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**Port of Port Townsend
1st Monthly Meeting Agenda
Wednesday, February 8, 2017, 1:00 p.m.
Port Commission Building
333 Benedict Street, Port Townsend, WA**

- I. Call to Order / Pledge of Allegiance
- II. Approval of Agenda
- III. Consent Agenda
 - A. Approval of Meeting Minutes – January 25, 2017.....1-4
 - Approval of Public Workshop Minutes – February 1, 2017.....5-6
 - B. Resolution No. 659-17 – Surplus Certain Items.....7-8
 - C. Delegation of Authority Policy.....9-18
 - D. Approval of Warrants
- IV. Public Comments (not related to Agenda)
- V. Second Reading
 - A. Proposed Rate Schedule for Marina, RV & Ramp Rates.....19
- VI. First Reading
- VII. Regular Business
 - A. Integrated Planning Grant.....20
 - B. Clint Thompson Lease.....21-44
- XIII. Staff Comments
- IX. Public Comments
- X. Commissioner Comments
- XI. **Next Regular Meeting:**
Wednesday, February 22, 2017 at 1:00 p.m. in the Port Commission Building, 333 Benedict Street, Port Townsend, WA
- XII. Executive Session:
 - A. Potential Litigation
 - B. Personnel
- XIII. Adjournment

PORT COMMISSION REGULAR MEETING– January 25, 2017

The Port of Port Townsend Commission met in regular session at the Commission Building, 333 Benedict Street, Port Townsend, WA

Present: Commissioners – Tucker and Clinefelter
Executive Director – Gibboney
Auditor - Berg
Director of Operations & Business Development - Englin
Attorney – O'Malley
Minutes – Nelson
Present by Phone: Commissioner Hanke
Absent: Planning Analyst Toews

I. CALL TO ORDER/PLEDGE OF ALLEGIANCE:

Commissioner Clinefelter called the meeting to order at 5:30 p.m.

II. APPROVAL OF AGENDA:

Ms. Gibboney proposed the additions of VII, Regular Business, Item C – CERB Grant for Point Hudson Revitalization Planning Study Resolution No. 658-17; and, XII, Executive Session for a Personnel Matter and Potential Litigation, duration of fifteen minutes with no action.

Commissioner Clinefelter added in addition, there would be a special public comment period held immediately following VI, First Reading, Item A – Proposed Rate Schedule.

Commissioner Tucker moved to approve the agenda as amended.

Commissioner Clinefelter seconded the motion.

Motion carried by unanimous vote.

Ms. Gibboney noted that Commissioner Hanke, who is out of state, is present on the conference phone.

III. CONSENT AGENDA (2:25):

A. Approval of Public Workshop Minutes – January 11, 2017

Approval of Regular Meeting Minutes – January 11, 2017

B. Approval of Warrants

Warrant #057154 through #057163 in the amount of \$12,352.50 for Payroll & Benefits

Electronic Payment in the amount of \$58,829.30 for Payroll & Benefits

Warrant #057164 through #057220 in the amount of \$322,178.35 for Accounts Payable

Electronic Debit in the amount of \$14,361.50 for WA State Dept. of Labor & Industries
4th Quarter Tax Return for October – December 2016

Electronic Debit in the amount of \$3,970.03 for WA State Dept. of Revenue, Combined
Excise Tax Return for December 2016

Commissioner Tucker moved to approve the Consent Agenda as presented.

Commissioner Clinefelter seconded the motion.

Motion carried by unanimous vote.

IV. PUBLIC COMMENTS (Not related to agenda):

None

V. SECOND READING (Action Items):

A. Resolution No. 655-17 – Delegation of Authority (2:53):

Commissioner Tucker discussed the increased amounts of the Executive Director's (ED) spending authority. He stated he would like to see immediate communication from the ED to the Commission regarding significant information and business transactions. He stated he agrees with the policy but it needs to come with some communication expectations.

Commissioner Hanke requested the ED continue to meet on a regular basis with the commissioners, separately, and possibly provide agendas for those meetings.

Commissioner Clinefelter stated he would like to move forward with the policy and resolution, with an addenda requesting the ED to inform the Commission in a timely manner regarding contracts, awards and executions.

Commissioner Tucker moved to adopt Resolution No. 655-17, Delegation of Authority Resolution and Policy, along with an addenda requesting the ED to inform the Commission in a timely manner regarding contracts, awards and executions.

Commissioner Clinefelter seconded the motion.

Motion carried by unanimous vote.

VI. FIRST READING (Discussion Only):

A. Proposed Rate Schedule for Marina, RV & Ramp Rates (6:50):

Commissioner explained the rules for public comments.

Ms. Gibboney pointed out the footnote on the rate sheet, explaining permanent moorage rates shown are inclusive of Leasehold Tax (12.84%). She informed that rates have been discussed in open meetings for many months. She reminded rate increases are driven by the financial challenges that lie ahead and current capital needs. Ms. Gibboney clarified that these increases are for moorage, RVs and ramps and other Port rates will be proposed at a later date. She reminded that capital projects identified in the next five years total \$12M. Ms. Gibboney stated that besides increases in operational revenues, staff is looking at outside organizations for other funding opportunities. She then added that we must continue to meet our debt obligations. Ms. Gibboney reported she has met with many people over the past few days concerning the rate increases and capital needs of the Port.

Mr. Englin explained the methodology in establishing the rates, which included reviewing 60+ marinas; factoring market average as a benchmark; comparisons to other marinas; relationship to costs reflected in the rates. He stated staff is searching for additional revenue opportunities and other funding sources to help fund the capital plan and to meet expenses.

Ms. Berg reported she has looked at the past seven-year's cash flow. In 2010, it totaled \$5.3M and in 2016, \$2.8M, the decrease due to capital maintenance projects, debt service and insufficient revenues. She stated the Port had no asset management plan in place in the past, and it was sorely needed. She added that staff began developing an asset management plan based on the Capital Repair & Replacement Plan (CRRP), and that plan is key to financial performance. She said at the least, the Port should be able to repair and replace assets. Ms. Berg reported available bonding capacity is \$5M, and a good percentage of those are revenue bonds, which are based on projected revenue.

Ms. Gibboney reported she has talked with tenants and community members, where they are asking for additional outreach. She suggested another meeting before the next regular commission meeting. The commission concurred and called for a Special Public Workshop on Wednesday, February 1, 2017 at 5:30 pm in the Port Commission Building. Commissioner Hanke stated this is a good jump in rates and asked if staff had rate increase projections for the year/years ahead.

Ms. Gibboney replied that as we build out the capital plan, staff will look at financial tools and partnerships. She added State and Federal dollars are an evolving target. She said that at this point, it is not possible to develop a multi-year rate plan.

Commissioner Clinefelter reminded people to remember that when comparing the proposed 2017 rates to 2016 rates, to keep in mind that 2016 rates did not include the Leasehold Excise Tax. He clarified that these increases will not take effect until April 1, 2017, and Mr. Englin added they are not retroactive.

Speakers from the audience who commented on the proposed rates: Larry Pepper, Bertram Levy, Ron Hayes, Doug Bolling, Keith Holm, Bill Putney, George Yount, Andy Okinczyc, Liz Kanieski, Pam Petranek, Gordon Neilson, Jim Heumann, Jennifer Takaki, Melinda Bryden, Jerry Johnson, Jana Allen, Kaci Cronkhite and Jake Beattie.

Commissioner Tucker stated he did not know what to expect tonight. He said he has been looking at old news clippings and many of the same issues have been discussed year after year. He discussed how back in the 80's for instance, there was more funding (federal) available to the Port but today, and this is not the case. He said he believes past commissions should not be blamed for the lack of maintenance; that they relied on money being available at the time. Now that funding opportunities are substantially less, it is up to us to figure how to maintain the Port.

Ms. Gibboney added that staff is not looking only at moorage rate increases, but it is a combination of things, and rates are an essential part of that combination.

Commissioner Hanke expressed his appreciation of all the audience comments. He stated our Port is a unique port – we do not have funding from State Ferries, no deep draft marinas. He added he does not know the solution and welcomes the public to contact him with their comments.

Commissioner Clinefelter also encouraged folks to call or email him with ideas and comments. He added that he heard folks commenting today about lost revenue opportunities at the Port, but he reassured the audience that staff is leaving no stone

unturned and is looking very hard at opportunities. He added that upgrades would be made to the Boat Haven public restrooms this year. He said staff is moving forward with corrective measures.

VII. REGULAR BUSINESS:

A. Resolution No. 657-17, Jefferson County Hazard Mitigation (1:43:46):

Ms. Gibboney asked the Commission to consider adoption of this resolution. She explained that FEMA requires an update to the Jefferson County Emergency Management plan on a six-year cycle, and that the Port has elements in the current plan (536 pages). She explained this is an effort by the County to assess what potential efforts exist in responding to disasters, and coordination of the response afterwards. She stated the Port's part in the plan include identifying capital improvements such as raising the elevations of the jetties, staffing for emergency procedures, and showing plans for continued work on the capital plan. Submission of the resolution would allow the Port to remain eligible for FEMA funding. Ms. Gibboney said she has full confidence in adoption of the plan, and would like the Port to continue to have an effective part in emergency response. Further discussion ensued on the plan.

Commissioner Clinefelter moved to adopt Resolution No. 657-17, the Jefferson County Hazard Mitigation Plan.

Commissioner Hanke seconded the motion.

Motion carried by unanimous vote.

B. December 2016 Preliminary YTD Financial Results (1:52:11):

Ms. Berg explained these figures are preliminary to the annual report, which will be completed in a few months. In summary, she stated revenues and expenses are looking good compared to prior years and in accordance with the budget. She pointed out revenues are up, but this year the Port has incurred significant bad debt, \$85K of which we may not ever see. She discussed Work in Progress and capital costs and after paying all debt, the Port's end of year cash balance is \$2.8M.

Commissioner commented he is surprised how little the income is down with the vacancies in the boat yard.

Commissioner Tucker asked about debt incurred and possible compensation on the vessel, the John Cobb

C. CERB Grant for Point Hudson Revitalization Planning Study, Resolution No. 658-17 (1:56:26):

Ms. Gibboney reported staff had a condensed workshop with Maul Foster Alonghi (MFA) on a process to move forward with Point Hudson planning. She then met with Jake Beattie of the Maritime Center and will follow-up with City Manager Dave Timmons. The grant is due Monday, and if awarded, the Port would receive \$50K from CERB and would contribute \$20K of Port money. Ms. Gibboney explained the focus is to engage stakeholders, including tenants, the NW Maritime Center and the City. She discussed the need for financial stability for Point Hudson. She will reach out to the City to discuss the possibility of in-kind contributions. Ms. Gibboney then briefed the application process and reported the CERB board will make their decision on March 16, 2017, the same day the Port makes their presentation to the board. She reported she meets with MFA in Seattle Monday to work on their scope of work.

Commissioner Hanke moved to adopt Resolution No. 658-17, CERB Grant for Point Hudson Revitalization Study.

Commissioner Tucker seconded the motion.

Motion carried by unanimous vote.

VIII. STAFF COMMENTS (2:01:31):

Ms. Gibboney discussed the workshop with MFA, who brought in a historic building renovation specialist along, which aided in the application process.

She reported repair work on the Boat Haven breakwater is complete, on time and on budget. She reported a local firm performed the project inspections.

Commissioner Clinefelter asked if any change orders were necessary. Yes, prior to the work, contractors discovered holes that grew considerably from storms since the prior inspection, resulting in a change order for more rock.

Mr. Englin reported he is closing out negotiations with the US Coast Guard on their lease. He stated the audit of fiber/WiFi capabilities in the yard should be complete on Friday. He added Point Hudson is next. Mr. Englin reported he has asked tenants to audit their business needs and to bring them forward. Staff is figuring out a plan to utilize all

assets. He discussed modeling and carrying capacity, mapping of the yard. He reported he has met with Bob Cunningham, and will meet with New Day regarding their leases. He will be working on a rate analysis for leases. Mr. Englin provided dates for the upcoming Seattle Boat Show, which the Port is a participant. He briefed on the status of the John Cobb, utility costs, and informed that a proposed yard and rate schedule would be forthcoming.

Ms. Gibboney reported staff met with Parametrix last week. She provided a briefing on the status of the response to the Administrative Order and informed that staff might ask DOE for a minor extension on the Order. She reported staff is plotting out a critical path. Ms. Gibboney informed there might be an opportunity for CERB funding, up to \$300K with a 50% match. She informed staff is working on a fact sheet for the public. She briefed on the timeline to comply with the Order.

IX. PUBLIC COMMENTS (2:19:38):

Bill Putney discussed the troubleshooting and repair he has made to the AWOS at the airport, where cold weather has caused fiber breakage. He reported airport webcams should also be in operation by the weekend.

XI. COMMISSIONER COMMENTS (2:20:50):

Commissioner Hanke thanked Mr. Putney for his work on the AWOS. He also expressed his amazement by all the comments tonight. He commended Mr. Englin, Ms. Berg and Ms. Gibboney on their work with the rates.

Commissioner Tucker discussed the recent Energy Lunch Meeting he attended.

Commissioner Clinefelter asked if staff was looking into sandblasting alternatives. He discussed dustless sandblasting and recommended that staff look into this. He explained that it eliminates the need for full enclosures and the noise issues.

Ms. Gibboney said tonight she heard from the audience they want to see diversification of the revenue stream. She reassured that staff is very well aware of the vacancies in the yard. Staff is in the planning process, mapping out properties and moving forward with planning.

Mr. Englin reported the consensus of the marine trades' is they are looking for environmentally controlled spaces. He also thanked TJ Quandt and the moorage staff for their work on the revenue surveys. Mr. Englin said he agrees with the member of the audience who suggested dry stack boat storage, but first staff needs to designate lease footprints.

Ms. Gibboney reported she met with Brian Kuh, the new Team Jefferson director. He would like to schedule time to present a report on their efforts. She noted the scope of work with Team Jefferson under revision, to include their assistance with IDD outreach. Mr. Kuh will meet with Mr. Englin next week.

XII. NEXT SPECIAL PUBLIC WORKSHOP, PUBLIC WORKSHOP & MEETING:

February 1, 2017, 5:30 PM: Special Public Workshop, Port Commission Building.

Wednesday, February 8, 2017: Regular Public Workshop at 9:30 a.m. and the Regular Meeting at 1:00 p.m. in the Port Commission Building, 333 Benedict St, Port Townsend.

XIII. EXECUTIVE SESSION:

The regular session recessed into Executive Session at 7:59 p.m. to discuss personnel and potential litigation, pursuant to RCW 42.30.110 (i) and (g), fifteen-minute duration with no action.

XIV. ADJOURNMENT:

The meeting reconvened and adjourned at 8:14 p.m. there being no further business to come before the Commission.

ATTEST:

Peter W. Hanke, President

Stephen R. Tucker, Secretary

Brad A. Clinefelter, Vice President

PORT COMMISSION PUBLIC WORKSHOP -- February 1, 2017

The Port of Port Townsend Commission met for a Public Workshop session in the Port Commission Building, 333 Benedict Street, Port Townsend, WA.

Present: Commissioners Clinefelter and Tucker
Commissioner Hanke present by phone
Executive Director -- Gibboney
Auditor -- Berg
Director of Operations & Business Development - Englin
Minutes -- Nelson

I. CALL TO ORDER:

Commissioner Clinefelter called the Workshop to order at 5:52 p.m. (5:30 p.m. start time delayed due to technical problems).

II. AGENDA:

Refer to attached workshop agenda for items discussed.

IV. ADJOURNMENT:

The Workshop adjourned at 8:20 p.m.

ATTEST:

Peter W. Hanke, President

Stephen R. Tucker, Secretary

Brad A. Clinefelter, Vice President

**Port of Port Townsend
Public Workshop
Wednesday, February 1, 2017, 5:30 p.m.
Commission Building
333 Benedict Street, Port Townsend, WA**

AGENDA

- **Capital Projects**
- **Proposed Moorage/RV/Ramp Fees**

Note: This is a Public Port Commission Workshop. Workshops are for information sharing only and no decisions will be made during the session. Public input may be taken at the Commissions' discretion.

RESOLUTION NO. 659-17

A Resolution of the Commission of the Port of Port Townsend

**RESOLUTION DECLARING CERTAIN ITEMS SURPLUS AND
AUTHORIZING THEIR SALE AND/OR DISPOSAL**

WHEREAS: The Port of Port Townsend has in its possession a 31 year old manufactured home, as described in Exhibit A and attached to this resolution; and

WHEREAS: due to continual usage and age, this equipment is of little or no value to the Port and is therefore no longer needed for Port purposes; and

WHEREAS: such property having been certified in writing as not needed for Port purposes by the Executive Director, its managing official, a copy of said certification is marked Exhibit A and attached to this Resolution,

NOW, THEREFORE BE IT HEREBY RESOLVED by the Port Commission of the Port of Port Townsend that the said property be declared surplus, and that the Executive Director is authorized to sell or dispose of the property in the best manner which she, in her discretion, shall determine, including by negotiation or informal bidding from members of the public, or direct disposal.

ADOPTED this 8th day of February, 2017 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:

Stephen R. Tucker, Secretary

Peter W. Hanke, President

Brad A. Clinefelter, Vice President

APPROVED AS TO FORM:

Port Attorney

EXHIBIT "A"

CERTIFICATE

THAT CERTAIN PORT DISTRICT PROPERTY IS SURPLUS

The undersigned, Sam Gibboney, Executive Director, the managing official of the Port District of the Port of Port Townsend, hereby certifies that the following property is surplus and is no longer needed for Port District purposes.

EQUIPMENT TO SURPLUS:

LOCATION:	TYPE	BRAND	MODEL	SERIAL #
Quilcene Marina	Manufactured Home	Fleetwood Homes of Oregon	N/A	OORFLZAF174804535- 4483B

DATED this 8th day of February 2017.

Sam Gibboney
Executive Director

PORT OF PORT TOWNSEND
SPECIFIC POLICY DIRECTIVES OF
ADMINISTRATIVE AUTHORITY OF THE
PORT DISTRICT EXECUTIVE DIRECTOR

January 25, 2017

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

Certain elements of this policy require annual approval per RCW. Therefore, this Administrative Authority Policy shall be reviewed and readopted annually.

I. UTILIZATION OF PORT CREWS

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

A. Performance of Work by Port Crews

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

II. RULES AND / OR PROCEDURES

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

The ED may delegate to appropriate Port staff such administrative authority or reporting requirements herein established as is necessary and advisable in the efficient exercise of the ED's authority. To implement delegations or authority to Port staff, the ED shall promulgate policy and procedure manuals, monetary delegations authority and employee position descriptions, affirmative action plans and office manuals which shall include such delegations as appropriate. The responsibility for all administration and day-to-day operations of the Port rests with the ED.

III. SALE OF PERSONAL PROPERTY

The Port District ED, with prior Commission approval, is authorized pursuant to RCW 53.08.090 to sell and convey surplus personal property of the Port pursuant to the requirements of RCW 53.08.090.-092 (as amended or succeeded). The ED is authorized to sell and convey surplus personal property of the Port of Port Townsend subject to the following conditions:

- A. That the value of such personal property does not exceed the dollar limits authorized under RCW 53.08.090-092 (as amended or succeeded).

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

IV. CONTRACTS FOR PERFORMANCE OF WORK

- A. Contract Awards for Construction and Maintenance
 - 1. The Port District ED may, without prior Commission approval, execute on its behalf contracts where the total estimated contract price does not exceed Fifty Thousand Dollars (\$50,000.00) exclusive of applicable taxes, and so long as all statutory procedures are followed, including bid and performance surety requirements. All contracts awarded under this section will be reported to the Commission at the next scheduled meeting. Public discussions with the Commission regarding all projects will take place with the adoption of the annual capital budget unless an emergency exists.
 - 2. The Port District ED may, execute on behalf of the Port contracts for large projects that have been properly approved including costs at a public Port meeting, and all statutory procedures must be followed. Upon proper approval from the Commission, the Port District ED may publish a notice calling for bids, award of contract or rejections of all bids will be done by vote of the Commission at a public meeting.
 - 3. When any emergency shall require the immediate execution of a contract for work the Port

District ED, pursuant to the procedures of RCW 39.04.020 (as it may be amended or succeeded), is authorized to make a finding of the existence of such emergency and execute any contracts necessary to respond to the existing emergency, provided that the Port District ED shall, at the first opportunity contact a Commissioner, and at the first Port Commission meeting following the finding of the existence of an emergency, request the Port Commission ratification of the finding of emergency and any contracts awarded and or executed pursuant to that finding.

B. Change Orders

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

1. The estimated cost of the aggregate changes in plans or specifications, exclusive of applicable taxes, will not exceed Twenty-Five Thousand Dollars (\$25,000.00).
2. For contracts of \$1 million dollars or more, the change order shall not exceed Fifty Thousand Dollars (\$50,000.00).
3. The contract provides for the issuance of changes orders.
4. The individual change order has been approved and certified by the project architect or engineer as being necessary to the proper accomplishment of the work called for in the basic contract.
5. The ED shall inform the Commission at the next scheduled meeting of all actions undertaken under this section.

C. Professional Services / Consulting Services:

The ED shall be responsible for the initiation of appropriate procedures to obtain professional or consultant services where deemed necessary in carrying out normal Port operations. When necessary, Port Legal Counsel shall be consulted with respect to statutory procedures in connection with these services. The ED may arrange for these services, without prior Commission approval,

when the cost of the proposed service for any single project will not exceed Fifty Thousand Dollars (\$50,000) . If the fee for such services is estimated to exceed Fifty Thousand Dollars (\$50,000) , prior Commission approval shall be required. The ED shall inform the Commission at the next scheduled meeting of all actions undertaken under this section.

D. Architectural, Engineering & Technical Services:

The ED is authorized to contract with qualified architectural, engineering and technical testing & inspection firms licensed in the State of Washington to provide such services as required for maintenance, preliminary engineering work or small projects of the Port. Arrangements for obtaining such services shall follow all required statutory procedures and shall be consistent with normal established fees paid for such services. If the fee on any single project or closely related work is estimated to exceed Fifty Thousand Dollars (\$50,000) Commission approval shall be required. The ED shall inform the Commission at the next scheduled meeting of actions undertaken under this section.

E. Reports:

Notwithstanding the authorities granted in the preceding sections A - D, the ED shall keep the Commission advised of all contracts, reports and activities. **In the event of an emergency or other situation requiring immediate action to execute a contract, the ED shall inform Commissioners individually of such action as soon as possible, and then again at the next regularly scheduled meeting.**

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

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

the following conditions:

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

VI. REAL & PERSONAL PROPERTY RENTALS OR LEASES

All real & personal property belonging to the Port, when available for rent or lease, shall, except as otherwise provided herein, be leased only under an appropriate written lease instrument approved by the Commission in accordance with RCW 53.08.085. The term lease as used herein may refer to rental agreements, operating agreements or use agreements. Provided, however, in the case of a month-to-month lease subject to all the following conditions, the ED may execute the lease:

VII. LITIGATION

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

VIII. ADJUSTMENT TO ACCOUNTS RECEIVABLE OR UNCOLLECTIBLE ACCOUNTS

The Port District ED is authorized to establish procedures to:

- 1) Make adjustments to accounts receivable for valid business reasons which do not

constitute a gift of public funds, or

- 2) Remove from the general ledger uncollectible accounts with prior approval from the Commission.

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

IX. PROPERTY ACQUISITION AND SALE OF REAL PROPERTY

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

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

X. INSURANCE PROGRAMS

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

XI. EMPLOYEE TRAVEL, EDUCATION & CONFERENCE ATTENDANCE

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

XII. BANKING SERVICES AND INVESTMENT OF TEMPORARILY IDLE PORT FUNDS

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

For purposes of this section, "Temporarily Idle Funds" shall mean those funds which are not required for immediate expenditure. The Port District ED is authorized to develop procedures to direct the Port Treasurer, in accordance with applicable law relating to the investment of public funds, in the investments of

temporarily idle Port funds. These directives include, but shall not be limited to, investments in public fund approved vehicles of investment, sale of such investments, and necessary inter-fund transfers. A summary of all financial activities shall be provided at Port Commission meetings.

XIII. TRADE DEVELOPMENT PROGRAMS

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

XIV. GRANTS AND APPROPRIATIONS

All grant and appropriation requests (regardless of value) will come before the Commission for approval prior to submission.

XV. AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT

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

XVI. ADMINISTERIAL CHECKS AND WARRANTS

The Executive Director is authorized to approve checks and warrants issued in the nature of administerial expenses for the efficient and proper management of port district operations as delegated in this resolution or reasonably implied from the same. The Executive Director is not authorized to approve checks and warrants in the nature of claims or non-administerial obligations. The Executive Director shall cause the checks and warrants issued under this section to come before the commission for review and approval as to the nature

and amount of administrative checks and warrants issued at the next regular meeting following issuance. The Port shall provide for bonding required for faithful discharge of the Executive Director's duties.

PORT OF PORT TOWNSEND

MEETING OF: February 8, 2017

AGENDA ITEM: V. Second Reading
A. Proposed Rate Schedule for Marina, RV & Ramp Rates

BACKGROUND:

A draft of the 2017 Rate Schedule for Marina, RV & Ramp rates was presented at the January 25, 2017 Commission Meeting. Staff will present the final schedule to the commission for possible adoption.

Executive Director's Recommendation:

The ED recommends that the Commission adopt the rate schedule as presented.

PORT OF PORT TOWNSEND

MEETING OF: February 8, 2017

AGENDA ITEM: VII. Regular Business
A. Integrated Planning Grant

BACKGROUND:

The Executive Director will brief the Commission on the Integrated Planning Grant program. She will also discuss the opportunity to obtain funding through this program in 2017.

Executive Director's Recommendation:

Authorize the Executive Director to move forward in seeking funding through an Integrated Planning Grant.

PORT OF PORT TOWNSEND

MEETING OF: February 8, 2017

AGENDA ITEM: VII. Regular Business
B. Clint Thompson Lease

BACKGROUND:

Staff will present a lease for Clint Thompson, dba Perpetual Boatworks. This is to lease yard space numbers 313 & 314, a combined space of 24' x 80', total 1920 sq ft. A nearly three-year term, with two additional one-year options. This lease allows Mr. Thompson to relocate leasehold premises should boat yard operations necessitate.

Executive Director's Recommendation:

Authorize the ED to execute the lease with Mr. Thompson.

PORT OF PORT TOWNSEND BOAT HAVEN LAND LEASE

THIS LEASE AGREEMENT made this 10th day of February, 2017, 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 CLINT ERIC THOMPSON, dba "PERPETUAL BOATWORKS", a Washington sole proprietorship, hereinafter referred to as "Lessee,"

WITNESSETH:

That the parties hereto do mutually agree as follows:

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

A 1,920 (24' x 80') square foot area known as Boatyard Spaces #313 and 314, located near the northeast corner of the Port's Boat Haven shown on Exhibit "A" to this Lease Agreement

hereinafter referred to as "the premises."

2. **TERM:** This Lease shall be for a term beginning on March 1, 2017 and ending on December 31, 2019 unless extended or sooner terminated as provided in this Lease. The Lessee and the Port shall also have a mutual option to extend the lease term by two (2) additional one (1) year terms. Notification to extend the Lease will be done in writing 90 days prior to end of the initial or any extended lease term.
3. **RENT:**
 - a. During the period March 1, 2017 through December 31, 2017, Lessee agrees to pay as rental for the leased premises the sum of **Two Hundred Eighty-Eight Dollars and Zero Cents (\$288.00)** per month, plus all applicable taxes.¹

Base Rent is generally computed as follows:

1920 SF of land @ \$1.80 /SF/YR = \$3,456.00 /YR ÷ 12 = \$288.00 /MO or \$0.15 /SF/MO.

¹ Fifteen cents (0.15¢ per square foot).

b. Beginning January 1, 2018 through December 31, 2019, Lessee agrees to pay as rental for the leased premises the sum of **Four Hundred Eighty Dollars and Zero Cents (\$480.00)** per month, plus all applicable taxes.²

Base Rent is generally computed as follows:

1920 SF of land @ \$3.00 /SF/YR = \$5,760.00 /YR ÷ 12 = \$480.00 /MO or \$0.25 /SF/MO.

c. Beginning on January 1, 2020, and every year thereafter, the rental rate may be adjusted to the fair market rental rate for the premises based on the fair market rental rate then prevailing for comparable commercial and/or industrial premises in the Western Washington area, bearing in mind all allowable uses of the property and all services and amenities available to the premises by virtue of its location. In the event that the parties are unable to reach agreement on the fair market rate adjustment, the rate shall be determined by arbitration before a single arbitrator who shall be jointly selected by the parties or by the Jefferson County Court if the parties cannot agree.

d. Except in years when a fair market rate adjustment is made as set forth in Subparagraph (c) of this Paragraph 3, above, the rental rate beginning in year two (2) and annually throughout the term of this Lease will be adjusted by an amount equal to the percentage change over the prior year found on the Consumer Price Index for all urban consumers (CPI-U) for Seattle-Tacoma-Bremerton, which is compiled by the Department of Labor, Bureau of Statistics.

e. In no event shall any rent adjustment under Subparagraphs (c) or (d) of this Paragraph 3 result in a reduction in rent from the rate paid in the prior year.

f. 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 the main office of the Port or at such place as the Port may hereafter designate.

g. The Lessee shall be charged for use of any and all use of Port land in excess of the leased premises described in Paragraph 1 at prevailing Port rate on a monthly basis.

4. **LATE CHARGE:** In the event that any installment of rent remains unpaid more than twenty (20) days after it is due, then Lessee shall also be obliged to pay a "late charge" as per the Port of Port Townsend Rate Schedule then in effect.

5. **DEPOSIT:** Upon the execution of this Lease, Lessee shall deposit with the Port three month's rent plus applicable taxes in the amount of **Two Thousand Dollars and Zero Cents (\$2,000.00)**. This Lease shall not be effective until full deposit of the required amount is made with the Port. The deposit shall be held by the Port as security for Lessee's faithful performance of all of its obligations under this Lease. Any interest earned on amounts deposited shall be retained by the Port.

² Twenty-five cents (0.25¢ per square foot).

The deposit shall be returned to Lessee upon termination of this Lease, less any charges owing to the Port or expenses incurred by the Port in repairing damage caused by Lessee or restoring the leased premises to the condition required upon termination of this Lease.

6. **USE OF PREMISES:** Lessee shall use the premises for boatbuilding and repair and shall not use them for any other purpose without the prior written consent of the Port. Lessee shall use the entire premises for the conduct of said business in a first class manner continuously during the entire term of this Lease, with the exception of temporary closures for such periods as may reasonably be necessary for repairs or redecorating or for reasons beyond Lessee's reasonable control. Lessee agrees that it will not disturb the Port or any other tenant of the Port's by making or permitting any disturbance or any unusual noise, vibration or other condition on or in the premises inconsistent with normal boat repair work.
7. **PARKING:** Parking vehicles on this Leased property will be limited to two (2) vehicles. All vehicles must be registered and in working order. This does not include forklifts, but does include all personal cars, vans, and trucks.
8. **UTILITIES:** Lessee shall be liable for and shall pay throughout the term of this Lease, all charges for all utility services furnished or attributable to the Premises, including, but not limited to, light, heat, electricity, fire alarm monitoring, gas, water, sewerage (which includes removal and disposal of sewerage and surface water), recycling, garbage disposal and janitorial services, specifically including reasonable costs and charges associated with the management of such utility services. In the event that the Premises are part of a building or part of any larger premises to which any utility services are furnished on a consolidated or joint basis, Lessee agrees to pay to the Port Lessee's pro rata share of the cost of any such utility services. 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.
9. **ACCEPTANCE OF PREMISES:** Lessee has examined the leased premises and accepts them in their present condition.
10. **MAINTENANCE AND REPAIR:** Lessee is responsible for all costs related to maintenance and repair. At the expiration or sooner termination of this Lease, Lessee shall return the premises to the Port in the same condition in which received (or, if altered by Lessee with the Port's consent, then the premises shall be returned in such altered condition), reasonable wear and tear and damage by fire or unavoidable casualty excepted. Lessee shall, at its' own expense, and at all times:
 - a. Keep the premises and the adjoining roadways neat, clean and in a safe and sanitary condition, free from infestation of pests and conditions which

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might result in harborage for, or infestation of pests. As used in this Section, the word "pests," as used herein, shall include without limitation, rodents, insects, and birds in numbers to the extent that a nuisance is created.

- b. Maintain and keep the leased premises in a good state of repair; and
- c. Not commit waste of any kind.
- d. Lessee will be responsible for all costs related to maintenance and repair on a reimbursable basis to the Port.

11. **ALTERATIONS AND IMPROVEMENTS:** Lessee shall make no alterations or improvements to or upon the premises without first obtaining written approval from the Executive Director of the Port. Such written approval shall also include agreement for disposition of the improvements upon termination of this Lease.
12. **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.
13. **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.

14. **DAMAGE OR DESTRUCTION:**

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- a. Should the premises be damaged by casualty, and if the damage is repairable within four (4) weeks from the date of the occurrence (with the repair work and the preparations therefor to be done during regular working hours on regular work days), the premises shall be repaired with due diligence by the Port, and in the meantime the monthly minimum rental shall be abated in the same proportion that the untenable portion of the premises bears to the whole thereof, for the period from the occurrence of the damage to the completion of the repairs.
- b. Should the premises or any buildings or structures of which the premises are a part be completely destroyed by casualty, or should they be damaged to such an extent that the damage cannot be repaired within four (4) weeks of the occurrence, the Port shall have the option to terminate this Lease on thirty (30) days' notice, effective as of any date not more than sixty (60) days' after the occurrence. In the event that this paragraph shall become applicable, the Port shall advise Lessee within thirty (30) days after the happening of any such damage whether the Port has elected to continue the lease in effect or to terminate it. If the Port shall elect to continue this Lease in effect, it shall commence and prosecute with due diligence any work necessary to restore or repair the premises. If the Port shall fail to notify Lessee of its election within said thirty (30) day period, the Port shall be deemed to have elected to terminate this Lease, and the lease shall automatically terminate sixty (60) days after the occurrence of the damage. For the period from the occurrence of any damage to the premises to the date of completion of the repairs to the premises (or to the date of termination of the lease if the Port shall elect not to restore the premises), the monthly minimum rental shall be abated in the same proportion as the untenable portion of the premises bears to the whole thereof.

15. **INDEMNIFICATION AND HOLD HARMLESS:** The Port, its employees and agents shall not be liable for any injury (including death) to any persons or for damage to any property, regardless of how such injury or damage be caused, sustained, or alleged to have been sustained by the Lessee or by others as a result of any condition (including existing or future defects in the premises) or occurrence whatsoever related in any way to the premises and the areas adjacent thereto or related in any way to Lessee's use or occupancy of the premises and of the areas adjacent thereto. Lessee agrees to defend and to hold and save the Port harmless from all liability or expense of litigation) in connection with any such items of actual or alleged injury or damage.
16. **INSURANCE:** Lessee agrees to maintain during the lease term liability insurance as set forth below, at Lessee's sole expense. All such insurance shall name the Port of Port Townsend as an additional insured, and shall be with insurance companies acceptable to the Port.

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

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

17. **WAIVER OF SUBROGATION:** The Port and Lessee hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective fire insurance contracts, including any extended coverage endorsements thereto, PROVIDED, that this paragraph 17 shall be inapplicable if it would have the effect, but only to the extent that it would have the effect, of invalidating any insurance coverage of the Port or Lessee.
18. **INCREASE IN COST OF INSURANCE:** Lessee shall not use the demised premises in such a manner as to increase the existing rates of insurance applicable to the buildings or structures of which the premises are a part. If it nevertheless does so, then, at the option of the Port, the full amount of any resulting increase in premiums paid by the Port with respect to the buildings or structures of which the leased premises are a part, and to the extent allocable to the term of this Lease, may be added to the amount of rental hereinabove specified and shall be paid by Lessee to the Port upon the monthly rental day next thereafter occurring.

19. **HAZARDOUS SUBSTANCES WARRANTY AND AGREEMENT:** Lessee has examined the Hazardous Substance Warranty and Agreement, consisting of seven (7) pages, which is attached hereto and which by this reference is incorporated herein as Exhibit "A" as fully set forth herein, and acknowledges full understanding of its obligations under said Hazardous Substances Warranty and Agreement.
20. **TAXES:** Lessee shall be liable for, and shall pay throughout the term of this Lease, all license and excise fees and occupation taxes covering the business conducted on the premises, and all taxes on property of Lessee on the leased premises and any taxes on the leased premises or leasehold interest created by this Lease Agreement.
21. **COMPLIANCE WITH PORT REGULATIONS AND WITH ALL LAWS:** Lessee agrees to comply with all applicable rules and regulations of the Port pertaining to the building or other realty of which the premises are a part now in existence or hereafter promulgated for the general safety and convenience of the Port, its various tenants, invitees, licensees and the general public. Lessee also agrees to comply with all applicable federal, state, and municipal laws, ordinances, and regulations. Lessee further agrees that all buildings, structures or other improvements, approved by the Port, will be properly permitted by 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.
22. **ASSIGNMENT OR SUBLEASE:** Lessee shall not assign or transfer this Lease or any interest therein nor sublet the whole or any part of the premises, nor shall this Lease or any interest thereunder be assignable or transferable by operation of law or by any process or proceeding of any court, otherwise, without the written consent of the Port first had and obtained. If Lessee is a corporation, Lessee further agrees that if at any time during the term of this Lease more than one-half (1/2) of the outstanding shares of any class of stock of Lessee corporation shall belong to any stockholders other than those who own more than one-half (1/2) of the outstanding shares of that class of stock at the time of the execution of this Lease or to members of their immediate families, such change in the ownership of the stock of the Lessee shall be deemed an assignment of this Lease within the meaning of this paragraph. If the Port shall give its consent to any assignment or sublease, this paragraph shall nevertheless continue in full force and effect and no further assignment or sublease shall be made without the Port's consent. The Port's consent will not unreasonably be withheld.
23. **DEFAULTS:** Time is of the essence of this Lease Agreement, and in the event of the failure of Lessee to pay the rentals or other charges at the time and in the manner herein specified, or to keep any of the covenants or agreements herein

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set forth to be kept and performed, the Port may elect to terminate this Lease and reenter and take possession of the premises with or without process of law, PROVIDED, however, that Lessee shall be given fifteen (15) days' notice in writing stating the nature of the default in order to permit such default to be remedied by Lessee within said fifteen (15) day period. If upon such reentry there remains any personal property of Lessee or of any other person upon the leased premises, the Port may, but without the obligation so to do, remove said personal property and hold it for the owners thereof or may place the same in a public garage or warehouse, all at the expense and risk of the owners thereof, and Lessee shall reimburse the Port for any expense incurred by the Port in connection with such removal and storage. The Port shall have the right to sell such stored property, without notice to Lessee, after it has been stored for a period of thirty (30) days or more, the proceeds of such sale to be applied first to the cost of such sale, second to the payment of the charges for storage, and third to the payment of any other amounts which may then be due from Lessee to the Port, and the balance, if any, shall be paid to Lessee. Notwithstanding any such reentry, the liability of Lessee for the full rental provided for herein shall not be extinguished for the balance of the term of this Lease, and Lessee shall make good to the Port any deficiency arising from a re-letting of the leased premises at a lesser rental than that hereinbefore agreed upon. Lessee shall pay such deficiency each month as the amount thereof is ascertained by the Port. Any failure by the owners, officers, or principals of Lessee to pay rentals, storage fees, moorage or any other charges owed to the Port under separate contract shall constitute default under provisions of this Lease Agreement.

24. TERMINATION OF LEASE OR CHANGE IN LOCATION OF PREMISES BY PORT:

- a. In the event that the Port, at its sole discretion, shall require the use of the premises for any purpose for public or private use in connection with the operation of the business of the Port, then this Lease may be terminated by the Port by written notice delivered or mailed by the Port to the Lessee **sixty (60)** or more days before the termination date specified in the notice. Compensation to Lessee for loss of use, cost of relocation, and/or cost of improvement, will be agreed by Lessee and the Port Executive Director.
- b. In lieu of exercising the termination authority set forth in subparagraph a, immediately above, the Port, in its sole discretion, should it require relocation of the premises to another site within the facility for any purpose in connection with the business of the Port, may relocate the premises described in Paragraph #1, infra, by written notice delivered or mailed by the Port to the Lessee **sixty (60)** or more days before the premises described in Paragraph #1, infra, are required for Port use. In the event that this subparagraph b is exercised by the Port, Lessee agrees that the Port shall not be required to compensate Lessee for loss of use or cost of

relocation. Any modification to the location of the premises described herein shall be memorialized in writing and signed by both parties.

25. **TERMINATION FOR GOVERNMENT USE:** In the event that the United States Government or any agency or instrumentality thereof shall, by condemnation or otherwise, take title, possession or the right to possession of the premises or any part thereof, the Port may, at its option, terminate this Lease as of the date of such taking, and, if Lessee is not in default under any of the provisions of this Lease on said date, any rental prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.
26. **TERMINATION BECAUSE OF COURT DECREE:** In the event that any court having jurisdiction in the matter shall render a decision which has become final and which will prevent the performance by the Port of any of its obligations under this Lease, then either party hereto may terminate this Lease by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate. If Lessee is not in default under any of the provisions of this Lease on the effective date of such termination, any rental prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.
27. **SIGNS:** No signs or other advertising matter, symbols, canopies or awnings shall be attached to or painted or within the leased premises, including the windows and doors thereof, without the approval of the Executive Director of the Port first had and obtained. At the termination or sooner expiration of this Lease, all such signs, advertising matter, symbols, canopies or awnings attached to or painted by Lessee shall be removed by Lessee at its own expense, and Lessee shall repair any damage or injury to the premises, and correct any unsightly condition, caused by the maintenance and removal of said signs, etc.
28. **INSOLVENCY:** If Lessee shall file a petition in bankruptcy, or if Lessee shall be adjudged bankrupt or insolvent by any court, or if a receiver of the property of Lessee shall be appointed in any proceeding brought by or against Lessee, or if Lessee shall make an assignment for the benefit of creditors, or if any proceedings shall be commenced to foreclose any mortgage or any other lien on Lessee's interest in the premises or on any personal property kept or maintained on the premises by Lessee, the Port may at its option, terminate this Lease.
29. **WAIVER:** The acceptance of rental by the Port for any period or periods after a default by Lessee hereunder shall not be deemed a waiver of such default unless the Port shall so intend and shall so advise Lessee in writing. No waiver by the Port of any default hereunder by Lessee shall be construed to be or act as a

waiver of any subsequent default by Lessee. After any default shall have been cured by Lessee, it shall not thereafter be used by the Port as a ground for the commencement of any action under the provisions of paragraph 23 hereof.

30. **PROMOTION OF PORT COMMERCE:** Lessee agrees that throughout the term of this Lease it will, insofar as practicable, promote and aid the movement of passengers and freight through facilities within the territorial limits of the Port. Lessee further agrees that all incoming shipments of commodities that it may be able to control or direct shall be made through facilities within the territorial limits of the Port if there will be no resulting cost or time disadvantage to Lessee.
31. **SURRENDER OF PREMISES - ATTORNEYS' FEES:** At the expiration or sooner termination of this Lease, Lessee shall promptly remove building from leased property or re-negotiate a lease at the same or different site at the Port. In the event that the Port shall be required to bring any action to enforce any of the provisions of this Lease, or shall be required to defend any action brought by Lessee with respect to this Lease, and if the Port shall be successful in such action, Lessee shall, in addition to all other payments required herein, pay all of the Port's actual costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorney's fees in the trial court and in any appellate courts.
32. **HOLDING OVER:** 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 150% of the 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.
33. **ADVANCES BY PORT FOR LESSEE:** If Lessee shall fail to do anything required to be done by it under the terms of this Lease, except to pay rent, the Port may, at its sole option, do such act or thing on behalf of Lessee, and upon notification to Lessee of the cost thereof to the Port, Lessee shall promptly pay the Port the amount of that cost.
34. **LIENS AND ENCUMBRANCES:** Lessee shall keep the leased premises free and clear of any liens and encumbrances arising or growing out of the use and occupancy of the said premises by Lessee. At the Port's request, Lessee shall furnish the Port with written proof of payment of any item which would or might constitute the basis for such a lien on the leased premises if not paid.
35. **NOTICES:** All notices hereunder may be delivered or mailed. If mailed, they shall be sent by certified or registered mail to the following respective addresses:

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

To Lessee:
CLINT ERIC THOMPSON/dba PERPETUAL BOATWORKS
617 East 9TH Street
Port Angeles, WA 98362

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

36. **JOINT AND SEVERAL LIABILITY:** Each and every party who signs this Lease, other than in a representative capacity, as Lessee, shall be jointly and severally liable hereunder.
37. **"LESSEE" INCLUDES LESSEE, ETC.:** It is understood and agreed that for convenience the word "Lessee" and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this Lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual Lessee or Lessee under this Lease Agreement.
38. **CAPTIONS:** The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.
39. **SEVERABILITY:** If any term or provision of this Lease Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.
40. **NON-DISCRIMINATION SERVICES:** The Lessee agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color, sex, sexual orientation, or national origin in furnishing, or by refusing to furnish, to such person, or persons, the use of the facility herein provided, including any and all services, privileges, accommodations, and activities provided thereby.

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

- 41. NON-DISCRIMINATION EMPLOYMENT:** The Lessee covenants and agrees that in all matters pertaining to the performance of this Lease, Lessee shall at all times conduct its business in a manner which assures fair, equal and non-discriminatory treatment of all persons without respect to race, creed or national origin and, in particular:
- 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, sex, sexual orientation, or national origin.
- 42. EASEMENTS:** The Parties recognize that the Port facilities are continuously being modified to improve the utilities and services used and provided by the Port. The Port or its agents shall have the right to enter the demised premises of the Lessee, and to cross over, construct, move, reconstruct, rearrange, alter, maintain, repair and operate the sewer, water, and drainage lines, and the electrical service, and all other services required by the Port for its use. The Port is hereby granted a continuous easement or easements that the Port believes is necessary within the lease premises of the Lessee, without any additional cost to the Port for the purposes expressed hereinabove; PROVIDED however, that the Port by virtue of such use does not permanently deprive the Lessee from its beneficial use or occupancy of its leased area.

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

Lease Agreement dated this 10th day of February 2017 is hereby approved by the Port of Port Townsend, on this 8th day of February 2017 and effective upon the receipt of a deposit and liability insurance documentation from the Lessee.

LESSEE

Clint E. Thompson, dba/Perpetual Boatworks, Sole Proprietor

ATTEST:

PORT OF PORT TOWNSEND

APPROVED AS TO FORM

Sam Gibboney, Executive Director

Port Attorney

PORT OF PT/CLINT E. THOMPSON
LEASE AGREEMENT

**STATE OF WASHINGTON
COUNTY OF JEFFERSON**

I certify that I know or have satisfactory evidence that Clint E. Thompson 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 PT/CLINT E. THOMPSON
LEASE AGREEMENT

**STATE OF WASHINGTON
COUNTY OF JEFFERSON**

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

Dated: _____

Signature of
Notary Public: _____

My Appointment Expires: _____

PORT OF PT/CLINT E. THOMPSON
LEASE AGREEMENT

EXHIBIT "A"
DESCRIPTION OF THE PREMISES

[GRAPHIC MAP DEPICTING THE 1,920 S.F. LEASED AREA - **RESERVED**
TO BE COMPLETED PRIOR TO LEASE EXECUTION ON 2/10/17]

EXHIBIT "B"
HAZARDOUS SUBSTANCES WARRANTY AND AGREEMENT

RIDER TO LEASE AGREEMENT DATED: FEBRUARY 10, 2017, BETWEEN THE PORT OF PORT TOWNSEND and CLINT E. THOMPSON, DBA/PERPETUAL BOATWORKS ("LESSEE").

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 the Port, Lessee shall not store, use or have present on or adjacent to the premises any Hazardous Substances. Hazardous Substances means a reportable quantity of any hazardous, toxic, dangerous or extremely dangerous substance, material, vapor, or waste, pollutant, or pollution, which is or becomes regulated by the United States Government, the State of Washington, or any local governmental authority applicable to the leased property. The term includes, without limitation, any substance containing constituents of the foregoing.

Except that Lessee may store, use, or have present on the premises the following:

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 any shelter(s) erected by the Lessee at the premises, and specifically to those locations within such shelter(s) having concrete flooring or such other impermeable flooring as the Port may, in its sole discretion, approve in writing upon request by Lessee.
3. **HANDLING AND DISPOSAL.** The Lessee agrees to use said substances identified in Paragraph 2 only on areas which have impermeable surfaces and or other means for preventing accidental contact by such substances with the soils upon the leasehold or its surrounding area.
4. **RELEASES OF HAZARDOUS SUBSTANCES PROHIBITED.** Lessee, its officers, employees, contractors, agents, licensees, invitees, and assigns, shall not Release, dispose of, or permit a Release of any Hazardous Substances onto the premises or into the environment surrounding the premises, whether said Release is caused by intentional or unintentional acts, omissions, negligence, or otherwise. As used in

this Lease, the term "Release" shall be defined as provided in 42 U.S.C. 9601 and RCW 70.105D.020. In the event a conflict exists between the two definitions, the broader definition shall apply. For purposes of this lease, the term Release shall also include a threatened Release.

5. **REGULATORY COMPLIANCE.** Lessee warrants and agrees that, during the term of this Lease and any extensions thereof, it will take all steps necessary to comply with all applicable federal, state and local requirements, including without limitation laws, rules, regulations, ordinances, permits and permit requirements, orders, decrees, and other governmental requirements regarding the proper and lawful generation, use, sale, transportation, storage, treatment and disposal of Hazardous Substances, (hereinafter "Laws"), on or in any manner which affects the premises. Lessee shall, at its sole cost and expense, comply with all Laws. Lessee shall obtain any required federal or state hazardous waste generator or transporter identification numbers. Lessee shall provide to the Port 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 (7) days of receipt by Lessee.
6. **DISPOSAL OF HAZARDOUS WASTES.** In the event Lessee has occasion or need to dispose of Hazardous Substances or wastes, and unless otherwise agreed in writing, Lessee shall retain an independent hazardous waste disposal firm to dispose of any and all such substances at an off-site facility which has been properly approved, licensed and authorized to accept such substances. Lessee shall ensure that the disposal firm is properly licensed and in good standing with the applicable regulatory authorities for such work, and that it has all required transporter identification numbers.
7. **LESSEE'S WARRANTY OF NO CONTAMINATION.** Except as may be disclosed in Attachment No. 1 hereto, Lessee warrants and represents that it has (1) 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, (2) 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 (3) 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 Substances. 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 the Port in writing within seven (7) days of such event, and shall provide the Port with a copy of each document reflecting such event.
8. **INDEMNIFICATION AND HOLD HARMLESS.** Lessee shall indemnify and hold the Port 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 the Port which result from (1) Lessee's breach of provision of this Rider, (2) claims, actions, suites, proceedings, judgments, fines or remedial orders (including orders to clean up contamination at the premises) which arise because of Lessee's breach of this Rider, (3) Lessee's violation of environment laws or regulations, or (4) Lessee's Release of Hazardous Substance onto the premises or into the surrounding environment. This obligation shall include, but shall not be limited to, environmental response and remedial costs, other cleanup costs, environmental consultants' fees, attorneys' fees, fines and penalties, laboratory testing fees, claims by third parties and governmental authorities for death, personal injuries, property damage, business disruption, lost profits, natural resource damages and any other costs for environmental assessments, monitoring, government compliance, or otherwise related to a Release or threatened Release of Hazardous Substances. This obligation by the Lessee shall survive the expiration or termination of this Lease Agreement and the sale of the property. If the Port so requests, Lessee shall accept the tender of defense of, and shall retain counsel of the Port's selection and at Lessee's expense to defend any third party claim asserted against the Port in connection with alleged conduct by Lessee which, if true, would be in breach of the provision of this Rider. Lessee shall have no obligation under this Paragraph 8, if Lessee can establish that the Release or threatened Release of a Hazardous Substance and the damages resulting therefrom were caused solely by:

- a. An act of God;
- b. An act of war;
- c. An act or omission of a third party other than (i) an employee or agent of the Lessee, or (ii) any person whose act or omission occurs in connection with a contractual relationship existing, directly or indirectly, with the Lessee, if the Lessee establishes by a preponderance of the evidence that Lessee (a) exercised due care with respect to the Hazardous Substance concerned, taking into consideration the characteristics of such Hazardous Substance, in light of all relevant facts and circumstances, and (b) took reasonable precautions against foreseeable acts or omissions of any such third party and the foreseeable consequences of such acts or omissions;
or
- d. Any combination of the foregoing paragraphs.

9. **NOTIFICATION TO THE PORT OF CHANGES IN OPERATION.** Lessee agrees to notify the Port 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 or threatened Release of Hazardous Substances into the environment, including but not limited to material changes in Lessee's methods of hazardous waste disposal, material increases in the volume of Lessee's hazardous waste disposal, or material changes in the nature of any hazardous wastes which Lessee anticipates it will generate.

10. **COPIES OF ENVIRONMENTAL CORRESPONDENCE.** Lessee agrees to provide the Port 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.
11. **NOTIFICATION OF SPILLS OR RELEASES.** Lessee shall comply with all notification requirements under the applicable federal, state and local environmental statutes and regulations, including but not limited to the timely notification of the appropriate government authorities of any spills or Releases of Hazardous Substances into the environment or onto the premises. Lessee shall notify the Port 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 the Port with seven (7) days after receipt or creation, as the case may be.
12. **PORT'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, the Port shall be entitled (1) to terminate this Lease Agreement immediately, (2) to require Lessee to cease all operation which pose a risk or threat 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. The Port 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 the Port under applicable law.
13. **ANNUAL DECLARATION OF COMPLIANCE.** Within ten (10) days of receipt of a written request by the Port, 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. The Port anticipates that it will request such a declaration annually, approximately on the anniversary date of this Rider.
14. **INSPECTION OF PREMISES.** Lessee agrees to permit and cooperate with any on-site inspections and testing requested by the Port, including inspections and testing conducted by consultants or engineers hired by the Port to evaluate Lessee's compliance with the applicable environmental requirements and the provisions of this Rider. The Port shall provide Lessee within 24 hours advance notice of the Port's intent to conduct such inspection or testing.

15. **DESIGNATED REPRESENTATIVE RESPONSIBLE FOR COMPLIANCE.** Clint E. Thompson, whose work telephone number is 360-821-8536 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 the Port 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 the Port of any changes in the identity or telephone numbers of the designated representative.

16. **ADDITIONAL PROVISIONS.**

PORT OF PORT TOWNSEND:

LESSEE:

Sam Gibboney

Clint E. Thompson

Title: Executive Director

Title: Sole Proprietor, Perpetual Boatworks

Date: _____

Date: _____

(Attachment No. 1 to Hazardous Substances Rider)

DISCLOSURE BY LESSEE

The Lessee makes the following disclosure pursuant to Paragraph 7 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:_____)
2. Indication(s) of Contamination at Premises:
(If none, initial here:_____)
3. Lessee Violation(s) of Environmental Regulations:
(If none, initial here:_____)
4. Environmental Claims or Litigation Against Lessee:
(If none, initial here:_____)

Lessee: CLINT E. THOMPSON, DBA/PERPETUAL BOATWORKS

By: _____ / _____
(Printed Name) (Signature)

Title: _____ /Date: _____

(Attachment No. 2 to Hazardous Substances Rider)

DECLARATION OF COMPLIANCE

CLINT E. THOMPSON, as the designated representative of Lessee primarily responsible for environmental compliance pursuant to Paragraph 13 of the Hazardous Substances Warranty and Agreement dated: _____, 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 7 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 Substances except those that have been disclosed in writing to lessor.
5. Lessee has not Released, disposed of, or permitted the Release of any Hazardous Substances onto the premises or into the environment surrounding the premises, except as has been disclosed in writing to Lessor.

Lessee: CLINT E. THOMPSON, DBA/PERPETUAL BOATWORKS

By: _____
Signature

Title: _____/Date: _____