



PORT OF HOOD RIVER COMMISSION

AGENDA

Tuesday, March 7, 2023

Port of Hood River Conference Room

1000 E. Port Marina Drive, Hood River

4:00 PM

Joint Work Session with Bridge Replacement Bi-State Working Group

1. Call to Order – 4:00 p.m.
 - a. Welcome & Introductions (*Ben Sheppard*)
 - b. Recommendations of the Bi-State Working Group Related to Bridge Replacement (*Mike Shannon, HNTB*)
 - c. Q&A Period, Next Steps (*Ben Sheppard*)
 - d. Adjourn
-

5:00 PM

Immediately Upon Adjournment of the Work Session

1. Call to Order – 5:00 p.m.
 - a. Modifications, Additions to Agenda
 - b. Public Comment (5 minutes per topic, 30 minutes maximum total)
 1. *Written public comment received (Page 3)*
2. Consent Agenda
 - a. Approve Minutes from February 21, 2023 Regular Session and February 28, 2023 Special Work Session (*Patty Rosas, Page 19*)
 - b. Approve Allowance to Sublease to Ferment for Grasslands BBQ in Suite 102 of the Jensen Building (*Greg Hagbery, Page 25*)
 - c. Approve IGA with ODOT for Unified Certification Program for Disadvantaged Business Enterprises (*Greg Hagbery, Page 31*)
 - d. Approve Accounts Payable to Campbell Phillips in the Amount of \$11,554.17 (*Genevieve Scholl, Page 47*)
3. Informational Reports
 - a. Bridge Replacement Project Update (*Michael Shannon, Page 51*)
4. Presentations & Discussion Items
 - a. Westside Urban Renewal District Discussion, Abigail Elder, City of Hood River and Elaine Howard, Howard Consulting (*Kevin Greenwood, Page 61*)
 - b. Marina Basin Planning Discussion (*Daryl Stafford, Page 75*)
5. Executive Director Report (*Kevin Greenwood, Page 77*)
6. Commissioner, Committee Reports

- a. Bi-State Working Group (Fox, Chapman)

7. Action Items

- a. Approve Issuance of Bid Solicitation for Underwater Pier Concrete Repairs on the Bridge ([John Mann, Page 93](#))
- b. Approve Resolution 2022-23-10 Authorizing Application to the EDA Public Works and Economic Adjustment Assistance Grant Program ([Genevieve Scholl, Page 167](#))

8. Commission Call

9. Confirmation of Commission Directives to Staff

10. Executive Session Under ORS 192.660(2)(e) to conduct deliberations with persons designated to negotiate real property transactions and OR 192.660(2)(h) to consult with legal counsel regarding current litigation or litigation likely to be filed.

12. 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.*

From: [Calannon](#)
To: PortHR@gorge.net
Subject: Another increase in Waterfront pass
Date: Thursday, February 23, 2023 2:22:17 PM

Dear Port:

It saddens me that you plan to raise the waterfront pass yet again, doubling the price over the last two years. I appreciate what the Prt has done at the waterfront but making a pass affordable only to the rich makes it less affordable and accessible to the regular folks who like to take their families there and enjoy their local waterfront. Please reconsider this incredible decision to yet again increase the fees to play on our own backyard.

Thanks for listening.

Respectfully,

Cathi Lannon

Don't worry, be happy!

Be the best you can be and bring out the best in everyone else

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From: [Donald Kiesling](#)
To: PortHR@gorge.net
Subject: Event site annual pass
Date: Thursday, February 23, 2023 10:47:56 AM

Hi Port of HR,

In past years I've purchased the annual pass, and have felt like it's a good and fair deal. However, this year's increase to \$200, with no discount for early purchase (or locals?), means I won't, and will be parking elsewhere (and crossing the bridge more frequently). For next year please consider some discount for local residents, and/or reducing the rate of increase. Thanks for your consideration.

Don Kiesling
680 Floral Pl
Hood River

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From: [Lura Lee](#)
To: PortHR@gorge.net
Subject: Event site increase - opposition
Date: Wednesday, February 22, 2023 2:23:34 PM

Hello,

I was not able to make the meeting to voice my opinion.

I am a member of HR Outrigger Canoe Club.

I live in the Portland area and commute usually three times a week.

The last two years I have purchased a pass to the event site. My purchase was mostly just in support of your community, as I rarely use the pass. Our practices are early in the day, and it is easy to "plug the meter" when the chargeable time starts.

However, with the substantial price increase, I will not be purchasing the pass this season.

I wonder how many other people will also not purchase for their own similar reasons?

It will be interesting when the dust settles, to find out if you increased overall revenue or came out about the same and alienated many people local to your area.

Perhaps it would be in the Ports overall financial interest, to devise pricing for peak hours or another scheme that would make it more economical for all users?

Lura Lee

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From: [Brendan Brown](#)
To: PortHR@gorge.net
Subject: Event site pass
Date: Wednesday, February 22, 2023 3:30:34 PM

Hello,

It's frustrating to me that as a public servant who already can't afford to own a home in the community where I teach, I might also get priced out of recreational opportunities. Who will teach your children after the prices settle?

Discount the event site for locals and especially public servants.

Thanks,
Brendan

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From: floyd.moore
To: PortHR@Gorge.Net
Subject: Fee for parking at Event Site
Date: Thursday, February 23, 2023 5:52:41 AM

I would ask that the proposal to increase the fee for parking access to the port of hood river event site be reconsidered....The fees have slowly increased over the years until two years ago the annual fee was \$100. Last year \$150, and this year per the port meeting \$200...?

This is a rather dramatic increase for access, way beyond inflation and any additional services for the public that I have observed. The regular users of the event site have contributed to keep it clean and organize safe access over the years without any funding from the port, yet the fee proposal is to increase by 30%+? Some of us have no other access, since we are primarily kiteboarding, so there are no alternatives in the area, so this particularly inequitable.

Living in White Salmon in addition to the fee for the Event Site, I have to pay the port bridge toll to enjoy access.....

Please reconsider this increase.

Floyd

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From: [Peggy Thompson-Hudon](#)
To: PortHR@gorge.net
Subject: Increase in Event site annual fee
Date: Wednesday, February 22, 2023 1:49:07 PM

I have learned of the proposed fee increase to \$200 dollars for this years annual event site cost. This seems a very steep rise and will be sure to add to the sad attitude developing that Hood River is only available to those with above average means of income.

I encourage you to reconsider.

Peggy Thompson

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From: [Heidi](#)
To: PortHR@gorge.net
Subject: Parking pass price increase
Date: Wednesday, February 22, 2023 2:44:42 PM

Hello,

I'd like to register my extreme displeasure and surprise with the enormous price increase for Event's Site parking this year! I would have come to the meeting but am currently out of the country.

I cannot believe the price will be DOUBLE what it was in 2021! As a local for more than 30 years, I use the waterfront almost daily in spring, summer and fall. I don't mind paying for parking but the price now is simply gouging. Just as an example, our family would have to pay for 2 cars (\$400!) in addition to the many fees there are at other parks in Oregon and Washington not to mention our bridge passes (!) as both my husband and I recreate on the water in the gorge and beyond. Have you not considered a local's discount?

People visiting the area should be the ones paying the lion's share. As a local, I and most of my friends consider it our backyard and treat it as such: picking up trash in addition to recycling that visitors leave all over the place.

I understand that you all have a job to do but there really has to be a better way than to treat you neighbors to yet another price gouging increase.

Heidi Ribkoff

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From: [John Ritter](#)
To: PortHR@gorge.net
Subject: Price increase
Date: Wednesday, February 22, 2023 3:43:40 PM

Dear Port Members:

Thank you for your time in letting me comment on the dramatic price increase at the Event Site. The biggest impact I feel will be on local families, and I believe it will deter many to look elsewhere to enter the Columbia — places perhaps not as safe or easy to access.

Maybe you could consider offering a discounted rate to Hood River and Gorge residents ? As it stands now, our teachers and nurses find it extremely difficult or impossible to purchase a home (or even rent) in the town they love, live in, and work.

Please don't make recreating in the Columbia another hardship local families have to face.

Thanks for your time and attention.

Sincerely, John Ritter

John Ritter
109 Montello Ave
Hood River, OR 97031

Sent from my iPad

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THESE MINUTES ARE NOT OFFICIAL until approved by the Port Commission at the next regular meeting.

Regular Session

PRESENT: Commissioners: Ben Sheppard, Kristi Chapman, Mike Fox, and Hoby Streich. Legal Counsel: Kristen Campbell. From Staff: Kevin Greenwood, Genevieve Scholl, Daryl Stafford, John Mann, Debbie Smith-Wagar, and Patty Rosas. From HNTB: Michael Shannon, Brian Munoz, and Kary Witt. Guests: Mark Libby, Avi Cohn, Jeff Dean, Anne Johnston, Cody Sanders, Garret Stump, Jon Paul Anderson, David Dorocke, and Ed Ing.

ABSENT: Heather Gehring, Greg Hagbery

MEDIA: None

1. CALL TO ORDER: President Ben Sheppard called the meeting to order at 5:00 p.m.

a. **Modifications or additions to the agenda:** None

b. **Public Comment:**

- 1) **Avi Cohn, Hood River Resident**, expressed his concern regarding the cost increase with Event Site Parking Passes for 2023. Cohn provided some alternative solutions for the Port.
- 2) **Jeff Dean, James Dean Construction**, discussed the impacts that the current load limit on the bridge has had on his business. Dean is requesting that the load limit be restored.
- 3) **Cody Sanders, Hood River Sand & Gravel**, noted that the lower load limit on the bridge has caused longer commutes and increased costs for their business and customers. Sanders is requesting that the load limit be raised.
- 4) **Garret Stump, Mountain Forest Products**, commented that the lower load limit on the bridge has caused significant impacts to their business. One impact is the additional expense of about \$1.5 million per year due to the longer commute for their heavier trucks. Stump is requesting that the load limit be restored.
- 5) **David Dorocke, Hood River Resident**, requested that the Port Commission reconsider the cost increase for the Event Site Parking Pass for 2023. Dorocke believes that less people will use the Event Site due to the higher cost.
- 6) **Ed Ing, Mountain Adams Fruit**, discussed the major impacts the lower load limit on the bridge has had on their business and requested that the load limit be raised.

2. CONSENT AGENDA:

- a. Approve Minutes from February 7, 2023 Regular Session.
- b. Approve Amendment No. 10 to Contract with WSP USA, Inc.

Motion: Approve consent agenda

Move: Krist Chapman

Second: Mike Fox

Discussion: None

Vote: **Aye:** Ben Sheppard, Kristi Chapman, Mike Fox, Hoby Streich

Absent: Heather Gehring

MOTION CARRIED

3. INFORMATIONAL REPORTS: None

4. PRESENTATIONS & DISCUSSION ITEMS:

- a. **Bridge Load Limit Project Update** – John Mann, Facilities Director, noted that letter regarding the load restriction from Oregon Department of Transportation (ODOT) has been received. This letter is a recommendation to restore the load limit for all vehicles except EV3's. Mark Libby, HDR Engineering, was available for questions. Commissioner Fox expressed his concern related to the impacts that the increased weight limit could have on the bridge. Libby commented that there could be potential impacts to the bridge with increased weight limit, but it is unknown if the lowered speed limit could mitigate the risk. A discussion ensued regarding potential bridge impacts. Commissioner Chapman inquired about toll rates for larger trucks and requested that staff do further research to determine an appropriate toll rate. Commissioner Streich suggested that the weight limit should be restored, but if any impacts to the bridge are discovered then the weight limit should be restricted once again. Commissioner Sheppard requested a trip count report for larger trucks.
- b. **Lot 1 Development Discussion** – Kevin Greenwood, Executive Director, discussed the possibility for the Hood River Urban Renewal District Agency (URA) to establish a new single lot district for the development of Lot 1. The URA requested a white paper laying out the vision and process for proceeding with the project. Port staff will attend the URA meeting on March 13 to provide a presentation on Lot 1.

Commissioner Sheppard noted that he would like to move forward with the next phase and determine what the Commission envisions for Lot 1. Commissioner Sheppard suggested creating a working group that involves different groups within the community to discuss the vision for Lot 1. A discussion followed regarding the working group. Commissioner Streich requested a work session with the Commission to discuss the possibilities for Lot 1. Commission consensus was for staff to draft the white paper and coordinate a Work Session for the Commission before March 13.

5. EXECUTIVE DIRECTOR REPORT: Greenwood commented that there will be a Work Session on March 7 with the Port Commission and the Bi-State Working Group (BSWG).

6. ACTION ITEMS:

- a. **Authorize Signing Commission Formation Agreement (CFA) for the Hood River-White Salmon Bridge Authority.** Commissioners acknowledged Commissioner Fox for his work and time that was put into the development of the CFA document.

Motion: Authorize signing the Commission Formation Agreement forming the Hood River-White Salmon Bridge Authority.

Move: Mike Fox

Second: Kristi Chapman

Discussion: None

Vote: **Aye:** Ben Sheppard, Kristi Chapman, Mike Fox, Hoby Streich

Absent: Heather Gehring

MOTION CARRIED

- b. **Approve Resolution Authorizing Increase in Bridge Load Limit.**

Motion: Approve a resolution authorizing an increase to the load limits on the Hood River-White Salmon Interstate Bridge.

Move: Hoby Streich

Second: Kristi Chapman

Discussion: Commissioner Fox reiterated his concern of potential impacts to the bridge with regard to the increased weight limit and requested a cost estimate and schedule for speed cameras on the bridge.

Vote: **Aye:** Kristi Chapman, Hoby Streich, Ben Sheppard
Nay: Mike Fox
Absent: Heather Gehring

MOTION CARRIED

- c. **Approve Janitorial Services Contract for Port Properties with Allied Maintenance, LLC not to exceed \$65,309.**

Motion: Approve Janitorial Services Contract for the Port Properties with Allied Maintenance, LLC not to exceed \$65,309.

Move: Mike Fox

Second: Hoby Streich

Discussion: None

Vote: **Aye:** Ben Sheppard, Kristi Chapman, Mike Fox, Hoby Streich
Absent: Heather Gehring

MOTION CARRIED

7. COMMISSIONER, COMMITTEE REPORTS:

- a. **Marina Advisory Committee (MAC)** – Daryl Stafford, Waterfront Manager, noted that large capital projects for the Marina are on hold till more is known about the Bridge Replacement Project. Stafford added that the MAC discussed actionable items that could be considered for next year’s budget. A discussion ensued regarding the 6f Marina Basin feasibility study. The Commission emphasized the urgency to create a Marina Redevelopment Plan before the construction of the new bridge, as well as the relocation of the Port office. Staff will begin the process of a redevelopment plan for the Marina.
- b. **Airport Advisory Committee (AAC)** – Greenwood noted there was focus on the airport budget at the last AAC meeting. Other items discussed were ways to increase business growth and reduce costs. A discussion followed regarding upcoming airport projects and funding. Commissioner Fox encouraged staff to seek other grant opportunities.
- c. **Bi-State Working Group** – Commissioner Fox reported that they have met with several legislators in the last couple weeks. They have a meeting February 22 with the Umatilla Tribe to begin Memorandum of Agreement (MOA) negotiations.

Greenwood commented that he received an email from Corinne Sams, member of the Umatilla Tribe, with a request to install the four treaty tribe flags on Port waterfront property. The Umatilla Tribe also expressed interest in the Wasco property.

8. COMMISSION CALL: None

9. CONFIRMATION OF DIRECTIVES:

- a. Do research on potential toll rates for larger trucks.
- b. Provide a trip count report for larger trucks.
- c. Coordinate a Work Session for the Commission before March 13, to discuss development of Lot 1.
- d. Draft Lot 1 white paper prior to Urban Renewal meeting in March.
- e. Provide an estimate and schedule of speed cameras for the bridge.
- f. Begin the process for redevelopment of the Marina.
- g. Seek other potential grants for the airport.

Greenwood commented that there is an opportunity for staff certification for contracting and three staff members have been selected to take the procurement courses. The Commissioners support and encourage any training opportunities for staff.

10. EXECUTIVE SESSION: President Ben Sheppard recessed Regular Session at 7:07 p.m. to call the Commission into Executive Session under ORS 192.660 (2)(e) to conduct deliberations with persons designated to negotiate real property transactions and OR 192.660(2)(h) to consult with legal counsel regarding current litigation or litigation likely to be filed.

11. Possible Action: The Commission was called back into Regular Session at 7:27 p.m. No action was taken as a result of Executive Session.

12. ADJOURN: The meeting was adjourned by unanimous consent at 7:28 p.m.

SIGNED:

Ben Sheppard, President

ATTESTED:

Michael Fox, Secretary

THESE MINUTES ARE NOT OFFICIAL until approved by the Port Commission at the next regular meeting.

Special Work Session

PRESENT: Commissioners: Ben Sheppard, Kristi Chapman, Mike Fox (via Zoom), and Hoby Streich. From Staff: Kevin Greenwood, Genevieve Scholl, Daryl Stafford, Debbie Smith-Wagar, Greg Hagbery, and Patty Rosas. Guest: Claudia Munk-Von Flotow

ABSENT: Heather Gehring, Kristen Campbell, John Mann

MEDIA: None

- 1. CALL TO ORDER:** President Ben Sheppard called the meeting to order at 10:00 a.m.
- 2. INTRODUCTION & PURPOSE:** Commissioner Sheppard noted that this meeting was brought forward from ongoing discussions regarding the infrastructure and grants for development of Lot 1. Commissioner Sheppard proposed creating a group of members from the community to help reevaluate and determine the vision for Lot 1.
- 3. SITUATION ASSESSMENT DISCUSSION:** Genevieve Scholl, Deputy Executive Director, summarized the recent planning and fundraising history of Lot 1. Scholl noted that there will be challenges with the development of Lot 1. Such as, the Waterfront Overlay Zone, and the Interchange Area Management Plan (IAMP) that governs I-84 Exit 63 and Exit 64 interchanges. For now, the Port of Hood River ("Port") is moving forward with the extension of Anchor Way and reconfiguration of N. First Street. Currently there is \$1 million in grants for this project that needs to be expended by June of 2024. Staff is working on an Economic Development Administration (EDA) grant for \$981,000. Staff is also working with the Hood River Urban Renewal District Agency (URA) to establish a new single lot district for the development of Lot 1, with an estimated potential reimbursement-basis fund for development of approximately \$1.7 million.

Commissioner Hoby Streich commented that prior Port Commissioners focused on trying to offset the loss revenue for when the current bridge was replaced, and it was believed that Lot 1 would be the best opportunity to offset the loss. Commissioner Streich requested clarity on what the current Commission envisions for Lot 1. A discussion ensued regarding the rate of return and zoning on Lot 1.

- 4. COMMUNITY NEED & BENEFIT DISCUSSION:** Commissioner Sheppard believes that a public gathering space is needed in the community. Such as a venue for large events, or a theater with meeting rooms. Commissioner Kristi Chapman commented that there are not many indoor facilities that are open to the public, especially for larger groups. Commissioner Chapman added that the Performing Arts Initiative that was to be cited at Westcliff Lodge has done extensive research on what is successful in smaller communities. They have determined that a single use performing arts center does not necessarily work in a smaller community, but if the space was multiuse, then it would be highly sought after. Commissioner Mike Fox also likes the idea of a multiuse community center and believes that the Port could develop something that would attract tourists in the winter seasons. Commissioner Streich commented that if the Port is moving towards a development that involves commercial, recreation and tourism, then the zoning would need to be assessed.
- 5. NEXT STEPS:** The Commission consensus was for Commissioner Sheppard to proceed with coordinating a group with key members of the community to help determine the community needs for Lot 1 development. Commissioner Sheppard will draft a document that will include the Commissioners thoughts and opinions regarding Lot 1 development and will begin to meet with community members. Once direction is determined then challenges such as zoning and IAMP will be addressed. Kevin

Greenwood, Executive Director, noted that the URA requested a white paper describing the vision for Lot 1. Staff will work on the white paper draft. Commissioner Fox suggested that Commissioner Sheppard provide a monthly status report with a date for a final recommendation.

6. **EXECUTIVE SESSION:** President Ben Sheppard recessed Regular Session at 10:59 a.m. to call the Commission into Executive Session under ORS 192.660 (2)(e) to conduct deliberations with persons designated to negotiate real property transactions and OR 192.660(2)(h) to consult with legal counsel regarding current litigation or litigation likely to be filed.
7. **Possible Action:** The Commission was called back into Regular Session at 11:24 a.m. No action was taken as a result of Executive Session.
8. **ADJOURN:** The meeting was adjourned by unanimous consent at 11:25 a.m.

SIGNED:

Ben Sheppard, President

ATTESTED:

Michael Fox, Secretary

Commission Memo



Prepared by: Greg Hagbery
Date: March 7, 2023
Re: Ferment Brewing Co – Sublease to Grasslands BBQ

On July 1, 2022, Ferment Brewing Company LLC began leasing suite 102 in the Jensen Building. They have been excellent tenants and thoroughly enjoy the location and facilities.

Historically, Ferment has subleased a small area to Grasslands Barbeque, which is a food truck parked south of the Ferment Building, for dry storage while Ferment maintained a larger footprint in the Ferment Building. After consolidating space in the Ferment Building and relocating most of that consolidated space to the Jensen Building, Ferment no longer has available space to accommodate Grassland Barbecue in the Ferment Building.

Therefore, Ferment has requested permission to sublease approximately 100 sf in Suite 102 of the Jensen Building to them. If allowed to sub-lease, Ferment cannot charge sub-lessee more base rent than what they are currently being charged under the Master Lease. Rent payments for the entire space will continue to be received solely from Ferment.

The draft Sub-lease Agreement is attached for your review.

RECOMMENDATION: Approve the allowance for Ferment Brewing Company, LLC to sub-lease approximately 100 sf to Spada, LLC d/b/a Grasslands Barbeque, in Suite 102 of the Jensen Building.

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SUBLEASE AGREEMENT

This **Sublease Agreement** is made between **Ferment Brewing Company LLC**, individually as "Sublessor" and Spada, LLC d/b/a **Grasslands Barbecue**, as the "Sublessee," together referred to as the "Parties." The Parties agree that the Sublessee shall lease from the Sublessor a portion of the Sublessor's interest in the premises located at 400 Portway Ave, Suite 102 (the "Premises") on the following terms:

1. **SUBLEASE TERM.** The term of the Sublease will be on a month-to-month period, beginning on **Month XX, 2023**.
2. **RENT.** Sublessee will pay Sublessor a total monthly rent equivalent to the square footage rate that Sublessor pays to the Port as specified in the Master Lease. Rent will be payable on the first day of each month directly to the Sublessor.
3. **TERMINATION NOTICE.** Sublessee's tenancy can be terminated by sublessor or the Port at any time. Sublessee is not responsible for finding a replacement upon the termination of his/her tenancy.
4. **SUBLESEE'S INTEREST IN THE PREMISES.** Sublessee is one of 1 total tenants occupying the Premises under the Sublessor Ferment Brewing Company LLC.
5. **MASTER LEASE.** Sublessee acknowledges that Sublessor has leased the Premises from the Port of Hood River by Lease Agreement entered into by Sublessor and the Port of Hood River, dated effective June 30, 2022 (the "Master Lease"). Sublessee also acknowledges that Sublessor has received permission from the Port of Hood River, per the terms of the Master Lease and conditioned upon Sublessor and Sublessee agreeing to the terms of this Agreement, to enter into this Sublease Agreement with Sublessee. In addition to the provisions of this Sublease Agreement, the Sublessee agrees to be bound by all the terms, conditions and obligations of Sublessor as lessee in the Master Lease for the Premises , including, but not limited to, Master Lease sections: (i) 8.2, Maintenance and Repair/Lessee's Obligations; (ii) 9, Insurance; (iii) 11, Tenant Alterations; (iv) 12, Fixtures and Personal Property; and (v) 14, Signs. The Master Lease is attached to and incorporated into this Sublease Agreement by and between Sublessor and Sublessee

Nothing herein shall be interpreted as having released the Lessee from its obligations under the underlying lease with the Port of Hood River. The Port of Hood River looks to Sublessor to perform each and every obligation it has under the underlying lease for the Premises . Any and

all provisions of the Sublease Agreement which are or may be inconsistent with the provisions of the underlying lease shall be of no force and effect as respects the Port of Hood River.

6. **TERMINATION OF MASTER LEASE.** If Sublessor terminates his/her tenancy in the Premises under the Master Lease, Sublessor will provide 30 days' notice to Sublessee. Sublessee agrees that if the Master Lease is terminated for any reason, this Sublease Agreement will terminate as of the same date.
7. **CONDITION OF THE PREMISES.** Upon the termination of this Sublease Agreement for any cause, Sublessee will leave the Premises in their original good condition. Sublessee is responsible for the repair of any damage resulting from the act or neglect of Sublessee or those persons who are invitees of the Sublessee.
8. **CASUALTY LOSS OF SUBLESEE.** The parties hereto agree that the Port of Hood River, its commissioners and employees and its casualty policy shall not be responsible to the Sublessee for any property loss or damage done to the Sublessee's property, whether real, personal or mixed, occasioned by reason of any fire, storm or other casualty whatsoever. It shall be the Sublessee's responsibility to provide its own protection and insurance against casualty losses of whatsoever kind or nature, regardless of whether or not such loss is occasioned by the acts or omissions of the Port of Hood River, Sublessor, Sublessee, third party, or act of nature.
9. **INSURANCE.** Sublessee shall procure and maintain a comprehensive general liability policy covering all claims for personal injury (including death) and property damage (including all real and personal property located on the Premises) arising on the Premises or arising out of Sublessee's operations. The limits of liability shall be not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) aggregate unless the Sublessee requests and the Port of Hood River approves in writing, a lesser liability limit. The liability policies shall contain a cross-liability provision such that the policy will be construed as if separate policies were issued to Sublessee and to the Port of Hood River. The foregoing insurance policy shall name the Port of Hood River as an additional insured. Lessee shall provide certificates of insurance and, if requested, copies of any policy to the Port of Hood River. Furthermore, the policy of insurance required herein shall: (i) be written as a primary policy; (ii) expressly provide that such insurance may not be materially changed, amended or canceled with respect to the Port of Hood River except upon forty-five (45) days' prior written notice from the

insurance company to the Port of Hood River; (iii) contain an express waiver of any right of subrogation by the insurance company against Port of Hood River and its elected officials, employees or agents; (iv) expressly provide that the insurance proceeds of any loss will be payable notwithstanding any act or negligence of Sublessee which might otherwise result in a forfeiture of said insurance; and (v) in regard to physical property damage coverage, expressly provide that all proceeds shall be paid jointly to the Port of Hood River and Sublessee.

10. SUBLEASING AND ASSIGNMENT. Sublessee may not lease, sublease, or assign the Premises without the prior written consent of the Sublessor and the Port of Hood River.

11. COMPLETE AND BINDING AGREEMENT. All preliminary negotiations between the Parties are merged into, and superseded by, the terms of this Sublease. This Sublease will not be enforceable until signed by both Sublessee and Sublessor. Any modification to this Agreement must be in writing, signed by both Sublessor and Sublessee.

GOVERNING LAW. This Agreement shall be governed by the laws in the state of OREGON.

We, the Undersigned, agree to the above stated terms.

DATED this ____ day of _____, 2023

Sublessee:
Spada LLC, d/b/a Grassland Barbeque
Signed: _____
By: _____, Its _____
Print Name

Sublessee:
Ferment Brewing Company, LLC
Signed: _____
By: _____, Its _____
Print Name

Address:
Email/phone:

Address:
Email/phone:

Consent to Sublease:

Port of Hood River

Signed: _____
By: Kevin Greenwood, Executive Director

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Commission Memo



Prepared by: Greg Hagbery
Date: March 7, 2023
Re: Intergovernmental Agreement
Administering the Disadvantaged Business Enterprise
Unified Certification Program

Capital Improvement projects at the Hood River Airport are currently funded through the FAA, a branch of the U.S. Department of Transportation. One of the requirements that the Port must meet to utilize these funds is to have a Disadvantaged Business Enterprise (DBE) Program in place.

This program helps ensure that any federal contract that the Port administers is not discriminating against DBEs and that the Port is making reasonable efforts to include DBE's in the bidding process.

The attached Intergovernmental Agreement with the State of Oregon ensures that the Port intends to continue to participate in the program.

RECOMMENDATION: Approve Intergovernmental Agreement with Oregon Department of Transportation to renew partnership in the Unified Certification Program for Disadvantaged Business Enterprises.

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Intergovernmental Agreement
Administering the Disadvantaged Business Enterprise
Unified Certification Program

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "ODOT," the State of Oregon, acting by and through its Oregon Business Development Department, hereinafter referred to as "OBDD," referred collectively as "State;" and cities, counties or local partners signing onto this Agreement, hereinafter referred to as "Agency" or "Agencies," all herein referred to individually as "Party" and collectively as "Parties."

RECITALS

1. By the authority granted in Oregon Revised Statutes ("ORS") 190.110 and 283.110, state agencies may enter into agreements with units of local government or other state agencies for the performance of any or all functions and activities that a party to the agreement, its officers, or agents have the authority to perform.
2. The Disadvantaged Business Enterprise ("DBE") program requirements set out in Title 49 United States Code of Federal Regulations ("CFR") § 26.81 (2003) require that all State Agencies receiving federal transportation funds establish a single Unified Certification Process ("UCP") to certify businesses owned by socially and economically disadvantaged, or historically marginalized, individuals as "DBEs". 49 CFR § 26.81 requires that all such state agencies of federal transportation funds sign an agreement establishing the UCP and submit same to the U.S. Secretary of Transportation.
3. As provided in 49 CFR § 26, only firms owned and controlled by socially and economically disadvantaged person(s) are eligible for the DBE Program. The ODOT Office of Civil Rights ("OCR") is responsible for ensuring compliance with the federal regulations in the determination of DBE certification and will act in the capacity of Lead Department for coordinating program participation of the Agencies hereunder. ODOT is responsible to the United States Department of Transportation ("USDOT") for assuring certification of DBEs is performed consistent with 49 CFR § 26.
4. As provided under ORS 200.055(5), OBDD is the sole state agency authorized to certify DBEs as eligible to perform on public contracts in this state. Pursuant to ORS 200.055, the OBDD herein delegates authority for administration of the Oregon UCP DBE Certification Component to its Certification Office for Business Inclusion and Diversity ("COBID").
5. Pursuant to ORS 183.341, OBDD has adopted certification procedures for DBEs under Oregon Administrative Rule ("OAR") 123-200.

The Parties therefore agree as follows:

TERMS OF AGREEMENT

1. Partnership.

- a. ODOT, OBDD and Agency agree to cooperate and coordinate the administration of DBE certification services as required under 49 CFR § 26.
- b. This Agreement defines the roles and responsibilities of ODOT, OBDD and Agency to continue participation in the UCP. The collective effort of the Parties is hereinafter referred to as the “UCP Partnership” or “Partnership.”

2. Funding.

- a. Each Party shall be responsible for funding their own duties and obligations under this Agreement, unless the Parties allocate funding duties or obligations differently amongst themselves by entering into a separate funding agreement.

3. Exhibits Attached and Incorporated.

- a. This Agreement includes the following exhibit, which is attached and incorporated into this Agreement by reference:
 - Exhibit TCD –Terms, Conditions and Definitions

4. Order of Precedence.

Unless a different order is required by law, this Agreement shall be interpreted in the following order of precedence:

- 1) This Agreement (including all amendments, if any) less all Exhibits, attachments and other documents and information incorporated into this Agreement,
- 2) Exhibit TCD,
- 3) All other Exhibits,
- 4) Any other attachments,

This provision survives termination of the Agreement.

5. **Term of Agreement; Effective Date.** The term of this Agreement shall begin upon the date all required ODOT and OBDD signatures are obtained. This Agreement shall terminate for all Parties 5 years from the initial date of execution, including Agencies who join the Partnership at a later date.

6. **Termination.**

- a. Any Party may terminate its participation in this Agreement by providing at least 30 calendar days written notice to the other Parties.
- b. Upon mutual agreement of ODOT and OBDD, either ODOT or OBDD may terminate this Agreement effective upon delivery of written notice to all Parties, or at such later date as may be established by ODOT or OBDD; or under the following condition:
 - i. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for such services from the planned funding source.
- c. Upon mutual agreement of ODOT and OBDD, either ODOT or OBDD may terminate any Agency or all Agencies participation in this Agreement effective upon delivery of written notice to said Agency or Agencies, and under any of the following conditions:
 - i. If Agency or Agencies fail(s) to provide the services called for by this Agreement within the time specified herein or any extension thereof.
 - ii. If Agency or Agencies fail(s) to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
- d. Any termination of this Agreement shall not extinguish or prejudice any rights or obligations accrued to the Parties prior to termination.

7. **Certification.** Each Party certifies and represents that the individual(s) signing this Agreement has been authorized to enter into and execute this Agreement on its behalf, under the direction or approval of its governing body, commission, board, officers, members or representatives, and to legally bind that Party.

8. **No Third Party Beneficiaries.** ODOT, OBDD and Agencies are the only parties to this Agreement, and are the only parties entitled to enforce its terms. Nothing in this Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Agreement. This provision survives termination of the Agreement.

9. **Waiver; Amendment.** No waiver, consent, modification or change of terms of this Agreement shall bind any Party unless in writing and signed by both ODOT and OBDD, and all necessary approvals have been obtained. Such waiver, consent, modification or change,

if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision. This provision survives termination of the Agreement.

10. **Notice.** Except as otherwise expressly provided in this Agreement, all notices to be given relating to this Agreement must be given in writing by email, personal delivery, or postage prepaid mail, to each Party's Project Manager, and Agencies Contact Representative, at the physical address or email address set forth on the signature page(s). Any notice so addressed and mailed becomes effective 5 days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective when the sender receives confirmation of receipt from the recipient (not an auto-reply).
11. **Severability.** The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be invalid, unenforceable, illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid. This provision survives termination of the Agreement.
12. **Counterparts.** This Agreement may be executed in several counterparts all of which when taken together shall constitute one agreement binding on all Parties, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
13. **Integration.** This Agreement and attached exhibit constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.
14. **Electronic Signatures.** The Parties agree that signatures showing on PDF documents, including but not limited to PDF copies of the Agreement and amendments, submitted or exchanged via email are "Electronic Signatures" under ORS Chapter 84 and bind the signing Party and are intended to be and can be relied upon by the Parties. State reserves the right at any time to require the submission of the hard copy originals of any documents.

MUTUAL PARTIES OBLIGATIONS

1. As provided under ORS 200.055(5) the Parties mutually agree that all DBE certification decisions by COBID shall be binding on all recipients of federal transportation funds within Oregon.

2. The Parties mutually agree to have open and regular communication on matters concerning the UCP and DBE certification. Matters of concern to all Parties include, but are not limited to, process time, staffing, budget, certification issues, directory maintenance and changes in the UCP.
3. The Parties shall cooperate in the administration of the USDOT required UCP, striving for the most efficient use of individual Agency resources in carrying out the UCP.
4. The Parties agree that all certifications shall be pre-certifications, i.e., certifications that have been made final before the due date for bids or offers on a contract in which a firm seeks to participate as a DBE.
5. The Parties mutually agree to notify and make available (via email) to all Parties of the Partnership, any communication to or from the USDOT and respective state or federal agencies regarding DBE certification.
6. The Parties agree to work in partnership during federal audits and performance reviews, this may include but is not limited to, sharing of reports, small business data or holding meetings to work through audit or performance review requirements needed for compliance.
7. The Parties shall not exclude certified DBE firms from participation; deny benefits; or otherwise discriminate against any firms in connection with the award and performance of any contract governed by 49 CFR § 26 on the basis of any federally or state protected class.
8. The Parties shall not directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing the accomplishments of the objective of this program with respect to individuals of any federally or state protected class.

AGENCIES OBLIGATIONS

1. Each Agency shall designate a representative to attend semi-annual UCP Partnership meetings and any special sessions. In-person, virtual or attendance by teleconference is acceptable. Semi-annual meetings occur in the summer (July or August) and the fall (October or November). OBDD will provide all Agencies reasonable notice of the meeting.
2. Agencies shall list their named representative and contact information to this Agreement on their individual Agency Signature Page, and shall notify ODOT's Project Manager of any contact information changes via email, within 5 business days of said change during the term of this Agreement.
3. Agencies agree that ODOT is the Lead Department for the Partnership.
4. Agencies shall notify OBDD and COBID of any DBE certification issues affecting DBE eligibility for participation in federally assisted projects. OBDD agrees to respond to any requests

associated with this Agreement within 10 calendar days, unless additional time is requested and mutually agreed upon at the time of request. Agencies shall promptly notify OBDD and COBID of complaints received relating to DBE certification or program administration.

ODOT OBLIGATIONS

1. As Lead Department for this Agreement, ODOT will:
 - a. Notify and advise OBDD and Agencies of any change in federal law, USDOT regulation, and changes to ODOT's DBE Program Plan document.
 - b. Notify OBDD and Agencies of training programs relevant to DBE certification function and procedures.
 - c. Review OBDD's COBID determination in any third-party complaints that challenge a DBE's certification status or eligibility.
 - d. Provide ongoing DBE certification expertise, oversight, and conduct process reviews when required.
 - e. Perform annual audits of DBE certification files.
 - f. Assist OBDD in conducting appeals challenging DBE certification decisions, this may include but is not limited to, notifying COBID in writing of any certification issues affecting any DBE's eligibility for participation on federally-assisted projects, or of received relating to DBE certification or program administration
2. ODOT will notify OBDD of any DBE certification issues affecting DBE eligibility for participation on federally-assisted projects.
3. ODOT will promptly notify OBDD of complaints received relating to DBE certification or program administration.
4. ODOT's Project Manager is Deponker Mukherjee, DBE Program Manager, ODOT – Office of Civil Rights, 800 Airport Road SE Salem, OR 97301; phone 971-283-4636; email diponker.mukherjee@odot.oregon.gov, or assigned designee upon absence. ODOT shall notify the other Parties in writing of any contact information changes during the term of this Agreement.

OBDD OBLIGATIONS

1. ODOT and OBDD shall ensure that COBID has sufficient resources and expertise to carry out the requirements of 49 CFR § 26.81.
2. OBDD will promptly notify Agencies regarding any changes in state rules, regulations, statutory proposals or amendments conflicting with federal guidelines in DBE certification.

ODOT/OBDD/Agencies
Agreement No. PO-73000-00011634

3. OBDD will not be required to process an application for certification from a firm having its principle place of business outside the State of Oregon, if the firm is not already certified by the UCP in the state in which it maintains its principal place of business.
4. OBDD will share its information and documents concerning DBE applicants with other certifying state agencies that are considering the firm's application.
5. OBDD will maintain a DBE certification database and directory.
6. OBDD will provide Agencies with all necessary DBE certification information required to complete federal reports and data collection.
7. OBDD will follow all certification procedures and standards prescribed in 49 CFR § 26.
8. OBDD will cooperate fully with ODOT in the oversight, review, and monitoring activities of the USDOT and its operating administrations, and implement USDOT's directives and guidance concerning certification matters.
9. OBDD will act in accordance with 49 CFR § 26.83(k). As provided under ORS 200.055(5) COBID may make decisions on applications for certification within 90 calendar days of receiving all information required from the applicant firm. This review period may be extended once, for no more than 60 calendar days, upon written notification to the applicant firm, explaining fully and specifically the reasons for the extension.
10. Subject to Oregon Public Records Law, ORS 192.410 to 192.505, OBDD may not release any information that may be reasonably construed as confidential business information to any third party without the written consent of the DBE applicant, including any and all information not publicly available.
11. OBDD will submit to ODOT the following documentation on each DBE certification within 7 calendar days of receipt of ODOT's written request:
 - a. Copy of letter of determination.
 - b. Copy of site visit.
12. OBDD will notify ODOT and Agency within 7 calendar days upon receipt of written request from ODOT, local agency, or interested party, of any of the following:
 - a. De-certification or denial of DBE certification;
 - b. Third-party challenge;
 - c. Closures or cancellations of any DBE certifications due to a firm's failure to file an annual no-change affidavit; or
 - d. Any withdrawals of DBE certification applications.
13. OBDD will participate in DBE staff training.

14. OBDD will coordinate participation for DBE certification workshops with Agencies, this may include but is not limited to securing a workshop location, inviting attendees, drafting agenda, presenting information, and providing additional required resources.
15. OBDD will provide technical assistance to firms seeking DBE certification, this may include but is not limited to, assistance in filling out forms, gathering required documentation, and identifying firm net worth and ownership.
16. OBDD's Project Manager for this Project is Carrie L. Baxandall, Program Manager- COBID, 775 Summer Street SE, Suite 200, Salem, OR. 97301; phone 971-301-1271; email carrie.baxandall@biz.oregon.gov, or assigned designee upon individual's absence. OBDD shall notify the other Parties in writing of any contact information changes during the term of this Agreement.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

STATE OF OREGON, by and through its
Business Development Department

By _____
Chris Cummings, Assistant Director
Economic Development Division

Date _____

OBDD Contact:

Carrie L. Baxandall
Program Manager
OBDD – COBID Section
775 Summer Street SE, Suite 200
Salem, OR 97301
971-301-1271
carrie.baxandall@biz.oregon.gov

STATE OF OREGON, by and through
its Department of Transportation

By Angela M. Crain
Angela M. Crain, Office of Civil Rights Manager

Date 11/16/2022

ODOT Contact:

Diponker Mukherjee
DBE Program Manager
ODOT Office of Civil Rights
800 Airport Road SE
Salem, OR 97301
971-283-4636
diponker.mukherjee@odot.oregon.gov

Note: The Oregon Department of Transportation is committed to complying with all statutory requirements to ensure that it is providing information that is more accessible to people with disabilities, as required by Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and 36 C.F.R. 1194 Appendix A. To request reasonable accommodation for access, due to a disability, to information related to this document, please contact the Oregon Department of Transportation's Procurement Office at phone #503-986-2710 or OPOAdmin@odot.oregon.gov.

14. OBDD will coordinate participation for DBE certification workshops with Agencies, this may include but is not limited to securing a workshop location, inviting attendees, drafting agenda, presenting information, and providing additional required resources.
15. OBDD will provide technical assistance to firms seeking DBE certification, this may include but is not limited to, assistance in filling out forms, gathering required documentation, and identifying firm net worth and ownership.
16. OBDD's Project Manager for this Project is Carrie L. Baxandall, Program Manager- COBID, 775 Summer Street SE, Suite 200, Salem, OR. 97301; phone 971-301-1271; email carrie.baxandall@biz.oregon.gov, or assigned designee upon individual's absence. OBDD shall notify the other Parties in writing of any contact information changes during the term of this Agreement.

THE PARTIES, by execution of this Agreement, hereby acknowledge that their signing representatives have read this Agreement, understand it, and agree to be bound by its terms and conditions.

STATE OF OREGON, by and through its
Business Development Department

By Chris Cummings Digitally signed by Chris Cummings
Date: 2022.11.14 11:53:24 -08'00'

Chris Cummings , Deputy Director
Economic Development Division

Date 11/14/2022

OBDD Contact:

Carrie L. Baxandall
Program Manager
OBDD – COBID Section
775 Summer Street SE, Suite 200 Salem,
OR 97301
971-301-1271
carrie.baxandall@biz.oregon.gov

STATE OF OREGON, by and through
its Department of Transportation

By _____
Angela M. Crain, Office of Civil Rights Manager

Date _____

ODOT Contact:

Diponker Mukherjee
DBE Program Manager
ODOT Office of Civil Rights
800 Airport Road SE
Salem, OR 97301
971-283-4636
diponker.mukherjee@odot.oregon.gov

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EXHIBIT TCD – TERMS, CONDITIONS AND DEFINITIONS

THIRD PARTY CLAIMS: The following paragraphs 1 through 4 shall survive termination of the Agreement.

1. If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 ("Third Party Claim") against a Party with respect to which any other Party may have liability, the notified Party must promptly notify the other Parties in writing of the Third Party Claim and deliver to the other Parties a copy of the claim, process, and all legal pleadings with respect to the Third Party Claim. Each Party is entitled to participate in the defense of a Third Party Claim, and to defend a Third Party Claim with counsel of its own choosing. Receipt by a Party of the notice and copies required in this paragraph and meaningful opportunity for the Party to participate in the investigation, defense and settlement of the Third Party Claim with counsel of its own choosing are conditions precedent to that Party's liability with respect to the Third Party Claim.
2. With respect to a Third Party Claim for which ODOT or OBDD is jointly liable with any other Party or Parties (or would be if joined in the Third Party Claim), ODOT or OBDD shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by the other Party or Parties in such proportion as is appropriate to reflect the relative fault of ODOT or OBDD on the one hand and of the other Party or Parties on the other hand, singularly or in combination, in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of ODOT or OBDD on the one hand and of the other Party or Parties on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. ODOT or OBDD's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if ODOT or OBDD had sole liability in the proceeding.
3. With respect to a Third Party Claim for which any other Party or Parties are jointly liable with ODOT or OBDD (or would be if joined in the Third Party Claim), the other Party or Parties shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by ODOT or OBDD in such proportion, singularly or in combination, as is appropriate to reflect the relative fault of the other Party or Parties on the one hand and of ODOT or OBDD on the other hand in connection with the events which resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of the other Party or Parties on the one hand and of ODOT or OBDD on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Each other Party's contribution amount in

any instance is each capped to the same extent it would have been capped under Oregon law, including the Oregon Tort Claims Act, ORS 30.260 to 30.300, if it had sole liability in the proceeding.

4. The Parties shall attempt in good faith to resolve any dispute arising out of this Agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

DISPUTE RESOLUTION BETWEEN ODOT AND OBDD:

1. ODOT and OBDD agree that any tort liability claim, suit, or loss resulting from or arising out of either ODOT or OBDD's performance of any activities under this Agreement shall be allocated, as between the state agencies, in accordance with law by Oregon Department of Administrative Services' (DAS) Risk Management, for purposes of their respective loss experiences and subsequent allocation of self-insurance assessments under ORS 278.435. ODOT and OBDD agree to notify the DAS Risk Management Division and the other state agency in the event it receives notice or knowledge of any claims arising out of ODOT's or OBDD's performance of, or activities under, this Agreement.
2. ODOT and OBDD understand that each is insured with respect to tort liability by the State of Oregon Insurance Fund, a statutory system of self-insurance established by ORS 278, and subject to the Oregon Tort Claims Act (ORS 30.260-30.300). ODOT and OBDD agree to accept that coverage as adequate insurance of the other state agency with respect to personal injury and property damage.

OREGONBUYS (State's Electronic Procurement System)

State (ODOT) shall, upon execution of this Agreement, enter the required data into its Electronic Procurement System, per ORS 190.115.

RECORDS

The Parties acknowledge and agree that State, the Oregon Secretary of State's Office, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Parties which are directly pertinent to the specific Agreement for the purpose of making audit, examination, excerpts, and transcripts for a period of 6 years after completion of the Project and final payment. Copies of applicable records shall be made available upon request. Payment for costs of copies is reimbursable by the requesting party. This provision survives termination of the Agreement.

INDEPENDENT CONTRACTOR; EMPLOYMENT COSTS

1. All employers, including the Parties, that employ subject workers who work under this Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage unless such employers are exempt under ORS 656.126.

Employers Liability insurance with coverage limits of not less than \$500,000 must be included. The Parties shall ensure that each of its subcontractors complies with these requirements.

2. All Parties shall perform the services under this Agreement as independent contractors and shall be exclusively responsible for all costs and expenses related to its employment of individuals to perform the work under this Agreement including, but not limited to, retirement contributions, workers compensation, unemployment taxes, and state and federal income tax withholdings.
3. Agencies understand and agree that they are not an "officer," "employee," or "agent" of the State of Oregon, as those terms are used in ORS 30.265 or otherwise.

GOVERNING LAW; VENUE; CONSENT TO JURISDICTION:

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws. Any claim, action, suit or proceeding (collectively, "Claim") between the State and individual Agency or Agencies that arise(s) from or relates to the Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. AGENCIES HEREBY CONSENT TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon. This provision survives termination of the Agreement.

COMPLIANCE WITH LAW

The Parties shall comply with all federal, state, and local laws, regulations, executive orders and ordinances applicable to the work under this Agreement, including, without limitation, the provisions of ORS 279B.220, 279B.225, 279B.230, 279B.235 and 279B.270 incorporated herein by reference and made a part hereof. Without limiting the generality of the foregoing, the Parties expressly agree to comply with (i) Title VI of Civil Rights Act of 1964; (ii) Title V and Section 504 of the Rehabilitation Act of 1973; (iii) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (iv) all regulations and administrative rules established pursuant to the foregoing laws; and (v) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

**Unified Certification Program Agreement
Agency Signature Page**

The Unified Certification Program process is developed and implemented by the Oregon Department of Transportation and the Oregon Business Development Department. Agency recognizes the UCP program as the authorizing process for certification, certification review, and de-certification of firms in the Disadvantaged Business Enterprise Program for the State or Oregon, as required by 49 CFR § 26.81.

Information regarding the Disadvantaged Business Enterprise Program and certification can be found at this link:
<https://www.oregon.gov/biz/programs/COBID/Pages/Frequently-Asked-Questions-%26-Answers.aspx>

[Print Agency name here: _____] Agency, by execution of this Agreement, hereby acknowledges that its signing representative(s) have reviewed the UCP process and agree to be bound by the terms and conditions of Agreement No. PO-73000-00011634 titled "Administering the Disadvantaged Business Enterprise Unified Certification Program".

Agency has executed this Agreement by its duly authorized representative(s) as of the final date of the signature(s) below:

_____ Agency Signature	_____ Date	_____ Title
_____ Second Agency Signature (if required in Agency's process)	_____ Date	_____ Title
_____ Agency Counsel (if required in Agency's process)	_____ Date	_____ Counsel's Title

Name & Title of Agency Contact Representative: _____
Address: _____
Phone: _____
E-mail: _____

Agency must send the fully signed Unified Certification Program Agreement Signature Page, including Agency Contact Representative information, as an email attachment to the following:

- ODOT Procurement Office at intergovernmental.agreements@odot.oregon.gov
- ODOT Project Manager for this Agreement, as listed in ODOT Obligations, paragraph 4.

Agreement number PO-73000-00011634 must be referenced in the email subject line.

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Commission Memo



Prepared by: Genevieve Scholl
Date: March 7, 2023
Re: Accounts Payable Requiring Commission Approval

Campbell Phillips	\$11,554.17
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Attorney services per attached summary

TOTAL ACCOUNTS PAYABLE TO APPROVE	\$11,554.17
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Tabs3 Summary Accounts Receivable Report
Campbell Phillips PC

	0-30	31-60	61-90	91-120	121-180	181+	Bal Due
2000.001 M Port of Hood River - Admin RE: Admin - General	8,463.17	0.00	0.00	0.00	0.00	0.00	8,463.17
2003.001 M Port of Hood River - Waterfront RE: Waterfront - General	900.00	0.00	0.00	0.00	0.00	0.00	900.00
2006.002 M Port of Hood River - Bridge Commission RE: Bridge Commission - Bridge Replacement	470.50	0.00	0.00	0.00	0.00	0.00	470.50
2007.002 M Port of Hood River - Ordinances and Resolutions RE: Ordinances and Resolutions - Ordinance 24 Revision	348.00	0.00	0.00	0.00	0.00	0.00	348.00
2008.001 M Port of Hood River - Policies RE: Policies - General	630.00	0.00	0.00	0.00	0.00	0.00	630.00
2009.001 M Port of Hood River - Real Estate RE: Real Estate - General	180.00	0.00	0.00	0.00	0.00	0.00	180.00
2009.006 M Port of Hood River - Real Estate RE: Real Estate - Electronics Assemblers	562.50	0.00	0.00	0.00	0.00	0.00	562.50
	0-30	31-60	61-90	91-120	121-180	181+	Bal Due
TOTALS	11,554.17	0.00	0.00	0.00	0.00	0.00	11,554.17

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HOOD RIVER-WHITE SALMON BRIDGE REPLACEMENT

Project Director Report
March 06, 2023

The following summarizes Replacement Bridge Project activities from February 06, 2023 to March 06, 2023:

PROJECT MANAGEMENT

- *RBMC team is continuing to meet with WSP, ODOT and Federal Highway Administration (FHWA) related to the NEPA/FEIS process and Treaty Tribe Memorandum of Agreement (MOA's).*
- *RBMC team is meeting with ODOT, WSDOT and FHWA on the RFP for the Progressive Design Build Procurement.*
- *Grant Tracking for WA, ARPA, Build Grants will be on going each quarter.*
- *Legislative Outreach in continuing with Oregon, Washington and DC*

COMMUNICATIONS

- *The web site has been launched [Hood River Bridge Replacement Project](#) and is seeing regular updates*
- *Since Jan 1, 2023, the bridge replacement has been covered in the media 11 times, primarily by Columbia Gorge News.*
- *In the last month, we discussed project needs with legislators at both state capitols at the Gorgeous Night events, increasing visibility and recognition of the project need.*
- *Even with a soft launch of the website, the site has had 907 unique visitors to date.*
- *Thanks to the 1,925 public responses to the Primary Place of Business survey, the BSWG was able to make a decision to locate the PPB in Oregon.*
- *Social media accounts are now active and actively we're building followers.*

GOVERNMENT AFFAIRS UPDATE

- *State Legislative Activities*
 - *Oregon*
 - *Letter was signed by the BSWG members and is ready to be sent to labor unions to obtain support for the project.*
 - *Washington*
- *Federal Legislative Activities*
 - *CDS Appropriations requests are being coordinated*
 - *Virtual update meetings held with:*
 - *2/17*
 - *Sen. Cantwell*
 - *Rep. Blumenauer*
 - *Sen. Merkley*
 - *2/22*

- Sen. Murray
 - 2/24
 - Rep. Newhouse
 - Rep. Perez
 - Sen. Wyden
- We are planning to make two trips per year to DC in support of funding requests
 - Looking at the end of April for the first trip
- We will be working with Oregon and Washington and Federal lobbyist to update the Legislative Strategy for the next 3 years.

HOOD RIVER-WHITE SALMON BRIDGE AUTHORITY

- The Final Draft of the Commission Formation Agreements (CFA) has been distributed to the BSWG with a recommendation to move forward with obtaining signatures from the 6 parties of the agreement.
- Port of Hood River signed CFA on 2/7/23, anticipate other members signing in March
- HRWSBA Legal Counsel Recommendations for consideration:
 - Stacey Lewis at Pacifica Law Group in Seattle, as recommended by Steve Siegel.
 - Eileen G. Eakins, who provided Port Commission training back in 2021 - 5285 Meadows Road, Suite 400, Lake Oswego, OR 97035, (503) 607-0517, eileen@lgl-advisors.com;
 - Clark Balfour at Cable Huston, who I have worked with over the years on municipal utility projects: <https://www.cablehuston.com/attorneys/clark-i-balfour/>;
 - Anna Cavaleri, Jerry's partner <http://hoodriverlaw.com/attorney-profiles/anna-c-cavaleri/>

FUNDING FINANCE & TOLLING

- Washington State Transportation Commission (WSTC) T&R Analysis
 - HNTB and the PORT continue to coordinate with WSTC
 - WSTC next meeting is on March 14th – 15th
 - They will be discussion around the two scenarios on agenda related to the T&R Study for the Replacement Bridge
 - Link to agenda <https://wstc.wa.gov/news/2023/02/27/meeting-agenda-march-14-15-2023>
 - Link to register for meeting WSTC Zoom Meeting Registration – [March 14](#)
 - WSTC team will be updating the Transportation Commission at 1:30pm .
 - WSTC will provide an update on the project to the BSWG on March 6th and March 20th.
 - WSTC will provide an update on the project to the Port Comm on March 21st
 - Schedule Milestones:
 - March 2023 – WSTC approves two refined tolling scenarios for further analysis
 - May 2023 – Draft Study findings and recommendations presented to WSTC

- *June 2023 – Final Report of findings and recommendations presented to WSTC and submitted to Washington State Legislature*
- *BSWG Tolling Study*
 - *Funding Finance and Tolling team is developing a model that will support the consideration of different tolling scenarios and their impacts on the financial plan to support the construction of a new bridge.*

PENDING GRANT FUNDING UPDATES

- *Raise Planning Grant (2023)*
 - *Notice of Funding Opportunity (NOFO) issued: 11/30/22, Update to NOFO received on 12/14/22*
 - *Application Submitted: 2/28/23*
 - *Requested amount of funding: \$3.6M*
 - *Our application focused on a planning grant that will evaluate Bike/Ped connections and Transit services access/connections to the new bridge. With a focus on how the bridge is a vital part of a transportation system.*
 - *Over 20 Letters of Support were included with our application*
- *Safe Streets and Roads for All Grant Program (SS4A)*
 - *Next Opening April 2023*
 - *2023 NOFO Spring 2023*
- *Multimodal Project Discretionary Grant (MPDG)*
 - *Next Opening – Spring 2023*
 - *2023 NOFO not released*
 - *INFRA (\$8 B available over 4 years FY22 to FY26)*
 - *MEGA (\$5 B available over 4 years FY22 to FY26)*
 - *Rural (\$2 B available over 4 years FY22 to FY26)*
 - *The project was notified that it was not successful in obtaining any 2022 grant funding from the MPDG. A Debrief is being targeted for April 2023 in DC.*
 - *MPDG Comments from USDOT*
 - *C. The project will be cost-effective (49 USC 6701(f))*
 - *D. With respect to related non-Federal financial commitments, 1 or more stable and dependable sources of funding and financing are available to (i) construct, operate, and maintain the project; and (ii) cover cost increases (49 USC 6701(f))*
 - *E. The applicant has, or will have, sufficient legal, financial, and technical capacity to carry out the project (49 USC 6701(f))*
- *Bridge Investment Program (BIP)*
 - *Next Opening – Summer 2023*
 - *2023 NOFO – Summer 2023*
- *CDS Appropriation*
 - *Requests is being submitted for a total of \$8M between the delegations for Preliminary Engineering/Design, Right of Way Acquisition, Mitigation identified as part of the NEPA process.*
 - *Murray request was submitted on 2/28/23*

- *Merkley/Wyden request was submitted on 3/3/23*
- *Cantwell request will be submitted on 3/10/23*
- *Blumenauer and Newhouse are anticipated to be on 3/17/23*

EXECUTED GRANT FUNDING UPDATES

- **Build20**
 - *Grant Awarded 9/23/22*
 - *Funding: \$5M – Federal Share, \$1.25M Local Match (Washington Grant) – Total \$6.25M with an Expenditure Deadline of 12/31/2024*
 - *Total Submitted for Reimbursement: \$0*
 - *Total Reimbursement received to date: \$0*
 - *Remaining Funds: \$5 million*
 - *We have received our certification from FHWA on 12/21/22. We have received access to the RADs quarterly reporting system for FHWA on 1/26/22. Training with FHWA is still pending.*
 - *Q4 2022 reporting has been submitted through RADs to FHWA*
- **ARPA (Oregon Grant)**
 - *Grant Awarded 5/12/22*
 - *Funding: \$5M with an Expenditure Deadline of 12/31/26*
 - *Total Submitted for Reimbursement: \$225,353.30*
 - *Total Reimbursement received to date: \$225,353.30*
 - *Remaining Funds: \$4,774,646.70*
 - *4th Quarter reimbursement submitted on January 10th, 2023. Next reimbursement submittal April 2023*
- **WA SB 5165 Grant**
 - *Grant Awarded 2/2/22*
 - *Funding: \$5M with an Expenditure Deadlines of 6/30/23 (\$3M) and 6/30/23 (\$2M)*
 - *Total Submitted for Reimbursement: \$1,341,149.25*
 - *Total Reimbursement received to date: \$384,693.39*
 - *Remaining Funds: \$3,658,850.75*
 - *4th Quarter reimbursement submitted for \$956,455.86. Next reimbursement submittal will be April 2023.*

TREATY TRIBE MOA'S

- *A Semi-weekly meeting has been set up with ODOT and FHWA specific to advancing the Treaty Tribe MOA's. A collaboration space has been created on the Project Portal site.*
 - **Yakama Nation (YN).**
 - *Draft MOA was submitted by Roy Watters to the Yakama Nation on 1/26/23*
 - *A meeting to discuss the Section 106 MOA and Treaty Fishing MOA was held on 3/3/23. Meeting was positive and they were very appreciative of the work that was done in the draft Treaty MOA. Yakama Nation will review the draft MOA with a tentative date to provide responses in two weeks. Tribal*

members agreed that ODOT could move forward with the next steps in the 106 MOA process

- **Nez Perce**
 - *The Draft MOA was submitted to ODOT on 1/17/23*
 - *ODOT approved us to move forward with sending the Draft MOA on 1/24/23.*
 - *2/2/23 – Project update call with Amanda Rogers of Nez Perce and Herb Fricke (Project Tribal Coordinator), Roy Watters (ODOT). MOA was sent to Amanda on 2/2/23.*
 - *We are coordinating a project update meeting with them in the next couple months.*
 - *Port attorney is coordinating with Nez Perce tribe as they requested*

- **Umatilla (CTUIR).**
 - *The Draft MOA was submitted to the Umatilla Tribe on 1/25/23*
 - *Meeting and Presentation were held with CTUIR Fish and Wildlife commission on 1/24/23*
 - *Topics covered*
 - *Project Update,*
 - *Request for Letter of Support – Treaty to a vote and was approved 4/0 to provide a letter of support for the project.*
 - *Update on CTUIR toll exemption request – exemption is being finalized and will be presented to the Port Commission on Feb 7th for approval. Umatilla tribal members will be at the meeting.*
 - *Treaty MOA – a hard copy of the Draft MOA was provided to the Tribal legal counsel and a electronic copy supplied also. A follow up meeting is being schedule for the third week in February.*
 - *Work Force Development – Follow up meetings are being scheduled the tribes and TERO offices for input into the Work Force Development criteria that will be provided in our RFP.*
 - *Attendees: ODOT, FHWA, Commissioner Fox, RBMC*
 - *Meeting was cancelled for 2/22 with Umatilla due to weather, looking at March 23 to as rescheduled date*
 - *We have received a letter of support for the bridge project from CTUIR.*

- **Warm Springs.**
 - *Our team has made contact with Warm Springs and a meeting is being coordinated for March.*

RBMC

PROGRESSIVE DESIGN BUILD RFQ/RFP

- *Sub-schedule has been developed for the procurement of the Progressive Design Build Team (See Packet) – opportunities to advance the schedule are being reviewed.*
- *A meeting was held with ODOT on 2/10 to discuss their role on the upcoming PDB Procurement and a follow up meeting is scheduled for 3/7*
- *A meeting was held with FHWA on 2/16 to discuss their role on the upcoming PDB Procurement and a monthly recurring meeting has been set up to start on 3/16*
- *A meeting was held with WSDOT on 2/23. WSDOT has provided a point of contact for the PDB team to work with on the RFP development.*

KEY STAKE HOLDERS

RAILROAD

- *Kickoff/Update meeting was held with BNSF on 1/25/23, they indicated the new bridge should accommodate a future triple track and a 30' vertical clearance. At this time these are not seen as major impacts to the project.*
- *Coordination of work activities over the track will be critical do to the high volume of usage.*
- *BNSF did not anticipate long review periods given their current workload, they indicated that they had adequate capacity to support the coordination needed on this project.*

GEOTECHNICAL

- *The two Oregon on land borings were completed on Feb 6th and the report is being developed. Cultural Resource monitoring was done and no cultural resources were found.*
- *Coordination with the tribes will work through ODOT but it is likely the PORT will be asked to fund the tribal monitoring costs.*

SURVEY

- *A sub-schedule for survey activities has been developed and attached. The activities will include development of a base map, verifying and setting control points, identification and mapping of exiting utilities, identification of jurisdictional ownership lines for ODOT, WSDOT and local agencies, location and mapping of Geotechnical Borings.*
- *Completed mapping checks on Oregon side of bridge*
- *Completed monument search on Oregon side of bridge*
- *Completed records research in Oregon*

RIGHT OF WAY

- *Coordination has begun with WSDOT and ODOT to define the jurisdictional limits for both agencies.*
- *Our right of way team is coordinating with the two property owners in Washington that will need to provide Right of Entry for the geotechnical borings. The two owners are a private owner and Klickitat County. We have received the ROE letters from both.*
- *The SDEIS preferred alternative does indicate a potential whole take of the private landowner and we will need to coordinate with the BSWG and PORT on when to move forward with discussion with the landowner on this action.*

PERMITTING

- **SHPO Permit for Upland Work in Oregon** – This permit was issued on 1/19/23. CTOGR included some standard stipulations in their permit comments. The Oregon UPLAND boring work can proceed and is scheduled for next week.
- **USACE Permit** – USACE issued a provisional permit in late December. They will finalize the permit once DEQ provides the 401 C water quality certification. All SHPO/tribal coordination for the in-water and WA. Borings has been completed by USACE.
- **DEQ Permit** – The permit application was submitted to DEQ on 1/13/23. Expect DEQ to issue the 401 C in the next 2-3 months. As noted above, once DEQ issues their permit USACE will issued their final permit verification. USACE is just waiting on DEQ.
- **DSL Short Term Access Agreement** – This approval was issued in September 2022.
- **DSL No Permit Needed Letter** – This letter was issued January 18, 2023 confirming the work does not require a DSL Removal-Fill Permit.
- **WDFW Hydraulic Permit Approval** – The original HPA was modified with new project information and schedule on January 11th. The HPA includes several standard BMPs and notification requirements. Notification must be made at least three days prior to in-water work on WA. Side.
- **City of White Salmon SEPA and SMP Exemption Letter** – The final letter from City confirming 7eotech work is exempt from SEPA and SMP was issued on January 23, 2023.
- **WDNR Aquatic Lands ROE Permit** – We received the requisite signatures from Klickitat Co. and Shin Jin Ko on February 2, 2023. We will submit the application (JARPA) to WDNR by COB February 3, 2023. Expect two months for DNR to issues the ROE permit.
- **NMFS Slopes V Compliance** – The USACE has determined that the work as proposed will result in No Effect on listed fish based on the standard BMPs to be included (SLOPES V BMPs) and the short duration, confined nature of the work. We were able to avoid getting NMFS involved.

When USACE issues the verification, it will also include the necessary ESA/NMFS compliance. The provisional verification discusses this and application of SLOPES V. So this task/compliance need will get completed when USACE issues the permit (without NMFS involvement), which will happen once the DEQ permit lands.

- All permits are in hand except for the three approvals highlighted above. The DEQ permit application was submitted to DEQ on 1/13/23 after they issue their permit USACE will

immediately take the “provisional” moniker off of the provisional verification. Once submitted WDNR should be able to turn around the permit within two months. There is a \$25 fee for this permit.

FINAL EIS/RECORD OF DECISION

- Environmental Impact Statement technical reports are available at <https://cdxapps.epa.gov/cdx-enepa-ll/public/action/eis/details?eisId=314171>
- Multiple meetings have been held with ODOT and FHWA and commitments have been made from leadership in ODOT and FHWA NW Region that this project is a priority.
- Recurring meetings have been set up and comment tracking system to help manage the process through completion.
- Min from coordination meetings on 2/7 and 2/16 with ODOT and FHWA are attached in packet
- WSP provided updated documents to FHWA and ODOT on 2/13/23
- FHWA provided additional minor comments to the BA on 2/21/23 with a request for ODOT to provide any additional comment. ODOT Carol Snead sent a request to ODOT Liaisons on 2/22/23 for additional comments by 2/28. No comments or responses have been provided by ODOT. WSP has been instructed to make the changes proposed by FHWA and resubmit to ODOT by 3/6/23.
- A meeting was requested with the ODOT Region 1 leadership as a follow up to the lack of response from ODOT.

OTHER ITEMS

KEY MEETINGS

Date:	Subject:
2/7/23	Meeting with FHWA/ODOT on BA edits
2/7/23	Meeting with ODOT on Treaty Tribe MOA Coordination
2/7/23	SB 431 hearing in Salem for \$125 M in funding for bridge project
2/8/23	Gorge-ous Night event in Salem
2/8/23	Multiple one on one meetings with Oregon State Legislature
2/9/23	Cultural Resource coordination with ODOT and FHWA
2/9/23	Meeting with POHR new attorney to review Treaty Tribe MOA’s

2/9/23	Meeting with local union representative on workforce development approach and letter of support for the project
2/10/23	Progressive Design Build kickoff meeting with ODOT
2/10/23	Coordination meeting with Nohemi from Oregon Parks and Recreation Division OPRD on 6F impacts
2/13/23; 2/27/23	Weekly coordination meeting with Port and WSP
2/13/23; 2/27/23	Weekly coordination meeting with Port
2/13/23	Monthly RBMC Task Lead Coord meeting
2/13/23	Contractor Debrief with Kiewit
2/14/23; 2/28/23	Weekly PORT Staff Meeting
2/15/23	Gorge-ous Night event in Olympia
2/15/23	Multiple one on one meetings with Washington Legislature
2/16/23	BA/BO Coordination meeting with ODOT and FHWA
2/16/23	Coordination meeting with ODOT Region 1 leadership, POHR and RBMC
2/16/23	Progressive Design Build Coordination meeting with FHWA
2/17/23	Coordination and project update meeting with Friends of the Gorge
2/17/23	Project update with Sen. Cantwell; Rep. Blumenauer; Sen. Merkley
2/20/23	Funding/Finance/Tolling workshop with BSWG
2/21/23	POHR Comm Meeting
2/22/23	Project update with Sen. Murray
2/22/23	Consultant Debrief with COWI
2/23/23	NEPA coordination meeting with FHWA/ODOT/WSP
2/23/23	MPDG (Infra/Rural/MEGA) Grant debrief with Office of Secretary of Transportation (OST)
2/24/23	Project update with Rep Newhouse; Rep Perez; Sen Wyden
2/27/23	CDS appropriations coordination meeting with Community College
2/27/23	Consultant Debrief with Emerio

<i>2/28/23</i>	<i>2023 RAISE Planning Grant Submittal</i>
<i>2/28/23</i>	<i>Sen. Murray CDS appropriations submittal</i>
<i>2/28/23</i>	<i>Treaty Fishing Mitigation MOA coordination meeting with Yakama Nation/FHWA/ODOT</i>
<i>2/28/23</i>	<i>Funding/Finance/Tolling workshop with BSWG</i>
<i>2/28/23</i>	<i>Consultant Debrief with LMN Architects</i>
<i>3/3/23</i>	<i>Treaty Fishing Mitigation meeting with FHWA/ODOT</i>
<i>3/3/23</i>	<i>Coordination meeting with WSTC T&R Study</i>

Commission Memo



Prepared by: Kevin Greenwood, Exec. Director
Date: March 7, 2023
Re: Westside Urban Renewal District Discussion

The City of Hood River is interested in creating a new Westside Urban Renewal District to advance a number of city goals. A recently completed feasibility study considered as much as 445 acres with an Assessed Value of \$154.3M that could be included in a new URD. The capacity of the total Tax Increment (TI) in the new district would be upwards of \$103M. The TI would finance several projects related to transportation, housing, and recreation.

The Tax Increment Feasibility (TIF) plan and report must be sent to all taxing districts for written comments before it can be approved. Those documents will be sent to districts this summer. Ultimately, the County Board of Commissioners will approve the TIF Plan and Report since the proposed district includes areas that are currently unincorporated.

Tonight, City Manager Abigail Elder and UR Consultant Elaine Howard will be in attendance to discuss the details, steps, and timeline associated with the creation of the district. The feasibility study memo is included in tonight's packet as well.

RECOMMENDED ACTION: Information only.

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MEMO

TO: Abigail Elder, City Manager

FROM: Elaine Howard

RE: Westside Urban Renewal Feasibility

DATE: February 23, 2023

Background

The City of Hood River has conducted planning for the Westside of Hood River over the last few years including the Hood River Affordable Housing Strategy (2022), the City of Hood River Transportation Systems Plan update (2021) and the Hood River Area Multi-Jurisdictional Parks, Recreation & Open Space Plan (2020). This planning has received significant public input as shown in Attachment A. There are many projects which were specified in the above referenced plans that need to be undertaken in the Westside area to allow it to develop with appropriate infrastructure and to add housing and recreational opportunities for Hood River residents.

Urban renewal, using tax increment financing, is commonly used in Oregon as a financing tool to help pay for projects specified in a city's master plans, housing strategies and transportation systems plan. This feasibility study looked at the amount of tax increment revenues that could be available over a specified time frame of 25 years and then relates that to a draft project list from the city of Hood River staff. The conclusion of the feasibility study is that sufficient tax increment revenues can be generated to fund major projects within the Westside that will help it developed in the manner which has been outlined by the planning documents.

Finances

Tiberius Solutions LLC has completed the initial financial analysis for the potential Hood River Westside Urban Renewal Area (Area). A summary of that information, which has been reviewed by city staff, is shown in Exhibit 1.

Some terminology which will help in understating the table follows:

- Total net TIF is the cumulative amount of TIF revenue that would be received by the Area over its duration.
- Maximum indebtedness (the total amount of money that may be spent on programs, projects and administration) is the total principal amount of indebtedness that could be incurred by the Area. Maximum indebtedness is stated in nominal (i.e., "year of expenditure") dollars. Maximum indebtedness is the limiting factor in urban renewal plans.

- The capacity in 2023 dollars shows the maximum indebtedness figure adjusted for inflation and presented in “real” dollars. This is the most useful measure of financial capacity.
- The capacity in 2023 dollars is also shown in five-year periods to provide a sense of when funding would become available over time.
- These projections are for an estimated 25-year time period. A time period is not a requirement in an urban renewal plan but it is projected for the purposes of calculating the maximum indebtedness, which is a requirement of ORS 457. These assumptions were based on zoning designations and related development capacity. This capacity was then reviewed by city staff who provided realistic “on the ground” expectations for development.

Exhibit 1. Financial Capacity

Net TIF	\$ 186,600,000
Maximum Indebtedness	\$ 160,000,000
Capacity (2023\$)	\$ 103,000,000
Years 1-5	\$ 6,700,000
Years 6-10	\$ 21,500,000
Years 11-15	\$ 26,100,000
Years 16-20	\$ 25,900,000

These tax revenues are generated from the existing property tax rates of other taxing districts that overlap the Area. An urban renewal area would impact these affected taxing districts by redirecting a portion of these property tax revenues to the Area. The impact to other taxing districts is measured in terms of “foregone revenue”. Exhibit 2 and Exhibit 3 summarize the amount of foregone revenue that would be caused by the proposed Area under the high growth scenario as this would be the highest impacts. These impacts are based on the Net TIF that would be received from the assessor over the lifetime of the urban renewal area. The foregone revenue for the Hood River County School District, Columbia Gorge Community College, and Columbia Gorge Education Service District does not have a direct impact on school funding, as funding is equalized at the State level. The impact of urban renewal is on the State School fund. The Westside Rural Fire District impacts assume the growth in taxes is due to growth on undeveloped land, so the impacts are small. As these parcels develop, they will be annexed into the city in accordance with the intergovernmental agreement with the Westside Rural Fire District.

The amount of foregone revenues is equal to the amount of tax increment revenue needed to pay debt service on the maximum indebtedness. To the extent that urban renewal investment is successful in stimulating new taxable development, not all of the foregone revenues should truly be categorized as impacts to taxing districts. Successful urban renewal areas cause new development to occur, above and beyond the level that would have occurred without urban renewal. In these situations, the property taxes would not have existed but for the urban renewal area’s targeted investments, so even though these tax revenues show up as tax increment revenue, and as foregone revenues, they may not be negative impacts to taxing districts. The analysis was **not** conducted at the detailed level required to estimate the portion

of tax increment revenue in the proposed Area that would likely be generated by new development dependent upon urban renewal investment.

Exhibit 2. Taxing District Impacts - General Government

FYE	Hood River County	911 Communication District	City of Hood River	Port of Hood River	Hood River Parks & Rec	Hood River County Trans District	Library District	Westside RFD	Name
2023	0	0	0	0	0	0	0	0	0
2024	(7,023)	(2,797)	(10,675)	(165)	(1,734)	(358)	(1,933)	(905)	(25,589)
2025	(62,129)	(24,745)	(120,713)	(1,456)	(15,336)	(3,170)	(17,098)	(705)	(245,351)
2026	(121,036)	(48,206)	(238,500)	(2,836)	(29,877)	(6,175)	(33,310)	(447)	(480,386)
2027	(183,208)	(72,968)	(362,922)	(4,292)	(45,224)	(9,347)	(50,421)	(145)	(728,527)
2028	(249,162)	(99,236)	(494,273)	(5,837)	(61,504)	(12,712)	(68,572)	(2)	(991,298)
2029	(319,016)	(127,057)	(632,855)	(7,474)	(78,747)	(16,276)	(87,796)	0	(1,269,221)
2030	(392,676)	(156,394)	(778,980)	(9,200)	(96,929)	(20,034)	(108,068)	0	(1,562,282)
2031	(467,530)	(186,207)	(927,472)	(10,953)	(115,406)	(23,853)	(128,669)	0	(1,860,091)
2032	(543,458)	(216,447)	(1,078,095)	(12,732)	(134,148)	(27,727)	(149,565)	0	(2,162,172)
2033	(621,933)	(247,702)	(1,233,771)	(14,571)	(153,519)	(31,731)	(171,162)	0	(2,474,389)
2034	(691,071)	(275,238)	(1,370,925)	(16,190)	(170,585)	(35,258)	(190,190)	0	(2,749,458)
2035	(776,545)	(309,281)	(1,540,487)	(18,193)	(191,684)	(39,619)	(213,713)	0	(3,089,523)
2036	(866,561)	(345,132)	(1,719,057)	(20,302)	(213,904)	(44,212)	(238,486)	0	(3,447,653)
2037	(961,116)	(382,791)	(1,906,633)	(22,517)	(237,244)	(49,036)	(264,509)	0	(3,823,846)
2038	(1,060,402)	(422,335)	(2,103,593)	(24,843)	(261,752)	(54,101)	(291,833)	0	(4,218,858)
2039	(1,164,614)	(463,840)	(2,310,326)	(27,285)	(287,476)	(59,418)	(320,513)	0	(4,633,472)
2040	(1,273,959)	(507,390)	(2,527,242)	(29,846)	(314,467)	(64,997)	(350,606)	0	(5,068,508)
2041	(1,384,173)	(551,286)	(2,745,881)	(32,429)	(341,672)	(70,620)	(380,938)	0	(5,507,000)
2042	(1,488,856)	(592,979)	(2,953,547)	(34,881)	(367,512)	(75,961)	(409,748)	0	(5,923,485)
2043	(1,598,248)	(636,547)	(3,170,556)	(37,444)	(394,515)	(81,542)	(439,854)	0	(6,358,707)
2044	(1,712,701)	(682,131)	(3,397,604)	(40,125)	(422,767)	(87,381)	(471,352)	0	(6,814,061)
2045	(1,803,893)	(718,451)	(3,578,508)	(42,262)	(445,277)	(92,034)	(496,449)	0	(7,176,875)
2046	(1,898,424)	(756,101)	(3,766,036)	(44,477)	(468,611)	(96,857)	(522,465)	0	(7,552,971)
2047	(1,996,840)	(795,298)	(3,961,270)	(46,782)	(492,904)	(101,878)	(549,550)	0	(7,944,522)
2048	(1,991,468)	(793,158)	(3,950,614)	(46,656)	(491,578)	(101,604)	(548,072)	0	(7,923,152)
Total	(23,636,043)	(9,413,720)	(46,880,534)	(553,748)	(5,834,371)	(1,205,904)	(6,504,874)	(2,203)	(94,031,397)

Source: Tiberius Solutions LLC

Exhibit 3. Taxing District Impacts – Education

FYE	Columbia Gorge Community College	Hood River County School District	Columbia Gorge ESD	Subtotal	Total All
2023	0	0	0	0	0
2024	(1,340)	(23,848)	(2,318)	(\$27,506)	(\$53,095)
2025	(11,851)	(210,964)	(20,509)	(\$243,324)	(\$488,675)
2026	(23,087)	(410,989)	(39,955)	(\$474,031)	(\$954,417)
2027	(34,945)	(622,102)	(60,479)	(\$717,527)	(\$1,446,054)
2028	(47,526)	(846,054)	(82,251)	(\$975,830)	(\$1,967,128)
2029	(60,850)	(1,083,250)	(105,311)	(\$1,249,411)	(\$2,518,632)
2030	(74,900)	(1,333,371)	(129,627)	(\$1,537,897)	(\$3,100,180)
2031	(89,178)	(1,587,544)	(154,337)	(\$1,831,058)	(\$3,691,150)
2032	(103,660)	(1,845,363)	(179,401)	(\$2,128,424)	(\$4,290,596)
2033	(118,628)	(2,111,833)	(205,307)	(\$2,435,768)	(\$4,910,157)
2034	(131,816)	(2,346,597)	(228,130)	(\$2,706,543)	(\$5,456,001)
2035	(148,120)	(2,636,835)	(256,346)	(\$3,041,301)	(\$6,130,824)
2036	(165,289)	(2,942,491)	(286,061)	(\$3,393,841)	(\$6,841,494)
2037	(183,325)	(3,263,562)	(317,275)	(\$3,764,162)	(\$7,588,007)
2038	(202,263)	(3,600,696)	(350,050)	(\$4,153,009)	(\$8,371,867)
2039	(222,140)	(3,954,559)	(384,452)	(\$4,561,151)	(\$9,194,624)
2040	(242,997)	(4,325,852)	(420,548)	(\$4,989,397)	(\$10,057,904)
2041	(264,020)	(4,700,095)	(456,931)	(\$5,421,045)	(\$10,928,045)
2042	(283,987)	(5,055,554)	(491,487)	(\$5,831,029)	(\$11,754,513)
2043	(304,853)	(5,427,006)	(527,599)	(\$6,259,458)	(\$12,618,164)
2044	(326,683)	(5,815,640)	(565,381)	(\$6,707,705)	(\$13,521,766)
2045	(344,078)	(6,125,293)	(595,485)	(\$7,064,855)	(\$14,241,730)
2046	(362,109)	(6,446,283)	(626,690)	(\$7,435,082)	(\$14,988,053)
2047	(380,881)	(6,780,462)	(659,178)	(\$7,820,521)	(\$15,765,043)
2048	(379,856)	(6,762,223)	(657,405)	(\$7,799,484)	(\$15,722,636)
TOTAL:	(4,508,378)	(80,258,467)	(7,802,513)	(\$92,569,358)	(\$186,600,755)

Source: Tiberius Solutions LLC

Projects

A potential projects list was developed by city staff using the recommendations from the Hood River Affordable Housing Strategy (2022), the City of Hood River Transportation Systems Plan update (2021) and the Hood River Area Multi-Jurisdictional Parks, and Recreation & Opens Space Plan (2020). Projects have been identified in three main areas: Transportation, Parks & Trails and Affordable Housing. They are listed in time blocks.

The Alphabetic and numeral numbering (MV ½, P1 represent numbers in the Transportation Systems Plan (Motor Vehicle MV) and (Off-Street Pedestrian and Bicycle Facilities P.) The transportation projects are important to be able to provide access to parcels that can be developed into housing.

These projects, along with potential timing, are shown in Exhibit 4. The total Urban Renewal Area cost for these specifically identified projects in \$2023 is estimated at \$87.2 million. This assumes that some projects will have additional funding sources, such as ODOT contributions, state grants, and low-income housing tax credits.

Since the initial project compilation, city staff has indicated that the transportation projects may also need to include some funding for infrastructure such as water, sewer and stormwater projects as identified in capital improvement plans. The estimates in Exhibit 4 do not include general “buckets” of funds for these type of infrastructure projects, other transportation projects nor for other potential incentives for housing development. If City Council decides to move forward, this project list will be updated with costs for some of the more general projects and will be reviewed with the community through the public input process.

Exhibit 4. Potential Westside Projects

Transportation		Parks & Trails		Affordable Housing		
#	Project	#	Project	Project	Target Income Group	Units
0-8yrs	MV 1/2 Interim Exit 62 Interchange	P1	Historic Columbia River	780 Rand Road	30%-60%	
	MV2b* Widen Cascade Ave between Mt. Adams to Rand Rd.	P4	Westside Community Trail	Rental Proj. #2 - Land Acquisition	30%-60%	
	MV3 Mt. Adams / Cascade Ave Neighborhood & Urban		Urban Neighborhood Park A - Land Acquisition			
8-15yrs	MV11 Mt. Adams / Cascade Ave Roundabout	P19	Henderson Creek Trail	Owner-Occupied	60%-120%	10%
	MV4.2 Westside Drive, from Wine Country to May St.		Urban Neighborhood Park B - Land Acquisition	Rental Project #2 - Development	30%-60%	
	Cascade Ave Streetscape Improvements		Urban Neighborhood Park A - Development	Rental Project #3 - Land Acquisition		
15-25yrs			Urban Neighborhood Park B - Development	Rental Project #3	30%-60%	
				P20 Ridgeline Trail north of		
				Number of affordable housing units		350-400

Equity Framework

A draft Equity Framework for both plan development and implementation is being prepared by ECONorthwest with significant staff input. The purpose of the equity framework is to further the goals articulated in Resolution 2020-13 on Racial and Social Equity and outline the broad questions the City should consider as it evaluates potential urban renewal investments in the Westside. Framed as a set of questions that can guide the project process, the equity framework will guide the project team as it works to embed equity in every step of the urban renewal planning process and implementation of the plan.

Outreach to Taxing Districts

Initial outreach to impacted taxing districts has begun. This input is summarized in Exhibit 5. Will Norris, the former Assistant City Manager and Finance Director, presented to the Hood River Board of Commissioners in the spring of 2022. The county administrator is generally aware of the project and a full briefing is scheduled for March 20, 2023. The Hood River School District has indicated they did not need a presentation at this stage of the planning. The Columbia Gorge Education Service District and Columbia Gorge Community College have been contacted and offered briefings. Those have not yet responded.

Exhibit 5. Taxing District Outreach

Taxing District	City Manager discussion with Staff	Formal briefing to Board
Hood River County		March 20
Port of Hood River	Yes	March 7
Westside Rural Fire District	Yes	March 16
Parks and Recreation District	Yes	February 15
911 Communications (<i>County Commission serves as 911 Board</i>)		March 20
Hood River County Transit District	Yes	March 15
Hood River Library District	Yes	March 21
Columbia Gorge Community College	Scheduled for March 2 nd	
Hood River School District	Yes	
Columbia Gorge Education Service District		

Next Steps

The next steps are:

- City council review of the feasibility study information and determination on whether they would like to proceed with development of an urban renewal plan for the Westside area.
- Completion of the Equity Framework.
- Provide information to the community and taxing district partners on the process and provide opportunity for input consistent with the Equity Framework.
- Consultant to work with staff to prepare a draft urban renewal plan and report to be reviewed with the urban renewal agency.
- Formal consult and confer with taxing districts, providing them a copy of the draft plan and report and providing 45 days for formal input.
- Planning Commission review of conformance of the urban renewal plan to the comprehensive plan.
- Presentation to Hood River County and their vote on approval of the urban renewal plan as some of the properties are in unincorporated Hood River County.
- City Council hearing that is noticed city wide and consideration of a non-emergency ordinance.
- The time frame is to get the plan adopted prior to October 1, 2023 to enable the frozen base to be set using values as of January 1, 2022.

Attachment A

Outreach Review for Westside URD Feasibility Study:

Who was reached in previous plans advising the Westside Urban Renewal District?

Multi-Jurisdictional Parks Master Plan

This Multi-Jurisdictional Parks, Recreation & Open Space Plan is intended to serve as the guiding recreation plan for the Hood River Valley Parks and Recreation District, the City of Hood River and Hood River County. The Port of Hood River and Hood River County School District, along with several conservation organizations, were integral partners and contributors to the plan.

Outreach efforts located on p. 1-7 of document, summarized as follows:

- Three Focus Groups: Wind/water/trail recreation group; sports fields and facilities group; Latino community group
- 11 stakeholder interviews: residents, NGOs, local business, rotary, community education, faith communities and activist groups.
- Community surveys: Mail & online-based community survey to gather input to help determine park, trail, open space and recreation priorities of the community. In close collaboration with Parks District staff and a Technical Advisory Committee, Conservation Technix developed the 16-question survey that was estimated to take approximately five minutes to complete. The mail survey was sent to a random sample of 2,500 households within the boundaries of the District on September 14th, and surveys were collected until October 31, 2018. Reminder postcards were mailed to the 2,500 households on October 2, 2018. An online version of the survey was posted to the District's website and made available to the general public. Information on the online survey was posted on September 19th and closed on October 22, 2018.
 - In total, 582 surveys were completed, and the two survey datasets were kept isolated to enable comparisons between the two samples. A summary of community survey results appear in Appendix B of the Master Plan.
- 1 community meeting
- 12 tabling events
- Social media content, eNewsletter, Radio Tierra advertising & emails
- Webpage for master plan process with project updates, links to the survey and additional information.
- HRVPRD partnered with The Next Door, a local nonprofit providing health and family services for the Latino community, to support outreach and recruitment of participants, in both English and Spanish. Also, staff from the Hood River Valley Park & Recreation District presented information about the plan to the Latinos In Action group to solicit feedback on the best ways to reach and get information from Latinos in Hood River.

Affordable Housing Strategy

This Strategy identifies and describes actions and implementation steps to address housing affordability and encourages the development and preservation of housing units to better meet residents' affordability needs. With this Strategy, the City has identified a set of actions to support new and existing affordable development. The actions will encourage the development of more diverse housing types, grow partnerships with housing providers and agencies involved in housing issues, and reduce displacement risk for Hood River residents.

Engagement Process located on p. 67 of document:

- Project Task Force – The City of Hood River recruited members to a community advisory Task Force and advertised the opportunity to serve on the task force in both English and Spanish via the City's website, social media, and direct outreach. The Task Force met five times via Zoom over seven months to provide multiple rounds of feedback, advice, and input throughout the development of the AHS, providing greater understanding of unmet housing needs in Hood River, considerations about the development of housing in Hood River, and priorities for strategies. Meeting agendas and presentations are posted on the City's website.
 - Members of the twelve-person Task Force include renters, housing advocates, service providers, employers, people with lived experience in publicly subsidized housing, and other community members to ensure underrepresented voices are included in project outcomes. The Task Force included representatives from the Mid-Columbia Housing Authority, Columbia Cascade Housing Corporation, and Mid-Columbia Community Action Council.
- Stakeholder discussions
 - Service Providers: senior services, healthcare, families with young children, native communities, and farmworkers.
 - Public partners: Hood River County, HR School District, HR Parks and Rec, Port of HR, CAT Transit District, CGCC
 - Latino community (two of them), affordable housing providers, local housing developers, employers
 - Collaborative: multiple rounds of feedback, worked with the Task Force to refine strategies
- Public involvement announcements included use of:
 - Project webpage
 - Press releases
 - eNewsletter updates
 - Radio Tierra

Transportation System Plan, TSP Appendix is separate from original document:

The TSP amendments focused on incorporating new projects developed as a part of the Westside Area Concept Plan Report dated 12/29/2017

TSP Outreach Report:

- Public involvement included:
 - Online open house and website to present information and receive community input, managed by DKS Associates.
 - City advertised online open house through eNewsletter via MailChimp, direct emails to Latino/Latinx community advocates, Radio Tierra (95.1FM), Facebook, and two-week print and digital advertising through Hood River News.
 - In-person open house and other meetings were not feasible due to COVID-19 pandemic.
 - See attached TSP Outreach Report.
 - PC Hearings held 3/1/21 and 3/15/21 with opportunity to present testimony.
 - CC Hearings held 4/12/21 with opportunity to present testimony and 4/26/21 for first reading of Ordinance 2062.

Outreach Plan in TSP Appendix L p. 562-585 of TSP Appendix:

- Outreach tools: website updates, meeting announcements,
- Locations for flyering and outreach: City Hall, Library, recreation center, senior center, La Clinica, local newspaper
- News articles
- Advisory Committees: Invited agencies and communities of interest
 - Agencies: City of HR, HR County, DLCD field rep, several ODOT reps, CAT
 - Business: DT Business Association, Growers and Shippers, major employers (hospital, school district) Port of HR, MCEDD
 - Community: HRCSD-Safe Routes to School rep; liaisons to Bike-Ped group, senior/disabled, Healthy Hood River community group, recreation advocate, other neighborhood and stakeholder groups
- Bicycle-Pedestrian Group: High School student, Hood River Valley Residents Associate, bicyclists, pedestrians, senior citizen, mobility impaired citizen, trail user/advocate, Parks and Rec, City Staff
- Additional activities/groups/events: Stakeholder interviews, Truck circulation, community workshop.
- Multiple Virtual Open Houses

Commission Memo



Prepared by: Daryl Stafford
Date: March 7, 2023
Re: Marina Basin Planning

At our last Commission meeting one of the Commission directives for staff was to start planning for the impacts to the Marina Basin before, during and post completion of the Bridge Replacement Project. This will require research and analysis of existing agreements, zoning considerations, funding, short- and long-term impacts, office relocation, logistics, etc. This is not something that the Port can do alone in-house and will require outside assistance.

This memo identifies various components of a study or plan. Port staff has been compiling a list of things that need to get addressed before bridge replacement begins in earnest. Much of this work is part of what HNTB will be working on for the Bridge Replacement Project, but perhaps another firm could help for aspects of this project not specific to bridge replacement such as new administrative site development.

A brief scope of work of this planning effort would include:

1. Purpose of Plan

- A. What projects need to be done prior to bridge construction?
- B. What needs to be done during construction to ensure safety and recreational access?
- C. What opportunities are available around the Marina after construction?
- D. How will the Port coordinate with HNTB? Which elements are covered by the current contract, and which elements would need to be done separately?

2. Initial Findings

- A. 6(f) evaluation – what are the opportunities and challenges based upon the final OPRD position?
- B. 4(f) evaluation – How will the project affect the Waterfront Trail surrounding the marina?
- C. Survey of property ownership
- D. How much of Port property will be acquired by the project? Is there property owned by others that would be beneficial for the Port to acquire (such as Oregon State Lands)?
- E. Literature Review – what other documents are available to inform this study?

3. What projects need to be done prior to bridge construction

- A. Recommendation on relocation of Port office and Port maintenance facility including the process for relocation (and construction if necessary)

- B. If a new Port Administrative building is desired, should it include additional leasable space?
- C. Lease of Port Property during construction as a Field Office for contractor?
- D. Are the Port Relocation costs part of the project costs and to what level?
- E. Are there any Impacts to toll collection or need for temporary facilities?
- F. Relocation of Port Maintenance facilities
- G. Use of boat ramp parking
- H. Use of Marina Green
- I. "Mitigation" needs – if any – due to 6(f) impacts. This is primarily the need to move the boat launch. But are there others?
- J. Impacts – if any – to the docks in the marina
- K. Impacts to the waterfront trail 4(f). Rerouting trail through Best Western facility
- L. Impacts to the Cruise Ships
- M. Impacts to the Concession Sheds to the north of the Picnic Shelter
- N. Use of the Guest Dock

4. *How will the marina and upland be impacted during construction?*

- A. Safety
- B. Limited duration usage
- C. Marina users
- D. Hood River Yacht Club building
- E. Museum Impacts to toll collection during construction
- F. What will be the limitations on the use of the Marina for business reliant on the marina?
- G. Who compensates Port for any loss of revenue?
- H. Review of leases associated with the marina and loss of revenue by those businesses - commitments by the port to businesses for access to the Marina

5. *After construction and de-mobilization what are the possibilities for the vacated spaces*

- A. Zoning analysis
- B. Development opportunities
- C. Provide guidance for future policymakers
- D. Develop sample scope of work for future opportunities
- E. Marina moorage dock expansion opportunity
- F. Marina Basin Docks around the perimeter, 2nd access point to moorage-opportunity

Staff would like input from the Commission on these issues to develop a plan with HNTB or another firm when appropriate.

RECOMMENDATION: Discussion.



Executive Director's Report
March 7, 2023

ADMINISTRATION – KEVIN GREENWOOD, EXECUTIVE DIRECTOR

- *All managers, with help from Port legal counsel and Scott Reynier at Columbia River Insurance, have been working to develop the attached draft Rate & Fee Resolution for Commission consideration as part of the FY23-24 approval process. Please note the listed fees are not yet final staff recommendations. Commission input is sought for the form and content of such a resolution going forward. I feel a master resolution approach would both simplify and streamline the approval process. Items highlighted in yellow are currently under discussion at the staff level. They are things that other Ports charge for, but the Port of Hood River currently does not.*
- *Staff has received phone calls/emails regarding the stranded fish wheel. Daryl has provided the following update on what we know now about the situation: “The owner is known and we do have his contact information. The Sheriff & WADFW offered to help CRITFC and the owner move it, but so far no luck. The Sheriff said the owner is a tribal member and has federal rights on the shores of the Columbia and no court would take on contesting that. Our Marine Sheriff said he believes the owner has every right to leave it on the shore of the river for as long as he would like. Tribal treaty rights supercede recreational uses in this instance as we understand it and where it’s currently stuck on the sandbar it’s not creating a navigational hazard. As far as pollution, it’s no worse than any boat and Port staff feel fairly certain that the OSMB isn’t going to qualify it as a derelict vessel because it’s a fish wheel owned by a tribal member.” We will continue to advocate for removal as soon as possible and update the Commission of any news.*
- *Thanks to all who were able to attend the February 28 work session on Lot 1. I think it was an informative and fruitful discussion and am encouraged by the positive response received so far from local government partners as well as potential charette group members and stakeholders. Greg has developed a draft read-ahead memo for the Urban Renewal Agency’s consideration in March; see his note below and attachments.*
- *John Mann has been working to secure cost estimates for speed cameras on the bridge, and other ways to enforce the limit, including potential partnership with law enforcement. Meanwhile, Port legal counsel will also conduct a legal review on the Port’s capabilities to issue speeding tickets. We will report on this during the next few weeks.*

FINANCE – DEBBIE SMITH-WAGAR, FINANCE DIRECTOR

- *A reminder that the first FY23-24 planning meeting is scheduled for April 4th. The results of that planning meeting will provide the framework for the fiscal year 2023-2024 proposed budget. The budget committee meeting is scheduled for May 2nd. The budget hearing is scheduled for June 6th and budget adoption is scheduled for June 20th.*

- *The annual audit has been completed and the financial report has been filed with the State of Oregon. The partner in charge of the audit, Tara Kamp, is scheduled to review the report with the Commissioners at the March 21st regular meeting.*
- *Columbia Bank, where the Port's bank accounts reside, has been sold to Umpqua Bank. Finance department staff is working through the needed transitions.*

RECREATION/MARINA – DARYL STAFFORD, WATERFRONT MANAGER

- *Marina-*
 - *The USACE has donated 54 new lifejackets to the Port for stocking the kiosks for the 2023 season.*
- *Waterfront-*
 - *Daryl met with the two gentlemen who spoke during public comment at the last Commission meeting about the Event Site Parking passes to discuss possible options for passes moving forward. Some of the ideas staff will bring to the Commission this fall when we discuss the 2024 parking rates are; offering mid-week passes, selling passes at local shops, switching back to passes that hang from the mirror like the Washington Discover passes that could be sold as monthly passes.*
 - *Staff met with legal counsel to discuss ORD-24, picking up where the Port's previous legal team left off. Topics discussed included trespassing, vehicle towing & ticketing, animal control.*
 - *The Eye Openers Lions Club group that puts on the 4th of July Fireworks is dissolving and a few members of that group are creating a new platform to transfer over. Hood River Fireworks LLC, a 501c3 will be stepping in. Staff is working with Brett Stomps who is leading the group, and Kim Dodgion from Western Display pyrotechnics, to assure a smooth transition.*

DEVELOPMENT/PROPERTY – GREG HAGBERY, DEVELOPMENT & PROPERTY MANAGER

- *Staff will not resubmit a \$450,000 Congressional Discretionary Request in for the Anchor Way/First St. project, as a competing plan is now in place to secure a total of \$8 million in CDS funds via both Oregon and Washington congressional representatives for the bridge replacement project instead.*
- *Staff conducted a Pre-Bid Conference for the Anchor Way / 1ST street design services RFP on Wednesday 3/1/2023. Four firms were in attendance. The closing date for proposals is March 29, 2023.*
- *Staff is working with Ye Olde Yankee Key Shoppe / SST, to develop a key program for all facilities. The current program has proven to be too expensive and extremely difficult to produce spare keys. Staff is looking to consolidate the key program to one brand, which would simplify emergency access and minimize the need to carry multiple key sets.*

- Staff is working on an agreement with ODOT to provide a temporary use permit to allow access through Port owned Tax Lot 03N10E2500100 for geotechnical studies in support of a future ODOT project to replace the Westbound I-84 span.



- Port Outside Counsel has informed Cody Development Corp. dba Project^, that the MOU for the development of Lot 900 has been terminated because the Exclusivity Period has expired and the Parties have not agreed to extend the Exclusivity Period further.
- Staff has signed up for a state procurement course entitled Principles for Public Procurement. The 40 hour program is scheduled for certification course on procurement taking place on May 23, 25, 30, June 1, 6, 8, 13, 15. A 11-hour follow up course, Contract Administration Training, will complete the Oregon Procurement certificate.
- Staff continues to wait for easement agreement verbiage to be received from Mt Hood Railroad to review with General Counsel. Once received and reviewed, staff will provide a report to the Commission.
- Staff has developed a draft read-ahead memo for Lot 1 Future Development Vision Discussions (attached), that will be used in conjunction with a Power Point presentation when Commissioner President Ben Sheppard and Port supporting staff present to Urban Renewal Board, key stakeholders and potential community partners during the advertisement of Port intention to form an advisory/working group focused on planning and financing the development of Lot 1.

AIRPORT – GREG HAGBERY, DEVELOPMENT & PROPERTY MANAGER

- The scheduled meeting of Friday 3/3/2023, with the Oregon Department of State Lands, The Oregon Department of Fish & Wildlife, the US Army Corps of Engineers and Ecological Land Services, to discuss the development of a refined plan to address the monitoring of the wetland associated with the North Apron project at the airport has been rescheduled for 3/13/2023 or 3/17/2023.

- *The excavation portion of the Airport Trenching Project was completed by James Dean Construction. Staff is now coordinating with Pacific Power to have a 3-phase transformer installed and Spectrum and data connection installed.*
- *The meeting with Mid-Columbia Economic Development District (MCEDD) to discuss the Solarize Hood River program to assess what grant programs may be available for the installation of solar panels on hangar roofs at the airport has been rescheduled until a future date. More on this subject will be provided via brief once gathered.*
- *Staff continues to work with Precision Approach Engineering (PAE) to locate and submit historic data for the Disadvantaged Business Entity Program. This reporting had not been done for the past three projects funded by the FAA. The reporting is required to receive any future FAA funding.*
- *Staff requested a Grant Amendment for 3-41-0026-013-2022 North Apron project to accommodate a request for reimbursement beyond initial grant amount. The Amendment requests \$34,483 in additional reimbursement amount.*

FACILITIES/BRIDGE REPORT – JOHN MANN, FACILITIES DIRECTOR

- *Staff issued the attached press release announcing the load limit increase on the bridge on March 2. The information was also posted to the Port website and social media, and emailed to the Port’s trucking company list serv.*
- *Indian Creek tree removal from storm is being coordinated with Parks and Rec. No port equipment will be allowed down the trail. (Photo to right).*
- *Portway Storm Project; The contractor had an asphalt plant in Portland batch the correct mix for permanent paving rather than temp paving until spring. This project should be wrapped up and complete by 1/17/23 or 1/20/23. There was a port savings on the project of \$30,000.*
- *Lower Mill; Port staff was able to open a trench to drain the water from the ungraded field at Lower Mill. This will allow the field to dry out more quickly in the spring which will allow the dig out and grading project to take place earlier in the spring this summer.*
- *Facilities Director Mann has been working on getting Lumen to complete the repair work on the bridge utilities. We have been working on this since November 2021 with very little progress made. We*



simply can't seem to get any traction. Facilities Director Mann will continue to stay on top of getting this completed for the safety of our staff and the public crossing the bridge.

- *Port staff and HDR Engineering will be asking the board to approve going out to bid for the Underwater Concrete Repair project at the first March meeting.*
- *Wire Ropes Project: Notice to Mariners was sent out last week by the Coast Guard.*
- *Staff will be preparing an RFP for security services which will come to the board for approval March 21. We are scheduling to score proposals and have a recommendation for the April 18th board meeting. We are also working on the possibility of an IGA with Hood River City Police or the county Sheriff Department to weigh which direction makes the most sense.*
- *Dock/Ramp update: Facilities staff has corrected the design failures of the new OSMB dock at the public boat launch. Forming the ramps began last week. We will pour one side at a time so the ramp can stay operational at all times.*
- *We have a staff member out on medical leave at this time. With a position open we have not been able to fill we are working very shorthanded again. We also just received a two week notice from one of our newer hires.*
- *John Mann will visit the Hood River High School 3/3/23 and the White Salmon High School 3/8/23 to speak with the woodworking, metal working and trades classes to promote the Port as a great place to work and help encourage employment choices in the trades.*

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**PORT OF HOOD RIVER
Resolution No. 2022-23-X**

A RESOLUTION SETTING RATES, FEES, AND CHARGES

WHEREAS, ORS 294.160 requires the governing body of a unit of local government to provide an opportunity for interested persons to comment on the enactment of any ordinance or resolution prescribing a new fee or a fee increase; and

WHEREAS, the Port of Hood River seeks to streamline the process for setting rates, fees, and charges with a single, annual resolution; and

WHEREAS, the Port Commission seeks to achieve financial self-sustainability in all areas of Port operations by 2029, including the airport, marina, waterfront parks, port-owned buildings and developments; NOW THEREFORE;

THE PORT OF HOOD RIVER BOARD OF COMMISSIONERS RESOLVES AS FOLLOWS:

Section 1. Waterfront and Marina Rates & Fees for service. Rates become effective [insert date enacted].

Waterfront Concessions	Permit/ Rental Fee
Club CGWA- The Hook- Non-Profit 6 month term	\$ 1,500.00
Club- Outrigger Canoe Club- Nichols Basin- Non Profit 7 month	\$ 1,500.00
Lesson Rental Jet Ski Slip at the South Basin Dock- annual per ski	\$ 150.00
Lesson/Rental Event Site Upper Dock- Large- 6 month term	\$ 3,696.00
Lesson/Rental Event Site Upper Dock- Small- 6 month term	\$ 1,848.00
Lesson/Rental Nichols Basin- 6 month term	\$ 2,772.00
Lesson/Rental The Hook- 6 month term	\$ 2,772.00
Lesson/Rental The Spit- 6 month term	\$ 2,772.00
Lesson/School Event Site Lower Dock South end-Non-Profit small- 6 month term	\$ 1,500.00
Lesson/School Gorge Jr. Sailing- South Basin- Non-Profit annual term	\$ 1,500.00
Mobile Concession Guide Service- SUP Downwind Tours- 6 month term	\$ 150.00
Mobile Concession Pedicab- 6 month term	\$ 150.00
Sailboat Charter- Marina Commercial Dock- 6 month	\$ 1,650.00
Storage Marina Park Shed- annual	\$ 1,848.00
Storage Maritime Parking- monthly	\$ 100.00
Storage Nichols Basin Shed Winter-monthly	\$ 200.00
Storage The Spit Winter Shed Sublease Port pays vendor- 6 month term	\$ (250.00)
Storage The Spit Winter Shed Sublease- Sublessee pays Port- 6 month term	\$ 500.00
Electrical Service Fee Reimbursement – For electric pedestal amperage overloads. First service call included in base rate. All other service reimbursements may be charged at actual cost to port.	\$xxx
Marina	Moorage /Rental Fees
Cruise Ship- Marina Basin North Jetty Commercial Dock fee per stop	\$ 350.00

Cruise Ship- Marina Basin North Jetty Commercial Dock Shuttle docking fee per stop	\$ 200.00
Cruise Ship- Marina Outside Bollards Jetty Docking fee per stop	\$ 150.00
Cruise Ship- Marina Outside Bollards Jetty Maintenance fee- annual	\$ 6,000.00
Cruise Ship- Marina Outside Bollards Utility fee per stop	\$ 35.00
Guest Dock overnight at boat ramp 20-29'	\$ 25.00
Guest Dock overnight at boat ramp 30-39'	\$ 30.00
Guest Dock overnight at boat ramp 40-49'	\$ 35.00
Guest Dock overnight at boat ramp 50-59'	\$ 45.00
Guest Dock overnight at boat ramp under 20' per night	\$ 15.00
Guest North Jetty Commercial Dock Private vessel 60-74' per day	\$ 75.00
Guest North Jetty Commercial Dock Private vessel 75-100' per day	\$ 100.00
Guest North Jetty Commercial Dock Private vessel 100-150' per day	\$ 145.00
Hood River Yacht Club- clubhouse- monthly	\$ 679.00
Hood River Yacht Club- South Basin Dock lease- annual	\$ 3,000.00
Hood River Yacht Club public restroom shower fee	\$.75
Moorage Boathouse Slip Annual Assessment Fee	\$ 1,650.77
Moorage Boathouse Slip annual per square foot	\$ 1.66
Moorage Boathouse Slip Base Electric- annual fee	\$ 60.00
Moorage Boathouse Slip Base Water/Garbage- annual fee	\$ 60.00
Moorage Shell Dock- annual fee	\$ 429.00
Moorage Slips 30' and under A, B, and C North West facing- annual	\$ 1,668.00
Moorage Slips 30' and under C-Dock North East facing annual	\$ 1,876.00
Moorage Slips all Boat Docks Annual Assessment fee	\$ 442.55
Moorage Slips Over 30'-35'	\$ 2,028.00
Moorage Slips Over 35'-40'	\$ 2,240.00
Moorage Slips Over 40'-43'	\$ 2,399.00
Moorage Slips End Slip C-Dock North 43'-65'	\$ 3,240.00
Moorage Slip Sublease fee to the Port- set up fee	\$ 150.00
Moorage Dingy & Jet Ski Fee- must fit in the perimeter of slip with vessel- monthly	\$ 50.00
Moorage Annual Payment Late fee- per month	\$ 75.00
Marina Oil Spill Clean Up Fees – charge for each man hour at the established labor, equipment charges extra.	\$xxx
Electrical Service – at current Pacific Power electrical rate	\$xxx
Water Service – at current City of Hood River water rate	\$xxx
Impound Seizure Fee	\$ xxx
Marina Fuel Dock – Fuel rate at current Shell Station fuel price	\$xxx
Crane Access Fee – Per day	\$xxx
Marina Boat Ramp Launch Fee	\$xxx
Marina Boat Ramp Parking Fee	\$xxx
South Basin Dock- Concession Jet Ski slip 6 month term	\$ 150.00
South Basin Dock- Float plane annual	\$ 1,487.00
South Basin Dock- Hood River Yacht Club floats- annual	\$ 3,000.00

South Basin Dock- Jr. Sailing floats- annual term (Included in Concession agreement)	\$ 1,500.00
South Basin Dock- Seasonal Lottery 6 month term	\$ 1,041.00
Sublease Initiation Set Up Fee	\$ 150.00
Sublease Renewal Fee	\$ 35.00
Marina Key card Moorage	\$ 35.00
Marina Key South Basin Dock	\$ 50.00
Marina Wait List Entry Fee - one time fee	\$ 100.00
Marina Betterment Slip Change	\$ 35.00
Waterfront Event Permits	Event Permit Fees
Picnic Shelter Up to 50 people exclusive use-per day N/A in 2023	\$ -
Marina Park/ Hook/ Spit/ Lot #1/ Nichols Basin- not exclusive use up to 50 people per day	\$ 200.00
Marina Park/ Hook/ Spit/ Lot #1/ Nichols Basin- not exclusive use 50-100 people per day	\$ 325.00
Marina Park/ Hook/ Spit/ Lot #1/ Nichols Basin- not exclusive use Over 100 people per day	\$ 800.00
Marina Green- not exclusive use up to 50 people per day	\$ 200.00
Marina Green- exclusive use 50-100 people per day	\$ 350.00
Marina Green- exclusive use over 100 people per day	\$ 800.00
Marina Green- exclusive use over 200 people per day	\$ 1,300.00
Event Site September - June- not exclusive use up to 50 people per day	\$ 200.00
Event Site July & August- not exclusive use up to 50 people per day	\$ 300.00
Event Site September - June- not exclusive use 50-100 people per day	\$ 375.00
Event Site July & August- not exclusive use 50-100 people per day	\$ 500.00
Event Site September - June- exclusive use of grass area over 100 people per day	\$ 1,500.00
Event Site July & August- exclusive use of grass area over 100 people per day	\$ 2,200.00
Event Site September - June- exclusive use of grass area & parking lot over 100 people per day	\$ 1,800.00
Event Site July & August- exclusive use of grass area & parking lot over 100 people per day	\$ 2,700.00
All locations Event Set-up and breakdown days non exclusive use per day	\$ 300.00
Waterfront Parking	Parking Fees
Event Site Day Pass regular sized vehicle 20' and under per day	\$ 15.00
Event Site Day Pass oversized vehicle over 20' per day	\$ 25.00
Event Site/Jensen West Season Pass regular sized vehicle 20' and under annual	\$ 200.00
Event Site Season Pass Oversize vehicles over 20' over annual	\$ 350.00
On street parking all zones non commercial vehicles- per hour	\$ 2.50
On street parking Commercial Zone 6 trucks only per day	\$ 30.00
Parking fine- overtime	\$ 20.00
Parking fine- non payment	\$ 50.00
Parking fine- parking in an unauthorized space	\$ 50.00
Parking fine- overnight (any time between 11PM and 6AM)	\$ 90.00
Parking fine- Trucks no pay or time expired Zone 6	\$ 50.00
Parking fine- Parking in Handicap, Fire Lane, or Other Prohibited Space	\$ 75.00
Parking Fine Payment Late Fee - overtime citation non-payment 30+/60+/90+/collections	\$ 20.00
Parking Fine Payment Late Fee - non-payment 30+/60+/90+/collections	\$ 20.00

Parking Fine Payment Late Fee - parking in an unauthorized space citation non-payment 30+/60+/90+/collections	\$ 20.00
Parking Fine Payment Late Fee - overnight citation non-payment 30+/60+/90+/collections	\$ 40.00
Parking Fine Payment Late Fee - Trucks no pay or time expired zone 6 citation non-payment 30+/60+	\$ 40.00
Parking Fine Payment Late Fee - Trucks no pay or time expired Zone 6 citation non-payment 90+/collections	\$ 80.00
Parking Fine Payment Late Fee - parking in handicap, fire lane, etc. citation non-payment 30+/60+/90+/collections	\$ 40.00
Tow / Impound Seizure Fee	\$xxx

Section 2. Port Administration and Customer Service Fees. Rates become effective [insert date enacted].

Administrative Service	Fee
Hard copy of Public Improvement Project plans & specs packet	\$ 35.00
Public Information Records Request - staff time	\$20 per hour, billed in 15 minute increments
Public Information Records Request - hard copies	\$0.25 per printed side
Travel Reimbursement Rates – follow current IRS mileage rate, no per diem.	\$0.655 per mile
Conference Room Rental Fee	
Returned Check Fee. Plus bank Fees.	\$xxx

Section 3. Tolls and Toll Related Fees and Charges. Rates become effective [insert date enacted].

Tolls & Fees	Cash / Breezeby Rates
Class 1 - Passenger Autos & Pickups	\$2.00 / 1.00
Class 2 - Commercial Trucks and Vans	\$6.00 / \$4.00
Class 3 - 3 Axle Trucks	\$9.00 / \$6.00
Class 4 - 4 Axle Trucks	\$12.00 / \$8.00
Class 5 - 5 Axle Trucks	\$15.00 / \$10.00
Class 6 - 6 Axle Trucks	\$18.00 / \$12.00
Class 7 - 7 Axle Trucks	\$21.00 / \$14.00
Class 8 - 8 Axle Trucks	\$24.00 / \$16.00
Class 9 - 9 Axle Trucks	\$27.00 / \$16.00
Class 10 - 10 Axle Trucks	\$30.00 / \$20.00
Class 11 - 11 Axle Trucks	\$33.00 / \$22.00
Class 0 - Motorcycles	\$1.00 / \$0.75
License Place Recognition System - Invoice Ancillary Fee	\$3.00
License Place Recognition System - Late Fee	\$25.00
Breezeby 6C Transponder (Vehicle/Motorcycle)	\$5.00
License Plate Transponder	\$27.00

Section 4. Airport T-Hangar Rental Rates and Related Charges. Rates become effective [insert date enacted].

Airport	Permit/ Rental Fee
T-Hangar A – annual	\$4,399.00
T-Hangar B - annual	\$4,442.00
T-Hangar C – annual	\$4,915.00
T-Hangar Wait List Fee – one time charge	\$100.00

Section 5. Insurance Certificate Limits. Effective [insert date enacted]. Additional coverages may be required based upon business type and Port's discretion. A certificate naming the Port as an additional insured in also required.

Building Lease Tenants	Required Limit
1. General Liability, Each Occurrence	\$ 2,000,000
2. Damages to Rented Premises, Each Occurrence	\$ 300,000
3. Medical Expense, Any One Person	\$ 5,000
4. Personal and Adverse Injury	\$ 2,000,000
5. General Aggregate	\$ 2,000,000
6. Products – Comp/OP Aggregate	
Marina Moorage Tenants	
1. General Liability Protection & Indemnity, Wreck Removal	\$500,000
a. Pollution Coverage	\$ 25,000
b. Watercraft Liability, specifically includes wreck removal and pollution.	\$ 500,000
Marina Boathouse Tenants	
1. General Liability Protection & Indemnity, Wreck Removal	\$500,000
a. Pollution Coverage	\$25,000
Marina Float Plane Tenant- Aircraft Insurance Liability	\$1,000,000
Marina Cruise Ship Moorage	
1. General Liability Protection & Indemnity	\$10,000,000
a. – Wreck removal/clean up/pollution	\$1,000,000
Airport Tenants	
T-Hangar Tenants	\$ 1,000,000
Hangar Tenants	\$ 1,000,000
Tie-Down Tenants	\$ 1,000,000

Section 5. Delegation of Responsibility. The Commission delegates to Executive Director the ability to adjust these rates on a temporary basis to better manage services at the Port of Hood River. Any adjustments to these rates will be reported to the Commission at its next regular meeting.

Section 6. Annual Review. The Commission, through assistance by Port staff, shall annually review and adopt a new rate, fees and charges resolution prior to the subsequent budget's adoption.

Section 7. Repealer. All previous rates and/or rate resolutions are hereby repealed.

APPROVED AND ADOPTED BY THE PORT OF HOOD RIVER BOARD OF COMMISSIONERS on this [date] day of [month] 2023.

Ben Sheppard, President

ATTEST:

Michael Fox, Secretary

DRAFT



Port of Hood River – Lot 1 – Future Development Vision Discussion

Overview:

For several decades, and with extensive public outreach, the Port of Hood River has worked collaboratively with the City of Hood River, private developers, and the local community to transform the Hood River Waterfront into a shared vision: an active, mixed-use, accessible waterfront for the enjoyment of local and regional residents and visitors alike.

That work has paid off and the Waterfront now includes a mix of high technology, research and development, light industrial manufacturing, and supportive retail and service uses. The waterfront district also has an active streetscape, waterfront parks, and pathways that provide enhanced public access to the Columbia River and its multiple recreational opportunities.

Lot 1 represents the crown jewel of the Hood River Waterfront, and as such, provides a unique opportunity to further increase the benefit the Waterfront has to the local and regional community and economy at large. In keeping with the spirit of collaboration and partnerships, the Port of Hood River seeks to identify key stakeholders and potential partners to discuss and advance future development options.

Ultimately, the Port desires to form an advisory group of stakeholders and partners to help establish a pathway forward towards realization of the best use of Lot 1 for the community and the region.

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INDUSTRIAL/COMMERCIAL FACILITIES • AIRPORT • INTERSTATE BRIDGE • MARINA

1000 E. Port Marina Drive • Hood River, OR 97031 • (541) 386-1645 • Fax: (541) 386-1395 • www.portofhoodriver.com • Email: porthr@gorge.net

For Immediate Release

Date: March 2, 2023

Contact:

Kevin Greenwood, Executive Director, Port of Hood River
(541) 386-1138 / kgreenwood@portofhoodriver.com

TRUCK LOAD LIMITS RESTORED ON HOOD RIVER-WHITE SALMON INTERSTATE BRIDGE

HOOD RIVER, ORE. – During its February 21, 2023 meeting the Port of Hood River Board of Commissioners approved a resolution restoring the load limits for trucks on the Hood River-White Salmon Interstate bridge, following a two-year effort. The restored limits will be posted at 25 tons for Type 3 vehicles, 40 tons for Type 3S2 and Type 3-3, 27 tons for the SU4, 31 tons for the SU5, 34 tons for the SU6, 38 tons for the SU7 vehicles, 28 tons for the EV2 and 29 tons for the EV3.

On March 3, 2021, the Oregon Dept. of Transportation (ODOT) imposed a lower load rating on the bridge as a result of a directive by the Federal Highway Administration (FHWA) requiring all states to evaluate the structural capacity of all bridges to carry Specialized Hauling Vehicles (single-unit trucks with closely spaced, multiple axles) and other load factors.

The Port's bridge engineering firm, HDR, oversaw the required bridge reinforcement projects as well as live-load testing and other engineering analysis needed to restore the prior load limits. On February 17, 2023, the Port received a letter from the ODOT Bridge Engineering section informing that the load limits could be restored to their prior levels for all classes of vehicle except for the EV3, a specific emergency response vehicle.

When it went into effect in 2021, the lowered load rating affected most classes of trucks, and the caused significant operating cost increases for local haulers. During the February 21, 2023 meeting, the Commission heard public comment from logistics representatives from James Dean Construction, Hood River Sand & Gravel, Mountain Forest Products, and Mount Adams Fruit companies, who described the significant operating cost increases for local haulers, as well the loss of overall competitiveness with other companies located closer to bridges with higher load limits. While the ODOT approval allowed the Commission to raise the limit on the bridge, it did not compel them to do so, and approval of a formal resolution was required. Each of the company representatives spoke in favor of restoring the limit.

The approved resolution kept in place the 15 m.p.h. speed limit that has been in place since May of last year, an important step to reduce the wear and tear on the bridge deck and the

steel bridge structure, especially by heavy haul trucks. New load limit signs will be posted on I-84 and SR 14 as well as the north and south approaches to the bridge in the next few weeks.

###

Commission Memo



Prepared by: John Mann
Date: March 7, 2023
Re: Underwater Concrete Repairs Project

Under water pier analysis was performed on the Bridge by HDR Engineering beginning in July 2022. Pockets of concrete spalling were found on piers 6 and 8 that require repair. These pockets have also shown up in underwater inspections performed by ODOT in years past. HDR recommends these repairs to be completed, regardless of the current schedule for bridge replacement.

HDR worked with Port staff to prepare bid documents for this work, and staff seeks Commission approval to issue an Invitation to Bid for the project immediately. The engineer's estimate is \$300,00.00.

Please also find attached the new document review form we are using for in-house review.

RECOMMENDATION: Authorize issuance of Invitation to Bid for the Underwater Concrete Repairs Project.

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Port of Hood River Underwater Pier Repair

Issued: March 9, 2023

PORT OF HOOD RIVER

1000 E. PORT MARINA DRIVE
Hood River, Oregon 97031
John Mann
FACILITIES DIRECTOR

Consultant: **HDR Engineering, Inc.**
Mark Libby, PE
1050 SW 6th Ave., Suite 1800
Portland, OR 97204
Telephone: 503-423-3757
Email: mark.libby@hdrinc.com

Owner: **PORT OF HOOD RIVER**
1000 E. Port Marina Drive
Hood River, Oregon 97031
Telephone: (541) 386-1645
Fax: (541) 386-1395
porthr@gorge.net
www.portofhoodriver.com

Underwater Pier Repair

Bid Solicitation

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PART 1
SCHEDULE

SCHEDULE

Invitation to Bid Advertised	March 9, 2023
Bids Due	March 30, 2023, 2 P.M. PDT
Bid Opening	March 30, 2023, 2 P.M. PDT
First-Tier Subcontractor Disclosure Form Due	March 30, 2023, 4 P.M. PDT
Contractor Experience Reference Projects	March 30, 2023, 4 P.M. PDT
Notice of Intent to Award Issued	April 6, 2023
Protest Deadline	April 13, 2023
Award of Contract	April 20, 2023
Required Documents Due from Awarded Contractor (Including bonding and insurance)	April 20, 2023
Substantial Completion	June 30, 2023
Final Completion	July 15, 2023

PART 2
INVITATION TO BID

Invitation to Bid Underwater Pier Repair

The Port of Hood River is requesting bids for Underwater Pier Repair for the Hood River Bridge at Hood River, Oregon 97031. This work includes underwater concrete patching repairs to Piers 6 and 8. This is a Prevailing Wage project subject to ORS 279C.800 to 279C.870.

Beginning Thursday, March 9, 2023 at 2:00 P.M. PDT a complete solicitation document, including scope of work, sample contract, and design specifications, may be examined or purchased during normal business hours at:

Port of Hood River
1000 E. Port Marina Drive
Hood River, Oregon 97031

There will be a \$35 nonrefundable charge for each printed copy of the solicitation document. The document can also be viewed or printed online at www.portofhoodriver.com. If plans are obtained online, please email porthr@gorge.net with the subject line "Plan Holder List" and provide business name, contact name, mailing address, email address, phone and fax numbers. Plan Holders will be notified of any bid addenda by email.

There is no mandatory pre-bid meeting for this project.

Bidders are not required to be pre-qualified under ORS 279C.430.

Bids must be addressed to John Mann, Facilities Director, Port of Hood River. Bids must be delivered by **2:00 P.M. PDT on Thursday, March 30, 2023** to the Port office located at 1000 E. Port Marina Drive, Hood River OR 97031. Bids will not be accepted after 2:00 P.M. PDT on Thursday, March 30, 2023. Bids will be publicly opened in the Port office immediately following the bid deadline.

PART 3
INSTRUCTIONS TO BID

INSTRUCTIONS TO BID

OWNER: Port of Hood River, 1000 E. Port Marina Drive, Hood River, OR 97031, Telephone (541) 386-1645, Fax (541) 386-1395, Email porthr@gorge.net, Website www.portofhoodriver.com.

This Invitation to Bid and the resulting Contract are governed by Oregon Law. Specific laws and rules that govern the solicitation process are found in Chapters 279A and 279C of the Oregon Revised Statutes (ORS), and Chapter 137, Divisions 046 and 049 of the Administrative Rules of the Oregon Department of Justice (OAR). Bidders should obtain and become acquainted with the applicable provisions of the above laws and rules.

DESCRIPTION

Bids are requested to perform underwater concrete patching repairs to Piers 6 and 8 of the Hood River Bridge. This is a Prevailing Wage Project subject to ORS 279C.800 to 279C.870. Project scope of work, plans and specifications are included in this Contract Solicitation document.

The work contemplated under this Contract includes all labor, tools, machinery, materials, transportation, equipment and services necessary for, and reasonably incidental to, the completion of all work in connection with the project described in the Contract, the General Conditions, all applicable special conditions, plans, specifications, and addenda.

All questions regarding the project should be directed via email (not phone) to **John Mann at jmann@portofhoodriver.com**. Questions and answers will be posted on the Port of Hood River web page. Contractor names will not be included.

INVITATION TO BID DOCUMENT AVAILABILITY

A complete solicitation document may be examined or obtained (\$35.00) during normal working hours at the Port office, 1000 E. Port Marina Drive, Hood River, Oregon after 2:00 P.M. PDT on Thursday, March 9, 2023 or by calling the Port Office (541)386-1645. Plans will be available to download at the Port of Hood River website, **www.portofhoodriver.com**.

SOLICITATION LAW AND RULES

This ITB and resulting Contract are governed by Oregon Law. Specific laws and rules that govern the solicitation process are found in Chapters 279A and 279C of the Oregon Revised Statutes, and Chapter 137, Divisions 046 and 049 of the Administrative Rules of the Oregon Department of Justice (Model Public Contracting Rules). The ITB and resulting Contract may be subject to other laws and rules. Offerors should obtain and become acquainted with the applicable provisions of the above laws and rules.

BRAND NAME USAGE:

Any brand name listed in the specifications without an "or approved equal" shall establish the minimum requirements for quality, utility, durability, function and purpose. Other brand names may be used in the construction of the product as long as they are equal to or better than the product brand named, and the brand name listed is not mandated pursuant to a brand name exemption.

Any brand name listed in the specifications with an "or approved equal" shall establish the minimum requirements for quality, utility, durability, function and purpose. Other brand names may be used in the construction of the project as long as they are equal to or better than the product brand named, and the proposed product has been approved in writing by the Owner's Authorized Representative prior to installation, and the brand named is not mandated pursuant to a brand name exemption.

The Owner's Representative shall determine, in its sole discretion, whether a product is "or approved equal."

Any brand name listed in the specifications with an "or approved equal" or an "or approved equivalent" shall establish the minimum requirements for quality, utility, durability, function and purpose. Other brand names may be used in the construction of the project as long as they are equal to or better than the product brand named, and the proposed product has been approved in writing during the bidding process detailed in the following section and the brand named is not mandated pursuant to a brand name exemption.

SOLICITATION PROTEST; REQUEST FOR CHANGE; REQUEST FOR CLARIFICATION; REQUEST FOR BRAND NAME/PRODUCT SUBSTITUTION

If a Bidder finds discrepancies in, or omissions from the plans, specifications or Contract documents, or has doubt as to their meaning, the Bidder shall at once notify the Owner. The Owner will then investigate and determine if an Addendum will be issued.

Bidders may, in writing, request brand approval, requests for substitutions, requests for clarifications, requests for change, Bid protest. The Owner must receive this written protest or request no later than five (5) calendar days prior to the Bid Closing date. The written protest or request shall include the reasons for the protest or request, and any proposed changes to the Bid specifications or contract terms. Envelopes containing Bid protests shall be marked as follows: "Contract Provision Request for Change" or "Contract Provision Protest", and Solicitation Document Identification Project Title.

Clarifications, whether verbal, in writing, or included in an Addendum or Addenda as a "clarification," do not change Plans, Specifications, contractual terms, or procurement requirements of an ITB. If a request for clarification raises an issue that the Owner determines should be handled by formally amending the ITB, the Owner will do so only by announcing such a change in an Addendum or Addenda, not through information identified as a "clarification."

The Owner will promptly respond to each properly submitted written request for brand approval, request for substitution, request for change, and protest. Where appropriate, the Owner will issue ITB revisions via Addenda made by fax or email and will posted on the Owner's website. A Bidder shall provide written acknowledgement of receipt of all issued Addenda with its Bid.

INFORMAL RESPONSES DO NOT AFFECT THE PROVISIONS OF THE ITB. PROVISIONS OF THE ITB CAN ONLY BE CHANGED VIA ADDENDA ISSUED BY THE OWNER.

Pursuant to OAR 137-049-0250, no protest against award because of the content of bid specifications or contract terms shall be considered after the deadline established above for submitting protests of bid specifications or contract terms.

EXAMINATION OF THE CONTRACT DOCUMENTS AND WORK SITE

Bidders should carefully examine the bid and contract documents and familiarize themselves with the work site to fully acquaint themselves with all the conditions and matters which can in any way affect the work or the cost thereof.

Each bidder shall thoroughly examine and be familiar with legal and procedural documents, general conditions, specifications, drawings, plans, addenda (if any), and all other Contract Documents. The submission of a bid shall constitute an acknowledgment upon which the District may rely, that the bidder is experienced in the uses and interpretation of plans and specifications such as those included in the Contract Documents and has thoroughly examined and is familiar with the Contract Documents.

The failure or neglect of a bidder to receive or examine any of the Contract Documents, perform site investigations and/or other investigations or examinations shall in no way relieve the bidder from any obligations with respect to the bid or the contract. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any Contract Documents or existing site conditions.

BID FORMAT

Sealed Bids must be received in the Port office, 1000 E. Port Marina Drive, or by mail to 1000 E. Port Marina Drive, Hood River, OR 97031 on or before 2 P.M. PDT on Thursday, March 30, 2023.

All Bids must be sealed and received prior to the bid closing time and date. All Bids shall be prepared in ink or by computer, but must be signed in ink by an authorized representative of the Bidder. Facsimile Bids will not be accepted.

Required Information shall be submitted on the forms specific in the ITB.

The following forms and schedules shall be completed, signed and included in the bidder package and shall be submitted prior to the Bid Deadline:

- Bid Form
- Bid Sheet
- Contractor Registration Form
- Bid Bond Form

The following shall be submitted within two (2) working hours after Closing.

- First Tier Subcontractor Disclosure Form
- Contractor Experience Reference Projects per Section 1.03 of Special Provision

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

Modifications must be submitted in a sealed envelope marked as follows:

Underwater Pier Repair Bid
Closing Date
Bidder Legal Name
Oregon CCB #

Bidders may not modify bid after closing.

BID SUBMISSION

All Bid documents requiring signature must be signed in ink by an authorized representative.

Bids must be submitted in a sealed package or envelope. To insure proper identification and handling, all packages and envelopes shall be clearly marked as follows:

Underwater Pier Repair Bid
Closing Date & Time
Bidder Legal Name
Oregon CCB #

Port of Hood River
Attn: John Mann
1000 E. Port Marina Drive
Hood River OR 97031

BID WITHDRAWAL

Bids may be withdrawn in writing submitted on the Bidder’s letterhead, signed by an authorized representative, and received by the Owner prior to closing. Offer withdrawals submitted in

writing must be labeled as such and contain the Project Name.

Bids may be withdrawn in person before Closing upon presentation of appropriate identification and evidence of authorization to act for Bidder. Signature confirmation of withdrawal may also be required.

CLOSING & OPENING/FIRST TIER SUBMITTAL

Bids will be received until 2:00 PM PDT on Thursday, March 30, 2023 where they will be immediately opened publicly and read aloud. Award decisions will not be made at Bid opening.

Bids received after 2:00 PM PDT on Thursday, March 30, 2023 will be non-responsive and not be opened.

First Tier subcontractors disclosure forms must be returned within two (2) working hours after closing, at the Port of Hood River office, 1000 E. Port Marina Drive, Hood River, Oregon. Failure to comply with this requirement shall result in rejection of the Bid as non-responsive.

Prior to the Intent to Award Announcement, the Port of Hood River may post preliminary bid results on its website www.portofhoodriver.com. Such postings are preliminary and are not final until all submission materials are validated.

BID ACCEPTANCE

A Bid is a firm offer, irrevocable, valid and binding on the Bidder for not less than thirty (30) calendar days from the closing date.

The Port of Hood River may request, orally or in writing, that Bidders extend, in writing, the time during which the Port of Hood River may consider their Bid. If a bidder agrees to such extension, the Bid shall continue as a firm Bid, irrevocable, valid and binding on the Bidder for the agreed-upon extension period.

METHOD OF AWARD

The responsiveness and responsibility of Bidders and their proposed Subcontractors will be considered in making the award.

Base Bid, and alternates (if applicable), unless modified by addendum. The Port reserves the right to arrange the bid forms with alternates and additives, if such be to the advantage of the Port. The bidder shall bid on all alternates and additives set forth in the bid forms unless otherwise specified.

Award will be made to the lowest responsive and responsible bidder.

BID EVALUATION CRITERIA

Bids will be evaluated to identify the lowest responsive Bid submitted by a responsible Bidder and not otherwise disqualified. (Refer to OAR 137-049-0390). Adjustments made to account for reciprocal preferences will be for Offer evaluation purposes only. No such adjustments shall operate to amend Bidder's Bid or any Contract awarded pursuant thereto.

To be considered responsive, the Bidder must substantially comply in all material respects with applicable solicitation procedures and requirements and the solicitation documents. In making such evaluation, the Port of Hood River may waive minor informalities and irregularities.

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

BID SECURITY REQUIRMENTS

A surety bond, irrevocable letter of credit issued by an insured institution as defined in ORS 706.008, cashier's or certified check, executed in favor of the Port of Hood River in the amount equal to ten percent (10%) of the total amount of the Bid, shall be submitted with or posted for all Bids as bid security unless the Contract has been exempted from this requirement under ORS 279C.390.

If the undersigned fails to (1) execute the contract, (2) furnish a Performance and Payment Bond, or (3) furnish the certificates of insurance within ten (10) calendar days of the written Notice of Intent-to-Award a Contract, then the Port of Hood River may cash the check, draw under the letter of credit or otherwise collect under the Bid Security.

PROCESSING OF BIDS

Neither the release of Bid Security, nor acknowledgement that the selection process is complete (whether by posting of a bid tabulation sheet, issuance of Notice of Intent to Award, or otherwise), shall operate as a representation by the Port of Hood River that any Bid submitted was complete, sufficient, lawful in any respect, or otherwise in substantial compliance with the ITB requirements.

WITHDRAWAL OF BID ITEMS

The Port of Hood River reserves the right to withdraw Bid items. The deletion of one or more bid items will not affect the method of award.

REJECTION OF BIDS

The Port of Hood River may reject all Bids for good cause upon finding that it is in the public interest to do so.

The Port of Hood River may reject a particular Bid for any reason listed under OAR 137-049-0440.

INTENT-TO-AWARD ANNOUNCEMENT

The Port of Hood River reserves the right to announce its Intent-to-Award prior to formal Contract award by posting the tabulation sheet of Bid results on the Port of Hood River website, or by letter or fax. The Intent-to-Award Announcement shall serve as notice to all Bidders the Port of Hood River intends to make an award.

PROTEST OF INTENT-TO-AWARD

Adversely affected or aggrieved Bidders shall have seven (7) calendar days from the date of the Intent-to-Award Announcement within which to file a written protest. Protests submitted after that date will not be considered. Protests must specify the grounds upon which the protest is based.

In order to be an adversely affected or aggrieved Bidder, the Bidder must claim to be eligible for award of the contract as the lowest responsible and responsive Bidder and that any and all lower Bidders are ineligible to receive Contract award.

An Actual Bidder who is adversely affected or aggrieved by the award of the Contract to another Bidder may protest award, in writing, within the timeline established. The written protest shall state the grounds upon which the protest is based. No protest of award shall be considered after the deadline.

RESPONSE TO INTENT-TO-AWARD PROTESTS

The Port of Hood River will respond in writing to Intent-to-Award protests submitted by adversely affected or aggrieved Bidders. The Port of Hood River may also respond to Intent-to-Award protests submitted by other Bidders for the purpose of clarification. However, any response made by the Port of Hood River is not intended to, and shall not in and of itself constitute, confirmation that the Bidder is, in fact, adversely affected or aggrieved, and therefore entitled to protest an Intent-to-Award, or that the protest was timely filed.

AWARD

After expiration of the seven (7) calendar day Intent-to-Award protest period, and resolution of all protests, the Port of Hood River may proceed with final award. If the Port of Hood River receives only one Bid, the Port of Hood River may dispense with the Intent-to-Award protest period and proceed with award of a Contract.

COMMENCEMENT OF WORK

Contractor shall not commence Work under this Contract until the Notice to Proceed has been issued.

REVIEW OF AWARDED BID FILES

Awarded Bid files are public records and available for review at the Port of Hood River office by appointment during regular business hours (Monday through Friday, 8am until 5pm).

INFORMATION TO BE SUBMITTED BY APPARENT SUCCESSFUL BIDDER

The apparent successful Bidder shall provide all required proof of insurance to the Port of Hood River within ten (10) calendar days of notification of the Intent-to-Award. Failure to present the required documents within ten (10) calendar days may result in Bid rejection. Bidders are encouraged to consult their insurance agent about the insurance requirements as identified in Section G of the General Contract Conditions prior to Bid submission.

Bidders must satisfy these insurance requirements by obtaining insurance coverage from insurance companies or entities acceptable to the Port of Hood River that are allowed to provide such insurance under Oregon law.

The successful Bidder shall be required to furnish a Performance and Payment Bond each in the total amount of one hundred percent (100%) of the awarded contract, executed in favor of the Port of Hood River, to ensure faithful performance of the Contract and payment for services and goods.

The apparent low bidder shall provide all required bonding to the Port of Hood River within ten (10) calendar days of notification of Intent-to-Award. Failure to present the required documents within ten (10) calendar days may be grounds for award disqualification.

The apparent successful Bidder, if a Joint Venture/Partnership, shall provide a copy of the Joint Venture Agreement or Partnership Agreement evidencing authority to Offer and to enter into the resulting Contract that may be awarded, together with corporate resolutions (if applicable) evidencing corporate authority to participate as a Joint Venture or Partner. A contact person must also be designated for purposes of receiving all notices and communications under the Contract. All Partners and Joint Venturers will be required to sign the Contract awarded.

OREGON PREVAILING WAGES RATES (BOLI REQUIREMENTS)

The Contractor and subcontractors shall comply with all the provisions of 279C.800 through 279C.870, relative to Prevailing Wage Rates. The current Prevailing Wage Rates for Public Works Contract in Oregon subject to the State PWR will apply to this project and can be found at:

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

The work takes place in Hood River County.

FIRST-TIER SUBCONTRACTOR DISCLOSURE INSTRUCTIONS AND FORM

Pursuant to ORS 279C.370, Bidders are required to disclose information about certain First-Tier Subcontractors when the Owner estimates the contract value for a Public Improvement to be greater than \$100,000. Specifically, when the Contract amount of a First-Tier Subcontractor

furnishing labor, or labor and materials, has a Contract value that is equal to or greater than five percent (5%) of the total project bid or \$15,000, whichever is greater, or \$350,000 regardless of the percentage of the total project bid, the Bidder must disclose the following information about that Subcontract in its Bid submission or within two (2) working hours after Bid Closing:

- a) Subcontractor's name;
- b) Category of work that Subcontractor would be performing;
- c) Dollar value of each Subcontract.

If the Bidder will not be using any subcontractors that are subject to the above disclosure requirements, the Bidder is required to write "NONE" on the Disclosure Form.

The Port of Hood River must reject a Bid if the Bidder fails to submit the disclosure form with this information by the stated deadline.

The Bidder must submit the Disclosure Form required by OAR 137-049-0360 either in its Bid submission or within two (2) working hours after closing.

The Port of Hood River shall obtain, and make available for public inspection, the Disclosure Forms required by OAR 137-049-0360. The Port of Hood River shall also provide copies of the Disclosure Forms to the Bureau of Labor and Industries as required by ORS 279C.835. The Port of Hood River is not required to determine the accuracy or completeness of the information submitted. Substitution of affected first-tier subcontractors shall be made only in accordance with ORS 279C.585.

PART 4

**BID FORM, BID SHEET, CONTRACTOR REGISTRATION FORM, AND
FIRST TIER SUBCONTRACTOR DISCLOSURE FORM**

BID FORM

DATE: _____

**PORT OF HOOD RIVER
1000 E. PORT MARINA DRIVE
HOOD RIVER, OREGON 97031**

PRICE SUBMITTAL:

The Undersigned proposes and agrees, if this Bid is accepted, to enter into an agreement with the Port of Hood River to furnish all Work as specified or indicated herein for the ITB indicated and within the schedule indicated in the Invitation to Bid. Bidder has familiarized itself with the Work and has visited and inspected the site and is familiar with all the field conditions, legal requirements (federal, state, and local laws, ordinances, rules and regulations), and conditions affecting cost, progress and performance of work, and has made such independent investigations as Bidder deems necessary. Bidder has given the Port written notice of all conflicts, errors, and/or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by the Port is acceptable to Bidder.

BASE BID: Underwater Pier Repair

FOR THE LUMP SUM OF: \$ _____ . (\$ _____)

CHANGES TO THE WORK

- A. If adjustments to the work occur, the Bid Sheet will be used for basis of cost adjustment. If quantities are adjusted by more than 25% equitable overhead factor may be applied.

The Undersigned agrees, if awarded the Contract, to complete this work not later than:

_____, 20__.

Company: _____ Telephone: _____

Company Address: _____

Email: _____ Fax: _____

Construction Contractors Board Number _____ Expiration Date _____

I attest that I have the authority to commit the firm named above to this Bid amount and acknowledge that the firm meets the qualifications necessary to perform this work as outlined in the Invitation to Bid. I understand that I will be required to provide necessary information to verify that the firm meets these qualifications if selected for the Contract.

By: _____

Signature / Name & Title / Date

BID SHEET

Item	Description	Qty	Unit	Unit Cost	Total
1	Underwater Concrete Repair	1	LS		
		Total Bid			
Written Bid Total:					

Contractor Name	
Address	
Address	
City, State, Zip	
Phone	
Fax	
Email	
Registration Number	
Contact	
Phone	

CONTRACTOR REGISTRATION FORM

This Bid must be signed in ink by an authorized representative of the Bidder; any alterations or erasures to the Bid must be initialed in ink by the undersigned authorized representative.

1. CCB Requirements

All Bidders shall be licensed with the State of Oregon Contractors Board (CCB) prior to bidding on Public Improvement Contracts. Failure to comply with this requirement shall result in Bid Rejection.

All subcontractors participating in the project shall be similarly registered with the State of Oregon Contractors Board at the time they propose to engage in subcontract work. The CCB registration requirements apply to all public works contracts unless superseded by federal law.

Construction Contractors Board Number: _____
Expiration Date: _____

2. Asbestos Abatement Licensing Requirements

An asbestos abatement license under ORS 468A.720 will not be required of the Contractor or its subcontractors.

3. Joint Venture/Partnership Disclosure

The Undersigned has authority on behalf of the following entity and is (check one of the following and insert information requested):

- ___ a. A corporation organized and existing under the laws of the State of _____; or
- ___ b. A partnership/joint venture registered under the laws of the State of _____;
If yes, name of the contact person for the partnership/joint venture _____; or
- ___ c. A limited liability corporation (LLC) or limited liability partnership (LLP) under the laws of the State of _____; or
- ___ d. An individual doing business under an assumed name registered under the laws of the State of _____.

4. Addendum or Addenda Acknowledgement

ADDENDA: The Undersigned hereby acknowledges receipt of the following Addenda:

ADDENDUM NO.	DATED	ADDENDUM NO.	DATED
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

5. Responsibility Inquiry/ Contractor References

(Provide (5) related project references and contact information)

6. Recycled Products

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

7. Residency Information

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

If a Resident Bidder, enter your Oregon business address:

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

8. Compliance with Tax Laws

By my signature, I hereby attest or affirm under penalty of perjury: that I am authorized to act on behalf of the Contractor in this matter, that I have authority and knowledge regarding the payment of taxes, and that Contractor is, to the best of my knowledge, not in violation of any Oregon Tax Laws and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

9. Certification of Drug-Testing Law Requirements

By my signature, I certify that Contractor shall demonstrate that an employee drug testing program is in place.

10. Certification of Compliance with Non-Discrimination Laws

By my signature, I hereby attest or affirm under penalty of perjury: that I am authorized to act on behalf of Contractor in this matter, and to the best of my knowledge, the Contractor has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts, and that the Contractor is not in violation of any Discrimination Laws.

11. Signature of Bidder’s Duly Authorized Representative

The Bid must be signed in ink by an authorized Representative of the Bidder. Any alterations or erasures to the bid must be initialed in ink by the undersigned authorized representative.

The undersigned acknowledges, attests and certifies individually and on behalf of the Bidder that:

1. He/She is a duly authorized representative of the Bidder, has been authorized by Bidder to make all representations, attestations, and certifications contained in this Bid and all Addendum or Addenda, if any, issued.
2. Bidder, acting through its authorized representatives, has read and understands all Bid instructions, specifications, plans, terms and conditions contained in this Bid document, including all attachments, exhibits, and Addenda, if any, issued.
3. The Bid submitted is in response to the specific language contained in the Invitation to Bid, and Bidder has made no assumptions based upon either (a) verbal or written statements not contained in the Invitation to Bid, or (b) any previously issued Invitation to Bid, if any.
4. The Owner shall not be liable for any claims or be subject to any defenses asserted by Bidder based upon, resulting from, or related to, Bidder’s failure to comprehend all the requirements of the Invitation to Bid.
5. The Owner shall not be liable for any expenses incurred by Bidder in preparing and submitting its Bid or in participating in the Bid evaluation/selection process.
6. The Bidder agrees to be bound by and comply with all applicable requirements of ORS 279C.800 through ORS 279C.870 and the administrative rules of the Bureau of

Labor and Industries (BOLI) regarding prevailing wage rates and payment of a fee to BOLI.

7. The Bid was (1) prepared independently from all other Bidders, and without collusion, fraud, or other dishonesty and without any agreement, understanding, or planned common course of action with, any other vendor of materials, supplies, equipment, or services described in the Invitation to Bid designed to limit independent bidding or competition; and (2) the contents of this Bid have not been communicated by the Undersigned or its employees or agents to any person not an employee or agent of the Undersigned or its surety on any bond furnished with the Bid and will not be communicated to such person prior to the official opening of the Bids.
8. Bidder is bound by and will comply with all requirements, specifications, plans, terms and conditions contained this Bid, including all attachments, exhibits and Addendum or Addenda, if any, issued.
9. Bidder will furnish the designated items and/or services in accordance with the Bid specifications, plans, and requirements, and will comply in all respects with the terms of the resulting Contract upon award.
Bidder represents and warrants that Bidder has the power and authority to enter into and perform the Contract and that the Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms.
10. All affirmations and certifications contained in sections 6,7,8,9 and 10 are true and correct.

Authorized Signature _____

Title _____

FEIN ID # or SSN # _____

Contact Person: _____

Telephone Number () _____ Fax () _____

FIRST-TIER SUBCONTRACTOR DISCLOSURE FORM

Project Name _____

Bid Opening Date _____

Name of Bidding Contractor _____

Email Address _____

CHECK THIS BOX IF YOU WILL NOT BE USING ANY FIRST-TIER SUBCONTRACTORS OR IF YOU ARE NOT SUBJECT TO THE DISCLOSURE REQUIREMENTS (SEE INSTRUCTIONS).

FIRST-TIER SUBCONTRACTORS

Firm Name	Dollar Amount
Category of Work	

Firm Name	Dollar Amount
Category of Work	

Firm Name	Dollar Amount
Category of Work	

Firm Name	Dollar Amount
Category of Work	

Firm Name	Dollar Amount
Category of Work	

PART 5
BID BOND FORM

BID BOND FORM

Project Name: Underwater Pier Repair

We, _____, as "Principal,"
(Name of Principal)

And _____, an _____ Corporation,
(Name of Surety)

authorized to transact Surety business in Oregon, as "Surety," hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns to pay unto the Port of Hood River ("Obligee") the sum of (\$ _____) _____ dollars.

NOW, THEREFORE, if the bid submitted by Principal is accepted, and if a contract pursuant to the bid is awarded to Principal, and if Principal enters into and executes such contract within the time specified in the procurement document and executes and delivers to Obligee its good and sufficient performance and payment bonds required by Obligee, as well as any required proof of insurance, within the time fixed by Obligee, then this obligation shall be void; otherwise, it shall remain in full force and effect.

IN WITNESS WHEREOF, we have caused this instrument to be executed and sealed by our duly authorized legal representatives this _____ day of _____, 20____.

PRINCIPAL: _____ **SURETY:** _____

By _____
Signature

BY ATTORNEY-IN-FACT:

Official Capacity

Name

Attest: _____
Corporation Secretary

Signature

Address

City State Zip

Phone Fax

PART 6
PERFORMANCE BOND FORM
PAYMENT BOND FORM

PERFORMANCE BOND FORM

Bond No. _____
Solicitation _____
Project Name: Underwater Pier Repair _____

_____ (Surety #1) Bond Amount No. 1: \$ _____

_____ (Surety #2)* Bond Amount No. 2:* \$ _____

- *If using multiple sureties*

Total Penal Sum of Bond \$ _____

We, _____, as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the Port of Hood River the sum of (Total Penal Sum of Bond) _____ (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such surety), and

WHEREAS, the Principal has entered into a contract with the Port of Hood River, the plans, specifications, terms and conditions of which are contained in above-referenced Solicitation;

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Performance Bond by reference, whether or not attached to the contract (all hereafter called "Contract"); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and all authorized modifications of the Contract which increase the amount of the work, the amount of the Contract, or constitute an authorized extension of the time for performance, notice of any such modifications hereby being waived by the Surety;

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal herein shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things undertaken by Contractor to be performed under the Contract, upon the terms set forth therein, and within the time prescribed therein, or as extended as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the Port of Hood River and members thereof, its officers, employees and agents, against any direct or indirect damages or claim of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Principal or its subcontractors, and shall in all respects perform said Contract according to law, then this obligation is to be void; otherwise it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond nor shall the Port of Hood River be obligated for the payment of any premiums.

This bond is given and received under authority of ORS Chapter 279C, the provisions of which hereby are incorporated into this bond and made a part thereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES:

Dated this _____ day of _____, 20_____.

PRINCIPAL: _____

By: _____
Signature

Official Capacity

Attest: _____
Corporation Secretary

SURETY: _____
[Add signatures for each if using multiple bonds]

BY ATTORNEY-IN-FACT:
[Power-of-Attorney must accompany each bond]

Name

Signature

Address

City State Zip

Phone Fax

PAYMENT BOND FORM

Bond No. _____
Solicitation _____
Project Name: Underwater Pier Repair _____

_____ (Surety #1) Bond Amount No. 1: \$ _____
_____ (Surety #2)* Bond Amount No. 2:* \$ _____

- *If using multiple sureties*

Total Penal Sum of Bond \$ _____

We, _____, as Principal, and the above identified Surety(ies), authorized to transact surety business in Oregon, as Surety, hereby jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns firmly by these presents to pay unto the Port of Hood River the sum to (Total Penal Sum of Bond)

_____ (Provided, that we the Sureties bind ourselves in such sum "jointly and severally" as well as "severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such surety), and

WHEREAS, the Principal has entered into a contract with the Port of Hood River, the plans, specifications, terms and conditions of which are contained in above-referenced Solicitation;

WHEREAS, the terms and conditions of the contract, together with applicable plans, standard specifications, special provisions, schedule of performance, and schedule of contract prices, are made a part of this Payment Bond by reference, whether or not attached to the contract (all hereafter called "Contract"); and

WHEREAS, the Principal has agreed to perform the Contract in accordance with the terms, conditions, requirements, plans and specifications, and schedule of contract prices which are set forth in the Contract and any attachments, and all authorized modifications of the Contract which increase the amount of the work, or the cost of the Contract, or constitute authorized extensions of time for performance of the Contract, notice of any such modifications hereby being waived by the Surety;

NOW, THEREFORE, THE CONDITION OF THIS BOND IS SUCH that if the Principal shall faithfully and truly observe and comply with the terms, conditions and provisions of the Contract, in all respects, and shall well and truly and fully do and perform all matters and things by it undertaken to be performed under said Contract and any duly authorized modifications that are made, upon the terms set forth therein, and within the time prescribed therein, or as extended therein as provided in the Contract, with or without notice to the Sureties, and shall indemnify and save harmless the Port of Hood River and members thereof, its officers, employees and agents, against any claim for direct or indirect damages of every kind and description that shall be suffered or claimed to be suffered in connection with or arising out of the performance of the Contract by the Contractor or its subcontractors, and shall promptly pay all persons supplying labor, materials or both to the Principal or its subcontractors for prosecution of the work provided in the Contract; and shall promptly pay all contributions due the State Industrial Accident Fund and the State Unemployment Compensation Fund from the Principal or its subcontractors in connection with the performance of the Contract; and shall pay over to the Oregon Department of Revenue all sums required to be deducted and retained from the wages of employees of the Principal and its subcontractors pursuant to ORS 316.167, and shall permit no lien nor claim to be filed or prosecuted against the Port of Hood River on account of any labor or materials furnished; and shall do all things required of the Principal by the laws of this State, then this obligation shall be void; otherwise, it shall remain in full force and effect.

Nonpayment of the bond premium will not invalidate this bond nor shall the Port of Hood River be obligated for the payment of any premiums.

This bond is given and received under authority of ORS Chapter 279C, the provisions of which hereby are incorporated into this bond and made a part thereof.

IN WITNESS WHEREOF, WE HAVE CAUSED THIS INSTRUMENT TO BE EXECUTED AND SEALED BY OUR DULY AUTHORIZED LEGAL REPRESENTATIVES:

Dated this _____ day of _____, 20_____.

PRINCIPAL: _____

By: _____
Signature

Official Capacity

Attest: _____
Corporation Secretary

SURETY: _____
[Add signatures for each if using multiple bonds]

BY ATTORNEY-IN-FACT:
[Power-of-Attorney must accompany each bond]

Name

Signature

Address

City State Zip

Phone Fax

PART 7
CERTIFICATE OF INSURANCE FORM

CERTIFICATE OF INSURANCE FORM

This is to certify to: Port of Hood River, 1000 E. Port Marina Drive, Hood River OR 97031
 That the following described policy or policies have been issued to:

 Name and Address of Insured

 Name and Address of Insurance Company

Description of Contract _____

Types of Coverages		Limits of Liability	Policy Number	Expiration Date
1. Workers Compensation		Statutory		
2. Employer's Liability		\$		
3. Comprehensive General Liability		Bodily Injury		Property Damage
	A. Premises & Operations	\$		\$
	B. Blanket Contractual	\$		\$
	C. Independent Sub-Contractors	\$		\$
	D. Products Liability & Completed Operations	\$		\$
4. Comprehensive Automobile Liability (owner, hired, & non-owned)				
5. Other-Builders Risk				
6. Jones Act and USLHWA Insurance	If applicable			

Expires 12:01 Standard Time at the address of name insurance stated herein.

*Indicate the following property liability features:

	<u>Yes</u>	<u>No</u>
1. "Broadform" including occurrence and care, custody and control.	___	___
2. Explosion, collapse and underground damage exclusions.	___	___

The insurer agrees that it will notify in writing, _____ of any material change, expiration or cancellation of the above-described policies not less than thirty (30) days before such change, expiration or cancellation becomes effective. It is further agreed the above named owner, his officers, agent (including his engineer) and employees are included as additional named insureds, but only as respects the performance of the above-described contract.

 Name of Insurance Company

 Authorized Representative

PART 8
GENERAL CONDITIONS (A-L)

PORT OF HOOD RIVER GENERAL CONDITIONS FOR PUBLIC WORKS CONTRACTS

SECTION A General Provisions

DEFINITION OF TERMS

Alternate – One of two or more units of work or groups of bid items, identified separately in the proposal, from which Owner may make a choice between different methods or material of construction for performing the same work.

Architect/Engineer-person appointed by the Port to make drawings and specifications, and to provide contract administration of the Work contemplated by this Contract.

Bid-an offer in connection with an invitation to bid and a proposal in connection with a request for proposals.

Bidder-means an Offeror in connection with an invitation to bid and proposer in connection with a request for proposals.

Change Order-written order issued by the Port's Authorized Representative to the Contractor requiring a change in the Work within the general scope of the Contract Documents.

Claim-means a demand by Contractor for review of the denial of Contractor's initial request for an adjustment of the Contract terms, payment of money, extension of Contract Time or other relief.

Contract- the written agreement between the Port and the Contractor comprised of the Contract Documents which describe the Work to be done and the obligations between the parties.

Contract Documents-means the solicitation Documents and addenda thereto, the Port of Hood River Public Improvement Contract, General Conditions, Supplemental General Conditions, if any, the accepted Bid, Plans, Specifications, amendments and change orders.

Contract Period- as set forth in the Contract Documents, means the period of time beginning with the issuance of the Notice to Proceed and concluding upon Final Completion.

Contract Price- the total of the awarded Bid amount, as increased or decreased by the price of approved alternatives and change orders.

Contract Time-means any incremental period of time allowed under the Contract to complete any portion of the Work reflected in the project schedule.

Contractor-person awarded the Contract for Work contemplated.

Days-are calendar days, unless otherwise specified.

Direct Costs-means the costs of materials, including sales tax, cost of delivery; cost of labor, including social security, unemployment insurance, and fringe benefits required by agreement or custom; worker's compensation insurance; project specific insurance; bond premiums, rental cost of equipment, and machinery required for execution of the work; and the additional costs of field personnel directly attributable to the Work.

Final Completion-means completion of all requirements under the Contract, excluding Warranty Work, and the final payment and release of retainage.

Force Majeure-means an act, event or occurrence caused by fire, riot, war, acts of God, nature, sovereign, or public enemy, strikes, freight embargoes or any other act, event or occurrence that is beyond the control of the party to this Contract who is asserting Force Majeure.

Notice to Proceed-the official written notice from the Port stating that the Contractor is to proceed with the Work defined in the Contract Documents.

Offer-a bid in connection with an invitation to bid and a proposal in connection with a request for proposals.

Offeror-means a bidder in connection with an invitation to bid and proposer in connection with a request for proposals.

Overhead-those items which may be included in the Contractor's markup and that shall not be charged as Direct Cost of Work, including without limitation such Overhead expenses as wages or salary of personnel above the level of foreman and expenses of the Contractor's office at the job site including expenses of personnel staffing the job site office.

Owner-Port of Hood River.

Owner's (Port's) Authorized Representative-those individuals identified in writing by the Owner to act on behalf of the Owner for this project.

Person-an entity doing business as a sole proprietorship, a partnership, a joint venture, a corporation, a limited liability company or partnership, or any other entity possessing the legal capacity to contract.

Plans-the drawings which show the location, type, dimensions, and details of the Work to be done under this Contract.

Punchlist-the list of Work yet to be completed or deficiencies which need to be corrected in order to achieve Final Completion of the Contract.

Record Document-means the as-built Plans, Specifications, testing and inspection records, product test data, samples, manufacturer and distributor/supplier warranties evidencing transfer to Owner, operational and maintenance manuals, shop drawings, Change Orders, correspondence, certificates of occupancy, and other documents listed in section B of these General Conditions, recording all services performed.

Solicitation Document-means invitation to bid or request for proposal or request for quotes.

Specification-means any description of the physical or functional characteristics of the Work, or of the nature of a supply, service or construction item. Specifications may include a description of any requirement for inspecting, testing or preparing a supply, service or construction item for delivery and the quantities or qualities of materials to be furnished under the Contract. Specifications will generally state the results or products to be obtained and may describe the method and manner of doing the work to be performed.

Subcontractor- a person having a direct contract with the Contractor, or another subcontractor, to perform one or more items of the Work.

Substantial Completion-the date when the Owner accepts in writing the construction, alteration, or repair of the improvement to real property or any designated portion thereof as having reached the state of completion when it may be used or occupied for its intended purpose. Substantial Completion of facilities with operating systems occurs only after thirty (30) continuous days of successful, trouble-free operation.

Substitutions- items that in function, performance, reliability, quality, and general configuration are the same or better than the product specified.

Supplemental General Conditions-those conditions that remove from, add to, or modify these General Conditions.

Work- the furnishing of all materials, equipment, labor, transportation, services and incidentals necessary to successfully complete any individual item or the entire Contract and the carrying out of duties and obligations imposed by the Contract Documents.

SCOPE OF WORK

The work contemplated under this Contract includes all labor, materials, transportation, equipment and services for, and incidental to, the completion of all construction work in connection with the project described in the Contract Documents. The Contractor shall perform all Work necessary so that the project can be legally occupied and fully used for the intended use set forth in the Contract Documents.

INTERPRETATION OF CONTRACT DOCUMENTS

Unless otherwise specifically defined in the Contract Documents, words which have well-known technical meanings or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings. Contract documents are intended to be complimentary. Whatever is called for in one, is interpreted to be called for in all. However, in the event of conflicts or discrepancies among Contract Documents, interpretations will be based on the following descending order of precedence:

1. Contract amendments and Change Orders, with those of later date having precedence over those of an earlier date;
2. The Port of Hood River Public Improvement Contract;
3. The Plans and Specifications;
4. The General Conditions;
5. The Solicitation Document and any addenda thereto;
6. The Accepted Offer.

In the case of an inconsistency between the Plans and Specifications or within either document not clarified by addendum, the better quality or greater quantity of Work shall be provided in accordance with the Owner or Owner’s Authorized Representative’s interpretation in writing.

If the Contractor finds discrepancies in or omissions from the Contract Documents, or if the Contractor is in doubt as to their meaning, the Contractor shall at once notify the Owner or the Owner’s Authorized Representative. Matters concerning performance under, and interpretation of requirements of, the Contract Documents will be decided by the Owner’s Authorized Representative, who may delegate that duty in some instances to the Architect/Engineer. Responses to the Contractor’s request for interpretation of Contract Documents will be made in writing by the Owner’s Authorized representative within any time limits agreed upon or otherwise with reasonable promptness. Interpretations and decisions of the Owner’s Authorized Representative will be consistent with the intent of and reasonably inferable from the Contract Documents. Contractor shall not proceed without direction in writing from the Owner’s Authorized Representative.

EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE

It is understood that the Contractor, before submitting a bid, has made careful examination of the Contract Documents; has become fully informed as to the quality and quantity of materials and the character of the Work required; and has made a careful examination of the location and conditions of the Work and the sources of supply for materials. The Owner will in no case be responsible for any loss or for any unanticipated costs that may be suffered by the Contractor as a result of the Contractor’s failure to acquire full information in advance in regard to all conditions pertaining to the Work.

SECTION B

Administration of the Contract

PORT’S ADMINISTRATION OF THE CONTRACT

The Port’s Authorized Representative will provide administration of the Contract as described in the Contract documents (1) during construction, (2) until final payment is due and (3) during the one year period for correction of work. The Port’s Authorized Representative will act on behalf of the Port to the extent provided in the Contract Documents, unless modified in writing in accordance with other provisions of the contract. In performing these tasks, the Port may rely on the Architect/Engineer or other consultants to perform some or all of these tasks.

The Port’s Authorized Representative will visit the site at intervals appropriate to the stage of the Contractor’s operations (1) to become generally familiar with and to keep the Port informed about the

progress and quality of the portion of the Work completed, (2) to endeavor to guard the Port against defects and deficiencies in the Work, and (3) to determine in general if Work is being performed in a manner indicating that the Work, when fully completed will be in accordance with the Contract Documents.

The Port's Representative will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the work.

Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, the Port and Contractor shall endeavor to communicate with each other through the Port's Authorized Representative or designee about matters arising out of or relating to the contract. Communications by and with the Architect/Engineer's consultants shall be through the Architect/Engineer. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Port's Authorized Representative.

Based on the Architect/Engineer's evaluation of the Contractor's Application for Payment, or unless otherwise stipulated by the Port's Authorized Representative, the Architect/Engineer will review and certify the amounts due the Contractor and will issue Certificates for Payments in such amounts.

CONTRACTOR'S MEAN AND METHODS; MITIGATION OF IMPACTS

The Contractor shall direct and supervise the Work, using the Contractor's best skill and attention. The Contractor shall solely be responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under this Contract, unless Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures.

The contractor is responsible to protect and maintain the Work during the course of construction and to mitigate any adverse impacts to the project, including those caused by authorized changes, which may affect cost, schedule, or quality.

The Contractor is responsible for the actions of all its personnel, laborers, suppliers, and Subcontractors on the project. The Contractor shall enforce strict discipline and good order among Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of persons who are unfit or unskilled for the tasks assigned to them.

MATERIALS AND WORKMANSHIP

The intent of the Contract Documents is to provide for the construction and completion of every detail of the Work described. All Work shall be performed in a professional manner and unless the means or methods of performing a task are specified elsewhere in the Contract Documents, Contractor shall employ methods that are generally accepted and used by the industry, in accordance with industry standards.

The Contractor is responsible to perform the Work as required by the Contract Documents. Defective work shall be corrected at the Contractor's expense.

Work done and materials furnished shall be subject to inspection and/or observation by the Port's Authorized Representative to determine if they conform to the Contract Documents. Inspection of the Work by the Port's Authorized Representative does not relieve the Contractor of responsibility for the Work in accordance with the Contract Documents.

Contractor shall furnish adequate facilities, as required, for the Port's Authorized Representative to have safe access to the Work including without limitation walkways, railings, ladders, tunnels, and platforms. Producers, suppliers, and fabricators shall also provide facilities and access to their facilities.

The Contractor shall furnish Samples of Materials for testing by the Port's Authorized Representative and include the cost of the Samples in the Contract Price.

PERMITS

The United States Army Corps of Engineers does not require a nationwide permit for this work. No other State or Federal permits are required.

COMPLIANCE WITH GOVERNMENT LAWS AND REGULATIONS

Contractor shall comply with all federal, state and local laws, codes, regulations and ordinances applicable to the Work and Contract. Failure to comply with such requirements shall constitute a breach of contract and shall be grounds for Contract termination. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following as applicable:

- i) Title VI and VII of Civil Rights act of 1964, as amended
- ii) Section 503 and 504 of the Rehabilitation act of 1973, as amended
- iii) The Health Insurance Portability and Accountability Act of 1996
- iv) The Americans with Disabilities Act of 1990, as amended
- v) ORS Chapter 659A, as amended
- vi) All regulations and administrative rules established pursuant to the foregoing laws
- vii) All other applicable requirements of federal and state civil rights and rehabilitations statues, rules and regulations.

Port’s performance under the Contract is conditioned upon the Contractor’s compliance with the provisions of ORS 279C.505, 279C.510, 279C.515, 279C.520, and 279C.530, which are incorporated by reference herein.

Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statues, rules and regulations; and

- (a) Contractor shall not discriminate against Disadvantaged, Minority, Women, or Emerging Small Business enterprises, as those terms are defined in ORS 200.005, in the awarding of subcontracts (ORS 279A.110)
- (b) Contractor shall maintain, in current and valid form, all licenses and certificates required by tax, regulation, or this Contract when performing the Work.

Unless contrary to federal law, Contractor shall certify that it shall not accept a bid from Subcontractors to perform Work as described in ORS 701.005 under this contract unless such Subcontractors are registered with the Construction Contractors Board in accordance with ORS 701.035 to 701.055 at any time they submit their bids to the Contractor.

Unless contrary to federal law, Contractor shall certify that each landscape contractor, as defined in ORS 671.520(2), performing Work this Contract holds a valid landscape contractor’s license issued pursuant to ORS 671.560.

The following notice is applicable to Contractors who perform excavation Work. ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of those rules by calling the center at (503)232-1987.

Failure to comply with any or all of the requirements set forth here shall be a breach of Contract and constitute grounds for Contract termination. Damages or costs resulting from such noncompliance shall be the responsibility of Contractor.

COMPLIANCE WITH GRANT REQUIREMENTS - (Not applicable)

INSPECTION

Port’s Authorized Representative shall have access to the Work at all times.

The Port’s Authorized Representative at its discretion will make inspection of Work. The Port’s Authorized Representative will have authority to reject Work that does not conform to the Contract Documents. Any Work found to be not in conformance with the Contract Documents, in the discretion of the Port’s Authorized Representative, shall be removed and replaced at the Contractor’s expense.

Contractor shall make or obtain at the appropriate time all tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations, or orders of public authorities having jurisdiction. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Port, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work. The Contractor shall give the Port's Authorized Representative timely notice of when and where tests and inspections are to be made so that the Port's Authorized Representative may be present for such procedures. Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Port's Authorized Representative.

Work done or materials used without inspection or testing by the Port's Authorized Representative may be ordered removed at the Contractor's expense.

If directed to do so at any time before the Work is accepted, the Contractor shall uncover portions of the completed Work for inspection. After inspection, the Contractor shall restore such portions of Work to the standard required by the Contract. If the Work uncovered is unacceptable or was done with sufficient notice to Port's Authorized Representative, the uncovering and restoration will be paid for as a Change Order.

If any testing or inspection reveals failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs necessary by such failure, including those of repeated procedures and compensation for the Port's Authorized Representative and Architect/Engineer's services and expenses, shall be at the Contractor's expense.

SEVERABILITY

If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

ACCESS TO RECORDS

Contractor shall keep, at all times on the Work site, one record copy of the complete Contract Documents, including the Plans, Specifications, Change Orders and addenda, in good order and marked currently to record filed changes and selections made during construction, and one record copy of Shop Drawings, Product Data, Samples and similar submittals, and shall at all times give the Port's Authorized Representative access thereto.

Contractor shall retain and the Port and its duly Authorized Representatives shall have access to, for a period not less than six (6) years, all Record Documents, financial and accounting records, and other books, documents, papers and records of Contractor which are pertinent to the Contract including record pertaining to Overhead and indirect costs, for the purpose of audit, examination, excerpts and transcripts. If for any reason, any part of the Contract is involved in litigation, Contractor shall retain all such records until all litigation is resolved. The Port and/or its agents shall continue to be provided full access to the records during litigation.

WAIVER

Failure of the Port to enforce any provision of this Contract shall not constitute a waiver or relinquishment by the Port of the right to such performance in the future nor the right to enforce any other provision of this Contract.

SUBCONTRACTS AND ASSIGNMENT

Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound by the terms and conditions of these General Conditions, and to assume toward the Contractor all of the obligations and responsibilities which the Contractor assumes toward the Port thereunder, unless,

- (1) the same are clearly inapplicable to the subcontractor at issue because of legal requirements or industry practices, or

(2) specific exceptions are requested by Contractor and approved in writing by Port.

Where appropriate, Contractor shall require each subcontractor to enter in similar agreements with sub-subcontractors at any level.

At Port's request, Contractor shall submit to Port prior to their execution either Contractor's form of subcontract, or the subcontract to be executed with any particular Subcontractor. If Port disapproves such form, Contractor shall not execute the form until the matters disapproved are resolved to Port's satisfaction. Port's review, comment upon or approval of any such form shall not relieve Contractor of its obligations under this Agreement or be deemed a waiver of such obligations of Contractor.

Contractor shall not assign, sell or transfer its rights, or delegate its responsibilities under this Contract, in whole or part, without the prior written approval of the Port. No such written approval shall relieve Contractor of any obligations of this Contract, and any transferee shall be considered the agent of the Contractor and bound to perform in accordance with the Contract Documents. Contractor shall remain liable as between the original parties to the Contract as if no assignment had occurred.

SUCCESSORS IN INTEREST

The provisions of this Contract shall be binding upon and shall accrue to the benefit of the parties to this Contract and their respective permitted successors and assigns.

PORT'S RIGHT TO DO WORK

Port reserves the right to perform other or additional work at or near the project site with other forces than those of the Contractor. If such work takes place within or next to the project site, Contractor will coordinate with all other contractors or forces, carry out the Work in a way that will minimize interference and delay for all forces involved, place and dispose of materials being used so as not to interfere with the operations of another, and join the Work with the work of others in an acceptable manner and perform it in proper sequences to that of the others. The Port's Authorized Representative will resolve any disagreements that may arise between or among Contractor and the other contractors over the method or order of doing all work (including the Work). In case of unavoidable interference, Port's Authorized Representative will establish work priority (including the Work), which generally will be in the sequence that the contracts were awarded.

OTHER CONTRACTS

In all cases and at any time, the Port has the right to execute other contracts related to or unrelated to the Work of this Contract. The Contractor of this Contract will fully cooperate with any and all other contractors without additional cost to the Port in the manner described above.

LITIGATION

Any claims between Port and Contractor that arises from or related to this Contract and that is not resolved through the Port contract review board shall be brought and conducted solely and exclusively within the Circuit Court of Hood River County.

ALLOWANCES

The contractor shall include in the Contract Price all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Port may direct.

Unless otherwise provided in the Contract Documents:

- a. When finally reconciled, allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- b. Contractor's cost for unloading and handling at the site, labor, installation costs, Overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Price but not in the allowances;

- c. Whenever costs are more than or less than allowances, the Contract Price shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section (b) and (2) changes in Contractor's costs under this Section.
- d. Unless Port requests otherwise, Contractor shall provide to Port a proposed fixed price for any allowance work prior to its performance.

SUBMITTALS, SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

Design Build requirements apply. The Contractor shall prepare and keep current, for the Architect's/Engineer's approval (or for the approval of Port's Authorized Representative if approval authority has not been delegated to the Architect/Engineer), a schedule and list of submittals which is coordinated with the Contractor's construction schedule and allows the Architect/Engineer reasonable time to review submittals. Port reserves the right to finally approve the schedule and list of submittals. Submittals include, without limitation, Shop Drawings, Product Data, and Samples which are described below:

- a. Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor (including any sub-subcontractor), manufacturer, supplier or distributor to illustrate some portion of the Work.
- b. Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.
- c. Samples are physical examples which illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. The purpose of their submittal is to demonstrate for those portions of the Work for which submittals are required by the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents. Review of submittals by the Architect/Engineer is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, or for approval of safety precautions or, unless otherwise specifically stated by the Architect/Engineer, of any construction means, methods, techniques, sequences or procedures, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect/Engineer's review of the Contractor's submittals shall not relieve the Contractor of its obligations under the Contract Documents. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Informational submittals upon which the Architect/Engineer is not expected to take responsive action may be so identified in the Contract Documents. Submittals which are not required by the Contract Documents may be returned by the Architect/Engineer without action.

The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect/Engineer Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Port or of separate contractors. Submittals which are not marked as reviewed for compliance with the Contract Documents and approved by the Contractor may be returned by the Architect/Engineer without action.

By approving and submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents that the Contractor has determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect/Engineer.

The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect/Engineer's review

or approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect/Engineer in writing of such deviation at the time of submittal and (1) the Architect/Engineer has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order has been executed by Port authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect/Engineer's review or approval thereof.

If any errors or omissions appear in the drawings, specifications or other documents the Contractor shall, immediately and before proceeding with that portion of the work affected, notify Owner or such error or omission. Should the Contractor proceed with erroneous work without giving notice, Contractor shall be responsible for errors and make required corrections without additional cost to Owner.

SUBSTITUTIONS

The Contractor may make Substitutions only with the consent of the Port, after evaluation by the Port's Authorized Representative and only in accordance with a Change Order. Substitutions shall be subject to the requirements of the bid documents. By making requests for Substitutions, the Contractor will provide the same warranty for the Substitution that the Contractor would for the product originally specified unless approved otherwise; certifies that the cost data presented is complete and includes all related costs under this Contract including redesign costs, and waives all claims for additional costs related to the Substitution which subsequently becomes apparent; and will coordinate the installation of the accepted Substitution, making such changes as may be required for the Work to be completed in all respects.

USE OF PLANS AND SPECIFICATIONS

Plans, Specifications and related Contract Documents furnished to Contractor by Port or Port's Architect/Engineer shall be used solely for the performance of the Work under this Contract. Contractor and its Subcontractors and suppliers are authorized to use and reproduce applicable portions of such documents appropriate to the execution of the Work, but shall not claim ownership or other interest in them beyond the scope of this Contract, and no such interest shall attach. Unless otherwise indicated, all common law, statutory and other reserved rights, in addition to copyrights, are retained by Port.

FUNDS AVAILABLE AND AUTHORIZED

Port reasonably believes at the time of entering into this Contract that sufficient funds are available and authorized for expenditure to finance the cost of this Contract within the Port's appropriation or limitation. Contractor understands and agrees that, to the extent that sufficient funds are not available and authorized for expenditure to finance the cost of this Contract, Port's Services performed after the last day of the current biennium is contingent on Port receiving from the Oregon Legislative Assembly appropriations, limitations or other expenditure authority sufficient to allow Port, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

NO THIRD PARTY BENEFICIARIES

Port and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly, or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

SECTION C

Wages & Labor

MINIMUM WAGE RATES ON PUBLIC WORKS

Contractor shall comply fully with the provisions of ORS 279C.800 through 279C.870. Documents establishing those conditions, as determined by the Commissioner of the Bureau of Labor and Industries (BOLI), are included as attachments to or are incorporated by reference in the Contract Documents. Contractor shall pay workers at not less than the specified minimum hourly rate of wage, and shall include that requirement in all subcontracts.

INTENT TO PAY PREVAILING WAGE

Approved Intent to Pay Prevailing Wage statements shall be provided to Owner prior to first pay application.

PAYROLL CERTIFICATION; ADDITIONAL RETAINAGE; FEE REQUIREMENTS

In accordance with ORS 279C.845, the Contractor and every Subcontractor shall submit written certified statements to the Port's Authorized Representative, on the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed on the project and further certifying that no worker employed on the project has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contract, which certificate and statement shall be verified by the oath of the Contractor or the Subcontractor has read such statement and certificate and knows the contents thereof and that the same is true to the Contractor or Subcontractor's best knowledge and belief. The certified statements shall set out accurately and completely the payroll records for the prior week including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. Certified statements for each week during which the Contractor or Subcontractor has employed a worker on the project shall be submitted once a month, by the fifth business day of the following month.

The Contractor and Subcontractors shall preserve the certified statements for a period of six (6) years from the date of completion of the Contract.

Pursuant to ORS 279C.845(7), the Port shall retain 25 percent of any amount earned by the Contractor on this public works project until the Contractor has filed the certified statements required by previous paragraphs. The Port shall pay to the Contractor the amount retained under this subsection within 14 days after the Contractor files the required certified statements, regardless of whether a Subcontractor has failed to file certified statements.

Pursuant to ORS 279C.845(8), the Contractor shall retain 25 percent of any amount earned by a first-tier Subcontractor on this public works project until the first-tier Subcontractor has filed with the Port the certified statements required by previous section. Before paying any amount retained under this subsection, the Contractor shall verify that the first-tier Subcontractor has filed the certified statement, Within 14 days after the first-tier Subcontractor files the required certified statement the Contractor shall pay the first-tier Subcontractor any amount retained under this subsection.

In accordance with statutory requirements, and administrative rules promulgated by the Commissioner of the Bureau of Labor and Industries, the fee required by ORS 279C.825(1) will be paid by Port to the Commissioner at the time Port enters into the Contract.

PROMPT PAYMENT AND CONTRACT CONDITIONS

Pursuant to ORS 279C.505 and as a condition to Port's performance hereunder, the Contractor shall:

- Make payment promptly, as due, to all persons supplying to Contractor labor or materials for the prosecution of the Work provided for in this Contract.
- Pay all contributions or amounts due the State Industrial Accident Fund from such Contractor or Subcontractor incurred in the performance of the Contract.
- Not permit any lien or claim to be filed or prosecuted against the Port on account of any labor or material furnished. Contractor will not assign any claims that Contractor has against Port, or assign any sums due by Port, to Subcontractors, suppliers, or manufacturers, and will not make any agreement or act in any way to give Subcontractors a claim or standing to make a claim against the Port.
- Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- Demonstrate that an employee drug testing program is in place as follows:
 - (a) Contractor represents and warrants that Contractor has in place at the time of the execution of this Contract, and shall maintain during the term of this Contract, a Qualifying Employee Drug Testing Program for its employees that includes, at a minimum, the following:
 - (1.) A written employee drug testing policy,
 - (2.) Required drug testing for all new Subject Employees or, alternatively, required testing of all Subject Employees every 12 months on a random selection basis, and
 - (3.) Required testing of a Subject Employee when the Contractor has reasonable cause to believe the Subject Employee is under the influence of drugs.

A drug testing program that meets the above requirements will be deemed a "Qualifying Employee Drug Testing Program." For the purposes of this section, an employee is a "Subject Employee" only if that employee will be working on the project job site.

(b) Contractor shall require each Subcontractor providing labor for the project to:

- (1.) Demonstrate to the Contractor that it has a Qualifying Employee Drug Testing Program for the Subcontractor's Subject Employees, and represent and warrant to the Contractor that the Qualifying Employee Drug Testing Program is in place at the time of subcontract execution and will continue in full force and effect for the duration of the subcontract, or
- (2.) Require that the Subcontractor's Subject Employees participate in the Contractor's Qualifying Employee Drug Testing Program for the duration of the subcontract.

Pursuant to ORS 279C.515, and as a condition to Port's performance hereunder, Contractor agrees:

- If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor of a Subcontractor by any person in connection with the project as such claim becomes due, the proper officer(s) representing the Port may pay the claim and charge the amount of the payment against funds due or to become due to Contractor under this Contract. Payment of claims in this manner shall not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.
- If the Contractor or a first-tier Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the public contract for a public improvement within thirty (30) days after receipt of payment from Port or a contractor, the Contractor or first-tier Subcontractor shall owe the person the amount due plus interest charges commencing at the end of the 10-Day period that payment is due under ORS 279C.580(3) and ending upon final payment, unless payment is subject to a good faith dispute as defined in ORS 279C.580. The rate of interest charged to the Contractor or first-tier Subcontractor on the amount due shall equal three times the discount rate on 90-Day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is thirty (30) days after the date when payment was received from Port or from the Contractor, but the rate of interest shall not exceed thirty (30) percent. The amount of interest may not be waived.
- If the Contractor or a Subcontractor fails, neglects or refuses to make payment to a person furnishing labor or materials in connection with the Contract, the person may file a complaint with the Construction Contractors Board, unless payment is subject to a good faith dispute as defined in ORS 279C.580. Every contract related to this Contract shall contain a similar clause.

Pursuant to ORS 279C.580, Contractor shall include in each subcontract for property or services entered into by the Contractor and a first-tier Subcontractor, including a material supplier, for the purpose of performing a construction contract:

- (a) A payment clause that obligates the Contractor to pay the first-tier Subcontractor for satisfactory performance under its subcontract within ten (10) days out of such amounts as are paid to the Contractor by Port under the Contract;
- (b) An interest penalty clause that obligates the Contractor if payment is not made within thirty (30) days after receipt of payment from Port, to pay to the first-tier Subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (a) of this subsection. Contractor or first-tier Subcontractor shall not be obligated to pay an interest penalty if the only reason that the Contractor or first-tier Subcontractor did not make payment when payment was due is that the Contractor or first-tier Subcontractor did not receive payment from Port or Contractor when payment was due. The interest penalty shall be for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and shall be computed at the rate specified in ORS 279C.515(2).
- (c) A clause which requires each of Contractor's Subcontractor's to include, in each of their contracts with lower-tier Subcontractors or suppliers, provisions to the effect that the first-tier Subcontractor shall pay its lower-tier Subcontractors and suppliers in accordance with the provisions of subsections

(a) and (b), above and requiring each of their Subcontractors and suppliers to include such clauses in their subcontracts and supply contracts.

All employers, including Contractor, that employ subject workers who work under this Contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its Subcontractors complies with these requirements.

PAYMENT FOR MEDICAL CARE

Pursuant to ORS 279C.530, and as a condition to Port's performance hereunder, Contractor shall promptly, as due, make payment to any person, partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention, incident to sickness or injury, to the employees of such Contractor, all sums of which the Contractor agrees to pay for such service and all moneys and sums which the Contractor has collected or deducted from the wages of personnel pursuant to any law, contract or agreement for the purpose of providing or paying for such services.

HOURS OF LABOR

As a condition to Port's performance hereunder, Contractor shall comply with ORS 279C.520, as amended from time to time and incorporated herein by this reference. Contractor shall give a written schedule to employees showing the number of hours per day and days per week the employee may be required to work. Pursuant to ORS 279C.520 and as a condition to Port's performance hereunder, no person shall be employed to perform Work under this Contract for more than ten (10) hours in any day of forty (40) in any one week, except in cases of necessity, emergency or where public policy absolutely requires it. In such instances, Contractor shall pay the employee at least time and a half pay:

- (a) For all overtime in excess of eight (8) hours a day or forty (40) hours in any one week when the work week is five consecutive days, Monday through Friday, or
- (b) For all overtime in excess of ten (10) hours a day or forty hours (40) in any one week when the work week is four consecutive days Monday through Friday; and
- (c) For all Work performed on Saturday and on any legal holidays specified in ORS 279C.540.

This section will not apply to Contractor's Work under this Contract if Contractor is currently a party to a collective bargaining agreement with any labor organization.

This section shall not excuse Contractor from completion of the Work within the time required under this Contract.

SECTION D Changes in Work

CHANGES IN WORK

The terms of the Contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Port's Authorized Representative, and then only in a manner consistent with the Change Order provisions of this conditions and after any necessary approvals required by public contracting laws have been obtained. Otherwise, a formal contract amendment is required, which shall not be effective until its execution by the parties to this Contract and all approvals required by public contracting laws have been obtained.

It is mutually agreed that changes in Plans, quantities, or details of construction are inherent in the nature of construction and may be necessary or desirable during the course of construction. Within the general scope of this Contract, the Port's Authorized Representative may at any time, without notice to sureties and without impairing the Contract, require changes consistent with this section. All Change Order Work shall be executed under the conditions of the Contract Document. Such changes may include, but are not limited to:

- (a) Modifications of specifications and design.
- (b) Increases or decreases in quantities.
- (c) Increases or decreases to the amount of Work.
- (d) Addition or elimination of any Work item.
- (e) Changes in the duration of the project.

- (f) Acceleration or delay in performance of Work.
- (g) Deductive changes.

Deductive changes are those made that reduce the scope of the Work, and shall be made by mutual agreement whenever feasible. In cases of suspension or partial termination under section I, "Termination or Suspension" to follow, Port reserves the right to unilaterally impose a deductive change and to self perform such Work, for which the provisions of "Port's Right to Do Work" shall then apply.

Adjustments in compensation shall be made under the conditions following, in which costs for deductive changes shall be based upon Direct Costs adjustments together with the related percentage markup specified for profit, Overhead and other indirect costs, unless otherwise agreed to by Port.

The Port and Contractor agree that Change Order Work shall be administered and compensated according to the following:

- (a) Unit pricing may be utilized at the Port's option when unit prices or solicitation alternatives were provided that established the cost for additional Work, and a binding obligation exists under the Contract on the parties covering the terms and conditions of the additional work.
- (b) If the Port elects not to utilize the unit pricing, or if in the event that unit pricing is not available or appropriate, fixed pricing may be used for Change Work Order. In fixed pricing the basis of payments or total price shall be agreed upon in writing between the parties to the Contract, and shall be established before the Work is done whenever feasible. The mark-ups set forth following shall be utilized by the parties as a guide in establishing fixed pricing, and will not be exceeded by Port without adequate justification. Cost and price data relating to Change Orders shall be supplied by Contractor to Port upon request, but Port shall be under no obligation to make such requests.
- (c) In the event that unit pricing and fixed pricing are not utilized, then the Change Order Work shall be performed on a cost reimbursement basis for Direct Costs. Such work shall be compensated on the basis of the actual, reasonable and allowable cost of labor, equipment, and material furnished on the Work performed. In addition, the following mark-ups shall be added to the Contractor's or Subcontractor's Direct Costs as full compensation for profit, Overhead and other indirect costs for Work directly performed with the Contractor's or Subcontractor's own forces:

On labor15%
 On Equipment..10%
 On Materials.....10%

When Change Order Work is invoiced by an authorized subcontractor at any level, each ascending tier Subcontractor or Contractor will be allowed a supplemental mark-up on each piece of subcontract Work covered by such change Order as follows:

\$0.00-\$5,000.00	10%, and then
over \$5,000.00	5%

Payments made to Contractor shall be complete compensation for Overhead, profit, and all costs that were incurred by the Contractor or by other forces furnished by the Contractor, including Subcontractors, for Change Order Work. Port may establish a maximum cost for Change Order Work under this section which shall not be exceeded for reimbursement without additional written authorization from Port. Contractor shall not be required to complete such Change Order Work without additional authorization.

Any necessary adjustments of Contract Time that may be required as a result of a Change Order must be agreed upon by the parties before the start of the Change Order Work unless Port's Authorized Representative authorizes Contractor to start the work before agreement on Contract Time adjustment. Contractor shall submit any request for additional compensation and additional contract time as soon as possible but no later than thirty (30) Days after receipt of the Change Order. If not received within the time limit, Contractor's requests pertaining to that Change Order are barred. The thirty day time limit applies to claims of Subcontractors, suppliers, or manufacturers that may be affected by the Change Order.

If Port's Authorized Representative denies the Contractor's request for additional compensation or adjustment of Contract Time, the Contractor may proceed to file a claim under the Claims Review Process described hereafter in this Section D.

No request or claim by the Contractor for additional cost or an extension of Contract Time shall be allowed if made after receipt of final payment application under this Contract. Contractor agrees to submit its final payment application within ninety (90) days after Substantial Completion, unless Port grants a written extension. Contractor shall not delay final payment application for any reason.

DELAYS

Delays in construction include "Avoidable Delays", which are defined in the following section, and "Unavoidable Delays", which are defined in the one after. Found in this section are the effects of Avoidable Delays and Unavoidable Delays.

Avoidable Delays include any delays other than Unavoidable Delays, and include delays that otherwise would be considered Unavoidable Delays but that:

- (a) Could have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.
- (b) Affect only a portion of the Work and do not necessarily prevent or delay the prosecution of neither other parts of the Work nor the completion of the whole Work within the Contract Time.
- (c) Do not impact activities on the accepted critical path schedule.
- (d) Are associated with the reasonable interference of other contractors employed by the Port that do not necessarily prevent the completion of the whole Work within the Contract Time.

Unavoidable Delays include delays other than Avoidable delays that are:

- (a) Caused by any actions of the Port, Port's Authorized Representative, or any other employee or agent of the Port, or by separate contractor employed by the Port.
- (b) Caused by any site conditions which differ materially from what was represented in the Contract Documents or from conditions that would normally be expected to exist and be inherent to the construction activities defined in the Contract Documents. The Contractor shall notify the Port's Authorized Representative immediately of differing site conditions before the area has been disturbed. The Port's Authorized Representative will investigate the area and make a determination as to whether or not the conditions differ materially from either the conditions stated in the Contract Documents or those which could reasonably be expected in execution of this particular contract. If Contractor and the Port's Authorized Representative agree that a differing site condition exists, any additional compensation or additional Contract Time will be determined based on the process set forth in previous sections for Change Order Work. If the Port's Authorized Representative disagrees that a differing site condition exists and denies Contractor's request for additional compensation or Contract Time, Contractor may proceed to file a Claim under re: *Claims Review Process*. (following section)
- (c) Caused by Force Majeure acts, events or occurrences that could not have been avoided by the exercise of care, prudence, foresight, and diligence on the part of the Contractor or its Subcontractors.
- (d) Caused by adverse weather conditions. Any adverse weather conditions must be substantiated by documentary evidence that weather conditions were abnormal for the specific time period claimed, could not have been anticipated by the Contractor, and adversely impacted the project in a manner that could not be avoided by rescheduling the Work or by implementing measures to protect against the weather so that the Work could proceed. A rain, windstorm, high water, or other natural phenomenon for the specific locality of the Work, which might reasonably have been anticipated from the previous 10-year historical records of the general locality of the Work, shall not be construed as abnormal. The parties agree that rainfall greater than the following levels cannot be reasonably anticipated:
 - a. Daily rainfall equal to, or greater than, 0.50 inch during a month when the monthly rainfall exceeds the normal monthly average by twenty-five percent (25%) or more.
 - b. Daily rainfall equal to, or greater than, 0.75 inch at any time.

The Office of the Environmental Data Service of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce nearest the project site shall be considered the official agency of record for weather information.

Except as otherwise provided in ORS 279C.315, Contractor shall not be entitled to additional compensation or additional Contract Time for Avoidable Delays.

In the event of Unavoidable Delays, based on principles of equitable adjustment, Contractor may be entitled to the following:

- (a) Contractor may be entitled to additional compensation or additional Contract Time, or both, for Unavoidable Delays described earlier in section.
- (b) Contractor may be entitled to additional Contract Time for Unavoidable Delays described in previous section.

In the event of any requests for additional compensation or additional Contract Time, or both, as applicable, arising under this section for Unavoidable Delays, other than requests for additional compensation or additional Contract Time for differing site conditions for which a review process is established under previous section, Contractor shall submit a written notification of the delay to the Port's Authorized Representative within two (2) days of the occurrence of the cause of the delay. This written notification shall state the cause of the potential delay, the project components impacted by the delay, and the anticipated additional Contract Time or the additional compensation, or both, as applicable, resulting from the delay. Within seven (7) days after the cause of the delay has been mitigated, or in no case more than thirty (30) days after the initial written notification, the Contractor shall submit to the Port's Authorized Representative, a complete and detailed request for additional compensation or additional Contract Time, or both, as applicable, resulting from the delay. If the Port's Authorized Representative denies Contractor's request for additional compensation or adjustment of Contract Time, the Contractor may proceed to file a Claim under the following section, *Claims Review Process*.

If Contractor does not timely submit the notices required under this section, then unless otherwise prohibited by law, Contractor's Claim shall be barred.

CLAIMS REVIEW PROCESS

All Contractor Claims shall be referred to the Port's Authorized Representative for review. Contractor's Claims, including Claims for additional compensation or additional Contract Time, shall be submitted in writing by Contractor to the Port's Authorized Representative within five (5) days after a denial of Contractor's initial request for an adjustment of Contract terms, payment of money, extension of Contract Time or other relief, provided that such initial request has been submitted in accordance with the requirements and within the time limits established in these General Conditions. Within thirty (30) days after the initial Claim, Contractor shall submit to the Port's Authorized Representative, a complete and detailed description of the Claim (the "Detailed Notice") that includes all information required by the following section. Unless the Claim is made in accordance with these time requirements, it shall be waived.

The Detailed Notice of the Claim shall be submitted in writing by Contractor and shall include a detailed, factual statement of the basis of the Claim, pertinent dates, Contract provisions which support or allow the Claim, reference to or copies of any documents which support the Claim, the dollar value of the Claim, and the Contract Time extension requested for the Claim. If the Claim involves Work to be completed by Subcontractors, the Contractor will analyze and evaluate the merits of the Subcontractor claim prior to forwarding it and that analysis and evaluation to the Port's Authorized Representative. The Port's Authorized Representative and the Port will not consider direct claims from Subcontractors, suppliers, manufacturers, or others not a party to this Contract. Contractor agrees that it will make no agreement, covenant, or assignment, nor will it commit any other act that will permit or assist any Subcontractor, supplier, manufacturer, or other to directly or indirectly make a claim against Port.

The Port's Authorized Representative will review all claims and take one or more of the following preliminary actions within ten (10) days of receipt of the Detailed Notice of a Claim: (1) request additional supporting information from the Contractor; (2) inform the Contractor and Port in writing of the time required for adequate review and response; (3) reject the Claim in whole or in part and identify the reasons for rejection;

(4) based on principles of equitable adjustment, recommend approval of all or part of the Claim; or (5) propose an alternate resolution.

The Port's Authorized Representative's decision shall be final and binding on the Contractor unless appealed by written notice to the Port within fifteen (15) days of receipt of the decision. The Contractor must present written documentation supporting the Claim within fifteen (15) days of the notice of appeal. After receiving the appeal documentation, the Port shall review the materials and render a decision within thirty (30) days after receiving the appeal documents.

The decision of the Port shall be final and binding unless the Contractor delivers to the Port its requests for mediation, which shall be a non-binding process, within fifteen (15) days of the date of the Port's decision. The mediation process will be considered to have commenced as of the date the Contractor delivers the request. Both parties acknowledge and agree that participation in mediation is a prerequisite to commencement of litigation of any disputes relating to the Contract. Both parties further agree to exercise their best efforts in good faith to resolve all disputes within sixty (60) days of the commencement of the mediation through the mediation process set forth herein.

In the event that a lawsuit must be filed within this sixty (60) day period in order to preserve a cause of action, the parties agree that notwithstanding the filing, they shall proceed diligently with the mediation to its conclusion prior to actively prosecuting the lawsuit, and shall seek from the Court in which the lawsuit is pending such stays or extensions, including the filing of an answer, as may be necessary to facilitate the mediation process. Further, in the event settlements are reached on any issues through the mediation, the parties agree to promptly submit the appropriate motions and orders documenting the settlement to the Court for its signature and filing.

The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be split equally between the two parties. Both parties agree to exercise their best effort in good faith to resolve all disputes in mediation. Participation in mediation is a mandatory requirement of both the Port and the Contractor. The schedule, time and place for mediation will be mutually acceptable, or, failing mutual agreement, shall be as established by the mediator. The parties agree to comply with Port's mediation, if any, and shall execute all necessary documents to give effect to such confidentiality rules. In any event, the parties shall not subpoena the mediator or otherwise require the mediator to produce records, notes or work product, or to testify in any future proceedings as to information disclosed or representations made in the course of mediation, except to the extent disclosure is required by law.

Unless otherwise directed by Port's Authorized Representative, Contractor shall proceed with the Work while any Claim of Contractor is pending, including a Claim for additional compensation or additional Contract Time resulting from Change Order Work. Regardless of the review period or the final decision of the Port's Authorized Representative, the Contractor shall continue to diligently pursue the Work as identified in the Contract Documents. In no case is the Contractor justified or allowed to cease Work without a written stop work order from the Port or Port's Authorized Representative.

SECTION E

Payments

BID SHEET

The contractor shall submit, at least ten (10) days prior to submission of its first application for progress payment, a schedule of values for the contracted Work. This schedule will provide a breakdown of values for the contracted Work and will be the basis for progress payments. The breakdown will demonstrate reasonable, identifiable, and measurable components of the Work. Unless objected to by the Port's Authorized Representative, this schedule shall be used as the basis for reviewing Contractor's applications for payment. If objected to by Port's Authorized Representative, Contractor shall revise the schedule of values and resubmit the same for approval of Port's Authorized Representative.

APPLICATIONS FOR PAYMENT

Port shall make progress payments on the Contract monthly as Work progresses. Payments shall be based upon estimates of Work completed and the Schedule of Values. The Port's Authorized Representative shall approve all payments. A progress payment shall not be considered acceptance or approval of any Work or waiver of any defects therein. Port shall pay to Contractor interest on the progress payment, not including retainage, due the Contractor. The interest shall commence thirty (30) days after the receipt of invoice from the Contractor or fifteen (15) days after the payment is approved by the Port's Authorized Representative, whichever is the earlier date. The rate of interest shall equal three times the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank in the Federal Reserve district that includes Oregon on the date that is thirty (30) days after receipt of the application for payment from the Contract or fifteen (15) days after the payment is approved by the Port, whichever is the earlier date, but the rate of interest shall not exceed thirty percent (30%). Notwithstanding the foregoing, in instances when an application for payment is filled out incorrectly, or when there is any defect or impropriety in any submitted application or when there is a good faith dispute, Port shall so notify the Contractor within fifteen (15) days stating the reason or reasons the application for payment is defective or improper or the reasons for the dispute. A defective or improper application for payment, if corrected by the Contractor within seven (7) days of being notified by the Port, shall not cause a payment to be made later than specified in this section unless interest is also paid. Accrual of interest will be postponed when payment on the principal is delayed because of disagreement between the Port and the Contractor.

Contractor shall submit to the Port's Authorized Representative, an application for each payment and, if required, receipts or other vouchers showing payments for materials and labor, including payments to Subcontractors. Contractor shall include, in its application for payment, a schedule of the percentages of the various parts of the Work completed, based on the Schedule of Values which shall aggregate to the payment application total, and shall include, on the face of each copy thereof, a certificate in substantially the following form:

"I, the undersigned, hereby certify that the above bill is true and correct, and the payment therefore, has not been received."

Signed:

Generally, applications for payment will be accepted only for materials that have been installed. Under special conditions, applications for payment for stored materials will be accepted at Port's sole discretion. Such a payment, if made, will be subject to the following conditions:

- (a) The request for stored material shall be submitted at least thirty (30) days in advance of the application for payment on which it appears. Applications for payment shall be entertained for major equipment, components or expenditures only.
- (b) The Contractor shall submit applications for payment showing the quantity and cost of the material stored.
- (c) The material shall be stored in a bonded warehouse and Port's Authorized Representative shall be granted the right to access the material for the purpose of removal or inspection at any time during the Contract Period.
- (d) The Contractor shall name the Port as co-insured on the insurance policy covering the full value of the property while in the care and custody of the Contractor until it is installed. A certificate noting this coverage shall be issued to the Port.
- (e) Payments shall be made for materials only. The submitted amount of the application for payment shall be reduced by the cost of transportation and for the cost of an inspector to check the delivery at out of town storage sites. The cost of said inspection shall be borne solely by the Contractor.
- (f) Within sixty (60) days of the application for payment, the Contractor shall submit evidence of payment covering the material stored.
- (g) Payment for stored materials shall in no way indicate acceptance of the materials or waive any rights under this Contract for the rejection of the Work or materials not in conformance with the Contract Documents.
- (h) All required documentation must be submitted with the respective application for payment.

The Port reserves the right to withhold all or part of a payment, or may nullify in whole or part any payment previously made, to such extent as may be necessary in the Port's opinion to protect the Port from loss because of:

- (a) Work that is defective and not remedied, or that has been demonstrated or identified as failing to conform with the Contract Documents,
- (b) Third party claims filed or evidence reasonably indicating that such claims will likely be filed unless security acceptable to the Port is provided by the Contractor;
- (c) Failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment (in which case Port may issue checks made payable jointly to Port and such unpaid persons under this provision, or directly to Subcontractors and suppliers at any level under previous sections.
- (d) Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Price;
- (e) Damage to the Port or another contractor;
- (f) Reasonable evidence that the Work will not be completed within the Contract Time required by the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
- (g) Failure to carry out the Work in accordance with the Contract Documents; or
- (h) Assessment of liquidated damages, when withholding is made for offset purposes.

Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- (a) Take that portion of the Contract Price properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Price allocated to that portion of the Work in the Schedule of Values, less retainage as provided in section, *Retainage*. Pending final determination of cost to the Port of changes in the Work, amounts not in the dispute may be included even though the Contract Price has not yet been adjusted by Change Order.
- (b) Add that portion of the Contract Price properly allocable to materials and equipment delivered and suitably stored at the at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Port pursuant to previous section, suitably stored off the site at a location agreed upon in writing), less retainage as provided in Section, *Retainage*.
- (c) Subtract the aggregate of previous payments made by the Port; and
- (d) Subtract any amounts for which the Port's Authorized Representative has withheld or nullified payment as provided in the Contract Documents.

Contractor's applications for payment may not include requests for payment for portions of the Work for which the Contractor does not intend to pay to a Subcontractor or material supplier.

The Contractor warrants to Port that title to all Work covered by an application for payment will pass to the Port no later than the time of payment. The Contractor further warrants that upon submittal of an application for payment all Work for which payments are received from the Port shall be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

If Contractor disputes any determination by Port's Authorized Representative with regard to any application for payment, Contractor nevertheless shall continue to prosecute expeditiously the Work. No payment made hereunder shall be or be construed to be final acceptance or approval of that portion of the Work to which such partial payment relates or shall relieve Contractor of any of its obligations hereunder.

PAYROLL CERTIFICATION REQUIREMENT

Payroll certification is required before payments are made on the Contract. Refer back to section, *Payroll Certification: Additional Retainage; Fee Requirements* for this information.

DUAL PAYMENT SOURCES

Contractor shall not be compensated for Work performed under this Contract from any state agency other than the agency that is a party to this Contract.

RETAINAGE

Retainage shall be withheld and released in accordance with ORS 279C.550 to 279C.580:

Port may reserve as retainage from any progress payment an amount not to exceed five percent (5%) of the payment. As Work progresses, Port may reduce the amount of the retainage and may eliminate retainage on any remaining monthly Contract payments after fifty percent (50%) of the Work under the Contract is completed if, in the Port's opinion, such Work is progressing satisfactorily. Elimination or reduction of retainage shall be allowed only upon written application by the Contractor, which application shall include written approval of Contractor's surety; except that when the Work is ninety-seven and one half percent (97.5%) completed the Port may, at its discretion and without application by the Contractor, reduce the retained amount to one hundred percent (100%) of the value of the Work remaining to be done. Upon receipt of written application by the Contractor, Port shall respond in writing within a reasonable time.

In accordance with the provisions of ORS 279C.560 and any applicable administrative rules, Contractor may request in writing:

- (a) to be paid amounts which would otherwise have been retained from progress payments where Contractor has deposited acceptable bonds and securities of equal value with Port or in a custodial account or other mutually-agreed account satisfactory to Port, with an approved bank or trust company to be held in lieu of the cash retainage for the benefit of Port;
- (b) *that retainage be deposited in an interest bearing account, established through the State Treasurer for state agencies, in a bank, savings banks, trust company or savings association for the benefit of Port, with earnings from such account accruing to the Contractor; or*
- (c) that the Port allow Contractor to deposit a surety bond for the benefit of Port, in a form acceptable to Port, in lieu of all or a portion of funds retained or to be retained. Such bonds and any proceeds therefrom shall be made priority as set forth for retainage under ORS 279C.550 to ORS 279C.625.

Where the Port has accepted the Contractor's election of option (a) or (b), Port may recover from Contractor any additional costs incurred through such election by reducing Contractor's final payment. Where the Port has agreed to Contractor's request for option (c), Contractor shall accept like bonds from Subcontractors and suppliers on the project from which Contractor has required retainages.

The retainage held by Port shall be included in and paid to the Contractor as part of the final payment of the Contract Price. The Port shall pay to Contractor interest at the rate of one and one-half percent (1.5%) per month on the final payment due Contractor, interest to commence thirty (30) days after the Work under the Contract has been completed and accepted and to run until the date Contractor shall notify Port in writing when the Contractor considers the Work complete and Port shall, within fifteen (15) days after receiving the written notice, either accept the Work or notify the contractor of Work yet to be performed on the contract. If Port does not within the time allowed notify the Contractor of Work yet to be performed to fulfill contractual obligations, the interest provided by the subsection shall commence to run thirty (30) days after the end of the fifteen (15) day period.

In accordance with the provisions of ORS 279C.560, Port shall reduce the amount of the retainage if the Contractor notifies the controller of the Port that the Contractor has deposited in an escrow account with a bank or trust company, in a manner authorized by the Port's Authorized Representative, bonds and securities of equal value of a kind approved by the Port's Authorized Representative.

Contractor agrees that if Contractor elects to reserve a retainage from any progress payment due to any Subcontractor or supplier, such retainage shall not exceed five percent (5%) of the payment, and such retainage withheld from Subcontractors and suppliers shall be subject to the same terms and conditions stated in Subsection, *Retainage* as apply to Port's retainage from any progress payment due to Contractor.

As provided in subsections under section *Payroll Certification: Additional Retainage; Fee Requirements*, additional retainage in the amount of twenty-five percent (25%) of amounts earned shall be withheld and

released in accordance with ORS 279C.845(7) when the Contractor fails to file certified statements as required by the first subsection of section, *Payroll Certification: Additional Retainage; Fee Requirements*.

FINAL PAYMENT

Upon completion of all the Work under this Contract, the Contractor shall notify the Port's Authorized Representative, in writing, that Contractor has completed Contractor's part of the Contract and shall request final payment. Upon receipt of such notice the Port's Authorized Representative will inspect the Work, and if acceptable, submit to the Port a recommendation as to acceptance of the completed Work and as to the final estimate of the amount due the Contractor. If the Work is not acceptable, Port will notify Contractor within fifteen (15) days of Contractor's request for final payment. Upon approval of this final estimate by the Port and approval of this final estimate by the Port and compliance by the Contractor with provisions found in the Section titled, *Contract Close Out. 3 Affidavit/Release of liens and claims*, and other provisions as may be applicable; the Port shall pay to the Contractor all monies due under the provisions of these Contract Documents.

Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Port's Authorized Representative (1) a notarized affidavit/release of liens and claims in a form satisfactory to Port that states that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Port or the Port's property might be responsible or encumbered (less amounts withheld by Port) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be cancelled or allowed to expire until at least thirty (30) Days' prior written notice has been given to the Port, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Port, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Port. If a Subcontractor refuses to furnish a release or waiver required by the Port, the Contractor may furnish a bond satisfactory to the Port to indemnify the Port against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Port all money that the Port may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final application for payment.

SECTION F

Job Site Conditions

USE OF PREMISES

Contractor shall confine equipment, storage of materials and operation of Work to the limits indicated by Contract Documents, law, ordinances, permits or directions of the Port's Authorized Representative. Contractor shall follow the Port's Authorized Representative's instructions regarding use of premises, if any.

PROTECTION OF WORKERS, PROPERTY, AND THE PUBLIC

Contractor shall maintain continuous and adequate protection of all of the Work from damage, and shall protect the Port's Authorized Representative, Port's workers and property from injury or loss arising in connection with this Contract. Contractor shall remedy acceptably to the Port, any damage, injury, or loss, except such as may be directly due to errors in the Contract Documents or caused by authorized representatives or personnel of the Port. Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.

Contractor shall take all necessary precautions for the safety of all personnel on the job site, and shall comply with the Contract Documents and all applicable provisions of federal, state and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of workers and the public against any hazards created by construction. Contractor shall designate a responsible employee or associate on the Work site, whose duty shall be the prevention of

accidents. The name and position of the person designated shall be reported to the Port's Authorized Representative. The Port's Authorized Representative has no responsibility for Work site safety. Work site safety is the responsibility of the Contractor.

Contractor shall not enter upon private property without first obtaining permission from the property Port or its duly Authorized Representative. Contractor shall be responsible for the preservation of all public and private property along and adjacent to the Work contemplated under the Contract and shall use every precaution necessary to prevent damage thereto. In the event the Contractor damages any property, the Contractor shall at once notify the property owner and Port and make, or arrange to make, full restitution. Contractor shall report, immediately in writing, to the Port's Authorized Representative, all pertinent facts relating to such property damage and the ultimate disposition of the claim for damage.

Contractor is responsible for protection of adjacent work areas including impacts brought about by activities, equipment, labor, utilities, and materials on the site.

Contractor shall at all times direct its activities in such a manner as to minimize adverse effects on the environment. Handling of all materials will be conducted so no release will occur that may pollute or become hazardous.

In an emergency affecting the safety of life or of the Work or of adjoining property, the Contractor, without special instruction or authorization from the Port's Authorized Representative, shall act reasonably to prevent threatened loss or injury, and shall so act, without appear, if instructed by the Port's Authorized Representative. Any compensation claimed by the Contractor on account of emergency work shall be determined in accordance with the Section titled *Changes in the Work*.

Contractor shall, at its sole expense, provide all traffic control signage, barriers, and flaggers at no additional cost to Owner.

CUTTING AND PATCHING

Contractor shall be responsible for coordinating all cutting, fitting, or patching of the Work to make its several parts come together properly and fit to receive or be received by work of other Contractors or Subcontractors shown upon, or reasonably implied by, the Contract Documents.

Contractor shall be responsible for restoring all cut, fitted, or patched surfaces to an original condition; provided, however, that if a different condition is specified in the Contract Documents, then Contractor shall be responsible for restoring such surfaces to the condition specified in the Contract Documents.

CLEANING UP

From time to time as may be ordered by the Port the Contractor shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the Work. If Contractor fails to do so within twenty-four (24) hours after notification by the Port, the work may be done by others and the cost charged to the Contractor and deducted from payment due to the Contractor.

DISPOSAL OF SURPLUS MATERIALS

No waste site has been provided by Owner for the disposal of excess materials and debris. Debris shall be taken by Contractor to a disposal site approved by Owner. Contractor shall keep site clean, safe and free of debris. Contractor shall dispose of waste materials in an Owner-approved location.

ENVIRONMENTAL CONTAMINATION

Contractor will be held responsible for and shall indemnify, defend (with counsel of Port's choice) and hold harmless Port from and against any costs, expenses, damages, claims, and causes action, (including attorney fees), or any of them, resulting from all spills, releases, discharges, leaks and disposal of environmental pollution, including storage, transportation and handling during the performance of the Contract which occur as a result of, or are contributed by, the negligence or actions of Contractor or its personnel, agents, or Subcontractors or any failure to perform in accordance with the Contract Documents (except to the extent otherwise void under ORS 30.140). Nothing in this section shall limit Contractor's responsibility for obtaining insurance coverage required under section titled *Insurance* of these General Conditions, and Contractor shall take no action that would void or impair such coverages.

Contractor agrees to promptly dispose of such spills, releases, discharge or leaks to the satisfaction of proper regulatory agencies in a manner that complies with applicable federal, state, and local laws and regulations. Cleanup shall be at no cost to the Port and be performed by properly qualified personnel.

Contractor shall obtain the Port's written consent prior to bringing onto the Work site any (i) environmental pollutants or (ii) hazardous substances or materials, as the same or reasonably similar terms are used in many applicable federal, state, or local statutes, rules and ordinances. Notwithstanding such written consent from the Port, the Contractor, at all times, shall:

- (a) properly handle, use and dispose of all environmental pollutants and hazardous substances or materials brought onto the Work site, in accordance with all applicable federal, state or local statutes, rules or ordinances;
 - i. Contractor must have in date spill response kit on the dock or work vessel and assessable at all times.
- (b) be responsible for any and all spills, releases, discharges, or leaks of (or from) environmental pollutants or hazardous substances or materials which Contractor has brought onto the Work site; and
- (c) promptly clean up, without cost to the Port, such spills, releases, discharges, or leaks to the Port's satisfaction and in compliance with all applicable federal, state, or local statutes, rules or ordinances.

Contractor shall report all reportable quantity releases to applicable federal, state, and local regulatory and emergency response agencies. Reportable quantities are found in 40 CFR Part 302, Table 302.4 for hazardous substances and in OAR Chapter 340 Division 108 for all products addressed therein. Upon discovery, regardless of quantity, Contractor must telephonically report all releases to the Port. A written follow-up report shall be submitted to the Port within forty-eight (48) hours of the telephonic report. Such written report shall contain, as a minimum:

- (a) Description of items released (identity, quantity, manifest no., and all other documentation required by law.
- (b) Whether amount of items released is EPA/DEQ reportable, and, if so, when it was reported.
- (c) Exact time and location of release, including a description of the area involved.
- (d) Containment procedures initiated.
- (e) Summary of communications about the release Contractor has had with members of the press or State officials other than Port.
- (f) Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.
- (g) Personnel injuries, if any, resulting from, or aggravated by, the release.

ENVIRONMENTAL CLEAN-UP

Unless disposition of environmental pollution is specifically a part of this Contract, or was caused by the Contractor (reference section titled *Environmental Contamination*), Contractor shall immediately notify Port of any hazardous substance(s) which Contractor discovers or encounters during performance of the Work required by this Contract. "Hazardous Substance(s)" means any hazardous, toxic and radioactive materials and those substances defined as "hazardous substances," "hazardous materials," "hazardous wastes," "toxic substances," or other similar designations in any federal, state, or local law, regulation, or ordinance, including without limitation asbestos, polychlorinated biphenyl (PCB), or petroleum, and any substances, materials or wastes regulated in 40 CFR, Part 261 and defined as hazardous in 40 CFR S 261.3. In addition to notifying Port of any hazardous substance(s) discovered or encountered, Contractor shall immediately cease working in any particular area of the project where a hazardous substance(s) has been discovered or encountered if continued to work in such area would present a risk or danger to the health or well being of Contractor's or Subcontractor's work force.

Upon being notified by Contractor of the presence of hazardous substance(s) on the project site, Port shall arrange for the proper disposition of such hazardous substance(s).

FORCE MAJEURE

A party to this Contract shall not be held responsible for delay or default due to Force Majeure acts, events or occurrences unless they could have been avoided by the exercise of reasonable care, prudence, foresight, and diligence by that party. The Port may terminate this Contract upon written notice after determining that delay or default caused by Force Majeure acts, events or occurrences will reasonably prevent successful performance of the Contract.

SECTION G

Indemnity, Bonding, and Insurance

RESPONSIBILITY FOR DAMAGES/INDEMNITY

Contractor shall be responsible for all damages to property, injury to persons, and loss, expense, inconvenience, and delay that may be caused by, or result from the carrying out of Work to be done under this Contract, or from any act, omission or neglect of the Contractor, its Subcontractors, personnel, or agents.

To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the PORT, Port's Authorized Agent, its properties, officers, employees, and Architect/Engineer Consultants from and against all liabilities, damages, losses, claims, expenses (including reasonable attorney fees), demands and actions of any nature whatsoever which arise out of, result from or are related to (a) any damage, injury, loss, expense, inconvenience or delay described here, (b) any accident or occurrence which happens or is alleged to have happened in or about the project site or any place where the Work is being performed, or in the vicinity of either at any time prior to the time the Work is fully completed, (c) any failure of the Contractor to observe or perform any duty or obligation under the Contract Documents which is to be observed or performed by the Contractor, or any breach of agreement, representation or warranty of the Contractor contained in the Contract Document or any subcontract, (d) the negligent acts or omissions of the Contractor, a subcontractor or anyone directly or indirectly employed by them or any one of them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder (except to the extent otherwise void under ORS 30.140) and (e) any lien filed upon the project or bond claim in connection with the Work. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or persons described in this section.

PERFORMANCE AND PAYMENT SECURITY; PUBLIC WORKS BOND

When the contract price is \$100,000 or more (\$50,000 or more in the case of Contracts for highways, bridges and other transportation projects) the Contractor shall furnish and maintain in effect at all times during the Contract Period, a performance bond in a sum equal to the Contract Price, and a separate payment bond also in a sum equal to the Contract Price. The bonds may be required if the Contract Price is less than the above thresholds, if required by the Contract Documents.

Before starting Work, the Contractor shall file with the Construction Contractors Board, and maintain in full force and effect, the separate public works bond required by Oregon laws 2005, chapter 360, and OAR 839-025-0015, unless otherwise exempt from those provisions. The Contractor shall also include in every subcontract a provision requiring the Subcontractor to have a public works bond filed with the Contractors Construction Board before starting Work, unless otherwise exempt, and shall verify that the Subcontractor has filed a public works bond before permitting the Subcontractor to start Work.

INSURANCE

Worker's Compensation: All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers Compensation coverage, unless such employers are exempt under ORS 656.126. This shall include Employer's Liability Insurance with coverage limits of not less than \$100,000 for each accident. Contractors who perform the Work without the assistance or labor of any employee need not obtain such coverage if the Contractor certifies so in writing. Contractor shall ensure that each of its subcontractors complies with these requirements. The Contractor shall require proof of such Workers' Compensation by receiving and keeping on file a certificate of insurance from each Subcontractor or anyone else directly employed by either the Contractor or Subcontractors.

Builder's Risk: During the term of this Contract, for new construction the Contractor shall maintain in force, at its own expense, Builder's Risk Insurance on an all risk form, including earthquake and flood, for an amount equal to the full amount of the Contract. Such insurance shall be maintained until the Owner has occupied the facility.

Commercial General Liability Insurance: Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverages that are satisfactory to the Port. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Contract (to the extent contractual liability coverage for the indemnity is available in the marketplace), and shall be issued on an occurrence basis. Combined single limit per occurrence shall not be less than \$1,000,000 for each job site or location. Each aggregate limit shall not be less than \$1,000,000.

Automobile Liability: Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Contract, Automobile Liability Insurance owned, non-owned and/or hired vehicles, as applicable. The coverage may be written in combination with the Commercial General Liability Insurance. Combined single limit per occurrence shall not be less than \$1,000,000, or the equivalent.

Tail Coverage: If any of the required liability insurance is on a "claims made" basis, "tail" coverage will be required at the completion of the Contract for a duration of 24 months. Contractor will be responsible for furnishing certification of "tail" coverage as described or continuous "claims made" liability for twenty-four (24) months following Final Completion. Continuous "claims made" coverage will be acceptable in lieu of "tail" coverage, provided its retroactive date is on or before the effective date of this Contract. This will be a condition of final acceptance.

Additional Insured: The liability Insurance coverage, except for the Professional Liability if included, required for this Contract shall include the Port, officers, and employees, as Additional Insureds but only with respect to the Contractor's activities to be performed under this Contract.

There shall be no cancellation, material change, potential exhaustion coverages without thirty (30) Days' written notice from the Contractor or its insurer(s) to the Port.

As evidence of coverage, Contractor shall furnish the a certificate of insurance to Port prior to Issuance of a Notice to Proceed. The certificate will specify all of the parties who are Additional Insureds or Loss Payees. Insurance coverages required under this Contract shall be obtained from insurance companies or entities acceptable to the Port that are allowed to provide such insurance under Oregon law. The certificate will also specify that there shall be no cancellation, material change, potential exhaustion of aggregate limits or intent to not renew insurance coverages without thirty (30) Days' written notice from the insurer(s) to Port. The Contractor shall be financially responsible for all deductibles, self-insured retentions and/or self-insurance included hereunder. Any deductible, self-insured retention and/or self insurance in excess of \$50,000 shall be approved by the Port in writing prior to issuance of a Notice to Proceed and is subject to Port's approval.

Insurance coverages required under this Contract shall be obtained from insurance companies or entities acceptable to the Port that are allowed to provide such insurance under Oregon law.

Jones Act: The contractor must be aware of the requirements of this act and have the necessary maritime insurance in place.

SECTION H

Schedule of Work

CONTRACT PERIOD

Time is of the essence on this contract. The Contractor shall at all times carry on the Work diligently, without delay and punctually fulfill all requirements herein. Contractor shall commence work within ten (10) days of Notice to Proceed, unless otherwise directed.

Unless specifically extended by Change Order, all Work shall be complete by the date contained in the Contract Documents.

The Port will not waive any rights under the Contract by permitting the Contractor to continue or complete the Work or any part of it after the date described above.

SCHEDULE

Contractor shall provide, by or before the pre-construction conference, a detailed schedule for review and acceptance by the Port. The submitted schedule must illustrate Work by significant project components, significant labor trades and long lead times. Schedules lacking adequate detail, or unreasonably detailed, will be rejected. Included within the schedule are the following: Notice to Proceed, Substantial Completion, and Final Completion. Schedules will be updated monthly and submitted with the monthly pay application. Acceptance of the schedule by the Port does not constitute agreement by the Port, as to the Contractor's sequencing, means, methods or allocated Contract Time. In no case shall the Contractor make a request for additional compensation for delays if the Work is completed within the Contract Time but after the Contractor's scheduled completion.

WORKING DAYS

Contractor shall complete all physical Contract Work within the number of "working days" stated in the Contract Provisions or as extended by Owner. Every day will be counted as a "working day" unless it is a nonworking day or an Owner-determined unworkable day. A nonworking day is defined as a Saturday, a Sunday, a day on which the Contract specifically suspends Work, or one of these Owner holidays: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

An unworkable day is defined as a half or whole day Owner declares to be unworkable because of weather or conditions caused by the weather that prevents satisfactory and timely performance of the Work shown on the critical path of the Contractor's approved progress schedule. Other conditions beyond the control of the Contractor may qualify for an extension of time.

Each working day shall be charged to the Contract as it occurs, until the Contract Work is physically complete. If Substantial Completion has been granted and all the authorized working days have been used, charging of working days will cease. Each week the Owner will provide the Contractor a statement that shows the number of working days: (1) charged to the Contract the week before; (2) specified for the Physical Completion of the Contract; and (3) remaining for the Physical Completion of the Contract. The statement will also show the nonworking days and any half or whole day the Owner declares as unworkable. Within 10-calendar days after the date of each statement, the Contractor shall file a written protest of any alleged discrepancies in it. To be considered by the Owner, the protest shall be in sufficient detail to enable the Owner to ascertain the basis and amount of time disputed. By not filing such detailed protest in that period, the Contractor shall be deemed as having accepted the statement as correct.

Owner will give the Contractor written notice of the Physical Completion Date for all Work the Contract requires. That date shall constitute the Physical Completion Date of the Contract, but shall not imply Owner acceptance of the Work or the Contract.

Owner will give Contractor written notice of the Completion Date of the Contract after all the Contractor's obligations under the Contract have been performed by the Contractor. The following events must occur before the Completion Date can be established:

1. The physical Work on the project must be complete; and
2. The Contractor must furnish all documentation required by the Contract and required by law, to allow Owner to process final acceptance of the Contract. The following documents must be received by Owner prior to establishing a Completion Date:
 - a. Certified Payrolls
 - b. Material Acceptance Certification Documents
 - c. Final Contract Voucher Certification

SECTION I

Correction of Work

BEFORE FINAL PAYMENT

The Contractor warrants to the Port that materials and equipment furnished under this Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the work will be free from defects, and that the Work will conform to the requirements of the Contract Documents. Work failing to conform to these requirements shall be deemed defective. Contractor shall promptly remove from the premises and replace all defective materials and equipment as determined by the Port's Authorized Representative, whether incorporated in the Work or not. Removal and replacement shall be without loss or expense to the Port, and Contractor shall bear the cost of repairing all Work destroyed or damaged by such removal or replacement. Contractor shall be allowed a period of no longer than sixty (60) days for completion of defective (punch list) work, unless otherwise agreed. At the end of that period, or earlier if requested by the Contractor, the Port shall arrange for inspection of the Work by the Architect/Engineer. Should the work not be complete, and all corrections made, the costs for all subsequent re-inspections shall be borne by the Contractor. If Contractor fails to complete the punch list work within the above time period, without affecting Contractor's obligations the Port may perform such work and Contractor shall reimburse the Port all costs of the same within thirty (30) days after demand.

WARRANTY WORK

Neither the final certificate of payment nor any provision of the Contract Documents shall relieve the Contractor from responsibility for defective work and, unless a longer period is specified, Contractor shall correct all defaults that appear in the work within a period of one year from the date of issuance of the written notice of substantial completion by the Port except for latent defects which will be remedied by the Contractor at any time they become apparent.

The Port shall give the Contractor notice of defects with reasonable promptness. Contractor shall perform such warranty work within a reasonable time after Port's demand. If Contractor fails to complete the warranty work within such period as Port determines reasonable, or at any time in the event of warranty work consisting of emergency repairs, without affecting Contractors obligations, Port may perform such work and Contractor shall reimburse Port all costs of the same within thirty (30) days after demand.

This provision does not negate guarantees or warranties for periods longer than one year including without limitations such guarantees or warranties required by other sections of the Contract Documents for specific installations, materials, processes, equipment or fixtures.

In addition to Contractor's warranty, manufacturer's warranties shall pass to the Port and shall not take effect until affected work has been accepted in writing by the Port's Authorized Representative.

The one-year (1) period for correction of Work shall be extended with respect to portions of Work performed after substantial completion by the period of time between substantial completion and the performance of the work, and shall be extended by corrective Work performed by the Contractor pursuant to this section, as to work corrected.

If the Port prefers to accept Work which is not in accordance with the requirements of the Contract Documents, the Port may do so instead of requiring its removal and correction, in which case the Contract

Price will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

Section J

Suspension or Termination of the Work

PORT'S RIGHT TO SUSPEND WORK

The Port and the Port's Authorized Representative has the authority to suspend portions or all of the Work due to the following causes:

- (a) Failure of the Contractor to correct unsafe conditions;
- (b) Failure of the Contractor to carry out any provision of the Contract;
- (c) Failure of the Contractor to carry out orders;
- (d) Conditions, in the opinion of the Port's Authorized Representative, which are unsuitable for performing the work;
- (e) Time required to investigate differing site conditions;
- (f) Any reason considered to be in the public interest.

The Port shall notify the Contractor and the Contractor's Surety in writing of the effective date and time of the suspension and shall notify Contractor and its Surety in writing to resume work.

CONTRACTOR'S RESPONSIBILITIES

During the period of suspension, Contractor is responsible to continue maintenance at the project just as if the work were in progress.

COMPENSATION FOR SUSPENSION

Depending on the reason for suspension of the Work, the Contractor or the Port may be due compensation from the other party. If the suspension was required due to acts or omissions of the Contractor, the Port may assess the Contractor actual costs of the suspension. If the suspension was caused by acts or omissions of the Port, the Contractor shall be due compensation which shall be defined under "Changes in Work". If the suspension was required through no fault of the Contractor or the Port, neither party owes the other for the impact.

PORT'S RIGHT TO TERMINATE CONTRACT

The Port without prejudice to any other right or remedy, and after giving Contractor seven (7) Days written notice and an opportunity to cure, terminate the Contract in whole or part under the following conditions:

- (a) If Contractor should voluntarily or involuntarily, seek protection under the US Bankruptcy Code and Contractor as debtor-in-possession or the Trustee for the estate fails to assume the Contract within a reasonable time;
- (b) If Contractor should make a general assignment for the benefit of Contractor's creditors;
- (c) If a receiver should be appointed on account of Contractor's insolvency;
- (d) If Contractor should repeatedly refuse or fail to supply an adequate number of skilled workers or proper materials to carry on the Work as required by the Contract Documents, or otherwise fail to perform the Work in a timely manner;
- (e) If Contractor should repeatedly fail to make prompt payment to Subcontractors or for material or labor, or should disregard laws, ordinances or the instructions of the Port or Authorized Representative;
- (f) If Contractor is otherwise in material breach of any part of the Contract.

At any time the above occurs, the Port may exercise all rights and remedies available to Port at law or equity, and in addition, Port may take possession of the premises and all of the materials and appliances and finish the Work by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive further payment until the work is completed. If the Port's cost of finishing the Work exceeds the unpaid balance of the Contract Price, Contractor shall pay the difference to the Port.

TERMINATION FOR CONVENIENCE

Port may terminate the Contract in whole or in part whenever Port determines that termination of the Contract is in the best interest of the public.

The Port will provide the Contractor with seven (7) Days' prior written notice of a termination for public convenience. After such notice, the Contractor shall provide the Port with immediate and peaceful possession of the premises and materials located on and off premises for which the Contractor received progress payment. Compensation for Work terminated by the Port under this provision will be paid according to the terms of "Payment of Work." In no circumstances shall Contractor be entitled to lost profits for Work not performed due to termination.

ACTION UPON TERMINATION

Upon receiving a notice of termination, and except as otherwise directed by the Port, Contractor shall immediately cease placing further subcontracts or orders for materials, services, or facilities. In addition, Contractor shall terminate all subcontracts or orders to the extent they relate to the Work terminated and, with the prior written approval of the Port, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts and orders.

As directed by the Port, Contractor shall upon termination transfer title and deliver to the Port all record documents, information, and other property that, if Contract had been completed, would have been required to be furnished to the Port.

SECTION K Contract Close Out

RECORD DOCUMENTS

As a condition of final payment, Contractor shall comply with the following: Contractor shall provide to the Port's Authorized Representative, Record Documents ("Record Drawings;" "As Built") of the entire project. Record Documents shall depict the project as constructed and shall reflect every change, modification, and deletion made during the construction. Record Documents are part of the Work and shall be provided prior to the issuance of final payment. Record Documents include all modifications to the Contract Documents unless otherwise directed. Record Documents shall be provided in an electronic format along with paper copies in 24"x36" dimension.

OPERATION AND MAINTENANCE MANUALS

The O & M Manuals shall contain a complete set of all submittals, all product data as required by the specifications, training information, phone list of consultants, manufactures, installer and suppliers, manufacturer's printed data, record and shop drawings, schematic diagrams of systems, appropriate equipment indices, warranties and bonds. The Port's Authorized Representative shall review and return one O & M Manual for any modifications or additions required. Prior to submission of its final pay request, Contractor shall deliver three (3) complete and approved sets of O & M Manuals to the Port's Authorized Representative.

AFFIDAVIT/RELEASE OF LIENS AND CLAIMS

As a condition of final payment, the Contractor shall submit to the Port's Authorized Representative a notarized affidavit/release of liens and claims form, in a form satisfactory to the Port, which states that all subcontractors and suppliers have been paid in full, all disputes with property owners and the Port have been resolved, all obligations on the project have been satisfied, all monetary claims and indebtedness have been paid, and that to the best of the Contractor's knowledge, there are no claims of any kind outstanding against the project. The Contractor shall indemnify, defend (with counsel of Port's choice) and hold

harmless the Port from all claims for labor and materials furnished under this Contract.

COMPLETION NOTICES

Contractor shall provide the Port notice of both Substantial and Final Completion. The certificate of Substantial Completion shall state the date of Substantial Completion, the responsibilities of the Port and the Contractor for security, maintenance, heat, utilities, damage to Work and insurance, and the time within which the Contractor shall finish all items on the punch list accompanying the Certificate. Both completion notices must be signed by the Contractor and the Port to be valid. The Port shall provide the final signature on the notices. The notices shall take effect on the date signed by the Port.

TRAINING

As part of the Work, and prior to submission of the request for final payment, the Contractor shall schedule with the Port's Authorized Representative, training sessions for all equipment and systems, as required in the individual specifications sections. The O & M Manuals shall be used as a basis for training.

EXTRA MATERIALS

As part of the Work, Contractor shall provide spare parts, extra maintenance materials, and other materials or products in the quantities specified in the specifications, prior to final payment.

ENVIRONMENTAL CLEANUP

As part of the Final Completion notice, or as a separate written notice submitted with or before the Final Completion, the Contractor shall notify the Port that all environmental pollution clean-up which was performed as part of this Contract has been disposed of in accordance with all applicable rules, regulations, laws, and statues of all agencies having jurisdiction over such environmental pollution. The notice shall reaffirm the indemnification given under Section E.

CERTIFICATE OF OCCUPANCY

The Contractor shall not be granted Final Completion or receive final payment if the Port has not received an unconditioned certificate of occupancy from the appropriate state and/or local building officials, unless failure to obtain an unconditional certificate of occupancy is due to the fault or neglect of the Port.

OTHER CONTRACTOR RESPONSIBILITIES

The Contractor shall be responsible for returning to the Port all items issued during construction such as keys and all other pertinent items. The Contractor shall be responsible for notifying the appropriate utility companies to transfer utility charges from Contractor to the Port.

SURVIVAL

All warranty and indemnification provisions of this Contract, and all of Contractor's other obligations under this contract that are not fully performed by the time of Final Completion or termination, shall survive Final Completion or any termination of the Contract.

SECTION L

Legal Relations & Responsibilities

LAWS TO BE OBSERVED

In compliance with ORS 279C.525, there are federal, state, and local agencies of which the Port has knowledge that have enacted ordinances or regulations relating to environmental pollution and the preservation of natural resources that may affect the performance of the Contract.

PART 9
TECHNICAL SPECIFICATIONS

SPECIAL PROVISIONS – UNDERWATER CONCRETE REPAIR

DESCRIPTION

1.01 Description of Work. Perform underwater concrete patching repairs at Piers 6 and 8 of the Hood River Interstate Bridge in accordance with the plans and these special provisions.

MATERIAL

1.02 Material Standards. Materials, equipment, and devices provided shall be manufactured for the specific purposes used and shall have demonstrated success on projects Contractor has performed. Materials shall meet the following requirements:

- Steel plate forms shall be at least 1/4" thick and conform to ASTM A36, or better.
- Anchor rods shall conform to ASTM F1554 Grade 36, ASTM A307, or better, and be hot-dip galvanized.
- Nuts and washers shall be hot-dip galvanized and compatible with the anchor rod used.
- Resin bonded anchors shall utilize epoxy resin conforming to ASTM C881.
- Provide underwater non-shrink grout with a minimum compressive strength of 5000 psi that conforms to ASTM C1107 and CRD 661-06. Use coarse sand in lieu of pea gravel for thick sections.

CONSTRUCTION REQUIREMENTS

1.03 Contractor Experience. Contractors shall have a minimum of 5 years of successful experience performing similar underwater concrete repairs. Provide at least 5 reference projects which involved similar work. Include the name of client, reference contact information, and a description of work performed.

1.04 Field Verification. Repair areas in plans are approximate in size, orientation, and location. Field verify the extent of the repair areas shown that are two inches in depth and greater. Document the field verified repair areas with video recording and sketch drawings with height, width, and depth dimensions for void pockets with depth of two inches and greater and the dimensions of additional area needed for sealing the forms.

Notify the Engineer immediately if areas other than those shown on plans are identified that meet the potential repair criteria. Do no work on those areas until approved by the Engineer.

1.05 Submittals. Provide the following submittals:

- Notice to Mariners – At least four weeks prior to commencing on-site work provide schedule and operation information to Port for U.S. Coast Guard issued Notice to Mariners.
- Safety Plan – At least two weeks prior to commencing on-site work provide a Safety Plan with details of the safety measures and protocols for all aspects of the work. Include details for safe operation of vessels and equipment, above water work area safety practices for specific work to be performed, below water work area safety practices for specific work to be performed, accident and injury protocols, company safety officer and on-site safety supervisor.
- Repair Procedures Workplan – At least two weeks prior to commencing on-site work provide a Repair Procedures Workplan with details of methods, equipment, and procedures for

fabricating and installing forms, sealing of forms, and grouting process for approval by the Engineer. If changes to details shown in the plans are proposed, provide the reasons for proposed change and demonstrate prior successful use.

- Pollution Control and Water Quality Plan – At least two weeks prior to commencing on-site work provide a Pollution Control and Water Quality Plan with details of environmental protection measures. Include preventive and containment measures on vessels to prevent oils and fuels from entering the water, provide clean-up methods and materials should spills occur. Provide preventive and containment measures to keep fresh grout from being discharged into the water.
- Field verification documentation per Subsection 1.04 submitted to Engineer for approval prior to initiating repairs.

1.06 Surface Preparation. Pressure wash or manually brush surface of void pocket area to remove marine growth or loose material. If excessive material removal occurs, reduce pressure or use manual methods to minimize additional removal.

1.07 Forms. Provide steel forms anchored to the concrete that are watertight. Provide ports in forms for injection of grout and expulsion of water to verify displacement.

1.08 Grouting. Fill void pockets by pressure grouting using displacement method. Provide a means of capturing grout discharges needed to verify full displacement of water within void form. Dispose of captured grout discharge in an acceptable manner for waste products.

1.09 Inspection. Provide video documentation of grouting procedure for demonstration of voids being fully displaced and grout discharge captured. Provide video files in .mp4 format as grouting work progresses, preferably within 24 hours but no more than 48 hours after void is grouted. At the Engineer’s discretion, forms shall be removed after adequate curing to verify grouted repair condition. At the Contractor’s discretion forms may be left in place after work is completed.

1.10 Documentation. Provide documentation of the void areas, form dimensions, anchorage and port locations, and volumes of grout applied. Sketch diagrams provided under Subsection 1.04 are acceptable with updates for end results, as needed, and completed volumes.

MEASUREMENT

1.11 Method of Measurement. Measurement for the work will be on the lump sum basis. The estimated quantities of repair areas are:

Location	Average Height (in.)	Average Width (in.)	Average Depth (in.)	Form Plate Area (sq. ft.) *	Grout Volume (cu. ft.) **
Pier 6 – South Face	10	18	4	4.58	0.51
	7	10	8	2.90	0.37

Location	Average Height (in.)	Average Width (in.)	Average Depth (in.)	Form Plate Area (sq. ft.) *	Grout Volume (cu. ft.) **
	15	72	3	15.75	2.29
	16	30	7	8.17	2.14
	48	96	10	45.00	28.17
	72	96	2	63.00	10.20
Pier 6 – North Face	30.0	24.0	6	10.50	2.78
	7.0	36.0	6	6.33	1.00
	5.0	72.0	4	9.92	1.03
	30.0	30.0	3	12.25	1.90
	15.0	144.0	3	29.25	5.81
Pier 6 Totals	-	-	-	208	55
Pier 8 – South Face	8.00	13.00	18.00	6.94	1.20
	10.00	264.00	4.00	42.17	7.20
	8.00	264.00	4.00	38.33	5.82
	120	180	4.00	176.00	56.60
	24.00	204.00	7.00	54.00	21.52
Pier 8 – North Face	120.00	180.00	4.00	176.00	56.60
	12.00	60.00	4.00	12.00	1.96
	3.00	36.00	8.00	5.00	0.58
Pier 8 Totals	-	-	-	510	152

* Plate areas assume 6" added to all sides of void.

** Grout volume includes ½" of relief and 2" added to all sides of void.

PAYMENT

1.12 Basis of Payment. The lump sum bid shall include the cost of furnishing all labor, materials, and equipment necessary to complete the work for "Underwater Concrete Repair".

Progress payments will be authorized as a percentage of the lump sum price based on the following schedule:

- Twenty percent (20%) of the lump sum price will be paid upon mobilization to the site.
- Ten percent (10%) of the lump sum price will be paid upon completion of field verification documentation.
- Twenty percent (20%) of the lump sum price will be paid upon completion of Pier 6 repairs.
- Forty percent (40%) of the lump sum price will be paid upon completion of Pier 8 repairs.
- Ten percent (10%) of the lump sum price will be paid upon final completion of all work, demobilization, and submittal of documentation.

If the field verified grout volumes, accepted by the Engineer, exceeds the estimated quantities by more than ten percent, then a negotiated adjustment to the lump sum price will be entertained.

Additional void pockets identified during field verification and agreed to by the Engineer will be negotiated for additional compensation before being approved and added to the work.

PART 10
CONSTRUCTION PLANS
BOUND SEPERATELY

PART 11

**PORT OF HOOD RIVER
PUBLIC IMPROVEMENT CONTRACT
(Sample)**

**PORT OF HOOD RIVER
PUBLIC IMPROVEMENT CONTRACT**

This Contract entered into between the PORT OF HOOD RIVER, an Oregon municipal corporation, ("PORT") and _____ ("CONTRACTOR"), shall become effective when this Contract has been signed by both parties and the Port has issued to CONTRACTOR a Notice to Proceed with the Work.

WITNESSETH:

WHEREAS, CONTRACTOR, having examined the Work site and become familiar and satisfied with conditions, has submitted an acceptable bid for Underwater Pier Repair for the Hood River Bridge at Hood River, Oregon 97031 ("Work"); and,

WHEREAS, the parties hereto desire that this Contract be undertaken and completed on the terms and conditions as hereafter set forth;

THEREFORE, IT IS AGREED AS FOLLOWS:

Terms of Performance

CONTRACTOR agrees to perform the described Work and provide all machinery, tools, apparatus, materials, equipment, labor and other means of construction necessary to complete the Work at the designated location in accordance with all terms specified in the Contract Documents, which by this reference are incorporated herein, including the following:

- A) Invitation to Bid
- B) Bidding Instructions
- C) First-Tier Subcontractor Disclosure Form
- D) Bid Form/Bid Schedule
- E) Bid Bond
- F) Performance Bond
- G) Payment Bond
- H) Certificate of Insurance
- I) General Conditions of Public Works Contracts
- J) Notice of Intent to Award
- K) Notice to Proceed
- L) Payment of Prevailing Wages Rates
- M) Drawings prepared for/or issued by PORT
- N) Specifications prepared for/or issued by PORT
- O) All affidavits and certifications submitted by CONTRACTOR as part of CONTRACTOR's Bid Documents, which affidavits and certifications CONTRACTOR agrees will remain effective throughout the term of this Contract.

Contract Price:

Subject to the provisions of all Contract Documents and in consideration of the faithful performance of the terms and conditions thereof by the CONTRACTOR, PORT agrees to pay CONTRACTOR _____, in the manner and at the times provided in the Contract Documents. The Contract price is for completing the Work. No alternates are included.

Contract Dates:

Project Start Date: 10 calendar days from issuance of Notice to Proceed.
Substantial Completion: June 30, 2023
Final Completion: July 15, 2023

Liquidated damages

If the CONTRACTOR fails to complete the Work within the time specified or within any extension of time agreed to by both parties in writing, CONTRACTOR shall pay liquidated damages of \$250.00, for each day of delay beyond the completion day identified above. (If no dollar amount is specified this paragraph shall not apply to this Contract.)

Representatives

Unless otherwise specified in the Contract Documents, the Port designates John Mann, as its Authorized Representative in the administration of this Contract. The above-named individual shall be the initial point of contact for matters relating to performance, payment, authorization, and to carry out the responsibilities of the Port. Contractor has named _____ its Authorized Representative to act on its behalf.

Integration

The Contract Documents and this Contract constitute the entire agreement between the parties. No waiver, consent, modification or change of terms of this Contract shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no other understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. Contractor, by the signature below of its authorized representative, hereby acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF the parties have executed this Contract on _____, 20__.

CONTRACTOR

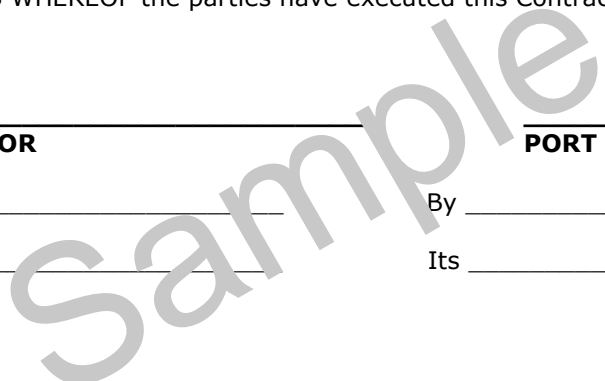
PORT OF HOOD RIVER

By _____

By _____

Its _____

Its _____



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PORT OF HOOD RIVER

Contract Review Checklist

	Yes	Needs Attention
1. Parties: Does the contract specify the parties involved?	<input type="checkbox"/>	<input type="checkbox"/>
2. Legal Authority: Is the statutory authority specified (Example: ORS 190.010)?	<input type="checkbox"/>	<input type="checkbox"/>
3. Dates: Does the contract specify an effective date and termination or duration date?	<input type="checkbox"/>	<input type="checkbox"/>
4. Recitals: Helpful history or context included in the contract?	<input type="checkbox"/>	<input type="checkbox"/>
5. Project Description: Does the contract include a detailed scope of work?	<input type="checkbox"/>	<input type="checkbox"/>
6. Referenced Documents: Are referenced documents clearly labeled and attached? <u>These documents become part of the contract.</u>	<input type="checkbox"/>	<input type="checkbox"/>
7. Roles & Responsibilities: Does the contract describe what each party is expected to do and provide enough detail to know whether it's been done or not?	<input type="checkbox"/>	<input type="checkbox"/>
8. Payment Process: Does the contract clearly state how payments will be made, and what conditions are required before payment will be made?	<input type="checkbox"/>	<input type="checkbox"/>
9. Remedies of Breach: Does the contract note what will happen if one party doesn't do what it agreed to?	<input type="checkbox"/>	<input type="checkbox"/>
10. Hold Harmless: Does the contract contain a provision that will hold parties responsible for their own mistakes?	<input type="checkbox"/>	<input type="checkbox"/>
11. Insurance: Does the contract require the party responsible for the job to have adequate insurance to cover any claims if there is a lawsuit relating to the work?	<input type="checkbox"/>	<input type="checkbox"/>

PROJECT NAME: _____

Notes: _____

Completed by: _____ **Date:** _____

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Commission Memo



Prepared by: Genevieve Scholl
Date: March 7, 2023
Re: Resolution Authorizing EDA Grant Application

At the recommendation of EDA regional representatives, staff is now working to prepare an application to the EDA's FY 2020 Public Works and Economic Adjustment Assistance grant program to fund a portion of the anticipated construction costs for the E. Anchor Way/N. 1st Street project, in the amount of \$981,419 or 23% of the total construction project cost of \$4,267,040. In the proposed funding scenario, the Port would dedicate the \$500,000 awarded by the ODOT Immediate Opportunity Fund and the \$500,000 awarded from the State Fiscal Recovery Fund via Senator Thomsen to the project and would pledge full funding of the remaining \$2,285,621 either from the Port's real estate reserve fund, other grants, or a combination of both.

As with all state and federal funding programs, a formal resolution of the governing body authorizing the submission of the application and confirming the availability of local matching funds should the grant be approved, is required. If approved, the attached Resolution 2022-23-10 would be signed by the Commission President and Secretary and submitted as an attachment to the application.

RECOMMENDATION: Approve Resolution 2022-23-10 authorizing submission of an application to the EDA Public Works and Economic Adjustment Assistance grant program and confirming the availability of matching local funds for the road and utility infrastructure project on Lot 1.

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PORT OF HOOD RIVER
Resolution No. 2022-23-10

**A RESOLUTION AUTHORIZING APPLICATION TO ECONOMIC
DEVELOPMENT ADMINISTRATION FY 2020 PUBLIC WORKS AND
ECONOMIC ADJUSTMENT ASSISTANCE PROGRAM FOR LOT 1
INFRASTRUCTURE AND ROAD CONSTRUCTION PROJECT**

WHEREAS, the U.S. Economic Development Administration is accepting applications for the FY 2020 Public Works and Economic Adjustment Assistance Program; and

WHEREAS, the Port of Hood River desires to participate in this grant program to the greatest extent possible as a means of providing needed road and utility infrastructure facilities to further the development of the Port's Lot #1 waterfront industrial parcel; and

WHEREAS, the Board of Commissioners have identified replacement of the development of Lot #1 as a high priority need for the economic resiliency of the Port of Hood River and the Hood River community; and

WHEREAS, the Port of Hood River has available local matching funds to fulfill its share of the financial obligation related to this grant application should the grant funds be awarded and a grant contract approved;

NOW, THEREFORE, THE PORT OF HOOD RIVER BOARD OF COMMISSIONERS RESOLVES AS FOLLOWS:

The Board of Commissioners authorizes submission of a grant application to the U.S. Economic Development Administration FY 2020 Public Works and Economic Adjustment Assistance program for this purpose.

Adopted by the Board of Commissioners of the Port of Hood River this 7th day of March, 2023.

ATTEST:

Ben Sheppard, President

Mike Fox, Secretary

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