

PORT OF COLUMBIA COUNTY
100 E STREET, COLUMBIA CITY, OR 97018
June 14, 2023

BUDGET HEARING

8:30 A.M.

THE COMMISSION MEETING WILL BEGIN IMMEDIATELY FOLLOWING THE BUDGET HEARING

The Port of Columbia County Commission Meeting will be in person. In accordance with state law, the meeting will be accessible via telephone or Zoom. Members of the public who want to attend the meeting electronically should do so by:

<https://us02web.zoom.us/j/89205596871>

Meeting ID: 892 0559 6871

Passcode: 372635

Call-In

1 (253) 215-8782

- I. CALL MEETING TO ORDER (President, Robert Keyser)**
- A. Flag Salute
- B. Roll Call
- II. ADDITIONS TO AGENDA**
- III. CONSENT AGENDA** (The Board has agreed to implement a Consent Agenda. Implementation of the Consent Agenda means that all items marked with an asterisk (*) are adopted by a single motion unless a Member of the Board requests that such item be removed from the Consent Agenda and voted upon separately. Generally, Consent Agenda items are routine in nature and enable the Board to focus on other matters on the agenda.)
- A.* Approval of Minutes; May 10, 2023, Commission Mtg, & May 24, 2023, Budget Committee. Mtg.
- B.* Financial Reports; May 2023
- C.* Approval of May Check Registers (A) in the total amount of \$215,028.51
- D.* Approval of May Check Registers (B) in the total amount of \$875.52
- IV. COMMENTS FROM VISITORS** (Limited to 2 min. per person unless prior authorization is obtained)
- V. OLD BUSINESS**
- A. Dredging Project Update MH
- B. Marina Improvement Project Update MH
- C. Airport Use Permit Update (Through-The-Fence Access) AB
- VI. NEW BUSINESS**
- A. **Resolution 2023-15** BFG/GG
ADOPTING THE FY 2023-2024 BUDGET, MAKING APPROPRIATIONS
- B. **Resolution 2023-16** BFG/GG
IMPOSING THE TAX AT A RATE OF \$0.00 PER \$1,000
- C. **Resolution 2023-17** EM/BFG
A RESOLUTION ESTABLISHING MOORAGE RATES AT THE SCAPPOOSE BAY MARINE PARK, AND REPEALING RESOLUTION 2021-14
- D. **Resolution 2023-18** EM/BFG
A RESOLUTION ESTABLISHING NEW DAILY AND ANNUAL USE FEES AT THE SCAPPOOSE BAY MARINE PARK, AND REPEALING RESOLUTION 2021-15
- E. **Resolution 2023-19** AB
A RESOLUTION APPROVING A LEASE AND RAIL AGREEMENT WITH STELLA-JONES CORPORATION AT THE MULTNOMAH INDUSTRIAL PARK
- F. **Ordinance 2023-01** (First Reading)** RLS
AN ORDINANCE AMENDING ORDINANCE 2005-01 REGARDING PROCEDURES FOR PUBLIC CONTRACTING TO ALLOW THE DISPOSITION OF PERSONAL PROPERTY WITH MINIMAL TO NO VALUE
- VII. EXECUTIVE DIRECTOR'S REPORT**
- VIII. COMMISSIONER REPORTS**
- IX. EXECUTIVE SESSION**
The Board will hold an executive session to review and evaluate the employment-related performance of the Port Executive Director under ORS 192.660(2)(i).
- X. ADJOURNMENT**

Pursuant to ORS 192.640 (1) the Port of Columbia County Board of Commissioners reserves the right to consider and discuss, in either Open Session or Executive Session, additional subjects which may arise after the agenda is published

Next Regularly Scheduled Meetings

June 28th (TBD) Work Session at 6:00 p.m.

July 12th Comm. Mtg at 8:30 a.m.

Upcoming Events

July 11th at 5:30 p.m. SBM Adv. Com. Mtg

July 31st at 5:00 p.m. SA Adv. Com. Mtg

July 31st at 11:30 a.m. Ag. Information Com. Mtg.

**** Copies available at the Port Office.**

Agenda times and order of items listed are estimated and are subject to change without notice. This facility is ADA-accessible. If you need special accommodation, please contact the Port office at (503) 397-2888 or TTY (800) 735-1232, at least 48 hours before the meeting.

**PORT OF COLUMBIA COUNTY
MAY 10, 2023
COLUMBIA CITY, OR 97018**

The Port of Columbia County held a Commission meeting at 8:30 A.M. on Wednesday, May 10, 2023, at the Port Office, 100 E Street, Columbia City, Oregon, and via Zoom video conferencing, with the following present:

Commissioners

| | |
|-----------------------------|--------------------------------|
| Robert Keyser | President |
| Chip Bubl | Vice President |
| Chris Iverson | 2 nd Vice President |
| Nancy Ward | Secretary |
| Brian Fawcett – Zoom | Treasurer |

Guests

| | |
|------------------------------------|------|
| Natasha Parvey | NEXT |
| Jay Harland – CSA Planning | Zoom |
| Brady Preheim | Zoom |
| James Kirby – Century West | Zoom |
| Duane Neukom | Zoom |
| KJ Lewis – PGE | Zoom |
| Tommy Brooks – Cable Huston | Zoom |
| Alta Lynch | Zoom |
| Scott Fournier | Zoom |

Staff

| | |
|--------------------------------|--------------------------------|
| Sean P Clark | Executive Director |
| Bob Gadotti | Exec. Finance Mgr. |
| Robert Salisbury | Port General Counsel |
| Brittany Scott | Exec. Assist. /Office Coord. |
| Elizabeth Millager | Operations Coordinator |
| Sydell Cotton – Zoom | Acct. & Payroll Specialist |
| Elliot Levin | N. County Ops. & Terminal Mgr. |
| Amy Bynum | Real Est. & Bus. Dev. Mgr. |
| Gina Sisco | External Affairs Mgr. |
| Lacey Tolles | Data Res. & Projects Spec. |
| Susie Tolleshaug – Zoom | Administrative Assistant |

Guests Continued

| | |
|------------------------|------|
| Jasmine Lillich | Zoom |
| Empty Hangar | Zoom |

The Port of Columbia County Commission meeting was called to order at 8:30 A.M. by President Robert Keyser.

Consent Agenda

Chris Iverson moved, Nancy Ward seconded a motion to adopt consent agenda items A, B, & C: April 12, 2023, minutes, Financial Reports for April 2023, and April 2023 Check Register (A) in the amount of \$214,978.13. The motion carried unanimously.

Chip Bubl moved, Nancy Ward seconded a motion to adopt consent agenda item D: April Check Register (B) for \$33,556.73. Chip Bubl, Nancy Ward, and Brian Fawcett voted aye. Chris Iverson and Robert Keyser abstained from voting, declaring a potential conflict of interest. The motion carried.

Additions To The Agenda

There were no additions to the agenda.

Public Comment

There was no public comment.

Old Business

Scappoose Bay Marina Dredging Project Update

Sean Clark updated the Commission that the Sediment Analysis was sent back to PSET's evaluation team and once they make their decisions on the characteristics of the sediment then the Port will know if we can do in-water or upland disposal of dredge spoils.

Marina Improvement Project

Sean Clark mentioned that the Port is about 90% complete with the design and engineering for the marina improvement project. Mr. Clark said at some point the Port will need to figure out how much we will be spending this current budget year and the next year based on priorities.

Airport Use Permit (Through-The-Fence)

Amy Bynum said that there is no update.

Port Office Extension Update

Amy Bynum updated the Commission that Columbia City received the application for the minor modification to the

Port office building. The addition is \$2,500 additional square feet. The City of Columbia City sent a letter on Monday that the application is complete, and the Port should receive a decision by Friday. The only condition for approval is to sign an updated waiver of remonstrance for street improvements. Chris Iverson asked if the city is talking about the street going North and South or East and West. Ms. Bynum said that it is going East and West on the street in front of the building. Mr. Iverson asked if that was broken out in the non-remonstrance agreement. Mr. Salisbury stated yes, the city is asking to extend the period of time. The Commission's consensus was to approve the Waiver of Remonstrance Agreement.

New Business

Resolution 2023-11

A RESOLUTION TO APPOINT ANDREW BRADLEY TO THE SCAPPOOSE BAY MARINE PARK ADVISORY COMMITTEE

Chip Bubl moved, Chris Iverson seconded a motion to approve Resolution 2023-11, authorizing Andrew Bradley appointed to the Scappoose Bay Marine Park Advisory Committee. The motion carried unanimously.

Resolution 2023-12

A RESOLUTION APPROVING CENTURY WEST SCOPE OF WORK FOR RUNWAY REHABILITATION AT THE SCAPPOOSE AIRPORT

Chris Iverson moved, Chip Bubl seconded a motion to approve Resolution 2023-12, authorizing the Executive Director to proceed with a Scope of Work with Century West for environmental and design services for Runway Rehabilitation at Scappoose Airport. Chris Iverson asked who will be picking the subcontractors. James Kirby said that when they proposed the original project, they submitted a list of sub-consultants. Nancy Ward asked how we get the word out to people who want to use our facility when the runway is closed. Mr. Kirby said that we use the NOTAM System which is a notice for air mission. The motion carried unanimously.

Resolution 2023-13

A RESOLUTION APPROVING CENTURY WEST SCOPE OF WORK FOR WESTSIDE PAVEMENT MAINTENANCE AT THE SCAPPOOSE AIRPORT

Chris Iverson moved, Chip Bubl seconded a motion to approve Resolution 2023-13, authorizing the Executive Director to proceed with a Scope of Work with Century West for design services for Westside Pavement Maintenance at the Scappoose Airport. The motion carried unanimously.

Resolution 2023-14

A RESOLUTION AUTHORIZING THE PORT TO ENTER INTO A PURCHASE AND SALE AGREEMENT WITH AMERICAN GUTTER SERVICE INC FOR A SMALL PARCEL LOCATED ON SOUTH 1ST STREET

Nancy Ward moved, Chip Bubl seconded a motion to approve Resolution 2023-14, authorizing the Executive Director to complete the transaction and sign closing documents as required. Nancy Ward, Robert Keyser, Chip Bubl, and Brian Fawcett voted ayes. Chris Iverson voted nay. Mr. Iverson said we are selling the property too cheaply and doesn't agree. The motion carried.

Executive Director's Report

Provided and read by Sean Clark, which is attached to the file copy of the Minutes.

Robert Salisbury also announced that the port antitrust bill passed the Oregon State Senate yesterday. The bill is going to the House and then will go to the Governor for signature.

Commissioner Reports

Chris Iverson stated that he received quite a few comments about all of the boats fishing within our confines at the Scappoose Bay Marina. There were three or four boats anchored with three to five people inside the boat and this has happened for the last couple of weekends. The parking lot has been packed with trailers, boats, and people. Mr. Iverson also received comments about the dock. The elderly tenants are having a hard time because the dock is not level.

Nancy Ward stated that she is busy campaigning. She mentioned that the Chamber of Commerce event was delightful and well-attended. Ms. Ward mentioned that there will be a change for the commission, and it will affect all of the advisory committees and all of the assignments that the Commissioners have. She would like to take some time before July to have a conversation about how we do the advisory meeting assignments, what policies the Port has, who is on what, and how we determine that. Ms. Ward has never understood who gets to be in charge of what. Robert Keyser asked Ms. Ward what she thought of a post-election commissioner orientation. Ms. Ward would like to know more about the Commissioner's requirements.

Brian Fawcett stated that the Chamber event was good. Also, the meeting with staff to go over the budget was good as well.

Chip Bubl mentioned that he had read the budget and had a good conversation with Bob Gadotti yesterday.

Robert Keyser mentioned that he had a busy month and was out of the country for a couple of weeks. He appreciates the staff keeping him up to date. Mr. Keyser mentioned that they are still working on a potential meeting to explain the tax implications of the NEXT Energy development for all the special districts. Mr. Keyser would love to see the Port sponsor a table at the Black-Tie and Blue Jeans event. The funds raised at the event go toward the "Chance to Become" scholarship. Mr. Keyser would like to invite some of our trade union people to the event. Lastly, Mr. Keyser wanted to thank the Port staff for the kind card related to the passing of his mother.

Executive Session

The Board held an executive session to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed under ORS 192.660(2)(h).

THERE BEING NO FURTHER BUSINESS BEFORE THE COMMISSION, THE MEETING ADJOURNED AT 10:01 A.M.

President

June 14, 2023
Date Adopted by Commission

Secretary

PORT OF COLUMBIA COUNTY
BUDGET COMMITTEE MEETING
May 24, 2024
8:30 A. M.

Committee Members in attendance:

| | |
|---------------|--------------|
| Chris Iverson | Brian Little |
| Robert Keyser | Dan Garrison |
| Nancy Ward | Sean Clark |
| Chip Bubl | |

Staff Members in attendance:

| | |
|--------------------|---------------|
| Robert Gadotti | Lacey Tolles |
| Sydell Cotton | Bob Salisbury |
| Brittany Scott | Nick Sorber |
| Gina Sisco | Guy Glen |
| Elizabeth Millager | Alta Lynch |
| Susan Tolleshaug | Elliot Levin |
| Amy Bynum | Miriam House |

The Port of Columbia County Budget Committee Meeting was called to order by Commission President, Robert Keyser at 8:30 a.m.

Mr. Keyser welcomed the committee members to the meeting and asked for introductions then called for nominations for the budget chairperson. Chris Iverson moved to nominate Brian Little as the Budget Committee Chair, Dan Garrison seconded the nomination. There being no further nominations, President Keyser called for a vote, motion carried unanimously.

Commissioner Nancy Ward asked why the Budget Committee meeting is different than regular Port meetings. Why was there no agenda posted to the Port's website. Bob Gadotti, Budget Officer explained that this meeting is to present the budget to the committee for discussion and is part of a formal process required by the state. Mr. Gadotti said the budget is the agenda and that there would be a budget hearing where the public will have the opportunity to ask questions. Ms. Ward also asked if the agenda was set by the committee or by the Port. Mr. Little explained that the agenda is set by the budget which has to be available a certain number of days before the budget committee meeting and is part of a formal process.

Chairperson Little asked Budget Officer, Mr. Gadotti for the Budget message. Mr. Gadotti gave a short introduction and asked Sean Clark, Executive Director, for an overview of the Port's Capital Projects and financial status.

Mr. Gadotti proceeded by presenting a PowerPoint presentation outlining each section of the budget.

The committee discussed the tax levy and consensus was reached to not impose the tax levy.

Chairman Little opened the floor for questions and comments from the audience. No one had any issues or comments.

Chairman Little called for a motion to approve the 2023-24 proposed Budget in the amount of \$16,263,413.00 as discussed not to include the tax levy. Mr. Garrison moved, Chip Bubl seconded a motion to approve the proposed budget as amended. Motion carried unanimously.

Chairman Little called for a motion for the approval of the permanent tax levy of \$0.0000 per thousand of the assessed value for the 2023-24 budget. Chris Iverson moved, Nancy Ward seconded a motion to approve the permanent tax levy of \$0.0000 per thousand of assessed value for the budget year 2023-24. Motion carried unanimously.

Mr. Bubl moved to adjourn the meeting, there being no further business, the budget meeting adjourned at 10:47 a.m.

President

Date Commission Approved

Secretary



Finance Update May 2023

STAFF REPORT

DATE: June 14, 2023
TO: Commission Board
FROM: Bob Gadotti
Executive Finance Manager
RE: Finance Update as of May 31, 2023

Discussion:

This agenda item is a preliminary report of the Port's current financials as of May 31, 2023.

Cash and Investments: \$9,559,838.

YTD Revenues Collected: \$6,884,145, which is 89.1% of the annual budget of \$7,722,922.

YTD Expenses: \$4,982,631, which is 33.3% of the annual budget of \$14,955,276. The annual expense budget includes \$4,018,450 of contingency that will not be utilized.

May 2023 checks issued totaled \$215,904.03.

May Highlights

Proposed 2023-2024 Budget approved at May 24, 2023 budget meeting.

Executive Finance Manager Guy Glenn started date May 29, 2023.

Year-end account analysis starting for auditors.

| Income Statement | | | | | | | |
|----------------------------|--|--|-------------------|----------------------|------------------|----------------|---------------------|
| For the period ending | | | | | | | |
| May 31, 2023 | | | | | | | |
| | | | Current Actual | Yr To Date Actual | Annual Budget | % Remaining | Prior YTD Actual |
| Resources | | | | | | | |
| Property Taxes | | | 221 | 10,628 | - | 0.0% | 14,358 |
| Licenses and Permits | | | 45,627 | 503,156 | 563,935 | 10.8% | 510,515 |
| Rents and Reimbursements | | | 340,662 | 4,796,813 | 5,784,328 | 17.1% | 4,418,953 |
| Terminal Services | | | 67,590 | 528,813 | 411,202 | -28.6% | 469,712 |
| Bayport RVPark | | | 12,357 | 137,175 | 161,996 | 15.3% | 129,757 |
| Parking Fees | | | 6,410 | 32,820 | 32,185 | -2.0% | 34,967 |
| Launch Fees | | | 9,572 | 42,390 | 53,456 | 20.7% | 46,918 |
| Other Marina Fees | | | 200 | 2,844 | 4,286 | 33.6% | 4,046 |
| Grants | | | - | 47,035 | 394,627 | 88.1% | 188,608 |
| Loan Proceeds | | | - | 483,186 | - | 0.0% | - |
| Interest Earnings | | | 30,517 | 225,800 | 38,036 | -493.6% | 35,927 |
| InterGovernmental Income | | | - | - | - | 0.0% | - |
| Contributions | | | - | - | 250,018 | 100.0% | - |
| Miscellaneous Income | | | 14,774 | 73,486 | 28,853 | -154.7% | 352,080 |
| | | | | | | 0.0% | |
| Total Resources | | | 527,929 | 6,884,145 | 7,722,922 | 10.9% | 6,205,841 |
| | | | | | | 0.0% | |
| | | | | | | 0.0% | |
| Requirements | | | | | | 0.0% | |
| | | | | | | 0.0% | |
| Personnel Services | | | 135,540 | 1,900,909 | 2,177,364 | 12.7% | 1,635,069 |
| Materials and Services | | | 149,734 | 2,103,614 | 2,037,779 | -3.2% | 2,097,450 |
| Capital Outlay | | | 48,608 | 532,305 | 5,615,000 | 90.5% | 970,428 |
| Debt Service | | | - | 445,803 | 1,106,682 | 59.7% | 757,602 |
| Contingency | | | - | - | 4,018,450 | 100.0% | - |
| | | | | | | 0.0% | |
| Total Requirements | | | 333,883 | 4,982,631 | 14,955,275 | 66.7% | 5,460,549 |
| | | | | | | 0.0% | |
| Ending Fund Balance | | | 194,047 | 1,901,514 | (7,232,353) | 126.3% | 745,291 |

**Port of Columbia County
Vendor Check Register Report - A**

| Check No. | Vendor ID | Vendor Name | Date | Amount | Chk Bk ID | Voided |
|-----------|-----------|--------------------------------------|-----------|------------|-----------|--------|
| 43795 | AMER003 | American Metal Corp | 5/4/2023 | \$532.51 | BOW CHKG | No |
| 43796 | BREC001 | Breckenridge Storefronts & Entrances | 5/4/2023 | \$2,073.80 | BOW CHKG | No |
| 43797 | BYNU001 | Amy Bynum | 5/4/2023 | \$234.32 | BOW CHKG | No |
| 43798 | CINT002 | Cintas Corporation No 3 | 5/4/2023 | \$114.57 | BOW CHKG | No |
| 43799 | CITY001 | City of Columbia City | 5/4/2023 | \$243.29 | BOW CHKG | No |
| 43800 | CITY002 | City of Scappoose | 5/4/2023 | \$934.54 | BOW CHKG | No |
| 43801 | CITY003 | City of St. Helens | 5/4/2023 | \$14.37 | BOW CHKG | No |
| 43802 | CITY005 | City of Clatskanie | 5/4/2023 | \$86.05 | BOW CHKG | No |
| 43803 | CLAT002 | Clatskanie PUD | 5/4/2023 | \$999.63 | BOW CHKG | No |
| 43804 | COLU018 | Columbia River Auto Glass, LLC | 5/4/2023 | \$276.00 | BOW CHKG | No |
| 43805 | COMC002 | Comcast Business | 5/4/2023 | \$88.53 | BOW CHKG | No |
| 43806 | DAHL001 | VASA Hldgs LLC dba | 5/4/2023 | \$143.15 | BOW CHKG | No |
| 43807 | FINE001 | Encore Business Solutions | 5/4/2023 | \$393.75 | BOW CHKG | No |
| 43808 | FPRE001 | F. Preston | 5/4/2023 | \$2,800.00 | BOW CHKG | No |
| 43809 | LAWR001 | Lawrence Oil Company | 5/4/2023 | \$85.00 | BOW CHKG | No |
| 43810 | LEVI001 | Elliot Levin | 5/4/2023 | \$48.47 | BOW CHKG | No |
| 43811 | PAMP001 | Oregon Publication Corporation | 5/4/2023 | \$190.82 | BOW CHKG | No |
| 43812 | QUIN001 | Quincy Water Association | 5/4/2023 | \$550.35 | BOW CHKG | No |
| 43814 | SIER001 | Sierra Springs | 5/4/2023 | \$41.16 | BOW CHKG | No |
| 43815 | SINE001 | Sines Construction | 5/4/2023 | \$1,000.00 | BOW CHKG | No |
| 43816 | SOLU001 | Solutions Yes, LLC | 5/4/2023 | \$212.00 | BOW CHKG | No |
| 43817 | TOLL001 | Lacey Tolles | 5/4/2023 | \$79.74 | BOW CHKG | No |
| 43818 | VOYA001 | Voya - State of Oregon | 5/4/2023 | \$3,725.00 | BOW CHKG | No |
| 43819 | WILC001 | Wilson Oil Inc dba | 5/4/2023 | \$756.64 | BOW CHKG | No |
| 43820 | ACEH001 | Ace Hardware - St Helens | 5/12/2023 | \$799.67 | BOW CHKG | No |
| 43821 | ACEH002 | Ace Hardware - Scappoose | 5/12/2023 | \$87.00 | BOW CHKG | No |
| 43822 | AMBI001 | Ambient IT Solutions | 5/12/2023 | \$2,149.66 | BOW CHKG | No |
| 43823 | ATTM001 | AT&T Mobility | 5/12/2023 | \$1,129.86 | BOW CHKG | No |
| 43824 | BUBL001 | Chip Bubl | 5/12/2023 | \$150.00 | BOW CHKG | No |
| 43825 | CENT001 | CenturyLink | 5/12/2023 | \$236.56 | BOW CHKG | No |
| 43826 | CINT002 | Cintas Corporation No 3 | 5/12/2023 | \$39.09 | BOW CHKG | No |

**Port of Columbia County
Vendor Check Register Report - A**

| | | | | | | |
|-------|----------|---------------------------------------|-----------|-------------|----------|-----|
| 43827 | CONN001 | Connecta Satellite Solutions LLC | 5/12/2023 | \$44.78 | BOW CHKG | No |
| 43828 | FAWC001 | Brian Fawcett | 5/12/2023 | \$150.00 | BOW CHKG | No |
| 43829 | FINE001 | Encore Business Solutions | 5/12/2023 | \$187.50 | BOW CHKG | No |
| 43830 | HUDS001 | Hudson Garbage Service | 5/12/2023 | \$948.65 | BOW CHKG | No |
| 43831 | HUDS002 | Hudson Portable Toilet Service | 5/12/2023 | \$402.00 | BOW CHKG | No |
| 43832 | IVER001 | Chris Iverson | 5/12/2023 | \$150.00 | BOW CHKG | No |
| 43833 | KEYS001 | Robert Keyser | 5/12/2023 | \$150.00 | BOW CHKG | No |
| 43834 | KOLD001 | Culligan | 5/12/2023 | \$40.85 | BOW CHKG | No |
| 43835 | LEVI001 | Elliot Levin | 5/12/2023 | \$51.09 | BOW CHKG | No |
| 43836 | LOOPN001 | LoopNet | 5/12/2023 | \$738.00 | BOW CHKG | No |
| 43837 | MARI002 | Maritime Fire & Safety Association | 5/12/2023 | \$270.00 | BOW CHKG | No |
| 43838 | MYSY001 | My System Shield LLC VOID | 5/12/2023 | \$0.00 | BOW CHKG | Yes |
| 43839 | OAWU001 | Oregon Association of Water Utilities | 5/12/2023 | \$75.45 | BOW CHKG | No |
| 43840 | OREG004 | Oregon Department of State Lands | 5/12/2023 | \$484.57 | BOW CHKG | No |
| 43841 | OREI001 | O'Reilly Auto Enterprises LLC | 5/12/2023 | \$319.16 | BOW CHKG | No |
| 43842 | PACI005 | Pacific Office Automation | 5/12/2023 | \$357.00 | BOW CHKG | No |
| 43843 | PORT001 | Portland Business Journal | 5/12/2023 | \$170.00 | BOW CHKG | No |
| 43844 | QUIL001 | Staples Inc dba | 5/12/2023 | \$61.66 | BOW CHKG | No |
| 43845 | SALM001 | Salmon Creek Industries, Inc | 5/12/2023 | \$4,831.93 | BOW CHKG | No |
| 43846 | STEL001 | Richard Stellner | 5/12/2023 | \$6,853.61 | BOW CHKG | No |
| 43847 | STEW001 | Stewardship Solutions, Inc | 5/12/2023 | \$367.50 | BOW CHKG | No |
| 43848 | SUNS001 | Sunset Auto Parts | 5/12/2023 | \$99.06 | BOW CHKG | No |
| 43849 | WARD001 | Nancy Ward | 5/12/2023 | \$150.00 | BOW CHKG | No |
| 43850 | WAST002 | Waste Management of OR, Inc. | 5/12/2023 | \$32.92 | BOW CHKG | No |
| 43851 | BANK001 | Bank of the West | 5/18/2023 | \$11,964.57 | BOW CHKG | No |
| 43852 | CENT001 | CenturyLink | 5/18/2023 | \$100.36 | BOW CHKG | No |
| 43853 | CHAR001 | Charter Communications | 5/18/2023 | \$225.50 | BOW CHKG | No |
| 43854 | CINT002 | Cintas Corporation No 3 | 5/18/2023 | \$39.09 | BOW CHKG | No |
| 43855 | COMC002 | Comcast Business | 5/18/2023 | \$1,008.24 | BOW CHKG | No |
| 43856 | CSAP001 | CSA Planning Ltd. | 5/18/2023 | \$65,594.34 | BOW CHKG | No |
| 43857 | FINE001 | Encore Business Solutions | 5/18/2023 | \$262.50 | BOW CHKG | No |
| 43858 | LEVI001 | Elliot Levin | 5/18/2023 | \$48.47 | BOW CHKG | No |

**Port of Columbia County
Vendor Check Register Report - A**

| | | | | | | |
|-------|---------|--|-----------|-------------|----------|----|
| 43859 | LOWE001 | Lower Columbia Engineering | 5/18/2023 | \$19,383.33 | BOW CHKG | No |
| 43860 | MCMU002 | McMullen Water System | 5/18/2023 | \$310.00 | BOW CHKG | No |
| 43861 | NORW001 | Norwest Engineering, Inc | 5/18/2023 | \$577.50 | BOW CHKG | No |
| 43862 | NWNA001 | NW Natural Gas Company dba | 5/18/2023 | \$221.85 | BOW CHKG | No |
| 43863 | ORKI001 | Orkin LLC | 5/18/2023 | \$81.99 | BOW CHKG | No |
| 43864 | PORT002 | Portland General Electric | 5/18/2023 | \$7,388.44 | BOW CHKG | No |
| 43865 | QUIL001 | Staples Inc dba | 5/18/2023 | \$39.99 | BOW CHKG | No |
| 43866 | SHRE001 | Shred Northwest, Inc | 5/18/2023 | \$60.00 | BOW CHKG | No |
| 43867 | SOLU001 | Solutions Yes, LLC | 5/18/2023 | \$232.78 | BOW CHKG | No |
| 43868 | TVW0001 | TVW | 5/18/2023 | \$884.75 | BOW CHKG | No |
| 43869 | VOYA001 | Voya - State of Oregon | 5/18/2023 | \$3,765.00 | BOW CHKG | No |
| 43870 | WILC001 | Wilson Oil Inc dba | 5/18/2023 | \$657.91 | BOW CHKG | No |
| 43871 | ASSO001 | Association of Pacific Ports | 5/25/2023 | \$1,000.00 | BOW CHKG | No |
| 43872 | CENT003 | CenturyLink | 5/25/2023 | \$53.65 | BOW CHKG | No |
| 43873 | CINT002 | Cintas Corporation No 3 | 5/25/2023 | \$39.09 | BOW CHKG | No |
| 43874 | CITY002 | City of Scappoose | 5/25/2023 | \$2,000.00 | BOW CHKG | No |
| 43875 | CITY003 | City of St. Helens | 5/25/2023 | \$10,429.06 | BOW CHKG | No |
| 43876 | CLAT002 | Clatskanie PUD | 5/25/2023 | \$32.70 | BOW CHKG | No |
| 43877 | CLAT006 | Clatskanie Chamber of Commerce | 5/25/2023 | \$1,000.00 | BOW CHKG | No |
| 43878 | COLU003 | Columbia Learning Center | 5/25/2023 | \$1,000.00 | BOW CHKG | No |
| 43879 | COLU008 | Columbia River PUD | 5/25/2023 | \$3,582.64 | BOW CHKG | No |
| 43880 | COLU029 | Columbia City Community Library | 5/25/2023 | \$500.00 | BOW CHKG | No |
| 43881 | COMC001 | Comcast | 5/25/2023 | \$2,171.82 | BOW CHKG | No |
| 43882 | CULV001 | Kimberlee Culver | 5/25/2023 | \$220.89 | BOW CHKG | No |
| 43883 | FINE001 | Encore Business Solutions | 5/25/2023 | \$375.00 | BOW CHKG | No |
| 43884 | HDR0001 | HDR Engineering Inc | 5/25/2023 | \$2,601.72 | BOW CHKG | No |
| 43885 | LOWT001 | Dayle Shulda dba | 5/25/2023 | \$1,277.90 | BOW CHKG | No |
| 43886 | MACK001 | Mackenzie | 5/25/2023 | \$8,232.06 | BOW CHKG | No |
| 43887 | NASA001 | National Association of State Agencies for | 5/25/2023 | \$39.00 | BOW CHKG | No |
| 43888 | NORW001 | Norwest Engineering, Inc | 5/25/2023 | \$495.00 | BOW CHKG | No |
| 43889 | PITN001 | Pitney Bowes | 5/25/2023 | \$402.50 | BOW CHKG | No |
| 43890 | SHRE001 | Shred Northwest, Inc | 5/25/2023 | \$60.00 | BOW CHKG | No |

**Port of Columbia County
Vendor Check Register Report - A**

| | | | | | | |
|------------|---------|----------------------|-----------|---------------------|----------|----|
| 43891 | SUPP002 | SupplyWorks | 5/25/2023 | \$394.86 | BOW CHKG | No |
| 43892 | TCMS | Trotter & Morton | 5/25/2023 | \$646.00 | BOW CHKG | No |
| 43893 | TITA001 | Titan Tree Care, LLC | 5/25/2023 | \$3,900.00 | BOW CHKG | No |
| 43894 | MYSY001 | My System Shield LLC | 5/25/2023 | \$1,950.00 | BOW CHKG | No |
| 43895 | MYSY001 | My System Shield LLC | 5/25/2023 | \$1,000.00 | BOW CHKG | No |
| 43896 | MYSY001 | My System Shield LLC | 5/25/2023 | \$21,626.75 | BOW CHKG | No |
| 101 | | | | \$215,028.51 | | |

**Port of Columbia County
Vendor Check Register Report - B**

| Check No. | Vendor ID | Vendor Name | Date | Amount | Chk Bk ID | Voided |
|-----------|-----------|-------------|----------|----------|-----------|--------|
| 43813 | SDIS001 | SDIS | 5/4/2023 | \$875.52 | BOW CHKG | No |

1

\$875.52

RESOLUTION NO. 2023-15

ADOPTING THE FY 2023-2024 BUDGET, MAKING APPROPRIATIONS

BE IT RESOLVED that the Board of Commissioners of the Port of Columbia County hereby adopts the budget for the fiscal year 2023-2024 in the total amount of \$16,263,413. This budget is now on file at 100 E Street in Columbia City, Oregon.

MAKING APPROPRIATIONS

BE IT RESOLVED that the amounts shown below are hereby appropriated for the fiscal year beginning July 1, 2023, for the following purposes:

Enterprise Fund

| | | |
|---|----|-----------|
| Executive | \$ | 1,097,983 |
| Business Development & Planning | | 691,442 |
| Finance/Administration | | 687,947 |
| Facilities & Property Management | | 8,018,945 |
| Terminal Services | | 1,875,399 |
| <u>Not Allocated to Organizational Unit or Program:</u> | | |
| Personnel Services | \$ | 17,900 |
| Materials and Services | | 25,390 |
| Debt Service | | 785,664 |
| Contingency | | 3,062,743 |
| Total | \$ | 3,891,697 |

Total Appropriations, All Funds 16,263,413*

Total Unappropriated, All Funds 0

TOTAL ADOPTED BUDGET \$ 16,263,413*

(* amounts with asterisks must match)

BE IT RESOLVED by the Board of Commissioners of the Port of Columbia County as follows: The above resolution statements were approved and declared

PASSED AND ADOPTED this 14th day of June 2023 by the following vote:

AYES: _____

NAYS: _____

Port of Columbia County

By: _____
President

Attested By:

Secretary

RESOLUTION NO. 2023-16

IMPOSING THE TAX

BE IT RESOLVED that the following ad valorem property taxes are hereby imposed upon the assessed value of all taxable property within the district for tax year 2023-24 only:

At the rate of \$0.00000 per \$1,000 of assessed value for permanent rate tax.

CATEGORIZING

BE IT RESOLVED that the taxes imposed are hereby categorized for purposes of Article XI section 11b as:

Subject to the General Government Limitation

Permanent Rate Tax \$0.0000/\$1000

BE IT RESOLVED by the Board of Commissioners of the Port of Columbia County as follows:
The above resolution statements were approved and declared,

PASSED AND ADOPTED this 14th day of June 2023 by the following vote:

AYES: _____

NAYS: _____

Port of Columbia County

By: _____
President

Attested By:

Secretary



STAFF REPORT

Moorage Rate Adjustments

DATE: June 14, 2023

TO: Commission Board

FROM: Miriam House, Operations Manager
Bob Gadotti, Executive Finance Manager
Elizabeth Millager, Operations Coordinator

RE: **Moorage Rate Adjustments – Effective August 1, 2023**
Resolution 2023-17

Discussion

Historically, the fees for Marina non-commercial tenants have been adjusted by resolution every other year. The last increase to Marina rates was approved by the Board effective July 1, 2021. In this cycle, staff calculated the two-year Consumer Price Index (CPI) effect, amounting to an 11.7% increase. Attached is a spreadsheet showing the historical as well as proposed rates.

Staff is recommending an increase equal to the two-year CPI for all Marina rates. A survey of other rates (see attached) indicates that Scappoose Bay Marine Park rates are on the lower end of pricing. This increase will better position Scappoose Bay Marine Park with current market rates and lessen competition with local marinas per our mission. The additional revenue will help fund future marina improvement projects.

The Marina Advisory Committee was advised of the proposed rate increase and did not voice any objections to the increase.

Recommendation

Adoption of Resolution 2023-17, adjusting the moorage rates at Scappoose Bay Marine Park by 11.7% effective August 1, 2023.

RESOLUTION NO. 2023-17

A RESOLUTION ESTABLISHING MOORAGE RATES AT THE SCAPPOOSE BAY MARINE PARK, AND REPEALING RESOLUTION 2021-14

WHEREAS, Ordinance No. 2007-01 authorizes the Board of Commissioners of the Port of Columbia County to establish and charge rates at the Scappoose Bay Marine Park, and the Commissioners adopted the current moorage rate schedule through Resolution 2021-14; and

WHEREAS, historically, the Port has adjusted the rate schedule according to the Consumer Price Index (CPI) every other year, which in this cycle would amount to an 11.7% increase in the rates; Now, therefore

BE IT RESOLVED that the following are hereby established as moorage rates at the Scappoose Bay Marine Park:

| <u>TYPE OF FEE</u> | <u>MONTHLY AMOUNT</u> |
|------------------------------------|---|
| Open Moorage without Utilities | \$4.44/feet x boat length |
| Open Moorage with Utilities | \$5.79/feet x boat length |
| 20' Uncovered without Utilities | \$88.00 |
| 25' Uncovered without Utilities | \$111.00 |
| 30' Uncovered with Utilities | \$174.00 |
| 30' Covered with Utilities | \$219.00 |
| Boathouse Moorage (by area): | |
| 0 – 800 square feet | \$145.00 |
| 801 – 1,000 square feet | \$174.00 |
| over 1,000 square feet | \$0.1864 per square foot |
| Floating Home (by area): | \$0.3262 per square foot, but not less than \$546.00 per month |
| Additional Floats (by area): | \$0.0815 per square foot |
| Boat Trailer Parking (tenant only) | \$30.00 |

BE IT FURTHER RESOLVED that Resolution No. 2021-14 is hereby repealed.

BE IT FURTHER RESOLVED that the fees established herein take effect on the 1st day of August 2023.

PASSED AND ADOPTED this 14th day of June 2023 by the following vote:

AYES: _____ **NAYS:** _____

ABSTAIN: _____

PORT OF COLUMBIA COUNTY

By: _____
President

Attested By:

Secretary

RATES FOR MARINA MOORAGE & FEES

HISTORIC INCREASES

| | 2013-15 rates | 2015-17 rates | 2017-19 rates | 2019-21 rates | 2021-23 rates | 2023-25 rates | \$ Change |
|---|---------------|---------------|---------------|---------------|---------------|--------------------|-------------------------------------|
| ~ %Change from Prior Rates | 5.30% | 5.14% | 3.70% | 3.05% | 4.30% | 11.70% | |
| Moorage Fees | | | | | | | |
| Open - no Utilities | \$ 3.40 | 3.57 | \$ 3.70 | \$ 3.81 | \$ 3.97 | \$ 4.44 | \$ 0.47 |
| Open - with Utilities | \$ 4.42 | 4.65 | \$ 4.82 | \$ 4.97 | \$ 5.18 | \$ 5.79 | \$ 0.61 |
| 20' Uncovered without Utilities | | | | \$ 71.00 | \$ 79.00 | \$ 88.00 | \$ 9.00 |
| 25' Uncovered no Utilities | \$ 85.00 | 89 | \$ 92.29 | \$ 95.00 | \$ 99.00 | \$ 111.00 | \$ 12.00 |
| 30' Uncovered with Utilities | \$ 133.00 | 140 | \$ 145.18 | \$ 150.00 | \$ 156.00 | \$ 174.00 | \$ 18.00 |
| 30' Covered with Utilities | \$ 167.00 | 176 | \$ 182.51 | \$ 188.00 | \$ 196.00 | \$ 219.00 | \$ 23.00 |
| Boathouse | | | | | | | |
| 0 - 800 sq ft | \$ 111.00 | 117 | \$ 121.00 | \$ 125.00 | \$ 130.00 | \$ 145.00 | \$ 15.00 |
| 801-1000 | \$ 134.00 | 141 | \$ 146.00 | \$ 150.00 | \$ 156.00 | \$ 174.00 | \$ 18.00 |
| over 1000 | \$ 0.1395 | 0.1467 | \$ 0.1521 | \$ 0.16 | \$ 0.1669 | \$ 0.1864 | \$ 0.02 |
| Floating Homes rate/sq ft | \$ 0.2448 | 0.2574 | \$ 0.2669 | \$ 0.2800 | \$ 0.2920 | \$ 0.3262 | \$ 0.03 |
| Plus rate for floats | \$ 0.0632 | 0.0664 | \$ 0.0689 | \$ 0.0700 | \$ 0.0730 | \$ 0.0815 | \$ 0.01 |
| Boat Trailer Parking | | | \$ 25.00 | \$ 26.00 | \$ 27.00 | \$ 30.00 | \$ 3.00 |
| New Tenant set-up Fee | | | | \$ 30.00 | \$ 30.00 | \$ 30.00 | \$ - |
| Relocation/Move Fee | | | | \$ 50.00 | \$ 50.00 | \$ 50.00 | \$ - |
| Gazebo Per Day | | | | \$ 40.00 | \$ 40.00 | \$ 40.00 | \$ - |
| Gazebo Rental Deposit - Refundable | | | | \$ 25.00 | \$ 25.00 | \$ 25.00 | \$ - |
| Marina Fees | | | | | | | |
| Daily Launch Fee | | \$ 5.00 | \$ 5.00 | \$ 5.00 | \$ 5.00 | \$ 10.00 | \$5 |
| Annual Launch Permit | | \$ 86.00 | \$ 86.00 | \$ 86.00 | \$ 86.00 | \$86.00 & \$110.00 | \$0 & \$24 In-County/Out-of-County |
| Annual Launch Permit - over 62 Yrs of Age | | \$ 51.00 | \$ 51.00 | \$ 51.00 | \$ 51.00 | \$ 51.00 & \$67.00 | \$0 & \$16 In-County/Out-of-County |
| Single Day Parking Fee | | \$ 3.00 | \$ 3.00 | \$ 3.00 | \$ 3.00 | \$ 10.00 | \$7 |
| Annual Parking Fee | | \$ 35.00 | \$ 35.00 | \$ 35.00 | \$ 35.00 | \$86.00 & \$110.00 | \$51 & \$75 In-County/Out-of-County |
| Annual Parking Permit - over 62 Yrs of Age | | \$ 23.00 | \$ 23.00 | \$ 23.00 | \$ 23.00 | \$ 51.00 & \$67.00 | \$28 & \$44 In-County/Out-of-County |
| Transient Moorage Fee | | \$ 17.00 | \$ 17.00 | \$ 17.00 | \$ 17.00 | \$ 20.00 | \$3 |
| Fine for No User Fee Ticket or Pass Displayed, or Parking Violation | | \$ 25.00 | \$ 25.00 | \$ 25.00 | \$ 25.00 | \$ 25.00 | - |
| Fine for RV Parking Violation | | | | | \$ 50.00 | \$ 50.00 | - |

| MARINA COMPARISON SURVEY OF FLOATING HOME RATES | | | | | | | | | | | | | | |
|---|---------------------------------------|---|--|------------------------------------|--|---|---|---|---|---|---|--|--|--|
| Marina | Port of Col. Co. Scappoose Bay Marina | Columbia Crossings | Larson's Moorage | McCuddy's Big Oak Marina | McCuddy's Landing | Marina Way Moorage | Port of Astoria | Port of Camas Washougal | Port of Coos Bay Charleston Marina | Port of Kalama | Port of Newport | Rocky Pointe Marina | Scappoose Moorage | St. Helens Marina |
| Location | 57420 Old Portland Rd Warren | 515 NE #200 Tomahawk Island Drive Portland | 14426 NW Larson Rd, Portland | 25000 NW St. Helen's Road Portland | 34326 Johnson's Landing Road | 13000 NW Marina Way, off St. Helens Rd | 10 Pier One, Suite 308, Astoria, Or 97103 | 24 South A Street | 63534 Kingfisher Road - P.O. Box 5409 Charleston | 380 West Marine Drive Kalama | 2120 SE Marine Science Drive, Newport OR | 23586 NW St. Helens Hwy. Portland | 50900 Dike Rd # A Scappoose | 134 N River Street St Helens, OR |
| Covered Boats | 30' - \$196.00 elec included | 32' - \$289.60 40' - \$436 End Ties- \$10.05 per ft | 24' - \$190 32' - \$250 | 40' - \$360/mo | none | none | none | 20' - \$151.50 25' - \$185.50 30' - \$233.25-\$241.75 35' - \$271.75 40' - \$307.75 | none | 24' - \$137 30' - \$171 35' - \$198 | none | 28' - \$200 43' - \$305 Side ties up to 80 Ft - \$6.25/Ft | 26 -27' = \$150 30' + = \$175 40' + = \$250 to \$280 | \$8.50/ft Example 20' - \$170.00 25' - \$212.50 30' - \$255.00 |
| Uncovered Boats | 20' - \$79 25' - \$99 | 20' and under \$145 28' - \$204.40 32' \$248 - \$265.60 36' - \$279 | 20' Only - \$125 | End Ties\$8.25/ft | 30' \$150 - \$165 40' - \$230-\$250 50' - \$325 60' - \$360 | \$6.25/ft/mo. Example 20' - \$125.00 25' - \$156.25 30' - \$187.50 | Monthly \$11.00/Ft Example 20' = \$220 25' = \$275 30' = \$330 | 20' - \$102.75 25' - \$129.00 30' - \$157.25 35' - \$183.25 40' - \$221.50 | > 16Ft monthly=0.289/ft/day Example 20' - \$173.40 25' - \$216.75 30' - \$260.10 | 24' - \$117 30' - \$147 35' - \$172 | \$16.70/ft Monthly Example 20' - \$334.00 25' - \$417.50 30' - \$501.00 Above rate effective July 1, 2021 | 36' - \$175 40' - \$185 41' - \$200 43' - \$200 43' - \$220 (with patio) | 40' & 60' = \$250-\$300 End Tie = \$6.15/ft | Max LOA 80 Ft Example 20' - \$145.00 25' - \$181.00 30' - \$217.50 Rates are subject to change without notice |
| Covered Boats Electric Water | 30' - \$196 | 32' - \$289.60 40' - \$436 End Ties- \$10.05 per ft Add'l \$12/mo min | 24' - \$190 32' - \$250 Metered Elec | 40' - \$360/mo Metered Elec | none | none | none | 20' - \$155.75 25' - \$193.00 30' - \$245.50-\$255.00 35' - \$288.00 40' - \$327.50 30'-40' metered + \$25/Qtr | none | 24' - \$137 30' - \$171 35' - \$198 | none | 28' - \$200 43' - \$305 Side ties up to 80' - \$6.25/Ft Metered Elec | 26 -27' = \$175 30' + = \$200 40' + = \$250 to \$300 | \$8.50/ft Example 20' - \$170.00 25' - \$212.50 30' - \$255.00 Elec avail at most slips |
| Uncovered Boats Electric Water | 30' - \$156 | 20' and under \$145 28' - \$204.40 32' \$248 - \$265.60 36' - \$279 Add'l \$12/mo min | 20' Only - \$125 Metered Elec | End Ties\$8.25/ft Metered Elec | 30' \$150 - \$165 40' - \$230-\$250 50' - \$325 60' - \$360 Metered Elec | \$6.25/ft/mo. Example 20' - \$125.00 25' - \$156.25 30' - \$187.50 Metered Elec | Monthly \$11.00/Ft Example 20' = \$220 25' = \$275 30' = \$330 Elec 30 amp \$65/mo Elec 100 amp \$100/mo | 20' - \$102.75 25' - \$129.00 30' - \$157.25 35' - \$183.25 40' - \$221.50 30'-40' metered + \$25/Qtr billed | > 16Ft monthly=0.289/ft/day Example 20' - \$173.40 25' - \$216.75 30' - \$260.10 | 24' - \$137 30' - \$171 35' - \$198 | \$16.70/ft Monthly Example 20' - \$334.00 25' - \$417.50 30' - \$501.00 Above rate effective July 1, 2021 | 36' - \$175 40' - \$185 41' - \$200 43' - \$200 43' - \$220 (with patio) Metered Elec | 40' & 60' = \$230-\$285 End Tie = \$6.15/ft | \$6.60/ft Example Max LOA 80 Ft 20' - \$132.00 25' - \$165.00 30' - \$198.00 Elec avail at most slips |

| MARINA COMPARISON SURVEY OF FLOATING HOME RATES | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|--|---------------------------|---|--|--|--|
| Marina | Port of Col. Co. Scappoose Bay Marina | Columbia Crossings | Larson's Moorage | McCuddy's Big Oak Marina | McCuddy's Landing | Marina Way Moorage | Port of Astoria | Port of Camas Washougal | Port of Coos Bay Charleston Marina | Port of Kalama | Port of Newport | Rocky Pointe Marina | Scappoose Moorage | St. Helens Marina |
| Boat Trailer Parking | \$27/mo (tenants only) | 14' = \$55 20' = \$65 | none | Tenant only 2 axle - \$ 25 3 axle - \$ 50 4 axle - \$100 | Tenant only 2 axle - \$ 25 3 axle - \$ 50 4 axle - \$100 | \$10.00 w/ slip rental other wise \$50.00 | \$5.00/night w/ boat \$60/month | none | Trailer \$24.72/mo Boat & Trailer is \$24.72 + 2.42/ft min is \$71.07 | none | \$2.90 per night with boat on it and 10 day limit | \$25/month \$50/month w/ boat (20' max) | \$2.00/ft | none |
| Boathouse | 0-800sf/\$125 801-1000sf \$150 over 1000sf \$0.16/sq.ft Example 25' x 50' = \$200 | none | frontage \$19.00/ft Example 25' = \$475.00 | frontage \$18.25/ft Min \$550.00 Example 25' = \$456.25 | frontage \$18.25/ft Min \$550.00 Example 25' = \$456.25 | none | none | none | none | none | none | Minimum \$375.00 and above | 3 units 40' - \$230.00 50' - \$305.00 60' - \$405.00 | \$14/ (frontage) Example 25' = \$350.00 |
| Floating Home | \$0.28/sft + \$0.07/sft for float. Rate includes water, sewer, and garbage service at no additional | none | frontage \$24.75/ft | frontage \$18.25/ft Min \$550.00 | frontage \$18.25/ft Min \$550.00 | Floating home owners has a share of the Marina Ownership. Similar to a coop | none | none | none | none | none | \$22.70/ft, min 30ft | none | \$14/ (frontage) |
| Launch Fee Daily | \$5 | none | none | none | none | \$10.00 | Included with daily parking fee (Launch avail at East Basin Only) - \$10.00 | Free with 12 month lease | \$10.00 | none | \$10.00 | No Charge No Public access | none | \$5.00 |
| Launch Fee Annual | \$86 Senior or military \$51 | none | none | Tenant only | None, Public ramp next door | none | none | \$50 non-tenant \$35 Senior | \$65 | none | \$78.44 Resident/\$109.20 Non Resident \$52 Senior Res/\$92.82 Senior Non Res \$52 Vet/Active Duty/Disabled/Retired | No Charge No Public access | none | none |
| Parking Pass Daily | \$3 | Included in rental | none | none | none | Free with paid launch \$2 for add'l car | \$10 | none | none | none | \$3 planned future charge | none | none | \$5 - includes launch fee |
| Parking Pass Annual | \$35 Senior or military \$23 | Included in rental | none | none | none | none | boat slip rental includes 1 annual parking pass \$100 for add'l annual Monthly \$150.00 Daily \$10.00 | none | none | none | \$45 planned future charge | none | none | none |
| Notes | | Caters to larger boats. Two marinas have free parking with security gate, the third is monitored by license plates. | Floating Homes incl. Elec | | | Most slips are 24' but some 32' slips. One month free if prepay for one year | | Required Insurance of min \$300k liability - Property/bodily injury/pollution | All slips are uncovered with electric included | Above Effective 10/1/2020 | P & I 250k, Pollution 300k or Water Craft Liab. \$500k Guide Boats Gen Liab \$2.0 mil Rate increase (Moorage) for 7/2021 between 2.5 - 3.45% | 3 month min. No live aboards. Must name marina as additionally insured. Electricity not included. They have meters | Do not currently offer floating home moorage but they are evaluating that as they lost the roof of some covered slips and have space | Free tenant parking with one month minimum stay. |
| | | | | | | | | | | | | | | |
| 25' uncovered w/out util | \$ 99.00 | \$ 204.40 | N/A | \$ 206.25 | \$ 150.00 | \$ 156.25 | \$ 275.00 | \$ 127.25 | \$ 216.75 | \$ 117.00 | \$ 417.50 | \$ 175.00 | N/A | \$ 165.00 |
| 30' Uncovered w/ Elec | \$ 156.00 | \$ 260.00 | N/A | \$ 247.50 | \$ 157.00 | \$ 187.50 | \$ 340.00 | \$ 161.33 | \$ 260.10 | \$ 147.00 | \$ 501.00 | \$ 175.00 | N/A | \$ 198.00 |
| 30' Covered w/ Util | \$ 196.00 | \$ 301.60 | \$ 250.00 | \$ 360.00 | N/A | N/A | N/A | \$ 241.58 | N/A | \$ 171.00 | N/A | \$ 305.00 | \$ 175.00 | \$ 232.50 |
| | | | | | | | | | | | | | | |
| | POCC | HIGH | AVERAGE | AVERAGE (Ex Newport) | MEDIAN (Ex Newport) | | | | | | | | | |
| 25' uncovered w/out util | \$ 99.00 | \$ 417.50 | \$ 208.29 | \$ 193.35 | \$ 175.00 | POCC Lowest rate for 25 ft uncovered without power of 15 marinas surveyed | | | | | | | | |
| 30' Uncovered w/ Elec | \$ 156.00 | \$ 501.00 | \$ 241.03 | \$ 222.46 | \$ 192.75 | POCC second lowest rate for 30 ft uncovered with power of 15 marinas surveyed | | | | | | | | |
| 30' Covered w/ Util | \$ 196.00 | \$ 360.00 | \$ 248.08 | N/A | N/A | POCC is third lowest rate for 30 ft covered with power of nine marinas surveyed | | | | | | | | |



STAFF REPORT

Marina Fee Adjustments

DATE: May 10th, 2023

TO: Commission Board

FROM: Miriam House, Operations Manager
Bob Gadotti, Executive Finance Manager
Elizabeth Millager, Operations Coordinator

RE: **Marina Fee Adjustments – Effective January 1, 2024**
Resolution 2023-18

Discussion

Historically, the fees for the Scappoose Bay Marine Park have been adjusted by resolution every other year. The last increase to the Marina fees was approved by the Board effective January 1, 2021. In this cycle, staff calculated the two-year consumer price index (CPI) effect as amounting to an 11.7% increase. Based on a current survey of other marinas, increased costs of operations, and input from the Marina Advisory Committee, Port staff recommends that marina fees be increased for this two-year cycle by CPI with adjustments for in-county and discounted passes.

The Marina Advisory Committee and Port staff reviewed and discussed of the proposed fees, and make the following recommendations:

- Institute an In-County (Columbia County) and Out-of-County annual pass fee schedule to capture increased revenue from the large number of users residing outside Columbia County and benefit local residents with affordable access:

| | | |
|---------------------------|---------------------|--------------------------|
| Annual Pass: | • In-County \$86.00 | • Out-of-County \$110.00 |
| Senior and Military Pass: | • In-County \$51.00 | • Out-of-County \$67.00 |
- Transient Moorage Fee increase to \$20.00
- Increase the parking and launch fees to \$10.00 each, titled a "User Fee".
- Limit the maximum number of discounted passes purchased to two per person in one calendar year.

Recommendation

Staff recommends the adoption of Resolution 2023-18, adjusting Scappoose Bay Marine Park fees.

RESOLUTION NO. 2023-18

A RESOLUTION ESTABLISHING NEW DAILY AND ANNUAL USE FEES AT THE SCAPPOOSE BAY MARINE PARK, AND REPEALING RESOLUTION 2021-15

WHEREAS, Ordinance No. 2007-01 authorizes the Board of Commissioners of the Port of Columbia County to establish and charge fees at the Scappoose Bay Marine Park; and

WHEREAS, historically, the Port has evaluated the fee schedule every other year taking Consumer Price Index (CPI) and other market factors into account; and

WHEREAS, the Staff finds that in this cycle a CPI-based adjustment would amount to an 11.7% increase in the fees;

WHEREAS, the Staff recommends the current Daily Parking and Launch fees be replaced with a Daily User fee and Annual User fees be assessed for In County and Out of County residents; therefore

BE IT RESOLVED that the following fees are hereby established for the Scappoose Bay Marine Park:

| <u>TYPE OF FEE</u> | <u>AMOUNT OF FEE</u> |
|--|----------------------|
| Daily Use Fee (Parking and/or Launch) | \$10.00 |
| Annual Use Pass (Parking and/or Launch) | |
| In-County Residents | \$86.00 |
| Out-of-County Residents | \$110.00 |
| Discounted Annual Use Pass for Persons Over 62 Years or Qualified Military (Parking and/or Launch) | |
| In-County Residents | \$51.00 |
| Out-of-County Residents | \$67.00 |
| Transient Moorage Fee | \$20.00 |
| Fine for No User Fee Ticket or Annual Pass Displayed or Parking Violation | \$25.00 |
| Fine for RV Parking Violation | \$50.00 |

BE IT FURTHER RESOLVED that the Executive Director, or his designee, provide passes to those who pay the appropriate fees. Passes must be displayed when launching watercraft or parking at the Scappoose Bay Marine Park. Fines will be assessed for any vehicle without the appropriate pass. Moorage, boathouse, and floating home tenants of the Scappoose Bay Marine Park shall be entitled to receive one annual use pass as part of their tenancy. Floating home tenants shall be entitled to receive one additional annual use pass. The maximum number of discounted annual use passes is limited to two per person in one calendar year.

BE IT FURTHER RESOLVED that Resolution 2021-15 is hereby repealed.

BE IT FURTHER RESOLVED that the fees established herein take effect on the 1st day of January 2024.

PASSED AND ADOPTED this 14th day of June 2023 by the following vote:

AYES: _____ **NAYS:** _____ **ABSTAIN:** _____

PORT OF COLUMBIA COUNTY

ATTESTED BY:

By: _____
President

Secretary



STAFF REPORT

Stella-Jones Corporation New Rail Agreement and Lease

DATE: June 14, 2023

TO: Port Commission

FROM: Amy Bynum

Real Estate & Business Development Manager, Deputy Executive Director

RE: Stella-Jones Corporation – New Rail Agreement and Lease

Discussion

Stella-Jones Corporation (“Stella-Jones”) operates a timber utility pole processing, production, and shipping facility. Stella-Jones has been a tenant in good standing at the Multnomah Industrial Park (MIP) since 1995, formerly operating under the names McCormick Piling and McFarland Cascade, Inc. Stella-Jones has had a month-to-month tenancy since their lease expired in 2016 so the approval of the attached Rail Agreement and Lease is an important step toward long-term tenancy to facilitate Stella-Jones’ business operations.

Summary of Lease terms:

1. Premises: 1,021 square feet (SF) office building, 6,500 SF parking lot, 20.3 acres unimproved industrial land, and use of the MIP rail spur.
2. Purpose: Use of the Premises shall be to engage in the processing, production, sale, and shipment of timber utility poles, along with associated support infrastructure including roads, boat ramps, and the rail spur.
3. Term: Five-year lease with three successive five-year renewal terms.
4. Basic Rent: Will be calculated as shown in the table below. At year 5, Basic Rent will be \$30,732 per month. Basic Rent includes annual CPI adjustments, credit card fees, security deposit, & delinquency charges.

| YEAR | OFFICE PER SF PER MONTH | OFFICE AMOUNT PER MONTH | LAND PER SF PER MONTH | LAND AMOUNT PER MONTH | TOTAL AMOUNT PER MONTH |
|------|-------------------------------|-------------------------------|-----------------------------|-----------------------------|------------------------------|
| 1 | \$0.34 | \$347 | \$0.018 | \$17,000 | \$17,347 |
| 2 | \$0.38 | \$388 | \$0.022 | \$21,061 | \$21,449 |
| 3 | \$0.42 | \$429 | \$0.026 | \$24,555 | \$24,984 |

| | | | | | |
|---|--------|-------|---------|----------|----------|
| 4 | \$0.46 | \$470 | \$0.030 | \$28,333 | \$28,802 |
| 5 | \$0.50 | \$511 | \$0.032 | \$30,222 | \$30,732 |

5. Additional Charges: Net Net Net (NNN) lease, Common Area Maintenance (CAM) Charges, Attorney Fees & Staff Costs, & Utility Usage.
6. Rail Agreement: Stella-Jones is granted the non-exclusive right to use the 0.9-mile rail spur that enters MIP. The term mirrors the lease but can be terminated with sixty (60) days' notice. Fees are based on a proportionate share of the use of the rail spur which is calculated based on the length of the spur used, the average number of rail cars, and the number of users on the spur. The Port maintains the responsibility of performing annual rail inspections and creating a maintenance schedule each year. This maintenance schedule is to be shared with all users of the rail spur.

Recommendation

Adoption of Resolution No. 2023-19, authorizing the Board President to execute a new Rail Agreement and Lease with Stella-Jones Corporation.

RESOLUTION NO 2023-19

A RESOLUTION APPROVING A LEASE AND RAIL AGREEMENT WITH STELLA-JONES CORPORATION AT THE MULTNOMAH INDUSTRIAL PARK

WHEREAS, Stella-Jones Corporation, (“Stella-Jones”) a timber utility pole processing, production, and shipping facility and an existing tenant at the Multnomah Industrial Park, has been working with Port Staff to support continued long-term tenancy to facilitate their business operations; and

WHEREAS, Stella-Jones has been a tenant in good standing with the Port since 1995; and

WHEREAS, Stella-Jones and Port staff have successfully negotiated a rail agreement and lease for the rail spur, property, office building, and parking lot, on terms agreeable to both parties; and

WHEREAS, Port staff recommends the adoption of the rail agreement and lease, which is attached; now, therefore

BE IT RESOLVED by the Board of Commissioners of the Port of Columbia County as follows:

The Board authorizes the Board President to execute a rail agreement and lease with Stella-Jones Corporation.

PASSED AND ADOPTED this 14th day of June 2023, by the following vote:

AYES: _____

NAYS: _____

Port of Columbia County

ABSTAIN: _____

By: _____

President

Attested By:

Secretary

LEASE

BETWEEN THE

PORT OF COLUMBIA COUNTY

AND

STELLA-JONES CORPORATION

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LEASE

This LEASE (the "Lease"), effective the 1st day of July, 2023 (the "Effective Date") by and between THE PORT OF COLUMBIA COUNTY, a municipal corporation of the State of Oregon (the "Port"), and STELLA-JONES CORPORATION, a Delaware corporation. ("Lessee").

1. AGREEMENT TO LEASE; DESCRIPTION OF PREMISES

Subject to the terms and conditions herein, the Port hereby leases to Lessee, and Lessee leases from the Port, an approximate 1,021 square feet (SF) office building, 6,500 SF parking area, and 20.3 acres of surrounding real property thereunder and further depicted, all as proposed in **Exhibit A** (together, the "Premises"), attached hereto and incorporated herein. The Premises are located within the Port's property known as the Multnomah Industrial Park, with a street address of 58144 Old Portland Road, Warren, OR 97053.

1.1 Use of the Premises

Lessee's use of the Premises shall be to operate a commercial business engaged in the processing, production, sale, and shipment of timber utility poles, along with associated support infrastructure including roads, boat ramps, and rail, in compliance with all applicable rules and regulations ("**Allowed Use**"). No use other than the Allowed Use may be made of the Premises without the prior written approval of the Port, which approval shall be given or denied at the sole discretion of the Port. No Hazardous Substances (as that term is defined in Section 6.1.2) may be used, stored, or otherwise handled on or near the Premises, except as permitted under Section 6.4 of this Lease. Lessee will comply strictly with all present and future rules and regulations of all federal, state, and local governmental bodies having jurisdiction over Lessee's activities occurring within the Premises.

1.2 Compliance with the Law

Lessee's use of the Premises must comply with all applicable laws, ordinances, rules and regulations of the State of Oregon and the United States, and all city, county or other public government authorities or agencies, including, but not limited to, building permit requirements, local fire code, zoning, and occupancy codes. Lessee shall also comply with all Port Rules, as amended, and updated from time to time, a copy of which the Port has provided Lessee. Lessee shall promptly provide to the Port copies of all written communications (including electronic communications) from any such government entities which relate to Lessee's noncompliance or alleged noncompliance with any law or other government requirements. In no event shall Lessee be permitted to seek or obtain approval to rezone, change the use of, or obtain other land use or land division approvals for, the Premises without the Port's prior written approval, which may be granted, conditioned, or denied in the Port's sole discretion.

1.3 Other Use Agreements

Lessee's use of other existing shared infrastructure within the Multnomah Industrial Park, including but not limited to rail services and boat launch ("**Existing Shared Infrastructure**"),

shall be subject to other use agreements with other users of the same at the Port's sole discretion. The Port, Lessee, and the Port's other tenants shall each, to the extent of its respective use of the Existing Shared Infrastructure, cause the area to be maintained and kept in good repair and shall cause the same to be free and clear of all rubbish and debris. Lessee will make reasonable efforts to cause its employees, agents, assigns and invitees to exercise compliance with all applicable laws and safety regulations.

2. TERM

2.1 Initial Lease Term

The term of this Lease ("**Term**" or "**Lease Term**") shall commence on the Effective Date (the "**Lease Commencement Date**") and shall continue for five years from the Effective Date ("**Expiration Date**") unless sooner terminated or extended pursuant to the terms of this Lease.

2.2 Lease Year

As used in this Lease, "**Lease Year**" shall mean, in the case of the first Lease Year, the period beginning on the Lease Commencement Date and ending on the following June 30, and thereafter, each successive twelve (12) month period beginning July 1 and ending June 30 during the Term.

2.3 Extension Options

So long as no uncured Event of Default (defined in Section 10) exists under this Lease, Lessee shall have options to extend ("**Extension Options**") the Expiration Date of this Lease for three (3) successive terms (each an "**Extension Term**"). Each Extension Term shall be for five (5) years.

2.3.1 Lessee's Notice of Intent to Extend

Lessee must notify the Port in writing of Lessee's intent to exercise any Extension Option, subject to Lessee's acceptance of: (i) the Port's proposed new Basic Rent (as defined in Section 3.1 and pursuant to Section 3.2); (ii) any proposed Extension Amendments (as defined in Section 2.3.2); and (iii) any proposed adjustment to the Security Deposit pursuant to Section 3.7. Such notice by Lessee must be given not more than three hundred sixty (360) days and not less than one hundred eighty (180) days prior to expiration of the then-current Lease Term or Extension Term, as applicable (the "**Extension Notice**"). This notification by Lessee to Port will begin the negotiation between Port and Lessee. Failure of Lessee to deliver the Extension Notice as provided in this Section 2.3.1 shall automatically extinguish any applicable Extension Option.

2.3.2 Conditions of Extension

The terms and conditions of the Lease for each Extension Term shall be the same as those for the initial Lease Term except that: (a) Basic Rent shall be increased at the beginning of each Extension Term in accordance with the formula set forth in Section 3.2; (b) the Security Deposit will be adjusted to reflect adjustment in Basic Rent or Additional Rent as provided in Section 3; (c) insurance provisions will be updated, subject to the provisions of Section 7.3; (d) environmental provisions will be updated, as necessary, to comply with then current Environmental Laws, Environmental Audit requirements and Best Management Practices as those terms are defined in Section 6; and (e) the Port will require any modifications or changes legally

required to bring the Lease into compliance with then current law, government regulations or government mandates (except that any improvements the use or design of which are grandfathered or otherwise permitted under then-existing law or regulations need not be modified or upgraded) (collectively, items (c) through (e) in this Section 2.3.2 are the "**Extension Amendments**"). Upon receipt of Lessee's notice of intent to extend pursuant to Section 2.3.1, the Port shall have sixty (60) days thereafter to notify Lessee, in writing, of the proposed Basic Rent, any proposed adjustments to the Security Deposit, including the basis for the adjustment, and any Extension Amendments required by the Port as a condition of granting the then applicable Extension Option, together with a proposed Amendment to the Lease ("**Amendment Form**") (collectively, "**Notice of Amendments and Proposed Rent**"). Lessee shall have sixty (60) days from receipt of the Notice of Amendments and Proposed Rent to notify the Port in writing of Lessee's disapproval of any term thereof. Thereafter, Lessee and Port shall find a mutually-agreeable compromise to the disputed terms thereof. If Lessee fails to deliver written notice of Lessee's disapproval of any term in the Notice of Amendments and Proposed Rent, then Lessee shall be deemed to have approved the Extension Amendments, Base Rent and adjusted Security Deposit and shall be obligated for the Extension Term. Lessee shall be responsible for completing all general maintenance, repair and clean-up requirements set forth in Section 4.10, on or before the first day of any Extension Term.

2.4 Holdover

If Lessee does not vacate the Premises at the time required (upon expiration or termination of the Lease), the Port shall have the option to treat Lessee as a tenant from month to month, and Lessee shall pay Rent at an increased rate of 150% above the then-applicable Rent as outlined in Section 3 ("**Holdover Rent Increase**"), subject to all the provisions of this Lease except the provisions for term. The Holdover Rent Increase shall take effect immediately on the first day of the month after the expiration or termination of the Lease. The holdover tenancy shall be terminable at the end of any monthly rental period on written notice from the Port given not less than 30 days prior to the termination date, which shall be specified in the notice. Lessee waives any notice which would otherwise be provided by law with respect to a month-to-month tenancy.

3. RENT

3.1 Basic Rent and Additional Rent

"**Basic Rent**" will be payable on or before the first of each month calculated as shown in Table 1 below. At year 5, Basic Rent is calculated as follows (the "Rental Rate"): the total square feet (SF) of the office building (1,021), multiplied by a price of \$6 per SF per year; plus the total SF of the parking area (7,000) and bare land (944,423), multiplied by a price of \$0.38 per SF per year, divided by 12 and rounded to the closest dollar amount, for a total rent of Thirty Thousand seven hundred and thirty three Dollars (\$30,732) per month. The Port reserves the right to remeasure the square footage of the Premises throughout the lease term. Upon the exercise of such right, if Lessee is found to be occupying an area other than the square footage provided in Section 1, Basic Rent for the Lease Term shall be adjusted accordingly. In addition, if at any time during the Lease Term Lessee is found to be occupying more square footage than stated in this Section, Lessee shall pay monthly additional rent for such excess square footage at the Rental Rate. All Basic Rent is subject to Rent Adjustment as described under Section 3.2. Basic Rent for any partial

month shall be pro-rated accordingly. All other sums which become payable by Lessee under this Lease shall be considered **"Additional Rent"**.

Table 1 – Stella-Jones Corporation Rent Schedule

| YEAR | OFFICE PER SF PER MONTH | OFFICE AMOUNT PER MONTH | LAND PER SF PER MONTH | LAND AMOUNT PER MONTH | TOTAL AMOUNT PER MONTH |
|------|-------------------------------|-------------------------------|-----------------------------|-----------------------------|------------------------------|
| 1 | \$0.34 | \$347 | \$0.018 | \$17,000 | \$17,347 |
| 2 | \$0.38 | \$388 | \$0.022 | \$21,061 | \$21,449 |
| 3 | \$0.42 | \$429 | \$0.026 | \$24,555 | \$24,984 |
| 4 | \$0.46 | \$470 | \$0.030 | \$28,333 | \$28,802 |
| 5 | \$0.50 | \$511 | \$0.032 | \$30,222 | \$30,732 |

3.1.1 Multnomah Industrial Park Common Areas

The land and improvements constructed and to be constructed thereon as shown on **Exhibit B** attached and incorporated herein shall hereafter be designated as the Common Areas within the Multnomah Industrial Park ("Park Common Areas"). In addition to any other rights granted by law or by this Lease, the Port reserves the right, without limitation, to: adjust the boundaries of, expand or delete all or part of the Park Common Areas; to permit the use of the Park Common Areas by others in such as manner as the Port may from time to time determine to close all or any portion of the Park Common Areas (so long as Lessee has reasonable driveway ingress and egress into and from the Leasehold, provided that the Port shall have no liability for any blockage of such ingress or egress caused by third parties who are not Port employees, agents or contractors); to construct improvements in the Park Common Areas; and to evict anyone from the Park Common Areas who fails to comply with any applicable laws, including rules and regulations applicable to the Multnomah Industrial Park or other Port property as adopted by the Port.

Lessee shall have a nonexclusive right to use Park Common Areas in common with the Port and with others to whom the Port has granted or may grant such right. "Park Common Areas" means existing parking areas, roadways, sidewalks, driveways, surrounding landscaping and grounds, and any other areas within the Multnomah Industrial Park not leased by any specific tenant but used in common by Multnomah Industrial Park tenants and other Port authorized users, now or hereafter designated as Park Common Areas by the Port, and Lessee shall pay the Common Area Maintenance Charges as set forth herein. Lessee shall not, without the prior written consent of the Port, use any vehicles or equipment, or make any use of the Park Common Areas that would violate any local noise ordinance, or cause substantial vibrations, fumes, or electronic interference. Lessee shall not permit anyone else to use the Park Common Areas nor shall Lessee permit anything to be done on the Park Common Areas that: (a) creates any condition that may be a safety hazard, or (b) creates a nuisance.

3.1.2 Additional Rent: Common Area Maintenance Charges

In conjunction therewith and as Additional Rent, Lessee shall pay the Port the Lessee's "Proportionate Share" of Common Area Maintenance Charges ("CAM Charges") during the lease term for all Park Common Areas of the Multnomah Industrial Park on an annual basis at the beginning of each fiscal year (July 1) for each subsequent year. CAM Charges reflect all costs and expenses incurred by the Port for operating, repairing, servicing, and maintaining the Park Common Areas. Such costs may include, but are not limited to: security services, repair and renovations and other fees relating to connection and use of drainage, water, power, sewer and septic systems, landscaping, litter control, electricity for street lights, maintenance of street lights, fire protection, signage, irrigation and grounds care, all maintenance, improvements and installation of sidewalks, curbs, parking areas, roads, security gateways, lighting fixtures, public restrooms, sweeping, restriping, resurfacing, snow & storm debris removal and damage. CAM Charges are currently administered by the Port, but the Port reserves the right to establish and assign its rights and responsibilities related to the CAM Charges to any other entity at the Port's sole discretion, and after such assignment to include reasonable costs attributable to such support services to administer the Port's obligations relating to the Park Common Areas. The Port shall be released from responsibility for the operation, repair, servicing, and maintenance of such portions of the Common Areas that the Port assigns to such other entity.

The Proportionate Share of CAM Charges for the Lessee will be calculated based on the square footage of the Premises as depicted in **Exhibit A** as a proportion of the total square footage of the Industrial Park as depicted in **Exhibit B**. This Lessee's Proportionate Share is currently estimated to be 46% and a precise final percentage will be determined by the Port acting reasonably by on or before the Effective Date, with notice provided to the Lessee in writing (email acceptable with proof of receipt by Lessee) by the beginning of each fiscal year (July 1).

CAM Charges will be estimated on an annual basis at the beginning of each fiscal year (July 1) by the Port and shall be adjusted depending on the actual costs for the preceding twelve months. The Port will provide Lessee with the notification of a budget for CAM Costs on or before the beginning of each fiscal year (July 1). The Port will act reasonably to implement any good faith suggestions to reduce CAM costs offered by the Lessee but the Proportionate Share and budget for CAM Charges are set in the sole discretion of the Port. Lessee shall pay monthly, commencing at the Effective Date, as additional Basic Rent due under the terms hereof, a sum equal to Lessee's Proportionate Share of the estimated costs for said twelve (12) month period, divided by 12. At the end of the fiscal year (June 30) the Port shall determine the actual costs of the foregoing costs from the prior year and the Lessee shall pay its Proportionate Share of the difference between the estimated costs and the actual costs to the Port with the next payment of Monthly Rent. If the actual costs are less than the estimated costs, the Port will credit the amount of the excess payment to the Lessee.

The Port shall operate, repair, service and maintain the Park Common Areas in good working condition. In performing such repair, service or maintenance, the Port will use commercially reasonable efforts to minimize interference with the operations of Lessee or its Sublessees on the Property. In addition, such repair, service, and maintenance shall not block any Lessee access to the Premises without Lessee's approval.

3.1.3 Attorney Fees and Staff Costs to Be Paid by Lessee During Term of Lease

Lessee hereby acknowledges and agrees that, in the event Lessee requests that the Port incur attorney fees and staff costs for any work which is solely the result of Lessee requesting that such work be completed, then Lessee shall bear the responsibility to pay for any and all Port costs associated with such a request made by Lessee. Prior to the commencement of any work, Lessee agrees to sign an Agreement to Pay Costs (see attached example as Exhibit C, incorporated by reference). If the deposited funds are exhausted Port Attorney and Port Staff may cease work until such time as the parties agree on an additional amount and Lessee makes such additional nonrefundable, fixed fee deposit for costs. Any such additional deposit(s) shall be paid immediately by Lessee in order for any work to continue.

3.2 Rent Adjustment

Except as provided below, on the first day of each successive Lease Year subsequent to the Effective Date, the amount of Basic Rent for each such one-year period will be adjusted to reflect the effect which inflation has had on the purchasing power of the dollar, but in no event will said rent be less than the Basic Rent paid per month during the immediately preceding Lease term. This adjustment will be based upon the change, if any, from the ALL ITEMS INDEXES CONSUMER PRICE FOR ALL URBAN CONSUMERS, PORTLAND, OREGON, as published by the U.S. (United States). Bureau of Labor as of the date nearest the commencement of this Lease, as compared with the same Consumer Price Index published as of the period preceding the expiration of the preceding year of this Lease (the "CPI Rate").

Every Five (5) years, and in the event the Port and Lessee successfully negotiate an Extension Term as provided in Section 2.3 above, to be effective as of the July 1st preceding each Extension Term (each such date an "**Adjustment Date**"), monthly Basic Rent may be adjusted by the lease comparable rates provided by the Port. Should no comparable leases be available the Port may use Fair Market Value, as defined in Section 3.2.1, multiplied by ten percent (10%) divided by twelve (12). After each Extension Term Basic Rent for each successive one-year period will be adjusted to reflect the effect which inflation has had on the purchasing power of the dollar (each such date an "**Adjustment Date**"), but in no event will said rent be less than the Basic Rent paid per month during the immediately preceding Lease term. This adjustment will be based upon the change, if any, from the ALL ITEMS INDEXES CONSUMER PRICE FOR ALL URBAN CONSUMERS, PORTLAND, OREGON, as published by the U.S. Bureau of Labor as of the date nearest the commencement of this Lease, as compared with the same Consumer Price Index published as of the period preceding the expiration of the preceding year of this Lease (the "CPI Rate"). However, in no event shall Basic Rent for any Extension Term be less than the Basic Rent in effect immediately prior to the Adjustment Date.

3.2.1 Fair Market Value

As used in this Lease, "**Fair Market Value**" shall mean the most probable sale or lease price in terms of money which the land and improvements should bring in a competitive and open market under the condition's requisite to a fair sale or lease, the buyer/lessee and seller/Port each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale/lease as of the applicable Adjustment Date and the

passing of title from seller/Port to buyer/lessee under the conditions whereby: (a) the buyer/lessee and seller/Port are typically motivated; (b) each party is well informed or advised and is acting in what it considers its own best interests; (c) a reasonable time is allowed for exposure in the open market; (d) payment is made in terms of cash in U.S. dollars or in terms of financial arrangements comparable thereto; (e) the price represents the normal consideration for the property sold or leased unaffected by special or creative financing or sales concessions granted by anyone associated with the sale/lease; and (f) the land and improvements are clean and uncontaminated. Fair Market Value further means the value of the land and improvements based on: (a) its use as an industrial property, or if such land and improvements are no longer being used for an industrial use, the then highest and best legal use of such land and improvements; and (b) the value of the land exclusive of any improvements except those installed and paid for solely by the Port and not reimbursed solely by Lessee. Furthermore, sale/lease transactions used in the determination of Fair Market Value shall be of property with comparable infrastructure improvements, including, but not limited to, road and rail access and utilities, common areas and other comparable site amenities.

If Lessee disagrees with the Port's new Basic Rent for any renewal option period, then the Port and Lessee will each have thirty (30) days from the date the Port receives Lessee's notice objecting to the Port's new Basic Rent to select an independent Oregon licensed appraiser to determine the current Fair Market Value. Notwithstanding the foregoing, in no event shall the appraisal process begin until Lessee has given notice to the Port exercising its option to renew according to Section 2.3.1. The selected appraisers shall be members of the Appraisal Institute ("MAI"), unless otherwise agreed upon, in writing, by the parties, and shall be experts in the appraisal of industrial property in Oregon, with at least five (5) years of commercial appraisal experience, including experience in appraising industrial properties of the nature of the property. Each party must notify the other, within the thirty (30)-day period, of the name, address, and telephone number of such party's selected appraiser. The selected appraisers, within sixty (60) days of being selected, must complete their final appraisal reports, and deliver copies of the appraisal reports concurrently to the Port and to Lessee ("**First Appraisal**"). If the two appraisers and the parties cannot come to an agreement concerning the Fair Market Value within fifteen (15) days of issuance of both appraisal reports, the two appraisers will select a third MAI appraiser to determine which appraisal comes closest to the Fair Market Value. The appraisers shall conduct a full and independent appraisal of the Property and deliver the report documenting his/her findings concurrently to the Port and to Lessee ("**Final Appraisal**"). The Final Appraisal will take into consideration all information contained in both the Port's and Lessee's appraisals and the third appraiser's own independent analysis, upon which the third appraiser will then choose, as the Fair Market Value, either the Port's appraisal or Lessee's appraisal, based on which one comes closest to the third appraiser's independent appraisal. The third appraiser shall not propose a middle ground or any modification of either of the two proposed determinations of Fair Market Value. The determination of Fair Market Value by the third appraiser shall be final and binding upon the parties. All court costs and appraisal costs incurred pursuant to this Section 3.2.1 shall be shared equally by the Port and Lessee.

3.2.2 Effective Date of Adjustment; Payment of Adjustments

In the event the Port and Lessee successfully negotiate an Extension Term as provided in Section 2.3 above, to be effective as of the July 1st preceding each Extension Term (each such date an "Adjustment Date"), monthly Basic Rent shall be adjusted as described in this section 3.2.

Lessee acknowledges that adjustments to the Basic Rent will be effective as of the Adjustment Date, even though the new rate may not be able to be calculated until after the Adjustment Date. Lessee agrees to (a) begin paying the increased Basic Rent upon notification by the Port; and (b) pay any difference between the Basic Rent actually paid to the Port after the Adjustment Date and the adjusted Basic Rent due for such period within thirty (30) days of notification by the Port.

3.3 Rent Payments

3.3.1 Due Dates

Lessee shall make payment of the Basic Rent for the first calendar month of the Lease Term commencing on the Lease Effective Date and on or before the first (1st) day of each calendar month thereafter during the Lease Term and any Extension Terms ("Due Date"). If proration of Basic Rent is required under this Lease, Basic Rent shall be prorated on a thirty (30)-day month. All other Additional Rent shall be paid within thirty (30) days of the issuance by the Port of an invoice submitted to Lessee or within the time period otherwise expressly provided in this Lease. Payment of Rent shall be made without demand, notice, offset, abatement, or deduction of any kind, to the Port at the following address or such other address as the Port may later designate as provided herein, or by direct deposit to an account specified by the Port:

Port of Columbia County
PO Box 190
100 E. Street
Columbia City, OR 97018

3.4 Delinquency Charge

All Rent and other amounts not paid when due shall bear a "Delinquency Charge" of one- and one-half percent per month (18% per year) if the total balance remains unpaid for five (5) or more days following its due date. Such interest shall be charged from the due date until the Rent or other amount is paid in full. This Delinquency Charge is subject to periodic change, subject to any limitation on the maximum rate of interest allowed by law, at the Port's sole discretion. No change shall occur, however, without at least thirty (30) calendar days prior written notice to Lessee. Imposition of a Delinquency Charge shall not constitute a waiver of any other remedies available to the Port for failure to timely pay Rent.

3.5 Returned Checks

If Lessee's check for payment of Rent due under this Lease is returned to the Port for any reason, the payment shall be considered not to have been made and shall be delinquent. In addition to the Delinquency Charge set forth in Section 3.4, the Port may charge Lessee a returned check fee of Thirty-Five Dollars (\$35.00), per returned check, which Lessee agrees is a reasonable fee for the additional administrative time and expense incurred by the Port in having to deal with the returned check. The return check fee is subject to periodic change by the Port. No change shall occur, however, without at least thirty (30) days prior written notice to Lessee. The Delinquency Charge shall continue to accrue until the returned check fee is paid, the check can be cashed, and the Port receives all funds due.

3.6 Acceptance of Rent

The Port's acceptance of a late or partial payment of Rent and/or a Delinquency Charge shall not constitute a waiver of any Event of Default, nor shall it prevent the Port from exercising any of its other rights and remedies granted to the Port under this Lease or by law. Any endorsements or statements on checks of waiver, compromise, payment in full or any other similar restrictive endorsement shall have no legal effect. Lessee shall remain in violation of this Lease and obligated to pay all Rent due even if the Port has accepted a partial or late payment of Rent.

3.7 Security Deposit

On or before the Effective Date, Lessee shall deposit with the Port the sum of one-month Basic Rent, one year of property taxes and one year of insurance premiums, as Security Deposit. ("**Security Deposit**").

The Security Deposit shall be paid in one of the following ways: 1) in the form of cash or letter of credit in favor of the Port without penalty and without approval of Lessee, in a form and bank acceptable to the Port; or 2) under a payment plan by Lessee of twelve (12) equal monthly payments rounded up to the nearest dollar paid on or before the first of each month commencing on the Effective Date (as with Basic Rent), until fully paid. The Security Deposit shall secure Lessee's full and faithful performance and observance of all of Lessee's obligations under this Lease and under any other written agreement between Lessee and the Port. The Security Deposit shall not be considered to be held in trust by the Port for the benefit of Lessee and shall not be considered an advance payment of Rent or a measure of the Port's damages in the case of an Event of Default by Lessee. The Port may, but shall not be obligated to, draw upon and apply the Security Deposit to: (a) pay any Rent or any other sums due to the Port by Lessee and not paid on or before the date it is due and the Port shall not be required to give notice or opportunity to cure before drawing on the Security Deposit; (b) to pay attorney fees and costs for any legal work which has been requested by Lessee as outlined in Section 3.1; or (c) to remedy any other Event of Default of this Lease, after Lessee has received notice and opportunity to cure, if such notice and opportunity to cure is required under this Lease. If the Port applies any of the Security Deposit to any of the above, Lessee shall, immediately upon demand, replenish the Security Deposit to its full amount. If Lessee fully performs all of its obligations under this Lease, the Security Deposit, or any balance remaining, will be released within thirty (30) days from the Expiration Date or termination of this Lease and delivery of the Premises to the Port. However, if any question exists concerning Lessee's full compliance with the Lease or if there is any obligation under this Lease to be performed after the Expiration Date or earlier termination of this Lease, the Port shall be entitled to require that the Security Deposit remain in place until the Port is fully satisfied that there has been no Default of the Lease and all obligations due under this Lease have been fully performed. In addition to any other remedy provided in this Lease or at law, the Port shall have the option but not the obligation to use the Security Deposit or a portion thereof to offset any costs or damages incurred as a result of Lessee's failure to perform its obligations at the termination or expiration of the Lease. The Security Deposit will be adjusted at every Extension Term to be equal to two (2) months-worth of the then Basic Rent plus one (1) year of Property Insurance and one (1) year worth of the estimated real property taxes for the Property, or if available, the then current

real property taxes for the Property, but in no event less than the most recent adjusted Security Deposit. Notwithstanding the above provisions of this Section 3.7, the Port shall have the right at any time during the Lease Term or any Extension Term to require Lessee to deposit an additional Security Deposit with the Port and/or provide additional financial assurance reasonably acceptable to the Port, in an amount or amounts reasonably determined by the Port to be commensurate with any increased risk associated with any of the following events: (i) as a condition of Port approval, as provided in Section 6.4, of Lessee's or any Sublessee's use, storage, handling, processing, manufacturing or recycling of Hazardous Substances not authorized under the first two sentences of Section 6.4.1; (ii) if the Port has given notice of violation of any provision of this Lease more than three (3) times during any consecutive twelve (12) month period; or (iii) upon Lessee's exercise of any Extension Option, to adjust for added risks such as increases in Basic Rent, property taxes, and other Additional Rent pursuant to Section 2.3.2.

3.8 Taxes

Lessee shall be permitted to pay Taxes in installments, as allowed by the tax assessing authority. In the event that the Port is billed directly for the Taxes by the tax assessing authority or Lessee fails to pay Taxes on or before their due date, then, in addition to all other remedies set forth in Section 10.2, the Port shall automatically have the right, but not the obligation, to pay the Taxes and any interest and penalties due thereon, with no notice to Lessee, and Lessee shall immediately reimburse the Port for any sums so paid upon receipt from the Port of: (i) written notice that the Port has paid the Taxes; and (ii) documentation of such payment. Notwithstanding the foregoing, Lessee shall also be allowed to contest the validity of any assessment on the Premises without the Port stepping in and paying Taxes on Lessee's behalf as long as monies sufficient to pay the Taxes and interest are placed in escrow with an escrow agent approved by the Port, with irrevocable escrow instructions to pay the Port the funds immediately upon demand by the Port, which demand shall not be made until the earlier of: (a) the conclusion of such contest and exhaustion of appeals; or (b) the termination of this Lease. In any case, all Taxes must be paid prior to any foreclosure proceeding by a taxing authority being instituted or before the Port incurs any liability as a result of such failure to pay the Taxes. Lessee understands that should this Lease expire or be terminated prior to the end of any given fiscal tax year ("Tax Year") that Lessee will nonetheless be responsible to pay real Premises taxes assessed for the entire Tax Year. The Tax Year for Columbia County is currently July 1 through June 30. If the Premises are assessed with other Port property as part of a larger tax parcel, the Taxes payable by Lessee for the Premises shall be allocated proportionately based on the land area that the Premises represent to such larger tax parcel and, as to improvements, shall include assessments only for the improvements located on the Premises.

3.9 Non-Remonstrance

Lessee waives any right to remonstrate against and shall support local improvement districts or similar shared funding mechanisms to fund future utility and roadway improvements pertaining to the Premises, should such mechanisms be used. Lessee and the Port shall cooperate in working with the city, county and/or state on the allocation of costs among the benefited properties and Lessee shall promptly sign the necessary waiver forms requested by the city, county and/or state.

4. LESSEE'S OTHER OBLIGATIONS

4.1 Construction of Improvements

4.1.1 Port Approval and Ownership

Lessee shall undertake no construction, alteration, or changes on or to the Premises, including the improvements, without the prior written approval of the Port. Any construction work must comply with the local permit requirements and completed by a licensed contractor. All such renovation work shall be deemed part of the improvements, and Lessee shall have no right, title, or interest in the improvements except for the leasehold provided in this Lease. Upon termination of this Lease, all improvements located on the Premises shall remain property of the Port, unless otherwise previously authorized by the Port.

4.1.2 Wetlands Prevention

Lessee shall not create any "wetlands" (as defined under any federal, state, regional or local jurisdiction) on the Premises during the term of this Lease or extension thereof, or on any adjacent Port-owned or non-Port owned premises. Lessee shall also manage the Premises so that no wetlands are allowed to form on the Premises and so that Lessee's development and use of the Premises does not cause the formation of wetlands on any adjacent Port owned or non-Port-owned Premises. If the Port believes that wetlands are likely to form on the Premises and Lessee has not taken corrective action, the Port shall have the right, but not the obligation, upon ten (10) days prior written notice to Lessee (except in the case of an emergency), to enter onto the Premises to correct the situation and charge Lessee for such work. Lessee shall reimburse the Port for such work within thirty (30) days of receipt of invoice from the Port. Lessee shall cooperate with and perform any obligations required under any wetlands corrective or remediation plan.

4.2 Ownership of Improvements

The Port shall be the sole owner of improvements made or paid for by the Port and Lessee shall not take depreciation or any other form of tax deduction, based on any improvements made or paid for by the Port. In the event that (a) Lessee requests and the Port agrees to construct a specific improvement on the Premises for Lessee's use; (b) Lessee reimburses the Port in full for such improvement; and (c) the parties agree in writing prior to such construction that Lessee shall become the owner of the improvement upon the Port's completion and Lessee's reimbursement to the Port for such improvement, then upon completion such improvement shall be considered "**Lessee Improvements**" owned by Lessee, subject to the Port's reversionary rights as set out in Section 9.1. Notwithstanding the foregoing, the utility pole peeler, debarking machinery, trailer loader, portable diesel tank, modular-portable lunchroom, and modular-portable buildings of Lessee related thereto, shall not be considered Lessee Improvements.

4.3 Signs

Lessee shall contact the Port in order to coordinate the placement of any signage on the leasehold. Lessee shall not erect, install, nor permit upon the Premises any sign or other advertising device without first obtaining the Port's written consent, which the Port may withhold or condition in its sole discretion. Lessee shall remove all signs and sign hardware upon termination or expiration of this Lease and restore the sign location to its former state unless the Port elects to retain all or any portion of the signage.

4.4 No Liens

Lessee agrees to pay, when due, all sums for labor, services, materials, supplies, utilities, furnishings, machinery, or equipment which have been provided or ordered with Lessee's consent to the Premises. Lessee shall not suffer or permit any liens to attach to all or any part of the Premises by reason of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to, Lessee or anyone occupying or holding an interest of Lessee in all or any part of the improvements through or under Lessee. If any lien is filed against the Premises which Lessee wishes to protest, then Lessee shall promptly deposit cash with the Port, or procure a bond acceptable to the Port, in an amount sufficient to cover the cost of removing the lien from the Premises or file a bond or deposit money and cause the Premises to be freed of the lien pursuant to ORS 87.076 et. seq. Notwithstanding any notice and cure periods provided in Section 10.1, failure to remove the lien or furnish the cash or bond acceptable to the Port or to cause the Premises to be freed of the lien pursuant to ORS 87.076 et. seq. within thirty (30) days of receipt of notice of the lien shall constitute an Event of Default under this Lease and the Port shall automatically have the right, but not the obligation, to pay the lien off with no further notice to Lessee and Lessee shall immediately reimburse the Port for any sums so paid to remove any such lien. Except as provided in Section 12, Lessee shall not encumber the Premises or any Lessee Improvements thereon without prior written approval of the Port, which may be withheld or conditioned in the Port's sole discretion.

4.5 Utilities and Services

The Port makes no representations or warranties regarding the availability and/or quality of utilities and other services available to the Property. Lessee is responsible for verifying, obtaining, and paying for all utility installations and connections and all utility services necessary for Lessee's operation. Lessee shall be responsible for paying all fees and charges imposed by the various utilities furnishing those services, including those paid for and apportioned by the Port (if any). Fees shall include, but are not limited to, all installation and connection fees and charges and monthly or periodic fees and assessments charged by the utilities and by any governmental agencies having jurisdiction over the Premises. Before Lessee installs any other utility lines on, under, or above the Premises, Lessee must first obtain the Port's written approval to do so. Before approval is granted Lessee must provide the Port with a detailed survey, with depiction, showing the exact location of such lines. In no event shall the Port be obligated to use any of its powers to acquire easement or utility access for Lessee.

4.6 Safety Requirements

Lessee shall conduct its operations, activities, and duties under this Lease in a safe manner and shall comply with all safety standards imposed by applicable Laws. Lessee shall ensure compliance with the same by all subcontractors and all other persons transacting business with or for Lessee in any way connected with the conduct of Lessee pursuant to this Lease. Lessee shall comply with any safety rules adopted by the Port after thirty (30) days' notice of such adopted rules to Lessee unless exigent circumstances require immediate compliance therewith.

4.7 Fire Safety

Lessee shall exercise due and reasonable care and caution to prevent and control fire on the Premises and, to that end, shall fully maintain the existing fire suppression system on the Premises,

and shall provide and maintain any other fire protection equipment as may be required or appropriate for Lessee's use of the Premises pursuant to applicable Laws and the Port's fire insurance carrier, for the purpose of protecting the Premises and restricting the spread of any fire from the Premises. The Port will provide a preventative maintenance schedule for the existing system and suitable training to Lessee's personnel within 30 days of the Effective Date. Lessee shall comply with any fire safety rules adopted by the Port after thirty (30) days' notice of such adopted rules to Lessee unless exigent circumstances require immediate compliance therewith.

4.8 Security

Lessee shall be fully responsible for the security of the Premises and the Port shall have no responsibility or liability under this Lease for the security of the Premises. Lessee may, at its sole expense, install and maintain a security system on the Premises (or enhance an existing system on the Premises) with prior written approval of the Port. Upon expiration or termination of this Lease, such security system shall only be removed in accordance with Section 9.1.

4.9 Waste, Removal and Demolition

Lessee shall not cause or permit any waste or damage, disfigurement or injury to the Premises or the improvements. Subject to Section 8, Lessee shall not remove or demolish, in whole or in part, any improvements on the Premises without the prior written approval of the Port, which the Port may condition upon the obligation of Lessee to replace the same by an equal or better Improvement or other Improvement specified in such approval.

4.10 Maintenance

Lessee shall keep and maintain the Premises (including the building, any structures, grounds, all improvements, Lessee Improvements, systems, utilities, and equipment) in good condition and shall carry out preventive maintenance, repairs, replacements, and cleaning necessary and appropriate to maintain such condition, including any repairs or alterations required under Lessee's obligation to comply with any laws or regulations.

4.10.1 Maintenance Responsibilities of the Port

Port is responsible for repairs and maintenance of the roof and gutters, exterior walls (including paint), bearing walls, structural members, and foundation of the office building. Repairs and maintenance of exterior water, septic system or sanitary sewer, and electrical services up to the point of entry into, exit from, or connection with the leased Premises. The Port reserves the right to extend sanitary sewer service to the Premises at a future date in the Port's sole discretion.

4.11 Conduct of Business

At all times during the Lease Term and any Extension Terms, Lessee shall be registered and in good standing to do business in Oregon. Lessee shall notify the Port of any cessation in operations that are expected to last more than four (4) weeks and must continuously secure and maintain the Premises at all times during the Lease Term and any Extension Terms. In the event Lessee's cessation in operations lasts longer than eight (8) weeks, the Port shall have the right, but not the obligation, to terminate this Lease.

4.12 Local Contractor Consideration

In making any type of Port Improvements or Lessee Improvements, Lessee shall use best efforts to provide notice in the local area of such work, and to provide an equal opportunity for local businesses with appropriate certifications and qualifications to compete for such business opportunities or participate as a subcontractor in such work.

5. PORT AUTHORITY AND OBLIGATIONS

5.1 Quiet Enjoyment

Subject to Lessee performing all of Lessee's obligations under this Lease and subject to the Port's rights under this Lease and its rights of condemnation under Oregon law, Lessee's possession and quiet enjoyment of the Premises will otherwise not be disturbed by the Port or its officers, commissioners, agents, employees, and contractors.

5.2 Delivery of Premises

Lessee shall have the right to possession of the Premises on the Effective Date. The Port shall have no liability to Lessee for any delay in delivering possession; however, all of Lessee's monetary obligations hereunder, including without limitation Lessee's obligation to pay Basic Rent, will be abated, delayed, and forever excused until possession is actually delivered to Lessee. Lessee shall have the right to terminate this Lease if possession is not delivered by the Effective Date.

5.3 Condition of Premises

The Port makes no warranties, guarantees or averments regarding the condition of the Premises, including, without limitation, the suitability of the Premises for Lessee's intended uses or the availability of accessible utilities or roadways needed for Lessee's intended purposes, or zoning, development, or occupancy requirements. Lessee confirms that the Port or any agent of the Port has made no representation or warranty as to the Premises except as provided in this Lease. Lessee has inspected the Premises and accepts the Premises in "AS IS" condition, with all defects and conditions known and unknown, upon taking possession. The Port shall have no liability to Lessee and Lessee shall have no claim against the Port for any damage or injury caused by any condition of the Premises. Unless otherwise agreed to, in writing, by the Port, the Port shall have no responsibility to bring the Premises into compliance with any laws, including, without limitation, any building or occupancy codes. Lessee shall be solely responsible for thoroughly inspecting the Premises and ensuring that it is in compliance with all laws.

5.4 Port Construction and Repair Obligation on Premises

The Port shall have no responsibility for the repair or maintenance of the Premises or for construction of any roadways, utilities, or any other improvements on or off of the Premises unless otherwise specifically provided in this Lease. Should the Port undertake any repair or maintenance work on the Premises, the Port shall have no liability for interference with Lessee's use of the Premises which might result from the Port's repair and maintenance efforts and no such efforts shall be construed as a constructive eviction or other eviction of Lessee. Notwithstanding the foregoing and to the extent allowed by law, the Port will be responsible to Lessee for any actual damages caused by the gross negligence or willful misconduct of the Port or any agent, employee or contractor of the Port who performs work which damages Lessee's Premises (but in no event for lost profits or consequential damages). Any repair of damage caused by negligence or breach

of this Lease by Lessee, employees, agents, contractors, or invitees, shall be Lessee's responsibility and shall be made at Lessee's sole expense.

5.5 Port and Third-Party Access

The Port shall have the right to enter upon the Premises for the purposes of: (a) confirming the performance by Lessee of all obligations under this Lease; and (b) doing any other act which the Port may be obligated or has the right to perform under this Lease. Such entry shall be made with reasonable advance written notice of at least twenty-four (24) hours and during normal business hours to Lessee, pursuant to the notice provisions of Section 16.4 except in cases of emergency. In an emergency, the Port shall have the right to use any and all means which the Port may deem reasonable to obtain entry onto the Premises or into any building located on the Premises without liability to Lessee. Lessee may have its representative, if such a representative is reasonably available, accompany the Port. If prior notice of an inspection is not provided under the circumstances set forth in this Section 5.5, the Port shall notify Lessee of the scope and findings of the inspection as soon as practicable after it occurs.

6. ENVIRONMENTAL MANAGEMENT AND COMPLIANCE

6.1 Definitions

For the purposes of this Lease, the following definitions shall apply:

6.1.1 Environmental Laws

"**Environmental Laws**" shall include any and all federal, State of Oregon, regional and local laws, regulations, rules, permit terms, codes, ordinances and guidance documents now or hereafter in effect, as the same may be amended or recodified from time to time, and applicable decisional law, which govern materials, substances, regulated wastes, emissions, pollutants, water, storm water, ground water, wellfield and wellhead protection, cultural resources protection, animals or plants, noise, or products and relate to the protection of health, natural resources, safety or the environment.

6.1.2 Hazardous Substance

"**Hazardous Substance**" shall include any and all substances defined or designated as hazardous, toxic, radioactive, dangerous, or regulated wastes or materials or any other similar term in or under any applicable Environmental Laws. Hazardous Substance shall also include, but not be limited to, fuels, petroleum, and petroleum-derived products.

6.1.3 Environmental Audit

"**Environmental Audit**" means an environmental site assessment or compliance audit conducted of the Premises consistent with CERCLA Section 9601(35)(B), 42 U.S.C., 40 C.F.R. part 312, ORS 465.255(6), and any other applicable or relevant and appropriate assessment or auditing standard, including ASTM Standard E2107-00 Standard Practice for Environmental Regulatory Compliance Audits, or its successor, as the same may be amended or recodified from time to time, and any other environmental assessment, sampling and testing as may be necessary or desirable.

6.1.3.1 Initial Audit

Lessee will have the option of conducting an Environmental Audit assessment and work before the Lease Commencement Date. The Environmental Audit ("Initial Audit") shall document the onsite environmental condition of the Premises as of the Lease Commencement Date.

6.1.3.2 Special Audit

If the Port, at any time during the term of the Lease or any extension thereof, has reason to suspect that there has been a Hazardous Substance Release or there is an imminent threat of a Hazardous Substance Release caused by Lessee, Lessee's employees, agents, contractors, licensees, or invitees (including occurring in connection with their occupancy, possession or use of the Premises), the Port may, after written communication of those reasons to Lessee, without limiting its other rights and remedies, conduct an Environmental Audit of the Premises ("**Special Audit**"). If the Special Audit confirms a Hazardous Substance Release which Lessee, Lessee's employees, agents, contractors, licensees, or invitees caused (including occurring in connection with their occupancy, possession, or use of the Premises), then Lessee will be required to reimburse the Port for the reasonable costs of the Special Audit as an Environmental Cost. If no Material Violation is found, the Port will pay for the Special Audit.

6.1.3.3 Exit Audit

At the expiration or termination of this Lease, the Lessee may conduct, at Lessee's expense, an Environmental Audit ("**Exit Audit**") of the Premises and related property to determine: (i) the environmental condition of the Premises; (ii) whether any Hazardous Substance Release which Lessee, Lessee's employees, agents, contractors, licensees, or invitees caused (including occurring in connection with their occupancy, possession or use of the Premises) has occurred or exists on or about the Premises; and (iii) whether there is evidence of any violation of Environmental Laws or the environmental provisions of this Lease which Lessee, Lessee's employees, agents, contractors, licensees, or invitees caused (including occurring in connection with their occupancy, possession or use of the Premises). The Exit Audit shall be performed not more than sixty (60) days prior to the scheduled Expiration Date of this Lease and a complete copy of the results of the Exit Audit shall be provided to each party, prior to actual termination. In the event this Lease is terminated prior to the scheduled Expiration Date for any reason, Lessee may complete the Exit Audit within sixty (60) days of such actual termination date of this Lease. The Port shall have the right to approve the scope of and consultant for the Exit Audit, though such approval shall not be unreasonably withheld.

6.2 Environmental Inspection

The Port reserves the right, at any time and from time to time, after reasonable advance written notice to Lessee, of two (2) Business Days (as defined in Section 16.15 below) or more (except that no notice to Lessee shall be required in the event the Port reasonably believes that there exists a condition constituting an imminent and substantial endangerment) to inspect the Premises and Lessee's operations on and use of the Premises: (i) for the presence of or Lessee's management of Hazardous Substances; (ii) for the purpose of sampling Lessee's storm water discharge; (iii) for compliance with Environmental Laws or the environmental provisions of this Lease; and (iv) to facilitate the Port's environmental management, permitting and analysis related to the Premises or any other premises of the Port. Lessee shall use commercially reasonable efforts to arrange these inspections on behalf of the Port. The Port agrees to use commercially reasonable

efforts to conduct such inspections in a manner that will minimize disruption to Lessee's use of the Premises. Lessee may have its representative, if such a representative is reasonably available; accompany the Port during an inspection authorized by this Section 6.2. The Port shall notify Lessee of the scope and findings of the inspection as soon as practical after it occurs.

6.2.1 Environmental Cost

"**Environmental Cost**" shall include, but is not limited to, costs and damages arising from or relating to: (a) any actual or claimed violation of or noncompliance with any applicable Environmental Laws; (b) claims for damages, response costs, any audit costs, fines, fees or other relief relating to matters addressed in any applicable Environmental Laws; (c) injunctive relief relating to matters addressed in any applicable Environmental Laws; (d) Hazardous Substance Releases; and (e) violations of any environmental provisions of this Lease. "**Environmental Cost**" as used in this Section 6 and elsewhere in this Lease shall include but not be limited to: (i) costs of preliminary assessment, evaluation, testing, analysis, remedial investigation, feasibility study, removal, remedial action, disposal, monitoring and maintenance, natural resources injury assessment, restoration and compensation; (ii) the cost of decommissioning and removing any underground or aboveground storage tank(s); (iii) Port, Oregon Department of Environmental Quality ("**DEQ**"), United States Environmental Protection Agency ("**EPA**") and Natural Resource Trustees oversight costs; (iv) fees of attorneys, engineers, consultants, experts, , incurred at, before or after trial, on appeal or petition for review, or in any bankruptcy or administrative proceedings; and (v) diminution of value, loss, or restriction on use of Premises, including diminution of value resulting from the residual risk associated with a risk based cleanup.

6.2.2 Hazardous Substance Release

"**Hazardous Substance Release**" shall include the spilling, discharge, deposit, injection, dumping, emitting, releasing, leaking, or placing of any Hazardous Substance into the air or into or on any land or waters. However, Hazardous Substance Release excludes a release specifically authorized by a then-current and valid permit or authorization issued under applicable Environmental Laws or a de minimus release of Hazardous Substances on an impervious surface that does not and will not likely, either individually or cumulatively with other releases of Hazardous Substances, come in contact with surface water contained in a river water body, or with groundwater, that is appropriately responded to under Environmental Laws, and that is promptly reported to the Port under Section 6.8.

6.2.3 Best Management Practices

"**Best Management Practices**" shall mean those environmental or operational standards which are either: (a) applicable to a particular business or industry group as a matter of common and accepted practices; (b) adopted or articulated by any of the following: trade associations or professional associations for the particular business or industry group; the business or industry group's own standard operating procedures; or (c) practices specifically defined or identified for a particular business operation or industry group by regulatory agency guidelines.

6.2.4 UST Facility

"**UST Facility**" shall include underground storage tanks, underground piping, dispensers, related underground and aboveground structures and equipment, including without

limitation spill containment features and oil water separators, and the surrounding area used in connection with the operation, activity, or purpose for which the entire system is designed, including without limitation the fueling of motor vehicles and the containment of Hazardous Substances or other materials.

6.2.5 AST Facility

"AST Facility" shall include mobile storage tanks and aboveground storage tanks, aboveground piping, dispensers, related underground and aboveground structures and equipment, including without limitation spill containment features and oil water separators, and the surrounding area used in connection with the operation, activity or purpose for which the entire system is designed, including without limitation the fueling of motor vehicles and the containment of Hazardous Substances or other materials.

6.3 General Environmental Obligations of Lessee

Lessee shall manage and conduct all of its activities on or relating to the Premises: (a) in compliance with all applicable Environmental Laws and the environmental provisions of this Lease; (b) in reasonable cooperation with the Port (but at no significant additional cost to Lessee) in the Port's efforts to comply with applicable laws and regulations; and (c) in compliance with Best Management Practices applicable to Lessee's use of the Premises. Lessee shall manage and, as appropriate, secure the Premises and Lessee's occupation or use of the Premises so as to prevent any violation of law and regulations by any party. Notwithstanding the foregoing, the Port acknowledges and agrees that Lessee shall not be liable for any environmental conditions on the Premises that violate Environmental Laws or cause the Port or Lessee to incur Environmental Costs which are related to the Premises and not created by Lessee and/or existed at, under, on or adjacent to the Premises prior to Lessee's possession or Lessee's receipt of the Premises by assignment or transfer, and the Port agrees that any such conditions shall be the Port's responsibility.

6.4 Hazardous Substances Use on Premises

Lessee shall not use, store, handle, manage, generate, manufacture, dispose of, recycle, or process on the Premises any Hazardous Substances ("**Hazardous Substance Use**") except as provided in Sections 6.4.1, 6.4.2, and 6.4.3. Lessee shall maintain Material Safety Data Sheets ("**MSDS Materials**") for each and every Hazardous Substance Use by Lessee, Lessee's agents, employees, contractors, licensees, invitees, to the extent required under Environmental Laws. In order to ensure that the MSDS Materials are available to the Port in the event of a spill or other emergency, the MSDS Materials shall be kept current at all times and a copy of the MSDS Materials shall be kept in a place known to and easily accessible to the Port. Lessee shall dispose of all Hazardous Substances according to applicable Environmental Laws. Except as specifically allowed by state or federal discharge permits, Lessee shall not dispose of any Hazardous Substance, regardless of the quantity or concentration, into any storm or sanitary sewer systems within the Premises, to the ground, into surface water or groundwater, or on other Premises of the Port. Whenever appropriate, Lessee shall strive to minimize Hazardous Substance Use and identify and use non-hazardous alternatives in Lessee's operations.

6.4.1 Permitted Use of Hazardous Substances

Lessee shall be permitted to store, handle, or use limited quantities of certain Hazardous Substances in the following incidental and limited manner, the storage and use of which shall be in compliance with any Environmental Law and shall be in limited, reasonable, and customary quantities (each such use a "Permitted Use of Hazardous Substances"). Such Permitted Use of Hazardous Substances shall include and be limited to the following: (a) Hazardous Substances contained in office, janitorial and landscape supplies and cleaning fluids of types and quantities ordinarily used for maintenance of the Premises; (b) petroleum products and lubricants fully contained in equipment, machinery and vehicles on the Premises; and (c) Hazardous Substances contained in equipment, machinery and materials used in the construction and installation of any improvements on the Premises, excluding any stockpiling of Hazardous Substances in connection with such construction or of Off-Site Waste-Like Materials (defined in Section 6.5) containing any Hazardous Substances.

6.4.2 Conditional Hazardous Substances Use with Port Approval

If Lessee's proposed Hazardous Substance Use falls into one or more of the following categories, such use shall be in the Port's sole discretion: (a) a conditionally exempt small quantity generator or small quantity generator of hazardous waste under the Resources Conservation and Recovery Act ("RCRA"); (b) requires an Operating Permit under either federal or state Clean Air laws; (c) requires a National Pollution Discharge Elimination System (NPDES) permit; (d) requires response planning or reporting under the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. §§ 11001-11050; (e) materials regulated under the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA); and (f) any other use that creates a material risk to human health or the environment, including, but not limited to, uses that may result in explosion, evacuation, or imminent threat to the waterways, groundwater, land, or air (each such use under items (a) through (f) of this Section 6.4.2 is a "Conditional Hazardous Substance Use").

6.4.3 Above ground and Mobile Hazardous Substances Storage Tanks

Lessee may not install, maintain or operate an AST Facility (including fueling trucks), or use fueling entities based offsite for the storage, transportation, transfer and dispensing on the Premises of Hazardous Substances. Any use of above-ground or mobile storage tanks on the Premises shall be reviewed by the Port on a case-by-case basis and subject to the Port's approval, which may be withheld or conditioned at the Port's sole discretion.

6.4.4 Port Review of Lessee's Proposed Hazardous Substance Use

When seeking the Port's prior approval of a Hazardous Substance Use on the Premises, whether by Lessee, or by an existing Lessee shall submit to the Port the following information: (a) quantities and list of any Hazardous Substances proposed to be stored or used; (b) MSDS Materials on all the Hazardous Substances; (c) a description of the intended Hazardous Substance Use; and (d) a copy of any spill and containment plans, and/or management plans for the Hazardous Substance Use required by any local, regional, state or federal agencies under any applicable law ("Lessee's Submittals"). The Port review of the proposed Hazardous Substance Use shall consist of verifying that it is a Permitted Use of Hazardous Substances under Section 6.4.1 or is acceptable to the Port with conditions, as set forth in Section 6.4.2.

6.4.5 Notice of Port's Review of Hazardous Substance Use

The Port shall notify Lessee of the Port's decision within twenty (20) Business Days of receipt of Lessee's Submittals ("**Other HSU Notice**") and the rest of the provisions in this Section 6.4.5 shall apply. If the Port requests additional information or the proposed Hazardous Substance Use is complex, in the Port's reasonable opinion, the review period shall be extended by an additional ten (10) Business Days after the requested information has been provided. If the Port, in its reasonable discretion, deems it necessary to hire outside consultants to complete the review process due to the complexity of the proposed Hazardous Substance Use or lack of sufficient information for evaluation of the proposed use, Lessee shall bear the expense of such consultants and the time frame for review may be extended as the Port, in its reasonable discretion, deems necessary due to the complexity of the proposed use. Such Other HSU Notice may be given in accordance with Section 16.4. If the Port fails to give Lessee such Other HSU Notice in writing within the time period, together with any applicable extensions, as provided under this Section 6.4.5, Lessee shall notify the Port in writing and the Port shall have an additional seven (7) days to send Lessee the Port's decision on the proposed Hazardous Substance Use. If the Port fails to provide such Other HSU Notice to Lessee within such additional seven (7) day period, the proposed Hazardous Substance Use shall be deemed acceptable to the Port, provided, however, in no event shall the Port's failure to respond constitute an approval of any term that violates Environmental Laws or other applicable laws and regulations or any provision of this Lease.

6.4.6 Conditions of Hazardous Substance Use Approval

If Port approval is required under this Lease for a proposed Hazardous Substance Use, the conditions of Port approval for such proposed Hazardous Substance Use may include, but not be limited to, requiring Lessee to do one or more of the following: (a) secure additional or increased pollution control insurance or meet other insurance requirements; (b) accept limits or restrictions on the Hazardous Substance Use to assure compatibility with area uses or with any AST or MST Tank Agreement; (c) prepare and submit for Port approval a Spill Prevention, Control and Countermeasures Plan for the Hazardous Substance Use; and (d) submit to the Port copies of any reports or notifications to any regulatory agency relating to the Hazardous Substance Use prior to or at the beginning of the Hazardous Substance Use and periodically throughout the Lease Term.

6.4.7 Discharge and Treatment of Industrial Wastewater

No industrial wastewater discharge shall be made by Lessee into the ground, any surface waters, other body of water, or any Port-owned conveyance or storage system unless such discharge meets the requirements of all applicable laws and regulations. The Port shall have the right, but not the duty, in its sole discretion, to review and approve or disapprove any industrial wastewater management, treatment or discharge system constructed or modified by on behalf of Lessee on the Premises during the term of this Lease.

6.5 Off-Site Waste-Like Materials

Lessee shall not allow any person to store, manage, treat, deposit, place or dispose of slag, debris, recycled concrete, recycled asphalt, construction or demolition debris, wood waste, dredged material, Hazardous Substance-contaminated material, or other wastes from off of the Premises ("**Off-Site Waste-Like Materials**") on the Premises without the prior written approval of the Port, which approval may be granted, conditioned or denied in the Port's sole discretion. In

the event that the Port in its sole discretion is not satisfied with the origin and likely contents of such Off-Site Waste-Like Materials, the Port may require Lessee, at Lessee's cost, to test such materials to ensure that, in the Port's sole opinion, such materials contain no unacceptable levels of Hazardous Substances.

6.6 Lessee's Liability

6.6.1 Hazardous Substance Releases

Except as provided in Section 6.6.2, Lessee shall be responsible for any Hazardous Substance Release occurring on the Premises or emanating and originating from the Premises onto or into other properties, or in the air or in adjacent or nearby waterways (including ground water) and any Environmental Cost resulting therefrom, which results from or occurs in connection with Lessee's occupancy, use or possession of the Premises (including acts of uninvited third parties who cause a Hazardous Substance Release to occur on the Premises) (a) occurring at any time during the Lease Term or extension thereof; (b) occurring at any time during any holdover period; or (c) occurring during the Lease Term or extension thereof and continuing after the Lease Term or extension thereof (the "Triggering Environmental Event").

6.6.2 Limitation of Lessee's Liability

Notwithstanding anything to the contrary provided in Section 6.6 of this Lease, Lessee shall have no responsibility or liability for any Triggering Environmental Event that Lessee can demonstrate: (a) existed on the Premises prior to the Effective Date of this Lease (except if caused by Lessee or Lessee's agents, employees or contractors); (b) is caused by the Port or its agents, employees or contractors after the Effective Date of this Lease; (c) results exclusively from a Hazardous Substance Release that constitutes a contiguous properties situation, as defined in 42 U.S.C.A. § 9607(q) involving a release that occurred from an off-site location not owned, operated, leased or otherwise controlled by Lessee, and migrated onto the Premises; or (d) first occurred after Lessee's vacation of the Premises. The Port shall be responsible, to the extent required by law, for any Triggering Environmental Event caused by the Port, its agents, employees, or contractors, whether occurring before or after the Effective Date of this Lease.

6.7 Environmental Remediation

6.7.1 Immediate Response

In the event of a violation of applicable Environmental Laws for which Lessee is responsible under this Lease, a violation of an environmental provision of this Lease for which Lessee is responsible under this Lease, a Hazardous Substance Release for which Lessee is responsible under this Lease, or the threat of or reasonable suspicion of a Hazardous Substance Release for which Lessee is responsible under this Lease, Lessee shall immediately undertake and diligently pursue all acts necessary or appropriate to do the following: (a) eliminate the threat or reasonable suspicion of such Hazardous Substance Release; (b) correct the violation of Environmental Laws or of environmental provisions of this Lease; and/or (c) investigate, contain, stop, and accomplish source control (if the source is on the Premises) for, Hazardous Substance Releases for which Lessee is responsible under this Lease and remove such Hazardous Substance Releases to the extent required by Environmental Laws and consistent with the permanent remediation requirements of Section 6.7.2. If the source is off the Premises, Lessee will immediately notify the Port upon becoming aware of the Hazardous Substance Release.

6.7.2 Remediation

Lessee shall promptly undertake all actions necessary or appropriate to ensure that any Hazardous Substance Release for which Lessee is responsible under this Lease is permanently remediated and that any violation of any applicable Environmental Laws for which Lessee is responsible under this Lease or any violation by Lessee of an environmental provision of this Lease is corrected. In addition, with respect to any Hazardous Substance Release for which Lessee is responsible under this Lease, Lessee shall restore the Premises or other affected Premises or water to such condition that: (a) to the extent that the Hazardous Substance Release is reportable to the DEQ, a determination of "No Further Action" has been obtained from the DEQ; (b) no ongoing monitoring of Hazardous Substances on the Premises is required under applicable Environmental Laws; (c) no Hazardous Substances are left in place and capped with either soil or other material (except in compliance with subsection (d)); and (d) there are no restrictions or institutional controls under applicable Environmental Laws on the use or development of the Premises other than those consistent with current and reasonably anticipated future land uses at the Premises and surrounding properties. Nothing in this Section 6.7.2 shall require Lessee to remediate any Hazardous Substance Release for which Lessee is not responsible under Section 6.6.1 or for which Lessee's liability is limited as provided in Section 6.6.2.

6.7.3 Natural Resources Damages Assessment and Restoration

Lessee shall promptly undertake, at Lessee's sole expense, all actions necessary to ensure that any natural resources damages associated with the Premises for which Lessee is responsible under this Lease, and the violation of Environmental Laws, the environmental provisions of this Lease or any Hazardous Substance Release by Lessee, contractors, invitees, agents, or employees, is investigated, determined, quantified, assessed, and permanently restored and compensated for, such that a "No Further Action" determination is obtained from all natural resources trustees with jurisdiction over the Hazardous Substance Release.

6.7.4 Report to the Port

Within thirty (30) days following completion of any assessment, investigation, feasibility study, containment, removal, or remedial action required by this Lease, Lessee shall provide the Port with a written report outlining, in detail, what has been done and the results thereof.

6.7.5 Port's Approval Rights

Except in the case of an emergency or an agency order requiring immediate action, Lessee shall give the Port advance notice before beginning any investigatory, remediation or removal procedures. The Port shall have the right to approve or disapprove (which approval shall not be unreasonably withheld, conditioned, or delayed) the proposed investigatory, remediation and removal procedures and the company(ies) and/or individuals conducting such procedures which are required by this Lease or by applicable Environmental Laws, whether on the Premises or on any affected Premises or water. The Port will have the right to require Lessee to request oversight from the DEQ or to require Lessee to participate under an agreement in DEQ's voluntary cleanup program regarding any investigatory, containment, remediation, and removal activities and/or require Lessee to seek a formal determination from DEQ of No Further Action.

6.8 Notice

Lessee shall promptly notify the Port upon becoming aware of: (a) a violation or alleged violation of any applicable Environmental Laws related to the Premises or to Lessee's occupation or use of the Premises or any environmental provision of this Lease; and (b) any Hazardous Substance Release on, under or adjacent to the Premises or threat of or reasonable suspicion of any of the same. If Lessee fails to notify the Port of a matter as required in this Section 6.8, and if the Port does not otherwise acquire knowledge of the matter, Lessee shall be liable for any aggravation of a Hazardous Substance Release that could reasonably have been avoided if such notification by Lessee had been provided.

6.9 Split Sampling

Except in the case of an emergency or an agency order requiring immediate action, Lessee shall notify the Port at least forty-eight (48) hours in advance of any proposed sampling associated with a Hazardous Substance Release in order to allow the Port to be present or to collect duplicate (or "split") samples so that the Port may conduct its own analysis. Lessee shall provide the Port with copies of any sampling results and associated chain-of-custody and quality assurance and quality control information within ten (10) days of request by the Port.

6.10 Port's Right to Perform on Behalf of Lessee

In the event Lessee is in default of any of its obligations under this Section 6 or any Environmental Laws, the Port shall have the right, after written notice to Lessee and a period of thirty (30) Business Days provided for Lessee to cure, to perform such obligations and charge Lessee all resulting Environmental Cost, together with interest at the Delinquency Rate, from the date the expense is incurred by the Port until the date paid. The Port may not commence performance on behalf of Lessee under this Section 6.10 if, during the thirty (30) day period, Lessee promptly begins and diligently pursues to completion the performance of the obligations set forth in the Port's notice. Notwithstanding the foregoing, in the event the Port determines that an emergency exists, and Lessee is either unwilling or unavailable to take immediate and appropriate action, the Port may take commercially reasonable action, and charge Lessee all resulting Environmental Cost from the date the expense is incurred by the Port until the date paid. If such Environmental Cost is not reimbursed within thirty (30) days of written demand, the Delinquency Charge will be imposed retroactive to the date the Environmental Cost was incurred. The Port agrees to make a good faith effort to attempt to notify Lessee before beginning any clean-up operation.

7. INDEMNITY, INSURANCE

7.1 Lessee's General Indemnity; Reimbursement of Damages

Lessee agrees to defend (using legal counsel reasonably acceptable to the Port), indemnify, and hold harmless the Port from and against and reimburse the Port for any and all actual or alleged claims, damages, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, Environmental Cost and/or penalties (collectively "Costs") which may be imposed upon, claimed against or incurred or suffered by the Port and which, in whole or in part, directly or indirectly, arise from the following, unless exclusively resulting from the Port's gross negligence or willful misconduct: (a) any act, omission or negligence of Lessee or its agents, employees, contractors or invitees; (b) any use, occupation,

management or control of the Premises by Lessee, or its agents, employees, contractors or invitees, whether or not due to Lessee's own act or omission and whether or not the resulting damage occurs on the Premises; (c) any condition created in or on the Premises by Lessee, or its agents, employees, contractors or invitees (other than the Port), including without limitation any accident, injury or damage occurring in or on the Premises after the Lease Commencement Date; and (d) any Triggering Environmental Event for which Lessee is responsible under this Lease, including without limitation any injury or damage occurring therefrom; and (e) any breach, violation or nonperformance of any of Lessee's obligations under this Lease. Lessee shall be responsible for payment of all deductibles or self-insured retentions for all claims against Lessee's policies related to this contract including those made directly by an Additional Insured. For purposes of this Section 7.1 (a) through (e), Lessee shall be deemed to include Lessee and Lessee's partners, officers, directors, employees, agents, invitees, and contractors, and the Port shall mean the Port, its commissioners, directors, agents, and employees. Neither Lessee's partners, officers, directors, employees, and agents nor the Port's commissioners, directors, volunteers, agents, and employees shall be held personally liable under the provisions of this Section 7.1.

To the maximum extent permitted by applicable law, the Port agrees to defend (using legal counsel reasonably acceptable to Lessee), indemnify, and hold harmless the Lessee from and against and reimburse the Lessee for any and all actual or alleged claims, damages, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, Environmental Cost and/or penalties (collectively "Costs") which may be imposed upon, claimed against or incurred or suffered by Lessee and which, in whole or in part, directly or indirectly, arise from the following, except to the extent resulting from or contributed by the Lessee's gross negligence or willful misconduct: (a) any act, omission or negligence of the Port or its agents, employees, contractors or invitees; (b) any use, occupation, management or control of the Premises by the Port or its agents, employees, contractors or invitees, whether or not the resulting damage occurs on the Premises; (c) any condition created in or on the Premises by the Port or its agents, employees, contractors or invitees; and (d) any breach, violation or nonperformance of any of the Port's obligations under this Lease.

7.2 Insurance Requirements

Insurance requirements set forth below do not in any way limit the amount or scope of liability of the Lessee under this Lease. The amounts listed indicate only the minimum amounts of insurance coverage the Port is willing to accept to help insure full performance of all terms and conditions of this Lease. The Port requires and shall be entitled to any broader coverage and/or higher policy limits maintained by the Lessee. Any and all available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be made available to the Port. All insurance required by Lessee under this Lease shall meet the following minimum requirements.

7.2.1 Certificates; Notice of Cancellation

On or before the Effective Date and thereafter during the Lease Term (and any extension thereof), Lessee shall provide the Port with current certificates of insurance, including a copy of the additional insured endorsement required in Section 7.2.2, executed by a duly authorized representative of each insurer, evidencing the existence of all insurance policies required under this Section 7. The Port shall receive at least thirty (30) days' written notice prior to cancellation, non-renewal, or material change in any policy required under this Section 7.

Insurance must be maintained without any lapse in coverage during the Lease Term. The Port shall also be given copies of Lessee's policies of insurance, upon request. Failure of the Port to demand such certificates or other evidence of full compliance with these insurance requirements or failure of the Port to identify any deficiency or noncompliance with coverage requirements shall not be construed as a waiver of Lessee's obligation to maintain the insurance required by this Lease.

7.2.2 Additional Insured; Separation of Insureds

The Port shall be named as an additional insured in each general liability policy, other than employer's liability. Such insurance shall provide cross liability coverage equivalent to the standard Separation of Insureds clause published by the Insurance Services Offices ("ISO") or a successor organization.

7.2.3 Primary Coverage

The required policies shall provide that the coverage is primary and will not seek any contribution from any insurance or self-insurance carried by the Port.

7.2.4 Company Ratings

All policies of insurance must be written by companies having an A.M. Best rating of "A" or better, or equivalent. The Port may, upon thirty (30) days' written notice to Lessee, require Lessee to change any carrier whose rating drops below an "A" rating.

7.2.5 Deductibles and Retentions

Any deductible or self-insured retention of the per occurrence or per accident limit of a required policy in excess of the following is subject to approval by the Port: three percent (3%) of the insured value for earthquake with ONE HUNDRED THOUSAND DOLLARS (\$100,000) minimum per occurrence; ONE HUNDRED THOUSAND DOLLARS (\$100,000) for flood and pollution; and FIFTY THOUSAND DOLLARS (\$50,000) for any other coverage required in this Section 7.

The Port grants approval for Lessee to carry the following higher deductible or self-insured retentions: the greater of five percent (3%) of the insured value or TWO MILLION FIVE HUNDRED THOUSAND DOLLARS \$2,500,000 for earthquake; TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000) for flood; and up to ONE MILLION DOLLARS (\$1,000,000) for any other coverage required in this Section 7. The Port reserves the right to request a higher deductible than the amounts listed herein so long as the Port makes a showing that such an increased deductible is reasonably necessary.

7.3 Required Insurance

At all times during this Lease, Lessee shall provide and maintain the following types of coverage.

7.3.1 General Liability Insurance

Lessee shall maintain an occurrence form commercial general liability policy or policies insuring against liability arising from premises operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) occurring on or in any way related to the Premises or occasioned by reason of the operations of Lessee in an

amount of not less than TWO MILLION DOLLARS (\$2,000,000) or the Lessee's policy limits, whichever is greater, per occurrence.

7.3.2 Property Insurance

The Port shall throughout the Lease Term keep the Premises and all other buildings which are owned by the Port on the Premises insured against loss by fire and other hazards by such policies as determined by the Port. The amount of the insurance shall be equal to the full insurable replacement cost of the building and all other Port Improvements located on the Premises. If the coverage is available and commercially appropriate, the policy or policies must insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any applicable requirements requiring the upgrading, demolition, reconstruction, or replacement of any portion of the Property as the result of a covered loss. Lessee shall reimburse the Port, at least annually, for the cost of such insurance by paying to the Port such cost within thirty (30) days of billing by the Port. Lessee shall bear the expense of any insurance insuring the property of Lessee on the Premises against such risks but shall not be required to insure.

7.3.3 Automobile Liability Insurance

In the event that automobiles are used in connection with Lessee's business or operations at the Premises, Lessee shall maintain an automobile liability policy or policies insuring against liability for bodily injury, death, or damage to Premises, including loss of use thereof, and occurring in any way related to the use, loading, or unloading of any of Lessee's automobiles (including owned, hired and nonowner vehicles) on and around the Premises. Coverage shall be in an amount of not less than TWO MILLION DOLLARS (\$2,000,000) or the Lessee's policy limits, whichever is greater, for each accident.

7.3.4 Workers' Compensation Insurance

Lessee shall maintain in force Workers' Compensation insurance for all of Lessee's employees in accordance with all requirements of Oregon law. Lessee shall also maintain employer's liability coverage in an amount of not less than ONE MILLION DOLLARS (\$1,000,000) or the Lessee's policy limits, whichever is greater, per accident and ONE MILLION DOLLARS (\$1,000,000) or the Lessee's policy limits, whichever is greater, per employee for disease. In lieu of such insurance, Lessee may maintain a self-insurance program meeting the requirements of the State of Oregon and a policy of excess workers' compensation and employer's liability insurance.

7.3.5 Personal Property Insurance

Lessee will be responsible to ensure all Lessee's own Personal Property such as removable decorations, detached floor coverings, signs, blinds, furnishings, Lessee Improvements, betterments, and trade fixtures, which items will not be covered by Port's insurance and for which Port and its insurance carriers will have no liability.

7.3.6 Lessee's Risks

Lessee shall be responsible for obtaining any insurance it deems necessary to cover its own risks, including without limitation: (a) personal property, and/or (b) automobile physical damage and/or theft. In no event shall the Port be liable for any: (i) business interruption or other

consequential loss sustained by Lessee; (ii) damage to, or loss of, personal property; or (iii) damage to, or loss of, an automobile, whether or not such loss is insured, even if such loss is caused by the negligence of the Port.

7.4 Waiver of Subrogation

Lessee waives any right of action that it and/or its insurance carrier(s) might have against the Port (including the Port's commissioners, employees, and agents) for any loss, cost, damage, or expense (collectively "Loss") covered by any property insurance policy or policies maintained or required to be maintained pursuant to this Lease. Each party also waives any right of action it and/or its insurance carrier(s) might have against the other party (including its commissioners, employees, and agents) for any Loss to the extent such Loss is a property loss covered under any applicable automobile liability policy or policies required by this Lease. If any party's applicable insurance policies do not allow the insured to waive the insurer's rights of recovery prior to a Loss, such party shall cause such policies to be endorsed to allow the waivers of subrogation required by this Section 7.4.

7.5 Periodic Review

The Port shall have the right to periodically review, including at the beginning of each Extension Term, the types, minimum coverage, limits, and terms of insurance coverage for consistency with then current types, minimum coverage, limits, and terms of insurance coverage for similar operations. If the Port determines that certain types of insurance are not generally available in the marketplace at reasonable terms and pricing for similar operations, Lessee shall not be required to carry such insurance until such insurance becomes available for similar operations. In the event the Port reasonably determines that such types, minimum coverage, limits, and/or terms should be changed to be consistent with then current types, minimum coverage, limits, and terms of insurance coverage generally available in the marketplace at reasonable terms and pricing for similar operations, the Port will give Lessee a minimum of thirty (30) days' notice of such determination and Lessee shall modify its coverage to comply with the new insurance requirements of the Port. Lessee shall also provide the Port with proof of such compliance by giving the Port an updated certificate of insurance within fifteen (15) calendar days of Lessee's receipt of such updates. Lessee shall have the right to periodically request the Port to conduct a review of the then current types, minimum coverage, limits, and terms of insurance coverage generally available in the marketplace at reasonable terms and pricing for similar operations if Lessee believes the current types, minimum coverage, limits, and terms of insurance coverage generally available in the marketplace at reasonable terms and pricing for similar operations have changed. The Port shall reasonably consider such request to determine if Lessee's current coverage comports with what is generally available in the marketplace at reasonable terms and pricing for similar operations and make changes to the insurance requirements under this Lease accordingly.

7.6 Survival of Indemnities

The indemnity agreements set forth in this Section 7 shall survive the expiration or earlier termination of this Lease and be fully enforceable thereafter.

8 DAMAGE AND DESTRUCTION

8.1 General

Lessee shall promptly notify the Port of damage or destruction of any improvements located on the Premises ("**Casualty**"). In the event (i) the Premises are made wholly untenable by fire or other casualty and the Port shall decide not to restore or repair same, (ii) 50% or more of the Building is so damaged by fire or other casualty that the Port shall decide to demolish or not rebuild the same, (iii) the Premises are made partially untenable during the last year of the Term, or (iv) any mortgagee applies the insurance proceeds to reduce its loan balance and the remaining proceeds, if any, are insufficient to pay for the repair or restoration of the Premises and Building, then, in any of such events, the Port shall have the right to terminate this Lease by notice to Lessee within sixty (60) days after the date of such fire or other casualty and Rent shall be apportioned on a per diem basis and paid to the date of such fire or other casualty. Notwithstanding anything to the contrary herein set forth, the Port shall not be obligated to repair or restore the Premises or the Building (and in such event shall exercise its termination right set forth above) if the damage or destruction is due to an uninsurable casualty, or insurance proceeds are insufficient to pay for such repair or restoration, or if any mortgagee applies proceeds of insurance to reduce its loan balance and the remaining proceeds available to the Port are not sufficient to pay for such repair or restoration. Lessee shall fully cooperate with the Port and the Port's insurance carrier in connection with any Casualty.

a) In the event the Premises are made wholly or partially untenable, and this Lease is not terminated by the Port under this Section 8, then this Lease shall continue in effect and the Port shall proceed diligently to repair and restore the Premises, subject, however, to (i) reasonable delays for insurance adjustments, and (ii) delays caused by forces beyond the Port's reasonable control. In such an event, the rent shall abate in proportion to the non-usability of the Premises during the period while repairs are in progress.

b) The Port shall have no liability for any loss, cost, expense, damage, or compensation whatsoever (including any claim for inconvenience, loss of business or annoyance) by reason of any restoration of the Premises or the Building under this Section 8.

c) If the Port does not elect to terminate this Lease pursuant to this Article, the damage is not the result of Lessee's gross negligence or willful misconduct, the damage substantially interferes with Lessee's access to or usage of a material portion of the Premises, and the Port's restoration work cannot be or is not completed within three hundred sixty-five days (365) days after the date of the damage, then Lessee may elect to terminate this Lease by notifying the Port in writing of such termination upon thirty (30) days' notice.

d) In the event of a casualty in which the Lessee Improvements are damaged or destroyed, Lessee shall proceed diligently to repair and restore such Lessee Improvements to the extent insurance proceeds are available or would have been available had Lessee carried all insurance required to be carried by Lessee under this Lease but did not so carry.

8.2 Restoration

In the event of any Casualty, Lessee shall cooperate with the Port in the restoration and/or replacement of the damaged improvements and damage to the Premises. If Lessee intends not to operate on the Premises for any period of time following a Casualty, Lessee must take appropriate

measures to secure the Premises during any period of such non-use and to prevent unauthorized parking or other unauthorized uses on the Premises.

8.3 Termination of Lease Following Casualty

If the building should be totally destroyed by fire, tornado, or other casualty, or if it should be so damaged thereby that rebuilding or repairs cannot in the Port's estimation be completed within three hundred and sixty five (365) days after the date upon which the Port is notified by Lessee of such damage, this Lease shall terminate and the Basic Rent shall be abated during the unexpired portion of this Lease, effective upon the date of the occurrence of such damage. The Port shall give notice to Lessee in writing of its determination to terminate this Lease within ninety (90) days following the date of the occurrence of such damage. If the building should be damaged by any peril covered by the insurance to be provided by the Port (but only to such extent the rebuilding or repairs can in the Port's estimation be completed within two hundred (200) days after the date upon which the Port is notified by Lessee of such damage), this Lease shall not terminate, and the Port shall at its sole cost and expense thereupon proceed with reasonable diligence to rebuild and repair such building to substantially the condition in which it existed prior to such damage to the extent that insurance proceeds are available to rebuild, except that the Port shall not be required to rebuild, repair or replace any part of the partition, fixtures, additions and other improvements which may have been placed in, or about the Premises by Lessee. If the Premises are untenable in whole or in part following such damage, the Basic Rent payable hereunder during the period in which they are untenable shall be reduced to such extent as may be fair and reasonable under all of the circumstances. In the event that the Port shall fail to complete such repairs and rebuilding within two hundred (200) days after the date upon which the Port is notified by Lessee of such damage, Lessee may at its option terminate this Lease by delivering written notice of termination to the Port as Lessee's exclusive remedy.

9 TERMINATION

9.1 Duties on Termination

Upon the Expiration Date or earlier termination of this Lease for any reason, Lessee shall complete all of Lessee's obligations under this Lease, including, but not limited to, meeting all of Lessee's environmental requirements under Section 6 (including without limitation the payment of all Environmental Costs for which Lessee is responsible under this Lease), delivering to the Port all keys and all manuals, warranties and other information in Lessee's possession relating to any of the improvements and surrendering the Premises and all improvements in good clean condition, reasonable wear and tear excepted (subject to the requirement to remove the improvements as set forth in this Lease). All Lessee Improvements shall, at the Port's sole option, be deemed Port Premises (including any buildings constructed on the Premises) and shall not be removed unless the Port directs Lessee to remove such Lessee Improvements, in which case Lessee shall remove the Lessee Improvements and then restore the Premises. Notwithstanding the foregoing, the utility pole peeler, debarking machinery trailer loader, portable diesel tank, modular-portable lunchroom, and modular-portable buildings of Lessee are not considered a Lessee Improvement or other improvement and shall at all times before, during and after expiration or termination of this Lease remain the property and responsibility of Lessee. All repairs or removals for which Lessee is responsible shall be completed at Lessee's cost prior to termination of this Lease and surrender of the Premises. Except in the event of early termination pursuant to the terms of this Lease, the Port

shall give Lessee written notice not later than sixty (60) days prior to the end of the initial Lease Term or the then current Extension Term ("**Removal Notice**") of the Port's election to have Lessee remove the Lessee Improvements. If the Port fails to timely provide such Removal Notice, such failure shall not be deemed a Default under this Lease and Lessee's obligation to remove the Lessee Improvements, if desired by the Port, shall not be extinguished; however, the date upon which the Lessee Improvements must be removed and any damage to the Premises repaired by Lessee shall be extended by the number of days the Removal Notice was late. If the Lessee Improvements are damaged after the Port has indicated in its Removal Notice that the improvements could remain, the Port may elect, in its sole discretion, to require Lessee to remove the Lessee Improvements and restore the Premises.

10 DEFAULT

10.1 Event of Default

The occurrence of any of the following shall constitute an "**Event of Default**" (also referred to as a "**Default**").

10.1.1 Default of Monetary Obligations

An Event of Default shall occur if Lessee fails to pay any monetary obligation required under this Lease and such failure to pay is not cured within ten (10) days after written notice to Lessee by the Port, except that a failure to pay Basic Rent must be cured within ten (10) days of its due date without notice from the Port.

10.1.2 Default in Covenants

An Event of Default shall occur if Lessee violates any term, covenant, or condition of this Lease (other than as provided in Sections 10.1.1 and 10.2.3) and such violation is not cured within thirty (30) days after written notice to Lessee by the Port describing the nature of the violation. If the violation is of such a nature that it cannot be completely cured within the thirty (30) day period, this provision shall be complied with if Lessee begins diligent correction of the violation within such thirty (30) day period and, thereafter, proceeds in good faith and with all due diligence to effect the cure as soon as reasonably possible. If Lessee violates the same provision of this Lease more than three (3) times in any calendar year, then the Port may declare an immediate Event of Default for which no opportunity to cure needs be given, except as provided in Section 10.2.1.

10.1.3 Bankruptcy/Insolvency

The Insolvency of Lessee shall be an immediate Event of Default for which no notice or opportunity to cure need be given. For the purposes of this Lease, and to the extent permitted by the United States Bankruptcy Code, "**Insolvency**" shall mean: (a) an assignment by Lessee for the benefit of creditors; (b) the filing by Lessee of a voluntary petition in bankruptcy; (c) dissolution of Lessee; (d) the appointment of a receiver of the properties of Lessee and failure of Lessee to secure discharge of the receiver within ninety (90) days; (e) the filing of an involuntary petition of bankruptcy and failure of Lessee to secure a dismissal of the petition within ninety (90) days after filing; and (f) attachment of, or the levying of execution on, the leasehold interest and failure of Lessee to secure discharge of the attachment, or release of the levy of execution, within ninety (90) days.

10.2 Remedies on Event of Default

Immediately upon the occurrence of an Event of Default, the Port may, at its option, exercise any of the following rights and remedies, in addition to any other rights and remedies provided elsewhere in this Lease or otherwise at law or in equity.

10.2.1 Termination of Lease

The Port may terminate this Lease and Lessee's right to possession of the Premises. However, the Port shall provide Lessee with an additional thirty (30) days' prior written notice of the Port's intention to terminate this Lease for an Event of Default, during which time period Lessee shall have another opportunity to fully cure the Default and avoid termination even though an Event of Default has already occurred. If Lessee fails to fully cure the Default within the thirty (30) day notice period, provided under this Section 10.2.1, the Port may automatically terminate this Lease and Lessee's right to possession of the Premises with no additional notice. No other extensions of time will be granted, and no partial cure shall be accepted.

10.2.2 Reentry

Either with or without terminating this Lease or accepting surrender, the Port may reenter the Premises, or any part thereof, by suitable action or proceeding at law, or as otherwise permitted by applicable law, without being liable for indictment, prosecution, or damages therefor, and may repossess the Premises and remove any person or Premises therefrom, to the end that the Port may have, hold, and enjoy the Premises.

10.2.3 Reletting

Following such reentry either with or without acceptance of surrender, the Port may relet the whole or any part of the Premises from time to time, either in the name of the Port or otherwise, to such Lessees, for such terms ending before, on or after the Expiration Date of this Lease and upon such conditions as the Port may determine to be appropriate. Acts of maintenance, preservation, or efforts to relet the Premises, or the appointment of a receiver upon initiative of the Port to protect the Port's interest under this Lease, shall not constitute a termination of the Lease or an acceptance of surrender of the Lease. The Port, at its option, may make such physical changes to the Premises as the Port, in its discretion, considers advisable and necessary in connection with any such reletting, without relieving Lessee of any liability under this Lease or otherwise affecting Lessee's liability.

10.2.4 Right to Sue More than Once

The Port may sue periodically to recover damages and no action for damages shall bar a later action for damages subsequently accruing.

10.3 No Waiver of Default

No failure by the Port to insist on the strict performance of any agreement, term, covenant, or condition of this Lease or to exercise any right or remedy consequent upon a breach, and no acceptance of partial Rent during the continuance of any such breach, constitutes a waiver of any such breach or of such agreement, term, covenant, or condition. No agreement, term, covenant, or condition to be performed or complied with by Lessee, and no breach by Lessee, shall be waived, altered, or modified, except by a written instrument executed by the Port. No waiver of any breach shall affect or alter this Lease, but each and every agreement, term, covenant, and condition of this

Lease shall continue in full force and effect with respect to any other then existing or subsequent breach.

10.4 Remedies Cumulative and Nonexclusive

Each right and remedy in this Lease will be cumulative and will be in addition to every other right or remedy in this Lease, or existing at law or in equity, including, without limitation, suits for injunctive relief and specific performance. The exercise or beginning of the exercise by the Port of any such rights or remedies will not preclude the simultaneous or later exercise by the Port of any other such rights or remedies. All such rights and remedies are nonexclusive.

10.5 Curing Lessee's Default

If Lessee fails to perform any of Lessee's obligations under this Lease, and such failure becomes an Event of Default, the Port, without waiving such failure, may (but shall not be obligated to) perform the same for the account of and at the expense of Lessee, with whatever notice is reasonably possible, if any, in a case of emergency, and in any other cases, only if such failure to begin cure or diligently pursue cure continues after the expiration of thirty (30) days from the date the Port gives Lessee notice of the failure. The Port shall not be liable to Lessee for any claim for damages resulting from such action by the Port except to the extent caused by the gross negligence or willful misconduct of the Port, its agents, employees, and contractors (but in no event for lost profits or consequential damages). Lessee agrees to reimburse the Port, upon demand, any amounts the Port spends in curing Lessee's Default.

10.6 Administrative Costs

If the Port gives Lessee one (1) written notice of a violation of a specific provision of this Lease and Lessee violates the same provision again during any twelve (12) month period of the Lease Term, in addition to all other rights and remedies set forth herein, Lessee agrees to reimburse the Port for its reasonable administrative costs incurred as a result of any notice of any subsequent violation. Failure by Lessee to pay such costs shall be deemed an Event of Default.

10.7 Default by Port

In the event of any Default by the Port, prior to being entitled to maintain any action, Lessee shall give the Port written notice specifying such Default with particularity, and the Port shall have thirty (30) days within which to cure any such Default, or if such Default is nonmonetary and cannot reasonably be cured within thirty (30) days, the Port shall then be deemed in compliance with this provision so long as it begins the cure within the thirty (30) day period and diligently pursues the cure to completion. Unless and until the Port fails to so cure such Default after such notice, Lessee shall not have any remedy or cause of action by reason thereof. All obligations of the Port hereunder shall be construed as covenants, not conditions, and all such obligations shall be binding upon the Port only during the period of its ownership of the Premises and not thereafter.

11 TRANSFER BY THE PORT

At any time after the Effective Date of this Lease, the Port shall have the right to transfer its interest in the Premises or in this Lease. In the event of such a transfer, Lessee shall attorn to said transferee and recognize transferee as the new lessor under the Lease. Thereafter, the Port shall be relieved, upon notification to Lessee of the name and address of the Port's successor, of any obligations

accruing from and after the date of the transfer so long as the transferee agrees to assume all obligations of the Port under this Lease.

12 ASSIGNMENT OF INTEREST OF RIGHTS

Lessee shall not sell, assign, mortgage or otherwise transfer its interest in this Lease, the improvements, the Lessee Improvements, and or/the Premises, either voluntarily or by operation of law, without the prior written consent of the Port, consent may be reasonably conditioned to the extent necessary or appropriate to protect Port's interest. Any such transfer or assignment, or attempted assignment, subletting or attempted subletting, without such consent, shall be absolutely null and void and shall, at the option of the Port, terminate all rights of the Lessee under or by virtue of this Lease. Lessee's interests, in whole or in part, cannot be taken by operation of law, nor under or by virtue of any execution or legal process, attachment, or proceeding instituted against the Lessee, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to the Lessee, or in any other manner except as above mentioned. The Port may, in its sole discretion, consent to an assignment or sublease provided the following conditions are satisfied: a) A fee of paid to cover administrative costs; b) Lessee has satisfied all conditions of the Lease precedent to assignment or sublease; c) Lessee and its assignee have completed a standard assignment form provided by the Port and assured the Port that the assignee has the capacity to perform on the Lease; and d) The Port has determined that such assignment or sublease is in the best interest of the Port. Notwithstanding the foregoing, the preceding restrictions on assignments and transfers shall not apply to: (i) the offering, sale or transfer of any of Lessee's shares through or on any public securities market or exchange; (ii) an assignment of this Lease to any entity which is a successor to Lessee either by merger or other consolidation of Lessee; (iii) a pledge by any direct or indirect parent of Lessee of its interests in the Lessee; and (iv) a sale of all or substantially all the assets or shares of Lessee or its direct or indirect parent or affiliate.

13 PORT CONTROL AND SERVICES

It is understood that the Port, as a municipal corporation created as a Port District under the laws of the State of Oregon, has certain legislative control and authority over all of its properties and within its geographical boundaries. None of such legislative authority is hereby ceded, delegated, or diminished. It is expressly recognized by the parties that the Port shall have authority to determine rules regulating the use and conduct upon such Premises, penalties therefore and other matters not involving the direct management and operation of the facility. Nothing herein contained shall be deemed to constitute the Lessee an agent, employee, or other representative of the Port; the status of Lessee with respect to the Port is strictly that of independent contractor and the Port reserves no power to control or direct Lessee in the manner of performance of its duties and obligation, other than through its legislative authority and its right to enforce the provisions of this Lease.

14 CONDEMNATION

14.1 General

In the event any public or private entity having the power of eminent domain exercises its right or power of eminent domain, the parties' rights and obligations shall be governed by the common law of the State of Oregon, the applicable Oregon statutes, and this Lease. To the extent

allowed by law, in the event of conflict among the statute, common law and this Lease, this Lease shall prevail. If the condemning authority is the Port, Lessee agrees that it will not contest the Port's right to condemn the Premises, or any portion thereof, for whatever purpose the Port deems necessary, but Lessee may contest the value payable to Lessee due to such condemnation. In cases where the condemning authority is an entity other than the Port, Lessee and the Port agree to cooperate, in good faith, to resolve any issues relating to value and/or authority to condemn.

14.2 Definitions

As used in this Lease, the following definitions shall apply:

14.2.1 Partial Taking

"**Partial Taking**" means the taking by right of eminent domain or other authority of law, or a voluntary transfer under the threat of the exercise of the right of eminent domain or other authority, of any portion of the Premises which does not constitute a Total Taking and which would allow Lessee to continue the intended use of the Premises.

14.2.2 Total Taking

"**Total Taking**" means the taking by right of eminent domain or other authority of law, or a voluntary transfer under the threat of the exercise of the right of eminent domain or other authority, of so much of the Premises as is necessary for Lessee's occupancy that the Premises, after the taking, is no longer suitable for Lessee's intended use.

14.2.3 Taking

"**Taking**" refers to either a Partial Taking or a Total Taking.

14.2.4 Date of Taking

"**Date of Taking**" means: (i) the date on which the condemning authority takes legal ownership or actual physical possession of the Premises being condemned; (ii) the date given in a written notice from the condemning authority as the date that it is deemed to have taken possession or is granted possession by a court; or (iii) such date as is agreed to, in writing, in the event of a sale in lieu of condemnation.

14.2.5 Premises Award

The "**Premises Award**" shall mean the fair market value of the Premises (as defined in Section 3.2.1 above), including the Premises and all infrastructure improvements made to the Premises by any party and including the Port's Reversionary Interest in Lessee Improvements (defined in Section 14.2.7), but excluding the Leasehold Award, described in Section 14.2.6, which Lessee shall be entitled to claim. The Premises Award shall also include any consequential damage to any part of the Premises that may not be taken. The Premises Award is payable solely to the Port.

14.2.6 Leasehold Award

The "**Leasehold Award**" shall mean the sum of: (i) the present value, determined as of the Date of Taking, of Lessee's Improvements; (ii) the present value, determined as of the Date of Taking, of Lessee's interest in the leasehold estate, including any claim for reimbursement of any prepaid Rent including prepaid Basic Rent; and (iii) provided the Lease is not terminated,

any consequential damages such as the cost of any alterations, modifications, or repairs which may be reasonably required by Lessee in order to place the remaining portion of the Premises not taken in a suitable condition for the continuance of Lessee's occupancy. The Leasehold Award is payable solely to Lessee. No portion of the value attributable to the Premises or improvements owned, made by, or paid for by the Port or other government authority, or any infrastructure improvements, or the Port's residual interest in other improvements, shall be considered a part of the Leasehold Award.

14.2.7 Port's Reversionary Interest

The "Port's Reversionary Interest" shall mean the present value, determined as of the Date of Taking, of any right of the Port under this Lease to receive the taken Lessee Improvements at the end of the Lease Term.

14.2.8 Distribution of Takings Award

The Port shall have the right to and shall be entitled to receive directly from the condemning authority, in its entirety and not subject to any trust, the entire Premises Award. Lessee shall have the right to and shall be entitled to receive directly from the condemning authority, in its entirety and not subject to any trust, the entire Leasehold Award. It is the intent of the parties that the Premises Award and the Leasehold Award will equal the total amount of the award paid as a result of a Taking of the Premises.

14.3 Total Taking

If a Total Taking occurs during the Lease Term, this Lease will terminate as of the Date of Taking.

14.4 Partial Taking

If a Partial Taking occurs during the Lease Term, this Lease shall terminate as of the Date of Taking as to the portion of the Premises taken. The Lease will continue in full force and effect as to the remainder of the Premises unless Lessee reasonably determines that the remaining portion of the Premises is inadequate for Lessee's purposes, in which event Lessee may elect to terminate the Lease within thirty (30) days of the date of the Taking by providing the Port written notice of termination, to be given in accordance with Section 16.4. If notice of termination is not received by the Port within thirty (30) days of the Partial Taking, the Lease will continue in full force and affect as to the remainder of the Premises. Unless the Taking is by the Port, there shall be no refund of any prepaid Basic Rent by the Port to Lessee, but Lessee may make a claim for such prepaid Rent against the condemning authority, as part of the Leasehold Award. Lessee shall promptly make, at Lessee's sole expense, all necessary repairs, or alterations to restore the remaining Premises after a Partial Taking.

14.5 Claims Against Condemning Authority

In any case where the Port is not the condemning authority, Lessee and the Port agree to work together, in good faith, in making their respective claims against the condemning authority, in accordance with the provisions of this Section 14. The Port also agrees to work together, in good faith, with any of Lessee's Permitted Leasehold Mortgagees, in making their respective claims against the condemning authority, in accordance with the provisions of this Section 14. Each party

shall be responsible for making its own claim for court costs and attorney fees incurred in the condemnation proceedings.

14.6 Adjustment of Award

To the extent that the court does not distribute the Takings award in accordance with the distribution rights set forth in this Section 14, the parties agree, upon receipt of the award, to promptly pay to the other any amount of the award belonging to the other in accordance with the distribution set forth in this Section 14. If the parties cannot agree upon the distribution within twenty (20) days of the date the judgment or decree is entered in the condemnation proceedings, the controversy shall be resolved in the same court as the condemnation action was brought. The cost of resolving any such controversy, including the prevailing party's attorney fees, shall be paid by the losing party, as determined by the court. The award allocation may also be resolved by mediation or arbitration if the Port and Lessee both agree to submit the issue to mediation or arbitration.

14.7 Effect of Termination

If this Lease is terminated pursuant to the provisions of this Section 14, then all charges payable by Lessee to the Port under this Lease, if applicable, will be paid up to the Date of Taking. In the event of termination as a result of a Total Taking, the Port and Lessee will then be released from all further liability under this Lease or, in the event of a Partial Taking, from all further liability under this Lease with respect to the portion of the Premises so taken, except such liability which survives termination.

14.8 Notice of Taking

Either party receiving any notice of intended taking, any service of legal process relating to condemnation, or any other notification in connection with any taking, condemnation, or sale or transfer in lieu of condemnation, shall promptly give the other party notice of such receipt. No sale, transfer, agreement, or settlement with the condemning authority shall be made without the written consent of the Port and Lessee.

15 PORT CONDEMNATION RIGHTS

Nothing in this Lease shall in any way limit the powers and rights of the Port to exercise its governmental rights and powers, including its powers of condemnation and eminent domain. Lessee hereby agrees to waive any right it may have to contest the Port's right or authority to condemn, or its rights of condemnation based on a qualifying public purpose. Lessee agrees that it shall limit any contest with the Port relating to the Port's condemnation/eminent domain rights or authority only to the issue of Lessee's interest in the value of the Premises being condemned. Lessee hereby agrees that the Port will have the full right and authority to condemn this Leasehold interest as long as Lessee is paid for its value as provided in Section 14.

16 GENERAL PROVISIONS

16.1 Covenants, Conditions, and Restrictions

This Lease is subject and subordinate to the effect of any covenants, conditions, restrictions, easements, mortgages, deeds of trust, rights of way, and any other matters of record imposed upon the Premises and to any applicable land use or zoning laws or regulations. This

Lease is also subject to the Port's right to grant, in the future, underground utility easements through the portions of the Premises not covered by buildings or other structures. Lessee shall, upon request of the Port, execute and deliver agreements of subordination in the form requested by the Port respecting matters covered by this Section 16.1. The Port agrees to make reasonable attempts to minimize any disturbance to Lessee that may result from installation of any underground utility lines and will be responsible for prompt restoration of the Premises.

16.2 Governing Law

This Lease shall be governed and construed according to the laws of the State of Oregon, without regard to its choice of law provisions. Venue shall be in Columbia County.

16.3 No Implied Warranty

In no event shall any consent, approval, acquiescence, or authorization by the Port be deemed a warranty, representation, or covenant by the Port that the matter approved, consented to, acquiesced in, or authorized is appropriate, suitable, practical, safe or in compliance with any applicable law or this Lease. In no event shall the Port be deemed liable, therefore. Lessee shall be solely responsible for such matters.

16.4 Notices

All notices required or desired to be given under this Lease shall be in writing and may be delivered by email, hand delivery, by facsimile but only in those instances specifically called out in this Lease where notice by facsimile is allowed, or by placement in the U.S. mail, postage prepaid, as certified mail, return receipt requested, addressed to the Port at:

The Port of Columbia County
if by hand delivery: 100 E Street, Columbia City, OR 97018
if by US (United States) mail: P.O. Box 190, Columbia City, OR 97018
Facsimile No.: (503) 397-6924

and to Lessee at:

Stella-Jones Corporation
58144 Old Portland Road
Warren, OR 97053

Any notice delivered by hand delivery shall be conclusively deemed received by the addressee upon actual delivery; any notice delivered by facsimile shall be conclusively deemed received by the addressee upon receipt of a confirmation of facsimile by the party sending the notice; any notice delivered by certified mail as set forth herein shall be conclusively deemed received by the addressee on the third Business Day after deposit in the United States mail; any notice delivered by email shall be conclusively deemed received by the addressee upon receipt of a confirmation email by the party sending the notice. The addresses and facsimile numbers to which notices are to be delivered may be changed by giving notice of such change in accordance with this notice provision.

16.5 Time of the Essence

Time is of the essence in the performance of and adherence to each and every covenant and condition of this Lease.

16.6 Non-Waiver

Waiver by the Port or Lessee of strict performance of any provision of this Lease shall not be deemed a waiver of or prejudice the Port's or Lessee's right to require strict performance of the same provision in the future or of any other provision.

16.7 Survival

Any covenant or condition (including, but not limited to, indemnification agreements), set forth in this Lease, the full performance of which is not specifically required prior to the expiration or earlier termination of this Lease, and any covenant or condition which by its terms is to survive, shall survive the expiration or earlier termination of this Lease and shall remain fully enforceable thereafter.

16.8 Partial Invalidity

If any provision of this Lease is held to be invalid or unenforceable, the remainder of this Lease, or the application of such provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law.

16.9 Limitation on Liability

Notwithstanding anything to the contrary contained herein, the parties acknowledge that it is in their mutual interests to limit their liability to each other, and expressly bargain for and agree to the following:

(a) The Port shall have no liability to Lessee for loss, damage or injury suffered by Lessee on account of theft or any act or omission of any third party (other than Port commissioners, employees, agents, and contractors), including other lessees. References in this Section 16.9 (b) to the Port's agents shall be limited solely to those agents acting within the authority of their agency relationship with the Port, and references in this Section 16.9 (c) to Port contractors shall be limited solely to those contractors acting on the Premises and within the express scope of their contract with the Port.

(b) Although this Lease gives the Port certain rights of inspection, such rights shall impose no obligation on the Port to make any inspections, nor impose liability on the Port if the Port fails to make such inspections, or makes inspection, but fails to disclose or require correction of any defect.

(c) With respect to any liability of the Port under this Lease, the Port shall only be liable for any injury or damage to Lessee to the extent of actual damages and only to the extent allowed by law and shall not be liable for consequential damages (including without limitation lost profits).

(d) With respect to any liability of Lessee under this Lease, Lessee shall only be liable for any injury or damage to the Port to the extent of actual damages and only to the extent

allowed by law and shall not be liable for consequential damages (including without limitation lost profits).

(e) With respect to claims made by entities or persons who are not parties to this Lease, the Port and Lessee, as between them, shall retain all rights to common law indemnity and statutory contribution available under applicable Oregon law. This Section 16.9 is not intended to confer any benefit or right to any entity or person who is not a party to this Lease.

16.10 Headings, Table of Contents and Table of Definitions

The article and section headings, table of contents and table of definitions contained in this Lease are for convenience in reference and are not intended to define or limit the scope of any provision of this Lease.

16.11 Exhibits Incorporated by Reference

All Exhibits attached to this Lease are incorporated by reference in this Lease for all purposes.

16.12 Modification

This Lease may not be modified except by a writing signed by the Port and Lessee.

16.13 Provisions Applicable to Others

All provisions of this Lease governing Lessee's use of the Premises and Lessee's activities and conduct on, about or from the Premises shall apply to Lessee's officers, agents, employees, invitees, contractors, and assignees.

16.14 Interpretation of Lease; Status of Parties

This Lease is the result of arms-length negotiations between the Port and Lessee and shall not be construed against either the Port or Lessee by reason of such party's preparation of or revisions to this Lease. Nothing contained in this Lease, including the construction of improvements on the Premises, shall be deemed or construed as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship, between the parties hereto. The Port and Lessee shall continue an open dialogue concerning any major issues regarding the terms of this Lease.

16.15 Calculation of Time

All periods of time referred to in this Lease shall include Saturdays, Sundays, and Legal Holidays. However, if the last day of any period falls on a Saturday, Sunday, or Legal Holiday, then the period shall be extended to include the next day which is not a Saturday, Sunday, or Legal Holiday. "Legal Holiday" shall mean any holiday observed by the Federal Government. As used in this Lease, "Business Days" shall exclude Saturdays, Sundays, Legal Holidays and the week between December 25 and January 1. Unless specifically identified as Business Days, all references to days shall be calendar days.

16.16 Absence of Brokers

Lessee and the Port each represent to one another that no commission is owed to any agent or broker in connection with this Lease. If a commission is claimed, the party who the broker

claims requested the representation shall pay any commission owed and shall defend, indemnify, and hold the other party harmless from any such claim.

16.17 Attorney Fees

If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code), is instituted in connection with any controversy arising out of this Lease or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review. Whenever this Lease requires Lessee to defend the Port, it is agreed that such defense shall be by legal counsel acceptable to the Port.

16.18 Right of Parties and Successors in Interest

The rights, liabilities and remedies provided for herein shall extend to the heirs, legal representatives, successors and, as far as the terms of this Lease permit, successors and assigns of the parties hereto. The words 'Port' and 'Lessee' and their accompanying verbs or pronouns, wherever used in this Lease, shall apply equally to all persons, firms, or corporations which may be or become such parties hereto.

16.19 Joint and Several Obligations

The named Lessee consists of one entity. If, in the future, Lessee consists of more than one individual or entity, the obligations of all such individuals and entities shall be joint and several.

16.20 Defined Terms

Capitalized terms shall have the meanings given them in the text of this Lease.

16.21 Execution of Multiple Counterparts

This Lease may be executed in two or more counterparts, each of which shall be an original, but all of which shall constitute one instrument.

16.22 Estoppel Certificates

Each party (the "**Certifying Party**") agrees to execute and deliver to the other (the "**Requesting Party**"), at any time within thirty (30) days after written request, a statement certifying, among other things: (a) that this Lease is unmodified and is in full force and effect (or, if there have been modifications, stating the modifications); (b) the dates to which Rent has been paid; (c) to the best of the Certifying Party's knowledge, whether or not the Requesting Party is in Default in performance of any of its obligations under this Lease and, if so, specifying the nature of each such Default; and (d) to the best of the Certifying Party's knowledge, whether or not any event has occurred which, with the giving of notice, the passage of time, or both, would constitute a Default by the Requesting Party and, if so, specifying the nature of each such event (referred to herein as an "**Estoppel Certificate**"). The parties agree that any statement delivered pursuant to this Section 16.22 may be relied upon by the Requesting Party and by potential or actual purchasers and/or lenders with whom the parties may be dealing, regardless of independent investigation. The

Requesting Party agrees to pay to the Certifying Party any administrative and legal costs related to providing such Estoppel Certificate.

16.23 Force Majeure Event

If the performance by Lessee of its obligations under Section 8.2 of this Lease (excluding monetary obligations, including, but not limited to taxes and insurance) is delayed or prevented by any extraordinary acts of nature (including floods, explosions, earthquakes), or fires, epidemic, war, terrorism, labor strikes, material shortages, riots, orders of restraint by governmental authority which prevent Lessee from meeting such obligations under this Lease, or other extraordinary casualty which is not reasonably within Lessee's control, and is not due to the fault or negligence of Lessee, one or more of which is defined as a "**Force Majeure Event**", then Lessee shall be temporarily excused from performance to the extent that performance is delayed by any of the foregoing, without liability under this Lease. Lessee agrees, however, to proceed with all reasonable dispatch to perform such obligations under this Lease after the Force Majeure Event preventing Lessee from carrying out such obligations under this Lease ceases to exist.

16.24 Mediation

Should any dispute arise between the parties to this Lease related to matters set forth in Section 6.10 of this Lease, then it is agreed that such dispute will be submitted to non-binding mediation prior to any litigation. The provisions of this Section 16.24 shall also apply to any non-binding mediation with respect to matters covered under Section 14.6 if the parties have agreed to such mediation as provided in Section 14.6. The parties shall exercise good faith efforts to select a mediator who shall be compensated equally by both parties. Mediation will be conducted in Columbia County, Oregon, unless both parties agree otherwise. Both parties agree to exercise good faith efforts to resolve disputes covered by this Section 16.24 through the mediation process. If a party requests mediation and the other party fails to respond within ten (10) days, or if the parties fail to agree on a mediator within ten (10) days, a mediator shall be appointed by the presiding judge of the Columbia County Circuit Court upon the request of either party. The parties agree that mediation shall occur on an expedited schedule and that they will not attempt to delay mediation, the scheduling of the mediation or continue the mediation once it has been set. The parties shall retain all rights at law or in equity with respect to any dispute not covered by this Section 16.24 and also with respect to those disputes covered by this Section 16.24 after mediation has been completed. In no event shall the provisions of this Section 16.24 limit the Port's right to seek immediate injunction relief following an Event of Default to stop an activity or use on the Premises prohibited under this Lease. Nothing in this Section 16.24 shall be deemed to prevent the Port from taking immediate injunctive or other action in response to an emergency or in response to third-party acts or omissions that pose an imminent threat to the environment or to the health, safety, or security of Port Lessees or of the public.

16.25 Entire Agreement

This Lease represents the entire agreement between the Port and Lessee relating to Lessee's leasing of the Premises. It is understood and agreed by Lessee that neither the Port nor the Port's agents or employees has made any representations or promises with respect to this Lease or the making or entry into this Lease, except as expressly set forth in this Lease. No claim for liability or cause for termination shall be asserted by Lessee against the Port for, and the Port shall not be liable by reason of, any claimed breach of any representations or promises not expressly set forth

in this Lease. All oral agreements with the Port are expressly waived by Lessee. This Lease has been negotiated at arm's length between the parties, with both parties being represented by legal counsel. Therefore, no alleged ambiguity or other drafting issues of the terms of this Lease shall be construed, by nature of the drafting, against either party.

16.26 Capacity to Execute

The Port and Lessee each warrant and represent to one another that this Lease constitutes a legal, valid, and binding obligation of that party. The individuals executing this Lease personally warrant that they have full authority to execute this Lease on behalf of the entity for whom they purport to be acting.

IN WITNESS HEREOF, the parties have subscribed their names hereto effective as of the year and date first written above.

STELLA-JONES CORPORATION

THE PORT OF COLUMBIA COUNTY

By: 

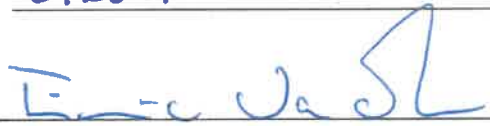
By: _____

Print Name: DENNIS OLSEN

Print Name: _____

Title: DIRECTOR

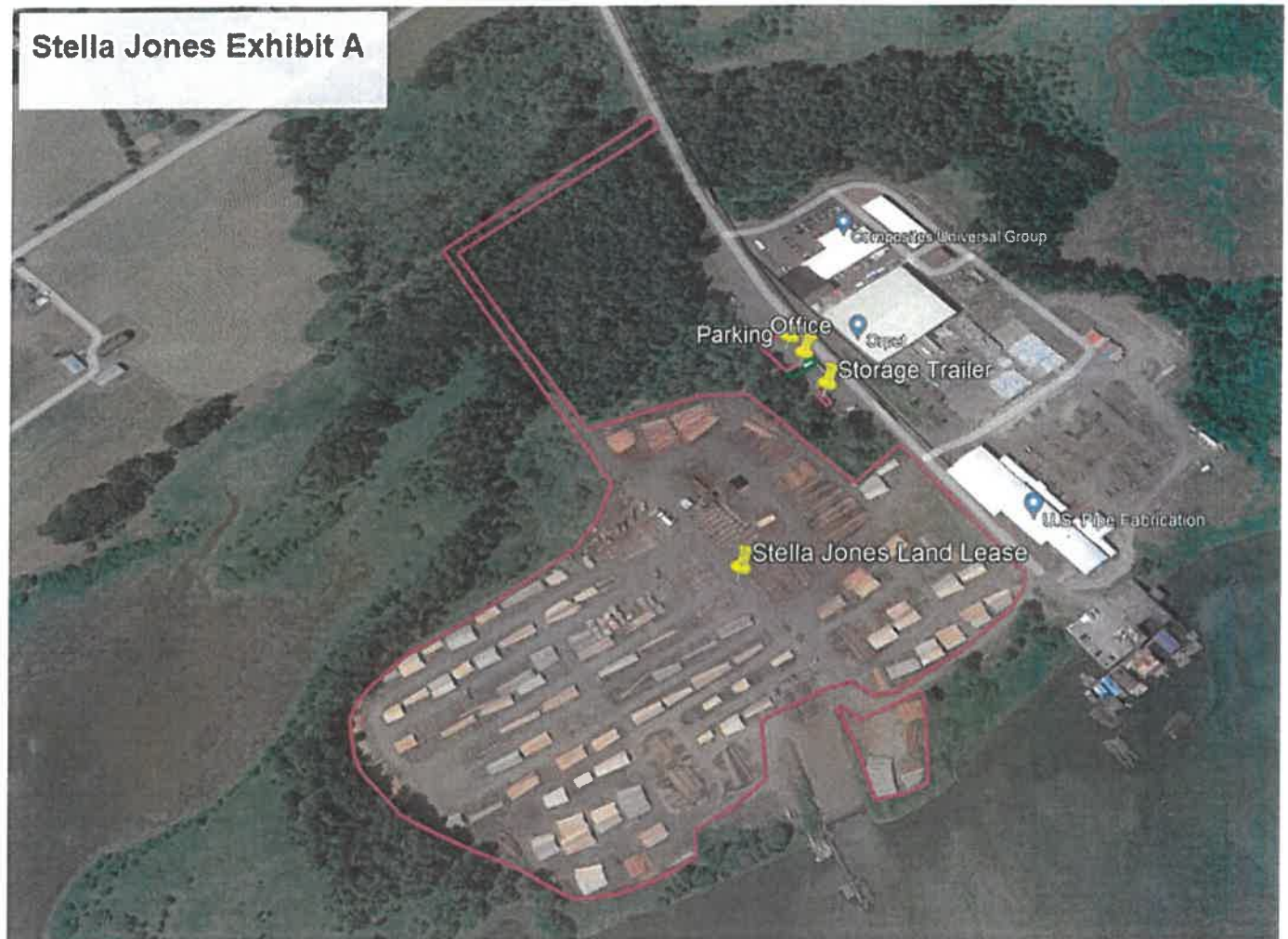
Title: _____

By: 

Print Name: ERIC VACHON

Title: PRESIDENT + CHAIRMAN

EXHIBIT A
(Premises Depiction)



- Land & Parking
- Office

EXHIBIT B
(Park Common Areas Depiction)



- Multnomah Industrial Park Boundary
- Multnomah Industrial Park Common Areas

EXHIBIT C

AGREEMENT TO PAY COSTS

This **Agreement to Pay Costs** ("Agreement") is made and entered into this ____ day of _____, 2023, by and between the Port of Columbia County, a municipal corporation of the State of Oregon ("the Port"), and Stella-Jones Corporation (the "Lessee") (collectively, "the Parties").

RECITALS

WHEREAS, Lessee approached the Port and requested that the Port incur costs, including staff and attorney time, for the Parties to engage in discussions and negotiations with staff of the Port and have Port General Counsel draft

(work specifically requested by Lessee), and

WHEREAS Lessee's request for Port staff and Port General Counsel to do work on Lessee's behalf has resulted in additional time and costs for which it is appropriate that Lessee compensate the Port ("Port Work"), and

WHEREAS the Parties intend to carry out their rights, duties, and obligations in such a manner so as to avoid action that would increase, directly or indirectly, the Parties exposure to liability,

NOW, THEREFORE, for good, fair, and valuable consideration, the receipt and sufficiency of which is acknowledged, and in consideration of the mutual covenants and agreements set forth herein, the Parties hereby agree as follows:

1. **INCORPORATION OF RECITALS.** The above-stated Recitals are true and correct to the best of their knowledge and are incorporated into this Agreement as though fully set forth herein.

2. **NONREFUNDABLE PAYMENT.** Lessee agrees to pay a \$5,000 estimated nonrefundable, fixed fee payment ("the Nonrefundable Payment") for Port Work. The Nonrefundable Payment is due in full immediately and must be received by the Port prior to the start of any Port Work.

3. **INDEMNIFICATION.** Lessee agrees to defend (using legal counsel acceptable to the Port), indemnify and hold harmless the Port, including the Port's Commissioners, officers and employees, from and against any and all actual or alleged claims, damages, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, and/or penalties (collectively "Costs") which may be imposed upon or claimed against or incurred by the Port and which arise from or are in any way connected with the Activities or this Agreement.

4. **LIMITATION OF LIABILITY.** The Port makes no representation or warranty, express or implied, as to the nature, quantity, or quality of any Port Work. In no event shall the Port be liable to Lessee for any special, indirect, incidental, and consequential or punitive damages (including any claim for lost profits or revenues).

5. **COUNTERPARTS.** This Agreement may be executed in identical counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each party and delivered to the other party. In the event that any signature is delivered by facsimile transmission or by an e-mail which contains an electronic

file of an executed signature page, such signature page shall be deemed to constitute an original instrument, with the same force and effect as execution and delivery of an original and shall create a valid and binding obligation of the party executing the Agreement.

IT IS SO AGREED by the Parties as of the date set forth above.

LESSEE

PORT OF COLUMBIA COUNTY

By: _____

By: _____

Sean P. Clark

Executive Director



RAIL USE AGREEMENT

THIS RAIL USE AGREEMENT ("**Rail Agreement**"), effective the 18 day of July, 2023 (the "**Effective Date**"), by and between STELLA-JONES CORPORATION, a Delaware Corporation ("**Stella-Jones**") and THE PORT OF COLUMBIA COUNTY, a municipal corporation of the State of Oregon ("**the Port**").

NOW THEREFORE, for valuable consideration, the current receipt, reasonable equivalence, and sufficiency of which are hereby acknowledged by each of the Parties, the Parties each agree as follows:

1. Description and Use of Rail Spur

Subject to the terms and conditions herein, the Port hereby agrees to allow Stella-Jones to use the approximately 0.9-mile rail spur running from the Portland & Western operated main line adjacent to Highway 30 to the terminus at the Multnomah Industrial Park as proposed and depicted hereto in **Exhibit A ("Rail Spur")**. Stella-Jones shall have the non-exclusive right to use the Port's Rail Spur for the movement and storage of rail cars related to the processing, production, sale, and shipment of timber utility poles, ("**Allowed Use**"). No use other than the Allowed Use may be made of the Rail Spur without the prior written approval of the Port, which approval shall be given or denied at the sole discretion of the Port. If there is a conflict with other users of the Rail Spur, the Port shall have sole discretion to decide any such conflicts and decide which user has priority use of the Rail Spur.

2. Term

The term of this Rail Agreement shall commence on the Effective Date of the Lease attached as **Exhibit B** and run for the entire term of the Lease Term and any Extension Terms as outlined therein (current Lease Term is five years, with three possible Extension Terms of five years each), unless either party sends written notice terminating this Rail Agreement pursuant to Section 15 herein. This Rail Agreement may be terminated separate and distinct from the attached Lease pursuant to Section 15 below.

3. Fees

Stella-Jones shall bear their Proportionate Share (the "Proportionate Share") of the cost of maintaining the Rail Spur as calculated based on the number of other users of the Rail Spur with similar such Rail Agreements with the Port. The Proportionate Share of Rail Agreement Fees ("**Fees**") will be calculated based on the proportional number of users on the Rail Spur, the percentage of the length of the Rail Spur used by each user, and the average number of rail cars moved by each user on the Rail Spur within the fiscal year the fees are being calculated.

See an example of a Proportionate Share Rail Maintenance Schedule worksheet attached as **Exhibit C**.

The nature and extent of the improvements and maintenance on the Rail Spur shall be in accordance with an annual Maintenance Schedule ("Maintenance Schedule") as determined by annually commissioned rail inspections. The Port shall be responsible for the financial burden of commissioning these annual rail inspections. The Port shall provide Stella-Jones and all other users of the Rail Spur with copies of the annual rail inspection results and upcoming maintenance schedule upon request. Fees will be billed on an annual basis after the Maintenance Schedule has been determined for the Port's fiscal year.

The Port shall operate, repair, service and maintain the Rail Spur in good working condition. In performing such repair, service or maintenance, the Port will use commercially reasonable efforts to minimize interference with the operations of Stella-Jones on the Rail Spur.

4. Unreasonable Interference

Stella-Jones shall plan their use of the Rail Spur in such a manner as to cause no unreasonable interference with other tenants' business operations at Multnomah Industrial Park, as well as respect safety and security concerns. If, at any time, any activity of Stella-Jones results in any material effects which in the Port's judgment is undesirable, harmful, or interfering to its tenants at Multnomah Industrial Park, the Port shall, at the sole expense of Stella-Jones, immediately take such action as shall be necessary to remedy or remove such interference. Stella-Jones shall not claim at any time any interest or estate of any kind or extent whatsoever in the Rail Spur by virtue of the rights granted under this Rail Agreement or its occupancy or use under this Rail Agreement. Stella-Jones shall not suffer or permit the Rail Spur to be used by the public in any way whatsoever.

5. Compliance with Laws

Stella-Jones shall covenant and agree that, in the conduct of any and all of their activities and operations hereunder, they will comply with all laws, rules, and regulations (including without limitation all procedural and substantive environmental requirements) of all federal, state, and local governmental bodies having jurisdiction to the extent applicable to their respective activities hereunder. Stella-Jones shall be responsible for compliance with each and every term of this Rail Agreement by their employees, contractors, agents, invitees, licensees, clients, customers, and guests.

6. Risk of Loss/Damages

Stella-Jones shall bear the risk of loss to the extent resulting from their activities under this Rail Agreement and shall be responsible to the Port as well as to any third parties for any damage to the extent caused by their activities. Stella-Jones will assume the risk of loss, damage, or injury to the extent caused by their use of or presence upon the Port's property. Stella-Jones will cooperate in facilitating the prompt repair or replacement of any damaged equipment or facilities to the extent caused by their activities.

7. No Liens

Stella-Jones agrees to pay, as and when due, their Proportionate Share for labor, services, materials, supplies, utilities, furnishings, machinery, or equipment to the extent requested by or

caused by their activities under this Rail Agreement as well as any taxes associated therewith. Stella-Jones shall not suffer or permit any liens to attach to all or any part of any of the other's property by reason of any tax and/or of any work, labor, services, or materials done for, or supplied to, or claimed to have been done for or supplied to or for the benefit of such party.

8. Warranties/Guarantees

The Port makes no warranties, either express or implied, and no guarantees or averments of any nature whatsoever concerning the physical condition of the Rail Spur. Stella Jones accepts the Rail Spur in AS IS condition.

9. Insurance Requirements

All insurance required by the Port under this Rail Agreement shall meet the requirements as agreed upon and laid forth in *Section 7. Indemnity, Insurance* of the Lease. Insurance requirements set forth do not in any way limit the amount or scope of liability of Stella-Jones under this Rail Agreement. The Port requires and shall be entitled to any broader coverage and/or higher policy limits maintained by Stella-Jones and shall require to be listed as an additional insured. Any and all available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be made available to the Port.

10. Indemnity

Stella-Jones agrees to indemnify, hold harmless, and defend Port, including Port Commissioners, officers, employees, volunteers and agents (using legal counsel acceptable and approved by Port) for, from and against any and all costs, claims, actions, liabilities or expenses (including, without limitation, all costs, demands, charges, suits, judgments, fines, penalties, liabilities, debts, attorneys' fees and causes of action), of whatsoever nature of character, including without limitation, claims, losses and expenses for property damage, bodily injury or death, which may be imposed upon or claimed against or incurred by the Port but only to the extent caused by Stella-Jones for any of the following: (a) any act, omission or negligence of Stella-Jones or Stella-Jones' partners, officers, directors, agents, employees, invitees or subcontractors; (b) any use, occupation, management or control of Port property by Stella-Jones or Stella-Jones' employees, agents, subcontractors, or suppliers, whether or not due to the Stella-Jones' own act or omission and whether or not occurring on Port property; (c) any condition created on Port property by Stella-Jones or Stella-Jones' employees, agents, subcontractors, or suppliers, and any accident, injury or damage arising from the condition; (d) any breach, violation or nonperformance of any of Stella-Jones' obligations under this Rail Agreement; or (e) any damage caused by Stella-Jones or Stella-Jones' employees, agents, subcontractors, or suppliers on or to Port property.

11. No Benefit to Third Parties

The Port and Stella-Jones are the only parties to this Rail Agreement and, as such, are the only parties entitled to enforce its terms. Nothing in this Rail Agreement gives or shall be construed to give or provide any benefit, direct, indirect, or otherwise, to third parties unless and the only to the extent third persons are expressly described as intended to be beneficiaries of its terms.

12. Assignment of Interest or Rights

Stella-Jones shall not, in any manner, directly or indirectly, by operation of law or otherwise, sublease, assign, transfer, or encumber this Rail Agreement or any of their respective rights granted by this Rail Agreement, without the prior written consent of the Port in each instance.

13. Attorney Fees

If a suit, action, or other proceeding of any nature whatsoever (including without limitation any administrative proceeding and any proceeding under the U.S (United States) Bankruptcy Code) is instituted in connection with any controversy arising out of this Rail Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney fees and all other fees, costs, and expenses actually incurred in connection therewith, at any hearing, at trial, on any appeal or any petition for review, in addition to all other amounts provided by law.

14. Notice

All notices required under this Rail Agreement shall be deemed properly served if hand delivered (including by reputable overnight courier) or sent by certified mail, return receipt requested, to the last address previously furnished by the parties hereto. Until hereafter changed by the parties by notice in writing, notices shall be sent to the parties at the addresses set forth below:

to Stella-Jones: ^(OBJ)

Stella-Jones Corporation
58144 Old Portland Road
St. Helens, OR 97051

and the Port:

Port of Columbia County
P.O. Box 190
Columbia City, OR 97058

A copy of all insurance communications shall also be directed to the Port at the address stated. Any notice delivered by hand delivery shall be conclusively deemed received by the addressee upon actual delivery; any notice delivered by certified mail as set forth herein shall be conclusively deemed received by the addressee on the third Business Day after deposit in the United States mail; any notice delivered by email shall be conclusively deemed received by the addressee upon receipt of a confirmation email by the party sending the notice.

15. Termination

Time is of the essence of this Rail Agreement. If Stella-Jones is in default in the performance of any covenant or agreement herein contained for a period of thirty (30) days after written notice from the Port specifying such default, the Port may, in its sole discretion, forthwith immediately terminate this Rail Agreement by written notice. If, however, the default cannot by its nature reasonably be cured within thirty (30) days, Stella-Jones shall not be in default hereunder if it promptly notifies the Port in writing of a plan to cure the default and commences to cure the default during such thirty (30) day period and thereafter diligently pursues a cure of the applicable default, which cure shall be completed within one-hundred-and eighty (180) days. In addition to and notwithstanding the foregoing, this Rail Agreement may be terminated by written notice given by either party hereto to the other on any date in such notice stated, not less, however, than sixty (60) days subsequent to the date upon which such notice is given.

16. Limitation of Liability

In no event shall the Port be liable to Stella-Jones for any lost or prospective profits or any other special, punitive, exemplary, consequential, incidental or indirect losses or damages (in tort, contract or otherwise) under or in respect of this Rail Agreement or for any failure or performance related hereto howsoever caused, whether or not arising from a party's sole, joint or concurrent negligence.

17. Governing Law

This Rail Agreement shall be governed and construed according to the laws of the State of Oregon, without regard to its choice of law provisions. Exclusive venue for any action shall be in Columbia County, Oregon, and both parties' consent to the exclusive jurisdiction of the Columbia County Circuit Court in any action or proceeding relating to this Agreement.

18. Capacity to Execute

The Port and Stella-Jones each warrant and represent to one another that this Rail Agreement constitutes a legal, valid, and binding obligation and the individuals executing this Rail Agreement personally warrant that they have full authority to execute this Rail Agreement on behalf of the entity for whom they purport to be acting.

19. Survival

Expiration or termination of this Rail Agreement for any reason shall not affect any of the rights or obligations of the parties hereto which may have accrued, or liabilities, accrued or otherwise, which may have arisen prior thereto. The release and indemnity covenants of the parties, the right of the respective parties to enforce its remedies hereunder, the attorneys' fees provisions hereof, as well as all provisions of this Rail Agreement which contemplate performance after the expiration or termination hereof or the termination of this Rail Agreement, shall survive any such expiration or termination.

20. Waiver of Breach

The waiver by Stella-Jones of the breach of any condition, covenant or agreement herein contained to be kept, observed, and performed by the Port shall in no way impair the right of the Port to avail itself of any remedy for any subsequent breach thereof.

21. Counterparts

This document may be executed in counterparts, each of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this document so executed shall constitute an original.

22. Entire Agreement

The Recitals are true and correct and incorporated herein by this reference. This Rail Agreement represents the entire agreement between the parties and supersedes all prior agreements, written or oral. No amendment to this Rail Agreement shall be effective unless in writing and signed by the parties hereto.

23. Successors and Assigns

Subject to the provisions of Section 16 hereof, this Rail Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors and assignees.

Stella-Jones: STELLA-JONES CORPORATION,
A Delaware corporation

By: 
Name: DENNIS OLSEN
Title: DIRECTOR

Port: PORT OF COLUMBIA COUNTY

A municipal corporation of the State of Oregon

By: _____

Name: _____

Title: _____

EXHIBIT "A"

Description/Depiction of Multnomah Industrial Park Rail Spur



EXHIBIT "B"

Lease between Stella-Jones and the Port of Columbia County

Exhibit "C"

Proportionate Share Maintenance Schedule Worksheet

| Use | Amount | % of Total |
|--------------------------------|--------|------------|
| Total railcars per month | 16 | 100% |
| Total railcars per year | 192 | |
| # railcars per month (User 1) | 12 | 75% |
| # railcars per month (User 2) | 4 | 25% |
| # railcars per year (User 2) | 48 | |
| Length of spur (total in feet) | 4,759 | 100% |
| Length of spur used (User 1) | 1,373 | 29% |
| Length of spur used (User 2) | 4,759 | 100% |

| Bill | Amount | % of Total |
|----------------------------|-------------|------------|
| Maintenance Bill (2024) | \$ 6,000.00 | |
| 29% of the bill (Length A) | \$ 1,740.00 | 29% |
| 71% of the bill (Length B) | \$ 4,260.00 | 71% |

| Proportionate Share | User 1 | User 2 |
|------------------------------------|-------------|-------------|
| 2024 Maintenance Bill for Length A | \$ 1,305.00 | \$ 435.00 |
| 2024 Maintenance Bill for Length B | | \$ 4,260.00 |
| Total | \$ 1,305.00 | \$ 4,695.00 |

Proportionate Share for User 2 Calculation

$((\text{Maintenance bill} * \text{Length A\%}) * \% \text{ Use}) + ((\text{Maintenance bill} * \text{Length B\%}) * \% \text{ use})$

$((\$6,000 * 29\%) * 25\%) =$ **\$435.00**

+

$((\$6,000 * 71\%) * 100\% =$ **\$4,260.00**

= \$4,695.00 User 2 Proportionate Share of Bill



Ord. 2023-01 STAFF REPORT

Disposition of Personal Property With Minimal To No Value

DATE: June 14, 2023

TO: Port Commission

FROM: Bob Salisbury, Port General Counsel

RE: **Amendment of Ordinance 2005-01**
Disposition of Personal Property With Minimal To No Value

Discussion

Port Ordinance 2005-01, Section 7 deals with the disposition of surplus personal property. During a staff training given by Port General Counsel, Port staff provided examples of the need for a specific rule related to the disposition of property with minimal to no value. Ordinance 2005-01 Section 7 does not contain such a rule.

This amendment to Ordinance 2005-01 adds language to allow disposal of personal property worth \$1,000 or less or for which the costs of sale are likely to exceed sales proceeds by any means determined to be cost-effective by Port staff, including by disposal as waste. For transparency and accountability, Port staff are required to make a record of the value of the item and the manner of disposal.

Port staff recommend approval to provide better clarity and direction for Port staff.

As this is an amendment of an existing Port Ordinance, this action requires two readings by the Commission before passage.

Recommendation

After two readings of this amendment, adopt Ordinance 2023-01, amending Port Ordinance 2005-01, Section 7 to provide for the disposition of property with minimal to no value.

ORDINANCE NO. 2023-01

AN ORDINANCE AMENDING ORDINANCE 2005-01 REGARDING PROCEDURES FOR PUBLIC CONTRACTING TO ALLOW DISPOSITION OF PERSONAL PROPERTY WITH MINIMAL TO NO VALUE

WHEREAS, Port Ordinance 2005-01, Section 7 outlines the Port process regarding Disposition of Personal Property; and

WHEREAS, as Ordinance 2005-01 lacks a clearly written rule regarding disposition of surplus personal property with minimal to no value, Port staff find it necessary to amend Ordinance 2005-01 in order to more efficiently conduct Port business; and

WHEREAS, this Ordinance 2023-01 adds language to allow disposal of personal property worth \$1,000 or less or for which the costs of sale are likely to exceed sales proceeds by any means determined to be cost-effective by Port staff, including by disposal as waste. For transparency and accountability, Port staff are required to make a record of the value of the item and the manner of disposal; Now, therefore

BE IT RESOLVED that the Board of Commissioners of the Port of Columbia County does ordain that Ordinance 2005-01, Section 7, is hereby amended to add a new Section 7(E) as follows:

Disposition of Property with Minimal To No Value. Personal property which has a value of less than \$1,000.00, or for which the costs of sale are likely to exceed sales proceeds, may be disposed of by any means determined to be cost-effective, including by disposal as waste. The Executive Director or his/her designee making the disposal shall make a record of the value of the item and the manner of disposal.

First Reading: _____.

Second Reading: _____.

PASSED AND ADOPTED this 12th day of July 2023 by the following vote:

AYES: _____

NAYS: _____

Port of Columbia County

ABSTAIN: _____

By: _____
President

Attested By:

Secretary