



REGULAR COMMISSION MEETING
Tuesday, August 8, 2023, at 9:00 am
338 West First Street, Port Angeles, WA 98362
AGENDA

The Regular Commission Meeting will be available to the public in person and remotely. For instructions on how to connect to the meeting remotely, please visit www.portofpa.com/agendacenter

- I. CALL TO ORDER / PLEDGE OF ALLEGIANCE**
- II. EARLY PUBLIC COMMENT SESSION (TOTAL SESSION UP TO 20 MINUTES)**
- III. APPROVAL OF AGENDA**
- IV. WORK SESSION**
 - A. Budget Calendar/Strategic Priorities 2024
- V. APPROVAL OF CONSENT AGENDA**
 - A. Regular Commission Meeting Minutes (Corrected), July 11, 2023.....1-3
 - B. Regular Commission Meeting Minutes, July 25, 2023.....4-7
 - C. Vouchers in the amount of \$728,567.68.....8
- VI. COMPLETION OF RECORDS**
 - A. Monthly Delegation of Authority Report.....9-34
- VII. PLANNING AND CAPITAL PROJECTS**

No items
- VIII. LOG YARD**

No items
- IX. MARINE TRADES AND MARINE TERMINALS**

No items
- X. PROPERTY**

No items
- XI. MARINAS**

No items



XII. AIRPORTS

- A. Dash Lease.....35-71

XIII. OTHER BUSINESS

- A. Resolution 23-1285, Abandoned Vessels.....72-75

XIV. ITEMS NOT ON THE AGENDA

XV. COMMISSIONER REPORTS

XVI. PUBLIC COMMENT SESSION (TOTAL SESSION UP TO 20 MINUTES)

XVII. FUTURE AGENDA.....76

XVIII. NEXT MEETINGS

- A. August 22, 2023 - Regular Commission Meeting
- B. September 19, 2023 – Special Commission Meeting
- C. September 26, 2023 – Regular Commission Meeting
- D. October 10, 2023 – Regular Commission Meeting

XIX. UPCOMING EVENTS

- A. WPPA Environmental Seminar – September 21-22, 2023 – Tacoma, WA
- B. Pacific Marine Expo – November 8-10, 2023 – Seattle, WA
- C. METS Trade Show – November 15-17, 2023 – Amsterdam, Netherlands
- D. WPPA Annual Meeting – December 6-8, 2023 – Vancouver, WA

BROWN BAG LUNCH AND OPEN DISCUSSION WITH THE COMMISSION *(TIME PERMITTING)*

XX. EXECUTIVE SESSION

The Board may recess into Executive Session for those purposes authorized under Chapter 42.30 RCW, The Open Public Meetings Act.

XXI. ADJOURN



RULES FOR ATTENDING COMMISSION MEETING

- Signs, placards, and noise making devices including musical instruments are prohibited.
- Disruptive behavior by audience members is inappropriate and may result in removal.
- Loud comments, clapping, and booing may be considered disruptive and result in removal at the discretion of the Chair.

RULES FOR SPEAKING AT A COMMISSION MEETING

- Members of the public wishing to address the Board on general items may do so during the designated times on the agenda or when recognized by the Chair.
- Time allotted to each speaker is determined by the Chair and, in general, is limited to 3 minutes.
- Total time planned for each public comment period is 20 minutes, subject to change by the Chair.
- All comments should be made from the speaker's rostrum and any individual making comments shall first state their name and address for the official record.
- Speakers should not comment more than once per meeting unless their comments pertain to a new topic they have not previously spoken about.
- In the event of a contentious topic with multiple speakers, the Chair will attempt to provide equal time for both sides.



REGULAR COMMISSION MEETING
Tuesday, July 11, 2023, at 9:00 am
338 West First Street, Port Angeles, WA 98362
MINUTES

The Regular Commission Meeting will be available to the public in person and remotely. For instructions on how to connect to the meeting remotely, please visit www.portofpa.com/agendacenter

Steve Burke, Commissioner
Connie Beauvais, Commissioner
Colleen McAleer, Commissioner
Paul Jarkiewicz, Interim Exec. Dir.

Chris Hartman, Dir. of Engineering
Caleb McMahon, Dir. of Econ. Development
Braedi Joutsen, Clerk to the Board
John Nutter, Dir. of Finance & Admin

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE (0:00-0:35)

Comm. Beauvais called the meeting to order at 9:00 am.

II. EARLY PUBLIC COMMENT SESSION (TOTAL SESSION UP TO 20 MINUTES) (0:36-1:04)

None.

III. APPROVAL OF AGENDA (1:05-1:52)

- Motion to approve the agenda with the addition of a discussion about the Status of Executive Director in Other Business: Comm. McAleer
- 2nd: Comm. Burke
- Vote: 3-0 (Unanimous)

IV. WORK SESSION (1:53-48:39)

- A. Harm Reduction Health Center – Clallam County Health Dept.
- Presentation: Kevin LoPiccolo, Jenny Oppelt, Dr. Allison Berry
 - Discussion
 - No Action
- B. Dash Air – Clint Ostler – Update
- Presentation: Clint Ostler
 - Discussion
 - No Action
- C. Budget Calendar
- Presentation: Paul Jarkiewicz
 - Discussion
 - No Action

V. APPROVAL OF CONSENT AGENDA (48:40-50:56)

- A. Regular Commission Meeting Minutes, June 27, 2023
- B. Vouchers in the amount of \$576,179.86
- Discussion
 - Motion to approve consent agenda: Comm. Burke
 - 2nd: Comm. McAleer
 - Vote: 3-0 (Unanimous)

VI. COMPLETION OF RECORDS (50:57- 1:30:37)

- A. Monthly Delegation of Authority Report
- Presentation: Paul Jarkiewicz
 - Discussion
 - No Action

- B. 2nd Quarter Cash & Investment Report
 - Presentation: John Nutter
 - Discussion
 - No Action

- C. 2nd Quarter Operations Report
 - Presentation: Caleb McMahon, Paul Jarkiewicz
 - Discussion
 - No Action

VII. PLANNING AND CAPITAL PROJECTS

No items

VIII. LOG YARD

No items

IX. MARINE TRADES AND MARINE TERMINALS

No items

X. PROPERTY

No items

XI. MARINAS

No items

XII. AIRPORTS

No items

XIII. OTHER BUSINESS (1:30:38-1:36:05)

- A. Status of the Interim Executive Director
 - Discussion
 - Motion to authorize Commissioner Beauvais to work with our Attorney Carolyn Lake and with Paul Jarkiewicz to formulate an employment contract to convert him from interim to permanent Executive Director: Comm Burke
 - 2nd: Comm. McAleer
 - Vote: 3-0 (Unanimous)

XIV. ITEMS NOT ON THE AGENDA

XV. COMMISSIONER REPORTS (1:36:06-1:42:56)

Commissioner Beauvais and Commissioner Burke recapped the 4th of July events, including the USS Momsen/Navy visit, and how wonderful everything turned out. They thanked the Port team for their job well done.

XVI. PUBLIC COMMENT SESSION (TOTAL SESSION UP TO 20 MINUTES) (1:42:57-1:49:15)

Colleen McAleer, Clallam County EDC, Sequim, WA – wanted to remind the Commission about the stakeholder and rights-holder meeting they were invited to attend by the NODC on July 17, 2023, at 1:00 pm.

XVII. FUTURE AGENDA

XVIII. NEXT MEETINGS (1:49:16-1:50:59)



- A. July 25, 2023 – Regular Commission Meeting
- B. August 8, 2023 - Regular Commission Meeting
- C. August 22, 2023 – Regular Commission Meeting
- D. September 12, 2023 – Regular Commission Meeting

XIX. UPCOMING EVENTS

- A. BOCC Meeting – July 17, 2023, at 1:00 pm – Port Angeles, WA

BROWN BAG LUNCH AND OPEN DISCUSSION WITH THE COMMISSION *(TIME PERMITTING)*

XX. EXECUTIVE SESSION (1:51:00-1:52:20)

The Board may recess into Executive Session for those purposes authorized under Chapter 42.30 RCW, The Open Public Meetings Act.

- Comm. Beauvais advised that the Commission would convene an executive session; the anticipated length of the executive session is 45 minutes. The Commission is expected to take action in public sessions following the executive session.
- Discussion: One (1) item concerning real estate sale, purchase, or lease if a likelihood that disclosure would decrease the price. Discussing such matters in executive session is appropriate pursuant to RCW 42.30.110(1)(c). Two (2) items concerning the legal risk of a proposed action that the agency has identified when public discussion of the legal risks is likely to result in an adverse legal or financial consequence to the Port. Discussing such matters in executive session is appropriate pursuant to RCW 42.30.110(1)(i).
- Recess: 4 minutes
- Start Time: 10:55 am
- Extended: 10 minutes
- End Time: 11:50 am
- Public Session of Commission Meeting Reconvened: 11:50 am

No Action was taken as a result of the executive session.

XXI. ADJOURN (1:52:21-1:52:23)

Comm. Beauvais adjourned the meeting at 11:52 am.

PORT OF PORT ANGELES
BOARD OF COMMISSIONERS

Connie Beauvais, President

Steven Burke, Secretary



REGULAR COMMISSION MEETING
Tuesday, July 25, 2023, at 9:00 am
338 West First Street, Port Angeles, WA 98362
MINUTES

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Steve Burke, Commissioner

Chris Hartman, Dir. of Engineering

Connie Beauvais, Commissioner

Caleb McMahon, Dir. of Econ. Development

Colleen McAleer, Commissioner

Braedi Joutsen, Clerk to the Board

Paul Jarkiewicz, Interim Exec. Dir.

John Nutter, Dir. of Finance & Admin

I. CALL TO ORDER / PLEDGE OF ALLEGIANCE (0:00-33)

Comm. Beauvais called the meeting to order at 9:00 am.

II. EARLY PUBLIC COMMENT SESSION (TOTAL SESSION UP TO 20 MINUTES) (0:34-0:52)

None.

III. APPROVAL OF AGENDA (0:53-1:09)

- Motion to approve the agenda as presented: Comm. Burke
- 2nd: Comm. McAleer
- Vote: 3-0 (Unanimous)

IV. WORK SESSION (10:14-1:28:50)

A. FIA Runway Rehab Construction Update

- Presentation: Jon Picker
- Discussion
- No Action

B. Marina Update

- Presentation: Jon Picker
- Discussion
- No Action
- Marina Rules & Regulations – a kick-off meeting on Thursday, July 27, 2023, at 9:30 am, held at the William R. Fairchild International Airport Meeting Room.

C. Strategic Plan Initiative Priority Discussion

- Presentation: Paul Jarkiewicz
- Discussion
- No Action

V. APPROVAL OF CONSENT AGENDA (1:28:51-1:33:10)

A. Regular Commission Meeting Minutes, July 11, 2023

B. Vouchers in the amount of \$682,191.21

- Discussion
- Motion to approve consent agenda without the meeting minutes from July 11th as an exception, which are to be corrected and resubmitted for approval: Comm. Beauvais
- 2nd: Comm. McAleer
- Vote: 3-0 (Unanimous)

VI. COMPLETION OF RECORDS (1:33:11-1:48:00)

A. 2nd Quarter Financial Report

- Presentation: John Nutter
- Discussion
- No Action

VII. PLANNING AND CAPITAL PROJECTS

No items

VIII. LOG YARD

No items

IX. MARINE TRADES AND MARINE TERMINALS

No items

X. PROPERTY

No items

XI. MARINAS

No items

XII. AIRPORTS (1:48:01-1:52:05)

A. Dash Air – Minimum Revenue Guarantee (MRG)

- Presentation: Caleb McMahon
- Discussion
- Motion to authorize the Executive Director to sign the revised Minimum Revenue Guarantee (MRG) with a qualified airline wishing to provide commercial air service at William R. Fairchild International Airport: Comm. Burke
- 2nd: Comm. McAleer
- Vote: 3-0 (Unanimous)

XIII. OTHER BUSINESS (1:10-10:13), (1:52:06-1:52:17), (2:17:25-2:18:36)

A. Resolution 23-1284, In Recognition of Robert Beaudette ****Item taken out of order and presented at the start of the Work Session***

- Presentation: Paul Jarkiewicz
- Discussion
- Motion to introduce Resolution 23-1284, a resolution in recognition of Robert Beaudette: Comm. Beauvais
- 2nd: Comm. Burke
- Vote: 3-0 (Unanimous)
- Motion to waive 2nd consideration: Comm. Beauvais
- 2nd: Comm. McAleer
- Vote: 3-0 (Unanimous)
- Motion to adopt Resolution 23-1284, a resolution in recognition of Robert Beaudette: Comm. McAleer
- 2nd: Comm. Burke
- Vote: 3-0 (Unanimous)

B. Executive Director Contract

- ***Item was tabled until after the executive session.***
- Discussion
- Motion to approve the employment contract with Executive Director Paul Jarkiewicz: Comm. Burke
- 2nd: Comm. McAleer
- Vote: 3-0 (Unanimous)

XIV. ITEMS NOT ON THE AGENDA



XV. COMMISSIONER REPORTS (1:52:18-2:13:57)

Comm. McAleer updated the Commission on the Regional RECOMPETE Grant process and subsequent Recompete Grant Taskforce proposal, resulting from the meeting with the Board of County Commissioners.

Comm. Beauvais attended yesterday's BOCC work session regarding timber sales in our county. AFRC was also in attendance as well as three other junior taxing districts.

XVI. PUBLIC COMMENT SESSION (TOTAL SESSION UP TO 20 MINUTES) (2:13:32-2:13:57)

None.

XVII. FUTURE AGENDA

XVIII. NEXT MEETINGS (2:13:58-2:14:17)

- A. August 8, 2023 - Regular Commission Meeting
- B. August 22, 2023 – Regular Commission Meeting
- C. September 19, 2023 – Special Commission Meeting
- D. September 26, 2023 – Regular Commission Meeting

XIX. UPCOMING EVENTS (2:14:18-2:15:30)

- A. NW Regional Superyacht Summit – August 1-3, 2023, Seattle, WA
- B. Pacific Marine Expo – November 8-10, 2023 – Seattle, WA
- C. METS Trade Show – November 15-17, 2023 – Amsterdam, Netherlands

BROWN BAG LUNCH AND OPEN DISCUSSION WITH THE COMMISSION (TIME PERMITTING)

XX. EXECUTIVE SESSION (2:15:31-2:17:24)

The Board may recess into Executive Session for those purposes authorized under Chapter 42.30 RCW, The Open Public Meetings Act.

- Comm. Beauvais advised that the Commission would convene an executive session; the anticipated length of the executive session is 60 minutes. The Commission is expected to take action in public sessions following the executive session.
- Discussion: One (1) item concerning real estate sale, purchase, or lease if a likelihood that disclosure would increase the price. Discussing such matters in executive session is appropriate pursuant to RCW 42.30.110(1)(b). Two (2) items concerning the legal risk of a proposed action that the agency has identified when public discussion of the legal risks is likely to result in an adverse legal or financial consequence to the Port. Discussing such matters in executive session is appropriate pursuant to RCW 42.30.110(1)(i). One (1) item concerning the performance of a public employee, discussing such matters in executive session is appropriate pursuant to RCW 42.30.110(1)(g).
- Recess: 4 minutes
- Start Time: 11:20 am
- Extended: 25 minutes
- End Time: 12:45 pm
- Public Session of Commission Meeting Reconvened: 12:45 pm



- Action was taken under item 13 Other Business – Executive Director Contract.

XXI. ADJOURN (2:18:37-2:18:44)

Comm. Beauvais adjourned the meeting at 12:48 pm.

PORT OF PORT ANGELES
BOARD OF COMMISSIONERS

Connie Beauvais, President

Steven Burke, Secretary

**PORT OF PORT ANGELES
GENERAL FUND – LETTER OF TRANSMITTAL
VOUCHER APPROVAL**

We, 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, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due, and unpaid obligation against the Port of Port Angeles, and that we are authorized to authenticate and certify to said claim.

SUMMARY TRANSMITTAL July 20, 2023 – August 3, 2023

Accounts Payable

	Begin Check #	End Check #		
For General Expenses and Construction				
Accts Payable Checks (computer)	417387	417440	\$	117,639.83
VOIDED/ZERO PAYABLE CHECKS				
Accts Payable ACH	001743	001783	\$	126,558.25
Wire Transfer – Excise Tax			\$	-
Wire Transfer - Leasehold Tax			\$	194,283.01
Total General Expenses and Construction			\$	438,481.09
Payroll				
Employee Payroll – Draws Checks			\$	-
Voided Payroll Check			\$	-
Voided Checks ==Stub Overrun==				
Employee Payroll Checks PPD (Direct Dep)	807138	807202	\$	173,941.04
Voided direct deposit chks			\$	-
Wire Transfer – (Payroll Taxes, Retirement, Deferred Comp, L&I, OASI, PMFL)			\$	116,145.55
Total Payroll			\$	290,086.59
Total General Exp & Payroll			\$	728,567.68

Date: August 8, 2023

Port Representative

Port Representative

Commissioner, Steven D. Burke

Commissioner, Connie Beauvais

Commissioner, Colleen McAleer

MONTHLY REPORT TO THE BOARD OF PORT COMMISSIONERS
July 2023

SUBJECT: REPORTS REQUIRED UNDER THE PROVISIONS OF THE DELEGATION OF AUTHORITY

REPORT	NO ACTION	ATTACHED
Lease Renewals/Options and 1 Year or Less Agreements at Market Rates; Leases, Assignments, Subleases, Berthage/Dockage, & Miscellaneous (Use, Equipment, Hangar, Marina Slips)		X
Lease Bond, Rental Insurance Deviations	X	
Work Contracts (\$50,000 or less) Executed	X	
Work Contracts Completed	X	
Change Orders Authorized		X
Work by Port Crews or Day Labor (\$50,000 or less)	X	
Claims Settled	X	
Professional & Consulting Services Awarded and Architectural, Engineering & Technical Services Awarded		X
Fees Waived	X	
Uncollectible Accounts Written Off	X	
Experts Engaged for Litigation	X	
Grant Applications/Award	X	
Travel Outside WA, OR, ID and BC, Canada	X	
Surplus Personal Property (under \$10,000)	X	

**LEASES, RENEWALS, AMENDMENTS, MISC. AGREEMENTS and OPTIONS EXECUTED
of One Year or Less Approved by Executive Director
(In Accordance with the Delegation of Authority, Res. 20-1216*)**

July 2023

TENANT NAME	DOCUMENT	LOCATION	FORM OF SURETY	SQ FEET	TERM	MONTHLY RENT
Scarsella Bros. Inc.	Temporary License	428 Marine Dr	Deposit \$500	Along Marine Drive - land for staging	7.18.2023 MTM	In-Kind for City sewer project staging
Hull Scrubber Corporation	First Lease Renewal	Marine Terminal Office 202 N Cedar St #4	Deposit on file \$4,503.60	270 SF Office	8.01.2023 1 year term	\$388.80 \$1.44/SF + CAM \$40, Util \$65
Ocean Boatworks	First Lease Renewal	812 W. Boathaven	Deposit on file \$1,417.50	945 SF Workshop	8.01.2023 1 year term	\$727.65 \$0.77/SF

CHANGE ORDERS AUTHORIZED BY THE EXECUTIVE DIRECTOR
(In Accordance with Delegation of Authority)
July 2023

PROJECT	VENDOR	REASON FOR CHANGE	LAST COMMISSION APPROVED PROJECT TOTAL	COST OF CHANGE ORDER	TOTAL OF ALL CHANGE ORDERS	REVISED TOTAL PROJECT COST	% OF TOTAL PROJECT COST*
CLM Runway 8/26 Rehab	Lakeside Industries	C0 1 - Temp wiring & additional conduit	\$7,121,702.45	\$11,801.60	\$11,801.60	\$7,133,504.05	0.17
CLM Runway 8/26 Rehab	Lakeside Industries	C0 1 - Temp wiring & additional conduit	\$7,121,702.45	\$815.84	\$12,617.44	\$7,134,319.89	.01
On-Call Archeological/Cultural Resources Monitoring & Support	HDR Engineering Inc.	Total fee available increased from \$20k to \$40k to allow Task Order 01 for monitoring during Terminal 5, 6, and 7 Upland Cleanup Investigation	NA	\$20,000	\$20,000	\$40,000	NA

* *Percent only applies to contracts totaling more than \$50,000. Per Delegation of Authority:
 "For a contract awarded by the Executive Director, the aggregate cost of the original contract and all changes will not exceed \$50,000."
 "For a contract awarded by the Commission, the total cost of all contract changes will not exceed the lesser of \$50,000 or 10% of the last Commission-approved total."*

CONTRACT CHANGE ORDER NO. 1
or
SUPPLEMENTAL AGREEMENT NO. N/A

AIRPORT William R. Fairchild International Airport (CLM) **DATE** 7/14/2023



LOCATION Port Angeles, WA **AIP PROJECT NO.** 3-53-0047-042-2022

CONTRACTOR Lakeside Industries

The Contractor is requested to perform the following described work upon receipt of an approved copy of this document or as directed by the engineer:

Item No.	Description	Unit	Unit Price	Quantity	Amount
1	Temporary conduit/wiring for taxiway circuit	LS	\$1,786.06	1	\$1,786.06
2	2" PVC Sch 40, Direct Bury	LF	\$8.05	370	\$2,978.50
3	L-824C 5kV Cable – Construction	LF	\$6.75	390	\$2,632.50
4	Connection to Existing Handhole	EA	\$1,150.00	3	\$3,450.00
Washington State Sales Tax (8.8%)					\$954.54
This Change Order Total			\$11,801.60		
Previous Change Order(s) Total			\$0.00		
Revised Contract Total			\$7,133,504.05		

The time provided for substantial completion in the contract is unchanged. This document shall become an amendment to the contract and all provisions of the contract will apply. Changes are shown on Drawing(s) No. C4.4 dated February 24, 2023, attached.

Recommended by:	 Melanie Johansen 2023.07.20 09:04:28-07'00'	<u>7/20/23</u>
Approved by:	Engineer Chris Hartman <small>Digitally signed by Chris Hartman DN: cn=Chris Hartman, o=Port of Port Angeles, ou=Municipal Corporation, email=chris@portofpa.com, c=US Date: 2023.07.20 09:48:54 -07'00'</small>	<u>7/20/23</u>
Accepted by:	Owner 	<u>7.20.23</u>
Concurred by:	Contractor	
Approved by:	State Aeronautics (if applicable) subject to available to federal funds	
	Federal Aviation Administration	

NOTE: Change Orders and Supplemental Agreements require FAA approval prior to construction, otherwise no Federal participation can be granted. State Aeronautics concurrence is required when state participation is anticipated.

AIP PROJECT NO. 3-53-0047-042-2022 CHANGE ORDER NO. 1
 (Supplemental Agreement)
 AIRPORT William R. Fairchild International Airport (CLM) LOCATION Port Angeles, WA

JUSTIFICATION FOR CHANGE

1. Brief description of the proposed contract change(s) and location(s).

Between Taxiway D and E the runway circuit and taxiway circuit are running through the same conduit. The proposed change will include temporarily ground laying conduit for the taxiway circuit in order to allow the taxiway circuit to remain energized. Then a second conduit will be laid in this section to house the taxiway circuit separately from the runway circuit.

2. Reason(s) for the change(s) *(Continue on reverse if necessary)*

Temporary wiring is required while the new taxiway conduit is installed because the taxiway is active and edge lighting must remain in service.

The second conduit to house the taxiway circuit is required to separate the taxiway circuit from the runway circuit. This will match how the rest of the airfield underground infrastructure is built.

3. Justifications for unit prices or total cost.

The unit prices for Items 2, 3, and 4 in the proposal are consistent with unit bids for this project. The lump sum price for Item 1 (temporary wiring) is based on material costs, prevailing labor rates, and standard OH and profit. (See attached cost analysis for this item.)

With signature of this change order, the Sponsor recommends that the FAA accepts the cost analysis as evidence of cost reasonableness.

4. The sponsor's share of this cost is available from:

Port funds which were allocated for the purpose of the runway rehabilitation project.

5. If this is a change order involving more than \$2,000, is the cost estimate based on the latest wage rate decision? Yes No Not Applicable .

6. Has consent of surety been obtained? Yes Not Necessary .

7. Will this change affect the insurance coverage? Yes No .

8. If yes, will the policies be extended? Yes No . N/A

9. Has this Change Order been discussed with FAA officials?
 Yes No When July 13, 2023 With Whom Mary Vargas

Comment _____

10. Does this Change Order adversely affect compliance with applicable AIP procurement requirements such as Buy American Preferences, Disadvantaged Business Enterprise participation, or Davis Bacon?

Yes No

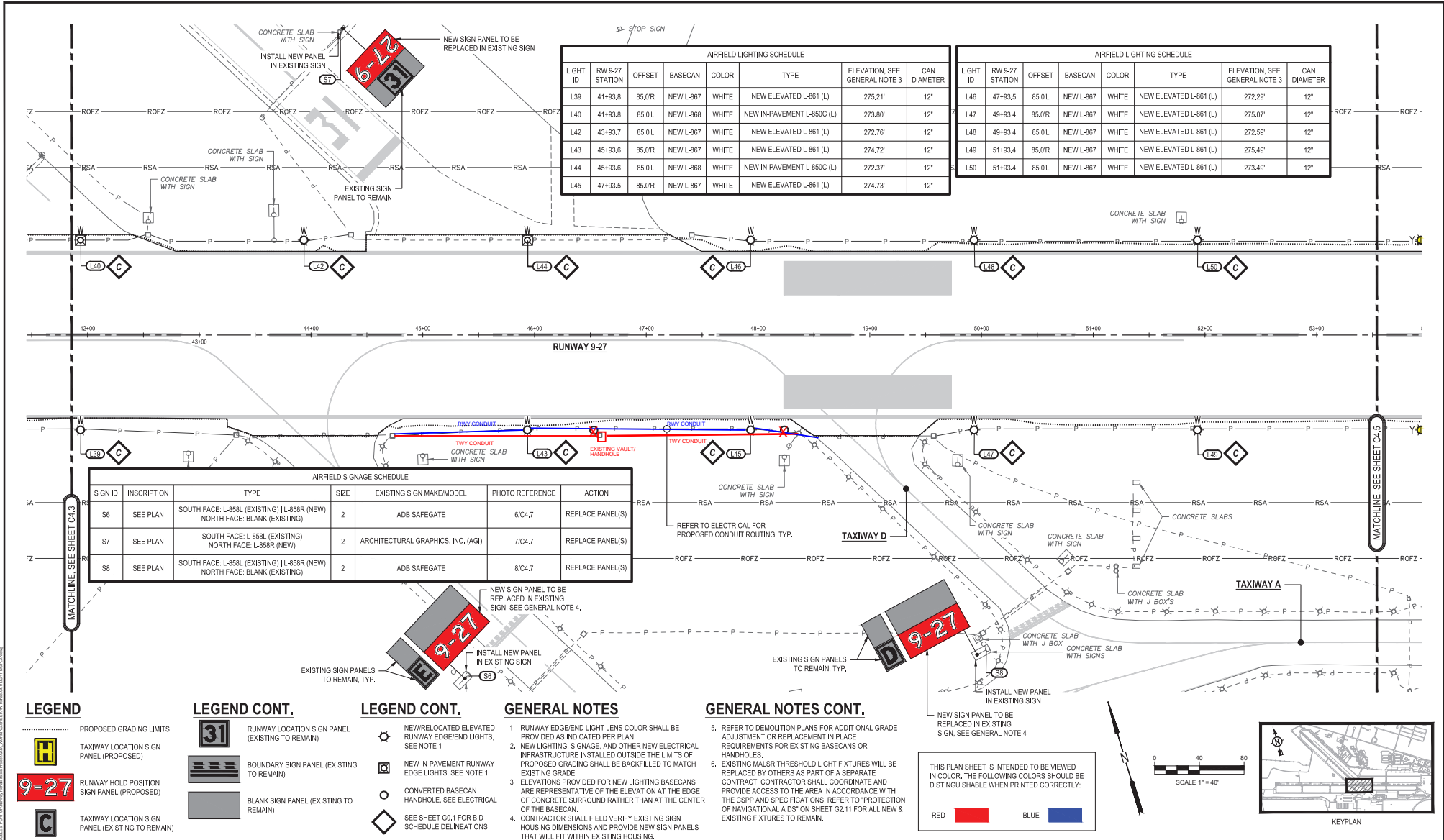
Submit 4 copies to the FAA



CENTURY WEST ENGINEERING
COST ANALYSIS FOR CHANGE ORDER #1

Port of Port Angeles
**WILLIAM R. FAIRCHILD INTERNATIONAL AIRPORT
 RUNWAY 8-26 REHABILITATION PROJECT**

ITEM DESCRIPTION		COST		NOTES
Temporary Wiring (LS)		\$	1,786.06	
Lump sum cost for temporary wiring includes:				
Materials	2" PVC Conduit (ground laid)	\$	666.00	Retails for ~ \$18 per 10' pipe length (i.e. \$1.80/ft for 370 LF)
Labor	2 laborers at 6 hours each	\$	679.92	Davis-Bacon Prevailing Wage for General Laborer = \$56.66/hr.
	Electrician at 3 hours	\$	277.77	Davis-Bacon Prevailing Wage for Electrician = \$92.59/hr.
OH and Profit	10%	\$	162.37	



LIGHT ID	RW 9-27 STATION	OFFSET	BASECAN	COLOR	TYPE	ELEVATION, SEE GENERAL NOTE 3	CAN DIAMETER
L39	41+93.8	85.0R	NEW L-867	WHITE	NEW ELEVATED L-861 (L)	275.21'	12"
L40	41+93.8	85.0L	NEW L-868	WHITE	NEW IN-PAVEMENT L-850C (L)	273.80'	12"
L42	43+93.7	85.0L	NEW L-867	WHITE	NEW ELEVATED L-861 (L)	272.76'	12"
L43	45+93.6	85.0R	NEW L-867	WHITE	NEW ELEVATED L-861 (L)	274.72'	12"
L44	45+93.6	85.0L	NEW L-868	WHITE	NEW IN-PAVEMENT L-850C (L)	272.37'	12"
L45	47+93.5	85.0R	NEW L-867	WHITE	NEW ELEVATED L-861 (L)	274.73'	12"

LIGHT ID	RW 9-27 STATION	OFFSET	BASECAN	COLOR	TYPE	ELEVATION, SEE GENERAL NOTE 3	CAN DIAMETER
L46	47+93.5	85.0L	NEW L-867	WHITE	NEW ELEVATED L-861 (L)	272.29'	12"
L47	49+93.4	85.0R	NEW L-867	WHITE	NEW ELEVATED L-861 (L)	275.07'	12"
L48	49+93.4	85.0L	NEW L-867	WHITE	NEW ELEVATED L-861 (L)	272.59'	12"
L49	51+93.4	85.0R	NEW L-867	WHITE	NEW ELEVATED L-861 (L)	275.49'	12"
L50	51+93.4	85.0L	NEW L-867	WHITE	NEW ELEVATED L-861 (L)	273.49'	12"

SIGN ID	INSCRIPTION	TYPE	SIZE	EXISTING SIGN MAKE/MODEL	PHOTO REFERENCE	ACTION
S6	SEE PLAN	SOUTH FACE: L-858L (EXISTING) L-858R (NEW) NORTH FACE: BLANK (EXISTING)	2	ADB SAFEGATE	6/CA.7	REPLACE PANEL(S)
S7	SEE PLAN	SOUTH FACE: L-858L (EXISTING) NORTH FACE: L-858R (NEW)	2	ARCHITECTURAL GRAPHICS, INC. (AGI)	7/CA.7	REPLACE PANEL(S)
S8	SEE PLAN	SOUTH FACE: L-858L (EXISTING) L-858R (NEW) NORTH FACE: BLANK (EXISTING)	2	ADB SAFEGATE	8/CA.7	REPLACE PANEL(S)

- LEGEND**
- PROPOSED GRADING LIMITS
 - TAXIWAY LOCATION SIGN PANEL (PROPOSED)
 - 9-27 RUNWAY HOLD POSITION SIGN PANEL (PROPOSED)
 - TAXIWAY LOCATION SIGN PANEL (EXISTING TO REMAIN)

- LEGEND CONT.**
- 31 RUNWAY LOCATION SIGN PANEL (EXISTING TO REMAIN)
 - BOUNDARY SIGN PANEL (EXISTING TO REMAIN)
 - BLANK SIGN PANEL (EXISTING TO REMAIN)

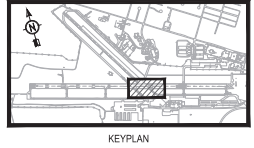
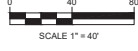
- LEGEND CONT.**
- NEW/RELOCATED ELEVATED RUNWAY EDGE/END LIGHTS, SEE NOTE 1
 - NEW IN-PAVEMENT RUNWAY EDGE LIGHTS, SEE NOTE 1
 - CONVERTED BASECAN HANDHOLE, SEE ELECTRICAL
 - SEE SHEET G0.1 FOR BID SCHEDULE DELINEATIONS

- GENERAL NOTES**
- RUNWAY EDGE/END LIGHT LENS COLOR SHALL BE PROVIDED AS INDICATED PER PLAN.
 - NEW LIGHTING, SIGNAGE, AND OTHER NEW ELECTRICAL INFRASTRUCTURE INSTALLED OUTSIDE THE LIMITS OF PROPOSED GRADING SHALL BE BACKFILLED TO MATCH EXISTING GRADE.
 - ELEVATIONS PROVIDED FOR NEW LIGHTING BASECANS ARE REPRESENTATIVE OF THE ELEVATION AT THE EDGE OF CONCRETE SURROUND RATHER THAN AT THE CENTER OF THE BASECAN.
 - CONTRACTOR SHALL FIELD VERIFY EXISTING SIGN HOUSING DIMENSIONS AND PROVIDE NEW SIGN PANELS THAT WILL FIT WITHIN EXISTING HOUSINGS.

- GENERAL NOTES CONT.**
- REFER TO DEMOLITION PLANS FOR ADDITIONAL GRADE ADJUSTMENT OR REPLACEMENT IN PLACE REQUIREMENTS FOR EXISTING BASECANS OR HANDHOLES.
 - EXISTING MALSR THRESHOLD LIGHT FIXTURES WILL BE REPLACED BY OTHERS AS PART OF A SEPARATE CONTRACT. CONTRACTOR SHALL COORDINATE AND PROVIDE ACCESS TO THE AREA IN ACCORDANCE WITH THE CSPP AND SPECIFICATIONS, REFER TO "PROTECTION OF NAVIGATIONAL AIDS" ON SHEET G2.11 FOR ALL NEW & EXISTING FIXTURES TO REMAIN.

THIS PLAN SHEET IS INTENDED TO BE VIEWED IN COLOR. THE FOLLOWING COLORS SHOULD BE DISTINGUISHABLE WHEN PRINTED CORRECTLY:

RED [Red Box] BLUE [Blue Box]



			VERIFY SCALES BAR IS ONE INCH ON ORIGINAL DRAWING. IF NOT ONE INCH ON THIS SHEET, ADJUST SCALES ACCORDINGLY.	NO. DATE BY APPR REVISIONS		PUGET SOUND OFFICE 2232 17TH AVENUE SE SUITE 8205 BOTHELL, WA 98021 425.286.6602 OFFICE	DESIGNED BY: DMY DRAWN BY: DMY CHECKED BY: MKJ	WILLIAM R. FAIRCHILD INTERNATIONAL AIRPORT PORT OF PORT ANGELES RUNWAY 8-26 REHABILITATION (AIP# 3-53-0047-039-2021)	DRAWING NO. C4.4 SHEET NO. 74 OF 99
			DATE: FEBRUARY 24, 2023	PROJECT NO: 100800.002.03		SCALE: AS NOTED	LIGHTING & SIGNAGE LAYOUT PLAN (4 OF 6)		

02/22/2023

CONTRACT CHANGE ORDER NO. 2 _____

or

SUPPLEMENTAL AGREEMENT NO. N/A _____

AIRPORT William R. Fairchild International Airport (CLM) **DATE** 7/14/2023

LOCATION Port Angeles, WA **AIP PROJECT NO.** 3-53-0047-042-2022

CONTRACTOR Lakeside Industries

The Contractor is requested to perform the following described work upon receipt of an approved copy of this document or as directed by the engineer:

Item No.	Description	Unit	Unit Price	Quantity	Amount
1	Remove and Replace 2" Conduit	LS	\$749.85	1	\$749.85
Washington State Sales Tax (8.8%)					\$65.99
This Change Order Total			\$815.84		
Previous Change Order(s) Total			\$11,801.60		
Revised Contract Total			\$7,134,319.89		

The time provided for substantial completion in the contract is unchanged. This document shall become an amendment to the contract and all provisions of the contract will apply. Changes are shown on Drawing(s) No. E3.06 dated February 22, 2023, attached.

Recommended by:	 Melanie Johansen 2023.07.25 14:56:34-07'00'	<u>7/25/23</u>
Approved by:	Engineer 	Date <u>7.26.23</u>
Accepted by:	Owner <u>Chris Hartman</u> <small>Digitally signed by Chris Hartman DN: cn=Chris Hartman, o=Port of Port Angeles, ou=Municipal Corporation, email=chris@portofpa.com, c=US Date: 2023.07.25 17:24:58 -07'00'</small>	Date <u>7/25/23</u>
Concurred by:	Contractor <u>N/A</u>	Date
Approved by:	State Aeronautics (if applicable) <u>N/A</u>	Date
	Federal Aviation Administration	Date

NOTE: Change Order 2 is part of Bid Schedule D and is AIP-ineligible.

AIP PROJECT NO. 3-53-0047-042-2022 **CHANGE ORDER NO.** 2
(Supplemental Agreement)
AIRPORT William R. Fairchild International Airport (CLM) **LOCATION** Port Angeles, WA

JUSTIFICATION FOR CHANGE

1. Brief description of the proposed contract change(s) and location(s).

At Taxiway B, there is a length of existing conduit that cannot be reused. The conduit running from the handhole to the runway exit sign at Taxiway B will be removed and replaced with new 2" PVC.

2. Reason(s) for the change(s) *(Continue on reverse if necessary)*

During wreckout of cable on the east end of the runway, Olympic Electric was unable to remove a section of wire that feeds the sign at Taxiway B due to a pinched or compromised section of conduit.

3. Justifications for unit prices or total cost.

See attached breakdown of total cost provided by Olympic Electric.

4. The sponsor's share of this cost is available from:

Port funds which were allocated for the purpose of the runway rehabilitation project.

5. If this is a change order involving more than \$2,000, is the cost estimate based on the latest wage rate decision? Yes No Not Applicable .

6. Has consent of surety been obtained? Yes Not Necessary .

7. Will this change affect the insurance coverage? Yes No .

8. If yes, will the policies be extended? Yes No N/A

9. Has this Change Order been discussed with FAA officials?
Yes No Change Order 2 is AIP-ineligible

Comment _____

10. Does this Change Order adversely affect compliance with applicable AIP procurement requirements such as Buy American Preferences, Disadvantaged Business Enterprise participation, or Davis Bacon?
Yes No

Attachment-B
On-Call Inspection Services

TASK ORDER FORM

TASK ORDER#: 01

TASK NAME: Terminals 5, 6 and 7 Uplands Monitoring

CONSULTANT CONTRACT: On-Call Cultural Resource Monitoring & Support

CONSULTANT: HDR Engineering, Inc.

PORT PROJECT MANAGER: Chris Hartman

PORT SUBACCOUNT: 90-1-40-SO

The agreed to scope, schedule and cost for this task order is as noted below and as attached and referenced herein.

PROJECT SCOPE: See attached Exhibit A - Project Scope & Fee

PROJECT FEE: This will be accomplished on a **time and material basis** and will not exceed **\$28,288**, without prior written approval from the Port.

See attached Exhibit A-Project Scope & Fee

DELIVERABLES:

- Draft and final monitoring technical memorandum
- Draft and final site inventory, if site is identified during monitoring

PROJECT SCHEDULE: The work or services detailed in the Project Scope above will be completed by **November 30, 2023**.

AGREED

This executed Task Order is expressly conditioned upon the Terms and Conditions and any Attachments attached and by reference incorporated herein to the Consultant Agreement listed above. Consultant acknowledges reading this Task Order and existing Agreement, understands it and agrees to be bound by its Terms and Conditions.

PORT OF PORT ANGELES

By:  _____

Title: Executive Director

Date: 07/31/2023

HDR ENGINEERING, INC.

By:  _____

Title: Sr Vice President

Date: 7/31/23



Exhibit A

Archaeological Monitoring of Terminals 5, 6, and 7 Uplands Project

Background

This proposal outlines HDR's services to assist the Port of Port Angeles (Port) with cultural resources management for their Terminals 5, 6, and 7 Uplands Project in Port Angeles, Washington. We understand that the Port will be implementing the project in compliance with Washington State Model Toxics Control Act (MTCA; Washington Administrative Code [WAC] 173-340). To support this effort, our services include task management; coordinating with the Port, its consultant team, Lower Elwha Klallam Tribe (LEKT), and applicable agencies (e.g., Department of Archaeology and Historic Preservation (DAHP) and Department of Ecology [Ecology]); archaeological monitoring for the Terminals 5, 6, & 7 Uplands; and inadvertent discovery response. Expenses reimbursement is also included. HDR's services will be performed in accordance with the Revised Code of Washington (RCW) and WAC.

Scope of Services

Task 1: Task Management

OBJECTIVE

The purpose of this task is to monitor, control, and adjust scope, schedule, and budget, as well as provide monthly status reporting, accounting, and invoicing. HDR will coordinate with the Port for the duration of the project.

HDR SERVICES

This task includes accounting and invoicing support. HDR will coordinate with the Port by phone and e-mail to receive project materials and transmit correspondence.

CLIENT RESPONSIBILITIES

- Coordinate with HDR to transmit project materials.

ASSUMPTIONS

- Task management will include 6 hours of HDR's Project Manager, Jennifer Ferris' time for project coordination and progress reporting, and up to 12 hours of a Project Accountant's time for contracting and invoicing support. If additional time is needed, a task amendment will be necessary.

DELIVERABLES

- Monthly invoices (electronically delivered).

Task 2: Coordination with Port, LEKT, and Agencies

OBJECTIVE

Coordinate with the Port for the duration of the project and provide support to the Port to consult with the LEKT and agencies, including the DAHP and Ecology. Coordination includes emails, virtual meetings, and telephone calls.

HDR SERVICES

HDR will provide agency and tribal coordination support through the project. This includes up to 8 hours of Ms. Ferris' and 8 hours of Mr. Zach Allen's time on phone calls, virtual meetings, and emails.

CLIENT RESPONSIBILITIES

- Provide meeting agendas and notes, as applicable.

ASSUMPTIONS

- No in person meetings included.

DELIVERABLES

- Participation in meetings, agenda development, and review of meeting notes.

Task 3: Archaeological Monitoring of Terminals 5, 6, and 7 Uplands

OBJECTIVE

Perform archaeological monitoring during installation of ground water monitoring wells and fill soil and bank sampling at Terminals 5, 6, and 7.

HDR SERVICES

HDR will provide archaeological monitoring during the installation of ground water monitoring wells and fill soil and bank sampling at Terminals 5, 6, and 7. Monitoring will be performed in accordance with the existing monitoring and inadvertent discovery plan (MIDP) for this activity. The monitor will take daily notes and photographs and will assist the Port with providing notification to the LEKT.

Monitoring will take place for a maximum of five (5) days. A maximum of 10 hours per day on site is assumed, which includes the completion of field notes. An additional 25 hours of travel time is assumed. A draft and final technical memo will be prepared at the completion of monitoring, which will include maps indicating the location of monitored activities, as applicable.

CLIENT RESPONSIBILITIES

- Provide schedule of activities to be monitored at least 2 weeks in advance, as feasible.
- Review draft and final technical memorandum.

ASSUMPTIONS

- Expenses related to monitoring are included in Task 5.
- No inadvertent discoveries are assumed. If an inadvertent discovery occurs, Task 4 will be completed.

DELIVERABLES

- Draft and final technical memorandum.

Task 4: Inadvertent Discovery Response

OBJECTIVE

Respond to inadvertent discovery of an archaeological resource.

HDR SERVICES

HDR will respond to an inadvertent discovery of an archaeological resource in accordance with the MIDP. HDR will record the discovery in the field and will notify the Port, LEKT, and agencies. HDR will prepare up to one DAHP Archaeological Site or Isolate Form, which will be submitted to the Port for review within 7 days after recordation.

The final form will be attached to the final technical memorandum, as applicable. The discovery will also be integrated into the results section of the technical memorandum.

CLIENT RESPONSIBILITIES

- Review draft site or isolate form.

ASSUMPTIONS

- Expenses related to responding to an inadvertent discovery are included in Task 5.

DELIVERABLES

- Draft and final site or isolate form.

Task 5: Reimbursables

OBJECTIVE

Reimbursement for expenses related to Tasks 1-4 above.

HDR SERVICES

HDR will seek additional reimbursement for services rendered under Tasks 1-4, including, but not limited to, mileage and lodging. Up to \$468 is allocated under reimbursement.

CLIENT RESPONSIBILITIES

- Review reimbursement requests.

ASSUMPTIONS

- Reimbursement requests will be in accordance with the Port's Professional Services Agreement.
- All expenses will be at cost.
- Mileage will be calculated at \$0.655/mile or most current IRS rate.

DELIVERABLES

- Reimbursement requests will be incorporated into invoices.

Schedule

Task management and coordination will begin upon the notice to proceed. Archaeological monitoring will be performed upon scheduling with the Port, currently anticipated to commence July 31, 2023. The draft technical memorandum will be provided within 30 business days after completion of monitoring. The final technical memoranda will be provided within 10 business days of receiving Port comments. The draft site or isolate form will be provided within 10 business days after field recordation is completed, and the final site or isolate form will be appended to the final technical memorandum.

General Assumptions

HDR can provide additional services if requested, including additional agency/tribal coordination and construction monitoring. A cost estimate for these services can be provided upon request.

Estimated Fees and Disbursements

Compensation for proposed services will be billed on a Time and Materials basis. The total fee for these services is not to exceed \$28,288, unless mutually agreed upon by HDR and the Port.



Table 1. Fee Breakdown

Task	Amount
Task 1 – Task Management	\$3,180
Task 2 – Coordination with Port, LEKT, and Agencies	\$2,720
Task 3 – Archaeological Monitoring of Terminals 5, 6, and 7 Uplands	\$17,300
Task 4 – Inadvertent Discovery Response	\$4,620
Task 5 – Reimbursables	\$468
TOTAL	\$28,288

Terms and Conditions

These services are proposed to be performed under the Port’s Professional Services Agreement.

This proposal is valid for 60 working days from the date of submission. Thereafter, it may be subject to change.

CONSULTANT SERVICES AGREEMENT AMENDMENT

PORT OF PORT ANGELES

Project: On-Call Archaeological
Monitoring & Support
Services

Original Agreement Date. 5/2/2022

Amendment No. 01

The Compensation or Total Agreement Fee detailed in the On-Call Archaeological Monitoring & Support Services agreement by and between the Port of Port Angeles (Port) and HDR Engineering Inc. (Consultant) is amended as follows:

Compensation increased from \$20,000 to \$40,000.

The effective date of this Amendment 01 upon execution whichever is later.

ALL OTHER TERMS AND CONDITIONS OF THE ORIGINAL AGREEMENT REMAIN IN FULL FORCE AND EFFECT.

THIS AMENDMENT, consisting of 10 page(s) and that includes attached Exhibit A is executed by the persons signing below who warrant that they have the authority to execute this Amendment under the original Agreement.

IN WITNESS WHEREOF, the PORT and the CONSULTANT have signed this Amendment.

HDR ENGINEERING INC.



Signature

Sr Vice President

7/31/2023

Title

Date

PORT OF PORT ANGELES



Signature

EXECUTIVE DIRECTOR 07/31/2023

Title

Date

**PROFESSIONAL & PERSONAL SERVICES
AWARDED BY THE EXECUTIVE DIRECTOR
(In Accordance with Delegation of Authority)
July 2023**

CONSULTANT	PROJECT	EST. COST	OTHER CONTRACT PROVISIONS
Landau Associates	Phase 1 Environmental Assessment – 430 Marine Drive	\$11,600	NA
Laurel Black Communications + Design	Graphic design	\$6,000	1 year term July 2023-July 2024
HDR Engineering, Inc.	Terminals 5, 6, & 7 Upland Cleanup – Cultural Resource Monitoring	\$28,288	NA

Consultant Services Selection Summary



Type of Contract: Personal Professional Sole Source Emergency

Res 23-1282: Executive Director authorization shall not exceed \$50,000. Change orders: original cost and all change orders shall not exceed \$50,000. All closely related contracts shall not exceed \$50,000.

1. Project Title	Phase I Environmental Site Assessment – 430 Marine Drive
2. Consultant	Landau Associates
3. Approved Contract Amount	\$11,600
4. SubAccount/GL Account #	15-0-00-MO
5. Budget & Fund Source	Capital Budget Contingency
6. Project Manager	Jesse Waknitz
7. Other Terms: (sales tax)	N/A
8. Closely Related Contracts	N/A
9. Fed Funding Requirement*	N/A

*If federal funding involved, stop and contact Engineering Department for federal requirements. Requires an RFP.

10. Justification

Describe why consultant services are required and why the services cannot be provided by existing staff. Identify if the consultant is a sole source and, if \$50,000 or more, the efforts made to identify potential consultants.

To provide CERCLA and MTCA liability protection Phase I ESA reports are completed to comply with ASTM E1527-13 and require that an Environmental Professional conduct the site assessment. This is best done by contacting out such work to a firm with multiple environmental professionals on staff with appropriate WA State issued professional geologist or engineering license and experience conducting such work.

Initial review of the Property by Port staff details former underground storage tanks at the Property and adjacent properties. The appropriate due diligence is recommended for such sites.

11. Scope of Services

Identify if this is personal services or professional A/E or public work services. Provide a concise Scope of Services, including all anticipated or potential services beyond the initial phase of work.

Prior to purchasing 430 Marine Drive it is in the best interest of the Port for both redevelopment planning and environmental liability protection to have an environmental professional conduct a Phase I ESA to determine the potential for environmental contamination at the property or adjacent properties. Under this agreement the consultant will conduct a Phase I ESA for 430 Marine Drive per ASTM E1527-13.

If recommended in the Phase I ESA report the Port may choose to have Landau or other qualified firm conduct soil and groundwater sampling to determine the extent of potential contamination. This work could be done under an amendment to this agreement or through a new agreement, if in the best interest of the Port.

12. Contract Time	Start Date: <u>01/12/2023</u>	Completion Date: <u>12/31/2025</u>
E.g. project specific; multiple year; include any options etc. Contract time may exceed the deadline for deliverables.		
Milestone or Activity		Date
Authorization to Proceed		7/21/2023
Project initiation, document collection and review		Week of 7/24
Site visit		Week of 7/31 or 8/7
Draft Phase I ESA Report complete		Week of 8/14

13. Explanation of Cost, Work Schedule, and Contingency
Cost of specific project work or contract amount for services per year. Identify any option or contingency. Document why cost is fair and reasonable.
This work is being completed as a lump sum.
The lump sum above equates to approximately 60 hours of consultant time at an average rate of \$190/hr. This cost is fair and reasonable for this type of due diligence that may be utilized in the future to reduce the Port's liability on potential cleanup remedies.

14. Procurement Schedule – Key Milestone Dates
Not applicable, per Port purchasing policy, that is in-line with State requirements, such personal services under \$50k, may be procured by direct solicitation with a qualified firm.

15. Authorized Contract Amount and Any Authorized Contingency
Authorization amount may exceed initial contract amount \$11,600

16. Evaluation Team Members
Jesse Waknitz – Environmental Manager

17. Proposals Evaluation/Summary
Information regarding proposals received and how they were evaluated by the team. Attach evaluation matrix utilized.
Not applicable, per Port purchasing policy that is in-line with State requirements such personal services under \$50k, may be procured by direct solicitation with a qualified firm.

18. Interviews Summary (if conducted)
Interviews were not conducted.



PROFESSIONAL SERVICES AGREEMENT

PROJECT: Communication and Graphic Design Services
CONSULTANT: Laurel Black Communications + Design

THIS AGREEMENT is made and entered into by and between the **Port of Port Angeles** (hereinafter referred to as the "Port" and **Laurel Black Communications + Design**, (hereinafter referred to as the "Consultant") for the furnishing of consultant services for various communication projects detailed under Scope below. The Port and Consultant mutually agree as follows:

SCOPE AND SCHEDULE OF WORK

List of Deliverables:

Create digital graphic media for use on the Port’s website and internet
Create digital brochures, advertisements, newsletters, signs, trade show presentations
Graphic design and content services as required for marketing Port properties, specifically the Marine Trade Center and other properties as required

Schedule:

Consultant will be on call during the term of this Agreement for design services for marketing of Port properties, media news, press releases, and events.

COMPENSATION

This agreement is a not exceed amount of **\$6,000.00**. Any additional compensation will be by written Amendment to this Agreement.

LENGTH OF AGREEMENT

The length of this agreement is from July 1, 2023 through July 31, 2024.

RATE AND FEE SCHEDULE AND OUT-OF-POCKET EXPENSES

Consultant will provide itemized tasks by hour at \$140.00/hour.
Consultant will provide a monthly invoice for any hours worked during each month.

REPRESENTATIVES

The Port’s Project Managers for this Agreement are as specified. Alternate representatives may be appointed by either party with written notice to the other party.

Port’s Project Managers: Cherie Gottschalk, Caleb McMahon

Contacts for the Parties:

Port of Port Angeles
Attn: Cherie Gottschalk
P.O. Box 1350
Port Angeles, WA 98362
leaseadministrator@portofpa.com
(360) 417-3435

Laurel Black
Laurel Black Communications + Design
246 Patterson Road
Port Angeles, WA 98362
Laurel@laurelblack.com
(360) 460-1834



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TERMS AND CONDITIONS

In consideration of the mutual covenants, obligations, and compensation to be paid by the Port to Consultant, it is agreed that:

1. Relationship of the Parties

Consultant, its subconsultants and employees, is an independent Contractor. Nothing contained herein shall be deemed to create a relationship of employer and employee or of principal and agent.

2. Conflicts of Interest

Consultant warrants that it has no direct or indirect economic interest which conflicts in any manner with its performance of the services required under this Agreement. Consultant warrants that it has not retained any person to solicit this Agreement and has not agreed to pay such person any compensation or other consideration contingent upon the execution of this Agreement.

3. Compliance with Laws

Consultant agrees to comply with all local, state, tribal and federal laws and regulations applicable to the services, including registration and taxes, permitting regulations and those regarding employee safety, the work place environment, and employment eligibility verifications as required by the Immigration and Naturalization Service. Consultant shall obtain all licenses and permits required to complete the scope of work as defined. Consultant will ensure that this information is made available to the Consultant's personnel and subconsultants, and incorporated into the contract documents as appropriate.

4. Suspension and Debarment

By signing this agreement, the Consultant verifies that it has not been suspended or debarred from working on federally funded projects.

5. Records and other Tangibles

Until the expiration of six years after the term of this Agreement, Consultant agrees to maintain accurate records of all work done in providing services specified by the Agreement and following Consultant's receipt of final payment therefore to deliver such records to the Port upon termination of the Agreement or otherwise as requested by the Port.

6. Ownership of Work

The services to be performed by Consultant shall be deemed instruments of service for purposes of the copyright laws of the United States. The Port has ownership rights to the work products prepared by the Consultant in performing these services. Consultant shall not be responsible for changes made in the work products by anyone other than the Consultant. Consultant shall have free right to retain, copy and use any tangible materials or information produced but only for its own internal purposes. Use of documents or other materials prepared under this Agreement for promotional purposes shall require the Port's prior consent. Rights to the final approved design(s) will be transferred to the Client when all fees have been paid in full to Laurel Black Communications + Design. All other work created in the course of the project will remain the property of Laurel Black Communications + Design.

7. Disclosure

All information developed by the Consultant and all information made available to the Consultant by the Port, and all analyses or opinions reached by the Consultant shall be confidential and shall not be disclosed by the Consultant without the written consent of the Port except to the extent required by law or legal process.



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8. Deliverables

Unless otherwise specified in the Scope of Work, Consultant shall provide draft deliverables to the Port for review prior to preparation of final deliverables. Delivery of materials produced shall consist both of the tangible materials and final computer files as described in Part 6.

9. Compensation

As full compensation for the performance of its obligations of this Agreement and the services to be provided, the Port shall pay Consultant as specified in the Agreement. Compensation for vehicle usage will be paid at the current Internal Revenue Service allowable mileage reimbursement rate based on road mileage distance between Consultant's office and project location. Consultant's expenses will be reimbursed at cost. Hourly rates shall include all of Consultant's routine administration and overhead expenses, including all equipment, software, tools and supplies reasonably required to perform the scope of services. The Port will not separately reimburse Consultant for routine overhead expenses or administration including but not limited to:

- A. Computer hardware or software usage
- B. Digital camera or recording equipment
- C. Communications - including phone, internet, fax, postage and courier
- D. Routine reproduction except for documents produced by outside vendor
- E. Small tools and expendables.
- F. Federal, state or local taxes
- G. Safety training and equipment
- H. Time devoted to Agreement negotiation, invoicing or dispute resolution.

10. Payment Schedule

Consultant shall submit detailed numbered invoices showing description of work items being invoiced, work order number, title of project, total authorized, total current invoice, balance of authorization, individual's names and titles, hours, hourly rate and all authorized expenses itemized, with backup, by the 10th of the month to be paid by the end of the current month, unless other terms are agreed to by the parties.

11. Costs and Disbursements

Consultant shall pay all costs and disbursements required for the performance of its services under this Agreement.

12. Indemnity

For all claims arising from the performance of the Consultant's professional services, Consultant and its subconsultants agree to indemnify and hold harmless the Port of Port Angeles, its appointed and elective officers and its employees from and against any and all suits, claims, actions, losses, costs, penalties and damages of whatever kind and nature, including attorney fees and costs, by reason of any and all claims and demands on it, its officers and employees, to the extent arising from the negligent acts, errors or omissions by the Consultant in the performance of the Consultant's professional services.

13. Insurance

Prior to commencement of services under this Agreement and if required below, Consultant shall procure and maintain one or more lines of insurance coverage to be kept in force for the life of this Agreement. If



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required, insurance shall be procured from insurance carriers with a current A.M. Best's rating of no less than "A VI". Consultant shall submit to the Port a Certificate of Insurance which shows that it has obtained the required coverage(s). Coverage shall not lapse or be terminated without written notification to the Port, delivered electronically or by mail, not less than thirty (30) days prior to any such lapse or termination. Consultant agrees to notify the Port of any material change of coverage or reduction in limits. Except for professional liability, the Port shall be named as an additional insured on all policies on ISO Form CG 20 10 Form B.

This Agreement [Does] [Does not] require Professional Liability insurance coverage. If neither box is checked, the Agreement does require this coverage.

Consultant shall procure and maintain during the life of this Agreement professional liability insurance of \$1,000,000 per claim and in the aggregate. Insurance shall have a retroactive date before the date of commencement of services and shall remain in effect for the term of this Agreement plus three years.

This Agreement [Does] [Does not] require commercial general liability insurance. If neither box is checked, commercial general liability insurance is required. If required, the following will apply:

Consultant shall procure and maintain during the life of this Agreement commercial general liability coverage on occurrence form CG0001 or equivalent with limits of \$1,000,000 per occurrence and \$2,000,000 aggregate;

This Agreement [Does] [Does not] require automobile liability insurance. If neither box is checked, automobile liability insurance will be required.

Consultant shall procure and maintain during the life of this Agreement automobile liability insurance covering owned, non-owned and hired vehicles of \$1,000,000 combined single limit per accident. Sole proprietors may provide coverage on a Personal Auto Policy in lieu of a Commercial Auto coverage form.

14. Force Majeure

Neither the Port nor the Consultant shall hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the other or the other's employees and agents.

15. Standard of Care

Consultant shall perform its work to conform to generally accepted professional standards. Consultant shall be responsible for the professional quality, technical adequacy and accuracy, timely completion and coordination of all deliverables prepared under this Agreement. Consultant shall, without additional compensation, correct or revise any errors or omissions in such deliverables. The Port's approval of deliverables shall not relieve Consultant of responsibility for the adequacy or accuracy thereof. The Consultant shall remain liable for damages and costs incurred by the Port to the extent arising from the Consultant's errors, omissions or negligent performance of services furnished under this Agreement.

16. Competitive Specification

This Agreement [Does] [Does not] require development of plans or specifications. If required, the following paragraph shall apply:

Consultant shall provide for the maximum use of materials, equipment, construction methods and products that are readily available through competitive procurement, or through standard or proven



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production techniques. Consultant shall not produce a design or specification which would be restrictive or written in a manner as to contain proprietary requirements other than those based on performance, unless such requirements are necessary to demonstrate a specific outcome or to provide for necessary interchangeability of parts and equipment. Consultant shall justify in writing the use of any sole source. Where brand names are identified, they shall be followed by the salient product performance characteristics and the words “or approved equal” so that comparable quality or utility may be determined.

17. Time

Time is of the essence in the performance by the Consultant of the services required by this Agreement. The Consultant shall complete its services within the milestones set forth in the project schedule. The Consultant shall also address issues which may result in completion beyond the established schedule or budget.

18. Assignability

Consultant shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement to any party without prior written consent of the Port.

19. Term of this Agreement

The effective dates of this Agreement are as specified. This Agreement may be terminated by the Port for cause when the Port deems continuation to be detrimental to its interests or for failure of the consultant to perform the services specified in the Agreement. The Port may terminate this Agreement at any time for government convenience in which case it shall provide notice to the Consultant and reimburse the Consultant for its costs and fees incurred prior to the notice of termination. The provisions and warranties contained in this Agreement that by their sense and context are intended to survive the completion of performance or termination of this Agreement shall so survive. All indemnities provided in this Agreement shall survive the expiration or any earlier termination of this Agreement.

20. Disputes

If a dispute arises relating to this Agreement and cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute through a mediation firm acceptable to both parties, the cost of which shall be divided equally. The Port reserves the right to join any dispute under this Agreement with any other claim in litigation or other dispute resolution forum, and the Consultant agrees to such joinder, so that all disputes related to the project may be consolidated and resolved in one forum. Venue for any litigation shall be the Clallam County Superior Court of the State of Washington and the prevailing party shall be entitled to recover its costs and reasonable attorney fees.

21. Extent of Agreement

This Agreement represents the entire and integrated understanding between the Port and Consultant and may be amended only by written instrument signed by both the Port and Consultant.

22. Order of Precedence

The provisions of this Agreement are complimentary and shall be interpreted to give effect to all of its provisions. Any inconsistency in this Agreement shall be resolved in the following order of precedence, if contained in this Agreement:



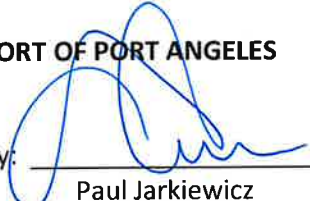
Celebrating 100 years serving Clallam County

- A. Personal Services Agreement including Terms and Conditions, as modified by the latest amendment.
- B. Attachment A, Scope of Work, as modified by the latest amendment.
- C. Attachment B, Schedule of Fees, as modified by the latest amendment.
- D. Remaining attachments to the Personal Services Agreement:

AGREED

This agreement is expressly conditioned upon the Terms and Conditions and any Attachments attached and by reference incorporated herein. Consultant acknowledges reading this Agreement, understands it and agrees to be bound by its Terms and Conditions.

PORT OF PORT ANGELES

By:  _____
Paul Jarkiewicz

Title: Executive Director

Date: 07/28/2023

LAUREL BLACK COMMUNICATIONS + DESIGN

By:  _____
Laurel Black

Title: Owner

Date: July 28, 2023

**ITEM FOR CONSIDERATION
OF THE
BOARD OF PORT COMMISSIONERS**

Date: August 8, 2023

Subject: Dash Air Shuttle Inc.

Presented by: Caleb McMahon, Director of Economic Development

Location: 1402 Fairchild Airport Road, Terminal

RCW & POLICY REQUIREMENTS

Per RCW 53.08.08 Lease of Property, a district may lease all lands, wharves, docks and real and personal property upon such terms as the port commission deems proper. No lease shall be for a period longer than fifty years with option up to an additional thirty years.

Per RCW 53.08.085, security for rent is required for every lease of more than one year. Rent may be secured by rental insurance, bond, or other security satisfactory to the port commission, in an amount equal to one-sixth the total rent, but in no case shall such security be less than one year's rent or more three years' rent. If the security is not maintained the lease shall be considered in default. The port commission may in its discretion waive the rent security requirement or lower the amount of such requirement on the lease of real and/or personal port property.

Per Section I of the Ports Delegation of Authority, all term lease agreements of real property shall be leased only under an appropriate written lease instrument executed by the Commission. Per Section 1.B.4 Commission approval is required for any lease that contains any material non-standard terms or conditions.

BACKGROUND:

Associated documents are:

- a. Air Service Incentive Program, Commission Resolution 20-1211 on 1.29.2020.
- b. Item for Consideration for Minimum Revenue Guarantee Program presented to Commission at the April 27, 2021 meeting, and approved by Commission. This document outlines waived landing fees of four per day, and waived terminal rent for a 216 SF space. (Amendment to Minimum Revenue Guarantee Program approved at the July 25, 2023 Commission Meeting.)
- c. Port Angeles – Seattle Air Service Agreement for service period August 11, 2022 – August 10, 2024. This Agreement was Amended with new service dates of August 1, 2023 – January 8, 2024.

LEASE DETAILS:

The tenant will lease 420 SF of the lobby in the terminal building for a total of 420 SF. Tenant to pay Electricity \$100/month, Common Area Maintenance Charge of \$200/month, and leasehold excise tax. No hangar or tie-down rentals are included.

Proposed Waived Items in Lease:

Terminal Rent \$1.00/SF x 420 SF = \$420/month

Wi-Fi: Free for first six months of lease

Landing Fees: \$15/each

Parking at main terminal for employees and customers

Commencement Date: August 1, 2023.

Term: Term expiration will match the new Addendum to the Port Angeles – Seattle Air Service Agreement service period to end on January 8, 2024.

Options to Renew: 2 x 1-year extensions at Port consent.

Bond/Security: Port policy requires three months rent as a financial security deposit. Port Commission waived financial security requirement for this tenant at the December 13, 2022 meeting.

Insurance: Current Port policy is \$1 million liability per occurrence, and \$2 million general aggregate limits. No changes.

Non-Standard (requires Commission approval) or Unique Terms:

1. Commercial Term Lease with the following non-standard items:
 - a. Waived rent for 420 SF in terminal lobby and office.
 - b. Waived landing fees of four - six per day.
 - c. Waived financial security.
 - d. Two year term.
 - e. Initial use of the Port's Wifi at no cost for six months.
 - f. Nonexclusive use of Port's parking lots at the airport terminal.

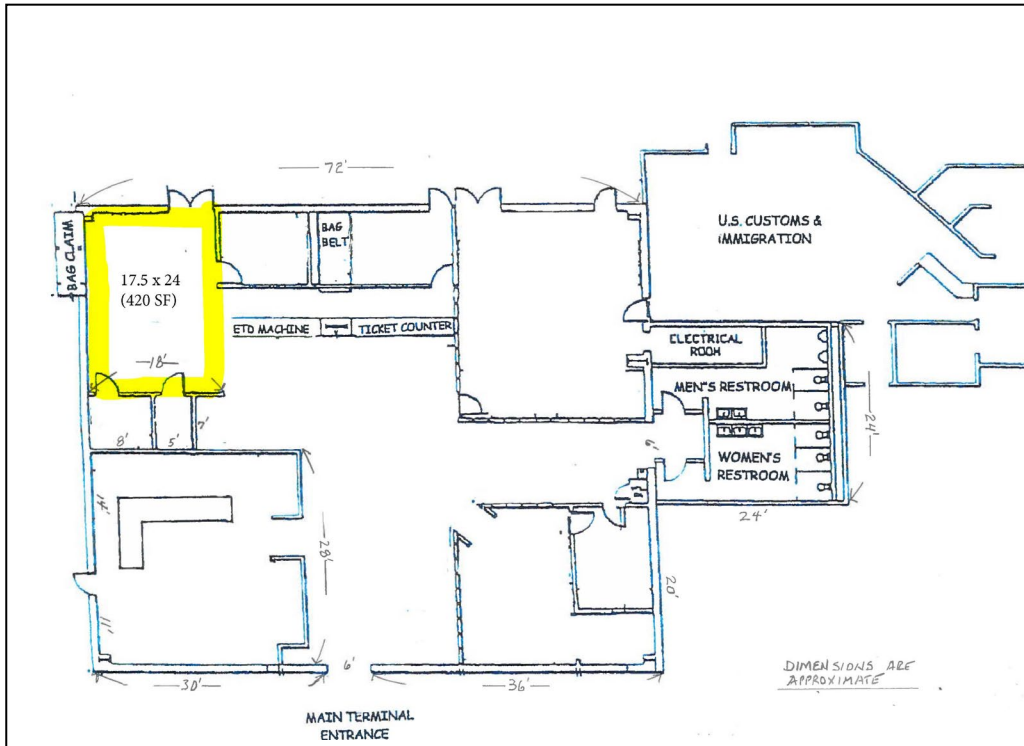
Financial Impact:

DASH AIR SHUTTLE, INC. - Airport Terminal			
Lease Area	SF	\$/SF	Rate/month
*Terminal Lobby	420	\$1.00	\$420.00
Tenant to pay Leasehold Excise Tax on lobby		\$0.1284	\$53.93
*Landing Fee (4-6/day x 30 days)	120	\$15.00	\$1,800.00
Tenant to pay Electricity			\$100.00
Tenant to pay CAM fee			\$200.00
*Monthly Charges Waived			\$2,220.00
Monthly Charges Non-Waived			\$353.93

Port Support for Commercial Lease: \$2,220/month for 20-month term is \$44,400 for the initial lease term.

RECOMMENDED ACTION:

Staff recommends the Commission approve the non-standard items as presented, being a Commercial Term Lease as outlined with lease term dates and waived items above.



**PORT OF PORT ANGELES - SEATTLE
AIR SERVICE AGREEMENT
AMENDMENT**

THIS AIR SERVICE AGREEMENT (this “Agreement”) made and entered into as of August 1, 2023 (the “Effective Date”) by and between Dash Air Shuttle Inc., a Delaware Corporation (“Dash”); and the Port of Port Angeles, a Port Authority in Clallam County, in Washington State (“CLM”).

W I T N E S S E T H

WHEREAS, The Port of Port Angeles is a Port Authority in the State of Washington, and

WHEREAS, Dash is an entity willing to provide scheduled air service between Port Angeles, WA (CLM) and Seattle, Washington (SEA), on the terms and conditions set forth herein;

WHEREAS, Dash and the Port desire to replace Exhibit A (hereby attached), which outlines the new details of this Agreement.

NOW, THEREFORE, for and in consideration of the above recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

1. **Scheduled Service.** Dash shall provide scheduled air service (operated by a Part 135 certified air carrier) on the routes and schedules and during the “Service Periods” specified in **Exhibit A**, as may be amended from time to time, using Cessna 402C (9 seat) or similar equipment (each flight with CLM as its origin or destination on a single day is hereinafter referred to as a “Scheduled Flight” and all such flights are hereinafter referred to collectively as “Scheduled Flights”).

Flight schedules to/from CLM will be set in Dash’s sole discretion, based upon aircraft, staff, crew, and gate availability and weather and season changes and other operational factors. Dash will publish its CLM flight schedules in advance in accordance with its standard practices.

2. **Revenue Guarantee.** CLM hereby guarantees to compensate Dash up to the Guarantee Cap (as defined on Exhibit A) if Dash does not realize at least a certain level of revenue (the “Minimum Revenue Threshold”) for operating the Scheduled Flights during the “Service Periods”. For purposes of this Agreement, “Revenue” is defined as the actual passenger revenue Dash receives for a Scheduled Flight, including revenue from ancillary revenues derived from baggage fees, change fees, and other sources.

3. **Payment of Revenue Guarantee.** At the conclusion of each calendar month within the “Service Period”, if Dash’s aggregate Revenues (*i.e.*, Revenue per Scheduled Flight multiplied by the number of Scheduled Flights operated by Dash during the calendar month within the “Service Period”) are less than the Minimum Revenue Threshold shown on Exhibit A multiplied by the number of Scheduled Flights during the respective calendar month within the “Service Period”, then CLM shall remit the amount of the shortfall (the “Guarantee Amount”) up to the Guarantee Cap (specified on Exhibit A) to Dash within fifteen (15) days of receipt of Dash’s invoice. Said invoice shall be provided by Dash no later than ten (10) business days after the end of the calendar month within the “Service Period.” In the event that this Agreement is terminated before the conclusion of the “Service Period” under Section 3, Dash will

calculate the Guarantee Amount due, if any, on a pro rated basis taking into account the number of Scheduled Flights operated by Dash from the Effective Date up to and including the termination date.

Dash's calculation of the Guarantee Amount due under this section shall be binding and conclusive, provided that CLM shall have the right, upon reasonable notice, to examine the business records of Dash relating to such calculation, and to dispute the amount within thirty (30) days if this examination reveals errors or irregularities in Dash's accounting practices. Such right to examine Dash's records and dispute the amount payable shall be waived if not exercised within thirty (30) days or if payment is actually submitted in the amount claimed by Dash.

4. Operational Responsibility. Except for the obligation to pay Dash the Guarantee Amount, CLM and all affiliated entities hereby disclaim any and all liability to passengers or other third parties associated with the Scheduled Flights. Dash bears sole responsibility for the operation of the Scheduled Flights, including the decision whether or not to operate a Scheduled Flight, and any liability resulting therefrom.

5. Expiration. This Agreement shall expire on the "Expiration Date," which shall mean:

- (i) if Dash achieves the Minimum Revenue Threshold during any of the Service Periods (or, in the case of early termination under Section 3, the prorated Service Period), at the conclusion of the Service Period (or prorated Service Period);
- (ii) if Dash does not achieve the Minimum Revenue Threshold during the Service Period (or, in the case of early termination under Section 3, the prorated Service Period), the date on which CLM has paid and Dash has received the Guarantee Amount.

6. Non-Disclosure. The parties agree to preserve as confidential the terms of this Agreement except for such disclosures that are required in connection with the party's performance of this Agreement or by law.

7. Assignment. This Agreement and the rights and obligations created hereunder shall not be assigned by any party without the prior written consent of the other parties.

8. Best Efforts in Promotional Activities. The parties agree that they will use their best efforts, at their own expense, to promote the Scheduled Flights in such a way as to maximize the public awareness of the availability of the Scheduled Flights.

9. Governing Law. This Agreement shall at all times be subject to federal, state, and local laws and to all applicable rules and regulations of any governmental agencies or other entity with oversight authority. No party shall be liable to any other party if it is prevented from fulfilling its obligation under this Agreement by reason of any such law, rule or regulation. This Agreement shall, in all respects, and unless otherwise provided for herein, be governed by and construed in accordance with the laws of the State of Delaware. The parties agree that any dispute resolution will be resolved solely in the federal court of the District of Delaware of Delaware or other venue as the parties may both agree.

10. Insurance. At all times during the term of this Agreement, Dash shall carry and maintain, at its sole cost and expense, airline liability insurance with aggregate limits of at least \$2,000,000 USD for personal injury (including without limitation bodily injury and death) and property damage, including a waiver of subrogation in favor of Dash. CLM will be provided thirty (30) days advance written notice in the event of cancellation, termination or adverse material modification of the required insurance coverages contained herein, and shall name Dash, its officers, directors, employees and agents hereunder as additional insureds;

11. Indemnification. Dash and CLM will each indemnify, defend and hold harmless the other party and their respective officers, directors, employees, agents and representatives from and against any and all third party claims or causes of actions arising out of, under or in connection with (i) bodily or other personal injury to, or death of, any person, or (ii) damage to or destruction of any tangible property, in each case resulting from, or arising out of, under or in connection with the negligence or willful misconduct of the indemnitor.

12. Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto with respect to the subject matter hereof. This Agreement may be modified or amended only by writing signed by the party(ies) against which enforcement of the modification or amendment is sought.

IN WITNESS WHEREOF, the parties hereto have caused their undersigned, duly authorized representatives to execute this Agreement as of the Effective Date.

DASH AIR SHUTTLE, INC

By: _____
Clinton P Ostler
President

Date: _____

PORT OF PORT ANGELES

By: _____
Paul Jarkiewicz
Executive Director

Date: _____

EXHIBIT A
(2023-2024 Operating Years)

Scheduled Service between:
SEA – Port Angeles, WA (CLM)

Service Period:
August 1, 2023- January 8, 2024

Frequency (Round-trips/day):
Up to 6x Daily Peak Weekday Schedule (subject to change):

CLM-SEA:

DA1: 0650-0730
DA3: 0915-0945
DA5: 1315-1345
DA7: 1710-1740

SEA-CLM:

DA2: 0820-0850
DA4: 1220-1250
DA6: 1615-1645
DA8: 1840-1910

Minimum Revenue Threshold for flights during the Service Period:
Maximum amount per flight listed under “MRG” (based on flights per day):

Dash Frequency Sensitivity						
Round-trips	B/E Flight	MRG	Forecast	MRG v Fcst	Monthly MRG Exposure	
					Max	Payout
0-1.9	\$951	\$980	\$743	(\$238)	\$64,680	(\$16,286)
2-2.9	\$951	\$980	\$743	(\$238)	\$117,600	(\$28,500)
3-3.9	\$815	\$850	\$743	(\$108)	\$153,000	(\$19,350)
4-4.9	\$774	\$800	\$743	(\$58)	\$192,000	(\$13,800)
5-5.9	\$723	\$750	\$743	(\$8)	\$225,000	(\$2,250)
6-6.9	\$689	\$700	\$743	\$43	\$252,000	\$15,300
Forecast assumes 75% load factor (~7 pax) at an average fare of \$110						

Maximum Guarantee Amount payable by CLM if Dash does not reach Minimum Revenue Threshold (“Guarantee Cap”):

\$333,000

**GRANT AGREEMENT BETWEEN THE U.S. DEPARTMENT OF
TRANSPORTATION AND THE PORT OF PORT ANGELES, ACTING FOR
THE COMMUNITY OF PORT ANGELES, WASHINGTON, UNDER THE
SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM
CFDA 20.930 FAIN: DOT-OST-2016-0037-0022
DOCKET: DOT-OST-2016-0037-0022**

AMENDMENT NO. 4

This Amendment No. 4 to the Grant Agreement dated as of September 14, 2016, between the U.S. Department of Transportation (DOT) and the Port of Port Angeles, acting for the community of Port Angeles, Washington, under the Small Community Air Service Development Program, is entered into by and between the DOT and the Sponsor and is effective as of the date fully executed by both parties. The Grant Agreement is set to expire January 10, 2023.

The DOT and the Sponsor hereby agree to amend the Grant Agreement as follows:

- (1) Extension of the Grant Term. Section B.4 of the Grant Agreement is hereby amended to read as follows: Subject to the terms set forth in this Grant Agreement, and unless otherwise agreed between the Sponsor and the DOT, this Grant Agreement will expire January 8, 2024.
- (2) No Other Modifications. Except for the amendment to Section B.4, described above, this Amendment No. 4 makes no other modifications to the Grant Agreement and all terms and conditions of the Grant Agreement will continue in full force and effect.
- (3) Counterpart Signature Pages. This Amendment No. 4 may be executed and delivered in counterparts, each of which will be deemed an original.

**GRANT AGREEMENT BETWEEN THE U.S. DEPARTMENT OF
TRANSPORTATION AND THE PORT OF PORT ANGELES, ACTING FOR THE
COMMUNITY OF PORT ANGELES, WASHINGTON, UNDER THE SMALL
COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM
CFDA 20.930 FAIN: DOT-OST-2016-0037-0022
DOCKET: DOT-OST-2016-0037-0022**

AMENDMENT NO. 4 CONTINUED

IN WITNESS WHEREOF, the DOT and the Sponsor have caused this Amendment No. 4 to be executed by their authorized representatives.

For the Department of Transportation:

Executed this 6th day of January, 2023

United States Department of Transportation

(SEAL)



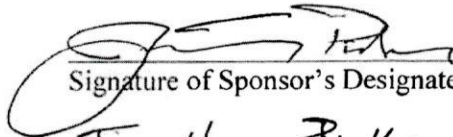
Brooke Chapman
Associate Director
Small Community Air Service Development Program

For the Sponsor:

Executed this 4th day of January, 2023.

Port of Port Angeles
Port Angeles, Washington

(SEAL)



Signature of Sponsor's Designated Official Representative

Jonathan Pickler
Printed Name

Airport & Marina Manager
Title

COMMERCIAL LEASE

THIS COMMERCIAL LEASE (“Lease”) is made and entered into as of the date last written below, by and between the **PORT OF PORT ANGELES**, a Washington municipal corporation (the “**Port**”), and **DASH AIR SHUTTLE INC.**, a Delaware corporation (“**Lessee**”) (individually “**Party**” and collectively “**Parties**”).

ARTICLE I

Summary of Lease Terms and Definitions

The Port: Port of Port Angeles
338 W First Street
P.O. Box 1350
Port Angeles, WA 98362

Lessee: Dash Air Shuttle Inc.
14900 Interurban Avenue S., Suite 271
Tukwila, WA 98168

Premises: 420 square feet of airport terminal lobby, together with non-exclusive use of the common-area restrooms, and non-exclusive use of the main parking lot adjacent to the terminal, all located at the William R. Fairchild terminal, 1402 Fairchild Airport Road in Port Angeles, Washington as depicted in the Map of Premises attached to this Lease as **Exhibit A**.

Lessee-owned Improvements:

As of the Commencement Date as defined herein, the following fixtures and improvements are owned by Lessee and are not part of this Lease: **None**.

Initials:

Port

Lessee

Use of Premises: Aeronautical activity, specifically scheduled air service for the public from William R. Fairchild Airport to Seattle.

Benefit to the Public: Scheduled air service from William R. Fairchild Airport to Seattle.

Commencement Date: August 1, 2023

Term: August 1, 2023 through January 8, 2024.

Extensions: Two (2) one-year extensions.

Requires Port consent, at Port’s sole discretion

Base Rent:

DASH AIR SHUTTLE, INC. - Airport Terminal			
Lease Area	SF	\$/SF	Rate/month
*Terminal Lobby	420	\$1.00	\$420.00
Tenant to pay Leasehold Excise Tax on lobby		\$0.1284	\$53.93
*Landing Fee (4-6/day x 30 days)	120	\$15.00	\$1,800.00
Tenant to pay Electricity			\$100.00
Tenant to pay CAM fee			\$200.00
*Monthly Charges Waived			\$2,220.00
Monthly Charges Non-Waived			\$353.93

Financial Security (see Section 5.4 for more information: Lessee requested financial security be waived. Port Commission approved at the December 13, 2022 meeting.

Additional Unique Terms and Conditions:

1. Lessee states they have complied with all Federal Aviation Administration requirements as a provider of scheduled commercial flights.
2. Lease terms and conditions are not to exceed those identified in this lease.
3. Lessee is not leasing any tie-downs or hangar space. Fuel is available for purchase from the Port's fixed-base operator at market price.
4. Port Commission approved liability coverage limits of \$1 million per occurrence and \$2 million general aggregate at the December 13, 2022 meeting.

Incentive Provisions: Rent, landing fees, and electricity are waived for In-Kind services of Lessee providing scheduled air service from William R. Fairchild Airport to Seattle. Port will provide free Wi-Fi service for Lessee's use for six months after lease commencement.

RELEVANT DOCUMENTS

William R. Fairchild International Airport Rules and Regulations and Minimum Standards: Lessee will comply with the current document, available on the Port's website.

Port Angeles – Seattle Air Service Agreement: The Air Service Agreement, as Amended, between the Lessor and Lessee for service period through January 8, 2024 outlines terms between the parties.

Air Service Incentive Program, William R. Fairchild International Airport: The Port program, dated January 28, 2020 provides incentives for Air Service.

ARTICLE II
Premises, Term, Renewals

2.1 **PREMISES**: In consideration of the rents hereinafter reserved and of the covenants and conditions set forth herein to be performed by Lessee, the Port does hereby lease the Premises to Lessee.

2.2 **TERM**: The term of this Lease shall begin August 1, 2023 through January 8, 2024. If Lessee takes possession of the Premises before the Commencement Date, Lessee shall pay the pro rata rent for the period prior to commencement of the Lease term.

2.3 **RENEWAL**: Subject to the terms and conditions herein, Lessee may renew this Lease for two (2) consecutive one (1) year periods by giving written notice of such intention to the Port at least ninety days (90) days prior to the expiration of the term of this Lease or any renewal thereof. It is a condition precedent to Lease Renewal that the Lessee be in good standing at the time of renewal and that Lessee is not in default under the terms of this Lease or any other lease or agreement with the Port. The terms and conditions of any renewal shall be generally the same as set forth in this Lease, except for special terms and In-Kind Services. However rent shall be recalculated and the terms of this Lease shall be updated to be consistent with the terms and conditions of the existing Port's Commercial Lease Agreement. All lease extensions and renewals shall be at the sole discretion of the Port unless previously authorized by the Commission. At the time of renewal, extension, exercising option, etc. the Lease will be reevaluated and brought up to fair market value.

Lessee's renewal is likewise subject to and contingent upon the Port's acceptance of Lessee's renewal notice, which the Port may withhold in its sole discretion. Failure of Lessee to give required notification may, at the discretion of the Port, result in the option(s) being null and void. Should the Port decline to accept Lessee's renewal notice, this Lease will terminate upon the expiration of the then-existing term.

ARTICLE III
Rent, Rental Adjustment

3.1 **RENT**: The term "**Rent**" as used herein includes Base Rent, Common Area Maintenance ("CAM") Expenses (if any) as that term is defined herein below, applicable Washington State leasehold excise tax, consistent with RCW Chapter 82.29A relating to leasehold excise tax, and any subsequent revision or amendment thereto, and other fees and charges assessed herein. Base Rent and Washington State leasehold excise tax shall be paid without the requirement that the Port provide prior notice or demand, and shall not be subject to any counterclaim, setoff, deduction, defense or abatement. For any other fees and charges which may be assessed by the Port herein, the Port shall first provide written notice thereof, and Lessee shall pay such fees and/or charges within thirty (30) days of receipt of such written notice without any counterclaim, setoff, deduction, defense or abatement.

3.1.1 If Lessee fails to pay the required Rent as by this Lease, the Port shall charge late fees as outlined below. An administrative fee of \$25 will be charged for each month a late or finance fee is charged:

3.1.1.1. 30 days nonpayment = late fee is charged. At the first of month after 30 days late: Late fee is 2% or \$100, whichever is greater, of total outstanding Rent, leasehold tax (“LHT”), utilities and charges billed.

3.1.1.2 60 days nonpayment = late fee is charged. At the first of month after 60 days late: Late fee is 5% or \$300, whichever is greater, of outstanding Rent, LHT, utilities, and charges billed. Eviction process will be initiated.

3.1.1.3 90 days nonpayment = late fee of 8% or \$700 whichever is greater, of outstanding Rent, LHT, utilities, and charges billed and eviction will be enforced.

3.1.2 **Base Rent Adjustment**: The Base Rent shall be adjusted each January for years 1-4 to compensate for the effect of inflation on the rental rate. A thirty-day written notice will be given in November to the Lessee that Consumer Price Index adjustments will take place on the following January 1st. Upon the provision of such notice, the Base Rent rate shall be automatically adjusted every January to reflect the percentage change in the Consumer Price Index for All Items in West - Size Class B/C, All Urban Consumers, as issued by the U.S. Department of Labor, Bureau of Labor Statistics, or the closest comparable index if the above index is no longer published (“**CPI Increase**”). Effective January of year 5, and every fifth anniversary thereafter, the Base Rent shall be adjusted in order to compensate for changes in market conditions as determined by an independent appraisal. The Base Rent shall be equal to the fair market value as established by that appraisal (“**FMV Rent Rate**”). If that FMV Rent Rate is less than the Base Rent then in effect, then such existing Base Rent shall not be reduced but shall remain flat for the following five (5) years, together with the CPI Increases.

3.2 **COMMON AREAS**: The Airport terminal is for Lessee’s business use. Also, non-exclusive use of the terminal restrooms. Lessee will regularly clean and maintain the common restrooms and terminal lobby along with the other terminal tenants. The main airport terminal parking lot is available for non-exclusive parking.

3.2.1 **Common Areas; Definition**: The term “**Common Areas**” shall mean those areas in and around the Premises owned by the Port that are provided and designated by the Port from time-to-time for the general non-exclusive use of the Port, Lessee, other tenants of the Port, and/or the respective employees, suppliers, shippers, customers, clients, invitees and licensees of such Parties. Common Areas may include, but are not limited to, lobbies, hallways, common restrooms, electrical and mechanical areas, supply and janitorial rooms, exterior wall surfaces of the Premises walkways, driveways, parking areas, service areas, landscaped areas, and other Port owned areas provided for the non-exclusive use of its tenants. The Port or its agents shall operate, manage, equip, light, repair, replace and maintain the Common Areas for their intended purpose at such times and in such manner as the Port shall reasonably determine.

3.2.2 **Lessee’s Common Area Lease Rights**: The Port hereby grants to Lessee, for the benefit of Lessee and its employees, suppliers, shippers, customers, clients and invitees during the term of this Lease, the non-exclusive right to use, in common with others entitled to such use, the Common Areas as they exist from time-to-time, subject to any rights, powers and privileges reserved by the Port under the terms hereof or under the terms of any rules, regulations or restrictions governing the use of the Common Areas. Under no circumstances shall the right herein granted to use the Common Areas be deemed to include the right to store any property, temporarily or permanently, in the Common Areas. Any such storage shall be permitted only by prior written

consent of the Port or the Port's designated agent, which consent may be revoked at any time. In the event that such unauthorized storage shall occur, then the Port shall have the right, without notice, in addition to such other rights and remedies that it may have, to remove the property and charge the cost to Lessee, which cost shall be payable on demand by the Port.

3.2.3 **Changes to Common Areas:** The Port shall have the right from time-to-time to make changes to the Common Areas, including, without limitation: (i) changes in the location, size, shape and number thereof; (ii) to temporarily close any of the Common Areas for maintenance and public purposes so long as reasonable access to the Premises remains available; (iii) to add additional improvements to the Common Areas; and (iv) to use Common Areas while engaged in making additional improvements, repairs or alterations to the Premises or any portion thereof, as the Port may, in the exercise of sound business judgment, deem appropriate. The Port shall nevertheless diligently perform construction, repair or maintenance work to minimize interruptions in the use of Common Areas.

3.2.4 **Common Area Maintenance Expenses; Definition:** The term "**Common Area Maintenance Expenses**" or "**CAM Expenses**" as used herein shall mean the sum of the costs and expenses incurred by the Port with respect to maintenance, upkeep and repair of and to the Common Areas.

3.2.5 **Payment of CAM Expenses:** Lessee shall pay to the Port Lessee's agreed pro rata share of the CAM Expenses ("**Pro Rata Share**"). Lessee's Pro Rata Share is based on the percentage obtained by dividing the agreed rentable area of the Premises by the agreed building area. The Parties agree that Lessee's Pro Rata Share under this Lease is a monthly payment of **Two Hundred Dollars (\$200.00)**.

Initial
Port of P.A.

Initial
Dash Air

3.2.6 **Adjustment of CAM Expenses:** Each year of this Lease or renewal term (as the case may be), the Port will establish an estimate of a year's total CAM Expenses, and Lessee shall pay Lessee's Pro Rata Share on a monthly basis in accordance with the monthly rental payment obligations set forth in Section 3.1 of this Lease. Within sixty (60) days after the expiration of each Lease year, the Port shall deliver to Lessee a reasonably detailed statement showing Lessee's Pro Rata Share of the actual total of CAM Expenses incurred during the preceding year. If Lessee's payments under this Paragraph during the preceding year were less than Lessee's Pro Rata Share as indicated on said statement, Lessee shall pay to the Port the amount of the deficiency within thirty (30) days after delivery by the Port to Lessee of said statement; any overpayment made by Lessee shall be credited toward Lessee's liability for Rent for succeeding months.

3.3 **ABATED RENT:** If this Lease provides for a postponement of any monthly rental payments or other rent concession, such postponed rent is called the "**Abated Rent.**" Lessee shall be credited with having paid all of the Abated Rent on the expiration of the term of this Lease only if Lessee has fully, faithfully and punctually performed all of Lessee's obligations hereunder, including the payment of all Rent, including, if applicable, Abated Rent, and all other monetary obligations and the surrender of the Premises in the condition required by this Lease. If Lessee

defaults and does not cure within any applicable grace period, the Abated Rent shall immediately become due and payable in full and this Lease shall be enforced as if there were no such rent abatement or other rent concession. In such case, Abated Rent shall be calculated based on the full initial rent payable under this Lease, plus interest thereon at the rate of twelve percent (12%) per annum from date each monthly rental payment was postponed.

3.4 **LEASEHOLD AND OTHER TAXES:** Throughout the term of this Lease, Lessee shall be liable for, and shall pay or, as applicable, reimburse the Port for, all license fees and excise and occupation taxes covering the business conducted on the Premises, all taxes on property of Lessee on the Premises, ad valorem taxes or taxes levied in lieu of an ad valorem tax, and any taxes on the leasehold interest created by this Lease and/or measured by the rent payments hereunder, whether imposed on Lessee or on the Port. With respect to the leasehold excise tax payable hereunder, Lessee shall pay to the Port with each rent payment an amount equal to the tax. All other tax amounts for which the Port is or will be entitled to reimbursement from Lessee shall be paid by Lessee to the Port at least fifteen (15) days prior to the due dates of the tax amounts involved, provided that Lessee shall be given at least ten (10) days' prior written notice of the amounts payable by Lessee.

ARTICLE IV

Use of Premises, Condition of Property, Improvements, Removal of Property, Maintenance, and Utilities

4.1 **LESSEE'S USE OF THE PREMISES:** Lessee shall conduct only the following activity on the Premises: Scheduled air service from William R. Fairchild International Airport to Seattle (the "**Authorized Use**") and such additional uses incidental or otherwise related to such Authorized Use.

4.1.1 Lessee shall be in default under this Lease if it: (i) ceases conducting the Authorized Use for any period of time exceeding one hundred twenty (120) consecutive days; or (ii) conducts any other business or activity on the Premises without first obtaining the Port's consent, in the Port's sole discretion, which shall be evidenced by a validly executed written Lease modification. In conducting the Authorized Use, Lessee shall properly and fairly serve the public, providing reasonable hours of operation, and reasonably suitable service.

4.1.2 Notwithstanding the foregoing described use, the Premises shall not be used to store, distribute or otherwise handle flammable, dangerous or hazardous materials, excepting only those necessary to conduct the Authorized Use. At the request of the Port, Lessee shall provide a list of all flammable, dangerous or hazardous materials stored or used on the Premises.

4.2 **ACCEPTANCE OF PREMISES:** Lessee accepts the Premises, including all existing improvements thereon, "as is" without further maintenance liability on the part of the Port, except as otherwise specifically noted herein. Lessee is not relying on any representations of the Port as to condition, suitability, zoning restrictions or usability, except the Port's right to grant a lease of the Premises.

4.3 **CONSTRUCTION OF TENANT IMPROVEMENTS:** Lessee shall abide by the following terms with regard to making any tenant improvements on the Premises (“**Tenant Improvements**”):

4.3.1 Subject to obtaining the Port’s written approval, Lessee may make and install, at its own expense, such Tenant Improvements as are normal and customary in connection with the Authorized Use set forth herein. Lessee’s contractor, if any, shall be subject to the Port’s approval, not unreasonably withheld. The Port reserves the right to condition its approval upon Lessee providing payment and/or performance bonds satisfactory to the Port. Lessee shall submit plans to and obtain written approval from the Port before commencing any Tenant Improvements. The Port shall have a reasonable period of time to review such plans prior to issuing a decision. Upon the provision of written notice to Lessee that the Port’s review of plans will require extraordinary staff review time, the Port may charge Lessee a reasonable pre-established fee for staff, consultant or attorney time required to review the plans. All Tenant Improvements which are to be designated fixtures shall be so designated by the Port upon the Port’s approval of the plans for such improvements. Unless otherwise agreed, all improvements by Lessee shall conform to the requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq. (the “**ADA**”).

4.3.2. Return on Investment. All Tenant Improvements completed by the Port at its expense will require a return on investment of not less than the Port’s expense paid by the Lessee receiving the benefit from said Tenant Improvement.

4.3.3. A payback schedule for the Tenant Improvement costs will be determined by the Port on a case-by-case basis.

4.3.4. All Tenant Improvements will have a scheduled return on investment until the Port’s expense and overhead associated with the Tenant Improvement is reimbursed by Lessee.

4.3.5 **Unauthorized Improvements:** Any Tenant Improvements made on the Premises without the Port’s prior written consent or which are not in conformance with the plans submitted to and approved by the Port (“**Unauthorized Improvements**”) shall be subject to removal by Lessee at Lessee’s expense upon sixty (60) days’ written notice from the Port.

4.4 **TITLE TO LESSEE IMPROVEMENTS, FIXTURES AND PERSONAL PROPERTY AT LEASE TERMINATION:** Except as otherwise provided in the description of the Premises in Article I above, as of the Commencement Date, all existing structures, buildings, installations, and improvements of any kind located on the Premises are owned by and title thereto is vested in the Port. Prior to Lease Termination, Lessee shall remove the following from the Premises:

- a. All equipment;
- b. All personal property;
- c. All Lessee Improvements not designated as Fixtures in Article I above or pursuant to Section 4.3.1 above.

Initials:

Port

Lessee

4.4.1 If Lessee removes any part of a structure, including the items listed above (“**Removal Items**”), from the Premises, it shall be obligated to remove all thereof, except such portions as the Port may desire to leave remaining, including the foundation. The Lessee will correct any environmental issues. The Port may require Lessee to remove all or any portion of the Removal Items from the Premises, upon the Port’s written notification to Lessee within 30 days of the expiration of this Lease. In the event any Removal Items are removed by Lessee, Lessee shall restore the Premises to the condition they were in prior to their construction.

4.4.1 If any of the Removal Items are not removed from the Premises by Lease Termination or when the Port has the right of re-entry, then the Port may, at its sole option, elect any or all of the following remedies:

a. Upon the expiration of thirty (30) days’ written notice to Lessee that Removal Items remaining on the Premises are required to be removed therefrom by Lessee, if Lessee has not completed the removal, the Port may remove any or all of the Removal Items and dispose of them without liability to Lessee, and at Lessee’s cost. The Port shall not be required to mitigate its damages, to dispose of the Removal Items in a commercially reasonable manner, or to make any effort whatsoever to obtain payment for such items. Lessee agrees to pay the Port’s costs and damages associated with Lessee’s failure to remove such Removal Items, including, but not limited to, the following: storage, demolition, removal, transportation and lost rent (collectively “**Disposal Costs**”); provided, however, that any net proceeds recovered by the Port in excess of its Disposal Costs will be deducted from Lessee’s financial obligation set forth herein. Lessee’s financial obligations herein shall survive the termination of this Lease; and or

b. Claim and take title in the Port to any or all Removal Items, however, the Port retains the option to decline ownership at Lease termination; and/ or

c. Commence suit against Lessee for damages or for specific performance.

4.4.2 During any period of time employed by Lessee under this Section to remove Removal Items including structures, buildings, installations, improvements, machines, appliances, equipment and trade fixtures, Lessee shall continue to pay a rent due and all other fees or expenses due and owing to the Port in accordance with this Lease on a prorated daily basis.

4.4.3 The foregoing remedies are cumulative, and the Port shall not be required to elect its remedies.

The Port and Lessee hereby acknowledge the rights, obligations and remedies set forth in this Section 4.4.

Initials:

Port

Lessee

4.5 **MAINTENANCE OF PREMISES:** The maintenance and repair of the Premises are the sole responsibility of Lessee, except as set forth in the Maintenance Inclusion List attached hereto

4.7.2 Lessee agrees to comply with all applicable federal, state and municipal laws, ordinances, and regulations, including without limitation those relating to environmental matters. Any fees for any inspection of the Premises during the Lease term by any federal, state or municipal officer related to Lessee use and occupancy of the Premises and the fees for any so-called "Certificate of Occupancy" shall be paid by Lessee.

ARTICLE V

Insurance and Financial Security

5.1 **CASUALTY LOSS OF LESSEE**: The Parties hereto agree that the Port shall not be responsible to Lessee for any property loss or damage done to Lessee's property, whether real, personal or mixed, occasioned by reason of any fire, storm or other casualty whatsoever. It shall be Lessee's responsibility to provide its own protection against casualty losses of whatsoever kind or nature, regardless of whether or not such loss is occasioned by the acts or omissions of the Port, Lessee, third party, or act of nature. To this end, the Port and Lessee hereby waive any rights each may have against the other as a result of any injury, loss or damage which is then insured against by either. This waiver is effective only to the extent that the insurance company(ies) actually pay(s) for such injury, loss or damage. In addition, the Port and Lessee agree to (1) cause their respective insurance companies to waive any right of subrogation, and (2) provide proof to the other Party within thirty (30) days after the execution of this Lease that such waivers have been successfully obtained from the respective insurance companies (if such proof is not provided within this thirty (30) day period, the other Party shall have the right to declare this paragraph to be ineffective). This paragraph shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of the Port or Lessee.

5.2 **INSURANCE**:

5.2.1 **Liability**: Lessee shall procure and maintain during the term of this Lease and any extensions or renewals of this Lease a comprehensive general liability policy covering on an occurrence basis all claims for personal injury (including death) and property damage (including all real and personal property located on the Premises) arising on the Premises or arising out of Lessee's operations. This policy shall also include contractual liability coverage for all indemnities provided under this Lease. Limit per occurrence shall not be less than \$1,000,000, or the equivalent. General aggregate limit shall not be less than \$2,000,000, when applicable (and will be endorsed to apply separately to each site or location.) Limit per claim and in the aggregate shall not be less than \$1,000,000, or the equivalent. Annual aggregate limit shall not be less than \$2,000,000. The liability policies shall contain a cross-liability provision such that the policy will be construed as if separate policies were issued to Lessee and to the Port.

5.2.2 **Property**: Lessee shall procure and maintain during the term of this Lease and any extensions or renewals of this Lease fire and extended coverage property insurance for physical loss and damage, written on an "all risks" basis *excluding* earthquake and flood insurance, to the Leased Premises and to all Lessee-owned improvements, with the Port named as a loss payee. Such policy or policies shall be written in the form of replacement cost insurance in an amount not less than 100% of the full replacement value, which amount shall be adjusted not less frequently than annually. The proceeds of such insurance in case of loss or damage shall be first applied on account of the obligation of the Port to repair and/or rebuild the Leased Premises to the extent that

such proceeds are required for such purpose. Lessee shall also procure and maintain during the term of this Lease and any extensions or renewals of this Lease business interruption insurance by which Rent will be paid to the Port for a period of up to one (1) year if the Premises are destroyed or rendered inaccessible by a risk insured against by a policy of fire and extended coverage property insurance, with vandalism and malicious mischief endorsements.

5.2.3 **Workers' Compensation; Employer's Liability/Stop Gap:** If Lessee has employees, Lessee shall obtain, at Lessee's expense, and keep in effect during the term of this Lease and any renewals or extensions of this Lease, Workers' Compensation as required by the State of Washington, with statutory limits, and Employer's Liability/Stop Gap Insurance with limits of not less than One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

5.2.6 **Verification of Coverage:** For each insurance policy required herein, Lessee shall provide to the Port, prior to Lessee's occupancy of the Premises, original certificates of insurance, all required amendatory endorsements establishing coverage required under this Lease, a copy of each policy declarations and endorsements page, and complete copies of each policy. Provided, the Port's failure to obtain the required documents prior to Lessee's occupancy shall not be deemed a waiver of Lessee's obligation to provide them. Receipt of such certificate or policy by the Port does not constitute approval by the Port of the terms of such policy.

5.2.7 **Additional Insured; Primary Coverage; Non-Contributory:** Each insurance policy required herein shall name the Port, and only the Port, as an additional insured. For any claims related to this Lease, Lessee's insurance coverage shall be primary insurance coverage as to the Port. Any insurance or self-insurance maintained by the Port shall be excess of Lessee's insurance and shall not contribute with it.

5.2.8 **Changes in Coverage Requirements:** The Port reserves the right to modify any insurance requirements set forth herein, including limits, at the same time as revaluation of the annual Rent, as a condition of approval of assignment or sublease of this Lease, upon any breach of the environmental liability provision herein, upon a material change in the condition of any improvements, upon a change in the Authorized Use, or under other special circumstances as determined by the Port. Lessee shall obtain new or modified insurance coverage within thirty (30) days after changes are required by the Port.

5.2.9 **Substitute Coverage:** If Lessee fails to procure and maintain any insurance required herein, the Port shall have the right, but not the obligation, to procure and maintain substitute insurance and to pay the premiums, chargeable to Lessee. Lessee shall pay to the Port upon demand the full amount paid by the Port.

5.2.10 **Negligence of Lessee:** Each insurance policy required herein shall expressly provide that the insurance proceeds of any loss will be payable notwithstanding any act or negligence of Lessee which might otherwise result in a forfeiture of said insurance.

5.2.11 **Self-Insured Retentions:** If Lessee is self-insured, self-insured retentions must be declared to and approved by the Port. At the Port's option, either (i) Lessee shall obtain coverage to reduce or eliminate such self-insured retentions as respects the Port; or (ii) Lessee shall provide a financial guarantee satisfactory to the Port guaranteeing payment of losses and related

investigation, claim administration and defense expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the Port.

5.2.12 **Acceptability of Insurers:** All insurance required herein shall be placed with insurers authorized to conduct business in the state of Washington with a current A.M. Best's rating of no less than A-VII, unless otherwise specifically authorized by the Port.

5.2.13 **Notice of Cancellation:** Each insurance policy required herein shall expressly provide that coverage shall not be canceled or changed except with prior written notice to the Port of no less than thirty (30) days. Lessee shall provide the Port with any revised endorsements, policy declarations and endorsements pages, and policies as soon as practicable after any changes are made to any policy.

5.2. **Airport General Liability:** Lessee shall procure and maintain during the term of this Lease Airport General Liability Insurance on an occurrence basis. This insurance shall include personal injury and property damage liability coverage, contractual liability coverage for all indemnities provided under this Lease, and fuel storage and self-fueling operations liability. Limit per occurrence shall not be less than \$5,000,000. The general aggregate limit shall not be less than \$7,000,000 when applicable. The annual aggregate limit shall not be less than \$7,000,000.

5.2. **Aircraft Liability:** Lessee shall procure and maintain during the term of this Lease Aircraft Liability Insurance. Combined single limit per occurrence shall not be less than \$1,000,000, and no less than \$1,000,000 per seat for passenger liability.

5.2. **Automobile Liability:** Lessee shall procure and maintain an Automobile Liability policy covering all owned, not-owned and hired automobiles. The limits of liability shall be not less than \$1,000,000.00. The foregoing insurance policy shall name the Port as an additional insured.

5.3 **WAIVER OF SUBROGATION:** The Port and Lessee 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 Lessee. Each Party agrees to cause their respective insurance carriers to include in its policies a waiver of subrogation clause or endorsement.

5.4 **FINANCIAL SECURITY:**

5.4.1 In compliance with the requirements of RCW 53.08.085 (as presently codified or hereafter amended) and other laws of the State of Washington, Lessee agrees it will secure its performance of all obligations under this Lease by procuring and maintaining, during the term of this Lease, a corporate surety bond (the "**Bond**"), or by providing other financial security ("**Security**") satisfactory to the Port, in an amount totaling:

X Three months of Rent. Waived by Commission on December 13, 2022.

5.4.2 The Security, if a Bond, shall be in a form and issued by a surety company acceptable to the Port and shall comply with the requirements of Washington law. Lessee shall obtain such Bond and forward evidence thereof to the Port or shall provide to the Port such other financial security as may be required hereunder, within thirty (30) days of execution of this Lease, but in no event later than the Commencement Date of this Lease. Such Security shall be kept in effect during the term of this Lease.

5.4.3 If the Security amount required hereunder is to be not less than 100% of the sum of annual Rent, that Security amount is subject to increases to reflect any Base Rent adjustments as provided in Article 3 above. In that event, at no time may the Security amount be less than 80% of the then-current annual Rent, and the Port may at any time require Lessee to provide sufficient additional Security to restore the Security amount to no less than 100% of the then-current total annual Rent due hereunder. No future amendment or extension to this Lease shall be effective until the adjusted financial Security amount has been provided as required.

5.4.4 Upon any default by Lessee in its obligations under this Lease and Lessee's failure to cure such default in accordance with its rights to do so under this Lease, the Port may collect on the Bond or Security to offset the liability of Lessee to the Port. Collection on the Bond or Security shall not relieve Lessee of liability for any amounts not offset by the amount collected, shall not limit any of the Port's other remedies, and shall not reinstate or cure the default or prevent termination of the Lease because of the default.

5.4.5 Any Bond or Security may provide for termination on the anniversary date thereof upon not less than one (1) year's written notice to the Port if the Lease is not in default at the time of said notice. In the event of any such termination, Lessee shall obtain a new Bond or Security, also subject to the Port approval, to replace the Security being so terminated to be effective on or before the date of termination.

5.4.6 If the Port Commission exercises its discretion pursuant to RCW 53.08.085 to reduce or waive Lessee's Security requirement under this Lease, the Port may at any time make a determination that changes in the material circumstances related to Lessee no longer support such reduction or waiver, and thereafter increase Lessee's Security requirement up to that required by RCW 53.08.085, or such amount as determined by the Port Commission.

ARTICLE VI

Environmental Liability

6.1 **ENVIRONMENTAL INDEMNIFICATION**: Lessee shall defend (with legal counsel suitable to the Port), indemnify and hold the Port harmless from any and all claims, demands, judgments, orders or damages resulting from Hazardous Substances on the Premises caused in whole or in part by the activity of Lessee, its agents or subtenants during any period of time that Lessee has occupied all or a portion of the Premises during the term of this Lease or any previous lease or agreement. The term "Hazardous Substances" as used herein shall mean any substance heretofore or hereafter designated as hazardous under the Resource Conservation and Recovery Act, 42 USC Sec. 6901 et seq.; the Federal Water Pollution Control Act, 33 USC Sec. 1257 et seq.; the Clean Air Act, 42 USC Sec. 2001 et seq.; the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 USC Sec. 9601 et seq.; or the Hazardous Waste

Cleanup-Model Toxic Control Act, RCW 70.105D, all as amended and subject to all regulations promulgated there under.

6.1.1 Lessee's defense and indemnity obligations under this article are unconditional, shall not be discharged or satisfied by the Port's re-entry of the Premises or exercise of any other remedy for Lessee's default under this Lease, shall continue in effect after any assignment or sublease of this Lease, and shall continue in effect after the expiration or earlier termination of this Lease.

6.1.2 Although Lessee shall not be liable for any Hazardous Substances that existed on the Premises prior to commencement of its leasehold relationship with the Port (whether by this Lease or any prior lease agreements), Lessee shall be responsible for the costs of any environmental investigations or remediation arising from any development or use of the Premises by Lessee, and Lessee hereby releases the Port from any contribution claim for those costs. By way of example only, if Lessee excavates soil on the Premises which contains Hazardous Substances, then Lessee will be responsible for the cost associated with disposing of those disturbed soils.

6.2 **CURRENT CONDITIONS AND DUTY OF LESSEE:** The Port makes no representation about the condition of the Premises. Hazardous Substances may exist in, on, under or above the Premises. Lessee should, but is not required to, conduct environmental assessments or investigations of the Premises prior to or during this Lease to determine the existence, scope and location of any Hazardous Substances. If there are any Hazardous Substances in, on, under or above the Premises as of the Commencement Date, Lessee shall exercise the utmost care with respect to the Hazardous Substances, the foreseeable acts or omissions of third parties affecting the Hazardous Substances, and the foreseeable consequences of those acts or omissions.

6.2.1 Prior to conducting any environmental investigation of the subsurface of the Premises, Lessee shall provide prior written notice to the Port. Lessee shall provide the Port with the results of all such investigations.

6.3 **NOTIFICATION AND REPORTING:** Lessee shall immediately notify the Port if Lessee becomes aware of any of the following:

a. A release or threatened release of Hazardous Substances in, on under or above the Premises, any adjoining property, or any other property subject to use by Lessee in conjunction with its use of the Premises;

b. Any problem or liability related to or derived from the presence of any Hazardous Substance in, on under or above the Premises, any adjoining property or any other property subject to use by Lessee in conjunction with its use of the Premises;

c. Any actual or alleged violation of any federal, state or local statute, ordinance, rule, regulation or other law pertaining to Hazardous Substances with respect to the Premises, any adjoining property, or any other property subject to use by Lessee in conjunction with its use of the Premises; or

- d. Any lien or action with respect to any of the foregoing.

6.3.1 Lessee shall, at the Port's request, provide the Port with copies of any and all reports, studies or audits which pertain to environmental issues or concerns and to the Premises, and which are or were prepared by or for Lessee and submitted to any federal, state or local authorities pursuant to any federal, state or local permit, license or law. These permits include, but are not limited to, any National Pollution Discharge and Elimination System permit, any Army Corps of Engineers permit, any State Hydraulics permit, any State Water Quality certification, or any Substantial Development permit.

6.3.2 Upon expiration or sooner termination of this Lease, Lessee shall remove from the Premises any soils or other media impacted by Hazardous Substances where such materials were deposited on the Premises by Lessee or its employees, representatives or agents. Any failure to complete such removal by the expiration or sooner termination of this Lease, and upon the expiration of thirty (30) days' notice that such materials remain on the Premises, Lessee shall be deemed a holding over by Lessee subject to the provision of Section 7.21 (HOLDING OVER). Lessee shall represent and warrant that, upon termination of the Lease, all Hazardous Substances that Lessee is required to remove from the Premises pursuant to this subsection have been removed from the Premises.

ARTICLE VII

Miscellaneous Provisions

7.1 **LESSEE WILL OBTAIN PERMITS:** Lessee agrees to obtain and comply with all necessary permits for any Authorized Use or leasehold improvement. If Lessee fails to obtain and comply with such permits, then Lessee accepts full responsibility for any and all resulting costs incurred by the Port, including actual attorneys' fees. In this way, Lessee agrees to be solely responsible for all damages, costs and expenses incurred as a result of Lessee's failure to fully comply with any necessary permit process and requirements.

7.2 **LIENS:** Lessee agrees to keep the Premises free and clear of all liens and charges whatsoever. Lessee shall not allow any mechanics' and materialmen's or other liens to be placed upon the Premises. If such a lien is placed or recorded, Lessee shall cause it to be discharged of record, at its own expense, within thirty (30) days of the Port's demand. Failure to comply with the Port's demand within thirty (30) days shall be a default under the terms of this Lease. Notwithstanding the foregoing, the Port acknowledges that Lessee may use its Tenant Improvements as security for a loan, and the Port agrees to reasonably cooperate with Lessee and its creditor(s) to allow such creditor(s) to obtain such security.

7.3 **INDEMNIFICATION AND HOLD HARMLESS:** The Port, its employees and/or 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 Lessee or by others as a result of any condition (including existing or future defects in the Premises) or occurrence whatsoever related in any way to the Premises and the areas adjacent thereto or related in any way to Lessee's use or occupancy of the Premises and of the areas adjacent thereto. Lessee agrees to defend and to hold and save the Port (including its commissioners, employees and/or agents) harmless from all liability or expense (including attorneys' fees, costs

and all other expenses of litigation) in connection with any such items of actual or alleged injury or damage. Lessee specifically agrees that any bond or other security provided pursuant to any provisions of this Lease shall extend to the indemnity agreed to herein. Lessee acknowledges that it expressly and specifically waives immunity under the industrial insurance statute of the state of Washington, Title 51 RCW, for purposes of this indemnification provision and further acknowledges that this waiver was mutually negotiated by the Parties. Each Party's obligations under this section shall survive the expiration or other termination of this Lease.

7.4 **LAWS AND REGULATIONS:** Lessee agrees to conform to and abide by all applicable rules, codes, laws, regulations and Port policies in connection with its use of the Premises and the construction of improvements and operation of Lessee's business thereon and not to permit said Premises to be used in violation of any applicable rule, code, law, regulation, Port policy, or other authority.

7.4.1 Lessee's obligations herein shall include, but in no way be limited to, the obligation to comply with all State and Federal environmental laws and regulations.

7.5 **WASTE AND REFUSE:** Lessee agrees not to allow conditions of waste and refuse to exist on the Premises and to keep the Premises in a neat, clean and orderly condition and to be responsible for all damages caused to the Premises by Lessee, its agents, or any third party on the Premises.

7.6 **DAMAGE AND DESTRUCTION:**

7.6.1 **Port Owned Buildings/Improvements:** Except as otherwise stated herein, should the Premises be partially damaged by fire or other casualty, or rendered partially unfit for use by reason of fire or other casualty, the Premises shall be repaired with due diligence by the Port, and in the meantime the Rent (as defined in Section 3.1 above) shall be abated in the same proportion that the untenable portion of the Premises bears to the whole thereof, for the period from the occurrence of the damage to the completion of the repairs. Lessee shall cooperate fully in obtaining and making available proceeds of insurance provided by Lessee in furtherance of such repairs.

7.6.2 **Lessee Owned Buildings/Improvements:** If any building or improvement erected by Lessee on the Premises or any part thereof shall be damaged or destroyed by fire or other casualty during the term of this Lease, Lessee may, at its option and at its sole cost and expense, repair or restore the same according to the original plans thereof or according to such modified plans as shall be previously approved in writing by the Port. Lessee shall provide the Port notice of its intention to repair or restore the Premises within sixty (60) days after the damage or loss occurs. Such work of repair or restoration shall be commenced within one hundred twenty (120) days after the damage or loss occurs and shall be completed with due diligence but not longer than one (1) year, if possible, or as soon thereafter as is reasonably possible 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, or if Lessee elects not to repair or restore, to the cost of removing, demolishing, or clearing off the building or improvements. If (i) there are not insurance proceeds, or (ii) the same

shall be insufficient for said purpose, Lessee shall make up the deficiency out of its own funds. Should Lessee fail or refuse to make the repair, restoration or removal 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 improvements, and the Port may, at its option, terminate this Lease as elsewhere provided herein.

7.6.3 Except as otherwise stated herein, should the Premises be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the Premises are rendered wholly unfit for their accustomed uses, the Port shall have the option to terminate this Lease on thirty (30) days' notice, effective as of any date not more than thirty (30) days after the occurrence. In the event that this Section shall become applicable, the Port shall advise Lessee within thirty (30) days after the happening of any such damage whether the Port has elected to continue the Lease in effect or to terminate it. If the Port shall elect to continue this Lease, it shall commence and prosecute with due diligence any work necessary to restore or repair the Premises. If the Port shall fail to notify Lessee of its election within said thirty (30) day period, the Port shall be deemed to have elected to terminate this Lease, and the Lease shall automatically terminate thirty (30) days after the occurrence of the damage. For the period from the occurrence of the damage to the Premises as described in this Section to the date of completion of the repairs to the Premises (or to the date of termination of the Lease if the Port shall elect not to restore the Premises), Rent due hereunder shall be abated in the same proportion as the untenable portion of the Premises bears to the whole thereof.

7.7 **SIGNS**: Lessee may place in or upon the Premises only such signs as are related to the Authorized Use of the Premises, PROVIDED that Lessee shall first obtain Port's written consent as to size, location, materials, method of attachment, and appearance. Lessee shall install any approved signs at Lessee's sole expense and in compliance with all applicable laws, ordinances, rules and regulations. Lessee shall not damage or deface the Premises in installing or removing signs and shall repair any damage to the Premises caused by such installation or removal.

7.8 **ATTORNEYS' FEES AND COURT COSTS**: In any litigation, arbitration, or other proceeding by which one Party either seeks to enforce its rights under this Lease (whether in contract, tort, or both) or seeks a declaration of any rights or obligations under this Lease, the prevailing Party shall be awarded its reasonable attorney fees, and costs and expenses incurred.

7.9 **ASSIGNMENT OF LEASE**: Lessee shall not assign, rent or sublease any portions of this Lease or any extension thereof, without the prior written consent of the Port, in its sole discretion and upon such conditions as the Port may require, including those set forth herein, no rights hereunder in or to said Premises shall pass by operation of law or other judicial process, or through insolvency proceedings. Otherwise, the rights and obligations hereof shall extend to and be binding upon their respective successors, representatives and assigns, as the case may be. Lessee shall furnish the Port with copies of all such proposed assignment, sublease or rental documents. For the purposes of this Lease, any change of ownership including sale, liquidation or other disposition of some or all of the corporate stock or limited liability company units will be considered an assignment. Should the Port consent to an assignment made by Lessee for the purposes of obtaining a loan or other consideration from a third party, then the Port's consent shall

be made in accordance with the consent to assignment document used by the Port for these specific assignments. A copy of this consent form shall be provided by the Port upon request of Lessee.

7.9.1 If the Port refuses to consent to an assignment, Lessee's sole remedy shall be the right to bring a declaratory action to determine whether the Port was entitled to refuse such assignment under the terms of this Lease.

7.9.2 No consent by the Port to any assignment or sublease shall be a waiver of the requirement to obtain such consent with respect to any other or later assignment or sublease. Acceptance of Rent or other performance by the Port following an assignment or sublease, whether or not the Port has knowledge of such assignment or sublease, shall not constitute consent to the same nor a waiver of the requirement to obtain consent to the same.

7.9.3 A minimum handling and transfer fee ("Transfer Fee Deposit") of Three Hundred Dollars (\$300.00) shall be payable by Lessee to the Port if Lessee requests the Port's consent to a proposed assignment (including an assignment to a creditor for security purposes), sublease or modification of this Lease. The Port reserves the right to increase the Transfer Fee Deposit up to Five Hundred Dollars (\$500.00) if, in the Port's sole judgment, the transaction will necessitate the expenditure of substantial time and expense on the part of the Port. Such Transfer Fee Deposit shall be submitted to the Port at the same time that Lessee requests the Port's consent to the proposed sublease, assignment or modification. If the Port's reasonable and customary attorneys' fees exceed the Transfer Fee Deposit, then Lessee agrees to reimburse the Port for such additional reasonable and customary attorneys' fees. Lessee's failure to remit this additional amount within sixty (60) days of the mailing of the notice of such charges, shall constitute a default under this Lease. Notwithstanding anything to the contrary herein, Lessee shall not be obligated to reimburse the Port in any case where an assignment, sublease or modification is not accomplished due to total refusal on the part of the Port to grant its consent to the request.

7.9.4 If, pursuant to any assignment or sublease, Lessee receives rent, either initially or over the term of the assignment or sublease, in excess of the Rent called for hereunder, or in the case of a sublease, a portion of the Premises in excess of such Rent fairly allocable to such portion, after appropriate adjustments to assure that all other payments called for hereunder are appropriately taken into account, Lessee shall pay to the Port, as additional rent expenses hereunder, fifty percent (50%) of the excess of each such payment of Rent received by Lessee after its receipt.

7.9.5 If this Lease is assigned, or if the underlying beneficial interest of Lessee is transferred, or if the Premises or any part thereof is sublet to or occupied by anybody other than Lessee, the Port may collect Rent from the assignee, subtenant or occupant and apply the net amount collected to the Rent herein reserved, but no such assignment, subletting, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, subtenant or occupant as tenant, or a release of Lessee from the further performance by Lessee of covenants on the part of Lessee herein contained. No assignment or subletting shall affect the continuing primary liability of Lessee (which, following assignment, shall be joint and several with the assignee), and Lessee shall not be released from performing any of the terms, covenants and conditions of this Lease.

7.9.6 Notwithstanding any assignment or sublease, or any indulgences, waivers or extensions of time granted by the Port to any assignee or sublessee or failure of the Port to take action against any assignee or sublease, Lessee hereby agrees that the Port may, at its option, and upon not less than three (3) days' notice to Lessee, proceed against Lessee without having taken action against or joined such assignee or sublessee, except that Lessee shall have the benefit of any indulgences, waivers and extensions of time granted to any such assignee or sublessee.

7.9.7 Any Lessee request to amend, sub-lease, or assign this Lease shall be conditioned by an amendment providing that the Base Rental Rate shall be adjusted to the prevailing Fair Market Rent. The Port may negotiate a reasonable schedule of periodic adjustments of the Fair Market Rent over a reasonable period of time, if the amount required to reach the Fair Market Rent in the sole discretion of the Port is substantial.

7.9.8 The Lessee must be in Good Standing as that term is defined herein below as a condition precedent to the Port's agreement to amend, sub-lease, or assign the Lease.

7.9.9 "**Good Standing**" Defined- The Lessee is in "good standing" if it is in full compliance with all obligations in their current Lease or past lease agreements, which includes inter alia timely payment of rent, adherence to specific terms of the Lease (property usage, etc.), adherence to property boundaries, promotion of the Port, adherence to local/state/federal rules and regulations, adherence to Port regulations (notification of tenant improvements, permission, notice, etc.), and exercises good faith in its dealings with the Port.

7.10 **REIMBURSEMENT FOR EXPENSES:** Should Lessee seek to assign this Lease to any creditor as security for a loan or forbearance from such creditor, or attempt to otherwise assign, sublease, or modify this Lease between the Parties during the term of this Lease or any renewal thereof, then Lessee agrees to reimburse the Port for all customary and reasonable attorney fees paid by the Port for the review and opinion of such attorney acting on the request. A failure to reimburse the Port within sixty (60) days of the mailing of notice of such charges shall constitute a default under the terms of this Lease. Notwithstanding anything to the contrary herein, Lessee shall not be obligated to reimburse the Port in any case where an assignment, sublease, or modification is not accomplished due to total refusal on the part of the Port to grant its consent to the request.

7.11 **TERMINATION:** Upon expiration or sooner termination of this Lease or any extension thereof, whether by expiration of the stated term or sooner termination thereof, as herein provided, Lessee shall surrender to the Port the Premises peaceably and quietly. Lessee shall restore the Premises to the condition existing at the time of initiation of this Lease, except for: (i) normal wear and tear, and (ii) any improvements which the Port permits to remain on the Premises.

7.11.1 If the Port, at its sole discretion, shall require the use of the Premises for a public use in connection with the business of the Port not involving the lease thereof to another private lessee or in the event that the Port, at its sole discretion, shall require the use of the Premises for a major capital improvement for public or private use in connection with the operation of the business of the Port, then this Lease may be terminated by the Port by written notice delivered or mailed by the Port to Lessee not less than ninety (90) days before the termination date specified in

the notice, unless the need for such use constitutes an emergency, in which case this Lease shall terminate as soon as is practicable.

7.11.2 If the United States Government, the State of Washington, or any agency or instrumentality of said government shall take title, possession, the rights of the Premises or any part thereof, the Port shall have the option to terminate this Lease, and if the taking has substantially impaired the utility of the Premises to Lessee, Lessee shall have the option to terminate this Lease. Both options shall be exercisable as of the date of said taking. If Lessee is not in default under any of the provisions of this Lease on the date of such taking, any rental prepaid by Lessee shall be promptly refunded to Lessee to the extent allocable to any period subsequent to said date, and all further obligations of the Parties shall terminate except liabilities, which shall be accrued prior to such date. To the extent Lessee owns certain improvements upon the Premises and is not otherwise directly compensated therefore by the taking entity, Lessee shall receive a fair allocation of any award received by the Port due to termination for government use. Nothing herein contained shall preclude Lessee from independently pursuing a direct claim for compensation from the taking entity for the value of its improvements to the Premises or its leasehold interest therein.

7.11.3 If any court having jurisdiction in the matter shall render a decision which has become final and which will prevent the performance by the Port of any of its obligations under this Lease, then either party hereto may terminate this Lease by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that occurred prior to the effective date of termination) shall thereupon terminate. If Lessee is not in default under any of the provisions of this Lease on the effective date of such termination, any rent prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.

7.12 **DEFAULT, CROSS DEFAULT, AND REMEDIES:** Failure to pay Rent or any other monetary obligations by the first day of each month shall constitute a default under the terms of this Lease. If Lessee is in default in the payment of Rent or other monetary obligations then, at the Port's sole option, upon three (3) days' written notice, this Lease may be terminated and the Port may enter upon and take possession of the Premises. Without limiting the generality of the foregoing, Lessee expressly authorizes the Port to obtain a prejudgment writ of restitution in the event of default by Lessee. This remedy is in addition to and is not exclusive of any other remedies provided either by this Lease or by law.

7.12.1 If Lessee shall fail to perform any term or condition of this Lease, other than the payment of Rent or other monetary obligations, then upon providing Lessee thirty (30) days' written notice of such default, and if Lessee fails to cure such default within the thirty (30) day notice thereof, the Port may terminate this Lease and enter upon and take possession of the Premises. This remedy is in addition to and is not exclusive of any other remedies provided either by this Lease or by law.

7.12.2 If within any one (1) year period, the Port serves upon Lessee three notices requiring Lessee either to: (i) comply with the terms of this Lease or to vacate the Premises or (ii) pay Rent or vacate (collectively referred to herein as "Default Notices"), then Lessee shall, upon a subsequent violation of any term of this Lease by Lessee (including failure to pay Rent), be

deemed to be in unlawful detainer, and the Port may, in addition to any other remedies it may have, immediately terminate the Lease and/or commence an unlawful detainer action without further notice to Lessee.

7.12.3 The following shall also constitute a default under the terms of this Lease: (i) A default by Lessee under any other agreement or lease with the Port; (ii) insolvency of Lessee; (iii) an assignment by Lessee for the benefit of creditors; (iv) the filing by Lessee of a voluntary petition in bankruptcy; (v) an adjudication that Lessee is bankrupt or the appointment of a receiver of the properties of Lessee; (vi) the filing of an involuntary petition of bankruptcy and failure of Lessee to secure a dismissal of the petition within thirty (30) days after filing; and (vii) attachment of or the levying of execution on the leasehold interest and failure of Lessee to secure a discharge of the attachment or release of the levy of execution within ten (10) days.

7.12.4 A default under this Lease shall constitute a default under any other lease or agreement which Lessee has with the Port (hereinafter such other agreements shall be referred to as "Collateral Agreements"). Likewise, any material breach or default under any Collateral Agreements shall be deemed a material breach or default under the terms of this Lease. If any Collateral Agreements are terminated for a material breach or default of Lessee, then the Port shall, without limiting any other remedies it may have, be entitled to terminate this Lease upon five (5) days' written notice to Lessee.

7.12.5 In addition to the foregoing remedies specified in this article, the Port may exercise any remedies or rights under the laws of the State of Washington. Under no circumstances shall the Port be held liable in damages or otherwise by reason of any lawful re-entry or eviction. The Port shall not, by any re-entry or other act, be deemed to have accepted any surrender by Lessee of the Premises or be deemed to have otherwise terminated this Lease or to have relieved Lessee of any obligation hereunder.

7.12.6 The Port shall be under no obligation to observe or perform any covenant of this Lease after the date of any material default by Lessee unless and until Lessee cures such default.

7.12.7 A fee of Five Hundred Dollars (\$500.00) shall be assessed to Lessee for each Default Notice issued to Lessee to defray the costs associated with preparing, issuing, and serving such notice. This fee shall be payable on the first (1st) day of the month following the issuance of the notice.

7.13 **NON-WAIVER**: Neither the acceptance of Rent nor any other act or omission of the Port after a default by Lessee shall operate as a waiver of any past or future default by Lessee, or to deprive the Port of its right to terminate this Lease, or be construed to prevent the Port from promptly exercising any other right or remedy it has under this Lease. Any waiver by the Port shall be in writing and signed by the Port in order to be binding on the Port.

7.14 **NOTICES**: Any notice, demand, request, consent, approval or communication that either Party desires or is required to give to the other Party shall be in writing addressed to the other Party at the addresses as follows:

TO THE PORT

Port of Port Angeles
P.O. Box 1350
Port Angeles, Washington, 98362

TO LESSEE:

Dash Air Shuttle, Inc.
Attn: Clinton Ostler
14900 Interurban Avenue South, Suite 271
Tukwila, WA 98168
Info@flydashair.com

or such address as may have been specified by notifying the other Party of the change of address. Notice shall be deemed served on the date of actual delivery or the first attempted delivery as shown on the return receipt if mailed with the United States Postal Service by certified mail, return receipt requested.

7.15 **AGENT FOR SERVICE**: Lessee agrees that if Lessee is in unlawful detainer, pursuant to Chapter 59.12 RCW, and the Port is unable to serve Lessee with the unlawful detainer pleadings after one service attempt, then the Port shall be deemed to have complied with the service requirements of Chapter 59.12 RCW if it mails such pleadings via certified mail to the address set forth in the notice section of this Lease and posts such pleadings in a conspicuous location on the Premises. Service shall be deemed complete on the next third day following the day of mailing.

7.16 **SECURITY**: Lessee specifically acknowledges that the Port has no duty to provide security for any portion of the Premises or surrounding areas. Lessee assumes sole responsibility and liability for the security of itself, its employees, customers, and invitees, and their respective property in or about the Premises. Lessee agrees that to the extent the Port elects to provide any security, the Port is not warranting the effectiveness of any such security personnel, services, procedures or equipment and that Lessee is not relying and shall not hereafter rely on such security personnel, services, procedures or equipment. The Port shall not be responsible or liable in any manner for failure of any such security personnel, services, procedures or equipment to prevent or control, or apprehend anyone suspected of personal injury or property damage in, on or around the Premises.

7.17 **QUIET ENJOYMENT**: The Port acknowledges that it has ownership of the Premises and that it has the legal authority to lease the Premises to Lessee. The Port covenants that Lessee shall have quiet enjoyment of the Premises during the term of this Lease so long as the terms are complied with by Lessee and subject to the Port's right of entry onto the Premises as set forth herein.

7.17.1 The Port reserves the right to grant easements and other land uses on the Premises to others when the easement or other land uses applied for will not unduly interfere with the use to which Lessee is putting the Premises or interfere unduly with the approved plan of development for the Premises. No easement or other land uses shall be granted to third parties, until damages to the Lessee have been dealt with appropriately, or waiver signed by Lessee.

7.17.2 Lessee understands that various federal agencies, including the Department of Homeland Security and U.S. Coast Guard, have the authority to restrict access to certain areas on

property owned by the Port in order to counter a terrorist or other threat. Such restrictions could impact Lessee's ability to access the Premises for an indefinite period of time. Since such restrictions on access are outside the control of the Port, Lessee agrees that such interruptions shall not be deemed a violation of this Lease or the Covenant of Quiet Enjoyment.

7.18 **PORT MAY ENTER PREMISES; INSPECTION**: The Port reserves the right to inspect the Premises after written notice (except where the Port reasonably believes there exists or is about to exist an emergency, in which case no notice is required) at any and all reasonable times throughout the term of this Lease, provided that it shall not unduly interfere with Lessee'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 the Lease.

7.19 **TIME**: It is mutually agreed and understood that time is of the essence of this Lease and that a waiver of any default of Lessee shall not be construed as a waiver of any other default.

7.20 **INTERPRETATION**: This Lease has been submitted to the scrutiny of the Parties hereto and their counsel, if desired. In any dispute between the Parties, the language of this Lease shall, in all cases, be construed as a whole according to its fair meaning and not for or against either the Port or Lessee. If any provision is found to be ambiguous, the language shall not be construed against either the Port or Lessee solely on the basis of which Party drafted the provision. If any word, clause, sentence, or combination thereof for any reason is declared by a court of law or equity to be invalid or unenforceable against one Party or the other, then such finding shall in no way affect the remaining provisions of this Lease.

7.21 **HOLDING OVER**: If Lessee remains in possession of said Premises after the date of expiration of this Lease without the Port's prior written consent, such holding over shall constitute and be construed as tenancy at sufferance only, at a monthly rent equal to one hundred fifty percent (150%) of the rent owed during the immediately preceding month under this Lease and otherwise upon the terms and conditions in this Lease and shall continue to be responsible for payment of applicable CAM Expenses and leasehold excise tax obligations. If Lessee holds over with the Port's prior written consent, then until such time as a new written Lease is executed by the Parties hereto, Lessee shall continue to make payments to the Port on a month-to-month basis as provided for in this Lease. Such holdover tenancy may be terminated by either Party at the end of any such monthly period by sending written notice not less than five (5) days before the end of such period. Such holdover tenancy shall be subject to all terms and conditions contained herein.

7.22 **PROMOTION OF PORT COMMERCE**: Lessee agrees that throughout the term of this Lease it will, insofar as practicable, promote the activities of the Port.

7.23 **SURVIVAL**: All obligations of Lessee, as provided for in the Lease, shall not cease upon the termination of this Lease and shall continue as obligations until fully performed. All clauses of this Lease, which require performance beyond the termination date, shall survive the termination date of this Lease.

7.24 **GOVERNING LAW**: This Lease, and the right of the Parties hereto, shall be governed by and construed in accordance with the laws of the State of Washington, and the Parties agree that in any such action jurisdiction and venue shall lie exclusively in Clallam County, Washington.

7.25 **ESTOPPEL CERTIFICATES**: At Lessee's request, the Port agrees to execute and deliver to Lessee or its lender(s), a customary estoppel certificate in a form acceptable to the Port which sets forth the following information: (i) the terms and conditions of this Lease, (ii) the status of the Rent payments under the Lease; and (iii) the Port's knowledge of any breaches or anticipated breaches of the Lease. The Port shall have no obligation to execute an estoppel certificate which requests any information other than as set forth above. Lessee agrees to reimburse the Port for all attorneys' fees paid by the Port for the review and opinion of such attorney acting on the request for such estoppel certificate and in negotiating acceptable language in the estoppel certificate. A failure to reimburse the Port within sixty (60) days of the mailing of notice of such charges shall constitute a default under the terms of this Lease.

7.26 **ATTORNNMENT**: In the event the Premises are sold, Lessee shall attorn to the purchaser upon the sale provided that the purchaser expressly agrees in writing that, so long as Lessee is not in default under the Lease, Lessee's possession and occupancy of the Premises will not be disturbed and that such purchaser will perform all obligations of the Port under the Lease.

7.27 **ENTIRE AGREEMENT**: This Lease contains all of the understandings between the Parties. Each Party represents that no promises, representations or commitments have been made by the other as a basis for this Lease which have not been reduced to writing herein. No oral promises or representations shall be binding upon either Party, whether made in the past or to be made in the future, unless such promises or representations are reduced to writing in the form of a modification to this Lease executed with all necessary legal formalities by the Commission of the Port of Port Angeles, or its designee.

7.28 **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 attorneys' fees) obligations and causes of actions 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.

7.29 **VALIDATION**: IN WITNESS WHEREOF, the Port has caused this instrument to be signed by its Executive Director, or other designee, by authority of the Commission of the Port of Port Angeles, and this instrument has been signed and executed by Lessee, on the day and written below.

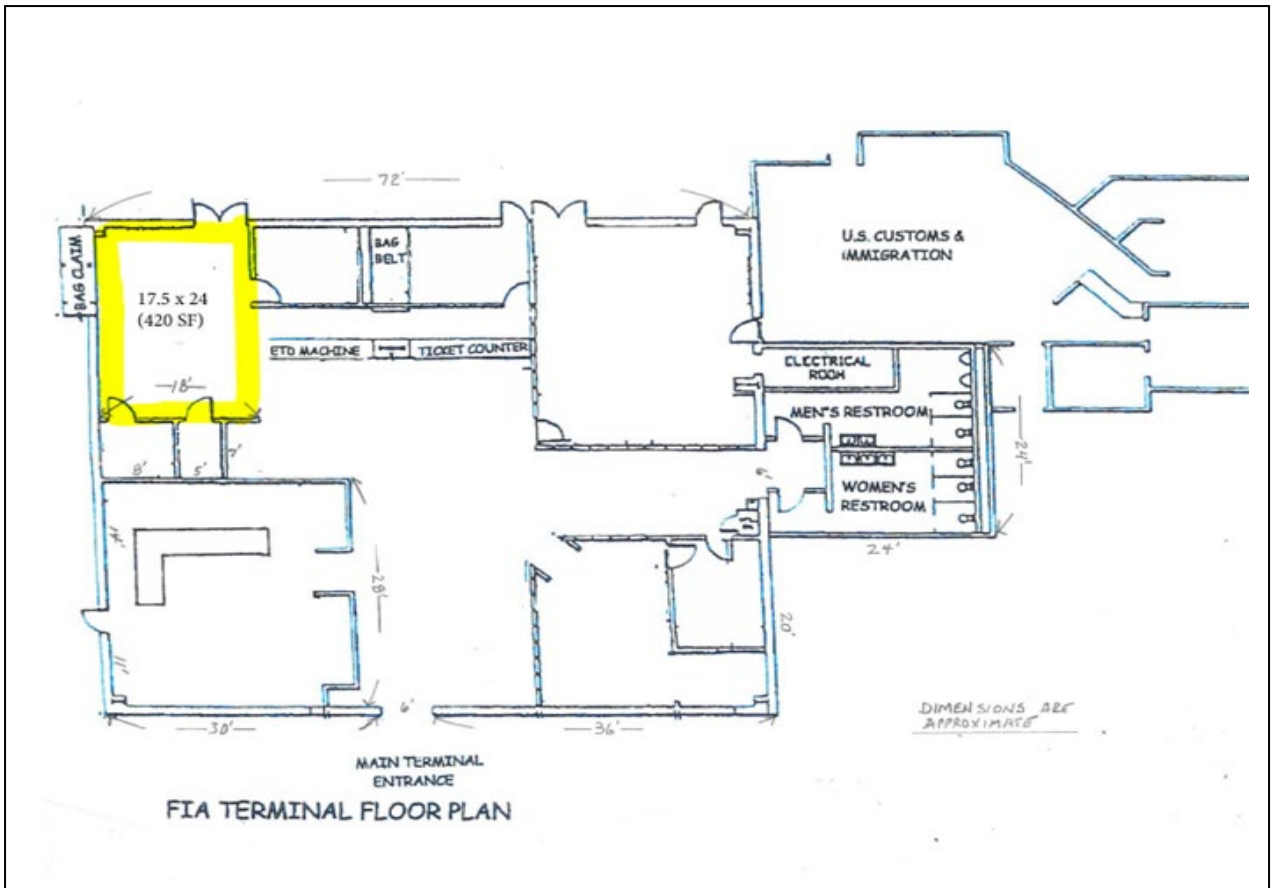
STATE OF WASHINGTON)
) ss.
County of Clallam)

On this ____ day of _____, 2023, before me the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Paul Jarkiewicz**, to me known to be the **Executive Director of the Port of Port Angeles**, the entity that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said entity for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS my hand and official seal hereto affixed the day and year first above written.

NOTARY PUBLIC in and for the
State of Washington, residing
at _____
My Commission Expires: _____

EXHIBIT A – Leased Premises



Initials:

Port

Lessee

EXHIBIT B -Repair and Maintenance Inclusion List

Premises improvements to be repaired and maintained by the Port of Port Angeles as follows:

ACCESS ROADS & PARKING
CATCH BASINS, GRATES, FRAME
DRINKING FOUNTAINS
DOORS, EXTERIOR
DOOR HARDWARE, EXTERIOR
DRAINAGE PIPE
ENTRANCES & STOREFRONTS
ELECTRICAL SERVICE & DISTRIBUTION
FIRE EXTINGUISHERS & CABINETS
FOUNDATION DRAINAGE
GLAZING
GUTTERS & DOWNSPOUTS
HYDRANTS
HANDRAILS AND RAILINGS
HVAC
INSULATION
MANHOLES & CLEANOUTS
PAINTING, EXTERIOR
PAVING & SURFACING
PAVEMENT MARKING & PARKING LINES
PLUMBING (OUTSIDE OF TENANT LEASED SPACE)
RESTROOM CLEANING, COMMON AREAS
ROOFING SYSTEMS (DECKING)
SANITARY SEWAGE SYSTEMS (EXTERIOR MAINS)
SEALANTS & CAULKING/EXTERIOR
SIDING
SIDEWALKS/CURBS
SNOW REMOVAL
STORM SYSTEMS
SWEEPING AND LEAF BLOWING
THERMAL & MOISTURE PROTECTION
WATER DISTRIBUTION (EXTERIOR MAINS)
WEATHERSTRIPPING & SEALS
WINDOWS, EXTERIOR

Lessee shall be responsible for repair and maintenance of all Premises improvements not identified on this Exhibit B.

Initials: _____
Port of Port Angeles

Initials: _____
Lessee

**ITEM FOR CONSIDERATION
BY THE
BOARD OF PORT COMMISSIONERS**

August 8, 2023

SUBJECT: PORT RESOLUTION TO SELL ABANDONED VESSELS

Presented by: John Nutter, Director of Finance & Administration

RCW & POLICY REQUIREMENTS :

The Port follows the Revised Code of Washington (RCW) statutes in selling vessels that have failed to pay outstanding marina charges. According to the RCW, such vessels are deemed to be abandoned and may be sold to recover outstanding charges.

RCW 53.08 requires a separate Port resolution before sales of such vessels occur.

Article VIII A. of the Commission Bylaws requires that resolutions be introduced at one meeting before they can be considered for adoption at the next meeting. This provision may be superseded by unanimous consent of the Commission.

BACKGROUND:

In order to facilitate passage of boat sale resolutions, which are identical except for the names of the vessels, their owners, and the auction date, staff introduced a draft of boat sale resolutions on August 10, 1998. The Commission approved the form of these resolutions (first reading) and directed staff to fill in appropriate vessel, owner and auction date information in the final resolutions (second and final reading).

ANALYSIS:

The owners of the vessels listed in Resolution No. 23-1285 have failed to adequately respond to several notices regarding their delinquency. An auction will be held to sell the vessels. If the sale proceeds fail to reimburse the Port completely, then the accounts will be turned over to a collection agency.

ENVIRONMENTAL IMPACT:

None.

FISCAL IMPACT:

The charges accrued by the vessels have already been recognized as revenues in Port accounts. Conducting an auction enables the Port to begin the process of collecting on these receivables.

<u>Customer</u>	<u>Boat</u>	<u>Description</u>	<u>Moorage/ Storage</u>	<u>Other Charges</u>	<u>LHT</u>	<u>Current Balance</u>
David Donnellon	WN5879KG	1975 23ft sailboat	2,691.36	126.63	345.60	\$ 3,163.59
Billy Herbst	WN6751MB	1970 26ft sailboat	1,514.71	1,791.66	330.40	\$ 3,636.77
Tyde Shavender	WN7872LA	1971 27ft sailboat	2,274.60	406.61	292.05	\$ 2,973.26

RECOMMENDED ACTION:

Adopt Resolution No. 23-1285 and authorize the auction to proceed.

Donnellon boat:



Herbst boat:



Shavender boat:



A RESOLUTION DIRECTING SALE OF ABANDONED VESSELS.

WHEREAS, the Commission of the Port of Port Angeles has seized the vessel described below for failure to pay Port charges; and

WHEREAS, the owners of such vessels have failed to make satisfactory payment of such charges; and

WHEREAS, the Port has complied with provisions of Revised Code of Washington (RCW) 53.08 and the Port's Rules and Regulations adopted pursuant to such statute in notifying such owners of their delinquencies;

NOW THEREFORE BE IT RESOLVED that the Commission directs the following vessels be sold at public auction pursuant to procedures provided in RCW 53.08 and the Port's Rules and Regulations pursuant to such statute.

- 1 – WN5879KG – 1975 23-foot Lancer Sailboat – HID MFS9M0420675**
- 2 – WN6751MB – 1970 26-foot ERY Sailboat – HID WNZ52744N070**
- 3 – WN7872LA – 1971 27-foot Coronado Sailboat – HID 410**

The time and date of this auction will be scheduled in accordance with applicable statutes; public notice of these auctions will be made in conformity with RCW regulations.

ADOPTED this 8th day of August, 2023.

PORT OF PORT ANGELES
BOARD OF COMMISSIONERS

Connie L. Beauvais, President

Colleen M. McAleer, Vice President

Steven D. Burke, Secretary

Future Agenda Items –Commission Meeting

8/8/23 Regular Commission Meeting

August 22, 2023 (Regular Commission Meeting)

- CPP Discussion
- Airport Update
- Dash Update
- Capital Projects Report
- Capital Budget Draft

September 19, 2023 (Special Commission Meeting)

- Monthly Delegation of Authority
- Capital Budget Work Session
- Strategic Plan
- Intro Res – Comp Harbor Improvements

September 26, 2023 (Regular Commission Meeting)

- Capital Budget Work Session
- Review of Strategic Priorities
- 2022 Operations Budget End of Year Projection
- Operations Budget Assumptions

October 10, 2023 (Regular Commission Meeting)

- Monthly DofA
- 3rd Quarter Cash & Investment Report
- 3rd Quarter Operations Report
- Capital Budget Final
- Introduce Operating Budget

October 24, 2023 (Regular Commission Meeting)

- 3rd Quarter Financial Report
- Public Hearing on Budget and Levy
- Community Programs Brief

Upcoming Events/Announcements

- WPPA environmental Seminar – September 21-22, 2023 – Tacoma, WA
- Pacific Marine Expo – November 8-10, 2023 – Seattle, WA
- METS Trade Show – November 15-17, 2023 – Amsterdam, Netherlands
- WPPA Annual Meeting – December 6-8, 2023 – Vancouver, WA

Future

- Boatyard Rules & Regulations
- Port Emergency Response Plans and Activities
- Employee Handbook Update and Resolutions

Future Joint Meetings

- 2023 Joint Meeting with Clallam County – October 23, 2023 (at County) 11:00 to 2:00