To: Oregon Energy Facility Siting Council
From: Kellen Tardaewether, Senior Siting Analyst
Date: October 12, 2018
Subject: Agenda Item L (Action Item) - Council Ratified Emergency Order Approving the Department to Use Consultants in Review of ASC Compliance with Historic, Cultural and Archeological standard for the October 25-26, 2018 EFSC Meeting

Attachments: Attachment 1: 2018-10-04 EFSC Emergency Order Golder Appointment_SHPO Support_Executed
Attachment 2: 2018-10-03 SHPO Email to ODOE per Golder-HRA Assistance
Attachment 3: 2018-10-26 EFSC Ratified Order Consultant Appointment_SHPO Support

Background

On October 4, 2018, Council Chair Beyeler executed an Emergency Order Approving the Department to use consultants. The Emergency Order authorizes the Oregon Department of Energy (Department) to appoint Golder Associates Corporation (Golder) and its subconsultant Historical Research Associates, Inc. (HRA) to assist the Department and the Oregon State Historic Preservation Office (SHPO) in the review of applications for site certificate (ASC) and requests for amendments (RFA), beginning upon the execution date of the Emergency Order.

The Council’s Historic, Cultural and Archaeological Resources standard (OAR 345-022-0090) requires an evaluation of historic, cultural and archeological resources that have been listed, or would likely be eligible for listing on the National Register of Historic Places (NRHP), within the analysis area for a proposed facility or of proposed modifications to an approved facility. The Department relies upon the technical expertise of SHPO for the compliance evaluation of this standard. The scope of this evaluation typically includes review of Exhibit S, cultural resource reports, SHPO site forms, and mitigation proposals; site form data entry; GIS mapping; and, NRHP eligibility criteria evaluation.

The Department is currently reviewing thirteen active projects, including four ASC’s and nine RFA’s of varying size and scope. Currently, SHPO has limited staffing and large workloads and has
expressed interest in receiving assistance in meeting their ASC and RFA review and comment deadlines for the next 12 months.

**Ratification of Emergency Order by Council**

On September 20, 2018, the Department received the preliminary application for site certificate (pASC) from Obsidian Solar Center LLC for the Obsidian Solar Center, an approximately 3,900 acre photovoltaic solar power generation facility proposed in Lake County. Additionally, on September 21, 2018, the Department notified Idaho Power Company that its amended pASC was complete for the proposed Boardman to Hemingway Transmission Line, an approximately 273-mile transmission line crossing five counties in Oregon. On September 28, 2018, Idaho Power Company filed the complete ASC with the Department. The Obsidian Solar Center pASC and the Boardman to Hemingway Transmission Line ASC were distributed prior to October 10, 2018 to all reviewing agencies with a review request from the Department outlining the scope of the review. These two proposed facilities have overlapping reviewing agency comment periods. Therefore, in addition to the general need over the next 12 months, there is an immediate need to provide the Department and SHPO with consultant support to be able to provide technical review to meet deadlines outlined in requests the Council makes of SHPO as a reviewing agency (OAR 345-015-0180 and OAR 345-015-0200) that required resolution prior to the October 25-26, 2018 Council meeting. The Department, therefore, requested Chair Beyeler utilize OAR 345-011-0010(4) to take immediate action subject to ratification by the Council.

*The chair may take action on behalf of the Council in emergencies that arise between meetings, subject to ratification by the Council. When practicable, the chair shall advise all members by telephone of any action proposed to be taken in an emergency.*

On October 5, 2018 and on behalf of the Chair, the Department notified Council members via email of the execution of the Emergency Order and of the Council’s opportunity to review and ratify the Emergency Order during the October 25-26, 2018 Council meeting.

The proposed ratified order requires the Department to reassess SHPO’s needs no later than October 2019 and provide Council an update with a requirement that it either reaffirm or cancel the proposed ratified order.

**Recommendation**

The Department recommends Council ratify and approve the Emergency Order Approving Use of Consultants as executed by Council Chair Beyeler on October 4, 2018.

**Attachments**

- 2018-10-04 EFSC Emergency Order Golder Appointment_SHPO Support_Executed
- 2018-10-03 SHPO Email to ODOE per Golder-HRA Assistance
- 2018-10-26 EFSC Ratified Order Consultant Appointment_SHPO Support
BEFORE THE
ENERGY FACILITY SITING COUNCIL CHAIR
OF THE STATE OF OREGON

IN THE MATTER OF REVIEW OF IMPACTS UNDER COUNCIL’S HISTORIC, CULTURAL AND ARCHEOLOGICAL RESOURCES STANDARD (OAR 345-022-0090) IN APPLICATIONS FOR SITE CERTIFICATES AND REQUESTS FOR AMENDMENT

This Emergency Order Approving Use of Consultants provides the Chair’s authorization for the Department to appoint Golder Associates Corporation (Golder) and its subconsultant Historical Research Associates, Inc. (HRA). The appointment of Golder (and HRA) is to assist the Department and the Oregon State Historic Preservation Office (SHPO) in the review of applications for site certificate (ASC) and requests for amendments (RFA), beginning upon execution of this Order.

The Energy Facility Siting Council’s (Council) Historic, Cultural and Archaeological Resources standard (OAR 345-022-0090) requires an evaluation of historic, cultural and archeological resources that have been listed, or would likely be eligible for listing on the National Register of Historic Places (NRHP), within the analysis area for a proposed facility or of proposed modifications to an approved facility. OAR 345-001-0010(52) defines SHPO as a reviewing agency, as such, the Department requests SHPO’s technical review and comment during multiple phases during the review of ASC’s and RFA’s. The Department relies upon the technical expertise of SHPO for the compliance evaluation of this standard. The scope of this evaluation typically includes review of Exhibit S, cultural resource reports, SHPO site forms, and mitigation proposals; site form data entry; GIS mapping; and, NRHP eligibility criteria evaluation.

The Department is currently reviewing thirteen active projects, including four ASC’s and nine RFA’s of varying size and scope. Currently, SHPO has limited staffing and large workloads and has expressed interest in receiving assistance in meeting their ASC and RFA review and comment deadlines for the next 12 months.

The Council is authorized under ORS 469.470(6) to perform acts as may be necessary, proper or desirable to carry out effectively the duties, powers and responsibilities of the Council. Under ORS 469.470(6) the Council may appoint and utilize, on behalf of the Department, technical consultants...
in support of its review of ASCs and RFA’s.

OAR 345-011-0010(4) states:

The chair may take action on behalf of the Council in emergencies that arise between meetings, subject to ratification by the Council. When practicable, the chair shall advise all members by telephone of any action proposed to be taken in an emergency.

On September 20, 2018, the Department received the preliminary application for site certificate (pASC) from Obsidian Renewables for the Obsidian Solar Center, an approximately 3,900 acre solar facility proposed in Lake County. On September 21, 2018, the Department notified Idaho Power Company that its amended preliminary application for site certificate was complete for the Boardman to Hemingway Transmission Line, an approximately 273-mile transmission line crossing five counties in Oregon. On September 28, 2018, Idaho Power filed the complete ASC with the Department. The Obsidian Solar Center pASC and the Boardman to Hemingway Transmission Line ASC have been or will be distributed by October 10, 2018 to all reviewing agencies with a review request from the Department outlining the scope of the review. These two proposed facilities have overlapping reviewing agency comment periods. Therefore, in addition to the general need over the next 12 months, there is an immediate need to provide the Department and SHPO with consultant support to be able to provide technical review and support to meet deadlines outlined in requests the Council makes of SHPO as a reviewing agency (OAR 345-015-0180 and OAR 345-015-0200) that cannot wait until the next scheduled Council meeting on October 25-26, 2018.

The Chair hereby delegates to the Department the authority to identify, in coordination with SHPO, particular issues requiring assistance during review of ASC and RFA materials. The Chair hereby authorizes the Department to enter into Work Order Contracts (WOCs) with Golder (and HRA) for services related to the review of the Historic, Cultural, and Archaeological Resources Standard as evaluated in ASC and RFA materials, and authorizes compensation to Golder under a WOC that specifically identifies the scope of the work to be performed for each identified project. Council shall retain all responsibility and authority for all final decisions and final orders.

SHPO’s staff needs will be reassessed no later than October, 2019 and staff will provide Council an update either to reaffirm or cancel this Order.

Barry Beyeler, Chair

Date October 4, 2018

OREGON ENERGY FACILITY SITING COUNCIL
Kellan,

As discussed, HRA’s assistance on the Boardman to Hemmingway transmission project is very valuable. Their work under our office supervision allowed the SHPO to respond in a complete and timely manner. Due to limited staff and current workloads, the SHPO would not have been able to effectively participate in the EFSC process without this assistance.

Through this process, the SHPO extensively trained HRA personal in SHPO practices and our agency’s role in the EFSC process. We also successfully developed practices to ensure efficient communication and transmission of documents, as well as solid professional working relationships. We are now in a place where HRA can effectively and efficiently assists our office to complete the EFSC review for large, complicated projects, like B2H, ensuring complete and timely review.

We hope that ODOE will consider contracting HRA for future agency projects.

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BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

IN THE MATTER OF REVIEW ) RATIFIED ORDER APPROVING USE
OF IMPACTS UNDER COUNCIL’S ) OF CONSULTANTS
HISTORIC, CULTURAL AND )
ARCHAEOLOGICAL RESOURCES )
STANDARD (OAR 345-022-0090) IN )
APPLICATIONS FOR SITE )
CERTIFICATES AND REQUESTS )
FOR AMENDMENT )

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469.470(6) the Council may appoint and utilize, on behalf of the Department, technical consultants in support of its review of ASCs and RFA’s.

On September 20, 2018, the Department received the preliminary application for site certificate (pASC) from Obsidian Solar Center LLC for the Obsidian Solar Center, an approximately 3,900 acre photovoltaic solar power generation facility proposed in Lake County. On September 21, 2018, the Department notified Idaho Power Company that its pASC was complete for the proposed Boardman to Hemingway Transmission Line, an approximately 273-mile transmission line crossing five counties in Oregon. On September 28, 2018, Idaho Power Company filed the complete ASC with the Department. The Obsidian Solar Center pASC and the Boardman to Hemingway Transmission Line ASC were distributed prior to October 10, 2018 to all reviewing agencies with a review request from the Department outlining the scope of the review. These two proposed facilities have overlapping reviewing agency comment periods. Therefore, in addition to the general need over the next 12 months, there was an immediate need to provide the Department and SHPO with consultant support to be able to provide technical review to meet deadlines outlined in requests the Council makes of SHPO as a reviewing agency (OAR 345-015-0180 and OAR 345-015-0200) that required resolution prior to the Council’s October 25-26, 2018 meeting. The Department therefore requested Chair Beyeler utilize OAR 345-011-0010(4) to take immediate action subject to ratification by the Council.

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SHPO’s staff needs will be reassessed no later than October 2019 and Department will provide Council an update either to reaffirm or cancel this order.

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Barry Beyeler, Chair                                           Date

OREGON ENERGY FACILITY SITING COUNCIL