

Port of Port Townsend 1st Monthly Meeting Agenda Wednesday, January 8, 2020, 1:00 p.m. Port Commission Building 333 Benedict Street | Port Townsend, WA 98368

I.	Call to Order / Pledge of Allegiance
II.	City Manager, John Mauro
III.	Approval of Agenda
IV.	Public Comments
V.	Consent Agenda A. Approval of Special Business Meeting Minutes – January 2, 20201-4 B. Approval of Warrants
VI.	Recess to a Meeting of the Industrial Development Corporation of the Port of Port Townsend5-7 A. Agenda B. Election of Year 2020 IDC Officers C. Approval of January 9, 2019 IDC Minutes
VII.	Second Reading - none
VIII.	First Reading A. Resolution 713-20 Delegation of Management Authority to the Executive Director
IX.	Regular Business A. November Financials
Χ.	Staff Comments
XI.	Commissioner Comments
XII.	Next Regular Business Meeting: Wednesday, January 22, 2020; Meeting at 5:30 PM Port Commission Building, 333 Benedict Street, Port Townsend, WA
XIII.	Executive Session Evaluating the Qualifications of Applicants for Public Employment RCW 42.30.110 (1)(G)
XIV.	Reconvene with possible decisions from Executive Session
ΧV	Adjournment

PORT COMMISSION SPECIAL BUSINESS MEETING - Thursday, January 2, 2020

The Port of Port Townsend Commission met for a special business session at the Commission Building, 333 Benedict Street, Port Townsend, WA

Present:

Commissioners Hanke, Putney & (newly elected) Petranek

Executive Director Pivarnik Deputy Director Toews

Finance Director & Port Auditor Berg

Port Recorder Erickson

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE:

Commissioner Putney called the meeting to order at 9:30 a.m.

II. Swearing in new Commissioner, Pam Petranek (01:33):

Commissioner Putney commented that she is the first woman commissioner in the history of the Port of Port Townsend. Port Recorder Erickson swore in Commissioner Petranek.

III. APPROVAL OF AGENDA (04:36):

Commissioner Petranek moved to approve the Agenda as presented.

Commissioner Hanke seconded the motion.

Motion carried by unanimous vote.

III. PUBLIC COMMENTS (04:53):

<u>Bill Curtsinger</u> commented on the Executive Director selection process, asking that the Port proceed slowly with a careful, calculated ED search.

Gwendolyn Tracy stated that she was speechless.

IV. CONSENT AGENDA (05:52):

- A. Approval of Special Business Meeting Minutes November 26, 2019
- B. Approval of Warrants

Warrant #061459 through #061467 in the amount of \$13,939.85 for Payroll & Benefits and Electronic Payment in the amount of \$59,868.78 for Payroll & Benefits.

Warrant #061468 through #061518 in the amount of \$196,313.34 for Accounts Payable.

Electronic Debit in the amount of \$5,463.50 for Combined Excise Tax Return.

Commissioner Hanke moved to approve the Consent Agenda.

Commissioner Petranek seconded the motion.

Motion carried by unanimous vote.

V. SECOND READING – None

VI. FIRST READING - None

VII. REGULAR BUSINESS (06:19)

A. Co-op Property Acquisition & Lease Amendments (06:20)

Executive Director Pivarnik reminded the Commission that they had approved this transaction in concept at the December 11, 2019, meeting. He stated that the Port had worked with the Port Attorney to put the documents together, and that all required documents are in hand to effect the transaction, except for the preliminary title report (although it has been ordered, it has not yet been

delivered by the title company). ED Pivarnik asked if the commission had any questions, and stated that Staff would like their approval of this transaction.

Commissioner Petranek moved to approve this transaction.

Commissioner Hanke commented that this was a constructive and productive thing that the Port is doing for Boat Haven; stating that it really promotes our mission for marine trades, and it is a winwin for everyone involved; he was happy to see it move forward after so many years of work.

Commissioner Hanke seconded the motion.

Motion carried by unanimous vote.

B. Election of Commission Officers (08:44)

After a short discussion, commissioners decided that for 2020 the Commissioners elected the following:

Commissioner Hanke - President

Commissioner Putney - Vice President

Commissioner Petranek - Secretary

Commissioner Putney moved to accept this slate.

Commissioner Petranek seconded the motion.

Motion carried by unanimous vote.

Commissioner Hanke thanked commissioner Putney for his year of service as President.

C. <u>2020 Committee Assignments</u> (11:15)

After a short discussion, commissioners decided on the attached list of committees and representatives for 2020.

IX. STAFF COMMENTS (31:15):

<u>Recorder Erickson</u> commented that the packet for the regular business meeting on January 8th was coming out tomorrow, which is a quick turnaround and asked for commission to pay particular attention to the list of meetings for 2020.

<u>Finance Director Berg</u> and <u>Deputy Director Toews</u> thanked Steve Tucker for his service, welcomed newly elected Commissioner Petranek, and wished everyone a happy new year.

Executive Director Pivarnik thanked the people involved with the Co-op deal again, welcomed Commissioner Petranek, thanked former Commissioner Tucker, and mentioned that he would be out 1/3 - 1/6, back on Tuesday 1/7/20.

X. COMMISSIONER COMMENTS (32:40):

<u>Commissioner Petranek</u> asked the other commissioners for their ideas in rolling out the strategic plan update and thinking about how to brush it up, likening it to a maintenance boat project, not a complete renovation.

Commissioner Putney commented that this would be a good subject for a workshop, and ED Pivarnik stated that the next phase of the Comp. Scheme was the subject of our next workshop, which would be a great segue into how to incorporate strategic plan actions.

<u>Commissioner Putney</u> wished everyone a happy new year, welcomed Commissioner Petranek and congratulated Commissioner Hanke on becoming president.

There was a short discussion regarding process for getting input for meeting agenda items and it was suggested that:

all commissioners use a whiteboard in the Port Offices for collecting agenda items.

- as President, Commissioner Hanke would meet with the ED and staff at least a week before the next meeting to finalize the agenda.
- stakeholders' ideas for meeting or workshop agenda items can be sent to commission anytime;
 although there cannot always be immediate action on all ideas, it would get the ball rolling for future agendas.

All commissioners, as well as Exec. Assistant Erickson, are available at any time to hear concerns and ideas.

Commissioner Hanke commented that the Co-op deal was many years in the making, and congratulated everyone involved. He stated he was looking forward to a new year with the IDD Levy passed, and a search for a new Executive Director going on.

X. NEXT PUBLIC WORKSHOP / REGULAR BUSINESS MEETING (37:42):

Wednesday, January 8, 2020: Workshop at 9:30 am, Meeting at 1:00 pm Port Commission Building, 333 Benedict Street, Port Townsend, WA

XII. ADJOURNMENT (39:58):

The meeting adjourned at 10:10 a.m., there being no further business to come before the Commission.

ATTEST:	
	Peter W. Hanke, President
Pam Petranek, Secretary	
	William W. Putney III, Vice President

PORT OF PORT TOWNSEND 2020 COMMITTEE ASSIGNMENTS

COMMITTEE NAME	REPS	FREQUENCY
CEO Breakfast Group	Executive Director	Monthly
Climate Action Committee	Eric Toews	Quarterly
	Pete Hanke	
Chamber of Commerce – Jefferson County	Bill Putney	Mondays
		bi-weekly
Chamber of Commerce – North Hood Canal	Pete Hanke	3 rd Mondays
Meets alternately in Quilcene and Brinnon		5:30 PM
East Jefferson Underground Coordinating Council	Chris Sparks	As called
Fort Worden Advisory Committee – Brian Hageman, Ranger	Pete Hanke	informal updates
Jefferson County Food System Council	Pam Petranek	2 nd Thursdays
Jefferson Co. Joint Growth Management Steering Committee	Eric Toews	evening As called
Jefferson County Pilots Association	Pete Hanke	As called As called
Jefferson County Filots Association Jefferson County Solid Waste Advisory Council	Terry Khile	As called As called
Jefferson County IMT (Incident Management Team)		1 st Wednesdays
Jeneson County IIVI (incluent Ivianagement Team)	Terry Taylor	10-Noon
Jefferson County Public Infrastructure Fund Committee (PIF)	Pete Hanke	As called
Marine Resources Committee (MRC)	Pam Petranek	1 st Tuesdays 6-8:00
North Olympic Development Council (NODC)	Bill Putney	4 th Thursdays 1:30-3:30
Pacific Coast Congress of Port Managers & Harbormasters Board	Terry Khile	As called
Port Townsend Marine Trades Association	Executive Director, commissioner, as invited	Every other Monday
Port Townsend Moorage Tenants Union	Pam Petranek	As invited
Puget Sound Anglers, East Jefferson Chapter	Pam Petranek	2 nd Tuesdays 7:00 PM
WAMA – WA Airport Management Association	Bill Putney and Pete Hanke	As called
Washington Finance Officers Association	Abigail Berg	As called
Wash. Public Ports Assoc. – 2018 Board of Trustees	Bill Putney	Spring & Annual Conferences
WPPA - Finance & Administration Committee	Abigail Berg	As called
WPPA - Legislative Committee (+ All 3 Commissioners)	Eric Toews	As called
WPPA – Other Committees (Aviation, Economic Development,	All 3	As called

INDUSTRIAL DEVELOPMENT CORPORATION OF

THE PORT OF PORT TOWNSEND

Port Commission Building | 333 Benedict Street | Port Townsend, WA 983689 January 8, 2020

1:00 PM

Agenda

- I. Call to Order
- II. Election of Officers
- III. Approval of Minutes January 9, 2019
- IV. New Business
 - a. Review of 2019 financial report
- V. Next Meeting called as needed
- VI. Adjournment

Industrial Development Corporation of the Port of Port Townsend

For the year ended December 31, 2019

Fund Name	Description	<u>Amount</u>
Operations	Reserved Cash and Investments - Beginning	0
Operations	Unreserved Cash and Investments - Beginning	5,015
Operations	Investment Earnings	2
Operations	Unreserved Cash and Investments - Ending	5,017

Industrial Development Corporation of The Port of Port Townsend

NOTES TO FINANCIAL STATEMENTS For the year ended December 31, 2019

ACCOUNTING POLICIES

The Industrial Development Corporation (IDC) of the Port of Port Townsend is a public nonprofit corporation created by the Port of Port Townsend through enabling legislation of the State of Washington. The corporation is governed by a 3-member board of directors who also serve as Commissioners of the Port of Port Townsend.

The corporation's purpose is to issue tax-exempt non-recourse revenue bonds to finance industrial development within the corporate boundaries of the Port. The corporation may construct and maintain industrial facilities, which it leases or sells to industrial users. Revenue bonds issued by the corporation are payable from revenues derived as a result of the industrial development facilities funded by the revenue bonds. The bonds are not a liability or contingent liability of the Port or a lien on any of its properties or revenues other than those industrial facilities for which they are issued.

During 1988, \$8,200,000 of revenue refunding bonds were issued to refund all previous issues of revenue bonds of Port Townsend Paper Corporation. The original bond issues were used to finance the acquisition, construction, equipping and installation of paper processing equipment and hydroelectric generating and pollution control facilities by Port Townsend Paper Corporation. There have been no other such bond issues issued by the IDC since this one.

The Industrial Development Corporation of the Port of Port Townsend reports on a cash basis as of fiscal year 2018 when it changed from a full accrual basis.

INDUSTRIAL DEVELOPMENT CORPORATION OF THE PORT OF PORT TOWNSEND

MEETING OF:

January 8, 2020

AGENDA ITEM:

Annual Election of Year 2020 Officers

BACKGROUND:

2019 IDC Officers:

President:

William W. Putney III

Vice-President:

Stephen R. Tucker

Secretary:

Peter W. Hanke

RECOMMENDATION:

Elect Officers for the year 2020.

MINUTES OF THE INDUSTRIAL DEVELOPMENT CORPORATION OF THE PORT OF PORT TOWNSEND Wednesday – January 9, 2019

The meeting of the Industrial Development Corporation of the Port of Port Townsend was held in the Port Commission Building, 333 Benedict Street, Port Townsend, WA

Peter W. Hanke, President Present: 2018 Directors: William W. Putney III, Vice President Stephen R. Tucker, Secretary Port of Port Townsend Staff: Interim Executive Director Pivarnik **Auditor Berg Deputy Director Toews** Minutes Nelson Attorney Chmelik (present via Skype audio/visual) CALL TO ORDER Commissioner Tucker called the meeting to order at 2:24 p.m. **ELECTION OF OFFICERS:** Commissioner Tucker moved to approve the 2019 slate of officers as follows: Commissioner Putney - President, Commissioner Tucker - Vice President and Commissioner Hanke - Secretary. Commissioner Hanke seconded the motion. Motion carried by unanimous vote. APPROVAL OF MINUTES - January 10, 2018: Ш.__ Commissioner Tucker moved for approval of the January 10, 2018 IDC meeting minutes as presented. Commissioner Hanke seconded the motion. Motion carried by unanimous vote. IV. **NEW BUSINESS:** None **NEXT MEETING:** ٧. The next scheduled meeting of the IDC will be on January 8, 2020, unless otherwise scheduled. VI. **ADJOURNMENT:** There being no further business to come before the Directors, the meeting adjourned at 2:26 p.m.

Stephen R. Tucker, Vice President DATE

DATE

William W. Putney, President

DATE

Peter W. Hanke, Secretary

PORT OF PORT TOWNSEND AGENDA COVER SHEET

MEETING DATE	January 8, 2020							
AGENDA ITEM	□ First Reading	☐ Second Reading	⊠ Regular	Business				
AGENDA TITLE	VIII. A. Resolution No. 713-20 Delegating Authority to Port Management							
STAFF LEAD	Jim Pivarnik, Executive Director							
REQUESTED	☐ Information	☐ Motion	☐ Action	□ Discussion				
ATTACHMENTS	A. Draft Resolution B. Specific Policy Di Executive Director	rectives of Administra	ative Authority	to the Port District				

RESOLUTION NO. 713-20

A Resolution of the Commission of the Port of Port Townsend RESOLUTION DELEGATING AUTHORITY TO PORT MANAGEMENT

WHEREAS: section 53.12.270 of the Revised Code of Washington provides authority to the Port Commission for delegation of powers to Port Management, and;

WHEREAS: the Port Commission has developed a delegation of authority policy requiring annual re-adoption, and;

WHEREAS: the Port Commission has reviewed and discussed the policy in prior public session;

NOW, THEREFORE, BE IT RESOLVED by the Port Commission of the Port of Port Townsend, as follows:

Approve for the calendar year of 2020the master policy directive of the Port Commission of the Port of Port Townsend dated January 22, 2020, which is attached hereto and incorporated herein as Attachment "A", for the purpose of establishing the administrative authority for the Port District Executive Director.

ADOPTED this 22nd day of January 2020, by the Commission of the Port of Port Townsend and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the Seal of the Commission duly affixed.

ATTEST:	
Pam Petranek, Secretary	Peter W. Hanke, President
APPROVED AS TO FORM:	William W. Putney III, Vice President
Port Attorney	

PORT OF PORT TOWNSEND SPECIFIC POLICY DIRECTIVES OF ADMINISTRATIVE AUTHORITY TO THE PORT DISTRICT EXECUTIVE DIRECTOR January 23, 2019 January 22, 2020

The Commission of the Port of Port Townsend adopts the following policy for the purpose of establishing the Administrative Authority of the Executive Director (ED), who is responsible for normal Port operations. The phrase "normal Port operations" as used herein, means regular day-to-day business transactions involving personnel, materials and funds. The Commission shall retain an ED to implement the objectives of the Port, which shall be established by the Commission. The ED derives authority from the Commission acting as the governing body. The ED shall regularly inform and consult with the Commission regarding significant information and business transactions by a method mutually agreeable to the Commission and the ED. Commission directives or initiatives shall be made through the ED and shall be made only by the Commission acting as a body. The ED shall serve as the primary spokesperson for management.

Subject to the limitations identified in this Delegation of Authority Resolution, the ED shall be responsible for:

- 1. Operation, maintenance, administration, and use of the Port's boat yard, airport, marina and properties, and facilities;
- 2. Implementation of construction work and alterations, repairs and improvements to real estate and physical facilities controlled and operated by the Port;
- 3. Administration of day-to-day normal Port operations which may include personnel administration, taskand project assignments, hiring, firing, discipline, and training;
- 4. Execution of contracts and other documents related to normal Port operations that are related to or pursuant to a project or matter authorized by the Commission, or otherwise authorized in this Administrative Authority Policy;
- 5. Applications to relevant jurisdictions for development permits, land and shoreline use entitlements, and land and shoreline use text amendments of any kind associated with Port facilities or projects, provided that all applications for area-wide land or shoreline use designation changes shall require prior Commission approval;
- 6. Application for and acceptance of grants or other funds from federal, state, or local governments, subject to the approval of Commission if required per Section XIV herein;
- 7. Delivery of services essential to the Port's mission: financial and accounting related matters; legal matters; and all other administrative matters.
- Certain elements of this policy require annual approval per RCW. Therefore, this Administrative Authority
 Policy shall be reviewed and readopted annually.

I. UTILIZATION OF PORT CREWS

The Port District ED shall retain professional staff, who shall operate and manage according to directives from the ED. The ED is authorized to administer day-to-day operations which include personnel administration (task & project assignments, hiring, firing, setting salary & benefits, training, grievance procedures, employee enrichment & improvement, Union negotiations, etc.) within positions created and approved by the Commission.

A. Performance of Work by Port Crews

Prior Commission approval shall not be required where individual capital or maintenance projects are to be carried out by Port crews or day labor (when deemed appropriate) and do not exceed Twenty-five Thousand Dollars (\$25,000.00) exclusive of applicable taxes. The ED may inform the Commission at the next scheduled meeting of all actions under this section.

II. RULES AND / OR PROCEDURES

The ED is authorized to adopt administrative rules and regulations necessary for the efficient operation of the Port so long as such rules and regulations are reported to the Commission and are consistent with Commission policy. All amendments to the rules and regulations established therein may hereafter be made by the ED, so long as such amendments do not exceed the authority of the ED, as granted elsewhere herein, and are reported to the Commission in a timely manner.

The ED may delegate to appropriate Port staff such administrative authority or reporting requirements herein established as is necessary and advisable in the efficient exercise of the ED's authority. In the event the Executive Director is unavailable, due to absence, temporary leave, and/or due to conflict of interest and/or appearance of fairness reasons, the authority of the ED shall be delegated as follows: (a) operations matters to the Port's Deputy Director, (b) internal administrative matters (Finance and Human Resources) to the Director of Finance and (c) all other matters delegated first to the Deputy Director, second to the Director of Finance. In the event of questions, dispute or disagreement with the delegation, the staff named hereinabove shall consult with the Port's Attorney for a final determination. To implement delegations or authority to Port staff, the ED shall promulgate policy and procedure manuals, monetary delegations authority and employee position descriptions, affirmative action plans and office manuals which shall include such delegations as appropriate. The responsibility for all administration and day-to-day operations of the Port rests with the ED.

III. SALE OF PERSONAL PROPERTY

The Port District ED, with prior Commission approval, is authorized pursuant to RCW 53.08.090 to selland convey surplus personal property of the Port pursuant to the requirements of RCW 53.08.090.092 (as amended or succeeded). The ED is authorized to sell and convey surplus personal property of the Port of Port Townsend subject to the following conditions:

- A. That the value of such personal property does not exceed the dollar limits authorized under RCW
 53.08.090-092 (as amended or succeeded).
- B. Prior to any such sale or conveyance, the ED shall itemize and list the property to be sold and make written certification to the Commission that the listed property is no longer needed for district purposes.
- C. Any large block of such property having a value in excess of the limits authorized under RCW
 53.08.090 (as amended or succeeded) shall not be broken down into components of a lesser value and sold unless done so by public competitive bid.
- D. That offers for purchase are solicited from at least three (3) parties when no bids are received from the public competitive bidding process; unless waived by the Commission on a case-by-case basis.
- E. No real property or facility which is part of the comprehensive plan of improvement or modification thereof shall be disposed of until the comprehensive plan has been modified pursuant to RCW 53.20.010 and such real property or facility is found to be surplus to Port needs.

IV. CONTRACTS FOR PERFORMANCE OF WORK

- A. Contract Awards for Construction and Maintenance:
 - 1. The Port District ED may, without prior Commission approval, execute on its behalf contracts where the total estimated contract price does not exceed Twenty-five Thousand Dollars (\$25,000.00) exclusive of applicable taxes, and so long as all statutory procedures are followed, including bid and performance surety requirements. All contracts awarded under this section will be reported to the Commission at the next scheduled meeting. Public discussions with the Commission regarding all projects will take place with the adoption of the annual capital budget unless an emergency exists.
 - 2. The Port District ED may execute on behalf of the Port contracts for large projects that have been properly approved including costs at a public Port meeting, and all statutory procedures must be followed. Upon proper approval from the Commission, the Port District ED may publish a notice calling for bids; award of contract or rejections of all bids will be done by vote of the Commission at a public meeting.
 - 3. When any emergency shall require the immediate execution of a contract for work the Port District ED, pursuant to the procedures of RCW 39.04.020 (as it may be amended or succeeded), is authorized to make a finding of the existence of such emergency and execute any contracts necessary to respond to the existing emergency, provided that the Port District ED shall at the first opportunity contact a Commissioner, and at the first Port Commission meeting following the finding of the existence of an emergency, request the Port Commission ratification of the finding of emergency and any contracts awarded and or executed pursuant to that finding.

B. Change Orders:

Where a contract for the performance of work has been awarded and under which the work is in progress, and individual changes in plans or specifications are necessitated in order to properly accomplish the work, the ED is authorized, without prior Commission approval, to execute on its behalf individual change orders to the contract if all of the following conditions are met:

- 1. The estimated cost of the aggregate changes in plans or specifications, exclusive of applicable taxes, will not exceed Twenty-Five Thousand Dollars (\$25,000.00).
- 2. For contracts of \$1 million dollars or more, the change order shall not exceed Twenty- five Thousand Dollars (\$25,000.00).
- 3. The contract provides for the issuance of change orders.
- 4. The individual change order has been approved and certified by the project architect or engineer as being necessary to the proper accomplishment of the work called for in the basic contract.
- 5. The ED shall inform the Commission at the next scheduled meeting of all actions undertaken under this section.

C. Professional Services / Consulting Services:

The ED shall be responsible for the initiation of appropriate procedures to obtain professional or consultant services where deemed necessary in carrying out normal Port operations. When necessary, Port Legal Counsel shall be consulted with respect to statutory procedures in connection with these services. The ED may arrange for these services, without prior Commission approval, when the cost of the proposed service for any single project will not exceed Twenty-five Thousand Dollars (\$25,000). If the fee for such services is estimated to exceed Twenty-five Thousand Dollars (\$25,000), prior Commission approval shall be required. The ED shall inform the Commission at the next scheduled meeting of all actions undertaken under this section.

D. Architectural, Engineering & Technical Services:

The ED is authorized to contract with qualified architectural, engineering and technical testing & inspection firms licensed in the State of Washington to provide such services as required for maintenance, preliminary engineering work or small projects of the Port. Arrangements for obtaining such services shall follow all required statutory procedures and shall be consistent with normal established fees paid for such services. If the fee on any single project or closely related work is estimated to exceed Twenty-five Thousand Dollars (\$25,000), Commission approval shall be required. The ED shall inform the Commission at the next scheduled meeting of actions undertaken under this section.

E. Declarations of Emergency:

1. An emergency is defined as an unforeseen circumstances beyond the control of the Port that either present a real, immediate threat to the proper performance of essential functions; or may result in a material loss or damage to property, bodily injury, or loss of life if immediate action

- is not taken (see RCWs 39.04.020, 39.04.280 and 53.19.010(04). Emergencies allow for the waiver of state procurement requirements.
- 2. The Executive Director is authorized to make a finding of the existence of an emergency, to authorize spending of Port resources and funds, to waive competitive bidding requirements and to execute any contracts necessary to respond to the emergency in accordance with RCW 39.04.020, 39.04.280, 53.19.010 and 53.19.010.
 - a) As soon as possible following a declaration of emergency, and in no case more than 24 hours following such declaration, the ED shall individually inform each Commissioner of the action taken. The ED shall also notify the Commission of having made such emergency declaration at its next regularly scheduled meeting.
 - b) If a public works or purchased goods or services contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency shall be filed with the Commission and made public on the Port's website no later than two weeks following the award of the contract.
 - c) If a personal services contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency shall be filed with the Commission and made public on the Port's website within seven working days following the commencement of a work or execution of the contract, whichever occurs first.
 Documented justification for emergency contracts shall be provided to the Commission when the contract is filed.
 - d) As used herein, "filed with the Commission" means any of the following:
 - (1) Delivery to the Executive Assistant to the Commission for distribution to each Commissioner; or
 - (2) Noting the matter for Consent or Action on the Meeting Agenda for the next scheduled meeting of the Commission.

F. Reports:

Notwithstanding the authorities granted in the preceding sections A –E, the ED shall keep the Commission advised of all contracts, reports and activities.

V. ACQUISITION OF UTILITIES, MATERIALS, EQUIPMENT, SUPPLIES, AND SERVICES.

The ED shall have the responsibility for following all statutory requirements and procedures in connection with all acquisition of utilities, materials, equipment, supplies and services. Utilities, materials, equipment, supplies and services may be acquired on the open market, or by competitive bidding when necessary for the normal maintenance and operations of the Port, and no prior Port Commission approval shall be required but shall, where appropriate, be approved as part of normal monthly expenses and shall be within authorized budgets. The Port District ED may acquire utilities, materials, equipment, supplies and services subject to the

following conditions:

- A. The purchase price does not exceed Twenty-Five Thousand (\$25,000.00) Dollars or has been preapproved by Commission, or if specifically identified while developing the annual budget and does not exceed the budgeted amount.
- B. In the event of competitive bidding all statutory regulations must be followed.
- C. The ED is authorized to establish a system to control purchase of materials, supplies and services.
 Such system should take into consideration the nature of the purchases, and that the invoices have been properly processed and approved in accordance with Port Policies and Procedures.

VI. REAL & PERSONAL PROPERTY RENTALS OR LEASES

All real & personal property belonging to the Port, when available for rent or lease, shall, except as otherwise provided herein below, be leased only under an appropriate written lease instrument, approved by the Commission, and accompanied by a lease bond or other form of security in accordance with RCW 53.08.085. The term lease as used herein may refer to rental agreements, operating agreements or use agreements. However, the Executive Director, or two management level Directors authorized in writing by the ED, may execute short-term leases (i.e., terms of one (1) year or less) subject to the following conditions:

- A. The appropriate lease surety must be in place consistent with statutory requirements and the Port's standard form lease, with the exception of State and Federal leases that require use of the tenant's lease form, as long as the content of the lease form does not materially change the intent expressed in the Port's standard lease form.
- B. The arrangements for the short-term occupancy shall be evidenced by the Port's standard form lease (except that any clearly inapplicable provision or provisions inconsistent with the policy set forth herein may be deleted from the standard form).
- C. The use to which the property may be put by the tenant shall be expressly stated and shall be in accordance with applicable land and shoreline use regulations and any standards of use adopted by the Commission for the same or similar Port property or properties.
- D. The lease may not be renewed or otherwise extended beyond one (1) year without prior Commission approval.

VII. LITIGATION

The ED, in coordination with Port Counsel (appointed by the Commission), shall be responsible for the procedures necessary for management and supervision of litigation in which the Port has an interest, directly or indirectly. For purposes of this section, "litigation" shall mean the assertion of any position, right or responsibility by or against the Port that has been filed in any court of general jurisdiction, be it State or Federal, or any quasi-judicial or administrative forum. The ED shall inform the Commission at the next regular meeting of all actions undertaken under this section.

VIII. ADJUSTMENT TO ACCOUNTS RECEIVABLE OR UNCOLLECTIBLE ACCOUNTS

The Port District ED is authorized to establish procedures to:

- Make adjustments to accounts receivable for valid business reasons which do not constitute a gift of public funds, or
- 2) Remove from the general ledger uncollectible accounts with prior approval from the Commission.

Prior to classifying any account receivable as a "doubtful account", the ED shall be satisfied that every reasonable effort has been made by Port staff to resolve or accomplish the collection of the account. For those accounts that fail to make payment, the ED shall authorize Port Legal Counsel to bring action in courts of law, or appropriate steps for possible collection. The Ports accounting records shall reflect that any account more than one hundred twenty (120) days past due is a "doubtful account". The ED shall review the doubtful accounts periodically (at least annually); recommend to the Commission which accounts should be deemed as "uncollectible" and removed from the Port's General Ledger. The Port may take collection action more quickly than set forth in the doubtful accounts collection procedure, or may exercise other remedies if available. The classification of an account as "doubtful" or "uncollectible" shall not waive any rights or release any claim against the Account Debtor. The ED shall inform the Commission at the next regular meeting of all actions undertaken under this section.

IX. PROPERTY ACQUISITION AND SALE OF REAL PROPERTY

When the Commission authorizes the acquisition of real property by purchase or condemnation, the ED shall take all necessary steps including, but not limited to obtaining appraisals / market analyses, to secure title of such property for the Port. The acquisition price shall be established based on appraisals, market analyses and negotiations and shall be approved by the Commission prior to any finalization of the purchase, ED shall sign all necessary documents.

When the Commission authorizes the sale of real property, the ED shall take all necessary steps to complete the transaction including, but not limited to obtaining appraisals, accepting deposits and opening escrow accounts for the Port. The sale price shall be established based upon factors including, without limitation, negotiations, appraisals/market analyses, special benefits to the Port and community, and employment generated by the project, and shall be approved by the Commission prior to any finalization of the sale. ED shall sign all necessary documents.

X. INSURANCE PROGRAMS

The ED shall be authorized to work with an insurance broker, pre-approved by the Commission, tonegotiate and obtain appropriate policies of insurance to cover Port property, liability, Commissioner and employee coverage, vehicle and other areas appropriately included within a comprehensive insurance program. The ED is authorized to approve from time to time changes or modifications within the insurance policies. These changes shall be promptly reported to the Commission at the next scheduled meeting so as to keep

Commission informed of basic changes in the overall insurance program of the Port.

XI. EMPLOYEE TRAVEL, EDUCATION & CONFERENCE ATTENDANCE

The ED is authorized to approve travel and attendance of conferences or education opportunities by employees, without prior Commission approval. The limits of such authorization shall be for travel within the continental United States and the total costs shall not exceed \$1,000.00. Estimated costs in excess of \$1,000.00 shall require Commission approval prior to travel. Travel costs must be within the current budget. The ED will review all requests for travel to conferences or education to assure that it is applicable to the Port or Port operations.

XII. BANKING SERVICES AND INVESTMENT OF TEMPORARILY IDLE PORT FUNDS

The ED is authorized to negotiate for banking services and enter into agreements for such services; provided, however, unless approved in advance by the Commission, such agreements shall be terminable by the Port, without penalty. Procedures shall be established for the deposit / disbursal of Port funds recognizing the requirements sited in RCW 53.36.010 and that such procedures shall provide for an adequate system of internal control. Such banking service agreements shall be reported to the Commission at the next regular meeting.

For purposes of this section, "Temporarily Idle Funds" shall mean those funds which are not required for immediate expenditure. The Port District ED is authorized to develop procedures to direct the Port Treasurer, in accordance with applicable law relating to the investment of public funds, in the investments of temporarily idle Port funds. These directives include, but shall not be limited to, investments in public fund approved vehicles of investment, sale of such investments, and necessary inter-fund transfers. A summary of all financial activities shall be provided at Port Commission meetings.

XIII. TRADE DEVELOPMENT PROGRAMS

The ED is authorized, consistent with budget and statutory limitations, to develop and carry out programs of trade development (which may include tourism and tourism promotion), advertising, and promotion of the Port, including its properties, facilities and services. Such programs shall be reviewed by the Commission from time to time.

XIV. GRANTS AND APPROPRIATIONS

E. Grants:

- 1. The Executive Director is authorized to apply for grant funds for the Port.
- 2. The Executive Director is authorized to accept grants where the grant award obligates the Port to provide a cash match of no more than Twenty-five Thousand Dollars (\$25,000.00).

- 3. In cases where the grant award obligates or has the potential to obligate the Port to provide a cash match greater than Twenty-five Thousand Dollars (\$25,000.00), Commission authorization is required prior to grant acceptance.
- 4. The Executive Director is authorized to accept and manage any grant funding that is secured for projects that have previously been authorized by the Commission.
- F. All appropriation requests (regardless of value) will come before the Commission for approval prior to submission.

XV. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT

It is the basic policy of the Port to provide equal opportunity to the users of all Port services and facilities, all contracting entities, Port employees and applicants for employment, and to assure that there be absolutely no discrimination against any person on the grounds of race, creed, color, national origin, sex, sexual orientation, marital status, age or the presence of any sensory, mental or physical handicap. This policy is to be implemented by the Executive Director.

XVI. ADMINISTERIAL CHECKS AND WARRANTS

The Executive Director is authorized to approve checks and warrants issued in the nature of administerial expenses for the efficient and proper management of port district operations as delegated in this resolution or reasonably implied from the same. The ED is not authorized to approve checks and warrants in the nature of claims or non-administerial obligations. The ED shall cause the checks and warrants issued under this section to come before the commission for review and approval as to the nature and amount of administerial checks and warrants issued at the next regular meeting following issuance. The Port shall provide for bonding required for faithful discharge of the Executive Director's duties.

PORT OF PORT TOWNSEND AGENDA COVER SHEET

MEETING DATE	January 8, 2020				
AGENDA ITEM		☐ Second Reading	⊠ Regula	r Business	
AGENDA TITLE	VIII. B. Resolution	No. 714-20 Readoptin	g Commission	Meeting Procedures	
STAFF LEAD	Jim Pivarnik, Execu	tive Director			
REQUESTED	☐ Information	☐ Motion	☐ Action	□ Discussion	
ATTACHMENTS	A. Draft Resolutio B. Appendix A – P	n olicy and Procedures	on Commissio	n Meetings	

RESOLUTION NO. 714-20

A Resolution of the Commission of the Port of Port Townsend READOPTING COMMISSION MEETING PROCEDURES

WHEREAS, The Port of Port Townsend did establish and approve, in public session, "Commission Meeting Procedures" by Resolution No. 42-87 dated November 18, 1987, and;

WHEREAS, The Port of Port Townsend did rescind Resolution No.42-87, and adopted new Commission Meeting Procedures which were more efficient and beneficial for both the Commission and participating public, by Resolution No. 326-00 on July 26, 2000, and which was subsequently amended by Resolution No 344-01 on March 14, 2001, by Resolution No. 363-02 on February 27, 2002, by Resolution No. 367-02 on March 27, 2002, by Resolution No. 390-03 on January 22, 2003, Resolution No. 392-03 on April 9, 2003, by Resolution No. 471-06 on July 26, 2006, by Resolution No. 487-07 on April 25, 2007, by Resolution No. 532-10 on January 27, 2010, by Resolution No. 553-11 on January 12, 2011, by Resolution No. 558-11 on March 23, 2011, by Resolution No. 561-11 on June 8, 2011, by Resolution No. 594-13 on May 8, 2013, Resolution No. 604-14 on January 22, 2014, by Resolution 624-15 on January 14, 2015, Resolution No. 639-16 on January 27, 2016, by Resolution No. 654-17 on January 11, 2017, Resolution No. 674-18 on January 24, 2018, and by Resolution No. 675-18 on February 28, 2018, and by Resolution No. 695-19 on January 24, 2019; and

WHEREAS, the Port Commission wishes to modify the meeting procedures as noted in Appendix A, established on January 24, 2019 via Resolution No. 695-19.

NOW, THEREFORE BE IT HEREBY RESOLVED by the Port Commission of the Port of Port Townsend, that Resolution No. 695-19 shall be rescinded, and the Commission Meeting Procedures, as shown in the attached "Appendix A", shall be adopted in their place.

ADOPTED this 22nd day of January 2020, by the Commission of the Port of Port Townsend and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the Seal of the Commission duly affixed.

ATTEST:	
Pam Petranek, Secretary	Peter W. Hanke, President
APPROVED AS TO FORM:	William W. Putney, III, Vice President
Port Attorney	

APPENDIX A

The Policy and Procedures on pages 1-4 have been adopted by Resolution 694-19, amending Resolutions 326-00, 344-01, 363-02, 367-02, 390-03, 392-03, 471-06, 487-07, 532-10, 553-11, 558-11, 561-11, 594-13, 604-14, 624-15, 639-16, 654-17, 674-18, and 675-18. Any changes or deletions will require an amendment to the Resolution.

COMMISSION MEETINGS

TIME AND LOCATION OF MEETINGS

- 1. Effective January 24, 2019, with the exception of the December schedule outlined in paragraph 2 immediately below, regular business meetings of the Port of Port Townsend will occur twice a month on the second Wednesday of each month at 1:00 p.m. and on the fourth Wednesday of each month at 5:30 p.m. in the Port Commission Building, 333 Benedict Street, Port Townsend, Washington. Public Workshops will occur on the second Wednesday of each month at 9:30 a.m. Meeting and workshop schedules and locations are subject to change with a minimum 24-hour notice to the local newspaper and the Port's website.
- 2. To accommodate the December holiday schedule, only one regular business meeting will be held in December on the second Wednesday of the month, December 11, 2019 at 1:00 p.m.

RULES OF TRANSACTION OF BUSINESS

- 1. Order of Business shall be as follows:
 - l Call to Order
 - II Approval of Agenda
 - Public Comments Related to/not related to the agenda (limited to total of thirty (30) minutes; three (3) minutes per person)
 - IV Consent Agenda
 - V Second Reading (Action Items)
 - VI First Reading (Discussion Only)
 - VII Regular Business
 - VIII Staff Comments
 - IX Commissioner Comments
 - X Next Meeting
 - XI Executive Session, (If called)
 - XII Adjournment
- 2. All matters which, in the judgment of the Commission, are of a legislative character and shall be embodied in the form of Resolutions. Resolutions shall be numbered consecutively, and the original copy shall be signed by the President and Vice President and attested by the

Secretary in open session. Resolutions shall be filed by the Executive Assistant and shall be recorded in a book or books kept for such purpose, which shall be public records.

3. Organization of Workshops:

- a. Shall have an agenda at the beginning of the workshop.
- b. Will have minutes recording topics discussed either in written and/or audio format.
- c. Will be used for discussion only, with no binding decisions made by the Commissioners.
- d. Rules governing written and spoken input from members of the public for business meetings will not apply to workshops.

4. Organization of Regular Business Meetings:

- a. Shall have an agenda approved at the beginning of the meeting.
- b. Will begin with the Pledge of Allegiance.
- c. Will have minutes recording topics discussed and actions taken either in written and/or audio format.
- d. Will make any information to be presented before the Commission for consideration to the public in advance of the meeting. This information will be part of the agenda and meeting packet posted on the Port's website pursuant to RCW 42.30.077.
- e. Will allow presentations by each member of the public indicating a desire to address the Commission, of no more than three (3) minutes, (maximum of thirty minutes per meeting) for Public Comment period on any appropriate topic. Each speaker must state their name and the subject of their comment before beginning. Written comments are encouraged.
- f. When, in the opinion of the Commission's presiding officer, significant information has been presented to the Commission which was not made available to the public in advance, the presiding officer may allow additional public comment at a time and limited in a fashion the presiding officer will make clear.
- g. No public comment will be entertained once a motion for action has been called and the Commission's deliberation has begun.
- h. Public comments and presentations shall adhere to common norms of civility and may be cut off by the presiding officer if in his or her judgment these norms of civility are violated. Disruptions of Port Commission meetings are prohibited. Disruptions include, but are not limited to the following:

- i. Failure of a speaker to comply with the allotted time established for the individual speaker's comment;
- ii. Addressing the audience, rather than the commission, by a member of the public who has been recognized by the presiding officer for public comment;
- iii. Outbursts (e.g., clapping, shouting, cheering) from members of the public who have not been recognized by the presiding officer for public comment;
- iv. Holding or placing a banner or sign in the Commission Room in a way that endangers others or obstructs the free flow of meeting attendees or the view of others attending the meeting; or
- v. Behavior that intentionally disrupts or otherwise impedes the orderly conduct of Commission business.

5. Conduct of Regular Business Meetings:

- a. The Port Commission, as a governing body, is charged with making decisions that advances the mission of the Port and which are based on sound information and analysis, respect for views of the public, and each Commissioner's best disinterested judgment.
- b. With only 3 elected Commissioners, the Commission can operate with a high degree of informality and need not be bound to all the provisions spelled out in standard codes of parliamentary procedure. However, some formal procedures need to be followed to respect the rights of all 3 Commissioners to participate equally and fully in all Commission business.
- c. Some fundamental principles for conducting Commission meetings include (taken from The Standard Code of Parliamentary Procedure, by Alice Sturgis):
 - i. All Commissioners have equal rights, privileges, and obligations.
 - ii. The majority vote decides.
 - iii. The rights of the minority must be protected.
 - iv. Full and free discussion of every proposition presented for decision is an established right of the members.
 - v. Every member has the right to know the meaning of the question before the Commission and what its effect will be.
 - vi. All meetings must be characterized by fairness and by good faith.
- d. Routine and ordinary business may be approved and/or rejected by the Commission by placing it on either the Consent Agenda, or as an item of "Regular Business". Examples of items typically placed on the consent agenda are approval of warrants and meeting minutes.
 - Examples of items considered as "Regular Business" include lease agreements, contracts, and grant agreements.

Matters of routine and ordinary business may be voted on at the same meeting at which they are introduced. Any one Commissioner may delay the vote on a specific item and request additional information before completing its consideration.

- e. To facilitate sufficient time for reflective consideration of proposals by Commissioners and members of the public and staff, all proposals for policies* which impact members of the public shall be voted on no sooner than the immediate next regular business meeting following introduction of the proposal in the form of a motion moved by a Commissioner. The introduction of a proposal is the "first reading" and the vote is the "second reading". This requirement may be waived by a unanimous vote of the Commission.
 - A policy proposal, once moved as a motion, may be discussed at subsequent Commission meetings without a vote required and may be amended at subsequent meetings.
 - ii. At any subsequent Commission meeting, and Commissioner may move "To vote immediately" on the policy proposal. This motion is not debatable and requires a two-thirds affirmative vote.
 - iii. The chair may call for a vote on the policy proposal at any subsequent Commission meeting and may proceed with a vote in the absence of any objections by other Commissioners.

*Examples of policy actions include adoption of the budget, adoption of strategic and/or comprehensive plans.

- f. All motions require a second. In the absence of a second, the motion is declared dead.
- g. Minor amendments to a motion may be accepted as a "friendly amendment" by the maker of the original motion without a vote on the amendment.
- h. The presiding officer of the Commission meeting shall have the right to participate fully in the discussion and shall cast a vote on all motions.
- i. The standard priorities and requirements for main, subsidiary, and privileged motions shall be used.
- 6. The draft agenda may be available by Friday of the week previous.
- 7. The Executive Director or his designee would be responsible for keeping track of each issue.
- 8. All public comments and questions should be directed to the Commissioners. If the Commissioners so desire, they may refer the question to the Executive Director, Port Attorney, and/or other Port Staff in attendance.

SMOKING

Smoking is prohibited during the Commission meetings.

MINUTES

- 1. Additions and or corrections to the Minutes will be recorded and become a part of the revised and approved consent agenda. Minutes are to be available to the Commissioners prior to the meetings.
- 2. Minutes are recorded according to RCW 42.32.030

VOUCHER APPROVAL

It shall be the policy of the Port of Port Townsend Commissioners to approve vouchers for payment and authorize the issuance of warrants by signing a list which will indicate the voucher number, to whom paid, amount and purpose of the payment. Voucher approval is incorporated under "Consent Agenda".

COMMISSIONER'S COMPENSATION

Each Commissioner shall be reimbursed or compensated for actual attendance at general meetings and for performance of other services in behalf of the Commission up to the maximum rate allowed in accordance with **RCW 53.12.260**.

PORT OF PORT TOWNSEND AGENDA COVER SHEET

MEETING DATE	January 8, 2020							
AGENDA ITEM	☐ First Reading	☐ Second Reading	⊠ Regular E	Business				
AGENDA TITLE	IX. A. November 2019 Financials							
STAFF LEAD	Abigail Berg, Finance Director							
REQUESTED		☐ Motion	☐ Action	□ Discussion				
ATTACHMENTS	A. November Finance B. November Opera							

Port of Port Townsend Summary of Operating & Non-Operating Revenues & Expenses 2019 Activity with Comparison to Prior Year and Budget

			Variance to			
	YTD Nov	YTD Nov	prior year -	es	YTD Budget	Variance to
	2018	2019	2018 v 2019	notes	2019	Budget YTD
REVENUES						
Boat Haven Moorage	1,716,168	1,762,135	45,967		1,756,241	5,894
Yard Operations	1,560,220	1,744,342	184,123		1,692,824	51,518
Boat Haven Properties	608,275	643,376	35,101		591,110	52,266
Pt. Hudson Marina, RV & Prop	1,353,538	1,393,542	40,004		1,391,004	2,538
Quilcene	147,333	154,864	7,532		149,447	5,417
Ramps	42,711	49,436	6,725		46,900	2,536
JCIA	123,376	138,174	14,798		127,405	10,769
Total Operating Revenues	5,551,620	5,885,869	334,249		5,754,931	130,938
OPERATING EXPENSES						
Salaries & Wages	2,006,120	1,884,292	(121,828)	a	1,946,451	(62,159)
Payroll Taxes	200,988	206,432	5,444		212,945	(6,513)
Employee Benefits	686,566	647,259	(39,307)	b	646,443	816
Uniform Expense	5,767	7,716	1,949	~	7,734	(18)
Contract Services	268,451	238,694	(29,757)		258,082	(19,388)
Consulting Services	59,756	49,769	(9,987)		123,500	(73,731)
Legal & Auditing	193,396	123,450	(69,946)	С	91,663	31,787
Insurance	197,525	276,190	78,665		236,867	39,323
Facilities & Operations	468,066	498,765	30,699	d	431,968	66,797
Utilities	500,752	523,470	22,718	ŭ	506,995	16,474
Marketing	52,000	56,464	4,464	е	51,124	5,340
Economic Development	30,000	30,404	(30,000)	Č	15,000	(15,000)
Travel & Training	25,623	28,383	2,761	f	28,113	270
Cost of Goods - Fuel	11,143	15,024	3,881	g	10,765	4,259
Community Relations	- 11,145	35	35	ь	10,703	35
Total Operating Expenses	4,706,152	4,555,943	(150,209)		4,567,650	(11,707)
Income from Operations w/o Depr	845,468	1,329,926	484,458		1,187,281	142,645
Non-Operating Revenue						
Capital Contibutions/Grants	113,713	335,481	221,767	h	4,233,028	(3,897,547)
Interest	69,900	61,796	(8,104)	i	41,700	20,096
Property & other taxes	1,000,220	1,082,660	82,440		1,059,075	23,585
Misc Non-Operating Revenue	59,150	254,246	195,096	j	28,645	225,601
Total Non-Operating Revenues	1,242,984	1,734,183	491,199		5,362,448	(3,628,265)
Non-Operating Expenses						
Bond Interest	280,664	150,294	(130,370)		143,544	6,750
Bond Mgmt, Issuance & Misc Exp	1,508	1,450	(58)		1,215	235
Election Expense		2,100	(30)		2,213	
Total Non-Operating Expenses	282,172	151,744	(130,428)		144,759	6,985
Net Non-Operating Income (Expense)	960,812	1,582,439	621,627		5,217,689	(3,635,250)
Net Income (Loss)	1,806,280	2,912,365	1,106,085		6,404,970	(3,492,604)

Notes:

- (a) There have been several changes in staffing since 2018 that contribute to the year to year variance. Such changes have been noted and discussed throughout the year at Commission meetings. Also, part of the variance includes ~\$50,000 in sick and vacation payouts at termination in 2018.
- (b) The 2018-2019 variance in benefits paid is partly due to changes and timing of those changes in staffing, but primarily is a timing issue that will catch up by year end. Budget is on target.
- (c) Whereas this is below 2018, it is higher than budget due to invoices for legal services related to Seattle Maritime Academy litigation regarding the John Cobb derelict vessel. A settlement payment was received in July that offset the YTD SMA legal fees (~\$47,000).
- (d) The primary reason for the variance to prior year is due to the \sim \$52,000 increase in Bad Debt write-offs.
- (e) Marketing costs are on par with 2018 YTD, though ahead of budget by ~\$5,000.
- (f) Variance to prior year, 2019 is higher due to Hazwoper training for staff (\$4,181), though budget is on target.
- (g) Variance between 2018-2019 and YTD budget to actual is from changing from accrual based (reporting the cost of fuel SOLD), versus cash based (reporting the cost of fuel PURCHASED), though fuel sales in 2019 have increased due to having a Facilities Attendant in Quilcene.
- (h) YTD Capital Contributions/Grants are less than YTD budget because it was anticipated the Port would be in construction phase of the JCIA Runway Rehab project at this point when the budget was adopted last year.
- (i) Interest income is higher than budgeted because more cash has been retained since the JCIA Runway Rehab construction hasn't commenced. Conversely, it is slightly less than YTD 2018 since the ARRA Bond Rebate won't be received until December 1.
- (j) Increases to Miscellaneous Non-Operating Revenue for the \$100,000 paid for the purchase of a surplused building by New Day Fisheries; these monies have been placed in the Port Wide Capital Reserve. In addition, there was an increase of approximately \$132,000 for the portion of the SMA legal settlement (totaling \$212,000) that wasn't used to pay down the outstanding accounts receivable for the Cobb vessel.

Port of Port Townsend YTD Cashflow report

		YTD November 2019
	notes	
Net Income		2,912,365
Net Change in Accruals from Balance Sheet*		256,058
Less: Capital Expenses:		
Point Hudson South Jetty project		<u> 5</u> :
WorkYard Resurfacing 2018		-
JCIA Runway Replacement project		(391,597)
PTBH Water Meters project		-
PTBH Restroom Remodel 2019		
BH Breakwater Repair 2019		(9,591)
PH Moorage Office Exterior Paint 2019		(3,332)
WorkYard Resurfacing 2019		(25,001)
PH South Jetty 2019-2020		(39,773)
PH 375 Hudson St Air Quality Imprvmts 2019		(17,113)
BH Net Float Reconstruction		(15,750)
BH Prop - 810 Haines Street		(5,129)
BH Prop - 2900 WA Bldg Repair 2019		(4,963)
Land		(4,505)
Buildings		
Improvements		(173,631)
Equipment replacement	а	(129,124)
Total Capital Expenses	а	(811,672)
Total Capital Expenses		(011,072)
Less: Principal Payments on Debt:		
Point Hudson - 2015 LTGO Refunding Bond		#
PTBH Marina - 2010 LTGO Bond		(450,000)
Total Principal Payments		(450,000)
Increase (Decrease) in Cash Y-T-D		1,906,751
,		-,,
Beginning Cash at 1/1/2019		1,632,311
Ending Cash at 11/30/2019		3,539,062

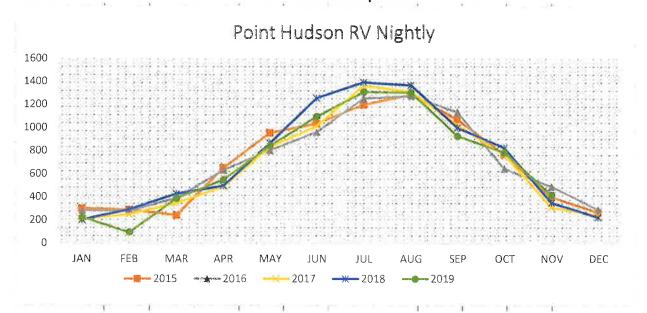
^{*}These are current assets and current liabilities.

Notes:

(a) Purchase of the following equipment & vehicles:
Vactor truck from City of Port Townsend (\$10,432)
Maintenance trucks (\$24,161 & \$2,500)
BH Restroom Fob Locking system (\$16,192)
(2) replacement tires for 300 ton Travelift (\$23,762)
BH Ramp Pay Station Kiosk & install (\$14,050)
Genie lift (\$21,000)
Blocking (\$10,851)
SkyTalk Phone System (\$6,177)

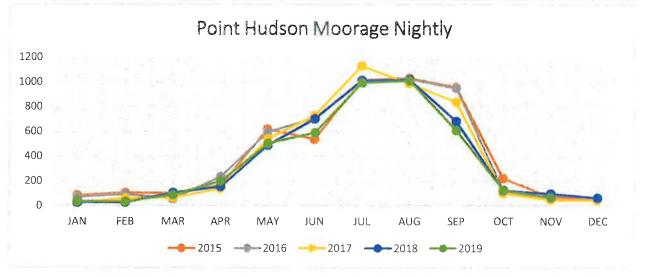
Port of Port Townsend

Five Year Comparisons



POINT HUDSON RV PARK - Nightly Count

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	ОСТ	NOV	DEC	TOT
2015	304	291	244	652	955	1036	1202	1287	1072	771	403	269	8486
2016	286	281	392	634	806	963	1256	1276	1137	645	492	293	8461
2017	211	253	349	491	833	1015	1368	1314	1022	770	312	243	8181
2018	204	294	430	498	868	1258	1396	1369	1001	828	352	226	8724
2019	225	96	389	552	843	1098	1312	1307	928	788	419		7957



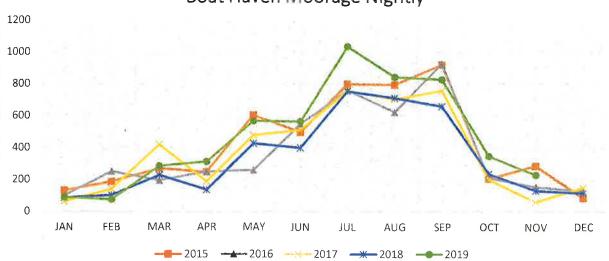
POINT HUDSON MARINA - Nightly Count

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	ОСТ	NOV	DEC	TOT
2015	83	104	101	163	619	537	1018	1033	958	221	73	60	4970
2016	70	92	56	235	594	706	1015	1026	950	122	51	44	4961
2017	25	60	65	138	540	729	1131	990	839	99	48	45	4709
2018	27	28	104	154	489	703	1013	1019	683	123	96	62	4501
2019	37	33	88	198	504	590	995	1011	609	127	65		4257

Port of Port Townsend

Five Year Comparisons

Boat Haven Moorage Nightly



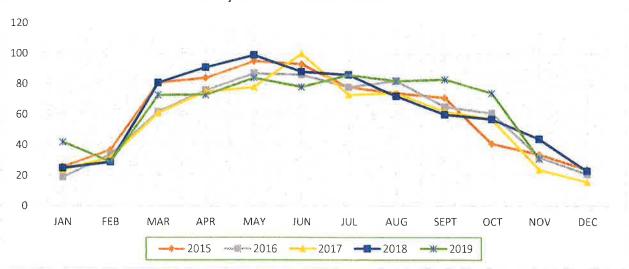
BOAT HAVEN MARINA - Nightly Count

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	ОСТ	NOV	DEC	TOT
2015	132	188	271	249	605	497	799	795	920	206	287	87	5036
2016	100	251	196	251	261	548	759	623	927	211	156	129	4412
2017	64	141	420	190	479	511	757	704	757	202	61	150	4436
2018	86	103	228	137	427	399	753	711	658	236	131	116	3985
2019	89	76	286	314	567	563	1034	842	827	347	230		5175
							1						

Port of Port Townsend

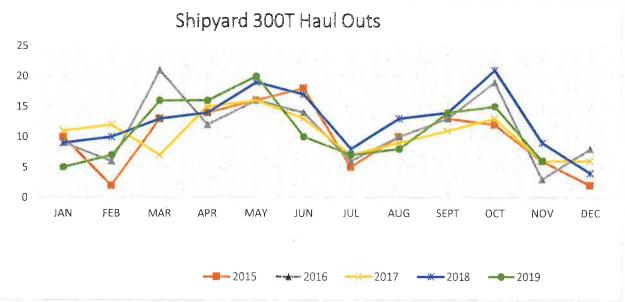
Five Year Comparisons

Workyard 75T Haul Outs



WORKYARD - 75T Haul Outs

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	ОСТ	NOV	DEC	TOT
2015	26	37	81	84	95	93	78	74	71	41	34	24	738
2016	19	34	62	76	87	86	78	82	65	61	32	21	703
2017	24	32	61	75	78	100	73	74	62	57	24	16	676
2018	25	29	81	91	99	88	86	72	60	57	44	23	755
2019	42	29	73	73	84	78	86	82	83	74	31		735



SHIPYARD - 300T - Haul Outs

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	ОСТ	NOV	DEC	TOT
2015	10	2	13	14	16	18	5	10	13	12	6	2	121
2016	9	6	21	12	16	14	6	10	13	19	3	8	137
2017	11	12	7	15	16	13	7	9	11	13	6	6	126
2018	9	10	13	14	19	17	8	13	14	21	9	4	151
2019	5	7	16	16	20	10	7	8	14	15	6		124

PORT OF PORT TOWNSEND AGENDA COVER SHEET

MEETING DATE	January 8, 2020							
AGENDA ITEM	☐ First Reading	☐ Second Reading	⊠ Regular Business					
AGENDA TITLE	IX. B) Pete's Marine Metal - New Lease							
STAFF LEAD	Eric Toews, Deputy Director							
REQUESTED	⊠ Motion	☐ Action	☐ Discussion					
ATTACHMENTS	A. Memo B. Terms - Pete's	Marine Metal						

PORT OF PORT TOWNSEND INFORMATIONAL MEMO

DATE:

1/8/2020

TO:

Port Commission

FROM:

Sue Nelson, Lease & Contracts Administrator

SUBJECT:

Pete's Marine Metal – Proposed Lease Agreement

BACKGROUND: Peter Chafee, d/b/a Pete's Marine Metal (aka Peter's Marine Services) has been a tenant in good standing, renting shop space in the Boat Haven industrial area since 2007. The business has been in hold-over status since January 31, 2014.

<u>DISCUSSION</u>: The shop space rented by Mr. Chaffee includes 2,400 square feet of marine-related light industrial, manufacturing space.

Lease term is a three (3)-year with two (2) one (1)-year options.

In the event Pete's Marine Metal were to become a "holdover" tenant at the end of the lease term, the rent would increase to 125% of that paid in the month preceding lease termination.

The proposed security deposit is equal to three (3) months' rent.

Port staff is pleased to continue a lease agreement with Mr. Chaffee, allowing Pete's Marine Metal to remain as an established Port tenant.

RECOMMENDATION: Authorize the Executive Director to execute the attached lease with Warren Peter Chaffee d/b/a Pete's Marine Metal, a Washington Sole Proprietorship.

ATTACHMENTS

Summary of Key Terms

PORT OF PORT TOWNSEND:

Summary of Key Terms – Pete's Marine Metal (January 8, 2020)

- 1. TENANT: Warren Peter Chaffee, Sole Proprietor, d/b/a Pete's Marine Metal.
- **2. PREMISES:** Approximately 2,400 square feet $(40' \times 60')$ of marine-related industrial building shop space, located at $315 10^{th}$ Street, Port Townsend, WA, in the Port's Boat Haven facility.
- **TERM:** Three (3)-year, beginning on February 1, 2020 and ending on January 31, 2023. Option to extend the lease term by one (2) one (1)-year terms. Notification to extend the Lease will be done in writing ninety (90) days prior to the end of the lease or any extended term.
- 4. **RENT:** \$1,392.00 per month (calculated at 58¢ per square foot) for 2,400 sf of shop space. Rent adjusted per CPI-U beginning year 2; base rent may be adjusted beginning in year three (i.e., based on market rate study).
- holding over: In the event Lessee allows the lease to expire without negotiating a new agreement with the Port, the tenancy will roll over into a month-to month basis, with all other provisions of the lease agreement remaining in effect, except that the rent will increase to 125% of the rent due in the month preceding the holdover (e.g., if the rent were \$1,392.00 + LHT, the rent in holdover status would be + 25%, or \$1,740.00 + LHT).
- **6. USE OF PREMISES:** Manufacturing space for the purpose of fabrication, servicing marine-related equipment, and associated marine-related business office space.
- **7. SECURITY:** Three (3) months' security + LHT (\$4,712.19). Lessee currently has a deposit of \$1,091.16 on file with the Port from an agreement to be superseded by this lease; leaving a deposit balance of \$3,621.03, which will be paid off in eighteen (18) monthly installments
- 8. UTILITIES: All utilities are the responsibility of the Lessee.
- MAINTENANCE & REPAIR: All maintenance and repairs are the Lessee's responsibility.
- 10. INSURANCE: Per Port policy. Commercial General Liability of \$1,000,000 combined single limit; Workers Compensation Insurance of not less than

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\$1,000,000 per occurrence; insurance certificates naming the Port as an additional insured; proof of insurance must be provided prior to occupancy.

- 11. ASSIGNMENT/SUBLEASE: Permitted only by prior written consent of the Port.
- DEFAULTS/TERMINATION: Time is of the essence. Failure to pay rent, or to abide by the covenants/agreements contained in the lease, may serve as a basis for termination. Lessee will be provided with fifteen (15) days' written notice to cure defaults. Port may also terminate upon one-hundred and twenty (120) days' written notice, at its sole discretion, for public or private use in connection with the operation of the business of the Port.

PORT OF PORT TOWNSEND BOAT HAVEN BUILDING LEASE

THIS LEASE AGREEMENT made this day of January, 2020, by and between the PORT OF
PORT TOWNSEND, a municipal corporation organized and existing under the laws of the State
Washington, Lessor, hereinafter referred to as "the Port," and WARREN PETER CHAFFEE dba
PETE'S MARINE METAL, a Washington sole proprietorship, hereinafter referred to as "Lessee,"

WITNESSETH:

That the parties hereto do mutually agree as follows:

1. LEASED PREMISES: The Port hereby leases to Lessee, and Lessee hereby hires and leases from the Port, the following described premises situated in Jefferson County, State of Washington:

the premises encompass approximately $\frac{3}{4}$ of a structure, measuring approximately 2,400 square feet (40'x 60'), located at 315 - 10^{th} Street, at the Port's Boat Haven facility in Port Townsend, WA

hereinafter referred to as "the premises." The premises are depicted on Exhibit "A" which is attached hereto and which by this reference is incorporated herein as if fully set forth herein.

- 2. TERM: The term of this Lease is three (3) years, beginning February 1, 2020, and ending at midnight, January 31, 2023 unless extended or sooner terminated as provided in this Lease. The Lessee shall also have an option to extend the lease term by two (2) additional one (1) year terms. Notification to extend the Lease will be done in writing 90 days prior to end of the initial or any extended lease term.
- 3. RENT: Lessee agrees to pay as rental for the leased premises the sum of One Thousand Three Hundred Ninety-Two Dollars and Zero Cents (\$1,392.00)¹ per month, plus all applicable taxes. The rent for each month shall be paid to the Port in advance on or before the first day of each and every month of the lease term and shall be payable at such place as the Port may hereinafter designate. Beginning in year three (3) and every three (3) years thereafter, the rental rate may be adjusted to the fair market rental rate then prevailing for comparable commercial and/or industrial property in the Western Washington area, bearing in mind all allowable uses of the property and

¹ Calculated as follows: Building @ 58¢ per s.f. x 2,400 s.f. = \$1,392.00 rent, plus Leasehold Excise Tax (LHT) @ 12.84% x \$1,392.00 = \$178.73; \$1,392.00 + \$178.73 = \$1,570.73.

all services and amenities available to the property by virtue of its location. In the event that the parties are unable to reach agreement on the fair market rate adjustment, the rate shall be determined by arbitration before a single arbitrator who shall be jointly selected by the parties or by the Jefferson County Court. The rental rate beginning in year two (2) and annually throughout the term of the lease will be adjusted by an amount equal to the accumulative amount found on the Consumer Price Index for all urban consumers (CPI-U) for Seattle-Tacoma-Bellevue, which is compiled by the Department of Labor, Bureau of Statistics. In no event shall any rent adjustment result in a reduction in rent from the rate paid in the prior year.

- 4. LATE CHARGE: In the event that any installment of rent remains unpaid more than twenty (20) days after it is due, then Lessee shall also be obliged to pay a "late charge" as per the Port of Port Townsend Rate Schedule then in effect.
- 5. **DEPOSIT:** Lessee shall deposit with the Port security in the amount of **Four Thousand** Seven Hundred Twelve Dollars & Twenty Cents (\$4,712.20).² Lessee has an existing deposit of One Thousand Ninety-One Dollars & Sixteen Cents (\$1,091.16) currently on file with the Port under an agreement now superseded by this Lease. Accordingly, Lessee shall deposit an additional Three Thousand Six Hundred Twenty-One Dollars & Four Cents (\$3,621.04) in order to satisfy the requirements of this Paragraph 5 ("the additional deposit"). The additional deposit shall be made in eighteen (18) equal monthly installment payments of Two Hundred & One Dollars & Seventeen Cents (\$201.17) concurrent with the monthly rental payments set forth in Paragraph 3 hereinabove. The deposit shall be held by the Port as security for Lessee's faithful performance of all its obligations under this Lease. Any interest earned on amounts deposited shall be retained by the Port. The deposit shall be returned to Lessee upon termination of this Lease, less any charges owing to the Port or expenses incurred by the Port in repairing damage caused by Lessee or restoring the leased premises to the condition required upon termination of this Lease.
- 6. USE OF PREMISES: Lessee shall use the premises for the purpose of manufacturing space for fabrication, and servicing marine-related equipment, along with associated marine-related business office space, and shall not use them for any other purpose without the prior written consent of the Port. Lessee shall use the entire premises for the conduct of said business in a first-class manner continuously during the entire term of this Lease, with the exception of temporary closures for such periods as may reasonably be necessary for repairs or redecorating or for reasons beyond Lessee's reasonable control. Lessee agrees that it will not disturb the Port or any other tenant of the Port's by making

Required security for all Port leases is three (3) months (minimum + LHT, calculated as follows: \$1,392.00 per month x 3 = \$4,176.00; \$4,176.00 x 12.84% LHT = \$536.20; = \$4,176.00 + \$536.20 = \$4,712.20

- or permitting any disturbance or any unusual noise, vibration or other condition on or in the premises.
- UTILITIES: Lessee shall be liable for, and shall pay throughout the term of this Lease, all utility services furnished to the premises, including, but not limited to, light, heat, electricity, gas, water, sewerage, stormwater, garbage disposal, and communications. Water, sewerage and stormwater will be billed directly by the Port on the monthly rent statement. WiFi and/or fiber services are not included in the rent.
- 8. ACCEPTANCE OF PREMISES: Lessee has examined the leased premises and accepts them in their present condition "as is" and without further maintenance liability on the part of the Port. The Port makes no representations or warranties with respect to the condition, suitability, zoning restrictions, or usability, except the Port's right to grant a lease of the premises. Lessee acknowledges that Lessee has fully inspected the premises and is not relying on any statement or representation made by the Port or the Port's agents with respect to the condition of the premises, and Lessee assumes the responsibility and risks of the same, including any defects or conditions that cannot be observed by casual inspection.
- improvements thereon is the sole responsibility of Lessee. Accordingly, at the expiration or sooner termination of this Lease, Lessee shall return the premises to the Port in the same condition in which received (or, if altered by Lessee with the Port's consent, then the premises shall be returned in such altered condition), reasonable wear and tear and damage by fire or unavoidable casualty excepted. Lessee's obligation to make repairs shall not extend to any repairs to the roof (structure or covering), to the foundations of the building or structure and exterior walls, of which the leased premises are a part, unless such repairs are necessitated by Lessee's negligence or failure to maintain the interior. Lessee shall, at its' own expense, and at all times:
 - a. Keep the premises, and the adjoining roadways and sidewalks, neat, clean and in a safe and sanitary condition;
 - b. Maintain and keep the leased premises in a good state of repair; and
 - c. Not commit waste of any kind.
- 10. ALTERATIONS AND IMPROVEMENTS: Lessee shall make no alterations or improvements to or upon the premises or install any fixtures (other than trade fixtures which can be removed without injury to the premises) without first obtaining written approval from the Executive Director of the Port. Such written approval shall also include agreement for disposition of the improvements upon termination of this Lease.
- 11. INSPECTION "FOR RENT" SIGNS: The Port reserves the right to inspect the leased premises at any and all reasonable times throughout the term of this Lease, PROVIDED,

that it shall not interfere unduly 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 thirty (30) days prior to the expiration or sooner termination of this Lease.

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

13. DAMAGE OR DESTRUCTION:

- a. Should the premises or the buildings or structures of which the premises are a part be damaged by fire or other casualty, and if the damage is repairable within four (4) weeks from the date of the occurrence (with the repair work and the preparations therefore to be done during regular working hours on regular work days), the premises shall be repaired with due diligence by the Port, and in the meantime the monthly minimum rental shall be abated in the same proportion that the untenantable portion of the premises bears to the whole thereof, for the period from the occurrence of the damage to the completion of the repairs.
- b. Should the premises or any buildings or structures of which the premises are a part be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the damage cannot be repaired within four (4) weeks of the occurrence, the Port shall have the option to terminate this Lease on thirty (30) days' notice, effective as of any date not more than sixty (60) days' after the occurrence. In the event that this paragraph 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 in effect, 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 sixty (60) days after the occurrence of the damage. For the period from the occurrence of any damage to the premises 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), the monthly minimum rental shall be abated in the same proportion as the untenantable portion of the premises bears to the whole thereof.

- 14. INDEMNIFICATION AND HOLD HARMLESS: The Port, its employees and agents shall not be liable for any injury (including death) to any persons or for damage to any property, regardless of how such injury or damage be caused, sustained, or alleged to have been sustained by the 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 harmless from all liability or expense of litigation) in connection with any such items of actual or alleged injury or damage.
- 15. LIMITED WAIVER OF IMMUNITY UNDER WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW AND OTHER SIMILAR INDUSTRIAL INSURANCE SCHEMES: For purposes of the indemnification provision set forth in Paragraph 14, above, and only to the extent of claims against Lessee by the Port under such indemnification provision, Lessee specifically waives any immunity it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW, The United States Longshore and Harbor Workers Compensation Act, 33 USC §901-950, or any other similar workers' compensation schemes. The indemnification obligation under this lease shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts. The foregoing provision was specifically negotiated and agreed upon by the parties hereto.
- 16. INSURANCE: Lessee agrees to maintain during the lease term liability insurance as set forth below, at Lessee's sole expense. All such insurance shall name the Port of Port Townsend as an additional insured and shall be with insurance companies acceptable to the Port.
 - a. Comprehensive General Liability Insurance against claims for injury or death to persons or damage to property with minimum limits of liability of \$1,000,000.00 combined single limit for each occurrence. Such insurance shall include but not be limited to bodily injury liability, personal injury liability, property damage liability, broad form property damage liability, contractual liability, and products/completed operations liability.

b. Workers Compensation Insurance as will protect tenant's employees from claims under Washington Workers Compensation Act as well as all Federal Acts applicable to the tenant's operations at the site such as but not limited to U.S. Longshoremen and Harborworkers Act, Jones Act, and Federal Employers Liability section of the Washington Workers Compensation Policy and all Federal Acts Insurance shall not be less than \$1,000,000.00 for each occurrence.

The Lessee agrees to supply the Port with appropriate evidence to establish that its insurance obligations have been met, and that the insurance policy or policies are not subject to cancellation without at least thirty (30) days advance written notice to the Port. The conditions set forth in subparagraphs a, b and c of this Paragraph 16 shall be met prior to inception of this Lease Agreement.

- 17. 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 fire insurance contracts, including any extended coverage endorsements thereto, PROVIDED, that this Paragraph 17 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.
- 18. INCREASE IN COST OF INSURANCE: Lessee shall not use the demised premises in such a manner as to increase the existing rates of insurance applicable to the buildings or structures of which the premises are a part. If it nevertheless does so, then, at the option of the Port, the full amount of any resulting increase in premiums paid by the Port with respect to the buildings or structures of which the leased premises are a part, and to the extent allocable to the term of this Lease, may be added to the amount of rental hereinabove specified and shall be paid by Lessee to the Port upon the monthly rental day next thereafter occurring.
- 19. HAZARDOUS SUBSTANCES WARRANTY AND AGREEMENT: Lessee has examined the Hazardous Substance Warranty and Agreement, consisting of six (6) pages, which is attached as Exhibit "B" hereto and which by this reference is incorporated herein as fully set forth herein, and acknowledges full understanding of its obligations under said Hazardous Substances Warranty and Agreement.
- 20. TAXES: Lessee shall be liable for, and shall pay throughout the term of this Lease, all license and excise fees and occupation taxes covering the business conducted on the premises, and all taxes on property of Lessee on the leased premises and any taxes on the leased premises or leasehold interest created by this Lease Agreement.
- 21. COMPLIANCE WITH PORT REGULATIONS AND WITH ALL LAWS: Lessee agrees to comply with all applicable rules and regulations of the Port pertaining to the building or

other realty of which the premises are a part now in existence or hereafter promulgated for the general safety and convenience of the Port, its various tenants, invitees, licensees and the general public. Lessee also agrees to comply with all applicable federal, state, and municipal laws, ordinances, and regulations. Lessee further agrees that all buildings, structures or other improvements, approved by the Port, will be properly permitted by Jefferson County. Any fees for any inspection of the premises during or for the lease term by any federal, state or municipal officer and the fees for any so-called "Certificate of Occupancy" shall be paid by Lessee.

- 22. ASSIGNMENT OR SUBLEASE: Lessee shall not assign or transfer this Lease or any interest therein nor sublet the whole or any part of the premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court, otherwise, without the written consent of the Port first had and obtained. If Lessee is a corporation, Lessee further agrees that if at any time during the term of this Lease more than one-half (1/2) of the outstanding shares of any class of stock of Lessee corporation shall belong to any stockholders other than those who own more than one-half (1/2) of the outstanding shares of that class of stock at the time of the execution of this Lease or to members of their immediate families, such change in the ownership of the stock of the Lessee shall be deemed an assignment of this Lease within the meaning of this paragraph. If the Port shall give its consent to any assignment or sublease, this paragraph shall nevertheless continue in full force and effect and no further assignment or sublease shall be made without the Port's consent. The Port's consent will not unreasonably be withheld.
- **DEFAULTS:** Time is of the essence of this Lease Agreement, and in the event of the 23. failure of Lessee to pay the rentals or other charges at the time and in the manner herein specified, or to keep any of the covenants or agreements herein set forth to be kept and performed, the Port may elect to terminate this Lease and reenter and take possession of the premises with or without process of law, PROVIDED, however, that Lessee shall be given fifteen (15) days' notice in writing stating the nature of the default in order to permit such default to be remedied by Lessee within said fifteen (15) day period. If upon such reentry there remains any personal property of Lessee or of any other person upon the leased premises, the Port may, but without the obligation so to do, remove said personal property and hold it for the owners thereof or may place the same in a public garage or warehouse, all at the expense and risk of the owners thereof, and Lessee shall reimburse the Port for any expense incurred by the Port in connection with such removal and storage. The Port shall have the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, and third to the payment of any other amounts which may then be due from Lessee to the Port, and the balance, if any, shall be paid to Lessee. Notwithstanding any such reentry, the liability of Lessee for the full rental provided for

herein shall not be extinguished for the balance of the term of this Lease, and Lessee shall make good to the Port any deficiency arising from a re-letting of the leased premises at a lesser rental than that hereinbefore agreed upon. Lessee shall pay such deficiency each month as the amount thereof is ascertained by the Port. Any failure by the owners, officers, or principals of Lessee to pay rentals, storage fees, moorage or any other charges owed to the Port under separate contract shall constitute default under provisions of this Lease Agreement.

- TERMINATION BY PORT: In the event that the Port, at its sole discretion, shall require the use of the premises for any purpose 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 the Lessee sixty (60) or more days before the termination date specified in the notice. The Lessee and the Port's Executive Director will agree to appropriate compensation to be provided Lessee for loss of use, cost of relocation, and/or cost of improvements. In the event that the parties are unable to reach agreement on the compensation to Lessee, the amount shall be determined by arbitration before a single arbitrator who shall be jointly selected by the parties or by the Jefferson County Court if the parties cannot agree.
- 25. TERMINATION FOR GOVERNMENT USE: In the event that the United States Government or any agency or instrumentality thereof shall, by condemnation or otherwise, take title, possession or the right to possession of the premises or any part thereof, the Port may, at its option, terminate this Lease as of the date of such taking, and, if Lessee is not in default under any of the provisions of this Lease on said date, any rental prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.
- 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 accrued 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 rental prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.
- 27. SIGNS: No signs or other advertising matter, symbols, canopies or awnings shall be attached to or painted or within the leased premises, including the windows and doors thereof, without the approval of the Executive Director of the Port first had and obtained. At the termination or sooner expiration of this Lease, all such signs, advertising matter, symbols, canopies or awnings attached to or painted by Lessee shall be removed by

Lessee at its own expense, and Lessee shall repair any damage or injury to the premises, and correct any unsightly condition, caused by the maintenance and removal of said signs, etc.

- 28. INSOLVENCY: If Lessee shall file a petition in bankruptcy, or if Lessee shall be adjudged bankrupt or insolvent by any court, or if a receiver of the property of Lessee shall be appointed in any proceeding brought by or against Lessee, or if Lessee shall make an assignment for the benefit of creditors, or if any proceedings shall be commenced to foreclose any mortgage or any other lien on Lessee's interest in the premises or on any personal property kept or maintained on the premises by Lessee, the Port may at its option, terminate this Lease.
- 29. WAIVER: The acceptance of rental by the Port for any period or periods after a default by Lessee hereunder shall not be deemed a waiver of such default unless the Port shall so intend and shall so advise Lessee in writing. No waiver by the Port of any default hereunder by Lessee shall be construed to be or act as a waiver of any subsequent default by Lessee. After any default shall have been cured by Lessee, it shall not thereafter be used by the Port as a ground for the commencement of any action under the provisions of Paragraph 23 hereof.
- 30. PROMOTION OF PORT COMMERCE: Lessee agrees that throughout the term of this Lease it will, insofar as practicable, promote and aid the movement of passengers and freight through facilities within the territorial limits of the Port. Lessee further agrees that all incoming shipments of commodities that it may be able to control or direct shall be made through facilities within the territorial limits of the Port if there will be no resulting cost or time disadvantage to Lessee.
- 31. SURRENDER OF PREMISES ATTORNEYS' FEES: At the expiration or sooner termination of this Lease, Lessee shall promptly remove building from leased property or re-negotiate a lease at the same or different site at the Port. In the event that the Port shall be required to bring any action to enforce any of the provisions of this Lease, or shall be required to defend any action brought by Lessee with respect to this Lease, and if the Port shall be successful in such action, Lessee shall, in addition to all other payments required herein, pay all of the Port's actual costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.
- **32. HOLDING OVER:** Any holding over by the Lessee after the expiration of this Lease shall be construed as a tenancy at sufferance (unless such occupancy is with the written consent of the Port) in which event the Lessee will be a tenant from month to month, upon the same terms and conditions of this Lease, except at a rent for such holdover

period of 125% of the rental rate in effect for the month preceding such holdover. Acceptance by the Port of rent after such termination shall not constitute a renewal.

- **33. ADVANCES BY PORT FOR LESSEE:** If Lessee shall fail to do anything required to be done by it under the terms of this Lease, except to pay rent, the Port may, at its sole option, do such act or thing on behalf of Lessee, and upon notification to Lessee of the cost thereof to the Port, Lessee shall promptly pay the Port the amount of that cost.
- 34. LIENS AND ENCUMBRANCES: Lessee shall keep the leased premises free and clear of any liens and encumbrances arising or growing out of the use and occupancy of the said premises by Lessee. At the Port's request, Lessee shall furnish the Port with written proof of payment of any item which would or might constitute the basis for such a lien on the leased premises if not paid.
- **35. NOTICES:** All notices hereunder may be delivered or mailed. If mailed, they shall be sent by certified or registered mail to the following respective addresses:

To Lessor:
THE PORT OF PORT TOWNSEND
P.O. Box 1180
Port Townsend, Washington 98368

To Lessee:
PETE'S MARINE METAL
c/o Mr. Warren Peter Chaffee
315 – 10th Street
Port Townsend, WA 98368
Phone: (360) 379-1291

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

- **36. JOINT AND SEVERAL LIABILITY:** Each and every party who signs this Lease, other than in a representative capacity, as Lessee, shall be jointly and severally liable hereunder.
- **"LESSEE" INCLUDES LESSEE, ETC.:** It is understood and agreed that for convenience the word "Lessee" and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this Lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual Lessee or Lessee under this Lease Agreement.

- **38. CAPTIONS:** The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.
- **39. SEVERABILITY:** If any term or provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.
- **40. NON-DISCRIMINATION SERVICES:** The Lessee agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, sex, sexual orientation, or national origin in furnishing, or by refusing to furnish, to such person, or persons, the use of the facility herein provided, including any and all services, privileges, accommodations, and activities provided thereby.

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

- 41. NON-DISCRIMINATION EMPLOYMENT: The Lessee covenants and agrees that in all matters pertaining to the performance of this Lease, Lessee shall at all times conduct its business in a manner which assures fair, equal and non-discriminatory treatment of all persons without respect to race, creed or national origin and, in particular:
 - Lessee will maintain open hiring and employment practices and will welcome applications for employment in all positions from qualified individuals who are members of racial or other minorities, and
 - b. Lessee will comply strictly with all requirements of applicable federal, state or local laws or regulations issued pursuant thereto relating to the establishment of non-discriminatory requirements in hiring and employment practices and assuring the service of all patrons or customers without discrimination as to any person's race, creed, color, sex, sexual orientation, or national origin.
- 42. EASEMENTS: The Parties recognize that the Port facilities are continuously being modified to improve the utilities and services used and provided by the Port. The Port or its agents shall have the right to enter the demised premises of the Lessee, and to cross over, construct, move, reconstruct, rearrange, alter, maintain, repair and operate the sewer, water, and drainage lines, and the electrical service, and all other services required by the Port for its use. The Port is hereby granted a continuous easement or easements that the Port believes is necessary within the lease premises of the Lessee, without any additional cost to the Port for the purposes expressed hereinabove;

PROVIDED however, that the Port by virtue of such use does not permanently deprive the Lessee from its beneficial use or occupancy of its leased area.

In the event that the Port does permanently deprive the Lessee from such beneficial use or occupancy, then an equitable adjustment in rent or in the cost required to modify its premises to allow the Lessee to operate its business, will be negotiated and paid by the Port to the Lessee. In the event that such entry by the Port is temporary in nature, then the Port shall reimburse the Lessee for the cost required to modify its premises for the temporary period that the Lessee is inconvenienced by such Port entry. The Port will not be responsible to the Lessee for any reduced efficiency, or loss of business occasioned by such entry.

Lease Agreement dated this day of January 2020 as approved by the Port of Port Townsend Port Commission, on the 8 th day of January 2020 and effective upon the receipt of a deposit and liability insurance documentation from the Lessee.			
THIS AGREEMENT HAS BEEN NEGOTIATED BETW WAIVER OF IMMUNITY UNDER TITLE 51 RCW, AN			
LESSEE			
T.			
Warren Peter Chaffee, Owner, Pete's Marine Meta	al		
ATTEST:			
PORT OF PORT TOWNSEND	APPROVED AS TO FORM		
(g			
Jim Pivarnik, Executive Director	Port Attorney		

STATE OF WASHINGTON COUNTY OF JEFFERSON

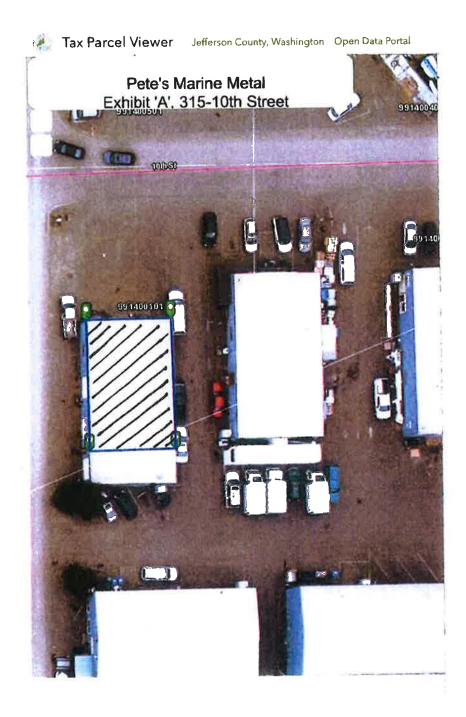
I certify that I know or have satisfactory evidence that Warren Peter Chaffee signed this instrument and that he is authorized to execute the instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated:			
Signature of			
Notary Public:			
My Annointment	Fynires:		

STATE OF WASHINGTON COUNTY OF JEFFERSON

I certify that I know or have satisfactory evidence that Jim Pivarnik signed this instrument and that he is authorized to execute the instrument as Interim Executive Director of the Port of Port Townsend and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:			
Signature of Notary Public:			
My Annointme			





= Pete's Marine Metal Leased Space

306

-122,781 48,107 Degrees

EXHIBIT "B" PETER'S MARINE SERVICES HAZARDOUS SUBSTANCES WARRANTY AND AGREEMENT

RIDER TO LEASE AGREEMENT DATED: ______, 2020, BETWEEN THE PORT OF PORT

TOWNS	SEND and WARREN PETER CHAFFEE d/b/a PETE'S MARINE METAL.
	REBY AGREED THAT THE LEASE AGREEMENT IDENTIFIED ABOVE SHALL BE EMENTED AND MODIFIED AS FOLLOWS:
1.	HAZARDOUS SUBSTANCES ON PREMISES. Without the express written permission of Lessor, Lessee shall not store, use or have present on or adjacent to the premises any hazardous or toxic substances, including those substances defined as "hazardous" or "extremely hazardous" under federal or Washington State environmental statutes or regulation (including but not limited to 42 USC 9601 et seq., 40 CFR Part 302, RCW Chapter 70.105D.020 and WAC 173-340-200, and any successor statutes and regulation), except as follows:
2.	STORAGE AND USE OF HAZARDOUS SUBSTANCES. Lessee agrees at all times to restrict its storage and use of substances identified in Paragraph 1 to the inside of the permanent building(s) at the premises, and specifically to those locations within such buildings(s) having concrete flooring or such other impermeable flooring as Lessor may in its sole discretion approve in writing upon request by Lessee.
3.	<u>HANDLING AND DISPOSAL</u> . The Lessee agrees to use said substances identified in paragraph 2 only on areas which have impermeable surfaces and or other means for preventing accidental contract by such substances with the soils upon the leasehold or its surrounding area.
4.	<u>RELEASES OF HAZARDOUS SUBSTANCES PROHIBITED</u> . Lessee shall not release, dispose of, or permit a release of, any of the substances described or identified in paragraph 1 onto the premises or into the environment surrounding the premises.
5.	REGULATORY COMPLIANCE. Lessee warrants and agrees that, during the term of this

lease and any extensions thereof, it will take all steps necessary to comply with all applicable federal, state and local requirements for the containment, storage, use and disposal of any and all hazardous or toxic substances at the premises, including but not limited to obtaining and maintaining all necessary federal, state and local permits or licenses, and obtaining any required federal or state hazardous waste generator or

transporter identification numbers. Lessee shall provide to Lessor a copy of each such existing permit, license, and identification number before occupancy, and shall provide a copy of any such permit, license, and identification number which Lessee may obtain in the future within seven days of receipt by Lessee.

- of hazardous or toxic substances or wastes, and unless otherwise agreed in writing, Lessee shall retain an independent hazardous waste disposal firm to dispose of any and all such substances at an off-site facility which has been properly approved, licensed and authorized to accept such substances. Lessee shall ensure that the disposal firm is properly licensed and in good standing with the applicable regulatory authorities for such work, and that it has all required transporter identification numbers.
- 7. LESSEE'S WARRANTY OF NO CONTAMINATION. Except as may be disclosed in Attachment No. 1 hereto, Lessee warrants and represents (1) that it has not released any toxic or hazardous substances onto the premises or into the environment in connection with its activities at the premises, (2) that it has inspected the premises and is not aware of any indication that a release of any hazardous substances has ever occurred at the premises, including prior to Lessee's occupancy, (3) that it has never been formally accused or cited, at the premises or elsewhere, for any violation of environmental laws, regulations or any hazardous waste-related governmental permit, and (4) that no claims or litigation have ever been pending against it by any person or governmental agency involving any use, storage, release or disposal of hazardous or toxic waste. If any such releases, formal accusations, citations, claims or litigation against Lessee arise during the term of this lease or any extension thereof, then Lessee shall notify Lessor in writing within seven (7) days of such event, and shall provide Lessor with a copy of each document reflecting such event.
- harmless with respect to any and all direct or indirect expenses, losses of damages, including all consequential damages, Attorney's fees, and litigation-related expenses and costs, incurred by Lessor which result from (1) Lessee's breach of provision of this Rider, (2) claims, actions, suites, proceedings, judgments, fines or remedial orders (including orders to clean up contamination at the premises) which arise because of Lessee's breach of this Rider, (3) Lessee's violation of environment laws or regulations, or (4) Lessee's release of a toxic or hazardous substance onto the premises or into the surrounding environment. This provision shall apply regardless of whether Lessee has been negligent or at fault for such breach, violation, or release. This obligation by the Lessee shall survive the expiration or termination of the lease agreement and the sale of the property. If Lessor so requests, Lessee shall accept the tender of defense of, and shall retain counsel of Lessor's selection and at Lessee's expense to defend, any third-party claim asserted against Lessor in

connection with alleged conduct by Lessee which, if true, would be in breach of the provision of this Rider.

- 9. NOTIFICATION TO LESSOR OF CHANGES IN OPERATION. Lessee agrees to notify Lessor in writing at least seven (7) days in advance of any previously undisclosed action which the Lessee plans to take which poses a material risk of a release of hazardous substance into the environment, including but not limited to material changes in Lessee's methods of hazardous waste disposal, material increases in the volume of Lessee's hazardous waste disposal, or material changes in the nature of any hazardous wastes which Lessee anticipates it will generate.
- 10. COPIES OF ENVIRONMENTAL CORRESPONDENCE. Lessee agrees to provide Lessor with copies of all past and future correspondence to or form the Washington Department of Ecology, the U.S. Environmental Protection Agency, and any other government agency which has had or may have contact with Lessee regarding environmental concerns pertaining to the premises.
- 11. NOTIFICATION OF SPILLS OR RELEASES. Lessee shall comply with all notification requirements under the applicable federal, state and local environmental statutes and regulations, including but not limited to the timely notification of the appropriate government authorities of any spills or releases of toxic or hazardous substances into the environment or onto the premises. Lessee shall notify Lessor within 24 hours of discovery of any such spills or releases and shall provide copies of all correspondence and documents related to such spills or releases to Lessor with seven days after receipt or creation, as the case may be.
- hazardous substance to occur at or near the premises, or breaches any provision of this Rider, Lessor shall be entitled (1) to terminate the lease agreement immediately, (2) to require Lessee to cease all operation which pose a risk of releasing a hazardous substance into the environment, and (3) to require Lessee to begin an immediate cleanup of any and all contamination at the premises to the extent necessary to achieve full compliance with the applicable environmental laws and regulations. Lessor shall be entitled to obtain immediate injunctive relief from a court of competent jurisdiction to enforce this provision. These remedies shall be in addition to, and not in substitution for, any other remedies available to Lessor under applicable law.
- 13. ANNUAL DECLARATION OF COMPLIANCE. Within ten (10) days of receipt of a written request by Lessor, Lessee shall provide to lessor a declaration of Lessee's compliance or non-compliance with the applicable environmental laws and regulations and with the provisions of this Rider, in the form set forth in Attachment No. 2. Lessor anticipates that it

will request such a declaration annually, approximately on the anniversary date of this Rider.

14. INSPECTION OF PREMISES. Lessee agrees to permit and cooperate with any on-site inspections and testing requested by Lessor, including inspections and testing conducted by consultants or engineers hired by Lessor to evaluate Lessee's compliance with the applicable environmental requirements and the provisions of this Rider. Lessor shall provide Lessee within 24 hours advance notice of Lessor's intent to conduct such inspection or testing.

15.	work telephone number is 360-379-3 shall be the Lessee's de responsible (1) for Lessee's compliant contact with Lessor pertaining to entropy of Lessee the annual declaration of contact with Lessor pertaining to entropy of Lessee the annual declaration of contact with Lessor pertaining to entropy of Lessee the annual declaration of contact with Lesson pertaining to entropy of Lessee the annual declaration of contact with Lesson pertaining to entropy of Lessee the annual declaration of contact with Lesson pertaining to entropy of Lessee the annual declaration of contact with Lessee the contact with Lessee t	PONSIBLE FOR COMPLIANCE. Peter Chance 1291 and whose cell/home phone numbes ignated representative who shall be proceed with the provision of this Rider, (2) for ignormental compliance, and (3) for sign compliance pursuant to Paragraph 12 although the identity or telephone number 12 and 12 and 13 in the identity or telephone number 12.	ber is orimarily or handling ning on beha pove. Lessee
16.	ADDITIONAL PROVISIONS.	×	
LESSOF	R:	LESSEE:	
	x		
,	H		
Jim Piv	arnik	Warren Peter Chaffee	
Title: E	Executive Director	Title: Owner	

lf

Date:

(Attachment No. 1 to Hazardous Substances Rider)

DISCLOSURE BY LESSEE

The Lessee makes the following disclosure pursuant to Paragraph 6 of the Hazardous Substances Warranty and Agreement (Attach Additional page(s) if necessary):

Title:_		
	arren Peter Chaffee, d/b/a Pete's Marine Metal	(Signature
Ву:	<i>J</i>	
Lessee	: XXXXXX XXXX	
4.	Environmental Claims or Litigation Against Lessee: (If none, initial here:)	
3.	<u>Lessee Violation(s) of Environmental Regulations:</u> (If none, initial here:)	
2.	Indication(s) of Contamination at Premises: (If none, initial here:)	
1.	Release(s) of Hazardous Substances by Lessee: (If none, initial here:)	

(Attachment No. 2 to Hazardous Substances Rider)

DECLARATION OF COMPLIANCE

Warren Peter Chaffee, as the designated representative of Lessee primarily responsible for environmental compliance pursuant to Paragraph 12 of the Hazardous Substances Warranty and Agreement dated:, 2020, hereby declare and represent as follows on behalf of Lessee:
1. I have read, and am familiar with, Lessee's obligations and representations as set forth in the Hazardous Substances Warranty and Agreement applicable to Lessee.
2. Lam not aware of, and do not believe there have been any violations by Lessee of any of the provisions in the Hazardous Substances Warranty and Agreement, or of any requirements imposed on Lessee by federal, state or local environment laws and regulations.
3. I have no reason to believe, and do not believe, that any of the representations in Paragraph 6 of the Hazardous Substances Warranty and Agreement are inaccurate as of the date indicated below.
4. Lessee has not stored, used or had present on or adjacent to the premises any hazardous or toxic substances except those that have been disclosed in writing to Lessor.
5. Lessee has not released, disposed of, or permitted the release of any hazardous or toxic substances onto the premises or into the environment surrounding the premises, except as has been disclosed in writing to Lessor.
Lessee: Warren Peter Chaffee, d/b/a Pete's Marine Metal
By:Signature
Title:/Date:

PORT OF PORT TOWNSEND AGENDA COVER SHEET

MEETING DATE	January 8, 2020		
AGENDA ITEM	☐ First Reading	☐ Second Reading	☑ Regular Business
AGENDA TITLE	IX. C) Northwest M	aritime Center (Marine	Thrift Store) - New Lease
STAFF LEAD	Eric Toews, Deputy Director		
REQUESTED		☐ Action	☐ Discussion
ATTACHMENTS	A. Memo B. Terms – Northy	west Maritime Center Le	ease

PORT OF PORT TOWNSEND INFORMATIONAL MEMO

DATE:

1/8/2020

TO:

Port Commission

FROM:

Sue Nelson, Lease & Contracts Administrator

SUBJECT:

Northwest Maritime Center - Proposed Lease Agreement

BACKGROUND: The Northwest Maritime Center (NWMC) has been leasing 750 square feet of space in the building located at 315-B Haines Place since September of 2015, for use as a marine thrift store.

DISCUSSION: Lease term is a two (2)-year with three (3) one (1)-year options.

In the event the NWMC were to become a "holdover" tenant at the end of the lease term, the rent would increase to 125% of that paid in the month preceding lease termination.

The proposed security deposit is equal to three (3) months' rent.

Port staff is pleased to continue a lease agreement with the Northwest Maritime Center for the marine thrift store – "Reduce, Reuse, Recycle"!

RECOMMENDATION: Authorize the Executive Director to execute the attached lease with the Northwest Maritime Center, a Washington Non-Profit Corporation.

ATTACHMENTS

Summary of Key Terms

PORT OF PORT TOWNSEND:

Summary of Key Terms – Northwest Maritime Center (Marine Thrift Store) (January 8, 2020)

- **1. TENANT:** Northwest Maritime Center, a Washington Non-Profit Corporation.
- 2. PREMISES: Approximately 750 square feet of marine-related retail building space located at 315-B Haines Place, Port Townsend, WA, in the Port's Boat Haven facility.
- TERM: Two (2)-year, beginning on February 1, 2020 and ending on January 31, 2022. Option to extend the lease term by three (3) one (1)-year terms.
 Notification to extend the Lease will be done in writing ninety (90) days prior to the end of the lease or any extended term.
- 4. RENT: \$577.50 per month (calculated at 77¢ per square foot) for 750 sf of marine-related retail space. Rent adjusted per CPI-U beginning year 2; base rent may be adjusted beginning in year three (i.e., based on market rate study).
- holding over: In the event Lessee allows the lease to expire without negotiating a new agreement with the Port, the tenancy will roll over into a month-to month basis, with all other provisions of the lease agreement remaining in effect, except that the rent will increase to 125% of the rent due in the month preceding the holdover (e.g., if the rent were \$577.50 + LHT, the rent in holdover status would be + 25%, or \$721.88 + LHT).
- **USE OF PREMISES:** Retail space for the purpose of a marine thrift store, retailing used marine-related hardware, tools and gear.
- **7. SECURITY:** Three (3) months' security + LHT (\$1,954.95). Lessee currently has a deposit of \$634.72 on file with the Port from an agreement to be superseded by this lease; leaving a deposit balance of \$1,320.23, to be paid with initial rent payment.
- **8. UTILITIES:** All utilities are the responsibility of the Lessee.
- **9. MAINTENANCE & REPAIR:** All maintenance and repairs are the Lessee's responsibility.
- 10. INSURANCE: Per Port policy. Commercial General Liability of \$1,000,000 combined single limit; Workers Compensation Insurance of not less than

JANUARY 2020

- \$1,000,000 per occurrence; insurance certificates naming the Port as an additional insured; proof of insurance must be provided prior to occupancy.
- 11. ASSIGNMENT/SUBLEASE: Permitted only by prior written consent of the Port
- 12. **DEFAULTS/TERMINATION:** Time is of the essence. Failure to pay rent, or to abide by the covenants/agreements contained in the lease, may serve as a basis for termination. Lessee will be provided with fifteen (15) days' written notice to cure defaults. Port may also terminate upon one-hundred and twenty (120) days' written notice, at its sole discretion, for public or private use in connection with the operation of the business of the Port.

PORT OF PORT TOWNSEND BOAT HAVEN BUILDING LEASE

THIS LEASE AGREEMENT made this day of January 2020, by and between the PORT OF
PORT TOWNSEND, a municipal corporation organized and existing under the laws of the State of
Washington, Lessor, hereinafter referred to as "the Port," and NORTHWEST MARITIME CENTER,
a Washington Non-Profit Corporation, hereinafter referred to as "Lessee,"

WITNESSETH:

That the parties hereto do mutually agree as follows:

1. **LEASED PREMISES:** The Port hereby leases to Lessee, and Lessee hereby hires and leases from the Port, the following described premises situated in Jefferson County, State of Washington:

Approximately 750 square feet of marine-related retail building space located at #315-B Haines Place, Port Townsend, WA 98368 in the Port's Boat Haven facility

hereinafter referred to as "the premises." The premises are depicted on Exhibit "A" which is attached hereto and which by this reference is incorporated herein as if fully set forth herein.

- 2. TERM: The term of this Lease is two (2) years beginning February 1, 2020, and ending at midnight, January 31, 2022 unless extended or sooner terminated as provided in this Lease. The Lessee shall also have an option to extend the lease term by three (3) additional one (1) year terms. Notification to extend the Lease will be done in writing 90 days prior to end of the initial or any extended lease term.
- **3. RENT:** Lessee agrees to pay as rental for the leased premises the sum of **Five Hundred Seventy-Seven Dollars & Fifty Cents (\$577.50)¹** per month, plus all applicable taxes. The rent for each month shall be paid to the Port in advance on or before the first day of each and every month of the lease term and shall be payable at such place as the Port may hereinafter designate. Beginning in year three (3) and every three (3) years thereafter, the rental rate may be adjusted to the fair market rental rate then prevailing for comparable commercial and/or industrial property in the Western Washington area, bearing in mind all allowable uses of the property and all services and amenities available to the property by virtue of its location. The rental rate

¹ Calculated as follows: Building @ 77¢ per s.f. x 750 s.f. = \$577.50 rent, plus Leasehold Excise Tax (LHT) @ 12.84% x \$577.50 = \$74.15; \$577.50 + \$74.15 = \$651.65.

beginning in year two (2) and annually throughout the term of the lease will be adjusted by an amount equal to the accumulative amount found on the Consumer Price Index for all urban consumers (CPI-U) for Seattle-Tacoma-Bellevue, which is compiled by the Department of Labor, Bureau of Statistics. In no event shall any rent adjustment result in a reduction in rent from the rate paid in the prior year.

- 4. LATE CHARGE: In the event that any installment of rent remains unpaid more than twenty (20) days after it is due, then Lessee shall also be obliged to pay a "late charge" as per the Port of Port Townsend Rate Schedule then in effect.
- Nine Hundred Fifty-Four Dollars & Ninety-Five Cents (\$1,954.95).² Lessee has an existing deposit of Six Hundred Thirty-Four Dollars & Seventy-Two Cents (\$634.72) currently on file with the Port under an agreement now superseded by this Lease. Accordingly, Lessee shall deposit an additional One Thousand Three Hundred Twenty Dollars & Twenty-Three Cents (\$1,320.23) in order to satisfy the requirements of this Paragraph 5 ("the additional deposit"). The deposit shall be held by the Port as security for Lessee's faithful performance of all its obligations under this Lease. Any interest earned on amounts deposited shall be retained by the Port. The deposit shall be returned to Lessee upon termination of this Lease, less any charges owing to the Port or expenses incurred by the Port in repairing damage caused by Lessee or restoring the leased premises to the condition required upon termination of this Lease.
- 6. USE OF PREMISES: Lessee shall use the premises for the purpose of a marine thrift store, retailing used marine-related hardware, tools and gear, and shall not use them for any other purpose without the prior written consent of the Port. Lessee shall use the entire premises for the conduct of said business in a first-class manner continuously during the entire term of this Lease, with the exception of temporary closures for such periods as may reasonably be necessary for repairs or redecorating or for reasons beyond Lessee's reasonable control. Lessee agrees that it will not disturb the Port or any other tenant of the Port's by making or permitting any disturbance or any unusual noise, vibration or other condition on or in the premises.
- **7. UTILITIES:** Lessee shall be liable for, and shall pay throughout the term of this Lease, all utility services furnished to the premises, including, but not limited to, light, heat, electricity, gas, water, sewerage, garbage disposal, stormwater fee, and communications. WiFi and/or fiber services are not included in the rent.

² Required security for all Port leases is three (3) months (minimum + LHT, calculated as follows: Year one: \$577.50 per month x 3 = \$1,732.50; \$1,732.50 x 12.84% LHT = \$222.45; = \$1,732.50 + \$222.45 = \$1,954.95.

- 8. ACCEPTANCE OF PREMISES: Lessee has examined the leased premises and accepts them in their present condition "as is" and without further maintenance liability on the part of the Port. The Port makes no representations or warranties with respect to the condition, suitability, zoning restrictions, or usability, except the Port's right to grant a lease of the premises. Lessee acknowledges that Lessee has fully inspected the premises and is not relying on any statement or representation made by the Port or the Port's agents with respect to the condition of the premises, and Lessee assumes the responsibility and risks of the same, including any defects or conditions that cannot be observed by casual inspection.
- improvements thereon is the sole responsibility of Lessee. Accordingly, at the expiration or sooner termination of this Lease, Lessee shall return the premises to the Port in the same condition in which received (or, if altered by Lessee with the Port's consent, then the premises shall be returned in such altered condition), reasonable wear and tear and damage by fire or unavoidable casualty excepted. Lessee's obligation to make repairs shall not extend to any repairs to the roof (structure or covering), to the foundations of the building or structure and exterior walls, of which the leased premises are a part, unless such repairs are necessitated by Lessee's negligence or failure to maintain the interior. Lessee shall, at its' own expense, and at all times:
 - a. Keep the premises, and the adjoining roadways and sidewalks, neat, clean and in a safe and sanitary condition;
 - b. Maintain and keep the leased premises in a good state of repair; and
 - c. Not commit waste of any kind.
- 10. ALTERATIONS AND IMPROVEMENTS: Lessee shall make no alterations or improvements to or upon the premises or install any fixtures (other than trade fixtures which can be removed without injury to the premises) without first obtaining written approval from the Executive Director of the Port. Such written approval shall also include agreement for disposition of the improvements upon termination of this Lease.
- 11. INSPECTION "FOR RENT" SIGNS: The Port reserves the right to inspect the leased premises at any and all reasonable times throughout the term of this Lease, PROVIDED, that it shall not interfere unduly 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 thirty (30) days prior to the expiration or sooner termination of this Lease.

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

13. DAMAGE OR DESTRUCTION:

- a. Should the premises or the buildings or structures of which the premises are a part be damaged by fire or other casualty, and if the damage is repairable within four (4) weeks from the date of the occurrence (with the repair work and the preparations therefore to be done during regular working hours on regular work days), the premises shall be repaired with due diligence by the Port, and in the meantime the monthly minimum rental shall be abated in the same proportion that the untenantable portion of the premises bears to the whole thereof, for the period from the occurrence of the damage to the completion of the repairs.
- b. Should the premises or any buildings or structures of which the premises are a part be completely destroyed by fire or other casualty, or should they be damaged to such an extent that the damage cannot be repaired within four (4) weeks of the occurrence, the Port shall have the option to terminate this Lease on thirty (30) days' notice, effective as of any date not more than sixty (60) days' after the occurrence. In the event that this paragraph 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 in effect, 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 sixty (60) days after the occurrence of the damage. For the period from the occurrence of any damage to the premises 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), the monthly minimum rental shall be abated in the same proportion as the untenantable portion of the premises bears to the whole thereof.

- 14. INDEMNIFICATION AND HOLD HARMLESS: The Port, its employees and agents shall not be liable for any injury (including death) to any persons or for damage to any property, regardless of how such injury or damage be caused, sustained, or alleged to have been sustained by the 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 harmless from all liability or expense of litigation) in connection with any such items of actual or alleged injury or damage.
- 15. LIMITED WAIVER OF IMMUNITY UNDER WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW AND OTHER SIMILAR INDUSTRIAL INSURANCE SCHEMES: For purposes of the indemnification provision set forth in Paragraph 14, above, and only to the extent of claims against Lessee by the Port under such indemnification provision, Lessee specifically waives any immunity it may be granted under the Washington State Industrial Insurance Act, Title 51 RCW, The United States Longshore and Harbor Workers Compensation Act, 33 USC §901-950, or any other similar workers' compensation schemes. The indemnification obligation under this lease shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under workers' compensation acts, disability benefit acts, or other employee benefit acts. The foregoing provision was specifically negotiated and agreed upon by the parties hereto.
- 16. INSURANCE: Lessee agrees to maintain during the lease term liability insurance as set forth below, at Lessee's sole expense. All such insurance shall name the Port of Port Townsend as an additional insured and shall be with insurance companies acceptable to the Port.
 - a. Comprehensive General Liability Insurance against claims for injury or death to persons or damage to property with minimum limits of liability of \$1,000,000.00 combined single limit for each occurrence. Such insurance shall include but not be limited to bodily injury liability, personal injury liability, property damage liability, broad form property damage liability, contractual liability, and products/completed operations liability.
 - b. Comprehensive Business Automobile Liability Insurance against claims for injury or death to persons or damage to property with minimum limits of liability of

- \$1,000,000.00 combined single limit for each occurrence. Such insurance shall include but not be limited to bodily injury liability, property damage liability, hired car liability, and non-owned auto liability.
- c. Workers Compensation Insurance as will protect tenant's employees from claims under Washington Workers Compensation Act as well as all Federal Acts applicable to the tenant's operations at the site such as but not limited to U.S. Longshoremen and Harborworkers Act, Jones Act, and Federal Employers Liability section of the Washington Workers Compensation Policy and all Federal Acts Insurance shall not be less than \$1,000,000.00 for each occurrence.

The Lessee agrees to supply the Port with appropriate evidence to establish that its insurance obligations have been met, and that the insurance policy or policies are not subject to cancellation without at least thirty (30) days advance written notice to the Port. The conditions set forth in subparagraphs a, b and c of this Paragraph 16 shall be met prior to inception of this Lease Agreement.

- 17. 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 fire insurance contracts, including any extended coverage endorsements thereto, PROVIDED, that this Paragraph 17 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.
- 18. INCREASE IN COST OF INSURANCE: Lessee shall not use the demised premises in such a manner as to increase the existing rates of insurance applicable to the buildings or structures of which the premises are a part. If it nevertheless does so, then, at the option of the Port, the full amount of any resulting increase in premiums paid by the Port with respect to the buildings or structures of which the leased premises are a part, and to the extent allocable to the term of this Lease, may be added to the amount of rental hereinabove specified and shall be paid by Lessee to the Port upon the monthly rental day next thereafter occurring.
- 19. HAZARDOUS SUBSTANCES WARRANTY AND AGREEMENT: Lessee has examined the Hazardous Substance Warranty and Agreement, consisting of six (6) pages, which is attached as Exhibit "B" hereto and which by this reference is incorporated herein as fully set forth herein, and acknowledges full understanding of its obligations under said Hazardous Substances Warranty and Agreement.
- **20. TAXES:** Lessee shall be liable for, and shall pay throughout the term of this Lease, all license and excise fees and occupation taxes covering the business conducted on the

premises, and all taxes on property of Lessee on the leased premises and any taxes on the leased premises or leasehold interest created by this Lease Agreement.

- 21. COMPLIANCE WITH PORT REGULATIONS AND WITH ALL LAWS: Lessee agrees to comply with all applicable rules and regulations of the Port pertaining to the building or other realty of which the premises are a part now in existence or hereafter promulgated for the general safety and convenience of the Port, its various tenants, invitees, licensees and the general public. Lessee also agrees to comply with all applicable federal, state, and municipal laws, ordinances, and regulations. Lessee further agrees that all buildings, structures or other improvements, approved by the Port, will be properly permitted by Jefferson County. Any fees for any inspection of the premises during or for the lease term by any federal, state or municipal officer and the fees for any so-called "Certificate of Occupancy" shall be paid by Lessee.
- **ASSIGNMENT OR SUBLEASE:** Lessee shall not assign or transfer this Lease or any interest therein nor sublet the whole or any part of the premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court, otherwise, without the written consent of the Port first had and obtained. If Lessee is a corporation, Lessee further agrees that if at any time during the term of this Lease more than one-half (1/2) of the outstanding shares of any class of stock of Lessee corporation shall belong to any stockholders other than those who own more than one-half (1/2) of the outstanding shares of that class of stock at the time of the execution of this Lease or to members of their immediate families, such change in the ownership of the stock of the Lessee shall be deemed an assignment of this Lease within the meaning of this paragraph. If the Port shall give its consent to any assignment or sublease, this paragraph shall nevertheless continue in full force and effect and no further assignment or sublease shall be made without the Port's consent. The Port's consent will not unreasonably be withheld.
- 23. DEFAULTS: Time is of the essence of this Lease Agreement, and in the event of the failure of Lessee to pay the rentals or other charges at the time and in the manner herein specified, or to keep any of the covenants or agreements herein set forth to be kept and performed, the Port may elect to terminate this Lease and reenter and take possession of the premises with or without process of law, PROVIDED, however, that Lessee shall be given fifteen (15) days' notice in writing stating the nature of the default in order to permit such default to be remedied by Lessee within said fifteen (15) day period. If upon such reentry there remains any personal property of Lessee or of any other person upon the leased premises, the Port may, but without the obligation so to do, remove said personal property and hold it for the owners thereof or may place the same in a public garage or warehouse, all at the expense and risk of the owners thereof, and Lessee shall

reimburse the Port for any expense incurred by the Port in connection with such removal and storage. The Port shall have the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, and third to the payment of any other amounts which may then be due from Lessee to the Port, and the balance, if any, shall be paid to Lessee.

Notwithstanding any such reentry, the liability of Lessee for the full rental provided for herein shall not be extinguished for the balance of the term of this Lease, and Lessee shall make good to the Port any deficiency arising from a re-letting of the leased premises at a lesser rental than that hereinbefore agreed upon. Lessee shall pay such deficiency each month as the amount thereof is ascertained by the Port. Any failure by the owners, officers, or principals of Lessee to pay rentals, storage fees, moorage or any other charges owed to the Port under separate contract shall constitute default under provisions of this Lease Agreement.

- 24. TERMINATION BY PORT: In the event that the Port, at its sole discretion, shall require the use of the premises for any purpose 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 the Lessee sixty (60) or more days before the termination date specified in the notice. The Lessee and the Port's Executive Director will agree to appropriate compensation to be provided Lessee for loss of use, cost of relocation, and/or cost of improvements. In the event that the parties are unable to reach agreement on the compensation to Lessee, the amount shall be determined by arbitration before a single arbitrator who shall be jointly selected by the parties or by the Jefferson County Court if the parties cannot agree.
- 25. TERMINATION FOR GOVERNMENT USE: In the event that the United States Government or any agency or instrumentality thereof shall, by condemnation or otherwise, take title, possession or the right to possession of the premises or any part thereof, the Port may, at its option, terminate this Lease as of the date of such taking, and, if Lessee is not in default under any of the provisions of this Lease on said date, any rental prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.
- 26. TERMINATION BECAUSE OF COURT DECREE: In the event that 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 accrued 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 rental prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.

- 27. SIGNS: No signs or other advertising matter, symbols, canopies or awnings shall be attached to or painted or within the leased premises, including the windows and doors thereof, without the approval of the Executive Director of the Port first had and obtained. At the termination or sooner expiration of this Lease, all such signs, advertising matter, symbols, canopies or awnings attached to or painted by Lessee shall be removed by Lessee at its own expense, and Lessee shall repair any damage or injury to the premises, and correct any unsightly condition, caused by the maintenance and removal of said signs, etc.
- 28. INSOLVENCY: If Lessee shall file a petition in bankruptcy, or if Lessee shall be adjudged bankrupt or insolvent by any court, or if a receiver of the property of Lessee shall be appointed in any proceeding brought by or against Lessee, or if Lessee shall make an assignment for the benefit of creditors, or if any proceedings shall be commenced to foreclose any mortgage or any other lien on Lessee's interest in the premises or on any personal property kept or maintained on the premises by Lessee, the Port may at its option, terminate this Lease.
- 29. WAIVER: The acceptance of rental by the Port for any period or periods after a default by Lessee hereunder shall not be deemed a waiver of such default unless the Port shall so intend and shall so advise Lessee in writing. No waiver by the Port of any default hereunder by Lessee shall be construed to be or act as a waiver of any subsequent default by Lessee. After any default shall have been cured by Lessee, it shall not thereafter be used by the Port as a ground for the commencement of any action under the provisions of Paragraph 23 hereof.
- 30. PROMOTION OF PORT COMMERCE: Lessee agrees that throughout the term of this Lease it will, insofar as practicable, promote and aid the movement of passengers and freight through facilities within the territorial limits of the Port. Lessee further agrees that all incoming shipments of commodities that it may be able to control or direct shall be made through facilities within the territorial limits of the Port if there will be no resulting cost or time disadvantage to Lessee.
- 31. SURRENDER OF PREMISES ATTORNEYS' FEES: At the expiration or sooner termination of this Lease, Lessee shall promptly remove building from leased property or re-negotiate a lease at the same or different site at the Port. In the event that the Port shall be required to bring any action to enforce any of the provisions of this Lease, or shall be

required to defend any action brought by Lessee with respect to this Lease, and if the Port shall be successful in such action, Lessee shall, in addition to all other payments required herein, pay all of the Port's actual costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.

- 32. HOLDING OVER: Any holding over by the Lessee after the expiration of this Lease shall be construed as a tenancy at sufferance (unless such occupancy is with the written consent of the Port) in which event the Lessee will be a tenant from month to month, upon the same terms and conditions of this Lease, except at a rent for such holdover period of 125% of the rental rate in effect for the month preceding such holdover. Acceptance by the Port of rent after such termination shall not constitute a renewal.
- **33. ADVANCES BY PORT FOR LESSEE:** If Lessee shall fail to do anything required to be done by it under the terms of this Lease, except to pay rent, the Port may, at its sole option, do such act or thing on behalf of Lessee, and upon notification to Lessee of the cost thereof to the Port, Lessee shall promptly pay the Port the amount of that cost.
- 34. LIENS AND ENCUMBRANCES: Lessee shall keep the leased premises free and clear of any liens and encumbrances arising or growing out of the use and occupancy of the said premises by Lessee. At the Port's request, Lessee shall furnish the Port with written proof of payment of any item which would or might constitute the basis for such a lien on the leased premises if not paid.
- **35. NOTICES:** All notices hereunder may be delivered or mailed. If mailed, they shall be sent by certified or registered mail to the following respective addresses:

To Lessor: THE PORT OF PORT TOWNSEND P.O. Box 1180 Port Townsend, WA 98368

To Lessee:
NORTHWEST MARITIME CENTER
Attn: Heidi Eisenhour, COO
431 Water Street
Port Townsend, WA 98368
Phone: (360) 385-3628

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

- **36. JOINT AND SEVERAL LIABILITY:** Each and every party who signs this Lease, other than in a representative capacity, as Lessee, shall be jointly and severally liable hereunder.
- **37.** "LESSEE" INCLUDES LESSEE, ETC.: It is understood and agreed that for convenience the word "Lessee" and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this Lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual Lessee or Lessee under this Lease Agreement.
- **38. CAPTIONS:** The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.
- **39. SEVERABILITY:** If any term or provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.
- **40. NON-DISCRIMINATION SERVICES:** The Lessee agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, sex, sexual orientation, or national origin in furnishing, or by refusing to furnish, to such person, or persons, the use of the facility herein provided, including any and all services, privileges, accommodations, and activities provided thereby.
 - It is agreed that the Lessee's noncompliance with the provisions of this clause shall constitute a material breach of this Lease. In the event of such noncompliance, the Port may take appropriate action to enforce compliance, may terminate this Lease, or may pursue such other remedies as may be provided by law.
- 41. NON-DISCRIMINATION EMPLOYMENT: The Lessee covenants and agrees that in all matters pertaining to the performance of this Lease, Lessee shall at all times conduct its business in a manner which assures fair, equal and non-discriminatory treatment of all persons without respect to race, creed or national origin and, in particular:

- Lessee will maintain open hiring and employment practices and will welcome applications for employment in all positions from qualified individuals who are members of racial or other minorities, and
- b. Lessee will comply strictly with all requirements of applicable federal, state or local laws or regulations issued pursuant thereto relating to the establishment of non-discriminatory requirements in hiring and employment practices and assuring the service of all patrons or customers without discrimination as to any person's race, creed, color, sex, sexual orientation, or national origin.
- **42. EASEMENTS:** The Parties recognize that the Port facilities are continuously being modified to improve the utilities and services used and provided by the Port. The Port or its agents shall have the right to enter the demised premises of the Lessee, and to cross over, construct, move, reconstruct, rearrange, alter, maintain, repair and operate the sewer, water, and drainage lines, and the electrical service, and all other services required by the Port for its use. The Port is hereby granted a continuous easement or easements that the Port believes is necessary within the lease premises of the Lessee, without any additional cost to the Port for the purposes expressed hereinabove; PROVIDED however, that the Port by virtue of such use does not permanently deprive the Lessee from its beneficial use or occupancy of its leased area.

In the event that the Port does permanently deprive the Lessee from such beneficial use or occupancy, then an equitable adjustment in rent or in the cost required to modify its premises to allow the Lessee to operate its business, will be negotiated and paid by the Port to the Lessee. In the event that such entry by the Port is temporary in nature, then the Port shall reimburse the Lessee for the cost required to modify its premises for the temporary period that the Lessee is inconvenienced by such Port entry. The Port will not be responsible to the Lessee for any reduced efficiency, or loss of business occasioned by such entry.

Lease Agreement dated this	day of January 2020 as approved by the Port of Port
Townsend Port Commission, o	n the 8 th day of January 2020 and effective upon the receipt of a
deposit and liability insurance	documentation from the Lessee.

WAIVER OF IMMUNITY UNDER TITLE 51 RCW, AN	INDEMNIFICATION AND A RELEASE.
LESSEE	
Heide Eisenhour, COO, Northwest Maritime Center	<u> </u>
ATTEST:	
PORT OF PORT TOWNSEND	APPROVED AS TO FORM

Port Attorney

THIS AGREEMENT HAS BEEN NEGOTIATED BETWEEN THE PARTIES AND CONTAINS A LIMITED

Jim Pivarnik, Executive Director

STATE OF WASHINGTON COUNTY OF JEFFERSON

I certify that I know or have satisfactory evidence that Heidi Eisenhour, COO of the NORTHWEST MARITIME CENTER, signed this instrument and that he is authorized to execute the instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated:			
Signature of			
Notary Public:		 	
My Annointment Fy	nires:		

STATE OF WASHINGTON COUNTY OF JEFFERSON

I certify that I know or have satisfactory evidence that Jim Pivarnik signed this instrument and that he is authorized to execute the instrument as Executive Director of the Port of Port Townsend and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated:			
Signature of			
Notary Public:			===
My Appointment	Exnires:		

PORT OF PORT TOWNSEND AGENDA COVER SHEET

MEETING DATE	January 2, 2020							
AGENDA ITEM	☐ First Reading	☐ Second Reading ☐ Regular Business						
AGENDA TITLE	VIII. D. Revised Organizational Chart							
STAFF LEAD	Jim Pivarnik, Executive Director							
REQUESTED	☐ Information	☐ Motion	☐ Action	□ Discussion □ Discussion				
ATTACHMENTS	A. Draft Org Chart	(anticipated Tuesday	, 1/7/20)					

Note: We do not officially request the Commission approve an updated organizational chart until an accompanying job description is drafted, reviewed and approved, as applicable. This job description change has been drafted, is under review and is anticipated to be approved Tuesday, January 7th by the Executive Director. It is regarding the consolidation of the Hoist/Yard Manager and Harbormaster positions into an Operations Manager.

PORT OF PORT TOWNSEND

Organizational Chart

