



**PORT OF HOOD RIVER COMMISSION**  
**AGENDA**  
**Tuesday, March 2, 2021**  
**Via Remote Video Conference, Marina Center Boardroom**

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**5:00 P.M.**  
**Regular Session**

1. Call to Order
    - a. Modifications, Additions to Agenda
    - b. Public Comment
  2. Consent Agenda
    - a. Approve Minutes of the January 26, 2021 (*Maria Diaz, Page 3*)
  3. Informational Reports – (*Provided for information only, unless discussion requested by Commissioner*)
    - a. Alternate Contracting Method for Commercial Hangar Development at the Airport (*Anne Medenbach, Page 9*)
    - b. Bridge Replacement Project Update (*Kevin Greenwood, Page 13*)
  4. Presentations & Discussion Items
    - a. Property Leasing Policy Update (*Anne Medenbach, Page 19*)
  5. Executive Director Report (*Michael McElwee, Page 27*)
  6. Commissioner, Committee Reports
    - a. Airport Noise Work Group
  7. Action Items
    - a. Approve Contract with Aron Faegre for Architecture & Design Services Related to Commercial Hangar Development Not to Exceed \$95,000 (*Anne Medenbach, Page 35*)
    - b. Approve Contract with David Evans & Associates for Subsurface Soundings Related to Bridge Replacement Not to Exceed \$69,000 (*Kevin Greenwood, Page 47*)
  8. Commission Call
- 
9. Executive Session under ORS 192.660(2)(e) real estate negotiations.
  10. Possible Action
  11. 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.*

*Port of Hood River Commission  
 Meeting Minutes of January 26, 2021 Regular Session  
 Via Remote Video Teleconference & Marina Center Boardroom  
 5:00 p.m.*

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

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**5:00 p.m.  
 Regular Session**

**Present:** Commissioners John Everitt, Kristi Chapman, Hoby Streich, David Meriwether, Ben Sheppard; from staff, Michael McElwee, Fred Kowell, Kevin Greenwood, Anne Medenbach, Daryl Stafford, Genevieve Scholl, and John Mann; Legal Counsel Jerry Jaques and Anna Cavalieri; Guests: Mike Fox, David Doughman, Harvey Coffman

**Absent:** None

**Media:** None

1. **CALL TO ORDER:** President Jon Everitt called meeting to order at 5:00 pm
    - a. **Modifications or additions to the agenda:** None
    - b. **Public Comment:**
      1. Written public comment received.
      2. Bridge Replacement Presentation - Mr. Mike Fox:
 

Mr. Fox introduced himself and reviewed his background and why he should be sought out to help the Bridge Replacement Project. He goes into further detail about his past projects and job holdings, which include a 45-year career with Bechtel Corporation, four nuclear New Generation Build projects, environmental projects for US DOE, and was also elected a Vice President of Bechtel Corporate. Mr. Fox also spent time in the UK overseeing 2 UK DE&S programs. Mr. Fox then expressed his concerns pertaining to the current bridge replacement efforts. Mr. Fox believes the bridge is deteriorating at a faster pace than expected, the pace of the replacement is likely too slow, efforts to attract funding are not sufficient, current management does not have mega project experience, and the current approach seems too sequential to support the needs of the bridge. His key question is when does the bridge have to be further derated/replaced, and notes the answer ultimately is driven by the pace of the bridge replacement with an unbiased engineering evaluation that includes a realistic economic evaluation. Mr. Fox proposes a 9-component strategy that includes steps like, determining a sense of urgency, attract needed funding, stand up a management organization that covers entire replacement effort, and finalize the EIS, ROD, and all other associated permit approvals. His recommendation is to have a parallel or staggered approach to the project as it will limit surprises that have catastrophic impacts on the project, works several components at the same time, and would most likely get the bridge replaced sooner than a sequential approach. His final call for action urges the Port to determine a date as to when the bridge needs to be replaced, get qualified management contracts/organizations, construct a project summary schedule/obtain a well-documented estimate, and work the strategy components in parallel. Mr. Fox describes his pros and cons pertaining to volunteers for the bridge replacement project. He believes they add experience and insight, they increase community advocacy, and increase visibility as to ongoing projects. However, if not carefully chosen and managed, volunteers may impede progress. His analysis is, organizationally the volunteers fall under the Management organization, and the current draft volunteer agreement is poorly worded and should be revised.
2. **CONSENT AGENDA:**
  - a. Approve Minutes of the December 15, 2020 Regular Session and the January 12, 2021 Regular Session
  - b. Approve Lease with Real Carbon in the Big 7 Building

- c. Approve Lease with ServPro in the Jensen Building
- d. Approve Accounts Payable to Jaques Sharp in the Amount of \$18,830

**Motion:** Approve the Amended Consent Agenda

**Move:** Meriwether

**Second:** Sheppard

**Discussion:** None

**Vote:** Unanimous

**3. INFORMATIONAL REPORTS:**

- a. **Financial Report for the Six Months Ended December 31, 2020**
- b. **Regional Economic Situation Assessment Summary**
- c. **Bridge Replacement Project Update**

**4. PRESENTATION AND DISCUSSION ITEMS:**

**a. Commercial Hangar – Contracting Approach – David Doughman, Esq.**

1. Jerry Jaques and Anne Medenbach introduce David Doughman so that he may explain how he is helping the Port work through the options that differ from the typical bidding process currently being used. Doughman suggests the Port use a design build delivery method to get the hanger built and designed as it is becoming a very common method in Oregon. If we are not going to be designing the project, then bidding it, then building, an exemption process will take place. He then goes on to describe the steps pertaining to said exemption process. There are two components. One would be having a hearing before the commissioners, which is taking testimony and commenting on findings the Commission would have to adopt if it wanted to proceed with whatever method chosen. 14 days in advance of the hearing, the Port staff would give notice to the DJC (biggest construction journal in the state) to say that the Port will be considering these findings and may exempt this contract, and anyone is welcome to submit testimony at given time and place. Based on other commitments, Doughman is more than happy to start the process in the early March or in the near future so that he can start preparing for said exemption process. Commissioner Meriwether asks what the advantages would be of a design build as opposed to the traditional design bid build and why would it be applicable with the hangar project as opposed to any other capital project. Doughman’s response was that some of those advantages are going to depend upon information about the hangar and its uses. At the moment there is no clear advantage as there is not enough detail pertaining to the project to know. However, oftentimes with a design build, you can deliver a complete project on orders of magnitude much faster than you would through a traditional design, then bid, then build. There is one point of responsibility made of an architectural firm and a general contractor that pair up and give a proposal. Commissioner Chapman wondered whether this approach would be used for something like the Odell property which Anne responded with a simple answer of yes in the way that any project could fall under this plan if it fits after an evaluation has been made. With the advice from both John Mann’s experience and that the design build proposal will be better, the Port will pursue this path.

**b. Bridge Approach Ramp Analysis Report – Harvey Coffman, Coffman Engineers**

1. Michael McElwee explained the Port’s interest in seeking out Mr. Coffman for his experience with bridges and movable lift spans and major infrastructure to looking on significant analyses on projects that have a larger potential impact either in cost or risk liability. Mr. Coffman looked in on the

underwater pier condition and the condition of the approach ramps. Mr. Coffman was tasked with reviewing existing information and report any new findings. The current condition of the bridge has an issue with the approach ramps of spalling, potholes, and having to patch those on each approach. Mr. Coffman's recommendation is to use a two-range asphalt overlay with a waterproof membrane. The basis of this recommendation comes from the current bridge inspection reports, conversations with John Mann and Michael McElwee. The reports have identified issues like potholes as well as a chloride contamination that is above the threshold and is also present in the approach concrete deck. In his memo, Coffman puts down references for the Port to consider. The bridge is said to be in a fair state according to the bridge condition code. There is still some residual strength in the deck even though there are chloride contaminations being found. The reports did not identify any substantial amount of corrosion. With the recommended asphalt overlay, the ballpark price would be around 350-400 thousand, which was clarified McElwee pointed out the chart provided showed different numbers. It is recommended that 2 inches of HMA be put on the existing structure which comes with things to consider. One of them being the weight of the overlay and with the existing weight restrictions and the ones to come, it gives enough capacity to absorb the additional weight brought on by the overlay. Expansion joints will need to be modified for the HMA as long as including expansion joint repairs into the project. The last thing to look at is the guardrail height and its possible change with an HMA overlay. Coffman then went on to show pictures illustrating a general view of what is going on and why he is recommending just an overlay. Commissioner Chapman asked McElwee what the projection of load reduction was around the time of this engineering analysis five years ago. He replied that, based on the in depth analysis the bridge could be safe and operational for 30 years. A hard look at the bridge showed that based on new criteria and new concern about specialized hauling vehicles, the limit has to be reduced.

**c. State Legislative Advocacy Update - Dan Bates, Thorn Run Partners; Brad Boswell, Boswell Consulting**

1. Kevin Greenwood introduced Miles Pengilly who is a VP with Thorn run Partners and Brad Boswell is our government affairs representative in Olympia. A lot of time has been spent meeting with members of the joint transportation committee and the ways and means committee. Miles Pengilly is here to provide an update on the Ports progress with the bridge authority legislation and ongoing requests for bridge appropriations to keep engineering efforts moving. Mr. Pengilly starts his presentation by giving a general understanding of what's going on during Oregon's legislative session and dive further into some of the Port specific topics. The week of the 25<sup>th</sup> of January is the first real week for legislative session because it was delayed due to threats of violence at the Oregon State Capital. Mr. Pengilly and his group have gone through the 2000 bills that have been introduced and flagged all that may be of interest to the Port, which have been reviewed by Greenwood and McElwee and provided with feedback. Anything related to public meeting laws and public record laws are kept an eye on the Port's behalf. Search and rescue, office of emergency management, funding for Columbia River Gorge, COVID compensation, and so on. For the Port, any bill related to the I-5 bridge project or anything addressing any sort of bi-state bridge authority are high in priorities as well as funding for industrial infrastructure. Every week a report will be sent out of all the bills flagged for that week. Balancing the budget is of interest, and it is looking like a 1.7-billion-dollar shortfall for the budget this cycle. Within this balancing budget priority, Mr. Pengilly and Mr. Greenwood have been meeting with transportation leaders in the legislature to brief them on the state of the bridge replacement project and make a case for pursuing \$5 million for phase two of the project. Strong support from Representative Williams and Senator Thompson is present as well as support from

Representative McLean. Positive responses have been received overall within the community as well. Mr. Pengilly states in order for legislators in Oregon to be willing to donate 5 million to the project, they want to see a match from Washington state. The concept of a bi-state bridge authority has been discussed and essentially directs the Port of Hood River to work with the members of the BSWG and report back to the legislature by the end of the year. The bill is a venue to talk about the project overall and the concept of the bi-state bridge authority. Other things being worked on for the Port are getting lottery funding of 1.7 million for Hood River's Storm Waterline Project, which is supposed to be released in a lottery bond sale this spring, but because of shortfalls in the Oregon lottery, there won't be enough to fund all projects that they stated to fund in 2019. A resubmission of the binding request for the project will be sent out as well as a Mr. Pengilly's work with the City of Hood River to receive more funding. On another note, there has been work done with the Port of Cascade Locks to secure some federal COVID relief money that is going to be coming to ODOT. OTC will be dealing with allocating the money so work will be with Hood Rivers legislative delegation to try and advocate with ODOT and the OTC to get some of that funding for the Port of Hood River. McElwee then reiterates that the Port is guaranteed a hearing in front of the JTC but then they have to recommend approval where it's then directly onto the floor for review and approval. Brad Boswell then joins the conversation as to where the state of Washington is at in regard to the Hood River Bridge Replacement Project. Right now, Senator King is working on the supplemental to try and get is specifically named when it is scheduled for the Hood River Crossing. A cautionary note was made when talking about the general fund on Washington's state side is better than Oregon's currently is in terms of COVID. Just like Miles Pengilly, Boswell is also taking part in meetings to secure a piece of legislation to try and identify what kind of statutory changes or evolution would need to occur to move towards a Bi-State bridge authority within the next two weeks. Hearing back from the Oregon side that they want at least some level of contingency on wanting to see matching funds from the Washington side which describes a sense of partnership that they're thinking about does the Washington side see us in that way that this is a joint effort on any kind of quid pro quo going on was asked from President Everitt. As of now, they don't yet because the awareness is not enough on this project plus the reality is for most of Washington the club the I-5 bridge sucks most of the energy out of the room on any of that discussion, however no matter what eventually there some sort of discussion and kind of the need for that partnership will be and having both sides of the river being prepared to put resources in was Boswell response. Boswell estimates that the funding could come in early as next month or no later than April.

**d. Lot 1 Planning Overview**

1. Michael McElwee presented a historical review of efforts for planning the development of Lot 1. Commissioner Chapman felt there was good reason for the Commission to be aware of what has been proposed/discussed, and what the next steps are pertaining to Lot 1. The Commission embarked on a more preliminary concept plan to get an idea of what the build-out capacity of Lot 1 was and what roughly approximate configuration of Lot 1 should be back in 2013. In 2014 there was focus on the Nichols Basin West Edge Trail that demonstrated a really strong commitment to the community. The waterfront refinement plan at the end of 2014 showed particular parts that needed more focus/attention in most cases specific zoning change. The concept plans the Port developed became a part of the zoning code. In 2016 the Lot 1 development plan was introduced to utilize not only the zoning code but the self-imposed guidelines. Around the same time, Key Development obtained an architecture firm in Portland and looked at Lot 1 and what could be designed and built. The alternate concept plan derived was more so an economic route so that it was financeable. The

plan the Port developed in many ways follows that of the Key Development plan, but it reflects the zoning code. It acknowledges that the Anchor Way project is an important component piece of any development or build-out of Lot 1. The next step was the development of the Infrastructure Framework Plan recently in 2019 that reflects the organizing principle of the swerve north south through 1<sup>st</sup> Street through Lot 1 and then Anchor Way crossing through.

**5. EXECUTIVE DIRECTOR REPORT:** Michael McElwee restates that the packet provided highlights most important topics to be updated on. There were no further questions.

**6. COMISSIONER, COMMITTEE REPORTS:**

**a. Urban Renewal Agency-** Commissioner Meriwether believes there has already been talk from the proceeding month about the move on the part of Urban Renewal to dedicate all remaining taxing authority or funds to the storm drain project. If there is no appropriation from the state, there will be consideration on whether an increasing of taxing authority, which means going out for a major amendment to be approved by at least 50% of taxing agencies.

**7. ACTION ITEMS:** None

**8. COMMISSION CALL:** None

**9. EXECUTIVE SESSION:** President John Everitt recessed Regular Session at 7:44 pm to call the Commission into Executive Session under ORS 192.660(2)(e) Real Estate Negotiations and ORS 192.660(2)(h) Consultation with legal counsel regarding current litigation or litigation likely to be filed.

**10. POSSIBLE ACTION:** None.

**11. ADJOURN**

**Motion:** Motion to adjourn the meeting

Vote: Unanimous

**MOTION CARRIED**

The meeting adjourned at 8:16 p.m.

Respectfully submitted,

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 Maria Diaz

**ATTEST:**

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John Everitt, President

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David Meriwether, Secretary



# Commission Memo

Prepared by: Anne Medenbach  
Date: March 2, 2021  
Re: Airport Commercial Hangar Contracting



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The Commission has directed staff to take the next steps toward construction of a commercial hangar at the Ken Jernstedt Airfield. Staff is in the process of negotiating a contract with architect Aron Faegre, AIA (“Faegre”) who has significant airport-related design experience.

Staff conferred with outside counsel and Faegre, and the resulting conclusion is that the Port should use the standard Design/Bid/Build process. David Doughman’s legal memo is attached.

**RECOMMENDATION:** Information.

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## MEMORANDUM

TO: Port of Hood River Commission  
Michael McElwee, Executive Director

FROM: David Doughman, Special Legal Counsel

SUBJECT: Update of Procurement Issues for Hangar Project

DATE: February 26, 2021




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This memo addresses procurement and contractual issues related to the possible construction of a commercial hangar at the airport. It will focus on two issues I have reviewed since the January 26, 2021 meeting: (1) the draft agreement with Aron Faegre for architectural services; and (2) a more thorough review of the appropriate contracting method to construct and deliver the hangar.

### **Architect Agreement**

I have reviewed the proposed agreement with Aron Faegre. I suggested a few edits to it, but I generally believe it is a good contract that protects the Port's interests. If the Port proceeds with constructing the hangar, I would recommend the Port execute the agreement with the changes I suggested, or ones that are substantially similar.

### **Procurement of Construction Services**

When I was introduced to this project, I believed the Port had already considered the relative merits and drawbacks of different construction delivery methods for the hangar, and wanted to use an "alternative delivery method" in accordance with Oregon law. In short, Oregon law requires public agencies to follow a traditional design-bid-build ("DBB") method to construct improvements, unless the agency can demonstrate that the project qualifies for the use of an alternative method, such as "design-build" or "construction manager/general contractor" ("CM/GC"). Ultimately, the agency's governing body must hold a hearing and approve findings justifying the use of an alternative method. That action is subject to judicial review.

The traditional DBB method is straightforward. An engineer or architect produces a design, the agency solicits bids based on the design (and associated conditions and specifications) and contractors provide the agency with a total cost to construct the improvement. The agency must award the contract to the "lowest responsible bidder."

Alternatives such as design-build and CM/GC are procured in a different manner and involve different legal relationships as compared to DBB. For instance, a design-build delivery method

places the design and construction responsibility in the hands of one entity. In other words, the entity that designs the improvement also builds it. This is useful in certain situations, particularly where time is of the utmost importance. Construction can generally begin much earlier when one entity is responsible for both design and construction. It also reduces the potential for disputes, as the contractor and the design professional cannot point fingers at each other if there is a problem with the work.

The agency solicits alternative methods of delivery through a request for proposals, where an award is made to the firm whose proposal would best serve the interests of the agency. These contracts also generally feature a guaranteed maximum price for construction, whereby the firm will construct the improvement at cost *plus* a negotiated percentage of the cost. While these alternative delivery methods do have advantages, they are also more complex, demand more time of the agency and require a project manager with experience in such methods.

The vast majority of the hangar project fits best into a traditional DBB framework. As I've come to appreciate, it is a relatively straightforward construction project. Mr. Faegre will be responsible for the vast majority of the design and the contractor will build according to that design. The contractor will be responsible for design of the steel frame, but the design effort is modest and would not be performed by a separate engineer or architect that the contractor would hire. Instead, a subcontractor to the general contractor will design and fabricate the steel structure off-site. With the limited information I had when we met on January 26, I assumed that the contractor would be hiring a design professional and be responsible for more intricate design elements of the structure.

I have since talked with Aron Faegre and have a much better understanding of the project. The design that will be associated with the steel structure is analogous to the incidental design that accompanies the mechanical, electrical and plumbing ("MEP") aspects of virtually all modern construction projects, even those delivered through DBB. In essence, economics and technological advances have resulted in firms that build these systems having engineers in house to produce modest designs that are specific to the MEP of each building.

Therefore, I believe the best approach for this project is a traditional DBB, with a prequalification process that occurs before bids are submitted and evaluated. The prequalification process will ensure that only contractors with sufficient aviation and hangar experience will bid for the work. The prequalification process is permitted outright under Oregon law and is consistent with the approach the City of Pendleton recently took for a hangar, which I understand was very successful. I have assisted other agencies with developing standards for prequalification and would be happy to work with staff as necessary if this approach is ultimately used.



## Hood River – White Salmon

## BRIDGE REPLACEMENT PROJECT

Project Director Report

March 2, 2021

The following summarizes Bridge Replacement Project activities from Feb. 12-26, 2021:

### PROJECT MANAGEMENT UPDATE

#### KEY TAKEAWAY:

- *January invoice included attached.*
- *Special Session on Bridge Replacement Strategy conducted Feb. 25 reaffirmed Port Commission's commitment to the current strategy.*

### GOVERNMENT AFFAIRS/LOBBYING UPDATE

#### KEY TAKEAWAYS:

- *A key Oregon legislator has expressed support for bi-state bridge authority legislation in the '22 session*
- *Washington legislative staff has agreed to start drafting similar legislation for '22*
- *Hood River and Klickitat County state legislators will attend next BSWG meeting*
- *Advocacy for \$5-million from both states continues*

Rep. Susan McLain (D-Hillsboro) expressed some concern about whether the Port's bridge authority would be unpopular and seen as redundant due to the ongoing bridge authority study being conducted by Oregon and Washington for the I-5 bridge. She stated she would be happy to consider 2022 legislation to create a bi-state bridge authority specific to the new Hood River bridge. She did indicate that without competing bridge legislation, it would be easier for her to support the Port's effort for \$5-million for ongoing bridge work. McLain is co-chair of the Joint Transportation Committee, co-chair of the Joint Interstate 5 Bridge Committee, and a member of the Joint Ways and Means Committee. Rep. Anna Williams (D-Hood River) noted the importance of the bi-state effort for bridge replacement and stressed her support for bi-state bridge legislation. Both Rep. Williams and Sen. Chuck Thomsen (R-Hood River) will give a legislative update at the next Bi State Working Group (BSWG). Hood River's legislators will likely submit formation legislation after the 2021 session allowing legal counsel to begin drafting bridge authority for the 2022 session in late July. Thorn Run and the Port will continue to inform, educate and receive feedback from the state during the course of the '21 session.

On the Washington side, Sen. Curtis King (R-Yakima) continues to advocate for funding and has requested to speak at the next BSWG meeting as well. The Washington Joint Transportation Committee (WJTC) has agreed to start developing bi-state bridge authority legislation for the 2022 session.

Steve Siegel, the BSWG's consultant on governance, will provide feedback to both efforts to ensure as much continuity as possible between the individual state efforts.

Krystyna Wolniakowski, Exec. Dir. of the Col. River Gorge NSA, discussed the replacement bridge project with Jon Snyder, Governor Inslee's Outdoor Recreation and Economic Development Advisor last week and reinforced the interest in increased bike/ped facilities.

## **FEIS/ROD CRITICAL PATH UPDATE**

### *KEY TAKEAWAYS:*

- *Internal Final EIS Draft #1 due to Port/ODOT on March 2<sup>nd</sup>*
- *Response to Comments currently being reviewed by ODOT*
- *Sec. 4(f) ("Recreational Resources") letters to be distributed to affected property owners*
- *Increased opportunities arising for tribal fisher outreach*
- *Historic housing photography completed by end of February*
- *Archaeological survey report to be finished next week*
- *Section 106 work continues to be primary focus*

### FEIS/ROD

Internal draft #1 of the FEIS has been distributed. Still to come are 4(f) letters from the Port of Hood River, Hood River Inn, Klickitat County and White Salmon acknowledging "de minimis" effects on recreation property. In Hood River, the main impacts will be to the waterfront trail and parking for the marina during construction. NOAA Fisheries is planning to submit their Biological Opinion early in March.

### TRIBAL FISHERS SURVEY

Staff has placed additional notices promoting the tribal fishers survey at Stanley Rock (Koberg Beach) treaty fishing access site and Underwood in-lieu fishing site. ODOT has expressed interest in the Port convening a video conference to present impacts to present impacts and opportunities for tribal fishers. WSP is developing an agenda to share with the project team this week.

Staff talked with Yakama Nation fishery managers and learned that the YN will be hosting a Spring Fishers Meeting in mid-March. A request was made to present on the project at that meeting.

## HISTORIC RESOURCES PHOTOS

Drone photography of 27 residences was completed last week. Street-side photography has been more challenging and will take until the end of February to complete. Image quality is superior to prior efforts and will be a significant upgrade to the historic resources report required by Washington Dept. of Arch. and Hist. Pres. (DAHP).



## SUB SURFACE SURVEY WORK

Staff has developed a contract for Commission approval this evening with David Evans and Associates for hydrographic survey work on the north shore of the river.

## CONSTRUCTION PRE-DEVELOPMENT

### KEY TAKEAWAYS:

- *Geotechnical work awaits BUILD funding*
- *Otak has completed 60% draft of AE/Design RFP document*
- *Project team looking at phased approach for Owner's Representation*
- *A separate Public Involvement contract will allow for continued communication strategy Post-NEPA*
- *WSP's PCE in 2028\$ is between \$305M-\$370M*
- *A memo summarizing non-construction programming costs will be added to the PCE report next month*

## OWNER'S REPRESENTATION (O/R) RFP DEVELOPMENT UPDATE

The project's owner's representation could be a significant and long-lasting contract typically starting with engineering and through construction, though the level of effort will change drastically during the phases. For the preliminary engineering Phase 2, the main tasks will focus on AE/Design reviews and oversight, developing project delivery planning conceptual models, recommending to the Port approaches on project aspects, ensuring opportunities for P3 collaboration/integration, facilitating project delivery evaluations and writing of subsequent construction RFP documents. Once a construction contract is executed, the O/R will have an increased role as submittals and project control reviews become much more robust. The O/R contract will be based on a series of work orders to avoid overhead and – during Phase 2 – be budgeted for in the \$200,000 range annually.

## UPDATED PRELIMINARY COST ESTIMATE (PCE)

The Port has received an updated PCE from WSP. The costs identified in the PCE do not include programming costs, or costs related to non-engineering or non-construction activities. Steve Siegel is currently preparing a memo to accompany the WSP report that will give a more accurate picture of the true costs related to bridge replacement. The most significant change in

the WSP PCE compared to the 2018 Mott McDonald PCE is the change of construction year from 2020 to 2028 which adds significant cost to the construction. The range of construction in 2028\$ ranges between \$305M-\$370M, but does not include programming costs. Siegel's memo will be submitted to the BSWG and Port Commission along with the full PCE report.

## **GOVERNANCE/BSWG UPDATE**

### *KEY TAKEAWAYS:*

- *BSWG meeting is being developed for mid- March.*

### BI STATE WORKING GROUP

Based upon a Feb. 17 BSWG de-brief, staff is developing an agenda that will include updates on the AE/Design progress, P3 consideration, governance legislation, 2021 state legislatures, and the WSP/Siegel project cost estimates.

## **FUNDING & FINANCING UPDATE**

### *KEY TAKEAWAYS:*

- *FHWA has requested additional information before making a pre-award commitment*
- *No word yet on BUILD contract template*

### BUILD GRANT

Staff met with FHWA HQ staff last week to review the second round of submissions. FHWA has asked for additional information including tracking the change in WSP's labor rate from the original contract through each subsequent amendment, records from the evaluation team scoring. Materials will be submitted back to FHWA this week.

FHWA was unable to give further information on the status of the BUILD contract template. Hal Hiemstra will be looking in to the matter.

## **MEETING SCHEDULE**

- Sec. 106 Cultural Resources, Feb. 26
- WSP Weekly Check In, March 1
- Port Commission Meeting, March 2
- EISWG Meeting, March 4
- WSP Weekly Check In, March 8
- Thorn Run Partners, March 9
- Sec. 106 Cultural Resources, March 11
- WSP Owners Rep Discussion, March 15
- WSP Weekly Check In, March 15
- Port Commission Meeting, March 16





**INVOICE**

*ok to pay  
Greenwood  
Bridge Replacement*

WSP USA  
851 SW 6TH AVE  
SUITE 1600  
PORTLAND, OR 97204  
503-478-2800  
503-274-1412

KEVIN GREENWOOD  
PORT OF HOOD RIVER  
1000 EAST PORT MARINA DRIVE  
HOOD RIVER, OR 97031

**\$59,319.59**  
**2/25/2021**

Invoice Date: February 22, 2021  
Invoice No: 1033662  
Project No: 80550A

Company Legal Name: WSP USA Inc.  
Company Tax ID: 11-1531569


Project Name: Hood River Bridge Replacement  
Project Manager: Angela Findley  
Customer Order No: 2018-01  
Invoice Description: Invoice 30 PE 31Jan21

**Services provided from January 01, 2021 to January 31, 2021**

**Summary of Costs  
by Top Task**

Task Number	Task Name	Contract Value	Current Invoice	Previously Billed	Total Billed To Date	Contract Balance	Percent Invoiced	Physical % Complete
0	Direct Expenses	\$49,113.97	\$1,693.71	\$37,552.73	\$39,246.44	\$9,867.53	79.91%	83.00%
1	Project Management	\$488,616.87	\$9,268.41	\$409,462.14	\$418,730.55	\$69,886.32	85.70%	83.92%
2	Public Involvement	\$233,915.87	\$5,171.09	\$195,240.43	\$200,411.52	\$33,504.35	85.68%	86.75%
3	Project Delivery Coordination	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		0.00%
4	Tolling/Revenue Coordination	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00		0.00%
5	Environmental	\$1,664,072.93	\$38,136.38	\$1,313,476.34	\$1,351,612.72	\$312,460.21	81.22%	81.52%
6	Engineering	\$428,551.31	\$4,176.07	\$395,887.01	\$400,063.08	\$28,488.23	93.35%	93.46%
7	Transportation	\$129,168.35	\$0.00	\$129,168.35	\$129,168.35	\$0.00	100.00%	100.00%
8	Permit Assistance	\$154,560.70	\$873.93	\$150,946.03	\$151,819.96	\$2,740.74	98.23%	98.99%
9	Contract Contingency	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00 n/a		0.00%
<b>Totals</b>		<b>\$3,148,000.00</b>	<b>\$59,319.59</b>	<b>\$2,631,733.03</b>	<b>\$2,691,052.62</b>	<b>\$456,947.38</b>	<b>85.48%</b>	<b>85.54%</b>

*I hereby certify that the charges invoiced are true and correct and include only such charges as were directly incurred in the performance of the work on the project, have not been previously submitted, and are in accordance with the terms and conditions of the Agreement.*

  
\_\_\_\_\_  
Angela Findley  
Project Manager

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# Commission Memo



Prepared by: Anne Medenbach  
Date: March 2, 2021  
Re: Property Leasing Policy Update

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In 2019, the Commission approved a Lease Policy that strove to recover all eligible operating costs, ensure lease rates are more consistent with the market, and provide for a consistent return for all leased properties.

Since the implementation of this Policy, the Port has negotiated 12 new leases and will be adding 4 more by the end of March. An estimated net increase in revenue of \$130,000 has been realized. Staff will evaluate this in detail during the budget process. Four of the 12 leases are using the stepped-to-market option, meaning the rates will be at market by the end of their term, allowing that space to start any renewal term at market rates. This option was used either because the tenant is a startup needing transition time, or they are an existing tenant bearing pandemic costs/losses, or they needed budget room to allow for the increases in rent required by the new Lease. The Policy is on track to be fully implemented by 2024.

The attached spreadsheet shows lease status and projections for future leases along with target rates. This is meant to be an editable tool that can be updated as the Policy moves forward to full implementation. The Lease Policy is also attached for reference; the following highlights of progress toward stated goals:

1. Recovery of Operating Costs: Clarifying lease clauses and changing the reconciliation process to be more straight forward.
2. Recovery of Depreciation: CIPs are clearly defined in the new lease. Staff is considering implementing an aggregate reserve account for the industrial/commercial asset class as a whole as well. That reserve account has not yet been implemented nor has the analysis of CIP's and cost recovery.
3. Achieve 4% return on all costs: This goal will be discussed during the budget process.
4. Update Standard Clauses regularly: The Lease Template has been implemented and is continually being tweaked as Staff and Counsel see opportunities for improvement. Insurance clauses were recently updated and Staff negotiates leases to follow the recommendations, however, in some cases the recommendation will be different from the Policy to accommodate for a unique tenant situation.

**RECOMMENDATION:** Discussion.

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Port of Hood River  
**2019 Lease Policy**

The Lease Policy is intended to provide a basis for decisions regarding the Leasing and management of Port owned buildings. Through consistent application, the Port can better meet both business targets and public policy goals as they pertain to Port assets. While the Policy provides a framework, the Port maintains its flexibility to negotiate each deal individually depending on the unique aspects of each deal.

**Goals**

1. Seek to recover all operating costs as defined in the Lease.
2. Seek to create a reserve account which can cover depreciation as well as future Capital Improvements.
3. Strive to achieve a minimum 4% annual return on cost.
4. Endeavor to fully implement the Policy by 2024 consistent with current Lease expirations.
5. Consider implementing a lease structure for incubating new businesses that will eventually “graduate” to the proposed Lease Template.

**Lease Template**

For future lease negotiations, staff shall utilize the Lease Template (Attachment ‘A’). Although each lease or renewal will be negotiated individually, all negotiations shall take place within the framework of the Lease Template and shall seek to achieve the terms outlined below:

1. Recovery of Operating Costs
  - a. Clearly define Port and tenant maintenance obligations.
  - b. Clearly define square footage allocations using a load factor.
  - c. Ensure that reconciliations fit current financial process.
  - d. Strive to include all non-reimbursables in the Base rate.
  - e. Include all existing and consider potential operating costs.
2. Recovery of Depreciation
  - a. Ensure that capital improvement replacement responsibilities are clearly outlined.
  - b. Strive for a reserve amount that is sufficient to cover Port capital improvements within 3-year timeframe.
  - c. Create a separate reserve account for all leased buildings (aggregate).

- d. Analyze large capital improvements on a cost/benefits basis and ability to recoup costs through rate escalations.
3. Achieve 4% return on all costs, excluding capital
    - a. Strive to include all costs are accounted for in initial rate set.
    - b. Base 4% profit on Gross rents and maintain it through annual CPI base rent adjustments
    - c. Strive to have rates that are consistent with market comparables.
  4. Update standard clauses regularly to allow for longevity of the Lease document.
    - a. Ensure insurance coverages are adequate and flexible.
    - b. Strive to have standard lease clauses conform with industry standards.
    - c. The standard lease term will be 5 years with up to 5 years of renewal options.
    - d. At each renewal, an in-house market rate comparison shall be conducted to ensure rates are consistent with the Market. If required by the tenant a third party study will be carried out with no less than 3 comparable properties supporting the rate.

Staff shall consider utilization of the Lease Template attached as Exhibit 'A'.

### **Lease Negotiations**

Staff shall take the following steps in negotiating new leases:

1. Expiring Leases.
  - a. Provide tenant with new Lease Template prior to lease expiration.
  - b. Implement new rates immediately for tenants experiencing a less than 10% total annual increase, including CPI.
  - c. Rates for those with over a 10%, including CPI, increase will be phased in based on tenant needs and staff recommendations.
2. New Leases
  - a. The new lease will be fully implemented for new tenants and/or new buildings.
3. Missed Lease Renewal Notification Periods
  - a. If one renewal option exists when notification period is missed, Tenant will be allowed to continue under the existing lease until such time as that lease expires. When that lease expires, tenant will go directly to full implementation of the new Lease with no rate phasing.
  - b. If more than one renewal option exists, then at the time of expiration, the Tenant will sign a new lease with the Port. The first term will equal the existing renewal option length and rate total. Any additional renewal terms will be at

the new lease rate. Or the Tenant can choose to not include additional renewal terms.

4. Staff shall consider utilization of the Lease Rate Methodology attached as **Exhibit 'B'**.

Exhibits:

- A. Lease Template
- B. Lease Rate Methodology

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## Tenant Lease Status Tracker- March 2021

In lease negotiations		Executed Lease on new structure														Implementation timeline and annual revenue increase														
Executed	Term	Options	Building Name	Tenant Name	Current Leased SF	SF change		Base Rent Change					Additional Rent change			2019	2020	2021	2022	2023	2024									
						Load factor	New leased sf	Current base rent PSF	Target base rent	New base rent PSF	Proposed Total Base rent	Difference	% change	Current Adtnl rent PSF	Proposed Adtnl Rent PSF							Total Adtnl rent	Difference							
11/1/2015	10/31/2023	none	Big 7	Electronics Assemblers	20031	1.12	22835	\$ 0.66	\$ 0.75	\$ 0.75	\$ 17,126.51	\$ 3,997.95	22%	\$ 0.19	\$ 0.34	\$ 7,764.02	\$ 3,924.63				\$ 95,070.89									
11/1/2003	9/30/2023	none	Big 7	Gorge Net	4031	1.12	4595	\$ 0.68	\$ 0.80	\$ 0.80	\$ 3,676.27	\$ 935.19	34%	\$ 0.32	\$ 0.34	\$ 1,562.42	\$ 272.50				\$ 14,492.25									
10/1/2019	8/31/2021	none	Big 7	Gorge Net	917	1.12	1045	\$ 0.68	\$ 0.80	\$ 0.80	\$ 836.30	\$ 212.74	34%	\$ 0.32	\$ 0.34	\$ 355.43	\$ 61.99				\$ 3,296.80									
5/1/2021	4/30/2022	1 (3) yr	Big 7	Suite 403-Wolf	2710	1.12	3035	\$ 0.64	\$ 0.75	\$ 0.55	\$ 1,669.36	\$ (75.54)	33%	\$ 0.21	\$ 0.34	\$ 1,031.97	\$ 465.10				\$ 4,674.77									
			Big 8	Renewal Suite 404	1276	1.12	1429		\$ 0.75	\$ 0.70	\$ 2,124.64	\$ 455.28									\$ 5,463.36									
1/1/2021	1/31/2022	1 (2) yr	Big 7	Real Carbon	3800	1.12	4332	\$ 0.77	\$ 0.65	\$ 0.65	\$ 2,815.80	\$ (103.02)	0%	\$ 0.21	\$ 0.34	\$ 1,472.88	\$ 675.12				\$ 6,865.16									
			Big 7	Suite 204	2841	1.12	3239	\$ 0.62	\$ 0.70	\$ 0.70	\$ 2,267.12	\$ 494.99	28%	\$ 0.18	\$ 0.34	\$ 1,101.17	\$ 592.35				\$ 13,048.08									
11/4/2020	10/31/2021	1 (1) yr	Big 7	Roam and Shelter	500	1.12	570	\$ 0.50	\$ 0.65	\$ 0.65	\$ 370.50	\$ 120.50	48%	\$ 0.28	\$ 0.34	\$ 193.80	\$ 54.00													
			Big 7	Suite 402	786	1.14	896	\$ -	\$ 0.75	\$ -	\$ -	\$ -			\$ 0.34	\$ 304.65	\$ 304.65													
											\$ -	\$ -																		
10/1/2019	until 2022	no change	Jensen	Tofurky	30923	1.04	32113	\$ 0.54	\$ 0.70	\$ 0.55	\$ 17,662.39	\$ 1,045.39	35%	\$ 0.23	\$ 0.32	\$ 10,276.30	\$ 3,080.30				\$ 49,508									
	2022-25	1st option		Tofurky		1.04		\$ 0.57	\$ 0.70	\$ 0.68	\$ 21,027.64	\$ 3,365.25			\$ 0.32	\$ -	\$ -	\$ -			\$ 40,383.02									
	2025-29	2nd option		Tofurky				\$ 0.72	market	\$ 0.75	\$ -	\$ -			\$ 0.32	\$ -	\$ -	\$ -			\$ 36,689.23									
10/1/2020	9/30/2025	1 (2) yr	Jensen	RBS Batten	10934	1.04	11371	\$ 0.54	\$ 0.55	\$ 0.55	\$ 6,254.25	\$ 332.25	34%	\$ 0.19	\$ 0.32	\$ 3,638.84	\$ 1,508.84				\$ 22,093.00									
	3 steps to market 2023			RBS Batten	10934	1.04	11371	\$ 0.54	\$ 0.70	\$ 0.70	\$ 7,959.95	\$ 1,705.70									\$ 20,468.45									
2/1/2021	1/31/2026	1 (2) yr	Jensen	ServePro	5940	1.04	6178	\$ 0.73	\$ 0.75	\$ 0.75	\$ 4,633.20	\$ 310.20	7%	\$ 0.20	\$ 0.32	\$ 1,976.83	\$ 810.83				\$ 13,452.38									
10/1/2019	9/30/2021	2 (1) yr	Jensen	Northwave	2042	1.04	2124	\$ 1.07	\$ 0.75	\$ 0.75	\$ 1,592.76	\$ (592.24)	-27%	\$ 0.12	\$ 0.32	\$ 679.58	\$ 431.58				\$ (1,928)									
7/1/2019	6/30/2021	3 (1) yr opt.	Maritime	HRD	36146	1.06	38474	\$ 0.66	\$ 0.65	\$ 0.65	\$ 25,008.10	\$ 1,151.74			\$ 0.19	\$ -	\$ -	\$ -			\$ 13,821									
											\$ -	\$ -																		
2/1/2013	1/31/2022	1 (7) yr opt	Halyard	Pfriem	19540	1.02	19846	\$ 1.00	\$ 1.25	\$ 1.10	\$ 21,830.60	\$ 2,290.60	10%	\$ 0.94	\$ 1.25	\$ 24,807.50	\$ 6,439.90				\$ 124,926.00									
4/1/2021				Stepped					\$ 1.25	\$ 1.25	\$ 24,425.00	\$ 2,594.40									\$ 31,132.80									
				GLA		estimated sf	3500	\$ 0.25	\$ 0.48	\$ 0.48	\$ 1,680.00	\$ 1,680.00																		
7/1/2019	6/30/2023	2 (2) yr	Wasco	Cloud Cap	12443	1.19	14857	\$ 1.10	\$ 1.00	\$ 0.98	\$ 14,559.86	\$ 872.56	6%	\$ 0.57	\$ 0.58	\$ 8,617.06	\$ 1,524.55				\$ 28,765									
			Timber Inc	Wyeast	5000	1	5000	\$ 0.60	\$ 0.70	\$ 0.65	\$ 3,250.00	\$ 250.00	8%	\$ 0.15	\$ 0.22	\$ 1,100.00	\$ 362.67													
7/1/2013	6/30/2022	none		Extended existing lease				\$ 0.65	\$ 0.67	\$ 0.67	\$ 3,350.00	\$ 100.00	8%		no change	\$ -	\$ -				\$ 1,200.00									
4/1/2020	3/31/2021	2 (1) yr	Timber Inc	Oregon Brineworks	2500	1	2500	\$ 0.68	\$ 0.70	\$ 0.65	\$ 1,625.00	\$ (78.00)	-5%	\$ 0.11	\$ 0.22	\$ 550.00	\$ 278.25													
	10/31/2022	1 (2) yr	Timber Inc	Chief Consulting	2500	1	2500	\$ 0.68	\$ 0.70	\$ 0.65	\$ 1,625.00	\$ (63.00)	-5%	\$ 0.10	\$ 0.22	\$ 550.00	\$ 291.33													
											\$ -	\$ -																		
			Marina Park	Suite 100	1270	1.15	1457	\$ 1.09	\$ 1.35	\$ 1.35	\$ 1,966.60	\$ 578.16	42%	\$ 0.33	\$ 0.30	\$ 437.02	\$ 20.30													
4/1/2021	3/28/2022	MtoM	Marina Park	Suite 200-FHWA	913	1.15	1050	\$ 1.09	\$ 1.35	\$ 1.30	\$ 1,364.94	\$ 369.77		\$ 0.33	\$ 0.30	\$ 314.99	\$ 13.69				\$ 164.34									
			Marina Park	Suite 201	1400	1.15	1610	\$ 1.33	\$ 1.35	\$ 1.35	\$ 2,173.50	\$ 307.50	16%	\$ 0.25	\$ 0.30	\$ 483.00	\$ 129.09													
9/1/2017	8/31/2022	1 (1) yr	Marina Park	CRA	482	1.15	554	\$ 1.31	\$ 1.35	\$ 1.45	\$ 803.74	\$ 172.43	3%	\$ 0.31	\$ 0.30	\$ 332.58	\$ 183.67													
9/1/2017	8/31/2022	1 (1) yr	Marina Park	Aletta	313	1.15	360	\$ 1.09	\$ 1.35	\$ 1.35	\$ 485.93	\$ 143.74	20%	\$ 0.33	\$ 0.30	\$ 107.99	\$ 3.40													
9/1/2017	8/31/2021	none	Marina Park	Cookie	197	1.15	227	\$ 1.40	\$ 1.35	\$ 1.35	\$ 305.84	\$ 29.84	11%	\$ 0.38	\$ 0.30	\$ 67.97	\$ (6.29)													
											\$ -	\$ -																		
1977	10/31/2023	none	DMV	DMV	1200	1.15	1380	\$ 2.10			\$ -	\$ -		\$ 0.60	\$ 0.57															
7/27/2020	12/31/2021	1 (2) yr	DMV	CGN	523	1.15	601.45	\$ 1.90	\$ 1.35	\$ 1.30	\$ 781.89	\$ (211.12)		\$ 0.60	\$ 0.30	\$ 180.44	\$ (133.37)				\$ (4,133.76)									
7/28/2020	12/31/2021	1 (2) yr	DMV	CGN	181	1.15	208.15	\$ 1.58	\$ 1.35	\$ 1.30	\$ 270.60	\$ (15.49)		\$ 0.60	\$ 0.30	\$ 62.45	\$ (46.16)				\$ (739.76)									
Finalizing new lease structure					Total sf		199728																Actual revenue increase							
On New Lease Structure					Vacant sf		11287	7202 as of May 1																						
					Vacancy rate		6%	4%																						

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## Executive Director's Report

March 2, 2021

### Administration

- Thanks to all Commissioners and staff that participated in last Thursday's work session to discuss bridge replacement strategy. It appears that there is consensus approval for the strategic path we are following. Staff will follow-up and review the same presentation with the BI-State Working Group at an upcoming meeting.
- COVID
  - Hood River County has improved its risk level standing from the *High-Risk Level* to the *Moderate Risk Level* as of Friday, February 26. This will mean further re-opening of restaurants with 50% occupancy or 100 persons.
  - Hood River County has received a commendation for vaccinating the highest percentage of disabled individuals in the State of Oregon.
  - Staff continues to assess the approach to waterfront recreation activities this coming recreation season. Much will depend upon State guidelines and/or requirements. At this point, we are assuming that last summer's management approaches regarding restrooms and trash collection will remain in place for spring and possibly the first part of the summer.
  - A meeting of several ports along the Columbia River and state agencies in Oregon and Washington occurred on February 22 to discuss the coming cruise ship season. There is very little State support at this time for resumption of cruise ship activities. A subsequent meeting with the cruise ship operators will occur later in March.
- The OneGorge Advocacy group's annual state legislative receptions in Salem and Olympia are being replaced with one virtual event this year, scheduled for March 10. Genevieve has been working to support planning and promotion of the event, which will feature a video focused on the group's top legislative priorities for the year. Kevin and Genevieve both appear in the video, along with several other key regional spokespeople. To register for the free event, please go here: <https://bit.ly/3jzHs83>. A Save the Date card is attached.
- On March 11, the Oregon Transportation Commission will consider how to distribute approximately \$120 million of funds from the 2020 federal omnibus legislation directed at transportation agencies. The Port of Hood River's request for relief for losses in toll revenue will be considered at that time.
- The Hood River County Board of Commissioners has approved the list of Community Economic Development Strategy projects as recommended by the Hood River Economic Development Group. Lot #1 Infrastructure is #3 on the list and Bridge Replacement is #10.

- Anne Medenbach has announced she will be leaving Port employment on March 31. I am very thankful for her many excellent contributions over the past seven years. Recruitment efforts to fill the Property Manager position are underway.
- Attached is a draft support letter for the application being submitted by Columbia Gorge Community College for a federal grant to support aviation training at The Dalles Airport and possibly to support the soaring program in Hood River.

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### Recreation/Marina

- Construction of the Gates Memorial Project as started. Barricades are up around the construction area and the bike/ped. trail has been temporarily closed at the work area.
- Facilities staff has started work on replacement of a beam at the Upper Event Site Dock. This is a challenging construction project being carried out by Port staff and will mean a significant cost savings. See photos below.



- The High School Sailing Team will position their vessels and commence training in Maria Basin on March 7.

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### Development/Property

- The City of Hood River is considering replacement of the elevated sewer pipeline that runs above ground parallel to I-84, from about the Mt. Hood Railroad property to the Century Link building on Wasco St. The line is a concern due to its age and fragile nature, maintenance, and potential for accidents. Port staff will be meeting with City engineers to consider the possibility of locating a sewer lift station on Port property northeast of the Big 7 Building.
- I have executed a Use Agreement with James Dean Construction (“JDC”) for temporary use of the south end of Lot #1 for gravel stockpiling. JDC has a large project underway in the Upper Valley and is the gravel supplier. They will use Lot #1 to pre-position gravel before the bridge load rating is reduced.

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## Airport

- The Noise Workgroup met on February 25 to discuss their final recommendations. These will be discussed at the AAC meeting on March 10. Anne will prepare a staff report for Commission consideration at the Commission meeting on March 16<sup>th</sup>.
- The deadline for the FBO Request for Qualifications (RFQ) was February 19. One submittal was received. Because there was only one response, the evaluation process is not required. Commissioner Streich, Anne Medenbach and I will discuss the response prior to negotiations.
- The FAA has released a list of grant awards from the \$2 billion in airport funding that Congress approved in December 2020 as part of a \$900 billion coronavirus relief package. The Port was awarded \$15,000 for the Ken Jernstedt Airfield.

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## Bridge/Transportation

- All required signage associated with the Load Rating reduction has been installed. There was great cooperation from both ODOT and WADOT staff.
- HDR Engineering has started work on the structural analysis related to the recent load rating reduction.
- ODOT will commence re-construction of The Dalles Bridge in mid-March. Full weekend closures will occur after Labor Day 2021 and last until Memorial Day 2022 from 8PM on Thursday evenings to 6AM on Monday mornings. The project is scheduled to be completed by the end of June 2022. Construction and closures may cause some increase in traffic on the Hood River Bridge.

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# A GORGE-OUS NIGHT IN

Join us for this special celebration! For the first time, Gorgeous Night will be Oregon and Washington legislators and their staff together with Gorge leaders for a simple celebration you won't want to miss!

Discover what makes this bi-state region a magnet for business development and tourism – and learn how we are working together as one to overcome the challenges of the past year.

## HOSTED BY

Senator Chuck Thomsen (OR)  
Senator Curtis King (WA)  
Representative Anna Williams (OR)  
Representative Gina Mosbrucker (WA)  
Representative Daniel Bonham (OR)  
Representative Chris Corry (WA)

## BROUGHT TO YOU BY

OneGorge, A bi-state regional advocacy group



**Wednesday, March 10<sup>th</sup>, 2121  
5:00 - 6:00 PM**

**Via ZOOM**

**RSVP**

Register by March 8th at 5:00 PM  
to be eligible for prize drawings!  
Register at: <https://bit.ly/3j>

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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 • [portofhoodriver.com](http://portofhoodriver.com) • Email: [porthr@gorge.net](mailto:porthr@gorge.net)

March 3, 2021

Mr. Steve Dickson  
Administrator  
Federal Aviation Administration  
800 Independence Avenue, SW  
Washington, DC 20591

RE: FAA Aviation Maintenance Technical Workers Workforce Development Grant Program

Dear Mr. Dickson:

As the Executive Director of the Port of Hood River, I write to you in strong support of Columbia Gorge Community College's (CGCC) proposal to the FAA's Aviation Maintenance Technical Workers Workforce Development Grant Program. With funding from the FAA, CGCC will strengthen and enhance an Aviation Maintenance Technology Program in The Dalles, OR.

CGCC's program will serve 15 students including low-income, minority, and underserved residents of the Columbia Gorge region. CGCC's program is being established in response to well-articulated demand by regional economic and workforce entities, as well as business and industry. If funded, CGCC will use funding to support a range of activities we at [ORGANIZATION] support and on which we will coordinate with the college to maximize the impact of the project for our region. These critical activities include the purchase of training equipment that will enable instructors to teach more students simultaneously, and ensure students are provided hands-on experience required for FAA certification and employment in the industry. In addition, CGCC will utilize grant funds to conduct targeted outreach to low-income and minority students and provide need-based scholarships.

The Port of Hood River is the owner and operator of the Ken Jernstedt Airfield, 4S2 in Hood River and is very involved and familiar with the FAA and its programs. As an organization that is active in the aviation industry and an economic development agency, the Port understands the need for the proposed program.

Thank you for your consideration of this letter and CGCC's application. Please contact me at [mmcelwee@portofhoodriver.com](mailto:mmcelwee@portofhoodriver.com) or (541) 386-1645 with any questions regarding our participation in this critical endeavor.

Sincerely,

Michael McElwee  
Executive Director

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# Commission Memo



Prepared by: Anne Medenbach  
Date: March 2, 2021  
Re: Aron Faegre Design Contract

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During Fall Planning last year, the Commission directed staff to secure construction cost estimates and preliminary designs for potential development of a commercial hangar at the airport. A legal counsel memo covering on contracting methods for such work is an Informational item on tonight’s agenda, wherein David Doughman recommends a Design Bid Build process.

Aron Faegre & Associates is an experienced firm in the aviation hangar design space. Mr. Faegre has worked with multiple airports around the northwest designing hangars for construction. The attached contract covers not only design work, but also bidding and construction review services. This contract fits in with the Design Bid Build process outlined by David Doughman and was reviewed by him.

**RECOMMENDATION:** Approve contract with Aron Faegre and Associates for design and construction services related to construction of a commercial hangar, not to exceed \$95,000, plus reasonable reimbursable expenses.

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**PERSONAL SERVICES CONTRACT**

This Agreement is between the Port of Hood River, an Oregon Municipal Corporation, (hereinafter referred to as “**Port**”), and Aron Faegre & Associates (hereinafter referred to as “**Consultant**”).

In consideration of the mutual covenants set forth in this Agreement, Port authorizes Consultant and Consultant agrees to carry out and complete services as described below:

1. **PROJECT:** Work shall be performed by Consultant in connection with a project generally described as: Provide architect and engineering consulting services for the design of an aircraft storage hangar substantially as shown in the preliminary drawings (attached as Exhibit B).
2. **SCOPE OF SERVICES:** The Consultant shall be responsible for the performance of all services as set forth in the scope of services attached hereto and incorporated herein as **Exhibit ‘A’** (the “Services”) and to the extent described in this Agreement and shall perform Services using the degree of skill and knowledge customarily employed by professionals performing similar services in the community. The Consultant shall be responsible for providing, at the Consultant’s cost and expense, all management, supervision, materials, administrative support, supplies, and equipment necessary to perform the Services as described herein, all in accordance with this Agreement.
3. **TERM OF AGREEMENT:** The term of this Agreement shall begin on the date this contract is fully executed and shall terminate on December 31, 2021 or when the Services have been completely performed to the Port’s satisfaction, whichever first occurs, or otherwise by mutual written agreement of the parties or by the exercise of the termination provisions specified herein.
4. **ADDITIONAL SERVICES:** The Port may request that the Consultant provide the Port with certain services not identified in Exhibit A (“Additional Services”). Additional Services shall not be performed by the Consultant unless written approval is received from the Port. Upon receipt of the written request, the Port and the Consultant shall negotiate the scope of the relevant Additional Services and price, which shall be subject to the mutual written agreement of the Consultant and the Port. If the Consultant performs any Additional Services prior to or without receiving a written request from the Port, the Consultant shall not be entitled to any compensation for such Additional Services. Authorization shall be issued by individual work orders or by amendment to this contract that is signed by the Executive Director of the Port.
5. **TIME OF THE ESSENCE:** The Services of the Consultant shall be undertaken and completed in such a manner and in such a sequence as to assure their expeditious completion considering the purpose of this Agreement. It is agreed that time is of the essence in the performance.
6. **COMPENSATION:** The Port shall pay fees to the Consultant for Services performed under the terms of this Agreement an amount not to exceed **\$95,000.00** (“Compensation”), unless otherwise approved by the Port. The Port will also reimburse Consultant for reasonable direct expenses incurred by the Consultant (“Reimbursable Expenses”). Consultant will obtain written approval from Port prior to expenditure of any individual Reimbursable expense that exceeds \$1,000.00. Consultant will not exceed \$5,000.00 in total Reimbursable Expenses without Port approval.

Consultant shall submit monthly invoices computed based on percentage of work completed and detailing the services provide to date. Invoices shall include a detailed description of work performed

and include evidence of any reimbursable expenses in a form acceptable to the Port. Port shall make payments in a timely manner, within twenty-five (25) days of receipt of invoice.

If Port does not pay within twenty-five (25) days of receipt of invoice acceptable to Port, the invoice shall incur a service charge of 1.5% per month on the unpaid monthly balance. Consultant reserves the right to withhold services or cancel this Agreement if Port's account is more than sixty (60) days delinquent.

7. **STATUS OF CONSULTANT AND RELATIONSHIP TO PORT:** The Consultant is an independent contractor and nothing contained herein shall be construed as constituting any relationship with the Port other than that as owner and independent contractor, nor shall it be construed as creating any relationship whatsoever between the Port and any of the Consultant's employees. Neither the Consultant nor any of the Consultant's employees are nor shall they be deemed employees of the Port. The Consultant is not and shall not act as an agent of the Port. All employees who assist the Consultant in the performance of the Services shall always be under the Consultant's exclusive direction and control. The Consultant shall pay all wages, salaries and other amounts due the Consultant's employees in connection with the performance of the Services and shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax, income tax withholding, unemployment compensation, worker's compensation, employee benefits and similar matters. Further, the Consultant has sole authority and responsibility to employ, discharge and otherwise control the Consultant's employees. The Consultant has sole authority and responsibility as principal for the Consultant's agents, employees, sub-consultants and all others the Consultant hires to perform or assist in performing the Services. The Port's only interest is in the results to be achieved.

8. **REPRESENTATIONS:** The Consultant represents and covenants that:

- a. The Consultant has the required authority, ability, skills and capacity to, and shall, perform the services in a manner consistent with this Agreement. Further, any employees and sub-consultants of the Consultant employed in performing the Services shall have the skill, experience and licenses required to perform the Services assigned to them.
- b. To the extent the Consultant deems necessary, in accordance with prudent practices, the Consultant has inspected the sites and all of the surrounding locations whereupon the Consultant may be called to perform the Consultant's obligations under this Agreement, and is familiar with requirements of the Services and accepts them for such performance.
- c. The Consultant has knowledge of all the legal requirements and business practices in the State of Oregon that must be followed in performing the Services and the Services shall be performed in conformity with such requirements and practices.
- d. The Consultant is validly organized and exists in good standing under the laws of the State of Oregon, and has all the requisite powers to carry on the Consultant's business as now conducted or proposed to be conducted and the Consultant is duly qualified, registered or licensed to do business in good standing in the State of Oregon.
- e. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not (a) require any further consent or approval of the board of directors or any shareholders of the Consultant or any other person which has not been obtained or (b) result in a breach of default under the certificate of incorporation or by-laws of the Consultant or any indenture or loan or credit agreement or other material agreement or instrument to which the Consultant is a party or by which the Consultant's properties and assets may be bound or affected. All such consents and approvals are in full force and effect.

9. **CONSULTANT'S INSURANCE:**

Consultant shall keep and maintain the following insurance for the duration of the contract period:

- a. Commercial General Liability insurance on an occurrence basis with a limit of not less than \$1,000,000 each occurrence for bodily injury and property damage and \$2,000,000 general aggregate. The Liability Insurance coverage shall provide contractual liability. The coverage shall name the Port of Hood River and each of its Commissioners, officers, agents, and employees as Additional Insured with respect to Contract.
- b. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.
- c. Professional Liability insurance with a \$1,000,000 per claim and \$1,000,000 in the aggregate for malpractice or errors and omissions coverage against liability for personal injury, death or damage of property, including loss of use thereof, arising from the firm's acts, errors or omissions in any way related to this Contract.
- d. Prior to commencing any work under this Agreement, the Consultant shall provide the Port with a certificate or certificates evidencing the insurance required by this section, as well as the amounts of coverage for the respective types of coverage. If the Consultant sub-contracts any portion(s) of the Services, said sub-consultant(s) shall be required to furnish certificates evidencing statutory worker's compensation insurance, comprehensive general liability insurance and professional liability insurance coverage in amounts satisfactory to the Port and the Consultant. If the coverage under this paragraph expires during the term of this Agreement, the Consultant shall provide replacement certificate(s) evidencing the continuation of required policies.
- e. Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. (Required of contractors with one or more employees, unless exempt under ORS 656.027.)

As evidence of the insurance coverage required by this Contract, the Contractor shall furnish acceptable insurance certificates to the Port at the time Contractor returns the signed Contract. The Commercial General Liability certificate shall provide that the Port, its Commissioners, officers, agents, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract. Endorsement CG 20 10 11 85 or its equivalent must be attached to the Certificate. The Certificate shall provide that the insurance shall not terminate or be canceled without 30 days written notice first being given to the Port. Insuring companies or entities are subject to Port acceptance. If requires, complete copies of the insurance policy shall be provided to the Port. The contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

If any policy obtained by the Consultant is a claims-made policy, the following conditions shall apply: the policy shall provide the Consultant has the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. The Consultant agrees to purchase this extended insurance coverage and to keep it in effect during the reporting period. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall be not later than the date this Agreement is signed by the parties hereto. If the Consultant purchases a subsequent claims-made policy in place of the prior policy, the retroactive date of such subsequent policy shall be no later than the date this Agreement is signed by the parties hereto.

10. **INDEMNIFICATION:** The Consultant shall indemnify, defend and hold harmless the Port, its commissioners, employees and agents, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, expenses (including attorney's fees) and liabilities to the extent, they are directly resulting from, or alleged to arise from, the acts of the Consultant, or any of the Consultant's sub-consultants, Consultant's suppliers and/or Consultant's employees arising in connection with the performance of this Agreement. The obligations of the indemnifications extended by the Consultant to the Port shall survive the termination or expiration of this Agreement.
11. **CONFIDENTIALITY:** During the performance of the Agreement and for all time subsequent to completion of the Services under this Agreement, the Consultant agrees not to use or disclose to anyone, except as required by the performance of this Agreement or by law, or as otherwise authorized by the Port, any and all information given to the Consultant by the Port or developed by the Consultant as a result of the performance of this Agreement. The Consultant agrees that if the Port so requests, the Consultant will execute a confidentiality agreement in a form acceptable to the Port, and will require any employee or sub-consultant performing work under this Agreement or receiving any information deemed confidential by the Port to execute such a confidentiality agreement.
12. **ASSIGNMENT:** Neither party shall assign this Agreement or parts hereof or its duties hereunder, but not including work products produced by the Consultant, without the express written consent of the other party. In the event of dissolution, consolidation or termination of the Port, the parties agree that the Port may assign to a successor entity any rights, obligations and functions it may have remaining under this Agreement.
13. **SUBCONSULTANTS:**
- a. **General.** The Consultant is solely and fully responsible to the Port for the performance of the Services under this Agreement. Use of any sub-consultant by the Consultant shall be pre-approved by the Port. The Consultant agrees that each and every agreement of the Consultant with any sub-consultants to perform Services under this Agreement shall be terminable without penalty.
- b. **Sub-Consultant Commitments:** All of the Consultant's subcontracts in connection with the performance of the Services shall be in writing and include the following provisions:
- i. The subcontract/contract is immediately terminable without cause, and cost for such termination activities shall be determined according to the terms of this Agreement.
  - ii. The sub-consultant shall carry insurance in forms and amounts satisfactory to the Port in its sole discretion, as provided by this Agreement
  - iii. All warranties (express or implied) shall inure to the benefit of the Port and its successors and assigns.
- The Consultant shall provide the Port with a copy of each subcontract executed with the performance of the Services within seven (7) days of each subcontract's execution.

Sub-consultants who assist the Consultant in the performance of the Services shall at all times be under the Consultant's exclusive direction and control and shall be sub-consultants of the Consultant and not consultants of the Port. The Consultant shall pay or cause each sub-consultant to pay all wages, salaries and other amounts due to the Consultant's sub-consultants in performance of the duties set forth in this Agreement and shall be responsible for any and all reports and obligations respecting such sub-consultants. All sub-consultants shall have the skill and experience and any license or permits required to perform the Services assigned to them.



- 14. TERMINATION NOT-FOR-CAUSE:** In addition to any other rights provided herein, the Port shall have the right, at any time and in its sole discretion, to terminate, not for cause, in whole or in part, this Agreement and further performance of the Services by delivery to the Consultant of written notice of termination specifying the extent of termination and the effective date of termination.
- a. Obligations of Consultant. After receipt of a notice of termination, and unless otherwise directed by the Port, the Consultant shall immediately proceed as follows:
    - i. Stop work on the Services as specified in the notice of termination;
    - ii. Terminate all agreements with sub-consultants to the extent they relate to the Services terminated;
    - iii. Submit to the Port detailed information relating to each and every sub-consultant of the Consultant under this Agreement. This information will include sufficient detail so the Port can immediately contact each such sub-consultant to determine the role or function of each in regard to the performance of the Services and if the Port so elects, the Port may engage any sub-consultant for substantially the same terms as have been contracted by the Consultant;
    - iv. Complete performance in accordance with this Agreement of all the services not terminated; and
    - v. Take any action that may be necessary, or that the Port may direct, for the protection and preservation of the property related to this Agreement that is in the possession of the Consultant and in which the Port has or may acquire an interest.
  - b. Termination Settlement. After termination, the Consultant shall submit a final termination settlement proposal to the Port in a form and with a certification prescribed by the Port. The Consultant shall submit the proposal promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the Port upon written request by the Consultant within such thirty-day period. If the Consultant fails to submit the proposal within the time allowed the Port's payment obligations under this Agreement shall be deemed satisfied and no further payment by the Port to the Consultant shall be made.
  - c. Payment Upon Termination. As a result of termination without cause the Port shall pay the Consultant in accordance with the terms of this Agreement for the Services performed up to the termination and unpaid at termination.
  - d. Port's Claims and Costs Deductible Upon Termination. In arriving at the amount due the Consultant under this paragraph there shall be deducted any claim which the Port has against the Consultant under this Agreement.
  - e. Partial Termination. If the termination is partial the Port shall make an appropriate adjustment of the price of the Services not terminated. Any request by the Consultant for further adjustment of prices shall be submitted in writing within thirty (30) days from the effective date of notice of partial termination or shall be deemed forever waived.
- 15. FORCE MAJEURE:** Neither party to this Agreement shall be liable to the other party for delays in or failure to perform services caused by circumstances beyond its reasonable control, including but not limited to acts of God, acts of governmental authorities, strikes, riots, civil unrest, war, lockouts extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable contemplation of either party. For delays resulting from unanticipated material actions or inactions of Port or third parties, Consultant shall be given an appropriate time extension and shall be compensated for all costs of labor, equipment, and other direct costs Consultant reasonably and

necessarily incurs. Delays of more than ninety (90) calendar days shall, at the option of either party, make this contract subject to termination.

16. **RECORD KEEPING:** The Consultant shall maintain all records and documents relating to Services performed under this Agreement for three (3) years after the termination or expiration of this Agreement. This includes all books and other evidence bearing on the Consultants time based and reimbursable costs and expenses under this Agreement. The Consultant shall make these records and documents available to the Port, at the Port's office, at all reasonable times, without any charge. If accepted by the Port, photographs, microphotographs or other authentic reproductions may be maintained instead of original records and documents.
17. **WORK PRODUCT:** All work product of the Consultant prepared pursuant to this Agreement, including but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall upon payment of all amounts rightfully owed by the Port to the Consultant herein remain the property of the Port under all circumstances, whether or not the services are complete. When requested by the Port, all work products shall be delivered to the Port in PDF or full-size, hard copy form. Work products shall be provided to the Port at the time of completion of any of the discrete tasks specified in the Services. Consultant shall maintain copies on file of any such work product involved in the Services for three (3) years, shall make them available for the Port's use, and shall provide such copies to the Port upon request at commercial printing or reproduction rates.

Subject to the provisions of the Oregon Public Records Law (the "Law"), all construction documents, including, but not limited to, electronic documents prepared under this Agreement are for use only with this project, and may not be used for any other construction related purpose, or dissemination to any contractor or construction related entity without written approval of the Consultant.

18. **CONSULTANT TRADE SECRETS AND OPEN RECORDS REQUESTS:**

- a. **Public Records.** The Consultant acknowledges and agrees that all documents in the Port's possession, including documents submitted by the Consultant, are subject to the provisions of the Law, and the Consultant acknowledges that the Port shall abide by the Law, including honoring all proper public records requests. The Consultant shall be responsible for all Consultants' costs incurred in connection with any legal determination regarding the Law, including any determination made by a court pursuant to the Law. The Consultant is advised to contact legal counsel concerning such acts in application of the Law to the Consultant.
- b. **Confidential or Proprietary Materials.** If the Consultant deems any document(s) which the Consultant submits to the Port to be confidential, proprietary or otherwise protected from disclosure under the Law, then the Consultant shall appropriately label such document(s), and submit such document(s) to the Port together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. The request will either be approved or denied by the Port in the Port's discretion. The Port will make a good faith effort to accommodate a reasonable confidentiality request if in the Port's opinion the Port determines the request complies with the Law.
- c. **Stakeholder.** In the event of litigation concerning disclosure of any document(s) submitted by consultant to the Port, the Port's sole involvement will be as stakeholder retaining the document(s) until otherwise ordered by the court and the Consultant shall be fully responsible for otherwise prosecuting or defending any actions concerning the document(s) at its sole expense and risk.

19. **DESIGNATION OF REPRESENTATIVES:** The Port hereby designates Michael McElwee, Executive Director and the Consultant hereby designates Aron Faegre as the persons who are authorized to represent the parties with regard to administration of this Agreement, subject to limitations, which may be agreed to by the parties.
20. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties hereto relating to the Services and sets forth the rights, duties, and obligations of each party to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be amended except by a writing executed by both the Consultant and the Port and approved by the Port Commission.
21. **INTERPRETATION:** In this Agreement the singular includes the plural and the plural includes the singular; statutes or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to; references to "writing" include printing, typing, lithography, computer software and other means of reproducing word in a tangible visible form; references to articles, sections (or subdivisions of sections), exhibits, annexes, appendices or schedules shall be construed to be in this Agreement unless otherwise indicated; references to agreements, exhibits, annexes, appendices hereto and other contractual instruments shall, unless otherwise indicated, be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by this Agreement; words not otherwise defined which have well-known technical or industry meanings, unless the context otherwise requires, are used in accordance with such recognized meanings; and references to persons include their respective permitted successors and assigns, and, in the case of governmental persons, persons succeeding to their respective functions and capacities.
22. **BINDING AGREEMENT:** This agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto.
23. **NO WAIVER:** No waiver of any provisions of this Agreement shall be deemed to constitute a waiver of any other provision of the Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.
24. **LIMITATION ON DELEGATION:** The parties hereto acknowledge and agree that certain powers, rights and duties conferred on or held by the Port are inherently governmental in nature and may not be delegated by contract to the Consultant. Nothing in this Agreement shall be construed as an unlawful delegation of the non-delegable functions and powers of the Port, and the Consultant shall have no obligation to perform any non-delegable function.
25. **LEGAL COUNSEL:** The parties hereto agree they have full and adequate opportunity to consult with legal counsel and that each has had such counsel as it deems appropriate.
26. **OBSERVE ALL LAWS:** The Consultant shall keep fully informed regarding and materially comply with all federal, state and local laws, ordinances and regulations and all orders and decrees of bodies or tribunals having jurisdiction or authority which may affect those engaged or employed in the performance of this Agreement.
27. **CONTROLLING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, and any disputes hereunder shall be tried in the courts of the State of Oregon.

- 28. **MEDIATION/ARBITRATION:** Excepting injunctive relief, any dispute, controversy or claim arising out of, in connection with, or relating to, this Agreement or any breach or alleged breach of this Agreement, shall, upon request of any party involved, be submitted to mediation in Hood River County, Oregon. If a settlement cannot be reached through mediation, the parties agree that the dispute will be submitted to and be settled by arbitration in Hood River County, Oregon. Such arbitration shall be in accordance with Uniform Arbitration Act (UAA) as in effect, and as hereinafter amended. Any award rendered shall be final and conclusive upon the parties, and a judgment on such award may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the cost of their respective own experts, evidence and counsel's fees. The parties to either mediation or arbitration recognize that mediation sessions are settlement negotiations and that settlement negotiations are inadmissible in any litigation or arbitration of their dispute, to the extent allowed by law. The parties will not subpoena or otherwise require the mediator to testify or produce records, notes, or work product in any future proceeding beyond mediation. In addition, the parties agree that all information obtained in either the mediation or arbitration process is strictly confidential and further agree that the party not otherwise having such information available to them other than through the mediation or arbitration process shall hold all such information in confidence.
  
- 29. **FURTHER ASSURANCES:** Each party shall execute and deliver, at the request of the other party, any further documents or instruments, and shall perform any further acts that may be reasonably required to fully effect the transaction intended by this Agreement.
  
- 30. **LIMITATION ON LIABILITY:** IN NO EVENT SHALL CONSULTANT BE LIABLE FOR INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, LOSS OF USE, OR OTHER ECONOMIC LOSS FOR EVENTS BEYOND THE CONSULTANTS CONTROL; **PROVIDED, HOWEVER, THAT THIS LIMITATION SHALL IN NO WAY DIMINISH CONSULTANTS PROFESSIONAL LIABILITY INSURANCE COVERAGES OR DEFENSE OBLIGATIONS OTHERWISE AVAILABLE TO CONSULTANT UNDER ANY CONSULTANT PROFESSIONAL LIABILITY POLICY.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, this \_\_\_ day of \_\_\_\_\_, 2021.

CONSULTANT: Aron Faegre & Associates

PORT OF HOOD RIVER

Signature: \_\_\_\_\_  
 Signed Aron Faegre  
 Title:  
 Date:

Signature: \_\_\_\_\_  
 Signed: Michael McElwee  
 Title: Executive Director  
 Date:

## Exhibit A Scope of Services

### 1. Overview

Provide architect and engineering consulting services for the design of an aircraft storage hangar substantially as shown in the preliminary drawings.

### 2. Design Services

The design shall first be provided to the Port at the design development stage for review and approval. Then the design shall be developed in sufficient detail to be competitively bid as a public construction project. The bid documents shall provide, in addition to the normal architectural and engineering details and specifications, outline specifications and information such that the detailed structural design of the metal building and its foundations will be done as design-build as part of the general contractor's responsibility. In addition, the mechanical-electrical-plumbing work shall also be design-build under the general contractor's responsibility, based on outline specifications provided by the architect and engineering team.

### 3. Bidding Services

During bidding the consultant shall provide assistance in providing clarifications as they come up. Once a bidder is selected by the Port, the architect and engineering services shall include the compiling of all of the bid documents, plus the design-build submittals, into an application for building permit. The design services shall include responding to building permit review questions and issues, and the gaining of the building permit.

### 4. Construction Services

Finally, the design services shall include providing construction observation of the work, including review and sign off on: contractor submittals, contractor pay applications, and assisting the Port with review of any required changes to the work. At the end of the construction work, Consultant shall provide assistance in preparing a set of as-built drawings of the project for the Port's record keeping.

### 5. Design Cost

We propose to do this work at our regular time and material rates, with an anticipated budget of \$95,000. Rates are as follows:

Aron Faegre \$110/hr.

Design Assistants \$90/hr.

Consultants x 1.1

Expenses x 1.1

### 6. Deliverables

#### a. Design phase

- i. Plans submitted to owner for review at 40%, 60% and 90% completion
- ii. Design meetings either in person or ZOOM, enough to get to completion
- iii. Specification package
- iv. Bid item generation for bid package
- v. Clarification and addendum review and contractor question answering as needed
- vi. Contractor proposal review and evaluation

#### b. Construction phase

- i. Review and approve pay applications and Change Order requests

- ii. Attend all inspections as required by owner
- iii. Review and approve material submittals
- iv. Daily reports and inspections will be carried out by Port Staff
- v. Attendance at weekly construction meetings either via zoom or in person if needed.
- vi. RFI tracking and response
- vii. Punch list generation

# Commission Memo



Prepared by: Kevin Greenwood  
Date: February 16, 2021  
Re: Sec. 106 Soundings Contract

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The Port is currently working through the Section 106 process required to be complete before the Final Environmental Impact Statement (FEIS) can be published. Section 106 requires federal agencies to consider project effects on historic properties – both above and below ground. Federal Highways (FHWA) and Oregon Dept. of Trans. (ODOT) have consulted with the Washington State Dept. of Archaeology and Historic Preservation (DAHP) and the Umatilla and determined that the Port should evaluate the river bed and sub-surface between the original river bank (pre-Bonneville) and the current river bank on the north shore for archaeological resources. It's unclear whether this effort will identify any resources (i.e., relic pile from the original bridge or stone foundations), but the effort shows that the Port has made every effort to identify impacts.

The proposed scope of work from David Evans & Assoc. (DEA) includes the following hydrographic and geophysical survey efforts:

1. Side-scan sonar – images the surface from a two-dimensional perspective in high detail. Provides complete two-dimensional coverage.
2. Multibeam bathymetry – less dense data producing clear 3D point cloud images when depth allows.
3. Sub-bottom profiler – sonar transmitted below bed surface identifies layers of denser material including the pre-impoundment surface.
4. Marine magnetometer – highly sensitive data rates focusing on ferrous (i.e., steel and iron) material below bed surface.

The effort has the possibility to reveal issues that engineers can then mitigate, minimize or otherwise avoid.

Upon approval, DEA will need three weeks to mobilize, three days to conduct field work, and four weeks to produce deliverables. The contract should be completed by the end of April. This work is reimbursable from HB2017.

**RECOMMENDATION:** Approve contract with David Evans and Associates for hydrographic and geophysical survey work related to bridge replacement not to exceed \$68,100, plus reasonable reimbursable expenses.

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David Evans & Assoc.

### PERSONAL SERVICES CONTRACT

This Agreement is between the Port of Hood River, an Oregon Municipal Corporation, (hereinafter referred to as “**Port**”), and David Evans and Associates, Inc. (hereinafter referred to as “**Consultant**”).

In consideration of the mutual covenants set forth in this Agreement, Port authorizes Consultant and Consultant agrees to carry out and complete services as described below:

1. **PROJECT:** Work shall be performed by Consultant in connection with a project generally described as: Provide analysis and report summarizing the field effort and results from Hydrographic and Geophysical Surveying work at the location of the former Hood River Bridge northern approach (attached as Exhibit A).
2. **SCOPE OF SERVICES:** The Consultant shall be responsible for the performance of all services as set forth in the Hood River Bridge Geophysical Survey Proposal dated February 5, 2021 attached hereto and incorporated herein as **Exhibit ‘A’** (the “Services”) and to the extent described in this Agreement and shall perform Services using the degree of skill and knowledge customarily employed by professionals performing similar services in the community under similar circumstances. The Consultant shall be responsible for providing, at the Consultant’s cost and expense, all management, supervision, materials, administrative support, supplies, and equipment necessary to perform the Services as described herein, all in accordance with this Agreement.
3. **TERM OF AGREEMENT:** The term of this Agreement shall begin on the date this contract is fully executed and shall terminate on April 30, 2021 or when the Services have been completely performed to the Port’s satisfaction, whichever first occurs, or otherwise by mutual written agreement of the parties or by the exercise of the termination provisions specified herein.
4. **ADDITIONAL SERVICES:** The Port may request that the Consultant provide the Port with certain services not identified in Exhibit A (“Additional Services”). Additional Services shall not be performed by the Consultant unless written approval is received from the Port. Upon receipt of the written request, the Port and the Consultant shall negotiate the scope of the relevant Additional Services and price, which shall be subject to the mutual written agreement of the Consultant and the Port. If the Consultant performs any Additional Services prior to or without receiving a written request from the Port, the Consultant shall not be entitled to any compensation for such Additional Services. Authorization shall be issued by individual work orders or by amendment to this contract that is signed by the Executive Director of the Port.
5. **TIME OF THE ESSENCE:** The Services of the Consultant shall be undertaken and completed in such a manner and in such a sequence as to reasonably assure their expeditious completion considering the purpose of this Agreement. It is agreed that time is of the essence in the performance, provided that Consultant services must in all events be governed by sound professional practices. The vessel captain has sole and absolute discretion to determine whether daily conditions are safe for water travel.
6. **COMPENSATION:** The Port shall pay fees to the Consultant for Services performed under the terms of this Agreement an amount not to exceed **\$68,100.00** (“Compensation”), unless otherwise approved by the Port.

Consultant shall submit a single invoice for work and deliverables identified in this contract. Invoices shall include a detailed description of work performed, with work dates, times and hourly billing rates stated, and an itemization of costs billed. Port shall make payments in a timely manner, within twenty-five (25) days of receipt of invoice.

If Port does not pay within twenty-five (25) days of receipt of invoice acceptable to Port, the invoice shall incur a service charge of 1.5% per month on the unpaid monthly balance. Consultant reserves the right to withhold services or cancel this Agreement if Port's account is more than sixty (60) days delinquent.

7. **STATUS OF CONSULTANT AND RELATIONSHIP TO PORT:** The Consultant is an independent contractor and nothing contained herein shall be construed as constituting any relationship with the Port other than that as owner and independent contractor, nor shall it be construed as creating any relationship whatsoever between the Port and any of the Consultant's employees. Neither the Consultant nor any of the Consultant's employees are nor shall they be deemed employees of the Port. The Consultant is not and shall not act as an agent of the Port. All employees who assist the Consultant in the performance of the Services shall always be under the Consultant's exclusive direction and control. The Consultant shall pay all wages, salaries and other amounts due the Consultant's employees in connection with the performance of the Services and shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax, income tax withholding, unemployment compensation, worker's compensation, employee benefits and similar matters. Further, the Consultant has sole authority and responsibility to employ, discharge and otherwise control the Consultant's employees. The Consultant has sole authority and responsibility as principal for the Consultant's agents, employees, sub-consultants and all others the Consultant hires to perform or assist in performing the Services. The Port's only interest is in the results to be achieved.
8. **REPRESENTATIONS:** The Consultant represents and covenants that:
- a. The Consultant has the required authority, ability, skills and capacity to, and shall, perform the services in a manner consistent with this Agreement. Further, any employees and sub-consultants of the Consultant employed in performing the Services shall have the skill, experience and licenses required to perform the Services assigned to them.
  - b. To the extent the Consultant deems necessary, in accordance with prudent practices, the Consultant has visually inspected the above water sites and all of the surrounding locations whereupon the Consultant may be called to perform the Consultant's obligations under this Agreement, and is familiar with requirements of the Services and accepts them for such performance.
  - c. The Consultant has knowledge of all the legal requirements and business practices in the State of Oregon that must be followed in performing the Services and the Services shall be performed in conformity with such requirements and practices.
  - d. The Consultant is validly organized and exists in good standing under the laws of the State of Oregon, and has all the requisite powers to carry on the Consultant's business as now conducted or proposed to be conducted and the Consultant is duly qualified, registered or licensed to do business in good standing in the State of Oregon.
  - e. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not (a) require any further consent or approval of the board of directors or any shareholders of the Consultant or any other person which has not been obtained or (b) result in a breach of default under the certificate of incorporation or by-laws of the Consultant or any indenture or loan or credit agreement or other material agreement or instrument to which the Consultant is a party or by which the Consultant's properties and assets may be bound or affected. All such consents and approvals are in full force and effect.

**9. CONSULTANT'S INSURANCE:**

Consultant shall keep and maintain the following insurance for the duration of the contract period:

- a. Commercial General Liability insurance on an occurrence basis with a limit of not less than \$1,000,000 each occurrence for bodily injury and property damage and \$2,000,000 general aggregate. The Liability Insurance coverage shall provide contractual liability. The coverage shall name the Port of Hood River and each of its Commissioners, officers, agents, and employees as Additional Insured with respect to Contract.
- b. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.
- c. Professional Liability insurance with a \$1,000,000 per claim and \$1,000,000 in the aggregate negligent acts, errors and omissions coverage against liability for personal injury, death or damage of property, including loss of use thereof, arising from the firm's negligent acts, errors or omissions in any way related to this Contract.
- d. Prior to commencing any work under this Agreement, the Consultant shall provide the Port with a certificate or certificates evidencing the insurance required by this section, as well as the amounts of coverage for the respective types of coverage. If the Consultant sub-contracts any portion(s) of the Services, said sub-consultant(s) shall be required to furnish certificates evidencing statutory worker's compensation insurance, comprehensive general liability insurance and professional liability insurance coverage in amounts satisfactory to the Port and the Consultant. If the coverage under this paragraph expires during the term of this Agreement, the Consultant shall provide replacement certificate(s) evidencing the continuation of required policies.
- e. Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. (Required of contractors with one or more employees, unless exempt under ORS 656.027.)

As evidence of the insurance coverage required by this Contract, the Contractor shall furnish acceptable insurance certificates to the Port at the time Contractor returns the signed Contract. The Commercial General Liability certificate shall provide that the Port, its Commissioners, officers, agents, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract. Endorsement CG 20 10 04 13 or its equivalent must be attached to the Certificate. The Certificate shall provide that the insurance shall not terminate or be canceled without 30 days written notice first being given to the Port. Insuring companies or entities are subject to Port acceptance. If requires, complete copies of the insurance policy shall be provided to the Port. The contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

If any policy obtained by the Consultant is a claims-made policy, the following conditions shall apply: the policy shall provide the Consultant has the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. The Consultant agrees to purchase this extended insurance coverage and to keep it in effect during the reporting period. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall be not later than the date this Agreement is signed by the parties hereto. If the Consultant purchases a subsequent

claims-made policy in place of the prior policy, the retroactive date of such subsequent policy shall be no later than the date this Agreement is signed by the parties hereto.

10. **INDEMNIFICATION:** The Consultant shall indemnify, and hold harmless the Port, its commissioners, employees and agents, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, expenses (including reasonable attorney's fees) and liabilities to the extent, they are directly resulting from the negligent acts of the Consultant, or any of the Consultant's sub-consultants, Consultant's suppliers and/or Consultant's employees arising in connection with the performance of this Agreement. The obligations of the indemnifications extended by the Consultant to the Port shall survive the termination or expiration of this Agreement.
11. **CONFIDENTIALITY:** During the performance of the Agreement and for all time subsequent to completion of the Services under this Agreement, the Consultant agrees not to use or disclose to anyone, except as required by the performance of this Agreement or by law, rule, regulation, court order, government investigation, whistleblowing, or as otherwise authorized by the Port, any and all information given to the Consultant by the Port or developed by the Consultant as a result of the performance of this Agreement. The Consultant agrees that if the Port so requests, the Consultant will execute a confidentiality agreement in a form acceptable to the Port, and will require any employee or sub-consultant performing work under this Agreement or receiving any information deemed confidential by the Port to execute such a confidentiality agreement.
12. **ASSIGNMENT:** Neither party shall assign this Agreement or parts hereof or its duties hereunder, but not including work products produced by the Consultant, without the express written consent of the other party. In the event of dissolution, consolidation or termination of the Port, the parties agree that the Port may assign to a successor entity any rights, obligations and functions it may have remaining under this Agreement.
13. **SUBCONSULTANTS:**
  - a. **General.** The Consultant is solely and fully responsible to the Port for the performance of the Services under this Agreement. Use of any sub-consultant by the Consultant shall be pre-approved by the Port. The Consultant agrees that each and every agreement of the Consultant with any sub-consultants to perform Services under this Agreement shall be terminable without penalty.
  - b. **Sub-Consultant Commitments:** All of the Consultant's subcontracts in connection with the performance of the Services shall be in writing and include the following provisions:
    - i. The subcontract/contract is immediately terminable without cause, and cost for such termination activities shall be determined according to the terms of this Agreement.
    - ii. The sub-consultant shall carry insurance in forms and amounts satisfactory to the Port in its sole discretion, as provided by this Agreement
    - iii. The Consultant shall provide the Port with a copy of each subcontract executed with the performance of the Services within seven (7) days of each subcontract's execution.

Sub-consultants who assist the Consultant in the performance of the Services shall at all times be under the Consultant's exclusive direction and control and shall be sub-consultants of the Consultant and not consultants of the Port. The Consultant shall pay or cause each sub-consultant to pay all wages, salaries and other amounts due to the Consultant's sub-consultants in performance of the duties set forth in this Agreement and shall be responsible for any and all reports and obligations respecting such sub-consultants. All sub-consultants

shall have the skill and experience and any business license or permits required to perform the Services assigned to them.

14. **TERMINATION NOT-FOR-CAUSE:** In addition to any other rights provided herein, the Port shall have the right, at any time and in its sole discretion, to terminate, not for cause, in whole or in part, this Agreement and further performance of the Services by delivery to the Consultant of written notice of termination specifying the extent of termination and the effective date of termination.
- a. **Obligations of Consultant.** After receipt of a notice of termination, and unless otherwise directed by the Port, the Consultant shall immediately proceed as follows:
    - i. Stop work on the Services as specified in the notice of termination;
    - ii. Terminate all agreements with sub-consultants to the extent they relate to the Services terminated;
    - iii. Submit to the Port detailed information relating to each and every sub-consultant of the Consultant under this Agreement. This information will include sufficient detail so the Port can immediately contact each such sub-consultant to determine the role or function of each in regard to the performance of the Services and if the Port so elects, the Port may engage any sub-consultant for substantially the same terms as have been contracted by the Consultant;
    - iv. Complete performance in accordance with this Agreement of all the services not terminated; and
    - v. Take any action that may be necessary, or that the Port may direct, for the protection and preservation of the property related to this Agreement that is in the possession of the Consultant and in which the Port has or may acquire an interest.
  - b. **Termination Settlement.** After termination, the Consultant shall submit a final termination settlement proposal to the Port in a form and with a certification prescribed by the Port. The Consultant shall submit the proposal promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the Port upon written request by the Consultant within such thirty-day period. If the Consultant fails to submit the proposal within the time allowed the Port's payment obligations under this Agreement shall be deemed satisfied and no further payment by the Port to the Consultant shall be made.
  - c. **Payment Upon Termination.** As a result of termination without cause the Port shall pay the Consultant in accordance with the terms of this Agreement for the Services performed up to the termination and unpaid at termination.
  - d. **Partial Termination.** If the termination is partial the Port shall make an appropriate adjustment of the price of the Services not terminated. Any request by the Consultant for further adjustment of prices shall be submitted in writing within thirty (30) days from the effective date of notice of partial termination or shall be deemed forever waived.
15. **FORCE MAJEURE:** Neither party to this Agreement shall be liable to the other party for delays in or failure to perform services caused by circumstances beyond its reasonable control, including but not limited to acts of God, acts of governmental authorities, strikes, riots, civil unrest, war, lockouts, extraordinary weather conditions or other natural catastrophe, ordinary weather conditions which present a safety hazard as determined by the vessel captain in their sole and absolute discretion, or any other cause beyond the reasonable contemplation of either party. For delays resulting from unanticipated material actions or inactions of Port or third parties, Consultant shall be given an appropriate time extension and shall be compensated for all costs of labor, equipment, and other direct

costs Consultant reasonably and necessarily incurs. Delays of more than ninety (90) calendar days shall, at the option of either party, make this contract subject to termination.

16. **RECORD KEEPING:** The Consultant shall maintain all records and documents relating to Services performed under this Agreement for three (3) years after the termination or expiration of this Agreement. This includes all books and other evidence bearing on the Consultants time based and reimbursable costs and expenses under this Agreement. The Consultant shall make these records and documents available to the Port, at the Port's office, at all reasonable times, without any charge. If accepted by the Port, photographs, microphotographs or other authentic reproductions may be maintained instead of original records and documents.
17. **WORK PRODUCT:** All work product of the Consultant prepared pursuant to this Agreement, including but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall upon payment of all amounts rightfully owed by the Port to the Consultant herein remain the property of the Port under all circumstances, whether or not the services are complete. When requested by the Port, all work products shall be delivered to the Port in PDF or full-size, hard copy form. Work products shall be provided to the Port at the time of completion of any of the discrete tasks specified in the Services. Consultant shall maintain copies on file of any such work product involved in the Services for three (3) years, shall make them available for the Port's use, and shall provide such copies to the Port upon request at commercial printing or reproduction rates. Any reuse or modification of the work product without the prior written consent of the Consultant shall be at the sole risk of the Port.

Subject to the provisions of the Oregon Public Records Law (the "Law"), all construction documents, including, but not limited to, electronic documents prepared under this Agreement are for use only with this project, and may not be used for any other construction related purpose, or dissemination to any contractor or construction related entity without written approval of the Consultant.

18. **CONSULTANT TRADE SECRETS AND OPEN RECORDS REQUESTS:**

- a. **Public Records.** The Consultant acknowledges and agrees that all documents in the Port's possession, including documents submitted by the Consultant, are subject to the provisions of the Law, and the Consultant acknowledges that the Port shall abide by the Law, including honoring all proper public records requests. The Consultant shall be responsible for all Consultants' costs incurred in connection with any legal determination regarding the Law, including any determination made by a court pursuant to the Law. The Consultant is advised to contact legal counsel concerning such acts in application of the Law to the Consultant.
- b. **Confidential or Proprietary Materials.** If the Consultant deems any document(s) which the Consultant submits to the Port to be confidential, proprietary or otherwise protected from disclosure under the Law, then the Consultant shall appropriately label such document(s), and submit such document(s) to the Port together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. The request will either be approved or denied by the Port in the Port's discretion. The Port will make a good faith effort to accommodate a reasonable confidentiality request if in the Port's opinion the Port determines the request complies with the Law.
- c. **Stakeholder.** In the event of litigation concerning disclosure of any document(s) submitted by consultant to the Port, the Port's sole involvement will be as stakeholder retaining the document(s) until otherwise ordered by the court and the Consultant shall be fully responsible

for otherwise prosecuting or defending any actions concerning the document(s) at its sole expense and risk.

19. **DESIGNATION OF REPRESENTATIVES:** The Port hereby designates Michael McElwee, Executive Director and the Consultant hereby designates Nicholas Lesnikowski as the persons who are authorized to represent the parties with regard to administration of this Agreement, subject to limitations, which may be agreed to by the parties.
20. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties hereto relating to the Services and sets forth the rights, duties, and obligations of each party to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be amended except by a writing executed by both the Consultant and the Port and approved by the Port Commission.
21. **INTERPRETATION:** In this Agreement the singular includes the plural and the plural includes the singular; statutes or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to; references to "writing" include printing, typing, lithography, computer software and other means of reproducing word in a tangible visible form; references to articles, sections (or subdivisions of sections), exhibits, annexes, appendices or schedules shall be construed to be in this Agreement unless otherwise indicated; references to agreements, exhibits, annexes, appendices hereto and other contractual instruments shall, unless otherwise indicated, be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by this Agreement; words not otherwise defined which have well-known technical or industry meanings, unless the context otherwise requires, are used in accordance with such recognized meanings; and references to persons include their respective permitted successors and assigns, and, in the case of governmental persons, persons succeeding to their respective functions and capacities.
22. **BINDING AGREEMENT:** This agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto.
23. **NO WAIVER:** No waiver of any provisions of this Agreement shall be deemed to constitute a waiver of any other provision of the Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.
24. **LIMITATION ON DELEGATION:** The parties hereto acknowledge and agree that certain powers, rights and duties conferred on or held by the Port are inherently governmental in nature and may not be delegated by contract to the Consultant. Nothing in this Agreement shall be construed as an unlawful delegation of the non-delegable functions and powers of the Port, and the Consultant shall have no obligation to perform any non-delegable function.
25. **LEGAL COUNSEL:** The parties hereto agree they have full and adequate opportunity to consult with legal counsel and that each has had such counsel as it deems appropriate.
26. **OBSERVE ALL LAWS:** The Consultant shall keep fully informed regarding and materially comply with all federal, state and local laws, ordinances and regulations and all orders and decrees of bodies or tribunals having jurisdiction or authority which may affect those engaged or employed in the performance of this Agreement.

27. **CONTROLLING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, and any disputes hereunder shall be tried in the courts of the State of Oregon.

28. **MEDIATION/ARBITRATION:** Excepting injunctive relief, any dispute, controversy or claim arising out of, in connection with, or relating to, this Agreement or any breach or alleged breach of this Agreement, shall, upon request of any party involved, be submitted to mediation in Hood River County, Oregon. If a settlement cannot be reached through mediation, the parties agree that the dispute will be submitted to and be settled by arbitration in Hood River County, Oregon. Such arbitration shall be in accordance with Uniform Arbitration Act (UAA) as in effect, and as hereinafter amended. Any award rendered shall be final and conclusive upon the parties, and a judgment on such award may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the cost of their respective own experts, evidence and counsel's fees. The parties to either mediation or arbitration recognize that mediation sessions are settlement negotiations and that settlement negotiations are inadmissible in any litigation or arbitration of their dispute, to the extent allowed by law. The parties will not subpoena or otherwise require the mediator to testify or produce records, notes, or work product in any future proceeding beyond mediation. In addition, the parties agree that all information obtained in either the mediation or arbitration process is strictly confidential and further agree that the party not otherwise having such information available to them other than through the mediation or arbitration process shall hold all such information in confidence.

29. **FURTHER ASSURANCES:** Each party shall execute and deliver, at the request of the other party, any further documents or instruments, and shall perform any further acts that may be reasonably required to fully effect the transaction intended by this Agreement.

30. **LIMITATION ON LIABILITY:** IN NO EVENT SHALL CONSULTANT BE LIABLE FOR INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, LOSS OF USE, OR OTHER ECONOMIC LOSS; **PROVIDED, HOWEVER, THAT THIS LIMITATION SHALL IN NO WAY DIMINISH CONSULTANTS PROFESSIONAL LIABILITY INSURANCE COVERAGES OR DEFENSE OBLIGATIONS OTHERWISE AVAILABLE TO CONSULTANT UNDER ANY CONSULTANT PROFESSIONAL LIABILITY POLICY.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, this 2nd day of March 2021.

CONSULTANT: DAVID EVANS AND ASSOCIATES, INC.

PORT OF HOOD RIVER

Signature: \_\_\_\_\_  
Signed: Nicholas Lesnikowski, LG, CH  
Title: Senior Associate  
Date: March 2, 2021

Signature: \_\_\_\_\_  
Signed: Michael McElwee  
Title: Executive Director  
Date: March 2, 2021





DAVID EVANS  
AND ASSOCIATES INC.  
MARINE SERVICES

February 5, 2021

Angela J. Findley, PMP  
WSP  
210 E 13<sup>th</sup> St., Suite 300  
Vancouver, WA 98660

**SUBJECT: Hood River Bridge Geophysical Survey Proposal**

Dear Ms. Findley:

The Marine Services Division at David Evans and Associates, Inc. (DEA) is pleased to provide this proposal and cost estimate for a comprehensive high-resolution geophysical survey in support of archeological investigations along the Hood River replacement bridge on the Columbia River. The purpose of the survey is to collect detailed information to assess the possible presence of cultural artifacts.

**SCOPE OF SERVICES**

**Field Operations**

DEA proposes to conduct a high-resolution geophysical survey along impact areas designated by WSP and shown below in Figure 1. The primary survey tools will include: side-scan sonar, multibeam bathymetry, sub-bottom profiler and marine magnetometer. The shoreward extent of the survey area may be limited to areas safe to navigate as determined by the vessel operator. The plan will be to run transects within the designated area of interest, to the extent possible. The primary survey will offset lines will be laid out at a 20 -foot line spacing. All data will be time tagged and corrected for offset position relative to the vessel's navigation system.

**Mapping and Report**

Post processing will include:

1. Production of track line maps.
2. Creating georeferenced side-scan mosaics
3. Creating a side-scan target list through detailed playback of individual sonar lines and indicating target locations on track line map
4. Developing a magnetic anomaly target list and mapping target locations.
5. Evaluating the sub-bottom profiler records for subsurface anomalies and designating the locations of each on the track line map
6. Producing a letter report summarizing survey operations and data interpretation

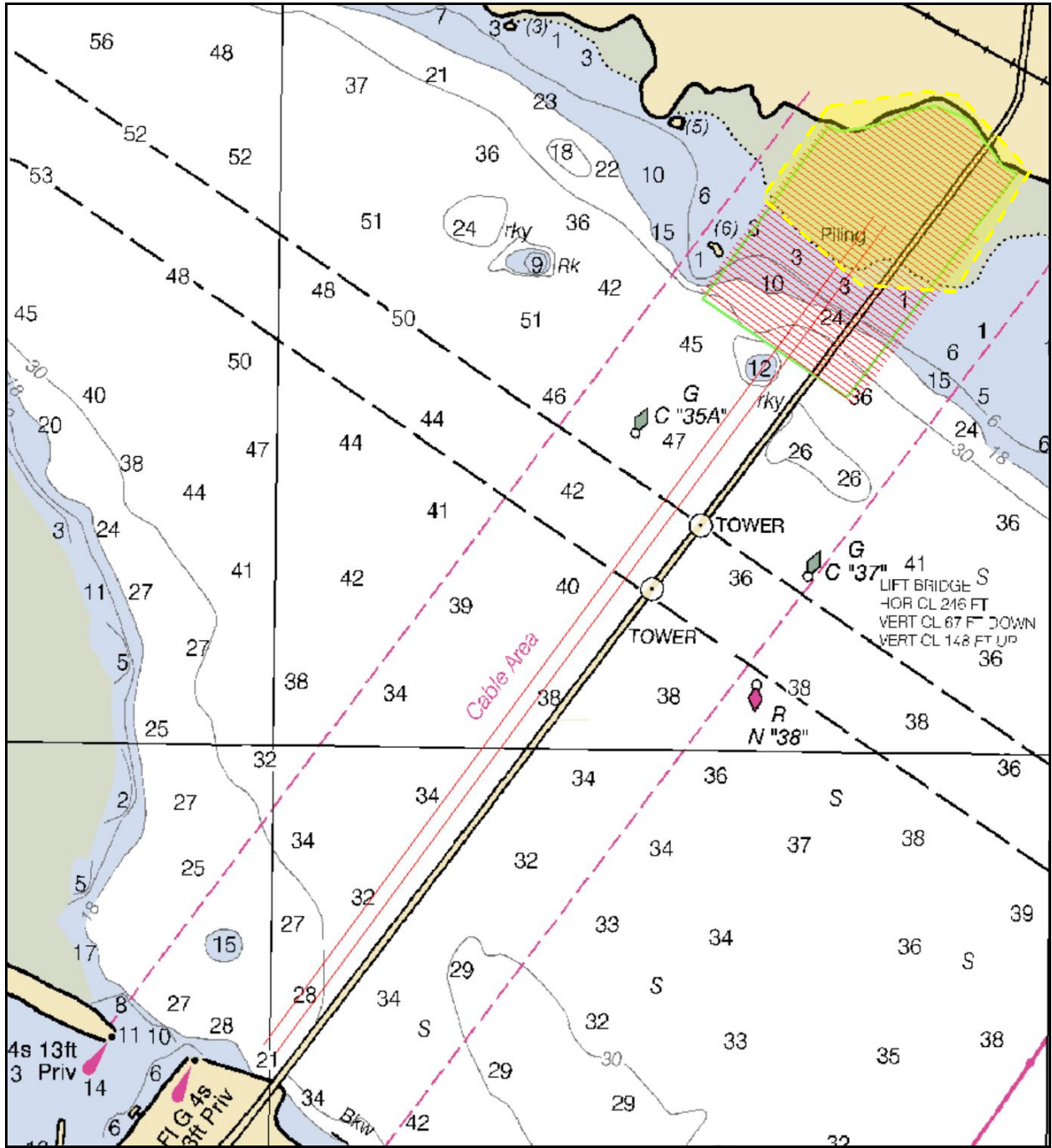


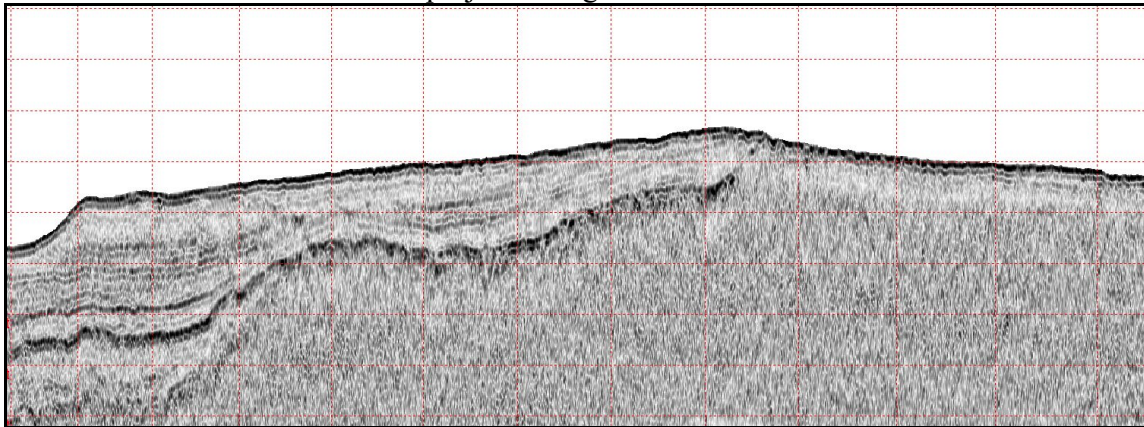
Figure 1: Proposed areas of interest (green) to be covered by 2021 geophysical survey and planned survey lines (red). Area of designated mudflats (yellow dash and highlight) may not be accessible for survey with any or all sensors. Efficacy and safety of operating in this area will be evaluated by the survey crew and relayed to WSP. Two additional survey lines will be acquired along the planned bridge alignment for general information on bottom and surficial conditions which may be of interest to project engineers.



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February 5, 2021

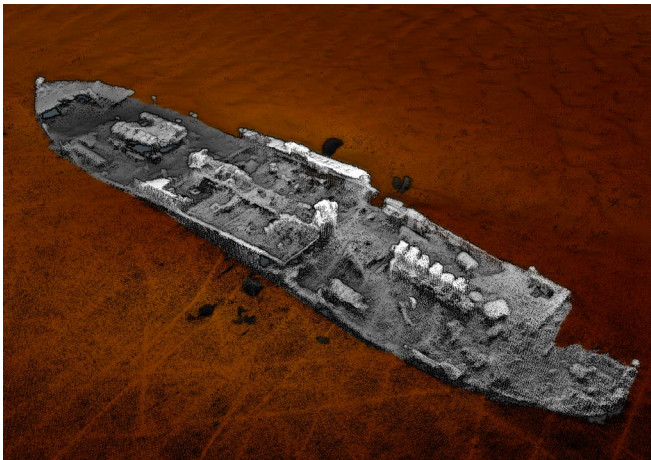
## EQUIPMENT

Surface positioning will be determined using RTK GNSS. An Applanix POS/MV GNSS and inertial navigation system will be used to blend the GPS position with its inertial measurements to provide precise vessel motion information and maintain accuracy during short periods of poor satellite visibility which may occur near the bridge. The sub-bottom profiler will be an Edgetech 512i or 216 Chirp profiling system. Both systems are capable of transmitting a variety of pulse bands which have various effects on the depth of acoustic penetration and resolution. The final pulses utilized will be chosen after running several test passes over the site. The sub-bottom system will be set to focus on the upper 15 to 20 feet of material, however, a few lines will be run with deeper settings in order to try to image the pre-impoundment surface which is understood to be an important reference point. Sub-bottom systems can be impacted by a variety of site conditions (i.e., obstructions, shallow gas entrained in sediments, etc.) and exact performance cannot be guaranteed. Figure 2 is a 512i sub-bottom record from a recent DEA project in Puget Sound.



*Figure 2: 512i Sub-bottom record from an Edgetech 512i in Puget Sound. Deep glacial till can be seen to rise from the left edge. Horizontal scale bars are 10-foot.*

Multibeam bathymetric soundings will be acquired with a RESON T50 sonar. This is a highly advanced system capable of obtaining up to 512 soundings across and 165-degree swath. At ping rates of up to 50 pings per second (pps) this represents potential data collection rates greater than 1.5 million soundings per minute. Very dense data, combined very small beam angles with highly accurate positioning, can produce outstanding 3D point cloud representations of the bottom morphology and structures. Figure 3 is an example of a shipwreck acquired with DEA's T50P.

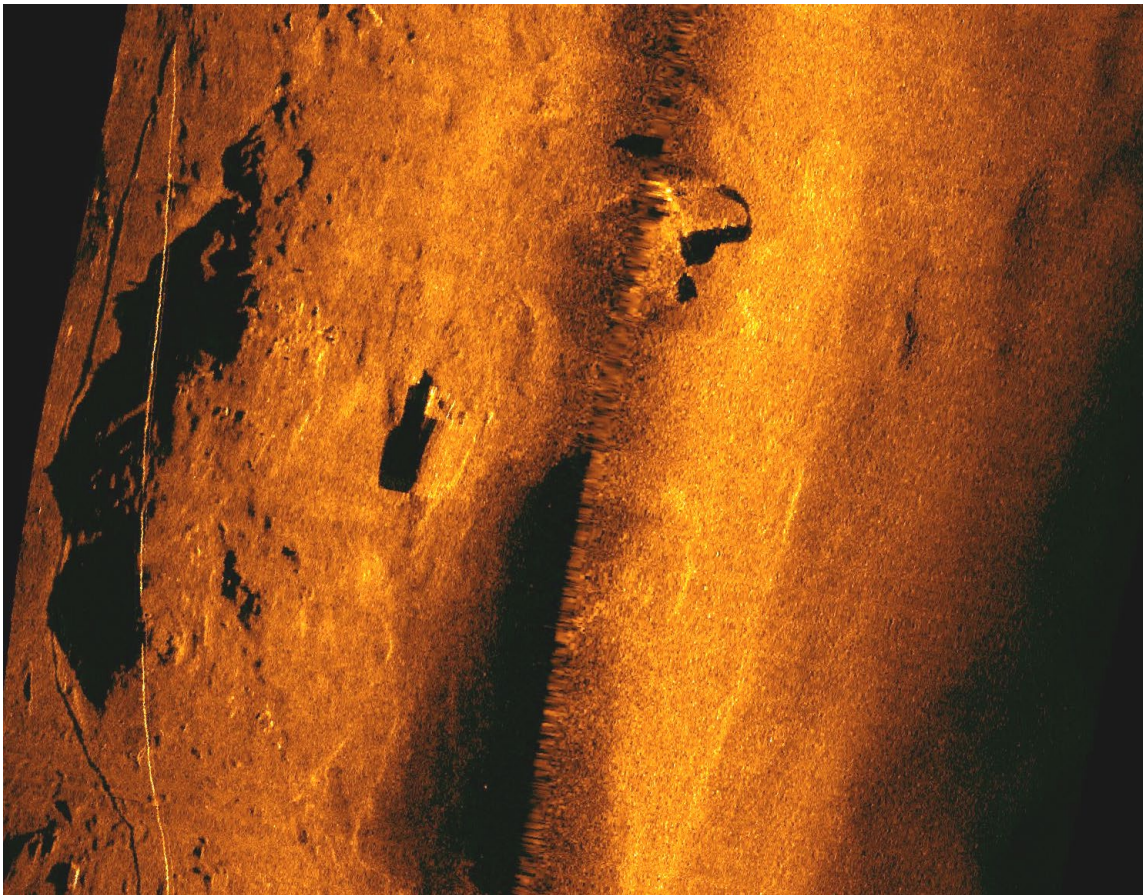


*Figure 3: 3D point cloud of multibeam bathymetric soundings. Note row of 6 cylinders from the main engine. Sounding density ~2 - 5 inches.*



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Side scan data will be collected using an Edgetech dual frequency sonar, either a 4200 or 2000-DSS. These are high definition, dual-frequency sonars that emit a frequency modulated (FM) “chirp” to generate high resolution side scan imagery. The system transmits on two frequencies simultaneously (100/600 kHz, or 300/600 kHz, depending on system utilized). Due to the close confines and shallow water in the area of interest, the systems will most likely be operated on very short ranges for maximum ping rate and resolution. However, a few wider area passes will be collect to give a more general overview, if logistics allow. Figure 4 is an example of a 600 kHz image recently acquired by DEA on a project in Alaska.



*Figure 4: 600 kHz side-scan image on a 25-meter range scale (50-m total swath). Note 8-inch power cable suspended across debris mound. This acoustic shadow from cable is evident to the far left in the record. Significant piece of wreckage and shadow are located near the center of the image.*

Magnetometer data will be acquired with a Marine Magnetics SeaSPY Overhauser marine magnetometer. This system can operate with very high sensitivity and at sample rates up to 4 Hz.

Any equipment not available at the time of survey will be replaced with equipment of similar or better specifications.



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All work will be supervised, and final deliverables approved by a NSPS certified hydrographer. The horizontal datum for this survey will be Washington State Plane, South Zone, NAD83/11. The vertical datum will be chart datum. The units will be US Survey Feet.

**SCHEDULE**

Equipment will be mobilized from DEA Marine’s Vancouver, WA office. DEA requests a minimum of three weeks notice prior to any planned survey to avoid any potential conflicts with other projects. All data processing will be completed by DEA in the Vancouver, WA and Seattle, WA locations. Final deliverables will be submitted no later than four weeks after the completion of the field work.

**ESTIMATED FEES FOR SERVICES**

Costs for conducting the above-mentioned geophysical survey are estimated as follows:

<b>Task</b>	<b>Estimated Cost</b>
Project Management and Administration	\$2,150
Planning, Mobilization/Demobilization	\$21,700
Data Acquisition (3-day estimate)	\$23,000
Data Analysis and Report	\$21,250
<b>TOTAL</b>	<b>\$68,100</b>

DEA welcomes the opportunity of working with WSP. Should you have any questions, or need further information please feel free to call me at (206) 419-4595 or Jon Dasler at (360) 314-3202.

Sincerely,

**DAVID EVANS AND ASSOCIATES, INC.**

Nicholas Lesnikowski, LG, CH  
Senior Associate

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