



Serving All of Thurston County

**Commission Meeting**  
**Monday, April 28, 2025**  
**5:30 PM**

Percival Plaza - Olympics Room  
626 Columbia Street NW  
Olympia, WA 98501

The meeting agenda is available on the Port's website as of April 24, 2025.

<https://www.portolympia.com/commission>

The public may join the meeting from their computer, tablet or smartphone at:

<https://us02web.zoom.us/j/87174114590?pwd=QqJCvbSpg8bE7Y485MXBTsXSACzAeO.1>

or Telephone: 1 253 215 8782

Meeting ID: 871 7411 4590

Passcode: 594862

Written public comments may be submitted to [commissioncoordinator@portolympia.com](mailto:commissioncoordinator@portolympia.com) by 12:00 p.m. on the date of the meeting. All written comments will be compiled and sent to the Commissioners prior to the meeting.

Verbal public comment is accepted in person at the meeting.

If you are attending the meeting via Zoom, you may raise your hand during the meeting to give public comment.  
For those listening by phone, press \*9 if you wish to raise your hand and provide comment.

## AGENDA

- A. Call to Order
- B. Pledge of Allegiance
- C. Approval of Agenda
- D. Executive Director Report
- E. Public Comment

This public comment period is the opportunity for public input on the agenda items on this evening's agenda, in addition to an opportunity for public comment on any other port business. Individual public comments are limited to 3 minutes per person.

NOTE: Guidelines for public comment can be found in the Commission Rules in Resolution 2025-03 Article VI.

- Comments should be directed to Commission: Comments should be directed to the Commission as a whole and should not include comments about individual Port staff or members of the public.
- Courtesy: All speakers (members of the public, Port staff, and Commissioners) shall be courteous in language and demeanor and shall confine remarks to those facts that are germane and relevant to the question or issue under discussion.

### **Port of Olympia Mission**

*Creating economic opportunities and building community for all of Thurston County through responsible resource use.*

- F. Consent Calendar
  - 1. South Sound Commerce Center Ground Lease
  - 2. Minutes: March 10, 2025, and March 24, 2025
- G. Pending Issues or Business
  - 1. Briefing: Budd Inlet Update and East Bay Sediment Data: Jonathon Wolf, Environmental Manager
- H. Action Calendar
  - 1. None
- I. Action/Other Calendar
  - 1. None
- J. Advisory Calendar
  - 1. None
- K. Commissioner Reports/Discussion
- L. Other Business
- M. Meeting Announcements
- N. Adjourn

## COVER MEMO

**Briefing Date/Time:** April 28, 2025

**Staff Contact/Title:** Warren Hendrickson, Director of Operations  
360.528.8050, [warrenh@portolympia.com](mailto:warrenh@portolympia.com)

**Subject:** South Sound Commerce Center Ground Lease  
New Market Industrial Campus (NMIC)/Panattoni

**Purpose:** ☐ Information Only ☒ Decision Needed

### **Overview:**

- Action item – Approval requested via the Consent Calendar.

The objective of this topic is to approve the NMIC South Sound Commerce Center ground lease with Panattoni Development Company (PDC).

The Advisory presentation to the Commission took place on April 14, 2025.

### **Background:**

The Port and SSECC PDC, LLC (Panattoni Development Company, Inc.) executed an Option to Ground Lease Agreement effective July 13, 2020 for 199 acres of Port property located in the New Market Industrial Campus. There have been seven amendments to date to the base agreement – the most recent executed on March 10, 2025 to revise the Option to Lease Agreement to permit development of those optioned property parcels not subject to the Bush Prairie Habitat Conservation Plan (HCP).

On July 12, 2021, the Commission approved a Standard Lease Form to be used as the Port's ground lease document as individual parcels covered by the Option Agreement are developed. The Standard Lease Form was revised by the Commission on December 11, 2023, to specifically address certain additional provisions – as required by the City of Tumwater – anticipated for this South Sound Commerce Center ground lease.

Panattoni now seeks to commence a ground lease with the Port for the South Sound Commerce Center, a 29.27-acre parcel (Lot 1) that is not subject to the HCP (i.e., the

parcel is free of species covered by the Endangered Species Act, as determined by the City of Tumwater).

In terms of significance, this is the first lease under the PDC Option to Ground Lease Agreement with the Port. It will bring the first construction to NMIC and Olympia Regional Airport property since March 2008, and – most notably – it will increase annual NMIC revenue to the Port by 33.5% annually.

The Advisory presentation addressed each of the following topics in turn:

- Background
- Location/depiction
- Term sheet (summary also provided below)
- Significance:
  - Port
  - City
  - Community
- Vision 2050 alignment
- Lease Form review and revisions
  - Unique provisions associated with this ground lease
  - Certain revisions based on current industry practices
- Environmental considerations
- Project implementation
- Next steps
- Questions and comments

The attached ground lease agreement has been reviewed and approved by all parties, including both Tenant and Port counsels.

**Task before the Commission:**

Approval consideration of this ground lease per the following terms and conditions:

Lease Acreage:	29.27 acres
Term:	55 years
	Two ten-year options
Current Lease Rate:	\$ .48 per square foot
Monthly Lease Payment:	\$ 50,994.08 per month plus LET
Adjustments:	Ten percent (10%) every five years first 25 years
	Periodic fair market value adjustments thereafter

**Documents Attached:**

- South Sound Commerce Center Ground Lease Agreement.

**Signatory Parties:**

- Port of Olympia
- Panattoni Development Company

**Additional Affected Parties:**

- Olympia Regional Airport
- City of Tumwater

**Staff Recommendation:**

- Approve the South Sound Commerce Center ground lease with Panattoni Development Company via the Consent Calendar agenda item, as presented.

## **PORT OF OLYMPIA GROUND LEASE TUMWATER PROPERTIES**

THIS LEASE is made this 28<sup>th</sup> day of April, 2025, by and between the PORT OF OLYMPIA, a Washington municipal corporation, Lessor, hereinafter referred to as "Landlord" or "Port", and the Tenant described below, hereinafter referred to as "Tenant", on the following terms and conditions:

### **1. LEASE SUMMARY.**

#### TENANT

Name: SSECC PDC GL1, LLC, a Delaware limited liability company  
Address: 1821 Dock Street, Suite 100  
City, State, Zip Code: Tacoma, Washington 98402  
Phone Numbers: (206) 248-0555  
Email: [THale@Panattoni.com](mailto:THale@Panattoni.com)

#### PREMISES

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon and subject to the terms and conditions of this Lease, that certain real property known as South Sound Commerce Center, consisting of approximately 29.27 acres of land or approximately 1,274,852 square feet of land, per the August 15, 2022 amended survey, located on Center Street SW in Tumwater, Thurston County, Washington as generally shown and described in **Exhibit "A"** hereto, subject to encumbrances, rights, and reservations as shown therein or provided in this Lease, and as presently existing or hereafter arising pursuant to governmental authority ("Premises").

Tenant acknowledges and agrees that Tenant is responsible for applying for, processing, obtaining, and recording such approvals as may be necessary for the division of the Premises from the larger property owned by the Port of which the Premises are a part, whether by binding site plan or other approval and Tenant shall bear all costs and expenses thereof. The Port shall be given the opportunity to review and approve all applications and submissions made by Tenant in connection therewith prior to submission to the City of Tumwater (the "City"), with the Port's approval not to be unreasonably withheld, conditioned or delayed. The Port agrees to execute such documents as Tenant may reasonably request in such regard and for such purpose and the Port further agrees to support and otherwise fully cooperate with such action commenced by Tenant; provided, however, that except as otherwise provided in this Agreement: (i) the Port shall not be required to incur any expense in doing so, (ii) Tenant shall exercise commercially reasonable efforts (not including variances or other processes for deviations from normal code requirements) to cause any such document to be so worded or submitted as to leave the Port and the Premises and all other Port property without residual liabilities, obligations or encumbrances should Tenant fail to proceed with the government approvals, (iii) no action affecting the Premises or any other Port Property shall be finalized and no document referencing the Premises or any other Port property shall be recorded without the Port's express written consent to such finality or recording, which shall not be unreasonably withheld, conditioned,

or delayed (and, unless otherwise indicated, the Port's execution of an application or petition shall not constitute the Port's consent to finalization of the action requested in such application or petition or to recording of any document), and (iv) the terms of such permits and any associated agreements are subject to the approval of the Port to the extent that the terms thereof would bind the Port following expiration or termination of this Agreement, which such approval shall not be withheld with respect to routine development restrictions and covenants that would run with the land developed for a project like the improvements to the Premises intended to be completed by the Tenant (the "Project") (e.g., slope setback and non-disturbance provisions, rights to make cuts and fills for roads, etc.) or restrictions and covenants otherwise required or customary for issuance of the requested approvals (e.g., provisions applicable to decommissioning facilities used in the management of Hazardous Material), and (v) such documents shall provide that the Port shall have no liability during the Term for any costs or other liabilities related solely to such permits or agreements, applicable law or set forth elsewhere in this Agreement.

Upon full execution of this Lease, the Port and Tenant agree to execute an addendum to this Lease setting forth the description and size of the Premises in accordance with the binding site plan provided by Tenant and approved by the Port.

## TERM

The initial term shall be Fifty-Five (55) years beginning upon receipt of the earlier of a site development/grading permit (Site Development/Grading Permit No. TUM-22-0747) or building construction permit (New Commercial Building Permit No. TUM-22-0749) from the City the "Lease Commencement Date", and ending on the last day of the month in which the Lease Term began, fifty-five (55) years later (the "Initial Term"); provided that the commencement of this Lease is subject to the Port's receipt of first month's rent, subject to the Rent Credit due the Tenant from the Port as described in the ADDITIONAL PROVISIONS section below, lease security in a form acceptable to the Port, and certificate of insurance in a form acceptable to the Port. Tenant shall also have two (2) options to extend the term as outlined below. Within a reasonable period after Tenant's receipt of the first of the permits identified above, Tenant shall provide notice to the Port and the Parties shall execute the Certificate of Commencement attached hereto as **Exhibit "J"**.

## OPTION TO EXTEND TERM

Tenant shall have two (2) option(s) to extend the Lease Term for an additional period of ten (10) years each. Such extensions shall be upon the terms, covenants, and conditions contained herein (except for rent, rental adjustments, and the times at which rental adjustments shall be made, all of which shall be determined in accordance with the then current Commission policy). The extension term shall commence on the expiration of the immediately preceding term. Such Option to Extend may be exercised only by written notice to the Port no later than one hundred and eighty (180) days prior to the expiration of the then current term. Tenant shall not be entitled to extend this Lease if Tenant is in default of the performance of its obligations hereunder at the date notice of extension is made, at the date notice of extension is due, or at the date the extension term is to commence. In addition, Tenant shall not be entitled to renew this Lease if Tenant is a corporation, limited liability company, or other entity whose stated duration will expire prior to the end of the renewal term.

## BASE GROUND RENT

**Initial Rent:** Tenant shall pay monthly base rent in the amount Fifty Thousand Nine Hundred Ninety-Four Dollars and Sixteen Cents USD (\$50,994.08), based on 1,274,852 square feet, (based on \$0.48 per square foot per annum) ("Base Ground Rent") plus Washington State Leasehold Tax.

**Rent Adjustments:** During the Initial Term, through the end of the twenty-fifth (25<sup>th</sup>) year of the Lease Term, the Base Ground Rent shall be increased every five (5) years by ten percent (10%), with the first adjustment being effective as of the fifth (5<sup>th</sup>) anniversary of the Lease Commencement Date and each such date being hereafter referred to as a "Rent Adjustment Date". Provided, however, that the Base Ground Rent shall never be decreased. Each adjustment shall be calculated on the applicable Rent Adjustment Date and shall be effective as of the applicable Rent Adjustment Date. Within thirty (30) days of the date of the Port's notice of adjustment following completion of an adjustment calculation, Tenant shall pay to the Port the amount of any deficiency in rent paid by Tenant for the period following the subject Rent Adjustment Date and shall thereafter pay the adjusted rent until receiving the next notice of adjustment from the Port.

Notwithstanding adjustments to the Base Ground Rent as provided above, Base Ground Rent for the twenty-sixth (26<sup>th</sup>), thirty-sixth (36<sup>th</sup>), forty-sixth (46<sup>th</sup>), fifty-sixth (56<sup>th</sup>), and the sixty-sixth (66<sup>th</sup>) Agreement Years (to the extent Tenant chooses to exercise one or more of the two (2) options to extend the Lease Term) will be adjusted to the then-prevailing fair market rental rate (the "Fair Market Rent") considering similarly-zoned, unimproved industrial property of comparable contiguous developable square footage located within or reasonably proximate to the Premises, to be delivered to a new tenant for development as of the applicable Adjustment Date, subject to the Floor and Cap (as such terms are defined below). The value of any improvements made to the Premises will not be considered in establishing the Fair Market Rent (i.e., the Fair Market Rent shall be determined as if there are no improvements on the Premises). Notwithstanding anything to the contrary contained in this Agreement, in no event will the Fair Market Rent amount be less than one hundred percent (100%) of the then current Base Ground Rent (the "Floor") or more than one hundred ten percent (110%) of the then current Base Ground Rent (the "Cap"). The fair market rental value for rental revisions pursuant to this paragraph shall be determined by independent appraiser, as outlined in Paragraph 37, **APPRAISAL PROCEDURE**.

Base Ground Rent for the thirtieth (30<sup>th</sup>), fortieth (40<sup>th</sup>), fiftieth (50<sup>th</sup>), sixtieth (60<sup>th</sup>), and the seventieth (70<sup>th</sup>) Agreement Years (to the extent Tenant chooses to exercise one or more of the two (2) Extension Options) will be increased by ten percent (10%) of the most recent Fair Market Rent adjustment.



### RENT COMMENCEMENT DATE

Base Ground Rent shall commence at the earliest to occur of (a) date Tenant receiving a temporary Certificate of Occupancy issued by the City or (b) fourteen (14) months from the Lease Commencement Date.

### LEASE SURETY

In accordance with Paragraph 5 of the Lease, Tenant shall file with the Port a good and sufficient surety ("Surety") in an amount equal to one (1) year's minimum Base Ground Rent plus Washington State Leasehold Excise Tax, in a form acceptable to the Port, and adjusted to reflect rental adjustments and other changes to payments due under this Lease. The initial Surety amount shall be Six Hundred Ninety Thousand Five Hundred One Dollar and Seventy-Two Cents USD (\$690,501.72) (one times the annual rent plus Washington State Leasehold Excise Tax of 12.84%). The initial Surety amount shall be posted with the Port by the date of execution of the Lease by Tenant. Any change in Surety shall be posted with the Port at least thirty (30) days prior to the effective date of such change. The expiration date for any Surety shall not be sooner than ninety (90) days after satisfaction of Tenant's obligations under this Lease.

### USE OF PREMISES

Tenant may use the Premises for: Commercial, manufacturing and industrial uses.

### INSURANCE

Bodily Injury/Death: Combined Single Limit \$1,000,000 each occurrence.  
Property Damage per Occurrence: \$500,000.

Tenant shall submit certificates evidencing compliance with Paragraph 14, and at the Port's request shall provide the Port with the actual policies or copies thereof. Tenant shall furnish the Port with evidence of renewal of such policies prior to their expiration.

### ASSIGNMENT, SUBLEASE, OR LEASE MODIFICATION.

Tenant shall be subject to a fee for any request for assignment, sublease, or modification of this Lease as stated in Port Commission Fee Schedule, except as otherwise sent forth in this Lease.

### REAL ESTATE COMMISSIONS AND FEES.

No real estate commissions or fees are payable under this ground lease.

### COMMISSIONS AND FEES

In the absence of any agreement between the parties to the contrary, each party represents and warrants to the other that it has not been represented by, or introduced to the other by, any broker or agent. In the absence of any agreement between the parties to the contrary, each party hereby agrees to indemnify and hold the other harmless from and against any and all fees, commissions, costs, expenses (including attorney fees), obligations, and causes of action arising against or incurred by the other party by reason of any claim for a real estate commission or a fee or finder's fee by reason of

any contract, agreement or arrangement with, or services rendered at the request of, the indemnifying party.

## ADDITIONAL PROVISIONS

### CONSTRUCTION COMMENCEMENT

Execution by both Tenant and Landlord is required before the Tenant takes receipt of the required permit(s) to commence construction, and no site preparation or construction of any nature may commence until a ground lease for the Premises has been executed by both Tenant and Landlord.

### CENTER STREET IMPROVEMENTS (SCOPE)

1. Port and Tenant understand and agree the City requires certain improvements on Center Street (a city-owned street) between Tumwater Boulevard and the south property line of Tenant's Premises frontage, a length of approximately 3,000 linear feet ("Center Street Improvements"). Such improvements are to be part of and as a condition to the approval of permits for development of the Premises.
2. City and Tenant have agreed to the specific scope of work ("Scope") to be memorialized by the City-issued permit for the Center Street Improvements hereto attached as **Exhibit "H"**. The Scope, as identified in the City-issued permit and relevant supporting documents, is specifically limited to meeting, and not exceeding in any measure, the City's conditional requirements for permit issuance. The Scope shall not include Tenant's frontage improvements. Any such Tenant frontage improvements that may be required by the City are independent of any and all required Center Street Improvements.
3. The Port shall have the opportunity to review and approve, within ten (10) business days following submittal to the Port by the Tenant, and in advance of implementation, the Scope for the Center Street Improvements plan, and such review shall not be unreasonably withheld. Port approval of the Scope shall not require any improvement(s) other than those required by the City.

### CENTER STREET IMPROVEMENTS (PAYMENT)

1. Tenant agrees to pay one hundred percent (100%) of any and all costs and fees associated with the Scope, i.e., the City-required improvements of Center Street as defined, as part of Tenant's site development project.
2. Tenant has shared with the Port a Preliminary Estimate in the amount of \$643,711, plus reasonable design costs as agreed to by Port and Tenant, and Tenant shall submit to the Port a final Accepted Bid for Center Street Improvements in accordance with the Scope and not including Tenant's frontage improvements. Tenant and the Port understand and agree that the dollar amount of the Preliminary Estimate may fluctuate before the final Accepted Bid is executed and reasonable design costs are determined. Such final Accepted Bid submitted to the Port shall not exceed \$750,000.

### CENTER STREET IMPROVEMENTS (RENT CREDIT)

1. Tenant will receive a credit in the amount of the final cost of Center Street Improvements, including reasonable design costs approved by the Port in advance, which represents the full cost of Center Street Improvements per the City-approved plans and Scope, not including any cost directly associated with Tenant's frontage improvements, a length of approximately 576 linear feet, as depicted in the attached **Exhibit "I"**.

2. Such credit will be applied on a continuing monthly basis, for the amounts that would have been otherwise due in that month, against the Tenant's obligated lease payments until the full credit has been applied.

#### CONFLICTING PROVISIONS

To the extent any of the provisions of the foregoing Paragraph 1, LEASE SUMMARY, conflicts with any other provisions of this Lease, the provisions of Paragraph 1, LEASE SUMMARY, shall govern.

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EXHIBIT "A" – MAP OF PREMISES

EXHIBIT "B" – REQUIREMENTS AS TO IMPROVEMENTS

EXHIBIT "C" – LESSOR'S CONSENT AND AGREEMENT

EXHIBIT "D" – TOXIC, DANGEROUS AND HAZARDOUS SUBSTANCES STORAGE  
LICENSE

EXHIBIT “E” – REMOVED

EXHIBIT “F” – MEMORANDUM OF GROUND LEASE

EXHIBIT “G” – FORM OF NON-DISTURBANCE AND ATTORNMEN AGREEMENT

EXHIBIT “H” – CENTER STREET IMPROVEMENTS SCOPE OF WORK

EXHIBIT “I” – TENANT PROPORTIONATE AREAS OF CENTER STREET  
IMPROVEMENTS

EXHIBIT “J” – LEASE TERM CERTIFICATE OF COMMENCEMENT

## **THE PARTIES HEREBY AGREE AS FOLLOWS:**

### **2. PREMISES.**

The Port hereby leases to Tenant, and Tenant hereby leases from the Port, the Premises described in Paragraph 1, **LEASE SUMMARY** above.

### **3. TERM.**

This Lease shall be for the term specified in Paragraph 1, **LEASE SUMMARY** above.

### **4. RENT.**

4.1. It is the intention of the parties hereto that the rent specified in this Lease shall be net to the Port in each year during the term of the Lease. Accordingly, all costs, expenses and obligations of every kind relating to the Premises (except as otherwise, specifically provided in the Lease) which may arise or become due during the term of the Lease shall be paid by Tenant and the Port shall be indemnified by the Tenant against such costs, expenses and obligations. All such costs, expenses, and obligations and payments coming due hereunder shall be deemed as "additional rent".

4.2. Tenant agrees to pay as rent for the use and occupancy of the Premises during the term of this Lease, without deduction or offset, the rent specified in Paragraph 1, **LEASE SUMMARY** above, payable to the Port in advance on or before the first day of each and every month and payable at such place as the Port may designate.

4.3. If the Tenant does not pay the rent by the 10th of the month, then in addition to the overdue rent, Tenant shall pay interest on the rent payment then due at a rate per annum equal to the greater of eighteen percent (18%) per annum or two (2) percentage points over the composite prime rate of interest set forth in the Wall Street Journal "Money Rates" Column (or its successor) most recently prior to such date. Such interest commences on the date the rent is due and continues until such rent is paid. If the Tenant does not pay the rent when due and interest is incurred each month for three (3) consecutive months, the rent called for herein shall automatically become due and payable quarterly in advance rather than monthly, notwithstanding any other provision in this Lease to the contrary, and regardless of whether or not the interest is paid or collected. The imposition of such interest does not prevent the Port from exercising any other rights and remedies under this Lease.

### **5. LEASE SURETY.**

Tenant shall, upon execution of this Lease, file with the Port a good and sufficient security ("Surety") in the form of a bond, letter of credit, cash deposit, or other surety acceptable to the Port in its sole discretion, in accordance with the requirements of state law RCW 53.08.085 and Paragraph 1, **LEASE SUMMARY** above. The form and terms of the Surety and the identity of the surety shall be subject to approval of the Port, and the surety shall guarantee the full performance by Tenant of all the terms and conditions of this Lease, including the payment by Tenant of the rents and all other amounts herein provided for the full term hereof. Any acceptable surety instrument having an expiration earlier than the full lease term shall be automatically renewable. Any company issuing such a surety instrument must give the Port at least ninety (90) days advance written notice prior to the effective date of cancellation or expiration of such surety instrument. These provisions as to lease surety are subject to the continued approval of the Port and to revision and adjustment as may hereafter result from changes in state requirements or as established by the Port Commission.

The Surety is a part of the consideration for execution of this Agreement. If Tenant shall have fully performed all terms and conditions of this Agreement, the Surety (or such portion as remains without claim by the Port) shall be returned to Tenant within thirty (30) days following the termination (or expiration)

date; otherwise the Port shall, in addition to any and all other rights and remedies available under this Agreement or at law or equity, retain title to that portion of the Surety sufficient to remedy the default.

The Port may apply all or part of the Surety to unpaid rent or any other unpaid sum due hereunder, or to cure other defaults of Tenant. If the Port uses any part of the Surety, Tenant shall restore the Surety to its then-currently required amount within fifteen (15) days after the receipt of the Port's written request to do so. The retention or application of such Surety by the Port pursuant to this Section does not constitute a limitation on or waiver of the Port's right to seek further remedy under law or equity.

## **6. ACCEPTANCE OF PREMISES.**

Tenant has examined the Premises, and the adjoining premises of which the Premises are a part, and accepts them in their present condition. There are no warranties expressed or implied as to any condition apparent or unknown except as otherwise stated in this Lease. Tenant agrees to make any changes in the Premises necessary to conform to any federal, state or local law applicable to Tenant's use of the Premises.

## **7. POSSESSION.**

If the Port shall be unable for any reason to deliver possession of the Premises or any portion thereof at the time of the commencement of this Lease, the Port shall not be liable for any damage caused thereby to Tenant, nor shall this Lease thereby become void or voidable, nor shall the term specified herein be in any way extended, but in such event Tenant shall not be liable for any rent until such time as the Port can deliver possession; provided that if Tenant shall take possession of any portion of the Premises in the interim, it shall pay the full rent specified herein reduced pro rata for the portion of the Premises not available for possession by Tenant; and provided further, that if the Port shall be unable to deliver possession of the Premises at the commencement of this Lease, Tenant shall have the option to terminate this Lease by giving at least thirty (30) days' written notice of such termination, and this Lease shall terminate unless the Port shall deliver possession of the Premises prior to the effective date of termination specified in such notice. If Tenant shall, with the Port's consent, take possession of all or any part of the Premises prior to the commencement of the term of this Lease, all of the terms and conditions of this Lease shall immediately become applicable, with the exception that Tenant shall not be obligated to pay any rental for the period prior to the commencement of the term of this Lease unless otherwise mutually agreed.

## **8. USE OF PREMISES.**

Tenant shall use the Premises only for those purposes stated in Paragraph 1 above and shall not use them for any other purpose without the prior written consent of the Port, which consent may be withheld in the Port's sole discretion. The Premises shall be used only for lawful purposes; and only in accordance with all applicable building, fire and zoning codes. Tenant shall use the entire Premises for the conduct of said business in a first-class manner continuously during the entire term of this Lease. Tenant agrees that it will not disturb the Port or any other Tenant of the Port by making or permitting any disturbance or any unusual noise, vibration or other condition on or in the Premises. Tenant may install, post, erect and, as Tenant desires or may be required, illuminate exterior facility identification, traffic control, safety, security, ADA, and other code required signage complying with applicable building code, municipal code requirements, and FAA regulations. No signs or other advertising matter, symbols, canopies or awnings shall be attached to or painted on or within the Premises, including the windows and doors thereof, without the approval of the Port, which shall not be unreasonably withheld, conditioned, or delayed. At the termination or sooner expiration of this Lease, all such signs, advertising matter, symbols, canopies or awnings attached to or painted by Tenant shall be removed by Tenant at its own expense, and Tenant shall repair any damage or injury to the Premises and correct any unsightly condition caused by such removal. At no time shall the Tenant have the right to remove or otherwise disturb timber, valuable minerals, sand, gravel or water, from

the site, which materials belong to the Port and may only be used with consent and appropriate compensation.

So long as Tenant is not in default under this Agreement and subject to the specific provisions, covenants and agreements contained in this Agreement, the Port covenants and agrees that the quiet and peaceful possession and enjoyment of the Premises by Tenant shall not be disturbed or interfered with by the Port or by any other party claiming by or through the Port.

#### **9. REQUIREMENTS AS TO IMPROVEMENTS.**

The specific requirements as to the planning, construction and completion of any major improvements planned by Tenant on the Premises are attached hereto as **Exhibit "B"** to this Lease, which by this reference is incorporated herein as if set forth in full. Prior to the submission of any plans for contemplated improvements on the Premises, Tenant shall furnish a survey of the appropriate Premises as prepared by a registered and licensed surveyor, all at Tenant's own expense.

#### **10. RIGHTS-OF-WAY.**

The Port agrees to grant other such right-of-way easements across the property of the Port reasonably available therefor, on reasonable terms and conditions, for the installation and maintenance of necessary and adequate services to the Premises, including but not limited to reasonable ingress, egress, and utilities to and from the Premises on established roadways, driveway, and corridors and sidewalks provided there is no public road access, petroleum product pipelines, railroad spurs, railways and utility lines.

#### **11. RESERVATION OF RIGHTS.**

The Port reserves to itself from the Premises rights of way upon, over, across, onto or beneath the above-described lands for access ways, driveways, and other roads, pole and wire lines, gas, water and sewage pipes and mains, conduits, and other utilities, and industrial or business area facilities of all kinds now existing or to be constructed and maintained by it, either in addition to or in the substitution for those now existing from any point or points and in any direction and also reasonable rights of entry upon the Premises for the construction, repair, inspection and maintenance of them in efficient use and condition, providing such action by the Port shall not materially interfere with or interrupt Tenant's operation and shall be at the expense of the Port. The Port is hereby granted such continuous and perpetual easement or easements that the Port believe are necessary within the Premises for such purposes, which easement or easements may be further granted by the Port to third parties.

#### **12. AIR SPACE RESERVATIONS AND USE RESTRICTIONS.**

There is hereby reserved to the Port, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the air space above the surface of the Premises herein conveyed, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said air space or landing at, taking off from or operating on the Olympia Regional Airport. Tenant, its successors and assigns, will not erect or permit the erection of any structures nor permit the growth of any tree thereon which would exceed the height limitations set forth in the applicable zoning ordinance and under 14 CFR Part 77, as may be amended from time to time. Tenant, its successors and assigns, will comply in all respects with said zoning ordinance, which is hereby made a part of this Lease. Tenant expressly agrees for itself, its successors and assigns to restrict the height of structures, objects or natural growth and other obstructions on the Premises to a maximum height as determined by applicable Federal Aviation Administration standards as currently in effect or as may be hereafter issued or amended.



Tenant expressly agrees for itself, its successors and assigns to prevent any use of the Premises described which would interfere with landing or taking off of aircraft at the Olympia Regional Airport or otherwise constitute an airport hazard as may be determined by the Port or the Federal Aviation Administration (FAA) or any similar agency having jurisdiction over operations at the Olympia Regional Airport. The prohibited use of the Premises referred to in this paragraph includes causing any visual obstruction or radio or similar emission that may tend to interfere with the operations at the Olympia Regional Airport.

If the Premises are located within the approach zone to the Olympia Regional Airport, Tenant would therefore be subject to substantial use restrictions for the benefit of such airport and its uses. In view of these restrictions, Tenant may not sublease the property until such sublessee shall have received written permission from the Port as to the nature and extent of the use to which such the sublessee intends to devote the property in order to ensure that such intended use will not in any way interfere with the operation of the Olympia Regional Airport.

Tenant acknowledges that noise from both flight and non-flight operations may be generated from activities at the Olympia Regional Airport and by other tenants of the Port. Tenant is taking the Premises subject to such condition, whether now existing or hereafter arising, and hereby waives all claims (including, without limitation, claims for damages, nuisance or injunctive relief) relating thereto; provided, however, that Tenant does not waive any right to have applicable statutes and regulations regarding noise enforced.

### **13. UTILITIES AND SERVICES.**

Tenant shall be liable for and shall pay throughout the term of this lease all charges for all utility services furnished to the Premises, including but not limited to, light, heat, gas, janitorial services, garbage disposal, security, electricity, water, stormwater and sewerage, including any connection fees, and any fire protection, police protection, or emergency health services as furnished by local authorities and as may be the subject of a contract between the Port and such local authorities or as imposed by ordinance or statute. If the Premises are part of a building or part of any larger premises to which any utility services are furnished on a consolidated or joint basis, Tenant agrees to pay to the Port Tenant's pro-rata share of the cost of any such utility services. Tenant's pro-rata share of any such services may be computed by the Port on any reasonable basis, and separate metering or other exact segregation of cost shall not be required.

### **14. INDEMNIFICATION/LIABILITY INSURANCE.**

The Port, its employees and agents shall not be liable for any injury (including death) to any persons or for damage to any property, regardless of how such injury or damage be caused, sustained or alleged to have been sustained by Tenant or by others (including, but not limited to all persons directly or indirectly employed by Tenant, and any agents, contractors, subcontractors, suppliers, customers, licensees, or invitees of Tenant) as a result of any condition (including existing or future defects in the Premises), or occurrence (including failure or interruption of utility service) whatsoever related in any way to the Premises and the areas adjacent thereto; provided, however, that the foregoing provisions shall not be construed to make Tenant responsible for loss, damage, liability or expense to the extent resulting from the negligence or wrongful conduct of the Port or its employees, agents, contractors, subcontractors, suppliers, or officers. Tenant hereby covenants and agrees to indemnify, defend (with attorneys reasonably satisfactory to the Port), protect and hold the Port harmless against and from any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, reasonable attorneys' and experts' fees and disbursements) which may at any time be imposed upon, incurred by or asserted or awarded against the Port arising from or in connection with the loss of life, personal injury and/or damage to property occasioned by any negligent or other wrongful act or omission of Tenant or its employees, agents, contractors, subcontractors, suppliers, customers, licensees, or invitees. In addition, Tenant covenants and agrees to indemnify, defend (with attorneys reasonably satisfactory to

the Port), protect and hold the Port harmless against and from any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, proceedings, costs, disbursements or expenses of any kind or of any nature whatsoever (including, without limitation, attorneys' and experts' fees and disbursements) which may at any time be imposed upon, incurred by or asserted or awarded against the Port and arising from or in connection with the loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon the Premises, unless caused by any negligent or other wrongful act or omission of the Port or its agents, contractors, servants or employees. If a court of competent jurisdiction determines that any activity covered by the indemnities under this section of this Lease is subject to RCW 4.24.115, then, in the event of liability for damages arising out of a bodily injury to persons or damage to property caused by or resulting from the concurrent negligence or willful act or omission of Tenant and Landlord, its officers, officials, employees, agents, contractors, or volunteers, the Tenant's and Landlord's liability hereunder shall be only to the extent of each such party's negligence or willful act or omission. It is further specifically and expressly agreed that Tenant hereby waives any immunity it may have under industrial insurance, RCW Title 51, solely for the purposes of this indemnification and only to the extent necessary to render the parties' indemnity obligations enforceable. This waiver was mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Lease.

The Port shall indemnify, defend, and hold Tenant harmless from claims that are: (i)(a) for personal injury, death, or property damage or (b) for incidents occurring in or about the Premises, building, common areas or project; and (ii) caused by the negligence or wrongful conduct of the Port, its principals, agents, contractors, or employees. This indemnification and hold harmless shall include reasonable attorney fees and court costs incurred by Tenant with respect to such claims.

Tenant shall, at its own expense, provide and maintain commercial general liability insurance or its equivalent with a reputable insurance company or companies reasonably satisfactory to the Port, and including, but not limited to premises and operations; personal injury, contractual liability; independent contractors; broad form property damage; completed operations and products; pollution liability; and such additional types and amounts of liability insurance as the Port may deem reasonably necessary for the types of services or activities offered by Tenant and customarily required by landlords under such circumstances and with the minimum policy limits set forth above. The coverage afforded by such policies shall thereafter be in such amounts as the Port may specify from time to time in accordance with what would be required by a reasonable and prudent property manager in the same geographic area. The Port shall be named as an additional insured on such policies. Such policies shall provide that such insurance may not be cancelled without the insurance company first having given the Port thirty (30) days' advance written notice of such intent to cancel. Tenant shall submit certificates evidencing compliance with this paragraph by time of execution of the Lease by Tenant, and at the Port's request shall provide the Port with the actual policies or copies thereof. Tenant shall furnish the Port with evidence of renewal of such policies prior to their expiration.

## **15. WAIVER OF SUBROGATION.**

The Port and Tenant hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective insurance contracts, including any extended coverage endorsements thereto, provided, that this paragraph shall be inapplicable to the extent it would have the effect of invalidating any insurance coverage of the Port or Tenant. Each party agrees to cause their respective insurance carriers to include in its policies a waiver of subrogation clause or endorsement.

## **16. TAXES.**

Tenant shall be liable for, and shall pay, throughout the term of this lease, all license fees and taxes covering or relating to the Premises and its use, including, without limitation, (a) all real estate taxes

assessed and levied against the Premises; (b) all amounts due and payable for general or special assessments against the Premises during the term of this lease (whether assessed prior to or during the term of this lease), including any assessments for LIDs or ULIDs; and (c) all personal property taxes upon Tenant's fixtures, furnishings, equipment and stock in trade, Tenant's leasehold interest under this lease or upon any other personal property situated in or upon the Premises. Tenant shall reimburse the Port for all such taxes paid or payable by the Port. All other tax amounts for which the Port is or will be entitled to reimbursement from Tenant shall be payable by Tenant to the Port at least fifteen (15) days prior to the due dates of the respective tax amounts involved; provided, that Tenant shall be entitled to a minimum of thirty (30) days' written notice of the amounts payable by it. If any governmental authority at any time levies a tax on rentals payable under this lease or a tax in any form against the Port because of or measured by income derived from the leasing or rental of the Premises, such tax shall be paid by Tenant; provided, however, that Tenant shall not be liable for the payment of any tax imposed generally on the Port's gross or net income without regard to the source of such income.

## **17. MAINTENANCE AND REPAIR.**

Tenant shall, at its own expense, keep the Premises and the buildings, structures and other improvements located on the Premises, and the adjoining roadways, sidewalks and areas, in a neat, clean, safe, sanitary, and good condition, reasonable wear and tear excepted, and to maintain the landscape and undeveloped areas (including ditches and shoulders of adjoining roadways) in a clean, sanitary, orderly and attractive condition, mowed and free from rubbish and debris.

Tenant shall also, at its own expense, at all times keep the Premises free from infestation of pests and conditions which might result in harborage for, or infestation of, pests (pests shall include, without limitation, rodents, insects, and birds in numbers to the extent that a nuisance is created). Tenant shall keep the glass of all windows and doors on the Premises clean and presentable, and shall maintain and keep the Premises in a good state of repair, and shall commit no waste of any kind, and, without limiting the generality of the foregoing, shall replace all cracked or broken glass in the Premises, and keep the electrical system and all drains clean and in a good state of repair, and shall protect all sprinkler systems and all pipes and drains so that they will not freeze or become clogged.

Tenant shall replace any and all improvements which become worn out, obsolescent, deteriorated, unsafe or unusable and shall replace such improvements with new fixtures and improvements of at least as good a quality as originally installed at the commencement of this Lease. If Tenant fails to properly maintain or repair the Premises or any improvements thereon, the Port shall be entitled, but shall not be obligated, to enter the Premises after notice to Tenant and the expiration of any applicable cure period, and perform such work as may be necessary to restore the Premises and improvements to the conditions set forth herein. The cost of such repairs shall be billed to Tenant by the Port and shall be payable upon receipt and subject to the same penalties for late payment as if such payment was additional rent. Tenant shall have no claim as deduction or offset any monies or charges against the rent paid to the Port for maintenance or repairs. Tenant has inspected the Premises and accepts the Premises "AS IS".

Tenant shall also keep the Premises free and clear of any liens and encumbrances arising or growing out of the use and occupancy of the Premises by Tenant. At the Port's request, Tenant shall furnish the Port with written proof of payment of any item which would or might constitute the basis for such a lien on the Premises if not paid. Any dispute under this section shall be subject to arbitration under Paragraph 38, **ARBITRATION PROCEDURE**.

## **18. ALTERATIONS AND IMPROVEMENTS -- SIGNAGE.**

**18.1 Alterations and Improvements.** Tenant shall make no alterations or improvements to or upon the Premises or install any fixtures (other than trade fixtures which can be removed without injury to the Premises) without first obtaining written approval of the Port. The Port's response to Tenant's requests

for approval shall be prompt, and such approval shall not be unreasonably withheld. Upon installation, Tenant shall furnish the Port with a copy of the "as-built" drawings including utility installations and site plans detailing the nature of the additions, alterations or improvements. The Port reserves the right to have Tenant remove, at Tenant's sole expense, all or any of such alterations, additions or improvements at the end of the Lease term as provided in Paragraph 19, **DISPOSITION OF IMPROVEMENTS**. Any dispute under this section shall be subject to arbitration under Paragraph 38, **ARBITRATION PROCEDURE**.

**18.2 Signage.** Tenant may install, post, erect and, as Tenant desires or may be required, illuminate exterior facility identification, traffic control, safety, security, ADA, and other code required signage complying with applicable building code, municipal code requirements, and FAA regulations. Tenant shall have no right to install Tenant identification signs in any location in or about the Premises that are visible from the exterior of the building, without first obtaining written approval of the Port, which shall not be unreasonably withheld, conditioned or delayed. The location, size, design, color and other physical aspects of permitted signs shall be subject to (i) Port's written approval prior to installation; (ii) any covenants, conditions or restriction encumbering the Premises and (iii) any applicable municipal permits and approvals.

## **19. DISPOSITION OF IMPROVEMENTS.**

a. Except as otherwise agreed to in writing by the Port, in its sole and absolute discretion, within sixty (60) days after the expiration or earlier termination of this Lease (including any and all extensions or renewals thereof), the Tenant shall at Tenant's expense, remove, demolish or clear off from the Premises all improvements and all property owned by Tenant, and after such removal or clearance, Tenant shall restore the surface of the ground to a properly graded, filled, compacted, level, and uniform condition, free from all debris, and in accordance with all applicable law and all provisions of this Lease, including but not limited to Paragraph 27, **HAZARDOUS SUBSTANCES**.

b. If the Port, in its sole discretion, elects to have all or any portion of the improvements remain on the Premises, then title to the same shall automatically pass to the Port, free of any right, title, or interest of Tenant therein, or its successors or assigns, without the necessity of executing any further instrument and without any allowance, compensation, or payment by the Port. Tenant hereby grants and conveys to the Port all of its right, title and interest in and to such improvements, to be effective for all purposes only upon the expiration or termination of this Lease and the Port's election to have such improvements remain upon the Premises. Upon such election by the Port, Tenant further agrees to execute, acknowledge and deliver to the Port contemporaneously with the expiration or termination of this Lease, a proper recordable instrument quit claiming and releasing to the Port to any right, title and interest of Tenant in and to the Premises and in and to all improvements remaining on the Premises pursuant to the election of the Port, and agrees to give such further assurances of title as may be required by the Port. In addition, upon such election by the Port, Tenant shall, upon expiration or termination of the lease, surrender and deliver the Premises and all improvements to remain on the Premises to the Port, without delay and in good order, condition and repair, ordinary wear and tear excepted, and in a neat and clean condition, excepting only Tenant's or any subtenant's movable trade fixtures, machinery, equipment and personal property that can be removed without injury to the Premises. Tenant shall also deliver to the Port all documents necessary or appropriate for the proper operation, maintenance and management of the Premises and remaining improvements.

c. Any dispute under this section shall be subject to arbitration under Paragraph 38, **ARBITRATION PROCEDURE**.

## **20. INSPECTION.**

The Port reserves the right to inspect the Premises at any and all reasonable times throughout the term of this Lease, provided that it shall not interfere unduly with Tenant's operations. The right of inspection reserved to the Port hereunder shall impose no obligation on the Port to make inspections to

ascertain the condition of the Premises and shall impose no liability upon the Port for failure to make such inspections. The Port shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises for a reasonable period of time prior to the expiration or sooner termination of this Lease.

## **21. RESTORATION.**

a. At all times during the term of this Lease, Tenant shall maintain in effect upon the Premises and Tenant's improvements thereon, fire and extended coverage property insurance for physical loss and damage excluding earthquake insurance and flood insurance, written by companies authorized to do business in the State of Washington and approved by the Port's insurance carrier. Such policy or policies (a) shall be written in the form of replacement cost insurance in an amount not less than 100% of the full replacement cost of the Premises and Tenant's improvements thereon, which amount shall be adjusted not less frequently than annually, (b) shall contain an endorsement waiving any and all rights of subrogation against the Port and (c) shall provide that notice of cancellation of the policy or any endorsement shall be given to the Port and any other party designated by the Port at least 10 days prior to cancellation. The Port and each other party designated by the Port shall be named as additional insureds and loss payees on all such policies. Tenant shall provide the Port and each other party designated by the Port with certificates of insurance evidencing such coverage. Tenant shall provide evidence of renewal prior to the expiration of such policy or policies. Tenant will also take out and maintain policies of insurance to cover the loss, damage or destruction of Tenant's furniture, fixtures, equipment and other items owned by Tenant on the Premises, with limits based on the reasonable value thereof.

b. If any building or improvement erected by Tenant on the Premises or any part thereof shall be damaged or destroyed by fire or other casualty during the term of this Lease, Tenant shall, at its own cost and expense, either (i) repair or restore the same according to the original plans thereof, or (ii) repair or restore the same according to such modified plans as shall be previously approved in writing by the Port. Tenant shall elect whether to proceed under (i) or (ii) above. Such work of repair or restoration shall be commenced within sixty (60) days after the damage or loss occurs and shall be completed with due diligence but no later than one (1) year after such work is commenced, and such work shall be otherwise done in accordance with the requirements of the provisions hereof pertaining to the construction of improvements upon the Premises. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration. If (i) there are not insurance proceeds, or (ii) the same shall be insufficient for said purpose, Tenant shall make up the deficiency out of its own funds. Should Tenant fail or refuse to make the repair or restoration as hereinabove provided, then in such event said failure or refusal shall constitute a default under the covenants and conditions hereof, and all insurance proceeds so collected shall be forthwith paid over to and be retained by the Port on its own account, and the Port may, but shall not be required to, sue and apply the same for and to the repair, restoration or removal of said Premises or improvements, and the Port may, at its option, terminate this Lease as elsewhere provided herein.

c. Notwithstanding anything to the contrary contained in the preceding section, if any building erected on said Premises shall be damaged by fire or other casualty, and if the cost of repairing or restoring the same as provided above shall exceed the insurance payable for such damage, and if such damage shall occur during the term so that the remaining term of this Lease is of insufficient length to allow Tenant to finance such cost in a commercially reasonable manner, the Tenant shall have the option, to be exercised within sixty (60) days after such event, to repair or restore said building as provided above, or to terminate this Lease by written notice thereof to the Port, and upon termination, the Base Ground Rent, Additional Rent and other charges under this Agreement will be apportioned as of the date of destruction, and Tenant will be discharged from responsibility to repair the damage, shall remove debris and restore the Premises to a clean, graded and safe condition, and all proceeds of insurance covering the loss shall in that circumstance belong to Tenant free of any claim thereto by the Port

d. Any dispute under this section shall be subject to arbitration under Paragraph 37 **ARBITRATION PROCEDURE.**

## **22. DEFAULTS.**

Time is of the essence of this Lease, and in the event of the failure of Tenant to pay the rental, interest or other charges provided in this Lease at the time and in the manner herein specified, or to keep any of Tenant's covenants or agreements herein, the Port may elect to terminate this Lease and reenter and take possession of the Premises with or without process of law, provided, however, that Tenant shall be given thirty (30) days' notice in writing if the default is for the nonpayment of rent or other monetary default, or sixty (60) days' notice in writing for any other default (or such longer period as is reasonably required to cure the Event of Default so long as Tenant commences to cure within such sixty (60) day period and diligently pursues such cure to completion), stating the nature of the default in order to permit such default to be remedied by Tenant within the applicable time period. If the Port issues a notice of default for the nonpayment of rent, in order to cure such default, Tenant must pay the overdue rent, together with interest as set forth in Paragraph 4 above, plus a Fifty Dollar (\$50.00) lease reinstatement fee. If during any consecutive twelve-month period, the Port has issued three notices of default, the Port shall not be required to accept the cure of any subsequent default by Tenant and may terminate this Lease or exercise any other rights or remedies available to it immediately by written notice to Tenant without the expiration of any otherwise applicable cure period.

If upon such reentry there remains any personal property of Tenant or of any other person upon the Premises, the Port may, but without the obligation to do so, remove said personal property and hold it for the owners thereof or may place the same in a public garage or warehouse, all at the expense and risk of the owners thereof, and Tenant shall reimburse the Port for any expense incurred by the Port in connection with such removal and storage. The Port shall have the right to sell such stored property, without notice to Tenant, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, and third to the payment of any other amounts which may then be due from Tenant to the Port, and the balance, if any, shall be paid to Tenant. Notwithstanding any such reentry, the liability of Tenant for the full rental provided for herein shall not be extinguished for the balance of the term of this Lease, and Tenant shall make good to the Port any deficiency arising from a reletting of the Premises at a lesser rental than that chargeable to Tenant. At the Port's option, Tenant shall pay such deficiency each month as the amount thereof is ascertained by the Port, or the Port may accelerate all future payments and Tenant shall pay the present value of all future payments at once. Payment by Tenant to the Port of interest on rents and/or any other charges due and owing under this Lease shall not cure or excuse Lessee's default in connection with rents and/or other charges. All remedies of the Port hereunder are cumulative and not alternative.

## **23. ADVANCES BY PORT FOR TENANT.**

If Tenant shall fail to do anything required to be done by it under the terms of the Lease, after any applicable cure period, except to pay rent, the Port may, at its sole option, do such act or thing on behalf of Tenant, and upon notification to Tenant of the cost thereof to the Port, Tenant shall promptly pay the Port the amount of that cost. However, if the Port shall pay any monies on Tenant's behalf, Tenant shall repay such monies, together with interest thereon commencing on the date the Port paid such monies and calculated at the greater of the rate of eighteen percent (18%) per annum, or two (2) percentage points over the composite prime rate of interest set forth in the Wall Street Journal "Money Rates" column (or its successor) most recently prior to such date.

## **24. HOLDING OVER.**

If Tenant shall, without the consent of the Port, hold over after the expiration or sooner termination of this Lease, the resulting tenancy shall, unless otherwise mutually agreed, be on a month-to-month basis. During such month-to-month tenancy, Tenant shall pay to the Port the rate of one hundred fifty percent (150%) of the then-current rental under the terms of the Lease, unless a different rate shall be agreed upon, and the Tenant shall be bound by all of the additional provisions of this Lease.

## **25. ASSIGNMENT OR SUBLEASE.**

Except as provided below, Tenant shall not assign or transfer (including any assignment or transfer for security purposes) this Lease or any interest therein nor sublet the whole or any part of the Premises, nor shall this Lease or any interest hereunder be assignable or transferable by operation of law or by any process or proceeding of any court, or otherwise, without the advance written consent of the Port, which may be withheld in the Port's sole discretion. The Port agrees that it will consent to the assignment of this Lease (or any interest herein) for security purposes to a bona fide lender, but only on the terms and conditions contained in the form of Lessor's Consent and Agreement attached hereto as **Exhibit "C"**, which must be signed by such lender. If Tenant is a corporation, limited liability company, limited partnership, partnership, or other form of entity or association, Tenant further agrees that if at any time during the term of this Lease, more than one-half (1/2) of the outstanding beneficial interests of any class of interest in Tenant, or the managerial control of Tenant, shall belong to any persons other than those who hold such interests or managerial control at the time of the execution of this Lease, such change shall be deemed an assignment of this Lease within the meaning of this paragraph.

Notwithstanding anything to the contrary in this Agreement, Tenant may, without the Port's prior written consent, assign this Agreement or sublet all or portions of the Premises to: (i) an Affiliate of Tenant, or (ii) a successor corporation, limited liability company or other entity related to Tenant by merger, consolidation or non-bankruptcy reorganization or (iii) any investor as part of the organization of Tenant or any entity owned or controlled by Carl D. Panattoni, Adon Panattoni or Bart Brynestad (any of the foregoing are referred to herein as "Permitted Assignments"). No Permitted Assignment shall take effect until Tenant shall have delivered to the Port copies of the applicable transfer documents or sublease documents, including an assumption agreement whereby the Permitted Assignee assumes the obligations of Tenant under this Agreement from and after the date of the transfer, running in favor of the Port (except for subleases), and has provided the notice address of the transferee.

Except for the Permitted Subleases, Tenant may not sublease, license or grant concession rights as to any portion of the Premises without the Port's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed and which consent shall be given if the proposed subtenant is financially capable of performing the obligations of the Tenant under this Agreement for the portion of the Premises or portion of the Term being subleased. Tenant shall at the time the Tenant requests the consent of the Port, deliver to the Port such information in writing as the Port may reasonably require respecting the proposed subtenant, including, without limitation, the name, address, nature of business, ownership, financial responsibility and standing of such proposed subtenant and the proposed documentation for the transfer as described below. In determining whether to grant such a consent to a sublease, the Port may consider all factors which the Port reasonably determines in good faith are relevant to its decision. Within twenty (20) days after receipt of all required information, the Port shall, in its sole discretion, elect one of the following: (a) to consent to such proposed sublease or (b) to refuse such consent. Any such sublease shall be subject to all of the covenants, conditions, agreements and terms of this Agreement. As used herein the term "Permitted Sublease" shall mean any sublease by Tenant to a user who will occupy and use some or all of the Premises, so long as Tenant remains the tenant and obligated under this Agreement and the term of the sublease is for a shorter period than the Term of this Agreement and consistent with this Agreement.

**Upon any sublease of the Premises or any part thereof, Tenant shall include the following provision in the sublease:**

*Port Ground Lease. Lessee understands, acknowledges, and agrees that Lessor's right to the real property on which the Premises are located are pursuant to a Ground Lease between Lessor and the Port of Olympia, a copy of which is attached as Exhibit \_\_ hereto. Lessee understands, acknowledges, and agrees that it shall be bound by all provisions in the Ground Lease to which Lessor is subject, including but not limited to provisions related to protection*

*of air space, environmental provisions, and any limitation on use of the property and Premises. Lessee acknowledges that it has had an opportunity to review the Ground Lease in its entirety and takes no exceptions to any provisions therein.*

In connection and simultaneously with any Permitted Assignment of this Agreement or Permitted Sublease, the Port agrees to execute and deliver to any Permitted Assignee or Permitted Sublessee a non-disturbance and attornment agreement in substantially the form of **Exhibit "G"** attached hereto (the "**NDA**"), whereby the Port shall agree not to disturb the Permitted Assignee's or Permitted Sublessee's occupancy and quiet enjoyment of the Premises so long as Tenant or the Permitted Assignee or Sublessee is not in default beyond applicable notice and cure periods on the terms described in the NDA.

Notwithstanding any assignment or sublease, Tenant, except in the case of a Permitted Assignment, shall remain liable under the terms of this Lease, and this paragraph shall nevertheless continue in full force and effect and no further assignment or sublease shall be made without the Port's consent pursuant to this paragraph. Tenant shall pay all reasonable costs and attorney fees, not to exceed \$5,000.00 incurred by the Port with respect to any request by Tenant for assignment, sublease, or other encumbrance or transfer of this Lease or the Premises or any interest therein.

No sublease by Tenant shall relieve Tenant of any obligation under this Agreement, including Tenant's obligation to pay Base Ground Rent, fees or Additional Rent hereunder. Any purported sublease contrary to the provisions hereof (or for which consent is not specifically obtained) shall be void. Any sublease shall specifically be subject and subordinate at all times to this Agreement, and to all of its covenants, agreements, terms, provisions, and conditions.

Subject to the terms of a Leasehold Mortgage, in the event that any portion of the Premises is sublet or occupied by anyone other than Tenant, the Port may, upon the default of Tenant, collect rent from the subtenant, licensee, concessionaire or occupant and apply the amount collected to the Rent reserved under the terms of this Agreement, but without thereby affecting Tenant's liability under this Agreement

## **26. MORTGAGES OF TENANT'S INTEREST.**

a. Prior Notice Required; Limited Purpose. Upon prior notice to the Port, Tenant shall have the right to mortgage its leasehold interest under this Agreement subject to the limitations set forth in this Section 26 and the terms and conditions of Lender's Consent and Agreement, attached here as **Exhibit "C"**. Any such mortgage ("**Leasehold Mortgage**") shall be for a term not to exceed the Term of this Agreement plus any Extension Option that has been exercised, and shall be subject and subordinate to the rights of the Port.

b. No Benefit Without Notice. No holder ("**Leasehold Mortgage**") of a Leasehold Mortgage on this Agreement shall have the rights or benefits mentioned in this Section 26 nor shall the Port be bound by this Section 26, unless and until an executed counterpart of such Leasehold Mortgage (or any assignment thereof), together with a written notice setting forth the name, address, contact person (or department) for the Leasehold Mortgagee, is delivered to the Port. The Leasehold Mortgagee may designate other contact information by providing notice thereof to the Port in the manner provided by Section 41 of this Agreement.

c. Obligations to Leasehold Mortgagee. If Tenant mortgages this Agreement in compliance with this Section 26, then so long as such Leasehold Mortgage shall remain unsatisfied of record, the following provisions shall apply:

i. The Port shall serve upon the Leasehold Mortgagee, in the manner permitted by Section 41 of this Agreement, a copy of any notice of default sent to Tenant and any other notices the Port is required by the terms of this Agreement to provide to Tenant or that will materially affect the leasehold interest, including but not limited to amendments to this Agreement, side letters that affect the economics of this Agreement or any waivers of any rights or obligations under the terms of this Agreement.



ii. The Port, upon providing Tenant any notice of (i) default under this Agreement or (ii) a termination of this Agreement, or (iii) a matter upon which the Port may predicate or claim a default, shall at the same time provide a copy of such notice to every Leasehold Mortgagee. No such notice by the Port to Tenant shall be deemed to have been duly given unless and until a copy thereof has been so provided to every Leasehold Mortgagee. After such notice has been given to a Leasehold Mortgagee, such Leasehold Mortgagee shall have the same period after the giving of such notice upon it for remedying any default or causing the same to be remedied as is given Tenant after the giving of such notice to Tenant plus, in each instance, the additional periods of time specified in Sections 26(c)(iii) and 26(c)(iv) to remedy, commence remedying, or cause to be remedied the defaults specified in any such notice. The Port agrees that it shall accept such performance by or at the instance of the Leasehold Mortgagee as if the same had been made by Tenant. For such purpose, the Port and Tenant hereby authorize the Leasehold Mortgagee to enter upon the Premises and to exercise any of Tenant's rights and powers under this Agreement and, subject to the provisions of this Agreement, under the Leasehold Mortgage.

iii. Cure Notice to Leasehold Mortgagee. Notwithstanding anything to the contrary in this Agreement, if any Event of Default shall occur that entitles the Port to terminate this Agreement, the Port shall have no right to terminate this Agreement unless, following the expiration of the period of time given Tenant to cure such default, the Port shall notify ("**Cure Notice**") every Leasehold Mortgagee of the Port's intent to so terminate at least thirty (30) days in advance of the proposed effective date of such termination if the nature of such default is the failure to pay a sum of money, and at least sixty (60) days in advance of the proposed effective date of such termination if such default is not the failure to pay a sum of money. A six (6) month extension of the date for termination of this Agreement as provided in Section 26(c)(iv) shall be granted by the Port if, during such thirty (30) or sixty (60) day Cure Notice period, any Leasehold Mortgagee:

(a) Notifies the Port of such Leasehold Mortgagee's desire to nullify such Cure Notice; and

(b) Pays or causes to be paid all Base Ground Rent and other payments then due and in arrears as specified in the Cure Notice to such Leasehold Mortgagee and that may become due during such 30- and 60-day period, provided that any Leasehold Mortgagee shall not be required to pay any amount before the same is due and owing under this Agreement; and

(c) Complies or in good faith, with reasonable diligence and continuity, commences to comply with all non-monetary requirements of this Agreement then in default and reasonably susceptible of being complied with by such Leasehold Mortgagee.

Nothing herein obligates such Leasehold Mortgagee to cure any default of Tenant under the terms of this Agreement. Notwithstanding the above, Leasehold Mortgagee shall not be required to cure any default of Tenant resulting from insolvency or bankruptcy of the Tenant.

iv. Six-Month Extension. If the Port shall elect to terminate this Agreement by reason of any default of Tenant, and a Leasehold Mortgagee shall have proceeded in the manner provided for by Section 26(c)(iii), the specified date for the termination of this Agreement as fixed by the Port in its Cure Notice shall be extended for a period of six (6) months, provided that such Leasehold Mortgagee, during such 6-month period:

(a) Pays or causes to be paid Base Ground Rent and other monetary obligations of Tenant under this Agreement as the same become due, including the payment of any sums due under any Leasehold Mortgage; and

(b) Continues its good faith efforts to perform all of Tenant's other obligations under this Agreement, including during any period during which the Leasehold Mortgagee has possession of the

Premises the obligation to operate and maintain the Project and Premises in accordance with the standards set forth by the Port in this Agreement.

v. Termination; New Lease. In the event that this Agreement is terminated by the Port for any reason under the terms of this Agreement or on account of a bankruptcy by or against Tenant, the Port shall serve notice to the Leasehold Mortgagee that the Agreement has been terminated. The notice shall include a statement of any and all sums which would at the time be due under this Agreement but for such termination and of all other defaults under this Agreement then known to the Port. Every Leasehold Mortgagee shall thereupon have an option, which must be exercised within forty-five (45) days after the notice, to obtain a new lease ("**New Lease**") in accordance with and upon the following terms and conditions:

(a) The New Lease shall be effective as of the date of termination of this Agreement, and shall be, for the remainder of the Term of this Agreement, at a rent and fee and upon all of the original agreements, terms, covenants and conditions. Such New Lease shall require the lessee to perform any unfulfilled obligation of the Tenant under this Agreement.

(b) Upon the execution of the New Lease, the lessee therein named shall pay any and all sums which would at the time of the execution thereof be due under this Agreement but for termination and shall pay all expenses, including reasonable attorneys' fees, court costs and disbursements, incurred by the Port in connection with any default and termination, the recovery of possession of the Premises, and the preparation, execution and delivery of the New Lease.

(c) Nothing herein, however, shall be deemed to obligate the Port to deliver possession of the Premises to the lessee under any New Lease. Upon the execution and delivery of such New Lease, the lessee, in its own name or in the name of the Port, may take all appropriate steps as shall be necessary to remove Tenant from the Premises. The provisions of this Section 26(c) shall survive the termination of this Agreement.

vi. Subject to the provisions of this Section 26, the Leasehold Mortgagee may exercise, with respect to the Premises, any right, power, or remedy under the Leasehold Mortgage. Every Leasehold Mortgagee (or its designee) or any other purchasers in foreclosure proceedings may become the legal owners and holders of Tenant's interest in this Agreement through such foreclosure proceedings or by assignment of this Agreement in lieu of foreclosure and shall provide notice of such assignment and assumption to the Port in compliance with Section 25. Leasehold Mortgagee after a foreclosure or assignment in lieu of foreclosure under the Leasehold Mortgage may subsequently assign the leasehold interest or the New Lease to a third party who shall assume the lease and provide notice of the assumption to the Port and otherwise comply with the Provisions of Section 25. Upon such assumption, the Leasehold Mortgagee shall be released from all liability for the performance or observance of the covenants and conditions in this Agreement (or such New Lease) contained on Tenant's part to be performed and observed from and after the date of such assignment.

vii. Notwithstanding Sections 26(c)(v) and 26(c)(vi), in the event that any person or entity other than Leasehold Mortgagee (a "**Foreclosure Purchaser**") shall acquire title to Tenant's interest in this Agreement as a result of foreclosure or assignment in lieu of foreclosure under the Leasehold Mortgage, or under a New Lease pursuant to this Section 26, the Foreclosure Purchaser may not assign this Agreement (or such New Lease) without the prior written consent of the Port in compliance with the requirements of Section 25. If the Port's consent is obtained, the assignee must assume Tenant's obligations under this Agreement and an executed counterpart of such assumption must be delivered to the Port. Upon such assumption, the Foreclosure Purchaser shall be released from all liability for the performance or observance of the covenants and conditions in this Agreement (or such New Lease) contained on Tenant's part to be performed and observed from and after the date of such assignment.

viii. Notwithstanding Section 26(c)(a), no agreement between the Port and Tenant modifying, canceling or surrendering this Agreement shall be effective without the prior written consent of the Leasehold Mortgagee.

ix. Tenant's share, as provided by Section 31 of this Agreement of the proceeds arising from an exercise of the power of eminent domain shall, subject to the provisions of such Section 31, be disposed of as provided for by any Leasehold Mortgage.

A Standard Mortgagee Loss Payee Clause naming Leasehold Mortgagee may be added to any and all property insurance policies required to be carried by Tenant hereunder on condition that the insurance proceeds are to be applied to rebuilding in the manner specified in this Agreement and the Leasehold Mortgage shall so provide; *provided, however*, the Leasehold Mortgage may provide a manner for the disbursement of such proceeds.

## **27. COMPLIANCE WITH PORT REGULATIONS/ALL LAWS.**

Tenant agrees to comply with all applicable rules and regulations of the Port pertaining to the building or other realty of which the Premises are a part or to Tenant's use or occupancy thereof, now in existence or hereafter promulgated for the general health, welfare, safety and convenience of the Port, its various tenants, invitees, licensees and the general public, including without limitation, the Minimum Standards for Commercial Activities for the Olympia Regional Airport, and payment of all fees and tariffs provided for therein or adopted in accordance therewith, as the same now exist or may hereafter be amended. Tenant further agrees to comply with all applicable federal, state and local laws, rules, regulations, ordinances, permits, orders, and decrees, including, without limitation, those relating to environmental matters, and Americans with Disabilities Act, as currently in effect or as may be hereafter amended or issued. Tenant shall defend, indemnify, and hold harmless the Port from and against all claims, costs, fees, fines, penalties, liabilities, losses, and damages incurred by the Port by reason of any charge, claim, litigation, or enforcement action related to any actual or claimed violation by Tenant of any of the laws, rules, regulations, ordinances, permits, orders and/or decrees referenced in this section. Costs and fees shall include, but not be limited to, all direct and indirect costs and professional fees, including engineering, consultant, and attorney's fees. Any fees for any federal, state or local inspections and/or certificates required for use and occupancy of the Premises shall be paid by Tenant. The Premises are located at the NEWMARKET INDUSTRIAL CAMPUS Complex and Tenant agrees to conform and to comply with all of the "Standards for Development - NewMarket Industrial Campus, 1998" as now promulgated or as may be amended in the future.

## **28. HAZARDOUS SUBSTANCES.**

Tenant certifies, represents, warrants, covenants and agrees that:

(a) As used in this Section 28, "Hazardous Substances" means any chemical, substance, material, waste, vapor, or similar matter defined, classified, listed or designated as harmful, hazardous, extremely hazardous, dangerous, toxic, radioactive, or pollution, or as a contaminant or pollutant, or other similar term, by, and/or which are subject to regulation under, any federal, state or local environmental statute, rule, regulation, or ordinance presently in effect or that may be promulgated in the future, and as they may be amended from time to time.

(b) As used in this Section 28, "Other Property" means any real or personal property other than the Premises (including, without limitation, surface or ground water) which becomes contaminated with Hazardous Substances as a result of operations or other activities on, or the contamination of, the Premises by Tenant or its agents.

(c) Tenant shall apply for and obtain all necessary federal, state, and local permits and approvals for Tenant's use of the Premises. Tenant shall not commence any activity on the Premises until all permits

and approvals required for such activity have been issued, and shall conduct all activities on the Premises in compliance with such permits and approvals.

(d) Tenant agrees and warrants for itself and its employees, agents, representatives, contractors, subcontractors, licensees, invitees, subtenants, and assigns (collectively "Tenant's Representatives"), that Tenant and Tenant's Representatives will comply with all applicable federal, state, and local laws, rules, regulations, ordinances, permits, orders, and decrees relating to the generation, recycling, treatment, use, sale, storage, handling, transport, disposal, release, and cleanup of any Hazardous Substances by any person on the Premises or other Port property (collectively "Environmental Laws"). In addition, Tenant and Tenant's Representatives will not, without the Port's prior written consent, keep on or around the Premises or any common areas, for use, disposal, treatment, generation, storage, or sale, any Hazardous Substances. The provisions of this Section 28(d) shall not apply to, and the following are specifically excepted from, the storage or use by Tenant or any subtenant of any Hazardous Materials in compliance with all Environmental Requirements that are used by Tenant or any subtenant for ordinary cleaning, for office purposes and warehouse maintenance purposes, for refrigeration equipment installed in accordance with the terms of this Lease, for printing, and except for Hazardous Materials contained in any merchandise being handled, stored or distributed by Tenant or any subtenant provided that such merchandise remains in their original sealed and unopened containers, materials used on minor maintenance of Tenant's or any subtenant's trucks and machinery, and fuel (including liquid hydrogen or other alternative fuels) or batteries for any trucks, generators or other machinery (all of which shall be handled by Tenant or any Subtenant only in compliance with all Environmental Requirements and the other terms and conditions of this Lease).

(e) With respect to any Hazardous Substance, Tenant shall:

(i) Comply promptly, timely and completely with all applicable requirements for reporting, keeping and submitting manifests and obtaining and keeping current identification numbers;

(ii) Make available for the Port's review during normal business hours, true and correct copies of all reports, manifests and identification numbers retained by Tenant or submitted to appropriate governmental authorities, and all documents and communications received from any government agencies, and provide copies to the Port of all documents requested by the Port at no cost to the Port within ten (10) business days of the Port's request;

(iii) Within Ten (10) business days of a written report from the Port, submit a written report to the Port regarding Tenant's use, storage, treatment, transportation, generation, disposal or sale of Hazardous Substances and provide evidence satisfactory to the Port of Tenant's compliance with applicable Environmental Laws;

(iv) Allow the Port or the Port's agents or representatives to come on the Premises at all reasonable times subject to three (3) days' notice, to check Tenant's compliance with all applicable Environmental Laws; and

(v) Comply with all applicable Environmental Laws, and all requirements and standards established by federal, state, or local governmental agencies responsible for or specifically charged with the regulation of Hazardous Substances.

(f) Tenant has not and will not release or waive the liability of any party who may be potentially responsible for the presence or removal of Hazardous Substances on or from the Premises.

(g) Tenant agrees to immediately notify the Port if Tenant becomes aware of (a) any release of any Hazardous Substances or any other environmental issue or liability with respect to the Premises or any Other Property; or (b) any lien, action or notice resulting from violation of any Environmental Laws. At its own cost, Tenant will take all actions which are necessary to notify relevant and appropriate authorities of any such release and to remediate any Hazardous Substances affecting the Premises, including removal, containment or any other remedial action, whether or not required by governmental authorities.

(h) If Tenant is in non-compliance with any Environmental Laws or is in non-compliance with this Section 28, it shall promptly take such action as is necessary to mitigate and correct the non-compliance. If Tenant fails to act in a prudent and prompt manner, the Port shall have the right, upon ten (10) business days' notice and after an opportunity for Tenant to cure, but not the obligation, to enter the Premises and act in place of the Tenant (with Tenant hereby appointing the Port as its agent for such purposes), and to take such action as the Port deems necessary to address or mitigate the non-compliance. All costs and expenses incurred by the Port in connection with any such action shall be payable by the Tenant and shall become immediately due and payable as additional rent upon presentation of an invoice therefor. Without limiting the foregoing, in the event of Tenant's non-compliance with any requirements in subsections (e)(i) – (v) above, any and all costs incurred by the Port with respect thereto, including but not limited to costs of inspections, monitoring, and attorney fees, shall become immediately due and payable as additional rent upon presentation of an invoice therefor.

(i) Tenant shall be fully and completely liable to the Port for, and shall defend, indemnify, and hold the Port harmless from and against any and all actual or alleged claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings and costs and expenses (including costs and professional fees, including engineering, consultant, and attorneys' fees and disbursements), which accrue to or are incurred by Tenant or the Port which arise or are alleged to arise directly or indirectly from or out of, or are in any way connected with (a) the inaccuracy of the representations and warranties contained herein, (b) the breach of any covenant contained herein, (c) any operations or activities (including, without limitation, use, disposal, transportation, storage, generation or sale of Hazardous Substances) on or about the Premises during Tenant's possession or control of the Premises which directly or indirectly result in the Premises or any Other Property becoming contaminated with Hazardous Substances or otherwise violating any applicable Environmental Laws, and (d) the cleanup of Hazardous Substances at or from the Premises or any Other Property to a level sufficiently protective of human health and the environment in compliance with all applicable Environmental Laws. Tenant acknowledges that it will be solely responsible for all costs and expenses relating to investigation (including preliminary investigation) and cleanup of Hazardous Substances from the Premises or from any Other Property. Tenant specifically agrees that the bond provided pursuant to this Lease shall extend to the indemnity agreed to in this subparagraph.

(j) Tenant's obligations under this Section 28 are unconditional and shall not be limited by any other limitations of liability provided for in this Lease. The representations, warranties and covenants of Tenant set forth in this Section 28: (a) are separate and distinct obligations from Tenant's other obligations under the Lease; and (b) shall survive and continue in effect after any termination or expiration of this Lease for any reason.

(k) Within sixty (60) days following the expiration date of the Term of this Agreement (or within ninety (90) days after any earlier termination of this Agreement), Tenant shall submit a report (“**Termination Assessment Report**”) to the Port describing the results of a comprehensive environmental assessment that reasonably investigates whether Hazardous Material in the Premises or migrating from the Premises (except Pre-existing Hazardous Material) for which the Tenant is responsible remain on the Premises or have migrated from the Premises. The Termination Assessment Report shall be conducted by an independent qualified environmental professional selected by Tenant or a successor tenant, as applicable, with the Port's reasonable consent, and the scope of the investigation shall be reasonably determined by such independent qualified environmental professional, subject to the reasonable consent of both Tenant, as applicable, and the Port, and to dispute resolution. The scope of the Termination Assessment Report environmental assessment shall include, at a minimum: (i) review of tenant/occupant operational history, audit reports and responses, spill and spill response reports, and other relevant environmental records; (ii) collection and analysis of samples representative of facility operations; equipment, material and waste storage locations; and locations of leaks, spills and other releases, which could reasonably be expected to have resulted in introduction of Hazardous Material to the environment; and (iii) collection and analysis of samples from random locations, at a rate determined reasonable and appropriate based on best professional

judgment considering the recommendations of the independent qualified environmental professional, and to dispute resolution. With respect to Hazardous Material identified in such Termination Assessment Report that were stored, released, spilled, discharged, leaked, emitted, injected, escaped or dumped in, on or about the Premises after the Commencement Date in violation of any Environmental Requirement (i) by Tenant or its employees, agents, invitees or sublessees and (ii) by unassociated third parties, if prevention of the release was within Tenant's control (and, for avoidance of doubt, releases, Tenant shall perform (x) a final remediation of such Hazardous Material pursuant to a plan approved by the Port in the exercise of its reasonable discretion which, to the extent reasonably feasible and practical under the circumstances (and subject to dispute resolution pursuant to Section 14.8), shall meet the standard established under MTCA Method A or, if such standard does not exist, a reasonably comparable replacement standard consistent with Environmental Requirement ("Method A"); and (y) also to the extent reasonably feasible and practical under the circumstances (and subject to dispute resolution pursuant to Section 14.7), a remediation below Method A in areas or circumstances where such residual Hazardous Material at levels compliant with Method A would materially impair the Port's ability, or increase the cost to the Port, to release, or otherwise use, the Premises for uses compatible with Airport noise levels and otherwise compliant with 49 U.S.C. 47107(c)(2)(A) (the "**Post Termination Remediation**"). Post Termination Remediation shall be a condition precedent to the Port's payment of any Surety to Tenant upon termination or expiration of this Agreement. Notwithstanding the foregoing, with respect to Post Termination Remediation, the Port will reasonably approve less stringent cleanup criteria and investigation, monitoring, removal, institutional controls and restrictive covenants that are not materially burdensome to the Port's re-leasing or future use of the Premises in light of FAA restrictions otherwise imposed upon the Premises. The Post Termination Remediation shall fully and finally resolve Tenant's environmental obligations to the Port under this Agreement, and the Port shall be deemed to accept the Premises upon expiration or earlier termination of this Agreement in their then current condition, AS IS, WHERE IS, WITH ALL FAULTS AND DEFECTS, and subject only to completion of such Post Termination Remediation. As used herein the term "Environmental Requirements" shall mean and refer to any and all Legal Requirements relating to the protection of human health and the environment, including but not limited to all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, orders or other similar enactments of any governmental authority or agency regulating or relating to health, safety, or environmental conditions on, under, or about the Premises or the environment, including without limitation, the following: the Comprehensive Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; and all state and local counterparts thereto, and any regulations or policies promulgated or issued thereunder

## **29. STORAGE TANK LICENSES.**

All storage on site, whether permanent or mobile, capable of holding more than one hundred ten (110) gallons either in bulk or in separate containers or any material identified in **Exhibit "D"** shall require a separate hazardous materials license. Such license shall provide for appropriate handling and storage facilities, inspections, testing and clean up procedures and any special insurance provisions which may be required. Tenant shall comply with all laws, rules and regulations applicable thereto. Tenant shall provide the Port with full and complete copies of any reports or other results of inspections within five (5) days after any remedial or other action required as a result of any inspection. Upon request, Tenant shall provide the Port with a certificate of insurance evidencing Tenant's compliance with insurance requirements applicable to storage tanks. Tenant shall pay any and all costs necessary to comply with the terms of any license required under this section and the costs of complying with any other legal or regulatory requirements associated with Tenant's storage of materials identified in Exhibit "D."

## **30. INSPECTIONS AND NOTICE OF CHANGE.**

a. Tenant agrees that inspections may be required by the Port at the Tenant's expense to assure compliance with Paragraphs 28, **HAZARDOUS SUBSTANCES**, and 29, **STORAGE TANK LICENSES**.

Such inspections shall be made once every five (5) years or at any time the Port has good cause to believe a problem may exist.

b. The Tenant shall annually identify any materials listed in Exhibit "D" used in the course of its ordinary business.

### 31. EMINENT DOMAIN.

If the Premises shall be taken or condemned for any public purpose, or for any reason whatsoever, to such an extent as to render the Premises untenable, either the Port or Tenant shall have the option to terminate this Lease effective as of the date of taking or condemnation, which shall be the earlier of the date the final condemnation judgment or the date possession is taken by the condemning authority. If the taking or condemnation does not render the Premises untenable, this Lease shall continue in effect, and the Port shall, if the condemnation award is sufficient therefor, promptly restore the portion not taken to the extent possible to the condition existing prior to the taking. If, as a result of such restoration, the area of the Premises is reduced, the rental shall be reduced proportionately. The phrase "untenable" as used herein means a taking of such scope that the untaken portion of the Premises is insufficient to permit Tenant or its subtenant to occupy the Premises as a high-quality business park, eliminates or material adversely affects access to the Premises or otherwise results in the elimination of parking or truck docks such that the Premises cannot be used for the original intended purpose, or any other then current use of the Premises, as reasonably determined by Tenant.

If title to the whole or materially all of the Premises shall be taken, the rights of the Port and Tenant to share in the net proceeds of any award for the respective Premises and Project, and the damages upon the taking, shall be in the following order of priority:

(a) The Port, at all times, regardless of when the taking occurs, shall be entitled to receive, that portion of the award as shall represent compensation for the value of the Premises, considered as vacant and improved only to the extent existing at the Commencement Date, but subject to a ground lease similar to this Agreement, such value being hereinafter referred to as the "**Property Value**."

(b) The remaining portion of the award shall be paid to the Tenant, subject to the rights of any Leasehold Mortgagee (the "**Remaining Value**").

(c) In addition, to the extent consistent with Washington eminent domain law, Tenant shall have the right to seek an independent and separate award from the condemning authority for loss of value of the leasehold improvements, relocation benefits, and for any tangible personal property of the Tenant or any subtenant that is taken.

In the event of a taking of less than materially all of the Premises, the rights of the Port and Tenant to share in the net proceeds of any award for the respective Premises and Project, and the damages upon the taking, shall be in the following order of priority:

(a) The Port, at all times, regardless of when the taking occurs, shall be entitled to receive that portion of the award as shall represent compensation for the Property Value.

(b) The Remaining Value of the award shall be payable to Tenant, subject to the rights of any Leasehold Mortgagee.

Should, however, the partial taking occur during the last two (2) years of the Term, then Tenant at its option upon thirty (30) days' prior notice to the Port, given at any time within sixty (60) days after the vesting of title in the taking authority, may terminate this Agreement. Upon that termination the Rent and other charges under this Agreement shall be apportioned as of the date of termination and the Tenant will be discharged from responsibility to restore the Premises. Upon that termination the entire Remaining Value shall belong to the Port free of any claim thereto or any part thereof by Tenant, anything in this Section to the contrary notwithstanding.

A voluntary sale or conveyance in lieu of but under the threat of condemnation shall be considered a taking or condemnation for public purpose, and shall include the Port's use of the Premises for any purpose for public use in connection with the operation of the business of the Port. If the Port so requires the use of the Premises, then this Lease may be terminated by the Port by written notice delivered or mailed by the Port to Tenant not less than six (6) months or more before the termination date specified in the notice, and damages to Tenant, if any resulting therefrom shall be determined by agreement between the parties hereto, or in the absence of agreement, by arbitration as hereafter provided. Damages or other compensation shall be determined in accordance with RCW 53.08.010 and Title 8 as appropriate.

### **32. INSOLVENCY.**

If Tenant shall: solicit acceptances of a plan of reorganization to be filed in any subsequent case under the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, as hereafter amended or any successor statute thereto (the "Bankruptcy Code"); negotiate with one or more creditors for any workout, including, but not limited to, an extension agreement, composition agreement, standoff, standby, or standstill agreement whereby the creditors agree to forebear in any fashion from their rights to collect a debt of Tenant; cease to pay Tenant's debts as they come due; admit in writing the inability to pay its debts as they come due; make an assignment for the benefit of creditors; become a party to any liquidation or dissolution action or proceeding; have appointed (voluntarily or involuntarily), a trustee, custodian, receiver, conservator, or liquidator for Tenant or for a significant portion of Tenant's assets; have entered against it any order by a district court or bankruptcy court of the United States or any of its territories that dismisses a voluntary petition under the Bankruptcy Code because the bankruptcy petition was filed in bad faith; have entered against it an order, judgment, or decree; have any of its assets levied against by writ of execution, attachment (including pre-judgment attachment), garnishment, recording of a judgment or any similar process whereby a creditor seeks to obtain a legal right to dispose of particular assets of Tenant to satisfy to any extent a debt of the Tenant to the creditor; file a voluntary petition under the Bankruptcy Code or have filed against it an involuntary petition under the Bankruptcy Code creating any automatic stay or other injunctive force protecting the assets of Tenant from the immediate collection actions of a creditor (where such involuntary petition is not subsequently dismissed within 90 days in response to pleadings filed by the Tenant by entry of an order of any district court or bankruptcy court of the United States or any of its territories); have appointed voluntarily or involuntarily, a trustee, custodian, or examiner with special powers by any district court or bankruptcy court in the United States or any of its territories; admit in an answer filed in response to an involuntary petition filed under the Bankruptcy Code that Tenant is insolvent because Tenant's assets are exceeded by Tenant's debts or that Tenant is unable to pay Tenant's debts as they come due; then, in the event any of the foregoing shall occur, the Port may, at its option, terminate this Lease.

### **33. PROMOTION OF PORT COMMERCE.**

The purpose of the Port is to encourage the development of commerce within the Port district, and to every reasonable extent possible, increase the movement of passengers and freight through Port facilities. In furtherance of this purpose, Tenant agrees to cooperate with the Port in the promotion of these purposes during the term of this Lease, and wherever reasonably possible, to utilize the Port's facilities in the movement of freight and passengers as a part of Tenant's business activities. Nothing in this paragraph shall be construed to obligate Tenant to spend monies in the Port's promotional advertising, but Tenant does agree to supply such information and data for the Port's promotional and advertising activities.

### **34. ATTORNEY'S FEES AND COSTS.**

Should a dispute arise between the parties hereto as to the effect of any provision hereof and said dispute is referred to an attorney, whether for enforcement in court or for decision under arbitration, the losing party shall pay the prevailing party's actual and incurred attorney's fees; costs of court or arbitration,



including such fees and costs of any appeal; other legal expenses; and collection costs, except that the amount of such fees, costs or expenses taken separately or in the aggregate, shall not be unreasonable. If such dispute arises and is later settled by the parties, such settlement shall include a specific allocation of disposition of attorney's fees on both sides.

### **35. NONDISCRIMINATION - SERVICES.**

Tenant for itself, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the Premises for a purpose for which a federal Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Tenant shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

It is agreed that Tenant's noncompliance with the provisions of this clause shall constitute a material breach of this Lease. In the event of such noncompliance, the Port may take appropriate action to enforce compliance, may terminate this Lease, or may pursue such other remedies as may be provided by law.

### **36. NONDISCRIMINATION – SERVICES, CONSTRUCTION, USE.**

Tenant for itself, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that: (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the Tenant shall use the Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

The Port reserves the right to take such action as the appropriate governmental authority may direct to enforce these provisions.

### **37. APPRAISAL PROCEDURE.**

This section shall apply when a Fair Market Rent determination is called for, as indicated in Paragraph 1, **LEASE SUMMARY**, for rent revisions. Any appraiser used by the Port for this purpose shall be a qualified MAI appraiser, with not less than 10 years experience appraising commercial real estate in Thurston County, Washington. A qualified MAI appraiser shall mean a member in good standing of the Appraisal Institute, or equivalent professional organization. The cost of any appraisal shall be shared equally by the Port and Tenant.

To determine Fair Market Rent, the Port will obtain an appraisal of the fair market rental value of the Premises as unimproved land (i.e., ignoring the value of any improvements thereon) no sooner than one hundred eighty (180) days before but not later than one hundred fifty (150) days before the applicable Rent Adjustment Date. The Port will promptly deliver to Tenant (and Leasehold Mortgagee, if any) a Fair Market Rent proposal along with the appraisal report. In the event the Tenant disputes the Fair Market Rent determination or the Port's appraisal, the parties will endeavor to reach an agreement as to Fair Market Rent amount. If the parties are unable to reach such agreement, before the ninetieth (90th) day prior to the effective date of the adjustment, the Port and Tenant shall each deliver to the other a "Final Offer" and invoke the "Rent Dispute Resolution" process described below. "Final Offer" shall mean the last offer with

regard to what the Port or Tenant, respectively, will accept as the rent rate for the Premises on the 90th day prior to the effective date of the adjustment.

Upon either party's invocation of Rent Dispute Resolution, the adjusted Fair Market Rent of the Premises will be determined by three (3) arbitrators, each of whom shall be a member of one of the following: the Society of Industrial and Office Realtors, the Seattle Chapter of the Appraisal Institute (as an MAI Designated member), the American Society of Real Estate Counselors, or the Washington-British Columbia Chapter of the American Institute of Real Estate Appraisers. The Port and Tenant will each select and fully compensate one of the three arbitrators, and the third arbitrator will be selected by the other two and compensated in equal shares by the Port and Tenant. Each party shall select an appraiser to be a member of the arbitration panel within twenty-one (21) days of either party invoking the Rent Dispute Resolution process. Each party shall cooperate to expedite the selection of the three arbitrators and in no case may either party delay the selection of the arbitration panel. In the event of a dispute with regard to the selection of the third member of the arbitration panel, either party may apply to the Superior Court of Thurston County for appointment of the third member of the arbitration panel. Neither party may use the court process to delay the appointment of the third arbitrator and each party must cooperate with the party applying for appointment to accomplish the appointment of the third arbitrator by the most expeditious means. The arbitration to achieve Rent Dispute Resolution shall be based solely on submission of written materials and on an approach to valuation consistent with the standards of professional appraisal practice. For purposes of the Rent Dispute Resolution, the arbitration panel may ask questions and request further information from each party, but the arbitration panel shall have discretion with respect to what the panel deems comparable properties in light of the requirement in this section that similarly situated industrial property in reasonable proximity to the Premises be considered. The arbitrators shall ultimately select one of the Final Offers as the resolution of the dispute and may not render a compromise decision. The Leasehold Mortgagee, if any, shall participate in the arbitration process to the extent the Tenant refuses or fails to participate after due written notice by Port of Tenant's failure to or refusal to participate.

**Required Rent.** In the event that the Fair Market Rent cannot be determined until after the applicable Adjustment Date, Tenant shall continue to pay Base Ground Rent at the rate in effect prior to submission of the Fair Market Rent determination to arbitration. Upon final determination of the Fair Market Rent, any underpayment of Base Ground Rent (being the deficit between (i) the amount of Base Ground Rent paid by Tenant following the Adjustment Date and (ii) the amount of Fair Market Rent determined as a result of the arbitration decision (or settlement between the parties in anticipation thereof)) shall be promptly paid by Tenant to the Port together with interest at the Default Rate within fifteen (15) days from the arbitration decision (or final approval of such settlement); provided, however, notwithstanding anything to the contrary contained in this section, in no event shall the Fair Market Rent adjustments be less than the Floor or more than the Cap.

### **38. ARBITRATION PROCEDURE.**

In the event of a dispute between the Port and Tenant with respect to any issue specifically mentioned elsewhere in this Lease as a matter to be decided by arbitration, other than Section 37 APPRAISAL PROCEDURE, such dispute shall be determined by arbitration as provided in this paragraph. The Port and Tenant shall each appoint a person as arbitrator who shall have had at least ten (10) years of experience in Thurston County in the subject matter of the dispute. The appointment shall be in writing and given by each party to the other, and the arbitrators so appointed shall appoint a third arbitrator. In the case of the failure of such arbitrators to agree upon the third arbitrator, the same shall be appointed by the American Arbitration Association from its qualified panel of arbitrators, with similar qualifications. If the Port or Tenant shall fail to so appoint an arbitrator for a period of ten (10) days after written notice from the other party to make such appointment, then such party will have defaulted its right to make such appointment, and the arbitrator appointed by the non-defaulting party shall determine and resolve the dispute. In the event the three arbitrators are appointed, after being duly sworn to perform their duties with

impartiality and fidelity, they shall proceed to determine the question submitted pursuant to the American Arbitration Association's Commercial Arbitration Rules. The decision of the arbitrators shall be rendered within thirty (30) days after a hearing, and such decision shall be in writing, with copies thereof delivered to each of the parties. The award of the arbitrators shall be final, binding, and conclusive on the parties. The fees of the arbitrators and the expenses incident to the proceedings shall be borne equally between the Port and Tenant. The arbitrators shall award to the prevailing party the fees of that party's counsel, expert witnesses, or other witnesses called by the prevailing party.

#### **39. JOINT AND SEVERAL LIABILITY.**

Each and every party who signs this Lease, other than in a representative capacity, as Tenant, shall be jointly and severally liable hereunder.

#### **40. INVALIDITY OF PARTICULAR PROVISIONS.**

If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

#### **41. NOTICES.**

All default and other substantial notices required under the provisions of this Lease may be personally delivered or mailed. If mailed, they shall be sent by certified mail, return receipt requested, to the following addresses:

To the Port:  
Port of Olympia  
606 Columbia Street NW, Suite 300  
Olympia, WA 98501

To the Tenant:  
SSECC PDC GL1, LLC  
c/o Panattoni Development Company, Inc.  
1201 Pacific Avenue, Suite 1700  
Tacoma, WA 98402

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices given by personal delivery shall be deemed given upon receipt. Notices sent by mail shall be deemed given when properly mailed, and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

#### **42. WAIVER.**

The acceptance of rental by the Port for any period or periods after a default by Tenant hereunder shall not be deemed a waiver of such default unless the Port shall so intend and shall so advise Tenant in writing. No waiver by the Port of any default hereunder by Tenant shall be construed to be or act as a waiver of any subsequent default by Tenant. After any default shall have been cured by Tenant, it shall not thereafter be used by the Port as a ground for the commencement of any action under the provisions of Paragraph 22, **DEFAULTS**.

#### **43. BINDER.**

Subject to Paragraph 25, **ASSIGNMENT OR SUBLEASE** above, this Lease is binding upon the parties hereto, their heirs, personal representatives, successors in interest and assigns.

**44. NO RECORDING.**

Without the prior written consent of the Port, this Lease shall not be placed of record. The Port and Tenant agree to record a memorandum of this Agreement in the form of **Exhibit "F"** attached hereto.

**45. ESTOPPEL CERTIFICATES/ATTORNMEN**T. Each party shall, at any time and from time to time as requested by the other party, upon not less than thirty (30) days' prior written notice, execute, acknowledge and deliver to the other a statement in writing certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications, that the same is in full force and effect as modified and stating the modifications), certifying the date through which Base Ground Rent, Additional Rent and other charges, if any, have been paid, and stating whether or not, to the best knowledge of the signer, the other party is in default beyond any applicable notice and cure period provided in the performance of any of its obligations under this Agreement, and if so, specifying each such default of which the signer may have knowledge, and such other matters as may be reasonably requested. The parties agree and acknowledge that it is specifically intended that any such statement delivered pursuant to this Section 45 may be relied upon by others with whom the party requesting the certificate may be dealing.

Tenant shall, in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under, any mortgage or deed of trust made by the Port, its successors or assigns, encumbering the Premises or any part thereof, and if so requested, attorn to the purchaser upon such foreclosure or sale or upon any grant of a deed in lieu of foreclosure and recognize such purchaser as landlord under this Agreement, provided, that such purchaser recognizes Tenant's rights under this Agreement, Tenant's subleases, and any modification of this Agreement or any sublease and assumes the Port's obligations under this Agreement arising after the date of transfer, and agrees not to disturb Tenant's or its subtenants quiet possession of the Premises for so long as Tenant is not in default hereunder.

Notwithstanding the above, the Port shall not use the Premises as security for any monetary obligation or further encumber the Premises, except as may be expressly authorized by this Agreement or by prior written approval of Tenant, which approval shall not be unreasonably withheld. So long as Tenant is not in default of this Agreement, this Agreement will not be amended, modified or terminated or subject to termination by any trustee's sale, any action to enforce the security, or by any proceeding or action in foreclosure.

**46. REAL ESTATE COMMISSIONS AND FEES.**

Any real estate commissions or fees related to this Lease, and claims related thereto, shall be handled in accordance with **Paragraph 1, LEASE SUMMARY** above.

**LESSOR:**

PORT OF OLYMPIA, a Washington  
municipal corporation

By: \_\_\_\_\_  
Alexandra K. Smith  
Executive Director

**TENANT:**

SSECC PDC GL1, LLC, a Delaware limited liability  
Company

By: PDC Seattle LPIV BB/TH, LLC  
a Delaware limited liability company  
Its Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Local Partner

STATE OF WASHINGTON                    )  
  ) ss  
COUNTY OF THURSTON                )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2025, personally appeared before me **ALEXANDRA K. SMITH**, to me known to be the Interim Executive Director at the Port of Olympia, the municipal corporation named in the within and foregoing **Lease Agreement**, and acknowledged to me that he signed the same on its behalf, as he is so authorized to do, as his free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

\_\_\_\_\_  
(Print Name) \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

STATE OF WASHINGTON                    )  
  ) ss  
COUNTY OF THURSTON                )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2025, personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ at the entity named in the within and foregoing **Lease Agreement**, and acknowledged to me that he signed the same on its behalf, as he is so authorized to do, as his free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

\_\_\_\_\_  
(Print Name) \_\_\_\_\_  
NOTARY PUBLIC in and for the State of Washington,  
residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

## RATIFICATION

The **Standard Lease Form** was ratified – per Section 5.1 of the Option Lease Agreement, as amended, between the Port and the Tenant dated July 13, 2020 – by the Port of Olympia Commission on July 12, 2021, and as further amended on December 11, 2023.

The undersigned confirms that this Lease was ratified by the Port of Olympia Commission on April 28, 2025.

## Port of Olympia Commission

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

Its: \_\_\_\_\_

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

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF THURSTON )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2025, personally appeared before me **JASMINE VASAVADA**, to me known to be the President of the Port of Olympia Commission, the municipal corporation named in the within and foregoing **Lease Agreement**, and acknowledged to me that he signed the same on its behalf, as he is so authorized to do, as his free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

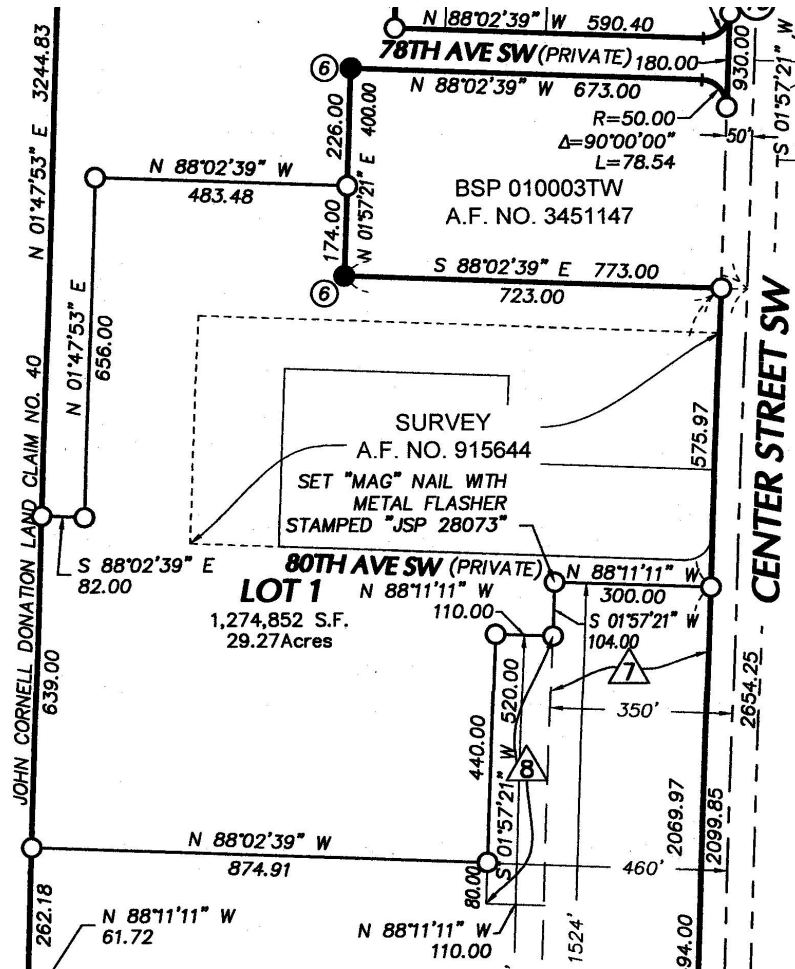
Print Name: \_\_\_\_\_  
 NOTARY PUBLIC in and for the State of Washington,  
 residing at \_\_\_\_\_  
 My commission expires: \_\_\_\_\_

# EXHIBIT A PREMISES

Thurston County Parcel # 12710100301

As further identified as Lot 1 of

Section 10 Township 17 Range 2W Quarter NE SW, SE SW Survey, Lot 1 Thurston County Auditor File No. 4946264



## **EXHIBIT B**

### **REQUIREMENTS AS TO IMPROVEMENTS**

These conditions relating to improvements in this Exhibit "B" shall control unless the Port and Tenant have otherwise separately agreed to more specific time periods for production and coordination of drawings, financing and commencement of construction. In the event such additional documentation becomes a part of this Lease, then the time periods set forth in such documents shall be logically coordinated, the intent being that the shorter time periods should control the parties' respective performances.

#### **1. PORT APPROVAL OF TENANT IMPROVEMENTS.**

As used herein, the terms "improvements" or "structures" shall mean and include without limitation all permanent buildings, and all other major structures or improvements of any kind located above the ground level of any site, plus any replacements, additions, repairs or alterations thereto. No improvement shall be constructed or maintained on the Premises until the Port has first approved the design, density, size, appearance and location thereof. Before commencing any work of improvement or applying for any governmental permit or approval, Tenant shall first deliver to the Port for approval two (2) sets of schematic plans and preliminary specifications, including grading and drainage plans, exterior elevations, floor plans, site plans, and showing in reasonable detail existing topography and proposed type of use, size, land coverage, shape, height, location, material and elevation of each proposed improvement, all proposed ingress and egress to public or private streets or roads, all utilities and service connections, and all proposed landscaping, exterior materials and fences, parking, exterior lighting, signs, cut and fill, finished grade, runoff and concentration points. Nothing in this paragraph shall imply a submission standard higher than that required for a building permit, except as it relates to land use(s), utilities, infrastructure and impact upon adjoining properties and use(s) of adjoining properties.

The Port shall then have fifteen (15) days during which to accept and approve or reject such preliminary plans and specifications. Once the preliminary plans and specifications have been approved, but prior to commencing any such work, Tenant shall submit to the Port for approval of final plans and specifications for any proposed improvements in the same manner as provided above.

All plans and specifications for grading or improvements to be submitted to the Port hereunder shall be prepared by a licensed or registered architect or engineer, as the case may be. All grading, piling, footing and foundation work must be conducted under the supervision of an appropriate licensed engineer. At the Port's option, a final certification by a licensed soils engineer or geologist must be filed with the Port upon completion of the grading work. The Port shall not unreasonably withhold its approval of any such plans or specifications.

The Port shall be conclusively deemed to have given its approval unless, within ten (10) days after all such plans and specifications have been received by the Port, the Port shall give Tenant written notice of each item of which the Port disapproves. Unless so disapproved, the Port shall endorse its approval on at least one set of plans and return the same to Tenant. The Port may disapprove any plans which are not in harmony or conformity with other existing or proposed improvements on or in the vicinity of the Premises, or with the Port Master Plan or other plans or criteria for the Premises in the general area in which the Premises are located, the sole discretion as to such adequacy remaining with the Port. Notwithstanding the foregoing, Tenant may, in accordance with the lease, repair, replace, alter or reconstruct any improvement on the Premises for which plans were previously approved by the Port as provided above, but only if such repair, replacement, alteration or reconstruction is substantially identical to the improvement previously approved.

Concerning utility installations, Tenant, at Tenant's sole cost, including any connection fees, assessments or changes, shall be responsible for the installation on the Premises of all utilities required by Tenant's use of the Premises, assuming such utility services are available to the Premises. Any contractual arrangements with any municipal supplier with respect to the improvements or utility installation shall not be



entered into by Tenant without first obtaining the Port's approval. In the event that such utility services are not readily available at the Premises, Tenant, at Tenant's sole cost, shall pay for the extension of such utilities to the Premises. The Port shall cooperate with Tenant to facilitate the design, permitting and construction of such utility services, including, without limitation, executing applications or other instruments, necessary or appropriate, in Tenant's reasonable discretion, in connection therewith. The Port further agrees to grant any reasonably necessary easements on over or across or under the Port Property necessary to bring the utility services to the Premises.

The Port shall not be liable for any damages in connection with the approval or disapproval of any plans or specifications, any construction or performance by Tenant on the Premises in connection with the erection of such improvements, any mistake in judgment, negligence or omissions in exercising its rights and responsibilities hereunder, or the enforcement or failure to enforce any provisions contained in the Lease. The Port's approval of plans and specifications shall not constitute the assumption of any responsibility by the Port or its representatives for the accuracy, efficacy or sufficiency thereof, and Tenant shall be solely responsible therefor.

## **2. CERTIFICATES OF COMPLIANCE.**

Tenant shall obtain all necessary permits and shall send copies of same to the Port, as well as copies of Certificates of Completion/Occupancy associated with such permits and pay the cost thereof. Prior to commencement of any such work of improvements, Tenant shall supply to the Port a certificate from a licensed civil engineer or land surveyor verifying that the appropriate subdivision or binding site plan approval has been obtained, and that the proposed improvements will be located on the correct parcel and in accordance with plans previously approved by the Port. The Port may waive such requirement if the Port has already surveyed the proposed Premises. Upon completion of any such improvements, Tenant shall supply to the Port a further certification by Tenant's architect (including the landscape architect in the case of improvements consisting of landscaping) that the improvements, as designed by the architect, have been completed in accordance with the plans previously approved by the Port. Final landscaping as approved by the Port shall be completed within sixty (60) days after completion of the structure. Tenant shall also supply to the Port one (1) set of "as-built" grading plans showing all underground installations within sixty (60) days following completion of any substantial improvement within the Premises. Tenant shall also furnish the Port with a complete set of "as-built" building plans and an itemized statement of the actual construction cost of such improvements, not later than sixty (60) days after completion.

## **3. DILIGENT COMPLETION AND COMPLIANCE.**

After commencement of construction, Tenant shall diligently complete the construction so that the improvements will not remain in a partly finished condition any longer than is reasonably necessary. Tenant shall comply with all applicable governmental laws, ordinances and other requirements or conditions and restrictions which may affect the Premises, (whether prior to, during or after construction) including, without limitation, the Americans With Disabilities Act, and shall make such corrections, alterations or other improvements which may be necessary to remedy any non-complying condition (subject to the reasonable approval of the Port), all at the sole cost and expense of Tenant. Notwithstanding Substantial Completion of the Premises, Tenant shall use reasonable efforts to cause its contractor to diligently proceed to complete full construction of the Premises and obtain a permanent certificate of occupancy for the Premises once there is an occupant or user for the Premises.

**EXHIBIT C**  
**LESSOR'S CONSENT AND AGREEMENT**  
**(For Financing Purposes)**

Description of Ground Lease.

"Lessor"	The Port of Olympia
"Tenant"	_____
"Lease":	Ground Lease dated _____
"Leasehold":	Tenant's interest in the Lease and all Leasehold Improvements
"Lender(s)":	_____ _____ _____ _____

NOW, THEREFORE, Lessor represents, warrants, covenants and agrees as follows:

1. **Consents.** Lessor hereby consents to the assignment of Tenant's interest in the Leasehold to Lender for security purposes under the Lender's Deed of Trust upon closing of the loan. Herein the term "Deed of Trust" shall mean the Lender's Deed of Trust as may be applicable and the "Lender" shall mean \_\_\_\_\_, as its/their interests appear in the Deed of Trust.

2. **Status of Lease.** A true and correct copy of the Lease, together with all amendments, supplements, and modifications thereto, is attached as Schedule A to this Agreement. The Lease is presently in full force and effect, is valid and enforceable according to its terms and has not been modified or amended in any way except as shown on the copy of the Lease attached hereto.

3. **Non-Default.** Tenant is not in default (a) in the payment of rent or any other amounts due and payable by Tenant to Lessor under the Lease or (b) to the knowledge of Lessor, in the observance or performance of any other covenant or condition to be observed or performed by Tenant under the Lease. To the knowledge of Lessor, no event has occurred which now does or hereafter will authorize Lessor to terminate the Lease.

4. **Right to Foreclose Deed of Trust.** Lender recognizes that any Deed of Trust taken by Lender affects and applies only to Tenant's interest in the Leasehold and that Lessor will not permit any security interest to be taken in any of its land. In the event of default by Tenant under the terms of the Deed of Trust, Lender may enforce or foreclose the Deed of Trust including the acceptance of a Deed in Lieu of Foreclosure. Lessor agrees that in connection with any such foreclosure, Lender may:

a. acquire Tenant's interest in the Leasehold either by Deed in Lieu of Foreclosure or actual foreclosure without further consent of Lessor, subject to the requirements of paragraph 6.4 below.

b. rent the Premises pending foreclosure of the Leasehold by Lender without further consent of Lessor.

c. assign and sell the Leasehold in whole or in part to any person or entity, subject to the requirements set forth in paragraph 6.5 below.

5. **Surrender of the Premises.** No surrender of the Premises or any other act of Tenant shall be deemed to terminate the Lease and Lessor will not terminate voluntarily by agreement with Tenant unless Lender has been previously notified in writing and has consented to the termination in writing. The Lease shall not be amended or modified unless Lender has been previously notified in writing and has consented to such amendment or modification in writing.

6. **Notice of Default and Lender's Rights.**

6.1. **Notice of Default.** If Tenant defaults under the Lease or if any event occurs which would give Lessor the right to terminate, modify, amend or shorten the term of the Lease, Lessor shall take no steps to exercise any right it may have under the Lease without first giving Lender written notice of such default. A copy of each and every Notice of Default and any other notices the Port is required by the terms of the Lease to provide to Tenant or that will materially affect the leasehold interest, including but not limited to amendments to this Agreement, side letters that affect the economics of this Agreement or any waivers of any rights or obligations under the terms of this Agreement served or sent by Lessor or its agent to or upon Tenant pursuant to the Lease shall be sent contemporaneously to Lender in accordance with paragraph 13 below. Such Notice of Default shall specify the event or events of default then outstanding and the time period at the end of which the indicated action would become effective.

6.2. **Termination for Monetary Default.** If the Notice of Default given by Lessor to Lender relates to a monetary default and Tenant has not cured such monetary default within time period as provided in the Lease and Tenant's failure to cure results in Lessor desiring to terminate the Lease, Lessor may terminate the Lease if such monetary default is not cured by either Tenant or Lender within the time periods set forth in Section 26(c) of the Lease.

6.3. **Termination for Non-Monetary Default.** If the notice given by Lessor to Lender relates to a non-monetary default and Tenant has not cured such non-monetary default within the time period specified in the Lease, Lessor shall take no action to terminate the Lease if:

(a) within the time period set forth in Section 26(c) of the Lease of Lessor's notice to Lender of Tenant's failure to cure (or failure to diligently pursue a cure), Lender notifies Lessor of its intent to realize upon its security interest and commences realization within the time periods set forth in Section 26(c) of the Lease, and diligently pursues realization; and

(b) Lender notifies Lessor that it will assume the Lease when Lender is legally entitled to the ownership and/or possession of Tenant's interests in the Leasehold; and

(c) Lender pays Lessor at time of notification all back rent or other monies or performances due that may be in default up to the date Lender notifies Lessor of Lender's intent and further pays all rent that accrues during the period after Lender so notifies Lessor and completes such other performances that may be required or come due under the Lease.

Lessor shall not terminate the Lease because of Tenant's breach of any term(s) of the Lease relating to the solvency of Tenant or the institution of any bankruptcy, insolvency, receivership or related action by or against tenant as long as Lender cures any default under the Lease by Tenant as provided in this Consent and Agreement.

6.3.1. If the non-monetary default is of a nature which requires immediate abatement as a result of which Lender would not normally pursue realization on the collateral, and Tenant has not taken steps to immediately cure the default, then Lender must take immediate steps to cure such default within the time period set forth in Section 26(c) of the Lease after receipt of notice or else the Lessor may terminate the Lease.

6.3.2. Upon termination of the Lease as provided herein, Lender will release its Deed of Trust within fifteen (15) days thereafter.

6.4. **Assumption of the Lease.** If Lender acquires the interest of Tenant at any time or takes possession of the collateral, then Lender shall formally assume the Lease within twenty (20) days thereafter.

6.5. **Right to Assign.** Lender shall not have the right to assign its interest in the Leasehold nor in the case of a foreclosure under the Deed of Trust shall the Trustee under the Deed of Trust transfer the Leasehold to any person or entity (other than Lender) except under the terms set forth in Section 26 of the Lease.

7. **Disposition of Insurance and Condemnation Proceeds.** Lessor shall be named as an additional insured under any of Tenant's casualty policies on the Premises to the extent of the interests limited in this paragraph 7. Should the Premises suffer any loss which is covered by casualty insurance, and the insurance proceeds are used to restore any improvements made by Tenant, Lessor agrees that Tenant and Lender shall have the right to such proceeds so long as none of Lessor's property, utilities or other services therein are damaged or such damages are repaired. In the event the Premises are substantially damaged and Tenant's improvements have been repaired, Lessor shall only participate in the insurance proceeds to the extent necessary to repair and restore Lessor's ground and any of Lessor's or Tenant's improvements (excluding buildings and personal property) on or in the ground to the same condition the land was in at the commencement of the Lease, or in the same condition at the time of the casualty. Under the Lease, Lessor has the option of requiring Tenant to demolish the improvements at the end of the Lease term, or to have Tenant convey title to Lessor Tenant's interests in the Leasehold Improvements. In the event Premises and the Leasehold are so severely damaged that Tenant's and Lenders' decision is not to repair or restore the Premises, Lessor shall participate in the insurance proceeds to the extent necessary to remove the remainder of the damaged improvements and to restore the Premises and any utilities or other such improvements (excluding rebuilding the improvements or restoring other personal property of Tenant) to the same condition the land was in at the commencement of the Lease, or in the same condition at the time of the casualty. Other than as described herein, Lessor shall have no claim to insurance proceeds or condemnation proceeds that are attributable to Tenant's interest in the Leasehold, nor shall Lender have any interest in Lessor's condemnation proceeds, if any.

8. **Right to Participate in Litigation.** Lender shall have the right to participate in any litigation, arbitration or dispute directly affecting the Premises or the interests of Tenant or Lender therein, including without limitation, any suit, action, arbitration proceeding, condemnation proceeding or insurance claim. Lessor, upon instituting or receiving notice of any such litigation, arbitration or dispute will promptly notify Lender of the same.

9. **Incorporation of Mortgagee Protection Provisions.** To the extent not inconsistent with this Agreement, all provisions of the Lease which by their terms are for the benefit of any leasehold mortgagee, are hereby incorporated herein for the benefit of Lender. Without limiting the foregoing, Lender shall be a beneficiary of the warranty and indemnity provided in paragraph 6 of Paragraph 1, **LEASE SUMMARY**, of the Lease and Section 26 of the Lease.

10. **Right to Remove Collateral.** In the event Lender exercises its rights under its collateral and realizes upon the collateral, Lessor agrees that Lender is entitled to remove Tenant's furniture, movable trade fixtures and equipment installed by Tenant from the Premises at any reasonable time and that the collateral shall remain personal property even though the trade fixtures may be affixed to or placed upon the Premises. "Trade fixtures" means the movable personal property of Tenant which is free standing or attached to floors, walls or ceiling, but does not include installed light fixtures, floor coverings, doors, windows, heating, plumbing or electrical systems or components thereof, including any roof-mounted HVAC equipment and/or units thereof, or permanent walls or partitions installed by Tenant. In the event Lender so realizes on its collateral, Lessor waives any right, title, claim, lien or interest in the above trade fixtures by reason of such fixtures being attached to or located on the Premises. Lender shall use reasonable care in removing the trade fixtures from the Premises and shall repair any damage that may result from such removal which shall be completed in accordance with the terms of the Lease.

11. **Interpretation of Agreement.** This Agreement sets forth the complete understanding of Lender with respect to this transaction; may be amended only in writing signed by the party against whom it is sought to be enforced; and, without limiting the generality of the foregoing shall not be deemed modified by any course of dealing. No provision in the Assignment of Tenant's Interest in Lease, Security Agreement and Deed of Trust shall vary, modify or expand the covenants herein contained. In the event of any conflict between the terms of this Agreement and the Lease, this Agreement shall control.

12. In the event of litigation or arbitration between the parties to enforce or interpret this Agreement, the arbitrator, Board of Arbitration or Judge, as may be appropriate, may award the prevailing party in such arbitration or litigation a reasonable attorney's fee not to exceed 20 percent of the amount in controversy, plus costs and costs of collection.

13. **Notices.** All notices, copies of notices, consents or other communications given under this Agreement must be in writing and shall be effective when received. Such communications shall be given in person to an officer of Lender or to Lessor or shall be delivered to one of such persons by registered or certified U.S. mail or by public or private courier or wire service or facsimile transmission addressed to the parties at their respective addresses set forth below, unless by such notice a different person or address shall have been designated in writing:

If to Lender: \_\_\_\_\_ (Print)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (Print)

If to Lessor: Port of Olympia  
606 Columbia St. NW, Suite 300  
Olympia, Washington 98501  
Attn: Real Estate Operations

IN WITNESS WHEREOF, Lessor has executed these presents this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

LESSOR:

PORT OF OLYMPIA, a Washington Municipal corporation

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

Its: \_\_\_\_\_

AGREED to this \_\_\_\_ day \_\_\_\_\_, 20\_\_.

TENANT:

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

Its: \_\_\_\_\_

AGREED to this \_\_\_\_ day \_\_\_\_\_, 20\_\_.

LENDER:

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

Its: \_\_\_\_\_

AGREED to this \_\_\_\_ day \_\_\_\_\_, 20\_\_.

**EXHIBIT A of C**  
**To Lessor's Consent and Agreement (Exhibit C)**

**Copy of Lease**

**EXHIBIT "D"**

***TOXIC, DANGEROUS AND HAZARDOUS SUBSTANCES STORAGE LICENSE***

(License required for any material covered by  
Dangerous Waste Regulations in WAC 173-303  
as amended and 40 CFR Part 116-117 as amended,  
copies are on file in the Port of Olympia offices)

Licensee:

\_\_\_\_\_  
Lease:

\_\_\_\_\_  
Term:

\_\_\_\_\_  
(Not to exceed 5 years.)

Fee:

\_\_\_\_\_  
Insurance:

\_\_\_\_\_  
(The Port must be named insured and entitled notice prior to cancellation.)

Renewable: For life of underlying lease so long as conditions below are met:

1. Facilities approved for installation and use:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Preconstruction approvals required:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Preoccupancy approvals required:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Inspections required:

a. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. At any time the Port has good reason to believe a problem may exist.

c. At a minimum, all tanks shall be pressure tested at least once every five (5) years to assure no loss of product into the environment (air, soil, surface or ground water).

5. Materials authorized for storage:



a. \_\_\_\_\_

b. Any additional materials require the consent of the Port.

6. Additional terms:

a. The Port Engineer shall have the right to terminate this license at any time and in his own discretion, if the facilities fail to meet all federal, state or local requirements or otherwise pose a hazard of unlawful contamination or pollution and such failures are not cured within thirty (30) days of written notice or such lesser time as appropriate under emergency circumstances.

b. The licensee agrees to bear all costs of construction, operation, maintenance, inspection or repair of the approved facilities and to keep the same in good operating repair during the term of this license, and the cost of any cleanup or other activities required in the event of a spill, leak or other pollution-causing event.

c. The licensee agrees at any time that the approved facilities cease to be subject to a valid license agreement, for any reason, that the licensee shall, at its own cost, remove the facilities and restore the site to its original condition (including removal of all contaminated soils or water).

d. The Port shall have the right to terminate this license upon breach of any term herein or termination of the specified lease. Breach of any term of this license shall constitute a breach of the specified lease.

e. The licensee shall compensate the Port for all costs incurred by reason of any breach of this license.

LICENSEE:

PORT OF OLYMPIA;

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
License Date: \_\_\_\_\_

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

**EXHIBIT “E”**

**REMOVED**

**EXHIBIT F**  
**FORM OF MEMORANDUM OF GROUND LEASE**

**RECORDED AT THE REQUEST  
OF:**

**WHEN RECORDED RETURN TO:**

Albert & Coss, LLC  
550 Howe Ave., Suite 100  
Sacramento, CA 95825

---

**MEMORANDUM OF GROUND LEASE**

This Memorandum of Ground Lease (“Memorandum”), dated as of April 28, 2025, is entered into by and between **SSECC PDC GL1, LLC**, a Delaware limited liability company, or its assigns (“**Tenant**”), **PORT OF OLYMPIA**, a Washington municipal corporation (“**Landlord**”).

Landlord owns fee title to that certain real property located in the City of Tumwater, Thurston County, State of Washington, as is more particularly described in **Exhibit A** attached hereto and incorporated herein (“**Land**”).

On even date herewith, Landlord entered into that Ground Lease Agreement with Tenant (the “**Lease**”) wherein Landlord agreed to lease to Tenant the Land.

The Lease term is for a period of fifty-five (55) years and commences on \_\_\_\_\_, 2025 and expires on \_\_\_\_\_, 2080. Tenant has two successive options to extend the term of the Lease each for a ten-year period.

This Memorandum is solely for recording purposes and shall not be construed to supplement, amend, or otherwise modify the terms and conditions contained in the Lease.

This Memorandum and the Lease shall bind and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject, however, to the provisions of the Lease regarding Assignment.

This Memorandum and the Lease are governed by the laws of the State of Washington.

*Signatures are on the next page.*

**SIGNATURE PAGE**  
**to Memorandum of Option to Ground Lease**

IN WITNESS WHEREOF, the parties have executed this Memorandum as of the date set forth above.

*[ALL SIGNATURES MUST BE NOTARIZED]*

**LANDLORD:**

**PORT OF OLYMPIA**

A Washington municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**TENANT:**

**SSECC PDC GL1, LLC,**

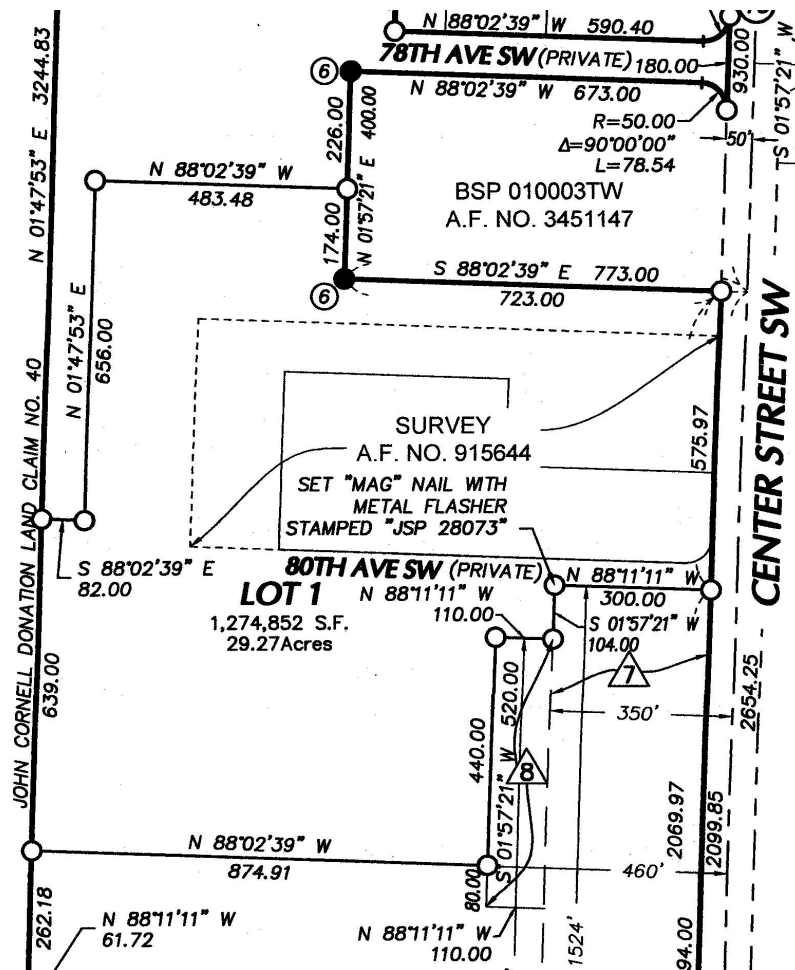
a Delaware limited liability company

By: PDC Seattle LPIV BB/TH, LLC,  
a Delaware limited liability company,  
Manager

By: \_\_\_\_\_  
\_\_\_\_\_,  
Local Partner

## LEGAL DESCRIPTION OF PROPERTY

Section 10 Township 17 Range 2W Quarter NE SW, SE SW Survey Lot 1 Thurston County Auditor File No. 4946264



**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
(SEAL)  
Notary Public Signature

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_ before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, personally known to me, or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
(SEAL)  
Notary Public Signature

## EXHIBIT G

### Form of Non-Disturbance and Attornment Agreement

#### **RECOGNITION, NONDISTURBANCE AND ATTORNMENT AGREEMENT**

THIS AGREEMENT, is made as of \_\_\_\_\_, 20\_\_, by and among \_\_\_\_\_, a \_\_\_\_\_ (hereinafter referred to as “**Prime Lessor**”), and \_\_\_\_\_, a \_\_\_\_\_ (hereinafter referred to as “**Prime Lessee**”), and \_\_\_\_\_, LLC, a Delaware limited liability company (hereinafter referred to as “**Tenant**”), with reference to the following facts:

A. Prime Lessor has entered into a Lease with Prime Lessee dated \_\_\_\_\_ (the “**Prime Lease**”) for [the building located at \_\_\_\_\_] (the “**Property**”) as more fully described in the Prime Lease;

B. By a certain sublease entered into between Prime Lessee and Tenant dated \_\_\_\_\_ (hereinafter called the “**Sublease**”), Prime Lessee leased to Tenant [a portion of] the Property and the improvements to be erected thereon as more particularly described in the Sublease (said portion of the Property and the improvements now or hereafter erected thereon being hereinafter called the “**Demised Premises**”);

C. The parties hereto desire to provide for the recognition and nondisturbance to Tenant by the Prime Lessor; and

D. The parties hereto desire to provide for Tenant’s agreement to pay Prime Lessor the rent payments due under the Prime Lease and to assume the Prime Lease after the occurrence of a default by Prime Lessee not cured within any applicable cure period.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto intending to be legally bound hereby agree as follows:

1. Prime Lessor agrees that as long as the Sublease shall be in full force and effect:

(a) The possession by Tenant of the Demised Premises and the Tenant’s rights thereto shall not be disturbed, affected or impaired by, nor will the Sublease or the term thereof be terminated or otherwise affected by (i) any suit, action or proceeding upon the Prime Lease, or by the termination of the Prime Lease or the enforcement of any rights under the Prime Lease or any other documents held by the Prime Lessor, or by any judicial sale or execution or other sale of the Demised Premises, or (ii) any default under the Prime Sublease; and

(b) Prime Lessor will not exercise any of its rights under the Prime Lease in a manner which would effectively prohibit Prime Lessee from performing the Sublease in accordance with its terms.

2. If the Prime Lessor shall terminate the Prime Lease with Prime Lessee or its assigns or if the Property shall be sold as a result of any action or proceeding to terminate the Prime Lease, or transfer of ownership given in lieu of termination, prior to expiration of the Sublease, the Sublease shall continue in full force and effect as a direct lease between Prime Lessor, or their successor in interest, as landlord, and Tenant, as tenant, upon and subject to the terms and conditions contained in the Sublease, without

necessity for executing any new lease, as a direct lease between Tenant and the then owner of the Property, as "landlord." In such event:

(a) Tenant shall be bound to the Prime Lessor or such new owner under all of the terms, covenants and provisions of the Sublease for the remainder of the term thereof (including the Renewal Periods, if Tenant elects or has elected to exercise its options to extend the term) and Tenant hereby agrees to attorn to the Prime Lessor or such new owner, as the case may be, and to recognize the Prime Lessor or such new owner shall, from and after the date the Prime Lessor or new owner succeeds to the interest of "landlord" under the Sublease, have the same remedies against Tenant for the breach of any covenant contained in the Sublease that landlord might have had under the Sublease against Tenant; and

(b) The Prime Lessor or such new owner shall be bound to Tenant under all of the terms, covenants and provisions of the Sublease for the remainder of the term thereof (including the Renewal Periods, if Tenant elects or has elected to exercise its options to extend the term of the Sublease). Tenant shall, from and after the date the Prime Lessor or new owner succeeds to the interest of "landlord" under the Sublease, have the same remedies against the Prime Lessor or new owner for the breach of any covenant contained in the Prime Lease that Tenant might have had under the Sublease against landlord if the Prime Lessor or new owner had not succeeded to the interest of landlord.

3. Prime Lessee hereby agrees to protect, defend, indemnify and hold Tenant harmless from and against any and all claims, damages, costs and expenses (including not limited to reasonable attorneys' fees) incurred by Tenant as a result of the violation of this Agreement by Prime Lessee or the breach by Prime Lessee of the Prime Lease, including but not limited to any breach which result in termination of the Prime Lease. Tenant hereby agrees to protect, defend, indemnify and hold Prime Lessee harmless from and against any and all claims, damages, costs and expenses (including but not limited to reasonable attorneys' fees) arising from Tenant's violation of the terms of this Agreement.

4. Any notices or communications given under this Agreement shall be in writing and shall be given by registered or certified mail, return receipt requested, postage paid or reliable overnight courier to each of the parties at their respective addresses as hereinabove set forth or at such other address as a party may designate by notice given in accordance with this paragraph. Notices shall be deemed delivered upon actual receipt as evidenced by the return receipt.

5. This Agreement shall bind and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

Signatures are on the next page.



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

**PRIME LESSOR:**

**PORT OF OLYMPIA**

A Washington municipal corporation

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

Name:

Title:

**PRIME LESSEE:**

**SSECC PDC GL1, LLC,**

a Delaware limited liability company

By: PDC Seattle LPIV BB/TH, LLC,  
a Delaware limited liability company,  
Manager

By: \_\_\_\_\_  
\_\_\_\_\_,  
Local Partner

**TENANT:**

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

Name:

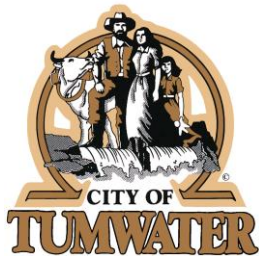
Title:

## **EXHIBIT “H”**

### **CENTER STREET IMPROVEMENTS SCOPE OF WORK**

#### References:

- South Sound Commerce Center Site Plan Review Approval TUM-21-1580: March 15, 2023  
<https://www.ci.tumwater.wa.us/home/showpublisheddocument/26830/638756522252570000>
- South Sound Commerce Center Revised MDNS TUM-22-0278: December 19, 2022  
<https://www.ci.tumwater.wa.us/home/showpublisheddocument/26836/638756522273200000>



City Hall  
555 Israel Road SW  
Tumwater, WA 98501-6515  
Phone: 360-754-5855  
Fax: 360-754-4138

March 15, 2023

SSECC, C/O Brenda Fodge  
1821 Dock Street, Suite 100  
Tacoma, WA 98402

*Sent via email to: [bfodge@panattoni.com](mailto:bfodge@panattoni.com), [ChrisC@hattonpantier.com](mailto:ChrisC@hattonpantier.com),  
[lisap@portolympia.com](mailto:lisap@portolympia.com), and [warrenh@portolympia.com](mailto:warrenh@portolympia.com)*

RE: South Sound Commerce Center Site Plan Review Approval TUM-21-1580  
7901 Center St SW, Tumwater, WA 98501, Tax Parcel #12710100301

## GENERAL

The City of Tumwater reviewed your formal site plan review application which includes the construction of a 481,241 sq. ft. distribution warehouse, with associated parking, open space and stormwater treatment on a 29.27 acre parcel.

With this letter the City grants formal site plan approval for the project.

## PLANNING

1. Use: The proposed project is located within the Airport Related Industry Zone District (ARI) and Aquifer Protection Overlay Zone District. TMC Chapters 18.34 & 18.39.

Warehouse distribution centers are permitted uses subject to the requirements of Section 18.42.110 TMC General Land Use Regulations. Section 18.42.110 TMC provides minimum conditions for location and site planning.

The site plan meets the minimum requirements of Section 18.42.440 as the use located within the crosshatched area in TMC Figure 18.42.110 (B), and located more than 1,000 feet from urban residential zoning.

2. Development Standards: Section 18.34.050 TMC. Development must provide adequate space for parking, yards and landscape, there is no minimum site area required. Lot coverage maximum is 85% of the total area. Lot coverage includes ground area covered by impervious surfaces. Maximum building height sixty-five (65) feet.

The site plan submitted meets the minimum requirements of Section 18.34.050 TMC for adequate space for parking, yards, and landscaping, and shows lot coverage at 85%.

Building elevations showing compliance with Citywide Design Guidelines and building height is required with building permit application. (*Building elevations were provided with building permit application and are under review.*)

3. Yards/Setbacks:

Front: twenty feet minimum setback on all street frontages unless otherwise specified by the Port of Olympia development guidelines or the Tumwater design guidelines. Side: ten feet from property line. Rear: ten feet from property line.

The required setback areas shall be kept free of any building or structure not exempted under Section 18.42.040 TMC.

The site plan meets setback requirements.

4. Industrial Design Review Standards: The project is subject to the industrial design guidelines. The design guidelines have specific site planning requirements for industrial uses and lots with multiple buildings or greater than 2 acres in regards to pedestrian and vehicular access between lots and uses, parking area design, building design and character, blank wall treatment, and site lighting.

The site plan shows pedestrian sidewalks from the street to the buildings, and within the site. Parking lots include parking lot landscape. Minimum open space requirements are met.

Open space pathway shown must be paved with concrete or other approved surface. Building elevations showing compliance with the Citywide Design Review Standards in regards to building design, architectural scale, and materials shall be submitted with building permit application. (*Open space and building elevations were provided with building permit application and are under review.*)

5. Parking: Warehouse distribution requires 1 space per 2,000 square feet. Offices with gross floor area 7,501 to 40,000 sq. ft. require 2.8 spaces per 1,000 square feet.

Parking stall sizes are as follows:

9' x 18' – Standard stalls

8' x 17' – Compact stalls (maximum 15% of total parking) 9' x 18' – Barrier-free

16' x 18' – Barrier-free van stalls

The parking area is to be hard-surfaced (asphalt, concrete or turfstone) and the spaces shall be defined by white striping a minimum of 4-inch wide. A minimum 8-foot-wide walkway is required between the building and the parking stalls. Parking spaces must utilize approved wheel stops to prevent vehicle overhang of a sidewalk or walkway. The parking aisle (lane) is to be a minimum of 22'-6" feet wide. All vehicle maneuvering areas shall be paved.

Bicycle storage facilities are required for the site and shall meet the requirements of Section 18.50.120 TMC. Short-term parking includes cover from weather, visible from primary entrances, illuminated, protection from theft, and located within one hundred of primary entrances. Long-term parking include lockable bike cage or class 1 bicycle lockers. Parking with over 150 parking spaces requires short term spaces at the rate of 8 or 3% of spaces whichever is greater. Long term spaces at 1 per 50 spaces, plus 1 per additional 100 spaces.

The site plan shows minimum parking met with a 10 % reduction request by the applicant, and provides locations for covered short term bicycle parking, meets the minimum vehicle and truck parking requirements. Long term bicycle parking is noted to be located inside the building.

Building plans shall include location and detail of both short-term and long term bicycle parking meeting the requirements of 18.50.120(A) & (C) (*Bicycle parking details were provided with building permit application and are under review.*)

6. Exterior Lighting: Site lighting shall be directed downward and inward, or other techniques may be utilized to minimize impacts on off-site uses. Light poles in the parking area shall be limited to 24 feet in height.

A photometric lighting plan addressing all proposed exterior lighting must be submitted with building permit submittal. (*Photometric plan was submitted as part of building permit application*)

7. Landscaping: The project as proposed requires a minimum 8 foot perimeter with trees and shrubs. Parking lot landscaping requirement are for every ten parking spaces an eight foot by eighteen foot landscape island must be provided. The island must include a tree and groundcover plants. Frontage improvement landscape includes planter strip with street trees. Irrigation of all landscape beds is required.

The site plan includes a conceptual landscape plan that meets the intent of landscape requirements.

A detailed landscape plan shall be submitted with site development grading application. *(A detailed landscape was submitted with building permit submittal and is under review).*

8. Signs: The ARI zone allows a total of 200 square feet on all faces of all signs. Separate permits are required and height restrictions apply depending on the location of the sign. The sign can be as high as the proposed building, or 30-feet, whichever is less [Chapter 18.44 TMC].

Wall and building mounted signs shall be limited to an area not to exceed twenty percent of the public facade, provided that the total area of signs on an individual public façade or outer wall of a building does not exceed 100 square feet. In addition, no one sign may be larger than 100 square feet.

Signage requires a separate sign permit.

9. Impact Fees: Transportation impact fees will be assessed at building permit issuance. The amount of the fee will be in accordance with the adopted fee resolution in place at the time of submittal of fully complete building permit applications.
10. SEPA: The city issued a revised Mitigated Determination of Nonsignificance (MDNS) on December 19, 2022. The revised MDNS includes the following mitigation measures.
  - Construct a roundabout at the northbound Interstate 5 On/Off Ramp and Tumwater Boulevard intersection; or
  - Voluntarily pay a mitigation fee of \$4,219 per peak trip generated by this project under RCW 82.02.020 to be used as described herein: Tumwater Boulevard/I-5 Interchange: The City's planned transportation improvements at the Tumwater Boulevard/I-5 interchange include converting the interchange to a roundabout diamond interchange by replacing the southbound on/off ramp signal and northbound stop controlled intersections with roundabouts.

The Transportation Impact Analysis submitted with the Transportation Concurrency application indicates that 104 new peak hour trips will be generated to the interchange from this development.

- This project will significantly increase traffic on Center Street. The applicant shall provide a site specific American Association of State Highway and Transportation Officials (AASHTO) structural design using field verified “R” values along Center Street to determine the adequacy of the existing structural section using existing and post-development equivalent single axle loads (ESALs). If the evaluation confirms the existing road section is not sufficient for the vehicular loading, the

proponent shall reconstruct the road section for the full roadway width from Tumwater Blvd. to the southern site property boundary. The reconstructed section shall be the lesser of the site specific AASHTO structural section, and that provided in the October 2020 amendment to Table One, Chapter 4 of the Tumwater Development Guide.

- Tumwater Boulevard is a designated strategy corridor. Strategy corridors are road segments that cannot be built out further in urban core areas and such, the City can accept a lower LOS in lieu of prohibiting development due to concurrency. If there are reasonable improvements that can be made on strategy corridors to bring them to our standard LOS, they shall be completed. The City considers alternative solutions on strategy corridors aside from simply widening roadways or completely rebuilding intersections. The alternative option suggested as mitigation in the Traffic Impact Analysis is to adjust signal timing. This shall be addressed in site development/grading plan permit submission, and may include restriping and/or other physical intersection adjustments.
- In order to restrict truck traffic from traveling by properties with an urban residential zone district classification, a designated truck route shall be established to assure truck traffic is directed to and from Tumwater Boulevard to the site on Center street. Driveways shall be constructed to physically restrict heavy truck traffic from entering the site from the south or exiting the site to the south.

No appeal was filed.

11. Tree Retention. Section 16.08.070.R requires that not less than (20%) or not less than 12 trees per acre be retained. This section allows the standards to be waived or modified when the applicant provides substantial evidence demonstrating compliance would make reasonable use of the property impracticable for three or more reasons listed in TMC 16.08.070.R.2

The applicant has requested to remove all trees onsite due to the amount of fill required to achieve the minimum requirements of the City of Tumwater Drainage Design and Erosion Control Manual, and High Ground Water Ordinance. The minimum tree retention is 350 trees. Mitigation planting at 3:1 requires 1,050 trees to be planted onsite.

The applicant proposes to provide a 1.46 acre open space tract for pedestrian oriented open space and minimum required tree tract. The tract should accommodate approximately 734 trees.

For any shortfall of mitigation tree planting, the applicant shall pay a tree mitigation fee-in-lieu, based on the most current adopted fee resolution at the time of site development grading permit approval.

12. Olympia Pocket Gopher: The parcel has soils suitable for the Mazama Pocket Gopher, a protected species. A Gopher Habitat Survey performed by Krippner Consulting, LLC shows no evidence of gopher activity on the parcel.
13. Critical Areas: A wetland, and Fish and Wildlife Habitat Assessment completed by Soundview Consultants showed no evidence of wetlands on site.
14. Transportation Concurrency: A Concurrency Ruling was issued by the City Transportation Manager on November 21, 2022. The ruling conditions the project to pay transportation impact fees, constructed transportation improvements provided on the formal site plan, address the level of service failure at Tumwater Boulevard and Center Street Intersection, and contribute to the construction of the Tumwater Boulevard/I-5 Interchange project, and also subject to a Thurston County Mitigation fee of \$1,207. These mitigation measures are reflected in the MDNS issued December 19, 2022.

A Notice of application was issued for this project on July 1, 2022. Several comments were received.

Agency comments:

Nisqually Tribe commented with no specific cultural resource concern.  
Squaxin Island Tribe commented with no specific cultural resource concern.  
Thurston Climate Action Team commented to remind the City to be mindful of the Thurston Climate Mitigation Plan during review.

Public Comments:

Several comments were in form letter email text requesting the City deny the application and require the Port of Olympia to complete an Interlocal Agreement for a larger portion of land in the area of development.  
A specific comment letter was provided by the Audubon Society sharing comments provided for the New Market Industrial Area Plan of 500 acres.

Other concerns include protection for the adjacent Bush Wellfield, stormwater treatment and high ground water issues, tree retention, and transportation.

The interlocal agreement discussed between the Port of Olympia and the City was for a much larger development, on larger amount of acreage. No agreement was reached. The current parcel is subject to current development standards, and is not subject to an interlocal or developers agreement.

The property is subject to the Aquifer Protection Overlay Zone District TMC Chapter 18.39 which limits the type of uses in the overlay zone, as



well as the Wellhead Protection requirement of TMC Chapter 16.26, which limits uses located within certain distances of a wellhead.

The parcel must meet the development standards of the Tumwater 2018 Drainage Design and Erosion Control Manual, which provides specific standards for protection and treatment of stormwater in high groundwater hazard areas.

Tree retention and mitigation options are provided for in TMC Chapter 16.08. The applicant has requested and provided justification for the removal of trees based on the development standards of the drainage manual for the protection of high ground water and the aquifer recharge area. The ordinance at Section 16.08.070 provides mitigation measures to apply.

The SEPA and transportation concurrency review provides mitigation for traffic impacts specific to the development.

The project was reviewed and conditioned to meet ordinance and design standard requirements of the City.

## **BUILDING**

1. A Site Development/grading permit will be required for this site. The permit application shall be accompanied by the application checklist and two sets of plans and specifications, and supporting data consisting of a soils engineering report and engineering geology report prepared and signed by a licensed soils engineer. Inspection of the grading shall be provided by the civil engineer and Geotechnical engineer. In addition special inspectors approved by the building official shall perform inspections of fill placement, compaction testing, and blasting. All special inspections are to be performed by WABO registered labs and inspectors who have expertise in grading and earthwork.

The Engineer of record is responsible for providing a final inspection report which will include the geotechnical engineers and special inspector's reports. In addition as-built drawings for the site will be submitted in a PDF format. IBC Appendix J

2. Special inspectors may be required for the following types of work: concrete, bolts installed in concrete, special moment-resisting concrete, reinforcing steel and pre-stressing steel tendons, structural welding, high strength bolting, structural masonry, reinforced gypsum concrete, insulating concrete fill, special wood design, spray-applied fireproofing, piling, drilled piers and caissons, shotcrete, special (engineered) grading, excavation and filling, soils compaction testing, retaining walls and smoke-control systems. All special inspections are

to be performed by WABO registered inspectors and at the expense of the owner. IBC Section 1704.1

3. Water cross connection control shall be provided in accordance with the provision of the Plumbing Code. Cross connection control devices or assemblies must be models approved under WAC 246-290-490.
4. If water pressure at the meter exceeds 80 psi, a pressure-reducing valve will be required to be installed on the private side of the water line.
5. WABO special inspection Firm shall be submitted to the Building Official prior to the issuance of this permit.
7. This structure will require structural engineer for foundation/structure along with storm system under building.
8. The required fire flow for this building is derived from Appendix B of the International Fire Code. Type IIB buildings of this size are required to have a fire flow of 8,000 gallons per minute at 20 psi. However, based on the approval of the Fire Chief, a 50% reduction for fully sprinkled buildings allowed in Appendix B105 will be allowed for this site. Therefore, the required fire flow will be 4,000 gallons per minute at 20 psi. Water line shall be looped and public system.
11. Fire hydrants and paved access roads shall be installed, tested for fire flow by the Fire Department and made serviceable by the Public Works Department prior to any vertical or combustible construction. No exceptions. IFC 503
12. That no vertical or combustible construction will be allowed on the construction site until the fire hydrants and paved roads are installed, tested and approved by the City of Tumwater. Note: testing will also include verification of fire flow by the fire department.
13. The following permits may be required for this project:
  - Site Development/Grading
  - Retaining/Rockery
  - Building, including plumbing and mechanical
  - Fire sprinkler / fire suppression
  - Fire alarm
  - Sign
  - Well abandonment
  - Septic System abandonment

## ENGINEERING GENERAL

1. The applicant shall be responsible for providing the City with all costs associated with the installation of water, sewer, street and storm systems that are dedicated to the City of Tumwater.
2. All designs/construction shall comply with the City of Tumwater's Development Guide and WSDOT standards.
3. The site plan shall show all existing and proposed utilities and easements including street lights, street trees, water, sewer, storm, gas, cable, power, telephone, signage and striping.
4. All main installation, road design and storm drainage work requires engineered plans certified by a professional engineer.
5. The applicant is responsible for all plan check, inspection and connection fees.
6. Any private or public utility relocation is the responsibility of the applicant.
7. The applicant shall be responsible for the maintenance and timely repair of all public improvements for a period of 30 months following final certification by the City and shall submit a surety for maintenance equal in value to fifteen (15) percent of the total value of the required public improvements certified by the Public Works Director. Please refer to Chapter 3 of the Development Guide for further clarification.
8. Provide all easements and bills-of-sale documents with the engineered plans.
9. All legal descriptions must be accompanied with an appropriate drawing that the City Surveyor can use to verify the legal description. All engineering drawings will be on 24" x 36" paper sheets.
10. The owner or owner's representative is also responsible for furnishing the City with electronic files, compatible with release 2018 or newer Auto-CAD format. Provide individual drawings independent of x- refs. Include all non-standard font files and plot files. Also, please furnish PDF files printed from the Auto-CAD files. A storm water maintenance agreement, utility maintenance agreement, easements and bills- of-sale will also be required.
11. Site plan modifications may occur as a result of the engineering review process. For engineering issues, the approved engineering plans take precedence over the approved site plan.
12. Please note on the plans that the PLS responsible for the surveying of the project must obtain a permit from DNR before any monuments are disturbed.

13. The vertical datum required to be used is NGVD29. No exceptions.

## **STREET**

1. Frontage improvements are required per Tumwater Municipal Code 12.12.010.

### **Center Street**

- Northern driveway/entrance – Please design this access as an intersection with curb returns.
- Cross section (west to east)
  - ☐ 2' ROW behind sidewalk, grade to be flat
  - ☐ 6' sidewalk
  - ☐ 6' planter
  - ☐ 0.5' curb
  - ☐ 12' bike + parking
  - ☐ 12' SB
  - ☐ 12' center lane
  - ☐ 11' NB
  - ☐ 6' Parking (east side of road is interim configuration; parking on east side will convert to bike when bike lanes connect to the north and any redevelopment on the east side of the road will mirror the west side)
  - ☐ The proposed driveways shall physically restrict south bound truck trips on Center Street from the site.
  - ☐ Road structural section: Verify existing pavement from site entrance to Tumwater Boulevard is adequate for the additional ESAL's. Note,

Center Street is only 0.2' HMA on crushed from 78th to Pat Kennedy Way

- ☐ Street lighting
- ☐ Storm drainage
- ☐ Please refer to Chapter 4 Amendment of the Development Guide for the structural requirements.

To be confirmed with traffic analysis:

- ☐ Mitigation and TIF
- ☐ Tumwater Boulevard/Center Street - Relocate crossing or signal standard on west approach and re-channelize to allow left turn overlap for NB/SB lefts due to level of service.
- ☐ Upgrade structural section on other streets due to truck routes or the intended use of the development.

Port right-of-way

- ☐ Port will determine requirements, review and approve.

2. Full lane overlays will be required after patching or widening the road prism. Additional improvements might be required on the opposing frontage, such as

widening, realigning the crown to centerline of right-of-way or feathering to meet City of Tumwater standards.

3. All accesses will meet city standards. Verify new accesses will not affect existing accesses along Center Street.
4. Provide an overall traffic plan and time line (TIA). The plan then needs to be outlined with proposed phases. Need to look at intersections along Center Street, Tumwater Boulevard/Center Street intersection and how to prevent or discourage truck traffic heading south on Center Street.
5. Please make the following corrections to the Center Street section:
  - Draw the 30' arrow dimension to the centerline.
  - Show the minimum road structural section for Center Street.
  - Remove the bioretention swale completely out of the ROW.

## **STORM**

1. A drainage design and erosion control plan will be required according to City's 2018 Drainage Design and Erosion Control Manual.
2. Maintenance of the on-site storm water system will be the responsibility of the property owner and a maintenance agreement will be recorded against the property.
3. This project will be paying a monthly storm water utility fee based on the amount of impervious surface per Tumwater Municipal Code 13.12.060.
4. If the depth from the bottom of the proposed detention facility to the high groundwater elevation or other restrictive layer is less than 5-feet, storm water modeling will be required. The applicant will be responsible for the cost of a third party review of the on-site and off-site storm water impacts and mitigations.

## **SANITARY SEWER**

1. The professional engineer will need to provide calculations of the maximum monthly sanitary sewer discharge from the site. The City reserves the right to check the actual use in the future and charge additional connection fees if the actual use is greater than the estimated amount.
2. Extension of the sewer main across all frontages is required.
3. Please look for opportunities to stub the sewer main to serve adjacent areas.

## **WATER**

1. The project must meet minimum fire flow requirements.
2. Back flow prevention is required on all fire services and irrigation services and in accordance with the AWWA Cross Connection Control Manual. A reduced pressure backflow assembly is required on all commercial domestic services per WAC 246-290-490. Please contact maintenance at 754-4150 for more information.
3. Any water main extension will require a minimum size of 12". The main size will depend on the fire flow requirements for this project. The system shall be designed for a maximum velocity of 8 feet per second.
4. Water meters need to be placed in the public right-of-way or clustered on site within an easement. The professional engineer will need to provide calculations on the maximum instantaneous water demand and size of the meter for the project.
5. Please look for opportunities to stub the water main to adjacent areas for future loops.
6. Please provide a 15' clear easement for the water main.

This review does not provide the benefit of vesting, which is currently not allowed until the time a completed building permit application is submitted. Therefore, if ordinance changes occur during the life of this approval, your project must conform to those new requirements prior to the issuance of building permits.

If you have any questions regarding the Planning comments, please contact me at [tmerriman@ci.tumwater.wa.us](mailto:tmerriman@ci.tumwater.wa.us). For questions on Building/Fire, contact Al Christensen at [achristensen@ci.tumwater.wa.us](mailto:achristensen@ci.tumwater.wa.us), and for engineering questions, please contact Jared Crews at [jcrews@ci.tumwater.wa.us](mailto:jcrews@ci.tumwater.wa.us), or call 360-754-4180.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tami Merriman", with a stylized flourish at the end.

Tami Merriman, Permit Manager

Appeal: This administrative decision may be appealed to the hearing examiner within fourteen days of the date of this approval. See TMC Chapter 2.58, Hearing Examiner for process.



SOUTH SOUND COMMERCE CENTER

7847 CENTER STREET SW, TUMWATER, WA 98501

SHEET INDEX

- 1 SITE PLAN
- 2 NORTH HORIZONTAL CONTROL PLAN
- 3 SOUTH HORIZONTAL CONTROL PLAN
- 4 TEMPORARY EROSION CONTROL & DEMOLITION PLAN
- 5 TEMPORARY EROSION & SEDIMENT CONTROL DETAILS - 1
- 6 TEMPORARY EROSION & SEDIMENT CONTROL DETAILS - 2
- 7 CENTER STREET DEMOLITION PLAN
- 8 SOIL MANAGEMENT PLAN
- 9 NORTH PAVEMENT PLAN
- 10 SOUTH PAVEMENT PLAN
- 11 OVERALL GRADING & DRAINAGE PLAN
- 12 ENLARGED GRADING & DRAINAGE PLAN - 1
- 13 ENLARGED GRADING & DRAINAGE PLAN - 2
- 14 ENLARGED GRADING & DRAINAGE PLAN - 3
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- 16 ROOF DRAINAGE PLAN
- 17 CENTER STREET FRONTAGE IMPROVEMENTS
- 18 DRAINAGE NOTES & DETAILS - 1
- 19 DRAINAGE NOTES & DETAILS - 2
- 20 DRAINAGE DETAILS
- 21 STORMTECH DETAILS - 1
- 22 STORMTECH DETAILS - 2
- 23 STORMTECH DETAILS - 3
- 24 STORMTECH DETAILS - 4
- 25 STORMTECH DETAILS - 5
- 26 SITE NOTES & DETAILS
- 27 OVERALL UTILITY PLAN
- 28 AISLE 'A' WATER PLAN & PROFILE
- 29 AISLE 'B' WATER PLAN & PROFILE
- 30 AISLE 'C' WATER PLAN & PROFILE
- 31 AISLE 'D' WATER PLAN & PROFILE - 1
- 32 AISLE 'D' WATER PLAN & PROFILE - 2
- 33 AISLE 'E' WATER PLAN & PROFILE - 1
- 34 AISLE 'E' WATER PLAN & PROFILE - 2
- 35 AISLE 'F' WATER PLAN & PROFILE
- 36 WATER DETAILS
- 37 WATER NOTES & DETAILS
- 38 AISLE 'A' & 'E' SEWER PLAN & PROFILE
- 39 AISLE 'B' SEWER PLAN & PROFILE
- 40 SEWER NOTES & DETAILS

SITE DATA/PROJECT INFORMATION

-APPLICANT- PANATTONI DEVELOPMENT COMPANY  
1821 DOCK STREET, SUITE 100  
TACOMA, WA 98402

-REPRESENTATIVE- JEFF PANTIER  
HATTON GODAT PANTIER, INC.  
3910 MARTIN WAY E, SUITE B  
OLYMPIA, WA 98506  
360-943-1599  
JEFF@HATTONPANTIER.COM

-PROPERTY OWNER- PORT OF OLYMPIA  
606 COLUMBIA STREET NW, SUITE 300  
OLYMPIA, WA 98501  
(PORTION OF) 127101000000 & 127103101000

-ASSESSOR PARCEL NO.'S

-ZONING ARI & ARI2

-ARI ZONE 4 PEOPLE PER ACRE CALCULATION:

TOTAL ARI ZONE 4 LAND AREA =	7.7 ACRES
TOTAL ARI ZONE 4 BLDG. AREA =	59,255 S.F.
TOTAL ARI ZONE 4 OFFICE AREA =	5,974 S.F.
TOTAL ARI ZONE 4 WHSE AREA =	53,281 S.F.
OFFICE OCCUPANT LOAD FACTOR:	5.974/100 = 60 PEOPLE
WHSE OCCUPANT LOAD FACTOR:	53,281/500 = 107 PEOPLE
167 TOTAL PEOPLE/7.7 ACRES =	22 PEOPLE PER ACRE

-TOTAL AREA ±1,270,640 S.F. (29.17 Acres)

-BUILDING AREA 481,241 SF

-BUILDING HEIGHT 44'-0" (65' MAX. ALLOWED)

-BUILDING CONSTRUCTION TYPE TYPE IIB (FULLY SPRINKLERED W/ ESFR SPRINKLER SYSTEM)

-LOT COVERAGE ±1,086,270 SF IMPERVIOUS AREA/  
1,270,640 SF TOTAL SITE  
85% LOT COVERAGE PROVIDED  
1.48 ACRES (5% OF SITE AREA)

-OPEN SPACE REQUIRED

-PARKING 67 STALLS - 23,894 SF OFFICE @ 2.81/1,000  
229 STALLS - 467,347 SF WHSE DIST @ 1/2,000  
296 TOTAL AUTO STALLS REQUIRED

228 (9'x18') STANDARD AUTO STALLS PROVIDED  
40 (8'x18') COMPACT AUTO STALLS PROVIDED  
(10% REDUCTION PER TMC 18.50.075.A)

268 TOTAL AUTO STALLS PROVIDED  
14 EV (5% OF TOTAL AUTO STALLS PROVIDED)  
7 ADA VAN ACCESSIBLE STALLS PROVIDED  
206 TRAILER STALLS PROVIDED (12x55')  
8 COVERED SHORT-TERM BIKE STALLS PROVIDED (3% OF TOTAL AUTO STALLS)  
4 LONG TERM BIKE STALLS PROVIDED WITHIN BUILDING (4 REQUIRED)

-DOCK/DRIVE-IN DOORS 92 DOCK DOORS PROVIDED  
4 DRIVE-IN DOORS PROVIDED

-SEWER CITY OF TUMWATER

-WATER CITY OF TUMWATER

-ELECTRICITY PUGET SOUND ENERGY

-NATURAL GAS PUGET SOUND ENERGY

-COMMUNICATIONS COMCAST

-REFUSE LEMAY

**CONSTRUCTION STAKING:**  
THIS PROJECT MUST BE STAKED PRIOR TO CONSTRUCTION BY THE DESIGN ENGINEER OR A LICENSED LAND SURVEYOR.

**RECORD DOCUMENTS:**  
THE CONTRACTOR SHALL FURNISH HATTON GODAT PANTIER WITH A DRAWING(S) SHOWING THE CHANGES MADE TO THE DESIGN DRAWING(S).

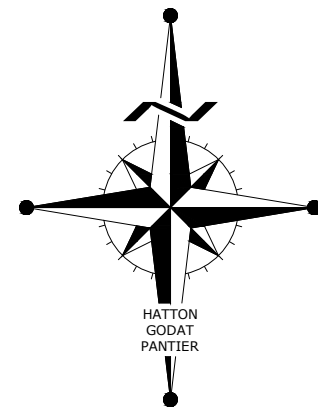
THIS DRAWING DOES NOT REPRESENT A RECORD DOCUMENT, UNLESS CERTIFIED BY HATTON GODAT PANTIER.

ANY ALTERATIONS TO THE DESIGN SHOWN HEREON MUST BE REVIEWED AND APPROVED BY HATTON GODAT PANTIER.

NOTE: THE CONTRACTOR SHALL BE FULLY RESPONSIBLE FOR THE LOCATION AND PROTECTION OF ALL EXISTING UTILITIES. THE CONTRACTOR SHALL VERIFY ALL UTILITY LOCATIONS PRIOR TO CONSTRUCTION BY CALLING THE UNDERGROUND LOCATE LINE AT 811 A MINIMUM OF 48 HOURS PRIOR TO ANY EXCAVATION.

NOTE:  
A PERMIT FROM THE DNR IS REQUIRED PRIOR TO DISTURBING ANY SURVEY MONUMENTS

PREPARED FOR  
PANATTONI DEVELOPMENT COMPANY  
1821 DOCK STREET, SUITE 100  
TACOMA, WA 98402



**VERTICAL DATUM**

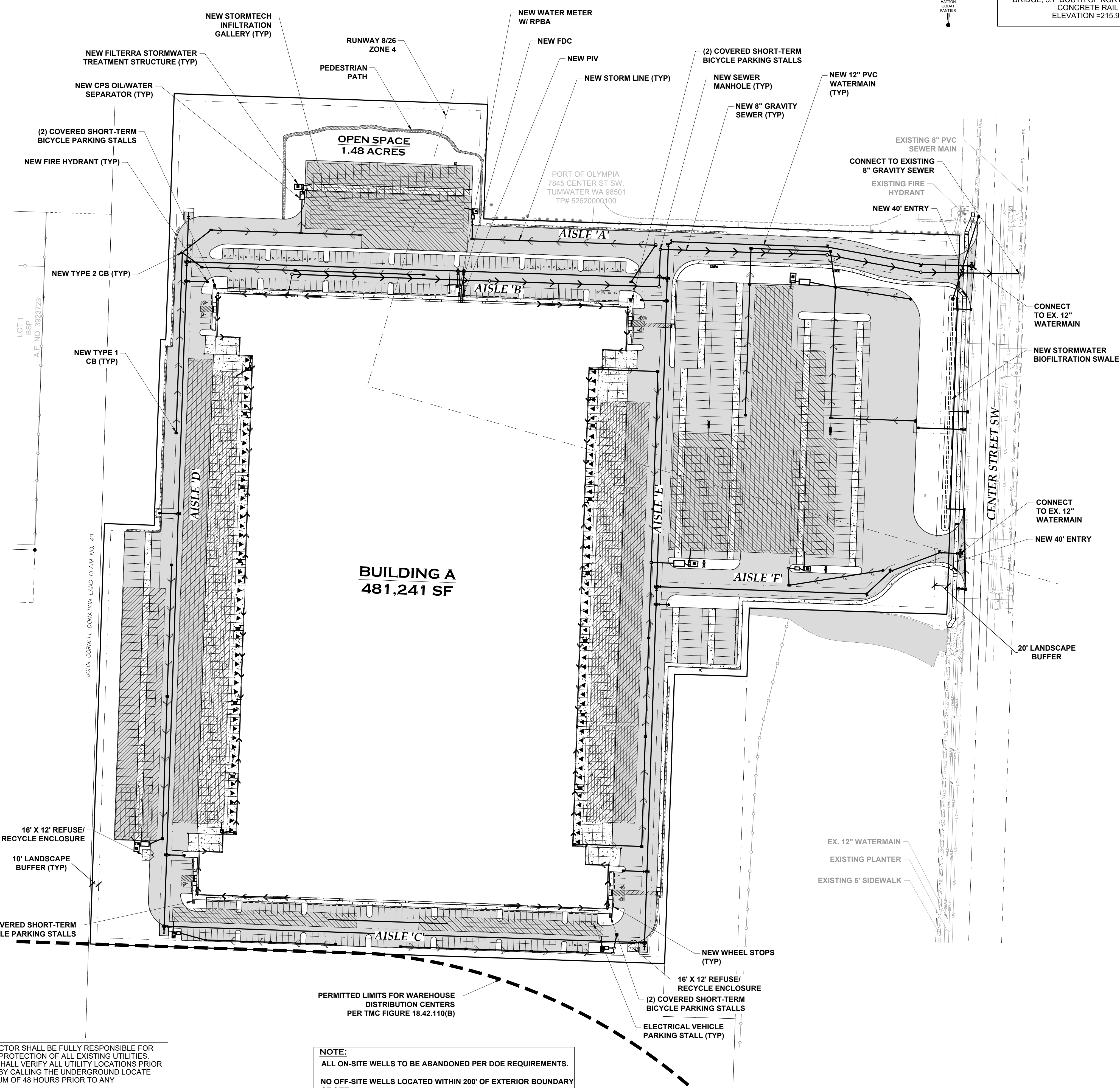
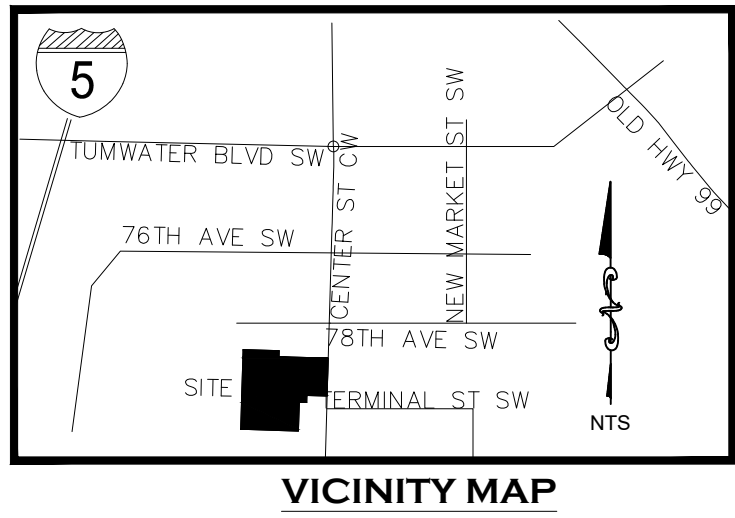
THURSTON COUNTY HIGH PRECISION SURVEY CONTROL NETWORK CONTROL POINT NO: Gp34005-15 WSDOT BRASS DISK IN CONC DECK SR-5 & TUMWATER BLVD BRDG OVERPASS, AS BUILT CENTER OF CONCRETE BRIDGE, 3.7' SOUTH OF NORTH EDGE OF CONCRETE RAIL ELEVATION =215.93

**MERIDIAN HORIZONTAL DATUM**

THURSTON COUNTY HIGH PRECISION SURVEY CONTROL NETWORK BASED ON T.C.H.P. CONTROL #280 & Gp34005-15 BEARING BETWEEN SAID POINTS EQUALS NORTH 07°59'59" EAST

80 40 0 80 160

SCALE: 1" = 80'



**LEGEND**

W	EX. WATER
W	EX. WATER METER
W	EX. WATER VALVE
W	EX. FIRE HYDRANT
SS	EX. SANITARY SEWER MANHOLE
SS	EX. SEWER
SD	EX. STORM DRAIN
SD	EX. LUMINAIRE
J	EX. JUNCTION BOX
T	EX. TELEPHONE PEDESTAL
UG	EX. GAS
OU	EX. OVERHEAD UTILITY
OP	EX. OVERHEAD POWER
UT	EX. UNDERGROUND UTILITIES
X	EX. FENCE
- - -	EXISTING EDGE OF PAVEMENT
100	EX. MAJOR CONTOUR
103	EX. MINOR CONTOUR
100	NEW MAJOR CONTOUR
103	NEW MINOR CONTOUR
- - -	NEW SWALE
[Symbol]	NEW CATCH BASIN TYPE 1
[Symbol]	NEW CATCH BASIN TYPE 1 W/ SOLID LID
[Symbol]	NEW CATCH BASIN TYPE 2
[Symbol]	NEW STORMWATER CLEANOUT
[Symbol]	NEW STORMWATER OVERFLOW STRUCTURE
[Symbol]	NEW STORM MAIN LINE
[Symbol]	NEW ROOF DRAIN LINE
[Symbol]	NEW SEWER CLEANOUT
[Symbol]	NEW SEWER MANHOLE
[Symbol]	NEW GRAVITY SEWERMAIN
[Symbol]	NEW SEWER LATERAL SERVICE LINE
[Symbol]	NEW WATER MAIN
[Symbol]	NEW WATER SERVICE
[Symbol]	NEW IRRIGATION METER
[Symbol]	NEW SINGLE WATER METER
[Symbol]	NEW HYDRANT
[Symbol]	NEW VALVE
[Symbol]	NEW PIV
[Symbol]	NEW FDC
[Symbol]	NEW SINGLE LIGHT POLE
[Symbol]	NEW DOUBLE LIGHT POLE
[Symbol]	NEW PAVEMENT
[Symbol]	NEW STORMTECH INFILTRATION GALLERY

DESIGNED BY: CPM

DRAWN BY: JEG

CHECKED BY: CPM

DATE: APRIL 2022

SCALE: 1" = 80'

V N/A

HATTON GODAT PANTIER AND ENGINEERS

3910 MARTIN WAY E, SUITE B

OLYMPIA, WA 98506

TEL: 360.943.1599 FAX: 360.357.6299

hattonpantier.com

**SOUTH SOUND COMMERCE CENTER**

**7847 CENTER STREET SW, TUMWATER, WA 98501**

**SITE PLAN**

REVISIONS:

DATE: 08/02/2022

CITY COMMENTS

AGENCY NO. 21-1580

SHEET: 1 OF 40

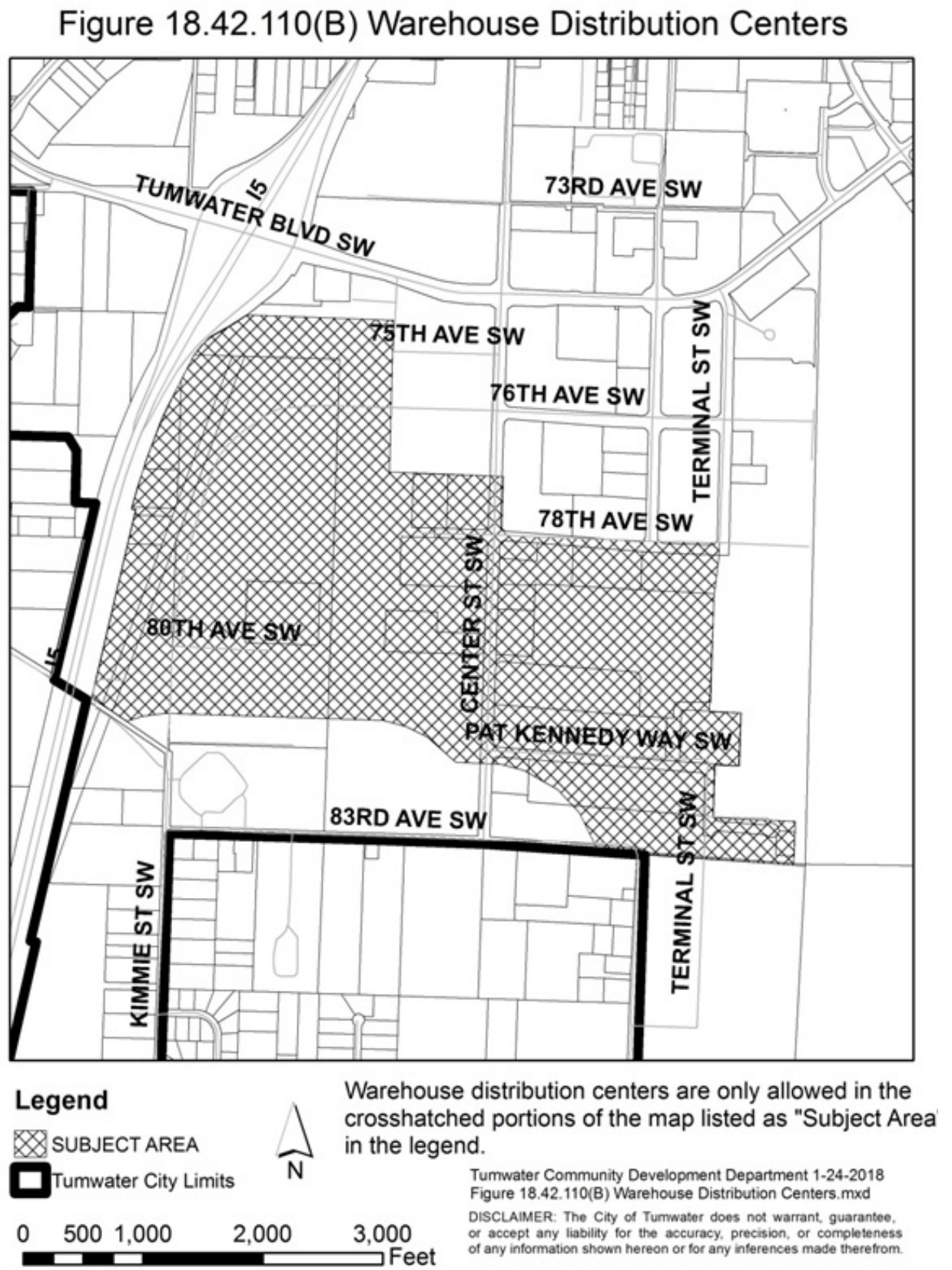
HIDGN21-00021-033/CDs

INDEX: 21-033 cov

JOB: 21-033



Figure 18.42.110(B) Warehouse distribution centers – Airport related industry zone district.







**REVISED**  
**MITIGATED DETERMINATION OF NON-SIGNIFICANCE**  
**TUM-22-0278**  
**South Sound Commerce Center**

Description of Proposal: Construction of a 477,880 sq. ft. warehouse distribution center on a 29.17 acre parcel.

Applicant: SSECC, C/O Brenda Fodge, 1821 Dock Street, Suite 100. Tacoma, WA 98402.

Representative: Hatton Godat Pantier, Chris Carlson, 3910 Martin Way E, Ste. B, Olympia, WA 98506.

Location of Proposal: Center Street SW, Tumwater, WA 98501, between Tumwater Blvd and 83rd Ave. Section 10, Township 17N, Range 2W. Parcel #12710100000

Lead agency: City of Tumwater, Community Development Department.

The lead agency for this proposal has determined that, as conditioned, does not have a probable significant adverse impact on the environment. An Environmental Impact Statement (EIS) is not required under RCW 43.21C.030(2)(c). This decision was made after review of a completed environmental checklist and other information on file with the lead-agency. This information is available to the public on request.

This MDNS assumes that the applicant will comply with all City ordinances and development standards governing the type of development proposed, including but not limited to, street standards, storm water standards, high groundwater hazard areas ordinance standards, water and sewer utility standards, critical areas ordinance standards, tree protection standards, zoning ordinance standards, land division ordinance standards, building and fire code standards, and level of service standards relating to traffic. These ordinances and standards provide mitigation for adverse environmental impacts of the proposed development.

Condition of Approval for mitigating environmental impacts:

A recent study of the I-5 interchange at Tumwater Boulevard indicates improvements are needed in order to meet established safety and level of service standards. This project shall either:

- Construct a roundabout at the northbound Interstate 5 On/Off Ramp and Tumwater Boulevard intersection; or
- Voluntarily pay a mitigation fee of \$4,219 per peak trip generated by this project under RCW 82.02.020 to be used as described herein: Tumwater

Boulevard/I-5 Interchange: The City's planned transportation improvements at the Tumwater Boulevard/I-5 interchange include converting the interchange to a roundabout diamond interchange by replacing the southbound on/off ramp signal and northbound stop controlled intersections with roundabouts.

The Transportation Impact Analysis submitted with the Transportation Concurrency application indicates that 104 new peak hour trips will be generated to the interchange from this development.

The Tumwater Municipal Code at Section 18.42.110 requires warehouse distribution centers regardless of size and nondistribution warehousing larger than two hundred thousand square feet in size to have a truck access route from a designated truck access point on the site to Interstate 5. The route from the access point on the site to Interstate 5 shall not be bordered on either side by properties with an urban residential zone district classification. This project is required to:

- This project will significantly increase ~~vehicular and truck~~ traffic on Center Street. The applicant shall provide a site specific American Association of State Highway and Transportation Officials (AASHTO) structural design using field verified "R" values along Center Street to determine the adequacy of the existing structural section using existing and post-development equivalent single axle loads (ESALs). If the evaluation confirms the existing road section is not sufficient for the vehicular loading, the proponent shall reconstruct the road section for the full roadway width from Tumwater Blvd. to the southern site property boundary. The reconstructed section shall be the lesser of the site specific AASHTO structural section, and that provided in the October 2020 amendment to Table One, Chapter 4 of the Tumwater Development Guide. ~~reconstruct Center Street structural section from the southern property line north to Tumwater Boulevard to withstand increased truck traffic. Lane shifts and widening will occur, therefore reconstruction is required across full road width.~~
- Tumwater Boulevard is a designated strategy corridor. Strategy corridors are road segments that cannot be built out further in urban core areas and such, the City can accept a lower LOS in lieu of prohibiting development due to concurrency. If there are reasonable improvements that can be made on strategy corridors to bring them to our standard LOS, they shall be completed. The City considers alternative solutions on strategy corridors aside from simply widening roadways or completely rebuilding intersections. The alternative option suggested as mitigation in the Traffic Impact Analysis is to adjust signal timing. ~~The timing adjustment requires reconfiguration and/or restriping at the intersection.~~ This shall be addressed in site development/grading plan permit submission, and may include restriping

and/or other physical intersection adjustments.

- In order to restrict truck traffic from traveling by properties with an urban residential zone district classification, a designated truck route shall be established to assure truck traffic is directed to and from Tumwater Boulevard to the site on Center street. Driveways shall be constructed to physically restrict heavy truck traffic from entering the site from the south or exiting the site to the south.

This REVISED MDNS is issued under WAC 197-11-340 (2)(F) There is no additional comment period. 50; the lead agency will not act on this proposal for 14 days from the date below. Comments must be submitted no later than December 12, 2022, by 5:00 p.m.

Date: ~~November 28~~ December 19, 2022

Responsible Official:

  
Mike Matlock, Community Development Director

Contact person: Tami Merriman, Permit Manager  
555 Israel Road SW  
Tumwater, WA 98501  
[tmerriman@ci.tumwater.wa.us](mailto:tmerriman@ci.tumwater.wa.us)

~~Appeals of this MDNS must be made to the City of Tumwater Community Development Department, no later than December 19, 2022, by 5:00 p.m. All appeals shall be in writing, be signed by the appellant, be accompanied by a filing fee of \$175, and set forth the specific basis for such appeal, error alleged and relief requested.~~

## TENANT PROPORTIONATE AREAS OF CENTER STREET IMPROVEMENTS



## EXHIBIT J

### LEASE TERM CERTIFICATE OF COMMENCEMENT

This Certificate of Commencement ("Certificate") is entered into effective as of the date of the last signature below, by and between the Port of Olympia, a Washington municipal corporation ("Landlord") and SSECC PDC GL1, LLC, a Delaware limited liability company ("Tenant").

Pursuant to that certain Ground Lease dated April 28, 2025 (the "Lease"), between Landlord and Tenant, concerning certain real property as described in the Lease, located in Tumwater, Washington (the "Premises").

Pursuant to Section 1 of the Lease, the parties hereby confirm and agree as follows:

1. Lease Commencement Date. The Lease Commencement Date is hereby confirmed to be \_\_\_\_\_, **2025**.
2. This Certificate is executed solely for the purpose of confirming the Lease Commencement Date under the Lease and shall not amend, modify, or otherwise affect the terms of the Lease except as expressly stated herein. In the event of any conflict between this Certificate and the Lease, the Lease shall control.

IN WITNESS WHEREOF, the parties have executed this Certificate of Commencement as of the dates written below.

**LANDLORD:**

**PORT OF OLYMPIA**

A Washington municipal corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**TENANT:**

**SSECC PDC GL1, LLC,**

a Delaware limited liability company

By: PDC Seattle LPIV BB/TH, LLC  
a Delaware limited liability company  
Its Manager

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Local Partner



## Commission Meeting Minutes Monday, March 10, 2025

### Call to Order – Special Meeting

Commission President Jasmine Vasavada called a special meeting of the Port of Olympia Board of Commissioners to order and open to the public at 4:30 p.m., Monday, March 10, 2025, at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

### Present

Commissioners: Jasmine Vasavada, President; Maggie Sanders, Vice President; Sarah Tonge, Secretary; and Bob Iyall.

Attended Virtually: Commissioner Amy Harding.

### Executive Session

At 4:30 p.m., Commissioner Jasmine Vasavada, Port of Olympia Commission President, announced that the Commission would recess into a closed Executive Session until 5:15 p.m. to (1) consider the selection of a site or the acquisition of real estate by lease or purchase (RCW 42.30.110(1)(b)), and (2) to discuss potential litigation with legal counsel representing the agency RCW 42.30.110(1)(i).

At 5:30 p.m., Commissioner Vasavada announced that the Commission was extending the Executive Session for a period of 30 minutes, until 6:00 p.m.

### Call to Order – Regular Meeting

Commission President Jasmine Vasavada called a regular meeting of the Port of Olympia Board of Commissioners to order and open to the public at 6:02 p.m., Monday, March 10, 2025, at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

### Present

Commissioners: Jasmine Vasavada, President; Maggie Sanders, Vice President; Sarah Tonge, Secretary; and Bob Iyall.

Attended Virtually: Commissioner Amy Harding.

Staff: Alex Smith, Executive Director, Chris Pierce-Wright, General Counsel; Warren Hendrickson, Director of Operations; Mike Reid, Director of Community and Economic Development; Shawn Gilbertson, Director of Environmental Programs and Planning; Chris Paolini, Airport Senior Manager; Emily Girton, Marketing and Outreach Coordinator; and Missy Goodell, Executive and Commission Coordinator.

Guest: Joel Hansen, Chair, Port of Olympia Citizens Advisory Committee.

Commissioner Vasavada returned the regular meeting to order at 6:02 p.m. and stated that the Commission was in Executive Session until 5:58 p.m. No decisions were made, and no action was taken.

### **Approval of Agenda**

Commissioner Iyall moved to approve the agenda. Commissioner Montano seconded the motion. Motion passed unanimously.

### **Executive Director Report**

Alex Smith, Executive Director, reported on recent port activities including the addition of three new Port employees; attending a recent Planning Retreat with the Port Commission and Port Leadership to align, plan and set clear goals and initiatives for 2025; the Port hosting a Public Observation Day at the Port Plaza Pier offering the opportunity to view the sediment sampling process in West Bay and learn more about the Budd Inlet Cleanup project; hosting Olympia Mayor Donte Payne for a marine terminal tour and ceremony to welcome the first-time vessel arrival of the Star Minerva. At the March Thurston County Chamber Forum, the Port of Olympia will moderate the session titled "How will Real Estate Shape Thurston County's Future."

In addition, she reminded everyone of the ways they can communicate with the Commission. She stated there is a great deal of information available on the Port's website and encouraged everyone to check it out.

### **Public Comment**

Eight individuals provided public comments regarding delaying the approval of the Option to Lease Agreement 7<sup>th</sup> Amendment – Panattoni/New Market Industrial Campus.

### **Consent Calendar**

Commissioner Montano moved to approve the consent agenda as presented; Commissioner Sanders seconded the motion. Motion passed unanimously.

### **Pending Issues or Business**

Briefing: Port of Olympia Citizens Advisory Committee (POCAC) Workplan. Joel Hansen, POCAC Chair, presented the POCAC's proposed Work Plan for 2025. The proposed 2025 Work Plan includes 1) incorporating the three subcommittee work plans by reference; 2) working with staff to recruit additional members to the POCAC with an emphasis on increasing the diversity of the POCAC membership and 3) conducting public engagement efforts on timely topics as directed by the Commission. The Commission was asked to provide clarity and insight on their desired areas of focus, role, functions and authorities.

### **Action Calendar**

Option to Lease Agreement 7<sup>th</sup> Amendment – Panattoni/New Market Industrial Campus. Warren Hendrickson, Director of Operations, presented information on the 7<sup>th</sup> Amendment to the Option to Lease with Panattoni/New Market Industrial Campus. The 7<sup>th</sup> Amendment would achieve Commission objectives by establishing a criteria for non-HCP development, and, establishing criteria for triggering revenue generation.



*Motion: Commissioner Iyall moved to authorize the Executive Director to execute the Option to Ground Lease 7<sup>th</sup> Amendment as presented. Commissioner Montano seconded the motion. Commissioners Iyall, Sanders and Montano voted in the affirmative; Commissioners Harding and Vasavada abstained from voting; the motion passed.*

### **Action/Other Calendar**

None.

### **Advisory Calendar**

Airport Capital Project Contract Award: Runway 17-35 Pavement Rehabilitation and Electrical Improvements. Chris Paolini, Airport Senior Manager, provided information on an upcoming request to approve an Airport construction contract that will be brought before the Commission on March 24 as an Action item. This project would rehabilitate the primary runway to protect the Port asset; improve safety, operational reliability and reduces Port liability; and improves airport energy efficiency by reducing electricity usage. This project would not increase the length of the runway, nor does it increase pavement strength to support larger aircraft.

### **Commissioner Reports/Discussion**

Commissioner Sanders shared that she attended the Public Observation Day to view the sediment sampling on West Bay.

Commissioner Harding provided her view regarding the public comments received regarding the Port of Olympia's industrial and airport lands and Tumwater. The distinction between advocacy (articulation of a personal world view) and governance (something that demands a broader perspective) was addressed. Balancing competing interests was deemed critical. The importance of industrial use areas was shared.

Commissioner Tonge announced that she will be attending the Chamber Forum this Wednesday, which is open to the public and Chamber members.

Commissioner Iyall stated that he recently attended the Port's Commissioner and Port Leadership Retreat. He also recently conducted a Town Hall at Nisqually Middle School that was well-attended.

Commissioner Vasavada recently represented the Port of Olympia at a monthly Board meeting for the Thurston County Economic Development Commission; she was elected as a new member. She thanked Joel Hansen, POCAC Chair, for inviting her to join his Kiwanis presentation today where they heard from the manager of the Chehalis airport and from several members of the community with their concerns about the airport master plan. Air mobilities of the future was also discussed.

### **Other Business**

None.



### Meeting Announcements

A list of upcoming events was displayed on the screen for viewers to see upcoming Commission and POCAC meetings. Executive Director Smith stated the next Commission meeting will be held on Monday, March 24, 2025, at 5:30 p.m.

### Adjournment

There being no further business to come before the Port of Olympia Board of Commissioners, the Monday, March 10, 2025, regular meeting was adjourned at 7:13 p.m. by Commissioner Vasavada.

PORT OF OLYMPIA COMMISSION

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Jasmine Vasavada, President

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Maggie Sanders, Vice President

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Sarah Montano, Secretary



## **Commission Meeting Minutes Monday, March 24, 2025**

### **Call to Order – Special Meeting**

Commission President Jasmine Vasavada called a special meeting of the Port of Olympia Board of Commissioners to order and open to the public at 4:30 p.m., Monday, March 24, 2025, at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

### **Present**

Commissioners: Jasmine Vasavada, President; Maggie Sanders, Vice President; Amy Harding, and Bob lyall.

Attended Virtually: Commissioner Sarah Montano, Secretary.

### **Executive Session**

At 4:30 p.m., Commissioner Jasmine Vasavada, Port of Olympia Commission President, announced that the Commission would recess into a closed Executive Session until 5:15 p.m. to discuss potential litigation with legal counsel representing the agency RCW 42.30.110(1)(i).

### **Call to Order – Regular Meeting**

Commission President Jasmine Vasavada called a regular meeting of the Port of Olympia Board of Commissioners to order and open to the public at 5:30 p.m., Monday, March 24, 2025, at the Percival Plaza at 626 Columbia Street NW, Suite 1B, Olympics Room, in Olympia, Washington 98501.

### **Present**

Commissioners: Jasmine Vasavada, President; Maggie Sanders, Vice President; Amy Harding and Bob lyall.

Attended Virtually: Commissioner Sarah Montano, Secretary.

Staff: Alex Smith, Executive Director, Chris Wright-Pierce, General Counsel; Warren Hendrickson, Director of Operations; Chris Paolini, Airport Senior Manager; Mike Reid, Director of Community and Economic Development; James Sommer, Public Works Manager; Damien Egan, Harbor Senior Manager; Emily Girton, Marketing and Outreach Coordinator; and Missy Goodell, Executive and Commission Coordinator.

Guests: Anthony Hemstad, Don Krug and Debbie Pattin of the Port of Olympia Citizens Advisory Committee.

Commissioner Vasavada returned the regular meeting to order at 6:00 p.m. and stated that the Commission was in Executive Session until 5:15 p.m. No decisions were made, and no action was taken.

## **Approval of Agenda**

Commissioner Harding moved to approve the agenda. Commissioner Sanders seconded the motion. Motion passed unanimously.

## **Executive Director Report**

Alex Smith, Executive Director, reported on recent Port activities. She introduced two new team members that recently joined the Port, Brent Barnes, Director of Enterprise Services, and Kim Cayenne, Marina Office Coordinator. She shared that the Port participated in Thurston County Chamber's March Forum, where the Port facilitated the conversation "How Will Real Estate Shape Thurston County's Future?" A ceremony was held with the Black Hills Audubon Society dedicating its new interpretive sign at Billy Frank Jr. Park; and some Port staff toured Lacey MakerSpace to gain a deeper understanding of their operations. The Port will participate in this year's Women Build with Habitat for Humanity South Puget Sound on May 14. Commissioners and Port staff had the opportunity to support the Thurston County Chamber Foundation at their annual 'A Night on the Town' event.

In addition, Alex reminded everyone of the ways they can communicate with the Commission. She stated there is a great deal of information available on the Port's website and encouraged everyone to check it out.

## **Public Comment**

Sixteen individuals provided public comments regarding project labor agreements, port leased land, and the Airport Master Plan.

## **Consent Calendar**

Commissioner Harding moved to approve the consent agenda as presented; Commissioner Sanders seconded the motion. Motion passed unanimously.

## **Pending Issues or Business**

Port of Olympia Citizens Advisory Committee (POCAC) Workplan. Anthony Hemstad, Don Krug and Debbie Pattin of the Port of Olympia Citizens Advisory Committee presented the POCAC's 2025 Workplan, the Workplan of the POCAC's Economic Development Subcommittee and POCAC vacancies. The Commission was asked for their direction. The desire to have members from all five districts was noted and a more diverse group was discussed.

Anthony Hemstad updated the Commission on the Economic Development Subcommittee's work to date.

Don Krug asked the Commission for their support to move forward with soliciting more POCAC members. Commissioner Harding expressed support in opening up the application process, ensuring that the process and dates are transparent and clearly stated on the Port's website. Commissioner Harding sees the Commission as setting the strategic direction, the staff is implementing the strategic direction, and the POCAC with a role of multiplying those efforts.

## Action Calendar

None.

## Action/Other Calendar

None.

## Advisory Calendar

None.

## Commissioner Reports/Discussion

Commissioner Montano recently attended the recent Thurston County Chamber event where Panattoni was highlighted. Commissioner Montano learned more about Panattoni and what their values are. She believes that this will be a good development for Thurston County and good for employees.

Commissioner Sanders attended a STEDI meeting at the Southwest Washington Agriculture and Business Innovation Park. The Port supported the feasibility study that resulted in this park. They also opened an organic business with a ribbon cutting ceremony. They also have an awesome event center. They will serve as a business resource and innovation hub, and an agri-tour destination.

Commissioner Harding shared a statement as she has observed her fellow commissioners wrestling with how to best represent the community and the environment. She indicated that she was thankful that as the Port of Olympia's staff fully forms, they are really digging into the broad community work with Vision 2050.

*"I want to address the public comment we've been receiving regarding our industrial and airport lands in Tumwater. Our community thrives on the passion of its advocates. And I really do deeply value that – how cool is it that we have the carpenters' union and people opposing the airport that are here today.*

*My time on the port commission has taught me the crucial distinction between advocacy and governance. Advocacy, in its essence, is the articulation of a personal world view, a clear and often binary stance. "Meat is harmful." "Embrace veganism." Or "Meat is essential, follow the Palio path." "No new homes, they will clog our roads." "We need affordable housing, build denser." "I love planes." "I hate planes." These are powerful expressions of individual conviction. And who has the privilege of advocacy is not always representative of our whole diverse community. Just those with the time and resources to show up. That goes back to the Vision 2050 process that we undertook that took thousands of hours and different people participating, that I am really thankful for. As we view our processes through the lens of equity, I really think this matters.*

*Governance, on the other hand, demands a broader perspective. It requires us to listen intently to a chorus of diverse voices, each advocating for their own vision and then to forge policies that balance these competing interests. Also including the voices of the unheard. It's about finding common ground amidst a landscape of differing priorities. And*

*then there are the unavoidable necessities, the projects that inspire little enthusiasm. No one clamors for an electrical substation in their backyard, yet we depend on a robust grid to power our present and future energy needs.*

*Advocacy simplifies, offering yes or no solutions. Governance, when done well, is a complex tapestry weaving together the threads of advocacy to meet both practical and aspirational needs of our community. In Tumwater the city's Comprehensive Plan serves as its guiding framework for how land in Tumwater should be used. It's created with ongoing public input. As the land use authority of the port's properties within Tumwater, Tumwater has designated most of our lands for airport related industry or industrial use. This designation reflects a deliberate choice. These lands, when looking at the whole community of Tumwater, are the optimal location for industrial infrastructure. Industrial lands like substations may not have an abundance of folks clamoring to their defense either.*

*The recent campaign by the Port of Seattle to safeguard its industrial lands powerfully illustrates this point. Former Port of Seattle Chair Ryan Calkins aptly compared industrial lands to a home's laundry room. You don't showcase the laundry room to guests when they come to your dinner party. You lead them to the kitchen, the dining room, the bedrooms, the parks, the breweries, the coffee shops that define our community's charm. These are the visible, celebrated spaces. But as Calkins emphasized, the laundry room, though unseen, is essential. Without it, the entire house and all its appealing features cease to function. Similarly, our industrial lands and airport lands, though perhaps less glamorous, are the bedrock upon which our community's vitality and functionality rest. I thank the Thurston County residents who have advocated on behalf of and against the activation of our industrial lands as we've seen tonight with the Carpenters' Union and those opposed to the Airport master plan. I'm thankful for those who are working at their jobs, entry level or those requiring higher levels of education alike, or caring for children and do not have the opportunity for advocacy. I'm also grateful for the opportunity to do the challenging work of governance alongside the support of the Port of Olympia Commission. We represent those working in warehouses, as those as well as those purchasing goods distributed by them. Those who use the airport directly and those who experience the benefits more indirectly through medical life lights and wildland firefighting efforts. Governing for all can be lonely because you can feel a little isolated touting the benefits of the laundry room. Can't we all just have a job where you get to celebrate the kitchen? I suppose not. But I am grateful for colleagues who lead with courage and keep our whole Thurston County house working."*

Commissioner Iyall reported on his committee assigned meetings. He attended a Yelm Chamber of Commerce meeting, and the Transportation Policy board, and his appointment to the Solid Waste Advisory Committee was just approved.

Commissioner Vasavada reported that the Commission recently toured the former Dancing Goats building. She sees her role at the Commission is to steer economic growth and economic development, but in an ecologically friendly way.

### **Other Business**

None.

### **Meeting Announcements**

A list of upcoming events was displayed on the screen for viewers to see upcoming Commission and POCAC meetings. Executive Director Smith stated the next Commission meeting will be held on Monday, April 14, 2025, at 5:30 p.m.

### **Adjournment**

There being no further business to come before the Port of Olympia Board of Commissioners, the Monday, March 24, 2025, regular meeting was adjourned at 6:41 p.m. by Commissioner Vasavada.

PORT OF OLYMPIA COMMISSION

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Jasmine Vasavada, President

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Maggie Sanders, Vice President

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Sarah Montano, Secretary

## COVER MEMO

**Briefing Date/Time:** April 28, 2025

**Staff Contact/Title:** Jon Wolf, 360-528-8073 [jonathonw@portolympia.com](mailto:jonathonw@portolympia.com)

**Subject:** Budd Inlet Update and East Bay Sediment Data

**Purpose:** ☒ Information Only ☐ Decision Needed

### **Overview:**

Briefing with no action required.

### **Background:**

Results from East Bay (Sub-area 1) sediment samples have been returned. Staff will present maps with levels of contamination for the Chemicals of Concern along with our preliminary understanding of the data.

### **Documents Attached:**

PowerPoint Presentation.

### **Summary and Financial Impact:**

Review of sample data presents no financial impact.

### **Options with Pros and Cons:**

These are only the data from the sediment sampling. Options for the cleanup design will be presented later, along with pros and cons.

### **Environmental Considerations:**

The data is presented for informational purposes, with no recommendations for action at this point. The future use of the data for informing the cleanup action plan (Engineering Design Report) will include extensive environmental considerations.

### **Staff Recommendation:**

None at this point because this is only a briefing on existing data.

**Commission Recommendation:**

None at this time.

**Next Steps/Timeframe:**

The next step will likely be to discuss recommendations for the design of the cleanup. A draft is expected later in 2025 with a final Engineering Design Report expected in 2026.

**Conclusion:**

This data will be more fully evaluated during the source control analysis and will be included in the Engineering Design Report. This presentation is intended to provide the Commission with an understanding of what has been discovered thus far.






**PORT of OLYMPIA**  
Serving All of Thurston County

## East Bay Sampling Update

Jonathon Wolf  
Environmental Manager  
April 28, 2025




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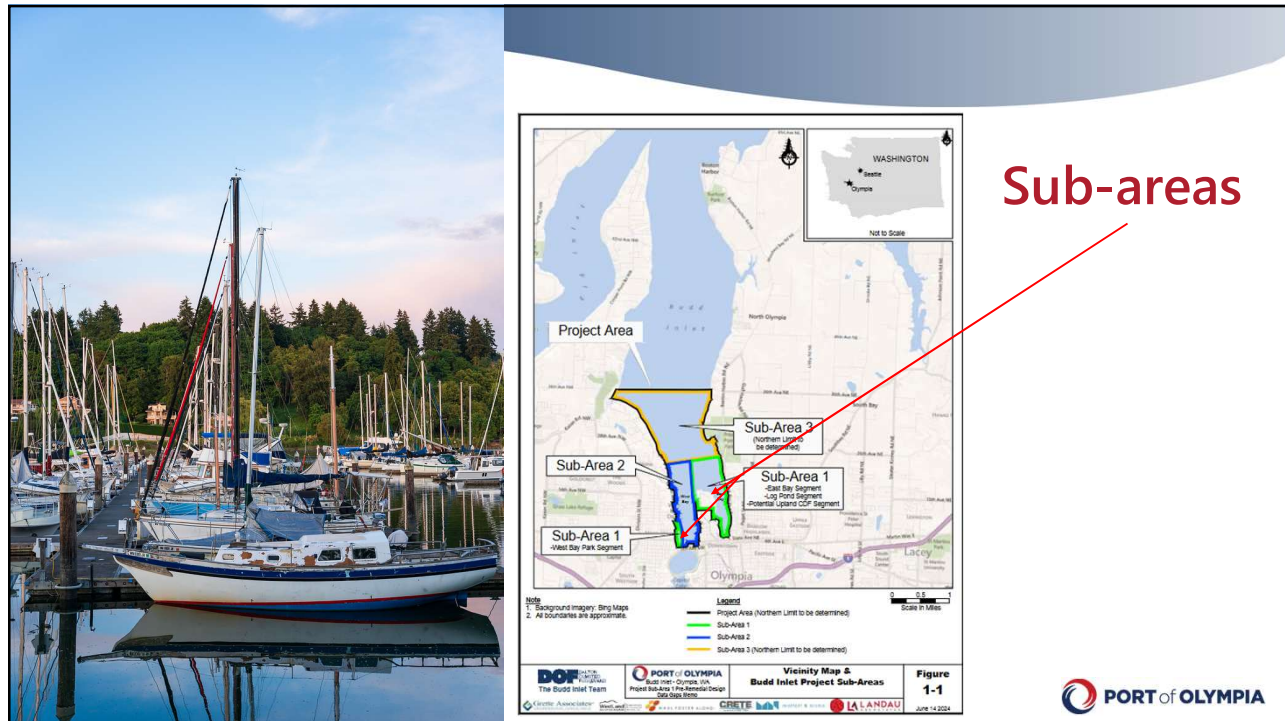
## Today's Presentation

*Briefing Only – No Action Required*

- Agreed Order Progress and Schedule
- Budget
- Preliminary East Bay Sample Results



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## Agreed Order Progress and Schedule

2025
<b>Sub Area 1 (East Bay)</b>
• Final Sediment Chemistry Data Report
• Source Control Work Plan & Field Investigation
• Shoreline & Overwater Structures WP, Field Work
• Swantown Marina concept development
• Sediment management approach development
• Draft Engineering Design Report (EDR)
<b>Sub Area 2 (West Bay)</b>
• Investigation Work Plan ( <b>complete</b> )
• Permitting ( <b>complete</b> )
• Sediment Sampling & Lab Analysis ( <b>ongoing</b> )
• Sediment Chemistry Data Report ( <b>start</b> )
<b>Sub Area 3 (North of Sub Areas 1 and 2)</b>
• Sediment Data Gaps Memo
• Sediment Investigation Work Plan

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## Agreed Order Schedule

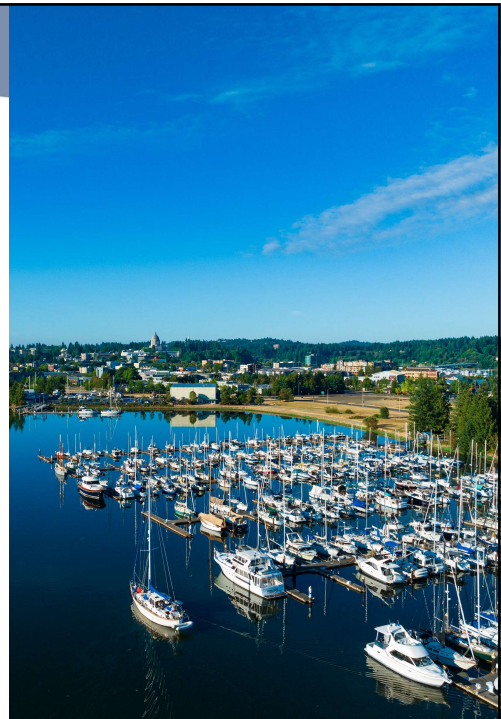
2026	2027
<b>Sub Area 1</b>	<b>Sub Area 1</b>
• Upland Data Report	• 100% Plan Specs
• Source Control Data Report	• Construction Permitting
• Shoreline & Structures Data Report	• Contracting
• Final Engineering Design Report	<b>Sub Area 2</b>
• 60% Plans & Specs	• Upland Data Report
<b>Sub Area 2</b>	• Source Control Data Report
• Draft Sediment Chemistry Data Report	• Shoreline & Structures Data Report
• Final Sediment Chemistry Data Report	• Final Engineering Design Report
• Draft Engineering Design Report	• 60% Plans & Specs
<b>Sub Area 3</b>	• Monitoring Plan and Contingency Plan
• Permitting	<b>Sub Area 3</b>
• Sediment Sampling & Lab Analysis	• Final Sediment Chemistry Data Report
• Draft Sediment Chemistry Data Report	• Draft Engineering Design Report



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## Budget

	2025	
\$6,000,000	RAG	\$3,000,000
	Commerce Appropriation	\$1,400,000
		\$4,400,000
2025	<b>Port MATCH</b>	<b>\$1,600,000</b>
	2026	
\$4,500,000	RAG	\$2,250,000
2026	<b>Port MATCH</b>	<b>\$2,250,000</b>
	2027	
\$2,500,000	RAG	\$1,250,000
2027	<b>Port MATCH</b>	<b>\$1,250,000</b>



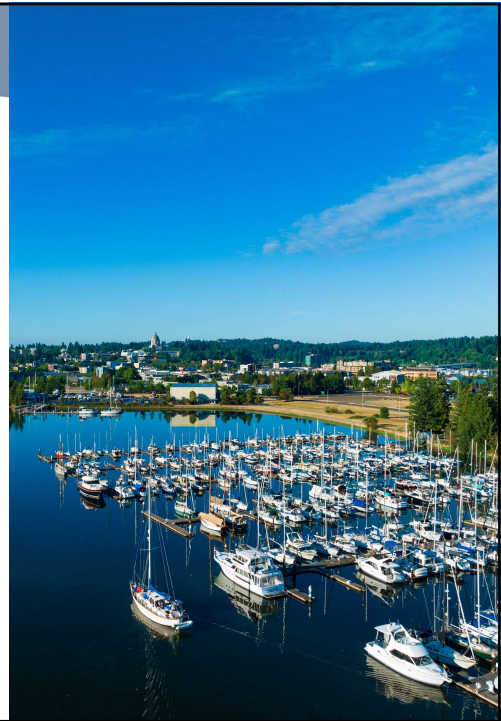
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## Preliminary Sampling Results

- Early review shows reduced surface contamination.
- Depth contamination is similar to or lower than previous samples.
- No unexpected "hot spots."
- Wood debris only found at 2 or 3 locations.

Note: "High" means above screening or background levels. The current "high" hits are relatively low when compared to previous samples and other MTCA sites. On the maps, green and blue are below screening levels and yellow, orange, and red are above.

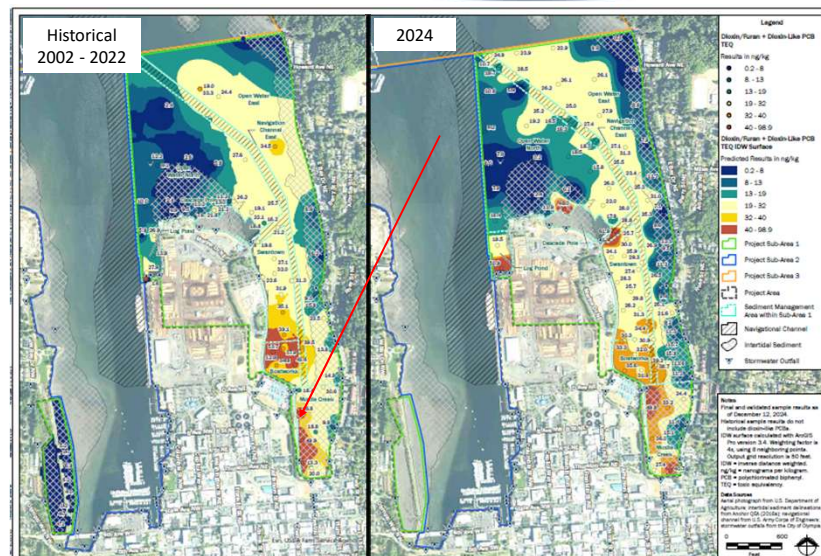


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## Dioxins/Furans Surface Sediment 0-10 CM Comparison

- Screening level (level at which action MAY need to be taken) 19 ng/kg (parts per trillion: one drop of water out of 20 Olympic-sized pools OR one second in 31,800 years OR one inch in 16 million miles).



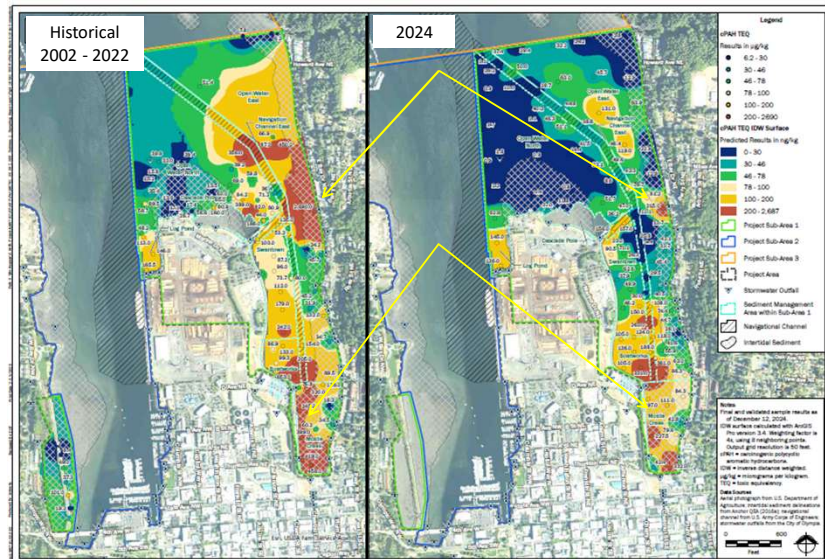
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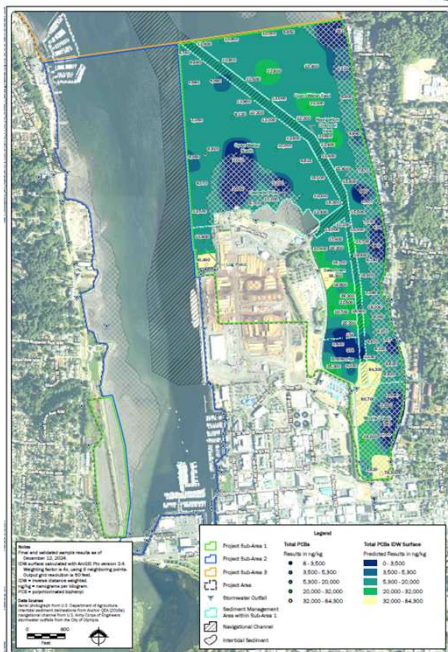
## cPAH (carcinogenic polycyclic aromatic hydrocarbons) Surface Sediment 0-10 CM Comparison

- Screening level: 78 ng/kg (parts per trillion).



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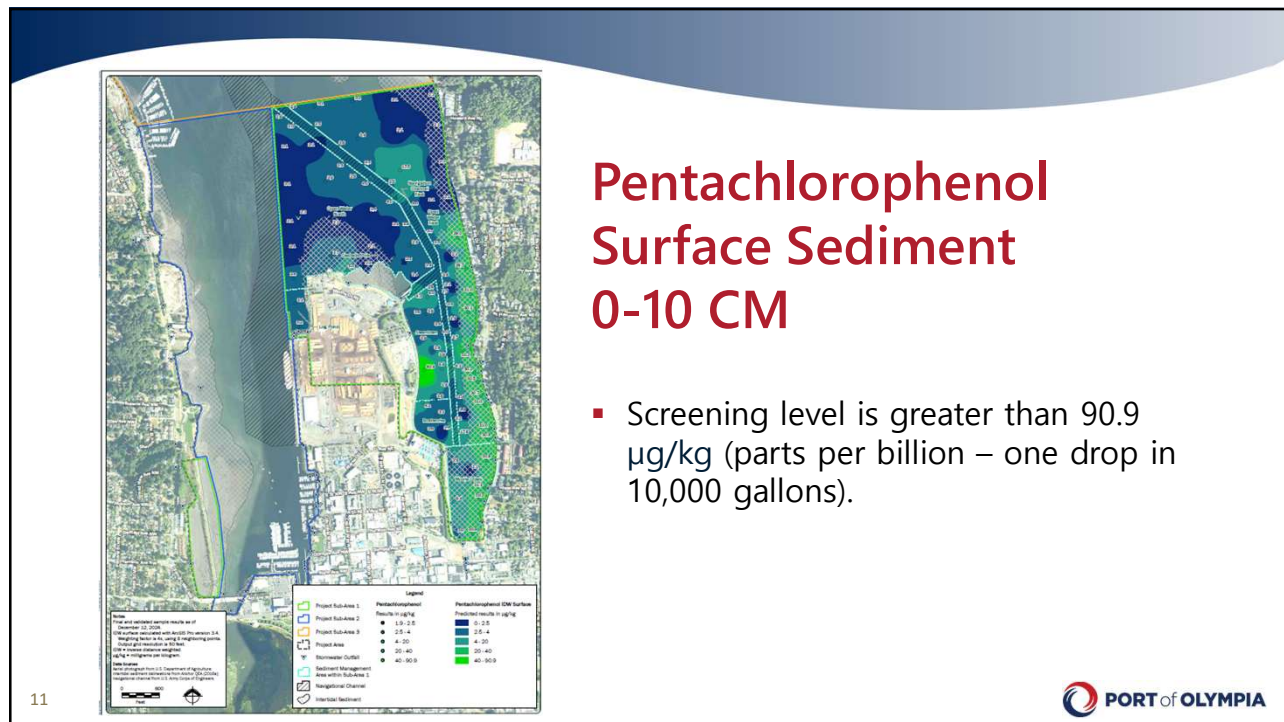


## PCB (Polychlorinated biphenyls) Surface Sediment 0-10 CM

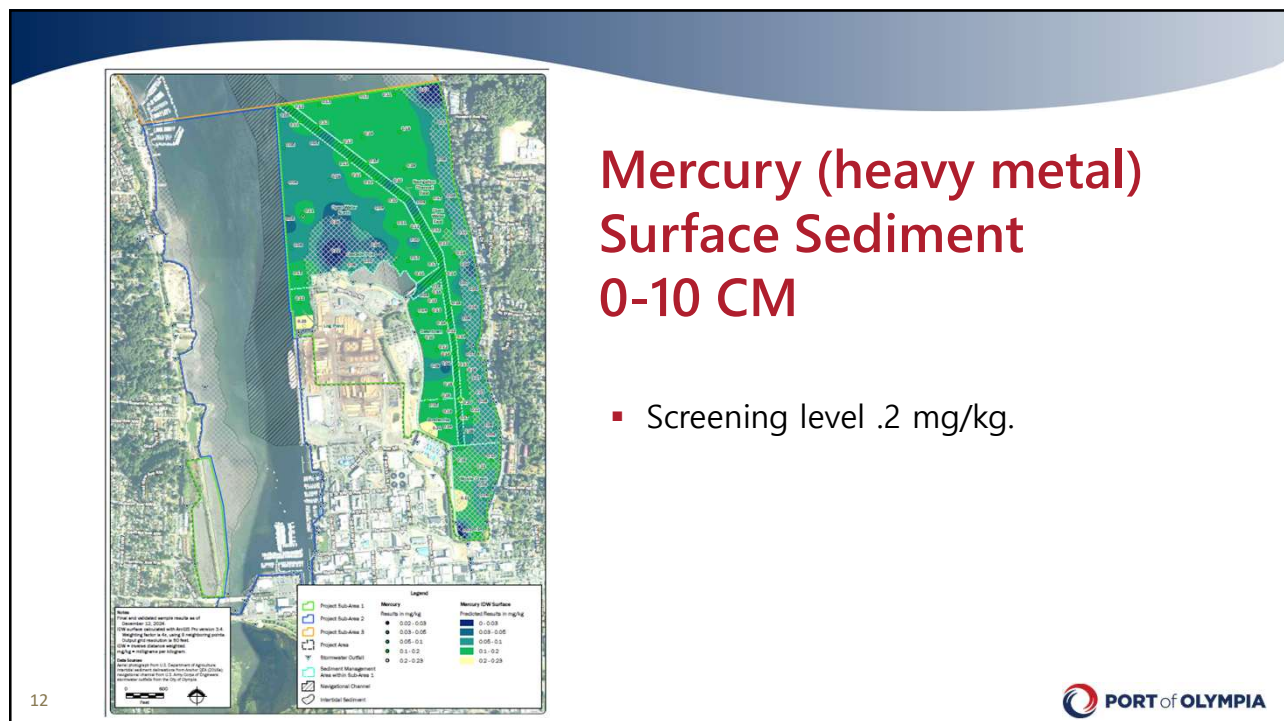
- Screening level 32,000 ng/kg (parts per trillion).

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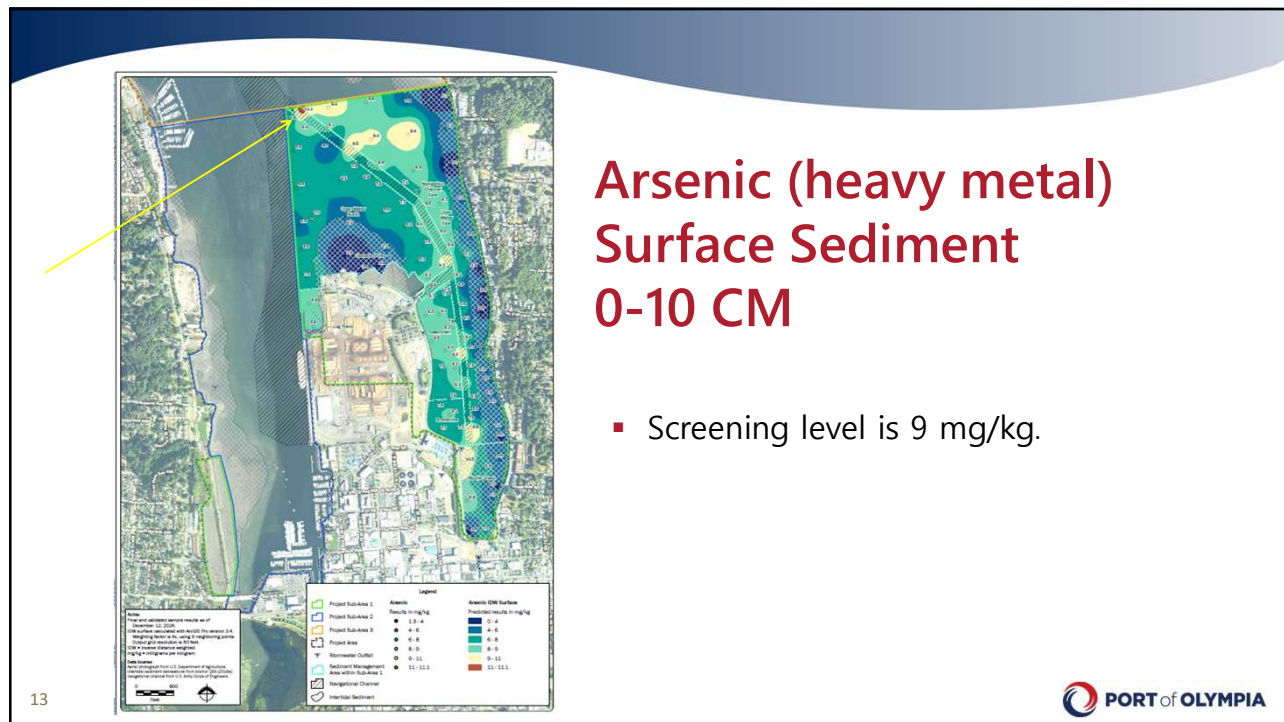


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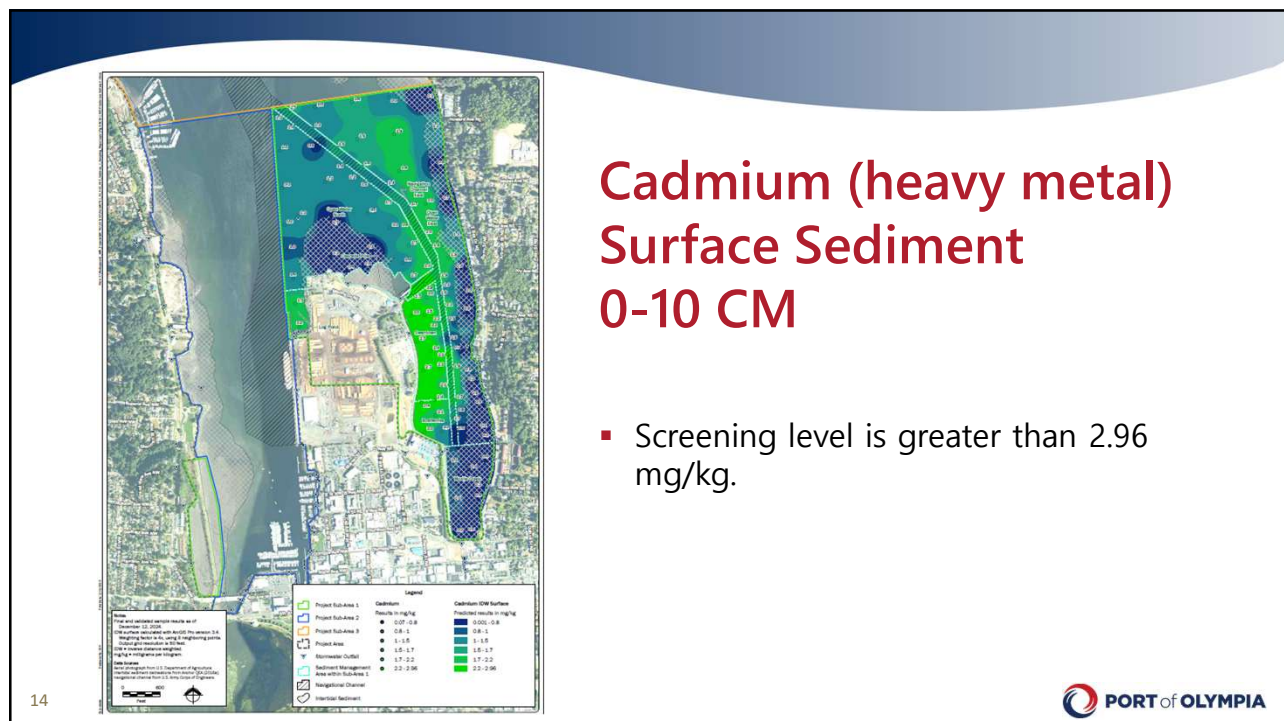


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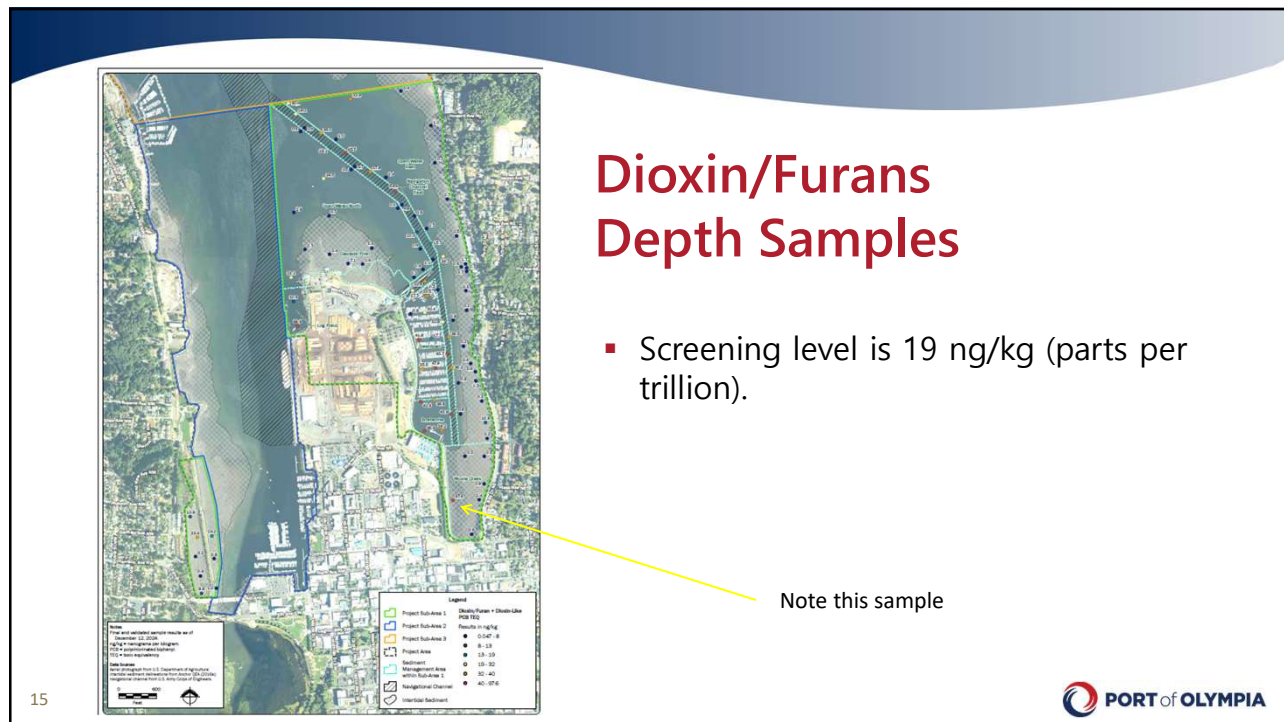




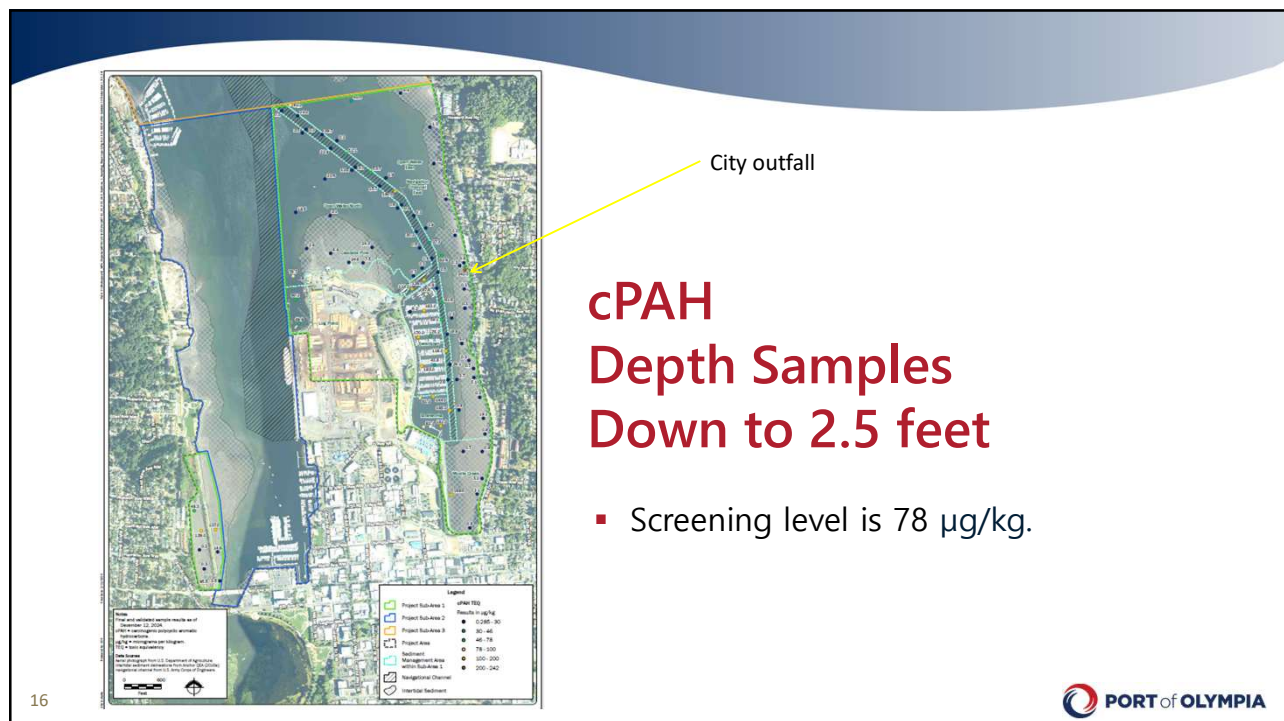
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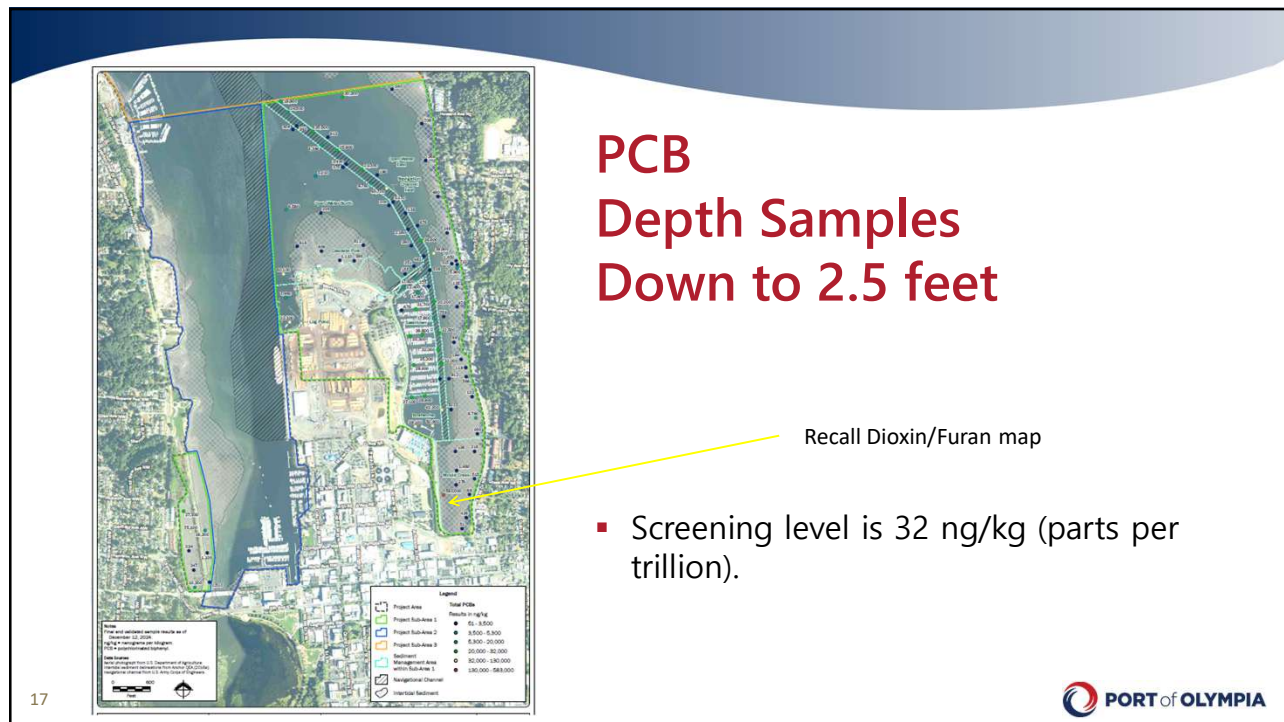


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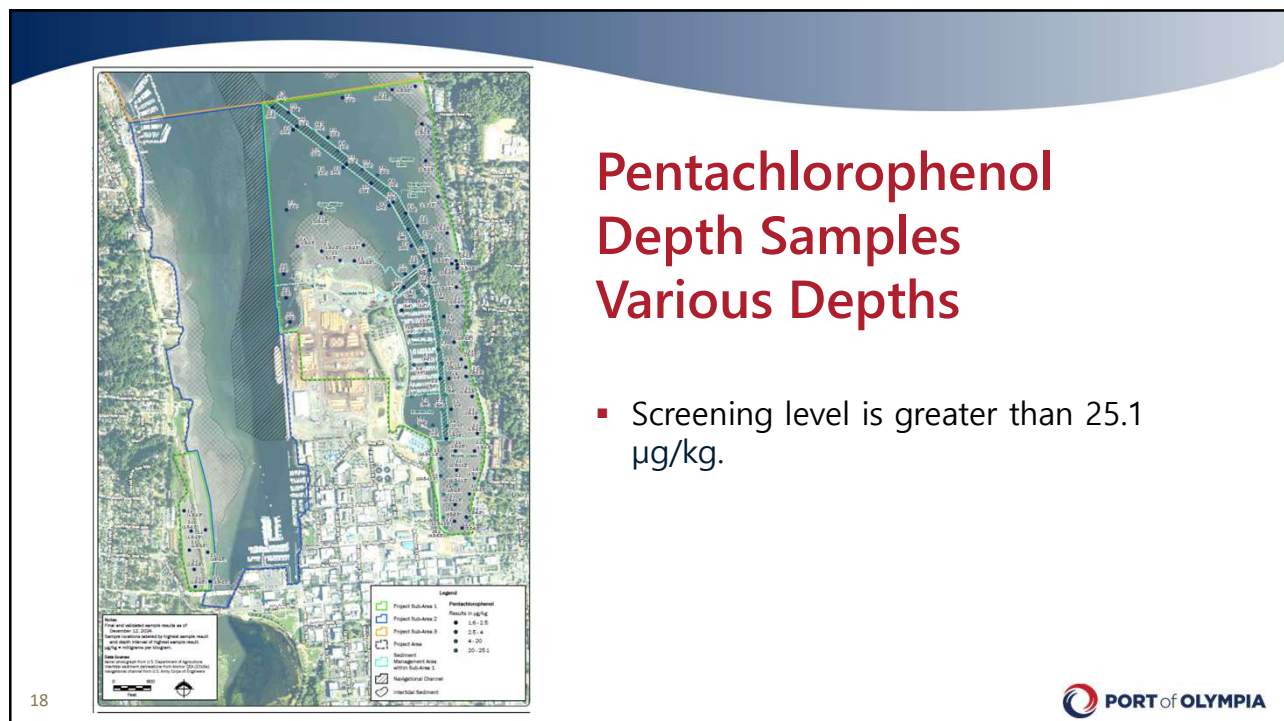


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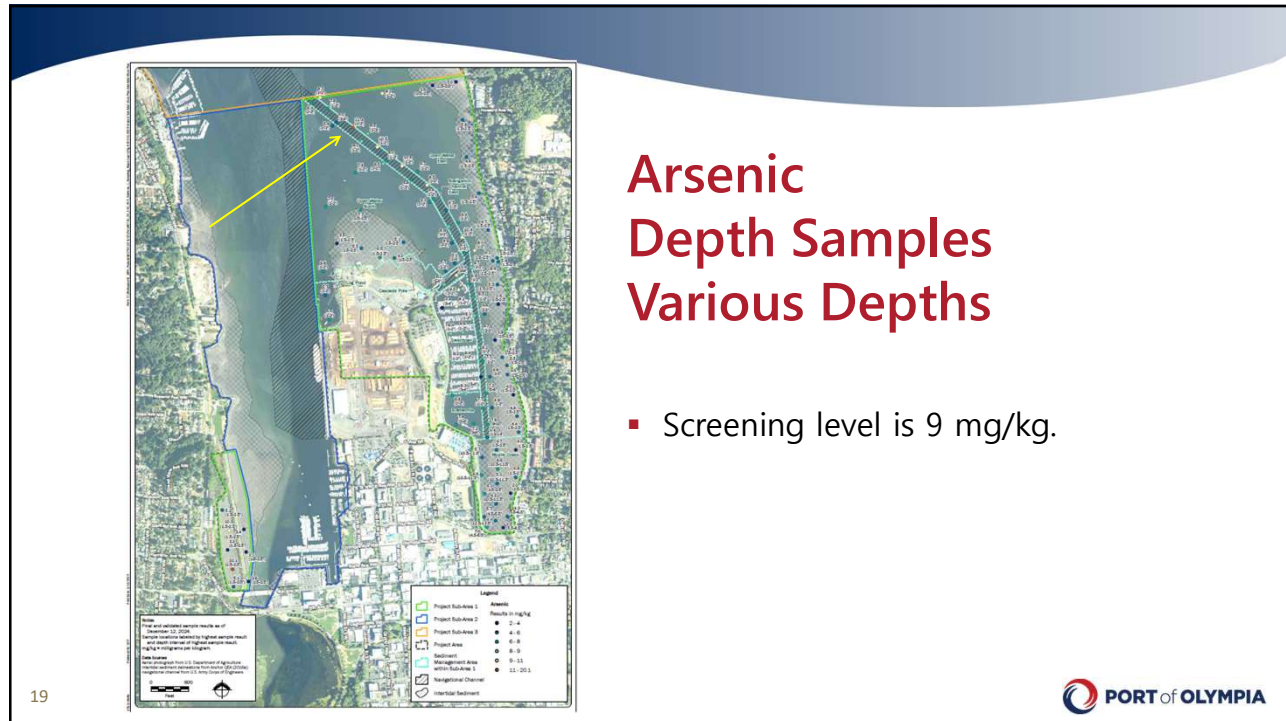




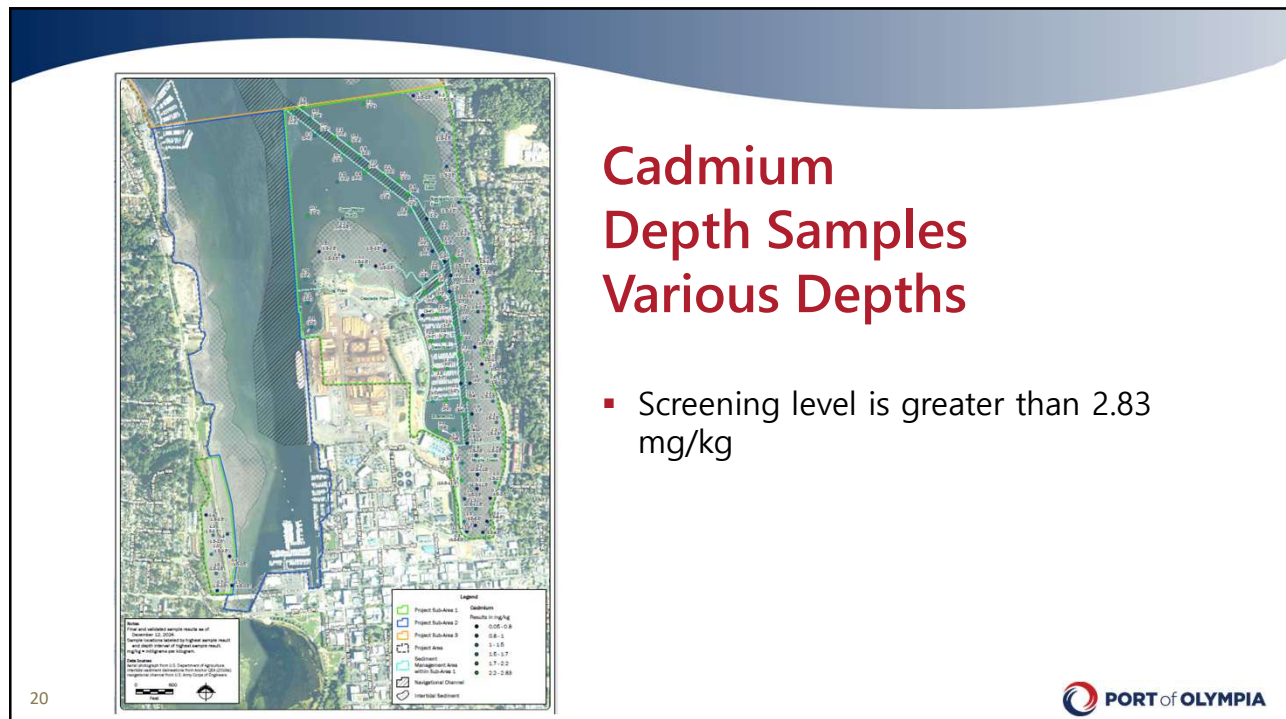
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## Summary

- Draft Sediment Chemistry Data Report (summary of data) nearly complete.
- Potential ongoing sources will be identified in the Source Control Plan.
- These data will inform the cleanup strategy in the forthcoming Engineering Design Report.
- West Bay samples are starting to trickle in, and we intend to have the data report started this year.
- Overall, East Bay is relatively "clean" which may limit dredging and include more EMNR.



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Thank you

Questions and Comments

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