
AGENDA

ASTORIA CITY COUNCIL MEETING

October 21, 2013

7:00p.m.

2nd Floor Council Chambers
1095 Duane Street
Astoria OR 97103

1. **CALL TO ORDER**
2. **ROLL CALL**
3. **REPORTS OF COUNCILORS**
4. **CHANGES TO AGENDA**
5. **PRESENTATIONS**
 - (a) City/County Insurance Services
6. **CONSENT CALENDAR**

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

 - (a) City Council Minutes of 9/24/13
 - (b) Fiscal Year 2013-14 Dispatch Service Agreements (Police)
7. **REGULAR AGENDA ITEMS**
 - (a) Resolutions Adopting Astoria Senior Center Community Development Block Grant Section 3 and Limited English Proficiency Plans (Community Development)
 - (b) Public Hearing – Ordinance regarding Development Code Amendment (A13-04) Concerning Solar Energy (1st reading) (Community Development)
 - (c) Authorization to Bid – Williamsport Road and Highway 202 Water Main Project (Public Works)
 - (d) Scheduling Public Hearing regarding Sale of Excess City Property (Public Works)
 - (e) Public Hearing on Findings to Exempt a Contract from the Competitive Solicitation Requirements and Award Contract Associated with Maritime Memorial (Parks)

THIS MEETING IS ACCESSIBLE TO THE DISABLED. AN INTERPRETER FOR THE HEARING IMPAIRED MAY BE REQUESTED UNDER THE TERMS OF ORS 192.630 BY CONTACTING JULIE LAMPI, CITY MANAGER'S OFFICE, 503-325-5824.
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October 17, 2013

MEMORANDUM

TO: ASTORIA CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL MEETING OF OCTOBER 21, 2013

PRESENTATIONS

Item 5(a): City/County Insurance Services

CIS representatives will brief the City Council regarding the City's response to the September 5, 2013 accident involving Public Works Senior Utility Worker Ole Gifford.

CONSENT CALENDAR

Item 6(a): City Council Minutes

The minutes of the City Council meeting of September 24, 2013 are enclosed for review. Unless there are any corrections, it is recommended that Council approve these minutes.

Item 6(b): Fiscal Year 2013-14 Dispatch Service Agreements (Police)

The subscribers for Police and Fire emergency communications services have completed their annual agreements with the City. All agencies, with the exception of the Clatsop County Sheriff's Office, Port of Astoria, and the Oregon Department of Forestry, will also pay an annual Communications Equipment Infrastructure Maintenance fee of \$500. It is recommended that the City Council consider approval of these Service Agreements.

REGULAR AGENDA ITEMS

Item 7(a): Resolutions Adopting Astoria Senior Center Community Development Block Grant Section 3 and Limited English Proficiency Plans (Community Development)

In March 2013, the City Council accepted a Community Development Block Grant (CDBG) for renovation of the Astoria Senior Center. As the Housing and Urban Development (HUD) program provides funding for Oregon's CDBG projects, certain Federal requirements must be complied with in order to the use of the funds. Two of these requirements include adoption of the following two plans:

- Section 3 Plan, which describes how the City will make a good faith effort to ensure all contractors working on HUD-funding CDBG projects provide equal employment opportunity for all employees and applicants for employment, and that reasonable efforts are made to fill all training positions with local residents.
- Limited English Proficiency (LEP) Plan, which describes how the City makes a reasonable effort to ensure residents with limited English are made aware of and can access City programs and services.

Attached to this memorandum are the two above mentioned plans and accompanying resolutions which have been reviewed and preliminarily approved by Oregon's CDBG management staff. City Attorney Blair Henningsgaard has reviewed and approved both Plans as to form. It is recommended that Council adopt the two attached resolutions, by separate motions, for the Section 3 Plan and Limited English Proficiency Plan associated with the Astoria Senior Center Community Development Block Grant.

Item 7(b): Public Hearing – Ordinance regarding Development Code Amendment (A13-04) Concerning Solar Energy (1st reading) (Community Development)

In 2010, due to increased interest in locating renewable energy facilities in Astoria, the City began work on a draft ordinance to establish standards for wind and solar energy facilities within the City. Due to the nature of the technology and the differences in wind and solar energy, the Astoria Planning Commission (APC) determined that the two issues should be separated and that they would complete the solar energy ordinance first as it was not as complex as the wind energy ordinance. Over the last two years, the APC, Historic Landmarks Commission (HLC), and City Council have held several work sessions concerning the draft Solar Energy Ordinance. The intent was to develop a code that would make the process easy, comply with State regulations, and address historic concerns. The draft addresses issues raised by the APC, HLC, and citizens who have responded to the draft documents over the last three years. There are several sections with notations by staff that are

{italicized and bracketed} that are included to explain the intent of that particular section of the draft. These will be removed from the final document.

In addition to the creation of the Solar Ordinance, there are several amendments to Article 9, Administrative Procedures for all permits, to address procedures for processing a solar permit. Only requirements unique to solar facilities are included in the Solar Ordinance. Amendments to Article 6, Historic Properties Ordinance, which reference the Solar Ordinance historic design review are also proposed with this amendment. The HLC held a work session at its August 12, 2013 meeting and accepted the draft as presented.

At its September 24, 2013 meeting, the Astoria Planning Commission held a public hearing and unanimously recommended that the City Council adopt the proposed amendment. A copy of the Staff Report and Findings of Fact as adopted by the Planning Commission is attached. Also attached to the memo is the proposed ordinance. A public hearing on the Amendment has been advertised and is scheduled for the October 21, 2013 City Council meeting. It is recommended that the Council hold a public hearing and adopt the ordinance as recommended by the Astoria Planning Commission. If the Council is in agreement with the recommendation of the Astoria Planning Commission, it would be in order for Council to hold a first reading of the Ordinance.

Item 7(c): Authorization to Bid – Williamsport Road and Highway 202 Water Main Project (Public Works)

Over the past 12 years the City has made multiple repairs to a portion of six inch water line adjacent to Highway 202 between Williamsport Road and Cedar Bay Road. The cast iron water pipe in this section has significantly deteriorated resulting in frequent water leaks. HLB Otak has designed a waterline to replace the deteriorated utility. The project will include installation of 600 feet of eight inch PVC water line, two new fire hydrants, and other associated water appurtenances. It has been determined that replacing the pipe in-place would be the most cost effective approach. The construction estimate for this project is \$92,500 which includes a 10% contingency. It is recommended that Council authorize staff to solicit quotes for the Williamsport Road and Highway 202 Water Main Project. Funds for this project are available in the Public Works Improvement Fund.

Item 7(d): Scheduling Public Hearing regarding Sale of Excess City Property (Public Works)

At the August 17, 2013 meeting, the City Council authorized the Mayor to sign a contract with Area Properties to market excess properties throughout the City. It was proposed that the realtors would bring the offers to the City Council as offers were made so that Councilors could evaluate the potential sales prior to the public hearing. Area Properties realtors have been contacting the adjacent

**NO DOCUMENTATION IS INCLUDED
FOR THIS AGENDA ITEM**

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

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

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

REPORTS OF COUNCILORS:

Item 3(a): Councilor Mellin reported that she learned about logging on the forestry tour. She also attended the Transportation System Plan (TSP) Update meeting, Arts Night Out, and a meeting conducted by Parks Director Cosby where the 9th Street Park was discussed. She also introduced Representative Suzanne Bonamici at a town hall meeting, where she learned about several new issues. The meeting was packed with attendees, showing the need for a bigger room in the library. She announced that the celebration of the formation of the Ghadar Party has been well advertised and several events are planned. At 9:00 p.m. on Saturday, October 5, 2013, Jim Defeo of the Astoria Coffee House will host a party at the coffee shop where Punjabi music will be featured.

City Manager Benoit distributed photos of the Sikh and Scandinavian communities in Alderbrook to the audience.

Mayor Van Dusen added that the formation of the Ghadar Party is significant to Alderbrook and the country of India. The party was formed in Alderbrook and India has created a commemorative stamp to recognize the 100th year anniversary of the party.

Item 3(b): Councilor Warr reported that his company recently finished several projects for the City of Astoria, including engraved pavers for the Column and created and engraved 15 timeline planks for the Garden of Surging Waves. He provided some details of the engravings on the timeline planks. He reported on the TSP public open house held September 11th at the Liberty Theatre. The committee will meet two more times before a completed plan is presented to City Council early in 2014. He is a member of ODOT's Northwest Area Commission on Transportation and has been asked to serve on a technical advisory board to help rate a number of projects that have applied for funding. Rating the projects will enable the board to award funding within the funding cap of about \$13 million. Not all projects will be funded. Funds will be used to widen a half-mile section of Highway 101 through the center of Seaside and build a sidewalk from the Astoria High School to 7th street along Highway 202.

Item 3(c): Councilor Herzig reported that the Lower Columbia Diversity Project held an event about the Chinese in Astoria, which received great coverage in the *Daily Astorian* and was well attended. The next event will be on Tuesday, October 1st on teen substance abuse in Clatsop County. Flyers with the agenda were made available. He announced that Dr. Jasmit Singh of Seattle, who previously spoke at a Diversity Project event about Sikh history and religion, would participate in the Ghadar Party Centennial celebration. Stanley Marcus, a prominent sculptor from Massachusetts, donated the sculptures in the Liberty Theatre. Mr. Marcus has also loaned another sculpture to the City that is currently in the lobby of City Hall and will be displayed at the Sunday Market on October 6, 2013. Councilor Herzig sought public input on these sculptures as Mr. Marcus would like to donate more sculptures to the City. Astoria has the opportunity to become more of an arts destination. A press release with more details will be published.

Item 3(d): Councilor LaMear reported that she attended the Oregon Coast Economic Summit in Lincoln City where a variety of issues were discussed. Several members of the Coastal Caucus attended. The Coastal Caucus is a group of Senators that discuss coastal issues and suggest solutions to the legislature. She reported that there have been many meetings and events regarding the library renovations, including a booth at the Sunday Market and community meetings.

Item 3(e): Mayor Van Dusen reported that the former United States Coast Guard cutter *Ironwood* has been donated to the Tongue Point Job Corps and will be used as a training vessel. He would represent the City on Wednesday, September 25th at the Oregon Renewable Energy Conference being held at the Liberty Theatre. The League of Oregon Cities Conference will be September 26th and 27th this year.

Dulcye Taylor, President, Astoria Downtown Historic District Association (ADHDA), introduced Alana Garner, new Executive Director of the ADHDA, and Paul Tutor, ADHDA board member. She noted that a member of the ADHDA always attends City Council meetings. The Oregon Mainstreet Conference will be held October 2-4, 2013. The conference is open to the public but internet registration is required. Attendees as well as speakers will be coming from throughout the region. Ms. Taylor said she was excited about welcoming people to Astoria and hopes that the City will win some awards.

Mayor Van Dusen introduced former City Council member Tom Potter, who recently moved back to Astoria and currently works as an architect.

City Council proceeded to Item 5(a): Jake Kaup, Eagle Scout.

CHANGES TO AGENDA:

Changes to the Agenda were discussed immediately following Item 6: Consent Calendar.

City Manager Benoit requested the addition of Item 7(i): Mutual Agreement and Order Amendment

The City Council proceeded to address Item 7(i) at this time. (Page 9)

PRESENTATIONS:

Item 5(a): Jake Kaup – Astoria Student who Achieved the Rank of Eagle Scout, the Highest Rank of the Boy Scouting Program

This presentation was given immediately following Item 3: Reports of Councilors.

Mayor Van Dusen noted that the United States Coast Guard (USCG) makes up an important part of the community. The quality of the Coast Guard members and their families makes Astoria a better place to live. Eagle Scout Jake Kaup would not be a part of the community without the Coast Guard. Mayor Van Dusen added that he and Councilor LaMear attended the Eagle Scout ceremony at the Kaup residence on Saturday, September 21st. A lot of work is required to achieve the rank of Eagle Scout, which is earned by very few Boy Scouts. Many notable people, like presidents and astronauts, are Eagle Scouts.

Mayor Van Dusen read a proclamation declaring September 21, 2013 Jake Kaup Day.

Jake Kaup thanked his parents, Mr. Elkins, and everyone who helped him complete his Eagle Scout projects. He described the work he did on the Cathedral Tree Trail.

Mayor Van Dusen and City Council presented Mr. Kaup with a commemorative plate honoring his achievements.

Item 5(b): Armory Building

City Manager Benoit provided a verbal update on plans to acquire the Armory Building and adjacent parking area, noting the subject has been covered well in the media. His key comments were as follows:

- The building is currently owned by the Columbia River Maritime Museum, who purchased the building more than 10 years ago to store artifacts close to the museum. The Museum recently purchased the Astoria Builder's Supply building with the intent of relocating artifacts from the Armory. The Museum plans to sell the Armory building and the adjacent vacant lot.
- The City would like to purchase this property to protect parking for the USCG. The Coast Guard is a tenant of the City at the 17th Street Pier and relies on parking on both sides of the highway to support the two cutters docked at the pier.

- The City and Museum have developed a tentative agreement, which includes a land exchange and cash exchange. The agreement proposes that the City give the Museum about 150 feet of a parcel almost two acres large that extends east from the Maritime Museum's train depot. This would alleviate summertime parking congestion at the museum.
- In addition to this land, the City would vacate the portion of Duane Street that divides the retail building and the storage building of Astoria Builder's Supply. This portion of Duane Street looks like a driveway, but is actually an established right-of-way. Vacating the right-of-way would allow the museum to control access to the property they have purchased for artifact storage.
- The City would also pay the museum \$250,000. In exchange for \$250,000, the property deed to the train depot and the vacation of Duane Street, the Maritime Museum would deed the Armory Building and the adjacent parking lot to the City.
- The City would move immediately to list and sell the Armory Building as City Council has no interest in long-term ownership. Prior to being made publically available for private sale, the building would be offered to the Friends of the Astoria Armory, which has expressed strong interest in acquiring the building. The parking lot would remain City property for use by the USCG.

Mayor Van Dusen understood that in addition to protecting parking for the Coast Guard, the City wanted to secure an area east of the depot that would remain open to the public. He noted there was a lot of opposition to the development of condominiums and other similar projects during Riverfront Visioning discussions. At one time, a hotel was going to be built on this property, but this proposal guarantees that area will remain open space for the public and never be sold or developed.

Councilor Herzig noted that deliveries are made at the back entrance of the Moose Lodge, which is on Duane Street. He wanted to make sure this access would remain after the Maritime Museum owns the property. City Manager Benoit replied that Staff and members of the Moose Lodge have discussed this issue at several meetings. The City will be able to accommodate the Lodge's concerns while protecting access to the Museum property.

Mayor Van Dusen called for questions from members of the audience regarding the Armory Building.

Robert Erickson, 439 Grand, Astoria, agreed with the City's intent to keep the parking lot, but did not understand why the Armory Building was part of the property transfer. Mayor Van Dusen confirmed that the bank would be lending money for the building and the lot, and that the City would repay the loan for the parking lot, and hopes to sell the building to the Friends of the Astoria Armory.

Mr. Erickson understood that City Code limits the height of buildings, which would protect the property should the Armory Building be torn down. Mayor Van Dusen clarified he was referring to the area east of the train depot right on the riverfront when he spoke about protecting against development projects.

Mr. Erickson believed state law requires the City to advertise the sale of public property, so the Armory Building should be advertised so everyone has a fair chance to purchase it. He supports helping the museum, but is concerned about the Armory Building as several attempts to use the building have failed and he did not want to see the City be stuck with it. He would like something in the building that creates jobs. [09 13:52] Mayor Van Dusen explained that the museum received an offer from the Friends of the Astoria Armory to purchase the Armory Building and the City offered to purchase the lot. However, the museum insisted on selling the parking lot and Armory Building together.

Mr. Erickson was concerned that the Friends of the Astoria Armory would not be able to obtain the funds to purchase the building. Mayor Van Dusen explained that the Friends would have the first option to purchase the building and have already submitted a bid to the museum to purchase the building for \$300,000. If the Friends do not purchase the building, it will be made available for sale on the open market. Other buyers have expressed interest in purchasing the Armory Building. City Council is confident the City will be able to sell the building for close to \$250,000. Mr. Erickson was concerned that the City may not be able to sell the building for \$250,000.

City Attorney Henningsgaard explained that City properties are not required to be sold at auction, but the City must conduct a public hearing prior to selling a property. This process is different from county tax foreclosure sales.

Mayor Van Dusen added that he appreciated Mr. Erickson's questions because it helped to inform the public.

CONSENT CALENDAR:

The following items were presented on the Consent Calendar:

- 6(a) City Council Minutes of 8/19/13
- 6(b) Boards and Commission Minutes
 - (1) Historic Landmarks Commission Meeting 7/16/13
 - (2) Library Board Meeting 7/23/13
- 6(c) Update on Delinquent Transient Room Taxes (Finance)
- 6(d) Grant Applications for Restoration of City Hall First Floor Windows and Doors (Community Development)**
- 6(e) Memorandum of Understanding with the US Coast Guard (USCG) for Fire Protection and Emergency Medical Services for USCG Cutters Alert and Steadfast and Facilities (Fire)
- 6(f) 2013 Crack Sealing Project -Authorization to Award (Public Works)
- 6(g) Star of the Sea Lease Amendment (Parks)

Councilor LaMear requested Item 6(d) be removed from the Consent Calendar for further discussion.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin, to approve Items 6(a), (b), (c), (e), (f), and (g) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Councilor LaMear said she was surprised that the restoration of the first floor doors and windows were not completed during the City Hall renovation. City Manager Benoit explained that costs needed to be controlled during the renovation. While the doors and windows are fully functional and may last another 10 years, this grant, through the State and a foundation, provides an opportunity to completely rehabilitate and restore the windows and front entryway to their original condition. This was not part of the original project because of budget limitations.

Mayor Van Dusen added that the City recently spent almost \$2 million on the renovation and now the doors and windows are being restored. City Manager Benoit added that a local man, who is very talented at restoration work, will be able to complete the project at a low rate. Had the City accepted bids as part of the City Hall project, the costs would have been higher.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Herzig, to approve Item 6(d) of the Consent Calendar. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

City Council proceeded to Item 4: Changes to the Agenda.

REGULAR AGENDA ITEMS

**Item 7(a): Ordinance Amending Certain Provisions Dealing with Public Offenses (1st Reading)
(City Attorney)**

This item was discussed immediately following Item 7(i): Mutual Agreement and Order Amendment.

City Attorney Blair Henningsgaard has drafted this ordinance for Council's consideration. The amendments proposed would accomplish the following:

- (1) Amend Astoria Code 1.101(3) to allow the imposition of fines greater than \$1,000 for building violations.
- (2) Amend the title of Astoria Code 5.115 to "Offensive Public Conduct" rather than "Public Indecency." Changing the name will allow the City to more effectively utilize this ordinance.
- (3) Amend Astoria Code 5.010 to prohibit loaded firearms in public places and bring this ordinance into compliance with state law.

It is recommended that Council conduct a public hearing and the first and second readings of this ordinance.

Councilor Warr asked if the term "offensive public conduct" was well defined in the ordinance, as it seems to be a subjective term. City Attorney Henningsgaard explained that the statute describes the conduct considered offensive, which includes public urination and defecation or swimming naked in the presence of the opposite sex. The title is being amended because the former title required convicted offenders to register with the State as a sex offender. While the City does not issue citations to many skinny dippers, it seems inappropriate to require a skinny dipper to register as a sex offender. There are an unfortunate number of citations for public urination, mostly by males on the weekends. The City court found it difficult to prosecute the public urination cases because the requirement to register as a sex offender was deemed inappropriate.

City Attorney Henningsgaard clarified that the request is to adopt the ordinance on an emergency basis because the current City Code does not comply with Oregon law. The process normally requires two readings and a public hearing.

Director Estes conducted the first reading of the Ordinance Amending Certain Provisions Dealing with Public Offenses in its entirety.

Mayor Van Dusen opened the public hearing at 8:01 p.m. and called for anyone wanting to address the City Council on the Ordinance Amending Certain Provisions Dealing with Public Offenses to come forward with any comments or concerns.

Mayor Van Dusen asked how this amendment would affect how wildlife in the city that may need to be shot. The City has hired individuals who are not employees of the United States Department of Agriculture to trap animals, but never shoot them. Chief Curzon confirmed that he could give permission to shoot an animal.

Mayor Van Dusen closed the public hearing at 8:03 p.m.

Director Estes conducted the second reading of the Ordinance Amending Certain Provisions Dealing with Public Offenses.

Councilor Herzig noted a typographical error in Section 3(a), which was corrected to read, "No person may possess a loaded firearm in a public places as defined in Oregon Statute 161.015"

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to adopt the ordinance amending certain provisions dealing with public offenses. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(b): Authorization to Purchase Three Vehicles for Public Safety (Police)

Astoria Police and Fire Departments have three vehicles that are in need of replacement this fiscal year. The vehicles are a 1998 Ford Explorer with 123,000 miles, a 2007 Chevy Tahoe with 130,000, and a 1999 Ford Crown Victoria Police Interceptor (CVPI) with 112,000 miles. All vehicles are in poor condition. Two of these vehicles will be replaced with a 2014 Chevy Tahoe Police Package Vehicle (PPV) and assigned to patrol. The third will be replaced with a 2014 Chevy Tahoe 4x4 Special Services Vehicle (SSV) and used by the Fire Department as a Command Vehicle. Staff has researched the Oregon State Purchasing Program and located the vehicles from Hubbard Chevrolet. The Tahoe 2014 PPV is available for \$28,643 and the 2014 Chevy Tahoe SSV is available for \$32,507. The total purchase price is \$89,793. Ocean Crest was contacted and is unable to provide a competitive bid. The Finance Department has recommended spreading the purchase over two years. This amount is included in the adopted budget. A separate authorization will be requested for the set up and equipment for the vehicles. It is recommended that Council approve the purchase of three vehicles from Hubbard Chevrolet. The total cost of \$89,793 is within the approved budget.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to authorize the purchase of three vehicles from Hubbard Chevrolet for a total cost of \$89,793. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(c): Public Hearing to Exempt Contract from Competitive Bid Solicitation Requirements – Public Safety Vehicle Upfitting (Police)

The Astoria Police Department has identified the need to keep consistency in the setup of public safety vehicles. As both vehicles and public safety equipment have become more complex systems, this work has become much more specialized. After two years of competitive bids we have found that Cascade Mobile of Longview has been competitive in pricing. We have also found their quality of work and follow up on issues that develop to be without compare in the industry. Additionally they are our two-way radio vendor and have the capability of doing a complete build including radio integration and programming. This is not true for any other vendor that we have found.

Staff believes it to be in the best interest of the City to exempt this contract from the standard competitive bid process and award a Personal Services Contract to Cascade Mobile of Longview. Such an exemption requires a public hearing be held and findings supporting this special solicitation method be adopted. It is recommended that Council conduct a public hearing for the purpose of taking public comment on the findings for exemption from competitive solicitation requirements and adopt findings that authorize the direct appointment process to contract with Cascade Mobile for the upfitting of three public safety vehicles in an amount not to exceed \$30,000.

City Manager Benoit confirmed that approval of this exemption would not commit the City to permanently receive services from Cascade Mobile.

Mayor Van Dusen opened the public hearing at 8:09 p.m. and called for anyone wanting to address the City Council on the exemption of the competitive bid solicitation requirements to come forward with any comments or concerns. Hearing none, Mayor Van Dusen closed the public hearing at 8:10 p.m.

City Council Action: Motion made by Councilor Warr, seconded by Councilor Mellin to adopt findings that authorize the direct appointment process to contract with Cascade Mobile for the upfitting of three public safety vehicles in an amount not to exceed \$30,000. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(d): 17th Street Pier Lease with United States Coast Guard (City Manager)

The City Lease with the United States Coast Guard (USCG) for the 17th Street Pier and associated amenities was entered into in 1992. The Lease expires on September 30, 2013. City staff has been working with the USCG Planning and Real Property Section on a new Lease. Negotiations have been completed and a new Lease is ready for consideration by the City Council. Key provisions are as follows:

- Monthly Lease rate of \$17,075.
- Annual base rent on Pier (\$147,000) will be subject to a 2% escalation rate calculated annually.
- The Lease is renewable annually over the next 19 years beyond the initial 1-year term. After 20 years, the Lease is subject to renegotiation.

The renegotiated Lease is very favorable to the interests of both the USCG and the City of Astoria. For the City's part, the new rate is sufficient to fully cover all debt service obligations on the Pier and to build an appropriate reserve for both routine and prospective long-term maintenance needs associated with the facility. It is recommend that Council approve the lease and authorize the Mayor to sign on behalf of the City. The Lease has been reviewed by City Attorney Henningsgaard and approved as to form.

Councilor Warr commented that it was wonderful that the Coast Guard was willing to pay the increase.

Mayor Van Dusen commended Councilor Warr for all his work to help the City obtain funds to rebuild the pier and City Manager Benoit did an excellent job on the lease agreement.

City Council Action: Motion made by Councilor Warr, seconded by Councilor LaMear to approve the 17th Street Pier lease with the United States Coast Guard and authorize the Mayor to sign on behalf of the City. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(e): 11th Street CSO Separation Project – Pay Adjustment No. 5 (Public Works)

The 11th Street Combined Sewer Overflow (CSO) Separation project primarily consists of installing over 10,000 linear feet of new storm water pipe. Due to the extent of utility replacement work along 11th Street, the entire roadway, from Commercial to Niagara, will be rebuilt from curb to curb and most of the sidewalk will be replaced. In March, Council awarded the construction contract to Tapani, Inc. for the bid amount of \$5,717,177. A 15% contingency (\$857,577) was incorporated due to the scope, scale, and potential for encountering unknown conditions during construction. Pay adjustment No. 5 for \$69,755.12 includes a variety of changes that are itemized in the memo provided in the agenda packet. The largest line item in this change order is for labor and equipment standby time due to the discovery of the historic trolley rail. Included in the specifications for the 11th Street CSO Separation project was a monetary incentive to complete the 11th Street and Commercial intersection prior to the contract deadline. Tapani was able to complete this work four days early, so with an incentive of \$2,500 per day, they are due an additional \$10,000 for this accomplishment. This change order also includes a \$4,243.54 cost due to another Centurylink conflict and will be included in the claim to Centurylink. Other work associated with this change order was due to adjustments for field conditions and changes that benefit the operation and maintenance of the system. It is recommended that the City Council authorize this pay adjustment for the 11th Street CSO Separation project for \$69,755.12. Funds are available for this project through IFA funding.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to authorize Pay Adjustment No. 5, in the amount of \$69,755.12, for the 11th Street CSO Separation project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Support Engineer Moore noted that the 11th Street CSO project is proceeding as scheduled and should be complete by November 2013.

Item 7(f): Liquor License Application from Sara Maya-Garcia and Juan Ramirez-Jimenez DBA Monteablan Mexican Restaurant, Located at 2975 Marine Drive, for a New Outlet – Full On-Premises Sales Commercial Establishment License (Finance)

A liquor license application has been filed by Sara Maya-Garcia and Juan Ramirez-Jimenez doing business as Monteablan Mexican Restaurant, located at 2975 Marine Drive, Astoria. The application is for a New Outlet-Full On-Premises Sales Commercial Establishment License. The appropriate departments have reviewed the application. It is recommended that Council approve the application.

Mayor Van Dusen declared that his business sells soft drinks to the Monteablan Mexican Restaurant, but he believed he could be objective on this application.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Herzig to approve a New Outlet – Full On-Premises Sales Commercial Establishment Liquor License for Sara Maya-Garcia and Juan Ramirez-Jimenez DBA Monteablan Mexican Restaurant. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(g): Public Safety Building Seismic Upgrade Required Photovoltaic System Emergency Contract Award (Police)

Proposals were recently solicited for the Public Safety Building Seismic Upgrade grant required Photovoltaic (Solar) System. The solar panels will be affixed to the Public Safety Building roof and are expected to supply approximately 10% of the building's electrical needs. On September 17, 2013, Inland Electric, Inc. provided the sole bid for the complete 10KW system in the amount of \$64,350. The project will be fully funded through the balance remaining of the Oregon Emergency Management (OEM) Seismic Rehabilitation Grant. This aspect of the project faced a number of delays due to the shakeout of suppliers in the solar industry. As such, OEM granted a final extension for completion to December 31, 2013. With a 90-day completion contract, the project has a very short time frame. The contract requires the contractor to provide a performance and payment bond, insurance certificates and schedule of values. It is expected that these documents will not be completed and presented to the City Attorney until after Council has met. Due to the very short timeframe for preparing contract documents and completing all associated work, it is recommended that Council award the contract to Inland

Electric, Inc., for the Public Safety Building Seismic Upgrade Photovoltaic System, contingent on contract documents being reviewed and approved as to form by the City Attorney.

Councilor Herzig said it was great that the City will be using renewable energy. If this project is successful, he hopes the City can find funding to install more solar panels on other City buildings.

City Council Action: Motion made by Councilor Herzig, seconded by Councilor LaMear to award a contract to Inland Electric, Inc., for the Public Safety Building Seismic Upgrade Photovoltaic System, contingent on contract documents being reviewed and approved as to form by the City Attorney. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

Item 7(h): Authorization to Award Bear Creek Dam Seismic Study Contract (Public Works)

The City of Astoria's Bear Creek Dam is a 90-foot high concrete gravity dam built in 1912 and raised in 1953. The Oregon Water Resources Department (OWRD) has classified the dam as a high hazard dam due to the dam's proximity to human population areas downstream. The classification is not a result of the dam's age or condition, but the age and current condition does affect the probability of failure during a significant seismic event. The OWRD has determined that the City should initiate a seismic failure analysis. A previous study completed 20 years ago did not include enough detail to determine the actual risk of failure as a result of a Cascadia Subduction Zone earthquake.

The first step in the process is to hire a consultant that specializes in the type of analysis necessary to determine if the dam is at risk, and if so, what steps to take to reduce the risk of damage and potential failure during a significant seismic event. While it is anticipated that the study may lead to conclusions more favorable than the previous study, there is the possibility that the conclusions may result in OWRD mitigation requirements. OWRD has provided a \$50,000 grant to assist the City with the first phase of the required studies. The study would be completed in the three phases listed below. Only the first phase is proposed at this time. The scope of future phases would be dependent on the results of Phase 1.

Qualification statements were received on August 6, 2013 from four firms and are listed in the order in which they scored in staff's evaluation: Cornforth Consultants, CH2MHill, Landau Associates, and Shannon & Wilson. All four firms specialize in seismic stability evaluation of dam structures. The evaluation team determined that Cornforth Consultants would be the suitable firm for this project. Staff has negotiated a scope of work and contract with the consultant and OWRD has approved the scope of work. The fee for the proposed work is \$99,865 with the City share being \$49,932.50. The work is planned to take place over the next 4-6 months and be complete no later than the end of the current fiscal year. It is recommended that Council execute a contract with Cornforth Consultants for a total not to exceed \$99,865, for geotechnical engineering services on the Bear Creek Dam Seismic Analysis Project.

City Council Action: Motion made by Councilor Mellin, seconded by Councilor Warr to execute a contract with Cornforth Consultants for a total not to exceed \$99,865, for geotechnical engineering services on the Bear Creek Dam Seismic Analysis Project. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

City Council proceeded to Item 8: New Business.

Added Agenda Item 7(i): Mutual Agreement and Order Amendment

This item was discussed immediately following Item 4: Changes to the Agenda.

City Manager Benoit reviewed the memorandum dated September 23, 2013 regarding the mutual agreement and order amendment. He noted the amendment to extend the time frame to 18 months was written by the Oregon Attorney General's office, and that the City of Astoria has a great relationship with DEQ, who is helping to finance the WWTP Effluent Treatment Upgrades project.

Cindy Moore, City Support Engineer, clarified that the new 18-month timeline would begin when the City originally received approval for the present WWTP Effluent Treatment Upgrades project from DEQ on October 1, 2012. She assured the project will be complete within the next six months.

Councilor Warr said it appears that DEQ and the City were both surprised to learn of the EPA's stance, which City Manager Benoit confirmed. Councilor Warr believed this was an issue the EPA would only discover while seeking ways to create problems. City Manager Benoit replied that Staff fully agreed. DEQ Staff were also taken aback as work on the project is proceeding well. No one knew why the EPA chose to make an issue of the deadline.

Councilor Herzig suggested the City request a nine-month extension instead of a six-month extension to align the deadline with the scheduled completion date of the project, which is July 1, 2014. Director Cook replied the project would probably be complete by the end of December 2013. Staff believes the extension to April 1, 2014 will be more than adequate. City Manager Benoit added that the requested extension was recommended by DEQ. Councilor Herzig commented that being able to complete the project by the end of 2013 will be fantastic.

City Council Action: Motion made by Councilor LaMear, seconded by Councilor Mellin to authorize Amendment No. 1 to the Department of Environmental Quality Mutual Agreement and Order No. WQ/M-NWR-01-284. Motion carried unanimously. Ayes: Councilors LaMear, Warr, Herzig, Mellin and Mayor Van Dusen; Nays: None.

City Council returned to Item 7(a): Ordinance Amending Certain Provisions Dealing with Public Offenses.

NEW BUSINESS & MISCELLANEOUS, PUBLIC COMMENTS

Councilor Herzig noted that changes to the dates of the City Council meetings in September were to accommodate his absence, which he appreciated. He noted that *The Daily Astorian* published three incorrect dates for the September meetings. He was unsure which Staff member is responsible for forwarding these dates to the *Daily Astorian*, but said it is important to keep the public informed of City Council meetings. City Manager Benoit explained that City Council usually meets on the first and third Mondays of each month. Executive Secretary Lampi sends meeting notices to all media and email subscribers. The City's first meeting notice contained an error, which the *Daily Astorian* published, and the City issued a correction.

Councilor LaMear asked for an update on the Garden of Surging Waves, as she has noticed a lack of activity over the last few days. Director Estes said that contractors are preparing the area underneath the marble columns for the mosaic. He explained this process in detail and added that the prep work would continue into October. The majority of the project will be complete by the middle of November. The glass contractor may have some manufacturing delays; however, the plaza may still be opened. When the glass items are ready to be installed, only temporary closures will be necessary on small sections of the park. The sprinkler system has been installed and is being used to water the plants. The trees along Duane Street will be replaced.

Brad Smithart, 400 Industry Street, Astoria, said he operates the Astoria Riverwalk Hotel and is concerned about city transit taxes. The hotel, which is the largest in Astoria, is the only non-franchise hotel in Astoria that is locally managed. City transit taxes must be paid monthly by the 15th of each month and are considered late after the 20th. Late payments incur a fine and interest. Hotels balance their budget according to fiscal quarters because reports from reservation sites, like Expedia and Hotwire, are received 60 or 90 days after the month being reported. These sites also budget according to fiscal quarters. The City is asking hotels to pay taxes on money not yet collected, to be adjusted once reservation reports are received. The City used to require hotels to pay taxes on a quarterly basis. This was changed two years ago because the City was unable to collect taxes from one or two hotels. City Attorney Henningsgaard responded that the intent was to facilitate timely payments.

Mr. Smithart replied that the delinquent hotels were franchises, which receive monthly reports from their corporate offices. He does not have staff to tabulate his totals each month and must serve as general manager, account manager and human resources manager. The City is asking him to pay taxes, allowing the City to hold this money interest free, and adjust the amount at the end of the quarter. He has worked in the hotel industry for 25 years in 22 communities. Astoria is the first community that has required a monthly payment.

City Manager Benoit noted the City has a good number of non-franchise, locally owned and operated hotels. Mr. Smithart asked how many rooms these other hotels have. His hotel has 108 rooms and will have 115 rooms in nine days. The other hotels are smaller properties. The City cannot compare his hotel to the motels because his hotel is more comparable to a Hampton or a Best Western, as reflected in the amount of annual transit taxes he pays.

City Manager Benoit noted that Item 6(c) on the Consent Calendar is a report on the delinquent transient room taxes. The property that Mr. Smithart operates is currently delinquent on room taxes in excess of \$63,000 with balances that date back to March, well in excess of a quarter. Years ago, the City did have issues with other properties. In a meeting with property owners, the owner of the Holiday Inn suggested the City would be better off collecting taxes on a monthly basis. Other cities do collect taxes monthly and Astoria has not received any other comments or had any issues with collecting monthly. It is up to City Council to decide how often to collect room taxes. When taxes are collected quarterly, the sums can be so large that it can be difficult for property owners to pay the taxes along with their other bills. He agreed to find out how other cities collect these taxes.

Mr. Smithart understood that over the last two years, the City has not had any problems collecting transient room taxes. City Manager Benoit clarified that the City has had fewer problems than when they were collecting taxes on a quarterly basis. Mr. Smithart was doubtful that the City is no longer having issues with the same hotels. He stated that he had asked to be added to the agenda, but had to speak under Public Comment. He stated he would only pay the City what he owes. The City is asking him to pay on a sum that has not yet been adjusted, noting his business runs on fiscal quarters.

Mayor Van Dusen stated Mr. Smithart would be on the agenda next time, noting that the Council was not prepared to discuss this issue as they were unaware it would be presented.

Larry Miller, Manager, Astoria Senior Center, reported that the senior center held their first annual Senior Conference on September 12, 2013. More than 50 seniors from the area attended and the Police Department gave presentations on identity theft, scams, internet safety, Facebook, and crowd permits. Mr. Miller wanted to publicly thank the City and the Chief of Police for their help with the conference. The senior center plans to have another conference in 2014.

Mayor Van Dusen added that the *Daily Astorian* and all of the radio stations publicized the event well.

Terry Wilson, 1445 Duane, KMUN, believed the City is getting close to web streaming the City Council meetings. The four new microphones being used at this meeting were designed to pick up choruses. Mr. Wilson had been asked to speak about the Civilian Emergency Response Team (CERT) in August, but was unable to because no City Council meetings were held. He was part of the first CERT team founded in 2006 as an auxiliary to the Fire Department. The team's first project was to assist the Fire Department by filling sand bags for the Bond Street slide. After the 2007 hurricane, the CERT team completed a survey of all of the buildings, prior to FEMA instructing them to do so. The CERT team is now an auxiliary to the Police Department. Many member of the CERT team have attended the Astoria Police Academy. Riding with a police officer is very informative and improves driving skills. The CERT team worked with the Police Department during the Regatta parade to assist with radio communications in case of an accident or catastrophe. The City does not have enough employees in the Police and Fire Departments to cover large events, which is one way the CERT team assists.

Mayor Van Dusen noted City Council held two meetings in August and requested that the minutes of each meeting be forwarded to Mr. Wilson.

ADJOURNMENT

There being no further business, the meeting was adjourned at 8:35 p.m. to convene the Executive Session.

EXECUTIVE SESSION

The City Council Executive Session was convened at 8:36 p.m.

Item 8(a): ORS 192.660(2)(e) – Real Property Transactions

The City Council Executive Session was adjourned at 9:00 p.m.

ATTEST:

APPROVED:

Finance Director

City Manager



CITY OF ASTORIA
POLICE DEPARTMENT

DATE: OCTOBER 14th, 2013

M E M O R A N D U M

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: FY 2013-2014 DISPATCH SERVICE AGREEMENTS

DISCUSSION/ANALYSIS

Enclosed are the following signed subscriber agreements for FY 2013-2014 for submission to Council for approval and signature.

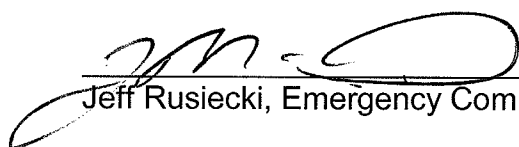
Port of Astoria	\$ 3,097
Warrenton Police Department	138,541
Clatsop County Sheriff's Office	227,172
Elsie-Vinemaple RFPD	4,148
John Day-Fernhill RFPD	2,000
Knappa-Svenson RFPD	5,192
Lewis & Clark RFPD	4,768
Oregon State Department of Forestry	1,500
Olney-Walluski RFPD*	2,320
Warrenton Fire Department and RFPD	16,696
Westport-Wauna RFPD	2,000
Astoria Police Department	270,782
Astoria Fire Department	23,433
Total	\$701,652

The passage of Senate Bill 1559 has allowed us to simplify our formula for allocating costs. In past years the formula for allocating costs of the Astoria Regional 9-1-1 center was based on population, assessed value, and calls for service. SB 1559 now directs the associated 9-1-1 tax monies collected directly to the PSAP instead of the County. The Astoria Subscriber's reached consensus that the annual tax collected will be deducted from the total amount the Center needs to collect for the fiscal year. The balance will then be divided by the total number of calls for service. Once the cost of a call for service is determined this figure will be multiplied by the number of calls for each Subscriber. All Agencies with the exception of the Clatsop County Sheriff's Office, The Port of Astoria, and the Oregon Department of Forestry also pay an annual Communications Equipment Infrastructure Maintenance fee of \$500. The total amount to be collected from all subscribers is the total Emergency Communications Fund budget minus the ending fund balance and any capital carry-over items. The Subscribers have also agreed to raise the minimum fee from \$250 to \$1,500. This fee has not been adjusted in over ten years and the new amount better reflects the value of the services provided.

The City of Astoria will provide each agency with a copy of the proposed Emergency Communications Budget and the estimated breakdown of Subscriber Costs at the first regular meeting of the Subscriber's Board for the calendar year. Any affected agency will be advised of any changes to those estimates during the course of the budget process. Billings will be mailed to each agency at the beginning of the fiscal year.

RECOMMENDATION

Recommend the City Council approve the Dispatch Service Agreements for FY 2013-2014.


Jeff Rusiecki, Emergency Comm. Mngr.

SAMPLE DISPATCH SERVICES AGREEMENT

A G R E E M E N T

POLICE DISPATCH SERVICES

THIS AGREEMENT is entered into on the 1st day of July, 2013 by and between the Port of ASTORIA, hereinafter called "the Port", and the CITY OF ASTORIA, a municipal corporation and hereinafter called "Astoria," both of Clatsop County, Oregon.

The Port and Astoria enter this agreement because the Astoria Police Radio Communications Center, hereinafter called "Dispatch Center", has the staff and facilities to provide emergency radio dispatch service to the Port, and the Port has the necessary funds to pay Astoria for services performed under this agreement.

Nothing in this agreement shall be interpreted to cause the City of Astoria to violate any rules and regulations set forth by the United States of America Federal Communications Commission.

I.

SERVICES TO BE PROVIDED BY ASTORIA

A. Basic Services

Astoria shall provide the Port with twenty-four (24) hour emergency dispatch service. This will include:

1. Answering service for the Port police emergency incoming telephone lines;
2. Advising appropriate police agency by means of radio of services requested by the public;
3. Answering police radio calls for service and provide appropriate information to authorized personnel;
4. Maintaining a log of citizen-called-for services;
5. Providing teletype service to authorized personnel;
6. Provide communications infrastructure maintenance for all equipment licensed by the FCC to Astoria 911 not including end user equipment.

Astoria shall retain control of its Dispatch Center Personnel and their performance of services under this agreement. All such personnel performing services for the City of Astoria pursuant to this agreement shall be Astoria employees.

II.

CONSIDERATION

A. For the service provided by Astoria, the Port agrees to a cost of \$3,096 for the period of July 1, 2013 to June 30, 2014.

B. The Port shall pay Astoria as follows:

The sum \$3,096, payment due on September 30, 2013

OR

1. For the period from the 1st day of July, 2013 to the 30th day of September, 2013, the sum of \$774; payment due on September 30, 2013;
2. For the period from the 1st day of October, 2013 to the 31st day of December, 2013, the sum of \$774; payment due on December 31, 2013;
3. For the period from the 1st day of January, 2014 to the 31st day of March, 2014, the sum of \$774; payment due on March 31, 2014;

4. For the period from the 1st day of April, 2014 to the 30th day of June, 2014, the sum of \$774; payment due on June 30, 2014.

III.

LIABILITY INSURANCE

Each party to this agreement represents to the other that it will have in effect at all times during this agreement liability insurance coverage which covers all sums that each shall be legally obligated to pay as damages for liability under the Oregon Revised Statutes 30.260 to 30.300, the Oregon Tort Claims Act.

IV.

TELEPHONE LINES

The Port shall assume all costs for installation, maintenance, repair or rental for all emergency telephone lines originating from the Port.

V.

TERM OF CONTRACT

This contract shall be effective from July 1, 2013 to June 30, 2014 and may be modified or renewed upon the consent of both parties. This contract may be terminated at any time by either party provided that the terminating party gives the other party at least ninety (90) days written notice.

VI.

ATTORNEY 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.

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

CITY OF ASTORIA

PORT OF ASTORIA

By _____
Willis Van Dusen, Mayor

By *Frank Reynolds, CEO*

By _____
Paul Benoit, City Manager

By _____

APPROVED AS TO FORM

Paul Benoit
Astoria City Attorney



October 11, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **CONSIDERATION OF RESOLUTIONS FOR ASTORIA SENIOR CENTER COMMUNITY DEVELOPMENT BLOCK GRANT SECTION 3 AND LIMITED ENGLISH PROFICIENCY (LEP) PLANS**

DISCUSSION/ANALYSIS

In March 2013, the City Council accepted a Community Development Block Grant (CDBG) for renovation of the Astoria Senior Center. As the Housing and Urban Development (HUD) program provides funding for Oregon's CDBG projects, certain Federal requirements must be complied with in order to the use of the funds. Two of these requirements include adoption of the following two plans:

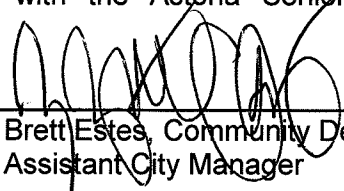
- Section 3 Plan, which describes how the City will make a good faith effort to ensure all contractors working on HUD-funding CDBG projects provide equal employment opportunity for all employees and applicants for employment, and that reasonable efforts are made to fill all training positions with local residents.
- Limited English Proficiency (LEP) Plan, which describes how the City makes a reasonable effort to ensure residents with limited English are made aware of and can access City programs and services.

Columbia-Pacific Economic Development District (Col-Pac), the City's Astoria Senior Center CDBG Grant Manager, has drafted Section 3 and LEP Plans for City Council consideration. Attached to this memorandum are the two above mentioned plans and accompanying resolutions. These two drafts have been reviewed and preliminarily approved by Oregon's CDBG management staff. City Attorney Blair Henningsgaard has reviewed and approved both Plans as to form.

RECOMMENDATION

Staff recommends that Council adopt the two attached resolutions, by separate motions, for the Section 3 Plan and Limited English Proficiency Plan associated with the Astoria Senior Center Community Development Block Grant.

Submitted By _____


Brett Estes, Community Development Director /
Assistant City Manager

Prepared By _____

Mary McArthur, Senior Center Grant Manager

RESOLUTION NO. _____

A RESOLUTION TO ADOPT THE SECTION 3 PLAN TO COMPLY WITH 24 CFR, PART 135 OF THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT SECTION 3

WHEREAS, the United States Congress passed Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (Section 3) to further the goal of ensuring that Federal funds benefit the residents of projects funded wholly or in part by those funds; and

WHEREAS, Part 135 of Section 3 is to establish the standards and procedures to be followed to ensure that the objectives of Section 3 are met; and

WHEREAS, Astoria's Community Development Department staff have developed a Section 3 Plan in adherence to 24 CFR, Part 135 that more comprehensively addresses the standards and procedures prescribed in the Act; and

WHEREAS, the Section 3 Plan has been reviewed by the State of Oregon Community Development Block Grant staff, Astoria senior staff, and Astoria's legal counsel, and their comments incorporated into the Plan;

NOW, THEREFORE, BE IT RESOLVED THAT the City Council authorizes the City of Astoria to adopt and implement the Section 3 Plan to ensure compliance with Federal Law and to designate Paul Benoit, City Manager as the Section 3 Coordinator for the City.

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

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

Mayor

ATTEST:

Paul Benoit, City Manager

ROLL CALL ON ADOPTION: YEA NAY ABSENT

Commissioner LaMear
 Herzig
 Mellin
 Warr

Mayor Van Dusen

City of Astoria

Limited English Proficiency (LEP) Plan

CONTACT INFORMATION

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Paul Benoit
City Manager
pbenoit@astoria.or.us

City of Astoria—City Hall
1095 Duane St
Astoria, OR 97103
Phone: (503) 325-5825 ♦ FAX: (503) 325-2017

This document addresses the needs of the citizens of the City of Astoria with Limited English Proficiency

City of Astoria Oregon Limited English Proficiency Plan

Introduction

The City of Astoria Oregon is situated in Clatsop County, Oregon with an approximate population of 9,500. The city encompasses a multitude of services, including the Mayor and City Council, City Manager, Community Development, Finance, Fire, Parks and Recreation, Police, Public Works, and a Library.

The population of Astoria is predominantly English speaking, with the largest minority language being Spanish¹, and includes a variety of other Indo-European, Asian and Pacific Islander, and other languages. English is the primary language of approximately 86% of the population, with 9% speaking Spanish as their primary language. The remaining primary languages spoken are interspersed among the remaining 409 individuals in the Astoria population, with none of the individual language groups rising above 70 limited English proficiency speakers. Limited English proficiency within the Spanish population represents approximately 3.8% of Astoria's population over the age of 5.²

The City of Astoria (City) undertakes to ensure that persons with Limited English Proficiency (LEP) shall not be discriminated against nor denied meaningful access to, and participation in, the programs and services provided by the City. In order to ensure meaningful access and participation for LEP persons, the City takes reasonable steps to see that language services are provided according to the provisions of the City's LEP Plan as described below.

The LEP Plan applies to all City administered programs, services and facilities, regardless of whether they receive Federal financial support or not. However, the LEP Plan does not apply to the operation or administration of any properties or projects wherein the City is not the primary owner (i.e., the City is a funding agency and not the entity with primary control over said property) and the primary owner qualifies as recipient or sub-recipient of federal financial assistance.

It is the intent of the City, in providing language services to LEP persons, to achieve a balance that ensures meaningful access to programs and services while not incurring undue burdens on City resources.

Astoria's City Manager's office is the central coordinator for the LEP Plan and language services. The office provides oversight for the implementation of the LEP Plan, coordinates and facilitates delivery of LEP language services, ensures that staff are informed on LEP services and procedures, and directs the monitoring and assessment of the LEP Plan's effectiveness.

Definitions:

Limited English Proficiency person. Any person who does not speak English as their primary language and who has a limited ability to read, write, speak, or understand English. Such person or persons shall be entitled to language assistance at no cost to themselves with respect to a particular type of service, benefit, or encounter.

Vital document. Any document that contains information that is critical for obtaining or maintaining the services or benefits that are supported by Federal funds, or that are required by law. Such documents may include but are not limited to applications, consent forms, notices of participant rights and responsibilities, disciplinary notices, letters or notices that require a

¹ See Exhibit A—Astoria Oregon Limited English Proficiency Population, US Census American Fact Finder

² See Exhibit A—Astoria Oregon Limited English Proficiency Population, US Census American Fact Finder

response from the participant or beneficiary, legal notices, and notices advising LEP persons of the availability of free language services.

Interpretation. The act of listening to spoken words in one language (the source) and orally translating it into another language (the target).

Translation. The replacement of a written text from one language into an equivalent written text in another language. NOTE: Some LEP persons cannot read in their own language and back up oral interpretation services may be needed for written documents.

Four-Factor Assessment. This is an assessment tool used by the City, as a recipient of federal funding, to determine the extent of its obligation to provide LEP services. These four factors are: (1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided the program to people's lives; and (4) the resources available to the grantee/recipient and costs.

Who is covered?

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives Federal financial assistance.

Under regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. (Title VI), recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with LEP. The purpose of the LEP is to ensure that the City, as a recipient of Federal Funding, is complying with its Title VI responsibilities and that access to their programs or activities, normally provided in English, are accessible to LEP persons.

In order to avoid discrimination against LEP persons on grounds of national origin, the City has taken adequate steps to ensure that LEP persons receive the language assistance necessary to afford them meaningful access to the programs, services, and information the City provides, free of charge.

Pursuant to Executive Order 13166, the meaningful access requirement of the Title VI regulations and the four-factor analysis set forth in the LEP Guidance of the Federal Register (FR-4878-N-01) are to apply to programs and activities receiving federal assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

Federally assisted recipients are required to make reasonable efforts to provide language assistance to ensure meaningful access for LEP persons to the recipient's programs and activities. To do this, the recipient has: (1) conducted the four-factor assessment; (2) developed a language access plan (LAP); and (3) provided access to appropriate language assistance.

Coverage under Title VI and Executive Order 13166 extends to all of a recipient's programs or activities, (i.e., to all parts of a recipient's operations). This is true—even if only one part of the recipient receives the federal assistance.

As the City of Astoria encompasses a variety of services, application of the Four-Factor analysis varies depending on the specific service.

Four-Factor Assessment

1. Population Size of LEP Persons who Need Language Services Assistance

The City has used the following methodology and data sources to identify and determine the number of LEP persons currently using the City's services, the number of LEP persons in the City's area of operations who may be eligible for programs and services and the particular languages used by both groups. The City used various methods to identify LEP persons with whom they have contact. These included:

- Past experiences with LEP by City staff.
- Latest Census Department data. Census data has been reviewed and matched to the extent possible with the City area of operations. When Census data is updated, it will be reviewed to identify commonly encountered languages other than English.

Assessment: Housing and Urban Development, in its final guidance for providing program access to LEP individuals, has detailed a 'Safe Harbor' where providing a certain level of translated materials for a LEP population of a specified size will "be considered strong evidence of compliance with the recipient's written translation obligations." The City of Astoria has determined that, in regards to its LEP language populations, the Spanish LEP population is below both 5% and 1,000 individuals, and thus translated vital documents are not required. The City of Astoria's remaining LEP populations for each spoken language are also below 5% and 50 persons. According to the 'Safe Harbor' Guidelines, any language population that falls below 50 individuals and 5% of the service population is not required to receive any written translations. As the remaining LEP populations fall below this level, the City of Astoria is not required to provide any translated documents under 'Safe Harbor' guidelines to non-Spanish LEP individuals.

2. Frequency of Contact with LEP Persons who Need Language Services Assistance

Clatsop County is the primary provider of social services within Astoria, and has the most contact with LEP persons who need language service assistance. The majority of contact the City has with non-English speaking citizens is through Police Department stops and other activity. Frequency of contact with LEP persons for other City services such as applications, consent forms, notices of participant rights and responsibilities, disciplinary notices, letters or notices that require a response from the participant or beneficiary, and public legal notices is relatively rare, less than once a year. City staff indicates that generally, individuals with limited English proficiency will bring a family member or friend, who will translate.

Assessment: Need for LEP services approximates the percentage of Astoria residents with limited English proficiency—less than 5% of staff encounters or contacts. Ongoing monitoring of LEP contact with the City occurs, and should the level or difficulty of serving this population increase, the City is prepared to add resources.

3. Nature and Importance of Programs and Service Utilized or Needed by LEP Persons

The City recognizes that, within the range of programs and services it provides, some programs and services, such as those that directly impact the well-being of the local population, are of higher priority than others. While it is the City's intent to provide meaningful access to all participants and eligible persons, the availability of resources may limit the provision of language services in some instances.


Activities such as outreach, intake forms, leases, rules of occupancy, legal actions, life and safety notices, and the like have a high priority. Information about and an understanding of

these activities should be effectively communicated to all persons affected by them. Other activities such as recreation programs, social activities, optional meetings, and related areas are of a lesser priority.

Assessment: Given that Police stops are generally where the City has the highest contact with LEP individuals, the City has designated translation services to be available during normal working hours within the Police Department. For other services, the City provides on call translation services and public information in multiple languages on its website.

4. Availability of Resources to LEP Persons Who Need Language Assistance

Astoria's Police Chief is fluent in Spanish and provides translation services within the Police Department and is available if needed in other departments. Volunteers from the Lower Columbia Hispanic Council are also available to assist should translation services be needed. Overall, the frequency of City staff contact with LEP persons generally mirrors the frequency of persons needing language services in the City's population—less than 5% of the overall contact.

Astoria's website includes a Google Translate tab  which translates the public information into Chinese, Finnish, German, Spanish and Swedish.

Assessment: The City is both pro-active in providing persons with limited English proficiency public information about Astoria's public services, and in having translation resources available to those having direct contact with City staff. The City works to ensure that at a minimum, at least one bilingual-Spanish staff person is available during normal business hours, and to provide translation in other languages when arranged for in advance.

City of Astoria Limited English Proficiency (LEP) Plan

The City provides language services to LEP persons by a variety of methods based upon the relative numbers of such persons and the frequency of contacts or anticipated contacts. Reasonable steps are taken to accomplish this. Specifically, this LEP Plan outlines the City's approach to working with persons needing language assistance:

- I. Identification of LEP Individuals who Need Language Assistance:** Activities include:
 - Posting of notices in the lobby of the City Hall and in separate lobbies of other City facilities accessible by the public. These posted notices will be in commonly encountered languages and will encourage LEP persons needing language assistance to self-identify.
 - "Language Identification" cards (<http://www.lep.gov/resources/ISpeakCards2004.pdf>) will be available in the languages identified in the City's area of operations. The cards will also be used by staff on a day-to-day basis to determine and document the need for particular language services during routine activities and encounters.
 - Notification to applicants for assistance, licensing, or permits that language services will be provided at no cost.
 - Periodic reviews with staff to determine if the needs of residents with limited English continue to be met.

II. Provision of Language Assistance Measures: Procedures and activities for the provision language assistance include:

A. Types of Language Services Available

A. 1. Written Translation Measures

- Postings in a conspicuous places in City Hall, Police Department Main Lobby, and any other City facility accessed by the public informing applicants or members of the general public that translation services are available at no charge to the individual who is seeking services or information regarding such services. The City has a list of interpreters and translators for staff to use when language services are required for LEP persons.
- Bi-lingual public notice communications and outreach. The City also provides language services in the conduct of its web-based outreach efforts which are intended to make the general public aware of its programs and services. In this manner, LEP persons who are a part of the population in the City's area of operations have an equal opportunity to learn about the City's programs and services and to access and participate in them.

A. 2. Oral Translation Measures

- The City shall strives to ensure that at a minimum, at least one bilingual-Spanish staff person is available during normal business hours, and provides interpretation in other languages when arranged for in advance. Should the City no longer have bilingual Spanish speaking staff, the City will contract with a telephone interpretive service that will allow tenants, applicants or members of the general public who do not speak English to communicate with staff at the time they call or come into City Hall Administration Office, Police Department Main Lobby, and any other City facility accessed by the public.
- The City shall offer oral interpretation at no charge at meetings, events, and other activities, provided that the need is identified by the participant(s) at least forty eight (48) hours prior to the event, dependent upon the availability of an interpreter for the requested language.

A. 3. Additional Measures to be Considered and Used Based on an Assessment of Need

The following list outlines potential future measures that could be undertaken, should the level of need for LEP services increase from the current assessment.

- Use of and/or hiring bilingual staff to handle the majority of the verbal and written translation duties for the City. (Essential in the daily operations.) At the time of adoption of this LEP plan, 1 bilingual staff member is available during normal working hours.
- Contracting with qualified interpreters and translators, either individually or through the Lower Columbia Hispanic Council which provides such persons when other City employees are not available or not skilled. (Essential when accuracy and details are important or critical.)
- Centralizing language services and/or sharing language services with other City if/when available. (If needed to minimize costs.)

- Use of telephone (or video conferencing) interpreter services. (If prompt delivery of interpretation services is required.)
- Use of community volunteers (either individuals or community service agencies that provide services to one or more language groups). (When language service needs are more informal.)
- Pooling resources and/or standardization of documents and forms. (If needed to minimize costs.)
- Use of family members or friends. (When language service needs are more informal.)

B. Connecting Staff to Available Language Services Available

The City strives to ensure that at a minimum, at least one bilingual-Spanish speaking staff person is present during normal business hours, and shall provide interpretation in other languages when arranged for in advance.

C. Telephone System Protocols

If City staff cannot understand a LEP caller, and a translator is not immediately available, the caller's phone number is taken, and a bi-lingual interpreter/translator calls the individual back.

D. Responding to Written Communications from LEP Persons

The City uses a bi-lingual interpreter/translator to read and respond in the LEP's language in written communications.

E. Responding to In-Person Contact with LEP Persons

Should staff be unable to communicate with a LEP person, the City's bilingual interpreter/translator is contacted, and communications are either continued in-person or over the phone. Should the interpreter/translator be unavailable, contact information for the individual will be recorded, including nature of the inquiry, and an interpreter/translator will re-contact the person.

F. Ensuring the Competency of Interpreter and Translator Services

The City make severy reasonable effort to assure that the language services it provides to LEP persons are of the highest quality and that the competency of interpreters and translators is appropriate to the situation. This applies to both the use of internal bilingual employees and contracted interpreters and translators.

- 1) Interpreters (outside the use of internal bilingual employees). Oral interpretation of encounters, interviews, meetings and the like require a certain level of competency and professionalism on the part of the interpreter. These characteristics do not necessarily exist in a person who is simply bilingual. Likewise, formal certification while helpful may not always be required. Often the importance of the encounter or the consequences will direct the level of professionalism needed. When using an interpreter, the City uses the following general criteria to ensure effective communications with LEP persons:
 - a) Demonstrated proficiency in and ability to communicate information accurately in both English and in the other language and able to identify and employ the appropriate mode of interpreting (consecutive, simultaneous, summarization, or sight translation).

- b) Knowledge in both languages of any specialized terms or concepts particular to the City programs or services and of any particularized vocabulary and phraseology used by the LEP person, or the ability to explain either in English or the necessary language, the specialized term(s), concept(s), particularized vocabulary or phraseology.
 - c) Understanding of and ability to follow confidentiality and impartiality rules to the same extent that the City employee for whom they are interpreting or to the extent that their position requires or both.
 - d) Understanding of and adherence to their role as interpreter without deviating into a role as counselor, legal advisor, or other role.
 - e) Awareness of regionalisms (dialects) used by the LEP persons for whom they are interpreting.
- 2) Translators (outside the use of internal bilingual employees). When selecting translators, the list of criteria applied to determine competency and professionalism for interpreters above shall be applied to the extent that those criteria are appropriate. If a staff member who speaks the necessary language is not available, the City shall obtain translation and interpretation services from a certified translation/interpretation service.

III. Staff Training to Be Provided

The City reviews its LEP Plan with staff. The frequency of staff encounters with LEP persons determines the level of review. All employees who are likely to have contact with LEP persons are informed of the City's LEP Plan, and on how to work effectively with in-person and telephone interpreters, and to understand the dynamics of interpretation among LEP providers and interpreters.

Staff having the greatest contact are the first to be trained to effectively implement the LEP Plan. Those staff having the least amount of contact with LEP persons, at a minimum, are trained to be fully aware of the Plan so that they may reinforce its importance and ensure implementation by other staff.

LEP training is part of the orientation for all new employees who work with LEP persons. On-going employees receive an orientation on the LEP Plan.

IV. Provision of Notice to LEP Persons

The City provides appropriate notice to LEP persons and language groups of the availability of free language services that ensure meaningful access to programs and services provided by the City. Notices in those appropriate languages informing LEP persons and groups shall be posted in common areas, offices, and anywhere that applications are taken. These notices shall explain how to receive language services.

V. LEP Plan Monitoring and Updating

The City monitors implementation of the LEP Plan on an ongoing basis, making revisions to policies and procedures as may be required periodically. The City also reviews (not less than annually) the overall effectiveness of its LEP Plan. This review considers information from the following sources and criteria as well as other factors as may be appropriate:

- 1) Changes in demographics including new language groups and changes in the proportion of existing language groups, types of services, and other needs.
- 2) Frequency of encounters with LEP persons. Whether existing language services are meeting needs of LEP persons.

- 3) Whether existing language services are meeting needs of LEP persons.
- 4) Availability of new resources including technology.
- 5) Whether identified sources for assistance are still available and viable.
- 6) How well staff understand and have implemented the LEP Plan.
- 7) Feedback from the community at large and from minority language groups and persons.

Based upon findings of the periodic review, the City shall revise the LEP Plan to ensure its effectiveness in meeting the access and participation needs of LEP groups and persons.

VI. Complaint Procedures and EO Monitoring

For regularly encountered LEP language groups, LEP persons are provided notice of their opportunity to file a discrimination complaint in accordance with federal regulations. For infrequently encountered LEP language groups, LEP persons shall be advised orally of the opportunity to file a discrimination complaint pursuant to the regulations.

Astoria Oregon Limited English Proficiency Population				
TOTAL POPULATION: 9,527				
Population 5 years and over: 8,891 (+/-125)				
	Estimate	Margin of Error	Percent	Percent Margin of Error
LANGUAGE SPOKEN AT HOME				
Population 5 years and over				
English only	7,680	+/-254	86.4%	+/-2.6
Language other than English	1,211	+/-234	13.6%	+/-2.6
Speak English less than "very well"	501	+/-140	5.6%	+/-1.6
Spanish	802	+/-208	9.0%	+/-2.3
Speak English less than "very well"	337	+/-132	3.8%	+/-1.5
Other Indo-European languages	218	+/-128	2.5%	+/-1.4
Speak English less than "very well"	59	+/-42	0.7%	+/-0.5
Asian and Pacific Islander languages	108	+/-61	1.2%	+/-0.7
Speak English less than "very well"	67	+/-38	0.8%	+/-0.4
Other languages	83	+/-59	0.9%	+/-0.7
Speak English less than "very well"	38	+/-44	0.4%	+/-0.5

US Census: American Fact Finder. 2012 Total Population Estimate; 2010 Census—Language Spoken at Home data

SECTION 3 PLAN

General Policy Statement

It is the policy of the City of Astoria to require its contractors to make a good faith effort to provide equal employment opportunity to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability, veteran's or marital status, or economic status and to take affirmative action to ensure that both job applicants and existing employees are given fair and equal treatment.

The City of Astoria implements this policy through the awarding of contracts to contractors, vendors, professional service providers/consultants and suppliers, to create employment and business opportunities for residents of the City of Astoria and other qualified low-and very low-income persons.

The policy will ensure that in good faith the City of Astoria will have a reasonable level of success in the recruitment, employment, and utilization of Section 3 residents and other eligible persons and Section 3 business concerns working on contracts partially or wholly funded with the United States Department of Housing and Urban Development (HUD) monies. The City of Astoria shall examine and consider a contractor's, professional service provider/consultant or vendor's potential for success by providing employment and business opportunities to Section 3 residents and business concerns prior to acting on any proposed contract award.

Good Faith Effort

At a minimum, the following tasks must be completed to demonstrate a good faith effort with the requirements of Section 3. The City of Astoria and each contractor, subcontractor, professional services provider, vendor or supplier seeking to establish a good faith effort as required should be filling all training positions with persons residing in the target area.

1. Send notices of job availability subcontracting opportunities subject to these requirements to recruitment sources, organizations and other community groups capable of referring eligible Section 3 applicants, including Work Source Oregon.
2. Include in all solicitations and advertisements a statement to encourage eligible Section 3 residents to apply.
3. When using a newspaper of major circulation to request bids/quotes or to advertise employment opportunities to also advertise in minority-owned newspapers.
4. Maintain a list of all residents from the target area who have applied either on their own or by referral from any service, and employ such persons, if otherwise eligible and if a trainee position exists. (If the contractor has no vacancies, the applicant, if otherwise eligible, shall be listed for the first available vacancy). A list of eligible applicants will be maintained for future vacancies.

Any construction contractor, professional services provider, vendor or supplier must certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed were not filled to circumvent the contractor's obligation under 24 CFR Part 135.

WHAT IF MY BUSINESS DOES NOT QUALIFY AS A SECTION 3 BUSINESS?

The City of Astoria will, to the greatest extent feasible, offer contracting opportunities to Section 3 business concerns. However, in the event no Section 3 business bids on a contract, or bids but is not able to demonstrate to the City of Astoria satisfaction that it has the ability to perform successfully under the terms and conditions of the proposed contract, then that contract will be awarded to a non-Section 3 business concern that can meet the terms and conditions of the proposed contract through the competitive bidding process.

That business concern must meet, as all business must (including Section 3 businesses), the general conditions of compliance (refer to Section 3 Clause [Construction Contracts] and Section 3 Clause [Non-Construction Contracts]).

This will include:

1. Submitting a list of all positions necessary to complete contract, name of employees who will fill those positions, names of all other employees.
2. Posting notices of any vacant positions, including training and/or apprenticeship positions, qualifications for positions, place where applications will be received and starting date of employment.
3. To the greatest extent possible, making available vacant positions, including training and/or apprenticeship positions, to Section 3 residents (all categories) in order to priority.
4. As positions are vacated during completion of contract, following guidelines enumerated in numbers 2 and 3 above.
5. Submitting Compliance Reports as required.
6. If notified of non-compliance, correcting non-compliance within allowable time period.

Section 3 Purpose

Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u) (Section 3) requires the City of Astoria to ensure that employment and other economic and business opportunities generated by the Department of Housing and Urban Development (HUD) financial assistance, to the greatest extent feasible, are directed to public housing residents and other low-income persons, particularly recipients of government housing assistance, and business concerns that provide economic opportunities to low-and very-low income persons.

Section 3 Contracting Policy and Procedure

Section 3 residents must meet the minimum qualifications of the position to be filled and a Section 3 business concern must have the ability to and capability to perform successfully under the terms and conditions of the proposed contract.

The City of Astoria will incorporate Section 3 in its existing Procurement Policy and adopt a Section 3 Contracting Policy and Procedure to be included in all procurements generated for use with HUD funding. This policy and procedure contains goal requirements for awarding contracts to Section 3 Business Concerns.

All contractors/businesses seeking Section 3 preference must before submitting bids/proposals to the City of Astoria will be required to complete certifications, as appropriate, as acknowledgement of the Section 3 contracting and employment provisions required by this section. Such certifications shall be adequately supported with appropriate documentation as referenced in the form. Refer to Exhibit 4.

In addition the City of Astoria has initiated efforts to enhance resident hiring in specific procurement areas. These initiatives are designed to set the requirements for resident hiring and developing and/or

strengthening administrative procedures for facilitating contractors' hiring of Section 3 residents, other low income and/or very low-income residents residing in the City of Astoria. In promote good faith effort to enhance Section 3 compliance all **procurement documents must meet the following:**

1. Each bidder/proposer must include a Section 3 Opportunities Plan and Certification (Exhibit 5) or a separate schedule which indicates its commitment to meet the Section 3 resident hiring requirements.
2. If a bidder/proposer fails to submit a Section 3 Opportunities Plan and Certification or a separate schedule and the related data along with the bid/proposal, such bid/proposal will be declared as "non-responsive".
3. For Invitations for Bids ("IFB") where awards are made to the lowest, responsive and responsible bidder, the bidder's commitment to satisfy Section 3 resident hiring requirements will be a factor used in determining whether the bidder is "responsive".
4. For QBS's RFQ's, RFP's and IFB's, contractors shall be required to detail the cost of the bid or proposal by separately categorizing contract cost by labor (person hours and dollar amounts).

The City of Astoria and their covered contractors, subcontractors, professional service providers/consultants or subrecipients) will in good faith comply with the requirements of Section 3 for *new* employment, training, or contracting opportunities resulting from the expenditure of HUD funding. The City's responsibility includes:

1. Providing a list of all Section 3 residents and business concerns within their area;
2. Advertise to have residents businesses complete the pre-qualifying certification form;
3. Develop a system to collect the pre-qualifying certification forms and to verify the accuracy of the completed forms;
4. Contract work (contracts of \$100,000 or more for construction or any non-construction activity leading to construction i.e. engineering, architectural services) with preference to Section 3 residents and business concerns by giving preference to Section 3 residents and business concerns located closer to the project site;
5. Require construction contractors, engineers, architects, program managers, vendors and suppliers, etc. to submit a Section 3 Opportunities Plan and Certification plan with their bid/proposal;
6. Informing businesses that they can use the Work Source Oregon—First Source Hiring Agreement in complying with the Section 3 requirements;
7. Implementing procedures to notify Section 3 residents and business concerns about training, employment, and contracting opportunities generated by Section 3 covered assistance;
8. Notifying potential contractors working on Section 3 covered projects of their responsibilities;
9. Incorporating the Section 3 Clause into all covered solicitations and contracts [see 24 CFR Part 135.38];
10. Facilitating the training and employment of Section 3 residents and the award of contracts to Section 3 business concerns;
11. Assisting and actively cooperating with the State in making contractors and subcontractors comply;
12. Refraining from entering into contracts with contractors that are in violation of Section 3 regulations;
13. Documenting actions taken to comply with Section 3; and
14. Submitting Section 3 Annual Summary Reports (form HUD-60002) in accordance with 24 CFR Part 135.90.

15. Informing any subrecipient/sub-grantee of the City of Astoria CDBG funds that they must attempt to reach the minimum numerical goals set forth at 24 CFR Part 135.30, regardless of the number of subrecipients/sub-grantees that receive covered funding. The information and assistance that will be provided includes but is not limited to the following:
- a. Inform subrecipients/sub-grantees about the requirements of Section 3;
 - b. Assist subrecipients/sub-grantees and their contractors with achieving compliance;
 - c. Monitor subrecipient/sub-grantee performance with respect to meeting the requirements of Section 3; and
 - d. Report to HUD on the cumulative Section 3 activities taking place within their jurisdiction on an annual basis.

The existing City of Astoria Procurement Policy also contains goal requirements for awarding contracts to Small Disadvantaged Businesses, formerly Minority and Women Business Enterprises (M/WBE).

Section 3 Clause

The Section 3 Contract Clause specifies the requirements for contractors hired for Section 3 covered projects. The Section 3 Clause must be included in all Section 3 covered projects. The Section 3 Contract Clause is included in Exhibit 1.

Numeric Goals for Section 3 Employment & Training

It is the policy of the City of Astoria to utilize residents and other Section 3 eligible persons and businesses concerns in contracts partially or wholly funded with monies from the Department of Housing and Urban Development (HUD). The City of Astoria has established employment and training goals that contractors and subcontractors should meet in order to comply with Section 3 requirements. (Reference 24 CFR 135.30—Numerical goal for meeting the greatest extent feasible requirement). The numerical goal is:

- Thirty percent (30%) of the aggregate number of new hires in any fiscal year.

It is the responsibility of contractors, professional service providers/consultants, vendors and suppliers to implement progressive efforts to attain Section 3 compliance. Any firm that does not meet the Section 3 numerical goals must demonstrate why meeting the goals were not feasible. All firms submitting bids or proposals are required to certify that they comply with the requirements of Section 3.

Numeric Goals for Contracting Activities

Absent evidence to the contrary, the City of Astoria considers contractors, professional service providers/consultants, vendors and suppliers of covered funding to be in compliance with Section 3 if they meet the minimum numerical goals set forth at 24 CFR Part 135.30. Specifically:

1. 30 percent of the aggregate number of new hires shall be Section 3 residents;
2. 10 percent of the total dollar amount of all covered construction contracts shall be awarded to Section 3 business concerns; and
3. 3 percent of the total dollar amount of all covered non-construction contracts shall be awarded to Section 3 business concerns.

Businesses that fail to meet the minimum numerical goals above bear the burden of demonstrating why it was not possible to do so. Such justifications should describe the efforts that were taken, barriers encountered, and other relevant information that will enable the state to make a compliance determination.

Failure to comply with the requirements of Section 3 may result in sanctions, including: debarment,

suspension, or limited denial of participation in HUD programs pursuant to 24 CFR Part 24.

Section 3 Program Resident/Participant Certification Procedure

Section 3 Residents Are:

1. Residents of Public and Indian Housing; or
2. Individuals that reside in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and whose income do not exceed the local HUD income limits set forth for low-or very low-income households.

The City of Astoria will certify Section 3 program participants who reside in the City of Astoria and who are seeking preference in training and employment by completing and attaching adequate proof of Section 3 eligibility, as required (see Exhibit 3—Section 3 Participant Eligibility for Preference form).

1. All persons living in the City who meet the Section 3 eligibility guidelines can, by appointment, visit with the Section 3 Coordinator to complete a job readiness assessment.
2. Once this assessment is complete, the Section 3 Coordinator will determine if the individual meets the eligibility requirements and is job ready.
3. The Section 3 job readiness component is a part of the City of Astoria commitment to provide economic opportunities and training to residents/eligible participants to become gainfully employed.

Resident Hiring Requirements

The City of Astoria has adopted the following scale for resident hiring that is to be used on all construction contracts, service contracts and professional service contracts that contain a labor component. It is expected that an appropriate number of residents with particular qualifications or a willingness to begin unskilled labor will be able to participate in contracted labor efforts.

TOTAL LABOR DOLLARS USE TOTAL CONTRACT AMOUNT FOR SERVICE CONTRACTS	RESIDENT AS A % OF TOTAL LABOR DOLLARS
Labor dollars \$25,000 but less than \$100,000	10% of the labor dollars
\$100,000, but less than \$200,000	9% of the labor dollars
At least \$200,000, but less than \$300,000	8% of the labor dollars
At least \$300,000, but less than \$400,000	7% of the labor dollars
At least \$400,000, but less than \$500,000	6% of the labor dollars
At least \$500,000, but less than \$1 million	5% of the labor dollars
At least \$1 million, but less than \$2 million	4% of the labor dollars
At least \$2 million, but less than \$4 million	3% of the labor dollars
At least \$4 million, but less than \$7 million	2% of the labor dollars
\$7 million or more	1 – ½% of the labor dollars

With this sliding formula, it is expected that an appropriate number of public housing residents and neighborhood residents with particular qualifications or willingness to begin unskilled labor will be able to participate in contracted labor efforts. A prime contractor, through its subcontractor(s), may satisfy the Section 3 resident hiring requirement set forth above.

1. Contractor/subcontract or joint venture with a resident owned business. The business must be 51% of more owned by Section 3 residents; or
2. The contractor/cub-contractor that can demonstrate that at least 30% of the current employees of the

company are Section 3 residents,

3. At least 30% of the contractor/sub-contractors employees are Section 3 residents, within 3 years of the date of first employment with the company;
4. The contractor/sub-contractor commits to subcontracting at least 25% of the total value of the contract to section 3 sub-contractors, as defined above, and to provide the necessary evidence.
5. The contractor/sub-contractor will incur the cost of providing skilled training for residents in an amount commensurate with the sliding scale set forth in the Resident Hiring Scale, or
6. The contractor/sub-contractor makes a contribution to an Education Fund to provide assistance to residents to obtain training. The level of contribution would be commensurate with the sliding scale set forth in the Resident Hiring Scale.

Preference For Section 3 Residents in Training and Employment Opportunities

In providing training and employment opportunities, generated from the expenditure of Section 3 activities to Section 3 residents, the following order of preference will be followed:

1. Section 3 residents from the service area or neighborhood in which the Section 3 covered project is located.
2. Participants in HUD Youthbuild Programs.
3. Homeless persons residing in the area service area or neighborhood in which the Section 3 covered project is located.
4. Other Section 3 residents.

Section 3 Residents Recruitment, Training, and Employment Goals

The City of Astoria will develop resources to provide training and employment opportunities to Section 3 program participants by implementing the following:

1. Training opportunities will be advertised by distributing flyers via mass mailings and posting in common areas of the housing developments as well as all local public housing management offices.
2. The resident councils, resident management corporations, as well as neighborhood community organizations will be contacted to request their assistance in notifying residents of the available training and employment opportunities.
3. Employment opportunities will be advertised by posting job vacancies in common areas of any local public housing developments as well as contacting resident councils, resident management corporations, and neighborhood community organizations.
4. A database will be developed of certified Section 3 residents of public housing and other Section 3 residents.
5. A database will be developed to maintain a skill assessment of all Section 3 residents of public housing and other Section 3 residents.
6. A database will be developed of eligible qualified Section 3 Business concerns to contact with respect to the availability of contract opportunities.
7. Relationships will be developed with local area employers in an effort to solicit job vacancies to determine skills needed in their workforce, thereby providing training to residents developing skills that will transfer into the external labor market.
8. A provision for a specific number of public housing or Section 3 program participants to be trained or employed by the contractor will be incorporated into the contract.

Assisting Contractors to Achieve Section 3 Hiring and Contracting Goals

The City of Astoria will assist contractors with little or no experience in achieving Section 3 hiring and contracting goals by:

- ❖ Requiring the contractor to present a list, to the Section 3 Coordinator, of the number of subcontracting and/or employment opportunities expected to be generated from the initial contract.
- ❖ The Section 3 Coordinator will provide the contractor with a list of interested and qualified Section 3 residents for construction projects.
- ❖ The Section 3 Coordinator will provide contractor with a list of Section 3 business concerns interested and qualified for construction projects.
- ❖ The Section 3 Coordinator will inform contractor of known issues that might affect Section 3 residents from performing job related duties.
- ❖ The Section 3 Coordinator will review the new hire clause with contractors and subcontractors to ensure that the requirement is understood. It is not intended for contractors and subcontractors to terminate existing employees, but to make every effort feasible to employ Section 3 program participants before any other person, when hiring additional employees needed to complete proposed work to be performed with HUD (federal) funds.

Preference for Contracting with Section 3 Business Concerns

A Section 3 Business Concern is one of the following:

1. Businesses that are 51 percent or more owned by Section 3 residents;
2. Businesses whose permanent, full-time employees include persons, at least 30 percent of whom are currently Section 3 residents, or within three years of the date of first employment with the firm were Section 3 residents; or
3. Businesses that provide evidence of a commitment to subcontract in excess of 25 percent of the dollar amount of all subcontracts to be awarded to businesses that meet the qualifications described above.

The City of Astoria, in compliance with Section 3 regulations, will require contractors and subcontractors (including professional service contractors) to direct their efforts towards contracts to Section 3 business concerns in the following order to priority:

1. Section 3 business concerns that provide economic opportunities for Section 3 residents in the service area or neighborhood in which the Section covered project is located.
2. Business concerns that carry-out HUD Youthbuild Programs.
3. Other Section 3 business concerns.

Contractors and subcontractors are expected to extend to the greatest extent feasible, efforts to achieve the numerical goals established by the City of Astoria.

Evidence of Section 3 Certification

Any business seeking Section 3 preference in the awarding of contracts or purchase agreements with the City of Astoria shall complete the Certification For Business Concerns Seeking Section 3 Preference In Contracting and Demonstration of Capability form, which can be obtained from the Section 3 Coordinator. The business seeking Section 3 preference must be able to provide adequate documentation as evidence of eligibility for preference under the Section 3 Program. The certification form is Exhibit 4 to this plan.

Certifications for Section 3 preference for business concerns must be submitted to the Section 3 Coordinator of the City of Astoria prior to the submission of bids for approval. If the Section 3 Coordinator previously approved the business concern to be Section 3 certified, then the certification can be submitted along with the bid.

Efforts to Award Contract Opportunities to Section 3 Business Concerns

The City of Astoria will use the following methods to notify and contract with Section 3 business concerns when contracting opportunities exist.

1. Advertise contracting opportunities via newspaper, mailings, posting notices that provide general information about the work to be contracted and where to obtain additional information.
2. Provide written notice of contracting opportunities to all known Section 3 business concerns. The written notice will be provided in sufficient time to enable business concerns the opportunity to respond to the bid invitation.
3. Coordinate pre-bid meetings at which the Section 3 business concerns would be informed of upcoming contracting opportunities in advance.
4. Conduct workshops on contracting procedures to include bonding, insurance, and other pertinent requirements, in a timely manner in an effort to allow Section 3 business concerns the opportunity to take advantage of any upcoming contracting opportunities.
5. Contact the City of Astoria Business Development Department, business assistance agencies, Minority and Women's Business Enterprise (M/WBE) contractor associations and community organizations to inform them of contracting opportunities and to request their assistance in identifying Section 3 businesses.
6. Establish relationships with the Small Business Administration (SBA), Minority and Women's Business Enterprise M/WBE association, Community Development Corporations, and other sources as necessary to assist SPHA with educating and mentoring residents with a desire to start their own businesses.
7. Seek out referral sources in order to ensure job readiness for public housing residents through on-the-job-training (OJT) and mentoring to obtain necessary skills that will transfer into the external labor market.
8. Develop resources or seek out training to assist residents interested in starting their own businesses to learn to prepare contracts, prepare taxes, obtain licenses, bonding, and insurance.

Contractor's Requirements in Employing Section 3 Residents/Participants:

Under the City of Astoria Section 3 Program, contractors, subcontractors, professional service providers/consultants, vendors and supplies are required to submit a Section 3 Opportunities Plan and Certification and to:

1. Provide employment opportunities to Section 3 residents/participants in the priority order listed below:
 - a) **Category 1—Section 3 Residents** from the service area or neighborhood in which the Section 3 covered project is located,
 - b) **Category 2—Section 3 Participants in HUD Youthbuild Programs** carried out in the service area or neighborhood in which the Section 3 covered project is located,
 - c) **Category 3—Section 3 Residents of Section 8 of the local Housing Authority** as well as all other residents residing in the service area or neighborhood in which the Section 3 covered project is located. Section residents must meet the income guidelines for Section 3 preference (refer to Section 3 Income Limits).
 - d) **Category 4—Section 3 Residents/Homeless persons** residing in the area service area or neighborhood in which the Section 3 covered project is located.
 - e) **Category 5—Other Section 3 residents/participants.**

2. After the award of contracts, the contractor must, prior to beginning work, inform Section 3 participants of the development at which the work will be performed, by providing the following:
 - a) Names of the Section 3 business concerns to be utilized,
 - b) Estimates of the number of employees to be utilized for contract,
 - c) Projected number of available positions, to include job descriptions and wage rates (construction wages consistent with Davis Bacon),
 - d) Efforts that will be utilized to seek Section 3 participants.
3. Contractors must notify the Section 3 Coordinator of their interests regarding employment of Section 3 participants prior to hiring. The Section 3 Coordinator will ensure that the participant is Section 3 eligible, by assessing the Section 3 database to ensure job readiness. Additionally, the legal department will be contacted to ensure that the individuals are not involved in any legal proceedings against/with the City of Astoria.
4. Submit a list of core employees (including administrative, clerical, planning and other positions pertinent to the construction trades) at the time of contract award. Document the performance of Section 3 participants (positive and negative), regarding punctuality, attendance, etc., and provide this information to the City of Astoria Section 3 Coordinator.
5. Immediately notify the Section 3 Coordinator of any problems experienced due to the employment of Section 3 participants.
6. Immediately notify the Section 3 Coordinator if a participant quits, walks off, or is terminated for any reason. The contractor must provide written documentation of all such incidents to support such decisions to the Section 3 Coordinator to determine if an investigation is warranted.
7. Businesses can use the Work Source Oregon—First Source Hiring Agreement in complying with the Section 3 requirements.

Internal Section 3 Complaint Procedure

In an effort to resolve complaints generated due to non-compliance through an internal process, the City of Astoria encourages submittal of such complaints to its Section 3 Coordinator as follows:

1. Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR 135.
2. Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
3. An investigation will be conducted if complaint is found to be valid. The Section 3 Coordinator will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
4. The Section 3 Coordinator will provide written documentation detailing the findings of the investigation of the _____. The _____ will review the findings for accuracy and completeness before it is released to complainants. The findings will be made available no later than thirty (30) days after the filing of complaint.

If complainants wish to have their concerns considered outside of the City of Astoria a complaint may be filed with:

Assistant Secretary for Fair Housing and Equal Opportunity
 United States Department of Housing and Urban Development
 451 Seventh Street, SW
 Washington, DC 20410

The complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.

Enforcement

To enforce the decision-making process pertaining to determining applicable percentages for resident hiring, enforcement strategies are set forth below.

During the post award or pre-bid conference, the objective shall be to impact critical Section 3 information to the contractor prior to commencement of the work/project. The following contract requirements shall be discussed in detail: (Non-construction contracts does not require Davis-Bacon)

Davis-Bacon
Minority and Women Owned Business Participation
Resident Hiring Professional

Each representative will define specific functional requirements and require the contractor to certify its understanding of the terms and conditions of the contract as they pertain to Davis-Bacon, resident hiring and Minority and Women Owned Business participation.

Monitoring and Enforcement Authority and Responsibility

The function of monitoring and enforcing resident hiring will be carried out by the City of Astoria Section 3 Coordinator, including all field activities.

EXHIBIT 1

DEFINITIONS

Assistant – the Assistant Secretary for Fair Housing and Equal Opportunity.

Business Concern – a business entity formed in accordance with State law, and which is licensed under State, county or municipal law to engage in the type of business activity for which it was formed.

Contractor -any entity which contracts to perform work generated the expenditure of Section 3 covered assistance, or for work in connection with a Section 3 covered project.

Employment Opportunities Generated by Section 3 Covered Assistance – all employment opportunities generated by the expenditure of Section 3 covered public assistance (i.e., operating assistance, development assistance and modernization assistance, (as described in Section 135.3 (a) (1)). With respect to Section 3 covered housing and community development assistance, this term means all employment opportunities arising in connection with Section 3 covered projects (as described in Section 135.3 (a) (2)), including management and administrative jobs. Management and administrative jobs include architectural, engineering or related professional services required to prepare plans, drawings, specifications, or work write-ups; and jobs directly related to administrative support of these activities, e.g., construction manager, relocation specialist, payroll clerk, etc.

Housing Authority (HA) – Public Housing Agency.

Housing Development – low-income housing owned, developed, or operated by public housing agencies in accordance with HUD’s public housing program regulations codified in 24 CFR Chapter IX.

HUD Youthbuild Programs – programs that receive assistance under subtitle D of Title IV of the National Affordable Housing Act, as amended by the Housing and Community Development Act of 1992 (42 U.S.C. 12899), and provide disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low-and very low-income families.

JTPA – The Job Training Partnership Act (29 U.S.C. 1579 (a)).

Low-income person – families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary’s findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families.

Metropolitan Area – a metropolitan statistical area (MSA), as established by the Office of Management and Budget.

New Hires – full-time employees for permanent, temporary or seasonal employment opportunities.

Recipient – any entity which receives Section 3 covered assistance, directly from HUD or from another recipient and includes, but is not limited to, any State unit of local government, PHA, or other public body, public or private nonprofit organization, private agency or institution, mortgagor, developer, limited dividend sponsor, builder, property manager, community housing development organization, resident management corporation, resident council, or cooperative association. Recipient also includes any successor, assignee or transferee of any such entity, but does not include

any ultimate beneficiary under the HUD program to which Section 3 applies and does not include contractors.

Section 3—Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Section 3 Business Concern – a business concern,

- 1) That is 51 percent or more owned by Section 3 resident: or
- 2) Whose permanent, full-time employees include persons, at least 30 percent of whom are currently
- 3) Section 3 residents, or within three years of the date of first employment with the business concern were Section 3 residents; or
- 4) That provides evidence of a commitment to subcontract in excess of 25 percent of the dollar award of all subcontractors to be awarded to business concerns that meet the qualifications set forth in paragraphs 1 or 2 above.

Section 3 Covered Assistance--

- 1) public housing development assistance provided pursuant to Section 5 of the 1937 Act;
- 2) public housing operating assistance provided pursuant to Section 9 of the 1937 Act;
- 3) public housing modernization assistance provided pursuant to Section 14 of the 1937 Act;
- 4) assistance provided under any HUD housing or community development program that is expended for work arising in connection with housing rehabilitation, construction, or other public construction project (which includes other buildings or improvements, regardless of ownership).

Section 3 Clause – the contract provisions set forth in Section 135.38.

Section 3 Covered Contracts – a contract or subcontract (including a professional service contract) awarded by a recipient or contractor for work generated by the expenditure of Section 3 covered assistance, or for work arising in connection with a Section 3 covered project.

Section 3 Covered Project -the construction, reconstruction, conversion or rehabilitation of housing (including reduction and abatement of lead-based paint hazards), other public construction which includes buildings or improvements (regardless of ownership) assisted with housing or community development assistance.

Section 3 Resident – a public housing resident or an individual who resides in the metropolitan area or nonmetropolitan county in which the Section 3 covered assistance is expended and who is considered to be a low-to very low-income person.

Subcontractor – any entity (other than a person who is an employee of the contractor) which has a contract with a contractor to undertake a portion of the contractor's obligation for the performance of work generated by the expenditure of Section 3 covered assistance, or arising in connection with a Section 3 covered project.

Very low-income person – families (including single persons) whose income do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

SECTION 3 CLAUSE

All Section 3 covered contracts shall included the following clause (referred to as the Section 3 Clause):

- A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low-and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. The contractor agrees to send to each labor organization or representative or workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
- G. Contractor shall complete THE REQUIRED Section 3 report form 60002 and submit it to the City of Astoria with the final construction pay estimate for the project.

The City of Astoria
RESIDENT EMPLOYMENT OPPORTUNITY DATA
ELIGIBILITY FOR PREFERENCE
CERTIFICATION FORM

Eligibility for Preference

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

Certification for Resident Seeking Section 3 Preference in Training and Employment

I, _____, am a legal resident of the City of Astoria and certify that I meet the income eligibility guidelines for a low- or very-low-income person as published on the reverse.

My permanent address is: _____

I have attached the following documentation as evidence of my status:

- a. Copy of lease demonstrating proof of residency in a public housing development
- b. Copy of receipt of public assistance such as a Section 8 certificate or voucher
- c. Copy of evidence of participation in a public assistance program such as Youthbuild, JTPA, Job Corps etc.
- d. Income tax records
- e. Other

Signature: _____

Print Name: _____ Date: _____

SECTION 3 INCOME LIMITS

All residents of public housing developments qualify as Section 3 residents. Additionally, individuals residing in the City of Astoria who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required.

Number in Household	Very Low Income	Low Income
1 individual		
2 individual		
3 individual		
4 individual		
5 individual		
6 individual		
7 individual		
8 individual		

**INSTRUCTIONS FOR COMPLETING THE SECTION 3 OPPORTUNITIES PLAN
(SERVICE & PROFESSIONAL CONTRACTS)**

The purpose of Section 3 is to ensure that jobs and economic opportunities generated by HUD financial assistance for housing and community development programs shall be directed to low and very low income persons, particularly those who are recipients of government assistance for housing and business concerns which provide economic opportunities to low and very low income persons.

Section I

The Section 3 Opportunities Plan is to be completed for construction and professional service contracts. There are four (4) ways in which Section 3 can be fulfilled. They are listed in order of preference:

- 1 Subcontract or joint venture with a Section 3 resident owned business. The business must be 51% or more owned by Section 3 residents or Subcontractor/joint venture with a business whose permanent full-time employees include persons at least 30% of whom are currently Section 3 residents or within 3 three years of the date of first employment with the business concern were Section 3 residents, or
- 2 Direct hiring Section 3 residents of the service area or the neighborhood in which the covered project is located, or
- 3 Incur the cost of providing skilled training for residents in an amount commensurate with the sliding scale set forth. Such training shall be determined after consultation with the Section 3 Coordinator of the City of Astoria or,
- 4 Contribute to a Section 3 resident educational fund in an amount commensurate with the sliding scale included in the Section 3 Conditions.

If a prime contractor is unable to satisfy the Section 3 resident hiring requirements per the above, the requirements may be satisfied through any subcontractors that may be involved in the project:

- 1 If the (sub)contractor has identified a resident owned business or a business which employs 30% or more Public Housing or Neighborhood residents, this paragraph is to be completed by indicating the number of resident owned businesses that will be used on the contract/spec number shown at the end of the paragraph.
- 2 If the (sub)contractor plans to hire Public Housing or Neighborhood residents to work for its company, paragraph two (2) must be completed with the contract/spec number and the percentage of compliance in hiring the resident(s).

For example, if your contract amount is \$100,000.00, the Section 3 dollar amount that must be expended is 10% of your labor dollars or \$10,000.00. If the whole dollar amount is to be expended on the resident's salary, then 100% is to be inserted on the percent line. If a percentage amount less than 100% will be expended on the resident's salary, that amount must be inserted on the line and the remaining percentage must be expended through subcontracting/joint venturing with a resident owned business or a business that employs 30% or more residents, or placed into _____ Section 3 Resident Educational Fund. In which case, the corresponding paragraph must be completed.

3. If the (sub)contractor has exhausted the first two (2) options, then the full amount of the contractor's Section 3 obligations will be placed into _____ Resident Educational Fund, in which case paragraph three (3) must be completed and paragraphs one (1) and two (2) will contain zeroes in the percentage lines.

Section II

The second portion of the Section 3 Opportunities Plan begins with the specification or request for proposal title and number.

Section III

The third section is to be completed by listing current staff to be used to complete the work bid upon.

- 1 List the job titles,
- 2 Complete the Needed column if additional staff will be required to fulfill the classification,
- 3 In the Total column, list the total number of staff plus the number needed,
- 4 In the _____ and low and very low income area residents (LIAR) columns, list the number of current staff who are residents of _____ public housing, or who are low or very low income neighborhood residents,
- 5 In the To Be Filled column, list the number of positions that fit into the low and very low-income _____ public housing residents _____ and low and very (LIAR) who will be hired.
- 6 In the Hiring Goal column, list the number of _____ Public Housing residents or LIAR you intend to hire.

Section IV

The final section is to be completed after the contract has been awarded, interviews have taken place and residents have been hired. The completed Section 3 Opportunities Plan must be submitted to the City of Astoria Section 3 Coordinator.

Each contractor is required to attend a pre-construction conference with the City of Astoria's Section 3 coordinator where contractual obligations will be explained, the contractor's Section 3 dollar amount will be determined, and the contractor's hiring goals will be discussed. The Section 3 coordinator will refer qualified residents to be interviewed by the contractor.

The Section 3 Opportunities Plan that is submitted with the QBS/RFQ/RFP/IFB and the final copy that is submitted to the Section 3 Coordinator must be signed and include the title of person executing the plan.

SECTION 3 OPPORTUNITIES PLAN

Business Opportunities and Employment Training of the City of Astoria Public Housing Residents and Low and Very Low Income Neighborhood Residents

Section I. Opportunities Plan

The Contractor has identified _____ Section 3 resident owned business(es) or _____ business(es) which employ 30% or more Section 3 residents to comply with _____% of its Section 3 requirements covered under Contract# _____. (Option 1)

Alternately, the Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.1 et seq. and this City of Astoria Section 3 plan implemented through Resolution # _____ dated _____. The Contractor hereby submits this document to identify employment opportunities for Section 3 public housing residents and low and very low-income area residents, during the term of the contract between the Contractor and the City of Astoria. The Contractor affirms that the jobs identified shall be for meaningful employment that may or may not be related to the scope of services covered under Contract # _____. The Contractor has committed to employ the following in order to comply with _____% of its Section 3 requirements. (Option 2)

The above percentage(s) for Option 1 and 2 equal(s) 50% of the Contractor's Section 3 obligations. Option three (3) on page 1 of the instructions equal 25% of compliance and Option four (4) on page 1 of the instructions equals 25% of compliance. You may choose one option to comply or all; however, total compliance must equal 100%. The Contractor hereby agrees by signing below that any remaining percentages will be deducted from payouts placed in the _____ Section 3 Educational Fund.

Section II. Labor Survey

Project Title: _____

Job Title: _____

Local Contract/Agreement Number: _____

Job Title (1)	Needed (2)	Number of Positions			Hiring Goal		
		Total (a)	LICSDR(b)	LIAR (c)	To be Filled (4)	LICSDR(a)	LIAR (b)

Section III. Resident List

Section 3 resident employee information (jobs to be filled)

Job Title	LICSPHAR or LIAR Name	Address	Social Security Number

LISPHAR= Low and very low income public housing authority resident

LIAR= Low and Very low income area resident

Please check the Option(s) that describe your contracting efforts:

- Option 1: Subcontract with Section 3 Business(es) – 25%
- Option 2: Hire Section 3 residents/participants – 25%
- Option 3: I have a training program in place and am willing to train _____ residents – 25%
- Option 4: Contribute to the _____ training/educational fund for resident training – 25%

In the event I am awarded the contract, I have the option to submit my check in the compliance amount of the start of contract date, or allow _____ to deduct payment from my draw requests. (Compliance amount is based upon the labor dollars of the contract award.)

You may comply by choosing one or all options. Remember your compliance must be equal to 100% as noted on page 1, paragraph three (3), or any remaining percentages will be deducted from payouts and placed in the _____ resident training/educational fund account.

The failure of the contractor to comply with the above-approved plan shall be a material breach of the contract.

Contractor's Signature and Title

Date: _____

SECTION 3 OPPORTUNITIES PLAN CERTIFICATION

NAME OF PRIME CONTRACTOR/ PROFESSIONAL SERVICES PROVIDER: _____

Local contract/.Agreement #: _____

CONTRACT Name: _____

WARNING: THIS DOCUMENT IS REQUIRED FOR ALL CONSTRUCTION OR LABOR RELATED PROCUREMENTS AND PROFESSIONAL SERVICE AGREEMENTS.

The Contractor hereby agrees to comply with all the provisions of Section 3 as set forth in 24 CFR 135.38 implementing Section 3 requirements. The contractor hereby submits this Section 3 Opportunities Plan.

The Contractor shall provide a status report identifying its progress in meeting the Section 3 goals established in this Section 3 Opportunities Plan on a quarterly basis throughout the contract period. The quarterly status report shall be submitted no later than 10 days after the end of each calendar quarter of the contract (e.g., April 10 for calendar quarter January 1 to March 31). The status report shall be in at least the same level of detail as the approved Section Opportunities Plan. For any goal not met, the report shall identify any other economic opportunities, which the contractor has provided, or intend to provide to Section 3 and neighborhood residents.

The failure of the Contractor to comply with the approved plan shall be a material breach of the contract.

Each Bidder/Proposer for a construction or labor related contract and professional services agreement must complete the Section 3 Opportunities Plan and submit all relevant information required herein. A prime contractor, through its' subcontractors may satisfy the Section 3 Resident Hiring Requirements. Please complete the Skill Needs Table in Section 1 of Section 3 Opportunities Plan in the following columns.

- 1 Indicate each category of employment for all phase of this contract;
- 2 The number of positions which will be needed in each category;
- 3. How many of those positions are currently filled;
 - a. The number filled by neighborhood residents, excluding _____ and _____ residents;
 - b. The number filled by Public Housing residents;
 - c. How many positions need to be filled;
- 4. Indicate your goal for the number of positions you intend to fill with:
 - a. Section 3 Residents
 - b. Low and Very low income area residents.

NOTE: The minimum of trainees is that which can reasonably be utilized in each occupation, and no less than the number established by the U.S. Secretary of Labor for construction and non-construction labor related occupations. The contractor shall fill all vacant positions with low-income persons (earning less than 80% of the median income in the City of Astoria and these positions shall not be filled immediately prior to undertaking work in order to circumvent regulations as set forth at 24 C.F.R. Part 135 et seq; as amended.

II. SECTION 3 BUSINESSES SUBCONTRACTING OPPORTUNITIES

In a one (1) page letter on your company's letterhead:

1 Indicate the goals, expressed in terms of percentage of planning subcontracting dollars, for the use of Section 3 business concerns as subcontractors.

2 A statement of the total dollar amount to be subcontracted, total dollar amount to be subcontracted to Section 3 business concerns for building trades, and total dollar amount to be subcontracted to Section 3 business concerns for other than building trades work (maintenance, repair, modernization and redevelopment).

3 A description of the method used to develop the goals above and the efforts to be undertaken by the Contractor to meet those goals.

Acknowledged by:

(President or Authorized Officer)

Date: _____



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

October 2, 2013

TO: MAYOR AND ASTORIA CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: AMENDMENT REQUEST (A13-04) ON SOLAR ENERGY ORDINANCE

BACKGROUND

In 2010, due to increased interest in locating renewable energy facilities in Astoria, the City began work on a draft ordinance to establish standards for wind and solar energy facilities within the City. At that time, Department of Land Conservation and Development (DLCD) awarded a grant to the City to develop a model ordinance for both wind and solar energy that could be used for other coastal communities to specifically address impacts to the coastal environment. Staff, with the assistance of CREST, did research on these facilities and drafted an ordinance for Astoria Planning Commission (APC) review. The APC held several work sessions to discuss the various issues associated with these facilities. These work sessions included a field trip to several wind turbine sites in Clatsop County, open public meetings with input from citizens and industry representatives, and multiple drafts to address the APC direction and concerns. Staff finalized the model ordinance and closed out the DLCD grant which addressed the State's needs.

Due to the nature of the technology and the differences in wind and solar energy, the APC determined that the two issues should be separated and that they would complete the solar energy ordinance first as it was not as complex as the wind energy ordinance. Over the last two years, the APC, Historic Landmarks Commission, and City Council have held several more work sessions concerning the draft Solar Energy Ordinance. The draft ordinance includes the recent legislation (HB 3516) that requires cities and counties to allow certain solar energy facilities as outright uses. The intent was to develop a code that would make the process easy, comply with State regulations, and address historic concerns. During a work session at its July 23, 2013 meeting, the APC accepted the draft ordinance as ready to be presented at a public hearing.

The draft addresses issues raised by the APC, HLC, and citizens who have responded to the draft documents over the last three years. There are several sections with notations by staff that are *{italicized and bracketed}* that are included to explain the intent of that particular section of the draft. These will be removed from the final document.

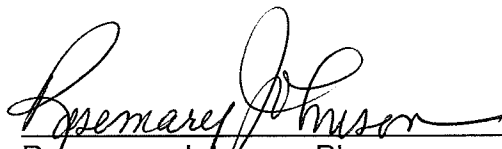
In addition to the creation of the Solar Ordinance, there are several amendments to Article 9, Administrative Procedures for all permits, to address procedures for processing a solar permit. Only requirements unique to solar facilities are included in the Solar Ordinance. Amendments to Article 6, Historic Properties Ordinance, which reference the Solar Ordinance historic design

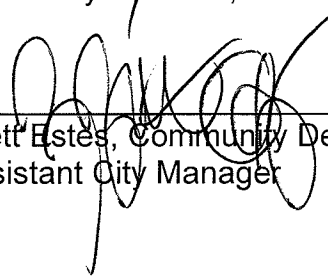
review are also proposed with this amendment. The Historic Landmarks Commission (HLC) held a work session at its August 12, 2013 meeting and accepted the draft as presented.

At its September 24, 2013 meeting, the Astoria Planning Commission held a public hearing and unanimously recommended that the City Council adopt the proposed amendment. A copy of the Staff Report and Findings of Fact as adopted by the Planning Commission is attached. Also attached to this memo is the proposed ordinance. A public hearing on the Amendment has been advertised and is scheduled for the October 21, 2013 City Council meeting.

RECOMMENDATION

It is recommended that the Council hold a public hearing and adopt the ordinance as recommended by the Astoria Planning Commission. If the Council is in agreement with the recommendation of the Astoria Planning Commission, it would be in order for Council to hold a first reading of the Ordinance.

By: 
Rosemary Johnson, Planner

Through: 
Brett Estes, Community Development Director /
Assistant City Manager

ORDINANCE NO. 13-_____

AN ORDINANCE AMENDING THE ASTORIA DEVELOPMENT CODE ARTICLE 6 CONCERNING SOLAR ENERGY FACILITIES ON HISTORIC PROPERTIES, ARTICLE 9 CONCERNING ADMINISTRATIVE PROCEDURES, AND ADDING ARTICLE 16 ON SOLAR ENERGY SYSTEMS

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Astoria Development Code Section 6.050.C.2.b, Historic Properties Ordinance, Exterior Alterations, is hereby amended by the addition to read as follows:

“10) Solar energy facilities as listed in Development Code Section 16.030.A as a Solar Permit Type I, Administrative Review, Outright Use.”

Section 2. Astoria Development Code Section 6.050.D.2, Historic Properties Ordinance, Exterior Alterations, is hereby amended by the addition to read as follows:

“n. Solar energy facilities as listed in Development Code Section 16.030.B as a Solar Permit Type II, Administrative Review, Conditional Use.”

Section 3. Astoria Development Code Section 9.010, Administrative Procedures, Application Information and Procedures, is amended with the addition to read as follows:

“F. Pre-Application Meeting.

Prior to submittal of an application, a pre-application meeting with the Community Development Director and/or the Planner is required. The Community Development Director shall determine the classification and appropriate process for any application.

G. Determination of Permit Process.

The Community Development Director may determine that a permit should be reviewed by a Commission/Committee in lieu of an Administrative Review to protect the best interests of the surrounding property or neighborhood or the City as a whole.”

Section 4. Astoria Development Code Section 9.020.B.1.g, Public Notice, Mailed Notice - Distribution, Time Requirements, is deleted and replaced to read as follows:

“g. Historic District Establishment - Owners of property abutting or within the boundaries of the proposed District.”

Section 5. Astoria Development Code Section 9.020.B.1, Public Notice, Mailed Notice - Distribution, Time Requirements, is amended by the addition to read as follows:

“j. Wireless Communication Facility – 500 feet.

k. Solar Facility, Administrative Conditional Use – 100 feet.

l. Solar Facility, Planning Commission Conditional Use – 250 feet.”

Section 6. Astoria Development Code Sections 9.020.B.3 & 4, Public Notice, Mailed Notice - Distribution, Time Requirements, is deleted and renumbered to read as follows:

“3. Notice shall be mailed not less than 20 days prior to the hearing requiring the notice; or if two or more evidentiary hearings are allowed, 10 days prior to the first evidentiary hearing.”

Section 7. Astoria Development Code Article 16, Solar Energy Systems is added to read as follows:

Complete Article 16, Solar Energy Systems Ordinance attached to this document.

Section 8. Effective Date. This ordinance and its amendment will be effective 30 days following its adoption and enactment by the City Council.

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

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

ATTEST:

Mayor

Paul Benoit, City Manager

ROLL CALL ON ADOPTION: YEA NAY ABSENT

Commissioner LaMear
 Herzig
 Mellin
 Warr

Mayor Van Dusen

{This is a working draft. Italic notes will be removed from final code.}

{HB 3516 concerning solar facilities for cities has been incorporated into this draft.}

ARTICLE 16

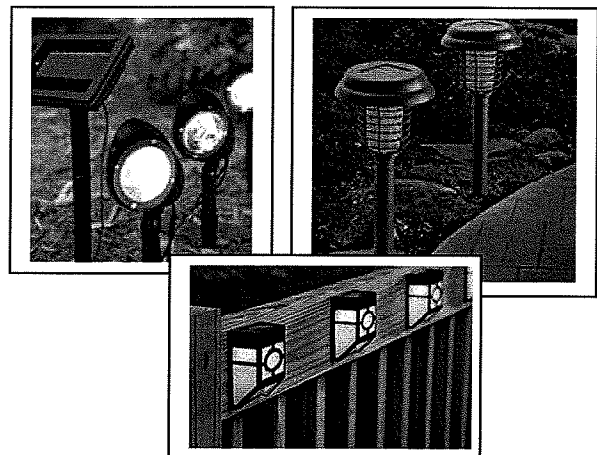
STANDARDS FOR SMALL SCALE SOLAR ENERGY SYSTEMS

16.005. PURPOSE.

The purpose of this ordinance is to promote renewable energy resources and provide a framework for the construction and operation of small scale solar energy systems in the City of Astoria, subject to standards which address the public health and safety of its residents. This ordinance will allow small scale solar energy systems with specific standards to protect the general public and preserve the historic, environmental, and aesthetic qualities of the City.

16.010. APPLICABILITY.

- A. All small scale solar systems located within the City of Astoria, whether upon private or public lands shall comply with the requirements of Article 16.
- B. Except as noted in Section 16.025.B, "Zoning Permit", the provisions of this Article do not apply to the following facilities. However, if located on a historic property, the facility would still require historic design review.
 1. A solar facility meeting all of the following:
 - a. less than four (4) square feet; and
 - b. mounted parallel to the slope of the roof on which it is installed (less than 1' above the plane of the roof); and
 - c. located on a non-primary elevation of a structure that is not highly visible from the streetscape.
 2. A solar facility of less than one (1) square foot each mounted on a structure to produce light such as a fence post or landscape/walkway lighting.



16.015.

DEFINITIONS.

{Industry definitions refer to kWh. The technology is changing quickly and the kWh is not what is being controlled by this ordinance. The key issues are impacts on neighborhoods, aesthetic qualities, and the environment. Therefore, this code defines the features by visual size and location as there may be ways to increase kW with smaller units in the near future.}

CAMOUFLAGE: A way of painting and mounting a solar facility and/or support structure, resulting in the structure being reasonably difficult for the naked eye to detect or observe.

GRANTING AUTHORITY: The Community Development Director or designee, Astoria Planning Commission, Historic Landmarks Commission, and/or the Design Review Committee who review and approve land use requests.

GUYED TOWER: A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.

HIGHLY VISIBLE: The degree by which a facility is visible from the street shall be determined by whether the facility can be seen from a moving vehicle traveling at the posted speed limit at a distance of greater than 100' from the subject property. Initial visibility at a shorter distance shall be deemed not to be highly visible.

LATTICE TOWER: A vertical support structure consisting of a network of crossed braces, forming a tower which may be three, four, or more sided.

MONOPOLE: A vertical support structure consisting of a single vertical metal, concrete, or wooden pole, pipe, tube, or cylindrical structure, typically round or square, and driven into the ground or mounted upon or attached to a foundation.

NON-RESIDENTIAL UTILIZED PROPERTY: Property within a residential, neighborhood commercial, or attached-housing zone that is not used for residential purposes. Such property includes, but is not limited to, schools, churches, public parks, public safety facilities, and streets and highways. A public or privately owned vacant lot in a residential zone shall be not be considered non-residentially utilized property as the capacity for residential use exists.

PHOTOVOLTAIC PANEL: A device used for the collection and/or production of electric power through the conversion of light to electric power by semiconductor devices. For the purposes of this Code, it will also refer to tubular designs. *{need to either define separately or add here for tubular.}*

PRIMARY ELEVATION: For the purposes of the Solar Energy Ordinance, the primary elevation shall be any elevation (front, side and/or rear) that has frontage on an improved public right-of-way.

RESIDENTIAL UTILIZED PROPERTY: Property within any zone that is used primarily for residential purposes such as, single-family dwelling, two-family dwelling, multi-family dwelling, condominium, townhome, etc.

SHOULD: A requirement, unless it can be shown that to comply with the requirement would be unreasonable, impractical, or unfeasible. Economic hardship alone shall not be justification for noncompliance with the requirement, but may be considered in conjunction with other reasons for noncompliance.

SOLAR FACILITY: Small scale solar energy system.

{This definition is included to avoid repeating "small scale solar energy system" throughout the entire document.}

SMALL SCALE SOLAR ENERGY SYSTEM: Facility for the collection of solar energy either ground mounted facilities of less than 1,000 square feet combined total area, or roof mounted of less than the square footage of the total roof area. Solar water heater and solar thermal energy system is included in this definition.

SOLAR THERMAL ENERGY: Technology which harnesses solar energy to produce useful heat for residential, commercial, and industrial uses. Solar thermal systems absorb the sun's radiation in flat plate collectors, much like the road absorbs sunlight. There, a heat transfer fluid is circulated through the collectors, heating it to temperatures as high as 200° Fahrenheit. The heated fluid can be used for domestic hot water, industrial process heat, or for space heating. Solar thermal systems do not produce electricity.

SOLAR WATER HEATER: Facility for heating water that generally contains a solar collector and a storage tank for water.

SPECULATION ("SPEC") TOWER / SUPPORT STRUCTURE: A solar facility support structure designed for the purpose of providing location mounts for solar facility without a binding commitment or option to lease a location upon the tower by a licensed service provider at the time of initial application.

16.020. PERMITTED LOCATIONS FOR SMALL SCALE SOLAR ENERGY SYSTEMS

- A. Solar facilities are permitted in all zones established as of July 2013 within the City through the Conditional Use and/or Administrative Review process in accordance with Astoria Development Code Article 9 except the following.
1. Prohibited Zones.
 - a. Natural Shorelands (S-5)
 - b. Sensitive Bird Habitat Overlay (SBHO)
 2. Restricted Zones.

a. Aquatic Conservation (A-3)

Solar facilities may be located on residential and commercial buildings allowed within the zone. Freestanding solar facilities are prohibited.

b. Aquatic Natural (A-4)

Solar facilities may be located on commercial buildings allowed within the zone. Freestanding solar facilities are prohibited.

{With HB 3516, we must allow solar facilities wherever we allow residential and commercial buildings. These zones are conservation and natural but have limited development allowable uses. HB 3516 does allow some limitations in areas designated as "significant scenic resources" with certain design limitations. We do not have any significant scenic resources designated at this time. This would also be consistent with the goals of the existing Comprehensive Plan and the Riverfront Vision Plan for these areas.}

B. Large Scale Solar Energy Systems.

Solar Energy systems that do not meet the definition of "small scale" as defined in this Code are prohibited within the City.

C. Location, Siting, and Designs in Preferred Priority Order.

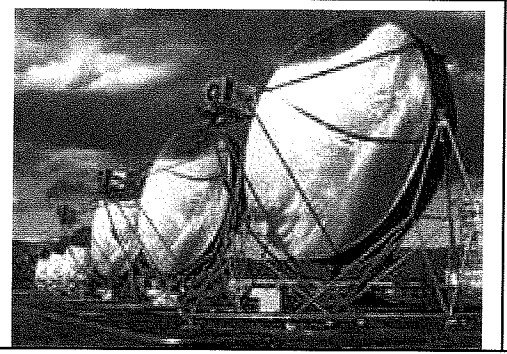
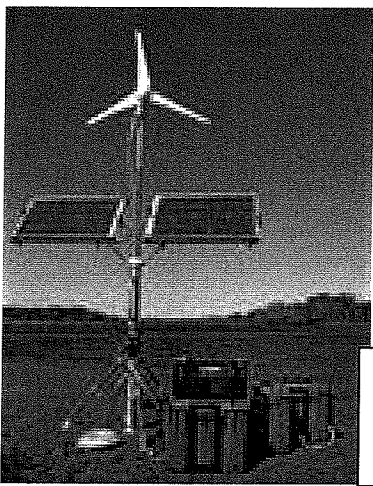
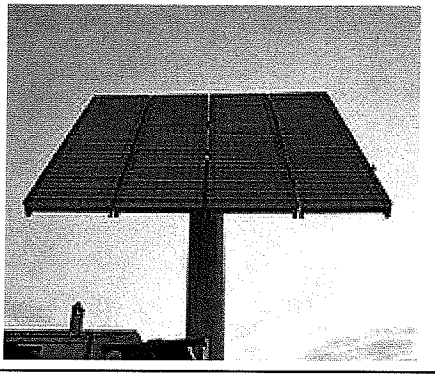
1. Camouflaged / Concealed Design;
2. Location on Existing Support Structure or Existing Alternative Support Structure;
3. Location on New Support Structure;
4. Location within Restricted Zones.

D. Prohibited Structures.

The following structures are prohibited:

1. Lattice and guyed wire towers and support structures.
2. Speculation ("spec") support structures.

{The APC determined that a specific height should not be prohibited and to deal with the taller facilities on a case by case basis. Solar does not need the height associated with wind turbines. See the examples below.}



Examples of freestanding solar units that could possibly be prohibited based on height.

E. Number of Facilities.

Only one solar facility, other than those listed in 16.030.A.1 below, *{HB 3516 exemptions}* is allowed per site of less than one acre. Sites of greater than one acre may have multiple facilities at a ratio of one facility per 0.25 acre. Sites may contain both a solar and wind facility.

16.025. PERMITS REQUIRED.

A. Building Permit.

A building permit is required for each solar facility in accordance with the requirements of the Building Codes as adopted by the City. A building permit will not be issued until all land use approvals have been obtained; any associated conditions have been met; and all other applicable local, State, and Federal approvals have been secured.

B. Zoning Permit.

A Solar Energy Permit is required for each solar facility regardless of outright or conditional use classification.

{HB 3516 allows for permit review but no fee for the exempt facilities listed in 16.030.A.1.a below. This permit process will allow for verification of compliance with codes and for tracking locations of facilities for emergency services safety.}

C. Historic Design Review.

All solar facilities proposed to be located on or adjacent to properties designated as historic or within or adjacent to a historic district shall obtain approval from the Historic Preservation Officer or the Historic Landmarks Commission (as applicable) prior to the issuance of a building permit. Historic design review shall be in accordance with Development Code Article 6 and Section 16.040.B.

{May need to amend Historic Preservation Ordinance to allow staff review of some facilities. Draft amendment is attached.}

D. Exception.

Solar facilities installed by the City, County, and/or Oregon Department of Transportation for traffic control devices to which they are attached are exempt from the permit requirements. Other solar facilities are still subject to the standards of this Code.

16.030. ZONING PERMIT REVIEW.

A. Type I Permit, Administrative Review – Outright Use.

The following solar permit applications may be reviewed administratively in accordance with Article 16 as an outright use permit.

{“Highly visible” is generally discretionary but with the definition provided, it clarifies what is and is not considered as highly visible. The APC determined that “not highly visible from a street scape” is clear and concise enough for administrative outright review based on the definition.}

1. Roof-mounted Facilities.

A solar facility may be approved as an outright use if it complies with the following criteria. Historic design review may be required.

a. Photovoltaic panels or solar thermal energy system.

Roof-mounted photovoltaic panels and solar thermal energy systems located on any residential structure, or on any non-residential structure in a zone that allows non-residential structures that:

- a) does not increase the footprint of the structure; and
- b) does not exceed the peak height of the portion of the roof on which it is installed; and
- c) is mounted so that the plane of the system is parallel to the slope of the roof.

{HB 3516 allows the restriction to “a residential zone” but if a property is developed as residential, the APC determined it does not matter if it is a non-conforming use in that zone. As opposed to “residential” non-conforming structures, commercial non-conforming structures could be an intrusion into a residential zone and it may be best to keep the allowable language per HB 3516}

{HB 3516 language – they use the term “commercial” which could be limiting when looking at other uses such as public or industrial. Suggest using the same term we use in Wireless Communication Facility Ordinance which is “non-residential”}

- b. Roof-mounted solar water heaters located on any structure that:
 - 1) heat water for that structure; and
 - 2) are less than 25% of the roof area on which they are located; and
 - 3) are not on a primary elevation; and
 - 4) are not highly visible from the street scape.

2. Freestanding Facilities:

A freestanding solar facility mounted on poles or the ground may be approved as an outright use if it complies with the following criteria. Historic design review may be required.

- a. Photovoltaic panels and solar thermal energy systems mounted on poles or the ground that:
 - 1) generate power for that structure or adjacent uses; and
 - 2) do not exceed 100 square feet in area; and
 - 3) do not exceed a maximum height of 6’ on residential structures or residential developed areas and zones; or do not exceed a maximum height of 10’ in non-residential areas or zones; and
 - 4) are not located on the primary elevation of the site; and
 - 5) are not highly visible from a street scape.

{The 6’ for residential was used based on the allowable 6’ height for a fence in that zone. The 10’ height and 100 sqft are based on the size of small utility buildings allowed in residential areas.}

- b. Solar water heaters mounted on poles or the ground that:
 - 1) heat water for that structure or adjacent uses; and
 - 2) do not exceed 100 square feet in area; and
 - 3) do not exceed a maximum height of 6’ on residential structures or residential developed areas and zones; or do not exceed a maximum height of 10’ in non-residential areas or zones; and
 - 4) are not located on the primary elevation of the site; and
 - 5) are not highly visible from a street scape.

3. Historic Design Review.

Historic design review is required for any solar facility located on a structure designated as historic, or is located in or adjacent to a designated historic district, or is located in an area designated as a significant scenic resource. For Type I Administrative Review Solar Permits, historic design review shall be processed as a Type I Certificate of Appropriateness in accordance with Article 6, if it also complies with the following:

a. Roof-mounted Facilities.

- 1) generate power for that structure; and
- 2) are less than 25% of the roof area on which they are located; and
- 3) are not on a primary elevation; and
- 4) are not highly visible from a street scape.

{the intent is that if the permit is reviewed as Type I for zoning, it would also be Type I for historic review to keep the review as simple and quick as possible}

B. **Type II, Administrative Review – Conditional Use.**

A Solar Energy Permit application may be reviewed administratively in accordance with Article 9 as a conditional use permit. The Community Development Director may determine that a permit should be reviewed by the Planning Commission in lieu of an Administrative Review.

1. Roof-mounted Facilities.

A roof-mounted solar facility may be approved as a conditional use if it complies with the following criteria. Historic design review may be required.

a. Photovoltaic panels or solar thermal energy system.

Installation of a solar photovoltaic energy system or solar thermal energy system located on any residential structure, or on any non-residential structure in a zone that allows non-residential structures that meets the following:

{These are the ones HB 3516 does not exempt. As noted above, the APC determined that solar facilities on non-conforming residential properties are allowed. It would be important to review non-conforming commercial structures in residential areas more than non-conforming residential noted above. }

- 1) increases the footprint of the structure; or
- 2) exceeds the peak height of the portion of the roof on which it is installed; or

- 3) is mounted so that the plane of the system is not parallel to the slope of the roof; or
- 4) is located on a non-residential structure in a zone that does not allow non-residential structures.

b. Solar water heaters.

Installation of a solar water heater system located on any residential structure, or on any non-residential structure in a zone that allows non-residential structures that meets the following:

- 1) heat water for that structure; and
- 2) are less than 50% of the roof area on which they are located.

2. Freestanding Facilities.

A freestanding solar facility mounted on poles or the ground may be approved as a conditional use if it complies with the following criteria. Historic design review may be required.

a. Photovoltaic energy system or solar thermal energy system.

Installation of a solar photovoltaic energy system or solar thermal energy system located adjacent to any residential structure, or any non-residential structure in a zone that allows non-residential structures that meets the following:

- 1) generate power for that structure or adjacent uses; and
- 2) do not exceed 100 square feet in area; and
- 3) do not exceed a maximum height of 10' on residential structures or residential developed areas and zones; or do not exceed a maximum height of 20' in non-residential areas or zones; and
- 4) are not located on the primary elevation of the site.

{The APC determined to allow pole mounted facilities and limit the height, but allow for variances on a case by case basis. The 10' height and 100 sqft are based on the size of small utility buildings allowed in residential zones. The 20' height in non-residential zones is similar to a two story building which is the most common height of non-residential buildings in Astoria.}

b. Solar water heaters.

Installation of a freestanding solar water heater system located adjacent to any residential structure, or any non-residential structure in a zone that allows non-residential structures that meets the following:

- 1) heat water for that structure; and
- 2) do not exceed 100 square feet in area; and
- 3) do not exceed a maximum height of 10' on residential structures or residential developed areas and zones; or do not exceed a maximum height of 20' in non-residential areas or zones; and
- 4) are not located on the primary elevation of the site.

3. Historic Design Review.

Historic design review is required for any solar facility located on a structure designated as historic, or is located in or adjacent to a designated historic district, or is located in an area designated as a significant scenic resource. For Type II Administrative Conditional Use Review Solar Permits, historic design review shall be processed as a Type II Certificate of Appropriateness permit in accordance with Article 6, if it also complies with the following:

a. Roof Mounted, Freestanding, and/or Solar Water Heater Facilities

- 1) are not highly visible from a street scape.

{the intent is that if the permit is reviewed as Type II for zoning, it would also be Type II for historic review to keep the review as simple and quick as possible}

C. Type III, Commission Review.

1. Planning Commission.

All solar permit applications that do not meet the criteria noted above to be reviewed administratively, shall be reviewed by the Planning Commission in accordance with Article 9 as a conditional use permit.

{Type III review would allow for review of facilities not specifically identified above. This allows for changes in the industry and for different applications such as a community solar facility.}

2. Historic Landmarks Commission.

Historic design review is required for any solar facility located on a structure designated as historic, or is located in or adjacent to a designated historic district, or is located in an area designated as a significant scenic resource. In addition to the required conditional use permit review, all solar permit applications that do not meet the criteria noted above to be reviewed administratively as a Type I or Type II Certificate of Appropriateness, shall be reviewed by the Historic Landmarks Commission in accordance with Article 6 as an Exterior Alteration or New Construction permit, as applicable.

16.035.

APPLICATION SUBMITTAL REQUIREMENTS.

A. All applications for permits for the placement and construction of solar facilities, except those listed in Section 16.010.B shall be accompanied by the following:

1. A complete description of the proposed solar facility system including use of concealment technology, height, location, siting/site plan, color, and design, and description of services the applicant intends to provide from the facility. Manufacturer specification sheets on the equipment shall be provided.
2. Proof of ownership of the land upon which the solar facility is proposed; or evidence of an appropriate easement, lease, rental agreement, or land use application signed by the applicant and signed by the underlying property owner.
3. If mounted on a tower, data pertaining to the tower's safety and structural stability, including safety results from test facilities.
4. An accurate and scaled site plan, scaled elevation views, and other supporting drawings illustrating the location and dimensions of the proposed solar facility, including but not limited to:
 - a. Support structure(s)
 - b. Alternative support structure(s)
 - c. Equipment enclosures
 - d. Any and all other devices and attachments.

Not required for facilities listed as Outright in Section 16.030.A. {HB 3516}

5. If Federal funds are involved, evidence demonstrating that the applicant has filed a request with the State Historic Preservation Office (SHPO) to review the application under Section 106 of the National Historic Preservation Act (NHPA), or evidence demonstrating that the applicant has complied with all State Historic Preservation Office requirements as a result of the Section 106 consultation.

6. Payment of fees.

Not required for facilities listed as Outright in Section 16.030.A. {HB 3516}

7. All such additional information as the Community Development Director may identify as being relevant to the permitting process.

8. No small scale solar energy systems shall be constructed or operated within the City limits until all necessary City, State, and Federal approvals have been secured. Evidence of approvals shall be provided to the City.
9. Manufacturer information on the reflective nature of the solar facility to evaluate the potential light reflection into adjacent properties and rights-of-way.

Not required for facilities listed as Outright in Section 16.030.A.

{This is to determine the impact of different facilities relative to the light reflected from the material used onto adjacent properties.}

10. Visual impact analysis and demonstrations including mock-ups and/or photo simulations from at least three (3) directional perspectives. Simulations should include:

- a. Perspectives from all directions that could impact view corridors;

{If we eliminate the tall freestanding facilities, we could eliminate Section 10.a and avoid the reference to view corridor, and just deal with the roof mounted facilities in 10.b.}

- b. Perspectives from above the site for roof mounted facilities;

Not required for facilities listed as Outright in Section 16.030.A. *{HB 3516}*

{Outright Use Consideration: These perspectives would assist in the determination of whether a facility is "highly visible" for outright uses. If the "highly visible" criteria is removed from the outright use section, this Item should state "Not required for facilities listed as Outright in Section 16.030.A.". . .}

OR, . . . Should this just apply to freestanding facilities and those on roofs that exceed the height of the roof? Somehow need to determine the visibility of the facility.}

11. Landscape and/or screening plan as required by Section 16.040.E.
12. Applicant shall submit the fee, copies of a complete application and plans, and other required information in accordance with Article 16. Only one copy shall be submitted for Type I and Type II applications reviewed administratively as an Outright Use and/or Administrative Conditional Use. For Type III applications requiring Planning Commission Conditional Use review, ten (10) copies shall be submitted. Digital copies of plans and required information is encouraged.

{Some cities are requiring an energy audit prior to installation of wind turbines or solar facilities as the energy efficiency impact is sometimes greater by performing interior

conservation methods such as insulation of attics. The APC determined that "efficiency" should not be a requirement to have alternative energy facilities.}

- B. All applications for solar facilities specified in Section 16.010.B.1 shall be accompanied by the following:
1. A complete description of the proposed solar facility system including use of concealment technology, height, location, siting/site plan, color, and design, and description of services the applicant intends to provide from the facility. Manufacturer specification sheets on the equipment shall be provided.
 2. Proof of ownership of the land upon which the solar facility is proposed; or evidence of an appropriate easement, lease, rental agreement, or land use application signed by the applicant and signed by the underlying property owner.
 3. Photo of the proposed location as viewed from the street.

16.040. STANDARDS AND REVIEW CRITERIA FOR SOLAR FACILITIES.

All applications for solar facilities, including solar water heaters, shall demonstrate compliance and conformity with the following requirements. The burden of proof is on the applicant to demonstrate such compliance and conformity. Section 16.040.B shall be reviewed by the Historic Landmarks Commission. All other standards and review criteria shall be reviewed by the Community Development Director and/or the Astoria Planning Commission, as applicable.

A. Environmental Resource Protection.

All solar facilities shall be sited so as to minimize the effect on environmental resources. To that end, the following measures shall be implemented for all small scale solar energy systems:

1. The solar facility shall comply with all applicable local, State, and Federal regulations, including but not limited to the Columbia River Estuary Shoreland Overlay (CRESO), Sensitive Bird Habitat Overlay (SBHO), National Environmental Policy Act (NEPA), and Endangered Species Act (ESA);

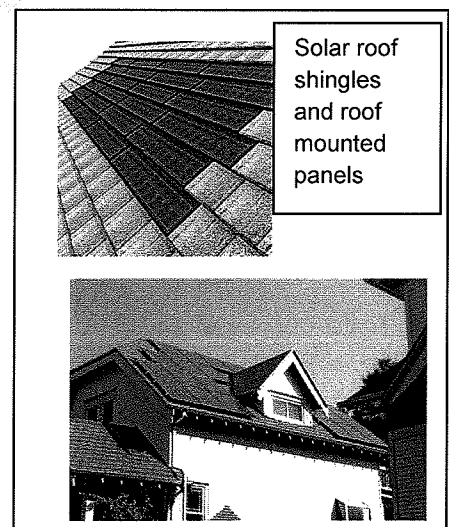
B. Historic Resource Protection.

{These standards are based on recommended standards from the National Trust for Historic Preservation, National Park Service, and National Alliance of Preservation Commissions.}

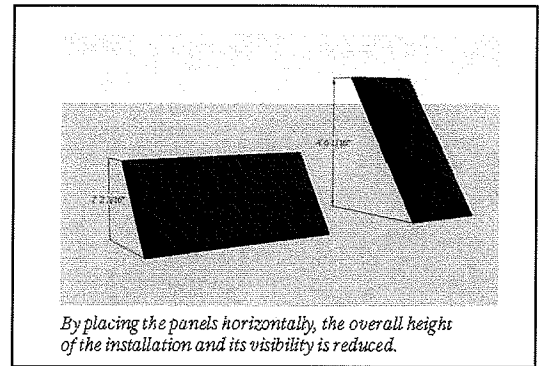
All solar facilities shall be sited so as to minimize the impact on historic resources both structurally and visually. To that end, the following measures shall be implemented for all solar facilities and shall be reviewed by the Historic Landmarks Commission or Historic Preservation Officer, as applicable:

1. The solar facility shall comply with all applicable local, State, and Federal regulations, including but not limited to the Astoria Historic Properties Ordinance and National Historic Preservation Act (NHPA).
2. Roof mounted solar facilities should be located on non-primary roof elevations of historic buildings, and shall be located back from the eave of the roof so as to be as inconspicuous as possible. If location on a primary elevation is proposed as the only alternative, the facility should be hidden behind existing architectural features when possible.
3. Freestanding solar facilities shall not be located on a primary elevation of a historic site nor within the historic streetscape of the neighborhood within a Historic District or Historic Inventory Area regardless of the historic status of the individual site if the facility would be highly visible. Freestanding solar facilities shall be considered prior to proposal for alteration to a historic structure. They shall be screened from view of the streetscape by fence or landscaping.
4. Solar facilities shall be located on newer additions or accessory buildings before location on the historic structure.
5. Consideration should first be given to alternative solar facilities such as shingle cells or other materials that are less intrusive. The applicant shall provide information concerning the other materials considered and the reason why they are not being proposed.

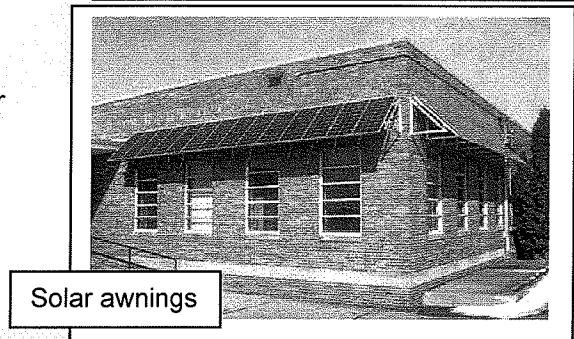
{this has been an issue in other cities in that solar shingles are less visible and may have been a better solution than large roof mounted panels. we should look at whether we want to consider these options first.}



6. Roof mounted solar facilities shall be mounted horizontal and not vertical to reduce the visual impact from the ground. The vertical tilt shall be the minimum needed to obtain efficiency of the facility. For facilities with multi-tilt angles, the maximum angle at any given time shall maintain minimal visibility from the ground level.



7. Solar facilities may be incorporated into architectural features such as awnings or other building features on non-primary elevations.



8. The color of the solar facility including mounting equipment and mechanical equipment shall be compatible with the historic material background color so as to blend in with the historic character of the site, and/or landscaping.
9. Mechanical equipment necessary for solar facilities such as solar water heaters, etc. shall be screened from view.
10. Historic material and architectural features shall not be removed or damaged with the installation of a solar facility.

{Need to amend Article 6 to allow these reviews and by what granting authority.}

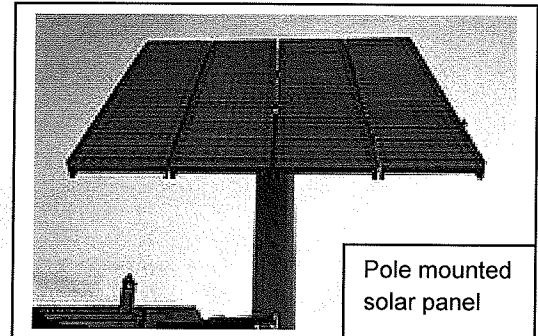
C. Color and Materials.

1. All buildings, poles, support structures, and other associated components of each solar facility site shall be initially coated and thereafter recoated as necessary with a non-reflective neutral color in muted tones.
2. The color selected shall be one that will minimize visibility of the solar facility to the greatest extent feasible. To this end, improvements which will be primarily viewed against soils, trees, or grasslands shall be coated with colors matching those landscapes (i.e. green, brown, tan, etc.), while elements which rise above the horizon shall be coated a color that matches the typical overcast sky (i.e. white, light gray, etc.), or the background color at that location.
3. The color and coating shall be reviewed and approved by the granting authority.

4. Upon a clear showing by the applicant that compliance with the requirements of this Section would void a manufacturer's warranty on any specific equipment, or that natural aging of the material would provide greater concealment, the granting authority may waive the requirements of this Section for such specifically identified equipment.

D. Height.

Solar facilities shall comply with the maximum structure height limitations of the underlying zone and shall comply with the following height requirements, unless a variance is obtained:



1. The height of the facility shall be calculated from grade level to the maximum height of all elements including a fully extended solar panel.

(Solar units do not need to be as tall as wind and therefore should not need variances as often, if ever. The APC determined that variances could be considered on a case by case basis.)

2. Maximum height.

- a. Residential.

Freestanding solar facilities shall not exceed a maximum height of 10' on residential utilized properties or in residential developed areas or zones.

- b. Non-Residential.

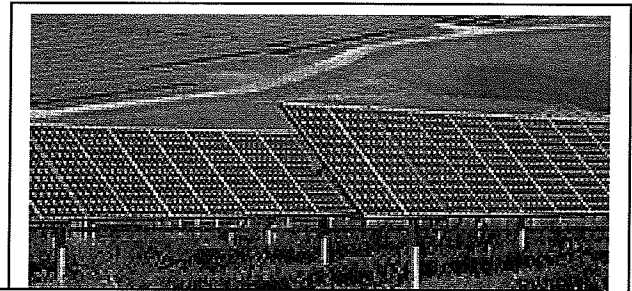
Freestanding solar facilities shall not exceed a maximum height of 20' in non-residential developed areas or zones.

- c. If there is not a height limit in the underlying zone, the maximum height of a facility on a structure shall be 45' feet.

3. Building or other structure-mounted solar facilities shall not project more than ten (10) additional feet above the highest ridge of the roof on the building or structure.

E. Landscape and Screening.

Ground mounted solar facility sites greater than 100 square feet in area shall be improved with native vegetation, suitable landscaping, and/or fencing installed to screen the facility, where it is necessary for visual and/or security buffering. To this end, the following requirements shall be implemented for all freestanding solar facilities which are installed on ground support structures:



Freestanding solar panels may need to be screened from view.

1. Landscaping.

- a. A landscape plan, meeting the requirements of Development Code Sections 3.105 to 3.120, shall be submitted as part of the application.
- b. Any proposed or required fenced area is to be surrounded, where feasible, by a landscaped strip of sufficient width (minimum five feet wide) and height to create a visual screen. Required landscaping shall be located outside of the fenced area.
- c. A majority of the planted vegetation shall be of an evergreen variety.
- d. The location of the landscape buffer may be at any distance from the facility to create a visual buffer. The landscaping does not need to be directly adjacent to the facility.
- e. The landscape plan shall be subject to review and approval of the Community Development Director.

2. Fences.

A fence may be needed for security and/or to enclose ground mounted equipment to minimize the visual impact on surrounding properties. If it is determined that a fence is required, it shall comply with the following:

- a. The fence shall be a maximum of six (6') feet in height.
- b. The fence shall, where feasible, be installed and maintained around the entire perimeter of the site and surround the solar facility and equipment shelter.

- c. If the granting authority determines that a fence surrounding support structures is not feasible, such structures may be exempted from the fencing requirements of this Section.
- d. Chain link fences shall be powder coated with a non-reflective color. If a chain link fence is used for visual buffering, it shall contain slats in the chain linking.
- e. Electric, barbed wire, and concertina wire fences are prohibited.

F. Setback.

All solar facilities shall comply with the required setback area of the underlying zone, unless a variance is obtained.

G. Access Driveways and Parking.

New or additional access driveways and parking areas shall not be allowed for solar facilities for single or two-family dwellings, or within a residential developed area or zone. When an access driveway or parking area is needed for installation, maintenance, or operation of a solar facility in other than residential applications, the following shall apply:

(The APC determined it applies to residential zones and any residentially "developed" area regardless of zone.)

- 1. All access drives and parking areas shall be no longer or wider than necessary and be improved to comply with the requirements of the City's Engineering Department Standards, Development Code, and City Codes.
- 2. Existing driveways shall be used for access whenever possible.
- 3. New parking areas shall, whenever feasible, be shared with other solar facilities and/or other permitted uses.

H. Lighting.

- 1. Solar facilities shall only be illuminated as necessary to comply with FAA or other applicable State and Federal requirements. Documentation from such State and Federal agencies describing required compliance measures is required.
- 2. Required exterior lighting shall not glare onto other properties or rights-of-way.
- 3. Strobe lights are prohibited unless required by FAA.

I. Signs and Advertising.

1. Appropriate warning signage shall be placed on solar facilities, electrical equipment, and facility entrances, as needed.
2. For emergency purposes, equipment information limited to the solar facility provider(s) name and contact phone number shall appear at the facility in a discreet yet visible location, either on the equipment cabinet or supporting structure.
3. The use of any portion of a solar facility for signs or advertisements other than warning or equipment information signs is strictly prohibited.

J. Underground Utilities.

All wiring between solar facilities and a structure or energy facility substation, shall be installed underground.

~~K. Safety and Insurance.~~

~~For freestanding solar facilities of 20' or greater in height, the following shall apply:~~

- ~~1. Prior to issuance of a building permit, the applicant shall provide the City proof of a level of insurance in an amount established by the City, to cover damage or injury that might result from the failure of a tower or towers or any other part or parts of the generation and transmission facility. The facility owner shall maintain the required insurance as long as the solar facility is located at the site.~~
- ~~2. Prior to expiration of the policy, the applicant/owner shall submit proof of insurance to the Community Development Department periodically as the insurance policy is renewed.~~

~~(should the City be named on the insurance policy when in close proximity to a City right-of way or facility? We will check with the City Attorney on this. We do require insurance on private use of our facilities such as the trolley line.)~~

~~{the City Attorney has indicated that by requiring insurance, that the City is adding risk and liability to the City in determining the amount and/or type of insurance required, and to monitor that the insurance is maintained. He recommends that this section be deleted.}~~

16.045. MONITORING AND MAINTENANCE.

A. Compliance Testing.

All solar facilities shall comply with all Federal, State, and local regulations. The City at any time may require evidence of testing of a facility to determine if the facility is in compliance with all applicable Federal, State, and local regulations. Such measurements shall be signed and certified by a registered engineer, stating that measurements or calculations are accurate and meet the standards of this Code.

All testing shall be at the cost of the solar facility owner(s). Failure to cooperate with the City in performing such testing shall be adequate basis for revocation of the permit.

{This is similar to the requirement for wireless communication facilities. It gives the City the ability to require the owner to have the facility tested should the City question if there are problems with its operation. With the production of electricity there is a greater threat to safety should the facility short or fail.}

B. Maintenance.

The applicant, co-applicant, and/or property owner shall maintain the solar facility. Such maintenance shall include, but shall not be limited to, painting/coating, maintaining structural integrity, landscaping, and other conditions of approval. In the event the applicant, co-applicant, and/or property owner fails to maintain the facility in accordance with permit conditions, the City of Astoria may undertake the maintenance at the expense of the applicant or underlying property owner. Violations of the facility required maintenance conditions shall be declared a nuisance and abated in accordance with the City Code Sections 5.700 to 5.728. Enforcement of the continued maintenance of the structure shall be processed as a nuisance or by any other manner provided by law.

{The APC agreed that violations should be declared a nuisance and be subject to the City Code Nuisance Abatement ordinance.}

C. Revocation of Permit.

Any facility not in compliance with all applicable Federal, State, and local regulations shall be removed, upon failure to bring the facility into compliance within thirty (30) days after written notice. The permit may be suspended or revoked for non-compliance.

16.050. GENERAL AND OPERATING REQUIREMENTS.

A. Owner and Applicant Responsibilities.

The owner and applicant of the solar facility and his or her successors and assigns at all times shall have the following responsibilities:

1. The owner shall coordinate planning for energy projects with public and privately-owned electric utility companies, with independent developers, and with State and Federal agencies, including but not limited to the Oregon Department of Energy (ODOE), the Oregon Water Resources Department (OWRD), the Northwest Power Planning Council (NPPC), Bonneville Power Administration (BPA), the Bureau of Land Management (BLM), and the United States Forest Service (USFS).
2. The applicant shall ensure that sufficient anti-climbing measures have been incorporated into the solar facility, as needed to reduce potential for trespass and injury.
3. To limit climbing access, a fence six (6') feet high with a locking portal shall be placed around the facility's tower base or the tower climbing apparatus shall be limited to no lower than twelve (12') feet from the ground or the facility's tower may be mounted on a roof top.

16.055. ABANDONMENT.

A. Notice of Abandonment.

1. City Issued Notice of Abandonment.

A solar facility that is out-of-service for a continuous twelve (12) month period shall be deemed to have been abandoned. The Community Development Director shall issue a Notice of Abandonment to the owner of a solar facility that is deemed to have been abandoned. The owner shall have the right to respond to the Notice of Abandonment within thirty (30) days from the date the Notice is mailed.

The Community Development Director shall withdraw the Notice of Abandonment and notify the owner that the Notice has been withdrawn if the owner provides information that demonstrates the solar facility has not been abandoned.

2. Abandonment by Owner.

At such time that a solar facility provider plans to abandon or discontinue, or is required to discontinue, the operation of a solar facility, such provider shall notify the Community Development Director by Certified United States Postal Service mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to abandonment or discontinuation of operations.

B. Removal of Abandoned Facility.

Upon abandonment or discontinuation of use, the owner shall physically remove the solar facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

1. Removal of solar panels, towers, mounts, equipment cabinets, security barriers, and foundations including entirety of depth of the foundation located below ground surface.
2. Restoring the location of the solar facility to a condition acceptable to the Community Development Director, except any remaining landscaping and grading. During such 90 days, the owner may apply, and for good reason, be granted an extension of time on such terms as the Community Development Director or Building Official shall determine appropriate.

C. Failure to Remove Abandoned Facility.

If such structure and equipment enclosure are not removed, as indicated in this Section, the facility may be deemed to be a nuisance, and the City may remove the facility and/or may seek and obtain a court order directing such removal and impose a lien upon the real property upon which the structure(s) are situated in an amount equal to the cost of removal, including any administrative costs in accordance with City Code Sections 5.700 to 5.728 concerning Nuisances and Abatement.

D. Penalties.

Recognizing the extremely hazardous situation presented by abandoned and unmonitored support structures, failure to remove an abandoned facility as required by this Section shall constitute a violation and be subject to the penalties prescribed in Astoria City Code "Penalty and Violation Provisions" in Sections 1.008 to 1.015, in addition to any other methods of enforcement available to the City.

16.060. FEES.

Applicant shall pay the filing fee as set by the City at the time of submission of an application. Actual costs incurred in processing the application shall be billed from the filing fee. Should actual costs exceed the application fee, the City shall bill the applicant for the difference.

In accordance with ORS 227.175, no zoning permit fees shall be charged for applications for solar facilities listed in Section 16.030.A.1. *{HB 3516 prohibits fees for these}*

The City shall determine all expenses and return any remaining filing fee as follows:

1. Approved Permit.

Upon final inspection and after all conditions have been met.

2. Denied and/or Withdrawn Application.

After all appeals have been exhausted and a final determination made.

{It is recommended that exempt permits listed in 16.030.A.1 be free in accordance with HB 3516; an administrative outright use permit be a fee of \$250; administrative conditional use and Planning Commission conditional use permits should be a fee of \$400 plus a \$600 deposit.}

16.065. BONDING.

The City may require that the applicant for a solar facility furnish to the City a performance bond up to, and not to exceed, the anticipated cost to dismantle the facility and restore the site. The bond may be required to assure that the approval criteria and conditions imposed are completed in accordance with the plan and specifications as approved, and that the facility would be removed if the project is not completed as approved.

The bond shall be released only after final inspection and all conditions have been met.

Not required for facilities listed as Outright in Section 16.030. *{HB 3516}*

{A bond should be held until the facility is fully installed, meets all conditions of the permit, and is operational.}

16.070. TECHNICAL EXPERT SUPPORT.

- A. The Community Development Director may employ, on behalf of the City, an independent technical expert to review any technical materials submitted including, but not limited to:
1. materials required under Article 16; or
 2. technical demonstration of unavoidable need or unavailability of alternatives, if required; or
 3. to determine the condition of an existing solar facility.
- B. The costs associated with the independent technical expert review shall be at the expense of the solar facility owners and/or applicants.

16.075. PROCEDURES. *{This section will refer to Article 9 which is the chapter that deals with all land use procedures. Specific items unique to solar permits are included here and not in Article 9.}*

A. Application.

Applicant shall submit the fee, copies of a complete application and plans, and other required information in accordance with Section 16.035.

B. Mailed and Published Notice.

For applications reviewed as a Type II Conditional Use or Type III Conditional Use, public notice and procedures on applications shall be in accordance with the Administrative Procedures in Article 9.

1. Notice to Other Agencies.

In addition to the notices required in Article 9, for applications reviewed as a Type II Conditional Use or Type III Conditional Use, public notice to other agencies shall be sent to the City of Astoria Fire Department, United States Fish and Wildlife, Columbia River Estuary Study Taskforce, and any special districts, and local, State, or Federal agency that may have an interest in the proposed application. Written comments will be incorporated into the record of the public hearing.

2. Display Ad.

For Type II applications, in addition to the required public notice in Article 9, the City shall publish a display ad of not less than four (4) square inches in a newspaper of general circulation in the City of Astoria at the expense of the applicant. The notice shall set forth the required information pertinent to the application.

{The APC was split on whether a display ad should be required. They finally agreed to include the requirement to provide as much public notification as possible.}

C. Decision.

1. Type I Permit - Outright Use Review.

A decision shall be made by the Community Development Director after a determination is made that the requirements of Article 16 have been met.

2. Type II Permit – Administrative Conditional Use Review.

A decision shall be made by the Community Development Director after the notice period and after findings of fact are made that the requirements of Article 16 and the Conditional Use standards in Article 11 have been met. A decision of the Community Development Director may be appealed to the Planning Commission in accordance with Article 9.

3. Type III Permit – Conditional Use Review and Historic Landmarks Commission Review.

A decision shall be made by the Commission after a public hearing is held and after findings of fact are made that the requirements of Article 16 and the Conditional Use standards in Article 11 have been met. In addition to the requirements of Article 16, historic design review shall also include findings of fact that the applicable requirements of Article 6, Historic Properties Ordinance, have been met. A decision of the Commission may be appealed to the City Council in accordance with Article 9.

D. Notice of Decision.

For all permit applications, in addition to the requirements of Article 9, written notice of the decision shall be provided to the Clatsop County Assessment and Taxation Department, and the Astoria Fire Department.

{AFD is included so that they can start an inventory of properties with solar energy facilities. These facilities continue to produce electricity while firefighters are at the scene and can cause electrical shocks. This will allow the fire department to prepare and know before they arrive on the scene of the presence of electrical current.}

16.080. APPEALS.

A decision of the Granting Authority made pursuant to this Article may be appealed in accordance with Astoria Development Code Article 9.



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

September 17, 2013

TO: ASTORIA PLANNING COMMISSION

FROM: ROSEMARY JOHNSON, PLANNER

SUBJECT: AMENDMENT REQUEST (A13-04) ON SOLAR ENERGY ORDINANCE

I. BACKGROUND SUMMARY

- A. Applicant: Brett Estes
Community Development Director
City of Astoria
1095 Duane Street
Astoria OR 97103
- B. Request: Amend the Astoria Development Code by the addition of Article 16, Solar Energy, to establish regulations and procedures for processing solar energy permits
- C. Location: City-wide

II. BACKGROUND

In 2010, due to increased interest in locating wind energy facilities in Astoria, the City began work on a draft ordinance to establish standards for wind and solar energy facilities within the City. At that time, Department of Land Conservation and Development (DLCD) awarded a grant to the City to develop a model ordinance for both wind and solar energy that could be used for other coastal communities to specifically address impacts to the coastal environment. Staff, with the assistance of CREST, did research on these facilities and drafted an ordinance for Astoria Planning Commission (APC) review. The APC held several work sessions to discuss the various issues associated with these facilities. These work sessions included a field trip to several wind turbine sites in Clatsop County, open public meetings with input from citizens and industry representatives, and multiple drafts to address the APC direction and concerns. Staff finalized the model ordinance and closed out the DLCDC grant which addressed the State's needs. Staff also developed a draft ordinance which included provisions that addressed the issues and direction of the APC. Following their review of this matter, the APC was generally interested in limiting wind facilities to the smaller mini and "micro" units in the City.

Due to the nature of the technology and the differences in wind and solar energy, the APC determined that the two issues should be separated and that they would complete

the solar energy ordinance first as it was not as complex as the wind energy ordinance. Over the last two years, the APC, Historic Landmarks Commission, and City Council have held several more work sessions concerning the draft Solar Energy Ordinance. At its August 28, 2012 meeting, the APC discussed the draft with the inclusion of recent legislation (HB 3516) that requires cities and counties to allow certain solar energy facilities as outright uses. The APC directed staff to develop a code that would make the process easy, comply with State regulations, and address historic concerns. At its July 23, 2013 meeting, the APC accepted the draft ordinance as ready to be presented at a public hearing. The Historic Landmarks Commission (HLC) held a work session at its August 12, 2013 meeting and also accepted the draft as ready to be presented at a public hearing.

The proposed Solar Energy Ordinance established regulations and guidelines for installation of solar energy facilities within the City. It creates three levels of permit review including: Type I – Administrative review, Outright Use; Type II – Administrative review, Conditional Use; and Type III – Planning Commission review. The draft contains definitions, identifies prohibited facilities, and facilities that are exempt from permits requirements. The standards and review criteria include sections on environmental resources protection, historic resource protection, location, height, size, safety, lighting, maintenance, etc. It also addresses potential abandoned facilities, the procedures for processing a permit, notifications, and violation enforcement. The draft is in compliance with HB 3516 concerning allowance of solar energy facilities.

The draft addresses issues raised by the APC, HLC, and citizens who have responded to the draft documents over the last three years. There are several sections with notations by staff that are *{italicized and bracketed}* that are included to explain the intent of that particular section of the draft. These will be removed from the final document.

In addition to the creation of the Solar Ordinance, there are several amendments to Article 9, Administrative Procedures for all permits, to address procedures for processing a solar permit. Only requirements unique to solar facilities is included in the Solar Ordinance. Amendments to Article 6, Historic Properties Ordinance, which reference the Solar Ordinance historic design review are also proposed with this amendment. To simplify the process, the Historic Landmarks Commission recommended that historic review be the same level of review as the Administrative and Planning Commission reviews (i.e. Type I “over-the-counter” permit review would be a Type I historic “over-the-counter” review also, etc.).

III. PUBLIC REVIEW AND COMMENT

A. Astoria Planning Commission

A public notice was mailed to Neighborhood Associations, various agencies, and interested parties on September 11, 2013. In accordance with Section 9.020, a notice of public hearing was published in the Daily Astorian on September 17, 2013. The proposed amendment is legislative as it applies City-wide. Any comments received will be made available at the Astoria Planning Commission meeting.

The APC's recommendation will be forwarded to the City Council for public hearing tentatively at the October 21, 2013 City Council meeting.

B. City Council

A public notice will be mailed to Neighborhood Associations, various agencies, and interested parties on September 27, 2013. In accordance with Section 9.020, a notice of public hearing will be published in the Daily Astorian on October 14, 2013. Any comments received will be made available at the City Council meeting.

IV. FINDINGS OF FACT

- A. Development Code Section 10.020(A) states that *"an amendment to the text of the Development Code or the Comprehensive Plan may be initiated by the City Council, Planning Commission, the Community Development Director, a person owning property in the City, or a City resident."*

Finding: The proposed amendment to the Development Code is being initiated by the Community Development Director.

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

1. *An amendment to the text of the Development Code or Comprehensive Plan. . ."*

Finding: The proposed amendment is to amend the text of the Astoria Development Code Article 6 concerning Historic Properties, Article 9 concerning Administrative Procedures, and to create Article 16 concerning Solar Energy. The Code is applicable City-wide. Processing as a legislative action is appropriate.

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

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

Finding: The Development Code does not address solar energy facilities. With the increase in need and desire for alternative energy, the Code is proposed to be amended to include regulations, guidelines, and permit procedures for installation of solar energy facilities.

2. CP.010(2), Natural Features states that *"The City will cooperate to foster a high quality of development through the use of flexible development standards, cluster or open space subdivisions, the sale or use of public lands, and other techniques. Site design which conforms with the natural*

topography and protects natural vegetation will be encouraged. Protection of scenic views and vistas will be encouraged.”

Finding: The location of solar energy facilities has the potential of impacting scenic views and vistas. The proposed ordinance establishes parameters for location of these facilities aimed at allowing the installation of solar equipment while protecting scenic views with height and size limitations, and the review of proposed perspectives to analyze the potential visual impact of the facilities.

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

Finding: The proposed ordinance allows for solar energy facilities while establishing standards for their size, location, and appearance to protect the character of residential and historic neighborhoods. As a regional tourist destination the City needs to protect its character while still allowing for modern services such as solar energy. With proper placement both goals can be achieved. The proposed ordinance is intended to provide the guidance to help achieve these goals.

4. CP.185(G), Estuary and Shoreland Policies states that *“This subsection applies to uses and activities with potential adverse impacts on fish or wildlife habitat, both in Columbia River estuarine aquatic areas and in estuarine shorelands.*
 1. *Endangered or threatened species habitat shall be protected from incompatible development.*
 2. *Measures shall be taken protecting nesting, roosting, feeding and resting areas used by either resident or migratory bird populations.*
 3. *Major nontidal marshes, significant wildlife habitat, coastal headlands, and exceptional aesthetic resources within the Estuary Shorelands Boundary shall be protected. New uses in these areas shall be consistent with the protection of natural values, and may include propagation and selective harvest of forest products, grazing, harvesting, wild crops, and low intensity water-dependent recreation.”*

CP.460(1), Natural Resource Policies states that *“The Plan land and water use designations will protect those areas that have high natural value, and direct intensive development into those areas that can best support it.”*

CP.460(3) , Natural Resource Policies states that *“The City recognizes the importance of “trade offs” that must occur in the planning process. Although certain estuary areas have been designated for intensive development, other areas will be left in their natural condition in order to balance environmental and economic concerns.”*

Finding: The proposed ordinance identifies the Natural Shoreland Zone (S-5) and the Sensitive Bird Habitat Overlay Zone (SBHO) as prohibited areas for solar energy facilities to protect these natural areas that are major protected habitat areas for wildlife and birds. The ordinance also identifies the Aquatic Conservation Zone (A-3) and Aquatic Natural Zone (A-4) as Restricted Zones for solar energy facilities. Both of these zones are designated to protect the natural environment especially the fish and estuary wildlife habitat. Astoria is home to several Eagle nests, a heron rookery, and many species of endangered fish and wildlife. The intent of the ordinance is to allow solar energy facilities while protecting these more sensitive habitat areas from any unnecessary intrusion. A section on environmental review requires that facilities be reviewed for their potential impact on environmental resources in all areas of the City.

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

CP.250(3), Historic Preservation Goals states that *“The City will Encourage the application of historical considerations in the beautification of Astoria's Columbia River waterfront.*

CP.255(6), Historic Preservation Policies states that *“The City will make available to property owners information and technical advice on ways of protecting and restoring historical values of private property.”*

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

CP.205(5), Economic Development Policies states that *“The City encourages the growth of tourism as a part of the economy. Zoning standards which improve the attractiveness of the city shall be considered including designation of historic districts, stronger landscaping requirements for new construction, and Design Review requirements.”*

Finding: The proposed amendment will adopt standards for installation of solar energy facilities on or adjacent to historic properties. The process would include three levels of historic review to allow some permits to be reviewed administratively “over-the-counter”, some to be reviewed

administratively after public notification, and other permits to be reviewed by the HLC. The intent is to encourage the use of alternative energy while protecting the historic character of the structures and community. By allowing solar energy facilities, it aids in the adaptive reuse of buildings and provide an additional financial tool for property owners when restoring historic buildings. The code would provide citizens with direction on the correct design and method of installation for solar energy facilities. The code would also protect the scenic views of the Columbia River waterfront with standards for height and location of facilities. It establishes design standards that would protect historic neighborhoods and the many scenic views that bring visitors to the community.

6. CP.415(3), Energy Goals states that *“Encourage the use of solar energy wherever possible through the layout of new subdivisions, and through flexible application of the Uniform Building Code;”*

Finding: The proposed ordinance establishes regulations and a permit process for review of solar energy facilities within the City. It provides for three levels of permit review including an over-the-counter permit, administrative public review permit, and a permit through the Planning Commission. The City works closely with the Building Official to assure that the Uniform Building Code is applied evenly but with flexibility that allows for the encouragement of facilities such as solar energy.

7. CP.470(1), Citizen Involvement states that *“Citizens, including residents and property owners, shall have the opportunity to be involved in all phases of the planning efforts of the City, including collection of data and the development of policies.”*

Finding: Throughout the process of drafting the proposed ordinance, the City has provided extensive public outreach. The APC has held numerous work sessions over the last three years with invitations and notices sent to interested parties, neighborhood associations, industry representatives, email lists, web site, etc. Anyone interested in the proposed ordinance was encouraged to submit suggestions and research on alternative energy and how Astoria should regulate it. Work sessions were open for discussion with the public to allow for interactive feedback at this early stage of the adoption process. Drafts were specifically sent to industry representatives and interested parties for additional input beyond the public work sessions. A joint work session with the APC and City Council was held on January 22, 2013 with a presentation by Energy Trust of Oregon explaining changes in the alternative energy industry. The following is a list of public work sessions and newspaper articles concerning the draft solar and wind energy ordinance:

June 22, 2009	APC
February 2, 2010	APC
March 23, 2010	APC
April 3, 2010	Daily Astorian article

April 20, 2010	HLC
April 27, 2010	APC site visits
May 4, 2010	APC & Daily Astorian article
May 25, 2010	APC update report
June 21, 2010	Daily Astorian article
June 22, 2010	APC
June 23, 2010	Daily Astorian article
August 3, 2010	APC
August 20, 2010	HLC
July 24, 2012	APC
August 28, 2012	APC
January 22, 2013	City Council & APC presentation by Energy Trust
July 23, 2013	APC
August 12, 2013	HLC
September 24, 2013	APC public hearing

The City was very conscious of the interest in alternative energy and the need to have an ordinance that would meet the needs of the citizens, protect the environment and historic resources, be in compliance with State regulations, and would be a permit process that was easy for both the citizens and staff.

Finding: The request is consistent with the Comprehensive Plan.

- D. Section 10.070(A)(2) requires that *“The amendment will not adversely affect the ability of the City to satisfy land and water use needs.”*

Finding: The proposed amendment will satisfy land use needs in that it will allow for the installation of solar energy facilities that will provide alternative energy to buildings within the City. The ordinance will allow for three levels of permit review providing administrative permit reviews that will allow for quick review of permit applications. The opportunity for public input would be preserved in Type II & Type III reviews with specific parameters for Type I administrative reviews. The proposed amendment will not adversely affect the ability of the City to satisfy land and water use needs.

V. CONCLUSION AND RECOMMENDATION

The request is consistent with the Comprehensive Plan and Development Code. Staff recommends that the Astoria Planning Commission forward the proposed amendment to the City Council for adoption.



CITY OF ASTORIA
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October 8, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **AUTHORIZATION TO BID – WILLIAMSPORT RD. & HIGHWAY 202 WATER MAIN PROJECT**

DISCUSSION/ANALYSIS

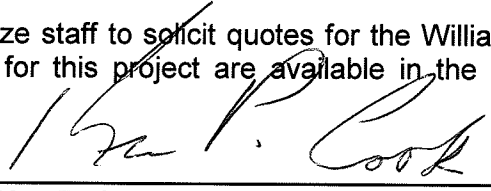
Over the past 12 years, the City has had to repair a portion of 6" water line adjacent to Highway 202, between Williamsport Road and Cedar Bay Road, dozens of times to maintain water service to the area. This line also serves the Williamsport Water District and Don Bryan Water District. The cast iron water pipe in this section has significantly deteriorated resulting in frequent water leaks. The Public Works Department contracted with HLB Otak, Inc. to provide survey and engineering services to design a waterline to replace the deteriorated utility.


The project will include installation of 600 feet of 8" PVC water line, two new fire hydrants, and other associated water appurtenances. Prior to construction, the Public Works Department will install a temporary 2" water line to serve the area. This will minimize service interruptions related to the construction work.

Public Works Department Staff and HLB Otak evaluated several replacement options, and determined that replacing the pipe in-place was the most cost effective approach that meets our goals. The construction estimate for this project is \$92,500 which includes a 10% contingency. Staff proposes using the informal Request for Quotes (RFQ) solicitation method since the work is estimated to cost less than \$100,000.

RECOMMENDATION

It is recommended that City Council authorize staff to solicit quotes for the Williamsport Rd. & Highway 202 Water Main Project. Funds for this project are available in the Public Works Improvement Fund.


Submitted By 
Ken P. Cook, Public Works Director

Prepared By: 
Nathan Crater, Assistant City Engineer



October 15, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM:  PAUL BENOIT, CITY MANAGER
SUBJECT: SALE OF EXCESS CITY PROPERTY - OFFERS

DISCUSSION/ANALYSIS

At the August 17, 2013 meeting, the City Council authorized the Mayor to sign a contract with Area Properties to market excess properties throughout the City. The procedure for marketing was agreed to be as follows:

- Area Properties would begin the marketing program immediately, with adjacent property owners being notified first by mail and provided the opportunity to submit an offer, prior to general listing.
- Potential buyers would make offers on selected properties and would be notified that acceptance is contingent on Council approval in accordance with the procedures identified below.
- The offers would be presented to the Council in accordance with the City's Real Property Sale Procedures, City Code Section 1.500 through Section 1.510. These code sections require that the City Manager submit a report to Council of any proposed sale. A public hearing would be scheduled for a subsequent meeting, with advertisement in a newspaper not less than fourteen days prior to the hearing and the notice sent to all property owners who reside within 200 feet of the property. A staff report presented at the hearing would include information on property values, geologic hazards, utilities, access and other issues. The Council can, after hearing public testimony, approve or reject the sale of the property.

It was proposed that the realtors would bring the offers to the City Council in small batches as offers were made so that Councilors could evaluate the potential sales and conduct site visits, as needed, prior to the public hearing.

Area Properties realtors have been contacting the adjacent owners of selected properties to offer them the right of first refusal prior to marketing to the general public. It should be noted that the time requested for a response from adjacent owners has been extended an additional two weeks. To date, offers have been made for the following properties (see attached aerial photos):

1. 900 Block of 36th - Map T8N-R9W Section 9DB, Tax Lot 8900
2. 4900 Block of Birch West, Map T8N-R9W Section 10AB, Tax Lot 3200
3. 4700 Block of Ash – Map T8N-R9W Section 10BA, Tax Lot 1300
4. 1840 4th Street – Map T8N-R9W Section 18DA, Tax Lot 6500
5. 4600 Block of Birch/Ash – Map T8N-R9W Section 10BA, Tax Lot 1800
6. 5300 Block of Alder – Map T8N-R9W Section 10AA, Tax Lot 900

The City Planner has prepared reports on each of these properties, which are attached, along with directions to the sites. Councilors may request that staff accompany them to the sites individually or in groups, or may visit the sites on their own.

RECOMMENDATION


It is recommended that the City Council direct the City Manager to schedule a public hearing for the November 4, 2013 Council meeting and prepare a report in accordance with City Code 1.500 to 1.510. After the public hearing the City Council may agree to sell all or some of the parcels, or reject the sales.

Submitted By



Ken P. Cook, Public Works Director

Prepared By



Mike Morgan, Special Projects Consultant



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

July 15, 2013

RE: City-Owned Property

900 Block 36th
Map T8N-R9W Section 9DB, Tax Lot 8900
Lots 14, 15, 16, Block 68, Adairs Port of Upper Astoria

50' wide x 200' deep ; 10,000 square feet, 0.23 acres

R-2 Zone, Low Density Residential

Minimum Standards:

Lot dimensions: minimum 45' wide, minimum 90' deep

Lot size: minimum 5,000 square feet for single-family dwelling; 7,500 square feet for two-family dwelling

Setbacks: 20' front, 15' rear, 5' sides (15' street side and 5' rear for corner lot) to any portion of structure 12" above grade

Off-street parking: two spaces per unit

Lot coverage: maximum 40% of the lot may be covered with structures

Buildable Lands Inventory: 0.23 acres

The above noted parcel is located in a residential zone that allows single-family dwelling on 5,000 square feet of land. The site could accommodate two single-family dwellings.

The site is within a known geologic hazard area. A geotechnical report would be required. The property is not designated as historic and is adjacent to a site designated as historic. New Construction would require design review by the Historic Landmarks Commission. The lot is located in Zone X, "Areas determined to be outside the 0.2% annual chance floodplain", of the Flood Insurance Rate Map, Community Panel Number 410028-0233-E, dated September 17, 2010.

Irving Avenue is a 60' wide right-of-way improved with roadway and no sidewalks. The 36th Street right-of-way is 60' wide and improved with a driveway accessing the adjacent property to the north. There is a 20' wide platted, unimproved alley to the south of the site. The driveway for 3609 Irving Avenue (Map T8N-R9W Section 9DB, Tax Lot 8300) encroaches onto Lots 15 & 16 and sale to the adjacent property owner should be considered.

There is water and sewer in the neighborhood.



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If you have any questions, or need additional information, please contact me at 503-338-5183 or rjohnson@astoria.or.us.

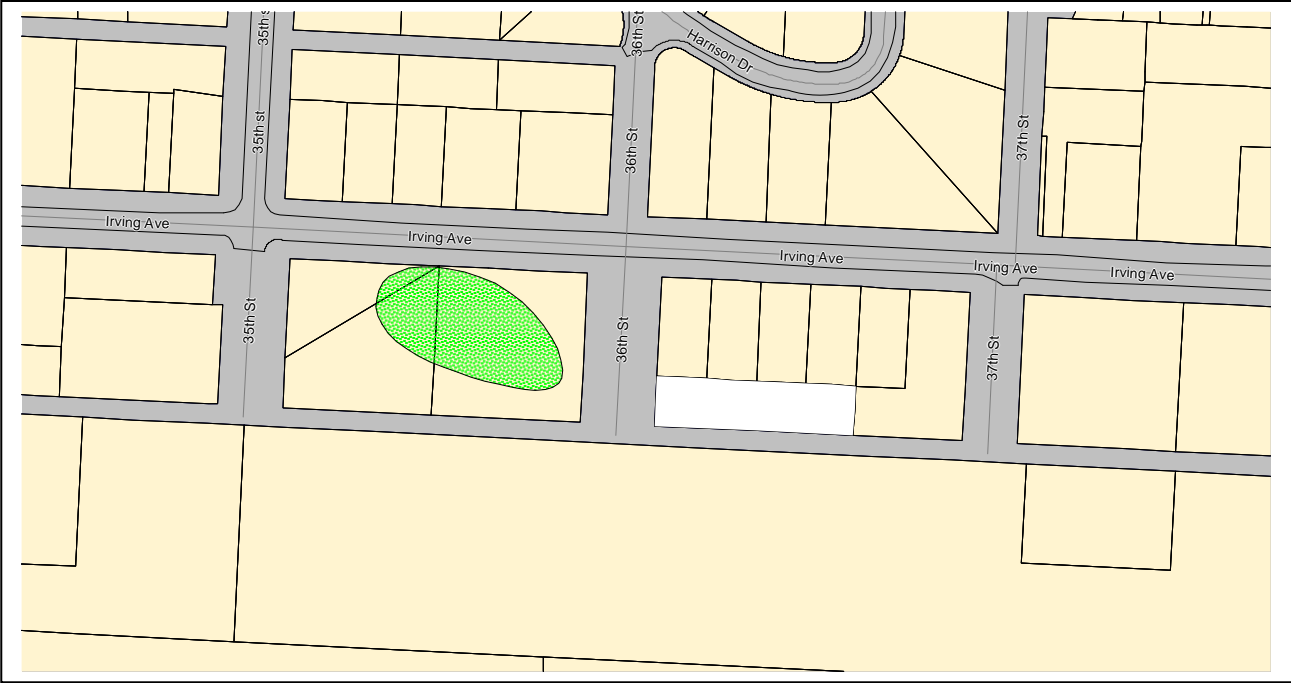
Sincerely,

THE CITY OF ASTORIA

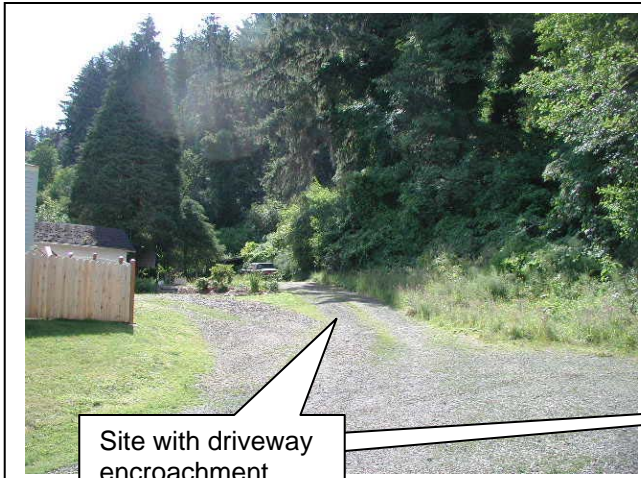
A handwritten signature in black ink that reads "Rosemary Johnson". The signature is written in a cursive style.

Rosemary Johnson
Planner

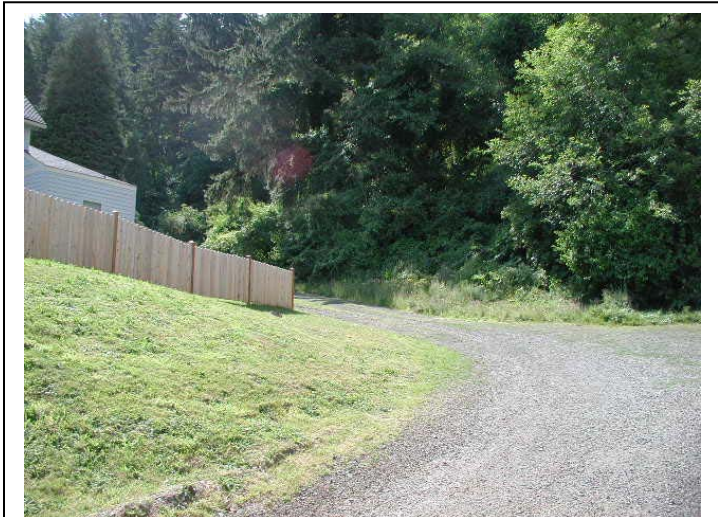
900 Block 36th Street
Geologic Hazard



900 Block 36th Street



Site with driveway encroachment





CITY OF ASTORIA

Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

July 15, 2013

RE: City-Owned Property

4900 Block Birch, west

Map T8N-R9W Section 10AB, Tax Lot 3200

Lots 1, 2, 3, 4, Block 18, Alderbrook; and Lot 4, Block 18, Alderbrook 1st Addition

approximately 200' wide x 100' deep; 20,000 square feet, 0.48 acres

R-2 Zone, Low Density Residential

Minimum Standards:

Lot dimensions: minimum 45' wide, minimum 90' deep

Lot size: minimum 5,000 square feet for single-family dwelling; 7,500 square feet for two-family dwelling

Setbacks: 20' front, 15' rear, 5' sides (15' street side and 5' rear for corner lot) to any portion of structure 12" above grade

Off-street parking: two spaces per unit

Lot coverage: maximum 40% of the lot may be covered with structures

Buildable Lands Inventory: 0.48 acres

The above noted parcel is located in a residential zone that allows single-family dwelling on 5,000 square feet of land. The site could possibly accommodate four single-family dwellings.

The site is not within 100' of a known geologic hazard area. The property is not designated as historic and is not adjacent to a site designated as historic. The north portion of the lot is located in Zone AE, "Special Flood Hazard Area subject to inundation by the 1% annual chance flood - (Base Flood Elevation 12), and the south portion of the lot is located in Zone X, "Areas determined to be outside the 0.2% annual chance floodplain", of the Flood Insurance Rate Map, of the Flood Insurance Rate Map, Community Panel Number 410028-0233-E, dated September 17, 2010.

Birch Street right-of-way is 70' wide and is improved with a 20' wide paved street and no sidewalks. Approximately 25' of the front yards in this block are within the right-of-way. Water and sewer are available to the site.

There may be an encroachment of the yard for the adjacent property to the south at 4924 Cedar Street (10AB, tax lot 3700)



This letter reflects the Codes in force at the time this letter was written and does not preclude any future adopted amendments to the Codes which would apply to the properties.

If you have any questions, or need additional information, please contact me at 503-338-5183 or rjohnson@astoria.or.us.

Sincerely,

THE CITY OF ASTORIA

A handwritten signature in cursive script that reads "Rosemary Johnson".

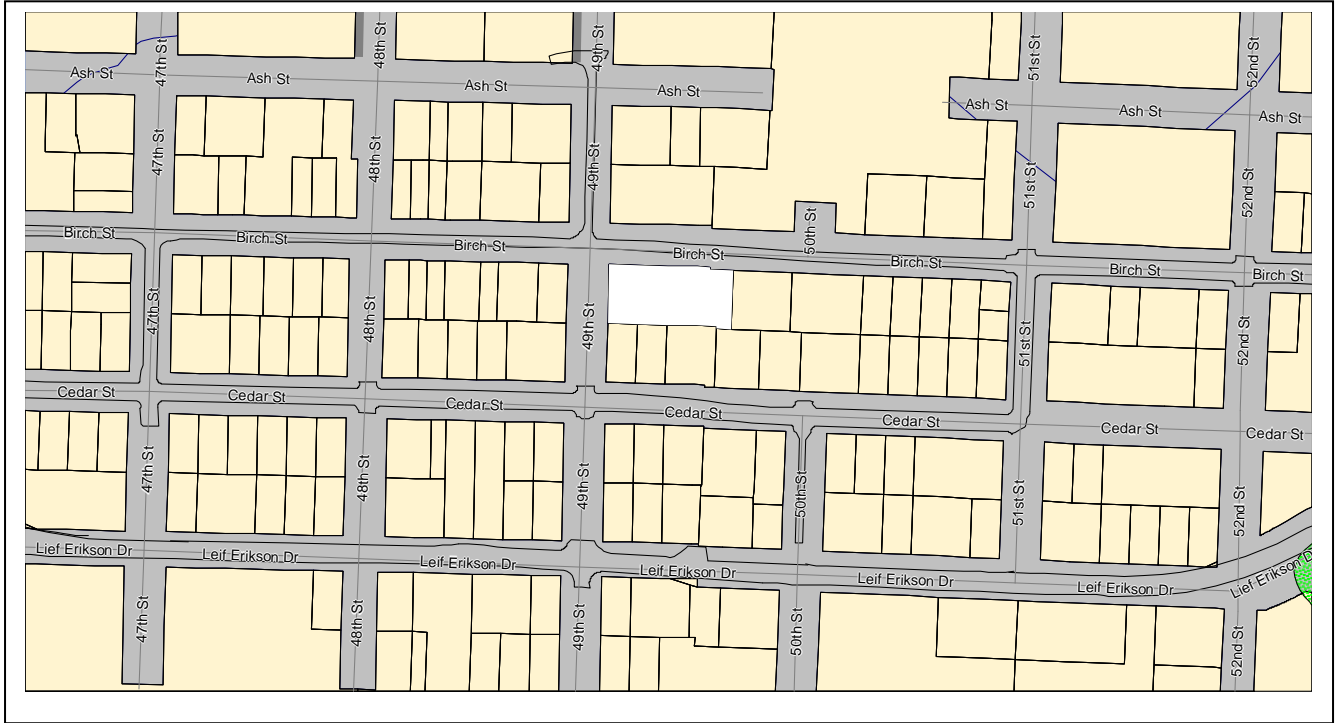
Rosemary Johnson
Planner

City Hall • 1095 Duane Street • Astoria OR 97103 • Phone 503-338-5183 • Fax 503-338-6538

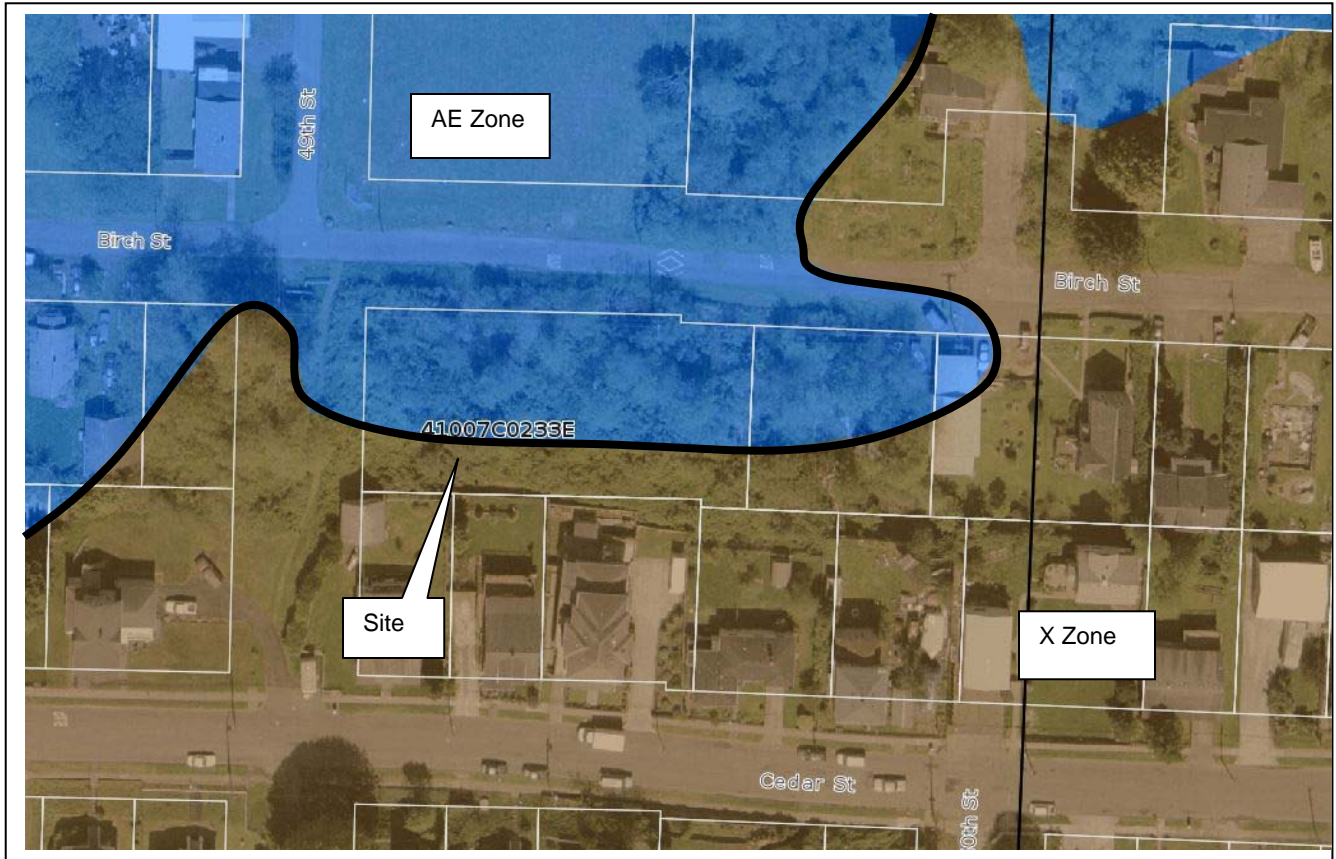
rjohnson@astoria.or.us • www.astoria.or.us

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4900 Block Birch, west Geologic Map



4900 Block Birch, west
Flood Map





CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

July 15, 2013

RE: City-Owned Property

4700 Block Ash
Map T8N-R9W Section 10BA, Tax Lot 1300
Lots 4, 5, 9, and east 30' Lot 10, Block 13, Alderbrook

50' wide x 100' deep lots; 18,000 square feet, 0.41 acres

R-2 Zone, Low Density Residential

Minimum Standards:

Lot dimensions: minimum 45' wide, minimum 90' deep

Lot size: minimum 5,000 square feet for single-family dwelling; 7,500 square feet for two-family dwelling

Setbacks: 20' front, 15' rear, 5' sides (15' street side and 5' rear for corner lot) to any portion of structure 12" above grade

Off-street parking: two spaces per unit

Lot coverage: maximum 40% of the lot may be covered with structures

Buildable Lands Inventory: 0.41 acres

The above noted parcel is located in a residential zone that allows single-family dwelling on 5,000 square feet of land. The site could potentially accommodate three single-family dwellings.

The site is not within 100' of a known geologic hazard area. The property is not designated as historic and is not adjacent to a site designated as historic. The lot is located in Zone AE, "Special Flood Hazard Area subject to inundation by the 1% annual chance flood - (Base Flood Elevation 12), of the Flood Insurance Rate Map, Community Panel Number 410028-0233-E, dated September 17, 2010.

Ash Street is unimproved and adjacent to the shoreline. It is unlikely that this right-of-way could be improved. There is a driveway crossing the north portion of the lots to access the adjacent property to the west at 4745 Ash Street (Map T8N-R9W Section 10BA, Tax Lot 1200). Access for the lot would be from Birch Street which is a 70' wide right-of-way improved with a roadway and sporadic sidewalks. There are several encroachments into the Birch Street right-of-way.



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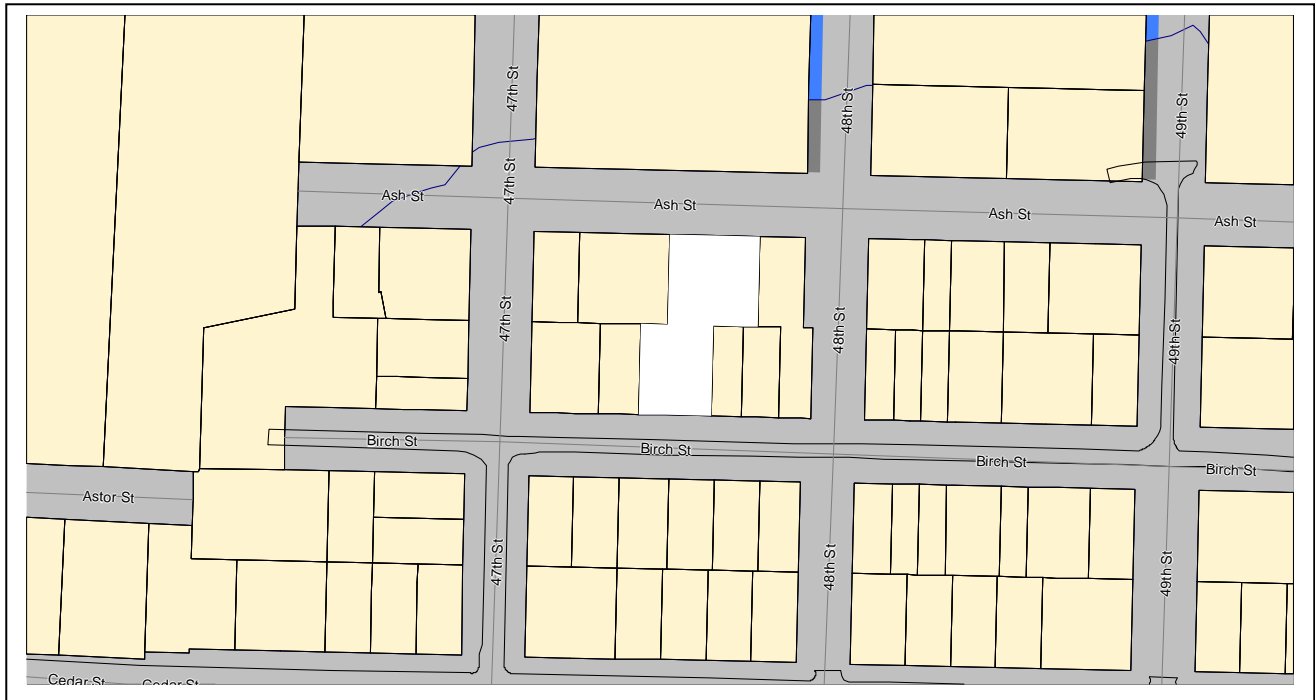
If you have any questions, or need additional information, please contact me at 503-338-5183 or rjohnson@astoria.or.us.

Sincerely,

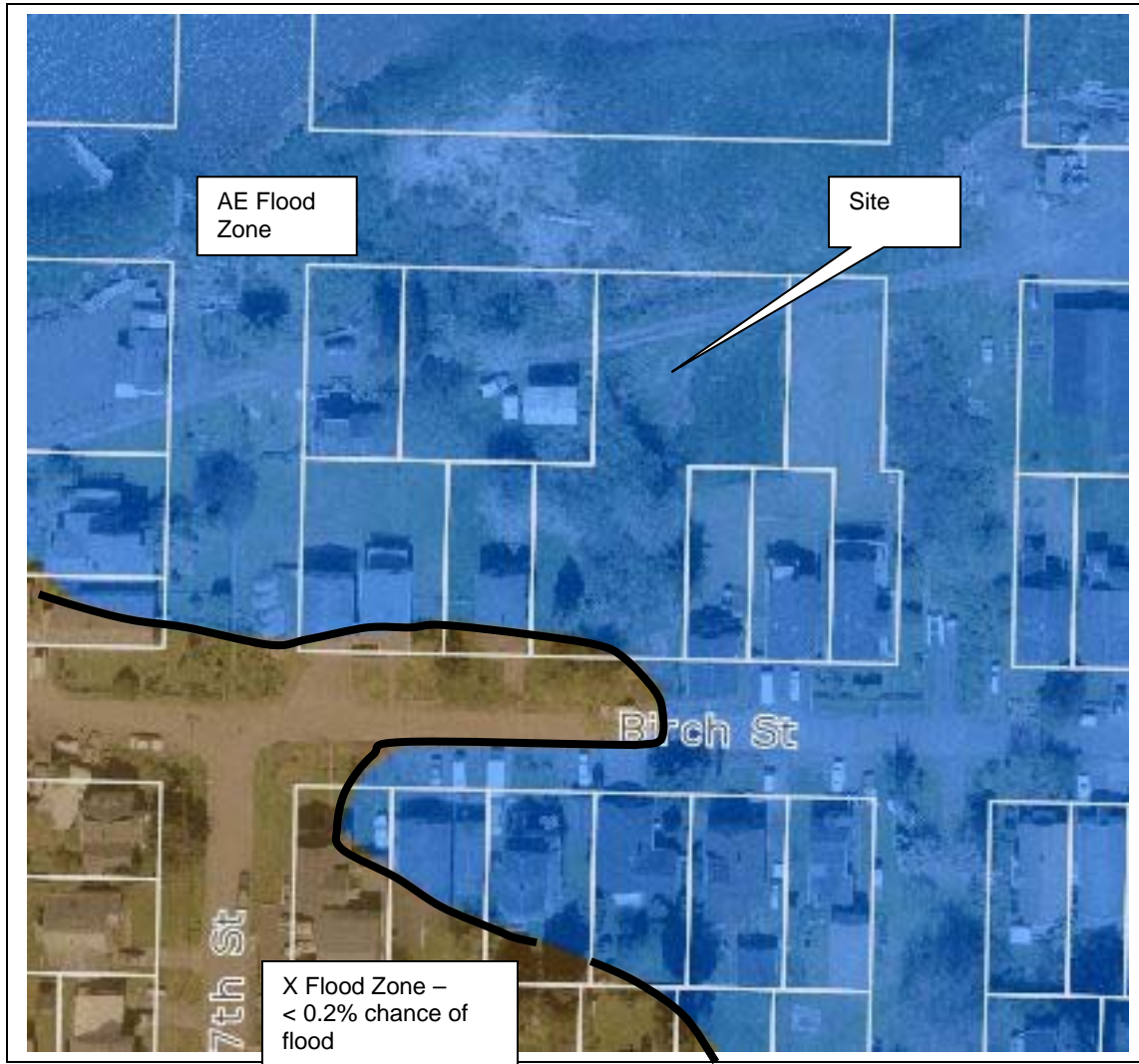
THE CITY OF ASTORIA

Rosemary Johnson
Planner

4700 Block Ash Geologic Hazard



4700 Block Ash
Flood Map





CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

August 8, 2013

RE: City-Owned Property

1840 4th Street
Map T8N-R9W Section 18DA, Tax Lot 6500
Lot 6, Hobson Block D Subd of Block 25, Olney

50' wide x 100' deep; 5,00 square feet, 0.11 acres

R-2 Zone, Low Density Residential

Minimum Standards:

Lot dimensions: minimum 45' wide, minimum 90' deep

Lot size: minimum 5,000 square feet for single-family dwelling; 7,500 square feet for two-family dwelling

Setbacks: 20' front, 15' rear, 5' sides (15' street side and 5' rear for corner lot) to any portion of structure 12" above grade

Off-street parking: two spaces per unit

Lot coverage: maximum 40% of the lot may be covered with structures

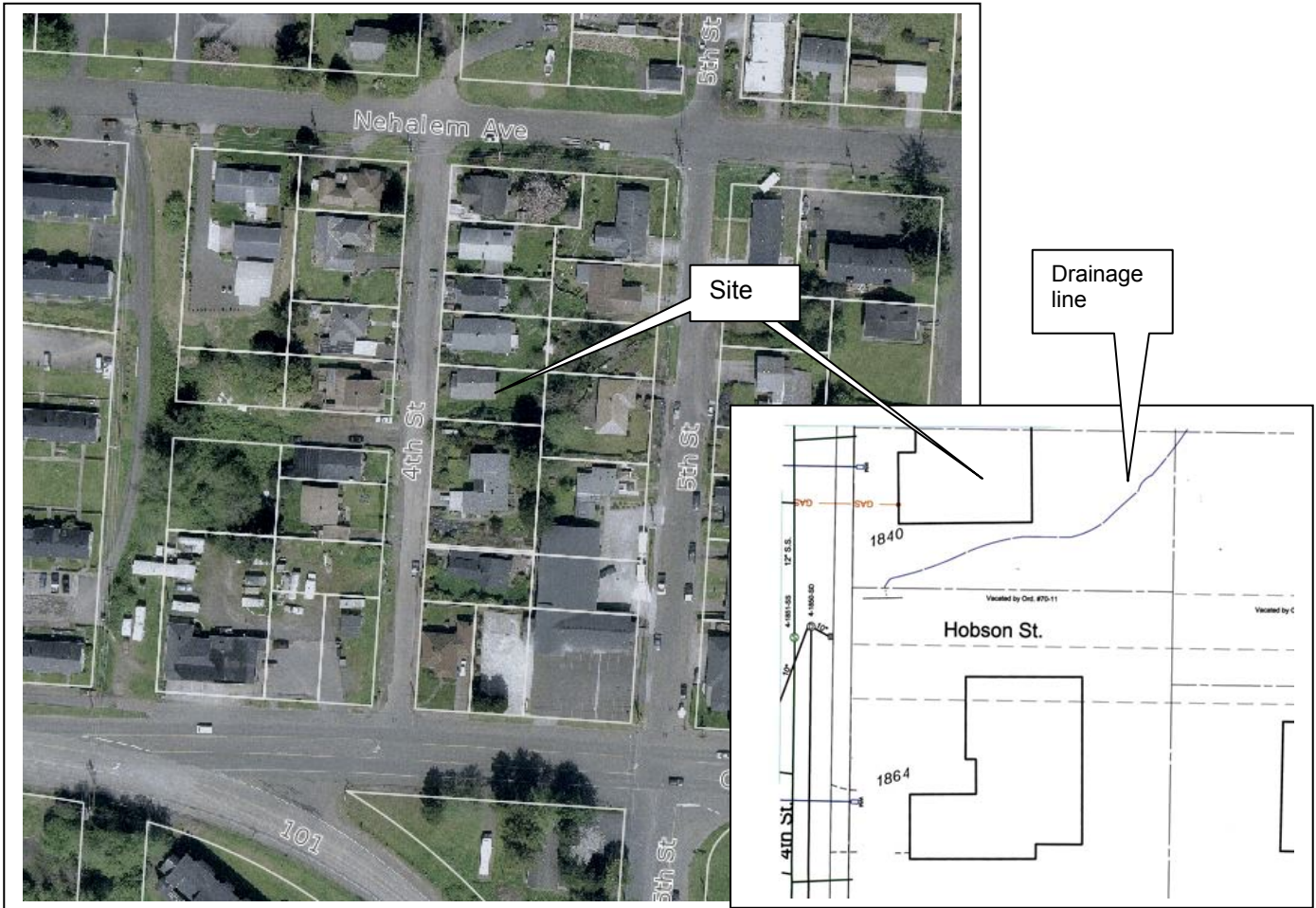
Buildable Lands Inventory: 0.11 acres

The above noted parcel is located in a residential zone that allows single-family dwelling on 5,000 square feet of land. The site could accommodate one single-family dwelling.

The site is not within a known geologic hazard area. The property is not designated as historic and is not adjacent to a site designated as historic. The lot is located in Zone X, "Areas determined to be outside the 0.2% annual chance floodplain", of the Flood Insurance Rate Map, Community Panel Number 410028-0237-E, dated September 17, 2010.

4th Street is a 40' wide right-of-way improved with a road and sidewalks. Water and sewer are available to the site.

There was work completed by the City on existing utility lines that caused flooding in the basement. The house is to be sold "as is" and there is still water draining into the basement. There is an existing natural drainage line in the rear and side yard.



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If you have any questions, or need additional information, please contact me at 503-338-5183 or rjohnson@astoria.or.us.

Sincerely,

THE CITY OF ASTORIA

Rosemary Johnson
Planner



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

July 15, 2013

RE: City-Owned Property

4600 Block Birch & Ash
Map T8N-R9W Section 10BA, Tax Lot 1800
Lot 3, Block 14, Alderbrook, and unplatted parcel

irregular shape approximately 100' x 200', plus; 41,817 square feet, 0.96 acres

R-2 Zone, Low Density Residential
A-3 Zone, Aquatic Conservation, north half of Lot 3

Minimum Standards:

- Lot dimensions: minimum 45' wide, minimum 90' deep
- Lot size: minimum 5,000 square feet for single-family dwelling; 7,500 square feet for two-family dwelling
- Setbacks: 20' front, 15' rear, 5' sides (15' street side and 5' rear for corner lot) to any portion of structure 12" above grade
- Off-street parking: two spaces per unit
- Lot coverage: maximum 40% of the lot may be covered with structures

Buildable Lands Inventory: not listed

The above noted parcel is located in a residential zone that allows single-family dwelling on 5,000 square feet of land. The southern portion of this parcel is developed with a City sewer station. The northern portion of the parcel (Lot 3) is partially submerged and is in an A-3 Zone which does not allow residential development. There is an access easement on the east and north portion of the lot for access to three privately owned parcels. With the locations of the easements and City facility, there may only be sufficient area for one single-family dwelling site.

The site is not within 100' of a known geologic hazard area. The property is not designated as historic and is not adjacent to a site designated as historic. The northern portion of the parcel (Lot 3) is located in AE "Special Flood Hazard Area subject to inundation by the 1% annual chance flood - (Base Flood Elevation 12) and the remaining portion of the lot is located in Zone X, "Areas determined to be outside the 0.2% annual chance floodplain", of the Flood Insurance Rate Map, Community Panel Number 410028-0233-E, dated September 17, 2010.

Birch Street right-of-way is 70' wide and is improved with a narrow road that dead ends into the southern portion of the parcel. There are no sidewalks. There is water and sewer available in the neighborhood.



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If you have any questions, or need additional information, please contact me at 503-338-5183 or rjohnson@astoria.or.us.

Sincerely,

THE CITY OF ASTORIA

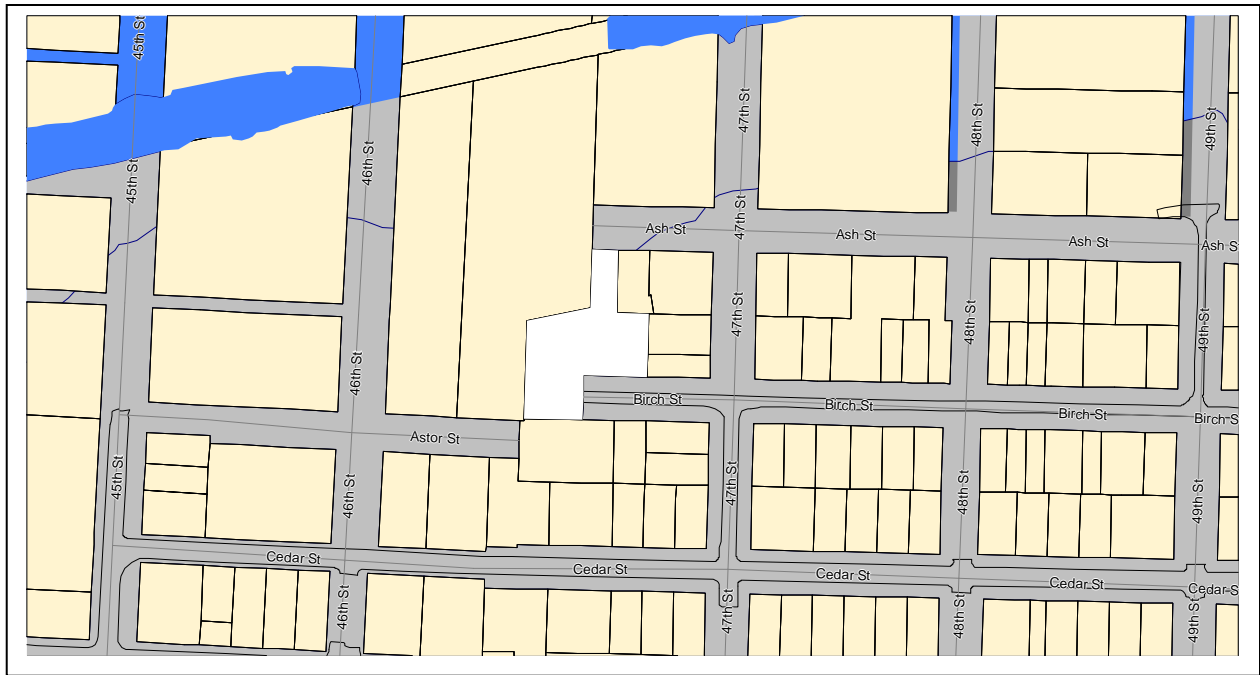
Rosemary Johnson
Planner

City Hall • 1095 Duane Street • Astoria OR 97103 • Phone 503-338-5183 • Fax 503-338-6538

rjohnson@astoria.or.us • www.astoria.or.us

C:\Users\lcmaynard\Desktop\4600 Birch & Ash Zoning let.doc

4600 Block Birch & Ash Geologic Hazard



N.W. 1/4 OF SECTION 10, T8N, R9W, W.M.
SURVEY FOR: MICHAEL & LORNA ZAMETKIN
DATE: 9/09/2009

SCALE: 1" = 20'

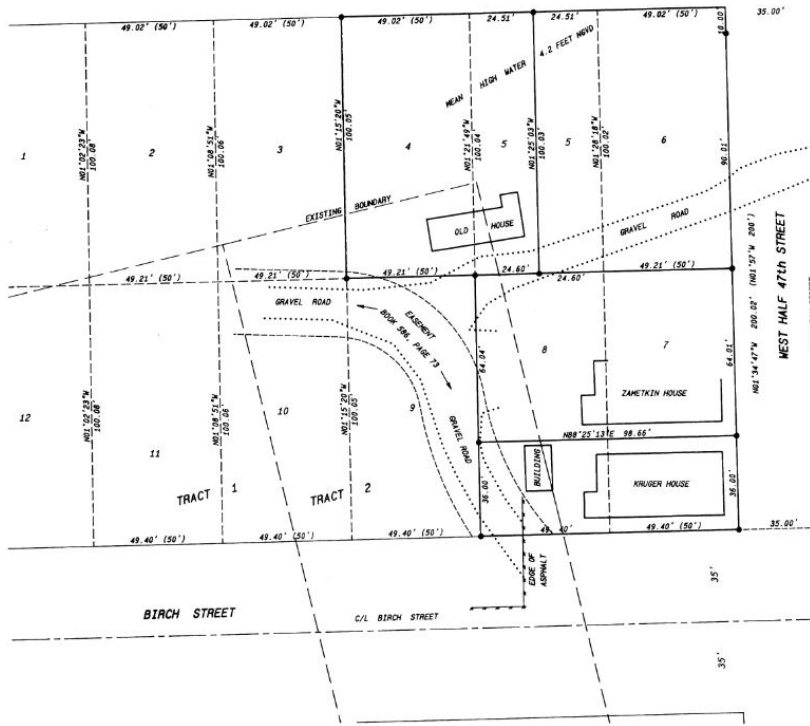


EXHIBIT SHOWING LOCATION OF EXISTING ROAD
INTENDED FOR ACCESS THROUGH EASEMENT
DESCRIBED IN BOOK 386, PAGE 73
DEED RECORDS OF CLATSOP COUNTY, OREGON



REGISTERED
PROFESSIONAL
LAND SURVEYOR
Karl J. Foeste
KARL J. FOESTE
OR 048
LICENSE 1/1/2010

NARRATIVE (CONT.):
THE LOCATION OF THE 25 FOOT WIDE RIGHT-OF-WAY EASEMENT DESCRIBED IN BOOK 386, PAGE 73, DEED RECORDS, AS DETERMINED BY THE BEARINGS AND "MORE OR LESS" DISTANCES RECITED IN SAID EASEMENT, DOES NOT AGREE WITH THE LOCATION OF THE EXISTING ROADWAY. ALSO, THE LOCATION OF THE EASEMENT, AS DETERMINED BY BEARINGS AND DISTANCES, EXTENDS THROUGH A BUILDING OWNED BY KROGER AND AN OLD HOUSE OWNED BY ZAMETKIN. THESE BUILDINGS WERE BUILT LONG BEFORE THE SUBJECT EASEMENT WAS GRANTED IN SEPTEMBER 1962. SINCE THE DESCRIPTION CALLS FOR THE ACCESS AS BEING LOCATED "ON AN EXISTING ROAD AND ROADWAY-DIKE", I HAVE IGNORED THE BEARINGS AND DISTANCE CALLS, AND I HAVE KEPT THE EXISTING ROADWAY AS BEING THE BEST AVAILABLE EVIDENCE OF THE INTENDED LOCATION OF SAID EASEMENT.

LEGEND:

- SET FLUSH WITH GROUND A 5/8" x 36" REBAR WITH YELLOW PLASTIC CAP STAMPED "K. FOESTE LS 849".
- () RECORD VALUE DERIVED FROM PLAT OF ALDENBROOK, BOOK 9, PAGE 25, AND/OR CITY OF ASTORIA ENGINEER'S DETAIL PLAT 2-9.
- EDGE OF GRAVEL ROAD.

CLATSOP COUNTY
SURVEYOR
RECEIVED
SEP. 29, 2009
FILED *12:00 PM '09*
ASTORIA, OREGON

SHEET 2 OF 2



CITY OF ASTORIA

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COMMUNITY DEVELOPMENT

July 15, 2013

RE: City-Owned Property

5300 Block Alder
Map T8N-R9W Section 10AA, Tax Lot 900
Lots 4 & 5, Block 128, Van Dusen

50' wide x 100' deep lots; 10,000 square feet, 0.23 acres

R-2 Zone, Low Density Residential

Minimum Standards:

Lot dimensions: minimum 45' wide, minimum 90' deep

Lot size: minimum 5,000 square feet for single-family dwelling; 7,500 square feet for two-family dwelling

Setbacks: 20' front, 15' rear, 5' sides (15' street side and 5' rear for corner lot) to any portion of structure 12" above grade

Off-street parking: two spaces per unit

Lot coverage: maximum 40% of the lot may be covered with structures

Buildable Lands Inventory: 0.23 acres

The above noted parcel is located in a residential zone that allows single-family dwelling on 5,000 square feet of land. The site would accommodate two single-family dwellings.

The site is not within 100' of a known geologic hazard area. The property is not designated as historic and is not adjacent to a site designated as historic. The lot is located in Zone X, "Areas determined to be outside the 0.2% annual chance floodplain", of the Flood Insurance Rate Map, Community Panel Number 410028-0234-E, dated September 17, 2010.

Alder Street is a 65' wide right-of-way improved with a narrow roadway with access to the City's sewer lagoon and no sidewalks.

Need to check with Public Works about water and sewer access.



This letter reflects the Codes in force at the time this letter was written and does not preclude any future adopted amendments to the Codes which would apply to the properties.

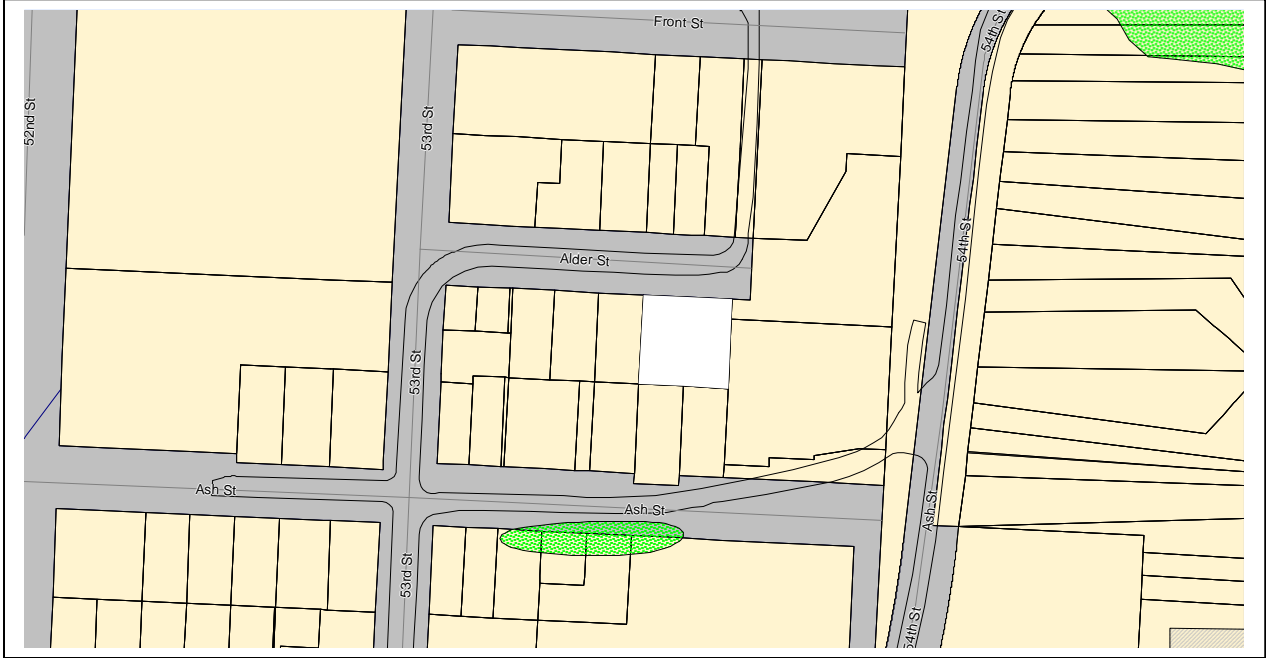
If you have any questions, or need additional information, please contact me at 503-338-5183 or rjohnson@astoria.or.us.

Sincerely,

THE CITY OF ASTORIA

Rosemary Johnson
Planner

5300 Block Alder
Geologic Hazard





CITY OF ASTORIA

Founded 1811 • Incorporated 1856

October 14, 2013

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: PAUL BENOIT, CITY MANAGER

SUBJECT: PUBLIC HEARING ON FINDINGS TO EXEMPT A CONTRACT FROM THE COMPETITIVE SOLICITATION REQUIREMENTS AND AWARD CONTRACT ASSOCIATED WITH MARITIME MEMORIAL

DISCUSSION/ANALYSIS

On Saturday, September 28, 2013, five granite panels from the Maritime Memorial wall detached and shattered during a large downpour and strong wind gusts.



The replacement for the granite and engravings is proposed to be installed by Astoria Granite Works for a total cost (materials and labor) of \$21,328. As Astoria Granite Works has been directly involved in the construction of the Maritime Memorial and has completed design of all the graphics and associated engraving since inception, staff proposes an exemption from the competitive solicitation requirement. Findings for an exemption from the competitive solicitation requirement are attached to this memorandum. Also attached is a contract with Astoria Granite Works for consideration. Funds for the replacement granite and engraving are expected to be covered by a combination of insurance coverage and the Maritime Memorial Fund.

RECOMMENDATION

It is recommended that the City Council conduct a hearing for the purpose of taking public comment on the findings for exemption from the competitive solicitation requirements and adopt findings that authorize the direct appointment process to contract with Astoria Granite Works. If findings are adopted, it is recommended that the City Council award a contract with Astoria Granite Works for granite installation and engraving in the amount of \$21,328.

By: Angela Cosby
Angela Cosby
Director of Parks & Recreation

CITY OF ASTORIA

OCTOBER 14, 2013

FINDINGS OF FACT FOR GRANITE INSTALLATION AND ENGRAVING AT MARITIME MEMORIAL

SITUATION

The City of Astoria is prepared to bid work involving repairs to the Maritime Memorial in Astoria, Oregon to include replacing and engraving five granite panels on the south facing wall. The Memorial was originally constructed in 1993. Between 1993 and 2011, Astoria Granite Works was awarded the contract by low bid. During the time between initial construction and today, Astoria Granite Works has also carried out the design and engraving of all individual memorials on the granite panels.

Notice of the public hearing was advertised in the Daily Astorian on October 18, 2013.

FINDING FACTS

1. Astoria Granite Works has supplied the low bid on all granite installation on the Maritime Memorial between its initial construction in 1993 and 2011. Astoria Granite Works is located just a few blocks from the Memorial, and has by virtue of its location, a mobilization advantage over other potential bidders.
2. Astoria Granite Works has supported the Maritime Memorial since its inception with design and labor for installation of all existing personal memorials inscribed on the panels within the memorial.
3. Astoria Granite Works has provided the above services at competitive and fair rates.
4. Astoria Granite Works created the original artwork, layout, and engraving services for the damaged panels and has records to restore all engravings with precision.
5. It is unlikely that this individual contract will substantially diminish competition or encourage favoritism.
6. The Astoria City Council would like to keep in place local support for the Astoria Maritime Memorial and its use by local citizens.