



PORT OF HOOD RIVER COMMISSION

AGENDA

Tuesday, October 22, 2024

Port Conference Room

1000 E. Port Marina Drive, Hood River

SPECIAL MEETING

1. **Call to Order** – 4:00 PM

2. **Action Items:**
 - a. Approve Amendment No. 1 with HRK Engineering for Parking Lot Design (*K. Greenwood, Pg. 3*)
 - b. Approve Real Estate Master Services Agreement and Work Orders with Tom Bacci, Kidder Mathews for Real Estate Services (*K. Greenwood, Pg. 17*)
 - c. Approve Master Services Agreement and Work Order with SUM Design for Architectural Services (*K. Greenwood, Pg. 39*)
 - d. Approve Res. No. 2024-25-9 Changing Rules at the Ken Jernstedt Airfield (*K. Greenwood, Pg. 61*)
 - e. Approve Amendment No. 2 Employment Contract with Kevin Greenwood, Executive Director (*D. Smith-Wagar, Pg. 61*)

3. **Adjourn**

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

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



Prepared by: Kevin Greenwood
Date: October 22, 2024
Re: Engineering Contract Amendment with HRK for waterfront parking lots

At the April 23, 2024 regular meeting, the Commission approved an engineering and design contract with HRK Engineering to engineer, design, develop stormwater reports, develop final specifications, develop the construction procurement package and manage the construction for two parking lots on the Hood River waterfront. The desire to develop more parking originated from spring and fall planning sessions in prior years.

In July of this year, it was clear that the initial \$50,000 budget was not going to meet the actual costs in the original budget. The original budget did not include the cost or scope for an initial site plan application process with the City. In addition, the Port found additional property abutting the Maritime site that could also be added to the project. This required additional design not originally included. Thirdly, a required 1200C (stormwater) permit application process had not been included.

Carlos Garrido, Principal, HRK Engineering, submitted an updated proposal on October 2nd. The Port utilized its master services agreement with WSP to conduct a high-level gap analysis to ensure there would be no additional missing elements to complete design and the construction procurement process. In addition, Port general counsel Beery Elsner and Hammond provided a legal review over the contract amendment.

This amendment pulls out the construction management task from the original contract. With construction costs escalating, this amendment includes a preliminary cost estimate to be generated. Staff is recommending that the Port hold off conducting the construction procurement until those planning level cost estimates are known. This amendment also requires invoicing by task which should make managing the project easier.

The contract amendment adds \$28,150 to the design cost. As of Friday, HRK has not updated the scoping document and schedule. Staff is recommending approval pending administrative and legal approval.

RECOMMENDATION: Authorize Contract Amendment with HRK Engineering for waterfront parking lot development not to exceed \$78,150 pending administrative and legal approval.

From: [Kevin Greenwood](#)
To: [Carlos Garrido](#)
Cc: [Kristi Chapman](#); [Alex Pedroza](#)
Bcc: emily.guimont@behlaw.com; [Ashleigh Dougill](#)
Subject: Port Parking Lot Change Order
Date: Thursday, October 17, 2024 3:17:00 PM
Attachments: [HRK Amendment save of DRAFT First Amendment to Construction-Related Personal Services Contract \(HRK\) \(00914529-2xB8084\).pdf](#)
[24-016 PoHR Parking Lots - Schedule 24 0926.pdf](#)
[24-016 PoHR Parking Lots - Proposal REMAINING DESIGN WORK SET v2.pdf](#)

Good afternoon Carlos,

Just a few things to adjust before getting this change order in front of the Port Commission (hopefully next week):

1. Update Schedule dated Sept. 26 to only include the tasks in the scoping document. No need to include the construction management tasks in the schedule since they aren't included in the contract. (see attached)
2. In your letter dated Oct. 2nd, (see attached) please include the following:
 - a. In the subject line, change "Proposal & Cost Estimate..." to "Exhibit A, Rev. 1, Scope of Work & Cost Estimate..."
 - b. Note when the preliminary cost estimate for the procurement documents will be developed, include as a separate deliverable.
 - c. Note that the following is not included nor needed for this project: Geotech, Construction Permit to be obtained by owner.
 - d. Include a reference that all specifications will follow City of Hood River Engineering Standards
3. The Cost Estimate from the 10/2 letters looks good.
4. Review the contract amendment (see attached) and let me know if you have any comments.

My hope is if you can get these changes back by COB Friday, I can get this in front of my board for approval on Oct. 22. Please advise.

Thank you,

Kevin Greenwood, Executive Director
PORT OF HOOD RIVER
1000 E. Port Marina Dr.
Hood River, OR 97031
(541) 386-1138: desk
(541) 961-9517: cell

FIRST AMENDMENT
to
CONSTRUCTION-RELATED PERSONAL SERVICES CONTRACT

This First Amendment to Construction-Related Personal Services Contract (“First Amendment”) is entered into between the Port of Hood River, an Oregon municipal corporation (“the Port”), and HRK Engineering, LLC (“Consultant”) (collectively, “the Parties”).

RECITALS

On April 29, 2024, the Parties entered into a Construction-Related Personal Services Contract (“Agreement”) whereby Consultant agreed to provide the Port with certain design services as set forth in the Agreement and described as “Waterfront Parking Lot Development.” Now intending to be legally bound, the parties agree as follows.

TERMS

1. Scope of Services; Exhibit A.

The Scope of Services attached to the Agreement as Exhibit A shall be wholly replaced and superseded by the Scope of Services attached to this First Amendment as “Exhibit A, Rev. 1”. All references to “Exhibit A,” “Scope of Services,” and “Services” within the Agreement shall refer to “Exhibit A, Rev. 1” which includes a memo from HRK Engineering with the Scope of Work, Schedule and Budget

2. Term of Agreement.

Section 3 of the Agreement is wholly deleted and replaced with the following:

“The term of this Agreement shall begin on the date this Agreement is fully executed and shall terminate **July 15, 2025**, unless sooner terminated or extended under the provisions of the Agreement. All Services shall be completed prior to the expiration of this Agreement.”

3. Compensation.

Section 5 of the Agreement is wholly deleted and replaced with the following:

“The Port shall compensate Consultant for its timely, diligent, and complete performance of the Services, performed pursuant to the terms of this Agreement. In no event will compensation for the Services exceed **\$78,130.68** regardless of Consultant’s actual time and materials required to perform the Services. Consultant hereby understands and agrees that (1) the amount set forth in this Section 5 is full and adequate compensation for the performance of all Services and (2) the Port shall not provide Consultant with any additional compensation in connection with the Services, except as expressly set forth herein.

If expressly provided in Exhibit A, the Port will 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 **\$500.00**. Consultant will not exceed **\$2,000.00** in total Reimbursable Expenses without prior written Port approval.

Consultant shall submit monthly invoices computed on the basis of the percentage of work completed or hours worked and detailing the Services provided to date. Invoices shall include a detailed description of work performed, including the specific Task in Exhibit A under which the work was 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. Invoices received from the Consultant pursuant to this Agreement will be reviewed and approved by the Port prior to payment.

No compensation will be paid by Port for any portion of the Services not performed. Payment shall not be considered acceptance or approval of any Services or waiver of any defects therein. The Compensation and Reimbursable Expenses shall constitute full and complete payment for said Services and all expenditures which may be made and expenses incurred, except as otherwise expressly provided in this Agreement or agreed to by mutual written and duly signed agreement of Port and Consultant.

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."

4. Interpretation; Remaining Terms.

From and after the Effective Date, "Agreement" means the original Agreement as amended. Except as expressly modified by the terms and conditions of this First Amendment, the Parties ratify and confirm each of the terms and conditions of the Agreement which, the parties acknowledge and agree, remains in full force and effect. In case of conflict between the terms of the Agreement and this First Amendment, the terms of this First Amendment shall apply.

[Remainder of page intentionally left blank; signature page(s) follow]

IN WITNESS WHEREOF, the Parties have executed this First Amendment intending it to be effective as of the date last set forth below (the “Effective Date”).

PORT OF HOOD RIVER, OREGON

By: _____

Print Name: _____

Title: _____

Date: _____

HRK ENGINEERING, LLC

By: _____

Print Name: _____

Title: _____

Date: _____

October 2, 2024

Port of Hood River
Mr. Kevin Greenwood - Port Director
1000 E Marina Drive
Hood River, Oregon 97031

Subject: Proposal & Cost Estimate for Remaining Civil Design Work
Anchor Way & Portway Parking Lots
Port of Hood River – Hood River, Oregon 97031

Dear Mr. Greenwood:

HRK Engineering and Field Services, LLC (HRK) is pleased to submit this new proposal to provide civil engineering services for the remaining work for two proposed parking lots located in the Port of Hood River in Hood River, Oregon.

Project Background

Mr. Kevin Greenwood, Port of Hood River Director, contacted HRK on April 11, 2024, to request civil engineering and construction surveying services to design two parking lots located on two vacant lots in the Port of Hood River, Hood River, Oregon.

The proposal and cost estimate provided on April 11, 2024, were based on the assumption that these projects would not undergo a site plan review process. In addition, HRK has performed extra work than the one described in the previous proposal. This new proposal and cost estimate are produced to complement and finish the civil engineering design and obtain a construction permit.

Proposed Scope of Services

In order to complete and deliver two complete sets of construction drawings and two stormwater management reports for these projects, HRK has proposed six tasks: Project Management, Civil Design Parking #1, Stormwater Management Report Parking #1, Civil Design Parking #2, Stormwater Management Report Parking #2, and Bidding Preparation and Office support.

In addition, we have added time and material to produce a 1200 C permit as required by the Oregon Department of Environmental Quality (DEQ) under Task #3 Stormwater Management Report Parking Lot #1.

Task 1: Project Management – Parking #1 & #2

HRK proposed three sub-tasks: Meeting with the city personnel for 4 hours, meeting with port personnel for 4 hours, and keeping scheduling and invoice tracking for 8 hours.

Deliverables: Monthly scheduling and invoices in PDF format

Task 2: Civil Design Parking #1

For this task, HRK proposed three subtasks: We proposed 16 hours for design, 16 hours for drafting, and 6 hours for QA/QC.

On this task, HRK will produce the following drawings: Cover Sheet, General Notes, Testing Schedule, Existing Ground Conditions, Erosion and Sediment Control, Site Plan, Grading Plan, Storm Sewer Plan, Private Utilities, and Standard Details.

Deliverables:

- Design Drawings in CAD and PDF format.

Task 3: Stormwater Management Report Parking #1

HRK has designed a stormwater report concept for the site plan review process. Once the city engineering department provides comments, HRK will complete the stormwater report addressing those comments and following the City of Hood River engineering standards. In addition, HRK will produce a 1200 C permit (drawings and application permit).

Deliverables:

- Design Drawings in CAD and PDF format.
- Stormwater Management Report in PDF format.
- 1200 C permit in PDF format.

Task 4: Civil Design Parking #2

For this task, HRK proposed three subtasks: We proposed 16 hours for design, 16 hours for drafting, and 6 hours for QA/QC.

On this task, HRK will generate the following drawings: Cover Sheet, General Notes, Testing Schedule, Existing Ground Conditions, Erosion and Sediment Control, Site Plan, Grading Plan, Storm Sewer Plan, Private Utilities, and Standard Details.

Deliverables:

- Design Drawings in CAD and PDF format.

Task 5: Stormwater Management Report Parking #2

HRK has designed a stormwater report concept for the site plan review process. Once the city engineering department has provided comments, HRK will complete

the stormwater report addressing those comments and following the City of Hood River engineering standards.

Deliverables:

- Design Drawings in CAD and PDF format.
- Stormwater Report in PDF format.

Task 6: Bidding Preparation and Office Support – Parking #1 & #2

HRK has set aside 22 hours to assist with invoicing, budget control, and scheduling and to prepare and write the bid documents for these two projects.

Deliverables:

- Bid documents in PDF format.
- Invoices in PDF format.

Proposed Budget, Authorization, and Schedule

The estimated cost of performing the proposed remaining work is \$28,130.68 on a time-and-material, not-to-exceed basis. This cost estimate is based on information available to HRK at this time and represents the sum of all the tasks described in this proposal. HRK will bill for time and materials, consistent with the attached proposed cost estimate. If additional work is required outside this scope of work, HRK will get your approval before executing such work. In the event conditions change, unforeseen circumstances are encountered, or work efforts are redirected, we will seek your authorization to modify the scope of work and cost estimate.

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. If you have any questions about this proposal or require any additional information, please do not hesitate to contact Carlos Garrido at 541-386-6480 or by email at cgarrido@hrkus.com

Sincerely,
HRK Engineering and Field Services, LLC



Carlos Garrido, Principal

Attachment: Cost Estimate and Backup Information

Client: Mr. Kevin Greenwood

Address: 1000 E Port Marina Drive - Hood River, OR 97031

Project: Anchor Way - Portway Parking Lots - REMAINING WORK

HRK Engineering #: 24-016

LABOR CATEGORY	Unit	Billing Rate	TASK 1		TASK 2		TASK 3		TASK 4		TASK 5		TASK 6		TOTALS	
			Project Management		Civil Design Parking 1		Stormwater Report Parking 1		Civil Design Parking 2		Stormwater Report Parking 2		Bidding Preparation Office Support		Hrs	\$
			Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$	Hrs	\$
Project Manager	HR	\$ 135.00	16.00	\$ 2,160.00	0.00	\$ -	8.00	\$ 1,080.00	0.00	\$ -	0.00	\$ -	0.00	\$ -	24.00	\$ 3,240.00
Professional Engineer	HR	\$ 180.00	0.00	\$ -	12.00	\$ 2,160.00	8.00	\$ 1,440.00	12.00	\$ 2,160.00	6.00	\$ 1,080.00	2.00	\$ 360.00	40.00	\$ 7,200.00
Senior Engineer	HR	\$ 145.00	0.00	\$ -	16.00	\$ 2,320.00	18.00	\$ 2,610.00	16.00	\$ 2,320.00	12.00	\$ 1,740.00	8.00	\$ 1,160.00	70.00	\$ 10,150.00
Designer	HR	\$ 105.00	0.00	\$ -	12.00	\$ 1,260.00	12.00	\$ 1,260.00	12.00	\$ 1,260.00	0.00	\$ -	0.00	\$ -	36.00	\$ 3,780.00
Office Tech Support	HR	\$ 77.00	0.00	\$ -	4.00	\$ 308.00	10.00	\$ 770.00	4.00	\$ 308.00	4.00	\$ 308.00	8.00	\$ 616.00	30.00	\$ 2,310.00
Clerical	HR	\$ 72.00	0.00	\$ -	0.00	\$ -	0.00	\$ -	0.00	\$ -	0.00	\$ -	4.00	\$ 288.00	4.00	\$ 288.00
Subtotal Direct Labor			16.00	\$ 2,160.00	44.00	\$ 6,048.00	56.00	\$ 7,160.00	44.00	\$ 6,048.00	22.00	\$ 3,128.00	22.00	\$ 2,424.00	204.00	\$ 26,968.00

EXPENSES	Unit	Billing Rate	QTY	\$	QTY	\$	QTY	\$	QTY	\$	QTY	\$	QTY	\$	QTY	\$
Communication	% DL	1.00		\$ 21.60		\$ 60.48		\$ 71.60		\$ 60.48		\$ 31.28		\$ 24.24	0.00	\$ 269.68
Mileage	Miles	\$ 0.72	100.00	\$ 71.50		\$ -	100.00	\$ 71.50		\$ -		\$ -		\$ -	200.00	\$ 143.00
Office Supplies	LS	\$ 50.00	2.00	\$ 100.00	2.00	\$ 100.00	6.00	\$ 300.00	2.00	\$ 100.00	1.00	\$ 50.00	2.00	\$ 100.00	15.00	\$ 750.00
Subtotal Expenses				\$ 193.10		\$ 160.48		\$ 443.10		\$ 160.48		\$ 81.28		\$ 124.24		\$ 1,162.68
DIRECT LABOR & EXPENSES SUBTOTAL				\$ 2,353.10		\$ 6,208.48		\$ 7,603.10		\$ 6,208.48		\$ 3,209.28		\$ 2,548.24		\$ 28,130.68

TASK AND PROJECT TOTALS				\$ 2,353.10		\$ 6,208.48		\$ 7,603.10		\$ 6,208.48		\$ 3,209.28		\$ 2,548.24		\$ 28,130.68
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10/2/2024

HRK Engineering & Field Services

LABOR BUDGETING

TASK	ITEM1	HRS	ITEM 2	HRS	ITEM 3	HRS	ITEM 4	HRS	ITEM 5	TOTALS
TASK 1 Project Management	ITEM 1 SUBTOTAL	4	ITEM 2 SUBTOTAL	4	ITEM 3 SUBTOTAL	8	ITEM 4 SUBTOTAL	0	ITEM 5 SUBTOTAL	16
Project Manager	City Meeting	4	Port Meeting	4	Scheduling	8	?		?	TOTAL: 16
Professional Engineer	City Meeting		Port Meeting		Scheduling					TOTAL: 0
Senior Engineer	City Meeting		Port Meeting		Scheduling					TOTAL: 0
Designer	City Meeting		Port Meeting		Scheduling					TOTAL: 0
Office Tech Support	City Meeting		Port Meeting		Scheduling					TOTAL: 0
Clerical	City Meeting		Port Meeting		Scheduling					TOTAL: 0
TASK 2 Civil Design Parking	ITEM 1 SUBTOTAL	26	ITEM 2 SUBTOTAL	12	ITEM 3 SUBTOTAL	6	ITEM 4 SUBTOTAL	0	ITEM 5 SUBTOTAL	44
Project Manager	Design		Drafting		QA/QC		?		?	TOTAL: 0
Professional Engineer	Design	10	Drafting		QA/QC	2				TOTAL: 12
Senior Engineer	Design	16	Drafting		QA/QC					TOTAL: 16
Designer	Design		Drafting	12	QA/QC					TOTAL: 12
Survey Crew	Design		Drafting		QA/QC					TOTAL: 0
Office Tech Support	Design		Drafting		QA/QC	4				TOTAL: 4
TASK 3 Stormwater Report F	ITEM 1 SUBTOTAL	12	ITEM 2 SUBTOTAL	4	ITEM 3 SUBTOTAL	6	ITEM 4 SUBTOTAL	34	ITEM 5 SUBTOTAL	56
Project Manager	Design		Review		QA/QC		1200 C Permit	8	?	TOTAL: 8
Professional Engineer	Design		Review	4	QA/QC	2	1200 C Permit	2		TOTAL: 8
Senior Engineer	Design	12	Review		QA/QC		1200 C Permit	6		TOTAL: 18
Designer	Design		Review		QA/QC		1200 C Permit	12		TOTAL: 12
Office Tech Support	Design		Review		QA/QC	4	1200 C Permit	6		TOTAL: 10
Clerical	Design		Review		QA/QC		1200 C Permit			TOTAL: 0
TASK 4 Civil Design Parking	ITEM 1 SUBTOTAL	26	ITEM 2 SUBTOTAL	12	ITEM 3 SUBTOTAL	6	ITEM 4 SUBTOTAL	0	ITEM 5 SUBTOTAL	44
Project Manager	Design		Drafting		QA/QC		?		?	TOTAL: 0
Professional Engineer	Design	10	Drafting		QA/QC	2				TOTAL: 12
Senior Engineer	Design	16	Drafting		QA/QC					TOTAL: 16
Designer	Design		Drafting	12	QA/QC					TOTAL: 12
Office Tech Support	Design		Drafting		QA/QC	4				TOTAL: 4
Clerical	Design		Drafting		QA/QC					TOTAL: 0
TASK 5 Stormwater Report F	ITEM 1 SUBTOTAL	12	ITEM 2 SUBTOTAL	4	ITEM 3 SUBTOTAL	6	ITEM 4 SUBTOTAL	0	ITEM 5 SUBTOTAL	22
Project Manager	Design		Review		QA/QC		?		?	TOTAL: 0
Professional Engineer	Design		Review	4	QA/QC	2				TOTAL: 6
Senior Engineer	Design	12	Review		QA/QC					TOTAL: 12
Designer	Design		Review		QA/QC					TOTAL: 0
Office Tech Support	Design		Review		QA/QC	4				TOTAL: 4
Clerical	Design		Review		QA/QC					TOTAL: 0
TASK 6 Bidding Preparation	ITEM 1 SUBTOTAL	18	ITEM 2 SUBTOTAL	4	ITEM 3 SUBTOTAL	0	ITEM 4 SUBTOTAL	0	ITEM 5 SUBTOTAL	22
Project Manager	Bid Prep		Projects Adm		?		?		?	TOTAL: 0
Professional Engineer	Bid Prep	2	Projects Adm							TOTAL: 2
Senior Engineer	Bid Prep	8	Projects Adm							TOTAL: 8
Designer	Bid Prep		Projects Adm							TOTAL: 0
Survey Crew	Bid Prep		Projects Adm							TOTAL: 0
Office Tech Support	Bid Prep	8	Projects Adm							TOTAL: 8
Clerical	Bid Prep		Projects Adm	4						TOTAL: 4

PORT OF HOOD RIVER PROPOSED PARKING LOTS 2024

ID	Task Mode	Task Name	Duration	Start	Finish	% Complete	Contact	Qtr 2, 2024												Qtr 3, 2024			Qtr 4, 2024			Qtr 1, 2025			Qtr 2, 2025			Qtr 3, 2025			Qtr 4, 2025								
								Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec		
1	✓	PoHR Parking Lots 2024 - 2 Parking Lots	426 days	Mon 4/22/24	Mon 12/8/25	100%		[Gantt bar from 4/22 to 12/8/25]																																			
2	✓	Meeting w/ PoHR Director	0 days	Mon 4/22/24	Mon 4/22/24	100%	PoHR & HRK	[Milestone diamond at 4/22]																																			
3	✓	Topographic Survey	9 days	Wed 4/24/24	Mon 5/6/24	100%		[Gantt bar from 4/24 to 5/6/24]																																			
4	✓	On Call Services	9 days	Wed 4/24/24	Mon 5/6/24	100%	HRK	[Gantt bar from 4/24 to 5/6/24]																																			
5	✓	Topographic Survey Anchor Way Lot	6 days	Mon 4/29/24	Mon 5/6/24	100%	HRK	[Gantt bar from 4/29 to 5/6/24]																																			
6	✓	Topographic Survey Port Way Lot	6 days	Mon 4/29/24	Mon 5/6/24	100%	HRK	[Gantt bar from 4/29 to 5/6/24]																																			
7	✓	Creating Base Maps	8 days	Mon 4/29/24	Wed 5/8/24	100%	HRK	[Gantt bar from 4/29 to 5/8/24]																																			
8		<Planning	181 days	Tue 4/30/24	Tue 1/7/25	60%		[Gantt bar from 4/30 to 1/7/25]																																			
9	✓	Pre-Application Submittal	3 days	Tue 4/30/24	Thu 5/2/24	100%	HRK	[Gantt bar from 4/30 to 5/2/24]																																			
10	✓	Pre-Application Review	18 days	Fri 5/3/24	Tue 5/28/24	100%	CoHR Planning	[Gantt bar from 5/3 to 5/28/24]																																			
11	✓	Pre-Application Meeting	0 days	Wed 5/29/24	Wed 5/29/24	100%	CoHR, PoHR & HRK	[Milestone diamond at 5/29]																																			
12	✓	Second Pre-Application Review	40 days	Thu 5/30/24	Wed 7/24/24	100%	CoHR Planning	[Gantt bar from 5/30 to 7/24/24]																																			
13	✓	Land Use Application Submittal	29 days	Thu 7/25/24	Tue 9/3/24	100%	HRK	[Gantt bar from 7/25 to 9/3/24]																																			
14		Land Use Application Review	90 days	Wed 9/4/24	Tue 1/7/25	20%	CoHR Planning	[Gantt bar from 9/4 to 1/7/25]																																			
15		Land Used Application Approval	0 days	Tue 1/7/25	Tue 1/7/25	0%	CoHR Planning	[Milestone diamond at 1/7]																																			
16		Civil Engineering	79 days	Mon 10/7/24	Thu 1/23/25	0%		[Gantt bar from 10/7 to 1/23/25]																																			
17		Civil Design Parking Lots	36 days	Mon 12/2/24	Mon 1/20/25	0%	HRK	[Gantt bar from 12/2 to 1/20/25]																																			
18		Stormwater Management Report	35 days	Mon 11/4/24	Fri 12/20/24	0%	HRK	[Gantt bar from 11/4 to 12/20/24]																																			
19		1200 C Permit	35 days	Mon 10/7/24	Fri 11/22/24	0%		[Gantt bar from 10/7 to 11/22/24]																																			
20		Preparing Bid Documents	45 days	Fri 11/22/24	Thu 1/23/25	0%	HRK	[Gantt bar from 11/22 to 1/23/25]																																			
21		Engineering Review	80 days	Mon 1/27/25	Fri 5/16/25	0%		[Gantt bar from 1/27 to 5/16/25]																																			
22		Engineering Review 1	28 days	Mon 1/27/25	Wed 3/5/25	0%	CoHR Engineering	[Gantt bar from 1/27 to 3/5/25]																																			
23		Addressing Comments Review 1	15 days	Thu 3/6/25	Wed 3/26/25	0%	HRK	[Gantt bar from 3/6 to 3/26/25]																																			
24		Engineering Review 2	21 days	Fri 3/28/25	Fri 4/25/25	0%	CoHR Engineering	[Gantt bar from 3/28 to 4/25/25]																																			
25		Addressing Comments Review 2	15 days	Mon 4/28/25	Fri 5/16/25	0%	HRK	[Gantt bar from 4/28 to 5/16/25]																																			
26		Construction Drawings Approved	0 days	Mon 5/19/25	Mon 5/19/25	0%	CoHR Engineering	[Milestone diamond at 5/19]																																			
27		Bid Process & Project Award	30 days	Mon 5/26/25	Fri 7/4/25	0%		[Gantt bar from 5/26 to 7/4/25]																																			
28		Bidding Process	30 days	Mon 5/26/25	Fri 7/4/25	0%	PoHR & HRK	[Gantt bar from 5/26 to 7/4/25]																																			
29		Construction Project Award	0 days	Fri 7/4/25	Fri 7/4/25	0%	TBD	[Milestone diamond at 7/4]																																			
30		Construction & Parking Approval	95 days	Mon 7/14/25	Mon 11/24/25	0%		[Gantt bar from 7/14 to 11/24/25]																																			
31		Parking Lots Construction	80 days	Mon 7/14/25	Fri 10/31/25	0%	TBD	[Gantt bar from 7/14 to 10/31/25]																																			
32		As-built	5 days	Mon 11/3/25	Fri 11/7/25	0%		[Gantt bar from 11/3 to 11/7/25]																																			
33		Final Report	10 days	Mon 11/10/25	Fri 11/21/25	0%		[Gantt bar from 11/10 to 11/21/25]																																			
34		Final City of Hood River Approval	0 days	Mon 11/24/25	Mon 11/24/25	0%		[Milestone diamond at 11/24]																																			

Project: Port of Hood River
Date: Thu 9/26/24

Task		Project Summary		Inactive Summary		Manual Summary Rollup		Finish-only		External Tasks		Progress		Deadline	
Split		Inactive Task		Manual Task		Manual Summary		External Milestone		Manual Progress					
Summary		Inactive Milestone		Duration-only		Start-only									



Prepared by: Kevin Greenwood
Date: October 22, 2024
Re: Master Listing Agreement – Real Estate Services

At the October 15, 2024 regular commission meeting, staff was directed to enter into negotiations with Tom Bacci, Senior Vice President, Kidder Mathews. Bacci was the highest scoring proposer from the procurement process set forth by Commission direction at their September 17th regular meeting.

Main elements of the Master Listing Agreement (MLA)

1. Five-year MLA from November 1, 2024-October 30, 2029. All scopes of work are generated by work orders with separate terms.
2. Exhibit A, Scope of Work, explains the general services provided.
3. Monthly reports provided to Commission including industry trends on at least a quarterly basis.
4. Exhibit B, template for work orders
5. Exhibit C, Property Management Procedures. This is a new feature of the MLA.

Work Order #1. Sale of Big 7 Building.

1. 6-month probationary period thru April 30, 2024.
2. 6% Commission; 5% if no co-operating broker.

Work Order #2. Leasing space in Big 7 Building.

1. 6-month probationary period thru April 30, 2024.
2. 6% of base rent for the initial term of a triple net lease; 5% for a modified gross lease.
3. Payment is 50% at lease execution; 50% at occupancy.
4. Termination prior to expiration 10% of brokerage fee plus actual expenses.

Work Order #3. Leasing space in Wasco, Jensen, Marina East (Old Chamber), and Marina West (DMV) buildings.

1. 6-month probationary period thru April 30, 2024.
2. 6% of base rent for the initial term of a triple net lease; 5% for a modified gross lease.
3. Payment is 50% at lease execution; 50% at occupancy.
4. Termination prior to expiration 10% of brokerage fee plus actual expenses.

Staff believes that these terms meet industry standards and incentive the contractor to prioritize Port work. Since all commissions are based upon operating income, there is no negative net income to the Port. The commission expense will be accounted for from a budgeted, but not filled management position. Upon approval, staff will thank Anne Medenbach for her contributions and close out those contracts.

RECOMMENDATION: Authorize MLA and work orders with Tom Bacci, Kidder Mathews.

MASTER LISTING AGREEMENT FOR REAL ESTATE SERVICES

Pursuant to this Master Listing Agreement for Real Estate Services (the "Agreement"), the Port of Hood River ("Owner") hereby grants to **Tom Bocci of Kidder Mathews** ("Broker") the right to sell, purchase or lease, for a period commencing [November 1, 2024], and ending at midnight on [October 30, 2029], designated Owner properties existing in the Port of Hood River District, County of Hood River, State of Oregon. ("Properties"). No extension, renewal, or other amendment of this Agreement shall be effective unless it is in writing signed by both Parties. In deciding whether to extend or renew this Agreement, Owner may consider the efforts and expense Broker has incurred in marketing the Properties, results, and assistance if a potential buyer or lessee is identified. This Agreement may refer to Owner and Broker individually as a "Party" or collectively as the "Parties."

1. Legal Compliance. The terms and conditions of any sale(s), purchase(s) or lease(s) necessarily resulting from this Agreement shall conform to applicable federal, state, and local laws, Owner ordinances and policies, the Port's Strategic Plan, existing bond, grant or loan covenants, area development plans or other plans as adopted by the Commission. Further, the Broker 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.
2. Scope of Work. Broker shall provide at a minimum the services set forth in Exhibit A, Scope of Work. Owner may require additional services in connection with the marketing of specific Properties.
3. Work Order Contracts. Each property designated by the Owner for sale, purchase or lease shall incorporate its own Listing Agreement as a form of Work Order Contract ("Work Order") under this Agreement, substantially in the form attached hereto as Exhibit B.
4. Consideration. In consideration of Broker's agreement to diligently pursue the sale, purchase or lease of Owner Properties, Owner agrees to pay Broker the commission in accordance with the terms set forth in the applicable Work Order.
5. Payment of Consideration. Broker shall submit invoices for any commission due in accordance with the associated Work Order. Invoices shall be in a form acceptable to the Owner. Owner shall make payments in a timely manner, within twenty-five (25) days of receipt of invoice. Invoices received from the Broker pursuant to this Agreement will be reviewed and approved by the Owner prior to payment. No compensation will be paid by Owner for any portion of these services or any sale or lease not performed. If Owner does not pay within twenty-five (25) days of receipt of invoice acceptable to Owner, the invoice shall incur a service charge of 1.5% per month on the unpaid monthly balance. Broker reserves the right to withhold services or cancel this Agreement if Owner's account is more than sixty (60) days delinquent.

6. Terms of Service.

- a. Broker agrees to actively market designated Owner Properties, place signs as agreed by Broker and Owner, place information regarding the Properties in appropriate listing media, and advertise the Properties in accordance with industry standard best practices. Broker agrees to cooperate with other brokers and to maintain regular and appropriately detailed communication with Owner by email and telephone reporting on the actions taken by Broker and the results of those actions. A written report shall be submitted to Owner at least every month during the term of this Agreement. If requested, Broker shall appear at Port of Hood River Commission meetings to report on progress marketing the subject property and to answer questions.
- b. Broker may market the designated Properties without stating offering terms or may advertise sale prices or lease terms if approved by Owner in writing. Designated Properties prices or sale or lease terms shall always be represented by Broker as being subject to, and shall be subject to, Owner's right to approve or disapprove any offer for any reason, in Owner's absolute discretion. Owner shall have the right to reject any offer to lease or purchase even if an offer received is consistent with terms marketed or advertised by Broker.
- c. Owner agrees to cooperate with Broker in effecting leases of the Property and to immediately refer to Broker all inquiries of any party interested in purchase of designated Properties.
- d. It is understood that it is illegal for either Owner or Broker to refuse to display, lease or sell to any person because of race, color, religion, national origin, sex, marital status, or physical ability.

7. Owner Indemnification. Owner represents that it is the legal owner of the designated Properties and has full legal authority to execute this Agreement and to sell designated Properties, subject to applicable legal requirements. Subject to the limitations of the Oregon Tort Claims Act, Owner agrees to indemnify and hold Broker harmless from any liability, costs or damages and/or expenses, including without limitation attorney's fees, arising from or connected with any incorrect information supplied by Owner, if material to a claim. Owner's indemnity obligations do not apply to any liability, claims, damages or causes of actions or suits arising out of or relating to a breach of this Agreement by Broker or negligence or wrongful acts of Broker or its licensees nor of any cooperating broker and its licensees.

8. Broker Indemnification. The Broker shall indemnify, defend and hold harmless the Owner, 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 Broker, or any of the Broker's employees or agents arising in connection with the performance of this Agreement. The obligations of the indemnifications extended by the Broker to the Owner shall survive the termination or expiration of this Agreement.

9. Insurance. Broker shall keep and maintain the following insurance for the duration of the Agreement term:
- 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 Agreement.
 - 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 \$2,000,000 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 Broker's negligent acts, errors or omissions related to this Agreement.
 - d. 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 companies with one or more employees, unless exempt under ORS 656.027.)

Prior to commencing any work under this Agreement, the Broker shall provide the Owner 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 Broker subcontracts any portion(s) of the work, said sub-broker(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 Owner and the Broker. If the coverage under this section expires during the term of this Agreement, the Broker shall provide replacement certificate(s) evidencing the continuation of required policies. 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 Owner. Insuring companies or entities are subject to Owner acceptance. If required, complete copies of the insurance policy shall be provided to the Owner. The Broker shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

10. Confidentiality. During the performance of the Agreement and for all time subsequent to completion of the services under this Agreement, the Broker 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 Owner, any and all information given to the Broker by the Owner or developed by the Broker as a result of the performance of this Agreement. The Broker agrees that if the Owner so requests, the Broker will execute a confidentiality agreement in a form acceptable to the Owner and will require any employee or sub-broker performing work under this Agreement or receiving any information deemed confidential by the Owner to execute such a confidentiality agreement.
11. Assignment. Neither Party shall assign this Agreement or parts hereof or its duties hereunder, but not including work products produced by the Broker, without the express written consent of the other Party. In the event of dissolution, consolidation or termination of the Owner, the Parties agree that the Owner may assign to a successor entity any rights, obligations and functions it may have remaining under this Agreement.

12. Termination. In addition to any other rights provided herein, the Owner shall have the right to terminate all or part of this Agreement at any time and for its own convenience, by written notice to Broker.
13. Recordkeeping. The Broker 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, or for three (3) years after all other pending matters in connection with this Agreement are closed. This includes all books and other evidence bearing on the Broker's time based and reimbursable costs and expenses under this Agreement. The Broker shall make these records and documents available to the Owner, at the Owner's office, at all reasonable times, without any charge. If accepted by the Owner, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.
14. Public Contracting Requirements.
 - a. Overtime. Any person employed on work under this Agreement, other than a person subject to being excluded from the payment of overtime pursuant to either ORS 653.010 to 653.261 or 29 USC §201 to 209, shall be paid at least time and a half for all overtime worked in excess of 40 hours in any one week, and otherwise in accordance with in accordance with ORS 653.010 to ORS 653.261 and the Fair labor standards Act of 1938.
 - b. Payment for Labor or Material. Broker shall make payment promptly, as due, to all persons supplying labor or material for the performance of the work provided for in this Agreement. (ORS 279B.220)
 - c. Contributions to the Industrial Accident Fund. Broker shall pay all contributions or amounts due the Industrial Accident Fund from Broker incurred in the performance of this Agreement, and shall ensure that all subcontractors pay those amounts due from the subcontractors. (ORS 279B.220)
 - d. Liens and Claims. Broker shall not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. (ORS 279B.220)
 - e. Income Tax Withholding. Broker shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167. (ORS 279B.220)
 - f. Medical Care for Employees. Broker shall promptly, as due, make payment of all sums to any person, co-partnership, association or corporation, furnishing medical, surgical and/or hospital care incident to the sickness or injury of Broker's employee(s), all sums which Broker agrees to pay for such services and all monies and sums which Broker collected or deducted from the wages of employees pursuant to any law, contract or contract for the purpose of providing or paying for such service. (ORS 279B.230)
 - g. Non-Discrimination. Broker agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statues, rules, and regulations. Broker also shall comply

with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

- h. Foreign Contractor. If Broker is not domiciled in or registered to do business in the state of Oregon, Broker shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Agreement. Broker shall demonstrate its legal capacity to perform these services in the state of Oregon prior to entering into this Agreement.
 - i. Tax Law Compliance. Broker (to the best of Broker knowledge, after due inquiry), for a period of no fewer than six calendar years (or since the firm's inception if less than that) preceding the effective date of this Agreement, faithfully has complied with:
 - 1) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;
 - 2) Any tax provisions imposed by a political subdivision of this state that applied to Broker, to Broker's property, operations, receipts, or income, or to Broker's performance of or compensation for any work performed by Broker;
 - 3) Any tax provisions imposed by a political subdivision of this state that applied to Broker, or to goods, services, or property, whether tangible or intangible, provided by Broker; and
 - 4) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.
15. Notice. All notices, bills and payments shall be made in writing and may be given by personal delivery, mail, or by fax to the addresses provided in the signature blocks to this Agreement. Notice, bills, payments, and other information shall also be made via email to the Parties listed in the address block below. Payments may be made by personal delivery, mail, or electronic transfer. When notices are so mailed, they shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving written notice pursuant to this Section.
16. Entire Agreement; Counterparts; Electronic Signatures. 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. The Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original and such counterparts shall together constitute but one and the same Agreement. Any Party shall be entitled to sign and transmit electronic signatures to this Agreement (whether by facsimile, .pdf, or electronic mail transmission), and any such signature shall be binding on the Party whose name is contained therein. Any Party providing an electronic signature to this Agreement agrees to promptly execute and deliver to the other Party, upon request, an original

signed Agreement.

17. Binding Agreement. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigners of the Parties hereto.
18. 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.
19. Limitation on Delegation. The Parties hereto acknowledge and agree that certain powers, rights and duties conferred on or held by the Owner are inherently governmental in nature and may not be delegated by contract to the Broker. Nothing in this Agreement shall be construed as an unlawful delegation of the non-delegable functions and powers of the Owner, and the Broker shall have no obligation to perform any non-delegable function.
20. 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. Venue shall be in Hood River, Oregon.
21. Mediation; Trial Without a Jury. If either Party has a claim or dispute in connection with this Agreement, it shall first attempt to resolve the dispute through mediation. The Parties shall mutually select an acceptable mediator, shall equally share the applicable mediation fees, and shall mutually select an applicable mediation venue. If either Party fails to proceed in good faith with the mediation, or the Parties otherwise fail to resolve the claim via the mediation process, the claiming Party may proceed with litigation. Any litigation arising under or as a result of this Agreement shall be tried to the court without a jury. Each Party agrees to be responsible for payment of its own professional fees, including attorneys' fees, in both mediation and litigation.
22. 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.
23. Severability. If any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the Parties when they entered into the Agreement.

[signature page follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement, this ____ day of _____, 2024.

**Broker: TOM BACCI
Kidder Mathews**

Port of Hood River

Signed: _____

Name: Tom Bacci
Title: Senior Vice President
Date:
Address: 1226 Montello Ave.
Hood River, OR 97031
Phone/Email: (916) 803-6023
tom.bacci@kidder.com

Signed: _____

Name: Kevin M. Greenwood
Title: Executive Director
Date:
Address: 1000 E. Port Marina Drive,
Hood River, OR 97031
Phone/Email: (541) 386-1645
kgreenwood@portofhoodriver.com

KIDDER MATHEWS

Signed: _____

Name: Kevin Joshi, Kidder Mathews
Title: Interim Principal Broker
Date:
Address: 101 SW Main St., #1200
Portland, OR 97204
Phone/Email: (503) 221-2282
Kevin.joshi@kidder.com

Exhibit A
Scope of Work/General Provisions

Broker shall perform the following Services:

1. Properties for Sale:

- a) View subject Properties and comparable sales within appropriate neighborhoods or areas, review information as to the assessed market value of the Properties, market the Properties to potential buyers and facilitate the closing through escrow.
- b) Develop a Property prospectus for each Property listed and marketed for sale.
- c) Maintain a communicative relationship with Port and other parties involved in the transaction to ensure a successful transaction from beginning to end.
- d) Facilitate any necessary documents between the buyer(s) and seller in a timely manner. All offers shall be submitted by Broker to the Port designated representative for review, consideration, and a response.
- e) Market and advertise to potential owner occupants and investors.
- f) Have access to the local and regional commercial property marketing websites and platforms.
- g) Install and maintain lockbox, schedule and conduct walkthroughs. Broker is responsible for showing Property.

2. Properties to Purchase:

- a) Represent the Port interests as buyer's agent.
- b) Maintain a communicative relationship with Port and other parties involved in the transaction to ensure a successful transaction from beginning to end.
- c) Research possible targets for acquisition, communicate with the owners as to their desire to sell, present prospective target property to the Port representative to review, develop an offering scenario, present the offer to the sellers, continue negotiations as necessary.
- d) Facilitate any necessary documents between the buyer and seller in a timely manner.
- h) Have access to the local and regional commercial property marketing websites and platforms.

3. Properties to Lease:

- a) Represent the Port interests as leasing agent.
- b) Maintain a communicative relationship with Port and other parties involved in the transaction to ensure a successful transaction from beginning to end.
- c) Prepare term sheets for Port and potential tenant.
- d) Facilitate any necessary documents between the tenant and landlord in a timely manner.
- i) Have access to the local and regional commercial property marketing websites and platforms.

4. General Provisions

- a) Broker responsible for showing Property including installation and maintenance of lockbox and keys. Port Facilities Manager will have access to code and install keys upon request.
- b) Broker responsible for recommending lease rates and listing prices.
- c) Broker required to provide Port Executive Director with bi-weekly activity reports.
- d) Broker required to provide monthly one-page memo to the Port Commission summarizing activity/progress.
- e) If Port does not have photos of property, Broker is required for acquiring property photos and to share photos with Port staff.
- f) Realtor expected to respond to texts, emails, voice mails within 24 hours. Open communication is important to the Port for information flow.
- g) Broker shall provide Port no less than quarterly report on industry trends, both locally and nationally.
- h) Security deposits required on leases unless otherwise negotiated.
- i) Broker shall comply with the Port Property Management Procedures, attached as Exhibit C, which may be updated from time to time by the Port
- j) Broker responsible for filling out paperwork and forms associated with leases or purchases with state or federal agencies.

Exhibit B
to Master Listing Agreement for Real Estate Services

Work Order Contract Template

Work Order Contract # _____

This Work Order Contract # _____ (“Work Order”) is entered between the Port of Hood River (“Owner”) and _____ (“Broker”). This Work Order is issued under the authority of the Master Listing Agreement for Real Estate Services dated _____ between Owner and Broker (the “Master Agreement”) and is subject to all provisions of the Master Agreement, which is incorporated by reference.

1. **Purpose.** This Work Order establishes Broker’s exclusive right to [sell/purchase/lease] the property located at _____ (“Property”) and more particularly described in the associated MLS Data Input Form attached as Attachment 1, if applicable. Any sale or lease of the Property is subject to approval by the Port Commission.
2. **Term.** This Work Order shall commence when signed by all Parties below and expires at 11:59 p.m. on [DATE] (“Term”). If Owner accepts an offer to purchase or lease the Property, the Term extends through the date of closing for that transaction. Upon expiration of the Term, this Work Order terminates except Owner remains obligated under Section 4 below to pay the Brokerage Fee.
3. **Listing Terms.** Owner agrees to list the Property for \$ _____ (“Listing Price”). OR

[Owner agrees to list the Property for lease. Broker will assist in negotiating the terms of the lease. The lease terms will be specified by Owner and must be approved by the Port Commission.]

4. **Payment of Consideration.** Owner agrees to pay Broker commission equal to the brokerage fee set forth in Section 5 and as follows:
 - a. Sale/Purchase of Property. If (1) the designated Properties are [sold/purchased] through Broker, prior to the expiration of this Work Order; or (2) a sale is consummated within 180 days after the expiration of this Work Order or any extension thereof with any person or entity with whom Broker has engaged in substantive, documented negotiations or from whom Broker or Owner has received a Letter of Intent to [buy/sell] the designated Properties during the term of this Work Order, Broker is entitled to associated commission payments.
 - b. Lease of Property. If (1) the designated Properties are leased through Broker, prior to the expiration of this Work Order; (2) the prospective tenant is satisfactory to Owner as determined in the sole discretion of Owner; and (3) the lease terms are acceptable to Owner as determined in the sole discretion of Owner, Broker is entitled to associated commission payments.
5. **Brokerage Fee.** The Brokerage Fee shall be equal to ____% of the Gross Sales Price. OR

The Brokerage Fee shall be equal to ____% of the [Base Rent for the initial term of the lease] payable as follows: ____% upon execution and ____% upon occupancy.

“Base Rent” means the initial, annual base or fixed rental rate under the lease, excluding expenses, maintenance fees, taxes and other incidental expenses payable by tenant under the lease. No Brokerage Fee is payable for any extensions or renewals of the lease term or for any expansions of the leased property. The Brokerage Fee is payable for leases entered into with new tenants and for renewal of leases entered into with existing tenants.

- 6. **Early Termination Fee.** In the event this Work Order is terminated without cause by the Port prior to expiration of the Work Order Term, the Port shall pay Broker an early termination fee equal to 10% of the Brokerage Fee set forth in Section 5 above plus any reasonable expenses incurred by Broker through the date of termination.
- 7. **Order of Precedence.** If a conflict, inconsistency or ambiguity arises in Work Order interpretation, this Work Order shall be interpreted in the following order of precedence: (a) this Work Order; (b) the Master Agreement.
- 8. **Expiration.** Expiration of this Work Order does not extinguish or prejudice Owner’s right to enforce this Work Order with respect to any breach of a Broker warranty or any default or defect in Broker performance that has not been cured.
- 9. **Modification.** No provision of this Work Order may be modified except in a writing signed by Owner and Broker.

IN WITNESS WHEREOF, the Parties hereto have executed this Work Order, on _____.

Broker (signing for Broker individually and on behalf of Principal Broker _____)

Port of Hood River

Signed: _____	Signed: _____
Name:	Name: Kevin M. Greenwood
Title:	Title: Executive Director
Date:	Date:
Address:	Address: 1000 E. Port Marina Drive, Hood River, OR 97031
Phone/Email:	Phone/Email: (541) 386-1645 kgreenwood@portofhoodriver.com

**Exhibit C
Port of Hood River
Property Management Procedures**



Sales and Marketing

Task	Assigned To	Timeline
Pricing Analysis	Real Estate Agent	30 days Prior to Vacancy
Pricing Quality Control	Project Coordinator	25-30 days Prior to Vacancy
New Listing Created	Real Estate Agent	20-30 days Prior to Vacancy
Property Tours	Real Estate Agent	1-15 Days After Vacancy

Contracts

Task	Assigned To	Timeline
Submit tenant and lease terms details	Real Estate Agent	60-90 Days Prior to Lease Start
Port to vet tenants	Project Coordinator	60 Days Prior to Lease Start
Submit tenant and lease terms details	Real Estate Agent	60-90 Days Prior to Lease Start
Prepare Lease	Project Coordinator	60-90 Days Prior to Lease Start
Submit Lease to Commission	Executive Assistant	30-90 Days Prior to Lease Start
Send Docusign to Tenant	Executive Assistant	1-2 Days After Approval
Forward Signed Lease to Port Team	Executive Assistant	1-2 Days After Lease is Signed
Upload Lease to Drive, Establish Key Milestones, Create Planner Tasks	Project Coordinator	2-3 Days After Lease is Signed

Onboarding

Task	Assigned To	Timeline
Communicate Onboarding details (payment, maintenance procedure, required documents)	Project Coordinator	2-3 Days After Lease is Signed
Confirm required documents received	Project Coordinator	3-5 Days After Lease is Signed
Confirm payment received	Finance Specialist	3-5 Days After Lease is Signed
Provide Tenant with Property Access	Project Coordinator	Lease Start Date
Walkthrough/Damage Report	Tenant / Project Coordinator	1-3 Days After Lease Start

Renewal Procedures

Task	Assigned To	Timeline
Pricing Analysis	Project Coordinator	120 days prior to lease end date
Pricing Quality Control	Deputy Finance Manager / Project Coordinator	100-120 days prior to lease end
Prepare New Lease or Addendum	Project Coordinator	100-120 days prior to lease end
Communicate Rent Increase	Project Coordinator	90-100 days prior to lease end
Submit Lease to Commission	Executive Assistant	30-90 Days Prior to Lease end
Send DocuSign to Tenant	Executive Assistant	30-60 days prior to Lease End
Forward Signed Lease to Port Team	Executive Assistant	1-2 Days After Lease is Signed
Upload Lease to Drive, Establish Key Milestones, Create Planner Tasks	Project Coordinator	2-3 Days After Lease is Signed
Confirm required documents received	Project Coordinator	3-5 Days After Lease is Signed

Move Out Procedures

Task	Assigned To	Timeline
Notice to Vacate	Tenant	30-60 days prior to move out date
Turn in Keys at Port Office	Tenant	Lease end date or first following business day
Property Walkthrough	Project Coordinator	1 st business day after lease end
Deposit returned	Finance Specialist	0-30 days after lease end

Process Change Suggestions

Create properties@portofhoodriver.com to streamline communication coverage.

EXHIBIT C-1
Master Listing Agreement for Real Estate Services
Work Order Contract

Work Order Contract #1

This Work Order Contract #1 (“Work Order”) is entered between the Port of Hood River (“Owner”) and **Tom Bacci of Kidder Mathews** (“Broker”). This Work Order is issued under the authority of the Master Listing Agreement for Real Estate Services dated _____ between Owner and Broker (the “Master Agreement”) and is subject to all provisions of the Master Agreement, which is incorporated by reference.

- 1. Purpose.** This Work Order establishes Broker’s exclusive right to sell the property located at **616 Industrial St., Hood River, OR 97031** (“Property” or “**Big 7 Building**”). Any sale of the Property is subject to approval by the Port Commission.
- 2. Term.** This Work Order shall commence when signed by all Parties below and expires at 11:59 p.m. on **[April 30, 2024]** (“Term”). If Owner accepts an offer to purchase the Property, the Term extends through the date of closing for that transaction. Upon expiration of the Term, this Work Order terminates except Owner remains obligated under Section 4 below to pay the Brokerage Fee.
- 3. Listing Terms.** Owner agrees to sell the property at acceptable terms and conditions.
- 4. Payment of Consideration.** Owner agrees to pay Broker commission equal to the brokerage fee set forth in Section 5 and as follows:

Sale of Property. If (1) the designated Property is sold through Broker, prior to the expiration of this Work Order; or (2) a sale is consummated within 90 days after the expiration of this Work Order or any extension thereof with any person or entity with whom Broker has engaged in substantive, documented negotiations or from whom Broker or Owner has received a Letter of Intent to buy the designated Property during the term of this Work Order, Broker is entitled to associated commission payments.
- 5. Brokerage Fee.** The Brokerage Fee shall be equal to 6.0% of the Gross Sales Price if there is a co-operating broker. If there is no co-operating broker, then the Brokerage Fee shall be equal to 5.0%.
- 6. Early Termination Fee.** In the event this Work Order is terminated without cause by the Port prior to expiration of the Work Order Term, the Port shall pay Broker an early termination fee equal to 10% of the Brokerage Fee set forth in Section 5 above plus any reasonable expenses incurred by Broker through the date of termination.
- 7. Order of Precedence.** If a conflict, inconsistency or ambiguity arises in Work Order interpretation, this Work Order shall be interpreted in the following order of precedence: (a) this Work Order; (b) the Master Agreement.
- 8. Expiration.** Expiration of this Work Order does not extinguish or prejudice Owner’s right to enforce this Work Order with respect to any breach of a Broker warranty or any default or

defect in Broker performance that has not been cured.

- 9. Modification.** No provision of this Work Order may be modified except in a writing signed by Owner and Broker.

IN WITNESS WHEREOF, the Parties hereto have executed this Work Order, on _____.

**Broker: TOM BACCI
Kidder Mathews**

Port of Hood River

Signed:

Name: Tom Bacci
Title: Senior Vice President
Date:
Address: 1226 Montello Ave.
Hood River, OR 97031
Phone/Email: (916) 803-6023
tom.bacci@kidder.com

Signed:

Name: Kevin M. Greenwood
Title: Executive Director
Date:
Address: 1000 E. Port Marina Drive,
Hood River, OR 97031
Phone/Email: (541) 386-1645
kgreenwood@portofhoodriver.com

KIDDER MATHEWS

Signed:

Name: Kevin Joshi, Kidder Mathews
Title: Interim Principal Broker
Date:
Address: 101 SW Main St., #1200
Portland, OR 97204
Phone/Email: (503) 221-2282
Kevin.joshi@kidder.com

EXHIBIT C-2
Master Listing Agreement for Real Estate Services
Work Order Contract

Work Order Contract #2

This Work Order Contract #2 (“Work Order”) is entered between the Port of Hood River (“Owner”) and **Tom Bacci** of Kidder Mathews (“Broker”). This Work Order is issued under the authority of the Master Listing Agreement for Real Estate Services dated _____ between Owner and Broker (the “Master Agreement”) and is subject to all provisions of the Master Agreement, which is incorporated by reference.

1. **Purpose.** This Work Order establishes Broker’s exclusive right to lease the property located at **616 Industrial St., Hood River, OR 97031** (“Property” or “**Big 7 Building**”). Any lease of the Property is subject to approval by the Port Commission.
2. **Term.** This Work Order shall commence when signed by all Parties below and expires at 11:59 p.m. on **[April 30, 2024]** (“Term”). If Owner accepts an offer to lease the Property, the Term extends through the date of closing for that transaction. Upon expiration of the Term, this Work Order terminates except Owner remains obligated under Section 4 below to pay the Brokerage Fee.
3. **Listing Terms.** Owner agrees to list the Property for lease. Broker will assist in negotiating the terms of the lease. The lease terms will be specified by Owner and must be approved by the Port Commission.
4. **Payment of Consideration.** Owner agrees to pay Broker commission equal to the brokerage fee set forth in Section 5 and as follows:

Lease of Property. If (1) the designated Properties are leased through Broker, prior to the expiration of this Work Order; (2) the prospective tenant is satisfactory to Owner as determined in the sole discretion of Owner; and (3) the lease terms are acceptable to Owner as determined in the sole discretion of Owner, Broker is entitled to associated commission payments.

5. **Brokerage Fee.** The Brokerage Fee shall be equal to 6% of the Base Rent for a Triple Net lease for the initial term of the lease; 5% for a Modified Gross lease. Payment is as follows: 50% at Lease Execution and 50% at Occupancy.

“Base Rent” means the initial, annual base or fixed rental rate under the lease, excluding expenses, maintenance fees, taxes and other incidental expenses payable by tenant under the lease. No Brokerage Fee is payable for any extensions or renewals of the lease term or for any expansions of the leased property. The Brokerage Fee is payable for leases entered into with new tenants and for renewal of leases entered into with existing tenants.

6. **Early Termination Fee.** In the event this Work Order is terminated without cause by the Port prior to expiration of the Work Order Term, the Port shall pay Broker an early termination fee equal to 10% of the Brokerage Fee set forth in Section 5 above plus any reasonable expenses

incurred by Broker through the date of termination.

7. **Order of Precedence.** If a conflict, inconsistency or ambiguity arises in Work Order interpretation, this Work Order shall be interpreted in the following order of precedence: (a) this Work Order; (b) the Master Agreement.
8. **Expiration.** Expiration of this Work Order does not extinguish or prejudice Owner's right to enforce this Work Order with respect to any breach of a Broker warranty or any default or defect in Broker performance that has not been cured.
9. **Modification.** No provision of this Work Order may be modified except in a writing signed by Owner and Broker.

IN WITNESS WHEREOF, the Parties hereto have executed this Work Order, on _____.

**Broker: TOM BACCI
Kidder Mathews**

Port of Hood River

Signed: _____

Name: Tom Bacci
Title: Senior Vice President
Date:
Address: 1226 Montello Ave.
Hood River, OR 97031
Phone/Email: (916) 803-6023
tom.bacci@kidder.com

Signed: _____

Name: Kevin M. Greenwood
Title: Executive Director
Date:
Address: 1000 E. Port Marina Drive,
Hood River, OR 97031
Phone/Email: (541) 386-1645
kgreenwood@portofhoodriver.com

Signed: _____

Name: Kevin Joshi, Kidder Mathews
Title: Interim Principal Broker
Date:
Address: 101 SW Main St., #1200
Portland, OR 97204
Phone/Email: (503) 221-2282

EXHIBIT C-3
Master Listing Agreement for Real Estate Services
Work Order Contract

Work Order Contract #3

This Work Order Contract #3 (“Work Order”) is entered between the Port of Hood River (“Owner”) and **Tom Bacci** of Kidder Mathews (“Broker”). This Work Order is issued under the authority of the Master Listing Agreement for Real Estate Services dated _____ between Owner and Broker (the “Master Agreement”) and is subject to all provisions of the Master Agreement, which is incorporated by reference.

1. **Purpose.** This Work Order establishes Broker’s exclusive right to lease the property located at **205 Wasco Loop (“Wasco”); 400 Portway Ave. (“Jensen”); 600 E. Marina Dr. (“DMV”); and 700 E. Marina Dr. (“Old Chamber”), Hood River, OR 97031** (“Property” or “Properties”). Any lease of the Property is subject to approval by the Port Commission.
2. **Term.** This Work Order shall commence when signed by all Parties below and expires at 11:59 p.m. on **[April 30, 2024]** (“Term”). If Owner accepts an offer to lease the Property, the Term extends through the date of closing for that transaction. Upon expiration of the Term, this Work Order terminates except Owner remains obligated under Section 4 below to pay the Brokerage Fee.
3. **Listing Terms.** Owner agrees to list the Property for lease. Broker will assist in negotiating the terms of the lease. The lease terms will be specified by Owner and must be approved by the Port Commission.
4. **Payment of Consideration.** Owner agrees to pay Broker commission equal to the brokerage fee set forth in Section 5 and as follows:

Lease of Property. If (1) the designated Properties are leased through Broker, prior to the expiration of this Work Order; (2) the prospective tenant is satisfactory to Owner as determined in the sole discretion of Owner; and (3) the lease terms are acceptable to Owner as determined in the sole discretion of Owner, Broker is entitled to associated commission payments.

5. **Brokerage Fee.** The Brokerage Fee shall be equal to 6% of the Base Rent for a Triple Net lease for the initial term of the lease; 5% for a Modified Gross lease. Payment is as follows: 50% at Lease Execution and 50% at Occupancy.

“Base Rent” means the initial, annual base or fixed rental rate under the lease, excluding expenses, maintenance fees, taxes and other incidental expenses payable by tenant under the lease. No Brokerage Fee is payable for any extensions or renewals of the lease term or for any expansions of the leased property. The Brokerage Fee is payable for leases entered into with new tenants and for renewal of leases entered into with existing tenants.

6. **Early Termination Fee.** In the event this Work Order is terminated without cause by the Port prior to expiration of the Work Order Term, the Port shall pay Broker an early termination fee equal to 10% of the Brokerage Fee set forth in Section 5 above plus any reasonable expenses

incurred by Broker through the date of termination.

7. **Order of Precedence.** If a conflict, inconsistency or ambiguity arises in Work Order interpretation, this Work Order shall be interpreted in the following order of precedence: (a) this Work Order; (b) the Master Agreement.
8. **Expiration.** Expiration of this Work Order does not extinguish or prejudice Owner's right to enforce this Work Order with respect to any breach of a Broker warranty or any default or defect in Broker performance that has not been cured.
9. **Modification.** No provision of this Work Order may be modified except in a writing signed by Owner and Broker.

IN WITNESS WHEREOF, the Parties hereto have executed this Work Order, on _____.

Broker: TOM BACCI
Kidder Mathews

Port of Hood River

Signed: _____

Name: Tom Bacci
Title: Senior Vice President
Date:
Address: 1226 Montello Ave.
Hood River, OR 97031
Phone/Email: (916) 803-6023
tom.bacci@kidder.com

Signed: _____

Name: Kevin M. Greenwood
Title: Executive Director
Date:
Address: 1000 E. Port Marina Drive,
Hood River, OR 97031
Phone/Email: (541) 386-1645
kgreenwood@portofhoodriver.com

KIDDER MATHEWS

Signed: _____

Name: Kevin Joshi of Kidder Mathews
Title: Interim Principal Broker
Date:
Address: 101 SW Main St., #1200
Portland, OR 97204
Phone/Email: (503) 221-2282



Prepared by: Kevin Greenwood
Date: October 22, 2024
Re: Architectural Services Master Services Agreement with SUM Design Studio, LLC

For the last year, the Commission has been working towards contracting with an architectural firm to assist in several design services that will be in front of the Port in the coming years. Staff has been negotiating with Eric Hoffman, Principal, SUM Design Studio to develop a master services agreement (MSA) and work order #1 (WO1) which will focus on a Port operations relocation evaluation required as part of the bridge replacement effort.

The Commission met with Hoffman at the September 17th regular session to discuss study criteria and at the October 15th regular session a summary of the scoping document was provided in the executive director's report.

Included in your packet is a draft MSA with a general on-call services amount not to exceed \$50,000 over the next five years. This \$50k limit is to cover smaller projects that are not part of a larger work order. This would include things like scoping new projects, guidance on general port projects, drawings or graphics required for permit applications. The annual budget for on-call services would be \$10k. Even though the contract tonight is for \$91,000, the actual annual budget impact is only \$51,000

Exhibit A is Work Order No. 1 for the Office Relocation Study discussed previously. Exhibit B summarizes the type of work to be performed under the on-call services including a staff fee schedule.

Hoffman will be presenting a final scope, schedule and budget Monday, but it will be like the draft included in today's packet.

Upon approval, a Notice to Proceed (NTP) will be issued and a kick-off will be scheduled to start the programming task.

Budget line items include various areas for architectural services. For relocation of the Port office, \$50,000 was budgeted for design and planning. Other planned services include designing storage units at Lower Mill. In addition, all industrial and commercial properties contain placeholders in the current budget for design services should something come up during the year that was not anticipated. For all properties this totals approximately \$115,000 in the fiscal year 2024-25 budget.

RECOMMENDATION: MOTION to authorize Master Services Agreement (MSA) and Work Order No. 1 with SUM Design Studio, LLC, in an amount not to exceed \$91,000 pending administrative and legal review.

CONSTRUCTION-RELATED MASTER PERSONAL SERVICES AGREEMENT

This Master Personal Services Agreement (this “Agreement”) is between the Port of Hood River, an Oregon Municipal Corporation, (hereinafter referred to as “Port”), and **SUM Design Studio + Architecture (SDSA)**, (hereinafter referred to as “Consultant”).

In consideration of the mutual covenants set forth in this Agreement, and for good and valuable consideration, the sufficiency of which is hereby acknowledged, 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: General On-Call Architectural Services (the “Project”).
2. **SCOPE OF SERVICES:**
 - a. Work Orders. The Consultant shall be responsible for the performance of all services as set forth in Work Orders issued by the Port from time to time (the “Services”) and to the extent described in this Agreement. Work Order No. One is attached hereto as Exhibit A and incorporated herein and shall serve as a sample for future Work Orders. All provisions and covenants contained in said Work Orders are hereby incorporated by reference and shall become a part of this Agreement as if fully set forth. Any conflict between this Agreement and Work Orders (if any) shall be resolved first in favor of this Agreement.
 - b. On-Call Services. Consultant shall be available and shall provide the Port consulting services on an on-call basis (“On-Call Services”) for the projects described in the Statement of Work attached hereto as Exhibit B and incorporated herein, as requested by the Port from time to time. The Port shall pay Consultant the compensation set forth in the Statement of Work for performance of the On-Call Services. The maximum-not-to-exceed compensation payable to Consultant for all On-Call Services, which includes any allowable Reimbursable Expenses shall not exceed \$50,000, roughly \$10,000 annually for the term of the Agreement.
 - c. Performance Standards. Consultant shall perform Services using the degree of skill and knowledge customarily employed by professionals performing similar services in the same region of Oregon. 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. All Consultant personnel shall be properly trained and fully licensed to undertake any activities pursuant to this Agreement, and Consultant shall have all requisite permits, licenses and other authorizations necessary to provide the Services.
 - d. Nonexclusive Agreement. Consultant acknowledges and agrees that this not an exclusive agreement and that Port may contract with or cause or direct other persons or contractors to provide services for and on behalf of Port that are the same or similar to the Services provided by Consultant under this Agreement.
 - e. Press Releases. No information, news, or press releases related to the Project shall be made to representatives of newspapers, magazines, television and radio stations, or any other news medium without the prior written authorization of Port.

3. **TERM OF AGREEMENT:** The term of this Agreement shall begin on the date this Agreement is fully executed and shall terminate five (5) years later, unless sooner terminated or extended under the provisions of this Agreement. All Services under this Agreement shall be completed prior to the expiration of this Agreement.
4. **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 in light of the purpose of this Agreement. It is agreed that time is of the essence in the performance of the Services and any project schedule identified in a Work Orders shall be binding on the parties.
5. **COMPENSATION:** The Port shall pay fees to the Consultant for Services performed under the terms of this Agreement and as specified in individual Work Orders. Compensation for the Services shall not exceed the amount set forth in individual Work Orders, unless otherwise approved in writing by the Port ("Compensation"). If provided in the Work Order, 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 five hundred dollars (\$500.00). Consultant will not exceed five thousand dollars (\$5,000.00) in total Reimbursable Expenses under an individual Work Order without prior written Port approval.

Consultant shall submit monthly invoices computed on the basis of the percentage of work completed or hours worked and detailing the Services provided 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. Invoices received from the Consultant pursuant to this Agreement will be reviewed and approved by the Port prior to payment.

No compensation will be paid by Port for any portion of the Services not performed. Payment shall not be considered acceptance or approval of any Services or waiver of any defects therein. The Compensation and Reimbursable Expenses shall constitute full and complete payment for said Services and all expenditures which may be made and expenses incurred, except as otherwise expressly provided in this Agreement or agreed to by mutual written and duly signed agreement of Port and Consultant.

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.

6. **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 at all times 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.

7. **ERRORS IN WORK; EXTRA OR CHANGES IN WORK:** Consultant shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost. Only the Port Key Personnel may authorize extra (and/or change) work. Failure of Consultant to secure authorization for extra work shall constitute a waiver of all right to adjustment in the Compensation, Reimbursable Expenses, or Project schedule due to such unauthorized extra work and Consultant thereafter shall be entitled to no compensation whatsoever for the performance of such work.

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. All Work Product (as defined below) of Consultant required to be stamped shall be stamped by the appropriately licensed professional.
- 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 of 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 Agreement term:

- 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 this Agreement.
- 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 \$2,000,000 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 negligent acts, errors or omissions related to this Contract.
- d. Prior to commencing any Services 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 Agreement, the Consultant shall furnish acceptable insurance certificates to the Port at the time Consultant returns the signed Agreement. 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 Consultant's services to be provided under this Agreement. 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 required, complete copies of the insurance policy shall be provided to the Port. The Consultant 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:

- a. 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 attorney's fees) and liabilities to the extent they are directly resulting from, or alleged to arise from, a claim regarding professional negligence and relating to the professional services provided by the Consultant, except to the extent that the Consultant's liability or fault is determined by adjudication or alternative dispute resolution, or otherwise resolved by settlement agreement.

- b. 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, all other acts or omissions 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 that are not otherwise identified in Subsection a. of this Section.
- c. 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.
- iv. The subcontract/contract shall be subject to all applicable public contracting terms and provisions, as required by state law.

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.

If Consultant fails, neglects, or refuses to make prompt payment of any claim for labor or services furnished to Consultant or a subcontractor by any person in connection with this Agreement as the claim becomes due, the Port may pay the claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to Consultant pursuant to this Agreement. The Port's payment of a claim under this Section shall not relieve Consultant or Consultant's surety, if any, from responsibility for those claims.

14. TERMINATION NOT-FOR-CAUSE:

a. Termination for Cause.

- i. Consultant shall remedy any breach of this Agreement within the shortest reasonable time after Consultant first has actual notice of the breach or Port notifies Consultant of the breach, whichever is earlier. If Consultant fails to either remedy the breach or actively begin and maintain efforts satisfactory to the Port to remedy the breach within ten (10) days of actual notice or the Port's notification of the Consultant, Port may terminate that part of the Agreement or a Work Order affected thereby upon written notice to Consultant, may obtain substitute services in a reasonable manner, and recover from Consultant the amount by which the price for those substitute services exceeds the price for the same services under this Agreement.
- ii. If the breach is material and Consultant fails to either remedy the breach or actively begin and maintain efforts satisfactory to the Port to remedy the breach within five (5) days of the Port's notice Port may then treat Consultant as being in default and pursue any remedy available for such default at law or in equity.
- iii. Pending a decision to terminate all or part of this Agreement or a Work Order,

Port unilaterally may order Consultant to suspend all or part of the Services under this Agreement or a Work Order. If Port suspends terminates all or part of the Agreement or a Work Order pursuant to this Section, Consultant shall be entitled to compensation only for Services rendered prior to the date of termination or suspension, but not for any Services rendered after Port ordered termination or suspension of those Services. If Port suspends certain Services under this Agreement or a Work Order and later orders Consultant to resume those Services, Consultant shall be entitled to reasonable damages actually incurred, if any, as a result of the suspension.

- iv. To recover amounts due under this Section, Port may withhold from any amounts owed by Port to Consultant, including but not limited to, amounts owed under this or any other Agreement between Consultant and Port.
- b. Termination for Convenience. In addition to any other rights provided herein, the Port shall have the right to terminate all or part of this Agreement or a Work Order at any time and for its own convenience, by written notice to Consultant.
- c. 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 of 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.
- d. 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.
- e. 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.

- f. 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.
- g. 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 unforeseeable circumstances beyond its reasonable control, including but not limited to acts of governmental authorities, civil unrest, war, lockouts, extraordinary weather conditions or other natural catastrophe. For delays resulting from unforeseeable material actions or inactions of Port or third parties beyond Consultant's reasonable control, 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 Agreement 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, or for three (3) years after all other pending matters in connection with this Agreement are closed. 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 after Port makes final payment on this Agreement and all other pending matters are closed, 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.

The interest in any intellectual property, including but not limited to copyrights and patents of any type, arising from the performance of this Agreement and any generated work product shall vest in Port. Consultant shall execute any assignment or other documents necessary to affect this section. Consultant may retain a nonexclusive right to use any intellectual property that is subject to this section. Consultant shall transfer to Port any data or other tangible property generated by Consultant under this Agreement and necessary for the beneficial use of intellectual property

covered by this section

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 Oregon Public Records Law (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 AND KEY PERSONNEL: The Port hereby designates Kevin Greenwood, Executive Director and the Consultant hereby designates Eric Hoffman, Principal, 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 (collectively, the "Key Personnel"). In consultation with the Port, the Consultant shall identify the Key Personnel acceptable to the Port who will provide the Services under this Agreement. None of these individuals may be changed, while still in the employ of the Consultant and not on legally required leave, without the Port's prior written consent, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, the Consultant acknowledges that the Port considers the individuals named as Key Personnel critical to the Consultant providing its Services under this Agreement, and the Port will not pay the cost of any individual providing the Services contemplated by the Key Personnel on behalf of Consultant unless such individuals have been approved by the Port in writing.

20. PUBLIC CONTRACTING REQUIREMENTS

- a. Overtime. Any person employed on work under this Agreement, other than a person subject to being excluded from the payment of overtime pursuant to either ORS 653.010 to 653.261 or 29 USC §201 to 209, shall be paid at least time and a half for all overtime worked in excess of 10 hours in any one day or 40 hours in any one week, and for all work performed on a Saturday or any legal holiday, or for all work performed on any other holiday specified in a collective bargaining agreement. (ORS 279B.235)
- b. Payment for Labor or Material. Consultant shall make payment promptly, as due, to all persons supplying to Consultant labor or material for the performance of the work provided for in this Agreement. (ORS 279B.220)
- c. Contributions to the Industrial Accident Fund. Consultant shall pay all contributions or amounts due the Industrial Accident Fund from Consultant incurred in the performance of this Agreement, and shall ensure that all subcontractors pay those amounts due from the subcontractors. (ORS 279B.220)
- d. Liens and Claims. Consultant shall not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished. (ORS 279B.220)
- e. Income Tax Withholding. Consultant shall pay to the Oregon Department of Revenue all sums withheld from employees pursuant to ORS 316.167. (ORS 279B.220)
- f. Hours of Labor. Consultant shall pay employees for overtime work performed under the terms of this Agreement in accordance with ORS 653.010 to ORS 653.261 and the Fair labor standards Act of 1938. (29 USC §§ 201 *et. seq.*)
- g. Medical Care for Employees. Consultant shall promptly, as due, make payment of all sums to any person, co-partnership, association or corporation, furnishing medical, surgical and/or hospital care incident to the sickness or injury of Consultant's employee(s), all sums which Consultant agrees to pay for such services and all monies and sums which Consultant collected or deducted from the wages of employees pursuant to any law, contract or contract for the purpose of providing or paying for such service. (ORS 279B.230)
- h. Non-Discrimination. Consultant agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Consultant also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.
- i. Foreign Contractor. If Consultant is not domiciled in or registered to do business in the state of Oregon, Consultant shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Agreement. Consultant shall demonstrate its legal capacity to perform these services in the state of Oregon prior to entering into this Agreement.

- j. Federal Environmental Laws. Consultant shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15).

- k. Tax Law Compliance. Consultant (to the best of Consultant knowledge, after due inquiry), for a period of no fewer than six calendar years (or since the firm's inception if less than that) preceding the effective date of this Agreement, faithfully has complied with, and for the term of this Agreement shall continue to comply with:
 - 1) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;

 - 2) Any tax provisions imposed by a political subdivision of this state that applied to Consultant, to Consultant's property, operations, receipts, or income, or to Consultant's performance of or compensation for any work performed by Consultant;

 - 3) Any tax provisions imposed by a political subdivision of this state that applied to Consultant, or to goods, services, or property, whether tangible or intangible, provided by Consultant; and

 - 4) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

21. NOTICE: All notices, bills and payments shall be made in writing and may be given by personal delivery, mail, or by fax. Notice, bills, payments, and other information shall also be made via email to the parties listed in the address block below. Payments may be made by personal delivery, mail, or electronic transfer to the addresses provided in the signature blocks to this Agreement. When notices are so mailed, they shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving written notice pursuant to this Section.

22. ENTIRE AGREEMENT; COUNTERPARTS; ELECTRONIC SIGNATURES: 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. The Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original and such counterparts shall together constitute but one and the same Agreement. Any party shall be entitled to sign and transmit electronic signatures to this Agreement (whether by facsimile, .pdf, or electronic mail transmission), and any such signature shall be binding on the party whose name is contained therein. Any party providing an electronic signature to this Agreement agrees to promptly execute and deliver to the other parties, upon request, an original signed Agreement.

- 23. 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. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the Agreement, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.
- 24. BINDING AGREEMENT:** This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigners of the parties hereto.
- 25. 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.
- 26. 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.
- 27. 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.
- 28. 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.
- 29. 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. Venue shall be in Hood River, Oregon.
- 30. MEDIATION; TRIAL WITHOUT A JURY.** If either party has a claim or dispute in connection with this Agreement, it shall first attempt to resolve the dispute through mediation. The parties shall mutually

select an acceptable mediator, shall equally share the applicable mediation fees, and shall mutually select an applicable mediation venue. If either party fails to proceed in good faith with the mediation, or the parties otherwise fail to resolve the claim via the mediation process, the claiming party may proceed with litigation. Any litigation arising under or as a result of this Agreement shall be tried to the court without a jury. Each party agrees to be responsible for payment of its own professional fees, including attorneys' fees, in both mediation and litigation.

- 31. **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.
- 32. **SEVERABILITY:** If any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the Agreement.
- 33. **MODIFICATION:** Any modification of the provisions of this Agreement shall be reduced to writing and signed by authorized agents of Port and Consultant.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

**Consultant: SUM Design Studio +
Architecture (SDSA)**

Port of Hood River

Signed:

Name: Eric Hoffman
Title: Principal
Date: October 23, 2024
Address: 231 SE 12th Ave.,
Portland, OR 97214
Phone/Email: (503) 715-5847
eric@sumdesignstudio.com

Signed:

Name: Kevin M. Greenwood
Title: Executive Director
Date: October 23, 2024
Address: 1000 E. Port Marina Drive,
Hood River, OR 97031
Phone/Email: (541) 386-1645
kgreenwood@portofhoodriver.com

EXHIBIT A

Master Personal Services Agreement Work Order Number One

This Work Order Number One (“Work Order”) is entered between **the Port of Hood River** (“Port”) and **SUM Design Studio, LLC** (“Consultant”). This Work Order is issued under the authority of the Master Personal Services Agreement dated **October 23, 2024** between the Port and Consultant (the “Master Agreement”) and is subject to all provisions of the Master Agreement, which is incorporated by reference.

- 1. Project Background.** The Port has engaged Consultant to assist with various aspects of relocating the Port’s headquarters (the “Project”) required as part of the Hood River Bridge Replacement project. Consultant shall provide programming and other services in connection with the Project as described below. Project is referred to as **Port Operations Relocation Evaluation**.

- 2. Scope of Services.** Consultant shall perform the following Services:
 - a. High level tasks/steps. Develop process steps and final scope to be reviewed/approved by the Port Commission, including:
 - i. Programming (pre and post bridge)
 - ii. Criteria development (interim and permanent)
 - iii. Initial screening
 - iv. Final decision criteria
 - v. Property identification & analysis
 - vi. Final report

 - b. Step 1: Programming
 - i. Short Term (during bridge construction)
 1. program, needs, adjacencies
 - ii. Long Term (after bridge completion)
 1. program, needs, adjacencies
 2. What services are deleted?
 - iii. Do all three large elements need to be together (office, shop, yard)?

 - c. Initial review of current Port property inventory condition report and review bare land properties. This report was just recently generated.

 - d. Additional services as set forth in Attachment A with Scope and Fee breakdown.

- 3. Deliverables and Delivery Schedule.** Consultant shall provide the following deliverables in accordance with the delivery schedule set forth below:
 - a. Task 1.1 Programming
 - i. 4 weeks
 - ii. Programming Report
 - iii. Commission Meeting Review (along with weighted Criteria List)

- b. Task 1.2 Develop Criteria List
 - i. 4 weeks (concurrent with Task 1.1)
 - ii. Criteria Report
 - iii. Commission Meeting Review (along with Programming Report)
- c. Task 1.3 Initial Screening and Evaluation
 - i. 1 week
- d. Task 1.4 Final Criteria Report
 - i. 3-4 weeks
 - ii. Evaluation Matrix
- e. Task 1.5 Property Identification and Analysis
 - i. 6-7 weeks
 - ii. Preliminary Ranking Report
- f. Task 1.6 Final Report
 - i. 7-8 weeks
 - ii. Final Report
 - iii. Commission Presentation and Recommendation

4. **Key Personnel for this Work Order.** The Port is engaging the expertise, experience, judgment and personal attention of the Consultant’s Key Personnel identified below.

Key Personnel	Position/Title	Role on Project
Eric Hoffman	Principal	Executive
Kelley Wilson	Project Manager	PM/PA
Emily Bratt	Intern	Designer

5. **Compensation.**

4.1 **Maximum Not-to-Exceed Amount.** The maximum not-to-exceed compensation payable to Consultant under this Work Order, which includes Reimbursable Expenses is **\$42,000**. If the maximum compensation is increased by amendment of this Work Order, the amendment must be fully effective before Consultant performs the Services subject to the amendment.

4.2 **Fees.** The Port shall compensate Consultant for the performance of Services on the basis of Consultant’s time and materials in accordance with the following schedule and in accordance with Attachment A:

Eric Hoffman ... \$236/hr.
 Kelley Wilson ... \$190/hr.
 Emily Bratt ... \$98/hr.

4.3 **Reimbursable Expenses.** The Port shall reimburse Consultant for any allowable Reimbursable Expenses up to maximum amount of \$4,800.00 as follows:

1	Travel. 4 trips to Hood River from Portland.	\$4,800.00
2		
Total		\$4,800.00

6. **Effective Date and Term.** This Work Order is effective on the date it has been signed by the Port and Consultant and will expire on **April 30, 2025** unless earlier terminated or extended.
7. **Order of Precedence.** If a conflict, inconsistency or ambiguity arises in Work Order interpretation, this Work Order shall be interpreted in the following order of precedence: (a) the Master Agreement; (b) this Work Order.
8. **Expiration.** Expiration of this Work Order does not extinguish or prejudice the Port’s right to enforce this Work Order with respect to any breach of a Consultant warranty or any default or defect in Consultant performance that has not been cured.
9. **Modification.** No provision of this Work Order may be modified except in a writing signed by the Port and Consultant.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the dates set forth below.

Consultant:
SUM Design Studio + Architecture (SDSA)

Port of Hood River

Signed:

Name: Eric Hoffman
 Title: Principal
 Date: October 23, 2024
 Address: 231 SE 12th Ave.,
 Portland, OR 97214
 Phone/Email: (503) 715-5847
eric@sumdesignstudio.com

Signed:

Name: Kevin M. Greenwood
 Title: Executive Director
 Date: October 23, 2024
 Address: 1000 E. Port Marina Drive,
 Hood River, OR 97031
 Phone/Email: (541) 386-1645
kgreenwood@portofhoodriver.com

EXHIBIT B

Statement of Work On-Call Services

Part 1. Services. Consultant shall provide On-Call Services as requested from time to time by the Port, including but not limited to the following services:

1. Support on building or land use applications.
2. Scope development
3. Support on tenant improvements
4. Consultation on other small projects not large enough to justify a stand-alone work order
5. General technical guidance

Part 2. Compensation. The Port shall compensate Consultant for the On-Call Services on the basis of the following hourly rates for Key Personnel:

Eric Hoffman, Principal ... \$236/hr.
Kelley Wilson, Project Manager ... \$190/hr.
Emily Bratt, Designer ... \$98/hr.

Part 3. Reimbursements. The Port shall reimburse Consultant for any allowable Reimbursable Expenses up to a maximum amount of \$5000 as follows: mileage and other agreed to expenses.

Part 4. Amendments. The Port and Consultant will update Key Personnel and Hourly Rates, if necessary, on an annual basis.



Prepared by: Kevin Greenwood
Date: October 22, 2024
Re: Removing Calm Wind Runway (CWR) Designation from
Runway 7 at 4S2

The Airport Advisory Committee (AAC) met on September 19, 2024 to discuss the CWR designation on Runway 7 at the Ken Jernstedt Airfield (4S2). They recommended to the Port Commission that the designation be removed due to safety concerns. AAC Liaison Commissioner Tor Bieker requested this resolution be added to the agenda.

RECOMMENDATION: MOTION to adopt a Resolution removing the Calm Wind Runway designation from Runway 7 at the Ken Jernstedt Airport.

PORT OF HOOD RIVER
Resolution No. 2024-25-__

**A RESOLUTION REMOVING THE DESIGNATION OF RUNWAY 7 AS THE CALM WIND RUNWAY AT
THE KEN JERNSTEDT AIRFIELD (4S2)**

WHEREAS, the Port of Hood River owns and operates the Ken Jernstedt Airfield (4S2); and

WHEREAS, the Airport Advisory Committee (AAC) discussed the Calm Wind Runway (CWR) designation at their September 19, 2024 meeting; and

WHEREAS, the AAC determined that prevailing winds and the slope of the runway would indicate Runway 25 as the best choice, not Runway 7; and

WHEREAS, advertising Runway 7 as the CWR has the potential to increase danger as local pilots use of Runway 25 due to more conducive conditions; and

WHEREAS, the AAC and Port Commission wish to keep the signs promoting and urge pilots to participate in the Fly Friendly Program and make community-conscious choices regarding flight paths and altitudes; and

WHEREAS, this is a stand-alone policy decision and not required to be codified in standing airport policies or documents; NOW THEREFORE

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

Section 1. Remove the designation of Runway 7 as the Calm Wind Runway.

ADOPTED by the Board of Commissioners of the Port of Hood River on this 22nd day of October 2024.

SIGNED

ATTEST

Kristi Chapman, President

Michael Fox, Secretary



Prepared by: Debbie Smith-Wagar, Finance Director
Date: October 22, 2024
Re: Executive Director's Employment Contract

The Port Commission reviewed Executive Director Kevin Greenwood's performance through June 30, 2024. In executive session on October 15, 2024, members of the Commission discussed the review. They said that they were happy with Greenwood's performance and that they wanted to extend his employment contract.

In addition to extending the contract for one year, the Commission also expressed a desire to change the annual end date of the contract from June 30 to September 30, effective immediately.

With that in mind, the following amendment was drafted.

Recommendation: Move to approve Amendment 2 to the Executive Director's employment contract.

PORT OF HOOD RIVER
EMPLOYMENT AGREEMENT
AMENDMENT NO. 2

This Amendment extends the Employment Agreement between the PORT OF HOOD RIVER, an Oregon municipal corporation ("Port"), and Kevin M. Greenwood ("Greenwood" or "Executive Director"). Port and Greenwood may be referred to individually as a "Party" and collectively as "the Parties" throughout this Amendment.

RECITALS

1. The Port and Greenwood entered into an Employment Agreement dated September 13, 2022. The Agreement was amended November 14, 2023.
2. Section 2 of the Agreement states that upon mutual agreement of the Parties, this Agreement will be extended every July 1st for additional one (1) year.
3. Section 6 of the Agreement states that the Port will review the monthly salary and other benefits of the Executive Director at the Port Commission's annual review of the Executive Director's performance.
4. The Port conducted a Performance Evaluation during the Fall of 2024, the results of which were shared with Greenwood and discussed in Executive Session with the Port Commission on October 15, 2024.
5. The Port and Greenwood wish to amend the Agreement to recognize the progress the Port has made on several fronts over the last contract year.

AGREEMENT

1. The Parties agree to extend the term of the Agreement for one year and three months, through September 30, 2027. The adjustment of the agreement end date will give the Port adequate time to conduct an annual performance evaluation before the contract is extended.
2. The Port agrees to adjust Executive Director's salary by 2.1% as of October 1, 2024.
3. The Parties agree to conduct an annual performance in August/September of 2025.
4. Except as modified by this Amendment, all terms of the Employment Agreement remain unchanged and in full force and effect.

EMPLOYEE

PORT OF HOOD RIVER

Kevin M. Greenwood

Kristi Chapman, President

Date

Date