

**PORT OF BREMERTON**  
**BOARD OF COMMISSIONERS**  
**REGULAR BUSINESS MEETING**

**A G E N D A**

March 13, 2018  
10:00 AM

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

**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 February 27, 2018.
- B. Payment of checks #103058 through #103085 and #77381 through #77384 and #77393 through #77460 from the General Fund for \$129,223.75; #77385 through #77392 from the Construction Fund for \$151,737.65 and the payment of payroll taxes for \$16,246.96. Void Checks #76656 & 77275.
- C. Excuse Commissioner Bozeman's absence due to out of state travel.

**Information Items**

- 1. Legislative Update – Dylan Doty, Jensen Walgren Doty Governmental Consulting

**Citizen Comments:** *Open to the public for comment. Speakers are asked to keep their comments to less than 3 minutes. A Commissioner may request to waive the 3 minute time limit. Please feel free to submit further comments in writing to the Clerk of the Board.*

**Action Items**

- 1. Lease Amendments with Miles Sand & Gravel Company
  - a. Amendment #7 to Lease No. 402182
  - b. Amendment #7 to Lease No. 402183
  - c. Amendment #7 to Lease No. 402057
  - d. Amendment #11 to Lease No. 402925

2. Interlocal Agreement with Kitsap County concerning mutual support in the control and disposition of derelict vessels and vehicles.

**New Business**

**Staff Reports**

**Commission Reports**

**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>03/13/18</i>	<i>10 am</i>	<i>*Commission Regular Meeting – Bill Mahan Conference Rm</i>
<i>03/15/18</i>	<i>3:15 pm</i>	<i>Kitsap Regional Coordinating Council TransPOL</i>
<i>03/20/18</i>	<i>12:30 pm</i>	<i>Kitsap Regional Coordinating Council Executive Committee</i>
<i>03/22/18</i>	<i>9 am</i>	<i>Puget Sound Regional Council Operations Committee</i>
<i>03/22/18</i>	<i>10 am</i>	<i>Puget Sound Regional Council Executive Board</i>
<i>03/27/18</i>	<i>12:30 pm</i>	<i>Kitsap Aerospace &amp; Defense Alliance Steering Committee</i>
<i>03/27/18</i>	<i>6 pm</i>	<i>*Commission Regular Meeting – Bill Mahan Conference Rm</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**

February 27, 2018  
6:00 PM

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

**Call to Order**

President Stokes called the meeting to order at 6:00 p.m. and invited Girl Scout Junior, Alektra, to lead the Pledge of Allegiance.

**Commissioners and Staff Present**

Commissioners

Larry Stokes  
Axel Strakeljahn

Staff Members

Jim Rothlin  
Fred Salisbury  
Sherman Hu  
Arne Bakker  
Tim Mensonides  
Ginger Waye  
Gordon Walgren, Atty  
Anne Montgomery, Atty

**Approval of Agenda**

**It was moved by STOKES, seconded by STRAKELJAHN to:**

Approve the Agenda as presented and to excuse Commissioner Bozeman's absence due to illness.

**MOTION CARRIES, 3-0**

**Consent Items**

- A. Minutes of the regular business meeting and executive session of February 13, 2018.
- B. Payment of checks #103026 through #103057 and #77314 through #77318 and #77323 through #77380 from the General Fund for \$127,878.66; #77319 through #77322 from the Construction Fund for \$32,446.50 and the payment of payroll taxes for \$18,841.31.

**It was moved by STRAKELJAHN, seconded by STOKES to:**

Approve the Consent Items as presented.

**MOTION CARRIES, 3-0**

## **Information Items**

1. Girl Scouts of Western Washington Discover Aviation Program – Dave Cisneros, Girl Scout Volunteer

Mr. Cisneros provided an update on the Girl Scouts Discover Aviation program held the last two years in conjunction with Avian Aeronautics with three sessions scheduled this year. They should have approximately 100 young ladies that will be provided the opportunity to experience a simulated flying experience; classroom time; tour of the Avian facility; and 15-20 minutes with an instructor flying in an aircraft. They received comments last year that the ladies wanted to “get their hands dirty” so this year they will be incorporating some aircraft parts and mechanics tools.

The Board expressed their appreciation for the program stating the best investment we can make is in our youth.

Alektra served cookies and milk to the Board, staff, and audience.

## **Citizen Comments**

1. Consideration of Port marina options

CEO Jim Rothlin reviewed the information provided at the last two meetings regarding interest received from private entities to provide a cost savings to the Port by leasing marina operations. He reiterated that the Port has not received any proposals; the purpose of this process is not to determine whether to lease but whether to put together and send out a request for qualifications. Before verifying it is a possibility, we need to develop the Port’s requirements. Good public input was received at the last meeting and hoping to get more today. He provided the updated list of key objectives.

### Citizen Comments on marina options

Christian Lint, marina tenant

- Suggested taking a good look at Port financials; he would be surprised if privatization could do a better job; Port marina personnel are very efficient at what they do.

Roy Runyon, Bremerton

- Suggested Port control of marina policies be included on the key objectives list. He has heard the terms, Request for Proposals (RFP) and Request for Qualifications (RFQ), used and would like the Port to clarify which term is correct. Suggested the Port consider bringing in covered moorage in Bremerton; staff was requested to look into it although Commissioner Stokes stated it might be that it was not designed for it.

Joel Baxter, lifelong resident of Kitsap County and Bremerton

- Appreciates the fact this is being considered. Discussed his thoughts as to why this would be the right thing to do and may provide a better return on investment.

#### Citizen Comments on general items

Jim Posner, Bremerton Pilots Association

- Announced that the Bremerton Fly-In and Car Show will be held August 25, 2018 at Bremerton National Airport.

Roy Runyon, Bremerton

- Announced the Experimental Aircraft Association (EAA) meeting scheduled for February 28 and the Bremerton Aviation Center for Education (BACE) grand opening will be held April 28. He mentioned his concern about maintenance issues with the hangars.

Christian Lint, marina tenant

- Noticed two floats that were loose in the marina from the USS Turner Joy; questioned whether there was an analysis on why they broke loose. He also stated concerns about corrosion and if there is a report from the maintenance contractor, Global, would it be made public. Also asked if there was a report on payments and cost of when the Eventide was raised. COO Fred Salisbury provided an update on Global's progress.

**Action Items** - None

**New Business** - None

#### **Staff Reports**

*Jim Rothlin, Chief Executive Officer*

- Announced the Saints Car Club will be holding a weekly "Cruise-In" Car Show at Bremerton National Airport beginning on Wednesday, April 4.

#### **Commission Reports**

*Commissioner Strakeljahn*

- On behalf of Commissioner Strakeljahn, CEO Rothlin reported on Puget Sound Regional Council's Vision 2050 listening session they attended earlier in the day during which they were able to provide local input and talk about difficulties in Kitsap.
- CEO Rothlin also discussed the recent legislative "day on the hill" the Port hosted in Olympia which provided the opportunity to give the legislators a better understanding of the power of economic development that the Port brings to their districts.

*Commissioner Stokes*

- The Port lost a good community leader and a friend with the passing of previous Port Commissioner Louis Soriano who served on the Board for 6 years after being elected in 1979. Commissioner Stokes described a few of the Port accomplishments during Commissioner Soriano's tenure such as purchasing property and starting the waterfront park in Port Orchard; Harper Dock reconstruction; and transient moorage in Bremerton. He was a great friend of the Port and stayed in touch throughout the years. He and Ralph Erickson were instrumental in setting a cornerstone and foundation that the Port has continued to build on. A big thank you and job well done to Louis.

**Executive Session - None**

**Adjournment**

There being no further business before the Board, the meeting was adjourned at 6:38 p.m.

Submitted,

Approved,

Jim Rothlin  
Chief Executive Officer  
March 8, 2018

Axel Strakeljahn  
Commission Secretary  
March 13, 2018

**PORT OF BREMERTON**  
**AGENDA SUMMARY**

Agenda Item No: Action Item #1  
Subject: Lease Amendments with Miles Sand and Gravel  
Exhibits: Lease Amendment Agreements: 402182, 402183, 402057, 402925  
Prepared By: Fred Salisbury  
Meeting Date: March 13, 2018

Summary:

Miles Sand and Gravel has four ground leases with the Port which, with options, run through March 31, 2033. Each of the subject lease amendments include exercising their fourth option for the extension of the term for an additional 5 years commencing April 14, 2018 and terminating March 31, 2023; a rate increase, and continuation of the annual rate adjustment utilizing the (February) Seattle-Tacoma-Bremerton CPI-U index, applied each year thereafter. The Port Attorney has reviewed the lease amendments.

Fiscal Impact:

None

Recommendation:

The staff recommends approval of the lease amendments with Miles Sand and Gravel Company.

Motion for Consideration:

- a. Move to approve the Miles Sand & Gravel Company Lease Amendment #7 to Lease No. 402182.**
- b. Move to approve the Miles Sand & Gravel Company Lease Amendment #7 to Lease No. 402183.**
- c. Move to approve the Miles Sand & Gravel Company Lease Amendment #7 to Lease No. 402057.**
- d. Move to approve the Miles Sand & Gravel Company Lease Amendment #11 to Lease No. 402925.**

**AMENDMENT #7  
TO LEASE NO. 402182  
MILES SAND & GRAVEL COMPANY**

IT IS HEREBY AGREED by and between the **PORT OF BREMERTON**, a municipal corporation organized under the laws of the State of Washington, hereinafter referred to as "Port" and **MILES SAND & GRAVEL COMPANY**, a corporation organized under the laws of the State of Washington, hereinafter referred to as "Lessee", to amend that certain lease dated August 22, 1995 ("Lease"), as amended and modified and assigned from Fred Hill Materials, Inc., and further amended on June 25, 2013 to read as follows (all other terms remain the same):

2. **Term:** Lessee has exercised its fourth option to extend and , therefore, the term of the Lease is extended five (5) years commencing on the 14<sup>th</sup> day of April, 2018, and terminating on the 31<sup>st</sup> day of March, 2023, unless sooner terminated as provided in this Lease.

In addition, so long as Lessee is not in default, the Port grants Lessee an option to renew or extend this Lease upon the same terms and conditions, except as to rent and security, for two successive terms of five years each, upon prior written notice to the Port not less than 120 days prior to the expiration of this Lease or any extended term hereof.

3. **Rent:** The rent for the Premises, which contain a total of 1.33 acres, more or less of land shall be made in equal monthly installments in advance, in the amount of \$740.56 (equating to \$6,682/acre/year), beginning on the 1<sup>st</sup> day of April, 2018 and ending the 31<sup>st</sup> of March 2019. Payments shall be made in equal monthly installments plus applicable leasehold tax as set forth in paragraph 3 of the base lease, in advance, on or before the first day of each month thereafter during the term of this Lease.

The provisions regarding delinquency charges are revised as follows:

In the event any rental payment is not made within ten (10) days of its due date, Lessee shall also pay the Port a late payment penalty in the amount of \$50.00 for each such delinquent rental payment, together with interest on the delinquent total at the rate of eighteen percent (18%) per annum (minimum \$20.00 per month) until the delinquency is cured. The acceptance of rent by the Port for any period or portions thereof after default by the Lessee shall not constitute a waiver of the default unless the Port so notifies Lessee in writing. The Port shall have a lien against all assets of the Lessee

located on the Premises and used in connection with the Lessee's occupation of the Premises for all rents, charges, interest and fees payable under this Lease, and the Lessee shall not remove any of said assets from the Premises unless all such charges and fees payable under this Lease are paid in full. The Port's lien shall be subject to and inferior to that of any bona fide lender of Lessee receiving a Security Interest from the Lessee in the Lessee's assets located on the Premises to the extent such Security Interest is evidenced by a written agreement and a UCC-1 Financial Statement.

**4. Rental Adjustment:** The provisions in the Lease concerning periodic adjustment to the Rent are modified as follows: All rental rates and other charges due hereunder shall be adjusted annually as of the 1st day of April of each year (hereinafter referred to as the "Adjustment Date") commencing on the first day of April, 2019 and applied each year thereafter. The adjustment shall be equal to the increase, if any, in the latest February Consumer Price Index (CPI-U), all items, Seattle, Tacoma, Bremerton Area, as published by the U.S. Department of Labor. In no event shall the Base Rent ever decrease from one year to the next.

Every five years during the term of this lease, or any extended term, all rental rates and other charges due hereunder shall be renegotiated by the parties prior to the expiration of the applicable five year period

**4a. Arbitration:** If the parties cannot mutually agree upon the rental and charges payable for said Premises at any such renegotiation interval for the ensuing period, then each of the parties shall appoint one (1) arbitrator. If the two (2) arbitrators cannot agree upon the rental rates and charges at issue within thirty (30) days after submission to such arbitration panel, they shall appoint a third arbitrator. The amounts payable fixed by any two (2) such arbitrators shall be the amounts to be paid for said Premises for the ensuing one-year period. The decision of the arbitrators shall be reduced in writing and delivered to each party within thirty (30) days of submission of the issue to the arbitration panel for determination.

**(1)** In determining the rate issue under consideration, the arbitrators shall endeavor to determine and base their decision upon a "fair market" value of like and similar rates and practices for properties of similar uses, with a market primarily found in Kitsap County, or if sufficient data is not available in that area, then from properties and practices found in Pierce and Snohomish counties, if any. The rental rate to be established by negotiation and/or arbitration shall be the fair market rental value of the site in the condition as originally delivered to the Lessee and exclusive of any subsequent improvements by the Lessee.

(2) The fees of the respective arbitrators shall be paid by the party who selected the same, and if a third arbitrator is employed, his fees shall be divided equally between the parties and paid accordingly.

(3) These renegotiations shall be commenced and completed during the last six (6) months of each specified five-year interval as set forth above. In no event shall the rate be less than in the immediately preceding period. The increase in the rent resulting from the first such renegotiation shall be effective on the first day of the succeeding period. The new rate shall be applied retroactively to the beginning of the new period if not determined prior to the end of the previous period. During any extended renegotiation period, the Lessee shall pay the previously established rent and charges until the new rate is established. Any deficiency shall be paid by the Lessee on the next rental due date.

IN WITNESS WHEREOF the parties hereto have caused this Amendment to Lease this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**MILES SAND & GRAVEL COMPANY**  
A Washington State Corporation



PRESIDENT

**PORT OF BREMERTON**  
A Municipal Corporation

\_\_\_\_\_  
President and Commissioner

\_\_\_\_\_  
Secretary and Commissioner

\_\_\_\_\_  
Commissioner

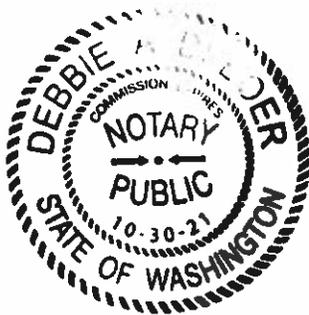
Approved As To Form:

\_\_\_\_\_  
Port Attorney  
Date: \_\_\_\_\_

STATE OF WA )  
 )ss  
County of Pierce )

On this 27<sup>th</sup> day of February - 2018 before me personally appeared Walt Miles to me known to be the President of the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and that they are authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Debbie A deBoer  
Notary Public in and for the State of Washington  
Debbie A deBoer  
Name Printed  
residing at Edgewood WA  
My commission expires: 10-30-21

STATE OF WASHINGTON )  
 )ss  
County of KITSAP )

On this \_\_\_\_\_ day of \_\_\_\_\_ before me personally appeared \_\_\_\_\_

to me known to be the \_\_\_\_\_ of the Port of Bremerton, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and that they are authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
\_\_\_\_\_  
Name Printed  
residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**AMENDMENT #7  
TO LEASE NO. 402183  
MILES SAND & GRAVEL COMPANY**

**IT IS HEREBY AGREED** by and between the **PORT OF BREMERTON**, a municipal corporation organized under the laws of the State of Washington, hereinafter referred to as "Port" and **MILES SAND & GRAVEL COMPANY**, a corporation organized under the laws of the State of Washington, hereinafter referred to as "Lessee", to amend that certain lease dated August 22, 1995 ("Lease"), as amended and modified and assigned from Fred Hills Materials, Inc., and further amended on June 25, 2013 to read as follows (all other terms remain the same):

**2. Term:** Lessee has exercised its fourth option to extend and, therefore, the term of the Lease is extended five (5) years commencing on the 14<sup>th</sup> day of April, 2018, and terminating on the 31<sup>st</sup> day of March, 2023, unless sooner terminated as provided in this Lease.

In addition, so long as Lessee is not in default, the Port grants Lessee an option to renew or extend this Lease upon the same terms and conditions, except as to rent and security, for two successive terms of five years each, upon prior written notice to the Port not less than 120 days prior to the expiration of this Lease or any extended term hereof.

**3. Rent:** The rent for the Premises, which contain a total of 1.19 acres, more or less of land shall be made in equal monthly installments in advance, in the amount of \$662.60 (equating to \$6,682/acre/year), beginning on the 1<sup>st</sup> day of April, 2018 and ending the 31<sup>st</sup> of March 2019. Payments shall be made in equal monthly installments plus applicable leasehold tax as set forth in paragraph 3 of the base lease, in advance, on or before the first day of each month thereafter during the term of this Lease.

The provisions regarding delinquency charges are revised as follows:

In the event any rental payment is not made within ten (10) days of its due date, Lessee shall also pay the Port a late payment penalty in the amount of \$50.00 for each such delinquent rental payment, together with interest on the delinquent total at the rate of eighteen percent (18%) per annum (minimum \$20.00 per month) until the delinquency is cured. The acceptance of rent by the Port for any period or portions thereof after default by the Lessee shall not constitute a waiver of the default unless the Port so notifies Lessee in writing. The Port shall have a lien against all assets of the Lessee

located on the Premises and used in connection with the Lessee's occupation of the Premises for all rents, charges, interest and fees payable under this Lease, and the Lessee shall not remove any of said assets from the Premises unless all such charges and fees payable under this Lease are paid in full. The Port's lien shall be subject to and inferior to that of any bona fide lender of Lessee receiving a Security Interest from the Lessee in the Lessee's assets located on the Premises to the extent such Security Interest is evidenced by a written agreement and a UCC-1 Financial Statement.

**4A. Rental Adjustments:** The provisions in the Lease concerning periodic adjustment to the Rent are modified as follows: All rental rates and other charges due hereunder shall be adjusted annually as of the 1st day of April of each year (hereinafter referred to as the "Adjustment Date") commencing on the first day of April, 2019 and applied each year thereafter. The adjustment shall be equal to the increase, if any, in the latest February Consumer Price Index (CPI-U), all items, Seattle, Tacoma, Bremerton Area, as published by the U.S. Department of Labor. In no event shall the Base Rent ever decrease from one year to the next.

Every five years during the term of this lease, or any extended term; all rental rates and other charges due hereunder shall be renegotiated by the parties prior to the expiration of the applicable five year period

**4B. Arbitration:** If the parties cannot mutually agree upon the rental and charges payable for said Premises at any such renegotiation interval for the ensuing period, then each of the parties shall appoint one (1) arbitrator. If the two (2) arbitrators cannot agree upon the rental rates and charges at issue within thirty (30) days after submission to such arbitration panel, they shall appoint a third arbitrator. The amounts payable fixed by any two (2) such arbitrators shall be the amounts to be paid for said Premises for the ensuing one-year period. The decision of the arbitrators shall be reduced in writing and delivered to each party within thirty (30) days of submission of the issue to the arbitration panel for determination.

**(1)** In determining the rate issue under consideration, the arbitrators shall endeavor to determine and base their decision upon a "fair market" value of like and similar rates and practices for properties of similar uses, with a market primarily found in Kitsap County, or if sufficient data is not available in that area, then from properties and practices found in Pierce and Snohomish counties, if any. The rental rate to be established by negotiation and/or arbitration shall be the fair market rental value of the site in the condition as originally delivered to the Lessee and exclusive of any subsequent improvements by the Lessee.

(2) The fees of the respective arbitrators shall be paid by the party who selected the same, and if a third arbitrator is employed, his fees shall be divided equally between the parties and paid accordingly.

(3) These renegotiations shall be commenced and completed during the last six (6) months of each specified five-year interval as set forth above. In no event shall the rate be less than in the immediately preceding period. The increase in the rent resulting from the first such renegotiation shall be effective on the first day of the succeeding period. The new rate shall be applied retroactively to the beginning of the new period if not determined prior to the end of the previous period. During any extended renegotiation period, the Lessee shall pay the previously established rent and charges until the new rate is established. Any deficiency shall be paid by the Lessee on the next rental due date.

**IN WITNESS WHEREOF** the parties hereto have caused this Amendment to Lease this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**MILES SAND & GRAVEL COMPANY**  
A Washington State Corporation

**PORT OF BREMERTON**  
A Municipal Corporation



\_\_\_\_\_  
President and Commissioner

*PRESIDENT*

\_\_\_\_\_  
Secretary and Commissioner

\_\_\_\_\_  
Commissioner

Approved As To Form:

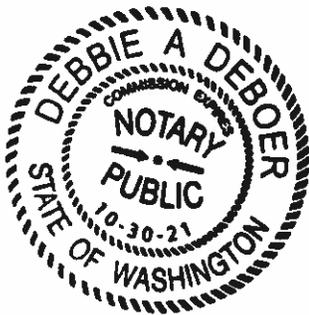
\_\_\_\_\_  
Port Attorney

Date: \_\_\_\_\_

STATE OF WA )  
County of Pierce )ss  
 )

On this 27 day of February - 2018 before me personally appeared Walt Miles to me known to be the President of the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and that they are authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Debbie A DeBoer  
Notary Public in and for the State of Washington  
Debbie A DeBoer  
Name Printed  
residing at Edgewood WA  
My commission expires: 10-30-21

STATE OF WASHINGTON )  
County of KITSAP )ss  
 )

On this \_\_\_\_\_ day of \_\_\_\_\_ before me personally appeared \_\_\_\_\_ to me known to be the \_\_\_\_\_ of the **Port of Bremerton**, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and that they are authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
\_\_\_\_\_  
Name Printed  
residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**AMENDMENT #7  
TO LEASE NO. 402057  
MILES SAND & GRAVEL COMPANY**

**IT IS HEREBY AGREED** by and between the **PORT OF BREMERTON**, a municipal corporation organized under the laws of the State of Washington, hereinafter referred to as "Port" and **MILES SAND & GRAVEL COMPANY**, a corporation organized under the laws of the State of Washington, hereinafter referred to as "Lessee", to amend that certain lease dated November 24, 1994 ("Lease"), as amended and modified and assigned from Fred Hill Materials, Inc., and further amended on June 25, 2013 to read as follows (all other terms remain the same):

**ARTICLE II – TERM**

Lessee has exercised its fourth option to extend and, therefore, the term of the Lease is extended five (5) years commencing on the 14<sup>th</sup> day of April, 2018, and terminating on the 31<sup>st</sup> day of March, 2023, unless sooner terminated as provided in this Lease.

In addition, so long as Lessee is not in default, the Port grants Lessee an option to renew or extend this Lease upon the same terms and conditions, except as to rent and security, for two successive terms of five years each, upon prior written notice to the Port not less than 120 days prior to the expiration of this Lease or any extended term hereof.

**ARTICLE III – RENT**

**3.01 Rent.**

The rent for the Premises, which contain a total of 2.97 acres, more or less of land shall be made in equal monthly installments in advance, in the amount of \$1,653.74, (equating to \$6,682.00/acre/year), beginning on the 1<sup>st</sup> day of April, 2018 and ending the 31<sup>st</sup> of March 2019. Payments shall be made in equal monthly installments plus applicable leasehold tax as set forth in paragraph 3 of the base lease, in advance, on or before the first day of each month thereafter during the term of this Lease.

**3.03 Delinquency Charge.**

The provisions regarding delinquency charges are revised as follows:

In the event any rental payment is not made within ten (10) days of its due date, Lessee shall also pay the Port a late payment penalty in the amount of \$50.00 for each such delinquent rental payment, together with interest on the delinquent total at the rate of

eighteen percent (18%) per annum (minimum \$20.00 per month) until the delinquency is cured. The acceptance of rent by the Port for any period or portions thereof after default by the Lessee shall not constitute a waiver of the default unless the Port so notifies Lessee in writing. The Port shall have a lien against all assets of the Lessee located on the Premises and used in connection with the Lessee's occupation of the Premises for all rents, charges, interest and fees payable under this Lease, and the Lessee shall not remove any of said assets from the Premises unless all such charges and fees payable under this Lease are paid in full. The Port's lien shall be subject to and inferior to that of any bona fide lender of Lessee receiving a Security Interest from the Lessee in the Lessee's assets located on the Premises to the extent such Security Interest is evidenced by a written agreement and a UCC-1 Financial Statement.

## **ARTICLE IV – RENTAL ADJUSTMENTS**

### **4A. Periodic Adjustment**

The provisions in the Lease concerning periodic adjustment to the Rent are modified as follows: All rental rates and other charges due hereunder shall be adjusted annually as of the 1st day of April of each year (hereinafter referred to as the "Adjustment Date") commencing on the first day of April, 2019 and applied each year thereafter. The adjustment shall be equal to the increase, if any, in the latest February Consumer Price Index (CPI-U), all items, Seattle, Tacoma, Bremerton Area, as published by the U.S. Department of Labor. In no event shall the Base Rent ever decrease from one year to the next.

Every five years during the term of this lease, or any extended term, all rental rates and other charges due hereunder shall be renegotiated by the parties prior to the expiration of the applicable five year period.

### **4B. Arbitration**

If the parties cannot mutually agree upon the rental and charges payable for said Premises at any such renegotiation interval for the ensuing period, then each of the parties shall appoint one (1) arbitrator. If the two (2) arbitrators cannot agree upon the rental rates and charges at issue within thirty (30) days after submission to such arbitration panel, they shall appoint a third arbitrator. The amounts payable fixed by any two (2) such arbitrators shall be the amounts to be paid for said Premises for the ensuing one-year period. The decision of the arbitrators shall be reduced in writing and delivered to each party within thirty (30) days of submission of the issue to the arbitration panel for determination.

(1) In determining the rate issue under consideration, the arbitrators shall endeavor to determine and base their decision upon a "fair market" value of like and similar rates and practices for properties of similar uses, with a market primarily found in Kitsap County, or if sufficient data is not available in that area, then from properties and practices found in Pierce and Snohomish counties, if any. The rental rate to be established by negotiation and/or arbitration shall be the fair market rental value of the site in the condition as originally delivered to the Lessee and exclusive of any subsequent improvements by the Lessee.

(2) The fees of the respective arbitrators shall be paid by the party who selected the same, and if a third arbitrator is employed, his fees shall be divided equally between the parties and paid accordingly.

(3) These renegotiations shall be commenced and completed during the last six (6) months of each specified five-year interval as set forth above. In no event shall the rate be less than in the immediately preceding period. The increase in the rent resulting from the first such renegotiation shall be effective on the first day of the succeeding period. The new rate shall be applied retroactively to the beginning of the new period if not determined prior to the end of the previous period. During any extended renegotiation period, the Lessee shall pay the previously established rent and charges until the new rate is established. Any deficiency shall be paid by the Lessee on the next rental due date.

IN WITNESS WHEREOF the parties hereto have caused this Amendment to Lease this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**MILES SAND & GRAVEL COMPANY**  
**A Washington State Corporation**

  
\_\_\_\_\_

*PRESIDENT*  
\_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
Port Attorney

Date: \_\_\_\_\_

**PORT OF BREMERTON**  
**A Municipal Corporation**

\_\_\_\_\_  
President and Commissioner

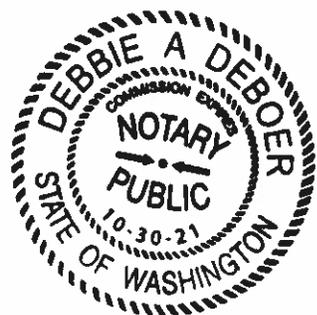
\_\_\_\_\_  
Secretary and Commissioner

\_\_\_\_\_  
Commissioner

STATE OF WA )  
 )ss  
County of Pierce )

On this 27 day of February - 2018 before me personally  
appeared Walt M... to me known  
to be the president of the  
corporation that executed the within and foregoing instrument, and acknowledged the said  
instrument to be the free and voluntary act and deed of said corporation, for the uses and  
purposes therein mentioned, and that they are authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the  
day and year first above written.



Debbie A DeBoer  
Notary Public in and for the State of Washington  
Debbie A DeBoer  
Name Printed  
residing at Edgewood WA  
My commission expires: 10-30-21

STATE OF WASHINGTON )  
 )ss  
County of KITSAP )

On this \_\_\_ day of \_\_\_ before me personally  
appeared \_\_\_\_\_

to me known to be the \_\_\_\_\_  
of the Port of Bremerton, the municipal corporation that executed the within and foregoing  
instrument, and acknowledged the said instrument to be the free and voluntary act and deed of  
said municipal corporation, for the uses and purposes therein mentioned, and that they are  
authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the  
day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
\_\_\_\_\_  
Name Printed  
residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**AMENDMENT #11  
TO LEASE NO. 402925  
MILES SAND & GRAVEL COMPANY**

**IT IS HEREBY AGREED** by and between the **PORT OF BREMERTON**, a municipal corporation organized under the laws of the State of Washington, hereinafter referred to as "Port" and **MILES SAND & GRAVEL COMPANY**, a corporation organized under the laws of the State of Washington, hereinafter referred to as "Lessee", to amend that certain lease dated April 14, 1978 ("Lease"), as amended and modified and assigned from Gerald M. Aldrich and Ann G. Aldrich, and further amended and assigned from Fred Hills Materials, Inc., and further amended on June 25, 2013 in the following manner (all other terms remain the same):

**2. TERM:**

Lessee has exercised its fourth option to extend and, therefore, the term of the Lease is extended five (5) years commencing on the 14<sup>th</sup> day of April, 2018, and terminating on the 31<sup>st</sup> of March, 2023, unless sooner terminated as provided in this Lease.

In addition, so long as Lessee is not in default, the Port grants Lessee an option to renew or extend this Lease upon the same terms and conditions, except as to rent, for two successive terms of five years each, upon prior written notice thereof to the Port not less than 120 days prior to the expiration of this Lease or any extended term hereof.

**4. RENT:**

**(a)** The rent for the Premises, which contain a total of 2.9939 acres, more or less of land shall be made in equal monthly installments in advance, in the amount of \$1,667.03 (equating to \$6,682/acre/year), beginning on the 1<sup>st</sup> of April, 2018 and ending the 31<sup>st</sup> of March, 2019. Payments shall be made in equal monthly installments plus applicable leasehold tax as set forth in paragraph 9 of the base lease, in advance, on or before the first day of each month thereafter during the term of this Lease.

The provisions regarding delinquency charges are revised to provide as follows:

In the event any rental payment is not made within ten (10) days of its due date, Lessee shall also pay the Port a late payment penalty in the amount of \$50.00 for each such delinquent rental payment, together with interest on the delinquent total at the rate of

eighteen percent (18%) per annum (minimum \$20.00 per month) until the delinquency is cured. The acceptance of rent by the Port for any period or portions thereof after default by the Lessee shall not constitute a waiver of the default unless the Port so notifies Lessee in writing. The Port shall have a lien against all assets of the Lessee located on the Premises and used in connection with the Lessee's occupation of the Premises for all rents, charges, interest and fees payable under this Lease, and the Lessee shall not remove any of said assets from the Premises unless all such charges and fees payable under this Lease are paid in full. The Port's lien shall be subject to and inferior to that of any bona fide lender of Lessee receiving a Security Interest from the Lessee in the Lessee's assets located on the Premises to the extent such Security Interest is evidenced by a written agreement and a UCC-1 Financing Statement.

**(b) Periodic Adjustments** The provisions in the Lease concerning periodic adjustment of the Rent are modified to provide as follows: All rental rates and other charges due hereunder shall be adjusted annually as of the 1<sup>st</sup> day of April of each year (hereinafter referred to as the "Adjustment Date") commencing on the first day of April, 2019 and applied each year thereafter. The adjustment shall be equal to the increase, if any, in the latest February Consumer Price Index (CPI-U), all items, Seattle, Tacoma, Bremerton Area, as published by the U.S. Department of Labor. In no event shall the Base Rent ever decrease from one year to the next.

Every five years during the term of this lease, or any extended term, all rental rates and other charges due hereunder shall be renegotiated by the parties prior to the expiration of the applicable five year period.

**(c) Arbitration:** If the parties cannot mutually agree upon the rental and charges payable for said Premises at any such renegotiation interval for the ensuing period, then each of the parties shall appoint one (1) arbitrator. If the two (2) arbitrators cannot agree upon the rental rates and charges at issue within thirty (30) days after submission to such arbitration panel, they shall appoint a third arbitrator. The amounts payable fixed by any two (2) such arbitrators shall be the amounts to be paid for said Premises for the ensuing one-year period. The decision of the arbitrators shall be reduced in writing and delivered to each party within thirty (30) days of submission of the issue to the arbitration panel for determination.

**(1)** In determining the rate issue under consideration, the arbitrators shall endeavor to determine and base their decision upon a "fair market" value of like and similar rates and practices for properties of similar uses, with a market

primarily found in Kitsap County, or if sufficient data is not available in that area, then from properties and practices found in Pierce and Snohomish counties, if any. The rental rate to be established by negotiation and/or arbitration shall be the fair market rental value of the site in the condition as originally delivered to the Lessee and exclusive of any subsequent improvements by the Lessee.

(2) The fees of the respective arbitrators shall be paid by the party who selected the same, and if a third arbitrator is employed, his fees shall be divided equally between the parties and paid accordingly.

(3) These renegotiations shall be commenced and completed during the last six (6) months of each specified five-year interval as set forth above. In no event shall the rate be less than in the immediately preceding period. The increase in the rent resulting from the first such renegotiation shall be effective on the first day of the succeeding period. The new rate shall be applied retroactively to the beginning of the new period if not determined prior to the end of the previous period. During any extended renegotiation period, the Lessee shall pay the previously established rent and charges until the new rate is established. Any deficiency shall be paid by the Lessee on the next rental due date.

IN WITNESS WHEREOF the parties hereto have caused this Amendment to Lease this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**MILES SAND & GRAVEL COMPANY**  
A Washington State Corporation

**PORT OF BREMERTON**  
A Municipal Corporation

  
\_\_\_\_\_

\_\_\_\_\_  
President and Commissioner

*PRESIDENT*  
\_\_\_\_\_

\_\_\_\_\_  
Secretary and Commissioner

\_\_\_\_\_  
Commissioner

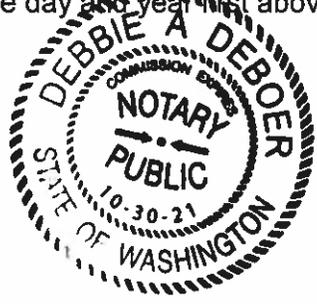
Approved As To Form:

\_\_\_\_\_  
Port Attorney  
Date: \_\_\_\_\_

STATE OF WA )  
 )ss  
County of Pierce )

On this 27<sup>th</sup> day of February 2018 before me personally appeared Walt Miles to me known to be the President of the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and that they are authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



Debbie A. DeBoer  
Notary Public in and for the State of Washington  
Name Printed Debbie A. DeBoer  
residing at Edgewood, WA  
My commission expires: 10-30-21

STATE OF WASHINGTON )  
 )ss  
County of KITSAP )

On this \_\_\_\_\_ day of \_\_\_\_\_ before me personally appeared \_\_\_\_\_ to me known to be the \_\_\_\_\_ of the Port of Bremerton, the municipal corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said municipal corporation, for the uses and purposes therein mentioned, and that they are authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

\_\_\_\_\_  
Notary Public in and for the State of Washington  
\_\_\_\_\_  
Name Printed  
Residing at \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**PORT OF BREMERTON**  
**AGENDA SUMMARY**

Agenda Item No: Action Item #2

Subject: Interlocal Agreement with Kitsap County Concerning Mutual Support  
in the Control and Disposition of Derelict Vessels and Vehicles

Exhibits: Interlocal Agreement KC-040-18

Prepared By: Tim Mensonides, Airport Manager

Meeting Date: March 13, 2018

**Summary:**

This is a renewal of the previous interlocal agreement which has expired; the original agreement between the Port of Bremerton and Kitsap County was executed in 2009. The agreement is for the storage of derelict vessels and vehicles on airport property.

The County administers programs which remove derelict vessels and vehicles to secure locations pending legal disposition of the vessel or vehicle. The Port works directly with Kitsap County to provide a secure impound area at the airport for seized derelict vessels and vehicles. Kitsap County will be responsible for the safety, security, liability, and environmental impacts of the vessel/vehicle and will take action to expeditiously remove the vessel/vehicle from Port property once legal custody requirements are resolved. The agreement may be terminated by either party for any reason with thirty days written notice.

This agreement has been reviewed by the Chief Operations Officer and the Chief Financial Officer.

**Fiscal Impact:**

N/A

**Recommendation:**

Approve the Interlocal Agreement with Kitsap County

**Motion for Consideration:**

**Move to approve the Interlocal Agreement with Kitsap County Concerning Mutual Support in the Control and Disposition of Derelict Vessels and Vehicles.**

**INTERLOCAL AGREEMENT****BETWEEN KITSAP COUNTY AND THE PORT OF BREMERTON  
CONCERNING MUTUAL SUPPORT IN THE CONTROL AND DISPOSITION OF  
DERELICT OR ABANDONED VESSELS AND VEHICLES**

WHEREAS, Chapter 79.100 RCW and Kitsap County Code Chapters 9.56 and 10.36 authorize Kitsap County ("County") to abate public nuisances associated with derelict or abandoned vessels and vehicles; and

WHEREAS, the County's abatement of derelict or abandoned vessels and vehicles may, from time to time, involve the need for a secure temporary storage for such vessels and vehicles pending disposition; and

WHEREAS, the Port of Bremerton ("Port") has an interest in providing for the prompt and effective response to derelict or abandoned vessels and vehicles; and

WHEREAS, the Port and the County have a history of working together, along with various Washington State agencies, in responding to derelict or abandoned vessels and vehicles; and

WHEREAS, the Port has facilities well-suited to assist in the response to derelict or abandoned vessels and vehicles; and

WHEREAS, the County does not have all the necessary facilities required to efficiently respond to certain derelict or abandoned vessels and vehicle scenarios; and

WHEREAS, the County and Port are authorized to enter into Interlocal Agreements pursuant to Chapter 39.34 RCW; and

WHEREAS, the parties agree that the joint management of derelict or abandoned vessels and vehicles is in the best interest of public, environmental, and financial responsibilities.

NOW THEREFORE, the parties agree as follows:

1. Purpose. The purpose of this Agreement is to establish a mutually agreeable arrangement for the County's use of property owned by the Port for the temporary storage of derelict or abandoned vessels and vehicles ("derelict units").
2. Temporary Storage of Derelict or Abandoned Vessels and Vehicles. The parties agree that the Port, when requested by the County, will provide a dedicated area ("impound area") located within the perimeter fence of the Bremerton National Airport, for the temporary storage of derelict or abandoned vessels and vehicles

("derelict units") that are under the control of the County or an agency of the State of Washington, at no cost to the County. The Port will provide the County full access to the occupied impound area when occupied by a derelict unit.

Prior to bringing any derelict unit onto Port property, the County will obtain from the Port the specific location of the impound area to be used. Any change to the specified location or coverage of the impound area must be approved by the Port in advance.

In addition, the County agrees:

- a. To ensure that all derelict units delivered to the impound area have been thoroughly inspected and all hazardous materials and environmental contaminants have either been removed or are securely contained. All such materials remaining in the derelict units will be identified and provided by the County to the Port upon request.
- b. To supervise and otherwise be fully responsible for the safety and conduct of all personnel working on Port property on tasks related to the derelict units. The County will contract only with properly licensed, bonded, and insured contractors. The County shall oversee all work and shall be the single point of contact for County contractors.
- c. To be fully responsible for the security of any and all items in the designated impound area including installing a physical barrier (e.g. a temporary fence) to keep unauthorized persons away from the derelict units. Access to the impound area will be provided by the County to the Port upon request.
- d. To expeditiously take action to either have the derelict units demolished and disposed of or otherwise removed once custody requirements have been satisfied. After removal, the County will be responsible for the cleanup of any residual debris in the impound area. If any hazardous materials or environmental contaminants were retained in the derelict units, the plan for dealing with these components must be reviewed by the Port prior to any demolition activity. The County and the Port recognize that the impound area is for short-term, temporary storage only.
- e. To be responsible for the cleanup of the impound area, including the cleanup and remediation of spills of hazardous substances arising from the derelict units occupying the impound area.
- f. To be responsible for any personal liability arising from any aspect of the derelict unit operations on Port property including delivery, storage, demolition, and removal from the impound area. The County agrees to list the Port as an additional insured party on the County commercial insurance policy covering activities on Port property.

3. Administration.
  - a. No separate legal or administrative entity is created under this Agreement.
  - b. County Administrator. Christopher Piercy, Department of Public Works, 614 Division Street, MS-27, Port Orchard, WA 98366 shall represent the County in all matters pertaining to the services rendered under this Agreement.
  - c. Port Administrator. Tim Mensonides, Airport Manager, 8850 SW State Hwy 3, Bremerton, WA 98312 shall represent the Port in all matters pertaining to the services rendered under this Agreement.
  - d. Following a change of representative, the County and the Port will inform the other party in writing within ten (10) working days.
4. Property. Other than the acquisition and disposal of derelict units by the County, the acquisition, holding, or disposal of any other real or personal property is not contemplated by this Agreement.
5. Mutual Indemnity. Each party agrees to indemnify, defend, and hold harmless the other party from any and all loses, expenses, costs, obligations, liens, claims, demands, or causes of action for death, personal injury or property damage, including reasonable attorneys' fees and costs that arise out of the sole negligence or willful misconduct of the indemnifying party.
6. Term. The term of this agreement shall be five (5) years and will automatically renew for an additional five (5) year term unless either party provides written notice of termination as described below.
7. Termination. The agreement may be terminated by either party for any reason with thirty (30) days written notice. Upon termination, the County agrees to remove any derelict units in the impound area within a reasonable time and have the impound area returned to the Port in the condition it was received.
8. Effective Date. This Agreement is effective when signed by both parties.
9. Complete Agreement. This Agreement and its attachments contain the entire understanding among the parties, and there are no other agreements, understandings or representations except as set forth or incorporated by reference herein. Any amendment to this Agreement must be in writing signed by the authorized representatives of each party.
10. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

11. Authority to Enter Agreement. Each of the signatories hereto hereby represents and warrants that he or she has the right, power, legal capacity and authority to execute into this Agreement and to bind the entity he or she represents to this Agreement and the obligations hereunder.
12. Recording. Pursuant to RCW 39.34.040, this Agreement shall be filed for recording with the Kitsap County Auditor.
13. Dispute Resolution. In the event that a dispute arises under this Agreement, it shall be determined by a Dispute Board in the following manner: Each party to this Agreement shall appoint one (1) member to the Dispute Board. The members so appointed shall jointly appoint an additional member to the Dispute Board. The Dispute Board shall review the facts, agreement terms, and applicable statutes and rules and make a determination of the dispute. The determination of the Dispute Board shall be final and binding on the parties hereto.
14. Amendment. This Agreement may be amended only upon the written agreement of the parties executed with the same formalities required for the execution of this Agreement.
15. Assignment. The obligations under this agreement, and any claim arising thereunder, is not assignable or delegable by either party in whole or in part without prior agreement of all parties.
16. Waiver. A failure by either party to exercise its rights under this agreement shall not preclude that party from subsequent exercise of such rights and shall not constitute a waiver of any rights under this Agreement unless to be such stated in a writing signed by an authorized representative of the party and attached to the original Agreement.
17. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.
18. Venue. The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for Kitsap County, Washington.
19. Severability. If any provision of this Agreement or any provision of any document incorporated by reference shall be held invalid, such invalidity shall not affect the other provisions of this Agreement which can be given effect without the invalid provision, if such remainder conforms to the requirements of applicable law and the fundamental purpose of this agreement, and to this end the provisions of this Agreement are declared to be severable.

Adopted this \_\_\_ day of \_\_\_\_\_, 2018

Adopted this \_\_\_ day of \_\_\_\_\_, 2018

**PORT OF BREMERTON  
BOARD OF COMMISSIONERS**

**BOARD OF COUNTY COMMISSIONERS  
KITSAP COUNTY, WASHINGTON**

\_\_\_\_\_  
**LARRY STOKES**, President

\_\_\_\_\_  
**ROBERT GELDER**, Chair

\_\_\_\_\_  
**CARY BOZEMAN**, Commissioner

\_\_\_\_\_  
**EDWARD E. WOLFE**, Commissioner

\_\_\_\_\_  
**AXEL STRAKELJAHN**, Commissioner

\_\_\_\_\_  
**CHARLOTTE GARRIDO**, Commissioner

**ATTEST:**

**ATTEST:**

\_\_\_\_\_  
Ginger Waye, Executive Assistant

\_\_\_\_\_  
Dana Daniels, Clerk of the Board