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# **AGENDA**

## **ASTORIA DEVELOPMENT COMMISSION**

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**Monday, August 3, 2015**  
**Immediately Follows City Council Meeting**  
**2<sup>nd</sup> Floor Council Chambers**  
**1095 Duane Street · Astoria OR 97103**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. REPORTS OF COMMISSIONERS**
- 4. CHANGES TO AGENDA**
- 5. CONSENT CALENDAR**  
The items on the Consent Calendar are considered routine and will be adopted by one motion unless a member of the Astoria Development Commission 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) ADC Minutes of 6/15/15
- 6. REGULAR AGENDA ITEMS**  
(a) Astor West Urban Renewal District – Loan Extension for the Red Building (Community Development)

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



July 15, 2015

MEMORANDUM

TO: ASTORIA DEVELOPMENT COMMISSION (ADC)

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: ADC MEETING OF AUGUST 3, 2015

**CONSENT ITEMS**

**Item 5(a): ADC Minutes**

The minutes of the ADC meeting of June 15, 2015 are enclosed for your review. Unless there are any corrections, it is recommended that the ADC approve these minutes.

**REGULAR AGENDA ITEMS**

**Item 6(a): Astor West Urban Renewal District – Loan Extension for the Red Building (Community Development)**

In 2004, Union Fish Properties, LLC (“Union Fish”) purchased the Union Fisherman’s Packing Company building located west of the Maritime Memorial. The new owners set out to redevelop and restore the property (now know as the Red Building) into a mixed use building with retail and restaurant uses on the first floor and meeting space on the second. The partners associated with Union Fish felt that the historic building was an integral part of the City’s fishing and canning heritage and felt it should be preserved, but with new uses.

After completion of the restoration in 2007, a restaurant, retail shop and coffee shop opened on the first floor of the building and the meeting facility (referred to as the “Loft”) opened for business. The coffee shop and retail shop subsequently closed. Union Fish incurred construction cost overages which jeopardized the future of the building. Owners of the property, Mark Cary and Sean Helligso approached the Astoria Development Commission (ADC) to determine if there was any interest in the Astor-West District participating financially in the facility.

Representatives from Craft3 assisted in developing a finance plan which was ultimately approved by the Commission. In order to structure this financing

plan, Union Fish's lender, Bank of the Pacific, was engaged as a partner in the plan. There were both grant and loan components to the ADC approval.

A grant in the amount of up to \$325,000 was approved to write down the applicable rate of project financing from their loan with Bank of the Pacific as follows:

- To 0% for one year
- To 1% for one additional year
- To 2% for three years

The grant component is now complete as the assistance ended in July 2015.

ADC also loaned \$350,000 to Union Fish to reimburse construction expenses which had been incurred, as well as for construction expenses for a remodel of the western ground floor of the building. A total of \$190,000 was loaned for the already incurred expenses. The remaining \$160,000 was loaned for first floor improvements to create viable tenancies.

As collateral for the loan, ADC was placed in third position on the Red Building. The loan had an initial interest rate of 0% for the first full year and then 1% for the remaining four years. No monthly payments were required for the first year with repayment in full required on the fifth anniversary of the promissory note. The term of the loan ended in July 2015 therefore the balance of the loan, in the amount of approximately \$308,016, has come due.

In July 2015, the owners of Union Fish, LLC approached ADC staff and requested an extension to the loan. Union Fish stated that they wished to have some additional time to repay the loan as they had the building on the market. ADC staff once again coordinated with Craft3 staff on this request. Craft3 suggested that if the Commission were to approve an extension, an appropriate date would be February 12, 2016 as that is when Bank of the Pacific loans would also come due. Staff worked with Urban Renewal Attorney Jeanette Launer to create a loan extension document for the Commission's consideration. A Change in Terms Agreement is attached. Other than the change in maturity date, all other terms of the loan would remain unchanged.

It is recommended that the Astoria Development Commission approve the loan extension and authorize the Chair to sign the Change in Terms Agreement.

A regular meeting of the Astoria Development Commission was held at the above place at the hour of 8:41 pm.

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

Commissioners Excused: None

Staff Present: City Manager Estes, Assistant City Manager/Police Chief Johnston, Parks and Recreation Director Cosby, Finance Director Brooks, Fire Chief Ames, Planner Johnson, Library Director Tucker, Public Works Director Cook and City Attorney Henningsgaard. The meeting is recorded and will be transcribed by ABC Transcription Services, Inc.

**REPORTS OF COMMISSIONERS:** No reports.

**CHANGES TO AGENDA:** No changes.

**CONSENT CALENDAR:** None.

**REGULAR AGENDA ITEMS:**

**Item 6(a): Astor East Urban Renewal District – Loan for Astor Hotel Exterior Improvements**

Paul Caruana and Brian Faherty purchased the Astor Hotel located at the southeast corner of Commercial and 14th Streets in downtown Astoria in 2009. Subsequently, Mr. Caruana, Mr. Faherty and staff discussed their planned building rehabilitation and the costs associated with the scope of such a project. The owners felt that in order for this building to contribute to the ongoing renaissance of eastern downtown, ground floor windows and building entrances would need to be restored and the building repainted. Because of its visibility and size, these improvements would significantly improve the east end of downtown. At their October 5, 2009 and November 16, 2009 meetings, the Astoria Development Commission (ADC) approved redevelopment assistance for the Hotel. These funds came from the Astor East Urban Renewal District (AEURD). As the ADC staff are not financiers, the ADC partnered with Craft3 to conduct the financial analysis on the proposed loan and Craft3 manages the approved loan on behalf of the ADC.

Assistance came primarily in the form of a low interest loan with a smaller amount as a grant. The loan was for exterior building improvements in the amount of \$346,000. The grant, in the amount of \$45,000, was for parking lot and pedestrian improvements. Since issuance of the loan, all but \$60,000 of the possible loan proceeds have been drawn. Work completed included opening up / rebuilding boarded up store fronts and repainting the lower levels of the building. The remainder of the loan proceeds are to be used for painting the upper floors of the Hotel. That work has not been completed as there are issues such as masonry cracks, window rot, deteriorated doors, and deteriorated railings that need to be addressed prior to paint application. These items were not originally in the scope of work for the loan.

City staff has recently been meeting with Paul Caruana regarding the possibility of additional AEURD funds to assist with expenses associated with the repair work needed before painting. Mr. Caruana is in the process of purchasing the Astor Hotel outright and would be the sole owner of the building. Painting the upper floors of the Astor Hotel would positively contribute to the continued renaissance of east downtown; however, applying paint to deteriorated building elements would not address long term maintenance concerns. Attached to this memorandum is a letter provided by Mr. Caruana, which outlines a work plan he would complete upon purchase of the Hotel. Also included are notes from a presentation made by Mr. Caruana at a recent Lower Columbia Preservation Society meeting.

The total cost for the work plan is \$281,000. There is \$60,000 remaining on the existing loan for the Astor Hotel. Mr. Caruana has requested an additional \$150,000 of loan monies to complete the project. As stated in the letter, the balance, which would be covered by him to complete the project, is \$71,000, with future plans to replace the roof and install a new elevator.

Staff coordinated with Craft3 to develop draft terms for an additional loan for ADC consideration. Also attached to this memorandum are the terms and conditions for the proposed Astor Hotel loan amendment and refinance of the existing loan. As identified on the term sheet, the total loan amount would be approximately \$456,013. This includes the refinance portion of the existing loan plus an additional \$150,000 and fees. The loan would have a seven year maturity date. Interest rate for the refinanced portion of the loan would be variable, reset quarterly, with a floor of 1.50%. This would remain unchanged from the current loan agreement. The interest rate for the additional \$150,000 would also be variable with a 3.25% floor. Also included in the loan terms are conditions, which would be applied to the loan:

- Owner to keep Hotel Astor as affordable housing during life of the loan;
- Loan would not be transferrable to another party;
- All draws on the refinanced and new funds shall be made by July 1, 2016.

Should the ADC accept the terms of the loan, Craft3 staff would conduct a final credit analysis to be submitted for review by the City Manager prior to signature by the Chair and City Manager.

The Astor East Urban Renewal Plan includes Development and Redevelopment Assistance as approved urban renewal projects. Section 650.P.2 of the Plan states:

"P. Development and Redevelopment Assistance.

In order to carry out the objectives of this Plan, the Astoria Development Commission may participate, through loans, grants, or both, in assisting development of new public and private buildings in the project area, and in maintaining and improving exterior and interior conditions of existing buildings in the renewal area. The Astoria Development Commission may make this assistance available, as it deems necessary to achieve the objectives of this Plan.

2. Preservation, Rehabilitation, and Conservation.

The purpose of this activity is to conserve and rehabilitate existing public or private buildings for uses that further Plan goals. Rehabilitation and conservation may be achieved by owner and/or tenant activity, with or without financial assistance by the Astoria Development Commission. To encourage rehabilitation and conservation, the Agency is authorized to establish loan and grant programs and provide below market interest rate and market rate loans and provide such other forms of financial assistance as it may deem appropriate to the owners of buildings, or those intending to acquire buildings, which are in need of rehabilitation and for which rehabilitation and reuse is economically feasible.

If the Development Commission intends to assist a public owner in the rehabilitation or conservation of a public building, it will first adopt a minor amendment to this Section of the Plan, identifying the public building and the Development Commission's specific assistance, and adding an explanation of how the public building serves and benefits the Urban Renewal Area."

The Astor-East Urban Renewal Plan contains the following objectives that are relevant to this request:

"D. Objectives of the Urban Renewal Plan:

2. The primary objectives of the plan are to improve the physical conditions, functional relationships, and visual quality of the area and to eliminate blight in order to create a climate more conducive for private development, redevelopment, and rehabilitation of property. More specifically, the objectives of this Astor-East Urban Renewal Plan are to:

d. Rehabilitate and conserve properties compatible with this Plan;

e. Act as a catalyst in bringing together developers and redevelopers with public and private owners of lands which are under used, or vacant, to achieve new uses and economically sound

enterprises which are consistent with the City's Comprehensive Plan, which provide a service to the community, and which establish a diversion of needed, year-round employment opportunities;

h. Improve the appearance and economic vitality of Astoria's downtown core;"

It is recommended that the Astoria Development Commission accept the terms and conditions of a refinance loan and \$150,000 of additional funds to provide a loan in the amount of approximately \$456,013 to Paul Caruana for exterior improvements at the Astor Hotel and authorize the Chair and City Manager sign the loan documents.

City Manager Estes noted some people have questioned what is considered affordable and what types of affordable housing are currently provided at the Astor Hotel. The building has a total of 66 units and 59 of those units are subsidized. Individuals must make no more than \$22,000 per year in order to be eligible for one of the subsidized units. The owners of the hotel have an agreement with the Northwest Oregon Housing Authority that allows them to receive a subsidy from the Federal Housing and Urban Development Department. He explained that Section 8 provides vouchers to eligible people for affordable housing. Some residents of the hotel could use Section 8, but it is a different type of designation than the hotel owners are currently using. Mr. Caruana has indicated that he would like some flexibility in the condition of approval that requires some units remain affordable housing. Mr. Caruana has proposed that at least 50 percent of the units remain affordable housing.

Mayor LaMear said she enjoyed reading the history of the Astor Hotel and appreciated Mr. Caruana's plans. She asked if all of the occupants paid the same amount.

Paul Caruana, 1431 Commercial St., Astoria, explained that the hotel has six studio units and 60 one-bedroom units. The rent is the same for all units, but the amount of the subsidies are dependent upon each renter's financial needs. He nets the same amount from each unit. However, on the subsidized units, some of the rent comes from the government. The subsidy could be as much as 90 percent for one tenant or as little as 10 percent for another tenant. He did not know very much about Section 8 housing. The Astor Hotel is one of a few properties in the country that offers subsidies, which are attached to the number of units in the building. With Section 8, an individual carries a voucher. With subsidies, the government designates the number of subsidized units and bases the subsidy on the current market rate for each unit.

Mayor LaMear understood the trend is toward a mixture of subsidized and non-subsidized units. She wanted to know where the subsidized tenants would go if their units become unsubsidized.

Mr. Caruana said he does not have a plan to reduce the number of subsidized units to 50 percent. He simply wants the flexibility so he can respond to future changes in the rental market. This would allow him to fill units with any tenant, should the Network for Oregon Affordable Housing (NOAH) be unable to fill the designated units. He has a contract with the government for the units, but if they are not filled, he does not receive the subsidy. Keeping the units full is key to the viability of the entire project. He is happy with affordable and subsidized housing, but wants to keep the units full and have good tenants who appreciate what he is doing to the property.

Commissioner Nemlowill understood that there are not enough available residences in Astoria for people who work in Astoria but do not qualify for subsidized housing. She noted that Mr. Caruana created market rate housing at The Norblad and asked what experience he had for gauging this type of demand for market rate housing.

Mr. Caruana said The Norblad always has a waiting list. Tenants rent a room with a sink in it and share the restroom and shower facilities. As the economy improves in Astoria, he is getting better quality tenants. There are more jobs, more people are working, and more people are looking for housing. The Norblad has had a waiting list for about the last year and it is always 10 to 20 people long.

Commissioner Nemlowill confirmed Mr. Caruana did not currently have an agreement with the City to retain affordable or subsidized housing. This condition of approval would be a new agreement attached to the loan.

Mr. Caruana stated that his short term plans were just to take care of the building, which will take some time. He indicated the number of subsidized units was not that important.

Commissioner Herzig said he would not support any agreement that reduced the number of subsidized or affordable housing units. He understood Mr. Caruana's concerns, but also believed NOAH should say that if the units cannot be filled within three months, a property owner may rent the units to other tenants.

Mr. Caruana explained that subsidized housing is often referred to as affordable housing. He clarified that affordable housing is for people with incomes in the range of \$30,000 per year. Subsidized housing is for people with incomes of no more than \$20,000 or \$22,000 per year.

Commissioner Herzig noted that the Staff Report uses the term affordable housing. He wanted the 59 units to remain dedicated to whatever type of housing they are called. He knows people who would be homeless if they lost their unit at the Astor Hotel. He has heard that people feel there is increasing pressure on the tenants in the subsidized units to move out. He did not want to put those tenants under more pressure by allowing Mr. Caruana the flexibility to reduce the number of subsidized units to 50 percent.

Commissioner Nemlowill wanted Mr. Caruana's business to remain viable. Urban Renewal funds can put a patch on a business that is not healthy. However, this does not benefit anyone in the long run. She believed the City is addressing the need for subsidized housing, but did not believe Mr. Caruana should have to bear the burden of this need, especially if it means his business would not be sustainable. She believed there was a need to increase market rate housing in Astoria. More market rate housing would provide housing to those who do not qualify for subsidized housing and have money to spend at Downtown businesses. She has heard from Downtown business owners that transferring subsidized housing to market rate housing would be good. She believed it was important for Mr. Caruana to have the flexibility to change the number of subsidized units in his building.

Mayor LaMear asked if Commissioner Nemlowill was equating market rate housing with workforce housing. Commissioner Nemlowill answered no, and explained that subsidized housing was housing in which the Federal government paid Mr. Caruana for some of the rent. People who make under \$20,000 a year qualify for subsidized housing. People who make more than \$20,000 a year cannot live in a subsidized unit even though they may own a business Downtown or work full-time.

Commissioner Herzig asked how much money would be left in the AEURD if this loan is granted. City Manager Estes said in the next fiscal year, the loan would come out of the line item for Improvements Other Than Buildings, which will have \$325,000. The loan would reduce this line item by \$150,000 and the loan would be repaid over seven years.

Commissioner Price asked how long Mr. Caruana's agreement with NOAH would last. Mr. Caruana said he signs the contract annually. Each contract begins July 1<sup>st</sup>.

Commissioner Price asked what the impact would be if Mr. Caruana did not sign the contract with NOAH. Mr. Caruana said the bank would be nervous and the subsidized tenants would have one year to find other housing.

Commissioner Price said she was in favor of the request and thanked Mr. Caruana for the work he has done in Downtown. She was also in favor of granting Mr. Caruana the flexibility to reduce the subsidized units to 50 percent.

Commissioner Warr said he was also in favor of the request.

Mr. Caruana said he was very passionate about the building and wanted to own it forever. The building is not quite done yet and he wanted to see it through to completion. Since the last time he received funding, he has had issues with the building. Also, a tenant started a fire that caused over \$500,000 in damage. Insurance only covered 70 percent of the damage. Now, the exterior needs to be addressed. Professionals from Portland have gone over the entire building to identify all of the masonry leaks, cracks, and holes. The costs are much more than originally anticipated for paint. He was excited to see the building restored the rest of the way. The information packet about the Astor Hotel was a chronological history of the building based on historical documents he found online. Since it was built, the building has always failed to be what it was intended to be. The renovation in the 1980s was nice, but it was never really completed. He was excited that the renovation is almost complete. The building will look the way it did in the 1920s. The building has great opportunities and could

be converted to various types of housing or a hotel. His passion was to save the property. If subsidized housing is best for a while, that is fine. His tenants are in favor of him owning the building and this is not a move to improve the building just so he can move on to bigger and better things by pushing the tenants out. This is about saving the building. The building was once supposed to be a beacon of hope, but it became a symbol of failure. Therefore, he is excited to turn the building around and make it what it should be.

Commissioner Nemlowill said the history of the building is interesting. In 1983, Mayor Chopping said the chances of renovation were nil. What Mr. Caruana is doing for Astoria is very important. She now understood why he had not tapped into the Urban Renewal Funds he had been given to paint the building. The masonry work and work on the rotting windows needs to be completed in order for the building to be effectively sealed and painted. Mr. Caruana has earned this opportunity through his commitment to preserving buildings in Astoria. She hoped Mr. Caruana continued to own the building.

**Commission Action:** Motion by Commissioner Price , seconded by Commissioner Nemlowill, that the Astoria Development Commission accept the terms and conditions of a refinance loan and \$150,000 of additional funds to provide a loan in the amount of approximately \$456,013 to Paul Caruana for exterior improvements at the Astor Hotel, and that the covenant be revised to reflect that the owner is to keep Hotel Astor as at least 50 percent affordable housing during the life of the loan, and authorize the Chair and City Manager sign the loan documents.

City Manager Estes noted that he would work with Mr. Caruana on the specific language for the condition that would allow flexibility in the number of subsidized units. The condition would require an agreement with Northwest Oregon Housing Authority or an alternate agency to make at least 50 percent of the units available as affordable housing.

Mr. Caruana asked if the language could state that the minimum would be 50 percent. He did not want to give the public the impression that the building would be 50 percent affordable units because there is no plan to change the number of affordable units at this time. He did not want to make his tenants nervous by giving them the wrong impression.

Motion carried 4 to 1. Ayes: Commissioners Warr, Nemlowill, and Price, and Mayor LaMear. Nays: Commissioner Herzig.

Mayor LaMear said she had never heard of spalling. Mr. Caruana explained that water gets behind the paint and on to the metal. As the metal rusts, it expands and pushes against neighboring objects like concrete. Spalling is when chunks of concrete are pushed off of the building by the expanding metal.

**ADJOURNMENT:**

There being no further business, the meeting was adjourned at 9:10 pm.

**ATTEST:**

\_\_\_\_\_  
Secretary

**APPROVED:**

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





CITY OF ASTORIA  
Founded 1811 • Incorporated 1856

COMMUNITY DEVELOPMENT

July 30, 2015

TO:  ASTORIA DEVELOPMENT COMMISSION

FROM:  BRETT ESTES, CITY MANAGER

SUBJECT: ASTOR WEST URBAN RENEWAL DISTRICT – LOAN EXTENSION FOR  
THE RED BUILDING

### **BACKGROUND**

In 2004, Union Fish Properties, LLC (“Union Fish”) purchased the Union Fisherman’s Packing Company building located west of the Maritime Memorial. The new owners set out to redevelop and restore the property (now know as the Red Building) into a mixed use building with retail and restaurant uses on the first floor and meeting space on the second. The partners associated with Union Fish felt that the historic building was an integral part of the City’s fishing and canning heritage and felt it should be preserved, but with new uses.

After completion of the restoration in 2007, a restaurant, retail shop and coffee shop opened on the first floor of the building and the meeting facility (referred to as the “Loft”) opened for business. The coffee shop and retail shop subsequently closed. Union Fish incurred construction cost overages which jeopardized the future of the building. Owners of the property, Mark Cary and Sean Helligso approached the Astoria Development Commission (ADC) to determine if there was any interest in the Astor-West District participating financially in the facility.

Representatives from Craft3 assisted in developing a finance plan which was ultimately approved by the Commission. In order to structure this financing plan, Union Fish’s lender, Bank of the Pacific, was engaged as a partner in the plan. There were both grant and loan components to the ADC approval.

A grant in the amount of up to \$325,000 was approved to write down the applicable rate of project financing from their loan with Bank of the Pacific as follows:

- To 0% for one year
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The grant component is now complete as the assistance ended in July 2015.

ADC also loaned \$350,000 to Union Fish to reimburse construction expenses which had been incurred, as well as for construction expenses for a remodel of the western ground floor of the building. A total of \$190,000 was loaned for the already incurred expenses. The remaining \$160,000 was loaned for first floor improvements to create viable tenancies.

As collateral for the loan, ADC was placed in third position on the Red Building. The loan had an initial interest rate of 0% for the first full year and then 1% for the remaining four years. No monthly payments were required for the first year with repayment in full required on the fifth anniversary of the promissory note. The term of the loan ended in July 2015 therefore the balance of the loan, in the amount of approximately \$308,016, has come due.

In July 2015, the owners of Union Fish, LLC approached ADC staff and requested an extension to the loan. Union Fish stated that they wished to have some additional time to repay the loan as they had the building on the market. ADC staff once again coordinated with Craft3 staff on this request. Craft3 suggested that if the Commission were to approve an extension, an appropriate date would be February 12, 2016 as that is when Bank of the Pacific loans would also come due. Staff worked with Urban Renewal Attorney Jeanette Launer to create a loan extension document for the Commission's consideration. A Change in Terms Agreement is attached. Other than the change in maturity date, all other terms of the loan would remain unchanged.

### **RECOMMENDATION**

It is recommended that the Astoria Development Commission approve the loan extension and authorize the Chair to sign the Change in Terms Agreement.

## CHANGE IN TERMS AGREEMENT

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Borrower: Union Fish Properties, LLC  
PO Box 533  
Astoria OR 97103

Lender: Astoria Development Commission  
1095 Duane Street  
Astoria OR 97103

Principal Amount: \$308,016.17

Date of Agreement: August 3, 2015

**MODIFICATION OF EXISTING INDEBTEDNESS.** This Change in Terms Agreement ("Agreement") modifies the original Promissory Note ("Original Note") and Loan Agreement between Union Fish Properties, LLC, an Oregon limited liability company and the Astoria Development Commission dated June 29, 2010 in the original amount of \$350,000.00 with a current principal balance of \$308,016.17. The Original Note as modified by this Agreement is the "Promissory Note".

**DESCRIPTION OF COLLATERAL.** Line of Credit Trust Deed, Security Agreement, Fixture Filing and Assignment of Leases and Rents ("Deed of Trust") encumbering Borrower's leasehold interest in the Property described in the Deed of Trust and commonly known as 20 Basin Street (formerly 310 Industry Street), Astoria, OR 97103, and recorded on June 29, 2010 as Document No. 201005686, in the real property Records of Clatsop County, Oregon.

**DESCRIPTION OF CHANGE IN TERMS.** Maturity Date extended to February 12, 2016.

**PROMISE TO PAY.** Union Fish Properties, LLC, an Oregon limited liability company ("Borrower") promises to pay to Astoria Development Commission ("Lender"), or order, in lawful money of the United States of America, the principal amount of Three Hundred Eight Thousand Sixteen and 17/100 Dollars (\$308,016.17) together with interest on the unpaid principal balance from July 1, 2015 until paid in full on the Maturity Date. The Maturity Date is the earlier of the date the principal and interest due under the Promissory Note is fully paid or February 12, 2016.

**CONTINUING VALIDITY.** Except as expressly changed by this Agreement, the terms of the original obligation or obligations, including all agreements evidenced or securing the obligation(s), remain unchanged and in full force and effect. Consent by Lender to this Agreement does not waive Lender's right to strict performance of the obligation(s) as changed, nor obligate Lender to make any future change in terms. Nothing in this Agreement will constitute a satisfaction of the obligation(s). It is the intention of Lender to retain as liable parties all makers and endorsers of the original obligation(s), including accommodation parties, unless a party is expressly released by Lender in writing. Any maker or endorser, including accommodation makers, will not be released by virtue of this Agreement. If any person who signed the original obligation does not sign this Agreement below, then all persons signing below acknowledge that this Agreement is given conditionally, based on the representation to Lender that the non-signing party consents to the changes and provisions of this Agreement or otherwise will not be released by it. This waiver applies not only to any initial extension, modification or release, but also to all such subsequent actions.

**MISCELLANEOUS PROVISIONS.** If any part of this Agreement cannot be enforced, this fact will not affect the rest of the Agreement. Lender may delay or forgo enforcing any of its rights or remedies under this Agreement without losing them. Each Borrower understands and agrees that, with or

without notice to Borrower, Lender may with respect to any other Borrower (a) make one or more additional secured or unsecured loans or otherwise extend additional credit; (b) alter, compromise, renew, extend, accelerate, or otherwise change one or more times the time for payment or other terms of any indebtedness, including increases and decreases of the rate of interest on the indebtedness; (c) exchange, enforce, waive, subordinate, fail or decide not to perfect, and release any security, with or without the substitution of new collateral; (d) apply such security and direct the order or manner of sale thereof, including without limitation, any non-judicial sale permitted by the terms of the controlling security agreements, as Lender in its discretion may determine; (e) release, substitute, agree not to sue, or deal with any one or more of Borrower's sureties, endorsers, or other guarantors on any terms or in any manner Lender may choose; and (f) determine how, when and what application of payments and credits shall be made on any other indebtedness owing by such other Borrower. Borrower and any other person who signs, guarantees or endorses this Agreement, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Agreement, and unless otherwise expressly stated in writing, no party who signs this Agreement, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral; and take any other action deemed necessary by Lender without the consent of or notice to anyone. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Agreement are joint and several.

**PRIOR TO SIGNING THIS AGREEMENT, THE BORROWER MEMBER HAS READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS AGREEMENT. THE BORROWER AGREES TO THE TERMS OF THE AGREEMENT.**

**BORROWER:**

**LENDER:**

**UNION FISH PROPERTIES, LLC**

**ASTORIA DEVELOPMENT COMMISSION**

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

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

Mark Cary, Member

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

Shawn Helligso, Member