

**AMENDED PORT OF NEWPORT COMMISSION REGULAR MEETING
AND WORK SESSION AGENDA**

Thursday, January 13, 2022, 12:00 p.m.

Microsoft Teams
Newport, OR 97365

This will be a virtual meeting, which means you can attend by registering or you can view the live stream of this meeting on our website: <https://www.portofnewport.com/2022-01-13-commission-meetings-2022-january-13-2022-12-00-p-m>

Anyone interested in making public comment must complete the form on our website and submit it by 11:00 a.m. on Tuesday, January 11, 2022: <https://www.portofnewport.com/2022-01-13-commission-meetings-2022-january-13-2022-12-00-p-m>

Regular Meeting

I. Call to Order

II. Changes to the Agenda

III. Consent Calendar

IV. Approval of Changes to Matheson Marine Lease – Bretz.....Page 2

V. Old Business

A. Approval of Resolutions Regarding Business Oregon Loans – *Miranda*.....Page 15

VI. New Business

A. Approval of NOAA Glass Wall and Door Installation – *Bretz*.....Page 53

VII. Adjournment

Work Session

I. Call to Order

II. Changes to the Agenda

III. Public Comment (3-minute limit per person)

IV. Old Business

A. Goals and Objectives Discussion – *Miranda*.....Page 67

V. Calendar/Future Considerations 2022

Martin Luther King Jr. Day, Port Office ClosedJanuary 17, 2022

Next meeting dateJanuary 25, 2022

SDAO Annual Conference (Virtual)February 10-12, 2022

VI. Public Comment (3-minute limit per person)

VII. Adjournment

NEW BUSINESS

DATE: January 12, 2022
RE: Matheson Marine Services Lease (Amended)
TO: Paula Miranda, General Manager
ISSUED BY: Aaron Bretz, Director of Operations

BACKGROUND

Prior to signing the lease, the prospective tenant requested we provide 24 hours' notice prior to entering the property for inspection and other purposes, which is an arrangement afforded by law in residential leases, but not commercial leases. The change can now be found on Section 10.1 in the draft lease attached. They also highlighted a typo in section 7.3 in the percent interest required when paying more than 10 days in arrears.

DETAIL

We found these changes to be agreeable and updated the document, but since the 24 hours of notice prior to entry was a substantive change, it needs to be approved by the Port Commission. The updated lease is attached.

RECOMMENDATION

I RECOMMEND A MOTION APPROVING THE DRAFT LEASE AND TERMS AS AMENDED WITH MATHESON MARINE SERVICES.

COMMERCIAL BUILDING LEASE

THIS LEASE made _____, between PORT OF NEWPORT, a Port district and municipal corporation existing under the laws of the State of Oregon, hereinafter referred to as "Lessor" and Matheson Marine Services (dba Matheson Logistics LLC, PO Box 1946, Newport OR, 97365), hereinafter referred to as "Lessee".

1. DEMISE AND DESCRIPTION OF LEASED PREMISES.

Lessor hereby grants to Lessee and Lessee hereby accepts from Lessor 2208 square feet, which is a portion of a building currently occupied by Port staff situated at 2000 SE Marine Science Dr, Newport OR 97365, hereinafter referred to as the "Leased Premises":

See attached drawing, as Exhibit A.

2. TERM.

The term of this Lease shall be for a one (1) year term. The term shall commence on _____ and shall end on _____. Monthly rental payments shall be due within ten (10) business days of receipt of billing.

3. RENEWAL OPTION.

3.1 If this lease is not in default at the expiration of the existing one (1) year term, Lessor may grant a renew option according to Section 3.3 below for an additional one (1) year term and each consecutive year thereafter, as long as this agreement is not in default and not to exceed more than five (5) years.

3.2 Each of the renewal terms shall commence on the day following expiration of the preceding term.

3.3 The option to renew shall be exercised only by written notice to Lessor given not less than sixty (60) days prior to the last day of the expiring term.' Only upon written confirmation from Lessor the lease shall be binding for the renewal term without further act of the parties. Lessor and Lessee shall then be bound to take the steps required in connection with the determination of rent as specified below without further act of the parties.

4. USE OF LEASED PREMISES.

Lessee is hereby granted the right and privilege, and exclusive use of the Leased Premises for the purpose of operating a marine electrical and marine electronics installation and related services. Lessee shall not offer other products or services unrelated to Lessee's current business without the express written consent of Lessor. Said consent, if granted, can be revoked at any time for any reason whatsoever. Such operation shall be conducted on a non-discriminatory basis, in accordance with and subject to the terms, conditions and requirements imposed by law or by the Port of Newport, City of Newport, or Lincoln County.

5. CONDITION OF PREMISES.

5.1 Lessee agrees to accept the premises as is for the purpose of use as described in Section 4 above.

5.2 Lessee shall not make any substantive structural changes, alterations or additions to the premises within which the business hereunder is operated without the written consent of the Lessor first in advance obtained. Any changes, alterations or additions to such space shall be at Lessee's sole cost and expense. All improvements made in or to the space occupied by Lessee pursuant to the provisions hereof during the term of this lease shall become at once the property of Lessor. Lessee expressly acknowledges and agrees that it will have no right to remove and shall not remove any such improvements at any time during or after the term of this lease.

5.3 If, at any time after the execution of this lease, the space occupied by Lessee pursuant to the terms hereof, or any portion of such space, should be damaged or destroyed by any casualty to the extent that Lessee is unable to continue the operation of its business herein to the extent practicable from the standpoint of good business, either party may terminate this lease agreement upon ten days' written notice to the other.

5.4 Lessee shall not cause or permit any Hazardous Substance to be spilled, leaked, disposed of or otherwise released on or under the leasehold. Lessee may use or otherwise handle on the leasehold only those hazardous substances typically used in the prudent and safe operation of the use specified in Section 4 above. Lessee may not store any such hazardous substances on the leasehold premises. Lessee shall comply with all environmental laws and exercise the highest degree of care in the use, handling and storage of hazardous substances and shall take all practical measures to minimize the quantity and toxicity of hazardous substances used, handled or store on the leasehold. Upon the expiration or termination of this Lease, Lessee shall remove all hazardous substances from the leasehold. The term "environmental laws" shall mean any federal, state or local statute, regulation or ordinance, or judicial or other governmental order pertaining to the protection of health, safety or the environment. The term "Hazardous substance" shall mean any hazardous, toxic, infectious or radioactive substance, waste and material as defined or listed by any environmental law and shall include without limitation petroleum oil and its fractions. Lessee shall be responsible for and bear the liability of any hazardous waste discharged by Lessee during Lessee's occupancy.

5.5 To maintain the quality and integrity of the premises of Lessee and adjacent leaseholds, Lessee is restricted from any exterior storage of any nature whatsoever in and around the leasehold and specifically shall not park or store any equipment, vehicles, material or any other personal property of any nature whatsoever outside of the confines of the leasehold area otherwise authorized.

5.6 Lessee shall refrain from any activity within the leasehold premises that would increase Lessor's insurance obligations unless Lessee pays full difference in increased premiums.

6 EASEMENTS, RIGHTS OF WAY.

Lessee shall have permission to use parking immediately outside of the building as needed near the premises. At no time shall Lessee or Lessee's employees, contractors, customers or business invitees block the walkway or driveway between the buildings located immediately next to the Premises. Nor shall Lessee block the road or driveway to the

common areas near the buildings.

7 BASE RENT.

7.1 During this first year of the current lease term, the base rent shall be One Thousand Fifty-Four and 50/100 Dollars (\$1,054.50) per month.

7.2 The annual lease rate for a renewed term beginning immediately following the end of the first Term, if applicable, shall be by a percentage equal to the percentage change in the Consumer Price Index, Western Region, or the nearest comparable data on changes in the cost of living if such index is no longer published.

7.3 Lessee shall pay eighteen percent (18%) per year interest on all payments of rent required above more than ten (10) days in arrears.

8 ADDITIONAL RENT

8.1 All taxes and utility charges which Lessee is required to pay by this lease, and any other sum which Lessee is required to pay to Lessor or third parties shall be additional rent.

8.2 Lessee understands that portions of the building located in the premises will be shared by Port staff. Utilities will be based on a prorated amount based on overage at current historical use by the Port. Lessee agrees to reimburse the Port utility fees, which includes: water, sewer and electricity in an prorated amount as described above. The Port is a non-taxable entity, unless the property has been leased to a taxable entity. Based on the annual estimated amount of Three Thousand Three Hundred Thirty-Five Dollars. (\$3,335.00) Lessor shall also pay to the Port a prorated monthly property tax in the amount of Two Hundred Seventy-Seven and 92/100 Dollars (\$277.92). Should the final tax bill be higher than the collected amount, Lessor agrees to reimburse the Port for such difference.

8.3 The increases for water, sewer, electricity and property taxes shall be based on actual increases by the utility companies and tax authority and shall be evaluated should those amounts be increased to the Port.

8.4 Lessee shall be responsible for paying any and all utility services not mentioned above servicing the leasehold premises including, but not limited to telephone, natural gas, television cable, garbage services, and any and all related items.

9 COMPLIANCE WITH GOVERNMENTAL RULES.

9.1 Lessee shall at all times during the term of this lease, at its sole cost and expense, comply with all governmental rules, regulations, ordinances, statutes and law now or hereafter in effect pertaining to Lessor or Lessee's operation of its business pursuant to this Lease.

9.2 Lessee shall, at all times during the term hereof, comply with all reasonable rules and regulations which Lessor may at any time establish concerning the use of its facilities, provided, however, that any such rule or regulation so made shall not be so inconsistent with this Lease as to unreasonably interfere with Lessee's operations hereunder.

10 MAINTENANCE OF LEASED PREMISES.

10.1 Lessee agrees that at all times during the term of this lease it will maintain the assigned premises in a neat and presentable condition and will maintain and keep the same in good order and repair, at Lessee's own cost and expense. Lessor, its agents and representatives with 24 hours' notice, may enter upon or into said premises for the purposes of examining the condition thereof and for any other lawful purpose.

10.2 The following shall be responsibility of the Lessee:

10.2.1 Any repairs necessitated by the negligence of Lessees, its agents, employees, invitees.

10.2.2 Any repair or alterations required to comply with laws or regulations.

10.2.3 Lessee further agrees, at its expense, to remove any and all alterations not accepted by Lessor and any and all accumulated equipment, supplies and other items which are present as a result of Lessee's operations, or anyone acting under Lessee, from Lessor's property upon termination of this lease. The premises shall be left in a condition equal to or better than the condition in which it was found immediately prior to the Lessee's occupation. All surface preparations shall remain with the premises unless specially requested by Lessor to be removed or somehow modified.

10.2.4. Any repairs, replacements, alterations or other work performed on or around the lease premises by Lessor if necessary, shall be done in such a way as to interfere as little as reasonably possible with use of the premises by Lessee. Lessee shall have no right to abatement of rent nor any claim against Lessor for any inconvenience or disturbance resulting from Lessor's activities.

11 LIENS.

Lessee shall keep the Leased Premises free from liens arising out of the operations of Lessee, including any liens arising out of any labor performed for or materials furnished to Lessee on the Leased Premises. Lessee shall indemnify Lessor against any claims for labor or materials in connection with any construction of any improvements on the Leased Premises, including the costs of defending against the claims. Lessor shall have the right to enter on the Leased Premises at any reasonable time to post notices, if necessary.

12 TITLE AT TERMINATION.

Lessor shall retain upon installation title to all fixtures, equipment, machinery, and other improvements installed on or connected to the Leased Premises by Lessee. Lessee may remove personal property belonging to Lessee on the termination of this Lease, provided that any damage to the Leased Premises that is caused by the removal of the property shall promptly be repaired at the expense of Lessee. Any property that is not removed by Lessee within thirty (30) days after termination of this Lease shall be considered abandoned property.

13 DESTRUCTION OF LEASED PREMISES.

If the building is destroyed by fire or other casualty to such an extent that they are wholly unfit for the use contemplated, Lessor shall have the option to terminate this Lease

without further obligation. On such termination, Lessor shall collect and retain the proceeds of any applicable insurance and upon making itself whole, disburse the remainder, if any, to Lessee.

14. INSURANCE.

14.1 Lessee shall at all times during the term hereof, at its sole cost and expense, obtain and maintain in force and effect a policy or policies of Protection and Indemnity Liability insurance, issued by an insurance carrier approved by Lessor, insuring against loss, damage or liability for injury to or death of persons or loss or damage to property as the result of the business operations. Such protection and liability insurance to include, by endorsement, product liability to include use by guests and customers of the Lessee. Such liability insurance shall be in the minimum amount of \$2,000,000 or as set by State industry standards. Each occurrence and in addition shall provide for payment of all attorneys fees and legal expense arising there from. This insurance shall be written on a form acceptable to the Lessor. Lessor shall be named as an additional insured for Lessor's liability arising out of the operations of the Lessee.

14.2 Inasmuch as this Lease agreement is for a short (one year) term and is subject to annual renewal, it is expressly acknowledged by the parties that the foregoing limits of protection and indemnity insurance shall be subject to reasonable increases, based upon the recommendation of the insurance agent of record for Lessor, based upon changes in public liability laws and similar factors.

14.3 Lessee shall also keep in full force and effect the policy of insurance, insurance for Damage to Rented Premises (each occurrence) \$300,000 and Medical Expenses (any one person) \$5,000, naming the Lessee and Lessor as named insured.

14.4 If Lessee has employees, Lessee shall furnish evidence of Workers Compensation insurance and Crew Liability insurance with a limit of not less than \$2,000,000, or as set by State industry standards per occurrence. Such insurance shall be endorsed to provide statutory State of Oregon workers compensation benefits and statutory United States Longshore and Harbor Workers Act coverage's. Prior to beginning operation, Lessee shall furnish evidence, as stipulated in 14.2 above, through Certificates of insurance of workers compensation, USL&H, and crew liability insurance.

14.5 Upon execution of this Lease, Lessee shall furnish to Lessor a certificate properly executed by the insurance carrier showing that the foregoing insurance policies are in effect. The policies shall provide that such insurance can be canceled only on thirty (30) days written notice to Lessor. The policies shall evidence the insurance coverage required herein, including an express waiver of rights of subrogation required below.

14.6 Lessee hereby waives any and all rights of recovery against Lessor, its officers, agents and employees, for any loss or damage, including consequential loss or damage caused by any peril, or perils including negligent acts, enumerated in each insurance policy required to be maintained by Lessee hereunder. This waiver of subrogation shall not apply with respect to any claim by Lessee, if it is in contravention of any term or provision of any insurance policy which would otherwise provide reimbursement to Lessee, so as to render such coverage void. However, Lessee shall make reasonable efforts to obtain a policy or policies of insurance permitting such a waiver of subrogation, or expressly waiving subrogation.

15 INDEMNITY.

15.1 Lessee shall indemnify Lessor or any of the agents or employees of Lessor against claims arising out of any injury to persons, including death or damage to property, sustained as a result of the acts of Lessee. Lessee shall defend any action brought against Lessor or any of the agents or employees of Lessor based on any alleged injury or damage caused by Lessee, and Lessee shall pay all costs, including attorney fees, resulting from the action. Lessee shall not indemnify Lessor against any claims involving the sole negligence or fault of Lessor or any of the agents or employees of Lessor.

15.2 When using the Leased Premises, Lessee shall comply with all applicable federal, state, municipal, and local laws and regulations. Lessee shall indemnify Lessor against any liability that may be imposed by governmental authorities for any violation by Lessee or the agents or employees of Lessee of any laws or regulations.

16 SIGNS.

No signs shall be placed on the Leased Premises without the prior written approval of Lessor.

17 DEFAULT OF LESSEE.

The following occurrences shall be deemed events of default of Lessee:

17.1 Failure to make any payment of rent due pursuant to this Lease within thirty (30) days after the date payment is due, or failure to pay any other service charge or assessment within thirty (30) days after Lessor bills Lessee therefore;

17.2 Failure to proceed with due diligence to remedy any other breach of a condition of this Lease and to fully indemnify Lessor against all liability resulting from the breach within thirty (30) days after Lessor gives notice of the breach to the Lessee; and

17.3 Failure to occupy or abandonment of the Leased Premises.

17.4 On the occurrence of any default described in this section, Lessor may, at its option, in addition to any other remedy given by law, give notice to Lessee that this Lease shall terminate on the date specified in the notice, which date shall not be earlier than thirty (30) days after the giving of the notice.

18 BANKRUPTCY OR INSOLVENCY OF LESSEE.

The occurrence of any of the following shall be deemed a default of Lessee:

18.1 A petition in bankruptcy filed by or against Lessee;

18.2 A petition or answer filed by or against Lessee seeking a reorganization, liquidation, dissolution or other relief of the same or different kind under any provision of the bankruptcy laws;

18.3 Adjudication of Lessee as a bankrupt or insolvent, or insolvency in the bankruptcy equity sense;

18.3 An assignment of all or substantially all of the assets of Lessee for the benefit of creditors;

18.4 A proceeding by or against Lessee for the appointment of a trustee, receiver, conservator, or liquidator of Lessee with respect to all or substantially all of the assets of Lessee;

18.5 A proceeding by or against Lessee for the dissolution or liquidation of Lessee, or the taking of possession of the assets of Lessee by any governmental authority in connection with any dissolution or liquidation; or

18.6 The taking by any person of the leasehold created by this Lease, or any part of the leasehold, on execution, attachment, or other process of law or equity against Lessee.

18.7 On the occurrence of any default described in this section, Lessor shall give Lessee notice of the default. If the default is not corrected or reasonable attempts to cure the default within ten (10) days after date of the notice, Lessor may, in addition to any other remedy or right given under this Lease or by law, give notice to Lessee that this Lease shall terminate on the date specified in the notice, which date shall not be earlier than thirty (30) days after the giving of the notice.

19 RIGHT OF LESSOR TO REENTER LEASED PREMISES ON DEFAULT OF LESSEE.

On termination of this Lease as provided in Section 17 and 18, Lessor may immediately enter on the Leased Premises without further demand or notice. Lessor may retake possession of the Leased Premises by summary proceedings, by action in law or in equity, by force or otherwise, without liability for trespass or for damages. Reentry, resumption of possession, or reletting of the Leased Premises by Lessor shall in no event be deemed to be a surrender of this Lease or a waiver of the rights and remedies of Lessor under this Lease.

20 DISPOSITION OF PERSONAL PROPERTY LOCATED ON LEASED PREMISES.

20.1 On retaking possession of the Leased Premises, Lessor shall at the expense of Lessee hold in storage for Lessee any personal property that is located on the Leased Premises, regardless of whether the personal property belongs to Lessee or any other person. Lessor may deliver the goods to Lessee or a consignee or any person or concern owning any interest in the property.

20.2 After the expiration of ten (10) days after retaking possession, should any personal property located on the Leased Premises not be claimed by Lessee or its true owner, such property shall be considered abandoned; and Lessee shall bear full responsibility for the disposition of such property by Lessor and shall indemnify and hold Lessor harmless from any and all claims, suits, and demands of true owners of such property disposed of by Lessor, whether such claims, suits, or demands be legitimate or otherwise.

21 EXPENSES TO BE PAID BY LESSEE ON TERMINATION OF LEASE DUE TO DEFAULT OF LESSEE.

21.1 On termination of this Lease for default, as provided in Section 17 or 18, Lessee shall pay to Lessor the expenses, including but not limited to reasonable attorney and other fees, incurred by Lessor in connection with:

- (a) Obtaining possession of the Leased Premises;
- (b) Removal and storage of the property of Lessee and other occupants; and
- (c) Maintenance and repair of the Leased Premises while vacant.

21.2 The expenses shall be deemed prima facie to be the amounts invoiced to Lessor.

21.3 Lessor may sue for the payments as they accrue without waiting for the payment date fixed in this Lease. Any proceeding to recover such payments shall not be deemed a waiver of any other rights of Lessor under law, equity or this Lease.

22 RELETTING PREMISES ON DEFAULT OF LESSEE.

22.1 On termination of this Lease under Section 18 or 19, Lessor shall use reasonable efforts to relet the Leased Premises to a suitable Lessee. All the rents or other sums received, if any, from the alternate Lessee, after deducting all costs of Lessor specified in Section 20, shall be credited against the total amount due from Lessee. The failure of Lessor to find a suitable Lessee, however, shall in no way prejudice the rights of Lessor under this Lease.

22.2 If Lessee has prepaid amounts due under this Lease that are subsequently obtained by Lessor from a new Lessee, Lessor shall refund to Lessee the net amount of the overpaid rents or other sums.

23 INSPECTION.

Lessor and the agents and employees of Lessor may at all reasonable times enter the Leased Premises to inspect and determine whether the Leased Premises are kept in good repair and maintenance in accordance with the terms of the Lease, and to show the Leased Premises to prospective Lessees or buyers.

24 ASSIGNMENT AND SUBLETTING.

Lessee shall not assign or sublet any rights or interests under this Lease without the prior written consent of Lessor. Lessor shall not unreasonably delay consent and shall give consent under circumstances where withholding it shall be unreasonable. In determining whether to consent to assignment Lessor may consider the financial ability and business experience of assignee.

25 QUIET ENJOYMENT.

Lessor agrees that Lessee, on paying the rent and other charges in this Lease provided and on observing and keeping all the provisions of this Lease, shall quietly occupy the Leased Premises during the term of this Lease and any renewal hereof without hindrance.

26 COVENANT AGAINST WASTE.

Lessee shall not commit or suffer to be committed any waste on the Leased Premises.

27 FORCE MAJEURE.

27.1 For purposes of this Lease, the term "force majeure" is defined as any act of God, act of a public enemy, strike, fire, storm, flood, civil disturbance, failure or delay of persons from whom the parties to this Lease obtained machinery, equipment, or supplies to make delivery, or other causes beyond the control of either party, regardless of whether the other causes be of the class here specifically set out.

27.2 Neither party shall be responsible for any failure of performance of any of its obligations under this agreement, where the failure is due to force majeure.

28 EFFECT OF WAIVER OF PRIOR BREACH.

No waiver by Lessor of any covenant or condition of this Lease shall be construed as a waiver of any other covenant or condition, nor shall the waiver of any breach of this Lease be construed as waiver of any other or subsequent breach.

29 SEVERABILITY.

Should any provision of this Lease be declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining provisions of this Lease shall not be affected thereby.

30 TIME OF ESSENCE.

Punctual performance by the parties to this Lease of the covenants contained in this Lease is of the essence of this Lease.

31 SECTION TITLES ONLY FOR IDENTIFICATION.

The titles to all sections used in this Lease are for purposes of identification only and shall not vary the context of the sections.

32 MODIFICATION OF LEASE.

No modification of this Lease shall be effective unless agreed to in writing by the parties to this Lease. No modification of one provision of this Lease shall be considered a waiver, breach, or cancellation of any other provision of this Lease.

33 HOLDOVER.

If Lessee remains on the Leased Premises after the expiration of the term of this Lease without exercising the option to renew the Lease, the holding over shall be deemed to create a month-to-month tenancy under the same terms and conditions of this Lease but shall not be construed as a renewal of this Lease.

34 NOTICES.

34.1 Whenever it is required or permitted that notice be given by either party to this Lease to the other party, the notice must be in writing and must be given personally or forwarded by certified mail addressed as follows:

TO Lessor: Port of Newport
600 SE Bay Blvd.
Newport, OR 97365

TO Lessee: _____

34.2 Unless otherwise specified in this Lease, all notices required to be given under this Lease shall be effective on the date of receipt.

34.3 The addresses to which notices are to be sent may be changed from time to time by notice given according to the terms of this section.

35 ATTORNEYS' FEES.

In addition to the fees provided in Section 21 due to default, should either party hereto institute or be made a party to any action or proceeding in court to enforce any provision hereof or for damages or other relief by reason of an alleged breach of any provision hereof, the prevailing party shall be entitled to receive from the losing party, in addition to allowable court costs, such amounts as the court may adjudge to be reasonable as attorneys' fees, including any appeal thereof, and such amount may be made a part of the judgment against the losing party.

IN WITNESS WHEREOF, the parties have executed this instrument in duplicate to be effective as of the day and year above set forth, and any corporate signature is af-fixed hereto only pursuant to the board of directors or other governing body thereof.

Lessor:

PORT OF NEWPORT

General Manager

Lessee:

MATHESON MARINE SERVICES
DBA MATHESON LOGISTICS LLC

By: James S. Matheson, Member

Exhibit B

PERSONAL GUARANTY

To induce Port of Newport, a port district and municipal corporation, to enter into the foregoing Lease, the undersigned, in consideration thereof, guarantees the performance of this Lease by Matheson Marine services dba Matheson Logistics LLC. with regard to each and every term, condition and provision thereof, and agrees to indemnify and hold Lessor, Lessor's successors and assigns harmless from and against any and all liability, expense or loss of any nature whatsoever including reasonable attorney fees as therein mentioned which might be sustained by Lessor by reason of the failure of Lessee to fully perform and comply with the terms and obligations of said Lease. The attorney fees provisions of said Lease apply to this Guaranty as if incorporated within said Lease.

All notices required under this Lease from Lessor to Lessee shall also be provided simultaneously therewith to the undersigned. However, Lessor shall not be required to exhaust all remedies as and against Lessee prior to pursuing the undersigned under this Guaranty, and in the event of default Lessor, at Lessor's option, may directly and forthwith pursue the undersigned guarantor.

This Guaranty shall have no term or duration independent of the Lease as hereinabove set forth, and specifically is intended to cover any and all performance of the Lessee throughout the duration of the leasehold and thereafter as the circumstances may require.

This Guaranty is irrevocable.

James S. Matheson

STAFF REPORT

DATE: *January 10, 2022*
RE: *Business Oregon - Loan Resolutions*
TO: *Port of Newport Board of Commissioners*
ISSUED BY: *Paula J. Miranda, General Manager*

BACKGROUND

On December 21, 2021 the Commission approved the General Manager to execute documents with Business Oregon for two loans for the Administration Building in a form of a motion.

The Port has received the documents from Business Oregon. Although they will not hold the process, Business Oregon requested that we pass the two resolutions attached to make it official.

RECOMMENDATION

I recommend "A MOTION TO AUTHORIZE THE GENERAL MANAGER TO APPROVE RESOLUTIONS 2022-01 AND 2022-02 AS ATTACHED."

RESOLUTION 2022-01

**RESOLUTION OF THE PORT OF NEWPORT
AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND
BY ENTERING INTO A FINANCING CONTRACT
WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY**

The Port of Newport Commission (the “Governing Body”) of the Port of Newport (the “Recipient”) finds:

A. The Recipient is a “municipality” within the meaning of Oregon Revised Statutes 285B.410(9).

B. Oregon Revised Statutes 285B.410 through 285B.482 (the “Act”) authorize any municipality to file an application with the Oregon Infrastructure Finance Authority of the Business Development Department (“OBDD”) to obtain financial assistance from the Special Public Works Fund.

C. The Recipient has filed an application with the OBDD to obtain financial assistance for a “development project” within the meaning of the Act.

D. The OBDD has approved the Recipient’s application for financial assistance from the Special Public Works Fund pursuant to the Act.

E. The Recipient is required, as a prerequisite to the receipt of financial assistance from the OBDD, to enter into a Financing Contract with the OBDD, number 525206, substantially in the form attached hereto as Exhibit 1. The project is described in Exhibit C to that Financing Contract (the “Project”).

F. Notice relating to the Recipient’s consideration of the adoption of this Resolution was published in full accordance with the Recipient’s charter and laws for public notification.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Recipient as follows:

1. Financing Loan Authorized. The Governing Body authorizes the General Manager (the “Authorized Officer”) to execute on behalf of Recipient the Financing Contract and such other documents as may be required to obtain financial assistance (the “Financing Documents”), including a loan from the OBDD, on such terms as may be agreed upon between the Authorized Officer and OBDD, on the condition that the principal amount of the loan from the OBDD to the Recipient is not in excess of \$950,000 and an interest rate of 2.25% per annum. The proceeds of the loan from the OBDD will be applied solely to the “Costs of the Project” as such term is defined in the Financing Contract.

2. Sources of Repayment. Amounts payable by the Recipient are payable from the sources described in section 4 of the Financing Contract and the Oregon Revised Statutes Section 285B.437(3) which include:

- (a) The revenues of the project, including special assessment revenues;
- (b) Amounts withheld under ORS 285B.449 (1);
- (c) The general fund of the Recipient; or
- (d) Any other source.

3. Tax-Exempt Status. The Recipient covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Recipient pursuant to the Financing Documents not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The Recipient may enter into covenants to protect the tax-exempt status of the interest paid by the Recipient pursuant to the Financing Documents and may execute any Tax Certificate, Internal Revenue Service forms or other documents as may be required by the OBDD or its bond counsel to protect the tax-exempt status of such interest.

4. Reimbursement Bonds. The Recipient may make certain expenditures on the Project prior to the date the Financing Contract is executed with OBDD or the date the State of Oregon issues any bonds to fund the loan. The Recipient hereby declares its intent to seek reimbursement of such expenditures with amounts received from the OBDD pursuant to the Financing Contract, but only as permitted by OBDD policy, the Financing Contract, and federal tax regulations. Additionally, the Recipient understands that the OBDD may fund or reimburse itself for the funding of amounts paid to the Recipient pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This [Ordinance/Resolution/Order] constitutes “official intent” within the meaning of 26 C.F.R. §1.150-2 of the income tax regulations promulgated by the United States Department of the Treasury.

APPROVED AND ADOPTED BY THE BOARD OF COMMISSIONERS this
January 13, 2022.

ATTEST:

James Burke, President

Walter Chuck, Secretary

EXHIBIT 1

OREGON PORT REVOLVING LOAN FUND FINANCING CONTRACT

Project Name: New Port of Newport Administrative Building

Project Number: 525206

This financing contract (“Contract”), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through its Oregon Infrastructure Finance Authority of the Business Development Department (“OBDD”), and the Port of Newport (“Recipient”) for financing of the project referred to above and described in Exhibit C (“Project”). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

Exhibit A	General Definitions
Exhibit B	Security
Exhibit C	Project Description
Exhibit D	Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

Estimated Project Cost: \$2,307,000.

Interest Rate: 2.25% per annum, computed by counting actual days occurring in a 360-day year.

Loan Amount: \$950,000.

Maturity Date: The 19th anniversary of the Repayment Commencement Date.

Payment Date: Every January 1, April 1, July 1, October 1.

Project Closeout Deadline: 90 days after the earlier of the Project Completion Date or the Project Completion Deadline.

Project Completion Deadline: 36 months after the date of this Contract.

Repayment Commencement Date: the first Payment Date to occur after the Project Closeout Deadline.

SECTION 2 - FINANCIAL ASSISTANCE

The OBDD shall provide Recipient, and Recipient shall accept from OBDD, a non-revolving loan (the “Loan”) in an aggregate principal amount not to exceed the lesser of the Loan Amount or the Costs of the Project.

SECTION 3 - DISBURSEMENTS

- A. Reimbursement Basis. The Financing Proceeds shall be disbursed to Recipient on an expense reimbursement or costs-incurred basis. The Recipient must submit each disbursement request for the Financing Proceeds on an OBDD-provided or OBDD-approved disbursement request form (“Disbursement Request”).

- B. Financing Availability. The OBDD's obligation to make and Recipient's right to request disbursements under this Contract terminates on the Project Closeout Deadline.
- C. Payment to Contractors. The OBDD, in its sole discretion, may make direct payment to suppliers, contractors and subcontractors and others for sums due them in connection with construction of the Project, instead of reimbursing Recipient for those sums.

SECTION 4 - LOAN PAYMENT; PREPAYMENT

- A. Promise to Pay. The Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. Payments required under this Contract are, without limitation, payable from the sources of repayment described in the Act and this Contract, including but not limited to Exhibit B, and the obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.
- B. Interest. Interest accrues at the Interest Rate on each disbursement from the date of disbursement until the Loan is fully paid. All unpaid interest accrued to the Repayment Commencement Date is (in addition to the first regular installment payment due) payable on the Repayment Commencement Date. Interest is computed by counting the actual days occurring in a 360-day year.

The Recipient authorizes OBDD to calculate accrued interest for purposes including, but not limited to, loan amortization schedule, loan prepayment, and loan payoff. Absent manifest error, such calculations will be conclusive.
- C. Loan Payments. Starting on the Repayment Commencement Date and then on each succeeding Payment Date, Recipient shall make level installment payments of principal and interest, each payment sufficient to pay the interest accrued to the date of payment and so much of the principal as will fully amortize the Loan by the Maturity Date, on which date the entire outstanding balance of the Loan is due and payable in full.
- D. Loan Prepayments.
 - (1) Mandatory Prepayment. The Recipient shall prepay all or part of the outstanding balance of the Loan as required by this Contract.
 - (2) Optional Prepayment. The Recipient may prepay all or part of the outstanding balance of the Loan on any day except a Saturday, Sunday, legal holiday or day that banking institutions in Salem, Oregon are closed.
- E. Application of Payments. Regardless of any designation by Recipient, payments and prepayments by Recipient under this Contract or any of the Financing Documents will be applied first to any expenses of OBDD, including but not limited to attorneys' fees, then to unpaid accrued interest (in the case of prepayment, on the amount prepaid), then to the principal of the Loan. In the case of a Loan prepayment that does not prepay all the principal of the Loan, OBDD will determine, in its sole

discretion, the method for how the Loan prepayment will be applied to the outstanding principal payments. A scheduled payment received before the scheduled repayment date will be applied to interest and principal on the scheduled repayment date, rather than on the day such payment is received.

SECTION 5 - CONDITIONS PRECEDENT

- A. Conditions Precedent to OBDD's Obligations. The OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its Counsel:
- (1) This Contract duly signed by an authorized officer of Recipient.
 - (2) A copy of the ordinance, order or resolution of the governing body of Recipient authorizing the borrowing and the contemplated transactions and the execution and delivery of this Contract and the other Financing Documents, certified by an authorized officer of Recipient.
 - (3) A Deed of Trust, Assignment of Leases and Rents, and Security Agreement and Fixture Filing, recorded in the real estate records of Lincoln County, Oregon, granting OBDD a lien on the real property Collateral described in Exhibit B, subject only to the Permitted Liens, to secure repayment of the Loan and the performance of Recipient's obligations hereunder.
 - (4) An ALTA lender's title insurance policy for the real property pledged as Collateral, issued by Western Title & Escrow of Lincoln County, Newport, OR, in the amount of the Loan.
 - (5) An opinion of Recipient's Counsel.
 - (6) Such other certificates, documents, opinions and information as OBDD may reasonably require.
- B. Conditions to Disbursements. As to any disbursement, OBDD has no obligation to disburse funds unless all following conditions are met:
- (1) There is no Default or Event of Default.
 - (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
 - (3) The OBDD, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Oregon Port Revolving Loan Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.
 - (4) The Recipient delivers to OBDD an estimated schedule for Disbursement Requests covering anticipated number, submission dates, and amounts.]
 - (5) The OBDD (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as OBDD may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.
 - (6) The Recipient has delivered documentation satisfactory to OBDD that, in addition to the Financing Proceeds, Recipient has available or has obtained binding commitments for all funds necessary to complete the Project.

- (7) Any conditions to disbursement elsewhere in this Contract or in the other Financing Documents are met.

SECTION 6 - USE OF FINANCIAL ASSISTANCE

- A. Use of Proceeds. The Recipient shall use the Financing Proceeds only for the activities described in Exhibit C and according to the budget in Exhibit D. The Recipient may not transfer Financing Proceeds among line items in the budget without the prior written consent of OBDD.
- B. Costs of the Project. The Recipient shall apply the Financing Proceeds to the Costs of the Project in accordance with the Act, and Oregon law as applicable. Financing Proceeds cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-Award Costs of the Project, unless permitted by Exhibit C.
- C. Costs Paid for by Others. The Recipient may not use any of the Financing Proceeds to cover costs to be paid for by other financing for the Project from another State of Oregon agency or any third party.

SECTION 7 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to OBDD:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded. The Recipient will have adequate funds available to repay the Loan, and the Maturity Date does not exceed the usable life of the Project.
- B. Organization and Authority.
- (1) The Recipient is an eligible port under the Act, and validly organized and existing under the laws of the State of Oregon.
 - (2) The Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract and the other Financing Documents, (b) incur and perform its obligations under this Contract and the other Financing Documents, and (c) borrow and receive financing for the Project.
 - (3) This Contract and the other Financing Documents executed and delivered by Recipient have been authorized by an ordinance, order or resolution of Recipient's governing body, and voter approval, if necessary, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings.
 - (4) This Contract and the other Financing Documents have been duly executed by Recipient, and when executed by OBDD, are legal, valid and binding, and enforceable in accordance with their terms.
- C. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents. The Recipient has made no false statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract and the other Financing Documents is true and accurate in all respects.
- D. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would

materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.

E. No Events of Default.

- (1) No Events of Default exist or occur upon authorization, execution or delivery of this Contract or any of the Financing Documents.
- (2) The Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.

F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract and the other Financing Documents will not: (i) cause a breach of any agreement, indenture, mortgage, deed of trust, or other instrument, to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) cause the creation or imposition of any third party lien, charge or encumbrance upon any property or asset of Recipient; or (iii) violate any provision of the charter or other document pursuant to which Recipient was organized or established or (iv) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.

G. Governmental Consent. The Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the other Financing Documents, for the financing or refinancing and undertaking and completion of the Project.

SECTION 8 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

- A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to make all payments and perform all obligations required by this Contract or the other Financing Documents.
- B. Compliance with Laws. The Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract or the other Financing Documents, the Project. In particular, but without limitation, Recipient shall comply with the following, as applicable:
- (1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.
 - (2) State labor standards and wage rates found in ORS chapter 279C.

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

C. Project Completion Obligations. The Recipient shall:

- (1) Provide OBDD with copies of all plans and specifications relating to the Project, and a timeline for the bidding/award process, at least ten (10) days before advertising for bids.
- (2) Provide a copy of the bid tabulation, notice of award, and contract to OBDD within ten (10) days after selecting a construction contractor.

- (3) Permit OBDD to conduct inspection of the Project at any time.
 - (4) Complete the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.
 - (5) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by the OBDD in writing.
 - (6) Obtain and maintain as-built drawings for all facilities constructed as part of the Project.
- D. Financial Covenants. The Recipient shall charge rates and fees in connection with the operation of the Recipient's Moorage, Leasing, RV Park, Hoist Dock, and Launch Ramp systems, which, when combined with other gross revenues, are adequate to generate net revenues each fiscal year at least equal to one hundred twenty (120%) percent of the annual debt service due in the fiscal year on the Loan.
- E. Ownership of Project. During the term of the Loan, the Project is and will continue to be owned by Recipient. The Project will be operated by Recipient or by a person under a management contract or operating agreement with Recipient.
- F. Operation and Maintenance of the Project. The Recipient shall operate and maintain the Project in good repair and operating condition so as to preserve the long term public benefits of the Project, including making all necessary and proper repairs, replacements, additions, and improvements during term of the Loan. On or before the Project Closeout Date, Recipient shall adopt a plan acceptable to OBDD for the on-going operation and maintenance of the Project without reliance on OBDD financing and furnish OBDD, at its request, with evidence of such adoption. The plan must include measures for generating revenues sufficient to assure the operation and maintenance of the Project during the usable life of the Project.
- G. Insurance, Damage. The Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by governmental units constructing, operating and maintaining similar facilities. Nothing in this provision precludes Recipient from exerting a defense against any party other than OBDD, including a defense of immunity. If the Project or any portion is destroyed, any insurance proceeds will be paid to OBDD and applied to prepay the outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees in writing that the insurance proceeds may be used to rebuild the Project.
- H. Sales, Leases and Encumbrances. Except as specifically described in Exhibit C, during the term of the Loan, Recipient shall not sell, lease, exchange, abandon, transfer or otherwise dispose of any substantial portion of or interest in the Project or any system that provides revenues for payment or is security for the Loan, unless worn out, obsolete, or, in the reasonable business judgment of Recipient, no longer useful in the operation of the Project. Nevertheless, OBDD may consent to such disposition if it has received 90 days' prior written notice from Recipient. Such consent may require assumption by transferee of all of Recipient's obligations under the Financing Documents and payment of OBDD's costs related to such assumption. In the case of sale, exchange, transfer or other similar disposition, Recipient shall, within 30 days of receipt of any proceeds from such disposition, prepay the entire outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees otherwise in writing. If Recipient abandons the Project, Recipient shall prepay the entire outstanding balance of the Loan immediately upon demand by OBDD.

- I. Condemnation Proceeds. If the Project or any portion is condemned, any condemnation proceeds will be paid to OBDD and applied to prepay the outstanding balance of the Loan in accordance with section 4.D.(1).
- J. Financial Records. The Recipient shall keep accurate books and records for the revenues and funds that are the source of repayment of the Loan, separate and distinct from its other books and records, and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. The Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.
- K. Inspections; Information. The Recipient shall permit OBDD and any party designated by OBDD: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. The Recipient shall supply any related reports and information as OBDD may reasonably require. In addition, Recipient shall, upon request, provide OBDD with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of Recipient that are issued after the date of this Contract.
- L. Records Maintenance. The Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the later of the Project Closeout Deadline, actual completion of the Project or final completion and satisfaction of all reporting requirements of Recipient under this Contract. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- M. Economic Benefit Data. The OBDD may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion date. The Recipient shall, at its own expense, prepare and submit the data within the time specified by OBDD.
- N. Disadvantaged Business Enterprises. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans owned and emerging small businesses...” The OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at https://www.oregonlegislature.gov/bills_laws/ors/ors200.html. Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.
- O. Professional Responsibility. A professional engineer or architect, as applicable, registered and in good standing in Oregon, will be responsible for the design and construction of the Project. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty. The Recipient shall follow standard construction practices, such as bonding requirements for construction contractors, requiring errors and omissions insurance, and performing testing and inspections during construction.

- P. Notice of Event of Default. The Recipient shall give OBDD prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.
- Q. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OBDD and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys' fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors; however, the provisions of this section are not to be construed as a waiver of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.
- R. Further Assurances. The Recipient shall, at the request of OBDD, authorize, sign, acknowledge and deliver any further resolutions, conveyances, transfers, assurances, financing statements and other instruments and documents as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Contract and the other Financing Documents.

SECTION 9 - DEFAULTS

Any of the following constitutes an "Event of Default":

- A. The Recipient fails to make any Loan payment when due.
- B. The Recipient fails to make, or cause to be made, any required payments of principal, redemption premium, or interest on any bonds, notes or other material obligations, for any other loan made by the State of Oregon.
- C. Any false or misleading representation is made by or on behalf of Recipient, in this Contract, in any other Financing Document or in any document provided by Recipient related to this Loan or the Project.
- D. (1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;
- (2) The Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
- (3) The Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;
- (4) The Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or
- (5) The Recipient takes any action for the purpose of effecting any of the above.
- E. The Recipient defaults under any other Financing Document and fails to cure such default within the applicable grace period.

- F. The Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through E of this section 9, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. The OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 10 - REMEDIES

- A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract, the Note or any other Financing Document, and any other remedies available at law or in equity to collect amounts due or to become due or to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:
- (1) Terminating OBDD's commitment and obligation to make any further disbursements of Financing Proceeds under the Contract.
 - (2) Declaring all payments under the Note and all other amounts due under any of the Financing Documents immediately due and payable, and upon notice to Recipient the same become due and payable without further notice or demand.
 - (3) Barring Recipient from applying for future awards.
 - (4) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract.
 - (5) Foreclosing liens or security interests or otherwise realizing upon any Collateral pursuant to this Contract or any other Financing Document.
- B. Application of Moneys. Any moneys collected by OBDD pursuant to section 10.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; next, to pay interest due on the Loan; next, to pay principal due on the Loan, and last, to pay any other amounts due and payable under this Contract or any of the Financing Documents.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract or any of the Financing Documents shall preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 9 of this Contract.
- D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD's obligations.

SECTION 11 - MISCELLANEOUS

- A. Time is of the Essence. The Recipient agrees that time is of the essence under this Contract and the other Financing Documents.
- B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.
- (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.

- (2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
- (3) This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and permitted assigns.
- (4) The Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract or any other Financing Document without the prior written consent of OBDD. The OBDD may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OBDD, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OBDD's Counsel. Any approved assignment is not to be construed as creating any obligation of OBDD beyond those in this Contract or other Financing Documents, nor does assignment relieve Recipient of any of its duties or obligations under this Contract or any other Financing Documents.
- (5) The Recipient hereby approves and consents to any assignment, sale or transfer of this Contract and the Financing Documents that OBDD deems to be necessary.

C. Disclaimer of Warranties; Limitation of Liability. The Recipient agrees that:

- (1) The OBDD makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.
- (2) In no event are OBDD or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.

D. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OBDD at the addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to OBDD: Assistant Director, Economic Development
Oregon Business Development Department
775 Summer St NE Suite 200
Salem OR 97301-1280

If to Recipient: General Manager
Port of Newport
600 SE Bay Blvd
Newport, OR 97365

E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.

- F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.
- G. Amendments, Waivers. This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and signed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.
- H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OBDD by its attorneys. The Recipient shall, on demand, pay to OBDD reasonable expenses incurred by OBDD in the collection of Loan payments.
- I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon's sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

- J. Integration. This Contract (including all exhibits, schedules or attachments) and the other Financing Documents constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.
- K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
 acting by and through its
 Oregon Infrastructure Finance Authority
 of the Oregon Business Development
 Department

PORT OF NEWPORT

By: _____
 Chris Cummings, Assistant Director
 Economic Development

By: _____
 Jim Burke,
 Commission President

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Wendy Johnson per email dated 22 December, 2021
 Wendy Johnson, Senior Assistant Attorney General

EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

“Act” means ORS 285A.666 to 285A.732, as amended.

“Award” means the award of financial assistance to Recipient by OBDD dated 22 July 2021.

“Collateral” means any property (real or personal), right, or interest which is subject to a lien or security interest in favor of OBDD and secures Recipient’s performance of its obligations under this Contract or any of the other Financing Documents.

“Costs of the Project” means Recipient’s actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Financing Proceeds under applicable state or federal statute and rule.

“Counsel” means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, OBDD or Recipient.

“Default” means an event which, with notice or lapse of time or both, would become an Event of Default.

“Financing Documents” means this Contract and all agreements, instruments, documents and certificates (including but not limited to all promissory notes) executed pursuant to or in connection with OBDD’s financing of the Project.

“Financing Proceeds” means the proceeds of the Loan.

“ORS” means the Oregon Revised Statutes.

“Permitted Liens” means the permitted liens listed in Exhibit B.

“Premises” means the real property of Recipient, more particularly described in Exhibit B, and all improvements and fixtures thereon.

“Project Completion Date” means the date on which Recipient completes the Project and submits to OBDD a notice of substantial completion signed by the Project engineer.

EXHIBIT B - SECURITY

- A. Full Faith and Credit Pledge. The Recipient will be required to pledge its full faith and credit and taxing power within the limitations of Article XI, Sections 11 and 11 b, of the Oregon Constitution to pay the amounts due under the Financing Contract. All amounts due under this Contract are payable from all legally available funds of the Recipient.
- B. Line of Credit Deed of Trust, Assignment of Rents, and Security Agreement. The Recipient shall provide a Deed of Trust record in the real estate records of Lincoln County, Oregon, granting OBDD a lien on the real properties located at 510 SE Bay Boulevard, Newport OR 97365 (Parcel I) and 600 SE Bay Boulevard, Newport, OR 97365 (Parcel II). and more particularly described in Preliminary Title Report No. WT0220148, prepared June 22, 2021, by Western Title & Escrow, 255 SW Coast Highway, Suite 100, Newport, OR 97365, as:

PARCEL I:

Lots 1, 2, 3, 4 and 5, Block 2, OLSSON'S 2ND ADDITION TO NEWPORT, City of Newport, Lincoln County, Oregon.

PARCEL II:

TRACT I:

A tract lying in Section 8, Township 11 South, Range 11 West of the Willamette Meridian, Lincoln County, Oregon, described as follows:

Beginning at the Southeast corner of Block 4, OLSSON'S 2ND ADDITION TO NEWPORT, City of Newport, Lincoln County, Oregon; thence South 00°02'45" West, 306.69 feet to a point on the low tide line; thence North 66°23'30" West 1057.00 feet; thence North 84°54'30" West 308.71 feet to a point on the South line of said Addition; thence North 65°00'00" East 426.48 feet; thence South 70°00'00" East 946.95 feet to the Point of Beginning.

EXCEPTING THEREFROM any portion lying above or beyond the meander line.

TRACT II:

Beginning at a point on the low tide line on the North side of Yaquina Bay and on the East line of Section 8, 2895.00 feet South of the corner to Sections 4, 5, 8 and 9, Township 11 South, Range 11 West of the Willamette Meridian, Lincoln County, Oregon and running thence North 66°23'45" West 1018.24 feet along the low waterline; thence North 84°55'30" West 580.77 feet along the low waterline; thence South 63°39'45" West 573.12 feet along the low waterline; thence North 38.63 feet along the low waterline; thence West 199.62 feet to the high water line, to a point that is 460.38 feet East of the Southwest corner of Government Lot 2 in Section 8, Township 11 South, Range 11 West of the Willamette Meridian; thence North 45°43'15" East 55.90 feet; thence North 62°54'15" East 225.15 feet; thence North 67°44'15" East 145.00 feet; thence North 62°42'15" East 286.00 feet; thence North 57°10'30" East 182.33 feet; thence North 66°17'45" East 185.50 feet; thence South 89°24'45" East 165.80 feet; thence South 79°14'15" East 534.10 feet; thence South 66°42'45" East 571.20 feet; thence South 63°53'45" East 8.48 feet; thence South 00°43'00" West 391.70 feet to the Place of Beginning.

Permitted Liens. Permitted Liens include all general and specific exceptions #1-22 as described in the Preliminary Title Report No. WT0220148, prepared June 22, 2021, by Western Title & Escrow, 255 SW Coast Highway, Suite 100, Newport, OR 97365, by this reference made a part hereof.

EXHIBIT C - PROJECT DESCRIPTION

The Recipient will construct a new administration building within its dock and yard facility located adjacent to SE Bay Boulevard. The building will be located on a gravel-covered lot adjacent to an existing driveway and parking area. The building will be a single-story structure with a 5,490 SF footprint. Associated new parking is also included. The proposed building will house all the port's current administrative staff and will also include a new commission meeting room.

EXHIBIT D - PROJECT BUDGET

Budget Line Items	OBDD PRLF- 525206	OBDD SPWF- L22001	Port Funds	Totals
Architecture/ Engineering	\$0	\$0	\$102,000	\$102,000
Construction	\$950,000	\$810,000	\$325,000	\$2,085,000
Construction Contingency	\$0	\$0	\$115,000	\$115,000
Geotech	\$0	\$0	\$5,000	\$5,000
Total	\$950,000	\$810,000	\$ 547,000	\$2,307,000

RESOLUTION 2022-02

**RESOLUTION OF THE PORT OF NEWPORT
AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND
BY ENTERING INTO A FINANCING CONTRACT
WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY**

The Port of Newport Commission (the “Governing Body”) of the Port of Newport (the “Recipient”) finds:

A. The Recipient is a “municipality” within the meaning of Oregon Revised Statutes 285B.410(9).

B. Oregon Revised Statutes 285B.410 through 285B.482 (the “Act”) authorize any municipality to file an application with the Oregon Infrastructure Finance Authority of the Business Development Department (“OBDD”) to obtain financial assistance from the Special Public Works Fund.

C. The Recipient has filed an application with the OBDD to obtain financial assistance for a “development project” within the meaning of the Act.

D. The OBDD has approved the Recipient’s application for financial assistance from the Special Public Works Fund pursuant to the Act.

E. The Recipient is required, as a prerequisite to the receipt of financial assistance from the OBDD, to enter into a Financing Contract with the OBDD, number L22001, substantially in the form attached hereto as Exhibit 1. The project is described in Exhibit C to that Financing Contract (the “Project”).

F. Notice relating to the Recipient’s consideration of the adoption of this [Ordinance/Resolution/Order] was published in full accordance with the Recipient’s charter and laws for public notification.

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Recipient as follows:

1. Financing Loan Authorized. The Governing Body authorizes the General Manager (the “Authorized Officer”) to execute on behalf of Recipient the Financing Contract and such other documents as may be required to obtain financial assistance (the “Financing Documents”), including a loan from the OBDD, on such terms as may be agreed upon between the Authorized Officer and OBDD, on the condition that the principal amount of the loan from the OBDD to the Recipient is not in excess of \$810,000 and an interest rate of 2.25% per annum. The proceeds of the loan from the OBDD will be applied solely to the “Costs of the Project” as such term is defined in the Financing Contract.

2. Sources of Repayment. Amounts payable by the Recipient are payable from the sources described in section 4 of the Financing Contract and the Oregon Revised Statutes Section 285B.437(3) which include:

- (a) The revenues of the project, including special assessment revenues;
- (b) Amounts withheld under ORS 285B.449 (1);
- (c) The general fund of the Recipient; or
- (d) Any other source.

3. Tax-Exempt Status. The Recipient covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Recipient pursuant to the Financing Documents not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The Recipient may enter into covenants to protect the tax-exempt status of the interest paid by the Recipient pursuant to the Financing Documents and may execute any Tax Certificate, Internal Revenue Service forms or other documents as may be required by the OBDD or its bond counsel to protect the tax-exempt status of such interest.

4. Reimbursement Bonds. The Recipient may make certain expenditures on the Project prior to the date the Financing Contract is executed with OBDD or the date the State of Oregon issues any bonds to fund the loan. The Recipient hereby declares its intent to seek reimbursement of such expenditures with amounts received from the OBDD pursuant to the Financing Contract, but only as permitted by OBDD policy, the Financing Contract, and federal tax regulations. Additionally, the Recipient understands that the OBDD may fund or reimburse itself for the funding of amounts paid to the Recipient pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This [Ordinance/Resolution/Order] constitutes “official intent” within the meaning of 26 C.F.R. §1.150-2 of the income tax regulations promulgated by the United States Department of the Treasury.

APPROVED AND ADOPTED BY THE BOARD OF COMMISSIONERS this
January 13, 2022.

ATTEST:

James Burke, President

Walter Chuck, Secretary

EXHIBIT 1

SPECIAL PUBLIC WORKS FUND DEVELOPMENT PROJECT FINANCING CONTRACT

Project Name: New Port of Newport Administrative Building

Project Number: L22001

This financing contract (“Contract”), dated as of the date the Contract is fully executed, is made by the State of Oregon, acting by and through its Oregon Infrastructure Finance Authority of the Oregon Business Development Department (“OBDD”), and the Port of Newport (“Recipient”) for financing of the project referred to above and described in Exhibit C (“Project”). This Contract becomes effective only when fully signed and approved as required by applicable law. Capitalized terms not defined in section 1 and elsewhere in the body of the Contract have the meanings assigned to them by Exhibit A.

This Contract includes the following exhibits, listed in descending order of precedence for purposes of resolving any conflict between two or more of the parts:

Exhibit A	General Definitions
Exhibit B	Security
Exhibit C	Project Description
Exhibit D	Project Budget

SECTION 1 - KEY TERMS

The following capitalized terms have the meanings assigned below.

“Estimated Project Cost” means \$2,307,000.

“Interest Rate” means 2.25% per annum.

“Loan Amount” means \$810,000.

“Maturity Date” means the 19th anniversary of the Repayment Commencement Date.

“Payment Date” means every January 1, April 1, July 1, October 1.

“Project Closeout Deadline” means 90 days after the earlier of the Project Completion Date or the Project Completion Deadline.

“Project Completion Deadline” means 36 months after the date of this Contract.

“Repayment Commencement Date” means the first Payment Date to occur after the Project Closeout Deadline.

SECTION 2 - FINANCIAL ASSISTANCE

OBDD shall provide Recipient, and Recipient shall accept from OBDD, financing for the Project as a non-revolving loan (the “Loan”) in an aggregate principal amount not to exceed the Loan Amount.

Notwithstanding the above, the aggregate total of Financing Proceeds disbursed under this Contract cannot exceed the Costs of the Project.

SECTION 3 - DISBURSEMENTS

A. Reimbursement Basis. The Financing Proceeds will be disbursed to Recipient on an expense reimbursement or costs-incurred basis. The Recipient must submit each disbursement request for the

Financing Proceeds on an OBDD-provided or OBDD-approved disbursement request form (“Disbursement Request”).

- B. Financing Availability. OBDD’s obligation to make, and Recipient’s right to request, disbursements under this Contract terminates on the Project Closeout Deadline.
- C. Payment to Contractors. OBDD, in its sole discretion, may make direct payment to suppliers, contractors and subcontractors and others for sums due them in connection with construction of the Project, instead of reimbursing Recipient for those sums.

SECTION 4 - LOAN PAYMENT; PREPAYMENT

- A. Promise to Pay. The Recipient shall repay the Loan and all amounts due under this Contract in accordance with its terms. Payments required under this Contract are, without limitation, payable from the sources of repayment described in the Act and this Contract, including but not limited to Exhibit B, and the obligation of Recipient to make all payments is absolute and unconditional. Payments will not be abated, rebated, set-off, reduced, abrogated, terminated, waived, postponed or otherwise modified in any manner whatsoever. Payments cannot remain unpaid, regardless of any contingency, act of God, event or cause whatsoever, including (without limitation) any acts or circumstances that may constitute failure of consideration, eviction or constructive eviction, the taking by eminent domain or destruction of or damage to the Project, commercial frustration of purpose, any change in the laws, rules or regulations of the United States of America or of the State of Oregon or any political subdivision or governmental authority, nor any failure of OBDD to perform any agreement, whether express or implied, or any duty, liability, or obligation arising out of or connected with the Project or this Contract, or any rights of set off, recoupment, abatement or counterclaim that Recipient might otherwise have against OBDD or any other party or parties; provided further, that payments hereunder will not constitute a waiver of any such rights.
- B. Interest. Interest accrues at the Interest Rate on each disbursement from the date of disbursement until the Loan is fully paid. All unpaid interest accrued to the Repayment Commencement Date is (in addition to the first regular installment payment due) payable on the Repayment Commencement Date. Interest is computed by counting the actual days occurring in a 360-day year.

The Recipient authorizes OBDD to calculate accrued interest as necessary under this Contract, including for purposes of determining a loan amortization schedule or determining the amount of a loan prepayment or loan payoff. Absent manifest error, such calculations will be conclusive.
- C. Loan Payments. Starting on the Repayment Commencement Date and then on each succeeding Payment Date, Recipient shall make level installment payments of principal and interest, each payment sufficient to pay the interest accrued to the date of payment and so much of the principal as will fully amortize the Loan by the Maturity Date, on which date the entire outstanding balance of the Loan is due and payable in full.
- D. Loan Prepayments.
 - (1) Mandatory Prepayment. The Recipient shall prepay all or part of the outstanding balance of the Loan as required by this Contract.
 - (2) Optional Prepayment. The Recipient may prepay all or part of the outstanding balance of the Loan on any day except a Saturday, Sunday, legal holiday or day that banking institutions in Salem, Oregon are closed.
- E. Application of Payments. Regardless of any designation by Recipient, payments and prepayments by Recipient under this Contract or any of the Financing Documents will be applied first to any

expenses of OBDD, including but not limited to attorneys' fees, then to unpaid accrued interest (in the case of prepayment, on the amount prepaid), then to the principal of the Loan. In the case of a Loan prepayment that does not prepay all the principal of the Loan, OBDD will determine, in its sole discretion, the method for how the Loan prepayment will be applied to the outstanding principal payments. A scheduled payment received before the scheduled repayment date will be applied to interest and principal on the scheduled repayment date, rather than on the day such payment is received.

SECTION 5 - CONDITIONS PRECEDENT

- A. Conditions Precedent to OBDD's Obligations. OBDD's obligations are subject to the receipt of the following items, in form and substance satisfactory to OBDD and its Counsel:
- (1) This Contract duly signed by an authorized officer of Recipient.
 - (2) A copy of the ordinance, order or resolution of the governing body of Recipient authorizing the borrowing and the contemplated transactions and the execution and delivery of this Contract and the other Financing Documents.
 - (3) An opinion of Recipient's Counsel.
 - (4) A Deed of Trust, Assignment of Leases and Rents, and Security Agreement and Fixture Filing, recorded in the real estate records of Lincoln County, Oregon, granting OBDD a lien on the real property described in Exhibit B ("Collateral"), subject only to the Permitted Liens, to secure repayment of the Loan and the performance of Recipient's obligations hereunder.
 - (5) An ALTA lenders title insurance policy issued by the Western Title & Escrow of Lincoln County, Newport, OR for the Collateral, in the amount of the Loan.
 - (6) Such other certificates, documents, opinions and information as OBDD may reasonably require.
- B. Conditions to Disbursements. As to any disbursement, OBDD has no obligation to disburse funds unless all following conditions are met:
- (1) There is no Event of Default.
 - (2) The representations and warranties made in this Contract are true and correct on the date of disbursement as if made on such date.
 - (3) OBDD, in the reasonable exercise of its administrative discretion, has sufficient moneys in the Special Public Works Fund for use in the Project and has sufficient funding, appropriations, limitations, allotments and other expenditure authority to make the disbursement.
 - (4) OBDD (a) has received a completed Disbursement Request, (b) has received any written evidence of materials and labor furnished to or work performed upon the Project, itemized receipts or invoices for payment, and releases, satisfactions or other signed statements or forms as OBDD may require, (c) is satisfied that all items listed in the Disbursement Request are reasonable and that the costs for labor and materials were incurred and are properly included in the Costs of the Project, and (d) has determined that the disbursement is only for costs defined as eligible costs under the Act and any implementing administrative rules and policies.
 - (5) The Recipient has delivered documentation satisfactory to OBDD that, in addition to the Financing Proceeds, Recipient has available or has obtained binding commitments for all funds necessary to complete the Project.

An estimated schedule of Disbursement Requests for Project design, including anticipated number, submission dates, and amounts and, prior to the beginning of Project construction, an estimated schedule of Disbursement Requests for construction, including anticipated number, submission dates, and amounts.

- (6) Any conditions to disbursement elsewhere in this Contract or in the other Financing Documents are met.

SECTION 6 - USE OF FINANCIAL ASSISTANCE

- A. Use of Proceeds. The Recipient shall use the Financing Proceeds only for the activities described in Exhibit C and according to the budget in Exhibit D. The Recipient may not transfer Financing Proceeds among line items in the budget without the prior written consent of OBDD.
- B. Costs of the Project. The Recipient shall apply the Financing Proceeds to the Costs of the Project in accordance with the Act and Oregon law, as applicable. Financing Proceeds cannot be used for costs in excess of one hundred percent (100%) of the total Costs of the Project and cannot be used for pre-Award Costs of the Project, unless permitted by Exhibit C.
- C. Costs Paid for by Others. The Recipient may not use any of the Financing Proceeds to cover costs to be paid for by other financing for the Project, whether from OBDD or from another State of Oregon agency or any third party.

SECTION 7 - REPRESENTATIONS AND WARRANTIES OF RECIPIENT

The Recipient represents and warrants to OBDD:

- A. Estimated Project Cost, Funds for Repayment. A reasonable estimate of the Costs of the Project is shown in section 1, and the Project is fully funded. The Recipient will have adequate funds available to repay the Loan, and the Maturity Date does not exceed the usable life of the Project.
- B. Organization and Authority.
- (1) The Recipient is a Municipality under the Act, and validly organized and existing under the laws of the State of Oregon.
 - (2) The Recipient has all necessary right, power and authority under its organizational documents and under Oregon law to (a) execute and deliver this Contract and the other Financing Documents, (b) incur and perform its obligations under this Contract and the other Financing Documents, and (c) borrow and receive financing for the Project.
 - (3) This Contract and the other Financing Documents executed and delivered by Recipient have been authorized by an ordinance, order or resolution of Recipient's governing body, and voter approval, if necessary, that was adopted in accordance with applicable law and requirements for filing public notices and holding public meetings.
 - (4) This Contract and the other Financing Documents have been duly executed by Recipient, and when executed by OBDD, are legal, valid and binding, and enforceable in accordance with their terms.
- C. Full Disclosure. The Recipient has disclosed in writing to OBDD all facts that materially adversely affect the Project, or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents. The Recipient has made no false

statements of fact, nor has it omitted information necessary to prevent any statements from being misleading. The information contained in this Contract and the other Financing Documents is true and accurate in all respects.

- D. Pending Litigation. The Recipient has disclosed in writing to OBDD all proceedings pending (or to the knowledge of Recipient, threatened) against or affecting Recipient, in any court or before any governmental authority or arbitration board or tribunal, that, if adversely determined, would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.
- E. No Events of Default.
- (1) No Events of Default exist or occur upon authorization, execution or delivery of this Contract or any of the Financing Documents.
 - (2) The Recipient has not violated, and has not received notice of any claimed violation of, any agreement or instrument to which it is a party or by which the Project or its property may be bound, that would materially adversely affect the Project or the ability of Recipient to make all payments and perform all obligations required by this Contract and the other Financing Documents.
- F. Compliance with Existing Agreements and Applicable Law. The authorization and execution of, and the performance of all obligations required by, this Contract and the other Financing Documents will not: (i) cause a breach of any agreement, indenture, mortgage, deed of trust, or other instrument, to which Recipient is a party or by which the Project or any of its property or assets may be bound; (ii) cause the creation or imposition of any third party lien, charge or encumbrance upon any property or asset of Recipient; (iii) violate any provision of the charter or other document pursuant to which Recipient was organized or established; or (iv) violate any laws, regulations, ordinances, resolutions, or court orders related to Recipient, the Project or its properties or operations.
- G. Governmental Consent. The Recipient has obtained or will obtain all permits and approvals, and has made or will make all notifications, declarations, filings or registrations, required for the making and performance of its obligations under this Contract and the other Financing Documents, for the financing or refinancing and undertaking and completion of the Project.

SECTION 8 - COVENANTS OF RECIPIENT

The Recipient covenants as follows:

- A. Notice of Adverse Change. The Recipient shall promptly notify OBDD of any adverse change in the activities, prospects or condition (financial or otherwise) of Recipient or the Project related to the ability of Recipient to make all payments and perform all obligations required by this Contract or the other Financing Documents.
- B. Compliance with Laws. The Recipient shall comply with all applicable laws, rules, regulations and orders of any court or governmental authority that relate to this Contract or the other Financing Documents, that relate to the Project. In particular, but without limitation, Recipient shall comply with the following, as applicable:
- (1) State procurement regulations found in the Oregon Public Contracting Code, ORS chapters 279A, 279B and 279C.
 - (2) State labor standards and wage rates found in ORS chapter 279C.
 - (3) OAR 123-042-0165 requirements for signs and notifications.

These laws, rules, regulations and orders are incorporated by reference in this Contract to the extent required by law.

C. Project Completion Obligations. The Recipient shall:

- (1) When procuring professional consulting services, provide OBDD with copies of all solicitations at least 10 days before advertising, and all contracts at least 10 days before signing.
- (2) Provide OBDD with copies of all plans and specifications relating to the Project, and a timeline for the bidding/award process, at least ten (10) days before advertising for bids.
- (3) Provide a copy of the bid tabulation, notice of award, and contract to OBDD within ten (10) days after selecting a construction contractor.
- (4) Permit OBDD to conduct inspection of the Project at any time.
- (5) Complete the Project using its own fiscal resources or money from other sources to pay for any Costs of the Project in excess of the total amount of financial assistance provided pursuant to this Contract.
- (6) Complete the Project no later than the Project Completion Deadline, unless otherwise permitted by the OBDD in writing.
- (7) Obtain and maintain as-built drawings for all facilities constructed as part of the Project.

D. Financial Covenants. The Recipient shall charge rates and fees in connection with the operation of the Recipient's Moorage, Leasing, RV Park, Hoist Dock, and Launch Ramp, which, when combined with other gross revenues, are adequate to generate net revenues each fiscal year at least equal to one hundred twenty (120%) percent of the annual debt service due in the fiscal year on the Loan.

E. Ownership of Project. During the term of the Loan, the Project is and will continue to be owned by Recipient. The Project will be operated by Recipient or by a person under a management contract or operating agreement with Recipient. Any such management contract or operating agreement will be structured as a "qualified management contract" as described in IRS Revenue Procedure 97-13, as amended or supplemented.

F. Operation and Maintenance of the Project. The Recipient shall operate and maintain the Project in good repair and operating condition so as to preserve the long-term public benefits of the Project, including making all necessary and proper repairs, replacements, additions, and improvements during term of the Loan. On or before the Project Closeout Deadline, Recipient shall adopt a plan acceptable to OBDD for the on-going operation and maintenance of the Project without reliance on OBDD financing and furnish OBDD, at its request, with evidence of such adoption. The plan must include measures for generating revenues sufficient to assure the operation and maintenance of the Project during the usable life of the Project.

G. Insurance, Damage. The Recipient shall maintain, or cause to be maintained, insurance policies with responsible insurers or self-insurance programs, insuring against liability and risk of direct physical loss, damage or destruction of the Project, at least to the extent that similar insurance is customarily carried by governmental units constructing, operating and maintaining similar facilities. Nothing in this provision precludes Recipient from asserting a defense against any party other than OBDD, including a defense of immunity. If the Project or any portion is destroyed, any insurance proceeds will be paid to OBDD and applied to prepay the outstanding balance on the Loan in accordance with section 4.D.(1, unless OBDD agrees in writing that the insurance proceeds may be used to rebuild the Project.

- H. Sales, Leases and Encumbrances. Except as specifically described in Exhibit C, Recipient shall not sell, lease, exchange, abandon, transfer or otherwise dispose of any substantial portion of or interest in the Project or any system that provides revenues for payment or is security for the Loan, unless worn out, obsolete, or, in the reasonable business judgment of Recipient, no longer useful in the operation of the Project. Nevertheless, OBDD may consent to such disposition if it has received 90 days' prior written notice from Recipient. Such consent may require assumption by transferee of all of Recipient's obligations under the Financing Documents and payment of OBDD's costs related to such assumption, and receipt by OBDD of an opinion of Bond Counsel to the effect that such disposition complies with applicable law and will not adversely affect the exclusion of interest on any Lottery Bonds from gross income for purposes of federal income taxation under Section 103(a) of the Code. The term "Bond Counsel" means a law firm determined by OBDD to have knowledge and expertise in the field of municipal law and whose opinions are generally accepted by purchasers of municipal bonds. In the case of sale, exchange, transfer or other similar disposition, Recipient shall, within 30 days of receipt of any proceeds from such disposition, prepay the entire outstanding balance on the Loan in accordance with section 4.D.(1), unless OBDD agrees otherwise in writing. If Recipient abandons the Project, Recipient shall prepay the entire outstanding balance of the Loan immediately upon demand by OBDD.
- I. Condemnation Proceeds. If the Project or any portion is condemned, any condemnation proceeds will be paid to OBDD and applied to prepay the outstanding balance of the Loan in accordance with section 4.D.
- J. Financial Records. The Recipient shall keep accurate books and records for the revenues and funds that are the source of repayment of the Loan, separate and distinct from its other books and records, and maintain them according to generally accepted accounting principles established by the Government Accounting Standards Board in effect at the time. The Recipient shall have these records audited annually by an independent certified public accountant, which may be part of the annual audit of all records of Recipient.
- K. Inspections; Information. The Recipient shall permit OBDD and any party designated by OBDD: (i) to inspect, at any reasonable time, the property, if any, constituting the Project; and (ii) at any reasonable time, to inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursements, contracts, investments and any other related matters, and financial statements or other documents related to its financial standing. The Recipient shall supply any related reports and information as OBDD may reasonably require. In addition, Recipient shall, upon request, provide OBDD with copies of loan documents or other financing documents and any official statements or other forms of offering prospectus relating to any other bonds, notes or other indebtedness of Recipient that are issued after the date of this Contract.
- L. Records Maintenance. The Recipient shall retain and keep accessible all books, documents, papers, and records that are directly related to this Contract, the Project or the Financing Proceeds for a minimum of six years, or such longer period as may be required by other provisions of this Contract or applicable law, following the Project Closeout Deadline. If there are unresolved issues at the end of such period, Recipient shall retain the books, documents, papers and records until the issues are resolved.
- M. Economic Benefit Data. The OBDD may require Recipient to submit specific data on the economic development benefits of the Project and other information to evaluate the success and economic impact of the Project, from the date of this Contract until six years after the Project Completion Date. The Recipient shall, at its own expense, prepare and submit the data within the time specified by OBDD.

- N. Disadvantaged Business Enterprises. ORS 200.090 requires all public agencies to “aggressively pursue a policy of providing opportunities for disadvantaged business enterprises, minority-owned businesses, woman-owned businesses, businesses that service-disabled veterans own and emerging small businesses...” OBDD encourages Recipient in any contracting activity to follow good faith efforts as described in ORS 200.045, available at https://www.oregonlegislature.gov/bills_laws/ors/ors200.html. Additional resources are provided by the Governor’s Policy Advisor for Economic and Business Equity. Also, the Certification Office for Business Inclusion and Diversity at the Oregon Business Development Department maintains a list of certified firms and can answer questions. Search for certified MWESB firms on the web at: <https://oregon4biz.diversitysoftware.com/FrontEnd/VendorSearchPublic.asp>.
- O. Professional Responsibility. A professional engineer or architect, as applicable, registered and in good standing in Oregon, will be responsible for the design and construction of the Project. All service providers retained for their professional expertise must be certified, licensed, or registered, as appropriate, in the State of Oregon for their specialty. The Recipient shall follow standard construction practices, such as bonding requirements for construction contractors, requiring errors and omissions insurance, and performing testing and inspections during construction.
- P. Notice of Event of Default. The Recipient shall give OBDD prompt written notice of any Event of Default, or any circumstance that with notice or the lapse of time, or both, may become an Event of Default, as soon as Recipient becomes aware of its existence or reasonably believes an Event of Default is likely.
- Q. Indemnity. To the extent authorized by law, Recipient shall defend (subject to ORS chapter 180), indemnify, save and hold harmless OBDD and its officers, employees and agents from and against any and all claims, suits, actions, proceedings, losses, damages, liability and court awards including costs, expenses, and attorneys’ fees incurred related to any actual or alleged act or omission by Recipient, or its employees, agents or contractors; however, the provisions of this section are not to be construed as a waiver of any defense or limitation on damages provided for under Chapter 30 of the Oregon Revised Statutes or under the laws of the United States or other laws of the State of Oregon.
- R. Further Assurances. The Recipient shall, at the request of OBDD, authorize, sign, acknowledge and deliver any further resolutions, conveyances, transfers, assurances, financing statements and other instruments and documents as may be necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights, security interests and agreements granted or intended to be granted by this Contract and the other Financing Documents.
- S. Exclusion of Interest from Federal Gross Income and Compliance with Code.
- (1) The Recipient shall not take any action or omit to take any action that would result in the loss of the exclusion of the interest on any Lottery Bonds from gross income for purposes of federal income taxation, as governed by Section 103(a) of the Code. OBDD may decline to disburse the Financing Proceeds if it finds that the federal tax exemption of the Lottery Bonds cannot be assured.
 - (2) The Recipient shall not take any action (including but not limited to the execution of a management agreement for the operation of the Project) or omit to take any action that would cause any Lottery Bonds to be “private activity bonds” within the meaning of Section 141(a) of the Code. Accordingly, unless Recipient receives the prior written approval of OBDD, Recipient shall not permit in excess of ten percent (10%) of either (a) the Financing Proceeds or (b) the Project financed or refinanced with the Financing Proceeds to be directly or indirectly used in any manner that would constitute “private business use” within the meaning

of Section 141(b)(6) of the Code, including not permitting more than one half of any permitted private business use to be “disproportionate related business use” or private business use unrelated to the government use of the Financing Proceeds. Unless Recipient receives the prior written approval of OBDD, Recipient shall not directly or indirectly use any of the Financing Proceeds to make or finance loans to persons other than governmental units, as that term is used in Section 141(c) of the Code.

- (3) The Recipient shall not directly or indirectly use or permit the use of any of the Financing Proceeds or any other funds, or take any action or omit to take any action, which would cause any Lottery Bonds to be “arbitrage bonds” within the meaning of Section 148(a) of the Code.
- (4) The Recipient shall not cause any Lottery Bonds to be treated as “federally guaranteed” for purposes of Section 149(b) of the Code, as may be modified in any applicable rules, rulings, policies, procedures, regulations or other official statements promulgated or proposed by the Department of the Treasury or the Internal Revenue Service with respect to “federally guaranteed” obligations described in Section 149(b) of the Code. For purposes of this paragraph, any Lottery Bonds will be treated as “federally guaranteed” if: (a) all or any portion of the principal or interest is or will be guaranteed directly or indirectly by the United States of America or any agency or instrumentality thereof, or (b) five percent (5%) or more of the proceeds of the Lottery Bonds will be (i) used in making loans if the payment of principal or interest is guaranteed in whole or in part by the United States of America or any agency or instrumentality thereof, or (ii) invested directly or indirectly in federally insured deposits or accounts, and (c) none of the exceptions described in Section 149(b)(3) of the Code apply.
- (5) The Recipient shall assist OBDD to ensure that all required amounts are rebated to the United States of America pursuant to Section 148(f) of the Code. The Recipient shall pay to OBDD such amounts as may be directed by OBDD to satisfy the requirements of Section 148(f) applicable to the portion of the proceeds of any tax-exempt bonds, including any Financing Proceeds or other amounts held in a reserve fund. The Recipient further shall reimburse OBDD for the portion of any expenses it incurs related to the Project that is necessary to satisfy the requirements of Section 148(f) of the Code.
- (6) Upon OBDD’s request, Recipient shall furnish written information regarding its investments and use of Financing Proceeds, and of any facilities financed or refinanced therewith, including providing OBDD with any information and documentation that OBDD reasonably determines is necessary to comply with the arbitrage and private use restrictions that apply to the Lottery Bonds.
- (7) Notwithstanding anything to the contrary, so long as is necessary to maintain the exclusion from gross income for purposes of federal income taxation of interest on any Lottery Bonds, the covenants contained in this subsection will survive the payment of the Loan and the Lottery Bonds, and the interest thereon, including the application of any unexpended Financing Proceeds. The Recipient acknowledges that the Project may be funded with proceeds of the Lottery Bonds and that failure to comply with the requirements of this subsection could adversely affect any exclusion of the interest on the Lottery Bonds from gross income for federal income tax purposes.
- (8) Neither Recipient nor any related party to Recipient, within the meaning of 26 C.F.R. §1.150-1(b), shall purchase any Lottery Bonds, from which proceeds were used to finance the Project, in an amount related to the amount of the Loan.

SECTION 9 - DEFAULTS

Any of the following constitutes an “Event of Default”:

- A. The Recipient fails to make any Loan payment when due.
- B. The Recipient fails to make, or cause to be made, any required payments of principal, redemption premium, or interest on any bonds, notes or other material obligations, for any other loan made by the State of Oregon.
- C. Any false or misleading representation is made by or on behalf of Recipient in this Contract, in any other Financing Document or in any document provided by Recipient related to this Loan or the Project or in regard to compliance with the requirements of Section 103 and Sections 141 through 150 of the Code.
- D.
 - (1) A petition, proceeding or case is filed by or against Recipient under any federal or state bankruptcy or insolvency law, and in the case of a petition filed against Recipient, Recipient acquiesces to such petition or such petition is not dismissed within 20 calendar days after such filing, or such dismissal is not final or is subject to appeal;
 - (2) The Recipient files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up or composition or adjustment of debts;
 - (3) The Recipient becomes insolvent or bankrupt or admits its inability to pay its debts as they become due, or makes an assignment for the benefit of its creditors;
 - (4) The Recipient applies for or consents to the appointment of, or taking of possession by, a custodian (including, without limitation, a receiver, liquidator or trustee) of Recipient or any substantial portion of its property; or
 - (5) The Recipient takes any action for the purpose of effecting any of the above.
- E. The Recipient defaults under any other Financing Document and fails to cure such default within the applicable grace period.
- F. The Recipient fails to perform any obligation required under this Contract, other than those referred to in subsections A through E of this section 9, and that failure continues for a period of 30 calendar days after written notice specifying such failure is given to Recipient by OBDD. The OBDD may agree in writing to an extension of time if it determines Recipient instituted and has diligently pursued corrective action.

SECTION 10 - REMEDIES

- A. Remedies. Upon any Event of Default, OBDD may pursue any or all remedies in this Contract or any other Financing Document, and any other remedies available at law or in equity to collect amounts due or to become due or to enforce the performance of any obligation of Recipient. Remedies may include, but are not limited to:
 - (1) Terminating OBDD’s commitment and obligation to make any further disbursements of Financing Proceeds under the Contract.
 - (2) Declaring all payments under the Contract and all other amounts due under any of the Financing Documents immediately due and payable, and upon notice to Recipient the same become due and payable without further notice or demand.

- (3) Barring Recipient from applying for future awards.
 - (4) Withholding amounts otherwise due to Recipient for application to the payment of amounts due under this Contract, including as provided in ORS 285B.449.
 - (5) Foreclosing liens or security interests pursuant to this Contract or any other Financing Document.
- B. Application of Moneys. Any moneys collected by OBDD pursuant to section 10.A will be applied first, to pay any attorneys' fees and other fees and expenses incurred by OBDD; then, to pay interest due on the Loan; then, to pay principal due on the Loan; and last, to pay any other amounts due and payable under this Contract or any of the Financing Documents.
- C. No Remedy Exclusive; Waiver; Notice. No remedy available to OBDD is intended to be exclusive, and every remedy will be in addition to every other remedy. No delay or omission to exercise any right or remedy will impair or is to be construed as a waiver of such right or remedy. No single or partial exercise of any right power or privilege under this Contract or any of the Financing Documents will preclude any other or further exercise thereof or the exercise of any other such right, power or privilege. The OBDD is not required to provide any notice in order to exercise any right or remedy, other than notice required in section 9 of this Contract.
- D. Default by OBDD. In the event OBDD defaults on any obligation in this Contract, Recipient's remedy will be limited to injunction, special action, action for specific performance, or other available equitable remedy for performance of OBDD's obligations.

SECTION 11 - MISCELLANEOUS

- A. Time is of the Essence. The Recipient agrees that time is of the essence under this Contract and the other Financing Documents.
- B. Relationship of Parties; Successors and Assigns; No Third Party Beneficiaries.
- (1) The parties agree that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265.
 - (2) Nothing in this Contract gives, or is to be construed to give, directly or indirectly, to any third persons any rights and benefits greater than those enjoyed by the general public.
 - (3) This Contract will be binding upon and inure to the benefit of OBDD, Recipient, and their respective successors and permitted assigns.
 - (4) The Recipient may not assign or transfer any of its rights or obligations or any interest in this Contract or any other Financing Document without the prior written consent of OBDD. The OBDD may grant, withhold or impose conditions on such consent in its sole discretion. In the event of an assignment, Recipient shall pay, or cause to be paid to OBDD, any fees or costs incurred because of such assignment, including but not limited to attorneys' fees of OBDD's Counsel and Bond Counsel. Any approved assignment is not to be construed as creating any obligation of OBDD beyond those in this Contract or other Financing Documents, nor does assignment relieve Recipient of any of its duties or obligations under this Contract or any other Financing Documents.
 - (5) The Recipient hereby approves and consents to any assignment, sale or transfer of this Contract and the Financing Documents that OBDD deems to be necessary.

C. Disclaimer of Warranties; Limitation of Liability. The Recipient agrees that:

- (1) OBDD makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for any use of the Project or any portion of the Project, or any other warranty or representation.
- (2) The liability of OBDD under this Contract is contingent upon the availability of moneys in the Special Public Work Fund for use in the project, and in no event are OBDD or its agents liable or responsible for any direct, indirect, incidental, special, consequential or punitive damages in connection with or arising out of this Contract or the existence, furnishing, functioning or use of the Project.

D. Notices and Communication. Except as otherwise expressly provided in this Contract, any communication between the parties or notices required or permitted must be given in writing by personal delivery, email, or by mailing the same, postage prepaid, to Recipient or OBDD at the addresses set forth below, or to such other persons or addresses that either party may subsequently indicate pursuant to this Section.

Any communication or notice by personal delivery will be deemed effective when actually delivered to the addressee. Any communication or notice so addressed and mailed will be deemed to be received and effective five (5) days after mailing. Any communication or notice given by email becomes effective 1) upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system or 2) the recipient's confirmation of receipt, whichever is earlier. Notwithstanding this provision, the following notices may not be given by email: notice of default or notice of termination.

If to OBDD: Assistant Director, Economic Development
Oregon Business Development Department
775 Summer Street NE Suite 200
Salem OR 97301-1280

If to Recipient: General Manager
Port of Newport
600 SE Bay Blvd
Newport, OR 97365

E. No Construction against Drafter. This Contract is to be construed as if the parties drafted it jointly.

F. Severability. If any term or condition of this Contract is declared by a court of competent jurisdiction as illegal, invalid or unenforceable, that holding will not invalidate or otherwise affect any other provision.

G. Amendments, Waivers. This Contract may not be amended without the prior written consent of OBDD (and when required, the Department of Justice) and Recipient. This Contract may not be amended in a manner that is not in compliance with the Act. No waiver or consent is effective unless in writing and executed by the party against whom such waiver or consent is sought to be enforced. Such waiver or consent will be effective only in the specific instance and for the specific purpose given.

H. Attorneys' Fees and Other Expenses. To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Contract is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to OBDD by its attorneys. The Recipient shall, on demand, pay to OBDD reasonable expenses incurred by OBDD in the collection of Loan payments.

I. Choice of Law; Designation of Forum; Federal Forum. The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Contract, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

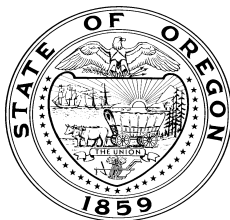
Any party bringing a legal action or proceeding against any other party arising out of or relating to this Contract shall bring the legal action or proceeding in the Circuit Court of the State of Oregon for Marion County (unless Oregon law requires that it be brought and conducted in another county). Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

Notwithstanding the prior paragraph, if a claim must be brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for the District of Oregon. This paragraph applies to a claim brought against the State of Oregon only to the extent Congress has appropriately abrogated the State of Oregon’s sovereign immunity and is not consent by the State of Oregon to be sued in federal court. This paragraph is also not a waiver by the State of Oregon of any form of defense or immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

J. Integration. This Contract (including all exhibits, schedules or attachments) and the other Financing Documents constitute the entire agreement between the parties on the subject matter. There are no unspecified understandings, agreements or representations, oral or written, regarding this Contract.

K. Execution in Counterparts. This Contract may be signed in several counterparts, each of which is an original and all of which constitute one and the same instrument.

The Recipient, by its signature below, acknowledges that it has read this Contract, understands it, and agrees to be bound by its terms and conditions.



STATE OF OREGON
acting by and through its
Oregon Infrastructure Finance Authority
of the Oregon Business Development
Department

PORT OF NEWPORT

By: _____
Chris Cummings, Assistant Director
Economic Development

By: _____
Jim Burke,
Commission President

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ Wendy Johnson via email dated 22 December 22, 2021
Wendy Johnson, Senior Assistant Attorney General

EXHIBIT A - GENERAL DEFINITIONS

As used in this Contract, the following terms have the meanings below.

“Act” means ORS 285B.410 through 285B.482, as amended.

“Award” means the award of financial assistance to Recipient by OBDD dated 22 July 2021.

“C.F.R.” means the Code of Federal Regulations.

“Code” means the Internal Revenue Code of 1986, as amended, including any implementing regulations and any administrative or judicial interpretations.

“Costs of the Project” means Recipient’s actual costs (including any financing costs properly allocable to the Project) that are (a) reasonable, necessary and directly related to the Project, (b) permitted by generally accepted accounting principles to be Costs of the Project, and (c) are eligible or permitted uses of the Financing Proceeds under applicable state or federal statute and rule.

“Counsel” means an attorney at law or firm of attorneys at law duly admitted to practice law before the highest court of any state, who may be of counsel to, or an employee of, OBDD or Recipient.

“Financing Documents” means this Contract and all agreements, instruments, documents and certificates executed pursuant to or in connection with OBDD’s financing of the Project.

“Financing Proceeds” means the proceeds of the Loan.

“Lottery Bonds” means any bonds issued by the State of Oregon that are special obligations of the State of Oregon, payable from unobligated net lottery proceeds, the interest on which is exempt from federal income taxation, together with any refunding bonds, used to finance or refinance the Project through the initial funding or refinancing of all or a portion of the Loan.

“Municipality” means any entity described in ORS 285B.410(9).

“ORS” means the Oregon Revised Statutes.

“Permitted Liens” means the permitted liens listed in Exhibit B.

“Project Completion Date” means the date on which Recipient completes the Project.

EXHIBIT B - SECURITY

- A. Full Faith and Credit Pledge. The Recipient pledges its full faith and credit and taxing power within the limitations of Article XI, sections 11 and 11 b, of the Oregon Constitution to pay the amounts due under this Contract. All amounts due under this Contract are payable from and secured by all lawfully available funds of Recipient.
- B. Line of Credit Deed of Trust, Assignment of Rents, and Security Agreement. The Recipient shall provide a Deed of Trust record in the real estate records of Lincoln County, Oregon, granting OBDD a lien on the real properties located at 510 SE Bay Boulevard, Newport OR 97365 (Parcel I) and 600 SE Bay Boulevard, Newport, OR 97365 (Parcel II). and more particularly described in Preliminary Title Report No. WT0220148, prepared June 22, 2021, by Western Title & Escrow, 255 SW Coast Highway, Suite 100, Newport, OR 97365, as:

PARCEL I:

Lots 1, 2, 3, 4 and 5, Block 2, OLSSON'S 2ND ADDITION TO NEWPORT, City of Newport, Lincoln County, Oregon.

PARCEL II:

TRACT I:

A tract lying in Section 8, Township 11 South, Range 11 West of the Willamette Meridian, Lincoln County, Oregon, described as follows:

Beginning at the Southeast corner of Block 4, OLSSON'S 2ND ADDITION TO NEWPORT, City of Newport, Lincoln County, Oregon; thence South 00°02'45" West, 306.69 feet to a point on the low tide line; thence North 66°23'30" West 1057.00 feet; thence North 84°54'30" West 308.71 feet to a point on the South line of said Addition; thence North 65°00'00" East 426.48 feet; thence South 70°00'00" East 946.95 feet to the Point of Beginning.

EXCEPTING THEREFROM any portion lying above or beyond the meander line.

TRACT II:

Beginning at a point on the low tide line on the North side of Yaquina Bay and on the East line of Section 8, 2895.00 feet South of the corner to Sections 4, 5, 8 and 9, Township 11 South, Range 11 West of the Willamette Meridian, Lincoln County, Oregon and running thence North 66°23'45" West 1018.24 feet along the low waterline; thence North 84°55'30" West 580.77 feet along the low waterline; thence South 63°39'45" West 573.12 feet along the low waterline; thence North 38.63 feet along the low waterline; thence West 199.62 feet to the high water line, to a point that is 460.38 feet East of the Southwest corner of Government Lot 2 in Section 8, Township 11 South, Range 11 West of the Willamette Meridian; thence North 45°43'15" East 55.90 feet; thence North 62°54'15" East 225.15 feet; thence North 67°44'15" East 145.00 feet; thence North 62°42'15" East 286.00 feet; thence North 57°10'30" East 182.33 feet; thence North 66°17'45" East 185.50 feet; thence South 89°24'45" East 165.80 feet; thence South 79°14'15" East 534.10 feet; thence South 66°42'45" East 571.20 feet; thence South 63°53'45" East 8.48 feet; thence South 00°43'00" West 391.70 feet to the Place of Beginning.

Permitted Liens. Permitted Liens include all general and specific exceptions #1-22 as described in the Preliminary Title Report No. WT0220148, prepared June 22, 2021, by Western Title & Escrow, 255 SW Coast Highway, Suite 100, Newport, OR 97365, by this reference made a part hereof.

EXHIBIT C - PROJECT DESCRIPTION

The Recipient will construct a new administration building within its dock and yard facility located adjacent to SE Bay Boulevard. The building will be located on a gravel-covered lot adjacent to an existing driveway and parking area. The building will be a single-story structure with a 5,490 SF footprint. Associated new parking is also included. The proposed building will house all the port's current administrative staff and will also include a new commission room.

EXHIBIT D - PROJECT BUDGET

Budget Line Items	OBDD PRLF - 525206	SPWF – L22001	Port Funds	Totals
Architecture / Engineering	\$0	\$0	\$102,000	\$102,000
Construction	\$950,000	\$810,000	\$325,000	\$2,085,000
Construction Contingency	\$0	\$0	\$115,000	\$115,000
Geotech	\$0	\$0	\$5,000	\$5,000
Total	\$950,000	\$810,000	\$ 547,000	\$2,307,000



A G E N D A I T E M

DATE: January 11, 2022
RE: NOAA Glass Wall and Door Installation - SLA #30
TO: Paula Miranda / Port of Newport Board of Commissioners
ISSUED BY: Jim Durkee – NOAA Facility Manager

BACKGROUND

The NOAA-MOCP facility currently also houses the offices of the Director of Marine Operations. This office has brought in other national support personnel and has outgrown the offices on the west side of the building. To better accommodate personnel and keep them in the same work areas, NOAA would like to move the Director to office 222 in the northeast corner. NOAA staff approached the Port about installing a glass wall and a door to increase the size and function of office 222 by joining it to Room 224. The Statement of Work they prepared, and the SLA are attached. This represents an improvement to the offices with no apparent downside for the Port. Any change to the conditions of the lease requires a signed and authorized Supplemental Lease Agreement (SLA) to proceed.

PURPOSE, SCOPE AND DETAIL

NOAA has asked to furnish and install in the Administration Building, a glass wall (with glass door) for room 224, and a new door into office 222 as described in more detail in the attached Statement of Work (12 Pages) summarized as follows:

BUDGET IMPLICATIONS

None- NOAA is paying for the materials and installations

RECOMMENDATION

Staff recommends that the **Commission approve and authorize the General Manager to sign the Supplemental Lease Agreement - SLA #30 giving NOAA approval to proceed with the glass wall and door installation per the attached statement of work.**



NO: 30

DATE: January 10, 2022

SUPPLEMENTAL LEASE AGREEMENT

LEASE NO.: 09WSA0200C

ADDRESS OF PREMISES: 2002 SE Marine Science Drive, Newport, Oregon 97365

THIS AGREEMENT, made and entered into this date by and between Port of Newport, whose address is: 600 SE Bay Boulevard, Newport, Oregon 97365

hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:

WHEREAS, the parties hereto desire to amend the above Lease

NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended at no additional lease cost, effective when signed by the Government:

This lease amendment is issued as approval and consent by the Lessor for the Government to furnish and install in the Administration Building, a glass wall (with glass door) for room 224, and a new door into adjacent room 222 as described in more detail in the attached Statement of Work (12 Pages) summarized as follows:

- i) Room 224: Installation of a glass wall (where no wall currently exists) on the hall side of room 224). The glass wall is estimated to measure approximately 14 feet 10 inches by 10 feet. The glass door within the glass wall would measure approximately 7 feet by 3 feet.
- ii) Room 222: Installation of a new door between Room 224 and Room 222, of approximately 7 feet by 3 feet in size.

Said Statement of Work and associated Images were reviewed and approved by the Port of Newport, prior to the drafting of this Lease Amendment and are incorporated as part of the Lease terms and conditions.

Pursuant to Standard Form 2 – Exhibit m. GSA Form 3517 B – General Clauses, November 2005; Clause 19, 552.270-12 ALTERATIONS: The Government shall have the right to make alterations, attach fixtures, and erect structures or signs in or upon the premises here by leased,.....

All other terms and conditions of the lease shall remain in force and effect.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR

Signature _____ Title _____

UNITED STATES OF AMERICA

Signature _____ Real Property Contracting Officer

STATEMENT OF WORK
Marine Operations Center Pacific
Administration Building Room 224 and 222
Glass Wall and Door Installation

1. INTRODUCTION

Marine Operations Center-Pacific is located at 2002 SE Marine Science Drive, Newport, OR 97365. This is a two story office building. The building has stairs and an elevator for access to the 2nd floor.

The Government is seeking the installation of a glass wall with commercial grade glass at Room 224 (where currently there is no wall between Room 224 and the hallway), along with two doors, one into the hallway/in the glass wall and the other in the dividing wall between Room 222 and Room 224.

Design and Construction drawings will be required as part of this scope of work.

OBJECTIVE:

- a.) The Government and the Contractor understand and agree that the construction services to be performed under this contract by the Contractor to the Government are non-personal services and the parties recognize and agree that no employer-employee relationships exist or will exist under the contract between the Government and the Contractor's employees.
- b.) The contractor shall furnish all materials, labor equipment, training, transportation and personnel necessary to accomplish the tasks in accordance with this statement of work.
- c.) The Government will provide access to the worksite.
- d.) All work areas shall be encapsulated to protect the surrounding areas from dust and disposal and returned to a usable condition upon completion of the wall and door.
- e.) All existing floor and ceiling tiles and carpet areas that are removed must be replaced with Government approved industry standard floor and ceiling tiles and carpet in areas where floor and ceiling tiles and carpet previously existed. This is to include the removal and replacement of any and all office furniture (cubicles, desk, and chairs) back to existing working conditions prior to the build.
- f.) The contractor will submit for MOCP (COR) design drawings of the improvements to Room 224 and surrounding spaces for review and approval including electrical, HVAC, life safety and ceiling grid. Once Design drawings are approved, the contractor will prepare Construction drawings for review and approval. The drawings will include the new glass partition showing individual panel heights and widths as well as the location of both new doors.
- g.) The contractor will submit for MOCP (COR) approval a scaled elevation drawing of the south wall with the location of the new door (between Rm 222 and Rm 224) and all relocated utilities. Note that the fire alarm strobe and room thermostat shall not be covered by the operation of the new door.
- h.) The new door between rooms 222 and 224 will meet the facility standards as outlined in paragraph 2.

2. SPECIFICATIONS AND ESTIMATED QUANTITIES:

- a.) The work includes the following: Installing a glass wall with commercial grade glass at Room 224 (Note: there is currently no wall between Room 224 and the hallway). This wall will include a sliding door that opens into the hallway. The glass wall will include interior blinds that can cover the length of the wall.
- b.) The work includes installation of a door of commercial-grade into the adjacent office space (Room 222), from Room 224. The door will have a glass window inserted into it. This will include the moving and reinstalling of electrical wiring and outlets out of the area of the door. The purpose is to provide room 222 (office) with direct access to room 224 (conference room, to seat up to 8 people).
- c.) The Government estimates the glass wall measurement of 14ft 10'' by 10ft with a glass door 7ft by 3 ft for the wall build. The door into the adjacent space (Room 222) measurement of approximately 7ft by 3ft. Both doors must be compliant with the Architectural Barriers Act Accessibility Standards.
- d.) Provide safety glass glazed panel inserts in accordance with ANSI Z97.1 and ASTM C1048. Acrylic glazing will not be accepted.
- e.) New door shall have the following attributes:

Door			Frame		
Door No.	Dimensions	Material	Material	Type	Detail
A222-1	3'0" X 7'0"	Solid Core wood	Hollow Metal	AA – See attached Dwg.	A/815 – See attached Dwg.

f.) Door Hardware – wood door without closer

3	BUTTS 5BB1HW 4.5 X 4.5 NRP	EA	630	I
1	OFFICE LOCKSET L9050 17A	EA	630	SCH
1	CYLINDER 20-798	EA	626	SCH
1	WALLSTOP 407.5	EA	630	I
1	SEALS PS074	SET	BLACK	STE

MANUFACTURERS SPECIFIED:

PRODUCT SPECIFIED	MANUFACTURER NAME	SYMBOL SPECIFIED	APPROVED EQUAL
BUTTS	MCKINNEY	MCK	IVES, STANLEY
LOCKSETS	SCHLAGE	SCH	SARGENT 8200 C/RML2000
CYLINDERS	SCHLAGE	SCH	NONE
CLOSERS	LCN	LCN	SARGENT281 NORTON7500 YALE4400
OPERATORS	LCN	LCN	NONE
EXIT DEVICES	VONDUPRIN	VD	SARGENT80 CIR ED5000

KICKPLATES	TRIMCO	TRI	YALE 7100
STOPS	IVES	I	IVES
THRESHOLDS	PEMKO	P	NONE
SEALS	STEELCRAFT	STE	NGP
			NONE

g) Other Specifications

i. Safety glass glazed panel inserts in accordance with ASNI Z97.1 and ASTM C1048. Acrylic glazing will not be accepted.

ii. The installation of the partition and subdividing of the space must ensure the room complies with and possesses NFPA and local code life safety enhancements along with the appropriate automatic fire sprinkler system(s). The requirements include the compliance with NFPA 13, Standard for the Installation of Sprinkler Systems along with any local code requirements (must comply with both).

iii. After installation of the partition and doors, the area must be rebalanced for heating and cooling. Ventilation of the area shall be operational in accordance with American National Standards Institute, American Society of Heating, Refrigeration and Air-Conditioning Engineers (ANSI/AHREA) Standards along with any local code requirements (must comply with both).

iv. New doors shall comply with the life safety requirements of NFPA 101 and any local code requirements (must comply with both).

v. New doors shall have a minimum clear opening in compliance with the Architectural Barriers Act Accessibility Standards.

vi. There are three terminal units located in the hallway outside of room 224. Installation of new glass Partition wall should not hinder maintenance access to the terminal units.

vii. Fire alarm strobes are required to be synchronized when more than two visible notification devices are in the field of view. The strobes in hallways 216 and 223 along with the one in room 224 will be visible, with the new glass partitions. Ensure these three devices are synchronized

3. NORMAL OPERATING HOURS:

Normal work hours are 7:30 a.m. to 16:00 p.m. Eastern Time, Monday through Friday, excluding Federal Holidays and weekends. Contractors must obtain written permission from the Contracting Officer at least 4 working days prior to work on Saturdays, Sundays, or Federal Holidays. The following federal holidays are observed:

New Year's Day	Labor Day
Martin Luther King Jr. Day	Columbus Day
Presidents' Day	Veterans' Day
Memorial Day	Thanksgiving Day
Independence Day	Christmas Day

4. CONTRACTOR STAFF AND EMPLOYEES

Prior to commencing work, the contractor shall provide the Contracting Officer (CO) and the Contracting Officer's Representative (COR) with the telephone number at which the contractor or his/her designated representative may be contacted at any time during regular working hours and an emergency number which the contractor may be contacted in situations requiring immediate attention. The above-mentioned representative, if provided, must be delegated in writing to act on the behalf of the principal/President/CEO of the company.

5. KEY PERSONNEL:

The Key Personnel assigned by the contractor for the performance of work on this contract shall be acceptable to the Government in terms of personal and professional conduct and technical knowledge. Should the assignment to this contract of any person by the contractor be deemed to conflict with the interests of the Government, or in the event performance is deemed unsatisfactory at any time during the life of the contract, the Contracting Officer may notify the contractor and request the person be removed from the assignment. The reason for removal will be documented and a request to receive key personnel replacement within three (3) business days of the notification will be made. Replacement of key personnel qualifications shall be equal to or greater than those of the key personnel being replaced. Employment and staffing difficulties will not be justification for failure to meet established schedules. The contractor is required to submit a resume with qualifications for the proposed replacement which shall be approved by the COR and KO prior to the replacement starting work.

6. PROGRESS MEETINGS

Progress meetings shall be held as necessary, between the contractor and the Government to discuss work progress, problems and potential modifications.

7. PERIOD OF PERFORMANCE

The period of performance for this contract is determined once awarded.

8. STANDARDS

Work is to be accomplished in accordance with this SOW, as well as the following specifications:

Construction (29 CFR 1926)

General Industry Standards (29 CFR 1910)

9. SCHEDULING OF WORK

Before commencement of work under this contract, the contractor shall confer with the Contracting Officer's Representative, as well as the building occupant, and agree on a sequence of procedures; means of access to premises and building; space for storage of materials and equipment; delivery of materials and use of approaches; use of corridors, stairways, and similar

means of communications; locations of partitions, eating spaces, and restrooms for contractor employees; and the like.

Delivery of materials and equipment shall be made with a minimum of interference to Government operations and personnel.

The work shall, so far as practicable, be done in definite sections or divisions, and confined to limited areas which shall be completed before work in other sections or divisions is begun.

Work will be performed mostly in unoccupied areas. The contractor shall take all precautions to ensure that no damage will result from his/her operations to private or public property. All damages shall be repaired or replaced by the contractor at no cost to the Government.

The contractor shall be responsible for providing all work site protective barriers and site control devices. This includes but is not limited to: protective fences; protective tapes; and protective signage. Proposed control methods shall be submitted to the Contracting Officer's representative for final approval.

All temporary outages of any utility services (if any), required for the performance of work shall be scheduled with the COR no less than five (5) working days in advance of such outages. Request for power outages must be in writing.

10. STATUS REPORTS

The contractor shall notify the COR of the locations(s) of work to be accomplished each day in the form of a Daily Report. The contractor shall ensure all daily reporting requirements indicated in any specification are also included in the Daily Report.

The contractor shall prepare and furnish a monthly progress report. The contractor is required to submit a progress chart and construction cost breakdown as required in Federal Acquisition Regulation (FAR) 52.236-15, "Schedules for Construction Contracts".

11. CONTRACTOR ACCESS

Most work will be in unoccupied areas. The area wherein work is to be performed under this contract may be occupied by Government services during the construction period. The contractor shall have access to that portion of the area within which work is to be performed. The movement of contractor personnel, equipment, materials, and tools shall be confined to this area so as not to interfere with ongoing operations in the work areas.

12. CONTRACTOR QUALITY CONTROL

The Contractor Quality Control (QC) Plan, with which the contractor proposes to implement the requirements of FAR Clause 52.246-12, entitled "Inspection of Construction", shall identify personnel, procedures, instructions, records, and forms to be used. After contract award, and prior to commencement of work under individual task orders, the contractor's Quality Control Plan shall be received, reviewed, and formally accepted in writing by the Contracting Officer. Failure to execute the Quality Control Plan shall result in withholding of funds from progress payments in accordance with FAR Clause 52.232-5, entitled "Payments Under Fixed-Price Construction Contracts". In general, the contractor's quality control plan must address how

they intend to assure that their construction complies with the requirements of the contract plans and specifications.

- a. The Quality Control Plan shall include as a minimum, the following:
 - (1) A description of the quality control (QC) organization, including chart showing lines of authority and acknowledgement that the Contractor's QC staff shall report to the project manager or someone higher in the contractor's organization.
 - (2) The qualifications, duties, responsibilities, and authorities of each person assigned a quality control function.
 - (3) A copy of the letter to the Quality Control Manager, signed by an authorized official of the contracting company, which describes the responsibilities and delegates the authorities of the Quality Control Manager, shall be furnished.
 - (4) Procedures for scheduling and managing submittals, including those of subcontractors, offsite fabricators, suppliers, and purchasing agents.

The Government reserves the right to require the contractor to make changes in his QC Plan and operations as necessary to obtain the quality specified. These changes must be submitted to and approved by the Contracting Officer. Notification of Changes. The contractor shall notify the Contracting Officer in writing of any proposed changes. Proposed changes are subject to acceptance by the Contracting Officer.

- b. SUBMITTALS: The QC organization shall be responsible for certifying that all submittals follow the contract requirements, to include all applicable specifications.
- c. CONTROL: Contractor quality control is how the contractor assures himself that his construction complies with the requirements of the contract plans and specifications. The controls shall be adequate to cover all construction operations, including both onsite and offsite fabrication, and will be keyed to the proposed construction sequence. Quality control includes, as a minimum, the following functions:
 - (1) All submittals are submitted in a timely fashion.
 - (2) The submittals are approved.
 - (3) The supplies that are delivered are the same as the ones on the submittal.
 - (4) The supplies are in the proper condition when delivered.
 - (5) The supplies are stored properly.
 - (6) The construction equipment is correct and meets contract requirements.
 - (7) Testing provisions are reviewed and testing equipment and personnel are available and correct.
 - (8) All tests are performed at the proper times and in the proper places.
 - (9) All tests reports meet contract requirements.
 - (10) The workers are cognizant of the required level of workmanship.
 - (11) Inspect each area of work to ensure the preparations for the work is correct.
 - (12) Inspect each feature of the work to ascertain that no deficient work is covered up by succeeding work.
 - (13) Inspections shall continue throughout the contract.
 - (14) Document all inspections.

- (15) The documentation covers both conforming and defective work.
- (16) All deficiencies are corrected.
- (17) Develop procedures to ensure that deficiencies do not recur.
- (18) Government officials are notified in a timely manner

13. TESTS:

a. Testing Procedures: The contractor shall perform test specified or required to verify the control measures are adequate to provide a product which conforms to contract requirements.

b. Documentation:

(1) Records: The contractor shall maintain current records of quality control operations, activities and tests performed, including the work of suppliers and subcontractors. The records shall be on the Daily Construction Quality Control Report and indicate a description of trades working on the project, the number of personnel working, the weather conditions encountered, any delays encountered, and acknowledgement of deficiencies. In addition, these records shall include factual evidence that required activities or tests have been performed, including, but not limited to, the following:

- Type and number of control activities and tests involved;
- Results of control activities or tests;
- Nature of defects, causes for rejections, etc.;
- Proposed remedial action; and
- Corrective actions taken.

(2) Content: These records shall cover both conforming and defective or deficient features and shall include a statement that supplies, and material incorporated in the work have been inspected and comply with the contract. Two (2) legible copies of these records shall be furnished to the Contracting Officer's Representative daily.

14. SAFETY ASSURANCE

Preconstruction Safety Meetings: Representatives of the contractor shall meet with the Contracting Officer or his/her representatives-COR, Safety Manager, etc. prior to the start of repair, alteration, or construction activities for the purpose of reviewing the contractor's safety and health programs and discussing implementation of all safety and health provisions pertinent to the work to be performed under the contract.

Preconstruction Safety Meetings shall be coordinated by the Contracting Officer or his/her representative. The contractor shall be prepared to discuss, in detail, the measures he/she intends to take in order to control any unsafe or unhealthy conditions associated with the work to be performed under the contract. This meeting may be held in conjunction with the preconstruction meeting. The level of detail for the safety meeting is dependent upon the nature of the work and the potential inherent hazards. The contractor's principal representative(s), the general superintendent, and his/her safety representative(s) shall attend this meeting. Contractor Responsibility: The contractor shall assume full responsibility and liability for compliance with all applicable regulations pertaining to the health and safety of personnel during the execution of work and shall hold the Government harmless for any action on his/her part or that of his/her employees or subcontractors, specially trained technicians, equipment manufacturers, and

others, as required by a task order, shall be furnished in accordance with the terms of the tasks order. Materials and Equipment: Special facilities, devices, equipment, clothing, and similar items used by the contractor in the execution of work shall comply with the applicable regulations.

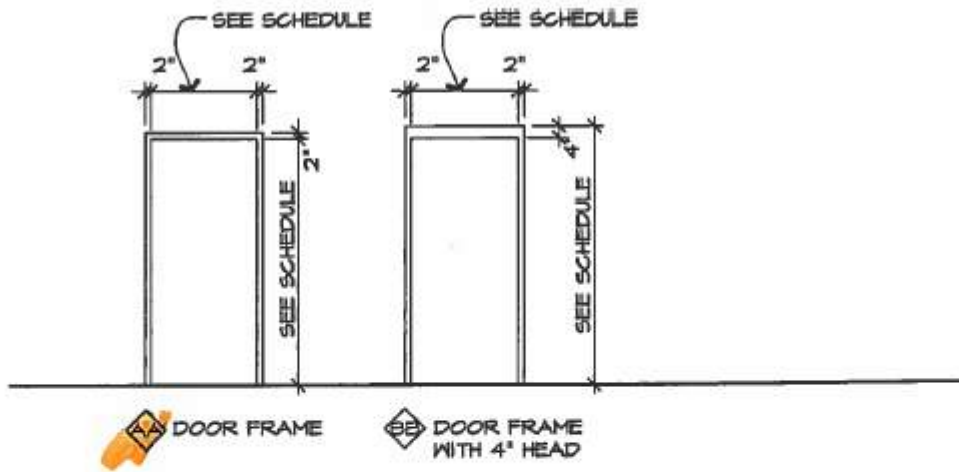
All personnel attending the site shall wear a double layer face covering and socially distance at all times while on site. Additional COVID-19 safety measures may be required during the period of performance.




15. DELIVERABLES



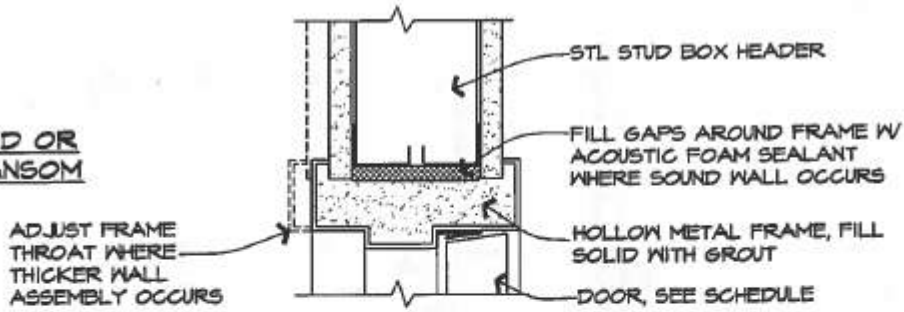
door into RM 222



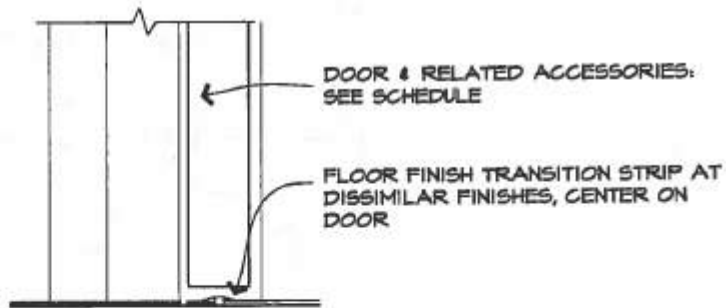
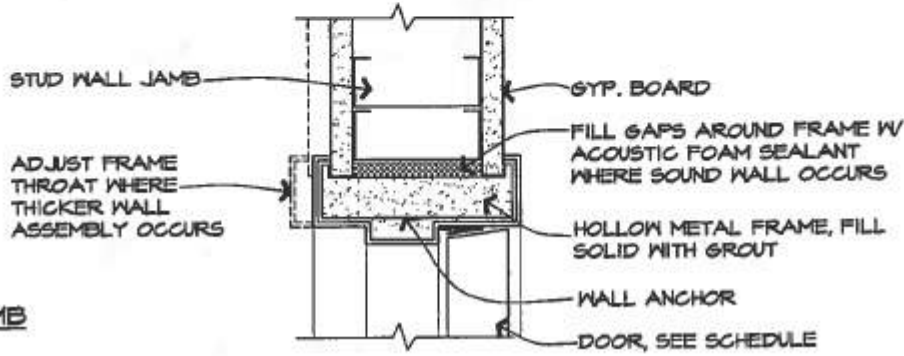


	FRAME TYPES	<small>1/4" = 1'-0"</small>		
	NOAA - MARINE OPERATIONS CENTER NEWPORT, OREGON	08050 07/08/10	FT-1	

HEAD OR
TRANSOM



JAMB



THRESHOLD

5/3-OR-INT				
A 815	HEAD / JAMB / THRESHOLD TYPICAL INTERIOR DOOR			3" = 1'-0"
gLas Architects LLC	NOAA - MARINE OPERATIONS CENTER NEWPORT, OREGON		08060	815
			07/08/10	



ANNUAL GOAL SETTING

DATE: 01/13/22
RE: 2022-23 Commission Goal Setting
TO: Board of Commissioners
ISSUED BY: Paula J. Miranda, General Manager

INTRODUCTION

As discussed last year, we have changed the timing on the Goal Setting to sync with our budget process, as many of the goals are financially driven. In the past the goal was set after the budget had already been created, which didn't give us many opportunities to make the proper changes.

I have included a summary of plans and strategies, as well as our Capital Improvement Plan based in our Strategic Business Plan with comments of where we currently stand on those goals and improvements. My directors and I went over the Capital Improvement Plan and added a whole new list of items we believe need to be addressed that were not originally listed on the Strategic Business Plan. We also try to include some criteria in how we reason with some of these projects and a priority as we see it necessary. Although some items may seem like priority number 1, we didn't list them as such due to lack of permits, lack of plans, difficulty in getting funds or lack of resource. We only have staff capable of doing so many projects every year and that is something we have to take into consideration. We can go over all the items, or some of the items and will have the Port management team ready to answer any questions or concerns the Board may have.

In the past the Port adopted values, mission & vision. I have included a copy for your information. Typically, it is recommended that they be evaluated every 5 years to make sure they still reflect the beliefs of the Port and the community. Since Port's value, mission & vision have recently been updated during the 2019 Strategic Business Plan process, I think we should still be good for a couple more years.

If any commissioner wishes to recommend any additions or changes to the items listed, we will be happy to make the changes. You will also have an opportunity to make additional input on priorities during the budget process. Doing this process prior to the budget will assist us on mapping out some of the budget items. Items to be included don't have necessarily to be related to capital improvement. It can be anything included on the Strategic Plan or something else the commissioner wishes to see achieved. It can also be provided directly to the General Manager prior to the budget process. Any changes provided by the commissioners will be

included on the list and brought back during the budget process. We will give a chance for the Board to discuss the items presented before prioritizing them.

I look forward for this process in creating measurable goals. I thank you in advance for your commitment to the Port and for helping prioritize so many things we currently strive to complete. I am sure as you evaluate our priorities you will do so with the Port's values, mission and vision in mind in order to help create a better community.

PORT VALUES, VISION, AND MISSION

The Port's values, vision, and mission were updated as part of the process of developing the strategic business plan.

The following articulate the Port's current values, vision, and mission statements.

Values Statement

Values are the Port's most deeply held beliefs and help us determine our highest priorities. They are the foundation on which we as Port Commissioners and as staff conduct ourselves and work. They serve as our guiding principles – the motivation for our goals, strategies, and actions to accomplish our mission. They clarify who we are as the Port of Newport, articulate what we stand for, and express what we deem to be acceptable standards for how the Port of Newport treats users, customers, partners, and our own team members.

The Port identifies the following governing values:

Leadership. The Port of Newport proudly accepts responsibility as the leader, on behalf of the citizens of the Port District, to actively pursue economic progress and make decisions that are in the best interests of current and future users of the Port. This means building and maintaining an economically diverse and thriving Port that is resourceful in how we weather changing conditions and circumstances.

Service. Our business is to serve the public – the commercial and recreational fishing fleets, the marine and tourist industries, our current lessees, potential new business partners, and the citizens of the Port District. We are professionals who provide the highest quality service.

Collaboration. We pursue and invest our time in building partnerships within our community, including the private sector while maintaining strong ties to local, state and federal government agencies. We believe successes in our community result when public agencies and citizens work together with determination toward a common goal in a spirit of mutual respect and cooperation. At the core of these successes will be a deep commitment to maintaining high levels of communications with all stakeholders.

Accountability. The Port must be a careful steward of public resources. Managing our assets responsibly, investing wisely in new infrastructure, administering budgets efficiently, and capitalizing on external sources of financial support are all integral to accomplishing our mission. The Port is committed to conducting our work with the highest degree of integrity, professionalism and transparency.

Sustainability. The Port is committed to managing our business operations as well as our human and physical assets in a manner that meets our current needs while ensuring we do not compromise the needs of future generations. We protect and enhance the natural environment wherever possible and seek to invest the funds entrusted to us wisely, prudently and ethically. We are responsible neighbors and community members who treat our employees fairly and with

respect. Our work is conducted with the goal of helping nurture a healthy estuary that is at the foundation of our working waterfront.

Optimism. We are deeply committed to the execution of our mission and in our ability to be resilient and seize opportunities. We pursue our vision through steadfastness of purpose, awareness of our core values, and a persistent focus on positive relationships.

Vision Statement

The idea behind a vision statement is to express, more or less in future tense, what we want the Port (and Newport) to be at some future point. Because a mission statement and the strategic business plan itself are typically 5-year efforts, the vision statement looks a little farther (10 or 20 years) into the future. Our vision expresses what we want to see, and what we believe we can accomplish if we stretch our capabilities and aim for the vision.

The Port's current vision statement emphasizes its leading roles in commerce, recreation, and research.

The Port of Newport will serve as the foremost Oregon coast port for the commercial fishing, recreational fishing and tourism, and marine research support. We will fully utilize the international terminal with fishing, waterborne commerce, and other uses. We will continue to protect and enhance the beauty and integrity of the natural environment, which is at the foundation of our working waterfront community.

Mission Statement

A mission statement defines the Port's purpose - what we do and why we do it. The intention of a mission statement is to give the Port's public, its customers (and ourselves) a succinct awareness of that purpose.

This is the Port's current mission statement:

Provide and professionally manage waterfront facilities and services in collaboration with our community with the express purpose of retaining and creating business opportunities and increasing economic development for the Port and the community.

STRATEGIC BUSINESS PLAN SUMMARY

These industries are summarized below, including market trends, constraints, and opportunities for growth.

1. *COMMERCIAL FISHING*

Consolidation in the commercial fishing industry is expected to continue in the next five years and beyond. Newport must seek to retain the existing fleet and processors, as well as attract additional entrants. This will require updating/improving the facilities that the sector requires, such as moorage space, offloading docks and equipment, gear storage, upland support services, processing facilities, and logistic facilities, among others.

Independent seafood buyers represent a growing industry in Newport, and one that increases the need for transient moorage space with vehicle access. Four companies are currently in operation, and more are interested. These buyers purchase fish off the boats, and use the Port's hoists to unload from boats and load onto trucks. There is currently a lack of temporary moorage space and land alongside to accommodate them, and there is also a need for additional lift capacity.

2. *MARINE RESEARCH AND EDUCATION*

- a. Offshore Energy. *"The Port has continued to work with offshore energy as they look into the transportation of cables and other items from our terminal related to the OSU project. We have yet to hear the outcome as far as the selection of contractors. We will not know their needs and how the Port can play a part of the project, until we understand their selection. Should the selected contractor need our terminal, it is our understanding that even when the project is completed, they still foresee the need of the terminal for regular maintenance of the project."*
- b. Aquaculture. *"In recent past the Port has entertained a couple possibilities with oyster and dulce." Since COVID we haven't heard much on this sector, but will continue to pursue if opportunities are available.*

3. *TOURISM AND RECREATION*

- a. Recreation Vehicle Camping
Combined, these four parks saw the number of overnight guests grow from 364,000 in 2011 to 438,000 in 2017, an increase of more than 20 percent. *Because of COVID, we put this project on hold. However, our Annex continue seeing a degradation and we will need to address the problem sooner. We started conversation with the grant writer on pursuing options for funding the plan to replace the RV Annex.*
- b. Recreational Boating
Between 2014 and 2017, the number of boats grew to nearly 166,000. There was an increased especially in the number of registered boats longer than 20 feet. *Likewise, the marina business has continued to increase, therefore we continue to make improvements and major repairs as needed. 2021 was an incredible busy year for our recreational marina. Derelict boats continue to be a problem. We have been working with the Oregon State Marine Board and the Port of Toledo in trying to address some of the issues. We are also working with the County Marine Sheriff Deputy and our harbormaster to address proper registration and conditions of the boats. Cleaning Stations have also been a problem due to the usage increase. We will continue to work on addressing the problem. We will be*

applying for grants to build additional capacity. We have also been working with the City Police to address traffic issues.

4. MARINE CARGO

a. Breakbulk

Since the 1970s, most breakbulk cargo has been converted to containers. As a result of this shift, the breakbulk trade has become far more specialized, targeting certain high-volume commodities, such as logs, lumber, wood pulp, paper, fruit, lumber, and some steel products. West Coast foreign imports of breakbulk/neobulk cargo dropped by more than half between the peak year of 2004 and 2016. West Coast exports of breakbulks/neobulks are led by fruits and vegetables, pulp and paper, wood products, and rice. There is also a small amount of fish exported in breakbulk form. Exports of breakbulks/neobulks have grown substantially since 2000; however, volumes peaked from 2011 through 2013 and have dropped substantially since then.

Challenges: *“Lack of rail, deep water beyond -30’, infrastructure and general transportation. Some customers contacted. We are still researching this market.” Those items are still impactful items when it comes to receiving cargo. During this pandemic year, cargo in general has been greatly affected. We are starting to see some of them coming back. The Port has posted a marketing ad in the APP annual magazine and website. A grant request made to the USDA to address a marketing plan for NIT did not get funded. We also submitted a grant request to MARAD to address grading and equipment for the operations at our 9 acres, but did not get funded. We were told to try again for this coming year.*

b. Logs

Currently, Coos Bay and Astoria are the only ports in Oregon that handle log exports. A recent forecast projected that Pacific Northwest log exports are likely to grow slowly through 2035, assuming that Chinese demand continues to grow. The timber harvest in the Newport region is less than half of what it was during the mid-1960s, but has seen growth since bottoming out in 1998. Lincoln County’s share of the regional harvest averaged 8.5 percent from 1962 to 2017. Log shippers have demonstrated interest in using the International Terminal to ship logs, and the Port should consider accommodating log shipments.

Challenges: *“The market for logs is still a bit weak as far as exporting goes. However, we have been working with a national company and recently have discussed the use of the terminal with a regional company.”*

c. Dry Bulk

For the most part, the dry bulk commodities that move in and out through West Coast ports are transported to or from inland point by rail or by barge, with smaller volumes moving directly into or out of plant or moving by truck. Because the Port is not served by rail or by river barge, the Port is unlikely to attract a substantial volume of most dry bulk cargo. Woodchips are a major dry bulk cargo handled by ports in the Pacific Northwest. The Georgia-Pacific (G-P) mill in Toledo may represent a potential market for receiving woodchips through the International Terminal. The G-P mill has been in operation for approximately 60 years, and at one time, it received woodchips by barge, but now receives woodchips only via truck and rail. The International Terminal may be able to attract some of the G-P woodchips if the economics of the combination barge/truck move are competitive. The Port should consider approaching G-P to determine if this is feasible.

Challenges: *“Just like breakbulk, the market has been greatly affected by COVID and there wasn’t much to go after this past year. There are few prospects to target that would be*

interested in our region. I have reached out to GP and there is still no opportunity for GP at the moment.

d. Liquid Bulk

Challenges: Newport does not have a large population base, and does not have industries that use or produce liquid bulks, the [Port is unlikely to attract liquid bulk cargoes.](#)

e. Containers

Challenges: Smaller ports face a number of issues attracting container trade due to trends toward larger ships in the trans-Pacific trade and the fact that port alliances control almost 90 percent of it. Because Newport lacks water depth, rail access, and a large population base, it is unlikely to play a significant role in West Coast container markets. [With the backlog seen at the California Coast we have been asked by many why don't we go after them. Unfortunately, as explained by consultants, it is very unlikely this Port will ever be home for large amounts of containers, as we were just not built for it. We don't have enough real estate to accommodate containers and the lack of rail and deep draft is pretty much a non-started for this type of cargo.](#)

Local production represents the best cargo opportunity for the International Terminal. The two main production industries in Lincoln County are forest products and commercial fishing. The output volume of the commercial fishing industry is probably too small to support shipping via water, but may be sufficient to attract service from small breakbulk freighters.

The forest products industry represents an opportunity for the Port. Newport may be able to attract logs to the International Terminal, either for loading onto ship for export, or loading onto oceangoing barges for transport to another port for export, such as Astoria, Coos Bay, or Longview. As noted above, log shippers have demonstrated interest in using the International Terminal to ship logs.

The ability of Newport to attract cargo from farther inland, such as the Willamette Valley, is limited by a number of factors, including:

- Competition from other ports whose hinterlands overlap those of Newport. For example, for points north of Albany, Portland is closer than Newport and offers multiple shipping terminals. Similarly, points south of Eugene are closer to Coos Bay than Newport
- Insufficient volumes of non-containerized cargo. The overwhelming majority of international cargo shipped from the Willamette Valley is containerized, and the remaining non-containerized volume is likely not sufficient to attract vessel service. In addition, the state of Oregon is also studying the potential to locate an intermodal terminal in the Willamette Valley to handle containerized international export and import cargo.
- Water depth in the Yaquina Bay shipping channel limits the size of ships that can use the International Terminal. Because smaller ships are less efficient than larger ones, this increases the ocean shipping costs.

Because of these limitations, inland cargoes do not represent as strong an opportunity for the Port as do forest products.

“Again, because of COVID, the cargo business has pulled back all over this past year. This past year most of our efforts have been driving by the forest industry market. In recent past we reach out to many other markets, but those don't seem to have many interests in our Port.”

5. OTHER MARKETS AND INDUSTRY OPPORTUNITIES

a. Rogue

- i. There are approximately 500 feet of dock in front of the brewery that could be used for transient moorage.
- ii. Potential opportunities that Rogue is considering include producing dulce and/or salt – some is used to produce gose, a fermented beer.

We had discussions with the Oregon State Marine Board on upgrading the dock near the seawall at the same time we repair the seawall. However, the marina is in need of additional long term moorage spaces and not transient spaces. OSMB is unlikely to invest on long term moorage.

We started our work on trying to address the seawall. Meanwhile, Rogue has continued to invest in their operations growing the business here in Newport. Because of a City requirement to upgrade their wastewater system, which will cost them \$3.5 million dollars, Rogue may have to take a step back in doing some of the investment they have foreseen.

b. Cruise Ships

- i. Newport could attract cruise ships as a port of call during repositioning trips. The Alaska cruise market is based in Vancouver, BC, and in Seattle, Washington. At the beginning and the end of the Alaska cruise season, each vessel must be repositioned (moved) from or to its winter homeport, and these repositioning cruises present an opportunity for coastal ports such as Newport. Air draft under the Highway 101 bridge is a more important limitation. Most of the large cruise ships that operate in the Alaska market cannot pass under the bridge. Several smaller ships operate in that market, however, and they may present an opportunity for Newport. In order to explore this opportunity, the Port and the community should make contact with the industry group, Cruise the West, as well as with cruise directors from lines that operate small vessels.

“The Port has made some contacts and evaluation of cruise opportunities. As stated on the Strategic Business Plan, the bridge clearance is the biggest challenge. For instance, most cruise ships that call on Astoria are over 184’, the Newport bridge has a clearance of 133’.

I made contact with American Cruise Lines during the PNWA conference as they provide services with small vessels. Unfortunately, most of their vessels serve the river. They are not ready to come to the Coast. We will continue to look at small cruise opportunities in the future”

MANAGEMENT PLAN

Goal 1: Develop a management plan that enables Port Commissioners and staff to achieve the Port's mission and prioritize economic development opportunities within the District.

Policy 1.1: Prioritize projects and identify target businesses and potential partnership opportunities with public and private entities that will leverage Port resources.

- a. Strategy 1.1.1: Annually review and update the capital facilities plan and develop a list of priority projects in conjunction with the budget development process. Strategy 1.1.2: Pursue partnership opportunities with private businesses to develop industrial/commercial facilities that meet market demand and provide greater economic development opportunities within the District.
- b. Strategy 1.1.3: Integrate the strategic business plan as a planning tool and review its key projects and policies annually in conjunction with budget meetings.
- c. Strategy 1.1.4: Expand the Port's portfolio by targeting and pursuing new industries identified in the market analysis, such as seaweed and oyster cultivation, log exports, and attracting small cruise ships as a port of call.
- d. Strategy 1.1.5: Incorporate the strategic business plan into the Port Commission's decision making to ensure continued alignment with the Port's mission and commitments to its funding partners, other agencies, its stakeholders, and the Port district.

Status: "We typically evaluate our capital facilities during our budget on an annual basis. We have also updated our capital Improvement Plan to reflect our latest improvements completed and our future improvements needed. We have consistently been engaged with regional partners, associations and in regular discussions with funding partners to make sure our needs are in sync with those needs of the community. We are continuing to engage with the Oregon Ocean Innovation HUB, formerly Maritime Innovations Center on the marine economy opportunities. Again, marketing efforts are being made within reason considering the pandemic that we have been dealing with."

Policy 1.2: Maintain and optimize marine assets.

- a. Strategy 1.2.1: Develop a set of metrics to evaluate projects and properties, including underutilized and vacant properties.
- b. Strategy 1.2.2: Lease marine facilities, but do not sell marine assets.
- c. Strategy 1.2.3: Develop a mitigation plan to address impacts of capital projects and streamline future permitting.
- d. Strategy 1.2.4: Develop an International Terminal Plan to study a mix of uses and opportunities, required transportation improvements, and the maximization of terminal space at the International Terminal.
- e. Strategy 1.2.5: Develop a North Commercial area plan to develop and evaluate solutions to address service, infrastructure, capacity, and long-term financial sustainability issues.
- f. Strategy 1.2.6: Develop additional business unit plans for Newport International Terminal, NOAA, and South Beach
- g. Strategy 1.2.7: Adhere to and periodically update the Ports strategic business plan to determine priorities and provide for long-term efficiency and financial sustainability.

We are continuing to work on our plans to improve, create and replace several of our assets. Most of those efforts can be found on the annual budget or on the Capital Improvement Plan. Our port just like many other ports have a lot of aging assets in need of

replacement and that poses a big challenge when we are so dependent on grant funding. It is important to have plans in order to ask for infrastructure funding. Our goal is to complete all necessary plans, so we don't lose opportunities during this major cycle of infrastructure funding.

Port Strategic Business Plans are typically updated every 5 years. As we are already through a good portion of our items addressed in the last plan, we will be looking into starting a new process within the next 1.5 years.

Policy 1.3: Port Commission members and staff will participate in inter-governmental forums related to target industry development.

- a. Strategy 1.3.1: Sustain and leverage current partnerships for inter-governmental coordination needed to develop projects, even if the Port is not the lead agency.
- b. Strategy 1.3.2: Maintain focus on the Port's vision, mission, and target industries in the pursuit of partnership opportunities.
- c. Policy 1.4: Maintain Port operations and pursuit of market opportunities through staff and management changes.
- d. Strategy 1.4.1: Develop a staffing strategy and succession plan to account for employee turnover and future employment needs.

Status: "The Port is currently a member of several boards within the Port District that target industries and opportunities to the area (i.e.: YBEF, City of Newport Vision 2040, Economic Development Alliance of Lincoln County, the new formed Oregon Ocean Innovation HUB etc.).

We have been working and have made improvements to our policies and ongoing issues with employee turnover and will continue addressing issues that arises in order to address such changes. We are now for the first time in 3 years at staff capacity. We have been providing good training and increase our pay and benefits, which we believe helped us achieve that."

Goal 2. Enhance the existing ability of the Port Commission and professional staff.

Policy 2.1: The Port will provide appropriate training opportunities to enable ongoing professional development of Commissioners and staff.

- a. Strategy 2.1.1: Plan and budget for periodic training opportunities to allow Port Commissioners and staff to gain knowledge relevant to their positions, as well as existing protocols and policies.
- b. Strategy 2.1.2: Encourage Commissioner and staff participation in professional organizations (e.g., Pacific Northwest Waterways Association, Oregon Public Ports Association, Association of Pacific Ports, Special Districts Association of Oregon, and other entities).

Status: "The Port has budgeted for training for Commissioners and staff on an annual basis. Those trainings include attending conferences, SDAO trainings and various other professional trainings needed for individual positions. We continuously encourage staff to take appropriate trainings to better their skills."

FINANCIAL PLAN

Goal 1: Develop a financial plan that enhances the Port's long-term financial stability.

Policy 1.1: Develop a long-term cash flow model that projects the Port's anticipated financial performance in order to support and evaluate its strategic decisions.

Status: A model has been researched and data input will allow us to develop a 5-year financial plan. As accurate forecasts of future "projects" are developed, we will be able to develop an accurate cash flow. As we wrap up long outstanding items there will be sufficient time to complete this task. The Port has recently hired a firm to help us implement a new financial system. This new system will help us on the forecasting of revenue/expenditure trends. This will eliminate the need for separate spreadsheets and data extracts/imports. The model will provide the Port will cash flows based on existing historical data and known upcoming changes. Meanwhile, we started some forecasting on a spreadsheet that has helped us look into the future. The new system will be implemented in the Spring of 2022."

Policy 1.2: Develop a finance manual that assists Port financial management.

- a. ***Strategy 1.2.1: Establish a set of investment and borrowing guidelines that define the expected rate of return of capital projects with all costs and economic benefits considered. Review the financial implications of capital improvement projects, prior to approval.***
- b. ***Strategy 1.2.2: Continue set-asides of cash reserves to fund the match portion of future grants. It is likely that the proposed capital improvement plan will require grant funding.***
- c. ***Strategy 1.2.3: Continually seek opportunities to refinance portions of the Port's long-term debt.***
- d. ***Strategy 1.2.4: Continue efforts to streamline accounting processes including elimination of duplicative processes in the accounting office (integrate computer hardware and accounting software).***
- e. ***Strategy 1.2.5: Review salaries and benefits for Port personnel.***

Status: The Port has a beginning model of the investment plan. First Interstate Bank has offered to assist the Port with development of this model. The structure for capital reserves and proper accounting for financial reserves has been implemented. The Ports balance sheet identifies reserves as required by GASB, anyone can review the balance sheets to identify reserve amounts and accounts. As a maintenance project occur, that funds have been set aside for payment for a portion or all of the project will come the reserve account.

Port staff identified a potential opportunity to offer a better benefits package, this would lower the maximum deductible from \$5,000 to \$750, reduce the out-of-pocket maximum and offer other benefits to staff, while keeping the cost within the budget of the Port. Because of timing, any changes in plan may not occur until 2022-23.

Goal 2: Continue to improve and enhance the financial performance of each line of business.

Policy 2.1: Improve the financial performance of the Commercial Marina. The Port is considering \$18.7 million in capital improvements to the Commercial Marina. Efforts should be considered to improve its financial performance.

- a. Strategy 2.1.1: Consider raising rates and/or reducing the rate discount for annual moorage at the Commercial Marina. Consider a moorage rate that increases progressively with boat length.
- b. Strategy 2.1.2: Expenses have grown very rapidly at the Commercial Marina. Consider ways to increase reimbursement for expenses by assessing the cost for provision of services.
- c. Strategy 2.1.3: Consider changing operations to improve net revenues, such as consolidating gear storage, in order to enable other lease activities.
- d. Strategy 2.1.4: Consider establishing a modest parking charge for tenants.
- e. Strategy 2.1.5: The accounting system at the Commercial Marina uses a different software system that is not fully integrated into the Port's accounting system. Consider integrating the systems in the near future.

Status: The Port has been reviewing and progressively raising its rates to catch up with the cost of running the marina. We have also been evaluating all costs related to operations and services we provide to customers. We also made collections a priority. Since implementation, roughly 36 percent of Port customers were 90 days or more overdue, now that has dropped considerably. The new financial software will integrate all systems to create better efficiencies. The system will allow the Port to track collections more closely. Our financial department has done an excellent job in keeping track and following through in our collections.

The financial system has the potential to better determine the cost of different lines of Port business. This will allow the Port to evaluate prices as compared to costs. The new financial system will also allow automation, improving financial performance. The new financial system should allow for the entry of service tickets as the service occurs, for monthly inventory of lot storage to occur electronically and for the inventory of vessels to occur electronically increasing the financial performance of the Port.

Policy 2.2: Continue to enhance the financial performance of South Beach facilities. The Port is considering \$5.3 million in capital improvements at South Beach. Efforts should be considered to improve the financial performance to assure that net revenues are available to recapitalize the South Beach marina when required.

- a. Strategy 2.2.1: Consider ways to improve the rate of return on leases (OSU and Oregon Aquarium) that were very generous (\$1 per year).
- b. Strategy 2.2.2: Consider reducing discounts or finding other ways to increase revenues from moorage at South Beach. Consider a moorage rate that increases progressively with boat length and/or reducing discounts for annual moorage.
- c. Strategy 2.2.3: Consider increasing revenues by improving facilities at the R.V. Park Annex and Overflow lots; and consider providing higher end R.V. facilities as a part of development plans.
- d. Strategy 2.2.2: Expenses have grown very rapidly at the Recreational Marina. Consider ways to increase reimbursement for expenses by assessing the cost for provision of services.

Status: Unfortunately, there is not much we can do on ongoing leases with OSU and the Aquarium. The focus of those leases were to bring opportunities to Newport and the Port did just that. The lease terms are long and until then we have to abide by the term of the leases. Meanwhile, we will just continue to work with those tenants as partners and mutual contributors to the community. We should start decreasing the annual discount on moorage and begin charging a fee for utilities, while also increasing minimally the rates in the marina. The Port reduced the discount for annual moorage holders in the South Beach Marina and began charging a utility fee to the liveaboards. The Recreational marina continues to be super busy during summer months and now through the Fall when most of the park is sold out. Plans to invest on the RV Park will be included in the

coming budget, as we do believe those will contribute to revenue increases. Pricing for the Main RV Park may be at its maximum for now. There are no other reimbursable expenses we can foresee at the moment.

We are still evaluating the implementation of a parking charge stations at the marina. We are hoping to be able to implement that during the 2022-23 fiscal year.

We have renegotiated some maintenance requirements under the Marina Store, which will help the Port's financial requirements.

Policy 2.3: Seek ways to improve the financial performance of Newport International Terminal. The Port has invested \$26 million in capital improvements at the Terminal. The facility is in good condition and requires modest improvements (estimated at \$497,000) during the next five years.

- a. Strategy 2.3.1: Consider ways to attract and retain cargo operations (logs, wood chips etc.) under a plan that produces sufficient net revenue for the Port.
- b. Strategy 2.3.2: Consider ways to attract and retain uses for the 9-acre unimproved area toward the road (gear storage, other operations).
- c. Strategy 2.3.3: Seek ways to supplement and enhance efforts underway at the Rondys property.
- d. Strategy 2.3.4: Consider raising rates for moorage by commercial fishing boats.
- e. Strategy 2.3.4: Consider ways to increase reimbursement for expenses by assessing the cost for provision of services.

Status: We had an ongoing effort on bringing cargo operations to NIT, including the use of the vacant 9 acres until COVID happened. We also had ongoing conversations with Rondys to maximize the efforts by both parties. The rates have been evaluated in the annual basis. We have increased services at NIT and will continue looking for ways to make our process efficient, so we can collect from our services provided at the facility. We are also currently entertaining prospects from the forest industry. Marketing material has been put out for the multi-use of NIT. We have also applied for a marketing plan grant for the site, but have not been successful, but will continue our efforts.

Policy 2.4: Seek ways to assure the continued sound financial performance of the NOAA Facility. The lease for the facility is essentially a break-even enterprise.

- a. Strategy 2.4.1: Review NOAA reserve calculations to ensure that operating revenues will cover long-term capital needs as well as short-term needs (dredging, repair, etc.).

Status: With the Refinancing of the Bonds, the NOAA facility is profitable, the additional revenues has been put aside for future use. We will soon start discussions with NOAA on the future of their lease. I started discussions with the City in efforts to help renegotiate NOAA's lease when it expires in the next 10 years.

ENVIRONMENTAL PLAN

The Port's goals include being environmentally responsible in the management of operations and facilities.

Sustainability is another of the Port's governing values - maintaining and expanding facilities while not compromising local resources and the natural environment. The following goal, policies, and strategies are proposed to assist the Port in maintaining its commitment to sound environmental stewardship.

Goal 1: Operate Port facilities consistent with established best management practices.

Policy 1.1: *Establish green policies and best management practices to ensure compliance with current environmental regulations and balance economic development opportunities with regional sustainability.*

- b. **Strategy 1.1.1:** Work with local representatives to address environmental concerns and engage community input as needed for special projects.*
- c. **Strategy 1.1.2:** Share resources, funds, and opportunities with local and regional partners as appropriate to achieve common environmental goals and projects.*
- d. **Strategy 1.1.3:** Achieve "Clean Marina" and "Clean Shipyard" certifications from the OSMB.*
- e. **Strategy 1.1.4:** Develop a mitigation plan to address impacts of capital projects and streamline future permitting.*
- f. **Strategy 1.1.5:** Complete a risk assessment that forecasts the potential cost of negative environmental impacts and recommends risk mitigation and avoidance measures.*
- g. **Strategy 1.1.6:** Complete a comprehensive wetland mitigation strategy that identifies all wetlands on developable port property, as well as mitigation strategies (i.e., wetland enhancement, replacement, wetland bank) where avoidance is determined infeasible given site development programs.*

Status: The Port has always work well with members of the environmental agencies and environmental groups. There has been no major violations that the Port had to address. The Port of Newport South Beach Marina is currently a Certified Clean Marina. Unfortunately, that does not apply to the Commercial Marina, as there is no such certification. We do not have a shipyard, therefore the "Clean Shipyard" comment does not apply to our Port. We have been working in developing mitigation plans as needed to address capital projects. Some of those along with risk assessment will be include in the plan process for each project as we are looking to budget for this incoming year. We have discussed banking some mitigations with some of the agencies. Although that may seem possible with some of the State agencies, that doesn't seem to be the case with the federal agencies. We would like to create a more comprehensive plan for wetland mitigation. Unfortunately, that takes a bit of funding and it is a bit harder to do without a project attached. Fortunately, the wetland at NIT did not need mitigating.

Policy 1.2: Consider the potential impacts of natural disasters and climate change on Port operations and facilities.

- a. *Strategy 1.2.1:* Partner with local agencies, industries, and organizations to create a resiliency plan, studying impacts from potential earthquakes, tsunamis, and rising sea level to local facilities and businesses.

Status: We are always working with our partners, including the City, County, State, NOAA, OSU and other stakeholders for potential disasters. The Port has actually partnered on the purchase of the emergency storage boxes housed at the Safe Haven Hill in the event of a tsunami. The Department of Land Conservation and Development just started on a review of the Yaquina Bay Management Plan, which we have been invited to be on the steering committee. This year the Port has transferred all of its file to a location provided by the Lincoln County Schools, away from the tsunami zone.

MARKETING PLAN

The following marketing goals and policies are intended to assist the Port in maintaining positive relationships with the community and its current users and tenants as the Port pursues economic development opportunities.

Goal 1: Market the Port District, its services, assets, opportunities, innovations, and communities in three focused areas: (1) promotion, protection, and expansion of existing Port tenants and users; (2) recruitment of international, national, and/or local industries to maximize use of Port facilities; and (3) exploration of tourism, recreation, research, and education opportunities.

Policy 1.1: Develop marketing materials that focus on the Port District and local community assets, resources, job opportunities, and land availability.

- b. **Strategy 1.1.1:** Work with Discover Newport to capture the rise in tourism by marketing local facilities and amenities to trades groups.*
- c. **Strategy 1.1.2:** Partner with CWEDD and the Economic Development Alliance of Lincoln County to promote the distinct advantages of the region and its assets, opportunities, and synergies in marketing efforts.*
- d. **Strategy 1.1.3:** Market directly to target industries and businesses that could locate in the Newport area and where demand exists.*
- e. **Strategy 1.1.4:** Identify opportunities to market the Port nationally and internationally.*

Status: We have been working with several charter companies on their needs, mostly at South Beach. A new charter company is taking over the Marina Store at South Beach. Our efforts includes trying to bring in more fillet tables to the marina area. We have applied for a marketing plan for NIT in an effort to increase cargo business. Unfortunately, we were not successful. The Port has continued to work with Economic Development Alliance, the chamber and other partners to promote the region's assets and opportunities. We have continued to work with the Oregon Ocean Innovation HUB, as a partner in trying to enhance the Coastal marine business.

Goal 2: Build trust, transparency, and excitement within the local community.

Policy 2.1: Develop public relations strategies that highlight the history of the Port, build community excitement and pride around the future of the Port, and establish a reliable communication mechanism between Port staff and Commissioners and the community.

- a. ***Strategy 2.1.1: Host community events, such as barbeques, where the community can come and learn about the history of the Port and the projects that are underway or on the drawing board, and meet Port staff and Commissioners.***
- b. ***Strategy 2.1.2: Partner with local businesses to give joint tours of research, education, and recreational facilities.***
- c. ***Strategy 2.1.3: Establish a responsive single-point of contact, such as the marketing manager, for community inquiries, suggestions, or concerns.***

Status: “We have continued working with Summit Communications on sharing our projects through Facebook, e-blasts, newspaper articles and newsletters.” I have also attended a couple radio programs to share news of the Port. We have received good feedback from stakeholders and community members. Unfortunately, because of COVID we haven’t been able to plan any gathering events this year. However, we are working towards a “Seafood Cookoff” for next Summer.

Criteria Used to evaluate and group Projects:									
	0. Project Underway, continuation or completed								
	1. Large adverse affect on operating revenues, and\ or has a large adverse affect high paying jobs in district								
	2. Moderate to small adverse affect on Operating revenues and/or impacts lower paying jobs in the district								
	3. Improves overall operations, resulting in a better port, with better services, may or may not impact jobs								
	4. No impact to operations, does not generate revenue								
CAPITAL IMPROVEMENT PLAN									
	<u>Capital Improvements</u>	<u>Cost Estimate</u>	<u>Original Timeline</u>	<u>Budget Year</u>	<u>Criteria</u>	<u>Rationale for group</u>	<u>Funding Source (Grant, Loan, OP Funds)</u>	<u>Current Status</u>	<u>Priority</u>
NIT	Planning project to identify a mix of uses/opportunities that will maximize use of the terminal and adjacent vacant port-owned properties, and increase net revenues to the Port. Project completion primarily by Port staff	Original: \$15,000 Current: \$30,000	2,019	2021-22	1	This may or may not help improve the marketability of the site.	OP FUNDS, Potential Grant	The Port has budgeted \$30K for a marketing plan where we would use a consultant. An application was also made for a grant with the USDA, but not granted. Due to COVID, the Port decided to wait to proceed. We have also started working with a couple companies who were interested in using the Terminal. We may include this back in our budget to be completed in 2022.	1
Mitigation Plan	Planning project to address mitigation needs of future capital projects and potential inventory of mitigation sites. Anticipated to be completed by Port staff in partnership with the Port of Toledo, Yaquina Bay users, NOAA, ODFW, and the USACE. Project completion primarily by Port staff	\$25,000	2019-2021	As needed	0	We are unable to bank for mitigations on a federal level. Therefore, mitigation plans should be done on a needed basis based on projects, but the Port should budget some amounts to cover for consultants.	OP FUNDS, Potential Grant	We have completed some small mitigation projects, as part of other projects. We looked at opportunities and discussed it with some of the permitting agencies. Until we have a permitted project it is hard to know what the mitigation needs are. It is very difficult to bank for mitigation. There may be some opportunities with the State, but not on a federal level.	As Needed
RV Park Annex Plan	Planning and conceptual design project to redesign and reconfigure the RV Park	\$120,000	2019-21	2022-23	1	Does not affect high earners, but park is showing its age, major revenue could be lost.	Potential Grant Funds	Because of COVID we decided to hold off on this project for this budget period. However, the project is now included in our 2021-2022 budget, but it may extend to 2022-23. We are working with our grants writer to start working on this project next.	1

Port Dock 5 Interim Improvements	Interim improvements to replace pier and improve dock. Approach pier replacement; replace 6 pilings; replace rods, whalers, rub boards, bumpers and triangles (PD 5C); replace rods, bumpers, rub boards and 6 whalers (PD 5B); replace rods and rub boards (PD 5x); new power pedestals	\$3,500,000	2019-22	2021-24	1	There are still some projects left to complete, and they are crucial to the Port operations and should be finished as soon as practical.	OP FUNDS	The approach pier is completed. We are looking at installation of about 2 pilings, not 6. We will need to get a federal permit for this, which will take time to be granted. The plan is to work on the permit during this coming fiscal year and plan on replacing the pilings in 2022-2023. Same applies to the other items. Power pedestals have been ordered and should be installed this year.	1	
Port dock 7 Interim Improvements	Interim improvements prior to reconfiguration /replacement: Miscellaneous float and pile improvements	\$348,000	2019-22	2022-23	1	Some of the repairs are crucial to keep PD7 in operations until replacement.		We received ACOE permit to replace 4 pilings. Planning on replacing the pilings in 2021-2022. As to the interim improvements, we just received a report from HDR Engineering and staff is working on addressing the issues that can be addressed.	1	
Reconfiguration and Reconstruction of Marina	Complete reconstruction and reconfiguration of commercial marina, including Port Docks 3 and 7, Upland Improvements, Swede's Dock and Commercial Marina channel	Original Budget: \$14,75,000 New budget: \$20,000,000 Plus Channel \$5,000,000	2019-24	2024-2025	1	PD7 is at end of life, high wage earners will move elsewhere, major economic impact to Port and community	Grant (s)/Op Fund	We are currently seeking funds for the Reconstruction plan, which would include engineering, design and permitting. We have received \$50K from DLCD, an invitation to apply from Business Oregon for \$50K and should be submitting an EDA request for \$200K soon. This process may take a year to complete. Without the plan we would be unable to access funds for the construction. The Port and the US Army Corps is currently working on a Feasibility Study to assess probability of extending and deepening the channel to the Commercial Marina.	1	

Fishing Pier Improvement	Identify replacement strategy and design new fishing pier	\$2,900,000	2,022	2024-2027	4	Although we recognize the fishing pier has great value for the community, it does not improve the overall operations or revenues of the Port, it does not create jobs or impact the overall economy of the community. This project will provide greater value by combining it with the replacement of PD7 where it will support mitigation opportunity and possible use of grants.	Grants	This project is expected to be completed along PD7 reconstruction. Since we intent to use some of the fishing pier replacement for the Port Dock 7 mitigation, we are trying to include parts of this plan on the Port Dock 7 Plan.	4	
Rogue Seawall Repair	Repair Rogue seawall based on Engineers Report	\$1,360,000	2019-21	2022-24	1	Major economic loss, Rogue brewery could move, causing large loss to community and revenue to the Port. Many come to community to visit Rogue.	Grant Potential	The Port received a \$12,900 grant from Lincoln County and \$43,875 from Business Oregon, which was used to complete an engineering assessment. The Report was recently completed. Now that we have a report, we started searching for funds. There is a cost estimated at \$1.4 Million. We are currently able to obtain a 20 year loan from USDA for the entire project at a rate of 2.15%. However, the Port is trying to obtain grants through the EDA. If that is not successful, we can always complete the project through the loan.	1	

Safety and Security	South Beach Marina electric load centers; South Beach fuel tank replacement; relocate/replace hoist dock electrical lines; consolidate and upgrade total security camera network port-wide.	\$2,560,000	2019-2024	2021-24	3	These projects mostly affect the operations of the Port and the functionality of its assets. Because of that it is hard to obtain grants other than security cameras and lighting.	OP-Funds/Some grants	Although the South Beach Marina electric load centers was set to be completed altogether in 3 years, the Port went ahead and completed the project all at once. The total cost came under budget at around \$700K. We plan on including the fuel tank replacement and the hoist dock electrical lines to our 2022-23 budget. We have made the effort to install new cameras to our facilities every year through a grant program from SDAO. We will continue to make improvements and upgrading our security efforts.	3	
NIT Improvements	Grading of Port's 9-acre lot (does not include wetland mitigation); asphalt lot west of shop, behind shop, and near the east entrance; asphalt nw corner of laydown area; installation of waste oil collection tank; mutually beneficial project, as required by development agreement with McLean Point developer	Grading: \$153,000; Asphalt: \$234,000; Tank: \$45,000, Other: \$50,000. Total NIT \$482,000 Plus removal of dredge Material \$200,000	2019-2023	2021-2022	0	We are currently finishing the grading work and have not much choice on completing some projects that have been agreed under the agreement with Rondy.	OP Funds	We completed the asphalt paving to the lot west of the shop. We still have additional paving to do. We seleted a contractor to start working on the grading of the 9 acres. That may include working with Rondy's to upgrade the drain lines to their property. Fortunately, we will not need to mitigate the wetlands. We are still working with Rondy's on the mutually beneficial project. At this point the port has budgeted to remove the dredge sand from their property.	3	
RV Annex	Final plans, new RV Annex; New RV Annex construction	\$2,620,000	2019-2022	2023-25	1	Does not affect high earners, but park is showing its age, major revenue could be lost.	OP Funds/Grants	Due to COVID, the Port has postponed the plans for the RV Annex, because of funding sources. Once plans are completed we will better know how to proceed.	3	

NEW PROJECTS SINCE STRATEGIC BUSINESS PLAN

NEW PROJECTS SINCE STRATEGIC BUSINESS PLAN										
Port Admin Building	Build a new building for administrative staff and commission meetings	\$2,400,000	N/A	2021-23	0	Although this was not originally included on the Strategic Business Plan, the project has been discussed and even planned in a couple occasions, because the need to replace a temporary building that is now almost 10 years old.	Loan/Op Funds	The Port was able to obtain two low interest loans from Business Oregon. A contractor has recently been selected. The building is expected to be completed by early Fall of 2022.	In progress	
South Beach Marina Improvements	Repair to South Beach Marina Buildings		N/A	2021-22	0	These major maintenance items were never added to Strategic Business Plan	Op Funds	We have replaced sidings and paint several buildings located at the South Beach Marina. That included the House of Spirits, Restrooms, Marina Store and Shop.	Done	
South Beach Marina Storm Water	Emergency Storm Water Work	\$345,000	N/A	2020-2021	0	This was an emergency project that was completely unexpected.	Op Funds	We completed an emergency project to address the storm water issue at South Beach Marina. Unfortunately, new sinkholes have been forming due to other storm water issues, which may create additional costs.	Done	
343 SW Bay Blvd Removal	Emergency Building and Dock Removal	\$200,000	N/A	2021-23	0	The building was removed due to safety issues. We are hoping to remove the dock as a mitigation project.	Op Funds	We had to complete an emergency removal of the building. We are trying to work with the City on delay removal of the dock to coincide with PD7 Replacement, so we can use it as mitigation.	Done	
North Commercial Oil Tank Removal	Emergency Commercial Oil Tank Removal and Upgrade	Tank: \$200,000 Building \$86,000	N/A	2021-23	0	Old Tank was removed due to leaking issue. We are researching on a replacement	Op Funds	We had an emergency removal of the Oil Tank/Bilge Collection at North Commercial. We foresee replacement of the tank.	1	

South Beach Marina GFI Breaker Installation	The GFI Breakers have all been purchased, moving towards installation	\$115,000	N/A	2021-22	0	The supply chain has caused some issues, but project is currently underway.	OP Funds	As part of replacing the load centers on South Beach Marina, the Port decided to also replace the breakers in the power pedestals with GFI breakers.	Done	
NIT Conditional Assessment and Repair of RORO dock Pilings	Conditional Assessment and Repair of RORO dock Pilings	\$230,000	N/A	2022-24	2	The Pilings at NIT RoRo dock needs assessment and most likely repair and/or treatment to extend their life.	Op Funds		2	
South Beach Marina Outfall Sleaving	Repair/Maintenance of Outfall at South Beach Marina	\$230,000	N/A	2022-23	3	The outfall at the marina needs to be addressed to avoid future issues (sinking).	Op Funds		1	
South Beach Buildings (previous fruit processing facility)	Demolishing, rebuilding, new roofs, new siding	\$360,000	N/A	2022-23	2	South Beach buildings are in pretty bad shape. We are in the process of leasing two of the buildings, but they need new roof and sidings. We also should demolish the uninhabitable building and instead build a smaller building to house all the power to the property.	Op Funds		2	
CM Forklift Replacement	1 Forklift has passed it's replacement cycle based on hours used.	\$46,000	N/A	2022-23	1	We deferred purchase of a new lift for 2 years; our forklifts in the Marina are heavily used and they must be reliable to keep the hoist dock working. We are well over the 6,000 limit for replacement on two forklifts			1	
CM Shop Expansion	Expand shop at Commercial Office	\$30,000	N/A	2022-23	3	Need office space for Harbormaster, no confidential conversations can be held with current configuration.	Op Funds		3	
Dredge Swedes Dock	Dredge Swedes Dock	\$150,000	N/A	2023-25	3	It hasn't been dredged in over 33 years and it is starting to show.	Op Funds		4	

CM HOIST Dock Fenders	Replace Hoist Dock Fenders	\$35,000	N/A	2023-24	3		Op Funds		3	
CM PD 3 Access Power and Water	Remove PD 3 Power and Water Access from Neighboring Property	\$250,000	N/A	2025-27	3	Current Power and Water is attached to the neighboring building. We don't know the condition of the pilings.	Op Funds		4	
SB HVAC system	Replace HVAC System at SB Shop	\$15,000	N/A	2024-25	3	HVAC systems are old and soon in need of repair	Op Funds		4	
SB End ties A-E docks	Replace Rods and Whalers at end ties A-E in SB Docks	\$100,000	N/A	2022-24	3	The end ties are the largest single berths in South Beach. They "re used for the bigger vessels that use the marina, and are in need of rods and whalers to stay in operation	Op Funds		1	
CM Swedes Ddock 12-14 Pilings	Replace pilings at Swedes Dock	\$215,000	N/A	2024-24	1	The Dock is at the end of its service life and in need of replacement	Op Funds		3	
CM Replace and Extend Wooden Section of Hoist Dock	Replace and Extend Wooden Section of Hoist Dock at CM Dock	\$2,400,000	N/A	2024-27	?	This is a weak section in the dock and needs to be replaced along with the rest of the pier			3	
SB Asphalt Overlay	Asphalt Overlay at SB	\$100,000	N/A	2023-24	3	The asphalt in the area where Seafood & Wine is held along with other festivals has been patched again and again due to the impact of tent stakes and concrete curbing. It needs to be repaved.	Op Funds		3	
Rogue Gutter Replacement	Replace Gutters at Rogue Building	\$100,000	N/A	2023-23	1	There are currently holes in the eves on the building. These need to be repaired to prevent impacts to the walls.	Op Funds		1	

SB Expo Center		\$30,000	N/A	2022-23	2	Facility to enhance the recreational theme of South Beach and add attractions for tourists. Would bolster hotel business and tourism in the region.	Op Fund/Grants		2	
SB Forklift replacement	Purchase New Forklift for SB	\$40,000	N/A	2022-24	3	Current forklift is reaching the top end of operating hours			2	
Fillet Tables		\$130,000	N/A	2022-23	3	Tables are over crowded and we need to add capacity	Op Funds/Grants		1	
NIT Crane replacement	Crane is at max capacity, in order to handle cargo or other heavy loads will have to be replace	\$350,000	N/A	2022-23	1	This is new potential revenue to Port, but could also affect high income earners should Crane fail	Grant - MARAD			
North Commercial Cranes Replacement		\$160,000	N/A	2024-26	3	North Commercial cranes may need to be replaced within the next 2-3 years	Op Funds		4	
Port vehicles	Replace aging vehicles with high mileage all throughout the Port	\$100,000	N/A	2022-24	3	Vehicle breakdowns could cause Operational issues	Op Funds		3	
NIT Equipment plus Building	Purchase Terminal Equipament and Storage Building	\$2,500,000	N/A	2022-23	1	In order to establish future cargo operations, the Port may consider obtaining some equipment and a building to house such equipment. We may apply for future MARAD grants.	Op Funds/MARAD		2	
NOAA Dredging	Dredge NOAA's Berth	\$740,000	N/A	2022-23	1	We have an obligation to dredge NOAA. We have skipped this year, but will be required to dredge in the following year.			1	
NIT dredging	Dredge NIT's Berth	\$400,000	N/A	2022-23	1	NIT may need to be dredged within the next 1-2 years.			1	

South Beach Marina Dredging	Dredge South Beach Marina	\$200,000	N/A	2022-24	1	South Beach Marina may need to be dredged within the next 1-2 years. Coordinated efforts will be made to dredge the marina at the same time as we dredge NOAA if we are able to obtain permits in time.	Op Funds/OSMB		2	
South Beach Operations	Expand shop at SB	\$30,000	N/A	2023-24	3	Need office space for Harbormaster, no confidential conversations can be held with current configuration.	OP Funds		4	
South Beach Marina Service Dock near the Rogue Seawall needs repairs	The current dock is not useable	\$180,000	N/A	2022-23	1	The South Beach Marina service dock needs some major repairs. We spoke to the Oregon State Marine Board, but they are unlikely to fund this project, unless the majority of the dock is to service transient boats, which it is not the case here. We are hoping to complete this work in parallel with the Rogue Seawall Repairs.	Op Funds		1	
CM Hoist Reconfiguration	Reconfigure Hoist Dock and Move CM Building with Loading Dock plus small mobile crane	\$4,000,000	N/A	2024-27	1	A reconfiguration of the hoist dock would eventually make more sense for overall operations	Op Funds/Grants		4	
Replace Equipments	Replace worn equipments throughout the Port	Tugboat Haul Out \$6,000; SB Gater to Replace E-Cart \$25,000; SB Dumpsters \$15,000; Trash Compactors CM: \$37,000, SB: \$37,000	NA	2023-24	3	These are aging or worn out equipment that need replacement	Op Funds		4	

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Budget Schedule Fiscal Years 2022-23

DATE	Task	STATUS
December 1	Review calendar, committee, and budget officer	X
December 8	Dept. Heads receive direction on identifying priorities/operational changes	X
December 15	Confirm budget committee membership	X
December 8	Management Team discuss Wages, Rate/Fee changes	X
December 15	Begin work on non-personnel budget for next fiscal year.	X
December 20	Pricing/rate changes to annual MLA holders and user Groups.	X
December 31	Update Budget forms PY Data	X
January 13	Budget priority work session, staff proposals, project priorities	
January 20	Rates and Fees, Personnel Expenses	
January 24	Rates and Fees approved by commission	
February 15	Base budget, Capital projects budgets complete	
February 28	Finalize Budget Documents	
March 2022	Deliver agenda, budget message, and proposed budget to committee	
March 2022	Budget committee meeting	
March/April	Budget Committee meeting (if needed)	
May 10	Prepare and publish hearing notice and summary	
May 24	Public Hearing, adopt budget	
June/July	Submit budget documents to County Assessor	
July 2022	Submit budget documents to County Clerk	

BUDGET COMMITTEE MEMBERS
(Freeholder positions are three-year terms)

FREEHOLDERS

1. Vacant
2. David Smith
3. Jeffrey Johnson
4. Mike Farley
5. Rex Capri

COMMISSIONERS

1. Walter Chuck
2. Kelley Retherford
3. Gil Sylvia
4. Jeff Lackey
5. Jim Burke, President

DRAFT