



COMMISSION REGULAR MEETING AGENDA

May 10, 2022

To be held virtually via MS Teams and in person at the Port of Seattle Headquarters Building – Commission Chambers, Pier 69, 2711 Alaskan Way, Seattle WA. You may view the full meeting live at meetings.portseattle.org. To listen live, call in at +1 (425) 660-9954 or (833) 209-2690 and Conference ID 895 734 334#

ORDER OF BUSINESS

10:30 a.m.

1. CALL TO ORDER

2. **EXECUTIVE SESSION** – *if necessary, pursuant to RCW 42.30.110 (executive sessions are not open to the public)*

► 12:00 noon – PUBLIC SESSION

Reconvene or Call to Order and Pledge of Allegiance

3. **APPROVAL OF THE AGENDA** *(at this time, commissioners may reorder, add, or remove items from the agenda)*

4. SPECIAL ORDERS OF THE DAY

4a. Proclamation in Recognition of May as Asian American and Pacific Islander Heritage Month. **(no enclosure)**

5. EXECUTIVE DIRECTOR'S REPORT

6. COMMITTEE REPORTS

7. **PUBLIC COMMENT** – *procedures available online at <https://www.portseattle.org/page/public-comment-port-commission-meetings>*

During the regular order of business, those wishing to provide public comment will have the opportunity to:

1) Deliver public comment via email: All written comments received by email to commission-public-records@portseattle.org will be distributed to commissioners and attached to the approved minutes.

2) Deliver public comment via phone or Microsoft Teams conference: To take advantage of this option, please email commission-public-records@portseattle.org with your name and the topic you wish to speak to by 9:00 a.m. PT on Tuesday, May 10, 2022. You will then be provided with instructions and a link to join the Teams meeting.

3) Deliver public comment in person by signing up to speak on your arrival to the physical meeting location: To take advantage of this option, please arrive at least 15 minutes prior to the start of any regular meeting to sign-up on the public comment sheet available at the entrance to the meeting room.

For additional information, please contact commission-public-records@portseattle.org.

8. **CONSENT AGENDA** *(consent agenda items are adopted by one motion without discussion)*

8a. Approval of Minutes of the Regular Meeting on April 26, 2022. **(no enclosure)** (p.4)

- 8b. Approval of the Claims and Obligations for the Period April 1, 2022, through April 30, 2022, Including Accounts Payable Check Nos. 943378 through 943730 in the Amount of \$5,414,178.09; Accounts Payable ACH Nos. 044070 through 044738 in the Amount of \$44,690,884.13; Accounts Payable Wire Transfer Nos. 015815 through 015833 in the Amount of \$10,075,604.79; Payroll Check Nos. 201260 through 201574 in the Amount of \$210,829.00; and Payroll ACH Nos. 1072874 through 1079087 in the Amount of \$18,913,335.99, for a Fund Total of \$79,304,832.00. ([memo](#) enclosed) (p.14)
- 8c. Authorization for the Executive Director to Execute Lease Amendment No. 27 and No. 28 of the Existing Main Lease and Lease Amendment No. 5 of the C1 Building Lease with the General Services Administration for the Current Non-Operations Occupancy of Transportation Security Administration. ([memo](#), [exhibit A](#), [exhibit B](#), and [exhibit C](#) enclosed) (p.17)
- 8d. Authorization for the Executive Director to Use Port of Seattle Crews, as Well as Small and Major Works On-Call Contracts to Perform the Construction Work and to Advertise and Execute a Major On-Call Construction Contract for Hazard Mitigation in the South Power Center of Concourse N. (CIP #C800556) ([memo](#) and [presentation](#) enclosed) (p.33)
- 8e. Authorization for the Executive Director to Advertise and Execute a Major Public Works Construction Contract for the Shilshole Bay Marina X-Dock Rehabilitation, in the Amount of \$1,200,000, for a Project Total Authorization of \$1,650,000. ([memo](#) and [presentation](#) enclosed) (p.47)
- 8f. Authorization for the Executive Director to Execute a Contract for Analytics Automation Software for a Period Not-to-Exceed Five Years in an Amount Not-to-Exceed \$1,250,000. ([memo](#) enclosed) (p.61)
- 8g. Authorization for the Executive Director to Execute a Lease with Arctic Storm Management Group LLC (ASMG) at Pier 69 that Provides a 5-Year Original Term and One 5-Year Option to Extend, with the Port Providing \$141,450 Towards Tenant Improvements and \$75,444 for Broker Commission Fees. ([memo](#), [agreement](#), and [presentation](#) enclosed) (p.62)

9. UNFINISHED BUSINESS

10. NEW BUSINESS

- 10a. Introduction of Resolution No. 3802: A Resolution to Amend Unit 18 of the Comprehensive Scheme of Harbor Improvements of the Port of Seattle by: (i) Declaring Certain Real Property Surplus and No Longer Needed for Port District Purposes; (ii) Deleting Said Property, Following a Public Hearing in Accordance with Law, from Unit 18 of the Comprehensive Scheme; and (iii) Authorizing the Executive Director to Take All Necessary Steps and Execute All Documents for the Sale of Such Real Property to Bridge Point SeaTac 300, LLC. ([memo](#), [draft resolution](#), and [presentation](#) enclosed) (p.98)

10b. PUBLIC HEARING and Introduction of Resolution No. 3803: A Resolution Authorizing the Sale of a Portion of the Parcel (#536720-2505) to King County to be Used as a Site for Building a New Combined Sewer Overflow Facility, and Applying a Boundary Line Adjustment to Divide the Parcel Covering Both Northwest Seaport Alliance and Port of Seattle Properties into Two Parts - the Bigger and the Majority Part to Remain with the Alliance, the Smaller Part (Southeast Corner of SW Michigan St and 2nd Ave SW) to be Sold to King County; and Amending the Port's Comprehensive Scheme to Delete the Smaller Part of the Parcel (#536720-2505; Boundary Line Adjustment Pending) from Unit 20 of the Port's Comprehensive Scheme and Authorize its Sale to King County Wastewater Treatment Division. ([memo](#), [draft resolution](#), [purchase and sale agreement](#), [vicinity map](#), and [presentation](#) enclosed) (p.112)

10c. Authorization for the Executive Director to Authorize a Budget Increase for the Concourse A Building Expansion for Lounges Project at Seattle-Tacoma International Airport by Delta Airlines, Inc., and Authorize an Increase to the Reimbursement Amount to Delta, for a Total Cost of \$26,500,000 of an Estimated Total Project Cost of \$105,000,000. (CIP #C801205) ([memo](#) and [presentation](#) enclosed) (p.169)

11. PRESENTATIONS AND STAFF REPORTS

11a. Forterra ACE Green Cities Close-Out Report. ([memo](#) and [presentation](#) enclosed) (p.188)

12. QUESTIONS on REFERRAL to COMMITTEE and CLOSING COMMENTS

13. ADJOURNMENT



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**APPROVED MINUTES
COMMISSION REGULAR MEETING APRIL 26, 2022**

The Port of Seattle Commission met in a regular meeting Tuesday, April 26, 2022. The meeting was held at the Seattle-Tacoma International Airport Conference Center, located at 17801 International Blvd, Seattle WA, Mezzanine Level, and virtually on Microsoft Teams. Commissioners Calkins (participating virtually), Cho, Felleman, Hasegawa, and Mohamed were present.

1. CALL to ORDER

The meeting was convened at 12:00 p.m. by Commission Vice-president Sam Cho.

2. EXECUTIVE SESSION pursuant to RCW 42.30.110

No executive session was held, and the public session convened at 12:00 p.m. Commission Vice-president Cho led the flag salute.

3. APPROVAL of the AGENDA

¹The agenda was approved as presented without objection.

In favor: Cho, Felleman, Hasegawa, and Mohamed (4)

Opposed: (0)

4. SPECIAL ORDERS OF THE DAY

4a. Holocaust Remembrance Day Proclamation.

Request document(s) included a proclamation.

Presenter(s):

Bookda Gheisar, Senior Director, Office of Equity, Diversity, and Inclusion
Sandra Kilroy, Senior Director, Environment, Sustainability and Engineering
Dave Kaplan, Local Government Relations, External Relations
Ilana Cone Kennedy, Chief Operating Office, Holocaust Center for Humanity

Commission Clerk Michelle Hart read Item 4a into the record.

Executive Director Metruck introduced the item.

¹ Commissioner Calkins was not yet in attendance at the time of this vote.

Digital recordings of the meeting proceedings and meeting materials are available online – www.portseattle.org.

Bookda Gheisar, Senior Director, Office of Equity, Diversity, and Inclusion, spoke regarding Holocaust Remembrance Day and introduced Ilana Cone Kennedy, Chief Operating Officer of the Holocaust Center for Humanity.

Ilana Cone Kennedy spoke regarding the tragedy of the Holocaust and the reason and meaning behind Yom HaShoah, Holocaust Remembrance Day. She spoke regarding the services and purpose of the Holocaust Center for Humanity.

Bookda Gheisar, Sandra Kilroy, and Dave Kaplan read the proclamation into the record.

Commission Felleman and Members of the Commission spoke regarding the significance in recognizing Yom HaShoah and in the Port's ongoing support of the annual proclamation and the Jewish community.

The motion, made by Commissioner Felleman, carried by the following vote:

In favor: Calkins, Cho, Felleman, Hasegawa, and Mohamed (5)

Opposed: (0)

5. EXECUTIVE DIRECTOR'S REPORT

Executive Director Metruck previewed items on the day's agenda and made general and meeting-related announcements.

6. COMMITTEE REPORTS

Commission Strategic Advisor Erica Chung, provided a report regarding the April 20, 2022, Sustainability, Environment, and Climate Committee meeting.

7. PUBLIC COMMENT

Public comment was received from the following individual(s):

- The following person spoke in support of Agenda Item 10c regarding an agreement with the Seattle Aquarium for a project investigating urban kelp forests: Jodie Taft, Puget Sound Restoration Fund.
- The following people spoke regarding their concerns related to over-tourism and non-compliance with environmental regulations of the Alaskan cruise industry: Karla Hart, Juneau, and Mary Stephenson, Ketchikan (*written comments also submitted*).
- The following people spoke to the issue of climate change and effects of the cruise industry: Elizabeth Burton (*written comments also submitted*), Neal Anderson, Cary Moon, Jordan Van Voast (*written comments also submitted*), Annemarie Dooley, and Stacy Oaks, residents.
- The following person spoke in support of cruise as an economic benefit to Huna, Alaska: Fred Parady, Huna Totem Corporation.
- The following person spoke regarding the maritime industry and the importance of cruise to the economy: Charles Costanzo, Puget Sound Pilots, representing master mariners.

- In lieu of spoken comment, written comments supporting the approval of Agenda Item 10c, were submitted by Erin Meyer, Director of Conservation Programs and Partnerships, Seattle Aquarium.
- In lieu of spoken comment, written comments regarding the Port's continued support of cruise, expansion of cruising, and the environmental impacts caused by cruising were submitted by: Iris Antman.
- In lieu of spoken comment, written comments regarding the climate effects of cruise ships and the need for meaningful mitigation efforts were submitted by: Robin Briggs.
- In lieu of spoken comment, written comments supporting Agenda Item 4a, Holocaust Remembrance Day Proclamation, were submitted by: Lindsay Wolpa.
- In lieu of spoken comment, written comments supporting the opening of cruise season, were submitted by: Patrick Bannon, President, Bellevue Downtown Association.

[Clerk's Note: All written comments are combined and attached here as Exhibit A.]

8. CONSENT AGENDA

[Clerk's Note: Items on the Consent Agenda are not individually discussed. Commissioners may remove items for separate discussion and vote when approving the agenda.]

8a. Approval of the Regular Meeting Minutes of April 12, 2022.

8b. Authorization for the Executive Director to Proceed with the Passenger Flow Metrics Project, to Utilize Port Staff and to Execute Contract(s) for Software, Equipment, Vendor Services, and Ten Years of Software License and Maintenance Fees in the Amount of \$630,000 and a Service Fee Contract Value of \$3,000,000. (CIP #C801188)

Request document(s) included an agenda memorandum and presentation.

8c. Authorization for the Executive Director to Proceed with the Energy Management System Project and Execute Contract(s) for Software, Equipment, Vendor Services, and Ten Years of Software License and Maintenance Fees in the Amount of \$540,000 and an Estimated Ten-Year Software License and Maintenance Fee of \$3,500,000. (CIP #C801166)

Request document(s) included an agenda memorandum and presentation.

8d. Authorization for the Executive Director to Execute a New Collective Bargaining Agreement Between the Port of Seattle and the International Brotherhood of Teamsters, Local 117, Representing Traffic Support Specialists at the Police Department Covering the Period from January 1, 2022, through December 31, 2024.

Request document(s) included an agenda memorandum and agreement.

- 8e. Authorization for the Executive Director to Execute a New Collective Bargaining Agreement Between the Port of Seattle and the Pacific Northwest Regional Council of Carpenters, Local 30, Representing Carpenters, Millwrights, and Piledrivers, at Marine Maintenance, Aviation Maintenance, and Port Construction Services Covering the Period from January 1, 2022, through December 31, 2026.**

Request document(s) included an agenda memorandum and agreement.

- 8f. Authorization for the Executive Director to Execute a New Collective Bargaining Agreement (CBA) Between the Port of Seattle and the International Association of Machinists and Aerospace Workers, Local 289, Representing Inventory Specialists at the Port of Seattle Covering the Period from January 1, 2022, through December 31, 2025.**

Request document(s) included an agenda memorandum and agreement.

- 8g. Order No. 2022-06: Appointing Members to the Port of Seattle Commission Board of Ethics.**

Request document(s) included an order.

- 8h. Adoption of Resolution No. 3801: A Resolution Authorizing the Issuance and Sale of Intermediate Lien Revenue and Refunding Bonds in One or More Series in the Aggregate Principal Amount of Not-to-Exceed \$1,000,000,000, for the Purposes of Financing Capital Improvements to Aviation Facilities and Refunding Certain Outstanding Revenue Bonds of the Port; Setting Forth Certain Bond Terms and Covenants; and Delegating Authority to Approve Final Terms and Conditions and the Sale of the Bonds.**

Request document(s) included an agenda memorandum, resolution, and presentation slides.

- 8i. Authorization for the Executive Director to Complete Design and Utilize Port Crews and Small Works Contracts to Complete Repairs Associated with the 2021 Garage Fire Repairs Project at Seattle-Tacoma International Airport in the Amount of \$750,000 and a Total Estimated Project Cost of \$900,000.**

Request document(s) included an agenda memorandum.

- 8j. Authorization for the Executive Director to Complete Design for the Tyee Pond Effluent Pipe Replacement Project Located South of the Seattle-Tacoma International Airport in the Amount of \$390,000 and a Total Estimated Project Cost of \$2,540,000. (CIP #C801173)**

Request document(s) included an agenda memorandum and vicinity map.

- 8k. Authorization for the Executive Director to Execute a Major Public Works Construction Contract to Provide Full Functional Wide Body Aircraft Capacity at the Concourse N Gate N16. No additional funding is associated with this Request. (CIP #C800556)**

Request document(s) included an agenda memorandum and presentation slides.

- 8l. (Number not used.)**

- 8m. Authorization for the Executive Director to Execute a Project Administration Agreement with Sound Transit to Provide Reimbursement to the Port of Seattle for the Costs of Certain Services and Products Related to the Project and to Execute Task Orders that are Consistent with the Agreement and Do Not Exceed a Combined Total of \$5,000,000.**

Request document(s) included an agenda memorandum, draft agreement, and presentation slides.

- 8n. Authorization for the Executive Director to Authorize up to an Additional \$15,500,000 of the C Concourse Expansion Budget to Fund Baggage Transfer Line Work, to Transfer up to \$15,500,000 in Funds from the C Concourse Expansion Project to the Baggage Optimization Project (CIP# C800612), and to Request Authorization to Execute a Project Labor Agreement. (CIP #C800845)**

Request document(s) included an agenda memorandum and presentation slides.

The motion for approval of consent agenda items 8a, 8b, 8c, 8d, 8e, 8f, 8g, 8h, 8i, 8j, 8k, 8m, and 8n carried by the following vote:

In favor: Calkins, Cho, Felleman, Hasegawa, and Mohamed (5)

Opposed: (0)

10. NEW BUSINESS

- 10a. Industrial Development Corporation Annual Meeting – Approval of Minutes, Designation of Officers, and Annual Report for 2021.**

Request document(s) included meeting materials and minutes.

Presenter(s):

Scott Bertram, Manager, Corporate Finance Analysis, Finance and Budget
Ian Burke, Financial Analyst Corporate, Finance and Budget

Clerk Hart read Item 10a into the record.

[Clerk's Note: At this time, the Commission meeting recessed, and the Industrial Development Corporation convened its annual meeting of 2021. Director Cho called the meeting to order at 1:15 p.m.]

Executive Director Metruck introduced the item and presenters.

APPROVAL OF MINUTES

A motion, made by Director Felleman, for approval of the May 11, 2021, IDC meeting minutes, carried by the following vote: In favor: Calkins, Cho, Felleman, Hasegawa, and Mohamed (5)
Opposed: (0)

DESIGNATION OF OFFICERS

Director Cho read the slate of 2022 Directors into the record.

A motion, made by Director Mohamed, for approval of the slate of 2022 Industrial Development Corporation Directors, carried by the following vote: In favor: Calkins, Cho, Felleman, Hasegawa, and Mohamed (5)
Opposed: (0)

The designated Directors for the IDC are as follows: Director Calkins, Director Cho, Director Felleman, Director Hasegawa, and Director Mohamed.

Scott Bertram introduced Ian Burke, who provided the annual report of the Industrial Development Corporation (IDC). The report addressed activity and status of the IDC in 2021.

Discussion ensued regarding remaining IDC projects and associated timelines to pay off debt.

[Clerk's Note: Director Cho adjourned the annual meeting of the IDC without objection and the regular business meeting of the Port of Seattle Commission reconvened at 1:22 p.m.]

10b. Authorization for the Executive Director to Execute a Cooperative Research and Development Agreement with Pacific Northwest National Labs, Sandia National Labs and Seattle City Light to Study Risk Assessment of Large-Scale Hydrogen Storage in a Port Environment in the Amount Not-to-Exceed \$35,000 Toward a Total Estimated Project Cost of \$1,100,000.

Request document(s) included an agenda memorandum, agreement, and presentation slides.

Presenter(s):

Sarah Ogier, Director, Maritime Environment and Sustainability
David Fujimoto, Senior Environmental Program Manager, Maritime Env and Sustainability
Philip Jensen, Engineer Team Lead, Operational Systems Engineering, Pacific Northwest National Lab

Commission Clerk Michelle Hart read Item 10b into the record.

Executive Director Metruck introduced the item.

The presentation addressed:

- the request for the Executive Director to enter into an interagency cooperative research and development agreement for a Hydrogen Storage Risk Assessment with Pacific Northwest National Laboratory (PNNL), Sandia National Laboratory, and Seattle City Light;
- details of the agreement;
- exploring clean fuels is part of the Port's climate strategies;
- scope of the project;
 - energy storage at end-use locations
 - risk assessment of large volume storage in urban industrial setting
 - generation, conversion and storage technologies
 - operational use case analysis (widespread heavy-duty vehicles, energy storage, grid support, maritime fueling)
 - cyber security assessment
 - use of risk assessment products for education and stakeholder engagement
- schedule of the agreement and project.

Members of the Commission and staff discussed:

- if hydrogen would be produced, as well as stored, on-site in the assessment;
- risks associated with large scale storage;
- why buildings are excluded from the use case analysis; and
- future opportunities which may result in continued assessment.

The motion, made by Commissioner Felleman, carried by the following vote:

In favor: Calkins, Cho, Felleman, Hasegawa, and Mohamed (5)

Opposed: (0)

10c. Authorization for the Executive Director to Execute an Agreement with the Seattle Aquarium for a Project Investigating Urban Kelp Forests in the Amount Not-to-Exceed \$120,000; and that the Commission Exercises its Authority Under RCW 53.19.020(5) to Determine a Competitive Solicitation Process is Not Appropriate or Cost Effective for this Action.

Request document(s) included an agenda memorandum and presentation slides.

Presenter(s):

Sarah Ogier, Director, Maritime Environment & Sustainability
Kathleen Hurley, Senior Environmental Program Manager, Maritime Environment & Sustainability

Commission Clerk Michelle Hart read Item 10c into the record.

Executive Director Metruck introduced the item.

The presentation addressed:

- the request for approval for a competitive exemption to contract with the Seattle Aquarium to undertake the urban kelp research project;
- context for urban kelp research;

- Smith Cove Blue Carbon Project
 - sustainable shorelines initiative
 - partnership with Seattle
 - Aquarium exhibit
 - Duwamish Basin Steward
- kelp research will inform Port efforts to improve the nearshore environment;
- project synopsis; and
 - investigate what causes kelp to thrive in an urban environment
 - establish urban kelp forest monitoring sites
 - use scuba, remotely-operated devices, and machine learning to survey urban kelp forests
 - develop an ecological characterization of urban kelp forests
 - engage and increase awareness with the public
 - share results with partner agencies
- next steps and schedule.

Members of the Commission and staff discussed:

- use of an underwater drone to study kelp beds;
- the educational component of the project;
- the partnership of the Port and the Seattle Aquarium;
- funding for the project previously approved in the budget; and
- opportunities for youth to engage in the project as it is defined.

The motion, made by Commissioner Felleman, carried by the following vote:

In favor: Calkins, Cho, Felleman, Hasegawa, and Mohamed (5)

Opposed: (0)

11. PRESENTATIONS AND STAFF REPORTS

11a. Baggage Optimization Program Update – Second Quarter 2022.

Presentation document(s) included an agenda memorandum and presentation slides.

Presenter(s):

Ed Weitz, Capital Program Leader, AV Project Management Group

Jamie Tomosada, Capital Project Manager V, AV Project Management Group

Commission Clerk Michelle Hart read Item 11a into the record.

Executive Director Metruck introduced the item and presenters.

Members of the Commission and staff discussed:

- purpose of the project – airport-wide public safety and security program that improves customer service for both airlines and passengers by providing flexibility, reliability, and efficiency;
- the project replaces six individual baggage screening systems with a centralized system that optimizes the operation and functionality of the checked baggage system;

- phase status of the project;
- Phase 3 schedule;
- project budget;
- critical issues;
- upcoming Commission requests and Majority in Interest airline vote on Phase 3;
- project photos; and
- outbound baggage flow currently and with optimization.

Members of the Commission, staff, and presenters discussed:

- security protocols to guard against cyber-attacks;
- public outreach regarding the project;
- the total number of miles associated with the conveyor belt;
- WMBE and other minority business opportunities; and
- the project coming in under budget.

11b. Sustainable Century and Fly Quiet Awards.

Presentation document(s) included an agenda memorandum and presentation slides.

Presenter(s):

Sandra Kilroy, Senior Director, Environment, Sustainability and Engineering
Jane Dewell, Senior Manager, Environmental Programs, Storm Water Utility
Jeremy Webb, Environmental Program Manager, Aviation Environment & Sustainability
Thomas Fagerstrom, Airport Noise Programs Coordinator, Noise Programs

Commission Clerk Michelle Hart read Item 11b into the record.

Executive Director Metruck introduced the item and presenters.

Members of the Commission and staff discussed:

- 2020 – 2021 Award Program;
 - awards for tenants and businesses supporting Port sustainability goals since 2010
 - recognize sustainability accomplishments of local Aviation and Maritime industries
 - recognize airline noise reduction efforts
 - opportunities for small businesses
 - winners determined by staff with Senior Management concurrence
- Sustainable Century Award winners;
 - Bellair Charters and Airporter Shuttle
 - Fishermen's Finest
 - SSA Marine
 - Delta Airlines
 - Southwest Airlines
 - Whooshh
- Maritime Sustainable Century Awards;
 - Equitable COVID Pandemic Recovery – SSA Marine/Carrix
 - Environmental Innovation – Whooshh Innovations
- Aviation Sustainable Century Awards; and

- Environmental Innovation – Bellair Charters and Airporter Shuttle
 - Greatest use of airport ground power systems – Southwest Airlines
 - Highest percentage of fuel-efficient aircraft use – Delta Airlines
- 2022 Fly Quiet Awards;
 - Top Fly Quiet scoring airline for their operations in 2021 – Spirit Airlines
 - Significantly lower takeoff noise than other domestic carrier in 2021 – Frontier Airlines
 - Most improved Fly Quiet score in 2021, significantly reduced noise levels – EVA Airways.

Discussion ensued regarding:

- pre-conditioned air ground support;
- awards based on quantifiable data;
- award criteria growing from year-to-year in the program; and
- data collected by and input from StART into the award criteria.

12. QUESTIONS on REFERRAL to COMMITTEE and CLOSING COMMENTS –

Members of the Commission made closing comments; Commissioners Felleman and Hasegawa reported regarding their port-related travel to explore offshore wind and tourism; and Commissioner Cho's birthday was celebrated.

13. ADJOURNMENT

There was no further business and the meeting adjourned at 3:07 p.m.

Prepared:

Attest:

Michelle M. Hart, Commission Clerk

Toshiko Hasegawa, Commission Secretary

Minutes approved: May 10, 2022

**COMMISSION
AGENDA MEMORANDUM**

Item No. 8b

ACTION ITEM

Date of Meeting May 10, 2022

DATE: May 2, 2022
TO: Steve Metruck, Executive Director
FROM: Duane Hill, AFR Senior Manager Disbursements
SUBJECT: Claims and Obligations – April 2022

ACTION REQUESTED

Request Port Commission approval of the Port Auditor’s payment of the salaries and claims of the Port pursuant to RCW 42.24.180 for payments issued during the period April 1 through 30, 2022 as follows:

Payment Type	Payment Reference Start Number	Payment Reference End Number	Amount
Accounts Payable Checks	943378	943730	\$ 5,414,178.09
Accounts Payable ACH	044070	044738	\$ 44,690,884.13
Accounts Payable Wire Transfers	015815	015833	\$ 10,075,604.79
Payroll Checks	201260	201574	\$ 210,829.00
Payroll ACH	1072874	1079087	\$ 18,913,335.99
Total Payments			\$ 79,304,832.00

Pursuant to RCW 42.24.180, “the Port’s legislative body” (the Commission) is required to approve in a public meeting, all payments of claims within one month of issuance.

OVERSIGHT

All these payments have been previously authorized either through direct Commission action or delegation of authority to the Executive Director and through his or her staff. Detailed information on Port expenditures is provided to the Commission through comprehensive budget presentations as well as the publicly released Budget Document, which provides an even greater level of detail. The Port’s operating and capital budget is approved by resolution in December for the coming fiscal year, and the Commission also approves the Salary and Benefit Resolution around the same time to authorize pay and benefit programs. Notwithstanding the Port’s budget approval, individual capital projects and contracts exceeding certain dollar thresholds are also subsequently brought before the Commission for specific authorization prior to commencement of the project or contract—if they are below the thresholds the Executive Director is delegated authority to approve them. Expenditures are monitored against budgets monthly by management and reported comprehensively to the Commission quarterly.

Meeting Date May 10, 2022

Effective internal controls over all Port procurement, contracting and disbursements are also in place to ensure proper central oversight, delegation of authority, separation of duties, payment approval and documentation, and signed perjury statement certifications for all payments. Port disbursements are also regularly monitored against spending authorizations. All payment transactions and internal controls are subject to periodic Port internal audits and annual external audits conducted by both the State Auditor's Office and the Port's independent auditors.

For the month of April 2022, \$60,180,667.01 in payments were made to nearly 650 vendors, comprised of 1,797 invoices and over 6,693 accounting expense transactions. About 91 percent of the accounts payable payments made in the month fall into the Construction, Employee Benefits, Contracted Services, Leasehold Taxes, Janitorial Services, Utility Expenses, Payroll Taxes, Public Expense, Sales Tax and Bond Fees. Payroll expense for the month of April was \$19,124,164.99.

Top 15 Payment Category Summary:

Category	Payment Amount
Construction	26,767,001.82
Employee Benefits	7,536,356.55
Contracted Services	4,693,762.92
Leasehold Taxes	3,513,055.18
Janitorial Services	3,014,583.56
Utility Expenses	2,788,117.47
Payroll Taxes	2,394,074.02
Public Expense	1,470,284.70
Sales Taxes	1,188,961.95
Bond Fees	1,116,520.67
Maintenance Inventory	825,316.41
NWSA Construction Costs	523,685.40
Computers & Telephone	504,597.71
Software	484,447.65
Parking Taxes	474,955.38
Other Categories Total :	2,884,945.62
Net Payroll	19,124,164.99
Total Payments :	\$79,304,832.00

Meeting Date May 10, 2022

Appropriate and effective internal controls are in place to ensure that the above obligations were processed in accordance with Port of Seattle procurement/payment policies and delegation of authority.



Lisa Lam/Port Auditor

At a meeting of the Port Commission held on May 10, 2022, it is hereby moved that, pursuant to RCW 42.24.180, the Port Commission approves the Port Auditor's payment of the above salaries and claims of the Port:

Port Commission

**COMMISSION
AGENDA MEMORANDUM**

Item No.

8c

ACTION ITEM

Date of Meeting

May 10, 2022

DATE: April 20, 2022

TO: Stephen P. Metruck, Executive Director

FROM: Jeff Moken, Interim Director, Aviation Business & Development
Denise Trogon, Sr. Property Manager, Aviation Business & Development

SUBJECT: Five Year Extension to the GSA/TSA Main Lease and GSA/TSA C1 Building Lease

ACTION REQUESTED

Request Commission authorization for the Executive Director to execute Lease Amendment No. 27 and No. 28 (Exhibit A attached) of the existing Main Lease and Lease Amendment No. 5 (Exhibit B attached) of the C1 Building Lease with the General Services Administration (GSA) for the current non-operations occupancy of Transportation Security Administration (TSA).

EXECUTIVE SUMMARY

GSA has two leases for TSA's non-operations occupancy in the terminal at Seattle-Tacoma International Airport – the Main Lease, largely comprised of breakrooms and training spaces throughout the airport and the C1 Building lease, which covers TSA's consolidated administration offices. GSA is funded for lease costs of not more than 5-year terms and at the expiration of each 5-year term, an amendment to extend each lease for an additional 5 years must be executed. The two leases are written on GSA templates and GSA must keep the two leases as separate documents. Lease Amendment No. 27 of the Main Lease and Lease Amendment No. 5 of the C1 Lease extend the co-terminus terms for 5 additional agreement years and update the rental rates; Lease Amendment No. 28 of the Main Lease includes additional space in the IAF, effective May 10, 2022.

JUSTIFICATION

Supporting the GSA/TSA with these lease extensions provides the Port additional time to develop the C1 Building project scope, schedule, and budget, and allows GSA/TSA the time it requires to vacate the C1 Building with the intent to move some functions off airport or other location yet to be determined within the airport. The lease extensions also support the Port's Century Agenda goal to meet the region's air transportation needs at Sea-Tac Airport for the next 25 years and encourages the cost-effective expansion of domestic and international passenger and cargo service. We achieve this objective through assisting our TSA partners in managing office space

Meeting Date: May 10, 2022

and facilities to increase organizational efficiencies that ultimately will facilitate improved security at the Airport.

LEASE SUMMARY COMPARISON

The current terms and proposed amended terms of the two leases are as follows:

Main Lease	Current terms	Amended terms
Term	11/1/2018-1/20/2022	1/21/2022-1/20/2027
SF Leased	7,935 sf – 2 years; reduced to 6,917 sf for 2 years	6,701 sf*
Rent Annually	\$1,101,774.75 – year 1 \$1,295,468.10 – year 2 \$1,129,269.42 – year 3 \$1,187,372.22 – year 4 \$4,713,884.49 – Total rent	\$988,732.55 – year 1 \$1,102,984.00 – year 2 \$1,198,607.87 – year 3 \$1,266,421.99 – year 4 \$1,419,003.76 – year 5 \$5,975,750.17 – Total rent
C1 Building Lease	Current terms	Amended terms
Term	1/22/2019-1/20/2022	1/21/2027
SF Leased	10,756 sf – 2 years; reduced to 6,335 sf for 2 years	6,335 sf*
Rent	\$1,493,470.60 – year 1 \$1,756,024.56 – year 2 \$1,034,252.10 – year 3 \$1,087,466.10 – year 4 5,371,213.36 Total rent	\$934,729.25 – year 1 \$1,042,741.00 – year 2 \$1,133,141.45 – year 3 \$1,197,251.65 – year 4 \$1,341,499.60 – year 5 \$5,649,362.95 – Total rent
*Change in leased sf due to consolidation of TSA functions and C1 project enabling move		

FINANCIAL IMPLICATIONS

By extending the two Leases for an additional five years and increasing the negotiated rental rate (based on Finance and Budget rate forecast), the Port will realize total revenue over the five-year term extension of \$11,625,113.12. This lease extension does not financially obligate the Port in any measurable way.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Allow the leases to expire and tenant to stay provisionally in a holdover state

Meeting Date: May 10, 2022

Cost Implications: No increase in rental revenue

Pros:

- (1) Provides the Port with flexibility to terminate the leases with 30 days' notice.
- (2) Potential for return of terminal space that could be occupied by a tenant not otherwise accommodated.

Cons:

- (1) The Port would miss the opportunity to secure rental revenue for at least a full year, at the proposed increased rate.
- (2) GSA/TSA by policy does not permit holdovers.
- (3) Does not support TSA's mission in managing its facility efficiencies supporting the critical security function they provide at the Airport.

This is not the recommended alternative.

Alternative 2 – Execute the 5-year lease extension for each lease.

Cost Implications: Increased rental revenue over extended lease term.

Pros:

- (1) Satisfies the occupancy needs of TSA to fulfill their critical security function at Sea-Tac.
- (2) Progressively increased rental revenue over the 5-year term provides commitment from GSA/TSA for space.
- (3) Provides for increases to current rental rate and ultimately non-aeronautical revenue.

Cons:

- (1) The space will not be available to potential tenants not otherwise accommodated in the terminal.

This is the recommended alternative.

ATTACHMENTS TO THIS REQUEST

- (1) Exhibit A – Lease Amendment No. 27 and No. 28 to GSA Main Lease
- (2) Exhibit B – Lease Amendment No. 5 to GSA C1 Building Lease
- (3) Exhibit C – Plan depicting spaces leased

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

Main Lease #000307

- On May 12, 2009, Commission approved Amendment 18 to extend the lease for an additional three (3) years and increase the rental rate, covering hold over period that expired on October 31, 2010

Meeting Date: May 10, 2022

- On October 5, 2010, Commission approved Amendment to extend the lease for an additional three (3) years and increase the rental rate
- On October 8, 2013, Commission approved Amendment No. 1 to extend the term of the lease for two additional agreement years and reduce the leasehold from 3,768 square feet to 1,844 square feet.
- On October 9, 2018, Commission approved Amendment No. 25 of the existing Main Lease to extend the term of the lease for three additional agreement years and increases the current rental rates.

C1 Building Lease #000995

- On January 15, 2008, the Port Commission executed a 10 (ten) year Lease Agreement (Lease) with the United States General Services Administration (GSA), on behalf of the Transportation Security Administration (TSA) for the construction of tenant improvements in the C1 Building
- On January 31, 2006, the Port Commission authorized the C1 Project to spend \$800,000, as part of a \$25,300,000 request for the C1 Building Interim and Final Baggage Screening Systems project to design and build tenant improvements in the C1 Building on behalf of the TSA.
- On October 24, 2006, the Port Commission authorized an additional \$488,000 to the C1 Project for a total of \$1,288,000 for the TSA tenant improvements. This amount is expected to be fully reimbursed back to the C1 Project by the GSA/TSA, as a part of the 10-year lease agreement with the Port.
- On August 14, 2007, the Port Commission authorized a \$6,000,000 Tenant Reimbursement CIP (CIP C800154). As part of that authorization, Port staff is required to bring any project requesting funds more than \$200,000 before the Commission for specific authorization.
- On February 24, 2015, Commission approved Amendment No. 1 to construct administrative office space and tenant improvements, to prepare contract documents; perform construction services; execute and award outside professional services agreement; advertise and award major and small works contracts; pre-purchase material and equipment; provide contract administration and execution on behalf of GSA and TSA for the construction of tenant improvement requiring an authorization of \$1,312,000 of Tenant Reimbursement CIP funds.

Meeting Date: May 10, 2022

- On October 9, 2018, Commission approved Amendment No. 2 of the existing Main Lease to extend the term of the lease for three additional agreement years and increases the current rental rates.

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE LEASE AMENDMENT	LEASE AMENDMENT No. 27 TO LEASE NO. GS-10B-06485 BLDG NO. WA7855
ADDRESS OF PREMISES SEATAC INTERNATIONAL AIRPORT PORT OF SEATTLE, MAIN TERMINAL 17801 PACIFIC HWY SOUTH SEATTLE, WA 98158	PDN Number: N/A <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> Item No. <u>8c attach 1</u> Meeting Date: <u>May 10, 2022</u> </div>

THIS AMENDMENT is made and entered into between **The Port of Seattle**

whose address is: PORT OF SEATTLE/SEATAC INTERNATIONAL AIRPORT
AVIATION PROPERTIES
17801 PACIFIC HWY SOUTH, ROOM A6012M
SEATTLE, WA 98158-1200

hereinafter called the Lessor, and the **UNITED STATES OF AMERICA**, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease to extend the Lease an additional 5 years, remove 350 RSF of space known as A5062C So. STSO Office, update the termination rights, state the rent for the additional term, and to add and incorporate Exhibit D – FAR Clause 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020).

NOW THEREFORE, these parties for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree that the said Lease is amended, effective January 21, 2022 as follows:

Part II Section B. Term, Part III – Award, Exhibit A – Drawings of Lease Space, and Exhibit B – Rental Rates are deleted in their entirety and replaced below. Exhibit D – General Clause Addendum is hereby added to the Lease.

This Lease Amendment contains 2 pages. Exhibit A – Drawings of Lease Space (5 Pages), Exhibit B – Rental Rates (1 page), and Exhibit D - General Clause Addendum (3 pages).

All other terms and conditions of the lease shall remain in force and effect.
IN WITNESS WHEREOF, the parties subscribed their names as of the below date.

FOR THE LESSOR:

FOR THE GOVERNMENT:

Name: _____
Title: _____
Entity: _____
Date: _____

Name: _____
Title: Lease Contracting Officer
General Services Administration, Public Buildings Service
Date: _____

WITNESSED FOR THE LESSOR BY:

Name: _____
Title: _____
Date: _____

Part II. Section B. Term: To have and to hold, the said premises with their appurtenances for the term commencing on December 23, 2001 and continuing through January 21, 2027 inclusive.

The Government may terminate this Lease, in whole or in part, at any time during the term of this lease with 90 days' prior written notice to the Lessor if (i) regularly scheduled commercial air services cease, (ii) the airport opts to replace TSA screeners with private contractors, (iii) the checkpoint supported by the leased Space is closed, or (iv) the Government reduces its presence at the airport due to a reduction in enplanements. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rental shall accrue after the effective date of termination.

Surrender of Premises: At the expiration of this Lease, Lessee shall promptly and peaceably surrender possession of the Premises to the Port. The Premises shall be returned in substantially the same condition as received (unless altered by Lessee with Port's consent), reasonable wear and tear excepted.

Part III – Award

Your offer is hereby accepted. This award consummates the lease which consists of the following documents: (a) this GSA Form 3626, (b) Representations and Certifications, (c) the Government's General Clauses, and (d) the following changes or additions made or agreed to by you:

1. Exhibit A, Pages 1-5, Drawings of Lease Space
2. Exhibit B, Pages 1-2, Rental Rates
3. Exhibit C, Pages 1-4, Supplemental Terms
4. Exhibit D, Pages 1-3, FAR Clause 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020)

LESSOR: _____ GOVERNMENT: _____

<p align="center">GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE</p> <p align="center">LEASE AMENDMENT</p>	<p>LEASE AMENDMENT No. 27</p> <hr/> <p>TO LEASE NO. GS-10B-06458 BLDG NO. WA7855</p>
<p>ADDRESS OF PREMISES SEATAC INTERNATIONAL AIRPORT PORT OF SEATTLE, MAIN TERMINAL 17801 PACIFIC HWY SOUTH SEATTLE, WA 98158</p>	<p>PDN Number: N/A</p>

THIS AMENDMENT is made and entered into between **The Port of Seattle**

whose address is: PORT OF SEATTLE/SEATAC INTERNATIONAL AIRPORT
AVIATION PROPERTIES
17801 PACIFIC HWY SOUTH, ROOM A6012M
SEATTLE, WA 98158-1200

hereinafter called the Lessor, and the **UNITED STATES OF AMERICA**, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease relinquish 166 SF of space known as S1125TR (FIS Break Room), add 267 SF of space known as IAF5208C (IAF Break Room – 267 SF), as well as update the Rental Rates.

NOW THEREFORE, these parties for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree that the said Lease is amended, effective May 10, 2022 as follows:

Exhibit A – Floor Plans and Exhibit B – Rental Rates are deleted in their entirety and replaced.

This Lease Amendment contains 1 page. Exhibit A – Floor Plans (4 pages), Exhibit B – Rental Rates (1 page).

All other terms and conditions of the lease shall remain in force and effect.
IN WITNESS WHEREOF, the parties subscribed their names as of the below date.

FOR THE LESSOR:

FOR THE GOVERNMENT:

Name: _____
Title: _____
Entity: _____
Date: _____

Name: _____
Title: Lease Contracting Officer
General Services Administration, Public Buildings Service
Date: _____

WITNESSED FOR THE LESSOR BY:

Name: _____
Title: _____
Date: _____

<p align="center">GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE</p> <p align="center">LEASE AMENDMENT</p>	<p>LEASE AMENDMENT No. 5</p>
<p>ADDRESS OF PREMISES SEATAC INTERNATIONAL AIRPORT PORT OF SEATTLE, MAIN TERMINAL 17801 PACIFIC HWY SOUTH SEATTLE, WA 98158</p>	<p>TO LEASE NO. GS-10B-06958 BLDG NO. WA7855</p> <p>PDN Number: N/A</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>Item No. <u>8c attach 2</u> Meeting Date: <u>May 10, 2022</u></p> </div>

THIS AMENDMENT is made and entered into between **The Port of Seattle**

whose address is: PORT OF SEATTLE/SEATAC INTERNATIONAL AIRPORT
AVIATION PROPERTIES
17801 PACIFIC HWY SOUTH, ROOM A6012M
SEATTLE, WA 98158-1200

hereinafter called the Lessor, and the **UNITED STATES OF AMERICA**, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease to return extend the term of the Lease an additional 5 years, update the termination rights, state the rent for the additional term, and to add and incorporate Exhibit D – FAR Clause 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020).

NOW THEREFORE, these parties for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, covenant and agree that the said Lease is amended, effective January 21, 2022 as follows:

Paragraphs 2, and 4, are deleted in their entirety and replaced below. Paragraph 7 is amended to add Exhibit I. Exhibit 4A – Rental Rates is hereby deleted and replaced with Exhibit I – Rental Rates.

This Lease Amendment contains 2 pages, Exhibit I – Rental Rates (1 page), and Exhibit D – General Clause Addendum (3 pages).

All other terms and conditions of the lease shall remain in force and effect.
IN WITNESS WHEREOF, the parties subscribed their names as of the below date.

FOR THE LESSOR:

Name: _____
Title: _____
Entity: _____
Date: _____

FOR THE GOVERNMENT:

Name: _____
Title: Lease Contracting Officer
General Services Administration, Public Buildings Service
Date: _____

WITNESSED FOR THE LESSOR BY:

Name: _____
Title: _____
Date: _____

2. To have and to hold, the said premises with their appurtenances for the term commencing on January 22, 2009 and continuing through January 21, 2027 subject to termination rights as are hereinafter set forth.

Surrender of Premises: At the termination of this Lease, Lessee shall promptly and peaceably surrender possession of the Premises to the Port. The Premises shall be returned in substantially the same condition as received (unless altered by Lessee with Port's consent), reasonable wear and tear excepted.

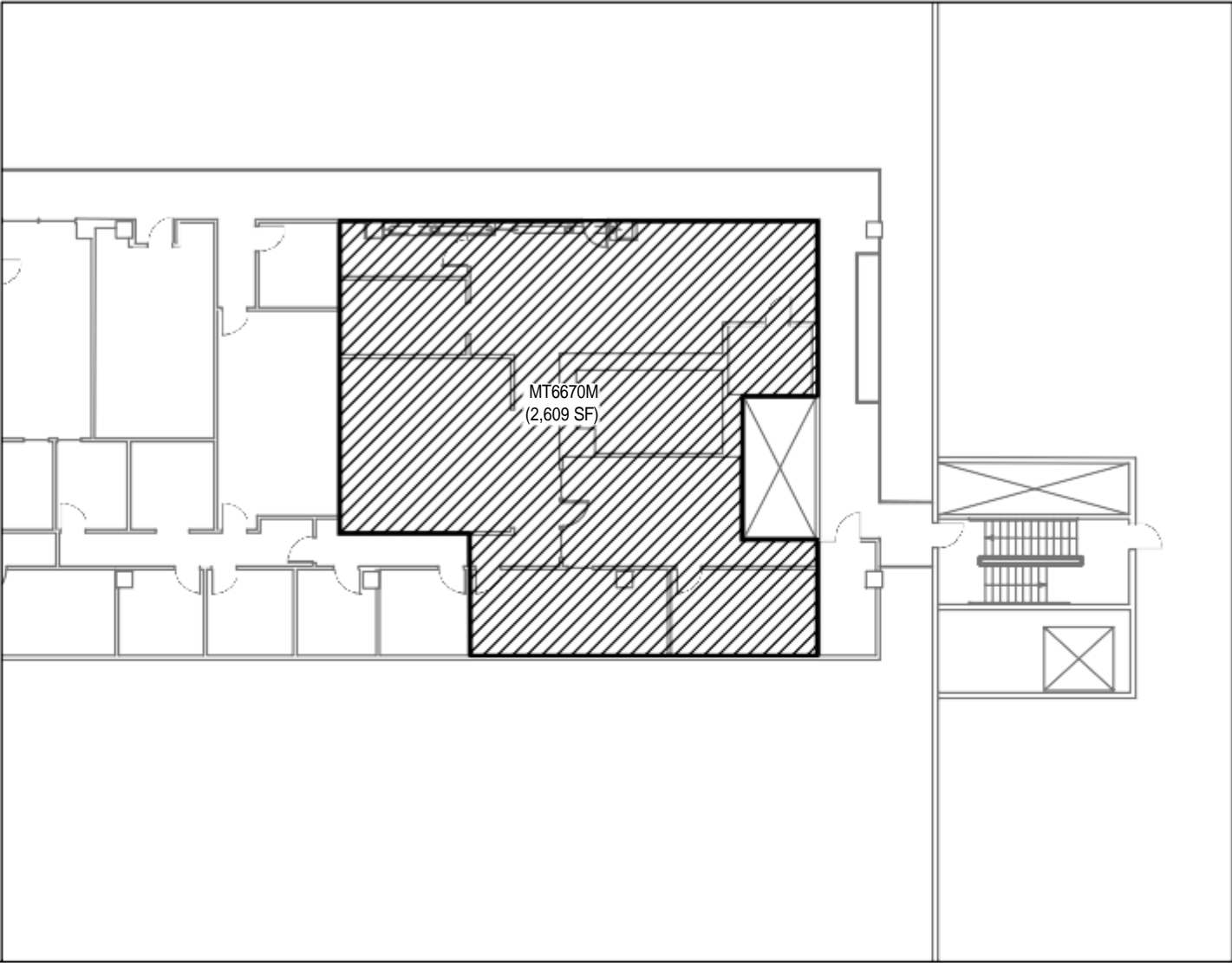
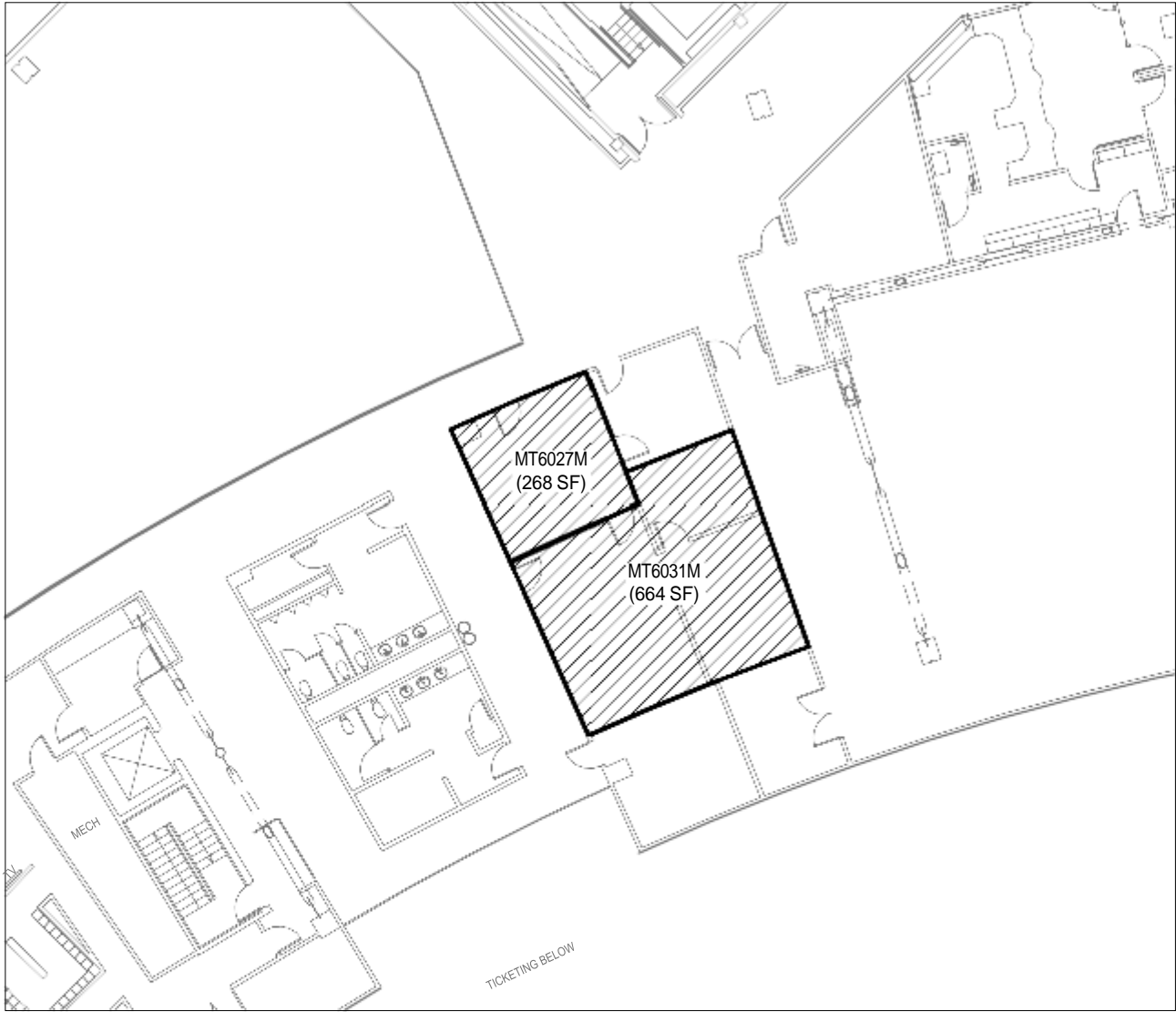
4. The Government may terminate this Lease, in whole or in part, at any time during the term of this lease with 90 days' prior written notice to the Lessor if (i) regularly scheduled commercial air services cease, (ii) the airport opts to replace TSA screeners with private contractors, (iii) the checkpoint supported by the leased Space is closed, or (iv) the Government reduces its presence at the airport due to a reduction in enplanements. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. No rental shall accrue after the effective date of termination.
7. The following Exhibit is hereby added to paragraph 7.:
- I. Rental Rates

LESSOR: _____ GOVERNMENT: _____


GENERAL SERVICES ADMINISTRATION

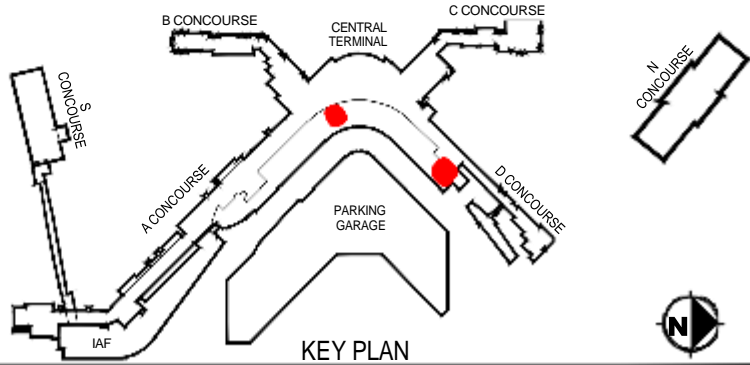
Item No. 8c attach 3
Meeting Date: May 10, 2022

EXHIBIT A



LEGEND:

 LEASED OFFICE SPACE



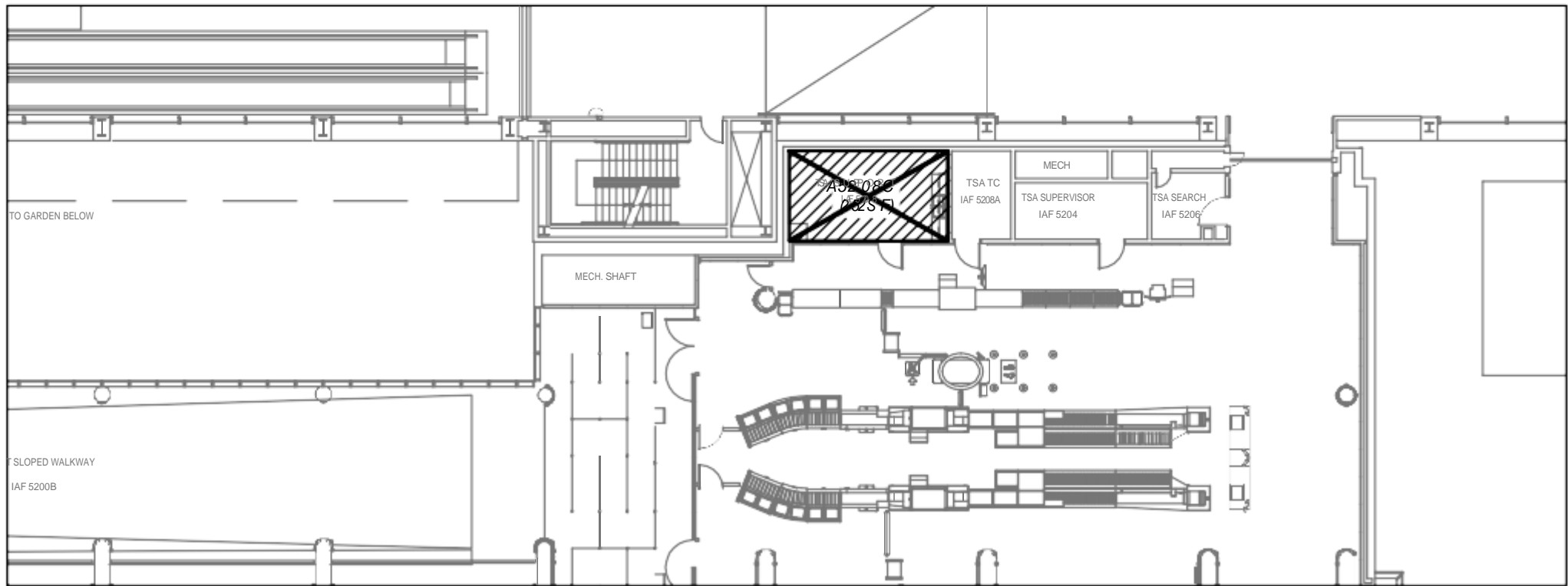
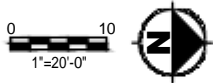
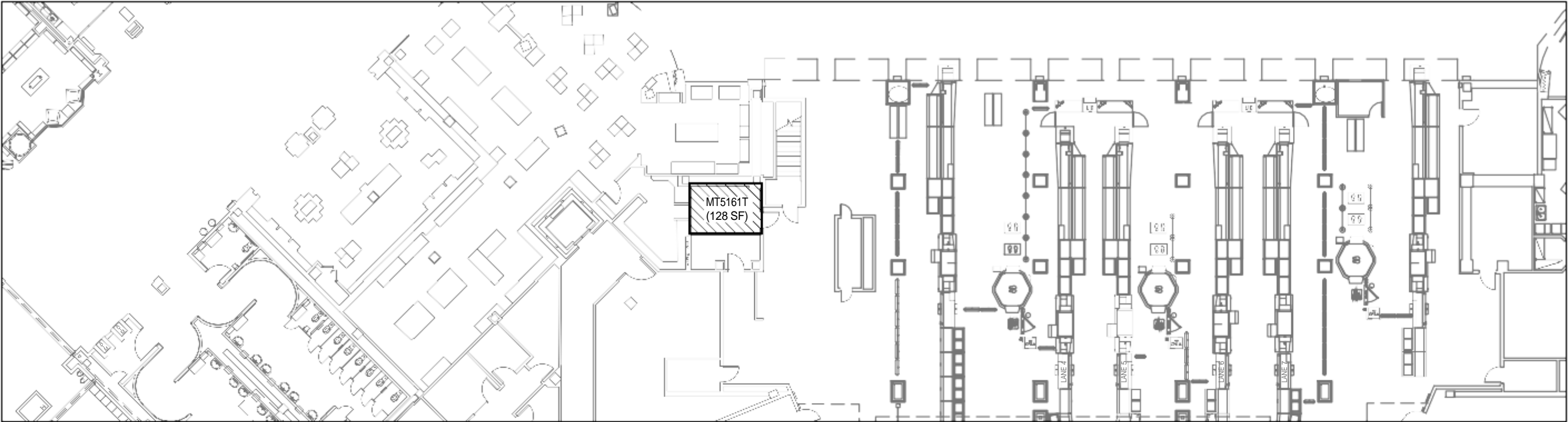
Port of Seattle/Aviation Properties
Seattle-Tacoma International Airport

BUILDING: MAIN TERMINAL
LEVEL: MEZZANINE
LOCATION:


DATE: 21MAR2022
SCALE: AS SHOWN
DRAWN BY:
CHECKED BY:
EXHIBIT NO. 028 1

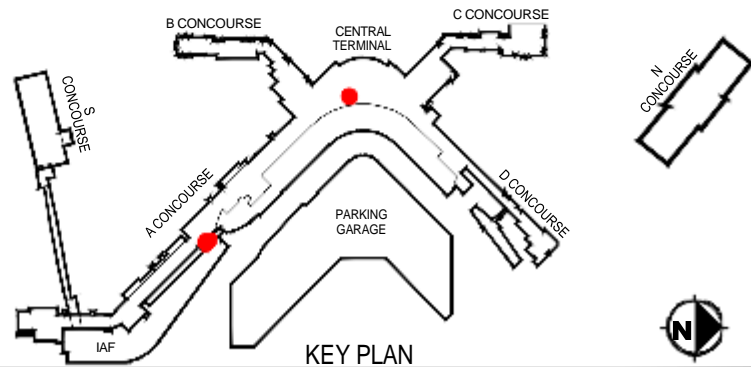
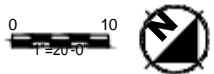
GENERAL SERVICES ADMINISTRATION

EXHIBIT A



LEGEND:

 LEASED OFFICE SPACE



Port of Seattle/Aviation Properties
Seattle-Tacoma International Airport

BUILDING: MAIN TERMINAL
LEVEL: TICKETING/CONCOURSE
LOCATION:

DATE: 21MAR2022

SCALE: AS SHOWN

DRAWN BY:

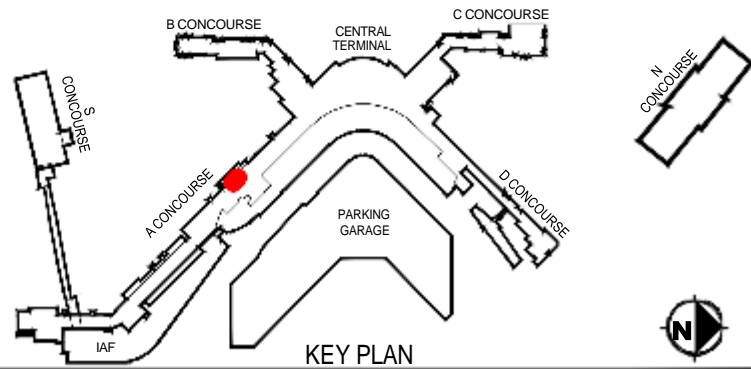
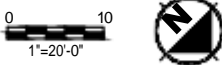
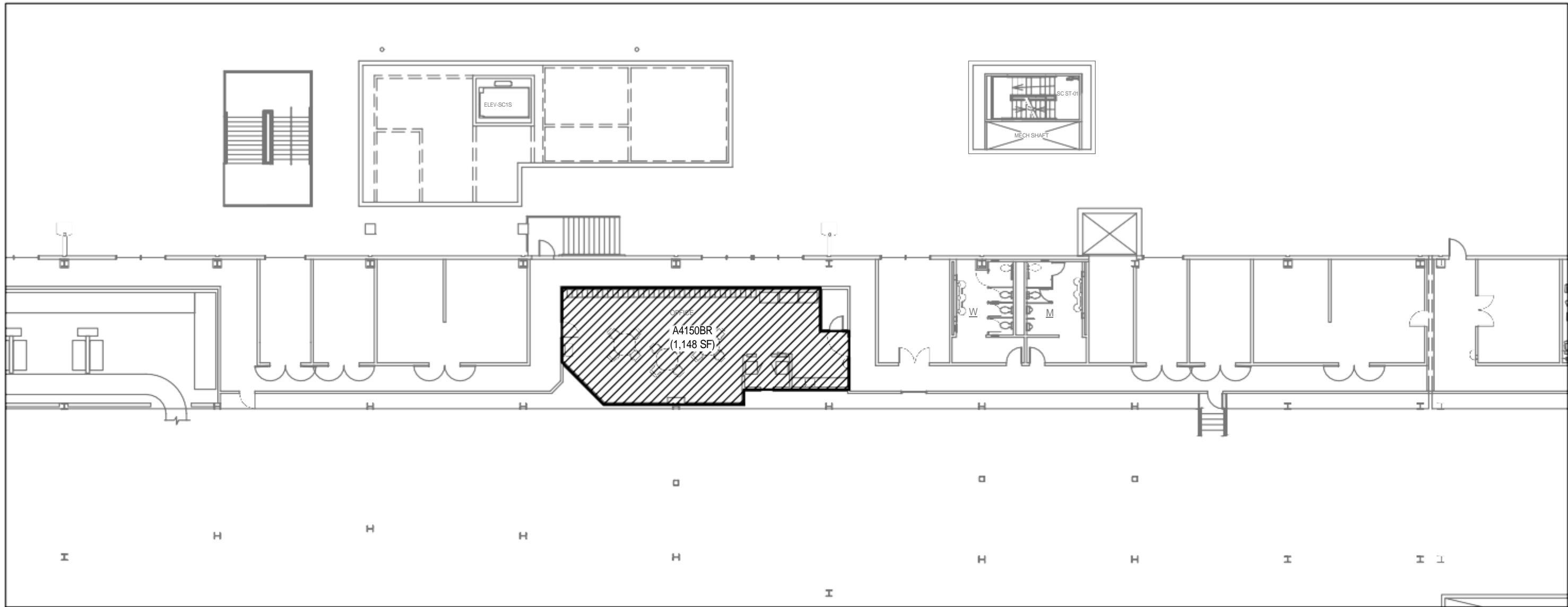
CHECKED BY:

EXHIBIT NO.


029 1

GENERAL SERVICES ADMINISTRATION

EXHIBIT A



LEGEND:

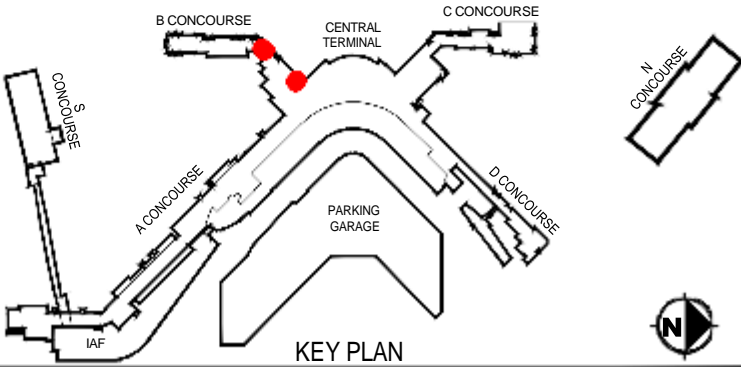
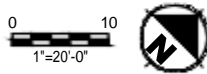
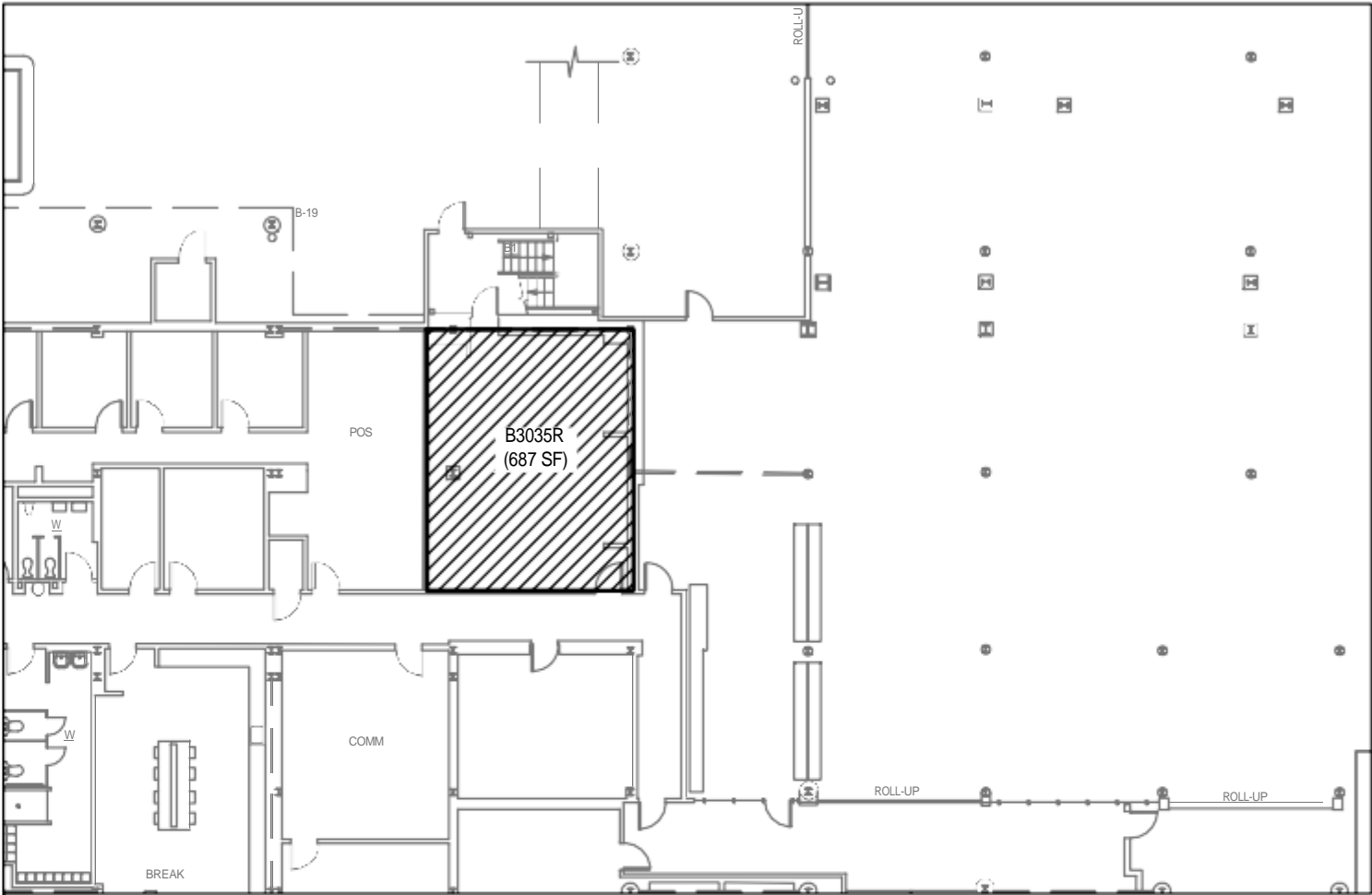
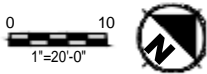
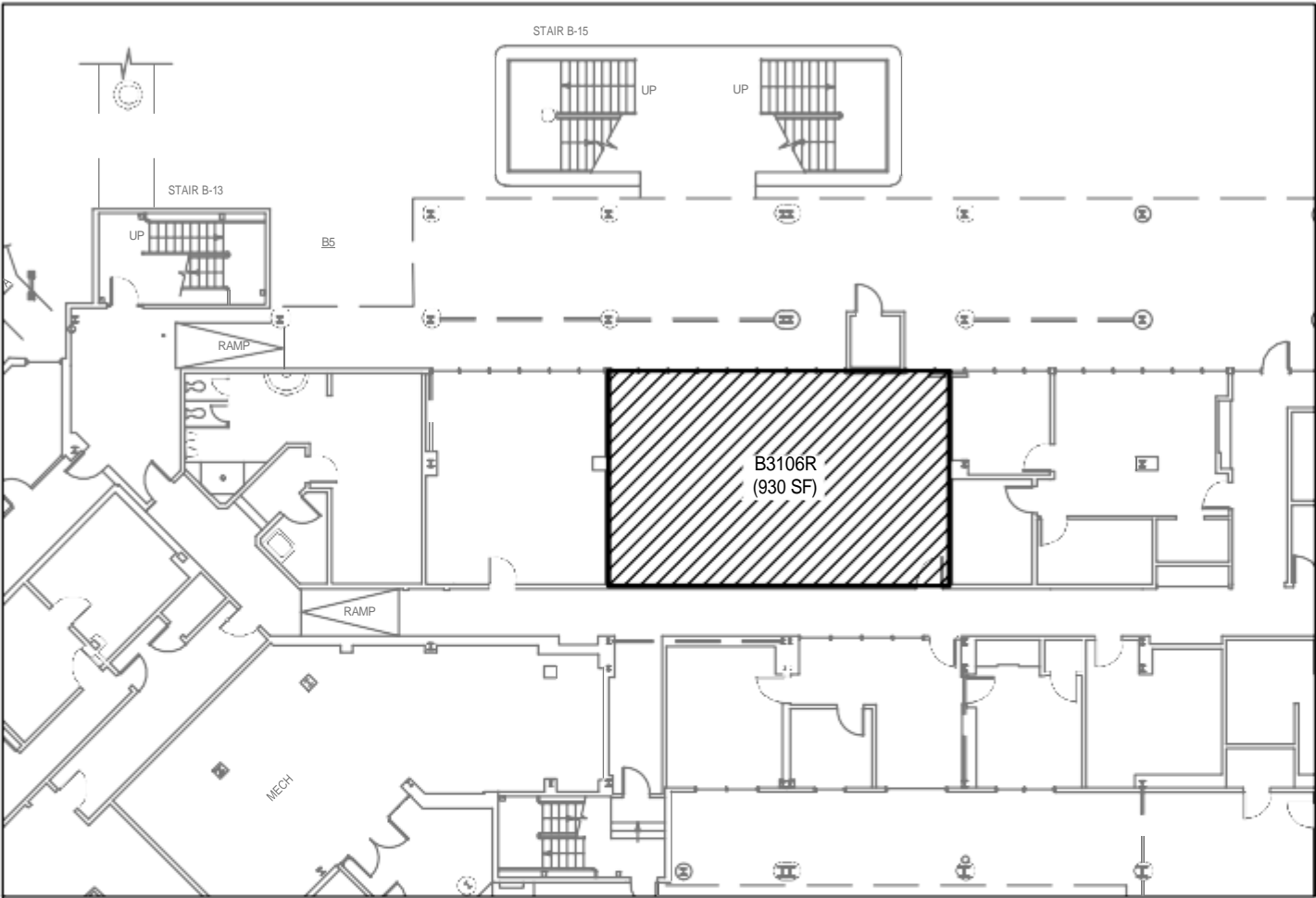
 LEASED OFFICE SPACE

Port of Seattle/Aviation Properties			DATE: 21MAR2022
Seattle-Tacoma International Airport			
BUILDING:	MAIN TERMINAL		SCALE: AS SHOWN
LEVEL:	BRIDGE LEVEL		DRAWN BY:
LOCATION:			CHECKED BY:
			EXHIBIT NO.
			030 1


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GENERAL SERVICES ADMINISTRATION

EXHIBIT A



LEGEND:

 LEASED OFFICE SPACE

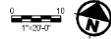
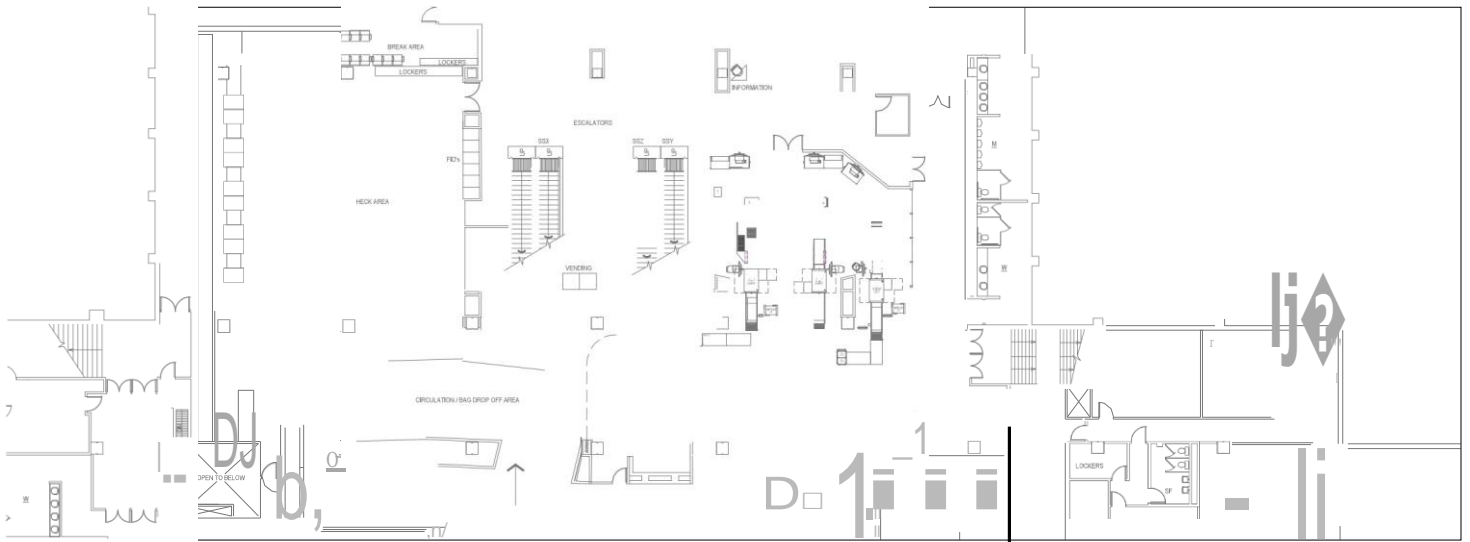
Port of Seattle/Aviation Properties
Seattle-Tacoma International Airport

BUILDING: MAIN TERMINAL
LEVEL: BAGGAGE
LOCATION:

DATE: 07/FEB/2022
SCALE: AS SHOWN
DRAWN BY:
CHECKED BY:
EXHIBIT NO.
031 1

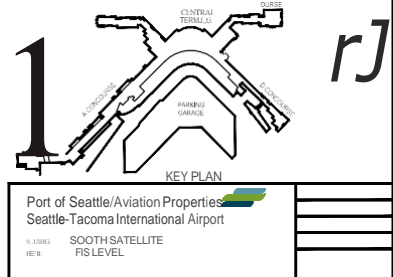
GENERAL SERVICES ADMINISTRATION

EXHIBIT A



LEGEND:

◆ LEASED OFFICE SPACE



[RETURN TO AGENDA](#)

**COMMISSION
AGENDA MEMORANDUM**

ACTION ITEM

Item No.	<u>8d</u>
Date of Meeting	<u>May 10, 2022</u>

DATE: April 28, 2022

TO: Stephen P. Metruck, Executive Director

FROM: Wayne Grotheer, Director Aviation Project Management Group
Laurel Dunphy, Director Airport Operations

SUBJECT: Concourse N Arc Flash Mitigation (C800556)

Amount of this request: \$0

Total estimated project cost: \$1,000,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to (1) Use Port of Seattle crews, as well as small and major works on-call contracts to perform the construction work and (2) advertise and execute a major on-call construction contract for hazard mitigation in the south power center of Concourse N.

EXECUTIVE SUMMARY

A final short circuit coordination study performed as part of the North Satellite Modernization project identified that the configuration of the existing south power center at Concourse N resulted in arc flash incident energy levels over acceptable requirements. To complete the North Satellite Modernization project objectives for staff to maintain the campus electrical systems at the airport in a consistent manner airport wide, new equipment with updated protection and monitoring is required to be installed. This work is being completed as part of the original North Satellite Modernization project at Concourse N.

JUSTIFICATION

This request is being made to provide authority to advertise and execute a major works on-call specific construction contract for Port Construction Services (PCS). This approval will allow the quick execution of arc flash mitigation efforts to alleviate the safety concerns at the Concourse N power center. The North Satellite Modernization project has previously authorized funding in the amount of \$1M to support the project. This request is intended to provide authority to advertise and execute the contract.

Meeting Date: May 10, 2022

Diversity in Contracting

Project staff has engaged with the Diversity in Contracting Department and have established that there are Women and Minority Owned Business Enterprises (WMBE) firms that are capable of completing this work as a prime and are pursuing outreach efforts to publicize this upcoming opportunity.

DETAILS

The final short circuit coordination study identified that the existing south main power center resulted in arc flash incident energy levels over the specified levels required by the North Satellite Modernization project. Aviation Maintenance and Facilities and Infrastructure reviewed the study, and in concurrence with the project team identified that the arc flash can be reduced by installing new enhanced breakers and updated monitoring equipment.

The mitigation allows for shutting down portions of the concourse power system consistently without powering off the entire concourse for maintenance, tenant connections, or changes to infrastructure in the future life of the facility.

This follow-on work is being completed as part of the original North Satellite Modernization project at Concourse N. Completing this work in this way results in contract cost and schedule savings by leveraging the remaining budget authorization and design work already completed.

Scope of Work

The project would supply and install the following equipment and monitoring system for arc flash mitigation at the south main power center in the concourse:

- (1) Two (2) new appropriately rated arc flash circuit breakers.
- (2) Modifications to the switchgear to accept the 2 new circuit breakers.
- (3) Two (2) circuit breaker relays for primary breaker protection.
- (4) Two (2) control power transformers.
- (5) Two (2) sets of 3 current transformers for power monitoring.
- (6) Perform commissioning of the switchgear to validate the arc flash incident levels desired are achieved.

Schedule

The North Satellite Modernization project opened the completed Concourse N on schedule in the summer of 2021. The project construction contractor demobilized from the project in the fourth quarter of 2021. This request will enable execution of a new Major Works PCS on-call specific construction contract to perform the switchgear modifications within the 2022 calendar year.

Meeting Date: May 10, 2022

Activity

Commission design authorization	2012 Quarter 2
Design start	2021 Quarter 2
Commission construction authorization	2022 Quarter 2
Construction start	2022 Quarter 2
In-use date	2022 Quarter 4

Cost Breakdown

This Request

Total Project

Design	\$0	\$377,900
Construction	\$0	\$622,100
Total	\$0	\$1,000,000

ALTERNATIVES AND IMPLICATIONS CONSIDERED**Alternative 1** – Defer mitigation to a future date

Cost Implications: Likely cost of mitigation will be greater than currently estimated \$1M. The project that completed Concourse N possesses authorization to design, advertise, and deliver project and construction management services in 2022. Therefore, it will be most cost effective to use the current, contracted design team.

Pros:

- (1) None.

Cons:

- (1) Power for the entire concourse would need to be shut off to complete routine maintenance, causing many gate outages for the Airport.
- (2) Additional authorization as well as time and resources will be required to design and advertise this scope of work.

This is not the recommended alternative.

Alternative 2 – Do not complete this scope

Cost Implications: \$1M saved

Pros:

- (1) Save funding and resources for use addressing other airport priorities.

Cons:

- (1) Power for the entire concourse would need to be shut off to complete routing maintenance, causing many gate outages for the Airport.

This is not the recommended alternative.

Meeting Date: May 10, 2022

Alternative 3 – Mitigate the arc flash risk at Concourse N south main power center.Cost Implications: \$1MPros:

- (1) Allows for maintenance to service the south main power center.
- (2) Double ended switchgear design intent is realized eliminating gate outage impact for service maintenance.

Cons:

- (1) None

This is the recommended alternative.**FINANCIAL IMPLICATIONS**

No additional project funding is required to complete this scope and less savings will be returned.

Cost Estimate/Authorization Summary

Capital

Expense

Total

COST ESTIMATE			
Previous changes – net	\$679,916,127	\$20,209,105	\$700,125,232
Current change	\$0	\$0	\$0
Revised estimate	\$679,916,127	\$20,209,105	\$700,125,232
AUTHORIZATION			
Previous authorizations	\$691,916,127	\$20,209,105	\$712,125,232
Current request for authorization	\$0	\$0	\$0
Total authorizations, including this request	\$691,916,127	\$20,209,105	\$712,125,232
Remaining amount to be authorized	\$0	\$0	\$0

Annual Budget Status and Source of Funds

This project is included in the 2022-2026 capital budget and plan of finance with a budget of \$691.9 million. The budget decrease of \$12 million was returned to the Aeronautical Allowance CIP 800753. The funding sources include the Airport Development Fund, revenue bonds and Passenger Facility Charge revenue (PFCs).

Meeting Date: May 10, 2022

Financial Analysis and Summary

Project cost for analysis	\$700,125,232
Business Unit (BU)	Terminal Building
Effect on business performance (NOI after depreciation)	NOI after depreciation will increase due to inclusion of capital (and operating) costs in airline rate base. Increasing use of PFCs reduces Port revenue as capital costs are excluded from airline rate base.
IRR/NPV (if relevant)	N/A
CPE Impact	\$0.86-\$1.48 depending on amounts of PFCs applied to ongoing revenue bond debt service

The funding plan includes approximately \$126 million of PFCs to fund construction costs. Capital costs funded with PFCs are excluded from the airline rate base and therefore do not impact passenger airline cost per enplaned passenger (CPE). The funding plan also includes the use of PFCs to pay some level of ongoing PFC-eligible revenue bonds debt service. Debt service paid by PFCs is also excluded from the airline rate base.

ATTACHMENTS TO THIS REQUEST

(1) Presentation

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**North Sea-Tac Airport Renovations (NorthSTAR) (CIP #C800544)**

April 26, 2022 - Request Commission authorization for the Executive Director to execute a major public works construction contract to provide full functional wide body aircraft capacity at the Concourse N gate N16. This construction contract will provide flexibility to accommodate a wider array of aircraft to support wide body gate service.

May 14, 2019 – NorthSTAR Program status update

February 26, 2019 – NorthSTAR Program status update

November 13, 2018 – NorthSTAR Program status update

July 31, 2018 – NorthSTAR Program status update

May 22, 2018 – NorthSTAR Program status update

Jan 30, 2018 – NorthSTAR Program status update

Oct 24, 2017 – NorthSTAR Program status update

July 25, 2017 – NorthSTAR Program status update

April 25, 2017 – NorthSTAR Program status update

January 24, 2017 – NorthSTAR Program status update

September 13, 2016 – Request Commission authorization for the Chief Executive Officer to (1) increase the North Satellite Renovation & North Satellite Transit Station Lobbies (NSAT) project scope and budget; (2) increase authorization for project design; (3) amend design service agreement with URS that exceeds 50% of the value of the original contract; and (4) increase authorization for Preliminary Work Package #2 (PWP #2) construction.

Meeting Date: May 10, 2022

August 9, 2016 – NorthSTAR Program Status Update

May 24, 2016 – Commission authorized Chief Executive Officer to 1) increase the North Satellite project scope and budget; 2) increase authorization for NSAT design and overall project support; 3) amend service agreements with Jacobs Project Management Company and AECOM; and 4) authorize the use of port crews and small works contractors to perform work for the project.

February 23, 2016 – NorthSTAR Program status update

November 24, 2015 – NorthSTAR Program status update

July 14, 2015 – NorthSTAR Program status update

April 28, 2015 – NorthSTAR Program status update

January 27, 2015 – NorthSTAR Program status update

October 28, 2014 - NorthSTAR Program status update

August 19, 2014 - NorthSTAR Program status update

May 27, 2014 – NorthSTAR Program status update

January 14, 2014 – NorthSTAR Program status update

September 24, 2013 – NorthSTAR Program status update

June 25, 2013 –NorthSTAR Program status update

April 9, 2013 – The Commission authorized the Chief Executive Officer to enter into a project labor agreement covering the NorthSTAR program’s five major construction projects.

March 26, 2013 –NorthSTAR Program status update

June 26, 2012 – The Commission received a briefing on the status of the Airline Realignment Program and budget restructuring in association with the NorthSTAR Program.

April 10, 2012 – Authorizations for the North Sea-Tac Airport Renovations program for: 1) preliminary project funding; 2) execution of consulting contracts for design/construction support services and project management services; and 3) use of Port crews and consultants to conduct regulated materials management surveys and field support services for preliminary project planning tasks.

North Satellite Renovation & North Satellite Transit Station Lobbies (CIP #C800556)

April 26, 2022 - Request Commission authorization for the Executive Director to execute a major public works construction contract to provide full functional wide body aircraft capacity at the Concourse N gate N16.

March 10, 2020 – The Commission authorized

increase the North Satellite Modernization Project budget by \$40,000,000 (\$32 million capital and \$8 million expense) for a total project authorization of \$712,125,232.

August 15, 2017 – The Commission authorized

Increase the authorized budget by \$107,000,000 capital and \$500,000 expense and authorize the remaining \$261,547,392 capital and \$8,800,000 expense, amending the Hensel Phelps (HP) contract by \$161,563,526 for the final MACC to complete the project in Q3 2021. Authorize execution of all pending and future change orders to the HP contract within the authorized budget and project scope to avoid potential delays. Authorize Port crews to support NSAT construction and authorize Port staff to enter

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into a TRA with AS for the reimbursement of AS and Port responsible design efforts and improvements.

June 27, 2017 – The Commission authorized four NSAT related items:

increase project authorization for the North Satellite Renovation & North Satellite Transit Station Lobbies Project by \$200,000,000; execute Preliminary Work Amendment #3 (PWA #3) with Hensel Phelps (HP) for up to \$200,000,000; authorize Port staff to execute all change orders to the HP contract within authorized budget and project scope without returning for additional Commission authorization; and authorize Port Construction Services (PCS) to execute small works contracts and use Port crews to support NSAT construction

September 13, 2016 – The Commission authorized four NSAT related items:

the increase of project scope and budget (capital) by \$7,000,000 for the revised third floor layout to better accommodate the signature restaurant, provide 3,000 additional square feet of future airport related leasable space, and increase AS premium traveler lounge as requested by 4,850 square feet.

Increase authorization by \$1,000,000 for project design.

Amend design service agreements with AECOM that exceed 50% value of the original contract.

Increase authorization by \$30,000,000 to accommodate Preliminary Work Package #2 construction.

May 24, 2016 - The Commission authorized four NSAT related items:

Increase of project scope and budget (capital and expense) by \$121,219,098 for 30% & 60% design scope additions and risk contingencies

Increased authorization of \$11,000,000 for continued NorthSTAR Program/Project Management services and NSAT design and overall project support.

Amend service agreements with Jacobs Project Management Co. and AECOM.

Authorize the use of port crews and small works contractors.

December 8, 2015 – The Commission authorized \$98,100,000 for the following:

Additional Pre-Construction services (\$1,200,000)

Construction auditing services

Preliminary Construction work

March 24, 2015 – The Commission authorized three NSAT related items:

Expand the baggage handling system increasing the project scope for \$14,400,000 and \$1,954,000 to complete the design.

Entering into a developer agreement with Puget Sound Energy and \$200,000 in reimbursement for the design and construction of underground gas infrastructure.

\$5,300,000 to Prepare four locations to accommodate temporary passenger loading bridges, to construct temporary construction offices; To complete construction of a Satellite Transit System (STS) North loop Dynamic Display system; \$600,000 in expense funds for regulated materials management for AS's tenant improvement project; and Approval to use Port crew labor and small works contractors to complete early project work.

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August 5, 2014 – The Commission authorized expansion of the NSAT, \$191,323,143 budget increase, \$15,717,800 to complete the design, execute amendments to existing consulting contracts; execute future consulting contracts and use of and to advertise for General Contractor/Construction Manager (GC/CM) alternative public works contractor.

July 22, 2014 - NSAT Expansion Briefing

April 22, 2014 – Seattle-Tacoma International Airport Capital Program - Briefing

January 14, 2014 – NSAT expansion briefing.

May 28, 2013, Commission authorized the execution of separate service agreements for Construction Management Services and Commissioning Services, of approximate values of \$10 million and \$1.5 million.

December 11, 2012 – The Commission was briefed on the Vertical Conveyance Modernization Project Aero Phases 1 and 2 and the possibility of adding the specified elevators and escalators to the NorthSTAR program.

July 24, 2012 - Commission authorized \$32,000,000 for the design of the NorthSTAR NSAT Renovation and NSTS Lobbies project.

April 10, 2012 - The Commission authorized the execution of consultant contracts for design and construction support services; program management services; and the completion of site surveys for regulated materials management, for \$1,200,000.

C800556 – NSAT Modernization Concourse N Arc Flash Mitigation

Purpose & Scope

Purpose:

Supply and install the following equipment and monitoring system for arc flash mitigation at the south main power center in the concourse:

Project Scope:

- Two (2) new appropriately rated arc flash circuit breakers
- The modifications to the switchgear to accept the 2 new circuit breakers
- Two (2) circuit breaker relays for primary breaker protection
- Two (2) control power transformers
- Two (2) sets of 3 current transformers for power monitoring
- Perform commissioning of the switchgear to validate the arc flash incident levels desired are achieved

North Satellite – Arc Flash Mitigation



Schedule



CIP: C800556

Key Schedule Milestones:

- Design Start: Q2 2021
- Construction Start: Q3 2022
- In-Use Date: Q4 2022

Risks and Mitigation

- Risk: Safety
 - Mitigation: Ensuring the proper breakers are installed to mitigate the arc flash levels
- Risk: Schedule
 - Mitigation: Maintaining the construction schedule to promote safety



Action Requested

Request Commission authorization for the Executive Director to

- (1) Use Port of Seattle crews, as well as small and major works on-call contracts to perform the construction work and;
- (2) advertise and execute a major on-call construction contract for hazard mitigation in the south power center of Concourse N

The total estimated project cost is \$1,000,000

This work is being completed as part of the original North Satellite Modernization at Concourse N project.

[RETURN TO AGENDA](#)

**COMMISSION
AGENDA MEMORANDUM**

Item No. 8e

ACTION ITEM

Date of Meeting May 10, 2022

DATE: May 4, 2022

TO: Stephen P. Metruck, Executive Director

FROM: Kenneth R. Lyles, Director of Maritime Operations and Security
Darrell Dare, Senior Manager, Recreational Boating
Julie Yun, Capital Project Manager
Mark Longridge, Capital Project Manager

SUBJECT: Shilshole Bay Marina X-Dock Rehabilitation Construction Authorization (CIP# C800570)

Amount of this request: \$1,200,000

Total estimated project cost: \$1,650,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to advertise and execute a major public works construction contract for the Shilshole Bay Marina X-Dock Rehabilitation. Total request for this action is \$1,200,000 for a project total authorization of \$1,650,000.

EXECUTIVE SUMMARY

Shilshole Bay Marina serves a broad range of recreational boating customers including moorage tenants, a liveaboard community, youth sailing education, dry boat storage and the public. The X Dock facility at Shilshole Bay Marina is located adjacent to the dry boat storage yard and consists of a fixed pier supported by timber piles, two vessel hoists ("jib cranes") for launching vessels, a gangway, and a floating dock structure. The fixed pier spanning from the docks to the seawall is the original wooden structure that was built in 1966 as a pair of finger piers, then revised to one solid pier in the mid-1970s. Due to sustained use, the supporting structure of this fixed pier has several piles in poor and deteriorated condition that will need replacement. The superstructure (deck and stringers) of the fixed pier is in working condition and will remain in place to be utilized to the extent of its service life.

This project will remove the 20 creosote-treated timber piles currently supporting the fixed pier and replace them with 13 steel piles. Creosote has been historically used as a treatment to preserve timber in marine environments. It is made from distilled coal tar and known to release harmful particulate matter in marine environments over time. As such, the Port has upheld an

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ongoing commitment to the environment by removing approximately 1,161 treated timber pilings and replacing them with steel pile systems over the past decade.

This project is designed to replace the piles and retain the existing superstructure under the Port's Pile Systems Repair & Maintenance Programmatic permit, substantially shortening the local, state, and federal permitting time required for the work. The construction permit for this project has been submitted to the City of Seattle SDCI and is currently under review.

JUSTIFICATION

The jib cranes and fixed pier are used by the over 80 north-end dry storage tenants launching vessels, seasonal racing fleets participating in races hosted at the marina, and the public renting the jib crane. Rehabilitation of the structure will allow long-term continued use of the jib cranes for water access and maintain the viability of the facility.

Over the past decade, the Port has replaced aging treated timber systems at many of its facilities as they reach the end of their service life. Most of these treated timber systems have been replaced with steel systems that are longer lasting, more environmentally friendly, and stronger than treated timber systems. Of the total piles removed Port-wide from 2011 to 2021 under the Pile Systems Repair and Maintenance Programmatic permit, over 95% (1,161) were creosote- or ACZA-treated timber pilings; nearly all pilings replaced under this program were replaced with steel pile systems.

The current fixed pier structure is supported by the original 20 creosote timber piles which are now reaching the end of their service life. Several have been previously repaired or show section loss and deterioration. By replacing this support system with 13 steel piles, we will reduce the total number of piles, improve environmental conditions, and provide a significantly increased service life of over 30 years. The current superstructure and decking are in good condition and will be retained to utilize its full-service life. The supporting structure has been designed to be compatible with the eventual rehabilitation of the superstructure.

Diversity in Contracting

There is a 10% aspirational goal for WMBE utilization for the construction contract. The nature of this work lends itself to an all-or-nothing WMBE utilization, as this work is likely to be performed entirely by the general contractor.

DETAILS

Scope of Work

This project will replace the 20 existing creosote timber support piles with 13 galvanized steel piles and frame system to support the existing wooden superstructure.

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Schedule

The project will go to bid upon SDCI building permit issuance which is expected in late-May. All in-water work for the installation of the new piles must be completed within the permitted fish window between July 16 and February 15th of each year, while above water work may continue outside of this time-period (braces, cross beams etc.). Currently, there is no significant risk identified related to material procurement. This project will require galvanized steel piles in relatively small quantity. The pipe size required is common to the industry and readily available in the local market at this time. The project schedule includes float that will absorb up to 6-weeks in delays while still allowing the in-water work to be completed within the permitted timeframe.

While a significant portion of the construction window occurs during the off-peak season for the facility, the project team will work closely with operations staff to minimize impacts to tenants and users. The project team and External Relations have attended the Shilshole Dock Captains' meeting and will continue outreach through construction to keep tenants and neighbors informed.

Activity

Commission design authorization	January 2021
Design start	January 2021
Commission construction authorization	May 2022
Design and Permitting Complete	May 2022
Advertise Construction	June 2022
Construction Start	October 2022
In-use date	March 2023

Cost Breakdown

	This Request	Total Project
Design	\$0	\$450,000
Construction	\$1,200,000	\$1,200,000
Total	\$1,200,000	\$1,650,000

ALTERNATIVES AND IMPLICATIONS CONSIDERED**Alternative 1 – Delayed/No Action.**

Cost Implications: Reduced cost for avoiding work but potential for increased maintenance costs related to more advanced repair needs in the future.

Pros:

- (1) Preserve Port capital funding and resources for other priority projects and financial initiatives.

Cons:

- (1) Potential integrity risk to the overall pier structure due to continued deterioration.

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- (2) Potential commercial/financial risk due to unplanned maintenance and implementation of load restriction to facility operation.

This is not the recommended alternative.

Alternative 2 – Proceed with rehabilitation of the supporting structure through a major public works construction contract.

Cost Implications: Allocation of \$1,200,000 in the Capital Plan.

Pros:

- (1) Address deterioration of the supporting structure.
- (2) Improved service life with steel piles, as compared to the existing timber piles.
- (3) Replace creosote timber piles with more environmentally friendly steel piles.

Cons:

- (1) Higher upfront capital cost.
- (2) Limited temporary construction impacts.

This is the recommended alternative.

FINANCIAL IMPLICATIONS

<i>Cost Estimate/Authorization Summary</i>	Capital	Expense	Total
COST ESTIMATE			
Original estimate	\$1,670,000	\$0	\$1,670,000
Current change	-\$20,000	0	-\$20,000
Revised estimate	\$1,650,000	0	\$1,650,000
AUTHORIZATION			
Previous authorizations	\$450,000	0	\$450,000
Current request for authorization	\$1,200,000	0	\$1,200,000
Total authorizations, including this request	\$1,650,000	0	\$1,650,000
Remaining amount to be authorized	\$0	\$0	\$0

Annual Budget Status and Source of Funds

This project is included in the 2022 Capital Plan under C800570 SBM Dock X Pier Replacement with a total project cost of \$1,573,000. The additional cost of this project will be offset by the Maritime Capital Reserve C800002.

This project will be funded by the General Fund.

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Financial Analysis and Summary

Project cost for analysis	\$1,650,000
Business Unit (BU)	Recreational Boating
Effect on business performance (NOI after depreciation)	This project will maintain current revenue from Recreational Boating. Depreciation will increase by \$82,500 per year for 20 years
IRR/NPV (if relevant)	No incremental revenue. The NPV is the present value of the project cost.
CPE Impact	N/A

Future Revenues and Expenses (Total cost of ownership)

Extending the useful service life of our existing assets defers eventual replacement costs for a longer period, supporting the economic vitality of our operations. Other economic benefits include cost effectiveness and minimum disruption to the terminal operations.

ATTACHMENTS TO THIS REQUEST

- (1) Presentation slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

January 26, 2021 – The Commission authorized design and permitting for Shilshole Bay Marina X-Dock Rehabilitation

Shilshole Bay Marina: X Dock Rehabilitation

Commission Meeting | May 10, 2022

Kenneth R. Lyles – Director of Maritime Operations and Security

Darrel Dare – Senior Manager, Recreational Boating

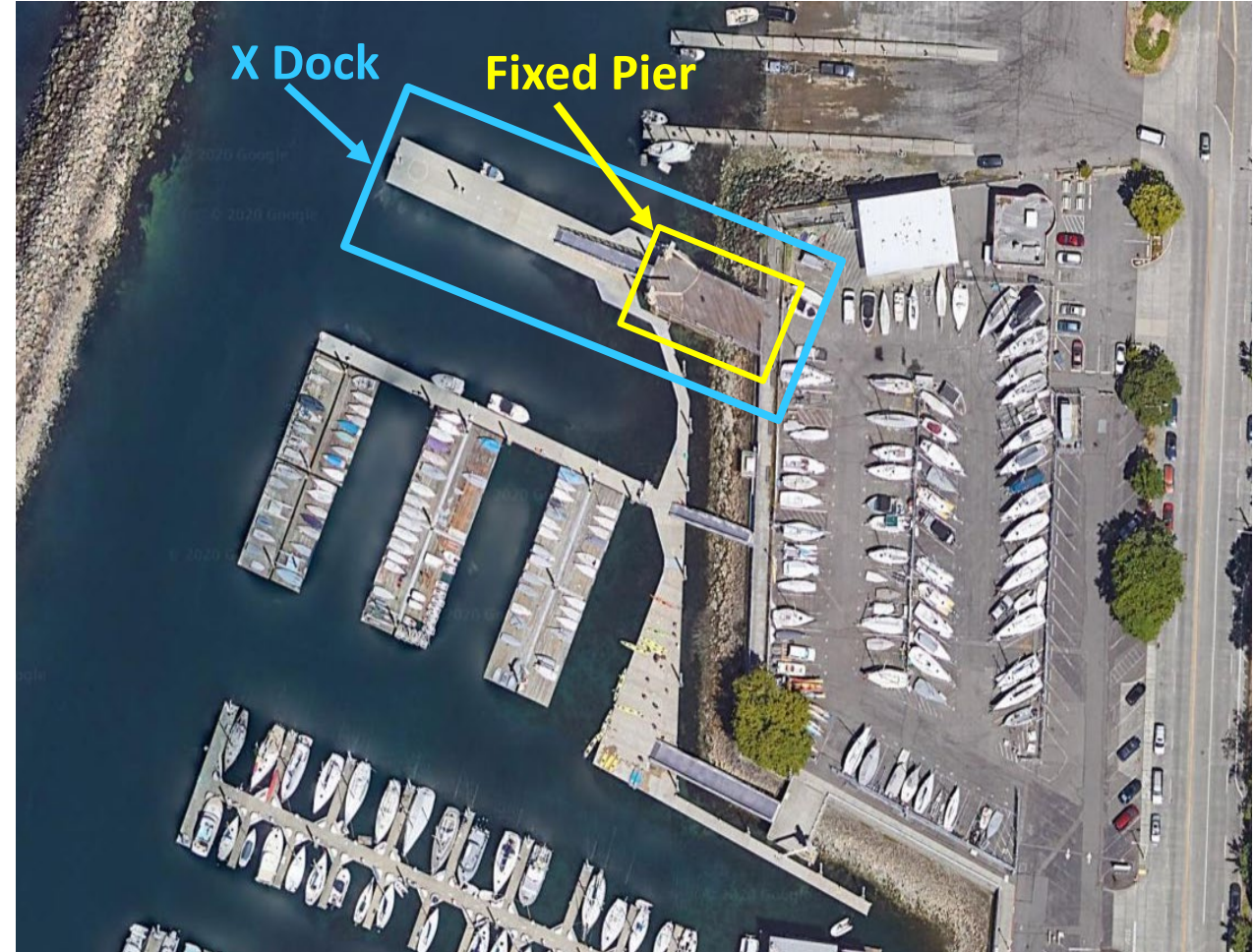
Julie Yun – Capital Project Manager

Mark Longridge – Capital Project Manager



Agenda

1. Commission Request
2. Project Context
3. Alternatives Considered
4. Timeline
5. Questions

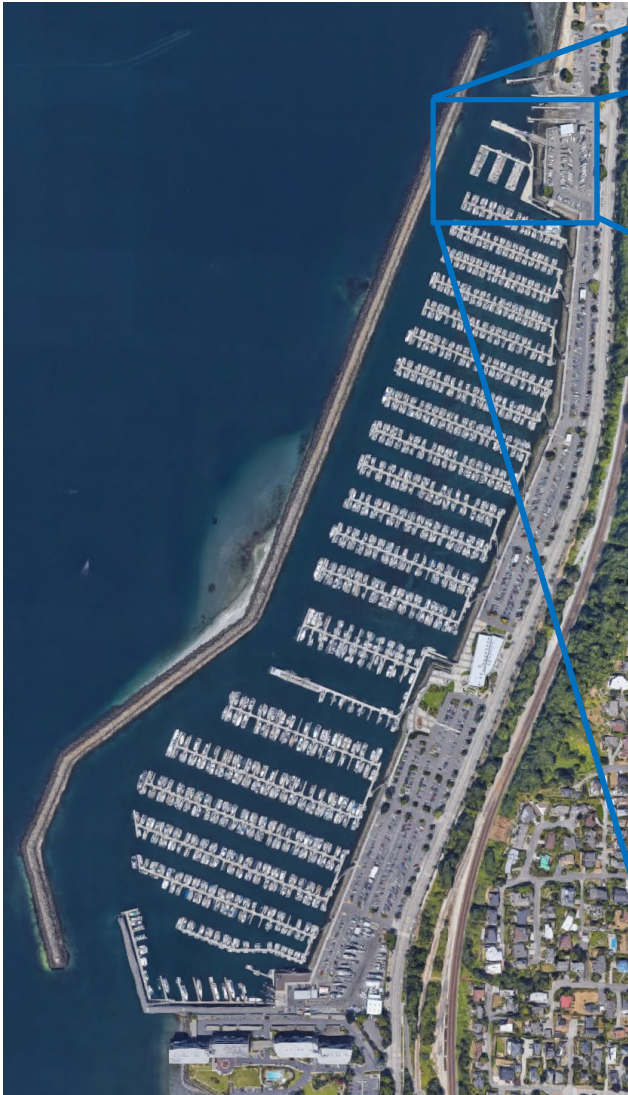


Action Requested

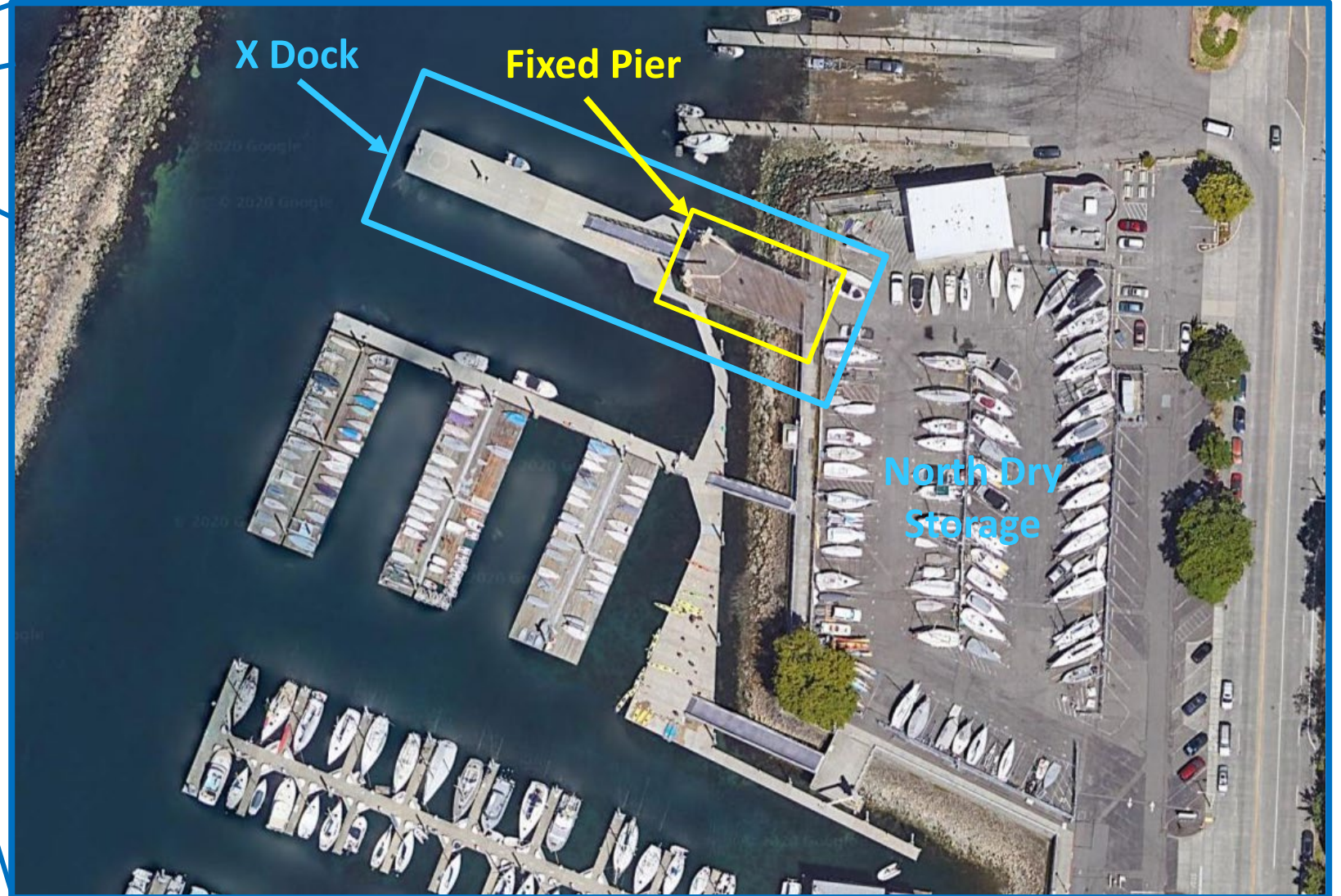
Request Commission Authorization from the Executive Director to:

- ➔ Request Commission authorization for the Executive Director to advertise and execute a major public works construction contract for the Shilshole Bay Marina X-Dock Rehabilitation in the amount of \$1,200,000 (total authorization \$1,650,000).

Project Context: Location



Shilshole Bay Marina



X Dock at Shilshole Bay Marina

Project Context: Current Condition



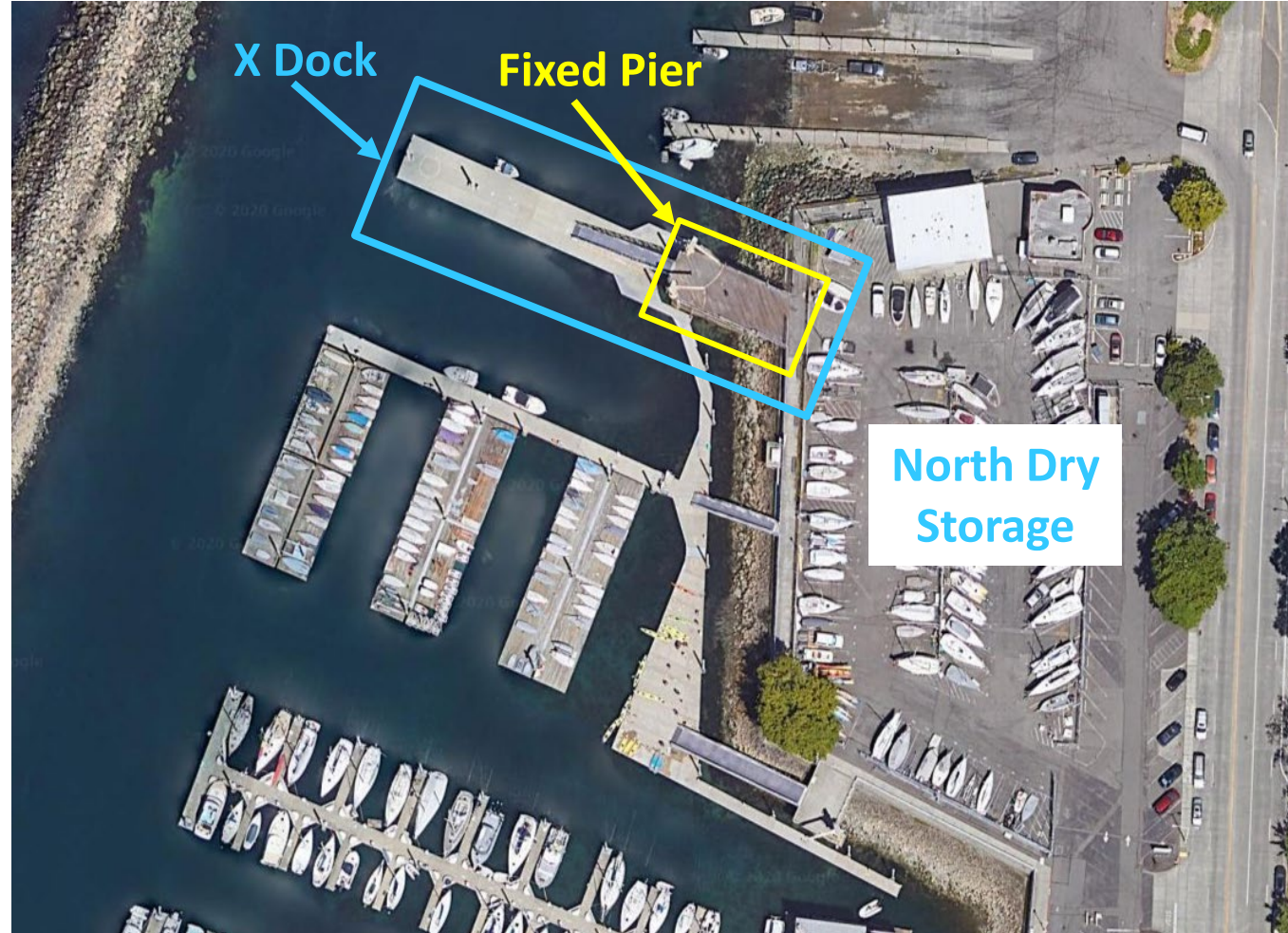
Project context: Scope

Supporting Structure (“Substructure”)

Replace 20 existing creosote timber piles with 13 steel piles utilizing waterside crane barges to minimize construction impacts.

Superstructure (not in scope)

Retain superstructure for the remainder of its service life.



Alternatives Considered

Alternative 1: No/delayed action (Not Recommended)

- **Cost Implications:** Reduced cost for avoiding work but potential for increased maintenance cost related to more advanced repair needs in the future.
- **Pros:**
 1. Preserve Port capital funding and resources for other priority projects and financial initiatives.
- **Cons:**
 1. Potential integrity risk to the overall pier structure due to continued deterioration.
 2. Potential commercial/financial risk due unplanned maintenance and implementation of load restrictions to facility operations.

Alternative 2: Proceed with current design (Recommended)

- **Cost Implications:** Allocation of \$1,200,000 in the Capital Plan.
- **Pros:**
 1. Address deterioration of the supporting structure.
 2. Improved service life with steel piles, as compared to the existing timber piles.
 3. Replace creosote timber piles with more environmentally-friendly steel piles.
- **Cons:**
 1. Higher upfront capital cost.
 2. Limited temporary construction impacts.

Project Timeline

Activity	Date
Commission Design Authorization (complete)	January 2021
Commission Construction Authorization	May 2022
Design and Permitting Complete	May 2022
Advertise Construction	June 2022
Construction Start	October 2022
In-use date	March 2023

Questions?

[RETURN TO AGENDA](#)

**COMMISSION
AGENDA MEMORANDUM**

Item No.

8f

ACTION ITEM

Date of Meeting

May 10, 2022

DATE: May 2, 2022

TO: Stephen P. Metruck, Executive Director

FROM: Krista Sadler, Technology Delivery Director

SUBJECT: Analytics Automation Software Contract Authorization

Contract Value: \$1,250,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to execute a contract for Analytics Automation Software (AAS) for a period not to exceed five years in an amount not to exceed \$1,250,000. There is no funding request associated with this authorization.

SUMMARY

Modern data analytics software allows a business to quickly integrate, organize, and analyze data from a variety of sources to provide better insight for decision making, widen accessibility to data and analytics, and more efficiently produce complex financial reports. The software will automate repetitive and complex analytic processes and free Port financial analysts to focus on higher value work.

Current Port software lacks the sophistication to support the complex analytics needed to produce financial reporting for programs like the Environmental Remediation Liability (ERL) forecast and the upcoming Port-wide Financial Reporting Data project. Port staff spend up to 75% of their time manually prepping data in spreadsheets, reconciling different data sources, and transforming into readable reports. Analytics automation delivered with the proposed, scalable reporting platform will allow staff to focus on reporting efficiencies, compliance improvements, and strategic opportunities.

A small capital project will be approved to implement the new analytics software, procured per Port of Seattle policy. Recurring software license costs, estimated at \$1,250,000 for a five-year period, will be budgeted in Finance & Budget and Business Intelligence operating budgets.

There are no attachments to this memo.

RETURN TO AGENDA

**COMMISSION
AGENDA MEMORANDUM**

Item No. 8g

ACTION ITEM

Date of Meeting May 10, 2022

DATE : March 25, 2022

TO: Stephen P. Metruck, Executive Director

FROM: Susie Archuleta, Real Estate Manager

SUBJECT: New 5-Year Lease with Arctic Storm Management Group LLC at Pier 69

Amount of this request: \$216,894

Total estimated project cost: \$216,894

ACTION REQUESTED

Request Commission authorization for the Executive Director to execute a Lease with Arctic Storm Management Group LLC (ASMG) at Pier 69 that provides a 5-year original term and one 5-year option to extend. The Port will provide \$141,450 towards tenant improvements and will pay \$75,444 for broker commission fees.

EXECUTIVE SUMMARY

ASMG is an existing tenant at Pier 69, occupying 19,660 square feet of office and warehouse space on the first floor of the building. Their lease expires May 31, 2022. Port staff negotiated a new 5-year lease to continue their occupancy of this Pier 69 premises. The new lease includes a 5-year option to extend the lease term, as requested by ASMG, Port funded tenant improvements of \$141,450, and Port funded commission fees of \$75,444 for the tenant's broker.

JUSTIFICATION

Arctic Storm Management Group LLC (ASMG) was formed in October 2001 and is a Seattle-based company that oversees the fishing and processing of five fishing vessels that operate in the waters of Alaska and the West Coast. The company harvests, processes, packages and freezes its catch before distributing its products around the world, specifically North America, Europe and Asia.

ASMG has a long-term relationship with the Port. They have been a tenant at Pier 69 since June of 2010 and also moor their vessels at other Port properties. ASMG employs approximately 400 people on an annual basis and currently employs 25 people at Pier 69. Annual revenues for their entire operations fluctuate depending on the value of the fishing catch. For the year 2022,

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ASMG is forecasting annual revenues in excess of \$120,000,000 generating annual income in excess of \$20,000,000.

ASMG provides management services to the fishing vessels, Arctic Fjord Inc., Arctic Storm Inc., Fjord Seafoods LLC, F/V Neahkahnne LLC and Sea Storm Fisheries Inc. To promote healthy fisheries that will last for many generations, ASMG practices conservation and sustainability of the fisheries in which they participate. The company's vessels catch pollock and whiting in two fisheries that have been certified sustainable by the Marine Stewardship Council (an independent international nonprofit organization dedicated to protecting the ocean and safeguarding seafood supplies for the future by setting sustainable fishing standards). Other good business practices include their memberships in the At-Sea Processors Association (a trade association representing US flag catcher/processor vessels of principally Alaska pollock and west coast Pacific whiting fisheries) and Genuine Alaska Pollock Producers (a nonprofit with a mission to educate and inform customers and consumers about the fish and the fishery). In addition to industry focused memberships, the company supports communities at large by participating in SeaShare, a nonprofit that processes donated frozen seafood and then distributes to food banks nationwide.

The proposed new ASMG lease at Pier 69 supports both the Century Agenda goal of Economic Growth via advancing maritime industries through capable management of Port facilities and also the Economic Development Division's mission of managing its' cash flowing properties.

DETAILS

The State of Washington Department of Natural Resources (WADNR) imposes restrictions at Pier 69 because the pier is located overwater. One of the WADNR restrictions is that non-Port occupants of the Pier 69 building must be water dependent. Since water dependency is only a fraction of the entire office market, the terms of the ASMG lease are favorable to ASMG. The proposed lease terms help the Port to maintain Pier 69 occupancy and avoid the challenging quest of finding a new water dependent tenant by simply retaining its existing water dependent tenant.

The proposed lease terms include a starting rent rate of \$22.00 per rentable square foot per year for the office space and \$7.50 per rentable square foot per year for the warehouse space. These rates are below market rate and 10% less than ASMG is currently paying because of the Port's occupancy goal. Retaining ASMG and avoiding vacancy and lease up risk at Pier 69 is staff's priority. In addition to favorable rates, staff also agreed to the tenant's request for an Option to Extend the lease term. Therefore, the proposed lease provides one 5-year Option to Extend at the then fair market rent rate. The proposed security requirement of \$75,004 is the amount of security that the Port holds for the current lease and is roughly half of what would typically be required under RE-2 (which would be six months' rent in the amount of \$159,927). Because of ASMG's history of timely Pier 69 rent payments and its' ongoing operations at Terminal 91, there is a low risk of default. Accordingly, there is no need to increase the amount of security already held by the Port. The Port will also provide a Tenant Improvement Allowance

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of \$141,450. ASMG plans to use this allowance primarily to refresh the carpet and paint in their office, both of which were last refreshed 8 years ago in 2014.

Schedule

The timing detail of the Port funded costs associated with the proposed lease follow:

<i>Activity</i>	
Commission approval	Q1 2022
Broker Commission – 50% at signing	Q2 2022
Broker Commission – 50% at rent commencement	Q3 2022
Tenant Improvements	Q4 2022

<i>Cost Breakdown</i>	This Request	Total Project
Tenant Improvement Allowance	\$141,450	\$141,450
Tenant Broker Commission	\$75,444	\$75,444
Total	\$216,894	\$216,894

ALTERNATIVES AND IMPLICATIONS CONSIDERED

The alternatives for this issue are the typical leasing alternatives: 1) Attempt to find a new tenant, endure an extended period of vacancy and lost rent since water dependency is a tiny fraction of the office market, achieve market rent rates, forego rents during an abatement period, or 2) Attempt to find a new tenant, achieve below market rent rates to shorten the period of vacancy and lost rent, forego rents during an abatement period, or 3) Proceed with renewing the existing tenant at the negotiated lease terms, maintaining continuous occupancy and rents and avoiding any rent abatement.

Alternative 1 – Find a new water dependent tenant at market rates.

Cost Implications: \$627K the sum of abated rent, Port funded tenant improvements and brokers fees

Pros:

- (1) Achieve highest/market rent rates
- (2) Delays Port funded tenant improvement allowance and brokers fees, assuming lease commencement is a year later than ASMG's commencement date

Cons:

- (1) Finding a water dependent office tenant is quite difficult, so an extended period of office vacancy (12 months) is highly likely
- (2) Lost rental income during the office vacancy period
- (3) Additional lost rental income during the new tenant's rent abatement period
- (4) Highest cost alternative

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This is not the recommended alternative.

Alternative 2 – Find a new water dependent tenant at below market rates.

Cost Implications: \$602K the sum of abated rent, Port funded tenant improvements and brokers fees

Pros:

- (1) Potential to achieve rates higher than ASMG rates albeit lower than market rates
- (2) Delays Port funded tenant improvement allowance and brokers fees, assuming lease commencement is a year later than ASMG's commencement date

Cons:

- (1) Finding a water dependent office tenant is quite difficult, so an extended period of office vacancy (12 months) is highly likely
- (2) Lost rental income during the office vacancy period
- (3) Rent abatement needed to entice new tenant
- (4) Lower cost alternative

This is not the recommended alternative.

Alternative 3 – Execute a lease with ASMG under the terms outlined in this memo.

Cost Implications: \$217K the sum of the Port funded tenant improvements and brokers fees

Pros:

- (1) Maintains Pier 69 occupancy
- (2) Maintains goodwill with existing Pier 69 tenant who also has operations at Terminal 91
- (3) Avoids any rent abatement
- (4) Lowest cost alternative

Cons:

- (1) Rent rates are below market
- (2) Security is less than RE-2 typically requires

This is the recommended alternative.

FINANCIAL IMPLICATIONS

Annual Budget Status and Source of Funds

The current total project estimate is \$216,894. This project will be funded by the General Fund.

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Financial Analysis and Summary

Project cost for analysis	\$216,894
Business Unit (BU)	Portfolio Management
Effect on business performance (NOI after depreciation)	The project will generate the Total Cash Flow of \$1,237,093 and increase the Net Operating Income by \$1,453,991 for a 60-month lease term.
IRR/NPV (if relevant)	NPV = \$1,023,055 with payback period less than 2 years
CPE Impact	N/A

Future Revenues and Expenses (Total cost of ownership)

Modernizing our existing assets readies them for current and future changes, extends their useful life, and preserves the economic vitality of our operations. If approved, the new ASMG lease would preserve steady rental income by avoiding an office vacancy and securing the Pier 69 premises for five years.

ATTACHMENTS TO THIS REQUEST

- (1) ASMG Lease Agreement (excluding Exhibits) with tenant signature
- (2) Presentation slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

February 23, 2010 – The Commission approved a new lease with ASMG that provided a term of 5 years and 3 months, one five-year option to extend and Port funded tenant improvements of \$228K.

July 3, 2014 – The Commission approved ASMG's First Amendment to extend the term from 5 years and 3 months to 12 years and 3 months, Port funded tenant improvements of \$114K and Port funded tenant broker fees of \$66K.

ORIGINAL

LEASE AGREEMENT

Between

PORT OF SEATTLE

And

ARCTIC STORM MANAGEMENT GROUP, LLC

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LEASE AGREEMENT

THIS LEASE AGREEMENT (the "Lease") is made as of this 13 day of June 2020 by and between the PORT OF SEATTLE, a Washington municipal corporation (the "Port"), and ARCTIC STORM MANAGEMENT GROUP, LLC, a Washington Limited Liability Company (the "Lessee").

For and in consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties agree as follows:

SECTION 1: LEASED PREMISES

1.1. Premises. The Port hereby leases to Lessee, and Lessee hereby leases from the Port, the following described premises (the "Premises") located at the Port property commonly known as the Pier 69 Building, a legal description of which is attached hereto as Exhibit A:

1.2. Approximately nine thousand four hundred thirty (9,430) rentable square feet of office space, and ten thousand two hundred thirty (10,230) rentable square feet of storage/warehouse space located on the first floor of the Pier 69 Building, all as shown on the attached Exhibit B.

Subject to the rights reserved to the Port in this Lease, the Premises extend to the centerline of party/demising walls and to the interior faces of any exterior walls and from the structural flooring to the underside of the structural ceiling, specifically including any plenum above a drop/suspended ceiling. The Port and Lessee agree that the Premises are, and shall be deemed for all purposes to be, 19,660 square feet as set forth above.

1.3. This Lease is subject and subordinate to the provisions of the Port Management Agreement between the Port and the Washington Department of Natural Resources, attached as Exhibit C and incorporated by this reference.

1.4. Acceptance of the Premises. Lessee has examined the Premises, accepts them in their present condition, and agrees to make any changes in the Premises necessary to conform to federal, state and local law applicable to Lessee's use of the Premises.

1.5. Quiet Enjoyment. So long as Lessee is not in default under this Lease and subject to the specific provisions, covenants and agreements contained in this Lease, the Port covenants and agrees that the quiet and peaceful possession and enjoyment of the Premises by Lessee shall not be disturbed or interfered with by the Port or by any other party claiming by or through the Port.

SECTION 2: TERM

2.1. Lease Term. This Lease shall be for a term of five (5) years, beginning June 1, 2022, (the "Commencement Date") and ending May 31, 2027.

2.2. Option to Extend. If Lessee is in compliance with the terms and conditions of this Lease, and Lessee has, upon written notice to the Port given not less than one hundred eighty (180) days written notice to the Port in advance of the expiration of the Lease Term stated in Section 2.1 of this Lease, Lessee shall have the option to renew this Lease for one (1) additional five (5) year term. In the event the Landlord and Lessee are unable to agree to Fair Market Rental Rate, then the matter will be resolved pursuant to Section 3.5.

2.3. Possession. If the Port shall be unable for any reason to deliver possession of the Premises, or any portion thereof, at the time of the commencement of the term of this Lease, the Port shall not be liable for any damage caused thereby to Lessee, nor shall this Lease thereby become void or voidable, nor shall the term specified herein be in any way extended, but in such event Lessee shall not be liable for any Rent until such time as the Port can deliver possession. If Lessee shall, in the interim, take possession of any portion of the Premises, Lessee shall pay as Rent the full rent specified herein reduced pro rata for the portion of the Premises not available for possession by Lessee. If the Port shall be unable to deliver possession of the Premises at the commencement of the term of this Lease, Lessee shall have the option to terminate this Lease by at least thirty (30) days' written notice, unless the Port shall deliver possession of the Premises

prior to the effective date of termination specified in such notice. If Lessee shall, with the Port's consent, take possession of all or any part of the Premises prior to the commencement of the term of this Lease, all of the terms and conditions of this Lease shall immediately become applicable, with the exception that Lessee shall not be obligated to pay any Rent for the period prior to the commencement of the term of this Lease unless otherwise mutually agreed. Notwithstanding the foregoing, Lessee acknowledges that it is already in possession of the Premises pursuant to a lease dated February 25th, 2010, which expires on May 31, 2022.

SECTION 3: RENT

3.1. Base Rent. Commencing on June 1, 2022, (the "Rent Commencement Date"), Lessee agrees to pay as rent (the "Base Rent") for the Premises the following sums per month, plus applicable taxes.

Effective on the rent Commencement Date through May 31, 2023

9,430 sf of office @ \$22.00/sf/yr. = \$207,460.00/yr. ÷ 12 = \$17,288.33/mo.

10,230 sf of warehouse @ \$7.50/sf/yr. = \$ 76,725.00/yr. ÷ 12 = \$6,393.75/mo.

Effective June 1, 2023 through May 31, 2024

9,430 sf of office @ \$22.66/sf/yr. = \$213,683.80/yr. ÷ 12 = \$17,806.98/mo.

10,230 sf of warehouse @ \$7.73/sf/yr. = \$79,077.90/yr. ÷ 12 = \$6,589.83/mo.

Effective June 1, 2024 through May 31, 2025

9,430 sf of office @ \$23.34/sf/yr. = \$220,096.02/yr. ÷ 12 = \$18,341.35/mo.

10,230 sf of warehouse @ \$7.96/sf/yr. = \$81,430.80/yr. ÷ 12 = \$6,785.90/mo.

Effective June 1, 2025 through May 31, 2026

9,430 sf of office @ \$24.04/sf/yr. = \$226,697.20/yr. ÷ 12 = \$18,891.43/mo.

10,230 sf of warehouse @ \$8.20/sf/yr. = \$83,886.00/yr. ÷ 12 = \$6,990.50/mo.

Effective June 1, 2026 through May 31, 2027

9,430 sf of office @ \$24.76/sf/yr. = \$233,486.80/yr. ÷ 12 = \$19,457.23/mo.

10,230 sf of warehouse @ \$8.44/sf/yr. = \$86,341.20/yr. ÷ 12 = \$7,195.10/mo.

The Base Rent shall constitute the contract rent for purposes of determining taxable rent for assessment of leasehold excise tax.

The Base Rent shall be paid to the Port in advance on or before the Rent Commencement Date and, thereafter, on or before the first day of each and every month during the term, at such place as the Port may designate, without any prior demand, and without any abatement, deduction or setoff whatsoever. If the term commences on any day other than the first day of a calendar month, Base Rent for any fractional month shall be prorated based upon the actual number of days in such fractional month.

3.2. Adjustments to Base Rent.

3.2.1. Annual Increase. As illustrated in Section 3.1, the Base Rent for the Premises as stated in Section 3.1 shall be adjusted on the anniversary of the commencement date and every twelfth (12th) month thereafter through the term of this Lease, including any extension term (if any), by increases of three percent (3%) per year.

3.3. Additional Rent. In addition to the Base Rent set forth in Section 3.1, Lessee shall pay as Additional Rent, its pro rata share of the Operating Expenses as follows:

3.3.1.1. Lessee's pro rata share of the Operating Expenses shall be that proportion that the rentable square footage of the Premises bears to the total rentable square footage of the Pier 69 Building; provided, however, if any space in the Pier 69 Building is leased to a tenant who is separately responsible for paying the cost of a service that would otherwise be included in Operating Expenses, the rentable area of such tenant's space shall be excluded from the rentable area of the Pier 69 Building for the purpose of determining Lessee's pro rata share of the balance of the cost of such services and if any space in the building is leased to a tenant who creates an exemption from property taxes or any other category of Operating Expenses so as to reduce the Pier 69 Building's total cost of the same in proportion to that tenant's rentable area, then the rentable area of such tenant's space shall be excluded from the rentable area of the Pier 69 Building for the purpose of determining Lessee's percentage share of the real property tax or other category of Operating Expenses as the case may be.

3.3.1.2. It is agreed by the parties that, as of this date of this Lease, the total square footage of the Pier 69 Building is 192,320 square feet, and therefore Lessee's share of Operating Expenses is, as of the date of this Lease, 10.22%. In the event that a portion of the Pier 69 Building is damaged or condemned or any other event occurs which alters the rentable area of the Premises or the rentable area of the Pier 69 Building, the Port may adjust Lessee's pro rata share to properly reflect the proportion of the rentable area.

3.3.1.3. As used in this Lease, "Operating Expenses" shall mean those costs of operating, maintaining and repairing the Premises or the Pier 69 Building as such maintenance and repairs relate to the Premises or services to the Premises, determined in accordance with generally accepted accounting principles, and including without limitation the following: (i) insurance premiums paid by the Port and (to the extent incurred) deductibles; (ii) water, sewer and all other utility charges (other than utilities separately metered and paid directly by Lessee or other tenants); (iii) janitorial and all other cleaning services; refuse, recycling and trash removal; (iv) HVAC system service; (v) pest control; (vi) exterior lighting systems, fire detection and security services; (vii) landscape maintenance; (viii) parking lot, road, sidewalk and driveway patching, resurfacing and maintenance; (ix) snow and ice removal; (x) management fees and/or personnel costs (not exceeding the industry standard for similar buildings in the greater Seattle metropolitan area) as they apply to the services noted herein; (xi) real property taxes, unless measured by and paid based upon the Rent paid under this Lease; (xii) costs of legal and accounting services (except those incurred directly relating to a particular tenant of the Pier 69 Building, including the Landlord); (xiii) labor, supplies, materials and tools, and (xiv) all other items constituting operating and maintenance costs in connection with the Premises except as otherwise provided in this Section. Operating Expenses shall not, however, include: (a) depreciation; (b) leasing commissions; (c) repairs and restorations paid for by the proceeds of any insurance policy; (d) construction of improvements of a capital nature other than as specifically provided above, (e) ground rent or loan payments; (f) income or franchise taxes except to the extent permitted by Section 3.3.3; (g) any costs paid directly by Lessee or other tenants; or (h) replacement or repair of cracked or broken glass windows in the Premises unless the damage was caused by Lessee, its agents or affiliates. If less than ninety five percent (95%) of the rentable area of the Pier 69 Building is actually occupied during any year, Operating Expenses for that year shall be the amount that Operating Expenses would be for such period had ninety five percent (95%) of the rentable area of the Pier 69 Building been occupied during all such year, as determined by the Port.

3.3.1.4. Prior to the commencement date of this Lease, and by each January 31st thereafter, and at any other time the Port deems adjustment necessary, the Port shall submit to Lessee a statement of the Lessee's anticipated prorated share of Operating Expenses through the following December, and Lessee shall pay one-twelfth (1/12) thereof monthly, concurrent with the payment of Rent. Within ninety (90) days after the end of each calendar year, the Port shall give Lessee a statement showing the total actual Operating Expenses for the prior calendar year and Lessee's Pro Rata Share thereof. In the event that the total of the monthly payments which Lessee has made for such calendar year is less than Lessee's actual pro rata share, Lessee shall pay the difference within fifteen (15) days after receipt of such statement from the Port. Any overpayment by Lessee shall be credited toward the Additional Rent next becoming due or, in the event that the Lease has expired (and there is no outstanding default), refunded to Lessee. Notwithstanding the above, any delay or failure of the Port in computing or

billing Additional Rent shall not constitute a waiver of or in any way impair Lessee's obligation to pay the Base Rent, Additional Rent or any other sum hereunder. In the event of any such delay or failure, Lessee shall continue paying the Additional Rent currently being paid until notified by the Port of the adjustment. Lessee, at its cost, shall have the right to inspect, in the Port's offices during usual business hours, the Port's records regarding the Operating Expenses referred to in the annual statement for a period of ninety (90) days following delivery of the statement. If within such ninety day period neither party delivers notice to the other a notice referring in reasonable detail to one or more errors in such statement or calculation, the information and calculation in such statement shall conclusively be deemed correct.

3.4. Option Term Market Rate. In the event Lessee elects to extend this Lease pursuant to the option in Section 2.2, promptly following Lessee's notice, the parties shall negotiate in good faith for a renegotiated Base Rent for the option term; such renegotiated Base Rent shall be the fair market value of the Premises. The value of any improvements to the Premises financed by Lessee at no cost to the Port shall be excluded in determining the fair market value of the Premises. In the Port's initial offer during renegotiation of Base Rent, the Port may rely on appraisals of properties that the Port deems comparable. If the parties cannot agree on the Base Rent prior to sixty (60) days before the effective date for renegotiated rent, each party shall select an arbitrator, each of whom shall be an MAI real estate appraiser in the Seattle Chapter of the Appraisal Institute. Each MAI real estate appraiser will need to have been active, over the five (5) year period ending on the effective date for renegotiated rent, in the evaluation of similar space in the same market area of the Premises subject to this Lease (a person meeting the foregoing criteria shall be referred to herein as a "Qualified Appraiser"). If either party fails to timely select its arbitrator prior to sixty (60) days before the effective date for renegotiated rent, and the other party timely selects its arbitrator, the selected arbitrator shall select the second arbitrator. Each arbitrator shall prepare and submit a report to the other party's arbitrator within thirty days of his or her selection. The report shall set forth a determination as to Base Rent, utilizing an approach to valuation consistent with the standards of professional appraisal practice. The reports shall include reference to the fair market rental value of comparable properties as selected by the arbitrator. In preparing such reports, the arbitrators may ask questions and request further information from each party. After submission of both reports, the two arbitrators shall meet within the next fourteen days to reconcile their reports and to agree upon the Base Rent. In the event that the two arbitrators are unable to reach a consensus as to Base Rent within such fourteen-day period, they shall select a third arbitrator (who shall also be Qualified Appraiser). The third arbitrator shall evaluate the reports of the two original arbitrators and within fourteen (14) days of submission of the issue to him or her, such third arbitrator shall make his or her own determination as to the new Base Rent. The determination of this arbitrator (absent, fraud, bias or undue prejudice) shall be binding upon the parties. Each party shall compensate the arbitrator selected by such party, and any third arbitrator shall be compensated in equal shares by both parties. Each party shall cooperate to expedite the selection of its arbitrator and in no case may either party delay the selection of its arbitrator.

3.5. Use of Term Rent. The Port and Lessee agree that the term "Rent" shall mean and refer collectively to sums denominated as either Base Rent, percentage rent (if any), Additional Rent (if any) or any such other sums or charges otherwise payable by Lessee under the terms of this Lease. Failure by Lessee to pay any sum denominated as Rent shall entitle the Port to pursue any or all remedies specified in this Lease as well as remedies specified in RCW Chapter 59.12 or otherwise allowed by law.

3.6. Late Charges.

3.6.1. Lessee hereby acknowledges that late payment by Lessee to the Port of Rent, or any portion thereof, or any other sums due hereunder will cause the Port to incur costs not otherwise contemplated by this Lease. Accordingly, if any installment of Rent, or any portion thereof, or any other sum due from Lessee shall not be received by the Port within ten (10) days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall pay the Port a late charge equal to the greater of five dollars (\$5.00) or 5% of such overdue amount. The parties agree that such late charge represents a fair and reasonable estimate of the costs the Port will incur by reason of late payment by Lessee. Acceptance of such late charge by the Port shall in no event constitute a waiver of Lessee's default with respect to such overdue amount, nor prevent the Port from exercising any of the other rights and remedies granted hereunder.

3.6.2. In the event that a late charge is payable in this Lease or otherwise, whether or not collected, for three (3) installments of Rent and/or other remuneration in any 12-month period, then the Port reserves the right to require that Rent and/or other remuneration become due and payable quarterly in advance, rather than monthly, notwithstanding Section 3.1 or any other provision of this Lease to the contrary.

3.6.3. In addition to the late charges provided for in this Section, interest shall accrue on any unpaid Rent and/or other remuneration, or any other sums due hereunder, at the rate of 18% per annum or the maximum rate provided by law, whichever is less, ("the Default Rate") from the date due until paid, provided, however, the minimum charge of interest shall be five dollars (\$5.00).

SECTION 4: SECURITY

4.1. Security. Lessee shall, upon execution of this Lease, obtain and deliver to the Port a good and sufficient corporate surety company bond, irrevocable stand-by letter of credit, cash deposit or other security in an amount equal SEVENTY-FIVE THOUSAND THREE AND 76/100 DOLLARS (\$75,003.76) hereinafter referred to as "Security"), to secure Lessee's full performance of this Lease, including the payment of all fees and other amounts now or hereafter payable to the Port hereunder. The amount, form, provisions and nature of the Security, and the identity of the surety or other obligor thereunder, shall at all times be subject to the Port's approval. The Security shall remain in place at all times throughout the full term of this Lease and throughout any holdover period. If the Security is in a form that periodically requires renewal, Lessee must renew the Security not less than 45 days before the Security is scheduled to expire. No interest shall be paid on the Security and the Port shall not be required to keep the Security separate from its other accounts. No trust relationship is created with respect to the Security.

4.2. Transfer of Security. Notwithstanding the foregoing, the Port currently has SEVENTY-FIVE THOUSAND THREE AND 76/100 DOLLARS (\$75,003.76) in cash deposit provided by Lessee in connection with that certain lease between the Port and Lessee dated February 22, 2010 (the "Expiring Lease"). Except to the extent required to remedy any failure to comply with the terms of the Expiring Lease, the Port and Lessee agree that this amount will be transferred and applied to the Security for this Lease as of the Commencement Date.

4.3. Return of Security. The Security is a part of the consideration for execution of this Lease. If Lessee shall have fully performed all terms and conditions of this Lease, any cash deposit security shall be paid to Lessee within sixty (60) days following the termination (or expiration) date without interest; otherwise the Port shall, in addition to any and all other rights and remedies available under this Lease or at law or equity, retain title thereto.

4.4. Application of Security. The Port may apply all or part of the Security to unpaid Rent or any other unpaid sum due hereunder, or to cure other defaults of Lessee. If the Port uses any part of the Security, Lessee shall restore the Security to its then-currently required amount within fifteen (15) days after the receipt of the Port's written request to do so. The retention or application of such Security by the Port pursuant to this Section does not constitute a limitation on or waiver of the Port's right to seek further remedy under law or equity.

SECTION 5: USE OF PREMISES

5.1. Use of Premises and Access. Lessee shall use the Premises for general office and/or professional business purposes and related storage and equipment repair for a water-dependent user. Lessee shall have access 24 hours a day, 7 days a week and shall not use them for any other purpose without the written consent of the Port.

5.2. Moorage and Access. Lessee shall have access to and use of the vessel berth for moorage at Pier 69 subject to preferential berth agreement rates or the Ports posted tariff rates. Vessel moorage will be on a non-continuous vessel-by-vessel basis as well as use of the adjacent dock/apron area located between the Pier 69 Building and the vessel berth north of the building. Lessee may use this adjacent dock/apron area for storage and vessel access only when Lessee's vessel is at this berth at Pier 69. Lessee shall at all times maintain safe ingress/egress access to the end of the pier for public benefit and the Seattle Fire Department. Preferential berth

agreements for vessel moorage at this berth shall be negotiated between Lessee and the Port's Dock Operations group which is part of the Maritime Division.

Lessee has reviewed and is familiar with the current design and configuration of the piers fenders, cleat/bollards systems and location of fire protection system piping and valves located at this vessel berth along the edge of the dock and agrees to manage vessel mooring lines when using this berth to protect these systems from damage (extra concern during extreme low tide cycles).

5.3. General Standards Regarding Use.

5.3.1. Lessee shall occupy and use the entire Premises for the purpose set forth in Section 5.1 in a first-class manner continuously during the entire term of this Lease, with the exception of temporary closures for such periods as may reasonably be necessary for repairs or refurbishing or for reasons beyond Lessee's reasonable control.

5.3.2. Lessee shall not use or occupy or permit the Premises or any part thereof to be used or occupied, in whole or in part, in a manner which would in any way: (i) violate any present or future Legal Requirements; (ii) violate any of the covenants, agreements, provisions and conditions of this Lease; (iii) violate the certificate of occupancy then in force with respect thereto; (iv) constitute a public or private nuisance; (v) impair or interfere with, in the Port's reasonable judgment, the character, reputation or appearance of the Port; or (vi) occasion discomfort, inconvenience or annoyance to either the Port or its adjoining tenants. For purposes of this Lease, the term "Legal Requirements" shall mean and refer to all laws, statutes and ordinances including building codes and zoning regulations and ordinances and the orders, rules, regulations and requirements of all federal, state, county, city or other local jurisdiction departments, agencies, bureaus, offices and other subdivisions thereof, or any official thereof, or of any other governmental, public or quasi-public authority, which may be applicable to or have jurisdiction over the Premises, or the sidewalks or streets adjacent thereto and all requirements, obligations and conditions of all instruments of record at any time during the term of this Lease.

5.3.3. Lessee shall not conduct or permit to be conducted without the prior written consent of the Port, any auction, fire, bankruptcy, "going out of business" or other distress sales of any nature upon or from the Premises, whether voluntary, involuntary, pursuant to any assignment for the payment of creditors, or pursuant to any bankruptcy or other insolvency proceeding, unless ordered by a court of competent jurisdiction.

5.4. Continuing Compliance. Throughout the term of this Lease, Lessee shall, at its own cost and expense, promptly and diligently observe and comply with: (i) all Legal Requirements (including, without limitation, those relating to environmental matters) and the requirements of any fire insurance rating organization and all insurance companies writing policies covering the Premises or any part or parts thereof; (ii) all applicable rules and regulations of the Port pertaining to the building or other realty of which the Premises are a part now in existence or hereafter promulgated for the general safety and convenience of the Port, its various tenants, invitees, licensees and the general public; and (iii) all permits, licenses, franchises and other authorizations required for Lessee's use of the Premises or any part thereof. Lessee shall comply with each of these whether or not they are now in force or at any time in the future may be passed, enacted, or directed.

5.5. Terminal Security.

5.5.1. Without limiting the generality of either Section 5.3 or 5.4, Lessee shall comply at all times with all local, state and federal laws, rules and regulations relating to homeland security ("Security Laws") applicable to the Premises or any larger facility of which the Premises are a part. If the Premises, either directly or as a result of their location within a larger Port facility, are subject to a government-required security plan ("Security Plan"), Lessee will fully and promptly comply with the Security Plan. Lessee shall be solely responsible for all of its costs of complying with any applicable Security Laws or Security Plan as well as any fines or penalties incurred (whether by Lessee or the Port) as result of its failure to comply with such Security Laws or Security Plan.

5.5.2. Lessee shall not, without the Port's separate, express written agreement, undertake any activities or handle any cargo that would either: (i) subject the Premises, or any larger facility of which the Premises are a part, to any Security Laws to which it is not already then-subject; or (ii) require the adoption of, or any material modification to, a Security Plan applicable to the Premises, or any larger facility of which the Premises are a part (together, "Additional Security Requirement"). In addition to its own costs of complying with any Additional Security Requirement, Lessee shall further be responsible to the Port for any costs the Port incurs in complying with any Additional Security Requirement or any fines or penalties incurred as a result of its failure to implement, or comply with, such Additional Security Requirement.

5.6. No Liens. Lessee will not directly or indirectly create or permit to be created and/or to remain, a Lien upon the Premises, including any Alterations (as defined below in Section 7.1), fixtures, improvements or appurtenances thereto, except those Liens expressly permitted by in writing by the Port. In the event any such Lien(s) have been created by or permitted by Lessee in violation of this provision, Lessee shall immediately discharge as of record, by bond or as otherwise allowed by law, any such Lien(s). Lessee shall also defend (with counsel approved by the Port), fully indemnify, and hold entirely free and harmless the Port from any action, suit or proceeding brought on or for the enforcement of such Lien(s). As used in this Section, "Lien" shall mean and refer to any mortgage, lien, security interest, encumbrance, charge on, pledge of, conditional sale or other encumbrance on the Premises, any Alteration, fixture, improvement or appurtenance thereto, or any larger building and/or property of which the Premises may be a part.

5.7. Signs. No signs, symbols, canopies or other advertising matter shall be attached to or painted on or within the Premises, including windows and doors thereof, without the prior written approval of the Port. At the expiration or sooner termination of this Lease, all signs, symbols, advertising matter or canopies placed on or in the Premises by Lessee shall be removed by Lessee at its expense, and Lessee shall repair any damage or injury to the Premises and correct any unsightly condition caused by the maintenance or removal of said signs, symbols, canopies or other advertising matter.

5.8. Parking. Lessee shall have the right to rent up to five (5) parking stalls with 24 hours per day/seven days per week access) located on Pier 69 at prevailing market rate plus leasehold tax under a separate agreement. Parking is also available at the Bell Street Pier Garage at prevailing monthly rates on an unassigned, self-park basis.

Twenty (20) parking spaces (one (1) per 1,000 rsf of leased space) will be available to Lessee in the Bell Street Pier Garage, however Lessee shall be responsible for arranging the terms and conditions for such parking directly with the third-party operator of the Bell Street Pier Garage. Additional parking spaces will be available to Lessee on a space available basis and pursuant to the terms and conditions established by the third-party operator of the Bell Street Pier Garage. Lessee's use of parking in the Bell Street Pier Garage is subject to all rules and regulations of Port or of the parking garage operator, and the ordinances, rules, regulations and permit conditions of the City of Seattle, Washington, which may be published from time to time.

5.9. Security of Premises. Lessee shall be responsible for the security of the Premises. Lessee may install its own security system to secure the Premises. The Port shall provide for security roves around the exterior of the Pier 69 Building after normal business hours.

5.10. Telephone, Internet, Television/Rooftop Devices. Lessee shall contract directly with the vendor of its choice for telephone, internet, television and other communications service. Subject to the Port's prior review and approval, the Lessee may install an antenna or satellite dish ("Rooftop Devices") on the rooftop of the Pier 69 Building. Lessee will not be charged a fee for use of the conduit or rooftop to install Rooftop Devices. Lessee shall indemnify and hold the Port harmless for any interference caused by Lessee's Rooftop Devices with other reception facilities located on the rooftop of the Pier 69 building. In the event that the Port gives written notice that Lessee's Rooftop Devices interferes with other reception facilities of the Port or other tenants, Lessee shall promptly remove the rooftop devices or immediately remedy such interference. Any installation by Lessee shall comply with all Legal Requirements and shall not disrupt rooftop communications of the Port's existing tenants. Upon the expiration or early

termination of this lease, the Lessee shall remove the Rooftop Devices and supporting equipment and restore the rooftop of the Pier 69 Building to its original condition.

SECTION 6: UTILITIES

6.1. Utilities. Lessee shall be liable for and shall pay throughout the term of this Lease, all charges for all utility services furnished or attributable to the Premises, including, but not limited to, light, heat, electricity, fire alarm monitoring, gas, water, sewerage and drainage (which includes removal and disposal of sewerage and surface water), recycling, garbage disposal, and janitorial services, specifically including reasonable costs and charges associated with the management of such utility services. In the event that the Premises are part of a building or part of any larger premises to which any utility services are furnished on a consolidated or joint basis, Lessee agrees to pay to the Port Lessee's pro rata share of the cost of any such utility services. Lessee's pro rata share of any such services may be computed by the Port on any reasonable basis, and separate metering or other exact segregation of cost shall not be required.

6.2. Utility Interruptions. With respect to any utility service provided to the Premises as a part of a building or any larger premises of which the Premises are a part, the Port shall have the right to shut down electrical or other utility services to the Premises when necessitated by safety, repairs, alterations, connections, upgrades, relocations, reconnections, or for any other reason, with respect to any such utility system (singularly or collectively, "Utility Work"), regardless of whether the need for such Utility Work arises in respect of the Premises, any other part of the building or larger premises. Whenever possible, the Port shall give Lessee no less than two (2) days prior notice for such utility shutdown. The Port shall not be liable to Lessee for any losses, including loss of income or business interruption, resulting from any interruptions or failure in the supply of any utility to the Premises, except when such losses result from the Port's gross negligence.

6.3. Energy Conservation. The Port shall have the right to institute such reasonable policies, programs and measures as may be necessary or desirable, in the Port's discretion, for the conservation and/or preservation of energy or energy related services, or as may be required to comply with any applicable codes, rules and regulations, whether mandatory or voluntary.

6.4. Stormwater/drainage. Surface water, or drainage, is managed by the Port of Seattle Marine Stormwater Utility ("Utility"), which is also responsible for billing of stormwater utility charges. Tenant charges are subject to rates established by the Utility and are adjusted each January. Drainage charges are itemized separately from Base Rent on billing invoices/statements and are subject to the same late charges set forth in Section 3.7.

SECTION 7: ALTERATIONS; OWNERSHIP OF CERTAIN INSTALLATIONS

7.1. Limitation on Alterations. Lessee shall make no changes, alterations, additions, substitutions or improvements (collectively referred to as "Alterations") to the Premises, unless Lessee shall first deliver to the Port plans and specifications for, and obtain the Port's prior written approval of, such Alterations. All such Alterations shall be done at Lessee's sole cost and expense and at such times and subject to such conditions as the Port may from time to time designate.

7.2. Lessee Reimbursement. Port shall contribute a "Lessee Improvement Allowance" not to exceed ONE HUNDRED FORTY-ONE THOUSAND, FOUR HUNDRED FIFTY DOLLARS AND 00/100 (\$141,450.00) towards the Lessee's costs and expenses associated with improvements described in Section 7.3 below. The Port shall reimburse Lessee within thirty (30) business days after the Lessee has submitted an invoice for Lessee's tenant improvements. Lessee agrees to use best efforts to request reimbursement within ninety (90) business days from substantial completion of Lessee Improvements, but in any event such request shall be provide to the Port no later than June 30, 2023. The Port's obligation to pay the Lessee Improvement Allowance is expressly conditioned upon Lessee's timely request for such Lessee Improvement Allowance and submission of all documentation requested by the Port to verify and document the Lessee Improvements described in Section 7.3. Lessee's work performed pursuant to the Lessee Improvement Allowance shall be subject to the requirements of this Section 7.

7.3. Lessee Improvements. As of the Commencement Date, Lessee accepts the Premises in an as-is condition and may enter the Premises to make certain “Tenant Improvements” related to flooring and paint upgrades.

7.4. Requirements for All Alterations. In addition to, and not in lieu of, conditions imposed by the Port pursuant to Section 7.1, any alterations or improvements permitted by the Port shall be performed: (i) in a good and workmanlike manner; (ii) in compliance with all Legal Requirements; and (iii) in a manner which will not unreasonably interfere with or disturb other tenants of the Port. In addition, prior to commencement of any Alterations, Lessee shall furnish to the Port proof of insurance for any and all contractors working on behalf of Lessee in the minimum form and limits as set forth in Sections 11.2.1.1 and 11.2.1.2. Any Alterations shall immediately become the property of the Port without any obligation on its part to pay therefor, and shall not be removed by Lessee unless directed to do so in connection with any consent issued under Section 7.1 or pursuant to Section 18.

7.5. Trade Fixtures. Lessee shall retain ownership of all trade fixtures and business equipment and furnishings from time to time installed by Lessee at its expense. Lessee may remove any of such fixtures, equipment or furnishings at any time during the term and shall remove all thereof prior to the expiration of the term. Any such property not removed at the expiration of the term shall, at the election of the Port, become the property of the Port without payment to Lessee, or be deemed abandoned and removed by the Port, at Lessee’s expense. Upon any removal of such property, Lessee shall promptly repair any and all damage to the Premises caused thereby and reimburse the Port for its costs and expenses in removing any such property not removed by Lessee and repairing any such damage not repaired by Lessee; this covenant shall survive the termination of this Lease.

7.6. Prevailing Wage. Lessee shall, in connection with the labor associated with any Tenant Improvements or Alterations under this Lease, comply with all prevailing wage laws in the State of Washington, as set forth in RCW 39.12 as amended, and the rules and regulations of the Department of Labor and Industries. The wage rates to be paid all laborers, workers and mechanics that perform any part of the work on any Tenant Improvements or Alterations shall meet or exceed the prevailing wage rates as required by Chapter 39.12 of the Revised Code of Washington, as amended. This requirement applies to laborers, workers and mechanics whether they are employed by Lessee, Contractors, Subcontractors, Sub-subcontractors, or any other person who performs a portion of the work on any Tenant Improvements or Alterations.

7.6.1. The rules and regulations of the Department of Labor and Industries and the schedule of prevailing wage rates for the locality or localities where any work under this Lease will be performed as determined by the Industrial Statistician of the Department of Labor and Industries, are by this reference made a part of this Lease as though fully set forth herein. The Washington Administrative Code Chapter 296-127 relating to prevailing wage can be found at: <http://apps.leg.wa.gov/wac/default.aspx?cite=296-127>. In any contracts for Tenant Improvements or Alterations approved by the Port, Lessee’s contract with any general contractor and/or sub-contractor shall require the payment of the local prevailing wage.

7.6.2. In connection with this Lease, Lessee will be required to submit to the Port “Statements of Intent to Pay Prevailing Wages” for its employees, contractors and subcontractors at all tiers prior to commencing work. The Statements of Intent require the approval of the industrial statistician of the Department of Labor and Industries — which shall include the contractor’s registration certificate number; the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020; and the estimated number of workers in each classification. Lessee shall ensure that each Statement of Intent to Pay Prevailing Wages that is submitted to the Port has been approved by the industrial statistician of the Department of Labor and Industries before said statement is submitted to the Port. Such Statements of Intent shall be filed in accordance with the practices and procedures required by the Department of Labor and Industries.

7.6.3. Lessee will further be required to submit to the Port “Affidavits of Wages Paid” for its employees, contractors and subcontractors at all tiers. The Affidavits of Wages Paid require the certification of the industrial statistician of the Department of Labor and Industries — which shall include the contractor’s registration certificate number; the prevailing rate of wage for each classification of workers entitled to prevailing wages under RCW 39.12.020; and the estimated number of workers in each classification. Lessee shall ensure that each Affidavit of

Wages Paid that is submitted to the Port has been certified by the industrial statistician of the Department of Labor and Industries before said Affidavit is submitted to the Port. Such Affidavits of Wages Paid shall be filed in accordance with the practices and procedures required by the Department of Labor and Industries.

7.6.4. Pursuant to WAC 296-127-040 and WAC 296-127-045, Lessee shall be responsible for payment to the Department of Labor and Industries the applicable processing fee(s) set forth in RCW 39.12.070 due with the submittal of each "Statement of Intent to Pay Prevailing Wages" and "Affidavit of Wages Paid." Lessee shall monitor contractors' and subcontractors' compliance with the requirements of this Section 7.6; any failure by Lessee or contractor or subcontractor at any tier to meet the requirements of this Section 7.6 or violation of prevailing wage laws or regulations shall be a material breach of this Lease.

7.6.5. Although not required, the Port encourages Lessee to examine the applicability of a Project Labor Agreement ("PLA") in light of any: (i) project needs for labor continuity and stability, including analysis of labor needs by trade; (ii) project complexity, including cost and duration; (iii) value of having uniform working conditions; (iv) potential impact of PLA on small business opportunities; (v) past labor disputes or issues indicating risk of delay; (vi) potential PLA impact on project cost; (vii) project presents specific safety concerns to the public; (viii) value of an established PLA grievance process to resolve labor-management or jurisdictional disputes; and (ix) any other considerations particular to the project.

SECTION 8: MAINTENANCE AND REPAIR

8.1. Maintenance and Repair by Lessee.

8.1.1. Lessee shall, at its sole cost and expense, keep the Premises – both outside and inside, together with all Alterations, equipment and installations within the Premises – in good order, condition and repair at all times. Lessee shall make all repairs and replacements (ordinary as well as extraordinary, foreseen and unforeseen) which may be necessary or required so that at all times the Premises are in good order, condition and repair. Without limiting the generality of the foregoing, Lessee shall keep the glass of all windows and doors on the Premises clean and presentable, shall replace all cracked or broken glass in the Premises, shall keep the mechanical and electrical systems in good repair (including the portion of the HVAC located within the Premises), shall keep all drains clean and in a good state of repair, shall protect the sprinkler system and all pipes and drains so that they will not freeze or become clogged, and shall not permit or suffer any waste, damages, or disfigurement to or upon the Premises or any part thereof.

8.1.2. Lessee shall also keep the Premises and entryways neat, clean and in sanitary condition, free from infestation of pests and conditions which might result in harborage for, or infestation of pests. As used in this Section, the word "pests," as used herein, shall include without limitation, rodents, insects, and birds in numbers to the extent that a nuisance is created. Lessee shall also specifically remove all snow and ice from the walkways and sidewalks in front of the Premises.

8.2. Maintenance and Repair by Port. Notwithstanding anything to the contrary in Section 8.1, the Port shall repair and maintain the roof (both structure and covering/membrane), exterior walls, foundation and building structure of the Premises, and all of the HVAC system that is not within the Premises in good order, condition and repair. The Port shall perform this work at its sole cost and expense, except to the extent that any such repairs may be required as a result of damage caused by negligence of Lessee or its agents, employees, invitees or licensees, in which event the work shall be at the cost or expense of Lessee. The Port shall perform such repair or maintenance work called to its attention by Lessee within a reasonable period of time after receipt of such notice by Lessee. There shall be no abatement or reduction of Rent, and the Port shall not be responsible for any loss or damages to Lessee's business, arising by reason of the Port making any repairs, alterations or improvements.

SECTION 9: TAXES

9.1. Payment of Taxes. Lessee shall be liable for, and shall pay throughout the term of this Lease, all license fees and all taxes payable for, or on account of, the activities conducted on the Premises and all taxes on the property of Lessee on the Premises and any taxes on the Premises and/or on the leasehold interest created by this Lease and/or any taxes levied in lieu of a tax on said leasehold interest and/or any taxes levied on, or measured by, the rentals payable hereunder, whether imposed on Lessee or on the Port. With respect to any such taxes payable by the Port which are based on or measured by the Base Rent payments hereunder, Lessee shall pay to the Port with each Base Rent payment an amount equal to the tax on, or measured by, that particular payment. All other tax amounts for which the Port is or will be entitled to reimbursement from Lessee shall be payable by Lessee to the Port at least fifteen (15) days prior to the due dates of the respective tax amounts involved; provided, that Lessee shall be entitled to a minimum of ten (10) days' written notice of the amounts payable by it.

9.2. Personal Property Taxes. Lessee shall pay or cause to be paid, prior to delinquency, any and all taxes and assessments levied upon all trade fixtures, inventories and other real or personal property placed or installed in and upon the Premises by Lessee. If any such taxes on Lessee's personal property or trade fixtures are levied against the Port or the Port's property, and if the Port pays the taxes based upon such increased assessment, Lessee shall, upon demand, repay to the Port the taxes so levied.

SECTION 10: COMMON AREAS

10.1. Control of Common Areas by Port. The Port shall at all times have the exclusive control and management of all parking areas, access roads, driveways, sidewalks, entrances, exits, loading docks, signs, drainage facilities, landscaped areas, washrooms, stairways, hallways and other areas, improvements, facilities and/or special services provided by the Port for the general use, in common, of tenants of any larger property of which the Premises are a part ("common areas and facilities"). Without creating a duty to do so or limiting the Port's right of control and management, the Port specifically reserves the right to: (i) establish, modify from time to time, and enforce reasonable rules and regulations governing the use of the common areas and facilities; (ii) police the common areas and facilities; (iii) change the area, level, location and arrangement of parking and other areas or facilities within common areas and facilities; (iv) provided Lessee is not deprived of reasonable access to its Premises, close all or any portion of the common areas and facilities; and (v) do and perform such other acts in and to the common areas and facilities as, in the use of good business judgment, the Port shall determine to be advisable with a view to the improvement of the convenience and use thereof by the Port and tenants of any larger property of which the Premises are a part.

10.2. Outside Areas and Roof. The use of the outside area of the walls and the roof of the building in which the Premises are located is reserved to the Port, which shall have the right to utilize the same for any purpose, including the maintenance of signs.

10.3. License. All common areas and facilities which Lessee is permitted to use and occupy are used and occupied under a revocable license. If the amount of such areas or facilities is revised or diminished, such revision or diminution shall not be deemed a constructive or actual eviction, and the Port shall not be subject to any liability, nor shall Lessee be entitled to any compensation or reduction or abatement of Rent.

SECTION 11: INSURANCE AND INDEMNITY

11.1. Indemnity.

11.1.1. The Port, its officers, employees and agents shall not be liable for any injury (including death) to any persons or for damage to any property regardless of how such injury or damage be caused, sustained or alleged to have been sustained by Lessee or by others, including but not limited to all persons directly or indirectly employed by Lessee, or any agents, contractors, subcontractors, licensees or invitees of Lessee, as a result of any condition (including existing or future defects in the Premises) or occurrence (including failure or interruption of utility service) whatsoever related in any way to Lessee's use or occupancy of the Premises and of areas adjacent thereto.

11.1.2. Lessee shall defend (with counsel approved by the Port), fully indemnify, and hold entirely free and harmless the Port and its Commissioners, officers, agents and employees from any and all loss, damages, expenses, attorneys' fees, consultants' fees, court costs and other costs for or from: (a) anything and everything whatsoever arising from the condition of the Premises or out of the occupancy by the Lessee or any sublessee, licensee, invitee or concessionaire of Lessee; and (b) any accident, injury, death or damage to any party however caused in or about the Premises or upon the sidewalks adjacent to the Premises, whether or not caused by the negligence of Lessee or any third party; and (c) any fault or negligence by Lessee or any sublessee, licensee, invitee or concessionaire of the Lessee or of any officer, agent, employee, guest or invitee of any such person; and (d) any failure on Lessee's part to comply with any of the covenants, terms and conditions contained in this Lease; *provided, however*, nothing herein shall require Lessee to indemnify the Port from any accident, injury, death or damage arising out of the sole negligence of the Port or its Commissioners, officers, agents and employees. Lessee agrees that the foregoing indemnity specifically covers actions brought by its own employees, and thus Lessee expressly waives its immunity under industrial insurance, Title 51, as necessary to effectuate this indemnity.

11.1.3. Notwithstanding anything to the contrary in Section 11.1.2, in the event of the concurrent negligence of Lessee, any of its sublessees, licensees, assignees, concessionaires, agents, employees, or contractors on the one hand and the negligence of the Port, its agents, employees or contractors on the other hand, which concurrent negligence results in injury or damage to persons or property of any nature and howsoever caused, and relates to the construction, alteration, repair, addition to, subtraction from, improvement to or maintenance of the Premises such that RCW 4.24.115 is applicable, Lessee's obligation to indemnify the Port as set forth in this Section shall be limited to the extent of Lessee's negligence and that of any of Lessee's officers, sublessees, assignees, agents, employees, contractors or licensees, including Lessee's proportional share of costs, court costs, attorneys' fees, consultants' fees and expenses incurred in connection with any claim, action or proceeding brought with respect to such injury or damage.

11.1.4. LESSEE AND PORT AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION. Lessee's obligations under this Section shall survive the expiration or earlier termination of this Lease.

11.2. Insurance.

11.2.1. **Required Policies.** Lessee shall obtain and keep in force, at its sole cost and expense the following types of insurance, in the amounts specified and in the form hereinafter provided for:

11.2.1.1. **General Liability Insurance.** Lessee shall obtain and keep in force a commercial general liability policy of insurance, written on ISO Form CG 00 01 10 01 (or equivalent), that protects Lessee and the Port, as an additional insured against claims for bodily injury, personal injury and property damage based upon, involving or arising out of the tenancy, use, occupancy or maintenance of the Premises and all areas appurtenant thereto, and specifically including the action/inaction of any subtenant, licensee or concessionaire. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than two million dollars (\$2,000,000) per occurrence. A copy of the additional insured endorsement shall be submitted to the Port at the inception of the Lease and annually thereafter. The policy shall be primary and non-contributory to any insurance the Port carries. The policy shall contain a waiver of transfer of rights of recovery against others in favor of the Port. The policy shall contain a minimum \$250,000 sub-limit that covers damage to premises rented or leased to Lessee, including fire damage.

11.2.1.2. **Automobile Liability Insurance.** Lessee shall obtain and keep in force a commercial automobile liability policy of insurance, written on ISO Form CA 00 01 07 97 (or equivalent), that protects Lessee and the Port against claims for bodily injury and property damage based upon, involving or arising out of motor vehicle operations on or about the Premises and all areas appurtenant thereto. Lessee shall provide a Waiver of Subrogation on this policy in favor of the Port. Such insurance shall cover any "Auto" (i.e. owned, hired and non-owned) and shall be on an occurrence basis providing single limit coverage in an amount not less than one million dollars (\$1,000,000) per occurrence. The policy shall not contain any intra-insured exclusions as between insured persons or organizations.

11.2.1.3. *Property Insurance.* Lessee shall obtain and keep in force property insurance using an ISO CP 1020 Cause of Loss Broad Form (or an equivalent manuscript form) insuring Lessee's personal property and Alterations (specifically including "betterments" and "improvements") made by or for Lessee against physical damage, including loss of use, to the Premises. The policy shall include coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any ordinance or law regulating the reconstruction or replacement of the damaged property including any undamaged sections of the Premises required to be demolished or removed by reason of the enforcement of any Legal Requirement as the result of a covered cause of loss. The amount of such insurance shall be procured on a replacement cost basis. The Port of Seattle shall be included as an Additional Insured and Loss Payee on Lessee's property insurance policy with respect to the Port's interest in Alterations.

11.2.1.4. *Other Insurance.* Lessee shall further obtain and keep in force such other and further insurance as the Port may from time to time reasonably request for the protection by insurance of its interest in the Premises.

The limits of insurance specified in this Section shall be subject to periodic adjustment to reflect changes in insuring practices for similar properties in the same geographic area and changes in insurance products.

11.2.2. Insurance Policies.

11.2.2.1. *Insurance Companies.* Insurance required hereunder shall be in companies duly licensed to transact business in the State of Washington, and maintaining during the policy term a General Policyholders Rating of 'A-' or better and a financial rating of 'IX' or better, as set forth in the most current issue of "Best's Insurance Guide."

11.2.2.2. *Deductibles and Retentions.* No insurance required herein shall contain a deductible or self-insured retention in excess of \$100,000 without the prior written consent of the Port.

11.2.2.3. *Termination; Renewal.* Insurance is to remain current throughout the term of the Lease. The Port shall receive documentation annually to include a certificate of insurance and any applicable endorsements to validate the insurance required herein has been purchased and is compliant with the Lease requirements within ten (10) days of each insurance renewal. Should any insurance required herein be terminated, cancelled, or not renewed, the Lessee will have five (5) days to obtain replacement insurance from the date of the termination, cancellation or non-renewal notice Lessee receives from their insurer(s). In the event the insurance is not replaced within five (5) days, the Lease will be considered under Default in accordance with Section 14.

11.2.2.4. *Evidence of Insurance.* Lessee shall deliver, or cause to be delivered, to the Port, certificates of insurance, additional insured endorsements, loss payee endorsements for property insurance, waivers of subrogation and any other documentation or endorsement that provides evidence of the existence and amounts of such insurance, the inclusion of the Port as an insured as required by this Lease, and the amounts of all deductibles and/or self-insured retentions. Upon request by the Port, Lessee shall deliver or cause to be delivered to the Port, certified copies of the policies of insurance that Lessee has purchased in order for the Port to verify insurance coverage, limits, and endorsements or view any exclusions to the Lessee's insurance policies.

11.2.2.5. *No Limitation of Liability.* The limits of insurance required by this Lease or as carried by Lessee shall not limit the liability of Lessee nor relieve Lessee of any obligation hereunder.

11.3. Waiver of Subrogation. Without affecting any other rights or remedies, Lessee (for itself and on behalf of anyone claiming through or under it by way of subrogation or otherwise) hereby waives any rights it may have against the Port, its officers, agents and employees (whether in contract or in tort) on account of any loss or damage occasioned to Lessee arising out of or incident to the perils required to be insured against under this Lease, and the Port (for itself and on behalf of anyone claiming through or under it by way of subrogation or otherwise), hereby waives any rights it may have against Lessee its officers, managers, agents

and employees, (whether in contract or in tort) for damages to the Premises caused by fire or other casualty events to the extent covered by property insurance. Accordingly, Lessee shall cause each insurance policy required by Section 11.2, and the Port shall cause any such property insurance policy, to further contain a waiver of subrogation clause. The effect of such releases and waivers of the right to recover damages shall not be limited by the amount of insurance carried or required, or by any deductibles applicable thereto.

11.4. Increase in Port's Cost of Insurance. Lessee shall not use the Premises in such a manner as to increase the existing rates of insurance applicable to the buildings or structures of which the Premises are a part. If it nevertheless does so, then, at the option of the Port, the full amount of any resulting increase in premiums paid by the Port with respect to the buildings or structures of which the Premises are a part, and to the extent allocable to the term of this Lease, may be added to the amount of Rent and shall be paid by Lessee to the Port upon the monthly rental day next thereafter occurring.

SECTION 12: DAMAGE OR DESTRUCTION

12.1. Duty to Repair. If the Premises or any buildings or structures of which the Premises are a part are damaged by fire, the elements, earthquake, accident or other casualty (collectively, "Casualty"), Lessee shall give immediate written notice thereof to the Port. The Port may, except to the extent the Port has the right to terminate this Lease under Section 12.2, use reasonable efforts to repair and restore the Premises and/or the buildings or structures of which the Premises are a part to substantially their former condition to the extent permitted by then-applicable Legal Requirements; provided, however, the Port shall have no obligation to repair and restore any Alterations or any of Lessee's personal property, specifically including that which Lessee retains ownership of under Section 7.5.

12.2. Right to Terminate. The Port may elect to terminate this Lease in the event that the Port, in its sole judgment, concludes that the damage to the Premises or any buildings or structures of which the Premises are a part cannot be repaired within thirty (30) days of the Casualty (with the repair work and the preparations therefor to be done during regular working hours on regular work days). In the event that the Port elects to terminate this Lease, the Port shall advise Lessee of that fact within thirty (30) days of the date the Port is notified of the Casualty and notify Lessee of the date, not more than ninety (90) days after the Casualty, on which the Lease will terminate.

12.3. Lessee's Fault. Notwithstanding anything herein to the contrary, if the damages by Casualty to the Premises or any buildings or structures of which the Premises are a part results from Lessee's fault, negligence, or breach of the terms of this Lease, Lessee shall be liable to the Port for the cost and expense of any repair and restoration of the Premises or any buildings or structures of which the Premises are a part.

12.4. Abatement of Rent. Unless the damages by Casualty result from Lessee's fault, negligence or breach of the terms of this Lease, the Base Rent and Additional Rent, if any, shall be abated for any portion of the Premises that is rendered untenable or inaccessible from the period from the date the Port is notified of the Casualty through the date of substantial completion of the repairs to the Premises (or to the date of termination of the Lease). The Port shall not otherwise be liable to Lessee for any loss in the use in the whole or any part of the Premises (including loss of business) and/or any inconvenience or annoyance occasioned by the Casualty, by any damage resulting from the Casualty, or by any repair, reconstruction or restoration.

12.5. Waiver. Except as specifically set forth in this Lease, Lessee hereby waives any right that Lessee may have, under any applicable existing or future law, to terminate this Lease in the event of any damage to, or destruction of, the Premises or any buildings or structures of which the Premises are a part.

SECTION 13: ASSIGNMENT AND SUBLEASE

13.1. Prohibition. Lessee shall not, in whole or in part, assign, sublet, license or permit occupancy by any party other than Lessee of all or any part of the Premises, without the prior written consent of the Port in each instance unless the Sublease or assignment is to a subsidiary or affiliate of Lessee which is wholly-owned by, or within the control of, Lessee. As used in this

Section, "Sublease" and "Sublessee" shall mean and refer to any subleasing under the Lease at any level and between any parties. Lessee shall at the time the Lessee requests the consent of the Port, deliver to the Port such information in writing as the Port may reasonably require respecting the proposed assignee, Sublessee or licensee including, without limitation, the name, address, nature of business, ownership, financial responsibility and standing of such proposed assignee, Sublessee or licensee. Within twenty (20) business days after receipt of all required information, the Port may, in its sole discretion, consent to such proposed assignment, Sublease or license. The Port's failure to provide Lessee with such written consent within the stated twenty (20) day period shall constitute the Port's refusal to consent to the proposed assignment, Sublease or license. Notwithstanding the foregoing, the consent of the Port shall not be unreasonably withheld, delayed or conditioned.

13.1.1. As a condition for the Port's consent to any assignment, Sublease or license, the Port may require that the assignee, Sublessee or licensee remit directly to the Port on a monthly basis, all monies due to Lessee by said assignee, Sublessee or licensee (except with respect to excess rentals otherwise due Lessee pursuant to Section 13.2). In addition, a condition to the Port's consent to any assignment, Sublease or license of this Lease or the Premises shall be the delivery to the Port of a true copy of the fully executed instrument of assignment, Sublease or license and an agreement executed by the assignee, Sublessee or licensee in form and substance satisfactory to the Port and expressly enforceable by the Port, whereby the assignee, Sublessee or licensee assumes and agrees to be bound by the terms and provisions of this Lease and perform all the obligations of Lessee hereunder.

13.1.2. In the event of any assignment, Lessee and each respective assignor, waives notice of default by the tenant in possession in the payment and performance of the Rent, covenants and conditions of this Lease and consents that the Port may in each and every instance deal with the tenant in possession, grant extensions of time, waive performance of any of the terms, covenants and conditions of this Lease and modify the same, and in general deal with the tenant then in possession without notice to or consent of any assignor, including Lessee; and any and all extensions of time, indulgences, dealings, modifications or waivers shall be deemed to be made with the consent of Lessee and of each respective assignor.

13.1.3. Lessee agrees that any Sublease or license will contain a provision in substance that if there be any termination whatsoever of this Lease then the Sublessee or licensee, at the request of the Port, will attorn to the Port and the Sublease or license, if the Port so requests, shall continue in effect with the Port, but the Port shall be bound to the Sublessee or licensee in such circumstances only by privity of estate. Nothing herein shall be deemed to require the Port to accept such attornment.

13.1.4. No assignment, Sublease or license by Lessee shall relieve Lessee of any obligation under this Lease, including Lessee's obligation to pay Rent or any other sum hereunder. Any purported assignment, Sublease or license contrary to the provisions hereof without consent shall be void. The consent by the Port to any assignment, Sublease or license shall not constitute a waiver of the necessity for such consent to any subsequent assignment, Sublease or license.

13.1.5. Lessee shall reimburse the Port in the sum of FIVE HUNDRED DOLLARS (\$500.00) plus any reasonable professionals' fees and expenses incurred by the Port in connection with any request by Lessee for consent to an assignment, subletting or license.

13.2. Excess Rental. If in connection with any assignment, Sublease or license, Lessee receives rent or other monetary consideration, either initially or over the term of the assignment or Sublease, in excess of the Rent called for hereunder, or in case of the Sublease of a portion of the Premises, in excess of such Rent fairly allocable to such portion, after appropriate adjustments to assure that all other payments called for hereunder and out-of-pocket expenditures, operating costs or concessions incurred by Lessee in connection with such assignment, Sublease or license, are appropriately taken into account, Lessee shall pay to the Port, as Additional Rent hereunder, seventy-five percent (75%) of the excess of each such payment of rent or other consideration received by Lessee after its receipt.

13.3. Scope. The prohibition against assigning, subleasing or licensing contained in this Section 13 shall be construed to include a prohibition against any assignment, subleasing or licensing by operation of law. Furthermore, for purposes of this Section 13, any sale, transfer or

other disposition in the aggregate of fifty percent (50%) or more of the equity ownership in Lessee (i.e. stock with respect to tenant corporation, partnership interests with respect to a tenant partnership, etc.) shall be deemed an assignment. If this Lease be assigned, or if the underlying beneficial interest of Lessee is transferred, or if the Premises or any part thereof be sublet or occupied by anybody other than Lessee, the Port may collect Rent from the assignee, Sublessee, licensee or occupant and apply the net amount collected to the Rent herein reserved and apportion any excess Rent so collected in accordance with the terms of Section 13.2, but no such assignment, Sublease, license, occupancy or collection shall be deemed a waiver of this covenant, or the acceptance of the assignee, Sublessee, licensee or occupant as tenant, or a release of Lessee from the further performance by Lessee of covenants on the part of Lessee herein contained. No assignment or subletting shall affect the continuing primary liability of Lessee (which, following assignment, shall be joint and several with the assignee), and Lessee shall not be released from performing any of the terms, covenants and conditions of this Lease.

SECTION 14: DEFAULT

14.1. Defaults. Time is of the essence of this Lease. The occurrence of any one or more of the following events constitutes a default of this Lease by Lessee with or without notice from the Port:

14.1.1. The vacating or abandonment of the Premises by Lessee.

14.1.2. The failure by Lessee to make any payment of Rent, or any other payment required by this Lease, when due.

14.1.3. The failure by Lessee to observe or perform any covenant, condition, or agreement to be observed or performed by Lessee in this Lease.

14.1.4. The discovery by the Port that any required report, financial statement or background statement provided to the Port by Lessee, any successor, grantee, or assign was materially false.

14.1.5. The filing by Lessee of a petition in bankruptcy, Lessee being adjudged bankrupt or insolvent by any court, a receiver of the property of Lessee being appointed in any proceeding brought by or against Lessee, Lessee making an assignment for the benefit of creditors, or any proceeding being commenced to foreclose any mortgage or other lien on Lessee's interest in the Premises or on any personal property kept or maintained on the Premises by Lessee.

14.2. Remedies.

14.2.1. Whenever any default (other than a default under Section 14.1.5 above, upon which termination of this Lease shall, at the Port's option, be effective immediately without further notice) continues unremedied in whole or in part for thirty (30) days after written notice is provided by the Port to Lessee (or for ten (10) days after written notice in the case of default for failure to pay any Rent, or other required payment when due), this Lease and all of Lessee's rights under it will automatically terminate if the written notice of default so provides. Upon termination, the Port may reenter the Premises using such force as may be necessary and remove all persons and property from the Premises. The Port will be entitled to recover from Lessee all unpaid Rent or other payments and damages incurred because of Lessee's default including, but not limited to, the costs of re-letting, including tenant improvements, necessary renovations or repairs, advertising, leasing commissions, and attorney's fees and costs ("Termination Damages"), together with interest on all Termination Damages at the Default Rates from the date such Termination Damages are incurred by the Port until paid.

14.2.2. In addition to Termination Damages, and notwithstanding termination and reentry, Lessee's liability for all Rent or other charges which, but for termination of the Lease, would have become due over the remainder of the Lease term ("Future Charges") will not be extinguished and Lessee agrees that the Port will be entitled, upon termination for default, to collect as additional damages, a Rental Deficiency. "Rental Deficiency" means, at the Port's election, either:

14.2.2.1. An amount equal to Future Charges, less the amount of actual rent, if any, which the Port receives during the remainder of the Lease term from others to whom

the Premises may be rented, in which case such Rental Deficiency will be computed and payable at the Port's option either:

14.2.2.1.1. In an accelerated lump-sum payment; or

14.2.2.1.2. In monthly installments, in advance, on the first day of each calendar month following termination of the Lease and continuing until the date on which the Lease term would have expired but for such termination, and any suit or action brought to collect any portion of Rental Deficiency attributable to any particular month or months, shall not in any manner prejudice the Port's right to collect any portion of Rental Deficiency by a similar proceeding; or

14.2.2.2. An amount equal to Future Charges less the aggregate fair rental value of the Premises over the remaining Lease term, reduced to present worth. In this case, the Rental Deficiency must be paid to the Port in one lump sum, on demand, and will bear interest at the Default Rate until paid. For purposes of this subparagraph, "present worth" is computed by applying a discount rate equal to one percentage point above the discount rate then in effect at the Federal Reserve Bank in, or closest to, Seattle, Washington.

14.2.3. If this Lease is terminated for default as provided in this Lease, the Port shall use reasonable efforts to re-let the Premises in whole or in part, alone or together with other premises, for such term or terms (which may be greater or less than the period which otherwise would have constituted the balance of the Lease term), for such use or uses and, otherwise on such terms and conditions as the Port, in its sole discretion, may determine, but the Port will not be liable for, nor will Lessee's obligations under this Lease be diminished by reason for any failure by the Port to re-let the Premises or any failures by the Port to collect any rent due upon such re-letting.

14.2.4. In addition to the rights granted by Section 7.5, if upon any reentry permitted under this Lease, there remains any personal property upon the Premises, the Port, in its sole discretion, may remove and store the personal property for the account and at the expense of Lessee. In the event the Port chooses to remove and store such property, it shall take reasonable steps to notify Lessee of the Port's action. All risks associated with removal and storage shall be on Lessee. Lessee shall reimburse the Port for all expenses incurred in connection with removal and storage as a condition to regaining possession of the personal property. The Port has the right to sell any property which has been stored for a period of 30 days or more, unless Lessee has tendered reimbursement to the Port for all expenses incurred in removal and storage. The proceeds of sale will be applied first to the costs of sale (including reasonable attorney's fees), second to the payment of storage charges, and third to the payment of any other amounts which may then be due and owing from Lessee to the Port. The balance of sale proceeds, if any, will then be paid to Lessee.

14.3. **Remedies Cumulative.** All rights, options and remedies of the Port contained in this Lease shall be construed and held to be distinct, separate and cumulative, and no one of them shall be exclusive of the other, and the Port shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease.

SECTION 15: TERMINATION OTHER THAN FOR DEFAULT

15.1. **Major Capital Improvement.** In the event that the Port, at its sole discretion, shall require the use of the Premises for a major capital improvement for public or private use in connection with the operation of the business of the Port, then this Lease may be terminated by the Port by written notice delivered or mailed by the Port to Lessee not less than one hundred eighty (180) days before the termination date specified in the notice. If Lessee is not in default under any of the provisions of this Lease on the effective date of such termination, any Rent prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee. Lessee shall not be entitled to any compensation at termination for the bargain value of the leasehold or any relocation expenses.

15.2. Condemnation.

15.2.1. Total Taking. In the case of a taking by eminent domain of either all of the Premises or such portion of either the Premises or any buildings or structures of which the Premises are a part as shall, in the Port's sole judgment, be required for reasonable use of the Premises, this Lease shall terminate as of the date of such taking. If Lessee is not in default under any of the provisions of this Lease on said date, any Rent prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee.

15.2.2. Partial Taking. In the case of a taking of a portion of the Premises or any buildings or structures of which the Premises are a part, which are not, in the Port's sole judgment, required for reasonable use of the Premises, this Lease shall continue in full force and effect, and the Base Rent shall, as of the date of such taking, be equitably reduced based on the proportion by which the Premises (but not the buildings or structures of which the Premises are a part) is reduced.

15.2.3. Damages. The Port reserves all right to the entire damage award or payment for taking by eminent domain, and Lessee waives all claim whatsoever against the Port and/or the authority exercising eminent domain for damages for termination of its leasehold or for interference with its business. The Port and Lessee further agree that all decisions regarding how the eminent domain proceeding should be handled shall be made in the sole discretion of the Port (specifically including any response to a motion for order adjudicating public use and necessity or any request for immediate possession), and Lessee shall take no actions or steps which interfere with the Port's ability to control the handling of the eminent domain proceeding. Notwithstanding the foregoing, nothing in this Section shall be considered to be a waiver or assignment by Lessee of any right to relocation assistance payments or relocation advisory services which may be available in connection with the eminent domain proceeding.

15.2.4. Eminent Domain. The term "eminent domain" as used in this Section 15.2 shall include taking or damaging of property by, through or under any governmental or quasi-governmental authority and the purchase or acquisition in lieu thereof.

15.3. Court Decree. In the event that any court having jurisdiction in the matter shall render a decision which has become final and which will prevent the performance by the Port of any of its obligations under this Lease, then either party hereto may terminate this Lease by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate. If Lessee is not in default under any of the provisions of this Lease on the effective date of such termination, any Rent prepaid by Lessee shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to Lessee. Lessee is not entitled to any compensation at termination for the bargain value of the leasehold.

SECTION 16: ACCESS; EASEMENTS

16.1. Access to Premises. The Port shall have the right to show the Premises at all reasonable times during business hours of Lessee to any prospective purchasers, tenants or mortgagees of the same, and may at any time enter upon the Premises, or any part thereof, for the purpose of ascertaining the condition of the Premises or whether Lessee is observing and performing the obligations assumed by it under this Lease, all without hindrance or molestation from the Lessee. The Port shall also have the right to enter upon the Premises for the purpose of making any necessary repairs and performing any work that may be necessary by reason of Lessee's failure to make any such repairs or perform any such work. The above-mentioned rights of entry shall be exercisable upon request made on reasonable advance notice to Lessee (except that no notice shall be required in the event of an emergency) or an authorized employee of Lessee at the Premises, which notice may be given orally.

16.2. Easements.

16.2.1. The Parties recognize that the Port facilities are continuously being modified to improve the utilities, services and premises used and provided by the Port. The Port and its authorized utility service providers are hereby granted a continuous easement or easements that the Port believes is necessary within the Premises of Lessee, without any

additional cost to the Port for the purposes expressed hereinabove. The Port, its authorized utility service providers, and their respective agents, shall have the right to enter the Premises of Lessee, and to cross over, construct, move, reconstruct, rearrange, alter, maintain, repair and operate the sewer, water, and drainage lines, the electrical service, the roadways (specifically including routes of ingress and egress) and all other services and facilities required by the Port for its own use. Provided, however, that the Port by virtue of such use, does not substantially deprive Lessee from its beneficial use or occupancy of its leased area for an unreasonable period of time, not to exceed thirty (30) working days, without consent of Lessee.

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

SECTION 17: NONWAIVER; RIGHT TO PERFORM

17.1. Receipt of Monies Following Termination. No receipt of monies by the Port from Lessee after the termination or cancellation of this Lease in any lawful manner shall (i) reinstate, continue or extend the term of this Lease; (ii) affect any notice theretofore given to Lessee; (iii) operate as a waiver of the rights of the Port to enforce the payment of any Rent and fees then due or thereafter falling due; or (iv) operate as a waiver of the right of the Port to recover possession of the Premises by proper suit, action, proceeding or remedy; it being agreed that after the service of notice to terminate or cancel this Lease, or after the commencement of suit, action or summary proceedings, or any other remedy, or after a final order or judgment for the possession of the Premises, the Port may demand, receive and collect any monies due, or thereafter falling due, without in any manner affecting such notice, proceeding, suit, action or judgment; and any and all such monies collected shall be deemed to be payments on account of the use and occupation and/or Lessee's liability hereunder.

17.2. No Waiver of Breach. The failure of the Port to insist in any one or more instances, upon a strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver of or relinquishment for the future of the performance of such covenant, or the right to exercise such option, but the same shall continue and remain in full force and effect. The receipt by the Port of the Rent or fees, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Port of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Port. The consent or approval of the Port to or of any act by Lessee requiring the Port's consent or approval shall not be deemed to waive or render unnecessary the Port's consent or approval to or of any subsequent similar acts by Lessee.

17.3. No Waiver of Rent. The receipt by the Port of any installment of Rent or of any amount shall not be a waiver of any Rent or other amount then due.

17.4. Application of Payments. The Port shall have the right to apply any payments made by Lessee to the satisfaction of any debt or obligation of Lessee to the Port, in the Port's sole discretion and regardless of the instructions of Lessee as to application of any such sum, whether such instructions be endorsed upon Lessee's check or otherwise, unless otherwise agreed upon by both parties in writing. The acceptance by the Port of a check or checks drawn by others than Lessee shall in no way affect Lessee's liability hereunder nor shall it be deemed an approval of any assignment of this Lease or any subletting by Lessee.

17.5. Port's Right to Perform. Upon Lessee's failure to perform any obligation or make any payment required of Lessee hereunder, the Port shall have the right (but not the obligation) to perform such obligation of Lessee on behalf of Lessee and/or to make payment on behalf of Lessee to such parties. Lessee shall reimburse the Port the reasonable cost of the Port's performing such obligation on Lessee's behalf, including reimbursement of any amounts that may be expended by the Port, plus interest at the Default Rate.

SECTION 18: SURRENDER AND HOLDING OVER

18.1. Surrender. At the expiration or sooner termination of this Lease, Lessee shall promptly: (i) surrender possession of the Premises to the Port in the same condition in which received (or, if altered, then the Premises shall be returned in such altered condition unless otherwise directed), reasonable wear and tear excepted; and (ii) deliver to the Port all keys that it may have to any and all parts of the Premises. If the Premises are not surrendered as provided in this Section, Lessee shall indemnify and hold the Port harmless against loss or liability resulting from the delay by Lessee in so surrendering the Premises, including, without limitation, any claims made by any succeeding occupant founded on such delay.

18.2. Removal of Wires. Within ten (10) days following the expiration or earlier termination of this Lease, the Port may elect by written notice to Lessee to either:

18.2.1. Retain, without necessity of payment, any or all wiring, cables, conduit, risers and similar installations installed by Lessee ("Wiring") in either the Premises or any larger property (including buildings or structures) of which the Premises are a part. In the event that the Port elects to retain the wiring, Lessee covenants that: (i) it is the sole owner of the assets transferred or passing to the Port; (ii) it shall have right to surrender the assets transferred or passing to the Port; (iii) the Wiring transferred or passing to the Port are free from all liens and encumbrances; (iv) the Wiring transferred or passing to the Port is in good condition, working order, in safe condition and comply with the requirements of this Agreement; and (v) that all wiring or cables included within the Wiring transferred or passing to the Port is properly labeled at each end, in each telecommunications/electrical closet and junction box, and otherwise as may be required by Port regulations. OR

18.2.2. Remove, or require Lessee to remove, all such Wiring and restore the Premises and any larger property of which the Premises are a part to their condition existing prior to the installation of the Wiring, all at Lessee's sole cost and expense.

This Section shall survive the expiration or earlier termination of this Lease.

18.3. Holding Over. If Lessee, with the consent of the Port, holds over after the expiration or sooner termination of this Lease, the resulting tenancy will, unless otherwise mutually agreed, be for an indefinite period of time on a month-to-month basis. During such month-to-month tenancy, Lessee shall pay to the Port, at the Port's sole discretion, the same rental rate that was in effect immediately prior to the month-to-month tenancy times 150%. Lessee will continue to be bound by all of the provisions of this Lease.

18.4. For Rent Signs. The Port shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises for ninety (90) days prior to the expiration or sooner termination of this Lease.

SECTION 19: ENVIRONMENTAL STANDARDS

19.1. Definitions. "Law or Regulation" as used herein shall mean any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction), now or hereafter in effect. "Hazardous Substances" as used herein shall mean any substance or material defined or designated as a hazardous waste, toxic substance, or other pollutant or contaminant, by any Law or Regulation.

19.2. Hazardous Substances. Lessee shall not allow the presence in or about the Premises of any Hazardous Substance in any manner that could be a detriment to the Premises or in violation of any Law or Regulation. Lessee shall not allow any Hazardous Substances to migrate off the Premises, or the release of any Hazardous Substances into adjacent surface waters, soils, underground waters or air. Lessee shall provide the Port with Lessee's USEPA Waste Generator Number, and with copies of all Material Safety Data Sheets (MSDS), Generator Annual Dangerous Waste Reports, environmentally related regulatory permits or approvals (including revisions or renewals) and any correspondence Lessee receives from, or provides to, any governmental unit or agency in connection with Lessee's handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on the Premises.

19.3. Violation of Environmental Law. If Lessee, or the Premises, is in violation of any Law or Regulation concerning the presence or use of Hazardous Substances or the handling or storing of hazardous wastes, Lessee shall promptly take such action as is necessary to mitigate and correct the violation. If Lessee does not act in a prudent and prompt manner, the Port reserves the right, but not the obligation, to come onto the Premises, to act in place of the Lessee (Lessee hereby appoints the Port as its agent for such purposes) and to take such action as the Port deems necessary to ensure compliance or to mitigate the violation. If the Port has a reasonable belief that Lessee is in violation of any Law or Regulation, or that Lessee's actions or inactions present a threat of violation or a threat of damage to the Premises, the Port reserves the right to enter onto the Premises and take such corrective or mitigating action as the Port deems necessary. All costs and expenses incurred by the Port in connection with any such actions shall become immediately due and payable by Lessee upon presentation of an invoice therefor.

19.4. Inspection; Test Results. The Port shall have access to the Premises to conduct an annual environmental inspection. In addition, Lessee shall permit the Port access to the Premises at any time upon reasonable notice for the purpose of conducting environmental testing at the Port's expense. Lessee shall not conduct or permit others to conduct environmental testing on the Premises without first obtaining the Port's written consent. Lessee shall promptly inform the Port of the existence of any environmental study, evaluation, investigation or results of any environmental testing conducted on the Premises whenever the same becomes known to Lessee, and Lessee shall provide copies to the Port.

19.5. Removal of Hazardous Substances. Prior to vacation of the Premises, in addition to all other requirements under this Lease, Lessee shall remove any Hazardous Substances placed on the Premises during the term of this Lease or Lessee's possession of the Premises, and shall demonstrate such removal to the Port's satisfaction. This removal and demonstration shall be a condition precedent to the Port's payment of any Security to Lessee upon termination or expiration of this Lease.

19.6. Remedies Not Exclusive. No remedy provided herein shall be deemed exclusive. In addition to any remedy provided above, the Port shall be entitled to full reimbursement from Lessee whenever the Port incurs any costs resulting from Lessee's use or management of Hazardous Substances on the Premises, including but not limited to, costs of clean-up or other remedial activities, fines or penalties assessed directly against the Port, injuries to third persons or other properties, and loss of revenues resulting from an inability to re-lease or market the property due to its environmental condition (even if such loss of revenue occurs after the expiration or earlier termination of this Lease).

19.7. Stormwater Management. Lessee acknowledges that the Premises are subject to the requirements of the City of Seattle ("City") ordinance regarding stormwater drainage, source control, and other applicable City requirements, as well as the federal Clean Water Act and Washington State Department of Ecology ("Ecology") stormwater regulations and permits, which may include the Industrial Stormwater General Permit ("ISGP"), Boatyard General Permit, Construction General Permit, individual permits, and the Phase I Municipal Separate Storm Sewer System Permit ("MS4 Permit") (collectively, the "Stormwater Regulations"). Lessee will comply with all applicable requirements of the Stormwater Regulations, including at minimum Ecology's MS4 Permit, and shall apply for and hold as permittee any other applicable stormwater permit. It shall be Lessee's sole responsibility to determine which requirements and permit(s) are applicable. Lessee shall implement and perform all best management practices ("BMPs") necessary to meet the requirements of the Stormwater Regulations. If any regulatory authority (including but not limited to Ecology) or citizen cites or alleges the Port has violated any Stormwater Regulation, Lessee will fully defend and indemnify the Port for any damages, penalties, or other assessments made against the Port for the violations. Lessee will pay the Port's attorneys' fees in connection with such claims, notices, citations, and/or enforcement actions.

19.8. Environmental Indemnity. In addition to all other indemnities provided in this Lease, Lessee agrees to defend, indemnify and hold the Port free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation), arising from the existence or discovery of any Hazardous Substance on the Premises, or the migration of any Hazardous

Substance from the Premises to other properties or into the surrounding environment, whether (i) made, commenced or incurred during the term of this Lease, or (ii) made, commenced or incurred after the expiration or termination of this Lease if arising out of events occurring during the term of this Lease.

SECTION 20: MISCELLANEOUS

20.1. Notice. All notices hereunder shall be in writing and shall be delivered personally, by certified or registered mail, or by recognized overnight courier addressed as follows:

To Lessor:

Port of Seattle
Attn: Lease Administration
2711 Alaskan Way
Seattle, WA 98121

For payments only, the following mailing address should be used:

Port of Seattle
P. O. Box 24507
Seattle, WA 98124-0507

To Lessee:

Doug Christensen, President & CEO
Arctic Storm Management Group, LLC
2727 Alaskan Way, Pier 69
Seattle, WA 98121

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices shall be deemed delivered: (i) when personally delivered; (ii) on the third day after mailing when sent by certified or registered mail and the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing; or (iii) on the first business day after deposit with a recognized overnight courier if deposited in time to permit overnight delivery by such courier as determined by its posted cutoff times for receipt of items for overnight delivery to the recipient.

Payments may be made in the manner provided for notice or may be delivered by regular mail (postage prepaid); provided, payments made by regular mail (postage prepaid) shall be deemed delivered when actually received by the Port.

20.2. Brokers. The Port and Lessee each warrant to the other that it has had no discussions, negotiations and/or other dealings with any real estate broker or agent other than Jones Lang LaSalle (Conan Lee) ("Tenant's Broker") in connection with the negotiation of this Lease, and that it knows of no other real estate broker or agent who is or may be entitled to any commission or finder's fee in connection with this Lease. The Port and Lessee each agree to indemnify and hold the other harmless from and against any and all claims, demands, losses, liabilities, lawsuits, judgments, costs and expenses (including without limitation, attorneys' fees and costs) with respect to any leasing commission or equivalent compensation alleged to be owing on account of such party's discussions, negotiations and/or dealings with any real estate broker or agent other than Broker(s). This Section is not intended to benefit any third parties and shall not be deemed to give any rights to brokers or finders. No commission(s) or finder's fee(s) shall be paid to Lessee, employee(s) of Lessee or any unlicensed representative of Lessee. The Port will pay Tenant's Broker pursuant to a separate agreements with such Broker; *provided, however*, the Port's Broker (if any) shall be free (but without obligation, except as separately agreed between the Port's Broker and Lessee's Broker) to share the commission payable to it with Lessee's Broker as the Port's Broker sees fit.

20.3. Consent. Whenever the Port's prior consent or approval is required by this Lease, the same shall not be unreasonably delayed but may, unless otherwise specifically provided by this Lease, be granted or denied in the Port's sole and absolute discretion.

20.4. Wireless Devices. Lessee shall not install any wireless devices and/or transmitters on or about the Premises without the prior written consent of the Port and subject to any and all conditions in such consent. Lessee specifically grants to the Port the power to regulate and control the use of unlicensed frequency bands (including, but not limited to, FCC Part 15 Subpart C, FCC Part 15 Subpart D (both asynchronous and Isochronous), IEEE 802.11 and Bluetooth (ISM), and FCC UNII 1 and UNII 2 (IEEE 802.11a)) on or about the Premises.

20.5. Relationship to the Port and Lessee. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, partnership, or joint venture partners, and no provision contained in this Lease nor any acts of Lessee and the Port shall be deemed to create any relationship other than that of Lessee and the Port.

20.6. Time. Time is of the essence of each and every one of Lessee's obligations, responsibilities and covenants under this Lease.

20.7. Recording. Lessee shall not record this Lease or any memorandum thereof without the Port's prior written consent.

20.8. Subordination, Attornment. Unless otherwise designated by the Port, this Lease shall be subordinate to all existing or future mortgages and deeds of trust on the Premises or any larger property of which the Premises may be a part, and to all extensions, renewals or replacements thereof. Within ten (10) days of the Port's request, Lessee shall execute and deliver all instruments or certificates which may be necessary or appropriate to reflect such subordination. Notwithstanding the foregoing, Lessee shall not be required to subordinate to future mortgages or deeds of trust unless the mortgagee or beneficiary under the deed of trust agrees that if it becomes the owner of the property, it will recognize the Lease as long as Lessee is not in default. Within ten (10) days of the Port's request, Lessee shall also execute and deliver to third parties designated by the Port an estoppel certificate or letter in the form requested by the Port or any lender the correctly recites the facts with respect to the existence, terms and status of this Lease. Lessee agrees to attorn to any successor to the Port following any foreclosure, sale or transfer in lieu thereof.

20.9. Promotion of Port Commerce. Lessee agrees that throughout the term of this Lease it will, insofar as practicable, promote and aid the movement of passengers and freight through facilities within the territorial limits of the Port. Lessee further agrees that all incoming shipments of commodities that it may be able to control or direct shall be made through facilities within the territorial limits of the Port if there will be no resulting cost or time disadvantage to Lessee.

20.10. Nondiscrimination - Services.

20.10.1. It is the basic policy of the Port to provide equal opportunity to the users of all Port services and facilities and all contracting entities. Lessee covenants and agrees that it will not discriminate by segregation or otherwise against any person or persons in furnishing, or by refusing to furnish to such person or persons, the use of the facility herein provided, including any and all services, privileges, accommodations, and activities provided thereby. Specifically, the PORT will not tolerate discrimination against any persons on grounds of age, race, color, national origin/ancestry, ethnicity, religion, disability, Family Medical Leave Act (FMLA) use, pregnancy, sex/gender, sexual orientation, whistleblower status, military affiliation, marital status, workers' compensation use, transgender status, political beliefs, or any other protected status, as guaranteed by local, state and federal laws.

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

20.11. Nondiscrimination – Employment. Lessee covenants and agrees that in all matters pertaining to the performance of this Lease, Lessee shall at all times conduct its business in a manner which assures fair, equal and nondiscriminatory treatment of all persons, in particular:

20.11.1. Lessee will maintain open hiring and employment practices and will welcome applications for employment in all positions from qualified individuals who are members of racial or other minorities, and

20.11.2. Lessee will comply strictly with all requirements of applicable federal, state and local laws or regulations issued pursuant thereto relating to the establishment of nondiscriminatory requirements in hiring and employment practices and assuring the service of all patrons or customers without discrimination.

20.12. Labor Unrest. Lessee agrees to join with the Port and use its best efforts in avoiding labor unrest, or in the event of a wildcat strike or other labor difficulty, to use its good offices in negotiating and bringing to a swift and satisfactory conclusion any kind of labor dispute that may affect the interests of the Port.

20.13. Federal Maritime Commission Regulations. This Lease may be subject to the Shipping Act of 1984, the Shipping Act of 1916, the Ocean Shipping Reform Act of 1998, and their respective implementing regulations. No future amendment or modification to this instrument will be effective until the appropriate procedures, if any, have been completed in accordance with the procedures of the appropriate federal agency which has jurisdiction over the Shipping Acts.

20.14. Joint and Several Liability. Each and every party who signs this Lease, other than in a representative capacity, as Lessee, shall be jointly and severally liable hereunder. It is understood and agreed that for convenience the word "Lessee" and verbs and pronouns in the singular number and neuter gender are uniformly used throughout this Lease, regardless of the number, gender or fact of incorporation of the party who is, or of the parties who are, the actual lessee or lessees under this agreement.

20.15. Captions. The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.

20.16. Governing Law; Venue. This Lease shall be construed under the laws of Washington. Exclusive jurisdiction and venue for any action relating hereto shall be in the state or federal courts located in King County, Washington.

20.17. Attorneys' Fees. In the event that either party shall be required to bring any action to enforce any of the provisions of this Lease, or shall be required to defend any action brought by the other party with respect to this Lease, and in the further event that one party shall substantially prevail in such action, the losing party shall, in addition to all other payments required therein, pay all of the prevailing party's actual costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorneys' fees in the trial court and in any appellate courts.

20.18. Invalidity of Particular Provisions. If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or enforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

20.19. Survival of Indemnities. All indemnities provided in this Lease shall survive the expiration or any earlier termination of this Lease. In any litigation or proceeding within the scope of any indemnity provided in this Lease, Lessee shall, at the Port's option, defend the Port at Lessee's expense by counsel satisfactory to the Port.

20.20. Entire Agreement; Amendments. This Lease, together with any and all exhibits attached hereto, shall constitute the whole agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this agreement shall be valid or effective unless evidenced by an agreement in writing signed by both parties.

20.21. Exhibits. Exhibits A, B, and C are attached to this Lease after the signatures and by this reference incorporated herein.

SECTION 21: SIGNATURES

IN WITNESS WHEREOF the parties hereto have signed this Lease as of the day and year first above written.

PORT OF SEATTLE

ARCTIC STORM MANAGEMENT
GROUP, LLC

By: _____
Its: _____

By: [Signature]
Its: President/CEO

SECTION 22: ACKNOWLEDGMENTS

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this _____ day of _____, 20____, before me personally appeared _____, to me known to be the _____ of the PORT OF SEATTLE, the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

(Signature)

(Print Name)
Notary Public, in and for the State of Washington,
residing at _____
My Commission expires: _____

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

On this 21st day of April, 2022, before me personally appeared Douglas Christensen to me known to be the President of Arctic Storm Management Group, LLC the individual/entity that executed the within and foregoing instrument as Lessee, and acknowledged said instrument to be the free and voluntary act and deed of said individual/entity, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



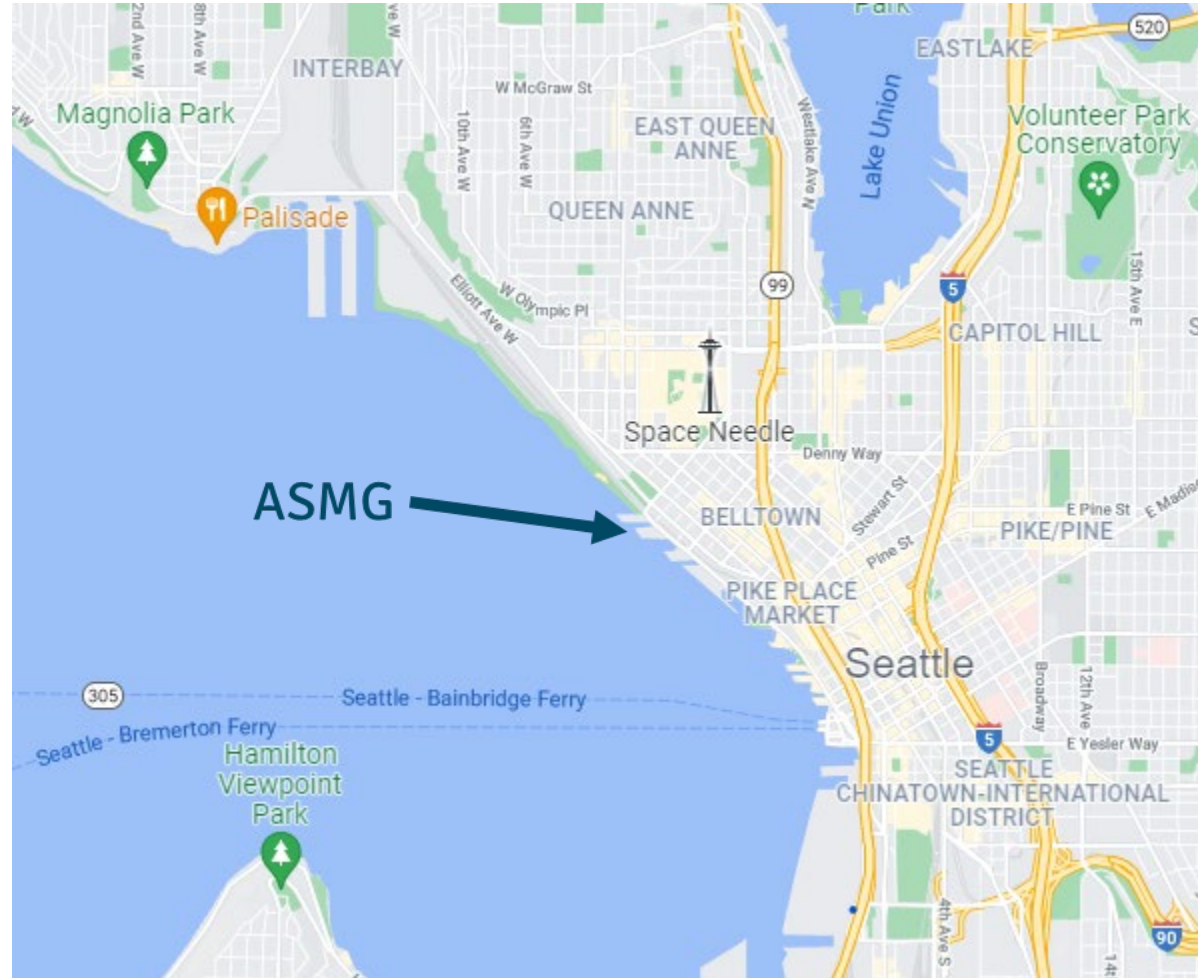
[Signature]
(Signature)
Tracey Drifmeyer
(Print Name)
Notary Public, in and for the State of Washington,
residing at Bugram, WA
My Commission expires: 08/28/23

Item No.	8g supp
Date of Meeting	May 10, 2022

New 5-Year Lease with Arctic Storm Management Group LLC

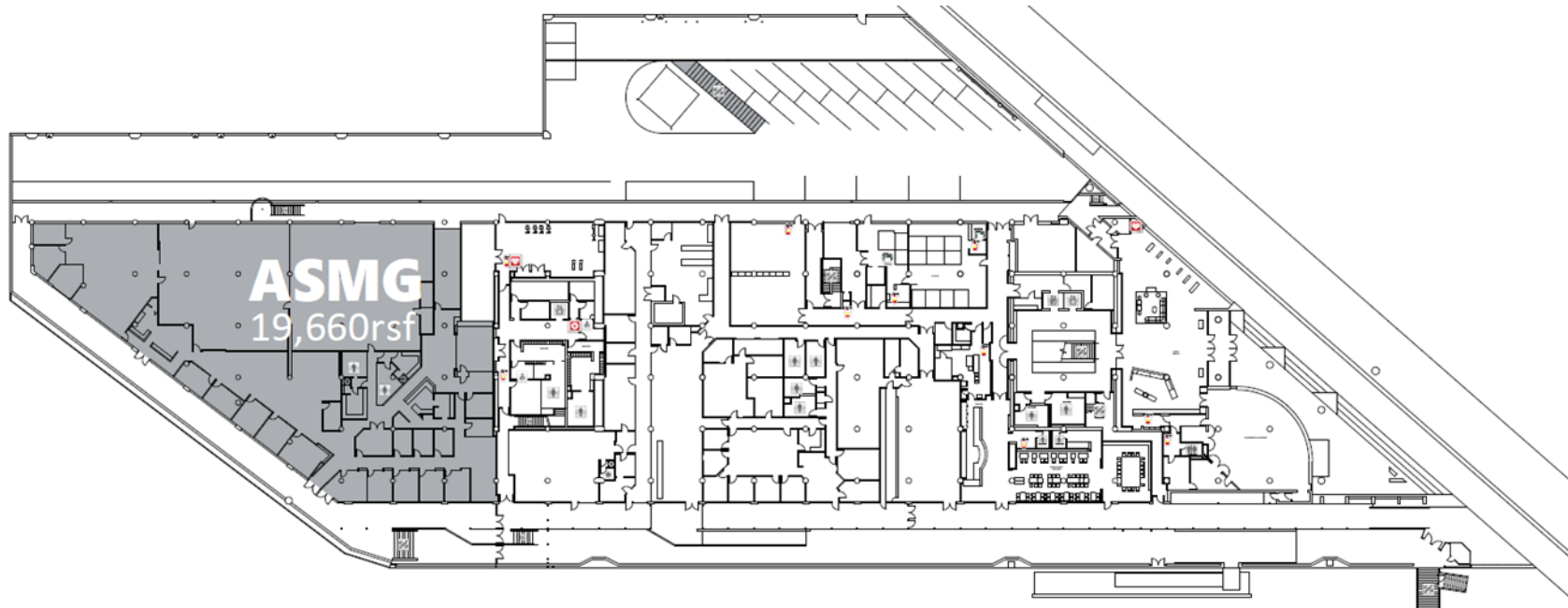
at Pier 69

ASMG Location Map



ASMG Premises

Pier 69 Floor 1



ASMG Lease

Key Terms

Occupancy Status		Renewal
Premises square feet		19,660
Warehouse	10,230	
Office	9,430	
Commencement date		June 1, 2022
Initial Term		60 months
# of Extension Options	1	
Option period	60 months	
Base Rent - 1st Year Blended (\$/sf/yr)		\$14.45
Annual Rent Escalation		3.0%
Abatement		None
Port Funded Expenses		\$216,894
Tenant Improvements	\$141,450	
Tenant Broker Fees	\$75,444	
Security Deposit		\$75,004
RE-2 Calculation	\$79,957	
Security Shortfall	(\$4,953)	

[RETURN TO AGENDA](#)

COMMISSION
AGENDA MEMORANDUM

Item No.

10a

ACTION ITEM

Date of Meeting

May 10, 2022

DATE: March 29, 2022
TO: Stephen P. Metruck, Executive Director
FROM: Jeff Moken, Interim Director Aviation and Business Properties
Steve Kennard, Property Manager

SUBJECT: Introduction of Resolution No. 3802: surplus of remnant parcels

ACTION REQUESTED

Introduction of Resolution No. 3802: A Resolution of the Port of Seattle to amend Unit 18 of the Comprehensive Scheme of Harbor Improvements of the Port of Seattle by: (i) declaring certain real property surplus and no longer needed for Port district purposes; (ii) deleting said property, following a public hearing in accordance with law, from Unit 18 of the Comprehensive Scheme; and (iii) authorizing the Executive Director to take all necessary steps and execute all documents for the sale of such real property to Bridge Point SeaTac 300, LLC

EXECUTIVE SUMMARY

The proposed sale of real property to Bridge Point SeaTac 300, LLC ("Bridge") consists of remnants of four parcels comprising approximately one acre (the "Remnant Parcels"), together with certain street right of way areas adjacent thereto (the "Right of Way Areas"), all located in the City of SeaTac, King County (collectively, the "Property"). This is a briefing for a surplus action and a request for conveyance of the Property by the Port to Bridge.

The Remnant Parcels were acquired by the Port as part of a larger acquisition in the 1970's using FAA funds to mitigate noise impacts on residential property. Most of the acquired properties were conveyed to WSDOT in 2009 for development of the SR 509 extension. WSDOT declined to purchase Port property with parcel boundaries intact and instead purchased only the minimum land area needed for constructing SR 509 thereby creating the Remnant Parcels.

In connection with development of its property, Bridge has sought to quiet title to certain adjacent street right of way areas adjacent to its development site property, including bringing a quiet title action in King County Superior Court, naming the Port as defendant, for the Right of Way Areas.

In addition, WSDOT and Bridge are working on a grading plan to install an engineered slope to resolve elevation differences between the height of the future SR 509 roadbed and Bridge's development site.

May 10, 2022

The Remnant Parcels are required for the siting of this slope. The Port has not identified an aviation related use for the Remnant Parcels.

In order to address Bridge's need for the Remnant Properties and to resolve the quiet title action, Bridge and the Port propose to enter into a transaction under which Bridge will purchase from the Port, for appraised market value, the Property, including the Port's interest in the Right of Way Areas.

In connection with this proposed transaction, Port and Bridge are currently negotiating a purchase and sale agreement, pursuant to which Bridge would purchase the Property for appraised fair market value, and would also grant the Port avigation easements on Bridge Point's development site property, contingent upon the parties obtaining a stipulated order of judgment from the court to legally establish Bridge and the Port's respective ownership of portions of the Right of Way Areas and to finally resolve the Port's involvement in the quiet title action. Staff seeks Commission authorization to complete this proposed purchase and sale transaction, including final negotiation and execution of the purchase and sale agreement between the Port and Bridge.

In order to complete the proposed purchase and sale of the Property, authorization is requested for the Commission to declare, by resolution, that the Property is surplus and no longer needed for Port purposes, and also authorize completion of the sale of the Property to Bridge.

The May 10, 2022 Commission Meeting consists of the first reading of Resolution 3802. Before the Commission takes final action on Resolution 3802, the Port must conduct a public hearing with published notice as required by law. Accordingly, as part of the May 24, 2022 Commission Meeting, for the second reading of Resolution 3802, the Port will conduct a public hearing, with public notice as required by law, to consider whether the Property should be declared no longer needed for port district purposes and surplus to Port needs and the proposed sale of the Property to Bridge.

JUSTIFICATION

Disposal of the Property will reduce the Port's liability and maintenance costs. The Remnant Parcels are landlocked, are a maintenance burden to the Port, and do not support airport operations.

Disposal of the Remnant Parcels will support economic development in the City of SeaTac. Bridge has purchased an unused, fire-damaged school building site adjacent to the Remnant Parcels along with a number of smaller properties and plans to develop a commercial warehouse property on this assemblage. The Bridge project is supported by the City of SeaTac and is expected to increase warehouse

May 10, 2022

and logistics capacity near the airport and reduce unauthorized occupancy of vacant land near Port property.

Disposal of the Remnant Parcels supports the construction of SR 509. WSDOT has identified access to the Remnant Parcels as a requirement for the installation of permanent slope changes for both the SR 509 project and the Bridge's adjacent warehouse development.

As part of the proposed transaction, the Port will receive aviation easements on the Property; will obtain additional aviation easements on other properties in the Bridge development assemblage; and will resolve the quiet title action and ownership of the Right of Way Areas. The Port has obtained an appraisal of the Property and agrees that the valuation is consistent with fair market value.

Scope of Work

Execute conveyance documents.

Schedule

Q2 2022

ALTERNATIVES AND IMPLICATIONS CONSIDERED

The Port's alternative is to refuse to sell the Remnant Parcels. In this scenario the Port will have a perpetual obligation to maintain vacant land that is not suitable for airport use and the Port will have to take legal action to obtain access to the Parcels.

FINANCIAL IMPLICATIONS

The Port will receive market value for the property sold. Funds received through this transaction are anticipated to be reinvested back into the Port's noise mitigation programs.

Area	Square Footage*	Valuation**
Parcel# 768620-0620	17,300	\$276,800
Parcel# 768620-0560	900	\$14,400
Parcel# 768620-0980	4,200	\$67,200
Parcel# 768620-1520	11,200	\$179,200
Total	33,600	\$537,600

* Square footages and valuations may be increased incrementally by the addition of portions of adjacent abandoned City of SeaTac rights of way.

** All values have been reviewed and approved by Port appraiser.

ATTACHMENTS TO THIS REQUEST

- (1) Property Surplus Resolution No. 3802
- (2) Presentation slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

- Resolution 3617, June 9, 2009 WSDOT Land Swap
- Commission Item 6f, June 2, 2009 WSDOT Land Swap

**PORT OF SEATTLE
RESOLUTION NO. 3802**

A RESOLUTION of the Port Commission of the Port of Seattle to amend Unit 18 of the Comprehensive Scheme of Harbor Improvements of the Port of Seattle by: (i) declaring certain real property surplus and no longer needed for Port district purposes; (ii) deleting said property from Unit 18 of the Comprehensive Scheme; and (iii) authorizing the Executive Director to take all necessary steps and execute all documents for the sale of such real property to Bridge Point Seatac 300, LLC.

WHEREAS, the voters of King County, pursuant to the provisions of enabling legislation adopted by the Legislature of the State of Washington, Chapter 92, Laws of 1911, RCW 53.04.010, authorized and approved at a special election held in King County on the 5th day of September 1911, the formation of a port district coextensive with King County to be known as the Port of Seattle; and

WHEREAS, the Port of Seattle (the "Port") was thereupon established as a port district and has since been and now is a duly authorized and acting port district of the State of Washington; and

WHEREAS, the Port of Seattle Port Commission established the Port's Comprehensive Scheme of Harbor Improvements in 1912 by adoption of Resolution No. 17; and

WHEREAS, on November 5, 1946, the Port Commission established Unit 18 of the Comprehensive Scheme by adoption of Resolution No. 1194, which unit has been subsequently amended as provided by law; and

34 **WHEREAS**, included within said Unit 18 is certain Port-owned real property located in
35 the vicinity of 1410 South 200th Street, City of Seatac, King County, State of Washington
36 (portions of Parcel Nos. 7686200620, 7686200560, 7686200980 and 7686201520) (the “Remnant
37 Property”) together with certain street right of way areas adjacent thereto (the “Right of Way
38 Areas”), as legally described on attached Exhibit A (collectively, the “Property”); and

39 **WHEREAS**, the Port retained ownership of the Remnant Properties following a 2008 sale
40 of other Port property to the Washington State Department of Transportation in connection with
41 its planned Highway 509 extension project; and

42 **WHEREAS**, Bridge Point Seatac 300, LLC (“Bridge Point”) owns certain real estate
43 adjacent to the Property and is preparing to commence construction of two distribution and
44 warehouse buildings on its development site property; and

45 **WHEREAS**, Bridge Point brought a quiet title action in King County Superior Court (the
46 “Court”), naming the Port as a defendant, for the purpose of disputing and quieting title to Right
47 of Way Areas (the “Quiet Title Action”); and

48 **WHEREAS**, the Port and Bridge Point have discussed resolving the Quiet Title Action by
49 entering into a transaction under which Bridge Point will purchase from the Port, for appraised fair
50 market value, the Property, including the Port’s interest in the disputed Right of Way Areas which
51 are the subject of the Quiet Title Action (the “Proposed Sale Transaction”); and

52 **WHEREAS**, in connection with the Proposed Sale Transaction, the Port and Bridge are
53 currently negotiating to finalize a purchase and sale agreement, pursuant to which Bridge Point
54 would purchase the Property for appraised fair market value, and would also grant the Port
55 avigation easements on Bridge Point’s development site property, contingent upon the parties
56 obtaining a stipulated order of judgment from the Court to (i) legally establish Bridge Point and

the Port’s respective ownership of portions of the Right of Way Areas and (ii) resolve the Quiet Title Action (the “Purchase and Sale Agreement”); and

WHEREAS, a resolution declaring the Property surplus to port district needs and no longer needed for port district purposes is a prerequisite to sale of the Property to Bridge Point; and

WHEREAS, an official public hearing was held May 24, 2022, after notice of such hearing was duly published as provided by law, to consider whether the Property should be declared no longer needed for port district purposes and surplus to port district needs and the proposed sale of the Property to Bridge Point; and

WHEREAS, the maps and other data regarding the Property are on file at the offices of the Port’s Aviation Properties Division; and

WHEREAS, the Port of Seattle Commission has heard from all persons desiring to speak at the public hearing regarding the proposed surplusing of the Property and sale of the Property to Bridge Point; and

WHEREAS, the members of the Port of Seattle Commission have considered the proposed surplusing of the Property, the proposed sale of the Property to Bridge Point, and any comments by members of the public attending the public hearing.

NOW, THEREFORE, BE IT RESOLVED by the Port Commission of the Port of Seattle that:

Section 1. The Property, described on Exhibit A attached to this Resolution, which is part of Unit 18 of the Comprehensive Scheme, is hereby declared surplus to Port of Seattle needs and no longer needed for Port purposes and deleted from Unit 18 of the Comprehensive Scheme.

Section 2. The Executive Director, or his designee, is authorized to finalize negotiation, prepare and execute all necessary documents, including the Purchase and Sale Agreement, for the Port to sell the Property to Bridge Point for appraised fair market value.

ADOPTED by the Port Commission of the Port of Seattle at a regular meeting thereof, held this ____ day of _____, 2022, and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the seal of the Commission.

Port Commissioners

**EXHIBIT A
TO
RESOLUTION NO. 3802**

Legal Description of Property

THOSE PORTIONS OF THE SOUTHEAST QUARTER AND THE NORTHEAST QUARTER OF SECTION 05, TOWNSHIP 22 NORTH, RANGE 04 EAST, W.M., KING COUNTY, WASHINGTON, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BLOCKS 14 AND 15, SEELEY'S ADDITION TO THE CITY OF DES MOINES "VACATED", ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF PLATS, PAGE 59, IN KING COUNTY, WASHINGTON;

TOGETHER WITH THE EAST HALF OF ALLEY LYING WEST OF THE SOUTH 50 FEET AND THE SOUTH 50 FEET OF THE NORTH 150 FEET OF SAID BLOCK 15, VACATED BY ORDER ENTERED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 85-2-07561-7, RECORDED UNDER RECORDING NUMBER 8508150435 AND ATTACHING THERETO BY OPERATION OF LAW;

AND TOGETHER WITH 14TH AVENUE SOUTH, ADJOINING SAID BLOCKS 14 AND 15, VACATED BY CITY OF SEATAC ORDINANCE NUMBERS 98-1044 AND 96-1011, RECORDED UNDER RECORDING NUMBERS 9904151321 AND 20060614001524, AND ATTACHING THERETO BY OPERATION OF LAW;

AND TOGETHER WITH THE NORTH HALF OF SOUTH 198TH ADJOINING SAID BLOCKS 14 AND 15, VACATED BY ORDER ENTERED IN KING COUNTY SUPERIOR COURT CAUSE NUMBER 85-2-07561-7, RECORDED UNDER RECORDING NUMBER 8508150435 AND VACATED BY CITY OF SEATAC ORDINANCE NUMBER 96-1011, RECORDED UNDER RECORDING NUMBER 20060614001524, AND ATTACHING THERETO BY OPERATION OF LAW.

EXCEPTING THAT PORTION DESCRIBED IN QUIT CLAIM DEED RECORDED UNDER RECORDING NUMBER 20090807001592.

BLOCKS 22 AND 32, SEELEY’S ADDITION TO THE CITY OF DES MOINES
“VACATED”, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 4 OF
PLATS, PAGE 59, IN KING COUNTY, WASHINGTON;

TOGETHER WITH EAST HALF OF 15TH AVENUE SOUTH, ADJOINING SAID BLOCKS
22 AND 32, VACATED BY CITY OF SEATAC ORDINANCE NUMBER 96-1011,
RECORDED UNDER RECORDING NUMBER 20060614001524, AND ATTACHING
THERETO BY OPERATION OF LAW;

AND TOGETHER WITH SOUTH 199TH STREET, ADJOINING SAID BLOCKS 22 AND 32,
VACATED BY CITY OF SEATAC ORDINANCE NUMBERS 98-1044 AND 96-1011,
RECORDED UNDER RECORDING NUMBERS 9904151321 AND 20060614001524, AND
ATTACHING THERETO BY OPERATION OF LAW;

AND TOGETHER WITH THE WEST HALF OF ALLEY, ADJOINING SAID BLOCKS 32,
VACATED BY CITY OF SEATAC ORDINANCE NUMBER 98-1044, RECORDED UNDER
RECORDING NUMBER 990415321, AND ATTACHING THERETO BY OPERATION OF
LAW;

EXCEPTING THAT PORTION DESCRIBED IN QUIT CLAIM DEED RECORDED UNDER
RECORDING NUMBER 20090807001592.

Port of Seattle

Property Surplus and Conveyance in Support of WSDOT SR 509 Extension

Resolution 3802: Surplus of Remnant Parcels
Commission Meeting May 10, 2022

Property Surplus and Conveyance for SR 509

Executive Summary

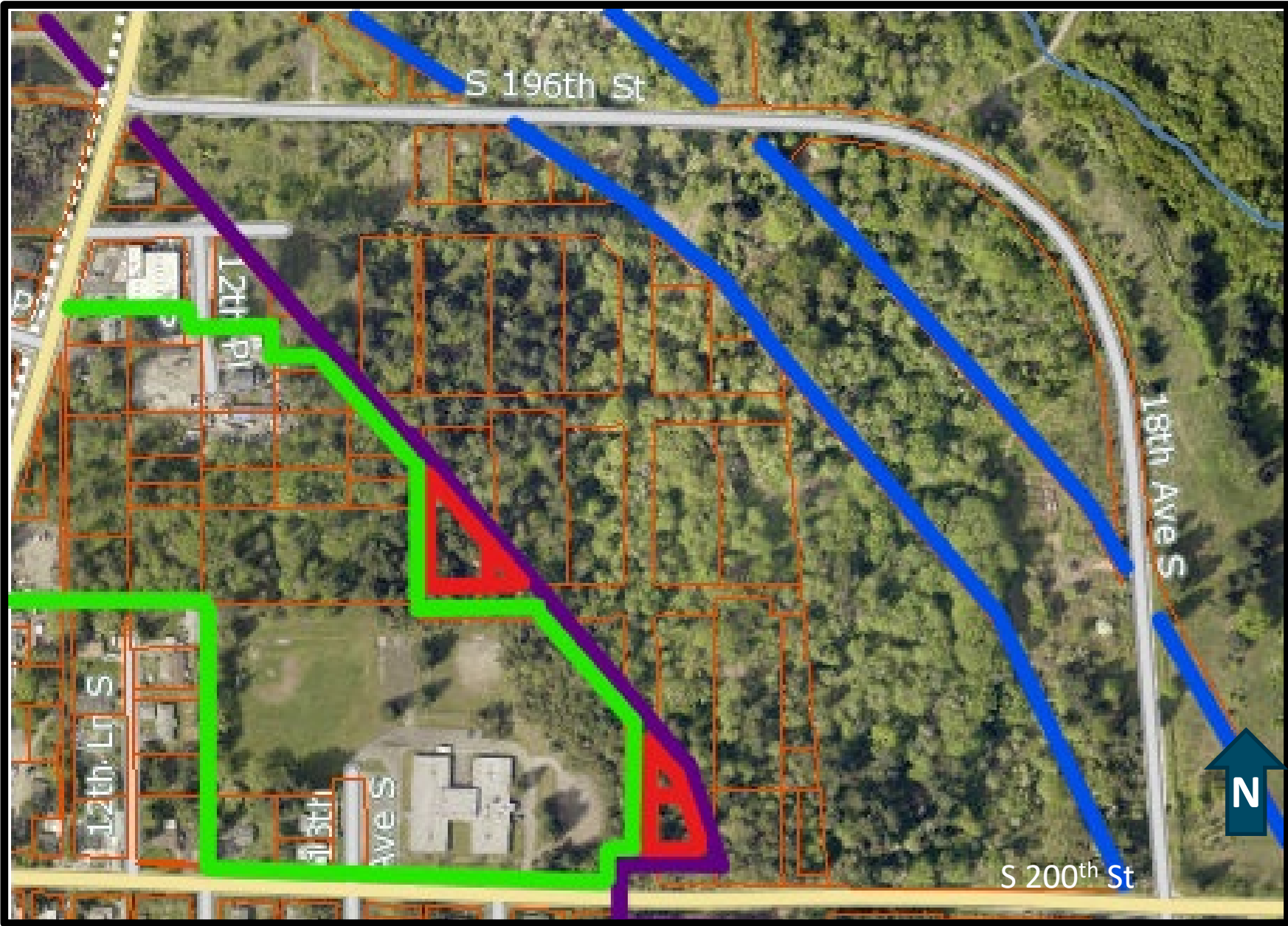
- Subject property (Port owned portions of 4 “**Parcels**”) was purchased with FAA noise funds in 1976.
- Parcels are a remnant after the Port’s 2009 sale of 19.68 of its 20.45 acres in this area as required by WSDOT to enable the extension of SR 509 ROW.
- Bridge Industrial owns land SW of Parcels along the WSDOT SR 509 ROW and is working with WSDOT on a grading plan to manage the grade change between WSDOT’s future roadbed and Bridge’s future warehouse development.
- WSDOT & Bridge seek to include Parcels in the grading plan, Port has no operational or commercial use for Parcels and wishes to convey Parcels to WSDOT or Bridge.

[illegible]



Port Parcels Adjacent Property

- Original SR 509 ROW
- Expanded SR 509 ROW
- Port of Seattle Parcels
- Bridge Point SeaTac, LLC



[RETURN TO AGENDA](#)



**COMMISSION
AGENDA MEMORANDUM**

ACTION ITEM

Item No. 10b

Date of Meeting May 10, 2022

DATE: April 22, 2022

TO: Stephen P. Metruck, Executive Director

FROM: Lily Ninburg, Real Estate Manager, RE Portfolio & Asset Management
Melinda Miller, Director, RE Portfolio & Asset Management

SUBJECT: Surplus and Sale of Terminal 115 Non-Alliance Portion of Property to King County as a Site for Building a Combined Sewer Overflow (CSO) Facility

Amount of this request: \$ sale price of \$2,200,000

Total estimated project cost: \$ NA

ACTION REQUESTED

Request public hearing and introduction of Resolution No. 3803: A resolution of the Port of Seattle Commission authorizing the sale of a portion of the Parcel (#536720-2505) to King County to be used as a site for building a new Combined Sewer Overflow (CSO) facility, and apply Boundary Line Adjustment (BLA) to divide the parcel covering both Alliance and Port of Seattle properties into two parts – the bigger and the majority part to remain with the Alliance, the smaller part (southeast corner of SW Michigan St & 2nd Ave SW) to be sold to King County; and amend the Port's Comprehensive Scheme to delete the smaller part of the Parcel (#536720-2505; BLA pending) from Unit 20 of the Port's Comprehensive Scheme and authorize its sale to King County Wastewater Treatment Division.

EXECUTIVE SUMMARY

King County Wastewater Treatment Division wants to purchase a parcel of Port property known as Terminal 115 SE lot, approximately 58,121 sf of unimproved land, to build a required Combined Sewer Overflow (CSO) facility. Staff has been working on this transaction with King County since 2018. In late 2018, King County commissioned an appraisal done by Bates McKee & Eric McKee. The Port then had Kidder Mathews perform an independent review of the McKee Appraisal. The reviewer agreed with the appraiser's conclusion: \$1,890,000. This price was adjusted to current market rate of \$2,200,000 in April 2022., for the subject unimproved industrial land of 58,121 sf. Given the fair market value purchase offer, the environmental benefits of the project, and the risk of condemnation, we recommend proceeding with surplus and sale of the subject property.

Meeting Date: May 10, 2022

DETAILS

King County Wastewater is one of many sewer utilities across the nation under a consent decree with the Environmental Protection Agency (EPA). In 2013, King County signed an agreement with the U.S. Department of Justice and the EPA. This agreement known as “Consent Decree” requires King County to complete its CSO Control Plan by 2030. This plan contains a list of “Protecting Our Waters” projects with strict timelines. The CSO control project involving construction of a new CSO facility located at SW. Michigan St./ Terminal 115 is required to meet the critical milestone of “construction completion by December 31, 2025 ”. Based on the preliminary designs, the scope of work, and the time needed to construct this CSO facility, King County would like to acquire this property to ensure meeting the goal and strict timelines set by the Federal Consent Decree. If King County cannot purchase this property from the Port in an amicable manner, they will likely use eminent domain to acquire the property.

King County completed an extensive site selection process in 2017 that included careful evaluation of 17 sites. The result of this process identified the T115 Parcel A property (King County’s title for subject property) as the ideal site for the tank because the majority of the sewer overflow volume required is at the W Michigan St. Regulator Station Overflow, which is directly adjacent to the site and outfall, thus limiting conveyance needs while reducing costs and traffic and property impacts. The T115 Parcel A site is also the ideal shape and size, allows gravity flow into the tank, and minimal conveyance. Additionally, it is a large enough site for the tank size needed with room for on-site landscaping and stormwater treatment and allows for adequate access to perform routine maintenance.

The site evaluation considered the following criteria:

- Above grade impacts to the existing site use.
- Property acquisition process and ability to acquire.
- Facility configurations that will fit on the site.
- Distance from the W Michigan St. Regulator Station and subsequent conveyance requirements and potential need to over-size the facility.
- Other considerations such as road closure requirements, construction staging area, shoreline restrictions, and/or potential to drain the storage facility by gravity.

This process was documented in the Site Selection Technical Memorandum and Alternatives Analysis Report for the West Duwamish CSO Control Project dated April 21, 2017, prepared by HDR/King County.

The purpose of the Combined Sewer Overflow storage tank at the T115 Parcel A location is to control the number of sewage spills from two outfalls (“West Michigan” and “T115”) directly into the Duwamish River, to fewer than one occurrence per year. Reducing uncontrolled sewage spills has significant water quality benefits, including the prevention of debris (including plastics), biodegradable solids, other pollutants and bacteria from entering the Duwamish River. The tank

Meeting Date: May 10, 2022

location was chosen due to the appropriate size of the parcel and its proximity to an existing wastewater force main and the West Michigan outfall.

The parcel (#536720-2505) covers what is known as Terminal 115. With the formation of Northwest Seaport Alliance in 2013-2014, the majority of Terminal 115 was assigned to the Northwest Seaport Alliance except for a small area we call T115 SE Corner Lot which is separated from the larger T-115 site a by right-of-way, immediately south of 2nd Ave SW.

The Port of Seattle has been leasing this smaller area (T115 SE Corner Lot) for the past few years. The current tenant is American Best Trucking. On multiple occasions Port staff has clearly communicated with American Best Trucking about King County's intent to purchase this lot for the federally required CSO since late 2018. The company has also signed onto multiple agreements with the Port and King County for site access needed for the County's site investigative work. In this context, we have been very clear with the company that we would not be able to renew a long-term lease and that eventually the company would need to relocate.

Given the small size and location of this property, the Port of Seattle does not view it as critical to their current or future operations. Thus, there is no compelling need for the Port to retain ownership of this property.

Kidder Mathews, at the Port's request, provided an independent review of the McKee Appraisal of the subject property in 2018. The reviewer's conclusion of the value of the subject property agrees with the appraiser's conclusion: \$1,890,000 for the unimproved industrial land of 58,121 sf located on the corner of SW Michigan St. and 2nd Ave SW. In April 2022, the sale price was adjusted to current market by applying a 15% increase to a total of \$2,200,000.

The Port and King County have reached an agreement on the substantially agreed-upon version of the Purchase and Sale Agreement which has gone through multiple rounds of internal review.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Status Quo. Do not sell. Retain Port's ownership of subject property.

Cost Estimate: \$0. No cost to Port.

Pros:

- 1) Continue to bring in yard lease revenue of just over \$105K a year.
- 2) Possibly serve as a site for future redevelopment opportunities.

Cons:

- 1) Creates a challenging situation for King County in meeting and fulfilling its federally mandated goals and milestones for CSO facilities.

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- 2) If fee simple purchase approach, somehow, doesn't materialize, King County still has the option of following acquisition process per eminent domain statutes and have the Port transfer ownership to King County for the purpose of constructing a CSO facility benefiting the general public.
- 3) Would lose an opportunity to use sale revenue to fund other Port asset enhancement projects that align strategically with the Port's Century Agenda's missions and visions.

This is not the recommended alternative.

Alternative 2 – Retain ownership of a portion of the property where the subterranean holding tank will be constructed and sell the portion where above-ground level structures will be built.

Cost Estimate: Cost of separating the space between Port and King County and clarifying the maintenance and repair responsibilities, risks and liabilities associated with the lot are difficult to quantify

Pros:

- 1) May be able to continue leasing a portion out for certain uses barring highly constrained weight and other structural and unforeseen limits and restrictions.
- 2) Possibly redevelop the portion in the future per market needs and trends.

Cons:

- 1) Restrictions on weight and other unforeseen elements for above ground use could create challenges in leasing and redeveloping the above ground space.
- 2) Risks and liabilities between underground tank and above ground Port use could be hard to define and delineate, thus creating complications and higher costs for future management, maintenance and repair responsibilities.

This is not the recommended alternative.

Alternative 3– RECOMMENDED: Sell at market value to King County.

Cost Estimate: \$0. No cost to Port.

Pros:

- 1) Sell to King County at fair market value and bring in net sale revenue for funding other projects and enhancing asset values of other Port properties critical to its growth and Century Agenda goals.
- 2) Cooperate and assist with King County as a public entity in fulfilling its goal and milestones set by the Federal Consent Decree, thus indirectly contributing to and facilitating the

Meeting Date: May 10, 2022

construction of CSO facility that reduces uncontrolled sewage spills, pollutants and bacteria from entering the Duwamish River while also benefiting the communities that the Port serves.

- 3) Avoids the complicated and expensive process of eminent domain should King County choose to condemn the site for public use.
- 4) Surplus the subject property that's not deemed critical to the Port's future business growth strategies aligned with the overall Century Agenda missions and visions.

Cons:

- 1) Loss of a property that is currently generating some rent revenue with little maintenance and repair cost to the Port.
- 2) Loss of a property that may potentially become a redevelopment site.

This is the recommended alternative.

Financial Summary:

- 1) No cost to the Port other than typical transaction costs involved in sale of a property.
- 2) Net revenue of \$2.2M at fair market value for unimproved land compared to an annual rent revenue of about \$105K with minimal operating expense.

ATTACHMENTS TO THIS REQUEST

- 1) Draft Resolution No. 3803
- 2) Substantially Agreed-upon Draft Purchase and Sale Agreement (PSA)
- 3) Property Map
- 4) Presentation

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

None.

REAL ESTATE PURCHASE AND SALE AGREEMENT

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered by and between the **PORT OF SEATTLE**, a municipal corporation of the State of Washington (the “Seller”) and **KING COUNTY**, a political subdivision of the State of Washington (the “Buyer”). Seller and Buyer are also referred to herein individually as a “Party” or collectively as “Parties.” This Agreement shall be effective as of the date it has been executed by both Parties (“Effective Date”).

RECITALS

A. Seller is the owner of that certain real property located at 6000 W. Marginal Way SW, King County, State of Washington, the legal description of which is attached hereto as **EXHIBIT A** (collectively, the “Real Property”).

B. Seller desires to sell the Real Property and Buyer desires to purchase the Real Property.

C. The Real Property is for the West Duwamish Combined Sewer Overflow Control Project (the “Project”), which Project is subject to review under the State Environmental Policy Act, Chapter 43.21C of the Revised Code of Washington (“RCW”) (“SEPA”). Nothing in this Agreement is intended to limit King County's SEPA authority.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, and other valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties hereto covenant and agree as follows:

ARTICLE 1. PURCHASE AND TRANSFER OF ASSETS

1.1. PROPERTY TO BE SOLD. Subject to the terms and conditions of this Agreement, Seller shall sell and convey to Buyer on the Closing Date (as hereinafter defined) and Buyer shall buy and accept from Seller on the Closing Date the following assets and properties:

1.1.1. all of Seller’s right, title and interest in the Real Property as legally described in **EXHIBIT A**;

1.1.2. all of Seller’s right, title and interest in improvements and structures located on the Real Property, if any; and

1.1.3. all of Seller's easements and other rights that are appurtenant to the Real Property including but not limited to, Seller's right, title, and interest in and to, to the extent appurtenant to the Real Property, streets, alleys or other public ways adjacent to the Real Property, sewers and service drainage easements, rights of connection to the sewers, rights of ingress and egress and, to the extent transferable, licenses, government approvals and permits pertaining to the Real Property, and all Seller's right, title and interest in and to any plans, drawings, surveys, and warranty right related to the Real Property.

Hereinafter, the items listed in Section 1.1 are collectively referred to as the "Property."

1.1.4 REQUIRED SHORT SUBDIVISION. The Real Property is part of a larger parcel of real property, referred to as #5367202505. Buyer desires to purchase and Seller desires to sell the Property only on the condition that the Real Property can be lawfully divided from the larger parcel #5367202505 as a separate lot, to allow lawful conveyance of the Real Property to the Buyer, as set forth in Section 5.3 below.

ARTICLE 2. PURCHASE PRICE

2.1. PURCHASE PRICE AND PAYMENT. In consideration of the conveyance of the Property, Buyer shall, in full payment therefore, pay in cash to Seller on the Closing Date a total purchase price of **Two Million Two Hundred Thousand and No/100 Dollars (\$2,200,000)** (the "Purchase Price").

2.2. ESCROW HOLDER. Rainier Title Company ("Escrow Agent" in its capacity as escrow holder and "Title Company" in its capacity as title insurer) has been designated as Escrow Agent hereunder by mutual agreement of Buyer and Seller. Upon mutual execution of this Agreement by the Parties Escrow Agent shall open a closing escrow in accordance with the terms of this Agreement.

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF THE PARTIES AND CONDITION OF PROPERTY

3.1. WARRANTIES, REPRESENTATIONS AND COVENANTS OF SELLER. As of the date hereof and as of the Closing Date, Seller represents and warrants as follows:

3.1.1. ORGANIZATION. The Seller is a **municipal corporation of the State of Washington** duly organized, validly existing and in good standing under the laws of the State of Washington. Seller has all requisite power and authority to carry on its business as it is now being conducted in the place where such businesses are now conducted.

3.1.2. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT,

AUTHORITY. The execution, delivery and performance of this Agreement by Seller (i) is within the powers of Seller as a **municipal corporation**, and (ii) has been or will be on or before the Closing Date, duly authorized by all necessary action of the Seller's governing authority. This Agreement constitutes the legal, valid and binding obligation of Seller enforceable against Seller in accordance with the terms herein.

3.1.3. NO BROKER. No broker, finder, agent or similar intermediary has acted for or on behalf of Seller in connection with this Agreement or the transactions contemplated hereby, and no other broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement or understanding to act for or on behalf of Seller.

3.1.4. NO LITIGATION. Other than as disclosed by Seller to Buyer prior to expiration of the Due Diligence Period, there is no pending, or to Seller's knowledge, threatened claim, lawsuit, litigation, arbitration, investigation or other proceeding pertaining to the Property or any part thereof. There is no pending or, to the best of Seller's knowledge, threatened condemnation or similar proceeding pertaining to the Property or any part thereof.

3.1.5. NO VIOLATIONS. Other than as disclosed by Seller to Buyer prior to expiration of the Due Diligence Period, no governmental entity with jurisdiction or other person or entity has asserted, or to Seller's knowledge, has threatened to assert that the Property or any part thereof is in violation of any applicable legal requirement. To the best of Seller's knowledge, Seller has all certificates of occupancy, permits, and other governmental consents necessary to own and operate the Property for its current use.

3.1.6. CONDITION OF PROPERTY. Other than as disclosed by Seller to Buyer prior to expiration of the Due Diligence Period, to the best of Seller's knowledge, (i) there has been no generation, treatment, storage, transfer, disposal or release of Hazardous Materials, (as defined in **EXHIBIT C**, attached hereto and incorporated herein by this reference), on, in, under or emanating from the Property; and (ii) there are or have been no underground storage tanks on the Property and no underground storage tanks have been removed from the Property. Other than as disclosed by Seller to Buyer prior to expiration of the Due Diligence Period, Seller represents and warrants, to the best of Seller's knowledge, that all operations or activities upon and all use or occupancy of the Property or any portion thereof, by Seller is in compliance with all state, federal and local Environmental Laws (as defined in **EXHIBIT C**) and all regulations governing or in any way related to the generation, handling, storage, use, transportation, discharge, or disposal (whether legal or illegal, accidental or intentional) of any Hazardous Materials (as defined in **EXHIBIT C**). Other than as disclosed by Seller to Buyer prior to expiration of the Due Diligence Period, Seller has not received notice of any proceedings, claims or lawsuits arising out of its or any tenant of the Property's operations on the Property.

3.1.7. NO CONTRACTS. Except for the Permitted Exceptions (defined below), and other than the Administrative Order (as defined below), there are (or as of Closing there will be) no contracts, agreements or other arrangements under which Seller is obligated to sell, exchange, transfer, lease, rent or allow the use of the Property or any part thereof now or in the future, or under which any person or entity has the right to possess or occupy the Property or any part thereof now or in the future.

3.1.8. FUTURE AGREEMENTS. Except as otherwise set forth herein, and other than the Administrative Order, from and after the Effective Date unless this Agreement is terminated in accordance with its terms Seller shall not without the prior written consent of Buyer:

(a) enter into any agreement, contract, commitment, lease or other transaction that affects the Property in any way (other than short term use by license or lease terminable by Seller prior to Closing); or

(b) sell, dispose of or encumber any portion of the Property.

3.1.9. MAINTENANCE OF PROPERTY. Seller shall continue to maintain the Property in its current condition, normal wear and tear expected, and in compliance with all applicable laws and to pay all costs of the Property between the Effective Date and Closing.

3.1.10. FOREIGN PERSON. Seller is not a foreign person and is a “United States Person” as such term is defined in Section 7701 (a) (30) of the Internal Revenue Code of 1986, as amended and shall deliver to Buyer prior to the Closing an affidavit, as set forth in **EXHIBIT E**, evidencing such fact, and such other documents as may be required under the Code.

3.1.11. LEASES. Seller warrants and represents that there are (or as of Closing there will be) no existing leases, tenancies, options, purchase rights, or rights of persons in possession of the Property.

3.1.12 LIMITATION ON SELLER’S REPRESENTATIONS AND WARRANTIES. BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN SECTION 3.1 OF THIS AGREEMENT OR IN THE DEED, NEITHER SELLER NOR ANY OF ITS AGENTS OR REPRESENTATIVES HAVE MADE ANY REPRESENTATION OR WARRANTY WHATSOEVER WITH RESPECT TO THE PROPERTY OR ANY PORTION THEREOF. BUYER ACKNOWLEDGES AND AGREES THAT BUYER IS NOT RELYING ON ANY STATEMENT MADE OR INFORMATION PROVIDED TO BUYER BY SELLER OR ANY OF AGENTS OR REPRESENTATIVES, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY MADE BY SELLER IN SECTION 3.1 OF THIS AGREEMENT OR IN THE DEED.

Buyer’s Initials: _____

3.2. REPRESENTATIONS, WARRANTIES AND COVENANTS OF BUYER. As of the date hereof and, as of the Closing Date, Buyer represents and warrants as follows:

3.2.1. ORGANIZATION. Buyer is a political subdivision of the State of Washington, duly organized, validly existing and in good standing under the laws of the State of Washington.

3.2.2. EXECUTION, DELIVERY AND PERFORMANCE OF AGREEMENT, AUTHORITY. The execution, delivery and performance of this Agreement by Buyer has been or will be on or before the Closing Date, duly authorized by all necessary action of the Buyer’s governing authority. This Agreement constitutes the legal, valid and binding obligation of Buyer

enforceable against Buyer in accordance with the terms hereof.

3.2.3. NO BROKER. No broker, finder, agent or similar intermediary has acted for or on behalf of Buyer in connection with this Agreement or the transactions contemplated hereby, and no other broker, finder, agent or similar intermediary is entitled to any broker's, finder's or similar fee or commission in connection with this Agreement based on an agreement, arrangement or understanding to act for or on behalf of Buyer.

3.3. RISK OF LOSS. Until the Closing, the risk of loss relating to the Property shall rest with the Seller. Risk of Loss shall be deemed to include any property damage occurring as a result of an "Act of God," including, but not limited to, fire, earthquakes, tremors, wind, rain or other natural occurrences ("Casualty"). If the Property is destroyed or damaged by Casualty prior to Closing Buyer may terminate this Agreement, or alternatively, Buyer may elect to proceed with Closing, in which case Seller shall deliver to Buyer, on the Closing Date, any proceeds actually received by Seller in connection with such casualty, or assign to Buyer, on the Closing, all of Seller's right, title and interest in any claim to proceeds of any insurance covering such damage (provided that in no event shall Buyer be entitled to receive payment or assignment of such proceeds in an amount greater than the Purchase Price). Buyer shall make its election under this Section 3.3 by written notice to Seller within fifteen (15) business days from Buyer learning of a Casualty and the Closing Date will be extended for the period of time necessary to allow Buyer to make its election; provided that, if Buyer fails to timely deliver such notice to Seller within said 15 business days, Buyer shall be deemed to have elected to terminate this Agreement.

ARTICLE 4. TITLE MATTERS

4.1. CONVEYANCE. Seller shall convey to Buyer the title to the Real Property by Bargain and Sale Deed in substantially the form attached hereto as **EXHIBIT B** (the "Deed"), subject only to the Permitted Exceptions (as defined below), the lien of current real property taxes, fees and/or charges not yet due and payable, rights reserved in federal patents or state deeds, and building or use restrictions general to the governing jurisdiction.

4.2. TITLE COMMITMENT. Seller shall within fifteen (15) business days after the Effective Date obtain and provide to Buyer a preliminary commitment for an owner's standard coverage policy of title insurance (the "Title Commitment") issued by the Title Company, describing the Property, listing Buyer as the prospective named insured and showing as the policy amount the total Purchase Price for the Property. At such time as the Title Company causes the Title Commitment to be furnished to Buyer, the Title Company shall further cause to be furnished to both Seller and Buyer legible copies of all instruments referred to in the Title Commitment as restrictions or exceptions to title to the Property. If Buyer desires extended title insurance and the Title Company requires preparation of an ALTA survey ("Survey"), Buyer shall arrange for procurement of such extended coverage title insurance and any required Survey at Buyer's sole cost and expense.

4.3. REVIEW OF TITLE COMMITMENT. Buyer shall have until sixty (60) days after it has received the Title Commitment (or if Buyer or the Title Company requires a Survey, Title Commitment and Survey (the "Review Period") in which to notify Seller in writing of any

objections Buyer has to any matters shown or referred to in the Title Commitment or Survey (“Buyer’s Objections”). Any exceptions or other items that are set forth in the Title Commitment or Survey and to which Buyer does not object within the Review Period shall be deemed to be permitted exceptions (“Permitted Exceptions”). With regard to items to which Buyer does object within the Review Period, Seller shall notify Buyer within fifteen (15) days after Seller receives Buyer’s Objections of any exceptions to title which Seller will not remove or otherwise resolve (“Seller’s Response”), and Buyer may, at Buyer’s option, either proceed to Closing and thereby waive the Buyer’s Objections not cured, in which case such exceptions to title shall be deemed and shall be included as Permitted Exceptions, or Buyer may terminate this Agreement by notice to Seller within ten (10) days after receipt of Seller’s Response. If the Title Company issues a supplement to the Title Commitment or Survey that identifies new exceptions, the procedure set forth in this Section 4.3 shall apply to such supplement, except that Buyer will have ten (10) days to make Buyer’s Objections to any new exception, Seller shall have seven (7) days to provide Seller’s Response, Buyer shall have ten (10) days to either terminate this Agreement by notice to Seller or proceed to Closing and thereby waive the Buyer’s Objections to the new exceptions not cured, in which case such exceptions to title shall be deemed and shall be included as Permitted Exceptions. The Closing Date will be extended for the period necessary to allow the procedures set forth herein to be completed with regard to a timely objection.

4.4. OWNER’S TITLE INSURANCE POLICY. At the Closing, Seller shall cause an owner’s ALTA policy of standard coverage title insurance to be issued by the Title Company in the full amount of the purchase price, effective as of the Closing Date, insuring Buyer that the fee simple title to the Property is vested in Buyer, subject only to the Permitted Exceptions, the lien of current real property taxes, fees and/or charges not yet due and payable, rights reserved in federal patents or state deeds, and building or use restrictions general to the governing jurisdiction (“Title Policy”). The obligation of Seller to provide the Title Policy called for herein shall be satisfied if, at the Closing, the Title Company has given a binding commitment, in a form reasonably satisfactory to Buyer, to issue the policy in the form required by this Section. Seller shall pay any sum owing to the Title Company for the preliminary and binding Title Commitments and the premium for the Title Policy for issuance of standard coverage and Buyer shall pay the cost of the Survey, if any, any endorsements requested by Buyer and any additional premium required for issuance of extended coverage under the Title Policy.

ARTICLE 5. CONTINGENCIES

5.1. DUE DILIGENCE INSPECTION AND FEASIBILITY. Buyer’s purchase of the Property is expressly contingent upon Buyer’s review and approval, in Buyer’s sole and absolute discretion, that the Property is suitable for Buyer’s intended use, including geotechnical analyses and environmental inspection and assessment pursuant to Section 5.1.1 below (“Due Diligence Contingency”). If Buyer is not satisfied with the condition of the Property, its inspection and testing pursuant to Section 5.1.1. below, Buyer may terminate this Agreement by delivering written notice of termination to Seller within three hundred and thirty (330) days after the Effective Date (“Due Diligence Period”). In such event this Agreement shall terminate, and the Parties shall have no further obligations hereunder. Absent Buyer’s timely delivery of such termination notice, the Due Diligence Contingency shall be deemed waived by Buyer and the Parties shall proceed to Closing, subject to all terms and conditions of this Agreement.

5.1.1. INSPECTIONS AND ENVIRONMENTAL CONTINGENCY. During the Due Diligence Period, and as part of its due diligence review pursuant to this Article 5, Buyer, its designated representatives or agents shall have the right, as limited herein, at its own expense to (a) perform any and all tests, inspections, studies, surveys or appraisals of the Property on any subject deemed appropriate by Buyer; (b) conduct its own Phase I and/or Phase II Environmental Assessment or focused remedial investigation (RI) on the Property, and perform any and all related tests, inspections and studies deemed appropriate by Buyer; (c) examine all Due Diligence Materials (defined below) related to the Property that Buyer may reasonably request from Seller; (d) determine to its satisfaction whether approvals, permits and variances can be obtained under applicable land use and zoning codes for Buyer's intended use or development of the property; and (e) determine whether Buyer's intended use or development of the Property is feasible. Prior to conducting any inspection work on the Property, Buyer shall provide a written investigation work plan to Seller for Seller's review and approval. Buyer's access to the Property shall be contingent on Seller's approval of Buyer's investigation work plan. Seller shall review the investigation work plan and respond within three (3) business days of receipt; approval shall not be unreasonably withheld. Buyer shall subsequently provide to Seller a copy of the data, sampling results, written reports, or other information generated as part of its investigation, including but not limited to data and reports that are submitted to the Washington Department of Ecology ("Ecology"), contemporaneous to its submission to Ecology. In the event Buyer needs a reasonable period of additional time following the Due Diligence Period to finish planned investigative work, Buyer may request a Due Diligence Period extension no more than five (5) days prior to expiration of the Due Diligence period. Any extension will be at the discretion of the Seller.

5.1.2. DUE DILIGENCE MATERIALS. Seller shall provide all documents and materials in Seller's possession or control, if any, related to the Property reasonably requested by Buyer ("Due Diligence Materials"). Seller shall exercise commercially reasonable efforts to deliver to Buyer copies of Due Diligence Materials related to the Property within five (5) days of receiving a written request for such materials from Buyer. In addition, within fifteen (15) days of the Effective Date Seller will deliver to Buyer copies of the following Due Diligence Materials, if any:

- (a) Operating expenses reports;
- (b) Phase I and II and all available environmental/soils reports; all final reports, data, assessments or other documents related in any way to the environmental condition of the Property or possible contamination on the Property, except documents which are attorney-client privileged or otherwise confidential. This includes, but is not limited to all documents related to any review or examination of the Property associated with Department of Ecology Agreed Order No. DE 8099;
- (c) CC&R's;
- (d) Permit and zoning reviews;
- (e) Three year (3) historical operating and capital budgets;
- (f) Debt and/or equity financing documentation;
- (g) Vendor or service contracts;
- (h) Reports of repairs for the last 5 years;
- (j) Plans and permits for capital and other improvements during ownership;

- (k) Existing surveys, title materials, engineering and environmental studies and any other existing studies and reports;
- (l) Original building plans, site improvement plans, and as-builts;
- (m) Leases or similar rental agreements currently in effect; and
- (n) All material documents regarding the operation and condition of the Property.

Documents and materials described above in item (b) are referred to collectively herein as the “Environmental Reports.”

5.1.3. ACCESS TO PERSONNEL. During the Due Diligence Period Seller shall provide Buyer with reasonable access to Seller’s outside consultants and personnel with knowledge of the Property, including entitlements and zoning.

5.1.4. RIGHT OF ENTRY. Buyer and Buyer’s designated representatives or agents, including contractors, shall have the right and Seller hereby grants to Buyer and Buyer’s designated representatives the right to enter the Property and conduct tests, investigations and studies set forth in the access agreement provided in Exhibit F; provided that such right of entry will be limited to those times and dates that will not disrupt Seller’s use of, or Seller’s operations and activities on the Property, and in compliance with and subject to the terms and conditions of the access agreement provided in Exhibit F, as may be amended by written agreement of both Parties. In connection with any such inspections and tests, Buyer agrees to hold harmless, indemnify and defend Seller, its officers, agents and employees, from and against all claims, losses, or liability for (i) injuries, sickness or death of persons, including employees of Buyer or (ii) damage or loss of any property, including cleanup of any discharges or release of Hazardous Materials ((i) and (ii) collectively, “Claims”) caused by or arising out of any act, error or omission of Buyer, its officers, agents, contractors or employees in entering the Property for the above purposes, except to the extent the Claims are caused by or arise out of any act, error or omission of Seller, its officers, agents, contractors, employees or tenants.

5.2 DISCLOSURE STATEMENT. Buyer hereby waives the right to receive a disclosure statement (a “Disclosure Statement”) if required by RCW 64.06. RCW 64.06 provides that a purchaser may waive its right to receive a Disclosure Statement; provided, however, if the answer to any of the questions in the section of the Disclosure Statement entitled “Environmental” would be “yes,” receipt of the “Environmental” section of the Disclosure Statement may not be waived. By executing this Agreement, Buyer acknowledges that it has received the “Environmental” section of the Disclosure Statement attached hereto as **EXHIBIT D**. Buyer waives its right to receive the balance of the Disclosure Statement. Buyer hereby waives any right to receive an updated or revised Disclosure Statement, regardless of the source of any new information. Buyer further warrants that it is a sophisticated purchaser who is familiar with the ownership and development of real estate projects similar to the property it is acquiring and that it has or will have adequate opportunity to complete such independent inspections of such property as it deems necessary, and will acquire such property solely on the basis of and in reliance upon such examinations and not on any information provided in any Disclosure Statement or otherwise provided or to be provided by the other party.

BUYER HEREBY WAIVES, TO THE FULLEST EXTENT PERMISSIBLE BY LAW, THE RIGHT TO RESCIND THIS AGREEMENT PURSUANT TO ANY PROVISION OF RCW 64.06. IT IS THE INTENT OF BUYER THAT ANY DISCLOSURE STATEMENT PROVIDED BY SELLER WILL NOT BE RELIED UPON BY BUYER AND SHALL GIVE BUYER NO RIGHTS WITH RESPECT TO SELLER OR UNDER THIS AGREEMENT. THIS WAIVER OF THE RIGHT TO RESCIND APPLIES TO THE DISCLOSURE STATEMENT PROVIDED BEFORE, ON OR AFTER THE DATE OF THIS AGREEMENT AND APPLIES PROSPECTIVELY TO ANY UPDATED OR REVISED DISCLOSURE STATEMENTS THAT MAY BE PROVIDED BY SELLER TO BUYER.

Buyer's Initials: _____

5.3. SHORT SUBDIVISION. The Property shall have been lawfully divided from the larger parcel #5367202505 to allow lawful conveyance of the Property. On or before execution of this Agreement, Buyer has or will prepare the necessary survey, legal descriptions, drawings and other documentation for submittal of an application to the City of Seattle (the "City") for a short subdivision to establish two separate lots comprised of (i) the Real Property and (ii) the remainder of the larger parcel #5367202505 (the "Short Subdivision"). Buyer will provide Seller the Short Subdivision application materials, including the legal descriptions for the two lots, for Seller's written approval prior to submittal to the City, and upon such approval Seller and Buyer will each be mutually responsible for and shall cooperate and seek the City's approval of the Short Subdivision. Upon final approval of the Short Subdivision by the City, the Parties will cause the legal description for the Real Property, if modified, to be appended to this Agreement as amended Exhibit A. The Parties will further cooperate to submit an application with King County for segregation and assignment of separate tax parcel identification numbers for the resulting two divided lots.

The Parties acknowledge that, although both Parties will cooperate and excise good faith to obtain approval of the Short Subdivision, neither Party can control the timing for review or decision by the City regarding the Short Subdivision application, including the possible requirement by the City that the Real Property be divided by formal subdivision of the Property. Buyer's obligation to purchase, and Seller's obligation to sell, the Property is subject to lawful division of the Property in form and substance satisfactory to both Parties, in each Party's respective sole and absolute discretion; provided, that upon the City's issuance of final approval of the Short Subdivision materials for recording, Buyer and Seller shall each provide written notice to the other party waiving this Short Subdivision contingency, or terminating the Agreement. If the Short Subdivision has not been approved by the City on or before seven hundred and twenty (720) days after the Effective Date, unless otherwise agreed in writing by both Seller and Buyer, either party shall have the right to terminate this Agreement by written notice to the other Party, in which event the Parties shall have no further obligations hereunder.

5.4 ECOLOGY PROSPECTIVE PURCHASER AGREEMENT OR CONSENT DECREE ENTERED IN COURT. The Property is included within the boundary of a proposed site ("Site") for investigation and remedial action pursuant to the Model Toxics Control Act ("MTCA") under Agreed Order No. DE 18064, in re the Matter of Remedial Action by the Port of Seattle and The Boeing Company issued by the Washington Department of Ecology ("Ecology") pursuant to RCW

70.105D.050(1) (“Administrative Order”). Buyer desires to purchase and Seller desires to sell the Property only on the condition that before Closing the Buyer obtains from Ecology a Prospective Purchaser Agreement or a Prospective Purchaser Consent Decree regarding the Property in a form and with terms consistent with this Agreement and acceptable to the Buyer, in the Buyer’s sole discretion, which is filed with and approved by a court of competent jurisdiction. Buyer’s obligation to purchase, and Seller’s obligation to sell, the Property is subject to Buyer’s procurement of the Prospective Purchaser Agreement or a Prospective Purchaser Consent Decree filed with and approved by a court of competent jurisdiction (the “Prospective Purchaser Contingency”). On or before seven hundred and twenty (720) days after the Effective Date, Buyer shall provide Seller written notice that the Prospective Purchaser Contingency is satisfied or waived (the “Prospective Purchaser Contingency Notice”). If Buyer fails to timely deliver the Prospective Purchaser Contingency Notice, Seller shall have the right to terminate this Agreement by written notice to the Buyer, in which event the Parties shall have no further obligations hereunder.

5.5 “AS IS” CONDITION. BUYER ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE SPECIFIC REPRESENTATIONS AND WARRANTIES BY SELLER SET FORTH IN SECTION 3.1 OF THIS AGREEMENT, AND THE DEED, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO (a) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH BUYER MAY CONDUCT THEREON, INCLUDING THE POSSIBILITIES FOR FUTURE DEVELOPMENT OF THE PROPERTY; (b) THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY; (c) THE MANNER, QUALITY, STATE OF REPAIR OR LACK OF REPAIR OF THE PROPERTY; (d) THE NATURE, QUALITY OR CONDITION OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE WATER, SOIL AND GEOLOGY; (e) THE COMPLIANCE OF OR BY THE PROPERTY OR ITS OPERATION WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR BODY; (f) COMPLIANCE WITH ANY ENVIRONMENTAL PROTECTION, POLLUTION OR LAND USE LAWS, RULES, REGULATION, ORDERS OR REQUIREMENTS; (g) THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS AT, ON, UNDER, OR ADJACENT TO THE PROPERTY; (h) THE CONFORMITY OF THE PROPERTY TO PAST, CURRENT OR FUTURE APPLICABLE ZONING OR BUILDING REQUIREMENTS; AND/OR ANY OTHER MATTER, INCLUDING BUT NOT LIMITED TO THE AVAILABILITY OF ANY LEASES, EASEMENTS, LICENSES OR ENTITLEMENTS RELATED TO THE PROPOSED OR INTENDED USE OF THE PROPERTY AND/OR THE ADEQUACY, COMPLETENESS OR ACCURACY OF ANY MATERIALS OR DOCUMENTS DELIVERED TO BUYER BY SELLER PURSUANT TO ARTICLE 5 OR OTHERWISE UNDER THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE ENVIRONMENTAL REPORTS.

BUYER FURTHER ACKNOWLEDGES AND AGREES THAT, BUYER HAVING BEEN GIVEN THE OPPORTUNITY TO INSPECT THE PROPERTY AND REVIEW THE

INFORMATION AND DOCUMENTATION AFFECTING THE PROPERTY, EXCEPT FOR THE SELLER'S EXPRESS REPRESENTATIONS AS SET FORTH IN SECTION 3.1 OF THIS AGREEMENT, BUYER IS RELYING SOLELY ON ITS OWN INVESTIGATION OF THE PROPERTY AND REVIEW OF SUCH INFORMATION AND DOCUMENTATION, INCLUDING ANY INFORMATION PROVIDED OR TO BE PROVIDED BY SELLER. BUYER AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS.

Buyer's Initials: _____

5.6 Environmental Indemnity by Buyer. Buyer agrees to indemnify, defend, and hold harmless Seller, its officers, employees, agents, successors and assigns, from and against any and all present or future claims or demands and any and all damages, losses, injuries, liabilities, causes of action, costs and expenses (including without limitation fines, penalties, judgments and attorneys' fees) of any and every kind or character, known or unknown (collectively "Losses") that the Seller, its employees, agents, heirs, successors and assigns sustains as a result of claims by third parties, including but not limited to federal, state and local regulatory agencies, for damages or remediation costs related to or arising out of the presence of Hazardous Materials in, at, on, under or originating from the Property. This indemnity does not apply to the extent any such Loss is caused, contributed to, or exacerbated by any new (i.e., occurring after the Effective Date of this Agreement) release(s) of hazardous substances that is caused, contributed to, or exacerbated by Seller, its officers, employees, agents, contractors, tenants, or by any other party for which Buyer would not otherwise be responsible at law.

Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response or action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) Losses for injury or death of any person and (c) Losses arising under any Environmental Law enacted after transfer. To the extent of the Buyer's indemnity, and except to the extent of the Seller's indemnity, Buyer shall be responsible for all costs associated with the investigation, handling, and disposal of soil and other materials at or from the Property, including, but in no way limited to, any costs, including incremental costs, of disposing of any soils or materials excavated by Buyer from the Property as part of its post-Closing development. Buyer agrees that the foregoing indemnity obligation shall apply notwithstanding any covenant not to sue or other waiver or immunity of Buyer's liability under any prospective purchaser agreement, consent decree or similar settlement arranged by Buyer with a federal, state or local regulatory agency. This indemnification shall be effective upon Closing and shall survive the recording of the Deed.

5.7 Environmental Indemnity by Seller. Seller agrees to indemnify, defend, and hold harmless Buyer, its officers, agents, employees, contractors, successors and assigns, from and against any and all present or future claims or demands and any and all damages, losses, injuries, liabilities, causes of action, costs and expenses (including without limitation fines, penalties, judgments and attorneys' fees) of any and every kind or character, known or unknown (collectively "Losses") that the Buyer, its officers, employees, agents, contractors, successors and assigns sustains as a result of claims by third parties, including but not limited to federal, state and local

regulatory agencies, for damages or remediation costs related to or arising out of the presence of Hazardous Materials in, on, or under the Site, excluding the Property, and except to the extent such Losses were caused, contributed to, or exacerbated by Buyer.

Losses shall include without limitation (a) the cost of any investigation, removal, remedial or other response or action that is required by any Environmental Law, that is required by judicial order or by order of or agreement with any governmental authority, or that is necessary or otherwise is reasonable under the circumstances, (b) Losses for injury or death of any person and (c) Losses arising under any Environmental Law enacted after transfer. Seller agrees that the foregoing indemnity obligation shall apply notwithstanding any covenant not to sue or other waiver or immunity of Seller's liability under any Agreed Order or any settlement arranged by Seller with a federal, state or local regulatory agency. This indemnification shall survive the Closing Date and recording of the Deed.

ARTICLE 6.

COVENANTS OF SELLER PENDING CLOSING

6.1. CONDUCT, NOTICE OF CHANGE. Seller covenants that between the Effective Date and the Closing Seller shall take all such actions as may be necessary to assure that the representations and warranties set forth in Section 3.1 hereof will be true and complete as of the Closing (except such representations, warranties and matters which relate solely to an earlier date), and all covenants of Seller set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided for in this Agreement. Seller shall give Buyer prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3 or elsewhere in this Agreement which occurs prior to the Closing.

6.2 EXCLUSIVITY. Between the Effective Date and Closing or earlier termination of this Agreement, Seller shall not market the Property, make or accept any offers to sell, refinance, or recapitalize the Property, or otherwise solicit any offers to purchase, or enter into any agreement for the sale, refinancing or recapitalization of the Property.

ARTICLE 7.

COVENANTS OF BUYER PENDING CLOSING

7.1. CONDUCT, NOTICE OF CHANGE. Buyer covenants that between the Effective Date and the Closing Buyer shall take all such actions as may be necessary to assure that the representations and warranties set forth in Section 3.2 hereof will be true and complete as of the Closing (except such representations, warranties and matters which relate solely to an earlier date), and that all covenants of Buyer set forth in this Agreement which are required to be performed by it at or prior to the Closing shall have been performed at or prior to the Closing as provided in this Agreement. Buyer shall give Seller prompt written notice of any material change in any of the information contained in the representations and warranties made in Article 3.2 or elsewhere in this Agreement which occurs prior to the Closing.

ARTICLE 8.

CONDITIONS PRECEDENT TO BUYER'S OBLIGATIONS

All obligations of Buyer to close on the Closing Date are subject to the fulfillment of all contingencies set forth in this Agreement and each of the following conditions at or prior to the Closing, and Seller, where applicable, shall exert its commercially reasonable efforts to cause each such condition to be fulfilled:

8.1. DELIVERY OF DOCUMENTS. Seller shall have delivered to Buyer or Escrow Agent at or prior to the Closing all documents required by the terms of this Agreement to be delivered by Seller.

8.2. OBLIGATIONS. All obligations required by the terms of this Agreement to be performed by Seller at or before the Closing shall have been properly performed in all material respects.

8.3. TITLE. Seller shall have cured any exceptions to title to which Buyer objected within the Review Period in Section 4.3 and to which Seller agreed to remove or resolve under Section 4.3, and the Title Company shall be irrevocably committed to issue the Title Policy as required by Section 4.4 of this Agreement.

8.4. CONDEMNATION. No portion of the Property shall have been taken or damaged by any public or quasi-public body, and Seller shall not have transferred any portion of the Property to any such body in lieu of condemnation.

8.5. SHORT SUBDIVISION. The Short Subdivision application and the Short Subdivision, including the legal description of the Real Property and amended Exhibit A, shall have been finally approved by the City and this condition removed by Buyer by written notice to Seller.

8.6. Prospective Purchaser Agreement or Prospective Purchaser Consent Decree. Ecology and Buyer shall have entered into a Prospective Purchaser Agreement or Prospective Purchaser Consent Decree or Buyer shall have waived the Prospective Purchaser Contingency in accordance with Section 5.4 above.

ARTICLE 9.

CONDITIONS PRECEDENT TO SELLER'S OBLIGATIONS

All obligations of Seller to close on the Closing Date are subject to the fulfillment of all contingencies set forth in this Agreement and each of the following conditions at or prior to the Closing, and Buyer, where applicable, shall exert its commercially reasonable efforts to cause each such condition to be so fulfilled:

9.1. DELIVERY OF DOCUMENTS. Buyer shall have delivered to Seller or Escrow Agent at or prior to Closing all documents required by the terms of this Agreement to be delivered by Buyer.

9.2. OBLIGATIONS. All obligations required by the terms of this Agreement to be performed by Buyer at or before the Closing shall have been properly performed in all material respects.

9.3 SHORT SUBDIVISION. The Short Subdivision application and the Short Subdivision, including the legal description of the Real Property and amended Exhibit A, shall have been finally approved by the City and this condition removed by Seller by written notice to Buyer.

9.4. Prospective Purchaser Agreement or Prospective Purchaser Consent Decree. Ecology and Buyer shall have entered into a Prospective Purchaser Agreement or Prospective Purchaser Consent Decree or Buyer shall have waived the Prospective Purchaser Contingency in accordance with Section 5.4 above.

ARTICLE 10. CLOSING

10.1. CLOSING/CLOSING DATE. The Closing of the transaction contemplated hereunder (the “Closing”) shall take place within sixty (60) days following the removal of the contingencies set forth in Article 5 of this Agreement or such other date as may be mutually agreed upon by the Parties (“Closing Date”). On or before the Effective Date, the Parties shall set up an escrow account with the Escrow Agent. The Escrow Agent shall serve as closing agent for the transaction contemplated herein and Closing shall occur in the offices of the Escrow Agent at 1501 Fourth Avenue #300, Seattle, Washington or such other office of Escrow Agent mutually agreeable to the Parties.

10.2. PRORATIONS AND MONETARY LIENS.

10.2.1. Prorations. Real property taxes and assessments shall be prorated as of the Closing Date. Seller shall pay the cost of one-half (½) of the escrow fee charged by the Escrow Agent, the costs of the preliminary and binding Title Commitments and the premium for the Title Policy for standard coverage, the recording fees for the Deed, any real estate excise or other transfer tax due, and its own attorneys’ fees. Buyer shall pay one-half (½) of the escrow fee charged by the Escrow Agent, the cost of the Survey, if any, any endorsements requested by Buyer and any additional premium required for issuance of extended coverage under the Title Policy, and its own attorneys’ fees. Except as otherwise provided in this Section 10.2, all other expenses hereunder shall be paid by the Party incurring such expenses.

10.2.2. Taxes. Both Parties are exempt by law from the payment of real property ad valorem taxes, LIDs and assessments on the Property. Further, as a municipal corporation, Seller is exempt from payment of real estate excise tax under Chapter 82.45 RCW and Chapter 458-61A of the Washington Administrative Code.

10.2.3. Monetary Liens. Except for the Permitted Exceptions, Seller shall pay or cause to be satisfied at or before Closing all monetary liens on or with respect to all or any portion

of the Property. If Seller fails to satisfy said liens, the Purchase Price shall be reduced by the amounts due to satisfy and discharge the liens.

10.3. SELLER'S DELIVERY OF DOCUMENTS AT CLOSING. At the Closing, Seller will deliver to Buyer via escrow with the Escrow Agent the following properly executed documents:

10.3.1. The Deed, duly executed by Seller;

10.3.2. A real estate excise tax affidavit ("REET Affidavit"), executed by Seller;
and

10.3.3. A seller's certificate of non-foreign status substantially in the form of **EXHIBIT E**, attached hereto.

10.4. BUYER'S DELIVERY OF PURCHASE PRICE AT CLOSING. At the Closing, Buyer will deliver to Seller via escrow with the Escrow Agent:

10.4.1 cash or immediately available funds in the amount of the Purchase Price;
and

10.4.2 The REET Affidavit, executed by Buyer.

ARTICLE 11. MISCELLANEOUS PROVISIONS

11.1. NON-MERGER. Each statement, representation, warranty, indemnity, covenant, agreement and provision in this Agreement shall not merge in, but shall survive the Closing of the transaction contemplated by this Agreement unless a different time period is expressly provided for in this Agreement.

11.2. DEFAULT AND ATTORNEYS' FEES.

11.2.1. DEFAULT BY BUYER. In the event Closing does not occur due to default by Buyer, Seller's sole and exclusive remedy shall be to terminate this Agreement and bring suit to recover its incidental damages or specifically enforce this Agreement.

11.2.2. DEFAULT BY SELLER. In the event Closing does not occur solely due to default of Seller, Buyer's sole and exclusive remedy shall be to terminate this Agreement and bring suit to recover its incidental damages, including actual costs incurred in connection with its due diligence review, or bring suit to specifically enforce this Agreement.

11.2.3. ATTORNEY'S FEES. Except as otherwise specified herein, in any action to enforce this Agreement, each Party shall bear its own attorney's fees and costs.

11.3. TIME.

11.3.1. TIME IS OF THE ESSENCE. Time is of the essence in the performance of this Agreement.

11.3.2. COMPUTATION OF TIME. Any reference to “day” in this Agreement shall refer to a calendar day, which is every day of the year. Any reference to business day in this Agreement shall mean any calendar day that is not a “Legal Holiday.” A Legal Holiday under this Agreement is a Saturday, Sunday or legal holiday as defined in RCW 1.16.050. Any period of time in this Agreement shall mean Pacific Time and shall begin the calendar day or business day, as the case may be, after the event starting the period and shall expire at 5:00 p.m. of the last calendar day or business day, as the case may be, of the specified period of time, unless with regard to calendar days the last day is a Legal Holiday, in which case the specified period of time shall expire on the next day that is not a Legal Holiday.

11.4. NOTICES. Any and all notices or other communications required or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given upon receipt when personally delivered or sent by overnight courier. All notices shall be addressed to the Parties at the addresses set forth below or at such other addresses as a Party may specify by notice to the other Party and given as provided herein:

If to Seller: Port of Seattle
Real Estate Division
Attn: Melinda Miller
Pier 69, P.O. Box 1209
Seattle, WA 98111
Email: Miller.M@PortSeattle.org

If to Buyer: King County
Wastewater Treatment Division
Attn: Trevor Carr
201 S. Jackson Street, 5th Floor
Seattle, WA 98104-3855
Email: (For notice under Section 5.1.4 only)
Trevor.Carr@kingcounty.gov

11.5. ENTIRE AGREEMENT AND AMENDMENT. This writing (including the Exhibits attached hereto) constitutes the entire agreement of the Parties with respect to the subject matter hereof, and each Party acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any Party, or anyone acting on behalf of any Party, which are not embodied herein. This Agreement may not be modified or amended except by a written agreement specifically referring to this Agreement and signed by all Parties.

11.6. SEVERABILITY. In the event any portion of this Agreement shall be found to be invalid by any court of competent jurisdiction, then such holding shall not impact or affect the remaining provisions of this Agreement unless that court of competent jurisdiction rules that the principal purpose and intent of this contract should and/or must be defeated, invalidated or voided.

11.7. WAIVER. No waiver of any breach or default hereunder shall be considered valid unless in writing and signed by the Party giving such waiver and no such waiver shall be deemed a waiver of any prior or subsequent breach or default.

11.8. BINDING EFFECT. Subject to Section 11.14 below, this Agreement shall be binding upon and inure to the benefit of each Party, its successors and assigns.

11.9. LEGAL RELATIONSHIP. The Parties to this Agreement execute and implement this Agreement solely as Seller and Buyer. No partnership, joint venture or joint undertaking shall be construed from this Agreement.

11.10. CAPTIONS. The captions of any articles, paragraphs or sections contained herein are for purposes of convenience only and are not intended to define or limit the contents of said articles, paragraphs or sections.

11.11. COOPERATION. Prior to and after Closing the Parties shall cooperate, shall take such further action and shall execute and deliver further documents as may be reasonably requested by the other Party in order to carry out the provisions and purposes of this Agreement.

11.12. GOVERNING LAW AND VENUE. This Agreement and all amendments hereto shall be governed by and construed in accordance with the laws of the State of Washington applicable to contracts made and to be performed therein, without giving effect to its conflicts of law rules or choice of law provisions. In the event that either Party shall bring a lawsuit related to or arising out of this Agreement, the Superior Court of King County, Washington shall have exclusive jurisdiction and venue.

11.13. NO THIRD PARTY BENEFICIARIES. This Agreement is made only to and for the benefit of the Parties, and shall not create any rights in any other person or entity.

11.14. ASSIGNMENT. Buyer shall not assign this Agreement or any rights hereunder without Seller's prior written consent.

11.15. NEGOTIATION AND CONSTRUCTION. This Agreement and each of its terms and provisions are deemed to have been explicitly negotiated between the Parties and shall not be construed as if it has been prepared by one of the Parties, but rather as if both Parties had jointly prepared it. The language in all parts of this Agreement will, in all cases, be construed according to its fair meaning and not strictly for or against either Party. The Parties acknowledge and represent, as an express term of this Agreement, that they have had the opportunity to obtain and utilize legal review of the terms and conditions outlined in this Agreement. Each Party shall be and is separately responsible for payment of any legal services rendered on their behalf regarding legal review of this Agreement.

11.16. EXHIBITS. The following exhibits described herein and attached hereto are fully incorporated into this Agreement by this reference:

EXHIBIT A	Legal Description
EXHIBIT B	Bargain and Sale Deed
EXHIBIT C	Definitions
EXHIBIT D	Disclosure Statement
EXHIBIT E	Certificate of Non-Foreign Status

[SIGNATURES ON THE NEXT PAGE]

EXECUTED on the dates set forth below.

SELLER: PORT OF SEATTLE

BUYER: KING COUNTY

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT A.
LEGAL DESCRIPTION

All that portion of real property located in the Southeast quarter of the Northeast quarter of Section 30, Township 24 North, Range 4 East, Willamette Meridian, and City of Seattle Lot Boundary Adjustment No. 2207807 recorded under King County Recording No. 20030211900004, more particularly described as: Lots 10-20 inclusive, Block 19 of the plat of Joseph R. McLaughlin's Water Front Addition to the City of Seattle, recorded in Volume 13 of Plats, page 28, in King County, Washington;

TOGETHER with those portions of adjoining alley and the West half of vacated 1st Avenue SW lying between the Southern right of way line of SW Michigan Street recorded under King County Recording No. 20051129002557, conveyed to the City of Seattle, and Exhibit "T" in Quitclaim Deed recorded under King County Recording No. 20051129002573, conveyed to the State of Washington.

EXCEPT those portions of Tract 2 lying within Lots 15 and 16 in Quitclaim Deed as recorded under King County Recording No. 200511290556, as conveyed to the State of Washington.

AND EXCEPT those portions of Lots 10 and 20, lying within SW Michigan St. per Quitclaim Deed recorded under King County Recording No. 20051129002557.

Situate in the County of King, State of Washington.



EXHIBIT B.

BARGAIN AND SALE DEED

AFTER RECORDING RETURN TO:

KING COUNTY, WASTEWATER TREATMENT DIVISION
ATTN: ENVIRONMENTAL PROGRAMS MANAGING SUPERVISOR
REGULATORY COMPLIANCE & LAND ACQUISITION SVCS
201 S. Jackson Street, SUITE 0505
SEATTLE, WA 98104-3855

Grantor -- Port of Seattle

Grantee -- King County, Washington

Legal - - - TBD

Tax Acct. – 5367202505

The Grantor, Port of Seattle, a municipal corporation of the State of Washington, for and in consideration of mutual benefits, does hereby bargain, sell and convey unto the Grantee, King County, a political subdivision of the State of Washington, the following the real property situate in King County, Washington and described in EXHIBIT A, attached hereto and incorporated herein by this reference, subject to the permitted exceptions set forth in EXHIBIT B.

GRANTOR

GRANTEE

PORT Of SEATTLE

KING COUNTY

BY: _____

BY: _____

TITLE: _____

TITLE: _____

DATE: _____

DATE: _____

NOTARY BLOCKS APPEAR ON NEXT PAGE

NOTARY BLOCK FOR KING COUNTY

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

On this _____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____, who executed the foregoing instrument and acknowledged to me that SHE or HE was authorized to execute said instrument on behalf of the _____ for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the
State of Washington, residing

at _____

City and State _____

My appointment expires _____

NOTARY BLOCK FOR PORT OF SEATTLE

STATE OF WASHINGTON)
) SS
COUNTY OF KING)

On this _____ day of _____, 20__, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____, and who executed the foregoing instrument and acknowledged to me that HE or SHE was authorized to execute said instrument on behalf of the _____ for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year in this certificate above written.

Notary Public in and for the
State of Washington, residing

at _____

City and State _____

My appointment expires _____

EXHIBIT C

Definitions

The term “Environmental Laws” includes without limitation, the Federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq., Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., Federal Hazardous Materials Transportation Control Act, 49 U.S.C. Section 1801 et seq., Federal Clean Air Act, 42 U.S.C. Section 7401 et seq., Federal Water Pollution Control Act, Federal Water Act of 1977, 33 U.S.C. Section 1251 et seq., Federal Insecticide, Fungicide and Rodenticide Act, Federal Pesticide Act of 1978, 7 U.S.C. Section 136 et seq., Federal Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., Federal Safe Drinking Water Act, 42 U.S.C. Section 300f et seq., Washington Water Pollution Control Act, RCW Chapter 90.48, Washington Clean Air Act, RCW Chapter 70.94, Washington Solid Waste Management Recovery and Recycling Act, RCW Chapter 70.95, Washington Hazardous Waste Management Act, RCW Chapter 70.105, Washington Hazardous Waste Fees Act, RCW Chapter 70.95E, Washington Model Toxics Control Act, RCW Chapter 70.105D, Washington Nuclear Energy and Radiation Act, RCW Chapter 70.98, Washington Radioactive Waste Storage and Transportation Act of 1980, RCW Chapter 70.99, Washington Underground Petroleum Storage Tanks Act, RCW Chapter 70.148, and any regulations promulgated thereunder, all as amended from time to time.

The term “Hazardous Materials” shall include without limitation:

(i) Those substances included within the definitions of “hazardous substances,” “hazardous materials,” “toxic substances,” or “solid waste” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.) (“CERCLA”), as amended by Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499, 100 Stat. 1613) (“SARA”), the Resource Conservation and Recovery Act of 1976 (42 U.S.C. §§ 6901 et seq.) (“RCRA”), and the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1801 et seq., and in the regulations promulgated pursuant to said laws, all as amended;

(ii) Those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto);

(iii) Any material, waste or substance which is (A) petroleum, (B) asbestos, (C) polychlorinated biphenyls, (D) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act, 33 U.S.C. §§ 1251 et seq. (33 U.S.C. §§ 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. 1317); (E) flammable explosives, (F) radon gas, (G) lead or lead-based paint, (H) radioactive materials, (I) coal combustion by-products, (J) urea formaldehyde foam insulation; or (k) mold.

(iv) Those substances defined as “dangerous wastes,” “hazardous wastes” or as “hazardous substances” under the Water Pollution Control Act, RCW 90.48.010 et seq., the Hazardous Waste Management Statute, RCW 70.105.010 et seq., the Toxic Substance Control

Act, RCW 70.105B.010 et seq., the Model Toxics Control Act, RCW 70.105D.010 et seq. and the Toxic Substance Control Act, 15 U.S.C., Section 2601 et seq., and in the regulations promulgated pursuant to said laws, all as amended from time to time and;

(v) Such other substances, materials and wastes which are or become regulated as hazardous or toxic under applicable local, state or federal law, or the United States government, or which are classified as hazardous or toxic or dangerous to human health under federal, state, or local laws or regulations, all as amended from time to time.

“Release” shall mean releasing, spilling, leaking, pumping, pouring, flooding, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping, Hazardous Materials in or into the air, soil, surface water or ground water in, on, about or under the Real Property.

EXHIBIT D

Disclosure Statement Made by the Port of Seattle (Seller) to King County (Buyer)

NOTICE TO BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY THE PORT OF SEATTLE, A WASHINGTON MUNICIPAL CORPORATION, AS SELLER (SELLER) TO KING COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF WASHINGTON, AS BUYER (BUYER) ABOUT THE CONDITION OF THE PROPERTY LEGALLY DESCRIBED IN EXHIBIT A OF THE PURCHASE AGREEMENT.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

SELLER IS OCCUPYING THE PROPERTY.

SELLER'S ENVIRONMENTAL DISCLOSURES

If you answer "Yes" to a question with an asterisk (), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

		YES	NO	DON'T KNOW
*A	Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?			
*B	Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?			
*C	Are there any shorelines, wetlands, floodplains, or critical areas on the property?			
*D	Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?			
*E	Is there any soil or groundwater contamination?			
*F	Has the property been used as a legal or illegal dumping site?			
*G	Has the property been used as an illegal drug manufacturing site?			

VERIFICATION

The foregoing answers and attached explanations (if any) are complete and correct to the best of Seller's knowledge and Buyer has received a copy hereof.

SELLER:

THE PORT OF SEATTLE, a Washington municipal corporation

By: _____

Its: _____

Dated: _____

BUYER'S ACKNOWLEDGMENT

Buyer hereby acknowledges that:

A. Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.

B. The disclosures set forth in this statement and in any amendments to this statement are made only by Seller and not by any real estate licensee or other party.

C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Buyer, except to the extent that real estate licensees know of such inaccurate information.

D. This information is for disclosure only and is not intended to be a part of the written agreement between Buyer and Seller.

E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Buyer's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. BUYER MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME BUYER ENTERS INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

BUYER:

KING COUNTY, a political subdivision of the State of Washington

By: _____

Its: _____

Dated: _____

EXHIBIT E

Seller's Certification of Non-Foreign Status under Foreign Investment in Real Property Tax Act (26 U.S.C. 1445)

Section 1445 of the Internal Revenue Code provides that a transferee of a U.S. real property interest must withhold tax if the transferor is a foreign person. For U.S. tax purposes (including Section 1445), the owner of a disregarded entity (which has legal title to a U.S. real property interest under local law) will be the transferor of the property and not the disregarded entity. To inform the transferee that withholding of tax is not required upon the disposition of a U.S. real property interest by _____ ("Transferor"), the undersigned hereby certifies the following on behalf of Transferor:

1. Transferor is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);
2. Transferor is not a disregarded entity as defined in Section 1.1445-2(b)(2)(iii);
3. Transferor's U.S. employer identification number is 91-6001327;
4. Transferor's office address is King County Facilities Management Division, Real Estate Services Section, Room 830 King County Administration Building, 500 Fourth Avenue, Seattle, WA 98104.

Transferor understands that this certification may be disclosed to the Internal Revenue Service by transferee and that any false statement contained herein could be punished by fine, imprisonment, or both.

Under penalties of perjury I declare that I have examined this certification and to the best of my knowledge and belief it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of Transferor.

Dated this ____ day of _____, 20__.

King County, Transferor:

By: _____
Name: _____
Title: _____

EXHIBIT F

Access Agreement

DocuSign Envelope ID: C81A30AD-7D6C-4EED-B03A-035B41BEE089

ACCESS AGREEMENT

This ACCESS AGREEMENT ("Agreement"), dated for reference purposes, _____, is entered into by and between the PORT OF SEATTLE, a Washington municipal corporation (the "Port"), AMERICAN BEST TRUCKING LLC, a Washington corporation ("Lessee"), and KING COUNTY, a political subdivision of the State of Washington through its WASTEWATER TREATMENT DIVISION, whose address is 201 S. Jackson St. #505 Seattle, WA 98104 ("King County").

RECITALS

WHEREAS, the Port owns certain property located at the corner of SW Michigan St. and 2nd Ave. SW, the southeast corner of what is commonly known as Terminal 115 ("the Premises") as shown in Exhibit A; and

WHEREAS, the Port and Lessee entered into a lease ("Lease") dated October 28, 2016, and the lease was amended on November 30, 2016 via the First Amendment allowing Lessee to use approximately 50,000 square feet of yard space as shown in Exhibit A, and then the Lease was amended again on June 11, 2020 via the Second Amendment extending the lease term until October 31, 2021, beyond which, the lease will be on month-to-month holdover status until further notice to Lessee; and

WHEREAS, the Port and The Boeing Company ("Boeing") are parties to an agreed order ("Order") with the Washington State Department of Ecology ("Ecology") pursuant to the state Model Toxics Control Act ("MTCA"), executed on July 6, 2020, which requires specific notification and reporting requirements with the State; and

WHEREAS, King County has requested permission of the Port to enter upon the Premises for the sole purpose of conducting site investigative work including drilling monitoring wells, collecting soil and groundwater samples and temporarily storing investigation waste in drums in preparation for the proposed construction of the West Duwamish CSO Control Project (collectively "the Work") as generally described in Exhibit B;

NOW THEREFORE, in consideration of the mutual promises contained in this Agreement, the parties agree as follows:

1. **Grant of Access.** The Port and Lessee hereby grant to King County and its designees, a right to access and use the Premises in furtherance of the Work described in Exhibit B.
 - 1.1 Designees shall mean a party's employees, agents, contractors, subcontractors, or other designees whom the parties have engaged to perform activities authorized by this Agreement on the Premises.
2. **Term of Agreement.** The access to the Premises granted above by Port and Lessee to King County shall be for two (2) years or until the expiration or termination of the Purchase and Sale Agreement dated _____ entered into between the Port and King County, whichever is later, unless the Termination Date is extended in writing by the parties. The term shall begin on the date when all three parties' signatures have been obtained. The term shall not be extended without prior

written approval of the Port, email is acceptable.

3. **Access.** Except as specifically accompanied by Port or Lessee representative(s), King County's access to the Premises shall be limited to the hours of 7:00 a.m. to 7:00 p.m., daily. King County shall notify the Port and Lessee at least five (5) working days, with the exception of sampling activities (see Section 6), in advance of any planned entry by King County onto the Premises to carry out the Work (or any portion of it). Such notice shall state the portion(s) of the Work to be performed, the persons who will perform those portion(s) of the Work, and the time during which such persons shall be on the Premises. The Port and Lessee shall have the right to be present during and to observe all of King County's activities at the Premises. The rights granted to King County by this Agreement shall not extend to any other portion of the Premises without the Port's prior written consent. Key tasks associated with the Work as well as the space needs and the number of estimated days of impact on current use of the Premises are listed in Exhibit C. King County shall use good faith efforts to minimize disruption of access during days impacting the current use and operations of the Premises, and shall exercise all reasonable efforts to ensure that any activities on the Premises shall not result in permanent damage or injury to the property of Port or Lessee.
4. **Access Fee.** King County shall pay the Port an access fee of FIVE THOUSAND AND 00/100 DOLLARS (\$5,000.00) prior to commencing the Work described in Exhibit B and Exhibit C (Work Activities). In addition, King County shall coordinate with the Lessee, American Best Trucking LLC, to schedule the Work Activities at a time that works best for both parties and ensure that Lessee's use of the Premises is not significantly negatively impacted and any onsite movement of trucks, chassis and/or containers to allow access to monitoring wells shall be communicated at least 5 working days ahead.
5. **No Additional Work; Limitations; Requirements.**
 - 5.1 King County shall not, except as allowed by the Port in writing, perform any additional activities or work in addition to or different from the Work set forth herein. King County may not engage in, nor shall the Work be construed to include the authority to engage in any destructive testing.
 - 5.2 King County shall, upon request by the Port, provide the Port with split samples of any and all samples that King County obtains pursuant to this Agreement. The Port shall provide all containers and other materials necessary for receiving such split samples.
 - 5.3 King County shall provide the Port with copies of all data and summary reports, whether monitoring data and chemical analytical data, generated from the Work that King County conducts pursuant to this Agreement. King County shall provide the data in such form as reasonably requested by the Port.
6. **Advance Notice of Sampling.** King County shall provide ten (10) business days' advance written notice to the Port and the Lessee (the "Notice Period") before entering the Premises to conduct any sampling. Said notice shall be provided by email to the person identified in Section 19. Notices must describe the proposed activities and the precise location of those activities, identify the persons and companies who will perform the activities, and specify the desired date and time of such activities. With respect to notices pertaining to the collection or analysis of groundwater samples collected from the Monitoring Wells, King County shall provide to the Port for approval a sampling and analysis plan identifying the analyses to be conducted on the groundwater samples, the methods to

be taken to collect the samples, and the actions to be taken to validate the data generated by the samples.

7. **Performance of Work.** With accepted practices in the environmental consulting industry, King County and its designees shall perform all activities authorized by this Agreement during the Port and Lessee's normal business hours. King County and its designees shall perform all activities authorized by this Agreement in accordance with all federal, state, and local laws and regulations and using qualified environmental consulting firms and contractors, unless otherwise requested or approved by the Port. The Port may accompany, if it so elects, King County throughout the entire time when King County is on the Premises. King County and its designees shall use best efforts to perform all activities authorized by this Agreement in a manner that does not interfere with the Port and Lessee's of the Premises. While on Lessee's Premises, King County shall abide by Lessee's safety precautions at all times, but shall nonetheless be solely responsible for safe performance of all activities conducted by King County and its designees and the safety of all persons that perform such activities. In addition to any insurance or indemnity provided by King County pursuant to this Agreement, King County shall bear all costs and expense with the activities it performs under this Agreement.
8. **Availability of Samples and Results.** Upon request, King County shall, at no additional expense to the Port, provide the Port the opportunity to obtain split or duplicate samples of any sample collected pursuant to this Agreement. King County shall promptly provide to the Port all written reports, field notes, tables, summaries, quality assurance/quality control documentation and other test results (collectively, "Environmental Documents"), whether or not validated, that are prepared from sampling, monitoring, and analytical activities conducted pursuant to this Agreement. As used in the preceding sentence, the word "promptly" means within thirty (30) days after King County obtains an Environmental Document unless King County notifies the Port of circumstances preventing King County from meeting this deadline, in which case King County shall deliver the Environmental Document to the Port within sixty (60) days after King County obtains an Environmental Document.
9. **Compliance with Laws, Rules, and Regulations.** King County will carry out or cause to be carried out the Work at its sole cost and expense, in a good, workmanlike and orderly manner so as to avoid interfering with or interrupting the normal business operations and quiet enjoyment of Lessee, the Port, and other occupants of the Premises, in full compliance with all applicable governmental laws, rules, regulations, and codes. King County, at its sole cost and expense, shall obtain any and all permits, licenses, and approvals that may be required in order to make lawful King County's entry onto the premises and performance of the Work.
10. **King County Responsible for Safety and Property.** King County's activities within, on or about the Premises shall be at its sole risk, and neither the Port nor Lessee shall not be responsible for the safety of King County or its agents or employees, or for the condition or loss of any items of personal property brought onto the Premises.
11. **King County Responsible for Damages.** King County assumes full responsibility for the Work and for all damages or losses arising from King County's entry on the Premises or performance of Work suffered by King County, the Port, Lessee, or any of the parties' agents, contractors, employees, or invitees, whether such damage or loss occurs in the Premises.

11.1 King County shall not make any alterations to the Premises without the advance written

approval of the Port. If any damage is caused to the property of Lessee or the Port in the course of performance of activities undertaken pursuant to this Agreement, including without limitation, damage to any paved surface, landscaping, utilities, equipment, or structure, then King County shall, at its sole cost and expense, promptly, and as soon as reasonably practicable, take all action reasonably necessary to repair the damage and restore the property of Lessee to the condition existing before the activities commenced. As soon as King County completes any activities authorized by this Agreement, but in no event more than thirty (30) days after the Termination Date, King County shall remove all machinery, equipment, material, rubbish, waste, or other personal property on the Premises and shall restore the property of Lessee and the Premises to substantially the same condition as existed before King County conducted activities on the Premises of Lessee. King County will decommission or abandon the Monitoring Wells on Port Property to the Port's satisfaction within thirty (30) days after the Termination Date, only if the Purchase and Sale Agreement has been terminated or expired, or leave the Monitoring Wells on site per Ecology order, should there be one.

12. **Suspension of Work and Early Termination.** The Port in its discretion may suspend any or all activities being conducted by King County and its designees on the Premises under this Agreement, if it reasonably determines a dangerous condition exists or King County has breached any term or condition of this Agreement. The Port shall notify King County no less than five (5) days before suspending the activities if circumstances allow and as soon as reasonably practicable in all other circumstances. King County and its designees shall not resume any suspended activities until it obtains the approval of the Port.
13. **Termination.** The Port may terminate this agreement only if King County is in material breach of this agreement and King County does not correct the breach within a reasonable time after receiving written notice of breach by the Port. This Agreement shall terminate, without further action of the parties, upon the expiration or termination of the Purchase and Sale Agreement dated _____ entered into between the Port and King County (the "Termination Date"), unless the Termination Date is extended in writing by the parties. The obligations set out in Sections 7, 10, 11, 12, 14, 15, 17, 18, 19 and 25 shall be continuing and shall survive termination or expiration of this Agreement.
14. **Environmental.** King County agrees to comply with all applicable rules and regulations of the Port pertaining to the Premises in existence or hereafter promulgated for water quality and pollution prevention, for the general safety and convenience of the Port; its various tenants, invitees, and licensees; and the general public. King County further agrees to comply with all applicable federal, state and municipal laws, ordinances and regulations, including, without limitation, those relating to environmental matters. "Law or Regulation" as used herein shall mean any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction), now or hereafter in effect. "Hazardous Substances" as used herein shall mean any substance or material defined or designated as a hazardous waste, toxic substance, or other pollutant or contaminant, by any Law or Regulation.
15. **Hazardous Substances.**
 - 15.1. **Hazardous Substances.** King County shall not allow the release of any Hazardous Substances into adjacent surface waters, soils, underground waters, or air. Upon request, King County shall provide the Port with copies of all Safety Data Sheets (SDS), Generator Annual Dangerous Waste Reports, environmentally related regulatory permits or approvals

(including revisions or renewals) and any correspondence King County receives from, or provides to, any governmental unit or agency in connection with King County's handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on the Premises. If King County is in violation of any Law or Regulation concerning the use, handling, or storage of Hazardous Substances, King County shall promptly take such action as is necessary to mitigate and correct the violation.

- 15.2 King County as Generator. King County shall be the "generator" of record and shall be responsible for proper procedures applicable to generation, storage, characterization, and disposal of any waste, including purge volumes and decontamination fluids and materials generated by its activities under this Agreement ("Investigation Derived Waste" or "IDW"), and shall remove all IDW from the Premises at the end of each workday or within one (1) month following the last sampling efforts described in this agreement.
- 15.3 Environmental Indemnity. In addition to all other indemnities provided in this Agreement, King county agrees to defend, indemnify and hold the Property Owner, the Port and Lessee free and harmless from any and all claims, causes of action, regulatory demands, liabilities, fines penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation) arising from King County's handling or disposal of any Hazardous Substance on the Premises made, commenced, or incurred during the term of this Agreement.

16. No Liens. King County shall not permit any lien to stand against the Premises leased to Lessee for any activity authorized by this Agreement. King County shall remove any such lien at its expense within ten (10) business days after Lessee notifies King County of any such lien.

17. Insurance.

- 17.1 King County maintains a fully funded Self-Insurance program for the protection and handling of King County's liabilities including injuries to persons and damage to property including liabilities from automobile use. The Port acknowledges, agrees and understands that King County is self-funded for all of its liability exposures. King County agrees, at its own expense, to maintain, through its self-funded program, coverage for all of its liability exposures for this King County shall submit to the Port, prior to any work or access on site, documentation that King County is financially sound to the extent it can meet current and future anticipated claim obligations. King County's contractors' and subcontractors shall maintain the following insurance as follows:

- 17.1.1 Contractor and all Sub-Contractor's shall procure and maintain insurance in the following minimum form and limits. All deductibles or self-insurance retentions are the responsibility of the Contractor. Contractor may meet required insurance limits through a combination of primary and umbrella or excess insurance. Any insurance the Port may carry will apply strictly on an excess basis over any applicable insurance the Contractor may carry. Coverage shall not lapse or be terminated without the insurer's written notification to the Port, delivered by mail, not less than thirty (30) days prior to any such lapse or termination. Where identified below, Contractor shall submit endorsements (Additional Insured Endorsement) along with a Certificate of Insurance. Contractor shall provide evidence of insurance on each insurance renewal date, throughout the duration of the Contract.

- 17.1.2 Commercial General Liability insurance on ISO Form CG 00 01 10 01 (or equivalent)

for third party property damage, bodily injury, personal and advertising injury, and medical payments in an amount which is not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. The insurance shall cover liability arising from premises, operations, products completed operations, and liability assumed under an insured contract. The Contractor's insurance shall be primary and non-contributory with respect to any insurance the Port carries and apply separately to each insured. Port shall be named as an additional insured for all work arising out of Contractor's work, using ISO Form CG 20 26 or an equivalent endorsement approved by the Port. Contractor and Sub-Contractors shall provide endorsements to go with the Certificate of Insurance for each of the following:

17.1.2.1.1 Additional insured endorsement – ongoing work;

17.1.2.1.2 Waiver of subrogation;

17.1.2.1.3 Primary and non-contributory coverage.

17.1.3 Automobile Liability Insurance shall be provided in an amount no less than the following on a combined single limit basis for bodily injury and property damage using ISO Form CA 00 01 (or equivalent). The Port shall have a waiver of subrogation submitted to it from the Contractor's insurance company; or the Port shall be included as an additional insured on the automobile policy. Coverage is to extend coverage to all "owned, non-owned, hired, leased, and borrowed automobiles" (as defined on ISO Form CA 00 01). The limit of insurance shall be no less than \$1,000,000 per occurrence for all driving other than on the airfield at Seattle-Tacoma International Airport.

17.1.4 Contractor's Pollution liability coverage shall be provided for sudden and accidental incidents involving hazardous, toxic, biological, mold, and other pollution related materials. Coverage in the amount of not less than \$ 1 million per occurrence/per claim is required. The Port shall be an additional insured on this policy and evidence validating that the Port is an additional insured shall be submitted prior to contract inception. Submission of an insurance certificate that states the Port is an additional insured for this coverage is not acceptable by itself. The actual policy or endorsement that identifies the Port as an additional insured must be submitted to the Port.

17.2 Contractor is responsible for complying with the Washington State laws that pertain to industrial insurance (Reference Revised Code of Washington, Title 51 Industrial Insurance) for its employees. Contractor shall submit a current employer liability certificate as issued by the Washington Department of Labor and Industries that shows the status of Contractor's worker compensation account prior to commencing work, including those Contractors who are qualified self- insurers with the State.

18. Indemnification. The Port and Lessee, including their officers, employees and agents, shall not be liable for any injury (including death) to any persons or for damage to any property regardless of how such injury or damage be caused, sustained or alleged to have been sustained by King County or by others, including but not limited to all persons directly or indirectly employed by King County, or any agents, contractors or subcontractors of King County, as a result of any condition (including existing or future defects in the Premises) or occurrence (including failure or interruption of utility service) whatsoever related in any way to the Premises and the areas adjacent thereto, or related in any way to King County's use of the Premises and of areas adjacent thereto.

King County shall defend, fully indemnify and hold and save the Port and Lessee, including their respective officers, employees and agents harmless from and against any and all liability or expenses (including attorneys' fees, costs, and all expenses of litigation) in connection with any such items of actual or alleged injury or damage, except to the extent that such injury or damage is caused by the negligence or willful misconduct of the Port or Lessee. To the extent that this Agreement is construed to be subject to RCW 4.24.115, and where the injury or damage arises from the concurrent negligence of the Port and/or Lessee, on the one hand, and King County on the other, King County's indemnity will only extend to its negligence.

THE PARTIES AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION. The obligations under this Section 18 shall survive the expiration or any earlier termination of this Agreement.

19. **Notices.** All notices and communications regarding this Agreement, including those sent in order to commence the running of the Notice Period, shall be effective when delivered to the parties pursuant to this Section 19. Notices shall be sent via certified mail, return receipt requested, or electronic mail. Contact information for the parties is as follows:

King County

Robert R. Gilmore
King County Wastewater Treatment Division
Real Property Agent IV
(206) 477-5408
KSC-NR-0505
201 South Jackson Street
Seattle, WA 98104
Robert.Gilmore@kingcounty.gov

Port of Seattle

Lily Ninburg
Portfolio & Asset Management
Port of Seattle
PO Box 1209
Seattle, WA 98111-1209
Ninburg.L@portseattle.org

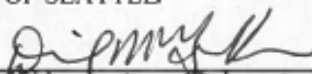
20. **No Admission.** Nothing in this Agreement shall constitute an admission of fact, responsibility, fault, or liability of any kind, including without limitation an admission by any party of responsibility for any portion of contamination, if any, on the Premises, or constitute a waiver or limitation of any legal claim or defense available to any party. The execution of this Agreement shall not be construed or deemed acquiescence in, or acknowledgement or approval of the adequacy or sufficiency of the results of sampling conducted pursuant to this Agreement, or any conclusion or recommendation based upon such sampling.
21. **Relationship of Parties and Enforceability by Third Parties.** Nothing contained in this Agreement shall be deemed or construed to create a partnership, joint venture, or any other association between the parties. This Agreement is not intended for any third party's benefit and is not enforceable by any third party.
22. **Reservation of Rights.** Nothing in this Agreement shall constitute or be construed as a waiver or compromise by any party of any right, claim, or cause of action under any state or federal statute, regulation or rule, or common law, including without limitation any right of the Port to seek contribution or damages relating to any hazardous substances, waste, or contamination found on, above, near, under or about the Premises or any other property.
23. **No Interest in Premises.** This Agreement constitutes a limited, nonexclusive license only and does not convey any right, title, or interest in, on, the Premises. Nothing in this Agreement shall constitute a landlord/tenant or similar relationship.
24. **Parties Bound and Assignment.** This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and assigns. No party may assign this Agreement without the other parties' prior written consent, which may be denied for any reason or no reason.
25. **Waiver, Full Compliance, and Severability.** The waiver of performance of any covenant, term, or condition of this Agreement by any party shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition. Neither failure of King County to comply with any or all of the terms, conditions, and requirements of this Agreement, nor the failure to secure any authorization, approval, or agreement as may be necessary to comply with or carry out the terms and provisions of this Agreement, shall be construed to limit or relieve King County from any of its obligations under this Agreement. If a court determines any provision of this Agreement is invalid or otherwise unenforceable, all remaining provisions shall remain in full force and effect.

26. **Captions and Article Numbers.** The captions in this Agreement are only for convenience and in no way define, limit, construe or describe the scope or intent of this Agreement.
27. **Entire Agreement.** This Agreement sets forth all covenants, promises, agreements, conditions and understandings between the parties concerning the matters addressed in this Agreement, and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the parties other than as set forth in this Agreement. No subsequent alteration, amendment, change or addition to this Agreement shall be binding upon the parties or unless reduced to writing and signed by all parties.
28. **Applicable Law, Venue, and Attorneys' Fees.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington and venue for any action relating to this Agreement shall be in a court of competent jurisdictions in King County, Washington. In an action to enforce the terms of this Agreement, the prevailing party shall be entitled to a reasonable sum for attorneys' fees, witness fees, and other costs and expenses, both at trial and on appeal, and in any administrative action or proceeding.
29. **Execution in Counterparts.** This Agreement may be executed in multiple counterparts, and all such counterparts once so executed shall together be deemed to constitute one final agreement, as if one document had been signed by all parties, and each such counterpart, upon execution and delivery, shall be deemed a complete original, binding on the parties. An email copy of an original signature shall be deemed to have the same force and effect as the original signature.

PORT OF SEATTLE

BY:

ITS:


Managing Director

KING COUNTY, WASTEWATER
TREATMENT DIVISION

BY:

ITS:

Designated by:
Bill Wilbert
Environmental Programs Supervisor

AMERICAN BEST TRUCKING LLC

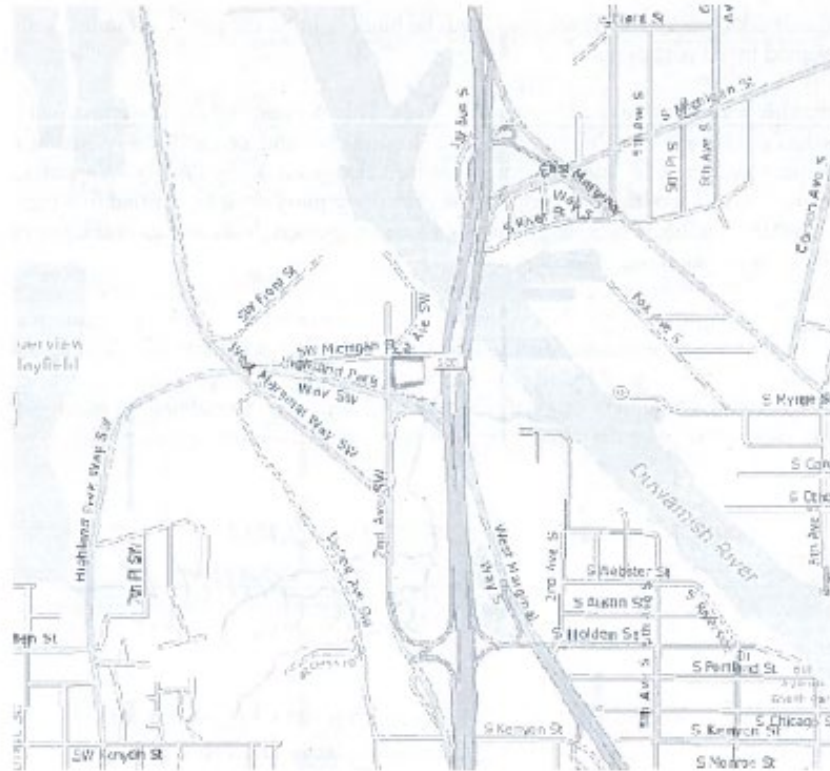
BY:

ITS:


Samuel Mekuria

EXHIBIT A: The Premises

Approximately 50,000 SF of Yard Space Leased to American Best Trucking LLC



ACCESS AGREEMENT

Exhibit A

Exhibit B: The Work

- Installation and development of approximately five (5) additional groundwater monitoring wells in the locations illustrated on the map below as MW-4, MW-5, MW-6, MW-7 and MW-8.
- Collection and laboratory analysis of soil samples from the new borings.
- Collection and laboratory analysis of groundwater samples from the new monitoring wells and existing monitoring wells.
- Collection of data from transducers currently installed in the existing wells, illustrated as MW-1 and MW-2 on the attached map
- Collection of groundwater samples from the existing and new wells.
- If the County needs to install additional borings and/or conduct additional investigations on the site, then the County will send a map illustrating the location of the additional boring(s) and SOW for the Port to review and approval.



ACCESS AGREEMENT

Exhibit B

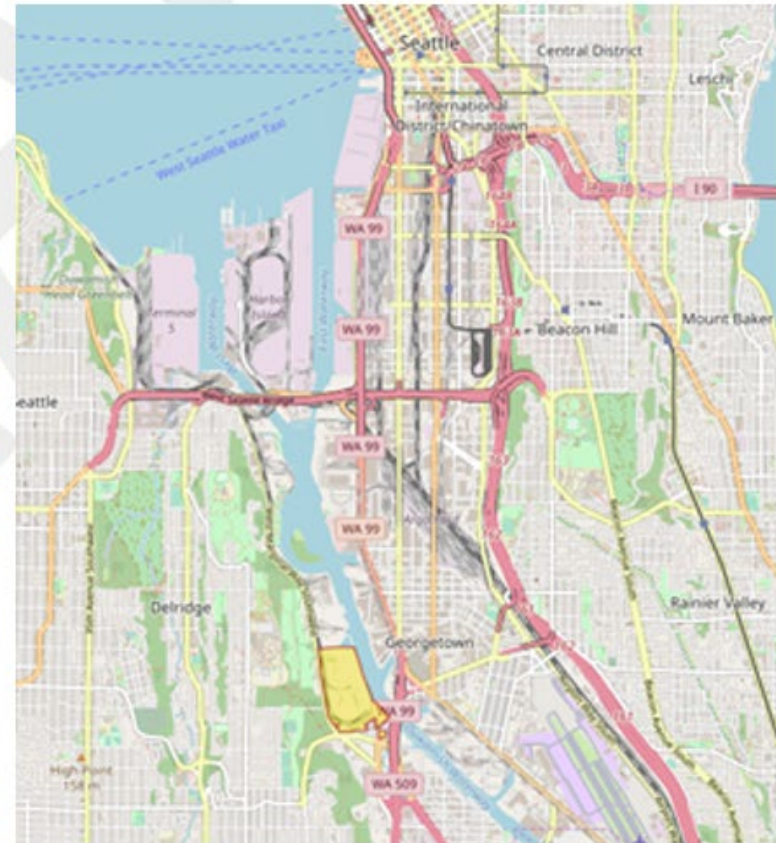
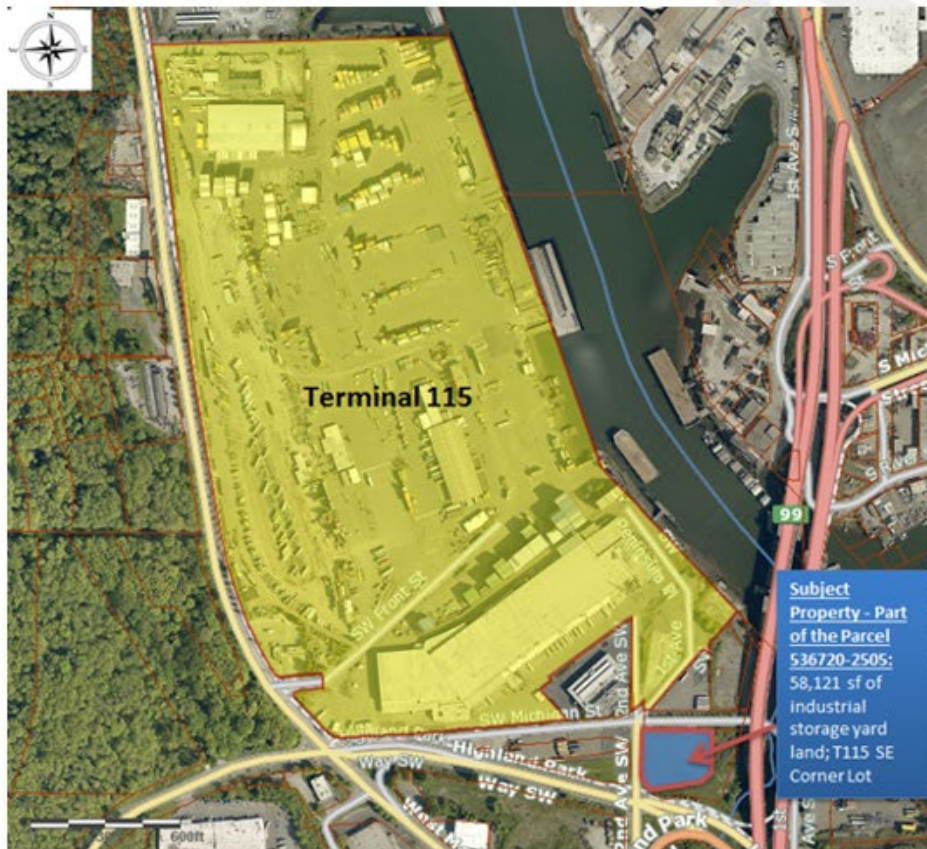
Exhibit C: Key Tasks of Proposed Site Investigative Work

#	Key Tasks of Proposed Site Investigative Work	Space Needs	Timeline	Days of Impact & Disruptions to Tenant Use	Notes and Comments
1	Initial access and site visit to...				
	Mark boring locations	...around parked tenant trucks as long as proposed monitoring wells locations are not blocked	2-3 wks from eff. access date	1	1 field scientist
	Mark utility locations				
2	Assess space needs and considerations for drill rig & drilling wells				
2	Premises need to be mostly fully vacated for 2 days for...	...for a large, truck-mounted drill rig and 2 support trucks	1 wk after initial site access	4	1 field scientist, 1 private utility locator, 3-4 drillers
	drilling and well development				
3a	Groundwater sampling and surveying (initial)	...areas around each well cleared and 1 vehicle	1 wk after wells drilled	1	1 field scientist, 2 subcontractors
3b	Groundwater sampling and surveying (follow-up samples)	...areas around each well cleared and 1 vehicle	3 mo after wells drilled	1	1 field scientist, 2 subcontractors
4	Identify space & location on site for short-term storage for...	...18-21 drums & 1 mid- to large-size truck near the location of the drums	4-6 wks after drilling is completed	10	1-2 personnel on site for loading and removal of drums.
	storing drums containing soil and groundwaterspoils from site investigation and a truck				

**Tasks and scope in Exhibit B and Exhibit C may be modified to include additional borings/wells and/or conduct additional sampling and investigations on the Premises. Should the tasks and scope need to be modified, King County shall send a map illustrating the location of the additional borings/wells and a written scope to the Port representative identified in Section 19 (Notice) for review and approval, email is acceptable.*

ACCESS AGREEMENT

Exhibit C



**PORT OF SEATTLE
RESOLUTION NO. 3803**

A RESOLUTION

of the Port Commission of the Port of Seattle amending Unit 20 of the Comprehensive Scheme of Harbor Improvements of the Port of Seattle (Lower Duwamish Industrial Development District) by: (i) declaring certain real property surplus and no longer needed for port district purposes; (ii) deleting said property from Unit 20 of the Comprehensive Scheme; and (iii) authorizing the Executive Director, or his designee, to finalize negotiation, preparation and execution all necessary documents to sell said real property to King County for purposes of developing a Combined Sewer Overflow (CSO) facility.

WHEREAS, the original Comprehensive Scheme of Harbor Improvements of the Port of Seattle was fixed in Resolution No. 17 of the Port Commission and was ratified by the qualified electors of the Port District at a special election held therein on March 5, 1912; and

WHEREAS, Unit 20 of the Comprehensive Scheme – the Lower Duwamish Industrial Development District was initially created by Port Commission adoption of Resolution No. 2769 on May 27, 1980; and

WHEREAS, the boundaries of said Unit 20 were subsequently revised and restated by Port Commission adoption of Resolution No. 2805 on February 10, 1981, as subsequently amended; and

WHEREAS, included within said Unit 20 is the Port-owned real property located in the vicinity of 6000 W. Marginal Way SW, King County, State of Washington (portion of Parcel No. 5367202505), legally described on attached Exhibit A (the “Property”); and

35 **WHEREAS**, King County has offered to purchase the Property for use as a proposed site
36 for a Combined Sewer Overflow (CSO) facility to be developed by King County; and

37 **WHEREAS**, the Port has negotiated a purchase and sale agreement (the “Purchase and
38 Sale Agreement”) with King County to sell the Property to King County for a purchase price of
39 Two Million Two Hundred Thousand Dollars (\$2,200,000) pursuant to appraisal and negotiation;
40 and

41 **WHEREAS**, pursuant to Chapter 39.33 of the Revised Code of Washington
42 (Intergovernmental Disposition of Property Act) the Port may sell, transfer, exchange, lease or
43 otherwise dispose of real and personal property to the state, any municipality or any political
44 subdivision thereof on such terms and conditions as may be mutually agreed upon by the governing
45 authorities of the participating entities; and

46 **WHEREAS**, a resolution declaring the Property surplus and deleting the Property from
47 Unit 20 of the Comprehensive Scheme is a prerequisite to sale of the Property; and

48 **WHEREAS**, an official public hearing was held May 10, 2022, after notice of such hearing
49 was duly published as provided by law, to consider whether said Unit 20 of the Comprehensive
50 Scheme should be amended to provide for the Property to be declared surplus to Port of Seattle
51 needs and no longer needed for Port purposes, to delete the Property from Unit 20 of the
52 Comprehensive Scheme, and to authorize its sale to King County; and

53 **WHEREAS**, the Port of Seattle Commission has heard from all persons desiring to speak
54 at said public hearing with regard to the proposed amendment and modification to Unit 20; and

55 **WHEREAS**, the members of the Port of Seattle Commission have discussed and
56 considered the proposed amendment to Unit 20 of the Comprehensive Scheme in light of all
57 comments by members of the public at the public hearing;

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

Section 1. The Property, which is part of Unit 20 of the Comprehensive Scheme, is hereby
declared surplus to Port of Seattle needs and no longer needed for Port purposes and deleted from
Unit 20 of the Comprehensive Scheme.

Section 2. The Executive Director is authorized to take all necessary steps and to execute
all documents, including the Purchase and Sale Agreement, necessary to accomplish sale of the
Property to King County, in accordance with state law.

ADOPTED by the Port Commission of the Port of Seattle at a regular meeting held this
_____ day of _____, 2022, and duly authenticated in open session by the
signatures of the Commissioners voting in favor thereof and the seal of the Commission.

Port Commission

Exhibit A

Resolution No. 3803

Legal Description

ALL THAT PORTION OF REAL PROPERTY LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 24 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, AND CITY OF SEATTLE LOT BOUNDARY ADJUSTMENT NO. 2207807 RECORDED UNDER KING COUNTY RECORDING NO. 20030211900004, MORE PARTICULARLY DESCRIBED AS: LOTS 10-20 INCLUSIVE, BLOCK 19 OF THE PLAT OF JOSEPH R. MCLAUGHLIN'S WATERFRONT ADDITION TO THE CITY OF SEATTLE, RECORDED IN VOLUME 13 OF PLATS, PAGE 28, IN KING COUNTY, WASHINGTON;

TOGETHER WITH THOSE PORTIONS OF ADJOINING ALLEY AND THE WEST HALF OF VACATED 1ST AVENUE SW LYING BETWEEN THE SOUTHERN RIGHT OF WAY LINE OF SW MICHIGAN STREET RECORDED UNDER KING COUNTY RECORDING NO. 20051129002557, CONVEYED TO THE CITY OF SEATTLE, AND EXHIBIT "T" IN QUITCLAIM DEED RECORDED UNDER KING COUNTY RECORDING NO. 20051129002573, CONVEYED TO THE STATE OF WASHINGTON.

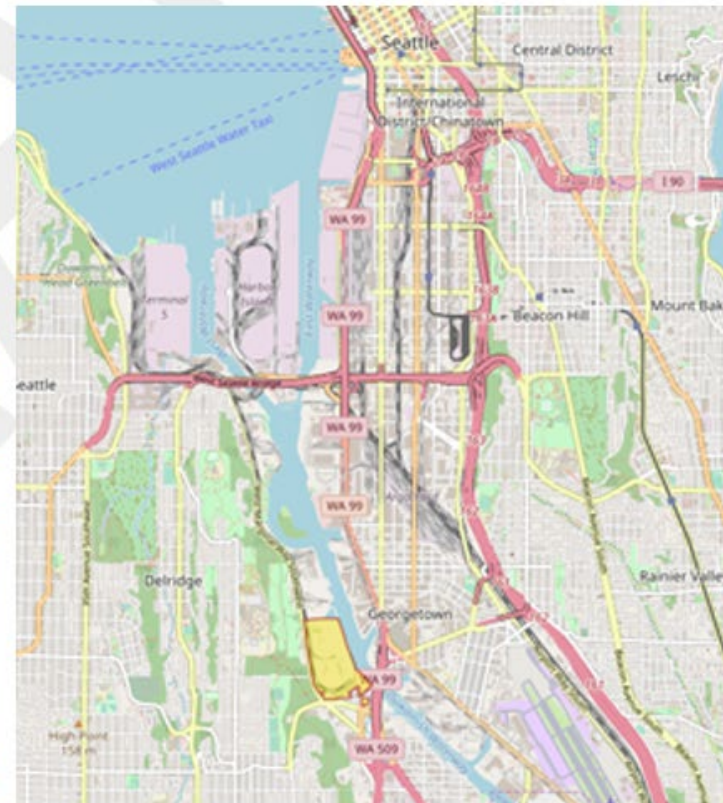
EXCEPT THOSE PORTIONS OF TRACT 2 LYING WITHIN LOTS 15 AND 16 IN QUITCLAIM DEED AS RECORDED UNDER KING COUNTY RECORDING NO. 200511290556, AS CONVEYED TO THE STATE OF WASHINGTON.

AND EXCEPT THOSE PORTIONS OF LOTS 10 AND 20, LYING WITHIN SW MICHIGAN STREET PER QUITCLAIM DEED RECORDED UNDER KING COUNTY RECORDING NO. 20051129002557.

SITUATE IN THE COUNTY OF KING, STATE OF WASHINGTON.

Item No.	10b supp
Date of Meeting	May 10, 2022

Surplus and Sale of **Terminal 115 Non-Alliance Portion** of Property to King County as a Site for Building a Combined Sewer Overflow (CSO) Facility



Subject Property

(blue-shaded area)



- **Parcel Info:**
Subject Property is the blue-shaded area. Parcel Number is #536720-2505.
- **Location:** Between 2nd Ave SW and SW Michigan.
- **Size:** 58,121 SF
- **Sale price:** \$2.2 million
- **Current Tenant**
American Best Trucking is on a month-to-month lease.

Background

- King County is currently under a 2013 **Consent Decree** with the Environmental Protection Agency (EPA).
- The Consent Decree requires King County to **complete its CSO Control Plan by 2030**.
 - This plan contains a list of “*Protecting Our Waters*” projects with strict timelines.
 - The CSO (combined sewer overflow) control project involving construction of a new CSO facility located at SW. Michigan St./ Terminal 115 is required to meet the critical milestone of “construction completion by December 31, 2025”.
- After performing a rigorous site selection process, and based on the preliminary designs, scope of work and time needed in constructing of this CSO facility, King County has approached the Port and asked to acquire this property to ensure **meeting the goal and strict timelines** set by the Federal Consent Degree.
- If King County cannot purchase this property in an amicable manner from the Port, they will likely use **eminent domain** to acquire the property.

KC Site Selection

King County completed an extensive site selection process in 2017 that included the careful evaluation of 17 sites.

- The result of this process identified the **T115 Parcel A property** as the ideal site for building a storage tank as part of a CSO control plan, because
 - ✓ the majority of the control volume required is at the W. Michigan St. Regulator Station Overflow, which is directly adjacent to the site and the West Michigan outfall, thus limiting conveyance needs while reducing costs and traffic and property impacts.
 - ✓ The T115 Parcel A site is also the ideal shape and size, allows gravity flow into the tank and minimal conveyance.
 - ✓ Additionally, it is a large site sufficient for the tank size needed with room for on-site landscaping and stormwater treatment and allows for adequate access to perform routine maintenance.

Environmental & Health Benefits

- The proposed Combined Sewer Overflow (CSO) storage tank at the T115 Parcel A location is to **control the number of sewage spills from two outfalls** (“West Michigan” and “T115”) directly into the Duwamish river, to fewer than one occurrence per year.
- It will reduce uncontrolled sewage spills, thus creating **tremendous water quality and health benefits** through prevention of debris (including plastics), biodegradable solids, other pollutants and bacteria from entering the Duwamish River.

Staff Recommendation

- **Sell at market value to King County.**
- **Cost Estimate: \$0. No cost to Port.**
- **Pros:**
 - 1) Sell to King County at fair market value. Net sale revenue can fund other Port initiatives and projects that are critical to Port growth and Century Agenda goals.
 - 2) Cooperate and assist King County, as a public entity, in fulfilling its goals and milestones set by the Federal Consent Decree, thus indirectly contributing to and facilitating the construction of CSO facility that reduces sewer overflow pollution while also benefiting the local communities that the Port serves.
 - 3) Surplus the subject property that's not deemed important to the Port's future business growth strategies or aligned with overall Century Agenda missions and visions. A parcel this small in this location has limited development opportunity.
- **Cons:**
 - 1) Loss of a yard lease revenue generating property (\$105,000/year) with little maintenance & repair cost.
 - 2) Loss of a property for potential future development.

Summary/Next Steps

- Staff recommendation is to sell small property adjacent to Terminal 115 to King County to support a Combined Sewer Overflow (CSO) facility that will help reduce uncontrolled sewer overflows into Duwamish River.
 - Size: 58,121 square feet (approximately 1.3 acres)
 - Sale Price: \$2.2 Million
- Sale of property requires two public hearings (2nd hearing scheduled for May 25)
- Due diligence period is two years from PSA execution date (TBD).

[RETURN TO AGENDA](#)

**COMMISSION
AGENDA MEMORANDUM**

Item No. 10c

ACTION ITEM

Date of Meeting May 10, 2022

DATE: May 3, 2022

TO: Stephen P. Metruck, Executive Director

FROM: Jeff Moken, Interim Director AV Business & Properties
Wayne Grotheer, Director Aviation Project Management

SUBJECT: Budget increase request – Concourse A Building Expansion for Lounges (C801205)

Amount of this request: \$26,500,000

Total estimated project cost: \$105,000,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to (1) authorize a budget increase for the Concourse A Building Expansion for Lounges project at Seattle-Tacoma International Airport by Delta Air Lines, Inc; and (2) authorize an increase to the reimbursement amount to Delta. Total cost of this request is \$26,500,000 of an estimated total project cost of \$105,000,000.

EXECUTIVE SUMMARY

Delta Air Lines, Inc. (Delta), in preparation to construct the Concourse A Building Expansion for Lounges project at the Airport, has notified the Port of increased and escalating costs in establishing the final contract value with their contractor. Delta staff indicated this is a result of scope additions and schedule changes during design development from 60% design to 100% design, escalating costs for construction materials and labor, and volatility in the construction market and global supply chain.

This project constructs a building expansion towards the end of Concourse A that will incorporate a new passenger lounge for Delta and provide a new buildout space for the Port of Seattle common-use lounge: The Club at SEA. This project is expected to meet existing (pre-COVID-19) passenger demand for Delta's lounge. This project also supports Century Agenda Goal #2 to advance this region as a leading tourism destination and business gateway.

To achieve this, Delta has designed and endeavors to construct an approximately 52,000 square foot (SF) building expansion at the east side of Concourse A, across from Gate A11 and directly south of the International Arrivals Facility (IAF), using a Tenant Reimbursement Agreement (TRA) with the Port. Approximately 36,000 SF of the new space will be leasable, including the space

Meeting Date: May 10, 2022

that will be directly leased by Delta for their lounge. Delta is investing an additional \$35 million in the tenant buildout of their lounge.

JUSTIFICATION

Delta has requested to construct a new lounge on Concourse A to accommodate passenger demand that shifted from the South Satellite to Concourse A upon the opening of the IAF. The Port currently lacks sufficient space to meet this demand. Thus, to satisfy this request for additional leased space, the Port agreed to permit Delta to design and construct the lounge addition in undeveloped space governed by a TRA. In December 2021, Port Commission authorized the construction of this project. The value of the December TRA was based on 60% design documents. Today's request is to increase the budget to incorporate additional costs based on the 100% design.

Diversity in Contracting

The Port collaborated with Delta and has included in the TRA a WMBE goal of 10%, an apprentice hiring goal of 15%, a women apprentice hiring sub-goal of 12%, a minority apprentice hiring sub-goal of 21%, and a priority worker goal of 20% for the construction contractor. Delta has stated that they will strive to exceed these goals.

DETAILS

Existing national and local construction market and global supply chain conditions have created significant cost uncertainty and volatility within the construction industry. As a result, Delta and the Port are eager for Delta to execute a Fixed Guaranteed Maximum Price (FGMP) with their contractor to reduce the risk of market volatility. The value of the request incorporates known and potential costs currently identified by Delta and their contractor. The division of those costs are still being negotiated between the Port and Delta, with both teams expediting their efforts to stave off future cost escalations.

To secure a reasonable level of cost certainty, the Port and Delta are requesting an increase of \$26.5 million for the total project. The value of the TRA will be increased from the previously authorized value of \$65.92 million to \$89.96 million. Delta's original request to the Port was for an increase of the TRA value to approximately \$93 million. The Port and Delta continue to negotiate over the approximate \$3 million difference. The Port will retain that amount within the Port controlled portion of the budget until these negotiations can be completed.

The increased project costs fall into five categories:

<u>Issue Type</u>	<u>Value</u>
Scope Additions	\$8,000,000 (new items not previously estimated)
Market Conditions/Supply Chain	\$8,500,000 (material price increases)
Buyout Contingency/Risk Contingency	\$5,600,000 (risks due to volatile construction mkt.)
Delta Soft Costs	\$800,000 (design fees for scope adds + Delta PM

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Port Costs	\$3,600,000 (Port PM and contingencies)
TOTAL	\$26,500,000

After the Commission’s authorizations on April 27, 2021, and December 14, 2021, the Port and Delta entered into the TRA for this project on August 11, 2021, with an updated reimbursement letter issued on January 20, 2022, reflecting a maximum reimbursement amount to Delta by the Port of \$65,920,000. If this Commission request is authorized, the Port will issue an updated reimbursement letter that reflects an updated maximum reimbursement amount of \$89,960,000.

The project has been identified as a Tier Two project under the Port’s Sustainable Evaluation Framework. The project team analyzed concepts to reduce energy and carbon emissions, along with other initiatives to reduce solid waste, promote public transportation, and support employees. The team also calculated the total cost of ownership for the different sustainability concepts. The project will implement (1) triple-glazed electrochromic façade (“smart glass”); (2) all electric appliances (no natural gas); (3) low-flow water fixtures in the Delta lounge; (4) signage for public transportation options; (5) an employee breakroom; and (6) three new electric vehicle charging stations. The sustainability work and recommendations were reviewed by the Commission Sustainability, Environment and Climate Committee on November 18, 2021. The cost increases Delta has notified the Port about include unanticipated scope changes during design development notably to address the relocation of the Port’s maintenance shop and escalating costs for construction materials and labor.

Delta will be responsible for the cost and construction of the interior buildout of their lounge within the new building shell. The Port’s common use lounge, authorized by Commission for design on December 14, 2021, will be completed by the Concourse A Port Shared Use Lounge project.

Scope of Work

- (1) Construct a building addition of approximately 52,000 SF that will provide shell space for two lounges and associated building systems.
- (2) Reconfigure existing spaces to provide additional leasable office area, an entry foyer, a replacement restroom, and vertical circulation.
- (3) Demolish an existing airport building deemed unfit to renovate and construct a new building in its place to house the relocated Aviation Maintenance Department Passenger Loading Bridge shop that is being displaced by this project. The expense cost to move the shop is included in the budget.
- (4) Provide temporary restrooms for the Port common use lounge to keep the lounge operational during construction of the building expansion.

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Schedule*Activity*

Commission design authorization	2021 Quarter 2
Design start	2021 Quarter 2
Construction start	2022 Quarter 3
In-use date	2024 Quarter 1

Cost Breakdown

This Request

Total Project

Design	\$0	\$6,300,000
Construction	\$26,500,000	\$98,700,000
Total	\$26,500,000	\$105,000,000

ALTERNATIVES AND IMPLICATIONS CONSIDERED**Alternative 1** – Limit the budget increase to \$23,500,000.Cost Implications: \$102,000,000Pros:

- (1) This is the lower cost alternative.

Cons:

- (1) This alternative unilaterally eliminates some of the design development and risk contingency built into the request from Delta. Port staff may not be able to reach an agreement at this cost with Delta.
- (2) Reducing the contractor risk contingency available to the project will hinder Delta's ability to reach a Fixed Guaranteed Maximum Price (FGMP) with their contractor.
- (3) Market volatility may result in a need to return to the Commission for additional authorization in the future, risking further cost increase.

This is not the recommended alternative.

Alternative 2 – Increase the budget by \$26,500,000. Increase the TRA value to \$92,890,000.Cost Implications: \$105,000,000Pros:

- (1) Passenger lounge spaces will be expanded to accommodate anticipated return of demand.
- (2) Location of the lounge on Concourse A will support Delta's operations on Concourse A.
- (3) The expanded lounges (Delta's and the Port's common use) will provide passengers an alternative to waiting for flights in crowded hold rooms, and the Club at SEA will support international airlines who do not possess their own branded lounge.

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Cons:

- (1) This alternative commits the highest amount to the TRA. Approximately \$3,000,000 of this amount is still under review and may not be necessary.
- (2) Funds are unavailable for other uses.
- (3) This is a higher cost alternative.

This is not the recommended alternative.

Alternative 3 – Increase the budget by \$26,500,000 for the project. Increase the TRA value to \$89,960,000.

Cost Implications: \$105,000,000

Pros:

- (1) Passenger lounge spaces will be expanded to accommodate anticipated return of demand.
- (2) Location of the lounge on Concourse A will support Delta's operations on Concourse A.
- (3) The expanded lounges (Delta's and the Port's common use) will provide passengers an alternative to waiting for flights in crowded hold rooms and the Club at SEA will support international airlines who do not possess their own branded lounge.
- (4) This alternative authorized the full amount of the estimated project costs but retains Port control of the portion of the contractor request increase still under negotiations. This provides the flexibility to adjust the TRA value once those potential costs are realized in a timely fashion.

Cons:

- (1) Funds are unavailable for other uses.
- (2) This is the higher cost alternative.

This is the recommended alternative.

FINANCIAL IMPLICATIONS

<i>Cost Estimate/Authorization Summary</i>	Capital	Expense	Total
COST ESTIMATE			
Original estimate	\$60,000,000	\$0	\$60,000,000
Previous changes – net	\$18,450,000	\$50,000	\$18,500,000
Current change	\$26,500,000	\$0	\$26,500,000
Revised estimate	\$104,950,000	\$50,000	\$105,000,000
AUTHORIZATION			
Previous authorizations	\$78,450,000	\$50,000	\$78,500,000
Current request for authorization	\$26,500,000	\$0	\$26,500,000
Total authorizations, including this request	\$104,950,000	\$50,000	\$105,000,000
Remaining amount to be authorized	\$0	\$0	\$0

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Annual Budget Status and Source of Funds

This project, CIP C801205, was included in the 2022-2026 capital budget and plan of finance with a budget of \$71,400,000. A budget increase of \$33,600,000 was transferred from the Aeronautical Reserve CIP (C800753) resulting in zero net change to the Aviation capital budget. The funding source will include the Airport Development Fund and future revenue bonds. This project was approved Majority-In-Interest by the airlines on December 7, 2021.

Financial Analysis and Summary

This project is an investment in additional terminal space that is intended to be used for both aeronautical and non-aeronautical purposes. As a hybrid project, the financial analysis looks at the projects as both a standalone non-aero investment and a terminal investment that flows through airline rates and charges.

Aeronautical Rate Base Impacts

		2024		
		Aero	Non-aero	Total
	(\$000s)			
Rentable sqft without Conc A sqft		76.78%	23.22%	100%
Rentable sqft WITH Conc A sqft		76.89%	23.11%	100%
Project cost	\$	80,731	\$ 24,269	\$ 105,000
Incremental Revenues WITHOUT Conc A SF	\$	6,655		
Terminal distribution		10		
Incremental Revenues WITH Conc A SF		6,665		
Incremental Debt Service		6,665	2,002	8,667
Incremental Amortization		2.6	0.8	3.4
Incremental CPE				0.26
Incremental Terminal Rental Rate				4.61

With the Concourse A expansion, the net terminal square footage distribution has a minor impact on the analysis as the existing project space allocation is reasonably close to the existing allocations.

The table above shows that before Concourse A expansion, 76.78% of the terminal costs are allocated to the aeronautical rate base, which equates to incremental revenue of \$6,655,000. After adding the incremental square footage of this project, the percentage of terminal costs increases to 76.89%; this reflects an \$10,000 increase to Aeronautical revenue. Thus, in 2024 the net impact of the Concourse A expansion project is to contribute \$6,665,000 in incremental revenue to the aeronautical rate base.

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Terminal rents are established based on the total cost center costs. The project would be completed in Q1 2024. The full year of debt service and equity amortization begin in 2024. The incremental terminal rent would be \$4.61 and CPE of \$0.26 in 2024.

Non-aeronautical Investment Analysis

The purpose of this section is to demonstrate that the Port has a compelling business case as a non-aero investment. The non-aeronautical investment includes both the cost of new space included in this authorization request and cost of the interior build-out and furnishings (\$24.7 million) included in CIP C801207 (note that C801207 has not changed).

The table below shows the allocation of capital costs based on rentable square footage. For non-aero purposes, 18.17% of the rentable square footage, equating to \$19 million in capital cost, establishes the basis of the non-aero portion of the project. The lower part of the table identifies an incremental revenue increase of \$4.3 million in 2027. This new revenue, attributed to the airport lounge generates the positive Net Present Value of \$240K, which signifies a good investment. Given that the existing space is currently generating revenues, the NPV is netted against a base case (do nothing).

Non-aero Investments	Non-aero	Aero	Total
Concourse A rentable sqft	6,499	29,264	35,763
Concourse A rentable sqft %	18.17%	81.83%	
\$ in 000s			
Base Building, C801205	\$ 19,081	\$ 85,919	\$ 105,000
Furnishings, C801207	\$ 24,726	\$ -	\$ 24,726
Total Capital	\$ 43,807	\$ 85,919	\$ 129,726
Non-Aero Analysis			
Payback (years from opening)	8		
NPV (through 2043)	\$ 40,330		
NPV Incremental to Base	\$ 240		
	2024	2027	
Incremental Non-aero Revenue	\$ 1,114	\$ 4,948	
Incremental Non-aero O&M	\$ (337)	1,210	
Debt service TERMB to Non-aero	\$ (2,004)	(2,004)	
Non-aero Net Cashflow	\$ (553)	\$ 1,734	

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Future Revenues and Expenses (Total cost of ownership)

The tenants would pay operating and maintenance annual costs in their space since maintenance of exclusive premises is the responsibility of the lessee. Those costs are not included in the amount shown below. This project provides 29,264 SF of aeronautical rentable space, as well as 6,499 SF of rentable non-aeronautical space.

Facility elements outside of or supporting the exclusive premises, such as custodial services, domestic water, power, and HVAC will generate some additional demand for Aviation Maintenance services, and those annual operating and maintenance costs for the new space are estimated to be \$340,000, according to the cost breakdown below:

Custodial services	\$275,000
Facilities services	30,000
Electrical systems	18,000
Mechanical systems	17,000

ATTACHMENTS TO THIS REQUEST

(1) Presentation slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

December 14, 2021 – The Commission authorized construction and reimbursement to Delta Air Lines and utilization of Port crews for construction and support.

April 27, 2021 – The Commission authorized design and execution of a TRA for this project.

Concourse A Building Expansion for Lounges

Budget Increase Request

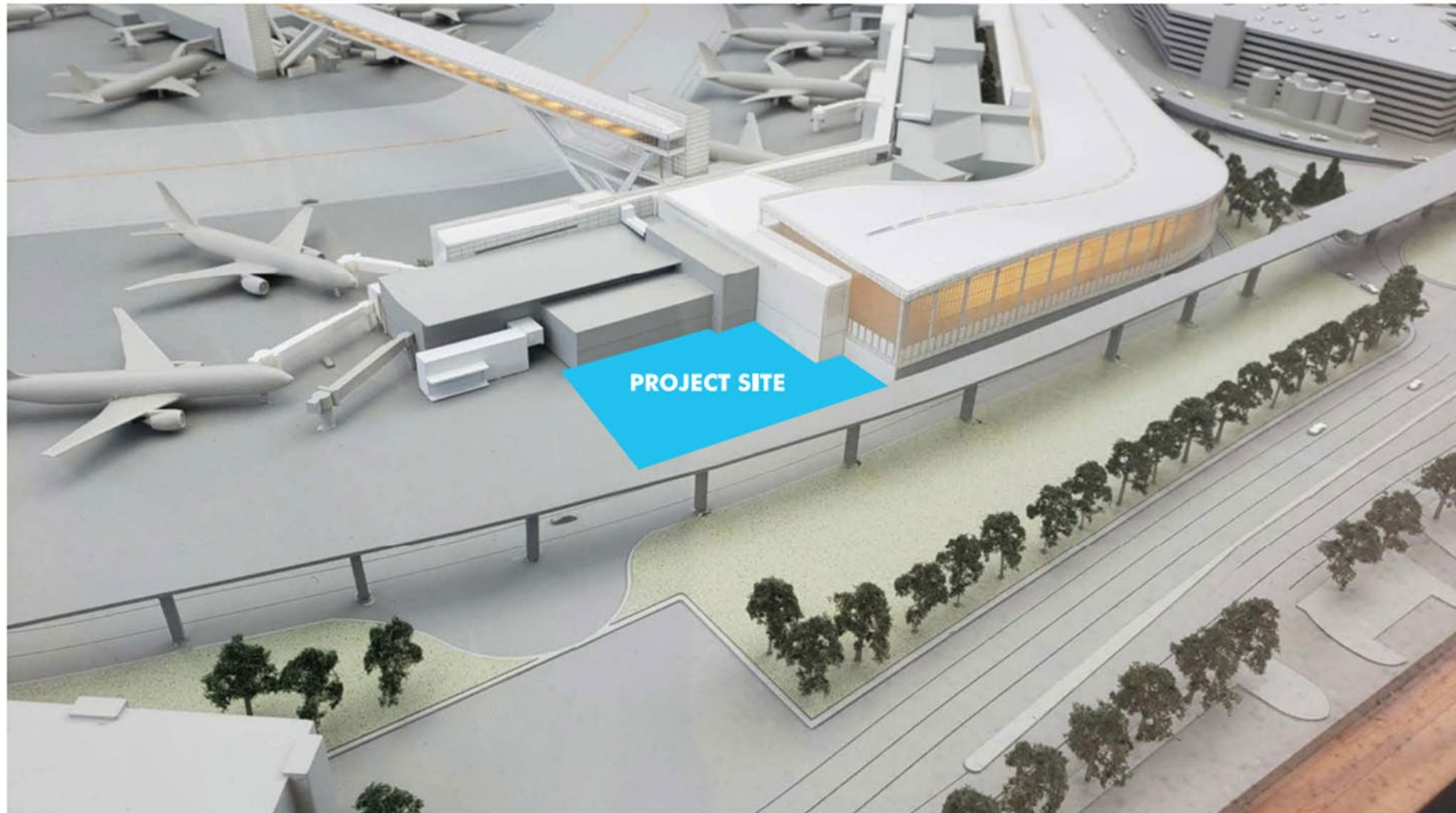
Requesting Commission Authorization For:

- Budget increase for project \$26.5M
- Reimbursement increase to Delta for construction under the Tenant Reimbursement Agreement by approximately \$24M

Background

- Expansion of lounges will support increased passenger levels with the opening of the International Arrivals Facility (IAF)
- Shared lounge volumes have increased significantly since 2015 (compared to 2019)
 - a total of 390% in shared use lounges
 - 899% in Concourse A lounge alone
 - The Club at SEA lounge today is undersized to meet growing demand
 - On average 861 passengers per month were turned away pre-pandemic
- Delta Air Lines constructing an expansion of Concourse A using a TRA
 - Design of base building approved by Commission on April 27, 2021 and updated based on the 60% design on December 14, 2021.

Concourse A Building Expansion for Lounges



Concourse A Building Expansion for Lounges





PLB Maintenance Shop
Relocation to 188M Site

Cost Escalation Categories:

- **Scope Addition**
 - known and indicated scope additions between 60% and 100% design. Includes the design development for the Passenger Loading Bridge (PLB) Maintenance shop.
- **Market Conditions / Global Supply Chain**
 - application of average material and anticipated labor cost escalation; costs reflective of the challenging bid environment.
- **Buyout Contingency**
 - additional contingency the contractor has applied to the proposal identifying cost risk until all trade partners are under contract
- **Delta & Port Soft Costs**
 - costs associated with design development, design support during construction, and risk contingencies managed by the Port.

Areas of cost increase from 60% Design Development to Final Design

Increase	Variance	Reason for Increase
Scope Additions	\$8,000,000	Maintenance shop replacement, added sitework, HVAC and electrical scope additions, added contractor markups
Market Conditions / Global Supply Chain	\$8,500,000	Material price increases, delayed construction start, increased construction schedule, added contractor markups
Buyout Contingency / Risk Contingency	\$5,600,000	Potential risks due to volatile construction market
Delta Soft Costs	\$800,000	Increased design fee for scope adds, Delta PM increase
Port Costs	\$3,600,000	Increased Port management, Port contingency
TOTAL	\$26,500,000	

Risks

- If design and permitting of the new 188M PLB Maintenance shop takes longer than anticipated, construction of the Concourse A expansion could be further delayed.
- A longer construction duration within the adjacent Club at SEA will increase the period for the temporary alternate accommodation of passenger lounge users.

Budget and Schedule

- Current Budget \$78,500,000
- Requested Budget \$105,000,000

Schedule:

- Construction Start 2022 Q3
- Construction Finish 2024 Q1

A grayscale architectural rendering of a modern, multi-story building. The building features a prominent grid-like facade, possibly made of glass or metal panels. It has several levels with balconies or overhangs. The word "Questions?" is overlaid in a large, dark blue font in the center of the image. At the bottom, there is a red text link that says "RETURN TO AGENDA".

Questions?

[RETURN TO AGENDA](#)

COMMISSION
AGENDA MEMORANDUM

BRIEFING ITEM

Item No.	<u>11a</u>
Date of Meeting	<u>May 10, 2022</u>

DATE: May 3, 2022
TO: Stephen P. Metruck, Executive Director
FROM: Andy Gregory, Sr. Program Manager Environmental Engagement
SUBJECT: Forterra ACE Green Cities Close-Out Report

EXECUTIVE SUMMARY

The Port of Seattle contracted with non-profit Forterra in 2017 to launch Green City Partnership Programs in Burien, Des Moines and SeaTac as part of the Airport Community Ecology (ACE) Fund. Forterra conducted urban forest canopy assessments in the three cities to identify priorities for forest restoration and enhancement. Forterra then developed Urban Forest Stewardship Plans for each city to guide the work over the coming decades.

BACKGROUND

Airport Community Ecology Fund

Recognizing that neighboring communities that experience more impacts from airport operations should also experience more benefits, the Port Commission adopted the Airport Community Ecology (ACE) Fund in 2016, dedicating \$1 million to support environmental stewardship in Burien, SeaTac, and Des Moines. The Port committed \$550,000 for a Small Matching Grants Program, which allowed local community organizations to apply to receive funding for stewardship projects. The Port awarded \$450,000 to Forterra to support long-term urban forestry efforts through the development of new Green Cities Partnerships in Burien, SeaTac, and Des Moines.

Forterra's Green City Partnerships bring together local government agencies, businesses, schools, non-profit groups, and community members to create a sustainable network of healthy forested parks and natural spaces in urban areas throughout the region. These Partnerships create and implement community-based models that ensure ongoing restoration and stewardship of these vital outdoor spaces. Forterra works with cities to identify restoration opportunities within the jurisdiction, and recruits, trains, and supports passionate volunteers to participate in stewardship activities. The current Green Cities Network consists of Partnerships in 14 cities and one county throughout Western Washington.

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KEY METRICS

- 2,765 Plants and Trees Planted, including 982 Trees
- 836 Volunteers
- 2,113 Volunteer Hours (valued at \$67,040)
- 78 Volunteer Events
- 475 Yard Trees Distributed
- 11 Parks in Restoration
- 14 Forest Stewards
- 26 City Council and Community Meetings
- 4,339 Paid Youth Crew Hours (valued at \$134,459)

SCOPE OF WORK 2018-2022

- Urban Forest Assessments
- Community Engagement
- Urban Forest Enhancement Plans
- Des Moines Memorial Drive Plan Enhancement
- Implement Priority Community-Based Urban Forestry Projects

URBAN FOREST ASSESSMENTS*Project Overview*

With support from subcontractor Core GIS and in partnership with each city, Forterra worked to identify the forested parks and natural areas in SeaTac, Burien and Des Moines and completed a forest health assessment –totaling 738 acres across the three cities, which indicated where healthy forest ecosystems that need to be maintained were and where the partnerships needed to focus on invasive removal and replanting to ensure those areas continue to provide the ecosystem services, community health benefits and habitat for wildlife.

Under the Port's guidance in thinking about the disparities and vulnerabilities in these cities, Forterra worked to expand upon the typical Green Cities model to look at city-wide canopy cover where programming could enhance and increase canopy in neighborhoods, extending beyond the traditional focus in forested parks and natural areas. Exploring city-wide canopy cover provided crucial baseline data to identify alternative areas for planting, restoration, and community building.

Key Insights

The forest assessment process showed that 30% of Burien is covered with tree canopy, Des Moines had a canopy cover of 29%. SeaTac had a canopy cover of 25% when not including the footprint of SEA airport and 21% including the footprint of SEA airport.

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Forterra and Core GIS then collaborated to cross-reference canopy findings with social vulnerabilities, identifying neighborhoods with elderly, low-income, and minority populations, as well as mapping schools and low-income housing locations to help inform equitable distribution of resources and support. Said mapping and analysis helped Forterra to think about where to perform focused outreach for tree distribution to residential neighborhoods that are lower in tree canopy cover. This analysis continues to help inform where Forterra hosts community tree planting projects. Furthermore, it helped Forterra select the sites for more focused park restoration work (Hilltop, Arbor Lake in Burien; Kiddie City Park in Des Moines; North SeaTac Park and Angle Lake Park in SeaTac).

Outcomes

This additional mapping layer and related work was key in that it helped Forterra secure an additional \$260,000 in funding for canopy enhancement projects in collaboration with Highline Public Schools and the Washington State Department of Natural Resources. This funding enabled the program to increase canopy on or within on quarter mile of select public schools in SeaTac, Burien, and Des Moines. It cannot be stressed enough that this grant would not have been awarded without the initial investment of the Port and guidance to expand forest assessment work and programmatic focus beyond public parks.

COMMUNITY ENGAGEMENT

Project Overview

Given the high level of concern among residents about the impacts of Port activities, cumulative environmental impacts, as well as the existing socioeconomic disparities in South King County that serve to further exclude communities of color from decision-making processes, the Port and Forterra prioritized the role of public engagement in the Partnerships' first year. Through this work, it was evident that ACE communities care about engaging in public health and climate change work, especially as communities of color have traditionally been denied access to participating in environmental movements. However, due to systemic racism and socioeconomic inequities, they must address more immediate basic needs in their communities like poverty, job access, food insecurity, etc.

The community engagement work in Burien, SeaTac and Des Moines represents Forterra's first comprehensive effort to engage communities around the development of new Green Cities Partnerships. The goal was to ensure that community perspectives—particularly those of residents from historically overburdened groups—informed the priorities and activities of the new Partnerships from the outset.

Forterra worked collaboratively with Global to Local (G2L), a SeaTac-based non-profit to conduct outreach in two main ways: tailored engagement via the Community Connectors model which targeted individuals from difficult-to-reach communities; and traditional engagement in the form of Open Houses and surveys, which was meant to gather feedback from a broad audience.

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Connectors attended two trainings run by Forterra and G2L that oriented them to the Green Cities program and the expectations for the Connector role. They were also given the opportunity to provide feedback on the outreach materials and activities, including survey language and Open House times/locations. In addition to attending trainings, the Connectors were tasked with the following responsibilities: distributing and collecting paper surveys, distributing open house promotional flyers, recruiting individuals to attend Open House events, and helping to facilitate small community meetings.

Key Insights

While Forterra succeeded in gaining valuable feedback from stakeholders regarding the development of the Green Cities Partnerships in Burien, SeaTac and Des Moines, the partnerships nonetheless faced challenges throughout the outreach process. These challenges presented opportunities for further aligning the work with community needs to ensure the long-term success of the project.

First, Forterra experienced difficulties recruiting community members to attend the Open House events. Some Connectors mentioned that, while many of their contacts expressed interest in participating in stewardship events such as tree plantings, it was difficult to get people to provide meaningful feedback on the narrow topic of urban tree canopy, let alone take the time to participate in the Open Houses. The lack of community interest in the topic of urban forestry was particularly pronounced among historically marginalized groups. Community partners that were affiliated with these groups noted that the topics of urban forestry and urban tree canopy were not identified as priorities for many of these communities, as they oftentimes face more immediate needs such as affordable housing, attainable education, and employment opportunities.

In addition to challenges engaging communities around the specific topic of urban forestry, Forterra and G2L also faced issues with Connector attrition throughout the project cycle. Many Connectors worked full-time or were in school, and therefore had competing priorities that prevented them from being able to participate in outreach activities to the degree expected. This decline in Connector involvement throughout the course of the project may have been associated with the existing lack of community interest in the subject area, and ultimately served to compound the difficulties faced recruiting community members to participate in outreach activities.

Finally, there were policy issues outside of Forterra's work that posed challenges to our engagement goals. During Forterra's engagement activities, it was learned that some community members associated Forterra's work with the Port's larger development activities and their related impacts. Consequently, some community members were unreceptive to outreach efforts, and some attended Open House events. Their strongly vocalized opposition to the Port's

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development approach served to disrupt feedback activities, but ultimately shaped the way Forterra and partners prioritized future work and outreach.

Outcomes

Global to Local was tasked with recruiting and supporting Connectors for the ACE Green Cities Partnerships in South King County. In total, nine Connectors were recruited, representing the Somali, Latinx, Filipino and Kenyan communities, including four youth Connectors. This recruitment and relationship-building was successful in that it added representation and community input that more accurately reflected ACE Green Cities populations, aligning with the Port and Forterra's goals for the project. In the recruitment process, many youths, most in high school, expressed interest in the Connector role. To Forterra, this indicated the need for more stipended youth positions in the field, and increased Forterra's focus on youth opportunities through the ACE Green Cities Partnerships.

This shift in priority was further supported by the more general outcomes and feedback from Open Houses, as much of the stakeholder opposition highlighted concerns of air quality in spaces where young people live, learn and play. As a result of the feedback from Open Houses, Community Connector work and direct feedback from Community Connectors themselves, Forterra with support from cities and non-profit partners shifted work to support increased and enhanced tree canopy in and near public schools, working alongside students, youth crews and other volunteers.

URBAN FOREST ENHANCEMENT PLANS

Project Overview

Forterra partnered with American Forest Management on a Forest Landscape Assessment Tool (FLAT) Analysis, developed by the Green Cities Research Alliance. FLAT is based on the "tree-iage" model, originally developed by the Green Seattle Partnership. Tree-iage is a prioritization tool based on the concept of medical triage that uses habitat composition (e.g., canopy cover or native plant cover) and invasive plant cover as the two parameters to prioritize restoration. Forterra shared the results of these canopy and forest assessments with the community and collected feedback and ideas. Forterra then compiled all the results from the community input of these assessments into a 20-Year Urban Forestry Stewardship Plan/guide for each city. Said plans also included strategies, benchmarks, estimated costs and projected volunteer numbers needed to restore and enhance the urban forest over the next 20 years.

Key Insights

Originally, Forterra was tasked to complete one combined 20-year plan for all three cities. Conversations and feedback from the cities stressed the desire for each city to have their own plan. While this meant that more staff time and resources were allocated to this deliverable, it aided in each city taking ownership of the process and partnership goals, essential to programmatic success. Ultimately, while the three plans are similar and have similar

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components, Forterra worked with each city to customize these plans to best meet the needs of the city and where they were at in terms of resources, political will, and interest.

Outcomes

At the time of plan development, city leadership from SeaTac and Forterra decided to publish an Urban Forest Management Guide, which was a less formal process being that it did not need approval from SeaTac City Council. It continues to serve as a tool for management needs and has been an important reference document in planning park-specific stewardship plans, applying for additional funding and setting Partnership priorities. Burien and Des Moines both opted for a formally adopted Plan that was adopted by their respective City Councils.

Moving forward, the real challenge and opportunity as these Partnerships grow and evolve is to continue with the foresight to hold planning meetings to strategize and plan long-term in support of 20-year plan goals. Ideally, these plans will continue to inform program priorities/expansion, city policies and strategic approaches and contribute to long-term budget planning and fundraising efforts.

DES MOINES MEMORIAL DRIVE

Project Overview

Des Moines Memorial Drive (DMMD) is an 8-mile stretch of road that passes through the three ACE cities. In the early 1920s, over 1,400 elm trees were planted to honor Washington citizens who died serving in WWI. One of the priorities for the Port was to address this unique, inter-jurisdictional, living historic monument. Over the years most of memorial elm trees died or were removed for various reasons. There has been an effort to restore the memorial with new elms and/or plaques where tree plantings are not possible, led by the Des Moines Memorial Drive Preservation Association. Because it the Drive passes through several jurisdictions and runs adjacent to a mix of different private properties it has been a challenge, but also a great opportunity for different stakeholders to connect to the larger ACE Green Cities programs and goals.

Key Insights

Attempts to present a proposal to the DMMD Preservation Association were challenging; at the time the Association was not eligible to received direct funding for this project from the Port and many conversations were needed to reach agreement on a scope of work that aligned with the overall project and the Association's Goals. Ultimately, the following deliverables were decided upon: creating an outreach and engagement document for landowners along the Drive, developing a parcel dataset and spreadsheet to identify which parcels along the Drive were suitable for tree planting(s) or a commemorative plaque, and community elm planting events in suitable areas should resources and needs align. These deliverables most strongly matched with Forterra's capacity and skillset and aligned with larger canopy enhancement goals beyond forested parks and natural areas.

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To ensure long-term sustainability of the project, Forterra identified a native elm tree species that would be most suitable for plantings. The Frontier Elm was determined to be most highly adapted to the region's climate and existing habitat conditions. Obtaining said trees presented more of a challenge as at present and over the life of the project, Frontier Elms needed to be sourced from out of state, requiring a minimum order quantity and a costly delivery fee.

Outcomes

Forterra provided a dataset to ACE cities partner staff, and a spreadsheet to the Association which identified which parcels along the Drive were suitable for planting trees and/or commemorative plaques, along with the address and type of property (public/private, zoning, land use, etc.). Forterra then took said datasets to build an interactive web map for landowners to easily search their property by address and learn whether they could accommodate an elm tree on their property.

While Forterra tabled at Veteran's Day events, community events and meetings across the three cities with flyers, the interactive web map and a sign-up sheet, few landowners along the Drive signed up to plant a free elm tree on their property. Because these trees are sourced from out of state, it did not make sense to pre-order them along with other yard tree distribution or Green Cities Days planting events without a pre-identified parcel or demonstration of landowner interest/support for the project in quantities that would justify the expense. Forterra continued to shift resources to projects that received strong community feedback and interest and kept shovel-ready project sites in mind should the Association identify a city or group of landowners interested in elm tree plantings.

Through this work, Forterra explored opportunities to include Frontier Elms in updates to city tree codes and had discussions with Parks and Public works staff about young tree care maintenance and city capacity and knowledge to care for street trees in the long-term. Forterra is exploring the possibility of designing more formal programming to support community plantings outside of parklands including long-term maintenance plans.

IMPLEMENT PRIORITY COMMUNITY-BASED FOREST PLANS

Forest Steward Program

Project Overview

Forest Stewards are individuals who adopt a restoration site to work on their own and with the community to help restore urban forests. The duties of a Forest Steward vary seasonally but includes talking to community members about the work, removing weeds, planting native plants and tending to newly planted plants. Forest Stewards are supported through the Partnership through access to workshops and training opportunities, plants, tools and other materials necessary to complete restoration work, as well as technical assistance from program staff including help hosting events and guidance on restoration practices. At the time of this report, are a total of 14 active stewards in all the ACE Cities.

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Key Insights

Covid-19 forced Forterra's Green Cities Team to reimagine public volunteer events, and in 2020 programming shifted to small, invite only (not publicly advertised) in-person events of five people or less in SeaTac and Burien, with Des Moines opting to put in-person events on hold entirely.

During this time, Forterra's team transitioned to preparing for the CEDAR database creation (Green Cities' custom-built Centralized Data Repository) which enabled Forest Stewards to create live event links, track volunteer sign ups, share event-related materials with volunteers in advance and track restoration activities, beginning in Q1 of 2021. During this time, Forterra also built virtual maps which helped stewards log the work they do. Stewards were also prepared for a pause in work parties by receiving trainings and tools for solo fieldwork.

In 2021, Forterra and program partners worked to regain momentum for the Forest Steward program, hosting new orientations, training Stewards on CEDAR, and planning for ACE Green Cities Days- enabling us to recruit 4 new Stewards!

Outcomes

As a larger programmatic goal, Forterra's Green Cities Program is actively looking for ways for the Forest Steward program to be accessible to all community members, recognizing that volunteerism is a privilege, and many times traditional volunteer models have barriers to entry. This includes piloting paid Forest Steward program models in 2022.

Partner in Employment Youth Restoration Crew*Project Overview*

In 2021, the Youth Restoration Training crew completed many restoration projects in ACE Cities. Partner in Employment employed and trained 25 youth on this project, brought in guest speakers from cities, non-profits, and other governmental organizations. Youth contributed their visions to the Hilltop Park Reimagination Plan and the Des Moines Parks and Recreation plan. They met with elected officials, including Burien Mayor Jimmy Matta and Port Commissioners Steinbrueck and Bowman.

Key Insights

While the crew had many successes this year a few that stand out are:

- Four youth applied for jobs with the Burien Parks Department after speaking with Gabbi Gonzales about further opportunities in Burien
- All youth wrote resumes to better prepare them to apply for jobs in the future.
- Youth worked with and met members of EarthCorps and learned about many different crew members environmental career journeys.
- Youth helped to lead three different Green Cities Days events. They did an excellent job teaching volunteers how to plant, introducing our crew and discussing tool safety.

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Challenges:

- Extreme weather posed the main challenge of the year. The crew experienced everything from snow to 115-degree days to unusually heavy rain. They adjusted to indoor activities as needed but crew members were remarkably resilient.
- Fall 2021 recruitment was a challenge for PIE's case managers. Because of the work schedule and weather conditions we ended up with a smaller crew than planned in the late fall.

Outcomes

After the Youth Restoration Crew completed final service directive projects in 2021 at three key ACE Green Cities restoration sites (Hilltop Park, North SeaTac Park and Sonju Park), the organization sought and was awarded funding from the Port of Seattle as part of the second round of the South King County Community Impact Fund to continue the Youth Restoration Training Crew. Additionally, PIE became a new partner of the Green Seattle Partnership and was awarded a contract with City of Seattle Parks and Recreation department to support restoration efforts in forested parks and natural areas in South Seattle.

Neighborhood Trees Program- CommuniTrees

Project Overview

This area of programming has represented new territory for Forterra's Green Cities programs. Designing Tree Walks in collaboration with each city helped Forterra to develop relationships with new city staff as well as get a hyper-local understanding of these communities. Forterra is proud of creating a resource that allows community members to engage with the Green Cities Program in their local green space without participating in manual labor, another way in which the organization incorporated community feedback to support the community's engagement with the project in innovative ways.

Key Findings

The three tree distribution events were overwhelmingly popular among ACE Cities residents, even when events were rescheduled due to Covid-19. Event details spread quickly through word of mouth and quickly got picked up by local blogs and neighborhood platforms like NextDoor. This is energizing work that helped Forterra make new community connections and increased the visibility of the Partnership. However, designing and planning for these new events took well over the budgeted staff time allocated to the project. In the future planning could be done more equitably with continued targeted outreach to specific neighborhoods, support for apartment dwellers and tree planting support.

In fact, after the 2022 program was planned and advertised, Forterra learned of an interesting opportunity in Tacoma that Green Cities and other partners could certainly learn from in the future. The Tacoma Tree Care Foundation's Branch Out program used the Tree Equity Score to prioritize applications. The day of the distribution, community volunteers met applicants at the

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pick-up location to help them plant trees on their properties if desired, thus lowering additional barriers to participation.

Outcomes

Funding for plantings in non-forested parks and natural areas was removed and reallocated due to challenges in finding planting locations (mainly due to concerns over long-term maintenance) and to meet the demand and need to further support Forest Stewards and Green Cities Days events. Future non-forested park planting will require strategic planning with city public works and planning departments to ensure street trees and other plantings can be maintained in the long term. This could be an opportunity to pilot a “Street Tree Steward” model, where community stewards receive similar training and support from Green Cities to steward their local street trees.

It has been encouraging to engage in other means of non-forested plantings on public school grounds through the Highline Public School Project, and Forterra sees that as another meaningful area for programmatic growth and increased canopy enhancement in ACE Cities, in alignment with the Port’s goals and priorities.

Long-Term Sustainability & Next Steps

SeaTac

While the City of SeaTac initially expressed hesitancy towards the program at large, they have since gone on to seek additional funding opportunities to support urban forestry work, particularly in North SeaTac Park, engaging local politicians and community supporters alike.

Towards the end of the contract in 2021, Forterra brought on two new Forest Stewards to support work at Angle Lake and North SeaTac Park. We also met with King Conservation District to provide final comments on the stewardship plan for North SeaTac Park, taking into account FAA regulations.

The City of SeaTac has chosen to render Forterra’s services to coordinate their community stewardship program through a 2022 Green SeaTac Partnership Contract. The city will also continue to partner with King Conservation District (KCD) to organize crew days in North SeaTac Park. Because little of the original KCD funds remain for the park, city staff are pursuing additional funding opportunities to fund restoration crew time.

In 2022 they participated in Forterra’s Evergreen Carbon Capture Program and continue to be a good match for corporate sponsorship. City staff ensures proper tools, signage and day-of staff are available to support larger scale projects.

Also in 2022, with funding from the Port of Seattle, Forterra and the Green SeaTac Partnership will partner with Serve Ethiopians Washington (SEW) to help design, promote a new paid

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program for Forest Stewards at Angle Lake Park. The goal of the project is to increase environmental awareness within the communities that SEW serves, provide meaningful career-building opportunities to young people and to connect diverse community groups, especially Ethiopian and East African heritage families to the outdoors.

Burien

Over the past two years, the City of Burien has strongly shown their investment and initiative to grow the Green Burien Partnership in-house. Burien PARCs has developed many relationships with local schools and after school groups to support community greening and restoration efforts and has the largest number of parks in active restoration stewarded by community volunteers.

To support their long-term sustainability, Forterra is working to add all of Burien's active park sites (beyond what was mapped and outlined in the 20-year plan) for use on CEDAR. Forterra will hold a small agreement with the city to maintain and update the database as it meets Burien's needs.

Towards the end of 2021, Gabbi Gonzales joined the ACE Green Cities Forest Steward training to provide additional support to existing and future Burien Stewards. We recorded this session for future use. Additionally, as per the contract requirement to support the long-term sustainability of the Green Burien Partnership, Forterra shared a Green Cities Toolkit with tools to support community outreach and engagement, Forest Steward training and event support as well as tracking and reporting using the CEDAR database.

At the time of this report, the City of Burien is advertising a temporary position funded by KCD in collaboration with the City of Tukwila to coordinate volunteers, conduct an urban forest needs assessment, and lead restoration projects in support of the City of Burien's and the City of Tukwila's urban forest programs. This position is full-time, temporary, term limited, ending on February 1, 2023, with an option to extend until February 2024. The city has also recently hired an Urban Forest Planner.

Forterra looks forward to continued collaboration with the City of Burien, building non-traditional Green Cities Programming at and with public schools in partnership with EarthCorps. Collectively and individually, partners will explore opportunities for youth-led or other stipend community stewardship programming, lowering barriers to participation and engaging with community members most impacted by climate change.

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Des Moines

Towards the end of the contract in 2021 and in early 2022, Forterra supported Forest Steward at Kiddie City Park to receive and plant 150 free trees from Sound Transit. Sound Transit has met with local Des Moines officials with the intention of giving away more free trees in 2022 (to offset the Light Rail Construction at the Federal Way Station). Forterra will work with city biologists, Public Works staff and community members to identify next steps for future planting events.

The City of Des Moines has also chosen to render Forterra's services to coordinate their community stewardship program through a 2022 Des Moines Partnership Contract. While the city has a strong Garden Stewards Program, recruitment for the Forest Steward Program has been challenging. Des Moines was the only ACE City that suspended restoration work parties entirely during the pandemic, thus causing the volunteer program to lose visibility and momentum.

However, Des Moines Parks have recently re-hired a volunteer coordinator and identified some new outlets for program outreach. Forterra and Des Moines City partners are confident that with continued collaboration and creativity the program will flourish. Given the current investment in the City's community gardens, nearby schools and city council support for the program Forterra is excited to explore new avenues to grow the Partnership.

In 2022, with funding support from the Port of Seattle, Forterra and the Green Des Moines Partnership will partner with the African Young Dreamers Empowerment Program International (AYDEPI) to support paid positions for youth to pick up litter, remove invasives and plant native species in Des Moines Parks.

Leverage/Match Funds

When first were discussing the Green City Partnership model, the Port was interested in establishing a program that would be long-term and set the foundation for future efforts and collaborations to continue. The amount that has been leveraged – is really a testament to how important it is to have that base funding, the funding to keep the core program going.

Many cities in the Green Cities Network are supported by Forterra in a two or three year start up period, rendering Forterra's services to coordinate a habitat assessment, 20-year urban forestry plan and scope of work for Forest Steward programming and other community engagement. In some cases, after this start up period, cities are provided a toolkit to manage their Green Cities program in-house. Each city and partnership have a distinct set of resources, priorities, policies and needs. Some cities are quite ready to take on the program on their own, or for other reasons they prefer to retain Forterra or another service provider to coordinate the program with them.

The programs Forterra has seen to be most successful have had a staff level champion, leadership level champion (council member/Port Commissioners), and community level champions –the forest stewards and community groups that are all invested.

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The Port can continue to be a leader and champion, encouraging investments, leading environmental initiatives, and continuing to support the stewardship of urban forest.

Additional Investments Supporting ACE-Funded Green Cities	Amount	Secured By
King Conservation District- Crew Time and Stewardship Plan for North SeaTac Park	\$50,000	City of SeaTac/ Forterra
US Forest Service- Highline Urban Forestry Project	\$300,000	Forterra/ Highline PS/ Port
McKinstry for Highline	\$30,000	Forterra
Weyerhaeuser- plants for ACE Green Cities Days	\$2,000	Forterra
DNR Environmental Equity Grant- Hilltop Park	\$20,000	City of Burien with support from Forterra/PIE/EarthCorps
Cotyledon Fund Urban Forest Justice Planning Grant for South King County	\$50,000	EarthCorps/Forterra
South King County Community Impact Fund (Port of Seattle) Projects continuing Green Cities work	\$340,000	Non-profits and community groups
Forterra Donated Time and Hours (funded by REI and corporate donors)	\$36,000	Forterra
TOTAL	\$828,000	

ATTACHMENTS TO THIS BRIEFING

- (1) Presentation slides

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS [*\[For information and examples, follow this link.\]*](#)

April 13, 2021- The Commission was briefed on the plans for the final year of implementation of the ACE Green Cities Program

September 24, 2019 – The Commission was briefed on the status of the ACE program including the Forterra Work

June 13, 2017 – The Commission authorized a Sole Source Contract with Forterra

November 22, 2016 – The Commission created a \$1 million Airport Community Ecology Fund (ACE Fund) to support projects and programs that improve ecological and environmental attributes in airport-area communities of Sea-Tac, Burien, and Des Moines. 11/22/16

ACE Green City Partnerships Final Report

Andy Gregory, Sr. Program
Manager, Community
Engagement, Port of Seattle
Jenny Ugolino, Green Cities
Program Manager, Forterra



Overview

- ACE Background
- Urban Forest Assessment
- Community Engagement
- Urban Forest Enhancement Plans
- Des Moines Memorial Drive
- Implementation
- Accomplishments
- Next Steps



Airport Community Ecology Fund

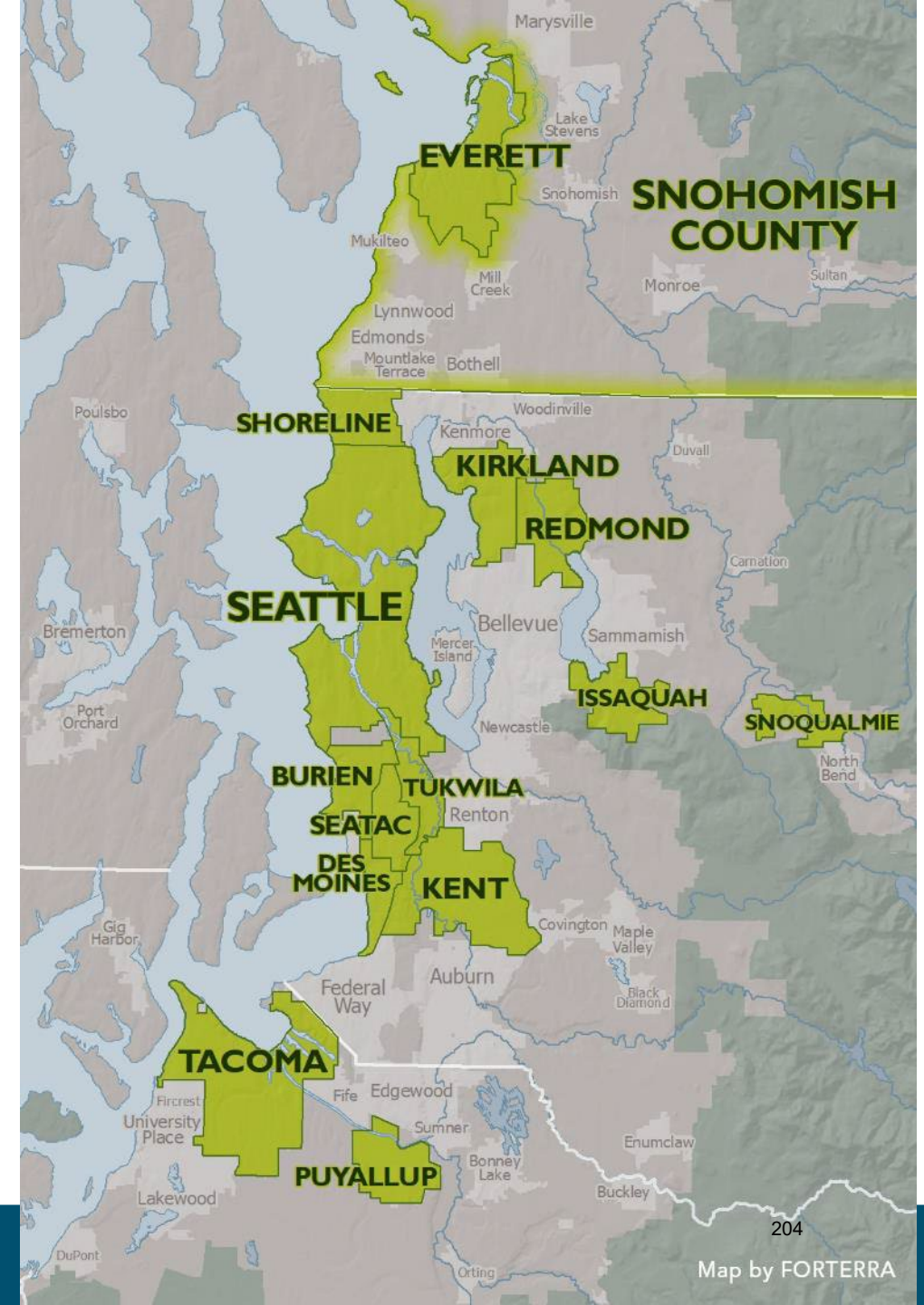
- \$1 Million in 2016 for Burien, Des Moines and SeaTac
- Small Matching Grants Program
- Forterra contract for Green City Programs



Green City Partnerships Overview

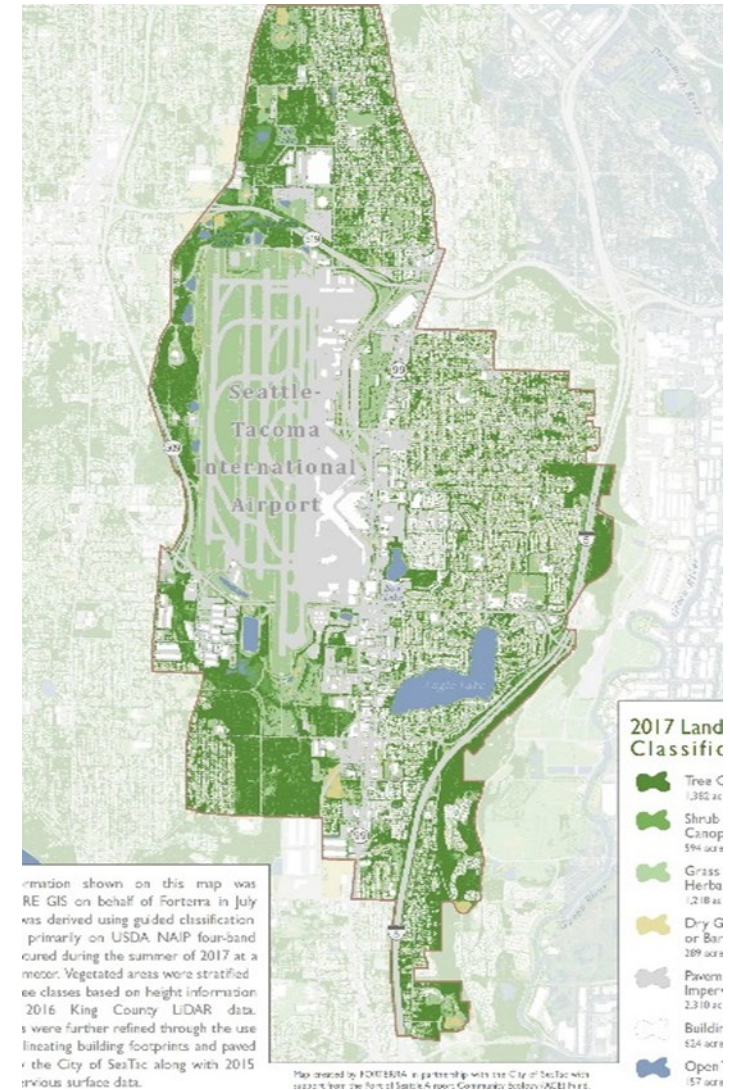
2005-2021 IMPACTS

- 15 GREEN CITIES/COUNTIES
- COMBINED GOAL: ~13,000 ACRES
- SERVING MORE THAN 1.6 M PEOPLE
- 1.5 M HOURS OF VOLUNTEERS
- MORE THAN 3360 ACRES IN RESTORATION
- 1.5 M FOREST TREES AND SHRUBS PLANTED



Urban Forest Assessments

- Forest Health Assessment
- Vulnerability mapping and disparities
- Canopy enhancement
- Priority site selection
- Outcomes:
 - Helped secure an additional \$260,000 from DNR
 - Increase canopy within $\frac{1}{4}$ mile of four Highline schools



Community Engagement

- First comprehensive effort in the formation of GCP
- Access and participation barriers for most impacted communities
- Support from Global to Local using Community Connectors
- Community Priorities:
 - Public health, climate change, immediate basic needs, air quality for youth
- Shift in focus to increasing canopies near schools



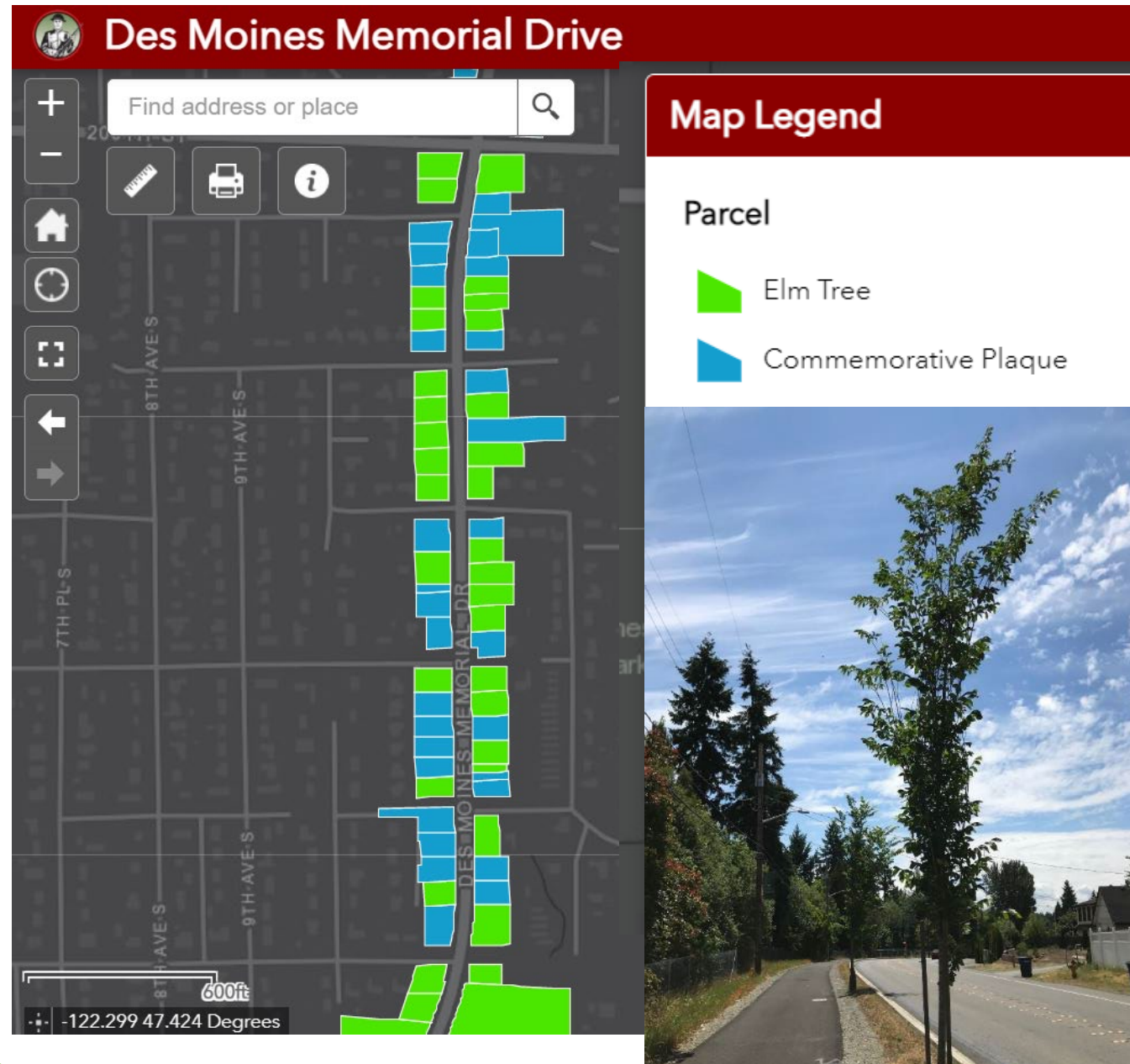
Urban Forest Enhancement Plans

- Incorporated results from FLAT analysis and Tree-iage model, and community engagement
- 20- year plans/guides, tailored to the needs of each city
- Formal adoption of plans by Burien and Des Moines
- Used for strategic planning, fundraising, and stewardship planning for each city



Des Moines Memorial Drive

- Interactive ArcGIS web map
 - Rates all properties along the Drive according to their suitability for elm trees or commemorative sidewalk plaque
- Outreach mailer and flyers created
- No Elm Trees planted



Implementation

- Forest Steward Program
- Youth Restoration Crews
- Neighborhood Trees Program
- Green City Day Events

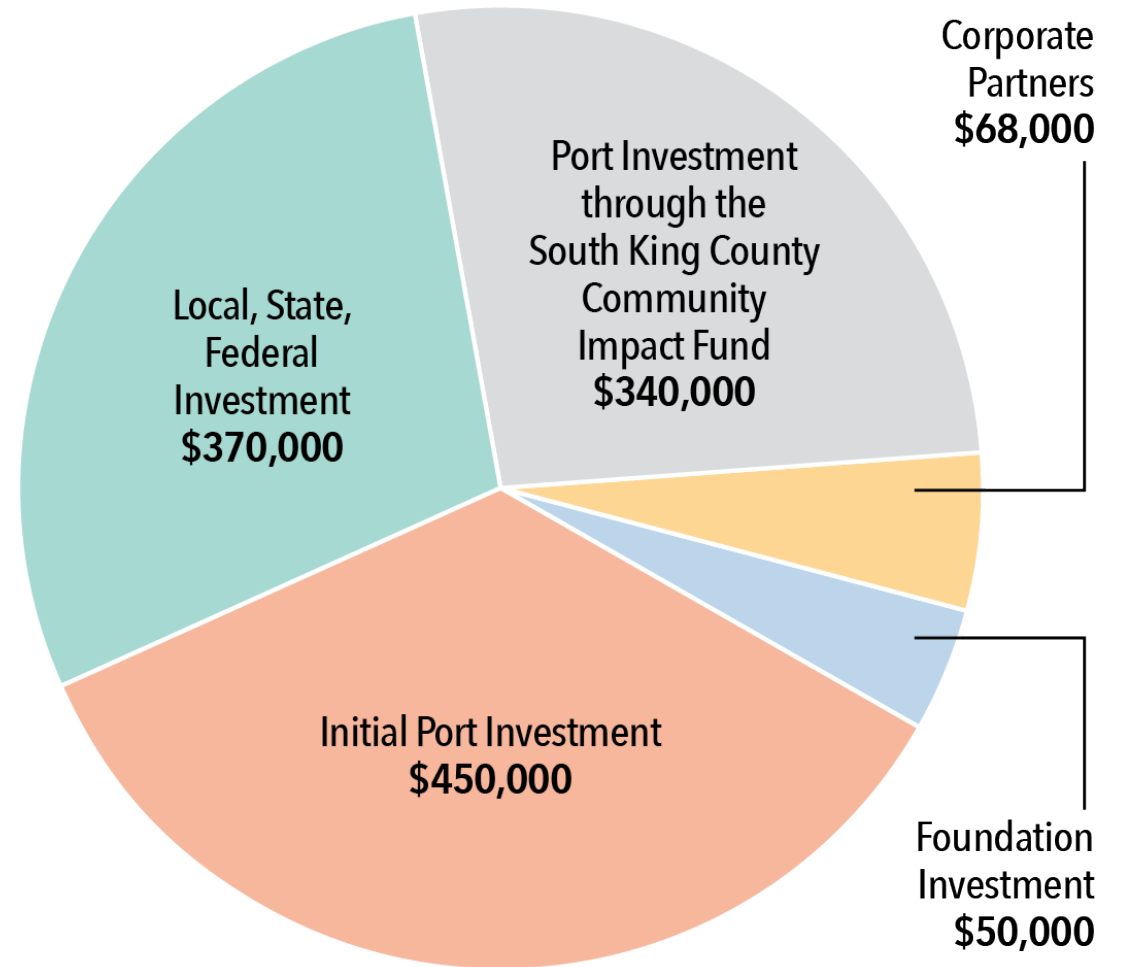


Key Measures of Success

- 2,765 Plants and Trees Planted, including 982 Trees
- 836 Volunteers
- 2,113 Volunteer Hours (valued at \$67,040)
- 78 Volunteer Events
- 475 Yard Trees Distributed
- 11 Parks in Restoration
- 14 Forest Stewards
- 26 City Council and Community Meetings
- 4,339 Paid Youth Crew Hours (valued at \$134,459)

Continued Partnerships

- Continuing sources of funding
- Partnerships and leverage
- Key staff
- Community-level champions
- Total of \$1.28 Million invested
- \$488,000 in non-Port matching funds



Port Leadership Moving Forward

- South King County Community Impact Fund
- Current and future projects
 - African Young Dreamers Empowerment Program
 - Serve Ethiopians Washington
 - Dirt Corps
 - Partner in Employment
- Community Capacity Building



Thank You!

[RETURN TO AGENDA](#)

