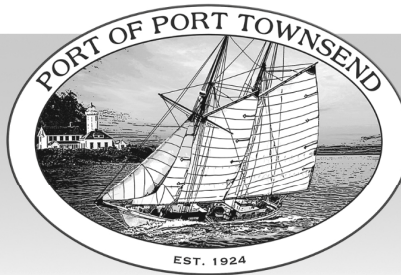


2701 Jefferson Street  
P.O. Box 1180  
Port Townsend, WA 98368



360-385-0656  
fax:360-385-3988  
info@portofpt.com

www.portofpt.com

**Commission Meeting  
1<sup>st</sup> Monthly Meeting Agenda  
Wednesday, September 14, 2022, 1:00 p.m.**

**Point Hudson Pavilion Building, 355 Hudson Street, Port Townsend, & via Zoom  
<https://zoom.us/> – or call (253) 215-8782 – and use Webinar ID: 862 6904 3651, Password: 911887**

- I. Call to Order & Pledge of Allegiance
- II. Approval of Agenda
- III. Public Comments
- IV. Consent Agenda
  - A. Approval of Regular Business Meeting Minutes from August 10, 2022
  - B. Approval & Ratification of Warrants ..... 3-16
  - C. Resolution 772-22 Authorizing Sale of Vessels Located within the Port Moorage Facilities, Declaring, Where Title Reverts to the Port that the Vessels are not Needed for Port Purposes and Authorizing the Executive Director to Sell or Otherwise Dispose of the Vessels .... 17-19
  - D. JCIA Land Lease Assignment and Amendment: David Holt to Puget Sound Express, Inc. 20-49
  - E. Resolution 773-22 Establishing the Northwest School of Wooden Boatbuilding (NWSWB) as a Sole Source Provider for Certain Equipment and Services, Stating Findings, and Authorizing a Contract. .... 50-58
  - F. Resolution 774-22 FEMA Authorizing a FEMA Designated Agent to Obtain Federal/State Disaster Assistance Funding ..... 59-106
  - G. Execution of Professional Engineering Service Agreement During Construction of Point Hudson Breakwater Replacement Project..... 107-125
- V. Second Reading ~ none
- VI. First Reading ~ none
- VII. Regular Business
  - A. July Year-to-Date Financial Report.....126-130
- VIII. Staff Comments
- IX. Commissioner Comments

- X. Next Meeting of the Commission:  
Groundbreaking Ceremony Point Hudson Jetty Replacement: Wednesday, September 14 – 3:30 p.m., Northern Breakwater, adjacent to 141 Hudson Street  
Regular Business Meeting: Wednesday, September 28, 2022; 5:30 p.m., at the Pavilion Building & via Zoom
- XI. Executive Session ~ on workshop agenda 9/14/22
- XII. Adjournment

Informational Items

- Port Lease Brief & Lease List.....136-142
- Port Contracts Update (none)
- East Jefferson Fire Rescue Merger .....143
- Financial Report Detail.....144-148



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Administration: (360) 385-0656  
3988

Operations: (360) 385-2355

Fax: (360) 385-

### **WARRANT/ELECTRONIC PAYMENT APPROVAL**

We, the undersigned, as Commissioners and Auditing Officer of the Port of Port Townsend, in Jefferson County, Washington, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations against the Port of Port Townsend, that we are authorized to authenticate and certify to said claim and that payment of these claims, in Warrant No 065633 through No. 065635 generated on August 1st, 2022 in the amount of \$6,068.08 and Electronic Payment in the amount of \$101,975.13, for a total amount of \$108,043.21 **is ratified.**

**Signed and Authenticated** on this 14th day of September,  
**2022.**

**For: Payroll and Benefits**

\_\_\_\_\_  
Commissioner Pam Petranek

\_\_\_\_\_  
Commissioner Carol Hasse

\_\_\_\_\_  
Commissioner Pete W. Hanke

\_\_\_\_\_  
S. Abigail Berg, Director of Finance  
And Administration



PO Box 1180 • Port Townsend, WA 98368

Administration: (360) 385-0656

Operations: (360) 385-2355

Fax: (360) 385-3988

## **WARRANT APPROVAL**

We, the undersigned, as Commissioners and Auditing Officer of the Port of Port Townsend, in Jefferson County, Washington, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, and that the claims is a just, due and unpaid obligation of the Port of Port Townsend, that I am authorized to authenticate and certify to said claim and that these claims, in Warrant Nos 065636 -065675 generated on August 22nd, 2022 in the amount of \$513,833.46 are ratified.

**Signed and Authenticated** on this 14th day of September,  
**2022.**

**For: Accounts Payable**

\_\_\_\_\_  
Commissioner Pam Petranek

\_\_\_\_\_  
Commissioner Carol Hasse

\_\_\_\_\_  
Commissioner Pete W. Hanke

\_\_\_\_\_  
S. Abigail Berg, Director of Finance  
And Administration

## Check Register

Journal Posting Date: 8/22/2022

Register Number: CD-000941

Port of Port Townsend (PTA)

Bank Code: W - WARRANTS PAYABLE							
Check Number	Check Date	Vendor	Invoice Number	Invoice Date	Invoice Amount	Discount Applied	Payment Amount
0000065636	8/22/2022	48N010	48 North				Check Entry Number: 001
			103527	8/22/2022	786.00	0.00	786.00
0000065637	8/22/2022	ADM002	Admiral Ship Supply Inc.				Check Entry Number: 001
			7/31/22 STATEMENT	7/31/2022	1,002.80	0.00	1,002.80
0000065638	8/22/2022	ALL080	Alliant Insurance Services, Inc - NPB Main				Check Entry Number: 001
			2052166	8/9/2022	96,380.00	0.00	96,380.00
			2055265	8/14/2022	4,377.00	0.00	4,377.00
Check 0000065638 Total:					100,757.00	0.00	100,757.00
0000065639	8/22/2022	BAN005	Bank of America				Check Entry Number: 001
			8/5/2022	8/5/2022	8,374.62	0.00	8,374.62
0000065640	8/22/2022	CAS010	Cascade Columbia Distribution Company				Check Entry Number: 001
			844457	8/4/2022	4,013.96	0.00	4,013.96
0000065641	8/22/2022	CEN030	CenturyLink				Check Entry Number: 001
			8/1/2022 STATEMENT	8/1/2022	190.00	0.00	190.00
0000065642	8/22/2022	CEN035	CenturyLink				Check Entry Number: 001
			8/5/2022 STATMENTS	8/5/2022	408.59	0.00	408.59
0000065643	8/22/2022	CHM030	Chmelik Sitkin & Davis P.S.				Check Entry Number: 001
			8/17/22 STATEMENT	8/17/2022	2,560.00	0.00	2,560.00
0000065644	8/22/2022	CLA003	Clark Land Office				Check Entry Number: 001
			7/31/2022 STATEMENT	7/31/2022	8,545.00	0.00	8,545.00
0000065645	8/22/2022	COH050	Coho Printing				Check Entry Number: 001
			4628	5/4/2022	84.01	0.00	84.01
0000065646	8/22/2022	COO050	Cooper Fuel				Check Entry Number: 001
			8/15/22 STATEMENT	8/15/2022	2,473.25	0.00	2,473.25
0000065647	8/22/2022	COW020	Cowling and Co. LLC				Check Entry Number: 001
			639	5/31/2022	4,399.20	0.00	4,399.20
			660	6/30/2022	4,021.67	0.00	4,021.67
			661	6/30/2022	1,420.43	0.00	1,420.43
			662	6/30/2022	5,311.20	0.00	5,311.20
			687	7/31/2022	3,988.80	0.00	3,988.80
			688	7/31/2022	2,613.60	0.00	2,613.60
			689	7/31/2022	1,603.20	0.00	1,603.20
Check 0000065647 Total:					23,358.10	0.00	23,358.10
0000065648	8/22/2022	DSD050	DSD Business Systems				Check Entry Number: 001
			0054592	8/18/2022	95.47	0.00	95.47
0000065649	8/22/2022	END040	enduris Washington				Check Entry Number: 001
			R23-318-1	8/8/2022	334,227.00	0.00	334,227.00
0000065650	8/22/2022	FER001	Ferrellgas				Check Entry Number: 001
			5007172114	7/26/2022	480.12	0.00	480.12
0000065651	8/22/2022	GOO002	Good Man Sanitation				Check Entry Number: 001
			8/15/2022	8/15/2022	2,665.13	0.00	2,665.13
0000065652	8/22/2022	HIG020	Highway Specialties LLC				Check Entry Number: 001
			0003367-IN	8/10/2022	81.83	0.00	81.83
0000065653	8/22/2022	HYD040	Keith Hyde				Check Entry Number: 001
			REFUND 8/5/22	8/5/2022	199.98	0.00	199.98
0000065654	8/22/2022	INS070	Insight Strategic Partners, LLC				Check Entry Number: 001
			4135	7/31/2022	6,250.00	0.00	6,250.00
0000065655	8/22/2022	JC0003	Jefferson County - Public Work				Check Entry Number: 001
			8/1/22 STATEMENT	8/1/2022	588.20	0.00	588.20
0000065656	8/22/2022	LEM040	Lemay Mobile Shredding				Check Entry Number: 001

Run Date: 8/18/2022 4:41:06PM

A/P Date: 8/22/2022

Page: 1

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Check Register  
Journal Posting Date: 8/22/2022  
Register Number: CD-000941

Port of Port Townsend (PTA)

Bank Code: W - WARRANTS PAYABLE						
Check Number	Check Date	Vendor	Invoice Number	Invoice Date	Invoice Amount	Discount Applied Payment Amount
			4756729S185	8/1/2022	29.63	0.00 29.63
0000065657	8/22/2022	LES050	Les Schwab			Check Entry Number: 001
			37900513514	8/15/2022	200.01	0.00 200.01
0000065658	8/22/2022	OLY002	The Home Depot Pro Institutional			Check Entry Number: 001
			693670168	6/29/2022	1,217.04	0.00 1,217.04
			695949446	7/13/2022	831.87	0.00 831.87
			698488558	7/27/2022	191.44	0.00 191.44
			Check 0000065658 Total:		2,240.35	0.00 2,240.35
0000065659	8/22/2022	OLY003	Olympic Springs, Inc.			Check Entry Number: 001
			349689	7/1/2022	19.53	0.00 19.53
0000065660	8/22/2022	PEN030	Peninsula Paint Co.			Check Entry Number: 001
			F0209181	8/8/2022	52.98	0.00 52.98
0000065661	8/22/2022	POR005	Port Townsend Leader			Check Entry Number: 001
			110432	8/1/2022	60.00	0.00 60.00
0000065662	8/22/2022	POR096	Port Townsend Community Center			Check Entry Number: 001
			8/6/2022	8/5/2022	160.00	0.00 160.00
0000065663	8/22/2022	PRI001	The Printery			Check Entry Number: 001
			221175	7/30/2022	367.54	0.00 367.54
			221204	7/30/2022	1,038.72	0.00 1,038.72
			Check 0000065663 Total:		1,406.26	0.00 1,406.26
0000065664	8/22/2022	PUD005	PUD #1 of Jefferson County			Check Entry Number: 001
			8/4/22 STATEMENT	8/4/2022	18.92	0.00 18.92
0000065665	8/22/2022	REI002	Reid Middleton Co			Check Entry Number: 001
			2208028	8/9/2022	2,182.50	0.00 2,182.50
0000065666	8/22/2022	SCJ010	SCJ Alliance			Check Entry Number: 001
			68897	8/10/2022	6,182.50	0.00 6,182.50
0000065667	8/22/2022	SEC010	Security Services			Check Entry Number: 001
			123673	8/1/2022	202.30	0.00 202.30
0000065668	8/22/2022	SHA030	Charlie Shaw			Check Entry Number: 001
			8/2022	8/16/2022	130.55	0.00 130.55
0000065669	8/22/2022	STE060	Peter Stephenson			Check Entry Number: 001
			REFUND 8/6/22	8/6/2022	133.32	0.00 133.32
0000065670	8/22/2022	SUN020	Sunrise Coffee			Check Entry Number: 001
			20220964	8/12/2022	19.70	0.00 19.70
0000065671	8/22/2022	TWI001	Spectra Laboratories - Kitsap			Check Entry Number: 001
			22-04934	8/8/2022	261.00	0.00 261.00
			22-04949	8/8/2022	55.00	0.00 55.00
			Check 0000065671 Total:		316.00	0.00 316.00
0000065672	8/22/2022	UPN070	Upnadam Tree Service			Check Entry Number: 001
			QUILCENE	8/22/2022	1,309.20	0.00 1,309.20
0000065673	8/22/2022	US0001	United States Postal Service			Check Entry Number: 001
			3RD QTR 2022	8/22/2022	1,500.00	0.00 1,500.00
0000065674	8/22/2022	VEN070	VenTek International			Check Entry Number: 001
			133670	8/1/2022	103.65	0.00 103.65
0000065675	8/22/2022	WAS003	Washington Public Ports Assn.			Check Entry Number: 001
			022-469	8/2/2022	425.00	0.00 425.00
			Report Total:		513,833.46	0.00 513,833.46

Run Date: 8/18/2022 4:41:06PM  
A/P Date: 8/22/2022

Page: 2  
User Logon: DLF



PO Box 1180 • Port Townsend, WA 98368

Administration: (360) 385-0656

Operations: (360) 385-2355

Fax: (360) 385-3988

### **ELECTRONIC DEBIT – Kitsap Bank**

We, the undersigned, as Commissioners and Auditing Officer of the Port of Port Townsend, in Jefferson County, Washington, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation of the Port of Port Townsend, that we are authorized to authenticate and certify said claim, and that the Electronic Debit from the Port Checking Account held at Kitsap Bank is approved for payment in the amount of **\$15,844.74 is ratified.**

**Signed and Authenticated** on this **14th** day of **September**, 2022.

For: Washington State, Department of Revenue

Combined Excise Tax Return – for ***July, 2022*** in the amount of ***\$15,844.74.***

\_\_\_\_\_  
Commissioner Pam Petranek

\_\_\_\_\_  
Commissioner Carol Hasse

\_\_\_\_\_  
Commissioner Pete W. Hanke

\_\_\_\_\_  
S. Abigail Berg, Director of Finance  
and Administration

**Washington State Department of Revenue**

Your Return has been submitted and your confirmation number is **0-028-375-193**

Below is information from your Monthly Return for the period ending July 31, 2022

<b>Filing Date</b>	August 19, 2022
<b>Account ID</b>	161-000-044
<b>Primary Name</b>	BOAT HAVEN FUEL DOCK
<b>Payment Method</b>	ACH Debit/E-Check
<b>Payment Effective</b>	August 22, 2022
<b>Total Tax</b>	15,844.74
<b>Total Due</b>	15,844.74





# Combined Excise Tax Return

161-000-044  
BOAT HAVEN FUEL DOCK  
PORT OF PORT TOWNSEND

Filing Period: July 31, 2022

Due Date: August 25, 2022

Filing Frequency: Monthly

## Business & Occupation

Tax Classification	Gross Amount	Deductions	Taxable Amount	Tax Rate	Tax Due
Retailing	116,053.57	0.00	116,053.57	0.004710	546.61
Service and Other Activities (\$1 million or greater in prior year)	185,293.45	0.00	185,293.45	0.017500	3,242.64
Total Business & Occupation					3,789.25

## State Sales and Use

Tax Classification	Gross Amount	Deductions	Taxable Amount	Tax Rate	Tax Due
Retail Sales	116,053.57	0.00	116,053.57	0.065000	7,543.48
Total State Sales and Use					7,543.48

## Public Utility Tax

Tax Classification	Gross Amount	Deductions	Taxable Amount	Tax Rate	Tax Due
Water Distribution	1,007.42	0.00	1,007.42	0.050290	50.66
Other Public Service Business	8,704.80	0.00	8,704.80	0.019260	167.65
Total Public Utility Tax					218.31

## Deductions

Tax Classification	Deduction	Amount
<b>Business &amp; Occupation</b>		
Retailing	Motor Vehicle Fuel Tax	0.00
<b>State Sales and Use</b>		
Retail Sales	Motor Vehicle Fuel Sales	0.00

## Local City and/or County Sales Tax

Location	Taxable Amount	Tax Rate	Tax Due
1601 - PORT TOWNSEND	116,053.57	0.026000	3,017.39
Total Local City and/or County Sales Tax			3,017.39

## Transient Rental Income

<b>Location</b>	<b>Income</b>
1601 - PORT TOWNSEND	63,815.40
<b>Total Transient Rental Income</b>	<b>63,815.40</b>

#### Special Hotel/Motel

<b>Location</b>	<b>Taxable Amount</b>	<b>Tax Rate</b>	<b>Tax Due</b>
1601 - PORT TOWNSEND	63,815.40	0.020000	1,276.31
	<b>Total Special Hotel/Motel</b>		<b>1,276.31</b>

<b>Total Tax</b>	<b>15,844.74</b>
<b>Subtotal</b>	<b>15,844.74</b>
<b>Total Amount Owed</b>	<b>15,844.74</b>

<b>Prepared By:</b>	Donna Frary
<b>E-Mail Address:</b>	donna@portofpt.com
<b>Submitted Date:</b>	8/19/2022
<b>Confirmation #:</b>	0-028-375-193
 <b>Payment Type:</b>	 ACH Debit/E-Check
<b>Amount:</b>	\$15,844.74
<b>Effective Date:</b>	8/22/2022



PO Box 1180 • Port Townsend, WA 98368

Administration: (360) 385-0656  
3988

Operations: (360) 385-2355

Fax: (360) 385-

### **WARRANT/ELECTRONIC PAYMENT APPROVAL**

We, the undersigned, as Commissioners and Auditing Officer of the Port of Port Townsend, in Jefferson County, Washington, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, and that the claims are just, due and unpaid obligations against the Port of Port Townsend, that we are authorized to authenticate and certify to said claim and that payment of these claims, in Warrant No 065676 through No. 065682 generated on September 1st, 2022 in the amount of \$26,972.33 and Electronic Payment in the amount of \$187,994.79, for a total amount of \$214,967.12 is ratified.

**Signed and Authenticated** on this 14th day of September, 2022.

For: **Payroll and Benefits**

\_\_\_\_\_  
Commissioner Pam Petranek

\_\_\_\_\_  
Commissioner Carol Hasse

\_\_\_\_\_  
Commissioner Pete W. Hanke

\_\_\_\_\_  
S. Abigail Berg, Director of Finance  
And Administration



PO Box 1180 • Port Townsend, WA 98368

Administration: (360) 385-0656

Operations: (360) 385-2355

Fax: (360) 385-3988

## **WARRANT APPROVAL**

We, the undersigned, as Commissioners and Auditing Officer of the Port of Port Townsend, in Jefferson County, Washington, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, and that the claims is a just, due and unpaid obligation of the Port of Port Townsend, that I am authorized to authenticate and certify to said claim and that these claims, in Warrant No 065683 through No. 065749, are approved for payment in the amount of \$204,661.39 on this 14th day of September, 2022.

For: **Accounts Payable**

\_\_\_\_\_  
Commissioner Pam Petranek

\_\_\_\_\_  
Commissioner Carol Hasse

\_\_\_\_\_  
Commissioner Pete W. Hanke

\_\_\_\_\_  
S. Abigail Berg, Director of Finance  
And Administration

## Check Register

Journal Posting Date: 9/14/2022

Register Number: CD-000943

Port of Port Townsend (PTA)

Bank Code: W - WARRANTS PAYABLE							
Check Number	Check Date	Vendor	Invoice Number	Invoice Date	Invoice Amount	Discount Applied	Payment Amount
0000065683	9/14/2022	48N010	48 North				Check Entry Number: 001
			103677	9/14/2022	1,349.00	0.00	1,349.00
0000065684	9/14/2022	ADL050	Adler Tank Rentals				Check Entry Number: 001
			4612654	8/31/2022	2,334.32	0.00	2,334.32
0000065685	9/14/2022	ADM002	Admiral Ship Supply Inc.				Check Entry Number: 001
			8/31/22 STATEMENT	8/31/2022	469.42	0.00	469.42
0000065686	9/14/2022	AIR010	Air Flo Heating Co.				Check Entry Number: 001
			83080247	6/22/2022	813.89	0.00	813.89
0000065687	9/14/2022	ALL003	All City Autobody & Towing				Check Entry Number: 001
			45042	9/1/2022	128.74	0.00	128.74
0000065688	9/14/2022	ALL025	Alliant Insurance Services, Inc - NPB Main				Check Entry Number: 001
			2067770	8/30/2022	15,040.00	0.00	15,040.00
0000065689	9/14/2022	ARR010	Arrow Lumber Port Townsend				Check Entry Number: 001
			8/28/22 STATEMENT	8/28/2022	1,299.57	0.00	1,299.57
0000065690	9/14/2022	BER010	William Berninger				Check Entry Number: 001
			8/2022 EXPENSE	8/31/2022	9.00	0.00	9.00
0000065691	9/14/2022	BER040	Abigail Berg				Check Entry Number: 001
			8/2022 EXPENSE	8/31/2022	1,776.99	0.00	1,776.99
0000065692	9/14/2022	BOT040	Botero & Son Electrical LLC				Check Entry Number: 001
			22-2432	8/31/2022	462.95	0.00	462.95
0000065693	9/14/2022	CAR001	Carl's Building Supply				Check Entry Number: 001
			8/31/22 STATEMENT	8/31/2022	10,333.30	0.00	10,333.30
0000065694	9/14/2022	CED005	CED				Check Entry Number: 001
			5948-1024309	8/24/2022	973.85	0.00	973.85
			5948-1024446	8/24/2022	155.79	0.00	155.79
			5948-1024450	8/24/2022	147.68	0.00	147.68
			5948-1024528	8/31/2022	161.47	0.00	161.47
Check 0000065694 Total:					1,438.79	0.00	1,438.79
0000065695	9/14/2022	CIT001	City Of Port Townsend				Check Entry Number: 001
			8/2022 STATEMENTS	8/31/2022	11,530.16	0.00	11,530.16
0000065696	9/14/2022	COA050	Mott MacDonald				Check Entry Number: 001
			100339-34	8/17/2022	1,912.00	0.00	1,912.00
0000065697	9/14/2022	COH050	Coho Printing				Check Entry Number: 001
			4933	8/31/2022	81.83	0.00	81.83
0000065698	9/14/2022	COO050	Cooper Fuel				Check Entry Number: 001
			8/31/22 STATEMENT	8/30/2022	114.45	0.00	114.45
0000065699	9/14/2022	CUL040	Jim Cullison				Check Entry Number: 001
			REFUND 8/12/22	8/12/2022	85.64	0.00	85.64
0000065700	9/14/2022	DIR070	DirecTV				Check Entry Number: 001
			085436554X220828	8/28/2022	424.50	0.00	424.50
0000065701	9/14/2022	DOU010	Double D Electric Inc.				Check Entry Number: 001
			I-30974	8/30/2022	1,546.19	0.00	1,546.19
			I-31099	8/30/2022	3,288.98	0.00	3,288.98
Check 0000065701 Total:					4,835.17	0.00	4,835.17
0000065702	9/14/2022	ELL040	Tom Elliott				Check Entry Number: 001
			REFUND 8/20/22	8/20/2022	112.53	0.00	112.53
0000065703	9/14/2022	FAW040	Greg Fawcett				Check Entry Number: 001
			REFUND 8/12/22	8/12/2022	11.00	0.00	11.00
0000065704	9/14/2022	GAL030	Jerrod Galanin				Check Entry Number: 001
			REFUND 8/16/22	8/16/2022	338.25	0.00	338.25

Run Date: 9/8/2022 2:57:03PM

A/P Date: 9/14/2022

Page: 1

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## Check Register

Journal Posting Date: 9/14/2022

Register Number: CD-000943

Port of Port Townsend (PTA)

Bank Code: W - WARRANTS PAYABLE							
Check Number	Check Date	Vendor	Invoice Number	Invoice Date	Invoice Amount	Discount Applied	Payment Amount
0000065705	9/14/2022	GRE030	John Green				Check Entry Number: 001
			8/2022 EXPENSE	8/22/2022	191.56	0.00	191.56
0000065706	9/14/2022	GUA080	Guardian Security Systems, Inc.				Check Entry Number: 001
			1281597	9/1/2022	162.01	0.00	162.01
			1281598	9/1/2022	114.56	0.00	114.56
			1281599	9/1/2022	130.92	0.00	130.92
			1281600	9/1/2022	218.20	0.00	218.20
Check 0000065706 Total:					625.69	0.00	625.69
0000065707	9/14/2022	HEN002	Henery Hardware				Check Entry Number: 001
			736579	7/26/2022	5.12	0.00	5.12
			736602	7/26/2022	67.73	0.00	67.73
			736644	7/27/2022	80.26	0.00	80.26
			736709	7/27/2022	101.11	0.00	101.11
			736739	7/28/2022	24.84	0.00	24.84
			736839	7/29/2022	26.79	0.00	26.79
			736845	7/29/2022	41.43	0.00	41.43
			736861	7/29/2022	51.69	0.00	51.69
			736877	7/29/2022	19.18	0.00	19.18
			737021	8/2/2022	28.12	0.00	28.12
			737023	8/2/2022	41.43	0.00	41.43
			737036	8/2/2022	69.27	0.00	69.27
			737161	8/3/2022	15.23	0.00	15.23
			737275	8/5/2022	24.61	0.00	24.61
			737289	8/5/2022	25.08	0.00	25.08
			737324	8/5/2022	12.98	0.00	12.98
			737384	8/8/2022	136.36	0.00	136.36
			737423	8/8/2022	155.28	0.00	155.28
			737610	8/11/2022	21.80	0.00	21.80
			737694	8/12/2022	17.43	0.00	17.43
			737698	8/12/2022	95.24	0.00	95.24
			737744	8/12/2022	315.10	0.00	315.10
			737859	8/15/2022	21.36	0.00	21.36
			737979	8/17/2022	5.61	0.00	5.61
			737980	8/17/2022	23.98	0.00	23.98
			738022	8/17/2022	9.79	0.00	9.79
			738069	8/18/2022	44.71	0.00	44.71
			738132	8/19/2022	65.33	0.00	65.33
			738156	8/19/2022	127.61	0.00	127.61
			738377	8/24/2022	41.44	0.00	41.44
			738401	8/24/2022	2.06	0.00	2.06
			738474	8/25/2022	59.99	0.00	59.99
			738497	8/25/2022	47.99	0.00	47.99
Check 0000065707 Total:					1,825.95	0.00	1,825.95
0000065708	9/14/2022	HEN006	Quilcene Henery's Hardware				Check Entry Number: 001
			8/25/22 STATEMENT	8/25/2022	164.60	0.00	164.60
0000065709	9/14/2022	HES040	Klaas Hesselink				Check Entry Number: 001
			REFUND 8/19/22	8/19/2022	242.54	0.00	242.54
0000065710	9/14/2022	HIG020	Highway Specialties LLC				Check Entry Number: 001
			0003692-IN	8/29/2022	927.35	0.00	927.35
0000065711	9/14/2022	HRA030	HRA VEBA Trust				Check Entry Number: 001

Run Date: 9/8/2022 2:57:03PM

A/P Date: 9/14/2022

Page: 2

User Logon: DLF

Check Register

Journal Posting Date: 9/14/2022

Register Number: CD-000943

Port of Port Townsend (PTA)

Bank Code: W - WARRANTS PAYABLE							
Check Number	Check Date	Vendor	Invoice Number	Invoice Date	Invoice Amount	Discount Applied	Payment Amount
			8/2022 YA20407	9/14/2022	637.39	0.00	637.39
0000065712	9/14/2022	JAM040	Jamestown Networks				Check Entry Number: 001
			7192	9/1/2022	530.00	0.00	530.00
0000065713	9/14/2022	KEN010	Kendrick Equipment				Check Entry Number: 001
			U50913	9/1/2022	7,401.33	0.00	7,401.33
0000065714	9/14/2022	LAN001	Landau Associates				Check Entry Number: 001
			0051698	8/18/2022	1,537.50	0.00	1,537.50
0000065715	9/14/2022	LEM040	Lemay Mobile Shredding				Check Entry Number: 001
			4760617S185	9/1/2022	14.07	0.00	14.07
0000065716	9/14/2022	LES050	Les Schwab				Check Entry Number: 001
			37900515246	8/27/2022	554.18	0.00	554.18
0000065717	9/14/2022	MCB020	David McBride				Check Entry Number: 001
			REFUND 8/29/22	8/29/2022	76.34	0.00	76.34
0000065718	9/14/2022	MUR002	Murrey's Disposal Co. Inc.				Check Entry Number: 001
			8/31/22 STATEMENTS	8/31/2022	9,574.71	0.00	9,574.71
0000065719	9/14/2022	O'RE030	O'Reilly Auto Parts				Check Entry Number: 001
			3939-135523	8/31/2022	10.90	0.00	10.90
			3939-135613	9/1/2022	9.36	0.00	9.36
			Check 0000065719 Total:		20.26	0.00	20.26
0000065720	9/14/2022	OLY001	Olympic Equipment Rentals Inc				Check Entry Number: 001
			8/25/22 STATEMENT	8/25/2022	183.26	0.00	183.26
0000065721	9/14/2022	OLY002	The Home Depot Pro Institutional				Check Entry Number: 001
			700985526	8/10/2022	421.04	0.00	421.04
0000065722	9/14/2022	PAC004	Pacific Office Equipment Co				Check Entry Number: 001
			9/1/22 STATEMENT	9/1/2022	399.72	0.00	399.72
0000065723	9/14/2022	PAP020	Pape Machinery				Check Entry Number: 001
			13702851	8/26/2022	28.76	0.00	28.76
			13862837	8/23/2022	397.03	0.00	397.03
			13873974	8/26/2022	28.74	0.00	28.74
			8804802	8/16/2022	124.32	0.00	124.32
			8822620	8/23/2022	384.20	0.00	384.20
			BM 314207 S	8/24/2022	83,330.58	0.00	83,330.58
			Check 0000065723 Total:		84,236.15	0.00	84,236.15
0000065724	9/14/2022	PIN010	Pinnacle Investigations Corp				Check Entry Number: 001
			80020	6/16/2022	35.00	0.00	35.00
			81040	9/1/2022	105.00	0.00	105.00
			Check 0000065724 Total:		140.00	0.00	140.00
0000065725	9/14/2022	PIT000	Pitney Bowes Inc.				Check Entry Number: 001
			3316182179	8/26/2022	537.17	0.00	537.17
0000065726	9/14/2022	PLA040	PLATT				Check Entry Number: 001
			3E04449	8/22/2022	87.55	0.00	87.55
0000065727	9/14/2022	POU080	Wendy Pouliot				Check Entry Number: 001
			REFUND 8/29/22	8/29/2022	33.33	0.00	33.33
0000065728	9/14/2022	POW070	Powerplan - OIB				Check Entry Number: 001
			13848596	8/18/2022	2,982.94	0.00	2,982.94
0000065729	9/14/2022	PRE010	Precision Approach Engineering				Check Entry Number: 001
			5731	7/31/2022	9,962.20	0.00	9,962.20
0000065730	9/14/2022	PUD001	Pud District #1				Check Entry Number: 001
			8/11/22 STATEMENTS	8/11/2022	11,720.16	0.00	11,720.16
			8/25/22 STATEMENTS	8/25/2022	629.60	0.00	629.60

Run Date: 9/8/2022 2:57:03PM

A/P Date: 9/14/2022

Page: 3

User Logon: DLF

Check Register

Journal Posting Date: 9/14/2022

Register Number: CD-000943

Port of Port Townsend (PTA)

				Bank Code: W - WARRANTS PAYABLE			
Check Number	Check Date	Vendor	Invoice Number	Invoice Date	Invoice Amount	Discount Applied	Payment Amount
Check 0000065730 Total:					12,349.76	0.00	12,349.76
0000065731	9/14/2022	REG020	Brian Regan				Check Entry Number: 001
			REFUND 8/26/22	8/26/2022	132.40	0.00	132.40
0000065732	9/14/2022	ROD030	Rodda Paint				Check Entry Number: 001
			44172382	8/30/2022	1,072.60	0.00	1,072.60
0000065733	9/14/2022	ROS080	Tom Rose				Check Entry Number: 001
			REFUND 8/16/22	8/16/2022	11.00	0.00	11.00
0000065734	9/14/2022	SAF001	Safeway, Inc.				Check Entry Number: 001
			8/21/22 STATEMENT	8/21/2022	3,135.10	0.00	3,135.10
0000065735	9/14/2022	SEC010	Security Services				Check Entry Number: 001
			124219	9/1/2022	202.30	0.00	202.30
0000065736	9/14/2022	SNE020	S-Net Communications				Check Entry Number: 001
			144150	9/1/2022	620.76	0.00	620.76
0000065737	9/14/2022	SUM040	Summit Law Group PLLC				Check Entry Number: 001
			139231	8/24/2022	175.00	0.00	175.00
0000065738	9/14/2022	SUN020	Sunrise Coffee				Check Entry Number: 001
			20221021	8/26/2022	19.70	0.00	19.70
0000065739	9/14/2022	THE020	Thermo Fluids, Inc.				Check Entry Number: 001
			89679230	8/23/2022	876.35	0.00	876.35
0000065740	9/14/2022	TOM050	Tom Howard Piano Service				Check Entry Number: 001
			9/2/2022	9/2/2022	215.00	0.00	215.00
0000065741	9/14/2022	ULI040	ULINE				Check Entry Number: 001
			152733153	8/16/2022	2,457.41	0.00	2,457.41
			153014653	8/23/2022	1,118.32	0.00	1,118.32
Check 0000065741 Total:					3,575.73	0.00	3,575.73
0000065742	9/14/2022	VEN070	VenTek International				Check Entry Number: 001
			134247	9/1/2022	425.49	0.00	425.49
0000065743	9/14/2022	VER001	Verizon Wireless, Bellevue				Check Entry Number: 001
			9913568899	8/15/2022	562.02	0.00	562.02
0000065744	9/14/2022	VIR060	Virtower				Check Entry Number: 001
			1538	9/1/2022	500.00	0.00	500.00
0000065745	9/14/2022	WAV040	Wave Broadband				Check Entry Number: 001
			043328901-0009676	8/23/2022	154.72	0.00	154.72
0000065746	9/14/2022	WEB040	Kathleen Weber				Check Entry Number: 001
			REFUND 8/19/22	8/19/2022	530.95	0.00	530.95
0000065747	9/14/2022	WEE065	Robert & Rena Weeks				Check Entry Number: 001
			REFUND 8/18/22	8/18/2022	233.31	0.00	233.31
0000065748	9/14/2022	WES006	Westbay Auto Parts, Inc.				Check Entry Number: 001
			8/25/22 STATEMENT	8/25/2022	1,614.63	0.00	1,614.63
0000065749	9/14/2022	WES060	West Marine Pro				Check Entry Number: 001
			900	8/29/2022	46.24	0.00	46.24
Report Total:					204,661.39	0.00	204,661.39

Run Date: 9/8/2022 2:57:03PM

A/P Date: 9/14/2022

Page: 4

User Logon: DLF



# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	September 14, 2022
<b>AGENDA ITEM</b>	<input checked="" type="checkbox"/> Consent Agenda
<b>AGENDA TITLE</b>	IV. C. Resolution 772-22 Authorizing Sale of Vessels Located within the Port Moorage Facilities, Declaring, Where Title Reverts to the Port that the Vessels are not Needed for Port Purposes and Authorizing the Executive Director to Sell or Otherwise Dispose of the Vessels
<b>STAFF LEAD</b>	Eric Toews, Deputy Director
<b>REQUESTED</b>	<input type="checkbox"/> Motion <input checked="" type="checkbox"/> Action <input type="checkbox"/> Discussion
<b>ATTACHMENTS</b>	A. Resolution

**RESOLUTION NO. 772-22**

**A Resolution of the Commission of the Port of Port Townsend**

**AUTHORIZING THE SALE OF VESSELS LOCATED WITHIN THE PORT OF PORT TOWNSEND'S MOORAGE FACILITIES; DECLARING, WHERE TITLE REVERTS TO THE PORT OF PORT TOWNSEND, THAT THE VESSELS ARE NOT NEEDED FOR PORT OF PORT TOWNSEND'S PURPOSES; AND AUTHORIZING THE EXECUTIVE DIRECTOR TO SELL OR OTHERWISE DISPOSE OF THE VESSELS**

**WHEREAS**, the owners of the vessels listed on Exhibit "A" owe the Port of Port Townsend ("Port") charges;

**WHEREAS**, the Port of Port Townsend has followed the procedures in RCW 53.08.320;

**WHEREAS**, the vessels listed on Exhibit "A" are not needed for Port of Port Townsend purposes;

**NOW THEREFORE BE IT RESOLVED** as follows:

Section 1. Pursuant to RCW 53.08.320, the Executive Director or the Executive Director's designee (hereinafter the "Executive Director") is hereby authorized to conduct a public sale of the vessels listed on Exhibit "A". The Executive Director shall sell the vessels to the highest and best bidder for cash. The Executive Director is further authorized, at the Executive Director's discretion, to determine a minimum bid requirement and/or require a letter of credit for the vessels to discourage the future abandonment of the vessels.

Section 2. Pursuant to RCW 53.08.090, for those vessels listed on Exhibit "A" where title reverts to the Port, the vessels are not need for Port purposes and therefore declared surplus property.

Section 3. Pursuant to RCW 53.08.090, for those vessels listed on Exhibit "A" where title reverts to the Port, the Executive Director is authorized to sell the vessels or otherwise dispose of the vessels at the Executive Director's discretion.

**ADOPTED** by the Board of Commissioners on the 14<sup>th</sup> day of September 2022, and duly authenticated in open session by the signature of the Commissioners voting in favor thereof with the seal of the Commission affixed hereto.

**ATTEST:**

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Peter W. Hanke, Secretary

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Pamela A. Petranek, President

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Carol Hasse, Vice President

**EXHIBIT A**

<b>Vessel Owner</b>	<b>Vessel Name</b>	<b>Vessel Description</b>	<b>Vessel Registration</b>
Gregory Cremarosa	DI ALTO MARE	42' power vessel	RGMKA083B393
Richard Clark	KU'UIPO	49' power vessel	N/A

# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	September 14, 2022		
<b>AGENDA ITEM</b>	<input checked="" type="checkbox"/> Consent Agenda		
<b>AGENDA TITLE</b>	IV. D. JCIA Land Lease Assignment and Amendment: David Holt to Puget Sound Express, Inc.		
<b>STAFF LEAD</b>	Eric Toews, Deputy Director		
<b>REQUESTED</b>	<input type="checkbox"/> Motion <input checked="" type="checkbox"/> Action <input type="checkbox"/> Discussion		
<b>ATTACHMENTS</b>	A. Info Memo B. Lease Assignment & Amendment C. Exhibit 'A' (Original Lease) D. Exhibit 'B' (First Assignment & Amendment of Lease)		

# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 9/14/2022  
**TO:** Port Commission  
**FROM:** Eric Toews, Deputy Director and Sue Nelson, Lease & Contracts Administrator  
**SUBJECT:** Hangar Site 'J' Lease Assignment & Amendment: David Holt & Susan Holt Living Trust to Puget Sound Express, Inc.

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**BACKGROUND:** In August, Commissioner Hanke notified staff that he had purchased Hangar 'J' from the David and Susan Holt Living Trust.

**DISCUSSION:** The original Hangar Site 'J' lease was issued to Leon Landry and Neil Slater on January 14, 2000. On February 14, 2001, the lease was assigned and amended to the David & Susan Holt Living Trust. Today, staff presents the second Assignment and Amendment to Puget Sound Express, Inc.

**RECOMMENDATION:** Authorize the Executive Director to execute the attached Assignment & Amendment of the Land Lease to Puget Sound Express, Inc. for Hangar Site "J" at the Jefferson County International Airport.

**MOTION:** None required. Approval of this item on the Consent Agenda authorizes the Executive Director to execute the attached Assignment & Amendment.

### **ATTACHMENTS**

- (Second) Lease Assignment & Amendment
- Exhibit 'A' (Original Lease)
- Exhibit 'B' (First Assignment & Amendment of Lease)

## **SECOND ASSIGNMENT & AMENDMENT OF LAND LEASE JEFFERSON COUNTY INTERNATIONAL AIRPORT**

**THIS SECOND ASSIGNMENT & AMENDMENT OF LAND LEASE** is dated this \_\_\_\_ day of September 2022, by and between **DAVID & SUSAN HOLT LIVING TRUST** ("Assignor"), and **PUGET SOUND EXPRESS, INC.**, a Washington corporation ("Assignee"), with a hangar pad location identified as Hangar Site "J" at the Jefferson County International Airport in Port Townsend, WA.

**WHEREAS**, The PORT OF PORT TOWNSEND ("Lessor" or "Port"), a Washington Municipal Corporation, and LEO H. LANDRY and NEIL SLATER ("Landry" and "Slater") entered into that certain LAND LEASE WITH OPTION dated January 14, 2000, for certain premises (the "Premises") located at the Jefferson County International Airport, Port Townsend, Washington, which is attached hereto as Exhibit "A" and incorporated herein by this reference (the "Original Lease"); and

**WHEREAS**, The Original Lease was assigned by Landry and Slater with Lessor's consent on February 14, 2001, to the DAVID & SUSAN HOLT LIVING TRUST ("Lessee"), and concurrently amended, which document is attached hereto as Exhibit "B" and incorporated herein by this reference (the "First Assignment & Amendment of Land Lease"); and

**WHEREAS**, Together, Exhibits "A" and (the Original Lease) "B" (the First Assignment & Amendment of Lease) comprise the "Lease"; and

**WHEREAS**, Assignor desires to assign its interest in the Lease to Assignee, and Assignee desires to assume Assignor's obligations under the Lease; and

**WHEREAS**, Paragraph #16 of the Lease provides that the Assignor's interest in the Lease may not be assigned unless Lessor grants its written consent to any such assignment,

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee agree, and Lessor consents, as follows:

- 1. Recitals Incorporated.** The foregoing recitals are hereby incorporated into and made a part of this Second Assignment & Amendment, including all defined terms referenced therein, with the same force and effect as if the same were herein repeated fully and at length. Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed to such terms in the Lease.
- 2. Assignment of Lease:** Assignor does hereby transfer, assign, convey and deliver to Assignee its entire right, title and interest in the Lease and the Premises.

**3. Assumption of Obligations:** Assignee does hereby accept this assignment and, for the benefit of Assignor and Lessor, expressly assumes and agrees to hereafter perform all the terms, covenants, conditions, and obligations of Assignor under the Lease, which accrue from and after the date hereof. Assignee has been furnished with copies of the Lease (Exhibits "A" and "B"), respectively, has reviewed the terms of the same, and understands all of the terms of the Lease.

**4. Indemnity:** Assignor agrees to save, indemnify, defend, and hold Assignee harmless from and on account of any claims, demands, actions, losses, expenses, and liabilities of Assignee under the Lease on account of or arising out of any obligations and liabilities of the Assignee thereunder, arising prior to the date hereof.

Assignee agrees to save, indemnify, defend, and hold Assignor harmless from and on account of any claims, demands, actions, losses, expenses, and liabilities of Assignor under the Lease on account of or arising out of the obligations and liabilities so assumed and arising after the date hereof.

**5. Lessor Acknowledgement:** By executing this Second Assignment & Amendment, Lessor expressly acknowledges the following:

- a. That all rents, royalties, penalties, assessments, taxes, and charges of any kind owing to Lessor arising out of the Lease have been timely paid, that no such rents, royalties, penalties, assessments, taxes, or charges that have accrued to date hereof are unpaid, and that to the best of Lessor's knowledge there are no rents, penalties, assessments, taxes, or charges of any kind contemplated by Lessor to be imposed on or after the date hereof that are not specified in the Lease;
- b. That Assignor is not in default or violation of any provision of the Lease;
- c. That the Lease is in effect in accordance with its terms; and
- d. That the Lease is enforceable in accordance with its terms.

**6. Successors and Assigns:** This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns.

**7. Concurrent Amendment of Lease Paragraphs 4 and 29:** Paragraph 4, "DEPOSIT", and Paragraph 29, NOTICES of the Lease, are hereby deleted in their entirety and replaced with the following:

**4. DEPOSIT:** Lessee shall deposit or has deposited with the Port security in the amount of **Five Hundred Seventy-Seven Dollars and Thirty-One Cents (\$577.31).**<sup>1</sup> Annually throughout the lease term the amount deposited with the Port shall be adjusted to ensure that an amount equivalent to two (2) months' then current rent plus applicable taxes maintained as security. 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

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<sup>1</sup> Security deposit calculated as follows: \$255.81 per month rent x 2 = \$511.62; \$511.62 x 12.84% LHT = \$65.69; \$511.62 + \$65.69 = \$577.31.

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.

29. 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**  
c/o Lease & Contracts Administrator  
P.O. Box 1180  
Port Townsend, WA 98368

**To Lessee:**

**PUGET SOUND EXPRESS, INC.**  
Attn: Peter W. Hanke  
227 Jackson Street  
Port Townsend, WA 98368

All other terms and conditions of the Lease shall remain unchanged and in effect.

This Second Assignment & Amendment of Land Lease is authorized by the Port of Port Townsend Port Commission on the 14th day of September 2022, executed by the parties this \_\_\_\_ day of September 2022, and effective upon the receipt of a deposit and liability insurance documentation from the Assignee.

**ASSIGNOR – DAVID & SUSAN HOLT LIVING TRUST:**

\_\_\_\_\_  
by David Holt

**ASSIGNEE – PUGET SOUND EXPRESS, INC.:**

\_\_\_\_\_  
Peter W. Hanke, Governing Party



**LESSOR – PORT OF PORT TOWNSEND:**

The Port of Port Townsend, as owner and holder of all right, title and interest under the Lease hereby approves the foregoing assignment and amendment.

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Eron Berg, Executive Director

**APPROVED AS TO FORM:**

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Eric Toews, Port Attorney

**STATE OF WASHINGTON  
COUNTY OF JEFFERSON**

I certify that I know or have satisfactory evidence that David Holt signed this instrument and that he/she is authorized to execute the instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Signature of  
Notary Public: \_\_\_\_\_

My Appointment Expires: \_\_\_\_\_

**STATE OF WASHINGTON  
COUNTY OF JEFFERSON**

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

Dated: \_\_\_\_\_

Signature of  
Notary Public: \_\_\_\_\_

My Appointment Expires: \_\_\_\_\_

**STATE OF WASHINGTON  
COUNTY OF JEFFERSON**

I certify that I know or have satisfactory evidence that Eron Berg signed this instrument and that he/she is authorized to execute the instrument and acknowledged it to be his/her free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: \_\_\_\_\_

Signature of  
Notary Public: \_\_\_\_\_

My Appointment Expires: \_\_\_\_\_

PORT OF PORT TOWNSEND

LAND LEASE WITH OPTION  
JEFFERSON COUNTY INTERNATIONAL AIRPORT

ORIGINAL

THIS LEASE AGREEMENT made this 14 day of January, 2000, 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 Leo H. Landry and L. Neil Slater, 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:

**Hangar Site "J" at the Jefferson County International Airport, as depicted on Attachment A.**

hereinafter called "the premises."

**2. OPTION TO LEASE:** In consideration of Lessee's payment of a non-refundable option payment of \$325, receipt which is hereby acknowledged, Lessor hereby grants Lessee an option to lease the premises, on the terms contained herein. The option must be exercised on or before May 31, 2000, by written notice from Lessee to Lessor, but only if Lessee has complied with the terms of paragraph 8 hereinbelow. If the option is not exercised by that deadline, or if the Lessor does not approve the plans to be provided by Lessee pursuant to paragraph 9b, then this Agreement shall terminate and Lessee shall have no further rights hereunder. If the option is exercised, the \$325 deposit shall be credited first against the additional deposit required in paragraph 4 below and secondly to successive first and second month rent, until exhausted. Lessee's option rights may not be assigned to any other party without the Port's consent.

**2a. TERM OF LEASE:** If the Option is exercised, this lease shall immediately be in effect and the lease term shall be for a term of fifty (50) years, beginning upon the date the option is exercised and ending on the fiftieth (50th) anniversary of that date.

**3. RENT:** Lessee agrees to pay as rental for the leased premises the sum of one hundred seventy-five dollars (\$175) 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. The rental rate shall be adjusted every three years to the prevailing fair market rental rate then prevailing for comparable commercial and/or industrial property in Western Washington area bearing in mind all allowable uses of the property, all improvements made to the property, and all services and amenities available to the property by virtue of its location. The rental rate so determined would be adjusted annually by an amount equal to the accumulative amount found on the Consumer Price Index (CPI) for Seattle and Tacoma, which is compiled by the Department of Labor, Bureau of Statistics.

**4. DEPOSIT:** Lessee shall, upon the execution of this lease and agreement, deposit with the Port two month's rent in the amount of three hundred fifty dollars (\$350) plus all applicable taxes. The lease is not effective until full deposit is made with the Port.

**5. USE OF PREMISES:** Lessee shall use the premises for construction, rental, and generation of aircraft storage hangars. Hangar "J" shall be configured as depicted in Attachment A, hangar entryways shall not exceed 16' in height, 50' in width or 100' in length. Failure of

Lessee to perform this type of business or cessation of such services, or carrying on other activities without first obtaining a Lease modification with Lessor's written approval of such other activities, shall constitute cause for default under the terms of this Lease. It is further understood and agreed the Premises will not be used to store distribute or otherwise handle flammable or dangerous materials. In addition to the foregoing, the Lessee shall meet or exceed the following Operating Standards:

- A. The Lessee shall pay all costs and expenses associated and in connection with the use of the Premises and the rights and privileges therein granted, including, but not limited to, leasehold and other taxes, permit fees, license fees, and assessments lawfully levied or assessed upon the Premises or property at any time situated therein and thereof. The Lessee may, however, at its sole expense and cost, contest any tax, fee, or assessment, but shall in no event allow the same to become a lien thereof.
- B. The Lessee shall observe and obey all laws, regulations, and rules of the Airport and the federal, state, and local government which may be applicable to its operation at the Airport. This shall include the Jefferson County International Airport (JCIA) Rules and Regulations and the Statutes and Resolutions now in effect or as may be promulgated or revised in the future from time to time. The Lessee specifically acknowledges that it shall abide by and be subject to all rules and regulations which are now, or may from time to time, be formulated by the Lessor concerning the management, operation, or use of Jefferson County International Airport (JCIA). The Lessee shall keep in effect and post in a prominent place all necessary and/or required licenses or permits.
- C. The Lessee shall allow no act, trade, occupation, or business to be carried on upon said Premises, or any use made thereof in violation of applicable law or regulation, including any regulation of the Lessor.
- D. The Lessee agrees to and shall keep the leased Premises clean and in good order, condition, and repair. The Lessee shall, at its sole cost and expense, maintain the grounds of the Premises in good order and repair and in good and safe condition and shall repair all damages caused by its occupants or invitees. The Lessor shall be the sole judge of the quality of maintenance of the grounds, and upon written notice by the Lessor to the Lessee, the Lessee shall be required to perform whatever maintenance the Lessor deems reasonably required. If the maintenance is not undertaken within ten (10) days after receipt of written notice, the Lessor shall have the right to enter upon the Premises and perform such maintenance, the cost of which shall be charged to and be borne by the Lessee and paid by the Lessee as an additional fee on the next rental due date after receipt of notice as to the amount thereof.
- E. The Lessee shall be entitled, in common with others so authorized, to the use of all facilities and improvements of a public nature which now are or may hereafter be connected with or appurtenant to the Airport, including the use of landing areas, runways, taxiways, navigational aids, terminal facilities, and aircraft parking areas designated by the Lessor, all upon such rules and regulations as may be established by the Lessor from time to time hereafter.
- F. The Lessee shall have the reasonable right of ingress and egress to and from the Premises and to the public areas of the Airport in the carrying on of their activities as herein provided for; subject, however, to such rules and regulations pertaining to the use and operation of the Airport as may be established by the Lessor from time to time hereafter, which right shall extend to the Lessee's guests and invitees.
- G. The Lessee may not use Premises for any purpose other than those which are specifically authorized by this Lease and which are in accordance with the Airport Master and Layout Plan, except as approved in writing by the Lessor prior to any implementation.

H. No improvement, including landscaping or terrain alteration, shall be erected, placed, or effected on the Premises or outside the Premises, and no alterations shall be made in the improvements and facilities constructed on the Premises without the prior written approval of the Lessor, except as otherwise provided in Section 4.3 hereof.

I. The Lessee hereby acknowledged for themselves, their heirs, administrators, executors, successors, and assigns that the Lessee hereby grants and conveys for the use and benefit of the public a right of way over the Premises for the unobstructed passage of all aircraft ("aircraft" being defined for the purpose of this instrument as any contrivance now known or hereafter invented, used or designated for navigation of or flight in the air), by whomsoever owned and operated, in all air space above the surface of the Premises, to an infinite height above the Premises.

In addition, this easement grants the right to cause in all airspace above the Premises such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused by the current or future operation of aircraft landings at, or taking off from, or operating at or on JCIA. The Lease does hereby fully waive, remise, and release any right or cause of action which they may now have or which they may have in the future against the Lessor, its successors and assigns, due to such noise, vibrations, fumes, dust, fuel particles, and all other effects that may be caused by the operation of aircraft landings at, or taking off from or operating at or on said JCIA.

In addition, this easement includes the continuing right in the Lessor to prevent the erection of or growth upon the Premises of any building, structure, tree, or other object extending into the airspace which would constitute Air Regulation Part 77 which is on file in the Lessor office. The Lessee for themselves, their heirs, administrators, executors, successors, and assigns, do hereby agree that for and during the life of this Lease they will not hereafter erect, permit the erection of, or permit or suffer to remain upon the Premises any building, structure, tree or other object extending into aforesaid airspace, and that they shall not hereafter use or permit or suffer the use of the Premises in such a manner as to create electrical interference with radio communications between any installation upon JCIA and aircraft, or to make difficult for flyers to distinguish between airport lights and others, or as to impair visibility in the vicinity of the airport or as otherwise to endanger the landing, taking off or maneuvering of aircraft.

The Lessee will construct one box hangar (50' x 100') building and ramps for aeronautical purposes. All buildings and ramps to be constructed shall meet the design recommendations as specified in Advisory Circular 150/5300-13.

Lessee's design for buildings and ramps shall be subject to written approval by the Port with regards to construction materials, design, color, utilities, safety, fire emergency equipment, elevations, and location.

The Lessee will maintain the hangars in safe and good repair throughout the term of the lease. The Lessor shall maintain and repair the ramp areas to the hangars once they have been installed by the Lessee. If for any reason, the hangars are not utilized for aeronautical purposes, the Lessee must notify the Lessor in writing as to the nature of non-aeronautical use. Such uses must be compatible with Port Policy and are subject to the express written approval by the Port Manager.

The Lessee shall not use them for any other purpose without the 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.

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HANGAR J – JCIA

January 2000

Page 3/12

**6. UTILITIES:** Lessee shall be liable for, and shall pay throughout the term of this lease, all charges for all utility services furnished to the premises, including, but not limited to, light, heat, electricity, gas, water, sewerage, garbage disposal and janitorial services. In the event that the premises are part of a building or are part of any larger premises to which any utility services are furnished on a consolidated or joint basis, Lessee agrees to pay to the Port its (Lessee's) pro rata share of the cost of any such utility services, and Lessee's pro rata share of any such services may be computed by the Port on any reasonable basis, and separate metering or other exact segregation of cost shall not be required.

**7. ACCEPTANCE OF PREMISES:** Lessee has examined the leased premises and accepts them in their present condition.

**8. MAINTENANCE AND REPAIR OF FACILITIES:** Maintenance of the Premises and all improvements thereon is the responsibility of the lessee. Lessee shall, at its own expense, at all times keep the premises, and the adjoining roadways and sidewalks, neat, clean and in a safe and sanitary condition, keep the glass of all windows and doors thereof clean and presentable, and shall maintain and keep the leased premises in a good state of repair, and shall commit no waste of any kind, and, without limiting the generalities thereof, shall replace all cracked or broken glass in the premises, and keep the electrical system and the sprinkler system and all pipes and drains clean and in a good state of repair, and shall protect the sprinkler system and all pipes and drains so that they will not freeze or become clogged. Lessee's said obligation to make all necessary repairs shall extend to any repairs to the roof (structure or covering), to the foundations of the building or structure and exterior walls, of which the premises are a part. Lessee shall remove all snow and ice from the sidewalk adjacent to the premises/building and shall remove all snow and ice from the roof thereof.

**9a. CONDITION OF PROPERTY:** Subject to the obligations of Lessor to make available electrical service and fire hydrants (if required by Jefferson County Fire Marshal) to the Premises, and to install and to maintain a 25 foot wide asphalt taxiway and to install access ramps to each unit, in accordance with FAA requirements, and Lessor's requirements as set out below, prior to the date of issuance of a final occupancy permit therefor, Lessee accepts the Premises "as is" without further maintenance liability on the part of Lessor. Lessee is not relying on any representations of Lessor as to condition or usability, except Lessor's right to grant a lease of the Premises. The utility service, taxiway and access ramps shall be constructed in a manner and location acceptable to Lessor.

**9b. PERMITTED IMPROVEMENTS BY LESSEE:** Lessee may make and install, at Lessee's own expense, such improvements as are normal and customary in connection with the activity described in paragraph 5. Lessee agrees to submit plans to and obtain written approval from Lessor before commencing any major improvements, which are for purposes hereof defined to the improvements having a cost of \$2,500 or which involve the erection or placement of any structure or any excavation of alteration of any terrain.

**9b.1 Completion Schedule for Major Improvements by Lessee:** Lessee agrees to proceed with the construction and completion of improvements in accordance with the following schedule:

- a. To present suitable plans to and obtain approval from Lessor within thirty (30) days after execution of this Lease;
- b. To present suitable plans to Jefferson County for issuance of a building permit, together with any other permits necessary for the construction of the hangar buildings within fifteen (15) days after the approval thereof by Lessor;
- c. To have construction of the hangar building substantially complete within one hundred eighty (180) days after (1) the date that the soils condition of the Premises are suitable for commencement of site work, or (2) the date of issuance of all necessary building and other permits, if any, by Jefferson County, subject to availability of electrical services to be provided



by Lessor to the Premises, whichever occurs later. It is further understood that in no event shall construction commence prior to obtaining all necessary governmental approvals.

**9b.2 Disposition of Improvements at end of Lease:** Lessee shall have the right to remove all equipment, personal property and trade fixtures, which may have been placed upon the Premises by Lessee during the period of this Lease, providing that the same are removed within thirty (30) days following the termination of the Lease and that the Lease is in good standing. Title to any trade fixtures not removed from the Premises within the foregoing period of time shall, at Lessor's option, pass to Lessor without additional consideration. All buildings installed/erected upon the Premises shall become the property of the Lessor upon termination of this Lease. The Premises will be restored by Lessee to conditions prevailing at the time of initiation of the Lease, normal wear excepted. Provided, however, that, anything to the contrary herein notwithstanding, upon the expiration of the term of this Lease or upon the sooner specific written request given three (3) years in advance in the case of expiration of the Lease term to have the Premises returned to it clear of all improvements, clean, and in good condition, in which event, the title to all of said improvements shall in any event remain in and with the Lessee. If the Lessor requests such removal, the Lessee shall complete the same within sixty (60) days after the termination of this Lease. If the Lessee fails to so remove said improvements within the specified time, they may be removed by the Lessor and the Lessee agrees to pay the Lessor the cost thereof upon demand.

**10. 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.

**11. 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.

**12a. INDEMNIFICATION:** 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.

**12b. INSURANCE:** Tenant agrees to maintain during the lease term liability insurance as follows, at Tenants 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 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 Automobile Liability Insurance against claims for injury or death to persons or damage to property with minimum limits of liability of \$1,000,000 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 nonowned 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 for each occurrence.

The Lessee agrees to supply the Port with appropriate evidence to establish (1) that its insurance obligations as herein provided have been met, and (2) that the insurance policy or policies as herein required are not subject to cancellation without at least thirty (30) days advance written notice to the Port. Conditions a., b. and c. of above are to be met prior to occupancy.

**13. WAIVER OF SUBROGATION:** Lessor 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 13 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 Lessor or Lessee.

**14. 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.

**15. 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 further agrees to comply with all applicable federal, state, county, and municipal laws, ordinances, and regulations. Lessee in complying with state law shall provide to the Lessor, as a condition of leasing hangar space for an aircraft, proof of aircraft registration or proof of intent to register. It is the responsibility of the hangar lessee to register the aircraft. Lessee further agrees that all buildings, structures or other improvements, approved by the Port, will be properly permitted by the City and/or 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.

**15A. HAZARDOUS SUBSTANCES WARRANTY AND AGREEMENT:** Lessee has examined the Hazardous Substance Warranty and Agreement pages 1 through 4 annexed thereto and which by this reference is incorporated herein as fully set forth herein acknowledges full understanding of its obligations under the Hazardous Substances Warranty and Agreement. Such Hazardous Substances Warranty and Agreement is incorporated herein and made a part hereof.

**16. 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,

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**HANGAR J – JCIA**

**January 2000**

**Page 6/12**

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.

**17. DEFAULTS:** Time is of the essence of this 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 reletting 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 agreement.

**18. 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 60 or more days before the termination date specified in the notice. Compensation to Lessee for loss of use, cost of relocation and/or cost of improvement will be agreed by Lessee and General Manager.

**19. 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.

**20. 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.

- 21. 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 General Manager 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.
- 22. 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
- 23. 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 20 hereof.
- 24. 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.
- 25. SURRENDER OF PREMISES - ATTORNEYS' FEES:** At the expiration or sooner termination of this lease, Lessee shall promptly surrender possession of the premises to the Port, and shall deliver to the Port all keys that it may have to any and all parts of the premises. 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.
- 26. HOLDING OVER:** If lessee shall, with the consent of the Port, hold over after the expiration or sooner termination of the term of this lease, the resulting tenancy shall, unless otherwise mutually agreed, be for an indefinite period of time on a month-to-month basis. During such month-to-month tenancy, Lessee shall pay to the Port the same rate of rental as set forth herein, unless a different rate shall be agreed upon, and shall be bound by all of the additional provisions of this lease agreement in so far as they may be pertinent.
- 27. 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.
- 28. 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.

**29. 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:**

Leo H. Landry and L. Neil Slater  
J-HANGAR at JCIA  
233 Slater Lane  
Port Townsend, WA 98368

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.

**30. 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.

**31. "LESSEE" INCLUDES LESSEES, 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 lessees under this agreement.

**32. CAPTIONS:** The captions in this lease are for convenience only and do not in any way limit or amplify the provisions of this lease.

**33. INVALIDITY OF PARTICULAR PROVISIONS:** 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.

**34. 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 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.

**35. 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:

- A. 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 or national origin.

**36. LABOR UNREST:** Tenant agrees to join with Port and use its best efforts in avoiding labor unrest, or in the event of a wildcat strike or other labor difficulty, to use its good offices in negotiating and bringing to a swift and satisfactory conclusion any kind of labor dispute that may affect the interests of the Port.

**37. 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.

**38. OTHER TERMS:**

1. The exact layout of the setback line and building position upon the Leased Premises shall be determined by Lessor based upon the results of survey and civil engineering design of the proposed T-hangar complex.

2. Lessor has engaged a qualified licensed survey firm to conduct a survey of the airport perimeter and the T-hangar complex for purposes of fixing the proposed Leased Premises and T-hangar complex. Lessee shall reimburse Lessor 12.5% (\$581.25) of the total cost of such survey. Spot elevations will also be taken to allow for a contour map, with the extra cost of spot elevations to be borne by Lessee.

3. Lessor has engaged a qualified, licensed engineering firm to design taxiway layout and utilities for the proposed T-hangar complex, and Lessee shall reimburse Lessor 12.5% (\$3,665.88) of the total cost of such design.

4. Lessee is to obtain all necessary permits to construct the one box hangar building. Lessee recognizes that some public opposition may occur.

**39. FEDERAL AVIATION REQUIREMENTS:** Lessee agrees that its use of the Premises will be accomplished in accordance with the following covenants:

A. Level of Service Compliance with Requirements. Lessee agrees to (A) furnish good, prompt, and efficient service adequate to meet all the demands for its service at the Airport; (B) furnish said service on a fair, equal and nondiscriminatory basis to all users thereof; (C) charge a fair, reasonable and nondiscriminatory price of each unit of sale or service, provided, that

Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers; (D) prevent any use of the Premises which would interfere with landing or taking off of aircraft at JCIA or otherwise constitute an airport hazard; (E) prevent any operation on the Premises which would produce electromagnetic radiation of a nature which would cause interference with any air navigational or communications aid now or in the future to be installed to serve JCIA, or which would create any interfering or confusing light or cause any restrictions to visibility at the airport.

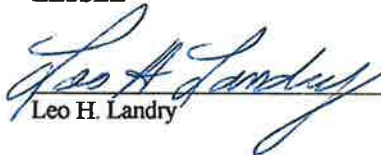
B. Use of Airspace: Lessor retains the public right of flight for the passage of aircraft in the airspace above the surface of the real property hereinabove described, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in said airspace, and for use of said airspace for landing on, taking off from or operating on JCIA.

C. Minority Businesses: Lessee understands that it is the policy of the U.S. Department of Transportation that minority business enterprises as defined in 49 CFR, Part 23, shall have the maximum opportunity to participate in the performance of this Lease as defined in 49 CFR, Section 23.5, and that this agreement is subject to 49 CFR, Part 23, as applicable. Lessee hereby assures that no person shall be excluded from participation in, denied the benefits of, or otherwise be discriminated against in connection with 49 CFR, Part 23, on the grounds of race, color, national origin, or sex.

D. Fire Protection: Lessee understands and agrees that Lessor provides for fire protection service to the airport through an interlocal agreement with a local volunteer fire district, Jefferson County Fire Protection District No. 6. Lessee further understands and agrees that Lessor has no duty under this Lease to provide fire protection for Lessee's building, property or equipment located on or upon the Premises. It is agreed that fire protection service shall be provided to the Premises by the local volunteer fire district, and Lessee agrees to pay any service charges that may be imposed by said fire district. Lessee understands that it is Lessee's responsibility and duty to include the value of its buildings, property and equipment to appropriate County authorities for personal property tax purposes through which fire district service charges are paid. Failure of Lessee to list accurately its improvements or promptly to pay its fire district service charges when due shall be a breach of this Lease and shall be grounds for Lessor to terminate this Lease.

Lease dated 14 day of January, 2000, is hereby approved by the Port of Port Townsend, on this 12th day of January 2000, effective upon the receipt of deposit and liability insurance documentation from the Lessee.

LESSEE

  
Leo H. Landry

LESSEE

  
L. Neil Slater

PORT OF PORT TOWNSEND

  
Larry Crockett  
General Manager

APPROVED AS TO FORM

  
Malcolm Harris  
Port Attorney

HANGAR J – JCIA

January 2000

Page 11/12



STATE OF WASHINGTON  
COUNTY OF JEFFERSON

I certify that I know or have satisfactory evidence that Leo H. Landry, signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.



Dated 1-18-00

Signature of Michelle Trumbo  
Notary Public:  
My Appointment Expires: 5/27/03

STATE OF WASHINGTON  
COUNTY OF JEFFERSON

I certify that I know or have satisfactory evidence that L. Neil Slater, signed this instrument and acknowledged it to be their free and voluntary act for the uses and purposes mentioned in the instrument.



Dated 1-18-00

Signature of Michelle Trumbo  
Notary Public:  
My Appointment Expires: 5/27/03

STATE OF WASHINGTON  
COUNTY OF JEFFERSON

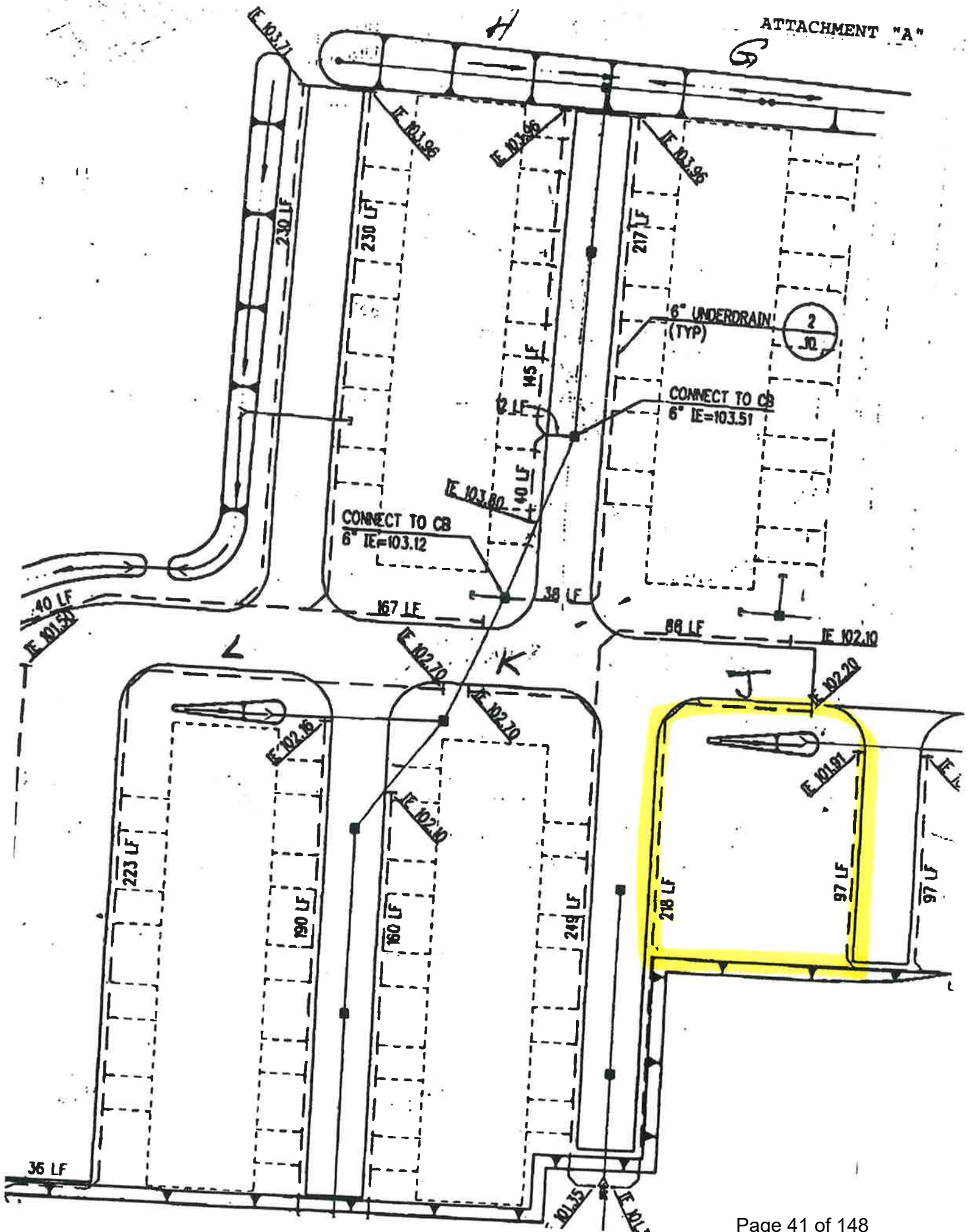
I certify that I know or have satisfactory evidence that Larry Crockett, signed this instrument and that he is authorized to execute the instrument as the General Manager of the Port of Port Townsend and acknowledged it to be the free and voluntary act of such party for the uses and purposes mentioned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



Dated: 1-14-00

Signature of Michelle Trumbo  
Notary Public:  
My Appointment Expires: 5/27/03





ENGINEERING  
LAND SURVEYING  
WETLAND DELINEATION  
DEVELOPMENT CONSULTING

**CLARK  
LAND  
OFFICE**

Clark Land Office PLLC  
P.O. Box 2199 • 935 North Fifth Avenue  
Sequim, WA 98382  
(360) 681-2161 • Fax (360) 683-5310  
Toll Free (888) 681-2161

**REVISED**

**LEGAL DESCRIPTION FOR HANGAR PAD "J"**

THAT PORTION OF THE U. S. MILITARY RESERVATION AS SHOWN ON THE PORT OF  
PORT TOWNSEND SURVEY RECORDED IN VOLUME 14 OF SURVEYS, PAGES 91 AND 92,  
RECORDS OF JEFFERSON COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SECTION 33, TOWNSHIP 30 NORTH,  
RANGE 1 WEST, W.M., JEFFERSON COUNTY, WASHINGTON, AS SHOWN ON SAID  
SURVEY;

THENCE NORTH 01° 25' 03" EAST, A DISTANCE OF 2,652.37 FEET TO THE NORTHWEST  
CORNER OF SAID SECTION 33, AS SHOWN ON SAID SURVEY;

THENCE NORTH 82° 59' 50" EAST, A DISTANCE OF 1,936.82 FEET TO THE "OLD POINT OF  
BEGINNING";

THENCE SOUTH 55° 08' 49" WEST, A DISTANCE OF 117.25 FEET;

THENCE SOUTH 08° 09' 44" EAST, A DISTANCE OF 332.98 FEET TO THE TRUE POINT OF  
BEGINNING FOR THIS LEASE AREA;

THENCE NORTH 71° 32' 39" WEST, A DISTANCE OF 48.00 FEET;

THENCE SOUTH 18° 27' 21" WEST, A DISTANCE OF 89.53 FEET;

THENCE SOUTH 71° 32' 39" EAST, A DISTANCE OF 48.00 FEET;

THENCE NORTH 18° 27' 21" EAST, A DISTANCE OF 89.53 FEET TO THE TRUE POINT OF  
BEGINNING.



7/23/99

## HAZARDOUS SUBSTANCES WARRANTY AND AGREEMENT

RIDER TO LEASE AGREEMENT DATED: 1-14-00

BETWEEN THE PORT OF PORT TOWNSEND AND Les H. Landrey

and L. Neil Slater

IT IS HEREBY AGREED THAT THE LEASE AGREEMENT IDENTIFIED ABOVE SHALL BE SUPPLEMENTED 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: none
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.
- 2.A **HANDLING AND DISPOSAL.** The Lessee agrees to use said substances identified in paragraph 1 only on areas which have impermeable surfaces and or other means for preventing accidental contact by such substances with the soils upon the leasehold or its surrounding area.
3. **RELEASES OF HAZARDOUS SUBSTANCES PROHIBITED.** 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.
4. **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.
5. **DISPOSAL OF HAZARDOUS WASTES.** In the event Lessee has occasion or need to dispose 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.

6. **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.
7. **INDEMNIFICATION AND HOLD HARMLESS.** Lessee shall indemnify and hold Lessor 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, suits, proceedings, judgements, 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.
8. **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.
9. **COPIES OF ENVIRONMENTAL CORRESPONDENCE.** Lessee agrees to provide Lessor with copies of all past and future correspondence to or from 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.
10. **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.



11. **LESSOR'S REMEDY FOR BREACH OR VIOLATION.** In the event Lessee permits a release of a 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.
12. **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.
13. **INSPECTION OF PREMISES** Lessee agrees to permit and cooperate with nay 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.
14. **DESIGNATED REPRESENTATIVE RESPONSIBLE FOR COMPLIANCE.** L Neil Slater whose work telephone number is \_\_\_\_\_ and whose home telephone number is 385-4916 shall be the Lessee's designated representative who shall be primarily responsible (1) for Lessee's compliance with the provision of this Rider, (2) for handling contact with Lessor pertaining to environmental compliance, and (3) for signing on behalf of Lessee the annual declaration of compliance pursuant to Paragraph 12 above. Lessee shall promptly notify Lessor of any changes in the identity or telephone numbers of the designated representative.
15. **ADDITIONAL PROVISIONS.** Lessee agrees to (a) follow the provisions of the Port's Best Management Practices and (b) provide a copy of Lessee's National Pollution Disclosed Elimination System Boatyard Permit or suitable waiver from the Washington State Department of Ecology within 30 days of the effective date of this lease.

LESSOR:

LESSEE:

Larry Carter

Les H. Landry  
Michael H. Hester

Title: General Manager  
Date: 1-14-2000

Title: owner  
Date: 18 Jan 00

(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):

1. Release(s) of Hazardous Substances by Lessee:

(If none, initial here: ZNS)

2. Indication(s) of Contamination at Premises:

(If none, initial here: ZNS)

3. Lessee Violation(s) of Environmental Regulations:

(If none, initial here: ZNS)

4. Environmental Claims or Litigation Against Lessee:

(If none, initial here: ZNS)

Lessee: L. Neil Slater

BY: LEO H LANDRY

(Printed Name)

(Signature)

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

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

(Attachment No. 2 to Hazardous Substances Rider)

**DECLARATION OF COMPLIANCE**

L. Neil Slater, as the designated representative of Lessee primarily responsible for environmental compliance pursuant to Paragraph 12 of the Hazardous Substances Warranty and Agreement dated: 1/14/00, hereby declares and represents 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. I am 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 which 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: L. Neil Slater

By: Leo H Landry

Signature

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

/Date: 1-14-00

**ASSIGNMENT OF LEASE**

**Leon H. Landry and L. Neil Slater**, herein referred to as Assignor, hereby assigns all of their right, title and interest in and to that certain lease from the **Port of Port Townsend**, dated **January 14, 2000**, and described in the attached twelve-page document "A" to **David and Susan Holt Living Trust**, herein referred to as Assignee. The said Assignee hereby assumes and agrees to do and perform and be bound by all covenants, conditions, terms, stipulations, agreements, and amendments of said lease dated **January 14, 2000**.

**CONCURRENT** with this Assignment, the following revisions shall be made:

1. **Article 29, Notices**, shall be amended to read:

**To Lessee:**

**David and Susan Holt Living Trust**  
PO Box 1512  
Bend, OR 97709

2. **Article 2a, Term of Lease**, shall be amended to read: "**This lease shall be for a term of fifty (50) years, beginning upon the date the option was exercised, (October 8, 2000) and ending on October 8, 2050.**"

3. **Article 4. Deposit.**

The Assignee shall pay the Port of Port Townsend three hundred ninety-four dollars and ninety-four cents (\$394.94) upon the completion of Assignment. The Port will reimburse the same amount to the Assignors.

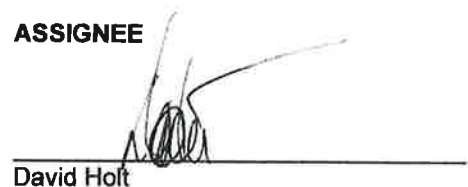
**APPROVED** this 14<sup>th</sup> day of February 2001 by the Commission of the **Port of Port Townsend** and duly authenticated in open session by the signature of the General Manager of the **Port of Port Townsend**.

**ASSIGNORS**

  
Leon H. Landry

  
L. Neil Slater

**ASSIGNEE**

  
David Holt

**PORT OF PORT TOWNSEND**

  
Larry C. Crockett, General Manager

**APPROVED AS TO FORM:**

  
Malcolm S. Harris, Port Attorney

STATE OF WASHINGTON  
COUNTY OF JEFFERSON

I certify that I know or have satisfactory evidence that **Leon H. Landry**, signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 3/29/04  
Notary Public: Donald G. Taylor  
Residing at: Port Ludlow, WA  
My Appointment Expires: 6/10/04



STATE OF WASHINGTON  
COUNTY OF JEFFERSON

I certify that I know or have satisfactory evidence that **L. Neil Slater**, signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 3/29/04  
Notary Public: Donald G. Taylor  
Residing at: Port Ludlow, WA  
My Appointment Expires: 6/10/04



STATE OF WASHINGTON  
COUNTY OF JEFFERSON

I certify that I know or have satisfactory evidence that **David Holt**, signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 3/29/04  
Notary Public: Donald G. Taylor  
Residing at: Port Ludlow, WA  
My Appointment Expires: 6/10/04





STATE OF WASHINGTON  
COUNTY OF JEFFERSON

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

Dated: 4/2/01

Notary Public: Donald G. Taylor  
Donald G. Taylor

Residing at: Port Ludlow, WA

My Appointment Expires: 6/10/2004



# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	September 14, 2022		
<b>AGENDA ITEM</b>	<input checked="" type="checkbox"/> Consent Agenda		
<b>AGENDA TITLE</b>	IV. E. Resolution 773-22 Establishing the Northwest School of Wooden Boatbuilding (NWSWB) as a Sole Source Provider for Certain Equipment and Services		
<b>STAFF LEAD</b>	Eric Toews, Deputy Director		
<b>REQUESTED</b>	<input type="checkbox"/> Motion <input checked="" type="checkbox"/> Action <input type="checkbox"/> Discussion		
<b>ATTACHMENTS</b>	A. Info Memo B. Port Commission Resolution No. 773-22 (consisting of 2 pages); and C. "New Project Analysis" prepared by Betsy Davis of the NWSWB for conversion of the Port's Munson Utility Boat to be a Seasonal Pump Out Boat, dated August 16, 2022, consisting of four (4) pages.		

# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 9/8/2022  
**TO:** Port Townsend Port Commission  
**FROM:** Eric Toews, Deputy Director  
**SUBJECT:** Resolution 773-22 – Designating the Northwest School of Wooden Boatbuilding (NWSWB) as a Sole Source and Authorizing Contracting with the NWSWB to Retrofit the Port's Utility Boat to Serve as a Seasonal Pump-Out Vessel

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### **ISSUES:**

1. Should the Northwest School of Wooden Boatbuilding be authorized as a "sole source" for custom retrofitting of the Port's 23' Munson Utility Boat as a seasonal pump-out vessel?
2. Should the Executive Director be authorized to contract with the NWSWB to retrofit the Port's Utility Boat as a seasonal pump-out vessel?

**BACKGROUND & DISCUSSION:** In March of this year, the Port was successful in obtaining a grant from the Washington State Parks and Recreation Commission's Clean Vessel Act program to fund new portable vessel pump-out equipment, retrofit the Port's Munson Utility Boat as a pump-out vessel, and to help offset operating costs for such equipment for three (3) years.

Retrofitting the Port's Munson Utility Boat requires special knowledge and understanding of the Port's unique operational and vessel maintenance requirements. Moreover, because of the unique project specifications and the need to ensure that the Port is provided with retrofitted vessel that can be fully integrated into current operations, a sole source contractor is needed in the local area for equipment purchasing, fabrication, vessel retrofitting, and servicing.

The NWSWB is the only entity within the local area and region that possesses this "full spectrum" capacity. Moreover, the NWSWB provides job training and education that is aligned with the Port's mission and authority under Chapter 53.08 RCW. Accordingly, the NWSWB is clearly and legitimately the sole source for the equipment and vessel retrofitting work required by the Port and therefore, contracting with the NWSWB for this purpose falls within the exemptions to competitive bidding requirements set forth in RCW 39.04.280(1)(a) ("*purchases that are clearly and legitimately limited to a single source of supply*") and RCW 39.04.280(1)(b) ("*purchases involving special facilities or market conditions*").

**FISCAL IMPACT:** Adoption of Resolution 773-22, as outlined above, would waive the competitive bidding requirements of Chapter 39.04 RCW, and authorize the Executive Director to contract with the NWSWB to convert the Port's Munson Utility Boat into a dual use seasonal pump-out vessel for a price not to exceed \$70,000. This "upset limit" includes installation/fabrication, testing, delivery and preliminary operator and maintenance training.

**RECOMMENDATION:** Approve Resolution 773-22 waiving the competitive bidding requirements of Chapter 39.04 RCW and authorizing the Executive Director to proceed with a sole source contract with the NWSWB to retrofit the Port's Utility Boat as described above.

**MOTION:** No separate motion required. This Resolution is placed on the Commission's Consent Agenda for the regular meeting of September 14, 2022; adoption of the Consent Agenda would adopt Resolution No. 773-22.

**ATTACHMENTS:**

1. Port Commission Resolution No. 773-22 (consisting of 2 pages); and
2. "New Project Analysis" prepared by Betsy Davis of the NWSWB for conversion of the Port's Munson Utility Boat to be a Seasonal Pump Out Boat, dated August 16, 2022, consisting of four (4) pages.

## RESOLUTION NO. 773-22

### A Resolution of the Commission of the Port of Port Townsend

#### ESTABLISHING THE NORTHWEST SCHOOL OF WOODEN BOATBUILDING (NWSWB) AS A SOLE SOURCE PROVIDER FOR CERTAIN EQUIPMENT AND SERVICES, STATING FINDINGS, AND AUTHORIZING A CONTRACT.

The Commission of the Port of Port Townsend, Washington, does hereby resolve as follows:

**WHEREAS**, the Port was successful in obtaining grant funding from the Washington State Parks and Recreation Commission to improve sewage pump-out facilities and equipment at the Port's marinas, including retrofitting of the Port's 23' Munson Utility Boat to provide mobile pump-out services; and

**WHEREAS**, the conversion of the Port's 23' Munson Utility Boat to seasonally serve as a pump-out boat requires unique knowledge and understanding of the Port's operational and maintenance requirements for the vessel; and

**WHEREAS**, it is essential that the Port of Port Townsend have specially modified equipment to properly perform mobile pump-out operations to serve vessels at the Port's three marinas;

**WHEREAS**, the Northwest School of Wooden Boatbuilding (NWSWB) constructs and retrofits vessels for a range of special purposes which have a regional reputation for quality and durability; and

**WHEREAS**, the NWSWB provides job training and education that is wholly aligned with the Port's authority and mission under RCW 53.08.245; and

**WHEREAS**, the NWSWB is the only such entity within the region that is both mission-aligned with the Port, and which has the capacity and expertise to manufacture specialized pump-out equipment and retrofit the Port's Munson Utility Vessel for pump-out boat use; and

**WHEREAS**, the NWSWB will be more efficient and timely because they will be responsible for ordering specialized component parts, fabricating and installing equipment, including a self-contained rapidly deployable, zero emissions powered pumpout skid with autonomous and local charging, local and remote power monitoring, 250 gallon storage with remote pump control and ensuring proper set-up to meet the Port's specifications; and

**WHEREAS**, the Port requires that a local service agreement for the retrofitted vessel be available; and

**WHEREAS**, the specialized manufacture and retrofitting of the desired pump-out equipment and vessel is clearly and legitimately limited to a single source of supply within the local area, and therefore, the procurement of this equipment and service falls within the scope of the "sole source" and "special market condition" exemptions to the competitive bidding requirements set forth in RCW 39.04.280(1)(a) and 39.04.280(1)(b), respectively;

**NOW, THEREFORE**, be it resolved by the Commission of the Port of Port Townsend as follows:

**Section 1.** The Executive Director of the Port of Port Townsend is hereby authorized to enter into a contract not to exceed \$70,000 with the NWSWB to acquire and/or fabricate components and retrofit the Port's 23' Munson Utility Boat to serve as a seasonal pump-out vessel (i.e., to include a custom 225-gallon removable skid-mounted holding tank, pump, hoses, new outboard engine, steering and controls, electrical system, and custom fender system to accommodate less experienced vessel operators).

**Section 2.** The above-described circumstances justify the waiving of competitive bidding requirements under the authority of the "sole source" and "special market conditions" exemptions set forth in RCW 39.04.280(1)(a) and (b).

**ADOPTED this 14th day of September 2022, 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:**

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Peter W. Hanke, Secretary

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Pamela A. Petranek, President

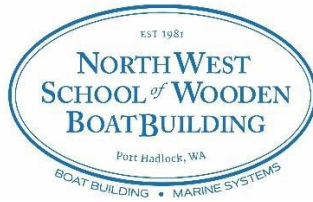
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Carol L. Hasse, Vice President

**APPROVED AS TO FORM:**

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Port Attorney



## **New Project Analysis prepared by Betsy Davis 8/16/22**

### ***Proposal for NWSWB's Marine Systems program to be hired by the Port of Port Townsend to convert its utility boat to be a seasonal pumpout boat.***



#### ***Project Summary***

- Port has received a grant to perform this work and are looking now for people to perform the work. Port Director Eron Berg and Facilities & Operations Manager Chris Sparks joined Kevin, Tyler and Andy Politz on the Clean Bay where they helped drive the boat, perform a pumpout, and then pump the Clean Bay out at the shoreside station. The Port staff were impressed with the efficiency of the system.
- Port looking for a skid-mounted design that can be dropped into the boat seasonally, and it could be pulled out during other seasons to let the boat perform other work. The skid would contain a 225 gallon tank, pump, and hoses.
- Port had assumed it would put in a stand-alone gasoline powered pump, but they liked seeing how the Clean Bay's electric pump operates.
- Port will re-power with a new gas outboard.
- Port is interested in NWSWB handling the complete project, including installing pumpout skid with components, new outboard engine, steering, and controls, and related electrical system. NWSWB would also add solar panels and fenders to the boat. The Port would handle haulouts and trailer.
- The Port plans to use seasonal operators to run the boat during the summer, so they want their contractor (NWSWB) to develop a fendering system that supports less experienced operators.

#### **Proposal from Northwest School of Wooden Boatbuilding**

- The Port would hire NWSWB to complete this project for \$62,000.
- NWSWB would hire a recent graduate of the Systems program to work under Lead Instructor Kevin Ritz's guidance and oversight (Part of the school's "Prothero Internship" program)
- Per the Port's grant request, the system will include a removeable skid with the pumpout gear, the boat will be repowered and set up with fenders to serve as a pumpout boat. The biggest shift is that the pump will be electric power with remote control instead of using a gasoline powered pump. The plan will also include solar panels.
- Logistics to sort out:
  - Clarity about purpose of second outboard Port had specc'd in grant proposal; review the Port's estimate from Honda to ensure NWSWB achieves comparable functionality in outboard and new controls
  - Confirmation that Port would handle trailer and haul outs
  - Work location(s)
  - Work dates
  - Contract and interim payments

## NWSWB Proposed Plan for the Boat

- This system will function similarly to the pumpout system in the Clean Bay, with the exception that this one is being made to be portable.
- Create an easy-to-remove pump-out unit that is mounted on an aluminum skid with a 3/4-1 inch UHMW plastic shoe on it. This will make sure the unit doesn't grind grooves in the boat deck when it comes in 'hot' off the lift, or if there is any movement. The skid would be sized to accept a 4' x 6' 250 gallon, rotomolded tank. The skid will have tie-downs to the boat, that leave a smooth deck when the skid is removed.
- Rather than a gasoline powered pump, we would propose a battery powered pump, an Edson diaphragm pump. This pump is the workhorse of this style of pump: 40 gal/min, 24 volt motor, drawing 30 amps. With 2- 12V/100 AH batteries, this will allow 50 AH of run time, between charges. 50 AH/ 30 amps of draw, allows 1.6 hours of run, call it- 1.5 hours, or 90 minutes. 90 minutes, transferring 40 gal. per minute is approximately 3600 gallons. That is 14 full tanks of pumping per charge. Recharging batteries will be sized to recharge comfortably overnight. Adding a solar charging option should reduce dependence on dockside recharging considerably. We will include everything required, electrically, to run the system, from your pedestal onward, with the exception of the solar charging system, that we are considering to be an option.
- Including the skid and tank height, the first layer comes out at 24" with the pump mounted at that height. The top of the pump ends up in the neighborhood of 45". Imagining the skid on the Munson boat, we would include handrails on the skid along its upper length. The skid allows approximately a foot of walkway port and starboard. With more room there, controls and the business end of the hose would be accessed for the bow area. There seems to be in the neighborhood of 3-4' of movement in the bow, across the full beam as the deck begins to rise into the bow, 6 foot.
- To comfortably enter confined spaces, we propose a necklace of 8" fenders, hanging horizontally around the gunwale.
- The outboard replacement should be straight forward. We would look carefully at the old steering and controls as the existing motor comes off, to establish their usefulness carrying forward in the new installation.

## NWSWB's Rationale for taking on this new project

This collaboration with the Port of Port Townsend will support our Prothero Internship program and enhance NWSWB Marine System's program reputation for relevance to the trades and technical expertise related to emerging technologies that seek to address environmental concerns.

Supports Mission	<ul style="list-style-type: none"><li>• Provides an opportunity to offer the Prothero Internship program to a Marine Systems graduate. The Prothero Internship, named for Boat School co-founder Bob Prothero, is a paid position that allows a Boat School graduate to spend additional time at the school, honing their skills in an environment that offers increasingly more challenging work, at a faster pace, and with more independence – essentially mirroring an apprenticeship program. They still work with guidance and teaching from the school's Instructors.</li><li>• Prothero Interns add to the educational environment for our new students. The interns will often explain to newer students about the work they are completing on project boats and the newer students have an opportunity to watch more someone with more experience at work.</li></ul>
Financial Impact – Grows Earned Revenue	<ul style="list-style-type: none"><li>• NWSWB would do this work under contract to the Port of Port Townsend. The Port would pay for all the equipment and supplies, the Prothero Internship stipend, and a management fee. Taking this project on is financially net positive for the school while adding another mission program.</li></ul>



Financial Impact – Potential long-term impact on Contributed Revenue	<ul style="list-style-type: none"> <li>• This project will grow visibility of NWSWB in the broader community – both as a leader in environmentally friendly maritime technology, and also in terms of building successful community partnerships. NWSWB’s credibility will be positively impact by the Port of Port Townsend promoting the project.</li> </ul>
Other Opportunities	<ul style="list-style-type: none"> <li>• May further build visibility with marine manufacturers and regional marinas which in turn may encourage them to help support the program</li> <li>• Strengthens connections with the Port of Port Townsend which could help enhance employment opportunities for our graduates down the road</li> <li>• May open the door to future collaborations with the Port of Port Townsend</li> </ul>

DRAFT

DRAFT

# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	September 14, 2022
<b>AGENDA ITEM</b>	<input checked="" type="checkbox"/> Consent Agenda
<b>AGENDA TITLE</b>	IV. F. Resolution 774-22 Authorizing a FEMA Designated Agent to Obtain Federal/State Disaster Assistance Funding
<b>STAFF LEAD</b>	Eric Toews, Deputy Director
<b>REQUESTED</b>	<input type="checkbox"/> Motion <input checked="" type="checkbox"/> Action <input type="checkbox"/> Discussion
<b>ATTACHMENTS</b>	A. Info Memo B. Resolution 774-22 C. FEMA Grant Agreement DR4593 D. FEMA Grant Agreement DR4650

# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 9/14/2022  
**TO:** Commissioners  
**FROM:** Matt Klontz  
**CC:** Eron Berg, Eric Toews, Abigail Berg  
**SUBJECT:** Authorizing Resolution for Public Assistance: with  
Federal Emergency Management Agency  
Washington State Military Department

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### **ISSUE**

Should the Port Commission designate the Executive Director as the authorized representative and the Port Engineer as the alternate representative to obtain federal or state emergency and disaster assistance funds through the Federal Emergency Management Agency (FEMA) and the Washington State Military Department (WSMD)?

### **BACKGROUND**

There have been two Presidential Disaster Declarations for extreme weather events that caused damage to Port-owned facilities. FEMA Disaster Declaration 4593 was for damage caused by the severe weather between December 29, 2020, and January 16, 2021. For the Port, this included repairing damage to the Tailspin Tommy Hanger roof at JCIA and replacing the stormwater media filter at Boat Haven. FEMA Disaster Declaration 4650 was for damage caused by the extreme weather, including king tides between December 26, 2021, and January 15, 2022. For the Port, this includes repairing damaged pavement and possibly repairing/replacing the bulkhead at the Boat Haven.

### **DISCUSSION**

The Port's team applied for federal funding disaster assistance following a storm event in 2021 and a king-tide event in 2022. The Port proceeded with making emergency repairs at the Port's expense to minimize and prevent harm to persons and property. At this time, FEMA, through WSMD, has presented grant agreements associated with both declarations, which require the Port to designate an authorizing representative and an alternate to execute all contracts, certify completion of projects, request payments, and prepare all required documentation for funding requirements.

### **FISCAL IMPACT**

The funding participation ratios vary for each declaration. Declaration 4593 has a 25% match requirement, although this will likely change to 10% through a future supplemental agreement. Declaration 4650 has a 10% match requirement already.

### **ATTACHMENTS**

1. Authorizing Resolution 774-22
2. FEMA Grant Agreement DR4593

### 3. FEMA Grant Agreement DR4650

#### **RECOMMENDATION**

Motion to authorize Resolution 744-22 designating the Port's Executive Director as the authorized representative and the Port Engineer as the alternate representative to obtain federal or state emergency and disaster assistance funds associated with Presidential Disaster Declaration Number FEMA-4593-DR-WA and FEMA-4650-DR-WA.

**Washington State Military Department  
PUBLIC ASSISTANCE GRANT AGREEMENT FACE SHEET**

1. SUBRECIPIENT Name and Address: <b>Port of Port Townsend 2701 Jefferson Street Port Townsend, WA 98368</b>		2. Grant Agreement Amount: <b>To be determined, based upon approved project worksheets</b>		3. Grant Number: <b>D21-270</b>	
4. SUBRECIPIENT, phone/email: <b>360-379-5025/matt@portoft.com</b>		5. Grant Agreement Start Date: <b>December 29, 2020</b>		6. Grant Agreement End Date: <b>April 8, 2025</b>	
7. DEPARTMENT Program Manager, phone/email: <b>Gerard Urbas, (253) 512-7402 Gary.urbas@mil.wa.gov</b>		8. Data Universal Numbering System <b>UEI: DW38JANABVN7 DUNS: 39270434</b>		9. UBI # (state revenue):	
10. Funding Authority: <b>Washington State Military Department (the "DEPARTMENT"), and Federal Emergency Management Agency (FEMA)</b>					
11. Funding Source Agreement #: <b>FEMA-4593-DR-WA</b>		12. Program Index # <b>714 XC (Federal) / 712 XE (State) / 714 XD (Admin)</b>		13. Catalog of Federal Domestic Asst. (CFDA) # & Title: <b>97.036, Public Assistance</b>	
14. Federal EIN #:					
15. Total Federal Award Amount: N/A		16. Federal Award Date: N/A			
17. Service Districts: (BY LEGISLATIVE DISTRICT): <b>24<sup>th</sup></b> (BY CONGRESSIONAL DISTRICT): <b>6<sup>th</sup></b>		18. Service Area by County(ies): <b>Jefferson County</b>		19. Women/Minority-Owned, State Certified?: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO <input type="checkbox"/> YES, OMWBE # _____	
20. Contract Classification: <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Research/Development <input type="checkbox"/> A/E <input type="checkbox"/> Other _____		21. Contract Type (check all that apply): <input type="checkbox"/> Contract <input checked="" type="checkbox"/> Grant <input checked="" type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency			
22. Contractor Selection Process: <input checked="" type="checkbox"/> "To all who apply & qualify" <input type="checkbox"/> Competitive Bidding <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E RCW <input type="checkbox"/> N/A		23. Contractor Type (check all that apply): <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> For-Profit <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> VENDOR <input checked="" type="checkbox"/> SUBRECIPIENT <input type="checkbox"/> OTHER			
24. BRIEF DESCRIPTION: <b>Presidential Disaster Declaration # FEMA-4593-DR-WA Severe Winter Storm, Straight-line Winds, Flooding, Landslides, and Mudslides To provide funds to the SUBRECIPIENT for the emergency work and the repair or replacement of disaster-damaged facilities. as approved by FEMA in project worksheets describing eligible scopes of work and associated funding. The DEPARTMENT is the Recipient and Pass-through Entity of the Presidential Disaster Declaration # FEMA-4593-DR-WA Severe Winter Storm, Straight-line Winds, Flooding, Landslides, and Mudslides. and FEMA State Agreement, which are incorporated by reference, and makes a subaward of Federal award funds to the SUBRECIPIENT pursuant to this Agreement. The SUBRECIPIENT is accountable to the DEPARTMENT for use of Federal award funds provided under this Agreement and the associated matching funds.</b>					
IN WITNESS WHEREOF, the DEPARTMENT and SUBRECIPIENT acknowledge and accept the terms of this Agreement, references and attachments hereto and have executed this Agreement as of the date and year written below. This Agreement Face Sheet, Special Terms and Conditions (Attachment 1), General Terms and Conditions (Attachment 2), Project Worksheet Sample (Attachment 3), Washington State Public Assistance Applicant Manual dated April 8, 2021 (Attachment 4), and all other documents, exhibits and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.					
In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:					
1. <b>Applicable Federal and State Statutes and Regulations</b>		5. <b>Special Terms and Conditions</b>			
2. <b>DHS Standard Terms and Conditions</b>		6. <b>General Terms and Conditions, and,</b>			
3. <b>Presidential Declaration, FEMA State Agreement, and other Documents</b>		7. <b>Other provisions of the contract incorporated by reference.</b>			
4. <b>Statement of Work and/or Project Description as outlined in FEMA approved Project Worksheet(s)</b>					
WHEREAS, the parties hereto have executed this Agreement on the day and year last specified below.					
FOR THE DEPARTMENT:			FOR THE SUBRECIPIENT:		
Signature _____ Date _____ Stacey McClain, Governor's Authorized Representative Washington State Military Department			Signature _____ Date _____ print or type name: _____		
			APPROVED AS TO FORM:		
			SUBRECIPIENT's Attorney _____ Date _____		

**Washington State Military Department  
SPECIAL TERMS AND CONDITIONS**

**ARTICLE I – KEY PERSONNEL**

The individuals listed below shall be considered key personnel and point of contact. Any substitution by either party must be submitted in writing.

SUBRECIPIENT		MILITARY DEPARTMENT	
Name	<b>Matt Klontz</b>	Name	<b>Gerard Urbas</b>
Title	<b>Director of Capital Projects/Port Engineer</b>	Title	<b>Deputy State Coordinating Officer Public Assistance</b>
E-Mail	<b>matt@portofpt.com</b>	E-Mail	<b><a href="mailto:gary.urbas@mil.wa.gov">gary.urbas@mil.wa.gov</a></b>
Phone	<b>360-379-5025</b>	Phone	<b>(253) 512-7402</b>

**ARTICLE II - ADMINISTRATIVE REQUIREMENTS**

The SUBRECIPIENT shall comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by FEMA applicable to the Presidential Declaration including, but not limited to, all criteria, restrictions, and requirements of the “FEMA State Agreement” published by FEMA and the federal regulations commonly applicable to FEMA grants, all of which are incorporated herein by reference. The Presidential Declaration and the FEMA State Agreement are incorporated in this Agreement by reference.

The SUBRECIPIENT shall comply with the Washington State Public Assistance Applicant Manual dated April 8 2021 incorporated in this Agreement as **Attachment 4**. The DHS Standard Terms and Conditions are incorporated by reference in this Agreement in Appendix F of the Washington State Public Assistance Applicant Manual dated April 8, 2021.

The SUBRECIPIENT acknowledges that since this Agreement involves federal award funding, the period of performance described herein may begin prior to the availability of appropriated federal funds. The SUBRECIPIENT agrees that it will not hold the DEPARTMENT, the State of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to distribution of appropriated federal funds, or if federal funds are not appropriated or in a particular amount.

Federal funding is provided by FEMA and is administered by the DEPARTMENT. Under the authority of Presidential Disaster Declaration number FEMA-4593-DR-WA, the DEPARTMENT is reimbursing the SUBRECIPIENT for those approved eligible costs and activities necessary under the Public Assistance Grant Program during the incident period beginning December 29, 2020 to January 16, 2021. Eligible costs and activities will be identified in Project Worksheets approved by FEMA and a Project Worksheet Sample is incorporated as **Attachment 3**. The DEPARTMENT is also providing Advance Payments to the SUBRECIPIENT where provided by FEMA and required and allowed by law. Any interest earned on advance payments (except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450)) shall be promptly, but at least quarterly, remitted to the DEPARTMENT to be paid to FEMA. The SUBRECIPIENT may keep interest amounts up to \$100 per year for administrative expenses.

**A. STATE AND FEDERAL REQUIREMENTS FOR PUBLIC ASSISTANCE GRANTS:**

The following requirements apply to all DHS/FEMA Presidential Disasters administered by the DEPARTMENT.

**1. FUNDING**

The DEPARTMENT will administer the Public Assistance (PA) Grant Program, provide Advance payments, and reimburse approved eligible Public Assistance costs to the SUBRECIPIENT that are identified under the auspices of Presidential Disaster Declaration Number FEMA-4593-DR-WA and authorized by and consistent with the Stafford Act (P.L. 93-288, as amended) and applicable regulations.

It is understood that no final dollar figure is committed to at the time that this Agreement is executed, but that financial commitments will be made by amendments to the project application as Project Worksheets are completed in the field and projects are authorized by state and federal officials.

Pursuant to the FEMA-STATE AGREEMENT, FEMA will contribute not less than **75** percent of the eligible costs for any eligible project and 100 percent of the federal PA Management Costs, up to 5 percent of the total award amount for each Subrecipient, as provided for in subsection 3.E. of Article II of this Public Assistance Agreement. The SUBRECIPIENT commits to providing the remaining **25** percent non-federal match to any eligible project that has been identified under the Presidential Disaster Declaration number FEMA-4593-DR-WA, subject to the following exceptions:

**DEPARTMENT Match:** The Washington State Legislature may authorize the DEPARTMENT to provide a match to the SUBRECIPIENT's non-federal share of eligible projects. Provision of a match by the DEPARTMENT, if authorized by the Washington State Legislature, shall not require amendment of this Agreement. If DEPARTMENT match funds are committed to the non-federal share by the DEPARTMENT pursuant to legislative authorization, the DEPARTMENT will formally notify the SUBRECIPIENT of the match in writing which will include information identifying any related reduction in the SUBRECIPIENT's percentage commitment.

**Donated Resources:** FEMA will credit the SUBRECIPIENT for the value of donated resources (non-cash contributions of property or services) related to eligible Emergency Work to offset the non-Federal cost share of its eligible Emergency Work project worksheets – categories A and B, and for the value of donated resources related to eligible work on a Permanent Work project to offset the non-Federal cost share of that specific Permanent Work project worksheet for which the resources were donated – categories C through G. The Donated Resources are recognized by FEMA in a Project Worksheet. Donated Resources offset the non-federal share of the eligible emergency work approved in Project Worksheets or specific permanent work approved in Project Worksheets. For non-state agency SUBRECIPIENTS, the donated resource value will first be applied to the SUBRECIPIENT's non-federal share, and, if a DEPARTMENT match is authorized, any remaining donated resource value will be applied to the DEPARTMENT's share. The value of the Donated Resources is calculated as described in FP 104-009-2 Public Assistance Program and Policy Guide (PAPPG), and is capped at the non-Federal share of approved eligible emergency work costs or capped at the non-Federal share of the specific approved eligible permanent work costs, as applicable. The Federal share of the Donated Resources will not exceed the non-federal share of eligible emergency work costs or of specific permanent work costs approved in Project Worksheets. Any excess credit for eligible emergency work costs can be credited only to other eligible emergency work costs, for the same SUBRECIPIENT in the same disaster. The value of excess donated resources cannot be credited toward or transferred to another eligible SUBRECIPIENT, or toward other State obligations. The DEPARTMENT does not match a FEMA donated resource credit.

The Project Worksheet, sample provided in Attachment 3, is required to be completed by FEMA or State Project Specialists.

## **2. GRANT AGREEMENT PERIOD**

- a. Activities payable under this Agreement and to be performed by the SUBRECIPIENT under this Agreement shall be those activities which occurred during or subsequent to the incident period defined in the FEMA State Agreement, and shall terminate upon completion of the project(s) approved by federal and state officials, including completion of close-out and audit. This period shall be referred to as the "Grant Agreement Period."
- b. The Grant Agreement Period shall only be extended by (1) written notification of FEMA approval of the Grant Agreement Period followed up with a mutually agreed written amendment, or (2) written notification from the DEPARTMENT to the SUBRECIPIENT issued by the DEPARTMENT to address extensions of its underlying federal grant performance period or to provide additional time for completion of the SUBRECIPIENT's project(s).

## **3. PAYMENTS**

The DEPARTMENT, using funds granted for the purposes of the Presidential Disaster Declaration from FEMA, shall issue payments to the SUBRECIPIENT in compliance with the Washington State Public Assistance Applicant Manual dated April 8, 2021 (**Attachment 4**) procedures as follows:



- a. Small Project Payments: Payments are made for all small projects to the SUBRECIPIENT upon submission and approval of an A19-1A State of Washington Invoice Voucher to the DEPARTMENT, after FEMA has approved funding through approval of Project Worksheets.
- b. Progress Payments: Progress payment of funds for costs already incurred on large projects minus 10 percent retainage may be made to the SUBRECIPIENT upon submission by the SUBRECIPIENT of an A19-1A State of Washington Invoice Voucher, a letter of request, and a spreadsheet identifying the claimed costs supporting the payment request and approval by the DEPARTMENT.
- c. Improved Projects: Payments on improved projects (capped project) will be pro-rated based upon the percentage of the project that is funded under this disaster grant to the overall project cost. This percentage will be identified when the first payment on the improved project is made. Progress payments will be made as outlined above in Section B.
- d. Final Payment: Final Payment on a large project will be made following submission by the SUBRECIPIENT of a certification of completion on the STATEMENT OF DOCUMENTATION / FINAL INSPECTION REPORT form upon completion of project(s), completion of all final inspections by the DEPARTMENT, and final approval by FEMA. Final payment on a large project will include any retainage withheld during progress payments. Final payments may also be conditional upon financial review, if determined necessary by the DEPARTMENT or FEMA. Adjustments to the final payment may be made following any audits conducted by the Washington State Auditor's Office, the United States Inspector General or other federal or state agency.
- e. The SUBRECIPIENT is eligible to receive federal PA Management Costs up to 5 percent of the total award amount for each Subrecipient at the time of its request. PA Management Costs includes any of the following when associated with the PA portion of a major disaster or emergency: Indirect costs, direct administrative costs, and other administrative expenses associated with a specific project. Documentation is required to substantiate the eligibility of management activities and associated costs in accordance with PA Management Costs Interim Policy – Standard Operating Procedures.
- f. All payment requests shall be made on an A19-1A form, State of Washington, Invoice Voucher. Payments will be made by electronic fund transfer to the SUBRECIPIENT's account.
- g. Federal funding shall not exceed the total federal contribution eligible for Public Assistance costs under Presidential Disaster Declaration number FEMA-4593-DR-WA.
- h. For state agencies, the DEPARTMENT will, through interagency reimbursement procedures, transfer payment to the SUBRECIPIENT. Payment will be transferred by journal voucher to Agency No. [REDACTED], Accounting Fund No. [REDACTED].
- i. Within the total Grant Agreement Amount, travel, sub-contracts, salaries, benefits, printing, equipment, and other goods and services will be reimbursed on an actual cost basis unless otherwise provided in this Agreement.
- j. For travel costs, SUBRECIPIENTS shall comply with 2 CFR 200.474 and should consult their internal policies, state rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended, and federal maximum rates set forth at <http://www.gsa.gov>, and follow the most restrictive.
- k. If travel costs exceed set state or federal limits, travel costs shall not be reimbursed without written approval by DEPARTMENT Key Personnel.
- l. Receipts and/or backup documentation for any approved items that are authorized under this Agreement must be maintained by the SUBRECIPIENT consistent with record retention requirements of this Agreement, and be made available upon request by the DEPARTMENT, and local, state, or federal auditors.
- m. All work under this Agreement must end on or before the Grant Agreement End Date, and the final reimbursement request must be submitted to the DEPARTMENT within 45 days after the Grant Agreement End Date, except as otherwise authorized by written amendment of this Agreement and issued by the DEPARTMENT.

- n. No costs for purchases of equipment/supplies will be reimbursed until the related equipment/supplies have been received by the SUBRECIPIENT, its subrecipient or contractor, or any non-federal entity to which the SUBRECIPIENT makes a subaward, and is invoiced by the vendor.
- o. SUBRECIPIENTS shall only use federal award funds under this Agreement to supplement existing funds, and will not use them to replace (supplant) non-federal funds that have been budgeted for the same purpose. The SUBRECIPIENT may be required to demonstrate and document that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

The DEPARTMENT shall provide Advance Payments as provided by FEMA and as required and authorized by law.

#### **4. CLOSEOUT**

To initiate close-out, the SUBRECIPIENT is required to certify in writing, by Project Worksheet Number, date completed and total amount expended on the project, completion of the small projects. To initiate close-out of the large projects, the SUBRECIPIENT shall submit certification of completion on a STATEMENT OF DOCUMENTATION/FINAL INSPECTION REPORT form to the DEPARTMENT.

The DEPARTMENT will then complete a site inspection and a financial review of documentation to support the claimed costs. Certifications on small and large projects are due within sixty days following the completion of the project or receipt of the approved Project Worksheet, whichever date is later.

If SUBRECIPIENT is claiming federal PA Management Costs: Indirect costs, direct administrative costs, and other administrative expenses associated with a specific project must be supported by documentation to substantiate the eligibility of management activities and associated costs that has been prepared and assembled in accordance with PA Management Costs Interim Policy – Standard Operating Procedures prior to close-out.

After all of the projects have been certified as complete and approved for closure by FEMA, the DEPARTMENT will forward a final A19-1A State of Washington Invoice Voucher to the SUBRECIPIENT for release of the remaining funds due to the subrecipient for eligible costs, including any retainage previously withheld, and the allowance for federal indirect costs.

#### **5. DOCUMENTATION / REPORTING REQUIREMENTS**

For all Advance Payment, the SUBRECIPIENT shall provide documentation and receipts for all costs related to the Advance Payment and provide such to the DEPARTMENT quarterly.

The SUBRECIPIENT is required to retain all documentation which adequately identifies the source and application of Public Assistance funds, including the federal indirect cost reimbursement, for six years following the closure of this disaster grant. For all funds received, source documentation includes adequate accounting of actual costs and recoveries incurred.

The SUBRECIPIENT shall also comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and complete the FFATA Form located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms> and return to the DEPARTMENT; which is incorporated by reference and made a part of this Agreement.

Quarterly Reports: The SUBRECIPIENT is required to submit to the DEPARTMENT a quarterly report indicating the status of all their large projects. The status shall identify the costs incurred to date, the percentage of work completed, the anticipated completion date of the project and whether cost under runs or over runs are expected. In addition, the SUBRECIPIENT should note in the comment field any challenges or issues associated with the project. Failure to submit a complete quarterly report within 15 days following the end of the quarter will result in suspension of all payments to the SUBRECIPIENT until a complete quarterly report is received by the DEPARTMENT. The quarterly report will serve as the basis for any FEMA Office of Chief Financial Officer (OCFO) funds reduction.

## **6. TIME EXTENSIONS**

A time extension request is required to be forwarded to the DEPARTMENT by the SUBRECIPIENT for a project prior to the expiration of the approved completion date. If the project is approved and funded after the statutory approval time period for completion, then a time extension request must be submitted to the DEPARTMENT within fifteen days of receipt of the funding package.

In accordance with 44CFR206.204, the DEPARTMENT reserves the right, in its sole discretion, to consider and approve a time extension request after expiration of the approved completion date and within the DEPARTMENT's statutory extension authority. Requests for time extensions beyond the DEPARTMENT's authority will be considered and approved by FEMA, at their sole discretion.

All determinations made regarding time extension requests will be based on a case by case evaluation of specific factual circumstances.

A time extension request must be in writing and identify the Project Worksheet number, the reason the project has not been completed within the prior approved completion period, the reason the time extension request was not submitted prior to the statutory approval time period (if applicable), a current status of the completion of the work, a detailed timeline for completion of the remaining elements, and an anticipated completion date for the completion of the remaining work. Failure to submit a time extension request in a timely manner may result in denial of the time extension request, and loss of funding for the related project.

## **7. PROCUREMENT**

The SUBRECIPIENT shall comply with all procurement requirements of 2 CFR Part 200.318 through 200.326 and as specified in the General Terms and Conditions, Exhibit A.11.

## **8. SUBRECIPIENT MONITORING:**

- a. The DEPARTMENT will monitor the activities of the SUBRECIPIENT from award to closeout. The goal of the DEPARTMENT's monitoring activities will be to ensure that agencies receiving federal pass-through funds are in compliance with this Agreement, federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations, as well as 2 CFR Part 200 Subpart F.
- b. To document compliance with 2 CFR Part 200 Subpart F requirements, the SUBRECIPIENT shall complete and return to the DEPARTMENT 2 CFR Part 200 Subpart F Audit Certification Form" located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms> with the signed Agreement and each fiscal year thereafter until the Agreement is closed, which is incorporated by reference and made a part of this Agreement.
- c. Monitoring activities may include, but are not limited to:
  - i. review of financial and performance reports;
  - ii. monitoring and documenting the completion of Agreement deliverables;
  - iii. documentation of phone calls, meetings, e-mails, and correspondence;
  - iv. review of reimbursement requests and supporting documentation to ensure eligibility and consistency with Agreement work plan, budget, and federal requirements;
  - v. observation and documentation of Agreement related activities;
  - vi. on-site visits to review equipment records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables.
- d. The SUBRECIPIENT is required to meet or exceed the monitoring activities, as outlined above and in 2 CFR Part 200 Subpart F, for any non-federal entity to which the SUBRECIPIENT makes a subaward as a pass-through entity under this Agreement.
- e. Compliance will be monitored throughout the performance period to assess risk. Concerns will be addressed through a Corrective Action Plan. If the SUBRECIPIENT fails to comply with federal or state statutes or regulations, or the terms and conditions of this Agreement, the DEPARTMENT may impose any additional subaward conditions as described in 2 CFR 200.207. If the DEPARTMENT determines that noncompliance cannot be remedied by imposing additional conditions, it may take one or more of the following actions:

- i. Temporarily withhold cash payments pending correction of the deficiency by the SUBRECIPIENT.
- ii. Wholly or partially suspend or terminate the subaward to the SUBRECIPIENT.
- iii. Initiate suspension or debarment proceedings under 2 CFR 180 or recommend such a proceeding be initiated by the federal awarding agency.
- iv. Withhold further federal awards for the project or program.
- v. Take any other remedies that may be legally available.

f. The DEPARTMENT agrees to:

- i. Provide technical assistance during all monitoring or evaluation activities. The DEPARTMENT will coordinate and schedule the meetings necessary to conduct and complete all monitoring and evaluation activities.
- ii. Develop the SUBRECIPIENT's project worksheet(s) (PW) and supporting attachments with FEMA and the SUBRECIPIENT's assistance based upon the costs determined to be eligible.
- iii. Submit the SUBRECIPIENT's funding package to FEMA.
- iv. Notify the SUBRECIPIENT when funding approval is received, issue payment per the process described above see Article II, A.4 – Payments, and provide the SUBRECIPIENT with a copy of the approved project worksheet.
- v. Work with the SUBRECIPIENT to resolve any issues identified during the monitoring process.
- vi. Review and respond appropriately to the SUBRECIPIENT's requests for time extensions and changes.

## 9. LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)

All subrecipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

## B. FEMA STATE AGREEMENT TERMS AND CONDITIONS

As a subrecipient of FEMA funding, the SUBRECIPIENT shall comply with all applicable DHS/FEMA terms and conditions of the Presidential Declaration and the FEMA State Agreement, which are incorporated in and made a part of this Agreement in Appendix F of the Washington State Public Assistance Applicant Manual dated April 8, 2021 (**Attachment 4**)

**Washington State Military Department  
GENERAL TERMS AND CONDITIONS  
Department of Homeland Security (DHS)/  
Federal Emergency Management Agency (FEMA)  
Grants**

**A.1 DEFINITIONS**

As used throughout this Agreement, the following terms will have the same meaning as defined in 2 CFR 200 Subpart A (which is incorporated herein by reference), except as otherwise set forth below:

- a. **"DEPARTMENT"** means the Washington State Military Department, as a state agency, any division, section, office, unit or other entity of the DEPARTMENT, or any of the officers or other officials lawfully representing that DEPARTMENT. The DEPARTMENT is a recipient of a federal award directly from a federal awarding agency and is pass-through entity making a subaward to a subrecipient under this Agreement.
- b. **"SUBRECIPIENT"** when capitalized is primarily used throughout this Agreement in reference to the non-federal entity identified on the Face Sheet of this Agreement that has received a subaward from the DEPARTMENT. However, the definition of "subrecipient" is the same as in 2 CFR 200.93 for all other purposes. **"Monitoring Activities"** means all administrative, construction, financial, or other review activities that are conducted to ensure compliance with all state and federal laws, rules, regulations, authorities and policies.
- c. **"Project"** means those actions funded through the Public Assistance Program and described in approved Project Worksheets. Projects may include one or more of the following: reimbursement of costs for emergency response, debris removal and/or repair or restoration of damaged public facilities. A project may be a small, large, improved, or alternate project.
- d. **"Investment Justification"** means grant application investment justification submitted by the SUBRECIPIENT describing the project for which federal funding is sought and provided under this Agreement. Such grant application investment justification is hereby incorporated into this Agreement by reference.

**A.2 ADVANCE PAYMENTS**

The DEPARTMENT shall make no payments in advance or in anticipation of goods or services to be provided under this Agreement, except as required under 2 CFR 200.305 for federal grants. SUBRECIPIENT shall not invoice the DEPARTMENT in advance of delivery and invoicing of such goods or services, except as authorized under 2 CFR 200.305.

Pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C §5121-5207), Advance Payment process, FEMA will process a SUBRECIPIENT project worksheet which is provided to the state of Washington for direct disbursement to SUBRECIPIENT.

Pursuant to these provisions and RCW 43.88.160(5), these grant funds are not subject to the advance payments prohibition and will be disbursed immediately to SUBRECIPIENT as grants authorized by law with subsequent authentication and certification of expenditures.

**A.3 AMENDMENTS AND MODIFICATIONS**

The SUBRECIPIENT or the DEPARTMENT may request, in writing, an amendment or modification of this Agreement. Modifications may be requested for Grant Agreement end date, budget or scope change. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of the DEPARTMENT and the SUBRECIPIENT. No other understandings or agreements, written or oral, shall be binding on the parties.

**A.4 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE "ADA" 28 CFR Part 35.**

The SUBRECIPIENT must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunication.



**A.5 APPLICATION REPRESENTATION-MISREPRESENTATION, INACCURACY AND BREACH**

The DEPARTMENT relies upon the SUBRECIPIENT's application in making its determinations as to eligibility for, selection for, and scope of funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

**A.6 ASSURANCES**

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations. In addition, as a SUBRECIPIENT of FEMA funding, the SUBRECIPIENT shall comply with all applicable DHS terms and conditions as specified in Appendix F of the Washington State Public Assistance Applicant Manual dated April 8, 2021 incorporated in this Agreement as **Attachment 4**.

**A.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY**

As federal funds are a basis for this Agreement, the SUBRECIPIENT certifies that the SUBRECIPIENT is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency.

The SUBRECIPIENT shall complete, sign, and return a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms>. Any such form completed by the SUBRECIPIENT for this Agreement shall be incorporated into this Agreement by reference.

Further, the SUBRECIPIENT agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. The SUBRECIPIENT certifies that it will ensure that potential sub-contractors or sub-recipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed \$25,000, and sub-awards to sub-recipients for any amount. With respect to covered transactions, the SUBRECIPIENT may comply with this provision by obtaining a certification statement from the potential sub-contractor or sub-recipient or by checking the System for Award Management (<http://www.sam.gov>) maintained by the federal government. The SUBRECIPIENT also agrees not to enter into any arrangements or contracts with any party on the Washington State Department of Labor and Industries' "Debarred Contractor List" (<https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx>).

**A.8 CERTIFICATION REGARDING RESTRICTIONS ON LOBBYING**

As required by 44 CFR Part 18, the SUBRECIPIENT hereby certifies that to the best of their knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of the SUBRECIPIENT to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, grant, loan, or cooperative agreement, the SUBRECIPIENT will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; (3) and that, as applicable, the SUBRECIPIENT will require that the language of this certification be included in the award documents for all subawards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into, and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code.

**A.9 COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES**

The SUBRECIPIENT and all its contractors shall comply with, and the DEPARTMENT is not responsible for determining compliance with, any and all applicable federal, state, and local laws,

regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to: nondiscrimination laws and/or policies, Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, as supplemented by Department of Labor regulations (41 CFR chapter 60); Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3); Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5); Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR part 15); Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5); Energy Policy and Conservation Act (PL 94-163, 89 Stat. 871, as amended), the Americans with Disabilities Act (ADA), Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Civil rights Act of 1968, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Title 44 of the Federal Regulations, 2 CFR Part 3002, Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations.

In the event of the SUBRECIPIENT's or its contractor's noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy, the DEPARTMENT may rescind, cancel, or terminate the Agreement in whole or in part in its sole discretion.

The SUBRECIPIENT is responsible for all costs or liability arising from its failure to comply with applicable laws, regulations, executive orders, OMB Circulars or policies.

#### **A.10 CONFLICT OF INTEREST**

No officer or employee of the DEPARTMENT; no member, officer, or employee of the SUBRECIPIENT or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of such the SUBRECIPIENT who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement.

The SUBRECIPIENT shall incorporate, or cause to incorporate, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to this provision.

#### **A.11 CONTRACTING & PROCUREMENT**

a. The SUBRECIPIENT shall use a competitive procurement process in the procurement and award of any contracts with contractors or sub-contractors that are entered into under the original contract award. The procurement process followed shall be in accordance with 2 CFR Part 200.318 General procurement standards through 200.326 Contract Provisions.

As required by Appendix II to 2 CFR Part 200, all contracts entered into by the SUBRECIPIENT under this Agreement must include the following provisions, as applicable:

1) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

2) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

3) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal

Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

4) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

The procurement process followed shall be in accordance with 2 CFR Parts 200 and 3002, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations, as applicable to the SUB-GRANTEE. All subcontracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

5) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

6) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

7) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

8) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for



Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

9) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

10) Procurement of recovered materials -- As required by 2 CFR 200.322, a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

11) Notice of Federal awarding agency requirements and regulations pertaining to reporting.

12) Federal awarding agency requirements and regulations pertaining to copyrights and rights in data.

13) Access by the DEPARTMENT, the SUBRECIPIENT, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

14) Retention of all required records for six years after the SUBRECIPIENT has made final payments and all other pending matters are closed.

15) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

16) Pursuant to Executive Order 13858 "Strengthening Buy-American Preferences for Infrastructure Projects," the DEPARTMENT encourages SUBRECIPIENTS to use, to the greatest extent practicable and consistent with the law, iron and aluminum as well as steel, cement and other manufactured products produced in the United States, in Public Assistance and Hazard Mitigation Grant Program eligible public infrastructure repair and construction projects affecting surface transportation, ports, water resources including sewer and drinking water and power. Such preference must be consistent with the law, including cost and contracting requirements of 2 CFR Part 200.

b. The DEPARTMENT reserves the right to review the SUBRECIPIENT procurement plans and documents and require the SUBRECIPIENT to make changes to bring its plans and documents into compliance with the requirements of 2 CFR Part 200.318 through 2 CFR 200.326. The SUBRECIPIENT must ensure that its procurement process requires contractors and subcontractors to provide adequate documentation with sufficient detail to support the costs of the project and to allow both the SUBRECIPIENT and DEPARTMENT to make a determination on eligibility of project costs.

c. All sub-contracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

## **A.12 DISCLOSURE**

The use or disclosure by any party of any information concerning the DEPARTMENT for any purpose not directly connected with the administration of the DEPARTMENT's or the SUBRECIPIENT's

responsibilities with respect to services provided under this Agreement is prohibited except by prior written consent of the DEPARTMENT or as required to comply with the state Public Records Act, other law or court order.

#### **A.13 DISPUTES**

Except as otherwise provided in this contract, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution panel to resolve the dispute. A request for a dispute resolution board shall be in writing, state the disputed issues, state the relative positions of the parties, and be sent to all parties. The panel shall consist of a representative appointed by the DEPARTMENT, a representative appointed by the SUBRECIPIENT and a third party mutually agreed upon by both parties. The panel shall, by majority vote, resolve the dispute. Each party shall bear the cost for its panel member and its attorney fees and costs and share equally the cost of the third panel member.

#### **A.14 DUPLICATION OF BENEFITS**

The SUBRECIPIENT agrees that the funds for which federal or state assistance is requested does not, or will not, duplicate benefits or funds received for the same loss from any other source. The SUBRECIPIENT will pursue, and require sub-recipients to pursue, full payment of eligible insurance benefits for properties or any other losses covered in a project under this Agreement. The SUBRECIPIENT will repay the DEPARTMENT any funds provided under this grant agreement that are duplicated by other benefits, funds, or insurance proceeds. The SUBRECIPIENT will also seek recovery against any party or parties whose negligence or other intentional or tortious conduct may have caused or contributed to the expenditures for which these grants funds are provided. The SUBRECIPIENT will repay the DEPARTMENT any funds recovered by settlement, judgment or other court order in an action to recover funds provided by this grant. The SUBRECIPIENT shall notify the DEPARTMENT as early as possible and work in conjunction with the DEPARTMENT and FEMA to ensure appropriate apportionment of any duplicated or recovered payment.

#### **A.15 HAZARDOUS SUBSTANCES**

The SUBRECIPIENT shall inspect and investigate the proposed development/construction site for the presence of hazardous substances. The SUBRECIPIENT shall fully disclose to the DEPARTMENT the results of its inspection and investigation and all other knowledge the SUBRECIPIENT has as to the presence of any hazardous substances at the proposed development/construction project site. The SUBRECIPIENT will be responsible for any associated clean-up costs. "Hazardous Substance" is defined in RCW 70.105D.020 (10).

#### **A.16 LEGAL RELATIONS**

It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.

To the extent allowed by law, the SUBRECIPIENT, its successors or assigns, will protect, save and hold harmless the DEPARTMENT, the State of Washington, and the United States Government and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the SUBRECIPIENT, its sub-contractors, assigns, agents, contractors, consultants, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this Agreement.

To the extent allowed by law, the SUBRECIPIENT further agrees to defend the DEPARTMENT and the State of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the DEPARTMENT; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the DEPARTMENT, and (2) the SUBRECIPIENT, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the SUBRECIPIENT, or SUBRECIPIENT's agents or employees.

Insofar as the funding source, the DEPARTMENT of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), is an agency of the federal government, the following shall apply:

44 CFR 206.9 Non-liability. The federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Federal government in carrying out the provisions of the Stafford Act.

#### **A.17 LIMITATION OF AUTHORITY – AUTHORIZED SIGNATURE**

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement. Only the DEPARTMENT's Authorized Signature and the Authorized Signature of the assigned SUBRECIPIENT Agent or Alternate for the SUBRECIPIENT Agent, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by both parties Authorized Signature representatives. Further, only the Authorized Signature representative or Alternate for the SUBRECIPIENT shall have authority to sign reimbursement requests, certification of project completion, time extension requests, amendment and modification requests, requests for changes to project status, and other requests, certifications and documents authorized by or required under this Agreement.

#### **A.18 LOSS OR REDUCTION OF FUNDING**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion or end date, the DEPARTMENT may unilaterally reduce the scope of work and budget or unilaterally terminate or suspend all or part of the Agreement as a "Termination for Cause" without providing the SUBRECIPIENT an opportunity to cure. Alternatively, the parties may renegotiate the terms of this Agreement under "Amendments and Modifications" to comply with new funding limitations and conditions, although the DEPARTMENT has no obligation to do so.

#### **A.19 NONASSIGNABILITY**

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the SUBRECIPIENT.

#### **A.20 NONDISCRIMINATION**

The SUBRECIPIENT shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement.

#### **A.21 NOTICES**

The SUBRECIPIENT shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and shall maintain a record of this compliance.

#### **A.22 OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/HEALTH ACT (OSHA/WISHA)**

The SUBRECIPIENT represents and warrants that its workplace does now or will meet all applicable federal and state safety and health regulations that are in effect during the SUBRECIPIENT's performance under this Agreement. To the extent allowed by law, the SUBRECIPIENT further agrees to indemnify and hold harmless the DEPARTMENT and its employees and agents from all liability, damages and costs of any nature, including but not limited to, costs of suits and attorneys' fees assessed against the DEPARTMENT, as a result of the failure of the SUBRECIPIENT to so comply.

#### **A.23 OWNERSHIP OF PROJECT/CAPITAL FACILITIES**

The DEPARTMENT makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this grant of funds does not and will not acquire any ownership interest or title to such property of the SUBRECIPIENT.

The SUBRECIPIENT shall assume all liabilities arising from the ownership and operation of the project and agrees to hold the DEPARTMENT and the State of Washington and the United States government harmless from any and all causes of action arising from the ownership and operation of the project.

#### **A.24 POLITICAL ACTIVITY**

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

#### **A.25 PRIVACY**

Personal information collected, used or acquired in connection with this agreement shall be used solely for the purposes of this agreement. SUBRECIPIENT and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the DEPARTMENT or as provided by law or court order. SUBRECIPIENT agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The DEPARTMENT reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the SUBRECIPIENT through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the DEPARTMENT. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The SUBRECIPIENT agrees to indemnify and hold harmless the DEPARTMENT for any damages related to the SUBRECIPIENT's unauthorized use, loss or disclosure of personal information.

For purposes of this provision, personal information includes, but is not limited to, information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

#### **A.26 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The assistance provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Agreement provided; however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

#### **A.27 PUBLICITY**

The SUBRECIPIENT agrees to submit to the DEPARTMENT prior to issuance all advertising and publicity matters relating to this Agreement wherein the DEPARTMENT's name is mentioned or language used from which the connection of the DEPARTMENT's name may, in the DEPARTMENT's judgment, be inferred or implied. The SUBRECIPIENT agrees not to publish or use such advertising and publicity matters without the prior written consent of the DEPARTMENT. The SUBRECIPIENT may copyright original work it develops in the course of or under this Agreement; however, pursuant to 2 CFR Part 200.315, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for government purposes.

The SUBRECIPIENT shall include language which acknowledges the funding contribution of the DEPARTMENT and FEMA to this project in any release or other publication developed or modified for, or referring to, the project.

Publication resulting from work performed under this Agreement shall include an acknowledgement of the DEPARTMENT and FEMA's financial support, by CFDA number, and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA's views.

#### **A.28 RECAPTURE PROVISION**

In the event the SUBRECIPIENT fails to expend funds under this Agreement in accordance with applicable federal, state, and local laws, regulations, and/or the provisions of the Agreement, the DEPARTMENT reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for the life of the project following Agreement termination. Repayment by the SUBRECIPIENT of funds under this recapture provision shall occur within 30 days of demand. In the event the DEPARTMENT is required to institute legal proceedings to

enforce the recapture provision, the DEPARTMENT shall be entitled to its costs and expenses thereof, including attorney fees.

#### **A.29 RECORDS AND REPORTS**

- a. The SUBRECIPIENT agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the SUBRECIPIENT's contracts, subawards, grant administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Agreement (the "records").
- b. The SUBRECIPIENT's records related to this Agreement and the projects funded may be inspected and audited by the DEPARTMENT or its designee, by the Office of the State Auditor, DHS, FEMA or their designees, by the Comptroller General of the United States or its designees, or by other state or federal officials authorized by law, for the purposes of determining compliance by the SUBRECIPIENT with the terms of this Agreement and to determine the appropriate level of funding to be paid under the Agreement.
- c. The records shall be made available by the SUBRECIPIENT for such inspection and audit, together with suitable space for such purpose, at any and all times during the SUBRECIPIENT's normal working day.
- d. The SUBRECIPIENT shall retain and allow access to all records related to this Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the grant under this Agreement. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) year must be followed.

#### **A.30 RECOVERY OF FUNDS**

Any person who intentionally causes a condition for which funds are provided under this Agreement shall be liable for the costs incurred by the state and federal governments in responding to such disaster. In addition to its own duty to recover duplicated funds or funds expended due to the intentional or negligent actions of others. SUBRECIPIENT will cooperate in a reasonable manner with the DEPARTMENT and the United States in efforts to recover expenditures under this Grant Agreement.

#### **A.31 RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN**

While the DEPARTMENT undertakes to assist the SUBRECIPIENT with the project/statement of work/work plan (project) by providing grant funds pursuant to this Agreement, the project itself remains the sole responsibility of the SUBRECIPIENT. The DEPARTMENT undertakes no responsibility to the SUBRECIPIENT, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phrases are applicable to this project, is solely that of the SUBRECIPIENT, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

Prior to the start of any construction activity, the SUBRECIPIENT shall ensure that all applicable Federal, State, and local permits and clearances are obtained, including but not limited to FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other environmental laws and executive orders.

The SUBRECIPIENT shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the SUBRECIPIENT in connection with the project. The SUBRECIPIENT shall not look to the DEPARTMENT, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including but not limited to cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

#### **A.32 SEVERABILITY**

If any court of rightful jurisdiction holds any provision or condition under this Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Agreement are declared severable.

### **A.33 SINGLE AUDIT ACT REQUIREMENTS (including all AMENDMENTS)**

Non-federal entities as subrecipients that expend **\$750,000** or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F. Non-federal entities that spend less than **\$750,000** a year in federal awards are exempt from federal audit requirements for that year, except as noted in 2 CFR Part 200 Subpart F. As defined in 2 CFR Part 200, the term “non-federal entity” means a State, local government, Indian Tribe, institution of higher education, or non-profit organization that carries out a federal award as a recipient or subrecipient.

SUBRECIPIENTS that are required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the United States Comptroller General and the OMB Compliance Supplement. The SUBRECIPIENT has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR Part 200 Subpart F, to include the Washington State Auditor’s Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by 2 CFR Part 200 Subpart F.

The SUBRECIPIENT shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subrecipients or contractors also maintain auditable records.

The SUBRECIPIENT is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report.

The SUBRECIPIENT must respond to DEPARTMENT requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The DEPARTMENT reserves the right to recover from the SUBRECIPIENT all disallowed costs resulting from the audit.

Once the single audit has been completed and includes any audit findings, the SUBRECIPIENT must send a full copy of the audit to the DEPARTMENT and its corrective action plan no later than nine (9) months after the end of the SUBRECIPIENT’s fiscal year(s) to:

**Contracts Office  
Washington Military Department  
Finance Division, Building #1 TA-20  
Camp Murray, WA 98430-5032**

If Contractor claims it is exempt from the audit requirements of 2 CFR Part 200 Subpart F, the SUBRECIPIENT must send a letter identifying this Agreement and explaining the criteria for exemption no later than nine (9) months after the end of the SUBRECIPIENT’s fiscal year(s) to the address listed above.

The DEPARTMENT retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.

The SUBRECIPIENT shall include the above audit requirements in any subawards.

Conducting a single or program-specific audit in compliance with 2 CFR Part 200 Subpart F is a material requirement of this Agreement. In the absence of a valid claim of exemption from the audit requirements of 2 CFR Part 200 Subpart F, the SUBRECIPIENT’s failure to comply with said audit requirements may result in one or more of the following actions in the DEPARTMENT’s sole discretion: a percentage of federal awards being withheld until the audit is completed in accordance with 2 CFR Part 200 Subpart F; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

### **A.34 SUBRECIPIENT NOT EMPLOYEE**

The parties intend that an independent contractor relationship will be created by this Agreement. The SUBRECIPIENT, and/or employees or agents performing under this Agreement are not employees or agents of the DEPARTMENT in any manner whatsoever. The SUBRECIPIENT will not be presented as nor claim to be an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Agreement, nor will the SUBRECIPIENT make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the DEPARTMENT or of the State of

Washington by reason of this Agreement, including, but not limited to, Workmen's Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW.

It is understood that if the SUBRECIPIENT is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the State of Washington in their own right and not by reason of this Agreement.

#### **A.35 TAXES, FEES AND LICENSES**

Unless otherwise provided in this Agreement, the SUBRECIPIENT shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the SUBRECIPIENT or its staff required by statute or regulation that are applicable to Agreement performance.

#### **A.36 TERMINATION FOR CONVENIENCE**

Notwithstanding any provisions of this Agreement, the SUBRECIPIENT may terminate this Agreement by providing written notice of such termination to the DEPARTMENT's Key Personnel identified in the Agreement, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this Agreement, the DEPARTMENT, in its sole discretion and in the best interests of the State of Washington, may terminate this Agreement in whole or in part by providing ten (10) calendar days written notice, beginning on the second day after mailing to the SUBRECIPIENT. Upon notice of termination for convenience, the DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds. In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

#### **A.37 TERMINATION OR SUSPENSION FOR CAUSE**

In the event the DEPARTMENT, in its sole discretion, determines the SUBRECIPIENT has failed to fulfill in a timely and proper manner its obligations under this Agreement, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the SUBRECIPIENT unable to perform any aspect of the Agreement, or has violated any of the covenants, agreements or stipulations of this Agreement, the DEPARTMENT has the right to immediately suspend or terminate this Agreement in whole or in part.

The DEPARTMENT may notify the SUBRECIPIENT in writing of the need to take corrective action and provide a period of time in which to cure. The DEPARTMENT is not required to allow the SUBGRANTEE an opportunity to cure if it is not feasible as determined solely within the DEPARTMENT's discretion. Any time allowed for cure shall not diminish or eliminate the SUBRECIPIENT's liability for damages or otherwise affect any other remedies available to the DEPARTMENT. If the DEPARTMENT allows the SUBRECIPIENT an opportunity to cure, the DEPARTMENT shall notify the SUBRECIPIENT in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the DEPARTMENT, or if such corrective action is deemed by the DEPARTMENT to be insufficient, the Agreement may be terminated in whole or in part.

The DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the SUBRECIPIENT, if allowed, or pending a decision by the DEPARTMENT to terminate the Agreement in whole or in part.

In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law, including but not limited to, any cost difference between the original Agreement and the replacement or cover Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the SUBRECIPIENT: (1) was not in default or material breach, or (2) failure to perform was outside of the SUBRECIPIENT's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience".

### **A.38 TERMINATION PROCEDURES**

In addition to the procedures set forth below, if the DEPARTMENT terminates this Agreement, the SUBRECIPIENT shall follow any procedures specified in the termination notice. Upon termination of this Agreement and in addition to any other rights provided in this Agreement, the DEPARTMENT may require the SUBRECIPIENT to deliver to the DEPARTMENT any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

If the termination is for convenience, the DEPARTMENT shall pay to the SUBRECIPIENT the agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods delivered to and accepted by the DEPARTMENT prior to the effective date of Agreement termination, and the amount agreed upon by the SUBRECIPIENT and the DEPARTMENT for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the DEPARTMENT, (iii) other work, services and/or equipment or supplies which are accepted by the DEPARTMENT, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this Agreement. If the termination is for cause, the DEPARTMENT shall determine the extent of the liability of the DEPARTMENT. The DEPARTMENT shall have no other obligation to the SUBRECIPIENT for termination. The DEPARTMENT may withhold from any amounts due the SUBRECIPIENT such sum as the DEPARTMENT determines to be necessary to protect the DEPARTMENT against potential loss or liability.

The rights and remedies of the DEPARTMENT provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the DEPARTMENT in writing, the SUBRECIPIENT shall:

- a. Stop work under the Agreement on the date, and to the extent specified, in the notice;
- b. Place no further orders or sub-contracts for materials, services, supplies, equipment and/or facilities in relation to this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
- c. Assign to the DEPARTMENT, in the manner, at the times, and to the extent directed by the DEPARTMENT, all of the rights, title, and interest of the SUBRECIPIENT under the orders and sub-contracts so terminated, in which case the DEPARTMENT has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and contracts;
- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and sub-contracts, with the approval or ratification of the DEPARTMENT to the extent the DEPARTMENT may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to the DEPARTMENT and deliver in the manner, at the times, and to the extent directed by the DEPARTMENT any property which, if the Agreement had been completed, would have been required to be furnished to the DEPARTMENT;
- f. Complete performance of such part of the work as shall not have been terminated by the DEPARTMENT in compliance with all contractual requirements; and
- g. Take such action as may be necessary, or as the DEPARTMENT may require, for the protection and preservation of the property related to this Agreement which is in the possession of the SUBRECIPIENT and in which the DEPARTMENT has or may acquire an interest.

### **A.39 UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)**

The SUBRECIPIENT shall comply with 2 CFR §200.321 and will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will take all necessary affirmative steps to utilize business firms that are certified as minority-owned and/or women-owned in carrying out the purposes of this Agreement. The following steps are required by the subrecipient if any contracts with contractors or sub-contractors are entered into under the original contract award:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;



- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

The SUBRECIPIENT may also set utilization standards, based upon local conditions or may utilize the State of Washington MWBE goals, as identified in. WAC 326-30-041.

#### **A.40 VENUE**

This Agreement shall be construed and enforced in accordance with, and the validity and performance shall be governed by the laws of the State of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Thurston County, Washington. The SUBRECIPIENT, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

#### **A.41 WAIVERS**

No conditions or provisions of this Agreement can be waived unless approved in advance by the DEPARTMENT in writing. The DEPARTMENT's failure to insist upon strict performance of any provision of the Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.

## PROJECT WORKSHEET SAMPLE

U.S. DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY <b>PROJECT WORKSHEET</b>				O.M.B. No. 1660-0017	
<b>PAPERWORK BURDEN DISCLOSURE NOTICE</b> Public reporting burden for this form is estimated to average 90 minutes per response. Burden means the time, effort and financial resources expended by persons to generate, maintain, disclose, or to provide information to us. You may send comments regarding the accuracy of the burden estimate and or any aspect of the collection, including suggestions for reducing the burden to: Information Collections Management, U. S. Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (OMB Control Number 1660-0017). You are not required to respond to this collection of information unless a valid OMB number appears in the upper right corner of this form. <b>NOTE: Do not send your completed form to this address.</b>					
DISASTER		PROJECT NO.	PA ID NO.	DATE	CATEGORY
F _____ - R _____					
DAMAGED FACILITY				WORK COMPLETE AS OF:	
				_____ : _____ %	
SUBRECIPIENT			COUNTY		
LOCATION				LATITUDE	LONGITUDE
DAMAGE DESCRIPTION AND DIMENSIONS					
SCOPE OF WORK					
Does the Scope of Work change the pre-disaster conditions at the site? <input type="checkbox"/> Yes <input type="checkbox"/> No Special Considerations issues included? <input type="checkbox"/> Yes <input type="checkbox"/> No Hazard Mitigation proposal included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is there insurance coverage on this facility? <input type="checkbox"/> Yes <input type="checkbox"/> No					
<b>PROJECT COST</b>					
I T	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
			/		
				<b>TOTAL COST</b>	
PREPARED BY		TITLE	SIGNATURE		
SUBRECIPIENT REP.		TITLE	SIGNATURE		

**Washington State Military Department  
PUBLIC ASSISTANCE GRANT AGREEMENT FACE SHEET**

1. SUBRECIPIENT Name and Address: <b>Port of Port Townsend 2701 Jefferson Street Port Townsend, WA 98368</b>		2. Grant Agreement Amount: <b>To be determined, based upon approved project worksheets</b>		3. Grant Number: <b>D22-271</b>	
4. SUBRECIPIENT, phone/email: <b>(360) 379-4975/abigail@portofpt.com</b>		5. Grant Agreement Start Date: <b>December 26, 2021</b>		6. Grant Agreement End Date: <b>March 29, 2026</b>	
7. DEPARTMENT Program Manager, phone/email: <b>Gerard Urbas, (253) 512-7402 <a href="mailto:Gary.urbas@mil.wa.gov">Gary.urbas@mil.wa.gov</a></b>		8. Unique Entity Identifier (UEI) :		9. UBI # (state revenue):	
10. Funding Authority: <b>Washington State Military Department (the "DEPARTMENT"), and Federal Emergency Management Agency (FEMA)</b>					
11. Funding Source Agreement #: <b>FEMA-4650-DR-WA</b>		12. Program Index # <b>724ZC (Federal) / 722ZE (State) / 724ZD (Admin)</b>		13. Catalog of Federal Domestic Asst. (CFDA) # & Title: <b>97.036, Public Assistance</b>	
14. Federal EIN #:					
15. Total Federal Award Amount: N/A		16. Federal Award Date: N/A			
17. Service Districts: (BY LEGISLATIVE DISTRICT): _____th (BY CONGRESSIONAL DISTRICT): _____th		18. Service Area by County(ies): <b>Jefferson</b>		19. Women/Minority-Owned, State Certified?: <input checked="" type="checkbox"/> N/A <input type="checkbox"/> NO <input type="checkbox"/> YES, OMWBE # _____	
20. Contract Classification: <input type="checkbox"/> Personal Services <input type="checkbox"/> Client Services <input checked="" type="checkbox"/> Public/Local Gov't <input type="checkbox"/> Research/Development <input type="checkbox"/> A/E <input type="checkbox"/> Other _____			21. Contract Type (check all that apply): <input type="checkbox"/> Contract <input checked="" type="checkbox"/> Grant <input checked="" type="checkbox"/> Agreement <input type="checkbox"/> Intergovernmental (RCW 39.34) <input type="checkbox"/> Interagency		
22. Contractor Selection Process: <input checked="" type="checkbox"/> "To all who apply & qualify" <input type="checkbox"/> Competitive Bidding <input type="checkbox"/> Sole Source <input type="checkbox"/> A/E RCW <input type="checkbox"/> N/A <input type="checkbox"/> Filed w/OFM? <input type="checkbox"/> Advertised? <input type="checkbox"/> YES <input type="checkbox"/> NO _____			23. Contractor Type (check all that apply) <input type="checkbox"/> Private Organization/Individual <input type="checkbox"/> For-Profit <input checked="" type="checkbox"/> Public Organization/Jurisdiction <input checked="" type="checkbox"/> Non-Profit <input type="checkbox"/> VENDOR <input checked="" type="checkbox"/> SUBRECIPIENT <input type="checkbox"/> OTHER		
24. BRIEF DESCRIPTION: <b>Presidential Disaster Declaration # FEMA-4650-DR-WA Severe Winter Storms, Snowstorms, Straight-line Winds, Flooding, Landslides, and Mudslides. To provide funds to the SUBRECIPIENT for emergency work and the repair or replacement of disaster-damaged facilities, as approved by FEMA in project worksheets describing eligible scopes of work and associated funding. The DEPARTMENT is the Recipient and Pass-through Entity of the Presidential Disaster Declaration # FEMA-4650-DR-WA Severe Winter Storms, Snowstorms, Straight-line Winds, Flooding, Landslides, and Mudslides, and FEMA State Agreement, which are incorporated by reference, and makes a subaward of Federal award funds to the SUBRECIPIENT pursuant to this Agreement. The SUBRECIPIENT is accountable to the DEPARTMENT for use of Federal award funds provided under this Agreement and the associated matching funds.</b>					
IN WITNESS WHEREOF, the DEPARTMENT and SUBRECIPIENT acknowledge and accept the terms of this Agreement, references and attachments hereto and have executed this Agreement as of the date and year written below. This Agreement Face Sheet, Special Terms and Conditions (Attachment 1), General Terms and Conditions (Attachment 2), Project Worksheet Sample (Attachment 3), Washington State Public Assistance Applicant Manual dated March 29, 2022 (Attachment 4), and all other documents, exhibits and attachments expressly referenced and incorporated herein contain all the terms and conditions agreed upon by the parties and govern the rights and obligations of the parties to this Agreement. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties.					
In the event of an inconsistency in this Agreement, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order:					
1. <b>Applicable Federal and State Statutes and Regulations</b>		5. <b>Special Terms and Conditions</b>			
2. <b>DHS Standard Terms and Conditions</b>		6. <b>General Terms and Conditions, and,</b>			
3. <b>Presidential Declaration, FEMA State Agreement, and other Documents</b>		7. <b>Other provisions of the contract incorporated by reference.</b>			
4. <b>Statement of Work and/or Project Description as outlined in FEMA approved Project Worksheet(s)</b>					
WHEREAS, the parties hereto have executed this Agreement on the day and year last specified below.					
FOR THE DEPARTMENT:			FOR THE SUBRECIPIENT:		
Signature _____ Date _____ Stacey McClain, Governor's Authorized Representative Washington State Military Department			Signature _____ Date _____ print or type name: _____		
APPROVED AS TO FORM: Dierk Meierbachtol (signature on file) 6/9/2022 Assistant Attorney General			APPROVED AS TO FORM:  SUBRECIPIENT's Attorney _____ Date _____		

**Washington State Military Department  
SPECIAL TERMS AND CONDITIONS**

**ARTICLE I – KEY PERSONNEL**

The individuals listed below shall be considered key personnel and point of contact. Any substitution by either party must be submitted in writing.

SUBRECIPIENT		MILITARY DEPARTMENT	
Name		Name	<b>Gerard Urbas</b>
Title		Title	<b>Deputy State Coordinating Officer Public Assistance</b>
E-Mail		E-Mail	<a href="mailto:gary.urbas@mil.wa.gov">gary.urbas@mil.wa.gov</a>
Phone		Phone	<b>(253) 512-7402</b>

**ARTICLE II - ADMINISTRATIVE REQUIREMENTS**

The SUBRECIPIENT shall comply with all applicable state and federal laws, rules, regulations, requirements and program guidance identified or referenced in this Agreement and the informational documents published by FEMA applicable to the Presidential Declaration including, but not limited to, all criteria, restrictions, and requirements of the “FEMA State Agreement” published by FEMA and the federal regulations commonly applicable to FEMA grants, all of which are incorporated herein by reference. The Presidential Declaration and the FEMA State Agreement are incorporated in this Agreement by reference.

The SUBRECIPIENT shall comply with the Washington State Public Assistance Applicant Manual dated March 29, 2022 incorporated in this Agreement as **Attachment 4**. The DHS Standard Terms and Conditions are incorporated by reference in this Agreement in Appendix F of the Washington State Public Assistance Applicant Manual dated March 29, 2022.

The SUBRECIPIENT acknowledges that since this Agreement involves federal award funding, the period of performance described herein may begin prior to the availability of appropriated federal funds. The SUBRECIPIENT agrees that it will not hold the DEPARTMENT, the State of Washington, or the United States liable for any damages, claim for reimbursement, or any type of payment whatsoever for services performed under this Agreement prior to distribution of appropriated federal funds, or if federal funds are not appropriated or in a particular amount.

Federal funding is provided by FEMA and is administered by the DEPARTMENT. Under the authority of Presidential Disaster Declaration number FEMA-4650-DR-WA, the DEPARTMENT is reimbursing the SUBRECIPIENT for those approved eligible costs and activities necessary under the Public Assistance Grant Program during the incident period beginning December 26, 2021 to January 15, 2022. Eligible costs and activities will be identified in Project Worksheets approved by FEMA and a Project Worksheet Sample is incorporated as **Attachment 3**. The DEPARTMENT is also providing Advance Payments to the SUBRECIPIENT where provided by FEMA and required and allowed by law. Any interest earned on advance payments (except for interest earned on advances of funds exempt under the Intergovernmental Cooperation Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450)) shall be promptly, but at least quarterly, remitted to the DEPARTMENT to be paid to FEMA. The subrecipient may keep interest amounts up to \$100 per year for administrative expenses.

**STATE AND FEDERAL REQUIREMENTS FOR PUBLIC ASSISTANCE GRANTS:**

The following requirements apply to all DHS/FEMA Presidential Disasters administered by the DEPARTMENT:

**1. FUNDING**

The DEPARTMENT will administer the Public Assistance (PA) Grant Program, provide Advance payments, and reimburse approved eligible Public Assistance costs to the SUBRECIPIENT that are identified under the auspices of Presidential Disaster Declaration Number FEMA-4650-DR-WA and

authorized by and consistent with the Stafford Act (P.L. 93-288, as amended) and applicable regulations.

It is understood that no final dollar figure is committed to at the time that this Agreement is executed, but that financial commitments will be made by amendments to the project application as Project Worksheets are completed in the field and projects are authorized by state and federal officials.

Pursuant to the FEMA-STATE AGREEMENT, FEMA will contribute not less than **90** percent of the eligible costs for any eligible project and 100 percent of the federal PA Management Costs, up to 5 percent of the total award amount for each Subrecipient, as provided for in subsection 3.E. of Article II of this Public Assistance Agreement. The SUBRECIPIENT commits to providing the remaining **10** percent non-federal match to any eligible project that has been identified under the Presidential Disaster Declaration number FEMA-4650--DR-WA, subject to the following exceptions:

**DEPARTMENT Match:** The Washington State Legislature may authorize the DEPARTMENT to provide a match to the SUBRECIPIENT's non-federal share of eligible projects. Provision of a match by the DEPARTMENT, if authorized by the Washington State Legislature, shall not require amendment of this Agreement. If DEPARTMENT match funds are committed to the non-federal share by the DEPARTMENT pursuant to legislative authorization, the DEPARTMENT will formally notify the SUBRECIPIENT of the match in writing which will include information identifying any related reduction in the SUBRECIPIENT's percentage commitment.

**Donated Resources:** FEMA will credit the SUBRECIPIENT for the value of donated resources (non-cash contributions of property or services) related to eligible Emergency Work to offset the non-Federal cost share of its eligible Emergency Work project worksheets – categories A and B, and for the value of donated resources related to eligible work on a Permanent Work project to offset the non-Federal cost share of that specific Permanent Work project worksheet for which the resources were donated – categories C through G. The Donated Resources are recognized by FEMA in a Project Worksheet. Donated Resources offset the non-federal share of the eligible emergency work approved in Project Worksheets or specific permanent work approved in Project Worksheets. For non-state agency SUBRECIPIENTS, the donated resource value will first be applied to the SUBRECIPIENT's non-federal share, and, if a DEPARTMENT match is authorized, any remaining donated resource value will be applied to the DEPARTMENT's share. The value of the Donated Resources is calculated as described in Public Assistance Program and Policy Guide V.4 (PAPPG), and is capped at the non-Federal share of approved eligible emergency work costs or capped at the non-Federal share of the specific approved eligible permanent work costs, as applicable. The Federal share of the Donated Resources will not exceed the non-federal share of eligible emergency work costs or of specific permanent work costs approved in Project Worksheets. Any excess credit for eligible emergency work costs can be credited only to other eligible emergency work costs, for the same SUBRECIPIENT in the same disaster. The value of excess donated resources cannot be credited toward or transferred to another eligible SUBRECIPIENT, or toward other State obligations. The DEPARTMENT does not match a FEMA donated resource credit.

The Project Worksheet, sample provided in Attachment 3, is required to be completed by FEMA or State Project Specialists.

## **2. GRANT AGREEMENT PERIOD**

- a. Activities payable under this Agreement and to be performed by the SUBRECIPIENT under this Agreement shall be those activities which occurred during or subsequent to the incident period defined in the FEMA State Agreement and shall terminate upon completion of the project(s) approved by federal and state officials, including completion of close-out and audit. This period shall be referred to as the "Grant Agreement Period."
- b. The Grant Agreement Period shall only be extended by (1) written notification of FEMA approval of the Grant Agreement Period followed up with a mutually agreed written amendment, or (2) written notification from the DEPARTMENT to the SUBRECIPIENT issued by the DEPARTMENT to address extensions of its underlying federal grant performance period or to provide additional time for completion of the SUBRECIPIENT's project(s).

### 3. PAYMENTS

The DEPARTMENT, using funds granted for the purposes of the Presidential Disaster Declaration from FEMA, shall issue payments to the SUBRECIPIENT in compliance with the Washington State Public Assistance Applicant Manual dated March 29, 2022 (**Attachment 4**) procedures as follows:

- a. Small Project Payments: Payments are made for all small projects to the SUBRECIPIENT upon submission and approval of an A19-1A State of Washington Invoice Voucher to the DEPARTMENT, after FEMA has approved funding through approval of Project Worksheets.
- b. Progress Payments: Progress payment of funds for costs already incurred on large projects minus 10 percent retainage may be made to the SUBRECIPIENT upon submission by the SUBRECIPIENT of an A19-1A State of Washington Invoice Voucher, a letter of request, and a spreadsheet identifying the claimed costs supporting the payment request and approval by the DEPARTMENT.
- c. Improved Projects: Payments on improved projects (capped project) will be pro-rated based upon the percentage of the project that is funded under this disaster grant to the overall project cost. This percentage will be identified when the first payment on the improved project is made. Progress payments will be made as outlined above in Section B.
- d. Final Payment: Final Payment on a large project will be made following submission by the SUBRECIPIENT of a certification of completion on the STATEMENT OF DOCUMENTATION / FINAL INSPECTION REPORT form upon completion of project(s), completion of all final inspections by the DEPARTMENT, and final approval by FEMA. Final payment on a large project will include any retainage withheld during progress payments. Final payments may also be conditional upon financial review, if determined necessary by the DEPARTMENT or FEMA. Adjustments to the final payment may be made following any audits conducted by the Washington State Auditor's Office, the United States Inspector General or other federal or state agency.
- e. The SUBRECIPIENT is eligible to receive federal PA Management Costs up to 5 percent of the total award amount obligated for each Subrecipient at the time of its request. PA Management Costs includes any of the following when associated with the PA portion of a major disaster or emergency: Indirect costs, direct administrative costs, and other administrative expenses associated with a specific project. Documentation is required to substantiate the eligibility of management activities and associated costs in accordance with PA Management Costs Interim Policy – Standard Operating Procedures.
- f. All payment requests shall be made on an A19-1A form, State of Washington, Invoice Voucher. Payments will be made by electronic fund transfer to the SUBRECIPIENT's account.
- g. Federal funding shall not exceed the total federal contribution eligible for Public Assistance costs under Presidential Disaster Declaration number FEMA-4650-DR-WA.
- h. For state agencies, the DEPARTMENT will, through interagency reimbursement procedures, transfer payment to the SUBRECIPIENT. Payment will be transferred by journal voucher to Agency No. \_\_\_\_\_, Accounting Fund No. \_\_\_\_\_.
- i. Within the total Grant Agreement Amount, travel, sub-contracts, salaries, benefits, printing, equipment, and other goods and services will be reimbursed on an actual cost basis unless otherwise provided in this Agreement.
- j. For travel costs, SUBRECIPIENTS shall comply with 2 CFR 200.474 and should consult their internal policies, state rates set pursuant to RCW 43.03.050 and RCW 43.03.060 as now existing or amended, and federal maximum rates set forth at <http://www.gsa.gov>, and follow the most restrictive.
- k. If travel costs exceed set state or federal limits, travel costs shall not be reimbursed without written approval by DEPARTMENT Key Personnel.
- l. Receipts and/or backup documentation for any approved items that are authorized under this Agreement must be maintained by the SUBRECIPIENT consistent with record retention

requirements of this Agreement, and be made available upon request by the DEPARTMENT, and local, state, or federal auditors.

- m. All work under this Agreement must end on or before the Grant Agreement End Date, and the final reimbursement request must be submitted to the DEPARTMENT within 45 days after the Grant Agreement End Date, except as otherwise authorized by written amendment of this Agreement and issued by the DEPARTMENT.
- n. No costs for purchases of equipment/supplies will be reimbursed until the related equipment/supplies have been received by the SUBRECIPIENT, its subrecipient or contractor, or any non-federal entity to which the SUBRECIPIENT makes a subaward, and is invoiced by the vendor.
- o. SUBRECIPIENTS shall only use federal award funds under this Agreement to supplement existing funds, and will not use them to replace (supplant) non-federal funds that have been budgeted for the same purpose. The SUBRECIPIENT may be required to demonstrate and document that the reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

The DEPARTMENT shall provide Advance Payments as provided by FEMA and as required and authorized by law.

#### **4. CLOSEOUT**

To initiate close-out, the SUBRECIPIENT is required to certify in writing, by Project Worksheet Number, date completed and total amount expended on the project, completion of the small projects. To initiate close-out of the large projects, the SUBRECIPIENT shall submit certification of completion on a STATEMENT OF DOCUMENTATION/FINAL INSPECTION REPORT form to the DEPARTMENT.

The DEPARTMENT will then complete a site inspection and a financial review of documentation to support the claimed costs. Certifications on small and large projects are due within sixty days following the completion of the project or receipt of the approved Project Worksheet, whichever date is later.

If SUBRECIPIENT is claiming federal PA Management Costs: Indirect costs, direct administrative costs, and other administrative expenses associated with a specific project must be supported by documentation to substantiate the eligibility of management activities and associated costs that has been prepared and assembled in accordance with PA Management Costs Interim Policy – Standard Operating Procedures prior to close-out.

After all of the projects have been certified as complete and approved for closure by FEMA, the DEPARTMENT will forward a final A19-1A State of Washington Invoice Voucher to the SUBRECIPIENT for release of the remaining funds due to the subrecipient for eligible costs, including any retainage previously withheld, and the allowance for federal indirect costs.

#### **5. DOCUMENTATION / REPORTING REQUIREMENTS**

For all Advance Payment, the SUBRECIPIENT shall provide documentation and receipts for all costs related to the Advance Payment and provide such to the DEPARTMENT quarterly.

The SUBRECIPIENT is required to retain all documentation which adequately identifies the source and application of Public Assistance funds, including the federal indirect cost reimbursement, for six years following the closure of this disaster grant. For all funds received, source documentation includes adequate accounting of actual costs and recoveries incurred.

The SUBRECIPIENT shall also comply with the Federal Funding Accountability and Transparency Act (FFATA) and related OMB Guidance consistent with Public Law 109-282 as amended by section 6202(a) of Public Law 110-252 (see 31 U.S.C. 6101 note) and complete the FFATA Form located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms> and return to the DEPARTMENT; which is incorporated by reference and made a part of this Agreement.

Quarterly Reports: The SUBRECIPIENT is required to submit to the DEPARTMENT a quarterly report indicating the status of all their large projects. The status shall identify the costs incurred to date, the



percentage of work completed, the anticipated completion date of the project and whether cost under runs or over runs are expected. In addition, the SUBRECIPIENT should note in the comment field any challenges or issues associated with the project. Failure to submit a complete quarterly report within 15 days following the end of the quarter will result in suspension of all payments to the SUBRECIPIENT until a complete quarterly report is received by the DEPARTMENT. The quarterly report will serve as the basis for any FEMA Office of Chief Financial Officer (OCFO) funds reduction.

## **6. TIME EXTENSIONS**

A time extension request is required to be forwarded to the DEPARTMENT by the SUBRECIPIENT for a project prior to the expiration of the approved completion date. If the project is approved and funded after the statutory approval time period for completion, then a time extension request must be submitted to the DEPARTMENT within fifteen days of receipt of the funding package.

In accordance with 44 CFR 206.204, the DEPARTMENT reserves the right, in its sole discretion, to consider and approve a time extension request after expiration of the approved completion date and within the DEPARTMENT's statutory extension authority. Requests for time extensions beyond the DEPARTMENT's authority will be considered and approved by FEMA, at their sole discretion.

All determinations made regarding time extension requests will be based on a case by case evaluation of specific factual circumstances.

A time extension request must be in writing and identify the Project Worksheet number, the reason the project has not been completed within the prior approved completion period, the reason the time extension request was not submitted prior to the statutory approval time period (if applicable), a current status of the completion of the work, a detailed timeline for completion of the remaining elements, and an anticipated completion date for the completion of the remaining work. Failure to submit a time extension request in a timely manner may result in denial of the time extension request, and loss of funding for the related project.

## **7. PROCUREMENT**

The SUBRECIPIENT shall comply with all procurement requirements of 2 CFR Part 200.318 through 200.326 and as specified in the General Terms and Conditions, Exhibit A.11.

## **8. SUBRECIPIENT MONITORING:**

- a. The DEPARTMENT will monitor the activities of the SUBRECIPIENT from award to closeout. The goal of the DEPARTMENT's monitoring activities will be to ensure that agencies receiving federal pass-through funds are in compliance with this Agreement, federal and state audit requirements, federal grant guidance, and applicable federal and state financial regulations, as well as 2 CFR Part 200 Subpart F.
- b. To document compliance with 2 CFR Part 200 Subpart F requirements, the SUBRECIPIENT shall complete and return to the DEPARTMENT 2 CFR Part 200 Subpart F Audit Certification Form located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms> with the signed Agreement and each fiscal year thereafter until the Agreement is closed, which is incorporated by reference and made a part of this Agreement.
- c. Monitoring activities may include, but are not limited to:
  - i. review of financial and performance reports;
  - ii. monitoring and documenting the completion of Agreement deliverables;
  - iii. documentation of phone calls, meetings, e-mails, and correspondence;
  - iv. review of reimbursement requests and supporting documentation to ensure eligibility and consistency with Agreement work plan, budget, and federal requirements;
  - v. observation and documentation of Agreement related activities;
  - vi. on-site visits to review equipment records and inventories, to verify source documentation for reimbursement requests and performance reports, and to verify completion of deliverables.



- d. The SUBRECIPIENT is required to meet or exceed the monitoring activities, as outlined above and in 2 CFR Part 200 Subpart F, for any non-federal entity to which the SUBRECIPIENT makes a subaward as a pass-through entity under this Agreement.
- e. Compliance will be monitored throughout the performance period to assess risk. Concerns will be addressed through a Corrective Action Plan. If the SUBRECIPIENT fails to comply with federal or state statutes or regulations, or the terms and conditions of this Agreement, the DEPARTMENT may impose any additional subaward conditions as described in 2 CFR 200.208. If the DEPARTMENT determines that noncompliance cannot be remedied by imposing additional conditions, it may take one or more of the following actions:
  - i. Temporarily withhold cash payments pending correction of the deficiency by the SUBRECIPIENT.
  - ii. Wholly or partially suspend or terminate the subaward to the SUBRECIPIENT.
  - iii. Initiate suspension or debarment proceedings under 2 CFR 180 or recommend such a proceeding be initiated by the federal awarding agency.
  - iv. Withhold further federal awards for the project or program.
  - v. Take any other remedies that may be legally available.
- f. The DEPARTMENT agrees to:
  - i. Provide technical assistance during all monitoring or evaluation activities. The DEPARTMENT will coordinate and schedule the meetings necessary to conduct and complete all monitoring and evaluation activities.
  - ii. Develop the SUBRECIPIENT's project worksheet(s) (PW) and supporting attachments with FEMA and the SUBRECIPIENT's assistance based upon the costs determined to be eligible.
  - iii. Submit the SUBRECIPIENT's funding package to FEMA.
  - iv. Notify the SUBRECIPIENT when funding approval is received, issue payment per the process described above see Article II, A.4 – Payments, and provide the SUBRECIPIENT with a copy of the approved project worksheet.
  - v. Work with the SUBRECIPIENT to resolve any issues identified during the monitoring process.
  - vi. Review and respond appropriately to the SUBRECIPIENT's requests for time extensions and changes.

**i. LIMITED ENGLISH PROFICIENCY (CIVIL RIGHTS ACT OF 1964 TITLE VI)**

All subrecipients must comply with the Title VI of the Civil Rights Act of 1964 (Title VI) prohibition against discrimination on the basis of national origin, which requires that subrecipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance at <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

**A. FEMA STATE AGREEMENT TERMS AND CONDITIONS**

As a subrecipient of FEMA funding, the SUBRECIPIENT shall comply with all applicable DHS/FEMA terms and conditions of the Presidential Declaration and the FEMA State Agreement, which are

incorporated in and made a part of this Agreement in Appendix F of the Washington State Public Assistance Applicant Manual dated March 29, 2022 (**Attachment 4**).

**Washington State Military Department  
GENERAL TERMS AND CONDITIONS  
Department of Homeland Security (DHS)/  
Federal Emergency Management Agency (FEMA)  
Grants**

**A.1 DEFINITIONS**

As used throughout this Agreement, the following terms will have the same meaning as defined in 2 CFR 200 Subpart A (which is incorporated herein by reference), except as otherwise set forth below:

- a. **"DEPARTMENT"** means the Washington State Military Department, as a state agency, any division, section, office, unit or other entity of the DEPARTMENT, or any of the officers or other officials lawfully representing that DEPARTMENT. The DEPARTMENT is a recipient of a federal award directly from a federal awarding agency and is pass-through entity making a subaward to a subrecipient under this Agreement.
- b. **"SUBRECIPIENT"** when capitalized is primarily used throughout this Agreement in reference to the non-federal entity identified on the Face Sheet of this Agreement that has received a subaward from the DEPARTMENT. However, the definition of "subrecipient" is the same as in 2 CFR 200.93 for all other purposes. **"Monitoring Activities"** means all administrative, construction, financial, or other review activities that are conducted to ensure compliance with all state and federal laws, rules, regulations, authorities and policies.
- c. **"Project"** means those actions funded through the Public Assistance Program and described in approved Project Worksheets. Projects may include one or more of the following: reimbursement of costs for emergency response, debris removal and/or repair or restoration of damaged public facilities. A project may be a small, large, improved, or alternate project.
- d. **"Investment Justification"** means grant application investment justification submitted by the SUBRECIPIENT describing the project for which federal funding is sought and provided under this Agreement. Such grant application investment justification is hereby incorporated into this Agreement by reference.

**A.2 ADVANCE PAYMENTS**

The DEPARTMENT shall make no payments in advance or in anticipation of goods or services to be provided under this Agreement, except as required under 2 CFR 200.305 for federal grants. SUBRECIPIENT shall not invoice the DEPARTMENT in advance of delivery and invoicing of such goods or services, except as authorized under 2 CFR 200.305.

Pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C §5121-5207), Advance Payment process, FEMA may process a SUBRECIPIENT project worksheet which is provided to the state of Washington for direct disbursement to SUBRECIPIENT.

Pursuant to these provisions and RCW 43.88.160(5), these grant funds are not subject to the advance payments prohibition and will be disbursed immediately to SUBRECIPIENT as grants authorized by law with subsequent authentication and certification of expenditures.

**A.3 AMENDMENTS AND MODIFICATIONS**

The SUBRECIPIENT or the DEPARTMENT may request, in writing, an amendment or modification of this Agreement. Modifications may be requested for Grant Agreement end date, budget or scope change. However, such amendment or modification shall not be binding, take effect or be incorporated herein until made in writing and signed by the authorized representatives of the DEPARTMENT and the SUBRECIPIENT. No other understandings or agreements, written or oral, shall be binding on the parties.

**A.4 AMERICANS WITH DISABILITIES ACT (ADA) OF 1990, PUBLIC LAW 101-336, 42 U.S.C. 12101 ET SEQ. AND ITS IMPLEMENTING REGULATIONS ALSO REFERRED TO AS THE "ADA" 28 CFR Part 35.**

The SUBRECIPIENT must comply with the ADA, which provides comprehensive civil rights protection to individuals with disabilities in the areas of employment, public accommodations, state and local

government services, and telecommunication.

**A.5 APPLICATION REPRESENTATION-MISREPRESENTATION, INACCURACY AND BREACH**

The DEPARTMENT relies upon the SUBRECIPIENT's application in making its determinations as to eligibility for, selection for, and scope of funding grants. Any misrepresentation, error or inaccuracy in any part of the application may be deemed a breach of this Agreement.

**A.6 ASSURANCES**

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations. In addition, as a SUBRECIPIENT of FEMA funding, the SUBRECIPIENT shall comply with all applicable DHS terms and conditions as specified in Appendix F of the Washington State Public Assistance Applicant Manual dated March 29, 2022 incorporated in this Agreement as **Attachment 4**.

**A.7 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, OR INELIGIBILITY**

As federal funds are a basis for this Agreement, the SUBRECIPIENT certifies that the SUBRECIPIENT is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in this Agreement by any federal department or agency.

The SUBRECIPIENT shall complete, sign, and return a Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion form located at <http://mil.wa.gov/emergency-management-division/grants/requiredgrantforms>. Any such form completed by the SUBRECIPIENT for this Agreement shall be incorporated into this Agreement by reference.

Further, the SUBRECIPIENT agrees to comply with all applicable federal regulations concerning the federal debarment and suspension system, including 2 CFR Part 180. The SUBRECIPIENT certifies that it will ensure that potential sub-contractors or sub-recipients or any of their principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in "covered transactions" by any federal department or agency. "Covered transactions" include procurement contracts for goods or services awarded under a non-procurement transaction (e.g. grant or cooperative agreement) that are expected to equal or exceed \$25,000, and sub-awards to sub-recipients for any amount. With respect to covered transactions, the SUBRECIPIENT may comply with this provision by obtaining a certification statement from the potential sub-contractor or sub-recipient or by checking the System for Award Management (<http://www.sam.gov>) maintained by the federal government. The SUBRECIPIENT also agrees not to enter into any arrangements or contracts with any party on the Washington State Department of Labor and Industries' "Debarred Contractor List" (<https://secure.lni.wa.gov/debarandstrike/ContractorDebarList.aspx>).

**A.8 CERTIFICATION REGARDING RESTRICTIONS ON LOBBYING**

As required by 44 CFR Part 18, the SUBRECIPIENT hereby certifies that to the best of their knowledge and belief: (1) no federally appropriated funds have been paid or will be paid by or on behalf of the SUBRECIPIENT to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement; (2) that if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, grant, loan, or cooperative agreement, the SUBRECIPIENT will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; (3) and that, as applicable, the SUBRECIPIENT will require that the language of this certification be included in the award documents for all subawards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into, and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

**A.9 COMPLIANCE WITH APPLICABLE STATUTES, RULES AND DEPARTMENT POLICIES**

The SUBRECIPIENT and all its contractors shall comply with, and the DEPARTMENT is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, executive orders, OMB Circulars, and/or policies. This obligation includes, but is not limited to: nondiscrimination laws and/or policies, Equal Employment Opportunity, as amended by Executive Order 11375 of October 13, 1967, as supplemented by Department of Labor regulations (41 CFR chapter 60); Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3); Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented by Department of Labor regulations (29 CFR Part 5); Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR part 15); Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5); Energy Policy and Conservation Act (PL 94-163, 89 Stat. 871, as amended), the Americans with Disabilities Act (ADA), Age Discrimination Act of 1975, Title VI of the Civil Rights Act of 1964, Civil rights Act of 1968, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (PL 93-288, as amended), Title 44 of the Federal Regulations, 2 CFR Part 3002, Ethics in Public Service (RCW 42.52), Covenant Against Contingent Fees (48 CFR Section 52.203-5), Public Records Act (RCW 42.56), Prevailing Wages on Public Works (RCW 39.12), State Environmental Policy Act (RCW 43.21C), Shoreline Management Act of 1971 (RCW 90.58), State Building Code (RCW 19.27), Energy Related Building Standards (RCW 19.27A), Provisions in Buildings for Aged and Handicapped Persons (RCW 70.92), and safety and health regulations.

DEPARTMENT and SUBRECIPIENT agree that all activity pursuant to this Agreement will be in accordance with all the applicable current federal, state and local laws, rules and regulations.

In the event of the SUBRECIPIENT's or its contractor's noncompliance or refusal to comply with any applicable law, regulation, executive order, OMB Circular or policy, the DEPARTMENT may rescind, cancel, or terminate the Agreement in whole or in part in its sole discretion.

The SUBRECIPIENT is responsible for all costs or liability arising from its failure to comply with applicable laws, regulations, executive orders, OMB Circulars or policies.

**A.10 CONFLICT OF INTEREST**

No officer or employee of the DEPARTMENT; no member, officer, or employee of the SUBRECIPIENT or its designees or agents; no member of the governing body of the jurisdiction in which the project is undertaken or located; and no other official of such the SUBRECIPIENT who exercises any functions or responsibilities with respect to the project during his or her tenure, shall have any personal or pecuniary gain or interest, direct or indirect, in any contract, subcontract, or the proceeds thereof, for work to be performed in connection with the project assisted under this Agreement.

The SUBRECIPIENT shall incorporate, or cause to incorporate, in all such contracts or subcontracts, a provision prohibiting such interest pursuant to this provision.

**A.11 CONTRACTING & PROCUREMENT**

a. The SUBRECIPIENT shall use a competitive procurement process in the procurement and award of any contracts with contractors or sub-contractors that are entered into under the original contract award. The procurement process followed shall be in accordance with 2 CFR Part 200.318 General procurement standards through 200.326 Contract Provisions.

As required by Appendix II to 2 CFR Part 200, all contracts entered into by the SUBRECIPIENT under this Agreement must include the following provisions, as applicable:

1. Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or

legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

2. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
3. Equal Employment Opportunity. Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of “federally assisted construction contract” in [41 CFR Part 60-1.3](#) must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with Executive Order 11246, “Equal Employment Opportunity” ([30 FR 12319](#), [12935](#), [3 CFR Part, 1964-1965](#) Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at [41 CFR part 60](#), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
4. Davis-Bacon Act, as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
5. Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701-3708](#)). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
6. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.



7. Clean Air Act ([42 U.S.C. 7401-7671q.](#)) and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
8. Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
9. Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#)) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
10. Procurement of recovered materials -- As required by 2 CFR 200.322, a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
11. Notice of Federal awarding agency requirements and regulations pertaining to reporting.
12. Federal awarding agency requirements and regulations pertaining to copyrights and rights in data.
13. Access by the DEPARTMENT, the SUBRECIPIENT, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
14. Retention of all required records for six years after the SUBRECIPIENT has made final payments and all other pending matters are closed.
15. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
16. Pursuant to Executive Order 13858 "Strengthening Buy-American Preferences for Infrastructure Projects," the DEPARTMENT encourages SUBRECIPIENTS to use, to the greatest extent practicable and consistent with the law, iron and aluminum as well as steel, cement and other manufactured products produced in the United States, in Public Assistance and Hazard Mitigation Grant Program eligible public infrastructure repair and construction projects affecting surface transportation, ports, water resources including sewer and drinking water and power. Such

preference must be consistent with the law, including cost and contracting requirements of 2 CFR Part 200.

17. The DEPARTMENT reserves the right to review the SUBRECIPIENT procurement plans and documents, and require the SUBRECIPIENT to make changes to bring its plans and documents into compliance with the requirements of 2 CFR Part 200.318 through 2 CFR 200.326. The SUBRECIPIENT must ensure that its procurement process requires contractors and subcontractors to provide adequate documentation with sufficient detail to support the costs of the project and to allow both the SUBRECIPIENT and DEPARTMENT to make a determination on eligibility of project costs.

18. All sub-contracting agreements entered into pursuant to this Agreement shall incorporate this Agreement by reference.

#### **A.12 DISCLOSURE**

The use or disclosure by any party of any information concerning the DEPARTMENT for any purpose not directly connected with the administration of the DEPARTMENT's or the SUBRECIPIENT's responsibilities with respect to services provided under this Agreement is prohibited except by prior written consent of the DEPARTMENT or as required to comply with the state Public Records Act, other law, or court order.

#### **A.13 DISPUTES**

Except as otherwise provided in this contract, when a bona fide dispute arises between the parties and it cannot be resolved through discussion and negotiation, either party may request a dispute resolution panel to resolve the dispute. A request for a dispute resolution board shall be in writing, state the disputed issues, state the relative positions of the parties, and be sent to all parties. The panel shall consist of a representative appointed by the DEPARTMENT, a representative appointed by the SUBRECIPIENT and a third party mutually agreed upon by both parties. The panel shall, by majority vote, resolve the dispute. Each party shall bear the cost for its panel member and its attorney fees and costs, and share equally the cost of the third panel member.

#### **A.14 DUPLICATION OF BENEFITS**

The SUBRECIPIENT agrees that the funds for which federal or state assistance is requested does not, or will not, duplicate benefits or funds received for the same loss from any other source. The SUBRECIPIENT will pursue, and require sub-recipients to pursue, full payment of eligible insurance benefits for properties or any other losses covered in a project under this Agreement. The SUBRECIPIENT will repay the DEPARTMENT any funds provided under this grant agreement that are duplicated by other benefits, funds, or insurance proceeds. The SUBRECIPIENT will also seek recovery against any party or parties whose negligence or other intentional or tortious conduct may have caused or contributed to the expenditures for which these grants funds are provided. The SUBRECIPIENT will repay the DEPARTMENT any funds recovered by settlement, judgment or other court order in an action to recover funds provided by this grant. The SUBRECIPIENT shall notify the DEPARTMENT as early as possible and work in conjunction with the DEPARTMENT and FEMA to ensure appropriate apportionment of any duplicated or recovered payment.

#### **A.15 HAZARDOUS SUBSTANCES**

The SUBRECIPIENT shall inspect and investigate the proposed development/construction site for the presence of hazardous substances. The SUBRECIPIENT shall fully disclose to the DEPARTMENT the results of its inspection and investigation and all other knowledge the SUBRECIPIENT has as to the presence of any hazardous substances at the proposed development/construction project site. The SUBRECIPIENT will be responsible for any associated clean-up costs. "Hazardous Substance" is defined in RCW 70A.305.020.

#### **A.16 LEGAL RELATIONS**

It is understood and agreed that this Agreement is solely for the benefit of the parties to the Agreement and gives no right to any other party. No joint venture or partnership is formed as a result of this Agreement.



To the extent allowed by law, the SUBRECIPIENT, its successors or assigns, will protect, save and hold harmless the DEPARTMENT, the State of Washington, and the United States Government and their authorized agents and employees, from all claims, actions, costs, damages or expenses of any nature whatsoever by reason of the acts or omissions of the SUBRECIPIENT, its sub-contractors, assigns, agents, contractors, consultants, licensees, invitees, employees or any person whomsoever arising out of or in connection with any acts or activities authorized by this Agreement.

To the extent allowed by law, the SUBRECIPIENT further agrees to defend the DEPARTMENT and the State of Washington and their authorized agents and employees in any litigation; including payment of any costs or attorneys' fees for any claims or action commenced thereon arising out of or in connection with acts or activities authorized by this Agreement.

This obligation shall not include such claims, costs, damages or expenses which may be caused by the sole negligence of the DEPARTMENT; provided, that if the claims or damages are caused by or result from the concurrent negligence of (1) the DEPARTMENT, and (2) the SUBRECIPIENT, its agents, or employees, this indemnity provision shall be valid and enforceable only to the extent of the negligence of the SUBRECIPIENT, or SUBRECIPIENT's agents or employees.

Insofar as the funding source, the DEPARTMENT of Homeland Security (DHS)/Federal Emergency Management Agency (FEMA), is an agency of the federal government, the following shall apply:

44 CFR 206.9 Non-liability. The federal government shall not be liable for any claim based upon the exercise or performance of, or the failure to exercise or perform a discretionary function or duty on the part of a federal agency or an employee of the Federal government in carrying out the provisions of the Stafford Act.

#### **A.17 LIMITATION OF AUTHORITY – AUTHORIZED SIGNATURE**

The signatories to this Agreement represent that they have the authority to bind their respective organizations to this Agreement. Only the DEPARTMENT's Authorized Signature and the Authorized Signature of the assigned SUBRECIPIENT Agent or Alternate for the SUBRECIPIENT Agent, formally designated in writing, shall have the express, implied, or apparent authority to alter, amend, modify, or waive any clause or condition of this Agreement. Any alteration, amendment, modification, or waiver of any clause or condition of this Agreement is not effective or binding unless made in writing and signed by both parties Authorized Signature representatives. Further, only the Authorized Signature representative or Alternate for the SUBRECIPIENT shall have authority to sign reimbursement requests, certification of project completion, time extension requests, amendment and modification requests, requests for changes to project status, and other requests, certifications and documents authorized by or required under this Agreement.

#### **A.18 LOSS OR REDUCTION OF FUNDING**

In the event funding from state, federal, or other sources is withdrawn, reduced, or limited in any way after the effective date of this Agreement and prior to normal completion or end date, the DEPARTMENT may unilaterally reduce the scope of work and budget or unilaterally terminate or suspend all or part of the Agreement as a "Termination for Cause" without providing the SUBRECIPIENT an opportunity to cure. Alternatively, the parties may renegotiate the terms of this Agreement under "Amendments and Modifications" to comply with new funding limitations and conditions, although the DEPARTMENT has no obligation to do so.

#### **A.19 NONASSIGNABILITY**

Neither this Agreement, nor any claim arising under this Agreement, shall be transferred or assigned by the SUBRECIPIENT.

#### **A.20 NONDISCRIMINATION**

The SUBRECIPIENT shall comply with all applicable federal and state non-discrimination laws, regulations, and policies. No person shall, on the grounds of age, race, creed, color, sex, sexual orientation, religion, national origin, marital status, honorably discharged veteran or military status, or disability (physical, mental, or sensory) be denied the benefits of, or otherwise be subjected to discrimination under any project, program, or activity, funded, in whole or in part, under this Agreement.

#### **A.21 NOTICES**

The SUBRECIPIENT shall comply with all public notices or notices to individuals required by applicable local, state and federal laws and shall maintain a record of this compliance.

#### **A.22 OCCUPATIONAL SAFETY/HEALTH ACT and WASHINGTON INDUSTRIAL SAFETY/HEALTH ACT (OSHA/WISHA)**

The SUBRECIPIENT represents and warrants that its workplace does now or will meet all applicable federal and state safety and health regulations that are in effect during the SUBRECIPIENT's performance under this Agreement. To the extent allowed by law, the SUBRECIPIENT further agrees to indemnify and hold harmless the DEPARTMENT and its employees and agents from all liability, damages and costs of any nature, including but not limited to, costs of suits and attorneys' fees assessed against the DEPARTMENT, as a result of the failure of the SUBRECIPIENT to so comply.

#### **A.23 OWNERSHIP OF PROJECT/CAPITAL FACILITIES**

The DEPARTMENT makes no claim to any capital facilities or real property improved or constructed with funds under this Agreement, and by this grant of funds does not and will not acquire any ownership interest or title to such property of the SUBRECIPIENT. The SUBRECIPIENT shall assume all liabilities arising from the ownership and operation of the project and agrees to hold the DEPARTMENT and the State of Washington and the United States government harmless from any and all causes of action arising from the ownership and operation of the project.

#### **A.24 POLITICAL ACTIVITY**

No portion of the funds provided herein shall be used for any partisan political activity or to further the election or defeat of any candidate for public office or influence the approval or defeat of any ballot issue.

#### **A.25 PRIVACY**

Personal information collected, used or acquired in connection with this agreement shall be used solely for the purposes of this agreement. SUBRECIPIENT and its subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the DEPARTMENT or as provided by law or court order. SUBRECIPIENT agrees to implement physical, electronic and managerial safeguards to prevent unauthorized access to personal information.

The DEPARTMENT reserves the right to monitor, audit, or investigate the use of personal information collected, used or acquired by the SUBRECIPIENT through this contract. The monitoring, auditing or investigating may include but is not limited to "salting" by the DEPARTMENT. Salting is the act of placing a record containing unique but false information in a database that can be used later to identify inappropriate disclosure of data contained in the database.

Any breach of this provision may result in termination of the contract and the demand for return of all personal information. The SUBRECIPIENT agrees to indemnify and hold harmless the DEPARTMENT for any damages related to the SUBRECIPIENT's unauthorized use, loss or disclosure of personal information.

For purposes of this provision, personal information includes, but is not limited to, information identifiable to an individual that relates to a natural person's health, finances, education, business, use or receipt of governmental services, or other activities, names, addresses, telephone numbers, social security numbers, driver license numbers, financial profiles, credit card numbers, financial identifiers and other identifying numbers.

#### **A.26 PROHIBITION AGAINST PAYMENT OF BONUS OR COMMISSION**

The assistance provided under this Agreement shall not be used in payment of any bonus or commission for the purpose of obtaining approval of the application for such assistance or any other approval or concurrence under this Agreement provided; however, that reasonable fees or bona fide technical consultant, managerial, or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as project costs.

#### **A.27 PUBLICITY**

The SUBRECIPIENT agrees to submit to the DEPARTMENT prior to issuance all advertising and publicity matters relating to this Agreement wherein the DEPARTMENT's name is mentioned or language used from which the connection of the DEPARTMENT's name may, in the DEPARTMENT's judgment, be inferred or implied. The SUBRECIPIENT agrees not to publish or use such advertising and publicity matters without the prior written consent of the DEPARTMENT. The SUBRECIPIENT may copyright original work it develops in the course of or under this Agreement; however, pursuant to 2 CFR Part 200.315, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the work for government purposes.

The SUBRECIPIENT shall include language which acknowledges the funding contribution of the DEPARTMENT and FEMA to this project in any release or other publication developed or modified for, or referring to, the project.

Publication resulting from work performed under this Agreement shall include an acknowledgement of the DEPARTMENT and FEMA's financial support, by CFDA number, and a statement that the publication does not constitute an endorsement by FEMA or reflect FEMA's views.

#### **A.28 RECAPTURE PROVISION**

In the event the SUBRECIPIENT fails to expend funds under this Agreement in accordance with applicable federal, state, and local laws, regulations, and/or the provisions of the Agreement, the DEPARTMENT reserves the right to recapture funds in an amount equivalent to the extent of noncompliance. Such right of recapture shall exist for the life of the project following Agreement termination. Repayment by the SUBRECIPIENT of funds under this recapture provision shall occur within 30 days of demand. In the event the DEPARTMENT is required to institute legal proceedings to enforce the recapture provision, the DEPARTMENT shall be entitled to its costs and expenses thereof, including attorney fees.

#### **A.29 RECORDS AND REPORTS**

- a. The SUBRECIPIENT agrees to maintain all books, records, documents, receipts, invoices and all other electronic or written records necessary to sufficiently and properly reflect the SUBRECIPIENT's contracts, subawards, grant administration, and payments, including all direct and indirect charges, and expenditures in the performance of this Agreement (the "records").
- b. The SUBRECIPIENT's records related to this Agreement and the projects funded may be inspected and audited by the DEPARTMENT or its designee, by the Office of the State Auditor, DHS, FEMA or their designees, by the Comptroller General of the United States or its designees, or by other state or federal officials authorized by law, for the purposes of determining compliance by the SUBRECIPIENT with the terms of this Agreement and to determine the appropriate level of funding to be paid under the Agreement.
- c. The records shall be made available by the SUBRECIPIENT for such inspection and audit, together with suitable space for such purpose, at any and all times during the SUBRECIPIENT's normal working day.
- d. The SUBRECIPIENT shall retain and allow access to all records related to this Agreement and the funded project(s) for a period of at least six (6) years following final payment and closure of the grant under this Agreement. Despite the minimum federal retention requirement of three (3) years, the more stringent State requirement of six (6) year must be followed.

#### **A.30 RECOVERY OF FUNDS**

Any person who intentionally causes a condition for which funds are provided under this Agreement shall be liable for the costs incurred by the state and federal governments in responding to such disaster. In addition to its own duty to recover duplicated funds or funds expended due to the intentional or negligent actions of others. SUBRECIPIENT will cooperate in a reasonable manner with the DEPARTMENT and the United States in efforts to recover expenditures under this Grant Agreement.

#### **A.31 RESPONSIBILITY FOR PROJECT/STATEMENT OF WORK/WORK PLAN**

While the DEPARTMENT undertakes to assist the SUBRECIPIENT with the project/statement of work/work plan (project) by providing grant funds pursuant to this Agreement, the project itself remains

the sole responsibility of the SUBRECIPIENT. The DEPARTMENT undertakes no responsibility to the SUBRECIPIENT, or to any third party, other than as is expressly set out in this Agreement.

The responsibility for the design, development, construction, implementation, operation and maintenance of the project, as these phrases are applicable to this project, is solely that of the SUBRECIPIENT, as is responsibility for any claim or suit of any nature by any third party related in any way to the project.

Prior to the start of any construction activity, the SUBRECIPIENT shall ensure that all applicable Federal, State, and local permits and clearances are obtained, including but not limited to FEMA compliance with the National Environmental Policy Act, the National Historic Preservation Act, the Endangered Species Act, and all other environmental laws and executive orders.

The SUBRECIPIENT shall defend, at its own cost, any and all claims or suits at law or in equity, which may be brought against the SUBRECIPIENT in connection with the project. The SUBRECIPIENT shall not look to the DEPARTMENT, or to any state or federal agency, or to any of their employees or agents, for any performance, assistance, or any payment or indemnity, including but not limited to cost of defense and/or attorneys' fees, in connection with any claim or lawsuit brought by any third party related to any design, development, construction, implementation, operation and/or maintenance of a project.

#### **A.32 SEVERABILITY**

If any court of rightful jurisdiction holds any provision or condition under this Agreement or its application to any person or circumstances invalid, this invalidity does not affect other provisions, terms or conditions of the Agreement, which can be given effect without the invalid provision. To this end, the terms and conditions of this Agreement are declared severable.

#### **A.33 SINGLE AUDIT ACT REQUIREMENTS (including all AMENDMENTS)**

Non-federal entities as subrecipients that expend **\$750,000** or more in one fiscal year of federal funds from all sources, direct and indirect, are required to have a single or a program-specific audit conducted in accordance with 2 CFR Part 200 Subpart F. Non-federal entities that spend less than **\$750,000** a year in federal awards are exempt from federal audit requirements for that year, except as noted in 2 CFR Part 200 Subpart F. As defined in 2 CFR Part 200, the term "non-federal entity" means a State, local government, Indian Tribe, institution of higher education, or non-profit organization that carries out a federal award as a recipient or subrecipient.

SUBRECIPIENTS that are required to have an audit must ensure the audit is performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) as found in the Government Auditing Standards (the Revised Yellow Book) developed by the United States Comptroller General and the OMB Compliance Supplement. The SUBRECIPIENT has the responsibility of notifying its auditor and requesting an audit in compliance with 2 CFR Part 200 Subpart F, to include the Washington State Auditor's Office, a federal auditor, or a public accountant performing work using GAGAS, as appropriate. Costs of the audit may be an allowable grant expenditure as authorized by 2 CFR Part 200 Subpart F.

The SUBRECIPIENT shall maintain auditable records and accounts so as to facilitate the audit requirement and shall ensure that any subrecipients or contractors also maintain auditable records.

The SUBRECIPIENT is responsible for any audit exceptions incurred by its own organization or that of its subcontractors. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report.

The SUBRECIPIENT must respond to DEPARTMENT requests for information or corrective action concerning audit issues or findings within 30 days of the date of request. The DEPARTMENT reserves the right to recover from the SUBRECIPIENT all disallowed costs resulting from the audit.

Once the single audit has been completed and includes an audit findings, the SUBRECIPIENT must send a full copy of the audit to the DEPARTMENT and its corrective action plan no later than nine (9) months after the end of the SUBRECIPIENT's fiscal year(s) to:

OR

**Contracts Office  
Washington Military Department  
Finance Division, Building #1 TA-20  
Camp Murray, WA 98430-5032**

If Contractor claims it is exempt from the audit requirements of 2 CFR Part 200 Subpart F, the SUBRECIPIENT must send a letter identifying this Agreement and explaining the criteria for exemption no later than nine (9) months after the end of the SUBRECIPIENT's fiscal year(s) to the address listed above.

The DEPARTMENT retains the sole discretion to determine whether a valid claim for an exemption from the audit requirements of this provision has been established.

The SUBRECIPIENT shall include the above audit requirements in any subawards.

Conducting a single or program-specific audit in compliance with 2 CFR Part 200 Subpart F is a material requirement of this Agreement. In the absence of a valid claim of exemption from the audit requirements of 2 CFR Part 200 Subpart F, the SUBRECIPIENT's failure to comply with said audit requirements may result in one or more of the following actions in the DEPARTMENT's sole discretion: a percentage of federal awards being withheld until the audit is completed in accordance with 2 CFR Part 200 Subpart F; the withholding or disallowing of overhead costs; the suspension of federal awards until the audit is conducted and submitted; or termination of the federal award.

#### **A.34 SUBRECIPIENT NOT EMPLOYEE**

The parties intend that an independent contractor relationship will be created by this Agreement. The SUBRECIPIENT, and/or employees or agents performing under this Agreement are not employees or agents of the DEPARTMENT in any manner whatsoever. The SUBRECIPIENT will not be presented as nor claim to be an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Agreement, nor will the SUBRECIPIENT make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the DEPARTMENT or of the State of Washington by reason of this Agreement, including, but not limited to, Workmen's Compensation coverage, unemployment insurance benefits, social security benefits, retirement membership or credit, or privilege or benefit which would accrue to a civil service employee under Chapter 41.06 RCW.

It is understood that if the SUBRECIPIENT is another state department, state agency, state university, state college, state community college, state board, or state commission, that the officers and employees are employed by the State of Washington in their own right and not by reason of this Agreement.

#### **A.35 TAXES, FEES AND LICENSES**

Unless otherwise provided in this Agreement, the SUBRECIPIENT shall be responsible for, pay and maintain in current status all taxes, unemployment contributions, fees, licenses, assessments, permit charges and expenses of any other kind for the SUBRECIPIENT or its staff required by statute or regulation that are applicable to Agreement performance.

#### **A.36 TERMINATION FOR CONVENIENCE**

Notwithstanding any provisions of this Agreement, the SUBRECIPIENT may terminate this Agreement by providing written notice of such termination to the DEPARTMENT's Key Personnel identified in the Agreement, specifying the effective date thereof, at least thirty (30) days prior to such date.

Except as otherwise provided in this Agreement, the DEPARTMENT, in its sole discretion and in the best interests of the State of Washington, may terminate this Agreement in whole or in part by providing ten (10) calendar days written notice, beginning on the second day after mailing to the

SUBRECIPIENT. Upon notice of termination for convenience, the DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds. In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

#### **A.37 TERMINATION OR SUSPENSION FOR CAUSE**

In the event the DEPARTMENT, in its sole discretion, determines the SUBRECIPIENT has failed to fulfill in a timely and proper manner its obligations under this Agreement, is in an unsound financial condition so as to endanger performance hereunder, is in violation of any laws or regulations that render the SUBRECIPIENT unable to perform any aspect of the Agreement, or has violated any of the covenants, agreements or stipulations of this Agreement, the DEPARTMENT has the right to immediately suspend or terminate this Agreement in whole or in part.

The DEPARTMENT may notify the SUBRECIPIENT in writing of the need to take corrective action and provide a period of time in which to cure. The DEPARTMENT is not required to allow the SUBRECIPIENT an opportunity to cure if it is not feasible as determined solely within the DEPARTMENT's discretion. Any time allowed for cure shall not diminish or eliminate the SUBRECIPIENT's liability for damages or otherwise affect any other remedies available to the DEPARTMENT. If the DEPARTMENT allows the SUBRECIPIENT an opportunity to cure, the DEPARTMENT shall notify the SUBRECIPIENT in writing of the need to take corrective action. If the corrective action is not taken within ten (10) calendar days or as otherwise specified by the DEPARTMENT, or if such corrective action is deemed by the DEPARTMENT to be insufficient, the Agreement may be terminated in whole or in part.

The DEPARTMENT reserves the right to suspend all or part of the Agreement, withhold further payments, or prohibit the SUBRECIPIENT from incurring additional obligations of funds during investigation of the alleged compliance breach, pending corrective action by the SUBRECIPIENT, if allowed, or pending a decision by the DEPARTMENT to terminate the Agreement in whole or in part.

In the event of termination, the SUBRECIPIENT shall be liable for all damages as authorized by law, including but not limited to, any cost difference between the original Agreement and the replacement or cover Agreement and all administrative costs directly related to the replacement Agreement, e.g., cost of administering the competitive solicitation process, mailing, advertising and other associated staff time. The rights and remedies of the DEPARTMENT provided for in this section shall not be exclusive and are in addition to any other rights and remedies provided by law.

If it is determined that the SUBRECIPIENT: (1) was not in default or material breach, or (2) failure to perform was outside of the SUBRECIPIENT's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience".

#### **A.38 TERMINATION PROCEDURES**

In addition to the procedures set forth below, if the DEPARTMENT terminates this Agreement, the SUBRECIPIENT shall follow any procedures specified in the termination notice. Upon termination of this Agreement and in addition to any other rights provided in this Agreement, the DEPARTMENT may require the SUBRECIPIENT to deliver to the DEPARTMENT any property specifically produced or acquired for the performance of such part of this Agreement as has been terminated.

If the termination is for convenience, the DEPARTMENT shall pay to the SUBRECIPIENT the agreed upon price, if separately stated, for properly authorized and completed work and services rendered or goods delivered to and accepted by the DEPARTMENT prior to the effective date of Agreement termination, and the amount agreed upon by the SUBRECIPIENT and the DEPARTMENT for (i) completed work and services and/or equipment or supplies provided for which no separate price is stated, (ii) partially completed work and services and/or equipment or supplies provided which are accepted by the DEPARTMENT, (iii) other work, services and/or equipment or supplies which are accepted by the DEPARTMENT, and (iv) the protection and preservation of property.

Failure to agree with such amounts shall be a dispute within the meaning of the "Disputes" clause of this Agreement. If the termination is for cause, the DEPARTMENT shall determine the extent of the

liability of the DEPARTMENT. The DEPARTMENT shall have no other obligation to the SUBRECIPIENT for termination. The DEPARTMENT may withhold from any amounts due the SUBRECIPIENT such sum as the DEPARTMENT determines to be necessary to protect the DEPARTMENT against potential loss or liability.

The rights and remedies of the DEPARTMENT provided in this Agreement shall not be exclusive and are in addition to any other rights and remedies provided by law.

After receipt of a notice of termination, and except as otherwise directed by the DEPARTMENT in writing, the SUBRECIPIENT shall:

- a. Stop work under the Agreement on the date, and to the extent specified, in the notice;
- b. Place no further orders or sub-contracts for materials, services, supplies, equipment and/or facilities in relation to this Agreement except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
- c. Assign to the DEPARTMENT, in the manner, at the times, and to the extent directed by the DEPARTMENT, all of the rights, title, and interest of the SUBRECIPIENT under the orders and sub-contracts so terminated, in which case the DEPARTMENT has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and contracts;
- d. Settle all outstanding liabilities and all claims arising out of such termination of orders and sub-contracts, with the approval or ratification of the DEPARTMENT to the extent the DEPARTMENT may require, which approval or ratification shall be final for all the purposes of this clause;
- e. Transfer title to the DEPARTMENT and deliver in the manner, at the times, and to the extent directed by the DEPARTMENT any property which, if the Agreement had been completed, would have been required to be furnished to the DEPARTMENT;
- f. Complete performance of such part of the work as shall not have been terminated by the DEPARTMENT in compliance with all contractual requirements; and
- g. Take such action as may be necessary, or as the DEPARTMENT may require, for the protection and preservation of the property related to this Agreement which is in the possession of the SUBRECIPIENT and in which the DEPARTMENT has or may acquire an interest.

#### **A.39 UTILIZATION OF MINORITY AND WOMEN BUSINESS ENTERPRISES (MWBE)**

The SUBRECIPIENT shall comply with 2 CFR §200.321 and will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will take all necessary affirmative steps to utilize business firms that are certified as minority-owned and/or women-owned in carrying out the purposes of this Agreement. The following steps are required by the subrecipient if any contracts with contractors or sub-contractors are entered into under the original contract award:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

The SUBRECIPIENT may also set utilization standards, based upon local conditions or may utilize the State of Washington MWBE goals, as identified in. WAC 326-30-041.

#### **A.40 VENUE**

This Agreement shall be construed and enforced in accordance with, and the validity and performance shall be governed by the laws of the State of Washington. Venue of any suit between the parties arising out of this Agreement shall be the Superior Court of Thurston County, Washington. The SUBRECIPIENT, by execution of this Agreement acknowledges the jurisdiction of the courts of the State of Washington.

**A.41 WAIVERS**

No conditions or provisions of this Agreement can be waived unless approved in advance by the DEPARTMENT in writing. The DEPARTMENT's failure to insist upon strict performance of any provision of the Agreement or to exercise any right based upon a breach thereof, or the acceptance of any performance during such breach, shall not constitute a waiver of any right under this Agreement.



## PROJECT WORKSHEET SAMPLE

U.S. DEPARTMENT OF HOMELAND SECURITY FEDERAL EMERGENCY MANAGEMENT AGENCY <b>PROJECT WORKSHEET</b>				O.M.B. No. 1660-0017	
<b>PAPERWORK BURDEN DISCLOSURE NOTICE</b>					
Public reporting burden for this form is estimated to average 90 minutes per response. Burden means the time, effort and financial resources expended by persons to generate, maintain, disclose, or to provide information to us. You may send comments regarding the accuracy of the burden estimate and or any aspect of the collection, including suggestions for reducing the burden to: Information Collections Management, U. S. Department of Homeland Security, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, Paperwork Reduction Project (OMB Control Number 1660-0017). You are not required to respond to this collection of information unless a valid OMB number appears in the upper right corner of this form. <b>NOTE: Do not send your completed form to this address.</b>					
DISASTER		PROJECT NO.	PA ID NO.	DATE	CATEGORY
F - R					
DAMAGED FACILITY				WORK COMPLETE AS OF:	
				_____ : _____ %	
SUBRECIPIENT			COUNTY		
LOCATION				LATITUDE	LONGITUDE
DAMAGE DESCRIPTION AND DIMENSIONS					
SCOPE OF WORK					
Does the Scope of Work change the pre-disaster conditions at the site? <input type="checkbox"/> Yes <input type="checkbox"/> No Special Considerations issues included? <input type="checkbox"/> Yes <input type="checkbox"/> No Hazard Mitigation proposal included? <input type="checkbox"/> Yes <input type="checkbox"/> No Is there insurance coverage on this facility? <input type="checkbox"/> Yes <input type="checkbox"/> No					
<b>PROJECT COST</b>					
I T	CODE	NARRATIVE	QUANTITY/UNIT	UNIT PRICE	COST
			/		
			/		
			/		
			/		
			/		
			/		
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			/		
			/		
				<b>TOTAL COST</b>	
PREPARED BY		TITLE	SIGNATURE		
SUBRECIPIENT REP.		TITLE	SIGNATURE		



# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	September 14, 2022
<b>AGENDA ITEM</b>	<input checked="" type="checkbox"/> Consent Agenda
<b>AGENDA TITLE</b>	IV. G. Execution of Professional Engineering Services Agreement During Construction of Point Hudson Breakwater Replacement Project
<b>STAFF LEAD</b>	Matt Klontz, Director of Capital Projects & Port Engineer
<b>REQUESTED</b>	<input type="checkbox"/> Motion <input checked="" type="checkbox"/> Action <input type="checkbox"/> Discussion
<b>ATTACHMENTS</b>	A. Info Memo B. Draft Professional Services Agreement

# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 9/14/2022  
**TO:** Commissioners  
**FROM:** Matt Klontz  
**CC:** Eron Berg, Eric Toews, Abigail Berg  
**SUBJECT:** Execution of Professional Engineering Service during Construction Agreement: for Point Hudson Breakwater Replacement project

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### **ISSUE**

Should the Port Commission execute a professional services agreement with Mott MacDonald to provide the Port with professional engineering services during the construction of the Point Hudson Breakwater Replacement project?

### **BACKGROUND**

Construction of the Point Hudson Breakwater Replacement project will occur over two successive years, 2022/23 and 2023/24, between September and March. The US Economic Development Administration requires the engineer of record responsible for preparing the design to certify that the contractor built the project consistent with the design requirements. Consequently, it is in Port's best interest to retain the services of the breakwater design firm, Mott MacDonald, to provide engineering support during construction. These services generally include the review of contractor submittals, answering requests for information, issuing design changes in response to unforeseen field conditions, and regular attendance at weekly construction meetings. Port staff will remain involved during construction to provide overall project management.

### **DISCUSSION**

In July 2022, Port staff used a qualification-based selection process for professional engineering services following state statutory requirements and the Port's procurement practices. It concluded that Mott MacDonald was the top-ranked firm.

### **FISCAL IMPACT**

The agreement is a negotiated hourly rate with a not-to-exceed limit of \$247,380. The US Economic Development Agency and the Port's Industrial Development District levy will fund the construction phase, which includes engineering services during construction.

### **ATTACHMENTS**

1. Draft Professional Services Agreement

### **RECOMMENDATION**

Motion to authorize the Port's Executive Director to enter into an agreement substantially in the form presented with Mott MacDonald for the professional engineering services during construction of the Point Hudson Breakwater project.

## STANDARD AGREEMENT FOR PROFESSIONAL SERVICE

### CHAPTER 39.80 RCW

This Standard Agreement for Professional Services (the "Agreement") is made and entered into on \_\_\_\_\_, 20\_\_, by the Port of Townsend, a Washington municipal corporation (the "Port"), and the consultant listed below (the "Consultant") for the scope of work outlined in this Agreement.

The Port: Port of Port Townsend  
2701 Jefferson Street  
P.O. Box 1180  
Port Townsend, WA 98368

Port Contact: Matthew Klontz, Director of Capital Projects/Port Engineer  
Telephone: 360-385-0656  
Email: matt@portofpt.com

Consultant: Mott MacDonald, LLC  
1601 5<sup>th</sup> Avenue, Suite 850  
Seattle, WA 98101  
UBI No. 602350246

Consultant Contact: Scott Fenical, Vice President  
P.E. – Civil/Coastal Engineer  
Telephone: 206-838-2886  
Email: scott.fenical@mottmac.com

Project: Point Hudson Breakwater Replacement  
Port Project No. PH-01-001

1. Scope of Work. Consultant shall provide the services as agreed upon with Port management and outlined in Exhibit "A" to this Agreement. **Exhibit "A"** outlines a general Scope of Services. All work by the Consultant under the general Scope of Services shall proceed under written Task Orders approved in advance by the Port.

2. Compensation. The Consultant shall be compensated for services provided and for expenses on the basis of the attached "Fee Schedule" attached hereto as **Exhibit "B"**. The total expenditure by the Port for this Agreement shall not exceed \$247,380.00 (TWO HUNDRED FORTY-SEVEN THOUSAND THREE HUNDRED EIGHTY DOLLARS NO CENTS.). All amounts due and payable hereunder shall be paid within thirty (30) days of Port's receipt of Consultant's invoice.

3. Term of the Agreement. The term of this Agreement shall commence with the mutual execution of this Agreement and will terminate when all tasks associated with the scope of services herein (as modified by written amendment) have been completed by the Consultant but in no event later than \_\_\_\_\_, 202\_\_.

4. Incorporation of Exhibits and General Provisions. Services covered by this Agreement shall be performed in accordance with the attached General Provisions and any Exhibits, attachments or schedules. This Agreement supersedes all prior agreements and understandings between the parties with respect to the subject matter hereof, and may only be changed by written amendment executed by both parties.

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THIS AGREEMENT CONTAINS AN INDEMNIFICATION FROM THE CONSULTANT TO THE PORT AND A LIMITED WAIVER OF IMMUNITY UNDER TITLE 51, THE WASHINGTON WORKERS COMPENSATION ACT. THIS AGREEMENT INCLUDES THE EXHIBITS ATTACHED HERETO AND THE GENERAL PROVISIONS.

**PORT OF PORT TOWNSEND**

**MOTT MACDONALD, LLC.**

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Eron Berg, Executive Director

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Scott Fenical, Vice President

**APPROVED TO FORM**

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Eric Toews, Port Attorney

## GENERAL PROVISIONS

**1. Selection.** The Consultant was chosen in accordance with chapter 39.80 RCW and the Port's applicable policies and procedures.

**2. Termination for Cause.** This Agreement may be terminated by either party upon seven (7) days' written notice should one party fail to perform in accordance with its terms through no fault of the other. In the event the party that fails to perform is the Consultant, the determination of "fail to perform in accordance with its terms" shall be in the sole and reasonable judgment of the Port. In the event of termination, the Consultant shall be compensated for satisfactory services performed to the termination date. In no case, however, shall such compensation exceed the original amount of the Agreement as approved or as amended by the Port. Any work product generated by the Consultant prior to such termination shall be the sole property of the Port, and the Consultant agrees to provide the Port with all such materials.

**3. Termination Without Cause.** Further, this Agreement may be terminated by the Port at any time for any reason whatsoever, at the sole discretion of the Port, with seven (7) days' written notice. In the event of such termination, compensation shall be paid as provided in Paragraph 2 above.

**4. Consultant Services.** Consultant's services shall meet or exceed the standard exercised by other professional consulting firms providing similar services under similar circumstances at the time performed by Consultant in the State of Washington ("Standard of Care"). The Port shall notify Consultant of any services not in compliance with the Standard of Care, and Consultant shall re-perform such services at its sole cost and expense.

Consultant shall not be responsible for nor have control over the means, manner, methods, sequences, procedures or techniques required of or used by the Port's other consultants or contractors performing services or construction work for the Port, including without limitation, for site safety, and the use of safe construction practices.

**5. Charges for Additional Services.** The Consultant shall obtain the written approval of the Port for any charges for additional services performed by the Consultant, the additional services of others retained by Consultant, or the furnishing of additional supplies, materials or equipment. The Consultant shall not be entitled to compensation for any such additional charges incurred in violation of this paragraph without prior written Amendment to the Agreement.

**6. Monthly Progress Statements.** The Consultant shall submit monthly statements of services rendered and expenses incurred to the Port in a form acceptable to the Port. The Port shall make prompt monthly payments for work completed to the Standard of Care and expenses incurred. In no event shall the Port be charged interest on payments due under this Agreement.

**7. Applicable Law.** All federal, state, and local laws applicable in the rendering of the services by the Consultant shall be complied with in all respects by the Consultant as shall all rules and regulations of the Port and any other governmental agency. By executing this Agreement, Consultant further certifies that neither it, nor its principals, is presently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees by submitting this proposal or acceptance of this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, agreements, contracts, and subcontracts. Where the offeror/consultant or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this Agreement. The Port reserves the right to require Consultant to replace a sub-consultant or lower tier participant who cannot meet the foregoing certification requirements.

**8. Deviations from Scope of Work.** The Port may at any time issue written directions within the general scope of this Agreement. If any such direction causes

an increase or decrease in the cost of this Agreement or otherwise affects any other provision of this Agreement, the Consultant shall immediately notify the Port. The Port may modify the amount spent for identified tasks within the scope of work providing the total amount of the Agreement, or as modified by written Amendment, is not exceeded. Any work done in violation of this paragraph shall be at the sole expense of the Consultant.

**9. Port Review of Title Documents and Permit Documents.**

Prior to the submission of any documents related to any permits or the execution or recordation of any documents effecting title to any property, the said document shall be reviewed by the Port. The Port shall be responsible for all costs associated with such review.

**10. Conflict of Interest.** Consultant covenants that it presently has no interest and shall not acquire an interest, directly or indirectly, which would conflict in any manner or degree with its performance under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by it or any of its sub-consultants.

**11. Insurance.** Consultant, concurrently with the execution of this Agreement, shall provide the Port with evidence that Consultant has obtained and is maintaining the insurance listed as follows:

(a) Workers' Compensation Insurance as required by law;

(b) Employers' Liability Insurance (bodily injuries) with a limit of One Hundred Thousand Dollars (\$100,000) per occurrence with an insurance company authorized to write such insurance in all states where the Consultant will have employees located in the performance of its work covering its common law liability to such employees;

(c) Commercial General Liability Insurance and Automobile Liability Insurance covering all owned and non-owned automobiles or vehicles used by or on behalf of Consultant with a \$500,000 combined single limit for bodily injury and/or property damage per occurrence and an annual aggregate limit of \$1,000,000;

(d) Professional Liability Insurance covering Errors and Omissions of the Consultant in the amount of not less than \$1,000,000 per claim and in the

annual aggregate.

(e) Except with regard to the Professional Liability Insurance, each of the policies required herein shall name the Port as an additional insured. Furthermore, each policy of insurance required herein shall (i) be written as a primary policy; (ii) expressly provide that such insurance may not be materially changed, amended or canceled with respect to the Port except upon thirty (30) days' prior written notice from the insurance company to the Port; (iii) excluding professional liability insurance, contain an express waiver of any right of subrogation by the insurance company against the Port and its elected officials and employees; and (iv) in regard to physical property damage coverage, expressly provide that all proceeds shall be paid jointly to Consultant and Port;

(f) With regard to the Professional Liability Insurance, the Consultant shall maintain the same in full force and effect during the term of this Agreement and for a period of one year thereafter; and

(g) Except with regard to the Professional Liability Insurance, the Consultant shall furnish the Port with two (2) copies of Certificates of Insurance evidencing policies of insurance required herein. The Consultant shall maintain these policies as identified above for itself and its sub-consultants for the term of this Agreement and for a period of one year thereafter. Such Certificates shall specifically state that the insurance company or companies issuing such insurance policies shall give the Port at least thirty (30) days' written notice in the event of insurance company's or companies' cancellation or material changes in any of the policies.

**12. Indemnification.** The Consultant shall defend (with legal counsel satisfactory to the Port), indemnify and hold the Port, its elected officials, agents and employees harmless from and against all liabilities, obligations, fines, claims, damages, penalties, lawsuits, governmental proceedings, judgments, costs and expenses (including, without limitation, all attorneys' fees, costs and expenses of litigation):

- To the extent caused by any negligent act or omission of Consultant, its directors, officers, consultants, agents and/or employees in connection with the services provided pursuant to this Agreement.



The Port will inform Consultant of any such claim or demand that alleges liability based in whole or in part on any negligent act or omission of Consultant, its directors, officers, agents, or employees. Thereafter the Consultant shall reasonably cooperate in the defense of such claim.

12.1 In the event of concurrent negligence by the Port and Consultant, then at the conclusion of the action (e.g., judgment, arbitration award or settlement), the attorneys' fees and costs incurred in defending the Port shall be apportioned to the parties based on their respective fault as provided by RCW 4.22.070.

12.2 The foregoing indemnification obligation shall include, but is not limited to, all claims against the Port by an employee or former employee of the Consultant or any of its sub-consultants or service providers. For this purpose, the Consultant expressly waives, as respects the Port only, all immunity and limitation on liability under any industrial insurance Act, including Title 51 RCW, or other workers compensation act, disability act, or other employees benefits of any act of any jurisdiction which would otherwise be applicable in the case of such a claim.

12.3 The Port and Consultant have evaluated the risks and rewards associated with the services to be performed under this Agreement, including Consultant's fee relative to the risks assumed, and agree to allocate certain of the risks as follows: To the fullest extent permitted by law, the maximum aggregate liability of Consultant for any losses, claims, expenses or damages of any kind or nature incurred by the Port (hereinafter a "Claim") arising in whole or in part out of the performance or non-performance of Consultant under this Agreement or otherwise in connection with this Agreement is limited to the professional fees actually paid to Consultant pursuant to the Task Order giving rise to the Claim. Each party waives its rights to any and all claims against the other party hereto for special, indirect, punitive, incidental or consequential damages of any nature whatsoever, arising out of or in any way related to the services to be performed under this Agreement, however caused, and on any theory of liability, whether in contract, strict liability, tort, negligence, or otherwise.

**13. Confidentiality.** Any reports, documents,

questionnaires, records, information or data given to or prepared or assembled under this Agreement shall be kept confidential unless a specific written waiver is obtained from the Port and shall not be made available by the Consultant to any individual or organization without prior written approval of the Port except as may be ordered by a court of competent jurisdiction. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

**14. Plans, etc. Property of Port.** All original plans, drawings and specifications prepared by the Consultant and any and all sub-consultants for the Port, upon Consultant's receipt of payment for its services under this Agreement, are and shall remain the property of the Port whether or not the Project for which they are made is executed. This shall not apply to proprietary software or documentation that may be provided to the Port and that was developed independent of funding by the Port. The Consultant assumes no liability for any use of the Drawings and Specifications other than that originally intended for this Project. Originals, including electronic forms of the data prepared by the Consultant and funded by the Port shall become the property of the Port. No reports, records, questionnaires, software programs provided by Port or other documents produced in whole or in part by the Consultant under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant. When Consultant's work results in the preparation of plans and specifications for bidding purposes, the Port will provide the Consultant with five (5) completed sets of bid documents. Additional sets will be the responsibility of the Consultant.

**15. Public Disclosure Request.** Correspondence, reports and other written work that is generated during the course of the relationship created by this Agreement may be requested from the Port by third parties pursuant to the Washington State Public Disclosure Act (RCW 42.17.250 *et. seq.*). The Port shall be solely responsible for making a good faith determination of its obligation to release its public records and not be liable to the Consultant for any such release. This clause shall survive the termination or expiration of this Agreement.

**16. Electronic File Compatibility.** All electronically-transmitted output must be compatible with existing Port software. Consultants shall check with the Port for software application and system compatibility.

**17. Pollution.** Port acknowledges that the Consultant is not responsible for the creation or presence of contamination or pollution, if any, at the property except to the extent that such a discharge, release or escape is caused by the negligent act or failure to act of the Consultant. For the purpose of this clause, contamination conditions shall mean the actual or alleged existence, discharge, release or escape of any irritant, pollutant, contaminant, or hazardous substance into or upon the atmosphere, land, groundwater, or surface water of or near the property. The Consultant will promptly notify the Port of contamination conditions, if identified. Notwithstanding the foregoing, the Port does not herein waive any cause of action for damages resulting from the Port's reliance on any misrepresentation (made either knowingly or negligently) by the Consultant with regard to the presence of any contamination or pollution.

**18. Payment of Sub-Consultants.** The Port may request the Consultant certify that it has paid its sub-consultants in full for all work encompassed by invoices that the Port has paid. The Consultant shall be solely responsible for the performance of and payment to its sub-consultants. All such sub-consultants shall possess all licenses and insurance as required by the laws of the State of Washington.

**19. Non-Discrimination.** In connection with the performance of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, marital status, or being handicapped, a disadvantaged person, or a disabled or Vietnam-era veteran.

**20. Survivability.** All covenants, promises and performance which are not fully performed as of the date of termination shall survive termination as binding obligations.

**21. Notices.** All notices, demands, requests, consents and approvals which may, or are required to be given by any party to any other party hereunder,

shall be in writing and shall be deemed to have been duly given if delivered personally, sent by electronic mail to the email address provided above with confirmation of receipt, sent by a nationally recognized overnight delivery service, or sent by United States registered or certified mail, return receipt requested, postage prepaid to the address provided on the first page of the Agreement.

**22. Time of Performance.** Time is specifically declared to be a material condition of this Agreement and of all acts required to be done and performed by the parties hereto.

**23. No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

**24. Counterparts and Authority.** This Agreement may be signed in counterparts. Each person signing below represents and warrants that they have complete authority to execute this Agreement. A signed copy of this Agreement transmitted by facsimile, email, or other electronic means shall be deemed to have the same legal effect as delivery of an original executed copy.

**25. Facsimile or Electronic PDF File Transmission.** This Agreement and all subsequent notices or modifications may be executed by the parties and transmitted by facsimile or electronic transmission of a PDF file and, if so executed and transmitted this and all subsequent notices or modifications will be for all purposes as effective as if the parties had delivered an executed original.

**26. Attorney Fees.** The prevailing party in any action concerning this Agreement shall be awarded their reasonable attorney fees and costs.

**27. Severability.** In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

**28. Waiver.** No failure by either party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to

exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach or any other covenant, agreement, term or condition.

**29. Law and Jurisdiction.** This Agreement is made and delivered in Jefferson County, Washington, and shall be construed and enforced in accordance with Washington law. Exclusive jurisdiction and venue for any disputes under this Agreement shall be solely in the Superior Court of Jefferson County, Washington, and not in any federal court.

Unless otherwise prohibited by law the Port and Consultant waive their right to a trial by jury in any litigation resulting from this Agreement.

**30. Amendment.** No modification, termination or amendment of this Agreement may be made except by written agreement signed by all parties, except as provided herein.

**31. Additional Requirements for Federally Funded**

**Projects.** In addition to the foregoing General Provisions, and in accordance with 2 C.F.R. § 200.236, Consultant agrees that it will comply with all applicable provisions of Appendix II to 2 C.F.R. part 200, which is attached hereto as Exhibit "C", and incorporated herein by way of this reference.

**32. Entire Agreement.** This is the entire agreement between the parties with respect to the subject matter hereof. It may not be altered or modified except by a written amendment to this Agreement that references the intent of the parties to amend this Agreement. There is no other oral or written understanding between the parties concerning this matter. The Consultant specifically understands that no Port employees other than the designated Port representative or his/her supervisors are authorized to direct the work of the Consultant.

**EXHIBIT "A"**  
**SCOPE OF SERVICES**

*See attached Scope of Work incorporated by reference.*

## **PORT OF PORT TOWNSEND POINT HUDSON BREAKWATER REPLACEMENT PROJECT CM Services**

### **DRAFT Scope of Work and Fee Estimate**

#### **Introduction**

This scope of work outlines the work, budget and schedule for Mott MacDonald (MM) to provide marine engineering services during construction for the Point Hudson Breakwater Facility owned by Port of Port Townsend (PORT). Project scope covers engineering construction support services for the complete removal and replacement of the breakwaters (north and south) over 2 in-water construction seasons. The in-water construction windows for each season are as follows:

- Season 1 (North Breakwater): Sept 15, 2022 to March 15, 2023
- Season 2 (South Breakwater): Sept 15, 2023 to March 15, 2024

Breakwater design will be similar to the existing of closely spaced piles with a rock core. Design services were covered by a previous scope and budget. The first season construction will cover the north breakwater replacement and the second season will cover the replacement of the south breakwater.

#### **Scope Tasks:**

#### **Project Definition**

MM will provide construction services including:

- Attend the Pre-Construction meeting
- Review and mark-up shop drawings
- Review and comment on Contractor's proposed construction schedule(s)
- Attend weekly construction meetings and internal team meetings by phone
- Respond in writing to requests for information
- Review material submittals for conformance to contract requirements
- Conduct inspections as required or directed by the Port and generate punchlists.
- Review and comment on as-built design drawings

#### **Project Schedule**

Expected date of initiation of project is Aug 1st, 2022. Project completion date is anticipated to be March 31, 2024.

## Scope Assumptions and Exclusions

This scope of work is based on the following assumptions:

- Construction Management Team is assumed to include Tom Coultas who will be contracted under a separate scope of work. Tom will provide primary communication with the Contractor and provide independent review of all submittals and RFIs.
- MM on site visits are limited to 1 per week during construction for a max of 28 weeks.
- All pre/post construction survey work and water quality monitoring are provided by others. MM to review submitted data and results for conformance with contract documents.
- Regulatory Permitting. Permitting will be led by Ross Widener who will be contracted under a separate scope of work.
- Additional permit support included in this scope of work is limited to 10 additional hours per season. Permit support includes responding to City permit comments.
- Special Inspection provided in this scope is for pile driving inspection by the project Geotechnical Engineer. This includes up to 3 days to monitor pile driving each season by the Geotechnical Engineer.
  - All other required special inspections will be provided by others.
- Site Safety is the responsibility of the Contractor and in coordination with Port site operations staff.
- Unless otherwise stated, all deliverables to be delivered electronically in PDF format via email.
- No public meetings are required.
- No additional numerical modeling to be conducted but quantities check and survey comparisons will be included.
- The Contractor shall be responsible for direct communication and coordination of vessel operations and on-site construction with Port operations staff.
- Data Collection: No new data collection is included.
- Construction Surveying. Contractor will be responsible for field surveying as outlined in the specifications.

## Scope Tasks

### Task – Construction Management

This task consists of following construction management tasks.

- Meetings
  - Attend the pre-construction conference, assumed to be held at the project site.
  - Attend up to (32) weekly construction meetings by phone. Some site visits may be done the same day as the weekly meetings.
  - Attend internal Port team meetings by phone (3 hrs/wk) to discuss Contractor progress, submittals, RFIs, change orders.
  - Document meeting discussion with meeting notes to be distributed to the project team.
- Site Visits
  - Conduct onsite visits during the duration of the work. Review construction progress record activity and events.

- Review Contractor on site work progress and compare in conformance with plans and specifications. Generate punchlists as necessary.
- Conduct final inspection visit to develop punch list items for Contractor to close out work.
- Document Review
  - Review contractor submittals for construction during onsite execution of the work. This includes reviewing contractor submittals (up to 180 hrs combined seasons) during the execution of the construction work including progress project schedules, proposed construction materials, requests for information (RFIs) (up to 180 hrs combined seasons), shop drawings, other miscellaneous submittals, and contractor provided quality control tests results. This review will compare the submitted data with the design for conformance with the contract documents.
  - Review Contractor requests for payment and invoices, requested change orders, and contract modifications and submit written recommendations the PORT.
- Document Control
  - Maintenance internal team project sharepoint site and external site with Contractor to manage project documents.
- Special Inspection
  - Perform special inspections for pile driving by the Project Geotechnical Engineer. Special inspections during pile driving include generating field reports and review of Contractor pile logs.
- Reporting
  - Provide photos and emails documenting site visit and any corrective actions needed.
  - Provide special inspection reports for the pile driving.
  - Develop final inspection punch list.
- Record Documents
  - Receive and provide 1 round of review of the contractors marked up field records..

***Deliverable:*** Submittal and RFI responses, Email Correspondence, Special Inspection Field Reports, Punchlists, and As-Built Drawings review comments.

## Fee Estimate:

Estimated fee to complete the scope of work above is summarized below. Work will be conducted on a Time & Materials Basis per the previous agreed billing rates and shall not exceed the estimated fee without advanced written approval by the Port.

Task	Fee
Season 1 (North Breakwater)	\$120,520
Season 2 (South Breakwater)	\$126,860
TOTAL BUDGET	\$247,380

**EXHIBIT “B”  
FEE SCHEDULE**

*See attached Fee Schedule incorporated by reference.*



By: EE  
Date: 8/9/2022

## Notes

## **EXHIBIT “C”**

### **Appendix II to 2 C.F.R. part 200**

*[RESERVED – INSERT APPENDIX II HERE IN ITS ENTIRETY/WITHOUT MODIFICATION]*

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This content is from the eCFR and is authoritative but unofficial.

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## Title 2 - Grants and Agreements

### Subtitle A - Office of Management and Budget Guidance for Grants and Agreements

#### Chapter II - Office of Management and Budget Guidance

#### Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

Authority: 31 U.S.C. 503

Source: 78 FR 78608, Dec. 26, 2013, unless otherwise noted.

Source: 85 FR 49543, Aug. 13, 2020, unless otherwise noted.

Source: 85 FR 49539, Aug. 13, 2020, unless otherwise noted.

#### Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- (A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."
- (D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by

Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- (E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- (G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- (H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- (I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See § 200.323.

(K) See § 200.216.

(L) See § 200.322.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

# PORT OF PORT TOWNSEND

## AGENDA COVER SHEET

<b>MEETING DATE</b>	September 14, 2022
<b>AGENDA ITEM</b>	<input type="checkbox"/> Consent <input type="checkbox"/> 1 <sup>st</sup> Reading <input type="checkbox"/> 2 <sup>nd</sup> Reading <input checked="" type="checkbox"/> Regular Business <input type="checkbox"/> Informational
<b>AGENDA TITLE</b>	VIII. A. July Year-to-Date Financial Report
<b>STAFF LEAD</b>	Abigail Berg, Director of Finance and Administration
<b>REQUESTED</b>	<input checked="" type="checkbox"/> Information <input type="checkbox"/> Motion/Action <input checked="" type="checkbox"/> Discussion
<b>ATTACHMENTS</b>	Informational Memorandum July 2022 Year-to-Date Summary and Notes

# PORT OF PORT TOWNSEND

## INFORMATIONAL MEMO

**DATE:** 9/8/2022  
**TO:** Commission, Executive Staff  
**FROM:** Abigail Berg, Director of Finance & Administration  
**SUBJECT:** July 2022 Financial Report

Attached is the July 2022 financial report of Port activities. This is a consolidated report that shows the variance between the current period as compared to the prior year and the variance to budget year-to-date. The following is additional information not included in the attached financial report, but key in fully understanding the Port's financial status:

<u>2022 YTD Project Expenses</u>	<u>Budget</u>	<u>Year-to-date</u>
PH Replacement of North & South Jetties	\$ 6,000,000	\$ 185,054
Dock Renovations & Piling Replacement	200,000	0
BH Main Breakwater Repairs	350,000	633
PH Pavilion Bldg. Remodel <sup>(a)</sup>	148,434	160,725
FEMA – Yard Stormwater Materials Replacement <sup>(b)</sup>	0	2,490
FEMA – City Dock <sup>(b)</sup>	0	24
FEMA – JCIA Hangar Repair	80,000	6,268
Reconstruct Old Coast Guard Building	191,250	195,445
AWOS – Replace Present Weather Sensor	30,000	26,884
FEMA - BH Marina Pavement Repair <sup>(b)</sup>	0	80,451
<b>NORTH</b> west Yard Expansion (25-feet)	450,000	23,104
BH Stormwater Treatment	2,650,000	2,861
Gardiner Boat Ramp Renovation	0	41,870
Sperry Bldg. #4 – ACI (was Dave's Mobile Welding) <sup>(c)</sup>	50,000	2,746
Sperry Bldg. #6 – Pete's Marine <sup>(c)</sup>	50,000	2,746
<b>Total Capital Expenses YTD</b>	<b><u>\$ 10,099,684</u></b>	<b><u>\$ 731,301</u></b>

### Non-Capital use of funds

DNR – Vessel Destruction \$ 43,067

### 2022 Capital Purchases or Contracted Capital Services

<u>Equipment/Vehicle replacement (total \$818,000)</u>		
Kendrick Equipment, Inc. (final on 75-Ton lift)	\$ 398,000	\$ 403,338
Northsound Auto Group, LLC (3 RAM trucks)	90,000	86,704
Auxiliary Vehicles (2 Gators for the Yard)	30,000	26,573
Hydraulic Lift Trailer (transporter)	300,000	0
XPERT Jet – Sign Machine	0	18,089
Boat Haven Environmental Center Fob system <sup>(b)</sup>	0	21,535
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Point Hudson RV Park 3 Phase Power <sup>(b)</sup>	0	19,626
Point Hudson Offices – Heat Pump installation	0	16,500
<u>Land Acquisition – for South<b>WEST</b> Yard Expansion <sup>(d)</sup></u>	<u>0</u>	<u>147,914</u>
<b>Total Capital Purchases or Contracted Capital Services YTD</b>	<b><u>\$ 818,000</u></b>	<b><u>\$ 753,635</u></b>

Notes:

- (a) Project budgeted for 2021 and carried over into 2022 due to supply chain back logs.
- (b) Not in the 2022 budget since the event or idea either hadn't occurred, or the certainty of the grant hadn't been determined.
- (c) Two (2) Sperry buildings per year were budgeted for several years and the estimated total cost was \$100,000 annually. The true cost allocated per building is subject to each particular building's capital improvement needs.
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Ending Cash Balances as of July 31	2022	2021
Reserved Cash & Investments – Other*	\$ 2,952,628	\$ 2,224,462
Reserved Cash & Investments – IDD	3,400,621	\$ 1,501,752
Unreserved Cash & Investments	<u>1,232,387</u>	<u>\$ 2,048,797</u>
Total Cash & Investments	<u>\$ 7,585,636</u>	<u>\$ 5,775,011</u>

\*Other Reserves detail:

	<u>Current balance</u>	<u>Target balance</u>
Unemployment Reserve	\$ 10,000	na
Operating Reserve (a)	1,040,260	\$ 1,470,609
Boat Haven Renovation Reserve (b)	442,397	na
Emergency Reserve	500,000	\$500,000
Port-Wide Capital Reserve (c)	<u>959,971</u>	na
Total Other Reserves	<u>\$ 2,952,628</u>	

- (a) The target for the Operating Reserve is 25%, or three (3) months, of operating expenses, per current budget. See resolution 692-19 for more detail.
- (b) The plan for this reserve is to use it on Boat Haven Moorage projects until it is extinguished. It was replaced by the Port-Wide Capital Reserve in resolution 693-19.
- (c) Resolution 693-19 did not set a target for this reserve.

Debt Service for the Year

2010 LTGO Bond – (83% paid A/B Dock Reconstruction, 17% paid 75 Ton Lift Pier)

June 1 – interest only	\$ 80,744	<b>PAID</b>
December 1 – principal and interest	400,744	

2015 LTGO Refunding Bond- (paid for Point Hudson Marina Reconstruction – 2005 LTGO Bonds refunded in 2015)

July 1 – principal and interest	520,600	<b>PAID</b>
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Total Debt Service for the year	<u>\$ 1,025,338</u>	

Remaining Debt for years 2023-2029

2010 LTGO Bond – principal and interest	\$ 3,329,550	payoff December 2029
2015 LTGO Bond – principal and interest	<u>1,620,800</u>	payoff July 2025
Total	<u>\$ 4,950,350*</u>	



*\*Port staff hopes to extinguish all debt obligations two years early in 2027.*

**DISCUSSION**

As requested by Commission.

**FISCAL IMPACT**

NA

**RECOMMENDATIONS**

For discussion only.

- (a) Overall, Operating Revenues increased by 10%, or \$435,461, when compared to 2021. When compared to budget, Operating Revenues are up by 12%, or \$479,942. In both instances, the bulk of this increase is related to the paydown of accounts receivable balances (56%, or \$243,272 of the 2021 variance, and 66%, or \$318,986 of the budget variance). The Yard continues to have the most significant increase in operating revenues, year over year as well as budget, with Point Hudson's operating revenues being the next highest.
- (b) Overall, Operating Expenses increased by 16%, or \$464,336, when compared to 2021. However, when measuring performance against budget, Operating Expenses YTD are more by only 6%, or \$193,583. Most line items are under budget, except for Facilities & Operations. In this area, the variance of expenses tracking higher than budget year to date include Repair & Maintenance (\$129,962), Operating Supplies (\$29,794), Bank Charges (\$24,841), Equipment Rental (\$23,240), and Fuel & Lubricants (\$18,464).
- (c) Total Other Increases in Fund Resources increased by 29%, or \$654,437, when compared to 2021. This is largely due to IDD levy collections which are 96% of that increase. When comparing the current year to date to budget, we are below budget by 8%, or \$227,593.
- (d) Other Decreases in Fund Resources are less when compared to 2021 by 11%, or \$152,569. This is largely due to the final pay-off of the 2020 Line of Credit (LOC) in January 2021 in the amount of \$251,565. The largest budget to actual increases were in Deposits & Retainage Paid (\$63,584), which will vary year to year and difficult to estimate. Next highest is in Miscellaneous Expense (\$42,236) which is related to the vessel destruction program with DNR. We can expect approximately \$86,000 from DNR for those expenses.
- (e) Overall, the difference in 2022 Net Income (Expense) when compared to 2021 is a \$778,130, or 37%, increase. This variance is primarily due to the pay-off of the 2020 Line of Credit in January 2021 for \$251,565, and the increase in other fund resources in 2022 of \$654,437, which is largely IDD. When comparing the Net Income (Expense) year to date to the budget, the variance is smaller at \$347,232, or 14%. Most of this increase over budget is represented by the strong Net Operating Income to-date.

# PORT OF PORT TOWNSEND

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<b>AGENDA TITLE</b>	Informational Items
<b>STAFF LEAD</b>	Eron Berg, Executive Director
<b>REQUESTED</b>	<input checked="" type="checkbox"/> Information <input type="checkbox"/> Motion/Action <input type="checkbox"/> Discussion
<b>ATTACHMENTS</b>	<ul style="list-style-type: none"><li>• Port Lease Brief &amp; Lease List</li><li>• Port Contracts Update (none)</li><li>• East Jefferson Fire Rescue Merger</li><li>• Financial Report Detail</li></ul>



# PORT OF PORT TOWNSEND

## AGENDA MEMO

**DATE:** 9/1/2022  
**TO:** Commission  
**FROM:** Sue Nelson, Lease & Contracts Administrator  
**SUBJECT:** September 14, 2022, Lease Briefing

---

### **ISSUE**

The purpose of this memo is to keep the Commission informed about existing, planned, and potential leases.

### **BACKGROUND**

As of the beginning of this month the Port has **41** land leases, **39** building leases, **38** rentals.

Vacant properties include Point Hudson: Northern half of duplex; Main Building two water-view offices (*think I have rented both out*). Boat Haven: one north-facing office in the Nomura Building.

### **DISCUSSION**

#### *New Agreements:*

- Northwest Maritime Center, 4400 sq ft parcel in “back 40” at Point Hudson, month of September only, for parking/storing trailer boats, misc. boat-related items and for over-flow camping during Wooden Boat Festival weekend
- Quilcene Village Store, now a mo-to-mo rental of kayak rack/land in Quilcene
- Jeremy Johnson Photography, mo-to-mo, last remaining small office upstairs in the Nomura Building. Jeremy is a member of the PTMTA, and his website has an entire section dedicated to Port Townsend Marine Trades. He also publishes a PT Maritime Magazine
- Johnson Fabrication, new mo-to-mo rental

#### *Lease Amendments:*

#### *Exercising Options:*

- The Artful Sailor provided 90 days’ notice and is exercising their 3<sup>rd</sup> of 4 one-year lease options, Dec 1, 2022 – Nov 30, 2023.

#### *Assignments/Assumptions:*

- Holt ‘J’ Hangar Assignment to Puget Sound Express, Inc., pending approval at 9/14 meeting

#### *Terminated/Expired Agreements:*

- Quilcene Village Store 1-year lease expired for kayak rack/land in Quilcene – (Now a new mo-to-mo agreement)
- Johnson Fabrication’s 1-year lease expired (now has a new mp-to-mo agreement)

#### *License & Use Agreement:*

- Scott & Lori Browning, License to periodically remove trees & shrubs from airport property that obstruct their view
- Moving Earth, LLC, License to stage construction equipment for Point Hudson neighbors to the north who are repairing their seawall. Two-day staging, 8/24-8/26/22.
- Removed Bill Marlow JCIA License Agreement (easement access). Will be developing a License for easement with Bruce Seton, same area.

#### **September Rent Increases:**

- **CPI Increase (4.6%):** Port Townsend Sailing Assoc Rental Agreement and License Agreement; Key City Fish (10<sup>th</sup> St); ACI (10<sup>th</sup> St)
- **Market Rate Increase:** Brion Toss Yacht Rigging
- **Step Increase:**

#### **Miscellaneous:**

- Met with Mike Payne and viewed the progress of the expansion. The kids are doing all the interior painting in the huge new addition! *A fun fact* - While visiting Mike in the paint shop, he showed me a plane donated to them – a PAC140; a Piper Cherokee, 2-seater, built in 1960 or 61. This is the original prototype. And, in 1963, it was a prize won by a woman on the Price is Right! They are refurbishing the plane and proceeds will benefit the museum.
- I've been communicating with Bruce (Station Prairie, hangar pad site #5) and met with him at the airport. He's making good progress and will be submitting the survey (to be added to the Lease as Exhibit 'A') and the construction plans for Commission approval soon. He is super enthusiastic and very excited to get his hangar built!
- Staff met over a Zoom meeting with Fish & Wildlife. They wish to rent the Cupola Annex ASAP, with many improvements to be made to accommodate their needs to use the space for storage. They are also increasing their staff at Point Hudson and need to expand.
- Rubicon Yachts will be vacating their space at the former moorage office on Washington Street on November 30, the end of their current lease term. Staff will meet prior to that to discuss ideas for use of the space and marketing ideas. Rubicon, and Joe Lecato, have been outstanding tenants whose presence will be missed.
- *Note:* There is a continual need for airplane hangars and small offices.

#### **ATTACHMENTS**

1. 2022 Lease List

#### **RECOMMENDATIONS**

For information only.

## PORT OF PORT TOWNSEND LEASE LISTING

Boat Haven - PROPERTY	SEPTEMBER 2022			
LEASE NAME	Lease Amount	Lease Expiration	NEXT CPI/STEP Incr.	REMARKS
Admiral Ship Supply	1,860.13	1/31/2025*	2/1/2023	*One 5-yr option available.
Andersen Machine Shop	269.06	9/30/2027	10/1/2022	Land lease.
Andersen Machine Shop	59.62	Mo/Mo	6/1/2023	228 sf additional land for storage adjacent shop. 30 day notice for rate increases.
Armstrong Consolidated LLC (Washington)	9,041.51	Mo/Mo	30-day notice	30-day notice for rate increases.
Armstrong Consolidated LLC (Washington)	445.83	Mo/Mo	30-day notice	Additional space upstairs.
Armstrong Consolidated LLC (10th St)	3,140.29	8/31/2023*	9/1/2023	*One 1-yr option remains. Assignment of Dave's Mobile Welding Lease.
Armstrong Consolidated LLC (10th St land)	730.08	Mo/Mo	30-day notice	Land rental-ground in front of building.
Blue Moose Café	673.20	10/31/2026*	11/1/2022	*5-yr option available. 24-mo step to market. Step increase.
Blue Moose Café	117.04	Mo/Mo	30-day notice	Seasonal outdoor dining area. Plans to end in October.
Church of BuVu	100.00	License		Sept 25 Fun run charity event. Collected \$100 one-time fee.
Crown Castle (cell tower)	17,928.21/yr	6/30/2025*	6/1/2023	*One 5-yr option remains. Pay one mo in arrears..
Crown Castle - AT&T Sub-Lease	939.12		9/1/2022	Annual lease renewal. 6.5% annual increase 9/2019-9/2022. Pay one mo in arrears.
Eagle Harbor Marine	274.59	Mo/Mo	9/1/2022	Land rental. 30-day notice for rent increases.
EDC Team Jefferson	836.03	Mo/Mo	7/1/2023	2nd floor Nomura Bldg (767 sf). 30--day notice for rent increases.
Ernst R. Baird (Haven Boatworks)	900.88	2/28/2029	3/1/2023	Land lease. Includes 6' x 50' Lumber rack.
Fine Yacht Interiors	1,368.84	5/31/2025*	6/1/2023	*One 3-yr option remains. Exercised 2nd option 6/1/22-5/31/25.
Flye, Todd dba On The Flye	375.47	1/31/2025	2/1/2023	Land lease-temporary structure. No options remain.
Gatheringplace	185.95	10/31/2022	N/A	Nomura Bldg, ground floor. License Agrmnt-"Raven Room", Nomura Bldg-Disabled trainging-dog biscuits. License eff. April 1, 2021.
Goolden, Leo (Sampson Boat Co)	1,039.36	Mo/Mo	6/1/2023	30-day notice for increases. ( M/V Tally Ho project-up to 2 yrs.) MR applied.
Haven Boatworks	1,269.22	Mo/Mo	1/1/2023	Former J&S Bldg., Haines St. 30-day notice for rent increases.
Jefferson County (Commission Bldg)	1,765.18	9/30/2026	10/1/2022	5-yr. 180 day termination notice-either party.
Jefferson County MRW	0.00	12/31/2024	N/A	Interlocal Agreement. Port to pay Jefferson Co. \$49,107.00 by 12/31/24 for depreciated capital improvements to MRW by the County.
Jeremy Johnson Photography	171.13	Mo/Mo	30-day notice	2nd floor office #2F, Nomura Building.
Jochems Property Mgmt.	326.47	10/31/2026	1/1/2024	Land lease. CPI every two years, next 1/1/2024.
Johnson Fabrication	1,912.54	Mo/Mo	9/1/2023	New mo-mo rental.
Katz, Alan	906.66	Mo/Mo	30-day notice	Land lease, business w/temporary shelters. Formerly Dave Thompson's space.
Key City Fish Co. (10th Street-seafood mrkt)	1,927.51	8/31/2023	9/1/2023	Seafood market.
Key City Fish Co. (Haines PL-refrigeration)	775.10	11/30/2024*	12/1/2022	*Two 5-yr options available.
Kimmel's Crab Shack	2,267.91	4/30/2049	5/1/2023	Land lease. MR.
NW Maritime Center (Marine Thrift)	614.34	1/31/2023*	2/1/2023	*Two 1-yr options remain.
NW School of Wooden BoatBuilding	533.23	6/30/2026*	7/1/2023	*One 5-yr option available. 25% of prevailing rate. Lease supersedes rent agrmnt.
Octopus Gardens Diving	1,011.20	6/30/2026	1/1/2023	24 mo. stepped rent to achieve market rate.
Olympic Boat Transport LLC	51.68	Mo/Mo	2/1/2023	Relocated crane next to Pete's Marine w/new mo-mo agreement, smaller footprint.
Pete Stein & Compass Woodwork	5,282.40	5/31/2026*	12/1/2022	*One 5-yr option available. Amended lease includes Bldg 2 & 3. 18-mo step rent. Paying Bldg 3 dep in full, continuing with stepped dep for Bldg 2.
Pete Stein & Compass Woodwork	98.32	Mo/Mo	30-day notice	40'x8' land & 7'x8' land for equipment.
Pete's Marine Metals	1,565.40	7/31/2023*	8/1/2023	*Two 1-yr options available.
Port Townsend Fuel Dock LLC	650.00	6/30/2024*	N/A	*One 5-yr term remains. 2% flowage fee pays rent. MR applies.
PT Furniture Clinic	616.99	1/31/2023*	2/1/2023	*Two 1-yr options remain.
PT Sailing Assoc. - License	431.79/yr	8/31/2023*	N/A	*Zero options remain. Use of land near Octopus Dive for sailing activities. CPI.
PT Sailing Assoc.	119.95	Mo/Mo	9/1/2023	Use of land near Octopus Dive for storage container.
Port Townsend Shipwrights, Inc.	6,307.54	7/31/2050	8/1/2023	Land lease. Market rate incr 8/1/30-every 10 yrs.
PT Rigging	511.33	3/31/2030	4/1/2023	Land lease. 4.6% CPI applied.
Pt Townsend Yacht Club	295.44	2/28/2026	3/1/2027	Land lease.
Revision Marine	2,020.22	12/31/2024	1/1/2023	Bldg/Land lease
Rubicon Yachts, LLC	1,515.00	11/30/2022	N/A	New 1-yr lease, effective December 1, 2021.
Sail Port Townsend	191.16	Mo/Mo	5/1/2023	2nd floor office #2-D, Nomura Bldg.
Sands, Guy & Kim (PT Brewing Co.)	3,436.78	5/31/2026*	6/1/2023	*Two 5-yr options remain. Bldg & Land.
Sands, Guy & Kim (PT Brewing Co)	150.00	Mo/Mo	10/1/2022	600 sf outdoor dining area.
Scow Bay Boats	498.41	9/30/2023*	10/1/2022	*One 3-yr option. Land lease-temporary structure.
Sea J's Café (Estate of Florence Jevne)	1,119.94	Mo/Mo	6/1/2023	Mo/Mo Building & Land agreement.
Sitewise Design PLLC	160.23	Mo/Mo	6/1/2023	Mo/Mo building agreement for small office 2-H in Nomura Bldg..
Skookum Corporation	915.01	3/31/2026*	4/1/2023	Annual step increases/*one 5-yr option/renting 3,036 sf lower floor, Nomura Bldg.
Sunrise Coffee	1,821.40	9/30/2031*	10/1/2022	*Two 5-yr options available. Deposit balance-6 installments.
Takaki, Jennifer (Marina Café)	576.00	12/31/2026	1/1/2023	5-year lease, stepped rent to achieve MR in 18 mos. Deposit in full.
Takaki, Jennifer (Marina Café)	99.00	Mo/Mo	10/1/2022	396 sf outdoor dining ara. CPI applies.
Tree Ring, LLC	130.68	Mo/Mo	3/1/2023	New month/month agreement-small office (2-G) upstairs, Nomura Bldg.
University of WA - Sea Grant	224.64	Mo/Mo	4/1/2023	Office 2-E, Nomura Bldg. Tenancy begins 3/15/22-pro-rated rent.
U. S. Coast Guard	5,488.05	9/30/2023	10/1/2022	Annual lease renewal & step increases.

## PORT OF PORT TOWNSEND LEASE LISTING

Point Hudson - PROPERTY		SEPTEMBER 2022		
LEASE NAME	Lease Amount	Lease Expiration	NEXT CPI/STEP Incr.	REMARKS
Best Coast Canvas	1,976.94	7/31/2023*	8/1/2023	Armory Bldg. *Exercised 2nd of 3 1-yr options (8/1/22-7/31/23)
Brion Toss Yacht Rigging	887.76	8/31/2024	9/1/2023	Armory Bldg. 5-yr lease, no options.
Brooks, Cindy	37.80	Mo/Mo	N/A	54 sf floor in Armory Bldg thru June to work on wherry for 70/48 race
Commanders Beach House	2,277.52	4/30/2025	5/1/2023	Assignment to D & N Dionne. CPI applied.
Doc's Marina Grill / TNT Restaurants LLC	3,074.53	4/30/2027	5/1/2023	Exercised last 5-yr option 5/1/22-4/30-27. Wants a new 10-yr lease.MR
Fortune Teller Art	374.88	Mo/Mo	8/1/2023	Office #2, Main Bldg., Point Hudson. 30 day notice for increases
GatheringPlace	N/A	7/31/2004	N/A	Southern half of duplex. Leasehold exempt - Non-profit
Hagen Designs	600.77	Mo/Mo	4/1/2023	Archive rm, Main Bldg. Short term. MR applied.
Hanson of Port Townsend Inc.	361.69	5/31/2023*	6/1/2023	Armory Bldg. *Two 1-yr options remain: <del>6/22</del> , 6/23, 6/24.
Hudson Point Café	1,584.53	6/30/2025*	7/1/2023	Main Bldg. *One 5-yr option available.
Hudson Point Café Office #10, Main Bldg.	276.14	Mo/Mo	7/1/2023	Main Bldg. Restaurant view office.
Hudson Point Café Office #8	248.53	Mo/Mo	7/1/2023	Main Bldg. Restaurant storage, non-view office.
Hudson Point Café	117.73			Main Bldg - common area fee-restroom cleaning/stocking
Marine Resources Consultants Inc.	491.82	9/30/2024*	10/1/2022	Armory Bldg. *Used last option.
Marine Surveys & Assessments	1,548.94	3/31/2024	4/1/2023	Cupola House. Scheduled step increases.
Mark Kielty Design	276.14	Mo/Mo	8/1/2023	Main Bldg., small view office.
Mark Kielty Design	7.77			PH Main Bldg - common area fee-restroom cleaning/stocking
Moving Earth, LLC	100.00	License		Constr equip staging-PH neighbors to the north repair seawall. 2-days.
Northwest Maritime Center	1,399.03	6/30/2051	7/1/2023	Former Landfall site-plan to build 3000 sf classroom.
Northwest Maritime Center (Swan Hotel)	516.00/yr	auto renew	6/1/2024	License-encroachment. MR every 3-yrs. Port may term w/180-day notice
Northwest Maritime Center (back 40)	1,188.00	9/30/2022		Storage/parking trailer boats/misc boat materials/camping during fest
Puget Sound Express	1,106.50	12/31/2025	1/1/2023	No options remain.
Schooner Martha Foundation	756.29	12/31/2024*	1/1/2023	*One 5-yr option available.
SEA Green Partners d/b/a SEA Marine	2,301.15	4/30/2027*	5/1/2023	*One 5-yr option. Armory Bldg-Upstairs sail loft space.
Shanghai Restaurant	2,472.01	10/31/2026	11/1/2022	No options remain.
Shanghai Restaurant	174.90			PH Main Bldg - common area fee-restroom cleaning/stocking
Shannon Partners LLC (SEA Marine)	2,345.28	6/30/2027	7/1/2023	Ground lease for SEA Marine facility.
The Artful Sailor	503.50	11/30/2023*	12/1/2022	Armory Bldg. *One 1-yr options remain.
The Artful Sailor	429.80	Mo/Mo	2/1/2023	Armory Bldg. Expanding shop to include small shop north. of current sho
U.S. Customs	3,034.75	12/20/2027	GSA determines	Hospital Bldg. Accepted 5-yr option 12/2022 - 12/2027
Uptown Dental Clinic	260.00	Mo/Mo	11/1/2022	Northern half of duplex, second floor, 90 sf office.
Washington Dept. of Fish & Wildlife	8,430.97	3/21/2024*	N/A	Hospital Bldg. *One 5-yr option.
Whittiker, LLC	\$ 275.88	Mo/Mo	8/1/2023	Office #1, Main Bldg., Point Hudson. 30 day notice for increases

## PORT OF PORT TOWNSEND LEASE LISTING

JCIA - PROPERTY	SEPTEMBER 2022			
LEASE NAME	Lease Amount	Lease Expiration	NEXT CPI/ Step Incr.	REMARKS
A Hangar Condo Association	1,108.08	11/20/2045	12/1/2022	Land lease. Hangars 'E' & 'F'.
Aurora Aircraft Maint & Restoration	523.49	10/31/2026*	11/1/2022	*One 5-yr option remains.
Aurora Aircraft Maint & Restoration		12/31/2023	N/A	Fuel Concession. If Erickson replaces tank, one more 5-yr option available. Port is paid 2%/fuel sales for lease.
Broderson, Dennis	58.28	2/28/2016	3/1/2023	T-hangar pad LEASE T-403(Q) '22 adopted rate appld (7¢/sf)
Browning, Scott & Lori	100.00/yr	ann. auto renew	8/1/2023	Periodic tree & shrub removal.
Dow Jeffery & Jorja	362.16	12/31/2028	8/1/2023	Land lease. Hangar 'D'.
Eber, Lorenz	60.00	Mo/Mo	12/1/2022	T-hangar pad, #T-404(P)
Erickson, Warren & Karen	173.65	7/26/2057	3/1/2023	Land lease. Hangar '4-B'.
G Hangar Condo Assoc.	560.44	6/9/2047	7/1/2023	Land lease.
Grandy, Richard	174.16	7/26/2057	3/1/2023	Land lease. Hangar '4-A'.
H-Hangar Corp., Inc.	520.95	6/22/2049	7/1/2023	Land lease.
Hangar C Group LLC	518.78	4/30/2053	12/1/2022	Settled 2/25/21: Amend #6: Ext. term.
Hangar J Lease (Holt)	244.56	10/1/2050	10/1/2022	Land lease.
Hood Canal Aviation LLC/Jim Piper	173.65	7/26/2057	3/1/2023	Land lease. Hangar '4-C'.
JEFFCO Hangar Assoc., Inc.	682.14	11/30/2041	12/1/2022	11,369 sf, hangar site 'I'.
K-Hangar Assoc. @ JCIA	530.59	4/25/2049	5/1/2023	Land lease. CPI applied.
L Hangar Condo Assoc @JCIA	585.34	10/31/2048	10/1/2022	Land lease.
Lemanski, Tom & Linda	70.00	Mo/Mo	3/1/2023	T-hangar pad, T-405. 2022 adopted rate applied (7¢/sf)
Morrison, Neil/Lark Leasing	174.17	4/30/2053	5/1/2023	Land lease. Hangar 'N-North'. CPI applied.
Morrison, Neil	174.17	4/30/2053	5/1/2023	Land lease. Hangar 'N-South'. CPI applied.
Northrup, Mildred/Hopkins	70.00	Mo/Mo	3/1/2023	T-hangar pad, T-406(M). 2022 adopted rate applied (7¢/sf)
NW Hangars LLC	1,778.99	7/26/2057	3/1/2023	Land lease. Hangars '7' & '8'.
Port Townsend Aero Museum	395.39	7/31/2052*	5/1/2023	*One 25-yr option. Museum bldg- <b>land lease</b> .
Port Townsend Aero Museum	338.90	7/31/2052*	5/1/2023	*One 25-yr opt. Museum bldg- <b>land lease</b> (expan.). CPI appl.
Port Townsend Aero Museum	582.92	7/31/2052*	5/1/2023	*One-25 yr option. Maintenance bldg- <b>land lease</b> . CPI appl.
Port Townsend Aero Museum	231.78	4/30/2053	5/1/2023	M' Hangar. Separate land lease. CPI applied.
Port Townsend Aero Museum	70.00	Mo/Mo	5/1/2023	T-hangar pad, T-400(S). MR applied.
Port Townsend Aircraft Services	293.09	6/30/2035*	7/1/2023	*Two 10-yr options.
Pratt Sr., David	70.00	Mo/Mo	3/1/2023	T-hangar pad, T-401(N). 2022 adopted rate applied (7¢/sf)
Scheall, Daniel	58.28	2/28/2026	3/1/2023	T-hangar pad LEASE T-402(O)'22 adopted rate appld (7¢/sf)
Spruce Goose	218.57	9/30/2029*	10/1/2022	*Two 5-yr options. CPI/MR apply.
Station Prairie	525.00	4/30/2072	5/1/2023	Hangar site pad #5.
Wexman, Scott & Diana Levin	252.48	3/31/2053	4/1/2023	Land lease. Hangar 'O'. 4.6% CPI applied.

## PORT OF PORT TOWNSEND LEASE LISTING

QUILCENE - PROPERTY		SEPTEMBER 2022		
LEASE NAME	Lease Amount	Lease Expiration	NEXT CPI/ Step Incr.	REMARKS
Canterbury, Ray	<i>fluctuates</i>	N/A		<i>Water rights.</i>
Coast Seafoods	\$5,494.92	12/31/2039	1/1/2023	Land lease.
Coast Seafoods	<i>fluctuates</i>			<i>Water.</i>
Quilcene Harbor Yacht Club	\$ 227.92	11/30/2019	12/1/2022	The fate of the building is a subject of the Quilcene planning process. Working twds new agreement.
Quilcene Harbor Yacht Club	<i>fluctuates</i>			<i>Water.</i>
Quilcene Village Store	\$ 120.07	Mo/Mo	9/1/2023	Rental of kayak rack & ground it sits on. Mo-to-mo agrmnt.



## MERGER: QUESTIONS AND ANSWERS



*Port Ludlow Fire & Rescue (PLFR) has been contracting with East Jefferson Fire Rescue (EJFR) for an array of management services for over a year. The arrangement allows PLFR to offset some of the costs associated with meeting needs in-house. This temporary agreement is one of several efforts by EJFR and PLFR to improve efficiencies to maintain or improve service levels while costs rise at rates beyond revenue increases allowed under state law. The proposed merger, if approved, will make these efficiencies permanent. The districts, whether together or separate, will have to ask voters in the future to lift the fire levy lid in order to meet the demands of inflation and maintain current levels of service. Fire commissioners from both districts voted in July to put the merger question on the November 2022 ballot.*

### HOW WILL THE MERGER IMPACT MY COMMUNITY'S EMERGENCY SERVICES?

The current Management Services Interlocal Agreement, has allowed for a battalion chief on-duty who manages routine surges in 911 calls across both districts. The battalion chief then shifts resources between districts when multiple calls occur in order to optimize response to the community's needs.

As a result of the cooperative efforts, both districts have increased minimum staffing during the past year. A merger will make this permanent, increasing the combined daily staffing and growing the depth of recall for volunteers and off-duty members in the event of major incidents.

### HOW WILL THE MERGER AFFECT PERSONNEL?

Both districts have lost valuable employees to larger agencies that can provide more opportunities. The merging of our two small fire districts will create a larger organization that has the capacity to focus on our most precious resource — our people.



### WILL MY PROPERTY TAXES INCREASE WITH THE MERGER?

Fire districts submit their tax levies in the fall before the new budget year. So, if the merger is approved by voters in November 2022, it will go into effect in January 2023 and the merged district will operate that first year on the combined revenues levied separately. Both district's levy rates are among the lowest in the region. As of August 2022 the projected 2023 rates for EJFR are \$.85, and for PLFR \$1.02 per \$1000 of assessed value. Whether merged or operating as individual agencies, these low levy rates will no longer be sufficient to maintain current levels of service in 2024. Commissioners in both districts are developing plans to ask voters to approve a levy lid lift, likely in early 2023.

Inflation is especially high now but has averaged 2.48% over the past 10 years. State law prevents fire districts from increasing their levies more than 1% annually without voter approval. As assessed valuations rise, levy rates decline to keep revenue increases under the 1% cap.

### WHAT HAPPENS IF THE MERGER FAILS?

If the merger proposal fails, both districts will need to reassess their 2023 budgets and make decisions, immediately reducing expenditures until their respective levy lid lifts can be approved by voters. The temporary management services agreement will end; while very effective, it is also labor-intensive as district leaders manage two staffs with two budgets overseen by two boards of commissioners. PLFR, without access to EJFR's administrators, would need to recruit for a fire chief and assistant fire chief at a cost of nearly \$350,000 a year. The battalion chief's daily management of PLFR resources would be eliminated as would other efficiencies that have resulted from the management services agreement.

### NEED MORE INFO?

See the districts' websites at [www.plfr.org](http://www.plfr.org) and [www.ejfr.org](http://www.ejfr.org).  
Contact EJFR Fire Chief Bret Black at (360)385-2626 or [bblack@ejfr.org](mailto:bblack@ejfr.org).



**Port of Port Townsend**  
**2022 Summary of Fund Resources & Uses with Comparison to Prior Year and Budget**

	YTD July 2021	YTD July 2022	Variance to prior year	notes	YTD Budget 2022	Variance to Budget YTD
<b>OPERATING REVENUES</b>						
PTBH - Permanent Moorage	710,709	737,100	26,391		735,802	1,298
PTBH - Liveaboard Fee	13,114	10,919	(2,195)		13,188	(2,269)
PTBH - Liveaboard Background Check	60	240	180		-	240
PTBH - Work Float/Lift Pier Usage	11,105	5,000	(6,105)		3,025	1,975
PTBH - Monthly Guest	140,001	158,965	18,964		178,962	(19,997)
PTBH - Nightly Guest	165,777	158,059	(7,718)		165,577	(7,518)
PTBH - Electric	62,282	56,214	(6,068)		68,097	(11,883)
PTBH - Miscellaneous Revenue	14,411	4,943	(9,468)		10,425	(5,482)
PTBH - Showers	4,954	4,868	(85)		5,662	(794)
PTBH - Restroom Key Fobs	140	310	170		2,681	(2,371)
PTBH - Laundry	4,330	3,998	(332)		4,175	(178)
PTBH - Promotional Sales	183	168	(15)		213	(45)
PTBH - Kayak Racks	54	227	173		-	227
PTBH - Port Labor	1,310	(63)	(1,373)		122	(185)
Boat Haven Moorage	1,128,428	1,140,947	12,519		1,187,929	(46,982)
Yard - 70/75 Ton Hoist Revenue	207,687	216,413	8,726		197,374	19,039
Yard - 70/75 Ton Yard Revenue	566,077	648,899	82,823		493,799	155,100
Yard - 70/75 Ton Yard Enviro Fee	45,805	45,707	(98)		40,938	4,769
Yard - 70/75 Ton Yard Electric	25,546	27,873	2,326		26,272	1,601
Yard - 70/75 Ton Yard Port Labor	2,559	7,724	5,165		3,209	4,515
Yard - 300 Ton Hoist Revenue	137,181	137,634	452		139,937	(2,303)
Yard - 300 Ton Yard Revenue	275,845	293,010	17,165		274,156	18,854
Yard - 300 Ton Yard Enviro Fee	7,786	11,929	4,143		7,400	4,529
Yard - 300 Ton Yard Electric	30,325	31,712	1,387		32,420	(709)
Yard - 300 Ton Yard Port Labor	2,038	5,579	3,541		2,646	2,933
Yard - L/T Storage	45,003	46,817	1,813		47,250	(433)
Yard - Blocking Rent	28,003	32,328	4,325		27,861	4,467
Yard - Off Port Property Tarp Fee	925	-	(925)		700	(700)
Yard - Washdown Revenue	52,307	59,249	6,942		49,651	9,598
Yard - Bilge Water Revenue	863	3,122	2,260		2,782	340
Yard - Liveaboard Fee	2,002	600	(1,402)		2,104	(1,504)
Yard - Enviro Violations & Clean up	1,100	(24)	(1,124)		584	(608)
Yard - Miscellaneous Revenue	-	53	53		1,014	(961)
Yard Operations	1,431,052	1,568,624	137,572		1,350,097	218,527
PTBH Prop - Lease Revenue	431,341	479,180	47,839		447,037	32,143
PTBH Prop - Fuel Dock Lease	9,802	9,639	(163)		10,600	(961)
PTBH Prop - Garbage	15,365	2,258	(13,106)		15,156	(12,898)
PTBH Prop - Water	-	17,837	17,837		-	17,837
PTBH Prop - Stormwater	5,709	5,592	(117)		6,407	(815)
PTBH Prop - Electric	2,819	(142)	(2,961)		3,145	(3,287)
PTBH Prop - Storage Unit Revenue	6,357	7,055	698		6,678	377
PTBH Prop - Miscellaneous	100	375	275		-	375
Boat Haven Properties	471,493	521,795	50,302		489,023	32,772
Pt Hudson - Permanent Moorage	93,040	90,497	(2,543)		87,642	2,855
Pt Hudson - Monthly Guest	71,667	88,913	17,246		69,079	19,834

The accompanying notes and info. memo are an integral part of this statement.



**Port of Port Townsend**  
**2022 Summary of Fund Resources & Uses with Comparison to Prior Year and Budget**

	YTD July 2021	YTD July 2022	Variance to prior year	notes	YTD Budget 2022	Variance to Budget YTD
Pt Hudson - Nightly Guest	144,265	140,269	(3,996)		123,866	16,403
City Pier & Union Wharf Usage	5,004	1,992	(3,013)		4,050	(2,059)
Pt Hudson - Monthly R.V.	47,261	62,714	15,452		47,506	15,208
Pt Hudson - Nightly R.V.	246,235	251,424	5,189		199,623	51,801
Pt Hudson - Kayak Racks	10,334	13,133	2,799		10,234	2,899
Pt Hudson - Electric	19,572	15,775	(3,796)		18,162	(2,387)
Pt Hudson - Reservation Fee	25,397	26,645	1,248		29,413	(2,768)
Pt Hudson - Liveaboard Fee	5,424	5,381	(43)		5,343	38
Pt Hudson - Liveaboard Backgrnd Ck	120	840	720		120	720
Pt Hudson - Showers	3,932	3,723	(209)		3,498	225
Pt Hudson - Laundry	6,202	5,499	(703)		5,973	(475)
Pt Hudson - Passenger Fee	4,604	6,540	1,936		6,000	540
Pt Hudson - Miscellaneous	1,368	2,622	1,254		750	1,872
Pt Hudson - Promotional Sales	411	874	463		380	494
Pt Hudson - Building Leases	244,586	249,921	5,334		250,145	(224)
Pt Hudson - Property Utilities	18,244	26,427	8,183		21,115	5,312
Pt Hudson - Event Facility Rev	379	1,050	671		550	500
Pt Hudson - Parking	12,592	10,789	(1,803)		11,300	(511)
Pt. Hudson Marina, RV & Prop	960,635	1,005,025	44,390		894,749	110,276
Quilcene - Permanent Moorage	39,364	37,136	(2,228)		33,398	3,738
Quilcene - Liveaboard Fee	2,024	-	(2,024)		-	-
Quilcene - Nightly Moorage	1,488	902	(586)		1,973	(1,071)
Quilcene - Showers	1,651	1,332	(319)		1,780	(448)
Quilcene - Electric	2,884	1,857	(1,028)		2,307	(450)
Quilcene - Key Fobs	-	300	300		-	300
Quilcene - Kayak Rack Storage	-	197	197		-	197
Quilcene - Reservations	275	198	(77)		429	(231)
Quilcene - Recreational Ramp Fees	8,002	6,245	(1,757)		7,370	(1,125)
Quilcene - Commercial Use Fees	2,200	5,030	2,830		1,800	3,230
Quilcene - Miscellaneous Revenue	-	609	609		45	564
Quilcene - Lease Revenue	38,202	40,836	2,635		40,485	351
Quilcene - Water	7,483	6,960	(522)		7,483	(523)
Quilcene - Empty Trailer Parking	504	225	(279)		448	(223)
Quilcene	104,076	101,827	(2,249)		97,518	4,309
Ramp Fees	33,674	27,252	(6,422)		35,771	(8,519)
PTBH Ramp - Commercial Use Fees	5,482	4,515	(967)		4,700	(185)
PTBH Ramp - Dinghy Float Revenue	854	1,093	239		787	306
Ramps	40,010	32,861	(7,149)		41,258	(8,397)
JCIA - Lease Revenue	68,261	77,879	9,617		71,708	6,171
JCIA - Hangar Revenue	19,878	22,313	2,435		20,523	1,790
JCIA - Vehicle Parking Revenue	241	800	559		223	577
JCIA - Aircraft Parking	490	686	196		520	166
JCIA - Fuel Lease Revenue	1,113	1,009	(104)		1,116	(107)
JCIA - Electric	804	1,220	417		935	285
JCIA - Miscellaneous Revenue	5,533	300	(5,233)		700	(400)
JCIA	96,320	104,206	7,887		95,725	8,481

The accompanying notes and info. memo are an integral part of this statement.

**Port of Port Townsend**  
**2022 Summary of Fund Resources & Uses with Comparison to Prior Year and Budget**

	YTD July 2021	YTD July 2022	Variance to prior year	notes	YTD Budget 2022	Variance to Budget YTD
(Incr.)/Decr. In Accounts Receivable	(31,233)	160,956	192,189		-	160,956
<b>Total Operating Revenues</b>	<b>4,200,780</b>	<b>4,636,241</b>	<b>435,461</b>	<b>a</b>	<b>4,156,299</b>	<b>479,942</b>
<b>OPERATING EXPENDITURES</b>						
Salaries & Wages	1,349,179	1,542,677	193,498		1,559,603	(16,926)
Payroll Taxes	137,732	162,336	24,604		167,006	(4,670)
Employee Benefits	482,215	485,160	2,945		522,733	(37,573)
Uniform Expense	3,452	12,100	8,648		5,535	6,565
Contract Services	151,254	148,142	(3,113)		174,137	(25,995)
Legal & Auditing	54,326	36,176	(18,150)		32,914	3,262
Insurance	(769)	1,458	2,227		-	1,458
Computer Supplies	12,329	16,497	4,168		8,164	8,333
Operating Supplies	47,073	74,457	27,384		44,663	29,794
Enviro Materials/Supplies	36,756	8,948	(27,808)		9,600	(652)
Tarp Pool Expense	16,297	20,788	4,491		17,000	3,788
Empl Recog/Relations	1,907	6,960	5,053		1,850	5,110
Postage	3,003	2,928	(75)		3,080	(152)
Janitorial Supplies	15,688	11,955	(3,733)		16,666	(4,711)
Fuel & Lubricants	20,568	37,581	17,013		19,117	18,464
Permits & Licenses	2,490	5,372	2,882		3,490	1,882
Equipment Rental	5,240	40,355	35,115		17,115	23,240
Claims & Damages	-	8,334	8,334		757	7,577
Membership & Dues	17,917	17,206	(711)		31,979	(14,773)
Bank Charges	60,268	102,163	41,895		77,322	24,841
Excise Tax	15,398	12,951	(2,447)		11,106	1,845
Miscellaneous Expense	2,925	884	(2,041)		1,458	(575)
Repair & Maintenance Supplies	139,034	205,371	66,337		75,409	129,962
Facilities & Operations	396,891	572,747	175,857		338,776	233,971
Utilities	334,361	376,519	42,158		341,870	34,649
Advertising (Legal 2018)	2,866	9,386	6,520		3,188	6,198
Marketing	27,564	23,260	(4,305)		29,177	(5,917)
Promotion	2,837	4,735	1,898		7,100	(2,365)
Marketing	33,268	37,381	4,113		39,465	(2,084)
Economic Development	-	22,500	22,500		22,500	-
Travel & Training	1,800	14,159	12,359		12,270	1,889
Community Relations	3,847	537	(3,310)		1,500	(963)
<b>Total Operating Expenditures</b>	<b>2,947,557</b>	<b>3,411,893</b>	<b>464,336</b>	<b>b</b>	<b>3,218,309</b>	<b>193,583</b>
<b>Net Operating Income (Expense)</b>	<b>1,253,224</b>	<b>1,224,348</b>	<b>(28,875)</b>		<b>937,990</b>	<b>286,359</b>
<b>Other Increases in Fund Resources</b>						
Retainage Collected	-	3,472	3,472		-	3,472
Yard Deposits Collected	22,781	1,000	(21,781)		18,110	(17,110)
PTBH Prop Lease Deposits Collected	14,524	14,047	(478)		9,663	4,384
PH Prop Lease Deposits Collected	12,904	8,857	(4,047)		4,669	4,188
JCIA Prop Lease Deposits Collected	3,345	4,086	742		-	4,086
PH Marina/RV Deposits Collected	21,264	5,508	(15,755)		19,600	(14,092)

The accompanying notes and info. memo are an integral part of this statement.

**Port of Port Townsend**  
**2022 Summary of Fund Resources & Uses with Comparison to Prior Year and Budget**

	YTD July 2021	YTD July 2022	Variance to prior year	notes	YTD Budget 2022	Variance to Budget YTD
Deposits & Retainage Collected	74,817	36,970	(37,847)		52,042	(15,072)
Sales Tax Collected	55,904	59,162	3,257		40,637	18,525
Leasehold Tax Collected	337,415	359,548	22,133		337,127	22,421
Hotel/Motel Tax Collected	5,188	3,994	(1,194)		4,330	(336)
Taxes Collected	398,507	422,704	24,197		382,094	40,610
Grants - FAA	37,546	-	(37,546)		-	-
Grants - Fed. Indirect - RCO	-	13,625	13,625		-	13,625
Grants - WSDOT - JCIA	105	-	(105)		2,500	(2,500)
Grants - WA State & Jeff Co	68,198	85,887	17,689		-	85,887
Capital Contributions/Grants	105,849	99,512	(6,338)		2,500	97,012
Debt Proceeds - Line of Credit	-	-	-		-	-
ARRA Bond Interest Subsidy	32,951	16,476	(16,476)		16,000	476
Investment Interest	1,476	23,530	22,054		1,477	22,053
Interest	34,427	40,005	5,578		17,477	22,528
Operating Tax Levy	613,345	626,339	12,994		625,472	867
IDD Tax Levy	982,328	1,590,870	608,542		1,566,361	24,509
State Forest Revenues	2,503	4,385	1,882		6,000	(1,615)
State Timber Excise Tax	20,592	21,622	1,030		11,000	10,622
Leasehold Excise Tax	5,292	5,929	637		4,827	1,102
Property & other taxes	1,624,060	2,249,144	625,084		2,213,660	35,484
Finance Charges	11,114	34,145	23,031		10,603	23,542
Other Non-Operating Revenues	3,333	24,064	20,731		575	23,489
Misc Other Incr. in Fund Resources	14,447	58,209	43,762		11,178	47,031
<b>Total Other Incr. in Fund Resources</b>	<b>2,252,108</b>	<b>2,906,544</b>	<b>654,437</b>	<b>c</b>	<b>2,678,951</b>	<b>227,593</b>
<b>Other Decr. In Fund Resources</b>						
Retainage Paid	3,906	1,970	(1,937)		1,000	970
Yard Deposits Refunded	3,080	61,922	58,842		16,000	45,922
PTBH Prop Lease Deposits Returned	10,945	21,187	10,241		5,000	16,187
PH Prop Lease Deposits Returned	2,886	1,566	(1,320)		1,061	505
Deposits & Retainage Paid	20,818	86,645	65,827		23,061	63,584
Sales Tax Remitted	47,995	48,849	854		34,052	14,797
Leasehold Tax Remitted	432,146	462,289	30,143		431,555	30,734
Hotel/Motel Tax Remitted	3,804	3,679	(125)		3,870	(191)
Taxes Remitted	483,945	514,817	30,872		469,477	45,340
Interest Pmt - 2010 LTGO Bond	87,719	80,744	(6,975)		80,744	-
Principal Pmt - 2015 LTGO Rfdg Bond	475,000	490,000	15,000		490,000	-
Interest Exp - 2015 LTGO Rfdg Bond	37,725	30,600	(7,125)		30,600	-
Principal Pmt - 2020 Line of Credit	250,000	-	(250,000)		-	-
Interest Exp - 2020 Line of Credit	1,565	-	(1,565)		-	-
Debt Principal & Interest	852,009	601,344	(250,665)		601,344	-
Bond Management Fees	-	241	241		500	(259)
Bond Issue Costs	9,300	-	(9,300)		-	-
Investment Fees	83	486	403		280	206
Other Non-Oper Exp	49,795	42,288	(7,507)		-	42,288
Debt Mgmt, Issuance & Misc Exp	59,178	43,016	(16,163)		780	42,236
Election Expense	-	17,561	17,561		2,000	15,561

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**Port of Port Townsend**  
**2022 Summary of Fund Resources & Uses with Comparison to Prior Year and Budget**

	YTD July 2021	YTD July 2022	Variance to prior year	notes	YTD Budget 2022	Variance to Budget YTD
Total Other Decr. In Fund Resources	1,415,951	1,263,382	(152,569)	d	1,096,662	166,720
Net Incr./ (Decr.) in Fund Resources	836,157	1,643,163	807,006		1,582,289	60,873
Net Income (Expense)	2,089,381	2,867,511	778,130	e	2,520,279	347,232