



## PORT OF HOOD RIVER COMMISSION

### AGENDA

Tuesday, July 26, 2022

Port Conference Room or Via ZOOM

1000 E. Port Marina Drive, Hood River

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#### Special Session

10:30 a.m.

1. Call to Order
  - a. Modifications, Additions to Agenda
  
2. Action Items
  - a. Approve Lease with HNTB in the Marina Park #1 Building (*Genevieve Scholl, Page 3*)
  - b. Approve Contract with Debbie Smith-Wagar for Financial Consulting Services (*Genevieve Scholl, Page 17*)
  
3. Adjourn

If you have a disability that requires any special materials, services, or assistance, please contact us at 541,386,1645 so we may arrange for appropriate accommodations.

*The chair reserves the opportunity to change the order of the items if unforeseen circumstances arise. The Commission welcomes public comment on issues not on the agenda during the public comment period. With the exception of factual questions, the Commission does not immediately discuss issues raised during public comment. The Commission will either refer concerns raised during public comment to the Executive Director for a response or will request that the issue be placed on a future meeting agenda. People distributing copies of materials as part of their testimony should bring **10 copies**. Written comment on issues of concern may be submitted to the Port Office at any time.*

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# Commission Memo



Prepared by: Genevieve Scholl  
Date: June 26, 2022  
Re: HNTB Lease

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The Bridge Replacement Management Contract (“RBMC”) was awarded to firm HNTB during the Commission’s July 12, 2022 meeting. At that meeting, Commissioner Fox recommended the Port offer a no-cost Lease of Suite 201 in the Marina Park #1 Building for HNTB office space and operations related to the RBMC contract. There was consensus approval to direct staff to develop such Lease and an accounting process to enable reporting of Port funding of the Lease and associated costs.

Staff has prepared the attached draft Lease and identified an acceptable accounting process to accommodate Port payment of rent and associated costs from the Bridge Replacement Fund. Port legal counsel has reviewed and approved the attached draft. At the time of printing, staff has not yet received HNTB’s review or acceptance of the Lease but will forward that to the Commission prior to approval.

**RECOMMENDATION:** Approve Lease with HNTB for Suite 201 in the Marina Park #1 Building and approve funds transfer from Port Bridge Replacement Fund to Port General Fund for rent payments and associated costs.

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**LEASE**

**THIS MONTH-TO-MONTH LEASE** (“Lease”) is entered into at Hood River, Oregon by and between **PORT OF HOOD RIVER**, an Oregon municipal corporation, hereinafter referred to as “Lessor,” and HNTB, a Delaware corporation, hereinafter referred to as “Lessee.” Lessor and Lessee may hereafter be referred to individually as a “party” or collectively as the “parties”.

- 1. Leased Premises Description.** In consideration of the covenants of the parties, Lessor Leases to Lessee approximately 1,400 square feet of space in Lessor’s building commonly known as the Marina Park #1 Building (“Building”) located at 700 East Port Marina Way, Hood River, Oregon (“Leased Premises”). The Leased Premises are identified in the attached “Exhibit A.”

|                           |                          |
|---------------------------|--------------------------|
| Building Name:            | Marina Park #1           |
| Building Address:         | 700 East Port Marina Way |
| Lessee Suite/Description: | Suite 201                |
| Leased Area:              | 1,400 SF                 |
| Rentable Area:            | 1,610 SF                 |

- 2. Term.** The Lease shall be binding when both parties sign the Lease. The Lease is effective on **July 26, 2022** and continue on a month-to-month basis, terminable at the end of any monthly rental period by written notice from either party given to the other party not less than ten (10) calendar days prior to the termination date specified in the written termination notice. The parties waive any notice which would otherwise be required by this Lease or by law with respect to month-to-month tenancy.

|                             |                |
|-----------------------------|----------------|
| Effective Date:             | July 26, 2022  |
| Lease Expiration Date:      | Month-to-month |
| Renewal Options:            | N/A            |
| Renewal Notice Requirement: | N/A            |

- 3. Allowed Use.** Lessee shall use the Leased Premises for administrative functions solely and directly related to Lessee’s performance of Engineering & Related Services Contract No. POHR 2022-1 concerning the Hood River replacement bridge project. The Leased Premises shall not be used for any other purposes without the written consent of Lessor, which may be granted or denied in Lessor’s discretion.
- 4. Rentable Area Load Factor.** Each Building tenant, including Lessee, is responsible to pay for their share of Building Operating Expenses related to “Building Common Areas” consisting of interior Building space which is not available for lease to a third party and that is shared by Building tenants and shall include, but is not limited to: entry areas, hallways, stairwells, mechanical, IT, electrical and janitorial closets, shared restrooms, and elevators. A “Load Factor” is calculated to determine Building tenant payments owed for Building Common Area Operating Expenses, which is added to Base Rent.

Load Factor Formula: The total Building square footage is 5,757 SF. The Building Common Area square footage is 738 SF. The total Building square footage divided by the total Building square

footage minus the Building Common Area square footage equals the Load Factor %. The (Building Name) Load Factor is 15%.

Rentable “Area square footage” is the Leased Premises square footage (1,400 SF) plus the Load Factor area square footage (210 SF). The Rentable Area square footage used to calculate Rent as defined below, is 1,610 SF.

**5. Rent**

The rents Lessee owes Lessor shall be and consist of Base Rent (“Base Rent”), plus Additional Rent (“Additional Rent”). For purposes of this Lease, Base Rent and Additional Rent are referred to collectively as “Rent”. The Rent values set forth in this section 5 serve to document the market value of the Base Rent and Additional Rent as of the effective date of this Lease. During the Lease Term, Lessor will subsidize Lessee’s Rent directly from Port of Hood River funds as an in-kind contribution to the Hood River replacement bridge project. **Lessee’s contribution to monthly Rent payments during the Lease Term is \$0.00.**

**5.1 Base Rent.** Beginning on the Effective Date, Base Rent shown below shall be payable in equal monthly installments in advance on the first day of each calendar month during the Term of this Lease, except to the extent otherwise specifically provided elsewhere in this Lease. However, if the Lease does not begin on the first day of a month rental for the first month shall be prorated to reflect the actual number of days in that month that the Lease is in effect and shall be payable immediately.

| <u>Suite #</u> | <u>Rentable Area Square Footage</u> | <u>Rate per s.f. per month</u> | <u>Monthly Base Rent</u> |
|----------------|-------------------------------------|--------------------------------|--------------------------|
| Suite 201      | 1,610                               | \$1.60                         | \$2,576                  |

**5.1.1 Consumer Price Index (CPI).** Starting on the first anniversary of the Effective Date, and occurring annually thereafter, including any extensions of this Lease, Base Rent will be adjusted by adding to the monthly Base Rent amount payable during the previous 12-month period a percentage increase equal to the previous twelve months Base Rent amount times the percentage change in the Consumer Price Index for the Western Region Class BC, or a similar U.S. Government inflation index selected by Lessor (“CPI”) for the most recent 12-month period for which a published CPI is available. However, in no event will the annual increase be less than one (1) percent or more than five (5) percent.

**5.2 Additional Rent.** Additional Rent is all other sums of money that become due from and payable by Lessee to Lessor under this Lease, including without limitations, Operating Expenses as defined in Section 5.3.1 and Taxes and Assessments as defined in Section 5.3.2. Additional Rent shall be payable by Lessee to Lessor on the first calendar day of each month.

**5.3 Additional Rent Calculation.**

| <u>Rentable Area (Square Footage)</u> | <u>Estimated rate per s.f. per month</u> | <u>Monthly Estimated Additional Rent</u> |
|---------------------------------------|--|--|
| 1,610                                 | \$0.33                                   | \$531                                    |

**5.3.1 Operating Expenses.** Operating Expenses shall include all costs for the operation, repair and maintenance of the Building, Building Common Areas, and “Building Exterior Areas” which are located on Lessor property adjacent and related to the Building, whether designated for a particular Building tenant or which benefit some or all Building tenants. Operating expenses may include but are not limited to:

**5.3.1.1** All costs and expenses incurred by Lessor in maintaining and repairing the Building, the Building Common Areas and Building Exterior Areas, including but not limited to:

- 5.3.1.1.1** General Building Exterior Areas maintenance and repairs of paved areas including; resurfacing, painting, restriping, cleaning, sidewalks, curbs, snow removal, storm systems, drainage systems and sweeping;
- 5.3.1.1.2** Maintenance and repair of landscaping including plantings, irrigation and sprinkler systems, general landscaping maintenance;
- 5.3.1.1.3** Services for Building Common Areas such as janitorial, fire suppression, security and door locking system, elevator and HVAC maintenance;
- 5.3.1.1.4** General maintenance and repair of Building systems including plumbing, lighting and fixtures, siding and trim, flooring, HVAC, roof and fixtures and garbage service.
- 5.3.1.1.5** Property management and administration fees required to enable the Building to be used by tenants and maintained.

**5.3.1.2** All costs and expenses incurred by Lessor for utility usage that is not separately metered and payable by Lessee or another Building tenant, including but not limited to: electricity, gas, water, telecommunications and internet provided in suite, as well as Building Exterior Areas, and Building Common Areas.

**5.3.1.3** Operating Expenses shall not include (a) Lessor’s capital expenditures, determined pursuant to Generally Accepted Accounting Principles as interpreted by Lessor, consistently applied, made in connection with Building, Building Common Areas or Building Exterior Areas or any equipment therein or thereon, except for those (i) required to comply with laws enacted after the date of this Lease, or (ii) made for the primary purpose of reducing Operating Expenses (b) attorneys’ fees incurred in enforcing the terms of any Building lease; (c) any amount paid to an entity or individual affiliated with or otherwise related to Lessor which exceeds the amount which would be paid for similar goods or services on an arms-length basis between unrelated parties; (d) any cost of selling, exchanging or refinancing the Building and Building Common Areas and any tax increase caused by their revaluation by virtue of a sale by Lessor; (e) Lessor’s general administrative overhead not directly attributable to management or operation of the Building, Building Common Areas and Building Exterior Areas and (f) costs for services normally provided by a property manager where the Operating Expenses already include a management fee.

**5.3.2 Taxes and Assessments.** Lessee shall pay its proportionate share of all current assessments, real estate taxes, other taxes, fees and other charges levied or imposed by any governmental body against the Leased Premises, the Building, Building Common Areas and Building Exterior Areas and the property on which those sit, whether or not now customary or within the contemplation of the parties. Payment of the taxes shall be made as an Additional Rent charge. Lessee's proportionate share of any taxes shall be based only on that portion of the taxes which is allocated to the Leased Premises including the Load Factor during the Lease Term. Lessee shall directly pay all taxes levied on or with respect to Lessee's personal property located on the Leased Premises.

**5.3.3 Annual Adjustment/Reconciliations.** Within a reasonable time following the end of each Lessor fiscal year ending June 30 ("Fiscal Year") during the Term, Lessor shall maintain an itemized statement prepared by Lessor setting forth the market value of Lessee's total Rent, including Additional Rent, for the preceding Fiscal Year, the estimated amount of Lessee's share of future Additional Rent for the upcoming Fiscal Year, and the Rent payments subsidized by the Port of Hood River on behalf of Lessee, including Additional Rent, during the prior Fiscal Year ("Itemized Statement"). Should Lessee's prior Fiscal Year Additional Rent payments exceed the actual Additional Rent owed, Lessor shall credit Lessee that over payment amount to apply to the next Fiscal Year Additional Rent amount. Should Lessee's prior Fiscal Year Additional Rent payments be less than actual Additional Rent owed, Lessee shall pay Lessor for such deficiency in a lump sum within thirty (30) calendar days after receipt of the Itemized Statement.

The upcoming Fiscal Year Additional Rent payable by Lessee will be based on the preceding Fiscal Year actual expenses allocated to Lessee and any new or higher costs or expenses allocated to Lessee which Lessee will owe based on Lessor's forecast of the future Fiscal Year expenses, which shall be reflected in the Itemized Statement. The new monthly Additional Rent amount will be sent to Lessee by Lessor in the annual Itemized Statement. Lessor shall adjust the Additional Rent monthly payment amount beginning every July 1 of the Term, which Lessee shall pay monthly in advance on the first day of each month during the Fiscal Year. The updated Additional Rent payment payable by Lessee for July and any other month that begins after the Itemized Statement is sent by Lessor to Lessee shall be due within ten (10) days after the date Lessor sends the Itemized Statement to Lessee.

**6. Building Common Areas and Building Exterior Areas.** Building Common Areas and Building Exterior Areas are provided by Lessor for the joint use and benefit of Building tenants, including Lessee, their employees, customers, suppliers and other invitees. Building Common Areas and Building Exterior Areas are identified in the attached "Exhibit A". Use of available Building Common Areas and Building Exterior Areas shall be subject to compatible, non-exclusive use on the part of other Building tenants. Lessee agrees that its usage of such Building Common Areas and Exterior Building Areas shall not interfere or be inconsistent with the similar rights of other Building tenants. All Building Common Areas and Exterior Building Areas shall be subject to the exclusive control and management of Lessor. Lessor shall have the right from time to time to establish, modify and enforce equitable rules with respect to all Building Common Areas and



Building Exterior Areas, which Lessee agrees to abide by. Lessee understands and agrees that other tenants may occupy the Building.

**6.1** Building Exterior Areas include: public parking areas, access roads, driveways, entrances and exits, landscaped areas, and sidewalks, excepting those parking spaces that may be designated for use by particular Building tenants as shown in the attached Exhibit B.

**6.2** Building Common Areas include interior Building space which is not available for lease to a third party and that is shared by Building tenants and shall include, but is not limited to: entry areas, hallways, stairwells, mechanical, IT, electrical and janitorial closets, shared restrooms and elevators.

**7. Parking.** Lessee may park vehicles in Building Exterior Areas designated by Lessor for vehicle parking when parking spaces are available.

**8. Maintenance and Repair.**

Expenses of any maintenance or repair activity that is not considered a Capital Expenditure is an Operating Expense described in section 5.3.1 of this Lease. A portion of the cost of Lessor maintenance and repair activities related to Lessee's occupancy of the Leased Premises shall be payable by Lessee as Additional Rent.

**8.1 Lessor Obligations.** Lessor shall maintain the Building except for the Leased Premises and other tenant occupied leased areas which are the responsibility of Building tenants, and shall maintain the Building Exterior Areas, and Building Common Areas, including stairs, corridors, restrooms, exterior and interior windows, plumbing and electrical equipment serving the Building, roof and elevators, except for equipment owned or leased by Lessee and other building tenants, in reasonably good order and condition except for damage occasioned by the Lessee or Lessee's licensees or invitees, which damage Lessee shall promptly repair or may be repaired by Lessor at Lessee's expense in Lessor's discretion, in which case Lessee shall promptly reimburse Lessor. Lessor shall cause water and electric services to be provided to the Building. However, in no event shall Lessor be responsible or liable for an interruption or failure in the supply of any utilities to the Building or Leased Premises or for inconvenience or costs incurred by Lessee resulting from Lessor maintenance.

**8.2 Lessee Obligations.** During the Lease Term Lessee shall at Lessee's sole cost and expense keep the Leased Premises in good order, condition and repair. This obligation shall include, without limitation, the obligation to maintain and repair when damaged, not functioning or worn beyond ordinary wear and tear: floor coverings, wall coverings and paint, casework, ceiling tiles, HVAC exclusively serving the Leased Premises, window coverings, light bulbs, ballasts and fixtures, locks and hardware and all tenant improvements. Lessor shall promptly pay bills for Lessee's utility services provided directly to Lessee.

**9. Insurance**

**9.1 Lessee Hold Harmless Agreement.** Lessee agrees to indemnify and save Lessor, Lessor's Port Commissioners, officers, employees and agents harmless from any claims by any persons, firms, or corporations arising from business conducted on the Leased Premises or from anything done by Lessee at the Leased Premises, and will further indemnify and save Lessor, Lessor's Port Commissioners, officers, employees and agents, harmless from all claims

arising as a result of any breach or default on the part of Lessee under the terms of this Lease, or arising from any willful or negligent act or omission of Lessee's agents, contractors, employees, or licensees in or about the Leased Premises, and from all costs, attorney fees, and liabilities incurred in any action or proceeding brought thereon; and in case any action or proceeding is brought against Lessor, Lessor's Port Commissioners, officers, employees or agents by reason of any such claim, Lessee, upon notice from Lessor covenants to resist and defend such action or proceeding with the assistance of qualified legal counsel.

**9.2 Lessee Insurance.** On or before the effective date of the Lease and thereafter during the Lease Term, Lessee shall maintain insurance and provide Lessor with current certificates of insurance, including an additional insured endorsement, ensuring coverage of:

(a). Commercial General Liability insurance covering the insured against claims arising out of Lessee's operations, assumed liabilities under this Lease and use of the Leased Premises. The combined single limit shall not be less than Two Million Dollars (\$2,000,000) per occurrence with a Four Million Dollar (\$4,000,000) aggregate limit. Lessee agrees to keep the policy in effect for the duration of the Lease Term. The policy shall name Lessor as additional insured, and expressly include Lessor's Port Commissioners, officers, employees, and agents as additional named insured. The policy shall state that the coverage is primary and will not seek any contribution from any insurance or self-insurance carried by Lessor and shall contain a clause that the insurer will not cancel or change the insurance without first giving Lessor at least fourteen (14) calendar days prior written notice. The insurance shall be provided by an insurance company registered to do business in the State of Oregon, or by a company approved by Lessor.

(b). Property Damage insurance covering (a) all furniture, trade fixtures, equipment, merchandise and all other items of Lessee's property on the Leased Premises and all alterations and other improvements and additions to the Leased Premises whether owned or constructed by Lessee or Lessor pursuant to the Lease. Such insurance shall be written on an "all risks" of physical loss or damage basis, for the guaranteed replacement costs new value without deduction for depreciation of the covered items and in amounts that meet any co-insurance clauses of the policies.

**9.3 Building Damage or Destruction.** Lessor shall maintain property insurance covering the Building, Exterior Building Areas and Building Common Areas providing protection against "all risk of physical loss". If the Leased Premises or Building are partially destroyed ( more than 25%) by fire or other casualty, Lessor may decide to repair the Leased Premises or Building, or not, in Lessor's sole discretion. Lessor shall notify Lessee in writing of Lessor's intent regarding repair within thirty (30) calendar days after the date of the damage. If Lessor notifies Lessee that Lessor does not intend to repair the damage the Lease shall terminate effectively at the date of the damage. If Lessor notifies Lessee that Lessor intends to repair the damage the Lease shall continue and Lessor shall return the Leased Premises or Building to as good a condition as existed prior to the damage, in a prompt manner reasonable under the circumstances. If Lessee's use of the Leased Premises is disrupted during Lessor's repairs a reasonable portion of the Rent shall be abated during the disruption. In no event shall Lessor be required to repair or replace Lessee's property including Lessee's fixtures, furniture, floor coverings or equipment. In no event shall Lessee

be entitled to recover damages from Lessor related to destruction of the Leased Premises or Building or related to repairs undertaken by Lessor.

**10. Lessor Funded Tenant Improvements.** If Lessor has agreed to make or pay for tenant improvements to the Leased Premises prior to or during the Lease Term, a description of the improvements, costs and Lessee's obligation to pay for such improvements shall be set forth in a separate written agreement that will be an amendment to and become part of this Lease.

**11. Tenant Alterations.** Lessee shall not make any alterations, additions, or improvements ("Alterations") in, on or to the Leased Premises or any part thereof without the prior written consent of Lessor which Lessor may agree to, with or without conditions, or deny in Lessor's discretion. After receiving a Lessee request to make Alterations Lessor will consider the following, among other issues: (i) the Alterations are nonstructural, do not impair the strength of the Building or any part thereof, and are not visible from the exterior of the Leased Premises; (ii) the Alterations do not affect the proper functioning of the Building heating, ventilation and air conditioning, mechanical, electrical, sanitary or other utilities systems and services of the Building; (iii) Lessor shall have reviewed and approved the final plans and specifications for the Alterations; (iv) Lessee pays Lessor a fee for Lessor's indirect costs, field supervision or coordination in connection with the Alterations equal to five percent (5%) of the actual cost of such Alterations or such other sum as Lessor determines if Lessee agrees; (v) materials used are consistent with existing materials in the Leased Premises and Building and comply with Lessor's Building standards; and (vi) before proceeding with any Alteration, which will cost more than \$10,000, Lessee obtains and delivers to Lessor a performance bond and a labor and materials payment bond for the benefit of Lessor, issued by a corporate surety licensed to do business in Oregon each in an amount equal to one hundred twenty five percent (125%) of the estimated cost of the Alterations and in form satisfactory to Lessor, or such other security as shall be satisfactory to Lessor.

**12. Fixtures and Personal Property.** Lessee shall not suffer or give cause for the filing of any lien against the Leased Premises or Building. Lessee shall promptly notify Lessor of, and shall defend, indemnify and save harmless, Lessor from and against any and all construction and other liens and encumbrances filed in connection with Alterations, or any other work, labor, services or materials done for or supplied to Lessee.

At the expiration or earlier termination of the Lease Term Lessee shall remove all furnishings, furniture, equipment, other personal property and trade fixtures from the Leased Premises in a way that does not cause damage to the Leased Premises. If Lessee fails to remove any personal property, this shall be an abandonment of such property, and Lessor may retain Lessee's abandoned property and all rights of Lessee with respect to it shall cease; provided however, that Lessor may give Lessee written notice within 30 days after the Lease expiration or termination date electing to hold Lessee to its obligation of removal. If Lessor elects to require Lessee to remove personal property and Lessee fails to promptly do so, Lessor may affect a removal and place the property in storage for Lessee's account. Lessee shall be liable to Lessor for the cost of removal, transportation to storage, storage, disposal, and other costs incurred by Lessor with regard to such personal property.

- 13. Condemnation.** If more than twenty- five percent (25%) of the Leased Premises and/or Building shall be taken or appropriated under the power of eminent domain or conveyed in lieu thereof, Lessor shall have the right to terminate this Lease. If the Lease is terminated, Lessor shall receive all income, rent award or any interest thereon which may be paid or owed in connection with the exercise of such power of eminent domain or convey in lieu thereof, and Lessee shall have no claim against Lessor or the agency exercising such power or receiving such conveyance for any part of such payments. If Lessor elects not to terminate the Lease, Lessor shall receive any and all income, rent award or any interest thereon paid or owed in connection with such taking, appropriation or condemnation.
- 14. Signs.** Lessee shall not erect or install any signs, flags, lights or advertising media nor window or door lettering or placards visible from outside the Leased Premises or visible from the Building Common Areas or Exterior Common Areas without the prior written consent of Lessor, which Lessor may grant or deny in Lessor's discretion. Lessee agrees to maintain in good condition any signs or displays which are allowed.
- 15. Leased Premises Condition; Lessor Access.** Lessee has inspected the Leased Premises and accepts them in AS IS condition. Lessee shall return the Leased Premises to Lessor in the condition when leased or as improved in good, broom clean condition except for ordinary wear and tear at the termination of this Lease. Any cost to bring the Leased Premises back to an acceptable condition shall be the sole responsibility of Lessee.

Upon termination or expiration of this Lease, Lessor shall inspect the Leased Premises and shall either accept the condition AS IS or require Lessee to remove personal property and/or repair the Leased Premises to a condition that is acceptable including reasonable wear and tear. Any cost to bring the Leased Premises back to an acceptable condition shall be the sole responsibility of Lessee.

Lessor shall have the right to enter upon the Leased Premises at all reasonable hours after twenty four (24) hours oral notice (without notice to protect public health and safety in an emergency) to inspect it or to make repairs, additions or Alterations to the Leased Premises or any property owned or controlled by Lessor. E-mail from Lessor to Lessee (or Lessee's on-site manager if any) may serve as notice of inspection of the Leased Premises. If Lessor deems any repairs reasonably required to be made by Lessee to be necessary, Lessor may give notice that Lessee shall make the same within thirty (30) calendar days (immediately in an emergency involving public health and safety), and if Lessee refuses or neglects to commence such repairs and complete the same satisfactory to Lessor in a timely manner, Lessor may make or cause such repairs to be made. If Lessor makes or causes such repairs to be made Lessee agrees that it will, within 30 days, pay to Lessor the cost thereof and pay Lessor's related costs.

Lessor shall provide up to 5 access keys to the Leased Premises or up to five (5) access cards. Additional keys or lost keys may be purchased from Lessor for \$20 per key. Additional access cards may be purchased from Lessor for \$25 per card. If Lessor is managing a key system which requires issuance of a rekey Lessee shall be responsible for the cost associated with Lessor issuing a rekey.

- 16. Entire Agreement; Amendments.** This Lease contains the entire agreement of the parties with respect to the Leased Premises. No prior agreement, statement, or promise made by any party

to the other not contained herein shall be valid or binding. This Lease may not be modified, supplemented or amended in any manner except by written instrument signed by both parties.

- 17. Quiet Enjoyment.** From the date the Lease commences Lessee will have the right to use the Leased Premises consistent with this Lease without hindrance or interruption by Lessor or any other persons claiming by, through or under Lessor, subject, however, to the terms and conditions of this Lease. The foregoing notwithstanding, Lessee agrees that Lessor may make improvements to the Building and adjacent areas which may cause noise or otherwise temporarily disrupt Lessee's quiet enjoyment of the Leased Premises.
- 18. Waiver.** One or more waivers of any covenants or conditions by either party shall not be construed as a waiver of a subsequent breach of the same covenant or condition, and the consent or approval by Lessor to any act by Lessee requiring Lessor's consent or approval shall not be construed as consent or approval to any subsequent similar act by Lessee.
- 19. Assignment.** Lessee may not to assign or in any manner transfer this Lease or any estate or interest therein without the previous written consent of Lessor, and may not sublet the Leased Premises or part or parts thereof without like consent.
- 20. Default.** Time is of the essence of performance of all the requirements of this Lease. If any Rent or other sums payable by Lessee to Lessor shall be and remain unpaid for more than ten (10) calendar days after the same are due and payable, or if Lessee shall fail to comply with any term or condition or fulfill any obligation of the Lease (other than the payment of Rent or other charges) within fourteen (14) calendar days after written notice to Lessee specifying the nature of the default with reasonable particularity, or if Lessee shall declare bankruptcy or be insolvent according to law or if an assignment of Lessee's property shall be made for the benefit of creditors or if Lessee shall abandon the Leased Premises, then in any of said events Lessee shall be deemed in default hereunder. In the event of a default the Lease may be terminated at the option of Lessor. If the Lease is terminated, Lessee's liability to Lessor for Rent and damages shall survive such termination and Lessor may re-enter, take possession of the Leased Premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Lessor under applicable law.
- 21. Holdover.** If Lessee does not vacate the Leased Premises when the Lease Term expires, Lessor shall have the option to discontinue subsidizing Lessee's rent and charge Lessee a rental rate equal to one hundred and fifty percent (150%) of the daily prorated market value amount of the Rent for the last period prior to the date of expiration. Lessor may choose to lower the rental rate and will notify Lessee of such choice in writing once Lessee is holding over. Failure by Lessee to remove fixtures, furnishings, trade fixtures, or other personal property which Lessee is required to remove under this Lease shall constitute a failure to vacate to which this paragraph shall apply.
- 22. Notices.** Whenever under this Lease a provision is made for notice of any kind, it shall be deemed sufficient if such notice to Lessee is in writing delivered personally to Lessee's registered agent if any, to the person signing the Lease, or to Lessee's on site manager if any who at the date of this Lease is Michael Shannon, or sent by certified mail with postage prepaid to the address indicated on the signature page of this Lease; and if such notice is to Lessor,

delivered personally to the Executive Director of the Port of Hood River at the Port of Hood River’s office located at, 1000 E. Port Marina Drive, Hood River, OR 97031 or sent by certified mail with postage prepaid to the address indicated on the signature page of this Lease. Notice shall be deemed given on the date of personal delivery or if mailed, two business days after the date of mailing.

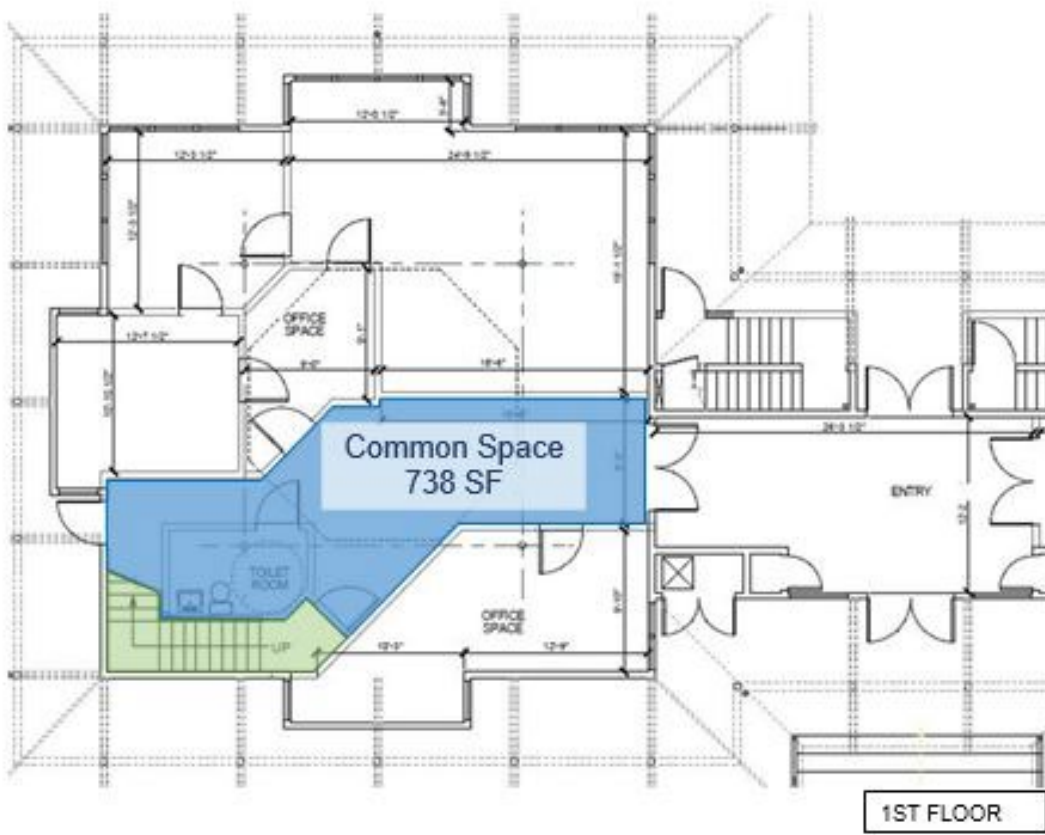
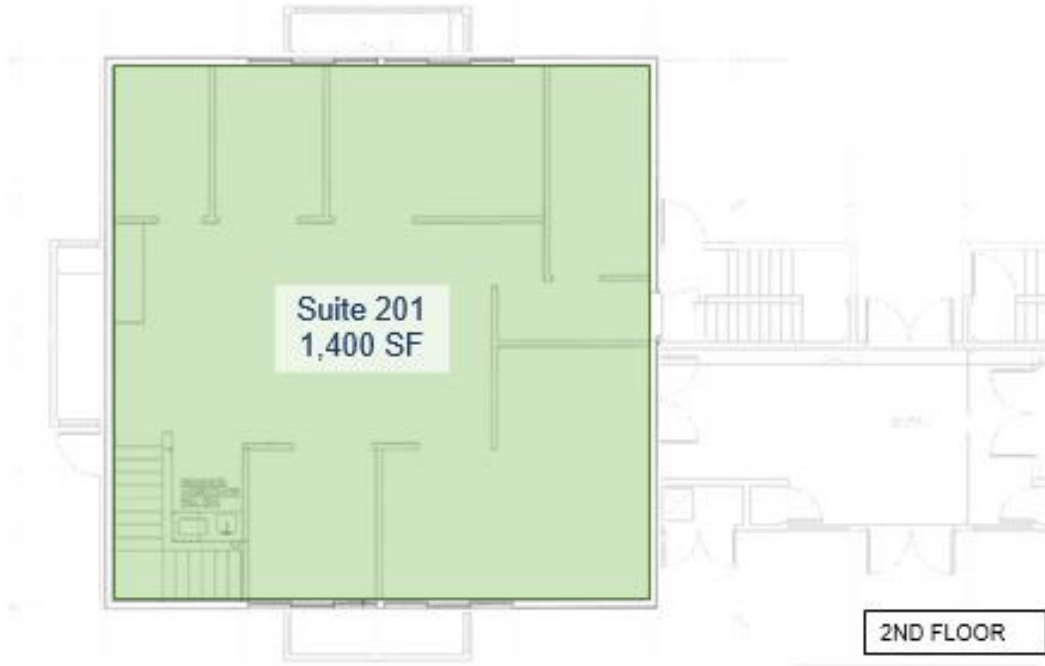
**23. Governing Law and Dispute Resolution.** This Lease shall be governed by and construed in accordance with the laws of the State of Oregon. Any dispute involving this Lease may be resolved by court action or mediation if both parties agree. If the parties agree to use a mediator they will each pay one half the costs of mediation. If mediation does not occur or does not result in a resolution satisfactory to both parties the dispute shall be resolved by arbitration. Any arbitration shall be in accordance with the rules of the Arbitration Service of Portland then in effect. The parties shall use a single arbitrator mutually agreeable to them. If they are unable to agree on an arbitrator, or a process to select one, either party may apply to the Hood River County Circuit Court to appoint an arbitrator. The award rendered by an arbitrator shall be binding on the parties and may be entered in the Hood River County Circuit Court. The prevailing party in court action, or arbitration proceeding, including any appeal therefrom or enforcement action, shall be entitled to recover their reasonable attorney’s fees and costs and disbursements incident thereto.

**24. Authority to Execute.** The persons executing this Lease on behalf of Lessee and Lessor warrant that they have the authority to do so.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2022.

|              |  |              |   |
|--------------|--|--------------|---|
| Lessee:      | HNTB Corporation   | Lessor:      | Port of Hood River                                |
| Signed:      | _____  | Signed:      | _____   |
| By:          | Kevin Collins  | By:          | Michael McElwee                                   |
| Its:         | Senior Vice President  | Its:         | Executive Director                                |
| Address:     | Suite 1000, 777 108 <sup>th</sup> Ave NE<br>Bellevue, WA 98004 | Address:     | 1000 E. Port Marina Drive<br>Hood River, OR 97031 |
| Email/phone: | (425) 577-8071   | Email/phone: | (541) 386-1645                                    |

### Exhibit A LEASED PREMISES & COMMON SPACE



**Exhibit B**  
**BUILDING EXTERIOR AREAS**





# Commission Memo



Prepared by: Genevieve Scholl  
Date: June 26, 2022  
Re: Financial Consulting Services

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As the Port continues its search for a new Chief Financial Officer, and anticipates that search, hiring, and onboarding process to likely extend through the current fiscal year, staff recommends approval of a Personal Services Contract with Debbie Smith-Wagar of Smith-Wagar Brucker Consulting (“Wagar”) for consulting, assistance, and training of Finance Department management staff.

The attached contract provides for ongoing assistance to the Deputy Finance Manager for regular business operating tasks that require double custody and approval for posting to the financial system, production of quarterly financial reports for the Commission, audit assistance, and training and continued professional development for Jana Scoggins, Port Deputy Finance Manager.

**RECOMMENDATION:** Approve Contract with Debbie Smith-Wagar for financial consulting services not to exceed \$39,750 plus reasonable reimbursable expenses.

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**Personal Services Contract  
For Services Under \$50,000**

1. This Contract is entered into between the Port of Hood River (“Port”) and Debbie Smith-Wagar, Smith-Wagar Brucker Consulting (“Contractor”). Contractor agrees to perform the Scope of Work described in attached Exhibit A to Port’s satisfaction for a maximum consideration not to exceed \$39,750, plus reasonable reimbursable expenses. Port shall pay Contractor in accordance with the schedule and/or requirements in attached Exhibit A.
2. This Contract shall be in effect from the date at which every party has signed this Contract through June 30, 2023. Either Contractor or Port may terminate this Contract in the event of a breach of the Contract by the other. Port may terminate this Contract for any reason by giving 15 days written notice to Contractor at Contractor’s address listed below. If Port terminates this Contract, Contractor shall only receive compensation for work done and expenses paid by Contractor prior to the Contract termination date.
3. All work products of the Contract, which result from this Contract, are the exclusive property of Port. Port shall have access to all books, documents, papers, and records of Contractor which relate to this Contract for purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment.
4. Contractor will apply that skill and knowledge with care and diligence to perform the work in a professional manner and in accordance with standards prevalent in Contractor’s industry, trade or profession. Contractor will, at all times during the term of the Contract, be qualified, professionally competent, and duly licensed to perform the work.
5. Contractor certifies that Contractor is an Independent Contractor as defined in ORS 670.600 and shall be entitled to no compensation other than that stated above.
6. Contractor shall indemnify, save, and hold harmless Port, its Commissioners, officers, agents, and employees from all claims, suits, or actions of whatsoever nature resulting from or arising out of the negligent activities or wrongful misconduct of Contractor or its subcontractors, agents, or employees under this Contract. Contractor shall provide insurance in accordance with attached Exhibit B.
7. This Contract may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.
8. This Contract shall be governed by the laws of the State of Oregon and any litigation involving any question arising under this Contract must be brought in the Circuit Court in Hood River County, Oregon. If any provision of this Contract is found to be illegal or unenforceable, this Contract shall remain in full force and effect and the provision shall be stricken.

- 9. Contractor shall adhere to all applicable federal, state, and local laws and regulations, including those governing its relationship with its employees.
- 10. This Contract contains the entire agreement between Contractor and Port and supersedes all prior written or oral discussions or agreements. Any modification to this Contract shall be reduced to writing and signed by the Contractor and Port. Contractor shall not assign this Contract or subcontract its work under this Contract without the prior written approval of Port.
- 11. The person signing below on behalf of Contractor warrants they have authority to sign for and bind Contractor.

**Contractor:**

**Port of Hood River**

Signed:

Signed:

Title:

Title:

Executive Director

Date:

Date:

Address:

Address:

1000 E. Port Marina Drive, Hood River, OR 97031

Phone/Email:

Phone/Email:

(541) 386-1645/porthr@gorge.net

**Personal Services Contract  
Exhibit A**

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- I. SCOPE OF WORK: As described in the attached “Estimated Costs of Supporting the Finance Department” proposal submitted by Contractor. In summary:**
- 1. Monthly assistance to Deputy Finance Manager, 2 days per month**
  - 2. Quarterly assistance with preparation and review of quarterly financial reports provided to Port Commission**
  - 3. Preparation of PERS and OPEB information for audit, preparation of cash flow statement, implementation of new Lease Standard issued by GASB, and general audit assistance as needed.**
  - 4. Training and educational services for professional development of the Deputy Finance Manager.**

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**II. DELIVERABLES AND TIMEFRAME:**

The deliverable(s) covered under this Contract shall be: Quarterly financial reports will be produced within 45 days of the end of each quarter. Audit prep and assistance will occur in fall of 2022, and spring of 2023, as needed. Monthly assistance and training services will be ongoing.

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**III. CONSIDERATION:**

Hourly rates under this Contract shall be \$125.00.

Reimbursables under this Contract shall be – mileage, lodging, and meals as required.

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**IV. BILLING AND PAYMENT PROCEDURE:**

The Contractor shall submit to the Port for payment an itemized invoice in a form and in sufficient detail to determine the work performed for the amount requested. The invoice shall contain at a minimum:

- Invoice date
- Contract project title
- Record of hours worked and a brief description of activities
- Billing rate applied
- Description of reimbursable items

Invoices may be submitted monthly, or at such other interval as is specified below.

The Port shall process payment in its normal course and manner for Accounts Payable, net 30 days.

**Personal Services Contract  
Exhibit B**

**INSURANCE**

**Contractors, please send this to your insurance agent immediately.**

During the term of this Contract, Contractor shall maintain in force at its own expense, each insurance noted below:

- 1. Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. (Required of contractors with one or more employees, unless exempt order ORS 656.027.)

\_\_\_\_\_ Required and attached    OR    \_\_\_x\_\_\_ Contractor is exempt

Certified by Contractor: \_\_\_\_\_  
Signature/Title

- 2. Commercial General Liability insurance on an occurrence basis with a limit of not less than \$1,000,000 each occurrence for bodily injury and property damage and \$2,000,000 general aggregate. The Liability Insurance coverage shall provide contractual liability. The coverage shall name the Port of Hood River and each of its Commissioners, officers, agents, and employees as Additional Insured with respect to the Contractor's services to be provided under the Contract.

\_\_\_\_\_x\_\_\_ Required and attached    Waived by Finance Manager \_\_\_\_\_

- 3. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

\_\_\_\_\_ Required and attached    Waived by Finance Manager \_\_\_\_\_x\_\_\_\_\_

- 4. Professional Liability insurance with a \$1,000,000 per claim and \$1,000,000 in the aggregate for malpractice or errors and omissions coverage against liability for personal injury, death or damage of property, including loss of use thereof, arising from the firm's acts, errors or omissions in any way related to this Contract.

\_\_\_\_\_ Required and attached    Waived by Finance Manager \_\_\_\_\_x\_\_\_\_\_

5. **Certificate of Insurance**. As evidence of the insurance coverage required by this Contract, the Contractor shall furnish acceptable insurance certificates to the Port at the time Contractor returns the signed Contract.

**The General Liability certificate shall provide that the Port, its Commissioners, officers, agents, and employees are Additional Insured** but only with respect to the Contractor's services to be provided under this Contract.

Endorsement CG 20 10 11 85 or its equivalent must be attached to the Certificate. The Certificate must contain a standard 30-day notice of cancellation clause which guarantees notification in writing to the Certificate Holder (Port of Hood River). Insuring companies or entities are subject to Port acceptance. If requested, complete copies of the insurance policy shall be provided to the Port. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

**Port of Hood River**  
**Estimated Costs of Supporting Finance Department**

| Needs  | Est Hours | Rate     | Cost               |
|--|-----------|----------|--------------------|
| <i>Monthly</i>   |           |          |                    |
| Assist and review Deputy Finance Manager work monthly  | 160.00    | \$125.00 | \$20,000.00        |
| <i>Estimate is based on approximately two days per month on site at the Port offices assisting where needed</i>          |           |          |                    |
| <i>Quarterly</i>   |           |          |                    |
| Assist with preparation and review of quarterly financial reports provided to Commission                                 | 20.00     | \$125.00 | \$2,500.00         |
| <i>Four reports for the fiscal year</i>  |           |          |                    |
| <i>Audit</i>   |           |          |                    |
| Prepare PERS and OPEB (Other Post Employment Benefits) information for the audit; prepare the cash flow statement        | 10.00     | \$125.00 | \$1,250.00         |
| Implement the new Lease Standard issued by the Governmental Accounting Standards Board (GASB)                            | 24.00     | \$125.00 | \$3,000.00         |
| General audit assistance as needed   | 24.00     | \$125.00 | \$3,000.00         |
| <i>Training/education</i>  |           |          |                    |
| Assist with the Deputy Finance Manager's professional development on an as-needed basis                                  | 80.00     | \$125.00 | \$10,000.00        |
| <i>Approximately one day a month for the rest of the fiscal year, includes phone calls and questions as they come up</i> |           |          |                    |
| <b>Total</b>   |           |          | <b>\$39,750.00</b> |