

PORT OF BREMERTON
BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING

A G E N D A

August 22, 2023
6:00 PM

Bill Mahan Conference Room
Port Administration Offices
Bremerton Nat'l Airport Terminal Bldg
8850 SW State Hwy 3, Bremerton

The Port of Bremerton Board of Commissioners have resumed in-person meetings but are maintaining the option for the public to participate remotely as well. The public is invited to view and/or participate in the hybrid meeting by attending in person or through one of the following options:

- To stream online only (via BKAT feed, with no interaction possible):
<https://bremerton.vod.castus.tv/vod/?live=ch1&nav=live>
- To join the online Zoom meeting: <https://us02web.zoom.us/j/3359030010>
- For audio only; dial 1.253.215.8782; Meeting ID: 335 903 0010

Call to Order

Pledge of Allegiance

Approval of Agenda

Consent Items

All matters listed under Consent Items have been distributed to each member of the Commission for reading and study, are considered to be routine, and will be enacted by one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items by request.

- A. Minutes of the regular business meeting of August 8, 2023.
- B. Payment of checks #E01609 and #85128 through #85132 and #E01610 through #E01613 and #901922 through #901923 from the General Fund for \$153,336.92.
Payment of checks #E01614 and #901924 through #901930 and #85133 through #85155 and #E01615 through #E01622 and #901931 through #901934 and #901935 through #901938 and #E01623 from the General Fund for \$111,667.46.

Information Items

1. Wastewater Sewer Rate Study Preliminary Findings – Steve Donovan, Donovan Enterprises

2. Kitsap Economic Development Alliance (KEDA) Update – Joe Morrison, Executive Director

Citizen Comments: *Open to the public for comment. Speakers are asked to keep their comments to less than 3 minutes. Please feel free to submit further comments in writing to the Clerk of the Board (gingerw@portofbremerton.org).*

Action Items

1. Resolution 2023-03 adopting a Public Records Disclosure Policy
2. Lease Agreement with Ecological Land Services, Inc.
3. Acceptance of Federal Aviation Administration (FAA) Grant for AIP 3-53-0007-032-2023 – National Environmental Policy Act (NEPA) Environmental Assessment (EA) for Airport Eastside Development
4. Professional Services Agreement with DOWL for the National Environmental Policy Act (NEPA) Environmental Assessment (EA) for Airport Eastside Development Project
5. Memorandum of Agreement (MOA) with City of Port Orchard for Port Orchard Marina Parking.

Staff Reports

Commission Reports / New Business

Executive Session *(if necessary)*

Adjournment

Regular business and other meetings that may be attended by members of the Board

<u><i>Date</i></u>	<u><i>Time</i></u>	<u><i>Meeting</i></u>
<i>08/22</i>	<i>6:00 pm</i>	<i>*Commission Regular Business Meeting</i>
<i>09/2-4</i>		<i>2023 Blackberry Festival – Bremerton Boardwalk</i>
<i>09/04</i>		<i>Labor Day Holiday – Port Administrative Offices Closed</i>
<i>09/12</i>	<i>10:00 am</i>	<i>*Commission Regular Business Meeting</i>

Meetings are subject to change or cancellation

**Denotes events in which two (2) or more Commissioners may attend*

PORT OF BREMERTON
BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING

MINUTES

August 8, 2023
10:00 AM

Bill Mahan Conference Room
Port Administration Offices
Bremerton Nat'l Airport Terminal Bldg
8850 SW State Hwy 3, Bremerton
Remote Option via Zoom

Commissioners and Staff Present

Commissioners

Axel Strakeljahn
Gary Anderson
Cary Bozeman

Staff Members

Jim Rothlin
Arne Bakker
James Weaver
James Goodman
Monroe Whitman IV
Ginger Waye
Stephanie Frame
Anne Montgomery, Atty

Call to Order

President Strakeljahn called the meeting to order at 10:00 a.m. and led the Pledge of Allegiance.

Approval of Agenda

It was moved by BOZEMAN, seconded by ANDERSON to:

Approve the Agenda as presented.

MOTION CARRIES, 3-0

Consent Items

- A. Minutes of the regular business meeting and executive session of July 11, 2023.
- B. Payment of checks #901881 through #901882 and #85045 through #85056 and #E01566 through #E01571 from the General Fund for \$170,460.77.
Payment of checks #901883 through #901888 and #901889 through #901893 and #85057 through #85078 and #E01572 through #E01587 and #901894 through #901897 from the General Fund for \$228,975.29.
Payment of checks #901898 and #901899 and #E01588 through #E01589 and #901900 and #E01590 and #85079 through #85112 and #E01591 through #E01599 and #901901 through #901904 from the General Fund for \$546,230.61.

Payment of checks #901905 and #901906 through #901909 and #901910 through #901911 and #901912 and #901913 and #901914 and #85113 through #85127 and #E01600 through #E01608 and #901915 through #901918 and #901919 through #901920 and #901921 from the General Fund for \$331,763.49. Void Ck #82158.

It was moved by BOZEMAN, seconded by ANDERSON to:

Approve the Consent Items as presented.

MOTION CARRIES, 3-0

Information Items

1. The CRUZ Car Show – Roger Jensen, Saints Car Club

Mr. Jensen provided background information on the CRUZ Car Show stating the 35th annual show is being held on Sunday, August 13. He detailed participants and noted this is the first year public displays will be on Bay Street and that businesses are being encouraged to open during the day of the show. He thanked the Port for their support over the years stating it wouldn't be possible to do this without use of the Port's property and the help of Kathy Garcia, Marina Operations Manager. He described the support of other local agencies that also play an important role in making this event happen. He explained that the Saints Car Club is a non-profit organization that gives back to the community by donating proceeds from the car show to local charitable organizations. Mr. Jensen responded to questions and comments from the Board who then stated their appreciation for all the hard work that goes in to organizing this event.

2. Port Orchard Marina Breakwater Replacement Project Status Update – Jon Keiser, PND Engineers, Inc. and Jason Stutes, PhD, GEO Engineers, Inc.

James Weaver, Director of Marine Facilities, used a PowerPoint to provide a project overview and history of the consultant selection timeline in 2020 and the engineering scope of work elements and tasks.

Mr Keiser provided preliminary design information and addressed questions from the Board.

Mr. Stutes detailed the permitting and mitigation processes including the recent moratorium in the Puget Sound area and the new mitigation calculator detailing the Port's mitigation debits (500) and credits (300) including working with Puget Sound Partnership on removing remaining debits.

Mr. Weaver discussed the Federal RAISE grant with MARAD and listed all project funding sources and amounts. He summarized the presentation and addressed Board questions.

Citizen Comments - None

Action Items

1. Authorization for Washington State Department of Commerce Agreement
Presented by James Weaver, Director of Marina Facilities

Following presentation;

It was moved by BOZEMAN, seconded by ANDERSON to:

Authorize the Port CEO to sign the Washington State Department of Commerce Agreement S18136 in the amount of \$988,430 for the Port Orchard Marina Breakwater Replacement Project.

MOTION CARRIES, 3-0

2. PND Engineers Agreement Amendment #3
Presented by James Weaver, Director of Marine Facilities

Following presentation and after Board questions were addressed;

It was moved by BOZEMAN, seconded by ANDERSON to:

Approve Amendment #3 to the Port Orchard Marina Breakwater Replacement Design Agreement with PND Engineers, Inc.

MOTION CARRIES, 3-0

3. Authorization for Mitigation Credit Pre-Sale Agreement with Puget Sound Partnership
Presented by James Weaver, Director of Marine Facilities

Following presentation and after Board questions were addressed;

It was moved by ANDERSON, seconded by BOZEMAN to:

Authorize the Port CEO to sign the Puget Sound Partnership Conservation Credit Pre-Sale Agreement in the amount of \$279,378 for the Port Orchard Marina Breakwater Replacement Project.

MOTION CARRIES, 3-0

4. Authorization to Perform Wastewater Pumping
Presented by James Goodman, Director of Facilities & Property Development

Following presentation and after Board questions were addressed;

It was moved by BOZEMAN, seconded by STRAKELJAHN to:

Approve the contract with Flo-Hawks for waste pumping services not-to-exceed \$85,000 and authorize the CEO to execute the contract and issue the notice-to-proceed.

MOTION CARRIES, 3-0

5. Bid Authorization for Airport Office Water Line Re-Pipe
Presented by James Goodman, Director of Facilities & Property Development

Following presentation and after Board questions were addressed;

It was moved by STRAKELJAHN, seconded by ANDERSON to:

Authorize staff to go out to bid for the Airport Terminal Plumbing Project #02-23-20018.

MOTION CARRIES, 3-0

Staff Reports

Jim Rothlin, Chief Executive Officer

- Provided detail on August employee milestones:
 - Jim Garcia, Airport Maintenance Lead, 22nd anniversary
 - Stephanie Frame, Admin Office Assistant, 2nd anniversary
 - Bailey Bower, Marina Port Attendant, 1st anniversary
 - Anne Mai, Marina Port Attendant, new hire
 - Jenifer Zuweni, Accounts Receivable, was awarded the Washington Public Ports Association (WPPA) educational scholarship to be used in pursuit of a bachelor's degree in accounting.
- Provided a tour of the Port Orchard Marina breakwater to Senator Emily Randall and key staff. Will also be providing a tour to Pacific Northwest Waterways Association (PNWA). A brief background on PNWA's mission was given.
- Detailed upcoming events:
 - Taste of Kitsap on the Bremerton boardwalk
 - CRUZ car show along the Port Orchard waterfront and Bay Street
 - Wings Over Washington Airshow by Freedom Air at Bremerton National Airport
- A special thanks to Bremerton Pilots Association for placing text on the back of the airport's south monument sign reading: "To most people, the sky is the limit. To those who love aviation, the sky is home." The saying is visible to tenants accessing their hangars.
- In response to a Board question, Mr. Weaver provided background on new Port Orchard Marina tenant Olympic Outdoor Center Port Orchard Kayak Rental and discussed use of their catamaran space during the off-season.

Commission Reports / New Business

Commissioner Anderson

- Attended the annual Chris Craft Rendezvous held at Port Orchard Marina and would encourage anyone who enjoys boating to check that out once a year.
- Participated in the WPPA Commissioner Conference. Found it very informative and helpful in this position.

Commissioner Bozeman

- Attended a retirement party for Rick Tift, Puget Sound Naval Shipyard Executive Director who has been with PSNS for 45 years.
- Reported on a Kitsap Economic Development Alliance (KEDA) meeting regarding anticipated upcoming work at the Shipyard and how the local community can support that and benefit from it.

Commissioner Strakeljahn

- Attended WPPA Commissioner Conference during which he received updated Open Public Meetings Act (OPMA) and Public Records Act (PRA) training.
- Reported on Puget Sound Regional Council Executive Board meeting.
- Suggested providing a tour to the new Federal Aviation Administration (FAA) Regional Administrator
- Provided an update on the Seabeck Community Center’s multi-purpose park area Port-sponsored project, and highlighted that the Center is currently holding a “brick” fundraiser in support of the project.

Executive Session - None

Adjournment

There being no further business before the Board, the meeting was adjourned at 11:45 a.m.

Submitted,

Approved,

Jim Rothlin
Chief Executive Officer
August 17, 2023

Cary Bozeman
Commission Secretary
August 22, 2023

PORT OF BREMERTON
AGENDA SUMMARY

Agenda Item No: Action Item #1
Subject: Public Records Disclosure Policy
Exhibits: Resolution 2023-03
Prepared By: Ginger Waye, Executive Assistant
Meeting Date: August 22, 2023

Summary:

The Port of Bremerton is required by RCW 42.56.100 to adopt and enforce reasonable rules and regulations consistent with the intent of the Washington State Public Records Act (PRA). This public records disclosure policy establishes the procedures the Port will follow to provide the fullest assistance to requestors including the timeliest possible action on requests while protecting public records from damage and preventing excessive interference with other essential Port functions.

Although the Port has always followed the requirements of the PRA, a formal public records policy is needed to place the Port in full compliance with state law.

Fiscal Impact:

None

Strategic Purpose:

This action conforms with the Port's strategic plan in Goal 2 to operate all Port facilities efficiently and cost effectively with a high degree of customer service.

Recommendation:

The policy has been reviewed by the Port Attorney and staff recommends adoption of the Public Records Disclosure Policy.

Motion for Consideration:

Move to approve Resolution 2023-03 adopting policies and procedures for public records disclosure.

PORT OF BREMERTON
KITSAP COUNTY, WASHINGTON
RESOLUTION NO. 2023-03
DATED: August 22, 2023

A RESOLUTION of the Board of Commissioners, Port of Bremerton, adopting policies and procedures for public records disclosure.

WHEREAS, RCW Chapter 42.56, the Washington State Public Records Act, requires that public agencies publish rules in order to provide full public access to public records; and

WHEREAS, this Resolution adopts policies and procedures for responding to and fulfilling requests for disclosure of public records in accordance with the Act; and

WHEREAS, the Port of Bremerton desires to outline for the public the most efficient and effective manner in which to request public records.

NOW, THEREFORE BE IT RESOLVED by the Board of Commissioners, Port of Bremerton, that the Port of Bremerton Public Records Disclosure Policy is hereby adopted and attached (Attachment A).

ADOPTED by the Board of Commissioners of the Port of Bremerton at the regular public meeting thereof held this 22nd day of August 2023 and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the Seal of the Commission.

Commission President

Commission Vice President

ATTEST:

Commission Secretary

PORT OF BREMERTON

Public Records Disclosure Policy

The Port of Bremerton is committed to providing full access to public records in accordance with the Washington State Public Records Act (RCW Chapter 42.56). The purpose of the Act is to provide the public with full access to records concerning the conduct of government, mindful of individual privacy rights and the desirability of the efficient administration of government. This administrative regulation is adopted to establish the procedures the Port of Bremerton will follow to provide for the fullest assistance to requestors and timely action on requests while protecting public records from damage and preventing “excessive interference with other essential agency functions.” RCW 42.56.100. This regulation is subject to revision at any time.

Public Records Officer. The Port of Bremerton has publicly identified a Public Records Officer whose responsibility is to serve as a point of contact for Public Records Act requests. The Public Records Officer oversees compliance with the Washington State Public Records Act, although other Port staff members may process public records requests.

- 1. How to Request Records.** Any person wishing to request access to public records¹ or seeking assistance in making such a request should direct their request to the Public Records Officer. The Public Records Officer is located at:

Public Records Officer
Port of Bremerton
8850 SW State Hwy 3
Bremerton, WA 98312

Phone: (360) 674-2381
Fax: (360) 674-2807
Email: info@portofbremerton.org

The Port’s office hours are 8:00 a.m. – 4:30 p.m., Monday through Friday, excluding holidays. Some records are available on the Port’s website at www.portofbremerton.org. Requestors are encouraged to view records available on the website prior to submitting a records request.

- 2. Form of Request.** Requests for records should be in writing. Requestors are encouraged to use forms prescribed by the Port, which are available at the Port’s office and on the Port’s website. Requests may be submitted in person, by mail, fax, or e-mail. E-mail will be considered received on the date the message is stamped “received” not on the date sent. Requests should include the following information:

¹ Public records are defined as “any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” RCW 42.56.010(3). “Writing” means “handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.” RCW 42.56.010(4).

- 2.1. The name, mailing address, and daytime phone number of the person making the request; and
- 2.2. The date of the request; and
- 2.3. The nature of the request, including an identification of the public records adequate for the Public Records Officer or designee to be able to locate the records; and
- 2.4. If the request is for a list of individuals, a statement that the list will not be used for any commercial purposes or that the requester is authorized or directed by law to obtain the list of individuals for commercial purposes, with a specific reference to such law.

3. Response to Requests. The Port will process requests in the order allowing the most requests to be processed in the most efficient manner. Within 5 business days of receiving a request, the Port will either (1) provide the record; (2) acknowledge that it has received the request and provide a reasonable estimate of the time it will require to respond to the request; or (3) deny the request. RCW 42.56.520. Additional time to respond may be based on the need to clarify the intent of the request, to locate and assemble the records, to notify third persons or agencies affected by the request and provide such persons with the opportunity to seek a court order preventing disclosure where appropriate, and/or to determine whether any of the information requested is exempt from disclosure. If a requestor fails to clarify an unclear request, the Port will treat the request as having been withdrawn.

Requested records may be made available on a partial or installment basis. If an installment is not claimed after the requestor has been notified of its availability, the Port will not fulfill the balance of the request. RCW 42.56.120.

All denials of requests for public records will be accompanied by a written statement specifying the reason(s) for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. RCW 42.56.210(3).

This policy does not require the Port to answer written questions, create new public records, or provide information in a format that is different from original public records.

- 4. Exempt Public Records.** The Public Records Act provides a number of exemptions to disclosure of identifiable public records. They include, but are not limited to, the following:
- 4.1. Applications for public employment as well as the residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, and social security numbers of employees which are held in personnel records, employment rosters, or mailing lists of employees.
 - 4.2. Personal information in files maintained for employees, appointees, or elected officials of the Port to the extent that disclosure would violate their right to privacy.
 - 4.3. Generally, the contents of real estate appraisals, made for or by the Port relative to the acquisition or sale of property, until the projected or prospective sale is abandoned, or until

such time as all the property has been acquired or sold. But in no event will disclosure be denied for more than three (3) years after the appraisal.

- 4.4. Valuable formulae, designs, drawings, and research data obtained by the Port within five (5) years of the request for disclosure when such disclosure would produce private gain and public loss.
- 4.5. Preliminary and pre-decisional drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended, except if that specific record is publicly cited in connection with a Port action.
- 4.6. Communications and legal advice between the Port and its legal counsel.
- 4.7. RCW 42.56.070(8) prohibits disclosure of lists of individuals (i.e., moorage/hangar lists) for commercial purposes.
- 4.8. Information regarding both public and private infrastructure and security of computer and telecommunications networks, including passwords, access codes and programs, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities.

Exemptions will typically be reviewed by the Public Records Officer and/or Port Attorney to ensure that any withheld documents meet the exemptions described in the Public Records Act. Any document withheld will be identified on an exemption log provided to the requester that describes the document being exempted and sets forth the exemption relied upon for withholding the record.

5. **Preservation of Public Records.** No member of the public may remove a public record from a viewing area or disassemble or alter any public record. No record may be marked, folded or damaged in any way, nor may any record be removed from any file to which it is attached, nor may the records filing order be altered in any way.
6. **Review of Denials of Requests.** Any person who objects to the denial of a public records request may petition in writing to the Port Attorney for a review of that decision. The petition shall be filed within five (5) business days of notification to requestor of denial. The petition shall include a copy of the written statement by the Public Records Officer or designee denying the request. The Port Attorney shall perform a review of the denial as promptly as possible, and the final decision shall be made in writing and delivered to the requesting party by the end of the second business day following receipt of the written request for review as set forth in RCW 42.56.520. Any person may obtain court review of the denial of the request pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.
7. **Public Records Index.** The Port does hereby formally order that maintaining an index of public records pursuant to RCW 42.56.070(3) would be unduly burdensome due to fiscal and personnel limitations and would interfere with agency operations given the high volume, various locations, and types of public records received, generated, and otherwise acquired by the Port.

Notwithstanding the foregoing, the Port will maintain its records in a reasonably organized manner and take reasonable actions to protect records from damage and disorganization and will make available for public inspection and copying any index that is maintained by the Port for Port use.

8. **Fees.** No fee is charged for inspection of a public record or for locating a record. The Port hereby formally orders that calculating actual costs would be unduly burdensome due to:
1) quantifying certain necessary resources (ink, electricity, wear-and-tear on equipment, etc.) is inherently difficult; 2) funds were not allocated for performing a study to calculate actual costs; 3) personnel limitations make it difficult to perform a study and to calculate actual costs; and 4) a study would interfere with and disrupt essential Port functions. Due to these limitations, the Port hereby adopts the statutory default charges in RCW 42.56.120 and will post those charges on the Port's website. When public records are mailed to a requestor, a charge for postage and the cost of the envelope or container used may be added if the envelope and postage charge is \$5.00 or more. The Public Records Officer may elect to waive fees. Payment of fees is required prior to release of records unless other arrangements have been made.
9. **Deposit.** The Port may require a deposit of up to 10% of the estimated cost of copying records prior to copying any records for a requestor. The Port may also require payment of the remainder of the cost before providing all the records, or the payment of the costs of copying an installment before providing that installment. RCW 42.56.120.
10. **Disclosure of Public Records.** Unless exempt from disclosure under the Public Records Act or other law, public records shall be available for public inspection and copying. RCW 42.56.070(1).
11. **Closing the Request.** Once all copies of requested records have been provided to the requestor, the requester has reviewed the requested records, or fourteen (14) days have passed since the requester was notified that the records were available and the requester has failed to contact the Public Records Officer to arrange for the review of those records or for payment for copies, the Public Records Officer shall treat the request as closed.
12. **Disclaimer of Liability.** Neither the Port nor any officer, employee, official or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon a release of Public Records if the person releasing the records acted in good faith in attempting to comply with this policy.

This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as "shall," nothing in this policy is intended to impose mandatory duties on the Port beyond those imposed by state and federal law.

PORT OF BREMERTON **AGENDA SUMMARY**

Agenda Item No: Action Item #2
Subject: Lease with Ecological Land Services, Inc
Exhibits: Lease Agreement Summary
Prepared By: Arne Bakker, COO
Meeting Date: August 22, 2023

Summary:

Ecological Land Services, Inc., has been a tenant in good standing at Bremerton National Airport in the Avian Building since 2015. During this time, ELS has continued to grow and expressed the need for a larger office space to Port Staff and requested a longer-term lease. As Olde Thyme Aviation has re-located into the new Multipurpose Facility, ELS requested to move to the main terminal building office space previously leased by Olde Thyme Aviation.

This lease will begin on September 1, 2023.

Term: September 1, 2023, through August 31, 2028 (5 years)

Options: Two (2) terms of two (2) years each

Increases: Annual CPI Increases, Lease renegotiation with Lease option 1

Fiscal Impact:

Revenue for this lease will be in the amount of \$1,352.96 (Excl. Leasehold Excise Tax)

Strategic Purpose:

This action conforms with the Port's strategic plan through Goal 1. Be a significant leader in promoting the local economy and job growth both on and off Port assets.

Recommendation:

Staff recommends approval of the lease with Ecological Land Services, Inc., for the period of five (5) years with two (2) options of two (2) years.

Motion for Consideration:

Move to approve the terminal building office lease agreement with Ecological Land Services, Inc. for the period of five (5) years with two (2) options of two (2) years each.

AIRPORT INDUSTRIAL PARK LEASE

This **AIRPORT INDUSTRIAL PARK LEASE** ("Lease") is made and entered into this _____ day of _____, 2023, by and between the **PORT OF BREMERTON**, a Washington municipal corporation (hereinafter referred to as "Lessor"), and **ECOLOGICAL LAND SERVICES, INC.**, a Washington State Corporation (hereinafter referred to as "Lessee").

ARTICLE I
Summary of Lease Terms and Definitions

Lessor: Port of Bremerton
Lessor's Address: 8850 SW State Hwy 3
Bremerton, WA 98312

Lessee: Ecological Land Services, Inc.
Lessee's Address: Prior to Lease Commencement:
1157 3rd Avenue, Suite 220A
Longview, WA 98632
After Lease Commencement:
At the Premises, Attn: Joanne Bartlett

Premises: Suite No. 101
Agreed Rentable Area: 896 sf
Use of Premises: Office and business use in support of Ecological Land Services operations

Exhibits: Exhibit "A" - Map of Premises

Commencement Date: September 1, 2023

Term: Commencing upon the Commencement Date and expiring on the "Termination Date" five (5) years thereafter.

Renewals: Two (2) options of two (2) years each

Base Rent:

<u>Months of Lease Term</u>	<u>Rent Per SF (Mo)</u>	<u>Monthly Total</u>
Months 1-12	\$1.51	\$ 1,352.96 *

Initial Amount of Rental Bond or Blocked Account: \$ 4058.88* (of which \$2,218.71 is currently held in file)

- Excluding Leasehold Excise Tax

PORT OF BREMERTON
AGENDA SUMMARY

Agenda Item No: Action Item #3

Subject: Acceptance of Federal Aviation Administration (FAA) Grant – AIP 3-53-0007-038-2023 – 2023 National Environmental Policy Act (NEPA) Project for Eastside Development

Exhibits: Grant Offer 3-53-0007-038-2023

Prepared By: Monroe Whitman IV, Airport Manager

Meeting Date: August 22, 2023

Summary:

The FAA has reviewed and approved the activities associated with the design engineering for the National Environmental Policy Act (NEPA) Project for Eastside Development and a grant offer for the project has been extended. The FAA has concurred with the engineering design fees DOWL Engineering (\$1,015,272) and associated costs. The total project cost is anticipated at \$1,015,272. The FAA share (90%) is \$913,745 and the Port and WSDOT Aviation Division shares (each 5%) expected at approximately \$51,000.

The Commission is required to accept the FAA grant funds based on the attached agreement.

Fiscal Impact:

This grant is to assist in funding the Eastside Environmental Assessment:

FAA Grant	\$ 913,745
WSDOT	\$ 50,763
Port	\$ <u>50,764</u> * (Capital Budget Approved for East Side Assessment for \$150,000)
Total Estimated Project Cost	\$1,015,272

Strategic Purpose:

This action conforms with the Port’s strategic plan in 4.a. Continually assess niche markets in the Port’s marinas and airfield lines of business for growth opportunities.

Recommendation:

Recommend acceptance of FAA grant in the amount of \$913,745 for the 2023 National Environmental Policy Act (NEPA) Project for Eastside Development.

Motion for Consideration:

Move to accept the FAA grant in the amount of \$913,745 for the 2023 National Environmental Policy Act (NEPA) Project for Eastside Development and authorize the CEO to execute the grant agreement.



U.S. Department
of Transportation
Federal Aviation
Administration

Airports Division
Northwest Mountain Region
Oregon, Washington

Seattle Airports District
Office:
2200 S 216th St
Des Moines, WA 98198

August 14, 2023

Mr. Jim Rothlin
Chief Executive Officer
Port of Bremerton
8850 SW State Hwy 3
Bremerton, WA 98312

Dear Mr. Rothlin:

The Grant Offer for Airport Improvement Program (AIP) Project No. 3-53-0007-038-2023 at Bremerton National Airport is attached for execution. This letter outlines the steps you must take to properly enter into this agreement and provides other useful information. Please read the conditions, special conditions, and assurances that comprise the grant offer carefully.

You may not make any modification to the text, terms or conditions of the grant offer.

Steps You Must Take to Enter Into Agreement.

To properly enter into this agreement, you must do the following:

1. The governing body must give authority to execute the grant to the individual(s) signing the grant, i.e., the person signing the document must be the sponsor's authorized representative(s) (hereinafter "authorized representative").
2. The authorized representative must execute the grant by adding their electronic signature to the appropriate certificate at the end of the agreement.
3. Once the authorized representative has electronically signed the grant, the sponsor's attorney(s) will automatically receive an email notification.
4. On the **same day or after** the authorized representative has signed the grant, the sponsor's attorney(s) will add their electronic signature to the appropriate certificate at the end of the agreement.
5. If there are co-sponsors, the authorized representative(s) and sponsor's attorney(s) must follow the above procedures to fully execute the grant and finalize the process. Signatures must be obtained and finalized no later than **September 5, 2023**.
6. The fully executed grant will then be automatically sent to all parties as an email attachment.

Payment. Subject to the requirements in 2 CFR § 200.305 (Federal Payment), each payment request for reimbursement under this grant must be made electronically via the Delphi eInvoicing System. Please see the attached Grant Agreement for more information regarding the use of this System.

Project Timing. The terms and conditions of this agreement require you to complete the project without undue delay and no later than the Period of Performance end date (1,460 days from the grant execution

date). We will be monitoring your progress to ensure proper stewardship of these Federal funds. We expect you to submit payment requests for reimbursement of allowable incurred project expenses consistent with project progress. Your grant may be placed in “inactive” status if you do not make draws on a regular basis, which will affect your ability to receive future grant offers. Costs incurred after the Period of Performance ends are generally not allowable and will be rejected unless authorized by the FAA in advance.

Reporting. Until the grant is completed and closed, you are responsible for submitting formal reports as follows:

- For all grants, you must submit by December 31st of each year this grant is open:
 1. A signed/dated SF-270 (Request for Advance or Reimbursement for non-construction projects) or SF-271 or equivalent (Outlay Report and Request for Reimbursement for Construction Programs), and
 2. An SF-425 (Federal Financial Report).
- For non-construction projects, you must submit [FAA Form 5100-140, Performance Report](#) within 30 days of the end of the Federal fiscal year.
- For construction projects, you must submit [FAA Form 5370-1, Construction Progress and Inspection Report](#), within 30 days of the end of each Federal fiscal quarter.

Audit Requirements. As a condition of receiving Federal assistance under this award, you must comply with audit requirements as established under 2 CFR Part 200. Subpart F requires non-Federal entities that expend \$750,000 or more in Federal awards to conduct a single or program specific audit for that year. Note that this includes Federal expenditures made under other Federal-assistance programs. Please take appropriate and necessary action to ensure your organization will comply with applicable audit requirements and standards.

Closeout. Once the project(s) is completed and all costs are determined, we ask that you work with your FAA contact indicated below to close the project without delay and submit the necessary final closeout documentation as required by your Region/Airports District Office.

FAA Contact Information. Amanda Ogden, (206) 231-4130, Amanda.ogden@faa.gov is the assigned program manager for this grant and is readily available to assist you and your designated representative with the requirements stated herein.

We sincerely value your cooperation in these efforts and look forward to working with you to complete this important project.

Sincerely,



Warren D. Ferrell
Manager



U.S. Department
of Transportation
Federal Aviation
Administration

FEDERAL AVIATION ADMINISTRATION AIRPORT IMPROVEMENT PROGRAM

FY 2023 Airport Improvement Program (AIP)

GRANT AGREEMENT

Part I - Offer

Federal Award Offer Date	August 14, 2023
Airport/Planning Area	Bremerton National Airport, Washington
FY2023 AIP Grant Number	3-53-0007-038-2023 (Contract Number: DOT-FA23NM-0011)
Unique Entity Identifier	QDKNZNLEX967

TO: Port of Bremerton
(herein called the "Sponsor")

FROM: **The United States of America** (acting through the Federal Aviation Administration, herein called the "FAA")

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated August 1, 2023, for a grant of Federal funds for a project at or associated with the Bremerton National Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Bremerton National Airport (herein called the "Project") consisting of the following:

Conduct Environmental Assessment (phase 1 of 2);

which is more fully described in the Project Application.

NOW THEREFORE, Pursuant to and for the purpose of carrying out the Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); Consolidated Appropriations Act, 2023 (Public Law 117-328); and the representations contained in the Project

Application; and in consideration of: (a) the Sponsor's adoption and ratification of the Grant Assurances attached hereto; (b) the Sponsor's acceptance of this Offer; and (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurance and conditions as herein provided;

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay ninety (90) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.

Assistance Listings Number (Formerly CFDA Number): 20.106

This Offer is made on and SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

CONDITIONS

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is \$300,000.

The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):
 \$ 300,000 for planning;
 \$ 0 airport development or noise program implementation; and,
 \$ 0 for land acquisition.

2. **Grant Performance.** This Grant Agreement is subject to the following Federal award requirements:
 - a. Period of Performance:
 1. Shall start on the date the Sponsor formally accepts this Agreement and is the date signed by the last Sponsor signatory to the Agreement. The end date of the Period of Performance is 4 years (1,460 calendar days) from the date of acceptance. The Period of Performance end date shall not affect, relieve, or reduce Sponsor obligations and assurances that extend beyond the closeout of this Grant Agreement.
 2. Means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions or budget periods. (2 Code of Federal Regulations (CFR) § 200.1).
 - b. Budget Period:
 1. For this Grant is 4 years (1,460 calendar days) and follows the same start and end date as the Period of Performance provided in paragraph (2)(a)(1). Pursuant to 2 CFR § 200.403(h), the Sponsor may charge to the Grant only allowable costs incurred during the Budget Period.
 2. Means the time interval from the start date of a funded portion of an award to the end date of that funded portion during which the Sponsor is authorized to expend the funds awarded, including any funds carried forward or other revisions pursuant to 2 CFR § 200.308.
 - c. Close Out and Termination

1. Unless the FAA authorizes a written extension, the Sponsor must submit all Grant closeout documentation and liquidate (pay-off) all obligations incurred under this award no later than 120 calendar days after the end date of the period of performance. If the Sponsor does not submit all required closeout documentation within this time period, the FAA will proceed to close out the grant within one year of the Period of Performance end date with the information available at the end of 120 days. (2 CFR § 200.344).
2. The FAA may terminate this Grant, in whole or in part, in accordance with the conditions set forth in 2 CFR § 200.340, or other Federal regulatory or statutory authorities as applicable.
3. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.
4. **Determining the Final Federal Share of Costs.** The United States' share of allowable project costs will be made in accordance with 49 U.S.C. § 47109, the regulations, policies, and procedures of the Secretary of Transportation ("Secretary"), and any superseding legislation. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
5. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this Agreement, 49 U.S.C. Chapters 471 and 475, the regulations, and the Secretary's policies and procedures. Per 2 CFR § 200.308, the Sponsor agrees to report and request prior FAA approval for any disengagement from performing the project that exceeds three months or a 25 percent reduction in time devoted to the project. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the grant assurances, which are part of this Agreement.
6. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.
7. **Offer Expiration Date.** This offer will expire, and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before September 5, 2023, or such subsequent date as may be prescribed in writing by the FAA.
8. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this Grant Agreement, the term "Federal funds" means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

9. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this Grant Agreement.
10. **System for Award Management (SAM) Registration and Unique Entity Identifier (UEI).**
- a. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR § 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this Grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at <http://www.sam.gov>).
 - b. Unique entity identifier (UEI) means a 12-character alpha-numeric value used to identify a specific commercial, nonprofit or governmental entity. A UEI may be obtained from SAM.gov at <https://sam.gov/content/entity-registration>.
11. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this Agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.
12. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.
- The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA's authority to increase the maximum obligation does not apply to the "planning" component of Condition No. 1, Maximum Obligation.
- The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of the United States.
- An informal letter amendment has the same force and effect as a formal grant amendment.
13. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this Grant Agreement.
14. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all Federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.
15. **Buy American.** Unless otherwise approved in advance by the FAA, in accordance with 49 U.S.C. § 50101, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this Grant. The Sponsor will include a provision implementing Buy American in every contract and subcontract awarded under this Grant.

16. **Build America, Buy America.** The Sponsor must comply with the requirements under the Build America, Buy America Act (Public Law 117-58).
17. **Maximum Obligation Increase.** In accordance with 49 U.S.C. § 47108(b)(3), as amended, the maximum obligation of the United States, as stated in Condition No. 1, Maximum Obligation, of this Grant Offer:
- a. May not be increased for a planning project;
 - b. May be increased by not more than 15 percent for development projects if funds are available;
 - c. May be increased by not more than the greater of the following for a land project, if funds are available:
 1. 15 percent; or
 2. 25 percent of the total increase in allowable project costs attributable to acquiring an interest in the land.

If the Sponsor requests an increase, any eligible increase in funding will be subject to the United States Government share as provided in 49 U.S.C. § 47110, or other superseding legislation if applicable, for the fiscal year appropriation with which the increase is funded. The FAA is not responsible for the same Federal share provided herein for any amount increased over the initial grant amount. The FAA may adjust the Federal share as applicable through an informal letter of amendment.

18. **Audits for Sponsors.**

PUBLIC SPONSORS. The Sponsor must provide for a Single Audit or program-specific audit in accordance with 2 CFR Part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse's Internet Data Entry System at <http://harvester.census.gov/facweb/>. Upon request of the FAA, the Sponsor shall provide one copy of the completed audit to the FAA. Sponsors that expend less than \$750,000 in Federal awards and are exempt from Federal audit requirements must make records available for review or audit by the appropriate Federal agency officials, State, and Government Accountability Office. The FAA and other appropriate Federal agencies may request additional information to meet all Federal audit requirements.

19. **Suspension or Debarment.** When entering into a "covered transaction" as defined by 2 CFR § 180.200, the Sponsor must:
- a. Verify the non-Federal entity is eligible to participate in this Federal program by:
 1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-Federal entity is excluded or disqualified; or
 2. Collecting a certification statement from the non-Federal entity attesting they are not excluded or disqualified from participating; or
 3. Adding a clause or condition to covered transactions attesting the individual or firm are not excluded or disqualified from participating.
 - b. Require prime contractors to comply with 2 CFR § 180.330 when entering into lower-tier transactions with their contractors and sub-contractors.

- c. Immediately disclose in writing to the FAA whenever (1) the Sponsor learns they have entered into a covered transaction with an ineligible entity or (2) the Public Sponsor suspends or debar a contractor, person, or entity.

20. **Ban on Texting While Driving.**

- a. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
 - 1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.
 - 2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
 - i. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - ii. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- b. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts, and subcontracts funded with this Grant.

21. **Trafficking in Persons.**

- a. *Posting of contact information.*
 - 1. The Sponsor must post the contact information of the national human trafficking hotline (including options to reach out to the hotline such as through phone, text, or TTY) in all public airport restrooms.
- b. *Provisions applicable to a recipient that is a private entity.*
 - 1. You as the recipient, your employees, subrecipients under this Grant, and subrecipients' employees may not:
 - i. Engage in severe forms of trafficking in persons during the period of time that the Grant and applicable conditions are in effect;
 - ii. Procure a commercial sex act during the period of time that the Grant and applicable conditions are in effect; or
 - iii. Use forced labor in the performance of the Grant or any subgrants under this Grant.
 - 2. We as the Federal awarding agency, may unilaterally terminate this Grant, without penalty, if you or a subrecipient that is a private entity –
 - i. Is determined to have violated a prohibition in paragraph (a) of this Grant Condition; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated a prohibition in paragraph (a) of this Grant Condition through conduct that is either –

- a) Associated with performance under this Grant; or
 - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- c. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this Grant, without penalty, if a subrecipient that is a private entity –
- 1. Is determined to have violated an applicable prohibition in paragraph (a) of this Grant Condition; or
 - 2. Has an employee who is determined by the agency official authorized to terminate the Grant to have violated an applicable prohibition in paragraph (a) of this Grant Condition through conduct that is either –
 - i. Associated with performance under this Grant; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 1200.
- d. *Provisions applicable to any recipient.*
- 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph (a) of this Grant Condition.
 - 2. Our right to terminate unilaterally that is described in paragraph (a) or (b) of this Grant Condition:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended [22 U.S.C. § 7104(g)], and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this Grant.
 - 3. You must include the requirements of paragraph (a) of this Grant Condition in any subgrant you make to a private entity.
- e. *Definitions.* For purposes of this Grant Condition:
- 1. “Employee” means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this Grant; or
 - ii. Another person engaged in the performance of the project or program under this Grant and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Force labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 3. "Private entity":
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR § 175.25.
 - ii. Includes:
 - a) A nonprofit organization, including any nonprofit institute of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).
 - b) A for-profit organization.
 4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).
22. **Exhibit "A" Property Map.** The Exhibit "A" Property Map dated August 11, 2020, is incorporated herein by reference or is submitted with the project application and made part of this Grant Agreement.
23. **Employee Protection from Reprisal.**
- a. Prohibition of Reprisals
 1. In accordance with 41 U.S.C. § 4712, an employee of a Sponsor, grantee, subgrantee, contractor, or subcontractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (a)(2) below, information that the employee reasonably believes is evidence of:
 - i. Gross mismanagement of a Federal grant;
 - ii. Gross waste of Federal funds;
 - iii. An abuse of authority relating to implementation or use of Federal funds;
 - iv. A substantial and specific danger to public health or safety; or
 - v. A violation of law, rule, or regulation related to a Federal grant.
 2. Persons and bodies covered. The persons and bodies to which a disclosure by an employee is covered are as follows:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Federal employee responsible for contract or grant oversight or management at the relevant agency;
 - v. A court or grand jury;
 - vi. A management official or other employee of the Sponsor, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct; or

- vii. An authorized official of the Department of Justice or other law enforcement agency.
 - b. Investigation of Complaints.
 - 1. Submission of Complaint. A person who believes that they have been subjected to a reprisal prohibited by paragraph (a) of this Condition may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
 - 2. Time Limitation for Submittal of a Complaint. A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
 - 3. Required Actions of the Inspector General. Actions, limitations, and exceptions of the Inspector General's office are established under 41 U.S.C. § 4712(b).
 - c. Remedy and Enforcement Authority.
 - 1. Assumption of Rights to Civil Remedy. Upon receipt of an explanation of a decision not to conduct or continue an investigation by the OIG, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c)(2).
24. **Prohibited Telecommunications and Video Surveillance Services and Equipment.** The Sponsor agrees to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act [Public Law 115-232 § 889(f)(1)] and 2 CFR § 200.216.
25. **Critical Infrastructure Security and Resilience.** The Sponsor acknowledges that it has considered and addressed physical and cybersecurity and resilience in their project planning, design, and oversight, as determined by the DOT and the Department of Homeland Security (DHS). For airports that do not have specific DOT or DHS cybersecurity requirements, the FAA encourages the voluntary adoption of the cybersecurity requirements from the Transportation Security Administration and Federal Security Director identified for security risk Category X airports.

SPECIAL CONDITIONS

26. **Buy American Executive Orders.** The Sponsor agrees to abide by applicable Executive Orders in effect at the time this Grant Agreement is executed, including Executive Order 14005, Ensuring the Future Is Made in All of America by All of America's Workers.
27. **Grant Approval Based Upon Certification.** The FAA and the Sponsor agree that the FAA approval of this grant is based on the Sponsor's certification to carry out the project in accordance **with** policies, standards, and specifications approved by the FAA. The Sponsor Certifications received from the Sponsor for the work included in this grant are hereby incorporated into this grant agreement. The Sponsor understands that:
- a. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to any AIP standards or to notify the FAA of any limitations to competition within the project;
 - b. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements;

If the FAA determines that the Sponsor has not complied with their certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under AIP.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the Grant Assurances, terms, and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.¹

**UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION**



(Signature)

Warren Ferrell

Warren D. Ferrell

Manager, Seattle Airports District Office

Manager, Seattle Airports District Office

¹ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

Part II - Acceptance

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the Grant Assurances, terms, and conditions in this Offer and in the Project Application.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.²

Dated _____

Port of Bremerton

(Name of Sponsor)

(Signature of Sponsor's Authorized Official)

By: _____
(Typed Name of Sponsor's Authorized Official)

Title: _____
(Title of Sponsor's Authorized Official)

² Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

CERTIFICATE OF SPONSOR’S ATTORNEY

I, _____, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Washington. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor’s official representative, who has been duly authorized to execute this Grant Agreement, which is in all respects due and proper and in accordance with the laws of the said State; and Title 49, United States Code (U.S.C.), Chapters 471 and 475; 49 U.S.C. §§ 40101 et seq., and 48103; FAA Reauthorization Act of 2018 (Public Law Number 115-254); the Department of Transportation Appropriations Act, 2021 (Public Law 116-260, Division L); the Consolidated Appropriations Act, 2022 (Public Law 117-103); Consolidated Appropriations Act, 2023 (Public Law 117-328); and the representations contained in the Project Application. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Please read the following information: By signing this document, you are agreeing that you have reviewed the following consumer disclosure information and consent to transact business using electronic communications, to receive notices and disclosures electronically, and to utilize electronic signatures in lieu of using paper documents. You are not required to receive notices and disclosures or sign documents electronically. If you prefer not to do so, you may request to receive paper copies and withdraw your consent at any time.

I declare under penalty of perjury that the foregoing is true and correct.³

Dated at _____

By: _____
(Signature of Sponsor’s Attorney)

³ Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

ASSURANCES

AIRPORT SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

1. **Airport development or Noise Compatibility Program Projects Undertaken by a Public Agency Sponsor.**

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect throughout the useful life of the facilities developed or equipment acquired for an airport development or noise compatibility program project, or throughout the useful life of the project items installed within a facility under a noise compatibility program project, but in any event not to exceed twenty (20) years from the date of acceptance of a grant offer of Federal funds for the project. However, there shall be no limit on the duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport. There shall be no limit on the duration of the terms, conditions, and assurances with respect to real property acquired with federal funds. Furthermore, the duration of the Civil Rights assurance shall be specified in the assurances.

2. **Airport Development or Noise Compatibility Projects Undertaken by a Private Sponsor.**

The preceding paragraph (1) also applies to a private sponsor except that the useful life of project items installed within a facility or the useful life of the facilities developed or equipment acquired under an airport development or noise compatibility program project shall be no less than ten (10) years from the date of acceptance of Federal aid for the project.

3. **Airport Planning Undertaken by a Sponsor.**

Unless otherwise specified in this Grant Agreement, only Assurances 1, 2, 3, 5, 6, 13, 18, 23, 25, 30, 32, 33, 34, and 37 in Section C apply to planning projects. The terms, conditions, and assurances of this Grant Agreement shall remain in full force and effect during the life of the project; there shall be no limit on the

duration of the assurances regarding Exclusive Rights and Airport Revenue so long as the airport is used as an airport.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal funds for this Grant including but not limited to the following:

FEDERAL LEGISLATION

- a. 49, U.S.C., subtitle VII, as amended.
- b. Davis-Bacon Act, as amended — 40 U.S.C. §§ 3141-3144, 3146, and 3147, et seq.¹
- c. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- d. Hatch Act – 5 U.S.C. § 1501, et seq.²
- e. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. § 4601, et seq.^{1, 2}
- f. National Historic Preservation Act of 1966 – Section 106 - 54 U.S.C. § 306108.1.¹
- g. Archeological and Historic Preservation Act of 1974 - 54 U.S.C. § 312501, et seq.¹
- h. Native Americans Grave Repatriation Act - 25 U.S.C. Section § 3001, et seq.
- i. Clean Air Act, P.L. 90-148, as amended - 42 U.S.C. § 7401, et seq.
- j. Coastal Zone Management Act, P.L. 92-583, as amended - 16 U.S.C. § 1451, et seq.
- k. Flood Disaster Protection Act of 1973 – Section 102(a) - 42 U.S.C. § 4012a.¹
- l. 49 U.S.C. § 303, (formerly known as Section 4(f)).
- m. Rehabilitation Act of 1973 - 29 U.S.C. § 794.
- n. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- o. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- p. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- q. American Indian Religious Freedom Act, P.L. 95-341, as amended.
- r. Architectural Barriers Act of 1968, as amended - 42 U.S.C. § 4151, et seq.¹
- s. Powerplant and Industrial Fuel Use Act of 1978 – Section 403 - 42 U.S.C. § 8373.¹
- t. Contract Work Hours and Safety Standards Act - 40 U.S.C. § 3701, et seq.¹
- u. Copeland Anti-kickback Act - 18 U.S.C. § 874.¹
- v. National Environmental Policy Act of 1969 - 42 U.S.C. § 4321, et seq.¹

- w. Wild and Scenic Rivers Act, P.L. 90-542, as amended – 16 U.S.C. § 1271, et seq.
- x. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.²
- y. Drug-Free Workplace Act of 1988 - 41 U.S.C. §§ 8101 through 8105.
- z. The Federal Funding Accountability and Transparency Act of 2006, as amended (P.L. 109-282, as amended by section 6202 of P.L. 110-252).
- aa. Civil Rights Restoration Act of 1987, P.L. 100-259.
- bb. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

- a. Executive Order 11246 – Equal Employment Opportunity¹
- b. Executive Order 11990 – Protection of Wetlands
- c. Executive Order 11998 – Flood Plain Management
- d. Executive Order 12372 – Intergovernmental Review of Federal Programs
- e. Executive Order 12699 – Seismic Safety of Federal and Federally Assisted New Building Construction¹
- f. Executive Order 12898 – Environmental Justice
- g. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- h. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- i. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- j. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- k. Executive Order 14008 – Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{4, 5}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice For Federally-Assisted Airport Enforcement Proceedings.
- f. 14 CFR Part 150 – Airport Noise Compatibility Planning.
- g. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.

- h. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- i. 29 CFR Part 1 – Procedures for Predetermination of Wage Rates.¹
- j. 29 CFR Part 3 – Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States.¹
- k. 29 CFR Part 5 – Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act).¹
- l. 41 CFR Part 60 – Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor (Federal and Federally-assisted contracting requirements).¹
- m. 49 CFR Part 20 – New Restrictions on Lobbying.
- n. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964.
- o. 49 CFR Part 23 – Participation by Disadvantage Business Enterprise in Airport Concessions.
- p. 49 CFR Part 24 – Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs.^{1 2}
- q. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- r. 49 CFR Part 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance.¹
- s. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- t. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- u. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance).
- v. 49 CFR Part 37 – Transportation Services for Individuals with Disabilities (ADA).
- w. 49 CFR Part 38 – Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles.
- x. 49 CFR Part 41 – Seismic Safety.

FOOTNOTES TO ASSURANCE (C)(1)

¹ These laws do not apply to airport planning sponsors.

² These laws do not apply to private sponsors.

³ 2 CFR Part 200 contains requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.

⁴ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.

⁵ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this grant agreement.

2. Responsibility and Authority of the Sponsor.

a. Public Agency Sponsor:

It has legal authority to apply for this Grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

b. Private Sponsor:

It has legal authority to apply for this Grant and to finance and carry out the proposed project and comply with all terms, conditions, and assurances of this Grant Agreement. It shall designate an official representative and shall in writing direct and authorize that person to file this application, including all understandings and assurances contained therein; to act in connection with this application; and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States. It has sufficient funds available to assure operation and maintenance of items funded under this Grant Agreement which it will own or control.

4. Good Title.

- a. It, a public agency or the Federal government, holds good title, satisfactory to the Secretary, to the landing area of the airport or site thereof, or will give assurance satisfactory to the Secretary that good title will be acquired.
- b. For noise compatibility program projects to be carried out on the property of the sponsor, it holds good title satisfactory to the Secretary to that portion of the property upon which Federal funds will be expended or will give assurance to the Secretary that good title will be obtained.

5. Preserving Rights and Powers.

- a. It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary, and will act promptly to acquire, extinguish or modify any outstanding rights or claims of right of others which would interfere with such

performance by the sponsor. This shall be done in a manner acceptable to the Secretary.

- b. Subject to the FAA Act of 2018, Public Law 115-254, Section 163, it will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the property shown on Exhibit A to this application or, for a noise compatibility program project, that portion of the property upon which Federal funds have been expended, for the duration of the terms, conditions, and assurances in this Grant Agreement without approval by the Secretary. If the transferee is found by the Secretary to be eligible under Title 49, United States Code, to assume the obligations of this Grant Agreement and to have the power, authority, and financial resources to carry out all such obligations, the sponsor shall insert in the contract or document transferring or disposing of the sponsor's interest, and make binding upon the transferee all of the terms, conditions, and assurances contained in this Grant Agreement.
- c. For all noise compatibility program projects which are to be carried out by another unit of local government or are on property owned by a unit of local government other than the sponsor, it will enter into an agreement with that government. Except as otherwise specified by the Secretary, that agreement shall obligate that government to the same terms, conditions, and assurances that would be applicable to it if it applied directly to the FAA for a grant to undertake the noise compatibility program project. That agreement and changes thereto must be satisfactory to the Secretary. It will take steps to enforce this agreement against the local government if there is substantial non-compliance with the terms of the agreement.
- d. For noise compatibility program projects to be carried out on privately owned property, it will enter into an agreement with the owner of that property which includes provisions specified by the Secretary. It will take steps to enforce this agreement against the property owner whenever there is substantial non-compliance with the terms of the agreement.
- e. If the sponsor is a private sponsor, it will take steps satisfactory to the Secretary to ensure that the airport will continue to function as a public-use airport in accordance with these assurances for the duration of these assurances.
- f. If an arrangement is made for management and operation of the airport by any agency or person other than the sponsor or an employee of the sponsor, the sponsor will reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with Title 49, United States Code, the regulations and the terms, conditions and assurances in this Grant Agreement and shall ensure that such arrangement also requires compliance therewith.
- g. Sponsors of commercial service airports will not permit or enter into any arrangement that results in permission for the owner or tenant of a property used as a residence, or zoned for residential use, to taxi an aircraft between that property and any location on airport. Sponsors of general aviation airports entering into any arrangement that results in permission for the owner of

residential real property adjacent to or near the airport must comply with the requirements of Sec. 136 of Public Law 112-95 and the sponsor assurances.

6. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies that are authorized by the State in which the project is located to plan for the development of the area surrounding the airport.

7. Consideration of Local Interest.

It has given fair consideration to the interest of communities in or near where the project may be located.

8. Consultation with Users.

In making a decision to undertake any airport development project under Title 49, United States Code, it has undertaken reasonable consultations with affected parties using the airport at which project is proposed.

9. Public Hearings.

In projects involving the location of an airport, an airport runway, or a major runway extension, it has afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with goals and objectives of such planning as has been carried out by the community and it shall, when requested by the Secretary, submit a copy of the transcript of such hearings to the Secretary. Further, for such projects, it has on its management board either voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.

10. Metropolitan Planning Organization.

In projects involving the location of an airport, an airport runway, or a major runway extension at a medium or large hub airport, the sponsor has made available to and has provided upon request to the metropolitan planning organization in the area in which the airport is located, if any, a copy of the proposed amendment to the airport layout plan to depict the project and a copy of any airport master plan in which the project is described or depicted.

11. Pavement Preventive Maintenance-Management.

With respect to a project approved after January 1, 1995, for the replacement or reconstruction of pavement at the airport, it assures or certifies that it has implemented an effective airport pavement maintenance-management program and it assures that it will use such program for the useful life of any pavement constructed, reconstructed or repaired with Federal financial assistance at the airport. It will provide such reports on pavement condition and pavement management programs as the Secretary determines may be useful.

12. Terminal Development Prerequisites.

For projects which include terminal development at a public use airport, as defined in Title 49, it has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under 49 U.S.C. § 44706, and all the security

equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning and deplaning from aircraft other than air carrier aircraft.

13. Accounting System, Audit, and Record Keeping Requirements.

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a Grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

14. Minimum Wage Rates.

It shall include, in all contracts in excess of \$2,000 for work on any projects funded under this Grant Agreement which involve labor, provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor under 40 U.S.C. §§ 3141-3144, 3146, and 3147, Public Building, Property, and Works), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

15. Veteran's Preference.

It shall include in all contracts for work on any project funded under this Grant Agreement which involve labor, such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to Vietnam era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns owned and controlled by disabled veterans as defined in 49 U.S.C. § 47112. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates.

16. Conformity to Plans and Specifications.

It will execute the project subject to plans, specifications, and schedules approved by the Secretary. Such plans, specifications, and schedules shall be submitted to the Secretary prior to commencement of site preparation, construction, or other performance under this Grant Agreement, and, upon approval of the Secretary, shall be incorporated into this Grant Agreement. Any modification to the approved plans, specifications, and schedules shall also be subject to approval of the Secretary, and incorporated into this Grant Agreement.

17. Construction Inspection and Approval.

It will provide and maintain competent technical supervision at the construction site throughout the project to assure that the work conforms to the plans, specifications, and schedules approved by the Secretary for the project. It shall subject the construction work on any project contained in an approved project application to inspection and approval by the Secretary and such work shall be in accordance with regulations and procedures prescribed by the Secretary. Such regulations and procedures shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary.

18. Planning Projects.

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with the modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

19. Operation and Maintenance.

- a. The airport and all facilities which are necessary to serve the aeronautical users of the airport, other than facilities owned or controlled by the United States, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable Federal, State and local agencies for maintenance and operation. It will not cause or permit any activity or action thereon which would interfere

with its use for airport purposes. It will suitably operate and maintain the airport and all facilities thereon or connected therewith, with due regard to climatic and flood conditions. Any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Secretary. In furtherance of this assurance, the sponsor will have in effect arrangements for:

1. Operating the airport's aeronautical facilities whenever required;
 2. Promptly marking and lighting hazards resulting from airport conditions, including temporary conditions; and
 3. Promptly notifying pilots of any condition affecting aeronautical use of the airport. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when snow, flood, or other climatic conditions interfere with such operation and maintenance. Further, nothing herein shall be construed as requiring the maintenance, repair, restoration, or replacement of any structure or facility which is substantially damaged or destroyed due to an act of God or other condition or circumstance beyond the control of the sponsor.
- b. It will suitably operate and maintain noise compatibility program items that it owns or controls upon which Federal funds have been expended.

20. Hazard Removal and Mitigation.

It will take appropriate action to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.

21. Compatible Land Use.

It will take appropriate action, to the extent reasonable, including the adoption of zoning laws, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft. In addition, if the project is for noise compatibility program implementation, it will not cause or permit any change in land use, within its jurisdiction, that will reduce its compatibility, with respect to the airport, of the noise compatibility program measures upon which Federal funds have been expended.

22. Economic Nondiscrimination.

- a. It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport.
- b. In any agreement, contract, lease, or other arrangement under which a right or privilege at the airport is granted to any person, firm, or corporation to conduct or to engage in any aeronautical activity for furnishing services to the public at the airport, the sponsor will insert and enforce provisions requiring the contractor to:

1. Furnish said services on a reasonable, and not unjustly discriminatory, basis to all users thereof, and
 2. Charge reasonable, and not unjustly discriminatory, prices for each unit or service, provided that the contractor may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- c. Each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport and utilizing the same or similar facilities.
 - d. Each air carrier using such airport shall have the right to service itself or to use any fixed-based operator that is authorized or permitted by the airport to serve any air carrier at such airport.
 - e. Each air carrier using such airport (whether as a tenant, non-tenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rules, regulations, conditions, rates, fees, rentals, and other charges with respect to facilities directly and substantially related to providing air transportation as are applicable to all such air carriers which make similar use of such airport and utilize similar facilities, subject to reasonable classifications such as tenants or non-tenants and signatory carriers and non-signatory carriers. Classification or status as tenant or signatory shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on air carriers in such classification or status.
 - f. It will not exercise or grant any right or privilege which operates to prevent any person, firm, or corporation operating aircraft on the airport from performing any services on its own aircraft with its own employees (including, but not limited to maintenance, repair, and fueling) that it may choose to perform.
 - g. In the event the sponsor itself exercises any of the rights and privileges referred to in this assurance, the services involved will be provided on the same conditions as would apply to the furnishing of such services by commercial aeronautical service providers authorized by the sponsor under these provisions.
 - h. The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.
 - i. The sponsor may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

23. Exclusive Rights.

It will permit no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the

providing of the services at an airport by a single fixed-based operator shall not be construed as an exclusive right if both of the following apply:

- a. It would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and
- b. If allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport. It further agrees that it will not, either directly or indirectly, grant or permit any person, firm, or corporation, the exclusive right at the airport to conduct any aeronautical activities, including, but not limited to charter flights, pilot training, aircraft rental and sightseeing, aerial photography, crop dusting, aerial advertising and surveying, air carrier operations, aircraft sales and services, sale of aviation petroleum products whether or not conducted in conjunction with other aeronautical activity, repair and maintenance of aircraft, sale of aircraft parts, and any other activities which because of their direct relationship to the operation of aircraft can be regarded as an aeronautical activity, and that it will terminate any exclusive right to conduct an aeronautical activity now existing at such an airport before the grant of any assistance under Title 49, United States Code.

24. Fee and Rental Structure.

It will maintain a fee and rental structure for the facilities and services at the airport which will make the airport as self-sustaining as possible under the circumstances existing at the particular airport, taking into account such factors as the volume of traffic and economy of collection. No part of the Federal share of an airport development, airport planning or noise compatibility project for which a Grant is made under Title 49, United States Code, the Airport and Airway Improvement Act of 1982, the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate basis in establishing fees, rates, and charges for users of that airport.

25. Airport Revenues.

- a. All revenues generated by the airport and any local taxes on aviation fuel established after December 30, 1987, will be expended by it for the capital or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the actual air transportation of passengers or property; or for noise mitigation purposes on or off the airport. The following exceptions apply to this paragraph:
 1. If covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all

revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply.

2. If the Secretary approves the sale of a privately owned airport to a public sponsor and provides funding for any portion of the public sponsor's acquisition of land, this limitation on the use of all revenues generated by the sale shall not apply to certain proceeds from the sale. This is conditioned on repayment to the Secretary by the private owner of an amount equal to the remaining unamortized portion (amortized over a 20-year period) of any airport improvement grant made to the private owner for any purpose other than land acquisition on or after October 1, 1996, plus an amount equal to the federal share of the current fair market value of any land acquired with an airport improvement grant made to that airport on or after October 1, 1996.
3. Certain revenue derived from or generated by mineral extraction, production, lease, or other means at a general aviation airport (as defined at 49 U.S.C. § 47102), if the FAA determines the airport sponsor meets the requirements set forth in Section 813 of Public Law 112-95
 - b. As part of the annual audit required under the Single Audit Act of 1984, the sponsor will direct that the audit will review, and the resulting audit report will provide an opinion concerning, the use of airport revenue and taxes in paragraph (a), and indicating whether funds paid or transferred to the owner or operator are paid or transferred in a manner consistent with Title 49, United States Code and any other applicable provision of law, including any regulation promulgated by the Secretary or Administrator.
 - c. Any civil penalties or other sanctions will be imposed for violation of this assurance in accordance with the provisions of 49 U.S.C. § 47107.

26. Reports and Inspections.

It will:

- a. submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request and make such reports available to the public; make available to the public at reasonable times and places a report of the airport budget in a format prescribed by the Secretary;
- b. for airport development projects, make the airport and all airport records and documents affecting the airport, including deeds, leases, operation and use agreements, regulations and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request;
- c. for noise compatibility program projects, make records and documents relating to the project and continued compliance with the terms, conditions, and assurances of this Grant Agreement including deeds, leases, agreements, regulations, and other instruments, available for inspection by any duly authorized agent of the Secretary upon reasonable request; and

- d. in a format and time prescribed by the Secretary, provide to the Secretary and make available to the public following each of its fiscal years, an annual report listing in detail:
 - 1. all amounts paid by the airport to any other unit of government and the purposes for which each such payment was made; and
 - 2. all services and property provided by the airport to other units of government and the amount of compensation received for provision of each such service and property.

27. Use by Government Aircraft.

It will make available all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, for the cost of operating and maintaining the facilities used. Unless otherwise determined by the Secretary, or otherwise agreed to by the sponsor and the using agency, substantial use of an airport by Government aircraft will be considered to exist when operations of such aircraft are in excess of those which, in the opinion of the Secretary, would unduly interfere with use of the landing areas by other authorized aircraft, or during any calendar month that:

- a. Five (5) or more Government aircraft are regularly based at the airport or on land adjacent thereto; or
- b. The total number of movements (counting each landing as a movement) of Government aircraft is 300 or more, or the gross accumulative weight of Government aircraft using the airport (the total movement of Government aircraft multiplied by gross weights of such aircraft) is in excess of five million pounds.

28. Land for Federal Facilities.

It will furnish without cost to the Federal Government for use in connection with any air traffic control or air navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein as the Secretary considers necessary or desirable for construction, operation, and maintenance at Federal expense of space or facilities for such purposes. Such areas or any portion thereof will be made available as provided herein within four months after receipt of a written request from the Secretary.

29. Airport Layout Plan.

- a. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, it will keep up to date at all times an airport layout plan of the airport showing:
 - 1. boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto;

2. the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities;
3. the location of all existing and proposed non-aviation areas and of all existing improvements thereon; and
4. all proposed and existing access points used to taxi aircraft across the airport's property boundary.

Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport.

- b. Subject to the FAA Reauthorization Act of 2018, Public Law 115-254, Section 163, if a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary:
 1. eliminate such adverse effect in a manner approved by the Secretary; or
 2. bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities except in the case of a relocation or replacement of an existing airport facility due to a change in the Secretary's design standards beyond the control of the airport sponsor.

30. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4); creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this Grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 - 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 - 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 - 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

- 1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
 - 2. So long as the sponsor retains ownership or possession of the property.
- d. Required Solicitation Language. It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this Grant Agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

"The (**Port of Bremerton**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award."

e. Required Contract Provisions.

1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the Department of Transportation (DOT), and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

31. Disposal of Land.

- a. For land purchased under a grant for airport noise compatibility purposes, including land serving as a noise buffer, it will dispose of the land, when the land is no longer needed for such purposes, at fair market value, at the earliest practicable time. That portion of the proceeds of such disposition which is proportionate to the United States' share of acquisition of such land will be, at the discretion of the Secretary, (1) reinvested in another project at the airport, or (2) transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:

1. Reinvestment in an approved noise compatibility project;
2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.

If land acquired under a grant for noise compatibility purposes is leased at fair market value and consistent with noise buffering purposes, the lease will not be considered a disposal of the land. Revenues derived from such a lease may be used for an approved airport development project that would otherwise be eligible for grant funding or any permitted use of airport revenue.

- b. For land purchased under a grant for airport development purposes (other than noise compatibility), it will, when the land is no longer needed for airport purposes, dispose of such land at fair market value or make available to the Secretary an amount equal to the United States' proportionate share of the fair market value of the land. That portion of the proceeds of such disposition which is proportionate to the United States' share of the cost of acquisition of such land will, upon application to the Secretary, be reinvested or transferred to another eligible airport as prescribed by the Secretary. The Secretary shall give preference to the following, in descending order:
 1. Reinvestment in an approved noise compatibility project;
 2. Reinvestment in an approved project that is eligible for grant funding under 49 U.S.C. § 47117(e);
 3. Reinvestment in an approved airport development project that is eligible for grant funding under 49 U.S.C. §§ 47114, 47115, or 47117
 4. Transfer to an eligible sponsor of another public airport to be reinvested in an approved noise compatibility project at that airport; or
 5. Payment to the Secretary for deposit in the Airport and Airway Trust Fund.
- c. Land shall be considered to be needed for airport purposes under this assurance if (1) it may be needed for aeronautical purposes (including runway protection zones) or serve as noise buffer land, and (2) the revenue from interim uses of such land contributes to the financial self-sufficiency of the airport. Further, land purchased with a grant received by an airport operator or owner before December 31, 1987, will be considered to be needed for airport

purposes if the Secretary or Federal agency making such grant before December 31, 1987, was notified by the operator or owner of the uses of such land, did not object to such use, and the land continues to be used for that purpose, such use having commenced no later than December 15, 1989.

- d. Disposition of such land under (a), (b), or (c) will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with operation of the airport.

32. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

33. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

34. Policies, Standards, and Specifications.

It will carry out any project funded under an Airport Improvement Program Grant in accordance with policies, standards, and specifications approved by the Secretary including, but not limited to, current FAA Advisory Circulars (<https://www.faa.gov/airports/aip/media/aip-pfc-checklist.pdf>) for AIP projects as of August 1, 2023.

35. Relocation and Real Property Acquisition.

- a. It will be guided in acquiring real property, to the greatest extent practicable under State law, by the land acquisition policies in Subpart B of 49 CFR Part 24 and will pay or reimburse property owners for necessary expenses as specified in Subpart B.
- b. It will provide a relocation assistance program offering the services described in Subpart C of 49 CFR Part 24 and fair and reasonable relocation payments and assistance to displaced persons as required in Subpart D and E of 49 CFR Part 24.
- c. It will make available within a reasonable period of time prior to displacement, comparable replacement dwellings to displaced persons in accordance with Subpart E of 49 CFR Part 24.

36. Access By Intercity Buses.

The airport owner or operator will permit, to the maximum extent practicable, intercity buses or other modes of transportation to have access to the airport; however, it has no obligation to fund special facilities for intercity buses or for other modes of transportation.

37. Disadvantaged Business Enterprises.

The sponsor shall not discriminate on the basis of race, color, national origin, or sex, in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26, or in the award and performance of any concession activity contract covered by 49 CFR Part 23. In addition, the sponsor shall not discriminate on the basis of race, color, national origin or sex in the administration of its Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs or the requirements of 49 CFR Parts 23 and 26. The sponsor shall take all necessary and reasonable steps under 49 CFR Parts 23 and 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts, and/or concession contracts. The sponsor's DBE and ACDBE programs, as required by 49 CFR Parts 26 and 23, and as approved by DOT, are incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the sponsor of its failure to carry out its approved program, the Department may impose sanctions as provided for under Parts 26 and 23 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

38. Hangar Construction.

If the airport owner or operator and a person who owns an aircraft agree that a hangar is to be constructed at the airport for the aircraft at the aircraft owner's expense, the airport owner or operator will grant to the aircraft owner for the hangar a long term lease that is subject to such terms and conditions on the hangar as the airport owner or operator may impose.

39. Competitive Access.

- a. If the airport owner or operator of a medium or large hub airport (as defined in 49 U.S.C. § 47102) has been unable to accommodate one or more requests by an air carrier for access to gates or other facilities at that airport in order to allow the air carrier to provide service to the airport or to expand service at the airport, the airport owner or operator shall transmit a report to the Secretary that:
 1. Describes the requests;
 2. Provides an explanation as to why the requests could not be accommodated; and
 3. Provides a time frame within which, if any, the airport will be able to accommodate the requests.
- b. Such report shall be due on either February 1 or August 1 of each year if the airport has been unable to accommodate the request(s) in the six month period prior to the applicable due date.

ASSURANCES PLANNING AGENCY SPONSORS

A. General.

1. These assurances shall be complied with in the performance of grant agreements for airport development, airport planning, and noise compatibility program grants for airport sponsors.
2. These assurances are required to be submitted as part of the project application by sponsors requesting funds under the provisions of Title 49, U.S.C., subtitle VII, as amended. As used herein, the term "public agency sponsor" means a public agency with control of a public-use airport; the term "private sponsor" means a private owner of a public-use airport; and the term "sponsor" includes both public agency sponsors and private sponsors.
3. Upon acceptance of this grant offer by the sponsor, these assurances are incorporated in and become part of this Grant Agreement.

B. Duration and Applicability.

The terms, conditions and assurances of this Grant Agreement shall remain in full force and effect during the life of the project.

C. Sponsor Certification.

The sponsor hereby assures and certifies, with respect to this grant that:

1. General Federal Requirements

It will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines, and requirements as they relate to the application, acceptance and use of Federal funds for this project including but not limited to the following:

FEDERAL LEGISLATION

- a. 49, U.S.C., subtitle VII, as amended.
- b. Federal Fair Labor Standards Act - 29 U.S.C. § 201, et seq.
- c. Hatch Act – 5 U.S.C. § 1501, et seq.¹
- d. Rehabilitation Act of 1973 – 29 U.S.C. § 794
- e. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin).
- f. Americans with Disabilities Act of 1990, as amended, (42 U.S.C. § 12101 et seq.) (prohibits discrimination on the basis of disability).
- g. Age Discrimination Act of 1975 - 42 U.S.C. § 6101, et seq.
- h. Single Audit Act of 1984 - 31 U.S.C. § 7501, et seq.¹
- i. Drug-Free Workplace Act of 1988 - 41 U.S.C. § 8101 through 8105.

- j. The Federal Funding Accountability and Transparency Act of 2006, as amended (Pub. L. 109-282, as amended by section 6202 of Public Law 110-252).
- k. Build America, Buy America Act, P.L. 117-58, Title IX.

EXECUTIVE ORDERS

- a. Executive Order 12372 - Intergovernmental Review of Federal Programs
- b. Executive Order 13166 – Improving Access to Services for Persons with Limited English Proficiency
- c. Executive Order 13985 – Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government
- d. Executive Order 13988 – Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation
- e. Executive Order 14005 – Ensuring the Future is Made in all of America by All of America’s Workers
- f. Executive Order 14008 - Tackling the Climate Crisis at Home and Abroad

FEDERAL REGULATIONS

- a. 2 CFR Part 180 – OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement).
- b. 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.^{3,4}
- c. 2 CFR Part 1200 – Nonprocurement Suspension and Debarment.
- d. 14 CFR Part 13 – Investigative and Enforcement Procedures.
- e. 14 CFR Part 16 – Rules of Practice for Federally-Assisted Airport Enforcement Proceedings.
- f. 28 CFR Part 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services.
- g. 28 CFR § 50.3 – U.S. Department of Justice Guidelines for the Enforcement of Title VI of the Civil Rights Act of 1964.
- h. 49 CFR Part 20 – New Restrictions on Lobbying.
- i. 49 CFR Part 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964.
- j. 49 CFR Part 26 – Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.
- k. 49 CFR Part 28 – Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.
- l. 49 CFR Part 30 – Denial of Public Works Contracts to Suppliers of Goods and Services of Countries That Deny Procurement Market Access to U.S. Contractors.
- m. 49 CFR Part 32 – Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)

FOOTNOTES TO ASSURANCE C.1.

- ¹ These laws do not apply to private sponsors.
- ² 2 CFR Part 200 contain requirements for State and Local Governments receiving Federal assistance. Any requirement levied upon State and Local Governments by this regulation shall apply where applicable to private sponsors receiving Federal assistance under Title 49, United States Code.
- ³ Cost principles established in 2 CFR part 200 subpart E must be used as guidelines for determining the eligibility of specific types of expenses.
- ⁴ Audit requirements established in 2 CFR part 200 subpart F are the guidelines for audits.

SPECIFIC ASSURANCES

Specific assurances required to be included in grant agreements by any of the above laws, regulations or circulars are incorporated by reference in this Grant Agreement.

2. Responsibility and Authority of the Sponsor.

It has legal authority to apply for this grant, and to finance and carry out the proposed project; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

3. Sponsor Fund Availability.

It has sufficient funds available for that portion of the project costs which are not to be paid by the United States.

4. Preserving Rights and Powers

It will not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms, conditions, and assurances in this Grant Agreement without the written approval of the Secretary

5. Consistency with Local Plans.

The project is reasonably consistent with plans (existing at the time of submission of this application) of public agencies in the planning area.

6. Accounting System, Audit, and Record Keeping Requirements

- a. It shall keep all project accounts and records which fully disclose the amount and disposition by the recipient of the proceeds of this Grant, the total cost of the project in connection with which this Grant is given or used, and the amount or nature of that portion of the cost of the project supplied by other sources, and such other financial records pertinent to the project. The accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984.
- b. It shall make available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of the

recipient that are pertinent to this Grant. The Secretary may require that an appropriate audit be conducted by a recipient. In any case in which an independent audit is made of the accounts of a sponsor relating to the disposition of the proceeds of a grant or relating to the project in connection with which this Grant was given or used, it shall file a certified copy of such audit with the Comptroller General of the United States not later than six (6) months following the close of the fiscal year for which the audit was made.

7. Planning Projects

In carrying out planning projects:

- a. It will execute the project in accordance with the approved program narrative contained in the project application or with modifications similarly approved.
- b. It will furnish the Secretary with such periodic reports as required pertaining to the planning project and planning work activities.
- c. It will include in all published material prepared in connection with the planning project a notice that the material was prepared under a grant provided by the United States.
- d. It will make such material available for examination by the public, and agrees that no material prepared with funds under this project shall be subject to copyright in the United States or any other country.
- e. It will give the Secretary unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this grant.
- f. It will grant the Secretary the right to disapprove the Sponsor's employment of specific consultants and their subcontractors to do all or any part of this project as well as the right to disapprove the proposed scope and cost of professional services.
- g. It will grant the Secretary the right to disapprove the use of the Sponsor's employees to do all or any part of the project.
- h. It understands and agrees that the Secretary's approval of this project grant or the Secretary's approval of any planning material developed as part of this grant does not mean constitute or imply any assurance or commitment on the part of the Secretary to approve any pending or future application for a Federal airport grant.

8. Reports and Inspections.

It will submit to the Secretary such annual or special financial and operations reports as the Secretary may reasonably request.

9. Civil Rights.

It will promptly take any measures necessary to ensure that no person in the United States shall, on the grounds of race, creed, color, and national origin (including limited English proficiency) in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4; creed and sex (including sexual orientation and gender identity) per 49 U.S.C. § 47123 and related requirements; age per the Age Discrimination Act of 1975 and related requirements; or disability per the Americans with

Disabilities Act of 1990 and related requirements, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program and activity conducted with, or benefiting from, funds received from this grant.

- a. Using the definitions of activity, facility, and program as found and defined in 49 CFR §§ 21.23(b) and 21.23(e), the sponsor will facilitate all programs, operate all facilities, or conduct all programs in compliance with all non-discrimination requirements imposed by or pursuant to these assurances.
- b. Applicability
 1. Programs and Activities. If the sponsor has received a grant (or other federal assistance) for any of the sponsor's program or activities, these requirements extend to all of the sponsor's programs and activities.
 2. Facilities. Where it receives a grant or other federal financial assistance to construct, expand, renovate, remodel, alter, or acquire a facility, or part of a facility, the assurance extends to the entire facility and facilities operated in connection therewith.
 3. Real Property. Where the sponsor receives a grant or other Federal financial assistance in the form of, or for the acquisition of real property or an interest in real property, the assurance will extend to rights to space on, over, or under such property.

c. Duration.

The sponsor agrees that it is obligated to this assurance for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the assurance obligates the sponsor, or any transferee for the longer of the following periods:

1. So long as the airport is used as an airport, or for another purpose involving the provision of similar services or benefits; or
2. So long as the sponsor retains ownership or possession of the property.

d. Required Solicitation Language.

It will include the following notification in all solicitations for bids, Requests For Proposals for work, or material under this grant agreement and in all proposals for agreements, including airport concessions, regardless of funding source:

“The (**Port of Bremerton**), in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders or offerors that it will affirmatively ensure that for any contract entered into pursuant to this advertisement, [select businesses, or disadvantaged business enterprises or airport concession disadvantaged business enterprises] will be afforded full and fair opportunity to submit bids in response to this invitation and no businesses will be

discriminated against on the grounds of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability in consideration for an award.”

- e. Required Contract Provisions.
 - 1. It will insert the non-discrimination contract clauses requiring compliance with the acts and regulations relative to non-discrimination in Federally-assisted programs of the DOT, and incorporating the acts and regulations into the contracts by reference in every contract or agreement subject to the non-discrimination in Federally-assisted programs of the DOT acts and regulations.
 - 2. It will include a list of the pertinent non-discrimination authorities in every contract that is subject to the non-discrimination acts and regulations.
 - 3. It will insert non-discrimination contract clauses as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a sponsor.
 - 4. It will insert non-discrimination contract clauses prohibiting discrimination on the basis of race, color, national origin (including limited English proficiency), creed, sex (including sexual orientation and gender identity), age, or disability as a covenant running with the land, in any future deeds, leases, license, permits, or similar instruments entered into by the sponsor with other parties:
 - a. For the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. For the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
- f. It will provide for such methods of administration for the program as are found by the Secretary to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the acts, the regulations, and this assurance.
- g. It agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the acts, the regulations, and this assurance.

10. Engineering and Design Services.

If any phase of such project has received Federal funds under Chapter 471 subchapter 1 of Title 49 U.S.C., it will award each contract, or sub-contract for program management, construction management, planning studies, feasibility studies, architectural services,

preliminary engineering, design, engineering, surveying, mapping or related services in the same manner as a contract for architectural and engineering services is negotiated under Chapter 11 of Title 40 U.S.C., or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport.

11. Foreign Market Restrictions.

It will not allow funds provided under this Grant to be used to fund any project which uses any product or service of a foreign country during the period in which such foreign country is listed by the United States Trade Representative as denying fair and equitable market opportunities for products and suppliers of the United States in procurement and construction.

12. Policies, Standards, and Specifications.

It will carry out the project in accordance with policies, standards, and specifications approved by the Secretary.

13. Disadvantaged Business Enterprises.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract covered by 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this agreement. Implementation of these programs is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801-3809, 3812).

PORT OF BREMERTON
AGENDA SUMMARY

Agenda Item No: Action Item #4

Subject: DOWL Engineering Agreement for the National Environmental Policy Act (NEPA) Environmental Assessment (EA) Project for Eastside Development

Exhibits: Agreement for Professional Services

Prepared By: Monroe Whitman, Airport Manager

Meeting Date: August 22, 2023

Summary:

On June 13, 2023, the Commission approved the selection of DOWL Engineering to carry out the Airport’s National Environmental Policy Act (NEPA) Environmental Assessment (EA) Project for Eastside Development. This project will allow future development to take place on the east side of the airfield. This future development will consist of t-hangars, corporate hangars, taxiway and taxilane construction, and other aviation related businesses. DOWL Engineering’s vetted fee estimate totaled \$1,015,272. Of that total, the Federal Aviation Administration (FAA) will cover 90% of the cost while WSDOT Aviation Division will cover 5% of the remaining cost, leaving the Port with the residual 5%.

Fiscal Impact:

FAA	\$ 913,745
WSDOT	\$ 50,763
Port	\$ <u>50,764*</u> (Capital Budget Approved for East Side Assessment for \$150,000)
Total Estimated Project Cost	\$1,015,272

Strategic Purpose:

This action conforms with the Port’s strategic plan in Goal 4.a. Continually assess niche markets in the Port’s marinas and airfield lines of business for growth opportunities.

Recommendation:

Staff recommends approval of the Agreement with DOWL Engineering for the NEPA Environmental Assessment Project for Eastside Development

Motion for Consideration:

Move to approve the Agreement with DOWL for the National Environmental Policy Act (NEPA) Airport Eastside Environmental Assessment and authorize CEO to execute the agreement.

**PORT OF BREMERTON
AGREEMENT FOR PROFESSIONAL SERVICES
(CHAPTER 39.80 RCW)**

This **AGREEMENT FOR PROFESSIONAL SERVICES** ("Agreement") is made and entered into as of the later of the two signature dates below, by and between:

PORT OF BREMERTON

Attn: Jim Rothlin
8850 SW State Highway 3
Bremerton, WA 98312

(the "Port")

AND

DOWL

Attn: Lizzie Zemke
8410 154th Ave NE, Suite 120
Redmond, WA 98052

("Consultant")

Term of Contract: May 15, 2023 – December 31, 2025

- **SCOPE OF WORK:** See attached Exhibit "A"
- **COMPENSATION:** The Consultant shall be compensated on the basis of hours worked and expenses incurred by its employees at the rates shown herein: See attached Exhibit "B".
- **GENERAL PROVISIONS:** Services covered by this Agreement shall be performed in accordance with the General Provisions (which are attached hereto and form a part of this Agreement) and any attachments or schedules.
- **ENTIRE AGREEMENT:** This Agreement supersedes all prior agreements and understandings and may only be changed by written amendment executed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the later of the dates indicated below. By signing below, each signatory represents that he or she has authority on behalf of his or her respective party to enter into this agreement, which shall be binding upon the parties according to its terms.

CONSULTANT NAME

PORT OF BREMERTON

Signature: _____

Signature: _____

Name/Title: _____

Name/Title: _____

Date: _____

Date: _____

GENERAL PROVISIONS

In consideration of the mutual covenants and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Scope of Work. The objective of this Agreement is the timely preparation, completion and/or delivery of the scope of work and/or deliverables (the "Services" or "Work") described in Exhibit A issued pursuant to and governed by the terms of this Agreement. Additional work and/or amendments to Exhibit "A" shall be attached hereto as Amendments and shall be made part of this Agreement upon approval as required herein. Any Amendments issued by the Port prior to the termination date of this Agreement shall be governed by the terms of this Agreement until completed even if the Amendment work extends beyond the termination date of this Agreement.

1.1 Services covered by this Agreement shall be performed in accordance with the provisions and any attachments or schedules. Except as may be otherwise provided for herein, this Agreement may only be amended by the mutual consent of both parties hereto, in writing and signed by duly authorized representatives of both parties.

2. Term of Agreement. The Consultant shall not begin Work under the Agreement or any Amendment until the Port has specifically authorized the Consultant to do so in writing. The time required for completion of all Work under Exhibit "A" or an Amendment and, if appropriate under a schedule for completion of phases of the Work, shall be specified in Exhibit "A" and any Amendment. The completion dates for phases of Work under Exhibit "A" or an Amendment may be modified only upon written agreement of the parties hereto. The completion dates for Exhibit "A", or for phases of Work under an Amendment may be, but are not required to be, extended in the event of a delay caused by Extra Work requested by the Port, or if the Consultant's Work is delayed by unavoidable circumstances beyond the control of the Consultant and which the Consultant could not reasonably have anticipated. This Agreement may be extended for multiple terms at the sole discretion of the Port and subject to budget appropriations and Commission approval when required; if so

extended, all of the terms and conditions herein shall apply to such extension.

Compensation and Payment. The Consultant shall be compensated on the basis of hours worked and expenses incurred by its employees at the rates shown in the attached Consultant's Fee Schedule, Exhibit "B." The Consultant shall receive no other payment for materials or disbursements unless expressly allowed by the Scope of Work or Amendment(s). The Consultant shall not adjust the wage rates in Exhibit "B" without written authorization from the Port.

3.1 Consultant shall supply Port with a monthly invoice and written documentation, satisfactory to Port, for all amounts due under this Agreement, including but not limited to project budget status and a narrative progress description of Services rendered that is acceptable in form to the Port. All invoices submitted by Consultant to Port shall reference any applicable billing codes provided by Port to Consultant. Any applicable taxes shall be listed as separate line items on each Consultant invoice. All invoices and documentation may be reviewed and audited by Port and payment may be subject to review or audit. Subject to the preceding, payments shall be net thirty (30) days of receipt of such invoice by Port. In no event shall the Port be charged interest on payments due under this Agreement. If required by Port, Consultant shall provide periodic forecasts of its total fees and costs incurred to date. With regard to time and materials, only the reimbursable expenses specifically listed in the attached Exhibit "B" will be payable expenses under this Agreement.

3.2 If Exhibit "A" specifies that the Work is to be performed on a fixed fee basis, the Consultant shall be paid the amount of the fixed fee as consideration for full and satisfactory performance of the Work regardless of the Consultant's cost to perform the Work. The Port shall have sole authority for determining when all Work has been satisfactorily performed by the Consultant. The Consultant's payment for the Work shall not exceed the specific amount unless authorized in writing by the Port, as provided herein. The fixed fee amount comprises all of the Consultant's payment for the Work and includes without limitation all costs of salaries, overhead, non-salary expenses (including, but not limited to, travel, reproductions, telephone, supplies, and

fees of outside consultants), as well as the Consultant's profits. The Consultant's payment for the Work shall not exceed the specified amount unless first authorized by the Port.

3.3 The Consultant shall obtain the prior written approval of the Port for any charges for additional services by the Consultant, the additional services of others retained by Consultant, or the furnishing of additional supplies, materials or equipment. The Consultant shall not be entitled to compensation for any such additional charges incurred in violation of this paragraph.

3. Payment of Subconsultants. At the time of project completion, the Consultant agrees to certify to the Port that all employees (including without limitation any union fees and any benefit plans), and subconsultants have been paid in full. Final payment shall be preconditioned upon receipt of such certification by the Port; the Port may, in its sole discretion, withhold final payment until receipt of such certification. The Consultant shall be solely responsible for the performance and payment of any and all subconsultants. All such sub-consultants shall possess all licenses and insurance as required by the laws of the State of Washington.

4. Termination. This Agreement may be terminated by either party upon seven (7) days' written notice should one party fail to perform in accordance with its terms through no fault of the other. In the event the party that fails to perform is the Consultant, the determination of "fail to perform in accordance with its terms" shall be in the sole judgment of the Port. In the event of termination, the Consultant shall be compensated for satisfactory Services performed to the termination date by reimbursement of the Consultant's actual costs directly related to the project plus normal overhead and reasonable profit. The Port shall have sole authority for determining when all Work has been satisfactorily performed by the Consultant. In no case, however, shall such reimbursement exceed the agreed upon fee as approved and amended by the Port. Any work product generated by the Consultant prior to such termination shall be the sole property of the Port, and the Consultant agrees to provide the Port with all such materials. If the accumulated payment made to the Consultant prior to notice of intent to terminate exceeds the total amount that

would be due as set forth herein above, then no final payment shall be due and the Consultant shall promptly reimburse the Port for the excess paid.

5.1 Further, this Agreement may be terminated by the Port at any time for any reason whatsoever, at the sole discretion of the Port, with seven (7) days' written notice. If the Port terminates for convenience, the Port will pay according to the payment terms as provided in Paragraph 5, above. If, after termination for failure of the Consultant to fulfill contractual obligations, it is determined that the Consultant has not so failed, the termination shall be deemed to have been effected for the convenience of the Port.

5.2 In addition to the above, the Port reserves the right to suspend all or any portion of the Work and Services for Consultant's default or Port's convenience. If the Consultant's Work is delayed for more than thirty (30) calendar days due to circumstances for which the Consultant is responsible, the Port may find the Consultant in default and terminate this Agreement.

5. Deviations from Scope of Work. The Port may at any time issue written directions within the general scope of this Agreement. If any such direction causes an increase or decrease in the cost of this Agreement or otherwise affects any other provision of this Agreement, the Consultant shall immediately notify the Port and take no further action concerning those written directions until such time as the parties have executed a written change order. No additional work shall be performed or charges incurred unless and until the Port approves in writing the change order and the increased cost thereof. Any work done in violation of this paragraph shall be at the sole expense of the Consultant. Additionally, the Port reserves the right to modify the amount spent for identified project tasks within the scope of work, provided that the Contract Amount, as may be modified under Paragraph 3.3, is not exceeded.

6.1 The Consultant shall make all revisions and changes in the completed Work under this Agreement as are necessary to correct the Consultant's, and its subconsultants' errors or omissions, without additional compensation from Port.

7. **Insurance.** Consultant, concurrently with the execution of this Agreement, shall provide the Port with evidence that Consultant has obtained and is maintaining the insurance listed as follows:

7.1 Workers' Compensation Insurance as required by law.

7.2 Employers' Liability Insurance (bodily injuries) with a limit of One Hundred Thousand Dollars (\$100,000) per occurrence with an insurance company authorized to write such insurance in all states where the Consultant will have employees located in the performance of its work covering its common law liability to such employees.

7.3 Commercial General Liability Insurance with limits of Two Million Dollar (\$2,000,000 per occurrence and Two Million Dollar (\$2,000,000) aggregate and Automobile Liability Insurance covering all owned and non-owned automobiles or vehicles used by or on behalf of Consultant with a One Million Dollar (\$1,000,000) combined single limit for bodily injury and/or property damage per occurrence.

7.4 Professional Liability Insurance covering Errors and Omissions of the Consultant in the amount of not less than One Million Dollars (\$1,000,000) per claim.

7.5 Except with regard to the Professional Liability Insurance and Worker's Compensation Insurance, each of the policies required herein **shall endorse the Port as an additional insured.** Furthermore, each policy of insurance required herein shall (i) be written as a primary policy; (ii) expressly provide that such insurance may not be materially changed, amended or canceled with respect to the Port except upon thirty (30) days' prior written notice from the insurance company to the Port; (iii) Except with regard to the Professional Liability Insurance, contain an express waiver of any right of subrogation by the insurance company against the Port and its elected officials, or employees; (iv) expressly provide that the defense and indemnification of the Port as an "additional insured" will not be effected by any act or omission by Consultant which might otherwise result in a forfeiture of said insurance; (v) contain a separation of insureds provision such that the policy applies separately to each insured that is subject of a claim or suit; (vi) not contain a cross-claim, cross-suit, or other exclusion that eliminates coverage by one insured against another; and (vii) provide for

coverage for damage to the Port's property caused by the Consultant.

7.6 With regard to the Professional Liability Insurance, the Consultant shall maintain the same in full force and effect during the term of this Agreement and for a period of one year thereafter.

7.7 The Consultant shall furnish the Port with copies of Certificates of Insurance evidencing policies of insurance required herein. The Consultant shall maintain these policies as identified above for itself for the term of this Agreement and for a period of one year thereafter. The Port's failure to request such certificates shall not relieve the Consultant of the obligation to provide them.

7.8 The Consultant shall maintain the insurance in effect at all times that it is performing Work under this Agreement. Failure to obtain and/or maintain such insurance shall be grounds for the Port to find the Consultant in default and terminate the Agreement accordingly. Alternatively, the Port may at its option purchase such insurance and deduct the reasonable expense therefore from payments made to or owing to the Consultant.

8. Consultant Not an Agent or Employee of the Port. In performing Work and Services hereunder, the Consultant and Consultant's employees, agents, and representatives shall be acting as independent Consultants and shall not be deemed or construed to be partners, employees or agents of the Port in any manner whatsoever. No employee of the Consultant shall be considered an employee of the Port even while performing Work required under this Agreement.

Furthermore, the Consultant shall not hold itself out as, nor claim to be, an officer or employee of the Port by reason hereof and will not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the Port.

9. Conflict of Interest. Consultant covenants that it presently has no interest and shall not acquire an interest, directly or indirectly, which would conflict in any manner or degree with its performance under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by it or any of its Subconsultants.

10. Compliance With Applicable Law. The Consultant shall comply with all the Port's resolutions and all federal, state, and local laws, regulations and ordinances that are applicable to the Work performed pursuant to this Agreement. Both parties mutually agree to re-negotiate scope, budget, and schedule should a change in any of the applicable Port's resolutions, federal, state or local laws, regulations or ordinances during the performance of the Work affect the cost of performing the Work. The Consultant shall register (and shall require the same of all subconsultants), as required by RCW 23B.15.010, to do business in the State of Washington and provide proof of the same to the Port. By executing this Agreement, Consultant further certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, or declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. It further agrees by acceptance of this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, agreements, contracts, and subcontracts. Where the offeror/consultant or any lower tier participant is unable to certify to this statement it shall attach an explanation to this Agreement. The Port reserves the right to require Consultant to replace a sub-consultant or lower tier participant who cannot meet the foregoing certification requirement.

11. Indemnification. The Consultant shall defend (with legal counsel satisfactory to the Port), indemnify and hold the Port, its elected officials, and employees (collectively "Port") harmless from and against all liabilities, obligations, fines, claims, damages, penalties, lawsuits, governmental proceedings, judgments, costs and expenses (including, without limitation, all reasonable attorneys' fees, costs and expenses of litigation):

- To the extent caused by any negligent act or omission of Consultant, its directors, officers, subconsultants, and/or employees (collectively "Consultant") in connection with the Services provided pursuant to this Agreement; provided, however, that in the event of concurrent negligence of the Consultant and the Port, then this defense and indemnification shall apply only to the

extent of the Consultant's negligence; and/or

- Arising from a breach of this Agreement by Consultant; and/or
- Arising out of or due to any failure on the part of Consultant to perform or comply with any rule, ordinance or law to be kept and performed.

The Port will inform Consultant of any such claim or demand that alleges liability based in whole or in part on any act or omission of Consultant, its directors, officers, or employees.

Errors or Omissions Defense Obligation.

Consultant's defense obligation from and against any and all losses to the extent caused by or arising from the professional errors or omissions (the "Errors or Omissions") of the Consultant, a subconsultant, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable (the "Consultant Parties") shall mean only reimbursing the Port for its attorneys' fees and costs caused by or arising from the Consultant Parties' Errors or Omissions to the proportionate extent of Consultant Parties' actual liability obligation for the same hereunder. In the event of a settlement, Consultant Parties' proportionate liability for the claim shall be determined by the percentage of the total aggregate settlement payment paid by the Consultant Parties.

General Defense Obligation. Except for Errors and Omissions claims, Consultant's defense obligation from and against all other claims or demands shall commence upon the assertion of any such claims against the Port, its elected officials, and employees and the Consultant shall (i) reasonably cooperate in the defense of such claim and (ii) pay its defense of such claim as incurred, whether or not such claim is ultimately successful. In this regard, the Port will reasonably cooperate with Consultant in allowing Consultant to jointly select, with the Port, attorneys to defend the Port and Consultant provided that Consultant confirms its obligation to pay the Port's defense costs. Notwithstanding the foregoing, the consultant's obligation to defend the Port shall be reduced in proportion to any negligence of the Port.

11.1 In the event of concurrent negligence by the Port and Consultant, then at the conclusion of the action (e.g., judgment, arbitration award or settlement), the attorneys' fees and costs incurred

in defending the Port shall be apportioned to the parties based on their respective fault as provided by RCW 4.24.115.

11.2 The foregoing indemnification obligation shall include, but is not limited to, all claims against the Port by an employee or former employee of the Consultant or any subconsultant or service provider. For this purpose, the Consultant expressly waives, as respects the Port only, all immunity and limitation on liability under any industrial insurance Act, including Title 51 RCW, or other workers compensation act, disability act, or other employees benefits of any act of any jurisdiction which would otherwise be applicable in the case of such a claim. **BY INITIALING BELOW THE PORT AND CONSULTANT CERTIFY THE WAIVER OF IMMUNITY SPECIFIED BY THIS PROVISION WAS MUTUALLY NEGOTIATED.**

Consultant _____

Port _____

6. Work Product Confidentiality. Any reports, documents, questionnaires, records, information or data given to or prepared or assembled under this Agreement which the Port requests to be kept confidential shall not be made available by the Consultant to any individual or organization without prior written approval of the Port except as may be ordered by a court of competent jurisdiction. The provisions of this section shall survive the expiration or earlier termination of this Agreement. No reports, records, questionnaires, or software programs provided by the Port or other documents produced in whole or in part by the Consultant under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.

7. Public Disclosure Request.

Correspondence, reports, and other written work product will be generated during the course of the relationship created by this Agreement, and third parties may request such information pursuant to the Washington State Public Disclosure Act (RCW 42.17.250 *et. seq.*). The parties agree that in the event that such a request is filed, the party with whom the request is filed will promptly notify all other parties to this Agreement. The parties further agree that they will not disclose any such requested material until at least ten (10) business days after providing notification to all other parties to this Agreement. The intent of this clause is to

provide all parties the opportunity to seek injunctive relief pursuant to RCW 42.17.330 so as to protect the vital functions of those entities. This clause shall survive the termination or expiration of this Agreement.

8. Plans, etc. Property of Port. All Work performed under this Agreement is work for hire. All deliverables, including but not limited to original plans, drawings and specifications, prepared by the Consultant and any and all sub-consultants for the Port and funded by the Port are and shall remain the property of the Port whether or not the Project for which they are made is executed. This shall not apply to proprietary software or documentation that may be provided to the Port and that was developed independent of funding by the Port. The Consultant assumes no liability for any use of the Drawings and Specifications other than that originally intended for this Project. Originals, including electronic forms of the data prepared by the Consultant and funded by the Port, shall become the property of the Port. No reports, records, questionnaires, software programs provided by Port or other documents produced in whole or in part by the Consultant under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant. The Consultant's Work shall not infringe on any copyright, patent, trade secret, or other proprietary rights held by any third party.

9. Electronic File Compatibility. All electronically-transmitted output must be compatible with existing Port software and shall be provided to the Port in a CAD or other appropriate electronic format. All CAD deliverables shall be consistent with the Port's standard CAD layering system, as provided by the Port to the Consultant. Consultants shall check with the Port for software application, system compatibility and preferred file type.

10. Non-Discrimination. In connection with the performance of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, marital status, or being handicapped, a disadvantaged person, or a disabled or Vietnam era veteran or a member of any other protected class. The Consultant shall take affirmative action to ensure that applicants are employed, and the employees are treated during employment without regard to their race, color, religion, sex, national origin, age, marital status, or being a handicapped or disadvantaged

person or a disabled or Vietnam-era veteran or a member of any other protected class.

11. Federal Restrictions on Lobbying.

Consultant certifies that under the requirements of Lobbying Disclosure Act, 2 U.S.C., Section 1601 et seq., no Federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

12. Federal Debarment and Suspension.

The Consultant certifies, that neither it nor its "principals" (as defined in 49 CFR.29.105 (p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

13. Subletting or Assigning of Agreement. The Consultant shall not sublet or assign any of the Work covered by this Agreement without the express written consent of the Port.

14. Notices. All notices and payments hereunder may be delivered or mailed to the addresses listed above. If delivered by messenger, courier (including overnight air courier) or facsimile transmittal, they shall be deemed delivered when received at the street address or facsimile numbers listed above. All notices and payments mailed, whether sent by regular post or by certified or registered mail, shall be deemed to have been given on the second business day following the date of mailing, if properly mailed to the mailing addresses provided above, and shall be conclusive evidence of the date of mailing. The parties may designate new or additional addresses for mail or delivery by providing notice to the other party as provided in this section. The address for delivery of notices and payments are as set forth in the introductory paragraph of this Agreement.

15. Review of Title Documents. Prior to the execution or recordation of any documents effecting title to any property, said document shall be reviewed by the Port. Consultant shall not execute or record (or make to be executed or recorded) any such document prior to the Port's review and approval.

16. Jurisdiction. This Agreement is made and delivered in the State of Washington and shall be construed and enforced in accordance with the laws thereof. Jurisdiction and venue of any dispute hereunder shall be solely in the Superior Court of the State of Washington in and for Kitsap County. In the event of a dispute arising out of or under this Agreement, the substantially prevailing party shall be entitled to its reasonable attorney's fees and costs. The parties irrevocably waive any right to federal court jurisdiction for disputes arising hereunder.

17. Pollution. Port acknowledges that the Consultant is not responsible for the creation or presence of contamination or pollution, if any, at the property except to the extent that such a discharge, release or escape is caused by the negligent act or failure to act of the Consultant. For the purpose of this clause, contamination conditions shall mean the actual or alleged existence, discharge, release or escape of any irritant, pollutant, contaminant, or hazardous substance into or upon the atmosphere, land, groundwater, or surface water of or near the property. The Consultant will promptly notify the Port of contamination conditions, if identified. Notwithstanding the foregoing, the Port does not herein waive any cause of action for damages resulting from the Port's reliance on any misrepresentation (made either knowingly or negligently) by the Contractor with regard to the presence of any contamination or pollution.

18. Standard of Performance: Consultant represents that the Services will be performed within the limits prescribed by the Port and that its findings, recommendations, specifications and/or professional advice provided hereunder will be prepared and presented in a manner consistent with the standard of care and skill ordinarily exercised by other professionals in the State of Washington under similar circumstances at the time the Services are performed.

19. Entire Agreement. This is the entire agreement between the parties. There is no other oral or written understanding between the parties

concerning this matter. The Consultant specifically understands that no Port employees other than the project manager or his/her supervisor are authorized to direct the work of the Consultant.

20. Signing Authority. Anyone signing this Agreement by said signature certifies that he/she has the authority to execute said document on behalf of the Consultant and that his/her signature is binding upon the firm or corporation.

EXHIBIT A
SCOPE OF WORK

EXHIBIT A: SCOPE OF WORK
Port of Bremerton – Bremerton International Airport (PWT)
Environmental Assessment
July 2023

DOWL (CONSULTANT) and the Port of Bremerton (PORT) have prepared the following scope of work. Total estimated hours to perform the work are listed in **Exhibit B: Consultant Fee Estimate**. This project will be completed under Agreement for Professional Services No. _____ between the Port of Bremerton and DOWL. Reimbursement will be on a fixed fee lump sum basis. CONSULTANT will invoice the PORT monthly based on percent complete.

PROJECT DESCRIPTION

This contract includes a National Environmental Policy Act (NEPA) Environmental Assessment (EA) for eight (8) projects at the Bremerton International Airport, as described below and as shown on **Figure 1**.

- a. **Sky Park Development (2025 Construction)**. This project includes development of the northeast side of the airport between Airport Way SW and the closed runway. Site development will include grading and supporting utility infrastructure, access roads and parking areas, stormwater improvements, and related site work to support new development. Design is 95% complete for this area, but additional mitigation may be required for impacts to wetlands or wetland buffer areas.
- b. **East Parallel Taxiway (Phase 1), North Access Road, and Hangar Access Road**. This project will include the following elements:
 - a. Construction of a portion of the new east parallel taxiway from Taxiway A3 north to the new eastside hangar development area. The new taxiway and associated taxilanes will be designed to Airport Design Group (ADG) B-II standards and Taxiway Design Group (TDG) 2A/2B standards.
 - b. Construction of the North Access Road from Airport Way SW to serve new east side hangar development east of the closed runway.
 - c. Construction of a hangar access road to serve new east side hangar development west of the closed runway.
 - d. Stormwater facilities to support the proposed improvements.
- c. **Northeast Hangar Development**. This project will include phased development of new aircraft hangars, to be accessed via the new east parallel taxiway, north access road, and hangar access road. This development will require utility extensions and new stormwater water quality and detention systems.
- d. **Airport Way Road Extension**. Airport Way will be extended from the existing roundabout adjacent to Bremerton Raceway south and west to service the new EDF solar farm (proposed solar farm is not included as part of this environmental review). Extension of Airport Way will ultimately extend to SW Lake Flora Road, but the extension beyond the proposed EDF solar farm will not be included in this EA.

Scope of Work
Port of Bremerton - Bremerton National Airport (PWT)
Environmental Assessment

- e. **East Parallel Taxiway Extension (Phase 2).** Phase 2 of the east parallel taxiway extension will extend the new eastside parallel taxiway from Taxiway A3 south the full length of Runway 2-20 and connect to the existing Runway 2 threshold via a new connector taxiway. Additional taxiway connectors and a new hold apron or bypass taxiway will be included with this taxiway extension.
- f. **East Parallel Taxiway Extension (Phase 3).** Phase 3 of the east parallel taxiway extension will extend the new eastside parallel taxiway north from the Runway 20 end to the end of the existing blast pad/clearway. New taxiway connectors and a hold apron or bypass taxiway will be included.
- g. **Fixed Base Operator (FBO)/General Aviation (GA) Apron.** This will include construction of a new FBO/GA apron east of Runway 2-20 and the future parallel taxiway.
- h. **Commercial Service Apron.** This will include construction of a new apron to support future commercial service at the airport. The new apron will tie-in to the future east parallel taxiway.

TASK 1 – PROJECT MANAGEMENT

The CONSULTANT will provide project management and administration, management of subconsultants, liaison with the PORT, and prepare monthly invoices/progress reports. Monthly reports will include a brief synopsis of tasks completed during the previous month.

The CONSULTANT will attend up to four (4) meetings at the FAA or AIRPORT office. The CONSULTANT will prepare meeting notes and distribute to all participants.

Task 1 Assumptions:

- a. One (1) invoice and one (1) progress report will be prepared per month.
- b. The project will be completed approximately per the attached Project Schedule.

Task 1 Deliverables:

Invoice and Progress Report	PDF via email
Meeting Notes	PDF via email

TASK 2 – TOPOGRAPHIC & AERIAL SURVEY & MAPPING

The CONSULTANT will perform an aerial survey of the full EA analysis area shown in **Figure 1**, and additionally perform ground topographic survey of select project areas slated for near-term development as detailed below.

Task 2.1 – Aerial Survey & Mapping. The CONSULTANT will perform photogrammetrically prepared topographic mapping for the full EA project area and obtain 0.5' contours and 0.1' pixel color digital orthophotography. Edge of pavement will be included in the aerial survey deliverables along with a digital terrain model with 0.5' contours and imagery of the EA project area.

Scope of Work
Port of Bremerton - Bremerton National Airport (PWT)
Environmental Assessment

Task 2-1 Assumptions:

1. Ground control will be set and surveyed in Task 2.2 below to correlate aerial survey with ground survey for base mapping.
2. No additional planimetric features beyond edge of pavement will be acquired with aerial survey.

Task 2.2 – Topographic Survey & Mapping. The CONSULTANT will conduct ground topographic survey of the near-term project areas, as described below. Ground survey information will be combined with aerial survey in Task 2.1 above to provide a contour base map of the entire EA project area, with detail

- a. The survey will be tied to the Washington State Plane coordinate system – North Zone (NAD 83/91) and the North American Vertical Datum of 1988 (NAVD 88).
- b. Surveyed features will include the east edge of Runway 2-20, the closed runway and raceway, existing access roads, infield areas, Navigational Aids, and other ground features located within Phases 1 and 2 of the Northeast Hangar Development Area.
- c. Public and private utility locates along the existing roadway between the closed runway and Runway 2-20, as well as in the Phase 2 parallel taxiway area. Utilities will be pre-marked by the 811 one-call service on the public side of the perimeter fence, and by a private utility locating service within airport property. This information will be supplemented with as-built mapping of previous projects at the site, if available. All utility locates will be surveyed and added to the base map. Storm drainage pipe material may be identified based on as-built record information if it cannot be identified in the field.

Task 2-2 Assumptions:

- a. A boundary survey will not be required for this project.
- b. Ground survey will be for photo control points and in areas where higher detail is needed for near-term development. Ground survey will not be conducted on all EA project areas.
- c. The base map will be developed using AutoCAD Civil 3D, version 2022.
- d. Surveyors will not enter confined spaces; stormwater inverts and pipe material and sizing will be collected as available from the surface.

TASK 3 – GEOTECHNICAL ANALYSIS

The CONSULTANT will provide geotechnical services through a subconsultant for each of the EA project areas as detailed below. Subsurface boring spacing and depth is generally in accordance with Table 2-1 of FAA Advisory Circular (AC) 150/5320-6G *Airport Pavement Design and Evaluation*. The number of borings has been reduced in the future FBO and Commercial Service apron areas from 1 boring per 10,000 square feet to approximately 1 boring per 25,000 square feet. All borings will be advanced to 10 feet below existing ground.

- a. **Sky Park Development.** No geotechnical field investigation is proposed in this location. We understand design documents are near completion for this site and no further geotechnical investigation is required.
- b. **East Parallel Taxiway (Phases 1-3), North Access Road, and Hangar Access Road.** Conduct subsurface borings at twenty (20) locations to determine existing subsurface conditions at the future parallel taxiway location, proposed pavement section thickness and composition, subgrade soils, and water table depth. A large scale Pilot Infiltration Test (PIT test) will be conducted in this area to

Scope of Work
Port of Bremerton - Bremerton National Airport (PWT)
Environmental Assessment

determine if this area is suitable for infiltration of stormwater, or to rule out infiltration as a stormwater Best Management Practices (BMP) for this project.

- c. **Northeast Hangar Development.** Conduct subsurface borings at twenty (20) locations to determine existing subgrade conditions at the future northeast hangar development areas, Phases 1 and 2 and associated taxilanes and access roads, including existing pavement section composition and thickness, subgrade soils, and water table depth. Boring data will be used to determine proposed pavement section design and to determine cut and fill embankment recommendations. A large scale Pilot Infiltration Test (PIT test) will be conducted in this area to determine if this area is suitable for infiltration of stormwater, or to rule out infiltration as a stormwater Best Management Practices (BMP) for this project. Vegetation clearing may be required in some areas to provide access of a track-mounted drill rig to complete this work.
- d. **Airport Way Road Extension.** Conduct subsurface borings at five (5) locations to determine existing subgrade conditions within the proposed Airport Way extension area to determine existing subgrade conditions and water table depth to support pavement design recommendations and to determine cut and fill embankment recommendations. Vegetation clearing will be required to provide access of a track-mounted drill rig to complete this work.
- e. **Fixed Base Operator (FBO)/General Aviation (GA) Apron.** Conduct subsurface borings at five (5) locations to determine existing subgrade conditions within the proposed FBO/GA apron area to determine existing subgrade conditions at the proposed apron area, including subgrade soils and water table depth. Vegetation clearing will be required to provide access of a track-mounted drill rig to complete this work.
- i. **Commercial Service Apron.** Conduct subsurface borings at five (5) locations to determine existing subgrade conditions within the proposed FBO/GA apron area to determine existing subgrade conditions at the proposed apron area, including subgrade soils and water table depth. Vegetation clearing will be required to provide access of a track-mounted drill rig to complete this work.

A draft geotechnical data and recommendations report will be prepared presenting the results of subsurface borings and to provide infiltration test results, stormwater facility infiltration design recommendations, and pavement design recommendations.

Task 3 Assumptions:

- a. PIT testing will be conducted between December 1 and April 1, as required per Section G.3.4.1 of the 2021 City of Bremerton Stormwater Design Manual.
- b. Access to wooded areas will require a track-mounted drill rig and vegetation clearing prior to completion of subsurface borings.
- c. The total number and spacing of borings will be less than the design recommendations contained in FAA Advisory Circular 150/5320-6 *Airport Pavement Design and Evaluation* for taxiways, taxilanes, aprons, and other pavement areas due to the large size of the site and budget constraints. Additional borings may be required for each project prior to final design; additional borings are outside of the scope of this EA.

Task 3 Deliverables:

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- a. PDF via email Draft Geotechnical Data & Recommendations Report
- b. PDF via email Final Geotechnical Data & Recommendations Report

TASK 4 – STORMWATER ANALYSIS

The CONSULTANT will perform a stormwater analysis and prepare a stormwater memorandum. The stormwater memorandum will summarize the stormwater regulations and design approach at the site, and identify alternatives to meet flow control, water quality treatment, conveyance, and outfall requirements. Preliminary drainage calculations and exhibits will be prepared to support the stormwater alternatives. This will include the following tasks:

Drainage Site Assessment Mapping: Prepare drainage basin maps identifying the on-site threshold discharge areas (TDA's) as defined by the Washington Department of Ecology. Prepare a basin map showing the area that discharges storm runoff onto the project site located up-gradient of the project (i.e. 'off-site basins'). Gather and review sensitive area maps, readily available in public records. The off-site basin map will be prepared using Port topographic survey and GIS maps, along with limited visual field verification.

- a. **Downstream Analysis:** Conduct a qualitative downstream analysis extending ¼ mile down-gradient of the project site for each TDA associated with the project. This analysis will consist of a visual field investigation and review of map records showing stream and storm channel corridors. The field investigation will be conducted on lands where access is readily permitted. Prepare a written assessment and a map showing the downstream route(s). The written assessment will include identification of constriction points (such as small-sized culverts), evidence of channel erosion or sedimentation, and evidence of flooding, along the downstream route. This task does not include any detailed hydraulic capacity analysis, but it can be provided as an optional service. The downstream analysis will be included in the stormwater memorandum.
- b. **Threshold Analysis:** Prepare new impervious and new PGIS (pollution generating impervious surface) maps. Using the new impervious and new PGIS area numbers, perform threshold analysis to determine which minimum design requirements apply to this project.
- c. **Concept Drainage Design:** Prepare up to three (3) conceptual drainage alternatives for each TDA, identifying treatment and flow control facilities. Prepare drainage layout exhibits, in plan view, of each alternative showing approximate location and size of the detention/flow control and water quality facilities, and outfall locations. Conduct preliminary hydrologic calculations for sizing estimates of the storm water facilities. Prepare planning level opinions of cost for construction of each concept drainage alternative. Assemble in the stormwater memorandum and provide written recommendations. Low Impact Development (LID) techniques will be considered as part of the design.
- d. **Detention Design Calculations:** Prepare drainage calculations for a detention facility within each TDA. The hydrologic analysis will be done using WWHM, a continuous simulation modeling software accepted by the Washington Department of Ecology.

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- e. **Conveyance Design Calculations:** Prepare storm pipe conveyance calculations. Pipe conveyance calculations will be limited to performing an estimate of flow capacity using the Rational Method and Manning equation at 2 or 3 representative pipe segments within the project limits. Detailed backwater capacity analysis and gutter flow calculations are not included in this scope but can be provided as an optional service.
- f. **Stormwater Quality Treatment Design Calculations:** Prepare design calculations for a stormwater quality treatment facilities within each TDA. The hydrologic analysis will be done using WWHM, a continuous simulation modeling software accepted by the Washington Department of Ecology. The water quality facility may be incorporated into the detention facility, as allowed by the standards.
- g. **Stormwater Memorandum:** Prepare and assemble a stormwater memorandum with the contents limited to the task items described in this scope of work. The memorandum is to include basin maps, stormwater facility description, design criteria, detention and water quality calculations, and conveyance design and calculations.

Task 4 Assumptions:

- a. The drainage design shall comply with the 2021 City of Bremerton Stormwater Design Manual and the WSDOT Aviation Stormwater Design Manual, limited to the task items described in this scope of work.
- b. The stormwater system will discharge into an existing downstream conveyance system within the project site. It is assumed that no off-site drainage improvements are needed, but the analysis and design of any off-site improvements can be provided as an additional service.
- c. To conduct the visual downstream analysis, it is assumed the CONSULTANT can readily acquire informal verbal permission to enter private properties along the downstream route, by talking to the property owner “at their door” as part of the field inspection. In the event that formal approval is required, or approval is needed in advance of the field investigation, this extra effort can be provided as an additional service.
- d. This scope of services does not include construction drawings.

Task 4 Deliverables:

- a. Stormwater Memorandum including conceptual drainage alternatives including exhibits (up to 3 per Threshold Discharge Area (TDA))

TASK 5 – 30% DESIGN

The CONSULTANT will prepare construction plans to approximately the 30% level, as needed to complete the EA. The CONSULTANT will complete the following tasks:

- a. **Site Conditions Review.** The CONSULTANT will conduct a site visit to review existing site conditions for the preparation of plans. This will include review of accessible portions of the eastside development area.
- b. **30% Construction Plans.** The CONSULTANT will develop detailed 30% Construction Plans in accordance with PORT and FAA standards. An estimated sheet count is included below:

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No. of Sheets	Description
1	Cover Sheet
1	Drawing Index and Legend
8	East Parallel Taxiway Plan and Profile (Phases 1-3)
6	NE Hangar Development Taxiway/Taxilane Plan & Profiles
4	FBO/GA Apron Layout and Grading Plan
4	Commercial Service Apron Layout and Grading Plan
3	Typical Sections
4	Civil Details
4	Stormwater Facility Plans
2	Stormwater Facility Details
6	Airport Way Road Extension Plan and Profiles
45	Total

- c. **30% Engineer's Estimate.** The CONSULTANT will prepare a 30% estimate based on the preliminary design.
- d. **30% Engineer's Design Report.** The CONSULTANT will prepare a preliminary design report summarizing the design criteria.

TASK 6 – INITIAL EA TASKS

An EA of the proposed improvements described above will be prepared by the CONSULTANT. All required environmental documentation for the proposed development will be prepared in accordance with the National Environmental Policy Act (NEPA) of 1969, 40 CFR Parts 1500 – 1508 Council on Environmental Quality (CEQ), FAA Order 5050.4B, 1050.1F, and the 1050.1F Environmental Desk Reference.

The purpose of the EA is to identify any key environmental issues related to the proposed development at the Bremerton International Airport, as well as identify potential mitigation to avoid or minimize potential environmental impacts. The EA will provide a detailed accounting of all potential impacts associated with the proposed project, and will serve as the basis for the FAA's decision whether to issue a Finding of No Significant Impact (FONSI), or to proceed with an Environmental Impact Statement. The EA will analyze the potential environmental effects of the proposed action, as well as alternatives that could avoid or minimize impacts, while still meeting the project purpose and need. Specifically, the EA will identify the purpose and need for the proposed action; define the proposed action; describe the reasonable alternatives considered, including the no action alternative; describe the affected environment of the airport property and surrounding areas; provide a discussion of the environmental consequences of the proposed action and reasonable alternatives; if deemed necessary, identify any mitigation measures; provide for consultation with state and federal agencies, other organizations and interested parties; and provide the opportunity for a public hearing during the Draft EA public review period. Below is a brief description of the anticipated key elements that will be conducted by the CONSULTANT:

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Task 6.1 – Purpose and Need Statement. The CONSULTANT shall prepare the draft Purpose and Need statement for review and concurrence by the PORT and FAA. The intent of this chapter of the EA is to present the underlying problems or deficiencies being addressed, and to describe the overall objectives of the proposed action. The purpose and need for the proposed action will be developed in such a way as to avoid real or perceived bias toward the proposed action and will be clearly explained in terms that are understandable to the general public.

Task 6.2 – Alternatives. The CONSULTANT shall prepare the draft Alternatives chapter for review and concurrence by the PORT and FAA. This chapter of the EA will provide a succinct comparative review of the proposed action, as well as alternatives to the proposed action that could reduce environmental impacts, while still meeting the overall project purpose and need. Alternatives considered in the Master Plan will be included in the analysis. Alternatives considered but dismissed from full analysis in the EA, and the reasoning for dismissal will be briefly described.

Task 6.3 – Development of Study Areas. Task 6.3 will include preparation of a proposed direct and indirect Area of Potential Effect (APE) and project description, for FAA’s use in initiating Section 106 consultation. Study Areas for water quality, wetlands, and Endangered Species Act evaluation (for purposes of Section 7 consultation) will also be developed.

Task 6 Assumptions:

- a. CONSULTANT budget assumes two rounds of edits for the PORT for the Draft Purpose and Need statement.
- b. CONSULTANT budget assumes two rounds of edits for the PORT for the Draft Alternatives section.
- c. CONSULTANT budget assumes two rounds of edits for the FAA for the Draft Alternatives section.

Task 6 Deliverables

PDF via email	Draft and Final Purpose and Need Statement
PDF via email	Draft and Final Alternatives
PDF via email	Draft and Final Study Area Maps

TASK 7 – PUBLIC INVOLVEMENT

The CONSULTANT shall assist the PORT with initial agency and public outreach early in the NEPA process once the Purpose and Need and Alternatives have been identified, and later in the process, once the Draft EA is issued.

Task 7.1 Initial Public and Agency Outreach. The CONSULTANT shall assist the PORT with agency and public outreach after the purpose and need statement and alternatives development are complete. All local, state and federal agencies with jurisdiction over any of the resource categories listed in FAA Order 1050.1F will be contacted for input and available information to assist the development of the EA, as well as permitting requirements. The letter to agencies will describe the purpose and need, proposed action, and alternatives under consideration, and will include appropriate drawings for illustration purposes. The letter will also identify known information about resources on airport property and surrounding areas, and will ask for input from the agencies with regard to any additional data or information they may have, as well as any specific permitting requirements. Agencies and other stakeholders to be contacted include, but are not limited to the following:

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- U.S. Army Corps of Engineers
- U.S. Fish and Wildlife Service
- National Marine Fisheries Service
- Washington State Department of Archaeology and Historic Preservation
- Washington State Department of Fish and Wildlife
- Washington State Department of Ecology
- Washington State Department of Natural Resources
- Washington State Department of Transportation – Aviation Land Use Compatibility Program
- Puget Sound Clean Air Agency
- City of Bremerton Department of Community Development
- Potentially Affected Tribes (FAA to coordinate)

The purpose of the initial public outreach is to provide information regarding the proposed action and alternatives under consideration, and to seek public input and comments. The initial public outreach may consist of information on the PORT's website, mailers, or a combination of these outreach methods. The CONSULTANT shall prepare all initial public outreach meeting materials, (i.e., meeting notices, graphics /boards showing proposed project and alternatives, sign-in sheets, comment forms, etc.) and shall comments for the project record.

Task 7.2 Public Meeting or Hearing following Draft EA Publication

Once the Draft EA is issued, notice will be provided to the public, offering the opportunity to request a public hearing. If there are no requests for a formal public hearing, an on-line open house will be held following publication of the Draft EA. The CONSULTANT will document the meeting and will prepare meeting notes summarizing the discussions. If a public hearing is requested, a transcriptionist will be provided to record formal public testimony.

Task 7 Assumptions:

- a. One public meeting will be held after the purpose and need statement and alternatives development are complete.
- b. One open house public meeting will be held after publication of the Draft EA. If requested, the format will be a public hearing, to allow for formal public testimony.

Task 7 Deliverables

PDF via email	Draft and Final Initial Outreach Materials
PDF via email	Draft and Final Public Meeting Materials

TASK 8 – DRAFT ENVIRONMENTAL ASSESSMENT

The CONSULTANT shall prepare a Preliminary Draft EA to address and analyze potential or expected environmental effects of the proposed projects. The EA shall be prepared in accordance with FAA Order 5050.4B, 1050.1F, and the 1050.1F Environmental Desk Reference. The EA will contain the following Sections:

1. Cover
2. Table of Contents

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- a. List of Figures
- b. List of Tables
3. Summary
4. Introduction--Project Background
5. Purpose and Need
6. Proposed Actions
 - a. Sky Park Development
 - b. East Parallel Taxiway (Phase 1), North Access Road, and Hangar Access Road
 - c. Northeast Hangar Development
 - d. Airport Way Road Extension
 - e. East Parallel Taxiway Extension (Phase 2).
 - f. East Parallel Taxiway Extension (Phase 3).
 - g. Fixed Base Operator (FBO)/General Aviation (GA) Apron
 - h. Commercial Service Apron
7. Alternatives Considered
 - a. Sky Park Development
 - i. No Action Alternative
 - ii. Preferred Alternative
 - iii. Third Alternative (if appropriate)
 - iv. Alternatives Considered and Eliminated from Detailed Analysis
 - b. East Parallel Taxiway (Phase 1), North Access Road, and Hangar Access Road
 - i. No Action Alternative
 - ii. Preferred Alternative
 - iii. Third Alternative (if appropriate)
 - iv. Alternatives Considered and Eliminated from Detailed Analysis
 - c. Northeast Hangar Development
 - i. No Action Alternative
 - ii. Preferred Alternative
 - iii. Third Alternative (if appropriate)
 - iv. Alternatives Considered and Eliminated from Detailed Analysis
 - d. Airport Way Road Extension
 - i. No Action Alternative
 - ii. Preferred Alternative
 - iii. Third Alternative (if appropriate)
 - iv. Alternatives Considered and Eliminated from Detailed Analysis
 - e. East Parallel Taxiway Extension (Phase 2)
 - i. No Action Alternative
 - ii. Preferred Alternative
 - iii. Third Alternative (if appropriate)
 - iv. Alternatives Considered and Eliminated from Detailed Analysis
 - f. East Parallel Taxiway Extension (Phase 3)
 - i. No Action Alternative
 - ii. Preferred Alternative
 - iii. Third Alternative (if appropriate)
 - iv. Alternatives Considered and Eliminated from Detailed Analysis
 - g. Fixed Base Operator (FBO)/General Aviation (GA) Apron

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- i. No Action Alternative
 - ii. Preferred Alternative (if appropriate)
 - iii. Third Alternative
 - iv. Alternatives Considered and Eliminated from Detailed Analysis
 - h. Commercial Service Apron
 - i. No Action Alternative
 - ii. Preferred Alternative
 - iii. Third Alternative (if appropriate)
 - iv. Alternatives Considered and Eliminated from Detailed Analysis
8. Affected Environment and Environmental Consequences
 - a. (See below for resource impact categories)
9. Coordination (including Permits Required)
10. List of Preparers
11. Bibliography
12. Appendices
 - a. Definitions
 - b. Public and Agency Coordination and Comments
 - c. Wetland Delineation Report
 - d. Historical, Archaeological, and Cultural Resources Investigation
 - e. Biological Assessment (if needed)
 - f. Wetland Impacts and Mitigation Technical Memo (if needed)

Affected Environment and Environmental Consequences

The Affected Environment and Environmental Consequences chapter of the EA shall provide an inventory and impact assessment for each impact category in FAA Order 1050.1F. This chapter will include a description of the existing environmental setting for each impact category, followed by a description of the potential direct, indirect, and cumulative impacts that would result from the proposed action, as well as the no action alternative and any reasonable alternatives carried forward for full analysis in the EA. The affected environment section will serve as the background for the Environmental Consequences analysis, with data and analyses presented in detail commensurate with the importance of the impact.

The EA shall discuss all probable beneficial and adverse social, economic, and environmental impacts of the alternatives under consideration, and describe measures to mitigate potentially adverse impacts. The level of detail required for each element of the environment analyzed shall be commensurate with the significance of the issue to be studied. The discussion of environmental impacts will focus on substantive issues and provide sufficient evidence and analysis for determining whether to prepare an EIS or a FONSI. The factors to be discussed under the different impact categories are in FAA Order 5050.4B and FAA Order 1050.1F, and briefly summarized below.

The CONSULTANT shall gather and review existing data, studies and documentation of environmental resources and land use in the project area, and surrounding areas. Specifically, information in the following categories will be reviewed:

- Existing Environmental Reports and Mapping (soils maps, vegetation maps, wetland maps, drainage maps, inventories of waterbodies/waterways in the area, floodplain mapping, water quality data and reports, local fish and wildlife habitat reports and mapping, etc.)

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- DAHP data on known historic or cultural resources in the project area (using the WISAARD system)
- Local Land Use Plans and Zoning Maps
- Existing documentation of contaminated soils or hazardous materials that may be encountered during construction

Additional studies to be conducted specifically for this project include a wetland delineation and a historical, archaeological, and cultural resources investigation (both described in tasks below). If additional studies are determined necessary through the course of agency consultations, a separate scope and fee will be negotiated at that time.

Specific impact categories to be covered in the EA, per FAA Order 1050.1F, include:

Air Quality –Kitsap County has no non-attainment areas for 8-hour ozone, PM 2.5, sulfur dioxide, lead, carbon monoxide, or nitrogen dioxide. Quantitative air quality analysis is not anticipated for purposes of this EA. The CONSULTANT will contact appropriate agencies to determine whether any additional state and/or local air quality requirements are applicable, particularly for the construction phase.

Biological Resources – The CONSULTANT shall review existing information (i.e. data from the Washington Natural Heritage Information System, the WDFW Priority Habitats and Species (PHS) mapping tool, and the Kitsap County Department of Information Services Geographic Information Systems (GIS) and Kitsap County Department of Community Development Department GIS to determine whether there are any known high-quality ecosystems, rare plant communities, or potential fish and wildlife habitat conservation areas on airport property, or in the near vicinity. The undeveloped portions of the airport, including forested areas, provide habitat for resident, as well as seasonal migrant wildlife species. The CONSULTANT will review all information regarding the presence of wetlands and wildlife habitat, and assess the potential impacts to all biotic resources. The CONSULTANT will provide information regarding both the context and intensity of potential impacts to biotic resources, including the potential use of trees removed from forested upland areas in order for the FAA to determine whether there would be significant impacts. The CONSULTANT will also develop recommendations for avoidance, minimization, and mitigation measures, if needed. (See Task 11 below for details regarding threatened and endangered (T&E) species, and the Biological Assessment task, which will be conducted if the Department of Fish and Wildlife finds streaked horned larks during their proposed 2024 field survey, or if needed to assess indirect effects on T&E aquatic species, due to storm water discharges.)

Climate – The intent of this section is to address potential climate impacts, including 1) the potential effects of a proposed action on climate change as indicated by its GHG emissions, and 2) the implications of climate change for the proposed action. The Council on Environmental Quality (CEQ) recently issued guidance on how to address the effects of climate change and greenhouse gas (GHG) emissions in NEPA documents. The CONSULTANT shall address this issue, in compliance with FAA guidance. Because the projects will affect airport operations such that a change in CO2 emissions would be expected, quantitative analysis for GHG emissions will be conducted and results will be reported in the EA.

Coastal Resources – The CONSULTANT will coordinate with the Washington State Department of Ecology and the Washington State Coastal Zone Program as required. If proposed projects impact jurisdictional wetlands, the CONSULTANT will evaluate and describe related effects on Coastal Zone resources. Based on

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the limited extent of the proposed project, it is not anticipated that the FAA would determine coastal effects to be reasonably foreseeable. Therefore, a Coastal Zone consistency determination is not included in this scope.

Department of Transportation Act, Section 4(f) – There are no Section 4(f) properties that would be directly impacted by this project. However, there are three potential 4(f) properties in the vicinity, which may need consideration with regard to indirect impacts, to determine whether there would be a constructive use. These include Gold Mountain Golf Course, approximately 1 mile from the airport; Coulter Creek Heritage Park, approximately 1 mile from the airport; Camp Calvinwood State Park, approximately 2 miles from the airport. Constructive use involves an indirect impact to the Section 4(f) property of such magnitude as to effectively act as a permanent incorporation. Under constructive use the project does not physically incorporate the resource but is close enough to it to severely impact important features, activities or attributes associated with it, and to substantially impair it. The CONSULTANT will research these properties to determine ownership, and whether they are considered Section 4(f) properties. If they are, a brief qualitative assessment of potential indirect impacts (such as noise or visual impacts) will be prepared. The CONSULTANT will coordinate with FAA, and provide documentation as to whether the project would result in any constructive use of these properties. Constructive use of Section 4(f) properties is very rare; therefore, for budget purposes, we assume it will be determined that there will be no constructive use of these properties.

Farmlands – Natural Resources Conservation Service (NRCS) maps Bremerton Airport property as containing a unit of Shalcar muck, which is prime farmland if drained; a unit of McKenna gravelly loam, which is prime farmland if drained; a unit of Harstine gravelly ashy sandy loam, which is prime farmland if irrigated; and several units of Alderwood gravelly sandy loam, which are, depending on their slopes, prime farmland if irrigated or farmland of statewide importance. The CONSULTANT will state briefly in the EA that the airport does not contain any prime farmland and that the proposed projects therefore will not affect prime farmland or farmland of statewide importance.

Hazardous Materials, Solid Waste, and Pollution Prevention – In order to identify potentially hazardous materials or sources associated with the East Airport Property, CONSULTANT will:

- Review of historical documents including aerial imagery, topographical maps, and city directories
- Analyze the environmental setting of the East Airport Property
- Review of readily obtainable federal, state, and local regulatory agency records that pertain to the East Airport Property and surrounding area
- Interview knowledgeable airport personnel to identify past and present uses as well as identify potential environmental concerns
- Conduct site reconnaissance to identify present conditions of the East Airport Property and adjoining properties (as viewable from the East Airport Property or public right-of-way)

This assessment is not intended to support a Phase I Environmental Site Assessment in accordance with *Standard Practices for Environmental Site Assessments: Phase I Environmental Site Assessment Process, ASTM E1527-21*. The intent of the assessment is to determine whether additional site assessment is warranted prior to preparation of the EA in accordance with FAA Order 5050.4B, 1050.1F, and the

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1050.1F Environmental Desk Reference. If additional site assessment is deemed necessary, it will be conducted under a separate scope and fee.

The CONSULTANT will review airport records to determine the likelihood of encountering contaminated soils from any previous spills associated with airport operations. The airport lies outside the Tacoma Smelter Plume. The Washington Department of Ecology maps several resolved spills on airport property. This section will also describe the solid waste likely to be generated by construction activities, and assess the local disposal capacity for solid and hazardous waste generated from the project.

Historical, Architectural, Archaeological, and Cultural Resources – See Task 11, below.

Land Use – The City of Bremerton zoning map designation for the Airport property is within the Puget Sound Industrial Center Bremerton zone (PSIC-B). The EA will describe that all work would be conducted on existing airport property, therefore no land use impacts will occur.

Natural Resources and Energy Supply – The EA will describe the airport's electrical and fuel supply, as well as the source of construction materials anticipated.

Noise and Noise-Compatible Land Use – A noise analysis was conducted for this airport as part of the 2015 Master Plan Update, and demonstrated that the 65 DNL noise contours are within the airport property or extend only slightly over the Highway 3 right of way for current as well as forecasted airport operations. Because this project will affect aircraft operations and/or movements, we anticipate the need for quantitative noise analysis as part of this EA. The EA will describe the current noise levels (citing the noise contours from the 2015 Master Plan Update), and will describe the potential noise impacts, including temporary noise impacts from construction, from the proposed project.

Socioeconomics, Environmental Justice, and Children's Environmental Health and Safety Risks – The EA will explain that this project will not cause shifts in patterns of population movement and growth, place significant demands on public services, or cause changes in business and economic activity on surrounding communities. Demographic data will be collected from available resources (i.e., US Census Bureau data and Department of Labor data) to determine whether the proposed action would cause any disproportionate and adverse effects on low-income or minority populations.

Visual Effects – CONSULTANT will prepare a summary of changes to light emissions and other visual effects that would result from the proposed project.

Water Resources – The CONSULTANT will review the wetlands mapping from Task 8 (see below) to determine wetland impacts, and permitting requirements, if any. If needed, the CONSULTANT shall develop recommendations for avoidance, minimization, and mitigation. The EA will also assess indirect impacts of the proposed action (and alternatives) to nearby waterbodies from storm water discharge.

Cumulative Impacts – As noted in FAA's Environmental Desk Reference, the depth of cumulative impacts analysis should be commensurate with the potential for significant impacts, and should focus on impacts that are truly meaningful to decision-makers. The EA shall define the study area for direct, indirect, and cumulative impacts for each resource category. For impact categories where the proposed action will have a

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direct or indirect effect, the CONSULTANT shall describe potential cumulative impacts, in terms of past, present, and reasonably foreseeable future actions that may also impact that resource.

Exhibits

Appropriate exhibits illustrating the proposed project, affected environment, and potential impacts will likely include, but not be limited to:

- a. Drawings showing each project component proposed, including construction limits, borrow areas, tree clearing, grubbing and drainage.
- b. Drawings showing environmentally sensitive areas (wetlands, wildlife habitat, known contaminated sites, nest sites, etc.).
- c. Others as needed.

Appendices

The appendices shall document the analysis, data collection, and correspondence prepared during the EA. Appendices shall include, but are not limited to, the following:

- Definitions
- Public and Agency Coordination and Comments
- Wetland Delineation Report
- Historical, Archaeological, and Cultural Resources Investigation and Consultation
- Biological Assessment (if needed)
- Wetland Impacts and Mitigation Technical Memo (if needed)
- Phase 1 ESA

See Tasks 9, 10 and 11 for more detail on the technical study appendices.

The Preliminary Draft EA will be provided to the PORT and FAA for review. The CONSULTANT will facilitate a meeting with the FAA and the PORT, if required, to discuss FAA comments on the Preliminary Draft EA. Once the CONSULTANT has addressed all comments, the Draft EA will be prepared for public distribution. The CONSULTANT and PORT shall provide public notification of the availability of the Draft EA in accordance with 1050.1F, as well as information about the public meeting.

Task 8 Assumptions:

- a. CONSULTANT budget assumes two rounds of edits each (Preliminary Draft EA and Draft EA) for the COUNTY and for FAA.
- b. Constructive use of Section 4(f) properties is very rare; therefore, for budget purposes, we assumed there would be no constructive use of 4(f) properties.

Task 8 Deliverables

- | | |
|---------------|--|
| PDF via email | Preliminary Draft EA (for PORT and FAA review) |
| PDF via email | Draft EA (for public review) |
| PDF via email | Draft Meeting Materials (for PORT review) |

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TASK 9 – WETLAND DELINEATION, CONCEPTUAL MITIGATION PLAN, JARPA

The CONSULTANT will complete a Wetland and Stream Delineation Report, and (if necessary) a conceptual mitigation plan and Joint Aquatic Resources Permit Application (JARPA).

The wetland delineation task includes the following:

- a. Complete a background review of available project-specific data and publicly available wetland, stream, and soil databases.
- b. Complete a field wetland and stream delineation of the subject site following current wetland delineation and stream ordinary high water mark (OWHM) methods developed by the U.S. Army Corps of Engineers.
- c. Note the approximate location and characteristics of off-site wetlands and streams occurring within approximately 300 feet of the subject property boundaries.
- d. Collect location data for wetland and waters boundaries, data plots and photo point locations using GPS equipment with sub-1 meter accuracy
- e. Complete wetland assessment for each delineated wetland and adjacent offsite wetlands within 300 feet of the property following the 2014 Washington State Wetland Rating System for Western Washington.
- f. Complete stream assessment for each delineated stream on the property and adjacent offsite streams within 300 feet of the property following the Washington State Water Typing System (WAC 222-16-030) and Kitsap County Code Title 19.
- g. Present the results of the wetland and stream delineation/assessments in a Wetland and Stream Delineation Report. The report will include: a general site description; wetland/stream delineation and assessment methodology; background data review summary and database printouts; wetland/stream delineation/assessment results; a description of each wetland/stream; wetland sample plot field datasheets; wetland rating forms; stream typing parameters; regulatory buffer requirements; and accompanying maps and photographs illustrating site features, habitats documented, and anticipated regulatory buffers.

Wetland impacts are uncertain at this time, however, we have included budget to assist in developing a mitigation plan, should wetlands be delineated within the project footprint. If determined necessary, the CONSULTANT will prepare a Wetlands Impacts and Mitigation Technical Memorandum. After the wetland delineation is completed, The CONSULTANT will address impacts to wetlands from the project, and evaluate permit requirements. The CONSULTANT will discuss appropriate mitigation options with the Corps of Engineers, and summarize them in a technical memo.

The memo will include:

- a. A complete project description.
- b. Identification and analysis of anticipated impacts to each wetland habitat type based on the 30% design drawings.
- c. Description of minimization measures to be incorporated into the design to avoid or minimize wetland impacts (mitigation sequencing).
- d. Identification of appropriate compensatory mitigation actions and mitigation ratios for each type of wetland impact.

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- e. Identification of appropriate mitigation locations (on-site) and review and identification of one potential off-site mitigation site, if needed.
- f. Descriptions of mitigation actions that can be incorporated into the project design to offset project impacts.
- g. Conceptual design drawings for major mitigation elements (e.g., wetland and/or buffer compensation areas, habitat planting areas, protection zones, et cetera).
- h. An analysis of proposed mitigation actions relative to applicable codes and regulations.

If wetlands permitting is needed, the CONSULTANT will engage and consult with the U.S. Army Corps of Engineers (404 permitting) and Washington State Department of Ecology (401 Permitting), and the City of Bremerton. The CONSULTANT will prepare a JARPA package for the project that can be used to apply for federal and state permits.

Task 9 Assumptions:

- a. Wetland delineation will include the entirety of the airport property as identified on Figure 1.
- b. The conceptual mitigation plan is anticipated to be limited to wetland and/or buffer enhancement, habitat planting areas, and/or vegetation protection zones. If the magnitude of project impacts results in mitigation requirements such as wetland creation or re-establishment, stream course alterations and stream design services, or other habitat mitigation exceeding these limits, a contract amendment may be required.

Task 9 Deliverables

PDF via email	Draft and Final Wetland and Stream Delineation Report
PDF via email	Draft and Final Wetlands Impacts and Mitigation Technical Memorandum (if needed)
PDF via email	JARPA and figures (if needed)

TASK 10 – HISTORICAL, ARCHAEOLOGICAL, AND CULTURAL RESOURCES INVESTIGATION

- a. **Background Research and Utility Locate Arrangements.** The CONSULTANT will conduct an online records search of the DAHP cultural resources database to determine what previous studies have been conducted within and near the study area, as well as identify previously recorded archaeological and historic sites in the project vicinity. The CONSULTANT will also review soil maps and aerial photography, as well as General Land Office (GLO) survey plats and other pertinent cartographic resources to develop a preliminary impression of the type and number of cultural resources that may be located within the APE and surrounding area. Additional background research will be conducted in the CONSULTANT'S cultural resource reference library, on-line resources, and local libraries, as needed. Only published ethnographic information will be reviewed.

The CONSULTANT will arrange for utility locates to meet the requirements of Washington's Underground Utilities regulations (RCW 19.122). This requires obtaining a locate survey for any kind of excavation on public and private property that will exceed 12 inches in depth. A locate service must be notified by the excavator (CONSULTANT) at least 2 business days before digging and the

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Port of Bremerton - Bremerton National Airport (PWT)
Environmental Assessment

area of proposed excavation is to be marked with paint as described in RCW 19.122.030. We have included adequate time and travel expenses to meet the locate survey on site and/or to mark areas. In addition, the CONSULTANT'S Health and Safety Coordinator will prepare a project-specific Health and Safety Plan prior to initiation of the fieldwork.

- b. **Field Survey.** The CONSULTANT will conduct up to a 100-percent archaeological pedestrian survey of the project element footprints and 20-ft buffers around each project element footprint (totaling 167 acres). Archaeological survey transects shall be 20 meters apart or less on average for the survey; however, narrower transects may be used according to the judgment of the field supervisor. The surveyors will seek out and examine all ground exposures (e.g., roads, trails, ditches, etc.) for evidence of subsurface features and/or cultural materials. All survey areas will be recorded using a Global Positioning System (GPS) instrument, utilizing The CONSULTANT standard Data Dictionary.

The character of the landscape and its potential for containing intact archaeological deposits will determine subsurface testing methods. Shovel test probes will be placed in areas judged to be of higher probability for archaeological materials by the Field Director. Up to 85 shovel test probes will be excavated. All probes will measure approximately 0.30 m (1.0 ft) in diameter and will be excavated to a depth of at least 50 cm below the surface (bs). The probes will be terminated after 20 cm of sterile sediments or upon discovery of sediments that clearly pre-date human use of the region. Probes may be terminated at shallower depths if the sediments reveal that substantial ground disturbance has previously occurred at a location. A hand auger may be used to extend the depth of select test probes to verify that deeply buried materials are not present. HRA the CONSULTANT will not excavate within areas where evidence of previous ground disturbance (e.g., roads, utility locations) is noted.

All excavated sediments will be screened through 6.35 mm (1/4-inch) hardware cloth. Any cultural items found will be documented on the CONSULTANT'S shovel probe forms and, if diagnostic, by digital photography before being returned to the excavated hole. The identification of any subsurface cultural materials in a single shovel test will result in the excavation of up to four additional shovel tests in a cruciform pattern at a distance of 5 meters, a.k.a., "radial" probes to determine resource boundaries. The sediments observed in each positive probe hole will be described on the shovel probe form and in the field supervisor's field notes, including evidence of subsurface disturbances and cultural material integrity. All probes will be backfilled immediately following their termination and recording, and the turf replaced. The location of the survey and any subsurface testing will be recorded with a GPS instrument.

If archaeological materials are found, they will be analyzed in the field but not collected. To the extent possible, they will be identified as to type, material, function, and cultural and chronological association. All encountered archaeological materials will be documented on DAHP site forms. Draft archaeological site forms will be submitted to DAHP for review and assignment of Smithsonian Trinomials for inclusion with the Final Report deliverable. All cultural resource locations will be recorded with a GPS instrument. Photographs will be taken to accompany the form and a sketch map will be prepared showing any intrasite resource patterns and the site in relation to the surrounding topography and developments. The attached cost estimate assumes that no more than two archaeological sites will be found that will require recording.

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The CONSULTANT will conduct a built environment inventory of the buildings, structures, and objects within the viewshed of the environmental assessment area that are 45 years old or older. Up to 14 built environment resources, assumed to include the airport, airstrips, and built-environment resources within view of new construction, will be inventoried for the project. The inventory will be conducted at reconnaissance level and will assess individual eligibility and whether a potential historic district may exist. Documentation will include photographs of all visible elevations and field notes documenting materials, style, and character-defining features, as well as recommendations regarding eligibility for listing in the National Register of Historic Places. The CONSULTANT will document results in a technical report and in appended Historic Property Inventory (HPI) forms for submittal by FAA, along with the technical report, through DAHP's WISAARD database.

- c. **Technical Report.** Upon completion of the fieldwork, the CONSULTANT will notify the COUNTY by email of any finds. The CONSULTANT will prepare a Cultural Resources Inventory Report summarizing the results of the project. This report will reflect professional standards for format and content as expressed in the guidelines prepared by DAHP. The report will include:

- A description of the project and applicable laws and regulations
- A summary of the results of the background literature and records research
- The methods used during the fieldwork and the results
- A description of any cultural materials found
- A summary assessment of potential effects to identified archaeological resources based on our knowledge of the resource type, soil conditions, and extent to which the proposed project may affect the resource
- NRHP evaluations of up to fourteen built environment resources and an assessment of whether the project has potential to adversely affect historic properties
- Recommendations for completion of any additional cultural resources compliance obligations stemming from the results of our study
- A statement outlining what steps the project should follow in the event of an unanticipated discovery of buried cultural materials or human remains during construction; and
- References cited.

The report will include such tables, maps, photographs, and other graphics as are needed to depict the full scope of the study and results. Forms for any recorded resources will be included in an appendix to the report.

- d. **Assistance with EA.** The CONSULTANT will be available to review the cultural resource sections of the EA authored by DOWL. The CONSULTANT will provide up to two rounds of comments on the EA sections.

Task 10 Assumptions:

The scope of services and budget estimate for the Archaeological and Historic Resources Report are based on the following assumptions:

- a. The FAA, as lead federal agency, will approve the APE, which will be developed by the CONSULTANT.

Scope of Work
Port of Bremerton - Bremerton National Airport (PWT)
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- b. For the purposes of this scope, the areas of anticipated ground disturbance, including footprints of the project elements and a 20-ft buffer around each footprint and any staging/laydown areas or proposed access roads, will be the subject of the archaeological inventory. The total acreage of the areas of anticipated ground disturbance is 167 acres.
- c. The CONSULTANT assumes that the APE will expand to include the viewshed for resources to the west of the environmental assessment area.
- d. The Port will provide the CONSULTANT with a project description and with maps (GIS shapefiles preferred) of the proposed APE identifying project elements, including the proposed construction footprint, in a format that can be adapted for use in its report.
- e. The CONSULTANT will have full access to the APE (including vehicular access) and will not be required to obtain Right of Entry.
- f. The CONSULTANT will not begin subsurface fieldwork until an Excavation Confirmation Code is obtained from the locate service and all known utilities are marked, or The CONSULTANT has received direct confirmation from each utility that they have no facilities in the project area. Once the CONSULTANT's fieldwork is completed, we will not be responsible for maintaining any location survey markings.
- g. No hazardous materials will be encountered within the APE. If HAZWOPER-trained personnel and/or HAZMAT PPE is required, the budget will be revised.
- h. Pedestrian survey will be conducted on up to 100 percent (167 acres) of the areas of anticipated ground disturbance.
- i. No pedestrian survey will occur on impervious surfaces.
- j. No more than 5 acres will be identified as higher probability for containing cultural resources.
- k. For the purposes of this cost estimate, no more than 100 subsurface probes will be conducted.
- l. Shovel probes samplings will be concentrated in the areas deemed as having higher probability for containing cultural resources and conducted in areas deemed as having lower probability to confirm the character of the sediments and resource potential in those areas.
- m. Private utility locates will be required and are being coordinated by DOWL, as such, the cost for private utility locates is not included in the cost estimate for this cultural resources task.
- n. No more than 20 archaeological sites or isolates will be identified and recorded.
- o. No archaeological sites will be evaluated under this scope of work.
- p. No artifacts will be collected or curated under this scope of work.
- q. No human remains will be identified during the project.
- r. No more than 14 built environment resources will be inventoried at a reconnaissance level for the project.
- s. All documents will be submitted in electronic format for PORT and FAA review. The CONSULTANT will address 1 round of comments on the draft report from the PORT and FAA, and will upload the final report and site forms to WISAARD.
- t. Teleconferences with the PORT and agencies will not exceed two hours over the term of the project.
- u. The scope and budget does not include preparation of consultation letters (we understand this will be handled solely by FAA); however, the CONSULTANT will provide a list of recommended tribes (with contact information) to be consulted.
- v. The FAA will be the lead on all Section 106 and government to government consultation. The CONSULTANT will participate in Section 106 consultation discussions as needed, to answer any technical questions about the technical report.
- w. Reporting will not include the preparation of NEPA or SEPA document sections or agreement documents (e.g., Programmatic Agreement).

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Environmental Assessment

- x. The cost estimate associated with this scope of work will expire after 90 days.
- y. All work will be conducted in 2023; if the project extends into 2024, the CONSULTANT will have the ability to utilize 2024 rates for the remainder of the project work; the budget will be revised accordingly.

Task 10 Deliverables

PDF via email	Draft and Final APE and Survey Methodology Draft Archaeological and Historic Resources Report (for FAA review) Final Archaeological and Historic Resources Report Comments on DOWL-authored Archaeological and Historic Resources Section of EA
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Task 11 – BIOLOGICAL ASSESSMENT

The CONSULTANT will prepare a Biological Assessment (BA) Report for FAA's use in Endangered Species Act (ESA) consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service. The BA will meet the requirements of Section 7 of the ESA, and will focus on potential impacts to streaked horned larks as well as aquatic species that may be affected by changes to storm water discharges. The BA will also address other terrestrial species that may occur within the project vicinity. It is assumed that aquatic species (e.g., salmon, trout, or marine mammals) would not be affected by the proposed project, but that indirect effects from storm water discharge may need to be included in the BA. The BA Report will include:

- a. A complete project description.
- b. Background review of available public databases regarding the distribution and occurrence of ESA-listed species and designated critical habitat.
- c. Definition of the "Action Area" for the project.
- d. Summary of baseline habitat conditions.
- e. Analysis of potential effects of the project on ESA-listed species and designated critical habitat, including cumulative effects.
- f. Effect determinations
- g. References

Task 11 Assumptions:

- a. The scope and budget does not include streaked horned lark surveys. The Washington Department of Fish and Wildlife (WDFW) is planning to conduct surveys at this airport sometime in 2024, therefore surveys do not need to be conducted by CONSULTANT.
- b. The scope and budget does not include preparation of consultation letters (we understand this will be handled solely by FAA).
- c. The CONSULTANT will participate in Section 7 consultation discussions as needed, to answer any technical questions about the BA.
- d. The BA will be based on the preliminary design and best available science to determine the potential impact to listed species and critical habitat.
- e. The project will meet the requirements of the current Department of Ecology Storm Water Manual, which should result in a "no effect" determination for aquatic species.

Exhibit 1: Bremerton EA Projects

- East Airport Property Environmental Assessment Area
-  Existing Wetland and Buffer (Approximate location)
-  Existing Stream and Buffer (Approximate Location)
-  NE Hangar Development (Phase 1)
-  Sky Park Development Area
-  NE Hangar Development (Phase 2)
-  Proposed Solar Array

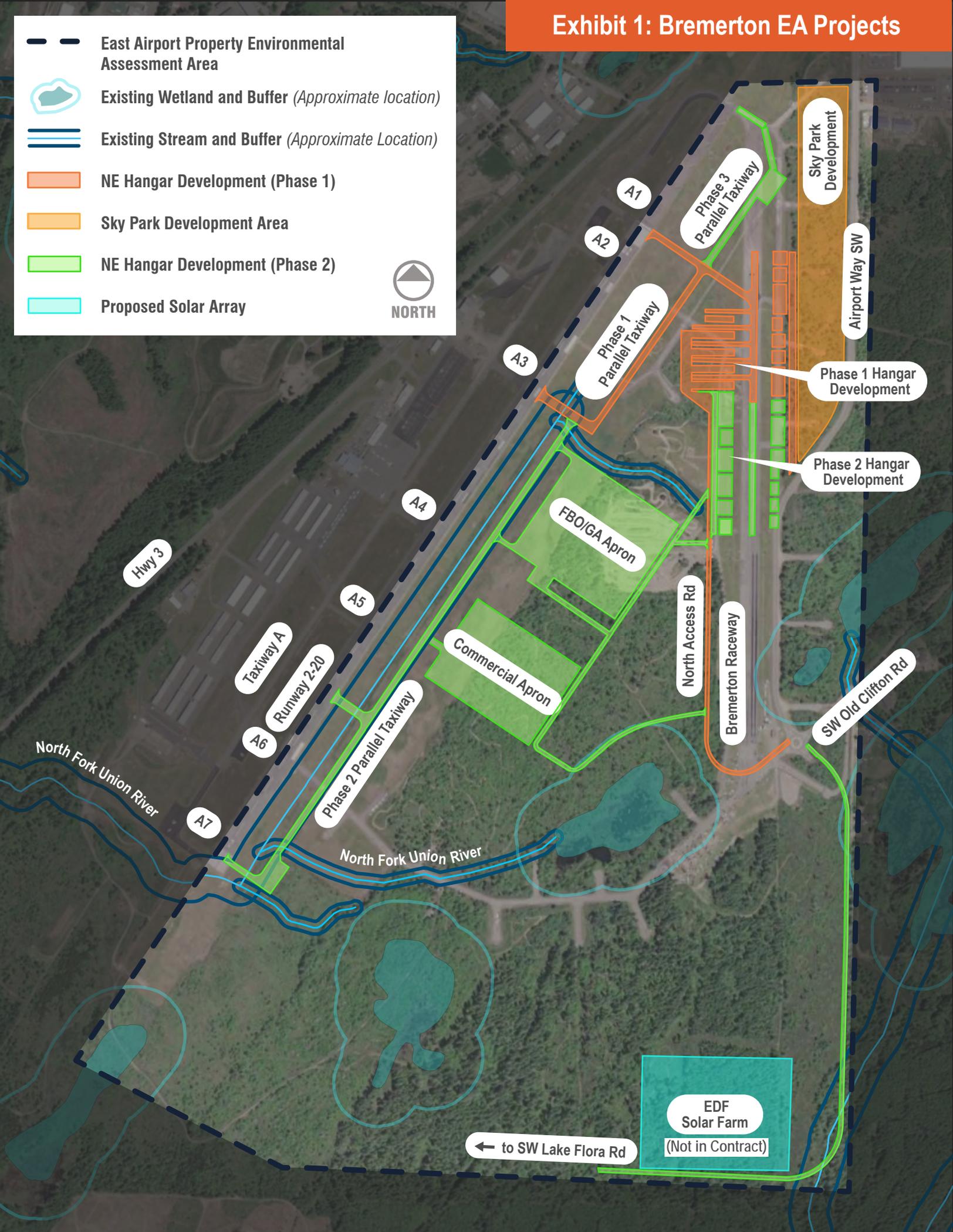


EXHIBIT B

CONSULTANT'S FEE SCHEDULE

[Exhibit B should set forth the agreed upon schedule of hourly rates and other charges and disbursements the Port is agreeing to pay the consultant. This should identify all job classifications, reimbursable expenses, and sub-consultant mark-ups.]

PORT OF BREMERTON

AGENDA SUMMARY

Agenda Item No: Action Item #5

Subject: Memorandum of Agreement (MOA) with City of Port Orchard (COPO) for Marina Parking

Exhibits: COPO MOA for Parking

Prepared By: James Weaver, Director of Marine Facilities

Meeting Date: August 22, 2023

Summary:

This Memorandum of Agreement before the Commission is with the City of Port Orchard to provide a modification to the Port Orchard Marina waterfront parking. The City has designed the Marina Pump Station project to replace the existing sewage pump station (the “Project”), and the Project will temporarily and permanently impact the Port’s waterfront parking area adjacent to the marina office.

In 1996, the City and Port executed a Memorandum of Understanding to set forth parking assignments and responsibilities for the parking area (the “1996 MOU”). This MOU focused on the Port’s property, including Kitsap County Parcel Nos. 4053-013-007-0103, 4028-001-001-0007, and 4028-001-011-0005, commonly known as Lots 3 and 4, which are used for water dependent uses and waterfront parking, as well as the City’s rights of way and associated public parking.

Due to the configuration of the waterfront, and community events and business operations impacting parking in the area, in 2011, the City and the Port entered into a new Memorandum of Agreement (the “2011 MOA”) to supersede the 1996 MOU, setting forth terms to govern the City and Port’s use, management, and revenue collection for the parking areas. Because the City’s Marina Pump Station project to serve the residents of Port Orchard will impact the parking areas covered by the 2011 MOA, the City provided notice to the Port of the proposal in January 2023. In response, in February 2023, the Port provided notice to the City of its intent to withdraw from the 2011 MOA.

The City and Port negotiated the terms of a Memorandum of Agreement to set forth the terms and conditions by which the Port will withdraw effective Sept. 1, 2023, and to establish the future use, management, and operation of the waterfront parking areas.

Fiscal Impact:

Parking revenue from any paid parking spaces are now to be designated to the Port of Bremerton. Parking enforcement is to be contracted by the Port Orchard Police Department for the parking areas and costs identified at \$1,000 per month.

Strategic Purpose:

This action conforms with the Port's strategic plan in Goal 6. Develop and fund a 20-year asset replacement/major maintenance schedule.

Recommendation:

Recommendation is to approve the Memorandum of Agreement for waterfront parking with the City of Port Orchard

Motion for Consideration:

Approve the Memorandum of Agreement for waterfront parking with the City of Port Orchard and authorize the CEO to execute the agreement.

Memorandum of Agreement

for

**Allocation and Control of Parking on Waterfront
Property**

Between

City of Port Orchard

and

Port of Bremerton

2023

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Exhibit A: DNR Lease No. 20-A09891

Exhibit B: Map of Premises

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT (“MOA”) is dated on the day of the last signature on this MOA, by and between the Port of Bremerton (“Port”), a public port district, and the City of Port Orchard (“City”), a Washington State municipal corporation.

RECITALS

- A.** The Port Orchard Marina is owned and operated by the Port of Bremerton, which has a Port Management Agreement (PMA) no. 22-080016 with Department of Natural Resources (“DNR”) for use of State-owned aquatics lands for port purposes. It is located within the Port Orchard Harbor Area in Sinclair Inlet, in Kitsap County, Washington.
- B.** The Port of Bremerton is in ownership of property including Kitsap Assessor Parcel Number # 4053-013-007-0103, commonly known as “Lot 3” and has been used for water dependent uses and waterfront parking.
- C.** The Port of Bremerton is in ownership of property including Kitsap Assessor Parcel Number # 4028-001-001-0007, commonly known as “Lot 4” and has been used for water dependent uses and waterfront parking.
- D.** The Port of Bremerton also has a lease no. 20-A09891 with DNR for use of State-owned aquatic lands including Kitsap Assessor Parcel Number # 4028-001-011-0005, that has been used for water dependent uses and waterfront parking, commonly known as the east end of the Port Orchard waterfront “Lot #4”.
- E.** The City of Port Orchard is in ownership of the Harrison Avenue Right-of-Way, that has been used for water dependent uses and waterfront parking and includes portions of parking spaces within both “Lot 3” and “Lot 4”, this area is referred to as the “City’s Right-of-Way”.
- F.** The 2011 existing MOA between the City of Port Orchard and Port of Bremerton previously provided the City of Port Orchard use, management, and revenue collection for the parking areas identified as “Lot 3” and “Lot 4”, with allocation of spaces for Port of Bremerton use at 707 Sidney Parkway, in the area commonly known as “Lot 1”.
- G.** On January 9, 2023, The City of Port Orchard provided notice to the Port of Bremerton that the 2011 existing MOA between the City of Port Orchard and Port of Bremerton would be impacted by the Marina Pump Station project.
- H.** On February 6, 2023, The Port of Bremerton provided notice to the City of Port Orchard with the intent to withdraw from the 2011 MOA effective June 1, 2023.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

AGREEMENT

1. RECITALS

The foregoing recitals are true and correct and are incorporated herein by this reference.

2. PURPOSE

1.1 The purpose of this Memorandum of Agreement is to set forth the terms and conditions by which the Port will withdraw from the 2011 MOA for waterfront parking, and by July 1, 2023, will vacate the allocated parking spaces for Port of Bremerton located at 707 Sidney Parkway, in the area commonly known as "Lot 1".

1.2 The purpose of this Memorandum of AGREEMENT is also to set forth the means by which the Port will withdraw from the 2011 MOA for waterfront parking, and by July 1, 2023, will establish the Port of Bremerton use, management, and operation of the areas commonly known as Port Orchard East waterfront parking areas "Lot 3" and "Lot 4".

1.3 The purpose of this MOA is to also replace and rescind the existing 2011 MOA between the City of Port Orchard and the Port of Bremerton regarding waterfront parking.

3. PREMISES

The "Premises" include Kitsap Assessor Parcel Number # 4053-013-007-0103, # 4028-001-011-0005, Parcel Number # 4028-001-001-0007, including DNR aquatic lease No. 20-A09891 and including 15 partial parking spaces located within the Harrison Avenue right-of-way, of the areas commonly known as Port Orchard East waterfront parking areas "Lot 3" and "Lot 4".

4. EFFECTIVE DATE

The "Effective Date" of this MOA shall be the date this MOA has been fully executed.

5. TERM

1.1 The term of this agreement shall be ongoing unless terminated by written agreement or with 180-day written notification.

6. AGREEMENT

1.1 The Port shall withdraw from the 2011 Memorandum of Agreement for waterfront parking with the City of Port Orchard on July 1, 2023, and will vacate the allocated parking spaces for Port of Bremerton located at 707 Sidney Parkway, in the area commonly known as "Lot 1" upon execution of this agreement.

1.2 The Port of Bremerton will establish the use, management, operation, maintenance, and revenue collection of the premises, commonly known as Port Orchard East waterfront parking areas “Lot 3” and “Lot 4” upon execution of this agreement.

1.3 Upon execution of this agreement, the Port of Bremerton will begin to manage community event permits and event usage of the premises, commonly known as Port Orchard East waterfront parking areas “Lot 3” and “Lot 4”. The Port of Bremerton will endeavor to honor existing approved 2023 City event permits as much as practicable and will coordinate with stakeholders.

1.4 The City of Port Orchard has agreed to provide parking enforcement for premises, commonly known as Port Orchard East waterfront parking areas “Lot 3” and “Lot 4”. Enforcement shall include Marina Tenant parking passes and interaction with the Port regarding implementation of Port parking rules and requirements. Parking enforcement shall be provided pursuant to compensation identified in Section 7.

1.5 The Port of Bremerton will manage, control, and be responsible for all maintenance, striping, landscaping, curbs, surfacing, lighting, signage, and all capital projects for premises, commonly known as parking areas “Lot 3” and “Lot 4”.

1.6 The Port of Bremerton will manage, control, and be responsible for parking fare collection and any electronic parking kiosks for premises, commonly known as parking areas “Lot 3” and “Lot 4”.

1.7 The City of Port Orchard agrees to remove the existing parking kiosks and signage upon the execution of this agreement.

1.8 The City of Port Orchard agrees to coordinate with the Port of Bremerton regarding plans, permits, and approvals pertaining to the construction of the Bay Street Pedestrian Path Segment 1, located on the premises, commonly known as parking areas “Lot 3” and “Lot 4”.

1.9 With regards to any parking stalls or spaces not covered by this Agreement but which are located on the Premises described herein, the City shall be responsible for any such spaces in Lot 1, and the Port shall be responsible for any such spaces in Lots 3 and 4, including all necessary maintenance, striping, pavement repair, thermoplastics, sweeping, and landscaping.

7. COMPENSATION

1.1 Parking Enforcement: The Port shall provide compensation and payment to the City each year by June 30th for Parking Enforcement services provided by the City for Lot 3 and Lot 4.

1.2 Annual parking enforcement compensation shall be in the amount of \$12,000 each year.

1.3 The annual parking enforcement compensation may be increased each year beginning January 1, 2025. The compensation shall increase annually per CPI-U (All Urban Consumers Index) (1982-1984=100), not seasonally adjusted, for the Seattle-Tacoma-Bellevue area for that 12-month period from January 1st to December 31st indexed as the annual average, as is specified by the Bureau of Labor Statistics, United States Department of Labor. Increases based on CPI-U shall take effect on January 1st of the following year. However, the increase shall be no more than 5% or no less than 1%.

1.4 In addition to the increase set out in Section 1.3 herein, the City shall be authorized to increase parking enforcement compensation upon six (6) months written notice to the Port if the City's costs associated with parking enforcement increase due to the Port's selection of a new permitting/ticketing method or vendor, including but not limited to a selection that triggers the City's purchase of necessary software or equipment at the request of the Port, or increased staff time dedicated to enforcement efforts due to the Port's choice of permitting method/vendor.

1.5 Initial parking enforcement compensation shall be prorated based on the number of days remaining in 2023 upon execution of this agreement.

1.6 Compensation payment to the City shall be provided on or before June 30 of each year, with the initial prorated parking enforcement payment due to the City by December 31, 2023.

1.7 Termination of Parking Enforcement Services: Upon six (6) months of written notice, either party may terminate the agreement for parking enforcement. Termination of parking enforcement shall not impact or affect other sections of this agreement.

8. RESTRICTIONS ON USE

1.1 The Port shall maintain a total of 20 spaces located within Lot # 3, available to the public for 2-hour parking free of charge for the parking space. Those spaces shall not be exempt from enforcement due to a marina parking pass.

9. EVENTS COORDINATION

1.1 The Port of Bremerton and the City of Port Orchard agree to coordinate efforts related to community events occurring on the premises identified herein (for example, 4th of July, Cruz Car Show, Chimes & Lights), in relation to road closures, public works needs, police and

first responder safety, transit operations, and similar use of public spaces. Community events located in areas controlled by the Port that do not involve the closure of or impact in any way Harrison Avenue shall be the primary responsibility of the Port, utilizing the Port's application process, provided the City shall be provided the opportunity to comment on the application. Community events involving Harrison Avenue shall be the primary responsibility of the City, utilizing the City's application process, provided the application shall be submitted to the Port for review and approval for events that propose to utilize property controlled by the Port.

1.2 The Port and the City agree to work together on a case-by-case basis to assist with temporary event parking for marina tenants where needed, related to specific community events (for example, 4th of July, Cruz Car Show, Chimes & Lights).

1.3 The Port of Bremerton and the City of Port Orchard agree to review and provide communication in relation to each other's Event permits and applications that may impact spaces or needs related to the premises.

1.4 For 2023, City event permits already approved by the City shall continue to be honored by the Port for 2023.

10. RECIPROCAL INDEMNIFICATION

To the maximum extent permitted by law, each Party shall defend, indemnify, and hold harmless the other Party and all of its officials, Board Members, employees, principals, and agents from all claims, demands, suits, actions, and liability of any kind, including injuries to persons or damages to property ("Claims"), which arise out of, are connected with, or are due to the negligent acts or omissions of the indemnifying Party, its contractors, and/or employees, agents and representatives in performing its obligations under this Agreement, provided each Party's obligation under this section applies only to the extent of the negligence of that Party or its contractors, employees, agents, or representatives.

Each of the Parties agrees that its obligations under this section extend to any claim, demand, cause of action and judgment brought by, or on behalf of, any of its employees or agents. For this purpose, both Parties, by mutual negotiation, hereby waive, regarding the other Party only, any immunity that would otherwise be available against such claims under the industrial insurance provisions of Title 51 RCW.

11. DEFAULT

Failure to perform any provision of this MOA shall constitute a default by the party failing to perform, unless such default is cured by the party failing to perform within 90 days after receiving written notice from the other party. Exceptions: If there is any delay or stoppage due

to strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, regulations or controls, enemy or hostile governmental action, riot, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, such causes shall excuse the performance. If the default cannot reasonably be cured within 90 days, the non-performing party shall not be in default of this MOA if that party commences to cure the default within such ninety (90) day period and diligently and in good faith continues to cure the default.

12. NOTICE

Any notice given under this MOA shall be effective only if in writing and given by delivering the notice in person or by sending it first-class mail or certified mail with a return receipt requested or by overnight courier return receipt requested, with postage prepaid, at the following addresses, or at such other addresses as either the Port or City of Port Orchard may designate by notice as its new address:

Address for Port of Bremerton: Chief Executive Officer
Port of Bremerton
8850 SW State
Hwy 3
Bremerton, WA 98312
Telephone No: (360) 674-2381
Fax No: (360) 674-2807
Email: jimr@portofbremerton.org

Address for City of Port Orchard: Mayor
City of Port
Orchard 216
Prospect Street
Port Orchard, WA 98366
Telephone No: (360) 876-4407
Fax No: (360) 895-9029
Email: rputaansuu@portorchardwa.gov

Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first-class or certified mail, one day after the date it is mailed, if sent by overnight courier, or upon the date personal delivery is made. For convenience of the parties, copies of notices may also be given by email, facsimile or telephone to the address or numbers set forth above or such other address or number as may be provided from time to time; however, neither the Port nor City of Port Orchard may give official or binding notice by email, telephone or facsimile.

13. ENTIRE AGREEMENT

This MOA (including attached exhibits, if any) contains the entire AGREEMENT between the parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties have caused this MOA to be executed as of the date written below.

City of Port Orchard Resolution No. 066-23
Port of Bremerton Resolution No. _____

CITY OF PORT ORCHARD, a public municipality

PORT OF BREMERTON, a public port district

DocuSigned by:
Rob Putaansuu
By: 3B96492E3E5947D...
Rob Putaansuu
Mayor
City of Port Orchard

By: _____
Jim Rothlin
Chief Executive Officer
Port of Bremerton

Date Signed: 6/28/2023

Date Signed: _____



When recorded, return to:
Port of Bremerton
8850 SW State Highway 3
Port Orchard, WA 98367-7487

PORT OF BREMERTON 201109290043
Lease Rec Fee: \$ 33.00
09/29/2011 10:00 AM Page 1 of 32
Mail to: Washington, Kitsap Co Auditor



WASHINGTON STATE DEPARTMENT OF
Natural Resources
Peter Goldmark - Commissioner of Public Lands

AQUATIC LANDS LEASE

Lease No. 20-A09891

Grantor: Washington State Department of Natural Resources
Grantee(s): Port of Bremerton

Legal Description: Portions of Sections 25 and 26, Township 24 North, Range 1 East, W.M.

Tract "A": That portion of an unnumbered tract of Shore and Tidelands of Sidney as shown on that certain map dated May 30, 1892, lying landward of the toe of the rock rip-rap as it existed on January 15, 2004 and adjacent to and abutting Lots 1 through 5 of Block 1 of the Plat of Bay Street Addition to Port Orchard as recorded under Auditor's File Number 51104 and filed in Volume 3, page 116 of plats, records of Kitsap County, Washington, more particularly described in Exhibit A; and

Tract "B": That portion of an unnumbered tract of Shore and Tidelands of Sidney as shown on that certain map dated May 30, 1882, lying landward of the toe of the rock rip-rap as it existed on January 15, 2004 and adjacent to and abutting Lots 8 through 10 of Block 1 of the Plat of Bay Street Addition to Port Orchard as recorded under Auditor's File Number 51104 and filed in Volume 3, page 116 of plats, records of Kitsap County, Washington, more particularly described in Exhibit A.

Complete legal description: Sheet 1 of 12 of Exhibit A, Current Survey recorded with Kitsap County, Auditor's File No. 20110301035, dated March 01, 2011.

Assessor's Property Tax Parcel or Account Number: Not Applicable

Assessor's Property Tax Parcel for Upland parcel used in conjunction with this Lease: Tax ID # 4028-001-011-0005 (Kitsap County Process # 1503739)

THIS LEASE is between the STATE OF WASHINGTON, acting through the Department of Natural Resources ("State"), and the PORT OF BREMERTON, a government entity ("Port").

BACKGROUND

Port desires to lease the aquatic lands commonly known as the east end of the Port Orchard waterfront, public access and parking, which are tidelands and a harbor area located in Kitsap County, Washington, from State, and State desires to lease the property to Port pursuant to the terms and conditions of this Lease. State has authority to enter Lease under Chapter 43.12, Chapter 43.30 and Title 79 of the Revised Code of Washington (RCW).

The area is divided into two parcels separated by a strip of Port-owned tidelands. This Lease is not used for eligibility for Port Management Agreement No. 22-080016, as amended (PMA).

THEREFORE, the Parties agree as follows:

SECTION 1 PROPERTY

1.1 Property Defined.

- (a) State leases to Port and Port leases from State the real property described in Exhibit A together with all the rights of State, if any, to improvements on and easements benefiting the Property, but subject to the exceptions and restrictions set forth in this Lease (collectively the "Property").
- (b) This Lease is subject to all valid interests of third parties noted in the records of Kitsap County, or on file in the Office of the Commissioner of Public Lands, Olympia, Washington; rights of the public under the Public Trust Doctrine or federal navigation servitude; and treaty rights of Indian Tribes.
- (c) This Lease does not include a right to harvest, collect or damage natural resources, including aquatic life or living plants; water rights; mineral rights; or a right to excavate or withdraw sand, gravel, or other valuable materials.
- (d) State reserves the right to grant easements and other land uses on the Property to others when the easement or other land uses will not interfere unreasonably with the Permitted Use.

1.2 Survey and Property Descriptions.

- (a) Port prepared Exhibit A, which describes the Property. Port warrants that Exhibit A is a true and accurate description of the Lease boundaries and the improvements to be constructed or already existing in the Lease area. Port's obligation to provide a true and accurate description of the Property boundaries is a material term of this Lease.
- (b) State's acceptance of Exhibit A does not constitute agreement that Port's property description accurately reflects the actual amount of land used by Port. State reserves the right to retroactively adjust rent if at any time during the term of the Lease State discovers a discrepancy between Port's property description and the area actually used by Port.

1.3 Inspection. State makes no representation regarding the condition of the Property, improvements located on the Property, the suitability of the Property for Port's Permitted Use, compliance with governmental laws and regulations, availability of utility rights, access to the Property, or the existence of hazardous substances on the Property. Port inspected the Property and accepts it "AS IS."

SECTION 2 USE

2.1 Permitted Use. Port shall use the Property for: nonwater-dependent bulkhead, parking, and public access (the "Permitted Use"), and for no other purpose.

2.2 Restrictions on Permitted Use and Operations. The following limitations apply to the Property and adjacent State-owned aquatic land. Port's compliance with the following does not limit Port's liability under any other provision of this Lease.

- (a) Port shall not cause or permit:
 - (1) Damage to natural resources,
 - (2) Waste, or
 - (3) Deposit of material, unless approved by State in writing, and except to the extent expressly permitted in Exhibit B. This prohibition includes deposit of fill, rock, earth, ballast, wood waste, refuse, garbage, waste matter, pollutants of any type, or other matter.
 - (4) Except as expressly permitted in Exhibit B, Port shall not construct new bulkheads or place hard bank armoring.
 - (5) Except as expressly permitted in Exhibit B, Port shall not install fixed breakwaters.

2.3 Conformance with Laws. Port shall, at all times, keep current and comply with all conditions and terms of permits, licenses, certificates, regulations, ordinances, statutes, and other government rules and regulations regarding Port's use or occupancy of the Property.

2.4 Liens and Encumbrances. Unless expressly authorized by State in writing, Port shall keep the Property free and clear of liens or encumbrances arising from the Permitted Use or Port's occupancy of the Property.

SECTION 3 TERM

3.1 Term Defined. The term of this Lease is twelve (12) years (the "Term"), beginning on the first day of September 2011 (the "Commencement Date"), and ending on the thirty-first day of August 2023 (the "Termination Date"), unless terminated sooner under the terms of this Lease.

3.2 Renewal of the Lease. This Lease does not provide a right of renewal. Port may apply for a new lease, which State has discretion to grant. Port must apply for a new lease at least one (1) year prior to Termination Date. State will notify Port within ninety (90) days of its intent to approve or deny a new Lease.

3.3 End of Term.

- (a) Upon the expiration or termination of this Lease, Port shall remove Improvements in accordance with Section 7, Improvements, and surrender the Property to State in the same or better condition as on the Commencement Date, reasonable wear and tear excepted.
- (b) Definition of Reasonable Wear and Tear.
 - (1) Reasonable wear and tear is deterioration resulting from the Permitted Use that has occurred without neglect, negligence, carelessness, accident, or abuse of the Property by Port or any other person on the premises with the permission of Port.
 - (2) Reasonable wear and tear does not include unauthorized deposit of material prohibited under Paragraph 2.2 regardless of whether the deposit is incidental to or the byproduct of the Permitted Use.
- (c) If Property is in worse condition, excepting for reasonable wear and tear, on the surrender date than on the Commencement Date, the following provisions apply:
 - (1) State shall provide Port a reasonable time to take all steps necessary to remedy the condition of the Property. State may require Port to enter into a right-of-entry or other use authorization prior to the Port entering the Property if the Lease has terminated.
 - (2) If Port fails to remedy the condition of the Property in a timely manner, State may take steps reasonably necessary to remedy Port's failure. Upon demand by State, Port shall pay all costs of State's remedy, including but not limited to the costs of removing and disposing of material deposited improperly on the Property, lost revenue resulting from the condition of the Property, and administrative costs associated with the State's remedy.

3.4 Holdover.

- (a) If Port remains in possession of the Property after the Termination Date, the occupancy will not be an extension or renewal of the Term. The occupancy will be a month-to-month tenancy, on terms identical to the terms of this Lease, which either Party may terminate on thirty (30) days' written notice.
 - (1) The monthly rent during the holdover will be the same rent that would be due if the Lease were still in effect and all adjustments in rent were made in accordance with its terms.
 - (2) Payment of more than the monthly rent will not be construed to create a periodic tenancy longer than month-to-month. If Port pays more than the monthly rent and State provides notice to vacate the property, State shall refund the amount of excess payment remaining after the Port ceases occupation of the Property.

- (b) If State notifies Port to vacate the Property and Port fails to do so within the time set forth in the notice, Port will be a trespasser and shall owe the State all amounts due under RCW 79.02.300 or other applicable law.

SECTION 4 RENT

4.1 Annual Rent.

- (a) Until adjusted as set forth below, Port shall pay to State an annual rent of Thirty-one Thousand Eight Hundred Forty-seven and 42/100 Dollars (\$31,847.42) related to the nonwater-dependent use.
- (b) The annual rent, as it currently exists or as adjusted or modified (the "Annual Rent"), is due and payable in full on or before the Commencement Date and on or before the same date of each year thereafter. Any payment not paid by State's close of business on the date due is past due.

4.2 Payment Place. Port shall make payment to Financial Management Division, 1111 Washington St SE, MS 47041, Olympia, WA 98504-7041.

4.3 Adjustment Based on Use. Annual Rent is based on Port's Permitted Use of the Property, as described in Section 2 above. If Port's Permitted Use changes, the Annual Rent shall be adjusted as appropriate for the changed use.

4.4 Rent Adjustment Procedures.

- (a) Notice of Rent Adjustment. State shall provide notice of adjustments to the Annual Rent allowed under Paragraph 4.5(b) to Port in writing no later than ninety (90) days after the anniversary date of the Lease.
- (b) Procedures on Failure to make Timely Adjustment. If the State fails to provide the notice required in Paragraph 4.4(a), State shall not collect the adjustment amount for the year in which State failed to provide notice. Upon providing notice of adjustment, State may adjust and prospectively bill Annual Rent as if missed or waived adjustments had been implemented at the proper interval. This includes the implementation of any inflation adjustment.

4.5 Rent Adjustments for Nonwater-Dependent Uses.

- (a) Inflation Adjustment. Except in those years in which State revalues the rent under Paragraph 4.5(b) below, State shall adjust nonwater-dependent rent annually on the Commencement Date. Adjustment is based on the percentage rate of change in the previous calendar year's Consumer Price Index published by the Bureau of Labor Statistics of the United States Department of Commerce, for the Seattle-Tacoma-Bremerton Consolidated Metropolitan Statistical Area, All Urban Consumers, all items 1982-84 = 100. If publication of the Consumer Price Index is discontinued, State shall use a reliable governmental or other nonpartisan publication evaluating the information used in determining the Consumer Price Index.

(b) Revaluation of Rent.

- (1) At the end of the first four-year period of the Term, and at the end of each subsequent four-year period, State shall revalue the nonwater-dependent Annual Rent to reflect the then-current fair market rent.
- (2) If State and Port cannot reach agreement on the fair market rental value, the Parties shall submit the valuation to a review board of appraisers. The board must consist of three members, one selected by and at the cost of Port; a second member selected by and at the cost of State; and a third member selected by the other two members with the cost shared equally by State and Port. The decision of the majority of the board binds the Parties. Until the Parties agree to, or the review board establishes, the new rent, Port shall pay rent in the same amount established for the preceding year. If the board determines additional rent is required, Port shall pay the additional rent within ten (10) days of the board's decision. If the board determines a refund is required, State shall pay the refund within ten (10) days of the board's decision.

SECTION 5 OTHER EXPENSES

5.1 Utilities. Port shall pay all fees charged for utilities required or needed by the Permitted Use.

5.2 Taxes and Assessments. Port shall pay all taxes (including leasehold excise taxes), assessments, and other governmental charges applicable or attributable to the Property, Port's leasehold interest, the improvements, or Port's use and enjoyment of the Property.

5.3 Right to Contest. If in good faith, Port may contest any tax or assessment at its sole cost and expense. At the request of State, Port shall furnish reasonable protection in the form of a bond or other security, satisfactory to State, against loss or liability resulting from such contest.

5.4 Proof of Payment. If required by State, Port shall furnish to State receipts or other appropriate evidence establishing the payment of amounts this Lease requires Port to pay.

5.5 Failure to Pay. If Port fails to pay amounts due under this Lease, State may pay the amount due, and recover its cost in accordance with Section 6.

SECTION 6 LATE PAYMENTS AND OTHER CHARGES

6.1 Failure to Pay Rent. Failure to pay rent is a default by the Port. State may seek remedies under Section 14 as well as late charges and interest as provided in this Section 6.

6.2 Late Charge. If State does not receive full rent payment within ten (10) days of the date due, Port shall pay to State a late charge equal to four percent (4%) of the unpaid amount or Fifty Dollars (\$50), whichever is greater, to defray the overhead expenses of State incident to the delay.

6.3 Interest Penalty for Past Due Rent and Other Sums Owed.

- (a) Port shall pay interest on the past due rent at the rate of one percent (1%) per month until paid, in addition to paying the late charges determined under Paragraph 6.2. Rent not paid by the close of business on the due date will begin accruing interest the day after the due date.
- (b) If State pays or advances any amounts for or on behalf of Port, Port shall reimburse State for the amount paid or advanced and shall pay interest on that amount at the rate of one percent (1%) per month from the date State notifies Port of the payment or advance. This includes, but is not limited to, State's payment of taxes of any kind, assessments, insurance premiums, costs of removal and disposal of materials or Improvements under any provision of this Lease, or other amounts not paid when due.

6.4 Referral to Collection Agency and Collection Agency Fees. If State does not receive full payment within thirty (30) days of the due date, State may refer the unpaid amount to a collection agency as provided by RCW 19.16.500 or other applicable law. Upon referral, Port shall pay collection agency fees in addition to the unpaid amount.

6.5 No Accord and Satisfaction. If Port pays, or State otherwise receives, an amount less than the full amount then due, State may apply such payment as it elects. State may accept payment in any amount without prejudice to State's right to recover the balance of the rent or pursue any other right or remedy. No endorsement or statement on any check, any payment, or any letter accompanying any check or payment constitutes accord and satisfaction.

6.6 No Counterclaim, Setoff, or Abatement of Rent. Except as expressly set forth elsewhere in this Lease, Port shall pay rent and all other sums payable by Port without the requirement that State provide prior notice or demand. Port's payment is not subject to counterclaim, setoff, deduction, defense or abatement.

SECTION 7 IMPROVEMENTS

7.1 Improvements Defined.

- (a) "Improvements," consistent with RCW 79.105 through 79.145, are additions within, upon, or attached to the land. This includes, but is not limited to, fill, structures, bulkheads, docks, pilings, and other fixtures.
- (b) "Personal Property" means items that can be removed from the Property without (1) injury to the Property or Improvements or (2) diminishing the value or utility of the Property or Improvements.

- (c) "State-Owned Improvements" are Improvements made or owned by State. State-Owned Improvements includes any construction, alteration, or addition to State-Owned Improvements made by Port.
- (d) "Port-Owned Improvements" are Improvements authorized by State and (1) made by Port or (2) acquired by Port from the prior tenant.
- (e) "Unauthorized Improvements" are Improvements made on the Property without State's prior consent or Improvements made by Port that do not conform to plans submitted to and approved by the State.

7.2 Existing Improvements. On the Commencement Date, the following Improvements are located on the Property: Boardwalk, Bulkhead, Parking Surfaces. The Improvements are Port-Owned.

7.3 Construction, Major Repair, Modification, and Demolition.

- (a) This Paragraph 7.3 governs construction, alteration, replacement, major repair, modification, demolition, and deconstruction of Improvements ("Work"). Section 11 governs routine maintenance and minor repair.
- (b) All Work must conform to requirements under Paragraph 7.4. Paragraph 11.3, which applies to routine maintenance and minor repair, also applies to all Work under this Paragraph 7.3.
- (c) Except in an emergency, Port shall not conduct Work, without State's prior written consent, as follows:
 - (1) State may deny consent if State determines that denial is in the best interests of the State or if proposed Work does not comply with Paragraphs 7.4 and 11.3. State may impose additional conditions reasonably intended to protect and preserve the Property. If Work is for removal of Improvements at End of Term, State may waive removal of some or all Improvements.
 - (2) Except in an emergency, Port shall submit to State plans and specifications describing the proposed Work at least sixty (60) days before submitting permit applications to regulatory authorities unless Port and State otherwise agree to coordinate permit applications. At a minimum, or if no permits are necessary, Port shall submit plans and specifications at least ninety (90) days before commencement of Work.
 - (3) State waives the requirement for consent if State does not notify Port of its grant or denial of consent within sixty (60) days of submittal.
- (d) Port shall notify State of emergency Work within five (5) business days of the start of such Work. Upon State's request, Port shall provide State with plans and specifications or as-builts of emergency Work.
- (e) Port shall not commence or authorize Work until Port has:
 - (1) Obtained a performance and payment bond in an amount equal to zero percent (0.0%) of the estimated cost of construction. Port shall maintain the performance and payment bond until Port pays in full the costs of the Work, including all laborers and material persons.
 - (2) Obtained all required permits.

- (f) Before completing Work, Port shall remove all debris and restore the Property, to an orderly and safe condition. If Work is intended for removal of Improvements at End of Term, Port shall restore the Property in accordance with Paragraph 3.3, End of Term.
- (g) Upon completing work, Port shall promptly provide State with as-built plans and specifications.
- (h) State shall not charge rent for authorized Improvements installed by Port during this Term of this Lease, but State may charge rent for such Improvements when and if Port or successor obtains a subsequent use authorization for the Property and State has waived the requirement for Improvements to be removed as provided in Paragraph 7.5.

7.4 Standards for Work. Port shall comply with State's Standards for Improvements current at the time Port submits plans and specifications for State's approval in accordance with Paragraph 7.3(b).

7.5 Port-Owned Improvements at End of Lease.

- (a) Disposition.
 - (1) Port shall remove Port-Owned Improvements in accordance with Paragraph 7.3 upon the expiration, termination, or cancellation of the Lease unless State waives the requirement for removal.
 - (2) Port-Owned Improvements remaining on the Property on the expiration, termination or cancellation date shall become State-Owned Improvements without payment by State, unless State elects otherwise. State may refuse or waive ownership. If RCW 79.125.300 or 79.130.040 apply at the time this Lease expires, Port could be entitled to payment by the new tenant for Port-Owned Improvements.
 - (3) If Port-Owned Improvements remain on the Property after the expiration, termination, or cancellation date without State's consent, State may remove all Improvements and Port shall pay State's costs.
- (b) Conditions Under Which State May Waive Removal of Port-Owned Improvements.
 - (1) State may waive removal of some or all Port-Owned Improvements whenever State determines that it is in the best interests of the State and regardless of whether Port re-leases the Property.
 - (2) If Port re-leases the Property, State may waive requirement to remove Port-Owned Improvements. State also may consent to Port's continued ownership of Port-Owned Improvements.
 - (3) If Port does not re-lease the Property, State may waive requirement to remove Port-Owned Improvements upon consideration of a timely request from Port, as follows:
 - (i) Port must notify State at least one (1) year before the Termination Date of its request to leave Port-Owned Improvements.

- (ii) State, within ninety (90) days of receiving Port's notification, will notify Port whether State consents to some or all Port-Owned Improvements remaining. State has no obligation to grant consent.
 - (iii) State's failure to respond to Port's request to leave Improvements within ninety (90) days is a denial of the request.
- (c) Port's Obligations if State Waives Removal.
 - (1) Port shall not remove Improvements if State waives the requirement for removal of some or all Port-Owned Improvements.
 - (2) Port shall maintain such Improvements in accordance with this Lease until the expiration, termination, or cancellation date. Port is liable to State for cost of repair if Port causes or allows damage to Improvements State has designated to remain.

7.6 Disposition of Unauthorized Improvements.

- (a) Unauthorized Improvements belong to State, unless State elects otherwise.
- (b) State may either:
 - (1) Consent to Port ownership of the Improvements, or
 - (2) Charge rent for use of the Improvements from the time of installation or construction and
 - (i) Require Port to remove the Improvements in accordance with Paragraph 7.3, in which case Port shall pay rent for the Improvements until removal,
 - (ii) Consent to Improvements remaining and Port shall pay rent for the use of the Improvements, or
 - (iii) Remove Improvements and Port shall pay for the cost of removal and disposal, in which case Port shall pay rent for use of the Improvements until removal and disposal.

7.7 Disposition of Personal Property.

- (a) Port retains ownership of Personal Property unless Port and State agree otherwise in writing.
- (b) Port shall remove Personal Property from the Property by the Termination Date. Port is liable for damage to the Property and Improvements resulting from removal of Personal Property.
- (c) State may sell or dispose of all Personal Property left on the Property after the Termination Date.
 - (1) If State conducts a sale of Personal Property, State shall apply proceeds first to the State's administrative costs in conducting the sale, second to payment of amount that then may be due from the Port to the State. State shall pay the remainder, if any, to the Port.
 - (2) If State disposes of Personal Property, Port shall pay for the cost of removal and disposal.

SECTION 8 ENVIRONMENTAL LIABILITY/RISK ALLOCATION

8.1 Definitions.

- (a) "Hazardous Substance" means any substance that now or in the future becomes regulated or defined under any federal, state, or local statute, ordinance, rule, regulation, or other law relating to human health, environmental protection, contamination, pollution, or cleanup.
- (b) "Release or threatened release of Hazardous Substance" means a release or threatened release as defined under any law described in Paragraph 8.1(a).
- (c) "Utmost care" means such a degree of care as would be exercised by a very careful, prudent, and competent person under the same or similar circumstances; the standard of care applicable under the Washington State Model Toxics Control Act ("MTCA"), Chapter 70.105 RCW, as amended.
- (d) "Port and affiliates" when used in this Section 8 means Port or Port's subtenants, contractors, agents, employees, guests, invitees, licensees, affiliates, or any person on the Property with the Port's permission.
- (e) "Liabilities" as used in this Section 8 means any claims, demands, proceedings, lawsuits, damages, costs, expenses, fees (including attorneys' fees and disbursements), penalties, or judgments.

8.2 General Conditions.

- (a) Port's obligations under this Section 8 extend to the area in, on, under, or above
 - (1) The Property and
 - (2) Adjacent State-owned aquatic lands if affected by a release of Hazardous Substances that occurs as a result of the Permitted Use.
- (b) Standard of Care.
 - (1) Port shall exercise the utmost care with respect to Hazardous Substances.
 - (2) Port shall exercise utmost care for the foreseeable acts or omissions of third parties with respect to Hazardous Substances, and the foreseeable consequences of those acts or omissions, to the extent required to establish a viable, third-party defense under the law.

8.3 Current Conditions and Duty to Investigate.

- (a) State makes no representation about the condition of the Property. Hazardous Substances may exist in, on, under, or above the Property.
- (b) This Lease does not impose a duty on State to conduct investigations or supply information to Port about Hazardous Substances.
- (c) Port is responsible for conducting all appropriate inquiry and gathering sufficient information about the existence, scope, and location of Hazardous Substances on or near the Property necessary for Port to meet Port's obligations under this Lease and utilize the Property for the Permitted Use.

8.4 Use of Hazardous Substances.

- (a) Port and affiliates shall not use, store, generate, process, transport, handle, release, or dispose of Hazardous Substances, except in accordance with all applicable laws.
- (b) Port shall not undertake, or allow others to undertake by Port's permission, acquiescence, or failure to act, activities that result in a release or threatened release of Hazardous Substances.
- (c) If use of Hazardous Substances related to Port's use or occupancy of the Property results in violation of law:
 - (1) Port shall submit to State any plans for remedying the violations, and
 - (2) Port shall implement any remedial measures to restore the Property or natural resources that State may require in addition to remedial measures required by regulatory authorities.
- (d) Port shall comply with the provisions of Chapter 90.56 RCW Oil and Hazardous Substance Spill Prevention and Response Act. Port shall develop, update as necessary and operate in accordance with a plan of operations consistent with the requirements of Chapter 90.56 RCW. Failure to comply with the requirements of Chapter 90.56 is a default under Section 14.
- (e) At a minimum, Port and affiliates shall observe the following Hazardous Substances operational standards. If the Washington Department of Ecology, U.S. Environmental Protection Agency or other regulatory agency establishes different standards applicable to Port's activities under the Permitted Use, Port shall meet the standard that provides greater protection to the environment.
 - (1) Port shall not allow work on overwater structures or vessels without protective measures to prevent discharge of toxins to the water, including:
 - (i) Port shall not cause or allow underwater hull scraping and other underwater removal of paints.
 - (ii) Port shall not cause or allow underwater refinishing work from boats or temporary floats unless permitted by an industrial National Pollution Discharge Elimination System (NPDES) permit.
 - (iii) Port shall not cause or allow above the waterline boat repairs or refinishing in-water except if limited to decks and superstructures and less than 25 percent of a boat is repaired or refinished in-water per year.
 - (iv) Port shall use and require others to use tarps and other dust, drip and spill containment measures when repairing or refinishing boats in water.
 - (2) Port shall not store or allow others to store fuel tanks, petroleum products, hydraulic fluid, machinery coolants, lubricants and chemicals not in use in locations above the water surface.
 - (3) Port shall inspect all equipment using petroleum products, hydraulic fluids, machinery coolants, chemicals, or other toxic or deleterious materials on a monthly basis and immediately make all repairs necessary

to stop leakage. Port shall submit to State an annual report documenting inspections and repair.

- (4) Port shall maintain a supply of oil spill containment materials adequate to contain a spill from the largest vessel in use on the Property.
- (5) Port shall not use or allow use of a pressure washer at any location above the water surface to clean any item that uses petroleum products.
- (6) Port shall incorporate best management practices to prevent the release of chemical contaminants, wastewater, garbage and other pollutants, as specified in Resource Manual for Pollution Prevention in Marinas published by the Washington Department of Ecology, publication number 98-11, available at <http://www.ecy.wa.gov/biblio/9811.html>. If the Department of Ecology or other regulatory agency establishes different standards, Port shall meet the most protective standard.

8.5 Management of Contamination, if any.

- (a) Port and affiliates shall not undertake activities that:
 - (1) Damage or interfere with the operation of remedial or restoration activities, if any;
 - (2) Result in human or environmental exposure to contaminated sediments, if any;
 - (3) Result in the mechanical or chemical disturbance of on-site habitat mitigation, if any.
- (b) If requested, Port shall allow reasonable access to:
 - (1) Employees and authorized agents of the Environmental Protection Agency, the Washington State Department of Ecology, health department, or other similar environmental agencies; and
 - (2) Potentially liable or responsible parties who are the subject of an order or consent decree that requires access to the Property. Port may negotiate an access agreement with such parties, but Port may not unreasonably withhold such agreement.

8.6 Notification and Reporting.

- (a) Port shall immediately notify State if Port becomes aware of any of the following:
 - (1) A release or threatened release of Hazardous Substances;
 - (2) Any new discovery of or new information about a problem or liability related to, or derived from, the presence of Hazardous Substances;
 - (3) Any lien or action arising from Hazardous Substances;
 - (4) Any actual or alleged violation of any federal, state, or local statute, ordinance, rule, regulation, or other law pertaining to Hazardous Substances;
 - (5) Any notification from the US Environmental Protection Agency (EPA) or the Washington State Department of Ecology (DOE) that remediation or removal of Hazardous Substances is or may be required at the Property.
- (b) Port's duty to report under Paragraph 8.6(a) extends to lands described in Paragraph 8.2(a) and to any other property used by Port in conjunction with the

Property if a release of Hazardous Substances on the other property could affect the Property.

- (c) Port shall provide State with copies of all documents Port submits to any federal, state or local authorities concerning environmental impacts or proposals relative to the Property. Documents subject to this requirement include, but are not limited to, applications, reports, studies, or audits for National Pollution Discharge and Elimination System Permits; Army Corps of Engineers permits; State Hydraulic Project Approvals (HPA); State Water Quality certification; Substantial Development permit; and any reporting necessary for the existence, location, and storage of Hazardous Substances on the Property.

8.7 Indemnification.

- (a) To the extent allowed by law, Port shall fully indemnify, defend, and hold State harmless from and against Liabilities that arise out of, or relate to:
 - (1) The use, storage, generation, processing, transportation, handling, or disposal of any Hazardous Substance by Port and affiliates occurring whenever Port occupies or has occupied the Property;
 - (2) The release or threatened release of any Hazardous Substance resulting from any act or omission of Port and affiliates occurring whenever Port occupies or has occupied the Property.
- (b) To the extent allowed by law, Port shall fully indemnify, defend, and hold State harmless for Liabilities that arise out of or relate to Port's breach of obligations under Paragraph 8.5.
- (c) Port has no duty to indemnify State for acts or omissions of third parties unless and only if an administrative or legal proceeding arising from a release or threatened release of Hazardous Substances finds or holds that Port failed to exercise care as described in Paragraph 8.2(b)(2). In such case, Port shall fully indemnify, defend, and hold State harmless from and against Liabilities arising from the acts or omissions of third parties in relation to the release or threatened release of Hazardous Substances. This includes Liabilities arising before the finding or holding in the proceeding.

8.8 Reservation of Rights.

- (a) For Liabilities not covered by the indemnification provisions of Paragraph 8.7, the Parties expressly reserve and do not waive any rights, claims, immunities, causes of action, or defenses relating to Hazardous Substances that either Party may have against the other under law.
- (b) The Parties expressly reserve all rights, claims, immunities, and defenses either Party may have against third parties. Nothing in this Section 8 benefits or creates rights for third parties.
- (c) The allocations of risks, Liabilities, and responsibilities set forth in this Section 8 do not release either Party from or affect the liability of either Party for Hazardous Substances claims or actions by regulatory agencies.

8.9 Cleanup.

- (a) If Port's act, omission, or breach of obligation under Paragraph 8.4 results in a release of Hazardous Substances that exceeds the threshold limits of any applicable regulatory standard, Port shall, at Port's sole expense, promptly take all actions necessary or advisable to clean up the Hazardous Substances in accordance with applicable law.
- (b) Port may undertake a cleanup of the Property pursuant to the Washington State Department of Ecology's Voluntary Cleanup Program, provided that Port cooperates with the Department of Natural Resources in development of cleanup plans. Port shall not proceed with Voluntary Cleanup without the Department of Natural Resources approval of final plans. Nothing in the operation of this provision is an agreement by the Department of Natural Resources that the Voluntary Cleanup complies with any laws or with the provisions of this Lease. Port's completion of a Voluntary Cleanup is not a release from or waiver of any obligation for Hazardous Substances under this Lease.

8.10 Sampling by State, Reimbursement, and Split Samples.

- (a) State may enter the Property and conduct sampling, tests, audits, surveys, or investigations ("Tests") of the Property at any time to determine the existence, scope, or effects of Hazardous Substances.
- (b) If such Tests, along with any other information, demonstrate a breach of Port's obligations regarding Hazardous Substances under this Lease, Port shall promptly reimburse State for all costs associated with the Tests, provided State gave Port thirty (30) calendar days advance notice in nonemergencies and reasonably practical notice in emergencies.
- (c) In nonemergencies, Port is entitled to obtain split samples of Test samples, provided Port gives State written notice requesting split samples at least ten (10) calendar days before State conducts Tests. Upon demand, Port shall promptly reimburse State for additional cost, if any, of split samples.
- (d) If either Party conducts Tests on the Property, the conducting Party shall provide the other with validated final data and quality assurance/quality control/chain of custody information about the Tests within sixty (60) calendar days of a written request by the other party, unless Tests are part of a submittal under Paragraph 8.6(c) in which case Port shall submit data and information to State without written request by State. Neither party is obligated to provide any analytical summaries or the work product of experts.

8.11 Closeout Assessment.

- (a) State may require Port to conduct a Closeout Environmental Assessment ("Closeout Assessment") prior to Termination of the Lease.
- (b) The purpose of the Closeout Assessment is to determine the existence, scope, or effects of Hazardous Substances on the Property and associated natural resources. The Closeout Assessment may include sediment sampling.

- (c) No later than one hundred eighty (180) calendar days prior to the Termination Date, or within ninety (90) days of valid notice to early termination, State shall provide Port with written notice that State requires a Closeout Assessment.
- (d) Within sixty (60) days of State's notice that Closeout Assessment is required and before commencing assessment activities, Port shall submit a proposed plan for conducting the Closeout Assessment in writing for State's approval.
- (e) If State fails to approve or disapprove of the plan in writing within sixty (60) days of its receipt, State waives requirement for approval.
- (f) Port shall be responsible for all costs required to complete planning, sampling, analyzing, and reporting associated with the Closeout Assessment.
- (g) If the initial results of the Closeout Assessment disclose that Hazardous Substances may have migrated to other property, State may require additional Closeout Assessment work to determine the existence, scope, and effect of Hazardous Substances on adjacent property, any other property subject to use by Port in conjunction with its use of the Property, or on associated natural resources.
- (h) Port shall submit Closeout Assessment to State upon completion.
- (i) As required by law, Port shall report to the appropriate regulatory authorities if the Closeout Assessment discloses a release or threatened release of Hazardous Substances.

SECTION 9 ASSIGNMENT AND SUBLETTING

9.1 State Consent Required. Port shall not convey, transfer, or encumber any part of Port's interest in this Lease or the Property without State's prior written consent, which State shall not unreasonably condition or withhold.

- (a) In determining whether to consent, State may consider, among other items, the proposed transferee's financial condition, business reputation and experience, the nature of the proposed transferee's business, the then-current value of the Property, and such other factors as may reasonably bear upon the suitability of the transferee as a tenant of the Property. State may refuse its consent to any conveyance, transfer, or encumbrance if it will result in a subdivision of the leasehold. Port shall submit information regarding any proposed transferee to State at least thirty (30) days prior to the date of the proposed transfer.
- (b) State reserves the right to condition its consent upon:
 - (1) Changes in the terms and conditions of this Lease, including, but not limited to, the Annual Rent; and/or
 - (2) The agreement of Port or transferee to conduct Tests for Hazardous Substances on the Property or on other property owned or occupied by Port or the transferee.
- (c) Each permitted transferee shall assume all obligations under this Lease, including the payment of rent. No assignment, sublet, or transfer shall release, discharge, or otherwise affect the liability of Port.
- (d) State's consent under this Paragraph 9.1 does not constitute a waiver of any claims against Port for the violation of any term of this Lease.

9.2 Rent Payments Following Assignment. The acceptance by State of the payment of rent following an assignment or other transfer does not constitute consent to any assignment or transfer.

9.3 Terms of Subleases.

- (a) Port shall submit the terms of all subleases to State for approval.
- (b) Port shall incorporate the following requirements in all subleases:
 - (1) The sublease must be consistent with and subject to all the terms and conditions of this Lease;
 - (2) The sublease must provide that this Lease controls if the terms of the sublease conflict with the terms of this Lease;
 - (3) The term of the sublease (including any period of time covered by a renewal option) must end before the Termination Date of the initial Term or any renewal term;
 - (4) The sublease must terminate if this Lease terminates for any reason;
 - (5) The subtenant must receive and acknowledge receipt of a copy of this Lease;
 - (6) The sublease must prohibit the prepayment to Port by the subtenant of more than the annual rent;
 - (7) The sublease must identify the rental amount subtenant is to pay to Port;
 - (8) The sublease must provide that there is no privity of contract between the subtenant and State;
 - (9) The sublease must require removal of the subtenant's Improvements and Personal Property upon termination of the sublease;
 - (10) The subtenant's permitted use must be within the scope of the Permitted Use; and
 - (11) The sublease must require the subtenant to meet all obligations of Port under Section 10, Indemnification, Financial Security, and Insurance.

9.4 Short-Term Subleases of Moorage Slips. Short-term subleasing of moorage slips for a term of less than one (1) year does not require State's written consent or approval pursuant to Paragraphs 9.1 or 9.3. Port shall conform moorage sublease agreements to the sublease requirements in Paragraph 9.3.

SECTION 10 INDEMNITY, FINANCIAL SECURITY, INSURANCE

10.1 Indemnity. Each Party shall be responsible for the actions and inactions of itself and its own officers, employees, and agents acting within the scope of their authority.

10.2 Insurance Terms.

- (a) Insurance Required.
 - (1) At its own expense, Port shall procure and maintain during the Term of this Lease, the insurance coverages and limits described in this Paragraph

- 10.2 and in Paragraph 10.3, Insurance Types and Limits. State may terminate this Lease if Port fails to maintain required insurance.
- (2) Unless State agrees to an exception, Port shall provide insurance issued by an insurance company or companies admitted to do business in the State of Washington and have a rating of A- or better by the most recently published edition of Best's Reports. Port may submit a request to the risk manager for the Department of Natural Resources to approve an exception to this requirement. If an insurer is not admitted, the insurance policies and procedures for issuing the insurance policies shall comply with Chapter 48.15 RCW and 284-15 WAC.
 - (3) All general liability, excess, umbrella, property, builder's risk, and pollution legal liability insurance policies must name the State of Washington, the Department of Natural Resources, its elected and appointed officials, agents, and employees as an additional insured.
 - (4) All insurance provided in compliance with this Lease must be primary as to any other insurance or self-insurance programs afforded to or maintained by State.
- (b) Waiver.
- (1) Port waives all rights against State for recovery of damages to the extent insurance maintained pursuant to this Lease covers these damages.
 - (2) Except as prohibited by law, Port waives all rights of subrogation against State for recovery of damages to the extent that they are covered by insurance maintained pursuant to this Lease.
- (c) Proof of Insurance.
- (1) Port shall provide State with a certificate(s) of insurance executed by a duly authorized representative of each insurer, showing compliance with insurance requirements specified in this Lease and, if requested, copies of policies to State.
 - (2) The certificate(s) of insurance must reference additional insureds and the Lease number.
 - (3) Receipt of such certificates or policies by State does not constitute approval by State of the terms of such policies.
- (d) State must receive written notice before cancellation or non-renewal of any insurance required by this Lease, as follows:
- (1) Insurers subject to RCW 48.18 (admitted and regulated by the Insurance Commissioner): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State forty-five (45) days' advance notice of cancellation or non-renewal.
 - (2) Insurers subject to RCW 48.15 (surplus lines): If cancellation is due to non-payment of premium, provide State ten (10) days' advance notice of cancellation; otherwise, provide State thirty (30) days' advance notice of cancellation or non-renewal.

- (e) Adjustments in Insurance Coverage.
 - (1) State may impose changes in the limits of liability for all types of insurance as State deems necessary.
 - (2) Port shall secure new or modified insurance coverage within thirty (30) days after State requires changes in the limits of liability.
- (f) If Port fails to procure and maintain the insurance described above within fifteen (15) days after Port receives a notice to comply from State, State may either:
 - (1) Deem the failure an Event of Default under Section 14, or
 - (2) Procure and maintain comparable substitute insurance and pay the premiums. Upon demand, Port shall pay to State the full amount paid by State, together with interest at the rate provided in Paragraph 6.2 from the date of State's notice of the expenditure until Port's repayment.
- (g) General Terms.
 - (1) State does not represent that coverage and limits required under this Lease are adequate to protect Port.
 - (2) Coverage and limits do not limit Port's liability for indemnification and reimbursements granted to State under this Lease.
 - (3) The Parties shall use any insurance proceeds payable by reason of damage or destruction to property first to restore the real property covered by this Lease, then to pay the cost of the reconstruction, then to pay the State any sums in arrears, and then to Port.

10.3 Insurance Types and Limits.

- (a) General Liability Insurance.
 - (1) Port shall maintain commercial general liability insurance (CGL) or marine general liability (MGL) covering claims for bodily injury, personal injury, or property damage arising on the Property and/or arising out of Port's use, occupation, or control of the Property and, if necessary, commercial umbrella insurance with a limit of not less than One Million Dollars (\$1,000,000) per each occurrence. If such CGL or MGL insurance contains aggregate limits, the general aggregate limit must be at least twice the "each occurrence" limit. CGL or MGL insurance must have products-completed operations aggregate limit of at least two times the "each occurrence" limit.
 - (2) CGL insurance must be written on Insurance Services Office (ISO) Occurrence Form CG 00 01 (or a substitute form providing equivalent coverage). All insurance must cover liability arising out of premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract) and contain separation of insured (cross-liability) condition.
 - (3) MGL insurance must have no exclusions for non-owned watercraft.

- (b) Workers' Compensation.
- (1) State of Washington Workers' Compensation.
 - (i) Port shall comply with all State of Washington workers' compensation statutes and regulations. Port shall provide workers' compensation coverage for all employees of Port. Coverage must include bodily injury (including death) by accident or disease, which arises out of or in connection with Port's use, occupation, and control of the Property.
 - (ii) If Port fails to comply with all State of Washington workers' compensation statutes and regulations and State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, Port shall indemnify State. Indemnity shall include all fines; payment of benefits to Port, employees, or their heirs or legal representatives; and the cost of effecting coverage on behalf of such employees.
 - (2) Longshore and Harbor Workers' and Jones Acts. Longshore and Harbor Workers' Act (33 U.S.C. Section 901 *et seq.*) and/or the Jones Act (46 U.S.C. Section 688) may require Port to provide insurance coverage in some circumstances. Port shall ascertain if such insurance is required and, if required, shall maintain insurance in compliance with law. Port is responsible for all civil and criminal liability arising from failure to maintain such coverage.
- (c) Employers' Liability Insurance. Port shall procure employers' liability insurance, and, if necessary, commercial umbrella liability insurance with limits not less than One Million Dollars (\$1,000,000) each accident for bodily injury by accident or One Million Dollars (\$1,000,000) each employee for bodily injury by disease.
- (d) Property Insurance.
- (1) Port shall buy and maintain property insurance covering all real property and fixtures, equipment, Port Improvements and betterments (regardless of whether owned by Port or State). Such insurance must be written on an all risks basis and, at minimum, cover the perils insured under ISO Special Causes of Loss Form CP 10 30, and cover the full replacement cost of the property insured. Such insurance may have commercially reasonable deductibles. Any coinsurance requirement in the policy must be waived. The policy must include State as an insured and a loss payee.
 - (2) In the event of any loss, damage, or casualty which is covered by one or more of the types of insurance described above, the Parties to this Lease shall proceed cooperatively to settle the loss and collect the proceeds of such insurance, which State shall hold in trust, including interest earned by State on such proceeds, for use according to the terms of this Lease. The Parties shall use insurance proceeds in accordance with Paragraph 10.2(g)(3).
 - (3) When sufficient funds are available, using insurance proceeds described above, the Parties shall continue with reasonable diligence to prepare

plans and specifications for, and thereafter carry out, all work necessary to:

- (i) Repair and restore damaged building(s) and/or Improvements to their former condition, or
- (ii) Replace and restore damaged building(s) and/or Improvements with a new building(s) and/or Improvements on the Property of a quality and usefulness at least equivalent to or more suitable than, damaged building(s) and/or Improvements.

10.4 Financial Security.

- (a) At its own expense, Port shall procure and maintain during the Term of this Lease a corporate security bond or provide other financial security that State, at its option, may approve (“Security”). Port shall provide Security in an amount equal to Zero Dollars (\$0.00), which is consistent with RCW 79.105.330, and secures Port’s performance of its obligations under this Lease, with the exception of the obligations under Section 8, Environmental Liability/Risk Allocation. Port’s failure to maintain the Security in the required amount during the Term constitutes a breach of this Lease.
- (b) All Security must be in a form acceptable to the State.
 - (1) Bonds must be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better, in the most recently published edition of Best’s Reports, unless State approves an exception. Port may submit a request to the risk manager for the Department of Natural Resources for an exception to this requirement.
 - (2) Letters of credit, if approved by State, must be irrevocable, allow State to draw funds at will, provide for automatic renewal, and comply with RCW 62A.5-101, *et. seq.*
 - (3) Savings account assignments, if approved by State, must allow State to draw funds at will.
- (c) Adjustment in Amount of Security.
 - (1) State may require an adjustment in the Security amount:
 - (i) At the same time as revaluation of the Annual Rent,
 - (ii) As a condition of approval of assignment or sublease of this Lease,
 - (iii) Upon a material change in the condition or disposition of any Improvements, or
 - (iv) Upon a change in the Permitted Use.
 - (2) Port shall deliver a new or modified form of Security to State within thirty (30) days after State has required adjustment of the amount of the Security.
- (d) Upon any default by Port in its obligations under this Lease, State may collect on the Security to offset the liability of Port to State. Collection on the Security does not:
 - (1) Relieve Port of liability,
 - (2) Limit any of State’s other remedies,

- (3) Reinstate or cure the default, or
- (4) Prevent termination of the Lease because of the default.

SECTION 11 ROUTINE MAINTENANCE AND REPAIR

11.1 State's Repairs. This Lease does not obligate State to make any alterations, maintenance, replacements, or repairs in, on, or about the Property, or any part thereof, during the Term.

11.2 Port's Repairs and Maintenance.

- (a) Routine maintenance and repair are acts intended to prevent a decline, lapse or, cessation of the Permitted Use and associated Improvements. Routine maintenance or repair is the type of work that does not require regulatory permits.
- (b) At Port's own expense, Port shall keep and maintain the Property and all Improvements in good order and repair and in a safe condition. State's consent is not required for routine maintenance or repair.
- (c) At Port's own expense, Port shall make any additions, repairs, alterations, maintenance, replacements, or changes to the Property or to any Improvements on the Property that any public authority may require. If a public authority requires work beyond the scope of routine maintenance and repair, Port shall comply with Section 7 of this Lease.

11.3 Limitations. The following limitations apply whenever Port conducts maintenance, repair or replacement. The following limitations also apply whenever Port conducts maintenance, repair, or replacement on the exterior surfaces, features, or fixtures of a floating house.

- (a) Port shall not use or install treated wood at any location above or below water, except that Port may use treated wood for above water structural framing.
- (b) Port shall not use or install tires (for example, floatation or fenders) at any location above or below water.

SECTION 12 DAMAGE OR DESTRUCTION

12.1 Notice and Repair.

- (a) In the event of damage to or destruction of the Property or Improvements, Port shall promptly give written notice to State. State does not have actual knowledge of the damage or destruction without Port's written notice.
- (b) Unless otherwise agreed in writing, Port shall promptly reconstruct, repair, or replace the Property and Improvements as nearly as possible to its condition immediately prior to the damage or destruction in accordance with Paragraph 7.3, Construction, Major Repair, Modification, and Demolition and Port's additional obligations in Exhibit B, if any.

12.2 State's Waiver of Claim. State does not waive any claims for damage or destruction of the Property unless State provides written notice to Port of each specific claim waived.

12.3 Insurance Proceeds. Port's duty to reconstruct, repair, or replace any damage or destruction of the Property or any Improvements on the Property is not conditioned upon the availability of any insurance proceeds to Port from which the cost of repairs may be paid. The Parties shall use insurance proceeds in accordance with Paragraph 10.2(g)(3).

12.4 Rent in the Event of Damage or Destruction. Unless the Parties agree to terminate this Lease, there is no abatement or reduction in rent during such reconstruction, repair, and replacement.

12.5 Default at the Time of Damage or Destruction. If Port is in default under the terms of this Lease at the time damage or destruction occurs, State may elect to terminate the Lease and State then shall have the right to retain any insurance proceeds payable as a result of the damage or destruction.

SECTION 13 CONDEMNATION

13.1 Definitions.

- (a) "Taking" means that an entity authorized by law exercises the power of eminent domain, either by judgment, settlement in lieu of judgment, or voluntary conveyance in lieu of formal court proceedings, over all or any portion of the Property and Improvements. This includes any exercise of eminent domain on any portion of the Property and Improvements that, in the judgment of the State, prevents or renders impractical the Permitted Use.
- (b) "Date of Taking" means the date upon which title to the Property or a portion of the Property passes to and vests in the condemner or the effective date of any order for possession if issued prior to the date title vests in the condemner.

13.2 Effect of Taking. If there is a taking, the Lease terminates proportionate to the extent of the taking. If this Lease terminates in whole or in part, Port shall make all payments due and attributable to the taken Property up to the date of taking. If Port has pre-paid rent and Port is not in default of the Lease, State shall refund Port the pro rata share of the pre-paid rent attributable to the period after the date of taking.

13.3 Allocation of Award.

- (a) The Parties shall allocate the condemnation award based upon the ratio of the fair market value of (1) Port's leasehold estate and Port-Owned Improvements and (2) State's interest in the Property; the reversionary interest in Port-Owned Improvements, if any; and State-Owned Improvements, if any.
- (b) If Port and State are unable to agree on the allocation, the Parties shall submit the dispute to binding arbitration in accordance with the rules of the American Arbitration Association.

SECTION 14 DEFAULT AND REMEDIES

14.1 Default Defined. Port is in default of this Lease on the occurrence of any of the following:

- (a) Failure to pay rent or other expenses when due;
- (b) Failure to comply with any law, regulation, policy, or order of any lawful governmental authority;
- (c) Failure to comply with any other provision of this Lease;
- (d) Commencement of bankruptcy proceedings by or against Port or the appointment of a trustee or receiver of Port's property.

14.2 Port's Right to Cure.

- (a) A default becomes an "Event of Default" if Port fails to cure the default within the applicable cure following State's written notice of default. Upon an Event of Default, State may seek remedies under Paragraph 14.3.
- (b) Unless expressly provided elsewhere in this Lease, the cure period is sixty (60) days.
- (c) For nonmonetary defaults not capable of cure within sixty (60) days, State will not unreasonably withhold approval of a reasonable alternative cure schedule. Port must submit a cure schedule within thirty (30) days of a notice of default. The default is not an Event of Default if State approves the schedule and Port works diligently and in good faith to execute the cure. The default is an Event of Default if Port fails to timely submit a schedule or fails to cure in accordance with an approved schedule.
- (d) State may elect to deem a default by Port as an Event of Default if the default occurs within six (6) months after a default by Port for which State has provided notice and opportunity to cure and regardless of whether the first and subsequent defaults are of the same nature.

14.3 Remedies.

- (a) Upon an Event of Default, State may terminate this Lease and remove Port by summary proceedings or otherwise.
- (b) If the Event of Default (1) arises from Port's failure to comply with restrictions on Permitted Use and operations under Paragraph 2.2 or (2) results in damage to natural resources or the Property, State may enter the Property without terminating this Lease to (1) restore the natural resources or Property and charge Port restoration costs and/or (2) charge Port for damages. On demand by State, Port shall pay all costs and/or damages.
- (c) Without terminating this Lease, State may relet the Property on any terms and conditions as State may decide are appropriate.
 - (1) State shall apply rent received by reletting: (1) to the payment of any indebtedness other than rent due from Port to State; (2) to the payment of any cost of such reletting; (3) to the payment of the cost of any alterations and repairs to the Property; and (4) to the payment of rent and leasehold

- excise tax due and unpaid under this Lease. State shall hold and apply any balance to Port's future rent as it becomes due.
- (2) Port is responsible for any deficiency created by the reletting during any month and shall pay the deficiency monthly.
 - (3) At any time after reletting, State may elect to terminate this Lease for the previous Event of Default.
 - (d) State's reentry or repossession of the Property under Paragraph 14.3 is not an election to terminate this Lease or cause a forfeiture of rents or other charges Port is obligated to pay during the balance of the Term, unless (1) State gives Port written notice of termination or (2) a legal proceeding decrees termination.
 - (e) The remedies specified under this Paragraph 14.3 are not exclusive of any other remedies or means of redress to which the State is lawfully entitled for Port's breach or threatened breach of any provision of this Lease.

SECTION 15 ENTRY BY STATE

State may enter the Property at any reasonable hour to inspect for compliance with the terms of this Lease, to monitor impacts to habitat, or survey habitat and species. State's failure to inspect the Property does not constitute a waiver of any rights or remedies under this Lease.

SECTION 16 DISCLAIMER OF QUIET ENJOYMENT

16.1 No Guaranty or Warranty.

- (a) State believes that this Lease is consistent with the Public Trust Doctrine and that none of the third-party interests identified in Paragraph 1.1(b) will materially or adversely affect Port's right of possession and use of the Property, but State makes no guaranty or warranty to that effect.
- (b) State disclaims and Port releases State from any claim for breach of any implied covenant of quiet enjoyment. This disclaimer and release includes, but is not limited to, interference arising from exercise of rights under the Public Trust Doctrine; Treaty rights held by Indian Tribes; and the general power and authority of State and the United States with respect to aquatic lands and navigable waters.
- (c) Port is responsible for determining the extent of Port's right to possession and for defending Port's leasehold interest.

16.2 Eviction by Third-Party. If a third-party evicts Port, this Lease terminates as of the date of the eviction. In the event of a partial eviction, Port's rent obligations abate as of the date of the partial eviction, in direct proportion to the extent of the eviction; this Lease shall remain in full force and effect in all other respects.

SECTION 17 NOTICE AND SUBMITTALS

Following are the locations for delivery of notice and submittals required or permitted under this Lease. Any Party may change the place of delivery upon ten (10) days written notice to the other.

State: DEPARTMENT OF NATURAL RESOURCES
Aquatic Resources Division, Ports Program
1111 Washington Street SE MS 47027
Olympia, WA 98504-7027

Port: PORT OF BREMERTON
8850 SW State Highway 3
Port Orchard, WA 98367-7487

The Parties may deliver any notice in person, by facsimile machine, or by certified mail. Depending on the method of delivery, notice is effective upon personal delivery, upon receipt of a confirmation report if delivered by facsimile machine, or three (3) days after mailing. All notices must identify the Lease number. On notices transmitted by facsimile machine, the Parties shall state the number of pages contained in the notice, including the transmittal page, if any.

SECTION 18 MISCELLANEOUS

18.1 Authority. Port and the person or persons executing this Lease on behalf of Port represent that Port is qualified to do business in the State of Washington, that Port has full right and authority to enter into this Lease, and that each and every person signing on behalf of Port is authorized to do so. Upon State's request, Port shall provide evidence satisfactory to State confirming these representations.

18.2 Successors and Assigns. This Lease binds and inures to the benefit of the Parties, their successors, and assigns.

18.3 Headings. The headings used in this Lease are for convenience only and in no way define, limit, or extend the scope of this Lease or the intent of any provision.

18.4 Entire Agreement. This Lease, including the exhibits and addenda, if any, contains the entire agreement of the Parties. This Lease merges all prior and contemporaneous agreements, promises, representations, and statements relating to this transaction or to the Property.

18.5 Waiver.

- (a) The waiver of any breach or default of any term, covenant, or condition of this Lease is not a waiver of such term, covenant, or condition; of any subsequent breach or default of the same; or of any other term, covenant, or condition of this

Lease. State's acceptance of a rental payment is not a waiver of any preceding or existing breach other than the failure to pay the particular rental payment that was accepted.

- (b) The renewal of the Lease, extension of the Lease, or the issuance of a new lease to Port, does not waive State's ability to pursue any rights or remedies under the Lease.

18.6 Cumulative Remedies. The rights and remedies under this Lease are cumulative and in addition to all other rights and remedies afforded by law or equity or otherwise.

18.7 Time is of the Essence. TIME IS OF THE ESSENCE as to each and every provision of this Lease.

18.8 Language. The word "Port" as used in this Lease applies to one or more persons and regardless of gender, as the case may be. If there is more than one Port, their obligations are joint and several. The word "persons," whenever used, shall include individuals, firms, associations, and corporations. The word "Parties" means State and Port in the collective. The word "Party" means either or both State and Port, depending on the context.

18.9 Invalidity. The invalidity, voidness, or illegality of any provision of this Lease does not affect, impair, or invalidate any other provision of this Lease.

18.10 Applicable Law and Venue. This Lease is to be interpreted and construed in accordance with the laws of the State of Washington. Venue for any action arising out of or in connection with this Lease is in the Superior Court for Thurston County, Washington.

18.11 Statutory Reference. Any reference to a statute means that statute as presently enacted or hereafter amended or superseded.

18.12 Recordation. At Port's expense and no later than thirty (30) days after receiving the fully-executed Lease, Port shall record this Lease in the county in which the Property is located. Port shall include the parcel number of the upland property used in conjunction with the Property, if any. Port shall provide State with recording information, including the date of recordation and file number. If Port fails to record this Lease, State may record it and Port shall pay the costs of recording upon State's demand.

18.13 Modification. No modification of this Lease is effective unless in writing and signed by both Parties. Oral representations or statements do not bind either Party.

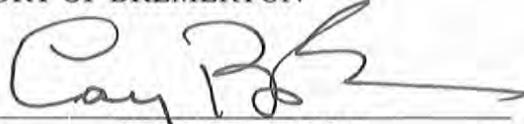
18.14 Survival. Any obligations of Port not fully performed upon termination of this Lease do not cease, but continue as obligations of the Port until fully performed.

18.15 Exhibits. All referenced exhibits are incorporated in the Lease unless expressly identified as unincorporated.

THIS AGREEMENT requires the signature of all Parties and is effective on the date of the last signature below.

PORT OF BREMERTON

Dated: AUGUST 24, 2011



By: CARY BOZEMAN
Title: Chief Executive Officer
Address: 8850 SW State Highway 3
Port Orchard, WA 98367-7487
Phone: 360-674-2381 ext. 12

STATE OF WASHINGTON
DEPARTMENT OF NATURAL RESOURCES

Dated: Sept 14, 2011



By: PETER GOLDMARK
Title: Commissioner of Public Lands
Address: 1111 Washington Street SE M/S 47027
Olympia, WA 98504-7027



Approved as to form this
29 day of June 2011
Janis Snoey, Assistant Attorney General

REPRESENTATIVE ACKNOWLEDGMENT

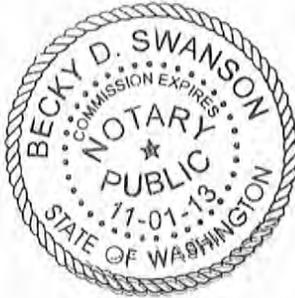
STATE OF WASHINGTON)
) ss
County of Kitsap)

I certify that I know or have satisfactory evidence that CARY BOZEMAN is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Chief Executive Director of the Port of Bremerton to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 8/24/11
(Seal or stamp)

Becky D Swanson
(Signature)

BECKY D. SWANSON
(Print Name)



Notary Public in and for the State of Washington, residing at

Bremerton WA

My appointment expires 11/1/13

STATE ACKNOWLEDGMENT

STATE OF WASHINGTON)
) ss
County of Thurston)

I certify that I know or have satisfactory evidence that PETER GOLDMARK is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Commissioner of Public Lands and ex officio administrator of the Department of Natural Resources of the State of Washington to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: 9/14/2011
(Seal or stamp)

[Signature]
(Signature)
Brenda Jean Treadwell
(Print Name)



Notary Public in and for the State of Washington, residing at
[Signature]
My appointment expires 2/25/2012

EXHIBIT A

Legal Description of Premises and Encumbrances

Current Survey recorded with Kitsap County
Auditor's File No. 201103010135
March 01, 2011

Lease 22-0A2235

Tract 1 That portion of the harbor area lying landward of the Mean High Water line, fronting Lots 1 through 10 of Block 13 of Shore and Tidelands of Sidney as shown on that certain map...

Commencing at that certain monument as described in Record of Survey recorded under Auditor's File Number 3900257 and filed in Volume 49, page 139 of surveys, records of Kitsap County, Washington...

Datum: Mean Lower Low Water
Established 71.45
Stamping No. 9 SUB 2 RESET

Located on the front steps of the Bremerton Post Office at 6th and Pacific in Bremerton, Washington

Table with columns: Datum Plane, MLLW, NGVYD 29, NAVD 88. Rows include Highest Estimated Tide, Mean Higher High Water, Mean High Water, Mean (Half) Tide Level, Mean Low Water, Mean Lower Low Water, and Lowest Estimated Tide.

Equipment and Procedures

20 Theodolite, EDM and 200.0' steel tape. Procedure - The control portion of this survey is in compliance with the Federal Geodetic control committees 'Geodetic Accuracy Standard and Specification for using GPS Relative Positioning Techniques', version 5.0 updated August 1, 1989 for Group C, Order 1 Surveys. Corner Ties were made by Field Traverse. Traverse lines were Closed Loop or Closed Between Known Points.



Vertical Datum based upon HARN (GPS 222) Stations Bremerton Air, King Of and Star RM1 and NOAA Vertical Control NGVD 1989 Adjustment of 1947 monuments PEAT 1934, P255 and No. 9 SUB 2 RESET

Horizontal Datum NAD 83 91 Geoid 1988 expressed in US Survey feet



SURVEYOR'S CERTIFICATE

This map correctly represents a survey made by me or under my direction in conformance with the requirements of the SURVEY RECORDING ACT at the request of Port of Bremerton

Signature of Lyle R. Muller

Ward C. Muller and Associates-Licensed Land Surveyors
217 Sidney Avenue
Port Orchard, Wa 98366 Phone (360)876-3443
Latitude N 47°32'28.08" Longitude W 122°38'09.41"

Lease 22-0A2235

Tract 1 That portion of the harbor area lying landward of the Mean High Water line, fronting Blocks 11 and Orchard Street in SM Stevens Town Plat of Sidney filed in Volume 1, page 1 of Plans records of Kitsap County, Washington and on that certain map dated May 30, 1892, being a portion of Government Lot 3, Section 26, Township 24 North, Range 1 East W.M., more particularly described as follows:

Commencing at that certain monument as described in Record of Survey recorded under Auditor's File Number 3900257 and filed in Volume 49, page 139 of surveys, records of Kitsap County, Washington being designated as the meander corner common to Section 25 and 26, Township 24 North, Range 1 East W.M., from which the East one quarter of said Section 26 bears S 1°31'09" W 589.21 feet...

Tract 2 That portion of the harbor area lying landward of the Mean High Water line, fronting Block 13 of Shore and Tidelands of Sidney as shown on that certain map dated May 30, 1892, being a portion of Government Lot 4, Section 26, Township 24 North, Range 1 East W.M., more particularly described as follows:

Commencing at that certain monument as described in Record of Survey recorded under Auditor's File Number 3900257 and filed in Volume 49, page 139 of surveys, records of Kitsap County, Washington being designated as the meander corner common to Section 25 and 26, Township 24 North, Range 1 East W.M., from which the East one quarter of said Section 26 bears S 1°31'09" W 589.21 feet...

Lease 22-0A2235

Tract "A" That portion of an unnumbered tract of Shore and Tidelands of Sidney as shown on that certain map dated May 30, 1892, being landward of the toe of the rock rip-rap as it existed on January 15, 2004, adjacent to and abutting Lots 8 through 10 of Block 1 of the Plat of Bay Street Addition to Fort Orchard as recorded under Auditor's File Number 51104 and filed in Volume 3, page 116 of plats, records of Kitsap County, Washington more particularly described as follows:

Commencing at that certain monument as described in Record of Survey recorded under Auditor's File Number 3900257 and filed in Volume 49, page 139 of surveys, records of Kitsap County, Washington being designated as the meander corner common to Section 25 and 26, Township 24 North, Range 1 East W.M., from which the East one quarter of said Section 26 bears S 1°31'09" W 589.21 feet...

Tract "B"

That portion of an unnumbered tract of Shore and Tidelands of Sidney as shown on that certain map dated May 30, 1892, being landward of the toe of the rock rip-rap as it existed on January 15, 2004, adjacent to and abutting Lots 8 through 10 of Block 1 of the Plat of Bay Street Addition to Fort Orchard as recorded under Auditor's File Number 51104 and filed in Volume 3, page 116 of plats, records of Kitsap County, Washington more particularly described as follows:

Commencing at that certain monument as described in Record of Survey recorded under Auditor's File Number 3900257 and filed in Volume 49, page 139 of surveys, records of Kitsap County, Washington being designated as the meander corner common to Section 25 and 26, Township 24 North, Range 1 East W.M., from which the East one quarter of said Section 26 bears S 1°31'09" W 589.21 feet...

Exhibit Showing PORT OF BREMERTON

Port Management Agreement 22-080016 Lease Numbers 22-0A2234, 22-0A2235 and Lease Number 22-0A9891 as amended 2010

Harbor Area and Shore and Tidelands of Sidney fronting portion of Blocks 11, 12 and 13

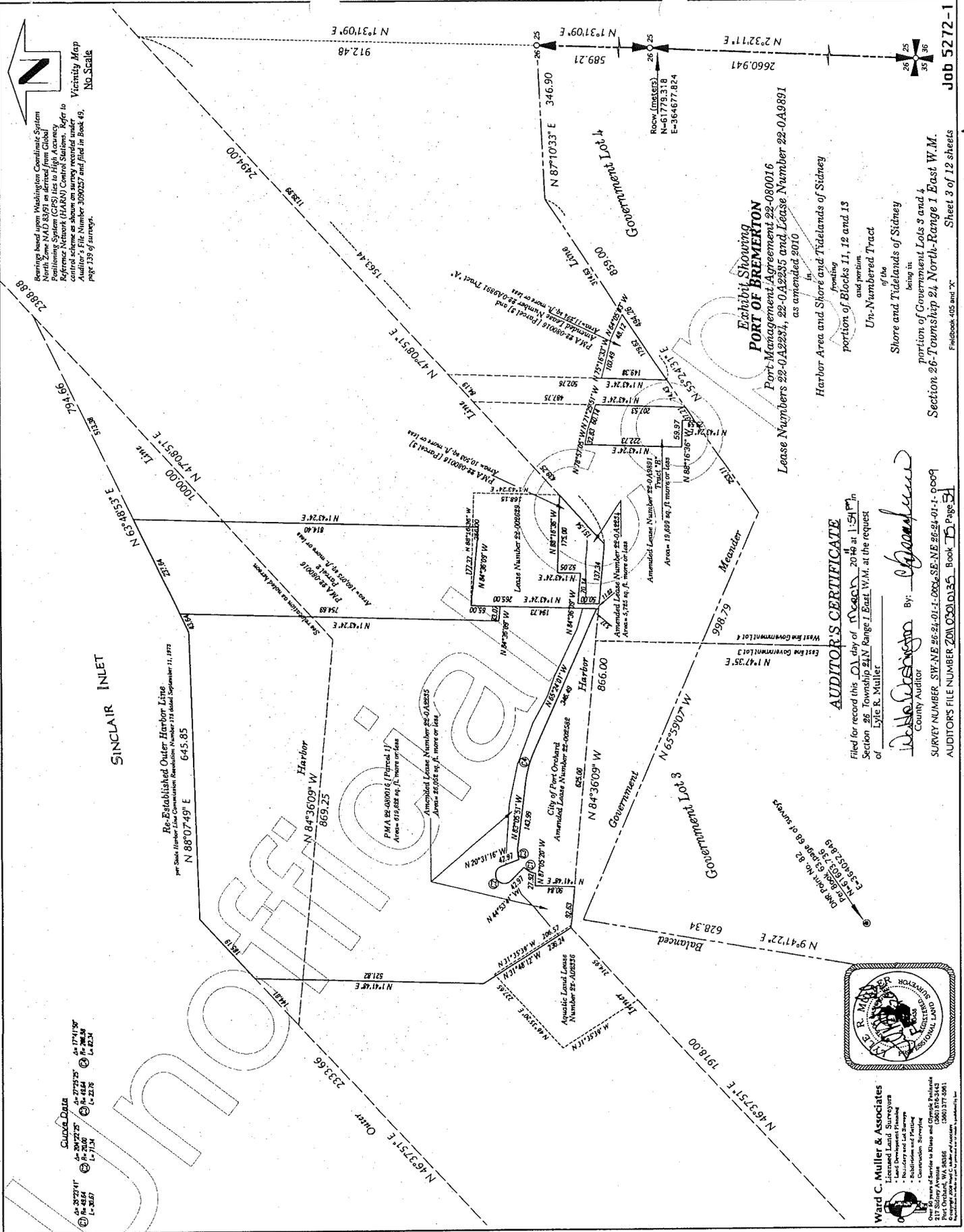
Un-Numbered Tract of the Shore and Tidelands of Sidney

portion of Government Lots 3 and 4 Section 26-Township 24 North-Range 1 East W.M.

Sheet 1 of 12 Sheets JOB 5272-1 Facebook Number 405 and "X"

75.52

201103010135



Bearing based upon Washington Coordinate System
 North-South NAD 83 (91) as derived from Global
 Positioning System (GPS) ties to High Accuracy
 Reference Network (HARN) Control Stations. Refer to
 control scheme as shown on survey recorded under
 Auditor's File Number 350227 and filed in Book 45,
 Page 139 of survey.
 No Scale
 No. 1

Re-Established Outer Harbor Line
 per State Board of Commissioners Resolution Number 718 dated September 11, 1972
 N 88°07'49" E 645.85
 N 63°48'53" E 794.66
 N 1°08'57" E 1000.00 Line
 N 1°08'57" E 2398.88

Exhibit Showing
PORT OF BREMERTON
 Port-Management Agreement 22-080016
 Lease Numbers 22-0A2224, 22-0A2225 and Lease Number 22-0A9891
 as amended 2010

Harbor Area and Shore and Tidelands of Sidney
 portion of Blocks 11, 12 and 13
 and portion
 Un-Numbered Tract
 of the
 Shore and Tidelands of Sidney
 being in
 portion of Government Lots 3 and 4
 Section 26-Township 24 North-Range 1 East W.M.

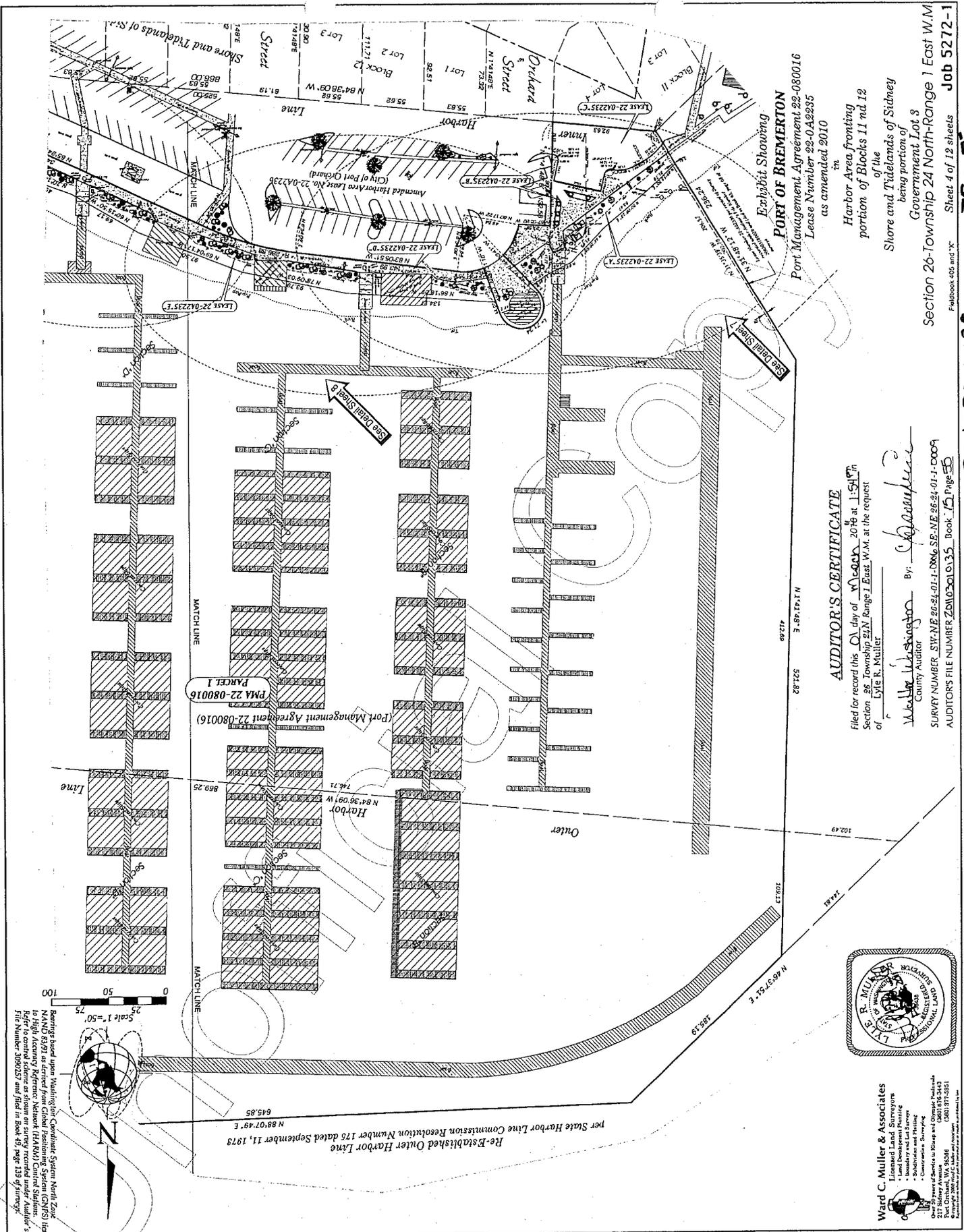
AUDITOR'S CERTIFICATE

Filed for record this 01 day of March 2014 at 1:54 PM in
 Section 26 Township 24 N Range 1 East W.M. at the request
 of
 Lyric R. Muller

Country Auditor
 By: *Lyric R. Muller*
 AUDITORS FILE NUMBER 201103010135 Book D Page 31



Ward C. Muller & Associates
 Licensed Land Surveyors
 • Boundary and Land Surveys
 • Subdivision and Platting
 • Construction Staking
 2115 1st Avenue, Suite 200
 Port Orchard, WA 98366
 (206) 735-2444
 (206) 737-0861
 Fax: (206) 737-0862



Re-Established Outer Harbor Line
 per State Harbor Line Commission Resolution Number 175 dated September 11, 1975

AUDITOR'S CERTIFICATE

Filed for record this 04 day of March 2016 at 1:54 PM in
 Section 36 Township 24N Range 1 East W.M. at the request
 of Lyle R. Muller

By: Walter Washington
 County Auditor

SURVEY NUMBER: SIF-NE 26-24-01-1-0086-SE-NE 26-24-01-1-0009
 AUDITOR'S FILE NUMBER: 201103010135 Book 15 Page 50



Ward C. Muller & Associates
 Licensed Land Surveyors
 Boundary and Lot Survey
 Subdivision and Platting
 217 Sidway Avenue
 Port Deposit, MD 21086
 (410) 616-3443
 (410) 877-3551

Exhibit Showing
PORT OF BREMERTON
 Port Management Agreement 22-080016
 Lease Number 22-0A2235
 as amended 2010

in
 Harbor Area fronting
 portion of Blocks 11 and 12
 of the
 Shore and Tidelands of Sidney
 being portion of
 Government Lot 3

Section 26-Township 24 North-Range 1 East W.M.
 Folio Book 402 and "C" Sheet 4 of 12 sheets
 Job 5272-1

201103010135

75-88

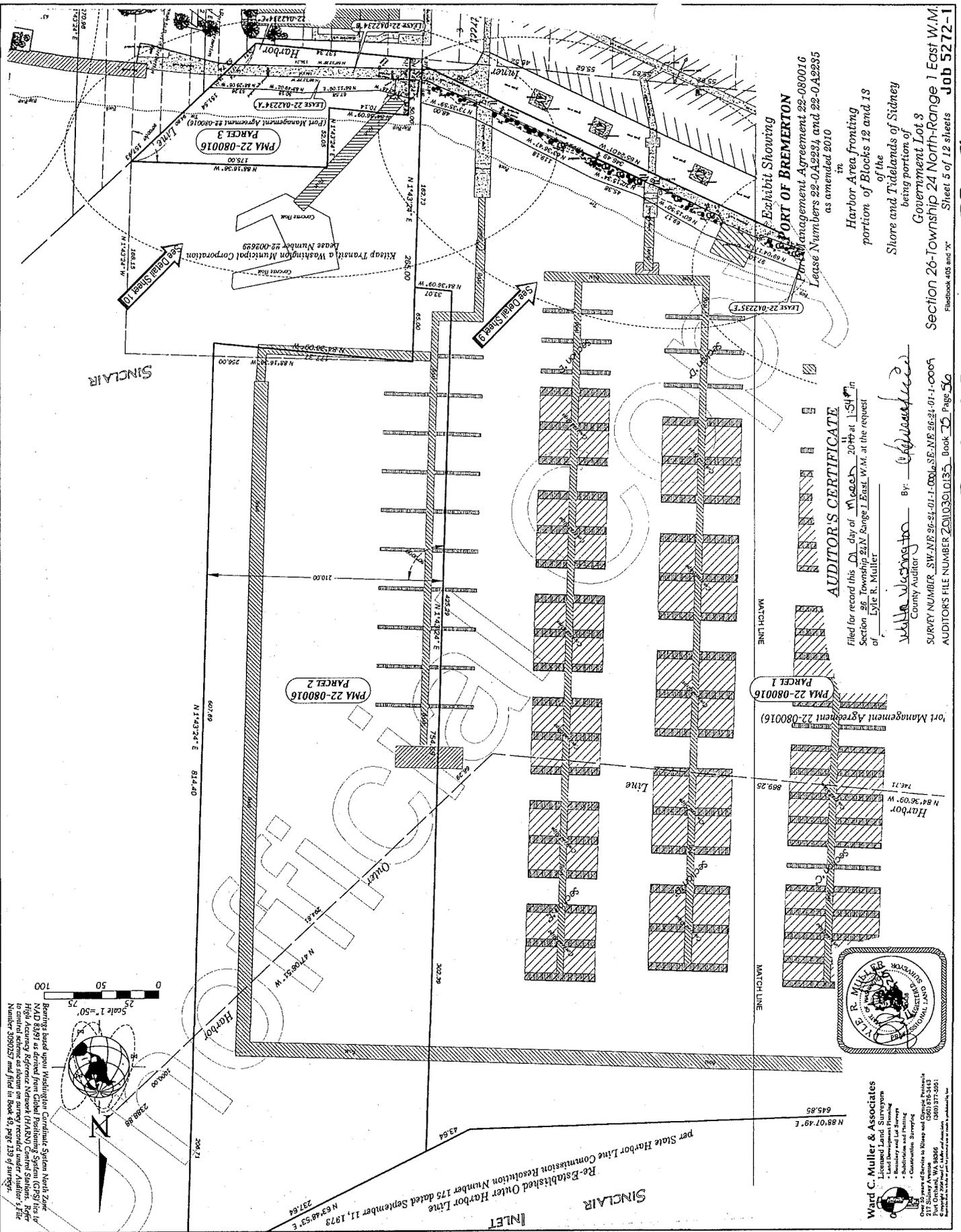


Exhibit Showing
PORT OF BREMERTON
 Port Management Agreement 22-080016
 Lease Numbers 22-0A2931 and 22-0A2935
 as amended 2010

in
 Harbor Area fronting
 portion of Blocks 12 and 13
 of the
 Shore and Tidelands of Sidney
 being portion of
 Government Lot 3
 Section 26-Township 24 North-Range 1 East W.M.
 Platebook 405 and 'X'
 Sheet 5 of 12 sheets
 Job 5272-1

AUDITOR'S CERTIFICATE

Filed for record this 21 day of March 2011 at 1:51 PM in
 Section 26 Township 24 North Range 1 East W.M. at the request
 of Elyse R. Muller

Wendy W. Muller
 County Auditor
 By: *[Signature]*
 County Auditor
 SURVEY NUMBER: SW-MF 26-24-01-1-000 SE-MF 26-24-01-1-000A
 AUDITORS FILE NUMBER: 201103010135 Book 75 Page 56



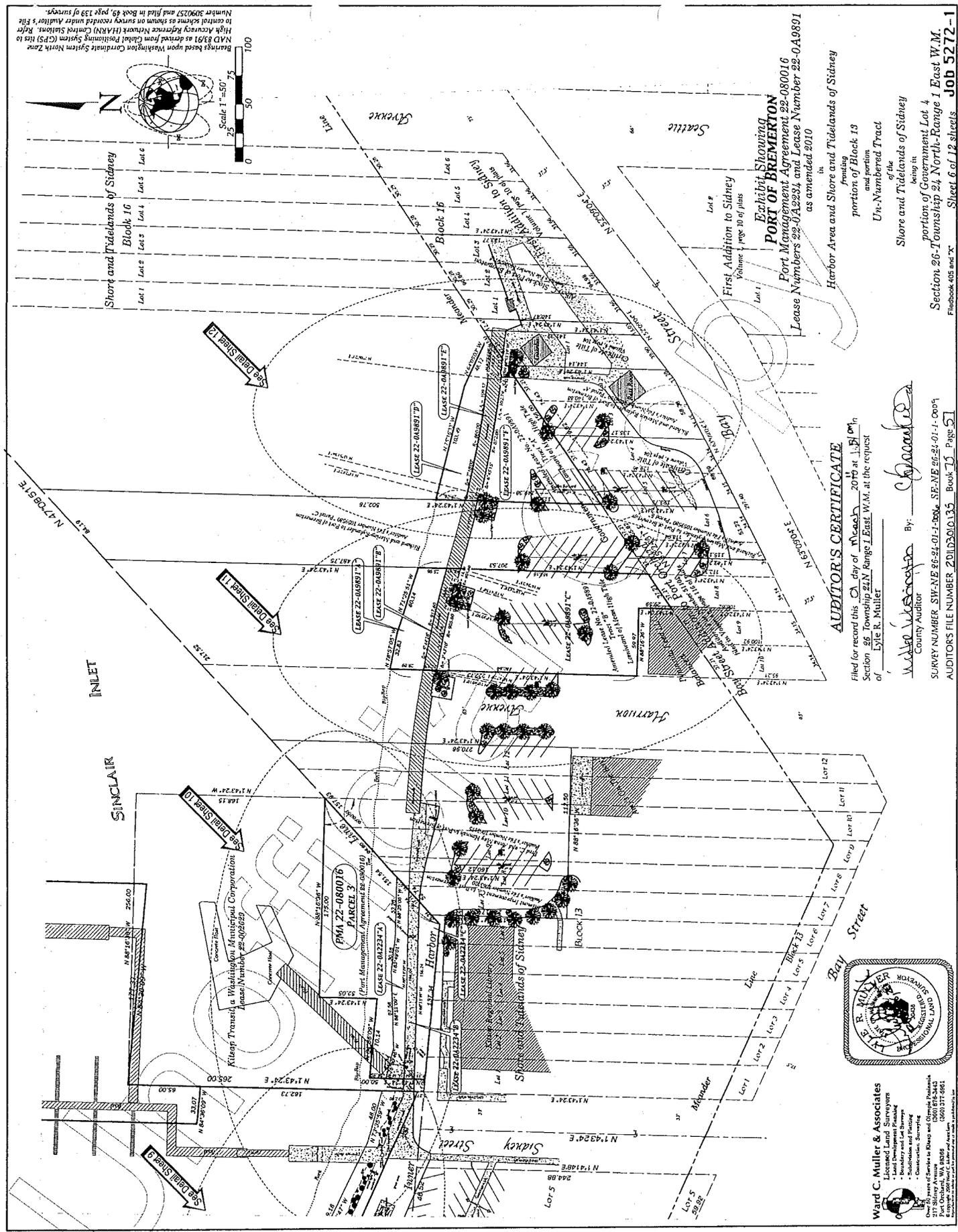
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 • Boundary and Lot Surveys
 • Construction Staking
 Over 25 years of service to Kitsap and Clatsop Counties
 217 Sillway Avenue
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 (360) 876-3443
 (360) 876-3446
 Fax: (360) 876-3441
 www.wcmuller.com

Bearings based upon Washington Coordinate System North Zone
 NAD 83 as reported on Certificate of Survey (COS) filed for
 High Accuracy Reference Network (HARNet) Station
 to control station on survey recorded under Auditor's File
 Number 3090257 and filed in Book 49, page 139 of survey.

per State Harbor Line Commission Resolution Number 175 dated September 11, 1979
 Re: Established Outer Harbor Line
 N 63°48'53" E 237.64
 N 88°07'49" E 645.85

75-56

201103010135



North Arrow
Scale 1" = 50'
0 50 100

Beatings based upon Washington Coordinate System North Zone
MAD 8391 is derived from Global Positioning System (GPS) High Accuracy Reference Network (HARN) Control Station's File Number 3090257 and filed in Book 69, page 139 of surveys.

Shore and Tidelands of Sidney
Block 10
Lot 1 Lot 2 Lot 3 Lot 4 Lot 5 Lot 6

Exhibit Showing
PORT OF BREMERTON
Port Management Agreement 22-080016
Lease Numbers 22-043234 and Lease Number 22-049891
as amended 2010

Harbor Area and Shore and Tidelands of Sidney
framing
portion of Block 13
and portion
Un-Numbered Tract
of the
Shore and Tidelands of Sidney
being in
portion of Government Lot 4
Section 26, Township 24, North-Range 1 East, W.M.
Public Book 405 and 'C'

AUDITOR'S CERTIFICATE

Filed for record this 01 day of March, 2010 at 1:51 PM
Section 26, Township 24N Range 1 East, W.M. at the request
of Lyle R. Muller

Ward C. Muller
County Auditor
By: *[Signature]*

SURVEY NUMBER: SW-NB 22-24-01-1-004
AUDITOR'S FILE NUMBER: 20102010135 Book 73 Page 51

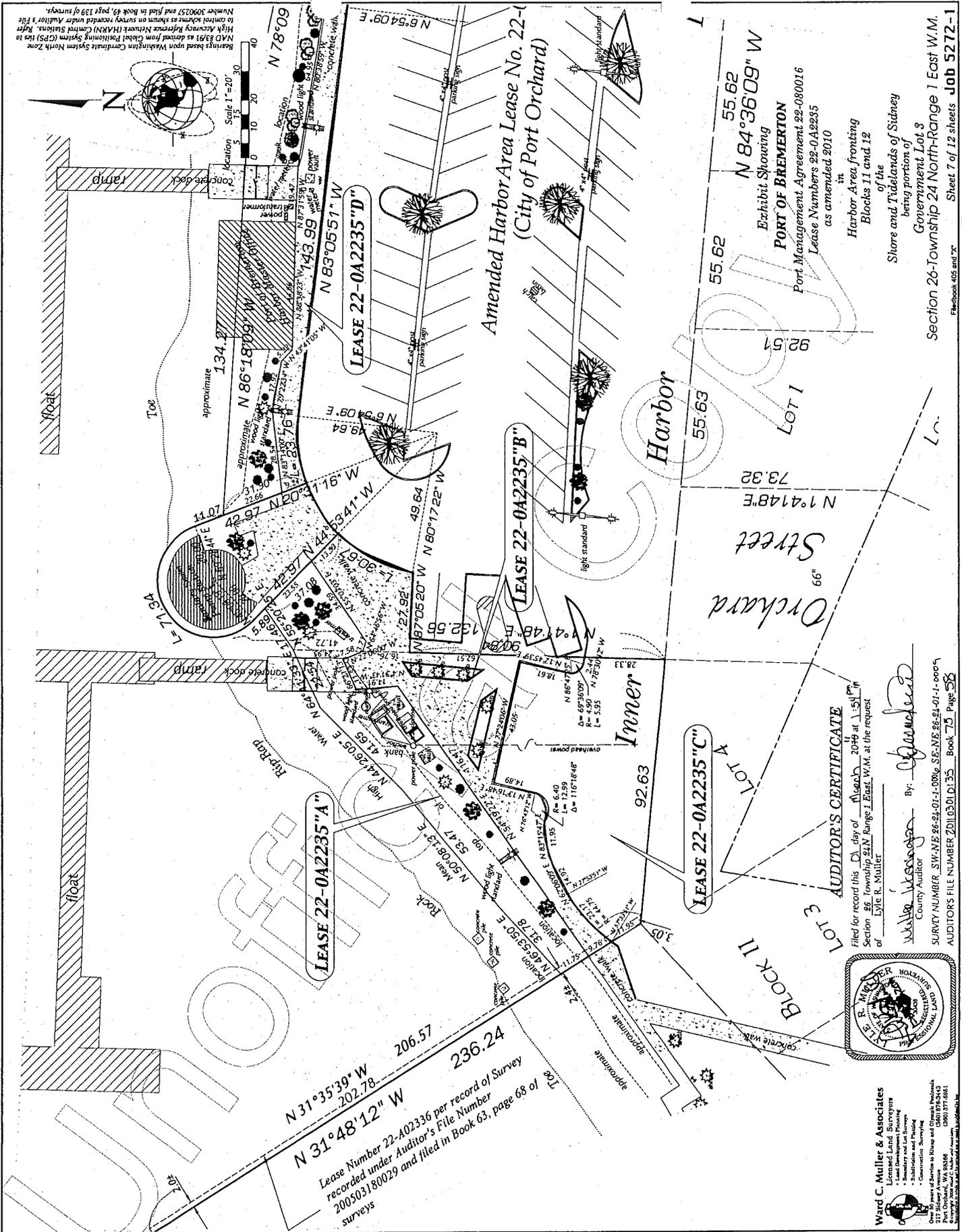


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www.wardmuller.com

2010300135

75-51

Sheet 6 of 18 sheets Job 5272-1



Bearings based upon Washington Coordinate System North Zone
 NAD 83/11 as derived from Global Positioning System (GPS) fix to
 high accuracy reference markers (HARM) located in Lakemont, after
 Number 3090257 and filed in Book 63, page 139 of surveys.
 to control scheme as shown on survey recorded under Auditor's file
 Number 3090257 and filed in Book 63, page 139 of surveys.

Scale 1" = 20'
 0 5 10 15 20 30 40
 Location

Lease Number 22-A02336 per record of Survey
 recorded under Auditor's File Number
 200503180029 and filed in Book 63, page 68 of
 surveys
 N 31°48'12" W 202.78
 N 31°35'39" W 206.57
 236.24
 708

Amended Harbor Area Lease No. 22-1
 (City of Port Orchard)

Harbor

Orchard Street

Inner

LEASE 22-0A2235 "C"

LEASE 22-0A2235 "B"

LEASE 22-0A2235 "D"

BLOCK II
 BLOCK III
 LOT 3
 LOT 4
 LOT 1

55.62
 55.62
 92.51
 92.51
 73.32
 N 84°36'09" W
 Exhibit Showing
PORT OF BREMERTON
 Port Management Agreement 22-080016
 Lease Numbers 22-0A2235
 as amended 2010
 in
 Harbor Area fronting
 Blocks 11 and 12
 of the
 Shore and Tidelands of Sidney
 Government Lot 9
 being portion of
 Section 26-Township 24 North-Range 1 East W.M.

AUDITOR'S CERTIFICATE

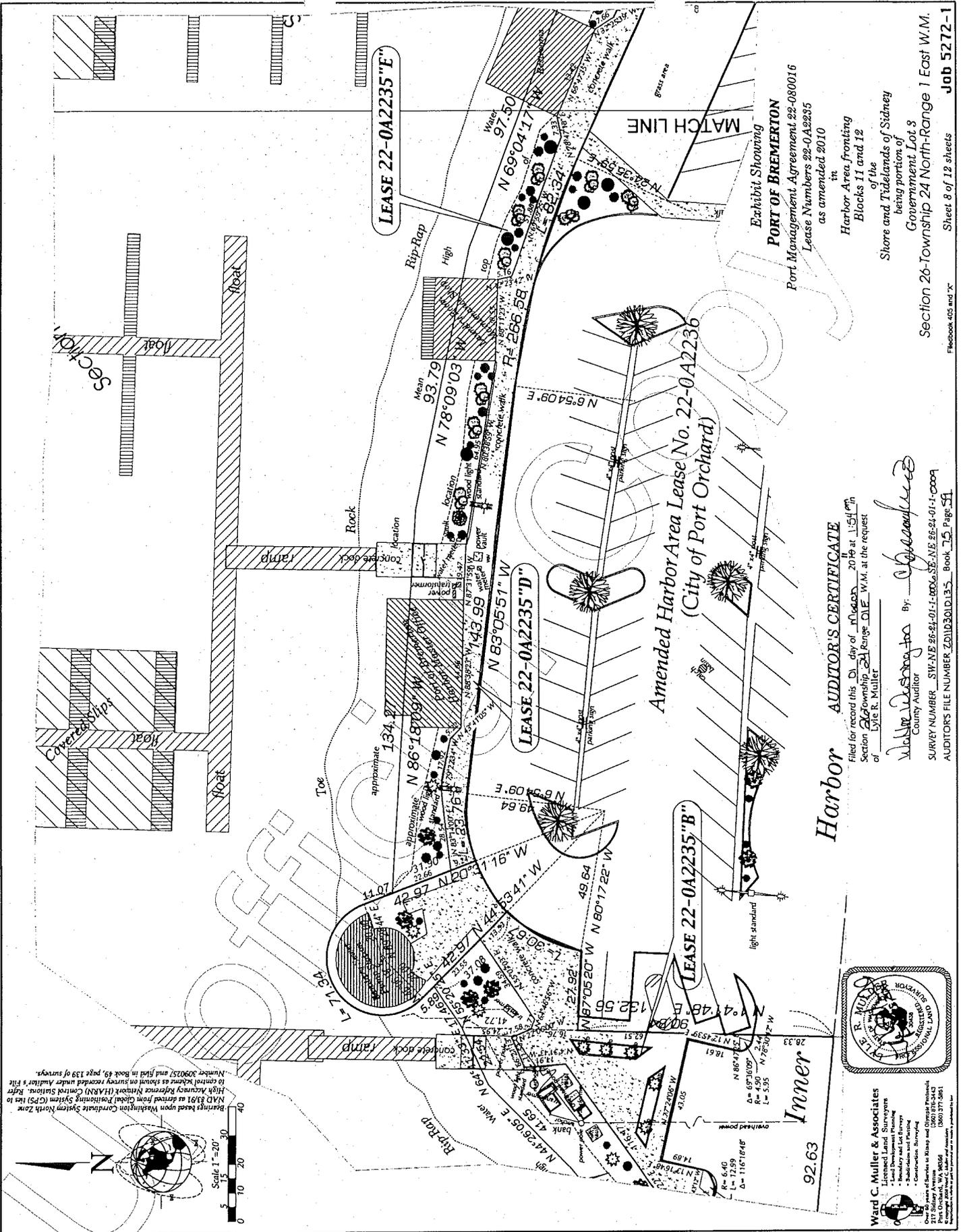
Filed for record this 01 day of March 2014 at 1:51 PM
 Section 86 Township 24N Range 1 East W.M. at the request
 of
 Lyle R. Muller

County Auditor By: *Lyle R. Muller*

SURVEY NUMBER SW-NB 26-24-01-1-000g SE-NB 26-24-01-1-000f
 AUDITOR'S FILE NUMBER 201103010135 Book 73 Page 58



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 • Subdivision and Platting
 • Construction Surveys
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 Port Orchard, WA 98366
 (360) 874-3143
 (360) 877-6861



Bearings based upon Washington Coordinate System North Zone
 NAD 83/11 is derived from Global Positioning System (GPS) ties to
 High Accuracy Reference Network (HARN) Control Stations. Refer
 to control stations as shown on survey recorded under Auditor's File
 Number 3090251 and filed in Book 49, page 139 of surveys.
 Scale 1" = 20'
 0 5 10 15 20 30 40

LEASE 22-0A2235 "E"

LEASE 22-0A2235 "D"

LEASE 22-0A2235 "B"

Amended Harbor Area Lease No. 22-0A2235
(City of Port Orchard)

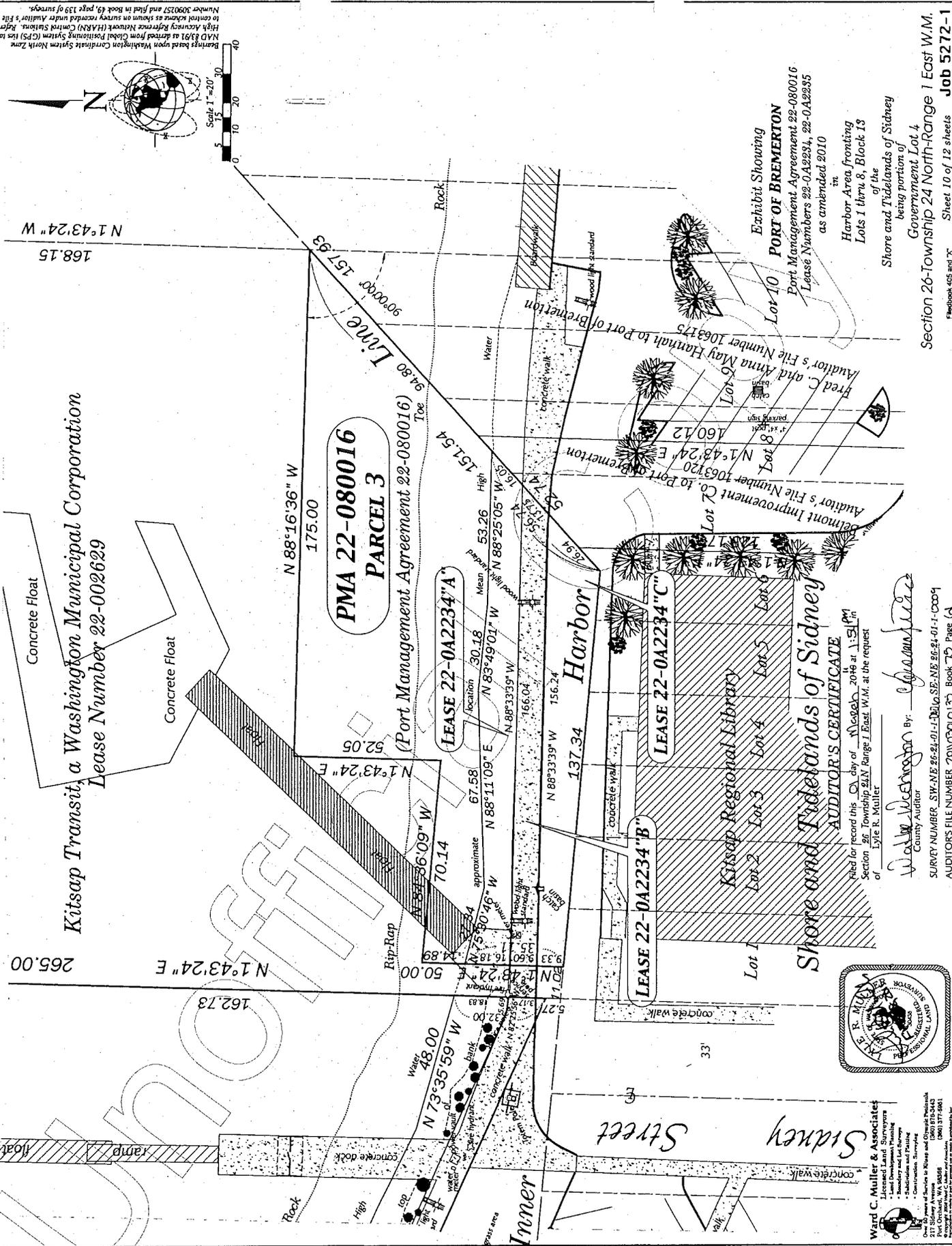
Inner
92.63

Harbor AUDITOR'S CERTIFICATE
 Filed for record this 21 day of March 2014 at 1:54 pm
 Section 26 Township 24 Range D1E W.M. at the request
 of Lyle R. Muller
Walter W. Wessing County Auditor
 By: [Signature]
 SURVEY NUMBER SW-NE 26-24-01-1-800-SE-NE 26-24-01-1-0009
 AUDITORS FILE NUMBER Z0103010135 Book 75 Page 51

Exhibit Showing
PORT OF BREMERTON
 Port Management Agreement 22-080016
 Lease Numbers 22-0A2235
 as amended 2010
 in
 Harbor Area fronting
 Blocks 11 and 12
 of the
 Shore and Tidelands of Sidney
 Government Lot 3
 being portion of
 Section 26-Township 24 North-Range 1 East W.M.



Ward C. Muller & Associates
 Licensed Land Surveyors
 211 S. Duane Street
 Port Orchard, WA 98366
 (360) 876-3443
 (360) 877-5851
 Fax: (360) 877-5851
 www.wardcmuller.com



Kitsap Transit, a Washington Municipal Corporation
Lease Number 22-002629

PMA 22-080016
PARCEL 3

LEASE 22-0A2234'A

LEASE 22-0A2234'B

LEASE 22-0A2234'C

Shore and Tidelands of Sidney

Kitsap Regional Library

Harbor

Lot 1 Lot 2 Lot 3 Lot 4 Lot 5 Lot 6

Lot 7 Lot 8 Lot 9 Lot 10

Government Lot 4

Shore and Tidelands of Sidney

being portion of

Government Lot 4

Shore and Tidelands of Sidney

of the

Lots 1 thru 8, Block 13

Harbor Area, Fronting

in

as amended 2010

Lease Numbers 22-0A2234, 22-0A2235

Port Management Agreement 22-080016

PORT OF BREMERTON

Exhibit Showing

Lot 10

Auditor's File Number 106370

Fred C. and Anna May Hannah to Port of Bremerton

Lot 8

Lot 9

Lot 10

Lot 11

Lot 12

Lot 13

Lot 14

Lot 15

Lot 16

Lot 17

Lot 18

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Lot 255

Lot 256

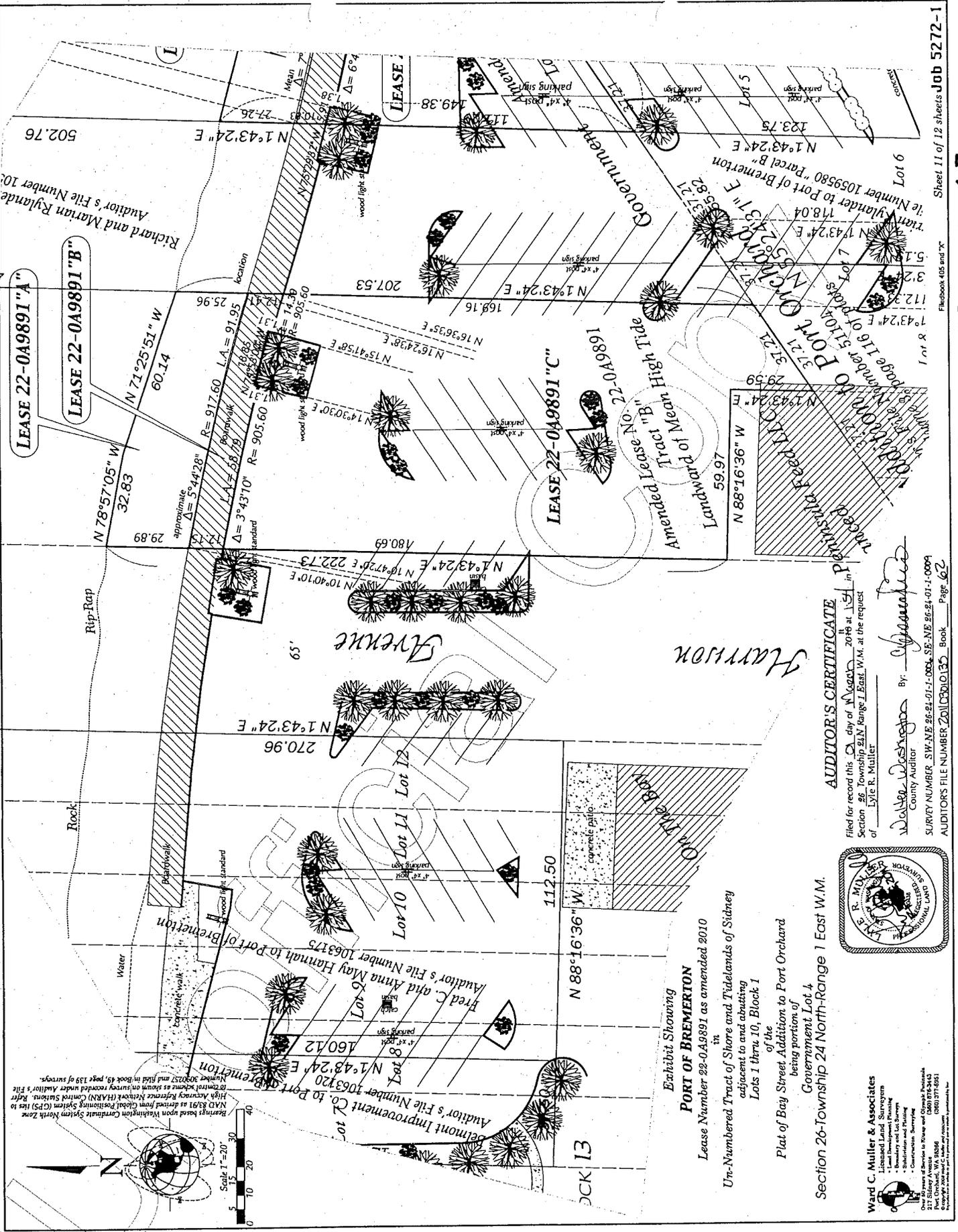
Lot 257

Lot 258

Lot 259

Lot 260

Lot 261



AUDITOR'S CERTIFICATE
 Filed for record this 23 day of March 2016 at 1:15 in P.M.
 Section 26, Township 24N, Range 1 East, W.M., at the request
 of
 Lyle R. Muller
 County Auditor
 By: *[Signature]*
 Water Designers
 AUDITORS FILE NUMBER 2016010135 Book Page 62

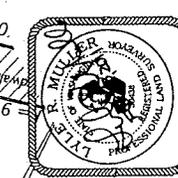


Exhibit Showing
PORT OF BREMERION
 Lease Number 22-0A9891 as amended 2010
 in
 Un-Numbered Tract of Shore and Tidelands of Sidney
 adjacent to and abutting
 Lots 1 thru 10, Block 1
 of the
 Plat of Bay Street Addition to Port Orchard
 being portion of
 Government Lot 4
 Section 26-Township 24 North-Range 1 East W.M.

Ward C. Muller & Associates
 Licensed Land Surveyors
 • Boundary and Lot Survey
 • Subdivision and Platting
 • Construction Surveying
 • Topographic Surveying
 317 Sidney Avenue
 Port Orchard, WA 98366
 (206) 774-9443
 (206) 777-8551

Un-Numbered Tract of Shore and Tidelands of Sidney
 adjacent to and abutting
 Lots 1 thru 10, Block 1
 of the
 Plat of Bay Street Addition to Port Orchard
 being portion of
 Government Lot 4
 Section 26-Township 24 North-Range 1 East W.M.

AUDITOR'S CERTIFICATE
 Filed for record this 21 day of May 2018 at 11:53 AM
 Section 26, Township 24 N, Range 1 East, W.M. at the request
 of
 Lyle R. Muller
 County Auditor



Ward C. Muller & Associates
 217 Shirley Avenue
 Port Orchard, WA 98148
 (206) 877-5851
 Fax: (206) 877-5852
 www.wardcmuller.com

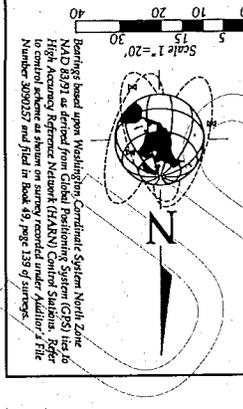
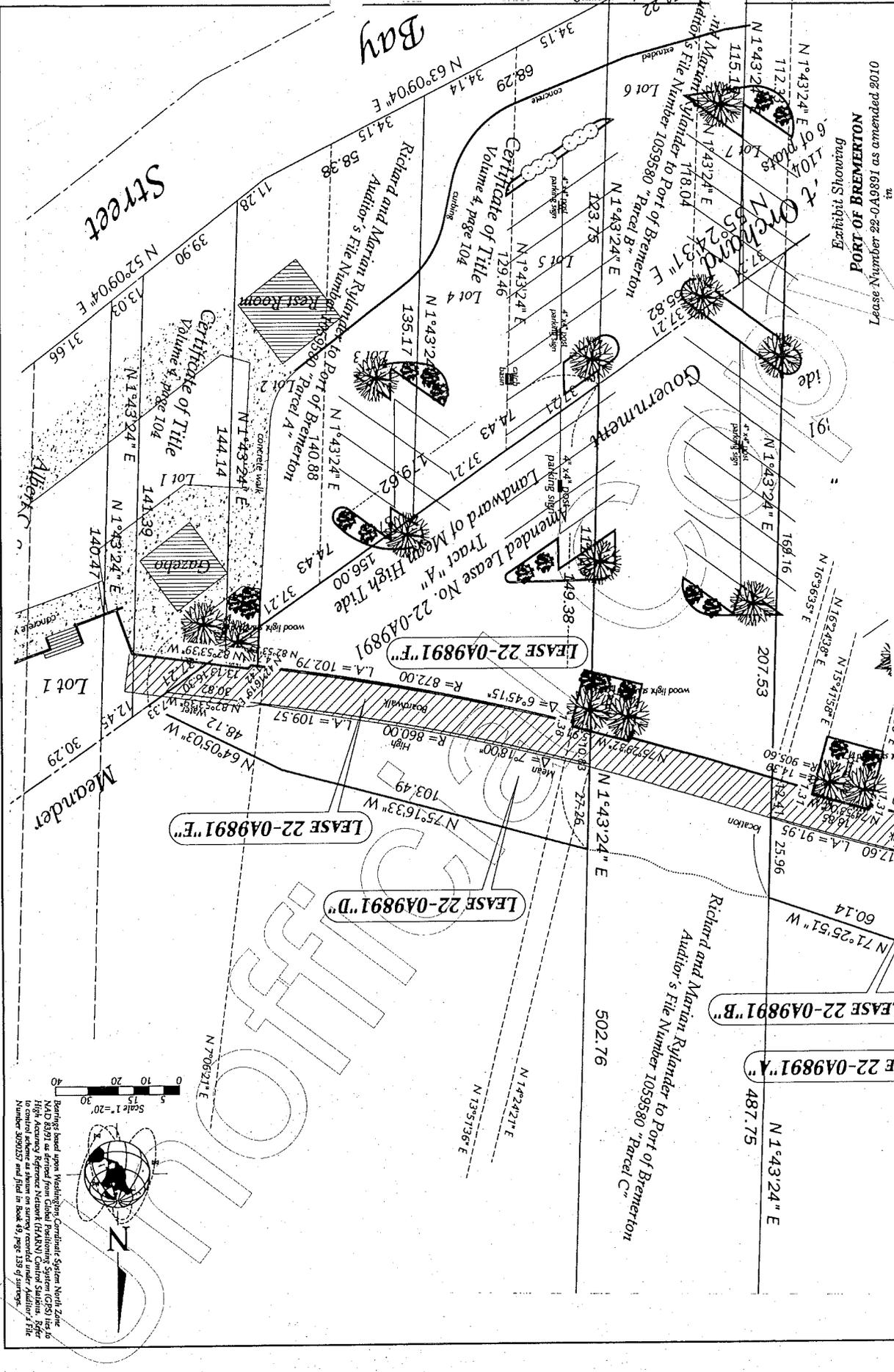


EXHIBIT B

PLAN OF OPERATION AND MAINTENANCE

1. DESCRIPTION OF THE PERMITTED USE

- A. Existing Facilities.** The Lease area consists of historically filled tidelands currently used primarily as a parking area with some public access elements. No changes to this basic configuration are proposed under this Lease. The Lease area includes a rock bulkhead and a public access boardwalk. There are no water-dependent uses waterward of the bulkhead. For rent calculation purposes, the bulkhead is a nonwater-dependent use. Only the footprint of the public access boardwalk is eligible for no fee use.
- B. Proposed Facilities.** No changes to this basic infrastructure are proposed under this Lease.

2. ADDITIONAL OBLIGATIONS

- A. Upland Operations (historically filled tideland).** The current operations and maintenance of the parking area, vegetated buffers, and boardwalk structure are to be conducted using best professional judgment. The Port will conduct reasonable maintenance to avoid excessive oil staining on surfaces and to control garbage or wind-blown debris. Specific attention is to be paid to water quality resulting from refinishing surfaces. No contaminants are to enter the receiving waters as a result of operations or maintenance. Stormwater runoff is to be conveyed via a permitted municipal stormwater system. Specific Best Management Practices (BMPs) can be found in the most recent version of the Washington State Department of Ecology *Stormwater Management Manual for Western Washington*.
- B. Major Repair and Reconstruction.**
- (1) Bulkhead. Any major repairs to the rock bulkhead requiring a shoreline permit and/or involving more than ten (10) cubic yards of material must be approved by the State in writing prior to construction. Emergency repairs may be conducted with verbal approval of the State. Any reconfiguration of the bulkhead will be reviewed by the State in regard to biological and environmental impacts and must be approved in writing.
 - (2) Boardwalk. Any major repairs to the boardwalk structure must be approved in writing by the State. The State may require materials and design modifications to avoid or reduce impacts to water quality or to reduce shading impacts. Treated wood may not be used in areas in direct contact with marine waters.



■ Port Owned / ■ Port DNR Leased

■ Harrison Avenue Right-of-Way.

Parcel Numbers# 4053-013-007-0103, # 4028-001-011-0005, & # 4028-001-001-0007