



Serving All of Thurston County

Commission Meeting
Monday, March 13, 2023
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 March 9, 2023.

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

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

<https://us02web.zoom.us/j/89681213124?pwd=NEgrbWdxY1d3U3hRODcrYUtuTmMwdz09>

or Telephone: 1 253 215 8782

Webinar ID: 896 8121 3124

Passcode: 727173

Please note that the Zoom link changes for each meeting.

Written public comments may be submitted to 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.

Individual public comments are limited to 3 minutes per person.

AGENDA

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

NOTE: Guidelines for public comment can be found in the Commission Rules in Resolution 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. Glacier Aviation (K&M) Early Lease Termination – Warren Hendrickson, Airport Senior Manager
2. SpanaFac Lease – Warren Hendrickson, Airport Senior Manager
3. Panattoni Option to Ground Lease Fourth Amendment – Warren Hendrickson, Airport Senior Manager
4. Bills and Vouchers for December 2022, Batches 48 – 52

Warrant over \$200,000: Warrant for \$365,342.28 for Sweeper Purchase

G. Pending Issues or Business

1. FAA Land Release - Hold

H. Action Calendar

1. None

I. Action/Other Calendar

1. None
2. Public Comment

J. Advisory Calendar

1. Resolution 2023-XX Economic Development Corporation Revision – Lisa Parks, Executive Services Director
2. Public Comment on Advisory Items

K. Commissioner Reports/Discussion

L. Other Business

M. Meeting Announcements

N. Adjourn



COVER MEMO

Commission Meeting Date/Time: March 13, 2023/5:30 PM

Department: Properties & Airport

Staff Contact/Title: Warren Hendrickson
Airport Senior Manager

360.528.8074

warrenh@portolympia.com

Topic: Consent Agenda: Early Termination of Ground Lease

Purpose: ☐ Information Only ☒ Decision Needed ☐ Follow up from Previous Briefing

Background/Overview:

On March 23, 2009, the Port entered into a Ground Lease with K & M Aviation, LLC (K&M). Effective June 18, 2010, K&M, with the consent of the Port, assigned its interest and obligations in the lease and the premises to Glacier Aviation, Inc. (Glacier). Glacier is the owner of the building on the leased premises, the original Pearson Air facility, and has recently made arrangements to sell the building to SpanaFac, LLC (SpanaFac). SpanaFac will be the lessee of the premises under a new lease agreement with the Port.

One of Glacier's obligations under its lease with the Port was to "... repair gravel area, pave the vehicle parking area and seal coat the existing asphalt ramp by October 30, 2009."

Glacier failed to comply with this lease obligation during the entire term of the lease. In return for a mutually satisfactory private financial agreement between Glacier and SpanaFac, this specific lease obligation, to the Port's satisfaction, will now wholly transfer to SpanaFac.

Glacier and the Port therefore agree to terminate the existing lease at the same time the lease of the premises to SpanaFac becomes effective.

Documents Attached:

Early Termination of Ground Lease Agreement

Summary & Financial Impact:

None. Lease of the premises will continue uninterrupted with SpanaFac.

Affected Parties:

Port of Olympia

Glacier Aviation, Inc.

SpanaFac, LLC

Staff Recommendation:

Approve Early Termination of Lease Agreement as presented.

EARLY TERMINATION OF GROUND LEASE

THIS **EARLY TERMINATION OF GROUND LEASE** is made this ____ day of _____, 20____ (to be effective at the same time the new lessee of the premises to SpanaFac, LLC, becomes effective) by and between the **PORT OF OLYMPIA**, a Washington municipal corporation, Lessor, hereinafter referred to as “the Port,” and **Glacier Aviation, Inc.**, hereinafter referred to as “Tenant”, on the following terms and conditions:

RECITALS

- A. The Port and K&M Aviation, LLC were parties to that certain Port of Olympia Ground Lease (the “Lease”) dated March 23, 2009.
- B. K&M Aviation, LLC, with consent of the Port, assigned its interest and obligations in the Lease and in the Premises to Glacier Aviation, Inc. by the Tenant’s Acceptance and the Port’s Consent of Assignment of Lease dated June 17, 2010 and effective June 18, 2010.
- C. Over the course of the Lease, Tenant wholly failed to comply with the following Lease obligation on page 7 of the Lease “Tenant Improvements”:
“Tenant shall repair gravel area, pave the vehicle parking area and seal coat the existing asphalt ramp by October 30, 2009.”
- D. Tenant and the Port desire to terminate Tenant’s right to lease the premises subject to the Lease.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

- 1. **Transfer of Lease Obligation.** In recognition of a mutually satisfactory private financial agreement between the Tenant and new premises lessee, SpanaFac, LLC, the Port and Tenant hereby agree that the unmet TENANT IMPROVEMENTS lease obligation cited in RECITALS above is transferred to new premises lessee SpanaFac, LLC on the effective date of the latter’s lease with the Port. Unless and until said transfer is effective, Tenant remains fully obligated under the Lease and any amendments thereto.
- 2. **Termination.** The Port and Tenant hereby agree that the Lease, the Tenant’s right to lease the premises described below are terminated at the same time the SpanaFac, LLC lease becomes effective, currently estimate to be as of the ____ day of _____, 20____. The premises affected by this termination are approximately 1.34 acres together with .97 acres (Option

Parcel previously released/terminated) as depicted on Exhibit "D" of the original ground lease and incorporated herein as Exhibit "A".

3. **Release.** Upon termination as described herein, Tenant hereby waives, disclaims, surrenders, and relinquishes all current and future right, title, and interest in and to the premises described above.
4. **Survival.** Tenant shall comply with all terms and conditions of the Lease regarding the condition of the premises upon termination and other matters regarding Tenant's obligations upon termination, and all such provisions shall survive this termination.
5. **Authority; Encumbrances.** Tenant represents, covenants, and warrants that it is the only Tenant under the Lease, that it has the power and authority to enter into this termination agreement, that no other person or entity has any interest in or to the tenant's interest in the Lease or the Premises or any improvements located thereon or appurtenant thereto, and that Tenant has not done or permitted to be done any act or thing by reason of which the Lease or Premises is now or may at any time in the future become encumbered in any way. These representations, covenants, and warranties shall be deemed to be made as of the effective date of the termination and shall survive the termination of the Lease.

TENANT:

GLACIER AVIATION, INC.

LESSOR:

PORT OF OLYMPIA, a Washington
municipal corporation

By: _____
Michael S. Thielen

Its: President

Date: _____

By: _____
Sam Gibboney

Its: Executive Director

Date: _____

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

On this _____ day of _____, 20____, personally appeared before me _____, to me known to be the Executive Director at the Port of Olympia, the municipal corporation named in the within and foregoing **Early Termination of Ground Lease**, and acknowledged to me that he/she signed the same on its behalf, as he/she is so authorized to do, as his/her 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 _____)

On this _____ day of _____, 20____, personally appeared before me _____, to me known to be the _____ at the entity named in the within and foregoing **Early Termination of Ground Lease** 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: _____

This **Early Termination of Ground Lease** shall be subject, as a condition subsequent, to ratification by the Port of Olympia Commission within thirty (30) days after the date set forth on Page 1. This **Termination** shall be effective and binding on the parties until such time (and thereafter if ratified), the Executive Director having the authority to sign this **Termination** and bind the Port to all of its material terms. If this Lease is not ratified, it shall terminate and be of no further force and effect. The undersigned confirms that this **Termination** was ratified by the Port of Olympia Commission on _____.

By: _____

Its: _____

Date: _____

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

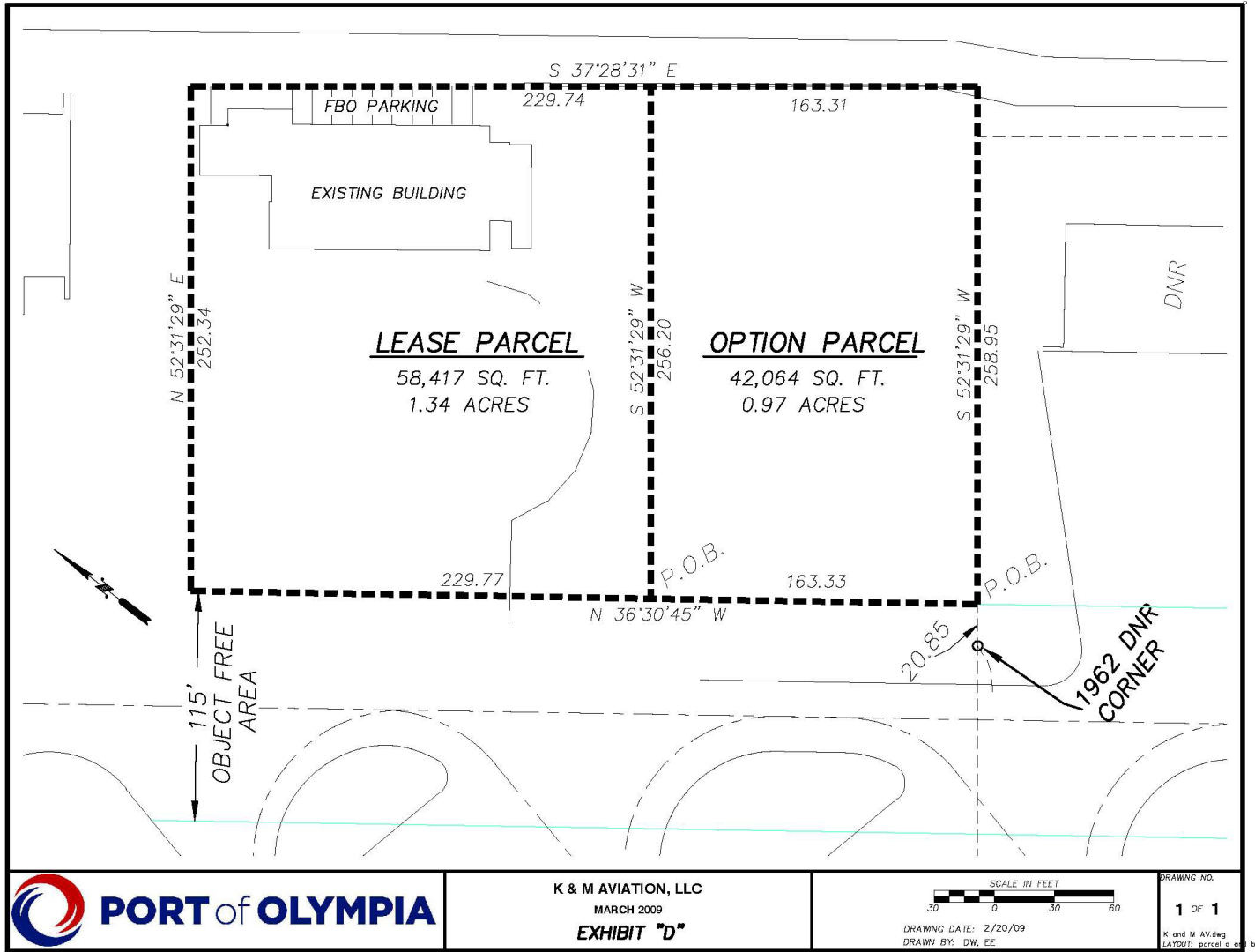
On this _____ day of _____, 20____, personally appeared before me _____, to me known to be the President of the Port of Olympia Commission, the municipal corporation named in the within and foregoing **Early Termination of Ground Lease**, and acknowledged to me that he signed the same on its behalf, 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"

THE PREMISES





COVER MEMO

Commission Meeting Date/Time: March 13, 2023/5:30 PM

Department: Properties & Airport

Staff Contact/Title: Warren Hendrickson
Airport Senior Manager

360.528.8074

warrenh@portolympia.com

Topic: Consent Agenda: Ground Lease

Purpose: ☐ Information Only ☒ Decision Needed ☐ Follow up from Previous Briefing

Background/Overview:

SpanaFac, LLC (SpanaFac) has entered into a purchase and sales agreement for a building located on Olympia Regional Airport. The building is currently owned by Glacier Aviation, Inc. (Glacier). The building's premises are subject to a ground lease between Glacier and the Port. Under a separate action before the Commission, the Port and Glacier have agreed to an early termination of that lease upon the simultaneous execution of a new Ground Lease between the Port and SpanaFac. SpanaFac's Ground Lease with the Port is for thirty-five (35) years, with a lessee option for an additional fifteen (15) years.

In the first two years of its lease with the Port, SpanaFac will make several significant improvements to both the existing building and the premises. In recognition of the significant near-term financial investments being made by SpanaFac, the Port has agreed to defer a portion of the normal Base Rent until the seventh anniversary of the lease. At that time, all deferred Base Rent will be payable to the Port in a single lump sum, including a compounded interest rate of five (5) percent.

Documents Attached:

Ground Lease Agreement

Summary & Financial Impact:

None. Lease of the premises will continue uninterrupted with SpanaFac.

Affected Parties:

Port of Olympia

Glacier Aviation, Inc.

SpanaFac, LLC

Staff Recommendation:

Approve Ground Lease Agreement as presented.

**PORT OF OLYMPIA GROUND LEASE
OLYMPIA REGIONAL AIRPORT**

THIS LEASE is made this ____ day of _____, 2023, 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:	SpanaFac, LLC
Address:	7529 Old Highway 99 SE
City, State, Zip Code:	Olympia, Washington 98501
Phone Numbers:	(253) 833-9357
Email:	Barrett Campbell barrett@spanaflight.com

PREMISES

Port hereby leases to Tenant, and Tenant leases from , upon and subject to the terms and conditions of this Lease, that certain real property consisting of that portion of the northwest quarter of Section 11, Township 17 North, Range 2 West, W.M., Thurston County, Washington, lying within the Olympia Airport, property boundaries as shown on Port of Olympia Drawing No. 24 consisting of 63,077 s.f. (approximately 1.44 acres), commonly known as 7529 Old Highway 99 SE as shown on Exhibit “A” hereto attached and generally described in Exhibit A-1; and 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 attached and further as follows:

Tenant understands and agrees to submit a Record of Survey of the Leased Premises along with a legal description (“Survey”) within Sixty (60) days from the day of full execution of the Lease. Upon receipt of the Survey of the Leased Premises, Port and Tenant agree to amend the Lease to reflect the exact amount of square footage leased to Tenant and shall recalculate the Minimum Ground Rent and Surety accordingly, if necessary.

Any change in the Minimum Ground Rent and Surety based on the new survey and legal description shall be retroactive to the Rent Commencement Date stated below. Any retroactive rent due shall be paid by Tenant at the time the next rental payment is due after recalculation of rent.

TERM

The Term shall be thirty-five (35) years beginning March ____ 2023 (the “Lease Commencement Date”) and ending February 28, 2058 (the “Term”); provided that the commencement of this Lease is subject to the Port’s receipt of first month’s rent, lease security in a form acceptable to the Port, and certificate of insurance in a form acceptable to the Port.

OPTION TO EXTEND TERM:

One (1) option to extend for an additional period of Fifteen (15) years. Such extension 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, or other terms and conditions agreed to by the Parties in writing.**

The extension term shall commence on the expiration of the immediately preceding term. Such Option to Extend may be exercised only by Tenant submitting advance 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 as determined by the Port both 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.

MINIMUM GROUND RENT

Initial Minimum Ground Rent:

In consideration of Tenant improvements on the Premises, which shall be fully financed by Tenant, the rent for the first nine years of the Term shall as stated in the following Table, provided leasehold tax will be adjusted consistent with adjustments by the Department of Revenue, if any:

<i><u>Beginning Of</u></i>	<i><u>Lease Rate</u></i>	<i><u>Washington Leasehold Tax</u></i>	<i><u>Total Leased Land Monthly Payment</u></i>	<i><u>Surety Required</u></i>	<i><u>Term Year</u></i>
March 1, 2023 to February 29, 2024	1,471.80	188.98	1,660.78	19,929.35	Year One
March 1, 2024 to February 28, 2025	1,471.80	188.98	1,660.78	19,929.35	Year Two
March 1, 2025 to February 28, 2026	1,556.43	199.85	1,756.28	21,075.31	Year Three
March 1, 2026 to February 28, 2027	1,661.49	213.34	1,874.83	22,497.90	Year Four
March 1, 2027 to February 29, 2028	1,790.25	229.87	2,020.12	24,241.42	Year Five
March 1, 2028 to February 28, 2029	1,946.90	249.98	2,196.88	26,362.58	Year Six
March 1, 2029 to February 29, 2032	2,126.06	272.99	2,399.05	28,788.55	Years Seven through Nine

One-Time Payment Due March 1, 2029: In addition to the monthly rent adjustment commencing March 1, 2029, Tenant shall pay the Port an additional one-time payment in the amount of \$22,537.34 plus Washington Leasehold Tax **for a total of \$25,431.13.**

Rent Adjustments Commencing Year Ten (10) of the Lease Term: Commencing March 1, 2032, and every three (3) years thereafter, Minimum Ground Rent shall be increased March 1 by a rate of 7.5% through the remainder of the Initial Lease Term, provided leasehold tax will be adjusted consistent with adjustments by the Department of Revenue, if any.

Capital Improvements Cost: Tenant shall pay a monthly Capital Improvement Cost to Building Utilities in the amount of \$ 192.00 per month, plus applicable Leasehold Excise Tax (currently 12.84%) \$24.65, for a total of **\$216.65.**

Rent is in addition to, and not in lieu of the requirement to pay, any fees or tariffs established pursuant to the Port's Minimum Standards for Commercial Activities or Port Commission Resolution.

Section 36 of the Lease (regarding appraisal procedure for rent revisions) is deleted in its entirety.

LEASE SURETY

In accordance with Paragraph 5 of the Lease, in an amount equal to one (1) year's minimum 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 this Lease.

The initial Surety amount shall be submitted to the Port upon execution of the Lease by Tenant, and in accordance with the required amounts stated in the above Table. Any increase in security shall be posted with the Port at least thirty (30) days prior to the effective date of such change. Expiration Date: Ninety (90) days after satisfaction of all obligations under this Lease as determined by the Port.

USE OF PREMISES

Tenant shall use the premises for activities usually associated with an Airport Service Provider (ASP), as determined by the Port, such as Aircraft Maintenance, Maintenance Shop Space, Aircraft Fueling, Aircraft Line Services, Aircraft Storage, Air Charter, Air Passenger Services, Flight School, Flight Instruction, and Food and Beverage Service as defined in the Minimum Standards for Commercial Activities for the Olympia Regional Airport (as revised), per the attached Exhibit "E", and for no other purpose.

Additionally, tenant shall be permitted to use the premises to construct and operate a new aircraft hangar(s) and aircraft tie downs / ramp area.

The premises shall not be used for conducting any other commercial aeronautical activity, unless the advanced written consent of the Olympia Airport Director has been obtained. Aircraft brokerage and sales and food and beverage service (including full-service restaurant sales) are subject to percentage rent to the Port and shall require a lease amendment to define the terms and conditions before the commencement of aircraft sales/brokerage or food and beverage (including full-service restaurant sales) activities. Incidental sales of aviation supplies, aviation related equipment, gear, apparel, snacks and beverages are authorized and are not subject to percentage rents. Non-aeronautical activities are prohibited without the express consent of the Port of Olympia.

Without limiting the generality of the foregoing provision, and without limiting any other applicable provisions, rules, or regulations affecting the use of the premises, Tenant shall specifically comply

with the following provisions: **Airport Rules and Regulations and Minimum Standards for Commercial Activities for the Olympia Regional Airport**, as attached as Exhibit “E” hereto and as hereafter amended or issued, as well as any other applicable Port policies that currently exist, or may later exist, during the term or extended term of this Agreement.

Any future hangar or ramp development must meet all applicable requirements, that currently exist, or may later exist, during the term or extended term of this Agreement, including but not limited to those established in FAA Advisory Circular 150/5300-13 (series) Airport Design, the City of Tumwater Municipal Code, and any other applicable building and fire codes.

Use of and development on the subject property will require completion by Tenant of a Record of Survey and legal description (“Survey”). Upon full completion of the Survey, the Port and Tenant agree to execute an addendum to this Lease setting forth the description and size of the Leased Premises in accordance with the Survey. Tenant shall bear all costs and expenses thereof. A copy of the Survey will be provided to the Port.

If Tenant makes any alterations or improvements on or to the Premises, Tenant shall comply with Exhibit “B” hereto attached and shall construct and install an approved storm water treatment and infiltration facility specific to such development on the Premises. All storm water treatment and infiltration requirements shall be met within the Premises per existing Port practice. Full-length trench drains with compost filters or oil/water separators are required for the aircraft ramp. Infiltration shall be via underground gallery. Pervious surface may be substituted for the aforementioned requirements outside the Air Operations Area if approved by the City of Tumwater. Tenant shall obtain all necessary permits for the construction of such facility, and the construction by Tenant of such facility shall be in accordance with all applicable requirements of all governmental authorities having jurisdiction over such facility, and shall be pursuant to plans and specifications prepared by a professional engineer and approved by the Port (which approval shall not be unreasonably withheld), the City of Tumwater, and any other applicable governmental body. Such construction and permits shall be at Tenant’s sole cost and expense. Upon completion of any alterations or improvements on or to the Premises, including but not limited to the storm water improvements, Tenant will provide the Port with one copy of a complete set of “as built” drawings and specifications, including site plans, for all such alterations and improvements constructed by or for Tenant.

Tenant shall defend, indemnify, and hold the Port harmless from any cost, expense, liability, claim, or damage arising from any construction, or any activities in relation to, or connected with, its use of the Premises, as further provided in paragraph in paragraph 14 herein, by Tenant or its employees, contractors, or subcontractors. In addition, Tenant shall keep the property and all other property of the Port free and clear of any liens, claims or encumbrances arising out of or by reason of Tenant’s construction of such improvements; provided, however, that Tenant shall have the right to contest any such lien in good faith, on condition that Tenant provide the Port with reasonable security, such as a cash escrow in the amount of one hundred fifty percent (150%) of the lien.

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 not less than thirty (30) days prior to their expiration. Tenant may satisfy this insurance requirement through endorsements to existing policies.

The Port may require additional insurance coverage related to any construction by Tenant, such as Builders Risk or other activity not currently contemplated.

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.

ASSIGNMENT, SUBLEASE, OR LEASE MODIFICATION.

An initial minimum handling and transfer fee deposit ("Lease Modification Fee") of Five Hundred Dollars (\$500.00) shall be payable by Tenant to Port if Tenant requests Port's consent to a proposed assignment (including an assignment to a creditor for security purposes), sublease or modification of this Lease. Such Transfer Fee Deposit shall be submitted to Port at the same time that Tenant requests Port's consent to the proposed sublease, assignment or modification and shall be adjusted as described in Paragraph 25.

ADDITIONAL PROVISIONS.

LANDING FEES. Tenant shall collect transient aircraft landing fees from the transient aircraft operators utilizing the SpanaFac leasehold at the rate specified by Port Resolution and adopted annually. Tenant shall submit a monthly landing fee report and payment of the collected landing fees to the PORT within seven days of the last day of each month. Tenant shall deduct and retain an administrative processing fee in the amount of 25% of the landing fees collected.

AIRPORT SECURITY. Tenant shall comply with all aspects of the Airport Security Plan adopted by the Port of Olympia Commission on May 14, 2007 (as amended). Vehicle and pedestrian gates shall remain locked at all times. Employee, passenger and flight crew access to the Air Operations Area (AOA) shall be positively controlled by tenant. Employee and customer vehicle parking shall be outside the Air Operations Area (outside of the fence).

FUELING OPERATIONS: Tenant shall comply with all Federal Aviation Administration FAR Part 139 fueling personnel certification and training safety standards and reporting requirements as well as required quarterly and annual fuel farm and fuel truck inspections. Fuel farm and fuel truck inspection fees shall be paid by tenant.

All fuel shall be provided and purchased from an approved Olympia Airport fuel service provider.

SNOW & ICE CONTROL. Snow removal or plowing on tenant's leasehold is the sole responsibility of the tenant and any resultant snow berms or piles shall remain on tenant's leasehold area. The use of chemicals for ice control on the aircraft ramp is strictly prohibited.

AIRCRAFT DEICING. Prior to the use of glycol or any other chemical agent for aircraft deicing, an Aircraft Deicing Plan must be approved by the Port of Olympia and the City of Tumwater. Any such plan will comply with Tumwater Municipal Code 18.40, Environmental Performance Standards (or its successor), and shall include measures for recovery of chemical agents and shall

ensure chemical agents are not transferred to the storm water treatment and discharge system, underground aquifers or other natural drainage systems.

AIRCRAFT PARKING. Aircraft are not to be parked on the Taxilane or Taxiway or in the Taxilane or Taxiway Object Free Area as depicted on Exhibit A, so as to prevent the passage of other aircraft or vehicles. Tenant will ensure Category B-II Taxilane Object Free Area (OFA) clearance (57.5 ft.) between the Taxilane centerline and parked aircraft or objects as per FAA Advisory Circular 150/5300-13 (series), Airport Design Guide.

VEHICLE PARKING. Parking and storage of non-aeronautical or non-operational vehicles inside the Air Operations Area (AOA) is prohibited. This area includes the ramp, hangar, taxi lanes, tie-down areas and the Aircraft Movement Area and all areas inside the airport fence. Only service vehicles or vehicles carrying passengers, baggage and freight to and from aircraft are temporarily permitted in the ramp area for the sole purpose of servicing, loading and unloading of aircraft. The speed limit in this area is 10 mph, with aircraft having the right of way.

EQUIPMENT STORAGE. Storage of non-aeronautical equipment or structures inside the Air Operations Area (AOA) is prohibited. This area includes the ramp, hangar, taxi lanes, tie-down areas and the Aircraft Movement Area and all areas inside the airport fence.

Tenant shall provide thirty (30) days advance request for approval of storage improvements. Location and construction of any permanent storage facilities shall be approved by the Port and properly permitted through the City of Tumwater municipal code.

Tenant shall provide a thirty (30) days advance request for approval of temporary storage structures such as commercial storage containers. Location and placement of temporary storage structures, and the duration of such placement shall be approved by the Port.

TENANT IMPROVEMENTS. Tenant at its sole expense shall:

- Remedy building and hangar door corrosion and paint the exterior of the existing building by October 31, 2023, in colors approved by the Port.
- Pave the vehicle parking area, and repair any adjacent gravel areas, by October 31, 2023.
- Rehabilitate/repave the existing aircraft asphalt apron by October 31, 2024.
- Maintain the vehicle parking area and aircraft asphalt apron in a functionally good state (pavement condition index 70 or better) throughout the term of the Lease.

SIGNAGE. All future signage will comply with the City of Tumwater municipal code and shall be subject to the prior written approval of the Port.

HABITAT CONSERVATION PLAN (HCP) MITIGATION.

Should any future development of the Premises require mitigation under the approved Habitat Conservation Plan (“HCP”), the Port of Olympia will contribute 50% the cost of mitigation associated with such future development. The terms and conditions of the contribution and actual dollar value shall be subject to, upon completion of the HCP, future negotiation, and mutual agreement by both the Port and the Tenant. The terms and conditions may take the form of mitigation credits, rent credit, or actual cash contribution.

GROUND WATER WELL MONITORING. The Port has disclosed to the Tenant and Tenant acknowledges that a portion of the Premises is impacted by environmental contamination and is regulated by the Washington State Department of Ecology under the Model Toxics Control Act, Chapter 70.105D RCW.

The MTCA Site information is:

- Site Name: Pearson Air Inc
- Site Address: 7529 Old Hwy 99 SE, Olympia, Thurston County, WA 98501
- Facility/Site ID: 53794257
- Cleanup Site ID: 6241
- VCP Project ID: SW1555

Per the requirements of MTCA, at any time and from time to time during the Term of this Lease, the Port or its agents or assigns may perform – primarily via monitoring of and testing for underground contamination via ground water monitoring wells – an environmental site assessment report concerning the Premises, prepared by an environmental consulting firm chosen by Port.

Tenant shall grant and hereby grants to Port and its agents or assigns access to the Premises and specifically grants Port an irrevocable non-exclusive license to undertake such assessments.

Further, Tenant shall not undertake any rehabilitation/repaving of the aircraft asphalt ramp or any construction/development of the Premises without coordination with and approval by the Port, and its environmental consulting firm, to ensure the planned activity does not in any way interfere with access to nor function of the ground water monitoring test sites.

EARLY TERMINATION. Should the Tenant terminate the Lease prior to the thirteenth (13th) anniversary of the Rent Commencement Date and before the Port achieves full revenue recovery from the discounted Initial Base Rent and subsequent increases as specified above, Tenant will ensure Port has achieved full revenue recovery through the Date of Termination.

Port will compare total rent revenue provided to Port from Date of Rental Commencement to Date of Termination to the revenue that would have been provided absent the discount to Initial Base Rent, per calculations as follows:

- An Initial Base Rent of \$ 1,839.75 per month, subject to any subsequent adjustment to that Initial Rent based on the square footage of the Premises as set forth in the Survey provided by the Tenant to the Port, and
- Subject to escalations to Initial Base Rent on the third anniversary of Rent Commencement and every three (3) years thereafter, in the amount of seven-and-one-half percent (7.5%) to Date of Termination.

Any difference between the actual and calculated revenue figures will be fully due and payable to the Port upon Date of Termination.

EARLY TERMINATION (SEPA). If at any time review under the State Environmental Policy Act, RCW 43.21C (SEPA) is required during the term or extended term of this lease, either Party may terminate this Lease, without further obligation, as provided herein. Either Party may exercise the early termination right provided in this paragraph within thirty (30) calendar days following completion of the SEPA review process. For the purposes of this paragraph, the date of completion of the SEPA review process means the later date of: (i) the day following the expiration of any appeal

period following a threshold determination of Determination of Non-significance (“DNS”) or a Mitigated Determination of Non-significance (“MDNS”) if no appeals are filed; (ii) a final decision following an appeal and expiration of or exhaustion of any subsequent appeal rights; or (iii) in the case of a threshold Determination of Significance (“DS”), the completion of the Environmental Impact Statement (“EIS”) process and any appeals thereof. To terminate this Lease early under this paragraph, the Party intending to terminate shall provide written notice to the other Party according to Notice provision in this Lease.

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" – 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" – MINIMUM STANDARDS FOR COMMERCIAL ACTIVITIES FOR THE
OLYMPIA REGIONAL AIRPORT

EXHIBIT "F" – RENT AMORTIZATION TABLE

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 Lessor 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 SECURITY.

Tenant shall, upon execution of this Lease, file with the Port a good and sufficient security in the form of a bond, letter of credit, cash deposit, or other security 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 security and the identity of the surety shall be subject to approval of the Port, and the security shall guaranty 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 security instrument having an expiration earlier than the full lease term shall be automatically renewable. Any company issuing such a security instrument must give the Port at least ninety (90) days advance written notice prior to the effective date of cancellation or expiration of such security instrument. These provisions as to lease security 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.

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. 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. 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.

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 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, and Tenant hereby acknowledges, 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 and emissions as may be inherent in the operation of aircraft, now known or hereafter used for navigation 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 "Zoning Ordinance", Olympia Regional Airport, Master Plan Update, Thurston County, Washington, dated November, 1996, and 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 indemnifies, defends, and holds 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 not less than thirty (30) days 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. If any governmental authority at any time levies a tax on rentals payable under this lease or a tax in any form against Lessor 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 Lessor'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 36, **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 37, **ARBITRATION PROCEDURE**.

18.2 Signage. 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. 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 37, **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, and at the Port's request shall provide copies of the actual policies. Tenant shall provide evidence of renewal at least 30 days 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 thirty (30) 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.

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 fifteen (15) days' notice in writing if the default is for the nonpayment of rent or other monetary default, or thirty (30) days' notice in writing for any other default, 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, 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 four (4) times 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. Lessor 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. **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.

Notwithstanding any assignment or sublease, Tenant 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 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.

26. 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.

27. HAZARDOUS SUBSTANCES.

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

(a) As used in this Section 0, "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 0, "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.

(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.

(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 five (5) business days of the Port's request;

(iii) Within five (5) 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 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 27, 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, 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 0 are unconditional and shall not be limited by any other limitations of liability provided for in this Lease. The representations, warranties, covenants, and obligations of Tenant set forth in this Section 0: (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) Upon expiration or sooner termination of this Lease, Tenant shall have removed from the Premises any Hazardous Substances, contaminated soils or other contaminated or hazardous materials or substances deposited thereon by Tenant in a manner that complies with all applicable Environmental Laws. Any failure to complete such removal by the expiration or sooner termination of this Lease shall be deemed a holding over by Tenant subject to the provision of paragraph 24, **HOLDING OVER**. At the Port's request, within 30 days thereafter, Tenant shall deliver to the Port a certificate from the Thurston County Health Department certifying that the Premises comply with all applicable requirements of the Health Department concerning levels of Hazardous Substances. At such time, Tenant shall also reconfirm its representations and warranties contained herein and shall represent and warrant that upon termination of the Lease all Hazardous Substances have been removed from the Premises and have been properly and lawfully disposed of, and the Premises have been cleaned up to a level that meets all applicable Environmental Laws.

28. 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 Lessor 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 Lessor 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."

29. 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 0, **HAZARDOUS SUBSTANCES**, and 27, **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.

30. 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 Lessor 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 Lessor 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. All proceeds from any taking or condemnation shall be paid to Lessor and Tenant waives all claim against such proceeds; provided, however, that Tenant shall be entitled to any award separately designated for Tenant's relocation expenses

or for damage or taking of Tenant's trade fixtures or other personal property, provided that any award to Tenant shall not reduce the award to Lessor. 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.

31. 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 60 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.

32. 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.

33. 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.

34. NONDISCRIMINATION - SERVICES.

Tenant for himself, his heirs, 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.

35. NONDISCRIMINATION – SERVICES, CONSTRUCTION, USE.

Tenant for himself, his heirs, 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.

36. APPRAISAL PROCEDURE.

Intentionally omitted.

37. 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, such dispute shall be determined by arbitration as provided in this paragraph. The Parties shall attempt to agree on the terms and conditions of arbitration, including the appointment of an arbitrator. If the Parties are unable to agree on the terms and conditions of arbitration within 30 days after their first attempt to agree with respect to arbitration, 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 consider the subject matter of the dispute, and if agreement can be reached between them, their opinion shall be the opinion of the arbitration. In the event

of their failure to agree upon the matter so submitted, they 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. The decision of the arbitrators shall be rendered within thirty (30) days after their appointment, 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.

38. 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.

39. 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.

40. 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:
SpanaFac, LLC
7529 Old Highway 99 SE; Olympia, Washington 98501

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.

41. 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**.

42. 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.

43. NO RECORDING.

Without the prior written consent of the Port, this Lease shall not be placed of record.

44. 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

TENANT:

SPANAFAC, LLC

By: _____
Executive Director

By: _____
Title: _____

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

On this _____ day of _____, 20__, personally appeared before me _____, to me known to be the Executive Director at the Port of Olympia, the municipal corporation named in the within and foregoing **Lease Agreement**, and acknowledged to me that he/she signed the same on its behalf, as he/she is so authorized to do, as his/her 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 _____, 20__, 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

This **Lease** shall be subject, as a condition subsequent, to ratification by the Port of Olympia Commission within thirty (30) days after the date set forth on Page 1. This Lease shall be effective and binding on the parties until such time (and thereafter if ratified), the Executive Director having the authority to sign this Lease and bind the Port to all of its material terms. If this Lease is not ratified, it shall terminate and be of no further force and effect.

The undersigned confirms that this Lease was ratified by the Port of Olympia Commission on _____, 20__.

Port of Olympia Commission

By: _____

Its: _____

Date: _____

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

On this _____ day of _____, 20__, personally appeared before me _____, 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**

*To Be Revised
For Reference Only*

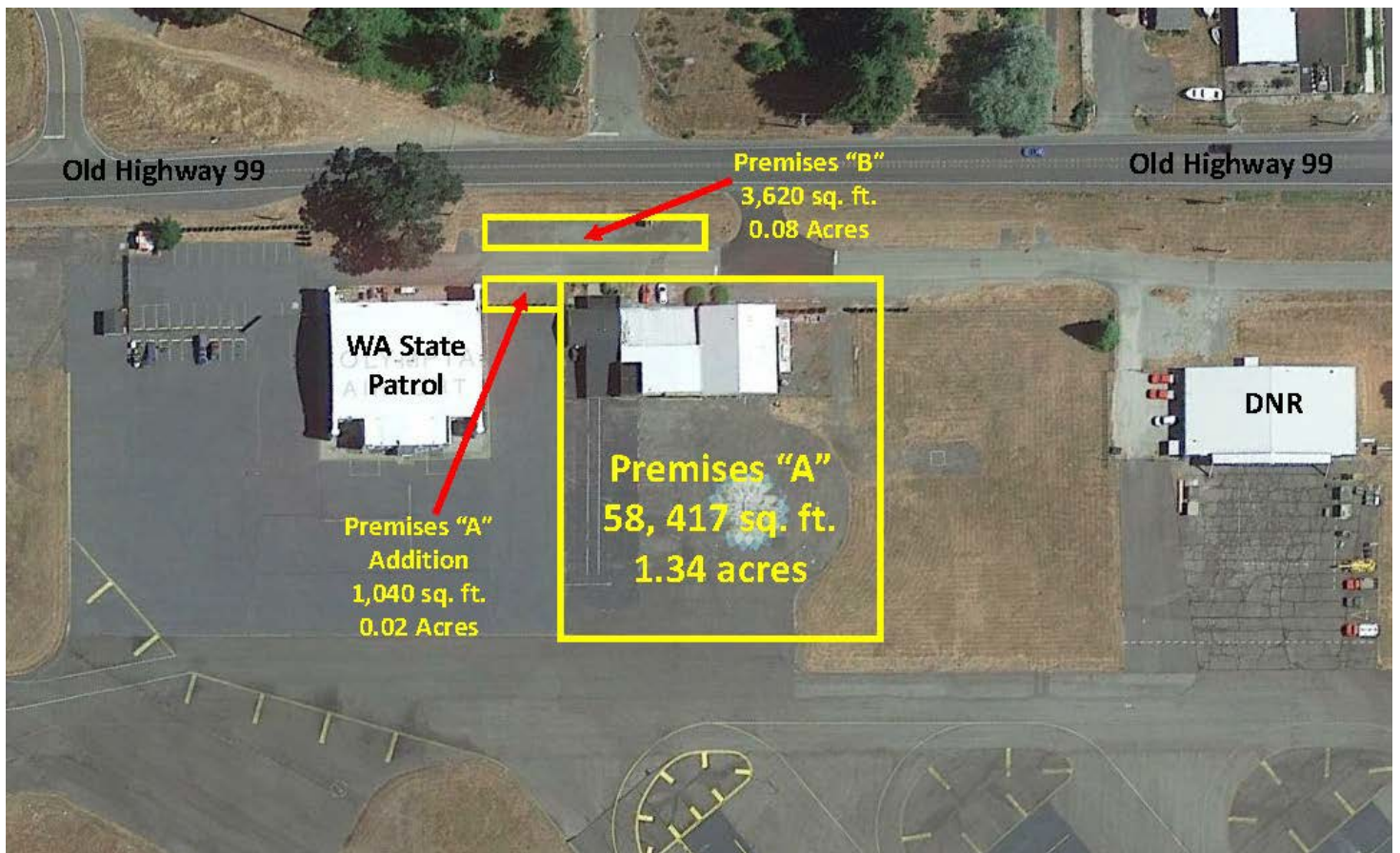


EXHIBIT A-1

Legal Description

LEASE PREMISES "A":

TO BE UPDATED, TO INCLUDE A TOTAL, FOLLOWING RECORD OF SURVEY

Commencing at the centerline intersection of Taxiway 2 and Hardstand 22 as shown on Airport drawing N-12 (said Hardstand known in 1995 as the entrance to Gower Flying Service); thence N 36°30'45" W along the centerline of said Taxiway 1440.34 feet; thence N 52°31'29" E 349.70 feet to an iron pipe at the northwesterly corner of a tract leased to the Washington State Department of Natural Resources in May 1962; thence continuing N 52°31'29" E 20.85 feet; thence N 36°30'45" W 163.33 feet to the Point of Beginning; thence continuing N 36°30'45" W 229.77 feet; thence N 52°31'29" E 252.34 feet; thence S 37°28'31" E 229.74 feet; thence S 52°31'29" W 256.20 feet to the Point of Beginning,

An area of 58,417 sq. ft. (approximately 1.34 acres).

Together with a contiguous area of approximately 1,040 sq. ft. (approximately 0.02 acres) at the northwest corner of said 58,417 sq. ft. premises (as described above), as depicted in Exhibit "A."

ADDITIONAL PREMISES "B":

Together with an area of approximately 3,620 sq. ft. (approximately 0.08 acres), not contiguous with Lease Premises "A" above, as depicted in Exhibit "A."

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 twenty (20) 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 thirty (30) 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 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.

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.

In the event the successful purchaser at the foreclosure sale is a person or entity other than Lender, such purchaser shall not automatically succeed to Tenant's interest in the Leasehold, but must first qualify as an acceptable party as set forth in paragraph 6.5 below and Lender agrees to insert the following language in its Deed of Trust: *"Trustee's and Beneficiary's right to sell/assign the Leasehold interest secured by this Deed of Trust upon foreclosure to any person other than beneficiary, is limited to such person reasonably being approved by the Port of Olympia (or its successors/lessor under the Lease) pursuant to that certain 'Lessor's Consent and Agreement' between the Port of Olympia and Beneficiary."*

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.

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 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 15 days 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 twenty (20) days of Lender's receipt of Notice, and kept current thereafter.

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 30-day period specified in the Lease, Lessor shall take no action to terminate the Lease if:

(a) within 20 days after Lessor's notice to Lender to 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 60 days thereafter, 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 ten (10) days of 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. Failure to so assume the Lease shall give Lessor the right to immediately terminate the Lease.

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) without first obtaining the written consent of Lessor for such assignment or transfer, which consent will not be unreasonably withheld or delayed provided that Lender has disclosed to Lessor (a) the identity of the proposed purchaser, assignee or transferee; (b) shown that the purchaser's, assignee's or transferee's credit standing would reasonably be acceptable to a commercially prudent lender; and (c) provided evidence to Lessor that the use of the property by such purchaser, assignee or transferee shall be consistent with the terms of the Lease or Tenant's prior use of the Leasehold. Upon the purchaser's, assignee's or transferee's assumption and agreement to perform and to be bound by all of the terms of the Lease, Lender shall be relieved of further liability under the Lease, however, if Lender finances the purchaser, assignee or transferee, Lender shall again be subject to all the obligations set forth in this Agreement.

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 the 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.

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

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”

MINIMUM STANDARDS FOR COMMERCIAL ACTIVITIES

FOR

THE OLYMPIA REGIONAL AIRPORT

TUMWATER, WASHINGTON

Authority:

RCW 53.08.220 Laws of the State of Washington

FAA Advisory Circular 150/5190-1

Approved: Port of Olympia Commission February 8, 1993

**MINIMUM STANDARDS FOR COMMERCIAL ACTIVITIES
FOR
OLYMPIA REGIONAL AIRPORT
TUMWATER, WASHINGTON**

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GENERAL

05.35.00 BUSINESS ACTIVITIES: Subject to applicable orders, certificates, or permits of the FAA, or their successors, no person shall use the Airport, or any portion thereof, or any of its improvements or facilities for revenue producing commercial, business, or aeronautical activities who has not first complied with these Minimum Standards and Rules and Regulations and obtained the consent and all appropriate licenses for such activities from the Port of Olympia.

05.36.00 APPLICATION: Application for leases of ground or facilities on the Airport and/or for a license to carry on any commercial, business or aeronautical activity on the Airport, shall be made to the Airport Manager on the forms prescribed by the Port of Olympia. The Port of Olympia may, if it deems it advisable, have a public hearing upon the application. The Applicant shall submit all information and material necessary, or requested by the Port, to establish that the applicant can qualify and will comply with these Minimum Standards and Rules and Regulations. The application will be signed and submitted by every party owning an interest in the business, those who will be managing the business, or every partner of the partnership, and each director and officer, of a corporation. Original applications will be submitted along with the appropriate application fee as prescribed in the Olympia Regional Airport Fee and Deposit Schedule.

05.36.01 LICENSES: Licenses for commercial, business or aeronautical activity on the Olympia Regional Airport will be valid from the date of issue until Terminated per these Minimum Standards and Rules and Regulations, and or by mutual consent. Application for additional services or operations requires only such information to show compliance with these Minimum Standards and Rules and Regulations pertinent to that license.

05.37.00 ACTION OF APPLICATION: The Port of Olympia may deny an application if, in its opinion, it finds any one or more of the following:

05.37.01 Qualifications: The Applicant, for any reason, does not meet the qualifications, standard, and requirements established by these rules and regulations;

05.37.02 Safety Hazard: The Applicant's proposed operations or construction will create a safety hazard on the Airport;

05.37.03 Expenditures of Port Funds: The granting of the application will require the expenditure of Port funds or the furnishing of labor and/or materials to an operation which will result in a financial loss to the Port;

- 05.37.04 Available Space:** There is no appropriate, adequate, or available space or building on the Airport to accommodate the entire activity of the applicant at the time of the application;
- 05.37.05 Airport Lay Out Plan:** The proposed operation or airport development or construction does not comply with the layout plan of the Airport;
- 05.37.06 Adverse Impacts On Existing Businesses:** The development or use of the area requested by the applicant will result in depriving existing licensees of portions of the area in which they are operating or will result in a congestion of aircraft or buildings or will result in unduly interfering with the operations of any existing licensees on the Airport through problems in connection with aircraft traffic or service or preventing free access to the licensee's area;
- 05.37.07 False Information:** Any party applying or interested in the business has supplied the Port of Olympia with any false information or has misrepresented any material fact in his application or in supporting documents or has failed to make full disclosure on his application or in supporting documents;
- 05.37.08 Record of Violation of Rules:** Any party applying or interested in the business has a record of violating these Minimum Standards or Rules and Regulations, or the rules and regulation of any other airport, or any FAA Regulations, or any other rules and regulations applicable to the Airport;
- 05.37.09 Default:** Any party applying, or interested in the business has defaulted in the performance of any lease, or any other agreement with the Port;
- 05.37.10 Credit Report:** Any party applying or interested in the business has a credit report which contains adverse credit information, and does not appear to be a person of satisfactory business responsibility and reputation;
- 05.37.11 Finances:** The applicant does not have, or have access to, the finances necessary to conduct the proposed operation;
- 05.37.12 Protection of Health:** There is a question regarding the protection of the health, welfare, safety, or morals of the inhabitants of Thurston County that would require a denial.
- 05.37.13 Non-Aviation or Non-Profit Use:** Nothing contained herein shall be construed to prohibit the Port of Olympia from granting or denying, for any reason it deems sufficient, an application for the purpose of selling, furnishing or establishing non-aviation products and supplies or any service or business of a non-aeronautical nature, or the application for use of an area on the Airport for non-profit use.

05.38.00 Supporting Documents: As requested by the Port of Olympia, the applicant shall submit the following documents, together with such other information as may be requested.

Current Financial Statement: A current financial statement prepared by a Certified Public Accountant.

Listing Of Assets: A written listing of assets owned or being purchased that will be used in the business on the Airport.

Credit Information: Any information necessary for the Port to obtain a current credit report for those fields in which the applicant has done business during the past six (6) months.

Authorization From Agencies: A written authorization for the FAA and all aviation or aeronautical commissions, administrators or departments of all states in which the applicant has engaged in aviation business to supply the Port with all information in their files relating to the applicant or his operation. The applicant shall execute such forms, releases, and discharges as may be requested by these agencies.

05.39.00 AERONAUTICAL SERVICES OR OPERATIONS REQUIRING A LICENSE AND A LEASE: No person shall use the Airport for any of the following activities until such person has applied for and received from the Port of Olympia a license and a lease for said activity or activities and has met the qualifications, standards, and requirements of these Minimum Standards and Rules and Regulations. An applicant for a license to conduct business on Olympia Regional Airport shall specify all services mentioned in this section which the applicant desires to conduct on the Olympia Regional Airport. A licensee shall carry on or conduct only those services for which he qualifies and which are specified in the license granted by the Port of Olympia. Such license shall be displayed at licensee's premises on the Airport.

05.39.01 Aircraft Sales

05.39.02 Aircraft Parts And Accessories Sales

05.39.03 Charter Operations: Which includes, but is not limited to, passenger or air-taxi, freight, or delivery.

05.39.04 Aircraft Rental

05.39.05 Flight Instruction Or Ground Schools

05.39.06 Aviation Maintenance: Which shall include one or more of the following:

- a. Airframe overhaul and repair;
- b. Engine overhaul, repair, and installation;
- c. Instrument repair and installation;
- d. Radio and electrical repair and installation;
- e. Aircraft interior work;
- f. Refinishing and painting;
- g. Other specialties;

05.39.07 Line Services: Which includes one or more of the following:

- a. Supplying fuel, oil, and other fluids;
- b. Interior and exterior cleaning;
- c. In-flight food service;

05.39.08 Aircraft Storage: Inside and/or outside

05.39.09 Airline Services: A certificated airline company providing regularly scheduled passenger service.

05.39.10 Specialized Aeronautical Service: Such as photo work, agriculture spraying, banner towing, etc.

05.39.11 Car Rental:

05.39.12 Bus Shuttle, Parking or Transfer Services, Programs and Major Facilities

05.39.13 Food and Beverage Service:

05.39.14 Non-aeronautical Commercial Activity: Any other wholesale, retail, or service business enterprise.

05.41.00 Minimum Qualifications For Aeronautical Services Or Operations Requiring A License:
In order to qualify for a license for the respective services mentioned in Section 05.39, the licensee shall, in addition to meeting all other requirements and qualifications set out in these Minimum Standards and Rules and Regulations, meet the following minimum qualifications, and remit the appropriate fees as set forth in the Olympia Regional Airport Fee and Deposit Schedule.

- 05.41.01 Aircraft Sales:** A licensee for aircraft sales shall provide adequate office space and an area on the Airport of sufficient size to permit the storage and/or display of all aircraft for sale or used in the aircraft sales business. Licensee shall have and maintain a dealership agreement with the aircraft manufacturer having a national distribution.
- 05.41.02 Aircraft Parts Sales:** A licensee for parts and accessories sales shall provide an adequate sales room, storage facilities, and administrative office space for such operations.
- 05.41.03 Charter Service Waiting Room:** A licensee for charter operations shall provide an adequate waiting room with telephone available to the public and rest room facilities. Space should also be adequate for administrative offices. At least one aircraft based on Olympia Regional Airport must be suitable for such operations. The licensee shall provide adequate space on the Airport for storage, loading and unloading of aircraft that will be used in such charter operations. Charter licensees will provide the Airport Manager with a monthly report on the number of passengers enplaned at Olympia Regional Airport.
- 05.41.04 Aircraft Rental:** A licensee for aircraft rental shall provide a room or other suitable space for flight planning. It shall be equipped with a bulletin board, facilities for flight planning, telephone, restrooms, administrative office space, and shall provide adequate aircraft storage and operating area.
- 05.41.05 Flight Instruction:** A licensee for flight instruction shall provide the same facilities as for aircraft rental. If ground school is to be offered, a classroom shall be provided. Such licensee shall operate and have based on the Airport one or more aircraft suitable for flight instruction.
- 05.41.06 Maintenance Shop Space:** A licensee for maintenance services shall provide a shop building of sufficient size to accommodate at least one twin-engine aircraft together with all tools and equipment. In addition, the licensee shall equip the shop with such tools, machinery, equipment, parts and supplies normally necessary to conduct a full-time business operation for the maintenance service being offered. Such a shop shall be staffed by mechanics and personnel who are qualified and competent, and who have all necessary FAA Certificates. This also will require each shop that is not an approved FAA Repair Station, to have at least one full-time mechanic with FAA inspection authorization.
- 05.41.07 Line Services:** A licensee for line services shall provide and maintain all necessary pumps, tanks, trucks, refueler, fueling islands and other fueling facilities that may be necessary, provided, however, the licensee shall not place or maintain any fueling facility on the Airport, mobile or fixed, which is not previously approved by the Port of Olympia. All Fuel storage tanks shall be provided and installed by the licensee at the airport fuel storage facility provided by the Port of Olympia. Unattended refuelers shall be parked at the Airport Fuel Storage Facility during non-business hours at the discretion of the Port. The licensee shall not deliver fuel into any aircraft unless the fuel has been placed in a suitable approved filtration tank. There shall be no fueling direct from a common carrier transport truck into refueler without filtration. Licensee shall comply with the current Olympia Regional Airport fire regulations, uniform fire codes, and current FAA fueling rules and regulations, including the record keeping of equipment and fuel

inspection logs as described in FAA AC 150/5320-4, "Aircraft Fuel Storage, Handling, and Dispensing on Airports", current edition. Tanks, transfer equipment, and refuelers shall be inspected annually by the City of Tumwater Fire Department, and licensees shall provide copies of these annual inspection reports to the Port. Licensee offering line services shall maintain enough full time uniformed attendants on duty to service aircraft without unreasonable delay during posted hours of operation. The Licensee shall offer night service by having an attendant available who will respond by a telephone call to a telephone number and any charges for this service conspicuously posted at the facility. This information shall also be filed with the Airport Manager. The Licensee shall, at all times, maintain an adequate supply of fuels, oils, and fluids normally called for on this Airport Refueler truck and provide both Avgas and Avjet fuel. The licensee shall operate only in the area leased by them (licensee) and such other areas that the Airport Manager may designate. Each truck shall be appropriately lighted and equipped with a two-way radio for communications with the ATCT. The Licensee must have an area sufficient in size to accommodate the line services and flow of traffic in and out of the line services, parking of serviced aircraft, and aircraft to be serviced.

Licensees shall provide training for their employees in spill response procedures, shall be fully knowledgeable of the Port's Hazardous materials Management Plan and Spill Prevention and Control Plan, and shall maintain copies of the Port's Hazardous Materials Management Plan and Spill prevention and Control Plan at their facilities. All mobile fuel trucks shall be equipped with spill cleanup kits of fuel absorbent materials, temporary dams, and other spill cleanup materials to the satisfaction of the Port.

05.41.08 Aircraft Storage: A Licensee for outside aircraft storage must be licensed to supply at least one other licensed service in addition to the qualifications therefore and shall have sufficient area to accommodate the aircraft to be stored. The area will be kept maintained or surfaced. Secure aircraft anchors will be provided. Current rates for this service will be filed with the Airport Manager. The Port retains the right for inside aircraft storage other than aircraft operated by the Licensee.

05.41.09 Airline Service: A Licensee shall provide least the following:

- a. Fly published scheduled operations at published rates.
- b. Establish, man, and operate an adequate facility at the airport that has:
 1. A ticket counter manned in such a manner as to provide proper service before and after each flight.
 2. Reservation service, handled in such a way as to prevent over booking and provide interline reservations.
 3. Baggage handling service, including airline interchange.

4. Passenger interchange service with other airlines operating at Olympia Regional Airport.
5. Adequate passenger lounge area with access to restrooms and telephone.
6. A monthly report of operations at Olympia Regional Airport as to the number of landings, type aircraft, number of passengers enplaned, and pounds of freight provided to the Port of Olympia.

05.41.10 Specialized Aeronautical Services: Any specialized services not covered in the above categories or section 05.39.10 shall meet such requirements as may be prescribed by the Port of Olympia for the conduct of safe and business like operation at the Olympia Regional Airport and shall provide liability insurance as required by the Port of Olympia.

05.41.11 Car Rental: A licensee for car rental shall have adequate facilities for such services.

05.41.12 Food and Beverage Service: A license for food and beverage service shall have adequate facilities and meet all state and county laws pertaining to such facilities.

05.41.13 Non-aeronautical Commercial Activity: Any other wholesale, retail, or service business enterprise.

GENERAL RULES AND REGULATIONS FOR AIRPORT LICENSEES

05.42.00 General Rules: The following general rules apply to all licensees.

05.42.01 Assignments of License: No right, privilege, permit or license to the business on the Airport or any lease of any area of the Airport shall be assigned, sublet, sold or otherwise transferred or conveyed in whole or in part without the prior consent of the Port of Olympia which may be withheld in its sole discretion.

05.42.02 Port of Olympia Written Approval For Leases of Land Or Facilities: Leases for facilities and/or land requires written approval by the Port of Olympia. Any required construction shall meet the Standards of Development, Thurston County Airdustrial Center. No buildings, structures, tie downs, ramps, paving, taxi areas, or any other improvement or addition shall be placed or constructed on the Airport or altered or removed without the prior approval by the Port of Olympia. In the event of any construction, the Port of Olympia may, at its discretion, require an appropriate bond to guarantee the completion of the construction in accordance to the Port of Olympia's approval.

05.42.03 Authorized Operations Area: No person authorized to operate or conduct any business activities on the Airport shall conduct any business or activity in any area except as specified by the Port of Olympia, or the Airport Manager, or in applicable lease or rental agreements.

05.42.04 Business Personnel: The Licensee shall employ adequate and competent personnel. Personnel positions which require certification by the FAA will not be filled other than by individuals who have such certification which is both valid and current. The Licensee shall ensure that personnel have received proper training for their duty assignments, including the operation of necessary equipment.

05.42.05 Working Hours: Licensees shall be staffed and open for business as is customary for the trade and the area. Licensees will post their hours of operation conspicuously at their premises.

05.42.06 Copies of Appropriate Certificates and Permits: Any operation that requires an FAA, or any other current permit, will provide current copies to the Airport Manager.

05.42.07 Business Name and Signs: No Licensee shall conduct business operations on the Airport under a business name the same as or deceptively similar to the business name of any Licensee previously established on the Airport. Each Licensee shall be identified by a sign or signs at one's facility, and must meet the City of Tumwater sign code as well as be approved by the Port Manager. Signs which are no longer appropriate, due to a change in service, product line, or other reason, shall be removed by the Licensee.

- 05.42.08 Liability Requirements:** Licensee agrees to indemnify, defend, and save the Port of Olympia, its authorized agents, officers, representatives, and employees harmless from and against any and all actions, penalties, liability, claims, demands, damages, or loss resulting from claims or court actions, whether civil, criminal, or in equity, which arising directly or indirectly out of acts or omissions of the Licensee, his agents, employees, servants, guests, or business visitors.
- 05.42.09 Liability Insurance:** To guarantee performance of the paragraph above, the Licensee shall secure public liability and property damage insurance on which the Port of Olympia shall be named as an additionally named insured. Such policies of insurance shall be maintained in full force and effect during all terms of existing leases, agreements, or business licenses, or renewals or extension thereof for a period of not less than ninety (90) days after termination. Such policies shall be for the amount as prescribed by the Port of Olympia. Copies of all such policies of insurance shall be delivered to the Port of Olympia and shall be held for the benefit of the parties as their respective interests may appear. The amounts of said insurance shall not be deemed a limitation of the Licensee's liability to the Port, and if the Port of Olympia, or any of its authorized agents, officers, representatives, or employees become liable for an amount in excess of the insurance, the Licensee will save and hold them harmless for the whole thereof.
- 05.42.10 No Discrimination:** The Licensee agrees that it will not discriminate in any respect against any person because of race, creed, color, sex, or national origin.
- 05.42.11 No Discrimination In Service:** The Licensee shall furnish all services authorized or licensed by the Port of Olympia on a fair, equal, and non-discriminatory basis to all users thereof, and shall charge fair, reasonable, and non-discriminatory prices for each unit or service; provided that the Licensee may make reasonable non-discriminatory discounts, rebates, or other similar types of price reductions to volume purchasers, if permitted by law.
- 05.42.12 Cooperation With Airport Management:** The Licensee shall cooperate with the Airport Manager in operation and control of the Airport. The Licensee shall do all things reasonable to advance or promote the Olympia Regional Airport and aeronautical activities thereon, and to develop the Airport into an attractive, efficient, and modern Airport.
- 05.42.13 Snow, Ice, and Weed Removal:** The Licensee shall be responsible for the removal of snow, and ice, from all his/her leased areas and areas in which he/she is authorized to operate. The Licensee shall keep leased areas, and areas in which he/she operates, free and clear of all weeds, rocks, debris, and other material which could cause damage to aircraft, buildings, persons, or property as the result of aircraft engine operation. The Port may, at the request of the operator, and at the discretion of the Airport Manager, assist the Licensee in snow, ice, and weed removal, provided such operator shall assume the liability of the Port's actions in this regard, and shall indemnify and hold the Port, its officers, agents, and employees harmless from all liability in connection with all things done by the Port pursuant hereto and in connection with such snow, ice, and weed removal.
- 05.42.14 Monthly Reporting:** In addition, to any other reports called for in these Minimum Standards and Rules and Regulations, the Licensees may be required to report monthly to the Airport Manager the dollar volume of business in each category they are licensed for in such format as the Port may request. Those licensed for aircraft storage will also report the number of

customers' aircraft stored. Licensees for line service will report the gallons of fuel sold. Licensees basing aircraft on the Airport and/or offering aircraft storage will file annually with the Airport Manager the following information on each aircraft: registration number, make and model, and the owner's name and address. Business reports required under this section are for the Port's administrative use only in connection with these Rules and Regulations and will, to the extent permitted by law, remain confidential. Reports will be filed on forms provided by the Port of Olympia Regional Airport.

05.42.15 Inspection By The Port: To the extent necessary to protect the rights and interests of the Port of Olympia, or to investigate compliance with the terms of these Rules and Regulation, Minimum Standards, and the Airport Manager, any employee of the Port of Olympia, and any other agent of the Port shall have the right to inspect, at all reasonable times, all Airport premises, together with all structures or improvements, and all aircraft, records and books, equipment, and all licenses, and registrations.

TERMINATION

05.43.00 Termination: A license may be terminated for any of the following:

05.43.01 Licensee Request: The Licensee may terminate by written request.

05.43.02 Making Assignment: The making by the licensee of any general assignment for the benefit of creditors without the written consent of the Port of Olympia.

05.43.03 Discontinuance Or Abandonment: The abandonment or discontinuance of any permitted operation at the Airport by the Licensee or the failure to conduct said operations on a full time basis without the prior written approval of the Port of Olympia.

05.43.04 Default: Failure to promptly pay to the Port, when due, all rents, charges, fees, and other payments which are payable to the Port by the Licensee.

05.43.05 Violation of Rules: A violation of these Minimum Standards Rules and Regulations or any other rules and regulations of the Olympia Regional Airport to which the Licensee is subject.

05.43.06 Violation of Lease Terms: A violation of any lease terms or development standards of the Port of Olympia.

05.43.07 Violation of Laws: Any violation of the laws of the United States or any of its political subdivisions

05.43.08 False Information: Any furnishing of any false information or misrepresentation of any material fact to the Port of Olympia in the application, supporting documents, or in statements to or before the Port of Olympia, or any failure to make full disclosure in the application, or supporting documents, or in statements to or before the Port of Olympia.

05.44.00 In The Event Of Termination: In the event of termination, the Licensee shall cease and desist all operations under the license or licenses affected and such licenses shall be surrendered to the Airport Manager. Should the Licensee fail to do this, the Port of Olympia shall have the right, at once, and without further notice to the Licensee, to enter and take full possession of the space occupied by the Licensee on the Airport by force or otherwise, and with or without further legal process to expel oust and remove any and all parties and any and all goods and chattels not belonging to the Port of Olympia that may be found within or upon the same at the expense of the Licensee and without being liable to prosecution or to any claim for damages therefore. Upon such termination by the Port of Olympia, all rights, powers, and privileges of the Licensee hereunder shall cease and the Licensee shall immediately vacate any space occupied by it under the agreement or any lease or leases and shall make no claim of any kind whatsoever against the Port of Olympia, its agents, or representatives by reason of such termination or any act incident thereto.

In addition to all other rights and remedies provided in these Minimum Standards and Rules and Regulations, the Port of Olympia shall have any and all other remedies at law or without the necessity of posting bond in equity, including the equitable remedy of injunction, to enforce these rules and regulations.

05.45.00 Waiver of Minimum Standards Provisions: The Port of Olympia may, in its discretion, waive all or any portion of the Minimum Standards and Rules and Regulations for the benefit of any commercial airline, any government, or governmental agency or department, or person performing nonprofit public services to the aircraft industry, or performing air search and rescue operations or performing fire prevention or fire fighting operations.

05.46.00 Port Liability: Nothing contained in these Minimum Standards and Rules and Regulations shall be construed as requiring the Port to maintain, repair, restore, or replace any structure, improvement or facility which is substantially damaged or destroyed due to an act of God, or other condition or circumstance beyond the control of the Port.

05.47.00 Business Tenants:

05.47.01 Tenant Definition: Such a tenant is any person leasing property on the Airport for an aircraft for his/her exclusive use and who is not a licensed operator. Such a tenant may hangar his/her aircraft on his leased property, such property to be improved under the terms approved by the Port of Olympia.

05.47.02 Work By Business Tenants: A business tenant may perform services that he may choose to perform on his own aircraft with his own employees. He/she may not hire vendors of services, parts, or fuel from off airport premises to perform services on the Airport without specific written approval by the Airport Manager.

05.47.03 Reporting Requirements: A tenant availing himself/herself of this section, will file with the Airport Manager an annual report of all employees' names, and the employer's federal registration number.

05.48.00 Government Agreements: During time of war, or national emergency, the Port shall have the right to lease the Airport, or the landing area, or any part thereof to the United States Government for military use, and any license or authority granted under these rules and any lease or agreement executed pursuant thereto, shall be subject to such Government lease and the provisions of the Government lease shall control insofar as they are inconsistent with the said operator's agreement, lease or authority.

Any license, authority, lease, or agreement entered into pursuant to these regulations shall be subject and subordinate to the provisions of any existing or future agreement between the Port of Olympia and the United States, relative to the operation or the maintenance of the

Airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the Airport.

05.49.00 Airport Layout Plan: The Port of Olympia reserves the right to alter and Airport Layout Plan and designate as common use areas such portions of any leased area or areas used by any licensed operator or other person licensed to do business on Olympia Regional Airport as shall be necessary for the development of the Airport or for the flow of aircraft traffic to other areas on the Airport. Leases will be adjusted for such changes.

FEES AND TARIFFS

Any person conducting any of the operations identified in Section 05.39 will register with the Airport Manager and will be subject to the payment of fees to the Port of Olympia as prescribed by the Port of Olympia. This does not prevent the Port of Olympia from entering into contracts with a commercial operator for a different fee and conditions. The Port of Olympia may require, at its discretion, liability insurance for any of these operations.

05.60.00 Fees: All aircraft storage and license fees are as prescribed by the Port of Olympia and are available at the Airport Office.

05.60.01 Payments Due: Fees for aircraft storage, land, and buildings, etc., are due when billed and are considered delinquent by the last day of the month in which the billing takes place.

05.60.02 Application Fees: Fees, if any, for application for license to do business on Olympia Regional Airport are due with the submittal and apply to the original only. Any fixed annual license fees are due before exercising the right granted by the licensee. Fees for fuel flowage, percent of business, etc., are due at the end of the month incurred and delinquent at the end of the following month.

05.60.03 Fuel Flowage Fees: Fuel flowage fees apply to all fuel dispensed at Olympia Regional Airport.

05.60.04 Landing Fees: Landing fees for commercial operations other than licensed fixed based operators will be required under the following circumstances: These fees will not normally apply to aircraft less than 12,500 pounds gross weight originating from another airport and depositing passengers or cargo at Olympia Regional Airport or departing Olympia Regional Airport with the same passengers or cargo on an infrequent and irregular basis, but will apply to any operator or contractor using Olympia Regional Airport as a required base or stopping point for any activity, such as, but not limited to, patrol, aerial photography, bank messenger, etc.

05.60.05 Concession Fees: For non-aeronautical commercial activities, which includes but not limited to any other wholesale, retail, or service business enterprise. Concession fees shall be set by the Port of Olympia Commission. Such concession fees may be equal to or greater than similar concession fees assessed at Air Carrier and Commercial airports in the State of Washington.



COVER MEMO

Commission Meeting Date/Time: March 13, 2023/5:30 PM

Department: Properties & Airport

Staff Contact/Title: Warren Hendrickson
Airport Senior Manager

360.528.8074

warrenh@portolympia.com

Topic: Consent Agenda: Fourth Amendment to Option to Ground Lease Agreement

Purpose: ☐ Information Only ☒ Decision Needed ☐ Follow up from Previous Briefing

Background/Overview:

On July 13, 2020, the Port entered into an Option to Ground Lease Agreement with Panattoni Development. There have been three amendments to date:

1. September 14, 2020: Acknowledged a potential Development Agreement with the City of Tumwater and adjusted the Due Diligence Period.
2. July 12, 2021: Extended the Option Term, Habitat Conservation Plan (HCP) Completion Date, and Phase Plan Approval Period, and further adjusted the Due Diligence Period.
3. December 13, 2021: Extended the HCP Completion Date, further adjusted the Due Diligence Period, and set conditions for reimbursement of certain expenses incurred by the lessee that benefit the Port.

The Third Amendment extended the HCP Completion Date to March 1, 2023. Significant delays have been incurred by the City of Tumwater and the Port – working jointly – in reaching proposed tentative mitigation agreements with the U.S. Fish and Wildlife Service (USFWS). The working draft document was formally submitted to USFWS on March 6, 2023. Internal reviews and completion of the National Environmental Policy Act (NEPA) process by USFWS are expected to take one year.

The Port and Panattoni therefore now wish to amend the Option Agreement to further extend the HCP Completion Date to August 31, 2024, to further adjust the Due Diligence Period that accommodates the delayed HCP Completion Date, and to establish certain expectations for the due date of the Good Faith Deposit, payable by Panattoni to the Port.

Documents Attached:

Fourth Amendment to Option to Ground Lease Agreement

Summary & Financial Impact:

Good Faith Deposit will be payable to the Port fifteen (15) business days subsequent to the HCP Completion Date.

Affected Parties:

Port of Olympia

Panattoni Development

Staff Recommendation:

Approve Amendment as presented.

**FOURTH AMENDMENT
TO
OPTION TO GROUND LEASE AGREEMENT**

This FOURTH AMENDMENT TO OPTION TO GROUND LEASE AGREEMENT (“Amendment”) dated as of March 1, 2023 (the “**Effective Date**”) is made by and between the **PORT OF OLYMPIA**, a Washington municipal corporation (the “**Port**”) and **SSECC PDC, LLC**, a Delaware limited liability company (“**Developer**”). The Port and Developer entered into an Option to Ground Lease Agreement dated July 13, 2020, concerning approximately one hundred and ninety-nine (199) acres of land located in the New Market Industrial Campus in the City of Tumwater, Thurston County, Washington (the “**Option Agreement**”), which property is more particularly described in the Option Agreement (the “**Optioned Property**”). Any capitalized terms used but not defined herein shall have the meaning ascribed to them in the Option Agreement.

WHEREAS, the Option Agreement was amended by First Amendment dated September 14, 2020, to provide for terms and conditions to apply and negotiate a Development Agreement, and to adjust the Due Diligence Period to accommodate potential delays in obtaining a fully executed Development Agreement; and

WHEREAS, the Option Agreement was amended by Second Amendment dated July 12, 2021, to extend the Option Term, Habitat Plan Completion Date, and the Phase Plan form approval period, and to adjust the Due Diligence Period to further accommodate potential delays in completing the Habitat Plan; and

WHEREAS, the Option Agreement was amended by Third Amendment dated December 13, 2021, to extend the Habitat Plan Completion Date, to adjust the Due Diligence Period, as previously amended by the First and Second Amendments to the Option Agreement, to further accommodate potential delays in completing the Habitat Plan, and to set forth conditions by which the expenses for development studies that benefit the Port may be reimbursed.

WHEREAS, the Port and Developer wish to amend the Option Agreement to extend the Habitat Plan Completion Date, to adjust the Due Diligence Period, as previously amended by the First, Second, and Third Amendments to the Option Agreement, to further accommodate potential delays in completing the Habitat Plan, and to clarify the timing on the payment of the Good Faith Deposit.

NOW THEREFORE, the Parties agree as follows:

1. **Extension of Habitat Plan Completion Date.** The parties hereby agree that the Habitat Completion Date defined in Section 3.2 of the Option Agreement shall be extended to August 31, 2024.
2. **Extension of Due Diligence Period.** The parties hereby agree that the Due Diligence Period, as defined in Section 8.1 of the Option Agreement, and as previously amended by the First, Second, and Third Amendment to Option to Ground Lease Agreement,

shall be adjusted to expire at 5:00 p.m. Pacific Standard Time on the date that is the later of: (i) ten (10) business days after a final action by the City of Tumwater City Council, and the expiration and resolution of any judicial or administrative appeals, with respect to the Development Agreement, or (ii) at the time the Good Faith Deposit becomes payable in accordance with Section 3 of this Amendment, which is fifteen days after notice from the Port that the Habitat Plan has been completed in accordance with the terms of the Option Agreement, which Habitat Plan Completion Date is expected to occur on or about August 31, 2024.

3. **Payment of the Good Faith Deposit Note.** The Good Faith Deposit Note is due and payable upon Habitat Plan Completion Date in accordance with the terms of the Option Agreement. The Port will give written notice to the Developer of the Habitat Plan Completion Date in accordance with the terms of the Option Agreement and the Note will then be payable within fifteen (15) business days thereafter.
4. **Full Force and Effect.** The rest and remainder of the Option Agreement and any amendment thereto shall remain in full force and effect and is affirmed and ratified by the signature of the parties.

PORT OF OLYMPIA, a Washington
municipal corporation

SSECC PDC, LLC, a Delaware limited
liability company

By: _____
Title: _____
Date: _____

By: _____
Its: _____
Date: _____

Approved as to Form by Port of Olympia General Counsel

By: _____
Rick Hughes

Date: _____

STATE OF WASHINGTON)
) ss
COUNTY OF THURSTON)

On this _____ day of _____, 20__, personally appeared before me _____, to me known to be the Executive Director at the Port of Olympia, the municipal corporation named in the within and foregoing **Fourth Amendment to Option to Ground Lease Agreement**, and acknowledged to me that he/she signed the same on its behalf, as he/she is so authorized to do, as his/her 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 _____)

On this _____ day of _____, 20__, personally appeared before me _____, to me known to be the _____ at the entity named in the within and foregoing **Fourth Amendment to Option to Ground 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

This **Lease** shall be subject, as a condition subsequent, to ratification by the Port of Olympia Commission within thirty (30) days after the date set forth on Page 1. This Lease shall be effective and binding on the parties until such time (and thereafter if ratified), the Executive Director having the authority to sign this Lease and bind the Port to all of its material terms. If this Lease is not ratified, it shall terminate and be of no further force and effect.

The undersigned confirms that this Lease was ratified by the Port of Olympia Commission on _____, 20__.

Port of Olympia Commission

By: _____

Its: _____

Date: _____

STATE OF WASHINGTON)

COUNTY OF THURSTON) ss)

On this _____ day of _____, 20__, personally appeared before me _____, 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: _____

PORT OF OLYMPIA
VOUCHER APPROVAL LISTING, Batch # 48-52
December

GENERAL FUND

COMPUTER PREPARED	1,077,017.18
BOND ACCOUNT PAYMENTS	365,342.28
VOIDED WARRANT(S) / ELECTONIC PAYMENT(S)	(759.44)
PAYROLL	
ELECTRONIC PAYMENTS	293,177.35

TOTAL GENERAL FUND WARRANTS, BOND ACCOUNT WARRANTS & ELECTRONIC PAYMENTS: 1,734,777.37

General Fund Warrants Issued: 086043-086302
Electronic Payments Issued: 000984-000998
Bond Account Warrants Issued: 086256
Payroll Warrants Issued:
Voided Warrant(s): 085088 & 085903
Voided Electronic Payment(s):
Zero Warrant(s): 086092

We the undersigned Board of Commissioners of the Port of Olympia, Olympia Washington, do hereby authorize the issuance of the warrants described above.

Total Warrants: \$1,734,777.37

Warrants over \$200,000:

086256 - SWS Equipment LLC - \$365,342.28 - Sweeper purchase

Charles Iyall, Commission President

Amy Evans, Commission Vice President

Sam Gibboney, Executive Director

Joe Downing, Commission Secretary

PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
December

Batch #:
48

WARRANTS ISSUED:	WARRANT NUMBERS:	
COMPUTER PREPARED issued partial week ending 12/02/22		113,330.38
COMPUTER PREPARED	086043-086105	
Voided Warrant(s)		
Zero Checks	086092	

PROJECTS:
COMPUTER PREPARED
Voided Warrant(s)

ELECTRONIC PAYMENTS:	ACH NUMBERS:	
Electronic Payments, issued partial week ending 12/02/22		
COMPUTER PREPARED		
Voided Warrant(s)		

TOTAL WARRANTS	\$ 113,330.38
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RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".


Matt Peach, Finance Director

PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
December

Batch #:
49

WARRANTS ISSUED:	WARRANT NUMBERS:	
COMPUTER PREPARED, Issued week ending 12/09/22		316,296.27
COMPUTER PREPARED	086106-086189	
Voided Warrant(ε 085088 in week ending 6/24/22	085088	(298.58)
Voided Warrant(ε 085903 in week ending 11/4/22	085903	(460.86)
Zero Checks		
PROJECTS:		
COMPUTER PREPARED		-
Voided Warrant(s)		-
ELECTRONIC PAYMENTS:	ACH NUMBERS:	
Electronic Payments, issued week ending 12/09/22		61,717.40
COMPUTER PREPARED	000984-000985	
Voided Warrant(s)		
	TOTAL WARRANTS	<u>\$ 377,254.23</u>

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".


Matt Peach, Finance Director

PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
December

Batch #:
50

WARRANTS ISSUED:

COMPUTER PREPARED, Issued week ending 12/16/22
COMPUTER PREPARED
Voided Warrant(s)
Zero Checks

WARRANT NUMBERS:

086190-086255

416,875.25

PROJECTS:

COMPUTER PREPARED
Voided Warrant(s)

ELECTRONIC PAYMENTS:

Electronic Payments, issued week ending 12/16/22
COMPUTER PREPARED
Voided Warrant(s)

ACH NUMBERS:

000986-000990

77,508.70

TOTAL WARRANTS

\$ 494,383.95

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".


Matt Peach, Finance Director

PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
December

Batch #:
51

WARRANTS ISSUED:

COMPUTER PREPARED issued week ending 12/23/22
COMPUTER PREPARED
Voided Warrant(s)
Zero Checks

WARRANT NUMBERS:

194,282.33
086257-086290 -
-

PROJECTS:

COMPUTER PREPARED issued week ending 12/23/22
COMPUTER PREPARED
Voided Warrant(s)

365,342.28
086256 -
-

ELECTRONIC PAYMENTS:

Electronic Payments, issued week ending 12/23/22
COMPUTER PREPARED
Voided Warrant(s)

ACH NUMBERS:

53,935.19
000991-000992

TOTAL WARRANTS \$ 613,559.80

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".


Matt Peach, Finance Director

PORT OF OLYMPIA
VOUCHER APPROVAL LISTING
December

Batch #:
52

WARRANTS ISSUED:

COMPUTER PREPARED issued week ending 12/30/22
COMPUTER PREPARED
Voided Warrant(s)
Zero Checks

WARRANT NUMBERS:

36,232.95
086291-086302 -

PROJECTS:

COMPUTER PREPARED
Voided Warrant(s)

-
-

ELECTRONIC PAYMENTS:

Electronic Payments, issued week ending 12/30/22
COMPUTER PREPARED
Voided Warrant(s)

ACH NUMBERS:

100,016.06
000993-000998

TOTAL WARRANTS

\$ 136,249.01

RCW 42.24.080: "I, the undersigned, do hereby certify under penalty of perjury, that the materials have been furnished the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations of the Port of Olympia, and that I am authorized to authenticate and certify to said claims".



Matt Peach, Finance Director

COVER MEMO

Briefing Date/Time: March 13, 2023

Staff Contact/Title: Lisa Parks, Executive Services Director, 360-528-8020, lisap@portolympia.com

Subject: Resolution No. 2023-02 Amending the Port of Olympia Economic Development Corporation (EDC)

Purpose: ☒ Information Only ☐ Decision Needed

Background/Overview:

The Port of Olympia Economic Development Corporation – Port EDC – was created in 1983 to facilitate local economic development and employment opportunities. The impetus and primary purpose of the EDC has been to take advantage of a program administered by the Internal Revenue Service allowing for Industrial Development Revenue Bonds (IDRB) to be issued. IDRBs are tax-exempt debt obligations issued by public corporations to support qualified manufacturing and processing companies with below-market interest rates for eligible uses. The Port’s EDC serves as a conduit agency, with security to the bond purchase provided by the borrower, working through a bank or other lending institution. IDRBs do not affect the Port’s bonding capacity, nor do they become an obligation of the Port if there is any type of default.

Currently, the authorizing Resolution for the EDC states the EDC Board of Directors is made up of the three elected Port Commissioners and two additional “At-Large” members who are appointed by the EDC Board. The existing Resolution describes the three Port Commissioners as serving on the EDC Board “ex-officio”, meaning they serve by virtue of their position as Port Commissioner. However, the Resolution does not explicitly state they are voting members of the Board, as best practice would suggest. Therefore, staff is recommending the Port Commission amend the EDC authorizing Resolution to clearly state Port Commissioners serve on the Board in a voting capacity.

Staff is presenting the Commission with two alternatives for amending the Resolution to clarify Board members, and is requesting direction on which alternative to bring back in the final draft Resolution at the March 27, 2023 regular commission meeting.

Alternative 1: The first alternative would be to retain the Board composition (port commissioners and appointed citizens) as currently provided for in the Resolution with 2 changes:

- Clarify all board members vote; and,
- There are/will be 5 Port Commissioners and 2 At-Large Citizen Members (7 total).

Alternative 2: The second alternative would be to reference the Port Commission as the only members of the EDC board, resulting in no longer having At-Large Citizen Members. This alternative clears up any confusion as to voting versus non-voting members, it accommodates the expanded, five-member Port Commission, and it retains the current number of EDC board members at five. Additionally, because the EDC Board currently meets infrequently, it avoids having citizens volunteer to participate in a board that ends up having very little to do.

The next steps are as follows:

1. The Port Commission directs staff to prepare a Resolution accomplishing either Alternative 1 or 2 above;
2. Resolution 2023-02 amending the EDC Board member composition appears on the Action Calendar for the March 27, 2023 regular Port Commission meeting; and,
3. An annual EDC Board meeting is advertised and held, the EDC Bylaws are amended to address meeting frequency and to make general updates, and a review of the financial status of the EDC is conducted.

Documents Attached:

PowerPoint Presentation

RESOLUTION NO. 2023-02 AMENDING THE PORT OF OLYMPIA EDC

MARCH 13, 2023

LISA PARKS

EXECUTIVE SERVICES DIRECTOR

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Port of Olympia Economic Development Corporation (EDC)

History & Purpose

- Created in 1983
- Board of Directors
- Purpose – Economic Development thru Industrial Development Revenue Bonds (IDRB)
- IDRB - Federal IRS program
 - Tax-exempt debt obligations
 - Below-market interest rates
 - Issued by public corporation
 - Qualified manufacturing and processing companies for eligible uses
 - Port EDC is conduit agency
- Very little utilization since early 2000's



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Proposed EDC Resolution Changes

Background



- Recent Commission Reviews:
 - August, 2021 - Review status of the Port EDC:
 - Meeting frequency
 - Election of officers
 - General updates (technology)
 - Small Cities Program
 - March, 2022 - Resolution No. 2022-04 Amending the Small City Program
 - Simplified Small City Program, removed EDC review step
- Additional Consideration: Five Member Port Commission in January, 2024

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Proposed EDC Resolution Changes

Action Requested

- **Tonight** – Provide direction re: make-up, voting status of EDC Board
 - **Alternative 1:** Retain composition with 2 clarifications;
 - All board members vote; and,
 - Acknowledge 5 Port Commissioners, 2 Appointed Citizens
 - **Alternative 2:** Port Commissioners (5) are only Board members
- **March 27, 2023** - Adopt Resolution 2023-02
- **Subsequently** - Hold EDC special meeting:
 - Amend By-Laws
 - Meeting frequency
 - General updates (technology)
 - Review Financial status of EDC

4



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Proposed EDC Resolution Changes

Questions...?

Direction on Alternatives...?

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