



PORT COMMISSION MEETING

100 E STREET, COLUMBIA CITY, OR 97018

AUGUST 14, 2024

8:30 A.M.

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 may attend the meeting electronically by: <https://us02web.zoom.us/j/83502492584>

Call-In: (253) 215-8782

Meeting ID: 835 0249 2584

Passcode: 141517

I. CALL MEETING TO ORDER (President, Brian Fawcett)

- A. Flag Salute
- B. Roll Call

II. ADDITIONS TO AGENDA

III. CONSENT AGENDA (Items marked with an asterisk (*) are adopted by a single motion unless a Commissioner requests otherwise.)

- A. * Approval of Minutes: July 10, 2024
- B. * Finance Report: July 2024
- C. * Approval of July Check Register and electronic payments in the total amount of \$ 578,550.50.

IV. COMMENTS FROM THE PUBLIC

(Limited to 2 min. per person unless prior authorization is obtained)

V. OLD BUSINESS

- A. Marina Update Miriam House
- B. Airport Update Lacey Tolles
NO PENDING THROUGH-THE-FENCE (TTF) APPLICATIONS
- C. Lignetics/Neighbors Update Sean P. Clark

VI. NEW BUSINESS

- A. **Resolution 2024-17** Miriam House
APPROVING CORNICE CONSTRUCTION FOR MARINA IMPROVEMENTS
Staff Report and Resolution
Bid Tabulation
Cornice Construction Bid Packet
General Bid Documents including Sample Contract



- B. Resolution 2024-18** Elliot Levin
APPROVING TIMBER HARVEST AND PURCHASE AGREEMENTS
Staff Report and Resolution
Harvest Agreement with Pellham
Purchase Agreement with Georgia-Pacific
Purchase Agreement with Nippon Dynawave
- C. Resolution 2024-19** Lacey Tolles
APPROVING SCOPE OF WORK FOR AIRPORT RUNWAY REHABILITATION
Staff Report and Resolution
Scope of Work
- D. Resolution 2024-20** Elizabeth Millager
REAPPOINTING THREE MEMBERS TO MARINA ADVISORY COMMITTEE
Staff Report and Resolution

VII. EXECUTIVE DIRECTOR'S REPORT

VIII. COMMISSIONER REPORTS

IX. EXECUTIVE SESSION

The Board will hold an Executive Session to consider exempt public records, including written legal advice from Port General Counsel, which is privileged under ORS 40.225 and exempt from disclosure under ORS 192.355(9)(a) and ORS 192.660 (2)(f).

X. ADJOURNMENT

Upcoming Meetings & Events

| | | |
|----------|-----------|---|
| Aug. 28 | TBD | Port Commission Work Session |
| Sept. 2 | | Labor Day – Port Office Closed |
| Sept. 3 | 5:30 p.m. | Scappoose Bay Marina Advisory Board Meeting |
| Sept. 11 | 8:30 a.m. | Port Commission Meeting |

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.

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



COMMISSION MEETING MINUTES
JULY 10, 2024
100 E. STREET
COLUMBIA CITY, OREGON 97018

The Port of Columbia County held a Board meeting at 8:30 a.m. on Wednesday, July 10, 2024, at the Port office and via Zoom (*) video conferencing with the following present:

Commissioners

| | |
|---------------|--------------------|
| Robert Keyser | President |
| Chip Bubl | Secretary |
| Nancy Ward | 2nd Vice President |
| Nick Sorber | Treasurer |
| Brian Fawcett | Vice President |

Staff

| | |
|--------------------|--------------------------------------|
| Sean P. Clark | Executive Director |
| Amy Bynum | Deputy Executive Director |
| Bob Salisbury | Port General Counsel |
| Guy Glenn, Jr. | Executive Finance Manager |
| Miriam House | Operations Manager |
| Elizabeth Millager | Operations Coordinator |
| Elliot Levin | North County Ops. & Terminal Mgr. |
| Lacey Tolles | Airport Manager & Project Specialist |

Guests

| | |
|--------------------|-------------------------------|
| Kim Karber | Interim Columbia City Manager |
| Brady Preheim | St. Helens |
| Natasha Parvey | NXTClean Fuels |
| Betsy Johnson | Scappoose |
| Ralph Culpepper | Scappoose |
| Alta Lynch * | Zoom |
| Bob Gadotti * | Zoom |
| Susan Tolleshaug * | Zoom |
| Jasmine Lillich * | Zoom |
| Cole * | Zoom |

| | |
|------------------|-----------------------------|
| Christa Burns | Administrative Assistant II |
| Sydell Cotton * | Assistant Finance Manager |
| Brittany Scott * | Finance Assistant |
| Mary Liatala * | Administrative Assistant |

President Robert Keyser called the Port of Columbia County Commission Meeting to order at 8:30 a.m. All Commissioners were present.

Election of Officers

The Port Commission elected officers for the upcoming fiscal year 2024-25. According to new policy passed June 12, 2024, nominations are rotated to ensure that each member of the Commission has an opportunity to serve as President. Port General Counsel Bob Salisbury stated that the first nomination for President would go to Chip Bubl since he has been on the Commission for the longest time and has never served as President. Mr. Bubl said he would pass this year but intends to take it on in 2025-26. Mr. Salisbury said the nomination for President would then go to Brian Fawcett. Mr. Fawcett accepted the nomination and Mr. Bubl was nominated for Vice President. The Commission also briefly discussed officer appointments for 2nd Vice President, Treasurer and Secretary.

There being no further nominations, Robert Keyser called for a vote to elect Brian Fawcett as President, Chip Bubl as Vice President, Nancy Ward as 2nd Vice President, Nick Sorber as Treasurer, and Robert Keyser as Secretary. All Commissioners were in favor and the vote was unanimous, 5-0.

Committee Assignments

The Commission held a brief discussion on Committee assignments for the upcoming year. Port Executive Director Sean Clark encouraged the Commissioners to review the current assignments and let him know their interests. Mr. Clark would like to have a Commissioner representative for each



city and chamber event. These are opportunities to give annual Port updates, meet the different Councils and stay up to date on anything that affects the Port. Mr. Clark mentioned the South County Chamber of Commerce for local networking events. Nick Sorber stated he was available for South County Chamber events and Robert Keyser said he could help with the Clatskanie Fire District. Mr. Clark stated that he would discuss Committee assignments with Commissioners over the next few weeks after they have had a chance to review and update the email distribution lists.

Additions To Agenda

President Brian Fawcett asked the Commission if there were any additions to the agenda. Robert Keyser requested adding a discussion and possibly a motion to clarify the Cost-of-Living Adjustment (COLA) process for the Executive Director salary following a performance review. All Commissioners agreed and Mr. Fawcett added Executive Director Salary Process to the Agenda as item D under New Business. Betsy Johnson stated that she would like to speak to the May 8, 2024 Minutes and asked if the Commission would take Public Comment before the Consent Agenda. The Commission agreed to hear Public Comment before moving to the Consent Agenda.

Comments From the Public

Betsy Johnson came forward to comment on the Minutes from May 8, 2024, specifically under Commissioner Reports. Ms. Johnson stated that she knows the Commissioner Reports are reflective of the opinion of the Commissioners and that, in this case, she would respectfully like to speak to Commissioner Ward's comments about the desire for the Port to track expenses for the airport and marina because "neither of those organizations are self-sustaining, and if it were not for the Port, they would go away." Ms. Johnson stated that she takes exception to that characterization. She thinks it is laudable that the Port track expenses across its whole portfolio as it is best business practices. Ms. Johnson stated that she would ask, however, that the characterization that the marina and airport would go away but for the Port's largess be reconsidered, as it seems to suggest that those two elements in the Port's very vast and comprehensive portfolio are charity cases and leaves aside the Port's responsibility for public conveyances. Ms. Johnson also pointed out that the Port has a relationship with the Federal Aviation Administration (FAA) which requires the Port to keep the airport facility open and operable to the highest of FAA standards. Moreover, it suggests that the Port is the only investor in the airport, which Ms. Johnson stated is simply not true. Ms. Johnson explained that \$60M dollars in private sector capital has gone into road improvements, sewer, water and gas for the Scappoose Airport. Ms. Johnson further stated that some of Port staff were in a recruitment effort two weeks ago and thanked those who attended. Lastly, Ms. Johnson said she would respectfully ask for those comments to be re-stated to characterize more appropriately what is going on at the airport before the minutes are approved as a public record.

Brady Preheim stated that he thinks the new policy for rotating nominations is fair, and he wishes Chip Bubl would accept the Presidency now instead of waiting a year. Mr. Preheim also encouraged the Port to revisit the policy decision that was made on the NEXT lease deferment.

Betsy Johnson informed the Commission that the Super Act meets this afternoon at 1:00 p.m. to discuss the allocation of funds from the Connect Oregon program. Ms. Johnson encouraged the Port to call representatives Colin Cooper or Commissioner Lianne Thompsom who will both be attending. Ms. Johnson indicated that \$160K is being requested by the Bar Pilots on behalf of all Columbia County River users to replace two failed weather buoys at the mouth of the river. The buoys are integral to safe operation and would benefit both recreational and commercial mariners. Requests



have also been made for improvements at Port Westward, improvements to a commercial fishing dock in Warrenton, and maintenance of a World War 2 facility at the Port of Astoria. Ms. Johnson explained that the Super Act amalgamates recommendations for all of the local acts to prioritize how to spend the \$40M. Following the Super Act meeting, a list will come out that will move to final adjudication. Sean Clark clarified that ACT stands for the Area Commissions on Transportation. The Commission thanked Ms. Johnson for providing this information.

Consent Agenda

Brian Fawcett asked for a motion to approve the consent agenda. Nick Sorber moved; Chip Bubl seconded a motion to adopt consent agenda items B and C: June 2024 Finance Report and Approval of Check Register (A) and electronic payments in the total amount of \$920,206.67. Motion carried unanimously, 5-0.

The Commission held a brief discussion about the minutes on the Consent Agenda. Mr. Fawcett said, in his opinion, the minutes cover what was actually said in the May 8, 2024 meeting. Ms. Ward agreed that the minutes are a proper reflection of what was said on that day and stated that there is nothing factually wrong with those comments because, as far as she understands, the Port supports the airport however necessary to keep it running. Ms. Ward then posed the question of who would pick up the costs if the Port didn't, and whether private industry would come in and pay those costs. Ms. Johnson replied that it is completely possible and, if the Port wanted to divest, there are other alternatives such as creating an airport district. Ms. Ward responded that the Port has never discussed that as far as she knows. Ms. Ward said minutes are meant to reflect what was said and that she stands by what she said. She also pointed out that, although it may be uncomfortable and lacking in the details, the bottom line is that the Port supports the airport financially and, if it weren't for the Port, it would probably be much more difficult to keep the airport running. Ms. Ward said, as far as this particular issue goes, she does not see that changing the minutes would be a proper reflection of the May 8 meeting. Mr. Bubl added that the Port has all the meetings recorded and available to the public. Mr. Keyser pointed out that adding Ms. Johnson's comments from the meeting today would accomplish that for the record. Mr. Fawcett said he appreciates the complexity of the issue and confirmed that the additional comments made today will be reflected in the formal minutes. The Commission agreed and Mr. Fawcett called for a motion.

Chip Bubl moved; Nancy Ward seconded a motion to adopt consent agenda item A: May 8, 2024 Commission Meeting Minutes and June 20, 2024 Special Meeting Minutes. Motion carried unanimously, 5-0.

Old Business

Marina Update

Sean Clark informed the Commission that Port Operations Manager Miriam House is leading the effort on a feasibility study on the sustainability of the marina. Ms. House has spoken with Paul Sorenson at BST Associates regarding scope of work. Mr. Clark said the Port would like to engage a couple of Commissioners to join in on that task.

Airport Update

Airport Manager Lacey Tolles reported on two recent aviation incidents at the Scappoose Airport, one on July 2nd and another on July 6th, and praised the quick response of emergency services and commercial tenants. Ms. Tolles stated that on July 2, 2024 at approximately 1:30 p.m. a Vans RV-12



airplane crashed onto the east side taxiway alpha. The pilot was transported to a local hospital. The Federal Aviation Administration (FAA), Oregon State Police (OSP), Scappoose Fire District and Scappoose Police responded to the scene. Transwestern Aviation, Airport Fixed Base Operator (FBO), and commercial tenants were also on site to assist as needed. Ms. Tolles stated that a drone was used by emergency services for their investigation, which is standard practice for OSP and the fire district. Local FAA investigators arrived on site around 4:15 p.m., at which point the Port was given guidance by the FAA to reopen the runway and West taxiway. The plane was removed from the runway by 7:00 p.m. and Port maintenance staff were on site the following morning to clean up the remaining debris. The National Transportation Safety Board (NTSB) will be onsite within the next couple weeks to investigate. Ms. Tolles personally thanked first responders Brian Yablon, Kris Anderson, Jim Warren Ben Paulson and all of their teams for the quick response and willingness to help with air traffic and cleanup. She also acknowledged the staff member from Ash Creek who was the first person to respond to the scene.

Next, Ms. Tolles reported a minor plane crash on July 6, 2024 at Scappoose Airport. Emergency services were dispatched, and no injuries were reported. There were no closures and damage was limited to a runway breakaway light which will be repaired by Port maintenance staff. Nancy Ward asked how the Commission is notified of incidents that occur at Scappoose Airport. Ms. Tolles went over the response chain and said that Airport FBO Transwestern Aviation is on site 24/7. Brian Fawcett inquired about standard procedures and protocols and stated that the Commission wants to ensure the Port is addressing anything it can from a safety standpoint. Robert Keyser suggested discussing this with the Airport Advisory Committee. Ms. Tolles stated that the Airport Tenant Survey closes on July 28 and the Airport Advisory Committee will meet on July 29 to review survey results and discuss incident response and safety measures. Ms. Tolles will report back to the Commission on any suggestions from the Advisory Committee.

Lignetics/Neighbors Update

Port Executive Director Sean P. Clark updated the Commission on recent information he received from Lignetics plant manager Steve Nelson. Lignetics is making progress and following the schedule. The air modeling is under review by DEQ through August, payments have been made on the ordered equipment, and the scrubber replacement is scheduled for December. The piles are being kept indoors and they are no longer receiving unannounced shipments. Nancy Ward asked City Administrator Kim Karber how things were from her perspective and Ms. Karber replied that a neighbor reported the sawdust had been pretty bad lately. Ms. Ward thanked Ms. Karber for that information.

New Business

Resolution 2024-13

REAPPOINTING MIKE GREISEN, ANDREW COX, AND KEITH FORSYTHE TO THE SCAPPOOSE AIRPORT ADVISORY COMMITTEE

Lacey Tolles, Airport Manager, presented Resolution 2024-13 and informed the Commission that three Airport Advisory Committee member terms expired on June 30, 2024. Port staff contacted these three members and all three wanted to continue to serve on the Committee. The Airport Advisory Committee then unanimously voted in favor of Mike Greisen, Andrew Cox, and Keith Forsythe being appointed for an additional three-year term from July 2024 through June 2027.

The Commission briefly discussed the process for the reappointment of Advisory Committee members. There was a question about whether Port staff should continue to present Resolutions for



board member reappointments as well as new members. Port General Counsel Robert Salisbury said the policy does not necessarily require a resolution for reappointments. After considering the input, the Commission decided to maintain the current process, which involves recommendations from the Advisory Committees and presenting a Resolution to Commissioner's for approval for both new members and reappointments.

President Fawcett called for a motion to approve Resolution 2024-13. Robert Keyser moved; Nick Sorber seconded a motion to adopt Resolution 2024-13. The motion carried unanimously, 5-0.

Resolution 2024-14

APPROVING BROKER COMMISSION POLICY UPDATE

Port Deputy Executive Director Amy Bynum presented Resolution 2024-14 which would approve a new brokerage commission policy and repeal two former policies. Ms. Bynum explained that leasing of Port property has typically been handled directly between Port staff and the prospective tenant because, historically, the Port has not sold many assets. However, through recent efforts to sell or lease the new hangar building at Scappoose Airport, and through guidance from the Commission, Port staff retained an aviation real estate broker to sell or lease the commercial hangar. Mr. Bynum pointed out that the two active policies from 1985 and 2000 conflict with one another and need to be revised. The current policies require broker commission to be paid over the course of the initial term year, which is not the industry standard. Ms. Bynum said the proposed policy revision incorporates competitive market information and reflects the industry standard that broker commission be paid upon the execution of the lease. Ms. Bynum therefore recommends the adoption of Resolution 2024-14, authorizing Port staff to update the Brokerage Commission Policy. Adoption of Resolution 2024-04 will repeal and supersede the competing previous 1985 and 2000 policies. The Commission held a brief discussion and came to consensus to amend Resolution 2024-14 to clarify that broker commission is paid only on the initial term of the lease.

President Keyser called for a motion to approve Resolution 2024-14, Nick Sorber moved; Chip Bubl seconded a motion to adopt Resolution 2024-14. The motion carried unanimously, 5-0.

Code of Ethics Acknowledgement

Port General Counsel Robert Salisbury gave a PowerPoint presentation on the Code of Ethics policy as part of the Commissioner's annual Code of Ethics Acknowledgement. Oregon Government Ethics Law applies to all elected and appointed officials, employees, and volunteers at all levels of state and local government across all three branches. Mr. Salisbury emphasized the importance of adhering to ethics law and stated that the use of office for financial gain or to avoid financial detriment is prohibited. He explained the \$50 gift limit rule, conflicts of interest, personal responsibility, and public trust. Next, Mr. Salisbury discussed recent decisions made by the Oregon Government Ethics Commission (OGEC) and gave some examples. He stated that not announcing Executive Session was responsible for the largest category of violations, and not announcing conflicts was responsible for the second highest number of violations. In most cases, the OGEC submits a Letter of Education and fines are issued for other violations. The Commission inquired about how fines were determined by OGEC and Mr. Salisbury said he would find out that information. Furthermore, Mr. Salisbury said dealing responsibly with conflict situations is the central act in government ethics and recommended elected officers always disclose or announce any potential conflict. He also noted that each individual Port Commissioner understands ethical rules and operates with the highest standard of ethics. Commissioners Brian Fawcett, Chip Bubl, Nancy Ward, Nick Sorber and Robert Keyser each



acknowledged receipt and review of the formal Code of Ethics Acknowledgement. The Code of Ethics presentation is on file at the Port office.

Executive Director Salary Process

Robert Keyser brought up a discussion on the decision process for the Executive Director salary following a performance review and inquired whether the same process is used for the Executive Director as for other Port employees. Commissioners discussed the Cost-of-Living Adjustment (COLA) and merit increases, as well as the salary scale matrix used to determine employee salaries. Nancy Ward stated that not having an in-house HR person helping with the process this year was problematic and she hopes that will be corrected in the coming year. Mr. Salisbury said that he has been looking into ways the Port could simplify the scoring system as it is complicated in application. Mr. Clark said he is comfortable with the COLA increase and would get a copy of the salary scale matrix to the Commissioners. Mr. Fawcett echoed two things that he heard which were one, that the salary process needs to be reevaluated and two, that the Commission needs to take care of any increase to Mr. Clark's salary as a result of the performance review. Robert Keyser made a motion to grant the Executive Director the same cost of living increases as the staff. Nick Sorber seconded the motion. All Commissioners were in favor and the motion passed unanimously. Consensus was reached for Port staff to bring back a process to the Commission for determining salary going forward.

Executive Director's Report

Sean Clark reported that he attended both the City-County Dinner in Columbia City and the Columbia Economic Team (CET) annual meeting on July 9. Mr. Clark informed the Commissioners that the Oregon Business and Industry (OBI) Executive Director was at the CET meeting and talked about IP-17, a proposed three percent corporate tax on all corporations with \$25 M or more in sales. Mr. Clark stated the Port needs to track this and that he would provide information as it is sent out by OBI. The Commission requested a copy of the CET presentation and information about the proposers of the tax. Mr. Clark said he would provide that information. The first Technical Advisory for the St. Helens economic opportunity analysis by Eco Northwest meets July 10 and Mr. Clark said he would be attending and would report back to the Commission. The Columbia Pacific Economic Development Association (Col-Pac) is hosting an event on the Northwest blue economy which he will attend on July 11 to learn more about the maritime industry. Mr. Clark said he will give a Port update at St. Helens Kiwanis and attend the Rainier Days event on July 12. He thanked Commissioners Fawcett and Ward for also volunteering for the Port booth at Rainier Days. Mr. Clark will meet with Deputy Executive Director Amy Bynum to discuss the contact list for dispatch calls regarding airport incidents. He asked Commissioners for feedback on the Manager Reports and said he would make any suggested changes to the report format. Port staff will meet with DEQ regarding the Pope and Talbot cleanup site on July 23rd and DEQ will attend the Commission Work Session on July 24. The Executive Director's Report is on file at the Port Office.

Commissioner Reports

Robert Keyser commented on how beautiful the grounds look at the Port office and said that he knows it is not easy to maintain the big trees and lawn, but he wanted to point out the nice setting.

Nick Sorber thanked Mr. Salisbury for his ethics presentation and pointed out that although it is not fun, it is certainly needed. Mr. Sorber also said he appreciates the department reports and thanked Ms. Tolles for the airport update.



Chip Bubl said he agreed with all of that and reported that he attended the City-County Dinner at Columbia City Hall and said it was enjoyable and informative.

Nancy Ward echoed all of those comments and added that in the last five years the increase in information and the quality of information the Commission has been receiving is laudable. She thanked everyone who participated in that. Ms. Ward also attended the CET meeting and the City-County Dinner. She reported that the CET meeting was long but informative and said how impressive it was that so many people showed up to the City-County Dinner on the hottest night of the year to participate, collaborate and support each other. Sean Clark said he would like to give credit to Bob Salisbury for all of his efforts to improve the meetings and the data presented to the Commission. Mr. Clark mentioned that Christa Burns and Guy Glenn have been receptive to those efforts as well.

Brian Fawcett indicated that he received a text during the meeting from someone requesting a copy of the Code of Ethics presentation. Mr. Fawcett reported that he also attended the CET meeting and part of the City-County Dinner. Both were excellent events. He echoed the comments of the other Commissioners. Mr. Fawcett said he wanted to specifically thank Robert Keyser for his service on the Commission and for serving as Chair for the past two years.

Executive Session

The Board held an Executive Session to consider exempt public records, including written legal advice from Port General Counsel, which is privileged under ORS 40.225 and exempt from disclosure under ORS 192.355(9)(a) and ORS 192.660(2)(f).

THERE BEING NO FURTHER BUSINESS BEFORE THE COMMISSION, THE MEETING ADJOURNED AT 11:10 A.M.

President

August 14, 2024

Date Adopted by Commission

Secretary



Finance Report August, 2024

STAFF REPORT

DATE: August 7, 2024
TO: Port Commission Board
FROM: Guy Glenn
Executive Finance Manager
RE: Finance Update: June 2024 – July 2024

Discussion:

Income Statement and Balance Sheet: The June 30, 2024 financial statements will be presented when Fiscal Year 2024 is closed.

Cash and Investments as of July 31, 2024: \$ 13,518,057.63

- BMO - \$ 270,341.92
- LGIP - \$ 601,252.12
- LGIP - \$ 2,583,097.26
- LGIP - \$ 10,063,366.33

Checks and electronic payments issued in July 2024 totaled: \$578,550.50

July Highlights:

The Port will be closing FY24 by the first part of September as we coordinate with Kern Thompsen to complete our annual report/audit. The June 30th financial statements (the end of FY24) should be completed in September along with the Year to Date financial statements.

We are continuing our search to fill our Front Desk and Admin Assistant position, which is currently open and being covered by our finance/admin team. Getting someone onboard and up to speed is a priority for us. We are also doing some basic due diligence in preparation to offer online payment options for our customers and tenants.

**Port of Columbia County
Vendor Check Register Report - July, 2024**

| Check No. | Vendor ID | Vendor Name | Document Date | Document Amount | Voided |
|-----------|-----------|------------------------------------|---------------|-----------------|--------|
| 45373 | ASHC001 | Ash Creek Forest Management, LLC | 7/3/2024 | \$3,600.00 | No |
| 45374 | BANK001 | BMO Financial Group | 7/3/2024 | \$6,236.50 | No |
| 45375 | CITY001 | City of Columbia City | 7/3/2024 | \$248.57 | No |
| 45376 | CITY002 | City of Scappoose | 7/3/2024 | \$1,966.72 | No |
| 45377 | CITY005 | City of Clatskanie | 7/3/2024 | \$84.01 | No |
| 45378 | CLAT002 | Clatskanie PUD | 7/3/2024 | \$560.56 | No |
| 45379 | CORE002 | Core & Main | 7/3/2024 | \$380.00 | No |
| 45380 | CSAP001 | CSA Planning Ltd. | 7/3/2024 | \$7,903.40 | No |
| 45381 | DAIL001 | Daily Journal of Commerce | 7/3/2024 | \$253.80 | No |
| 45382 | FAWC001 | Brian Fawcett | 7/3/2024 | \$40.61 | No |
| 45383 | FERG001 | Ferguson US Holdings, Inc dba | 7/3/2024 | \$322.00 | No |
| 45384 | FINE001 | Encore Business Solutions | 7/3/2024 | \$112.50 | No |
| 45385 | GLOB001 | Global Security | 7/3/2024 | \$194.85 | No |
| 45386 | METR001 | Metro Overhead Door | 7/3/2024 | \$246.00 | No |
| 45387 | METR002 | MetroWatch | 7/3/2024 | \$1,729.27 | No |
| 45388 | MYSY001 | My System Shield LLC | 7/3/2024 | \$3,106.00 | No |
| 45389 | PAMP001 | Carpenter Media Group Oregon | 7/3/2024 | \$976.35 | No |
| 45390 | QUIL001 | Staples Inc dba | 7/3/2024 | \$316.02 | No |
| 45391 | SDIS001 | SDIS | 7/3/2024 | \$2,177.40 | No |
| 45392 | SHER001 | Sherwin-Williams | 7/3/2024 | \$27.34 | No |
| 45393 | WARD001 | Nancy Ward | 7/3/2024 | \$94.25 | No |
| 45394 | ACEH001 | Ace Hardware - St Helens | 7/10/2024 | \$200.66 | No |
| 45395 | ACEH002 | Ace Hardware - Scappoose | 7/10/2024 | \$28.69 | No |
| 45396 | AMBI001 | Ambient IT Solutions | 7/10/2024 | \$1,394.50 | No |
| 45397 | AMER003 | American Metal Corp | 7/10/2024 | \$963.46 | No |
| 45398 | ATTM001 | AT&T Mobility | 7/10/2024 | \$1,030.38 | No |
| 45399 | BUBL001 | Chip Bubl | 7/10/2024 | \$150.00 | No |
| 45400 | CARQ001 | General Parts Distribution | 7/10/2024 | \$272.27 | No |
| 45401 | CINT002 | Cintas Corporation No 3 | 7/10/2024 | \$119.54 | No |
| 45402 | COLU010 | Columbia River Steamship Operators | 7/10/2024 | \$70.00 | No |
| 45403 | COLU026 | Columbia County Transfer Station | 7/10/2024 | \$83.69 | No |
| 45404 | COMC003 | Comcast Business-Ethernet | 7/10/2024 | \$1,136.95 | No |
| 45405 | CONN001 | Connecta Satellite Solutions LLC | 7/10/2024 | \$44.78 | No |
| 45406 | CONS001 | Conсор North America, Inc | 7/10/2024 | \$2,252.00 | No |
| 45407 | COUN001 | Country Media | 7/10/2024 | \$668.80 | No |
| 45408 | FAWC001 | Brian Fawcett | 7/10/2024 | \$150.00 | No |
| 45409 | FERG001 | Ferguson US Holdings, Inc dba | 7/10/2024 | \$320.02 | No |
| 45410 | GEOE001 | GeoEngineers | 7/10/2024 | \$530.00 | No |
| 45411 | HUDS001 | Hudson Garbage Service | 7/10/2024 | \$784.62 | No |
| 45412 | HUDS002 | Hudson Portable Toilet Service | 7/10/2024 | \$580.00 | No |
| 45413 | KEYS001 | Robert Keyser | 7/10/2024 | \$150.00 | No |

| | | | | | |
|-------|----------|--|-----------|-------------|----|
| 45414 | KOLD001 | Culligan | 7/10/2024 | \$75.20 | No |
| 45415 | LAWR001 | Lawrence Oil Company | 7/10/2024 | \$109.80 | No |
| 45416 | LOOPN001 | LoopNet | 7/10/2024 | \$660.00 | No |
| 45417 | MAIN002 | MaintainX Inc | 7/10/2024 | \$6,704.00 | No |
| 45418 | MARI002 | Maritime Fire & Safety Association | 7/10/2024 | \$270.00 | No |
| 45419 | METR002 | MetroWatch | 7/10/2024 | \$2,343.60 | No |
| 45420 | NACM001 | NACM NW Service Co. dba | 7/10/2024 | \$120.00 | No |
| 45421 | OREI001 | O'Reilly Auto Enterprises LLC | 7/10/2024 | \$215.03 | No |
| 45422 | PACI005 | Pacific Office Automation | 7/10/2024 | \$357.00 | No |
| 45423 | QUIL001 | Staples Inc dba | 7/10/2024 | \$216.93 | No |
| 45424 | SORB001 | Nick Sorber | 7/10/2024 | \$150.00 | No |
| 45425 | VENT001 | Caracal Enterprises | 7/10/2024 | \$1,530.00 | No |
| 45426 | VOYA001 | Voya - State of Oregon | 7/10/2024 | \$4,334.00 | No |
| 45427 | WARD001 | Nancy Ward | 7/10/2024 | \$150.00 | No |
| 45428 | WAST002 | Waste Management of OR, Inc. | 7/10/2024 | \$33.45 | No |
| 45429 | WILC001 | Wilson Oil Inc dba | 7/10/2024 | \$396.45 | No |
| 45430 | ZIPL001 | ZiPLY Fiber | 7/10/2024 | \$130.56 | No |
| 45431 | ADVA001 | Advanced American Construction | 7/17/2024 | \$69,975.00 | No |
| 45432 | BUSI001 | Business Oregon | 7/17/2024 | \$23,833.59 | No |
| 45433 | CENT001 | CenturyLink | 7/17/2024 | \$244.41 | No |
| 45434 | CHAR001 | Charter Communications | 7/17/2024 | \$217.04 | No |
| 45435 | CINT002 | Cintas Corporation No 3 | 7/17/2024 | \$60.68 | No |
| 45436 | CITY001 | City of Columbia City | 7/17/2024 | \$81.00 | No |
| 45437 | COBR001 | Cobra Management Services-Accrue | 7/17/2024 | \$95.00 | No |
| 45438 | COLU011 | Columbia County Dept.of Community Justice Adult Division | 7/17/2024 | \$375.00 | No |
| 45439 | HAGA001 | MJI Inc dba Hagan Hamilton Ins Solutions | 7/17/2024 | \$2,857.01 | No |
| 45440 | KERN001 | Kern & Thompson LLC | 7/17/2024 | \$7,000.00 | No |
| 45441 | LOWE001 | Lower Columbia Engineering | 7/17/2024 | \$1,685.00 | No |
| 45442 | METR002 | MetroWatch | 7/17/2024 | \$2,913.28 | No |
| 45443 | NORT002 | Northwest Insurance Group, Inc. | 7/17/2024 | \$7,547.00 | No |
| 45444 | NWNA001 | NW Natural Gas Company dba | 7/17/2024 | \$140.71 | No |
| 45445 | OREG001 | Oregon Bureau of Labor & Industries | 7/17/2024 | \$324.00 | No |
| 45446 | PACI007 | Pacific Office Automation-Problem Solved | 7/17/2024 | \$2,165.00 | No |
| 45447 | PORT002 | Portland General Electric | 7/17/2024 | \$8,280.11 | No |
| 45448 | SHER001 | Sherwin-Williams | 7/17/2024 | \$96.30 | No |
| 45449 | SHRE001 | Shred Northwest, Inc | 7/17/2024 | \$60.00 | No |
| 45450 | SOLU001 | Solutions Yes, LLC | 7/17/2024 | \$86.00 | No |
| 45451 | WILC001 | Wilson Oil Inc dba | 7/17/2024 | \$639.51 | No |
| 45452 | BEMI001 | Bemis Printing & Graphics | 7/17/2024 | \$220.00 | No |
| 45453 | BUSI001 | Business Oregon | 7/17/2024 | \$2,967.36 | No |
| 45454 | CINT002 | Cintas Corporation No 3 | 7/17/2024 | \$60.68 | No |
| 45455 | AMER003 | American Metal Corp | 7/24/2024 | \$9,607.18 | No |
| 45456 | C&MR001 | C&M Renovations LLC | 7/24/2024 | \$3,250.00 | No |
| 45457 | CABL001 | Cable Huston | 7/24/2024 | \$412.50 | No |
| 45458 | CENT001 | CenturyLink | 7/24/2024 | \$104.81 | No |

| | | | | | |
|-------|---------|-------------------------------------|-----------|-------------|----|
| 45459 | CENT003 | CenturyLink | 7/24/2024 | \$54.59 | No |
| 45460 | CLAT003 | Clatskanie Builders Supply | 7/24/2024 | \$16.49 | No |
| 45461 | COLU008 | Columbia River PUD | 7/24/2024 | \$74.66 | No |
| 45462 | COMC001 | Comcast | 7/24/2024 | \$2,256.33 | No |
| 45463 | COTT001 | Sydell Cotton | 7/24/2024 | \$50.00 | No |
| 45464 | DEPA001 | Department of Environmental Quality | 7/24/2024 | \$622.00 | No |
| 45465 | METR001 | Metro Overhead Door | 7/24/2024 | \$1,099.40 | No |
| 45466 | METR002 | MetroWatch | 7/24/2024 | \$2,717.93 | No |
| 45467 | BREN001 | Brenda Vassau - Low Tide Farms | 7/24/2024 | \$7,500.00 | No |
| 45468 | CINT002 | Cintas Corporation No 3 | 7/24/2024 | \$60.68 | No |
| 45469 | CITY003 | City of St. Helens | 7/24/2024 | \$27,126.06 | No |
| 45470 | KPFF001 | KPFF, Inc | 7/24/2024 | \$7,380.00 | No |
| 45471 | METR002 | MetroWatch | 7/24/2024 | \$2,734.20 | No |
| 45472 | NWMT001 | NWMTA | 7/24/2024 | \$250.00 | No |
| 45473 | OAMA001 | OAMA | 7/24/2024 | \$195.00 | No |
| 45474 | QUIL001 | Staples Inc dba | 7/24/2024 | \$265.90 | No |
| 45475 | SCAP002 | Scappoose Sand and Gravel | 7/24/2024 | \$39.16 | No |
| 45476 | SCOT001 | Brittany Scott | 7/24/2024 | \$50.00 | No |
| 45477 | SHRE001 | Shred Northwest, Inc | 7/24/2024 | \$60.00 | No |
| 45478 | STEL001 | Richard Stellner | 7/24/2024 | \$1,581.00 | No |
| 45479 | SUPP002 | SupplyWorks | 7/24/2024 | \$136.88 | No |
| 45480 | VOYA001 | Voya - State of Oregon | 7/24/2024 | \$4,884.00 | No |
| 45481 | CENT002 | Century West Engineering | 7/24/2024 | \$2,340.00 | No |
| 45482 | ALLI003 | Allison Enterprise LLC | 7/24/2024 | \$48,564.00 | No |
| 45483 | MYSY001 | My System Shield LLC | 7/24/2024 | \$50,000.00 | No |
| 45484 | CABL001 | Cable Huston | 7/24/2024 | \$8,584.00 | No |

112

Sub Total

\$373,242.98

Electronic Withdrawals

| | | | | | |
|--------------|--------------------------------|--|--|-------------|--|
| WDL000006436 | ADP Payroll | | | \$234.80 | |
| WDL JE 7047 | PERS | | | \$9,606.31 | |
| WDL 07152024 | ADP Payroll | | | \$2.02 | |
| WDL 07262024 | Cardinal Services | | | \$4,892.80 | |
| DAJ45474 | MO Merchant Fee 3111 | | | \$633.20 | |
| DAJ45474 | MO Merchant Fee 8888 | | | \$1,610.13 | |
| DAJ45474 | MO Merchant Fee 8904 | | | \$487.09 | |
| DAJ45482 | ODR Lodging Tax 2nd Qtr 2024 | | | \$397.86 | |
| DAJ45485 | Cardinal Services | | | \$4,403.52 | |
| DAJ45495 | Monthly Bank Fee July | | | \$387.55 | |
| DAJ45503 | Accrue | | | \$1,575.34 | |
| DAJ000006437 | Regence/ InstaMed - Health Ins | | | \$28,706.39 | |
| DAJ000006431 | Standard - Dental Ins | | | \$2,269.24 | |
| WDL000006438 | PERS | | | \$70,797.22 | |
| WDL000006451 | PERS | | | \$12,825.84 | |
| WDL000006471 | ADP Payroll | | | \$285.82 | |
| WDL000006465 | PERS | | | \$66,192.39 | |

Sub Total

\$205,307.52

Grand Total

\$578,550.50



PORT OF
Columbia
County

Res. 2024-17
STAFF REPORT

**Approving Cornice
Construction for Marina
Improvements**

DATE: August 14, 2024
TO: Commission Board
FROM: Miriam House, Operations Manager
RE: Approving Cornice Construction of Scappoose
Not To Exceed Total of \$565,565; Under Budget by \$173,891

Discussion

In 2023, the Port was awarded a grant from the Oregon State Marine Board for \$407,912 with a required 50% Port match of \$407,912 for construction of upland area improvements at Scappoose Bay Marina. The engineering and final design by KPFF Engineers estimated construction costs at \$739,456.

These upland improvements will provide greater waterway access at the Marina. This includes increased ADA and standard parking; wider sidewalks; a pedestrian safety railing; a kayak unloading area; an additional pay station with a steel shelter; landscaping; a relocated trash area with a new enclosure; relocated and upgraded emergency fire systems; and stormwater improvements.

Following our rules for competitive sealed bidding, Port staff solicited an Invitation to Bid (“ITB”) and received 7 bids. Port staff now recommends the selection of Cornice Construction as the lowest cost, responsive and responsible bidder. and approval of a contract in the amount of \$514,150, with a 10% contingency for additional costs, for a not to exceed total of \$565,565.00.

Cornice Construction is a local business based in Scappoose with approximately 20 employees residing in Columbia County. We are pleased to note that with this contract amount, the upland phase comes in under budget by \$173,891.

Recommendation

Adopt Resolution 2024-17, authorizing the Executive Director to execute a contract with Cornice Construction for the Upland Phase 1 of the Marina Improvements Project in the amount of \$514,150, with a 10% contingency for any additional costs, for a not to exceed total of \$565,565.00.

RESOLUTION NO. 2024-17

A RESOLUTION APPROVING THE SELECTION OF CORNICE CONSTRUCTION FOR THE SCAPPOOSE BAY MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

WHEREAS, in 2023, the Port was awarded a grant from the Oregon State Marine Board for \$407,912 with a required Port match of \$407,912 to facilitate construction of upland area improvements at Scappoose Bay Marina. This project addresses critical needs for public access to waterways and improved operations; and

WHEREAS, the Port engaged KPFF Consulting Engineers (“KPFF”) to provide final design, engineering and permitting and the project is now ready for construction; and

WHEREAS, Port staff solicited an Invitation to Bid (“ITB”) under Port rules and received seven (7) bids. The Port and KPFF thoroughly evaluated all qualified bids under the criteria provided for in the ITB; and

WHEREAS, Port staff recommends Cornice Construction of Scappoose as the lowest cost, responsive and responsible bidder for this project at \$514,150, and with a 10% contingency the total project cost of \$565,565 is approximately \$173,891 under budget; Now, therefore,

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

The Board authorizes the Executive Director to execute a contract for the Scappoose Bay Marina Improvements Project Upland Phase 1 with Cornice Construction in the amount of \$514,150 with a 10% contingency for additional costs, for a not to exceed total of \$565,565.

PASSED AND ADOPTED this 14th day of August 2024, by the following vote:

AYES: _____

NAYS: _____

Port of Columbia County

ABSTAIN: _____

By: _____
President

Attested By:

Secretary

BID TABULATION

Res. 2024-17

| MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1 - Bid Tabulation | |
|---|--------------|
| FIRM | BID PRICE |
| Cornice Construction | \$514,150.81 |
| Capture Energy | \$602,000.00 |
| Tapani Inc | \$617,000.00 |
| TFT Construction | \$658,970.00 |
| Clark & Sons Excavating | \$698,448.00 |
| Lee Contractors | \$699,690.00 |
| Conway Construction | \$762,786.00 |

GENERAL BID DOCUMENTS

Res. 2024-17

CONTRACT
DOCUMENTS FOR

PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK

MARINA IMPROVEMENTS
PROJECT UPLAND PHASE 1

OWNER:



Port of Columbia County
100 E Street
Columbia City, Oregon 97018

ENGINEER:



Consulting Engineers
111 SW 5th Ave, Suite 2400
Portland, OR 97204
www.kpff.com

June 2024

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INVITATION TO BID

PORT OF COLUMBIA COUNTY SCAPPOOSE BAY MARINE PARK

MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

The Port of Columbia County (Port) is requesting bids from qualified contractors experienced in marinas, and who are familiar with local conditions and local, state, and federal design and permitting requirements.

The proposed project is located at the Scappoose Bay Marine Park at Scappoose Bay on the Columbia River in Columbia County, Oregon. Existing conditions consist of a marina building, RV park area, motorized boat launch, and connecting parking lots/drive aisles.

Sealed bids for the Port of Columbia County “Marina Improvements Project Upland Phase 1”, must be addressed and delivered to Miriam House, Operations Manager, Port of Columbia County, 100 E Street, Columbia City, OR 97018 by the bid closing time of 3:00pm, on the 6th day of August 2024, at which time the bids will be publicly opened and read.

Any bid received after the date and time due for bid submission as noted, whether by mail or otherwise, will not be accepted or considered. Bidders shall submit the required first-tier subcontractor disclosure form within two working hours of the bid closing time. Bidders whose bids and/or disclosure statements are received after the stated time will be considered non-responsive and their bids will not be considered.

The scope of work being considered, but is not limited to, the following:

1. Reconstruct the east end of the upper parking lot to provide parallel loading parking spaces and relocate ADA parking
2. Widen sidewalks to the existing gangway
3. New pavement and restriping of the parking lot adjacent to the marina building
4. Installation of one (1) new pay station and relocation of existing pay station
5. Stormwater improvements
6. New electrical connections to pay stations and outdoor outlets
7. Installation of one (1) new hydrant

PROJECT DEADLINE – June 30, 2025, prefer project completion within 90 days of Notice to Proceed.

BID DOCUMENT AVAILABILITY

Contract bid documents are available on the Port of Columbia County’s website at www.portofcolumbiacounty.org. The contract bid documents for the above project may be examined at the Port of Columbia County, 100 E Street, Columbia City, OR 97018 on working days, between the hours of 8:00 a.m. and 5:00 p.m.

All Bidder questions must be in writing and directed to Jessica Zink, KPFF Consulting Engineers at jessica.zink@kpff.com, and must be received by July 31, 2024 by 4:00PM. Informal responses to clarifications do not affect the provisions of the ITB.

Bidders should note that changes to the ITB, in the form of addenda, are issued between the issue date and three (3) days before the closing of the ITB. Bidders are solely responsible for checking the website to ensure that they have the most current information. All addenda will become part of any resulting contract and must be signed and submitted with your bid.

DESCRIPTION OF WORK

The Contractor shall be responsible for signage and appropriate flagging to ensure the public does not have access to the work area during construction. Contractor shall maintain access at

all times for marina businesses and tenants. Contractor shall be responsible for obtaining all materials and for labor to complete the work in the attached plan set. Contractor will coordinate all work with the Port. Contractor will be responsible for obtaining all applicable trade permits. The work completed under this contract includes all labor, tools, machinery, materials, transportation, equipment, and services necessary for and reasonably incidental to, the completion of all work in connection with the work

described in the Contract, General Conditions, all applicable special conditions, plans, specifications, and any supplementals, attachments and addenda.

The Project is partially funded by an Oregon State Marine Board (OSMB) grant and the Contractor shall also be responsible for complying with all OSMB requirements. **The project completion deadline is June 30, 2025.** In no case shall work continue beyond this date without authorization from OSMB and the Port. The project has an approved Columbia County Floodplain permit. The building and grade/fill permits from Columbia County are still in review and are anticipated to be issued prior to award.

The project includes removing asphalt and reconfiguring the eastern side of the upper parking lot, including construction of new ADA compliant parking stalls. Constructing new widened sidewalks, small retaining walls, installation of one new pay station, relocating an existing pay station, and restriping the parking lot nearest to the Marina building. Electrical work will include service to the pay stations and outdoor electrical outlets. Stormwater work will include installing a treatment catch basin and connecting it to the existing storm system onsite. The existing flagpole will be relocated, and a new foundation constructed. See Project Specifications and Drawings for full scope of work.

PREBID MEETING

Each prospective bidder is requested to attend a **non-mandatory pre-bid meeting to be held at 11:00 AM, local time on the 26th day of July 2024**, at the Scappoose Bay Marine Park. At this meeting, questions concerning the Contract Documents and the proposed work will be discussed. Answers and clarifications will be in the form of written addenda to the contract and will be uploaded to the Port's website.

The Marina is a public facility, and visitors are not to interfere with tenant property in any way.

Site Location: Scappoose Bay Marine Park: 57420 Old Portland Road, Warren, OR 97053.

PREVAILING WAGE/PUBLIC WORKS BOND

The project is for a public works improvement contract and is subject to prevailing wage rates under ORS 279C.800 to 279C.870. The Contractor and subcontractors agree to be bound by and will comply with the provisions of 279C.838, 279C.840 or 40 U.S.C. 3141 to 3148. BOLI prevailing wage rate requirements and the prevailing wages rates are available at the following web link:

<https://www.oregon.gov/boli/employers/Pages/prevailing-wage.aspx>.

Before starting Work the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by ORS 279C.836 and OAR 839-025-0015, unless otherwise exempt under those provisions.

The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting the Subcontractor to start Work.

Contractors shall comply with all federal, state and local laws, codes, regulations and ordinance applicable to the Work and Contract.

SOLICITATION LAW AND RULES

This ITB and resulting Contract are governed by Oregon Law. Specific laws and rules that govern the solicitation process are found in Chapters 279A and 279C of the Oregon Revised Statutes, and Chapter 137, Divisions 046 and 049 of the Administrative Rules of the Oregon Department of Justice (Model Public Contracting Rules). This solicitation is being conducted in accordance with the guidelines of the Competitive Sealed Bidding method of contractor selection per ORS 279C.330-279C.875 which is incorporated herein by reference.

Published: Daily Journal of Commerce
The Scappoose Spotlight
St. Helens Chronicle
The Business Tribune

INSTRUCTIONS TO BIDDERS
PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK
MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

PORT'S REPRESENTATIVE

The Port's Representative for the project, who assumes duties and responsibilities and has rights and authority assigned in the Contract Documents in connection with completion of this project in accordance with the Contract Documents, is **Miriam House, Port Operations Manager**. The Port's representative can be reached at 100 E Street, Columbia City, OR 97018, house@portofcolumbiacounty.org or by phone (503) 928-3259.

QUALIFICATIONS OF BIDDERS

- 1) Bidders must be qualified in accordance with the applicable parts of ORS Chapter 279 in order to enter into a contract with the Port.
- 2) The Bidder must submit proof that they are registered to do business in Oregon with the Oregon Secretary of State, Corporate Division or justification for exemption. See Section below entitled "Proof of Authority to Transact Business in Oregon".
- 3) The Bidder must be licensed in accordance with any specific requirements of this solicitation and the Code of Oregon (Licensed Engineer, Contractor's license, etc.).
- 4) The Port may make reasonable investigations as deemed proper and necessary to determine the ability of the Bidder to perform the services and provide the required goods. The Bidder shall supply the Port all such information and data for this purpose as may be requested.

EXAMINATION OF CONTRACT DOCUMENTS

- 1) The Bidder shall use complete sets of Contract Documents in preparing the bid; the Port assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of Contract Documents.
- 2) Bidder shall thoroughly examine Contract Documents and be familiar with local, state and federal law, procedural documents, general conditions specifications, drawings, plans, attachments and addenda and all other Contract documents, to satisfy bidder as to the conditions that may affect cost, progress, performance or furnishing of the project work.
- 3) The Bidder shall promptly notify the Port's representative of all conflicts, errors, ambiguities or discrepancies that the Bidder has discovered in or between the Contract Documents and such other related documents.
- 4) Failure or neglect of a Bidder to receive or examine any of the Contract Documents, perform site or other investigations shall in no way relieve the bidder from any obligations with respect to the bid or the contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any Contract Documents or existing site conditions.
- 5) Concerning those drawings utilized by the Port in preparation of the Contract Documents; the Bidder may rely upon the general accuracy of the technical data contained in such drawings but not upon other data, interpretations, opinions or information shown or indicated in such drawings or otherwise relating to such structures, nor upon the completeness thereof for the purposes of bidding or construction. Bidder is responsible for any interpretation or conclusion drawn from any technical data or any such data, interpretations, opinions or information. The Bidder is responsible for obtaining any investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and underground facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or finishing of the project work or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its bid for performing and finishing the project work in accordance with the time, price and other terms and conditions of the Contract Documents.

INTERPRETATIONS AND ADDENDA

All questions about the meaning or intent of the Contract Documents are to be directed to **Jessica Zink, KPFF Consulting Engineers**, at jessica.zink@kpff.com. Interpretations or clarifications considered necessary by the Port in response to such questions will be issued by Addenda to all parties recorded by the Port as having received the Contract Documents. Questions received less than five (5) days prior to the date for opening of Bids may not be answered. Only questions answered by formal written Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect. Addenda may also be issued to modify the Contract Documents as deemed advisable by the Port or Port's Representative.

BID SUBMITTAL REQUIREMENTS

Each bidder must supply all information required by the Contract Documents and specifications. The required information shall be submitted on the forms specific to this ITB.

Bidders must provide a cover letter and company background information to assist in the selection decision. Submittals must include, at minimum, references for recently completed similar projects and designs, identification of key personnel who will be involved, description of your understanding and approach of the needs of the project, and demonstration of similar project experience. Reference list provided below:

1. Cover Letter
2. About the firm
 - a. Summary of marina development capabilities
 - b. Description of understanding and approach to the project
 - c. Identification of key personnel including resumes
 - d. Brief information about any subconsultants you anticipate using
3. Project Schedule
 - a. Include anticipated start and completion date.
(Completion deadline June 30, 2025)
 - b. Project milestones
4. Bid Proposal: Complete all forms and blanks in the Proposal
5. Bid Bond in the amount of ten percent (10%) of the total bid amount
6. Power of Attorney for Surety's Agent to execute Bidder's bond.
7. Three references of work completed on similar projects within the last 5 years
8. Proof of Authority to Transact Business in Oregon

If the Bidder has had a contract terminated for default during the past five (5) years, all such incidents must be described. The firm or individual must not have a record of substandard work. The Port will verify this requirement through reference and other background checks.

BID SUBMISSION

Sealed bids must be received in the Port office, 100 E. Street Columbia City, Oregon 97018 or mailed to PO Box 190, Columbia City, Oregon, 97018 before **3:00 pm on August 6, 2024**.

All bids must be sealed and received prior to the bid closing time and date. All bids shall be prepared in ink or by computer but must be signed in ink by an authorized representative. Email or facsimile bids will not be accepted. Bid packets must be addressed to:

By Mail:
Port of Columbia County
Miriam House
PO Box 190
Columbia City, OR 97018

By Hand-deliver:
Port of Columbia County
Miriam House
100 E Street
Columbia City, OR 97018

All forms specific to this ITB must be completed in full. Bidders must bid on all portions of the work.

The Port is not responsible for delays in the delivery of mail by the U.S. Postal Service, private couriers, the intra-City mail system or delivery by other means. Bidders are solely responsible for ensuring that their bid is received and stamped by Port personnel by the deadline indicated.

Bids shall be submitted, prior to the Bid Closing time, at the place indicated in the ITB. The bid shall be enclosed in an opaque sealed envelope, marked with the project title, date of opening, name and address of Bidder and accompanied by the Bid security and other required documents.

If the Bid is sent through the mail, the sealed envelope shall be enclosed in a separate envelope, with

the notation “**Sealed bid for Scappoose Bay Marine Park, Marina Improvements Project Upland Phase 1**”, and the name and address of the Bidder on the face of it. Bids received after the scheduled Bid Closing time will not be opened or considered by the Port.

The submission of a bid will constitute an incontrovertible representation by the Bidder. That the Bidder has complied with every requirement of this ITB:

- a. The Port is not responsible for bids submitted in any manner, format, or to any delivery point other than as required. Bidders are solely responsible for ensuring that the Port receives their bids at the required delivery point prior to closing;
- b. That without exception the bid is premised upon performing and furnishing the project work required by the Contract Documents and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents;
- c. That the Bidder has given the Port written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Contract Documents and that the written resolutions thereof by the Port are acceptable to the Bidder;
- d. That the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work.

This solicitation may be modified, canceled, or addenda issued at any time during the process. This ITB does not commit the Port to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. The Port reserves the right to waive minor irregularities, accept or reject any and all proposals received as a result of this request, or negotiate with all qualified sources. No part of this solicitation is to be considered part of a contract, nor is any provision contained herein to be binding on the Port unless expressly included by reference or adoption in a subsequent written agreement executed by the Port.

MODIFICATION AND WITHDRAWAL OF BIDS

Alteration and erasures made before bid submission must be initialed in ink by the person signing the bid. Submitted bids may be modified in writing before closing. Modifications made after bid submissions and prior to closing, shall be prepared on Bidder's letterhead, be signed by an authorized representative, and state that the modifications amend and supersede the prior bid. Failure to comply with the provisions of this paragraph shall result in bid rejection. Nothing in this paragraph shall be construed as allowing the Bidder to alter or otherwise change the form of the proposal, the form of the Contract, the conditions of the bid, the specifications, and/or plans attached to the Contract Documents.

If, within twenty-four hours after bids are opened, any Bidder files a duly signed, written notice with the Port's Representative and promptly thereafter demonstrates to the reasonable satisfaction of the Port that there was a material and substantial mistake in the preparation of its bid, that Bidder may withdraw its bid and the bid Security will be returned. Thereafter, that Bidder will be disqualified from further bidding on the project work to be provided under the Contract Documents.

IRREGULAR PROPOSALS

Proposals shall be considered irregular for the following reasons:

- a. If the proposal is on a form other than that furnished by the Owner, or if the Owner's form is altered, or if any part of the proposal form is detached.
- b. If there are unauthorized additions, conditional or alternate pay items, or irregularities of any kind that make the proposal incomplete, indefinite, or otherwise ambiguous.
- c. If the proposal does not contain a unit price for each pay item listed in the proposal, except in the case of authorized alternate pay items, for which the bidder is not required to furnish a unit price.
- d. If the proposal contains unit prices that are obviously unbalanced.
- e. If the proposal is not accompanied by the proposal guaranty specified by the Owner.

ISSUANCE OF PROPOSAL FORMS

The Owner reserves the right to refuse to issue a proposal form to a prospective bidder if the bidder is

in default for any of the following reasons:

- a. Failure to comply with any prequalification regulations of the Owner, if such regulations are cited, or otherwise included, in the proposal as a requirement for bidding.
- b. Failure to pay, or satisfactorily settle, all bills due for labor and materials on former contracts in force with the Owner at the time the Owner issues the proposal to a prospective bidder.
- c. Documented record of Contractor default under previous contracts with the Owner.
- d. Documented record of unsatisfactory work on previous contracts with the Owner

DISQUALIFICATION OF BIDDERS

A bidder shall be considered disqualified for any of the following reasons:

- a. Submitting more than one proposal from the same partnership, firm, or corporation under the same or different name.
- b. Evidence of collusion among bidders. Bidders participating in such collusion shall be disqualified as bidders for any future work of the Owner until any such participating bidder has been reinstated by the Owner as a qualified bidder.
- c. If the bidder is considered to be in "default" for any reason specified *Issuance of Proposal Forms*, of this section.

BID SECURITY

Each bid must be accompanied by Bid security made payable to the Port in an amount equal to ten percent (10%) of Bidder's Total Estimated Bid Cost and in the form of a certified or cashier's check, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008, or a Bid Bond (on the form attached) issued by an acceptable surety.

The bid security of successful Bidder will be retained until such Bidder has executed the Public Improvement Contract with the Port, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the bid security will be returned. If the successful Bidder fails to execute the Contract and deliver the required contract security within seven (7) days after the Notice of Award, the Port may annul the Notice of Award and the bid security of that Bidder will be forfeited.

The bid security of other Bidders whom the Port believes to have a reasonable chance of receiving the award may be retained by the Port until the Effective Date of the Agreement or the 120th day after the bid opening, whereupon bid security furnished by such Bidders will be returned. Bid security with bids that are not competitive will be returned upon execution of the Contract between the Port and the successful bidder.

FIRST-TIER SUBCONTRACTOR DISCLOSURE

Bidders are required to disclose information about certain first-tier subcontractors when the contract value for a public improvement is greater than \$100,000. Specifically, within two working hours after the date and time of the deadline when the bids are due, the Bidder shall submit to the Port a disclosure of the first-tier subcontractors that:

- 1) Will be furnishing labor or will be furnishing labor and materials in connection with the public improvement; and
- 2) Will have a contract value that is equal to or greater than five percent (5%) of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid:
 - a. The Bidder shall use the "First-tier Subcontractor Disclosure Form" provided with the Contract Documents and shall list the name of each first-tier subcontractor, and the category of work that they will be performing.
 - b. If the Bidder will not be using any subcontractors that are subject to the above disclosure requirements, the Bidder shall indicate "NONE" on the First-tier Subcontractor Disclosure Form.
 - c. Failure to comply with this requirement shall result in rejection of the bid as non-responsive.

DRUG TESTING PROGRAM

By signing and submitting a Bid to the Port, the Bidder shall certify that it has an employee drug testing program in place.

NON-DISCRIMINATION CERTIFICATION

By signing and submitting a Bid to the Port, the Bidder shall certify that, per OAR 137-030-0100, it has not discriminated against minority, women, or emerging small business enterprises in obtaining any subcontracts.

BIDS TO REMAIN SUBJECT TO ACCEPTANCE

All Bids will remain subject to acceptance for 120 days after the day of the bid opening, but the Port may, in its sole discretion, release any bid and return the bid security prior to that date.

BID EVALUATION / SELECTION PROCEDURE

Responses to this ITB will be accepted from all qualified firms and will be considered equally. Port staff will evaluate the proposals and determine the Award based on the lowest responsive and responsible Bidders complying with all provisions of the ITB provided the bid price is reasonable and it is in the best interest of the Port to accept it.

- a. Responsive Bid – A Proposal that substantially complies with the applicable solicitation procedures, requirements and the Contract Documents. Failure to comply with the requirements and/or terms and conditions set forth in this ITB may result in a bid being declared nonresponsive.
- b. Responsible Bidder - A person/firm who has submitted a proposal and meets the standards set for in the Contract Documents and has not been disqualified by the Port. Who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance.

The following factors, among such others as will protect and preserve the interest of the Port may also be considered in making an award:

- a. Availability of construction equipment required to perform services as well as the qualification of personnel to perform the work.
- b. Total bid price(s) as set forth on each Bid Form (Price Schedule).
- c. The specified terms, extended warranty, discounts, etc. of the bid.
- d. The quality of and record of performance on previous contracts or services into which the Bidder may have entered into with the Port or other public bodies or corporations (references).
- e. The previous and existing compliance by the Bidder with laws and ordinances relating to other contracts, items and/or services provided by Bidder in other matters.
- f. The character, integrity, reputation, judgment, experience and efficiency of the Bidder and quality of performance on previous contracts or services.
- g. Whether the Bidder can perform the Contract and/or perform the services and/or provide the items promptly, or within the time specified, without delay or interference taking into consideration other business commitments.
- h. The necessary facilities, organization, experience and technical skills as well as sufficiency of the financial resources and ability of the Bidder to perform the Contract and/or provide the services and/or items requested in the ITB.
- i. The ability and availability of the Bidder to provide quality and timely maintenance, service, and/or parts.
- j. The availability and capability of local and regional vendor support as it affects the quantity, quality, and timeliness of the goods and/or services.
- k. Such other information may be secured by the Port having a bearing on the decision to award the contract.

- l. The Port expressly reserves the right to reject the bid of such Bidder, if such records disclose that said Bidder, in the opinion of the Port, has not properly performed such contracts or has habitually and without just cause neglected the payment of bills, or has otherwise disregarded his obligations to subcontractors, suppliers or employees.
- m. In evaluating bids, the Port will consider the qualifications of Bidders, whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Proposal or prior to the Notice of Award.
- n. The Port may consider the qualifications and experience of subcontractors, suppliers, and other persons and organizations proposed for those portions of the project work as to which the identity of subcontractors, suppliers, and other persons and organizations must be submitted as provided in the Contract Documents. The Port also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of materials and equipment proposed for incorporation in the project work when such data is required to be submitted prior to the Notice of Award.
- o. The Port may conduct such investigations as it deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of Bidders, proposed subcontractors, suppliers and other persons and organizations to perform and furnish the project work, in accordance with the Contract Documents, to the Port's satisfaction, within the prescribed time.

NOTICE/AWARD OF CONTRACT

Prior to award of a contract, the Port will evaluate whether the apparent Successful Bidder meets the applicable standards of responsibility identified in ORS 279C.375(2)(b) and OAR 137-049-0390. In doing so, the Port may investigate the Bidder and request information in addition to that already required in the ITB, when the Port, in its sole discretion, considers it necessary or advisable.

If the contract is to be awarded, it will be awarded to the lowest responsive and responsible Bidder whose evaluation by the Port indicates that the award will be in the best interests of the Port.

The preferred bidder will be recommended for approval to the Port Commission, which will make the final selection. All applicants will be notified of that decision.

The Port reserves the right to announce its Intent-to-Award prior to a formal Contract award and may post the tabulation sheet of bid results on the Port's website, or by email. The Intent-to-Award announcement shall serve as notice to all Bidders the Port of Columbia County intends to make an award.

Performance under any resultant contract shall not to begin until receipt of the Port's Notice to Proceed (NTP). Contractors providing goods or services without a signed Port NTP, do so at their own risk. The Port will not be liable for payment of any purchases made by its employees without appropriate purchase authorization signed by Port's Agent.

Following Contract award, the Port will require the Contractor to obtain a Performance Bond and Payment Bond in sums equal to the amount of the Contract for the Project and shall be of a surety company authorized to transact business in the State of Oregon. The Performance Bond shall remain in full force throughout the one-year guarantee period following completion and acceptance of the project. The bonds shall utilize the forms as found in this ITB.

The Contract will be awarded as a whole to one Bidder. The Contract will be delivered or made available to the successful Bidder for execution. The Contract shall be signed by the Contractor and returned to the Port within ten (10) calendar days of mailing by the Port or upon receipt by bidder, whichever is sooner, along with the required Certificates of Insurance, Additional Insured Endorsement(s), W-9, and performance and payment bond for final approval, dating and execution by the Port. Failure to do so may cause the bid to be considered withdrawn.

The Contract will not be effective until finally approved, dated and executed by the Port. After execution by the Port, a signed copy of the Contract will be delivered or made available to the Contractor and the Bid security will be returned.

LOCAL SUBCONTRACTOR OUTREACH

As part of its mission, the Port encourages equal opportunities for local (Columbia County) subcontractors and vendors to compete and participate in its projects. We ask that general contractors demonstrate best competitive efforts to hire such local subcontractors and vendors with appropriate certifications and qualifications to work on this project.

RECYCLED PRODUCTS

Bidder will comply with the recycled products provision in the Invitation to Bid in accordance with ORS 279A.125. Contractors shall use recyclable products to the maximum extent economically feasible in the performance of the contract work as set forth in this document.

PROTESTS

Protests may be submitted only from those proposers who would receive the contract if their protest were successful. Protests must be received by the Port in writing within seven (7) calendar days following the date the Port's Notice of Intent to Award was issued. The protester must specifically state the reason for the protest and show how the selection process deviated from that described in the solicitation document. The contract award process will be put on hold until the protest has been resolved. Timely protests must include all legal and factual information regarding the protest, and a statement of the form of relief requested. Protests received later than the timeline specified or from a protestor other than the respondent who would receive the contract if the protest was successful will not be considered. The exercise of judgment used by the evaluators in reviewing the proposals is not grounds for appeal, unless the protester can show a clear inconsistency in the way proposals were evaluated.

The Port Commission may waive any procedural irregularities that had no material effect on the selection of the proposed contract, invalidate the proposed award, amend the award decision, request that Port staff re-evaluate any proposal or require Port staff to cancel the solicitation and begin again to solicit new proposals. In the event the matter is returned to Port staff, Port staff shall issue a notice canceling the Notice of Intent to Award.

The decisions of the Port Commission are final and conclude the administrative appeals process.

ADDITIONAL INSTRUCTIONS

Bidders shall refer to the following Special Provisions for specific instructions relative to preparation and submission of Proposals.

SPECIAL PROVISIONS
PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK
MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

Any applicable section listed herein when neither specified nor listed in the Bid Proposal as a separate pay item, will be considered incidental work for which no separate payment will be made.

100 Definitions and Abbreviations

100.1.00 Definitions

BID CLOSING – The date and time announced in the Invitation to Bid as deadline for submitting Proposals.

BID OPENING – The date, time and place announced in the Invitation to Bid for the public opening of written sealed Proposals.

PORT – The Port of Columbia County, Owner

DAYS – Calendar days unless otherwise specified by these specifications.

ENTITY – A natural person capable of being legally bound, sole proprietorship, limited liability company, corporation, partnership, limited liability partnership, profit and nonprofit unincorporated association, business trust, two or more persons having a common economic interest, or any other person with legal capacity to contract, or a government or governmental subdivision.

FINAL COMPLETION – The completion of all of the work called for under the contract including but not limited to, if applicable, satisfactory operation of all equipment, by means of acceptance tests, correction of all punch list items to the satisfaction of the Port, settlement of all claims, if any, payment and release of records of all construction and like liens, delivery of all guarantees, equipment operation and maintenance manuals, as-built drawings, building certificate required prior to occupancy, electrical certificates, mechanical certificates, plumbing certificates, all other required approvals and acceptances by Port, Port and state governments, or other authority having jurisdiction, and removal of all rubbish, tools, scaffolding, equipment, and surplus materials and equipment from the job site.

LUMP SUM – A method of payment providing for one all-inclusive cost for the work or for a particular portion of the work.

PUNCH LIST – A list prepared by the Port of the Contractor's incomplete or uncorrected work.

SIGNED OR SIGNATURE – Any mark, work or symbol executed or adopted by an Entity evidencing an intent to be bound.

SUBSTANTIAL COMPLETION – The completion of the work to the extent that the Port may have uninterrupted occupancy and use of the facility or specified portion thereof for the purpose for which intended. Substantial completion shall not be construed as acceptance of the work or any part thereof by the Port.

UNIT PRICE – A contract item of work providing for payment based on a specified unit of measurement; e.g. lineal feet or tons.

PAYMENT BOND – The form of security approved by the Port, furnished by the Contractor and his/her surety, guaranteeing prompt payment of all persons who shall supply material, labor, or services on the project and pay all sums due the Industrial Accident Fund, the State Unemployment Compensation Fund and all sums required to be paid to the Department of Revenue.

PERFORMANCE BOND – The form of security approved by the Port, furnished by the Contractor and his/her surety, guaranteeing the complete and faithful performance of all the obligations and conditions placed upon the Contractor by the Contract.

PROPOSAL – A competitive offer, binding on the Bidder and submitted in response to an Invitation to Bid.

101 Proposal Requirements

101.1.00 Explanation or Interpretation of Proposal Documents

If it should appear to a bidder that the work to be done or matters relative thereto are not sufficiently described or explained in the Contract Documents or that the Contract Documents are not definite and clear, the bidder may make written inquiry regarding same to the Port at least five (5) days before the scheduled Bid Closing. Then, if in the judgement of the Port, additional information or interpretation is necessary, such information will be supplied in the form of an addendum. Such addendum shall have the same binding effect as though contained in the main body of the Contract Documents. ORAL INSTRUCTIONS OR INFORMATION CONCERNING THE CONTRACT DOCUMENTS OR THE PROJECT GIVEN OUT BY OFFICERS, EMPLOYEES OR AGENTS OF THE OWNER TO PROSPECTIVE BIDDERS SHALL NOT BIND THE OWNER.

The contract and each of the Contract Documents are complementary and they shall be interpreted so that what is called for by one shall be binding as if called for by all. In the event of duplications or conflicts in the Contract Documents after the contract has been executed, the most expensive method of work, materials and equipment shall be construed as the requirement, with a credit for all cost savings accruing to the Port in the event the least expensive method of work is directed. A duplication of work is not intended, and any duplication shall not become a basis for extra cost to the Port.

Both parties represent that there now exists no other agreements between them, written or otherwise relating to the rights and obligations of either under this contract, that this contract is intended to and does supersede any and all prior understandings between the parties relating to the project whether written or oral, and that in the case of any conflict between the terms of this instrument and the proposal of the contractor, this instrument shall control. No modification of this contract shall be effective unless and until reduced to writing and attached to this contract with specific reference thereto, signed by both parties.

102 Scope of Work

102.1.00 Plans and Specifications

The plans, specifications and other Contract Documents will govern the work. The Contract Documents are intended to be complementary and cooperative and to describe and provide for a complete project. Anything in the specifications and not on the plans, or on the plans and not in the specifications, shall be as though shown or mentioned in both. Reference specifications and standard plans are a part of the Contract Documents.

While it is believed that much of the information pertaining to conditions which may affect the cost of the proposed work will be shown on the plans or indicated in the specifications, the Port does not warrant the completeness, accuracy, interpretation or deductions of such information. It is the Contractor's responsibility to ascertain the existence of any conditions affecting the cost of the work that would have been disclosed by reasonable diligent examination of the site. Failure of the Contractor to make an examination necessary to determine general and local conditions and all other conditions which may affect the work under this contract shall not entitle the Contractor to additional compensation on account of extra work or to an extension of time for completion.

The Contractor shall, upon discovering any error, omission or inconsistency in the plans or specifications, immediately call it to the attention of the Port. Contractor shall have no cause for a claim where Contractor had reason to believe defects in the plans or specifications existed and failed to present timely objection thereto.

103 Control of Work

103.1.00 Authority of the Engineer

It is not incumbent upon the engineer or the Port to notify the Contractor when to begin, cease or resume work, nor to give early notice of rejection of faulty work, nor in any way to superintend so as to relieve the Contractor of any responsibility or of any consequences for neglect or carelessness by the Contractor or his/her subordinates.

103.2.00 Authority of Inspectors

The engineer may appoint assistants to inspect all materials used and all work done. Such inspection may extend to any or all parts of the work and to the preparation or manufacture of the materials to be used. The inspectors

will not be authorized to revoke, alter, enlarge or relax the provisions of these specifications. An inspector is placed on the work to keep the engineer informed as to the progress of the work and the manner in which it is being done; also to call the attention of the Contractor to any infringements upon the plans or specifications, but failure of the inspector or the engineer to call the attention of the Contractor to faulty work or infringements upon the plans or specifications shall not constitute acceptance of said work. Furthermore, visits, observations and inspections by the engineer or inspector shall not relieve the Contractor of his/her obligation to conduct comprehensive inspections of the work and to furnish materials and perform acceptable work and to provide acceptable safety precautions, in conformance with the intent of the contract.

An inspector will not be authorized to approve or accept any portion of the work or to issue instructions contrary to the plans and specifications. The inspector will have authority to reject defective material and to suspend any work that is being improperly done, subject to the final decision of the engineer. The inspector will exercise such additional authority as may, from time to time, be specifically delegated to him/her by the engineer.

103.3.00 Responsibilities of the Contractor

The contractor shall do all the work and furnish all labor, materials, supervision, inspections, equipment, tools and machines necessary for the performance and completion of the project in accordance with the Contract Documents within the specified time.

The contractor shall do all cutting, fitting and patching of work that may be required to make its general parts come together properly and fit it to receive or be received by work of other contractors shown upon or reasonably implied by the Contract Documents. Requirements for additional cutting, fitting and patching, resulting from contractor's defective or ill-timed work shall not be a basis for additional cost to the Port.

If any part of the contract work depends, for proper execution or maximum durability, upon the work of any other firm, the contractor or subcontractor(s) shall inspect said work before commencing his/her own work and shall make known for approval by the Port any departures from drawings and specifications. Similarly, the contractor shall provide comprehensive and continuous supervision of personnel and inspections of the work and materials. The contractor shall not assert that the contractor was in any manner relieved of such obligations due to the presence of or involvement of other parties, such as the Port's representative, the engineer or an inspector. Failure of the contractor to observe these requirements shall bar contractor from claiming thereafter that defects in contractor's own work are due to defects in the work of others, unless contractor submits clear and convincing evidence that a thorough inspection of said other work was made before his/her own work went forward and that tests which were reasonable and customary failed to disclose the defects which later appeared.

The contractor shall employ only competent, skillful persons to do the work. The contractor shall keep on the work, during its progress, competent supervisory personnel. The contractor shall give efficient supervision to the work using the highest level of skill and attention.

The contractor shall be responsible for all expense involved in making any required changes in the plans or specifications to accommodate a substitution approved by the engineer for the convenience of the contractor or to circumvent an unforeseen difficulty in obtaining a specified article.

The contractor shall assume all responsibility for the work. As between them and the Port, the contractor shall bear all losses and damages directly or indirectly resulting to contractor, to the Port or to others on account of the character or performance of the work, unforeseen difficulties, accidents or any other cause whatsoever. The contractor shall assume the defense of, indemnify and save harmless the Port, Port Commissioners, Port volunteers, Port officers, Port employees, Port representatives, the engineer and inspector from all claims, liability, loss, damage and injury of every kind, nature and description, directly or indirectly resulting from the contractor's activities in the performance of the contract, the ownership, maintenance or use of motor vehicles in connection

therewith, or the acts, omissions, operations, or conduct of the contractor or any subcontractor under the contract, or in any way arising out of the contract, irrespective of whether fault is the basis of the liability or claim, and irrespective of whether any act, omission or conduct of the Port connected with the contract is a condition or contributory cause of the claimed liability, loss, damage or injury and irrespective of whether act, omission or conduct of the contractor or subcontractor is merely a condition rather than a cause of the claim, liability, loss, damage or injury.

If at any time during the performance of this contract, or at any time in the future, the contractor becomes aware of actual or potential problems, faults or defects in the site conditions, the contract work, any non-conformance with the project construction contract, federal, state or local law, rule or regulation, or has any objection to any decision made by or on behalf of the Port or the Engineer with respect to such condition, contract, rules or regulations, the contractor shall give prompt written notice thereof to the Port. Any delay or failure on the part of the Port to provide a response to the contractor shall neither constitute agreement with nor acquiescence to the contractor's statement of claim nor constitute a waiver of any of the Port's rights.

103.4.00 Utilities and Existing Improvements

103.4.01 General

The contractor shall make excavations and borings ahead of the work as necessary, to determine the exact location of interfering utilities or underground structures.

103.4.02 Contractor's Responsibilities

Ordinarily, utility companies responsible for facilities located within the right-of-way will be required to complete any installation, relocation, repair, or replacement prior to the commencement of work by the contractor. However, when this is not feasible or practicable or the need for such work was not foreseen, such utility company or the Port shall have the right to enter upon the right-of-way and upon any structure therein for the purpose of making new installations, changes, or repairs. The contractor shall conduct its operations so as to provide the time needed for such work to be accomplished during the progress of the work.

103.5.00 Protection of Permanent Survey Markers

The Contractor shall be responsible for the requirements of this section. See additional information on the plan sheets.

104 Control of Materials

104.1.00 Inspection Requirements

If any work should be covered up without the approval or consent of the engineer, it shall, if required by the engineer, be uncovered for examination at the contractor's expense. The Port may order re-examination of the work, and if so ordered, the contractor shall uncover the work. If such work is found to be in conformance with the Contract Documents, the Port will pay the cost of re-examination and replacement. If such work is found to be not in accordance with the Contract Documents, the contractor and his/her sureties shall correct the defective work at the contractor's and surety's expense.

105 Prosecution and Progress of Work

105.1.00 Contractor's Construction Schedule

The Contractor shall submit 3 copies of a detailed work schedule to the Port Representative at least five (5) days prior to the preconstruction conference. The construction schedule shall take into account the orderly, timely, and efficient prosecution of the work. The construction schedule shall indicate the Contractor's plan of the prosecution of the work in sufficient detail to enable both the Contractor and the Port to plan, coordinate, appraise, document, and control their respective contract responsibilities.

105.2.00 Preconstruction Conference

The Port Representative will schedule a Preconstruction conference after the Port Commission's awarding of an acceptable bid and before construction begins.

105.3.00 Commencement of Work

The Contractor shall notify the Port of the time and location that work will begin at least fourteen (14) working days prior to beginning work, or as specified in the plans or specifications.

105.4.00 Completion and Acceptance

105.4.01 Certificate of Compliance

Prior to final acceptance of the work, the Port will require a certificate in the form substantially as follows:

Certificate of Compliance

Project Title

I, _____, _____ do hereby
(name of signatory party) *(title)*

certify:

1. That all work has been performed and materials supplied in accordance with the Contract Documents for the project work, and that;
2. Not less than prevailing wages have been paid to laborers, workers, and mechanics employed on this work;
3. There have been no unauthorized substitutions of subcontractors; nor have any subcontracts been entered into without the names of the subcontractors having been submitted to the Port prior to the start of such subcontract work;
4. That no subcontract was assigned or transferred or performed by any subcontractor other than the original subcontractor, without prior notice having been submitted to the Port together with the names of all subcontractors;
5. That all claims for material and labor and other service performed in connection with these specifications have been paid;
6. That all monies due to the Industrial Accident Fund, the State Unemployment Compensation Fund, the Department of Revenue, Oregon Bureau of Labor and Industries, hospitals, and other health care providers, have been paid;
7. That the signing party has read such statement knows and understands the contents hereof and verifies the truthfulness of each statement and the whole thereof.

Contractor (authorized signature)

Date

(print name)

106 Measurement and Payment

106.1.00 Progress Payments and Retainage

106.2.00 Owner's Right to Withhold Payment

In addition to retainage amounts due the contractor, the Port shall have the right to withhold from payments due the contractor such sums as necessary, in the Port's sole opinion, to protect the Port against any loss or damage which may result from:

1. Negligence or unsatisfactory work by the contractor;
2. Failure by the contractor to perform his/her obligations, including but not limited to failure to maintain satisfactory progress of the work;
3. Third party claims filed or reasonable evidence indicating probable filing of claims;
4. Damage to the Port or another not adjusted;
5. Failure of the contractor to make proper payment to material suppliers or subcontractors;
6. Reasonable evidence that the work will not be completed within the contract time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
7. Persistent failure to carry out the work in accordance with the Contract Documents; or
8. Subsequently discovered evidence or subsequent observations which nullify in whole or in part the Contractor's previous payment.

END OF SPECIAL PROVISIONS

BIDDERS CHECKLIST

**PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINA PARK**

MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

To all Plan Holders and/or Prospective Bidders:

Use the following checklist to ensure that your bid package is complete upon submittal to the Owner on the date listed in the Invitation to Bid. This checklist has been prepared and furnished to aid Bidders in including all necessary supporting information with their bid. Bidder's submittals shall include, but are not limited to, the following:

- | | Checked |
|---|---------|
| 1. Contractor's cover letter and statements about the firm. | _____ |
| 2. Proposal (Bid) Fully Executed. Complete the Proposal, including forms and inserts, in clearly written ink or typed characters. Changes may be made provided all changes are initialed. | _____ |
| 3. Acknowledgement of Addenda (on Proposal). Acknowledge receipt of all Addenda. Bidders are strongly encouraged to contact the Port to verify that all addenda are in hand prior to submittal of the bid package. | _____ |
| 4. Bidder's Bond or other Security. Include an executed Bid Bond or other acceptable Bid Security in the amount of ten percent (10%) of the total bid amount. | _____ |
| 5. Power-of-Attorney for Surety's Agent to execute Bidder's Bond. | _____ |
| 6. Complete and submit the First-tier Subcontractors Disclosure Form prior to the time listed in the advertisement for bids. Failure to submit the disclosure form will result in the bid being declared "non-responsive". | _____ |
| 7. Submit the bid package, prior to the Bid Closing time, at the place indicated in the Invitation to Bid. The bid package shall be enclosed in an opaque, sealed envelope, marked with the project title, date of the opening, and the name and address of the Bidder. | _____ |

PROPOSAL – PRICE SCHEDULE – BID SHEET

| | Line Items | Quantity | Unit | Unit Cost | Total Cost |
|---------------------------------|--|----------|------|-----------|------------|
| A1 | Mobilization | 1 | LS | | |
| A2 | Temporary Traffic Control | 1 | LS | | |
| A3 | Erosion Control | 1 | LS | | |
| A4 | Removal of Existing Structures and Obstructions | 1 | LS | | |
| A5 | Clearing and Grubbing | 1 | LS | | |
| A6 | General Excavation | 450 | CY | | \$ |
| A7 | 8-inch Pipe, PVC ASTM D3034 SDR 35, Bedding Type D | 10 | LF | | \$ |
| A8 | Storm Filter Catch Basin | 1 | EA | | \$ |
| A9 | Retaining Wall (<6-feet high) | 350 | SF | | \$ |
| A10 | Pedestrian Guardrail | 70 | LF | | \$ |
| A11 | Bollards | 4 | EA | | \$ |
| A12 | Saw Cutting | 620 | LF | | \$ |
| A13 | Aggregate base, 8-inch Thick | 460 | TON | | \$ |
| A14 | Level 2, 1/2-Inch Dense, MWMAC Mixture | 280 | TON | | \$ |
| A15 | Subgrade Geotextile | 800 | SY | | \$ |
| A16 | Concrete Curb Wall | 255 | LF | | \$ |
| A17 | Concrete Curbs Standard | 610 | LF | | \$ |
| A18 | Concrete Sidewalk | 4540 | SF | | \$ |
| A19 | Concrete Pavement | 150 | SF | | \$ |
| A20 | Vehicular Concrete | 160 | SF | | \$ |
| A21 | Curb Ramp | 3 | EA | | \$ |
| A22 | Stripe Removal | 1 | LS | | \$ |
| A23 | Parking Striping | 2150 | LF | | \$ |
| A24 | Seeding | 180 | SY | | \$ |
| A25 | Topsoil | 20 | CY | | \$ |
| A26 | New Pay Station | 1 | EA | | \$ |
| A27 | Readjust Existing Pay Station | 1 | EA | | \$ |
| A28 | Electrical Service, Complete | 1 | LS | | \$ |
| A29 | Relocating Water Structures | 1 | LS | | \$ |
| A30 | Sign Installation | 1 | LS | | \$ |
| A31 | Recast Concrete Wheel Stop | 2 | EA | | \$ |
| A32 | Reinstall Flagpole | 1 | LS | | \$ |
| TOTAL BID (Lines A1-A32) | | | | | \$ |

By (Bidder Name)

Date

By signing this Bid, Bidder certifies, acknowledges, understands and agrees to be bound by the unit pricing as submitted, as well as all terms, conditions and provisions set forth in this solicitation.

PROPOSAL

**PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK**

MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

TO: *Miriam House, Operations Manager*
Port of Columbia County
100 E Street
Columbia City, Oregon 97018

Contractor _____

Address _____

City, _____ State, _____ Zip _____

Email _____ Phone _____

Contractor's State License No. _____

Contractor's State Tax Reg. No. _____

Federal Tax ID No. _____

This Proposal is submitted as an offer by the undersigned, having examined the Contract Documents and considered all conditions to be encountered, to enter into an Agreement with Port of Columbia County ("Port") to furnish all labor, materials, and equipment, and to perform all work necessary to complete this project, in accordance with the Contract Documents, in consideration of the amounts stated in this Proposal.

Owner: Port of Columbia County

Project Name: SBMP Marina Improvements Project Upland Phase 1

Project Location: 57420 Old Portland Rd, Warren, Oregon, 97053

Engineer: KPFF Consulting Engineers

Engineer Project Number: 2000399

Geotechnical Engineer: GRI

Electrical Engineer: PAE Engineers

BIDDERS DECLARATION

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this proposal are those named herein, that this proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the Port, and that the proposal is made without any connection or collusion with any person making another proposal on this contract.

The Bidder further declares that they have carefully examined the Contract Documents for the construction of the project, that they have personally inspected the site, that they are satisfied as to the quantities involved, including the fact that the description of the quantities of work and materials, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the Contract Documents, and that this proposal is made according to the provisions and under the terms of the Contract Documents, which documents are hereby made a part of this proposal.

The Bidder further declares that the provisions required pertaining to prevailing wage rates shall be included in his contract and will be complied with.

The Bidder further agrees that they have exercised his own judgment regarding the interpretation of subsurface information and has utilized all data which they believe to be pertinent from the Engineer, Port and other sources in arriving at his conclusions.

CONTRACT EXECUTION

The Bidder agrees that if this proposal is accepted, they will, within ten (10) days, not including Sundays, and legal holidays, after notice of award, sign the contract in the form annexed hereto, and will at that time, deliver to the Port the "Performance Bond" and the "Payment Bond," required herein, and will to the extent of his proposal, furnish all machinery, tools, apparatus, and other means of construction and do the work and furnish all the materials necessary to complete the work in the manner, in the time, and according to the methods specified in the Contract Documents and required by the Engineer thereunder.

In the event that the Bidder shall fail to enter into a contract within such time, the bid security in the amount of _____, deposited herewith, shall be retained by the Port and it is agreed that said sum is a fair measure of the amount of damage that the Port will sustain because of such failure to enter into a contract.

CONSTRUCTION TIME LIMITS:

The Bidder agrees to begin work within ten (10) calendar days after the date of the Port's written Notice to Proceed and to substantially complete the construction of all work within ninety (90) calendar days. Contract time will commence on the Notice to Proceed date.

In the event that certain items not required for substantial completion, as defined in the Supplementary Conditions herein, but required for final completion of the work as put forth in this Contract Document fail to arrive at the work site in time to be properly installed during normal working hours within the time allowed for substantial completion of the work, then an allowance of not more than thirty (30) calendar days following the receipt of the last item required will be given to the Contractor to effect the final completion of said work.

LIQUIDATED DAMAGES:

The Port shall be entitled to liquidated damages for failure of the Bidder to complete the work within the specified contract time.

A. The Bidder further agrees to pay liquidated damages in the amount of \$500.00 per day for failure to complete the work within the specified contract time and for expenses incurred by the Port for unscheduled employment of the Engineer during the contract time overrun.

B. As compensation for non-use, the Contractor shall be assessed a liquidated damage of \$500.00 per calendar day for each day that the work remains uncompleted beyond the contract period. As compensation for expense incurred for unscheduled employment of the Engineer, the Contractor shall be assessed an additional liquidated damage equal to the expense incurred for each day that the work remains uncompleted beyond the contract period. The liquidated damage amounts shall also apply to phase or work areas that have limited or specific time constraints.

C. The Bidder further agrees to pay liquidated damages according to the Engineer's hourly rates for the unscheduled employment of the Engineer necessitated by the Contractor:

1. Working more than nine (9) hours per day, more than five (5) days per week and Saturdays (time and one-half), and holidays, and Sundays (double time).
2. Furnishing materials or equipment not in conformance with Contract Documents necessitating redesign by the Engineer.
3. Working beyond the time of completion established in the Notice to Proceed with Construction.

D. The Engineering budget will be analyzed at the end of the project to determine whether any unscheduled employment of the Engineer, during the scheduled contract time, resulted in a cost savings to the Port. If, as a result of working more than nine hours per day, five days per week, the Contractor completes the project within the scheduled time, and if the overtime results in a reduced contract time and cost savings to the Port, no liquidated damages will be assessed for the unscheduled employment of the Engineer during the scheduled contract time. Liquidated

damages will be assessed as stipulated for each day the work remains uncompleted beyond the scheduled contract time.

STATEMENT OF PROPOSED SUBCONTRACTORS:

The Bidder will list all proposed subcontractors by their proper corporate name and the portion of the work the subcontractor intends to perform in the spaces provided below.

The Port reserves the right to reject any subcontractor that the Port deems unfit for the scope of the work proposed.

| | Subcontractor | Work to be performed |
|-----|---------------|----------------------|
| 1. | _____ | _____ |
| 2. | _____ | _____ |
| 3. | _____ | _____ |
| 4. | _____ | _____ |
| 5. | _____ | _____ |
| 6. | _____ | _____ |
| 7. | _____ | _____ |
| 8. | _____ | _____ |
| 9. | _____ | _____ |
| 10. | _____ | _____ |

UNIT PRICES:

The Bidder further proposes to accept as full payment for the work proposed herein the amounts computed under the provisions of the Contract Documents and based on the following lump sum price or unit price amounts. The Bidder agrees that the lump sum prices or unit prices represent a true measure of the labor and materials required to perform the work, including all allowances for overhead and profit for each type and unit of work called for in these Contract Documents. The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

All blanks on the Proposal must be completed by clearly printing in ink or by typewriter. Changes may be made provided that the Bidder initials all changes.

All items in the proposal form shall be completed in full showing a unit or lump sum price or prices for each and every item. The price per item shall be clearly shown in the space provided.

BASIS OF AWARD:

Bidders must bid all portions of the work. The bidder understands that the award shall be made to the lowest responsible and responsive bidder. The Port reserves the right to withdraw any item(s) or Alternates from award consideration.

INSERT PROJECT SCHEDULE / TIMELINE

INSERT PROOF OF AUTHORITY TO TRANSACT BUSINESS IN OREGON

INSERT REFERENCE PAGE HERE

Submit at least three (3) references (other than the Port) for contracts/projects similar in scope to this requirement. References should be for current work or projects completed within the last five (5) years.

Include the following information:

- Firm Name
- Contact Name & Title
- Email Address
- Phone number
- Project Location
- Project Title
- Nature of Work
- Year Completed
- Contract Price (List initial and final or projected)
- *****

You may list additional references and/or examples of experience

BID BOND:

Accompanying this Proposal is a certified check, cashier's check or bid bond payable to the Port of Columbia County, in the sum of _____ Dollars (\$_____), said amount being equal to ten percent (10%) of the Total Bid Amount, based on the foregoing prices. If this proposal shall be accepted by the Port of Columbia County and the undersigned shall fail to execute a satisfactory Public Improvement Contract, performance bond, and payment bond within seven (7) days from the date of the Notice of Award, then the Port may, at its option, determine that the undersigned has abandoned the Contract and thereupon this proposal shall be null and void, and the above check or bond accompanying this proposal shall be forfeited to and become the property of the Port.

PUBLIC WORKS BOND:

For projects over \$100,000, before starting work on a contract or subcontract for a public works project, a contractor or subcontractor shall file with the Construction Contractors Board a public works bond with a corporate surety authorized to do business in this state in the amount of \$30,000. The bond must provide that the contractor or subcontractor will pay claims ordered by the Bureau of Labor and Industries to workers performing labor upon public works projects. (ORS 279C.836).

PREVAILING WAGE STATEMENT:

The undersigned bidder declares by the signing of this Proposal that the provisions required by ORS 279C.840 pertaining to prevailing wage rates are included in this Proposal, and that the bidder will comply with said requirements throughout the duration of the contract.

NON-DISCRIMINATION STATEMENT:

By signing and submitting this Proposal to the Port, the Bidder certifies that, per OAR 137- 046-0210, it has not discriminated against any minority, women, or emerging small business enterprises in obtaining any subcontracts.

ADDENDA:

By signing and submitting this Proposal to the Port, bidder represents that it has examined and carefully studied the Contract Documents, and other data identified in the Contract Documents, and the following Addenda, receipt of which is hereby acknowledged:

| <i>ADDENDUM NO.</i> | <i>ADDENDUM DATE</i> |
|----------------------------|-----------------------------|
| | |
| | |
| | |

SIGNATURE OF BIDDER:

Name of Bidder: _____

Signature of Authorized Agent: _____

(Date) _____

Title: _____

(SEAL)

Business Address: _____

Phone #: _____

Construction Contractors Board Registration No _____

Workers Comp. Insurance Company: _____

Workers Comp. Policy/Binder Number: _____

RESIDENCY INFORMATION

Bidder is a () Resident Bidder () Non-Resident Bidder

If a Resident Bidder, enter your Oregon business address:

If a Non-resident Bidder, enter State of residency:

**PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK
MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1**

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

For projects with a contract value of more than \$100,000, this form must be submitted at the location specified in the Invitation to Bid on the advertised bid closing date within two (2) working hours after the advertised bid closing time.

List below, the "Name" "Dollar Value" and "Category of Work" of each subcontractor that:

- (A) Will be furnishing labor or will be furnishing labor and materials in connection with the public improvement; and
- (B) Will have a contract value that is equal to or greater than five percent (5%) of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid.

Enter "NONE" if there are no subcontractors that need to be disclosed (if needed attach additional sheets).

| SUBCONTRACTOR NAME & ADDRESS & PHONE NUMBER | DOLLAR VALUE | CATEGORY OF WORK |
|--|--------------|------------------|
| | (\$) | |
| | (\$) | |
| | (\$) | |
| | (\$) | |
| | (\$) | |
| | (\$) | |
| | (\$) | |

FAILURE TO SUBMIT THIS FORM BY THE DISCLOSURE DEADLINE WILL RESULT IN A NONRESPONSIVE BID. A NONRESPONSIVE BID WILL NOT BE CONSIDERED FOR AWARD.

Form submitted by (Bidder name) _____

Contact Name: _____ Phone #: _____

NOTE: Faxed or email copies of this form will not be accepted.

BID BOND

**PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINA PARK
MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1**

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned,

as Principal and _____ as Surety are hereby held and firmly bound unto _____ as OWNER in the penal sum of _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed this _____ day of _____ 20_____.

The Condition of the above obligation is such that whereas the Principal has submitted to _____ a certain BID attached hereto and hereby made a part hereof to enter into a contract in writing, for the

NOW, THEREFORE,

- (a) If said BID shall be rejected, or
- (b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (property completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

_____(L.S.) _____
Principal Surety

By: _____

IMPORTANT- Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

SECTION II – CONTRACT INFORMATION

FOR

PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK

MARINA IMPROVEMENTS
PROJECT UPLAND PHASE 1

OWNER:



Port of Columbia County
100 E Street
Columbia City, Oregon 97018

ENGINEER:



Consulting Engineers
111 SW 5th Ave, Suite 2400
Portland, OR 97204
www.kpff.com

Portland,

June 2024

SCAPPOOSE BAY MARINE PARK
UPLAND IMPROVEMENTS PROJECT PHASE 1
AGREEMENT

THIS Agreement (“Agreement”), is entered into this ____ day, of _____, 2024, by and between _____ (“Contractor”), with an address of _____, and the PORT OF COLUMBIA COUNTY, a municipal corporation and Port District of the State of Oregon, with an address of P.O. Box 190, Columbia City, Oregon 97018 (“the Port”).

NOW, THEREFORE, in consideration of the mutual undertakings and subject to the terms set forth below and intending to be legally bound, the parties agree as follows:

1. **SERVICES:** The Contractor will be effective on the date last signed below. However, Contractor shall not commence work on **the Scappoose Bay Marine Park, Marina Improvements Project Upland Phase 1** (“Project”) until the Contractor has received a Notice to Proceed from the Port. See **Exhibit 1** (Proposal from Contractor dated _____) and **Exhibit 2** (The Port’s “Invitation to Bid” with two (2) Attachments and Addenda, if any), attached to and made a part of this Agreement, (collectively hereinafter referred to as the “Services”). This Agreement is for all Services proposed and purchased from Contractor, including labor, equipment, any necessary materials beyond those that may be provided by the Port, overhead, ancillary costs, profit, and any other aspect of performance contemplated in this Agreement.

2. **COMPENSATION AND PAYMENT:** See **Exhibit 1** for reference. The total cost for the Services is agreed to be \$ _____, for all services subject to additional costs or credits as jointly agreed upon by Contractor and Port, per Section 6. The Contractor agrees to perform all the Services described in **Exhibit 1** and **Exhibit 2** no later than June 30th, 2025. The Port retains the right to calculate and hold back retainage until such time as full performance of all project Services is confirmed by the Port.

3. **INDEPENDENT CONTRACTOR:** Contractor shall be fully independent and shall not act as an agent or employee of Port. Contractor shall be solely responsible for its employees and subcontractors, and for their compensation, benefits, contributions, and taxes, if any. Contractor to comply with all applicable regulations of the Oregon Bureau of Labor and Industries (BOLI), as may be required by law.

4. **INSURANCE:** Contractor shall carry Worker’s Compensation Insurance as required by applicable law and Commercial General Liability and Automobile Liability Insurance for bodily injury and property damages. Contractor shall procure, and continuously maintain during the term of this Agreement, Commercial General Liability and Automobile Liability Insurance with combined single limits, or their equivalent, of not less than \$2,000,000.00 for each occurrence and a \$4,000,000.00 aggregate for bodily injury and/or property damage. It shall also include contractual liability coverage for the indemnity provided under this Agreement, shall name the Port as an Additional Insured under the liability provisions, and shall be in sufficient form to

protect both Contractor and Port against claims of third persons for personal injury, death or property damage arising from the service performed by Contractor pursuant to this Agreement. Contractor is to provide proof of such insurance in the form of a Certificate or similar instrument prior to contract execution. The Port requires and shall be entitled to any broader coverage and/or higher policy limits maintained by the Contractor. Any and all available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Contractor.

5. PUBLIC WORKS CONTRACTS AND CONTRACT SPECIFICATIONS -- REQUIRED CONDITIONS: Contractor understands and agrees or certifies that:

A. They are registered, licensed and bonded as a specialty or general contractor in the State of Oregon and that such registration license and bond shall remain in full force and effect throughout the entire duration of this contract.

B. If the contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the contractor or a subcontractor by any person, or the assignee of the person, in connection with the public works contract as such claim becomes due, the proper officer or officers of the public agency may pay such claim and charge the amount of the payment against funds due or to become due the contractor by reason of the contract, per ORS 279C.515.

C. No person will be employed for more than 10 hours in any one day, or 40 hours in any one week except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases the person so employed must be paid at least time and one-half the regular rate of pay for all time worked:

(1) For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or

(2) For all overtime in excess of 10 hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and

(3) For all work performed on Saturday and on any legal holiday specified in ORS 279C.540, and per ORS 279C.520 (1).

D. The contractor must give notice to employees who work on this contract in writing, either at the time of hire or before commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work, per ORS 279C.520 (2).

E. The contractor must promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to employees of such contractor, of all sums which the contractor agrees to pay for such services and all moneys and sums which the contractor collected or deducted from the wages of the contractor's employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service, per ORS 279C.530.

F. The contractor is required to have a public works bond filed with the Construction Contractors Board before starting work on the project, unless exempt under ORS 279C.836(4), (7), (8) or (9), and require such a bond in every subcontract unless exempt under the same ORS provisions.

6. **CHANGES:** To be coordinated and negotiated by Port and Contractor before commencement of any work identified as a result. The Contractor is to communicate the additional requirement(s) prior to commencement of any additional work and to provide an

estimate of expected time and costs for the expected additional work. Upon receipt, and after review and agreement, the Port will issue a change order authorizing the additional work. Based on the change order, supplemental compensation may be authorized per Section 2. Likewise, should any work specified in **Exhibit 1** and **Exhibit 2** be determined not to be necessary or desired in the course of the project, the initiating party will notify the other and a change order will be produced and signed. In that case, a credit to the Port may be authorized per Section 2.

7. **PORT RESPONSIBILITIES:** The Port agrees to: (i) provide Contractor all available material, data, and information pertaining to the Project or the Services; (ii) convey and discuss such material, data and information with Contractor; (iii) ensure cooperation of Port employees; and (iv) assist in a liaison capacity with any tenants currently leasing or renting any facilities, buildings or other structures that may be impacted by the Services.

8. **OWNERSHIP OF DOCUMENTS.** Port will own the documents and data prepared and/or compiled by Contractor pursuant to this agreement, including working papers, drawings, and other material necessary for complete understanding of the plans. Contractor hereby conveys, transfers, and grants to Port all copyrights and rights of reproduction to all such documents. Port agrees not to assign or transfer the drawings which would duplicate the work product represented in the drawings at another location without the written consent of the Contractor. Contractor shall retain the right to reproduce the documents for purposes related to this project, for Contractor's archival records, and for marketing purposes. Within 120 days of the completion of the project, the Contractor will provide to the Port one reproducible set of as-built drawings based on mark-ups by the Contractor, which are reviewed for general conformance by the Contractor and appropriate consultants. In addition, Contractor will provide to the Port digital copies of construction documents.

9. **GUARANTEE.** Contractor guarantees all work under this Agreement against all defects in materials and workmanship. This guarantee shall extend from the date of completion by the Port for the period of a minimum of one year, or longer, if so specified. Contractor shall promptly make all necessary repairs or replacements to correct any defects in workmanship or materials for which notice in writing has been sent to the Contractor from the Port's Contract Representative within the guarantee period. In the event Contractor fails to take any action to correct conditions covered by this guarantee promptly after notice of such condition, the Port may do so, and Contractor and its surety shall be liable for the cost thereof. Normal wear and tear and the results of accidents not chargeable to Contractor or its agents are excluded from the above requirements.

10. **INDEMNIFICATION:**

A. Contractor agrees to indemnify, hold harmless, and defend Port, including its Commissioners, officers, and employees, (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 and which arise from any of the following, except and to the extent resulting from the Port's gross negligence or willful misconduct: (a) any act, omission or negligence of the Contractor or the Contractor's partners,

officers, directors, agents, employees, invitees or Subcontractors; (b) any use, occupation, management or control of Port property by the Contractor or the Contractor's employees, agents, subcontractors, or suppliers, whether or not due to the Contractor's own act or omission and whether or not occurring on Port property; (c) any condition created on Port property by the Contractor or the Contractor's employees, agents, Subcontractors, or suppliers, and any accident, injury or damage arising from the condition; (d) any breach, violation or nonperformance of any of the Contractor's obligations under this Contract; or (e) any damage caused by the Contractor or the Contractor's employees, agents, subcontractors, or suppliers on or to Port property.

B. Waiver of Subrogation. Each party waives any right of action that it and/or its insurance carrier(s) might have against the other party (or its 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 Agreement. 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.

11. **SITE ACCESS:** The Port shall provide unimpeded and timely access to any site necessary for the successful and timely completion of Services per this Agreement.

12. **SAFETY:** It is the responsibility of the Contractor to furnish safety devices and safeguards to its employees as well as any other workers under its direct supervision. Furthermore, the Contractor shall adopt and use safe practices, methods, operations and processes while performing the Services under this contract. The Contractor is liable for all fines, including fines and costs incurred by the Port due to labor and industry violations directly attributable to the Contractor.

13. **SEVERABILITY:** If any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of Contractor and Port shall be construed as if this Agreement did not contain the particular term or provision held invalid.

14. **GOVERNING LAW:** This agreement shall be governed by, interpreted under and construed and enforced in accordance with the laws of the State of Oregon. Any litigation arising out of this agreement shall be brought in Columbia County, Oregon, with the substantially prevailing party entitled to it legal fees and costs including but not limited to those incurred in negotiation, mediation, arbitration, litigation and appeal.

15. **FORCE MAJEURE:** Neither party shall be liable for any delay or inability to perform caused by: act of God; extremely adverse weather conditions, strikes or labor troubles, hostilities, war or government action; act of terrorism; riot or civil commotion; fire or explosion; and/or any other similar or dissimilar circumstances which arises and is not within the direct control of a party.

16. **COUNTERPARTS:** This agreement may be executed in counterparts each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument. A facsimile or PDF electronically sent signature hereto shall be deemed equivalent

to an original.

17. **TERMINATION FOR CONVENIENCE:** The Port may, without cause and at any time, terminate this Agreement, in whole or in part, by written notice to the Contractor. In the event of such termination, the Contractor shall be entitled to payment for work performed and demobilization. Contractor will not be entitled to any other costs, damages, or allowances for overhead or profit on work not performed or provided.

18. **LIENS:** The Contractor agrees that if any lien is filed or if a claim of any nature is asserted against the Port on account of any obligation of the Contractor, the Contractor shall, within five (5) days thereafter, at its own cost and expense, cause such lien or claim to be satisfied or discharged. The Contractor's failure to do so shall constitute a default hereunder.

19. **ATTORNEYS' FEES:** If any suit, action, or arbitration is instituted to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the other party such sums as a court may adjudge reasonable as attorneys' fees at trial, on appeal, or on any petition for review, and in any proceedings in bankruptcy or arbitration, in addition to all other sums provided by law.

20. **ENTIRE AGREEMENT:** This Agreement, with its Exhibits, constitutes the entire Agreement between Contractor and Port for the Services as defined in section 1, above. All understandings and agreements between Contractor and Port and representations by either party concerning this Agreement are contained within this Agreement. No waiver, consent, modification, amendment or change in the terms of this Agreement shall bind either party unless in writing and signed by both parties. Any written waiver, consent, modification, amendment or change only in the specific instance and for the specific purpose given.

21. **CHOICE OF LAW:** This Agreement is governed by and subjected to interpretation pursuant to the laws of the State of Oregon with venue in Columbia County Circuit Court, St. Helens, Oregon.

IN WITNESS hereof, Contractor and Port, having caused their respective duly authorized representatives to sign this Agreement, Contractor and Port hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

CONTRACTOR

PORT OF COLUMBIA COUNTY

By: _____

By: _____

Date Signed: _____

Date Signed: _____

Name: _____

Name: Sean Clark

Title: _____

Title: Executive Director

PERFORMANCE BOND

**PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK**

MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

KNOW ALL PERSONS BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____ hereinafter called Principal, and
(Corporation, Partnership or Individual)

(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto _____

(Name of Owner)

(Address of Owner)

hereinafter called OWNER, in the penal sum of _____ Dollars, \$(_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the _____ day of _____ 20_____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term thereof and any extensions thereof which may be granted by the OWNER, with or without notice to the Surety and during the one year guaranty period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alternation or addition to the terms of the contract or to the WORK to be performed hereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contractor to the WORK or the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each
(Number)

one of which shall be deemed an original, this _____ day of _____

20 _____.

ATTEST:

(Principal)

(Principal Secretary)

(Seal)

By _____ (s)

(Address)

(Witness as to Principal)

(Address)

ATTEST:

(Surety)

By _____
(Attorney-in-Fact)

(Witness as to Surety)

(Address)

(Address)

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

PAYMENT BOND

**PORT OF COLUMBIA COUNTY
SCAPOOSE BAY MARINE PARK**

MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

KNOW ALL PERSONS BY THESE PRESENTS: that

(Name of Contractor)

(Address of Contractor)

a _____ hereinafter called Principal,
(Corporation, Partnership or Individual)

and _____
(Name of Surety)

(Address of Surety)

hereinafter called Surety, are held and firmly bound unto _____

(Name of Owner)

(Address of Owner)

hereinafter called OWNER, in the penal sum of _____ Dollars, \$(_____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the OWNER, dated the _____ day of _____ 20_____, a copy of which is hereto attached and made a part hereof for the construction of:

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, SUBCONTRACTORS, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by SUBCONTRACTOR or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety for value received hereby stipulates and agrees that no change, extension of time, alternation or addition to the terms of the contract or to the WORK to be performed hereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the WORK or the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in _____ counterparts, each
(Number)

one of which shall be deemed an original, this _____ day of _____
20 _____.

ATTEST:

(Principal)

(Principal Secretary)
(Seal)

By _____(s)

(Address)

(Witness as to Principal)

(Address)

ATTEST:

(Surety)

By _____
(Attorney-in-Fact)

(Witness as to Surety)

(Address)

(Address)

NOTE: Date of BOND must not be prior to date of Contract. If CONTRACTOR is Partnership, all partners should execute BOND.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the PROJECT is located.

SECTION III – GENERAL CONTRACT CONDITIONS

FOR

PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK

MARINA IMPROVEMENTS
PROJECT UPLAND PHASE 1

OWNER:



Port of Columbia County
100 E Street
Columbia City, Oregon 97018

ENGINEER:



Consulting Engineers
111 SW 5th Ave, Suite 2400
Portland, OR 97204
www.kpff.com

June 2024

PORT OF COLUMBIA COUNTY
GENERAL CONTRACT CONDITIONS

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DEFINITIONS

For the purposes of this Contract, terms are defined in the Agreement and in this article and may be defined in the Specifications or Drawings. Unless the context clearly requires otherwise, or the term is expressly defined otherwise for a particular purpose, the following definitions apply throughout this Contract.

Act of God - Any misadventure or casualty caused by the direct, immediate, and exclusive operation of the forces of nature, uncontrolled and uninfluenced by the power of man and without human intervention, which could not have been prevented or escaped by any amount of foresight or prudence, by any reasonable degree of care, or by the aid of any appliances reasonably required under the circumstances. A meteorological event, including but not limited to, cold, heat, rain, snow, wind, flood, or lightning, shall be rebuttably presumed not to be an Act of God if it falls within two standard deviations of the mean of records for that event maintained by the U.S. Weather Bureau for the Portland International Airport at Portland, Oregon.

Addenda - Written or graphic instruments issued prior to bid opening which clarify, correct, or change the bidding documents or this Contract.

Agreement - The written document signed by the parties and incorporating other documents.

Bid - The offer or proposal of the bidder submitted on the prescribed form setting forth the price(s) for the Work to be performed.

Change Order - A written amendment to this Contract which authorizes an addition, deletion, or revision to the Work described in this Contract, and which may authorize an adjustment in the Contract Price, the Contract Time, or both.

Construction Contract Manager - An individual authorized in writing by the Port to represent the Port with respect to this Contract within the scope of the authority conferred by the written authorization.

Contract - The entire written agreement between the Port and the Contractor establishing their respective rights and obligations concerning the Work.

Contract Documents - The Contract Documents include all documents that make up this Contract, including but not limited to the Contractor's signed Bid; the Agreement; bonds; these General Conditions; the Supplementary Conditions; wage rates; the Specifications; the Drawings; the Notice to Proceed; Addenda; and Change Orders.

Contract Price - The total compensation payable to the Contractor for performing the Work as stated in this Contract and as modified by Change Order.

Contract Time - The number of days between the Work Start Date established by the Notice to Proceed and the date by which Substantial Completion of all work must be achieved under this Contract.

Contractor's Representative - An individual authorized in writing by the Contractor to represent the Contractor with respect to this Contract.

Day or Calendar Day - Any 24-hour period beginning at midnight.

Day, Business - Any Calendar Day other than Saturday, Sunday, or a holiday on which the Port's administrative offices are closed.

Defective - (1) Unsatisfactory, faulty, or deficient, (2) not conforming to this Contract, or (3) not meeting the requirements of any inspection, test, or approval required by this Contract or federal, state, or local law.

Drawings - The graphic representations which show the character and scope of the Work to be performed, which have been prepared or approved by the Port, and which are expressly incorporated into this Contract.

Final Acceptance - The Port's written acknowledgment that the Work has been fully completed and all Contract-required documentation has been received and accepted.

He, Him, His - Used solely for legibility and ease of writing and applies equally to both genders.

Law – Any statute, rule, regulation, ordinance, or order of any federal, state, or local government including, but not limited to, ordinances and resolutions adopted by the Board of Commissioners of the Port of Portland, and rules and regulations adopted in accordance with those ordinances and resolutions.

Maintenance Data – Manufacturer's catalog information, shop drawings, installation, operation, and maintenance manuals, and other information needed for operating, troubleshooting, preventive maintenance, repair, restoration, or overhaul of materials, products, systems, and equipment furnished or provided by the Contractor.

Notice to Proceed - A written notice given by the Port to the Contractor fixing the Contract Time and designating a date on which the Contractor is authorized to begin the Work.

Owner - The Port of Columbia County.

Product Data - Pictures, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate a material, product, or system for some portion of the Work.

Samples - Physical examples of material, equipment, or workmanship which demonstrate and establish standards by which the Work will be judged.

Shop Drawings - Diagrams, drawings, illustrations, instructions, and other data submitted by the Contractor to illustrate some portion of the Work.

Specifications - Those portions of this Contract consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

Substantial Completion – The completion of the work to the extent that the Port may have uninterrupted occupancy and use of the facility or specified portion thereof for the purpose for which intended. Substantial completion shall not be construed as acceptance of the work or any part thereof by the Port.

Substantial Completion - Completion of the Work, or a part of the Work designated by the Port, in accordance with this Contract, to the point where it may be utilized for the purpose for which it was intended.

Work - The labor, material, equipment, and services required by this Contract, as further defined by **Exhibit 1** (Proposal from Contractor) and **Exhibit 2** (the Port's ITB for the Project, with attachments and any addenda), attached to and made a part of this Contract, and collectively hereinafter referred to as the "Work". This Contract is for all Work proposed and purchased from Contractor, including labor, equipment, any materials beyond those that may be provided by the Port, permits, overhead, ancillary costs, bonding, profit, and any other aspect of performance contemplated in this Contract.

Work Start Date - The day stated in the Notice to Proceed when the Contract Time will begin to run in accordance with this Contract.

ARTICLE 1 TERMINOLOGY

1.1 Unless 2.stated otherwise in this Contract, words or phrases which have a well-known technical, construction industry, or trade meaning are used in accordance with such recognized meaning.

- 1.2 Unless stated otherwise in this Contract, all specifications are directed to the Contractor. This includes statements which have no grammatical subject, as in "Install equipment plumb and level."
- 1.3 In the interest of brevity, this Contract frequently omits modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.
- 1.4 The following terms are used in this Contract: as allowed, as directed, as ordered, as required, acceptable, proper, reasonable, satisfactory, suitable. These items and any others of like effect or import describe direction, judgment, requirement, or review of the Port. Such use is solely to evaluate the Work for compliance with this Contract unless there is a specific statement otherwise. The use of such terms never indicates the Port has authority to supervise or direct performance of the Work.
- 1.5 The words, "Furnish," "Install," "Perform," and "Provide" shall have the following meanings for the purposes of this Contract. When such verbs are not used in connection with services, materials, or equipment in a context clearly requiring an obligation on the part of the Contractor, "provide" is implied.
 - A. Furnish shall mean to supply and deliver services, materials, or equipment to the Work site (or other specified location) ready for use or installation and in usable or operable condition.
 - B. Install shall mean to put into use or place in final position services, materials, or equipment complete and ready for intended use.
 - C. Perform or provide shall mean to furnish and install services, materials, or equipment complete and ready for intended use.

ARTICLE 2 PRELIMINARY MATTERS

COMMENCEMENT OF CONTRACT TIME

- 2.1 The Contract Time will commence to run on the Work Start Date stated in the Notice to Proceed. Unless provided otherwise by the Agreement, the Work Start Date may be any date within 45 days after the Port delivers the executed Contract to the Contractor.

BEFORE STARTING CONSTRUCTION

- 2.2 Generally, a preconstruction meeting to establish a working understanding among the parties will be held before the Contractor begins the Work. Procedures will be established for operations coordination and administrative communication for matters such as submittals, clarifications and interpretations, and Change Orders; and for processing applications for payment. At this meeting, the Contractor shall submit to the Port for review a preliminary work progress schedule, a submittal schedule, and contractor safety information.
 - A. The preliminary work progress schedule shall be finalized and submitted to the Port one week after the preconstruction meeting. Unless specified otherwise, the work progress schedule shall indicate the Contractor's planned progress in increments of not more than 15-day periods. The schedule will be subject to review and comment by the Port. The Contractor shall prepare and submit revisions to match actual and projected progress at no more than 15-day intervals, or as requested by the Port, before and during the course of the work, at no added cost to the Port. The Contractor shall adhere to the most recent version of the schedule.
 - B. Prior to commencement of work, the Contractor shall submit contractor safety information for safety planning purposes. The Port expects that the Contractor will abide by all Oregon OSHA requirements and the Contract in order to provide for the safety of the Contractor's employees, Port employees, tenants, and the general public. Work performed by Subcontractors shall be addressed at the same

time. The Contractor shall also include applicable company policies, procedures, or plans. Material safety data sheets (MSDS) for chemical products introduced to Port premises need not be submitted with this information but shall accompany the Contractor on site and be available to the Port upon request.

- 2.3 In the case of a lump-sum agreement or lump-sum bid items, the Contractor shall, no later than one week after receipt of the Notice to Proceed, submit to the Port a detailed breakdown of the amount of each item used in the compilation of the bid. The breakdown format shall be sufficiently detailed to meet the approval of the Port, and to serve as the basis for progress payment requests. The detailed breakdown may be used in the compilation of Change Order prices when such breakdown is determined by the Port to be applicable and consistent with accepted construction practice.
- 2.4 Before undertaking each part of the Work, the Contractor shall carefully study and compare this Contract and check and verify pertinent figures shown therein and all applicable field measurements. The Contractor shall promptly report in writing to the Port any conflict, error, or discrepancy that the Contractor may discover.

ARTICLE 3 – CONTRACT DOCUMENTS

INTENT

- 3.1 This Contract is complementary; what is called for by one element is as binding as if called for by all.
- 3.2 It is the intent of this Contract to describe the complete Work. Any labor, material, equipment, or service that may be reasonably inferred from this Contract as being required to produce the intended result shall be supplied whether or not it is expressly specified.
- 3.3 Unless expressly provided otherwise, specific requirements in other areas of the project manual take precedence over less rigorous requirements in the General Conditions.
- 3.4 Clarifications and interpretations of this Contract will be issued by the Port. They will be consistent with or reasonably inferable from the overall scope of this Contract.
- 3.4 This Contract is unique. Labor, material, equipment, or services approved for other Port work may not necessarily be approved for this Contract.
- 3.6 Pursuant to ORS 81.105, Oregon law applies to this Contract. In the event ORS 81.105 is deemed invalid or inapplicable, the parties agree that Oregon law applies to this Contract.
- 3.7 All provisions of this Contract are separable and independent of the others. If any provision of this Contract, including but not limited to any provision of a document incorporated by reference, is declared invalid for any reason, the remainder of this Contract shall remain valid and in full force and effect.

REFERENCE STANDARDS

- 3.8 Unless expressly provided otherwise, references to standard specifications, manuals, or codes of any technical society, organization, or association, or to the codes of any governmental authorities, shall mean the latest version or edition in effect on the effective date of this Contract. Such reference may be specific or implied. No provision of any referenced standard specification, manual, or code shall change the duties and responsibilities of the Port, the Contractor, or any of their employees, contractors, subcontractors, or agents from those set forth in this Contract.

REPORTING DISCREPANCIES

- 3.9 If, during the performance of the Work, the Contractor discovers any conflict, error, ambiguity, or discrepancy within this Contract, the Contractor shall report it to the Port, in writing, at once. The Contractor

shall proceed with the affected Work after receiving clarification or interpretation from the Port. The Contractor shall not be liable to the Port for failure to report any conflict, error, ambiguity, or discrepancy in this Contract unless the Contractor factually knew or reasonably should have known of the conflict, error, ambiguity, or discrepancy.

REUSE

3.10 Neither the Contractor nor any Subcontractor, manufacturer, fabricator, supplier, or distributor shall have or acquire any title to or ownership rights in any of the Drawings, Specifications or other documents, or copies thereof, prepared by or for the Port. They shall not reuse any of them for any purpose unrelated to this Contract without the prior written consent of the Port and of any other person with an intellectual property interest in the documents. All work, including documents, drawings, specifications, or other, whether in hard copy or electronic form, prepared by Contractor, Subcontractor, manufacturer, fabricator, supplier, or distributor shall be the property of the Port and are instruments of service in respect of the Project. The Port will have the right to use any and all work for the current Project or for any other use. Contractor will not be responsible for the information in the documents that is used for any purpose beyond the original contract and any amendments or modifications to that contract.

ELECTRONIC DOCUMENTS

3.11 Because electronic documents are subject to data erosion, erasure, and alteration, the Port makes no warranties or representations regarding the integrity or completeness of any electronic document it provides. Because computer software may become obsolete with time, the Port makes no warranties or representations regarding the ability to access electronic documents it provides. The Port makes no warranties or representations regarding the presence or absence of computer viruses in electronic documents it provides; any person using an electronic document provided by the Port should have the document and supporting medium (e.g. disk, CD, or tape) checked for computer viruses before using it in a manner that might allow the spread of a computer virus. All or parts of electronic documents provided by the Port may be copyrighted, and those using them are responsible for determining the existence of copyrights and for obtaining permission to copy copyrighted material. Those using electronic documents provided by the Port do so at their own risk.

ARTICLE 4 – AVAILABILITY OF LANDS; PHYSICAL CONDITIONS; REFERENCE POINTS

AVAILABILITY OF LANDS

4.1 The Port will provide access to: (1) lands upon which the Work shall be performed, (2) rights-of-way for access thereto, and (3) such other lands designated in this Contract for the use of the Contractor. Any easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by the Port, unless otherwise provided in this Contract.

PHYSICAL CONDITIONS – INVESTIGATIONS, REPORTS, AND TESTS

4.2 Investigations, reports, or tests which the Port may make available to the Contractor are the Port's best-known information at the time the Work is designed. However, the Port makes no warranty or representation regarding accuracy or completeness unless the investigations, reports, or tests have been made a part of this Contract.

DIFFERING SITE CONDITIONS

4.3 The Contractor shall promptly notify the Port in writing of any conditions at the site differing materially from those shown in this Contract. The Port will promptly review those differing conditions and advise the Contractor in writing if further investigation or tests are necessary. The Port will obtain any necessary additional investigations and tests. If the conditions differ materially from those shown in this Contract or

from what reasonably could have been anticipated by the Contractor, this Contract may be amended to allow additional compensation, time, or both as reasonably necessary to accommodate the differing conditions.

REFERENCE POINTS

- 4.4 The Port will provide engineering surveys and establish those reference points necessary for the Contractor to lay out the Work. The Contractor shall: (1) lay out the Work, unless otherwise specified in this Contract, (2) protect and preserve the established reference points, and (3) make no change or relocation of the reference points without the prior written approval of the Port. The Contractor shall report to the Port whenever any reference point is lost, destroyed, or requires relocation. At no additional cost to the Port, the Contractor shall be responsible for the accurate replacement or relocation of reference points lost or destroyed without Port approval. Such replacement shall be by a registered land surveyor approved by the Port.

ARTICLE 5 BONDS AND INSURANCE

BONDS

- 5.1 The Contractor shall furnish a performance bond in an amount equal to the Contract Price, as security for the faithful performance of, and payment of, all the Contractor's obligations under this Contract. The bond shall remain in effect until at least one year after the date of Final Acceptance, except as otherwise provided by Law. All bonds required under this Contract shall be executed by sureties: (1) licensed to conduct business in the State of Oregon, and (2) named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department. All bonds signed by an agent shall be accompanied by a power of attorney or other evidence of the agent's authority to act on behalf of the surety.
- 5.2 The Contractor shall substitute another bond and surety meeting the requirements of Item 5.1 within 5 days after the surety on any bond furnished by the Contractor: (1) is declared bankrupt, (2) becomes insolvent, (3) has its right to do business terminated in any state where any part of the Work is located, or (4) ceases to meet the requirements of Item 5.1.

WORKERS' COMPENSATION

- 5.3 The Contractor shall maintain workers' compensation and employer's liability insurance for all employees subject to the workers' compensation laws of the State of Oregon, meeting statutory limits mandated by State and Federal laws, unless exempt, and any other appropriate jurisdiction. In lieu of such insurance, the Contractor may maintain a self-insurance program approved by the State of Oregon and a policy of excess workers' compensation insurance in the amount required by the State, which policy includes coverage for employer's liability. The Contractor shall provide evidence of such insurance and self-insurance to the Port before commencing Work and throughout the term of this Contract.

LIABILITY INSURANCE

- 5.4 The Contractor shall maintain the following liability coverages in an amount not less than \$2,000,000 per occurrence. The Port requires and shall be entitled to any broader coverage and/or higher policy limits. Any and all available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Port. The Port shall be given not less than 30 days' written notice prior to cancellation, non-renewal, or material change of the policy. This insurance shall provide primary coverage and shall not seek any contribution from any insurance or self-insurance carried by the Port. One copy of each policy and a certificate(s) of such insurance shall be delivered to the Port before commencing Work and shall be subject to review and approval by the Port. The Port may defer delivery of the copy of

the policy, but such deferral shall not be a waiver of the Port's right to a copy of the policy. In the event the Contractor fails to maintain such insurance, the Port may, without incurring liability to the Contractor for any related costs: (1) immediately suspend the Work until the required insurance is obtained, without any increase in the Contract Price or any extension of the Contract Time, directly or indirectly attributable to the suspension; and/or (2) terminate this Contract as provided for in Item 14.4.

- A. The Contractor shall maintain commercial general liability insurance to protect against liability for bodily injury and property damage which may arise out of the Contractor's operations under this Contract. Such insurance shall include coverage for products-completed operations liability, independent contractors, contractual liability (including the tort liability of another assumed under a business contract), and all other standard coverages usually afforded by a commercial general liability policy. Such insurance shall name the Port and its commissioners, employees, agents and volunteers as additional insureds, and shall insure the Contractor's obligations under this Contract to indemnify and hold harmless the Port, its commissioners, employees, agents, and volunteers provided that the Contractor's insurer shall not be required to indemnify the Port for damages arising out of the death or bodily injury to persons or damage to property caused in whole or in part by the negligence of the Port.
- B. The Contractor shall maintain business automobile liability insurance to protect against liability arising from the use, loading, and unloading of all of the Contractor's owned, hired, and non-owned automobiles in connection with this Contract. Such insurance shall cover the Port as an additional insured, provided that the Contractor's insurer shall not be required to indemnify the Port for damages arising out of the death or bodily injury to persons or damage to property caused in whole or in part by the negligence of the Port.

BUILDER'S RISK INSURANCE

- 5.5 When this Contract pertains to work on structures owned, leased, or rented by the Port, the Contractor shall obtain and maintain for the benefit of the parties to this Contract, as their interest may appear, all-risk builder's risk insurance to the extent of 100 percent of the value of the Work. Coverage shall also include: (1) formwork in place, (2) form lumber and form components on site, (3) temporary structures, (4) equipment, and (5) supplies related to the Work. Such insurance shall be endorsed to allow partial occupancy and/or utilization of the Work by the Port prior to Substantial Completion of all the Work. Coverage shall continue until the Port's Final Acceptance of the Work. The Port shall be named as additional insured and loss payee, provided that the Contractor's insurer shall not be required to indemnify the Port for damages arising out of the death or bodily injury to persons or damage to property caused in whole or in part by the negligence of the Port. The Port shall be given not less than 30-days' written notice prior to cancellation, non-renewal, or material change of the policy. One copy of the policy and one certificate of such insurance shall be delivered to the Port before commencing Work and shall be subject to review and approval by the Port. The Port may defer delivery of the copy of the policy, but such deferral shall not be a waiver of the Port's right to a copy of the policy. In the event the Contractor fails to maintain such insurance, the Port may, at the Port's sole option, obtain and maintain such Builder's Risk Insurance at the Port's sole discretion with all costs to be reimbursed to the Port by the Contractor.

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES

ADMINISTRATION AND SUPERVISION

- 6.1 The Contractor shall supervise and direct the Work competently and efficiently, applying the skills and expertise as may be necessary to perform the Work in accordance with this Contract. The Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The Contractor shall be responsible for seeing that the finished Work complies accurately with this Contract.

- 6.2 The Contractor shall provide a competent project superintendent at the site at all times during work progress. The superintendent shall be responsible for oversight of the work being performed by the Contractor and his Subcontractors and shall be available during business hours as the primary point of contact with the Port. The project superintendent shall not be replaced without written notice to the Port.
- 6.3 The superintendent shall have the authority to receive direction from the Port on behalf of the Contractor. All communications given to the superintendent shall be as binding as if given to the Contractor. This authority shall include, but not be limited to, receipt of Port-issued documentation, taking action on Port direction not involving changes to this Contract, taking direct action in emergency situations, and implementing stop work orders issued by the Port.
- 6.4 The Contractor will provide monthly (or as agreed upon with Port Staff) reports to the Port Commission of the local employment opportunities created or estimated to be created by Operator's operations under this Contract, including employment of subcontractors and other service providers from the area of the Port District. Such reports shall be provided by a Contractor representative appearing in person and reporting directly to the Port Commission at a regularly scheduled Port Commission meeting and shall be scheduled in coordination with Port Staff in advance of such meeting. Reporting shall start when the Notice to Proceed is issued, and end upon Substantial Completion, unless otherwise determined. The intent of this provision is to make sure that Contractor uses all possible and reasonable efforts to employ subcontractors and service providers from the Port District.

LABOR AND MATERIAL

- 6.5 The Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work, and to perform construction as required by this Contract. The Contractor shall at all times maintain good discipline and order at the site.
- 6.6 The Contractor shall give not less than 24 hours' notice to the Port if work is to be performed outside normal day-shift hours or on Saturday, Sunday or any legal holiday. Emergency conditions relating to safety or protection of persons or property are valid exceptions to such notice. Specific work hour restrictions may be described in the Supplementary Conditions or Division 1.
- 6.7 Unless otherwise specified, the Contractor shall furnish for the execution, required testing, initial operation, and completion of the Work all necessary material, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, and all other facilities and incidentals.
- 6.8 All material incorporated into the Work shall be new, except as otherwise provided in this Contract. Products containing asbestos or other hazardous material, as defined by ORS 466.605, shall be used only with the Port's prior written approval. If required by the Port, the Contractor shall furnish satisfactory evidence that the kind and quality of material and equipment provided meet Contract requirements. Satisfactory evidence may include test reports.
- 6.9 The Contractor shall obtain documentation from distributors, fabricators, manufacturers, and suppliers that provide instructions for the application, cleaning, connection, erection, installation, and use of their products. The Contractor shall follow these instructions unless more stringent requirements are provided in this Contract.
- 6.10 All material provided and normally tested and labeled by an approved testing laboratory, such as Underwriters Laboratories (UL), Canadian Standards Association (CSA), or by a similarly recognized third party approval authority, shall be so labeled.

"EQUALS," AND SUBSTITUTES

- 6.11 Whenever an item of material or equipment is specified or described in this Contract by using the name of a proprietary item or the name of a particular supplier, the specification or description is intended to

establish the type, function, appearance, and quality required. Unless the specification or description indicates that no substitution is permitted, other items of material or equipment, or material or equipment of other suppliers, may be submitted to the Port for evaluation under the circumstances described below:

- A. "Equal" Items: If in the Port's sole discretion an item of material or equipment proposed by the Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by the Port as an "equal" item, in which case evaluation and approval of the proposed item may, in the Port's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:
1. It is at least equal in quality, durability, maintainability, appearance, strength, and design characteristics;
 2. It will reliably perform at least equally well the function imposed by the design concept of the completed Work as a functioning whole, and;
 3. The Contractor certifies that there is no increase in cost to the Port; and that it will conform substantially, even with deviations, to the detailed requirements of the item named in this Contract.
- B. Substitute Items:
1. If an item of material or equipment proposed by the Contractor does not qualify as an "equal" item as defined above, it will be considered a proposed substitute item. This determination will be at the Port's sole discretion.
 2. The Contractor shall submit sufficient information, as provided below, to allow the Port to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefore. The Port will not accept requests for evaluation of proposed substitute items of material or equipment from anyone other than the Contractor. The Contractor shall make the request as a submittal.
 3. The application shall certify that the proposed substitute item will adequately perform the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified.
 4. The application shall state the extent, if any, to which the use of the proposed substitute item will prejudice the Contractor's achievement of Substantial Completion on time, whether or not use of the proposed substitute item in the Work will require a change in this Contract (or in the provisions of any other affected contract with the Port for work) to adapt the design to the proposed substitute item, and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 5. The application shall identify any variations of the proposed substitute item from that specified, and shall identify available engineering, sales, maintenance, repair, and replacement services.
 6. The application shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change, all of which will be considered by the Port in evaluating the proposed substitute item.
 7. The Port may require the Contractor to furnish additional data beyond that listed above about the proposed substitute item.
 8. The Port may require the Contractor to furnish, at the Contractor's expense, a special performance guarantee or other surety with respect to any substitute.

9. No increase in the Contract Price or extension of the Contract Time will be considered when a substitution is not accepted.

C. No Substitution:

1. Materials, products, or services marked “no substitution” have been determined to be 1) manufactured from a single source only or 2) required for the efficient utilization of existing equipment or systems. Requests for substitution will not be considered for these items. Justifications for classifying these products as “no substitution” are on file as brand name exemption items in the Port’s Contracts and Procurement Office.

6.12 Port’s Evaluation: Within 10 days of any request, the Port will evaluate each application for “equal” and substitute items. The Port will be the sole judge of acceptability. No “equal” or substitute item shall be ordered, installed, or utilized until the Port’s evaluation is complete, which will be evidenced by either a Change Order for a substitute or an approved submittal for an “equal.” The Port will advise the Contractor in writing of any negative determination.

CONCERNING SUBCONTRACTORS

6.13 All subcontracts shall be subject to the provisions of this Contract insofar as applicable.

6.14 Subcontractors and suppliers shall be subject to disapproval of the Port. If the Port has reasonable objection to any of these, the Contractor shall submit an acceptable substitute. The Contractor will not be required to employ anyone against whom he has reasonable objection.

6.15 The Contractor is responsible for: (1) all acts and omissions of his Subcontractors, (2) persons and organizations directly or indirectly employed by his Subcontractors, (3) persons and organizations for whose acts any of his Subcontractors may be liable, and (4) scheduling and coordinating the work of Subcontractors, suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with the Contractor. Nothing in this Contract shall create any contractual relationship between the Port and any Subcontractor or other person or organization having a direct contract with the Contractor. Nothing in this Contract shall create any obligation on the part of the Port to pay or to see to the payment of any moneys due any Subcontractor or other person or organization, except as may otherwise be required by Law. The Port may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to the Contractor on account of specific Work completed.

6.16 The divisions and sections of the Specifications and the identifications of any Drawings shall not control the Contractor in dividing the Work among Subcontractors or delineating the work to be performed by any specific trade.

PATENT FEES AND ROYALTIES

6.17 If any design, device, material, or process covered by letters patent or copyright is used by the Contractor or is provided for the Port’s use, the Contractor shall: (1) provide for such use by agreement with the owner of the patent or copyright or a duly authorized licensee of such owner, and (2) defend, indemnify, and hold the Port harmless from all losses and expenses, including, without limitation, legal fees arising from the use of the patented or copyrighted design, device, material, or process.

PERMITS

6.18 General

- A. The Port will submit to federal, state, and local units of government all calculations and other documentation required for review and checking for purposes of obtaining permits.
- B. The Port will obtain, and pay the costs and charges of, general project permits such those related to environmental, any removal/fill requirements, and land use permitting.

- C. The Contractor shall obtain and pay all costs and charges imposed for building permits and other related permits customarily issued only to a contractor, such as electrical, mechanical, and plumbing.
- D. The Contractor shall give all notices necessary for permit-related inspections by third parties.
- E. The Contractor shall submit to the Port a legible copy of permits, certificates of approval, and certificates of occupancy issued by the responsible unit of government.

6.19 Contractor Designed Work

- A. The Contractor shall submit to the Port, for review, all calculations and other documentation required for purposes of obtaining permits for Contractor-designed work.
- B. After Port review, the Contractor shall submit to federal, state, and local units of government all calculations and other documentation required for obtaining permits. During review by units of government, the Contractor shall notify the Port of proposed deviations from the original permit documentation.
- C. The Contractor shall submit to the Port all calculations and other documentation approved by units of government.
- D. The Contractor shall pay costs and charges imposed by local units of government for permits issued to the Contractor.
- E. The Contractor shall give all notices necessary for permit-related inspections by third parties.
- F. The Contractor shall submit to the Port a legible copy of permits, certificates of approval, and certificates of occupancy issued by the responsible unit of government.

LAWS AND REGULATIONS

- 6.20 The Contractor shall comply and shall ensure that his employees and those of his Subcontractors and suppliers at every tier comply with the most current versions of applicable Laws, rules, regulations, and practices.
- 6.21 If the Contractor performs any Work knowing or having reason to know that it is contrary to any Law, the Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to the Contractor's performance or the resulting Work. The Contractor shall immediately report to the Port if performance under this Contract would violate any Law in any respect.
- 6.22 The Contractor shall adhere to the following specific provisions of the Public Contracting Code.
 - A. The Contractor shall:
 1. Make payment promptly, as due, to all persons supplying the Contractor labor or material for the performance of the work provided for in this Contract.
 2. Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or any Subcontractor incurred in the performance of this Contract.
 3. Not permit any lien or claim to be filed or prosecuted against the Port on account of any labor or material furnished.
 4. Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
 5. Demonstrate that an employee drug testing program is in place.
 - B. To the extent there is any demolition required, and during the course of construction activity, the Contractor shall salvage or recycle construction and demolition debris, if feasible and cost-effective.

- C. If the Contractor fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a Subcontractor by any person in connection with this Contract as such claim becomes due, the proper officer or officers representing the Port may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due the Contractor by reason of this Contract.
- D. If the Contractor or a first-tier Subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or material in connection with this Contract within 30 days after receipt of payment from the Port or the Contractor, the Contractor or first-tier Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-day period that payment is due under ORS 279C.580(4) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580(5). The rate of interest charged to the Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is 30 days after the date when payment was received from the Port or from the Contractor, but the rate of interest shall not exceed 30 percent. The amount of interest may not be waived.
- E. If the Contractor or a Subcontractor fails, neglects, or refuses to make payment to a person furnishing labor or material in connection with this Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580(5).
- F. No person shall be employed for more than ten hours in any one day, or 40 hours in any one week, except in cases of necessity, emergency, or where the public policy absolutely requires it, and in such cases the employee shall be paid at least time and a half pay:
 1. For all overtime in excess of eight hours a day or 40 hours in any one week when the work week is five consecutive days, Monday through Friday; or
 2. For all overtime in excess of ten hours a day or 40 hours in any one week when the work week is four consecutive days, Monday through Friday; and
 3. For work performed on Saturday, Sunday, New Year's Day on January 1, Memorial Day on the last Monday in May, Independence Day on July 4, Labor Day on the first Monday in September, Thanksgiving Day on the fourth Thursday in November, or Christmas Day on December 25, or, if one of those named holidays falls on a Sunday, on the following Monday or, if it falls on a Saturday, on the preceding Friday.
 4. The Contractor shall ensure that each employer of employees working on this Contract gives those employees the written notice required by ORS 279C.520(2) and 279C.520(5)(b), either at the time of hire or before commencement of work on this Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

The requirements of this section are subject to the exceptions established by ORS 279C.540 including, but not limited to, the exception when the Contractor is a party to a collective bargaining agreement in effect with any labor organization. When specifically agreed to under a written labor-management negotiated labor agreement, an employee may be paid at least time and a half for work performed on Martin Luther King, Jr.'s birthday on the third Monday in January, Veterans Day on November 11, and every day appointed by the Governor as a holiday.

- G. The Contractor shall promptly, as due, make payment to any person, co-partnership, association, or corporation furnishing medical, surgical and hospital care or other needed care and attention, incident to sickness or injury, to the employees of the Contractor, of all sums which the Contractor agrees to pay for such services and all moneys and sums which the Contractor collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing or paying for such service.

- H. The Contractor shall comply with the terms of the workers' compensation laws of the State of Oregon, unless exempt, and any other applicable jurisdiction. All subject employers performing work under this Contract are either employers that will comply with ORS 656.017 or employers that are exempt under ORS 656.126.
- I. In addition to the following requirements, prompt payment provisions stated in Document 007301, Supplementary Conditions for Federally Assisted Contracts, apply to all federally assisted contracts.
 - 1. The Contractor shall include in each subcontract for property or services entered into by the Contractor and a first-tier Subcontractor, including a material supplier, for the purpose of performing this Contract:
 - a. A payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under the subcontract within 10 days out of such amounts as are paid to the Contractor by the Port under this Contract; and
 - b. An interest penalty clause that obligates the Contractor, if payment is not made within 30 days after receipt of payment from the Port, to pay to the first-tier Subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to this subsection. The Contractor or first-tier Subcontractor shall not be obligated to pay an interest penalty if the only reason that the Contractor or first-tier Subcontractor did not make payment when payment was due is that the Contractor or first-tier Subcontractor had not received payment from the Port or the Contractor when payment was due. The interest penalty shall be:
 - 1) For the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and
 - 2) Computed at the rate specified in ORS 279C.515(2).
 - 2. The Contractor shall include in each of his subcontracts, for the purpose of performance of this Contract condition, a provision requiring the first-tier Subcontractor to include a payment clause and an interest penalty clause conforming to the standards of this section in each of his subcontracts and to require each of his Subcontractors to include such clauses in their subcontracts with each lower-tier Subcontractor or supplier.
 - 3. The clauses required by this section are not intended to impair the right of the Contractor or a Subcontractor at any tier to negotiate, and to include in the subcontract, provisions that:
 - a. Permit the Contractor or a Subcontractor to retain, in the event of a good faith dispute, an amount not to exceed 150 percent of the amount in dispute from the amount due a Subcontractor under the subcontract without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties consider appropriate to the ability of a Subcontractor to furnish a performance bond and a payment bond;
 - b. Permit the Contractor or a Subcontractor to make a determination that part or all of the Subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and
 - c. Permit such withholdings without incurring any obligation to pay a late payment interest penalty if:
 - 1) A notice conforming to the standards of ORS 279C.580(8) has been previously furnished to the Subcontractor; and
 - 2) A copy of any notice issued by the Contractor pursuant to the foregoing subsection has been furnished to the Port.

- d. As used in this subsection, “good faith dispute” means a documented dispute concerning:
 - 1) Unsatisfactory job progress.
 - 2) Defective work not remedied.
 - 3) Third party claims filed or reasonable evidence that claims will be filed.
 - 4) Failure to make timely payments for labor, equipment, and materials.
 - 5) Damage to the Contractor or a Subcontractor.
 - 6) Reasonable evidence that the subcontract cannot be completed for the unpaid balance of the subcontract sum.

ENVIRONMENTAL RESPONSIBILITIES

- 6.23 The following federal, state, and local agencies have enacted ordinances or regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the performance of this Contract:
 - A. City and county where the work is to be performed
 - B. Oregon Environmental Quality Commission
 - C. Oregon Fish and Wildlife Commission
 - D. U.S. Environmental Protection Agency
 - E. U.S. Fish and Wildlife Service
 - F. National Marine Fisheries Service
- 6.24 Known conditions at the construction site that may require the Contractor to comply with statutes or with ordinances or regulations enacted by the agencies listed above are specifically referred to at various places in this Contract.
- 6.25 The Contractor is solely responsible for (1) considering applicable statutes and the ordinances and regulations enacted by the agencies listed above, (2) considering the known conditions specifically referred to in this Contract, and (3) ensuring that the activities of the Contractor and the Contractor’s employees, Subcontractors (including suppliers), agents, and invitees with respect to those conditions do not violate any of those statutes, ordinances, or regulations. Without limiting the foregoing, the Contractor is solely responsible for the following environmental and natural resource risks associated with the performance of this Contract:
 - A. Air pollution;
 - B. Water pollution;
 - C. Contamination of soil, groundwater, or sediment;
 - D. Filling or destruction of wetlands;
 - E. Taking of a federally listed threatened or endangered species through habitat destruction, habitat degradation, or otherwise; and
 - F. Introduction of an invasive species.

- 6.26 In addition to the foregoing requirements, the Contractor shall manage and conduct all activities related to the performance of this Contract in accordance with all environmental Laws and regulations, and with the requirements of all permits issued under those Laws and regulations of which the Contractor has been given notice or has actual knowledge. "Environmental laws and regulations" means all federal and state statutes, all local ordinances, and all regulations adopted pursuant to those statutes and ordinances, as any of them may be amended from time to time, dealing with the prevention of environmental pollution or the preservation of natural resources, including but not limited to: the Resource Conservation and Recovery Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, and Oregon Revised Statutes Chapters 465, 466, 467, 468, 468A, 468B, and 496. If the Contractor believes compliance with a requirement under this Contract or a direction given by the Port will result in violation of any environmental laws or regulations, the Contractor shall so notify the Port in writing immediately and shall not proceed pursuant to that requirement or direction until the Port directs the Contractor to proceed.
- 6.27 In the event of a sudden spill or discharge of hazardous material as a result of actions related to this Contract by the Contractor or the Contractor's Subcontractor or agent, the Port may take action, including contracting for control or cleanup of the spill or discharge, unless the Contractor takes immediate appropriate action. If the Port takes action pursuant to this paragraph, the Port may recover from the Contractor all reasonable cost necessarily incurred in effecting the control and cleanup of the spill or discharge. Regardless of who undertakes the cleanup or control of the spill or discharge, the methods used shall be subject to the approval of the Port.

TAXES

- 6.28 The Contractor shall pay or ensure payment of sales, consumer, use, and other similar taxes required of the Contractor or any Subcontractor under any Law with respect to performance under this Contract.

USE OF PREMISES

- 6.29 The Contractor shall confine equipment, the storage of material, and the operations of workers to areas permitted by this Contract. The Contractor shall not unreasonably encumber the premises with equipment or material.
- 6.30 During the progress of the Work, the Contractor shall keep the premises free from accumulations of waste material, rubbish and other debris resulting from the Work, and make every deliberate effort to prevent the spread of debris. At the completion of the Work, the Contractor shall leave the site clean and ready for occupancy. The Contractor shall restore to their original condition those portions of the site not designated for alteration by this Contract.
- 6.31 The Contractor shall not permit any part of any structure to be subjected to loads that may endanger its structural stability. The Contractor shall not subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

SAFETY AND PROTECTION

- 6.32 The Contractor shall comply with all Laws applicable to the safety of persons or property. Damage, injury, or loss to property caused by the Contractor, Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Contractor.
- 6.33 The Contractor shall designate a qualified and experienced safety representative whose duties and responsibilities shall be the prevention of accidents and the maintenance and supervision of safety precautions and programs. This person shall be the Contractor's project superintendent unless otherwise designated in writing by the Contractor to the Port.
- 6.34 The Contractor shall erect and maintain necessary safeguards for the safety and protection of:

- A. Employees on the Work and other persons whose safety may be adversely affected by performance of the Work.
 - B. The Work and material to be incorporated into the Work, whether in storage on or off the site. If the Contractor fails to protect the Work, the Port may, after giving notice to the Contractor, protect the Work and deduct the resulting cost from payment due the Contractor. The Port's determination of when and to what degree such protection is necessary shall be final.
 - C. Other property at the site including trees, shrubs, lawn, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement.
 - D. Adjacent property and utilities when prosecution of the Work may affect them.
- 6.35 The Contractor's duties and responsibilities for the safety and protection of the Work shall continue until the Contractor has completed all obligations under this Contract.

EMERGENCIES

- 6.36 In the event of an emergency affecting the safety or protection of persons or the Work or property at, adjacent to, or near the site, the Contractor shall act to prevent threatened damage, injury, or loss. The Contractor may act without special instruction or authorization from the Port. The Contractor shall give the Port written notice within 24 hours of any significant change in the Work or deviation from this Contract caused by the precipitating event and Contractor's acts.

SUBMITTALS (SHOP DRAWINGS, PRODUCT DATA, MAINTENANCE DATA, AND SAMPLES)

- 6.37 The Contractor shall check and verify all field measurements associated with the fit and function of supplied equipment, products, and material. He shall then submit Shop Drawings, Product Data, Maintenance Data, and Samples to the Port for review in accordance with the accepted submittal schedule, with such promptness as to cause no delay in the Work. All such submittals shall be identified clearly as to source and purpose. Submittals shall be reviewed and stamped with the approval of the Contractor prior to submittal to the Port. Data shown in submittal information shall be complete with respect to quantities, dimensions, material, and specified performance and design criteria, to allow the Port to verify conformance with this Contract.
- 6.38 The Contractor shall call the Port's attention to any deviations from the requirements of this Contract that the Shop Drawings, Product Data, Maintenance Data, or Samples may have. This shall be in writing at the time of submission.
- 6.39 Within 10 business days of actual receipt, the Port will return each submittal to the Contractor indicating the action to be taken or notify the Contractor of the reason for delay in return. The Port's review will be only for conformance with the design concept of the Work and for general compliance with this Contract. It will not extend to means, methods, sequences, techniques, or procedures of construction; nor will it extend to safety precautions or programs related thereto, or to the assembly in which an item functions.
- 6.40 The Contractor shall make any corrections required by the Port and proceed according to the Port's directions. If required, the Contractor shall return corrected copies of submittal information and resubmit new Samples for review. The Contractor shall direct specific attention in writing to any revisions.
- 6.41 The Contractor's stamp of approval on any submittal shall constitute a representation to the Port that the Contractor has: (1) determined and verified all quantities, dimensions, field construction criteria, material, catalog numbers, and similar data or assumes full responsibility for doing so, and (2) has reviewed and coordinated each Shop Drawing, Product Data, Maintenance Data, or Sample with the requirements of this Contract.

- 6.42 When submission of a Shop Drawing, Product Data, Maintenance Data, or Sample is required by this Contract, no related Work shall be commenced until the submittal has successfully completed the review process.
- 6.43 The Port's review of a submittal shall not relieve the Contractor from responsibility for any deviations from this Contract except those called to the Port's attention at the time of submission and accepted by the Port. Changes in the Work shall follow procedures outlined for a Change Order. Review by the Port shall not relieve the Contractor from responsibility for errors or omissions in the submittal.
- 6.44 Submittals that have successfully completed the review process shall become binding upon the Contractor. He shall be obligated to perform in accordance with the reviewed submittal.

ACCESS TO THE WORK

- 6.45 The Contractor shall provide reasonable and safe access to the Port and inspection authorities for observation, testing, and inspection of the Work including, but not limited to, ladders, lifts, equipment, and tie-off apparatus.

PROSECUTION OF THE WORK

- 6.46 The Contractor shall continue performance of the Work in accordance with the work progress schedule during all claims or disputes with the Port. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as the Contractor and the Port may otherwise agree in writing.

PORT'S RIGHT TO DO THE WORK

- 6.47 If the Contractor fails to prosecute the Work properly or fails to perform any provision of this Contract, the Port, after a 3-day written notice to the Contractor, may without prejudice to any other remedy it may have, make good such failures. The Port may deduct the cost thereof from any payment due the Contractor. In cases of emergency, the Port may prosecute such Work without notice or delay and may deduct the cost thereof from any payment due the Contractor.

INDEMNIFICATION

- 6.48 A. Contractor agrees to indemnify, hold harmless, and defend the Port, including its Commissioners, officers, volunteers, agents and employees, (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 and which arise from any of the following, except and to the extent resulting from the Port's gross negligence or willful misconduct: (a) any act, omission or negligence of the Contractor or the Contractor's partners, officers, directors, agents, employees, invitees or Subcontractors; (b) any use, occupation, management or control of Port property by the Contractor or the Contractor's employees, agents, subcontractors, or suppliers, whether or not due to the Contractor's own act or omission and whether or not occurring on Port property; (c) any condition created on Port property by the Contractor or the Contractor's employees, agents, Subcontractors, or suppliers, and any accident, injury or damage arising from the condition; (d) any breach, violation or nonperformance of any of the Contractor's obligations under this Contract; or (e) any damage caused by the Contractor or the Contractor's employees, agents, subcontractors, or suppliers on or to Port property.

B. Waiver of Subrogation. Each party waives any right of action that it and/or its insurance carrier(s) might have against the other party (or its 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 Agreement. 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.

PREVAILING WAGE RATES

- 6.49 The Contractor shall comply with the prevailing wage rate requirements of ORS 279C.800 to 279C.870.
- A. The existing prevailing rates of wage which may be paid to workers in each trade or occupation required for this Work and employed in the performance of this Work by the Contractor, a Subcontractor, or any other person doing or contracting to do all or any part of the Work, are set forth in the attached Document 007346, Prevailing Wage Rates.
 - B. Workers in each trade or occupation required for this Work and employed in the performance of this Work by the Contractor, a Subcontractor, or any other person doing or contracting to do all or any part of the Work, shall be paid not less than the minimum hourly rate of wage specified in the foregoing paragraph. The Contractor shall ensure that each subcontract includes a provision that workers shall be paid not less than the minimum hourly rate of wage specified in the foregoing paragraph.
 - C. The Port shall pay a fee to the Commissioner of the Bureau of Labor and Industries, as provided in ORS 279C.825.
 - D. Unless the Contractor or Subcontractor is exempt under subsection (7) or (8) of section 2 of Chapter 360 Oregon Laws 2005, the Contractor and every Subcontractor shall have a public works bond filed with the Construction Contractors Board before starting work under this Contract. The Contractor shall include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Construction Contractors Board before starting work under this Contract. The public works bonds required by this paragraph shall comply with the requirements of section 2, Chapter 360 Oregon Laws 2005.

LABOR RELATIONS

- 6.50 The Contractor shall be responsible for labor relations and shall seek to resolve disputes between himself and his employees. Any labor dispute arising from this Contract that causes a disruption of the Port's operations shall be to the account of and the responsibility of the Contractor.

RECORDS AND AUDITS

- 6.51 The Contractor shall retain all financial records that pertain to this Contract for at least three years after the Port has made final payment and all other matters related to this Contract are finally resolved.
- 6.52 The Port or its designee may inspect, audit, and copy any of the Contractor's financial records retained pursuant to Item 6.51 and any other records to the extent necessary to: (1) evaluate and verify the costs incurred by the Contractor in performing the work under this Contract or the accuracy of any invoice, change order, payment, or claim submitted under this Contract by the Contractor or the Contractor's payees; or (2) evaluate any claim asserted by the Contractor against the Port. The Contractor shall make records available at any time during regular business hours after reasonable advance notice.
- 6.53 The Contractor shall allow the Port to interview any of the Contractor's employee and shall cooperate with the Port in arranging interviews with the Contractor's employees and former employees, for the purposes of identifying, evaluating, verifying, or auditing the records described in these requirements.
- 6.54 For the purpose of these requirements, a record may be in any form whatsoever including, but not limited to, paper, photographic, or electronic form.
- 6.55 The Contractor shall require all insurers, material suppliers, and Subcontractors at any tier to comply with these requirements.

6.56 The Contractor shall be entitled to no extra compensation for complying with these requirements. The Port will bear the cost of copying records.

ARTICLE 7 WORK BY OTHERS

- 7.1 The Contractor shall afford utility service companies, other contractors and Port employees reasonable access to the Work. He shall allow storage of material and execution of work by others. He shall properly connect and coordinate his Work with work by others.
- 7.2 Notice will be given to the Contractor prior to the start of any additional work by others not noted in this Contract. If the Contractor believes that the performance of such additional work by the Port or others involves additional expense to the Contractor or requires an extension of the Contract Time, the Contractor shall notify the Port in writing.
- 7.3 If any part of the Contractor's Work depends upon the work of any other contractor, utility service company, or the Port, the Contractor shall inspect and promptly report to the Port in writing any reasons that render work by others unsuitable. The Contractor's failure to report unsuitability of work by others shall constitute the Contractor's acceptance of the work by others as fit and proper for integration with the Contractor's Work. Latent or non-apparent defects and deficiencies in the work by others shall be reported to the Port in writing promptly upon discovery.
- 7.4 The Contractor shall do all cutting, fitting, and patching of the Work that may be required to make its parts come together properly and integrate with such other work. The Contractor shall not endanger any work by others. The Contractor shall cut or alter work by others only with the written consent of the Port and those whose work will be affected.
- 7.5 Unless otherwise specified, the Port shall be the final authority regarding coordination issues between the Contractor and work by others.

ARTICLE 8 – PORT'S STATUS DURING CONSTRUCTION

OPERATIONS MANAGER

- 8.1 The Port's Operations Manager ("Project Manager"), or his designee, will be the Port's representative during the construction phase of the Work.
- 8.2 The Project Manager will resolve any and all questions which may arise as to Contract compliance. The Contractor shall at all times carry out and fulfill the instructions and directions of the Project Manager insofar as they concern the Work to be performed under this Contract.
 - A. The Project Manager's authority, as delegated by the Port's Executive Director and the Port's Board of Commissioners, includes, but is not limited to:
 - 1. Determining the quantity, quality, and acceptability of material furnished and Work performed.
 - 2. Reviewing and approving/disapproving the manner of performance and rate of progress of the Work.
 - 3. Stopping the Work whenever such stoppage is deemed necessary.
 - 4. Administering this Contract.
 - 5. Determining acceptable fulfillment of this Contract by the Contractor.
 - B. Written approval by the Project Manager signifies favorable opinion and qualified consent. It does not carry with it: (1) certification, (2) assurance of completeness, (3) assurance of quality, (4) assurance of accuracy concerning details, dimensions, and quantities.

- C. Written approval by the Project Manager will not relieve the Contractor from responsibility for: (1) errors, (2) improper fabrication, (3) nonconformance with requirements, (4) deficiencies within the Contractor's control.

CLARIFICATIONS AND INTERPRETATIONS

- 8.3 The Project Manager will issue with reasonable promptness such written clarifications or interpretations of this Contract as may be necessary. If the Contractor believes that a written clarification or interpretation justifies an increase in the Contract Price or the Contract Time, the Contractor may notify the Port as provided in Article 9.

REJECTION OF DEFECTIVE WORK

- 8.4 The Project Manager is authorized to disapprove or reject Work which is Defective and to require additional inspection or testing of the Work whether or not the Work is fabricated, installed, or completed.

PORT INSPECTORS

- 8.5 The Port may assign Port inspectors who are authorized to:
 - A. Inspect the Work as it is performed, and all material being furnished. Such inspections may extend to all or any part of the Work and to the preparation, fabrication, or manufacture of the material to be used.
 - B. Call the attention of the Contractor to any failure of the Work to meet this Contract.
 - C. Reject material not meeting the requirements of this Contract.
 - D. Suspend that part of the Work affected by Contract nonconformance until the issue can be referred to and a decision issued by the Project Manager.
 - E. Approve minor physical revisions to the Work that do not result in additional costs or credits, do not change the physical appearance of the finished Work, and do not change the structural integrity or function of the Work.
- 8.6 Port inspectors are not authorized to:
 - A. Supervise or perform any other duties for the Contractor or interfere with the Contractor's management of the Work.
 - B. Give final approval or acceptance of any portion of the Work.
 - C. Issue instructions or directions contrary to this Contract.
- 8.7 No act or failure to act on the part of a Port inspector will render the Port liable in any way, nor shall it relieve the Contractor from fulfilling all of the terms and conditions of this Contract.

LIMITATIONS ON THE PORT'S RESPONSIBILITIES

- 8.8 The Port is not responsible for the acts or omissions of the Contractor or the Contractor's employees, Subcontractors, manufacturers, fabricators, suppliers, distributors, or any other persons at the site or otherwise performing any of the Work, or their agents or employees.
- 8.9 The Port is not responsible for the Contractor's means, methods, procedures, sequences, techniques of construction, or related safety precautions and programs except as specified in the Contract Documents.
- 8.10 The Port is not responsible for the Contractor's failure to perform the Work in accordance with this Contract.

ARTICLE 9 – CHANGE IN THE WORK

- 9.1 Without invalidating this Contract, the Port may, at any time, authorize additions, deletions, or revisions to the Work by written Change Order. All such Work shall be executed under the applicable conditions of this Contract. A Change Order will be executed to provide an equitable adjustment if any Port-issued change directive or Port-provided Contract interpretation or clarification causes an increase or decrease in the Contract Price, or an extension or shortening of the Contract Time.
- 9.2 No addition to Contract Price or extension of Contract Time will be allowed because of any condition of which the Contractor could have informed himself either by examination, testing, sampling, review of records, or otherwise.
- 9.3 Prior to the execution of, or in the absence of, a Change Order the Port may issue a change directive that will define the revision to the Work, may direct the Contractor as to what method to use for price and time adjustments, and may direct the Contractor to proceed with the Work.
- 9.4 If the Contractor believes that a change directive or Contract interpretation or clarification will require a change in the Contract Price or the Contract Time, the Contractor shall so notify the Port in writing. Such notification shall be delivered to the Port within 7 days after the Contractor receives the change directive or Contract interpretation or clarification.
- 9.5 The Contractor shall submit an itemized cost estimate of any adjustment to the Contract Price, either additive or deductive, resulting from the change directive or Contract interpretation or clarification. If applicable, the Contractor shall also submit a work progress schedule analysis or summary which demonstrates the effect of the change directive or Contract interpretation or clarification on the Contract Time. The itemized estimate or analysis shall be submitted within 15 days of receipt of the change directive, Contract interpretation, or clarification from the Port or the submittal of the Contractor's written notice under Item 9.4. The Contractor shall submit such cost estimate or work progress schedule analysis in less than 15 days if requested by the Port, or if required by work progress schedule limitations.
- 9.6 The Port may order the Contractor, in writing, to commence the added work immediately if: the Contractor fails to submit the cost estimate within the 15-day period (or earlier if requested); the parties fail to agree as to the cost or schedule impact; or the Port for any reason deems it necessary. If direction to proceed has already been given and the Contractor fails to submit the cost estimate within the 15-day period (or earlier if requested), if the parties fail to agree as to the cost or work progress schedule impact, or if the Port for any reason deems it necessary, the Port may issue a lump sum unilateral change to the Contract Price in accordance with the Port's estimate of cost.
- 9.7 The Contractor shall proceed with the work involved upon receipt of a Change Order or direction to proceed with the Work prior to execution of a Change Order. The Contractor shall continue performance of the Work, including the change, during the negotiation of the Change Order, even if a dispute arises which delays or prevents agreement on the terms and conditions of the Change Order.
- 9.8 Any Change Order shall constitute an accord and satisfaction with respect to issues related to changes in the Contract Price or the Contract Time. The Change Order shall be deemed to contain all the costs and credits relating to changes in the Work and effects on the unperformed or unchanged Work. If the Contractor contends that inefficiency and cumulative impacts cannot be accurately assessed at the time the Change Order is to be signed, the Contractor shall give the Port notice of a potential inefficiency or cumulative impact claim as soon as the Contractor suspects grounds for the claim exists and shall submit evidence thereof at the first reasonable opportunity.
- 9.9 No payment will be made for additions, deletions, or revisions to the Work until a Change Order has been executed.
- 9.10 Additional work performed without written direction from the Port or authorization by a Change Order will not entitle the Contractor to an increase in the Contract Price or an extension of the Contract Time. Emergencies, as provided in Item 6.37, are an exception.

ARTICLE 10 – CHANGE OF CONTRACT PRICE

CONTRACT PRICE ADJUSTMENT METHODS

10.1 A contract price adjustment for the changes in the Work will be made in accordance with the “Fixed Price Method” as supported by a breakdown of estimated costs:

FIXED PRICE METHOD

10.2 The Contractor shall prepare a fixed price proposal in the following format:

A. Direct Costs

1. Material (itemize)

- a. The cost to the Contractor for the material directly required for the performance of the changed Work. Such cost of material may include the cost of transportation. No delivery charges will be allowed unless the delivery is specifically for the changed Work.
- b. Trade discounts offered by the supplier to the Contractor shall be credited to the Port. If the material is obtained from a source owned wholly or in part by the Contractor, payment thereof will not exceed the current wholesale price for the material. The term “trade discount” includes the concept of cash discounting.
- c. If, in the opinion of the Port, the cost of the material is excessive or if the Contractor fails to furnish satisfactory evidence of a cost to him from the supplier, then in either case, the cost of the material shall be deemed to be the lowest current wholesale price at which similar material is available in the quantities required.
- d. The Port reserves the right to furnish such material as it deems advisable, and the Contractor shall have no claims for cost or profit on material furnished by the Port.

2. Labor (man-hours, rates by crafts)

- a. Payroll costs shall include, but not be limited to, salaries and wages, and fringe benefits including social security contributions, unemployment, excise and payroll taxes, workers’ compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto. The costs for all supervision, including general superintendents and foremen, shall be included in the markups established by this Contract. The only exception to this shall be working foremen who perform manual labor. No labor charges will be accepted for engineering or proposal preparation. These costs shall be included in the markups established by this Contract.
- b. Overtime and premium time pricing will be allowed only for labor which is authorized by the Port to be performed after normal working hours, or on Saturday, Sunday, or legal holidays.

3. Equipment (type, size, attachments, hours, rate)

- a. The cost to the Contractor for the use of equipment directly required in the performance of the changed Work. No mobilization or demobilization cost will be allowed for equipment already on site.
- b. For equipment owned, furnished, or rented by the Contractor, costs allowed shall be the actual usage costs incurred as supported by the Contractor’s published standard equipment rates or rental invoices. Rates charged shall not exceed the rates established by the Rental Rate Blue Book.

- c. The amount to be paid to the Contractor for the use of equipment as set forth above will constitute full compensation for the cost of fuel, power, oil, lubricants, supplies, small tools, small equipment, necessary attachments, repairs and maintenance of any kind, depreciation, storage, insurance, labor (except for equipment operators) and any and all costs incidental to the use of the equipment.

4. Direct costs shall not include:

- a. Payroll costs and other compensation of the Contractor's officers, executives, principals of partnerships and sole proprietorships, general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, superintendents and foremen, and similar administrative personnel. These costs shall be considered administrative costs covered by the Contractor's markup.
- b. Expense of the Contractor's principal and branch offices other than the Contractor's office at the site.
- c. Any part of the Contractor's capital expenses. Interest on the Contractor's capital employed for the Work. Charges against the Contractor for delinquent payments.
- d. Costs due to the negligence of the Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Negligence costs include correction of defective Work, disposal of material wrongly supplied, and making good any damage to property.
- e. Other overhead or general expense costs of any kind.
- f. Cost of small tools and supplies.
- g. Cost of safety programs.
- h. Cost of warranty work.

B. Subcontract Costs

Direct costs shall be as outlined in Item 10.2, A.

Subcontractors' (at any tier) markups for overhead and profit shall not exceed 15 percent of the direct costs.

C. Contractor's Markup

1. The Contractor's markup for overhead and profit shall not exceed the following:

| | |
|---|------------|
| a. Costs incurred under Item 10.2, A | 15 percent |
| b. Costs incurred under Item 10.2, B, 1 | |
| First \$5,000 | 10 percent |
| Amount above \$5,000 | 8 percent |
| (No markup allowed on Subcontractor markup) | |
| c. In no case shall the total markups be greater than 30 percent of the direct cost, regardless of the number of subcontract tiers existing. No markup is allowed for direct costs listed in Item 10.2, A, 4. | |
2. The amount of credit to the Port for a change which results in a net decrease in cost shall be the amount of the actual net decrease plus a deduction in the Contractor's overhead and profit markup by an amount equal to that allowed in the table above.

3. When both additions and credits are involved in any one change, the adjustment in the Contractor's overhead and profit markup shall be computed on the basis of the net change in cost.

COST CHANGES TO BONDS AND INSURANCE

- 10.3 When changes in the Work require new or increased premiums on bonds and insurance, the Port will reimburse the Contractor for such costs in the following manner:
 - A. Costs for new bonds or insurance shall be submitted as part of the Contractor's request for progress payment and supported by invoiced costs from the bond or insurance supplier.
 - B. Costs for increases to existing bonds or insurance shall be submitted as part of the Contractor's request for final payment and supported by invoiced costs from the bond or insurance supplier.

LUMP-SUM BREAKDOWN

- 10.4 The price of changes in a lump-sum agreement or lump-sum bid items will be based on the lump-sum breakdown furnished in accordance with Item 2.3.

DELETED WORK

- 10.5 Deletion of any portion of the Work shall not be a waiver of any requirement of this Contract nor invalidate any of its provisions. The Contractor will be paid for all work performed toward the completion of the portion of the Work prior to its deletion as provided by the force account method. No allowance will be made for anticipated profits on the deleted portion of the Work. If the deletion of the Work results in surplus material that is not returnable by the Contractor for a credit acceptable to the Port, or if the Port so desires, the material will be purchased from the Contractor by the Port at cost, without allowance for overhead or profit.

ARTICLE 11 – CHANGE OF CONTRACT TIME

- 11.1 All time limits stated in this Contract are of the essence. Contract Time will be changed only by a Change Order. Any extension in Contract Time will be based on written notice delivered to the Port within 7 days of the occurrence of the event precipitating the request. The Contractor shall deliver a work progress schedule analysis or summary justifying the time extension within 15 days of such occurrence. Failure to deliver any documentation to the Port within the time limits specified above shall completely foreclose 11.2 consideration of an extension of Contract Time and all rights and remedies arising therefrom.
- 11.2 Time extensions will be granted only when conditions described in Items 11.3, 11.5, and 11.6 exist and when the approved work progress schedule substantiates the need.
 - A. An adjustment of Contract Time shall be the Contractor's sole remedy for any delay in meeting the specified Substantial Completion, Final Acceptance, or any milestone dates of the Work. Exception shall be to the extent the delay is caused by the acts or omissions of the Port or other contractors performing other work directly for the Port as contemplated in Article 7. To the extent the delay is caused by the acts or omissions of the Port or persons acting for the Port, the Contractor is not precluded from recovery of damages or from an equitable Contract Price adjustment.
- 11.3 Extension of Contract Time will be determined by the Port and will be an equitable adjustment if all or a part of the Work is hindered, delayed, or suspended by an Act of God, act of war, act of terrorism, or the acts or omissions of the Port or the Port's commissioners, employees, contractors, or agents.
- 11.4 Requests for extension of Contract Time will not be considered for: (1) contention that insufficient time was specified in this Contract; (2) delays which affect the Contractor's planned early completion but not the specified Contract Time; (3) suspensions made at the request of the Contractor; (4) delays caused by labor

disputes involving the Contractor or his Subcontractors; or (5) delays caused by issues known and addressed in this Contract.

- 11.5 For those contracts which specify a completion date rather than contract duration, the specified Substantial Completion date will be adjusted by the number of days between the anticipated authorization to commence work date shown in the Agreement and the actual date authorizing work commencement shown in the Notice to Proceed, if the actual date is later than that shown in the Agreement. Any such adjustment of the completion date shall meet the requirements specified under Item 11.3 and shall be supported by the Contractor's work progress schedule. The Port may also request acceleration of the Work instead of adjustment of the completion date. If the Port requests acceleration of the Work, the Port will pay an agreed-upon reasonable cost resulting from the directed acceleration of the Work.
- 11.6 Work covered by a Change Order may require a Contract Time extension or reduction. The amount of time extension or reduction will be agreed upon by the Contractor and the Port as part of the negotiation of the Change Order.

ARTICLE 12 – WARRANTY; TESTS AND INSPECTIONS; CORRECTION, REMOVAL, OR ACCEPTANCE OF DEFECTIVE WORK

TESTS AND INSPECTIONS

12.1 The Contractor shall:

- A. Be responsible for compliance with laws, ordinances, rules, regulations, codes, and orders of any public body having jurisdiction over inspection, testing, or approval of the Work. The Contractor shall arrange for, obtain, and pay for such inspections, tests, approvals, and related fees.
- B. Give the Port and appropriate inspection and approval authorities timely notice of readiness of the Work for required inspections, tests, or approvals.
- C. Furnish the Port the required certificates of inspection, testing, and approval from inspection or approval authorities.
- D. Be responsible for inspection or testing required for the Port's acceptance of a manufacturer, fabricator, supplier, or distributor of material and pay related fees.
- E. Pay the cost of inspections, tests, and approvals required as a result of failure to pass acceptance testing by the Port, unless otherwise specified.

12.2 The following shall not relieve the Contractor from his obligation to perform the Work in accordance with this Contract: (1) observation by the Port, (2) inspections, (3) tests, (4) approvals by others.

UNCOVERING WORK

- 12.3 The Contractor, at the Port's request, shall uncover, expose, and reconstruct, or otherwise make available for observation, inspection, testing, or approval, any portion of the Work. The Contractor shall furnish all necessary labor, material, and equipment. The cost shall be allocated as follows:
- A. The Contractor shall bear the cost if the Work was covered contrary to the direction of the Port.
 - B. The Contractor shall bear the cost if the Work was covered without concurrence of the Port unless the Contractor had given the Port timely notice of intent to cover such Work, and the Port did not act with reasonable promptness in response to such notice.
 - C. The Contractor shall bear the cost if the previously installed Work is found to be Defective.

- D. For situations not covered above, the Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction if he makes a request therefor as provided in Articles 10 and 11.

WARRANTY

- 12.4 The Contractor warrants for one year after Substantial Completion, or for any longer period expressly provided by this Contract, provided by any special warranty or extended warranty required by this Contract or by a Subcontractor or supplier, or otherwise provided by Law, that all Work is not Defective for any reason.
- A. The Contractor shall pass through to the Port any warranty or maintenance obligation provided by a Subcontractor or supplier in excess of that required by this Contract.
 - B. In special circumstances where a particular item or area of Work is placed in continuous service before Substantial Completion of all the Work, the warranty period for that item will start to run from the later of the following dates: the date given in the Port's letter confirming Substantial Completion of the part of the Work, the date the Port receives training on the systems and equipment in that part of the Work, the date interim operation and maintenance manuals are approved; or the date the Port takes over operation or use in lieu of issuing a letter confirming Substantial Completion for that part of the Work.

CORRECTION OR REMOVAL OF DEFECTIVE WORK

- 12.5 The Contractor shall promptly correct all Defective Work without added cost to the Port, whether or not fabricated, installed, or completed or, at the Port's option, remove it from the site and replace it with Work that meets the Contract requirements. If the Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, the Port may have the Defective Work corrected or removed and replaced, and all direct and indirect costs of such correction or removal and replacement, including compensation for additional professional services, shall be paid by the Contractor or the Contractor's surety.

PORT MAY CORRECT DEFECTIVE WORK

- 12.6 If the Contractor fails, within 3 days after written notice from the Port, to proceed to correct, or to remove and replace Defective Work as required by the Port, or if the Contractor fails to perform the Work in accordance with this Contract (including any requirements of the work progress schedule), the Port may correct and remedy any such deficiency. In exercising the rights under this paragraph, the Port will proceed expeditiously. To the extent necessary to complete corrective and remedial action, the Port may: (1) exclude the Contractor from all or part of the site; (2) take possession of all or part of the site; (3) suspend the Contractor's services related thereto; and (4) incorporate in the Work material stored at the site or for which the Port has paid the Contractor but which has been stored elsewhere. The Contractor shall allow the Port's representatives, contractors, agents, and employees such access to the site as may be necessary to exercise the rights under this paragraph. All direct and indirect costs in exercising such rights will be charged against the Contractor. A Change Order will be executed incorporating the necessary revisions to this Contract and a reduction in the Contract Price. Such direct and indirect costs will include, in particular but without limitation: (1) additional professional services required; and (2) repair and replacement of the Work of others destroyed or damaged by correction, removal, or replacement of the Contractor's Defective Work. The Contractor will not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise of the Port's rights under this paragraph.

ARTICLE 13 – PAYMENTS TO THE CONTRACTOR AND COMPLETION

BEFORE REQUEST FOR PROGRESS PAYMENT

- 13.1 Prior to submitting the first request for progress payment, the Contractor shall submit the following to the Port:
- A. Work progress schedule.
 - B. Lump-sum breakdown of the Work.
 - C. Wage certification.
1. If the Contractor is required to file a certified statement under ORS 279C.845, and the certified statement has not been filed as required, the Port will retain 25 percent of any amount earned under this Contract until the certified statement has been filed. The Port will pay the Contractor the amount retained within 14 days after the certified statement has been filed. Subcontractor to file a certified statement required under ORS 279C.845 will not trigger retainage under this paragraph.

REQUEST FOR PROGRESS PAYMENT

- 13.2 Thirty days or more following the Work Start Date, the Contractor may request the first progress payment on Work completed by the date of the request. Requests shall be signed by the Contractor and submitted to the Port for review. The Contractor must, in the Port’s sole judgment, be materially and substantially in compliance with the most recent and current work progress schedule submitted to the Port for any progress payment to be made.
- 1303 Material delivered and stored on site but not yet incorporated in the Work may be included in the request for progress payment subject to approval by the Port and the following:
- No payment will be made for material costing less than \$50,000 total.
 - The Port’s title to and interest in the material must be clearly established and free of all liens or other encumbrances.
 - Value shall be established by invoice, freight bill, or other document.
 - Payment for stored material will be limited to 90 percent of the net cost invoiced to the Contractor.
 - Risk of loss remains with the Contractor.
- 13.4 Progress payments shall not be construed as acceptance or approval of the Work or waiver of any defects in the Work.

RETAINAGE

- 13.5 The Port will withhold from progress payments as follows:
- The Port will retain 5 percent of the total earned for the work completed, subject to the provisions of ORS 279C.560, which includes the ability for the Contractor to deposit bonds, securities or other instruments for all or a portion of the retainage. The Contractor shall inform the Port if the Contractor wishes to exercise any of the options listed under ORS 279C.560.

REVIEW OF REQUEST FOR PROGRESS PAYMENT

- 13.6 Within 15 days, the Port will review each request for progress payment and recommend payment or respond in writing to the Contractor with the reasons the Port is requiring resubmittal of the pay request before it can be approved.
- 13.7 The Port may refuse to make payment, in whole or any part, to the extent:
- A. The Work is Defective, or completed Work has been damaged requiring correction or replacement;
 - B. Written claims have been made against the Port or liens have been filed in connection with the Work;
 - C. The Port has been required to correct Defective Work or to complete the Work;
 - D. The Contractor's prosecution of the Work in accordance with this Contract is unsatisfactory;
 - E. The Contractor has failed to make payments covered by past progress payments to Subcontractors, or for labor or material; or
 - F. The Contractor is in breach of this Contract.

SUBSTANTIAL COMPLETION

- 13.8 When the Contractor considers the entire Work ready for its intended use, he shall certify in writing that the entire Work is Substantially Complete and request a letter confirming Substantial Completion. Within 15 days thereafter, the Contractor and the Port shall make an inspection of the Work to determine the status of completion. If the Port considers the Work Substantially Complete, the Port will, within 15 days of date of inspection, execute and deliver to the Contractor a letter confirming Substantial Completion with a list of items to be completed or corrected. The letter will state the date of Substantial Completion. If the Port does not consider the Work Substantially Complete, the Port will notify the Contractor in writing giving reasons therefore.
- A. Warranties and operation and maintenance manuals shall be submitted and approved by the Port and training shall be completed for the Work to be considered Substantially Complete.
- 13.9 The Port may exclude the Contractor from that part of the Work after the date of Substantial Completion. The Port will allow the Contractor reasonable access to complete or correct items on the list.
- 13.10 The Contractor may request, in writing, that the Port confirm Substantial Completion for a part of the Work. The Port will only consider confirming Substantial Completion for a part of the Work if the Port desires that part to become operational.
- 13.11 The Port may allow the Contractor use of equipment installed as part of the Work prior to Substantial Completion, subject to the Contractor:
- A. Obtaining the Port's written approval.
 - B. Maintaining the equipment and preparing and maintaining a log recording of all maintenance activities.
 - C. Returning equipment to "as-new" condition upon Substantial Completion.

PARTIAL UTILIZATION

- 13.12 The Port may request, in writing, the use of any part of the Work which may be used without significant interference with construction of other parts of the Work. If the Port requests use of any part of the Work prior to Substantial Completion of all the Work, the Port will issue to the Contractor a letter granting

Substantial Completion for that portion of the Work with a list of items to be completed or corrected. The Port, or its designee, will assume responsibility for security, safety, operation, maintenance, utilities, and insurance for that part of the Work while it is being used by or under the control of the Port or its designee.

FINAL INSPECTION AND FINAL ACCEPTANCE

13.13 When the Contractor considers the entire Work, or an agreed-upon portion thereof, to be complete, he shall certify, in writing, that the Work is complete and request a letter granting Final Acceptance. Within 15 days after receipt of the Contractor's certification, the Port will inspect the Work and will notify the Contractor, in writing, of Final Acceptance or of all particulars in which this inspection reveals that the Work is incomplete or Defective. The Contractor shall immediately take such measures as are necessary to remedy such deficiencies. The Contractor's certification shall be preceded or accompanied by all documentation called for in this Contract including but not limited to:

- A. "As-Built" Drawings for creating record drawings.
- B. Bonds, if any.
- C. Certificates of inspection from jurisdictional authorities.
- D. Releases, waivers, or exoneration of all liens arising out of or filed in connection with the Work.
- E. The Contractor's Waiver of Claims To Date form certifying that all payrolls and material bills and other indebtedness connected with the Work for which the Port might in any way be responsible have been paid or otherwise satisfied.
- F. Consent of surety, if any, to final payment.

FINAL PAYMENT

13.14 The Contractor may request final payment after receipt of Final Acceptance. The Contractor shall request final payment following the procedure for progress payments.

13.15 Upon receipt of the Contractor's request for final payment, the Port will, within 15 days, review the request and recommend payment or respond in writing to the Contractor with the reasons the Port is requiring resubmittal of the request before it can be approved. The Contractor shall make the necessary corrections and resubmit the request.

CONTRACTOR'S CONTINUING OBLIGATION

13.16 The Contractor's obligation to perform and complete the Work in accordance with this Contract shall be absolute. None of the following will constitute acceptance of Work not in accordance with this Contract or release the Contractor from obligation to perform the Work in accordance with this Contract:

- A. Any act of acceptance by the Port.
- B. Any correction by the Port of Defective Work.
- C. Use, operation, or occupancy of the Work or any part of the Work by the Port.
- D. Recommendation by Port staff for any progress or final payment.
- E. Payment by the Port to the Contractor.
- F. Issuance of a letter of Substantial Completion.
- G. Issuance of a letter of Final Acceptance.

CONTRACTOR'S WARRANTY OF TITLE

13.17 The Contractor warrants that title to all Work and material covered by any request for payment, whether incorporated in the Work or not, will pass to the Port at the time of payment. Title shall be free and clear of all liens, claims, security interests, and encumbrances.

WAIVER OF CLAIMS

13.18 The making of final payment will constitute a waiver of all claims by the Port against the Contractor except claims arising from:

- A. Unsettled liens.
- B. Defective Work appearing after final inspection.
- C. Failure to comply with this Contract.
- D. Failure to comply with the terms of any special guaranties.
- E. The Contractor's continuing obligation under this Contract.

The acceptance of final payment will constitute a waiver of all claims by the Contractor against the Port other than those previously made in writing and still unsettled.

LIQUIDATED DAMAGES

13.19 Time is of the essence of this Contract. The Port will be harmed if the Work is not substantially complete by the Substantial Completion date established by this Contract. The Contractor shall pay the Port liquidated damages of \$500.00 per calendar day for each day that the work remains uncompleted beyond the contract period. The parties agree that the Port does not waive its right to liquidated damages by allowing the Contractor to continue and finish all or any part of the Work after the scheduled Substantial Completion date, or after Substantial Completion is actually achieved. The parties also agree that payment of liquidated damages does not release the Contractor from any duty under this Contract (other than the duty to pay liquidated damages). The parties further agree that the liquidated damages required by this Contract are compensation to the Port only for harm the Port sustains from late completion. They are not compensation for additional effort required by the Port because the Work has been extended over a longer period, or for other harm the Port may sustain from the Contractor's other breaches of this Contract. The Port may withhold liquidated damages from progress payments or may withhold the full amount of accrued liquidated damages from final payment.

OTHER DAMAGES

13.20 In addition to liquidated damages for harm arising from delays, the Port may recover from the Contractor, withhold from payments under this Contract, or both, costs incurred by the Port due to extra effort necessitated because the Work is extended over a longer time period including, without limitation, the actual costs of the Port's additional engineering and inspections. This right to actual damages shall apply to both late Substantial Completion and late Final Acceptance.

13.21 The Port will have the right to recover from the Contractor and, to the extent permitted by Law, to deduct from any payment due the Contractor, the amount of any loss suffered by the Port on account of the failure of the Contractor, Subcontractor, anyone directly or indirectly employed by any of them, and anyone for whose acts any of them may be liable to comply with the rules and regulations referenced or contained in this Contract.

ARTICLE 14 – SUSPENSION OR TERMINATION OF THE WORK

PORT MAY SUSPEND THE WORK

- 14.1 The Port may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice, in writing, to the Contractor. This notice will fix the date on which Work shall stop and the date on which it shall resume. The Contractor shall resume the Work on the date so fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to the suspension.
- 14.2 If the work is Defective, or if the Contractor fails to supply sufficient skilled workers or suitable material or equipment, or if he fails to perform the Work in such a manner that the completed Work conforms to this Contract, the Port may order the Contractor to suspend the Work, or any portion thereof, until the cause for such order has been eliminated. However, this right of the Port to suspend the Work shall not give rise to any duty on the part of the Port to exercise this right for the benefit of the Contractor or any other party.
- 14.3 In the event the Contractor, Subcontractor, or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable fails to comply with the rules and regulations referenced in this Contract, the Port may suspend the Work or any portion thereof. The suspension shall continue until completion of any investigation or evaluation by the Port and full compliance with any corrective measures which the Port may reasonably require. The Port will not be liable to the Contractor for any delay caused by such suspension, nor will there be any adjustment in the Contract Price or Contract Time.

PORT MAY TERMINATE THE WORK

- 14.4 The occurrence of any one or more of the following events will justify termination for cause:
- A. The Contractor is adjudged bankrupt or insolvent.
 - B. The Contractor makes a general assignment for the benefit of creditors.
 - C. A trustee or receiver is appointed for the Contractor or for any of the Contractor's property.
 - D. The Contractor files petition to take advantage of any debtor's act, or to reorganize under bankruptcy or similar laws.
 - E. The Contractor fails to supply sufficient skilled workers or suitable material or equipment.
 - F. The Contractor fails to make prompt payments to Subcontractors or for labor and material.
 - G. The Contractor disregards Laws, ordinances, rules, regulations, or orders of any public body having jurisdiction including, without limitation, ordinances adopted by the Port and referenced in this Contract, and the rules and regulations adopted by the Port's Executive Director or his designee.
 - H. The Contractor disregards the authority of the Port.
 - I. The Contractor otherwise violates in any substantial way any provision of this Contract.
- 14.5 The Port may, after giving the Contractor and his surety a 7-day written notice: (1) terminate this Contract for default; (2) exclude the Contractor from the site; (3) take possession of the site and the Contractor's tools, appliances, construction equipment and machinery at the site and use the same to the full extent they could be used by the Contractor without liability to the Contractor for trespass or conversion; (4) incorporate in the Work material stored at the site or for which the Port has paid the Contractor but which is stored elsewhere; (5) finish the Work as the Port may deem expedient, and (6) obtain an assignment of some or all of the subcontracts and purchase orders relating to the uncompleted Work. By executing this Contract, the Contractor consents to the assignment of those subcontracts and purchase orders in the event of termination of this Contract pursuant to this article. In such case the Contractor will

not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess will be paid to the Contractor. If such costs exceed such unpaid balance, the Contractor shall pay the difference to the Port. Such costs incurred by the Port will be verified by the Port and incorporated in a Change Order; but in finishing the Work, the Port will not be required to obtain the lowest figure for the Work performed.

- 14.6 Where the Contractor's services have been so terminated by the Port, the termination will not affect any rights of the Port against the Contractor than existing or which may thereafter accrue. Any retention or payment of money due the Contractor by the Port will not release the Contractor from liability.

PORT MAY TERMINATE THE WORK FOR CONVENIENCE

- 14.7 Upon giving the Contractor a 7-day written notice, the Port may, without cause and without prejudice to any other right or remedy, elect to terminate this Contract for the convenience of the Port. In such case, the Contractor will be paid for the costs of all Work acceptably performed and installed, together with reasonable profit and overhead on those costs, and any justifiable costs actually sustained in the process of termination. The Contractor will not be entitled to overhead or profit on the unperformed Work and will not be entitled to payments in excess of the amount determined by multiplying the percentage of the Work actually and acceptably completed by the Contract Price, as adjusted. If this Contract is terminated for default and it is subsequently determined through mediation, arbitration, or litigation that the termination was improper, this Contract shall be treated as if it had been terminated for the convenience of the Port, and the Contractor shall be entitled to payment under the provisions of this paragraph.

ARTICLE 15 – DISPUTE RESOLUTION

- 15.1 A party wishing to assert a claim shall submit to the other a written statement of the claim not otherwise provided for by this Contract within 30 calendar days after the claimant first has knowledge of or reason to know of the facts upon which the claim is based. The statement of claim shall recite the facts upon which the claim is based and shall include copies of all documentary evidence in support of the claim. Within 15 calendar days after receiving a claim, the party to which a claim is submitted shall respond in writing stating whether the claim is allowed, partially allowed, or denied. If the claimant disputes the action taken by the other party, the claimant shall deliver a written notice of dispute to the other party within 15 calendar days after the claimant receives the other party's written response to the claim. The written notice of dispute shall be entitled "Notice of Dispute." A claim shall be barred if the claimant fails to comply with the foregoing notice of dispute requirement or fails to timely deliver the notice of dispute to the other party.
- 15.2 The parties shall attempt to resolve all disputes by negotiation. Negotiation shall be initiated at the earliest opportunity. Each party shall freely share unprivileged information requested by the other and shall make a good faith effort to ensure that all relevant issues are fully developed and fairly presented to the other side.
- 15.3 If a dispute is not resolved through negotiation between the Contractor and the Port, the parties shall submit the dispute to mediation. Either party may request mediation. The requesting party must suggest an independent mediator with the request for mediation. If the parties cannot agree upon a mediator, either party may apply to the Presiding Judge, Multnomah County Circuit Court, for appointment of a mediator. The parties shall share equally the fees and costs of the mediator. Each party shall be responsible for its own attorney fees. Mediation shall be in St. Helens, Oregon, unless the parties agree otherwise.
- 15.4 If a dispute is not resolved by mediation, the parties may, but are not required to, agree to submit the dispute to binding arbitration. The parties shall agree upon the arbitrator, the applicable rules for arbitration, the time and place of arbitration, and the allocation of costs and attorney fees related to the arbitration.
- 15.5 If a dispute cannot be resolved by mediation, and the parties do not agree to submit the dispute to arbitration, either party may file a lawsuit to resolve the dispute in a court with proper jurisdiction located in

Columbia County, Oregon. The prevailing party shall be entitled to recover attorney fees and costs at trial and on appeal.

- 15.6 Except to the extent performance may be legally excused under the particular circumstances, each party shall continue to perform its duties under this Contract while the resolution of a dispute is pending. Failure to comply with this requirement shall be a material breach of this Contract.

ARTICLE 16 – MISCELLANEOUS

GIVING NOTICE

- 16.1 Except for routine operational communications (which may be delivered personally or by mail or transmitted by electronic mail), when this Contract requires that written notice be given, notice shall be deemed valid if it is delivered to the individual who signed the Contract or to the Port's or the Contractor's Representative. Notice shall be deemed as delivered if it is:
- A. Hand-carried to the person to whom it is intended, or
 - B. Hand-carried to an officer of the firm for which it is intended, or
 - C. Sent by registered or certified "Return Receipt Requested" mail, postage prepaid, to the last business address known to the giver of the notice.

COMPUTATION OF TIME

- 16.2 Any period of time referred to in this Contract by days shall be computed to exclude the first and include the last day of such period. If the last day of any time period falls on a Saturday or Sunday or on a day made a legal holiday by the Law of the applicable jurisdiction, such day shall not be included in determining the time period.

LIABILITY CLAIMS

- 16.3 Should the Port or the Contractor suffer injury or damage to person or property because of any error, omission, or act of the other party or of any of the other party's employees, contractors, or agents or others for whose acts the other party is legally liable, claim shall be made: (1) in writing, and (2) to the other party within a reasonable time of the first observance of such injury or damage.

RIGHTS AND REMEDIES

- 16.4 These General Conditions impose duties and obligations on the Contract parties and provide for rights and remedies. The rights and remedies available to each party are in addition to, and shall not limit, actions allowed by Law or other parts of this Contract. All representations, warranties, and guaranties made in this Contract shall survive final payment and termination or completion of this Contract. The content of this paragraph shall apply as if repeated specifically in this Contract in connection with each duty, obligation, right, and remedy.

IN WITNESS hereof, Contractor and Port, having caused their respective duly authorized representatives to sign this Agreement, Contractor and Port hereby acknowledge that they have read this Agreement, understand it, and agree to be bound by its terms and conditions.

CONTRACTOR

PORT OF COLUMBIA COUNTY

By: _____ By: _____

Date Signed: _____ Date Signed: _____

Name: _____ Name: _____

Title: _____ Title: _____



Cornice Construction Bid Packet

Res. 2024-17

Proposal - Price Schedule - Bid Sheet

| | Line Items | Quantity | Unit | Unit Cost | Total Cost |
|---------------------------------|--|----------|------|--------------|----------------------|
| A1 | Mobilization | 1 | LS | | \$ 17,516.80 |
| A2 | Temporary Traffic Control | 1 | LS | | \$ 2,800.00 |
| A3 | Erosion Control | 1 | LS | | \$ 5,055.40 |
| A4 | Removal of Existing Structures and Obstructions | 1 | LS | | \$ 27,165.60 |
| A5 | Clearing and Grubbing | 1 | LS | | \$ 4,439.68 |
| A6 | General Excavation | 450 | CY | \$ 62.25 | \$ 28,012.50 |
| A7 | 8-inch Pipe, PVC ASTM D3034 SDR 35, Bedding Type D | 10 | LF | \$ 202.79 | \$ 2,027.90 |
| A8 | Storm Filter Catch Basin | 1 | EA | \$ 29,439.32 | \$ 29,439.32 |
| A9 | Retaining Wall (<6-feet high) | 350 | SF | \$ 61.71 | \$ 21,598.50 |
| A10 | Pedestrian Guardrail | 70 | LF | \$ 255.92 | \$ 17,914.40 |
| A11 | Bollards | 4 | EA | \$ 1,881.60 | \$ 7,526.40 |
| A12 | Saw Cutting | 620 | LF | \$ 2.49 | \$ 1,543.80 |
| A13 | Aggregate Base | 460 | TON | \$ 54.10 | \$ 24,886.00 |
| A14 | Level 2, 1/2-Inch Dense, MWMAC Mixture | 280 | TON | \$ 201.44 | \$ 56,403.20 |
| A15 | Subgrade Geotextile | 800 | SY | \$ 14.49 | \$ 11,592.00 |
| A16 | Concrete Curb Wall | 255 | LF | \$ 106.14 | \$ 27,065.70 |
| A17 | Concrete Curbs Standard | 610 | LF | \$ 56.16 | \$ 34,257.60 |
| A18 | Concrete Sidewalk | 4540 | SF | \$ 12.45 | \$ 56,523.00 |
| A19 | Concrete Pavement | 150 | SF | \$ 22.40 | \$ 3,360.00 |
| A20 | Vehicular Concrete | 160 | SF | \$ 139.69 | \$ 22,350.40 |
| A21 | Curb Ramp | 3 | EA | \$ 317.33 | \$ 951.99 |
| A22 | Stripe Removal | 1 | LS | | \$ 3,080.00 |
| A23 | Parking Striping | 2150 | LF | \$ 1.48 | \$ 3,182.00 |
| A24 | Seeding | 180 | SY | \$ 23.18 | \$ 4,172.40 |
| A25 | Topsoil | 20 | CY | \$ 67.20 | \$ 1,344.00 |
| A26 | New Pay Station | 1 | EA | \$ 1,120.00 | \$ 1,120.00 |
| A27 | Readjust Existing Pay Station | 1 | EA | \$ 4,121.60 | \$ 4,121.60 |
| A28 | Electrical Service, Complete | 1 | LS | | \$ 52,151.18 |
| A29 | Water Service, Complete | 1 | LS | | \$ 35,223.52 |
| A30 | Sign Installation | 1 | LS | | \$ 1,804.32 |
| A31 | Recast Concrete Wheel Stop | 2 | EA | \$ 184.80 | \$ 369.60 |
| A32 | Reinstall Flagpole | 1 | LS | | \$ 5,152.00 |
| TOTAL BID (Lines A1-A32) | | | | | \$ 514,150.81 |

Cornice Construction LLC

By (Bidder Name)



8/6/2024

Date

By signing this Bid, Bidder Certifies, acknowledges, understands and agrees to be bound by the unit pricing as submitted, as well as all terms, conditions and provisions set forth in this solicitation

PROPOSAL

**PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK**

MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

TO: *Miriam House, Operations Manager*
Port of Columbia County
100 E Street
Columbia City, Oregon 97018

Contractor Cornice Construction, LLC
Address 33465 SW Maple St.
City, Scappoose State, Oregon Zip 97056
Email jkomp@corniceconstruction.net Phone 503-396-5399
Contractor's State License No. Oregon CCB #180502
Contractor's State Tax Reg. No. 487452-93
Federal Tax ID No. 26-1668858

This Proposal is submitted as an offer by the undersigned, having examined the Contract Documents and considered all conditions to be encountered, to enter into an Agreement with Port of Columbia County ("Port") to furnish all labor, materials, and equipment, and to perform all work necessary to complete this project, in accordance with the Contract Documents, in consideration of the amounts stated in this Proposal.

Owner: Port of Columbia County

Project Name: SBMP Marina Improvements Project Upland Phase 1

Project Location: 57420 Old Portland Rd, Warren, Oregon, 97053

Engineer: KPFF Consulting Engineers

Engineer Project Number: 2000399

Geotechnical Engineer: GRI

Electrical Engineer: PAE Engineers

BIDDERS DECLARATION

The undersigned, hereinafter called the Bidder, declares that the only persons or parties interested in this proposal are those named herein, that this proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the Port, and that the proposal is made without any connection or collusion with any person making another proposal on this contract.

The Bidder further declares that they have carefully examined the Contract Documents for the construction of the project, that they have personally inspected the site, that they are satisfied as to the quantities involved, including the fact that the description of the quantities of work and materials, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the Contract Documents, and that this proposal is made according to the provisions and under the terms of the Contract Documents, which documents are hereby made a part of this proposal.

The Bidder further declares that the provisions required pertaining to prevailing wage rates shall be included in his contract and will be complied with.

The Bidder further agrees that they have exercised his own judgment regarding the interpretation of subsurface information and has utilized all data which they believe to be pertinent from the Engineer, Port and other sources in arriving at his conclusions.

CONTRACT EXECUTION

The Bidder agrees that if this proposal is accepted, they will, within ten (10) days, not including Sundays, and legal holidays, after notice of award, sign the contract in the form annexed hereto, and will at that time, deliver to the Port the "Performance Bond" and the "Payment Bond," required herein, and will to the extent of his proposal, furnish all machinery, tools, apparatus, and other means of construction and do the work and furnish all the materials necessary to complete the work in the manner, in the time, and according to the methods specified in the Contract Documents and required by the Engineer thereunder.

In the event that the Bidder shall fail to enter into a contract within such time, the bid security in the amount of TEN PERCENT (10%) OF BID AMOUNT, deposited herewith, shall be retained by the Port and it is agreed that said sum is a fair measure of the amount of damage that the Port will sustain because of such failure to enter into a contract.

CONSTRUCTION TIME LIMITS:

The Bidder agrees to begin work within ten (10) calendar days after the date of the Port's written Notice to Proceed and to substantially complete the construction of all work within ninety (90) calendar days. Contract time will commence on the Notice to Proceed date.

In the event that certain items not required for substantial completion, as defined in the Supplementary Conditions herein, but required for final completion of the work as put forth in this Contract Document fail to arrive at the work site in time to be properly installed during normal working hours within the time allowed for substantial completion of the work, then an allowance of not more than thirty (30) calendar days following the receipt of the last item required will be given to the Contractor to effect the final completion of said work.

LIQUIDATED DAMAGES:

The Port shall be entitled to liquidated damages for failure of the Bidder to complete the work within the specified contract time.

A. The Bidder further agrees to pay liquidated damages in the amount of \$500.00 per day for failure to complete the work within the specified contract time and for expenses incurred by the Port for unscheduled employment of the Engineer during the contract time overrun.

B. As compensation for non-use, the Contractor shall be assessed a liquidated damage of \$500.00 per calendar day for each day that the work remains uncompleted beyond the contract period. As compensation for expense incurred for unscheduled employment of the Engineer, the Contractor shall be assessed an additional liquidated damage equal to the expense incurred for each day that the work remains uncompleted beyond the contract period. The liquidated damage amounts shall also apply to phase or work areas that have limited or specific time constraints.

C. The Bidder further agrees to pay liquidated damages according to the Engineer's hourly rates for the unscheduled employment of the Engineer necessitated by the Contractor:

1. Working more than nine (9) hours per day, more than five (5) days per week and Saturdays (time and one-half), and holidays, and Sundays (double time).
2. Furnishing materials or equipment not in conformance with Contract Documents necessitating redesign by the Engineer.
3. Working beyond the time of completion established in the Notice to Proceed with Construction.

D. The Engineering budget will be analyzed at the end of the project to determine whether any unscheduled employment of the Engineer, during the scheduled contract time, resulted in a cost savings to the Port. If, as a result of working more than nine hours per day, five days per week, the Contractor completes the project within the scheduled time, and if the overtime results in a reduced contract time and cost savings to the Port, no liquidated damages will be assessed for the unscheduled employment of the Engineer during the scheduled contract time. Liquidated

damages will be assessed as stipulated for each day the work remains uncompleted beyond the scheduled contract time.

STATEMENT OF PROPOSED SUBCONTRACTORS:

The Bidder will list all proposed subcontractors by their proper corporate name and the portion of the work the subcontractor intends to perform in the spaces provided below.

The Port reserves the right to reject any subcontractor that the Port deems unfit for the scope of the work proposed.

| | Subcontractor | Work to be performed |
|-----|--|------------------------------|
| 1. | <u>CR Woods General Contractors, Inc</u> | <u>Sitework and Concrete</u> |
| 2. | <u>Jade Smith Paving</u> | <u>Paving</u> |
| 3. | <u>Arrow Striping and Painting, Inc.</u> | <u>Striping</u> |
| 4. | <u>ON Electric LLC</u> | <u>Electrician</u> |
| 5. | <u>Terra Calc Land Surveying Inc.</u> | <u>Survey</u> |
| 6. | <u>Kervin Custom Ironworks, Inc</u> | <u>Guardrail</u> |
| 7. | <u></u> | <u></u> |
| 8. | <u></u> | <u></u> |
| 9. | <u></u> | <u></u> |
| 10. | <u></u> | <u></u> |

UNIT PRICES:

The Bidder further proposes to accept as full payment for the work proposed herein the amounts computed under the provisions of the Contract Documents and based on the following lump sum price or unit price amounts. The Bidder agrees that the lump sum prices or unit prices represent a true measure of the labor and materials required to perform the work, including all allowances for overhead and profit for each type and unit of work called for in these Contract Documents. The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.

All blanks on the Proposal must be completed by clearly printing in ink or by typewriter. Changes may be made provided that the Bidder initials all changes.

All items in the proposal form shall be completed in full showing a unit or lump sum price or prices for each and every item. The price per item shall be clearly shown in the space provided.

BASIS OF AWARD:

Bidders must bid all portions of the work. The bidder understands that the award shall be made to the lowest responsible and responsive bidder. The Port reserves the right to withdraw any item(s) or Alternates from award consideration.

INSERT PROJECT SCHEDULE / TIMELINE

Scappoose Bay Marina - Bid Schedule

| Task | Assigned To | Start Date | End Date | Duration | Predecessors |
|---------------------------------------|-------------|------------|----------|----------|--------------|
| 1 - Phase 1 | | 09/01/24 | 11/05/24 | 48d | |
| 2 Notice to Proceed | | 09/01/24 | 09/01/24 | 0 | |
| 3 Mobilization | | 09/02/24 | 09/03/24 | 2d | 2 |
| 4 Traffic Control | | 09/04/24 | 09/05/24 | 2d | 3 |
| 5 Erosion Control | | 09/04/24 | 09/06/24 | 3d | 3 |
| 6 Clear and Grub | | 09/09/24 | 09/13/24 | 5d | 4, 5 |
| 7 Sawcutting | | 09/06/24 | 09/06/24 | 1d | 4 |
| 8 Relocate items to save | | 09/09/24 | 09/10/24 | 2d | 4, 5 |
| 9 Demo | | 09/09/24 | 09/20/24 | 10d | 4, 5, 7 |
| 10 Retaining Wall | | 09/23/24 | 09/27/24 | 5d | 9 |
| 11 Retaining wall Cure | | 09/30/24 | 10/04/24 | 5d | 10 |
| 12 Curb Wall | | 09/30/24 | 10/04/24 | 5d | 10 |
| 13 Storm | | 09/23/24 | 09/27/24 | 5d | 9 |
| 14 Electrical | | 09/23/24 | 09/27/24 | 5d | 9 |
| 15 Move Water | | 09/23/24 | 10/11/24 | 15d | 9 |
| 16 Fill + Grade Sidewalks | | 10/07/24 | 10/09/24 | 3d | 12, 11 |
| 17 Curbs | | 10/10/24 | 10/14/24 | 3d | 16 |
| 18 Sidewalk | | 10/15/24 | 10/21/24 | 5d | 17 |
| 19 Sawcut Crosswalk | | 10/15/24 | 10/15/24 | 1d | 17 |
| 20 Demo Crosswalk | | 10/15/24 | 10/15/24 | 1d | 19SS |
| 21 Rock and fine grade for Paving | | 10/16/24 | 10/18/24 | 3d | 9, 20 |
| 22 Paving | | 10/21/24 | 10/22/24 | 2d | 21 |
| 23 Pavement Markings & Signage | | 10/23/24 | 10/24/24 | 2d | 22 |
| 24 Landscaping | | 10/23/24 | 10/24/24 | 2d | 22 |
| 25 Install flagpole, wheel stops, etc | | 10/23/24 | 10/29/24 | 5d | 22 |
| 26 Punch List | | 10/30/24 | 11/05/24 | 5d | 23, 24, 25 |
| 27 | | | | | |

INSERT PROOF OF AUTHORITY TO TRANSACT BUSINESS IN OREGON

Oregon CCB: 180502

000063
CORNICE CONSTRUCTION LLC
PO BOX 672
SCAPPOOSE OR 97056

**CONSTRUCTION CONTRACTORS BOARD
LICENSE CERTIFICATE**

LICENSE NUMBER: 180502
EXPIRATION DATE: 02/12/2026
ENTITY TYPE: Limited Liability

**CONSTRUCTION CONTRACTORS BOARD
LICENSE CERTIFICATE**

CORNICE CONSTRUCTION LLC
PO BOX 672
SCAPPOOSE OR 97056



⇐ ⇐ ⇐ ⇐
POCKET CARD
⇐ ⇐ ⇐ ⇐

*fold and detach
along
perforation*

↓ ↓ ↓ ↓ ↓
LICENSE CARD
↓ ↓ ↓ ↓ ↓

**STATE OF OREGON
CONSTRUCTION CONTRACTORS BOARD
LICENSE CERTIFICATE**

This document certifies that:

CORNICE CONSTRUCTION LLC
PO BOX 672
SCAPPOOSE OR 97056

LICENSE NUMBER: 180502

EXPIRATION DATE: 02/12/2026

is licensed in accordance with Oregon Law as
Residential General Contractor & Commercial
General Contractor Level 2

ENTITY TYPE: Limited Liability Company



INSERT REFERENCE PAGE HERE

Submit at least three (3) references (other than the Port) for contracts/projects similar in scope to this requirement. References should be for current work or projects completed within the last five (5) years.



Contact: Riley Baker

Email Address:
Riley.Baker@columbiacountyor.gov

Phone Number: 971.328.2537

Project Location: 230 Strand Street,
Saint Helens, OR

Nature of Work: Tenant Improvement

Year Completed: 2023

Contract Price: 970,000



Columbia County Health



Interstate Battery

Property Manager: Kevin Kooyman
Email Address: kevink@jshproperties.com
Phone Number: 425.457.745
Project Location: Camas, WA
Nature of Work: Tenant Improvement
Year Completed: 2024
Contract Price: 2.1 million



Frito Lay

Owner: SunCap Property Group;
Kevan O'Connor
Email Address: koconnor@suncappg.com
Phone Number: 720.749.1476
Project Location: Burbank, WA
Nature of Work: Design Build
Year Completed: 2024
Contract Price: 17 million



Woodburn Storage

Owner: Elliott Development;
Wayde Elliott
Email Address: wayde@develliot.com
Phone Number: 503.396.1778
Project Location: Woodburn, OR
Nature of Work: New Storage Facility
Year Completed: 2024
Contract Price: 11 million

BID BOND:

Accompanying this Proposal is a certified check, cashier's check or bid bond payable to the Port of Columbia County, in the sum of 10% of Bid Dollars (\$51,415.98), said amount being equal to ten percent (10%) of the Total Bid Amount, based on the foregoing prices. If this proposal shall be accepted by the Port of Columbia County and the undersigned shall fail to execute a satisfactory Public Improvement Contract, performance bond, and payment bond within seven (7) days from the date of the Notice of Award, then the Port may, at its option, determine that the undersigned has abandoned the Contract and thereupon this proposal shall be null and void, and the above check or bond accompanying this proposal shall be forfeited to and become the property of the Port.

PUBLIC WORKS BOND:

For projects over \$100,000, before starting work on a contract or subcontract for a public works project, a contractor or subcontractor shall file with the Construction Contractors Board a public works bond with a corporate surety authorized to do business in this state in the amount of \$30,000. The bond must provide that the contractor or subcontractor will pay claims ordered by the Bureau of Labor and Industries to workers performing labor upon public works projects. (ORS 279C.836).

PREVAILING WAGE STATEMENT:

The undersigned bidder declares by the signing of this Proposal that the provisions required by ORS 279C.840 pertaining to prevailing wage rates are included in this Proposal, and that the bidder will comply with said requirements throughout the duration of the contract.

NON-DISCRIMINATION STATEMENT:

By signing and submitting this Proposal to the Port, the Bidder certifies that, per OAR 137- 046-0210, it has not discriminated against any minority, women, or emerging small business enterprises in obtaining any subcontracts.

ADDENDA:

By signing and submitting this Proposal to the Port, bidder represents that it has examined and carefully studied the Contract Documents, and other data identified in the Contract Documents, and the following Addenda, receipt of which is hereby acknowledged:

| ADDENDUM NO. | ADDENDUM DATE |
|---------------------|----------------------|
| No-1 | 7/26/2024 |
| No-2 | 8/01/2024 |
| | |

SIGNATURE OF BIDDER:

Name of Bidder: Cornice Construction, LLC

Signature of Authorized Agent:  _____

(Date) 8/6/2024

Title: Owner

(SEAL)

Business Address: 33465 SW Maple St, Scappoose, OR 97056

Phone #: 503-396-5399

Construction Contractors Board Registration No 180502

Workers Comp. Insurance Company: SAIF

Workers Comp. Policy/Binder Number: 871097

RESIDENCY INFORMATION

Bidder is a Resident Bidder () Non-Resident Bidder

If a Resident Bidder, enter your Oregon business address:

33465 SW Maple St, Scappoose, OR 97056

If a Non-resident Bidder, enter State of residency:

**PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINE PARK**

MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

For projects with a contract value of more than \$100,000, this form must be submitted at the location specified in the Invitation to Bid on the advertised bid closing date within two (2) working hours after the advertised bid closing time.

List below, the "Name" "Dollar Value" and "Category of Work" of each subcontractor that:

- (A) Will be furnishing labor or will be furnishing labor and materials in connection with the public improvement; and
- (B) Will have a contract value that is equal to or greater than five percent (5%) of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid.

Enter "NONE" if there are no subcontractors that need to be disclosed (if needed attach additional sheets).

| SUBCONTRACTOR NAME & ADDRESS & PHONE NUMBER | DOLLAR VALUE | CATEGORY OF WORK |
|---|-----------------|---------------------------|
| CR WOODS GENERAL CONT. PO Box 1488, Sherwood OR 97140, 503-435-9738 | (\$) 375,330.99 | Site work and Concrete |
| Jade Smith Paving, Po Box 596 Wilsonville, OR, 97070 503-538-8660 | (\$) 39,810.00 | Paving |
| | (\$) | |
| | (\$) | |
| | (\$) | |
| | (\$) | |
| | (\$) | |

FAILURE TO SUBMIT THIS FORM BY THE DISCLOSURE DEADLINE WILL RESULT IN A NONRESPONSIVE BID. A NONRESPONSIVE BID WILL NOT BE CONSIDERED FOR AWARD.

Form submitted by (Bidder name) Cornice Construction, LLC.

Contact Name: Josh Komp Phone #: 503-396-5399

NOTE: Faxed or email copies of this form will not be accepted.



August 6th, 2024

Port of Columbia County

Dear Scappoose Bay Marine Park,

- ◆ **Company Summary:** Cornice Construction is a full-service Commercial Construction Company serving Oregon and Washington. Our corporate mission is to develop a trusted partnership with our clients and bring value to every project from inception to completion. We are proud to be a considered General Contractor for the Marina Improvements Project Upland Phase 1. John Nibler and Josh Komp along with our Cornice team are uniquely qualified and motivated to be your partners on this local opportunity.
- ◆ **Project Approach:** We will use a timely, non-invasive method to ensure customer spaces remain operational and accessible. Our goal is to stay out of the public right of way when possible and complete the project efficiently in favorable weather conditions. We aim to finish the work efficiently to minimize disruption.
- ◆ **As a locally based company** with most of our 20 employees residing within the county, and having worked in the Pacific Northwest since 2008, we possess a deep understanding of the professional and community-driven charm of Columbia County. Our local presence enables us to connect deeply with the community, understand its needs, and appreciate the unique characteristics of the area.
- ◆ **Cornice has extensive experience** managing large-scale projects and a yearly gross volume exceeding \$50 million. We are well-equipped to handle projects of any size, including smaller local initiatives. All projects must receive the same level of dedication, excellence, and timely execution.

The Marina Improvements Project Upland Phase 1 presents several opportunities for swift and effective improvements. Our experienced professionals are adept at identifying and executing quick turnaround strategies; ensuring that high-quality work is completed promptly. Our goal is to implement efficient, time-saving solutions that will significantly benefit the Port of Columbia County.

Having reviewed the construction documents, and familiarizing ourselves with the site, we are eager and ready to begin working with the Port of Columbia County.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Komp', is written over a horizontal line. Below the signature, the name 'Josh Komp, Owner' is printed in a black, sans-serif font.

Josh Komp, Owner



JOSH KOMP– OWNER

BS CONSTRUCTION ENGINEERING MANAGEMENT; Oregon State University
 Minor in Business-Oregon State University

Industrial experience throughout Oregon and Washington

25 Years experience costing and constructing Industrial and Office projects

Josh is an expert in site logistics, utilities, and site construction

I will be looking for cost saving strategies throughout Pre-Construction

WHY JOSH?

- Tilt Concrete expert
- Site Utilities and Earthwork
- Precon/Constructability

Josh has been constructing industrial projects in the NW market for 25 years. Josh has managed in excess of 10 million SF of concrete Tilt Up and Owner Occupied buildings used for distribution, manufacturing, and office.



Ryerson Steel Fab, Centralia WA



Prologis NW Logistics



Mason St Industrial; 100,000sf , PDX

PROFESSIONAL EXPERIENCE (PARTIAL LIST)

- Ryerson Steel Manufacturing, Panattoni, \$42M, Centralia WA
- PCI corporate office and warehouse PDX
- Burton Saw and Blade, Ridgefield WA, 10,000 sf office and 100,000sf manufacturing build out. Panattoni Development.
- Prologis Development; Sandy Blvd. 260,000 sf
- NW Logistics, Prologis NW Portland, OR, 186,000sf
- Mason Street Industrial, (2) 50,000sf tilts, City of Portland
- Sumner Central, 550,000 SF Industrial Project; Panattoni
- Seaway Corp Center, 400,000 SF; Panattoni Development
- Multiple Design Build Industrial projects
- Co-Owner Cornice Construction



JAY BECK– PROJECT MANAGER

BS CONSTRUCTION ENGINEERING MANAGEMENT; Oregon State University

Minor in Business-Oregon State University

25 years experience managing commercial and sitework projects

Raised in a Pacific Northwest construction family

Recently Completed site development for Prologis NW Logistics and Frito Lay

Currently completing a 260,000 SF Warehouse/Office for Prologis (Sandy Blvd)

WHY JAY?

- Site Utility background
- Documentation gatekeeper
- Procurement Expert

Jay has extensive knowledge in earthwork, site utilities and foundation systems. Jay is currently completing a warehouse on Sandy Blvd, with extensive sitework and ODOT and PBOT improvements



Mason Street Industrial, PDX 110ksf



Building A Phelan Development, PDX



Prologis NW Logistics

PROFESSIONAL EXPERIENCE (PARTIAL LIST)

- Jay is skilled in RFIs, Submittals, Safety Tracking, running jobsite meetings, schedule reporting and adjustments, and overall jobsite project communication.
- Project Manager L&H Grading. Jay held many positions in the organization. Part of a family run sitework organization. Jay will be very valuable to the project team resolving site work and utility issues as well as site coordination with permits and inspections.
- Jay recently completed a 186,000sf industrial building in NW PDX
- Supervisor K&E Excavating. Jay ran multiple large public works projects as the onsite corporate lead.
- Jay has managed a 9 month shell construction through difficult and challenging supply chain issues.

"I am looking forward to working with the team and delivering this project in the most cost effective and safe manner possible. I enjoy my work and enjoy working with people committed to same high quality and execution that Cornice Construction demands"



DAVE GARRETSON – GENERAL SUPER

Strong leadership, communication and technical expertise

Strong scheduling abilities and a disciplined planner

Industrial Tilt Up experience throughout PDX and Vancouver WA

25 years experience as Tilt Up Carpenter and Superintendent

CAD and Bluebeam Software proficient

OSHA 30, CPR and first aid certified. Committed to the safety of the craftsmen

WHY DAVE?

- Committed to Quality
- Detailed Planner
- Personal commitment to safety

Dave has more than 25 years experience as a superintendent and carpenter building various Tilt Up structures. Dave understands the details of what it takes to produce the highest quality final product. Dave is a natural leader and performance driver.



Amazon Hillsboro OR, 330,000sf



Ryerson Office Buildout, Centralia WA



Prologis NW Logistics

PROFESSIONAL EXPERIENCE (PARTIAL LIST)

- Panattoni; Ryerson Steel Manufacturing; Centralia WA
- Prologis NW Logistics, 250,000sf Industrial warehouse
- Amazon Distribution Center, Hillsboro OR, 330,000sf
- Majestic Real Estate Warehouse, Hillsboro OR, 140,000sf
- Kerr Development, Ridgefield WA , 70,000sf
- 2 Building 260,000sf industrial Park, Portland OR
- General Steel, 125,000sf Tilt Up Warehouse, Portland OR
- Nautilus Concrete, 200,000sf Tilt Up Panattoni, Portland OR
- Multiple Industrial, Distribution, and Office Projects throughout the Pacific Northwest
- Seasoned in Tilt Panel detailing and constructability review

“I enjoy the construction industry and take a lot of pride in doing things right the first time by putting the proper effort into planning. I make it a personal challenge to perform at a higher level than my last project”

BID BOND

**PORT OF COLUMBIA COUNTY
SCAPPOOSE BAY MARINA PARK
MARINA IMPROVEMENTS PROJECT UPLAND PHASE 1**

KNOW ALL PERSONS BY THESE PRESENTS, that we, the undersigned,

Cornice Construction, LLC

as Principal and Merchants Bonding Company (Mutual) as Surety are hereby held and firmly bound unto Port of Columbia County as OWNER in the penal sum of Ten Percent (10%) of Bid Amount for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns.

Signed this 6 day of August 2024.

The Condition of the above obligation is such that whereas the Principal has submitted to Port of Columbia County a certain BID attached hereto and hereby made a part hereof to enter into a contract in writing, for the

Scappoose Bay Marina Park - Marina Improvement Project Upland Phase 1, KPFF #2000399

NOW, THEREFORE,

(a) If said BID shall be rejected, or

(b) If said BID shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (property completed in accordance with said BID) and shall furnish a BOND for his faithful performance of said contract, and for the payment of all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said BID, then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its BOND shall be in no way impaired or affected by any extension of the time within which the OWNER may accept such BID; and said Surety does hereby waive notice of any such extension.

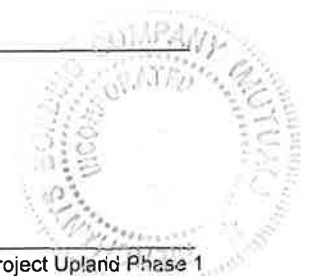
IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Cornice Construction, LLC (L.S.)
Principal

Merchants Bonding Company (Mutual)
Surety

By: 


Lois F. Weathers ATTORNEY-IN-FACT



IMPORTANT- Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the project is located.

MERCHANTS BONDING COMPANY™

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Amber Lynn Reese; Donald Percell Shanklin Jr; Janelle Markovich; Kari Michelle Motley; Lois F. Weathers; Michael S Mansfield; Misti Marie Brill;
Sara Sophie Sellin; Tamara A Ringeisen

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

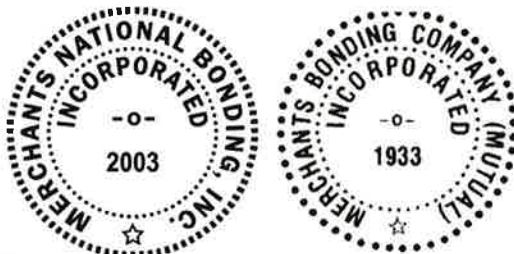
"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 9th day of May, 2024

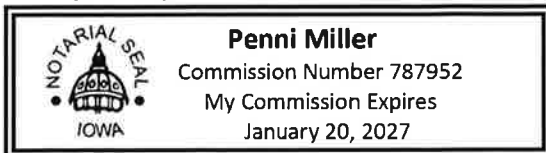


MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

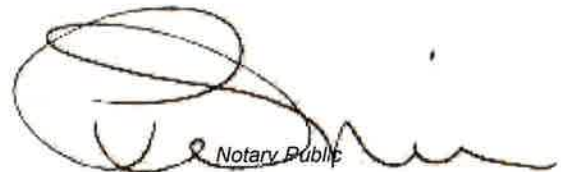
By 
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 9th day of May, 2024, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



(Expiration of notary's commission does not invalidate this instrument)


Notary Public

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 6 day of August, 2024




Secretary



Timber Harvest and Purchase Agreements

Res. 2024-18 STAFF REPORT

DATE: August 14, 2024
TO: Port Commission
FROM: Elliot Levin, North County Operations & Terminal Manager
RE: **Approval of Timber Harvest Agreement and 2 Purchase Agreements**

Discussion

The Port owns 194 acres of land in the Clatskanie Drainage Improvement District. That land is currently used as a tree farm for hybrid poplar trees. Most of the property was harvested around 2010, with the remainder harvested around 2017; thus, most trees are about 14 years old and ready to be harvested.

Port Staff negotiated a Timber Harvest Agreement with Pullman Cutting Inc. and Purchase Agreements with two buyers.

Pullman Cutting will harvest, chip, and deliver wood chips to Georgia Pacific and Nippon Dynawave. Georgia Pacific operates the Wauna Paper Mill near Clatskanie and Nippon Dynawave operates a pulp and paper mill in Longview.

We expect a partial harvest of about 25 to 50 acres this year and will focus on an area with many fallen trees to reduce their impact on surrounding trees. We expect to complete the remainder of the harvest next year.

Recommendation

Adopt Resolution 2024-18, authorizing the Executive Director to execute the Timber Harvest Agreement with Pellham Cutting Inc. and the two Purchase Agreements with Georgia Pacific WFS LLC and Nippon Dynawave Packaging Co.

RESOLUTION NO 2024-18

A RESOLUTION APPROVING TIMBER HARVEST AND PURCHASE AGREEMENTS

WHEREAS, the Port owns 194 acres of land in the Clatskanie Drainage Improvement District with hybrid popular trees which are ready for harvest; and

WHEREAS, the Port negotiated a Tree Harvesting Agreement with Pellham Cutting Inc. for Pellham to harvest, chip and transport the wood chips to two buyers; and

WHEREAS, the Port negotiated Purchase Agreements with two buyers, Georgia-Pacific and Nippon Dynawave; and

WHEREAS, Port staff recommends the adoption of the attached Timber Harvest and Purchase agreements; Now, therefore

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

The Board authorizes the Executive Director to execute a Timber Harvest Agreement with Pellham Cutting Inc. and Purchase Agreements with Georgia Pacific WFS LLC and Nippon Dynawave Packaging Co.

PASSED AND ADOPTED this _____ day of August 2024, by the following vote:

AYES: _____ **NAYS:** _____

ABSTAIN: _____

PORT OF COLUMBIA COUNTY

By: _____
President

Attested By:

Secretary

HARVEST AGREEMENT WITH PELLHAM

Res. 2024-18



PORT OF COLUMBIA COUNTY PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) made this 14th day of August 2024 (“Effective Date” between the PORT OF COLUMBIA COUNTY, (“PORT,”) and Pellham Cutting, Inc., (“HARVESTER”), for a Project generally described as follows:

HARVESTER will harvest popular hybrid trees on PORT land within the Clatskanie Drainage District and deliver the trees to the buyers as indicated in **Exhibit 1** (“TREE HARVEST”), attached and incorporated by reference.

IN CONSIDERATION of the mutual covenants contained herein, PORT and HARVESTER agree as follows:

1. Scope of Services.

Subject to the terms outlined herein, PORT and HARVESTER agree that HARVESTER will harvest and chip trees and deliver the chips to mills or buyers as detailed in Exhibit 1 of this agreement.

HARVESTER will work on behalf of PORT and therefore if there are any conflicts of interest with other parties on the Project, HARVESTER’s primary duty and responsibility is to PORT.

2. Terms of Payment.

PORT will pay HARVESTER as follows:

A. In the case of split payments, the Harvester will be paid \$76.00 per bone-dry ton by Georgia-Pacific’s Wauna Plant or Nippon Dynawave Packaging Co’s Longview Plant (“Mill/Buyer”) as the case may be.

B. If there is no split payment, the Harvester will be paid \$76.00 per bone-dry-ton directly by PORT. The PORT will provide load data from the Mill/Buyer to the HARVESTER within two business days of receiving the load data, or the PORT will authorize Mill/Buyer to either provide the HARVESTER with direct access to the data or the Mill/Buyer will include the HARVESTER a copy of the load data that it provides to PORT. The HARVESTER will invoice based on the Mill/Buyer’s determination of the quantity of chips and the PORT will pay the HARVESTER within 15 (fifteen) days of receiving the load data from the Mill/Buyer and invoice from the HARVESTER.

C. If applicable, Fuel surcharges paid by any Mill/Buyer will be paid to Harvester.

D. In the event of a disputed billing, only the disputed portion will be withheld from payment, and PORT shall pay the undisputed portion. PORT will exercise reasonableness in disputing any bill or portion thereof. No interest will accrue on any disputed portion of the billing until mutually resolved. Both parties will use their best efforts to resolve disputed billing issues.

3. Standard of Care.

The standard of care applicable to HARVESTER's services will be the degree of skill and diligence normally employed by HARVESTER's performing the same or similar services at the time the services are performed. Upon notice from PORT, HARVESTER will reperform any services not meeting this standard without additional compensation.

4. Incorporation of Buyers Terms and Conditions.

HARVESTER acknowledges and agrees to the attached Exhibits 2 and 3(incorporated by reference) and represents that HARVESTER meets the requirements outlined therein. It is HARVESTER's responsibility to comply with all requirements in the attached Exhibits.

5. Independent Contractor.

HARVESTER shall be fully independent and shall not act as an agent or employee of PORT. HARVESTER shall be solely responsible for its employees and their compensation, benefits, contributions, and taxes, if any.

6. Force Majeure.

Neither PORT nor HARVESTER is responsible for damages or delays in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond their control. The parties will use their best efforts to make equitable adjustments in the event of such a Force Majeure.

7. Indemnification.

HARVESTER agrees to indemnify, hold harmless, and defend Port (using legal counsel acceptable and approved by Port) including Port Commissioners, employees and agents 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 and which arise from any of the following: (a) any negligent act or omission of HARVESTER or HARVESTER's partners, officers, directors, agents, employees, invitees or subcontractors; (b) any use, occupation, management or control of Port property by HARVESTER or HARVESTER's employees, agents, subcontractors, or suppliers, whether or not due to the HARVESTER's own act or omission and whether or not occurring on Port property; (c) any condition created on Port property by HARVESTER or HARVESTER's employees, agents, Subcontractors, or suppliers, and any accident, injury or damage arising from the condition; (d) any breach, violation or negligent nonperformance of any of HARVESTER's obligations under this Contract; or (e) any damage caused by HARVESTER or HARVESTER's employees, agents, subcontractors, or suppliers on or to Port property.

8. Assignment.

Neither party shall have the power to or will assign any of the duties or rights or any claim arising out of or related to this Agreement, whether arising in tort, contract or otherwise, without the written consent of the other party. Any unauthorized assignment is void and unenforceable. These conditions and the entire Agreement are binding on the heirs, successors, and assigns of the parties hereto.

9. Insurance

9.1 At all times during this agreement, HARVESTER shall provide and maintain the following types of coverage. Insurance requirements set forth below do not in any way limit the amount or scope of liability of the HARVESTER under this Agreement. The amounts listed indicate only the minimum amounts of insurance coverage the Port is willing to accept to help ensure the full performance of all terms and conditions of this Agreement. All insurance required by HARVESTER under this Agreement shall meet the following minimum requirements. The Port requires and shall be entitled to any broader coverage and/or higher policy limits maintained by HARVESTER. Any and all available insurance proceeds in excess

of the specified minimum limits of insurance and coverage shall be made available to the Port.

9.2. General Liability Insurance. HARVESTER shall maintain an occurrence form commercial general liability policy or policies insuring against liability arising from 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) per occurrence.

9.3 Automobile Liability Insurance. HARVESTER 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 vehicles (including owned, hired and non-owned vehicles) on and around the Premises. Coverage shall be in an amount of not less than TWO MILLION DOLLARS (\$2,000,000) for each accident.

9.4 Workers' Compensation Insurance. HARVESTER shall maintain in force Workers' Compensation insurance for all of Lessee's employees in accordance with all requirements of Oregon law.

9.5 Harvester's Risks. HARVESTER 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 HARVESTER; (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.

9.6 Waiver of Subrogation. HARVESTER 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 insurance policy or policies maintained or required to be maintained pursuant to this Agreement. HARVESTER also waives any right of action it and/or its insurance carrier(s) might have against the Port (including the Port's 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 Agreement. If any of Harvester's applicable insurance policies do not allow the insured to waive the insurer's rights of recovery before a Loss, Harvester shall cause such policies to be endorsed to allow the waivers of subrogation required by this Section.

9.7 Periodic Review. The Port shall have the right to periodically review, 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.

10. Waiver.

No waiver of a breach of any covenant, term or condition of this Agreement shall be a waiver of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term, or condition itself.

11. Severability and Survival.

If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby.

12. Termination:

Either party may terminate this Agreement at any time upon thirty (30) days prior written notice to the other.

13. Controlling Law, Jurisdiction and Venue:


The substantive laws of the State of Oregon shall govern the validity of this Agreement, its interpretation and performance, and any other claims related to it. Venue shall be in Columbia County Circuit Court, St. Helens, Oregon.

14. Agreement.

This Agreement constitutes the entire Agreement between the parties and supersedes all prior written or oral understandings and may only be changed by a written amendment executed by both parties. The following attachments are made a part of this agreement: Exhibit 1 Pellham Cutting, Inc. Scope of Work 1 dated June 26, 2024, Exhibit 2 Agreements with Georgia Pacific and Exhibit 3 Agreements with Nippon Dynawave Packaging Co.

PELLHAM CUTTING INC

PORT OF COLUMBIA COUNTY

| | | | |
|-------------------|--|-------------------|---------------------------|
| By: | <u>Greg Pellham</u> | By: | <u>Sean P. Clark</u> |
| Title: | <u></u> | Title: | <u>Executive Director</u> |
| Signature: |  <small>Greg Pellham (Aug 6, 2024 16:23 PDT)</small> | Signature: | <u></u> |
| Date: | <u></u> | Date: | <u></u> |

Address and email for giving notices and to which payments should be sent:

| | |
|---------|---------------------------------------|
| <u></u> | <u>PO Box 190</u> |
| <u></u> | <u>Columbia City, OR 97018</u> |
| <u></u> | <u>levin@portofcolumbiacounty.org</u> |

EXHIBIT 1 – Pellham Cutting, Inc. Scope of Work June 26, 2024

1. DUTIES. Harvester will generally work at Port's direction and shall fall, buck, yard, sort, load, chip and haul merchantable forest products designated from Port's land and timber holdings. Harvester shall produce products according to specifications based on mill or market requirements. Furthermore, Harvester shall be allowed to construct the necessary spur roads, skid roads and pile brush in accordance with the Port's plans.

A. Harvester shall deliver all forest products to Georgia-Pacific's Wauna Plant or Nippon Dynawave Packaging Co's Longview Plant ("Mill/Buyer") as designated by the Port.

B. Harvester shall comply with all terms and conditions of the Mill/Buyer's sales agreements and terms as attached and incorporated into the Professional Services Agreement as Exhibit 2 and Exhibit 3.

C. Subject to the processing instructions in the Mill/Buyer's specifications, the chips shall be processed to secure the highest possible grade and utilization of merchantable material.

D. Harvester shall have the right to use existing roads on Port's lands. Roads used by Harvester shall be maintained by Harvester in passable condition and protected from erosion.

E. Harvesting shall begin upon receipt of necessary permits and weather conditions (as agreed by Port and Harvester).

F. Port will be responsible for all taxes to be paid on the harvest of forest products.

G. Port will be responsible for all property lines and confirmation that designated trees to be cut are located within those boundaries.

H. Port will engage its own contracted representative for the purpose of monitoring harvesting, directing harvesting sequence, rate negotiations and adjustments, and communications that facilitate the Port's objectives for entering into this agreement.

I. Contracted representative shall be responsible for securing any applicable permits relating to timber harvesting and road usage.

J. Harvester is to collect residual debris and deposit it as is customary in debris piles on the property.

K. The Harvester will conduct all work so as to comply with the Forest Practice Rules of the State of Oregon if applicable.

L. Harvester shall repair at Harvester's cost any fences knocked down or damaged and shall repair any ditches that are damaged in the course of harvesting or chipping the trees.

2. RATES. Port covenants and agrees to pay Harvester for harvesting of Port's timber. Where split payments are not made, Port agrees to pay Harvester within 15 (fifteen) days after receiving the HARVESTER's invoice and the load data from the Mill/Buyer. In the event the Mill/Buyer fails to pay Harvester and/or Port for Port's products, Port agrees to assist Harvester in any collection actions as is reasonable and appropriate, but it will be Harvester's sole responsibility to undertake collection from the Mill/Buyer. Rate detail and means for adjustments are described in Exhibit "B".

EXHIBIT A – HARVEST AREAS

The area delineated in this image is located within Columbia County, Oregon. This image provides the general location of the harvesting area and timber location. The image is a representation and is not survey quality. Port or its contracted representative will provide Harvester with detailed harvest areas, including property boundaries.



EXHIBIT B – RATE DETAIL

Harvest Rate upon execution of Agreement is \$76.00 per Bone-Dry-Ton paid by Port to Harvester for delivery of clean chips from harvest area(s) represented in Exhibit A to Nippon Dynawave Packaging Co. receiving facility in Longview, WA and/or Georgia Pacific Wauna Pulp Mill in Wauna, OR, and other local buyers of wood chips as the Port may direct. If applicable, Fuel surcharges paid by Mill/Buyer will be paid to Harvester.

Chip volume (Bone-Dried Ton) is to be based upon buyers scales and weight calculation as evidenced by Mill/Buyer's payment to the Port.

Additional destinations and/or product deliveries and their respective rates may be added to this Agreement. Harvest Rate, delivery destinations, and/or product delivery changes may be made upon Port's proposal of such change and an affirmative response from the Harvester. Such proposed change and communication can be by email, text message, or hard copy.

PURCHASE AGREEMENT WITH GEORGIA-PACIFIC

Res. 2024-18



| PURCHASE AT PLANT AGREEMENT |
|-----------------------------|
| |

| "SELLER" |
|--|
| NAME Port of Columbia County |
| ADDRESS 100 E Street |
| CITY/STATE/ZIP Columbia City, OR 97018 |
| EMAIL levin@portofcolumbiacounty.org |

| "GP" |
|---------------------------------|
| Georgia-Pacific WFS LLC |
| 133 Peachtree Street NE |
| Atlanta, Georgia 30303 |
| EMAIL Sara.deterville@gapac.com |

5/30/24

THIS PURCHASE AT PLANT AGREEMENT (this "Agreement") is entered into effective as of _____ (the "Effective Date") by and between SELLER and GP, each as defined above. For and in consideration of the mutual promises herein contained, SELLER and GP agree as follows with respect to purchases of certain round wood and/or products derived from such round wood (collectively, "Material") by GP from SELLER.

1. Contract Term; Termination.

- a. The term of this Agreement (the "Contract Term") shall commence on the Effective Date and continue in effect until this Agreement is terminated by either party, in its sole and absolute discretion, upon at least thirty (30) days' prior written notice to the other party; provided, however, if a party breaches this Agreement or any Purchase Order, the non-breaching party may suspend further performance of its obligations under this Agreement and any Purchase Orders until such breach is cured, and, if such breach is not cured within ten (10) days after written notice thereof, the non-breaching party shall have the right to terminate this Agreement and any Purchase Orders immediately upon providing written notice to the breaching party.
- b. If this Agreement is terminated for reasons other than breach of this Agreement or any Purchase Order prior to the parties completing their obligations pursuant to a Committed Purchase Order that was agreed to in writing prior to such termination, then the terms of this Agreement shall continue to apply to such Committed Purchase Order and the transactions thereunder until the earlier of (i) the fulfillment of the parties' obligations pursuant to such Committed Purchase Order or (ii) the earlier termination of such Committed Purchase Order as specifically provided herein or in such Committed Purchase Order.
- c. Unless specifically set forth otherwise in any Purchase Order, GP shall have the right to terminate any Purchase Order (including any Committed Purchase Order) upon at least thirty (30) days' prior written notice to SELLER in the event the manufacturing facility owned and/or operated by GP or an affiliate of GP using the Material purchased under such Purchase Order closes, permanently or indefinitely suspends or discontinues all or substantially all operations, or permanently or indefinitely ceases to use Material meeting the applicable Specifications for such Purchase Order.

2. Purchase of Material; Specifications; Warranties.

- a. GP may, from time to time during the Contract Term, order Material from SELLER by issuing written rate card(s) or purchase order(s) providing commercial terms for the purchase by GP of Material (e.g., description of Material, specifications, purchase price, delivery location, number of loads per day or week) (each, a "Purchase Order"). Nothing contained in this Agreement or any Purchase Order gives SELLER the exclusive right to provide GP or any affiliate of GP with Material. Except as otherwise specified in a Committed Purchase Order agreed upon pursuant to Subsection 2(d) below, nothing in this Agreement or any Purchase Order obligates GP to purchase or take any minimum frequency, quantity, volume or dollar amount of Material from SELLER. Any estimated or forecasted quantity of Material, whether contained in any Purchase Order or any communication between the parties, shall be deemed to be only a non-binding, good faith estimate or forecast devised for the convenience of the parties, and GP shall not be obligated to purchase or otherwise compensate SELLER for any estimated or forecasted quantity of Material. Every load of Material ordered by GP and/or delivered by SELLER to a facility designated by GP during the Contract Term shall be subject to the terms and conditions of this Agreement, regardless of whether this Agreement is referenced, unless otherwise specifically agreed in writing signed by both parties.
- b. SELLER warrants that (i) Material will meet and comply with all applicable Specifications for such Material; and (ii) SELLER shall convey to GP good title to Material, free from all liens, claims and encumbrances.
- c. SELLER warrants that, with the exception of any applicable severance taxes on round wood levied by the states of Alabama, Arkansas, Louisiana and Mississippi, all applicable timber taxes pertaining to the purchase, sale, severance and delivery of Material sold hereunder will be paid by SELLER. SELLER further warrants that with respect to such taxes, all reports, tax forms and other documents required by taxing jurisdictions shall be filed in accordance with all Applicable Laws. SELLER acknowledges and agrees that GP will withhold from settlement and remit to the appropriate state any applicable severance taxes on round wood for deliveries originating from Alabama, Arkansas, Louisiana and Mississippi.
- d. **Committed Purchase Orders.** If the parties agree to a Purchase Order which specifies that GP will buy and SELLER will sell a certain volume of Material (whether fixed amount, percentage of GP's requirements for Material at any facility or percentage of Material output at any site) and/or Material from a particular tract of land (each such Purchase Order, a "Committed Purchase Order"), then the volume and/or tract requirements shall be as set forth on such Committed Purchase Order.

In addition to all other terms set forth in this Agreement, each Committed Purchase Order shall be subject to the following terms:

- (i) For Committed Purchase Orders containing volume commitments of fixed amount, unless excused due to a Force Majeure Event or Curtailment as provided in Section 12 herein or otherwise agreed in writing by the parties, the volume of Material delivered pursuant to such Committed Purchase Order shall not deviate by more than five percent (5%) from the fixed volume indicated on the Committed Purchase Order.
 - (ii) For Committed Purchase Orders containing tract commitments, all Material delivered pursuant to such Committed Purchase Order shall originate from the tract(s) of origin indicated on the Committed Purchase Order.
 - (iii) For the avoidance of doubt, the provisions set forth in this Subsection 2(d) shall only apply to Committed Purchase Orders
- e. SELLER represents and warrants to GP that it is not restricted or prohibited from selling the Material to GP, and/or performing any of its obligations under this Agreement, by any contract, promise or representation with or to any other person or entity.
- f. As used herein, "Specifications" means the specifications and requirements for Material set forth in this Agreement or in the applicable Purchase Order or otherwise made available to SELLER on the *Mill Specifications* page in GP's Customer Self-Service Portal (currently at <https://css.gp.com>). GP shall have the right to propose modified or additional Specifications for any Material at any time to the extent necessary to address changes in or compliance with any Applicable Laws or industry standards (including applicable SFI® or forest stewardship programs), and SELLER shall not unreasonably withhold or delay its consent to any such request. If SELLER does not accept any such proposed Specifications within thirty (30) days of receiving written notice thereof from GP, then GP may terminate the affected Purchase Order(s) upon written notice to SELLER.
- g. To the extent that any terms in a Purchase Order conflict with the terms of this Agreement, the terms set forth in this Agreement shall control. Purchase Orders issued during the Contract Term that do not refer to this Agreement shall still be governed by this Agreement unless GP and SELLER specifically agree otherwise in writing.

3. Delivery; Acceptance; Payment.

- a. Unless otherwise specified in the applicable Purchase Order, SELLER shall deliver, and arrange and pay for the transportation of, Material to the facility of GP, GP's affiliate or third party designated by GP in the applicable Purchase Order (the "Delivery Point"). Title and risk of loss shall transfer to GP upon unloading of Material at the Delivery Point by GP or its designee; provided, however, if the applicable Purchase Order specifies that delivery will take place upon the completion of the loading of Material onto a common carrier designated by GP at a mutually agreed upon location, then (i) title and risk of loss will transfer to GP upon completion of the loading of the Material at such location agreed to by the parties and (ii) Section 9 of this Agreement (Insurance) shall not apply. Notwithstanding the foregoing, title and risk of loss to any Material that fails to conform to the applicable Specifications or any representations or warranties hereunder and is rejected by GP shall remain with SELLER at all times.
- b. All Material delivered hereunder shall be scaled or weighed upon arrival at the Delivery Point by GP or its designee, unless otherwise mutually agreed by the parties. SELLER agrees to be bound by such scaling or weighing, including cull or dockage deductions made (in accordance with GP's standard measurement procedures and at the rates for same set forth in the Specifications or applicable Purchase Order) at GP's option for Material not meeting the Specifications applicable to such Material. GP shall have no obligation to purchase, accept and take Material that fails to meet the applicable Specifications. At GP's option, GP or its designee may reject or assess deductions against Material that fails to meet the applicable Specifications without first having to hold same for SELLER's inspection.
- c. For each delivery, GP shall furnish SELLER settlement records indicating the volumes of Material delivered to and accepted by GP at the Delivery Point. Unless otherwise set forth in an applicable Purchase Order or as mutually agreed by the parties, GP agrees to pay SELLER for Material delivered to and accepted by GP at the Delivery Point, in accordance with the rate set forth in the applicable Purchase Order, by the last day of the first full week following the end of the week in which such Material was delivered to such Delivery Point. For the purposes of this Agreement, a "week" shall be the period beginning on a Sunday and ending on the immediately following Saturday, both inclusive. The volumes as shown in GP's settlement records and payments therefor shall be deemed conclusively correct and binding upon SELLER unless contested within sixty (60) days following receipt of such settlement record and payment. GP may set off any amount payable by GP to SELLER under the Agreement or otherwise against any amounts payable by SELLER to GP under the Agreement or otherwise.

4. Governmental Regulations; Safety and Security Rules.

- a. In the performance of this Agreement, the parties shall comply with all applicable laws, statutes, rules, regulations, orders, ordinances, writs, judgments, decrees, directives, treaties, conventions, priorities, injunctions and restrictions, now or hereafter in force, of any governmental authority having jurisdiction ("Applicable Law(s)"), and with all mandatory and voluntary Best Management Practices now or hereafter in force.
- b. SELLER shall obtain and maintain all licenses, approvals and permits required by Applicable Law with respect to its performance of this Agreement and/or its activities in connection herewith and shall pay all fees and charges in connection therewith or otherwise that are or may be lawfully demanded or required by any governmental authority, including, but not limited to, all license fees, franchise or business privilege taxes, or other like charges required to be paid by any person or firm engaged in the severance, delivery and/or sale of Materials.
- c. Without limiting the generality of the foregoing, SELLER shall ensure that all trucks or other vehicles used in the performance of this Agreement comply with all Applicable Laws related to weight limits. Overweight trucks may be denied access to any Delivery Point in the sole discretion of GP or the owner/operator of such premises.

- d. SELLER (and its subcontractors, and their respective agents or employees) shall comply with all applicable rules and policies of GP or its affiliates while on the premises of GP or any affiliate of GP. In the event SELLER, or any of its subcontractors, or any of their respective agents or employees does not comply with such rules or policies, GP or the owner/operator of such premises, in its sole discretion, may (i) refuse to unload and accept delivery of Material, and/or (ii) have such noncompliant individual's access revoked and/or have such individual removed from such premises. SELLER agrees that GP or its affiliates may require the employees of SELLER and its subcontractors entering onto the premises of GP or any affiliate of GP to first execute a facility sign-in sheet or similar document addressing security and liability matters as to such individual.
- e. Without limiting the generality of the foregoing, SELLER acknowledges that it has reviewed and understands the Georgia-Pacific *Supplier Sustainability Guidelines* available at: <https://www.gp.com/legal/supplier-guidelines>, as may be modified or updated by GP or its affiliates from time to time (the "Supplier Guidelines"). SELLER is and will remain in full compliance with the Supplier Guidelines during the Contract Term to the extent applicable to the SELLER. GP and its affiliates reserve the right to modify the Supplier Guidelines at any time without prior notice and the current version shall, effective upon the posting of same to the Georgia-Pacific website or at such time as same is otherwise communicated to SELLER by GP, supersede all prior versions with respect to all activities conducted after such effective time.

5. Sustainable Forestry.

- a. SELLER represents, warrants and covenants that either:
 - (i) all Material will be harvested only by loggers who are in full compliance with the applicable state's Implementation Committee's logger training requirements under the Sustainable Forestry Initiative® ("SFI") or other equivalent certification program; or
 - (ii) SELLER is entitled to an exemption pursuant to GP's internal policies for granting of exemptions to the above noted SFI® compliance standard.
- b. SELLER further warrants and agrees that it shall maintain all records necessary to demonstrate compliance with the foregoing representation, warranty and covenant and shall permit GP or third parties engaged by GP to review and audit all such records at reasonable times and with reasonable notice, upon the request of GP.
- c. If and for so long as SELLER (in its sole discretion) maintains a current SFI®, Forest Stewardship Council ("FSC"), or Programme for the Endorsement of Forest Certification ("PEFC") (each a "Certification Program") Forest Management certification, GP may in its discretion, at any time upon sixty (60) days' written notice to SELLER, modify the Specifications for affected Purchase Orders to require that all tonnage of Material that is available for such certification (under the accounting system of the applicable Certification Program) be Certified Wood under such Certification Program, in which case, SELLER shall also deliver to GP, on a monthly basis, documentation of the volume in tons of Certified Wood Material delivered to GP during the immediately preceding month, claiming the "SFI® 100% Certified Forest Content", "FSC® 100%", or "100% PEFC Certified" designation (as applicable) for such Material and showing SELLER's Forest Management certification number for such Certification Program. Unless GP and SELLER specifically agree otherwise in writing, such certification shall be at SELLER's expense and SELLER shall not be entitled to a purchase price adjustment on account thereof.

6. **District of Origin.** SELLER represents, warrants and covenants that all Material shall be produced from timber standing or down from tracts identified and located within the areas set forth on maps available at <https://www.gp.com/legal/district-of-origin-maps/>.

7. **Forest Stewardship.** SELLER acknowledges that it has reviewed and understands the Georgia-Pacific *Statement on Forest Stewardship* available at: <https://www.gp.com/legal/legal-notice/statement-on-forest-protection-and-sustainable-practices/>, as may be modified or updated by GP or its affiliates from time to time (the "Statement on Forest Stewardship"). SELLER will not take any action or deliver any Material pursuant to this Agreement that fails to comply with the Statement on Forest Stewardship. GP and its affiliates reserve the right to modify the Statement on Forest Stewardship at any time without prior notice and the current version shall supersede all prior versions with respect to all activities conducted after the time such version is posted to the aforementioned website or is otherwise communicated to SELLER by GP. SELLER acknowledges that it has reviewed and understands the *Endangered Forest Maps* applicable to each area from which Material is to be sourced, as made available to SELLER in GP's Customer Self-Service Portal (currently at <https://css.gp.com>), as may be updated or modified by GP or its affiliates from time to time (the "Endangered Forest Maps"). SELLER agrees to contact its local GP representative prior to delivering any Material that has been sourced from an "area of interest" or area of interest county as identified in the Endangered Forest Maps to verify the Material has not been sourced from an area identified by GP as an endangered forest or special area. SELLER agrees it will not deliver any Material sourced from an endangered forest or special area without prior approval by a GP forester.

8. Indemnification.

- a. TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, SELLER SHALL PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS GP, ITS AFFILIATED COMPANIES, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES (COLLECTIVELY, "INDEMNITEES") FROM AND AGAINST ANY AND ALL LOSSES, COSTS, EXPENSES (INCLUDING WITHOUT LIMITATION LEGAL FEES AND COURT COSTS), CLAIMS, DAMAGES, DEMANDS, LIABILITIES, SUITS, FINES, PENALTIES, ACTIONS, RECOVERIES AND JUDGMENTS OF EVERY NATURE AND DESCRIPTION, IRRESPECTIVE OF WHETHER INCURRED OR SUFFERED BY INDEMNITEES ON ACCOUNT OF THIRD PARTY CLAIMS, INTER-PARTY CLAIMS, OR OTHERWISE, AND IRRESPECTIVE OF WHETHER THE POSSIBILITY OF SAME HAS BEEN DISCLOSED IN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN (COLLECTIVELY, "LOSSES"), ARISING OUT OF OR RELATING TO ANY ACT OR OMISSION IN THE PERFORMANCE (OR NONPERFORMANCE) OF THIS AGREEMENT (OR IN THE CONDUCT OF ACTIVITIES IN CONNECTION HEREWITH) BY SELLER, ITS AGENTS, SUBCONTRACTORS, OR THE AGENTS, SUBCONTRACTORS, REPRESENTATIVES, OFFICERS OR EMPLOYEES OF

ANY OF THEM. TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, SUCH LOSSES SHALL INCLUDE THOSE CONTRIBUTED TO BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF INDEMNITEES OR ANY OTHER PERSON OR ENTITY, EXCEPT FOR LOSSES CAUSED SOLELY BY THE NEGLIGENCE OR WILLFUL MISCONDUCT OF INDEMNITEES.

- b. TO THE EXTENT THAT SELLER WOULD OTHERWISE BE RESPONSIBLE TO INDEMNITEES FOR SUCH LOSSES HEREUNDER, SELLER EXPRESSLY WAIVES, SOLELY VIS-À-VIS INDEMNITEES, ANY INSULATION FROM LIABILITY FOR LOSSES RELATED TO INJURIES TO THE EMPLOYEES OF SELLER THAT MIGHT BE EXTENDED TO SELLER VIS-À-VIS SUCH EMPLOYEES UNDER ANY APPLICABLE WORKERS COMPENSATION STATUTE OR OTHER APPLICABLE LAW; PROVIDED, HOWEVER, THAT SUCH WAIVER IS NOT INTENDED TO LIMIT ANY RIGHT SELLER MAY HAVE VIS-À-VIS SUCH EMPLOYEES UNDER APPLICABLE LAW.
- c. IT IS AGREED THAT, WITH RESPECT TO ANY LEGAL LIMITATIONS NOW OR HEREAFTER IN EFFECT THAT AFFECT THE VALIDITY OR ENFORCEABILITY OF THE OBLIGATIONS UNDER THIS SECTION, SUCH LEGAL LIMITATIONS ARE MADE A PART OF SUCH OBLIGATIONS TO THE MINIMUM EXTENT NECESSARY TO BRING THIS SECTION INTO CONFORMITY WITH THE REQUIREMENTS OF SUCH LIMITATIONS, AND AS SO MODIFIED, SUCH OBLIGATIONS SHALL CONTINUE IN FULL FORCE AND EFFECT. AS TO ANY LOSSES WITH RESPECT TO WHICH SELLER IS OBLIGATED TO INDEMNIFY INDEMNITEES UNDER THE AGREEMENT, SELLER FURTHER COVENANTS NOT TO BRING ANY SUIT, ACTION OR OTHER PROCEEDING AGAINST INDEMNITEES TO RECOVER SUCH LOSSES
- d. SELLER'S OBLIGATIONS UNDER THIS SECTION 8 SHALL SURVIVE TERMINATION OR EXPIRATION OF THIS AGREEMENT AND/OR THE APPLICABLE PURCHASE ORDER.

9. Insurance.

- a. Subject to Subsection 3(a) of this Agreement, SELLER shall, at all times during the Contract Term, maintain at its own expense the following insurance on an "occurrence" policy form with minimum limits as set forth below (the "Insurance"):
 - (i) **Workers Compensation Insurance**, as prescribed by Applicable Law.
 - (ii) **Employer's Liability Insurance**, as prescribed by Applicable Law.
 - (iii) **Commercial General Liability Insurance**, with minimum limits of **\$1,000,000** per occurrence and in the aggregate and having coverage at least as broad as that provided by the standard coverage form *ISO CG 00 01 01 96 with standard exclusions "a" through "n"* or a more current edition of the ISO-CG-00-01 form. The policy must include the following features:
 - Contractual Liability coverage.
 - No "Designated Ongoing Operations" or similar exclusion that lists logging, skidding, lumbering, transportation, hauling, or the like, or that otherwise would exclude coverage for activities to be performed by SELLER or its contractors under this Agreement.
 - Designate **Georgia-Pacific LLC and its subsidiaries** as an additional insured with respect to liability arising out of SELLER's performance under the Agreement or activities related thereto, pursuant to an *ISO form CG 20 10 10 93, CG 20 10 03 97, CG 20 10 10 01* or equivalent endorsement form.
 - (iv) **Automobile Liability Insurance**, with a minimum combined single limit of **\$1,000,000** for bodily injury and property damage. The policy must include contractual liability coverage and designate **Georgia-Pacific LLC and its subsidiaries** as an additional insured pursuant to an endorsement satisfactory to GP. Coverage must apply to either of the following:
 - (A) "any auto", or "all owned", "all non-owned", and "all hired" automobiles and other vehicles, or
 - (B) "all scheduled", automobiles and other vehicles, in which case, SELLER represents, warrants and covenants that it will not, nor will it allow any of its employees, contractors or agents to, drive or operate any vehicle on any premises of GP or its affiliates that are not listed on SELLER's insurance schedule and do not meet the above requirements. SELLER will immediately notify GP of any changes (additions or deletions) in vehicles on the coverage schedule and will provide an updated coverage schedule to GP upon occurrence of such event.
- b. To the fullest extent permitted by Applicable Law, SELLER, for itself and on behalf of its insurers, shall and does hereby waive any right of subrogation that SELLER or any such insurer may have arising out of insured claims under the Insurance, and such policies shall contain a waiver of the right of subrogation and an assignment of statutory lien, if applicable. SELLER acknowledges that in no event will the insurance of GP or any of its affiliates, including but not limited to any self-insured retention ("SIR") or deductible, be considered "other insurance" under the terms of the Insurance. SELLER shall be responsible for payment of all deductibles or SIRs from insured claims under the Insurance. To the extent that the Insurance is subject to a SIR, SELLER shall, vis-à-vis GP and its affiliates, be deemed to "stand in the shoes" of the insurance carrier in all respects as to the self-insured portions of the coverage, meaning that SELLER's duties and obligations as to the self-insured portions of the coverage (including, without limitation, the duties of defense and indemnification) shall be identical to the duties and obligations that would have been owed to GP and its affiliates by the insurance carrier were such portions not self-insured. The coverage afforded under the Insurance shall be primary and not in excess over or contributory to any other insurance or self-insurance available to GP or its affiliates. No cancellation, modification or change in the Insurance shall affect SELLER's obligation to maintain the Insurance.
- c. SELLER shall provide GP with certificate(s) of insurance and additional insured endorsements satisfactory to GP evidencing the Insurance and renewals thereof. SELLER hereby gives GP and its affiliates permission to contact SELLER's insurance provider(s) regarding any Insurance or any deficiencies as to such Insurance requirements occurring at any time during the

Contract Term. SELLER hereby agrees to notify GP immediately of any changes in SELLER's insurance provider(s) for any of the Insurance.

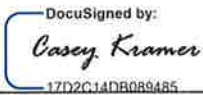
- d. The obligation of SELLER to carry the Insurance shall be independent of the indemnity provisions of this Agreement and shall not limit or modify in any way the liability or other obligations assumed by SELLER hereunder. Neither GP nor its affiliates shall be under any duty to advise SELLER in the event that SELLER's insurance is not in compliance with this Agreement. GP'S OR ITS AFFILIATE'S ACCEPTANCE OF ANY CERTIFICATE OR OTHER PROOF OF INSURANCE SHALL NOT CONSTITUTE ACCEPTANCE OF THE ADEQUACY OF COVERAGE AND/OR COMPLIANCE WITH THE REQUIREMENTS OF THIS AGREEMENT, OR AN AMENDMENT TO THIS AGREEMENT.
- 10. Subcontractors.** SELLER hereby agrees that it is responsible to GP and its affiliates for the acts and omissions of its subcontractors (and their respective employees, agents or representatives) to the same extent that SELLER is responsible to GP and its affiliates for its own acts and omissions (and those of its employees, agents and representatives), and that it shall remain primarily liable and obligated to GP and its affiliates for the timely and proper performance of all obligations under this Agreement. SELLER covenants to (i) require each of its subcontractors to comply with the terms of this Agreement relevant to the portion of SELLER's duties under this Agreement to be performed by such subcontractor and (ii) ensure that no arrangement or agreement with any subcontractor is inconsistent with this Agreement or adversely affects GP's ability to exercise its rights hereunder. Nothing contained herein shall be deemed to waive or limit any rights or remedies that GP or its affiliates might have against any such subcontractor at law or in equity. Nothing contained herein shall create any relationship or contractual agreement between GP or its affiliates and any subcontractor or alter such subcontractor's status as an independent contractor. The SELLER's insurance policies shall provide coverage for such subcontractors' performance pursuant to this Agreement.
- 11. Independent Contractor.** SELLER is an independent contractor and shall not operate as, hold itself out to be, or be deemed to be an agent, employee, servant or representative of GP or its affiliates. No personnel of SELLER, nor any subcontractors, representatives or agents of SELLER, shall be deemed under any circumstances to be agents, employees, servants or representatives of GP or its affiliates. Neither SELLER nor GP is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of the other, or bind the other, in any manner whatsoever. SELLER assumes full responsibility for compliance with Applicable Law governing employment and taxation matters with respect to its employees and other personnel and shall, as a part of its expenses, assume and pay all taxes that may be charged or assessed upon the pay of its employees.
- 12. Force Majeure; Curtailment.** If and to the extent that a Force Majeure Event prevents a party from, or delays a party in, performing any one or more of its obligations under this Agreement or any Purchase Order(s), or if and to the extent GP or its affiliate is unable to take delivery and use Material under any Purchase Order(s) at any mill to which the Material is supplied due to a Curtailment, the resulting failure or delay in performance will not constitute a breach of this Agreement or the affected Purchase Order(s) and the affected party shall be excused from such obligations if the affected party (i) promptly notifies the other party of the occurrence of the Force Majeure Event or Curtailment, its effect(s) on performance, and the expected duration of such occurrence and/or effect(s), and thereafter updates said information as reasonably necessary, and (ii) makes reasonable efforts to perform such obligations to the fullest extent possible, to resume its full performance of such obligations as promptly as possible, and to otherwise limit damages to the other party as much as possible, under the circumstances. As used herein, "**Force Majeure Event**" means any unusual event, circumstance or occurrence that the affected party could not reasonably control, avoid or overcome and that occurs through no negligence or other fault of such party (including, without limitation and in each case to the extent beyond the reasonable control and without the fault of the affected party, fire, explosion, tornado, hurricane, flood, epidemic, pandemic, government lockdown, compliance with Applicable Law or any governmental demand or restraint and inability to obtain or maintain necessary permits, licenses, authorizations or approvals). As used herein "**Curtailment**" means any extended or indefinite curtailment, shut down or suspension (including maintenance downtime, emergency closures or unplanned closures) of operations at a mill. No Force Majeure Event or Curtailment shall entitle SELLER to receive additional compensation from GP or its affiliates.
- 13. Remedies; Non-Waiver.** The remedies specified herein shall be cumulative, nonexclusive and in addition to any other remedies available at law or in equity. The failure of either party to require strict performance of any term or condition of this Agreement or any Purchase Order, or the waiver by a party of any breach or non-performance of this Agreement or any Purchase Order, shall not be deemed a waiver of any continuation of an existing non-performance or breach or any subsequent non-performance or breach. All waivers must be in writing and signed by the waiving party and shall only be effective in the specific instance and for the specific purpose for which it has been given.
- 14. Confidentiality.** This Agreement, any Purchase Orders, any forecasts, documents or communications delivered by GP or its affiliates pursuant hereto, and any nonpublic or proprietary information that is disclosed by GP or its affiliates to SELLER in connection with this Agreement or activities related thereto are confidential and may not be disclosed by SELLER to any third party, or used by SELLER other than as necessary to perform its obligations under this Agreement, without GP's prior written consent. SELLER's obligations in this Section 14 shall survive termination or expiration of this Agreement for a period of five (5) years.
- 15. Governing Law; Venue.** This Agreement, any Purchase Order or other document or instrument delivered pursuant hereto, and all claims or causes of action, whether in contract or tort, that, in whole or in part, are based upon, arise out of or relate to this Agreement, any Purchase Order or the negotiation, execution, termination, validity, enforceability, performance or nonperformance of this Agreement or any Purchase Order, shall be governed by and construed in accordance with the domestic substantive laws of the State of Georgia (including, but not limited to, the Uniform Commercial Code as enacted in the State of Georgia), without regard to any choice or conflicts of law provisions or provisions that would indicate the use of the substantive laws of another jurisdiction. The parties hereby irrevocably submit to the exclusive jurisdiction of any state or federal court sitting in Atlanta, Georgia, over any suit, action or proceeding relating to this Agreement or any Purchase Order.

- 16. **Assignment.** SELLER shall not assign this Agreement in whole or in part, whether by operation of law, contract or otherwise, without the prior written consent of GP, and any purported assignment without such consent shall be void. Subject to the foregoing, the rights and obligations of the parties shall enure to the benefit of and be binding upon their respective successors and assigns.
- 17. **Notices.** Unless otherwise specified herein, any notice required or permitted to be given under this Agreement shall be in writing or electronic communication and shall be deemed delivered only upon actual receipt thereof by the party to whom addressed. All legal notices shall be addressed to the applicable party as set forth on Page 1 of this Agreement, to the attention of such party's signatory hereto, and in the case of notices to GP with a copy to Georgia-Pacific, Law Department, 133 Peachtree Street, NE, Atlanta, Georgia 30303; Attention: Wood and Fiber Supply Counsel, Email: LegalNotice@gapac.com. Either party may change its address for notices by giving written notice of the change to the other party pursuant to the foregoing provisions of this Section. All other (routine) notices shall be addressed, as applicable, either to SELLER as set forth on Page 1 of this Agreement or to GP at the following address:

GP ADDRESS Georgia Pacific W&FS LLC, 401 NE Adams St, Camas, WA 98607

- 18. **Severability; Survival; Interpretation.** Every provision of this Agreement is completely severable, and the invalidity or unenforceability of any one or more of such provisions shall not in any way affect the validity or enforceability of this Agreement or of any other provisions herein. Neither the expiration nor termination of this Agreement shall affect the provisions of this Agreement that expressly provide that such provisions will operate after any such expiration or termination, or that by their nature necessarily must continue to have effect after such expiration or termination in order to achieve their purpose, notwithstanding that the clauses themselves do not expressly provide for this. If an ambiguity or question of intent or interpretation arises, no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of this Agreement. Prior drafts of this Agreement (or of any documents ancillary thereto), or the fact that any clauses have been added, deleted or otherwise modified from any such prior drafts, shall not be used as an aide of construction or otherwise constitute evidence of the intent of the parties; and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue thereof.
- 19. **Counterparts; Electronic Signatures and Copies.** This Agreement may be executed and delivered electronically and in one or more counterparts, each of which shall be deemed an original and all of which shall together constitute one and the same instrument. Copies of this Agreement (and of original signatures thereupon) made or transmitted in "portable document format" (".pdf") or in any other electronic format preserving the original appearance thereof shall be deemed the equivalent of an original for all purposes.
- 20. **Headings; Entire Agreement; Amendment.** The section headings used herein are for convenience only and shall not be deemed to have substantive effect in the construction or interpretation of this Agreement. This Agreement (together with any Purchase Orders as provided herein) constitutes the entire agreement between the parties regarding the subject matter hereof and supersedes all previous or contemporaneous communications, negotiations, proposals, representations, conditions or agreements, either oral or written, regarding same. This Agreement may not be altered, modified, superseded or amended, and (other than supplementation by Purchase Orders as contemplated herein) no additional or different terms (including, without limitation, those contained in SELLER's order acknowledgements, invoices and/or similar documents) shall become a part of this Agreement, except pursuant to a writing specifically referencing this Agreement and signed by both parties.

IN WITNESS WHEREOF, SELLER and GP have caused this Agreement to be executed and delivered by their respective duly authorized representatives as of the Effective Date.

| SELLER | GP |
|-------------------------|---|
| Port of Columbia County | Georgia-Pacific WFS LLC |
| BY (SIGNATURE) | BY (SIGNATURE)  |
| PRINT NAME | PRINT NAME CaseyKramer |
| TITLE | TITLE Group Manager - WFS |

Certificate Of Completion

Envelope Id: 8BA236F132E9480C990BFED40BBC5A3F
Subject: GP Purchase at Plant Agreement
Source Envelope:
Document Pages: 6
Certificate Pages: 5
AutoNav: Enabled
Envelope Stamping: Enabled
Time Zone: (UTC-05:00) Eastern Time (US & Canada)

Status: Sent
Envelope Originator:
Sara Deterville
sara.deterville@gapac.com
IP Address: 136.226.54.189

Record Tracking

Status: Original 5/30/2024 10:03:52 AM
Holder: Sara Deterville sara.deterville@gapac.com
Location: DocuSign

Signer Events

Sara Deterville
sara.deterville@gapac.com
Area Manager
Georgia-Pacific WFS
Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure: Not Offered via DocuSign

Signature Completed

Using IP Address: 73.240.86.209

Timestamp
Sent: 5/30/2024 10:24:28 AM
Viewed: 5/30/2024 10:25:06 AM
Signed: 5/30/2024 10:25:41 AM

Casey Kramer
casey.kramer@gapac.com
Security Level: Email, Account Authentication (None)



Signature Adoption: Pre-selected Style
Using IP Address: 76.144.50.213

Sent: 7/17/2024 12:37:29 PM
Viewed: 7/17/2024 12:40:59 PM
Signed: 7/17/2024 12:41:30 PM

Electronic Record and Signature Disclosure: Not Offered via DocuSign

Elliot Levin
levin@portofcolumbiacounty.org
Security Level: Email, Account Authentication (None)

Sent: 5/30/2024 10:25:42 AM
Resent: 7/17/2024 12:41:31 PM
Viewed: 7/17/2024 12:43:20 PM

Electronic Record and Signature Disclosure:
Accepted: 7/17/2024 12:43:20 PM
ID: a9a45660-cf30-42a0-a1c5-42477070e540

Table with 3 columns: Event Type (In Person Signer Events, Editor Delivery Events, Agent Delivery Events, Intermediary Delivery Events, Certified Delivery Events, Carbon Copy Events), Status, and Timestamp.

| Carbon Copy Events | Status | Timestamp |
|---------------------------|---------------|------------------|
|---------------------------|---------------|------------------|

Admin Group (this is to ensure we have a copy for audit)
WFSTaskAdminTeam@GAPAC.com
Security Level: Email, Account Authentication (None)
Electronic Record and Signature Disclosure:
Not Offered via DocuSign

| Witness Events | Signature | Timestamp |
|-----------------------|------------------|------------------|
|-----------------------|------------------|------------------|

| Notary Events | Signature | Timestamp |
|----------------------|------------------|------------------|
|----------------------|------------------|------------------|

| Envelope Summary Events | Status | Timestamps |
|--------------------------------|---------------|-------------------|
|--------------------------------|---------------|-------------------|

| | | |
|---------------------|------------------|-----------------------|
| Envelope Sent | Hashed/Encrypted | 5/30/2024 10:24:28 AM |
| Envelope Updated | Security Checked | 7/17/2024 12:37:29 PM |
| Envelope Updated | Security Checked | 7/17/2024 12:37:29 PM |
| Certified Delivered | Security Checked | 7/17/2024 12:43:20 PM |

| Payment Events | Status | Timestamps |
|-----------------------|---------------|-------------------|
|-----------------------|---------------|-------------------|

| Electronic Record and Signature Disclosure |
|---|
|---|

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, Georgia-Pacific LLC (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through your DocuSign, Inc. (DocuSign) Express user account. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to these terms and conditions, please confirm your agreement by clicking the 'I agree' button at the bottom of this document.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. For such copies, as long as you are an authorized user of the DocuSign system you will have the ability to download and print any documents we send to you through your DocuSign user account for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. To indicate to us that you are changing your mind, you must withdraw your consent using the DocuSign 'Withdraw Consent' form on the signing page of your DocuSign account. This will indicate to us that you have withdrawn your consent to receive required notices and disclosures electronically from us and you will no longer be able to use your DocuSign Express user account to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through your DocuSign user account all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact Georgia-Pacific LLC:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To advise Georgia-Pacific LLC of your new e-mail address

To let us know of a change in your e-mail address where we should send notices and disclosures electronically to you, you must send an email message to us at eSourcingSupport@gapac.com and in the body of such request you must state: your previous e-mail address, your new e-mail address. We do not require any other information from you to change your email address..

In addition, you must notify DocuSign, Inc to arrange for your new email address to be reflected in your DocuSign account by following the process for changing e-mail in DocuSign.

To request paper copies from Georgia-Pacific LLC

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an e-mail to eSourcingSupport@gapac.com and in the body of such request you must state your e-mail address, full name, US Postal address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with Georgia-Pacific LLC

To inform us that you no longer want to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your DocuSign account, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an e-mail to esourcingsupport@gapac.com and in the body of such request you must state your e-mail, full name, IS Postal Address, telephone number, and account number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

| | |
|----------------------------|--|
| Operating Systems: | Windows2000? or WindowsXP? |
| Browsers (for SENDERS): | Internet Explorer 6.0? or above |
| Browsers (for SIGNERS): | Internet Explorer 6.0?, Mozilla FireFox 1.0, NetScape 7.2 (or above) |
| Email: | Access to a valid email account |
| Screen Resolution: | 800 x 600 minimum |
| Enabled Security Settings: | <ul style="list-style-type: none"> •Allow per session cookies •Users accessing the internet behind a Proxy Server must enable HTTP 1.1 settings via proxy connection |

** These minimum requirements are subject to change. If these requirements change, we will provide you with an email message at the email address we have on file for you at that time providing you with the revised hardware and software requirements, at which time you will have the right to withdraw your consent.

Acknowledging your access and consent to receive materials electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please verify that you were able to read this electronic disclosure and that you also were able to print on paper or electronically save this page for your future reference and access or that you were able to e-mail this disclosure and consent to an address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format on the terms and conditions described above, please let us know by clicking the 'I agree' button below.

By checking the 'I Agree' box, I confirm that:

- I can access and read this Electronic CONSENT TO ELECTRONIC RECEIPT OF ELECTRONIC RECORD AND SIGNATURE DISCLOSURES document; and
- I can print on paper the disclosure or save or send the disclosure to a place where I can print it, for future reference and access; and
- Until or unless I notify Georgia-Pacific LLC as described above, I consent to receive from exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to me by Georgia-Pacific LLC during the course of my relationship with you.

PURCHASE AGREEMENT WITH NIPPON DYNAWAVE

Res. 2024-18 NIPPON DYNAWAVE PACKAGING CO.

NIPPON DYNAWAVE PACKAGING CO. MASTER SUPPLIER AGREEMENT NO. 1001A

THIS AGREEMENT made and entered into on this **14th day of August 2024** by and between **Port of Columbia County**, An Oregon corporation whose address is **PO Box 190 Columbia City, OR. 97018** hereinafter referred to as "SUPPLIER" and Nippon Dynawave Packaging Co., LLC, a Delaware corporation hereinafter referred to as "BUYER," on behalf of itself and its affiliates, with an office at: 3401 Industrial Way, Longview, Washington 98632.

WHEREAS SUPPLIER is an independent contractor in the business of buying, selling, producing, or delivering (or any combination thereof) goods, wood fiber, consumables, or other inputs (hereinafter called "goods") for further processing or use; and

WHEREAS, BUYER desires to buy and/or receive various goods from SUPPLIER for further processing or use at designated locations from time to time and as further described on the attached Statement of Work that is attached hereto (the "SOW"); and SUPPLIER desires to sell, produce or deliver (or any combination thereof) the goods to BUYER; and

WHEREAS, SUPPLIER and BUYER acknowledge the contents of the SOW and desire to enter into this Agreement and to provide for the terms and conditions under which said goods will be sold and/or delivered by SUPPLIER and purchased and/or received by BUYER;

NOW, THEREFORE, in consideration of the promises and of the mutual covenants hereinafter set forth, SUPPLIER and BUYER hereby agree as follows:

1. INDEPENDENT CONTRACTOR

In the performance of this Agreement, SUPPLIER will be acting as an independent contractor and will not be acting as an agent, employee, servant, joint venture or partner of BUYER. SUPPLIER will select, hire and fire its own employees, agents, servants and suppliers and will be responsible for paying all compensation and wages and paying and reporting all employment taxes. SUPPLIER will be solely responsible for supervising its employees and suppliers and shall have exclusive control of the means, methods, techniques and procedures used in performing this Agreement. BUYER will have no right to control or supervise SUPPLIER'S work practices or employees or suppliers or the hours worked. SUPPLIER will be responsible for providing, maintaining and repairing all tools, vehicles, machinery and equipment needed in the performance of the Agreement. The requirements of this Agreement apply fully to Supplier's agents, employees, contractors, suppliers and all others working on behalf of Supplier.

2. TERM

This Agreement shall begin upon the date first above written and will continue until **8/31/2025** until terminated by either party immediately upon giving written notice to the other party. The parties hereto agree that any prior Master Supply Agreement by and between the parties is hereby terminated effective as the date hereof without further notice required.

3. WARRANTY OF GOOD TITLE

SUPPLIER warrants and covenants that it has good, merchantable title to all goods being sold to BUYER hereunder, that it has good right to sell and convey the same, that the goods are free from all encumbrances, and that the SUPPLIER will warrant and defend the same to BUYER against the claims of all persons.

4. SPECIFICATIONS

msa.2020-final

1

SUPPLIER will be responsible for obtaining information on BUYER specifications for BUYER's facility to which the goods are being delivered prior to delivery. BUYER shall have the right to make deductions for any products not meeting specifications. BUYER may dispose of any non-conforming products in any manner it chooses without being required to hold the materials for SUPPLIER'S inspection.

5. INTERRUPTIONS IN SUPPLY; DUTY TO ADVISE

SUPPLIER shall promptly provide written notice to BUYER of any of the following events or occurrences, or any facts or circumstances reasonably likely to give rise to any of the following events or occurrences: (a) any failure by SUPPLIER to perform any of its obligations under this Agreement; (b) any delay in delivery of goods; (c) any defects or quality problems relating to the goods; (d) any change in control of the SUPPLIER; (e) any deficiency in BUYER specifications, samples, or test results relating to this Agreement; (f) any failure by SUPPLIER or its subcontractors or common carriers to comply with the Law.

6. RECEIVING

All goods shall be received and accepted according to the terms of the SOW attached hereto. Notwithstanding the foregoing receipt of goods shall not constitute acceptance of such goods. BUYER reserves all rights to inspect and reject such goods according to the terms of the applicable SOW.

7. PAYMENT

BUYER or its designee shall pay for goods received and accepted hereunder and shall provide SUPPLIER with settlement detail according to the SOW attached hereto. Any payment by BUYER shall not be deemed acceptance of the goods or waive BUYER's right to inspect. BUYER reserves the right to set off against such payment(s) any amounts due, or claimed to be due, to BUYER or its affiliates from SUPPLIER or its affiliates, and SUPPLIER specifically consents to such reservation. The term "affiliate" as used herein shall include any entity that controls, is controlled by, or is under common control with a party. Payment shall be made in US dollars by check, wire transfer, or automated clearing house in accordance with the following instructions:

| | |
|-------------------------------|--|
| ABA Number: | |
| Account Name: | |
| Account Number: | |
| Bank Name and Address: | |
| Attention/Re: | |

8. INSURANCE

When SUPPLIER is supplying wood fiber by truck, rail or barge where SUPPLIER's truck, rail or barge, or SUPPLIER's subcontracted truck, rail or barge is used to deliver the goods to the BUYER's facility, prior to delivering goods under this Agreement, SUPPLIER shall provide and shall furnish BUYER with proof of coverage of the insurance required under this Agreement which shall consist of a certificate or certificates of insurance, in duplicate, issued by the SUPPLIER's insurance carrier or carriers, setting forth the amounts of coverage, policy numbers and expiration dates and providing for thirty (30) days prior written notice to BUYER before such insurance may be altered or cancelled. Such insurance coverage shall include:

- I) Workers' Compensation Insurance, in accordance with applicable law as well as the following provisions covering all employees of SUPPLIER and/or employees of any contractor or subcontractor engaged in supplying wood fiber under this Agreement; and if maritime activity exists then coverage must also include U.S.L.&H Jones Act, and Protection and Indemnity.
- II) Commercial General Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. The primary, umbrella and/or excess liability policies that, alone or in combination, provide the stated limit, must include the following provisions:
 - a) If requested by BUYER, Nippon Dynawave Packaging Co., ITS PARENT, SUBSIDIARIES, AFFILIATES AND/OR ASSIGNS, as an additional insured;
 - b) Contractor's insurance as primary which does not contribute to and is not in excess of any insurance carried by BUYER which may respond to a covered event;
 - c) Contractual liability coverage:

- d) Occurrence form; and
 - e) Minimum of 30 day notice of cancellation, termination, nonrenewal or material modification.
- III) Automobile Liability Insurance covering any vehicle to be used in the performance of the Contract, with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence. The primary, umbrella and/or excess liability policies that, alone or in combination, provide the stated limit, must include the following provisions:
- a) If requested by BUYER Nippon Dynawave Packaging Co., ITS PARENT, SUBSIDIARIES, AFFILIATES AND/OR ASSIGNS, as an additional insured;
 - b) Contractor's insurance as primary which does not contribute to and is not in excess of any insurance carried by BUYER which may respond to a covered event; and
 - c) Minimum of 30 day notice of cancellation, termination, nonrenewal or material modification.
- IV) If SUPPLIER is not delivering wood fiber by truck, barge or rail and they solely use a sub-contractor for these services, then 7 III above can be replaced with an Automobile Contingent Liability policy with a minimum combined single limit of One Million Dollars (\$1,000,000) per occurrence. The primary, umbrella and/or excess liability policies that, alone or in combination, provide the stated limit, must include the following provisions:
- a) If requested by BUYER, Nippon Dyawave Packaging Co., ITS PARENT, SUBSIDIARIES, AFFILIATES AND/OR ASSIGNS, as an additional insured;
 - b) Contractor's insurance as primary which does not contribute to and is not in excess of any insurance carried by BUYER which may respond to a covered event; and
 - c) Minimum of 30 day notice of cancellation, termination, nonrenewal or material modification.

Any insurance deductible will be paid by SUPPLIER and is not a reimbursable expense under the Agreement. SUPPLIER waives all rights of subrogation against BUYER for losses whether or not covered by insurance policies. SUPPLIER must provide evidence satisfactory to BUYER that each policy has been purchased through an insurance company with a Best Rating of A- or better, and all the above provisions endorsed to the policy, prior to the admittance of SUPPLIER to BUYER's receiving facility. Such evidence will include a current certificate of insurance which references all provisions as listed above. Furthermore, it shall be the sole and exclusive responsibility of SUPPLIER to ensure all of its Subcontractors are compliant with the insurance requirements as set forth in this Agreement.

9. INDEMNIFICATION

To the fullest extent allowed by applicable law, SUPPLIER at all times will indemnify, release, protect, defend and hold BUYER and its affiliates and BUYER's and its affiliates' employees, agents, and/or representatives ("Indemnities") harmless from and against any and all loss, liability, expense, claims, or demands arising from personal injury, including death at any time arising from such injury, or damage to property of any person, including SUPPLIER, SUPPLIER's employees, contractors, subcontractors, agents and/or representatives, and BUYER, its employees, agents and/or representatives, occurring as a direct or indirect result of, or in any manner connected with, the performance of this Agreement caused by any acts, omissions, or negligence of the SUPPLIER or SUPPLIER's employees, contractors, subcontractors, agents and/or representative; provided, however, SUPPLIER shall not be obligated to indemnify BUYER for any claims to the extent directly arising from the negligence, gross negligence or willful misconduct of BUYER.

10. DUTY TO DEFEND

SUPPLIER shall defend at its expense (including attorney fees and other litigation costs) the Indemnities' from any demands, claims, threats, or causes of action arising out of or related to SUPPLIER'S performance or actions. The duty to defend is separate from the duty to indemnify. BUYER shall give notice to SUPPLIER within ten (10) days after receiving notice of the commencement of any claim or legal action for which BUYER seeks indemnification and defense. BUYER'S failure or delay in giving such notice will reduce SUPPLIER'S liability only by the amount of damages directly attributable to such failure or delay. SUPPLIER shall not settle or compromise any claim or legal action without BUYER'S written consent. SUPPLIER may at its expense participate in the defense of any such matters, but such participation will not limit or affect SUPPLIER'S obligations under this Agreement.

11. REGULATORY COMPLIANCE

SUPPLIER agrees to comply with all applicable federal, state and local laws, rules and regulations, including without limitation, SELLER warrants that all goods delivered pursuant to this Agreement will be produced in compliance with and adherence to all applicable federal and state regulations, including but not by way of limitation adherence with: the Fair Labor Standards Act; Internal Revenue Code; applicable state tax codes; Social Security Act; Endangered Species Act (and state equivalent, if any); Occupational Safety and Health Administration Regulations; Comprehensive Environmental Response, Compensation, and Liability Act of 1980; Immigration and Reform Act of 1986; State Best Management Practices for Forestry Operations; Training provided by the Sustainable Forestry Initiative, Inc. State Implementation Committee; United States Department of Transportation Regulations (including the Federal Motor Carrier Safety Administration Rules and Regulations) and DOT Regulations of the applicable state.

12. CONTROLLED SUBSTANCES

SUPPLIER agrees to comply with BUYER's policy on controlled substances prohibiting all visitors, suppliers, subcontractors, and their employees, representatives, or agents from the illegal use, possession, distribution, purchase, or sale of controlled substances on BUYER premises. The SUPPLIER agrees to communicate this policy to all of its employees, representatives, or agents delivering goods to BUYER locations. Any employee, representative, or agent who is in violation of the policy on controlled substances will be banned from BUYER premises.

13. FIREARMS, AMMUNITION AND WEAPONS

Firearms, ammunition, and weapons are forbidden on all property owned or operated by BUYER.

14. MILL SITE SAFETY RULES

All drivers entering BUYER's Longview Mill site must comply with the Safety Rules for All Drivers. SUPPLIER shall be responsible to obtain a copy of, and require compliance with, the Safety Rules for All Drivers (and any modifications made thereto that are supplied to SUPPLIER by BUYER) to each of its employees, agents and contractors.

15. VIOLATIONS

Any violation of law or of any provision of this Agreement alleged or committed in connection with the performance under this Agreement by SUPPLIER, SUPPLIER's employees, subcontractors, agents, and/or representatives shall entitle BUYER to cancel and rescind this Agreement upon five days' written notice.

16. FORCE MAJEURE

Neither party to this Agreement shall be liable for delay or failure to perform under this Agreement which results from any occurrence of events which were beyond such party's reasonable control, including, but not limited to, accident, actions of the elements, acts of God, civil commotions, enemy action, epidemic, explosion, fire, flood, insurrection, strike, walkout or other labor trouble or shortage, natural catastrophe, riot, unavailability or shortage of material, equipment or transportation, war, act, demand or requirement of law, or the government of the United States of America or any other competent governmental authority, acts of the other party, or any other similar cause beyond such party's control, provided, however, that the party in default makes reasonable efforts to remove or overcome the effects of such occurrence or event. If a party believes that any one or more of the above occurrences or events shall cause a delay or prevent its performance hereunder, it shall promptly notify the other in writing of such fact.

17. GOVERNING LAW AND VENUE

The rights and obligations of the parties under the Agreement shall be governed by, and construed in accordance with, the laws of the State of Washington and of the United States, without giving effect to the principles of Washington law relating to the conflict or choice of laws. Any legal action, suit or proceeding brought by a party that in any way arises out of this Agreement ("Proceeding") must be litigated exclusively in the United States District Court for the Western District of Washington in Seattle, Washington or the Superior Court for the County of King County Washington (the "Identified Courts"). Each party hereby irrevocably and unconditionally: (i) submits to the jurisdiction of the Identified Courts for any Proceeding; (ii) shall not commence any Proceeding, except in the Identified Courts; (iii) waives, and shall not plead or make, any objection to the venue of any Proceeding in the Identified Courts; (iv) waives, and shall not plead or make, any claim that any Proceeding brought in the Identified

Courts has been brought in an improper or otherwise inconvenient forum; and (v) waives, and shall not plead or make, any claim that the Identified Courts lack personal jurisdiction over it.

18. DISPUTE RESOLUTION

In the event of any disputes, claims and other matters in question between SELLER and BUYER arising out of the terms and conditions of this Agreement and the performance of either party hereunder, the parties shall attempt in good faith to resolve such matter promptly prior to initiating any litigation.

19. ASSIGNMENT

This Agreement may not be assigned by SUPPLIER without the prior written consent of BUYER. BUYER may assign this Agreement to (a) any corporation, partnership, limited liability company or other entity or person (a "Person") which controls, is controlled by, or under common control with BUYER, (b) any Person that merges with or acquires all or substantially all of the assets of BUYER, or (c) any Person that acquires any BUYER facility that receives goods pursuant to this Agreement.

20. NOTICES

Where required under this Agreement, notices shall be in writing and given by United States mail, personal delivery or overnight delivery service such as Federal Express to the parties at the addresses indicated below. Notwithstanding the foregoing, routine notifications regarding price, quantity and species requirements need not be in writing.

To SUPPLIER: Port of Columbia County
PO Box 190
Columbia City, OR. 97018

To BUYER: NIPPON DYNAWAVE PACKAGING CO.
3401 Industrial Way
Longview, WA 98632
Attention: Steve Witherspoon

With a copy to: Lane Powell PC
1420 Fifth Avenue, Suite 4200
Seattle, WA 98111
Attention: Patrick Franke

21. WAIVER OF BREACH

No waiver of breach of any of the provisions of this Agreement shall be construed to be a waiver of any succeeding breach of the same or of any other provision.

22. LIMITATION OF LIABILITY

Notwithstanding anything in this Agreement to the contrary, in no event will BUYER be liable hereunder to SUPPLIER, any subcontractor, or any other person or entity for any (a) delay damages, out of sequence damages, or similar losses, or (b) consequential damages, including without limitation any lost profits.

23. SEVERABILITY

If a court holds that any provision of this Agreement to be illegal, invalid or unenforceable, the remaining provisions shall remain in full force and effect. Failure or delay by BUYER in enforcing any provision of this Agreement will not be a waiver of any of its rights under the Agreement.

24. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original instrument. All such counterparts together shall constitute a fully executed Agreement.

25. HEADINGS


Headings used in this Agreement are for the purpose of reference only and shall not be considered in construing this Contract.

26. ENTIRE CONTRACT

This Agreement, along with the applicable SOW constitutes the entire agreement between the parties related to the subject matter hereof, and cancels and supersedes all prior or contemporaneous agreements, whether oral or written, related to the subject matter of this Agreement. No amendment or change in this Agreement shall be valid unless made in writing and signed by both parties. If any term, clause, paragraph or provision of this Agreement is stricken as being invalid, unenforceable or void, such stricken portion shall not affect any other term, clause, paragraph or provision, and the remaining terms of this Agreement shall continue in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized agents the day and year first above written.

Nippon Dynawave Packaging Co.

By: 
Name: John Carpenter
Title: President

Port of Columbia County

By: _____
Name: _____
Title: _____



**STATEMENT OF WORK FOR
CHIP PURCHASES**

This Statement of Work ("SOW"), effective as of **August 14, 2024** and between Port of Columbia County (the "Supplier") and Nippon Dynawave Packaging Co., LLC (the "Buyer") is executed pursuant to and as part of that certain Master Supplier Agreement No. 1001A dated as of October 5, 2023 (the "MSA").

WHEREAS Buyer and Supplier have entered into the agreement for the provision of certain goods and deliverables to Buyer by Supplier. The Agreement contemplates that the parties enter into specific SOWs describing detailed terms and conditions applicable to specific goods and deliverables

WHEREAS Buyer wishes to purchase wood chips and hog fuel under the terms of this SOW.

NOW THEREFORE, for and in consideration of the foregoing promises, and the agreements of the parties set forth below, Buyer and Supplier hereby agree as follows:

1. QUANTITY; PRICE; PAYMENT

- a. Supplier agrees to sell to Buyer and Buyer agrees to purchase and pay for wood chips and hog fuel under the terms and conditions contained in the MSA and this SOW. The volume of wood chips to be purchased shall be as outlined on Buyer's quarterly Purchase Order. All volumes listed on Buyer's quarterly Purchase Order are approximate. The price to be paid by Buyer to Supplier for the wood chips delivered and accepted by Buyer shall be the price outlined in the Quarterly Pricing Agreement attached hereto as Exhibit A, plus applicable taxes. All volumes shall be in Bone Dry Tons ("BDTs").
- b. The price, if any, that Buyer pays for wood chips which fail to meet the specifications set forth in Section 3, and which are accepted by Buyer pursuant to Section 7, shall in no case exceed the price Buyer pays for hog fuel at the time of such election. All taxes, duties or charges of any nature (other than taxes imposed on the gross or net income of Supplier), which shall become payable by reason of the sale, shipment, delivery, and/or use of the wood chips (except for severance taxes which shall be the responsibility of Supplier) shall be paid by Buyer and Supplier may either bill the same to Buyer separately, or add the same to the price of wood chips.
- c. Delivery and freight terms shall be as outlined in Buyer's quarterly Purchase Order.
- d. Buyer shall pay Supplier according to mutually agreed upon terms for wood chips accepted according to the provisions of Section 7 of the applicable MSA.

2. QUANTITY ADJUSTMENT. The approximate quantity of wood chips purchased and sold hereunder may be adjusted upon mutual agreement of the parties as of the first day of each Buyer's calendar quarter during the Term ("Adjustment Date"). If either party desires that the quantity of wood chips purchased and sold hereunder be adjusted up or down, it shall give the other party written notice not less than 30 days in advance of the applicable Adjustment Date. The parties shall forthwith enter into negotiations to determine such quantity. If agreement is reached in writing on or before the applicable Adjustment Date, the effective date of the adjustment shall be agreed to by the parties and remain in effect until subsequently adjusted as provided herein. If no such agreement is reached, either party may terminate this Agreement by giving written notice of termination to the other party within 30 days after the applicable Adjustment Date, such termination to be effective immediately upon delivery of notice.

- a. Notwithstanding anything in this Agreement to the contrary, Buyer shall have the right, without liability to Seller, to reduce or suspend purchases hereunder in the event Buyer's operations at any

part of the Longview site are curtailed, suspended, or discontinued for any reason, provided that Buyer shall reduce or suspend Product purchases hereunder only in proportion to such curtailed, suspended, or discontinued operations.

- b. Notwithstanding anything in this Agreement to the contrary, Seller shall have the right, without liability to Buyer, to reduce or suspend sales and deliveries of products hereunder from any of Seller's sawmills or chipping yards if Seller should curtail, suspend, or discontinue production of primary products or wood residuals or byproducts at such sawmill(s), provided that Seller shall reduce or suspend sales of products hereunder only in proportion to such curtailed, suspended or discontinued production from that sawmill or chipping yard. During any such period of reduction or suspension of sales of any type of Product, Buyer may, without liability to Seller reduce its demanded amount from Seller and purchase such products from other sellers.
- c. The Party reducing or suspending purchases or sales of products under Sections 2(a), or (b) above shall give the other party written notice thereof in as far in advance as reasonably possible given business, legal, and other applicable constraints. Such notice shall include information reasonably necessary to allow the party receiving notice to reschedule and adjust its operations and locations receiving or supplying products hereunder, as the case may be, including the length and percentage of reduction or suspension.
- d. The above-described suspension, reduction, or curtailment conditions shall not apply to any planned maintenance downtime taken by either party. However, the parties shall cooperate in good faith in advance of any planned maintenance downtime taken by either party. However, the parties shall cooperate in good faith in advance of any planned maintenance downtime taken by either party to reduce the impacts on both parties' chip operations during such downtime.

3. **SPECIFICATIONS.** The wood chips shall be produced from the species set forth in Section 1 and segregated as to species. The wood chips shall be free from bark, rot, soil, rock, plastics, metal, char and other foreign or objectionable substances, and shall not be considered acceptable if cut from kiln- or air-dried wood. The size of the wood chips, as established by testing representative samples in accordance with the Stalvetz Classification method or by such other method designed to produce similar results, shall conform to the following limits on a dry weight basis:

| | |
|--|--------------|
| Over 10mm in thickness..... | 2% maximum |
| Over 8mm but less than 10mm in thickness..... | 6% maximum |
| Over 3mm but less than 7mm in length (Pins)..... | 12% maximum |
| Less than 3mm in length (Pan)..... | 2% maximum |
| Bark | 0.5% maximum |
| Rot | 0% maximum |

The nominal chip length shall be set by Buyer and may be changed from time to time, within the range of 1/4" to 1 1/4" inclusive. The optimum thickness range is 3/16" to 5/16".

Hog Fuel Quality Standards: All fuel shall be hogged in a manner that is acceptable to the boilers at Buyer's Longview mill site with a bone dry fiber content of no less than 45%. This fuel shall be free of rock, metal and other foreign or objectionable substances, and have no wood chunks larger than 3 1/2" long by 2" wide by 1" thick. Inert (dirt, ash) levels shall not exceed 3% by weight when completely burned. Fines content not to exceed 10% by weight.

4. **DELIVERY**

- a. Wood chips shall be delivered to the Delivery Point (as defined below) by suitable carriers in suitable trucks. "Suitable trucks" means trucks that meet all US Department of Transportation ("DOT") requirements and are equipped with proper safety equipment. "Suitable carriers" mean carriers that have a "Satisfactory" rating with DOT. Trucks that are not suitable trucks and carriers that are not suitable carriers will not be allowed to enter the Delivery Point. If a carrier has a "Conditional" rating with DOT, such carrier will be allowed on the Delivery Point if it provides to Buyer a timetable satisfactory to Buyer for the carrier to achieve a "Satisfactory" DOT rating and works diligently within the time line to achieve and does achieve a "Satisfactory" rating.

- b. Wood chips shall be delivered on a regular basis to Buyer's Longview, Washington plantsite or such other destination as Buyer may from time to time designate ("Delivery Point"), whether or not Buyer has a mill at any such location. Supplier shall, upon request, advise Buyer of all shipments of wood chips with any further information Buyer requires as to quantity, species and the like. Any incremental freight cost as a consequence of Buyer designating a Delivery Point other than Buyer's Longview, Washington plantsite will be for Buyer's account.
- c. Supplier shall not load for shipment stockpiled wood chips without first having written approval from Buyer.

5. SUSPENSION OF DELIVERY

- a. Supplier shall have the right (a) upon Buyer's refusal to accept wood chips or (b) during any period of suspension to dispose of its excess production elsewhere, provided that, effective 10 days after Buyer gives Supplier written notice of partial or complete resumption of purchases, Supplier shall increase deliveries accordingly.

6. MEASUREMENT

- a. Buyer shall determine the weight of each load of wood chips delivered to the Delivery Point. Buyer shall determine the percentage of bone dry wood in the load by using an industry-accepted practice for so doing of Buyer's choice. The bone dry percentage thus obtained shall be multiplied by the weight of the load in pounds, which figure shall then be divided by 2,000 to determine the number of BDTs in the load.
- b. Supplier shall have the right at all reasonable times and at Supplier's expense, to observe and inspect Buyer's sampling methods and procedures relating to weight determinations, and all records pertaining thereto; provided, that Buyer's determination of weight shall be conclusive and final as to all wood chips delivered more than 30 days prior to Buyer's receipt from Supplier of any claim of material error.

7. TITLE AND RISK OF LOSS, ACCEPTANCE AND REJECTION

- a. Title and risk of loss to wood chips shall pass to Buyer at the Delivery Point after completion of actual unloading.
- b. Buyer shall have a right to inspect wood chips at the loading point or the Delivery Point, before or after loading or unloading. If, upon such inspection, Buyer determines that any portion of the load of wood chips delivered by Supplier to the Delivery Point fails to meet the specifications, Buyer shall have the right to either (a) refuse to accept that load or (b) accept that load and to deduct from the net weight thereof the portion of the load which fails to meet the specifications. If Buyer elects option (b), Buyer shall pay the price per BDT set forth in Section 1.B for that portion of the weight of the load that has been deducted under option (b). Buyer shall give Supplier notice within 48 hours of delivery of the wood chips that such wood chips fail to meet the specifications. If Buyer shall fail to give such notice within 48 hours after delivery of wood chips, wood chips shall be deemed to meet such specifications, and Buyer shall accept and pay for such wood chips at the full contract price.
- c. Title and risk of loss to any wood chips rejected by Buyer under this Section 7 shall revert to Supplier and Supplier shall be liable for all freight costs to the Delivery Point. Within 48 hours after verbal notice of rejection, Supplier shall arrange for disposition of such wood chips. If requested by Supplier, Buyer shall prepare such documents as are necessary to vest in Supplier title to and control of such wood chips and their transportation. In addition, all freight and demurrage charges following notice of rejection shall be paid by Supplier. Should Supplier fail to arrange for disposition of such wood chips within such 48-hour period, Buyer may dispose of such wood

chips. Any sums received therefore, after deducting all freight and demurrage costs and the cost of sales, shall be credited to Supplier's account.

8. SPECIAL PROVISIONS

- a. The parties shall comply with all applicable and existing and future federal, state, county and municipal laws, ordinances, rules, regulations and orders, as amended from time to time, in their performance of this Agreement.
- b. Chain of Custody. Supplier commits to operate according to, and in compliance with, Buyer's established chain of custody procedures, when delivering to Buyer facilities. Where Supplier delivers wood from PEFC/FSC/ATFS Certified sources, Supplier agrees to the following provisions:
 - i. Supplier agrees to maintain a copy of the delivery ticket or other transport documents as our record identifying the PEFC/FSC/ATFS land management and/or chain of custody certificate of the certified organization;
 - ii. Supplier agrees to supply delivery tickets or other transport documents/swipe cards/other evidence including the PEFC/FSC/ATFS certificate numbers of the land management organization; and
 - iii. Supplier agrees to be part of Buyer's monitoring procedures to trace PEFC/FSC/ATFS certified content from the forest to the mills to Buyer's representatives or to an agreed upon third party for inspection
 - iv. Supplier agrees to limit deliveries to the species on the attached Exhibit A and to advise Buyer if other species are added.
 - v. Where Supplier delivers wood from non-certified sources, Supplier agrees to provide this material from "Districts of Origin" that are from tracts located within the Counties listed in Exhibit B (map of procurement area). A Risk Assessment by Buyer of its wood supply area (Exhibit B) indicates that all sources of supply are deemed "Low Risk" of originating from any uncontrolled/unacceptable/controversial sources, as defined by the PEFC, FSC and ATFS standards.
- c. Lacey Act Compliance. Supplier represents and warrants that in compliance with the Lacey Act, 16 U.S.C. 3371 et seq., all wood, wood fiber, wood chips or other plants, plant products or derivatives thereof (collectively, "Plants") comprising all or a part of, or an ingredient in, the Products sold under this Agreement were harvested, taken, possessed, transported and sold in compliance with the laws of the countries in which the Plants were harvested, taken, possessed, transported or sold, including laws that: (i) protect Plants; (ii) regulate theft or taking of Plants from a park, reserve or other protected or designated area; (iii) regulate taking of Plants without required authorizations; (iv) require payment of a royalty, tax or stumpage fee; or (v) otherwise govern transshipments or exports of Plants. For Plants sourced in the United States, such laws include all federal, state and other applicable laws.

AGREED TO AND ACCEPTED on the date and year first above written.

SUPPLIER:

By _____

Title _____

Date _____

BUYER:

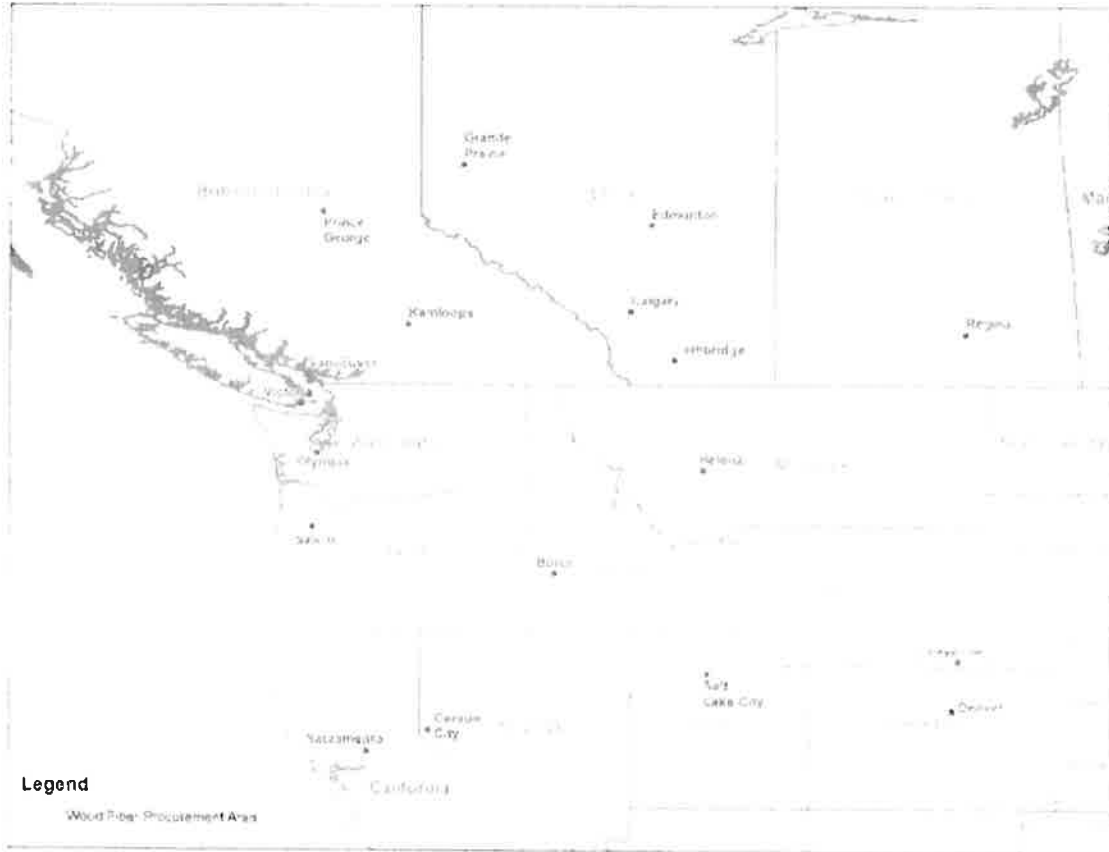
By J. O. [Signature]

Title President

Date 7/30/24

Exhibit A:
Form of Quarterly Pricing Agreement

Exhibit B:
Buyer's Low Risk Wood Fiber Districts of Origin Map








Complete Pellham Agreement w exhibits

Final Audit Report

2024-08-06

| | |
|-----------------|--|
| Created: | 2024-08-06 |
| By: | Richard Stonex (rick.stonex@xenotssolutions.com) |
| Status: | Signed |
| Transaction ID: | CBJCHBCAABAAzeYBKqNZngGX39DJhM4FDj8WQ0fJh6wy |

"Complete Pellham Agreement w exhibits" History

-  Document created by Richard Stonex (rick.stonex@xenotssolutions.com)
2024-08-06 - 9:26:44 PM GMT- IP address: 47.36.175.176
-  Document emailed to Dawn Pellham (pellhamcutting@comcast.net) for signature
2024-08-06 - 9:28:24 PM GMT
-  Email viewed by Dawn Pellham (pellhamcutting@comcast.net)
2024-08-06 - 9:38:42 PM GMT- IP address: 96.118.25.25
-  Document e-signed by Dawn Pellham (pellhamcutting@comcast.net)
Signature Date: 2024-08-06 - 11:28:08 PM GMT - Time Source: server- IP address: 96.71.179.125
-  Agreement completed.
2024-08-06 - 11:28:08 PM GMT



Scappoose Airport
Runway Rehabilitation Project Phase II
Final Scope of Work with Century West

Res. 2024-19

STAFF REPORT

DATE: August 14, 2024
TO: Commission Board
FROM: Lacey Tolles, Airport Manager
RE: Scappoose Airport Runway Rehabilitation Phase II
Century West Scope of Work

Discussion

The Oregon Department of Aviation (ODAV) commissioned a 2021 study to evaluate the pavement at the Scappoose Airport and the runway condition was determined to need rehabilitation by 2026.

In 2024, Airport Engineer Century West, submitted a Federal Aviation Administration (“FAA”) grant on behalf of the Port for Phase II of the Runway 15/33 Rehabilitation Project. All items are required by the FAA to retain grant funding. The FAA will reimburse 90% of the \$274,527.60 (\$247,074.84). ODAV will match 9% (\$24,707.48) and the Port will be responsible for the remaining 1% (\$2,745.28).

Century West submitted the attached Scope of Work in support of this request.

- Project Scope:
- Phase 1 – Final Design Services
 - Task 1 - Project Management
 - Task 2 – Design
 - Task 3 – Final Design
 - Task 4 – Grant Closeout

Recommendation

Adopt Resolution 2024-19, authorizing the Executive Director to execute a contract for the Runway 15/33 Rehabilitation project with Airport Engineer Century West in the amount of **\$274,527.60**.

RESOLUTION NO 2024-19

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

WHEREAS, the Scappoose Airport has prioritized Runway 15/33 pavement rehabilitation in the Airport Master Plan and Capital Improvement Plan; and

WHEREAS, the Oregon Department of Aviation commissioned a 2021 study to evaluate the pavement at the Scappoose Airport and the runway condition was determined to need rehabilitation by 2026; and

WHEREAS, Century West, the Airport Engineer of Record, submitted a Scope of Work for final design services to provide engineering design services for proposed improvements at the Scappoose Airport; and

WHEREAS, Port staff finds the Scope of Work reasonable at \$274,527.60 and recommends adoption to begin the final design work for Runway Rehabilitation Phase II: Now, therefore

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

The Board authorizes the Executive Director to proceed with a Scope of Work with Century West for provide engineering design services for proposed improvements at the Scappoose Airport.

PASSED AND ADOPTED this 14th day of August 2024, by the following vote:

AYES: _____

NAYS: _____

Port of Columbia County

ABSTAIN: _____

By: _____
President

Attested By:

Secretary

SCOPE OF WORK

Res. 2024-19

**ENGINEERING STATEMENT OF SERVICES
FOR
SCAPPOOSE AIRPORT (SPB)
RUNWAY 15/33 REHABILITATION PROJECT – PHASE II
FINAL DESIGN SERVICES
FAA AIP # 3-41-0056-031-2024**

PORT OF COLUMBIA COUNTY (POCC)

April 19, 2024

GENERAL

The scope of the project is to provide engineering design services for proposed improvements at Scappoose Airport.

The improvements include:

1. Rehabilitate Runway 15-33;
2. Replace existing Runway 15-33 Medium Intensity Runway Lighting (MIRL) system;
3. Replace existing PAPIs (RW 15 and RW 33);
4. Replace existing REILs (RW 15 and RW 33);
5. Upgrade airport electrical building equipment as necessary;
6. Install spare conduits as necessary;
7. Construct Runway markings.

Proposed improvements include the rehabilitation of previously paved and disturbed areas. The FAA has determined that FAA NEPA requirements will be satisfied by the issuance of an undocumented Categorical Exclusion as the proposed project falls under the action listed in Paragraph 5-6.4(e) of FAA Order 1050.1F. Any work associated with NEPA requirements that exceed an undocumented Categorical Exclusion will be completed as an amendment to this scope or completed under a separate agreement.

Design surveying and Geotechnical Investigations were completed during the Runway 15/33 Rehabilitation Project - Phase I and will be utilized during this phase of the Runway 15/33 Rehabilitation Project.

PHASE I –DESIGN SERVICES

Task 1 Project Management

1. Finalize work scope and negotiate contract.
2. Carry out project administration including, but not limited to monitoring design and project schedules, coordination of project with POCC and FAA, monitoring and reporting technical and budget issues to POCC and FAA, preparation of monthly Consultant invoices

for submittal to POCC.

Administrative activity for the project is expected to occur over a 12-month period, an allowance of 3-hours per month of activity is provided.

3. Assist POCC as necessary with preparation of grant application including updated CIP data sheet and sponsor certifications for the project and submit to POCC for review and signatures.
4. Provide a detailed scope of work and figures without costs to POCC for obtaining independent fee estimate (IFE) from others.
5. Provide a project schedule to POCC and FAA. Up to 2 revisions are anticipated.
6. Prepare FAA form 7460 for submittal to FAA for overall construction.
7. Coordinate FAA Reimbursable Agreement for the flight check of the REIL and PAPI installations.
8. Coordinate project team and sub-consultants.
9. Conduct in-house QA/QC review of design elements and project deliverables.
10. Prepare and submit FAA Quarterly Performance Reports throughout the project.

Deliverables:

- **Scope of work**
- **Budget**
- **IFE Worksheet**
- **Project Schedule**
- **Grant Pre-Application**
- **Pre-design meeting minutes**
- **Monthly Invoices**
- **Meeting Minutes**

Task 1 Due: July 1, 2024, with invoices and meeting minutes for the project duration

Task 2 Design

1. Review past mapping, plans, documents and other available information pertaining to the project.
2. Conduct a site visit to document site conditions. Assume Project Manager and Project Engineer will attend.
3. Develop final alternatives for phasing of the work that maintains safe operations during construction.

4. Make recommendations and prepare the design for any required replacement or revisions to surface and subsurface drainage of the project area. Drainage features may include inlets, pipes, underdrains, ditches, swales, manholes and other appurtenances to provide site drainage.
5. Prepare preliminary plan/profile/cross section design for the rehabilitated Runway.
6. Provide the electrical design for the proposed improvements. Prepare electrical plans and details for construction of new items.

Electrical components include:

1. Demolition and replacement of the existing MIRL system.
 2. Demolition and replacement of the existing PAPIs (RW15, RW33).
 3. Demolition and replacement of new REIL units (RW15, RW33).
 4. Demolition and replacement of existing electrical equipment in the electrical vault.
 5. Electrical power distribution and regulation equipment.
7. Prepare miscellaneous details required for construction.
 8. Prepare 50% Plans and Specifications for review by FAA and for POCC review and comment.
 9. Prepare a 50% preliminary cost estimate.
 10. Prepare an engineer's design report for FAA based on the 50% documents, which will include a Life Cycle Cost Analysis (LCCA) of incandescent lights versus LED lights and signs.
 11. Conduct a meeting with POCC staff to review (50%) design and cost. Assume Project Manager and Project Engineer will attend but may travel separately. All key design components will be developed to a level consistent with a 50% level of completion.
 12. Prepare and submit a 50% Construction Safety and Phasing Plan (CSPP) to FAA for approval.
 13. Prepare and submit FAA form 7460.
 14. Contact Oregon DEQ to discuss NPDES requirements. Document if a waiver of NPDES requirements is obtained. If necessary, prepare an erosion and sediment control plan (ESCP) and a NPDES 1200-C permit application and obtain the permit on behalf of POCC. The POCC will pay permit application fees.
 15. Prepare 90% Plans for review and approval by FAA and for POCC review and comment. A total of 38 sheets are anticipated.

16. Prepare 90% specifications including contract boilerplate and technical specifications for the Project. Develop specifications using Advisory Circular 150/5370-10 (latest edition), Standards for Specifying Construction of Airports.
17. Perform a quantity takeoff and cost estimate based on 90% plans and specifications.
18. Prepare an engineer's design report for FAA based on the 90% document, which will include a Life Cycle Cost Analysis (LCCA) of incandescent lights versus LED lights and signs.
19. Prepare copies of the 90% project documents. Submit two sets to FAA for review and approval, and two sets for POCC review and comment. A total of four sets of review documents are anticipated.
20. Solicit, receive, and record all comments on preliminary design from POCC and FAA.

Deliverables:

- **Preliminary (50%) plans, specifications, cost estimate, engineer's design report, and CSPP**
- **FAA Form 7460-1**
- **Project Documents (90%) plans, specifications, estimated quantities costs, and CSPP**
- **Engineer's Design Report (90%)**

Task 2 Due: November 31, 2024

Task 3 Final Design

1. Incorporate preliminary design comments and respond as necessary to requests for additional information.
2. Provide final Engineer's design report.
3. Provide final CSPP.
4. Provide final construction drawings.
5. Provide the final contract bid documents and specifications.
6. Complete final quantity calculations and prepare an Engineer's detailed estimate of construction costs for the project.
7. Submit final construction documents to POCC and FAA for review and approval.
8. Provide electronic files for POCC to distribute for bidding.
9. Provide 10 sets of contract construction documents for bidding (5 of the 10 sets will be kept by the engineer for use during construction).

Deliverables:

- **Final Engineer's Design Report**
- **Final CSPP**
- **Final Construction Drawings**
- **Final Bid Documents and Specifications**
- **Final Engineer's Construction Cost Estimate**

Task 3 Due: January 15, 2025

Task 4 Grant Closeout

1. Provide final report to include administrative tasks/costs and engineering fees, as well as FAA Final Payment Summary Sheet.

Deliverables:

- **Final Closeout Report**
- **FAA Final Payment Summary Sheet**

Task 4 Due: May 15, 2025

PHASE II - BIDDING AND CONSTRUCTION

Bidding and construction services are not included. These services will be performed under a separate agreement or work order.



Marina Advisory Committee Reappointments

Res. 2024-20 STAFF REPORT

DATE: August 14, 2024
TO: Port Commission
FROM: Elizabeth Millager – Property Manager
RE: **Reappointment of 3 Marina Advisory Committee Members**
Howard Blumenthal, Mark Gundersen and Jennifer Massey

Discussion

The Scappoose Bay Marine Park Advisory Committee has authority to recommend actions to the Port Commission but may not obligate the Port in any way. All the responsibilities of the Advisory Committee are assigned at the discretion of the Executive Director or by the Port Commission.

Three of the Advisory Committee member terms expired on June 30, 2024. Staff contacted these three members and all three members wanted to continue. The Advisory Committee then unanimously voted in favor of Howard Blumenthal, Mark Gundersen, and Jennifer Massey being appointed for an additional three-year term (July 2024-June 2027).

Recommendation

Adopt Resolution 2024-20, reappointing Howard Blumenthal, Mark Gundersen, and Jennifer Massey to the Scappoose Bay Marine Park Advisory Committee for a three-year term from July 2024 thru June 2027.

RESOLUTION NO. 2024-20

A RESOLUTION REAPPOINTING HOWARD BLUMENTHAL, MARK GUNDERSEN, AND JENNIFER MASSEY TO THE SCAPPOOSE BAY MARINE PARK ADVISORY COMMITTEE

WHEREAS, the Port of Columbia County maintains an Advisory Committee for matters related to the Scappoose Airport; and

WHEREAS, each member of the Advisory Committee has a term of three years; and

WHEREAS, the terms of Advisory Committee members Howard Blumenthal, Mark Gundersen, and Jennifer Massey expired June 30, 2024; and

WHEREAS, these members would like to continue to serve as members and the Advisory Committee took a vote and agreed to reappoint them; and

WHEREAS, the Commission wishes to reappoint these members and thank them for their continued service on the Advisory Committee; now, therefore,

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

Howard Blumenthal, Mark Gundersen, and Jennifer Massey are hereby reappointed to the Scappoose Bay Marine Park Advisory Committee for a three-year term (July 2024-June 2027).

PASSED AND ADOPTED this 14th day of August 2024, by the following vote:

AYES: _____

NAYS: _____

Port of Columbia County

ABSTAIN: _____

By:

President

Attested By:

Secretary

RESOLUTION NO. 2024-20