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# AGENDA

## ASTORIA CITY COUNCIL SPECIAL MEETING

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Wednesday, March 13, 2013  
7:00 p.m.  
2<sup>nd</sup> Floor Council Chambers  
1095 Duane Street  
Astoria OR 97103

1. CALL TO ORDER

2. ROLL CALL

3. REPORTS OF COUNCILORS

4. CHANGES TO AGENDA

5. PROCLAMATIONS

6. PRESENTATIONS

7. CONSENT CALENDAR

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

8. REGULAR AGENDA ITEMS

(a) Approve Resolution for IFA Funding Agreement Amendment #1 – 11<sup>th</sup> Street CSO Project (Public Works)

(b) Award Construction Contract – 11<sup>th</sup> Street CSO Project (Public Works)

(c) Award Consultant Contract – 11<sup>th</sup> Street CSO Project (Public Works)

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

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

Founded 1811 • Incorporated 1856

March 8, 2013

MEMORANDUM

TO: ASTORIA CITY COUNCIL
FROM: PAUL BENOIT, CITY MANAGER
SUBJECT: ASTORIA CITY COUNCIL SPECIAL MEETING OF MARCH 13, 2013

REGULAR AGENDA ITEMS

Item 8(a): Approve Resolution for IFA Funding Agreement Amendment #1 – 11th Street CSO Project (Public Works)

The Oregon Infrastructure Finance Authority (IFA) has offered the City an amendment to the original funding package that includes \$500,000 grant and will increase the loan by \$3,811,500 to total \$7,374,000. The interest loan is at 1.94% with a 25-year payback period. The CSO Surcharge fee will be used to repay the project loan.

The project budget includes permit fees, design, and construction services:

Table with 2 columns: Item description and Budget Estimate. Items include Permits, fees, misc.; Environmental review; Design, bidding and construction support services; Construction bid; Construction contingency (10%); Construction management; Construction inspection; and TOTAL \$7,874,000.

The City Attorney has reviewed and approved the contract documents as to form. It is recommended that Council approve a resolution authorizing the execution of the IFA Financing Contract Amendment No. 1 for the 11th Street CSO Separation Project to increase the total amount of the loan to \$7,374,000 and no change to the \$500,000 grant.

**Item 8(b): Award Construction Contract – 11th Street CSO Project (Public Works)**

In January 2013, Council authorized bid advertisement for the 11<sup>th</sup> Street CSO Separation project. The following bids were received on March 5<sup>th</sup>:

<b>Contractor</b>	<b>Total Bid</b>
Engineer's Estimate	\$6,884,930.00
Tapani, Inc.	\$5,717,177.00
Emery & Sons	\$6,800,999.00
Rognlin's	\$7,829,981.50

Staff recommends a 15% contingency on this project due to the scope, scale, and potential for encountering unknown conditions during construction. Tapani's Bid plus a 15% construction contingency equals \$6,574,754. The following project budget includes permit fees, design, and construction services:

	<b>Budget Estimate</b>
Permits, fees, misc.	\$10,000
Environmental review	\$5,000
Design, bidding and construction support services	\$530,000
Construction bid	\$5,717,177
Construction contingency (15%)	\$857,577
Construction management	\$133,000
Construction inspection	\$265,000
<b>TOTAL</b>	<b><u>\$7,517,754</u></b>

An IFA Financing Contract Amendment is included in the current Council packet. Upon authorization of the Amendment, the total funding available for this project is \$7,874,000, which is comprised of \$500,000 grant and \$7,374,000 low-interest loan.

Construction is scheduled to begin on April 1<sup>st</sup> at the intersection of 8<sup>th</sup> St and Commercial. Staff will keep the public informed of the project schedule as the work zones change. Operational completion of this project must occur by December 1, 2013 as mandated in the Amended Stipulation and Final Order signed by the City and DEQ.

It is recommended that the City Council award the construction contract for the 11<sup>th</sup> Street CSO Separation project to Tapani, Inc., for \$5,717,177.00. City Attorney Henningsgaard has reviewed the contract documents as to form. Funds are available for this project through IFA funding.

**Item 8(c): Award Consultant Contract – 11<sup>th</sup> Street CSO Project (Public Works)**

In June 2012, Council awarded the 11<sup>th</sup> Street Combined Sewer Overflow (CSO) Separation project engineering services contract to Gibbs & Olson (G&O). G&O developed a bid package for this in February. Construction inspection was not included in the original scope and fee because it is difficult to estimate the fee for these services at the beginning of a design.

Full-time construction inspection was anticipated and is included in the funding budget. The cost of construction inspection by a consultant is a function of the duration of the construction and dictated by the needs of the City. Based on the estimated construction schedule, the anticipated fee would be \$217,512. This is less than the funding budgeted amount of \$265,000. It is recommended that Council execute a contract amendment with Gibbs & Olson for the 11<sup>th</sup> Street CSO Separation Project in the amount of \$217,512.00 for full-time construction inspection.



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

March 7, 2013

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **11<sup>th</sup> STREET CSO SEPARATION – INFRASTRUCTURE FINANCE AUTHORITY FUNDING CONTRACT AMENDMENT**

**DISCUSSION/ANALYSIS**

The upcoming 11<sup>th</sup> Street Combined Sewer Overflow (CSO) Separation project primarily consists of installing over 10,000 linear feet of new stormwater pipe in established City rights-of-way. In certain instances, it will be necessary to replace existing water and sanitary sewer pipes where construction of the new storm pipe compromises the integrity of the existing infrastructure. Due to the extent of utility replacement work along 8<sup>th</sup> St. from Commercial Street to Niagara Ave., the entire roadway will be rebuilt from curb to curb and most of the sidewalk will be replaced. The scope of the project includes construction in the following locations:

8<sup>th</sup> St. from Commercial to Niagara  
9<sup>th</sup> St. from Duane to Harrison  
10<sup>th</sup> St. from Duane to Jerome  
11<sup>th</sup> St. from Exchange to Irving

12<sup>th</sup> St. from Exchange to Kensington  
Irving Ave from 11<sup>th</sup> St. to 12<sup>th</sup> St.  
9<sup>th</sup> St. from Marine Dr. to the outfall

In order to accomplish the construction of the project, additional funding was sought from the Oregon Infrastructure Finance Authority (IFA).

There are numerous reasons for the need to increase the level of project funding:

- Funding level estimates were based on historic cost per linear foot of storm pipe installed on previous CSO separation projects, which was the best information available at the time. The reconstruction of 8<sup>th</sup> Street is immensely more complicated than any of the other separation projects due to grade and ground instability.
- It was discovered that the 9<sup>th</sup> Street diversion structure overflow is routed back into the wastewater interceptor, rather than the outfall. City staff determined that the existing 9<sup>th</sup> Street outfall is in poor condition and the pipe needs to be replaced from the diversion structure to the outfall in order to increase the flow to this pipe from new separated storm pipe on 9<sup>th</sup> Street.
- Due to the extent of work within the 8<sup>th</sup> Street roadway prism, the roadway must be rebuilt from curb-to-curb, at a minimum. The rebuilt roadway section will include provisions to mitigate for land movement, but not prevent land movement.

The IFA has offered the City an amendment to the original funding package that includes a \$500,000 grant and will increase the loan by \$3,811,500 to total of \$7,374,000. The low-interest loan is at 1.94% interest rate with a 25-year payback period. The CSO Surcharge fee will be used to repay the project loan. It should be noted that the request for \$3,811,500 was made based upon the design engineer's estimate of construction cost. Subsequent to gaining IFA approval for that request, construction bids have been received. Those bids are described in a companion agenda item. Since the City received a lower cost than anticipated bid, it is likely that the full amount of the loan will not be needed.

The project budget includes permit fees, design, and construction services:

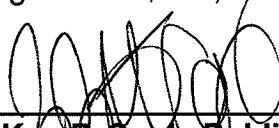
	<b>Budget Estimate</b>
Permits, fees, misc.	\$10,000
Environmental review	\$5,000
Design, bidding and construction support services	\$530,000
Construction bid	\$6,300,690
Construction contingency (10%)	\$630,310
Construction management	\$133,000
Construction inspection	\$265,000
<b>TOTAL</b>	<b><u>\$7,874,000</u></b>

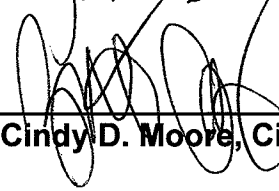
Construction is scheduled to begin on April 1<sup>st</sup> at the intersection of 8<sup>th</sup> Street and Commercial. Operational completion of this project must occur by December 1, 2013 according to the Amended Stipulation and Final Order signed by the City and DEQ.

The City Attorney has reviewed, and approved as to form, the contract amendment documents.

**RECOMMENDATION**

Recommend Council approve the amendment resolution and authorize execution of the IFA Financing Contract Amendment No. 1 for the 11<sup>th</sup> Street CSO Separation project to increase the total amount of the loan to \$7,374,000 with no change to the \$500,000 grant.

Submitted By:  FOR  
 Ken P. Cook, Public Works Director

Prepared By:  FOR  
 Cindy D. Moore, City Support Engineer

RESOLUTION 13- \_\_\_\_\_ OF THE CITY OF ASTORIA

AUTHORIZING A LOAN FROM THE WATER FUND  
BY ENTERING INTO A FINANCING CONTRACT  
WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY

The Astoria Common Council (the "Governing Body") of the City of Astoria (the "Municipality") finds:

- A. The Recipient is a "municipality" within the meaning of Oregon Revised Statutes 285B.410(8).
- B. Oregon Revised Statutes 285B.560 through 285B.599 (the "Act") authorize any municipality to file an application with the Oregon Business Development Department ("the IFA") to obtain financial assistance from the Water Fund.
- C. The Recipient has filed an application with the IFA to obtain financial assistance for a "water project" within the meaning of the Act.
- D. The IFA has approved the Recipient's application for financial assistance from the Water Fund pursuant to the Act.
- E. The Recipient is required, as a prerequisite to the receipt of financial assistance (including a loan and a grant) from the IFA, to enter into a Financing Contract with the IFA in substantially the form attached hereto as Exhibit A.
- F. The project described in Exhibit D to the Financing Contract (the "Project") is a "water project" within the meaning of the Act which is needed by, and is in the public interest of the Recipient.
- G. Notice relating to the Recipient's consideration of the adoption of this Resolution was published in full accordance with the City of Astoria's charter and laws for public notification.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Recipient as follows:

1. **Loan Authorized.** The Governing Body authorizes the Mayor and the City Manager to execute the Financing Contract and the Promissory Note (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the IFA on the condition that the principal amount of the loan from the IFA to the Recipient is not in excess of \$7,374,000 and the interest rate is a percent at 1.94% annually. The proceeds of the loan from the IFA shall be applied solely to the "Costs of the Project" as such term is defined in the Financing Contract.
2. **Security.** Amounts payable by the Recipient shall be payable from the sources described in Section 4 of the Financing Contract and the Oregon Revised Statutes Section 285B.581 (2) which include:
  - a. any sources of funds that are legally available to the Recipient,
  - b. the revenues, if any, of the Project, including special assessment revenues, if any, and
  - c. the Recipient's general fund including the general revenues of the Recipient, other funds which may be available for such purpose and a pledge of the Recipient's taxing power within the restrictions of Article XI, Section 11 and 11 b of the Constitution of the State of Oregon.

The obligation of the Recipient to make payments pursuant to the Financing Contract is a full faith and credit obligation of the Recipient that is not subject to annual appropriation.

3. **Additional Documents.** The Mayor and City Manager are hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the IFA for the Project pursuant to the Financing Documents.

4. **Tax-Exempt Status.** The Recipient covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Recipient pursuant to the Financing Documents not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The [name of officer] of the Recipient may enter into covenants on behalf of the Recipient to protect the tax-exempt status of the interest paid by the Recipient pursuant to the Financing Documents and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the IFA or their bond counsel to protect the tax-exempt status of such interest.

5. **Reimbursement Bonds.** The Recipient may reimburse expenditures for the Project with amounts received from the IFA pursuant to the Financing Contract. Additionally, the Recipient understands that the IFA may fund or reimburse itself for the funding of amounts paid to the Recipient pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This [Ordinance/Resolution/Order] shall constitute "official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations promulgated by the United States Department of the Treasury with respect to the funding or the reimbursement for the funding of the costs of the Project with the proceeds of the Recipient's loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the Act.

6. Declaration of Emergency. The Governing Body declares than an emergency exists in order that there be no delay in financing the Project as provided in this Resolution. Therefore, this Resolution shall be in force and effect from and after passage by the Governing Body.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2013

\_\_\_\_\_  
Mayor

ATTEST:

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

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



## Amendment Number 1

**Project Name:** Astoria 11th Street Combined Sewer Overflow Separation Project

This amendment is made and entered into by and between the State of Oregon, acting by and through the Oregon Infrastructure Finance Authority of the Business Development Department ("IFA"), and the City of Astoria ("Recipient"), and amends the Financing Contract, Project Number Y12004 ("Contract"), dated May 30, 2012, for the above-named Project. Capitalized terms not defined in this amendment shall have the meanings assigned to them by the Contract.

**Recital:** The purpose of this amendment is to increase the Loan Amount provided by IFA, to cover increased construction costs related to the complete reconstruction of 8th Street and newly discovered needs for the 9<sup>th</sup> Street outfall. This recital is included for convenience and information only and is of no force and effect in the interpretation of this amendment.

The parties agree to:

1. Amend the following Key Terms in Section 1 of the Contract as follows (deletions in ~~striketrough~~; additions in double underline):

“ **Estimated Project Cost:** \$4,062,500 ~~\$7,874,000~~.

**Loan Amount:** \$3,562,500 ~~\$7,374,000~~.”

2. Amend Exhibit D (Project Description and Project Special Conditions) to the Contract to add the following at the end of Section I:

“The portion of the Project along 8th Street involves full reconstruction of the street and utilities, including curbs and gutters, sidewalks and driveways, permanent signage and striping, and replacement of water and sewer lines as needed.

The Project includes replacement of the 9th Street outfall, from the diversion structure to the outfall.”

3. Delete the current Exhibit C (Promissory Note) to the Contract, and replace it with the attached new Exhibit C.
4. Delete the current Exhibit E (Project Budget) to the Contract, and replace it with the attached new Exhibit E.

The IFA shall have no obligation under this amendment, unless by April 26, 2013, the Recipient delivers to the IFA the following items, each in form and substance satisfactory to the IFA and its Counsel:

- (i) This amendment duly executed by an authorized officer of the Recipient.
- (ii) A copy of the ordinance, order or resolution of the governing body of Recipient, certified by an authorized officer of Recipient, authorizing the borrowing of the new Loan Amount, and the contemplated transactions under this amendment, and the execution and delivery of the replacement Note.
- (iii) A replacement Note duly executed by an authorized officer of the Recipient, substantially in the form of Exhibit C.
- (iv) Such other certificates, documents, opinions and information as the IFA may reasonably require.

Except as specifically provided above, this amendment does not modify the Contract, and the Contract shall remain in full force and effect during the term thereof. This amendment is effective on the date it is fully executed and approved as required by applicable law.



**STATE OF OREGON**  
acting by and through the  
Oregon Infrastructure Finance Authority  
of the Business Development Department



**CITY OF ASTORIA**

By: \_\_\_\_\_  
James P. Ruef, Manager  
Program Services Division

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

By: \_\_\_\_\_  
The Honorable Willis Van Dusen  
Mayor of Astoria

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

**APPROVED AS TO LEGAL SUFFICIENCY IN  
ACCORDANCE WITH ORS 291.047:**

/s/Lynn T. Nagasako per email dated 28 February 2013  
Lynn T. Nagasako, Sr. Assistant Attorney General

By: \_\_\_\_\_  
Paul Benoit, City Manager

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

**City of Astoria**  
**PROMISSORY NOTE**

Dated \_\_\_\_\_, \_\_\_\_\_

City of Astoria, Oregon

FOR VALUE RECEIVED, the City of Astoria, 1095 Duane Street, Astoria, OR 97103 ("Recipient"), unconditionally promises to pay in lawful money of the United States of America to the order of the STATE OF OREGON, ACTING BY AND THROUGH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY OF THE BUSINESS DEVELOPMENT DEPARTMENT ("IFA"), at its principal office at 775 Summer Street NE, Suite 200, Salem, OR 97301-1280, or such other place as IFA or other holder of this Note may designate, the principal sum of Seven Million, Three Hundred Seventy-Four Thousand Dollars (\$7,374,000) or so much as is disbursed under the Contract (as defined below), plus interest on each disbursement at the Note Interest Rate of One and 94/100 percent (1.94%) per annum, from the disbursement date until paid. Interest will be computed on the basis of a 360-day year, consisting of twelve 30-day months.

This Note is subject to and secured by that certain contract, number Y12004, between IFA and Recipient (as amended from time to time; the "Contract"). Capitalized terms not otherwise defined in this Note will have the meanings assigned to them by the Contract.

The Recipient shall make level installment payments of principal and interest, commencing on the Repayment Commencement Date and thereafter on each Payment Date. Each such installment will be in an amount sufficient to pay the interest accrued to the date of payment and so much of the principal as will fully amortize the Loan by the Maturity Date. Notwithstanding the above, the first such installment payment will be adjusted to include actual unpaid interest that accrued to the Repayment Commencement Date. On the Maturity Date, the entire outstanding principal balance and all accrued unpaid interest will be due and payable in full.

This Note is subject to mandatory prepayment and is payable prior to its maturity, and each payment made by Recipient will be applied as provided in section 4 (Loan Payment; Prepayment) of the Contract.

This Note is given to avoid the execution by Recipient of an individual note for each disbursement of Loan proceeds by IFA to Recipient in accordance with section 3 (Disbursements) of the Contract. Recipient authorizes IFA to record the date and amount of each such disbursement, the date and amount of each payment and prepayment by Recipient, and the amount of interest accrued and paid. Absent manifest error, such notations will be conclusive evidence of borrowing, payments and interest under this Note; provided, however, that failure to make any such notations will not affect the obligations of Recipient under this Note or the Contract.

If any Event of Default occurs, the outstanding balance of the Note (including principal, interest and other charges, if any), at the option of IFA, becomes immediately due and payable in accordance with section 10 (Remedies) of the Contract. Failure or delay of the holder of this Note to exercise any option available under the terms of this Note, the Contract or any of the Financing Documents will not constitute a waiver of the right to exercise the option in the event of any continuing or subsequent default of the same or of any other provision. Presentment, dishonor, notice of dishonor, and protest are hereby waived.

To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Note is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to IFA by its attorneys. The Recipient shall, on demand, pay to IFA reasonable expenses incurred by IFA in the collection of Loan payments.

The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Note, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

**Notice to Recipient: Do not sign this Note before you read it.**

**CITY OF ASTORIA**

By: \_\_\_\_\_  
Willis Van Dusen

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

By: \_\_\_\_\_  
Paul Benoit

Title: City Manager \_\_\_\_\_



**Oregon Business Development Department Budget**

**Recipient:**

City of Astoria

**Project Name:**

Astoria 11th Street Combined Sewer Overflow Separation Project

**Funding Programs:**

Water/Wastewater Financing Program

**Project Number:**

Y12004

(A) Activity	(B) Approved Budget	Department Funds			(E) = [B-C-D] Balance	(F) Approved Budget	Other / Matching Funds			(I) = [F-G-H] Balance	(J) = [C+D+G+H] Disbursed & Expended
		(C) Prior Disbursements	(D) Current Request	(G) Expended To Date			(H) Current Request				
Permits / Fees	\$10,000										
Environmental Review	5,000										
Design and Bidding	530,000										
Construction	6,300,690										
Construction Contingency	630,310										
Construction Management	133,000										
Construction Inspection	265,000										
<b>Total</b>	<b>\$7,874,000</b>										



March 7, 2013

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL

FROM: *MB*  
*for* PAUL BENOIT, CITY MANAGER

SUBJECT: **11<sup>TH</sup> STREET CSO SEPARATION PROJECT – AWARD CONSTRUCTION CONTRACT**

**DISCUSSION/ANALYSIS**

The upcoming 11<sup>th</sup> St. Combined Sewer Overflow (CSO) Separation project primarily consists of installing over 10,000 linear feet of new stormwater pipe in established City rights-of-way. In certain instances, it will be necessary to replace existing water and sanitary sewer pipes where construction of the new storm pipe compromises the integrity of the existing infrastructure. Due to the extent of utility replacement work along 8<sup>th</sup> St., the entire roadway, from Commercial to Niagara will be rebuilt from curb to curb and most of the sidewalk will be replaced.

The scope of the project includes construction in the following locations:

8<sup>th</sup> St. from Commercial to Niagara  
9<sup>th</sup> St. from Duane to Harrison  
10<sup>th</sup> St. from Duane to Jerome  
11<sup>th</sup> St. from Exchange to Irving

12<sup>th</sup> St. from Exchange to Kensington  
Irving Ave from 11<sup>th</sup> St. to 12<sup>th</sup> St.  
9<sup>th</sup> St. from Marine Dr. to the outfall

In January 2013, Council authorized bid advertisement of this project. The following bids were received on March 5<sup>th</sup>:

<b>Contractor</b>	<b>Total Bid</b>
Engineer's Estimate	\$6,884,930.00
Tapani, Inc.	\$5,717,177.00
Emery & Sons	\$6,800,999.00
Rognlin's	\$7,829,981.50

Tapani was the contractor on the Denver CSO Storage project that was constructed two years ago, and staff was extremely pleased with the professional quality of their work. Staff recommends a 15% contingency on this project due to the scope, scale, and potential for encountering unknown conditions during construction. The bid from Tapani for \$5,717,177 plus a construction contingency of 15% of the contract amount equals \$6,574,754. The following project budget includes permit fees, design, and construction services:

	<b>Budget Estimate</b>
Permits, fees, misc.	\$10,000
Environmental review	\$5,000
Design, bidding and construction support services	\$530,000
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Construction management	\$133,000
Construction inspection	\$265,000
<b>TOTAL</b>	<u><u><b>\$7,517,754</b></u></u>

An IFA Financing Contract Amendment is also included in this meeting's Council packet. Upon authorization of the Amendment, the total funding available for this project would be \$7,874,000, which is comprised of \$500,000 grant and \$7,374,000 low-interest loan.

The total project budget after receiving bids is \$7,517,754, which is less than the funding available from IFA that totals \$7,874,000. The funding requested from IFA was based on the 90% Engineer's Estimate. Fortunately, the low bid from Tapani was significantly less than the Engineer's Estimate.

Construction is scheduled to begin on April 1<sup>st</sup> at the intersection of 8<sup>th</sup> St and Commercial. Staff will be working in close coordination with Tapani to keep the public informed of the project schedule as the work zones change throughout the duration of the project. Operational completion of this project must occur by December 1, 2013 according to the Amended Stipulation and Final Order signed by the City and DEQ.

### **RECOMMENDATION**

It is recommended that the City Council award the construction contract for the 11<sup>th</sup> Street CSO Separation project to Tapani, Inc. for \$5,717,177.00. Funds are available for this project through IFA funding.

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

  
Ken P. Cook, Public Works Director

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

  
Cindy D. Moore, City Support Engineer

**60.01.00 - GENERAL**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between Tapani, Inc., PO Box 1900, Battle Ground WA 98604, hereinafter called "CONTRACTOR" and the City of Astoria, a municipal corporation, hereinafter called "CITY."

WITNESSETH:

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

**60.2.00 - DESCRIPTION OF WORK**

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

**11<sup>th</sup> Street CSO Separation Project**

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

**60.3.00 - COMPLETION OF CONTRACT**

The **CONTRACTOR** agrees that the work under this contract shall be fully complete with **CITY** final approval and acceptance by **January 31, 2014**. If conditions beyond the control of the **CONTRACTOR** prevents completion of the project within the time set, **CONTRACTOR** may request a reasonable extension of time in accordance with the contract's general requirements. If said **CONTRACTOR** has not fully completed this contract within the time set or any extension thereof, he shall pay liquidated damages in accordance with Section 108.6.00 of Division 98 – City of Astoria Supplementary Conditions to the General Requirements of these contract documents.

**60.4.00 - CONTRACT PRICE**

The contract price for this project is \$5,717,177.00. Payment will be made in accordance with ORS 279C.560 including progress payments at the end of each month. Retainage will be withheld in accordance with ORS 279C.550 - .565.

**60.5.00 - CONTRACT DOCUMENTS**

The **CONTRACTOR** and the **CITY** agree that the plans, technical specifications (including where referenced the 2008 Oregon Standard Specifications for Construction prepared by the Oregon Department of Transportation and the Oregon Chapter of the American Public Works Association), APWA Oregon Chapter 1990 Standard Specifications for Public Works Construction with 1996 revisions (Division 90 of these Contract Documents), supplementary conditions to Division 90 (Division 98 of these Contract Documents), call for bids, instructions to bidders, all addenda and all modifications thereto and bid are, by this reference, incorporated into this contract and are fully a part of this contract.

**60.6.00 - CHANGES IN WORK**

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



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

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

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

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

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

#### **60.7.00 - COMPLIANCE**

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

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

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

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

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

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

#### **60.8.00 - ADDITIONAL CONTRACTOR RESPONSIBILITIES**

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

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

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

**60.9.00 - CONTRACTOR IS INDEPENDENT CONTRACTOR**

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

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

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

**60.10.00 SUBCONTRACTS - RELATIONS WITH SUBCONTRACTORS, ASSIGNMENTS AND DELEGATION**

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

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

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

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

(b) An interest penalty clause that obligates the **CONTRACTOR**, if payment is not made within 30 days after receipt of payment from the contracting agency, to pay to the first - tier subcontractor an interest penalty on amounts due in the case of each payment not

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

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

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

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

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

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

#### **60.11.00 - EARLY TERMINATION**

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

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

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

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

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

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

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

#### **60.12.00 - CANCELLATION FOR CAUSE**

**CITY** may cancel all or any part of the Contract if **CONTRACTOR** breaches any of the terms herein or in the event of any of the following: Insolvency of **CONTRACTOR**; voluntary or involuntary petition in bankruptcy by or against **CONTRACTOR**; appointment of a receiver or trustee for **CONTRACTOR**, or an assignment for benefit of creditors of **CONTRACTOR**. Damages for breach shall be those allowed by Oregon Law, reasonable and necessary attorney's fees, and other costs of litigation at trial and upon appeal.

#### **60.13.00 - NONWAIVER**

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

#### **60.13.01 - REMEDIES**

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

(A) Reducing or withholding payment;

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

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

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

**60.14.00 - SUIT OR ACTION**

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

**60.15.00 - CONFLICT BETWEEN TERMS**

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

**60.16.00 - INDEMNIFICATION**

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

**60.17.00 - WORKERS' COMPENSATION**

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

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

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

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

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

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

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

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

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

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

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

**60.20.00 - HOURS OF LABOR**

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

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

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

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

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

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

#### **60.21.00 - PAYMENT OF MEDICAL CARE**

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

#### **60.22.00 - DRUG TESTING PROGRAM**

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

#### **60.23.00 – PREVAILING WAGE RATE**

**A. Prevailing Wage Rate.** If this contract is subject to both ORS 279C.800 to ORS 279C.870 and the Davis-Bacon Act (40 USC 3141 *et seq*) every contract and subcontract must provide that the worker whom the **CONTRACTOR**, subcontractor, or other person who is a party to the contract uses in performing all or part of this contract, must be paid not less than the higher of the applicable state prevailing rate of wage for each trade or occupation as defined by the Commissioner of the Bureau of Labor and Industries in the applicable publication entitled *Definitions of Covered Occupations for Public Works Contracts in Oregon* or federal prevailing rate of wage. A current copy (title page only) of Prevailing wage Rates for Public Works Contracts in Oregon is included at the end of this Division 60. A web site where these publications are available is <http://egov.oregon.gov/BOLI/WHD/PWR/Pages/index.aspx>.

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

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

#### **60.24.00 – INSURANCE**

**A. Commercial General Liability.** **CONTRACTOR** shall obtain, at **CONTRACTOR'S** expense and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage with limits of not less \$1,000,000 per occurrence and the annual aggregate not less than \$2,000,000. Coverage shall include contractors, subcontractors and anyone directly or indirectly employed by either. This insurance will include personal and advertising injury liability, products and completed operations. Coverage may be written in combination with Automobile Liability Insurance (with separate limits). Coverage will

be written on an occurrence basis, and coverage will be primary, not contributory. If written in conjunction with Automobile Liability the combined single limit per occurrence will not be less than \$1,000,000 for each job site or location. Each annual aggregate limit will not be less than \$2,000,000.

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

**C. Additional Insured.** The liability insurance coverage shall include **CITY** and its officers and employees as Additional Insured but only with respect to **CONTRACTOR'S** activities to be performed under this Contract. Coverage will be primary and non-contributory with any other insurance and self-insurance. Prior to starting work under this Contract, **CONTRACTOR** shall furnish a certificate to **CITY** from each insurance company providing insurance showing that the **CITY** is an additional insured, the required coverage is in force, stating policy numbers, dates of expiration and limits of liability, and further stating that such coverage is primary and not contributory.

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

#### **60.25.00 - PERFORMANCE AND PAYMENT BOND**

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

#### **60.26.00 - CERTIFICATION OF COMPLIANCE WITH TAX LAWS**

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

#### **60.26.01 - CITY OCCUPATION TAX**

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

#### **60.27.00 - STATE OF OREGON, DEPARTMENT OF TRANSPORTATION REQUIREMENTS**

**A. CONTRACTOR** shall indemnify, defend and hold harmless State of Oregon (State) from and against all claims, suites, actions, losses, damages, liabilities, costs and expenses of



any nature whatsoever resulting from, arising out of, or relating to the activities of **CONTRACTOR** or its officers, employees, subcontractors, or agents under the Agreement.

- B. The State is a third party beneficiary of the Agreement.
- C. Commercial General Liability. **CONTRACTOR** shall obtain, at **CONTRACTOR'S** expense, and keep in effect during the term of the Agreement, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to State. This insurance will include personal and advertising injury, liability, products and complete 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 limit will not be less than \$2,000,000.
- D. Automobile Liability. **CONTRACTOR** shall obtain at **CONTRACTOR'S** expense, and keep in effect during the term of the Agreement, 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.
- E. Additional Insured. The liability insurance coverage, except Professional Liability, Errors and Omissions, or Workers' Compensation, if included, required for performance of the Agreement will include State and its divisions, officers and employees as Additional Insured but only with respect to **CONTRACTOR'S** activities to be performed under the Agreement. Coverage will be primary and non-contributory with any other insurance and self-insurance.
- F. Notice of Cancellation or Change. There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without thirty (30) days written notice from **CONTRACTOR** or its insurer(s) to State. Any failure to comply with the reporting provisions of this clause will constitute a material breach of the Agreement and will be grounds for immediate termination of this Agreement.
- G. **CONTRACTOR** shall indemnify, defend, save and hold harmless the State of Oregon, Oregon Transportation Commission and its members, Department of Transportation and its officers, employees and agents from and against any and all claims, actions, liabilities, damages, losses, or expenses, including attorney's fees, arising from a tort, as now or hereafter defined in ORS 30.260, caused, or alleged to be caused, in whole or in part, by the negligent or willful act or omissions of **CONTRACTOR** or any of the officers, agents, employees or subcontractor of the **CONTRACTOR** ("Claims"). The State shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the state, be indemnified by the **CONTRACTOR** and Subcontractors from and against any and all claims.
- H. Neither the **CONTRACTOR** and Subcontractors nor any attorney engaged by **CONTRACTOR** and Subcontractors shall defend any claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the prior written consent of the Oregon Attorney General. The State of Oregon may, at anytime at its election assume its own defense and settlement in the event that it determines that **CONTRACTOR** is prohibited from defending the State of Oregon, or that **CONTRACTOR** is not adequately defending the

State of Oregon's interests, or that an important government principle is at issue or that it is in the best interest of the State of Oregon to do so. The State of Oregon reserves all rights to pursue claims it may have against **CONTRACTOR** if the State of Oregon elects to assume it own defense.

**60.28.00 - NO THIRD PARTY BENEFICIARIES**

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

APPROVED AS TO FORM:

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

\_\_\_\_\_  
City Attorney

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

ATTEST:

\_\_\_\_\_  
Contractor Date

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

**BID FORM**  
**ADDENDUM NO. 2-01**

The undersigned, having full knowledge of the quality and quantity of work and material required, hereby proposes to furnish all labor, material and equipment required to complete the work of:

**11<sup>th</sup> Street CSO Separation Project**

in accordance with Oregon APWA 1990 Standard Specifications for Public Works Construction with 1996 revisions and the specifications, drawings and provisions attached hereto, and at the following prices by Substantial Completion on **December 1, 2013** and Final Completion on **January 31, 2014**.

ITEM NO	ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL (IN FIGURES)
1.	Construction Survey Work	1	LS	\$ <u>50,000.00</u>	\$ <u>50,000.00</u>
2.	Erosion Control	1	LS	\$ <u>7,500.00</u>	\$ <u>7,500.00</u>
3.	Mobilization	1	LS	\$ <u>545,152.90</u>	\$ <u>545,152.90</u>
4.	Temporary Work Zone Traffic Control, 8 <sup>th</sup> & Commercial	1	LS	\$ <u>15,000.00</u>	\$ <u>15,000.00</u>
5.	Temporary Work Zone Traffic Control, 8 <sup>th</sup> Street Construction	1	LS	\$ <u>10,000.00</u>	\$ <u>10,000.00</u>
6.	Temporary Work Zone Traffic Control, 9 <sup>th</sup> through 12 <sup>th</sup> Streets	1	LS	\$ <u>25,000.00</u>	\$ <u>25,000.00</u>
7.	Sequential Arrow Signs	1	LS	\$ <u>2,000.00</u>	\$ <u>2,000.00</u>
8.	Portable Changeable Message Signs	1	LS	\$ <u>10,000.00</u>	\$ <u>10,000.00</u>
9.	Clearing & Grubbing	1	LS	\$ <u>5,000.00</u>	\$ <u>5,000.00</u>
10.	Removal of Walks & Driveways	3,100	SY	\$ <u>10.00</u>	\$ <u>31,000.00</u>
11.	Removal of Pipes	10,830	LF	\$ <u>3.00</u>	\$ <u>32,490.00</u>
12.	Removal of Curbs	7,055	LF	\$ <u>2.00</u>	\$ <u>14,110.00</u>
13.	Removal of Pavement	19,710	SY	\$ <u>5.00</u>	\$ <u>98,550.00</u>
14.	Removal of Structures & Obstructions	1	LS	\$ <u>45,000.00</u>	\$ <u>45,000.00</u>
15.	Unsuitable Trench Foundation Excavation & Replacement	1,520	CY	\$ <u>25.00</u>	\$ <u>38,000.00</u>

ITEM NO	ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL (IN FIGURES)
16.	Unsuitable 8 <sup>th</sup> Street Subgrade Excavation & Replacement	5,010	CY	\$ 25.00	\$ 125,250.00
17.	Aggregate Base, 8 <sup>th</sup> Street Reconstruction	12,000	SY	\$ 20.00	\$ 240,000.00
18.	Sawcutting Pavement, 6-inch HMA	12,780	LF	\$ 1.00	\$ 12,780.00
19.	Sawcutting Pavement, 10-inch PCC	3,570	LF	\$ 1.25	\$ 4,462.50
20.	Level 3 HMAc – ½-inch Dense Graded, for 8 <sup>th</sup> Street Reconstruction	5,200	TN	\$ 82.00	\$ 426,400.00
21.	Level 3 HMAc – ½-inch Dense Graded for Trench Patching	2,150	TN	\$ 93.00	\$ 199,950.00
22.	Level 3 HMAc – ½-inch Dense Graded for Overlay (9 <sup>th</sup> -12 <sup>th</sup> St)	3,210	TN	\$ 90.00	\$ 288,900.00
23.	Colored PCC Pavement 10-inch thick	515	SY	\$ 200.00	\$ 103,000.00
24.	Concrete Curbs & Gutters	6,800	LF	\$ 23.00	\$ 156,400.00
25.	Concrete Curbs	330	LF	\$ 23.00	\$ 7,590.00
26.	Driveways & Entrances	970	SY	\$ 100.00	\$ 97,000.00
27.	Concrete Sidewalks	2,440	SY	\$ 60.00	\$ 146,400.00
28.	Concrete Sidewalk with Formed Steps	150	SY	\$ 75.00	\$ 11,250.00
29.	ADA Ramps	9,050	SF	\$ 10.0	\$ 90,500.00
30.	Adjusting Existing Catch Basins to Grade (Not requiring New Frame and Gate)	40	EA	\$ 400.00	\$ 16,000.00
31.	Adjusting Existing Manholes to Grade	22	EA	\$ 475.00	\$ 10,450.00
32.	Replace Catch Basin Frame & Gate	27	EA	\$ 500.00	\$ 13,500.00
33.	Modify Manhole	23	EA	\$ 400.00	\$ 9,200.00
34.	Modify Diversion Manhole	1	EA	\$ 2,500.00	\$ 2,500.00

ITEM NO	ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL (IN FIGURES)
35.	Adjust Existing Water Valve Box to Grade	39	EA	\$ 150.00	\$ 5,850.00
36.	Permanent Signing	1	LS	\$ 32,000.00	\$ 32,000.00
37.	Longitudinal Pavement Markings – Paint	6,400	LF	\$ 0.25	\$ 1,600.00
38.	Pavement Bar, Crosswalk – Paint	4,800	SF	\$ 4.00	\$ 19,200.00
39.	Transverse Median Bar – Paint	460	SF	\$ 4.00	\$ 1,840.00
40.	Pavement Legend, Arrow	15	EA	\$ 125.00	\$ 1,875.00
41.	Pavement Legend, Only	8	EA	\$ 125.00	\$ 1,000.00
42.	Pavement Legend, Yield	1	EA	\$ 125.00	\$ 125.00
43.	Paint Curb Yellow	200	LF	\$ 0.35	\$ 70.00
44.	Pavement Legend, Yield Line	5	SF	\$ 4.00	\$ 20.00
45.	Guardrail, Type 3	45	LF	\$ 65.00	\$ 2,925.00
46.	Subgrade Geotextile – 8 <sup>th</sup> Street	14,675	SY	\$ 2.00	\$ 29,350.00
47.	Surface Restoration – 9 <sup>th</sup> Street	1	FA	\$ 10,000	\$ 10,000
48.	Asphalt Grinding	4,720	SY	\$ 7.03	\$ 33,181.60
49.	Shoring and Dewatering – 9 <sup>th</sup> Street Pipe Bursting	1	LS	\$ 10,000.00	\$ 10,000.00
50.	HDPE Installation, 28-inch, Pipe Burst	370	LF	\$ 250.00	\$ 92,500.00
51.	HDPE Installation, 28-inch, Slip Line	30	LF	\$ 400.00	\$ 12,000.00
52.	Pipe Burst Point Repairs	1	EA	\$ 4,200.00	\$ 4,200.00
53.	HDPE 8-inch Sanitary Sewer Pipe & Fittings	25	LF	\$ 95.00	\$ 2,375.00
54.	PVC 8-inch Sanitary Sewer Pipe & Fittings	385	LF	\$ 82.00	\$ 31,570.00
55.	PVC 10-inch Sanitary Sewer Pipe & Fittings	610	LF	\$ 85.00	\$ 51,850.00

ITEM NO	ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL (IN FIGURES)
56.	HDPE 12-inch Sanitary Sewer Pipe & Fittings	2,295	LF	\$ <u>90.00</u>	\$ <u>206,550.00</u>
57.	PVC 12-inch Sanitary Sewer Pipe & Fittings	1,170	LF	\$ <u>85.00</u>	\$ <u>99,450.00</u>
58.	Flexible Expansion Joint, 12-inch Diameter	14	EA	\$ <u>6,000.00</u>	\$ <u>84,000.00</u>
59.	HDPE Side Sewer Pipe, 6-inch diameter	1,485	LF	\$ <u>45.00</u>	\$ <u>66,825.00</u>
60.	PVC Side Sewer Pipe, 6-inch diameter	1,500	LF	\$ <u>40.00</u>	\$ <u>60,000.00</u>
61.	Cleanout, Adapter & Coupling	122	EA	\$ <u>475.00</u>	\$ <u>57,950.00</u>
62.	HDPE 8-inch Storm Sewer Pipe & Fittings	1,310	LF	\$ <u>60.00</u>	\$ <u>78,600.00</u>
63.	HDPE 8-inch Storm Sewer Pipe & Fittings, Private Property	100	LF	\$ <u>65.00</u>	\$ <u>6,500.00</u>
64.	PVC 8-inch Storm Sewer Pipe & Fittings	2,070	LF	\$ <u>40.00</u>	\$ <u>82,800.00</u>
65.	HDPE 12-inch Storm Sewer Pipe & Fittings	4,945	LF	\$ <u>65.00</u>	\$ <u>321,425.00</u>
66.	PVC 12-inch Storm Sewer Pipe & Fittings	3,570	LF	\$ <u>44.00</u>	\$ <u>157,080.00</u>
67.	HDPE ADS N-12, 21-inch Storm Sewer Pipe & Fittings	85	LF	\$ <u>120.00</u>	\$ <u>10,200.00</u>
68.	PVC 24-inch Storm Sewer Pipe & Fittings	30	LF	\$ <u>125.00</u>	\$ <u>3,750.00</u>
69.	6-inch Slotted Drain Pipe, Cleanouts & Geotextile	835	LF	\$ <u>60.00</u>	\$ <u>50,100.00</u>
70.	6-inch Drain Pipe & Cleanouts	385	LF	\$ <u>50.00</u>	\$ <u>19,250.00</u>
71.	Trench Dam & Interceptor Drain	22	EA	\$ <u>700.00</u>	\$ <u>15,400.00</u>
72.	Concrete Sanitary Sewer Manholes, 48-Inch Diameter	46	EA	\$ <u>3,400.00</u>	\$ <u>156,400.00</u>
73.	Concrete Storm Sewer Manholes, 48-inch Diameter	83	EA	\$ <u>3,400.00</u>	\$ <u>282,200.00</u>

ITEM NO	ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL (IN FIGURES)
74.	Concrete Storm Sewer Manholes, 60-inch Diameter	3	EA	\$ 4,600.00	\$ 13,800.00
75.	Concrete Storm Sewer Manholes, 72-inch Diameter	2	EA	\$ 9,200.00	\$ 18,400.00
76.	Drywell Manholes	1	EA	\$ 3,800.00	\$ 3,800.00
77.	Concrete Catch Basins	90	EA	\$ 1,400.00	\$ 126,000.00
78.	Diversion Manhole Modification	1	EA	\$ 2,000.00	\$ 2,000.00
79.	Removal of Catch Basins	55	EA	\$ 100.00	\$ 5,500.00
80.	Removal of Manholes	30	EA	\$ 175.00	\$ 5,250.00
81.	Connection to Existing Structures	59	EA	\$ 350.00	\$ 20,650.00
82.	Abandoning Manholes	2	EA	\$ 575.00	\$ 1,150.00
83.	Manholes Over Existing Sewers	16	EA	\$ 590.00	\$ 9,440.00
84.	Modify Catch Basin	45	EA	\$ 275.00	\$ 12,375.00
85.	HDPE Waterline, 2-inch Diameter, Include Fittings	430	LF	\$ 16.00	\$ 6,880.00
86.	HDPE Water Mains, 6-inch Diameter, Include Fittings	245	LF	\$ 35.00	\$ 8,575.00
87.	HDPE Water Mains, 8-inch Diameter, Include Fittings	485	LF	\$ 40.00	\$ 19,400.00
88.	HDPE Water Mains, 12-inch Diameter, Include Fittings	170	LF	\$ 50.00	\$ 8,500.00
89.	DI Water Mains, 4-inch Diameter, Include Fittings	120	LF	\$ 48.00	\$ 5,760.00
90.	DI Water Mains, 6-inch Diameter, Include Fittings	540	LF	\$ 52.00	\$ 28,080.00
91.	DI Water Mains, 8-inch Diameter, Include Fittings	1,655	LF	\$ 67.00	\$ 110,885.00
92.	DI Water Mains, 10-inch Diameter, Include Fittings	810	LF	\$ 70.00	\$ 56,700.00
93.	DI Water Mains, 12-inch Diameter, Include Fittings	140	LF	\$ 82.00	\$ 11,480.00

ITEM NO	ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL (IN FIGURES)
94.	DI Water Mains, 16-inch Diameter, Include Fittings	280	LF	\$ 95.00	\$ 26,600.00
95.	Copper "Type K" Waterline, 1-inch Diameter, Include Fittings	35	LF	\$ 50.00	\$ 1,750.00
96.	Connection to Existing Main	36	EA	\$ 1,100.00	\$ 39,600.00
97.	¾-inch Water Service	35	EA	\$ 2,300.00	\$ 80,500.00
98.	2-inch Water Service	4	EA	\$ 3,000.00	\$ 12,000.00
99.	2-inch Gate Valve	12	EA	\$ 350.00	\$ 4,200.00
100.	4-inch Gate Valve	2	EA	\$ 500.00	\$ 1,000.00
101.	6-inch Gate Valve	16	EA	\$ 730.00	\$ 11,680.00
102.	8-inch Gate Valve	21	EA	\$ 975.00	\$ 20,475.00
103.	10-inch Gate Valve	9	EA	\$ 1,200.00	\$ 10,800.00
104.	12-inch Gate Valve	2	EA	\$ 1,800.00	\$ 3,600.00
105.	16-inch Butterfly Valve	3	EA	\$ 1,900.00	\$ 5,700.00
106.	Fire Hydrant & Assemblies	3	EA	\$ 4,300.00	\$ 12,900.00
107.	New Hydrant Assembly with Reused Hydrant	8	EA	\$ 1,800.00	\$ 14,400.00
108.	Channelization for Concrete Intersection	1	LS	\$ 5,000.00	\$ 5,000.00
				<b>Total Bid:</b>	<b>\$ 5,717,177.00</b>



Enclosed herewith is a bid surety deposit in the amount of at least five percent (5%) of the bid.

The undersigned bidder hereby represents as follows: That this bid is made without connections with any person, firm or corporation making a bid for same, and is in all respects fair and without collusion or fraud.

Contractor agrees comply with ORS 279C.838 or ORS 279C.840 or 40 USC3141, et seq, if the contract is subject to state or federal prevailing wage laws.

The undersigned is \_\_\_\_\_ YES  NO a resident bidder, as defined in ORS 279A.120. (PLEASE CHECK ONE)

The bidder acknowledges receiving and incorporating changes described in Addenda NO. one through three.

03/05/2013  
DATE

Tapani, Inc.  
BIDDER  
*Kevin Tapani Vice President*  
SIGNED (NAME AND TITLE)

P.O. Box 1900  
MAILING ADDRESS  
Battle Ground, WA 98604  
CITY, STATE, AND ZIP CODE

NUMBER: 360-687-1148

PHONE

CORPORATION:  YES \_\_\_\_\_ NO

NUMBER: 91-1350790

IF NO, TAX ID NUMBER OR SOCIAL SECURITY

63434

CONTRACTOR BOARD NO.

**BID BOND  
FOR  
11st CSO Separation Project  
FOR  
THE CITY OF ASTORIA**

KNOW ALL PEOPLE BY THESE PRESENTS:

That we, Tapani Underground, Inc., hereinafter called  
(Name of Contractor)  
the PRINCIPAL, as Principal, and Travelers Casualty and Surety Company of America,  
(Name of Surety)

a corporation and existing under and by virtue of the laws of the State of Connecticut  
and authorized to transact a surety business in the State of Oregon, hereinafter called the SURETY,  
as Surety, are held and firmly bound unto the City of Astoria, a Municipal Corporation of the State  
of Oregon, hereinafter called the OBLIGEE, in the penal sum of

Five Percent of Total Amount Bid--- Dollars  
(\$5% of Bid---) for the payment of which sum well and truly to be made, the said  
PRINCIPAL and the said SURETY bind ourselves, our heirs, executors, administrators, successors,  
and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATIONS IS SUCH THAT:

WHEREAS the PRINCIPAL has submitted a Bid Proposal for the 11<sup>th</sup> Street CSO Separation  
Project.

NOW, THEREFORE, if the Bid Proposal submitted by the PRINCIPAL is accepted, and the  
Contract awarded to the PRINCIPAL, and if the PRINCIPAL shall execute the proposed  
Agreement and shall furnish such Performance and Payment Bonds as required by the Contract  
Documents within the time fixed by the Documents, then this obligation shall be void; if the  
PRINCIPAL shall fail to execute the proposed Agreement and furnish the bonds, the SURETY  
hereby agrees to pay the OBLIGEE the penal sum as liquidated damages, within ten (10) days of  
such failure.

Signed and sealed this 5th day of March, 2013.

CONTRACTOR AS PRINCIPAL:

SURETY:

(Corp. Seal)

(Corp. Seal)

Company: Tapani, Inc.

Company: Travelers Casualty and Surety Company

Signature: *Kerim Tapani*

Signature: *Gloria Bruning*

Name: Kerim Tapani

Name: Gloria Bruning

Title: Vice President

Title: Attorney-in-fact

(Attach Power of Attorney)



POWER OF ATTORNEY

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company

Attorney-In Fact No. 224582

Certificate No. 005260925

KNOW ALL MEN BY THESE PRESENTS: That Farmington Casualty Company, St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company are corporations duly organized under the laws of the State of Connecticut, that Fidelity and Guaranty Insurance Company is a corporation duly organized under the laws of the State of Iowa, and that Fidelity and Guaranty Insurance Underwriters, Inc., is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint

Gene M. Dietzman, Gloria Bruning, James P. Dooney, John D. Klump, Philip O. Forker, Ray M. Paiement, Vicki Mather, J. Patrick Dooney II, Richard W. Kowalski, Brent Olson, Joel Dietzman, Tami Jones, Karen A. Pierce, and Christopher Reburn

of the City of Portland, State of Oregon, their true and lawful Attorney(s)-in-Fact, each in their separate capacity if more than one is named above, to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 8th day of November, 2012.

Farmington Casualty Company
Fidelity and Guaranty Insurance Company
Fidelity and Guaranty Insurance Underwriters, Inc.
St. Paul Fire and Marine Insurance Company
St. Paul Guardian Insurance Company

St. Paul Mercury Insurance Company
Travelers Casualty and Surety Company
Travelers Casualty and Surety Company of America
United States Fidelity and Guaranty Company



State of Connecticut
City of Hartford ss.

By: [Signature]
Robert L. Raney, Senior Vice President

On this the 8th day of November, 2012, before me personally appeared Robert L. Raney, who acknowledged himself to be the Senior Vice President of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.
My Commission expires the 30th day of June, 2016.



[Signature]
Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company, which resolutions are now in full force and effect, reading as follows:

**RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

**FURTHER RESOLVED**, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

**FURTHER RESOLVED**, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

**FURTHER RESOLVED**, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, Kevin E. Hughes, the undersigned, Assistant Secretary, of Farmington Casualty Company, Fidelity and Guaranty Insurance Company, Fidelity and Guaranty Insurance Underwriters, Inc., St. Paul Fire and Marine Insurance Company, St. Paul Guardian Insurance Company, St. Paul Mercury Insurance Company, Travelers Casualty and Surety Company, Travelers Casualty and Surety Company of America, and United States Fidelity and Guaranty Company do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 5<sup>th</sup> day of March, 20 13.

WARNING: THIS POWER OF ATTORNEY IS INVALID WITHOUT THE RED BORDER

*Kevin E. Hughes*  
Kevin E. Hughes, Assistant Secretary



To verify the authenticity of this Power of Attorney, call 1-800-421-3880 or contact us at [www.travelersbond.com](http://www.travelersbond.com). Please refer to the Attorney-In-Fact number, the above-named individuals and the details of the bond to which the power is attached.

**CERTIFICATION OF NONDISCRIMINATION**

Pursuant to the requirements of ORS 279A.110, I certify that I have not discriminated and will not discriminate against a subcontractor in awarding a subcontract because the subcontractor is a minority, woman or emerging small business enterprise certified under ORS 200.055 or a business enterprise that is owned or controlled by or that employs a disabled veteran, as defined in ORS 408.225.

\_\_\_\_\_  
DATE 3-4-13 *Kevin Tapani* BIDDER *VP*  
Tapani, Inc.

**NOTE: THIS STATEMENT MUST BE RETURNED WITH THE BID.**

# FIRST TIER SUBCONTRACTOR'S DISCLOSURE FORM

PROJECT NAME: 11<sup>th</sup> Street CSO Separation Project

BID CLOSING:      DATE: March 5, 2013      TIME: 2:00 PM

This form must be submitted at the location specified in the Invitation to Bid on the advertised bid closing date and within two working hours after the advertised bid closing time.

List below the name of each subcontractor who will be furnishing labor or materials and that is required to be disclosed, the category of work that the subcontractor will be performing and the dollar value of the subcontract. Enter "NONE" if there are no subcontractors that need to be disclosed (ATTACH ADDITIONAL SHEETS IF NEEDED.)

Name	Dollar Value	Category of Work
1) <u>Bayview Transit Mip Inc.</u>	\$ <u>865,880.</u>	<u>asphalt paving</u>
2) <u>Cavico NW LLC</u>	\$ <u>404,235</u>	<u>Concrete work</u>
3) _____	\$ _____	_____
4) _____	\$ _____	_____

Failure to submit this form by the disclosure deadline will result in a nonresponsive bid. A nonresponsive bid will not be considered for award.

Form Submitted by (Bidder Name): Tapani, Inc.

Contact Name: Ross Sarkinen

Phone no.: 360-687-1148



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

March 7, 2013

**MEMORANDUM**

TO: MAYOR AND CITY COUNCIL

FROM:  PAUL BENOIT, CITY MANAGER

SUBJECT: **11<sup>th</sup> STREET CSO SEPARATION – GIBBS & OLSON CONSTRUCTION INSPECTION CONTRACT AMENDMENT**

**DISCUSSION/ANALYSIS**

In June 2012, Council awarded the 11<sup>th</sup> St. Combined Sewer Overflow (CSO) Separation project engineering services contract to Gibbs & Olson (G&O). G&O developed a final, quality bid package for this complex project on schedule to bid in February. Construction inspection was not included in the original scope and fee that was prepared by G&O because it is difficult to estimate the fee for these services at the beginning of a design.

The 11<sup>th</sup> St. CSO Separation project primarily consists of installing over 10,000 feet of new stormwater pipe in established City rights-of-way. It will be necessary to replace existing water and sanitary sewer pipe where construction of the new storm pipe compromises the integrity of the existing infrastructure. Due to the extent of utility replacement work along 8<sup>th</sup> St. from Commercial to Niagara, the entire roadway will be rebuilt from curb to curb and most of the sidewalk will be replaced.

The scope of the project includes construction in the following locations:

8<sup>th</sup> St from Commercial to Niagara  
9<sup>th</sup> St from Duane to Harrison  
10<sup>th</sup> St from Duane to Jerome  
11<sup>th</sup> St from Exchange to Irving


12<sup>th</sup> St from Exchange to Kensington  
Irving Ave from 11<sup>th</sup> St to 12<sup>th</sup> St.  
9<sup>th</sup> St from Marine Dr to the outfall


Full-time construction inspection was anticipated and has been included in the funding budget since the project was originally scoped. The cost of construction inspection by a consultant is a function for the duration of the construction and dictated by the needs of the City. Based on the current estimated construction schedule, the anticipated fee developed by G&O for construction inspection is \$217,512. This fee is less than the funding budgeted amount of \$265,000.

This project must be constructed and operationally complete by December 1, 2013 according to the Amended Stipulation and Final Order signed by the City and the Department of Environmental Quality. Funding for this project is available through the IFA.

**RECOMMENDATION**

Recommend Council execute a contract amendment with Gibbs & Olson for the 11<sup>th</sup> St. CSO Separation Project in the amount of \$217,512.00 for full-time construction inspection.

Submitted By:   
Ken P. Cook, Public Works Director

Prepared By:   
Cindy D. Moore, City Support Engineer





**CONTRACT AMENDMENT  
BETWEEN  
THE CITY OF ASTORIA AND GIBBS & OLSON, INC.  
FOR  
11<sup>TH</sup> STREET CSO SEPARATION PROJECT**

The AGREEMENT dated June 25, 2012, by and between THE CITY OF ASTORIA, hereinafter called "THE CITY" and GIBBS & OLSON, INC., hereinafter called "CONSULTANT", is hereby amended as follows:

Amend Scope of Services of the AGREEMENT for full-time construction inspection for the entire construction duration of this project (see attached fee).

Amend Compensation of the AGREEMENT to increase contract amount by \$217,512.00.

IN WITNESS WHEREOF, THE CITY AND CONSULTANT have executed this AMENDMENT as of \_\_\_\_\_, 2013.

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

CONSULTANT:  
Gibbs & Olson, Inc.

BY: \_\_\_\_\_  
Willis Van Dusen                      Date  
Mayor

BY: \_\_\_\_\_  
Consultant                                      Date

BY: \_\_\_\_\_  
Paul Benoit                                      Date  
City Manager

**City of Astoria, 11th Street CSO Separation Project  
Construction Representative Estimated Cost**

Const. Rep. Rate/Hr \$85  
 Miles to site 60  
 On-site project miles 10  
 Mileage Rate \$0.565  
 Cost to site \$34  
 Cost on site \$6  
 Total est. mileage charge/day \$40



Month	Work Days Per Month	Days Worked	Onsite Hrs/day	Billed Travel Hrs	Total Hrs Billed Monthly	Const. Rep Hrs Billed Cost	Mileage Cost	Total Est. Cost
March 2013	10	10	8	8	88	\$7,480	\$328	\$7,808
April 2013	22	22	10	18	238	\$20,196	\$721	\$20,917
May 2013	23	22	10	18	238	\$20,196	\$721	\$20,917
June 2013	20	20	10	16	216	\$18,360	\$655	\$19,015
July 2013	23	22	10	18	238	\$20,196	\$721	\$20,917
August 2013	22	22	10	18	238	\$20,196	\$721	\$20,917
September 2013	21	20	10	16	216	\$18,360	\$655	\$19,015
October 2013	23	23	10	18	248	\$21,114	\$754	\$21,868
November 2013	21	19	10	15	205	\$17,442	\$623	\$18,065
December 2013	22	21	10	17	227	\$19,278	\$688	\$19,966
January 2014	23	22	8	18	194	\$16,456	\$721	\$17,177
February 2014	14	14	8	11	123	\$10,472	\$459	\$10,931
		237		190	2468	\$209,746	\$7,766	\$217,512

Note: The estimated cost is for one full-time Construction Representative only.  
 Days Worked deducts the following holidays: Memorial Day, 4th of July, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas, New Years

Travel billed at 4 hrs/week  
 Onsite and one-way mileage from Longview to Astoria to be billed