans, but if the City is interested in undergrounding, she could provide more information and cost estimates. She understood the power lines were unsightly. Councilor Nemlowill added that high winds create safety issues. Her neighbor had a power line burn a large pattern in his yard. Ms. Dunlap said that while undergrounding protects the lines from wind, they are not protected from water.

Councilor Herzig said the City has received requests to increase the lighting on the Riverwalk where it exits the downtown core. However, he was concerned about light pollution and was interested in designs that stay close to the ground and just light the walkway. Ms. Dunlap confirmed that PacifiCorp does not get involved in a city's planning for that type of usage, just overhead lighting in street rights-of-way. Councilor Herzig asked if PacifiCorp had been invited to the Community Emergency Preparedness Forum on Tuesday, May 31, 2016. The City is concerned about how long they will be without power after the next storm. City Manager Estes confirmed Staff would speak with Ms. Dunlap about the forum.

Item 5(b): Lower Columbia Hispanic Council

Jorge Gutierrez, Executive Director of the Lower Columbia Hispanic Council, will make a presentation regarding the activities of the Council.

Jorge Gutierrez, 3734 Franklin Avenue, Astoria, gave a brief overview of the Lower Columbia Hispanic Council and the Hispanic population in the community. He listed programs offered by the Hispanic Council, described a new grant funded project to improve education and health outcomes for children, and explained various ways the Council promotes civic involvement. The annual Cinco de Mayo event will be at the Astoria Event Center on Saturday, May 7th from 4:00 pm to 8:30 pm. The event will offer food, performances, carnival games, and dancing.

Councilor Herzig said the Hispanic Council does an incredible amount of work in the community. On Friday, April 15th, the library's After Hours event was a diversity celebration with the Hispanic Council. He served on the League of Oregon Cities (LOC) Planning Committee for their annual conference, and he and a few of the committee members have been urging the LOC to get more Hispanic panelists. He asked how Astoria could make City Hall friendlier for Hispanic people and noted there were no signs in Spanish. City Manager Estes said he and Mr. Gutierrez have planned to create a one-page document explaining all of the services the City provides, where to get each service, and where to find language translation services. Planner Nancy Ferber can speak some Spanish and the City offers a language line, which is available throughout the city.

Councilor Herzig thanked the Hispanic Council for inviting Mayor LaMear to their Voice of the Community meeting and City Hall for working on the document.

Councilor Nemlowill offered to help Mr. Gutierrez, noting that she had some understanding, respect, and appreciation for Mexican culture. She wanted the opportunity to practice her Spanish and interface more with the Hispanic community. About half of her daughter's second grade class at Astor School is Hispanic. Mr. Gutierrez said the Hispanic Council always has volunteer opportunities, including teaching the English as a Second Language (ESL) classes.

Mayor LaMear added emergency preparedness was discussed at the meeting she attended. Chief Ames has obtained copies of the Map Your Neighborhood in Spanish, which she gave to Mr. Gutierrez earlier that evening. The Spanish copies would also be available at the community-wide emergency preparedness forum on April 31st. She was glad the document had already been translated.

Councilor Price thanked Mayor LaMear for showing leadership on this issue. She wanted to know what percentage of the Hispanic population was non or very limited English speaking were permanent year-round residents, if any Spanish language media outlets were available, and if most Hispanics had access to computers that they use regularly.

Mr. Gutierrez said in the short time he has been in the community, he believed the numbers have dropped slightly. He estimated about 50 percent of the Hispanic population had very limited English skills. He has heard that the population used to be much more migratory, but people are staying in Astoria now. This has led to an increase in the demographics at the schools. He believed the migratory population was less than ten percent. The Hispanic Council offers a quarterly newsletter, but not everyone receives it. He has heard that the best way to reach the Hispanic population is through Facebook. There is not a lot of computer access, but the Council recently received grants to set up a computer lab in their office for the community. The Council will offer basic computing classes and make the computers available for people to use.

Councilor Price believed one way to engage the Hispanic community in civics was to provide a summary of City Council meeting minutes in Spanish. Mr. Gutierrez said beginning in May, the Council would start sending representatives to City Council meetings so that they can report back to the group.

Mayor LaMear thanked Mr. Gutierrez, adding she and Councilor Herzig were able hear the ideas and opinions of the Council and she really appreciated the meeting.

CONSENT CALENDAR

The following items were presented on the Consent Calendar:

- 6(a) City Council Minutes of 3/21/16
- 6(b) City Council Work Session Minutes of 3/21/16
- 6(c) Boards and Commission Minutes
 - (1) Historic Landmarks Commission Meeting of 3/15/16
 - (2) Parks Board Meeting of 1/27/16
 - (3) Planning Commission Meeting of 3/22/16
 - (4) Planning Commission Work Session Meeting of 3/22/16
 - (5) Traffic Safety Advisory Committee Meeting of 1/26/16
- 6(d) Acceptance of Certified Local Government Grant for Pass-through Façade Grant (Community Development)
- 6(e) Heritage Square Site Cleanup – Accept Business Oregon Grant (Public Works)
- 6(f) Authorize Solid Waste Engineering Consultant Services – Former Astoria Landfill (Public Works)
- 6(g) Authorization to Purchase Public Safety Radio Upgrades (Police)

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

REGULAR AGENDA ITEMS

Item 7(a): Liquor License Application from James Defeo, dba Carruthers Kitchen, Inc., Located at 1198 Commercial Street, for a New Outlet for a Full On-Premises Sales Commercial Establishment License (Finance)

A Liquor License Application has been filed by James Defeo, doing business as Carruthers Kitchen, Inc., located at 1198 Commercial Street. The application is for a New Outlet for a Full On-Premises Sales Commercial Establishment License. The appropriate departments have reviewed the application. It is recommended that Council approve the application.

Councilor Herzig said James Defeo was one of Astoria's leading entrepreneurs and he looked forward to what would be offered at the corner of 12th and Commercial.

Councilor Nemlowill declared a direct conflict of interest. She would not vote on the application because Mr. Defeo was a client of her husband, who owns Cervecia Gratis, dba Fort George Brewery. Approval of this application would have a financial impact on her and her husband.

City Council Action: Motion made by Councilor Herzig, seconded by Councilor Warr, to approve the liquor license application by James Defeo, dba Carruthers Kitchen, Inc., located at 1198 Commercial Street, for a New Outlet for a Full On-Premises Sales Commercial Establishment License. Motion carried 4 to 0 to 1. Ayes: Councilors Price, Warr, Herzig, and Mayor LaMear; Nays: None; Abstentions: Councilor Nemlowill.

Item 7(b): Spur 18 Combo Harvest (Public Works)

A commercial forest thinning on 40 acres of City Watershed property is proposed for the summer of 2016. The Douglas fir trees in this area are significantly infected with Swiss Needle Cast. This disease is a fungus that kills the second and third year needles causing significant growth reductions and in some trees death as the disease progresses. The disease does not affect Hemlock. The thinning will focus on removing the Douglas fir and improving the growing conditions for the healthy Hemlock. Small openings in the forest will allow for natural regeneration of Hemlock. Three patch cuts would also be part of the project as noted on the map. The upper portion of the harvest area is bordered by the B Line spur road, which has deteriorated significantly over the years. This road will be improved as part of this project. The net proceeds to the Capital Improvement Fund from this thinning operation are estimated to be \$200,000 after harvest and reforestation costs. It is recommended that Council approve the solicitation of bids for Spur 18 Combo Harvest 2016.

City Forester Mike Barnes, 33655 NE Craw Creek Road, Newberg, displayed a map on the screen and explained that Swiss Needle Cast is an endemic fungus most prevalent in the coastal fog zones. In the 1950s, prior to the City's ownership of the watershed, the entire watershed was clear-cut. The watershed was reseeded with some Douglas fir from unknown seed sources. There are not many places in the watershed where the Douglas fir maintains good growing conditions. The Hemlock, which is native, grew back naturally and is the dominant species on the watershed, along with spruce. He used a map to show the dominant areas of Douglas fir and Spur 18 in relation to the head works and Wickiup Lake. He also showed Spur 21, which is essential to fire control. Therefore, as a part of this operation, one of his main goals is to improve a half mile of Spur 21 so that it is accessible for fire equipment in the summer. He noted there is not enough funding to improve the entire road. Two of the areas to be patch cut are more than 75 percent Douglas fir and the third is a landing. Spur 21 should be one of the main roads, but it has not been used since he has worked for the City.

Mayor LaMear asked how many spur lines were in the watershed. Mr. Barnes replied Spur 21 was off of the main line, which he showed on the map, and was also referred to as the B Line. He confirmed the cost of the road repair was included in the harvest costs and the net estimated proceeds were \$200,000.

Councilor Nemlowill confirmed that about 40 acres would be thinned and the only trees infected with Swiss Needle Cast were Douglas fir. Mr. Barnes said Astoria's forests are predominately Hemlock, spruce, and Pacific silver fir, which are not susceptible to Swiss Needle Cast. Swiss Needle Cast is spread tree to tree, so trees that are scattered have lower incidents of significant infection in the areas where the fungus is well scattered.

Councilor Herzig said he did research on Wikipedia. Swiss Needle Cast does better in warmer temperatures and Astoria has had two unusually warm winters. He warned that this was one way climate change would affect Astoria's watershed. Mr. Barnes agreed and said the spread of Swiss Needle Cast was a combination of warm weather and moisture.

Councilor Herzig wanted to make sure the City replanted with Hemlock, saved as many of the Douglas fir as possible, and got money out of the Douglas fir when they have to be harvested to protect the rest of the forest.

Mr. Barnes added that Swiss Needle Cast attacks the older needles. The trees usually retain three to five years worth of needles, but they currently only have maybe two years worth of needles.

Councilor Herzig asked for the technical definition of spur. Mr. Barnes said in forestry, a spur is a secondary road that feeds into the main line road.

Councilor Price confirmed that Mr. Barnes expected about 650,000 board feet to be harvested, which will be the total harvest for the summer.

City Council Action: Motion made by Councilor Herzig, seconded by Councilor Price to approve the solicitation of bids for Spur 18 Combo Harvest 2016. Motion carried unanimously. Ayes: Councilors Price, Warr, Herzig, Nemlowill and Mayor LaMear; Nays: None.

Item 7(c): Request to Award Contract with Auditors (Finance)

At the December 21, 2015 meeting, Council approved issuance of a request for proposals (RFP) seeking bids for audit services for the Fiscal Years 2015-16, 2016-17 and 2017-018 with two one-year extension periods. The audit will cover the financial statements of both the City and the Urban Renewal Districts. The City received four proposals, which were reviewed by a selection committee who applied a 70% weighting for technical merits and a 30% weighting for cost. The results are as follows:

<u>Company</u>	<u>Points</u>	<u>3-Year Bid</u>
Merina & Company, LLP	89	\$ 96,950
Kern & Thompson, LLC	75	\$115,800
Steve Tuchscherer, CPA, PC	72	\$ 89,850
Pauly Rogers and Co., PC	57	\$ 90,800

As a point of reference, the prior three-year audit fee by Pauly Rogers and Co., PC was \$87,425.

The proposals have been evaluated according to the terms of the RFP and it has been determined that Merina & Company, LLP to have the highest score. Oregon Revised Statutes require that auditors enter into a Contract for

their services. The Contract incorporates the Engagement Letter required by the AICPA Professional Standards that describes the scope of the audit engagement. The City Attorney has reviewed and approved the Contract as presented. It is recommended that Council consider approval of the Contract for the audit of the City's financial statements for the periods indicated above.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Nemlowill to approve the contract for the audit of the City's financial statements for the periods indicated by Staff. Motion carried unanimously. Ayes: Councilors Price, Warr, Herzig, Nemlowill and Mayor LaMear; Nays: None.

Item 7(d): Request to Purchase City-owned Property Adjacent to 323 Alameda Avenue (Public Works)

The City has received a request from Bruce Conner to purchase City-owned property directly southeast of his property located at 323 Alameda Avenue. The City property is approximately 1.0 acre (Lots 25 to 41, Block 17 Map number 80907CD, Tax Lot 06400). At their March 7, 2016 meeting, Council directed staff to order an appraisal of the subject property. A summary appraisal report has been prepared and the estimated real land value is \$ 47,000. Mr. Conner has indicated a willingness to proceed with the sale. As the cost of the appraisal was \$800, staff is recommending that the additional cost above the \$450 fee set in the City fee schedule be added to the sale price for a total of \$47,350. If Council is willing to continue with the proposed sale, a public hearing will be scheduled to take public comment. It is recommended that Council schedule a public hearing on May 2, 2016 to discuss the proposed sale of this property.

Councilor Herzig said he had serious concerns with the appraisal and the process. He would speak about his concerns later after Council takes citizens' comments.

Mayor LaMear called for public comment.

Shel Cantor, 1189 Jerome, Astoria, said selling City-owned land engendered significant controversy in the past, but it is relevant to recall the role played by Steven Weed in some of that controversy. Six months ago, City Council received an unsolicited offer from new resident Ms. Kirk to buy a substandard lot near Commercial and 2nd. The City procured the services of Mr. Weed to produce an appraisal of the property and he determined it had a value of \$14,000. However, less than a year prior to that, Mr. Weed produced an appraisal in support of an unsolicited offer from the Armingtons to buy a City-owned parcel on Coxcomb Hill with a magnificent view and more than twice the size of the substandard lot that Ms. Kirk wanted to buy. Mr. Weed determined the lot the Armingtons wanted was worth \$15,000. It was unmistakable to conclude that on his own or by acquiescing to illegitimate direction from someone else, Mr. Weed's appraisals reflected who the prospective buyer was more than what the property was. Before today's meeting, the City procured another appraisal from Mr. Weed that estimates the value of the third acre lot to be \$47,000. However, scaling from the professional, independent, county tax assessors report for the full lot down to the portion Mr. Conner wants yields a real market value of approximately \$80,000. He also researched nearby lots currently for sale with asking prices set by private owners on the advice of their professional real estate agents. Those asking prices are about \$25,000 higher on average than their respective real market values. If the City was a private seller being advised by an agent looking out for the City's best interests, this lot could be listed for approximately \$100,000. Mr. Weed's estimate is half. During deliberations and prior to unanimously rejecting Ms. Kirk's offer, some members of Council expressed valid concerns that it was premature to sell a property because City Council just approved an affordable housing strategy that included an overhaul of the Development Code and because Astoria did not have a strategy for effectively using City-owned property. The concerns regarding Ms. Kirk's request were equally applicable to Mr. Connor's request. How much more of a track record of Mr. Weed's appraisals will it take for the City to stop procuring his services?

George McCartin, 490 Franklin Avenue, Astoria, said he drove by the lot and Mr. Connor's property on Alameda earlier that evening. On the map, it appears as if the two properties were close together. However, the section of the lot that Mr. Connor wants to buy is right along the trolley tracks to the south. He has never seen a lot like this one in any of the previous sales of City-owned properties. The lot is smooth, has a view of the river, and many people would like to buy it. Even a small part of the lot should not be sold for \$47,000.

Mayor LaMear explained that the parcel Mr. Connor wants to purchase is above and behind his house at 323 Alameda. The lot is muddy and very steep.

Mr. McCartin understood and said Mr. Cantor did extensive research on this sale and he abided by his appraisal. The City must be conscious of Astoria's finances. This has not happened in the past, but he hoped it would in the future. If the City were only short by a few dollars for finishing up the Heritage Square improvements, he would support the sale.

Mayor LaMear said she visited the lot. West Exchange is a very steep gravel road that turns into a muddy trail that extends up the hill. The only way to access the lot is through Mr. Connor's property. This should be a consideration when thinking about the value of the lot.

Councilor Price wanted to know how many reasonably buildable one-acre lots on the north slope with river views existed. She has a house on a 50-foot by 100-foot lot that is steep. The house was cut into the hillside and in filled. She is taxed at well over \$100,000 for her property that is about a third of the size of the lot being considered for sale. She did not have any qualms about selling to Mr. Connor, but Council wants to know how many lots, buildable lots, derelict homes, and vacant homes there are before considering wholesale changes to the Development Code. She disagreed that Council had said they wanted to wait until after the zoning code was overhauled. The City should not sell its properties piecemeal until it has the information.

Councilor Herzig said Astoria properties are difficult to get comparables on because of the terrain, but Mr. Weed provided four comparable properties in his report. One was 3011 Grand, a 0.17-acre property valued at \$48,500. The property being considered for sale is 0.32 acres valued at \$47,000. He was concerned that a property half the size was considered comparable and valued at the same amount. He questioned whether the City was really getting its money's worth selling this lot. If Mr. Connor planned to build on the lot, the builders would have to access the property somehow. He did not believe builders would access the lot via Mr. Connors property, but via the undeveloped portion of West Exchange where cars park. Access will be an issue if anyone wants to build there. The larger issue is that Astorians are opposed to the City's process for selling property. Instead of getting an estimate that really reflects market value and putting it out for bids, the City just takes offers of low-ball prices. Astorians have objected to this repeatedly. The City seems to be making the same mistake here. He believed the City should get a higher estimate and put it out for bids if it wants to sell the property because residents have said they want the opportunity to bid on properties. Also, it is an issue that Mr. Connor is on the Sister City Committee, which looks like doing favors even though he is well respected. The City needs to avoid the appearance of favoritism.

Councilor Nemlowill did not see any neighbors at the meeting who were opposed, which makes a difference to her.

City Manager Estes confirmed no notice had been sent to neighbors yet because this item is just to determine if a public hearing should be scheduled. Notices are sent once City Council decides a public hearing should be held. He confirmed for Councilor Nemlowill that he was not a certified appraiser or engineer and relies on professionals to provide their professional opinions. He could not say whether the property had been undervalued. However, he took exception to Mr. Cantor's reflection that someone possibly directed Mr. Weed to undervalue the property. He was highly offended by the assertion that City of Astoria Staff would direct a professional in such a way. No one on City Staff would do this and he did not see how a professional surveyor would be able to keep their license under that premise. He confirmed that Public Works Director Ken Cook made the decision to hire Mr. Weed.

Councilor Nemlowill said she was not a Councilor during the land sales controversy that was mentioned, but wanted to know if City Manager Estes believed the City should be working with Mr. Weed. City Manager Estes said yes, Mr. Weed does quite a few appraisals in the area and knows the market. The City has hired Mr. Weed over the years because of his knowledge of the residential market.

Mayor LaMear confirmed there were no more public comments.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Nemlowill to schedule a public hearing on May 2, 2016 to discuss the proposed sale of City-Owned property adjacent to 323 Alameda Avenue. Motion carried 3 to 2. Ayes: Councilors Warr, Nemlowill and Mayor LaMear; Nays: Councilors Price and Herzig.

Item 7(e): Revised Job Description and Salary Resolution for Library Director (City Manager)

Library Director Jane Tucker will be retiring at the end of May 2016. The current Library Director job description has not been reviewed since Jane Tucker's title was changed from Head Librarian to Library Director in 2002. In

preparation of posting the job opening, staff worked with the City's human resources consultant, Xenium, to develop a new description and review salary ranges. Before the position can be posted, the job description needed to be updated to reflect current library practices, to satisfy the current needs of the City, and to address the current marketplace. A copy of the current and proposed job descriptions are attached. In addition to the revised job description, it is proposed that the salary range be increased from Range 40 to Range 45. This increase will bring it more in line with other similar jurisdictions in the area. Range 40 provides salary Steps between \$60,664 to \$73,737 a year. Range 45 provides salary Steps between \$68,601 to \$83,385 a year. Funds are included in the draft budget for FY 2016-17 which would accommodate this increase. This change will allow for the City to recruit a qualified candidate pool. It is recommended that the City Council approve the revised job description and revised salary range contained in the attached resolution. With this action, the job will be posted to begin the recruitment process.

Councilor Price asked when the job recruitment materials would be published. City Manager Estes said the recruitment package was completed on Friday and if Council approves the revised job description, the advertisements would be published in about a week.

Councilor Herzig said the phrase "respectfully takes direction from the City Manager" at the bottom of Page 2 of the revised job description, indicates there has not been respect. City Manager Estes said he spoke with Jane Tucker about the revisions and the phrase is boilerplate language contained in several Staff job descriptions.

Councilor Herzig asked about the language referring to the Americans with Disabilities Act (ADA). City Manager Estes explained that during interviews, in order to meet ADA standards, Staff must ask about an applicant's ability to perform essential job duties without posing a threat to the safety or health of employees or others. He confirmed that a new Library Director would need to be able to access the mezzanine, which is not currently ADA compliant.

Councilor Herzig said the language regarding the mathematical skills required for the position seemed insulting. City Manager Estes explained that Jane Tucker completed a survey that asked what mathematical skills were required as part of her job. Her answers were translated into the job description language, which states the specific skills the City is looking for. Job descriptions are not used to recruit employees, but are used to explain to a new employee what their duties and responsibilities are. The recruitment materials contain the essential tasks and indicate what the City is looking for in a Library Director.

Councilor Nemlowill asked how Staff concluded that the pay needed to be increased in order to recruit a qualified candidate. City Manager Estes said Staff must recruit in a tight labor market. The City needs a director that can make Astoria's library a library of the future. City Council is currently discussing whether to remodel or build a new library and there is interest in a library that provides facilities and services that are desirable to the community. Staff's recommended salary range is low to mid-range for Oregon and he believes this salary range is necessary to recruit someone that can take Astoria where it wants to be in the future. He and Ms. Tucker considered library director pay in other cities in Oregon and Astoria's current salary range is at the bottom.

Councilor Nemlowill said she was glad Ms. Tucker was involved and it would be difficult to replace her. She had full confidence in City Manager Estes. However, she was concerned about the 20 percent increase in the Public Employees Retirement System (PERS) and worker's insurance in 2017. Other costs associated with salaries will double. City Manager Estes said Staff realizes this. When he and Director Brooks were putting together the proposed FY2016-2017 budget, they realized this increase would make some budgets tighter in the future. However, in order to provide services that are desirable to the community, an increase is important. Staff is looking at ways to offset costs or address the future PERS rate increases.

Councilor Herzig said that as the cost of living goes up, salaries have to go up in order to attract people who can live in the community. He was sorry the City always seems to raise pay after someone leaves the position. He thanked Ms. Tucker for input.

Councilor Price asked if City Manager Estes and the Budget Director had the ability to raise the salary range even further if none of the applications were qualified. City Manager Estes said he would not want to hire someone who would just do the job. He wanted the right person to be the new Library Director. The proposed budget has some flexibility, but he and Ms. Tucker agreed the recommended salary range was appropriate.

City Council Action: Motion made by Councilor Herzig, seconded by Councilor Price to approve the revised job description and revised salary range contained in the attached resolution. Motion carried unanimously. Ayes: Councilors Price, Warr, Herzig, Nemlowill and Mayor LaMear; Nays: None.

Item 7(f): Affordable Housing Code Amendments – Vacation Rentals (Community Development)

Over the past months, the Astoria Planning Commission has been working to draft Development Code amendments to address affordable housing issues. This follows City Council direction to initiate the project. One issue the Commission discussed was bed and breakfasts, home stay lodging and vacation rentals. During the Planning Commission work sessions, there was no consensus that there is a problem with the current system; however, at the November 2, 2015 Council meeting, the Council voted to include updates to “vacation rental” policies in the set of code amendments to address affordable housing. In order to provide specific direction to the Planning Commission as to how the City Council wishes to address these uses, Community Development Director Kevin Cronin will present some options for Council discussion. This feedback will be used by staff to draft code language for Planning Commission consideration.

Director Cronin updated City Council on the proposed Development Code text amendments that pertain to vacation rental dwelling policies with a PowerPoint presentation, as follows:

- Astoria does not allow vacation rental dwellings in residential zones. Vacation rentals are allowed in commercial zones and are treated just like hotels and motels.
 - Home stay lodgings and bed and breakfasts are allowed in residential zones. Property owners can rent up to two rooms in their home as home stay lodging. Bed and breakfasts must provide a morning meal and can have an onsite manager or the property owner can live on the property.
 - Vacation rental dwellings (VRDs) are not defined in the Development Code. Property owners are not required to live on site and most hire a manager.
- He displayed current Development Code standards and said Staff is not proposing any changes right now because the changes would be proposed to the Planning Commission on Tuesday, April 26, 2016.
 - Home stay lodgings are allowed with a conditional use permit in the R-1, low density residential zones, but are allowed as an outright use in the R-2, medium density, and R-3, high-density residential zones. Home stay lodgings must have a business license and pay the hotel tax.
 - Bed and breakfasts are prohibited in the R-1 zones and are allowed in the R-2 and R-3 zones with a conditional use permit, which requires a public hearing before the Planning Commission.
- He showed homes in Astoria that were advertised on Airbnb and VRBO. Flipkey, Craigslist, and other websites also advertise vacation rentals.
 - As of Friday, April 15th, there were 37 Astoria listings on Airbnb, 14 of which were legal but were not paying the hotel tax or occupational tax. Seven of the listings were potential zoning violations.
 - In the last six months, Staff has only received one complaint about a home stay lodging on Floral. Staff investigated the complaint and closed the case when the owner made the necessary changes to be in compliance.
 - Today, Staff began code enforcement action on the seven that are potential zoning violations and would follow up with the properties that are not paying the appropriate taxes.
- He wanted City Council to continue the discussion they had in November and decide if rooms should be available for long-term rentals otherwise. Other jurisdictions are struggling with these questions and the housing crisis.
- Out of more than 4,800 housing units, there are only seven potential violations. Therefore, the issue is very small and he could not determine if the issue would become a major one.
- He displayed a list of potential City Code and Development Code changes that City Council could consider.
 - Some cities require landlord training. Community Action offers landlord training in Astoria, Saint Helens and online.
 - A public safety inspection program would check properties for fire extinguishers, smoke and carbon monoxide alarms, tsunami maps, adequate egresses, and emergency contact information. A fee would be collected from the applicant and Staff would conduct the inspection.
 - Home stay lodgings could be reduced to one bedroom.
 - Bed and breakfasts could be allowed only in the R-3 zones. This would trigger a Ballot Measure 56 notice because this change could potentially devalue properties.
 - Astoria could require a new permit for any home stay, bed and breakfast, or vacation rental.

Councilor Herzig said each listing on Airbnb contains information about the hosts, which might help Staff locate some of the properties. He asked Staff to provide a zoning map for future discussions.

Councilor Nemlowill asked for a definition of a home stay. Director Cronin displayed the definition on the screen and said a home stay lodging is owner-occupied and managed and can be one or two bedrooms. Guests can stay up to 30 days. He confirmed that short-term rentals are less than 30 days. Councilor Nemlowill said she was concerned about the City's ability to enforce home stays and asked why Staff recommended they only be allowed in R-3 zones. She also wanted to know what changes were made to the property on Floral.

Director Cronin said Mr. Linza was advertising his property incorrectly on Airbnb. He was advertising the entire house, but now advertises only two bedrooms. Councilor Nemlowill said the neighbors do not believe Mr. Linza lives in the home. She believed there were other homes in Astoria with this situation. Astoria's rules need to be enforced and enforceable, which seems very challenging with Staff's resources. Director Cronin explained that he did a site inspection on the Floral property and the property owner has complied with all of Staff's suggestions and regulations voluntarily. While he believed the property owner was in compliance, he could not tell whether the property owner was living in the home. Councilor Nemlowill said that was the critical part and if this situation was more widespread, it would be more challenging for Staff to do on site inspections and would be a drain on City resources. She did not believe uncollected taxes would offset the astronomical costs involved.

Councilor Herzig asked if the City could enact an ordinance setting a maximum number of days per year that a home stay could be rented. He wanted to control an almost year-round home stay operation. Director Cronin said yes, but the enforcement would be an issue, not the number of days. Councilor Herzig believed that if Astoria had ordinances and regulations, people would know up front when they come to town to buy properties that a property could not be flipped into a short-term rental. Director Cronin added that Staff makes it very clear when people come in to City Hall that vacation rentals are not allowed.

Mayor LaMear asked why staff recommended lowering the number of allowed bedrooms. City Manager Estes said one bedroom would reduce the impact to the neighborhood. Director Cronin added that to enforce this, Staff would verify that only one room was being advertised for rent.

Councilor Price believed most of the current regulations work well. Astoria has many fewer vacation rentals than other cities in Clatsop County. She agreed the existing regulations should be enforced, but was confused about where the rest of Councilor Nemlowill's comments were leading. Enforcing the regulations will require some resources and a code enforcement budget may need to be considered. It is important for Astoria to be as strict as possible because this is a working city that wants to stay the way it is for as long as possible.

Councilor Nemlowill said good people have home stays in Astoria, but in the nine years she served on the Planning Commission, she saw home stays as a loophole and a vacation rental in disguise simply because the City cannot enforce the home stays. While home stays may benefit individuals in the short run, she did not see how they would benefit the City in the long run. She was concerned about the long-term impacts to the City. Cities with high rates of second homes also have high rates of vacation rentals. And cities that have high rates of second homes and vacation rentals also have higher average home prices. Astoria's market rate is currently based on the people who live and work in Astoria would be dictated by a different market rate by people who can buy houses from larger urban areas that make more money. In 2011, the Buildable Lands Inventory (BLI) said Astoria had a 3.4 percent second home ownership rate. She believed that rate had crept up slightly and the BLI projects Astoria will have a 13 percent second home ownership rate in 20 years. If Astoria's policies contain loopholes that people can use to create vacation rentals, Astoria will have large numbers of property owners that are reliant on the income. A number of years ago, Cannon Beach tried to limit the number of vacation rentals but could not because so many people who owned homes there were completely dependent on the income from renting their properties.

Councilor Price asked if Councilor Nemlowill was saying Council should just let the issue go. Councilor Nemlowill said it appears as if there may be ramifications if the issue is dropped, but she believed the City also needed the option that Councilor Herzig proposed, define a home stay, limit the stay to 30 days, and make rules that the City can enforce better.

Staff agreed that tracking the number of days would be a Code enforcement nightmare. Councilor Nemlowill said she had seen 30-day rentals on VRBO and those property owners obviously know the rules and are abiding by them. Director Cronin explained that the seven properties he identified were potentially violating up to two regulations, zoning and renting out more than just one or two bedrooms. If these properties owners are knowingly violating the regulations, he wants to take action on those properties.

Councilor Herzig said no one wants to put more work on the Community Development Department and it would be a mistake to implement ordinances the City cannot enforce. However, the City should not ignore this issue. There were concerns about enforcing the smoking ban in parks, but sometimes once ordinances are implemented and word gets around the community, enforcement might not become a long-term problem. While some enforcement may be necessary in the short-term, he hoped that in the long-term as investors see that Astoria is no longer friendly to this sort of second home ownership financed by rent, the enforcement would decrease. He did not want Council to take no action at all because half of Astoria will end up with empty houses. He hoped Council could consider some new ordinances and policies that prevent problems before it is too late.

Councilor Nemlowill confirmed she would support prohibiting home stay dwellings. She did not want to hurt anyone who currently relied on the income of a legal home stay, but in terms of the long-term impact to the City, livability, and affordability for the workforce, she would support prohibiting home stays if it were feasible. Clatsop Economic Development Resources (CEDR) is looking at the housing issue right now because businesses cannot house workers. It is very important to economic development that Astoria's housing stock remains for people who live and work in the community.

Councilor Herzig asked Staff to display the definition of a bed and breakfast. If home stays are prohibited, property owners who relied on the income could simply offer a breakfast and stay in business as a bed and breakfast.

Mayor LaMear opened the discussion to public comments.

Loretta Maxwell, Grandview Bed and Breakfast, 1574 Grand Avenue, Astoria, said she was confused about the option to limit the number of bedrooms to one. She had a lot more than one bedroom and was not sure if this option would apply to her business. She also wanted to know if the option to require new permits for bed and breakfasts would apply to her business and other businesses that were already established.

Mayor LaMear explained that the options are just potential changes, not new policies that Council was voting on. Ms. Maxwell understood she should simply keep an eye on this issue. Staff confirmed that Grandview Bed and Breakfast was in a residential zone and Director Cronin said he would speak to Ms. Maxwell after the meeting.

Councilor Herzig believed that if home stays were prohibited, Council would not limit bed and breakfasts to one bedroom. City Manager Estes reminded that the options were presented for discussion only and any of them could be modified as Council sees fit. He confirmed that Council could allow existing businesses to be grandfathered in to any new codes. If Council wants Staff to work on new Code language, feedback from this meeting will be helpful. This discussion will be revisited in about a month as part of a public hearing and Staff wants the Planning Commission and the public to be involved in the process. Staff is simply asking for direction at this time.

Chris Haefker, 687 12th Street, Astoria, said home stays were marvelous. He travels a lot and his best travel experiences have been in home stays. He knows many people who advertise on Airbnb and he has not been aware of any problems with the site. Many people depend on the income because they have old houses, they are single, and live in a home with a couple of extra rooms. A lot of the money is put back into the homes. Astoria has an incredible historic fabric and the buildings require maintenance. Astoria depends on this for tourism. People take walking tours and look at the buildings because they want to see nice houses. It is a shame to see many homes in disrepair and it would be a mistake to tighten the grip on home stays. Astoria also has a history of boarding houses that supplied housing to workers in the past. City Council is wrong to think that vacation rentals are being sought by investors. Portland and Seattle have increasing real estate values and people who want to buy a house cannot afford those locations. So, they come to Astoria to buy a house and probably pay more than the working wage, but this is not because of vacation rentals.

Mayor LaMear confirmed there were no more public comments and asked what Council needed to do next. City Manager Estes reminded that the proposed Code amendments to address affordable housing do not currently include vacation rentals. However, Council has directed Staff to include language dealing with vacation rentals in the amendments. Therefore, Staff needs direction on how to move forward with drafting this Code language. Staff will draft some amendments and present them to the Planning Commission and the public for feedback.

Mayor LaMear understood Staff would be adding a Code enforcement position. Director Cronin clarified that the job description for the building official position was currently being revised. Staff planned to post the position by next week. The building official position includes Code enforcement duties and he hoped to get some good

applicants with the existing salary range for that position. However, he might have to ask for a revised salary range if the current salary range does not attract the right applicants.

Mayor LaMear asked if Staff knew the addresses of the 14 legal vacation rentals that were not paying taxes. Director Cronin said no, Staff estimated based on information published on Airbnb. Astoria's zoning districts are large, so Staff can determine what zone these rentals are in but there is no record of these properties paying any license or motel taxes. He explained that Airbnb is just a third party vendor that allows property owners to advertise, like VRBO, Craigslist, and other sites. Any vacation rental type business needs to be registered with the City. City Manager Estes added that sites like VRBO simply list properties that offer a variety of ways to lease a space in a home. Home stays are permitted outright in the R-2 and R-3 zones, so Community Development Staff used the maps on these third party sites to determine which home stays were permitted, then verified there were no records of these properties paying occupational or motel taxes.

Councilor Price asked if Staff could determine whether these properties were owner-occupied. Director Cronin confirmed Staff would check on this as part of Code enforcement. He displayed the map from Airbnb's website showing vacation rentals in Astoria and explained he could see the general neighborhood, but could not determine the exact address or tax lot. He will have to drive to each neighborhood and match the published photographs of each property and the person who listed the property to the particular site being listed.

Councilor Herzig said during the musical festival, host families open their homes to the musicians but no money is exchanged. He wanted to make it clear that this discussion did not include the music festival home stays, just the rentals.

Councilor Price did not believe any part of the Code should be changed until Council had more data and the City had a Code enforcement officer that could report back to Council on the current situation. She believed the Code was working well. Mayor LaMear and Councilor Warr agreed. Councilor Warr noted that the cost of trying to limit the issues would be expensive, frustrating, and could create better cheaters. Therefore, he believed the issue should be left alone at this time until it appears as if there could be problems. Mayor LaMear added that there was no consensus among the Planning Commission that there was a problem with the current system. She agreed that nothing should be done until Council has all of the facts and until the City has a code enforcement officer.

Director Cronin said he would report back to Council via email after the Community Development Department completes its Code enforcement.

Councilor Herzig believed this was an area Council could choose to be either proactive or reactive. He would rather be proactive, but agreed the City needed a Code enforcement officer. He wanted the Planning Commission to consider the possibility of prohibiting home stay rentals and giving existing home stays the option to convert to a bed and breakfast by offering a breakfast. He did not believe this would be too burdensome and did not want to deprive Astorians of their means of maintaining their homes. Adding a breakfast would not be overly restrictive, but would require the owner or a manager be on site. A little bit of restriction would create many benefits for the City. Limiting the number of days for home stays would be much more burdensome on Staff.

Councilor Nemlowill said she did not want the City to wait too long before the real costs of taking no action is realized. She did not want to have a problem like Gearhart and then have to deal with cleaning up the mess. Astoria does not have vacation rentals in its Code because Astoria was not a tourist town when the Code was written. Most of Astoria's houses are available for working Astorians and the average home price compared to other coastal communities is a lot more affordable. She hoped Astoria would stay this way. She did not want to see the town flooded with second homes and vacation homes because that would not be good for livability, the economy, or Astoria's character.

Staff confirmed they had the feedback they needed to move forward.

Item 7(g): Strategic Plan

This item was added during Item 4: Changes to the Agenda.

Mayor LaMear said as the City has been working on the Strategic Plan, concerns have been raised about Marty Jaecksch, who was hired to facilitate the planning process. The City Manager would like direction about how to move forward.

Councilor Warr appreciated that Mr. Jaecksch wanted City Council to develop their own Strategic Plan and did not want to develop the Plan himself. Additionally, Mr. Jaecksch got Council to come to a consensus that he never believed was possible. He believed there was some merit to keeping Mr. Jaecksch. However, if the rest of Council wanted to look for someone else, he would not have a huge problem with it.

Councilor Herzig believed Mr. Jaecksch found City Council more challenging to work with than he anticipated. He wanted another session with Mr. Jaecksch to evaluate whether the Plan could still be completed at the price indicated. Now that Mr. Jaecksch knows what a challenge this planning process will be, he should have the opportunity to say whether he could do the work at the same price.

City Manager Estes said he met with Mr. Jaecksch the day after the planning session and they were moving forward with next steps. Mr. Jaecksch had indicated his price was flexible depending on Council's direction as the process moves along. The price is charged by the hour and any work done by Staff saves on that expense. He did not believe Mr. Jaecksch was hesitant to move forward after the planning session.

Councilor Herzig suggested Staff tell Mr. Jaecksch that some Councilors were hesitant to retain his services and ask for his feedback about it.

Councilor Nemlowill said she was not comfortable critiquing Mr. Jaecksch publicly. Councilor Price agreed and asked if this conversation was more appropriate for an Executive Session. City Attorney Henningsgaard confirmed Mr. Jaecksch was on contract to work for the City and the discussion should be conducted in Executive Session.

Councilor Herzig noted that the planning session was a public meeting. He wanted Mr. Jaecksch's opinion on the situation.

Councilor Nemlowill believed it was important for a facilitator to have an understanding of municipal government. She was concerned that Mr. Jaecksch did not have any experience with municipal government. The process Mr. Jaecksch has outlined for Astoria does not seem to fit a governing body that has to adhere to public meeting laws and he was not familiar with the laws. She had stated these concerns before Mr. Jaecksch was hired.

Councilor Price agreed, but said she really enjoyed the brainstorming and the conversations at the planning session. The lack of experience with municipal government showed in several ways and the meeting ended without the next meeting being scheduled or a timeframe for the planning process. She understood that had a lot to do with Council, but a timeline would be good. She was concerned because the end of the planning session was confusing when they tried to turn 30 words into 10. On the other hand, City Council has set a budget and doing something different would cost a lot more money. She was also concerned that the current process puts a burden on Staff. She agreed to spend money on a consultant because she believed it would relieve Staff of some of the work. However, she now understands that City Manager Estes would be the coordinator.

City Manager Estes said he could speak with Mr. Jaecksch.

Mayor LaMear asked if City Manager Estes expected to be responsible for much of the work when the process began. City Manager Estes said during the initial work session to discuss strategic planning, he had recommended a consultant be hired to facilitate the entire process. He understood the process had to be agreed upon by Council, would involve a public process, and would have a deliverable prepared by the consultant team. Based on City Council's feedback at that time, there was little interest in hiring a consultant unless a consultant could be hired at a certain dollar amount. The current situation is the result of Staff moving forward on that direction provided by Council.

Councilor Nemlowill understood City Manager Estes hoped to have a contractor that facilitated the public meetings. However, her biggest concern about the current process is that no public process has been included in the City's strategic planning. City Manager Estes confirmed that leading the public involvement process would fall on him. He makes recommendations, but works for City Council. He was moving forward with the direction provided by City Council. If Council has new direction for him, he needs to know so that he does not move forward with a process Council does not support.

Councilor Price confirmed a thorough process would cost about \$70,000. She wanted to know if there was enough money in the budget and if Council was interested in spending that much on another facilitator with

government experience who would facilitate a process with public involvement without engaging the City Manager.

City Manager Estes said Staff would have to evaluate Capital Improvement Fund budget priorities. Fortunately, the FY2016-2017 budget has not yet been approved and changes could still be made. However, he would need to consult with strategic planning professionals to find out how much it would cost to have someone facilitate the process and what the lowest amount would be.

Councilor Price believed City Council needed to hire a new facilitator or adjust its expectations. Mayor LaMear added that when this process began, Council was not expecting so much of the burden to fall on the City Manager. Therefore, she supported looking for a new facilitator and wanted to know if strategic planning facilitators assumed they would take on the major responsibilities. City Manager Estes explained that the responsibilities are built into the scope of work, which could include a budget line item for public involvement, the number of meetings, and deliverables. There is some give and take and items can be cut from a process to save money.

Councilor Nemlowill said the City spends a lot of money on consultants for various things. Drafting a vision and a strategic plan seems important and will result in efficiencies if the City can look long term and have broad policies to implement. She believed City Manager Estes had a better idea than City Council of what a good consultant would cost. However, the City has also had luck with grants for Riverfront planning and the Parks Master Plan. It would be great if grants were available for strategic planning because the quality and caliber of the planning work Astoria is getting right now for \$30,000 a year seems high. The professionalism, government experience, and public involvement that Council is seeking seems to have created a model that is better for the strategic planning process.

Councilor Herzig said that while applying for grants would be ideal, it would certainly delay the process. However, a delay would be acceptable if Astoria could get the same level of expertise as the Parks Department has received from Ian Sisson. Mr. Jaecksch has delivered what City Council asked for and he should not be faulted for not doing more. If Council wants to work with Mr. Jaecksch, Council could simply tell him that they want more and ask how much he would charge for the additional work. After the facilitator has completed his or her work, it will still be up to City Council and Staff to move forward with the plan, so it makes sense for Council and Staff to be involved in the planning. Right now, Astoria is growing in various ways and Staff already has its hands full.

City Manager Estes explained that even with a Rare Participant, a tremendous amount of Staff time has been spent on the Parks Master Planning process. If Council wants to use a Rare Participant for strategic planning, Staff must assume the same level of work will be necessary. However, Staff believed it had clear direction from City Council about how to move forward with strategic planning. He could speak with Mr. Jaecksch or request proposals to gauge the level of interest for a strategic planning facilitator.

Mayor LaMear was concerned that even if Mr. Jaecksch were willing to do more work, he would still lack experience with government. That is why she believed a new facilitator should be hired. Councilor Herzig noted that City Council should explain to Mr. Jaecksch that now that the planning process has begun, the City realizes it has needs that may be beyond his capabilities and ask how he would like to move forward. He was sure Mr. Jaecksch would not proceed with a project that was not the right fit.

Councilor Nemlowill did not want to micromanage the City Manager, who hired the facilitator at the direction of City Council. She trusts that City Manager Estes knows how to do the next step.

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

There was none.

EXECUTIVE SESSION

Item 9(a): ORS192.660 (2)(h) – Legal Counsel

The City Council will recess to executive session to consult with counsel concerning legal rights and duties regarding current litigation or litigation likely to be filed.

City Council recessed to Executive Session at 9:35 pm. The regular City Council meeting reconvened at 9:53 pm.

City Council Action: Motion made by Councilor Nemlowill, seconded by Councilor Price to authorize the City Attorney to file suit against Brad Smithart and Hospitality Masters, LLC for room taxes owed to the City of Astoria. Motion carried unanimously. Ayes: Councilors Price, Warr, Herzig, Nemlowill and Mayor LaMear; Nays: None.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:00 pm.

ATTEST:

APPROVED:

Finance Director

City Manager

DRAFT



May 10, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES CITY MANAGER

SUBJECT: SPUR 14 WATER LINE PROJECT AUTHORIZATION TO BID

DISCUSSION

In April 2015, City Council authorized Staff to move forward with design for the Spur 14 Water Line Project. The goal of this project is to provide a direct connection to the City's best available source of water. It includes the installation of 700 feet of raw water pipe and associated flow measurement and control appurtenances. Upon completion, the project will provide better operational control over source water selection, better flow monitoring, reduce maintenance on existing pressure relief valves, and should reduce the level of disinfection byproducts (DBP) in the City's treated water. This will also enhance the City's ability to stay in compliance with recent United States Environmental Protection Agency (USEPA) drinking water regulations.

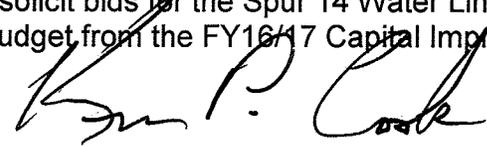
City Staff have been working with CH2M to complete design plans and contract documents for the project. The Engineer's construction cost estimate is \$290,000, including a 10% contingency. Project construction is not anticipated to begin until FY16/17.

The Spur 14 Water Line Project is budgeted in the FY16/17 Capital Improvement Fund as part of a \$450,000 allocation to the Public Works Department for two projects. This budget has been initially approved by the Budget Committee and awaits final City Council approval. The engineer's preliminary estimate at the time the budget was presented to the Committee was \$230,000. Since that time, the engineer's estimate has been more fully developed and costs have been refined. The current Engineers estimate is \$290,000. The necessary \$60,000 adjustment would increase the Public Works allocation to \$510,000 and reduce the ending fund balance (\$397,090) of the Capital Improvement Fund. Should Council authorize staff to solicit the bid, the revised allocations noted above will be included in the FY 16/17 budget, which will be presented to Council at the June 6, 2016 Council meeting.

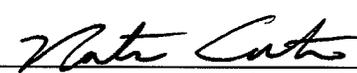
RECOMMENDATION

It is recommended that City Council authorize staff to solicit bids for the Spur 14 Water Line Project, and authorize the \$60,000 adjustment to the project budget from the FY16/17 Capital Improvement Fund.

Submitted By: _____


Ken P. Cook, Public Works Director

Prepared By: _____


Nathan Crater, Assistant City Engineer



MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM:  BRETT ESTES, CITY MANAGER
SUBJECT: AUTHORIZATION TO AWARD CONTRACT – SPUR 18 COMBO TIMBER SALE
2016

DISCUSSION/ANALYSIS

A commercial thinning on 40 acres is proposed for the summer of 2016. The Douglas fir in the area is significantly infected with Swiss Needle Cast. The thinning will focus on removing the Douglas fir and improving the growing conditions for the healthy Hemlock, which is the native species for this area. Small openings will allow for natural regeneration of Hemlock. Three small patch cuts dominated by disease-infected Douglas fir will be prepared for planting with Hemlock.

The upper portion of the harvest area is bordered by B Line. This is a major access road that crosses the upper portion of the watershed. The road has deteriorated, making it impassable by vehicles. The road will be improved to at least allow for use by fire suppression vehicles if needed. The net proceeds from this thinning operation are estimated to be \$200,000.00 after harvest and reforestation costs. These proceeds will be deposited into the Capital Improvement Fund.

At their April 18, 2016 meeting, Council authorized staff to solicit bid for the Spur 18 Combo Timber Sale. On May 3, 2016, one bid was received from Hampton Tree Farms, LLC in the following amounts:

- Hemlock/Pacific Silver Fir \$234.43 per mbf
- Douglas Fir \$365.22 per mbf
- Sitka Spruce \$250.00 per mbf
- Pulp Logs \$7.00 per ton

The Combo Harvest should result in gross revenue of \$217,774.50.

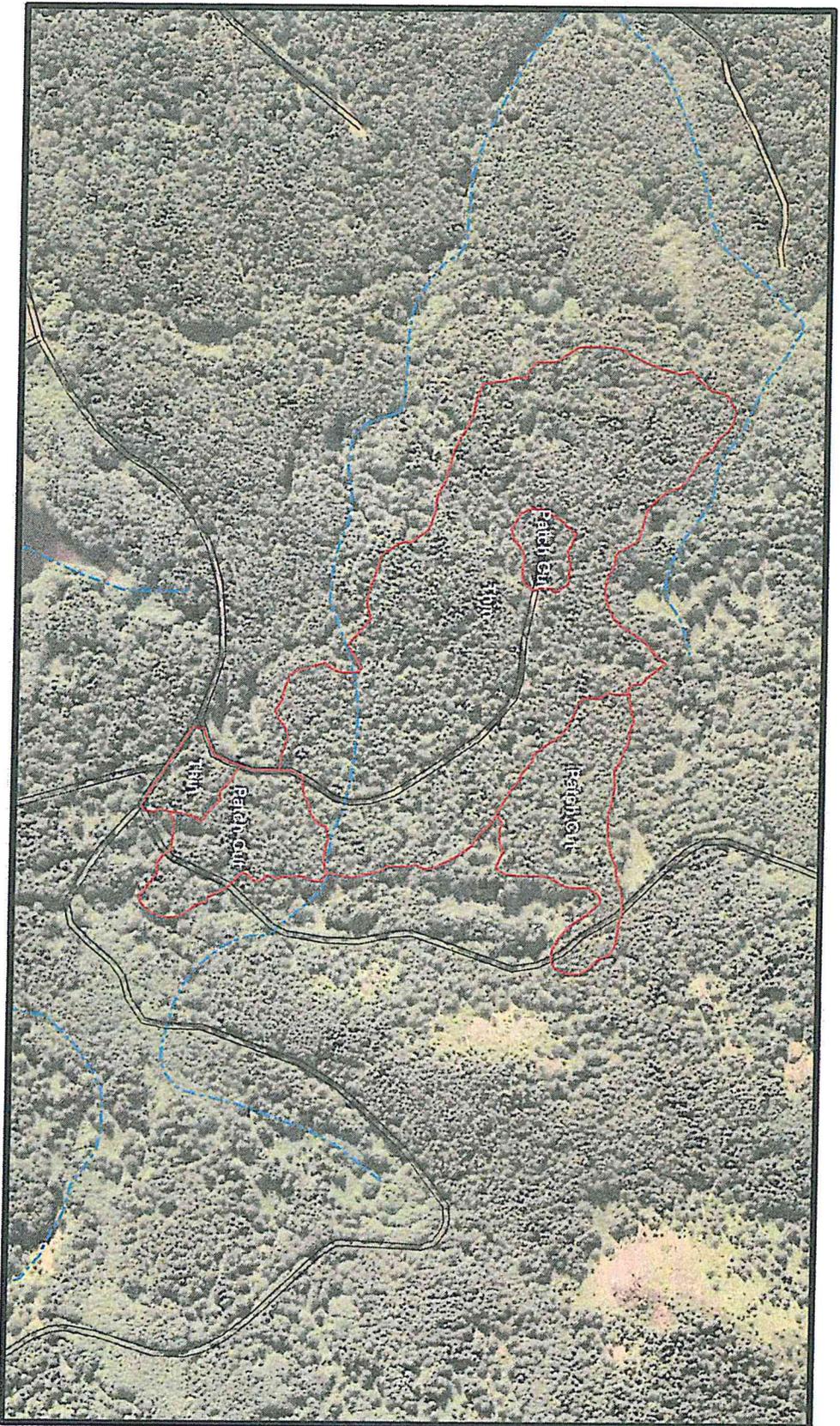
RECOMMENDATION

It is recommended that Council award a contract to Hampton Farms LLC for the Spur 18 Combo Timber sale.

Submitted By 
Ken P. Cook, Public Works Director

Prepared By 
Mike Barnes, Forrester

Spur 18 Harvest Units

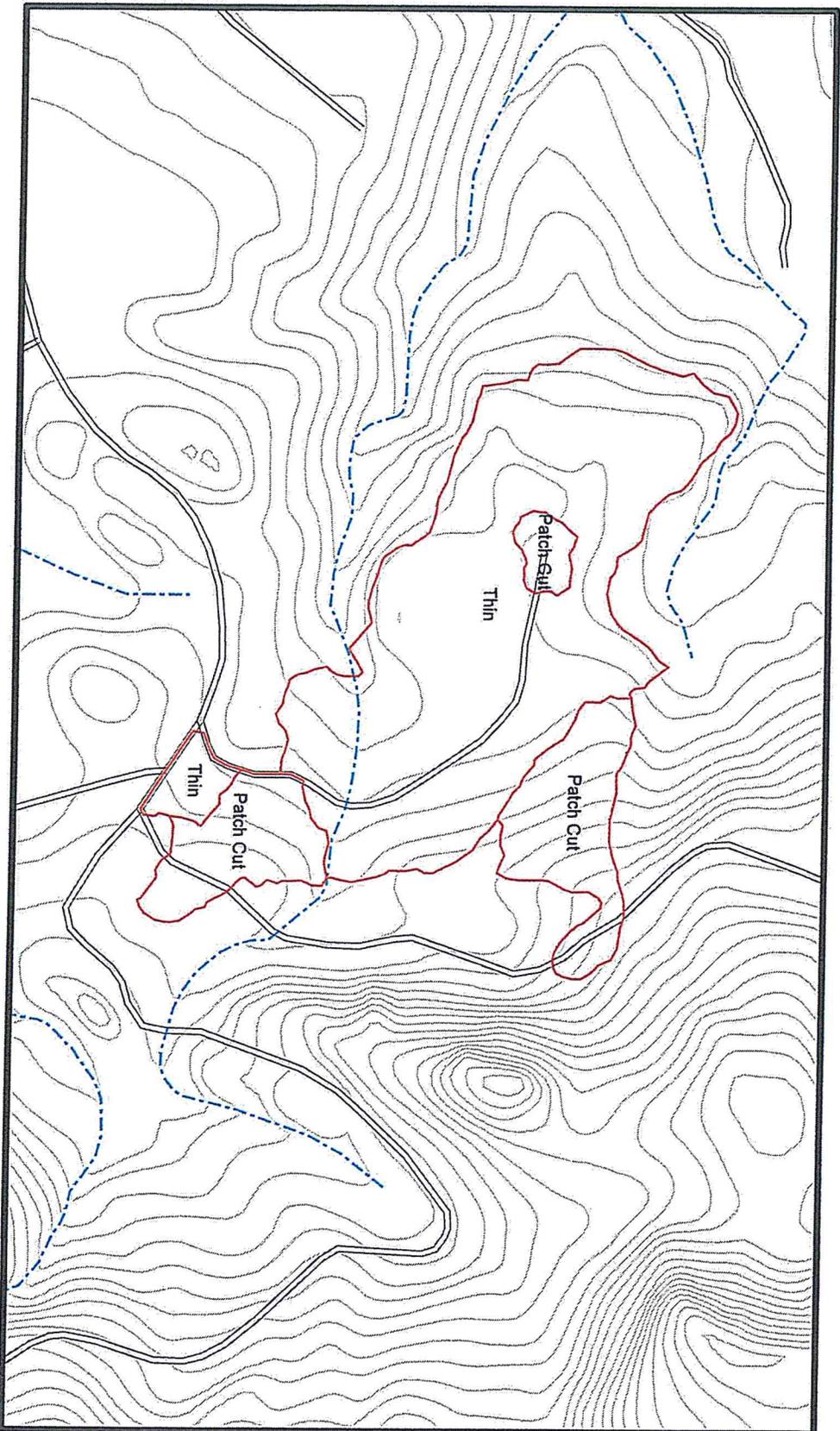


Legend
□ Harvest Units
— roads
- - - streams

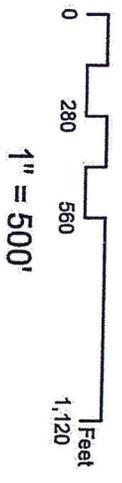
0 285 570 1,140 Feet
1" = 500'



Spur 18 Harvest Units



- Legend**
- HarvestUnits
 - roads
 - streams
 - contours_20ft



CITY OF ASTORIA
Spur 18 Combo Harvest 2016

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

WITNESSETH

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, 2016**.

2. PAYMENT TO CITY

A. PURCHASER agrees to pay CITY
 \$234.43 per mbf for Hemlock/Pacific Silver Fir
 \$365.22 per mbf for Douglas-fir

\$250.00 per mbf for Sitka Spruce
 \$ 7.00 per ton for Pulp logs

B. An initial payment of \$21,777.45 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 Dave 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 disabled provided the party so disabled shall within ten (10) days from the beginning such delay notify the other party in writing of the causes of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation.

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. NONDISCRIMINATION

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subject to unlawful discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity/expression. Contractor, its employees, agents and subcontractors shall comply with this policy.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. SEVERABILITY AND SURVIVAL

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

27. HARVEST TAX LIABILITY

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

28. 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:

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

Attorney

BY: _____
Mayor Date

BY: _____
City Manager Date

BY: _____
Purchaser Date

**Spur 18 Combo Harvest 2016
SCOPE OF WORK**

Section 1 Operation Plan/Meeting

- 1) PURCHASER/CITY shall prepare a written operation plan prior to commencement of activities (Exhibit B). Upon signature of the operation plan it becomes a part of the Contract/Scope of Work.

- 2) CITY designates Michael Barnes as their representative with authority to act on behalf of the CITY in actions relating to Spur 18 Combo Harvest 2016.

- 3) Operation plan shall be completed at least one week prior to commencement of any activity relating to this contract. PURCHASER shall file a Notification of Operation with the Oregon Department of Forestry in compliance with the Forest Practices Act.

Section 2 Harvest Areas

Thinning area is marked with blue ribbon. Patch cuts imbedded in the thinning area are marked with pink ribbon. The water source near the north boundary of the thinning area shall be provided special protection. No trees shall be fell toward that water source. Small type N streams are located adjacent to the boundaries of the thinning area. No entry or harvest within 75 feet of the streams.

Section 3 Harvest Operations

- 1) Felling
 - a) Prior to felling, PURCHASER/Felling Contractor shall meet with CITY representative to review requirements under section 4.

 - b) Felling shall be conducted using a feller/buncher unless alternative method is approved by CITY

 - c) Prior to felling, skid roads and landings shall be marked and approved by the CITY

 - d) Felled trees shall be topped at a diameter not less than 6 inches

 - e) Logs shall be no longer than 40 feet (plus trim)

 - f) Trees shall not be felled across drainages

 - g) Maximum stump height shall be 12 inches unless approved by CITY

- 2) Yarding
 - a) Use ground-based equipment approved by CITY. Limit skid roads and trails to 10% of the yarded area

 - b) Operation shall not be conducted under conditions where soils are rutted or excavated to a depth of 6 inches or more

- c) Equipment shall not operate on slopes greater than 35%. Approval may be granted by CITY to operate for short distances on slopes exceeding 35%
- d) Ground based operations shall be limited to June 1st through October 31st unless otherwise approved by CITY
- e) Ground yarding equipment shall not operate within 75 feet of any stream
- f) PURCHASER (operator) shall suspend ground yarding during periods of high soil moisture as determined by CITY.

3) Stream Protection

Small type N streams are located adjacent to the thinning unit. No trees shall be fell across any stream. No equipment shall be operated with 75 feet slope distance of any stream.

4) Watershed Entry

Coordinate entry to the watershed with the CITY's resident Water Source Operator and comply with his directions regarding access, vehicle speeds and operations while in the watershed area.

Section 4 – Log Removal

All logs defined below shall be removed as Designated Timber under this contract.

- 1) Any conifer log that conforms with grading rules for peeler or sawmill grades and meets or exceeds both of the following minimum requirements: 6 inches in gross scaling diameter, containing 20 board feet (net).
- 2) Any hardwood log that conforms with grading rules for No. 4 Alder log grade or better and meets or exceeds both of the following minimum requirements: 6 inches in gross scaling diameter, containing 20 board feet (net).
- 3) Logs determined to be utility/pulp quality shall be removed as pulp on approval of the CITY. Pulp logs shall be decked separately from sawmill grade logs.
- 4) Any logs left in the harvest area meeting the minimum requirements under 1 and 2 above shall be scaled by the CITY and charged to PURCHASER at the rate specified for that species under the contract. Material used to meet coarse woody debris requirement shall not be scaled.

Section X Thinning Specifications

The thinning will focus on removal of the Douglas-fir. All Douglas-fir shall be removed to the extent possible. The area is comprised of an equal basal area of fir and hemlock. The residual basal area shall be approximately 120 square feet per acre. Some areas may result in the creation of small patch cuts with the removal of the fir. Felling shall be done using mechanized equipment (feller/buncher)

Minor species such as Spruce and Cedar shall not be removed. Specific areas may be identified for use as landing areas by Purchaser and additional trees may be removed upon approval by CITY.

Section 5 Site Preparation/Slash Disposal in Patch Cut Areas

- 1) Slash is defined as debris resulting from harvest operations.
- 2) Slash shall be distributed over the harvest area in a manner which will allow for planting of seedlings on a 10 feet x 10 feet spacing.
- 3) Slash at the landing sites will be placed in small compact piles as directed by CITY.
- 4) No slash piling shall occur during wet periods.

Section 6 Large Woody Debris/Snags/Green Tree Retention in Patch Cut Areas

- 1) Large Woody Debris is defined as solid wood with a minimum of 12" in diameter and 4' in length.
- 2) Snags are defined as standing conifers at least 12' in height and 16" in diameter.
- 3) Operators shall leave a minimum of 20 pieces of large woody debris and five snags (if available) per acre. Woody debris should not be placed within slash piles, as practicable.
- 4) Operator shall leave a minimum of four green trees with sound live crowns per acre as directed by CITY. Leave trees shall be a minimum of 16" in diameter. Certain trees have been designated for retention and marked with a yellow W". All such trees shall count toward the leave tree requirement above.

Section 7 Road Maintenance/Use

PURCHASER is responsible for normal road maintenance on roads used for activity under this contract. Normal road maintenance shall provide for safe forest driving conditions, continuous access and road use, protection of roads from damage and water quality.

Normal road maintenance shall include any action needed to prevent and protect the road from soil contamination, seasonal weather damage, protect water quality, repair damage caused by road use and restore the road to at least the road condition at commencement of use.

Other contractors may use main access road into watershed. PURCHASER and all subcontractors shall maintain adequate communication to minimize road use conflicts. CITY must approve communication plan prior to commencement of activities.

The mainline road shall remain open and passable to the extent possible during the course of the operation. Periodic closure for culvert installation or other road improvement work shall be minimized to the extent possible. Any extended closure greater than 4 hours shall be coordinated with and approved by CITY.

During all phases of the operation to include road construction and harvest activities, approved equipment (crawler or grader) shall remain on site to allow for road maintenance as needed unless approved by CITY.

Access to the harvest areas shall be via Watershed Mainline (A Line).

The Watershed gates on A line (Watershed Mainline) must be kept closed and locked except for ingress and egress. Purchaser must secure key(s) from CITY. An approved day lock will be placed on CITY gates to accommodate log and gravel trucks

Section 8 Project Work

PURCHASER shall complete the following project work as specified under direction of CITY:

- 1) Spur 18 shall be improved to facilitate the removal of timber. Improvements shall be completed prior to commencement of log hauling to specifications approved by CITY. Additional improvements may be required on Spur 18 following harvest operations.
- 2) Spur 21 shall be improved to allow for dry weather use. Accumulated grass shall be removed, all debris blocking the road shall be removed, culverts shall be placed in locations designated by CITY, ditches shall be improved and rock shall be applied in specific areas as directed by CITY. Designated trees shall be removed from road side areas as directed by CITY to daylight the road and remove overhanging branches.
- 3) Crushed rock may be required on Mainline road as directed by CITY. Said rock shall be placed on portions of the road that indicate wear as a result of log truck use.
- 4) Deliver and spread 1 1/2 " -0 crushed rock or size approved by CITY. Rock shall be uniformly spread to a depth not to exceed 6 inches. Specific areas may require greater depth as directed by CITY. Certain road sections shall be rolled with approved equipment after rock has been placed and prior to log hauling.
- 5) All projects shall be under direction of CITY. Specific requirements under this road improvement project will be provided to Purchaser/Operator in writing during the operation.
- 6) All equipment to be used for project work shall be listed on the Operation Plan and rates to be approved by CITY prior to commencement of activities. Daily activity record shall be maintained by PURCHASER and shall be submitted to CITY on a weekly basis or as requested by CITY.
- 8) **All project work billing statements must be reviewed by CITY prior to payment.**
- 9) Cost of projects shall not exceed \$30,000.00.
- 10) Project cost shall be applied as a credit towards harvest payment(s).

Section 9 Log Management & Branding

All logs removed from the operation area shall be scaled at a location approved by the CITY. Scaling shall be performed by an approved third-party scaling organization using the Official Log Scaling and Grading Rules (as adopted by the Northwest Log Rules Advisory Group).

PURCHASER shall require the scaling organization to furnish copies each week of all scale certifications showing gross and net volumes by species and grade of all logs scaled during the week. Weight certificates showing gross and net weights for all loads purchased by weight shall be provided on a weekly basis.

All loads of logs shall be branded with an assigned and registered brand in accordance with Oregon Statutes prior to removal from the operation area.

Section 10 Log Accountability

- 1) Log load receipt books shall be presented to CITY for review and approval prior to use for this operation. Each book shall be signed by CITY representative prior to use. The entire book(s) shall be used for Spur 18 Combo Harvest 2016.
- 2) Each book shall have a minimum of 4 copies for each load; one copy to remain in the book (CITY copy), one copy for the operator, one copy for the trucker, and one copy for the scaler.
- 3) PURCHASER shall present each book to the CITY as soon as all receipts in each book have been used.
- 4) PURCHASER shall require truck driver of each load to sign the log load receipt prior to leaving the landing.
- 5) Each load receipt shall indicate the date logs are loaded, trucker, species, number of logs destination and log brand. PURCHASER shall fill out a multi-part, serially numbered load receipt completely and accurately before each truck leaves the operation area. Any load delivered to FSC (Forest Stewardship Council) delivery point shall have the CITY of Astoria chain of custody code on all copies of that ticket and annotated as FSC Pure.
- 6) PURCHASER shall provide a copy of the log load receipt to the scaler which number shall be recorded on the scale ticket.
- 7) PURCHASER shall complete a daily log summary and provide to CITY as instructed. PURCHASER shall place daily summary sheets in a location designated by CITY.

Section 11 Protection of Watershed/Security

PURCHASER shall take all necessary steps to prevent damage to stream banks, any stream course or forested wetland within or adjacent to the harvest area and to maintain security of the watershed area resulting from PURCHASERs activities.

Necessary measurements include, but are not limited to, the following:

- 1) Do not operate any equipment within 50 feet of designated streams or wet areas.
- 2) Provide adequate sediment control measures, such as waterbars, on all skid roads to minimize potential movement of sediment to streams.
- 3) No dumping of trash or any foreign material within the watershed. No spillage or dumping of petroleum products or chemicals within the watershed. PURCHASER shall keep approved spill containment materials available in all machinery and vehicles operating in the watershed. Such materials shall be provided to CITY for inspection upon request by CITY.
- 4) PURCHASER shall provide CITY approved sanitary arrangements for personnel working in the watershed prior to commencement of activities. Such sanitary equipment shall be placed within the operation area at site approved by CITY.
- 5) PURCHASER shall ensure that the main gate to the Watershed remains locked except for entry and exit. Keys provided to PURCHASER shall not be duplicated. PURCHASER shall not provide keys to subcontractors without consent of CITY.
- 6) PURCHASER shall notify CITY immediately of all reportable releases of hazardous substances. Reportable quantities are found in 40 CFR, table 302.4 for hazardous substances in OAR 340-108 for petroleum products.

Section 12 Protection from Invasive Species

PURCHASER shall ensure that all ground based equipment (harvest and project) moved onto CITY forest is free of soil, vegetative material or other debris that could hold or contain seeds. PURCHASER shall employ cleaning methods appropriate to ensure compliance with this section. Equipment shall be inspected by CITY (if requested) at entrance to the watershed. PURCHASER shall notify CITY of date and time of equipment delivery. This section does not apply to log trucks or other service vehicles used in daily transport or specific duties such as fire equipment.

Section 13 Laws and Regulations

PURCHASER shall obtain from governmental authorities all licenses and permits necessary for performance of this contract and shall comply with all state, federal and local laws and regulations applicable to its activities. Such compliance shall include but not be limited to laws and regulations relating to duties as an employer and those relating to the Forest Practices Act. PURCHASER shall be responsible for all fines and penalties incurred as a result of violating such laws. PURCHASER shall complete and submit a written plan as required under Oregon Forest Practices Act. CITY may require certain standards which exceed the minimum requirements under the Forest Practices Act such as the minimum number of leave trees per acre. Purchaser and contractors must adhere to all OSHA requirements.

Section 14 Fire Measures

PURCHASER shall use all efforts and take all precautions necessary to prevent fire on the Contract Area. Logger shall observe all fire restrictions and regulations of the Oregon Department of Forestry. PURCHASER shall furnish and maintain in good and serviceable condition water and pump equipment and fire extinguisher approved by the Oregon Department of Forestry and such other fire fighting tools and equipment and fire fighting personnel as are required by applicable laws and existing fire dangers. In the event of a fire on the Contract Area, regardless of area or cause of origin, PURCHASER shall immediately use all reasonably available personnel and equipment under PURCHASER's supervision and control to extinguish and prevent the spread of such fire and shall immediately notify Owner.

Section 15 Protection of Utility Lines

Utility lines occur on certain spurs within the watershed. In accordance with OAR 952-001-0020: *"ATTENTION: Oregon law requires you to follow rules adopted by the Oregon utility Notification Center. Those rules are set forth in OAR 952-001-0010 through 952-001-0090. You may obtain copies of the rules by call the center."* (Note: The telephone number for the Oregon Utility Notification center is (503)232-1987 / 1-800332-2344)

Section 16 Payment Schedule

The Purchase Price for timber sold under this contract shall be paid as follows:

The first payment shall be paid within 30 days of notification of high bid or before commencement of operations. The first payment shall be 10% of the total estimated bid value. The total estimated bid value shall be the sum obtained by multiplying the estimated volume by the bid price for the bid species. Bid deposit shall be applied to the initial payment.

Subsequent payments shall be made on or before the 15th day of each month for the logs removed during the previous month and scaled by independent scale bureau as required under Section 10. The payment amount will be determined by multiplying the net volume for each species by the designated amount for that species. Final payment must be received within 30 days of termination of operation.

Section 17 Contract Modifications

PURCHASER and CITY acknowledge that changes are inherent in Operations of the type covered by this Contract. The number of changes, the scope of those changes, and the impact they have on the progress of the original Operations cannot be defined at the outset of the Contract. These changes may include, but are not limited to, changes in the project specifications, project completion dates, rock sources, seasonal restrictions, Timber Sale Area resource protection requirements, harvest methods, harvest completion dates, tree harvest size limits, removal specifications, Reserved Timber specifications, haul route requirements, scaling requirements, and Timber Sale Area boundaries. PURCHASER acknowledges and agrees that PURCHASER is not entitled to any deduction in the purchase price or total purchase price solely due to the number of changes required to be made in the Contract. Each change will be evaluated on its own merit to determine if an extension of the time for performance under the Contract or an increase or decrease in the purchase price or total purchase price is warranted.

Section 18 Extension of Time

CITY may extend the time for performance of this Contract upon written request from PURCHASER or at CITY's discretion. A request for extension:

- 1) Shall be accompanied by the written consent to an extension of the security by PURCHASER's surety;

- 2) Shall state the date to which the extension is desired, the Area of Operations to be affected, and the reason(s) for the extension; and

- 3) Must be received by CITY no later than thirty (30) days prior to the expiration date of this Contract unless the need for extension occurred within the thirty (30) days prior to the expiration date, in which case the request must be received prior to the expiration date.

Section 19 Payment Bond

PURCHASER shall furnish a payment bond acceptable to the CITY guaranteeing payment for all timber harvested. Payment bonds may in the form of one or more of the following: surety bonds, cashier's check, or money order. Surety Company authorized to do business in the State of Oregon, on approved form, must write surety bonds. PURCHASER's bond shall be in an amount equal to the value of the timber estimated to be harvested (the value is equal to the estimated volume multiplied by the bid amount). PURCHASER shall keep payment bond in effect during the term of the contract.

Section 20 Harvest Tax Liability

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



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

Date: May 10, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) DECEMBER STORM DAMAGE PUBLIC ASSISTANCE GRANT CONTRACT**

DISCUSSION/ANALYSIS

During the period of December 6th through 23rd, 2015, the State of Oregon experienced a severe weather pattern that caused damaging winter storms with straight-line winds, flooding, and landslides. The City of Astoria experienced erosion along the Columbia River shoreline and a washout in a location along Pipeline Road where our 21" diameter water transmission main crosses a ravine. As a result of the widespread damage, a Federal declaration of emergency was declared on February 17, 2016 and the Federal Emergency Management Agency (FEMA) Public Assistance Program funds became available to assist communities with the repair of their damages.

Staff has been participating in the program meetings and has submitted an Initial Damage Assessment to the State Office of Emergency Management (OEM) on January 5, 2016. The official application date is May 31st, 2016. Staff will be working with FEMA and OEM staff until then preparing all of the details and paperwork for the program.

The Infrastructure Finance Authority (IFA) has notified the City that they have grant funds available to provide match for FEMA funds. Staff has discussed our project with our IFA representative and it appears that the City will be eligible. Staff is currently working on an application to the IFA for a grant to cover the matching costs of the FEMA grant.

FUNDING

The current repair estimate is \$250,000 for all of the damage identified to this point. Staff will be updating the project costs as the project develops for inclusion in the final application. The FEMA program funds 75 percent of the project which is currently estimated at \$187,500, and a 25 percent match is required, currently estimated at \$62,500. The IFA has offered grants specifically for the match portion of the FEMA grants. FEMA has informed us that we will be reimbursed for staff time for the projects along with any consultant services necessary to complete the projects.

OEM has sent the City contracts for the grant and has asked that they be signed by our Mayor. The exhibits referenced in the contract are worksheets that are produced after the contract is signed and once the damages and corresponding award amounts are determined. There will be a separate financing contract with IFA that staff will bring to council for approval at a future date.

City Attorney Henningsgaard has reviewed and approved the contract as to form.

RECOMMENDATION

It is recommended that Council accept the grant from FEMA/OEM for an estimated amount of \$187,500 and authorize the mayor to sign the contract. The grant will pay 75 percent of our actual costs.

Submitted By 
Ken P. Cook, Public Works Director

Prepared By 
Jeff Harrington, City Engineer

STATE OF OREGON
OFFICE OF EMERGENCY MANAGEMENT
INFRASTRUCTURE CONTRACT 4258-DR-OR

1.0 PARTIES TO THIS AGREEMENT

This Agreement is made and entered into by and between the State of Oregon, by and through the Oregon Military Department, Office of Emergency Management, hereinafter referred to as "OEM" and the City of Astoria, a political subdivision of the State of Oregon, hereinafter referred to as the "SUBRECIPIENT". This Agreement shall be effective upon execution by the parties and receipt of any approvals required by law and shall terminate on the earlier of: (i) as provided in Section 17 of this Agreement, (ii) the end of the Agreement Period specified below or (iii) June 30, 2026.

WHEREAS the President of the United States has declared that a major disaster exists in the State of Oregon based on damage resulting from the Severe Winter Storms, Straight-line winds, Flooding, Landslides and Mudslides from December 6-23, 2015 and

WHEREAS OEM is authorized by the 2016 FEMA-State Agreement for the 2015 Severe Winter Storms, Straight-line Winds, Flooding, Landslides, and Mudslides to execute on behalf of the State of Oregon all necessary documents for public assistance, including approval of sub-grants and certification of claims;

THEREFORE, the Parties mutually agree to the following:

2.0 PURPOSE

Federal funding is provided by the Federal Emergency Management Agency (FEMA) and is administered by OEM. Under the authority of Presidential Major Disaster Declaration FEMA 4258-DR-OR ("FEMA Declaration"), OEM is reimbursing the SUBRECIPIENT for those eligible costs and activities necessary for the repair and restoration of public facilities damaged during the period of December 6-23, 2015, in the manner described herein and in accordance with the completed Project Worksheets sheets submitted by SUBRECIPIENT and approved by FEMA and OEM. The parties understand and agree that after the project(s) described in a Project Worksheet is reviewed and approved by FEMA and OEM and determined to be eligible for funding under the FEMA Declaration in terms of an eligible SUBRECIPIENT, project and amount, then the amount(s) set forth in the Project Worksheet will be transferred from FEMA to OEM for disbursement on a reimbursement basis as set forth in this Agreement. For any project(s) that SUBRECIPIENT seeks reimbursement for under the FEMA Declaration, SUBRECIPIENT shall obtain a completed, executed and approved Project Worksheet substantially in the form of the attached Exhibit B.

3.0 TIME OF PERFORMANCE

Activities payable under this Agreement and to be performed by the SUBRECIPIENT under this Agreement shall be those activities which occurred on or subsequent to the incident period defined in the FEMA-State Agreement and shall terminate upon completion of the project(s) approved by federal and state officials, including completion of close out and audit, all as detailed in the applicable FEMA application and Project Worksheet. This period shall be referred to as the "Agreement Period."

4.0 CLOSE-OUT

It shall be the responsibility of OEM to issue close-out instructions to the SUBRECIPIENT upon completion of the project(s).

5.0 FUNDING

OEM will administer the disaster assistance program and reimburse any eligible costs for eligible projects to the SUBRECIPIENT which are identified under the auspices of the Presidential Major Disaster Declaration FEMA-4258-DR-OR and in the Project Worksheet. It is understood that no final dollar figure is committed to at the time that this Agreement is executed, but that financial commitments will be made as Project Worksheets are completed in the field and projects are authorized by state and federal officials. Each Project Worksheet that is completed, signed by FEMA and SUBRECIPIENT, and approved by OEM will constitute a new agreement that consists of the terms and conditions set forth in this Agreement and the completed Project Worksheet. OEM's obligation to disburse funds under this Agreement is contingent upon receipt of sufficient funds under the FEMA Declaration and sufficient appropriation, limitation, allotment or other expenditure authorization to make the disbursement.

The parties understand that FEMA will contribute 75 percent of the eligible project costs identified in the Project Worksheet for any eligible project, that a Subrecipient allowance may be made at the end of a project, subject to FEMA approval of documentation submitted by OEM and as provided for in subsection 3 of Section 6.0 of this Agreement, and that no state funds are obligated for contribution under this Agreement.

The SUBRECIPIENT will commit and is responsible for providing the required 25 percent match to any eligible project costs identified in the Project Worksheet.

6.0 PAYMENTS

OEM, using funds granted for the purposes of the Presidential Major Disaster Declaration from FEMA and allocated by FEMA pursuant to the applicable Project Worksheet, shall issue payments to the SUBRECIPIENT as follows:

1. Small Projects:
 - a) Small Projects are eligible for funding up to an amount designated by FEMA as provided in 44 CFR 206.205(a). For FEMA-4258-DR-OR, that amount is \$121,800.
 - b) Payments are made for all small projects to the SUBRECIPIENT upon submission of a State of Oregon Disaster Assistance Payment Request to OEM, and the subsequent approval by OEM.
2. Large Projects
 - a) Large Projects are eligible for funding in excess of the amount allowed for Large Projects, as provided in 44 CFR 206.205(b).
 - b) Partial Payments: Partial payment of funds for costs already incurred on large projects may be made to the SUBRECIPIENT upon submission of a State of Oregon Disaster Assistance Payment Request, with appropriate supporting documentation, to OEM, upon approval by OEM.
 - c) Final Payment: Final payment will be made upon submission by the SUBRECIPIENT of CERTIFICATION OF LARGE PROJECT COST, completion of project(s), completion of all final inspections by OEM, and

final approval by FEMA. Final payment may also be conditioned upon a financial review, if determined necessary by OEM or FEMA. Adjustments to the final payment may be made following any audits conducted by the Oregon Secretary of State's Audits Division or the United States Inspector General's Office.

All payment requests shall be made on a State of Oregon Disaster Assistance Payment Request Form to OEM, which references the appropriate Project Worksheet (PW), and appropriate documentation as required.

3. Funding shall not exceed the total federal contributions eligible for the repair and restoration costs under this Presidential Major Disaster Declaration FEMA-4258-DR-OR and the amount(s) approved in the applicable PW. On Large Projects, OEM reserves the right to make any inspection prior to release of any payment or at any time during the duration of this Agreement.

7.0 RECORDS MAINTENANCE

The SUBRECIPIENT shall maintain books, records, documents, and other evidence and accounting procedures and practices, which sufficiently and properly reflect all direct costs of any nature expended in the performance of this Agreement. These records shall be subject at all reasonable times to inspection, review, or audit by OEM personnel, other personnel duly authorized by OEM, the Secretary of State's Audits Division or the United States Inspector General. The SUBRECIPIENT will retain all books, records, documents, and other material relevant to this Agreement for six years after date of final payment, or an extended period as established by FEMA in 2 CFR § 200.333.

8.0 PROPERTY/EQUIPMENT MANAGEMENT AND RECORDS CONTROL AND RETENTION OF RECORDS and REPORTING

1. Property/Equipment Management and Records Control. The Subrecipient agrees to comply with all requirements set forth in 2 CFR §200.333 for the active tracking and monitoring of property/equipment. Procedures for managing property/equipment, whether acquired in whole or in part with grant funds, until disposition takes place, will, at a minimum, meet the requirements set forth in 2 CFR §200.313, 314 and 329, and the following requirements:
 - a. All property/equipment purchased under this agreement, whether by the Subrecipient or a subcontractor, will be recorded and maintained in the Subrecipient's property/equipment inventory system.
 - b. The Subrecipient shall maintain property/equipment records that include: a description of the property/equipment, the manufacturer's serial number, model number, or other identification number, the source of the property/equipment, including the, Project Worksheet number, Catalog of Federal Domestic Assistance (CFDA) number, who holds title; the acquisition date; the cost of the property/equipment and the percentage of Federal participation in the cost, the location, use and condition of the property/equipment, and any ultimate disposition data including the date of disposition and sale price of the property/equipment.

- c. A physical inventory of the property/equipment must be taken and the results reconciled with the property/equipment records, at least once every two years.
 - d. A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property/equipment. Any loss, damage or theft shall be investigated.
 - e. Adequate maintenance procedures must be developed to keep the property/equipment in good condition.
 - f. If the Subrecipient is authorized to sell the property/equipment, proper sales procedures must be established to ensure the highest possible return.
 - g. The Subrecipient shall pass on property/equipment management requirements that meet or exceed the requirements outlined above for all subcontractors, consultants and the Subrecipients who receive pass-through funding from this grant agreement.
2. Retention of Property/Equipment Records. Records for property/equipment shall be retained for a period of six years from the date of the disposition or replacement or transfer at the discretion of the awarding agency. Title to all property/equipment and supplies purchased with funds made available under the FEMA Public Assistance program shall vest in the Subrecipient agency that purchased the property/equipment, except as may be provided in 2 CFR §200.313.

9.0 AUDITS

If Subrecipient expends \$750,000 or more from all federal funding sources during its fiscal year, Subrecipient must submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with the requirements of Government and Accountability Office's (GAO) Government Auditing Standards, located at <http://www.gao.gov/govaud/ybk01.htm>, and the requirements of Subpart F of 2 C.F.R. Part 200.f. The SUBRECIPIENT is to procure, at its own cost, audit services based on the following guidelines:

As applicable, the SUBRECIPIENT must ensure the audit is performed in accordance with Generally Accepted Accounting Principles and Generally Accepted Government Auditing Standards developed by the Comptroller General; and all state and federal laws and regulations governing the program.

The SUBRECIPIENT must prepare a Schedule of Financial Assistance for federal funds that includes: Grantor name (OEM), program name, federal catalog number (CFDA-97.036), total award amount, beginning balance, current year revenues, current year expenditures and ending balance. With the submission and completion of each Project Worksheet OEM is required by 2 CFR 200.331 (pursuant to FEMA Public Assistance Program Interim Guidance on 2 C.F.R. Part 200) to complete the information set forth in Exhibit A to this Agreement. SUBRECIPIENT shall submit with each Project Worksheet any information requested by OEM that is necessary to accurately complete Exhibit A.

The SUBRECIPIENT shall maintain records and accounts in such a way as to facilitate OEM's audit requirements, and shall ensure that Subcontractors also maintain records which are auditable. The SUBRECIPIENT is responsible for any audit exceptions incurred by itself or by its Subcontractors. OEM reserves the right to recover from the SUBRECIPIENT disallowed costs resulting from the final audit.

The SUBRECIPIENT shall send the audit report to OEM's Project Administrator as soon as it is available, but no later than nine months after the end of the SUBRECIPIENT's fiscal year in which SUBRECIPIENT receives any funds under this Agreement. Responses to previous management findings and disallowed or questioned costs shall be included with the audit report. The SUBRECIPIENT will respond to OEM's requests for information or corrective action concerning audit issues within 30 days of the request.

The SUBRECIPIENT shall include these requirements in any subcontracts.

10.0 RECOVERY OF FUNDS

In the event that the SUBRECIPIENT fails to complete the project(s), fails to expend or is overpaid federal funds in accordance with federal or state disaster assistance laws or programs, or is found by audit or investigation to owe funds to the State or to FEMA, OEM reserves the right to recapture funds in accordance with federal or state laws and requirements. Repayment by the SUBRECIPIENT of funds under this recovery provision shall occur within 30 days of demand. In the event that OEM is required to initiate legal proceedings to enforce this recovery provision, OEM shall be entitled to its costs thereof, including reasonable attorney fees.

The SUBRECIPIENT shall be responsible for pursuing recovery of monies paid under this Agreement in providing disaster assistance against any party that might be liable, and further the SUBRECIPIENT shall cooperate in a reasonable manner with the State and the United States in efforts to recover expenditures under this Agreement.

In the event the SUBRECIPIENT obtains recovery from a responsible party, the SUBRECIPIENT shall first be reimbursed its reasonable costs of litigation from such recovered funds. The SUBRECIPIENT shall pay to the state the proportionate federal share of all project funds recovered in excess of costs of litigation.

11.0 CONFLICT OF INTEREST

The SUBRECIPIENT will prohibit any employee, governing body, contractor, subcontractor or organization from participating if the employee or entity has an actual or potential conflict of interest that a public official would have under ORS Chapter 244. In addition, SUBRECIPIENT must disclose in a timely manner and in writing to OEM, all violations of Federal criminal law involving fraud, bribery, or gratuity potentially affecting the funds provided under this Agreement as provided in 2 CFR § 200.113.

12.0 POLITICAL ACTIVITY

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot measure.

13.0 ASSIGNMENT

This Agreement, and any claim arising under this Agreement, is not assignable or delegable by the SUBRECIPIENT either in whole or in part.

14.0 SUBCONTRACTS FOR ENGINEERING SERVICES

In the event that the SUBRECIPIENT subcontracts for engineering services, the SUBRECIPIENT shall require that the engineering firm be covered by errors and omissions insurance in an amount not less than the amount of the firm's subcontract. If the firm is unable to obtain errors and omissions insurance, the firm shall post a bond with the SUBRECIPIENT for the benefit of the SUBRECIPIENT of not less than the amount of its subcontract. Such insurance or bond shall remain in effect for the entire term of the subcontract. The subcontract shall provide that cancellation or lapse of the bond or insurance during the term of the subcontract shall constitute a material breach of the subcontract and cause for subcontract termination. The SUBRECIPIENT shall cause the subcontractor to provide it with a 30 day notice of cancellation issued by the insurance company.

15.0 APPEALS

Consistent with the Code of Federal Regulations, 44 CFR 206.206, the SUBRECIPIENT may appeal any determination previously made related to the federal assistance for the SUBRECIPIENT. The SUBRECIPIENT's appeal shall be made in writing and submitted to OEM within 60 days after receipt of notice of the action which is being appealed. The appeal shall contain documented justification supporting the SUBRECIPIENT's position.

Upon receipt of a SUBRECIPIENT's appeal, OEM will review the material submitted, make such additional investigations as necessary, and shall forward the appeal with a written recommendation to FEMA within 60 days. Within 90 days following receipt of the appeal, FEMA shall advise OEM, in writing, as to the disposition of the appeal or the need for additional information. If the decision is to grant the appeal, then FEMA will take the appropriate implementing action.

16.0 GOVERNING LAW AND VENUE

This Agreement shall be governed and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between OEM and SUBRECIPIENT that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon provided, however, if the Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively with the United States District Court for the District of Oregon. SUBRECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

17.0 TERMINATION

1. Except as otherwise provided in this Agreement, either party may terminate this Agreement (which includes the applicable Project Worksheet(s)) upon giving thirty (30) days written notice to the other party. In the event of termination of this

Agreement, each party shall be liable only for project costs and allowable expenses incurred by the other party, prior to the effective date of termination.

2. OEM may terminate all or part of this Agreement or may change the project specifications set forth in a Project Worksheet if there is a reduction in federal funds which are the basis for this Agreement, and OEM approves the reduction.
3. OEM may terminate this Agreement, in whole or in part, immediately upon written notice to SUBRECIPIENT, or at such later date as OEM may establish in such notice, if SUBRECIPIENT commits any material breach or default of any covenant, warranty, obligation or certification under this Agreement. In its notice, OEM may permit SUBRECIPIENT an opportunity to cure the breach, default or Failure in such time and on such terms as OEM may specify in such notice.

18.0 WAIVERS

The failure of OEM to exercise, and any delay in exercising, any right, power, or privilege under this Agreement shall not operate as a waiver thereof, nor shall any single or partial exercise of any right, power, or privilege under this Agreement preclude any further exercise thereof or the exercise of any other such right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

19.0 INDEMNIFICATION

To the extent permitted by any constitutional and statutory limitations applicable to SUBRECIPIENT, including, but not limited to, provisions relating to debt limits, tort claims limits and workers' compensation, the SUBRECIPIENT shall, as required by ORS 401.145(2), indemnify, defend, save and hold harmless the United States and its agencies, officers, employees, agents and members, and the State of Oregon and its agencies, officers, employees, agents and members, from and against all claims, damages, losses, expenses, suits or actions of any nature arising out of or resulting from the activities of SUBRECIPIENT, its agencies, officers, employees, agents, members, contractors or subcontractors under this Agreement.

20.0 SUBRECIPIENT ASSURANCES

SUBRECIPIENT represents and warrants to OEM as follows:

1. SUBRECIPIENT is political subdivision of the State of Oregon. SUBRECIPIENT has full power, authority and legal right to execute and deliver this Agreement and incur and perform its obligations hereunder.
2. This Agreement has been duly authorized, executed and delivered on behalf of Subrecipient and constitutes the legal, valid and binding obligation of Subrecipient, enforceable in accordance with its terms.
3. The SUBRECIPIENT hereby assures and certifies that it will comply with all applicable state and federal laws and regulations, including, but not limited to, the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC §§ 5121-5206 (Public Law 93-288, as amended; hereafter "Stafford Act"); 44 CFR Parts 7, 17, 18 and 206, and Subchapters B, C and D; 2 CFR Part 200 (including Appendix II); the Oregon State Public Assistance Administrative Plan DR4258; Wages, Hours and Records Laws (ORS Chapter 652) Conditions

of Employment Laws (ORS Chapter 643) and Unemployment Insurance Laws (ORS Chapter 657).

4. The emergency or disaster relief work for which federal assistance is requested herein does not or will not duplicate benefits received for the same loss from any other source.
5. The SUBRECIPIENT will operate and maintain the facilities being restored using funds provided under this Agreement in accordance with the minimum standards as may be required or prescribed by the applicable federal, state and local agencies for the maintenance and operation of such facilities.
6. The SUBRECIPIENT will, for any repairs or construction financed herewith, comply with applicable standards of safety, decency and sanitation and in conformity with applicable codes, specifications and standards, and will evaluate the hazards in areas in which the proceeds of the grant are to be used and take appropriate action to mitigate such hazards, including safe land use and construction practices. SUBRECIPIENT will, prior to the start of any construction activity, ensure that all applicable federal, state and local permits and clearances are obtained including FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act and all other federal and state environmental laws.
7. The SUBRECIPIENT will not enter into a contract with a contractor who is on the General Services Administration (GSA) List of Parties Excluded from Federal Procurement or Non-procurement Programs.
8. The SUBRECIPIENT will comply with minimum wage and maximum hours provision of the Federal Fair Labor Standards Act.
9. The SUBRECIPIENT shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, color, sex, religion, national origin, marital status, or disability (physical or mental) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement (as required by Executive Orders 11246, 11375, 41 CFR Part 60-1.4(b), the provisions of which are incorporated herein by reference). A violation of this provision is a material breach and cause for termination under Section 17.0 of this Agreement.
10. The SUBRECIPIENT shall utilize certified minority-owned and women-owned businesses (MWBE's) to the maximum extent possible in the performance of this Agreement.
11. Reserved
12. The SUBRECIPIENT and its contractors, subcontractors and other employers providing work, labor or materials as a result of the application are subject employers under the Oregon Workers' Compensation Law. All employers, including SUBRECIPIENT, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its

Subcontractors complies with these requirements. This shall include Employer's Liability Insurance with coverage limits of not less than \$100,000 for each accident.

13. Reserved
14. Reserved
15. Subrecipients will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
16. Notice of awarding agency requirements and regulations pertaining to reporting. – Reporting requirements: The Subrecipient will submit a Quarterly Project Status Report (OEM Form) on all Large projects to OEM on a 3-month interval. OEM will submit quarterly progress reports to FEMA that will contain the status of all large projects that have not received final payment. The first quarterly report will be submitted on a quarterly schedule mutually agreed upon between FEMA and OEM. Quarterly reports after that date will be due in OEM by July 15, October 15, January 15 and April 15.
17. Subrecipient will comply with all applicable standards, orders or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Air Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).
18. Subrecipient shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conversation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

21.0 OWNERSHIP OF PROJECT/CAPITAL FACILITIES

OEM makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this grant of funds does not and will not acquire any ownership interest or title to such property of the SUBRECIPIENT.

22.0 ACKNOWLEDGMENTS

The SUBRECIPIENT shall include language which acknowledges the funding contribution of the Federal Emergency Management Agency (FEMA) to the project in any release or other publication developed or modified for, or referring to the project.

23.0 INSURANCE

The SUBRECIPIENT will comply with the insurance requirements of the Stafford Act, as amended, and obtain and maintain any other insurance as may be reasonable, adequate, and necessary to protect against further loss to any property which was replaced, restored, repaired or constructed with this assistance.

24.0 SEVERABILITY

If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions and applications of this Agreement shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Agreement did not contain the particular term or provision held to be invalid.

25.0 HEADINGS

The section headings in this Agreement are included for convenience only, do not give full notice of the terms of any portion of this Agreement and are not relevant to the interpretation of any provision of this Agreement.

26.0 AGREEMENT ADMINISTRATION

The Parties' representatives for purposes of this Agreement are:

For SUBRECIPIENT:

NAME Jeff Harrington, P.E.
TITLE City Engineer
ADDRESS 1095 Duane Street
CITY Astoria, OR 97103
Phone: 503-338-5173
Fax: 503-338-6538

For OEM:

Clint Fella
Alternate Governor's Authorized Representative
Office of Emergency Management
P. O. Box 14370
Salem, OR 97309-5062
Phone: (503)378-2911, ext 22227
Fax: 503-373-7833

Notices under this Agreement shall be given in writing by personal delivery, facsimile, email or by regular or certified mail to the person identified in this Section, or to such other person or at such other address as either party may hereafter indicate pursuant to this section. Any notice delivered personally shall be deemed received upon delivery. Notice by facsimile shall be deemed given when receipt of the transmission is generated by the transmitting machine. Notice by email is deemed received upon a return email or other acknowledgment of receipt by the receiver, and notice by certified or registered mail is deemed received on the date the receipt is signed or delivery is refused by the addressee.

27.0 ENTIRE AGREEMENT

This Agreement, when combined with one or more completed Project Worksheets, sets forth the entire agreement between the parties with respect to the subject matter hereof. Except for the completion of Project Worksheets, any additional terms and conditions imposed by the Federal Emergency Management Agency or OEM will be incorporated into a written amendment to this Agreement. Commitments, warranties, representations and understandings or agreements not contained, or referred to, in this Agreement with

completed Project Worksheets or written amendment hereto shall not be binding on either party. Except as may be expressly provided herein, no alteration of any of the terms or conditions of this Agreement will be effective without the written consent of both parties.

IN WITNESS WHEREOF, OEM and the SUBRECIPIENT have executed this Agreement as of the date and year written below.

Clint Fella, Alternate GAR
Office of Emergency Management
Date:

Subrecipient Signature
Printed Name:
Title:
Date:

APPROVED
FOR LEGAL SUFFICIENCY

SUBRECIPIENT - PLEASE PRINT THE
FOLLOWING TO EXPEDITE PROCESSING

Cynthia Byrnes
Assistant Attorney General
By Email
DATE:

Federal Tax ID No. (TIN): 93-6002118

DUNS #: 00-615-6467

Organization: City of Astoria

Office of Emergency Management
P. O. Box 14370
Salem, OR 97309-5062
CFDA: 97-036

Address: 1095 Duane Street
Astoria, OR 97103
Phone: 503-325-5821

Approved as to form:

Digitally signed by
com.apple.idms.appleid.prd.49317566476d
4a3867754144546f59324e744d354e773d3d
DN:
cn=com.apple.idms.appleid.prd.493175664
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CITY OF ASTORIA

Founded 1811 • Incorporated 1856

May 9, 2016

MEMORANDUM

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

Discussion & Analysis

A liquor license application has been filed by Linda Middleton for Annie's Saloon LLC. This application is a Greater Privilege for a Full On-Premises Sales Commercial Establishment License which allows the following:

- May sell and serve distilled spirits, malt beverages, wine, and cider for consumption on the licensed premises (this is the license most "full-service" restaurants obtain)
- May sell malt beverages, wine, and cider to individuals in a securely covered container ("growler") for consumption off the licensed premises
- Eligible to apply to get pre-approved to cater some events off of the licensed premises (events that are small, usually closed to the general public, and where food service is the primary activity)
- Eligible to apply for a "special event" license

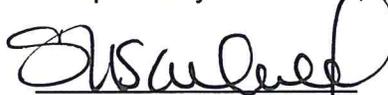
This establishment currently has a Limited On-Premises Sales License. The application will be considered at the May 16, 2016 meeting.

The appropriate Departments have reviewed the application. A memo from the Police Department is attached along with the application.

Recommendation

Staff recommends that the City Council consider this application.

Respectfully submitted,



Susan Brooks

Director of Finance & Administrative Services



CITY OF ASTORIA
FOUNDED 1811 – INCORPORATED 1856

POLICE DEPARTMENT

MEMORANDUM

DATE: MAY 06TH, 2016

TO: MAYOR AND COUNCIL

FROM: BRETT ESTES, CITY MANAGER

SUBJECT: **LICENSE RECOMMENDATION ANNIE'S SALOON**

DISCUSSION / ANALYSIS

In February 2012 The Astoria Police Department made inquiries into the liquor license application for Annie's Saloon, 2897 Marine Dr. for limited On-Premises Sales and Off-Premise sales license. Following an investigation the Astoria Police Department made a recommendation to Astoria City Council that they provide an unfavorable recommendation for the issuance of the OLCC License. Astoria City Council instead provided a favorable recommendation for the issuance of an OLCC license which is currently in use.

In April 2016, The City of Astoria received notice that Annie's Saloon 2897 Marine Dr. had applied to OLCC for a greater privilege to their current license. The greater privilege will allow Annie's Saloon to serve distilled spirits in addition to their current ability to sell malt beverages, wine and cider. Under OLCC requirements, Annie's will need to have a kitchen with food service and dining seating for 30 persons. Annie's plans to use existing cooking equipment for their kitchen. They have already received approval of the kitchen by the health department.

The Astoria Police Department has made inquiries into the liquor license application for Annie's Saloon's request for "Greater Privilege"

APPLICANT

The applicant on the license is Linda Middleton, DOB 05/26/1960. As part of the inquiry into the license application the department checked their own records, the Law Enforcement Data System (LEDS) and city business license information.

Middleton

Local Records – Middleton has 56 contacts including 23 contacts as a complainant, 16 contacts as mentioned, 5 contacts as contact, 2 contacts as finder, 4 contacts as cited, 4 contacts as victim and 2 contacts as a suspect. She was listed as a suspect in a 2013 disturbance that was classified as a landlord tenant dispute which would generally be considered non-criminal and as a result classifying her as a suspect may be a mischaracterization. She was the suspect in a domestic abuse in 2005. While at the scene of the 2005 domestic dispute she was described by the officer as being “highly intoxicated.” Middleton has been cited for Unlawful Cell Phone Use, Exceeding Posted Speed, and No Operators License. Middleton lists an also known as on the OLCC application of Archuleta and Hayes but local records are found under Middleton and Hayes.

LEDS Middleton had her license suspended in 1995 for BAC fail and a conviction on a DUII. She was also suspended for failure to install and IID in 1996. Her driving record lists another conviction for DUII in 1994.

Middleton’s Criminal History indicates several arrests listed under the last name Hayes. She was convicted for Disorderly conduct and initiating a false report in 1992. DUII arrests in 1994 and 1995 resulted in a dismissal and a conviction on the same date in 1995.

On review of Middleton’s records, there has been no substantive change from the 2012 license investigation.

PREMISES HISTORY

For the purposes of premise history I reviewed the calls for service related directly to Annie's Saloon during the period of time that Middleton has owned the business.

I reviewed each of the calls at Annie's over the past year and found that of the 35 indicated calls at the location, several did not directly involve the business as part of the principal issue; rather the business was listed due to the business being named to describe the general location of an incident. As an example there were traffic crashes on the roadway near Annie's where there was no direct link between the crash and the business. Of the calls reviewed, there were 23 calls where Annie's was principally involved with an incident. Of those calls some of the main issues dealt with noise complaints and disorderly behavior.

Since 2012 there is a demonstrated reduction in the number of calls to the premise.

Staff has met with the applicant to discuss calls for service. The applicant was quick to point out that many calls for service were the result of using the building name to indicate location for incidents that were not principally related to Annie's Saloon. The applicant has followed recommendations by OLCC to reduce outside noise by placing a self closer on their side door and directing people who wish to smoke to the front of the business near the street. Applicant indicated that she believed there may be complaints about her establishment because some people disagree with businesses that offer nude entertainment. A Calls for service table is listed at the end of this memorandum.

NEIGHBORHOOD SURVEY

A police officer was assigned to contact neighbors for the proposed license change. A total of 19 business / residents were contacted. 8 of those contacted were opposed to greater privilege for Annie's Saloon. Comments included the following:

- "there is already too many fights, noise, and people throwing things"
- "already too loud, thinks it will get worse with liquor"
- "already too noisy"
- "hell no. Already too many fights, screaming, peeing in the park".
- "it is degrading to women"
- Noise and traffic on 29th is an issue with customers who peel out in the respondent's driveway.
- Did not think it was a good idea for Annie's to serve liquor

Two people contacted said they would not object but said they did not think it was a good idea.

9 other people contacted did not object to Annie's Saloon receiving a greater privilege.

RECOMMENDATION

Staff has learned from OLCC, that despite concerns raised, the concerns would not likely rise to the level which would result in denial of the applicant's application as long as the applicant complies with OLCC's requirement for food service and dining seating. An unfavorable recommendation by the council would also have no impact on the business' ability to continue to operate on their limited license as they currently do. Should the council provide an unfavorable recommendation, such a recommendation would go to the Oregon Liquor Control Commission for review but the listed issues are unlikely to result in the Commission denying the applicant a greater privilege.

Given the listed information the applicant has demonstrated a reduction in calls for service during her time as the business owner. The applicant has made efforts to reduce noise from patrons of her establishment and is willing to consider recommendations to reduce issues. Though the impact of Annie's Saloon's ability to serve distilled spirits is unknown, the impact upon the Astoria Police Department will likely be nominal. Issues that arise may be handled through enforcement by the Astoria Police Department and the Oregon Liquor Control Commission.

ACTION RECOMMENDED

Given the stated lack of impact that any recommendation would have, staff recommends that Council either make a favorable recommendation or simply not make any determination and allow the license to be processed with no local government input.



Eric Halverson
Deputy Chief of Police

OffenseDescription	Year				
	2012	2013	2014	2015	2016
ASSAULT	2				
ASSIST OTHER AGENCY	5	2	3	6	
ASSIST RENDERED		2			
DHS REFERRAL			1		
DISTURBANCE	42	37	13	15	4
DUII					1
EMERG MEDICAL RESPONSE	1	1			
FOLLOW UP ENTRIES			4		
FORGERY/FRAUD		1			
HANGUP 911			2		
INFORMATION	4	1			
INTERVIEW, FIELD	1		5	1	
LIQUOR VIOL	1	1			
MISCELLANEOUS			2	2	1
MOTOR VEH ACCIDENT	3			2	1
MOTOR VEH ACCIDENT INJURY					1
MVA,HIT & RUN	2				
OTHER ALL	10	3	5		
PHONE CONTACT		1			
PROPERTY CRIMES	2	1	6		
PROPERTY FOUND		1	2	1	
REST ORDER ENTRY		1			
SUSP CIRCUMSTANCES	5	3			
TOW INFO				1	
TRAFFIC CITE				1	
TRAFFIC COMPLAINT	1			1	
TRAFFIC ROADS		1			
Traffic Stop		1		1	
TRESPASS			3		
WARRANT ARREST		3			
WARRANT INFORMATION		1			
WELFARE CHECK			1	1	
Grand Total	80	61	47	32	8

OREGON LIQUOR CONTROL COMMISSION
LIMITED LIABILITY COMPANY QUESTIONNAIRE



Please Print or Type

LLC Name: ANNIE'S Saloon LLC Year Filed: 2012
Trade Name (dba): ANNIE'S Saloon LLC
Business Location Address: 2897 Marine Dr
City: Astoria Oregon ZIP Code: 97103

List Members of LLC:

Percentage of Membership Interest:

- | | |
|--------------------------------------------------|-------------|
| 1. <u>Linda S Middleton</u>
(managing member) | <u>100%</u> |
| 2. _____
(members) | _____ |
| 3. _____ | _____ |
| 4. _____ | _____ |
| 5. _____ | _____ |
| 6. _____ | _____ |

(Note: If any LLC member is another legal entity, that entity must also complete an LLC, Limited Partnership or Corporation Questionnaire. If the LLC has officers, please list them on a separate sheet of paper with their titles.)

Server Education Designee: Linda S Middleton DOB: 05-26-60

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

Signature: Linda J Middleton owner Date: 05-29-16
(name) (title)



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

MEMORANDUM

DATE: May 12, 2016
TO: MAYOR AND CITY COUNCIL
FROM:  BRETT ESTES, CITY MANAGER
SUBJECT: APPROVE LOAN GUARANTEE USING REVOLVING LOAN FUNDS FOR RENOVATION OF ASTORIA ARMORY

BACKGROUND

Craft 3, a local Community Development Financial Institution, purchased the Astoria Armory on behalf of the community in 2014. The City of Astoria provided a loan guarantee for the acquisition using the Revolving Loan Fund (also referred to as the "DQ Fund"). The Friends of Astoria Armory (Friends) is a local, 501c3 non-profit that formed to own and operate the Armory for the community. The Friends have negotiated a low interest USDA loan through Craft 3 to purchase and operate the building and immediately begin a capital campaign. Craft 3 recently approved this loan package. The Friends, in conjunction with Craft3, have requested the use of the Revolving Loan Fund to offset the cost of new windows at the historic building. The Historic Landmarks Commission approved a restoration plan using metal windows in January 2016. The USDA will not provide loan funds for the window restoration because they do directly generate revenue for the operations and therefore cannot be used to underwrite a loan.

The City funds would be allocated in the form of a loan guarantee that would backstop the USDA loan. This is a low risk method of providing City support. These funds would be tied up for the duration of the loan period. The cost of the window project is approximately \$90,000 and so the City's funds would be used to guarantee over a five year period as the Friends pay down the debt.

City staff requested a few items from Craft 3 to protect the City's investment: 1) charge loan fees in lieu of interest on a loan that would go back into the revolving loan fund for another project, 2) allow staff to review loan disbursements and construction progress reports before signing off disbursements, and 3) Craft 3 has pledged to work with city staff on a future project that would effectively replace city funding that is tied up for the five year period assuming the type of project meets project goals and objectives for both organizations.

Attached are supporting documents for reference, including: Craft 3 prepared loan terms (shown as Exhibit A) and the Friends background info and business plan. Both Craft 3 and the Friends are expected to present on this request to the City Council on May 16th based on the economic development potential as well as the community benefits.

MEMORANDUM OF UNDERSTANDING

This memorandum is intended to outline the plan of action between Craft3 and the City of Astoria for the investment of funds for restoration work in the Astoria Armory.

In 2013 the Columbia River Maritime Museum ("Museum") reached an agreement with the Astor East Urban Renewal District and the City of Astoria ("both referred hereafter as "the City") for the sale of the Astoria Armory and adjoining parking lot for \$250,000 and other considerations;

The City desired to acquire and hold the adjacent parking lot to support the U.S. Coast Guard's use of the 17th Street Pier, but had no need or desire to own the Astoria Armory;

The City hoped to complete its agreement with the Museum and acquire the parking lot without the expenditure of funds for buying the Armory;

Craft3, a non-profit community development financial institution, agreed to assist the City in this transaction by acquiring the Armory for re-sale on the terms set forth in the December 2013 Memorandum of Understanding between the City and Craft3;

The City pledged proceeds from the Revolving Loan Fund, on deposit with Craft3, to reimburse Craft3 50% of any loss and in turn receive 50% of any profit realized from the sale of the Armory (below or above the sales price of \$250,000, as applicable);

Craft3 has entered into a sales agreement with the Friends of the Astoria Armory, with the Friends purchasing the Astoria Armory for \$250,000, thereby releasing the City from the terms stated in the December 2013 Memorandum of Understanding between the City and Craft3;

Craft3 has worked with the Friends of the Astoria Armory to secure a USDA B&I Guaranteed Loan in the amount of \$500,000 which will be used for improvements that would assist the Friends in acquisition and revenue generation improvements for the facility;

Craft3 and the Friends of the Astoria Armory have worked with the City to secure additional funding to be used for window replacement / restoration. Funds from the USDA loan could not be used for that purpose since the windows are a safety / building maintenance issue, and not an improvement that would generate revenue. A total of \$90,000 is needed for the window project.

The City pledges proceeds from the Revolving Loan Fund, currently on deposit with Craft3, to guarantee the window project loan for a five year period.

THEREFORE, it is hereby agreed by and between the parties as follows:

1. The terms contained in the December 2013 Memorandum of Understanding between Craft3 and the City will be satisfied upon sale of the Astoria Armory Building to The Friends of the Astoria Armory for \$250,000, with no reimbursement or gain to the Revolving Loan Fund.
2. The City will pledge Revolving Loan Funds on deposit with Craft3 to Craft3 in form acceptable to Craft3 as guarantee for the window project loan. The terms contained in Exhibit A shall control with regards to the Loan (referenced as 16994-B) which includes the window project to be funded with Revolving Loan Funds to be funded with the loan proceeds from the Craft3 / Revolving Loan Guaranteed loan.
3. In a default scenario, Loan 16994-B would be subordinate to the USDA B&I Guaranteed Loan. As a part of the performance conditions for both the USDA and Craft3 / Revolving Loan Fund Guaranteed loans, there shall be provisions for the Friends of the Astoria Armory to perform an orderly and voluntary liquidation of assets to give the Friends of the Astoria Armory the ability to repay the USDA B&I and Craft3 / Revolving Loan Fund Guaranteed loans to their best ability reducing any potential loss.

ACCEPTED THIS _____ DAY OF _____, 2016

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

CRAFT3

BY: _____
Arline LaMear, Mayor
Officer

BY: _____
Walt Postlewait, Chief Lending

BY: _____
Brett Estes, City Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

City Attorney

Attorney for Craft3

Background of Astoria Armory:

The Astoria Armory was acquired by Craft3 to facilitate the transfer of ownership and use of the property involving multiple parties. The Armory was owned by the Columbia River Maritime Museum and used as storage. The City of Astoria / Astor East Urban Renewal District ("City") wanted to acquire the parking lot adjacent to the Armory to support the U.S. Coast Guard's use of the 17th Street Pier. The City had no need, desire or funding available to acquire the Armory building itself, so Craft3, seeing the value of the asset to the community, stepped in to make the purchase. Craft3 currently leases the facility to the non-profit, Friends of the Astoria Armory ("FOAA") and is working on a loan package to sell the building to FOAA and provide additional financing (utilizing guarantees from both the City of Astoria and the USDA) for much-needed renovations.

The funding needed for the overall project (\$590K) includes the acquisition of the building by FOAA (\$250K – per MOU between Craft3 and City dated 12/2/13); renovations for windows, doors, restrooms, kitchen, stairways, acoustics, roof repairs, electrical and other work as well as contingencies (\$291K); equipment purchases (\$15K); with the balance going to loan fees, closing costs and a reserve account. Loan 16994-A will be a \$500K request with a USDA B&I guarantee (subject to USDA final approval) for the bulk of the project costs. Loan 16994-B will cover the remaining \$90K needed specifically for the windows. The Historic Landmarks Commission met on 1/19/16 to discuss FOAA's application for the window replacements and the motion was passed unanimously. Craft3 will seek a guarantee from the City in the amount of \$90K for Loan 16994-B to cover the cost of the windows, which do not generate revenue but are critical for safety and weatherization.

Present capacity of the Armory is limited to 700 people but could increase to over 2,000 with the installation of the north stairs and door repairs.

Other local "competitors" would include:

- Astoria Event Center (max occupancy of 299 according to the website)
- Astoria Elks Lodge (ballroom capacity is 350)
- Astoria High School (auditorium 880, gym 2,000)
- Clatsop Community College (gym 350, performing arts center 250)
- Clatsop County Fairgrounds (main hall 400, arena up to 2,600)
- Seaside Convention Center (max capacity of 1,200) – this venue reportedly turns away 30-40 events per year due to unavailability

The renovations are needed to allow for increased capacity at the Armory, safety issues and attract larger events to the facility to help it become sustainable and once again serve as a community asset.

Borrower: Friends of the Astoria Armory, an Oregon non-profit

Guarantors:

- Loan 16994-B: Requesting guarantee from the City of Astoria; this guarantee would be in place for the first five years of the loan term and would step down over those five years. The current schedule for the stepdown is as follows, but is subject to negotiation and final approval by the City:
 - Year 1: \$90,000
 - Year 2: \$90,000
 - Year 3: \$70,000
 - Year 4: \$50,000
 - Year 5: \$30,000
 - Thereafter: \$0

The stepdown would continue as long as the loan is not in default or forbearance. In all cases, the lesser of the amount shown above and the outstanding balance of the loan would represent the City's guarantee obligation.

Loan Amount:

- Loan 16994-B: \$90,000

Months to Maturity: 60 months (both loans) if the USDA guarantee is *not* obtained, 336 months (both loans) if USDA guarantee is obtained on Loan 16994-A.

Amortization in months: 330 following an interest-only period of 6 months

Disbursement: An initial lump sum disbursement for purchase of the building and for loan fees / closing costs, followed by further disbursements to pay for construction work, equipment purchases, and finalizing the potential guarantees.

Collateral:

- Loan 16994-B
 - 2nd DOT on Armory, subordinate to Loan 16994-A (USDA)
 - blanket 2nd UCC on all FOAA assets

Fees:

- Craft3 loan fee of 1.5%
- If the City of Astoria guarantee is obtained, guarantee fee of 1.5% charged on the full value of loan 16994-B
- If the City of Astoria guarantee is obtained, ongoing annual renewal fees equal to 0.25% of the applicable guarantee level for that year according to the stepdown schedule presented above
- If the plan for improving the basement is not delivered by the end of month 12 of the term, a fee of 50bps will be charged against the outstanding balance of both loans. Additional fees equal to 25bps charged against the outstanding balance of the loan will be charged at the end of each subsequent quarter until an acceptable plan is delivered. Craft3 reserves the right to waive these fees at the discretion of Credit Risk Management.
- If the implementation of the plan for improving the basement is not commenced by the end of month 24 of the term, a fee of 50bps will be charged against the outstanding balance of both loans. Additional fees equal to 25bps charged against the outstanding balance of the loan will be charged at the end of each subsequent quarter until implementation begins. Craft3 reserves the right to waive these fees at the discretion of Credit Risk Management.

Rate:

- WSJ Prime + 1.75% (currently 5.25%), no floor or ceiling, adjustable quarterly.
- Assuming the USDA guarantee is obtained and the term of the loan is 336 months, the spread will increase by 350 bps after month 60 of the term (subject to the concurrence of the USDA)

Repayment: Interest only period of 6 months for both loans, then P&I payments on Loan 16994-B as follows:

- P&I payments occurring in 2016: \$427 per month
- P&I payments occurring in 2017: \$427
- P&I payments occurring in 2018: \$458
- P&I payments occurring in 2019 up to month 36 of the term: \$488
- P&I payments occurring after month 36 of the term: An amount that fully amortizes the remaining loan balance over the remaining term of the loan, currently estimated at \$529 per month starting in month 37 (although the payment amount would increase as a result of any interest rate increases)

Prepayment Penalty: none

Performance Conditions

1. Borrower to support Craft3 in pursuing a USDA B&I Guarantee for loan 16994-A by providing any required information or documents.
2. Borrower to support Craft3 in pursuing a guarantee from the City of Astoria for loan 16994-B by providing any required information or documents.
3. Borrower shall attain a ratio of EBIDA to Debt Service at thresholds specified below, tested at the end of each fiscal year for the preceding 12-month period, beginning on December 31, 2016. "EBIDA" means Net Income PLUS Interest, Depreciation and Amortization (EBIDA) LESS dividends and distributions. "Debt Service" means 12 months of full loan payments to all creditors. For the avoidance of doubt, deposits into the Reserve Fund (described below) will not be counted as an expense in the numerator or as debt service in the denominator of the DSCR calculation.
 - a. 12/31/2016: 1.10x
 - b. 12/31/2017: 1.15x
 - c. 12/31/2018 and after: 1.25x
4. Borrower to conduct fundraising campaign(s) or obtain grants to raise no less than \$10,000 during calendar year 2016 and no less than \$25,000 during calendar year 2017.
5. Borrower shall maintain Working Capital in excess of \$10,000, tested at the end of each fiscal year. "Working Capital" means Borrower's Current Assets less Borrower's Current Liabilities. "Current Assets" and "Current Liabilities" shall have the meanings defined by GAAP.
6. Craft3 will pay the annual renewal fee charged by the USDA for the guarantee (fee is equal to 0.5% of the outstanding loan balance at the end of each year). Borrower to reimburse Craft3 for this fee upon receipt of an invoice from Craft3.
7. Craft3 will pay the annual renewal fee charged by the City of Astoria for the guarantee (fee is equal to 0.25% of the guaranteed portion of the loan as specified in the Summary of Terms section). Borrower to reimburse Craft3 for this fee upon receipt of an invoice from Craft3.
8. Borrower to establish a Reserve Fund to support necessary repairs for the building or other unexpected costs.
 - a. This account will be controlled by Craft3. In order to make a draw on the account, the Borrower must receive approval from Craft3.
 - b. The fund will have a target balance of \$20,000.
 - c. Any unused loan proceeds remaining after all other costs have been paid will be deposited into the reserve account, up to a maximum of \$20,000.
 - d. In each month in which the actual balance is below the target balance of \$20,000, Craft3 will draw an additional \$250 along with the regular debt service payment and deposit those extra funds into the account. The Borrower may make additional deposits to the account at any time, whether to bring the account up to the target balance or to accumulate surplus funds in the account.
9. In the event of a default on the Craft3 loans that results in a foreclosure, the Borrower will agree to perform an orderly and voluntary liquidation of assets sufficient to fully repay the Craft3 loan and associated costs.
10. By the end of month 12 of the term, FOAA must submit to C3 a plan for converting the basement area of the Armory into a revenue-producing asset. The plan must include financial projections, based on reasonable assumptions, that show a combined 12-month DSCR for the upstairs and

basement together of no less than 1.50x. Failure to meet this deadline will incur additional fees as described in the fee portion of this memo. Note that if the Borrower's DSCR is already in excess of 1.50x, this condition will be deemed satisfied.

11. By the end of month 24 of the term, FOAA must commence implementation of the strategy to convert the basement area of the Armory into a revenue-producing asset. FOAA to notify Craft3 when implementation begins (implementation can be the commencement of construction if build-out is required, the beginning of lease payments by the basement tenant if no construction work will be done, etc.). Failure to meet this deadline will incur additional fees as described in the fee portion of this memo. Note that if the Borrower's DSCR is already in excess of 1.50x, this condition will be deemed satisfied.
12. Borrower shall attain a ratio of Debt to Tangible Net Worth of less than 4.00 to 1.00 tested at the end of each fiscal year, beginning on December 31, 2016. "Debt" means all of Borrower's liabilities excluding Subordinated Debt. "Subordinated Debt" means indebtedness and liabilities of Borrower which have been subordinated to Craft3 by written agreement. "Tangible Net Worth" means Borrower's total assets excluding all intangible assets (i.e., goodwill, trademarks, patents, copyrights, etc.) less Total Debt.
13. As required by the USDA, certain covenants must be included in the loan documentation (the full list of these covenants is provided in Appendix D). Most of the covenants are included in the standard Craft3 BLA or are otherwise addressed above. Some of these covenants appear to not apply to this loan (e.g., officer compensation) and have been marked as such in the appendix as advised by the USDA.

Covenants related to the planned building improvements:

1. Craft3 must approve all change orders related to the construction work that will be financed with the Craft3 loan proceeds.
2. All disbursements to the contractor for work completed will be supported by invoices, lien waivers, and inspections of the work performed as listed in the invoice. As noted in the closing conditions, it may not be feasible to obtain third party construction monitoring services for this project given the Armory's location, and an alternative strategy developed by Risk Management and the lender prior to closing may be used instead.
3. The City of Astoria will also require that a City employee (Kevin Cronin, Community Development Director) be present during any inspections and sign off on the draw requests.
4. Any future construction work or equipment purchases (i.e., not included in the budget to be funded by the current Craft3 loans) must be approved by Craft3. It is anticipated that approval of any major construction work would be supported by at least the following:
 - a. The budget for any construction work must include a budgeted contingency equal to at least 15% of the cost of the work
 - b. The budget must be supported by a signed bid from a contractor for construction work and/or pricing information for any equipment to be purchased
 - c. The Borrower and any contractor must execute a construction contract
 - d. The plan must demonstrate that sufficient funding for the work/equipment exists and that the implementation of the work, through any disruptions in the operations of the facility or by draining the resources of FOAA, will not cause a material adverse effect on the ability of FOAA to meet its debt service obligations on the Craft3 loan

If the USDA B&I Guarantee is obtained for loan 16994-A, certain features of the proposed structure outlined in the Summary of Terms section below would change:

- The term for both loans would extend to 336 months, inclusive of the six-month interest-only period.
- The amortization for both loans would remain unchanged at 330 months, but the balloon payment due at the end of the 60-month maturity would no longer be required as the loan would be fully amortizing.

For the avoidance of doubt, no changes would be required if the City of Astoria guarantee for loan 16994-B is not obtained.

Astoria Armory

Astoria, Oregon



Photo by Damian Mulinix

Business Plan 2015-2016

Friends of the Astoria Armory

*A Non-Profit Organization Improving Astoria's Quality of Life by
Hosting Community Programs, Athletic and Special Events, Music, and
Entertainment in the Historic Astoria Armory*

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Youth Skating ("SRDines") event at the Astoria Armory

Cover Photo: Astoria Armory Opening Day, June 28 2014, Shanghaied Roller Dolls Derby Bout

Executive Summary

In only nine months, Friends of the Astoria Armory have made substantial progress in their vision to transform the historic but long neglected Armory into a vibrant hub of community activities and entertainment improving Astorians' quality of life, and supporting local economic development.

Strong community support, coupled with the extraordinary efforts of an army of dedicated community volunteers, board members, one paid staff member, and the generous support of Craft3, have given the "New" Astoria Armory a new lease on life.

Craft3 handed FOAA the keys to the Armory in early June 2014 and less than 3 weeks later, FOAA hosted its first public event, a SOLD OUT Shanghaied Roller Dolls bout. Thanks to hundreds of volunteer hours spent scrubbing and removing years of dirt and bird droppings, and assorted repairs and maintenance, the 500 attendees (the capacity limit set by the City) enjoyed an invigorating sporting and entertainment event.

Since then, FOAA has successfully hosted 135 events and activities including a regular Friday evening Community Skate Night, fairs, a symphony orchestra concert, Roller Derby bouts, private parties/catered events, free dental and medical clinics, and a Futsol (indoor soccer) league, among many others.

Near term commitments include not only a continuation of past activities but major new booked events which will increase both revenue and regional awareness of the Armory:

- In June 2015 the Armory will serve as "Goonie Central" during the week-long 30th anniversary celebration of the Goonies movie, expected to draw tens of thousands of visitors to the North Coast. 6 days @ \$700/day will bring in \$4,200 in revenue.
- Clatsop Community College intends to lease the Armory for at regular intervals during its year-long renovation of Patriot Hall
- Several weekend markets/fairs have already booked the Armory for Fall 2015.

Community support for the Armory, as evidenced by both participation and attendance at Armory events *and* dedicated volunteer hours, continues to grow. From June 2014 through March 2015, **volunteers donated 7,198 man-hours** cleaning and maintaining the facility, and manning various positions during events. **At a nominal value of \$10/hour, this equates to \$71,980 in-kind contributions. At the industry standard (Corporation for National and Community Service) volunteer valuation of \$22.55/hour, this equates to a \$162,314 donation.** This does not include the Board of Directors' time.

Additionally, FOAA has received over \$18,000 in monetary contributions and \$33,200 in discounted materials and services.

Using some of the donated labor and material, FOAA has made numerous facility improvements. Despite enormous progress in 9 months, **the Armory requires substantial facility improvements in order to realize its full potential.** Armory capacity is limited by the lack of a north side entrance. The historic bathrooms are inadequate for large crowds and are not ADA compliant. The stage and acoustics are poor. There are several leaks in the roof and walls, and rusted out original metal window frames. The lack of a commercial kitchen limits potential concession sales, as well as the ability to hold culinary events and classes.

With these and many other facility improvements and repairs, the Astoria Armory will be able to attract major shows/fairs, concerts and other entertainment and community events which will both fulfill FOAA's vision for the Armory, and generate substantial revenue. FOAA will use these additional revenues to fund loan repayment, ongoing maintenance of the aging facility, and offer discounted rates to non-profit organizations wishing to use the Armory for events targeting underserved members of the community.

The future of the Astoria Armory is bright! FOAA is excited about the tremendous progress made to date, and the potential to dramatically ramp up our services and events over the next few years. FOAA envisions the day when the Armory is one of Astoria's showcase attractions, and an anchor of the downtown business community.



Dedicated Volunteer and Retiree Ardee Chapman

Astoria Armory Business Concept and Market

The business concept is fairly simple. There is a dearth of indoor activities in Astoria, a town which suffers inclement weather much of the year. The Armory is the largest space in Astoria capable of holding athletic, health and wellness, musical, entertainment, educational and community events, and it was essentially abandoned for many years. There is pent up demand for these activities. **Open it, and they will come.** This concept has been validated operationally since the doors first opened in June 2014. **There is clearly a demand for the space the Armory provides, and community support for the concept.**

In its current state, the primary market is residents, businesses and community organizations in Astoria and its close neighbors on the North Coast. With needed facility improvements increasing the building capacity to 2,000+ people, the Armory can host events drawing visitors from as far away as Portland and Seattle.

Current marketing is limited to regular postings in the Daily Astorian Weekend section, local radio ads and interviews, membership in the Chamber of Commerce, the website www.astoriaarmory.com and flyers posted around Astoria. Future plans include more aggressive internet marketing, use of social media, and signage on the Armory.



Mayor's Ball, October 2014

Astoria Armory Value Proposition and Competitive Advantage

The Astoria Armory provides something no other Astoria venue can: a large, high capacity seating venue in the downtown area capable of hosting myriad events ranging from sports to concerts and fairs. As a non-profit, it seeks to offer discounted rates to community programs serving underserved community members such as our dental and medical clinics. The Armory has a small army of dedicated volunteers who staff events and clean and maintain the facility. It can host indoor markets and fairs which would otherwise have to travel to the Clatsop County Fairground. Because of its location, it draws people downtown, some of whom then go on to patronize other downtown businesses.

The fact that, less than a year after its opening, the Armory is sought out by such groups as Columbia Memorial Hospital for a major (400 attendees) employee event (March 31 2015), the Astoria-Warrenton Chamber of Commerce for the Goonie Anniversary Week (June 1-8 2015), and Clatsop Community College for Patriot Hall displacement class/gym space (Sept 2015 – Aug 2016) demonstrates the Armory's competitive advantage.

Additionally, FOAA Directors met with the Seaside Convention Center Executive Director, who told them he turns away 30-40 events per year due to unavailability, and that with facility upgrades he would gladly direct these events to the Astoria Armory. **There is clearly a need for additional large event space on the North Coast;** the Armory meets this need.

As FOAA's capacity to host larger events grows, Astoria's business community, including hotels, restaurants, brewpubs, and retail stores will benefit from visitors coming to Astoria to attend concerts, trade shows, markets and sporting events.



Columbia River Symphony, August 2014

Astoria Armory Key Success Factors

Facility Improvements/Repairs and ROI: Revenue generation is severely limited by our 700 person seating capacity, poor acoustics, lack of commercial kitchen and outdated restrooms among other deficiencies (see next page). FOAA forecasts a minimum ROI of \$20,000 in year one after improvements are made, with annual increases to follow:

- 12 additional full day event rentals per year @ \$700 rental = \$8,400
- 1,000 person event @\$20 ticket with 10% of ticket sales plus \$1/building fee = \$3,000. Add \$1,000 concessions for \$4,000 revenue per event three times a year.

Expansion of the Board of Directors: The Board will recruit new members to accommodate needed committees including Resource Development, Facility/Infrastructure, Special Events and Volunteer Management.

Development of Revenue Stream from Basement: FOAA is pursuing several options to bring revenue paying tenants into the climate controlled basement. One firm has expressed interest in the creation of office spaces with indoor parking. FOAA is also seeking interested parties to develop a commercial kitchen/restaurant space. The north walls windows, currently closed off, offer exceptional Columbia River views. Our backup plan if these concepts do not materialize is to rent storage space in the basement.

Fund Raising: FOAA received over \$18,000 in cash donations during its first 9 months. There has not yet been a capital campaign. Director Stein recently formed a Resource Development Committee, and has obtained commitments from several prominent community leaders to serve on the committee and provide expertise in seeking large donations for specific needed projects.

The Directors' goal is a multi-year capital campaign targeting \$25,000, \$50,000 and \$75,000 in years 1, 2 and 3 respectively. The Directors also have a goal for the next year of developing grant-writing expertise and applying for appropriate grants. The Directors have made presentations to the Astoria City Council, Chamber of Commerce, civic clubs, and Astoria Downtown Historic Association.

Staff expansion: Finally, once the above have been accomplished and adequate revenue generated, additional staff at at least a part time status will be extremely helpful, especially in such areas as facility maintenance and event management.

Contingency Plan: In the unlikely event revenue does not exceed expenses during the first year of ownership, FOAA will focus not on an "exit strategy" but a "fix-it" strategy. The chief focus will be ramping up our marketing efforts to more widely publicize the facility, and bring in more events and rentals. Awareness of the Armory is growing steadily, but there are still a huge number of potential clients who do not know of our existence.

Astoria Armory Facility Requirements: Short Term

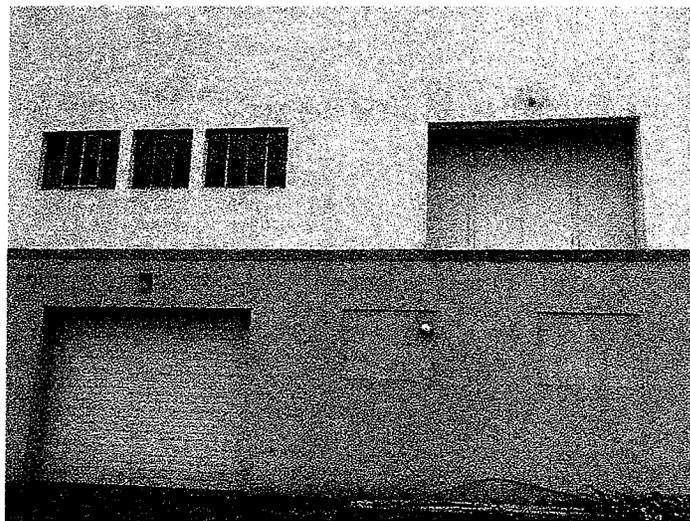
Repay outstanding balance for construction of northeast exit stairs	- \$15,000
Construct north side exit stairway	- \$30,000
Modernize male and female restroom facilities; expand into old shower	- \$30,000
Roof leak repairs	- \$20,000
Sound system	- \$15,000
Acoustic engineering	- \$15,000
Commercial kitchen	- \$25,000
Lobby remodel including floors	- \$15,000
HVAC improvements	- \$20,000
Window replacement and repairs	- \$10,000
Exterior painting and signage	- \$20,000
Chairs and tables for events	- \$20,000
Gym equipment	- \$15,000
TOTAL:	\$250,000



Dedicated volunteer Jawna Bowman transforms a side room into a suitable space for a planned Children's Reading Program



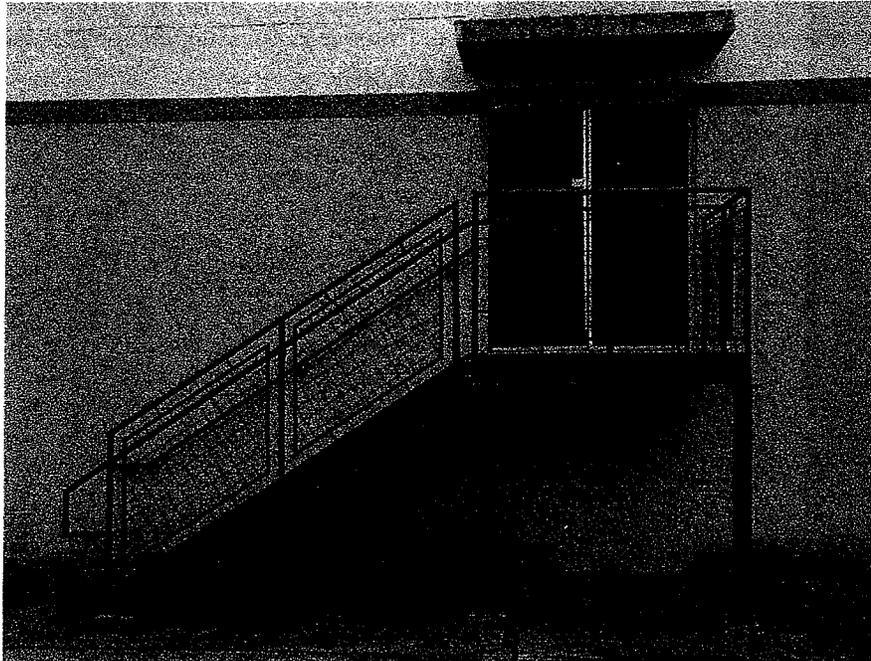
Leaking wall and window above Armory NW exit, interior view (L) exterior view (R). Note badly rusted and deteriorated original steel frame windows, which need replacement throughout the Armory.



Armory north side showing four exit doors with 14 foot drop to the ground; doors are blocked from the inside. Construction of a staircase and landing will allow tripling of permitted crowd capacity. Note that lower level has riverview windows which have been blocked in with cinderblocks. Restoring views creates new possibilities for use of the space.



Cracked and crumbling unused chimney on west side



FOAA had staircase built on the northeast corner in order to receive City permits for 500 person event occupancy. FOAA has been steadily repaying debt to builder.

Astoria Armory Facility Requirements: Long Term

After initial requirements outlined on page 8 are met, fund-raising efforts will concentrate on meeting numerous long term needs to maintain the 70+ year old Armory, as well as fulfilling "wish list" items to make the Armory more attractive and desirable to potential users. These include:

Exterior:

- Re-roof building
- Replace windows not done in initial phase
- Paint entire building
- Signature ID paint/signage
- Exterior Lighting
- LED reader board for north wall

Interior:

- Lighting
- Painting
- Refinish floor
- Rehab stage with new curtains, sound deadening and lighting to theater-ready condition
- Major bathroom remodeling
- Rehab VIP/balcony area with booths, tables and lighting
- Scoreboard
- Retractable basketball hoops and other athletic equipment

Mechanical:

- New HVAC system
- Upgrade commercial kitchen with prep area
- Point of sale system to track attendance and concessions

Friends of the Astoria Armory Organization Structure

FOAA filed for but has not yet received 503(c)(3) status. FOAA has 6 board members and one paid staff member, the Events Coordinator. The Board and staff have regular meetings twice monthly and other meetings as necessary. The Events Coordinator has monthly meetings with the volunteers as well as more frequent "as necessary" meetings prior to events.

Armory Location: 1636 Exchange Street, Astoria OR
Mailing Address: PO Box 777, Astoria OR 97103

Directors



Board President Bruce Jones completed a 30 year Coast Guard career in 2014, retiring in command of Sector Columbia River and Air Station Astoria. After three decades living and raising three sons in a dozen East Coast, Gulf Coast and Great Lakes communities, Bruce and his wife Linda grew fond of Astoria's character, history, beauty and strong sense of community, and made Astoria their permanent home. Earlier, Bruce served as Chief of the Coast Guard's Office of Strategic Analysis in Washington, DC. He commanded Sector Lake Michigan, and Air Station New Orleans, leading rescue operations during Hurricane Katrina. He holds a Master's in Public Administration from Syracuse University, and B.A. from Washington and Lee University. Bruce is a Trustee of the Columbia River Maritime Museum, and serves on the boards of the Astoria Public Library Foundation and Friends of the Astoria Column. For kicks and spending money he works as a helicopter pilot, flying the Columbia River Bar Pilots to and from their ships.



Board Vice President Sean Fitzpatrick spent his childhood summers working in the hay fields along the Young's River and the family's farm on banks of Young's Bay. His lifetime goal was to buy The Illahee Apartments and retire in Astoria. For over 30 years, Sean worked in the real estate industry in California and Oregon. His background includes a Bachelor's Degree in Business with a concentration in Finance and Property Management. He has used that in his career working in lending, leasing, sales and development of residential, commercial and industrial properties. He has restored, refurbished or upgraded several properties and looks forward to re-opening the Astoria Armory as an asset to be enjoyed by the community.



Board Treasurer Greg Peterson's first introduction to Astoria was in the summer of 1977, venturing with his father who chartered fishing vessels for deep sea fishing entertaining clients for Schnitzer Steel. His father would entertain clients at the old Red Lion Hotel with Pig N Pancake being a favorite stop every morning before the boat would leave. Greg grew up in McMinnville, Oregon graduating from Linfield College also in McMinnville. After 16 years of employment with Pepsico, where he met his beautiful wife Sydney Van Dusen, they decided to leave the fast pace life of Northern California and move to Astoria in search of balance between work and family. Greg moved into banking as a Commercial Loan Officer and is currently with Clatsop Community Bank in Seaside. Greg is currently serving on the Lower Columbia Hospice Advisory Board and just completed his tenure serving as President of Astoria Golf and Country Club in 2012.



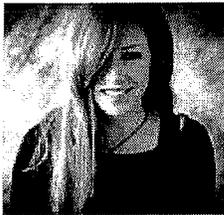
Board Secretary Sarah Bunce spent her childhood years growing up in Ohio, California and Portland, Oregon. Her high school years were spent in Mount Hermon, MA and then she attended college at the University of Oregon and UNLV in their Hospitality Management program. Sarah spent the last fifteen years marketing, selling and executing corporate and incentive events in Las Vegas, NV and Monterey, CA. In 2014 Sarah decided to return to the Pacific Northwest because of its beauty, history, culture and to be closer to her family. Sarah balances her professional career with volunteer activities, travel and walking on the beach with her beloved yellow lab, Oxford. Sarah is thrilled to be a part of the development of the Armory, which promises to be one of the most unique venues in Oregon.



Robert "Jake" Jacob was born and raised in Astoria, OR and grew up attending a myriad of events at the Astoria Armory, including skating, numerous sporting events, and even the Harlem Clowns. Jake graduated Astoria High School in '67 and spent the next four years in the architecture program at the University of Oregon. He eventually migrated to Portland, OR where he used his architectural commissions to purchase rental properties. By 1993, with his strong ties to Astoria he found himself owning and renting a variety of commercial buildings and way too many rental houses. After developing and operating the Cannery Pier Hotel, Jake turned his interest to the Astoria National Guard Amory. In 2014 when the Astoria Armory became available for purchase Jake and his fellow board members realized what a great asset that space could be for the community. With the help of community support and the amazing volunteers, it looks like the Armory will be restored to its former glory.



Daniel "Dan" Stein is a recent transplant to Astoria after living in Portland for fourteen years. A native of Wisconsin, he received his business degree from the University of Michigan in 1983 and pursued a career in residential and commercial real estate brokerage. In 1996 he opened the Madison, Wisconsin office of CBRE. In 2000, he moved to Portland to head the retail department of CBRE. After retiring from active brokerage in 2007, Dan has been involved in various non-profit organizations including leadership positions at Junior Achievement and SE Works. In addition, he is a trustee of the Stein Scholars program that prepares and funds over 160 inner-city Milwaukee, Wisconsin youth for college. He also tutors math and ESL at SE Works and Clackamas Community College. In his free time, Dan squanders his time acquiring and enjoying old (and dilapidated) fountain pens, watches, stereo gear and cars. His long-suffering wife of 25 years, Sue is an Associate Vice Provost at Pacific University. They have two dogs, Squishy and Peaches, who run their lives.



Events Coordinator Robyn Koustik is FOAA's sole paid staff member, Robyn moved to Astoria from Southern California in 2011. An earlier experience teaching English abroad gave rise to her passion for community service. Robyn has spent her time in beautiful Astoria working with many non profit organizations in hopes to contribute to her community. She was employed and volunteered for the Women's Resource Center and is the President of the non-profit Shanghaied Roller Dolls. She truly enjoys being part of this community and The Astoria Armory. Robyn's favorite pastimes are spending time with her rescue dogs and dedicated husband. E-mail: astoriaarmory@gmail.com

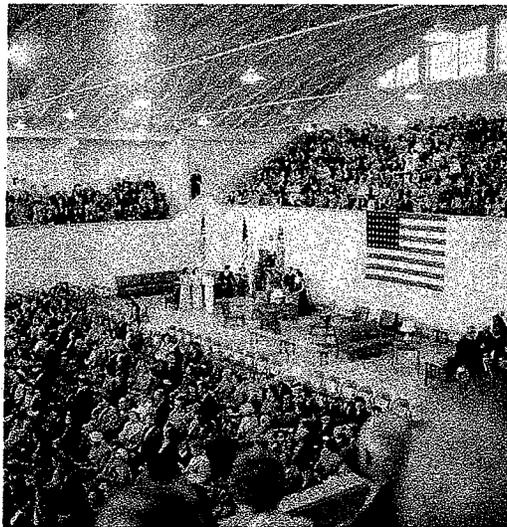
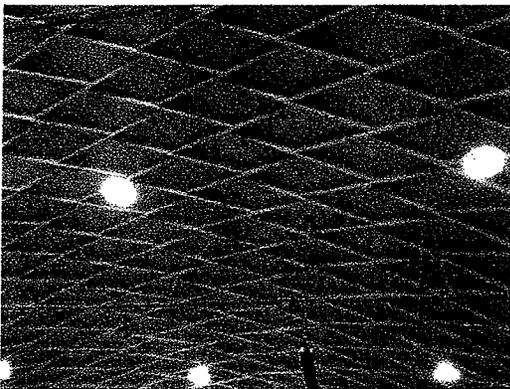


Astoria resident Mrs. Barbara Crass and husband Dr. Richard Crass donated their upright piano to the Armory. Also shown are Board President Bruce Jones and regular volunteer Chris Jones.

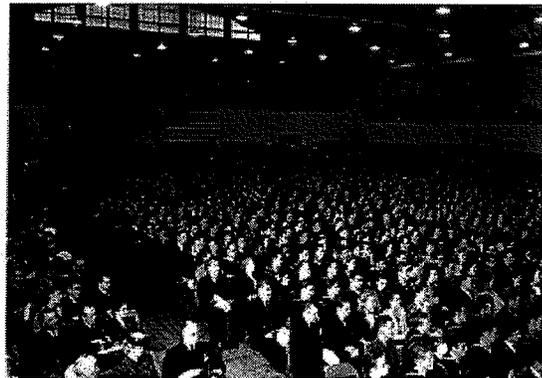
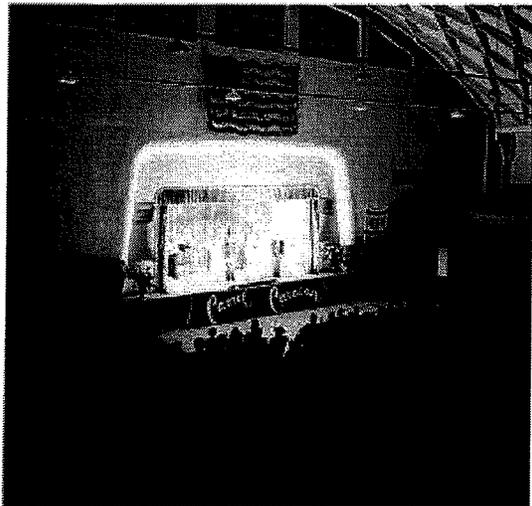
History



The Astoria National Guard Armory was designed by John E Wicks and his daughter Ebba Wicks, and built in 1941-42 by local contractor John Helstrom. The city deeded the land and old city hall which was being used as a hospitality room for troops to the state. The lamella roof structure was developed in Holland. It is unclear whether Wicks designed it, or if it was designed by architects and engineers at Ft. Lewis who ensured that the building met military standards.



Most people are familiar with two sports stadiums that used the lamella roof structure in a dome-like shape: the former Astro Dome in Houston and the Super Dome in New Orleans.



The dedication ceremony and formal opening of The Astoria Armory and USO club took place in the summer of 1942, with the Master of Ceremonies Pinky Tomlin and the The Camel Caravan playing to a packed house. Throughout its early years, The Astoria Armory was used mainly as a recreation center for troops, administered by the USO during WW2. Jack Benny was among the famous entertainers who performed on the Armory stage.

No wonder this venue was so popular; where else could you host a show with over 2700 people in the audience. The Armory was the entertainment center of the North West. Sporting events, political rallies, and concerts were among the attractions. In the 1970s, popular bands like Deep Purple and Buffalo Springfield drew large audiences.



In more recent times a local Church, since disbanded, used the Armory and damaged it with numerous poorly planned and executed repairs and renovations. Finally and fortuitously, the Columbia River Maritime Museum utilized the basement for artifact storage until June 2014. CRMM installed an HVAC system in the basement making it climate controlled.

Acoustics		
Sound baffles	Place holder	
Ventilation		
Two Big Ass Ceiling Fans	Place holder	
Electric opening windows in upper ends of building (8 total)		\$ 11,480.00
Electrical		
(Budgeted amount)		\$ 40,000.00
Balcony Handrail		
200 lin feet		\$ 6,000.00
Stairway Handrail		
Building entry stairway		\$ 600.00
Kitchen / Concession		
3 compartment sink		\$ 1,500.00
Floor drain		\$ 800.00
electrical in budget		
Roll down concession door		\$ 2,800.00
Exterior stairway		
Stairway platform supplied by All Metals Fabrication		\$ 14,180.00
Additional labor to install		\$ 2,000.00
Builders risk insurance		\$ 3,750.00
Construction Management Services		\$ 12,500.00
TOTAL		\$ 212,613.00

RDA Project Management LLC.
Randy Stemper, 503 440 0059
randystemper@gmail.com.

THANK YOU FOR THE OPPERTUNITY TO WORK WITH YOU

Balance Sheet Trends

Friends of the Astoria Armory

Cust. # 16994

Description	FY14 - Internal	FY15 - C3 Proj	FY16 - C3 Proj	FY17 - C3 Proj	3Q15 - Internal	Post-Closing
Statement Date	12/31/2014	12/31/2015	12/31/2016	12/31/2017	09/30/2015	08/31/2015
UnrestrictedCash & Equivalents	17,897	28,381	20,499	22,939	10,688	10,688
Reserve Fund		10,250	13,250	16,250		10,000
Total Current Assets	17,897	38,631	33,749	39,189	10,688	20,688
Machinery & Equipment		55,221	55,221	55,221	5,221	55,221
Buildings & Improvements	6,102	674,206	674,206	674,206	13,995	674,206
Accum. Depreciation(-)		2,478	32,220	61,962		
Total Net Fixed Assets	6,102	726,949	697,207	667,465	19,216	729,427
Total Non-Current Assets	6,102	726,949	697,207	667,465	19,216	729,427
TOTAL ASSETS	23,999	765,580	730,956	706,654	29,904	750,115
Long Term Debt - Ours		460,000	454,329	444,214		460,000
Long Term Debt - Other	10,000	9,167			10,000	10,000
Total Non-Current Liabilities	10,000	469,167	454,329	444,214	10,000	470,000
TOTAL LIABILITIES	10,000	469,167	454,329	444,214	10,000	470,000
Unrestricted Net Assets	13,999	13,999	13,999	13,999	13,999	13,999
Restricted Net Assets		288,000	288,000	288,000		288,000
Retained Earnings		-5,586	-25,372	-39,559	5,905	-21,884
EQUITY	13,999	296,413	276,627	262,440	19,904	280,115
		IN BALANCE				

Income Statement: Common-Size

Friends of the Astoria Armory

Cust. # 16994

Amounts rounded to 000's

Description	FY14 - Internal		FY15 - C3 Proj		FY16 - C3 Proj		FY17 - C3 Proj		3Q15 - Internal	
Statement Date	01/01/2014 - 12/31/2014		01/01/2015 - 12/31/2015		01/01/2016 - 12/31/2016		01/01/2017 - 12/31/2017		01/01/2015 - 09/30/2015	
	%	%	%	%	%	%	%	%	%	%
Revenues										
Donations	12.9	22.7	14.7	12.9	10.8	7.8	24.0	16.1	0.5	0.9
Events, Rentals, Concessions	44.2	77.3	99.1	87.1	127.5	92.2	125.1	83.9	61.6	99.1
Net Sales/Revenues	57.1	100.0	113.8	100.0	138.3	100.0	149.1	100.0	62.1	100.0
COGS (concessions)	7.6	13.3	15.9	14.0	19.0	13.7	20.5	13.7	8.8	14.1
Total Cost Of Goods	7.6	13.3	15.9	14.0	19.0	13.7	20.5	13.7	8.8	14.1
GROSS PROFIT	49.5	86.7	97.9	86.0	119.3	86.3	128.6	86.3	53.4	85.9
Expenses										
Advertising and Promotion			1.9	1.7	4.3	3.1	4.4	2.9	0.9	1.4
Depreciation			2.5	2.2	29.7	21.5	29.7	19.9		
Insurance Exp.	8.3	14.5	8.3	7.3	6.1	4.4	6.3	4.2	6.8	10.9
Repairs and Maintenance	0.4	0.7	2.8	2.5	6.1	4.4	6.3	4.2	1.3	2.1
Supplies	2.7	4.8	1.6	1.4	1.8	1.3	1.7	1.1	1.1	1.8
Taxes - Real Estate									3.1	5.1
Travel			3.1	2.8	3.4	2.4	3.5	2.3		
Utilities	5.0	8.8	21.5	18.9	22.4	16.2	23.0	15.4	13.7	22.1
Wages	9.0	15.8	26.4	23.2	35.3	25.5	38.2	25.6	18.0	29.0
Other Expenses	2.0	3.6	2.3	2.0	3.7	2.6	4.0	2.7	1.4	2.2
Licenses and Permits	0.9	1.6	1.1	1.0	1.2	0.8	1.2	0.8	1.1	1.8
Event Expense	7.2	12.6								
Total Expenses	35.5	62.2	71.5	62.8	113.8	82.3	118.1	79.2	47.5	76.4
OPERATING INCOME	14.0	24.5	26.4	23.2	5.4	3.9	10.5	7.1	5.9	9.5
Non-Operating										
Non Operating Expenses			30.1	26.4	2.3	1.6	2.2	1.5		
Total Non-Operating			-30.1	-26.4	-2.3	-1.6	-2.2	-1.5		
(EBIT) EARNINGS BEF. INT. & TAXES	14.0	24.5	-3.7	-3.2	3.1	2.3	8.3	5.6	5.9	9.5
Term Interest			1.9	1.7	22.9	16.6	22.5	15.1		
INCOME BEFORE TAXES	14.0	24.5	-5.6	-4.9	-19.8	-14.3	-14.2	-9.5	5.9	9.5
NET INCOME	14.0	24.5	-5.6	-4.9	-19.8	-14.3	-14.2	-9.5	5.9	9.5
Owner Withdrawal										
Dividends Paid										
NET INCOME AFTER OWNER WITHDRAWAL	14.0	24.5	-5.6	-4.9	-19.8	-14.3	-14.2	-9.5	5.9	9.5
EBITDA	14.0	24.5	-1.2	-1.0	32.9	23.8	38.0	25.5	5.9	9.5

Ratios & Indicators

Friends of the Astoria Armory

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Balance Sheet:	FY14 - Internal	FY15 - C3 Proj	FY16 - C3 Proj	FY17 - C3 Proj	3Q15 - Internal	Post-Closing
As of:	12/31/2014	12/31/2015	12/31/2016	12/31/2017	09/30/2015	08/31/2015
Income Statement:	FY14 - Internal	FY15 - C3 Proj	FY16 - C3 Proj	FY17 - C3 Proj	3Q15 - Internal	
Beg. Date:	01/01/2014	01/01/2015	01/01/2016	01/01/2017	01/01/2015	
End. Date:	12/31/2014	12/31/2015	12/31/2016	12/31/2017	09/30/2015	

Liquidity Ratios

Current Ratio	17,897.00	38,631.00	33,749.00	39,189.00	10,688.00	20,688.00
Quick Ratio(Acid Test)	17,897.00	38,631.00	33,749.00	39,189.00	10,688.00	20,688.00
Cash Ratio	17,897.00	38,631.00	33,749.00	39,189.00	10,688.00	20,688.00
Receivables / Payables						
Working Capital	17,897	38,631	33,749	39,189	10,688	20,688

Profitability Ratios

Return on Assets	58.3%	-0.7%	-2.7%	-2.0%	26.4%	
Return on Equity	100.0%	-1.9%	-7.1%	-5.4%	39.7%	
Return on Investment	58.3%	-0.7%	-2.7%	-2.0%	26.4%	
Gross Profit Margin	86.7%	86.0%	86.3%	86.3%	85.9%	
Net Profit Margin	24.5%	-4.9%	-14.3%	-9.5%	9.5%	
Operating Income Margin	24.5%	23.2%	3.9%	7.1%	9.5%	
Profit Before Tax / Tang Net Worth	100.00%	-1.88%	-7.13%	-5.41%	39.67%	
Profit Before Tax / Total Assets	58.33%	-0.73%	-2.70%	-2.01%	26.41%	
Profit Before Tax / Equity	100.00%	-1.88%	-7.13%	-5.41%	39.67%	

Financial Leverage / Coverage Ratio

Debt / Equity	0.71	1.58	1.64	1.69	0.50	1.68
Debt / Asset	41.67%	61.28%	62.16%	62.86%	33.44%	62.66%
Equity / Asset	58.33%	38.72%	37.84%	37.14%	66.56%	37.34%
Fixed Assets / Tang Net Worth	0.44	2.45	2.52	2.54	0.97	2.60
Debt / Tang Net Worth	0.71	1.58	1.64	1.69	0.50	1.68
Normal DSCR (adds back Int & Depr)		-0.43	0.87	1.17		
Interest Coverage		-1.91	0.14	0.37		
Net Profit + Depr / Cur Mat LTD	0.0	0.0	0.0	0.0	0.0	
Bad Debt / Accounts Receivable	0.00%	0.00%	0.00%	0.00%	0.00%	
Bad Debt / Sales	0.00%	0.00%	0.00%	0.00%	0.00%	
Capitalization Ratio	0.42	0.61	0.62	0.63	0.33	0.63
Current Liab / Non-Current Liab	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Current Liab / Total Liabilities	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
Long Term Debt / Working Capital	0.56	12.14	13.46	11.34	0.94	22.72

Efficiency Ratios

Accounts Receivable Turnover	0.0	0.0	0.0	0.0	0.0	
Day's Receivables	0.0	0.0	0.0	0.0	0.0	
Average Collection Period Days	0.0	0.0	0.0	0.0	0.0	
Inventory Turnover	0.0	0.0	0.0	0.0	0.0	
Day's Inventory	0.0	0.0	0.0	0.0	0.0	
Average Inventory Turn Days	0.0	0.0	0.0	0.0	0.0	
Operating Cycle	0.0	0.0	0.0	0.0	0.0	
Payables Turnover	0.0	0.0	0.0	0.0	0.0	
Day's Payables	0.0	0.0	0.0	0.0	0.0	
Average Payable Period Days	0.0	0.0	0.0	0.0	0.0	
Sales / Working Capital	3.2	2.9	4.1	3.8	7.8	
Total Asset Turnover	2.4	0.1	0.2	0.2	2.8	
Fixed Asset Turnover	9.4	0.2	0.2	0.2	4.3	
Depreciation / Sales	0.00%	2.18%	21.51%	19.95%	0.00%	
Cash Turnover	3.2	4.0	6.7	6.5	7.8	

Repayment Capacity

Friends of the Astoria Armory

Cust. # 16994

Com.	FY14 - Internal	FY15 - C3 Proj	FY16 - C3 Proj	FY17 - C3 Proj	3Q15 - Internal
	01/01/2014 - 12/31/2014	01/01/2015 - 12/31/2015	01/01/2016 - 12/31/2016	01/01/2017 - 12/31/2017	01/01/2015 - 09/30/2015
	No Adj.	No Adj.	No Adj.	No Adj.	No Adj.
Net Income From Com. Inc. Statement	13,999	-5,585	-19,787	-14,188	5,906
Plus: Term Interest		1,917	22,930	22,487	
Depr./Amort./Depl.		2,478	29,742	29,742	
Less: Dividends Paid					
Owner Withdrawal					
Cap Rplc & Term Debt Repay Cap	13,999	-1,190	32,885	38,041	5,906
Less: Term Interest Payments		1,917	22,930	22,487	
Term Principal Payments		833	14,838	10,115	
Margin After Debt Servicing	13,999	-3,940	-4,883	5,439	5,906
Term Debt & Cap. Lease Cov. Ratio		-0.43	0.87	1.17	

Sensitivity Analysis

Debt Service Margin will be Depleted if:

Net Sales/Revenues Decreases by:	24.51 %	-3.46 %	-3.53 %	3.65 %	9.50 %
Operating Expenses plus Cost of Goods Sold Increase by:	32.47 %	-4.64 %	-4.74 %	5.00 %	10.50 %
Interest Rate Increases by:		-39.40 %	-1.04 %	1.20 %	78.96 %



May 11, 2016

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: AGREEMENT BETWEEN THE VERNA S. OLLER AQUATIC TRUST AND THE CITY OF ASTORIA

DISCUSSION/ANALYSIS

In May 2010 at her passing, Verna S. Oller made a \$4 million gift to the residents of South Pacific County, Washington to build an Aquatic Center in Long Beach, Washington; however, in 2013 the City of Long Beach Officials declined the money after determining that the City could not afford the day-to-day expenses and the long-term operational costs not covered by the bequest.

Following this, the managers of Verna S. Oller's Trust succeeded in modifying the trust to make it easier to pursue swimming-related projects and contacted the City of Astoria's Parks and Recreation Department to partner in providing services to the residents of South Pacific County, Washington. City of Astoria Parks staff subsequently negotiated terms for consideration by the Astoria City Council.

A Pool Use Agreement has been drafted, and approved as to form by the City Attorney, that provides residents of South Pacific County admission to the Astoria Aquatic Center without charge for the facilities "drop-in" and "group swim lesson" programs. In return, the Verna S. Oller Aquatic Trust will pay the City of Astoria the full admission cost for each service rendered.

RECOMMENDATION

Due to the positive financial impact to the Parks and Recreation Department, it is recommended that City Council approve Pool Use Agreement with the Verna S. Oller Aquatic Center Trust.

By: 
Angela Cosby
Director of Parks & Recreation

Pool Use Agreement

This Pool Use Agreement (this “**Agreement**”), dated as of _____, 2016 (the “**Effective Date**”), is by and between City of Astoria, Oregon (the “**City**”) and The Verna S. Oller Aquatic Trust dated October 27, 2014 (the “**Trust**”).

The City operates and maintains a public swimming pool facility (the “**Facility**”) and charges fees for the use of the Facility. The Trust wishes to increase the access to swimming facilities for residents South Pacific County, Washington, living in the following zip codes: 98638 (Naselle), 98614 (Chinook), 98624 (Ilwaco), 98631 (Long Beach), 98644 (Seaview), 98640 (Ocean Park), 98641 (Oysterville), and 98637 (Nachotta). of South Pacific County, Washington, by paying their usage fees as provided in this Agreement. The City is willing to allow the Trust to pay the fees for those residents’ use of the Facility.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Trust (hereinafter, collectively, the “**Parties**”, or each, individually, a “**Party**”) agree as follows:

1. Pool Use Program. The pool use program described below (the “**Program**”) will be available to “**Qualified Users**” from South Pacific County. For purposes of this agreement **Qualified Users** are persons who have provided proof of residency (as defined in paragraph 1.B below) demonstrating residency in the following zip code areas: 98638 (Naselle), 98614 (Chinook), 98624 (Ilwaco), 98631 (Long Beach), 98644 (Seaview), 98640 (Ocean Park), 98641 (Oysterville), and 98637 (Nachotta). The Program will operate as follows:
 - A. The Facility will allow a Qualified User admission to the Facility without charge for any of the Astoria Aquatic Center’s standard “Drop-In” swimming and group “Swim Lesson Sessions” operated or sponsored by the Astoria Aquatic Center (collectively, “**Covered Swimming**”). While this Agreement is in effect, the City will bill the Trust for, and the Trust will pay, the amount such Qualified Users would have otherwise been charged for their Covered Swimming. The City will not charge the Trust more than the published rates charged to the general public for Covered Swimming activities. If the City increases its published rates, it must provide the Trust written notice of such change at least 30 days before the City can begin charging the Trust at the increased rates.
 - B. Before permitting any person to engage in Covered Swimming, the facility will require that person to provide proof of residency in one of the zip codes listed above by presenting a government-issued photo identification that includes a physical address in one of such zip codes. If no physical address is included on the government-issued photo identification, the Qualified User may prove residency by presenting along with the government-issued photo identification a current utility bill addressed to the person (or a verified parent, guardian, or sibling) at a physical address in one of such zip codes. The facility will record the name, address, phone number, and method of residency verification for each Qualified User and

obtain the Qualified User's consent to record such information and to share it with the Trust.

- C. The Program will follow the Astoria Aquatic Center's normal business hours and will not interfere with designated swim times for other groups or organizations.
 - D. The Program will not cover, and the Trust will not pay for, private swim lessons, private parties, memberships, monthly passes, punch cards, food, drink or merchandise sold by the Astoria Aquatic Center.
2. Fees and Billing. The City will invoice the Trust on a quarterly basis for the amounts Qualified Users would have otherwise been charged for their Covered Swimming during the previous quarter. With each quarterly billing invoice, the City will provide the Trust proof of use and residency by submitting a list of Qualified Users, including name, address, phone number and the amount for the invoiced quarter. The Trust will pay each invoice within 30 days of receipt, unless it provides written notice to the Astoria Aquatic Center that it is contesting the invoice.
 3. Term, Termination and Survival. This Agreement shall commence as of the Effective Date and shall continue thereafter until terminated pursuant to this Section 3. Either Party may terminate this Agreement at any time without cause, effective upon written notice to the other Party, and without liability except for required payment for services rendered prior to the termination date.
 4. Independent Contractor. It is understood and acknowledged that the Program which the City provides under this Agreement will be in the nature and capacity of an independent contractor and not as an employee or agent of the Trust. The Astoria Aquatic Center and its employees have no authority to commit, act for or on behalf of the Trust or to bind the Trust to any obligation or liability.
 5. Indemnification. To the extent allowed by the Oregon Constitution and within the limits of municipal liability set forth in ORS 30.272 and OR 20.273, the City shall indemnify, defend and hold harmless the Trust and its trustees, officers, employees, agents, affiliates, successors and permitted assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance providers (collectively, "**Losses**"), arising out of or resulting from any claim of a third party related to the Program or use of the Facility, or arising out of or occurring in connection with the negligence, willful misconduct, or breach of this Agreement by the City or its directors, officers, employees, and agents. The City shall not enter into any settlement with regard to any such Losses without the Trust's or Indemnified Party's prior written consent.

The Trust and its trustees shall indemnify, defend and hold harmless the City and its officers, employees, and agents (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing

any right to indemnification under this Agreement (collectively, “**Losses**”), arising out of or resulting from any claim of a third party related to the Program and arising out of claims that any provision of this agreement or payments made hereunder were made without authority or violate the terms or spirit of the Verna S. Oliver Aquatic Trust. The Trust shall not enter into any settlement with regard to any such Losses without the City’s or the Indemnified Party’s prior written consent.

6. Insurance. While this Agreement is in effect, the City shall, at its own expense, maintain and carry insurance in full force and effect with financially sound and reputable insurers, that includes, but is not limited to, commercial general liability with commercially reasonable limits per occurrence and in the aggregate. The Trust will be named as an additional insured on such insurance, and the Astoria Aquatic Center will provide the Trust with evidence of such insurance on an annual basis, or earlier upon the written request of the Trust.
7. Attorney’s Fees. To the extent a Party is required to seek enforcement of this Agreement or otherwise defend against an unsuccessful claim of breach, the unsuccessful party shall be liable for all attorney’s fees and costs incurred by the successful party to enforce the provisions of this Agreement.
8. Compliance with Law. The Astoria Aquatic Center is in compliance with and shall comply with all applicable laws, regulations and ordinances. The Astoria Aquatic Center has and shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under this Agreement.
9. Non-discrimination. It is the policy of the City of Astoria that no person shall be denied the benefits of or be subject to unlawful discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity/expression. The Trust, its employees, and agents shall comply with this policy with respect to this program.
10. Entire Agreement. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter.
11. Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement (each, a “**Notice**”, and with the correlative meaning “**Notify**”) must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section 11.

Notice to the Trust:

Verna S. Oller Aquatic Trust
12305 Sandridge Rd.
Long Beach, WA
98631
Email: csupolo@hotmail.com
Attention: Guy Glenn, Jr.

Notice to the City of Astoria

City Manager
1095 Duane Street
Astoria, OR 97103
Email: bestes@astoria.or.us
Attention: Brett Estes

12. Severability. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
13. Amendments. No amendment to or modification of this Agreement is effective unless it is in writing and signed by each Party.
14. Waiver. No waiver by any Party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
15. Assignment. Neither party shall assign, transfer, delegate or subcontract any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed. Any purported assignment or delegation in violation of this Section 14 shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder.
16. Successors and Assigns. This Agreement is binding on and inures to the benefit of the Parties and their respective successors and permitted assigns.
17. No Third-Party Beneficiaries. This Agreement benefits solely the Parties and their respective successors and permitted assigns and nothing in this Agreement, express or implied, confers on any third party any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

18. Choice of Law. This Agreement and all matters arising out of or relating to this Agreement, are governed by, and are to be construed in accordance with, the laws of the State of Oregon, without regard to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Oregon. Venue for any dispute concerning this agreement shall be the Circuit Court of the State of Oregon for Clatsop County.
19. Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date by their respective officers thereunto duly authorized.

The Verna S. Oller Aquatic Trust

By _____

Name: _____

Title: _____

City of Astoria, Oregon

By _____

Name: _____

Title: _____