

RESOLUTION NO. 720-20

A Resolution of the Commission of the Port of Port Townsend

AMENDING THE DELEGATION OF AUTHORITY ADOPTED BY WAY OF RESOLUTION 713-20 AND GRANTING ADDITIONAL ADMINISTRATIVE AUTHORITY TO THE EXECUTIVE DIRECTOR TO EARLY TERMINATE TERM LEASE AGREEMENTS AND ENTER INTO MONTH-TO-MONTH STORAGE AGREEMENTS IN RESPONSE TO THE OUTBREAK OF COVID-19

WHEREAS, the COVID-19 disease, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization (WHO) as a worldwide pandemic, has broadly spread throughout Washington State, significantly increasing the threat of serious associated health risks statewide; and

WHEREAS, on February 29, 2020, Washington State Governor, Jay Inslee, issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

WHEREAS, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to the state's most vulnerable populations, Governor Inslee has issued a number of subsequent proclamations further amending Proclamation 20-05, exercising emergency powers under RCW 43.06.220 and prohibiting certain activities and waiving and suspending specific laws and regulations; and

WHEREAS, on March 16, 2020, Governor Inslee issued Proclamation 20-13 amending Proclamation 20-05 and placing statewide limits on in-person dining in restaurants and bars, closing recreational facilities, and ordering the cessation of social gatherings of 50 or more persons; and

WHEREAS, on March 23, 2020, Governor Inslee issued Proclamation 20-25 further amending Proclamation 20-05 and requiring all state residents to stay at home unless they need to pursue essential activities, banning all gatherings for social, spiritual and recreational purposes, and requiring closure of all non-essential businesses until Wednesday, April 8 (i.e., the "Stay Home, Stay Healthy" order); and

WHEREAS, as of April 1, 2020, the Washington State Department of Health was reporting that there were at least 6,585 cases of COVID-19 in Washington State and, tragically, 262 deaths of Washingtonians associated with COVID-19; and

WHEREAS, as of April 3, 2020, the WHO Situation Report confirmed a total of 972,640 cases and 50,325 deaths globally associated with COVID-19; and

WHEREAS, on April 2, 2020, Governor Inslee issued Proclamation 20-25.1 further amending Proclamations 20-05 and 20-25 and extending the original "Stay Home, Stay Healthy" order through midnight on Monday, May 4, 2020, in order to slow the progression of the COVID-19 pandemic in Washington State; and

WHEREAS, the facts recited above, which document the rapid progression of the COVID-19 pandemic globally and in Washington State, indicate that the State of Emergency under Proclamation 20-05 and attendant COVID-19 response measures and restrictions on business activities and congregations are likely to be in place for an undetermined period of time to come; and

WHEREAS, the rapidly evolving COVID-19 pandemic and response measures ordered under Proclamations 20-11, 20-13, 20-25 and 20-25.1, which place increasingly stringent state-wide restrictions on social gatherings and food-and-beverage services, effectively preclude a number of Port tenants from continuing business operations; and

WHEREAS, the precipitous drop in business activity for particular categories of Port tenants makes it infeasible for some tenants to comply with the terms of their lease and rental agreements with the Port; and

WHEREAS, on January 8, 2020, the Port Commission adopted Resolution No. 713-20 outlining a policy establishing the limits of administrative authority delegated to the Port District Executive Director or his or her designee; and

WHEREAS, Section VI of the Specific Policy Directives of Administrative Authority to the Port District Executive Director adopted by way of Resolution No. 713-20 (“the policy”) limits the Director’s authority to rent or lease real or personal property; specifically, Section VI of the policy requires that all real property leases and non-ministerial amendments thereto be approved by the Commission; and

WHEREAS, on March 25, 2020, the Port Commission adopted Resolution No. 719-20, amending Resolution No. 713-20 to grant specific additional authority to the Executive Director to enter into agreements that would defer the payment of rent for those businesses most directly and adversely affected by this unprecedented public health emergency; and

WHEREAS, the Commission desires to further amend the delegation of authority policy adopted by way of Resolution No. 713-20 and to grant specific additional authority to the Executive Director to early terminate term leases and enter into month-to-month storage agreements for the same premises at a reduced rate with tenants with businesses that depend upon congregations of people and which cannot maintain proper social distancing, and therefore, cannot continue to operate; and

WHEREAS, the Commission finds that this limited additional authority will allow a specific category of tenants that have been affected by the pandemic to continue occupancy of their premises under modified terms, conditions and reduced monthly rent, thereby ensuring an uninterrupted revenue stream to the Port and a measure of stability and predictability to tenants;

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

- 1. Authority Granted to Early Terminate Certain Types of Leases & Enter into Month-to-Month Storage Agreements:** The Executive Director is hereby specifically authorized to execute Lease Termination Agreements and enter into Month-to-Month Storage Agreements with Port tenants that, in the Director’s discretion have been most directly and adversely affected by the COVID-19 pandemic and the Governor’s proclamations issued in response thereto, subject to the following limitations:
 - a. The program shall be offered only to commercial building tenants (not industrial building or ground lease tenants) prevented from conducting normal business operations by way of Governor’s Proclamation 20-05 or any subsequent Proclamation issued thereunder; and
 - b. The tenant must be current as to all rents and charges and otherwise in good standing with the Port; and
 - c. If the tenant is currently under a term lease (i.e., rather than in holdover, under an expired lease or a month-to-month rental agreement), the lease must be tendered and early terminated; and
 - d. A Month-to-Month Storage Agreement shall be entered into which allows the tenant to continue occupying the premises for passive storage use only, at a rate of \$0.25 per square foot (plus leasehold excise tax and utilities), with no active business use of any kind permitted upon the premises; and
 - e. The Month-to-Month Storage Agreement shall specify that the Port will actively market the premises and place “For Rent” signs upon the premises, and in the event a

prospective business entity wishes to let the premises for business use, that the tenant will be given 20-days' notice to either:

- i. Enter into a new term lease agreement at the then prevailing market rate for commercial business space; or
- ii. Vacate the premises.

2. Effective Date - Duration: This Resolution No. 720-20 shall take effect immediately and be in full force and effect for the same period, and without action required to renew, as Declaration of Emergency No. 01-2020 remains in effect.

ADOPTED this 8th day of April 2020, by the Commission of the Port of Port Townsend and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the Seal of the Commission duly affixed.


ATTEST:



Pamela A. Petranek, Secretary




Peter W. Hanke, President



William W. Putney, III, Vice President



APPROVED AS TO FORM:


Port Attorney