



AGENDA

ASTORIA CITY COUNCIL

*** Wednesday, November 5, 2014 ***

7:00 p.m.

2nd Floor Council Chambers

1095 Duane Street • Astoria OR 97103

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **REPORTS OF COUNCILORS**

4. **CHANGES TO AGENDA**

5. **CONSENT CALENDAR**

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

(a) Boards and Commissions Minutes

(1) Library Board Meeting of 8/19/14

(2) Library Board Meeting of 9/3/14

(3) Parks Board Meeting of 9/24/14

6. **REGULAR AGENDA ITEMS**

(a) Authorization to Join Houston-Galveston Area Council (HGAC) to Enter Into a Contract to Purchase a New Fire Pumper Truck from Pierce Manufacturing (Fire)

(b) Consider Authorization to Purchase a New Fire Pumper Truck and Associated Resolution for a Lease/Purchase Agreement (Fire)

(c) Resolution Appropriating Funds for Purchase of a Fire Pumper Truck (Finance)

(d) Geological Hazards Mapping Update (Public Works)

(e) Irving Avenue Tree Removal (Public Works)

(f) Niagara Landslide (between 14th and 16th Streets) Study(Public Works)

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

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



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

October 31, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: ASTORIA CITY COUNCIL MEETING OF NOVEMBER 5, 2014

CONSENT CALENDAR

Item 5(a): Boards and Commissions Minutes

The minutes of the (1) Library Board meeting of August 19, 2014, (2) Library Board meeting of September 3, 2014 and (3) Parks Board meeting of September 24, 2014 are enclosed. Unless there are any questions or comments regarding the contents of these minutes, they are presented for information only.

REGULAR AGENDA ITEMS

Item 6(a): Authorization to Join Houston-Galveston Area Council (HGAC) to Enter Into a Contract to Purchase a New Fire Pumper Truck from Pierce Manufacturing (Fire)

At the April 21, 2014 Astoria City Council meeting, Fire Chief Ames made a presentation regarding the current status of Fire Department equipment. The high cost of ongoing repairs, coupled with the fact that two of the apparatus have reached the end of their useful life, resulted in the recommendation to replace both apparatus. The first is the 1986 Fire Pumper truck 2521. The recommended replacement is a Pierce Arrow XT Pumper. The second is the Quint Aerial Ladder Truck 2541 which would be replaced with a Pierce Arrow XT 105' Aerial Ladder Truck. At the August 4, 2014 Astoria City Council meeting, Financial Analyst John Snyder provided information on possible funding strategies for discussion by Council. It was explained that projections of revenue and expense for the 17th Street Dock Fund indicate resources would be available to secure a seven (7) year annual lease payment towards the purchase of the Pierce Arrow XT Pumper truck.

The Houston-Galveston Area Council (HGAC) is an interstate cooperative procurement agency that facilitates contracts between member jurisdictions and

member manufacturers. The Pierce Manufacturing Company is a member manufacturer. The request for authorization to join the HGAC would allow the City to enter into a contract for the purchase of a Pierce Arrow XT Pumper truck. The process for joining the HGAC has been reviewed by the City Attorney and required a seven (7) business day advertisement noting the City's intent to establish a contract (ORS 279A). The advertisement was published October 3, 2014. No comments were received. After considerable research and time, Fire Chief Ames is recommending the purchase of a Pierce Arrow XT Pumper truck through a contract with HGAC. Purchasing the Pierce Arrow XT will result in a fire pumper that should serve the needs of the City for many years into the future as well as providing the best in modern safety features for our Firefighters. It is recommended that Council authorize joining the Houston-Galveston Area Council to facilitate entering into a contract with Pierce Manufacturing for a lease/purchase of a new Pierce Arrow XT pumper truck.

Item 6(b): Consider Authorization to Purchase a New Fire Pumper Truck and Associated Resolution for a Lease/Purchase Agreement (Fire)

It is proposed that a lease/purchase agreement be used to procure the pumper. Financing for the new pumper truck will be through Oshkosh Capital. Oshkosh is the parent company of Pierce Manufacturing. Financing will be accomplished through a seven (7) year lease to purchase agreement with Oshkosh with the first payment of \$75,000 due on January 31, 2015. Annual payments of \$76,360.30 each will be due in January of each of the following six (6) years. Financial Analyst John Snyder has verified that the lease payments starting with the January 31, 2015 payment can be made with available resources from the 17th Street Dock Fund without adverse financial effect.

In addition to consideration of approval of a resolution to enter into the lease agreement with Oshkosh Capital, the purchase of the new pumper truck would require authorization from Council to enter into a Contract with Pierce Manufacturing for the construction of the pumper. The Contract with Pierce Manufacturing for the new pumper would be in the amount of \$488,251. Oshkosh Capital has provided two (2) lease/purchase options for consideration. Option "A" was described with the \$75,000 payment due on January 31, 2015 followed by the six annual payments thereafter of \$76,360.30. Option "B" consists of seven (7) annual payments in the amount of \$77,954.42. Staff recommends Option "A" which would save the City approximately \$12,500 in interest charges over the life of the lease/purchase. The total cost with 2.86% interest would be \$533,161.80. The City Attorney has approved the sample Lease/Purchase Agreement with Oshkosh Capital and the Contract with Pierce Manufacturing as to form.

It is recommended Council approve the attached resolution for the Lease/Purchase of a Pierce Arrow XT pumper truck from Oshkosh Capital using the Oshkosh Capital Option "A" as described above. It is further recommended that Council approve entering into a Contract with Pierce Manufacturing for the construction of the new pumper truck.

Item 6(c): Resolution Appropriating Funds for Purchase of a Fire Pumper Truck (Finance)

The budget for FY 2014-15 anticipated the lease purchase of a fire pumper truck. \$75,000 was allocated as a transfer to the Capital Improvement Fund in the 17th Street Dock Fund in support of this expenditure. The transfer was not allocated as a resource for the Capital Improvement Fund because the terms of the transaction were not in place. A lease purchase agreement is now being proposed in a separate memo. The terms of the lease are for a down payment of \$75,000 that will leave six (6) annual payments of \$76,360.30 from FY 2015-16 to 2020-21. It is anticipated that these payments will be made by subsequent transfers from the 17th Street Dock Fund. It is recommended that Council consider adopting this resolution to allocate \$75,000 as a down payment on a fire pumper.

Item 6(d): Geological Hazards Mapping Update Grant (Public Works)

The City's existing Past Landslides Map needs to be updated to clearly show all recent slides and changes to the boundaries of existing known landslides. This information is very useful in making land use decisions since our City Development Code requires that all development within 100 feet of a known slide area have a geologic report prepared. It is proposed that the map be updated to a new map titled "City of Astoria Geologic Hazards Map". In July of 2014, staff applied for a \$5,000 Oregon Division of Land Conservation and Development (DLCD) Technical Assistance Grant. The Public Works Department had budgeted \$5,000 to begin the map update. With the additional \$5,000 in grant funds, staff anticipates that the project can be completed. City staff will match the grant funds with approximately \$5,000 in in-kind services (staff labor).

In October 2013, the Oregon Department of Geology and Mineral Industries (DOGAMI) published geologic mapping for the City of Astoria. The new City mapping, in conjunction with the state mapping, will provide the valuable information needed by planners and consultants in making decisions regarding geologic hazards in Astoria. City Attorney Henningsgaard has reviewed and approved the contract as to form. It is recommended that Council accept the Oregon Department of Land Conservation and Development grant for \$5,000 and authorize the Mayor to sign the grant agreement. Staff will be requesting that the City Manager approve a contract with Horning Geosciences that will be under the amount of his \$10,000 spending authority.

Item 6(e): Irving Avenue Tree Removal (Public Works)

At the July 21, 2014 Council meeting Mayor Van Dusen requested that staff have an arborist inspect the Irving Avenue roadway east of the Irving Avenue Bridge Project (between 19th and 33rd Streets) for dangerous trees that could possibly fall during winter wind and/or ice storm events. The purpose of the

task was to minimize the risk of road closure and injury from falling trees. Staff hired a licensed arborist to perform a tree hazard assessment and approximately 50 trees were recommended for removal. A subsequent review by the Mayor, local citizens, and staff reduced the number to approximately 35 trees. Some of the trees are covered with ivy and are structurally defective. The arborist also recommended removing ivy at ground level from trees that have a good vertical growth habit and minimal ivy growth. If Council is in agreement with the arborist's and staff's modified recommendation, staff will obtain three quotes from tree removal companies. If the lowest quote exceeds the City Manager's purchasing authority, staff will return to Council for authorization to proceed. It is recommended that the City Council authorize staff to request quotes to have the trees removed.

Item 6(f): Niagara Landslide (Between 14th and 16th Streets) Study (Public Works)

The City Public Works Department has been maintaining the roadway surface at the Niagara slide area located between 14th and 16th Streets for approximately 75 years. Records show that the slide was first identified in December of 1939. The slide can be described as a slow creeper and requires routine asphalt repair work periodically to maintain the roadway. Staff believes that seeking a permanent repair would be beneficial when public safety, public inconvenience, and the ability to have the road open after a seismic event are considered. In order to prepare a plan for a permanent repair, staff is proposing to initiate a slide study that will characterize the slide and help identify possible repair methods. The first phase of the study would include a Geotechnical study of the history of the slide, field reconnaissance, one exploratory boring, and installation of a slope inclinometer to measure movement. A technical memorandum would then be prepared summarizing the results of the field investigation. The study would cost \$20,000 to complete and includes \$8,500 for a drilling subcontractor to complete the exploratory boring. The work is expected to take approximately three months to complete. A personal services contract defining the scope of work is attached. City Attorney Henningsgaard has reviewed and approved the contract as to form. It is recommended that Council execute a contract with Landslide Technology for a total not to exceed the amount of \$20,000 for geotechnical engineering services on Phase 1 of the Niagara Landslide Study.

Astoria Library Board Meeting

Astoria Public Library

August 19, 2014

5:30 pm.

Present: Library Board members David Oser, Arline LaMear, Susan Brooks, Kate Summers. Staff Library Director Jane Tucker, City Manager Pro Tem/Community Development Director Brett Estes, and ALFA Representatives Charlotte Langsev, Steve Emmons, and Nick Benas.

Call to Order: Chairman David Oser called the meeting to order at 5:30 pm.

Approval of Agenda: The agenda was approved with the addition of New Business Item 8(a): Election of Officers.

Approval of Minutes: The minutes of July 22, 2014 were approved with the following clarification by Chairman Oser: On Page 1, under Renovation Update, in the second paragraph, the last sentence stated, "It is important for a member of the public, not himself or a Library Board member, to get *chair* the foundation started."

Renovation Update: Director Tucker reported the Renovation Committee met on August 12 and August 18, 2014. Director Estes reported that some Renovation Committee members have expressed various concerns about the demolition of the Waldorf negatively impacting fundraising for the renovation and have suggested the library lease the ground floor of the Elks' building instead of using the Waldorf. The Committee asked Staff to provide aerial maps showing the locations of the library building, Waldorf, and Elks Lodge; engineering and architectural reports of the Waldorf; and cost comparisons of a variety of scenarios that included the Waldorf. The Committee's September meeting date had not yet been scheduled.

The Library Board and Staff discussed the alternative option. The Board did not support the option because it would not accommodate the sight lines the library staff needed. They agreed the library should not be concerned with preserving a separate building through lease payments, as this did not align with the spirit of the trust or why funds would be donated to the library. During the very inclusive public process that took place last summer, this alternative had not been suggested.

When the Historic Landmarks Commission (HLC) held a public hearing regarding demolition of the Waldorf, they noted there had not been definite plans to use the space for a renovated library, as they wanted to avoid a vacant lot. Now, however, the library does have a definite plan and must make the case that the library renovation is a higher and better use of the Waldorf space than continuing to have a derelict building.

Concern was also expressed about the Renovation Committee's request for cost comparisons and maps eroding renovation funding and adding to Staff's workload after having invested Staff's time in the original plan. Director Estes believed the Committee was just trying to do its due diligence and noted that Staff had also been asked to review the Elks option. Having a full Committee at the next meeting was important. The Committee may decide to move forward with the plan adopted by Council after reviewing the requested information. He had explained to the Committee that no funds were available for additional architectural documents.

The Library Board understood the Renovation Committee was making an effort to practice good civic responsibility in order to make an informed decision but still wanted to move forward with exploration of acquiring the Waldorf. Considering an alternative option was reasonable, and as long as it would not erode the limited funding, the Library Board would later know the option of using the Elks had been fully investigated. An engineering review of the Waldorf will be critical and Director Tucker noted the engineering report included in the 2012 Waldorf hearing, confirming the extent of the Waldorf's issues, would be sent to the Board and Renovation Committee.

Having a new direction suggested at this point was discouraging, but the Renovation Committee was working through the process and had not been working as long as the Library Board on the renovation

plans. A solid professional team had created the report and the library's operational lines of sight in the Building Plan were developed by a library building professional, not an architect. Hopefully, all this would become apparent to the Renovation Committee when reviewing the information.

The Elks Lodge option could be considered as a contingency if the Waldorf did not work out. Time and energy right now needed to be invested in raising funds and moving forward, as the project could lose funding and momentum if the process was prolonged another year by exploring other scenarios. Director Estes reminded that Library Board members serving on the Renovation Committee could share the Board's direction with the Committee as discussions and deliberations move forward.

Ms. LaMear noted that a decision to demolish the Waldorf could be appealed, which would delay the renovation process. Director Estes explained the details of the appeal process. He clarified that if the Waldorf was declared derelict, demolition of the building would still have to go before the HLC. He suggested the Board establish a process and work through issues as they arise.

Chairman Oser reported that most of the paperwork for the foundation was complete, but the 501(c)(3) had not yet been filed. Foundation board members include Patsy Oser, President; Bruce Jones, Secretary; and Janice O'Malley-Galizio, board member. There had not been much activity because the foundation board did not have a clear goal or direction. He also noted there was no financial information to put on the non-profit application. Director Estes agreed to meet with Chairman Oser to discuss the issue as he might be able to refer people with the skills needed to assist in establishing the 501(c)(3).

Director Tucker and Chairman Oser agreed it might be easier to acquire foundation board members once the foundation is established and has more direction. Ms. Summers offered to create a web presence for the foundation.

The Board agreed to contact local sources about start-up funds for the foundation. Ms. Brooks reminded the Kiwanis has collected \$3,000 and has been following up on requests for donations.

Board Reports:

Item 5(a): Reports of Community Presentations

Library Director's Report:

Director Tucker reported the water in her office has been dried out and the carpets will be cleaned, and ceiling tiles and baseboards replaced. She has learned that the library's WiFi needs upgrading. She is taking an online class on Makerspaces and Creative Areas, a program that will help ensure the library will have collections and resources necessary to appeal to a variety of learning styles and help make creativity an integrated part of everything the library does in the Building Program. Each space would incorporate different creative elements. There are few Makerspaces being used in Oregon. Updating the Strategic Plan would be a good time to bring awareness to the Board about how the library is infusing its spaces with creativity.

Director Estes described Makerspaces in Portland and those being developed at the community college. While the library's space would not be as industrial, it would encourage creative and collaborative thinking. Staff and the Library Board discussed how Makerspaces work, noting they are becoming quite popular. The collaborative aspect of Makerspaces was very appealing. Many opportunities exist for Makerspaces, which would satisfy the community's request for a 21st Century library. She agreed Makerspaces would be something the library could fundraise for.

Staff updated that within the next two weeks, Dr. Roof would repair the section of the library's roof that is leaking. Director Tucker requested bids for the work because the Public Works Department would only be able to patch the area. The Library Board and Staff discussed the details of prior and future roof work. Replacing the roof would be expensive, so repairs are meant to add longevity to the existing roof because it will be replaced during the remodel.

Director Estes excused himself from the meeting at 6:30 pm.

Update on ALFA Activities: Steve Emmons said ALFA continues to support library staff, the foundation, and library programs. He noted Summer Reading was doing well and that ALFA's income stream continues from the copiers and book sales.

The Board thanked ALFA for all its support. Director Tucker noted that ALFA was responsible for 90 percent of the creative making space provided by the library.

New Business:

Item 8(a): Election of Officers

Chairman Oser stated that a few years ago, the Library Board decided to hold annual elections in June or July. Elections were not held this year due to the amount of turnover. He suggested elections be postponed until later in 2014 because there is still one vacancy and Ms. Summers has just joined the board.

All Board members consented to delaying elections until later in 2014.

Old Business:

Item 9(a): Review of OLA Public Library Standards: Governance Standard

Director Tucker reviewed the new governance standards recently adopted by the Oregon Library Association. The Library Board and Staff discussed compliance issues and suggested improvements to be included when writing the new strategic plan.

Director Tucker would provide the staffing standards as the next OLA Standard to review prior to the next meeting.

Public Comments:

Nick Benas thanked the Library Board and Staff for their work on the renovation project.

Steve Emmons said he would forward ALFA information to Ms. Summers.

Items for Next Meeting's Agenda:

The Library Board and Staff confirmed the next Board meeting was scheduled for September 3rd at 5:30 pm. The following items will be on the next meeting's regular agenda: Renovation Committee Update, Board Member Updates, and Foundation Updates.

Director Tucker said she would make sure each Board member had a copy of the by-laws.

Adjournment: There being no further business, the meeting was adjourned at 7:08 pm.

Respectfully submitted,

Jane Tucker, ABC Transcription Services, Inc.

Astoria Library Board Meeting

Astoria Public Library

September 3, 2014

5:30 pm.

Present: Library Board members David Oser, Arline LaMear, Susan Brooks, Kate Summers. Staff Library Director Jane Tucker, and ALFA Representatives Charlotte Langsev, and Nick Benes.

Call to Order: Chairman David Oser called the meeting to order at 5:30 pm.

Approval of Agenda: The agenda was approved as submitted.

Approval of Minutes: The minutes of August 19, 2014 were not available.

Renovation Update:

Item 4(a): Library Foundation

Chairman Oser reported that Richard Hurley assisted with preparing the 501(c)(3) Form 1023. The Library Board discussed the possibility of using the new Form 1023 EZ, which is for organizations that expect to receive \$50,000 or less in the first three years. Ms. Brooks said she would do some research about the legal and accounting implications of using the new form, which most Board members were in favor of using.

Mr. Hurley had explained that the Foundation can begin to accept tax-deductible donations under the 17-Month Rule, so Chairman Oser has asked the Foundation directors to open a bank account. The next step will be to work on increasing the Foundation's membership.

Item 4(b): City Staff

Director Tucker reported no update from City Manager Estes on the Waldorf at this time.

Item 4(c): Renovation Committee

Director Tucker reported that she had distributed the paperwork pertaining to the demolition application of the Waldorf, the decision on the application, and the minutes of the public hearing held in November to the Renovation Committee and the Library Board.

The Library Board discussed their decision to promote using the Waldorf space because it was included in the plan they adopted. Chairman Oser and Ms. LaMear can explain the Board's position on the Waldorf at the next Renovation Committee meeting.

Board Reports:

Item 5(a): Reports of Community Presentations

There had been no community presentations.

Library Director's Report: Director Tucker reported the roof repair should be finalized this week, and she could move back into her office. The library will host 20 programs during this September and October. The library will use a new system to track program costs, staff time and volunteer time.

Update on ALFA Activities: Charlotte Langsev reviewed ALFA's income and expenses and reported that their balance is currently \$4812.10.

Director Tucker added that Ms. Langsev and Steve Emmons would represent ALFA at the City Services Fair on September 18, 2014 from 4:00 to 7:00 pm at the Aquatic Center. The library will close at 2:00 pm that day to set up for the fair. Nick Benas and Kate Summers offered to volunteer at the library's booth.

New Business: Director Tucker handed out copies of the new library cards, which will be issued at the City Services Fair. The Library Board and Staff discussed the images on the new library cards, which will

be available at the library beginning on September 19th. Patrons who wish to change an active card for a new design will pay a \$6 fee. A press release will announce the new cards.

Old Business:

Item 9(a): Review of OLA Public Library Standards: Staffing Standards

Director Tucker reviewed the suggestions made at the August 19, 2014 meeting about how to comply with new governance standards. The Library Board and Staff reviewed and discussed two of the new staffing standards with these key discussion points:

Human Resources

Chairman Oser was concerned that limited funds could mean the library would have to choose between sufficient staffing and an appropriate benefits package. Director Tucker explained that because the library is a City library, benefits packages must be in compliance with the union agreement. Ms. Brooks reminded that the Library Board is simply reviewing possible compliance issues and can decide later if action items should be suggested or if feedback should be forwarded to OLA.

Director Tucker believed the library could improve on the staff training standards, services in languages other than English, and technology support, but that the library did well with youth services and event programming. She noted that Library Staff is well-educated and qualified. Ms. Brooks believed the library did a sufficient job of providing technology support. The Library Board and Staff agreed that overall, the library met Human Resources standards.

Diversity and Community Engagement

Ms. Brooks noted that reviewing the standards gives the Library Board ideas about how to support the library as they move forward with future planning.

The Board and Staff discussed how the library works to serve the Hispanic community. The Board agreed that the library complied with making their Strategic Plan well known to Staff, volunteers, and partners. Partnerships with other entities were discussed and Staff noted that more formal agreements have been requested by the library's partners.

The Board and Staff discussed addressing the needs of the community. Ms. Brooks suggested collaborating with other library systems in the area that have the ability to provide some of the services mentioned in the new standards.

Chairman Oser asked how disabled people were made to feel welcomed. Director Tucker said there was only so much she could do until there is a renovation to the existing building.

Public Comments:

A member of the public stated she was impressed by the education of Library Staff, which she did not believe many Astorians were aware of. She added that Astoria is very casual, so people just do not think about education.

She referred to the discussion about the diversity standards and asked if there were any Latinos on the Renovation Committee or any other library group. Director Tucker said the library had sought diversity in the Renovation Committee. Ms. Brooks added that a Hispanic woman just resigned from the Library Board.

The Library Board and Staff discussed ways the library could improve outreach in the Hispanic community when writing the new Strategic Plan. Demographics indicate the Hispanic community is more inclined to use smart phones. Ms. Brooks suggested the library ask bilingual students at Tongue Point to volunteer for story time.

The Library Board and Staff discussed reports that Tongue Point students are banned from the library. Director Tucker assured that Staff has never banned any Tongue Point students. She explained that rules are established by Tongue Point administration because the school is a closed campus. Ms. Brooks added that the students are allowed to take the bus into town and are welcome at the library. She

explained the Quality of Life Program at Tongue Point, where use of the public library is often discussed. Students are told they can use the library and a member of Tongue Point staff offers to assist the students. Tongue Point is ultimately responsible for any books checked out by the students.

Items for Next Meeting's Agenda: Director Tucker reminded that the Library Board would return to its regular meeting schedule. The next meeting is scheduled for October 28, 2014.

Adjournment: There being no further business, the meeting was adjourned at 7:15 pm.

Respectfully submitted,

Jane Tucker, Astoria Library Director

Parks Advisory Board Meeting Minutes September 24, 2014

Present- Norma Hernandez, Grace Laman, Kim Williams, Councilor Karen Mellin, Tammy Loughran and Howard Rub

Absent- Brad Johnston and Jay Flint

Guest- Sheila Beverige, Drew Herzig, Jessica Schlieff, Mick Hague, David McElroy, Judi McElroy, Ron Law,

Staff- Terra Patterson, Erin Reilly, Janice O'Malley Galizio, Dorris Freeman, Katie Madison and Phil Elkins

Meeting was called to Order at 6:53am by chairperson Norma Hernandez.

Chair Person Section

1. Grace Laman motioned to approve the minutes, Kim Williams seconded the motion. The board approved the minutes for the July meeting. Drew Herzig mentioned the spelling of Steve Blakesley's name in the July minutes.
2. What do you hear- Karen discussed how good the Roundabout is looking, Norma discussed the area on the River Walk next to Bouy Beer that is dangerous for pedestrian.

Employee Recognition

1. Angela recognized Dorris Freeman as the August employee of the month, who works at the aquatic center as a cashier. She thanked her for her responsibility and reliability.
2. Erin recognized Katie Madison as the September employee of the month, who works in the "Sunflower Room" for three year olds

Presentations

1. Dave McElroy with the friends of the McLure Park discussed the work that the neighborhood group has done. He discussed their goal of revitalizing the park and supporting the city in improving the park. Additionally, the group has the goal of making some capital improvements.

Old Business

- A. Tammy gave an update on the Parks foundation reviewing what the foundation has been working on. Over the last two months, the group has assisted in fundraisers for the dog park and the fundraiser for the teen center. She also mentioned that the friends of the Armory are looking to partner with the foundation. No details are available at this time about their project.
- B. The Wayfinding signage project was reviewed. Staff held a community meeting on Aug. 19. The presentation, minutes from the meeting and citizen feedback is included in the board packets. City is now looking for funds to support the project.
- C. The Ford Family Foundation Teen Center Project was reviewed. The fundraiser project was discussed. The group is on track to open the room in early December.
- D. The Recreation Center renovation was discussed. Fitness class participation was not affected by the move and staff has settled in to the new building.
- E. An update on the dog park project was given. City Council has adopted the goal of supporting the project as an official goal. A public meeting will be held at city council on October 8. Sheila handed out a "Benefits of the Dog Park" hand out. Publicity for the town hall meeting was discussed.

- F. The HEAL (Healthy Eating Active Living) Campaign was reviewed. This is a campaign going on in cities across Oregon. The city officially became a member of the project. The department applied for a grant for a snack program but did not receive the grant. Staff will be partnering with the health department and the city of Seaside for another grant. Norma discussed the positive work happening in the program.
- G. The Silver Sneakers contract was approved by city council. This is a health insurance benefit seniors can receive to provide a gym membership to pay for fitness classes. Staff hopes to have the program up and running in October at the aquatic center. Staff will be taking on the implementation and coordinating the paperwork. Drew asked if it could be presented to the Senior Center once it is in effect.
- H. The Friends of the Column Memorandum of Understanding was reviewed. City attorney, Blair Henningsgaard had some concerns with changes to the contract which Angela discussed.
- I. The annual Aquatic Center Maintenance Closure was reviewed. The facility was closed for two weeks after the Labor Day doggy splash. Angela discussed the projects done over the closure. The carpet removal, the in depth cleaning and other projects were discussed. Angela also discussed redoing the plaster in the pools, this is a costly improvement which will need to be done for next year's closure as well as various energy efficiency projects.
- J. The Water Well project at the Ocean View Cemetery was discussed. In past years there have been two water wells put into the cemetery which were utilized until water ran out. Since then the city has been paying the City of Warrenton commercial water rates to water the grass. The well put in recently has not been able to pull up water even though it was represented to the city that water could be obtained from this location. Angela discussed the issues of keeping the grounds maintained to the standards that are expected by family members.

New Business

1. Security at the Astoria Recreation Center was discussed. The center had a break in this summer and earlier this winter there was a break in to the maintenance shop. Staff is working on a security system. Staff have been adapting to security and neighborhood education.
2. Angela handed out the fall/ winter program guide. She discussed making a transition away from printed program guides.
3. Angela reviewed previous discussions of the lack of use of herbicides in parks. Department policy and what policies the department should have were reviewed. Angela would like to create a focus group in maintaining parks, she would like one member from Parks Board to join the focus group. Norma recognized Jessica Schleiff who is an expert on landscaping. Jessica has been working with other community members researching use of herbicides and discussed the benefits of forming a task force. The board discussed the needs of the parks. Howard discussed concerns regarding the condition of Tapiola Park. Tammy mentioned the need to come up with a plan soon, rather than waiting for a task force to formulate a plan. Grace discussed community concerns with the school district and their use of chemicals. The school board is looking in to it.
4. Angela reviewed department reports.
5. Janice discussed the Chip-In "high five " project.
6. Visitor input- Mick Hague discussed the ware on the no smoking signs. He also discussed concern of moss growing on informational signs and he also talked about the need for signage identifying street signs. Councilor Melin said it was coming.


Next meeting will be held Wednesday, October 22nd at 6:45am



October 21, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: AUTHORIZATION TO JOIN HOUSTON-GALVESTON AREA COUNCIL (HGAC) TO ENTER INTO A CONTRACT TO PURCHASE A NEW FIRE PUMPER TRUCK FROM PIERCE MANUFACTURING

DISCUSSION/ANALYSIS

At the April 21, 2014 Astoria City Council meeting, Fire Chief Ames made a presentation regarding the current status of Fire Department equipment. The high cost of ongoing repairs, coupled with the fact that two of the apparatus have reached the end of their useful life, resulted in the recommendation to replace both apparatus. The first is the 1986 Fire Pumper truck 2521. The recommended replacement is a Pierce Arrow XT Pumper. The second is the Quint Aerial Ladder Truck 2541 which would be replaced with a Pierce Arrow XT 105' Aerial Ladder Truck.

At the August 4, 2014 Astoria City Council meeting, Financial Analyst John Snyder provided information on possible funding strategies for discussion by Council. It was explained that projections of revenue and expense for the 17th Street Dock Fund indicate resources would be available to secure a seven (7) year annual lease payment towards the purchase of the Pierce Arrow XT Pumper truck.

The Houston-Galveston Area Council (HGAC) is an interstate cooperative procurement agency that facilitates contracts between member jurisdictions and member manufacturers. The Pierce Manufacturing Company is a member manufacturer. The request for authorization to join the HGAC would allow the City to enter into a contract for the purchase of a Pierce Arrow XT Pumper truck. The process for joining the HGAC has been reviewed by the City Attorney and required a seven (7) business day advertisement noting the City's intent to establish a contract (ORS 279A). The advertisement was published October 3, 2014. No comments were received.

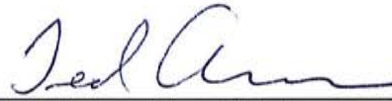
After considerable research and time, Fire Chief Ames is recommending the purchase of a Pierce Arrow XT Pumper truck through a contract with HGAC. There are a number

of reasons for the specific recommendation. The fire truck manufacturing industry standard for the construction of chassis frame rails and cross members is around 10 inches. The Pierce Manufacturing Company builds doubled, 13 inch frame rails and cross members resulting in a much stronger base for their pumper and ladder trucks. Astoria presents some very demanding and unique problems involving response such as our hills, narrow streets and tight corners. These demands are hard on lighter chassis and pumper truck construction techniques which results in more numerous and expensive repairs, along with a shorter life span requiring earlier replacement cycles. Purchasing the Pierce Arrow XT will result in a fire pumper that should serve the needs of the City for many years into the future as well as providing the best in modern safety features for our Firefighters.

RECOMMENDATION

It is recommended that Council authorize joining the Houston-Galveston Area Council to facilitate entering into a contract with Pierce Manufacturing for a lease/purchase of a new Pierce Arrow XT pumper truck.

By:




Ted Ames, Fire Chief



October 28, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: CONSIDER AUTHORIZATION TO PURCHASE A NEW FIRE PUMPER TRUCK AND ASSOCIATED RESOLUTION FOR A LEASE/PURCHASE AGREEMENT

DISCUSSION/ANALYSIS

The Fire Department has owned numerous fire pumper trucks over the many years it has been in existence. The Department currently owns three pumper trucks; E-2521 (1986 Ford/Western States pumper) that was permanently taken out of service in early spring of 2014 due to safety issues and the need for repairs that would cost more than the truck's current value; E-2522 (1998 HME/Central States pumper) that has accumulated well over \$50,000 in repairs since 2009; and finally E-2523 (HME 4 wheel drive pumper truck) that was obtained through a grant and has limited capabilities as a "first out" structural pumper truck.

At the November 5, 2014 Council meeting, Council will consider authorization to join the Houston-Galveston Area Council (HGAC) to facilitate a contract with Pierce Manufacturing to purchase a new Pierce Arrow XT pumper truck. HGAC is an interstate public agency that creates national cooperative contract purchasing opportunities with member jurisdictions and manufacturers. Also explained in the associated memorandum are the reasons for purchasing the new pumper from Pierce Manufacturing. The reasons include quality of manufacturing; dependability and product service post purchase. Fire department staff has looked at and inspected numerous pumper trucks in the past year and are in agreement that Pierce Manufacturing will offer the most dependable product.

It is proposed that a lease/purchase agreement be used to procure the pumper. Financing for the new pumper truck will be through Oshkosh Capital. Oshkosh is the parent company of Pierce Manufacturing. Financing will be accomplished through a seven (7) year lease to purchase agreement with Oshkosh with the first payment of \$75,000 due on January 31, 2015. Annual payments of \$76,360.30 each will be due in January of each of the following six (6) years. Financial Analyst John Snyder has verified that the lease payments starting with the January 31, 2015 payment can be made with available resources from the 17th Street Dock Fund without adverse financial effect.

In addition to consideration of approval of a resolution to enter into the lease agreement with Oshkosh Capital, the purchase of the new pumper truck would require authorization from Council to enter into a Contract with Pierce Manufacturing for the construction of the pumper. The Contract with Pierce Manufacturing for the new pumper would be in the amount of \$488,251.

The total cost of the new pumper would include the interest charged by Oshkosh Capital for the lease agreement. Oshkosh Capital has provided two (2) lease/purchase options for consideration.

Option "A" was described above with the \$75,000 payment due on January 31, 2015 followed by the six annual payments thereafter of \$76,360.30. Option "B" consists of seven (7) annual payments in the amount of \$77,954.42 commencing one year after execution of the lease/purchase agreement with Oshkosh Capital and the Contract with Pierce Manufacturing for construction of the new pumper. Staff recommends Option "A" which would save the City approximately \$12,500 in interest charges over the life of the lease/purchase. The total cost with 2.86% interest would be \$533,161.80. The City Attorney has approved the sample Lease/Purchase Agreement with Oshkosh Capital and the Contract with Pierce Manufacturing as to form.

RECOMMENDATION

It is recommended Council approve the attached resolution for the Lease/Purchase of a Pierce Arrow XT pumper truck from Oshkosh Capital, through the HGAC, using the Oshkosh Capital Option "A" as described above. It is further recommended that Council approve entering into a Contract with Pierce Manufacturing for the construction of the new pumper truck.

By: Ted Ames
Ted Ames, Fire Chief

RESOLUTION NO. 14-_____

**A RESOLUTION AUTHORIZING A LEASE/PURCHASE AGREEMENT BETWEEN
THE CITY OF ASTORIA, OREGON AND OSHKOSH CAPITAL
FOR PURCHASE OF A FIRE PUMPER TRUCK**

Municipality/Lessee: City of Astoria, Oregon

Principal Amount Expected To Be Financed: \$488,251.00

WHEREAS, the Municipality is a political subdivision of the State in which Municipality is located (the "State") and is duly organized and existing pursuant to the Constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Municipality ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Municipality.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more Master Lease-Purchase Agreements ("Leases") in the principal amount not exceeding the amount stated above for the purpose of acquiring the property ("Equipment") to be described in the Leases is appropriate and necessary to the functions and operations of the Municipality.

WHEREAS, Oshkosh Capital ("Lessor") shall act as Lessor under said Leases.

NOW, THEREFORE, Be It Ordained by the Governing Body of the Municipality:

Section 1. Either one of the Mayor or City Manager (each an "Authorized Representative") acting on behalf of the Municipality, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Municipality. Each Authorized Representative acting on behalf of the Municipality is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Municipality to execute and deliver agreements and documents relating to the Leases on behalf of the Municipality.

Section 3. The aggregate original principal amount of the Leases shall not exceed the amount stated above and shall bear interest as set forth in the Leases and the Leases shall contain such options to purchase by the Municipality as set forth therein.

Section 4. The Municipality's obligations under the Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Lease and the Municipality's obligations under the Leases shall not constitute general obligations of the Municipality or indebtedness under the Constitution or laws of the State.

Section 5. As to each Lease, the Municipality reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the calendar year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

The undersigned Mayor and City Manager of the above-named Municipality hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Municipality, that the foregoing resolutions were duly adopted by said Governing Body of the Municipality at a meeting of said Governing Body and that such resolutions have not been amended or altered and are in full force and effect on the date stated below.

ADOPTED BY THE CITY COUNCIL THIS 5TH DAY OF NOVEMBER, 2014.

APPROVED BY THE MAYOR THIS 5TH DAY OF NOVEMBER, 2014.

Mayor

ATTEST:

City Manager

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

Pierce Manufacturing Inc.

AN OSHKOSH CORPORATION COMPANY • ISO 9001:2000 CERTIFIED



2600 AMERICAN DRIVE
POST OFFICE BOX 2017
APPLETON, WISCONSIN 54912-2017
920-832-3000 • FAX 920-832-3208
www.piercemfg.com

October 20, 2014

Astoria Fire Department
555 30th Street
Astoria, Oregon 97103

Pierce Manufacturing, Inc. and Hughes Fire Equipment, Inc. are pleased to offer for your consideration the enclosed proposal for One (1) Arrow XT PUC Pumper per your request.

The price for this apparatus, per proposal NH466, is **\$514,528.00** F.O.B. Astoria, Oregon. The unit would be ready for pick up from the factory within 8.5 to 10.5 months after execution of the contract. * Final payment is due 30 days after the unit leaves the Pierce facility for delivery to Astoria Fire Department.

**Please note: The delivery time referenced above indicates when the unit will be ready for delivery from the factory. This does not include the time it will take to transport the unit to the local dealer, complete the pre-delivery inspection and other items to satisfy contract requirements, and transported to the customer location. Delivery time is subject to change prior to contract execution.*

Price Recap

Description	Dollar Amount
One (1) Arrow XT PUC Pumper NH466	\$ 514,528.00
Less Discount for Chassis Progress Payment in the amount of \$299,422.00	(8,983.00)
Less Payment at time of Completion at the Factory Discount	(5,955.00)
Less 100% Pre-Payment Discount	(11,339.00)
<i>Subtotal including all pre-payment discounts</i>	\$ 488,251.00
Less Customer Transport Discount	(4,500.00)
Less Performance Bond	(1,385.00)
Total Unit Including all above listed discounts	\$ 482,366.00

Terms:

Chassis Progress Payment – If elected, payment will be due three (3) months prior to the ready for pick up from the factory date.

Payment upon Completion of the Unit at the Factory – If elected, final payment will be due prior to the unit leaving the factory for delivery.

100% Pre-Payment Discount – If elected, payment for the entire contract amount will be due within thirty (30) days of contract execution. This deduction is in addition to all other discounts listed above. If this option is elected, final payment for any changes processed during manufacturing will be due prior to the unit leaving the factory for delivery. If the District would like to consider a pre-payment of less than 100% the available deduction will be provided upon request.

Transportation Discount – This option is available for the Department to transport the unit from the factory in

Appleton, Wisconsin to Astoria, Oregon. The unit will be required to be delivered to a Hughes Fire Equipment facility for a pre-delivery inspection. If this option is elected payment in full and proof of insurance must be provided prior to leaving the factory and the District is responsible for compliance with all state, local and federal D.O.T. requirements including the driver possessing a valid CDL license.

Please Note: The above referenced transportation funds have been included to drive the unit under its own power from the factory to the customer location. If, due to Federal and/or State DOT requirements or customer preference, delivery via flatbed or rail system is necessary additional transportation charges will be required. If transportation, other than driving under the unit's own power is required, Hughes Fire Equipment, Inc., our dealer representative for your area, will coordinate the transportation, provide an estimate and bill the customer directly for those additional charges. Payment of the invoice from Hughes Fire Equipment, Inc. for additional charges will be due immediately upon receipt of the invoice. This requirement will become part of the contract terms.

Inspection Trips – Two (2) factory inspection trips for three (3) fire department customer representatives is included in the above pricing. The inspection trips will be scheduled at times mutually agreed upon between the manufacturer's representative and the customer. Airfare, lodging and meals while at the factory are included. We have included these inspection trips in the bid price, however if the Department does not elect to take these inspection trips, \$1,350.00 per person per trip may be deducted from the bid price.

Pricing is based on purchase via HGAC FS12-13 contract.

Hughes Fire Equipment, Inc., located in Springfield, Oregon, is the Pierce dealer for your territory and can be reached by calling 800-747-6510.

Pierce Manufacturing, Inc., a subsidiary of Oshkosh Corporation, has been in the manufacturing business since 1913 in Appleton, Wisconsin, and also has facilities located in Weyauwega, Wisconsin and Bradenton, Florida.

This proposal may be utilized for Cooperative Purchasing by other public agencies.

We would like to thank you considering this proposal. If we can be of further assistance, please feel free to contact us.

Sincerely,



Rex Hughes
Sales Representative
Pierce Manufacturing, Inc.



Nick Hendricks
Sales Representative
Pierce Manufacturing, Inc.
NH/st



PERFORM. LIKE NO OTHERSM

This Purchase Agreement (together with all attachments referenced herein, the "Agreement"), made and entered into by and between Pierce Manufacturing Inc., a Wisconsin corporation ("Pierce"), and City of Astoria Fire Department, a Municipality ("Customer") is effective as of the date specified in Section 3 hereof.

1. Definitions.

- a. "**Product**" means the fire apparatus and any associated equipment manufactured or furnished for the Customer by Pierce pursuant to the Specifications.
- b. "**Specifications**" means the general specifications, technical specifications, training, and testing requirements for the Product contained in the Pierce Proposal for the Product prepared in response to the Customer's request for proposal.
- c. "**Pierce Proposal**" means the proposal provided by Pierce attached as Exhibit C prepared in response to the Customer's request for proposal.
- d. "**Delivery**" means the date Pierce is prepared to make physical possession of the Product available to the Customer.
- e. "**Acceptance**" The Customer shall have fifteen (15) calendar days of Delivery to inspect the Product for substantial conformance with the material Specifications; unless Pierce receives a Notice of Defect within fifteen (15) calendar days of Delivery, the Product will be deemed to be in conformance with the Specifications and accepted by the Customer.

2. Purpose. This Agreement sets forth the terms and conditions of Pierce's sale of the Product to the Customer.

3. Term of Agreement. This Agreement will become effective on the date it is signed and approved by Pierce's authorized representative pursuant to Section 22 hereof ("Effective Date") and, unless earlier terminated pursuant to the terms of this Agreement, it will terminate upon the Customer's Acceptance and payment in full of the Purchase Price.

4. Purchase and Payment. The Customer agrees to purchase the Product specified on Exhibit A for the total purchase price of \$488251.00 ("Purchase Price"). Prices are in U.S. funds.

5. Future Changes. Various state or federal regulatory agencies (e.g. NFPA, DOT, EPA) may require changes to the Specifications and/or the Product and in any such event any resulting cost increases incurred to comply therewith will be added to the Purchase Price to be paid by the Customer. In addition, any future drive train upgrades (engine, transmission, axles, etc.), or any other specification changes have not been calculated into our annual increases and will be provided at additional cost. To the extent practicable, Pierce will document and itemize any such price increases for the Customer.

6. Agreement Changes. The Customer may request that Pierce incorporate a change to the Products or the Specifications for the Products by delivering a change order to Pierce; provided, however, that any such change order must be in writing and include a description of the proposed change sufficient to permit Pierce to evaluate the feasibility of such change ("Change Order"). Within [seven (7) business days] of receipt of a Change Order, Pierce will inform the Customer in writing of the feasibility of the Change Order, the earliest possible implementation date for the Change Order, of any increase or decrease in the Purchase Price resulting from such Change Order, and of any effect on production scheduling or Delivery resulting from such Change Order. Pierce shall not be liable to the Customer for any delay in performance or Delivery arising from any such Change Order. A Change Order is only effective when counter-signed by Pierce's authorized representative.

7. Cancellation/Termination. In the event this Agreement is cancelled or terminated by a party before completion, Pierce may charge a cancellation fee. The following charge schedule based on costs incurred may be applied: (a) 10% of the Purchase Price after order is accepted and entered by Pierce; (b) 20% of the Purchase Price after completion of approval drawings, and; (c) 30% of the Purchase Price upon any material requisition. The cancellation fee will increase accordingly as costs are incurred as the order progresses through engineering and into manufacturing. Pierce endeavors to mitigate any such costs through the sale of such Product to another purchaser; however Customer shall remain liable for the difference between the Purchase Price and, if applicable, the sale price obtained by Pierce upon sale of the Product to another purchaser, plus any costs incurred by Pierce to conduct any such sale.

8. Delivery, Inspection and Acceptance. (a) Delivery. Delivery of the Product is scheduled to be within 8.5 to 10.5 months of the Effective Date of this Agreement, F.O.B. Astoria Fire Department facility in Astoria, Oregon. Risk of loss shall pass to Customer upon Delivery. (b) Inspection and Acceptance. Upon Delivery, Customer shall have fifteen (15) days within which to inspect the Product for substantial conformance to the material Specifications, and in the event of substantial non-conformance

to the material Specifications to furnish Pierce with written notice sufficient to permit Pierce to evaluate such non-conformance ("Notice of Defect"). Any Product not in substantial conformance to material Specifications shall be remedied by Pierce within thirty (30) days from the Notice of Defect. In the event Pierce does not receive a Notice of Defect within fifteen (15) days of Delivery, Product will be deemed to be in conformance with Specifications and Accepted by Customer.

9. Notice. Any required or permitted notices hereunder must be given in writing at the address of each party set forth below, or to such other address as either party may substitute by written notice to the other in the manner contemplated herein, by one of the following methods: hand delivery; registered, express, or certified mail, return receipt requested, postage prepaid; or nationally-recognized private express courier:

Pierce Manufacturing, Inc.
Director of Order Management
2600 American Drive
Appleton WI 54912
Fax (920) 832-3080

Customer
City of Astoria Fire Department
555 30th Street
Astoria, Oregon 97103
Phone: 503-325-2345
Fax: 503-325-2346

10. Standard Warranty. Any applicable Pierce warranties are attached hereto as Exhibit B and made a part hereof. Any additional warranties must be expressly approved in writing by Pierce's authorized representative.

a. Disclaimer. OTHER THAN AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PIERCE, ITS PARENT COMPANY, AFFILIATES, SUBSIDIARIES, LICENSORS OR SUPPLIERS, THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES, MAKE ANY EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE PRODUCTS PROVIDED HEREUNDER OR OTHERWISE REGARDING THIS AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED OR STATUTORY, WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY AGAINST INFRINGEMENT, AND THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED AND DISCLAIMED. STATEMENTS MADE BY SALES REPRESENTATIVES OR IN PROMOTIONAL MATERIALS DO NOT CONSTITUTE WARRANTIES.

b. Exclusions of Incidental and Consequential Damages. In no event shall Pierce be liable for consequential, incidental or punitive damages incurred by Customer or any third party in connection with any matter arising out of or relating to this Agreement, or the breach thereof, regardless of whether such damages arise out of breach of warranty, tort, contract, strict liability, statutory liability, indemnity, whether resulting from non-delivery or from Pierce's own negligence, or otherwise.

11. Insurance. Pierce maintains the following limits of insurance with a carrier(s) rated A- or better by A.M. Best:

Commercial General Liability Insurance:

Products/Completed Operations Aggregate: \$1,000,000
Each Occurrence: \$1,000,000

Umbrella/Excess Liability Insurance:

Aggregate: \$25,000,000
Each Occurrence: \$25,000,000

The Customer may request: (x) Pierce to provide the Customer with a copy of a current Certificate of Insurance with the coverages listed above; (y) to be included as an additional insured for Commercial General Liability (subject to the terms and conditions of the applicable Pierce insurance policy); and (z) all policies to provide a 30 day notice of cancellation to the named insured

12. Indemnity. The Customer shall indemnify, defend and hold harmless Pierce, its officers, employees, dealers, agents or subcontractors, from any and all claims, costs, judgments, liability, loss, damage, attorneys' fees or expenses of any kind or nature whatsoever (including, but without limitation, personal injury and death) to all property and persons caused by, resulting from, arising out of or occurring in connection with the Customer's purchase, installation or use of goods sold or supplied by Pierce which are not caused by the sole negligence of Pierce.

13. Force Majeure. Pierce shall not be responsible nor deemed to be in default on account of delays in performance due to causes which are beyond Pierce's control which make Pierce's performance impracticable, including but not limited to civil wars, insurrections, strikes, riots, fires, storms, floods, other acts of nature, explosions, earthquakes, accidents, any act of government, delays in transportation, inability to obtain necessary labor supplies or manufacturing facilities, allocation

regulations or orders affecting materials, equipment, facilities or completed products, failure to obtain any required license or certificates, acts of God or the public enemy or terrorism, failure of transportation, epidemics, quarantine restrictions, failure of vendors (due to causes similar to those within the scope of this clause) to perform their contracts or labor troubles causing cessation, slowdown, or interruption of work.

14. Default. The occurrence of one or more of the following shall constitute a default under this Agreement: (a) the Customer fails to pay when due any amounts under this Agreement or to perform any of its obligations under this Agreement; (b) Pierce fails to perform any of its obligations under this Agreement; (c) either party becomes insolvent or become subject to a bankruptcy or insolvency proceedings; (d) any representation made by either party to induce the other to enter into this Agreement is false in any material respect; (e) the Customer dissolves, merges, consolidates or transfers a substantial portion of its property to another entity; or (f) the Customer is in default or has breached any other contract or agreement with Pierce.

15. Manufacturer's Statement of Origin. It is agreed that the manufacturer's statement of origin ("MSO") for the Product covered by this Agreement shall remain in the possession of Pierce until the entire Purchase Price has been paid. If more than one Product is covered by this Agreement, then the MSO for each individual Product shall remain in the possession of Pierce until the Purchase Price for that Product has been paid in full. In case of any default in payment, Pierce may take full possession of the Product, and any payments that have been made shall be applied as payment for the use of the Product up to the date of taking possession.

16. Independent Contractors. The relationship of the parties established under this Agreement is that of independent contractors and neither party is a partner, employee, agent, or joint venturer of or with the other.

17. Assignment. Neither party may assign its rights and obligations under this Agreement unless it has obtained the prior written approval of the other party.

18. Governing Law: Jurisdiction. Without regard to any conflict of laws provisions, this Agreement is to be governed by and under the laws of the state of Wisconsin.

19. Facsimile Signatures. The delivery of signatures to this Agreement by facsimile transmission shall be binding as original signatures.

20. Entire Agreement. This Agreement shall be the exclusive agreement between the parties for the Product. Additional or different terms proposed by the Customer shall not be applicable, unless accepted in writing by Pierce's authorized representative. No change in, modification of, or revision of this Agreement shall be valid unless in writing and signed by Pierce's authorized representative.

21. Conflict. In the event of a conflict between the Customer Specifications and the Pierce Proposal, the Pierce Proposal shall control. In the event there is a conflict between the Pierce Proposal and this Agreement, the Pierce Proposal shall control.

22. Signatures. This Agreement is not effective unless and until it is approved, signed and dated by Pierce Manufacturing, Inc.'s authorized representative.

Accepted and agreed to:

PIERCE MANUFACTURING, INC.

CUSTOMER: City of Astoria Fire Department

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A

PURCHASE DETAIL FORM

Pierce Manufacturing, Inc.
Director of Order Management
2600 American Drive
Appleton WI 54912
Fax (920) 832-3080

Date: _____

Customer Name: City of Astoria Fire Department

Quantity	Chassis Type	Body Type	Price per Unit
One (1)	Arrow XT	PUC Pumper	\$514,528.00
Less	Chassis progress payment	Discount	(8,983.00)
Less	Payment upon completion	Discount	(5,955.00)
Less	100% prepayment	Discount	(11,339.00)
TOTAL			\$488,251.00

Warranty Period: Standard per proposal NH466 submitted October 20, 2014

Training Requirements: Standard per proposal NH466 submitted October 20, 2014

Other Matters: A performance bond will be provided

This contract is available for inter-local and other municipal corporations to utilize with the option of adding or deleting any Pierce available options, including chassis models. Any addition or deletion may affect the unit price.

Payment Terms: A 100% prepayment will be due within 30 days of contract execution, an invoice will be provided. If payment is not made at this time \$26,277.00, or a portion thereof, will be added to the final invoice. Final payment of any remaining balance, including changes approved during manufacturing, is due upon completion and inspection of the apparatus at the factory.

[NOTE: If deferred payment arrangements are required, the Customer must make such financial arrangements through a financial institution acceptable to Pierce.] All taxes, excises and levies that Pierce may be required to pay or collect by reason of any present or future law or by any governmental authority based upon the sale, purchase, delivery, storage, processing, use, consumption, or transportation of the Product sold by Pierce to the Customer shall be for the account of the Customer and shall be added to the Purchase Price. All delivery prices or prices with freight allowance are based upon prevailing freight rates and, in the event of any increase or decrease in such rates, the prices on all unshipped Product will be increased or decreased accordingly. Delinquent payments shall be subject to a carrying charge of 1.5 percent per month or such lesser amount permitted by law. Pierce will not be required to accept payment other than as set forth in this Agreement. However, to avoid a late charge assessment in the event of a dispute caused by a substantial nonconformance with material Specifications (other than freight), the Customer may withhold up to five percent (5%) of the Purchase Price until such time that Pierce substantially remedies the nonconformance with material Specifications, but no longer than sixty (60) days after Delivery. If the disputed amount is the freight charge, the Customer may withhold only the amount of the freight charge until the dispute is settled, but no longer than sixty (60) days after Delivery. Pierce shall have and retain a purchase money security interest in all goods and products now or hereafter sold to the Customer by Pierce or any of its affiliated companies to secure payment of the Purchase Price for all such goods and products. In the event of nonpayment by the Customer of any debt, obligation or liability now or hereafter incurred or owing by the Customer to Pierce, Pierce shall have and may exercise all rights and remedies of a secured party under Article 9 of the Uniform Commercial Code (UCC) as adopted by the state of Wisconsin.

THIS PURCHASE DETAIL FORM IS EXPRESSLY SUBJECT TO THE PURCHASE AGREEMENT TERMS AND CONDITIONS DATED AS OF _____, 20 BETWEEN PIERCE MANUFACTURING INC. AND City of Astoria Fire Department WHICH TERMS AND CONDITIONS ARE HEREBY INCORPORATED IN, AND MADE PART OF, THIS PURCHASE DETAIL FORM AS THOUGH EACH PROVISION WERE SEPARATELY SET FORTH HEREIN, EXCEPT TO THE EXTENT OTHERWISE STATED OR SUPPLEMENTED BY PIERCE MANUFACTURING INC. HEREIN.

EXHIBIT B

WARRANTY

PER PROPOSAL NH466 SUBMITTED OCTOBER 20, 2014

EXHIBIT C

PIERCE PROPOSAL

PER PROPOSAL NH470 SUBMITTED OCTOBER 20, 2014



Hughes Fire Equipment, Inc.
910 Shelley Street
Springfield, OR 97477
T: 541-747-0072
F: 541-747-0073

www.hughesfire.com

Instructions for Pierce contract execution

Complete the **Name, Title and Date** section under the **Customer:** heading on page 3.

Complete the **date on the top** of Exhibit A, page 4 *if not already completed*.

Complete the **CONDITIONS DATED AS OF** section at the bottom of Exhibit A, page 4 *if not already complete*.

Once you have completed the above items, please email a copy of the signed contract to staylor@hughsefire.com or fax to our office at 541-747-0073. Please indicate if you will be mailing the original documents to our office.

If you would like an original signed document for your files, or multiple originals, please mail the appropriate quantity of originals with your signature to the address listed below. Pierce does not require an original for their files.

Hughes Fire Equipment, Inc.
Attn: Sheri Taylor
910 Shelley Street
Springfield, OR 97477

Once we have submitted the order to Pierce Manufacturing, you will receive an order acknowledgment letter from Hughes Fire Equipment, Inc.

When the order has been processed by Pierce, you will receive a Pierce Manufacturing acknowledgment letter along with either a copy or the originals of the executed contract and the performance bond, if one was required with the order.

Your sales representative will be in contact with you throughout the order acceptance and manufacturing process.

If you have any questions, please contact us at your earliest convenience.

Thank you and we look forward to working with you on this project.

Sheri Taylor
Hughes Fire Equipment, Inc.
Sales Manager
Phone: 541-747-0072
Email: staylor@hughsefire.com



CONTRACT PRICING WORKSHEET
For MOTOR VEHICLES Only

Contract No.:

FS12-13

Date Prepared:

10/20/2014

*This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents **MUST** be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.*

Buying Agency:	City of Astoria Fire Department	Contractor:	Pierce Manufacturing, Inc.
Contact Person:	Chief Ted Ames	Prepared By:	Sheri Taylor
Phone:	503-325-2345	Phone:	541-747-0072
Fax:	503-325-2346	Fax:	541-747-0072
Email:	tames@astoria.or.us	Email:	staylor@hughesfire.com

Product Code:	UC06	Description:	Pierce Arrow XI, 4-Door, Full-tilt, Aluminum Cab, Aluminum Body, Single Axle, 1250 GPM Pump, Mid-Mounted Pumper
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A. Product Item Base Unit Price Per Contractor's H-GAC Contract: 393280

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.

(Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
Subtotal From Additional Sheet(s):			\$ 111,997.00
Subtotal B:			111997

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.

(Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
Subtotal From Additional Sheet(s):			\$ 1,366.00
Subtotal C:			1366

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B). For this transaction the percentage is: 0.27%

D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)

Quantity Ordered:	1	X Subtotal of A + B + C:	506643	=	Subtotal D:	506643
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E. H-GAC Order Processing Charge (Amount Per Current Policy) Subtotal E: 2000

F. Trade-Ins / Other Allowances / Special Discounts / Freight / Installation

Description	Cost	Description	Cost
Elected payment option discount	-26277		
Delivery Charge	4500		
Performance Bond	1385		
Subtotal F:			-20392

Delivery Date: **G. Total Purchase Price (D+E+F):** 488251

Pride Number	Qty	Description	Published Options	Unpublished Options
105	1	Silicone Hoses	635	
106	1	TAK-4 Suspension	11992	
118	1	Cummins ISL9 400hp to ISX12 500 hp	24756	
119	1	Cummins ISX12 500 hp to Detroit DD13 500 hp	-10788	
202	1	Aluminum Wheels, front	1700	
203	1	Aluminum Wheels, Rear Single Axle	2622	
210	1	Upgrade SCBA Bracket to Hands Free	630	
212	1	Raised roof, custom cab	1848	
214	1	Q2B Siren	3444	
308	1	Pierce Husky 3, Single Agent (5) discharges	11132	
313	1	Foam Cell 20 Gallons	1292	
402	1	Add Front Bumper Line (including hose tray & cover)	2802	
403	1	Add 19" Extended Steel Painted Bumper	2278	
405	1	Add 1" Cargo Netting to cross/speedlay (2)	278	
406	1	add 2.5" suction	1036	
408	1	add pump anodes (pair)	290	
410	1	Add Large Diameter Side Discharge 5" with 4" valve	3881	
411	1	Add Mechanical Seal to Pump	727	
420	1	Increase Pump from 1250 to 1500 gpm	4868	
429	1	Extenda-gun 18"	3515	
461	1	Adjustable Compartment shelves (6)	932	
462	1	Swing-out tool board	1690	
463	2	Slide-out floor tray	1382	
464	2	Adjustable slide-out tray	1532	
478	1	Dual-Pro Battery Charger	714	
481	1	LED Compartment Lighting FRC (7 compartments)	2590	
482	1	LED under cab/body lighting (8)	1739	
483	1	12 volt LED Brow light	1711	
484	3	12 volt LED Recessed or surface (per light)	5064	
487	3	SCBA Cylinder storage in fender panel tripls (each)	2307	
488	1	PUC Body Configuration	10961	
815	1	Deck Gun with Tips, Manual	4400	
973	1	Full Height - Depth Compartments	5631	
977	1	Ladder Storage next to tank	2406	
	1	Lettering & graphics		1,366.00

Base Bid	\$	393,280.00	
Published Options	\$	111,997.00	
Total Published Options	\$	505,277.00	
Unpublished Options	\$	1,366.00	0.27%
Total Options w/o HGAC Fee	\$	506,643.00	



October 29, 2014

SALES ORGANIZATION: Hughes Fire -
 LESSEE: City of Astoria Fire Department
 TYPE OF EQUIPMENT: One (1) Pierce Arrow XT PUC Pumper NH466
 EQUIPMENT COST: \$488,251.00 after discounts
 CUSTOMER DOWNPAYMENT: \$.00
 TRADE-IN: \$0.00
 DELIVERY TIME: Std delivery
 PAYMENT MODE: Annual In Arrears
 FIRST PAYMENT DUE DATE: A) January 2015 B) 1 Year After Lease Commencement
 LEASE COMMENCEMENT DATE: Upon contract signing with Pierce

Term	Number of Payments	Payment Amount
A) 7 years	7 annual	1@ \$75,000.00 6 @ \$76,360.30
B) 7 years	7 annual	\$77,954.42

The above listed payment(s) reflect all program discounts available exclusively through Oshkosh Capital. There are no closing costs or documentation fees associated with the completion of this financing.

NOTE: All lease documents must be fully executed within 14 days of the date of this proposal. Failure to receive completed documents may alter the final payment schedule due to changes in rates and/or discounts.

PERFORMANCE BOND: To utilize the prepay program, a performance bond is required. Said performance bond shall be paid for directly to Pierce manufacturing or financed by Oshkosh Capital as part of the transaction

TYPE OF FINANCING: Tax-exempt Lease Purchase Agreement with a \$1.00 buy out option at end of lease term. Said agreement shall be a net lease arrangement whereby lessee is responsible for all costs of operation, maintenance, insurance, and taxes.

BANK QUALIFICATION: This proposal assumes that the lessee will not be issuing more than \$10 million in tax-exempt debt this calendar year. Furthermore, it is assumed that the lessee will designate this issue as a qualified tax-exempt obligation per the tax act of 1986.

LEGAL TITLE: Legal title to the equipment during the lease term shall vest in the lessee, with Oshkosh Capital perfecting a first security interest

AUTHORIZED SIGNORS: The lessee's governing board shall provide Oshkosh Capital with its resolution or ordinance authorizing this agreement and shall designate the individual(s) to execute all necessary documents used therein.

LEGAL OPINION: The lessee's counsel shall furnish Oshkosh Capital with an opinion covering this transaction and the documents used herein. This opinion shall be in a form and substance satisfactory to Oshkosh Capital.

VOLUNTEER FIRE DEPARTMENTS: If Lessee is a Volunteer Fire Department, a public hearing under the requirements of Section 147(f) of the Internal Revenue Code of 1986 shall be conducted to authorize this transaction. It is recommended that a notice of the public hearing be published 10 to 14 days in advance of the public hearing.

This proposal will be valid for fourteen (14) days from the above date and is subject to final credit approval by Oshkosh Capital and approval of the lease documents in Oshkosh Capital's sole discretion. To render a credit decision, lessee shall provide Oshkosh Capital with their most recent two years' audited financial statements, copy of their most recent interim financial statement, and current budget.

Accepted by:

Proposal submitted by:

Lessee

Date

Kim Simon

Kim Simon

Kim.Simon@oshkoshcapital.com





Application/Information Request Form

Please provide the following information to help expedite the credit review process:

Legal name to appear on the lease and the street address (For Fed-Ex Deliveries)		
Federal Tax ID #	County	
Name, address, phone # and fax # of primary contact for questions on structure		
Description of vehicle(s) to be financed		
Is this vehicle(s) a replacement or addition to the fleet		
If replacement, what is the year and model of the truck(s) you are replacing		
Are you trading in the old truck? If yes @ \$_____ value		
If No, are you keeping as a backup or selling outright @ approximately \$_____		
If an addition to the fleet, why are you adding the truck(s)		
Address as to where the Equipment will be located		
Name, street address, phone # & fax # of attorney (Address for Fed-Ex Deliveries)		
Name, contact, phone # & fax # of insurance company		
Name and phone # of the person to contact to discuss financial statements		
Target date to commence the lease with Oshkosh Capital?		

Please confirm the agreed upon lease structure

Total Equipment Cost: \$	Amount financed: \$	
If there is a down payment, what is the amount and will it be paid to Pierce or Oshkosh Capital		
Payment term:	Payment mode:	First Payment due date:

Is this a Prepay:	Any special structuring considerations:
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Demographic Information & Department Information

What is the total population that the fire department covers? _____
What are the square miles in the:
<ul style="list-style-type: none"> • Primary service area _____ Population _____ • Secondary Service area _____ Population _____
How many trucks are currently in the fleet? _____
<ul style="list-style-type: none"> • # Pumpers _____ # Brush Trucks _____ # Ladders _____ # Ambulances _____ • # Other _____
Number of Stations utilized by the department: _____
Number of Employees: Volunteer: _____ Paid: _____
Where is the fire department getting the funds to pay for the truck?
WHAT (IF AVAILABLE) is your Web Site? _____

Financial information requirements and overview

<p>Please provide the two most recent years' financial statements (including notes where applicable) and the current budget that includes source of revenue and operating expenses (including debt repayments).</p> <ul style="list-style-type: none"> • What is the annual "Process" for budget submission and approval? <p>_____</p> <p>_____</p>
<p>Where does the department get its primary funds for operation --- % of total funds?</p> <ul style="list-style-type: none"> • Fund Raisers/Donations: _____: % _____ • Tax Revenues from _____ (town, city, county): % _____ * Assessed Tax Valuation: _____ AS OF _____ * Tax Rate: _____ AS OF _____ * Last Rate Increase: _____ • Grants: _____ • Other: _____
<p>Please provide any additional information that would be helpful when reviewing the financial statements to better understand trends and source of repayment</p> <p>_____</p> <p>_____</p>
<p>Will the municipality be issuing more than \$10,000,000.00 in general obligation bonds in the Calendar year? YES NO</p>

Signature _____ Date: _____

MASTER LEASE – PURCHASE AGREEMENT

Dated as of «SystemDate»

This Master Lease-Purchase Agreement together with all addenda, riders and attachments hereto, as the same may from time to time be amended, modified or supplemented ("Master Lease") is made and entered by and between Oshkosh Capital ("Lessor") and the Lessee identified below ("Lessee").

LESSEE: «LesseeName»

1. **LEASE OF EQUIPMENT.** Subject to the terms and conditions of this Master Lease, Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, all Equipment described in each Schedule signed from time to time by Lessee and Lessor.

2. **CERTAIN DEFINITIONS.** All terms defined in the Lease are equally applicable to both the singular and plural form of such terms. (a) "Schedule" means each Lease Schedule signed and delivered by Lessee and Lessor, together with all addenda, riders, attachments, certificates and exhibits thereto, as the same may from time to time be amended, modified or supplemented. Lessee and Lessor agree that each Schedule (except as expressly provided in said Schedule) incorporates by reference all of the terms and conditions of the Master Lease. (b) "Lease" means each Schedule and this Master Lease as incorporated into said Schedule. (c) "Equipment" means the property described in each Schedule, together with all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto. (d) "Lien" means any security interest, lien, mortgage, pledge, encumbrance, judgment, execution, attachment, warrant, writ, levy, other judicial process or claim of any nature whatsoever by or of any person.

3. **LEASE TERM.** The term of the lease of the Equipment described in each Lease ("Lease Term") commences on the first date any of such Equipment is accepted by Lessee pursuant to Section 5 hereof and, unless earlier terminated as expressly provided in the Lease, continues until Lessee's payment and performance in full of all of Lessee's obligations under the Lease.

4. RENT PAYMENTS.

4.1 For each Lease, Lessee agrees to pay to Lessor the rent payments in the amounts and at the times as set forth in the Schedule A-1 attached to the Schedule ("Rent Payments"). A portion of each Rent Payment is paid as and represents the payment of interest as set forth in the Schedule A-1. Rent Payments will be payable for the Lease Term in U.S. dollars, without notice or demand at the office of Lessor (or such other place as Lessor may designate from time to time in writing).

4.2 If Lessor receives any payment from Lessee after the due date, Lessee shall pay Lessor on demand as a late charge five per cent (5%) of such overdue amount, limited, however, to the maximum amount allowed by law.

4.3 EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 6 HEREOF OR IN ANY WRITTEN MODIFICATION TO THE LEASE SIGNED BY LESSOR, THE OBLIGATION TO PAY RENT PAYMENTS UNDER EACH LEASE SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND SHALL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER.

5. DELIVERY; ACCEPTANCE; FUNDING CONDITIONS.

SAMPLE

5.1 Lessee shall arrange for the transportation, delivery and installation of all Equipment to the location specified in the Schedule ("Location") by Equipment suppliers ("Suppliers") selected by Lessee. Lessee shall pay all costs related thereto unless Lessor otherwise agrees to pay such costs as stated in the Schedule.

5.2 Lessee shall accept Equipment as soon as it has been delivered and is operational. Lessee shall evidence its acceptance of any Equipment by signing and delivering to Lessor the applicable Schedule. If Lessee signs and delivers a Schedule and if all Funding Conditions have been satisfied in full, then Lessor will pay or cause to be paid the costs of such Equipment as stated in the Schedule ("Purchase Price") to the applicable Supplier.

5.3 Lessor shall have no obligation to pay any Purchase Price unless all reasonable conditions established by Lessor ("Funding Conditions") have been satisfied, including, without limitation, the following: (a) Lessee has signed and delivered the Schedule and its Schedule A-1; (b) no Event of Default shall have occurred and be continuing; (c) no material adverse change shall have occurred in the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder (collectively, the "Code"); (d) no material adverse change shall have occurred in the financial condition of Lessee or any Supplier; (e) the Equipment is reasonably satisfactory to Lessor and is free and clear of any Liens (except Lessor's Liens); (f) all representations of Lessee in the Lease remain true, accurate and complete; and (g) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor: (1) evidence of insurance coverage required by the Lease, (2) an opinion of Lessee's counsel; (3) reasonably detailed invoices for the Equipment; (4) Uniform Commercial Code (UCC) financing statements; (5) copies of resolutions by Lessee's governing body, duly authorizing the Lease and incumbency certificates for the person(s) who will sign the Lease; (6) such documents and certificates relating to the tax-exempt interest payable under the Lease (including, without limitation, IRS Form 8038G or 8038GC) as Lessor may request; and (7) such other documents and information previously identified by Lessor or otherwise reasonably requested by Lessor.

6. TERMINATION FOR GOVERNMENTAL NON-APPROPRIATIONS.

6.1 For each Lease, Lessee represents and warrants: that it has appropriated and budgeted the necessary funds to make all Rent Payments required pursuant to such Lease for the remainder of the fiscal year in which the Lease Term commences; and that it intends to make Rent Payments for the full Lease Term as scheduled on the applicable Schedule A-1 so long as funds are appropriated in each fiscal year by its governing body. Lessee reasonably believes that moneys in an amount sufficient to make all Rent Payments can and will lawfully be appropriated and made available therefor. All Rent Payments shall be payable out of the general funds of Lessee or out of other funds legally available therefor. Lessor agrees that the Leases will not be general obligations of Lessee and that the Leases shall not constitute pledges of either the full faith and credit of Lessee or the taxing power of Lessee.

6.2 If Lessee's governing body fails to appropriate sufficient funds in any fiscal year for Rent Payments or other payments due under a Lease and if other funds are not available for such payments, then a "Non-Appropriation Event" shall be deemed to have occurred. If a Non-Appropriation Event occurs, then: (a) Lessee shall give Lessor immediate notice of such Non-Appropriation Event and provide written evidence of such failure by Lessee's governing body; (b) on the Return Date, Lessee shall return to Lessor all, but not less than all, of the Equipment covered by the affected Lease, at Lessee's sole expense, in accordance with Section 21 hereof; and (c) the affected Lease shall terminate on the Return Date without penalty or expense to Lessee, provided, that Lessee shall pay all Rent Payments and other amounts payable under the affected Lease for which funds shall have been appropriated or are otherwise available, provided further, that Lessee shall pay month-to-month rent at the rate set forth in the affected Lease for each month or part thereof that Lessee fails to return the Equipment under this Section 6.2. "Return Date" means the last day of the fiscal year for which appropriations were made for the Rent Payments due under a Lease.

7. NO WARRANTY BY LESSOR. The Equipment is sold "AS IS". LESSEE ACKNOWLEDGES THAT LESSOR DID NOT MANUFACTURE THE EQUIPMENT. LESSOR DOES NOT REPRESENT THE MANUFACTURER, OWNER, OR DEALER, AND LESSEE SELECTED THE EQUIPMENT BASED UPON LESSEE'S OWN JUDGMENT. LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE

SAMPLE

OR OTHERWISE OR AS TO THE EQUIPMENT'S VALUE, DESIGN, CONDITION, USE, CAPACITY OR DURABILITY. LESSEE AGREES THAT REGARDLESS OF CAUSE, LESSOR IS NOT RESPONSIBLE FOR, AND LESSEE WILL NOT MAKE ANY CLAIM AGAINST LESSOR FOR, ANY DAMAGES, WHETHER CONSEQUENTIAL, DIRECT, SPECIAL OR INDIRECT INCURRED BY LESSEE IN CONNECTION WITH THE EQUIPMENT OR THIS MASTER LEASE – LEASE PURCHASE AGREEMENT. NEITHER THE MANUFACTURER, THE DEALER, NOR ANY SALESPERSON, EMPLOYEE OR AGENT OF THE DEALER OR MANUFACTURER, IS LESSOR'S AGENT OR HAS ANY AUTHORITY TO SPEAK FOR LESSOR OR TO BIND LESSOR IN ANY WAY. For and during the Lease Term, Lessor hereby assigns to Lessee any manufacturer's or Supplier's product warranties, express or implied, applicable to any Equipment and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's sole expense. Lessee agrees that (a) all Equipment will have been purchased by Lessor in accordance with Lessee's specifications from Suppliers selected by Lessee, (b) Lessor is not a manufacturer or dealer of any Equipment and has no liability for the delivery or installation of any Equipment, (c) Lessor assumes no obligation with respect to any manufacturer's or Supplier's product warranties or guaranties, (d) no manufacturer or Supplier or any representative of said parties is an agent of Lessor, and (e) any warranty, representation, guaranty or agreement made by any manufacturer or Supplier or any representative of said parties shall not be binding upon Lessor.

8. TITLE; SECURITY INTEREST.

8.1 Upon Lessee's acceptance of any Equipment under its Lease, title to the Equipment shall vest in Lessee, subject to Lessor's security interest therein and all of Lessor's other rights under such Lease including, without limitation, Sections 6, 20 and 21 hereof.

8.2 As collateral security for the Secured Obligations, Lessee hereby grants to Lessor a first priority security interest in any and all of the Equipment (now existing or hereafter acquired) and any and all proceeds thereof. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, Uniform Commercial Code (UCC) financing statements and any amendments thereto.

8.3 "Secured Obligations" means Lessee's obligations to pay all Rent Payments and all other amounts due and payable under all present and future Leases and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due, or existing or hereafter arising) of Lessee under all present and future Leases.

9. **PERSONAL PROPERTY.** All Equipment is and will remain personal property and will not be deemed to be affixed or attached to real estate or any building thereon.

10. **MAINTENANCE AND OPERATION.** Lessee agrees it shall, at its sole expense: (a) repair and maintain all Equipment in good condition and working order, in accordance with manufacturer's instructions, and supply and install all replacement parts or other devices when required to so maintain the Equipment or when required by applicable law or regulation, which parts or devices shall automatically become part of the Equipment; and (b) use and operate all Equipment in a careful manner in the normal course of its operations and only for the purposes for which it was designed in accordance with the manufacturer's warranty requirements, and comply with all laws and regulations relating to the Equipment. If any Equipment is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement by a party reasonably satisfactory to Lessor. No maintenance or other service for any Equipment will be provided by Lessor. Lessee will not make any alterations, additions or improvements ("Improvements") to any Equipment without Lessor's prior written consent unless the Improvements may be readily removed without damage to the operation, value or utility of such Equipment, but any such Improvements not removed prior to the termination of the applicable Lease shall automatically become part of the Equipment.

11. **LOCATION; INSPECTION.** Equipment will not be removed from, or if Equipment is rolling stock its permanent base will not be changed from, the Location without Lessor's prior written consent which will not be unreasonably withheld. Upon reasonable notice to Lessee, Lessor may enter the Location or elsewhere during normal business hours to inspect the Equipment.

12. **LIENS, SUBLEASES AND TAXES.**

SAMPLE

12.1 Lessee shall keep all Equipment free and clear of all Liens except those Liens created under its Lease. Lessee shall not sublet or lend any Equipment or permit it to be used by anyone other than Lessee or Lessee's employees.

12.2 Lessee shall pay when due all Taxes which may now or hereafter be imposed upon any Equipment or its ownership, leasing, rental, sale, purchase, possession or use, upon any Lease or upon any Rent Payments or any other payments due under any Lease. If Lessee fails to pay such Taxes when due, Lessor shall have the right, but not the obligation, to pay such Taxes. If Lessor pays any such Taxes, then Lessee shall, upon demand, immediately reimburse Lessor therefor. "Taxes" means present and future taxes, levies, duties, assessments or other governmental charges that are not based on the net income of Lessor, whether they are assessed to or payable by Lessee or Lessor, including, without limitation (a) sales, use, excise, licensing, registration, titling, gross receipts, stamp and personal property taxes, and (b) interest, penalties or fines on any of the foregoing.

13. RISK OF LOSS.

13.1 Lessee bears the entire risk of loss, theft, damage or destruction of any Equipment in whole or in part from any reason whatsoever ("Casualty Loss"). No Casualty Loss to any Equipment shall relieve Lessee from the obligation to make any Rent Payments or to perform any other obligation under any Lease. Proceeds of any insurance recovery will be applied to Lessee's obligations under this Section 13.

13.2 If a Casualty Loss occurs to any Equipment, Lessee shall immediately notify Lessor of the same and Lessee shall, unless otherwise directed by Lessor, immediately repair the same.

13.3 If Lessor determines that any item of Equipment has suffered a Casualty Loss beyond repair ("Lost Equipment"), then Lessee shall either: (a) immediately replace the Lost Equipment with similar equipment in good repair, condition and working order free and clear of any Liens (except Lessor's Liens) and deliver to Lessor a bill of sale covering the replacement equipment, in which event such replacement equipment shall automatically be Equipment under the applicable Lease; or (b) on the next scheduled Rent Payment date, pay Lessor (i) all amounts owed by Lessee under the applicable Lease, including the Rent Payment due on such date plus (ii) an amount equal to the applicable Termination Value set forth in the Payment Schedule to the applicable Lease. If Lessee is making such payment with respect to less than all of the Equipment under a Lease, then Lessor will provide Lessee with the pro rata amount of the Rent Payment and Termination Value to be paid by Lessee with respect to the Lost Equipment.

13.4 Lessee shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses (including reasonable attorney's fees), damages or losses arising under or related to any Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof. These obligations of Lessee shall survive any expiration or termination of any Lease. Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses (including attorney's fees), damages or losses which arise directly from events occurring after any Equipment has been returned by Lessee to Lessor in accordance with the terms of the applicable Lease or which arise directly from the gross negligence or willful misconduct of Lessor.

14. INSURANCE.

14.1 (a) Lessee at its sole expense shall at all times keep all Equipment insured against all risks of loss or damage from every cause whatsoever for an amount not less than the Termination Value of the Equipment. Proceeds of any such insurance covering damage or loss of any Equipment shall be payable to Lessor as loss payee. (b) The Total Amount Financed as set forth on the Schedule A-1 does not include the payment of any premium for any liability insurance coverage for bodily injury and/or property damage caused to others and no such insurance will be purchased by Lessor. (c) Lessee at its sole expense shall at all times carry public liability and property damage insurance in amounts reasonably satisfactory to Lessor protecting Lessee and Lessor from liabilities for injuries to persons and damage to property of others relating in any way to any Equipment. Proceeds of any such public liability or property insurance shall be payable first to Lessor as additional insured to the extent of its liability, and then to Lessee.

14.2 All insurers shall be reasonably satisfactory to Lessor. Lessee shall promptly deliver to Lessor satisfactory evidence of required insurance coverage and all renewals and replacements thereof.

SAMPLE

Each insurance policy will require that the insurer give Lessor at least 30 days prior written notice of any cancellation of such policy and will require that Lessor's interests remain insured regardless of any act, error, misrepresentation, omission or neglect of Lessee. The insurance maintained by Lessee shall be primary without any right of contribution from insurance which may be maintained by Lessor.

15. PURCHASE OPTION. Upon thirty (30) days prior written notice by Lessee to Lessor, and so long as there is no Event of Default then existing, Lessee shall have the option to purchase all, but not less than all, of the Equipment covered by a Lease on any Rent Payment due date by paying to Lessor all Rent Payments then due (including accrued interest, if any) plus the Termination Value amount set forth on the Payment Schedule to the applicable Lease for such date. Upon satisfaction by Lessee of such purchase conditions, Lessor shall release its Lien on such Equipment and Lessee shall retain its title to such Equipment "AS-IS, WHERE-IS," without representation or warranty by Lessor, express or implied, except for a representation that such Equipment is free and clear of any Liens created by Lessor.

16. LESSEE'S REPRESENTATIONS AND WARRANTIES. With respect to each Lease and its Equipment, Lessee hereby represents and warrants to Lessor that:

(a) Lessee has full power, authority and legal right to execute and deliver the Lease and to perform its obligations under the Lease, and all such actions have been duly authorized by appropriate findings and actions of Lessee's governing body;

(b) the Lease has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms;

(c) the Lease is authorized under, and the authorization, execution and delivery of the Lease complies with, all applicable federal, state and local laws and regulations (including, but not limited to, all open meeting, public bidding and property acquisition laws) and all applicable judgments and court orders;

(d) the execution, delivery and performance by Lessee of its obligations under the Lease will not result in a breach or violation of, nor constitute a default under, any agreement, lease or other instrument to which Lessee is a party or by which Lessee's properties may be bound or affected;

(e) there is no pending, or to the best of Lessee's knowledge threatened, litigation of any nature which may have a material adverse effect on Lessee's ability to perform its obligations under the Lease; and

(f) Lessee is a state, or a political subdivision thereof, as referred to in Section 103 of the Code, and Lessee's obligation under the Lease constitutes an enforceable obligation issued on behalf of a state or a political subdivision thereof.

17. TAX COVENANTS. Lessee hereby covenants and agrees that:

(a) Lessee shall comply with all of the requirements of Section 149(a) and Section 149(e) of the Code, as the same may be amended from time to time, and such compliance shall include, but not be limited to, keeping a complete and accurate record of any assignments of any Lease and executing and filing Internal Revenue Form 8038G or 8038GC, as the case may be, and any other information statements reasonably requested by Lessor;

(b) Lessee shall not do (or cause to be done) any act which will cause, or by omission of any act allow, any Lease to be an "arbitrage bond" within the meaning of Section 148(a) of the Code or any Lease to be a "private activity bond" within the meaning of Section 141(a) of the Code; and

(c) Lessee shall not do (or cause to be done) any act which will cause, or by omission of any act allow, the interest portion of any Rent Payments to be or become includable in gross income for Federal income taxation purposes under the Code.

(d) If Lessor either (i) receives notice, in any form, from the IRS; or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor and approved by Lessee, which

SAMPLE

approval Lessee shall not unreasonably withhold, that Lessor may not exclude the interest component of any Rent Payment under a Tax-Exempt Lease from federal gross income because Lessee breached a covenant contained herein, then Lessee shall pay to Lessor, within thirty (30) days after Lessor notifies Lessee of such determination, the amount which, with respect to Rent Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of all Rent Payments under such Tax-Exempt Lease due through the date of such event) that are imposed on Lessor as a result of the loss of the exclusion, will restore to Lessor the same after-tax yield on the transaction evidenced by such Tax-Exempt Lease (assuming tax at the highest marginal corporate tax rate) that it would have realized had the exclusion not been lost. Additionally, Lessee agrees that upon the occurrence of such an event with respect to a Tax-Exempt Lease, it shall pay additional rent to Lessor on each succeeding Rent Payment due date in such amount as will maintain such after-tax yield to Lessor. Lessor's determination of the amount necessary to maintain its after-tax yield as provided in this subsection (b) shall be conclusive (absent manifest error). Notwithstanding anything in a Tax-Exempt Lease to the contrary, any payment that Lessee is required to make pursuant to this subsection (b) shall be made only from Legally Available Funds.

18. ASSIGNMENT.

18.1 Lessee shall not assign, transfer, pledge, hypothecate, nor grant any Lien on, nor otherwise dispose of, any Lease or any Equipment or any interest in any Lease or Equipment.

18.2 Lessor may assign its rights, title and interest in and to any Lease or any Equipment, and/or may grant or assign a security interest in any Lease and its Equipment, in whole or in part, to any party at any time. Any such assignee or lien holder (an "Assignee") shall have all of the rights of Lessor under the applicable Lease. **LESSEE AGREES NOT TO ASSERT AGAINST ANY ASSIGNEE ANY CLAIMS, ABATEMENTS, SETOFFS, COUNTERCLAIMS, RECOUPMENT OR ANY OTHER SIMILAR DEFENSES WHICH LESSEE MAY HAVE AGAINST LESSOR.** Unless otherwise agreed by Lessee in writing, any such assignment transaction shall not release Lessor from any of Lessor's obligations under the applicable Lease. An assignment or reassignment of any of Lessor's right, title or interest in a Lease or its Equipment shall be enforceable against Lessee only after Lessee receives a written notice of assignment which discloses the name and address of each such Assignee. Lessee shall keep a complete and accurate record of all such assignments in the form necessary to comply with Section 149(a) of the Code. Lessee agrees to acknowledge in writing any such assignments if so requested.

18.3 Each Assignee of a Lease hereby agrees that: (a) the term Secured Obligations as used in Section 8.3 hereof is hereby amended to include and apply to all obligations of Lessee under the Assigned Leases and to exclude the obligations of Lessee under any Non-Assigned Leases; (b) said Assignee shall have no Lien on, nor any claim to, nor any interest of any kind in, any Non-Assigned Leases; and (c) Assignee shall exercise its rights, benefits and remedies as the assignee of Lessor (including, without limitation, the remedies under Section 20 of the Master Lease) solely with respect to the Assigned Leases. "Assigned Leases" means only those Leases which have been assigned to an Assignee pursuant to a written agreement; and "Non-Assigned Leases" means all Leases excluding the Assigned Leases.

18.4 Subject to the foregoing, each Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

19. EVENTS OF DEFAULT. For each Lease, "Event of Default" means the occurrence of any one or more of the following events as they may relate to such Lease: (a) Lessee fails to make any Rent Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (b) Lessee fails to perform or observe any of its obligations under Sections 12.1, 14 or 18.1 hereof; (c) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it under the Lease and such failure is not cured within thirty (30) days after receipt of written notice thereof by Lessor; (d) any statement, representation or warranty made by Lessee in the Lease or in any writing delivered by Lessee pursuant thereto or in connection therewith proves at any time to have been false, misleading or erroneous in any material respect as of the time when made; (e) Lessee applies for or consents to the

SAMPLE

appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or a substantial part of its assets, or a petition for relief is filed by Lessee under any federal or state bankruptcy, insolvency or similar law, or a petition in a proceeding under any federal or state bankruptcy, insolvency or similar law is filed against Lessee and is not dismissed within sixty (60) days thereafter; or (f) Lessee shall be in default under any other Lease or under any other financing agreement executed at any time with Lessor.

20. REMEDIES. If any Event of Default occurs, then Lessor may, at its option, exercise any one or more of the following remedies:

(a) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all amounts then currently due under all Leases and all remaining Rent Payments due under all Leases during the fiscal year in effect when the default occurs together with interest on such amounts at the highest lawful rate from the date of Lessor's demand for such payment.

(b) Lessor may require Lessee to promptly return all Equipment to Lessor in the manner set forth in Section 21 (and Lessee agrees that it shall so return the Equipment), or Lessor may, at its option, enter upon the premises where any Equipment is located and repossess such Equipment without demand or notice, without any court order or other process of law and without liability for any damage occasioned by such repossession;

(c) Lessor may sell, lease or otherwise dispose of any Equipment, in whole or in part, in one or more public or private transactions, and if Lessor so disposes of any Equipment, then Lessor shall retain the entire proceeds of such disposition free of any claims of Lessee, provided, that the net proceeds of any such disposition shall be applied to amounts payable by Lessee under clause (a) above of this Section only to the extent that such net proceeds exceed the applicable Termination Value set forth in the applicable Schedule A-1;

(d) Lessor may terminate, cancel or rescind any Lease as to any and all Equipment;

(e) Lessor may exercise any other right, remedy or privilege which may be available to Lessor under applicable law or, by appropriate court action at law or in equity, Lessor may enforce any of Lessee's obligations under any Lease; and/or

(f) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all out-of-pocket costs and expenses incurred by Lessor as a result (directly or indirectly) of the Event of Default and/or of Lessor's actions under this section, including, without limitation, any attorney fees and expenses and any costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of any Equipment.

None of the above remedies is exclusive, but each is cumulative and in addition to any other remedy available to Lessor. Lessor's exercise of one or more remedies shall not preclude its exercise of any other remedy. No delay or failure on the part of Lessor to exercise any remedy under any Lease shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise of any remedy preclude any other exercise thereof or the exercise of any other remedy.

21. RETURN OF EQUIPMENT. If Lessor is entitled under the provisions of any Lease, including any termination thereof pursuant to Sections 6 or 20 of this Master Lease, to obtain possession of any Equipment or if Lessee is obligated at any time to return any Equipment, then (a) title to the Equipment shall vest in Lessor immediately upon Lessors notice thereof to Lessee, and (b) Lessee shall, at its sole expense and risk, immediately de-install, disassemble, pack, crate, insure and return the Equipment to Lessor (all in accordance with applicable industry standards) at any location in the continental United States selected by Lessor. Such Equipment shall be in the same condition as when received by Lessee (reasonable wear, tear and depreciation resulting from normal and proper use excepted), shall be in good operating order and maintenance as required by the applicable Lease, shall be free and clear of any Liens (except Lessor's Lien) and shall comply with all applicable laws and regulations. Until Equipment is returned as required above, all terms of the applicable Lease shall remain in full force and effect including, without limitation, obligations to pay Rent Payments and to insure the Equipment. Lessee agrees to execute and deliver to Lessor all documents reasonably requested by Lessor to evidence the transfer of legal and beneficial title to such Equipment to Lessor and to evidence the termination of

Lessee's interest in such Equipment.

22. LAW GOVERNING. Each Lease shall be governed by the laws of the state of the lessee (The "State").

23. NOTICES. All notices to be given under any Lease shall be made in writing and either personally delivered or mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notices shall be deemed to have been received five (5) days subsequent to mailing if sent by regular or certified mail, or on the next business day if sent by overnight courier, or on the day of delivery if delivered personally.

24. FINANCIAL INFORMATION; INDEMNITY; POWER OF ATTORNEY. Within thirty (30) days of their completion in each fiscal year of Lessee during any Lease Term, Lessee will deliver to Lessor upon Lessor's request the publicly available annual financial information of Lessee. To the extent permitted by law, Lessee shall indemnify, hold harmless and, if Lessor requests, defend Lessor and its shareholders, affiliates, employees, dealers and agents against all Claims directly or indirectly arising out of or connected with (a) the manufacture, installation, use, lease, possession or delivery of the Equipment, (b) any defects in the Equipment, any wrongful act or omission of Lessee, or its employees and agents, or (c) any claims of alleged breach by Lessee of this Master Lease or any related document. "Claims" means all losses, liabilities, damages, penalties, expenses (including attorney's fees and costs), claims, actions and suits, whether in contract, tort or otherwise. Lessee hereby appoints Lessor its true and lawful attorney-in-fact (with full power of substitution) to prepare any instrument, certificate of title or financing statement covering the Equipment or otherwise protecting Lessor's interest in the Equipment, to sign Lessee's name with the same force and effect as if signed by Lessee, and to file same at the proper location(s); and make claims for, receive payment of, and execute and endorse all documents, checks or drafts for loss, theft, damage or destruction to the Equipment under any insurance.

25. ANTI-MONEY LAUNDERING/INTERNATIONAL TRADE LAW COMPLIANCE. Lessee represents and warrants to Lessor, as of the date of this Master Lease, the date of each advance of proceeds pursuant to this Master Lease, the date of any renewal, extension or modification of this Master Lease or any Lease, and at all times until this Master Lease and each Lease has been terminated and all amounts thereunder have been indefeasibly paid in full, that: (a) no Covered Entity (i) is a Sanctioned Person; (ii) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person; or (iii) does business in or with, or derives any of its operating income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; (b) the proceeds of any Lease will not be used to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any law, regulation, order or directive enforced by any Compliance Authority; (c) the funds used to repay any Lease are not derived from any unlawful activity; and (d) each Covered Entity is in compliance with, and no Covered Entity engages in any dealings or transactions prohibited by, any laws of the United States, including but not limited to any Anti-Terrorism Laws. Lessee covenants and agrees that it shall immediately notify Lessor in writing upon the occurrence of a Reportable Compliance Event.

As used herein: "Anti-Terrorism Laws" means any laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering, or bribery, all as amended, supplemented or replaced from time to time; "Compliance Authority" means each and all of the (a) U.S. Treasury Department/Office of Foreign Assets Control, (b) U.S. Treasury Department/Financial Crimes Enforcement Network, (c) U.S. State Department/Directorate of Defense Trade Controls, (d) U.S. Commerce Department/Bureau of Industry and Security, (e) U.S. Internal Revenue Service, (f) U.S. Justice Department, and (g) U.S. Securities and Exchange Commission; "Covered Entity" means Lessee, its affiliates and subsidiaries, all guarantors, pledgors of collateral, all owners of the foregoing, and all brokers or other agents of Lessee acting in any capacity in connection with this Master Lease or any Lease; "Reportable Compliance Event" means that any Covered Entity becomes a Sanctioned Person, or is indicted, arraigned, investigated or custodially detained, or receives an inquiry from regulatory or law enforcement officials, in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or self-discovers facts or circumstances implicating any aspect of its operations with the actual or possible violation of any Anti-Terrorism Law; "Sanctioned Country" means a country subject to a sanctions program maintained by any Compliance Authority; and "Sanctioned Person" means any individual person, group, regime, entity or thing listed or otherwise recognized as a specially designated,

SAMPLE

prohibited, sanctioned or debarred person or entity, or subject to any limitations or prohibitions (including but not limited to the blocking of property or rejection of transactions), under any order or directive of any Compliance Authority or otherwise subject to, or specially designated under, any sanctions program maintained by any Compliance Authority.

26. SECTION HEADINGS. All section headings contained herein or in any Schedule are for convenience of reference only and do not define or limit the scope of any provision of any Lease.

27. EXECUTION IN COUNTERPARTS. Each Schedule to this Master Lease may be executed in several counterparts, each of which shall be deemed an original, but all of which shall be deemed one instrument. Only one counterpart of each Schedule shall be marked "Lessor's Original" and all other counterparts shall be deemed duplicates. An assignment of or security interest in any Schedule may be created through transfer and possession only of the counterpart marked "Lessor's Original."

28. ENTIRE AGREEMENT; WRITTEN AMENDMENTS. Each Lease, together with the exhibits attached thereto and made a part hereof and other attachments thereto, and other documents or instruments executed by Lessee and Lessor in connection therewith, constitute the entire agreement between the parties with respect to the lease of the Equipment covered thereby, and such Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of any Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

«LesseeName»
("Lessee")

Oshkosh Capital
("Lessor")

By: _____

By: _____

Title: _____

Title _____

«LesseeStreet»
«LesseeCSZ»

155 East Broad Street, B4-B230-05-7
Columbus, OH 43215

LEASE SCHEDULE NO. «LeaseNumber»

Dated As Of «SystemDate»

This Lease Schedule (this "Schedule") is attached and made a part of the Master Lease-Purchase Agreement referenced below, together with all exhibits, schedules, addenda, and other attachments thereto, executed by Lessee and Lessor (the "Lease"). Unless otherwise defined herein, capitalized terms will have the same meaning ascribed to them in the Master Lease. All terms and conditions of the Master Lease are incorporated herein by reference. To the extent that there is any conflict between the terms of the Lease and this Schedule, the terms of this Schedule shall control.

Master Lease-Purchase Agreement dated «SystemDate»

1. **EQUIPMENT DESCRIPTION.** As used in the Lease, "Equipment" means all of the property described in Schedule A-1 attached to this Schedule and all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto.
2. **RENTAL PAYMENTS; LEASE TERM.** The Rental Payments to be paid by the Lessee to Lessor, the commencement date thereof and the lease term of this Lease Schedule are set forth on the Schedule A-1 attached to this Lease Schedule.
3. **ESSENTIAL USE; CURRENT INTENT OF LESSEE.** Lessee represents that the use of the Equipment is essential to Lessee's proper, efficient and economic functioning or to the services that Lessee provides to its citizens and the Equipment will be used by Lessee only for the purpose of performing its governmental or proprietary functions consistent with the permissible scope of its authority. Lessee currently intends for the full Lease Term: to use the Equipment; to continue this Lease; and (if applicable) to make Rent Payments if funds are appropriated in each fiscal year by its governing body.
4. **ACCEPTANCE OF EQUIPMENT.** AS BETWEEN LESSEE AND LESSOR, LESSEE AGREES THAT (A) LESSEE HAS RECEIVED AND INSPECTED ALL EQUIPMENT; (B) ALL EQUIPMENT IS IN GOOD WORKING ORDER AND COMPLIES WITH ALL PURCHASE ORDERS, CONTRACTS AND SPECIFICATIONS; (C) LESSEE ACCEPTS ALL EQUIPMENT FOR PURPOSES OF THE LEASE "AS-IS, WHERE IS"; AND (D) LESSEE WAIVES ANY RIGHT TO REVOKE SUCH ACCEPTANCE.
5. **BANK QUALIFIED.** LESSEE CERTIFIES THAT IT HAS DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265(b)(3) OF THE CODE, THAT IT HAS NOT DESIGNATED MORE THAN \$10,000,000 OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDAR YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDAR YEAR WILL NOT EXCEED \$10,000,000.
6. **RE-AFFIRMATION OF THE MASTER LEASE-PURCHASE AGREEMENT.** Lessee hereby re-affirms all of its representations, warranties and obligations under the Master Lease Purchase Agreement (including, without limitation, its obligation to pay all Rental Payments, its disclaimers in Section 7 thereof and its representations in Section 6.1 and 16 thereof).

«LesseeName»
("Lessee")

Oshkosh Capital
("Lessor")

By: _____

By: _____

Title: _____

Title: _____

Schedule A-1

1. EQUIPMENT LOCATION & DESCRIPTION:

«LesseeName»
«EquipLocation»

«EquipStreet»
«EquipCSZ»

«EquipCounty» County

«EquipmentDescription»

VIN # «VIN»

2. LEASE PAYMENT SCHEDULE.

(a) Accrual Date:	<u>«AccrualDate»</u>
(b) Amount Financed:	
i. Equipment Purchase Price	\$ <u>«PurchasePrice»</u>
ii. Purchase Price Deductions	\$ <u>«Downpymt»</u>
Prepay Discounts	\$ <u>«VendorDiscounts»</u>
Trade In	\$ <u>«TradeIn»</u>
iii. Total Amount Financed (Cash Sale Price minus Purchase Price Deductions)	\$ <u>«AmountFinanced»</u>

SAMPLE

(c) Payment Schedule:

Accrual Date: «AccrualDate»

Rent Payment Number	Rent Payment Date	Rent Payment Amount	Interest Portion	Principal Portion	Termination Value
1		\$	\$	\$	\$
2		\$	\$	\$	\$
3		\$	\$	\$	\$
4		\$	\$	\$	\$
5		\$	\$	\$	\$

«LesseeName»
("Lessee")

By: _____

Title: _____

Oshkosh Capital
("Lessor")

By: _____

Title: _____

VEHICLE SCHEDULE ADDENDUM

Dated As Of «SystemDate»

Lease Schedule No. «LeaseNumber» Dated «SystemDate»

Lessee: «LesseeName»

Reference is made to the above Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Lease Schedule ("Master Lease") by and between Oshkosh Capital ("Lessor") and the above Lessee ("Lessee"). This Addendum amends and modifies the terms and conditions of the Schedule and is hereby made a part of the Schedule. Unless otherwise defined herein, capitalized terms defined in the Master Lease shall have the same meaning when used herein.

NOW THEREFORE, as part of the valuable consideration to induce the execution of the Schedule, Lessor and Lessee hereby agree to amend the Schedule as follows:

1. In the event that any unit of Equipment covered by the Schedule is a vehicle or trailer under applicable State law, then the following provisions shall also apply to the Schedule to the extent permitted by law,

(a) each manufacturer's statement of origin and certificate of title shall state that Lessor has the first and sole lien on or security interest in such unit of Equipment;

(b) the public liability and property damage insurance required by the terms of the paragraph titled "Insurance in the Master Lease shall be in an amount not less than \$1,000,000.00 per person insured and \$2,000,000.00 combined single limit per unit per occurrence (provided, that if the unit of Equipment is a bus or other passenger vehicle, then such insurance amount shall be such larger amount as may be reasonably required by Lessor) and \$1,000,000.00 for damage to property of others;

(c) Lessee shall furnish and permit only duly licensed, trained, safe and qualified drivers to operate any such unit of Equipment, and such drivers shall be agents of Lessee and shall not be agents of Lessor; and

(d) Lessee shall cause each such unit of Equipment to be duly registered and licensed as required by applicable State law with Lessor noted as lien holder and Lessee as owner.

2. Except as expressly amended by this Addendum and other modifications signed by Lessor, the Schedule remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date first referenced above.

«LesseeName»
("Lessee")

Oshkosh Capital
("Lessor")

By: _____

By: _____

Title: _____

Title: _____

RESOLUTION

Municipality/Lessee: «LesseeName»

Principal Amount Expected To Be Financed: \$«AmountFinanced»

WHEREAS, the Municipality is a political subdivision of the State in which Municipality is located (the "State") and is duly organized and existing pursuant to the Constitution and laws of the State.

WHEREAS, pursuant to applicable law, the governing body of the Municipality ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the Municipality.

WHEREAS, the Governing Body hereby finds and determines that the execution of one or more Master Lease-Purchase Agreements ("Leases") in the principal amount not exceeding the amount stated above for the purpose of acquiring the property ("Equipment") to be described in the Leases is appropriate and necessary to the functions and operations of the Municipality.

WHEREAS, Oshkosh Capital ("Lessor") shall act as Lessor under said Leases.

NOW, THEREFORE, Be It Ordained by the Governing Body of the Municipality:

Section 1. Either one of the _____ OR _____ (each an "Authorized Representative") acting on behalf of the Municipality, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Municipality. Each Authorized Representative acting on behalf of the Municipality is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Municipality to execute and deliver agreements and documents relating to the Leases on behalf of the Municipality.

Section 3. The aggregate original principal amount of the Leases shall not exceed the amount stated above and shall bear interest as set forth in the Leases and the Leases shall contain such options to purchase by the Municipality as set forth therein.

Section 4. The Municipality's obligations under the Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Lease and the Municipality's obligations under the Leases shall not constitute general obligations of the Municipality or indebtedness under the Constitution or laws of the State.

Section 5. As to each Lease, the Municipality reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the calendar year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

SAMPLE

Section 6. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED on this _____, 20____.

The undersigned Secretary/Clerk of the above-named Municipality hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Municipality, that the foregoing resolutions were duly adopted by said Governing Body of the Municipality at a meeting of said Governing Body and that such resolutions have not been amended or altered and are in full force and effect on the date stated below.

LESSEE: «LesseeName»

Signature of Secretary/Clerk of Municipality

[SEAL]

Print Name: _____

Official Title: _____

Date: _____

CERTIFICATE OF INCUMBENCY

Lessee: «LesseeName»

Lease Schedule No.: «LeaseNumber»

Dated: «SystemDate»

I, the undersigned Secretary/Clerk identified below, do hereby certify that I am the duly elected or appointed and acting Secretary/Clerk of the above Lessee (the "Lessee"), a political subdivision duly organized and existing under the laws of the State where Lessee is located, that I have the title stated below, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

[NOTE: Use same titles as Authorized Representatives stated in Resolutions.]

Name Title Signature

Name Title Signature

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such Lessee as of the date set forth below.

Signature of Secretary/Clerk of Lessee

[SEAL]

Print Name: _____

Official Title: _____

Date: _____

FORM OF OPINION OF COUNSEL
(To Be Typed on Attorney's Letterhead Stationary)

Date:

Lessee: «LesseeName»

Lessor: Oshkosh Capital

Re: Lease Schedule No. «LeaseNumber» dated «SystemDate», together with its Master Lease-Purchase Agreement dated «SystemDate», by and between the above-named Lessee and the above-named Lessor

Gentlemen:

I have acted as counsel to Lessee with respect to the Lease Schedule, the Master Lease-Purchase Agreement and all other agreements described above or related thereto (collectively, the "Agreements") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Agreements and such other documents as I have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents, it is my opinion that:

1. Lessee is a political subdivision of the State of _____ (the "State") duly organized, existing and operating under the Constitution and laws of the State.
2. Lessee is authorized and has power under State law to enter into all of the Agreements, and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Agreements and all other documents related thereto have been duly authorized, approved, and executed by and on behalf of Lessee, and each of the Agreements is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal law affecting creditor's remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.
4. The authorization, approval and execution of the Agreements and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable Local, State and Federal laws (including open meeting laws and public bidding and property acquisition laws).
5. To the best of my knowledge, there is no litigation or proceeding pending before any court, administrative agency or governmental body, that challenges: the organization or existence of Lessee; the authority of its officers; the proper authorization; approval and execution of any of the Agreements or any documents relating thereto; the appropriation of monies to make payments under the Agreements for the current fiscal year; or the ability of Lessee otherwise to perform its obligations under the Agreements and the transactions contemplated thereby.
6. Lessee is a political subdivision of the State as referred to in Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder.

Lessor, its Assignee and any of their assigns may rely upon this opinion.

Very truly yours,

Attorney

INSURANCE COVERAGE DISCLOSURE

Oshkosh Capital, LESSOR

«LesseeName», LESSEE

RE: INSURANCE COVERAGE REQUIREMENTS

- 1. In accordance with the Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Lease Schedule ("Master Lease"), Lessee certifies that it has instructed the insurance agent named below (please fill in name, address, and telephone number):

to issue: (check to indicate coverage)

- a. All Risk Physical Damage Insurance on the leased Equipment evidenced by a Certificate of Insurance and Long Form Loss Payable Clause naming Oshkosh Capital and/or its assigns as Lender Loss Payee.

Coverage Required: Termination Value Specified

- b. Public Liability Insurance evidenced by a Certificate of Insurance naming Oshkosh Capital and/or its assigns as an Additional Insured.

Minimum Coverage Required:

\$1,000,000.00 per person
 \$2,000,000.00 aggregate bodily injury liability
 \$1,000,000.00 property damage liability

Proof of insurance coverage will be provided to Oshkosh Capital, 155 East Broad Street, B4-B230-05-7, Columbus, OH 43215, prior to the time that the property is delivered to Lessee.

OR

- 2. Pursuant to the Master Lease, Lessee represents and warrants, in addition to other matters under the Agreement, that it is lawfully self-insured for: (check to indicate coverage)

- a. All risk, physical damage in the amount specified in 1(a) above.
- b. Public liability for not less than the amounts specified in 1(b) above.

Lessee has attached a signed letter describing self-insurance.

LESSEE: «LesseeName»

By: _____ Title: _____

INSURANCE INFORMATION

Please provide the following information to your insurance company to help expedite receipt of the necessary coverage:

ITEMS WHICH NEED TO BE REFLECTED ON INSURANCE CERTIFICATE:

- Oshkosh Capital must be named Loss Payee and Additional Insured
- 30 Days Notice of Cancellation
- Not Less than \$2,000,000.00 limits on liability
- Certificate must reflect a short equipment description
- Certificate must reflect an expiration date

Certificate Holder Information:

Oshkosh Capital, its successors and/or all assigns
155 East Broad Street, B4-B230-05-7
Columbus, OH 43215

Please send a FAX copy of certificate to «DocSpecialist» at 1-800-678-0602.

The original should be mailed to the same at:

Oshkosh Capital
155 East Broad Street, B4-B230-05-7
Columbus, OH 43215

Please call «DocSpecialist» at 1-800-820-9041, ext. «PhoneOption», if you have any questions.

THREE PARTY AGREEMENT

Dated as of «SystemDate»"Lessee" means «LesseeName»"Schedule" means Lease Schedule No. «LeaseNumber» Dated «SystemDate», together with its Schedule A-1.

Reference is made to the Lease Schedule ("Schedule") and to the Master Lease-Purchase Agreement ("Master Lease") identified in said Lease Schedule, described above between Oshkosh Capital ("Lessor") and the Lessee identified above which relates to Equipment described in Schedule A-1 to the Lease Schedule attached therein ("Equipment") to be supplied by «Manufacturer» ("Supplier"). For good and valuable consideration, receipt of which is hereby acknowledged, Lessee, Lessor and Supplier hereby agree as follows:

1. Notwithstanding anything to the contrary in the Lease Schedule, Lessee hereby notifies Lessor that the Equipment has not yet been delivered to Lessee and the Equipment has not yet been accepted by Lessee for purposes of the Lease Schedule. Lessee agrees to execute and deliver to Lessor a Delivery and Acceptance Certificate in the form attached hereto as Exhibit A upon the circumstances set forth in said Certificate.

2. All parties hereto agree that the Purchase Price of the Equipment shall be as set forth below if said Purchase Price is paid on or before the Advance Payment Date set forth below:

Purchase Price:	<u>\$«PurchasePrice»</u>
Vendor Discounts:	<u>\$«VendorDiscounts»</u>
Advance Payment Date:	<u>«AccrualDate»</u>

3. Upon execution of the Lease Schedule and delivery of all documents relating thereto required by Lessor, Lessee agrees that it shall pay the Lessee Down Payment stated below and Lessor agrees that it shall pay the balance of the Purchase Price (the "Amount Financed") stated below. Lessee agrees that the Lease Term and Lessee's obligation to pay Rent Payments shall commence on the date set forth in the Lease Schedule notwithstanding the delivery of the Equipment at a later date.

Lessee Down Payment:	<u>\$«Downpymt»</u>
Trade In:	<u>\$«TradeIn»</u>
Amount Financed:	<u>\$«AmountFinanced»</u>

4. (a) Supplier anticipates that it shall deliver the Equipment to Lessee by the **Anticipated Delivery Date** set forth below.

Anticipated Delivery Date:	<u>«AnticipatedDelDate»</u>
----------------------------	-----------------------------

(b) Supplier hereby agrees that it shall deliver the Equipment to Lessee no later than the **Outside Delivery Date** set forth below and that such Equipment shall comply with all specifications and requirements of Lessee and with the terms and conditions of any purchase order/purchase agreement relating thereto.

Outside Delivery Date:	<u>«OutsideDelDate»</u>
------------------------	-------------------------

5. If for any reason whatsoever Supplier fails to comply with its agreements set forth in **subparagraph 4(b)** of this Agreement by the Outside Delivery Date for any piece of Equipment (the "Delayed Equipment"), and the Lessee has not agreed to revise the Outside Delivery Date with respect to such Delayed Equipment, then Supplier hereby agrees as follows only for the Delayed Equipment:

SAMPLE

- (a) On the first business day after the Outside Delivery Date, Supplier shall pay to Lessee the Lessee Down Payment for the Delayed Equipment plus interest at the Prime Rate plus one percent (1%) per annum from the Advance Payment Date to the date of such payment;
- (b) On the first business day after the Outside Delivery Date, Supplier shall pay to Lessor for the Delayed Equipment the Amount Financed plus interest at the Prime Rate plus one percent (1%) per annum from the Advance Payment Date to the date of such payment; and
- (c) "Prime Rate" means the prime rate of interest as published from time to time in the Wall Street Journal.

If there is more than one piece of Equipment subject to the Lease, and some of the Equipment is delivered in accordance with subparagraph 4(b) of this Agreement, the payments owed pursuant to the Lease shall be modified to reflect only the obligations due on the Equipment that was delivered pursuant to subparagraph 4(b) of this Agreement. The new payment obligation will be determined based on the amount financed for the Equipment delivered to the Lessee, and based on the interest rate in effect as of the date of Lease commencement.

6. If Supplier makes the payments described in **paragraph 5** above for the Delayed Equipment under the circumstances set forth above and if Lessee has otherwise paid and performed its obligations under the Lease Schedule as of such payment date for the Delayed Equipment, then Lessee and Lessor agree that the Lease Schedule shall terminate as of the date of such payments by Supplier as to the Delayed Equipment only. Lessee's obligations shall continue unabated for the Equipment that was delivered pursuant to subparagraph 4(b) of this Agreement.

7. Supplier agrees that a Performance Bond will be issued which names the Supplier as Principal, the Lessee as Oblige and the Lessor as Additional Oblige. This Performance Bond will apply solely to the terms and conditions of the purchase order/purchase agreement, including related equipment specifications and warranties, as issued by the Lessee and accepted by the Supplier. The "Contract Date" referred to in the Performance Bond shall be the date of the Three Party Agreement. Except as expressly set forth herein, the Lease Schedule and the terms and conditions of the purchase order/purchase agreement for the equipment remain unchanged and in full force and effect.

8. Except as expressly set forth herein, the Lease Schedule and terms and conditions of the purchase order/purchase agreement for the Equipment remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the duly authorized officers of the parties set forth below hereby execute and deliver this Agreement as of the date first written above.

«LesseeName»
("Lessee")

By: _____

Title: _____

Oshkosh Capital
("Lessor")

By: _____

Title: _____

«Manufacturer»
("Supplier")

By: _____

Title: _____



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

October 27, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: RESOLUTION TO APPROPRIATE FUNDS FOR FIRE PUMPER

DISCUSSION/ANALYSIS

The budget for FY 2014-15 anticipated the lease purchase of a fire pumper. \$75,000 was allocated as a transfer to the Capital Improvement Fund in the 17th Street Dock Fund in support of this expenditure. The transfer was not allocated as a resource for the Capital Improvement Fund because the terms of the transaction were not in place.

A lease purchase agreement is now being proposed in a separate memo. The terms of the lease are for a down payment of \$75,000 that will leave six (6) annual payments of \$76,360.30 from FY 2015-16 to 2020-21. It is anticipated that these payments will be made by subsequent transfers from the 17th Street Dock Fund.

RECOMMENDATION

It is recommended that Council consider adopting this resolution to allocate \$75,000 as a down payment on a fire pumper.

By: 
John Snyder, Financial Analyst

Resolution No. 14 -

A RESOLUTION TO AUTHORIZE A TRANSFER OF APPROPRIATIONS BETWEEN FUNDS.

WHEREAS, in accordance with ORS 294.450(3), the City Council may authorize a transfer of appropriations between funds.

WHEREAS, \$75,000 was allocated in the budget for FY 2014-15 in the 17th Street Dock Fund as a transfer to the Capital Improvement Fund in support of the lease purchase of a fire pumper.

WHEREAS, an equivalent amount was not budgeted in the Capital Improvement Fund as an expenditure.

WHEREAS, the terms of a lease purchase of a fire pumper are now established.

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

Section 1. That \$75,000 is appropriated in the Capital Improvement Fund for the lease purchase of a fire pumper.

ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____, 2014.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2014.

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION YEA NAY ABSENT

Commissioner LaMear

Herzig

Mellin

Warr

Mayor Van Dusen



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

Date: October 29, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: **GEOLOGICAL HAZARDS MAPPING UPDATE GRANT**

DISCUSSION/ANALYSIS

The City's existing Past Landslides Map needs to be updated to clearly show all recent slides and changes to the boundaries of existing known landslides. This information is very useful in making land use decisions since our City Development Code requires that all development within 100 feet of a known slide area have a geologic report prepared. It is proposed that the map be updated to a new map titled "City of Astoria Geologic Hazards Map".

The project will consist of updating the City of Astoria Geological Hazards Map to be used as reference data for our proposed Geological Hazards Ordinance. The mapping will include known landslides, known fill areas along the waterfront (areas susceptible to subsidence) and other known fill areas.

In July of 2014, staff was offered an opportunity to apply for a \$5,000 Oregon Division of Land Conservation and Development (DLCD) Oregon Coastal Management program Technical Assistance Grant. The Public Works Department had budgeted \$5,000 for phase 1 of the project and the additional \$5,000 provided by the grant will allow us to combine resources and complete the project.

The Oregon Department of Geology and Mineral Industries (DOGAMI) has published geologic mapping for the City of Astoria that were released to the public in October of 2013. The maps address landslide susceptibility. According to DOGAMI, their mapping is valuable for regional screening and is not site specific. The new City mapping in combination with the State mapping will provide the valuable information needed by planners and consultants in making decisions regarding geologic hazards in Astoria.

The scope of work consists of field evaluation by a consulting geologist to determine the extents of all previously mapped slides (approximately 44 existing slides and 2 recent slides). The field data will then be digitized by City staff into the City Geographical Information System

(GIS). City staff will also assist in locating landslide boundaries using our Geographical Positioning System (GPS).

The final product will be a GIS data layer with all known landslides and known fill areas and the ability to produce custom mapping for planning and engineering purposes. The City will hire a local Engineering Geologist, Tom Horning of Horning Geosciences, to perform all of the field evaluations of actual landslide boundaries. Mr. Horning's extensive experience in the Astoria area along with his years of data and reports prepared for both private and public entities will provide a high level of institutional knowledge that the City will benefit from.


Following are some of the grant conditions worth noting:

- 1) Project will be complete by June 30, 2015
- 2) City will provide a final product that includes verification that the City GIS layer for City known slides has been updated
- 3) City provides an in-kind match of \$5,000 to match the grant amount of \$5,000
- 4) The updated geological hazard map will be considered for adoption by the City Council when complete (June 2015)
- 5) The City shall share the data with other state agencies

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

RECOMMENDATION

It is recommended that City Council accept the Oregon Department of Land Conservation and Development grant for \$5,000 and authorize the Mayor to sign the grant agreement. Staff will be requesting that the City Manager approve a contract with Horning Geosciences that will be under the amount of his \$10,000 spending authority.

Submitted By 
Ken P. Cook, Public Works Director

Prepared By 
Jeff Harrington, City Engineer

Oregon Department of Land Conservation and Development
FY14-15 Grant Agreement

Date October 16, 2014

Type of Grant Coastal TA

Grantee Name
City of Astoria

Grant No. TA-306-14-002

Street Address
1095 Duane St
Astoria, OR 97138

DLCD Share of Cost
\$5,000.00

Award Period
Date of last signature through June 30, 2015

Recipient Share of Cost (if applicable)
\$5,000.00

Authority State General Fund Federal Fund
CFDA 11.419 X
Coastal Zone Management Administrative Awards
Department of Commerce
National Oceanic and Atmospheric Administration (NOAA)
Federal Grant No. NA14NOS4190078 Award Amount: \$1,992,000

Total Cost
\$10,000.00

Project Title
Update City of Astoria Geological Hazards Mapping

Grantee Representative
Jeff Harrington, City Engineer
503-338-6538
jrolfe@co.coos.or.us

DLCD Grant Manager
Patrick Wingard
503-812-5448
patrick.wingard@state.or.us

This Grant, approved by the Program Manager of the Coastal Program of Department of Land Conservation and Development, acting on behalf of the Land Conservation and Development Commission, is issued in duplicate and constitutes an obligation of funds in return for the work described herein. By signing the two documents, the Grantee agrees to comply with the grant provisions attached.

Upon acceptance by the Grantee, the Grantee shall sign both copies of this agreement and return both signed copies to DLCD within **30 days** of the date of this agreement. If not signed and returned, without modification, by the Grantee within **30 days** of receipt by the Grantee, the Grant Manager may unilaterally terminate this grant. Upon receipt of the signed agreement the DLCD Grant Program Manager shall sign and return one copy to the Grantee.

The effective date of this grant is the latest date on which all parties have signed this grant. Funds provided in this grant can only be used for expenditures incurred after that date and before the date specified above as the closing date. This grant may be amended according to the policies and procedures of DLCD, and with the agreement of all parties to the agreement.

For the Grantee:
Typed Name and Signature of Authorized Official

Title Date

Willis L. Van Dusen

Mayor

Brett Estes

City Manager

Signature of DLCD Program Manager

Date

ATTACHMENT A
SPECIAL AWARD CONDITIONS

1. This award number TA-306-14-002 supports the work described in the City of Astoria's proposal entitled "Update City of Astoria Geological Hazards Mapping", dated July 28, 2014, which is incorporated into this award by Attachment E. Where the terms of the award and proposal differ, the terms of this award shall prevail.

This award requires the City of Astoria to provide a minimum of \$5,000.00 in project-related matching costs from non-federal sources. The non-Federal share, whether in cash or in-kind, is expected to be paid out at the same general rate as the state share. Exceptions to this requirement may be approved by the Grant Manager based on demonstration that the schedule of tasks for the project and the rate of local match for these tasks justify a delayed payout of cash or in-kind contributions. In any case, the **Grantee** must fulfill the non-Federal cost share commitment over the life of the award.

2. The **Grantee** must maintain an accounting for \$10,000.00 in its official records.
3. **Grantee agrees** to perform the following activities.
 - Implementation-ready GIS data layers that identifies all known landslide and fill areas in the City of Astoria for use in the city's proposed Geological Hazard Ordinance.
Due June 30, 2015
4. The cover or the title page of all reports, studies, or other documents supported in whole or in part by this award shall acknowledge the financial assistance provided by the Coastal Zone Management Act of 1972, as amended, administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, and the Ocean and Coastal Management Program, Department of Land Conservation and Development.
5. Reporting and Payment Schedule:

Product listed above **due June 30, 2015**. Payment to be made upon review and acceptance by Grant Manager and Coastal GIS Specialist, and with receipt of a completed and signed DLCD Reimbursement Request for work performed, subject to Grant Manager approval.
6. **Grantee agrees** to provide at least 1:1 match from non-federal sources and to maintain in its official accounting records an accounting for \$10,000.00.
7. **Grantee agrees** that the final products (with the exception of the "model ordinance"), including, but not limited to, ordinances, maps, data bases, supporting documents, and photographs shall be adopted and/or approved by the governing body.
8. **Grantee agrees** that any notice issued by the grantee, which is eligible for reimbursement under ORS 215.503 (County)/227.186 (City) ["Measure 56"], will not be submitted for reimbursement under this grant.
9. Draft products may be accepted instead of adopted products when requested in writing by the grantee and authorized in writing by the DLCD grant manager if substantial progress has been made toward adoption and that adoption will be scheduled to occur in a reasonable time frame following grant closeout.
10. For awards that result in collection or production of geospatial data, (e.g., information for GIS data layers, acquisition of topographic or bathymetric data or other remotely sensed data), the **Grantee**

will provide relevant information (e.g., expected dates of data collection, type of collection, flight lines, etc.) to Grant Manager as early as practicable before data collection commences as required by NOAA OCRM.

11. **Grantee agrees** to comply with GIS standards and contents requirements per Attachment C. GIS products will comply with State of Oregon Standards as defined in Attachment C.
12. **Grantee agrees** that DLCD may display appropriate products on its web interface and/or incorporate GIS data generated as part of this grant and any additional data provided that is not specifically restricted into state agency databases, acknowledging that the grantee and agents of the grantee are not responsible for the accuracy of said data. DLCD may also share the data specifically generated with grant funds with other agencies and organizations, as this is data that DLCD owns.
13. **Grantee agrees** the city will share all GIS products, produced during and subsequent to the grant period, with DLCD. The charge to DLCD for such data shall be limited to the city's actual cost of reproduction (printing or electronic copy).

14. Activities of the Oregon Coastal Management Program lead to extensive leveraging of resources in the coastal zone. Past requirements were to report only federal funds used, and matching dollars required. Matching dollars reported should be limited to the amount identified in the grant. Grantee is now required to include in all reports submitted under this grant the amount of funding leveraged as well as funding received and matched. See definitions which follow:

DEFINITIONS

RECEIVED dollars are funds received for work under this grant agreement.

MATCHED dollars are funds used to match received dollars.

LEVERAGED dollars are funds in addition to received and matched dollars that are spent on an OCMP funded project. For example, a project where a grantee partners with a private consultant to develop a greenway plan for a coastal community. The city planning department provides the required OCMP match. During the project, the city's recreation department contributes staff time to conduct visioning and public outreach for the greenway project. The cost to the recreation department to conduct the visioning and outreach activities can be considered leveraged project dollars.

In-kind funds and services that qualify under Office of Management and Budget Circular A-87

ATTACHMENT B
STANDARD AWARD CONDITIONS

1. **DLCD Funds:** DLCD certifies that at the time this grant is written sufficient funds are available and authorized.
2. **Reporting:** At any time during the grant period, when requested by the DLCD Grant Manager, **Grantee** shall provide a written report on the status and progress of work performed under this grant.
3. **Payments:** DLCD payments to **Grantee** shall be made in accordance with the grant payment schedule described in paragraph 6 above. Payment is contingent upon DLCD's acceptance of the products produced under the grant. **Grantee agrees** that reimbursement of all payments is contingent upon compliance with all the terms and conditions of this grant agreement.
4. **Penalty:** Payments to **grantee** may be withheld, reduced, or reverted if DLCD determines that work performed under the grant is unsatisfactory, based on the best professional judgment of the DLCD Grant Manager, or if one or more terms or conditions of this agreement have not been met.
5. **Termination:**
 - a. DLCD's Right to Terminate at its Discretion. At its sole discretion, DLCD may terminate this Grant Agreement:
 - i. For its convenience upon thirty (30) days' prior written notice by DLCD to **Grantee**;
 - ii. Immediately upon written notice if DLCD fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products; or
 - iii. Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the DLCD's purchase of the Work or Work Products under this Grant Agreement is prohibited from paying for such Work or Work Products from the planned funding source.
 - b. DLCD's Right to Terminate for Cause. In addition to any other rights and remedies DLCD may have under this Grant Agreement, DLCD may terminate this Grant Agreement immediately upon written notice by DLCD to **Grantee**, or at such later date as DLCD may establish in such notice, or upon expiration of the time period and with such notice as provided below, upon the occurrence of any of the following events:
 - i. **Grantee** is in default because **Grantee** institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;
 - ii. **Grantee** is in default because **Grantee** commits any material breach or default of any covenant, warranty, obligation, or agreement under this Grant Award, fails to perform the Work under this Grant Award within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger **Grantee's** performance under this Grant Award in accordance with its terms, and such breach, default or failure is not cured within 14 calendar days after DLCD's notice, or such longer period as DLCD may specify in such notice.
 - c. Grantee's Right to Terminate for Cause. **Grantee** may terminate this Grant Award with written notice to DLCD upon the occurrence of the following events:
 - i. DLCD is in default because DLCD fails to pay **Grantee** any amount pursuant to the terms of this Grant Agreement, and DLCD fails to cure such failure within thirty (30) calendar days after **Grantee's** notice or such longer period as **Grantee** may specify in such notice; or
 - ii. DLCD is in default because DLCD commits any material breach or default of any covenant, warranty, or obligation under this Grant Agreement, fails to perform its

commitments hereunder within the time specified or any extension thereof, and DLCD fails to cure such failure within thirty (30) calendar days after **Grantee's** notice or such longer period as **Grantee** may specify in such notice.

- d. **Return of Property.** Upon termination of this Grant Award for any reason whatsoever, **Grantee** shall immediately deliver to DLCD all of DLCD's property (including without limitation any Work or Work Products for which DLCD has made payment in whole or in part) that is in the possession or under the control of **Grantee** in whatever stage of development and form of recordation such **Grantee** property is expressed or embodied at that time. Upon receiving a notice of termination of this Grant Agreement, **Grantee** shall immediately cease all activities under this Grant Award, unless DLCD expressly directs otherwise in such notice of termination. Upon DLCD's request, **Grantee** shall surrender to anyone DLCD designates, all documents, research or objects or other tangible things needed to complete the Work and the Work Products.
6. **Failure to Comply:** If **Grantee** fails to comply with any of the requirements or conditions of this agreement, DLCD may, without incurring liability, refuse to perform further pursuant to this agreement. DLCD shall make no further reimbursement to **Grantee** and **Grantee** shall upon demand by DLCD promptly repay DLCD.
7. **Accounting and Fiscal Records:** Using standard accepted accounting and fiscal records, the **Grantee** shall maintain records of the receipt and expenditure of all funds subject to this grant agreement for a period of three years after the closing date. Grant accounting records will be separately maintained from other accounting records.
8. **Closeout report:** The **Grantee** shall submit a closeout report to DLCD within 30 days after termination of the grant period.
9. **Subsequent funding:** Eligibility for subsequent funding is contingent upon receipt of such reporting by DLCD.
10. **Closeout Penalty:** DLCD reserves the right to reduce or withhold final payment if a closeout report is not submitted to DLCD after the 30 days, as referenced in Standard Condition Number 8. DLCD shall authorize payment to the **Grantee** within 90 days of the time all required work is accepted by the DLCD Grant Manager after review for compliance with the grant conditions.
11. **Audit:** The Attorney General of the State of Oregon and the Director of DLCD or any other duly authorized representative of the department, shall have access to and the right to examine any records of transactions related to this agreement for three years after the final payment under this agreement is authorized by the department.
12. **Indemnity:** City/County and DLCD each shall be responsible, to the extent permitted by the Oregon Tort Claims Act (ORS 30.260-30.300), only for the acts, omissions or negligence of its own officers, employees or agents.
13. **Appropriate use of funds:** Grant funds cannot be used for any purpose other than that stated in the work plan before the beginning date, or after the end date of the grant.
14. **Amendments:** Amendments must be facilitated by the DLCD Grant Manager. An amendment may be initiated at any time during the grant period, but not past 30 days prior to the end date on a grant period of one year or less.
15. **Travel:** DLCD will reimburse **Grantee**, within the not-to-exceed amount identified in the budget as appended to this award, for travel only when the travel is essential to the normal discharge of DLCD's responsibilities. **Grantee** shall conduct all travel in the most efficient and cost-effective manner resulting in the best value to the DLCD. The travel must comply with all the requirements set forth in this section

and must be for official DLCD business only. **Grantee** shall provide DLCD with receipts for all travel expenses except meals. All **Grantee** representatives will be limited to economy or compact-sized rental vehicles; unless **Grantee** personally pays the difference. DLCD will reimburse travel and other expenses of the **Grantee** at rates set forth in the Oregon Accounting Manual as of the date **Grantee** incurred the travel or other expenses. The Oregon Accounting Manual is available at http://www.oregon.gov/DAS/SCD/SARS/oam_toc.shtml .

ATTACHMENT C

DLCD Content Standard and Requirements For the GIS Grant Products For the City of Astoria TA-306-14-002

The State of Oregon and the Coastal Program of the Department of Land Conservation and Development are using the Federal Geographic Data Committee (FGDC) standards of Geographic Information Systems (GIS) metadata. This attachment incorporates by reference, the standards specified FGDC Content Standard for Digital Geospatial Metadata into the attached grant agreement.

The standards can be found on the state website <http://gis.oregon.gov>

Additionally, DLCD requires the following:

- All grant products are publicly useable.
- The grant product is submitted in electronic form compatible with Environmental Systems Research Institute's (ESRI) ArcGIS (coverage, shapefile, or geodatabase).
- Data should be free of topological errors.
- The projection of the data may be determined by the grantee. All data shall have the projection defined within the dataset and must be documented in the metadata.
- Include the FGDC compliant metadata in an electronic file.
- For collection or production of geospatial data, (e.g., information for GIS data layers, acquisition of topographic or bathymetric data or other remotely sensed data), the **Grantee** will provide relevant information (e.g., expected dates of data collection, type of collection, flight lines, etc.) to Grant Manager as early as practicable before data collection commences

If you have any questions, please contact your Grant Manager.

ATTACHMENT D

DLCD Contact Information

For the City of Astoria TA-306-14-002

For questions regarding the scope of work of your grant, please contact:

Grant Manager:

Patrick Wingard
Tillamook Regional Solutions Center
Tillamook, OR 97141

patrick.wingard@state.or.us

Phone: 503-812-5448

Program Manager:

Patty Snow
DLCD
635 Capitol St NE, Suite 150
Salem, OR 97301-2540

patty.snow@state.or.us

Phone: 503-934-0052

Fax: 503-378-6033

For questions regarding the processing of paperwork and payments, please contact:

Grant Coordinator

Diana Evans
DLCD
635 Capitol St NE, Suite 150
Salem, OR 97301-2540

diana.evans@state.or.us

Phone: 503-934-0038

Fax: 503-378-6033

ATTACHMENT E

**2014-2015
APPLICATION
OREGON COASTAL MANAGEMENT PROGRAM
TECHNICAL ASSISTANCE/PRIORITY PROJECT GRANT**



Please type or print clearly

Date: July 28, 2014

Applicant: City of Astoria
Address: 1095 Duane Street **City:** Astoria **Zip:** 97138
Phone: (503) 338-5173 **Fax:** (503) 338-6538
Contact Person, Title: Jeff Harrington, City Engineer
E-mail address(es): jharrington@astoria.or.us
Amount Requested from DLCD: \$5,000 **Grantee Share** \$5,031 (in-kind services)

Project Title:

The project consists of updating the City of Astoria Geological Hazards Mapping to be used as reference data for our proposed Geological Hazards Ordinance. The mapping will include known landslides, known fill areas along the waterfront (susceptible to subsidence) and other known fill areas. The data will also be incorporated into our existing GIS system.

Keywords

(Check those that apply to the project)

- | | | |
|------------------------------------------------------------|-------------------------------------------------------|-------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Information technology | <input type="checkbox"/> Coastal hazards | <input type="checkbox"/> Stormwater management |
| <input checked="" type="checkbox"/> Economic development | <input type="checkbox"/> Wetland & riparian resources | <input type="checkbox"/> Resource and land inventories |
| <input type="checkbox"/> Estuarine resources | <input type="checkbox"/> Marine resources | <input checked="" type="checkbox"/> Special Area Planning |
| <input checked="" type="checkbox"/> Transportation | <input type="checkbox"/> Public involvement | <input checked="" type="checkbox"/> Capital improvements planning |

SUBMITTAL

Please submit all application information by US Mail, FAX, or e-mail to:
Diana Evans, OCMP Grants Coordinator diana.evans@state.or.us FAX 503-378-6033
Department of Land Conservation and Development
635 Capitol St. NE Suite 150 Salem OR 97301

Project Narrative

Please provide the information requested under each item. Although extensive, detailed information is not necessary, you need to provide enough information to help OCMP understand the project and make grant funding decisions.

1. Goals and Objectives:

State the goal(s) or overall purpose of the project. What is the problem, need, or opportunity that the project will address? Describe planning, technical, or information objectives that will help achieve the goal(s).

The City's existing Past Landslides Map is outdated and does not clearly show all recent slides and changes to the boundaries of existing known landslides. This information is very useful in making land use decisions since our City Development Code requires that all development within 100 feet of a known slide area have a geologic report prepared. The current mapping does not include fill areas which are susceptible to subsidence during an earthquake. It is proposed to combine both data sets into a new map titled "City of Astoria Geologic Hazards Map".

The proposed project is supported and identified in the existing City plans.

The Pre-disaster Hazard Mitigation Plan identifies an Action Item that states that the City will "Complete LiDAR study to further delineate landslide hazards in Astoria. The LiDAR study was completed in 2011. Implementation of the data results into a geologic hazard ordinance has been in progress." The proposed project would further the completion of this action item.

Comprehensive Plan Section CP.400.1, Geologic and Flood Hazard Policies, states that "The City will take reasonable precautions to protect life and property from natural hazards or disasters, through the use of the City Flood Hazards Ordinance (Ord. 09-03), the Uniform Building Code, and the policies for the management of geologic hazard areas." Comprehensive Plan Section CP.400.2, Geologic and Flood Hazard Policies, states that "Where it appears a landslide, or other earth movement hazard may be present, the approval of the City Engineer will be obtained before a building or development permit is issued. The City Engineer and/or Planning Commission may require a site investigation and report by a City approved licensed engineering geologist or soils engineer in such cases." The proposed project would identify and map the areas of known earth movement to be used by staff in reviewing development permits and managing the hazard areas.

Statewide Planning Goal 7, Areas Subject to Natural Disasters and Hazards, aims "To protect life and property from natural disasters and hazards". Section B, Implementation, states that "When locating developments in areas of known natural hazards, the density or intensity of the development should be limited by the degree of the natural hazard." The proposed project would identify and map the areas of known landslide hazards to allow staff to assess the degree of potential hazard with future development.

The Oregon Department of Geology and Mineral Industries (DOGAMI) has published geologic mapping for the City of Astoria that was released to the public in October of 2013. The maps address landslide susceptibility. According to DOGAMI, their mapping is valuable for regional screening and is not site specific. The new City mapping in combination with the state mapping will provide the valuable information needed by planners and consultants in making decisions regarding geologic hazards in Astoria.

2. Scope of Work, Products, and Budget (attach additional pages if necessary):

a. Describe the scope of work to be performed. If the project is in phases, please note.

The scope of work consists of field evaluation by a consulting Geologist to determine the extents of all previously mapped slides (approximately 44 existing slides and 2 recent slides). The field data will then be digitized by City staff into the City Geographical Information System (GIS) system. City staff will also assist in locating landslide boundaries using our Geographical Positioning System (GPS) system.

The final product will be a GIS data layer with all known landslides and known fill areas and the ability to produce custom mapping for planning and engineering purposes.

b. Schedule (e.g. when will work begin, project milestones, project end):

Project milestones are as follows:

August 1, 2014 – December 31, 2014: Project research & field mapping

January 1, 2015 – February 27, 2015: GIS entry of field data

March 1, 2015 – April 30, 2015: Final review and edits

c. Total Budget

Please use the Budget Summary form on the next page, and any additional information as indicated in the footnotes.

Consultant Field work – 50 hours @ \$100/hour = \$5,000 (Total Grant)

City of Astoria match

GIS Technician (Shelly Kirby) – 80 hours @ \$39.85/hour = \$3,188

Engr. Tech. (GPS (Steve Ruggles) – 30 hours @ \$35.56/hour = \$1,067

Prof. Engr. (Project Manager) (Jeff Harrington) – 15 hours @ \$51.70 = \$776

Total - \$5,031 (Total Match)

3. Project Partners

List any partners such as other local governments, special districts, state agencies, or other entities Briefly describe the role of each (e.g., will perform work under the grant; will advise; will contribute information or services, etc).

The product completed as a result of this project will be provided to DOGAMI to update the data set that they used to complete their mapping. We have discussed this project with Ian Madin, Chief Scientist at DOGAMI and they are very support of this effort.

The data will be used by multiple City departments and we anticipate that it will play an important role in emergency planning efforts.

4. Match, Cost-Sharing, and Local Contribution (see page 4)

1:1 cost-sharing (match) is required on federally-funded coastal grants. Describe the type and list the amount of local contributions for the grant (see page four of this application). List other funding sources, if any, and amounts that support this project.

5. Will work be performed by a consultant/contractor for all or part of this project?

X Yes No

If yes, please describe the work to be performed by the consultant, list the anticipated amount of the contract, and provide name of prospective firm/consultant(s), if known, including address and telephone number.

The City will hire a local Engineering Geologist, Tom Horning of Horning Geosciences, to perform all of the field evaluations of actual landslide boundaries. Mr. Horning's extensive experience in the Astoria area along with his years of data and reports prepared for both private and public entities will provide a level of institutional knowledge that the City will benefit from. Along with staff GPS capabilities to locate boundaries where Mr. Horning cannot simply measure off a known benchmark (such as a property corner or street edge) and our in house ability to draft the data into a GIS layer, we have a very efficient team that will provide a quality product with a very limited budget. Horning Geosciences is located at 808 26th Street, Seaside, 97138. Phone number (503) 738-3738.

Grant Budget Summary

NOTE: Please use the format in this table when developing a more detailed budget.

	Grant Request (from DLCDD)	Grantee Match (Required)	Total Budget
Personal Services¹	_____	\$5,031	\$5,031 *
Supplies (if any)	_____	_____	\$0
Contract Services²	\$5,000	_____	\$5,000
Other³	_____	_____	\$0
TOTAL⁴	_____	_____	\$10,031

* See 2(c) for staffing details and billing rates

Budget notes:

- 1 List all personnel who will work on the project. Compute costs on the basis of the number of expected person-hours, hourly rate, and related payroll expenses for each.
- 2 Total Contract Services. Provide additional information on expected contract services under item 5 on page 2, above.
- 3 List Other expenses (e.g. printing or publishing, travel):
NOTE: all travel supported by this grant must conform to state travel rates (e.g. mileage, meals, etc).
- 4 The Total grantee match above will equal the Total Grant Request from DLCDD (1:1 match). See attached for description of local contribution.

Grantee Share Cost (Match) Information

Local or state “match” of Federal grants (CZM funds) may consist of:

- a. **Cash** contributed by the grantee from non-federal revenues or donated to the grantee by non-federal third parties.
- b. **In-kind** contributions (see below) made by grantee and non-federal third parties.

Cash “match” must be:

- a. Identifiable from the grantee's records;
- b. Not included as contributions for any other grant or contract;
- c. Necessary and reasonable for proper and efficient accomplishment of project objectives; and
- d. Not borne by the federal government directly or indirectly under any federal grant or contract.

For instance, funds awarded to a local government from the US Army Corps of Engineers or US Fish and Wildlife Service cannot be used as “match” against this grant.

In-kind contributions are non-monetary goods and services, as listed below, specifically identifiable to the project. In-kind contributions may be made by the grantee, other public agencies, private organizations, appointed members of advisory committees, or individuals who work on the project, and include such items as:

- a. Volunteer services will be valued at different rates depending on the volunteer function. For specialty or professional services, use wage rates consistent with compensation paid for similar work in state and local government or at rates that reflect the grantee's local labor market. For volunteers who attend or participate in committees, workshops, please use the values established by http://www.independentsector.org/programs/research/volunteer_time.html.
- b. Materials include office supplies, lumber, paper, or other supplies directly related to the project. Contributed material value should be reasonable and based on fair market value.
- c. Equipment, building, land, or office space, including depreciation and use-charges for equipment and buildings and fair rental charges for land.
- d. Employees of other organizations at regular rates for which employees are normally paid, including fringe benefits (OPE) but excluding overhead.

Establishing the value of “in-kind” should use normal accounting procedures to establish value as follows:

- a. Services - Maintain a record of volunteer services: who, when, where, and why.
- b. Documentation - Document your method of computing at the hourly rate for personal services and the cost of materials, equipment, buildings and land charges.


Rate of local match paid out: Your non-federal share (match), whether cash or in-kind, is expected to be paid out at the same general rate as the state share (as per federal requirements on OCMP). In other words, at the half-way point in the project about half of the in-kind match shall have been expended. Exceptions to this requirement may be approved by the Grants Officer based on demonstration that the schedule of tasks for the project and the rate of local match for these tasks justifies a delayed payout of cash or accounting of in-kind contributions. In any case, the recipient must fulfill the non-federal cost share commitment over the life of the award.



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

Date: October 15, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM:  BRETT ESTES, CITY MANAGER
SUBJECT: **IRVING AVENUE TREE REMOVAL**

DISCUSSION/ANALYSIS

At the July 21st Council meeting, Mayor Van Dusen requested that staff have an arborist inspect the Irving Avenue roadway east of the Irving Avenue Bridge Project (between 19th and 33rd Streets) for dangerous trees that could potentially fall onto the roadway during winter wind, wet snow, and/or ice storm events. The purpose of the task was to minimize the risk of total road closure from falling trees, especially during construction of the Irving Avenue Bridge when access to the area will be blocked at 19th Street.


Staff hired a licensed arborist, Balden & Associates Arboriculture Services, who completed a tree hazard assessment on August 5th. It was determined that approximately 50 trees (red dot marked on the tree) were recommended for removal. A subsequent on the ground review by the Mayor, local citizens, and staff of the recommended removal reduced the number to approximately 35 trees. These trees are located primarily along the Irving Avenue right-of-way, with some located on City property. Approximately 30 of the trees are alder with a diameter of 8 inches or greater and have significant growth over the right of way. The report, also attached, states that some of the trees are heavily laden with ivy and structurally defective, and are currently or will soon be a hazard to vehicular and pedestrian traffic.

The arborist's recommendation also includes removing ivy at ground level from trees with good vertical growth that are located behind the trees marked for removal. This will provide for a healthier stand of remaining trees.

If Council is in agreement with the arborist's and staff's modified recommendation, staff will obtain three quotes from local tree removal companies (prior to requesting quotes from the tree removal companies, staff will research options for the disposal of the trees by determining the value of the wood for possible sale or by issuing firewood permits). If the lowest quote exceeds the City Manager's purchasing authority of \$10,000, staff will return to Council for authorization to award a contract.

RECOMMENDATION

It is recommended that the City Council authorize staff to request quotes for removal of potentially hazardous trees on Irving Avenue between 19th and 33rd Street.

Submitted By 
Ken P. Cook, Public Works Director

Prepared By JEFF HARRINGTON 
Jeff Harrington, City Engineer

Examples of Trees to be Removed



**Balden & Associates
Arboriculture Services**

Joe Balden
Consulting Arborist PN0736

41500 Anderson Road
Nehalem, OR 97131
503.368.7807 office
503.801.3762 cell
503.368.3807 fax

August 8, 2014

Steve Ruggles, Engineering Tech
City of Astoria
1095 Duane Street
Astoria, OR 97103

Re: Tree hazard assessment on Irving Street east of 19th Street Bridge to 33rd Street.

Dear Mr. Ruggles,

Per your request I evaluated trees on both sides of Irving Street For potential hazard due to the increased traffic on the only roadway exit to Marine Drive while construction of a new 19th Street bridge takes place over the next 18 months.

Date of evaluation: 8/5/14

Methodology: Determine the potential for failure of trees along the Irving Street right-of-way. Potential factors that may occur are snow and ice loading, wind throw, and decay.

Observed: Red Alder (*Alnus rubra*) is the species of tree that has multiple problem areas. The most serious of which is the high density of ivy (*Hedera helix*) growing throughout the crown of the trees. All trees over 6" DBH recommended for removal have considerable ivy growth up the main stem of the tree 30' or more. Growth angle towards the street is another problem that doesn't ever improve. Alder seeks sunlight, and with the high density of trees on both sides of the street the only path to sunlight is towards the middle of the street. Normally, the over-reaching canopy is not a problem but when the ivy growth and resulting additional weight is imposed on the structural integrity the potential for failure is high. Lastly, there are several mature alder that also have decay present in the lower main stem and in the crown where limbs have previously broken out.

The common question is why not just cut the stems of the ivy as a solution? The answer is 2-fold. First, even if the ivy growth dies, the bulk of the vegetation remains in the tree for a long time. There is no immediate relief from the problem. Secondly, when the ivy density is high, quite often there is enough detritus among the vine area that it becomes self-sustaining and continues to grow.

Recommendation: Remove all Alder that have a growth angle over 15 degrees towards the street and that have extensive ivy growth. There is a substantial population of trees behind those trees recommended for removal that have a good vertical growth habit and have minimal ivy growth that can easily be removed at ground level. There are a number of trees marked for removal that are less than 6"DBH. This is to reduce the density and provide for a healthier stand of trees in the future.

Summary: These recommendations may seem harsh and excessive, but the fact is that Alder trees that are loaded with ivy and in combination with structural defects are now or will be a hazard to vehicular and pedestrian traffic in the near future.

Respectfully submitted,


Joe Balden
Consulting Arborist



CITY OF ASTORIA
Founded 1811 • Incorporated 1856

Date: October 29, 2014

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: **NIAGARA LANDSLIDE (BETWEEN 14TH & 16TH) STUDY**

DISCUSSION/ANALYSIS

The City Public Works Department has been maintaining the roadway surface at the Niagara slide area located between 14th and 16th Streets as needed for approximately 75 years. Records show that the slide was first identified in December of 1939. The slide can be described as a slow creeper and requires routine asphalt repair work approximately every 3 years depending on how much settlement has occurred and how unacceptable the surface of the roadway becomes. The City spends \$3,500-\$5,000 to level the roadway after 3 years of settlement. Each subsequent paving continues to add more weight to the slide mass. Staff believes that seeking a permanent repair would be beneficial when public safety, public inconvenience, and the ability to have the road open after a seismic event is considered.

In order to prepare a plan for a permanent repair, staff is proposing to initiate a slide study that will characterize the slide and help identify possible repair methods. The first phase of the study will include hiring a Geotechnical Engineer to study the history of the slide, perform a field reconnaissance, complete one exploratory boring to a depth of 60 feet and install a slope inclinometer to measure movement of the landslide. A technical memorandum will then be prepared summarizing the results of the field investigation.

The study will cost \$20,000 to complete and includes \$8,500 for a drilling subcontractor to complete the exploratory boring. The work is expected to take approximately 3 months to complete. A personal services contract defining the scope of work is attached.

Landslide Technologies was chosen to perform the study due to their knowledge of the City and our landslide characteristics. They are specialists in landslide mitigation work and have been assisting the City with other landslide work over the years. They have proven on past projects to be efficient, and to utilize City staff within the project whenever possible to reduce costs.

Staff will use the results of the study to make a determination how to proceed with further studies and ultimately selecting a final repair design option. This selection process is authorized by City and State procurement processes.

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

RECOMMENDATION

It is recommended that City Council execute a contract with Landslide Technology for a total not to exceed amount of \$20,000 for geotechnical engineering services on Phase 1 of the Niagara Landslide Study.

Submitted By 
Ken Cook, Public Works Director

Prepared By 
Jeff Harrington, City Engineer

**CITY OF ASTORIA
CONTRACT FOR PERSONAL SERVICES**

CONTRACT:

This Contract, made and entered into this ____ day of _____, 2014 by and between the City of Astoria, a municipal corporation of the State of Oregon, hereinafter called "CITY", and Landslide Technology, 10250 S.W. Greenburg Road, Suite111, Portland, OR 97223, hereinafter called "CONSULTANT", duly authorized to perform such services in Oregon.

WITNESSETH

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

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

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

1. CONSULTANT SERVICES

- A. CONSULTANT shall perform professional services, as outlined in the Attachment A, to the City of Astoria regarding the Niagara Avenue Landslide Investigations – Phase 1.
- B. Consultant's services are defined solely by this Contract and its attachment and not by any other contract or agreement that may be associated with this project.
- C. The CONSULTANT'S services shall be performed as expeditiously as is consistent with professional skill and the orderly progress of work.

2. COMPENSATION

- A. The CITY agrees to pay CONSULTANT a total not to exceed \$20,000 for performance of those services provided herein;
- B. The CONSULTANT will submit monthly billings for payment which will be based upon the percentage of work completed in each of the categories listed in the scope of work. Said progress billings shall be payable within 30 days of receipt by City.
- C. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract.

3. CONSULTANT IDENTIFICATION

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

4. CITY'S REPRESENTATIVE

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

5. CONSULTANT'S REPRESENTATIVE

For purposes hereof, the CONSULTANT'S authorized representative will be D. Andrew Vessely, P.E., CEG, President Landslide Technology, 10250 S.W. Greenburg Road, Suite111, Portland, OR 97223, (503)452-1200.

6. CITY'S OBLIGATIONS

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

7. CONSULTANT IS INDEPENDENT CONSULTANT

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

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

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

8. CANCELLATION FOR CAUSE

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

trial and upon appeal. CONSULTANT may likewise cancel all or any part of this contract if CITY breaches any of the terms herein and be therefore entitled to equivalent damages as expressed above for CITY.

9. ACCESS TO RECORDS

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

10. FORCE MAJEURE

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

11. NONWAIVER

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

12. ATTORNEY'S FEES

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

13. APPLICABLE LAW

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

14. CONFLICT BETWEEN TERMS

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

15. INDEMNIFICATION

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

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

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

16. INSURANCE

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

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

B. Automobile Liability. CONSULTANT shall obtain, at CONSULTANT'S expense and keep in effect during the term of the resulting contract, Commercial Business Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits). Combined single limit per occurrence will not be less than \$1,000,000.

C. Additional Insured. The liability insurance coverage shall include CITY and its officers and employees as Additional Insured but only with respect to CONSULTANT'S activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, CONSULTANT shall furnish a certificate to CITY from each insurance company providing insurance showing that the CITY is an additional insured, the required coverage is in force, stating policy numbers, dates of

expiration and limits of liability, and further stating that such coverage is primary and not contributory.

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

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

17. CITY'S BUSINESS LICENSE

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

18. WORKMEN'S COMPENSATION

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

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

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

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

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

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

20. NONDISCRIMINATION

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

21. PAYMENT OF MEDICAL CARE

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

22. OVERTIME

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

23. USE OF ENGINEER'S DRAWINGS AND OTHER DOCUMENTS

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

CONSULTANT will not be held liable for reuse of documents or modifications thereof for any purpose other than those authorized under this Agreement.

24. STANDARD OF CARE

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

25. NO THIRD PARTY BENEFICIARIES

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

26. ASSIGNMENT

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

27. SEVERABILITY AND SURVIVAL

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

28. COMPLETE CONTRACT

This Contract and its referenced attachments constitute the complete contract between CITY and CONSULTANT and supersedes all prior written or oral discussions or agreements.



August 11, 2014

Mr. Jeff Harrington, P.E.
City of Astoria
1095 Duane Street
Astoria, Oregon

**Proposal for Geotechnical Services
Niagara Avenue Landslide Investigations – Phase 1
Astoria, Oregon**

Dear Mr. Harrington:

In accordance with your request, we are pleased to present this proposal for geotechnical services related to landslide investigations on Niagara Avenue in Astoria, Oregon. This proposal presents our scope of work and cost estimate.

Background

Niagara Avenue between 14th Street and 16th Street has experienced landslide deformations in a couple of locations for a number of years. The apparent movement consists of deformation within the travel lanes of Niagara Avenue extending an unknown distance downslope into taxlots owned by the city of Astoria. Planned improvement within the vicinity of the active slide areas has prompted the City to consider mitigation options along Niagara Avenue. The objective for this study is to use a phased approach to evaluate landslide deformation through explorations and to develop conceptual mitigation options. The initial phase would include field explorations and initial instrument monitoring. It is anticipated that a second phase would include additional instrument monitoring, development of recommended mitigation concepts and a technical letter report summarizing the results of the work.

Proposed Scope of Work

Our proposed scope of work would consist of the following:

- Review existing information (maintenance records, LiDAR topographic data).
- Field reconnaissance to perform an assessment and mapping of slope conditions for possible treatment options.
- Field explorations and instrumentation consisting of one exploratory boring to a depth of 60 feet, installed with a slope inclinometer and vibrating-wire piezometer for landslide deformation and groundwater monitoring.

- Laboratory review of samples collected to assist with classification of the subsurface soils.
- Instrumentation monitoring including initial setup and one follow-up reading of inclinometers and piezometers (1 initial visit and one follow-up visit planned)
- Technical memorandum summarizing the results of the field investigation program.

Cost Estimate

Our fee for the above-outlined services is a Not-to-Exceed amount of \$20,000. This amount includes \$8,500 for subcontract driller, flaggers and instrumentation equipment. This amount would not be exceeded without your prior authorization. We anticipate that the City of Astoria will request the work be performed in accordance with our on-call service agreement. We are prepared to undertake the work as soon as we receive authorization. We appreciate this opportunity to be of service. If you have any questions or comments regarding this proposal, please contact Chris Carpenter at our office.

Sincerely,

LANDSLIDE TECHNOLOGY



D. Andrew Vessely, P.E., C.E.G.
President