



AGENDA

ASTORIA CITY COUNCIL

Tuesday, February 19, 2019

7:00 p.m.

2nd Floor Council Chambers

1095 Duane Street · Astoria OR 97103

1. CALL TO ORDER

2. ROLL CALL

3. PRESENTATIONS

a) Library Renovation Plan Update

4. REPORTS OF COUNCILORS

5. CHANGES TO AGENDA

6. CONSENT CALENDAR

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

a) City Council Minutes of January 22, 2019

b) Astoria Park Board Meeting Minutes for January 23, 2019

c) NW Natural Co Location Agreement at Reservoir Ridge Communications Site

d) Budget Resolution to Correct Scriveners Error

7. REGULAR AGENDA ITEMS

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

a) Public Hearing: Ordinance Amending City Code 1.600 – 1.640 Relating to the Ambulance Franchise Program

b) Contract Amendment – 2018 Trolley Trestle (River Trail) Repair Project

c) 11th Street Emergency Repair - Contract Change Order

d) Discussion of Bridge Vista Overlay Code Amendments

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


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



CITY OF ASTORIA

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MEMORANDUM • CITY MANAGER

DATE: FEBRUARY 13, 2019
TO: MAYOR AND CITY COUNCIL
FROM:  BRETT ESTES, CITY MANAGER
SUBJECT: ASTORIA CITY COUNCIL MEETING OF TUESDAY, FEBRUARY 19, 2019

PRESENTATION

Item 3(a): Library Renovation Plan Update

David Wark, Principal Architect from Henneberry Eddy, will present the current design plan for the Astor Public Library renovation.

CONSENT CALENDAR

Item 6(a): City Council Minutes for January 22, 2019

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

Item 6(b): Draft Parks Board Meeting Minutes for January 23, 2019

The draft minutes of the Parks Board Meeting are included. Unless there are any questions or comments regarding the contents of these minutes, they are presented for information only.

Item 6(c): NW Natural Co Location Agreement at Reservoir Ridge Communications Site

The City of Astoria has partnered with Verizon Wireless to build a suitable replacement communications site in order to vacate the current site at the Astoria Column. Verizon cellular equipment, City of Astoria emergency communication equipment, and equipment from other agencies has been located on the Coxcomb tower. The new site is known as Reservoir Ridge Communications Site. The current site at the Column will be vacated once the Reservoir site is operational, and that project milestone is very near.

The Reservoir Ridge tower structure is owned by Verizon, which requires the City to sign a sublease to install our antennas and microwave dishes.

As the Reservoir Ridge Communications Site is nearing operational status NW Natural is seeking occupancy in order to meet FCC Licensing deadlines. In order for this to happen, a signed lease between the City and NW Natural is required.

The attached lease has been reviewed and approved by the City Attorney as well as the Emergency Communications Manager. It is recommended that City Council approve this lease.

Item 6(d): Budget Resolution to Correct Scriveners Error

An omission error occurred in the originally prepared budget which was adopted by City Council on June 11, 2018. Funds were appropriated as Transfers Out of the East Astoria Waterline Debt Service Fund # 265 and 7th Street Dock Local Improvement Debt Service Fund # 267 in anticipation of closing these funds in the current year. The appropriate offset of these Transfer Out appropriations is a Transfer In to another account. The Transfer In was not appropriately reflected in the General Fund budget.

The attached resolution resolves the unbalanced General Fund Transfer In for the budgeted Transfers Out from East Astoria Waterline Debt Service Fund # 265 and 7th Street Dock Local Improvement Debt Service Fund # 267.

It is recommended that City Council consider the resolution to correct the scriveners error in recording and balancing Transfers In to the General Fund Resources against the budgeted Transfers Out of Funds # 265 and # 267.

REGULAR AGENDA ITEMS

Item 7(a): Public Hearing: Ordinance Amending City Code 1.600 – 1.640 Relating to the Ambulance Franchise Program

Oregon Revised Statute (ORS) 682.062 was enacted in 2003 effectively giving counties the authority to develop a plan relating to the need for, and coordination of, ambulance services. Clatsop County established an ambulance service area plan consistent with statutes for the efficient and effective provision of ambulance services. ORS 682.031 also gives the City the authority to establish an ordinance regulating ambulance services; however, it must comply with the County plan making that need unnecessary for the City of Astoria. The City of Astoria originally passed Astoria Codes 1.600 – 1.640 on August 16, 1976, encompassing fifteen pages. Astoria Code 1.600 – 1.640 is outdated and in conflict with the County's Ambulance Service Area Plan. The outdated City Code language can be found online (starting on Page 1–25) at: http://www.astoria.or.us/Assets/dept_1/pm/pdf/chapter%201%201-19.pdf

It is recommended that Council hold a public hearing and consider holding a first reading of the ordinance amending City Code 1.600 – 1.640 relating to The Ambulance Franchise Program.

Item 7(b): Contract Amendment – 2018 Trolley Trestle (River Trail) Repair Project

The subject contract amendment is a request for approval to amend the contract with OBEC to include costs required for additional design work and load rating evaluation. This is to ensure that repairs can be made in a manner that does not leave this area load restricted for vehicles.

It is recommended that City Council authorize approval of Contract Amendment #1 with OBEC Consulting Engineers in the amount of \$40,060.80 for additional engineering services associated with the 2018 Trolley Trestle Repair Project.

Item 7(c): 11th Street Emergency Repair - Contract Change Order

The subject change order is a request for approval increasing the original contract with Bergeman Construction for emergency repair of infrastructure under 11th St.

It is recommended that City Council approve the Change Order with Bergeman Construction for up to \$36,525.67 for the 11th Street Emergency Repair Project.

Item 7(d): Discussion of Bridge Vista Overlay Code Amendments

Staff will make a short presentation overview of potential amendments to the Bridge Vista Overlay Zone of the Riverfront Vision Plan to the City Council for information and discussion. The Council had expressed a concern with the language of the current code at their December 20, 2018 meeting during the public hearing on the appeal of the Design Review Request on the hotel proposed to be located within the Bridge Vista Overlay Zone (BVO).

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

Councilors Present: Brownson, Rocka, Herman, West, and Mayor Jones.

Councilors Excused: None

Staff Present: City Manager Estes, Parks and Recreation Director Williams, Finance Director Brooks, Interim Fire Chief Curtis, Police Chief Spalding, Public Works Director Harrington, Library Director Pearson, and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

REPORTS OF COUNCILORS

Item 3(a): **Councilor Herman** reported that she and Councilor Rocka toured the Police and Fire Departments. She thanked Chiefs Spalding and Curtis for showing them around and introducing them to some of the employees.

Item 3(b): **Councilor Brownson** had no reports.

Item 3(c): **Councilor Rocka** reported that he learned a lot from the informative tours of the Police and Fire Departments, the land use training hosted by the Department of Land Conservation and Development (DLCD), the presentation given by the Chamber of Commerce, and having coffee with Port Director Jim Knight. He also learned that people only approach him to discuss one thing, the planned hotel at the foot of 2nd Street. People do not understand why the Council approved the hotel. When he talks to people about zoning, outright permitted uses, and the Council's limited authority in such cases, people ask when the City will fix the Code. No developer or single property owner must consider the City's sewer capacity, traffic loads, housing for workers, parking for staff, views, or what the people who live here want the city to be; however, Council does consider those things. As the Council moves forward with work sessions and goal setting, they will consider what they can do and he hoped that amending the Code would be a priority.

Item 3(d): **Councilor West** reported she was excited be on the Council. She thanked those who reached out to her to offer help or to have coffee. It has been incredible to have received such a warm welcome from people in and out of her ward. She thanked Jenn Benoit for being so helpful.

Item 3(e): **Mayor Jones** reported that on Saturday, he provided a welcome address to the Indivisible North Coast Oregon Group (INCO), sat on a How to Run for Office panel and participated in the Women's March. There was a full house in the Lovell Showroom for the INCO event. The level of community support and donations to assist the many people whose paychecks were terminated due to the federal government shutdown has been heartwarming. That afternoon, he was at the Moose Lodge when they presented a check for \$10,435 to the Chief Petty Officers Association, which would go toward furloughed federal workers. That money was raised at a fundraiser dinner the previous week. The Lodge also collected over 1,000 pounds of donated food that they took to the food pantry. The Coast Guard Chiefs asked him to express their appreciation to the community for their generous spirit. He reported that the newspaper published a story about the Ku Klux Klan (KKK) fliers posted around the community. The individual(s) who posted the fliers are vastly outnumbered by the rest of the good citizens who do good work in the community on a daily basis and who have nothing but contempt for the racism and hatred represented in the fliers. Astorians will not put up with such garbage. He appreciated the Police Department's efforts to find the source, which would be difficult. That afternoon, he met with Congresswoman Bonamici's field representative to discuss various local issues. She also met with Councilor Herman and Coast Guard spouses to talk about what they are enduring without paychecks. The Congresswoman will take some of those stories to the capital when legislation is discussed later this week. On January 12th, he was honored to be a guest speaker at a memorial service at the Maritime Museum for several dozen Coast Guard men and women whose lives were lost during life saving rescues on the Oregon coast. About 175 people attended, many of whom were older retirees living on a pension that they will not receive this month unless the government shutdown is resolved by January 31st. In the last two weeks, crews

rescued crabbers and fishermen who also did not get paid while risking their lives. On January 10th, the City Council, Planning Commission, Design Review Committee (DRC), and Historic Landmarks Commission (HLC) met jointly to do some training on land use laws and policies. He hoped the City could do joint training a couple of times a year. On February 25th, City Council will conduct an all-day goal setting session, which is open to the public. A press release on this event will be published soon. He attended the Astoria Co-op Grocery groundbreaking with Councilors Herman and West on Friday. It was great to see a local business expanding and thriving. His first Meet the Mayor event will be on Wednesday, January 30th from 12:00 pm to 1:00 pm at the library in the Flag Room. He will offer a variety of dates and times in the future so that people with different schedules have an opportunity to attend.

City Manager Estes introduced and welcomed Tim Williams, the new Parks and Recreation Director.

CHANGES TO AGENDA There were no changes.

CONSENT CALENDAR

The following items were presented on the Consent Calendar:

- 5(a) City Council Minutes of 12/12/2018
- 5(b) City Council Minutes of 12/17/2018
- 5(c) City Council Minutes of 12/20/2018
- 5(d) Community Development Department Status Update**

Mayor Jones requested Item 5(d) be removed for further discussion.

City Council Action: Motion made by Councilor Brownson, seconded by Councilor Herman, to approve Items 5(a) through (c) on the Consent Calendar. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 5(d): Community Development Department Status Update

Mayor Jones said the Community Development Department had been doing great work without a Director. He asked for an update on short-term rental code violations.

City Manager Estes said the City Council passed a new short-term rental permit that recently went into effect. Community Development Department Staff have been working on implementing the new permit process. Applications for the permits will start being submitted to the City soon. The next phase of the new permitting process is to amend the Development Code to align with the City's Municipal Code. The Planning Commission will be working on the Development Code amendments in March. The City has hired a new Contract Planner to assist with Code enforcement issues and short-term rental permit issues. Her top priority will be to deal with whole house short-term rentals, which are not permitted. The Building Official serves as the Code Enforcement Officer as well, and while this winter the Building Official has been busier than usual with building permits, he is now able to start working on more nuisance violations.

Mayor Jones asked for an update on hiring a Community Development Director. City Manager Estes stated that Staff continues to recruit for the position. Staff is considering hiring a consultant who specializes in public agencies. He will meet with Staff tomorrow to discuss options for recruiting a new director.

Mayor Jones noted that the Uniontown Reborn Project will host a public meeting on Wednesday, February 6th. A press release will be published with more details later in the week. He added that at the time the Council approved the Fairfield Hotel, he had commented that if the community did not want a four-story hotel in the Bridge Vista Overlay Zone, the City would need to look at the Code. He asked City Manager Estes to describe the Code amendment process.

City Manager Estes explained that the first step is for the Planning Commission to decide on the proposed Code language, which can take quite some time. Then, the City must notify DLCD before the Planning Commission can hold a public hearing. The Planning Commission hearing could last for several meetings before they forward their recommendation to City Council. The City must publish a public notice and then City Council would also conduct a public hearing. Typically, easy straightforward Code amendments take about five to six months. More

complex Code amendments take more time. The City is currently working on several Code amendments simultaneously, including the short-term rental Codes, administrative amendments like typographical errors, and warming center Codes. The amendments have been aggregated because of the Ballot Measure 56 Notice, which requires the City to notify property owners for any Code amendment that has the potential to impact property values. For the Code amendments currently being drafted, the City must publish public meeting notices to all Astoria residents, which is an expensive and extensive endeavor.

City Manager Estes noted this agenda item was provided for information purposes only, so no action by City Council was required.

REGULAR AGENDA ITEMS

Item 6(a): Public Hearing – Vacation of a Portion of the Right of Way on 26th Street Northwest of Harrison Abutting Adjacent Undeveloped Lots

John Wood, on behalf of Adella Wood, has requested to vacate 60 X 150-foot portion of the 26th Street unimproved right-of-way abutting two parcels of Ms. Woods property (Tax Lots 80909CC02301 and 80909CC04101) located on Harrison Avenue.

It was determined that there are no public utilities on or adjacent to the proposed vacation area and that the City would have no future need for this portion of the right-of-way.

Based on County Assessor's records, staff has calculated the real market land value of properties adjacent to the property as \$0.97 per square foot. Staff is proposing that an assessment of \$869.82 (10 percent) of the real land value (\$8,698.24) be considered for the vacation.

On January 7, 2019 the City Council adopted a resolution to schedule a public hearing regarding the vacation request. The public hearing notice was publicized and property owners within a 200-foot radius of the right-of-way were notified.

It is recommended that the Astoria City Council conduct the public hearing and hold a first reading of the ordinance to vacate a portion of the 26th Street right-of way adjacent to Tax Lots 80909CC02301 and 80909CC04101.

Mayor Jones opened the public hearing at 7:21 pm and called for public testimony. [21:56]

Sam Devereaux 2627 Grand Avenue, Astoria, said he was an adjacent property owner with some concerns. The property is close to a slide zone. And, when the two pieces of property are joined, the owner will have a large piece of property. The scale of the job could justify a very large building at some point. He was against the vacation.

Betty Hogan, 24th Street Astoria, said her property adjoins the Applicant's, who offered to buy her out. However, she did not want to live anywhere else as her property is worth more than \$10 million to her, so she planned to stay. She and her husband brought in 225 dump trucks of rock and paid for excavation to create a beautiful place. This was necessary because their home was sliding away. They filled in a large gully. The Harrison Slide Out Street is on her property. In the 1950s there were seven homes on Irving that slid down, so Harrison ends at the back of her house. She and her husband installed 180 feet of culvert to go under all of the rock that was brought in. Up on Irving, the rain washes down and goes into a drain. But the drain was so old that it washed out. Now, there is a natural creek that goes down, so the culvert goes under the creek. She has met with the Applicants a couple of times and she had no problems with them. But she was concerned that the area was a slide area. The house in front of hers has a retaining wall that had to be raised ten years ago.

Mary McConnell 700 24th Street, Astoria, said her property runs alongside the development being done. She had spoken to City Engineers a couple of times. The two lots closest to 24th Street are not on the slide map. The Applicant owns two lots up a ridge and over, and the corner of one of those lots is on the slide map. When she moved into the house 30 feet away, there was a house on the left side that had come down the hill. So, she believed it was an unusual piece of land and what happens there needs to be considered carefully. There is also a huge runoff where water pours off Harrison. She lives down a trail that turns into a creek. There is a flight of

stairs that becomes a waterfall that turns into a creek around her house before flowing down the hill. It is a special place, but it is also a fragile place. She had a lot of concerns.

Chris Farrar, 3023 Harrison Avenue, Astoria, said the property in question is down the street from his. His issue was that Astoria was not flush on cash. The City can barely keep parks in shape and is trying to get rid of some parks. Astoria wants a library, but that will have to be done with grant money and donations from individuals. The City does not maintain any kind of facility for homeless people. He was curious to know how the price was set at less than \$1,000 for a 9,000 square foot property. His property is 5,000 square feet and its real market value on the last tax bill was \$84,612. He wanted to know why the price was set so low when the City does not have money and has a lot of issues that require money. People are paying large surcharges on the water bills to fix the sewer system. The City needs money and if City assets are going to be sold, the almost 10,000 people in this town deserve to get a fair price for any asset sold. He believed this property should be sold for at least ten times more than the current asking price. A 9,000 square foot lot has the potential for building a multi-family dwelling, which offers a great business opportunity. The slide stability issue is also extremely important and adjacent properties could be adversely affected. He hoped the Council would deny the vacation. If the vacation is approved, he hoped the Council would at least raise the price by a factor of 10 if not 40.

Director Harrington explained this was not a development proposal. If a development proposal was submitted to the City, property engineering would be required. On these two lots, building would be restricted to a very small area and would require steeply cut slopes, high retaining walls, and more complicated construction. A proposal to build one home could be done with proper engineering. All the City can do to determine value is to consider the County Assessor's valuation. Since the properties are currently undeveloped, they have a relatively low value. The City cannot arbitrarily increase the price.

Councilor Brownson understood these lots were not owned by the City and that the City only had a utility right-of-way that prevented the property owners from building on the lots. The City would be vacating its rights.

City Manager Estes confirmed the request was for a right-of-way vacation, which is different from selling property. If the City were to sell a property it owned, the price would be negotiated and the property would be appraised. This application is for the City to vacate its right-of-way on a property owned by the Applicants. The price was determined using the methods the City has used over the years and is simply a fee charged to process the vacation.

Ms. Hogan said she could not understand the map she received in the mail and was not sure where the Applicants would come in on 26th Street. She asked which portions of the lots would be vacated. Her property is on 24th Street and adjoins the properties to be vacated.

Director Harrington explained that the Applicants had not yet submitted any proposal to construct access, but access would have to be on either Harrison or 26th Street. He used the map displayed on the screen to show the exact location of the area to be vacated, noting the area to the north had already been vacated.

Councilor Brownson added that roads do not exist on the property, so one would have to climb through the woods to get to the area to be vacated.

Ms. Hogan confirmed she had climbed through the woods to get to that area. She asked where the utilities would come in.

City Manager Estes explained that this request is for the City to vacate its right-of-way, noting the area was marked in red on the map. The City has not received any development proposal from the Applicants. If a house was built on the property, the owners would need to figure out how to connect water and sewer lines and gain access. That would all be part of a development proposal.

Mr. Deveroe said the Applicants owned two lots and including a third creates an extremely large piece that gives the Applicants the potential for an extremely large project like a three or four-story building. Without the third lot, the Applicants are constricted by the square footage of the two lots.

Mayor Jones closed the public hearing at 7:36 pm and called for Council discussion and deliberation.

Councilor Rocka understood that the Applicant already owned the property. City Manager Estes explained that a right-of-way is a public right given over an area. The determination as to whether to release that public right is being considered by Council now. The property is owned by a private individual, but the City is the caretaker of the portion of the lot that is considered a right-of-way. If the City Council votes to release the rights, care of the land reverts back to the owners.

Councilor Rocka wanted to know if the Applicant had actually bought and paid for the property at some point and currently owns it. City Manager Estes further explained that the right-of-way area was shown on County Tax Assessor maps as available for public use. The Applicants have requested that the City release the public need on their property.

Councilor Rocka asked if it was common to vacate a right-of-way without a development proposal. City Manager Estes confirmed that most of the time, requests will be similar to this one. Property owners typically request a right-of-way vacation when they want to use the property.

Councilor Herman asked if Staff knew anything about the geologic stability of the land or the history of slides on the property. She asked if the City had a geology report for the lots. Director Harrington said that until a development proposal is submitted, there is no reason to hire a geologist or geotechnical engineer to evaluate the lots. Any development proposal on these lots will be very expensive because of the terrain and the slide issues. It would be expensive for the Applicants to spend all that money and then have the vacation request denied.

Councilor Herman confirmed with Staff that the land was currently wooded and that the slope was steep. She also confirmed that all three lots owned by the Applicant were vacant.

Mayor Jones reminded that speculation about what the owner intends to do with the property would be dealt with when the owner chooses to move forward with a plan. Issues of geologic stability would be dealt with by the City's planning process. The Council cannot deny a vacation based on speculation about what a property owner might do in the future.

Councilor West asked if the property owner knew the costs associated with building. She understood the concern was that a large structure could compromise the stability of the area and she wanted to know if Staff could have a conversation with the Applicants, not to deter them from using the property the way they want, but to ensure they realistically understand how difficult it might be to build something on the lot.

Councilor Brownson noted the property owners were responsible for doing their own due diligence. When applications come forward, he trusted that Staff vetted them very well and added all the necessary requirements to create a stable footprint. It will be up to the property owner to figure out if any costs associated with that will be worth the project. He believed the Applicants wanted more land so they would have a better opportunity to place a house, so it made sense to request the vacation first.

City Manager Estes confirmed for Councilor Brownson that the vacation would release the public interest, the property would still be owned by the Applicants, and the owners would be able to build on it. The street right-of-way was platted when the development was platted. When the right-of-way is vacated, the lot configuration will show that the entire lot is in private ownership. He reiterated the right-of-way to the north has already been vacated.

City Attorney Henningsgaard explained that when a person buys property adjacent to the street, they actually own the title to the middle of the street. The City's right-of-way is like an easement over the property and the owner cannot do anything on the property that would interfere with the easement. In this situation, there is no issue because utilities will never be installed in that easement and a street will never be built there. The Council must determine whether the City has any need to continue the easement over the property owned by the Applicants.

Mayor Jones added that the property is not the City's to sell at market value. Director Harrington said the 10 percent fee has been the City's policy for many years. The property is not being sold. This request is to vacate a right-of-way.

Councilor Herman asked how the City would make sure the land was stable if a development proposal was submitted. Staff said the Building and Engineering Departments would require a geotechnical engineering report. Known slide areas are mapped. If the lot is within a mapped slide area or within 100 feet of a known slide area, a geotechnical review would be required. The Building Official would ensure adequate footings and foundations.

Councilor Rocka asked if the property had mature trees and if the property owners could log the property. City Manager Estes said the City did not have a tree cutting ordinance.

Councilor Rocka asked what logging would do to the stability of the area. Staff confirmed that would be reviewed if any grading or erosion control work was done. However, logging may not trigger an erosion control permit.

Councilor Herman said she had reservations about vacating the right-of-way. If the request is approved, the trees could be cut. Staff clarified that the trees could be cut already.

City Council Action: Motion made by Councilor Brownson, seconded by Mayor Jones, to hold a first reading of the ordinance to vacate a portion of the 26th Street right-of way adjacent to Tax Lots 80909CC02301 and 80909CC04101. Motion carried 4 to 1. Ayes: Councilors Brownson, Herman, West, and Mayor Jones; Nays: Councilor Rocka.

Director Brooks conducted the first reading of the ordinance.

Item 6(b): Second Reading – Ordinance Readopting Certain State Statutes to Reflect Changes Made by the 2018 Oregon Legislature

The first reading of this ordinance was held at the January 7, 2019 City Council meeting. The 2018 legislation passed by the Oregon Legislature, for the most part, became effective on January 1, 2019. Many of our City ordinances refer to or incorporate state statutes. Every year, the City routinely re-adopts all referenced ORS sections to pick up any changes made by the legislature. This is done by a "global readoption" technique recommended by the League of Oregon Cities. The City is legally unable to prospectively adopt Oregon legislative changes, i.e., we cannot adopt a state statute "as it now exists and is from time to time amended." The proposed ordinance has been reviewed and approved by the City Attorney. It is recommended that Council hold a second reading and adopt the proposed ordinance.

Director Brooks conducted the second reading of the ordinance.

City Council Action: Motion made by Councilor Brownson, seconded by Councilor Rocka, to adopt the proposed amendments. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 6(c): Scandinavian Heritage Park Lease with Newport Pacific Corporation

At the December 17, 2017 City Council meeting, the Council approved a Memorandum of Agreement (MOA) with the Astoria Scandinavian Heritage Association (ASHA) for construction of park improvements on City-owned property located at 1590 Marine Drive. This site is known as the People Places Park and is one of the current parks maintained by Parks and Recreation Department. The MOA specifies that ASHA will be responsible for construction of the park facilities and for continued maintenance of the park after completion.

Park design plans were approved by the City Council on December 17, 2018. The main entrance to the Park will be from the north with access from the River Trail. This access would cross the parking area owned by Newport Pacific Corporation (Mo's Seafood and Chowder). ASHA and City Planning Consultant/ Project Manager Rosemary Johnson have been working with Bob Scull, Mo's Regional Manager, on a proposed lease of two parking spaces to allow a handicap accessible (ADA) access walkway from the River Trail to the Park entrance. Mr. Scull has agreed to lease the spaces to ASHA and the City in return for maintenance of a view corridor from Marine Drive through the Park toward the Mo's building. The Park design provides a natural view corridor as proposed. No additional trees would be removed to provide this view corridor. The City Attorney and ASHA's attorney have reviewed the attached Lease and have approved it as to form. Since the land is owned by the City and the Park improvements will be constructed, maintained, and financed by ASHA, the

Lease will be between the City, ASHA, and Newport Pacific Corporation, as per City Attorney Henningsgaard's direction.

It is recommended that Council authorize the Mayor to sign the attached Lease with ASHA and Newport Pacific Corporation for the use of two parking spaces on the Newport Pacific Corporation Property to benefit the Scandinavian Heritage Park at 1590 Marine Drive.

Councilor Herman asked what it meant for the City to maintain a view corridor.

Contract Planner Rosemary Johnson, 672 15th Street, Astoria, said the area where the park will be established contains natural areas where the trees are open. Mo's has requested that a view through the park be maintained so that people could see the business behind the trees from Marine Drive. The current park design naturally allows this view. However, the lease ensures that the trees will be maintained and trimmed to preserve the view for a minimum of five years.

City Council Action: Motion made by Councilor Herman, seconded by Councilor Brownson to authorize the Mayor to sign the attached Lease with ASHA and Newport Pacific Corporation for the use of two parking spaces on the Newport Pacific Corporation Property to benefit the Scandinavian Heritage Park at 1590 Marine Drive. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 6(d): Larson Request to Cut Trees on City Property

Mary Ann Larson, residing at 2907 Irving Ave, has submitted an application for permission to cut trees on City property. The City owned property is to the northwest of the Larson's property and includes Tax Lot 04800; Map 80909CC. Ms. Larson has obtained the signature of Richard Seppa, an adjoining property owner. Mr. Klockau, also an adjoining property owner, declined to sign.

The work being done on this lot is in a known slide zone. A geological evaluation was conducted in May 2011. The general conclusion of the evaluation is that the landslide risk is controlled by reduced soil strength caused by rainfall saturation and not lost tree root strength. The trees being cut are mostly maple with a diameter at breast height (DBH) of 8 inches. The area has been cut before and most of these trees are suckers from the previous cut. It is recommended that the request to cut trees on City property be considered.

Councilor Rocka understood these trees had been cut many times in the past and were not mature trees.

Councilor West said this sounded more like a thinning rather than cutting down the area. She asked how many trees would be cut. Director Harrington said most of the maples would be cut, noting the memorandum provided an estimate on the number of trees.

Councilor West said she walked by the property a couple of times. She asked if the proposal would involve the same work that was done in the past. There are a lot of maples along Irving and she wanted to make sure a bunch of trees would not be cut out of one section. Director Harrington confirmed the request was to cut 12 multi-stemmed maple trees. The other counts in the memorandum [inaudible].

Mayor Jones invited public comments.

The Applicant, 2904 Irving Avenue, Astoria, said he purchased property from the county at auction in September 2017. He pointed to the location of both of his properties on the map. He had a geological assessment done on the property he purchased from the county because it had slid before he purchased it. The geologist confirmed at the time of the sale that there was no evidence of slides due to tree cutting activities. In the 1980s, the State had done a similar assessment. He bought the property with the understanding that no damage be done by tree trimming. An identical property was approved for trimming in 1994. In 2011 and 2017, other properties in an area beyond the bridge were approved for trimming and cutting. These trees have been cut at least five times in the past to open up a bit of a view of the Columbia River Bridge for Mrs. Larson. There is no geological issue. There are trees throughout the entire area and the proposed trimming would not open up a view that would be disadvantageous to the people who have concerns about seeing the Safeway parking lot in the winter. The people who came from California do not like tree trimming, which is understandable, but there are no view issues or geologic issues.

Mayor Jones said he was sympathetic to homeowners who have a view and offering to cut saplings and suckers at their own expense to preserve that view.

Councilor Brownson stated if these 12 trees are cut, the Applicants will be back in front of another Council to make the same request again.

Councilor Herman confirmed with the Applicant that the root systems would not be removed and that the trees to be cut were located down the hill on City property.

The Applicant added that the previous owner approved cutting. The City determined that the people who live north of Harrison, below the property did not have to sign off on this request because they live on the other side of Harrison. He confirmed for Councilor Herman that the same trees were growing back. The first permit approved in 1994 was much more extensive than this one and there has not been any slide activity in the area since 1957 when the slide occurred to the west of the property to be cut.

Councilor Herman asked what erosion control measures the City required. Director Harrington said a City inspector would monitor the work and check in periodically. Usually, erosion control is associated with the activity, so how the property is accessed. In this case, people will be walking in, cutting trees with chainsaws and dropping the trees in place.

Councilor Herman said she was sympathetic to the Applicant. The cutting is being done to the northwest, but Safeway is to the east.

City Council Action: Motion made by Councilor Brownson, seconded by Councilor West to approve the request by Mary Ann Larson to cut trees on City property located on Tax Lot 04800; Map 80909CC. Motion carried unanimously. Ayes: Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 6(e): Agreement with Astoria Scuba for Astoria Aquatic Center

Astoria Scuba and Adventure Sports, LLC has a long-standing relationship utilizing the Aquatic Center to provide dive certification and training. An incident involving glass breakage on the deck of the pool in the Spring of 2018 created a situation where staff was instructed to strictly enforce the no glass policy within the facility. The strict enforcement includes glass goggles and masks which may break and impact safety within the facility.

Astoria Scuba and Adventure Sports, LLC utilizes professional all tempered glass dive masks which are designed for diving and pool usage. CE EN250 Tempered Glass in Dive Masks are regulated by DOT and Divers Equipment Manufacturers Association (DEMA) and after review of the specifications for these masks and their manufacture was completed by staff, a request to enter into a memorandum of understanding between City of Astoria and Astoria Scuba and Adventure Sports, LLC to allow CE EN 250 Tempered glass dive masks for their pool usage is recommended. The agreement provides the scope for use and also identifies insurance requirements which have been in place for several years listing City as additional insured for liability associated with accidents, property damage or liability.

A Memorandum of Agreement, reviewed and approved to form by Attorney Henningsgaard, is attached for Council review and consideration.

It is recommended that City Council approve the Memorandum of Agreement with Astoria Scuba and Adventure Sports, LLC for the use of CE EN250 Tempered Glass Dive Masks within the Aquatic Center while conducting dive certification and training.

Mayor Jones thanked Director Williams for negotiating the agreement with Astoria Scuba as his first task with the City. Every potential risk to the City has been considered and the City will be indemnified and reimbursed by Astoria Scuba for any expenses incurred by an accident.

Councilor Brownson said the tempered glass is difficult to break and when it does break it is not dangerous. If a diver breaks a mask in the pool, they are capable of cleaning it up. Astoria Scuba has cleaned up glass broken in the pool by others as a service and he appreciated that the City could support a local business.

City Council Action: Motion made by Councilor Rocka, seconded by Councilor Brownson, to approve the Memorandum of Agreement with Astoria Scuba and Adventure Sports, LLC for the use of CE EN250 Tempered Glass Dive Masks within the Aquatic Center while conducting dive certification and training. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

Item 6(f): Temporary Federal Employee Penalty and Fee Waiver Program

The City of Astoria recognizes the partial governmental shutdown which began in December 2018 may create challenges for furloughed and working Federal employees who are not receiving paychecks. To provide some relief and peace of mind during this period, staff has compiled a temporary penalty and fees waiver program for City water and sewer billings for Federal employees affected by the partial government shutdown.

The proposal for Council consideration is to waive the late penalty and interest charges and to forgo sending out shut off notices holding the service billing until such time as the shutdown is resolved and government employees are able to receive their pay.

The program eligibility and application information is attached for Council review and consideration. It is recommended that City Council approve the temporary Federal employee penalty and fee waiver program.

City Manager Estes noted that the Parks Department has already arranged for the Parks Foundation to cover Aquatic Center costs and Lil Sprouts will host a food drive for government employees. A community group has offered to cover the cost of child care at Port of Play over the weekend for Coast Guard employees.

Councilor West said she has been so impressed by the Parks Department and other entities in town who have supported the federal employees.

Councilor Herman said she realized this would create more work for the Finance Department, but she appreciated the opportunity to ease stress for families not receiving paychecks.

Councilor Rocka commented this is one of the things that makes him proud of the community.

City Council Action: Motion made by Councilor Rocka, seconded by Councilor West, to approve the temporary Federal employee penalty and fee waiver program. Motion carried unanimously. Ayes: Councilors Brownson, Herman, Rocka, West, and Mayor Jones; Nays: None.

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

Chris Farrar, 3023 Harrison Avenue, Astoria, said he appreciated the volunteers who helped the City with so many tasks by serving on commissions and committees. The City Council can count on all of those volunteers for advice and ideas. Each person approaches things from their own point of view and sometimes those views differ. The differing views are worth listening to more and the citizens appreciate hearing someone stand up to share a view that was not supported by the Council. He hoped everyone appreciated the volunteer efforts. The volunteers are helping City Council reach better decisions and that should never be discouraged, no matter how strongly or passionately someone disagrees with a Councilor. When he has cast the only no vote as a County Planning Commissioner, he was not called on to the carpet by anyone on the Commission because his vote was accepted.

The City Council recessed into Executive Session at 8:25 pm.

EXECUTIVE SESSION

Item 8(a): ORS192.660(2)(h) – Legal Correspondence

Item 8(b): ORS192.660(2)(d) – Labor Negotiator Consultations

The City Council will meet in Executive Session to discuss legal correspondence and labor negotiations.

The regular session reconvened at 10:33 pm.

ADJOURNMENT

There being no further business, the meeting was adjourned at 10:33 pm.

ATTEST:

APPROVED:

Finance Director

City Manager

DRAFT

Parks Advisory Board Meeting Minutes January 23, 2019

Chairperson Norma Hernandez called meeting to order at 6:46 am.

Present- Norma Hernandez, Jessica Schleif, Andrew Fick, Jim Holen, Eric Halverson, Michele Tompkins, Carla Oja, and Josh Saranpaa.

Absent- Howard Rub and Natalie Osburn

Staff Present- Tim Williams, Jonah Dart-McLean, Brianna Bowker and Matt Moritz.

New Parks and Recreation Director Tim Williams and new Parks Board members Carla Oja and Josh Saranpaa introduced themselves, noting their personal and professional backgrounds.

Public comments

1. There were none.

Approval of Minutes

- A. December minutes were unanimously approved as presented.

President Hernandez

- B. What do you hear- Josh Saranpaa said it was nice to work with Mr. Dart-McLean when things came up. Michele Tompkins thanked Mr. Dart-McLean for taking her comments on the downed trees on the Column Trail while he was on leave. Chair Hernandez heard people were excited that Ms. Schleif would continue her work at Tidal Rock Park. Jessica Schleif heard a lot of feedback about the Riverwalk.

Employee and Volunteer Recognition

- A. Director Williams and Brianna Bowker recognized Sherry Lions as the January Employee of the Month.
- B. Director Williams, Mr. Dart-McLean, and Quinton Bauer recognized Ed Wegner as January Park Partner of the month, who had also been awarded SOLVE's Volunteer of the Year award for 2018.
Quinton Bauer shared information about SOLVE and their upcoming events.

Old Business

- A. Jim Holen provided a brief overview of the Parks Foundation for the new members and guests. He noted upcoming events and fundraisers, and said the Foundation was working on their annual program review and goals for the year.
Josh Saranpaa said he appreciated what the Foundation was doing for Coast Guard families. He believed their efforts inspired the Lil Sprouts' food drive.
Andrew Fick added that the Astoria Co-op started allowing customers to round up their grocery bills to donate to animal assistance. He asked if the Foundation would look into other retailers that take donations through round ups. Chair Hernandez asked Mr. Holen to follow up with the foundation on a round up campaign.

Jim Holen noted that \$7,000 had been raised for a dog park. Since no land could be found for the park, half of the funds would go to support the Warrenton dog park and the other half would go to the animal shelter.

- B. Jonah Dart-McLean provided a brief update on Staff's efforts to implement the Parks and Recreation Master Plan. The work was not substantial at the moment since there were so many staffing changes going on and budget season had begun.
- C. Director Williams updated the Board on recent and upcoming staffing changes, and introduced the new Grounds Coordinator Matt Moritz.
- D. Jonah Dart-McLean gave an update on the Astoria Scandinavian Heritage Association Monument. City Council accepted Mo's donation of two parking spots. Staff had a meeting scheduled with the Association to get an update on how the work was going and would provide the Board with more details at their next meeting.

New Business

- A. Jessica Schleif presented the request to renew the memorandum of agreement (MOA) for Tidal Rock Park. She shared details about the grant that funded the work done under the original agreement. She recently spoke at the National Parks Nature Matters series held at Fort George, where she received a stipend and some donations that would serve as seed money for continuing the work at the park. She also solicited volunteers at the event. Board members shared comments about how much they appreciated her work at Tidal Rock.

The Parks Board unanimously approved the renewal of the MOA for Tidal Rock Park.

- B. Director Williams and Mr. Dart-McLean updated the Board on the expansion of the Maritime Memorial wall, which should be complete by Memorial Day for the annual ceremony. The expansion was being funded by the Maritime Memorial Fund. Staff answered questions about the need for the expansion, work done to date, and the location of the new portion of the wall.

Jessica Schleif noted that she had the original negatives of the cement relief tiles that line the memorial.

Chair Hernandez explained to the new members the role of the Parks Board and how it interacted with City Council and other boards and commissions. Director Williams added that he served as the Board's advocate with the City Manager and City Council.

- C. Director Williams shared details about the MOA with Astoria Scuba and Adventure Sports, allowing both groups to use tempered glass diving masks in the pool at the Aquatic Center. City Council unanimously approved the MOA, and he hoped to change the City's ordinance to allow tempered glass outright. He answered questions about the ordinance prohibiting glass in the pool, noting that amending the language to allow tempered glass would allow the Aquatic Center to bring in more revenue. He and Chair Hernandez explained why he was not able to present this MOA to the Board before the City Council meeting. Under normal circumstances, the MOA would have been reviewed first by the Parks Board so the Board could forward a recommendation to City Council.

The Board and Staff shared comments about issues related to the Board's role as an advisory board, their lack of authority, inability to provide input before decisions are made, and the desire of the Board to be updated and informed about what was going on in the Parks Department. Director Williams described his plans to increase communication between the

Board and Staff. He encouraged Board members to offer suggestions for process improvements.

Staff Reports and Upcoming Events

The following reports were presented to the Board as part of the agenda packet:

- A. Maintenance
- B. Aquatic Center
- C. Recreation
- D. Lil Sprouts/Port of Play
- E. Communications/Marketing

Jessica Schleif requested the Staff reports explain increases and decreased in revenue. [Carla Oja](#) requested the public school's teacher work days be added to the calendar.

Future Meetings

- February 22, 2019 at 6:45 am in City Hall, Council Chambers

Non-Agenda/Miscellaneous Business

1. Director Williams confirmed for the Board that recruiting temporary summer employees would begin within the next three to four weeks.
2. Chair Hernandez welcomed the new Staff and Board members and said she was excited to have new thoughts and inputs.



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

MEMORANDUM • POLICE DEPARTMENT

DATE: FEBRUARY 11, 2019
TO: MAYOR AND CITY COUNCIL
FROM:  BRETT ESTES, CITY MANAGER
SUBJECT: NW NATURAL CO-LOCATION AGREEMENT AT RESERVOIR RIDGE COMMUNICATIONS SITE

DISCUSSION/ANALYSIS

The City of Astoria has partnered with Verizon Wireless to build a suitable replacement communications site in order to vacate the current site at the Astoria Column. Verizon cellular equipment, City of Astoria emergency communication equipment, and equipment from other agencies has been located on the Coxcomb tower. The new site is known as Reservoir Ridge Communications Site. The current site at the Column will be vacated once the Reservoir site is operational, and that project milestone is very near.

As this is a shared site, the City and Verizon will both own and maintain separate 12'x20' communication shelters. The City is currently executing shelter lease agreements with our tenants currently occupying space at the Column in order to allow them legal occupancy at the new site. Our current tenants include the Astoria School District, Columbia Memorial Hospital, NW Natural, SPOK paging, Medix Ambulance and several Public Safety Partners.

The Reservoir Ridge tower structure is owned by Verizon, which requires the City to sign a sublease to install our antennas and microwave dishes.

As the Reservoir Ridge Communications Site is nearing operational status NW Natural is seeking occupancy in order to meet FCC Licensing deadlines. In order for this to happen, a signed lease between the City and NW Natural is required.

The attached lease has been reviewed and approved by the City Attorney as well as the Emergency Communications Manager.

RECOMMENDATION

It is recommended that City Council approve this lease.

By:  _____

Jeff Rusiecki, Emergency Communications Manager

CO-LOCATION AGREEMENT
NORTHWEST NATURAL GAS COMPANY
CITY RESERVOIR SHELTER

This Agreement is between the City of Astoria (“City”) and Northwest Natural Gas Company, an Oregon Corporation (“NWN”), each a “Party” and together, the “Parties”.

SECTION 1: RECITALS

A. Authority. The City has the right and authority to enter into this agreement by its Charter.

Purpose.

CITY and NWN, each individually, have agreements with Verizon Wireless LLC dba Verizon Wireless (along with its successors or assigns, “VAW”) and are tenants or have other rights at the Astoria Reservoir Communications Site which consists of a tower and other ancillary improvements (“VAW Compound”). The VAW Compound and related property, including the access road to the VAW Compound (the “Access Road”) is depicted on Exhibit B.

Pursuant to its agreement with VAW (the “VAW Agreement”), VAW constructed a shelter for the City (“City Shelter” or “CITY Shelter”) within the VAW Compound. NWN desires to colocate certain of its equipment within the CITY Shelter, and CITY is willing to authorize NWN to colocate such NWN equipment in the CITY Shelter subject to the terms of this Agreement.

In consideration of the mutual obligations provided in this Agreement, the Parties hereby agree as follows:

SECTION 2: DEFINITIONS

- 2.1 “Colocate” or “Colocation” means the locating by NWN of Communications Equipment within the City Shelter.
- 2.2 “Communications Equipment” means communications equipment, including but not limited to routers, antenna, other transmitting or receiving equipment for radio and microwave, and associated accessories and ancillary devices used to support Wireless Communications and other forms of communications.
- 2.3 “NWN Shelter Space” means the physical space within the City Shelter granted to NWN for Colocation pursuant to this Agreement.
- 2.4 “Site” means the real property upon which the VAW Compound and the Access Road are located.
- 2.5 “Wireless Communications” means communications accomplished without the use of a hard wire connection via radio, microwave or infrared technologies, including but not limited to fixed, mobile, and portable radios licensed under Federal Communications Commission rules and regulations as detailed in 47 CFR Parts 90 and 101, cellular phones, wireless networking (i.e. WiFi, WiMAX), or satellite communications.

SECTION 3: EFFECTIVE DATE AND DURATION

- 3.1 This Agreement is effective on the date last signed by the Parties (“Effective Date”) and expires on October 31, 2021, unless terminated earlier in accordance with Section 14. This Agreement is only in effect so long as both Parties have a lease or other agreement with VAW for use of the VAW Compound. This Agreement shall be null and void and terminate immediately if either Party’s agreement with VAW terminates or expires, or is otherwise no longer valid.
- 3.2 This Agreement shall be automatically extended for four (4) additional five (5) year terms unless NWN provides written notice to CITY at least sixty (60) days prior to the expiration of the then current term that NWN elects to terminate this Agreement at then end of the then current term. Such extension of this Agreement is dependent, however, upon both Parties maintaining a lease or other agreement with VAW for use of the VAW Compound.
- 3.3 The terms and conditions of this Agreement may be amended by the Parties as set forth in Section 17.

SECTION 4: AUTHORIZED REPRESENTATIVES

4.1 NWN's Authorized Representatives are:

For Equipment and System Engineering

NW Natural Gas Company
220 NW 2nd Avenue
Portland Oregon
Attention: Communications Department
(Current Contact) Greg Horner
(503) 226-4211 x5560

For Payment and Notices

NW Natural Gas Company
220 NW 2nd Avenue
Portland Oregon
Attention: Risk and Land Department
(Current Contact) Steve Walti
(503) 721-2447

4.2 **CITY's Authorized Representative is:**

Jeff Rusiecki, City of Astoria Police/911
jrusiecki@astoria.or.us
55530th St., Astoria, OR 97103
(503) 325-4411 Office
(503) 741-0219 Cell

REMIT PAYMENTS TO:

City of Astoria
Attn: Susan Brooks, Finance Director
1095 Duane St, Astoria, OR 97103
(503) 298-2433
sbrooks@astoria.or.us

4.3 A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 5: RESPONSIBILITIES OF EACH PARTY

5.1 CITY's Responsibilities:

- 5.1.1 CITY agrees to permit NWN to use and occupy the NWN Shelter Space (which consists of one full rack and one-half of a second rack within the CITY Shelter in a location designated by City and reasonably acceptable to NWN). NWN will provide the rack that NWN will occupy in its entirety (the "NWN Rack"). The CITY will provide the second rack that NWN will occupy in part (the "Shared City Rack").
- 5.1.2 CITY represents and warrants to NWN that the City has the right under the VAV Agreement to sublease space in the City's Shelter to NWN.
- 5.1.3 CITY shall at City's sole cost maintain the CITY Shelter and the Shared City Rack in good condition and repair at all times, subject only casualty and condemnation.
- 5.1.4 CITY shall at City's sole cost maintain the Access Road in good condition and repair at all times, subject only casualty and condemnation. NWN acknowledges that CITY'S obligation is subject to adverse weather conditions such as the existence of snow and ice.

5.2 NWN's Responsibilities:

- 5.2.1 NWN shall pay CITY as described in Section 6.
- 5.2.2 NWN shall abide by the terms of its lease or other agreement with VAW. This Agreement shall remain in effect only so long as NWN has a valid agreement with VAW.
- 5.2.3 NWN shall remain responsible for all charges due to VAW in accordance with its agreement with VAW.
- 5.2.4 NWN shall install and operate NWN's authorized Communications Equipment according to the submitted specifications provided to CITY as described in this Agreement and as set forth in Exhibit A. The NWN Rack will be a 19"x 7' two post rack. NWN will additionally provide inside RF jumpers and arrestors.
- 5.2.5 NWN shall at NWN's sole cost maintain the NWN Rack in good condition and repair at all times, subject only casualty and condemnation.

SECTION 6: COMPENSATION AND PAYMENT TERMS

- 6.1 Effective the first day of the first month following the Effective Date ("Rent Due Date"), and annually thereafter, NWN shall pay CITY an annual fee of \$1,440.00 for its use of the CITY Shelter and for NWN's use of commercial power and backup power ("Rent"). For avoidance of doubt, the CITY will make available to NWN AC power and generator back-up power, the cost of which is included within Rent.
- 6.2 Rent for any partial year will be pro-rated accordingly. Rent shall increase annually by three percent (3%) unless otherwise agreed by the Parties.
- 6.3 NWN shall send all payments required under this Agreement to the CITY Authorized Representative within forty five (45) days of receipt of invoice from CITY. Any delay or failure of CITY in invoicing NWN for Rent shall not constitute a waiver of NWN's obligation to pay Rent.

SECTION 7: REPRESENTATIONS AND WARRANTIES

7.1 NWN represents and warrants to CITY that:

- 7.1.1 NWN is a corporation duly organized and validly existing. NWN has the power and authority to enter into and perform this Agreement.
- 7.1.2 The making and performance by NWN of this Agreement (a) have been duly authorized by NWN, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative NWN or any provision of NWN's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which NWN is party or by which NWN may be bound or affected, and (d) no authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by NWN of this Agreement, other than those that have already been obtained.
- 7.1.3 This Agreement has been duly executed and delivered by NWN and constitutes a legal, valid and binding obligation of NWN enforceable in accordance with its terms.
- 7.1.4 The representations and warranties set forth in this Section are in addition to, and not in lieu of, any other representations or warranties expressly made by NWN in this Agreement.

7.2 CITY represents and warrants to NWN that:

- 7.2.1 To the best of CITY's knowledge, the Site is in full compliance with applicable state and federal environmental laws and regulations affecting it.
- 7.2.2 CITY has funding, appropriations, limitations or other expenditure authority for the current biennium at levels sufficient, in CITY's reasonable administrative discretion to perform its obligations under this Agreement.

SECTION 8: GOVERNING LAW, CONSENT TO JURISDICTION

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

SECTION 9: CONTRIBUTION

- 9.1 If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section with respect to the Third Party Claim.
- 9.2 With respect to a Third Party Claim for which CITY is jointly liable with NWN (or would be if joined in the Third Party Claim), CITY shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by NWN in such proportion as is appropriate to reflect the relative fault of CITY on the one hand and of NWN on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of CITY on the one hand and of NWN on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts as well as any other relevant equitable considerations.. CITY's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the CITY had sole liability in the proceeding.
- 9.3 With respect to a Third Party Claim for which NWN is jointly liable with CITY (or would be if joined in the Third Party Claim), NWN shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by CITY in such proportion as is appropriate to reflect the relative fault of NWN on the one hand and of CITY on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of NWN on the one hand and of CITY on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. NWN's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

SECTION 10: NWN DEFAULT

NWN will be in default under this Agreement upon the occurrence of any of the following events:

- 10.1 NWN fails to perform, observe or discharge any of its covenants, agreements or obligations under this Agreement;
or
- 10.2 Any representation, warranty or statement made by NWN in this Agreement or in any documents or reports relied upon by NWN is untrue in any material respect when made.

SECTION 11: CITY DEFAULT

- 11.1 CITY will be in default under this Agreement if CITY fails to perform, observe or discharge any of its covenants, agreements, or obligations under this Agreement; or
- 11.2 Any representation, warranty or statement made by CITY in this Agreement or in any documents or reports relied upon by CITY is untrue in any material respect when made.

SECTION 12: REMEDIES

- 12.1 In the event NWN is in default under Section 10, CITY may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under but subject to notice and opportunity to cure as set forth in Section 14.4.3, or (b) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief. These remedies are cumulative to the extent the remedies are not inconsistent, and CITY may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.
- 12.2 In the event CITY is in default under Section 11, NWN may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under but subject to notice and opportunity to cure as set forth in Section 14.3.4, or (b) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief. These remedies are cumulative to the extent the remedies are not inconsistent, and NWN may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

SECTION 13: LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 9, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE.

SECTION 14: TERMINATION

- 14.1 This Agreement may be terminated at any time by mutual written consent of the Parties.
- 14.2 This Agreement will automatically terminate if either Party's lease or other agreement with VAW is no longer in effect.
- 14.3 NWN may terminate this Agreement as follows:
 - 14.3.1 Upon 30 days advance written notice to CITY;
 - 14.3.2 Immediately upon written notice to CITY, if NWN fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in NWN's reasonable administrative discretion, to perform its obligations under this Agreement;
 - 14.3.3 Immediately upon written notice to CITY, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that NWN's performance under this Agreement is prohibited or NWN is prohibited from paying for such performance from the planned funding source;
 - 14.3.4 Immediately upon written notice to CITY, if CITY is in default under this Agreement and such default remains uncured 45 days after written notice thereof to CITY; or
 - 14.3.5 As otherwise expressly provided in this Agreement.

14.4 CITY may terminate this Agreement as follows:

- 14.4.1 Immediately upon written notice to NWN, if CITY fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient in CITY's reasonable administrative discretion, to perform its obligations under this Agreement;
- 14.4.2 Immediately upon written notice to NWN, if federal or state laws, rules, regulations or guidelines are modified or interpreted in such a way that CITY's performance under this Agreement is prohibited or CITY is prohibited from paying for such performance from the planned funding source;
- 14.4.3 Immediately upon written notice to NWN, if NWN is in default under this Agreement and such default remains uncured 45 days after written notice thereof to NWN; or
- 14.4.4 As otherwise expressly provided in this Agreement.

SECTION 15: INSURANCE

Each Party shall provide insurance or self-insurance as described below:

- 15.1 The CITY is insured through an Administrative Trust commonly known as City County Insurance Services or Special Districts of Association of Oregon (SDAO) insurance up to the limits described in ORS 30.269 to 30.273. Upon request by the NWN, the CITY shall provide written proof of self-insurance to NWN.
- 15.2 NWN shall, at its own cost and expense, secure and maintain a policy of excess liability insurance from a qualified insurance company(s) through the term of this Agreement. Upon request by the CITY, NWN shall provide the City a certificate of insurance.
- 15.3 The insurance certificates will be located in each Party's files and will be made available upon request by any of the Parties.
- 15.4 All employers, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126. Employers Liability insurance with coverage limits of not less than \$500,000 must be included. Both Parties shall ensure that each of its contractors or subcontractors complies with these requirements.

SECTION 16: NONAPPROPRIATION

CITY's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon CITY receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow CITY, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of CITY.

SECTION 17: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented or otherwise amended, unless by written amendment executed by the Parties.

SECTION 18: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

SECTION 19: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 9 and 12 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 20: SEVERABILITY

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

SECTION 21: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 22: COMPLIANCE WITH LAW

In connection with their activities under this Agreement, the Parties shall comply with all applicable federal, state and local law.

SECTION 23: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that NWN is not an officer, employee, or agent of the CITY.

SECTION 24: INTENDED BENEFICIARIES

CITY and NWN are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 25: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement.

SECTION 26: ASSIGNMENT AND SUCESSORS IN INTEREST

NWN may not assign or transfer its interest in this Agreement without the prior written consent of CITY and any attempt by NWN to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. CITY's consent to NWN's assignment or transfer of its interest in this Agreement will not relieve NWN of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns. Notwithstanding the above, NWN shall have the right to assign its interest in this Agreement to any entity owned, controlled by, or under common control with NWN or any successor to NWN by merger or other operation of law.

SECTION 27: SUBCONTRACTS

NWN shall not, without CITY's prior written consent, enter into any subleases for use of the NWN Shelter Space. CITY's consent to any sublease will not relieve NWN of any of its duties or obligations under this Agreement.

SECTION 28: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 29: RECORDS MAINTENANCE AND ACCESS [Intentionally Deleted]

SECTION 30: HEADINGS

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 31: AGREEMENT DOCUMENTS

Exhibits attached hereto are incorporated herein by reference.

SECTION 32: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

Northwest Natural Gas Company

City of Astoria

By _____
Print Name: _____
Print Title: _____

By _____
Bruce Jones, Mayor

Date _____

Date _____

REVIEWED

By _____
City Attorney

EXHIBIT A – SUPPLEMENTAL TERMS AND CONDITIONS

1. Supplemental Terms and Conditions for Collocation. The following terms and conditions supplement the Agreement. To the extent that any terms and conditions of this Exhibit A conflict with the main body of this Agreement, the supplemental terms and conditions of this Agreement shall govern.
 - a. Real Property Rights.
 - i. CITY shall use best efforts to maintain the VAV Agreement during the term of this Agreement.
 - ii. CITY agrees not to enter into any agreement with VAV for early termination of the VAV Agreement without prior notification to NWN of 180 days. CITY will provide to NWN a copy of any notice of revocation, termination or suspension CITY receives from VAV within 45 days following CITY's receipt of the same. NWN will be permitted, but not required, to cure any default of CITY under the VAV Agreement and without limiting its other remedies under this Agreement, to offset the out of pocket costs NWN incurs in effecting such cure against Rent or Rent next coming due under this Agreement.
 - b. Permitted Use. NWN will use its Communications Equipment installed within the City Shelter for the installation, maintenance, operation, and repair of its Wireless Communications Equipment. Neither Party will prohibit or interfere with the use of the Site or any portion thereof by NWN or by CITY or CITY'S other tenants, licensees or occupants.
 - c. Access. Subject to any access limitations set forth in the VAV Agreement, CITY will provide NWN access to the Premises 24 hours per day, 7 days per week (subject to reasonable procedures established by City) set forth in so that NWN may perform installation, operation, maintenance, replacement and repair functions on its Communications Equipment. NWN will be responsible for the actions of all who access the Site on NWN's behalf.
 - d. Installation.
 - i. Prior to the commencement of any work within the Premises, NWN will notify CITY and coordinate the installation detailing the schedule for all installation activities related thereto. No work will commence until CITY, in its reasonable discretion, has approved the plan and schedule.
 - e. Interference
 - i. NWN shall operate at the frequencies set forth in Attachment 1 to this Exhibit A. NWN shall test its newly installed Communications Equipment to ensure there is not interference with other user's equipment at the VAV Compound.
 - ii. CITY and NWN agree to use best efforts to protect the other Party from radio interference, and to fully cooperate by taking all reasonable measures necessary to eliminate or satisfactorily mitigate/ease such interference.
 - iii. CITY and NWN agree to the following mechanism for resolving Wireless Communications interference issues: Upon written or electronic notice by CITY, the party responsible for interference will be required to shut down its equipment and start corrections within fifteen (15) days or suspend use of its equipment if interference cannot be resolved.
 - f. NWN's Covenants and Warranties. NWN hereby covenants and warrants:
 - i. To keep the NWN Rack and its Communications Equipment in good order, repair and condition throughout the term of this Agreement and to promptly and completely repair all damage to the Site, the Premises, or both, caused by NWN, reasonable wear and tear excepted;
 - ii. To comply with federal, state and municipal laws, orders, rules and regulations applicable to its activities and Communications Equipment; and
 - iii. Subject to its rights under this Agreement, not to disrupt, adversely affect or interfere with other providers of services to the City Shelter or with any occupant's use and enjoyment of the City Shelter.

- g. Equipment Ownership and Maintenance.
- i. NWN's Communications Equipment will belong to or be leased by NWN, and will be located at the City Shelter at the sole risk of NWN.
 - ii. NWN will, at its sole expense, maintain and repair its Communications Equipment to avoid hazard or damage to the City Shelter or injury to CITY employees, agents, suppliers or the public. Any necessary additional protective devices will be provided by NWN, at NWN's sole expense. CITY will have no responsibility for maintenance or repair of NWN's Communications Equipment.
 - iii. At the expiration or earlier termination of this Agreement, NWN will remove its Communications Equipment and NWN's personal property from the CITY Shelter in a neat and orderly manner, and repair all damage caused by such removal, excluding normal wear and tear, at NWN's sole expense. Any property not so removed within thirty (30) days after the expiration or termination of this Agreement will be deemed abandoned and the property of CITY. NWN will be liable for all costs incurred by CITY from removing the Communications Equipment and repairing the CITY Shelter as a result thereof.
- h. Additional Authorizations. CITY reserves the right to grant, renew or extend similar co-location authorizations to others for locating Communications Equipment in the CITY Shelter subject to the rights of NWN under this Agreement.
- i. CONDITION OF PREMISES. CITY MAKES NO WARRANTY OR REPRESENTATION, EXPRESSED OR IMPLIED, CONCERNING THE CONDITION OF THE CITY SHELTER. NWN HAS INSPECTED THE CITY SHELTER AND THE SITE, ACCEPTS THE SAME "AS IS" AND AGREES THAT CITY IS UNDER NO OBLIGATION TO PERFORM ANY WORK OR PROVIDE ANY MATERIALS TO PREPARE THE NWN SHELTER SPACE OR THE SITE FOR NWN'S INSTALLATION OF ITS EQUIPMENT EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT.
- j. Liens. NWN will be responsible for the satisfaction or payment of any provider of work, labor, material or services claiming by, through or under NWN related to NWN's Collocation at the Site ("Liens"). NWN will indemnify, hold harmless and defend CITY against any Liens resulting from , including reasonable attorneys' fees. Any Liens will be discharged by NWN within thirty (30) days of notice of filing. Failure to discharge any lien is a material breach of this Agreement, and will result in immediate termination of the affected Authorization.
- k. Subcontractors. NWN may subcontract any portion of installation, maintenance or repair of its Communications Equipment within the Premises contemplated by this Agreement to an approved entity competent to perform such work. If either Party's Communications Equipment is damaged or disrupted by a third party permitted at a Site by the other Party ("Authorizing Party"), it will be the Authorizing Party's responsibility to mitigate the damages or disruption and ensure the equipment is restored to its condition prior to the damage or disruption.

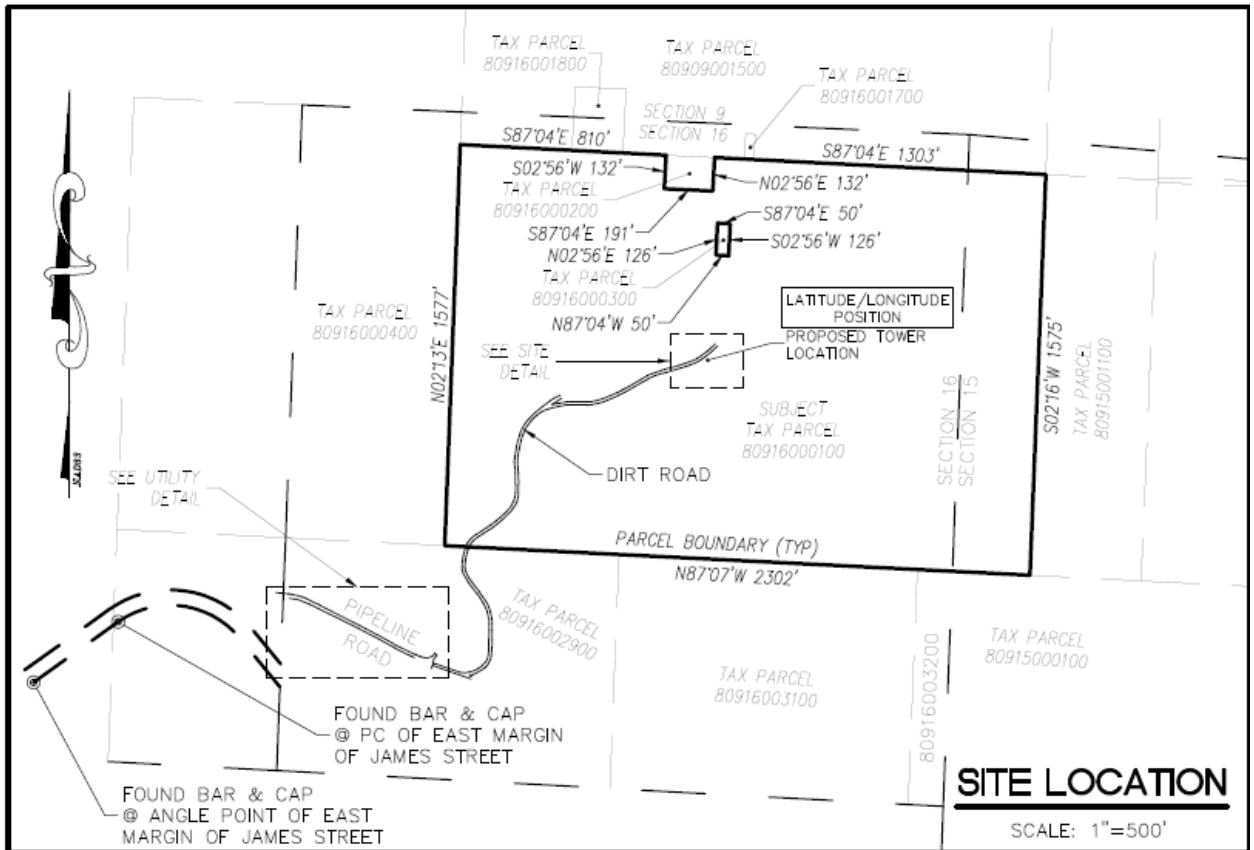
Attachment 1 to Exhibit A

This Attachment 1 may be modified without amendment to this Agreement with written request from NWN and written authorization from City.

a. Frequencies:

Call Sign: (if any)	NWN	TX	RX	Bandwidth	Power Output (Watts)	Power ERP (Watts)
WQUA832	NWN	153.44				
WQZW795	NWN	952.24375	928.24375			

EXHIBIT B - SITE DEPICTION






CITY OF ASTORIA

Founded 1811 • Incorporated 1856

MEMORANDUM • FINANCE DEPARTMENT

DATE: February 8, 2019
TO: MAYOR AND CITY COUNCIL
FROM:  BRETT ESTES, CITY MANAGER
SUBJECT: BUDGET ADJUSTMENT TO ACCOUNT FOR ERROR IN TRANSFERS BETWEEN FUNDS

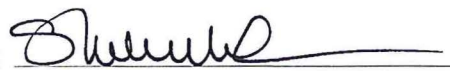
DISCUSSION/ANALYSIS

An omission error occurred in the originally prepared budget which was adopted by City Council on June 11, 2018. Funds were appropriated as Transfers Out of the East Astoria Waterline Debt Service Fund # 265 and 7th Street Dock Local Improvement Debt Service Fund # 267 in anticipation of closing these funds in the current year. The appropriate offset of these Transfer Out appropriations is a Transfer In to another account. The Transfer In was not appropriately reflected in the General Fund budget.

The attached resolution resolves the unbalanced General Fund Transfer In for the budgeted Transfers Out from East Astoria Waterline Debt Service Fund # 265 and 7th Street Dock Local Improvement Debt Service Fund # 267.

RECOMMENDATION

It is recommended that City Council consider the resolution to correct the scrivener's error in recording and balancing Transfers In to the General Fund Resources against the budgeted Transfers Out of Funds # 265 and # 267.

By: 

Susan Brooks, Director of Finance
and Administrative Services

Resolution No. 19-

A RESOLUTION ADOPTING A SUPPLEMENTAL BUDGET FOR THE CITY OF ASTORIA.

WHEREAS, a scrivener's error occurred in the initially adopted general fund budget of the City of Astoria recognizing Transfer Outs from East Astoria Waterline Debt Service Fund # 265 and 7th Street Dock Local Improvement Debt Service Fund # 267 close outs are offset by an equal amount of Transfers In for the General Fund.

WHEREAS, ORS 294.353 provides direction for the elimination of an unnecessary fund and provides guidance to transfer the residual amount to the General Fund and ORS 294.471 1(a) provides for adoption of supplemental budget by resolution for an occurrence or condition that is not ascertained when preparing the original budget or a previous supplemental budget for the current year or current budget period and that requires a change in financial planning.

WHEREAS, the supplemental budgets are on file in the office of the Finance Director at City Hall.

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

SUMMARY OF PROPOSED BUDGET CHANGES

GENERAL FUND	Adopted Budget FY 18-19	Change	Supplemental Budget FY 18-19
Resources			
Beginning Fund Balance	2,557,400		2,557,400
Prior Period Adjustment	-		0
Delinquent Ad Valorem Taxes	190,000		190,000
Non Ad Valorem Taxes	2,407,915		2,407,915
Licenses and Permits	17,100		17,100
Charges for Services	253,010		253,010
Fines and Forfeits	104,500		104,500
Grant Funded Projects	-		0
Interest Earnings	52,200		52,200
Transfers from Other Funds:			0
Public Works Fund	414,600		414,600
Emergency Communication Fund	25,000		25,000
Building Inspection Fund	20,800		20,800
Local Improvement Debt Service Fund	50,000		50,000
East Astoria Waterline Debt Service Fund	-	14,750	14,750
7th Street Dock Local Improvement DS Fund	-	395	395
Miscellaneous	41,300		41,300
Sub-Total Resources	6,133,825	15,145	6,148,970
Current Ad Valorem Taxes	5,950,550	-	5,950,550
Total Resources	12,084,375	15,145	12,099,520
Requirements (by department)			
City Council	13,760		13,760
City Manager	315,710		315,710
Municipal Court	156,900		156,900
Finance	750,555		750,555
City Attorney	89,000		89,000
Community Development	403,510		403,510
City Hall	54,380		54,380
Non-Departmental - Unallocated	706,380		706,380
Fire	1,993,415		1,993,415
Police	2,836,900		2,836,900
Library	531,275		531,275
	7,851,785	-	7,851,785
Transfer to Other Funds			
Unemployment Fund	6,000		6,000
Public Works	40,000		40,000
Emergency Communications Fund	414,479		414,479
Parks Operation Fund	1,111,110		1,111,110
Public Works Improvement Fund	-		0
Special Police Projects Fund	1,400		1,400
CSO Phase 3	-		0
Capital Improvement Fund	100,000	-	100,000
Total Transfer to Other Funds	1,672,989	-	1,672,989
Contingency	2,559,601	15,145	2,574,746
Total Expenditures	12,084,375	15,145	12,099,520
Ending Fund Balance	-	-	-
Total Requirements	12,084,375	15,145	12,099,520

ADOPTED BY THE CITY COUNCIL THIS _____ DAY OF _____, 2019.

APPROVED BY THE MAYOR THIS _____ DAY OF _____, 2019.

Mayor

ATTEST:

City Manager


ROLL CALL ON ADOPTION		YEA	NAY	ABSENT
Councilor	Brownson Herman Rocka West			
Mayor	Jones			



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

MEMORANDUM • POLICE DEPARTMENT


DATE: FEBRUARY 7, 2019
TO: MAYOR AND CITY COUNCIL
FROM:  BRETT ESTES, CITY MANAGER
SUBJECT: PUBLIC HEARING: ORDINANCE AMENDING CITY CODE 1.600 – 1.640 RELATING TO THE AMBULANCE FRANCHISE PROGRAM

DISCUSSION/ANALYSIS

Oregon Revised Statute (ORS) 682.062 was enacted in 2003 effectively giving counties the authority to develop a plan relating to the need for, and coordination of, ambulance services. Clatsop County established an ambulance service area plan consistent with statutes for the efficient and effective provision of ambulance services. ORS 682.031 also gives the City the authority to establish an ordinance regulating ambulance services; however, it must comply with the County plan making that need unnecessary for the City of Astoria. The City of Astoria originally passed Astoria Codes 1.600 – 1.640 on August 16, 1976, encompassing fifteen pages. Astoria Code 1.600 – 1.640 is outdated and in conflict with the County's Ambulance Service Area Plan. The outdated City Code language can be found online (starting on Page 1–25) at: http://www.astoria.or.us/Assets/dept_1/pm/pdf/chapter%201%201-19.pdf

RECOMMENDATION

It is recommended that Council hold a public hearing and consider holding a first reading of the ordinance amending City Code 1.600 – 1.640 relating to The Ambulance Franchise Program.



Geoff Spalding
Chief of Police

ORDINANCE NO. 19-____

AN ORDINANCE REVISING ORDINANCE 6.140 RELATING TO UNLAWFUL TRANSFER ON VEHICULAR PORTION OF THE RIGHT-OF-WAY

THE CITY OF ASTORIA DOES ORDAIN AS FOLLOWS:

Section 1. Amend Astoria City Code 1.600 - 1.640 Astoria City Code section 1.600 – 1.640 is amended to read as follows:

~~Ambulance Franchise Program~~Service Area Plan

1.600 Short Title. Sections ~~1.600 to 6.640~~ shall be known as the "Ambulance Franchise Ordinance" and may be so pleaded and shall be cited therein as "this ordinance."ORS 682.062 grants the authority to counties to develop a plan for ambulance services and to establish an Ambulance Service Area. Clatsop County has established the Ambulance Service Area Plan which comprises Clatsop County and incorporated cities.

Sections 1.602 through 1.640 are repealed.

Section 2. Effective Date. This ordinance shall become effective 30 days after its adoption.

ADOPTED BY THE CITY COUNCIL THIS 19th DAY OF FEBRUARY 2019

APPROVED BY THE MAYOR THIS 19th DAY OF FEBRUARY 2019

Mayor

ATTEST:

City Manager

ROLL CALL ON ADOPTION
Councilor

YEA NAY ABSENT

Brownson
Herman
Rocka
West
Mayor Jones



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

MEMORANDUM • PUBLIC WORKS DEPARTMENT

DATE: FEBRUARY 7, 2019
TO: MAYOR AND CITY COUNCIL
FROM:  BRETT ESTES, CITY MANAGER
SUBJECT: CONTRACT AMENDMENT – 2018 TROLLEY TRESTLE (RIVER TRAIL) REPAIR PROJECT

DISCUSSION/ANALYSIS

The City of Astoria has approximately 4.7 miles of railroad track and 8 timber trestles formerly owned and operated by Burlington Northern Railroad from the Port of Astoria to Tongue Point. The Astoria Riverfront Trolley currently operates on approximately 3 miles of this track, and over 4 of the trestles. The Trolley provides passenger service from Portway Street to 39th Street. The City's waterfront multiuse path known as the River Trail traverses across same trestles as the Trolley and 3 additional trestles east of 39th Street.

Due to the age of the railroad infrastructure, the effort required to maintain the track and structures has been increasing rapidly. OBEC Consulting Engineers have been assisting the City over the last two years with inspection, design and coordination for maintenance of the River Trail trestles and trolley infrastructure. This year the scope of their services includes inspection of the trestles currently used by the trolley and design for necessary maintenance work from 6th Street to the Mill Pond Trestle. OBEC will also provide design services for needed maintenance at the 6th Street and 14th Street Park Piers based on previous inspection results.

This scope is consistent with the approach approved by City Council in 2016 which focuses available funding resources on maintaining the structures and track west of 39th Street (active rail). The addition of the Park Piers was done to ensure that those structures remain safe for pedestrians and to capitalize on similar work associated with trestle maintenance.

The engineering services contract to complete this work in the amount of \$66,632.80 was approved at the August 20, 2018 City Council meeting. OBEC is nearing the final design stage for this project. Due to the proximity to the Waterfront Bridges Project, this work will be structured in a manner that does not impact construction of the ongoing bridge replacements.

During development of maintenance priorities, it become apparent that design work on a portion of the 11th Street trestle needs to be handled in a different way than the rest of the project. The attached exhibit map highlights the subject area. This portion of the trestle needs further evaluation to ensure that it can be improved to a condition that compliments the load capacity of the new 11th Street Waterfront Bridge. The approach on the trestle maintenance project is typically focused on pedestrian and trolley loading, not vehicular traffic. This will require additional design work and load rating evaluation to ensure that repairs can be made in a manner that does not leave this small area load restricted for vehicles.

OBEC Consulting Engineers have provided a proposal to assist us with this work. The scope is detailed in Contract Amendment #1. The total fee for this additional work is \$40,060.80.

There is currently \$350,000 budgeted in the Promote Astoria Fund to cover the cost of inspection, design and maintenance for the track and trestles for FY18/19. Staff originally planned to target a \$320,000 project including construction and engineering. The additional repair scope associated with the 11th Street trestle work is estimated to be around \$115,000, including the contract amendment for engineering, and construction. This will yield a total estimated project cost of \$435,000, which exceeds the budgeted amount. However, the project schedule will allow a majority of the engineering fees, included in this contract amendment, to be paid out of the Promote Astoria Fund budget for FY18/19, while the construction costs will be paid in FY19/20. This strategy will require that the Promote Astoria Fund has a similar FY19/20 allocation of \$350,000 for Riverwalk Track and Trestles.

RECOMMENDATION

It is recommended that City Council authorize approval of Contract Amendment #1 with OBEC Consulting Engineers in the amount of \$40,060.80 for additional engineering services associated with the 2018 Trolley Trestle Repair Project.

By: 
Jeff Harrington, Public Works Director

Prepared by: 
Nathan Crater, City Engineer

11th Street Trestle - Contract Amendment #1 - Exhibit Map



Approximate limits of new 11th Street bridge currently under construction

Approximate limits of 11th Street trestle included in Contract Amendment #1

DISCLAIMER The unauthoritative information provided within this GIS application comes to you from City of Astoria, Oregon. This GIS application is not an official source of information; use it at your own risk. The spatial data contained within this GIS application do not originate from Clatsop County. And Clatsop County does not have any responsibility for its content or use. GIS applications like this are intended for a visual display of data and do not carry legal authority to determine a boundary or the location of fixed works, including parcels of land and are intended as a location reference for planning, infrastructure management and general information. Therefore, this GIS application cannot be used as a source of information for the exact location of a boundary or fixed works. The maps cannot serve as a substitute for site-specific investigations by qualified practitioners. Site-specific data may give results that differ from those shown on the maps. And this GIS application cannot be used as a substitute for a professional land survey or official source of information. Contact the Clatsop County Assessors office to obtain official information regarding County tax records. Contact the City of Astoria regarding all other information available through this GIS application. By using this GIS application as a source of information, you must agree to accept any liability and limitation both known and unknown. City of Astoria, Oregon provides this GIS map on an "as is" basis without warranty of any kind, expressed or implied, including but not limited to warranties of merchantability or fitness for a particular purpose, and assumes no responsibility for anyone's use of this information. City of Astoria, Oregon shall assume no liability for any errors, omissions, or inaccuracies in the information provided regardless of how caused. Furthermore by accepting these conditions for use, you must also agree to indemnify, defend against, and hold City of Astoria, Oregon harmless for any claim or other liability imposed on City of Astoria, Oregon that may arise from use of this GIS application. City of Astoria, Oregon assumes no liability for any decisions made or actions taken or not taken by the user of the GIS application.



**CONTRACT AMENDMENT #1
BETWEEN
THE CITY OF ASTORIA AND OBEC CONSULTING ENGINEERS
FOR
2018 TROLLEY TRESTLE REPAIR PROJECT**

The AGREEMENT dated August 21, 2018, by and between THE CITY OF ASTORIA, hereinafter called "THE CITY" and OBEC Consulting Engineers, hereinafter called "CONSULTANT", is hereby amended as follows:

Amend Scope of Services of the AGREEMENT to include engineering design, bidding assistance, and construction administration assistance for the 11th Street Stub (portion of existing trestle between the new waterfront bridge at 11th Street and the shoreline directly east), see attached scope and fee in Attachment A.

Amend Compensation of the AGREEMENT to increase contract amount by \$40,602.80.

IN WITNESS WHEREOF, THE CITY AND CONSULTANT have executed this AMENDMENT as of _____, 2019.

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

CONSULTANT:
Cornforth Consultants

BY: _____
Brett Estes Date
City Manager

BY: _____
Consultant Date

BY: _____
Bruce Jones Date
Mayor

Attachments: A

ATTACHMENT A



A DOWL LLC Company

EUGENE, OR
Corporate Office
541.683.6090

LAKE OSWEGO, OR
503.620.6103

SALEM, OR
503.589.4100

MEDFORD, OR
541.774.5590

VANCOUVER, WA
360.314.2391

www.obec.com

January 23, 2019

Nathan Crater, PE
City Engineer
City of Astoria
1095 Duane Street
Astoria, OR 97103

Re: City of Astoria Trolley Line Inspection
OBEC Proposal No. P848-0008

Dear Nathan:

As requested, OBEC Consulting Engineers (OBEC) is pleased to present the following proposal for additional engineering services related to the City of Astoria Trolley Line.

Project Background

The City of Astoria owns approximately 4.7 miles of rail line formerly owned by Burlington Northern Railroad. The rail line running along the south bank of the Columbia River contains eight (8) timber trestles totaling approximately 0.78 miles. The timber trestles were originally constructed in the late 1940s and early 1950s.

OBEC has become familiar with the Trolley Line in the last few years from completing previous inspection and engineering services. The intent of this Scope of Work (SOW) is to add the engineering services to identify necessary repairs of the east end of the 6th -11th Street of Trolley, referred hereafter as the 11th Street Stub. This amendment SOW specifically provides for engineering services to prepare a bid package for the recommended repairs to accommodate legal vehicle loads except for those classified as "EV" by FHWA.

Scope of Work

OBEC proposes the following scope of work to provide these engineering services.

Task 1 Project Management, Coordination and Project Progress Meetings (Additional Effort)

The major objectives of this task are to establish the lines of communication and set forth the priorities between Consultant and the City, and coordinate and attend meetings between Consultant and the City as needed. Additional hours will be added due to the extension of the contract length

Consultant shall provide the following Project management and coordination services:

- Schedule, coordinate, and supervise Project work

- Maintain liaison and coordination with the City
- Conduct monthly progress reviews
- Prepare invoices, progress reports, and supporting data
- Monitor Project budget
- Prepare, maintain, and update Project activity schedule

Deliverables:

- Monthly Project Status Reports (with Project schedule updates as necessary). A copy of the Monthly Project Status Report must be submitted with the monthly invoice.

Task 2 Field Inspection - Columbia, 1st/2nd, 6th - 11th, Mill Pond

Task 3 Analysis/ Design - Trolley (6th - 11th) and Mill Pond

Task 3.1 Analysis/ Design – 11th Street Stub, Trestle East of 11th Street (New Task)

This task includes engineering services to perform a Load Rating and then analysis, design repairs, prepare details and prepare technical specification notes for improvements to the 11th Street Stub. Update the existing ACAD plans to note specific members to be replaced include technical specifications in note format on the existing ACAD and combine with repair details. This task also includes time to prepare a construction cost estimate.

Assumed Repairs:

- Replace all decking (first 3.5 spans and dock area)
- Replace all ties along trolley (first 3.5 spans)
- Add a stringer line along south edge of trolley (first 3.5 spans)

Deliverables:

- Final Plans in ACAD format suitable to be used for a bid package. The drawings will be stamped by an engineer registered in the state of Oregon. One (1) electronic set of full-size PDF will be provided.
- Schedule of Bid items with Engineers Estimate for each trestle.
- Construction Time Estimate

Task 4 Analysis/ Design - 6th Street & 14th Street Piers

Task 5 Permit Review

Task 6.1 Bid Support (New Task)

Consultant shall provide bidding assistance to the City for answering questions during the advertisement and bidding process to obtain a construction contractor for the Project.

Deliverables:

- Bidder question log as requested.

Task 7.1 Construction Support & On-site Inspection – 11th Street Stub (New Task)

Provide technical services during construction including construction observations and design consultation. Construction observations must be focused on monitoring the construction contractor's quality of work and compliance with the Plans and Specifications. OBEC's representative will assist the City with assessing levels of deterioration and prioritizing repairs to cost effectively utilize the available construction budget.

Deliverables:

- Construction Observation Reports
- Responses to Contractor Request for Information (RFI)

Assumptions:

- The budget allowance included for Task 7 is based on up to four (4), one-day onsite visits for construction observations/inspections and design support equivalent to six (6) RFIs. The City can request additional site visits or reduce the number of visits if needed and amend the contract accordingly.
- Mileage expenses are predicated on four round trips between Astoria and Eugene.
- No allowance is included in this proposal to provide construction management services. Additional trips will require an amendment to the proposed expense estimate.
- Latent or hidden deficiencies may be discovered during construction that will require a change or expansion of the repair design.
- No requirement for geotechnical design is anticipated. If the need for geotechnical design services arises, OBEC will notify the City and request an amendment to the contract.

Task 8.1 As-Constructed Drawings – 11th Street Stub (New Task)

Revise and update plan sheets to include revisions made during construction. City and Contractor to provide redlined/marked up sheets.

Deliverables:

- Final 11"x17" paper copy of CAD drawings
- Final PDF copy of CAD drawings
- Electronic ACAD files of drawings

Services Not Included

The following services have not been included in this proposal. OBEC will be happy to provide a proposal for any of these services at your request.

- Geotechnical design
- Seismic Analysis
- Environmental permitting
- Application for a building permit
- Construction Management

Fee Estimate

The estimated fee for this work is detailed in the attached spreadsheet. Labor rates are based on OBEC's 2018 standard rate table, attached for your reference. We propose to complete the services outlined in our scope of work on a time-and-materials basis for an estimated fee not to exceed (NTE) \$40,602.80. The estimated fee will not be exceeded without prior written authorization from The City of Astoria. Any changes to the scope of work, whether requested by the City or due to other circumstances, will be documented in writing and promptly communicated to the City.

Contingency Tasks

No contingency tasks are included in the scope of work.

We trust this proposal provides you with the information required for this condition assessment work and hope that it meets with your approval. Please do not hesitate to contact me if you have any questions.

Sincerely,



Marissa Madsen, PE
Project Manager

Enclosures

ATTACHMENT 1
Estimated Labor Costs and Expenses

Astoria Trolley Line Inspection 2018 - 11th Street Stub Amendment
 City of Astoria
 OBEC Consulting Engineers

January 23, 2019

OBEC Project No. P848-0008.00

TASK	Construction Project Manager 1	Engineer 6	Assistant Project Manager 1	Division Manager 1	Senior Environmental Specialist	Engineer 2	Project Controller	Senior CAD Drafter	Engineer Tech 3	SUBTASK TOTAL	TOTAL HOURS	COST / TASK
Task 1 Project Management, Coordination and Project Progress Meetings (Additional Effort)	16									16		\$ 2,688.00
Task 2 Field Inspection - Columbia, 1st/2nd, 6th - 11th, Mill Pond										0		\$ -
Task 3 Analysis/Design - Trolley (6th - 11th) and Mill Pond										0		\$ -
Task 3.1 Analysis/ Design - Trestle Stub East of 11th Street (New Task)	2	40	4	8		70		60		184		\$ 22,962.00
Task 4 Analysis/Design - 6th Street & 14th Street Piers										0		\$ -
Task 5 Permit Review										0		\$ -
Task 6.1 Bid Support (New Task)	4	4					2			10		\$ 1,574.00
Task 7.1 Construction Support & On-site Inspection (New Task)	8	8	48				8			72		\$ 10,472.00
Task 8.1 As-Constructed Drawings (New Task)		2	2					12		16		\$ 2,002.00
Subtotal	30	54	54	8	0	70	10	72	0		298	\$ 39,698.00
2018 OBEC Rates	\$ 168.00	\$ 168.00	\$ 143.00	\$ 188.00	\$ 127.00	\$ 99.00	\$ 115.00	\$ 115.00	\$ 99.00			
Total Labor Estimate	\$ 5,040.00	\$ 9,072.00	\$ 7,722.00	\$ 1,504.00	\$ -	\$ 6,930.00	\$ 1,150.00	\$ 8,280.00	\$ -			
Expenses =												\$ 904.80
Total Not to Exceed =												\$ 40,602.80

Expenses:


Mileage: 390 miles RT, 4 trips x \$0.58/Mile	\$ 904.80
Meals (GSA):	\$ -
Lodging (GSA):	\$ -
Total	\$ 904.80



CITY OF ASTORIA

Founded 1811 • Incorporated 1856

MEMORANDUM • PUBLIC WORKS DEPARTMENT

DATE: FEBRUARY 8, 2019
TO: MAYOR AND CITY COUNCIL
FROM:  BRETT ESTES, CITY MANAGER
SUBJECT: 11TH STREET EMERGENCY REPAIR – CHANGE ORDER

DISCUSSION/ANALYSIS

In late November 2018, construction activity associated with the Waterfront Bridges Replacement Project revealed instability with the existing infrastructure under 11th Street. Underneath the roadway at the foot of 11th Street there is a tunnel with a stormwater pipe that runs north-south along the centerline of the roadway. There are also chairwall structures on both sides of the roadway near the sidewalks. Both the tunnel and chairwalls extend to the end of the roadway and meet the headwall at the river's edge. After the weight of the crane caused damage to the surface of the roadway, inspections were performed on the underground infrastructure at which time it was discovered that the tunnel footings were undermined approximately 10 feet and the existing stormwater pipe was deteriorated. The crane was relocated shortly thereafter to allow for urgent repairs to the tunnel and pipe.

To avoid delays to the Waterfront Bridges Replacement Project schedule, the City quickly made arrangements for Bergeman Construction to perform the repair work after determining they were the only contractor with the availability and resources to immediately assist the City with this work. A contract for goods and services was executed with Bergeman Construction for \$45,686.15, which was within the City Manager's spending authority of up to \$50,000. This original contract is attached for reference. Work included installation of 14 helical ground anchors (also called micro-piles) to support construction equipment, assisting City crews with removing and replacing approximately 80 feet of storm pipe in the tunnel and installing flowable concrete fill in the tunnel to reestablish bearing support for the tunnel footings.

Once the initial work was completed, it was determined that six additional micro-piles needed to be installed to support the crane that is being utilized to build the 11th Street Waterfront Bridge. To further ensure there is adequate support for the construction equipment, 10 of the micropiles were tested for their load capacity after installation. The urgent nature of this work was similar to the initial contract to avoid disruptive and costly delays to construction of the Waterfront Bridges Replacement Project. As the initial contract was approved by the City Manager and is near his spending authority, this contract amendment requires Council approval.

Adding this change order to the original contract amount results in a total project cost that triggers Bureau of Labor and Industries (BOLI) prevailing wage rates; therefore, the change order includes the additional cost to comply with this State requirement.

RECOMMENDATION

It is recommended that City Council approve the Change Order with Bergeman Construction for up to \$36,525.67 for the 11th Street Emergency Repair Project.

By: Jeff Harrington
Jeff Harrington, Public Works Director

Prepared by: Cindy D. Moore
Cindy D. Moore, Assistant City Engineer



Astoria

ENGINEERING

DIVISION

CHANGE ORDER #1

DATE: February 11, 2019
PROJECT: 11th Street Emergency Storm Drain Pipe Repair
CONTRACTOR: Bergeman Construction

The purpose of this change order is to account for work not covered in the bid items. This change order amount constitutes total compensation for the changes indicated below.

Item	Description	Quantity	Unit Cost	Total Cost
1	Install 6 additional helical ground anchors and test 10 helical ground anchors to confirm support for the crane	1 LS	\$26,212.15	\$26,212.15
2	Adjust labor rates on original two invoices to comply with BOLI prevailing wage requirements	1 LS	\$10,313.52	\$10,313.52
	Change Order Total =			\$36,525.67

This Change Order becomes part of and in conformance with the existing contract. The above changes warrant a 30 calendar day time extension.

EXPLANATION:

In order for the roadway to support the crane being utilized to build the 11th St Waterfront Bridge, six additional helical ground anchors were installed. A total of 10 anchors were tested to confirm capacity to support the weight of the crane.

The change order also includes the additional cost to comply with BOLI prevailing wage rates.

CHANGE ORDER ACCEPTED BY:

Jeff Harty 2/11/19
Public Works Director Date

Mayor Date

City Manager Date

[Signature] 2-11-2019
Contractor Date

**CITY OF ASTORIA
CONTRACT FOR GOODS AND SERVICES**

CONTRACT:

This Contract, made and entered into this 26th day of December, 2018 by and between the City of Astoria, a municipal corporation of the State of Oregon, hereinafter called "CITY", and Bergeman Construction, 92319 Young's River Rd, Astoria, OR 97103 hereinafter called "CONTRACTOR", duly authorized to do business in Oregon.

WITNESSETH

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

WHEREAS, CONTRACTOR is able and prepared to provide such goods and 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. CONTRACTOR GOODS AND SERVICES

A. CONTRACTOR shall provide goods and services for the City of Astoria, as outlined in its Attachment A, which by this reference is incorporated herein.

B. CONTRACTOR'S obligations 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. CONTRACTOR services shall be performed as expeditiously as is consistent with professional skill and the orderly progress of work. All work shall be completed no later than December 21, 2018.

2. COMPENSATION

A. The CITY agrees to pay CONTRACTOR a total not to exceed \$45,686.15 for providing goods and performance of those services provided herein;

B. The CONTRACTOR will submit a billing upon the completion of work.

C. CITY certifies that sufficient funds are available and authorized for expenditure to finance costs of this Contract.

3. CONTRACTOR IDENTIFICATION

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

4. CITY'S REPRESENTATIVE

For purposes hereof, the CITY'S authorized representative will be Cindy Moore, PE, City of Astoria, 1095 Duane Street, Astoria, Oregon, 97103, (503) 338-5173.

5. CONTRACTOR'S REPRESENTATIVE

For purposes hereof, the CONTRACTOR'S authorized representative will be Joel Bergeman.

6. CITY'S OBLIGATIONS

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

7. 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 2 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 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 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 offset compensation due, or, to demand repayment of any amounts paid to 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 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 of Astoria 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.

8. CANCELLATION FOR CAUSE

CITY may cancel all or any part of this 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 any 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. CONTRACTOR 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 CONTRACTOR 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 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.

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 CONTRACTOR, 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, CONTRACTOR 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, contractor, or others resulting from or arising out of CONTRACTOR'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 CONTRACTOR 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 CONTRACTOR.

With regard to Professional Liability, CONTRACTOR agrees to indemnify and hold harmless the City of Astoria, its Officers and Employees from any and all liability, settlements, loss, reasonable defense costs, attorney fees and expenses arising out of CONTRACTOR'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 CONTRACTOR and the Client, this indemnification and agreement to assume defense costs applies only to the extent of negligence of CONTRACTOR.

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

16. INSURANCE

Prior to starting work hereunder, CONTRACTOR, at CONTRACTOR'S cost, shall secure and continue to carry during the term of this contract, with an insurance company acceptable to CITY, the following insurance, written on an occurrence basis, in amounts not less than the limitations on liability for local public bodies provided in ORS 30.272 and ORS 30.273:

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. Coverage shall include Contractors, subcontractors and anyone directly or indirectly employed by either.

B. Automobile Liability. CONTRACTOR 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).

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. Professional Liability Insurance. The CONTRACTOR shall have in force a policy of Professional Liability Insurance. The CONTRACTOR 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 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.

17. CITY'S BUSINESS LICENSE

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

18. WORKMEN'S COMPENSATION

The CONTRACTOR, its subcontractors, 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

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.

20. NONDISCRIMINATION

It is the policy of the City of Astoria that no person shall be denied the benefits of or be subjected to discrimination in any City program, service, or activity on the grounds of age, disability, race, religion, color, national origin, sex, sexual orientation, gender identity and expression. The City of Astoria also requires its contractors and grantees to comply with this policy.

21. 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.

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. STANDARD OF CARE

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

24. NO THIRD PARTY BENEFICIARIES

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

25. SEVERABILITY AND SURVIVAL


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

26. COMPLETE CONTRACT

This Contract and its referenced attachments constitute the complete contract between CITY and CONTRACTOR and supersedes all prior written or oral discussions or agreements. CONTRACTOR services are defined solely by this Contract and its attachments and not by any other contract or agreement that may be associated with this Contract.

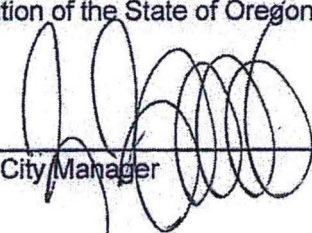
IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first written above.

Approved as to form:


Digitally signed by BLAIR HENNINGSGAARD
DN: cn=BLAIR HENNINGSGAARD,
o, ou, email=blair@astoria.law,
c=US
Date: 2018.12.24 09:53:27 -08'00'

Attorney

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

BY:  12/26/18
City Manager Date

BY:  12-24-18
Contractor Date



ATTACHMENT A
11TH STREET EMERGENCY STORM DRAIN PIPE REPAIR
SCOPE OF WORK SUMMARY

Emergency repair of the storm drain pipe failure at the north terminus of 11th Street includes the following services and assistance from Bergeman Construction.

1. Installation of temporary road support framework (includes drilling 14 helical ground anchors, steel beams and steel plates) to safely support construction equipment during repair work
2. Assist in removal of existing deteriorated 36" corrugated steel pipe, approximately 80 feet.
3. Assist in installation of new 36" double wall corrugated HDPE pipe, approximately 80 feet.
4. Removal of tunnel debris and preparation for flowable concrete fill to establish bearing under tunnel footings and new storm drain pipe.
5. Installation of flowable concrete fill in tunnel.

The two invoices attached to this document provide additional details of work completed. This contract is being executed after the work has been completed due to the urgent nature of the repair effort.

BERGEMAN CONSTRUCTION

OR - CCB#149528
 WA - #BERGEC*933P2
 PO Box 1070
 Astoria, OR 97103

Invoice

Date	Invoice #
12/13/2018	3337

Bill To
City of Astoria Engineering Department 1095 Duane St Astoria, OR 97103

Ship To

S.O. No.	P.O. No.	Terms	Project
1327			11th St Emergency r...

Item	Description	Ordered	Prev. Invoi...	Invoiced	Rate	Amount
Consulting	12/04/18 Joel - Meeting with city and engineer	2.5	0	2.5	80.00	200.00
Consulting	12/06/18 Joel - Drawings	1	0	1	80.00	80.00
Labor	Earl - load up equipment and materials for job	7	0	7	45.00	315.00
Labor	Ryan - Prep - Set up Kobelco with drill unit	2	0	2	45.00	90.00
Labor	12/07/18 Earl - Prep equipment for job and deliver	9	0	9	45.00	405.00
Labor	Adam - Load anchor materials and deliver	2.5	0	2.5	45.00	112.50
Labor	Tlaloc - Deliver equipment to job site	1	0	1	55.00	55.00
Labor	Ryan - Make construction caps and deliver	8.5	0	8.5	45.00	382.50
Labor	12/08/18 Joel - Drill anchors	9.5	0	9.5	80.00	760.00
Excavation	Usage of Kobelco 75	6.5	0	6.5	65.00	422.50
Labor	Tlaloc - Gather grout and equipment, unload at job site, mix grout and drive anchors	9.5	0	9.5	55.00	522.50
Labor	Niranjan - Gather grout and equipment, unload at site, drill anchors, clean up	9.5	0	9.5	55.00	522.50
Labor	Cody - Gather grout and equipment, unload at job site, mix grout	9	0	9	45.00	405.00

Subtotal

Sales Tax (0.0%)

Total

Payments/Credits

Balance Due

Phone #	Fax #	E-mail	Web Site
503-325-4557	503-325-4915	bergemanoffice@gmail.com	www.bergemanconstruction.net

BERGEMAN CONSTRUCTION

OR - CCB#149528
 WA - #BERGEC*933P2
 PO Box 1070
 Astoria, OR 97103

Invoice

Date	Invoice #
12/13/2018	3337

Bill To
City of Astoria Engineering Department 1095 Duane St Astoria, OR 97103

Ship To

S.O. No.	P.O. No.	Terms	Project
1327			11th St Emergency r...

Item	Description	Ordered	Prev. Invoi..	Invoiced	Rate	Amount
Labor	Shawn - Gather grout and equipment, unload at site, clean up	9	0	9	70.00	630.00
Excavation	Usage of Kobelco 210	1	0	1	85.00	85.00
Truck	Truck and gooseneck usage	9	0	9	30.00	270.00
Labor	John - Gather grout and equipment, unload at job site, mix grout and drive anchors 12/09/18	9.5	0	9.5	55.00	522.50
Labor	Joel - Drill anchors	4.5	0	4.5	80.00	360.00
Excavation	Usage of Kobelco 75	4	0	4	65.00	260.00
Labor	Tlaloc - Drive anchors, mix grout and clean up	4.5	0	4.5	55.00	247.50
Labor	Niranjan - Drive anchors, mix grout and clean up	4.5	0	4.5	55.00	247.50
Labor	John - Drive anchors, mix grout and clean up 12/10/18	4.5	0	4.5	55.00	247.50
Labor	Brent - Move equipment out of way	1.5	0	1.5	70.00	105.00
Labor	Ryan - Weld Construction caps	8	0	8	45.00	360.00
Welding	Use of welder on site	5	0	5	45.00	225.00
Materials	In stock anchors	1.2	0	1.2	12,295.58	14,754.70
Materials	Home Depot - 50 bags	1.2	0	1.2	573.50	688.20
Materials	Columbia Steel - 14 1" plate 1'x1', Sch 80 pipe	1.2	0	1.2	225.81	270.97

Subtotal

Sales Tax (0.0%)

Total

Payments/Credits

Balance Due

Phone #	Fax #	E-mail	Web Site
503-325-4557	503-325-4915	bergemanoffice@gmail.com	www.bergemanconstruction.net

BERGEMAN CONSTRUCTION

OR - CCB#149528
 WA - #BERGEC*933P2
 PO Box 1070
 Astoria, OR 97103

Invoice

Date	Invoice #
12/13/2018	3337

Bill To
City of Astoria Engineering Department 1095 Duane St Astoria, OR 97103

Ship To

S.O. No.	P.O. No.	Terms	Project
1327			11th St Emergency r...

Item	Description	Ordered	Prev. Invoi...	Invoiced	Rate	Amount
Sub-contractor	Custom Excavating #19084 - 12/07/18 Move in Kobelco75 and Kobelco 210 - 12/11/18 Move out Kobelco 75	1.2	0	1.2	780.00	936.00
Profit & Overh...		1	0	1	4,406.8266	4,406.83

Subtotal		\$28,889.20
Sales Tax (0.0%)		\$0.00
Total		\$28,889.20
Payments/Credits		\$0.00
Balance Due		\$28,889.20

Phone #	Fax #	E-mail	Web Site
503-325-4557	503-325-4915	bergemanoffice@gmail.com	www.bergemanconstruction.net

BERGEMAN CONSTRUCTION

Invoice

OR - CCB#149528
 WA - #BERGEC*933P2
 PO Box 1070
 Astoria, OR 97103

Date	Invoice #
12/19/2018	3347

Bill To
City of Astoria Engineering Department 1095 Duane St Astoria, OR 97103

Ship To

S.O. No.	P.O. No.	Terms	Project
1335			11th St Emergency r...

Item	Description	Ordered	Prev. Invoi...	Invoiced	Rate	Amount
Labor	12/11/18 Rafael - Flagged to move out machine	0.75	0	0.75	45.00	33.75
Labor	Tlaloc - Flagged to move out machine	0.75	0	0.75	45.00	33.75
Labor	Brent - Load SK 75 mob to site	3	0	3	70.00	210.00
Labor	12/12/18 Adam - Load materials, test anchors, lay out beams and plates	8	0	8	45.00	360.00
Labor	Earl - Load materials and equipment, test anchors, place I-beams and steel plate	8	0	8	45.00	360.00
Labor	Joel - Test anchors and lay out beams and steel plate	8	0	8	80.00	640.00
Excavation	Usage of 210 12/13/18 - AM	8	0	8	85.00	680.00
Labor	Earl - Load materials, set steel plates and remove pipe	6	0	6	45.00	270.00
Labor	Adam - Load materials, set steel plates and remove pipe	5	0	5	45.00	225.00
Labor	Rafael - Cut crib to fit beams	2	0	2	45.00	90.00
Labor	Kris - Shim beams, set wood beams in between steel beams to support excavator and shim	2	0	2	45.00	90.00

Subtotal

Sales Tax (0.0%)

Total

Payments/Credits

Balance Due

Phone #	Fax #	E-mail	Web Site
503-325-4557	503-325-4915	bergemanoffice@gmail.com	www.bergemanconstruction.net



City of Astoria

1095 Duane Street
Astoria OR 97103

February 14, 2019

RE: City Council Meeting on February 19, 2019
Bridge Vista Overlay Zone

During the City Council meeting on February 19, 2019, staff will make a short presentation overview of potential amendments to the Bridge Vista Overlay Zone of the Riverfront Vision Plan to the City Council for information and discussion. The meeting will be held at 7:00 pm, in the Council Chambers at 1095 Duane Street. The Council had expressed a concern with the language of the current code at their December 20, 2018 meeting during the public hearing on the appeal of the Design Review Request on the hotel proposed to be located within the Bridge Vista Overlay Zone (BVO).

For more information about the project, please contact Rosemary Johnson, Project Manager, at rosemaryjcurt@gmail.com. Written comments may be sent to: City of Astoria, Community Development Department, 1095 Duane Street, Astoria OR 97103.

BRIDGE VISTA OVERLAY ZONE

Riverfront Vision Plan

Civic Greenway Overlay Zone

Neighborhood Greenway Overlay Zone

Urban Core Overlay Zone (pending)

- ❖ Conflict between Sections –
Change to “Conflict between Articles” (also in CGO, BVO, NGO)
- ❖ Existing vs. New Construction Criteria –
Reformat to list Existing Building Criteria and New Construction Criteria separately
- ❖ Mass and Scale Applicability –
Reformat guideline for mass & scale to apply to entire building & identify what structures to use for comparison
- ❖ Clarify that 30,000 sqft maximum is for all buildings of a single development
- ❖ Clarify that stepback applies to height above 24'

BRIDGE VISTA OVERLAY - CLARIFICATIONS

- ❖ Balconies shall not encroach into stepbacks (also in CGO, pending in Urban Core)
- ❖ Add exception for percentage of window coverage for elevator elevations (pending in Urban Core)
- ❖ Add facade variation standards (pending in Urban Core)
- ❖ Miscellaneous corrections and clarifications in the other Overlay Zones – exterior lighting, riparian landscaping, north/south corridor calculation, correct “Standards” definition

BRIDGE VISTA OVERLAY - UPDATES