

Commission Public Meeting Monday, November 28, 2022 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 November 23, 2022. https://www.portolympia.com/commission

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

https://us02web.zoom.us/j/84442079398

or Telephone: 1 253 215 8782 Webinar ID: 844 4207 9398

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.

Executive Session: The Commission will hold an executive session on Monday, November 28, 2022 at 4:00 p.m. to discuss potential litigation (RCW 42.30.110(1)(i)) and to review the performance of a public employee (RCW 42.30.110(1)(g)). The executive session is expected to last approximately 60 minutes with no action to be made or decisions to follow.

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.

<u>Comments should be directed to Commission</u>: Comments should be directed to the Commission as a whole
and should not include comments about individual Port staff or members of the public.

• <u>Courtesy</u>: 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.

F. Consent Calendar

Bills and Vouchers for October, Batches 40-43.5
 Warrant over \$200,000.00: Warrant for \$228,604.07 for Leasehold Tax

- G. Pending Issues or Business
 - 1. FAA Land Release
- H. Action Calendar
 - Budget Adoption: 2023 Operating Budget, Capital Investment Plan and Tax Levy Matt Peach, Finance Director.
 - a. Resolution No. 2022-11 Tax Levy
 - b. Resolution No. 2022-12 Adoption of the 2023 Operating Budget and Capital Investment Plan, including Rates and Fees
 - 2. Strategic Plan Adoption Sam Gibboney, Executive Director
 - 3. Marine Center: Thomas Architecture Contract Amendment No. 3 Lisa Parks, Executive Services Director
 - 4. Marine Center: MIG Architecture Contract Lisa Parks, Executive Services Director
 - 5. Resolution 2022-13 Apprenticeship Utilization Policy Revision Sam Gibboney, Executive Director
- Action/Other Calendar
 - 1. NW Asphalt Contract Amendment Rudy Rudolph, Operations Director
 - Commercial Aviation Coordinating Commission (CACC) Letter Warren Hendrickson, Airport Senior Manager
 - 3. Public Comment
- J. Advisory Calendar
 - Resolution 2022-XX Revision of Policy No. 207 Employment Salary Review and Pay for Performance Sam Gibboney, Executive Director
 - 2. Large Airport Lease Allyn Roe, Business Development and Real Estate Director
 - 3. Mojo Strategies Agreement Amendment No.1 Lisa Parks, Executive Services Director
 - 4. The Beckett Group Agreement Amendment No. 1 Lisa Parks, Executive Services Director
 - 5. Public Comment on Advisory Items
- K. Commissioner Reports/Discussion
- L. Other Business
- M. Meeting Announcements
- N. Adjourn

PORT OF OLYMPIA VOUCHER APPROVAL LISTING, Batch # 40-43.5 October

GENERAL FUND						
	COMPUTER PREPARED	708,223.56				
	BOND ACCOUNT PAYMENTS	(00 500 00)				
	VOIDED WARRANT(S) / ELECTONIC PAYMENT(S) PAYROLL	(23,569.99)				
	ELECTRONIC PAYMENTS	420,886.89				
TOTAL GE	NERAL FUND WARRANTS, BOND ACCOUNT WARRANTS & ELECTRONIC PAYENTS:	1,105,540.46				
General Fund Warrants Issued:	085721-085872					
Electronic Payments Issued: Bond Account Warrants Issued:	000953-000967					
Payroll Warrants Issued: Volded Warrant(s):	085721, 079021, 079695, 079835, 079971					
Voided Electronic Payment(s): Zero Checks:	010041, 010042, 010043, 010044, 010045					
We the undersigned Board of Co described above.	mmissioners of the Port of Olympia, Olympia Washington, do hereby authorize the issuance of the warrants					
Total Warrants:	\$1,105,540.46					
Warrants over \$200,000:	000967-Leasehold Tax- \$228,604.07					
vvairants over \$200,000.	000907-Leaseriold Tax- \$220,004.07					
Charles Iyall, Commission Presid	Charles Iyall, Commission President Amy Evans, Commission Vice President					
Care Cilebanas Francish - Direct	The Description Control to Control					
Sam Gibboney, Executive Director	Joe Downing, Commission Secretary					

Batch #:

43.5

WARRANTS ISSUED:

WARRANT NUMBERS:

COMPUTER PREPARED issued partial week ending 10/31/22

COMPUTER PREPARED

Voided Warrant(s) Zero Checks

PROJECTS:

COMPUTER PREPARED

Voided Warrant(s)

-

ELECTRONIC PAYMENTS:

ACH NUMBERS:

Electronic Payments, issued partial week ending 10/31/22

COMPUTER PREPARED

Voided Warrant(s)

000965-000967

255,014.62

TOTAL WARRANTS

\$ 255,014.62

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".

Batch #:

43

WARRANTS ISSUED:

COMPUTER PREPARED issued week ending 10/28/22

COMPUTER PREPARED

Voided Warrant(s)

Zero Checks

WARRANT NUMBERS:

085851-085872

079021, 079695, 079835, 079971 010042, 010043, 010044, 010045 174,285.39

(441.61)

(441.01

PROJECTS:

COMPUTER PREPARED

Voided Warrant(s)

-

ELECTRONIC PAYMENTS:

Electronic Payments, issued week ending 10/28/22

COMPUTER PREPARED

Voided Warrant(s)

ACH NUMBERS:

59,258.19

000960, 000961, 000962, 000963, 000964

TOTAL WARRANTS

\$ 233,101.97

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".

Batch #:

42

WARRANTS ISSUED:

WARRANT NUMBERS:

COMPUTER PREPARED, Issued week ending 10/21/22

085822-085849

112,317.94

COMPUTER PREPARED Voided Warrant(s) Zero Checks

PROJECTS:

COMPUTER PREPARED

Voided Warrant(s)

ELECTRONIC PAYMENTS:

ACH NUMBERS:

Electronic Payments, issued week ending 10/21/22

COMPUTER PREPARED

000959

13,589.51

Voided Warrant(s)

TOTAL WARRANTS

125,907.45

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".

Batch #:

41

WARRANTS ISSUED:

WARRANT NUMBERS:

COMPUTER PREPARED, Issued week ending 10/14/22

085758-085821

144,668.58

COMPUTER PREPARED Voided Warrant(s)

Zero Checks

PROJECTS:

COMPUTER PREPARED

Voided Warrant(s)

ELECTRONIC PAYMENTS:

Electronic Payments, issued week ending 10/14/22

COMPUTER PREPARED

Voided Warrant(s)

ACH NUMBERS:

000956-000958

43,354.61

TOTAL WARRANTS

188,023.19

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".

Batch #:

40

WARRANTS ISSUED:

WARRANT NUMBERS:

COMPUTER PREPARED issued week ending 10/07/22

276,951.65

COMPUTER PREPARED

085721-085757

(23,128.38)

Voided Warrant(s) Zero Checks 085721

010041

PROJECTS:

COMPUTER PREPARED Voided Warrant(s)

ELECTRONIC PAYMENTS:

ACH NUMBERS:

Electronic Payments, issued week ending 10/07/22

000953-000955

49,669.96

COMPUTER PREPARED Voided Warrant(s)

TOTAL WARRANTS

303,493.23

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".



COMMISSION MEETING

BRIEFING DATE/TIME:	November 28, 2022
DEPARTMENT:	Administrative / Executive
STAFF CONTACT:	Matt Peach, Finance Director Telephone: 360.528.8004 Email:Mattp@portolympia.com
TOPIC:	Budget Adoption – 2023 Operating Budget, Capital Investment Plan, and Tax Levy, Resolution 2022-11 Tax Levy Certification, and Resolution 2022-12 Adoption of the 2023 Operating Budget and Capital Investment Plan including number of employees and Rates and Fees
PURPOSE: Check all that apply	☐ Information only ☐ Decision needed ☐ Follow up from previous briefing
BACKGROUND & OVERVI	
Capital Investment Pla	Commission adopt the 2023 Operating Budget, including Rates and Fees, the n and Tax Levy. The Commission held a public hearing on November 14, 2022 budget in public over the past several months.
DOCUMENTS ATTACHED:	
 Resolution 2022- 1 including Rates 	1 2023 Tax Levy Certification 2 Adoption of the 2023 Operating Budget and Capital Investment Plan
The full detailed budge	et is available on the Port's website at www.portolympia.com
AFFECTED PARTIES:	
Thurston County Citize	ens
COMMISSION RECOMMEN	IDATION: Commission Discussion, Deliberation and Direction
Adoption of Resolution	as 2022- 11 and 2022- 12.



BUDGET ADOPTION - 2023 OPERATING BUDGET, CAPITAL INVESTMENT PLAN, TAX LEVY

November 28, 2022

Matt Peach Finance Director

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Agenda

- 2023 Statutory Budget
- Capital Investment Plan
- 2023 Budget Overview
- Tax Levy & Non Operations (including Environmental, Commission & Other Non-Ops)
- Questions
- Resolution 2022-11 Adoption of Tax Levy
- Resolution 2022-12 Adoption of 2023 Operating Budget, Number of Employees and Capital Investment Plan, including Rates and Fees

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CASH 2023 STATUTORY BUDGET

IN \$,000s

	2022 Adopted Budget	2022 Projected	2023 Budget
Beginning Cash & Investments	\$ 12,461	\$ 14,121	\$ 16,375
Projected Sources of Funds		-	
Operating Revenues	14,352	17,861	15,889
Operating Expense	(12,114)	(14,665)	(14,022)
Funds Provided by Operations	2,238	3,196	1,867
Ad valorem tax revenue	7,124	7,117	7,593
Projected Borrowing for Capital Projects	-	-	-
Other, Net	(2,265)	(1,967)	(3,891)
Projected Sources of Funds	7,097	8,346	5,569
Projected Uses of Funds			
Debt Service Payments (Bond & Bank)	(4,611)	(4,613)	(4,605)
Capital Investments - Planned Projects	(2,010)	(1,479)	(2,147)
Projected Uses of Funds	(6,621)	(6,092)	(6,752)
Ending Cash & Investments	\$ 12,937	\$ 16,375	\$ 15,192

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CAPITAL INVESTMENT PLAN

2023 Capital Budget						
Business Unit	Project Name	Capital Budget	PORT Funds	Grant Funds	Notes, Comments, Assumptions	
	Hangar Expansion Pilot Project**	\$50,000	\$50,000		Planning, design and permitting	
ŧ	Airport Maintenance Shop**	\$20,000	\$20,000		Planning, conceptual design and cost estimate	
Airport	Airport Runway 8/26 Reconstruction**	\$250,000	\$250,000		Planning, design and permitting	
٩ ا	Subtotal Airport	\$320,000	\$320,000	\$0		
	Marina/Admin Offices - Development**	\$425,000	\$175,000	\$250,000	Planning, design and permitting	
ಹಲ	Marina Electrical B/C Docks**	\$253,000	\$253,000		Design, engineering, permitting, construction	
ork 6	BW-Stormwater Unit/Treatment Manlift-Towable/Electric Port-wide Piling Replacement Plan**		\$200,000		2022 Stormwater Permit Changes	
at war ii			\$35,000		Equipment - potential WSDOT and DOE Grants	
Σ @	Port-wide Piling Replacement Plan**	\$85,000	\$85,000		Engineer Assessment	
	Subtotal Marina & Boatworks	\$998,000	\$748,000	\$250,000		
	Asphalt/Repairs-Berth 1**	\$50,000	\$12,500	\$37,500	PIDP submitted May 2022 - Design, engineering, permitting	
_ [Maintenance Facility**	\$50,000	\$12,500	\$37,500	PIDP submitted May 2022 - Design, engineering, permitting	
inal	Marine Terminal Paving**	\$110,000	\$27,500	\$82,500	PIDP submitted May 2022 - Design, engineering, permitting	
e.	Warehouse-Fire System **	\$150,000	\$150,000		Construction	
_ e	Dock Ramps	\$40,000	\$40,000		Equipment: Need (6) - (2) per budget year	
ari.	Water Truck	\$55,000	\$55,000		Equipment: End of Life - Replace	
Σ̈́	Forks for Supersacks	\$28,000	\$28,000		Equipment	
	Subtotal Marine Terminal	\$483,000	\$325,500	\$157,500		

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CAPITAL INVESTMENT PLAN

<u>.0</u>	CBC Bldg #2 - Roof Replace	\$275,800	\$275,800		Design, engineering, permitting, construction
s der	Shell Gas Station - HVAC Replace	\$22,000	\$22,000		Equipment: End of Life - Replace
, de	Subtotal Properties	\$297,800	\$297,800	\$0	
-					
	IT: PDK Gates (Portwide)	\$75,000	\$75,000		Equipment purchase & Software Integration
	IT: Fiber to Port Cyber Security Infrastructure**	\$222,776	\$55,694	\$167,082	Equipment purchase; Grant
Ę	IT: Network & PC Upgrades - Annual	\$75,000	\$75,000		Equipment purchase
ģ	Commission Room Upgrades	\$75,000	\$75,000		Equipment purchase Room Upgrade
4	Billy Frank Trail Signs**	\$25,000	\$25,000		Centennial
ă o	Centennial Legacy Project**	\$50,000	\$50,000		Plan, design, engineering, permits
- LON	Sustainability Infrastructure Matching Fund	\$100,000	\$100,000		Zero-Emissions De-Carbonization Solar Grant Capital Initiatives
Z	Subtotal Non Ops & Admin	\$622,776	\$455,694	\$167,082	
		Capital Total	Port Total	Grants Total	
	Total	\$2,721,576	\$2,146,994	\$574,582	
	** asterisks: 2022 Capital Carryover				Y_10.18.22

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OPERATING BUDGET

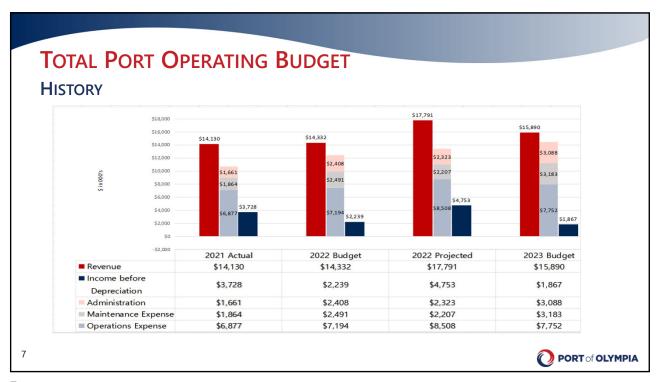
INCOME STATEMENT IN \$,000s

	Airport & New	Swantown	Marine		General	
	Market	Marina	Terminal	Properties	Admin.	2023 Budget
Operating Revenues	3,295	4,633	6,301	1,661		\$ 15,890
Operations & Maintenance Expenses	(1,634)	(3,438)	(4,835)	(1,027)		(10,934)
Contribution Margin	1,661	1,195	1,466	634	-	4,956
Administration Expenses	(828)	(828)	(892)	(540)	-	(3,088)
Operating Expenses	(2,462)	(4,266)	(5,727)	(1,567)	-	(14,022)
Operating Income before depreciation	833	367	574	94		1,868
Depreciation	(963)	(653)	(1,778)	(358)	(127)	(3,879)
Operating Income (loss)	(130)	(286)	(1,204)	(264)	(127)	(2,011)

Expected Cash Earnings from Operations

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TAX LEVY			
CALCULATED PROPOSED AMOUNT			
	1% + Co	nst Incr	
2022 levy amount		,124,012	
Increase on prior year levy 1%		71,240	
Levy increase for new construction		133,634	
Adminstrative Refund Re-Levy		7,945	
Increase in value of State Assessed Property		-	
Banked Capacity		255,534	
Proposed 2023 tax levy	\$ 7	,592,365	
Increase (Decrease)	\$	468,353	
2023 Preliminary Assessed Valuation \$59,937,598,057			
2023 Millage Rate (calculated)	\$	0.1267	
2022 Millage Rate	\$	0.1507	

USES, IN ,000S	2023 BUDGET
Tax Levy	
Tax Levy Banked Tax Levy	\$ 7,337 \$ 255
Grant Revenue	\$ 1,424
Total Revenues	\$ 9,016
Uses of Taxes:	\$ 3,310
Principle & Interest Expense, Debt	(4,605)
Environmental Expense:	
Cascade Pole	(606)
Environmental Administration	(1,375)
Budd Inlet Remediation	(2,158)
Community Events	(56)
Public Amenities	(290)
Harbor Patrol	(33)
Small Cities	(40)
Capital Project Funding	-
Special Projects:	(75)
Election Costs	(300)
Commission Expense	(568)
Membership and Partner Costs	(137)
Total Use of Taxes	\$ (10,243)
Net Levy Funds	\$ (1,227)

20	023 Budget	2022 Budget
Airport, New Market, Cleanwater Centre	6.07	5.85
Swantown Marina	13.43	13.15
Marine Terminal	9	9.04
Properties	3.35	4.08
Administration	13.45	11.95
Environmental Admin/Cascade Pole	1.75	1.98
Public Amenities	1.7	1.7
Total FTEs	48.75	47.75

Questions Output Out

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Sample Motion

Move to approve Resolution 2022-11, A resolution to adopt the Levy Amount for 2023, which is a 4.59% increase over 2022.

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PORT of OLYMPIA

Sample Motion

Move to approve Resolution 2022-12, a Resolution of the Port of Olympia Commission authorizing, providing for acceptance, approval, and adoption of the Final 2023 Annual Operating Budget including Number of Employees, annual User Rates and Fees and Capital Investment Plan pursuant to RCW 53.35.045.





Ordinance / Resolution No. 2022-11 RCW 84.55.120

WHEREAS, the	Commission (Governing body of the taxing distric	of	Port of Olympia	has met and considered
	(Governing body of the taxing distric	(t)	Name of the taxing district)	_
its budget for the c	alendar year 2023; aı	nd,		
	listricts actual levy amount from		or <u>less than</u> 10,000;	
	ED by the governing body of th	•		e regular property tax levy
is hereby authorize	ed for the levy to be collected in	the 20 (Year of	ollection) tax year.	
The dollar amount	of the increase over the actual	levy amour	nt from the previous year s	shall be \$ <u>326,775.04</u>
which is a percent	age increase of 4.587 (Percentage increase	% from the p	previous year. This increa	se is exclusive of
solar, biomass, and	resulting from new construction in geothermal facilities, and any and refunds made.			
Adopted this	28 day of Novemb	er,	2022 .	
		_		
		<u> </u>		

If additional signatures are necessary, please attach additional page.

This form or its equivalent must be submitted to your county assessor prior to their calculation of the property tax levies. A certified budget/levy request, separate from this form is to be filed with the County Legislative Authority no later than November 30th. As required by RCW 84.52.020, that filing certifies the <u>total amount to be levied</u> by the regular property tax levy. The Department of Revenue provides the "Levy Certification" form (REV 64 0100) for this purpose. The form can be found at: http://dor.wa.gov/docs/forms/PropTx/Forms/LevyCertf.doc.

To ask about the availability of this publication in an alternate format, please call 1-800-647-7706. Teletype (TTY) users may use the Washington Relay Service by calling 711. For tax assistance, call (360) 534-1400.

PORT OF OLYMPIA COMMISSION Resolution – 2022-12

A Resolution of the Port of Olympia Commission authorizing, providing for acceptance, approval, and adoption of the Final 2023 Annual Operating Budget including annual User Rates and Fees and Capital Investment Plan pursuant to RCW 53.35.045.

WHEREAS, a Preliminary 2023 Annual Operating Budget and Capital Investment Plan was prepared and presented in a public meeting of the Port of Olympia Commission on September 23, October 3, October 10, October 17, October 24, October 31, November 7, November 14, and November 28, 2022; and

WHEREAS, public notices were published in a newspaper of general circulation in Thurston County on October 30, November 6 and November 13, 2022 proclaiming the availability of the Proposed Final 2023 Annual Operating Budget and Capital Investment Plan to taxpayers at the Port office and announcing a public hearing on the Final Budget on November 14, 2022, all in accordance with RCW 53.35.030 and 53.35.045; and

WHEREAS, a public hearing was held on November 14, 2022 at 5:30 P.M., in person and virtually after proper notice for a regular meeting of the Port Commission in the daily newspaper of general circulation in Thurston County was given, and the Port Commission heard from all persons desiring to be heard on the matter of the Final Budget and tax levy all in accordance with RCW 53.35.030 and RCW 53.35.045.

NOW, THEREFORE, IT IS RESOLVED by the Port of Olympia Commission as follows:

- 1. The Final Annual Budget for Port Operations & Capital Investment Plan for 2023, including number of employees, appended hereto as part of this Resolution is accepted and approved.
- 2. The Port's 2023 Final Annual Budget for Port Operations & Capital Investment Plan shall include schedules of all user rates and fees charged by the Port; and further,
- 3. The Port Commission's adoption of the Final Annual Budget for Port Operations & Capital Investment Plan shall serve as of the 2023 annual update to the Port's user rates and fees.

This resolution shall become effective immediately upon its adoption and repeals any prior resolutions on this matter.

ADOPTED by a majority of the members of the Port Commission of the Port of Olympia, a majority being present and voting on this Resolution at a regular Commission meeting on November 28, 2022, as attested to by the signatures below of the Commissioners physically present this 28th day of November, 2022.

PORT OF OLYMPIA COMMISSION
Bob Iyall, President
Amy Evans Harding, Vice President
Joe Downing, Secretary



COMMISSION MEETING

BRIEFING DATE/TIME:	November 28, 2022
DEPARTMENT:	Administration
STAFF CONTACT/TITLE:	Sam Gibboney Telephone: 360.643.3028 Email: samg@portolympia.com
TOPIC:	Strategic Plan 2025
PURPOSE: Check all that apply	☐ Information only ☐ Decision needed ☐ Follow up from previous briefing

BACKGROUND & OVERVIEW:

The Port last adopted a strategic plan in 2017. That process anticipated that the Port would update its strategic plan every two to four years following an election cycle.

In June 2022 the Port's Commission and senior management team began meeting to consider an updated strategic plan. That work has been completed and a DRAFT **Strategic Plan 2025** is attached for the Commission's consideration.

The process for developing Strategic Plan 2025 included a series of Commission-staff interactions facilitated by the consulting firm of Leeward Strategies. Leeward Strategies has worked with ports across the state on strategic planning efforts and is considered a leading authority on port management and governance.

Foundational to the development of Strategic Plan 2025 was the incorporation of key outcomes of the citizen driven Vision 2050 and Destination Waterfront initiatives – as well as being informed by the Port's financial forecasts, the 2018 Sustainability Action Plan, ongoing capital projects, and staff operational insights.

At its core, strategic planning, is "developing true alignment on multi-year priorities and effectively embracing them to link the present to the future". It serves to communicate the Port's priorities to a host of stakeholders; provides clear direction to staff on Commission priorities; informs the Port's financial decision making; and defines success in the both the near term and long term.

The plan is built on three focus areas:

- ✓ Creating economic opportunities
- ✓ Embracing environmental stewardship
- ✓ Developing community assets

The proposed plan identified six initiatives that are complex and when completed create significant progress in supporting the Port's effectiveness in the community:

- Culture improve organizational alignment, operational effectiveness, and employee satisfaction
- **Governance** pursue the creation of a five-member Commission
- **Financial** develop a clear and focused understanding of the Port's financial performance
- **Restoration** achieve environmental cleanup, habitat restoration, and infrastructure improvements in Budd Inlet
- Waterfront implement Destination Waterfront
- **Communications** increase the community's understanding of the role and value of the Port in serving the community

In addition to these six key initiatives the plan identifies an additional twelve community, environmental, and operational goals.

Of note in the attached DRAFT plan are the proposed Mission (*Captures Why the Port exists*) and Vision (*Describes a successful future*) statements. Both of these proposed statements have incorporated the input of the Commission to date but <u>require additional Commission review and consideration</u>.

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

Vision: "The Port is recognized as a trusted community institution connecting Thurston County to the world and serving as a model of environmental sustainability and economic development."

Additionally, based on comments from Commissioners at the last meeting, below are some suggested edits to text (shown in "track changes") in the Strategic Plan related to the financial initiative as well as technical corrections for Commission review and consideration:

On the Letter from the Commission page:

Commissioner Evans_-Harding

On the New "Investment Opportunity" Checklist, bullet 5:

Does the Port have **sufficient capacity** (financial, staff) to support the opportunity, and what source of funds would be utilized for construction and maintenance, if required?

On the Today's Port page:

(Based on a 2020 From "The Economic Benefits of the Port of Olympia", issued December 6, 2021 Impact Study)

Additionally, staff worked with the consultant to clarify how the Financial Initiative in the Strategic Plan is anticipated to be further refined through the work of the Commission, resulting in more detailed financial policies. The attached memorandum from Jim Darling, Leeward Strategies, outlines the anticipated steps associated with the Financial Initiative and clarifies expected outcomes and timelines.

Staff is requesting Commission consideration and action to approve the final strategic plan at this November 28, 2022, Regular Commission Meeting.

PLEASE NOTE: The attached DRAFT has not gone through the Port's final design and branding process. Once the DRAFT is approved as to content and the plan adopted, the Port's communication staff will produce a final and formatted document.

DOCUMENTS ATTACHED:

- Power point Presentation-Strategic Plan 2025
- Memorandum on Financial Initiative from Jim Darling, Leeward Strategies
- Draft Strategic Plan 2025

Memorandum

To: Port Commissioners

From: Jim Darling, Leeward Strategies

Date: November 28, 2022

Further Clarifying the Financial Initiative

Financial- Develop a clear and focused understanding of the Port's financial performance to support long term operational and investment decisions.

Clarify the Commission's expectations regarding how the various business units are categorized, how financial performance is measured and described, and how they define "public benefit".

Use this information to develop business unit financial projections and performance analyses in 2023.

Pursuing the 'Financial Initiative' anticipates the following steps which are well accepted in today's industry and will result in the adoption of financial policies that are key to successful port governance and management:

1. **Categorize the Port's activities** as revenue producers or revenue users. Specifically, are they a line of business (business unit) or a traditional governmental activity?

Lines of business generate earned revenue and generally compete with the private marketplace. At the Port of Olympia these are likely the real estate portfolio, the shipping terminal, the airport, and the marina.

Traditional governmental activities are those that do not have the capacity to raise sufficient earned revenues to support their costs, much less generate a profit. These Port activities likely include parks and open space, programmatic economic development, and some forms of environmental stewardship or responsibility.

These outward facing activities must be able to carry the weight of the inward facing overhead activities including human resources, executive and administration, finance, etc..

- 2. **Establish distinct performance metrics** for each **'line of business'**, typically captured as a return-on-investment calculation (ROI). Ideally these activities that traffic in the private marketplace will not be subsidized, but if they are, there must be a clear acceptance of why they cannot be self-sufficient or establish the parameters and time frame for them to become self-sufficient.
- 3. **Establish performance metrics** usually captured in acceptable long term inflationary increases for the **'traditional governmental activities'** as well as an assessment of public benefit. This also includes agreeing on the source of funding for each, whether that be from line of business profits; grants; or taxes.
- 4. In establishing performance metrics agree on what **costs are included** in measuring performance. For example, distribution of overhead expenses; allocation of maintenance costs; source of capital costs not requiring borrowing; assignment of debt service; as well as operating expenses.
- 5. After analyzing each activity on the above and having a clear understanding of their current financial performance, establish, by Commission policy, longer term performance targets (3 to 5 years) for each. This requires a clear acceptance of what it will take to get there, for example, increasing rates, reducing expenses, devesting of underperforming assets, etc.
- 6. **Develop multiyear financial performance projections**. Capture the current performance and projected performance in a minimum of five- year, and preferably ten-year, financial forecasts for each line of business and each traditional governmental activity. Roll these distinct projections into a combined Port projection. Include in that combined projection overall summary indicators such as debt coverage ratio, level of cash reserves and available debt capacity. These overall indicators will lend the Commission a clear understanding of the Port's overall financial health.
- 7. **Develop or amend existing financial keystone documents** to capture these policy decisions. These traditionally include:
 - a. Annual Operating and Capital Budgets
 - b. Multiyear financial projections
 - c. Financial Policies (such as expected ROI, leasing standards, or use of property taxes)
 - d. Delegation of Powers to the Executive Director
 - e. Plan of Finance for new endeavors or large projects

Should this work be captured in an initiative or a goal?

This is a multistep process-first getting financially organized and then setting performance expectations. It is complex and will have fundamental impacts on how the Port governs and manages. It should be considered an initiative because of its significance in the long term and the fact that it is port wide. Specific financial goals can be captured in strategic updates for each line of business of traditional governmental activity.

When will this be done?

As the Port is in the process of retaining a new financial officer it is recommended that this work be undertaken once that position is filled. This will allow sufficient time to adopt any proposed financial reorganization and determine performance targets in 2023 in advance of preparing the FY2024 budget.



Strategic Planning

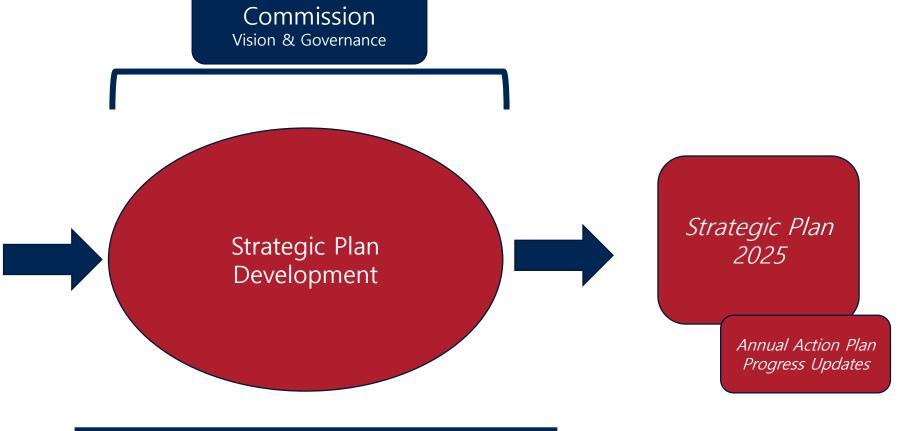
Process

Vision 2050

Destination Waterfront

Strategic plan 2017

2018 Sustainability
Plan



Regulatory Obligations Financial Considerations Staff Insights





Goals

- Report on Vision 2050 Progress
- Maintain ongoing Partnerships
- Complete and implement 'Parks' and Open Space Plan'
- Support economic development

Community



- Complete Airport Master Plan
- Update Marine Terminal Plan
- Keep documents current
- Implement strategic plan and update Commission on progress
- •Launch capital facility maintenance plan

Operational



- Meet all environmental standards
- Implement environmental resiliency strategies
- Complete the Habitat
 Conservation Plan

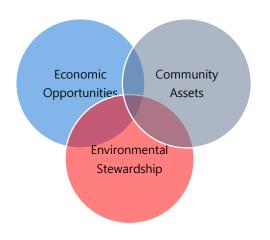
Environmental



GOALS, when achieved and/or sustained, represent important milestones in the Port's momentum towards being the most effective agency it can be in serving the community.



Commission
Discussion
And
Decision
Needed...



Our Mission

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

Our Vision

"The Port is recognized as a trusted community institution connecting Thurston County to the world and serving as a model of environmental sustainability and economic development."



Potential Clarifications:

Letter From the Commission: Correct Commissioner Evans Harding's name

Commissioner Evans Harding

New Investment Opportunity Checklist, Bullet #5: Modify to read:

 "Does the Port have sufficient capacity (financial, staff) to support the opportunity, and what source of funds would be utilized for construction and maintenance, if required?

<u>Today's Port</u>: Correct citation to the recent Economic Benefit Study:

(From "The Economic Benefits of the Port of Olympia", issued December 6, 2021)



Next Steps:

- Commission Approval at tonight's meeting.
- Design the Plan with the Port's 'branding' standards.
- Distribute the Plan internally and externally, use as the basis of Port communications & messaging- 2022 and beyond.
- Provide quarterly updates to the Commission on Initiatives and Goals-based on Annual Action Plan.



Suggested Motion...

"... move to approve the Port of Olympia Strategic Plan 2025."







The Strategic Plan 2025

'Strategic planning is developing true alignment on multi-year priorities and effectively embracing them to link the present to the future.'

Strategic Plan 2025 is a working document that...

Reflects essential Commission alignment on current Port priorities.

- Informs the community, Port customers, partner organizations and the marketplace of the Port's priorities.
- Provides clear operational direction to the Port's professional staff.
- Provides a platform on which the Port can develop it's annual and multiyear budgets.
- Informs the capital investment plan as well as the Comprehensive Scheme of Harbor Improvements.
- Supports grant applications and favorable bond ratings.
- And most importantly defines success!

The process of developing these priorities incorporated the extensive work on the Vision 2050; Destination Waterfront Development Plan; the 2018 Sustainability Action Plan; as well as previous strategic planning efforts and financial forecasts.

As captured in Vision 2050 reaffirms the Port Commission's commitment to all of Thurston County prioritizing economic development and being a leader in environmental stewardship.

Our Mission...

The Port's Mission defines its unique role in serving Thurston County, it describes WHY the Port exists. It is based on three focus areas:

- Creating economic opportunities
- Embracing acting as an environmental steward
- Developing and maintaining community assets



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



Values

Our Values define How the Port will undertake its work in service to the community. These Values are aspirational- embraced to define the Port's character as it pursues its Initiatives and Goals.

Our culture is...

Accountable: Welcome transparency, act with integrity, and be uniformly responsive.

Sustainable: Practice lasting stewardship of our publicly owned assets and natural resources.

Innovative: Demonstrate leadership, decisiveness, and reasoned risk taking in pursuing creative solutions.

Balanced: Embrace diversity, equity and inclusion.

Engaged: Actively collaborate and contribute to greater Thurston County.

Our work depends on ...

Earning the community's support in pursuing our priorities.

Working relationships with customers, tenants, government agencies, and community organizations that share the Port's vision of securing a sustainable future.

Retaining an experienced, competent, and dedicated staff that are responsible for our operational success.

Maintaining a strong commitment to fiduciary responsibility in managing the community's assets.

Recognizing and acting on opportunities that benefit the community.



Letter from the Commission

As we refine the Port of Olympia strategic plan, we are in the midst of a centennial celebration. Understanding the Port's presence in Thurston County for the past 100 years, gives us pause to consider where the Port is now and how we got here. The Port of Olympia has endured good times and bad.

We are learning to be good stewards of our environment while supporting economic development and industry to fulfill the purpose of creating a positive influence on the economy of Thurston County. Collaboration between the Port and the citizens of Thurston County have identified a direction for this Commission and staff to define our strategies for the future.

Today's Commission is dedicated to six initiatives, identified in this Strategic Plan. These initiatives concentrate on issues of the day including improving the culture, performance, and financial reporting of the organization. Environmental restoration, and community outreach also remain at the top of the Commission's priorities.

It is with great pride, the Commission of the Port of Olympia, presents Strategic Plan 2025. Our commitment to collaborative, cooperative, and objective management of Port resources will guide us to a vibrant future for the people of Thurston County.

Commissioner Iyall Commissioner Evans-Harding Commissioner Downing



Bob Iyall *President*



Amy Evans Harding *Vice President*



Joe Downing Secretary



Letter from the Executive Director

It has been my pleasure to work with the Port Commission and our senior staff on developing the Port of Olympia Strategic Plan 2025.

Many thanks for the guidance and thoughtful consideration of the Commission as they identified what is important to our community and the Port District in the near and long-term future.

Establishing clear priorities is fundamental to our success as we balance our fiduciary responsibilities with market realities, operational effectiveness and the vision for all of Thurston County.

This Plan has taken into account the great work the many volunteers spent on developing Vision 2050 and Destination Waterfront - the Port appreciates the work of each and every volunteer that participated in those efforts. Strategic Plan 2025 captures the energy in that community wide work and informs our budget forecasts so that actual projects and programs become a reality.

The engagement of our senior management team has been essential in this process. They have provided insights and critical analysis as priorities were established. They are now charged with engaging the entire Port staff and delivering on the commitments of the Port as reflected in Strategic Plan 2025. Their work is very much appreciated today and into the future as we face and overcome new challenges in accomplishing our Mission in service to the community.

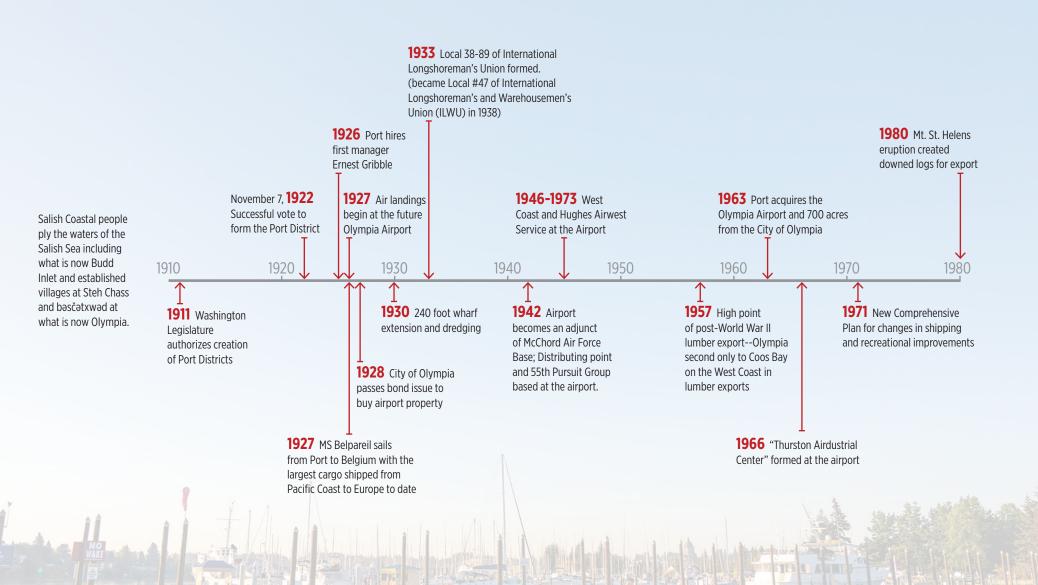
The Strategic Plan will guide the Port in pursuing its priorities on a host of activities and projects. I look forward to making these a reality and to the new opportunities that lie ahead.

Sincerely, Sam Gibboney Executive Director

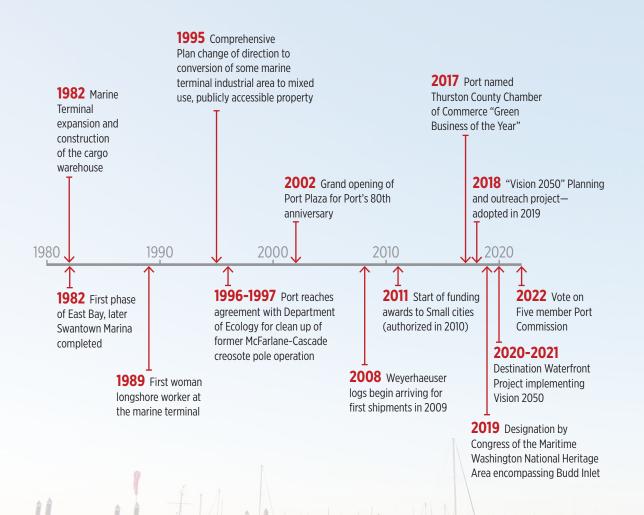


Sam Gibboney Executive Director

100 Years in Service to the Community



Today's Port



Today the Port continues to have a significant impact on the local economy and community-

2,609 direct jobs are supported by activity at the Port of Olympia and its real estate tenants. In addition to the 2,609 direct jobs, indirect and induced jobs bring that total to 5,030.

\$132.0 million in direct wages and salaries are supported in the local and regional economy by the activity at the Port of Olympia marine terminal, marina, general aviation activity and the Port's real estate tenants

\$124.4 million in local purchases were made by Port tenants, the Port of Olympia and those firms providing services at the marine terminal, airport and marina. These local purchases supported the 1,067 indirect jobs

\$28.6 million of state and local tax revenue was generated in 2020 by the Port of Olympia marine cargo, marina, and airport activity and the business activity of the Port's real estate tenants

The number of jobs attributable to the Port increased by 633 from 2015 to 2020.

(Based on a 2020 Economic Impact Study)

The Organization



Operations

The Port of Olympia operates four core business units that generate operating revenues to the Port to support capital investments that produce sustainable jobs-

- Marine Facilities- The Port of Olympia's 66-acre marine terminal consists of a complete breakbulk/ container yard, log export facility, on-dock rail, on-dock warehouse and three deep water berths for oceangoing vessels, certified by Green Marine for sound environmental practices.
- Marina and Boatworks- Swantown Marina and Boatworks is a full-service public harbor with over 700 slips, haul out and boatyard facility certified by both Clean Marina and Clean Boatyard for sound environmental practices.
- Airport- Olympia Regional Airport is a general aviation public airport offering aircraft service and maintenance operations, flight instruction, hangars and tie down space, state and corporate aviation facilities, and land and buildings available for lease.
- Commercial & Industrial Real Estate Portfolio- The Port's portfolio consists of a wide range of commercial office and retail space as well as industrial properties.

In addition to its business units the Port develops and operates many public amenities and actively participates with many community organizations in programmatic economic development.



Our Vision

Vision 2050 captured the community's aspirations for the Port as a critical regional institution over the long-term.

"The Port is a trusted community institution that actively engages and communicates with the public it serves. It fulfills its primary role as Thurston County's economic engine by stimulating investment, fostering entrepreneurship, and facilitating transportation and commerce regionally and internationally. It is recognized as a cutting-edge leader in sustainable operations. It manages gathering places, recreational venues and other assets that enhance sense of place, and coordinates with partners on critical challenges and opportunities."

That aspiration for the Port as a regional organization inspired the Port's vision for the Port.

"The Port is recognized as a trusted community institution connecting Thurston County to the world and serving as a model of environmental sustainability and economic development."



Initiatives and Goals

To accomplish its Mission and realize its Vision of the future the Port has adopted achievable priorities.

Its INITIATIVES are the Port's priorities that are, by their nature, exceptionally complex or take considerable time to complete, but when completed represent tremendous breakthrough progress.

Its GOALS, when achieved and/or sustained, represent important milestones in the Port's momentum towards being the most effective agency it can be in serving the community.

Progress on the Port's INITIATIVES and GOALS are supported by an Annual Action Plan that details expected completion dates, responsible leads, and required resources.



Initiatives

Culture- Focus on Port team building, internal communications, and personnel training program(s) to improve organizational alignment, increase operational effectiveness, and increase employee satisfaction and wellness.

Initiate a focused effort in 2022 to increase internal staff performance by improving internal and external communications; enhancing staff skills and capacity; and creating a shared commitment to the Port's priorities as established by the Commission.

Governance- Pursue the creation of a five-member Commission on the November 2022 ballot.

In coordination with Thurston County place the voter initiative to create a five-member commission on the 2022 ballot and move forward with the associated redistricting to accommodate an expanded commission.



Initiatives

Financial- Develop a clear and focused understanding of the Port's financial performance to support long term operational and investment decisions.

Clarify the Commission's expectations regarding how the various business units are categorized, how financial performance is measured and described, and how they define "public benefit". Use this information to develop business unit financial projections and performance analyses in 2023.

Restoration- Provide leadership on collaborative efforts to achieve environmental cleanup, habitat restoration and maintenance dredging in Budd Inlet.

Develop a multipronged, phased, multi-year approach including a funding strategy to address the remediation and restoration of Budd Inlet and secure Commission input and direction by December 31, 2022, to undertake the initial work to address the Port's regulatory obligations.



Initiatives

Waterfront- Implement Destination Waterfront.

Develop and seek Commission approval by end of the first quarter of 2023 of a "Destination Waterfront Implementation and Funding Strategy" to initiate the ongoing development of the peninsula and utilize the Port of Olympia Citizens Advisory Committee as a sounding board.

Communications- Increase the community's understanding of the role, value, and limitations of the Port in impacting the local economy and greater Thurston community.

Launch a refreshed communications effort in 2022 to renew the community's understanding of the Port's role in fulfilling its Mission and commitments to the community it serves.



Community Goals

In addition to its more traditional Port activities and operations the Port of Olympia is committed to community building and improving both the economic and social fabric of Thurston County. To that end it engages with the community and its constituents to develop and advance a shared vision of the future.

- Vision 2050- Report out progress on Vision 2050.
- **Partnerships-** Achieve and maintain ongoing, effective working relationships with Port community and governmental partners to advance mutual interest.
- Park and Open Space- Complete a 'parks and open space plan' with an emphasis on the waterfront, making the Port eligible for State RCO grants.
- **Economic development-** Participate in regional and local economic development efforts and provide appropriate levels of funding consistent with Port fiscal constraints



Operational Goals

The Port of Olympia is an operating Port that manages critical services and facilities in support of the local and regional economy. That responsibility requires that the Port be constantly looking to the horizon to ensure its facilities, programs, and institutional infrastructure is up to date.

- Airport- Complete and adopt the Airport Master Plan in 2023.
- Marine Terminal- Complete an updated master site plan for the marine terminal by 2024.
- **Process and Concurrency-** Update all Port planning and operational documents to reflect current priorities on a regular basis.
- **Strategic Planning-** Complete the 5-year strategic planning process and annual reviews with appropriate updates.
- Capital Facility Maintenance- Maintain all Port fixed assets in a safe and efficient operating status through funded maintenance and replacement schedules allocated to the appropriate business unit.



Environmental Goals

The environmental goals that follow capture the Port's commitment to sustainably managing the natural resources impacted by the Port's activities by complying with environmental regulations and implementing innovative environmental management initiatives. These goals would be further institutionalized with an update to the 2018 Sustainability Plan.

- **Environmental Standards-** Hold the Port accountable to the highest environmental standards in its operations and capital investments.
- **Environmental Resiliency** Plan and implement strategies to address community environmental resiliency.
- **Habitat Conservation** Complete and adopt the Habitat Conservation Plan at the Airport and New Market Industrial Campus.



New 'Investment Opportunity' Checklist

	often asked to financially support a market or community investment. The Port of Olympia hat his 'Checklist' to better assess the impact of new, unplanned investment opportunities.
(Is the investment opportunity consistent with the Port's mission, vision and values?
(Does the investment meet the Port's rate-of-return threshold?
(Does the investment opportunity support the Port's efforts to balance both mission and margin?
(What, if any, planned Port investment will be delayed or eliminated because of this opportunity, and what are the short-term and long-term consequences of that displacement decision? Is that acceptable?
(Does the Port have sufficient capacity (financial, staff) to support the opportunity?
(Is the investment opportunity aligned with the economic development aspirations of our communities and the region?
(Are there joint ventures, partnerships, or grant funding opportunities to mitigate the Port's required investment?
(Does the opportunity significantly advance an existing governmental or community plan or policy?
(What should the Port's role be (i.e., support, investment, operations, partner)?
	Is any other entity, private or public, better positioned to undertake the investment opportunity, and are they able to do so?





COMMISSION MEETING

BRIEFING DATE/TIME:	November 28, 2022
DEPARTMENT:	Planning
STAFF CONTACT/TITLE:	Lisa Parks Telephone: 360.528.8020 Email: Lisap@portolympia.com
TOPIC:	Marine Center: Thomas Architecture Studios Contract Amendment No. 3
PURPOSE: Check all that apply	☐ Information only☐ Decision needed☐ Follow up from previous briefing

BACKGROUND & OVERVIEW:

Following a competitive selection process in the late summer of 2020, Thomas Architecture Studios (TAS) was contracted to assist the Port of Olympia with work related to the Destination Waterfront Development Vision (DWDV), including subsequent work related to Sites D (Marina Office/Puget Sound Estuarium/Admin Office a.k.a. "Marine Center") and E (RV Resort). These two sites were identified in the DWDV as two of three initial priorities for implementation and were assigned to the TAS contract for assistance.

The original TAS contract was executed in September of 2020 under the Executive Director's delegated authority, consistent with both RCWs and Port Policy. Two subsequent amendments to the original contract were similarly executed to assist with implementation of the work for Sites D & E, and are summarized, below. Amendment No. 3 is coming to the Commission for review, consideration and potential action because the remainder of the initial work plan associated with Site D – the Marine Center project – will be above the Executive Director's delegated authority.

Agreement	Term	Not-To-Exceed	Date of Execution
Original	Sept, 2020 thru May, 2021	\$50,000	September 15, 2020
Amendment No.1	Extended to April, 2022	No change	December 11, 2020
Amendment No.2	No Change	\$200,000	February 22, 2021

Work completed by TAS to-date under this contract is broken down by the tasks, below.

Task Description	Spent To-Date	Status
Destination Waterfront Development Vision	\$ 84,771	Complete
RV Site Text Amendment & Permitting	\$ 14,379	Complete
Marina/Admin Building (Marine Center)	\$ 51,057	On-Going
Total To-Date	\$150,207	
Remaining Contract Balance	\$ 49,793	

The remainder of the work associated with the schematic design for the Marine Center building is necessary to accomplish three primary tasks:

- Complete initial site planning and schematic design for the overall building including cost estimates, renderings and early permitting documents;
- Incorporate and integrate the schematic design and programming needs of the Puget Sound Estuarium; and
- Assist with development of funding/financing strategies, including options associated specifically with the Puget Sound Estuarium portion of the building.

The work contemplated in this effort has been developed by staff in collaboration with the Puget Sound Estuarium and is proposed to be completed through a cooperative contracting arrangement. TAS will continue (through this contract amendment) to lead the effort, and a second architectural firm, MIG, Inc., will perform specific work related to the programming, exhibit design and space planning for the Puget Sound Estuarium facilities. As the project is currently envisioned, each architectural firm would have separate contracts with the Port that are also integrated and supportive of the overall project, without being duplicative. The overall cost estimate of this effort is described below.

Firm	Description of Services	Cost Estimate
TAS	Overall design services, initial systems and interior designs,	\$206,300
	site and landscape design, LEED Silver certification, land use	
	regulatory compliance, interior and exterior renderings, and	
	cost estimates.	
MIG	Aquarium design and programming, including exhibit space	\$ 66,705
	and associated systems requirements as well as classroom	
	and laboratory space.	
	Total	\$273,005

Based on the existing remaining balance in the TAS contract (\$49,793) and the estimated cost to perform the above work (\$206,300), staff is requesting an additional \$160,000 be added to the total Not To Exceed value of the contract. Additionally, the proposed amendment would include an extension of the term of the agreement through December 31, 2023. The table below summarizes the requested Amendment No. 3 to Professional Services Agreement 2020-1037 for Thomas Architecture Studios.

Agreement	Term	Not-To-Exceed	Date of Execution
Original	Sept, 2020 thru May, 2021	\$50,000	September 15, 2020
Amendment No.1	Extended to April, 2022	No change	December 11, 2020
Amendment No.2	No Change	\$200,000	February 22, 2021
Amendment No.3	Extend to Dec 31, 2023	\$360,000	November 28, 2022

Staff is requesting consideration by the Commission to take action at tonight's meeting to authorize the Executive Director to sign the contract amendment as outlined above.

DOCUMENTS ATTACHED:

- Power Point Presentation
- Draft Scope of Work



TASK		Fees					
#	DESCRIPTION	Basi	c Services	Additional Services	Consultant ark-Up (15%)		Total
1	SCHEMATIC DESIGN (SD) - ABBREVIATED SCOPE						
1.1	Architect (TAS)	\$	110,000	-	\$ -	\$	110,000
1.2	Structural (PCS)	\$	8,000	\$ -	\$ 1,200	\$	9,200
1.3	Mechanical/Plumbing (Hultz BHU)	\$	8,000	\$ -	\$ 1,200	\$	9,200
1.4	Electrical (Cross)	\$	4,000	\$ -	\$ 600	\$	4,600
1.5	Basic Service Engineering Contingency	\$	5,000	\$ -	\$ 750	\$	5,750
1.6	Civil (SCJ Alliance)	\$	-	\$ 17,000	\$ 2,550	\$	19,550
1.7	Landscape (SCJ)	\$	-	\$ 6,000	\$ 900	\$	6,900
1.8	Cost Estimator (Acker)	\$	-	\$ 5,000	\$ 750	\$	5,750
	Acoustical & AV Consultant (TBD)	\$	-	\$ 1,000	\$ 150	\$	1,150
	LEED / Net Zero Consulting (TBD)	\$	-	\$ 2,000	\$ 300	\$	2,300
	Interior Design (Seong Shin - McGranahan)	\$	_	\$ 3,000	\$ 450	\$	3,450
	Archeology Consultant	\$	-	\$ 3,000	\$ 450	\$	3,450
	Building Renderings (TAS) 2 exterior, 2 interior	\$	-	\$ 8,000	\$ -	\$	8,000
	Landuse and Shorelines Code Compliance Coordination (TAS)	\$	-	\$ 5,000	\$ 	\$	5,000
1.15	Coordination (TAS) with Estuarium T.I. Consultant	\$	-	\$ 12,000	\$ -	\$	12,000
	Subtotal	\$	135,000	\$ 62,000	\$ 9,300	\$	206,300

Notes

- Design services based on 18 20,000 square foot Marine Center Building (Marina Offices, Potential TI Shell Space, Puget Sound Estuarium, Public Meeting Space, and Accessory Spaces)
- 2 Design services based on Class A office spaces, Exterior Public Courtyard & Esplanade Improvements, and Base Site Improvements with estimated MACC to be determined.
- 3 Additional Consultants may be required dependent on jurisdictional requirements discussed during pre-submission meeting.
- 4 Above fees do not include Furniture Design.
- 5 Schematic Design abbreviated scope of services DOES NOT include submittal of land use application
- 6 Above fees do not include Puget Sound Estuarium Display Designer and Exhibits (by others).



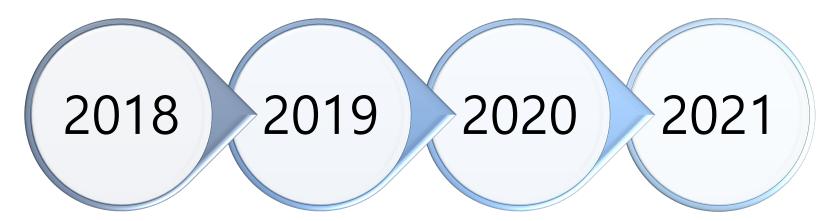
Background: Timeline

2020

• CERB Planning Only Grant for Destination Waterfront

2018

- POCAC Report: Port Office Consolidation
 - Vision 2050 Process



2019

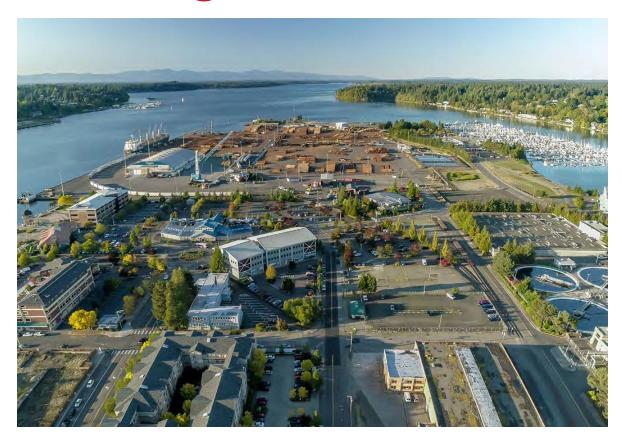
- Vision 2050 Action Plan
- Marina/Admin Office Alternatives Evaluation, MSGS Architects
 - Port-Wide Asset Assessment

2021

- Destination Waterfront Vision Plan
- State Capital Budget Appropriation



Background:



Vision 2050 Action Plan

Destination Waterfront





Development Plan – Current Scope







Site D:

Area:

263,380 sf (6.05 acres)

Current Use:

Marina Office/Parking/ Dry Storage/ Undeveloped

Potential Uses:

Admin Building/ Mixed use/ Light Industrial

Zone:

Urban Waterfront (UW)

Allowable Height:

UW-40 = 40'-0"
25' within 75' of Ordinary High Water Mark
(OHWM)

Building Setback:

None

Shoreline Setback

100' & 50' Vegetation Conservation Area

Allowable Coverage:

60%



Admin Building





Potential Uses

MOVE FORWARD WITH CAPITAL PLAN

STUDY SITE SPECIFIC DEVELOPMENT

- 1.ADMIN BUILDING (SITE D)
- 2.RV RESORT (SITE E)
- 3.PURSUE ADDITIONAL SITE DEVELOPMENT OPPORTUNITIES INCLUDING SITE A.

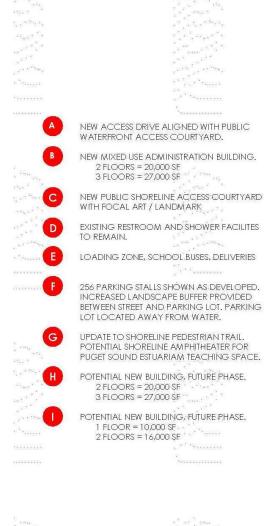


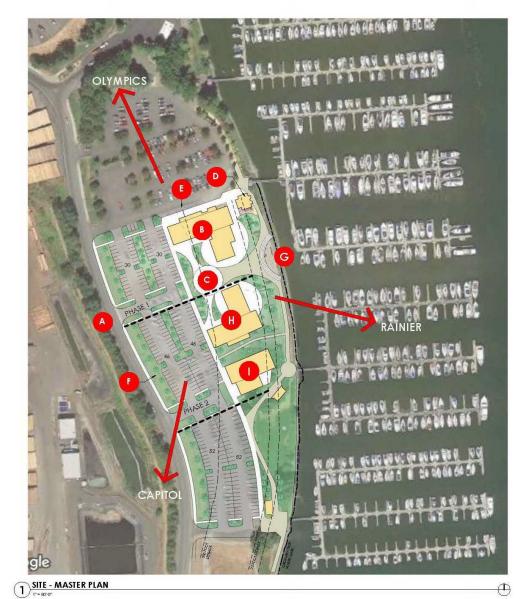






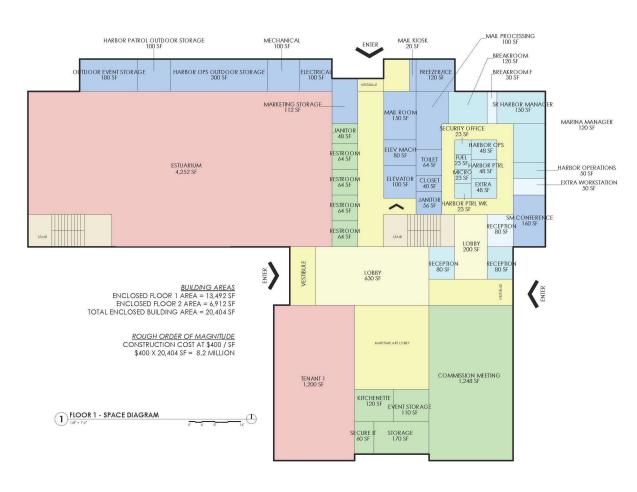
Marine Center Site Plan

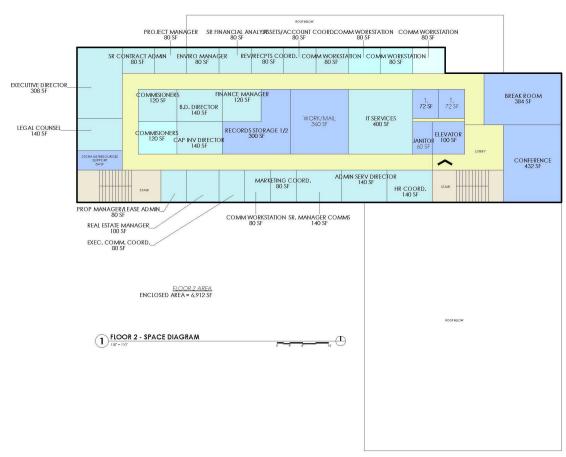






Initial Building Design







PRELIMINARY Cost Estimates (April, 2022)

Planning Level Cost Estimate

Project Areas	Floors/Unit	SF/Floor	Total SF	Cost/SF	Schematic Total
Parking Lot	1	55,000	55,000	\$18.00	\$990,000
Courtyard and Boardwalk	1	54,350	54,350	\$30.00	\$1,630,500
Subtotal Site					\$2,620,500
		Building			
Building Area	2	11,000	22,000	\$400.00	\$8,800,000
Subtotal Building					\$8,800,000
Concept Level Construction Budget Total					\$11,420,500



Potential Funding Scenario

Concept Level Construction Building Total	=	\$11,420,000
Marina Office/Services	=	<u>-\$ 1,500,000</u>
Subtotal to Fund	=	\$ 9,920,000
Administrative Office Lease Capitalization	=	\$ 3,500,000
Non-Profit Lease Capitalization	=	\$ 4,800,000
Grants/Appropriations/Use Revenues	=	<u>\$ 1,620,000</u>
		\$ 9,920,000



Remaining Schematic Design Project Costs

Professional Services Agreement - Amendment

Firm	Description of Services	Cost Estimate
TAS	Overall design services, initial systems and interior designs, site and landscape design, LEED Silver certification, land use regulatory compliance, interior and exterior renderings, and cost estimates.	\$206,300
MIG	Aquarium design and programming, including exhibit space and associated systems requirements as well as classroom and laboratory space.	\$ 66,705
	Total	\$273,005



Thomas Architecture Studios

Professional Services Agreement – Amendment No. 3

Task Description	Spent To-Date	Status
Destination Waterfront Development Vision	\$ 84,771	Complete
RV Site Text Amendment & Permitting	\$ 14,379	Complete
Marina/Admin Building (Marine Center)	\$ 51,057	On-Going
Total To-Date	\$150,207	
Remaining Contract Balance	\$ 49,793	

Work Accomplished To-Date

Agreement Details & Proposed Amendment No. 3

Agreement	Term	Not-To-Exceed	Date of Execution	
Original	Sept, 2020 thru May, 2021	\$50,000	September 15, 2020	
Amendment No.1	Extended to April, 2022	No change	December 11, 2020	
Amendment No.2	No Change	\$200,000	February 22, 2021	
Amendment No.3	Extend to Dec 31, 2023	\$360,000	November 28, 2022	



MIG, Inc.

Professional Services Agreement - Initial

Agreement	Term	Not-To-Exceed
Original	Dec 1, 2022 thru Dec 31, 2023	\$70,000



Suggested Motion: Thomas Architecture Studios

"...move to authorize the Executive Director to sign a contract amendment with Thomas Architecture Studio programming and schematic design services for the proposed Marine Center project, extending the term of the agreement through December 31, 2023 and adding \$160,000 for a total not to exceed amount of \$360,000."



Suggested Motion: MIG

• "...move to authorize the Executive Director to sign a contract with MIG, Inc to provide programming and schematic design services for the proposed Marine Center project for a term of December 1, 2022 through December 31, 2023 with a total not to exceed amount of \$70,000."





BRIEFING DATE/TIME:	November 28, 2022
DEPARTMENT:	Planning
STAFF CONTACT/TITLE:	Lisa Parks Telephone: 360.528.8020 Email: Lisap@portolympia.com
Торіс:	Marine Center: MIG, Inc. Professional Services Agreement
PURPOSE: Check all that apply	☐ Information only☐ Decision needed☐ Follow up from previous briefing

BACKGROUND & OVERVIEW:

During late 2020 and early 2021, the Port conducted the Destination Waterfront Development Vision (DWDV) planning project to identify opportunities for development on the north and east portions for the Port Peninsula, outside the Marine Terminal fence. At completion of the project, several action items were prioritized as next steps for the Port to pursue:

- Move Forward with a Capital Plan
- Study Site Specific Development in the following locations:
 - Site D -Port administrative building
 - Site E RV Resort
 - o Additional Site Development Opportunities, Including Site A

In furtherance of these next steps, the Port partnered with the Puget Sound Estuarium to submit and advocate for a Capital Budget Allocation Request during the 2021 State Legislative Session beginning in January of 2021. The intent of the request was to help fund the construction of a Marine Center, which was described as "...housing marine and maritime related non-profits that connect the public to the nearshore and marine environment, provide educational programs for kids and life-long learners, and develop a sense of stewardship for South Puget Sound – co-located with the Port of Olympia's new Marina and Administration building." This collaboration was widely supported by local governments and economic development entities in the area, which contributed to the Port receiving a \$250,000 allocation in the State's Capital Budget to support the project.

Work in support of the envisioned Marine Center project was initially undertaken by Thomas Architecture Studios (TAS) as part of their existing Professional Services Agreement for the Destination Waterfront Development Vision project. By late fall of 2021, preliminary site design, building design and programming for the Port's administration and marina office functions had been outlined. As the Port was working through these initial steps in the schematic design process, the Puget Sound Estuarium was working on refining and clarifying their programming and space needs and identifying consulting firms capable of assisting them with their unique needs. During late 2021 and in to 2022, staff at the Port and at the Puget Sound Estuarium have worked to develop a strategy for moving the project forward, collaboratively.

The Puget Sound Estuarium identified MIG, Inc. (MIG) as an architectural firm capable of assisting them with the various components of their portion of the facility, including exhibits, classroom space, lab space and supporting areas. MIG. has extensive expertise in the planning and design of zoos, aquariums, nature-focused destinations, and is recognized as a global leader in the design of these facilities, having completed 80 projects worldwide since their start in 1982. Staff, TAS and MIG have met several times to review different iterations of scopes of work to ensure an integrated schematic design is achieved efficiently, without duplication.

The remainder of the work associated with the schematic design for the Marine Center building is necessary to accomplish three primary tasks:

- Complete initial site planning and schematic design for the overall building including cost estimates, renderings and early permitting documents;
- Incorporate and integrate the schematic design and programming needs of the Puget Sound Estuarium; and
- Assist with development of funding/financing strategies, including options associated specifically with the Puget Sound Estuarium portion of the building.

The work contemplated in the overall project is proposed to be completed through a cooperative contracting arrangement. TAS will continue to lead the effort, and MIG will perform the programming, exhibit design and space planning for the Puget Sound Estuarium facilities. Each architectural firm will have separate contracts with the Port that are also integrated and supportive of the overall project, without being duplicative. The overall cost estimate of this effort is described below.

Firm	Description of Services	Cost Estimate
TAS	Overall design services, initial systems and interior designs, site and landscape design, LEED Silver certification, land use regulatory compliance, interior and exterior renderings, and cost estimates.	\$206,300
MIG	Aquarium design and programming, including exhibit space and associated systems requirements as well as classroom and laboratory space.	\$ 66,705
	Total	\$273,005

Staff is requesting the Commission consider entering into a Sole Source Professional Services Agreement with MIG to complete the components of building programming and design specific to the needs of the Puget Sound Estuarium, including assisting with identification of funding/financing strategies for their portion of the building. Port Policy 1001 requires Commission authorization prior to the Executive Director executing any professional (A/E) services agreement with a value of \$25,001 to \$99,999, if there wasn't a competitive solicitation process. The current cost estimate for MIG's portion of the work falls within this dollar value, and because of the Sole Source nature of their work, a competitive solicitation process was not completed.

The recommended terms of the Professional Services Agreement between the Port and MIG are identified in the table, below.

Agreement	Term	Not-To-Exceed	Date of Execution
Original	Dec 1, 2022 thru Dec 31, 2023	\$70,000	November 28, 2022

Staff is requesting consideration by the Commission to take action at tonight's meeting to authorize the Executive Director to sign the contract as outlined above.

DOCUMENTS ATTACHED:

- Power Point Presentation
- Draft Scope of Work



<u>Puget Sound Estuarium – Programming/Space Planning Proposal</u> <u>Port of Olympia Scope of Work:</u>

07.27.2022

Project Scope of Services

The extent of scope for design services includes consulting, Programming and Space Planning for a new aquarium facility (approximately 4,000-8000sf) located in the Port Admin Building on the Port Peninsula in Olympia, WA. The design and documentation will be in collaboration with the Port of Olympia (owner), the Puget Sound Estuarium (leasee), and Thomas Architecture Studios (building shell AOR).

The goal of the first phase of work (indicated below) is to determine the highest and best use of the available building space with the understanding that program elements can be shared between the Port and the Estuarium. MIG will coordinate with TAS in determining the correct spatial layout that successfully allows for a functional/flexible Estuarium facility and balances other building program elements (designed by TAS).

The MIG (Aquarium Design Team) scope will include program elements within the Puget Sound Estuarium represented in Exhibit A-Program and Exhibit B-Organizational Overview. Exhibit C is provided to illustrate the assumed scope of work.

The MIG (Aquarium Design Team) proposal is based on the following budgetary assumptions:

- 2600-3000 SF exhibit spaces (inclusive of LSS) = \$4-8M construction cost (per Exhibit A Highlight in Green.)
- 2500 SF of support spaces (including aquarist, LSS, classrooms, restrooms, etc) = \$1.5M construction cost (per Exhibit A Highlight in Green.)
 - Spaces highlighted in Yellow in Exhibit A will be detailed by TAS in coordination with MIG.

A full list of Assumptions and Exclusions are noted below.

Design Team Tasks & Deliverables

1.0 PROJECT MANAGEMENT (PM)

- PM/Weekly meetings
- Weekly Virtual Meetings with TAS, Port of Olympia, and Puget Sound Estuarium

2.0 PROGRAMMING/SPACE PLANNING

- 2.1 Programming/Space Planning kick-off workshop: (1-day/onsite)
 - o Aquarium Design Team Participants:
 - (2) MIG
 - Workshop Goals:
 - Aquarium Program Prioritization/Reconciliation (w/in available building space)
 - Species list and display characteristics
 - LSS objectives



- 2.2 Workshop #2: Programming/Space Planning workshop: (1/2-day/onsite)
 - o Aquarium Design Team Participants:
 - (2) MIG
 - Workshop #2 Goals:
 - Presentation of Concept Progress
 - LEED objectives/opportunities

2.3 Programming/Space Planning Deliverables:

- Workshop notes and graphics
- Programming/Space Planning Report
 - Executive Summary for the Puget Sound Estuarium
 - Preliminary Program Analysis/Coordination (with the Port of Olympia and TAS Conceptual)
 - Organization of Exhibit Spaces ((1) revision round)
 - Illustrative Floor/Site Plan (interior/exterior aquarium elements)
 - LEED objectives narrative
 - Rough order of magnitude budget (scope per Exhibit A Highlight in Green.)
 - Specifications Table of Contents
- 2.4 Workshop #3: Programming/Space Planning Final presentation: (1/2-day/onsite)
 - o Aquarium Design Team Participants:
 - (2) MIG
 - O Workshop #3 Goals:
 - Review owner comments
 - Presentation of Concept Deliverables

3.0 Add Alternate Scope

- Conceptual Section/Elevation of key exhibits (4 max)
- o Conceptual Exhibit Character Renderings and reference images (4 max) ((1) revision round)

[SEE ATTACHED SPREADSHEET FOR FEE BREAKDOWN]

Assumptions

- 1. Design duration = 4 months
- 2. Weekly OAC design/coordination calls.
- 3. Thomas Architecture Studio (TAS) is responsible for the building shell design.
- 4. Aquatic Design Team to coordinate with TAS MEP and Structural Engineers on building shell requirements
- 5. Contract documents to be based on available information or assumed conditions.
- 6. AV/Lighting design is designed by others (can be added in future phases)

Exclusions

- 1. Investigating or surveying existing conditions or facilities, or making measured drawings thereof, or verifying the accuracy of information furnished by others, or providing topographic and boundary surveys.
- 2. Preparing documents for early or alternate bid packages, out-of-sequence services, or phased construction.
- 3. Digital data other than those indicated in the "Deliverables" Section of this agreement.
- 4. Providing services in connection with future facilities, systems or equipment, which are not intended to be constructed as part of this Project.
- 5. BIM/3D coordination or modeling



- 6. Design of off-site improvements.
- 7. Coordination of regulated utilities
- 8. Sanitary or stormwater pump and vault design.

MIG		MIG, Inc. MIG Staff						Professional			
		Jacob Dumler Principal in Charge		Chuck Mayes Architect of Record		Kevin Bazzell Project Manager/ Lead Exhibit Designer		Roxanne Glick Exhibit Designer		MIG Totals	Fees Totals
		\$205	Hours @	\$275	Hours @	\$155	Hours @	\$105			
Puget Sound Estuarium - Programming/Concept Design											
1.0 Project Management											
1.1 Project Setup and Planning + weekly Client call (10 week duration)	12	\$2,460	2	\$210	16	\$1,680	2	\$210	32	\$4,560	\$4,560
2.0 Programming/Concept Design											
2.1 Kick-off Workshop (1-day onsite) includes prep	16	\$3,280	12	\$3,300	4	\$620	0	\$0	32	\$7,200	\$7,200
						1					
2.2 Workshop #2 (1/2-day onsite) includes prep	8	\$1,640	8	\$2,200	2	\$310	0	\$0	18	\$4,150	\$4,150
2.3 Programming/Space Planning (Arch, Exhibit, and Landscape Arch) Executive Summary	4	\$820	1	\$275	0	\$0	0	\$0	5	\$1.095	\$1,095
Preliminary Program Analysis/TAS Coordination	8	\$1,640	4	\$1,100	16	\$2,480	0	\$0 \$0	28	\$5,220	\$5,220
Conceptual Organization of Exhibit Spaces (interior/exterior)		\$2,460	8	\$2,200	24	\$3,720	24	\$2,520	68	\$10.900	\$10,900
Illustrative Floor/Site Plan (interior/exterior aquarium elements)		\$2,460	2	\$550	2	\$310	40	\$4,200	56	\$7,520	\$7,520
Preliminary LEED Checklist/Opportunities		\$205	1	\$275	12	\$1,860	2	\$210	16	\$2,550	\$2,550
ROM Budget	2	\$410	8	\$2,200	0	\$0	0	\$0	10	\$2,610	\$2,610
Specifications TOC		\$205	0	\$0	8	\$1,240	0	\$0	9	\$1,445	\$1,445
						l		<u>'</u>			
2.4 Workshop #3 (1/2-day - onsite) - includes prep	6	\$1,230	6	\$1,650	2	\$310	0	\$0	14	\$3,190	\$3,190
Subtotal	0	\$0	0	\$0	0	\$0	0	\$0	0	\$50,440	\$50,440
Professional Time and Costs Subtotal	82	\$16,810	52	\$13,960	86	\$12,530	68	\$7,140	288	\$50,440	\$50,440
NTE Project Expenses (travel, mileage)									\$.	2,000.0	\$2,000.0
Total Project Cost for Programming/Space Planning											\$52,440
3.0 Add Alternate Scope/Fee											
(4) Conceptual Exhibit Character Renderings and reference images	2	\$410	1	\$275	8	\$1,240	40	\$4,200	51	\$6,125	\$6,125
Concept Section/Elevation(s) [4 exhibits max]		\$1,640	4	\$1,100	24	\$3,720	16	\$1,680	52	\$8,140	\$8,140
Total Project Cost for Programming/Space Planning (WITH ADD ALTS)											\$66,705



BRIEFING DATE/TIME:	November 28, 2022
DEPARTMENT:	Executive
STAFF CONTACT/TITLE:	Sam Gibboney Telephone: 360.528.8001 Email: samg@portolympia.com
Торіс:	Resolution 2022-13 Apprenticeship Utilization Requirement
PURPOSE: Check all that apply	☐ Information only☐ Decision needed☐ Follow up from previous briefing

BACKGROUND & OVERVIEW:

The Port Commission tasked the Port of Olympia Citizen Advisory Committee (POCAC) with determining the viability of changing the language within the scope of work of contracts over \$1 million to include mandating apprenticeship utilization. The POCAC delivered a report to the Commission dated September 10, 2018 and entitled Apprenticeship & Training subcommittee.

In August of 2022, Commissioner Iyall requested that Port staff and legal counsel prepare a revision to Port policy to create an Apprenticeship Utilization Incentive or requirement.

The State of Washington has created requirements for apprenticeship utilization for certain public works contracts. In doing so the state recognizes that a well-trained construction trades workforce is critical to the ability to construct public works and that without a concerted effort to train new workers there will be an inadequate supply of skilled workers in the construction industry. Apprenticeship training programs are particularly effective in providing training and experience to individuals seeking to enter or advance in the workforce. By providing for apprenticeship utilization on public works projects, a government agency can create opportunities for training and experience that will help assure that a trained workforce will be available in sufficient numbers in the future for the construction of public works.

Staff and legal counsel prepared revisions to Port Policy 1004 Public Works Contracting to create an Apprenticeship Utilization Requirement for public works projects estimated to cost more than \$1,000,000 (One Million Dollars) and presented them to the Commission at the November 14, 2022, meeting. Commissioners provided feedback and additional revisions are provided in the attached resolution. Text in blue font represents the updated suggested revisions.

DOCUMENTS ATTACHED:

- Power Point Presentation
- Resolution 2022-13 Apprenticeship Utilization Requirement
- POCAC Apprenticeship & Training Utilization Sub-Committee

AFFECTED PARTIES:

Public Works contractors

Apprentices in construction trades and those seeking such

<u>NEXT STEPS/TIMEFRAME:</u> Based on the Commission's recommendation, describe the next steps required in order to bring this item to conclusion. Include the time frame for each step.

If the resolution is approved, staff will update procedures accordingly.



APPRENTICESHIP UTILIZATION

NOVEMBER 28, 2022 SAM GIBBONEY EXECUTIVE DIRECTOR

1

Apprenticeship Utilization Policy *Background*

- POCAC Report September 2018
- Commissioner Iyall initiated policy revision regarding apprenticeship utilization
- Contracts & Acquisitions policies last updated in 2019 (Resolution 2019-06)



Public Works Contracting Procedures

Policy 1004

- Policy approval authority is with the Commission
- Administrative authority delegated to Executive Director (Resolution 2019-06)
- Creation & administration of procedures delegated to Executive Director (Resolution 2016-06)

3



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Public Works Contracting Procedures

Policy 1004

Revisions Proposed

Definitions & Policy

Apprenticeship Utilization Requirement:

For Public Works contracts with an estimated cost of more than \$1,000,000, no less than 15 percent of the total reported labor hours involved shall be performed by apprentices. This apprenticeship utilization requirement applies even if the bid awarded is less than \$1,000,000 provided the estimated cost as determined by the Port was in excess of \$1,000,000 at the time the request for bids was published.

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Public Works Contracting Procedures

Policy 1004

Reduction or waiver:

The Executive Director may in their discretion reduce or waive the requirements of this policy for a specific project for the following reasons:

- a) An emergency exists;
- b) The demonstrated lack of availability of apprentices in specific geographic areas;
- c) The reasonable and necessary requirements of the contract render apprentice utilization financially infeasible at the required levels.

The Executive Director shall report to the Board of Commissioners the intent to waive or reduce these requirements at a regular Commission meeting before taking such action or, in the case of an emergency where immediate action is necessary, at the next regular Commission meeting following such action.

Grant funding:

The provisions of this section shall not apply to the extent they are deemed to be in conflict with state or federal grant funding requirements.

5



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Apprenticeship Utilization Requirement

Action

- Commission Action
 - Approve Resolution 2022-13
 - Revise Policy 1004
- Staff establishes procedures

6



Sample Motion

Move to approve Resolution 2022-13 creating an apprenticeship utilization requirement for public works projects with a cost estimate of more than \$1,000,000 (One Million Dollars)

7



PORT OF OLYMPIA COMMISSION Resolution 2022-13

A Resolution, of the Port of Olympia Commission, creating an apprenticeship utilization requirement for public works projects with a cost estimate of more than \$1,000,000 (One Million Dollars)

WHEREAS, the State of Washington recognizes that a well-trained construction trades workforce is critical to the ability to construct public works and codifies the purpose of apprenticeship training programs in RCW 39.04.300, and:

WHEREAS, the Port Commission last established a master policy directive for matters related to Port Contract and Acquisitions Policies with the adoption of Resolution 2019-06 that includes Policy 1004 Public Works Contracting; and

WHEREAS, the Port Commission wishes to update Policy 1004 Public Works Contracting to add a requirement for the utilization of apprenticeships for public works projects that exceed \$1,000,000 (One Million Dollars) in estimated costs; and

WHEREAS, Section 53.12.270 of the Revised Code of Washington provides authority to the Port Commission for delegation of powers to the Executive Director; and

WHEREAS, the Port Commission has adopted policy directives delegating administrative authority to the Executive Director and his/her designees for the purpose of expeditious administration of the Port; and

WHEREAS, the Port Commission has from time to time found it necessary to amend and revise such directives due to changes in law and/or operations of the Port;

THEREFORE, BE IT RESOLVED, that Port Policy 1004 Public Works Contracting as adopted previously by Resolution 2019-06, is amended as set forth in Exhibit "A" attached to this Resolution and incorporated herein by such reference for the purpose of providing an Apprenticeship Utilization Policy for the Port of Olympia.

BE IT FURTHER RESOLVED that the Port of Olympia Commission delegates the authority to the Executive Director to create procedures for the above listed policy.

ADOPTED BY THE Port of Olymp	ia Commission this day of November, 2022.
	PORT OF OLYMPIA COMMISSION
	Charles Iyall, President
	Amy Evans Harding, Vice President
	Joe Downing, Secretary-Treasurer

PORT OF OLYMPIA COMMISSION Resolution 2022-13

A Resolution, of the Port of Olympia Commission, creating an apprenticeship utilization requirement for public works projects with a cost estimate of more than \$1,000,000 (One Million Dollars)

Exhibit A

Public Works Contracting (Policy 1004)

The Port shall ensure that its contracts for construction of public works comply with applicable laws and regulations. All public works contracts shall be executed by the Executive Director and administered by the Port's Environmental, Public Works and Planning Director or designee.

Policy Definitions:

- Apprentice means an apprentice enrolled in an apprenticeship training program approved or recognized by the Washington State Apprenticeship and Training Council.
- **Apprentice utilization requirement** means the requirement that no less than 15 percent of the total reported labor hours involved in a public works project estimated by the Port to cost in excess of \$1 million be performed by apprentices.
- **Contractor** means a person, corporation, partnership, limited liability company, public agency, or joint venture entering into a contract with the Port to construct a public work.
- **Emergency** means unforeseen circumstances beyond the control of the Port that either present an immediate threat to the proper performance of essential functions, or will likely result in material loss or damage to property or bodily injury if immediate action is not taken
- **Labor hours** means the total hours of workers receiving an hourly wage who are directly employed on the site of the public works project. "Labor hours" shall include hours performed by workers, including foremen, employed by the contractor and all subcontractors working on the project. "Labor hours" shall exclude hours worked by superintendents, owners, and workers who are not subject to prevailing wage requirements.
- Public Works is defined by Washington State law to include "all work, construction, alteration, repair or improvement, other than ordinary maintenance, performed at public cost on any property".
- Ordinary Maintenance means work not performed by contract and that is performed by the employees of the Port on a regularly scheduled basis (e.g. daily, weekly, monthly, seasonally, semiannually, annually) to service, check, or replace items that are not broken; or work not performed by contract that is not regularly scheduled but is required to keep existing infrastructure in good usable, operational condition. Maintenance work by contractors is not Ordinary Maintenance.
- Small Public Works is the procedure created by Washington State statute authorizing the solicitation of public works bids from a limited number of contractors in lieu of formal advertisement to bid.

• **Subcontractor** means a person, corporation, partnership, limited liability company, public agency, or joint venture that has contracted with the contractor to perform all or part of the work to construct a public work by a contractor.

Policies

Competitive Selection:

The Port shall observe a competitive solicitation process for the purposes of contracting Public Works, as determined by the approved Port Signing Authority and Spending Thresholds, in compliance with contracting law, and as is governed by RCW.

Signing Authority and Spending Thresholds for Public Work Contracts:

\$0 to \$40,000 – No solicitation requirements apply, although it is best practice to use at least a roster procurement process (i.e. "rosters"). Port staff may perform Public Work projects with in-house resources.

<u>\$0 to \$300,000</u> – Both formal, competitively bid or Small Works Roster contracts shall be authorized and executed by the Executive Director (see Policy #1002, "Small Works Roster Procedures").

\$300,000 or more - The Commission shall authorize all contracts prior to execution by the Executive Director.

The Commission shall authorize any change order if the new contract not to exceed amount exceeds \$300,000 or 10% of the Commission last approved amount. The Executive Director is authorized to execute change orders up to this threshold.

Apprenticeship Utilization Requirement:

For Public Works contracts with an estimated cost of more than \$1,000,000, no less than 15 percent of the total reported labor hours involved shall be performed by apprentices. This apprenticeship utilization requirement applies even if the bid awarded is less than \$1,000,000 provided the estimated cost as determined by the Port was in excess of \$1,000,000 at the time the request for bids was published.

Reduction or waiver:

The Executive Director may in their discretion reduce or waive the requirements of this policy for a specific project for the following reasons:

- a. An emergency exists;
- b. The demonstrated lack of availability of apprentices in specific geographic areas;
- c. The reasonable and necessary requirements of the contract render apprentice utilization financially infeasible at the required levels.

The Executive Director shall report to the Board of Commissioners the intent to waive or reduce these requirements at a regular Commission meeting before taking such action or, in the case of an emergency where immediate action is necessary, at the next regular Commission meeting following such action.

Grant funding:

The provisions of this section shall not apply to the extent they are deemed to be in conflict with state or federal grant funding requirements.



BRIEFING DATE/TIME:	November 28, 2022		
DEPARTMENT:	Executive		
STAFF CONTACT/TITLE:	Rudy Rudolph, A.A.E. Telephone: 360.528.8000 Email: Rudyr@portolympia.com		
TOPIC:	Northwest Asphalt, Inc., Contract Amendment		
PURPOSE: Check all that apply	□ Information only■ Decision needed□ Follow up from previous briefing		
BACKGROUND & OVERVIE	zw:		
The Northwest Asphalt, Inc. contract (2020-1008) for "Miscellaneous Paving Services" was executed under Executive Director authority on 12/18/20. The contract is in effect through December 31, 2022 , for a not to exceed amount of \$300,000. There have been eight (8) invoices for work under the contract totaling \$310,288.01. The last task order knowingly exceeded the contract amount by \$10,288.01 by order of the Port Operations Director . This was associated with repairs deemed an impending safety risk due to rapidly deteriorating pavement on the Marine Terminal. This amount along with other recent Marine Terminal tenant task order work will be reimbursed by the tenant. The request before the Port Commission is the extend the date of the contract through January 31, 2023, in an additional amount of \$30,000 for a new total contract amount not to exceed \$330,000. This time and dollar amount extension would be reserved for any unanticipated work through January 31, 2022, until the execution of a new contract.			
DOCUMENTS ATTACHED:			
 Power Point Summary 			
SUMMARY & FINANCIAL IMPACT:			
Any expended funds would be in accordance with approved operating budgets, with reimbursements as applicable.			
AFFECTED PARTIES:			
Port staff, contractors a	nd tenants		
OPTIONS WITH PROS & C	ONS:		

This extension provides routine contract coverage until a new contract is implemented. Lack of an extension would require an emergency authorization for any safety related work.
Environmental Consideration:
N/A
STAFF RECOMMENDATION:
Commission approval



Contract Amendment Northwest Asphalt, Inc.

November 28, 2022 Rudy Rudolph, A.A.E. Operations Director

1

Contract Scope

Miscellaneous Paving Services

 Provide labor, equipment, materials and incidentals to perform multiple work-order paving projects which include grading, paving, tack coat, crushed surface base course, bankrun gravel, grinding asphalt, slurry seal surfacing, asphalt fog sealing, painted traffic lines, adjustment of structures embedded in asphalt, and shoulder restoration as directed by the Project Manager on Port Properties.

2



Contract History

October 23, 2020: Request for Proposals

November 9, 2020: Bid Opening

Contractor Selected: Northwest Asphalt

Not to Exceed Amount: \$300,000

Contract Executed: 12/18/2020

3



3

Contract History

Not to Exceed Amount: \$300,000

Eight Invoices For Work \$310,288.01

Contract Exceedance \$10,288.01

4



Sample Motion

I move to authorize the Executive Director to execute a contract amendment for Contract No. 2020-1008 with Northwest Asphalt, Inc., for an additional \$30,000 and a new total amount not to exceed \$330,000, with an expiration date of January 31, 2023.

5





BRIEFING DATE/TIME:	November 28, 2022
DEPARTMENT:	Executive
STAFF CONTACT/TITLE:	Rudy Rudolph, A.A.E., Operations Director Telephone: 360.528.8000 Email: rudyr@portolympia.com
Торіс:	Port Letter to Commercial Aviation Coordinating Commission (CACC)
PURPOSE: Check all that apply	☐ Information only☐ Decision needed☐ Follow up from previous briefing

BACKGROUND & OVERVIEW:

On July 14, 2020, the Port of Olympia responded to the initial CACC letter of interest inquiry, declining to be considered as a sponsor of a future Thurston County greenfield airport.

In October 2022, the Commercial Aviation Coordinating Commission (CACC) forwarded a report to the state legislature recommending a location in central Thurston County, east of Olympia, as one of three potential greenfield (undeveloped) sites for further analysis for future development of a Commercial Service Airport.

On October 24, 2022, the Port became a signatory to a joint letter from the city and county governments of Thurston County to state elected officials, opposing this selection.

On October 24, 2022, the Port Commission directed staff to draft a follow-on letter to the CACC clarifying the Port Commission position on the Olympia Airport role in meeting the future aviation capacity needs of the state of Washington.

DOCUMENTS ATTACHED:

DRAFT Letter to Commercial Aviation Coordinating Commission (CACC)

AFFECTED PARTIES:

Federal Aviation Administration WSDOT Aviation Division International, National, Local Airport Users Thurston County Citizens

NEXT STEPS/TIMEFRAME: Based on the Commission's recommendation, describe the next steps required in order to bring this item to conclusion. Include the time frame for each step.

Commission Action



606 Columbia St. NW, Ste 300 | Olympia, WA 98501 360.528.8000 | F: 360.528.8090 | portolympia.com

November 28, 2022

Mr. David Fleckenstein
Chair, Commercial Aviation Coordinating Commission (CACC)
Director, Aviation Division
Washington State Department of Transportation
7702 Terminal Street
Tumwater, WA 98501

Dear Mr. Fleckenstein:

On July 14, 2020, the Port of Olympia responded to your June 24, 2020 CACC letter of interest request, declining to be considered as a sponsor of a future Thurston County "greenfield airport."

On October 24, 2022, following the CACC's recent selection of a potential "greenfield airport" site in Thurston County for further evaluation, the Port became a signatory to a joint letter from the city and county governments of Thurston County to state elected officials, opposing this selection.

This correspondence affirms the Port's July 24, 2020 position declining sponsorship interest in a "greenfield airport" as well as any consideration for expansion of the Olympia Regional Airport as part of the CACC deliberation process.

Port of Olympia is currently engaged in a federally funded Airport Master Plan (AMP) update. The AMP update considers the Federal Aviation Administration (FAA) projected aviation forecasts. The Port will review the Airport's future role(s) as outlined in the Airport Master Plan Update.

Respectfully,

Bob Iyall Commission President

C: File, Port Commissioners, W. Hendrickson, R. Rudolph



BRIEFING DATE/TIME:	November 28, 2022
DEPARTMENT:	Executive
	Ben McDonald
STAFF CONTACT/TITLE:	Telephone: 360.528.8001
	Email: benm@portolympia.com
TOPIC:	Resolution 2022-XX Revision of Policy No. 207 - Approving a prospective retention pay incentive for fiscal year 2023 and suspending pay for performance for one year
Purpose: Check all that apply	■ Information only□ Decision needed□ Follow up from previous briefing

BACKGROUND & OVERVIEW:

Policy 207 Pay for Performance was adopted by the Commission and last updated with Resolution 2019-05 Providing the delegation of authority to the Executive Director or his or her designee for matters related to Executive Policies matters related to Executive Policies. The policy reads as follows:

<u>POLICY:</u> It is Port policy to conduct performance reviews for all Port employees on an annual basis. It is the policy of the Port to use annual performance reviews as the process for advancing each person within the salary grades and the ranges, and to assess compensation for the Port's pay for performance policy and merit pool allocation, where applicable. The Port aims to meaningfully recognize employee performance through this Policy.

The adopted policy along with procedures for its implementation are contained within the attached Policies and Procedure document. The procedures, developed by staff and adopted by the Executive Director, provide for advancement within salary grades and ranges and the merit pool allocation for increases in pay based upon performance review.

Port management staff is recommending a different approach to salary increases for 2023 in order to acknowledge the high rate of inflation and to continue to offer a competitive compensation package for our employees. The recommended approach for 2023 is two pronged:

- Suspension the Pay for Performance system in FY 2023 and the allocation of a merit pool.
 Management staff instead recommends a 4% cost of living adjustment for all Port employees.
- In further recognition of inflationary times and the Port's desire to retain quality staff members, management staff recommends offering a Retention Incentive in the amount of \$2400 to be paid quarterly in 2023 to each employee should they remain employed.

These adjustments, coupled with the existing benefits package, will allow the Port to remain competitive within a tight labor market. While the salary adjustments are prospective, they also serve to demonstrate to Port employees that they are valued and that efforts to retain them are merited.

DOCUMENTS ATTACHED:

- Power Point Presentation
- Resolution 2022-XX Approving a prospective retention incentive for one year and suspending pay for performance for one year

SUMMARY & FINANCIAL IMPACT:

Salary adjustments for both the 4% COLA and Retention Incentive are included in the 2023 Operating Budget.

AFFECTED PARTIES:

All Port employees

<u>NEXT STEPS/TIMEFRAME:</u> Based on the Commission's recommendation, describe the next steps required in order to bring this item to conclusion. Include the time frame for each step.

Resolution 2022-XX will be brought back to the Commission for consideration and action at the December 12^{th} regular meeting.



Port Policy 207 – Salary Review & Pay for Performance

ADVANCEMENT WITHIN SALARY GRADES & RANGES

- Sets standards for new hires
- Provides guidelines for advancement within grade & range

PAY FOR PERFORMANCE

- Employees' performance is documented at the end of the year in NeoGov which calculates a score based on goals & expectations met or unmet and a salary percentage is given.
- The Port is reviewing the process for Pay for Performance while researching which system is best for performance management and salary increases



Staff Recommendations

Suspend pay for performance and merit pool allocation for FY 2023

Grant a 4% Cost of Living Adjustment (COLA) for all Port staff for FY 2023.

Institute Retention Incentive for FY 2023

The Port recognizes that the cost of living has gone up tremendously and wants to assist staff during these highly inflationary times. To aid in the cost of living and operate within a competitive labor market, as well as to retain our very valued and competent workforce, the Port is offering the following:

 Compensate employees who remain employed at the Port through 2023 a total of \$2,400 to be paid quarterly in \$600 installments.



QUESTIONS



PORT OF OLYMPIA COMMISSION Resolution 2022-XX

A RESOLUTION OF THE PORT OF OLYMPIA COMMISSION APPROVING A PROSPECTIVE RETENTION PAY INCENTIVE FOR FISCAL YEAR 2023 AND SUSPENDING PAY FOR PERFORMANCE FOR ONE YEAR

WHEREAS, in the aftermath of the coronavirus pandemic it has become increasingly difficult to attract and retain employees to perform services essential to the Port; and

WHEREAS, cost associated with filling Port positions include staff time and advertising; and

WHEREAS, the Port and those served by the Port benefit from retention of institutional knowledge of the Port's current employees; and

WHEREAS, in Section 200 Employment Practices-Personnel, the Port policy for salary review and pay for performance authorizes pay raises each year based on scores determined through employee performance reviews, subject to Commission approval; and

WHEREAS, the Executive Director has received input from employees and is considering methods by which administration of this type of pay may be improved; and

WHEREAS, while pay for performance is being evaluated for improvement it makes sense to suspend this method of pay for fiscal year 2023.

THEREFORE, BE IT RESOLVED by the Commission of the Port of Olympia:

All Port of Olympia employees will receive a retention pay incentive in the amounts and at the times indicated as follows:

April 10, 2023: \$600 July 10, 2023: \$600 October 10, 2023: \$600 January 10, 2024: \$600

BE IT FURTHER RESOLVED the aforementioned pay for performance will be suspended temporarily for fiscal year 2023.

BE IT FURTHER RESOLVED an at will employee's status as "at will" or under any contract is not affected by this Resolution. If any employee is separated from employment in 2023 they will only be entitled to the increment of incentive pay received while still employed at the Port.

ADOPTED BY THE Port of Olympia	a Commission this day of November 2022.
F	PORT OF OLYMPIA COMMISSION
Ī	Bob Iyall, President
Ā	Amy Evans Harding, Vice President
J	oe Downing, Secretary

PORT of OLYMPIA POLICIES & PROCEDURES MANUAL		Page:	1 of 2
Section:	200 EMPLOYMENT PRACTICES-PERSONNEL	Revision Date:	10/2019
Policy:	SALARY REVIEW & PAY FOR PERFORMANCE	Policy No.	207
Approver:	COMMISSION	Resolution	Yes

POLICY: It is Port policy to conduct performance reviews for all Port employees on an annual basis. It is the policy of the Port to use annual performance reviews as the process for advancing each person within the assigned salary grades and ranges, and to assess compensation for the Port's pay for performance policy and merit pool allocation, where applicable. The Port aims to meaningfully recognize employee performance through this Policy.

PROCEDURE FOR SALARY REVIEW: To assure that the new hire rate is internally consistent with the salaries paid for other people in the same or similar job and skill level, the following guidelines are used in determining a new hire salary rate.

Illustrative Guidelines For Salary Range Utilization								
Minimum \$				Midpoint \$ Maximum				
0 to 1 year of service	2 years of service	3 years of service	95% 4 years of service	5 years of service	Beyond 5 years of service based on performance review			

Annually, the Port will make salary adjustments to any employee within the first five (5) years of service in that position based on the guidelines above. Once the employee is in the position for more than five (5) years, all future increases are only based on the annual performance review.

These above guidelines are in place to ensure that the internal equity relationships between new hires and already employed people are reviewed and maintained.

The guidelines are intended to provide a reference for where employees should typically be positioned in the assigned salary range.

PROCEDURE FOR PAY FOR PERFORMANCE: The pay for performance program recognizes performance levels and provides for salary advancement through higher levels of performance on a sustained basis. The program recognizes job performance excellence through pay raises, which are determined each year by the score of the performance review. In addition, performance reviews are used to discuss goals and expectations; as well as the achievements, strengths and development needs of people. Performance reviews may also be given without any linkages to pay adjustments.

Annually, the Administrative Services Director shall contact the salary consultants prior to the budget process to obtain "cost of salary" information and recommendations to the Commission for the increase in for the Salary Grades and Ranges chart and for the proposed merit pool. Subject to Commission approval each year, the Port awards a salary merit pool to be distributed to all eligible employees based on performance. Any salary increases will be effective in January of each year. The amount of the individual increase will depend upon the performance

O POR	RT of OLYMPIA POLICIES & PROCEDURES MANUAL	Page:	2 of 2
Section:	200 EMPLOYMENT PRACTICES-PERSONNEL	Revision Date:	10/2019
Policy:	SALARY REVIEW & PAY FOR PERFORMANCE	Policy No.	207
Approver:	COMMISSION	Resolution	Yes

review for the essential work and goal accomplishment. In addition, pay for performance adjustments will be subject to the total dollar amount approved by the Port Commission.

In the case of an employee reaching the maximum in his/her current job grade and range, a performance raise may be considered based on the percentage that the Salary Grades, and Ranges moves for the "cost of salaries" as well as potentially an additional cash payment disbursed through the 24 pay periods. If given, the cash payment will not carry over year to year as a part of the employee's salary.

Any employee on a Performance Improvement Plan (PIP) at the time of the salary adjustments will not be eligible for a merit increase.

The Port of Olympia expects to continue the total compensation program on an ongoing basis; however, because future conditions cannot be foreseen, the Port reserves the right to change the program at any time.



BRIEFING	November 28, 2022		
DATE/TIME:			
DEPARTMENT:	Real Estate		
G	N AN D DI A DI A D I D I D I D I D I D I D I		
STAFF CONTACT:	Name: Allyn Roe, Director of Business Development and Real Estate		
	Telephone: 360.528.8012		
	Email: allynr@portolympia.com		
TOPIC:	95-acre Ground Lease for Airport Property		
PURPOSE:	■ Information only		
Check all that apply	☐ Decision needed		
	☐ Follow up from previous briefing		
BACKGROUND & OVERVIEW:			

BACKGROUND & OVERVIEW:

The Port's New Market Industrial Campus properties are located in South Tumwater adjacent to the Olympia Regional Airport. Development of these properties, consistent with the Port mission and goals, and aligned with community values has been a long-time goal of the Port.

In early January of this year, and in collaboration with our regional economic development partners including Thurston EDC, Thurston County Chamber, City of Olympia, and City of Tumwater, we entertained a site selection inquiry for a beverage bottling facility. This facility would be a manufacturing use, employ up to 600 individuals, and provide a community investment of approximately \$500M. The collaborative effort determined that the best site that fit the needs of this request would be a 95-acre tract of Port property in the southwest portion of the Olympia Airport.

After months of site feasibility work and lease negotiations, Port staff is proud to present the enclosed Ground Lease with Swire Coca-Cola for a 95-acre area of land in the southwest portion of the Olympia Airport. The term of the lease is up to 75 years, provide lease revenues of almost \$2M/year, and be subject to all environmental conditions including requirements set forth in the HCP. The potential development would include buildings for manufacturing, warehousing, distribution, and supporting operations.

About Swire Coca-Cola:

Swire is the local bottler throughout most of the Pacific Northwest. It bottles and distributes Coca-Cola and other beverages in a total of 13 states. Headquartered in Draper, Utah, Swire was founded in 1978 and employs close to 7,400 associates. In Washington, Swire employs 1,034 people across seven facilities, with an annual payroll of \$79.3M. The Swire team delivers approximately 700 products to more than 8,800 outlets. Swire is committed to sustainable development. The company has ambitious goals and a strong track record in the areas of climate protection, packaging and recycling, and water stewardship.

Documents Attached:

- PowerPoint Presentation
- Draft Ground Lease

NEXT STEPS:

12/22/22 Commission Action



Ground Lease Agreement Swire Pacific Holdings

November 28, 2022

Allyn J. Roe, AAE

Business Development & Real Estate Director

1

Background

Demand for industrial properties

- Panattoni Option July 2020 200 Acres
- CRG Option May 2022 ~113 Acres
- Demand from "Evergreen Project" Jan 2022



2

PORT of OLYMPIA

Background

Evergreen Project Overview

- Strong collaboration w/regional partners
- Manufacturing use w/accessory warehouse
- Up to 600 jobs.
 - 150 production, 200 Warehouse, 200 Sales
 - 50 Fleet
- 95 Acre Request
- \$500M Capital Investment





3

3



Who is Swire

PORT of OLYMPIA

5

5

Lease Proposal

Terms

- Panattoni Lease / CRG Option used as template
- All development consistent with Tumwater Airport Related Industrial Zoning
- 35-year Term +25 +20 (75yr max)
- \$169,666/yr initial (immediately) \$1,986,336/yr base rent (after satisfactions met)
- HCP & FAA terms

6

PORT of OLYMPIA

Lease Proposal

Special Terms

- Area designated with FAA requiring "Section 163 Determination"
- HCP Gopher & Lark
- Rent Commencement at Occupancy or 24 months after HCP completion

7



7

Lease Proposal

Next Steps

- Review project in Work Session 09/16/22 Complete
- Review Lease in Advisory Session 11/28/22 Now
- Consider Lease for approval Action 12/12/22
- Due Diligence
- HCP / HCP Mitigation
- Tenant responsible for land use & building review and permits
- Construction

8



Allyn J. Roe, AAE Business Development & Real Estate Director allynr@portolympia.com



Swire Coca-Cola

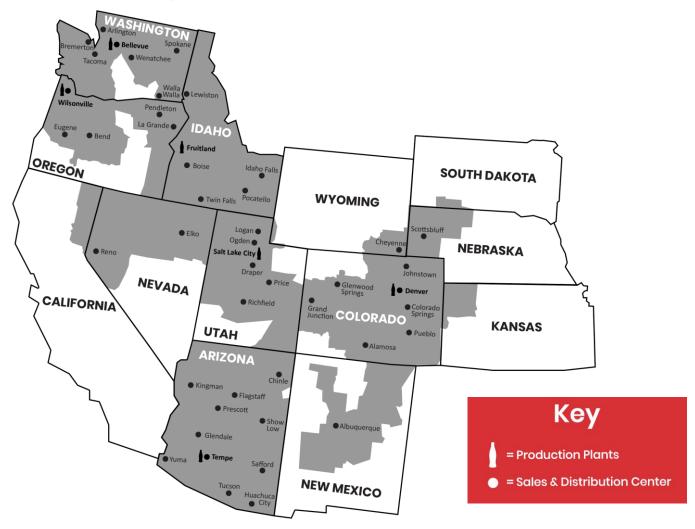
A Total Beverage Company





Swire Coca-Cola

Territory Map

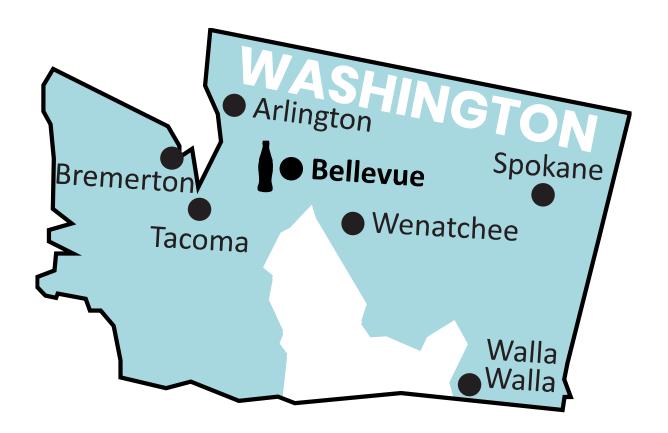


At Swire Coca-Cola, our purpose is to deliver refreshment to the communities we call home.



Swire Coca-Cola

Washington





1,034 Employees



\$79.3 MM Annual Payroll



8,892 Outlets served



7 Facilities



695+ Different products

259 Low & No Calorie Beverages





Swire Coca-Cola Careers

- More than 400 unique employee roles to offer professional growth.
- Full-time, fully benefited employment.
- Employee assistance program, providing mental health assistance, financial education, and other professional support services.
- A career path and training to grow professionally.
- Community service & engagement opportunities.





Craig Hagler, Regional Vice President

- Thirty-three-year veteran of Swire Coca-Cola.
- Second generation Swire professional.
- Began career as a bottle sorter.
- Held roles in distribution, operations, warehouse, sales, and food service onpremise.
- Lead teams as a Division Manager,
 Division Vice President and most
 recently serves as the Regional Vice
 President of the Pacific Northwest.



Serving our customers and communities...

Convenience Retail







Neighborhood Market



Fred Meyer.





Experiential













Giving back to the community

- Volunteerism
- Financial Investments
- Product Donations









Partnering for positive impact...



























Driven to Protect

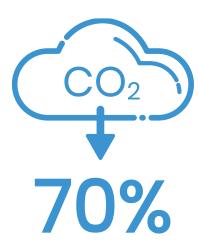
We care for our planet and are committed to minimizing the impact of our business on the environment.





Climate

Goal:



Reduction in carbon emissions by 2030

How:



100%

Renewable electricity for core operations by 2026

Measure:



Validated by recognized third-party organizations



Packaging

Make our primary packaging:



We aim to achieve:



Zero Waste to landfill by 2025

- Swire Coca-Cola's manufacturing plants have a diversion rate greater than 96%.
- Bellevue manufacturing plant has a diversion rate of 99%.
- Packaging innovation.





Water



Source Vulnerability Assessments
Source Water Protection Plans



EFFICIENCIES

Improved efficiency in manufacturing by 20%

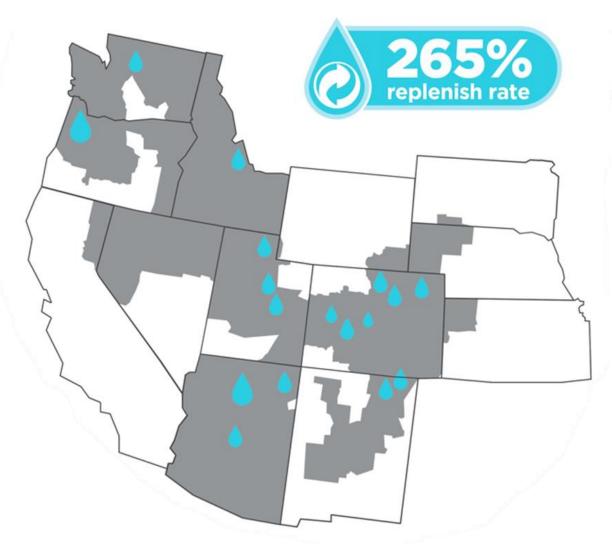


Return to nature at least 100% of the water used to produce our products



Water Replenish Projects

- Last year, Swire Coca-Cola replenished 265% of water used in the production of their beverages.
- In partnership with The Coca-Cola Company, Swire Coca-Cola has funded 17 water restoration projects throughout our operating region, including in Washington.





Upper Methow River, Washington



BEFORE



AFTER



Willamette River Pudding Ponds



BEFORE



AFTER



Jesse Creek, Idaho





BEFORE AFTER







Thank You



PORT OF OLYMPIA GROUND LEASE TUMWATER PROPERTIES

THIS LEASE is made this **12th** day of **December**, **2022**, 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

Swire Pacific Holdings Inc., and/or its assigns 12634 S 265 W Draper, UT 84020

PREMISES

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon and subject to the terms and conditions of this Lease, that certain real property consisting of approximately ninety five (95) acres of land or Four Million One Hundred Thirty Eight Two Hundred (4,138,200) square feet, to be mutually agreed upon by the parties, referred to as the "Premises" herein, out of one hundred thirteen (113) acres, located in Tumwater, Thurston County, Washington as generally shown and described in the site plan attached as **Exhibit "A"** hereto, and referred to as the "Property" 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.

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

property shall be recorded without the Port's express written consent to such finality or recording, which shall not be unreasonably withheld, conditioned, or delayed (and, unless otherwise indicated, the Port's execution of an application or petition shall not constitute the Port's consent to finalization of the action requested in such application or petition or to recording of any document), and (iv) the terms of such permits and any associated agreements are subject to the approval of the Port to the extent that the terms thereof would bind the Port following expiration or termination of this Agreement, which such approval shall not be withheld with respect to routine development restrictions and covenants that would run with the land developed for a project like the Project (e.g., slope setback and non-disturbance provisions, rights to make cuts and fills for roads, etc.) or restrictions and covenants otherwise required or customary for issuance of the requested approvals (e.g., provisions applicable to decommissioning facilities used in the management of Hazardous Material), and (v) such documents shall provide that the Port shall have no liability during the Term for any costs or other liabilities related solely to such permits or agreements, applicable law or set forth elsewhere in this Agreement.

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

INITIAL TERM

The "Initial Term" shall be seventy-five (75) years, divided into periods of thirty (30), twenty-five (25), and twenty (20) years, Provided, that if there is not a final "Section 163 Determination" of non-aeronautical property by the Federal Aviation Administration ("FAA") with respect to the Property, then the Lease shall not go into effect. The Tenant shall have the exclusive right to extend the lease at the end of each of these periods. The Port shall not withhold approval of the lease extensions during the initial term. The initial term shall begin on a date elected by Tenant, upon verification of the date for the completion and acceptance in writing by Tenant after acceptance of the Habitat Conservation Plan (the "Lease Commencement Date"); 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. Tenant shall also have one option to extend as outlined below.

OPTION TO EXTEND INITIAL TERM

The Tenant is granted by the Port options to extend for up to three (3) additional periods, the terms of which will be negotiated in good faith by the parties commencing one (1) year prior to the termination of the Lease, provided, however, this provision is non-binding on the Port except as to the obligation to negotiate in good faith with the Tenant. Such extensions, if they occur, 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 Port policy). The extension terms shall commence on the expiration of the immediately preceding term. Such Option to Extend may be exercised only by written notice to the Port no later than two (2) years prior to the expiration of the then current term. Tenant shall not be entitled to extend this Lease if Tenant is in uncurred default of the performance of its obligations hereunder 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.

INITIAL RENT AND BASE GROUND RENT

<u>Initial Rent</u>: Tenant shall pay monthly base rent in the amount of one-twelfth (1/12) of the annual rental cost of Four and One Tenths Cents (\$0.041 per square foot). According to the Rent Commencement Date described below, the monthly base rent shall increase to one-twelfth of the annual rental cost of Forty Eight Cents (\$0.48 per square foot) ("Base Ground Rent") in addition to (not including) including Washington State Leasehold Tax, plus Common Area charges..

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

Effective as of the beginning of the twenty-sixth (26th) year of the Lease, and every ten (10) years thereafter during the Initial Term, the Base Ground Rent shall be revised to an amount equal to one-twelfth (1/12) of the then-current fair market rental value of the property as agreed to by the Parties hereto, Provided, however, that at no point shall the Base Ground Rent be adjusted downward.

If the Parties cannot agree to a fair market rental value within 30 days after the end of the 26th year of the Lease, the fair market rental value for rental revisions pursuant to this paragraph shall be determined by independent appraiser, as outlined in Paragraph 36, APPRAISAL PROCEDURE.

Rental revisions for any extension of the Term in accordance with the Option to Extend Term shall be in accordance with the then current Port Commission Policy.

RENT COMMENCEMENT DATE

Base Rent shall commence at the earliest to occur of either of: (a) date Tenant receives a temporary Certificate of Occupancy issued by the City of Tumwater, or (b) twenty four (24) months from the Tenant's written approval of the completion of the Habitat Conservation Plan as further defined in the Contingencies provisions herein or commencement date of the Lease term if the Tenant is actually able to commence construction due to receipt of all required governmental approvals, whichever is later.

LEASE SECURITY

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, which may be either in cash, a bond, letter of credit, or other customary form of security, and adjusted to reflect rental adjustments and other changes to this Lease. Initial amount shall be Two Million Two Hundred Forty One Thousand Three Hundred Thirty Six and 00/199 Dollars (\$2,241,336.00) (one times the annual rent plus Washington State Leasehold Excise Tax of 12.84%). The initial security amount shall be posted with the Port by the date of removal of any and all Lease contingencies by the Tenant. Any change 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.

USE OF PREMISES

Tenant may use the Premises for manufacturing, warehouse/distribution and administrative facilities, or other uses as may be allowed on the Premises under zoning and other governmental regulations.

INSURANCE

Bodily Injury/Death: Combined Single Limit \$1,000,000 each occurrence.

Property Damage: \$500,000 per occurrence.

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

ASSIGNMENT, SUBLEASE, OR LEASE MODIFICATION.

Tenant shall have the right to assign part or all of the Tenant's interest in the Lease to any other person or entity, after the Tenant and proposed assignee have complied with all of the terms, covenants and conditions of this Lease, subject to the approval of the Port, which shall not be unreasonably withheld. Any person or entity to which the Lease is assigned shall be deemed, without further act or deed, to have assumed all of the obligations of the Tenant arising under the Lease on or after the date of such assignment. Any such assignee shall, upon request, execute and deliver to the Port an instrument confirming such assignment. Tenant shall be subject to a fee for any request for assignment, sublease, or modification of this Lease as stated in Port Commission Fee Schedule, except as otherwise sent forth in this Lease.

REAL ESTATE COMMISSIONS AND FEES

A real estate commission shall be paid by the Port to Charlie Cowan/Windermere RE Co., Inc., 301 NE 100th Street, Suite 200, Seattle, Washington 98125 (Broker/Firm), in accordance with the Real Estate Commission Payment Agreement between the Port and such Broker/Firm dated March 28, 2022. Except as set forth above, each party represents and warrants that it has not dealt with any broker or other person to which a commission or other fee is due in connection with any of the transactions contemplated by this Agreement, and that insofar as it knows, no broker or other person is entitled to any commission, charge, or fee in connection with the transactions contemplated by this Agreement. Each party agrees to indemnify, defend, and hold harmless the other party against any loss, liability, damage, cost, claim, or expense, including interest, penalties, and reasonable attorney fees that the other party shall incur or suffer by reason of a breach by the first party of the representations and warranties set forth in the preceding sentence.

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.

CONTINGENCIES AND DUE DILIGENCE PERIOD

This Lease is expressly contingent upon the Tenant conducting such due diligence as it reasonably determines is necessary and/or appropriate to decide the feasibility of development of the Premises, including but not limited to phase I and phase II environmental studies, source and wastewater studies, geotechnical and soils studies, confirmation of availability of all utilities required at costs Tenant determines as reasonable, final approval from the Tenant's parent company, and securing of needed financing to develop the Premises ("Due Diligence"). The Due Diligence period and all contingencies shall continue until the Tenant approves in writing the Habitat Conservation Plan, which approval or disapproval by Tenant shall occur within sixty (60) days of receipt of the Habitat Conservation Plan. The Tenant shall determine, in its sole discretion, whether the development of the Premises is feasible, and shall promptly advise in writing the Port of its determination upon completion of Tenant's Due Diligence, including but not limited to the Habitat Conservation Plan and all other contingencies. Additionally, the Lease is expressly contingent upon the approval by Tenant in its sole discretion of the Site Development Plan, Airport Layout Plan, actual completion and approval of the Bush Prarie Habitat Conservation Plan by no later than December 31, 2024, and the availability of "mitigation" credits". The Tenant shall have the right to terminate the Lease until December 31, 2024, even after waiver or satisfaction of contingencies by Tenant.

ADDITIONAL PROVISIONS

- 1. **Right of First Refusal.** The Port grants the Tenant a right of first refusal ("ROFR") to lease any portion of the Property not part of this Lease, i.e. the balance remaining of the approximately One Hundred Thirteen (113) acres shown on **Exhibit A** attached hereto. The terms of the ROFR shall be negotiated in good faith between the parties as part of the negotiations with regard to the Lease, e.g. right to inspect the Property, but shall include the right to lease at the same base rent and on the same terms as the Port is willing to accept from a third party.
- 2. **Exclusivity.** The Port has entered into an Option to Ground Lease with CRG for the Property, with an allowance, for the "Evergreen Project". Notwithstanding the provisions of the grant by the Port to the Tenant of the foregoing ROFR, the Port reserves the right to exercise and support all provisions with CRG.
- 3. **Confidentiality.** The Port will make all reasonable efforts to be discrete concerning this Lease and the project contemplated to be built on the Premises and the Property by the Tenant, and will not issue any public announcements in any form concerning same. The Tenant has been advised that, as a public entity, the Port is subject to the provisions of the State Public Records Act, Chapter 42.56 of the Revised Code of Washington. It shall not be a violation of this Lease for the Port to comply with the requirements of the Open Public Meetings Act (Chapter 42.30 RCW) and the Public Records Act (Chapter 42.56 RCW).

- 4. **Facilities**. Facility(ies), both during construction and upon completion, shall comply with all FAA obstruction standards to ensure no impact on existing or future aircraft operations. Additionally, use of any and all facility components including but not limited to lighting, antennas, solar panels, emissions of any type, heat plumes, electronics, etc. shall not constitute a hazard to aviation and aerial navigation
- 5. **Assistance by Port in Mitigation Expenses**. Upon final approval, the Habitat Plan is expected to include a requirement for payment of fee-in-lieu mitigation to the City in order to develop the Property. The Base Rent schedule in this Agreement reflects the fair market value for the Property in fully mitigated condition under the Habitat Plan. In consideration of that valuation, the Port will be responsible for paying fee-in-lieu mitigation imposed by the City for development of the Property, up to a maximum cap of One Hundred Thousand Dollars (\$100,000.00) per acre or Nine Million Five Hundred Thousand Dollars (\$9,500,000.00) in the aggregate.

If the fee-in-lieu mitigation exceeds the maximum cap of One Hundred Thousand Dollars (\$100,000.00) per acre or Nine Million Five Hundred Thousand Dollars (\$9,500,000.00) in the aggregate, the Tenant may, but will have no obligation, to fund the excess over the cap. If the Tenant does not agree to fund the excess over the cap, the Port may immediately terminate this Agreement upon written notice to Tenant with no further liability on the part of either party.

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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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.

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

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

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

6. ACCEPTANCE OF PREMISES.

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

7. POSSESSION.

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

8. USE OF PREMISES.

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

Tenant have the right to remove or otherwise disturb timber, valuable minerals, sand, gravel or water, from the site, which materials belong to the Port and may only be used with consent and appropriate compensation.

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

9. REQUIREMENTS AS TO IMPROVEMENTS.

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

10. RIGHTS-OF-WAY.

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

11. RESERVATION OF RIGHTS.

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

12. AIR SPACE RESERVATIONS AND USE RESTRICTIONS.

There is hereby reserved to the Port, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the air space above the surface of the Premises herein conveyed, together with the right to cause in said air space such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said air space or landing at, taking off from or operating on the Olympia Regional Airport. Tenant, its successors and assigns, will not erect or permit the erection of any structures nor permit the growth of any tree thereon which would exceed the height limitations set forth in the "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 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; Provided, however, the Port will first determine with its insurance pool that waiver of subrogation is permitted with respect to this Lease.

16. TAXES.

Tenant shall be liable for, and shall pay, throughout the term of this lease, all license fees and taxes covering or relating to the Premises and its use, including, without limitation, (a) all real estate taxes assessed and levied against the Premises; (b) all amounts due and payable for general or special assessments against the Premises during the term of this lease (whether assessed prior to or during the term of this lease), including any assessments for LIDs or ULIDs; and (c) all personal property taxes upon Tenant's fixtures, furnishings, equipment and stock in trade, Tenant's leasehold interest under this lease or upon any other personal property situated in or upon the Premises. Tenant shall reimburse the Port for all such taxes paid or payable by the Port. All other tax amounts for which the Port is or will be entitled to reimbursement from Tenant shall be payable by Tenant to the Port at least fifteen (15) days prior to the due dates of the respective tax amounts involved; provided, that Tenant shall be entitled to a minimum of thirty (30) days' written notice of the amounts payable by it. If any governmental authority at any time levies a tax on rentals payable under this lease or a tax in any form against 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 38, **ARBITRATION PROCEDURE**.

18. ALTERATIONS AND IMPROVEMENTS -- SIGNAGE.

- 18.1 Alterations and Improvements. Tenant shall make no alterations or improvements to or upon the Premises or install any fixtures (other than trade fixtures which can be removed without injury to the Premises) without first obtaining written approval of the Port. The Port's response to Tenant's requests for approval shall be prompt, and such approval shall not be unreasonably withheld. Upon installation, Tenant shall furnish the Port with a copy of the "as-built" drawings including utility installations and site plans detailing the nature of the additions, alterations or improvements. The Port reserves the right to have Tenant remove, at Tenant's sole expense, all or any of such alterations, additions or improvements at the end of the Lease term as provided in paragraph 19, DISPOSITION OF IMPROVEMENTS. Any dispute under this section shall be subject to arbitration under Paragraph 37, ARBITRATION PROCEDURE.
- 18.2 Signage. Tenant may install, post, erect and, as Tenant desires or may be required, illuminate exterior facility identification, traffic control, safety, security, ADA, and other code required signage complying with applicable building code, municipal code requirements, and FAA regulations. Tenant shall have no right to install Tenant identification signs in any location in or about the Premises that are visible from the exterior of the building, without first obtaining written approval of the Port, which shall not be unreasonable withheld, conditioned or delayed. The location, size, design, color and other physical aspects of permitted signs shall be subject to (i) Port's written approval prior to installation; (ii) any covenants, conditions or restriction encumbering the Premises and (iii) any applicable municipal permits and approvals.

19. DISPOSITION OF IMPROVEMENTS.

- a. Except as otherwise agreed to in writing by the Port, in its sole and absolute discretion, within sixty (60) days after the expiration or earlier termination of this Lease (including any and all extensions or renewals thereof), the Tenant shall at Tenant's expense, remove, demolish or clear off from the Premises all improvements and all property owned by Tenant, and after such removal or clearance, Tenant shall restore the surface of the ground to a properly graded, filled, compacted, level, and uniform condition, free from all debris, and in accordance with all applicable law and all provisions of this Lease, including but not limited to Paragraph 27, HAZARDOUS SUBSTANCES.
- 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. Tenant shall provide evidence of renewal prior to the expiration of such policy or policies. Tenant will also take out and maintain policies of insurance to cover the loss, damage or destruction of Tenant's furniture, fixtures, equipment and other items owned by Tenant on the Premises, with limits based on the reasonable value thereof.
- If any building or improvement erected by Tenant on the Premises or any part thereof shall be damaged or destroyed by fire or other casualty during the term of this Lease, Tenant shall, at its own cost and expense, either (i) repair or restore the same according to the original plans thereof, or (ii) repair or restore the same according to such modified plans as shall be previously approved in writing by the Port. Tenant shall elect whether to proceed under (i) or (ii) above. Such work of repair or restoration shall be commenced within sixty (60) days after the damage or loss occurs and shall be completed with due diligence but no later than one (1) year after such work is commenced, and such work shall be otherwise done in accordance with the requirements of the provisions hereof pertaining to the construction of improvements upon the Premises. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration. If (i) there are not insurance proceeds, or (ii) the same shall be insufficient for said purpose, Tenant shall make up the deficiency out of its own funds. Should Tenant fail or refuse to make the repair or restoration as hereinabove provided, then in such event said failure or refusal shall constitute a default under the covenants and conditions hereof, and all insurance proceeds so collected shall be forthwith paid over to and be retained by the Port on its own account, and the Port may, but shall not be required to, sue and apply the same for and to the repair, restoration or removal of said Premises or improvements, and the Port may, at its option, terminate this Lease as elsewhere provided herein.
- c. Notwithstanding anything to the contrary contained in the preceding section, if any building erected on said Premises shall be damaged by fire or other casualty, and if the cost of repairing or restoring the same as provided above shall exceed the insurance payable for such damage, and if such damage shall occur during the term so that the remaining term of this Lease is of insufficient length to allow Tenant to finance such cost in a commercially reasonable manner, the Tenant shall have the option, to be exercised within sixty (60) days after such event, to repair or restore said building as provided above, or to terminate this Lease by written notice thereof to the Port, and upon termination, the Base Rent, Additional Rent and other charges under this Agreement will be apportioned as of the date of destruction, and Tenant will be discharged from responsibility to repair the damage, shall remove debris and restore the Premises to a clean, graded and safe

condition, and all proceeds of insurance covering the loss shall in that circumstance belong to Tenant free of any claim thereto by the Port

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

22. DEFAULTS.

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

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

23. ADVANCES BY PORT FOR TENANT.

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

24. HOLDING OVER.

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

25. ASSIGNMENT OR SUBLEASE.

Except as provided below, Tenant shall not assign or transfer (including any assignment or transfer for security purposes) this Lease or any interest therein nor sublet the whole or any part of the Premises, nor shall this Lease or any interest hereunder be assignable or transferable by operation of law or by any process or proceeding of any court, or otherwise, without the advance written consent of the Port, which may be withheld in the Port's sole discretion. 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.

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

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

Port Ground Lease. Lessee understands, acknowledges, and agrees that Lessor's right to the real property on which the Premises are located are pursuant to a Ground Lease between Lessor and the Port of Olympia, a copy of which is attached as Exhibit __ hereto. Lessee understands, acknowledges, and agrees that it shall be bound by all provisions in the Ground Lease to which Lessor is subject, including but not limited to provisions related to protection of air space, environmental provisions, and any limitation on use of the property and Premises. Lessee acknowledges that it has had an opportunity to review the Ground Lease in its entirety and takes no exceptions to any provisions therein.

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

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

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

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

26. MORTGAGES OF TENANT'S INTEREST.

- a. <u>Prior Notice Required; Limited Purpose</u>. Upon prior notice to the Port, Tenant shall have the right to mortgage its leasehold interest under this Agreement subject to the limitations set forth in this Section 26 and the terms and conditions of Lender's Consent and Agreement, attached here as **Exhibit C**. Any such mortgage ("**Leasehold Mortgage**") shall be for a term not to exceed the Term of this Agreement plus any Extension Option that has been exercised, and shall be subject and subordinate to the rights of the Port.
- b. <u>No Benefit Without Notice</u>. No holder ("**Leasehold Mortgagee**") of a Leasehold Mortgage on this Agreement shall have the rights or benefits mentioned in this Section 26 nor shall the Port be bound by this Section 26, unless and until an executed counterpart of such Leasehold Mortgage (or any assignment thereof), together with a written notice setting forth the name, address, contact person (or department) for the Leasehold Mortgagee, is delivered to the Port. The Leasehold Mortgagee may designate other contact information by providing notice thereof to the Port in the manner provided by Section 41 of this Agreement.
- c. <u>Obligations to Leasehold Mortgagee.</u> If Tenant mortgages this Agreement in compliance with this Section 26, then so long as such Leasehold Mortgage shall remain unsatisfied of record, the following provisions shall apply:
- i. The Port shall serve upon the Leasehold Mortgagee, in the manner permitted by Section 41 of this Agreement, a copy of any notice of default sent to Tenant and any other notices the Port is required by the terms of this Agreement to provide to Tenant or that will materially affect the leasehold interest, including but not limited to amendments to this Agreement, side letters that affect the economics of this Agreement or any waivers of any rights or obligations under the terms of this Agreement.
- ii. The Port, upon providing Tenant any notice of (i) default under this Agreement or (ii) a termination of this Agreement, or (iii) a matter upon which the Port may predicate or claim a default,

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

- iii. <u>Cure Notice to Leasehold Mortgagee.</u> Notwithstanding anything to the contrary in this Agreement, if any Event of Default shall occur that entitles the Port to terminate this Agreement, the Port shall have no right to terminate this Agreement unless, following the expiration of the period of time given Tenant to cure such default, the Port shall notify ("**Cure Notice**") every Leasehold Mortgagee of the Port's intent to so terminate at least thirty (30) days in advance of the proposed effective date of such termination if the nature of such default is the failure to pay a sum of money, and at least sixty (60) days in advance of the proposed effective date of such termination if such default is not the failure to pay a sum of money. A six (6) month extension of the date for termination of this Agreement as provided in Section 26(c)(iv) shall be granted by the Port if, during such thirty (30) or sixty (60) day Cure Notice period, any Leasehold Mortgagee:
- (a) Notifies the Port of such Leasehold Mortgagee's desire to nullify such Cure Notice; and
- (b) Pays or causes to be paid all Base Rent and other payments then due and in arrears as specified in the Cure Notice to such Leasehold Mortgagee_and that may become due during such 30- and 60-day period, provided that any Leasehold Mortgagee shall not be required to pay any amount before the same is due and owing under this Agreement; and
- (c) Complies or in good faith, with reasonable diligence and continuity, commences to comply with all non-monetary requirements of this Agreement then in default and reasonably susceptible of being complied with by such Leasehold Mortgagee.

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

- iv. <u>Six-Month Extension</u>. If the Port shall elect to terminate this Agreement by reason of any default of Tenant, and a Leasehold Mortgagee shall have proceeded in the manner provided for by Section 26(c)(iii), the specified date for the termination of this Agreement as fixed by the Port in its Cure Notice shall be extended for a period of six (6) months, provided that such Leasehold Mortgagee, during such 6-month period:
- (a) Pays or causes to be paid Base Rent and other monetary obligations of Tenant under this Agreement as the same become due, including the payment of any sums due under any Leasehold Mortgage; and
- (b) Continues its good faith efforts to perform all of Tenant's other obligations under this Agreement, including during any period during which the Leasehold Mortgagee has possession of the

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

- v. <u>Termination; New Lease</u>. In the event that this Agreement is terminated by the Port for any reason under the terms of this Agreement or on account of a bankruptcy by or against Tenant, the Port shall serve notice to the Leasehold Mortgagee that the Agreement has been terminated. The notice shall include a statement of any and all sums which would at the time be due under this Agreement but for such termination and of all other defaults under this Agreement then known to the Port. Every Leasehold Mortgagee shall thereupon have an option, which must be exercised within forty-five (45) days after the notice, to obtain a new lease ("New Lease") in accordance with and upon the following terms and conditions:
- (a) The New Lease shall be effective as of the date of termination of this Agreement, and shall be, for the remainder of the Term of this Agreement, at a rent and fee and upon all of the original agreements, terms, covenants and conditions. Such New Lease shall require the lessee to perform any unfulfilled obligation of the Tenant under this Agreement.
- (b) Upon the execution of the New Lease, the lessee therein named shall pay any and all sums which would at the time of the execution thereof be due under this Agreement but for termination and shall pay all expenses, including reasonable attorneys' fees, court costs and disbursements, incurred by the Port in connection with any default and termination, the recovery of possession of the Premises, and the preparation, execution and delivery of the New Lease.
- (c) Nothing herein, however, shall be deemed to obligate the Port to deliver possession of the Premises to the lessee under any New Lease. Upon the execution and delivery of such New Lease, the lessee, in its own name or in the name of the Port, may take all appropriate steps as shall be necessary to remove Tenant from the Premises. The provisions of this Section 26(c) shall survive the termination of this Agreement.
- vi. Subject to the provisions of this Section 26, the Leasehold Mortgagee may exercise, with respect to the Premises, any right, power, or remedy under the Leasehold Mortgage. Every Leasehold Mortgagee (or its designee) or any other purchasers in foreclosure proceedings may become the legal owners and holders of Tenant's interest in this Agreement through such foreclosure proceedings or by assignment of this Agreement in lieu of foreclosure and shall provide notice of such assignment and assumption to the Port in compliance with Section 25. Leasehold Mortgagee after a foreclosure or assignment in lieu of foreclosure under the Leasehold Mortgage may subsequently assign the leasehold interest or the New Lease to a third party who shall assume the lease and provide notice of the assumption to the Port and otherwise comply with the Provisions of Section 25. Upon such assumption, the Leasehold Mortgagee shall be released from all liability for the performance or observance of the covenants and conditions in this Agreement (or such New Lease) contained on Tenant's part to be performed and observed from and after the date of such assignment.
- vii. Notwithstanding Sections 26(c)(v) and 26(c)(vi), in the event that any person or entity other than Leasehold Mortgagee (a "Foreclosure Purchaser") shall acquire title to Tenant's interest in this Agreement as a result of foreclosure or assignment in lieu of foreclosure under the Leasehold Mortgage, or under a New Lease pursuant to this Section 26, the Foreclosure Purchaser may not assign this Agreement (or such New Lease) without the prior written consent of the Port in compliance with the requirements of Section 25. If the Port's consent is obtained, the assignee must assume Tenant's obligations under this Agreement and an executed counterpart of such assumption must be delivered to the Port. Upon such assumption, the Foreclosure Purchaser shall be released from all liability for the performance or observance of the covenants and conditions in this Agreement (or such New Lease) contained on Tenant's part to be performed and observed from and after the date of such assignment.

- viii. Notwithstanding Section 26(c)(a), no agreement between the Port and Tenant modifying, canceling or surrendering this Agreement shall be effective without the prior written consent of the Leasehold Mortgagee.
- ix. Tenant's share, as provided by Section 31 of this Agreement of the proceeds arising from an exercise of the power of eminent domain shall, subject to the provisions of such Section 31, be disposed of as provided for by any Leasehold Mortgage.

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

27. COMPLIANCE WITH PORT REGULATIONS/ALL LAWS.

Tenant agrees to comply with all applicable rules and regulations of the Port pertaining to the building or other realty of which the Premises are a part or to Tenant's use or occupancy thereof, now in existence or hereafter promulgated for the general health, welfare, safety and convenience of the Port, its various tenants, invitees, licensees and the general public, 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.

28. HAZARDOUS SUBSTANCES.

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

- (a) As used in this Section 28, "Hazardous Substances" means any chemical, substance, material, waste, vapor, or similar matter defined, classified, listed or designated as harmful, hazardous, extremely hazardous, dangerous, toxic, radioactive, or pollution, or as a contaminant or pollutant, or other similar term, by, and/or which are subject to regulation under, any federal, state or local environmental statute, rule, regulation, or ordinance presently in effect or that may be promulgated in the future, and as they may be amended from time to time.
- (b) As used in this Section 28, "Other Property" means any real or personal property other than the Premises (including, without limitation, surface or ground water) which becomes contaminated with Hazardous Substances as a result of operations or other activities on, or the contamination of, the Premises by Tenant or its agents.
- (c) Tenant shall apply for and obtain all necessary federal, state, and local permits and approvals for Tenant's use of the Premises. Tenant shall not commence any activity on the Premises until all permits and approvals required for such activity have been issued, and shall conduct all activities on the Premises in compliance with such permits and approvals.
- (d) Tenant agrees and warrants for itself and its employees, agents, representatives, contractors, subcontractors, licensees, invitees, subtenants, and assigns (collectively "Tenant's Representatives"), that

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

- (e) With respect to any Hazardous Substance, Tenant shall:
- (i) Comply promptly, timely and completely with all applicable requirements for reporting, keeping and submitting manifests and obtaining and keeping current identification numbers;
- (ii) Make available for the Port's review during normal business hours, true and correct copies of all reports, manifests and identification numbers retained by Tenant or submitted to appropriate governmental authorities, and all documents and communications received from any government agencies, and provide copies to the Port of all documents requested by the Port at no cost to the Port within ten (10) business days of the Port's request;
- (iii) Within Ten (10) business days of a written report from the Port, submit a written report to the Port regarding Tenant's use, storage, treatment, transportation, generation, disposal or sale of Hazardous Substances and provide evidence satisfactory to the Port of Tenant's compliance with applicable Environmental Laws:
- (iv) Allow the Port or the Port's agents or representatives to come on the Premises at all reasonable times subject to three (3) days' notice, to check Tenant's compliance with all applicable Environmental Laws; and
- (v) Comply with all applicable Environmental Laws, and all requirements and standards established by federal, state, or local governmental agencies responsible for or specifically charged with the regulation of Hazardous Substances.
- (f) Tenant has not and will not release or waive the liability of any party who may be potentially responsible for the presence or removal of Hazardous Substances on or from the Premises.
- (g) Tenant agrees to immediately notify the Port if Tenant becomes aware of (a) any release of any Hazardous Substances or any other environmental issue or liability with respect to the Premises or any Other Property; or (b) any lien, action or notice resulting from violation of any Environmental Laws. At its own cost, Tenant will take all actions which are necessary to notify relevant and appropriate authorities of any such release and to remediate any Hazardous Substances affecting the Premises, including removal, containment or any other remedial action, whether or not required by governmental authorities.
- (h) If Tenant is in non-compliance with any Environmental Laws or is in non-compliance with this Section 28, it shall promptly take such action as is necessary to mitigate and correct the non-compliance. If Tenant fails to act in a prudent and prompt manner, the Port shall have the right, upon ten (10) business days' notice and after an opportunity for Tenant to cure, but not the obligation, to enter the Premises and act

in place of the Tenant (with Tenant hereby appointing the Port as its agent for such purposes), and to take such action as the Port deems necessary to address or mitigate the non-compliance. All costs and expenses incurred by the Port in connection with any such action shall be payable by the Tenant and shall become immediately due and payable as additional rent upon presentation of an invoice therefor. Without limiting the foregoing, in the event of Tenant's non-compliance with any requirements in subsections (e)(i) – (v) above, any and all costs incurred by the Port with respect thereto, including but not limited to costs of inspections, monitoring, and attorney fees, shall become immediately due and payable as additional rent upon presentation of an invoice therefor.

- Tenant shall be fully and completely liable to the Port for, and shall defend, indemnify, and hold the Port harmless from and against any and all actual or alleged claims, demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings and costs and expenses (including costs and professional fees, including engineering, consultant, and attorneys' fees and disbursements), which accrue to or are incurred by Tenant or the Port which arise or are alleged to arise directly or indirectly from or out of, or are in any way connected with (a) the inaccuracy of the representations and warranties contained herein, (b) the breach of any covenant contained herein, (c) any operations or activities (including, without limitation, use, disposal, transportation, storage, generation or sale of Hazardous Substances) on or about the Premises during Tenant's possession or control of the Premises which directly or indirectly result in the Premises or any Other Property becoming contaminated with Hazardous Substances or otherwise violating any applicable Environmental Laws, and (d) the cleanup of Hazardous Substances at or from the Premises or any Other Property to a level sufficiently protective of human health and the environment in compliance with all applicable Environmental Laws. Tenant acknowledges that it will be solely responsible for all costs and expenses relating to investigation (including preliminary investigation) and cleanup of Hazardous Substances from the Premises or from any Other Property. Tenant specifically agrees that the bond provided pursuant to this Lease shall extend to the indemnity agreed to in this subparagraph.
- (j) Tenant's obligations under this Section 28 are unconditional and shall not be limited by any other limitations of liability provided for in this Lease. The representations, warranties and covenants of Tenant set forth in this Section 28: (a) are separate and distinct obligations from Tenant's other obligations under the Lease; and (b) shall survive and continue in effect after any termination or expiration of this Lease for any reason.
- Within sixty (60) days following the expiration date of the Term of this Agreement (or within ninety (90) days after any earlier termination of this Agreement), Tenant shall submit a report ("Termination Assessment Report") to the Port describing the results of a comprehensive environmental assessment that reasonably investigates whether Hazardous Material in the Premises or migrating from the Premises (except Pre-existing Hazardous Material) for which the Tenant is responsible remain on the Property or have migrated from the Property. The Termination Assessment Report shall be conducted by an independent qualified environmental professional selected by Tenant or a successor tenant, as applicable, with the Port's reasonable consent, and the scope of the investigation shall be reasonably determined by such independent qualified environmental professional, subject to the reasonable consent of both Tenant, as applicable, and the Port, and to dispute resolution. The scope of the Termination Assessment Report environmental assessment shall include, at a minimum: (i) review of tenant/occupant operational history, audit reports and responses, spill and spill response reports, and other relevant environmental records; (ii) collection and analysis of samples representative of facility operations; equipment, material and waste storage locations; and locations of leaks, spills and other releases, which could reasonably be expected to have resulted in introduction of Hazardous Material to the environment; and (iii) collection and analysis of samples from random locations, at a rate determined reasonable and appropriate based on best professional judgment considering the recommendations of the independent qualified environmental professional, and to dispute resolution. With respect to Hazardous Material identified in such Termination Assessment Report that were stored, released, spilled, discharged, leaked, emitted, injected, escaped or dumped in, on or about the Premises after the Commencement Date in violation of any Environmental Requirement (i) by

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

29. STORAGE TANK LICENSES.

All storage on site, whether permanent or mobile, capable of holding more than one hundred ten (110) gallons either in bulk or in separate containers or any material identified in **Exhibit "D"** shall require a separate hazardous materials license. Such license shall provide for appropriate handling and storage facilities, inspections, testing and clean up procedures and any special insurance provisions which may be required. Tenant shall comply with all laws, rules and regulations applicable thereto. Tenant shall provide 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."

30. INSPECTIONS AND NOTICE OF CHANGE.

a. Tenant agrees that inspections may be required by the Port at the Tenant's expense to assure compliance with paragraphs 28, **HAZARDOUS SUBSTANCES**, and 29, **STORAGE TANK LICENSES**. Such inspections shall be made once every five (5) years or at any time the Port has good cause to believe a problem may exist.

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

31. EMINENT DOMAIN.

If the Premises shall be taken or condemned for any public purpose, or for any reason whatsoever, to such an extent as to render the Premises untenantable, 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 untenantable, 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. The phase "untenantable" as used herein means a taking of such scope that the untaken portion of the Premises is insufficient to permit Tenant or its subtenant to occupy the Premises as a high-quality business park, eliminates or material adversely affects access to the Premises or otherwise results in the elimination of parking or truck docks such that the Premises cannot be used for the original intended purpose, or any other then current use of the Premises, as reasonably determined by Tenant.

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

- (a) The Port, at all times, regardless of when the taking occurs, shall be entitled to receive, that portion of the award as shall represent compensation for the value of the Property, considered as vacant and improved only to the extent existing at the Commencement Date, but subject to a ground lease similar to this Agreement, such value being hereinafter referred to as the "**Property Value**."
- (b) The remaining portion of the award shall be paid to the Tenant, subject to the rights of any Leasehold Mortgagee (the "Remaining Value").
- (c) In addition, to the extent consistent with Washington eminent domain law, Tenant shall have the right to seek an independent and separate award from the condemning authority for loss of value of the leasehold improvements, relocation benefits, and for any tangible personal property of the Tenant or any subtenant that is taken.

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

- (a) The Port, at all times, regardless of when the taking occurs, shall be entitled to receive that portion of the award as shall represent compensation for the Property Value.
- (b) The Remaining Value of the award shall be payable to Tenant, subject to the rights of any Leasehold Mortgagee.

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

A voluntary sale or conveyance in lieu of but under the threat of condemnation shall be considered a taking or condemnation for public purpose, and shall include the Port's use of the Premises for any purpose

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

32. INSOLVENCY.

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

33. PROMOTION OF PORT COMMERCE.

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

34. ATTORNEY'S FEES AND COSTS.

Should a dispute arise between the parties hereto as to the effect of any provision hereof and said dispute is referred to an attorney, whether for enforcement in court or for decision under arbitration, the losing party shall pay the prevailing party's actual and incurred attorney's fees; costs of court or arbitration, including such fees and costs of any appeal; other legal expenses; and collection costs, except that the amount of such fees, costs or expenses taken separately or in the aggregate, shall not be unreasonable. If

such dispute arises and is later settled by the parties, such settlement shall include a specific allocation of disposition of attorney's fees on both sides.

35. NONDISCRIMINATION - SERVICES.

Tenant for 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.

36. 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.

37. APPRAISAL PROCEDURE.

The fair market value of the property shall be determined at Tenant's election (made concurrently with Tenant's execution of this Lease) as indicated in Paragraph 1, LEASE SUMMARY for rent revisions. At the commencement of the Lease, Tenant shall choose whether to have such fair market value determined either (a) by reference to the most recent land valuation for the parcel as determined by the Thurston County Assessor's Office (for so long as Washington State law requires the Assessor to assess land at 100% of its fair market value) ("Option A") or (b) by an appraisal conducted by an independent appraiser selected by Tenant and approved by the Port, which approval will not be unreasonably withheld, ("Option B"). Such choice shall be effective and binding for all rental revisions during the lease term, including any options. Such appraiser shall be a qualified MAI appraiser, with not less than 10 years experience appraising commercial real estate in Thurston County, Washington. A qualified MAI appraiser shall mean a member in good standing of the Appraisal Institute, or equivalent professional organization. In conducting an appraisal of the property, the fair market value shall be based upon the highest and best use of the property as if vacant, and the appraiser (a) shall consider sales of fee simple comparable properties in the general area; (b) shall appraise the property as if in private ownership and without discount or consideration for the property being owned by a municipal corporation; (c) shall appraise the property without regard to the Premises being leased or the Tenant owning any improvements thereon; and (d) shall conduct and write the appraisal in conformity with the Uniform Standards of Professional Appraisal Practice. If Tenant has chosen Option B, and fails to choose an appraiser within 180 days prior to the date a rental revision is to

become effective, the Port may choose an appraiser, or, at the Port's election, Tenant shall be deemed to have elected to have such rental revision determined as provided in Option A.

If Tenant has selected Option A and the fair market value is not or cannot be determined by the Assessor's office as provided in Option A, fair market value shall be determined by an appraiser selected by the Port who meets the qualifications described above. Such determination and any rental revision resulting therefrom shall be retroactive to the date the rental revision was to be effective. The cost of any appraisal shall be shared equally by the Port and Tenant.

38. ARBITRATION PROCEDURE.

In the event of a dispute between the Port and Tenant with respect to any issue specifically mentioned elsewhere in this Lease as a matter to be decided by arbitration, such dispute shall be determined by arbitration as provided in this paragraph. The Port and Tenant shall each appoint a person as arbitrator who shall have had at least ten (10) years of experience in Thurston County in the subject matter of the dispute. The appointment shall be in writing and given by each party to the other, and the arbitrators so appointed shall 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 nondefaulting 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.

39. JOINT AND SEVERAL LIABILITY.

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

40. INVALIDITY OF PARTICULAR PROVISIONS.

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

41. NOTICES.

All default and other substantial notices required under the provisions of this Lease shall 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:

Swire Pacific Holdings Inc. 12634 S 265 W Draper, UT 84020

And copy to:

Crane Dunham PLLC 3600 15th Ave West, Suite 200 Seattle, WA 98119-1330 Attn: Stephen Crane

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

42. WAIVER.

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

43. BINDER.

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

44. NO RECORDING.

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

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

Tenant shall, in the event any proceedings are brought for the foreclosure of, or in the event of exercise of the power of sale under, any mortgage or deed of trust made by the Port, its successors or assigns, encumbering the Premises or any part thereof, and if so requested, attorn to the purchaser upon

such foreclosure or sale or upon any grant of a deed in lieu of foreclosure and recognize such purchaser as landlord under this Agreement, provided, that such purchaser recognizes Tenant's rights under this Agreement, Tenant's subleases, and any modification of this Agreement or any sublease and assumes the Port's obligations under this Agreement arising after the date of transfer, and agrees not to disturb Tenant's or its subtenants quiet possession of the Premises for so long as Tenant is not in default hereunder.

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

46. REAL ESTATE COMMISSIONS AND FEES.

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

LESSOR:	TENANT:
PORT OF OLYMPIA	SWIRE PACIFIC HOLDINGS INC.
By:	By:
Sam Gibboney, Executive Director	By:
Approved As To Form	
Richard Hughes	
Port Counsel	

STATE OF WASHINGTON)
COUNTY OF THURSTON) ss)
named in the within and forego	, 2022, personally appeared before me SAM be the Executive Director at the Port of Olympia, the municipal corporation ing Lease Agreement , and acknowledged to me that he signed the same on to do, as his free and voluntary act and deed for the uses and purposes
IN WITNESS WHERI written.	EOF, I have hereunto set my hand and seal the day and year first above
	Jessie Bensley NOTARY PUBLIC in and for the State of Washington, residing at Olympia. My commission expires: July 15, 2023
STATE OF UTAH)
COUNTY OF SALT LAKE) ss)
SLOAN, to me known to be th Agreement, and acknowledged	, 2022, personally appeared before me JAMES e Secretary at the entity named in the within and foregoing Lease I to me that he signed the same on its behalf, as he is so authorized to do, as leed for the uses and purposes therein mentioned.
IN WITNESS WHERI written.	EOF, I have hereunto set my hand and seal the day and year first above
	(Print Name) NOTARY PUBLIC in and for the State of: residing at My commission expires:

EXHIBIT A PREMISES

NOT FOR RECORDING

BEGINNING at the Southeast corner of the Southwest quarter of the Northeast quarter of Section 14, Township 17 North, Range 2 West, W.M.; Thence North along the Easterly line, 2,076.00 feet; Thence West parallel with the Northerly line, 2,195.00 feet; Thence Southwesterly to the Southwest corner, approximately 2,109.08 feet; Thence East along the Southerly line, 2,642.65 feet to the TRUE POINT OF BEGINNING.

EXCEPT THEREFROM that portion of County Road known as Case Road along the South Boundary of said Premises; Consisting of approximately 113 acres.

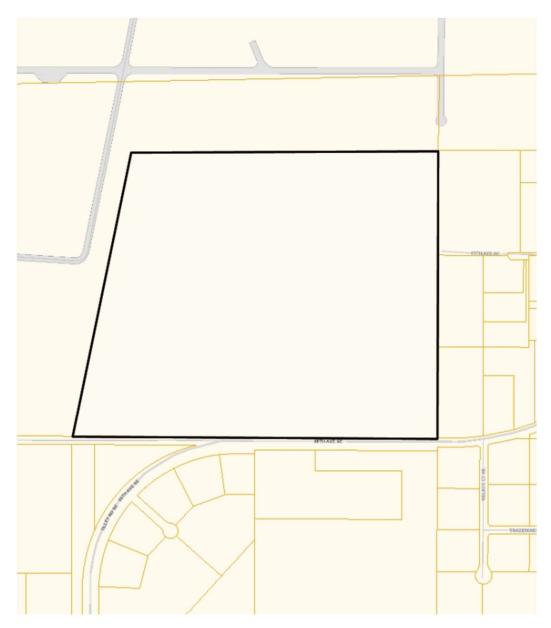


EXHIBIT B REQUIREMENTS AS TO IMPROVEMENTS

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

1. PORT APPROVAL OF TENANT IMPROVEMENTS.

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

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

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

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

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

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

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

2. **CERTIFICATES OF COMPLIANCE.**

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

3. DILIGENT COMPLETION AND COMPLIANCE.

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

EXHIBIT C LESSOR'S CONSENT AND AGREEMENT

(For Financing Purposes)

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

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

- 1. <u>Consents.</u> 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. <u>Status of Lease.</u> 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. <u>Non-Default.</u> Tenant is not in default (a) in the payment of rent or any other amounts due and payable by Tenant to Lessor under the Lease or (b) to the knowledge of Lessor, in the observance or performance of any other covenant or condition to be observed or performed by Tenant under the Lease. To the knowledge of Lessor, no event has occurred which now does or hereafter will authorize Lessor to terminate the Lease.
- 4. Right to Foreclose Deed of Trust. Lender recognizes that any Deed of Trust taken by Lender affects and applies only to Tenant's interest in the Leasehold and that Lessor will not permit any security interest to be taken in any of its land. In the event of default by Tenant under the terms of the Deed of Trust, Lender may enforce or foreclose the Deed of Trust including the acceptance of a Deed in Lieu of Foreclosure. Lessor agrees that in connection with any such foreclosure, Lender may:

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

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

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

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

6. Notice of Default and Lender's Rights.

- 6.1. Notice of Default. If Tenant defaults under the Lease or if any event occurs which would give Lessor the right to terminate, modify, amend or shorten the term of the Lease, Lessor shall take no steps to exercise any right it may have under the Lease without first giving Lender written notice of such default. A copy of each and every Notice of Default and any other notices the Port is required by the terms of the Lease to provide to Tenant or that will materially affect the leasehold interest, including but not limited to amendments to this Agreement, side letters that affect the economics of this Agreement or any waivers of any rights or obligations under the terms of this Agreement served or sent by Lessor or its agent to or upon Tenant pursuant to the Lease shall be sent contemporaneously to Lender in accordance with paragraph 13 below. Such Notice of Default shall specify the event or events of default then outstanding and the time period at the end of which the indicated action would become effective.
- 6.2. <u>Termination for Monetary Default</u>. If the Notice of Default given by Lessor to Lender relates to a monetary default and Tenant has not cured such monetary default within time period as provided in the Lease and Tenant's failure to cure results in Lessor desiring to terminate the Lease, Lessor may terminate the Lease if such monetary default is not cured by either Tenant or Lender within the time periods set forth in Section 26(c) of the Lease.
- 6.3. <u>Termination for Non-Monetary Default.</u> If the notice given by Lessor to Lender relates to a non-monetary default and Tenant has not cured such non-monetary default within the time period specified in the Lease, Lessor shall take no action to terminate the Lease if:
- (a) within the time period set forth in Section 26(c) of the Lease Lessor's notice to Lender of Tenant's failure to cure (or failure to diligently pursue a cure) Lender notifies Lessor of its intent to realize upon its security interest and commences realization within the time periods set forth in Section 26(c) of the Lease, and diligently pursues realization; and
- (b) Lender notifies Lessor that it will assume the Lease when Lender is legally entitled to the ownership and/or possession of Tenant's interests in the Leasehold; and
- (c) Lender pays Lessor at time of notification all back rent or other monies or performances due that may be in default up to the date Lender notifies Lessor of Lender's intent and further pays all rent that accrues during the period after Lender so notifies Lessor and completes such other performances that may be required or come due under the Lease.

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

- 6.3.1. If the non-monetary default is of a nature which requires immediate abatement as a result of which Lender would not normally pursue realization on the collateral, and Tenant has not taken steps to immediately cure the default, then Lender must take immediate steps to cure such default within the time period set forth in Section 26(c) of the Lease after receipt of notice or else the Lessor may terminate the Lease.
- 6.3.2. Upon termination of the Lease as provided herein, Lender will release its Deed of Trust within fifteen (15) days thereafter.
- 6.4. <u>Assumption of the Lease</u>. If Lender acquires the interest of Tenant at any time or takes possession of the collateral, then Lender shall formally assume the Lease within twenty (20) days thereafter.
- 6.5. Right to Assign. Lender shall not have the right to assign its interest in the Leasehold nor in the case of a foreclosure under the Deed of Trust shall the Trustee under the Deed of Trust transfer the Leasehold to any person or entity (other than Lender) except under the terms set forth in Section 26 of the Lease.
- 7. **Disposition of Insurance and Condemnation Proceeds**. Lessor shall be named as an additional insured under any of Tenant's casualty policies on the Premises to the extent of the interests limited in this paragraph 7. Should the Premises suffer any loss which is covered by casualty insurance, and the insurance proceeds are used to restore any improvements made by Tenant, Lessor agrees that Tenant and Lender shall have the right to such proceeds so long as none of Lessor's property, utilities or other services therein are damaged or such damages are repaired. In the event the Premises are substantially damaged and Tenant's improvements have been repaired, Lessor shall only participate in the insurance proceeds to the extent necessary to repair and restore Lessor's ground and any of Lessor's or Tenant's improvements (excluding buildings and personal property) on or in the ground to the same condition the land was in at the commencement of the Lease, or in the same condition at the time of the casualty. Under the Lease, Lessor has the option of requiring Tenant to demolish the improvements at the end of the Lease term, or to have Tenant convey title to Lessor Tenant's interests in the Leasehold Improvements. In the event Premises and the Leasehold are so severely damaged that Tenant's and Lenders' decision is not to repair or restore the Premises, Lessor shall participate in the insurance proceeds to the extent necessary to remove the remainder of the damaged improvements and to restore the Premises and any utilities or other such improvements (excluding rebuilding the improvements or restoring other personal property of Tenant) to the same condition the land was in at the commencement of the Lease, or in the same condition at the time of the casualty. Other than as described herein, Lessor shall have no claim to insurance proceeds or condemnation proceeds that are attributable to Tenant's interest in the Leasehold, nor shall Lender have any interest in Lessor's condemnation proceeds, if any.
- 8. Right to Participate in Litigation. Lender shall have the right to participate in any litigation, arbitration or dispute directly affecting the Premises or the interests of Tenant or Lender therein, including without limitation, any suit, action, arbitration proceeding, condemnation proceeding or insurance claim. Lessor, upon instituting or receiving notice of any such litigation, arbitration or dispute will promptly notify Lender of the same.

- 9. <u>Incorporation of Mortgagee Protection Provisions.</u> To the extent not inconsistent with this Agreement, all provisions of the Lease which by their terms are for the benefit of any leasehold mortgagee, are hereby incorporated herein for the benefit of Lender. Without limited the foregoing, Lender shall be a beneficiary of the warranty and indemnity provided in paragraph 6 of Paragraph 1, LEASE SUMMARY, of the Lease and Section 26 of the Lease.
- 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. <u>Interpretation of Agreement.</u> 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. <u>Notices.</u> 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)
	(Print
	(Print)
If to Lessor:	Port of Olympia 606 Columbia St. NW, Suite 300 Olympia, Washington 98501 Attn: Real Estate Operations

IN WITNE	SS WHE	REOF, Lessor ha	as executed these presents this	day of
, 20			-	
		LESSOR:		
		PORT OF Ol corporation	LYMPIA, a Washington Municipal	
		By:		
		Its:		
AGREED t	o this	day	, 20	
		TENANT:		
		By:		
		Its:		
AGREED t	o this	day	, 20	
		LENDER:		
		By:		
		Its:		
AGREED t	o 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.)				
nsurance:				
(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:				
. Facilities approved for installation and use:				
2. Preconstruction approvals required:				
Preoccupancy approvals required:				
Inspections required:				

- 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.	Additi	Additional terms:			
	pose a thirty	The Port Engineer shall have the right to terminate this license at any time and in his scretion, if the facilities fail to meet all federal, state or local requirements or otherwise hazard of unlawful contamination or pollution and such failures are not cured within (30) days of written notice or such lesser time as appropriate under emergency estances.			
	during	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.			
valid license agreement, for any reason, that the licensee shall, at its own of		The licensee agrees at any time that the approved facilities cease to be subject to a icense agreement, for any reason, that the licensee shall, at its own cost, remove the es and restore the site to its original condition (including removal of all contaminated r water).			
		d. The Port shall have the right to terminate this license upon breach of any term hereir or termination of the specified lease. Breach of any term of this license shall constitute a breach of the specified lease.			
	e. of this	The licensee shall compensate the Port for all costs incurred by reason of any breach license.			
LICEN	NSEE:	PORT OF OLYMPIA;			
By:		By: Title:			
Licens	se Date:	Title:			

EXHIBIT "E"

(REMOVED)

EXHIBIT F

FORM OF MEMORANDUM OF GROUND LEASE

RECORDED AT THE REQUEST OF:	
WHEN RECORDED RETURN TO:	
MEMORANDU:	M OF GROUND LEASE
This Memorandum of Ground Lease ("Ninto by and betweencompany, or its assigns ("Tenant"), PORT ("Landlord").	Memorandum"), dated as of, 20, is entered, LLC, a Delaware limited liability OF OLYMPIA, a Washington municipal corporation
	ty located in the City of Olympia, Thurston County, State described in Exhibit A attached hereto and incorporated
On even date herewith, Landlord entered into the wherein Landlord agreed to lease to Ten	nat Ground Lease Agreement with Tenant (the "Lease") ant the Land.
The Lease term is for a period of fifty-five (55 expires on, 20 To Lease each for a ten year period.	b) years and commences on, 202_ and enant has two successive options to extend the term of the
This Memorandum is solely for recording purpo otherwise modify the terms and condition	oses and shall not be construed to supplement, amend, or ns contained in the Lease.
	nure to the benefit of the parties and their respective heirs, r, to the provisions of the Lease regarding Assignment.
This Memorandum and the Lease are governed by	by the laws of the State of Washington.
Signatures o	are on the next page.

SIGNATURE PAGE to Memorandum of Option to Ground Lease

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

[ALL SIGNATURES MUST BE NOTARIZED]

LANDLORD:

By: Name Its:		
ΓEN <i>A</i>	ANT:	, LLC,
n Dela	ware limited liability company	,,
Ву:	PDC Seattle LLC, a Delaware limited liability company, Manager	
	By:	

Exhibit A to Memorandum of Ground Lease

LEGAL DESCRIPTION OF PROPERTY

ACKNOWLEDGMENT

STATE OF)	
COUNTY OF)	
, personally known to me, of name(s) is/are subscribed to same in his/her/their author	or proved to me on the base to the within instrument an rized capacity(ies), and the	, Notary Public, personally appeared is of satisfactory evidence, to be the person(s) whose ad acknowledged to me that he/she/they executed the at by his/her/their signature(s) on the instrument the on(s) acted, executed the instrument.
WITNESS my hand and of	ficial seal.	
Notary Public Signature	(SEAL)	
	ACKNOWL	EDGMENT
STATE OF)))	
personally known to me, coname(s) is/are subscribed to same in his/her/their author	or proved to me on the base to the within instrument an rized capacity(ies), and the	, Notary Public, personally appeared is of satisfactory evidence, to be the person(s) whose ad acknowledged to me that he/she/they executed the at by his/her/their signature(s) on the instrument the on(s) acted, executed the instrument.
WITNESS my hand and of	ficial seal.	
Notary Public Signature	(SEAL)	

EXHIBIT G

Form of Non-Disturbance and Attornment Agreement

RECOGNITION, NONDISTURBANCE AND ATTORNMENT AGREEMENT

THIS AGREEMENT, is made as of, 20, by and among, a (hereinafter referred to as "Prime Lessor"), and, a (hereinafter referred to as "Prime Lessee"),
and, LLC, a Delaware limited liability company (hereinafter referred to as "Tenant"), with reference to the following facts:
A. Prime Lessor has entered into a Lease with Prime Lessee dated (the "Prime Lease") for [the building located at] (the "Property") as more fully described in the Prime Lease;
B. By a certain sublease entered into between Prime Lessee and Tenant dated (hereinafter called the "Sublease"), Prime Lessee leased to Tenant [a portion of] the Property and the improvements to be erected thereon as more particularly described in the Sublease (said portion of the Property and the improvements now or hereafter erected thereon being hereinafter called the "Demised Premises");
C. The parties hereto desire to provide for the recognition and nondisturbance to Tenant by the Prime Lessor; and
D. The parties hereto desire to provide for Tenant's agreement to pay Prime Lessor the rent payments due under the Prime Lease and to assume the Prime Lease after the occurrence of a default by Prime Lessee not cured within any applicable cure period.
NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements herein contained, the parties hereto intending to be legally bound hereby agree as follows:
1. Prime Lessor agrees that as long as the Sublease shall be in full force and effect:
(a) The possession by Tenant of the Demised Premises and the Tenant's rights thereto shall not be disturbed, affected or impaired by, nor will the Sublease or the term thereof be terminated or otherwise affected by (i) any suit, action or proceeding upon the Prime Lease, or by the termination of the Prime Lease or the enforcement of any rights under the Prime Lease or any other documents held by the Prime Lessor, or by any judicial sale or execution or other sale of the Demised Premises, or (ii) any default under the Prime Sublease; and
(b) Prime Lessor will not exercise any of its rights under the Prime Lease in a manner which would effectively prohibit Prime Lessee from performing the Sublease in accordance with its terms.

2.

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

If the Prime Lessor shall terminate the Prime Lease with Prime Lessee or its assigns or if

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

- (a) Tenant shall be bound to the Prime Lessor or such new owner under all of the terms, covenants and provisions of the Sublease for the remainder of the term thereof (including the Renewal Periods, if Tenant elects or has elected to exercise its options to extend the term) and Tenant hereby agrees to attorn to the Prime Lessor or such new owner, as the case may be, and to recognize the Prime Lessor or such new owner shall, from and after the date the Prime Lessor or new owner succeeds to the interest of "landlord" under the Sublease, have the same remedies against Tenant for the breach of any covenant contained in the Sublease that landlord might have had under the Sublease against Tenant; and
- (b) The Prime Lessor or such new owner shall be bound to Tenant under all of the terms, covenants and provisions of the Sublease for the remainder of the term thereof (including the Renewal Periods, if Tenant elects or has elected to exercise its options to extend the term of the Sublease). Tenant shall, from and after the date the Prime Lessor or new owner succeeds to the interest of "landlord" under the Sublease, have the same remedies against the Prime Lessor or new owner for the breach of any covenant contained in the Prime Lease that Tenant might have had under the Sublease against landlord if the Prime Lessor or new owner had not succeeded to the interest of landlord.
- 3. Prime Lessee hereby agrees to protect, defend, indemnify and hold Tenant harmless from and against any and all claims, damages, costs and expenses (including not limited to reasonable attorneys' fees) incurred by Tenant as a result of the violation of this Agreement by Prime Lessee or the breach by Prime Lessee of the Prime Lease, including but not limited to any breach which result in termination of the Prime Lease. Tenant hereby agrees to protect, defend, indemnify and hold Prime Lessee harmless from and against any and all claims, damages, costs and expenses (including but not limited to reasonable attorneys' fees) arising from Tenant's violation of the terms of this Agreement.
- 4. Any notices or communications given under this Agreement shall be in writing and shall be given by registered or certified mail, return receipt requested, postage paid or reliable overnight courier to each of the parties at their respective addresses as hereinabove set forth or at such other address as a party may designate by notice given in accordance with this paragraph. Notices shall be deemed delivered upon actual receipt as evidenced by the return receipt.
- 5. This Agreement shall bind and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

Signatures are on the next page.

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

PRIME LI	ESSOR:	
By: Name: Title:		
PRIME LI	ESSEE:	
a D	elaware limited liability company	, LLC,
	XXXXX, a Delaware limited liability company, Manager	
	By:	_
	Local Partner	
TENANT:		
By: Name:		
Name:		



COMMISSION MEETING

BRIEFING DATE/TIME:	November 28, 2022
DEPARTMENT:	Executive Services - Communication
STAFF CONTACT/TITLE:	Lisa Parks Telephone: 360.528.8020 Email: Lisap@portolympia.com
Торіс:	Mojo Strategies Contract Amendment No. 1
PURPOSE: Check all that apply	■ Information only□ Decision needed□ Follow up from previous briefing

BACKGROUND & OVERVIEW:

Midway through 2022, following changes in staffing levels in the Communication, Marketing and Government Affairs department, the Port entered into a Personal Services Agreement with Mojo Strategies to provide extra staffing resources, on an interim, limited basis, to assist with current and on-going work loads. Mojo Strategies is a consulting firm based in Olympia and specializing in government communications and public relations with experience in developing innovative outreach and engagement strategies for local government entities to connect meaningfully with key audiences.

The original agreement with Mojo Strategies was executed in August of 2022 under the Executive Director's delegated authority, consistent with both RCWs and Port Policy. The initial term of the Agreement was set to expire on December 31, 2022, and the initial not-to-exceed amount was \$50,000. Through October of this year, approximately \$32,000 of this amount has been spent. Staff is requesting the Commission consider an amendment to this Personal Services Agreement, on a sole source basis, to allow for continued communications staff support through June 30, 2023 and to complete a communications needs assessment and report in support of the Strategic Plan 2025 *Communications Initiative* (please see attached Scope of Work). The proposed amendment would extend the term of the Agreement to December 31, 2023 and would add an additional \$81,000, creating a new, not-to-exceed amount of \$131,000.

Staff anticipates bringing the proposed amendment to the Commission for final review and potential action at the regularly scheduled meeting on Monday, December 12, 2022. If the Commission decides to move forward with this amendment, the action will be to authorize the Executive Director to sign the contract amendment as outlined above.

DOCUMENTS ATTACHED:

- Power Point Presentation
- Scope of Work



520 North St SE, Tumwater, WA 98501 • 206.351.4740 joynjohnston@gmail.com • www.mojostrategies.com

Date: November 18, 2022 Client: Port of Olympia

Attn: Lisa Parks, Executive Services Director

From: Joy Johnston, Chief Executive Officer, Mojo Strategies Re: Communications Services - Contract Extension

PROPOSAL OVERVIEW

Mojo Strategies has been assisting the Port of Olympia's communications program since August 2022. In this brief period of time, we've worked together well to provide effective communications services amidst many changes and challenges. In addition to providing day-to-day support, I was able to complete important foundational work to improve Port communications and better align with Port priorities and achieve Port Commission goals.

Based on this work, it is evident that communications requirements significantly exceed the current staffing/resource model. Looking forward, communications requirements are expected to further intensify, as the Port of Olympia is in the process of strategic planning and communications has been identified as one of the Port's key initiatives:

Increase the community's understanding of the role, value, and limitations of the Port in impacting the local economy and greater Thurston community.

Launch a refreshed communications effort in 2022 to renew the community's understanding of the Port's role in fulfilling its Mission and commitments to the community it serves.

Over the past three months, my skills have been focused on addressing emerging/urgent needs, at the expense of more strategic or proactive work. To put the Port on the best path forward, it's time to take a strategic look at what's needed to help the Port address upcoming communications needs.

A contract extension is necessary to complete this work and continue to support communications until a revised staffing model is in place. The proposed scope of work includes:

- An assessment of communications workload and needs;
- A report and recommendations for staff and/or consultant resources and initial strategies; and
- Communications support during the assessment, recommendations, and transition process.

ABOUT PORT OF OLYMPIA COMMUNICATIONS

The Port's current communications staffing level (1.5 FTE's) is minimal.

Communications are currently managed by a full-time Marketing and Outreach Coordinator, assisted by Mojo Strategies on a part-time basis. An initial assessment showed that the Marketing and Outreach Coordinator is responsible for <u>at least</u> 26 different communications tasks. There is little capacity within that workload for additional responsibilities nor time for strategic planning. Other Port staff share in

communications and marketing, as well. Additional assessment is needed to determine more specifically what staff resources are currently devoted to communications throughout the organization.

Frayed community relationships are creating unnecessary problems.

While the Port has been successful in connecting with community members through events like Summer Nights at the Port, the Port's relationship with the greater Olympia community is often fraught with misunderstanding and distrust. Recent interviews with community leaders demonstrated vague understanding of the Port's contributions to the economy, environment, and community. The Port's 2022 ballot measure passed by a significantly narrower margin than a similar ballot measure for Thurston County, even though the Port and Thurston County coordinated outreach efforts and messages. Some community members are actively calling for the marine terminal to close, petitioning against the airport's future plans, and asking that the Port be disbanded. In this environment, resources are being spent responding to misinformation and community concerns. Local media, primarily The Olympian and JOLT, produce the most consistent news about the Port and have the broadest audience, but unfortunately articles from these outlets about the Port are rarely positive and often lack context.

The impact of strained community relations is far-reaching. Responding to misinformation and community complaints requires time and resources, and can take staff and leaders off task. Community mistrust affects the Port's business lines, puts major projects (such as Budd Inlet Cleanup and Restoration) at risk, and could impact the Port's ability to obtain funding. In the current climate, it would be a monumental feat, if not impossible, to achieve voter approval for a tax levy should the Port ever need to do so to remain viable.

The Port can fix this.

The good news is that a strategic, properly resourced communications program can build trust and expand political capacity. As a public agency with global customers, it's essential for the Port of Olympia to cultivate effective relationships with the people it serves in order to shape a successful economic future that aligns with the community's values. Proactive, transparent, and consistent communications are the building blocks of trust and collaboration. Through communications, the Port can build awareness of its contributions to the region and establish a framework for outreach and engagement that can be relied upon when the Port is proposing a new project, making a significant change, or managing sensitive or potentially controversial issues. Effective communications have the potential to not only increase the community's understanding of the Port, but to also build support for the work the Port is doing.

The Port has recently renewed its commitment to strengthening community relationships through its Citizens Advisory Committee (POCAC). The purpose of the committee of volunteer citizens is to provide advice to the Commission and is an important component of the Port's community engagement.

Other strategies may be:

- 1. Position the Port as a trusted source of information
- 2. Create opportunities for meaningful engagement
- 3. Ensure staff and leaders have a shared understanding of communication priorities
- 4. Build better media relationships to ensure taxpayers are accurately informed

Additional research is needed to further refine strategies and determine the resources needed to effectively support those strategies.

HOW MOJO STRATEGIES CAN HELP

As CEO of Mojo Strategies, I have provided communications support and strategic guidance for municipalities and special purpose districts throughout Western Washington. With over 17 years of public sector communications experience and as previous director of communications for the cities of Bothell and Mercer Island, I have a deep understanding of the challenges facing leadership and staff, and I know what it

takes to successfully inform, engage, and build trust within communities through effective communications. Mojo Strategies is often called upon to provide communications assistance during staff transitions or when communication needs exceed staff capacity.

Since communication needs can often quickly shift or require specific skills, Mojo Strategies frequently teams up with talented independent consultants with expertise in public relations, media, graphic design, social media, and content creation. More information about the Mojo team can be found at www.mojostrategies.com/our-team. For Port communications, Mojo Strategies will continue to partner with Lund Faucett and Sunshine Communications, consultants with deep knowledge of public sector communications and extensive track records of success in strategic communications who are already working with the Port. Partnering with these consultants will provide additional expertise and capacity when needed.

SCOPE OF WORK

Assessment of Communications Workload and Needs

- Staff/commission interviews and other research: Development of recommendations and an initial strategy requires a more complete understanding of how communications are functioning across the organization. We'll draw on interviews that have already been conducted and will add additional staff and commission interviews to develop a deeper understanding of needs and resources. This research will also look at how peer organizations conduct communications and a deeper review into how the community receives information about the Port.
- **Workload assessment:** To assess staffing needs, it will be important to capture current and needed communications tasks, who is responsible for each task, average time to complete tasks, who is reached through communications, and effectiveness/impact.
- Tactics inventory and analysis: A matrix of all current and recommended communications tactics can be a helpful tool for planning outreach initiatives and identifying efficiencies. The matrix will include useful details for each tactic such as time/costs, timelines, quality and outcomes (including audiences reached).

Report, Recommendations, and Follow Up

- **Report and recommendations:** Following research, the Port will receive a report of findings and recommendations for staff and/or consultant resources to support communication needs. The final report will also include initial strategies that can be implemented immediately and then revised/expanded upon when the communications program is fully staffed.
- Follow up: Based on the results of research and the Port's budget, the recommended next steps may include hiring additional staff and/or seeking specific consultant resources to supplement the work of staff. Follow up items may include assisting with job description development or consultant qualification requests.

Communications Support

While research and communications program transitions are underway, Mojo Strategies will continue to support ongoing communications on a limited basis (10 hrs/week). Primary services include drafting the Executive Director's weekly staff update, providing media support such as preparing media releases and responding to media inquiries, and weekly progress reports. Services may also include content creation, proofreading, and providing expertise and mentorship for communications staff.

TIMELINE AND ESTIMATED HOURS

Task	Start	Est. Completion	Est. Hours
Staff/commission interviews and other research	14-Nov	15-Jan	50
Current workload assessment	14-Nov	15-Dec	10
Communications tactics inventory and analysis	21-Nov	15 -D ec	10
Report and recommendations	15-Jan	15-Feb	50
Follow up items - i.e. job description, RFQ	15-Feb	1-Mar	40
Transition and onboarding	1-May	31 -M ay	40
Ongoing communications support Nov-Mar (10 hrs/week)	15-Nov	30 -J un	330
		TOTAL HRS	530

RATE AND CONTRACT ESTIMATE

Rates:

Consultant Team	Hourly Rate	Estimated Time	Total Estimate
Mojo Strategies	\$145	371 hours	\$53,795.00
Lund Faucett	\$245	96 hours	\$23,373.00
Sunshine Communications	\$245	63 hours	\$15,582.00
		TOTAL	\$92,750.00
		Current contract -	\$12,000.00
		estimated remaining	
		amount	
		TOTAL	
		CONTRACT	\$80,750.00
		EXTENSION	

Current contract maximum: \$50,000.00 New contract maximum amount: \$130,750.00

The Port of Olympia will only be charged for the time it takes to complete requested work. Hours to be billed in 15-minute increments. Invoices will be remitted monthly no later than the fifth day of each month.

The contract estimate is for maximum of 14 hours per week of consultant services to complete agreed upon Port projects. Consultant can provide up to 20 hours of services in a given week if requested by the Port. Work beyond 20 hours per week requires mutual agreement. Please allow at least 24 hours for project turnaround and response, exceptions may be made in emergencies. Work will be performed during regular business hours (8 am to 5 pm, Monday through Friday), exceptions at the Consultant's discretion.



JOY JOHNSTON, Chief Executive Officer

With over 17 years of communications and marketing experience, Joy offers a full range of public relations services including message development, outreach strategy, and project management. Recognized for innovation in outreach and engagement, Joy has been at the forefront of developing smart, effective communications strategies on behalf of government agencies.

Her wide-ranging experience includes work for both public and private sector organizations. Current and recent clients include Northshore Utility District, Peninsula Metropolitan Park District, City of Kenmore, City of Kirkland, City of Duvall, City of Bothell, City of Normandy Park, Snohomish Health District, Daniels Real Estate, Mack Urban Investment and Development, Recycle Systems, and Neighborhood House and she has been a subcontractor for projects for Whatcom County Health Department, King County Flood Control District, BNSF Railway, Roosevelt Development Group, Novartis Pharmaceuticals, the Washington State GET Program, and the City of Lake Stevens. As the former director of communications for both the City of Bothell and the City of Mercer Island, Joy reached out to diverse audiences to build effective relationships between citizens and their government as well as bolster the communities' standing in the region.

The breadth of her work includes the following examples: Joy facilitated Peninsula Metropolitan Park District's strategic planning and overhauled the district's internal and external communications strategies for better efficiency, consistency, and effectiveness. Joy led outreach strategy for the City of Duvall's 9-year, \$330,000 annual levy that was ultimately approved by voters. Joy has managed the City of Kirkland's communications program on four separate occasions during staff transitions, ensuring that the community was informed and engaged regarding issues ranging from the City budget to major development projects. Her work on marketing and media outreach for the City of Bothell's downtown revitalization helped to attract over \$200 million in private investment. She successfully created the position of Communications Coordinator at the City of Mercer Island from the ground up, including development of the City's quarterly newsletter, enewsletters, and social media program.

Joy holds a Master's degree in Public Administration from the University of Washington.

EDUCATION

- University of Washington, Bachelor's Degree in Social Sciences (Law, Politics & the Economy), 2006
- University of Washington Evans School, Master's Degree in Public Administration, 2009

CERTIFICATIONS

- Advanced Public Information Officer (FEMA L388)
- Certified Woman Business Enterprise (WBE) through Washington State OMWBE

YEARS OF EXPERIENCE

• 17+

EXPERTISE

- Recognized for innovation in public sector communications.
- Skilled at translating highly technical information into engaging narratives.
- Excels at designing integrated communication programs to inform external and internal audiences including websites, social media, ecommunications, direct mail, public events, and media placements.

MOJO STRATEGIES PROJECT EXAMPLES

City of Kirkland (2016, 2017, 2018, 2020 to present)

On four separate occasions during staff transitions, Mojo Strategies managed City of Kirkland's communication program. Mojo oversaw all city communications including the city website, e-newsletters, social media and media relations. Currently, Mojo provides communications assistance for the City's high profile, controversial initiatives and programs.

City of Kenmore (2019-2021)

Mojo Strategies provided core communications services for City of Kenmore during recruitment for a fulltime communications manager and continues to manage production of the Kenmore Quarterly.

Peninsula Metropolitan Park District (2019-2020)

Mojo Strategies facilitated a Strategic Planning Session for Peninsula Metropolitan Park District and has since overhauled their internal and external communications for better efficiency, consistency and effectiveness.

City of Seattle Early Design Review Outreach (2018-2020)

On behalf of developers, Mojo Strategies oversaw over 100 outreach projects to meet City of Seattle's new early design review outreach requirements including digital, print, and in-person outreach as well as focused outreach directed to historically underrepresented communities.

City of Duvall (2016)

Mojo Strategies provided strategic guidance and public relations services for City of Duvall's 9-year, \$330,000 annual levy that was ultimately approved by voters.

Snohomish Health District (2014)

Mojo Strategies managed the Snohomish Health District communications program during staff transitions and developed a Strategic Outreach Handbook to integrate outreach to the community, stakeholder groups and legislators.

City of Normandy Park (2013-2014)

Mojo Strategies leveraged in-house talent to develop and implement a comprehensive communications program. Projects included creating a strategic communications plan, capital project outreach, social media strategy, style guide, citizen survey and monthly e-newsletter.

City of Bothell (2012-2014)

After leaving the Public Information Officer position, Joy Johnston of Mojo Strategies was retained as a consultant for two years to run the communications program including quarterly printed newsletters, ongoing e-newsletters, social media, website management and media relations. She was involved in marketing Bothell's downtown revitalization which helped to attract over \$200 million in private investment.

P: 206.351.4740 • E: joynjohnston@gmail.com • W: www.mojostrategies.com



Mojo Strategies Personal Services Agreement – Amendment No. 1

November 28, 2022 Lisa Parks Executive Services Director

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Background

- Personal Services Agreement: Interim Communications Support
- · General Terms:
 - August 1, 2022 through December 31, 2022
 - Not-To-Exceed = \$50,000
- Mojo Strategies Qualifications
 - · Local Firm (Tumwater), Certified WBE
 - 16 Years Communications/Public Relations Public and Private Sectors
- Scope of Work/Tasks
 - Implement On-Going Communication Strategies
 - Centennial related work
 - · Media contact and outreach
 - Ballot Proposition
 - Assess current communication strategies/techniques

PORT of OLYMPIA

Request of Commission

- · Sole Source Personal Services Agreement Amendment No. 1
- Proposed Changes:
 - Extend Term to December 31, 2023
 - Add \$81,000 to the NTE for a new Agreement total of \$131,000
- Tasks
 - On-going, day-to-day communications support
 - Media support (Preparing releases and responding to inquiries)
 - Weekly messaging and progress reports
 - Content creation, proofreading and support, as needed
 - Assessment of Communications Workload and Needs
 - Tactics inventory analysis, workload assessment
 - · Report, recommendations and follow-up
 - Initial, Refreshed Communication Strategy

PORT of OLYMPIA

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Next Steps

 Commission Reviews/Takes Action on December 12th, Regular Commission Meeting Agenda Action Calendar

PORT of OLYMPIA





COMMISSION MEETING

BRIEFING DATE/TIME:	November 28, 2022
DEPARTMENT:	Executive Services - Communication
STAFF CONTACT/TITLE:	Lisa Parks Telephone: 360.528.8020 Email: Lisap@portolympia.com
TOPIC:	The Beckett Group Contract Amendment No. 1
Purpose: Check all that apply	■ Information only□ Decision needed□ Follow up from previous briefing

BACKGROUND & OVERVIEW:

In late December of 2021, the Port Government Affairs team conducted an informal competitive process in an effort to identify both a State and Federal lobbying firm, as anticipated in the 2022 Budget adoption process. The process included requesting statements of interest from a list of firms, evaluation of the responses by the Port team, and interviews with a short list of finalists for both specialties. Because the State legislative session was getting underway in January of 2022, the initial focus was on a State lobbyist, and The Beckett Group was the firm selected.

The original Personal Services Agreement with The Beckett Group was executed in January of 2022 under the Executive Director's delegated authority, consistent with both RCWs and Port Policy. The initial term of the Agreement was set to expire on December 31, 2022, and the initial not-to-exceed amount was \$40,000, which has been billed out at a rate of \$3000/month. Staff is requesting the Commission consider an amendment to this Personal Services Agreement to provide for on-going government affairs support as well as advisory and lobbying services related to the State of Washington legislative processes (please see attached Scope of Work). The proposed amendment would extend the term of the Agreement to December 31, 2023 and would add an additional \$50,000, creating a new, not-to-exceed amount of \$90,000.

Staff anticipates bringing the proposed amendment to the Commission for final review and potential action at the regularly scheduled meeting on Monday, December 12, 2022. If the Commission decides to move forward with this amendment, the action will be to authorize the Executive Director to sign the contract amendment as outlined above.

DOCUMENTS ATTACHED:

- Power Point Presentation
- Scope of Work



November 21, 2022

To: Ms. Lisa Parks, Executive Services Director

Port of Olympia

From: Bruce Beckett

RE: Proposal for Services – January-December 2023

Thank you for the opportunity to submit a proposal for state government affairs and legislative representation services. I would be thrilled and honored to continue work with the Port of Olympia to assist in achieving the Port's Mission "to create economic opportunities by connecting Thurston County to the world by air, land and sea".

Background:

The Beckett Group provides public affairs, transportation infrastructure, and strategic planning support for public and private sector clients. I have had the privilege of working with the Port of Olympia during 2022 and feel that the Port has positioned the Budd Inlet cleanup effort favorably with state elected and administration officials. The following is a proposed Scope of Work for 2023.

<u>January – May: 2023 Session of the Legislature:</u>

- TBG will provide government affairs support, advisory and lobbying services to the Port of Olympia pursuant to the Port of Olympia Legislative Plan.
- Lobbying support will include:
 - Representing and advocating on priority issues as identified by the Port of Olympia
 - Priority on state support for the cleanup of Budd Inlet
 - Tracking and monitoring of bills and legislative activities (e.g. budget and work sessions) on issues of importance to the Port of Olympia
 - Regular and ongoing communications with the Port of Olympia to update the status of issues and Port of Olympia positions.
 - Regular and ongoing communications with Legislators that intersect with Thurston County.
 - Represent the Port of Olympia at Washington Public Ports Association Government Affairs Committee meetings and processes during 2023.
 - Prepare and deliver testimony on behalf of Port of Olympia, if needed. Assist and prepare Port of Olympia team members for meetings with Legislators and/or Committee hearings.
- TBG will provide support to the Port of Olympia to advance strategic issues, relationships and government affairs processes as identified by the Port of Olympia.

June-December 2023

 Provide a summary of key outcomes from the 2023 session in a form and manner identified by the Port of Olympia.



- Determine next steps and outreach priorities
- Develop and implement a strategic outreach plan in preparation for the 2024 session and agency efforts during 2023.

TBG will report orally or in writing with respect to all activities and at such times as directed by Lisa Parks.

Proposal:

• Compensation \$3,500/month plus travel and other expenses

• Term January-December 2023

Attached is a description of The Beckett Group and a listing of current clients.

Thank you for the opportunity to present a proposal to the Douglas County PUD, and for your consideration.

Sincerely,

BINRAH



Philosophy:

The Beckett Group understands that long-term success and reputation is more important than short term results. Our experience guides us to conduct all advocacy in a way that does not undermine long-term, sustainable success.

Experience:

Bruce Beckett has more than 28 years' experience providing strategic government affairs and communications services for large corporations, small and medium sized business, and non-profits.

He has been registered to lobby in Washington State since 1995 and has a proven track record of working in a bi-partisan manner to resolve challenging, often polarized, issues. His specific experience includes:

- Sixteen years leading government affairs and communications teams for the Weyerhaeuser Company.
- Eight years building state and local government affairs and communications programs for the Washington Hospitality Association, a trade association with more than 6000 hotel and restaurant members.
- Representing various business and economic development clients.

Bruce has worked on federal legislation to protect the Radar Control System at the Port of Moses Lake, legislation to amend tax laws to entice solar component manufacturers to locate in Washington State, legislation to expand recreational vessel use in Washington waters, funding for the Northern Columbia Basin Railroad project in Moses Lake, legislation and funding to implement aerospace and advanced manufacturers workforce development needs, aviation tax issues, legislation to allow publicly owned wastewater treatment systems to compete for state funding, legislation to establish a state tourism marketing program, legislation authorizing use of local economic development funds to support affordable housing, and several land use and forestry related issues

Bruce has served as a Deputy to the Washington Roundtable, board member of the Association of Washington Business, board member of N.W. River Partners, the Governor's advisory committee on paid family leave, the Legislature's unemployment insurance task force, and Chair of the WFPA Government Affairs Committee. He is a graduate of Washington's Agriculture and Forestry Leadership Foundation program and continues to assist the Foundation by working with classes on their public policy projects, and teaching seminar topics.



The Beckett Group public affairs clients include:

- Port of Moses Lake
- Port of Port Angeles
- Port of Olympia
- American Forest Resource Council
- Washington Retail Association
- Wenatchee Valley Chamber of Commerce
- Mission Ridge Ski and Board Resort
- Douglas County Public Utility District

The Beckett Group transportation and infrastructure clients include:

Port of Moses Lake
 City of Wenatchee
 Port of Longview
 Port of Montana
 Port of Port Angeles

Port of Bellingham
 Wa. State Department of Transportation

Macon County and the City of Decatur, Illinois

Port of Everett
 City of Paducah, Kentucky

Snohomish County
 Port of Anacortes

Port of Quincy
 City of Hoquiam & Aberdeen

Port of Grays Harbor

References:

- Mr. Don Kersey, Executive Director, Port of Moses Lake 509-392-6434
- Ms. Shiloh Burgess, Public Affairs Director, Douglas County PUD 509-662-2116
- Mr. Geoff James, Executive Director, Port of Port Angeles 360-457-8527
- Mr. Travis Joseph, President and CEO, American Forest Resource Council 503-222-9505
- Ms. Renee' Sunde, President and CEO, Washington Retail Association 360-200-6450
- Mr. Blair McHaney, President, Washington Fitness Alliance 509-630-7307
- Mr. Josh Jorgensen, General Manager, Mission Ridge Ski and Board Resort 509-888-9402



The Beckett Group Personal Services Agreement – Amendment No. 1

November 28, 2022 Lisa Parks Executive Services Director

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Background

- Personal Services Agreement: State Legislative Lobbying Services
- · General Terms:
 - January 1, 2022 through December 31, 2022
 - Not-To-Exceed = \$40,000
- The Beckett Group Qualifications
 - Significant Washington State Port Experience and Clients
 - 28 Years Strategic Government Affairs Services Public and Private Sectors
- Scope of Work/Tasks
 - Support during the Legislative Session January thru May
 - Develop and help advance strategic issues, relationships around Port-identified priorities and projects
 - Provide summary information on key outcomes of importance to the Port

PORT of OLYMPIA

Request of Commission

- Personal Services Agreement Amendment No. 1
- Proposed Changes:
 - Extend Term to December 31, 2023
 - Add \$50,000 to the NTE for a new Agreement total of \$90,000
- Tasks
 - Support during 2023 State Legislative Session
 - · Advancement of Port priorities and initiatives during the summer and fall

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PORT of OLYMPIA

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Next Steps

 Commission Reviews/Takes Action on December 12th, Regular Commission Meeting Agenda Action Calendar



