

AGENDA

Port of Kennewick
Regular Commission Business Meeting
Port of Kennewick Commission Chambers
350 Clover Island Drive, Suite 200, Kennewick, Washington

Tuesday, December 13, 2016
2:00 p.m.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. APPROVAL OF THE AGENDA

IV. PUBLIC COMMENT *(Please state your name and address for the public record)*

V. CONSENT AGENDA

- A. Approval of Direct Deposit and ePayments Dated November 17, 2016
- B. Approval of Warrant Registers Dated November 18, 2016
- C. Approval of Direct Deposit and ePayments Dated December 2, 2016
- D. Approval of Warrant Registers Dated December 13, 2016 (PS Media Warrant #38531)
- E. Approval of Warrant Registers Dated December 13, 2016
- F. Approval of Regular Commission Business Meeting Minutes October 25, 2016
- G. Approval of Regular Commission Business Meeting Minutes November 8, 2016

VI. PRESENTATIONS

- A. Arts Foundation of the Mid-Columbia (AFMC), Chuck Eaton (**TIM**)
- B. Columbia Gardens Wine Village Tenant Recommendations (**AMBER**)
- C. Former Tri-City Raceway Redevelopment Property Master Plan Update (**LARRY**)

VII. REPORTS, COMMENTS AND DISCUSSION ITEMS

- A. Columbia Gardens Phase II Interlocal Agreement; Resolution 2016-34 (**TIM**)
- B. Kennewick Irrigation District Inundation Clause (**TIM**)
- C. Ice Harbor Brewing Company 5-Year Lease Renewal; Resolution 2016-35 (**AMBER**)
- D. Vista Field Update (**LARRY**)
- E. Columbia Drive Update (**LARRY**)
- F. 2017 Eastern Washington Planners' Forum (**TANA**)
- G. Commissioner Meetings (formal and informal meetings with groups or individuals)
- H. Non-Scheduled Items

VIII. PUBLIC COMMENT *(Please state your name and address for the public record)*

IX. EXECUTIVE SESSION *(Ask public if they are staying, and if not, where they can be located if the Executive Session ends early.)*

- A. Real Estate, per RCW 42.30.110(1)(b) – Site Selection
- B. Real Estate, per RCW 42.30.110(1)(c) – Minimum Price

X. ADJOURNMENT

Action may be taken on any item on the Agenda.

PLEASE SILENCE CELL PHONES



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CALL TO ORDER

Commission President Skip Novakovich called the Regular Commission Meeting to order at 2:00 p.m. in the Port of Kennewick Commission Chambers located at 350 Clover Island Drive, Suite 200, Kennewick, Washington 99336.

The following were present:

Board Members: Skip Novakovich, President
Thomas Moak, Vice-President
Don Barnes, Secretary

Staff Members: Tim Arntzen, Chief Executive Officer
Tammy Fine, CPA Advisor
Amber Hanchette, Director of Real Estate and Operations
Nick Kooiker, Chief Financial Officer/Auditor
Larry Peterson, Director of Planning & Development
Lisa Schumacher, Special Projects Coordinator
Bridgette Scott, Executive Assistant
Lucinda Luke, Port Counsel

PLEDGE OF ALLEGIANCE

Ben Floyd led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

MOTION: Commissioner Barnes moved to approve the Agenda, as published; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

Consent agenda consisted of the following:

- A. Approval of Direct Deposit and E-Payments Dated October 18, 2016**
Direct Deposit and E-Payments totaling \$46,001.93
- B. Approval of Warrant Registers Dated October 25, 2016**
Expense Fund Voucher Numbers 38378 through 38402 for a grand total of \$52,316.69
- C. Approval of Special Commission Retreat Minutes September 10, 2016**
- D. Approval of Regular Commission Business Meeting Minutes October 11, 2016**

MOTION: Commissioner Barnes moved for approval of the Consent Agenda, as published; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.

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PRESENTATIONS

A. *Draft Comprehensive Scheme, Ben Floyd Anchor QEA*

Mr. Peterson stated over the past two years, Ben Floyd of Anchor QEA, Port staff and the Commission have been working to update the Comprehensive Scheme of Development of Harbor Improvements. Mr. Floyd and staff have engaged the public and our jurisdictional partners about what the Port should be doing, how it applies to the various Port properties, and how the budget effected. The Comp Scheme outlines Port projects over the next ten years and includes a perspective budget. Furthermore, the Comp Scheme, the 2017-2018 Draft Work Plan and the 2017-2018 Draft Budget are in sync for the next two years. Once the Comp Scheme is adopted by the Commission, the Commission may revisit the document every two to three years to update as needed.

Mr. Floyd provided a brief overview and presented the Draft Comp Scheme. Mr. Floyd stated the Commission established the focus and priorities of the Comp Scheme at the September 10, 2016 Commission Retreat. Today the focus is on the content of the document and Mr. Floyd asked for additional Commission comments. Mr. Floyd stated the Draft Comp Scheme is much different from the 2011 Comp Scheme and focuses on the following:

- Port Mission and Goals;
- Summary of Port History;
- Redevelopment Priorities;
 - Vista Field Redevelopment;
 - Kennewick Waterfront;
 - Richland Island View;
 - West Richland Site.
- Revenues, Expenses and Capital Improvement Plan.

Mr. Barnes summarized page 2, stating the Port has emerged as an economic redevelopment agency, however, Mr. Barnes believes the Port has always been focused on economic development. There has been a subtle change in direction and the Port has been working primarily in the form of urban renewal.

Mr. Floyd inquired if the Commission would like the document to reflect urban renewal and redevelopment.

Mr. Arntzen agrees with Mr. Barnes, however, he inquired if the phrasing could be changed to urban revitalization.

It is the consensus of the Commission to state the Port is focused on urban revitalization and redevelopment.

Mr. Floyd will verify that the closure of Vista Field is covered in the history of the Port.

Mr. Floyd stated the Draft Comp Scheme focuses on the future and with regard to Richland/Island View, staff will work with the City of Richland to identify the next project in that area.

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Mr. Arntzen confirmed with Mr. Floyd that the statement indicates that staff will work with the City of Richland to identify new opportunities. Mr. Arntzen inquired if the Commission could comment on identifying opportunities for a joint project with the City of Richland.

Mr. Moak agrees with Mr. Floyd's statement on page 12 which states, "Identify and implement a project that helps to further spur redevelopment efforts in the Richland Island View area."

Mr. Floyd stated the Commission will review and update the Capital Improvements portion of the document every two years, as part of the budget process and revisit the Comp Scheme every five years or earlier if needed. In terms of a five year horizon, is it the Commission's intent to complete one project in Richland or would the Port be open to participating in more than one project.

Mr. Novakovich suggested changing the language to project(s).

Mr. Moak stated the statement should simply read, "the Port will work with the City to further spur redevelopment efforts" and not identify whether it is one or more projects. The emphasis should be on working with the City of Richland to help spur redevelopment of the Richland Wye/Island View.

Mr. Floyd stated, as previously discussed at the Commission Retreat, there is additional work that needs to be done to determine where the Commission wants to invest in Richland, which could take several years to determine.

Ms. Fine estimated the Port receives approximately \$400,000-\$600,000 a year from property taxes from the City of Richland.

Mr. Moak inquired how much revenue the Spaulding Business Park has generated for the City of Richland. Mr. Moak stated if the City of Richland does not communicate what they would like to see or how the Port reinvests in the area, how is this Commission supposed know what it is they truly want.

Mr. Floyd stated that is why it is important for the Commission to outline priorities and implement projects that fit within the Port's mission and priorities.

Mr. Arntzen stated there has been extensive discussion at staff level. Mr. Arntzen and Mr. Peterson met regularly with Mr. King, however, since Mr. King retired, the City has undergone some personnel changes. Staff has been undertaking dialogue with City staff and it is an on-going discussion.

Mr. Floyd suggested the statement read: "Identify and support a project(s) that helps to further spur redevelopment efforts in the Richland Island View area." However, the Port may not necessarily be in the lead development role, for example, the Badger Mountain Trailhead Parking Lot project.

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Mr. Floyd will reflect the Commission comments regarding the City of Richland.

Mr. Arntzen stated staff will continue the dialogue with City staff and report back as appropriate.

Mr. Floyd stated the Port collected \$760,000 in revenue from the City of Richland.

Mr. Floyd stated the West Richland former Tri-City Raceway (TCRW) is referred to as the West Richland Light Industrial Park and inquired if the Commission found that title acceptable. Mr. Floyd stated it was emphasized during the Commission retreat that several institutional impediments needed to be addressed before any work could happen at the former TCRW.

Mr. Arntzen stated the joint Port/West Richland Economic Development Committee recently met, and is comprised of myself, Mr. Novakovich, Mr. Peterson, Mayor Brent Gerry, Public Works Director, Roscoe Slade and Community Development Director Aaron Lambert. During that meeting, Mr. Gerry and City staff acknowledged that development of the TCRW time frame of 4-7 years was acceptable. Since the Commission Retreat, the West Richland wine effluent treatment plan has come on line and is now operational and there was a strong consensus to allow enough time for the for private land owners to utilize the treatment facility.

Mr. Novakovich stated West Richland was asked to discuss whether they would like the Port to bank money for the redevelopment of the TCRW for years 1-3 or invest \$100,000 each year for smaller projects.

Mr. Moak would like to see the property identified as the Former Racetrack until the Port is prepared to redevelop the property. If the property is identified as industrial, there is an expectation that the Port is developing industrial and until the master plan is adopted, he does not believe the use has been fully identified.

Mr. Novakovich inquired what the zoning is for the TCRW site.

Mr. Peterson stated the TCRW is zoned commercial light industrial.

Mr. Novakovich believes the word industrial defines the site better than racetrack. The Port is not redeveloping a racetrack but redeveloping a racetrack into industrial property.

Mr. Moak stated the Commission has not made that decision yet and until we are prepared to move forward with the redevelopment, he would like to see it referred to as the former TCRW.

Mr. Arntzen would like to compare notes with West Richland, because he believes there may be a viable short term project for years 1-3. Mr. Arntzen would like to bring back a potential project to the Commission at a later date, but asked the Commission to continue with the Draft Comp Scheme. There will be additional items added to the document next year, for example, the Vista Field Master Plan. Furthermore, this is the first time the Port and West Richland have been on the same page where the TCRW is concerned. Mr. Arntzen stated the current City utilities do not reach the TCRW and it will cost approximately \$750,000 to extend them to the site. Mr.

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Arntzen has discussed a proposed a scenario with West Richland to get the utilities to the TCRW site. The discussion centered on the City doing the majority of the utility work with the Port marshalling some assets to assist the City. The City's concern is that they would need time to create an implementation strategy to get the utilities to the site, if so elected. Mr. Arntzen stated that scenario might include the sale of other Port properties, such as the two parcels located on Keene Road.

Mr. Floyd suggested adding general language about the Port developing shorter term strategy, in cooperation with the City, which will allow flexibility. Mr. Floyd stated he and Mr. Peterson will work on the TCRW that incorporates both and bring back a proposal.

Mr. Floyd outlined other Port property priorities including: Oak Street, Vista Field Development Buildings, Southridge, Finley (Twin Tracks and the Hedges Lagoon) and Plymouth.

Mr. Floyd stated it is a priority to reduce owner responsibility and let another agency take over the Hedges Lagoon, as long as it is consistent with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) and other Port partners.

Mr. Peterson stated Plymouth would be a good opportunity for the U.S. Army Corps of Engineers to take over, since they already own 1/3 of the island and the land is protected.

Mr. Floyd stated the next section addresses Port revenue, expenses and capital plan. Mr. Floyd stated since the capital improvement plan and cash flows change, he suggested adding them into the appendixes and updating periodically.

Mr. Kooiker agrees with Mr. Floyd's suggestion and believes it would flow better as an appendix.

Mr. Floyd stated financials are constantly changing and updating and it is better to speak on generalities which should be updated at least every two years with the budget.

Mr. Arntzen is very impressed with the Comp Scheme and Capital Plan and appreciates the collaborative efforts by Mr. Floyd and staff to produce the documents.

Mr. Novakovich stated page 3 of the Comp Scheme states "pursuing projects with development partners who demonstrate support" and asked if that could also be included in considerations.

Mr. Arntzen suggested the Comp Scheme should reference Resolution 2014-31, which outlines the Budget, Financial and Operational Philosophy of the Port.

Mr. Novakovich agrees with Mr. Arntzen's suggestion and asked Mr. Floyd to include Resolution 2014-31. Mr. Novakovich thanked Mr. Floyd for his work and stated this is a remarkable document.

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Mr. Moak asked Mr. Floyd, after working on the Comp Scheme for almost two years and working closely with staff, the Commission, and the public, if there anything he believes, in his professional opinion, missing from the document.

Mr. Floyd stated the updated Comp Scheme is concise, and focused with a clear set of direction and priorities. The 2011 Comp Scheme did not have a clear direction and priorities were constantly changing. Mr. Floyd believes the document outlines the Port's established priorities and the Port will be able to implement projects and explain to the public the "how" and "why" behind each decision.

Mr. Moak appreciates the work of Mr. Floyd and his team and the collaboration with the Commission and staff to create a complete Comp Scheme.

Mr. Barnes inquired what the next steps will be for the Comp Scheme.

Mr. Floyd stated the Comp Scheme is scheduled for action at the November 8, 2016 Commission meeting.

Mr. Peterson stated the Commission addressed the larger items today, and staff will make those corrections and proofread and correct typos.

Mr. Floyd asked the Commission to submit any additional comments or edits by noon on November 2, 2016, in preparation for the Agenda Packet.

B. Historic Downtown Kennewick Partnership Update

Mr. Arntzen introduced Dan Smith, executive director of the Historic Downtown Kennewick Partnership (HDKP). Mr. Arntzen and Mr. Smith met yesterday with members of the HDKP and Emily Estes Cross of the City of Kennewick, to look at a project that the Port, City and HDKP could undertake together.

Mr. Smith stated the HDKP has had a few meetings with the Bridge to Bridge, River to Rail Task Force to discuss revitalizing the plan. Mr. Smith stated the task force would like to implement a portion of the Bridge to Bridge, River to Rail plan and agreed the most effective would be to link Columbia Drive and Washington Street. This is a very young plan, but the task force believes linking downtown to Columbia Gardens and Clover Island would be the best option, and would include additional streetscape or wayfinding, and increasing walkability of the area. Mr. Smith believes Washington Street is the best street to begin, because it already has the sidewalks and a historical significance of downtown Kennewick. Mr. Smith asked the Commission for their support to move forward implementing a portion of the Bridge to Bridge, River to Rail plan, which may require financial support at some point.

Mr. Arntzen inquired if the Commission feels that this would be an idea worth exploring and stated the project would be a collaborative partnership with the City and HDKP. Mr. Arntzen stated linking the lighthouse through heart of Columbia Drive into downtown has been addressed in several plans and Mr. Arntzen asked the task force to consider linking the three activity points:

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Clover Island Drive, Downtown Kennewick and the Wine Village together. The task force will review all previous plans and pattern language and try to implement what has already been suggested.

Mr. Novakovich believes this is an awesome idea and would like to see the task force move forward.

Mr. Smith stated the most important link would be bringing the downtown to the waterfront. Mr. Smith believes the right people are involved and will continue to meet.

Mr. Moak stated in terms of walkability, the area is pretty unwelcoming and the ability to create something that links the downtown to Columbia Drive and Clover Island is something that should be explored.

Mr. Barnes agrees and stated if the Port is trying to create a destination area along Columbia Drive and Duffy's Pond, a linkage will provide greater benefit area to the area and he believes it is an important idea to pursue.

Mr. Arntzen stated the area will need wayfinding and Ms. Estes Cross showed some examples of wayfinding signage. Mr. Arntzen inquired if the Commission might be amiable to addressing the linkage and wayfinding together.

It is the consensus of the Commission to pursue the linkage between Columbia Drive and Washington Street and address wayfinding in conjunction with the linkage project.

Mr. Moak inquired if there will be additional public involvement with the community.

Emily Estes-Cross, City of Kennewick Economic Development Manager, appreciates Mr. Moak's comments on the draft Comp Scheme update and the redevelopment objectives that are outlying the importance of reconnecting community areas to the waterfront. Providing a link will connect the community to the waterfront to another degree, by bringing additional businesses to the commercial business district. Furthermore, it will provide a sustainable economy and increase the health of local businesses by attracting more traffic and more visitors by using the linkages and wayfinding. In addition, Ms. Estes-Cross acknowledged the environmental sustainability that comes with providing a walkable or bikeable community, which reduces the number of cars, because people are parking and walking and enjoying their downtown experience. The City sees this as a viable economic development impact initiative, and in terms of public engagement, the City will continue engaging the community and Ms. Estes-Cross anticipates more meetings with property owners in the Bridge to Bridge, River to Rail area. Just recently the City held a meeting and the Bridge to Bridge, River to 10th area property owners communicated their desire to enhance the connection at Washington Street and Columbia Drive. Ms. Estes-Cross stated the importance of making the connection to the Wine Village, justifies City Council's investment in the Wine Effluent treatment system. This is a fantastic opportunity and the City is currently working on the auto row zoning and mixed use zoning for the Bridge to Bridge, River to Rail area and that includes a community outreach

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component. This outreach will give constituents a bigger picture that includes additional improvements along Columbia Drive.

C. Adoption of 2017-2018 Work Plan: Resolution 2016-25 (Exhibit A)

Mr. Peterson presented the 2017-2018 Work Plan and Resolution 2016-25 for Commission consideration.

PUBLIC COMMENTS

Boyce Burdick, 414 Snyder Street, Richland. Mr. Burdick stated there has been a lot of discussion about the Draft 2017-2018 Work Plan and the Draft Comprehensive Scheme following the same course. However, on page 7 of the Draft Work Plan, it shows \$3,000,000 invested in Vista Field for infrastructure, including several roads, a narrow street, and a possible road in front of the future Performing Arts Center (PAC). Page 21 of Draft Comp Scheme allocates \$3,000,000 for infrastructure as well as \$900,000 for years 2019-2024 and \$4,000,000 in 2025. Mr. Burdick inquired after the ten year period, has the Port completed half of the development as discussed at the Charrette. Furthermore, Mr. Burdick would like to see what will be added into Vista Field for each of these 2 year budget periods and how much the Port will redevelopment.

Mr. Peterson stated the 2017-2018 Work Plan and Draft Comp Scheme have duplicate time frames for 2017-2018, with \$3,000,000 allocated for infrastructure, however, the Draft Comp Scheme takes it one step further by extending it an additional 8 years. The \$3,000,000 investment will open up 20 acres of land, which is approximately 1/5 of Vista Field. Furthermore, if land sales progress as staff anticipates, 1/2 of Vista Field will be developed in a 10 year time frame that the Draft Comp Plan covers. Phase I will be more costly because of the installation of main roads and connections to the site. Mr. Peterson stated it is hard to determine what build out will look like in 10 years, especially since the development is self-funded.

Mr. Kooiker added the \$900,000 allocated for years 2019-2014 is broken down as follows: \$800,000 for debt service on Vista Field and \$100,000 for marketing. In 2025, the \$4,000,000 is the final pay off for the loan.

No further comments.

MOTION: Commissioner Moak moved approval of Resolution 2016-25, adopting the 2017-2018 Work Plan, as presented; Commissioner Barnes seconded.

Discussion:

Mr. Moak stated this is a very ambition plan and reflects the Updated Draft Comp Scheme and if we accomplish everything, the Port will have a very successful two years.

Mr. Barnes agrees with Mr. Moak and stated the 2017-2018 Work Plan outlines a number of ambitious yet achievable projects.

With no further discussion, all in favor 3:0. Motion carried unanimously.

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D. 1135 Project Update

Mr. Arntzen and staff met with U.S. Army Corps of Engineers (USACE) project manager Rebecca Kalamasz recently for a very informative update. Ms. Kalamasz requested the Port make a tentative decision on which alternative the Port would like USACE to pursue. Mr. Arntzen asked Mr. Kooiker to update the Commission on the meeting and the financial ramifications of each alternative.

Mr. Kooiker reported Ms. Kalamasz provided staff information on eleven alternatives for the shoreline, each addressing different measures of restoration. Of the eleven alternatives, Ms. Kalamasz highlighted two alternatives the USACE would like the Port to consider moving forward with for the design phase. Mr. Kooiker briefed the Commission on the two alternatives (*Exhibit A*).

Alternative five focuses on the aquatic and riparian habitat from the Lighthouse plaza to the Coast Guard center and addresses the notch. The Port's estimated cost share for alternative five is approximately \$800,000 and the USACE's share is approximately \$2,000,000.

Alternative one also focuses on the aquatic and riparian habitat from the Lighthouse Plaza to the Coast Guard center and addresses the notch and adds an additional measure which focuses on the aquatic habitat, which is different from the Riparian habitat. USACE engineers have determined that there is a big hole in the river floor which is causing sediment build up in the notch. Mr. Kooiker stated if the Port decides to go with alternative five, there could be potential issues in the notch and further erosion issues. The Port share of alternative one is approximately \$1,300,000 and the USACE's share is \$3,200,000.

At this time, the Port has approximately \$930,000 allocated for the 1135 project and staff discussed several options to make up the \$500,000 difference for alternative one. One such option is to apply for a state grant, however, the results are unknown until spring of 2017.

Mr. Kooiker believes the USACE would like to complete alternative one, because it offers the highest environmental benefit to the habitat, however, the USACE understands if the Port does not have the funds to complete alternative one, however, future funding could be affected if the Port does not choose alternative one. Furthermore, the Port has an established Memorandum of Understanding with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR), who would most likely want the best option for the environment. Additionally, if the Port chose to develop the corner parcel, it would have to repair the area at a later date, which would ultimately cost more.

Mr. Kooiker stated when the USACE bids a project like this, they factor in a 50% contingency cost and Ms. Kalamasz is confident about the estimates. Recently, the USACE bid a project of the same magnitude. Mr. Kooiker asked for Commission direction and reiterated the alternatives:

- Alternative One: delay project one more year to ensure grant funding is in place;
 - If the Port does not receive grant funding, the project will begin at the end of the 2018 budget cycle and there may be funds available due to the conservative budget;

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- Alternative Five: addresses the aquatic and riparian habitat from the Lighthouse plaza to the Coast Guard center and addresses the notch for approximately \$800,000 (Port share);
- Alternative Three: fix the notch only for \$300,000 (Port share);
- Do not proceed with the 1135 project.

Mr. Kooiker stated staff consensus is to proceed with alternative one, because it allows more flexibility and is the best option for the environment. USACE has begun working on the alternative one plan and staff believes construction will not begin until 2018.

Mr. Novakovich is supportive of alternative one.

Mr. Arntzen stated the Commission can choose alternative one and if the grant dollars do not come through, the Port can always opt for alternative five. However, since this is primarily a habitat project, the USACE biologist may say it does not make sense to continue with the project. Mr. Arntzen stated under either alternative one or five, the area in front of Cedars and Clover Island Inn will be improved.

Mr. Barnes appreciates the recommendation and agrees with staff. Alternative one is the best option for Clover Island and believes applying for additional grant dollars is appropriate. If the Port fails at finding a grant to leverage the project, there is a potential off ramp.

Mr. Moak stated either alternative will begin sometime in 2018 and even if the Port is not successful at attaining a grant, there may be other opportunities worth pursuing, such as federal or community funding. Mr. Moak believes it is important to do the right thing and it is important to listen to the CTUIR and do more for the aquatic environment and businesses on Clover Island. Mr. Moak agrees with Mr. Barnes and Mr. Novakovich.

The consensus of the Commission to choose alternative one for the design phase of the USACE 1135 project.

RECESS

Mr. Novakovich recessed the meeting 4:09 p.m. for a break and will reconvene at approximately 4:20 p.m.

Mr. Novakovich reconvened the meeting at 4:20 p.m.

PUBLIC HEARING: 2017-2018 FINAL BUDGET / ADOPTION

A. 2017-2018 Final Budget Hearing / Adoption; Resolution 2016-26

Ms. Fine presented the 2017-2018 Final Budget.

Mr. Novakovich declared an open public hearing for discussion on 2017-2018 Final Budget.

PUBLIC COMMENTS

No comments were made.

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Mr. Novakovich closed the public hearing.

MOTION: *Commissioner Moak moved approval of Resolution 2016-26, adopting the 2017-2018 Final Budget as presented; Commissioner Barnes seconded. With no further discussion, all in favor 3:0. Motion carried unanimously.*

MOTION: *Commissioner Moak moved for approval of Resolution 2016-27, Levy Certification; Commissioner Barnes seconded. With no further discussion, all in favor, 3:0. Motion carried unanimously.*

MOTION: *Commissioner Moak moved for approval of Resolution 2016-28, authorizing an increase in the Tax Capacity, authorizing the 1%; Commissioner Barnes seconded. With no further discussion, all in favor, 3:0. Motion carried unanimously.*

Mr. Novakovich stated Item 9 C will be removed due to time constraints.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. Arts Policy 2016-29

Mr. Arntzen presented the Arts policy for Commission consideration.

PUBLIC COMMENT

No comments were made.

MOTION: *Commissioner Moak moved for approval of Resolution 2016-29, approving the Art Policy as attached in Exhibit A; and directing the Chief Executive Officer (CEO) to take all action necessary to implement this policy; Commissioner Barnes seconded.*

Discussion:

Mr. Moak is pleased to see this policy adopted and stated this Commission is a step ahead of our jurisdictional partners by adopting an Art policy. Mr. Moak stated great projects that deserve great art and looks forward to seeing the policy implemented.

With no further discussion, all in favor, 3:0. Motion carried unanimously.

B. Vista Field Development Building (Bruker) Resolution 2016-30

Ms. Hanchette reported the interior remodel at 415 North Quay, buildings A and B were recently completed by Banlin Construction. The Commission approved a contract with Banlin Construction in February of 2016, and Ms. Hanchette presented photos of the completed remodel of the interior remodel. Furthermore, the remodel allows for additional rental opportunities, which will be available in early 2017. Ms. Hanchette presented Resolution 2016-30 for Commission consideration.

PUBLIC COMMENT

No comments were made.

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MOTION: *Commissioner Moak moved for approval of Resolution 2016-30, accepting the 415 North Quay Street Building A interior remodel project completed by Banlin Construction LLC and authorize the Chief Executive Officer to finalize the financial terms of the contract; Commissioner Barnes seconded. With no further discussion, all in favor, 3:0. Motion carried unanimously.*

C. Columbia Drive Update

Columbia Drive will be discussed at a future meeting, due to time constraints.

D. Cancel November 22, 2016 Commission Meeting

It is the consensus of the Commission to cancel the Regular Commission Business meeting on November 22, 2016.

E. Cancel December 27, 2016 Commission Meeting

It is the consensus of the Commission to cancel the Regular Commission Business meeting on December 27, 2016.

F. Cancel January 24, 2017 Commission Meeting

It is the consensus of the Commission to cancel the Regular Commission Business meeting on January 24, 2017.

G. Commissioner Meetings (formal and informal meetings with groups or individuals)

Commissioners reported on their respective committee meetings.

H. Non Scheduled Items

1. Mr. Moak asked staff to investigate if local preference, in terms of local contracts are appropriate. Mr. Moak stated a presentation was given at the Small Port's Conference addressing local preferences, but there seems to be divergence of opinions.

Mr. Arntzen will research local preference with Ms. Luke and bring back an additional information for the Commission.

2. Mr. Peterson thanked the Commission for providing direction on the 2017-2018 Work Plan and Draft Comp Scheme.

PUBLIC COMMENTS

No comments were made.

COMMISSIONER COMMENTS

No comments were made.

Mr. Novakovich anticipates the Executive Session will last approximately 30 minutes, Personnel, per RCW 42.30.110(1)(g) with action anticipated. Mr. Novakovich asked the public to notify Port staff if they will return after the executive session.

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Mr. Novakovich recessed the Regular Commission Meeting at 4:45 p.m.

EXECUTIVE SESSION

A. Personnel, per RCW 42.30.110(1)(g)

Mr. Novakovich convened the meeting into Executive Session at 4:45p.m. for approximately 30 minutes.

Ms. Fine exited the meeting at 5:15 p.m. and extended Executive Session for 10 minutes.

Ms. Fine exited the meeting at 5:25 p.m. and extended Executive Session for 10 minutes.

Ms. Fine exited the meeting at 5: 35 p.m. and extended Executive Session for 5 minutes.

Ms. Fine exited the meeting at 5:40 p.m. and extended Executive Session for 5 minutes.

Mr. Novakovich adjourned the Executive Session at 5:42 p.m.

Mr. Novakovich reconvened Regular Commission Meeting at 5:43 p.m.

MOTION: *Commissioner Barnes moved for approval accepting the memo (Exhibit A), as amended, regarding the CEO's 2015-2016 Goals and Objectives accomplished in 2106; Commissioner Moak seconded. With no further discussion, all in favor, 3:0. Motion carried unanimously.*

MOTION: *Commissioner Barnes moved for approval of 2017-2018 CEO Goals and Objectives, (Exhibit B), as amended; Commissioner Moak seconded. With no further discussion, all in favor, 3:0. Motion carried unanimously.*

MOTION: *Commissioner Barnes moved for approval of the Commission's evaluation of the CEO for his 2016 Annual Performance Review, based on the Employment Agreement dated November 15, 2013, deeming the CEO's performance to be exceptional; Commissioner Moak seconded.*

Discussion:

Mr. Barnes stated when he has the opportunity to update the community regarding the Port of Kennewick, he can't stress enough how proud he is to be a part of this team and is pleased with the work that staff has been doing to make a tremendous impact on the community. Furthermore, our CEO is the leader of our staff and interfaces with the Commission, staff and our community, and this reflects on his performance.

Mr. Moak stated the Port has accomplished many great things over the past two years, which is the time frame the Commission is evaluating. Mr. Arntzen has been instrumental in forming great partnerships and bringing great plans to fruition. Furthermore, Mr. Arntzen has been the key to facilitating these projects, which is reflected in his performance.

Mr. Novakovich agrees with Mr. Barnes and Mr. Moak and stated Mr. Arntzen has done an amazing job the past several years and it is because of him that the Port has great partners,

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additional funding and an amazing team. The Commission and staff are doing great projects while reinvigorating our community and Mr. Novakovich is proud to be a part of the Port. With no further discussion, all in favor, 3:0. Motion carried unanimously.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 5:46 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Thomas Moak, Vice President

Don Barnes, Secretary

Clover Island, Port of Kennewick, Washington — Ecosystem Restoration

Exhibit A

Restoration Alternatives

Alternative 1 — Max Aquatic and Riparian Habitat

- ♦ Aquatic Habitat — Shallow Water Bench
- ♦ Aquatic/Riparian Habitat — Wetland in Notch
- ♦ Riparian Habitat — Multi-storied Canopy

Measure A: Aquatic Habitat — Shallow Water Bench

- ♦ Gravel and cobble substrate
- ♦ Shallow depth < 10 ft. deep
- ♦ Gradual slope (3:1 ft.)
- ♦ Eliminate holes and under-cut bank (predator habitat)

Measure B: Riparian Habitat — Wetland

- ♦ Fine materials substrate
- ♦ Shallow depth < 6 ft. deep
- ♦ Gradual slope (2:1 ft.)
- ♦ Plant emergent native vegetation

Measure C: Riparian Habitat — Multi-storied Canopy

- ♦ Stabilize bank, key-in bio-logs and fiber material
- ♦ Eliminate under-cut bank at waterline (predator habitat)
- ♦ Plant native riparian species
- ♦ Eliminate invasive species



DRAFT—Not for Public Release

Clover Island, Port of Kennewick, Washington — Ecosystem Restoration

Exhibit A

Restoration Alternatives

Alternative 5 — Aquatic and Max Riparian Habitat

- ♦ Aquatic/Riparian Habitat — Wetland in Notch
- ♦ Riparian Habitat — Multi-storied Canopy with a Stabilized Toe

Measure B: Riparian Habitat — Wetland

- ♦ Fine materials substrate
- ♦ Shallow depth < 6 ft. deep
- ♦ Gradual slope (2:1 ft.)
- ♦ Plant emergent native vegetation

Measure C: Riparian Habitat — Multi-storied Canopy

- ♦ Stabilize bank, key-in bio-logs and fiber material
- ♦ Eliminate under-cut bank at waterline (predator habitat)
- ♦ Plant native riparian species
- ♦ Eliminate invasive species



Clover Island 1135 Feasibility Study
Planning Level Costs - DRAFT

Exhibit A

Alternative 1	Total Restoration Construction	Construction Cost Break Out (75%/25%)	Allowable Recreation* (50%/50%)	Total Cost Construction and Recreation
Design and Implementation Est.	\$3,960,046		\$594,007	\$4,554,053
Federal Cost		\$2,970,035	\$297,003	\$3,267,038
Sponsor Cost		\$990,012	\$297,003	\$1,287,015
Total Project Cost (Fed and Sponsor)		\$3,960,046	\$594,007	\$4,554,053

* Allowable - 10% of Federal portion of project design and construction costs

Alternative 5	Total Restoration Construction	Construction Cost Break Out (75%/25%)	Allowable Recreation* (50%/50%)	Total Cost Construction and Recreation
Design and Implementation Est.	\$2,431,476		\$364,721	\$2,796,197
Federal Cost		\$1,823,607	\$182,361	\$2,005,968
Sponsor Cost		\$607,869	\$182,361	\$790,230
Total Project Cost (Fed and Sponsor)		\$2,431,476	\$364,721	\$2,796,197

* Allowable - 10% of Federal portion of project design and construction costs



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CALL TO ORDER

Commission President Skip Novakovich called the Regular Commission Meeting to order at 2:00 p.m. in the Port of Kennewick Commission Chambers located at 350 Clover Island Drive, Suite 200, Kennewick, Washington 99336.

The following were present:

Board Members: Skip Novakovich, President
Thomas Moak, Vice-President
Don Barnes, Secretary

Staff Members: Tim Arntzen, Chief Executive Officer
Tana Bader Inglima, Deputy Chief Executive Officer
Amber Hanchette, Director of Real Estate and Operations
Nick Kooiker, Chief Financial Officer/Auditor
Larry Peterson, Director of Planning & Development
Lisa Schumacher, Special Projects Coordinator
Bridgette Scott, Executive Assistant
Lucinda Luke, Port Counsel

PLEDGE OF ALLEGIANCE

Will Parks led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

MOTION: *Commissioner Barnes moved to approve the Agenda, as published; Commissioner Moak seconded. With no further discussion, motion carried unanimously. All in favor 3:0.*

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

Consent agenda consisted of the following:

- A. Approval of Direct Deposit and E-Payments Dated November 2, 2016**
Direct Deposit and E-Payments totaling \$71,246.97
- B. Approval of Warrant Registers Dated November 8, 2016**
Expense Fund Voucher Numbers 38403 through 38449 for a grand total of \$190,411.53
- C. Approval of Joint Commission Meeting Minutes October 18, 2016**
- D. Acceptance of Work: Columbia Drive Utilities; Resolution 2016-31**

MOTION: *Commissioner Moak moved for approval of the Consent Agenda, as published; Commissioner Barnes seconded. With no further discussion, motion carried unanimously. All in favor 3:0.*

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PRESENTATIONS

A. *McIntyre Theater*

Mr. Moak presented slides of McIntyre Hall Performing Arts and Conference Center in Mt. Vernon, Washington, which has been suggested as a potential model for the Vista Field Performing Arts Center. Mr. Moak met with Nida Tautvydas, Executive Director of the facility and stated the facility is home to 17 local community organizations. Additionally, McIntyre Hall offers a variety of internationally recognized artists and offers events that enrich and entertain the community.

Mr. Frost inquired if the facility operates in the black and how many events are held each year.

Mr. Moak believes the facility operates in the black and stated approximately 200 events were held at McIntyre Hall this year.

NEW BUSINESS

A. *Capital Projects Construction Costs Philosophy*

Mr. Arntzen recently met with Mr. Robison and Mr. Peterson to discuss the Port's capital construction projects and stated the Port has completed some projects, some projects are currently underway and others are out to bid. Mr. Arntzen stated it is important to reflect on the Port's successful and unsuccessful bids and look ahead at Vista Field and other projects. Mr. Arntzen, Mr. Peterson and Mr. Kooiker will be meeting with Laurence Qamar and Michael Mehaffy this week to discuss the Vista Field Phase I Draft. Mr. Arntzen would like to be able to direct staff and the consultants on the amenities for Vista Field and what the Commission would like to see in Phase I. Mr. Arntzen asked the Commission to provide further input regarding the construction cost philosophy of the Port going forward. Mr. Arntzen stated there is an unpredictability to cost estimating in capital projects because of features that offer a wow factor and may not have been constructed in this area before. Mr. Arntzen asked Mr. Robison and Mr. Peterson to brief the Commission on cost estimating in capital construction projects.

Mr. Peterson stated as the Port moves forward with the redevelopment of Vista Field, it is important to look at the risk tolerance. Mr. Peterson stated the Gathering Place Contract is on the Agenda today, and this is the third time the project has been bid. The Commission rejected the two previous bids because of the high dollar amount of the project, even after the concept had been revised and design changes were made. The Port had a similar experience with the Columbia Gardens Wine Village, which featured a unique wall system that the local construction community deemed too risky, which increased the first bid substantially. As the Port moves forward, the question becomes how the Port can weigh the predictability of a project versus the potential risk and tolerance of the capital projects. Mr. Peterson inquired if staff should bring back interesting and challenging items that may not have been done before that have an inherent risk or look at predictable items that do not offer the wow factor. Mr. Peterson stated several Port capital projects were successes, such as the Vista Field Development Building A Rehab and the Columbia Drive utility work project.

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Mr. Robison thanked the Commission and stated the Port has developed some of the most unique, special, and challenging projects within our community, and the Commission continues to raise the bar and expectations of development throughout our community. There are few projects in the Tri-Cities that do not have historical data available, however, most of the Port projects do not have historical data available, for example, the Lighthouse. As developers, this means you are asking the organization to determine a master budget and business plan that outlines the costs of tomorrow, predicated on projects not yet designed. Mr. Robison stated the question is how does the Commission decide what risks should be taken and how development predictability in an unpredictable environment should be determined.

Mr. Robison stated more than 2/3 of the construction firms are having trouble finding skilled hourly workers, which creates a shortage that threatens to slow a boom that's driving economic gains in 43 states. The Association of General Contractors of America report that 71% of contractors in the west report issues filling hourly craft positions. Additionally, 47% of contractors report they are increasing the number of overtime hours and 39% of firms are increasing their use of subcontractors. Many firms are responding to worker shortages by increasing pay and providing additional benefits. Another issue driving construction costs are the cost of materials and commodities.

Mr. Robison stated the predictability of a project cost is a factor of multiple project features. Most commonly Port projects include:

- Project Complexity;
- Market Capability;
- Document Completeness;
- Available Information;
- Competitive Estimates;
- Scheduling;
- Labor Market;
- Cost of Materials.

The Port develops very unique projects in the Tri-Cities and as the complexity of a project increases the level of cost predictability decreases. Mr. Robison stated the Port can manage predictability by going lower risk, and building items such as warehouses or big box stores. However, if the Port wants to create a complex, special and unique development, the complexity and risk will increase.

Mr. Robison believes the most important thing to recognize as you invest the public funds, as an agency, is stewardship and how that stewardship is managed. It is managed by selecting projects that fit within the parameters of what the development opportunities are, within the communities that you serve. Furthermore, you look ahead and hope that you raise the bar and the educational levels of the craftspeople who serve you. Mr. Robison believes the Commission should consider looking at the long view of the development and understand that the Port is developing an entire community's expertise to develop the community.

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Mr. Moak inquired if apprenticeship programs help in terms of improving the craft or improving the product.

Mr. Robison stated one of the issues with apprenticeships is getting individuals to enroll in a program and it is a competitive market and there are educational and monetary commitments. All of the major programs are prevailing wage or scale and this does not necessarily require a firm to be part of the union scale. Port projects may not necessarily enact the number of apprentices that a full union job might.

Mr. Barnes believes this will be an ongoing challenge for the Port because of the ambitions plans for upcoming projects. The Port chose an ambitious design for Columbia Gardens and the construction community did not want to subject themselves to the risk and it was reflected in the bids the Port received. The challenge is setting a budget that includes the unique features and functionality that make the development special and Mr. Barnes believes it is important to rely on professionals to help keep the Port on budget. Mr. Barnes stated an engineer's estimate is a useful tool that should be utilized, to see if the project falls within the budget. Mr. Barnes understands the bid environment is a moving target and there are changes in labor costs, commodities, and technologies, however, it is important for the Port to continue pursuing ambitious projects and know that sometimes there will be setbacks.

Mr. Robison stated an engineer's estimate is utilized for several things, however, it is not an estimate of total budget costs, but more of an estimate of construction costs. An engineer's estimate is used so contractors and sub-contractors can see if the project is bondable within their limits. In addition, it helps determine insurance rates, which are included in the bid. An engineer's estimate is a guideline for several factors, however, it is based on expectation and hope and strategy, and is not an exact science.

Mr. Novakovich appreciates Mr. Robison's presentation and stated the Port has promised the public amenities that is beyond what the community has seen, and with that comes complexity and risk. The Port has a budget to deliver high class projects and create something the public wants, while being good stewards of the tax payer's money. The Port may only be able to complete one project at a time, but we are committed and with that comes risk. Staff and the consultants cannot anticipate everything that is going to happen, for example, with the Wine Village, staff did an excellent job, but we were blindsided by the market and the local expertise that was available. The Commission agreed to move forward with the Wine Village design, but the project did not come in where we expected. Mr. Novakovich stated the Port needs realize there will be risk involved for any project and we need try to manage the risk as carefully as possible, with the help of our staff and our consultants.

Mr. Barnes agrees with Mr. Novakovich and stated there are ongoing risks associated with constructions and there are lenders that won't make construction loans because of the risk. The Port does not build houses or cookie cutter projects that provide historical data, but builds unique projects. Mr. Barnes stated it is important to continue to build unique projects, but do the best we can to keep the costs at a reasonable level and rely on trusted professionals to help us determine costs.

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Mr. Robison stated staff has done a very good job managing risk overall.

Mr. Peterson presented the risk tolerance slide, which outlines Port projects based on risk and complexity. Mr. Peterson stated risk is a measure of uncertainty in process, price and predictability. A low risk and predictable project is Oak Street Development Building C, which is a 12,000 square foot building that is very easy to replicate. The risk and predictability increases when the Port remodels a building, because there may be surprises when you open up the wall. Interesting projects such as the Columbia Drive Loop Road and the Willows redevelopment increases in risk because of the cost and complexity. Phase I of Vista Field will include several unique items, such as a water feature, an elevated tower and narrow roads, which increases the risk exponentially. Additionally, the 1135 project is a higher risk project because of the 50% contingency and working in the water. Mr. Peterson stated warehouses are important, however, it is the unique projects within our community that are risky.

Mr. Novakovich stated the Port has only so much money for construction projects and it is important to be good stewards, however, it is equally important to listen to the community's ideas and try to bring them to fruition.

Mr. Arntzen reiterated that staff will be meeting with Mr. Qamar and Mr. Mehaffy this week and asked for guidance and direction regarding elements for Phase I of Vista Field. Mr. Arntzen stated elements such as the water feature and narrow roads will be very challenging and risky, whereas the plaza may be more predictable, in terms of costs. Furthermore, Mr. Arntzen understands that our recent track record has raised legitimate questions and concerns and asked the Commission where they would like to see the project in terms of predictability and economic factors.

Mr. Novakovich reiterated that Mr. Arntzen would like direction on Phase I, whether the Commission would like to see unique items that create risk or basic elements that will produce predictable costs.

Mr. Barnes believes the objectives for Vista Field should be as high as possible, if the Port constructs standard strip centers and cookie cutter homes, the development will fail. Mr. Barnes hopes the Port is ambitious in creating something that is in line with vision that has been drawn out by DPZ in the Draft Master Plan. Mr. Barnes understands Mr. Arntzen's concerns and stated he does not want to see standard, cookie cutter construction at Vista Field. Mr. Barnes inquired if Phase I could be constructed in modular components, which would establish the basic components and then add on as many creative and innovative elements as we can. If Vista Field can be constructed in modular components, then the Port could move forward with the budget and contain costs.

Mr. Arntzen stated the modular approach does not always solve the question of predictability because of the complexity of the project. Mr. Arntzen stated the engineer's estimate is our best

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guess, but the Port is not the contractor and if a narrow street is estimated at \$300,000 but comes in at \$400,000, how would the Port move forward.

Mr. Barnes would like to see as many elements included in Phase I rather than reducing the cost of the project. If there are 7 or 8 elements and the cost exceeds the budget, the Port could choose which element to remove and construct that element in another phase. Mr. Barnes would like to maintain complexity and the unique and ambitious features of Vista Field, rather than designing a simpler development.

Mr. Novakovich agrees and stated if the Port has a certain amount to invest in the redevelopment and the Commission understand the risks, the Port can maintain the quality and expectation of the community by looking at associated costs for each element. Mr. Novakovich stated if the Commission understands the cost of each element, then we can decide which elements to include based on the risk factor and cost, while maintaining a first class development and realizing we many not being able to do everything.

Mr. Arntzen is unsure if the project could be segmented, as Mr. Barnes and Mr. Novakovich suggested.

Mr. Moak inquired if some elements can be included as alternates to the base bid.

Mr. Arntzen is not sure alternates can be done on large scale projects such as this and deferred to Mr. Peterson. Mr. Arntzen would like to present the basics of Phase I, which would be a reasonable plan that the public finds acceptable for the beginning construction of Vista Field.

Mr. Peterson is unaware if the alternates could exceed the base bid, and deferred to Ms. Luke. Mr. Peterson believes advertising a bid with various pieces would create too much confusion.

Mr. Barnes stated many of these elements have been done before and inquired why the design professionals cannot design to a budget of \$5,000,000.

Mr. Peterson stated some elements are more predictable, however, elements such as the water feature and the pavilion/tower, even though they may have been done before, may require a higher contingency.

Mr. Novakovich stated from the discussion, it is obvious the Commission cannot pick and choose elements for this project. Mr. Novakovich inquired if staff is looking for direction regarding how much contingency should be allocated and what the Commission is willing to risk to get the highest quality development. Mr. Novakovich asked Mr. Kooiker if the Port has an additional funding source for Vista Field.

Mr. Kooiker stated the Port does not have an additional funding source beyond the loan, which the Port will pay debt service on for 10 years, however, determining the timing and sequencing of Phase I is important so the Port can sell lots, which will bring in revenue for Phase II.

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Mr. Novakovich stated one of the items the Port needs to focus on other than providing unique elements is ensuring the correct infrastructure is in place, so lots can be sold, to move the project forward.

Mr. Arntzen stated he will use the \$5,000,000 budget as the not to exceed level and believes he will be able to present a fantastic plan with a contingency, which may or may not exceed the engineers estimate and asked for Commission leeway if the estimate is higher, but still under budget.

Mr. Barnes stated if the Port is going to be ambitious by installing unique elements, then we run the risk of complexity and uncertainty, however; if the Port chooses to install basic cookie cutter elements, the Port runs a greater risk in the eyes of our constituents. Mr. Barnes hopes the Port does not compromise or sacrifice elements to have greater cost certainty.

Mr. Novakovich stated the Commission is willing to take the risks, up to \$5,000,000, no matter what the engineer's estimate may be.

Mr. Moak believes the Port needs to hold the contractors accountable and our consultants should help advise us on the risk. Mr. Moak inquired if the Port can research the elements, such as the narrow road and determine the issues to help mitigate the risk, by contacting communities that have installed the narrow street before.

Mr. Peterson stated the Port takes risk in terms of bids, whereas the contractors takes the risk on what project they bid, and for some contractors, it is not the worth the risk.

Mr. Moak would like the wow factor at Vista Field and understands that there is risk in the water feature, however, a good water feature can be astonishing. Mr. Moak is looking for something spectacular that drive people to want to live at Vista Field.

Mr. Arntzen appreciates the discussion and stated staff previously directed Mr. Qamar and Mr. Mehaffy to look at several elements for Phase I, including the hangars. Mr. Arntzen stated after the meeting with DPZ, Mr. Arntzen will apprise the Commission of what can be accomplished, within the budget and identify items that may be risky. Mr. Arntzen is optimistic that staff can bring forth a reasonable plan with bigger contingencies, which the public will approve of.

Mr. Moak stated when the public is able to see Phase I plans, then we can discuss the issues. It is important to understand the issues and look at the trade-offs associated with the project.

Mr. Novakovich believes the Commission is comfortable with Mr. Arntzen's duties and will not criticize Mr. Arntzen for taking risks.

Mr. Barnes is comfortable with the high level of risk for Vista Field believes the community expects to see something great.

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Mr. Moak stated with Mr. Robison and Rowan Estimating as part of our team, he has a greater level of confidence and using our professionals to obtain estimates will help minimize the risk.

Mr. Arntzen and staff will continue to work with the DPZ Portland team, however, staff will also ask the DPZ Miami team review the plans for additional input. Mr. Arntzen would like to invite Ms. Plater-Zyberk to the Tri-Cities to unveil the Phase I plan.

Mr. Barnes appreciates Mr. Arntzen's comments and stated the Port had the Vista Field Charrette two years ago and believes it is time for another session with DPZ Miami.

Mr. Arntzen thanked the Commission for their comments stated it is important to produce a Phase I that is fiscally conservative and exceptional. Furthermore, Mr. Arntzen may ask staff and a Commissioner to travel to Miami to work with the Miami team for additional input to create an exceptional plan.

B. Project Bid Award: Gathering Place, Resolution 2016-32

Mr. Peterson presented Resolution 2016-32, authorizing a contract between the Port and Big D's Construction of Tri-Cities to construct the Gathering Place, which includes a boardwalk and landscape to showcase the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) heritage artwork. The Gathering Place project has been bid twice and each time the lowest responsive bid exceeded the budget. Staff worked with the design team and the CTUIR to reduce the cost while retaining the core principal to create a special location for the placement of the CTUIR heritage artwork. Included in the bid were to alternates to consider:

- Alternate A: Installation of a speed hump on Clover Island Drive;
- Alternate B: Demolition of the old Port Office Building and the adjacent pump house building.

For Commission consideration, Resolution 2016-32 includes the Base Bid and Alternate B for the sum of \$575,333.00 plus applicable tax. At this time staff recommends rejecting Alternate A to stay in line with the budget.

Mr. Moak inquired if the speed hump is essential to the project or if there are other ways to slow traffic down.

Mr. Peterson stated a speed hump was included in the Clover Island Master Plan and over the past several years, there has been a strong pedestrian connection on Clover Island and the speed hump is a way to slow traffic down on Clover Island. Mr. Peterson stated the speed hump can be added in at a later date through a small works project.

PUBLIC COMMENTS

No comments were made.

MOTION: Commissioner Barnes moved for approval of Resolution 2016-32, authorizing the Port's Executive Director to execute the contract with Big D's Construction of Tri-Cities, Inc. for construction of the Gathering Place and demolition of the former Port office building and Ranney collector pump

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house building on Clover Island, rejecting Alternative A and including Alternative B, for the sum of \$575,333.00, plus applicable tax; Commissioner Moak seconded.

Discussion:

Mr. Moak indicated a lot of work has taken place on this project over the last few years and the artwork reflects our partnership with the CTUIR. Mr. Moak stated this is a great project that helps the Port to continue developing the Kennewick Waterfront and moves us forward.

Mr. Novakovich complimented staff and stated it would have been easy to get discouraged but you continued to move forward. Mr. Novakovich thanked staff for helping this project come to fruition.

With no further discussion, motion carried unanimously. All in favor 3:0.

RECESS

Mr. Novakovich recessed the meeting 3:41 p.m. for a break and will reconvene at approximately 3:50 p.m.

Mr. Novakovich reconvened the meeting at 3:50 p.m.

PUBLIC HEARING

Mr. Novakovich opened the public hearing for discussion on the Comprehensive Scheme of Development and Harbor Improvements.

A. Comprehensive Scheme of Development and Harbor Improvements; Resolution 2016-33

Mr. Floyd presented for Commission consideration Resolution 2016-33, amending the 2011 Comprehensive Scheme of Development and Harbor Improvements. The document includes the requested updates from the October 11, 2016 Commission meeting which focuses on community revitalization. Additional clarifications were made to the City of Richland Island View project and the West Richland Light Industrial Property will now be referred to as the Former Tri-City Raceway Redevelopment Property. Furthermore, staff reviewed the document last week for one final edit and Mr. Floyd stated a few minor cosmetic issues will be addressed once the document is approved, however, the content will remain unchanged.

Mr. Peterson stated if the Commission chooses to amend the Comp Scheme, this will supersede and replace the 2011 Comp Scheme.

Mr. Arntzen stated staff and Mr. Floyd came up with a very good process for updating the Comp Scheme and were very thorough throughout the process. Furthermore, Mr. Arntzen was pleased with the retreat and how the Commission were on-point during the discussions. Mr. Arntzen commended the Commission, our jurisdictional partners, the public, staff and Mr. Floyd for creating a well written document that is focused and succinct.

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PUBLIC COMMENTS

Boyce Burdick, 414 Snyder Street, Richland. Mr. Burdick appreciates staff clearing up the Capital Improvements Table located on Appendix E, page E-2, and adding footnote b which states that this amount is a debt service payment and not a true capital improvement expenditure.

No further comments.

Mr. Novakovich closed the public hearing.

MOTION: *Commissioner Barnes moved approval of Resolution 2016-33, amending the Comprehensive Scheme of Development; Commissioner Moak seconded.*

Discussion:

Mr. Moak took part in the public meetings and appreciates the public participation. Mr. Moak stated the document provides a good direction for the Port and narrows the focus on the properties, such as renaming the Tri-City Raceway to the Former Tri-City Raceway Redevelopment Property and creating a timeline for development. The document delivers a focused direction and Mr. Moak appreciates Mr. Floyd and staff for working on this over the past two years.

Mr. Barnes agrees with Mr. Moak and thanked Mr. Floyd and staff for all of their work. The Port changed direction and evolved when the Commission decided to close Vista Field. In this updated Comp Scheme the Port focuses on urban revitalization and redevelopment. As Mr. Robison eluded to earlier, Port projects are unique and well received by the community.

Mr. Novakovich concurs and thanked Mr. Floyd and staff for creating an awesome document.

With no further discussion, all in favor 3:0. Motion carried unanimously.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. West Richland (former Tri-City Raceway) Master Plan

Mr. Peterson stated before the Commission is the Draft Master Plan for the former Tri-City Raceway Redevelopment Property, which details the layout for the Port's 92 acres of property located in the City of West Richland. The Draft Master Plan outlines the following items: access to the property, infrastructure that will need to be included, small land public right-of-ways; Bonneville Power Administration Easements and design standards; and key concepts. Mr. Peterson stated the Commission previously approved the Amended Comp Scheme, which outlines a project timeline of 4-7 years. In the interim the Port and the City of West Richland will look at a joint project of extending utilities to the Former Tri-City Raceway Redevelopment Property. The City of West Richland recently opened the wine wastewater treatment facility to service the local wineries from the Red Mountain AVA and spur additional private sector development.

The Port and City will look at offsetting costs with federal and state grant funding for Phase I of the development. Furthermore, lots will be sold on ½ acre or larger parcels because of the non-compete clause with the City of Kennewick and the Columbia Gardens Wine Village.

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Mr. Peterson stated the Final Master Plan will be presented to the Commission at the December 13, 2016 meeting. Furthermore, if the Commission has any additional comments to please email him by November 23, 2016.

Mr. Arntzen stated by having the non-compete clause, the City of Kennewick will invest approximately \$4,900,000 in Columbia Gardens.

B. Columbia Drive Update

Mr. Peterson stated work continues at the Columbia Gardens site and Banlin Construction is preparing to pour the footings on Friday. Mr. Peterson reported that local construction crews are very busy and the concrete work for the Gathering Place will be executed by a firm out of Walla Walla.

C. 2017 Committee Assignments

It is the consensus of the Commission to accept the 2017 Committee Assignments as proposed.

D. Commissioner Meetings (formal and informal meetings with groups or individuals)

Commissioners reported on their respective committee meetings.

E. Non Scheduled Items

1. Mr. Novakovich stated he recently visited with a constituent who was impressed with the Port of Kennewick and the projects that we undertake. Furthermore, Mr. Novakovich received a note from Paul Marshall, Deputy Director of Washington State Transportation Commission, stating "it was wonderful to see all the redevelopment activities completed or underway by the Port of Kennewick; and with Vista Field, the best is yet to come."
2. Ms. Scott reminded the Commission and public that the November 22, 2016 Commission meeting is cancelled and the next meeting will be December 13, 2016.

Ms. Scott stated Ben Franklin Transit will have a dedication ceremony of the three new trolleys on November 9, 2106 at 10:30 a.m.

3. Ms. Bader Inglima congratulated the Commission for moving forward on the Gathering Place and stated the CTUIR and artist will be pleased to see the artwork placed. Ms. Bader Inglima stated once the work is completed at the Gathering Place, the Port will have additional upland space available for additional commercial development on Clover Island.

Ms. Bader Inglima stated the *Port of Kennewick Newsletter* went out today in the *Tri-City Herald* and will be included in the *Journal of Business* and the *Senior Times*. It is also available at the front desk or on the Port website.

Ms. Bader Inglima reported that the Tri-City Regional Chamber of Commerce holds polls during their lunches and recently, the question was "which of these do you believe would have the greatest impact in building a strong entrepreneurial ecosystem in the Tri-Cities?" The choices were:

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NOVEMBER 8, 2016 MINUTES

DRAFT

- Building on the assets we already possess;
- Creating an atmosphere of radical inclusivity;
- Educating community leaders; or
- Infusing arts into our cities.

Ms. Bader Inglima reported that 34% of the attendees believed that infusing arts into our community would have the greatest impact in building entrepreneurial ecosystem and congratulated the Commission for being leaders. Ms. Bader Inglima appreciates the investments in our community.

4. Mr. Arntzen stated the Washington Public Ports Association Annual Conference is next week and asked Ms. Scott to brief the Commission on the schedule. If the Commission has further questions, please contact Ms. Scott.

Ms. Scott stated the conference begins the morning of Wednesday, November 16, 2016 and Mr. Arntzen will be heading up one of the round table sessions on tribal partnerships. The conference finishes up on Friday, November 18, 2016, after the Board of Trustees Meeting.

Mr. Arntzen stated the Unified Wine and Grape Symposium will be held in late January and feels this will be a good year to send a small group to Sacramento to discuss Columbia Gardens, the Willows and Culinary Institute. Mr. Arntzen stated Mr. Moak attended the Symposium two years ago and inquired if any Commissioners are interested in attending.

Mr. Barnes has not attended and is interested in attending the Symposium.

Mr. Arntzen and City Manager, Marie Mosely met with the Columbia Basin College Board of Trustees to discuss the Willows. Mr. Arntzen stated about 30 people were in attendance and were very excited to hear about the new project. Mr. Arntzen is excited about partnering with CBC, and feels they have a solid reputation for doing things right.

Mr. Arntzen reported staff has been informally approached about the 211 building and hopes to share a proposal with the Commission at the next meeting. Mr. Arntzen stated the Port has been trying to avoid demolishing the building, and recently a business has shown interest in the site that is consistent with Columbia Gardens and the Culinary Institute.

5. Ms. Luke stated her day revolves around risk management and she wanted to commend Mr. Arntzen and staff for presenting the risk management discussion to the Commission and believes the presentation will serve you well.

Mr. Moak inquired if Ms. Luke gives her perspective after the contract has been approved or if she were able to do it beforehand.

Ms. Luke stated she will assist at any time, from the beginning when identifying issues of risk, from a legal perspective, to cleaning up the contract if the issues were not identified.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

NOVEMBER 8, 2016 MINUTES

DRAFT

6. Ms. Hanchette commented on our local construction climate and stated the construction of the new Auto Zone warehouse is utilizing many local contractors. The Port utilizes Cascade Fire Protection frequently, and they have half of their staff installing 8,000 sprinkler heads at the new warehouse facility.

PUBLIC COMMENTS

No comments were made.

COMMISSIONER COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 4:28 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Thomas Moak, Vice President

Don Barnes, Secretary



AGENDA REPORT

TO: Port Commission

FROM: Tim Arntzen, CEO

MTG. DATE: 12/13/2016

AGENDA ITEM: Interlocal Agreement for Columbia Gardens, Phase II

- I. REFERENCE(S):** Resolution 2016-34 attached.
- II. FISCAL IMPACT:** As discussed in the attached Interlocal Agreement.
- III. DISCUSSION:** The “Columbia Gardens” Wine Village, Phase I is under way and the Port, the City of Kennewick (City) and Columbia Basin College (College) have announced plans to embark on a process of developing a second phase of the wine village along Columbia Drive, which would feature parcels of land for sale to wineries and other compatible uses; and have agreed upon a concept for developing the Willows site into a culinary college and supporting uses. The attached Interlocal Agreement discusses the process by which the projects would proceed, including the proposed financing mechanism. In short, the City and the Port would collaborate to develop the Phase II site with infrastructure to entice wineries and ancillary uses. Funding of design and construction would be through the use of Rural County Capital Funds (RCCF) provided courtesy of Benton County. The Willows site would use RCCF and federal Economic Development Agency (EDA) funding and the College would use fundraising efforts to build and operate the culinary college.
- IV. STAFF RECOMMENDATION:** Approve Resolution 2016-34, adopting the Interlocal Agreement.
- V. ACTION REQUESTED OF COMMISSION:**
Motion: I move approval of Resolution 2016-34, adopting the Interlocal Agreement.

PORT OF KENNEWICK

Resolution No. 2016-34

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK APPROVING AN INTERLOCAL AGREEMENT WITH
THE CITY OF KENNEWICK FOR COLUMBIA GARDENS WINE VILLAGE,
PHASE II DEVELOPMENT**

WHEREAS, in fall of 2013 the Port and the City of Kennewick (City) entered into an Interlocal Agreement related to the Columbia Gardens area of the Bridge to Bridge area located in the City of Kennewick; and

WHEREAS, the Port, the City and Columbia Basin College (College) have reached an agreement in principle to develop a second phase of the wine village and to develop the Willows site into a culinary college to be operated by the College; and

WHEREAS, the three partners recognize that successful and timely redevelopment of the Columbia Drive area benefits the economic and social welfare of the city and the surrounding area and represents an opportunity for the citizens of Kennewick. Collaboration and shared resources will best serve the public interest through leveraging the unique resources of each party. The parties seek to work collaboratively in order to identify, evaluate and implement objectives in a timely and effective manner to assist redevelopment of the port properties; and

WHEREAS, the parties believe that the attached Interlocal Agreement fulfills these purposes.

NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick adopt the attached Interlocal Agreement and instructs the Port CEO to take all action to implement the Interlocal Agreement.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 13th day of December, 2016.

**PORT OF KENNEWICK
BOARD OF COMMISSIONERS**

By: _____
SKIP NOVAKOVICH President

By: _____
THOMAS MOAK, Vice President

By: _____
DON BARNES, Secretary

**INTERLOCAL AGREEMENT
REGARDING
COLUMBIA GARDENS WINE VILLAGE,
PHASE II DEVELOPMENT**

I. PARTIES

This Interlocal Agreement is entered into this ____ day of _____, 2016, between the PORT OF KENNEWICK, a Washington municipal corporation (“Port”), the CITY OF KENNEWICK, a Washington municipal corporation, (“City”) and COLUMBIA BASIN COLLEGE (“College”) referred to collectively as the “Parties”. The Parties agree as follows:

II. RECITALS

2.1 Economic Development Authority. The Port and the City are authorized, including under Chapters 39.33 and 39.34 of the Revised Code of Washington, to contract with each other and other public agencies in order to effectively and efficiently operate, administer and carry out their programs and public projects.

2.2 Project Area. The Port owns approximately 14 acres of undeveloped land in the City which it intends to develop as an urban wine village (the “Project Area”). The Project Area is divided into Phase I, which will house two small wineries, a barrel storage building and a wine effluent treatment system. Phase I is as shown on Exhibit “A”. Phase II will consist of two separate areas, the “Columbia Gardens Phase II” and the “Willows”, and each area shall be developed with utilities, streets and lots for sale or lease for winery and related purposes and to work in partnership with the College to build a Culinary Arts School, all of which will complement the wineries to be established in Phase I. Phase II, consisting of the two separate areas, is as shown on the site plan attached hereto as Exhibit “B”.

2.3 Opportunity for Collaborative Development. The Parties recognize that successful economic development within the City benefits the economic and social welfare of the City and the surrounding area. The Parties also recognize the significant void in educational offerings for culinary arts, as identified by the College. The Parties understand the challenges related to the Project Area, including but not limited to the fact that the Phase II Project Area property is undeveloped and has limited infrastructure. Nonetheless, the Parties, cognizant of the unprecedented opportunity for collaborative development by investing in redevelopment of challenging properties, hereby choose to move forward on a unique and visionary process for potential redevelopment of the Project Area. Specifically, the Parties seek to complete the Phase II Project Area infrastructure, and to foster the development of a waterfront culinary school of approximately 20,000 square feet to be operated by the College. Establishment of the culinary school project will dramatically enhance the status of the Project Area, permitting the Parties to attract major private sector investment.

III. OBLIGATIONS OF THE PARTIES

3.1 Drawings. The Port shall produce drawings plans and cost estimates for the public infrastructure improvements for the Phase II Project Area as shown on Exhibit "B". Such improvements are intended to serve multiple public uses (the "Public Infrastructure Improvements"). The Public Infrastructure Improvements shall include streets with street lights and street furniture; public parking lots, and utilities, including gas, electric, water, sewer, and other related utilities. For Columbia Gardens Phase II, the Public Infrastructure Improvements will also include stubbing to the wine effluent treatment system. Utilities will be stubbed to the site for the Culinary Arts School. The Parties shall reasonably agree on the design as well as the size and location of all Public Infrastructure Improvement elements. The costs of all biddable engineered drawings will be shared equally between the Port and the City and shall be included in the reimbursables of the Rural County Capital Funds described below, unless the Parties agree in writing otherwise.

3.2 General Provisions Related to Construction. The Port shall permit, design, and engineer the Public Infrastructure Improvements for the Phase II Project. The City shall bid the construction and monitor/administer construction of the Public Infrastructure Improvements; construction shall proceed in a workmanlike manner; and shall be completed with all due dispatch. The Port shall pay the City a five percent (5%) construction administration fee based on the amount of the successful bid. Funding for the Public Infrastructure Improvements shall be from the Parties' respective allocations of Benton County Rural County Capital Funds ("RCCF") which must be used for economic development purposes.

- (a) Columbia Gardens Phase II. The Parties shall endeavor to commence the Columbia Gardens Phase II Public Infrastructure Improvements in calendar year 2017. The City and Port shall each commit to half of the cost for the Public Infrastructure Improvements, not to exceed \$550,000 each. Funds not used on the Columbia Gardens Phase II Public Infrastructure Improvements shall be carried over for Willows Public Infrastructure Improvements.
- (b) Willows. The City and Port shall each contribute \$500,000 for Willows Public Infrastructure Improvements. These sums, together with any surplus from the Columbia Gardens Phase II Public Infrastructure Improvements, shall be used as a "match" portion for an Economic Development Agency ("EDA") grant in an amount of approximately \$2,000,000. The City shall apply for the EDA grant, and if successful, the City and the Port shall use grant proceeds to fund construction of the Willows Public Infrastructure Improvements.

Should RCCF in the amounts set forth above not be provided to the Port and/or City, or should EDA funds not be awarded, the Port and City will continue to work together to explore potential funding opportunities for the Phase II Public Infrastructure Improvements.

3.3 Dedication. Unless the Parties agree in writing otherwise, upon completion of construction of the Public Infrastructure Improvements, the Port shall dedicate the underground utility improvements to the City and the City will accept dedication thereof.

3.4 Operations and Maintenance.

3.4.1 The City:

- (a) Shall be responsible for the Operations and Maintenance of the Natural Trail Extension paved pathway, including any retaining walls and railings installed as part of the trail.
- (b) Shall be responsible for the Operations and Maintenance for the streetlights on Columbia Drive and street area where the transit stop pull-out area is along Columbia Drive.
- (c) Shall enter into a lease with the Port for a small wine effluent treatment room located in the Port's barrel storage building. The room shall be used by the city to monitor its wine effluent treatment system. There shall be no rent due under the lease. If the utilities can be apportioned, the City shall be responsible for those prorated utilities charges directly associated with the small effluent treatment room.
- (d) Work with the Port on the permitting of the Monument Signage for Phase II.

3.4.2 The Port:

- (a) The Port agrees to be responsible for the on-going Operations and Maintenance for the Natural Trail Extension, including any landscaping and irrigation system, art work, benches, path lighting and lighting circuits, path connections and other appurtenances, excluding the paved pathway. Notwithstanding the foregoing, the City shall remain liable for major repairs to the trail including, but not limited to, repaving or reconstructing the pathway in the event of damage.
- (b) The Port agrees to be responsible for the on-going Operations and Maintenance costs for the Columbia Drive Streetscape, including landscaping, irrigation systems, art work, benches, sidewalk maintenance (including clearing of snow and ice) and other appurtenances north of the back of the curb along Columbia Drive, excluding the streetlights and streetlight circuits.
- (c) The Port, at its sole discretion may institute a property/business owners' association to include a fee to cover the common/share use areas and amenities (streetscape, parking lots, etc.) on-going Operations and Maintenance Costs.

3.4.3 The College: The College will be responsible for all maintenance and operations of the Culinary Arts School once ownership is transferred by the Public Development Authority ("PDA") to the College, as described below.

3.5 Construction and Operation of Culinary School.

3.5.1 **Property.** The Port shall provide a parcel of bare land (as shown on Exhibit “B”) to the City and the City shall transfer the parcel to the PDA described in Section 3.5.2. This parcel of bare land shall be provided to the College for the Culinary Arts School on a no-cost basis for the public purpose of providing an educational offering to the public. Should the PDA, as described in Section 3.5.2, and the College fail to commence construction of the Culinary School on the Willows site within 48 months of the effective date of this Agreement, and pursue construction diligently to completion, the parcel of bare land shall be reconveyed to the Port for no consideration. Additionally, the College shall not pursue other sites for a Culinary Arts School for a period of 48 months from the effective date of this Agreement. The College agrees to take the lead on a capital campaign for purposes of fundraising for the Culinary Arts School Facility.

3.5.2 **Public Development Authority.** The Port and the College will cooperate with and support the City’s establishment of a PDA pursuant to RCW 35.21.730 *et seq.* The purpose of the PDA will be for the fundraising and building of the Culinary Arts School. The Port agrees to pay the legal fees necessary for the formation of the PDA in an amount not to exceed Ten Thousand Dollars (\$10,000.00) and the City agrees to administer the PDA. Any costs for the development of the PDA shall not be reimbursable from the RCCF. The College will be responsible for the fundraising for the Culinary Arts School. The College will be the recipient of the Culinary Arts School upon completion of construction and dissolution of the PDA. The College agrees to operate the Culinary Arts School.

IV. ADMINISTRATION

4.1 **Responsibilities.** This Agreement shall be administered by the City Manager or her designee, the Port Chief Executive Officer or his designee, and the College President or his designee. Working in partnership and on behalf of their respective agencies these individuals shall be responsible for:

- (a) Establishing policies for implementing this Agreement;
- (b) Providing periodic progress reports;
- (c) Monitoring progress of the Parties and other agencies in the fulfillment of their respective responsibilities; and
- (d) Follow applicable City and Port bid and prevailing wage law policies and procedures when awarding bids for this project.

4.2 **Document Review.** The Parties shall cooperate by sharing all relevant information, including planning, financial and environmental documents, to the extent allowed by law.

4.3 **Expenses and Financial Contingency.** Except as otherwise provided, the obligations of each Party shall be performed at the sole expense of said Party.

V. GENERAL

5.1 Amendment. This Agreement shall not be altered or varied except in writing signed by each Party.

5.2 Governing Law. Each of the Parties has independent authority to contract; and, this Agreement is pursuant to that authority and shall be governed by, construed and enforced in accordance with the substantive laws of the State of Washington.

5.3 Venue. The venue for any action arising out of this Agreement shall be the Superior Court for Benton County.

5.4 Non Waiver. Nothing in this Agreement and no actions taken pursuant to this Agreement shall constitute a waiver or surrender of any rights, remedies, claims or causes of action a Party may have against the other Party or others under any provision of this Agreement or any provision of law.

5.5 Agreement Term. The term of Agreement shall commence on its execution by both Parties and end December 31, 2020 ("Agreement Term").

5.6 Inspection of Records and Filing. The records and documents with respect to all matters covered by this Agreement shall be subject to inspection by the Parties during the term of this Agreement and for three years after its termination. This Agreement shall be filed or listed pursuant to RCW 39.34.040.

5.7 No Separate Legal Entity. It is not the intention that a separate legal entity, with the exception of the PDA noted above, be established to conduct the cooperative undertaking nor is the joint acquisition, holding or disposing of real or personal property anticipated.

5.8 Severability. In the event any term or condition of this Agreement or application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect any other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end, the terms and conditions of this Agreement are declared severable.

5.9 Defense and Indemnity. Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs or expense (including attorneys' fees and witness costs) arising from or in connection with or caused by any act, omission, or negligence of such indemnifying party.

5.10 Integration. With the exception of the Interlocal Agreement between the City of Kennewick and the Port of Kennewick for Columbia Gardens - Phase I executed on November 8, 2013, and amended on July 21, 2015, this Agreement supersedes all prior agreements and

understandings (whether written or oral) between the Parties with respect to the subject matter hereof.

5.11 Breach. In the event of a breach of this Agreement, the non-breaching Party shall retain all legal and equitable remedies against the breaching Party.

5.12 Consistency of Land Use Standards. The Parties agree that City land use regulations in effect on the effective date of this Agreement (including those that govern uses, density and intensity of land; and design, improvement and construction standards), aid in the revitalization of the Bridge to Bridge area into a vibrant, waterfront destination. Therefore, at any time within the 48 month period described in Section 3.5.1 of this Agreement, the Port and the College reserve the right to terminate this Agreement if the City enacts new land use regulations, or amends its land use regulations, and the effect of said enactment or amendment would, in the discretion of the Port or the College, negatively impact the revitalizations efforts described in this Agreement. The Party terminating this Agreement shall provide the others with 30 days written notice of its intent to terminate this Agreement.

VI. EXECUTION AND APPROVAL

6.1 Warranty of Authority. Each Party to this Agreement warrants that it has the authority to enter into this Agreement.

6.2 Execution. The person executing for a respective Party has been duly authorized to and does execute the Agreement on behalf of that respective Party.

PORT OF KENNEWICK

Date: _____

By: _____
TIM ARNTZEN, Chief Executive Officer

CITY OF KENNEWICK

Date: _____

By: _____
MARIE E. MOSLEY, City Manager

COLUMBIA BASIN COLLEGE

Date: _____

By: _____
RICHARD CUMMINS, President



AGENDA REPORT

TO: Port Commission

FROM: Amber Hanchette, Director of Operations & Real Estate

MEETING DATE: December 13, 2016

AGENDA ITEM: Resolution 2016-35; to approve a 5-Year Lease Renewal with Ice Harbor Brewing Company

- I. REFERENCE(S):** Resolution 2016-35 and Lease Agreement
- II. FISCAL IMPACT:** Operational income of \$162,198.00 over a five year lease.
- III. DISCUSSION:** Ice Harbor Brewing Company has been a Port tenant for the last 10 years with a restaurant on Clover Island. Ice Harbor has grown to 24 employees at the Clover Island location. Ice Harbor is a valued asset to Clover Island attracting boaters, local residents and out of town guests. Parameters of the negotiated lease are:
- Lease 2,850 square feet for restaurant plus 120 square feet of offsite cold storage;
 - Location 350 Clover Island Drive Suite 100;
 - A five (5) year lease with one (1) five year lease renewal option;
 - Tenant responsible for separately metered electricity;
 - Year 1 - Monthly rent for the premises is \$2,586.90 plus leasehold tax;
 - 2% rent escalation effective January 1st of each year;
 - According to Port of Kennewick Policies and Procedures, POK-CEO-DOA, 1.2.1, adopted by Resolution 2015-29; *Leases in which the term of the lease, including any renewal options, exceeds five years shall be submitted to the Commission for approval.*
- IV. STAFF RECOMMENDATION:**
Approve the five (5) year lease with one (1) 5 year option as negotiated, effective January 1, 2017.
- V. ACTION REQUESTED OF COMMISSION:**

***Motion:** I move approval of Resolution 2016-35 approving a five (5) year lease with one (1) five year option to Ice Harbor Brewing and authorizing the Chief Executive Officer to execute the contract.*

PORT OF KENNEWICK

Resolution No. 2016-35

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK APPROVING A FIVE YEAR LEASE AGREEMENT WITH OPTION TO RENEW WITH ICE HARBOR BREWING COMPANY

WHEREAS, the Port of Kennewick (Port) is authorized to enter into certain leases upon such terms as the Port Commission deems proper; and

WHEREAS, a five (5) year lease with one (1) five year option to renew with Ice Harbor Brewing Company effective January 1, 2017, has been negotiated by Port staff; and

WHEREAS, the Port Commission has called a regularly scheduled public meeting with notice of such meeting given as provided by law and such public meeting was held at such time and on said date; and

WHEREAS, Port staff and the Port attorney have reviewed the proposed Lease Agreement and find it is in proper form and it is in the Port's best interest; and

WHEREAS, after consideration of the attached lease agreement, the Port Commission has determined that the lease is proper.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby approves a five (5) year lease with one (1) five year option to renew with Ice Harbor Brewing Company as presented and authorizes the Port's Chief Executive Officer to execute all documents and agreements on behalf of the Port to complete the transaction as specified above.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 13th day of December, 2016.

***PORT of KENNEWICK
BOARD of COMMISSIONERS***

By: _____
SKIP NOVAKOVICH, President

By: _____
THOMAS MOAK, Vice President

By: _____
DON BARNES, Secretary

COMMERCIAL PROPERTY LEASE AGREEMENT

**BETWEEN
PORT OF KENNEWICK,
LANDLORD**

AND

**ICE HARBOR BREWING COMPANY,
TENANT
CLOVER ISLAND**

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**PORT OF KENNEWICK LEASE AGREEMENT
(Commercial Property)**

Landlord hereby leases to Tenant and Tenant hereby leases and accepts from Landlord the premises hereinafter described on the terms and conditions set forth in this Lease Agreement, hereinafter called "this **Lease**".

BASIC LEASE PROVISIONS

The following Basic Lease Provisions are hereby incorporated herewith as part of this Lease:

- A. Lease Date: January 1, 2017.
- B. Landlord: Port of Kennewick,
a Washington municipal corporation
- C. Tenant: ICE HARBOR BREWING COMPANY.
- D. Premises: The Premises shall mean the real property located at 350 CLOVER ISLAND DRIVE SUITE 100, KENNEWICK, WA 99336, as described on Exhibit "A" attached hereto and incorporated herein by reference, and any improvements located thereon.
- E. Permitted Use: Check all that apply:
- F. Light manufacturing;
 Wholesale receiving/shipping;
 Administrative offices
 X Other: (Describe) RESTAURANT & COLD STORAGE
- G. Term: Commencing on the Lease Commencement Date and terminating on the Expiration Date. Tenant shall have the option to renew the Lease for one five (5) year term. See Article 3.
- H. Lease Commencement Date: The date which is the earlier of (a) JANUARY 1, 2017, and (b) the date Tenant begins using the Premises for any reason.
- I. Expiration Date: DECEMBER 31, 2021, unless renewed pursuant to Article 3.
- J. Annual Price Per Square Foot: \$ 10.68 sf/yr Restaurant
\$ 5.04 sf/yr Off-Site Cold Storage
- K. Annual Price Adjustment: 2% annual price per square foot increase effective January 1st each year starting 1/1/2018.

L.	Total Square Feet Leased:	2,850 sf 120 sf	Restaurant Off-Site Cold Storage		
M.	Base Monthly Rent Calculation:	YEAR 1	\$0.89 PSF	2,850 SF	\$2,536.50
		YEAR 2	\$0.91 PSF	2,850 SF	\$2,593.50
		YEAR 3	\$0.93 PSF	2,850 SF	\$2,650.50
		YEAR 4	\$0.95 PSF	2,850 SF	\$2,707.50
		YEAR 5	\$0.97 PSF	2,850 SF	\$2,764.50
	(Off-Site Storage)	YEAR 1	\$0.42 PSF	120 SF	\$50.40
		YEAR 2	\$0.43 PSF	120 SF	\$51.60
		YEAR 3	\$0.44 PSF	120 SF	\$52.80
		YEAR 4	\$0.45 PSF	120 SF	\$54.00
		YEAR 5	\$0.46 PSF	120 SF	\$55.20

If Tenant exercises the option to renew pursuant to Article 3 below, the Base Monthly Rent Calculation for years 6 through 10 (the "Renewal Period") shall include annual Base Monthly Rent increases of 2% per year during the Renewal Period.

N.	Total Base Monthly Rent (not including LET):	YEAR 1	\$ 2,586.90
		YEAR 2	\$ 2,645.10
		YEAR 3	\$ 2,703.30
		YEAR 4	\$ 2,761.50
		YEAR 5	\$ 2,819.70

O. Leasehold Tax (LET): Current Washington State Leasehold Tax shall be added to Base Rent. Current effective rate is 12.84%.

P.	Total Monthly Rent (includes LET):	YEAR 1	\$2,919.06
		YEAR 2	\$2,984.73
		YEAR 3	\$3,050.40
		YEAR 4	\$3,116.08
		YEAR 5	\$3,181.75

See L above regarding rent escalation during Renewal Period.

Q. Monthly Utilities: See Article 7 of Lease.

R. Rent Due Date: The Lease Commencement Date and the first day of each month thereafter.

S. Financial Security: Check all that apply:

_____ \$_____ deposit;

_____ Corporate surety bond;

 X Personal Guaranty as set forth in Exhibit B;

_____ Other financial security: (Describe)_____

T. Landlord's Address for Notices and Rent Payments:

Port of Kennewick
350 Clover Island Drive, Suite 200
Kennewick, WA 99336

U. Tenant's Address for Notices: Michael J. Hall
206 North Benton Street #C
Kennewick, WA 99336

V. Exhibits: Exhibit "A" Legal Description of Premises

Exhibit "B" Personal Guaranty Form

Exhibit "C" Outdoor Seating Area

ARTICLE 1

PREMISES

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord the Premises, which Premises are more particularly described in the Basic Lease provisions above.

ARTICLE 2

USE OF PREMISES

Tenant shall occupy and use the Premises for such uses as a restaurant/brew pub, open to the public seven days per week, with office space and “over-the-counter” retail sales of food items, beverages and ice, and for such other lawful activities as may be approved by the Landlord. Tenant may not use the Premises for any other business purpose except as may be authorized in writing by Landlord at Landlord’s sole discretion. No smoking shall be allowed within any portion of the Premises and within twenty-five (25) feet of all entryways.

There shall be no outside storage unless authorized in writing by the Landlord.

It is understood, subject to the Landlord’s prior approval, and in compliance with all applicable codes and regulations, that portions of common sidewalk areas adjacent to the Premises, as specifically identified in Exhibit “C”, will be used exclusively by the Tenant for outdoor seating space. Square footage used by the Tenant exclusively for outdoor seating shall not be included in the calculation of Total Square Feet Leased as set forth in the Basic Lease Provisions for this Lease, and will not be subject to rent charges.

ARTICLE 3

TERM

The Term hereof shall commence on the Lease Commencement Date defined in the Basic Lease Provisions and shall terminate on the Expiration Date defined in the Basic Lease Provisions, unless earlier terminated, or extended pursuant to Tenant’s right to exercise an option to renew as set forth below.

Tenant shall have the option to renew this Lease for **one (1), five (5) year** extension term, but only if Tenant gives Landlord written notice thereof not less than **sixty (60)** days prior to the Expiration Date. If Tenant timely exercises this option, then the Lease shall continue in effect on the same terms and conditions, except that rent shall be adjusted in the manner provided in Article 4 below and there shall be no further renewal options. Tenant's right to the renewal term shall be contingent upon Tenant not being in default hereunder at the time of notice of intent is given or at any time thereafter prior to the beginning of the renewal term.

ARTICLE 4

RENT

On or before the first day of each month of this Lease, Tenant shall pay to Landlord the Total Monthly Rent as set forth in the Basic Lease Provisions above, and all other assessment, charges, and fees as provided in this **Article 4** and as otherwise set forth in this Lease. Such payments shall be delivered to Landlord at the Landlord’s address set forth in the Basic Lease Provisions.

(a) Late Fee.

If any sums payable by Tenant to Landlord under this Lease are not received by the fifteenth (15th) day of the month in which they are due, Tenant shall pay Landlord an additional amount for the cost of collecting and handling such late payment as a late fee in an amount equal to the greater of (i) Fifty Dollars (\$50.00), or (ii) five percent (5%) of the overdue amount.

(b) Interest.

In addition to any applicable late fees, 12% APR interest (1% per month), shall be applied to the total unpaid balances calculated from the original due date to the date of payment.

(c) Non-Sufficient Funds (NSF).

If a Tenant check is returned by the bank for any reason, Tenant shall pay a NSF fee of Fifty Dollars (\$50) for administrative costs related to collecting and handling such returned check. The Tenant shall also pay any associated bank fees charged to the Port related to the returned check. Landlord may require, at Landlord's sole discretion that Tenant's future payments be made by cash, cashier's check or money order.

Landlord and Tenant hereby agree that these charges represent a fair and reasonable estimate of what the Landlord might incur by reason of Tenant's late or NSF payment. These fees are due and payable with the current rent payment. Landlord's acceptance of any late charge, interest or NSF fee shall not be deemed an extension of the date rent is due or prevent Landlord from exercising any other rights or remedies under this Lease.

The Landlord reserves the right to revise its policy regarding late payment, interest and NSF check charges without notice to Tenant.

ARTICLE 5

FINANCIAL SECURITY

In compliance with the requirements of the state law, Tenant agrees that it will secure the performance of the rental portion of this Lease by providing a Personal Guaranty in the form as set forth in Exhibit "B" **OR** one or more of the following: 1) a deposit in the amount set forth in the Basic Lease Provisions, or 2) procuring and maintaining, during the term of this Lease, a corporate surety bond ("Bond"), or 3) by providing other financial security satisfactory to Landlord.

The Bond shall be in a form and issued by a surety company acceptable to Landlord and shall comply with the requirements of Washington law. Tenant shall obtain such Bond and forward evidence thereof to Landlord within fourteen (14) days of execution of this Lease, but in no event later than the Lease Commencement Date. Failure to comply with this requirement shall be grounds for immediate termination of this Lease without notice by Landlord. Such Bond shall be kept in effect during the term of this Lease; failure to comply with this requirement shall render Tenant in default. The Bond shall be increased to reflect any increases in Rent.

Upon any default by Tenant of its obligations under this Lease, Landlord may retain any Financial Security provided by Tenant and/or collect on the Bond to offset the Tenant's liability to Landlord. Collection on the Bond shall not relieve Tenant of liability, shall not limit any of Landlord's

other remedies, and shall not reinstate or cure the default or prevent termination of the Lease because of the default.

ARTICLE 6 **TAXES & ASSESSMENTS**

6.1 Property Taxes.

Landlord will pay property tax on Premise's real property and any building or structure that is permanently attached to the real property.

6.2 Personal Property Taxes

Tenant shall pay when due all license fees, public charges, taxes and assessments on the Tenant-owned trade fixtures, furniture, other fixtures, equipment, inventory and all other personal property of or being used by Tenant in the Premises, whether or not owned by Tenant.

6.3 Additional Taxes/Assessments; Leasehold Excise Tax (LET)

Tenant shall also pay: (a) all special taxes and assessments (including irrigation assessments) or license fees now or hereafter levied, assessed or imposed by law or ordinance, by reason of Tenant's use of the Premises; (b) all business and occupation tax and any tax, assessment, levy or charge assessed on the Rent paid under this Lease; (c) the statutory leasehold excise tax imposed in connection with the Rent due hereunder or otherwise due as a consequence of this Lease; and (d) any excise, transaction, sales, privilege, or other tax (other than net income and/or estate taxes) now or in the future imposed by the city, county, state or any other government or governmental agency upon Landlord and attributable to or measured by the Rent or other charges or prorations payable by Tenant pursuant to this Lease.

ARTICLE 7 **UTILITIES**

Landlord shall pay all assessments, charges and/or fees for sewer, garbage, common area utilities and maintenance. Landlord shall pay water assessments if water is not separately metered to the Premises. Tenant shall be solely responsible for payment of all separately metered electrical and water assessments charged to the Premises. Tenant shall pay all such charges directly to utility provider when due. Tenant shall be solely responsible for all separately metered electrical and water assessments which may, during the Lease Term, be assessed, levied, charged, confirmed or imposed i) on the Premises or any part thereof, ii) on improvements now or hereafter comprising a part thereof, and iii) on the use or occupancy of the Premises. Tenant shall pay all such assessments, charges and/or fees when due.

Electricity Meters Assigned to Tenant: 46181

Interruptions: There shall be no abatement of rent and Landlord shall not be liable for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Landlord's reasonable control or in cooperation with governmental request or directions.

ARTICLE 8

INSURANCE

8.1 Insurance

Tenant, at its own expense, shall provide and keep in force all insurance deemed appropriate for the purposes that the Premises are to be used and with companies reasonably acceptable to Landlord, including but not limited to the following:

(a) Commercial General Liability Insurance

Commercial General Liability (CGL) insurance for the benefit of Landlord and Tenant jointly against liability for bodily injury and property damage for a combined single limit of not less than One Million Dollars (\$1,000,000) for any one occurrence for this location, including coverage for contractual liability and personal injury, with a \$2,000,000 aggregate limit;. Landlord reserves the right to require higher liability limits and/or to change insurance requirements at any time during the term of the lease with thirty (30) days' notice to Tenant.

(b) Statutory Workers' Compensation

Statutory Workers' Compensation, including at least \$250,000 Employer's Contingent Liability (Stop Gap) coverage in Tenant's commercial general liability insurance;

(c) Automobile Liability Insurance

Automobile Liability Insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000, including all owned, non-owned and hired vehicles and covering claims for damages because of bodily injury or death of any person or property damage arising out of ownership, maintenance or use of any motor vehicle; and

(d) Property Insurance

Property insurance covering all leasehold improvements to the Premises, furniture, fixtures, equipment, inventory and other personal property located on the Premises (and, at Landlord's election, on all buildings and other improvements now or hereafter existing at the Premises) in an amount of not less than one hundred percent (100%) insurable replacement value minimum co-insurance of 80%, "Special Form—Causes of Loss", with Flood Insurance if Landlord reasonably deems such insurance to be necessary or desirable, and replacement cost coverage to protect against loss of owned or rented equipment and tools brought onto or used at the Property by Tenant.

8.2 Requirements

The foregoing insurance requirements shall be placed with an insurance company or companies admitted to do business in the State of Washington and shall have an A.M. Best's rating of A-/ or better. Tenant shall furnish Landlord with a copy of the certificate of such policies before the Commencement Date of this Lease and, upon request by Landlord, shall provide proof satisfactory to Landlord that all such policies are in full force and effect. Tenant's liability insurance policies shall list Landlord as an additional insured and Tenant's property insurance policies shall reflect Landlord as a loss-payee as its interests may appear, and all of Tenant's insurance policies shall be primary and non-contributing with

any insurance carried by Landlord. Such policies shall not be cancelable or materially altered without forty-five (45) days' prior written notice to Landlord. In addition, the policies shall provide for ten (10) days' written notice to Landlord in the event of cancellation for non-payment of premium. Tenant's failure to deliver the policies or certificates to Landlord as required above shall constitute an event of default pursuant to **Article 24** hereof.

8.3 Mutual Waiver of Subrogation

Each party hereby waives, and each party shall cause their respective property insurance policy or policies to include a waiver of such carrier's entire right of recovery (i.e., subrogation) against the other party, and the officers, directors, agents, representatives, employees, successors and assigns of the other party, for all claims which are covered or would be covered by the property insurance required to be carried hereunder or which is actually carried by the waiving party.

8.4 Destruction or Condemnation.

8.4.1 **Damage and Repair.** If the Premises are partially damaged but not rendered untenantable, by fire or other insured casualty, then Landlord shall diligently restore the Premises and this Lease shall not terminate. The Premises shall not be deemed untenantable if less than twenty-five percent (25%) of the Premises are damaged. Landlord shall have no obligation to restore the Premises if insurance proceeds are not available to pay the entire cost of such restoration. If insurance proceeds are available to Landlord but are not sufficient to pay the entire cost of restoring the Premises, then Landlord may elect to terminate this Lease and keep the insurance proceeds, by notifying Tenant within sixty (60) days of the date of such casualty.

If the Premises are entirely destroyed, or partially damaged and rendered untenantable, by fire or other casualty, Landlord may, at its option: (a) terminate this Lease as provided herein, or (b) restore the Premises to their previous condition. If, within 60 days after receipt by Landlord from Tenant of written notice that Tenant deems the Premises untenantable, Landlord fails to notify Tenant of its election to restore the Premises, or if Landlord is unable to restore the Premises within six (6) months of the date of the casualty event, then Tenant may elect to terminate the Lease.

If Landlord restores the Premises under this Article 8.4.1, Landlord shall proceed with reasonable diligence to complete the work, and the base monthly rent shall be abated in the same proportion as the untenantable portion of the Premises bears to the whole Premises, provided that there shall be a rent abatement only if the damage or destruction of the Premises did not result from, or was not contributed to directly or indirectly by the act, fault or neglect of Tenant, or Tenant's officers, contractors, licensees, subtenants, agents, servants, employees, guests, invitees or visitors. Provided, Landlord complies with its obligations under this Article, no damages, compensation or claim shall be payable by Landlord for inconvenience, loss of business or annoyance directly, incidentally or consequentially arising from any repair or restoration of any portion of the Premises. Landlord will not carry insurance of any kind for the protection of Tenant or any improvements paid for by Tenant or on Tenant's furniture or on any fixtures, equipment, improvements or appurtenances of Tenant under this Lease, and Landlord shall not be obligated to repair any damage thereto or replace the same unless the damage is caused by Landlord's negligence or willful misconduct.

8.4.2 If the Premises are made untenantable by eminent domain, or conveyed under a threat of condemnation, this Lease shall automatically terminate as of the earlier of the date title vests in the condemning authority or the condemning authority first has possession of the Premises and all Rents and other payments shall be paid to that date. In case of taking of a part of the Premises that does not render the Premises untenantable, then this Lease shall continue in full force and effect and the base

monthly rental shall be equitably reduced based on the proportion by which the floor area of any structures is reduced, such reduction in Rent to be effective as of the earlier of the date the condemning authority first has possession of such portion or title vests in the condemning authority. Landlord shall be entitled to the entire award from the condemning authority attributable to the value of the Premises and Tenant shall make no claim for the value of its leasehold. Tenant shall be permitted to make a separate claim against the condemning authority for moving expenses or damages resulting from interruption in its business, provided that in no event shall Tenant's claim reduce Landlord's award.

ARTICLE 9

ACCEPTANCE AND CARE OF PREMISES

Tenant has inspected the Premises and accepts the Premises "AS IS" in its present condition and acknowledges that Landlord is not responsible to provide, and has made no representations or warranties that it will provide, any improvements to the Premises whatsoever, except as set forth in Article 10, Alterations and Improvements, below. Tenant shall, at its sole cost, keep the Premises in as good working order, cleanliness, repair, and condition, as that which existed at the Lease Commencement Date. In the event that Tenant fails to comply with the obligations set forth in this Article 9, Landlord may, but shall not be obligated to, perform any such obligation on behalf of, and for the account of Tenant, and Tenant shall reimburse Landlord for all costs and expenses paid or incurred on behalf of Tenant in connection with performing the obligations set forth herein. Tenant expressly waives the right to make repairs at Landlord's expense under any law, statute or ordinance now or hereafter in effect.

ARTICLE 10

ALTERATIONS AND IMPROVEMENTS

Tenant shall not make any alterations, additions, renovations or improvements to the Premises without first obtaining the written consent of Landlord. All alterations, additions, renovations and improvements made shall be at the sole cost and expense of Tenant and shall become a part of the real property and belong to Landlord and shall remain in and be surrendered with the Premises as a part thereof at the termination of this Lease. Tenant further agrees to indemnify, defend, and hold Landlord harmless from, and against, any and all damages, injuries, losses, liens, costs or expenses (including attorneys' fees) incurred, claimed or arising out of said work.

ARTICLE 11

ACCIDENTS AND INDEMNIFICATION

Tenant shall indemnify Landlord and hold it harmless from and against, and shall defend with counsel acceptable to Landlord, any and all suits, actions, damages, claims, liability, and expense in connection with loss of life, bodily or personal injury, or property damage arising from or out of any occurrence in, upon, at or from the Premises, or the occupancy or use by Tenant of the Premises or any part thereof, or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, servants, invitees, licensees, or concessionaires; provided that Tenant shall not be liable to Landlord to the extent such damages, liability, claims or expenses are caused by or result from the negligence or intentional misconduct of Landlord.

Tenant hereby expressly waives claims against Landlord, and Landlord shall not be responsible or liable at any time, for any loss or damage to Tenant's personal property or to Tenant's business, including any loss or damage to either the person or property of Tenant that may be occasioned by or through the acts or omissions of persons occupying adjacent, connecting, or adjoining property, unless and only to the extent due to Landlord's gross negligence or intentional misconduct, and in no event shall Landlord be liable for Tenant's consequential damages. Tenant shall use and enjoy the Premises and improvements at

its own risk, and hereby releases Landlord, to the full extent permitted by law and except as expressly provided above, from all claims of every kind resulting in loss of life, personal or bodily injury, or property damage.

Solely for the purpose of effectuating the indemnification obligations under this Lease, and not for the benefit of any third parties (including but not limited to employees of Tenant), Tenant specifically and expressly waives any immunity that may be granted it under the Washington State Industrial Insurance Act, Title 51 RCW. Furthermore, the indemnification obligations under this Lease shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable to or for any third party under Worker Compensation Acts, Disability Benefit Acts or other employee benefit acts. Tenant shall cause Contractors and their subcontractors and material suppliers to execute similar waivers of industrial insurance immunity. The parties, by their execution hereof, acknowledge that the foregoing provisions of this **Article 11** have been specifically and mutually negotiated between the parties.

ARTICLE 12

COMPLIANCE WITH LAWS

Tenant shall comply fully at its sole expense with **all federal and** state laws and local or city ordinances (including all applicable zoning ordinances) now or hereafter in force with respect to the Premises and Tenant's activities therein. Tenant warrants and represents to Landlord that Tenant shall use the Premises only for lawful purposes.

ARTICLE 13

MAINTENANCE

Tenant shall keep the premises in a neat, clean, and sanitary condition at all times. Tenant shall keep all improvements to the Premises in good condition.

13.1 **Janitorial:** Tenant will provide janitorial service inside the Premises, restrooms and window washing on inside of windows. Landlord will provide service for exterior window washing. Tenant shall maintain any food preparation and/or service area in compliance with all local, state, and federal regulations. Tenant shall keep the Premises and any shared areas in neat, orderly, and sanitary condition to include the control/prevention of rodents, insects and pests.

13.2 **Landscaping and Common Areas:** Landlord, at its cost, will provide landscaping care and common area repairs and maintenance. Tenant shall maintain any landscaping pots and planters placed on or in the Premises by Tenant..

13.3 **Other Maintenance and Repairs:** Landlord will maintain exterior of building (except for overhead and/or sliding doors, if any), roof, foundation, and electrical (except for lightbulbs and light fixture ballasts), heating and plumbing, in a good state of repair. Tenant shall pay the reasonable cost of repairs of all damage caused by Tenant, its agents, servants, employees, or invitees within ten (10) days of receipt of an invoice stating the repairs performed and the cost thereof. Tenant shall be responsible for all minor plumbing repairs and maintenance including but not limited to plumbing line blockages and minor leaks. Tenant shall be responsible for all equipment maintenance specific to the operation of its business. Tenant shall be responsible to replace all light bulbs and light fixture ballasts located in Tenant's leased space.

13.4 **HVAC:** HVAC and all mechanical shall be in satisfactory operating condition and will be maintained by Landlord during the term of the Lease.

ARTICLE 14
LANDLORD'S ACCESS

Landlord shall have the right to inspect the Premises at all reasonable times and enter the same for purposes of cleaning, repairing, inspecting, altering, exhibiting, or improving the Premises, but nothing contained in this Lease shall be construed so as to impose any obligation on Landlord to make any repairs, alterations or improvements not otherwise expressly set forth elsewhere herein.

The Landlord reserves the right to grant easements and other land uses on the Premises to others when the easement or other land uses will not unduly interfere with the use of the Premises by Tenant.

ARTICLE 15
SIGNS AND ADVERTISING

Tenant shall not inscribe, post, place, or in any manner display any sign, notice, picture, poster or any advertising matter whatsoever anywhere in or about the Premises, without first obtaining Landlord's written consent thereto.

ARTICLE 16
WASTE AND UNLAWFUL USE

Tenant shall not commit or suffer any waste upon the Premises, or make or suffer any nuisance, undue or unseemly noise, or otherwise, and will not do or permit to be done in or about the Premises anything which is illegal, unlawful, or dangerous, or which will increase Landlord's insurance rates upon the Premises.

ARTICLE 17
SUCCESSORS

All the covenants, agreements, terms and conditions contained in this Lease shall apply to and be binding upon Landlord and Tenant and their respective heirs, executors, administrators, successors, marital communities and assigns. Any assignment or subletting of the Premises or any interest in this Lease shall not relieve Tenant of primary responsibility for the performance of the terms and payment of the sums to be paid by Tenant hereunder.

ARTICLE 18
HAZARDOUS MATERIALS

Tenant shall not dispose of or otherwise allow the release of any hazardous waste or materials in, on, or under the Premises, or any adjacent property. Tenant represents and warrants to Landlord that Tenant's intended use of the Premises does not involve the use, production, or disposal of any hazardous waste or materials. As used herein, "**hazardous waste or materials**" includes any substance, waste or material defined or designated as hazardous, toxic or dangerous (or any similar term) by any federal, state, or local statute, regulation, rule or ordinance now or hereafter in effect. In the event Tenant brings or uses hazardous waste or materials on the Premises in violation of this **Article 18**, Tenant shall, at its sole cost, properly dispose of all such hazardous waste or materials. Tenant shall be responsible for complying with all federal, state and local laws and regulations in regard to the handling of and disposing of hazardous waste or materials, and agrees to indemnify, defend, and hold Landlord harmless from and against all losses, costs, and expenses (including but not limited to site cleanup, investigation, and

remediation costs and attorney's fees and costs related thereto) arising from a breach by Tenant of its obligations under this **Article 18**.

ARTICLE 19

ASSIGNMENT AND SUBLETTING

Tenant shall not transfer, dispose, assign, mortgage, or hypothecate this Lease, in whole or in part, or permit the use of the Premises by any person or persons other than Tenant, or sublet the Premises, or any part thereof (any of which, a "**Transfer**") without the prior written consent of Landlord in each instance, which may be given, withheld, or conditioned in Landlord's sole discretion. In no event shall Tenant be released or relieved of any liability hereunder due to any Transfer whether or not consented to by Landlord.

Landlord shall have the right to transfer, dispose, assign, mortgage, or hypothecate this Lease, in whole or in part without the prior written consent of the Tenant. See also Landlord rights to terminate this Lease as set forth in **Article 23** below.

ARTICLE 20

SURRENDER OF POSSESSION

20.1 Surrender

At the expiration of the tenancy created hereunder, whether by lapse of time or otherwise, Tenant shall surrender the Premises in substantially the as good condition or better as they were at the Lease Commencement Date, and shall remove all of its personal property, furniture, non-permanent fixtures installed by or for Tenant, Tenant's equipment, and all cabling and wiring installed by or for Tenant. Tenant's obligations shall include the repair of any damage occasioned by the installation, maintenance or removal of Tenant's personal property, furniture, non-permanent fixtures installed by or for Tenant, and Tenant's equipment.

20.2 Removal of Property

In the event of any entry in, or taking possession of, the Premises or upon the termination of this Lease, Landlord shall have the right, but not the obligation, to remove from the Premises all personal property remaining on the Premises, and may store the same in any place selected by Landlord, including but not limited to a public warehouse, at the expense and risk of the Tenant thereof, with the right to sell such stored property, as per applicable statutory requirements. The proceeds of such sale shall be applied first to the cost of such sale, second to the payment of the charges for storage, if any, and third to the payment of any other sums of money which may then be due from Tenant to Landlord under any of the terms hereof, with the balance, if any, to be paid to Tenant.

20.3 Holding Over

If Tenant fails to surrender the Premises at the expiration or earlier termination of this Lease, occupancy of the Premises after the termination or expiration shall be that of a tenancy at sufferance. Tenant's occupancy of the Premises during the holdover shall be subject to all the terms and provisions of this Lease and Tenant shall pay an amount due on the first of each month of the holdover period, without reduction for partial months during the holdover, equal to 150% of the greater of: (1) the monthly Total Monthly Rent (including Leasehold Tax), and any other charge due, for the monthly

period immediately preceding the holdover; or (2) the fair market value for gross monthly rental for the Premises as reasonably determined by Landlord. No holdover by Tenant or payment by Tenant after the expiration or early termination of this Lease shall be construed to extend the Term or prevent Landlord from immediate recovery of possession of the Premises by summary proceedings or otherwise. In addition to the payment of the amounts provided above, if Landlord is unable to deliver possession of the Premises to a new tenant, or to perform improvements for a new tenant, as a result of Tenant's holdover, Tenant shall be liable to Landlord for all damages, including, without limitation, consequential damages, that Landlord suffers from Tenant's holdover. Nothing herein shall be construed as Landlord's consent to such holding over. During the holdover Tenant shall remain responsible for payment of all utilities, taxes, and other assessments, charges and/or fees due under this Lease.

ARTICLE 21

NOTICES

All notices, requests and demands to be made hereunder shall be in writing at the address set forth in the Basic Lease Provisions, as applicable, by any of the following means: (a) personal service (including service by recognized overnight delivery/courier service, such as UPS or FEDEX); or (b) registered or certified first class mail, return receipt requested. Such addresses may be changed by written notice to the other party given in the same manner provided above. Any notice, request, or demand sent pursuant to clause (a) of this **Article 21** shall be deemed received upon such personal delivery or service (or the date of refusal, if personal service or delivery is refused), and if sent pursuant to clause (b), shall be deemed received three (3) days following deposit in the mails.

ARTICLE 22

LIENS AND ENCUMBRANCES

Tenant shall keep the Premises free and clear of any liens and encumbrances arising out of the use and occupancy of the Premises by Tenant. Should Tenant fail to discharge any lien of the nature described in this **Article 22** Landlord may, at Landlord's election, pay such claim or post a bond or otherwise provide security to eliminate the lien as a claim against title and the cost thereof shall be immediately due from Tenant as rent under this Lease.

ARTICLE 23

LANDLORD'S TERMINATION RIGHT

Notwithstanding anything to the contrary elsewhere in the Lease, in the event that Landlord elects to use the Land and/or Premises for industrial development or other public or port-related purposes, Landlord shall have the right to terminate this Lease by providing sixty (60) days' written notice. If Landlord elects to terminate the Lease early as provided herein, the early termination date chosen by Landlord shall operate as if that date is the Expiration Date set forth in the Basic Lease Provisions. The parties recognize that the foregoing early termination right is important to Landlord and that any delay caused by the failure of Tenant to vacate the Premises pursuant to this **Article 23** when required can cause irreparable harm to the Landlord and future tenants. Therefore, Landlord and Tenant agree that time is of the essence of this **Article 23** and that if any dispute arises between Landlord and Tenant with respect to the provisions of this **Article 23**, any other provisions of this Lease notwithstanding, Tenant will vacate the Premises on or before the early termination date selected by Landlord, and Tenant shall be deemed to have waived any rights in law or equity to possession of the Premises.

In the event of the insolvency or bankruptcy of the Tenant, Landlord may, at Landlord's option, immediately take full possession of the premises to the exclusion of all persons. Exercising such option

shall not alleviate Tenant's obligations under this Lease and Landlord shall have the right to seek all remedies set forth in this Lease.

ARTICLE 24

DEFAULT AND REMEDIES

24.1 Default

The occurrence of any one or more of the following events shall constitute a material breach and default of this Lease (each, an "**Event of Default**"):

- (a) Any failure by Tenant to pay Rent and Leasehold Tax when due, or any other assessment, charge and/or fee when due;
- (b) Any failure by Tenant to obtain and keep in full force and affect the insurance coverage(s) required hereunder to be carried by Tenant;
- (c) Any failure to immediately remedy an emergency condition that poses a significant risk of injury or damage;
- (d) Any failure by Tenant to observe or perform any other provision, covenant or condition of this Lease; or
- (e) Tenant bankruptcy

24.2 Remedies.

(a) Re-entry and Termination

Upon and during the continuance of an Event of Default, Landlord, in addition to any other remedies available to Landlord at law or in equity, at Landlord's option, may without further notice or demand of any kind to Tenant or any other person:

- 1. Declare the Lease Term ended and reenter the Premises and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim to the Premises; or
- 2. Without declaring this Lease ended, reenter the Premises and occupy the whole or any part thereof for and on account of Tenant and collect any unpaid Rent, Leasehold Tax, and other charges, which have become payable, or which may thereafter become payable; or
- 3. Even though Landlord may have reentered the Premises, thereafter elect to terminate this Lease and all of the rights of Tenant in or to the Premises.

(b) Express Termination Required

If Landlord re-enters the Premises under the provisions of this Article, Landlord shall not be deemed to have terminated this Lease, or the liability of Tenant to pay any Rent, Leasehold Tax, or other assessments, charges and/or fees thereafter accruing, or to have terminated Tenant's liability for damages under any of the provisions of this Lease, by any such re-entry or by any action, in unlawful detainer or otherwise, to obtain possession of the Premises, unless Landlord shall have notified Tenant in writing that Landlord had elected to terminate this Lease. Tenant further covenants that the service by Landlord of any notice pursuant to the unlawful detainer statutes of Washington State and surrender of possession pursuant to such notice shall

not (unless Landlord elects to the contrary at the time of or at any time subsequent to the serving of such notices and such election is evidenced by a written notice to Tenant) be deemed to be a termination of this Lease.

(c) Damages

If Landlord elects to terminate this Lease pursuant to the provisions of this Article, Landlord may recover from Tenant as damages, the following:

1. The worth at the time of award of any unpaid Rent, Leasehold Tax, and other assessments, charges and/or fees which had been earned at the time of such termination; plus
2. The worth at the time of award of the amount by which the unpaid Rent, Leasehold Tax, and other charges which would have been earned after termination until the time of award exceeds the amount of such loss Tenant proves could have been reasonably avoided; plus
3. The worth at the time of award of the amount by which the unpaid Rent, Leasehold Tax, and other assessments, charges and/or fees due for the balance of the Lease Term after the time of award exceeds the amount of such loss that Tenant proves could be reasonably avoided; plus
4. Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to any costs or expenses incurred by Landlord in (i) retaking possession of the Premises, including reasonable attorneys' fees, (ii) maintaining or preserving the Premises after the occurrence of an Event of Default, (iii) preparing the Premises for reletting to a new tenant, including repairs or alterations to the Premises for such reletting, (iv) leasing commissions, and (v) any other costs necessary or appropriate to relet the Premises; plus
5. At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted by the laws of Washington State.

(d) Definitions

As used in **Paragraphs 24.2(c)1** and **24.2(c)2** above, the "worth at the time of award" is computed by allowing interest at the rate of twelve percent (12%) per annum compounded monthly. As used in **Paragraph 24.2(c)3** above, the "**worth at the time of award**" is computed by discounting such amount at the discount rate of the Federal Reserve Bank situated nearest to the location of the Property at the time of award plus one (1) percentage point.

(e) No Waiver

The waiver by Landlord of any breach of any term, covenant or condition herein contained in this Lease shall not be deemed to be a waiver of such term, covenant or condition of any subsequent breach of the same or any other term, covenant or condition of this Lease. The subsequent acceptance of Rent, Leasehold Tax, and other charges due hereunder shall not be

deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular amount so accepted regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such amount. No covenant, term, or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver shall be in writing and signed by Landlord.

24.3 Interest

Any sum accruing to Landlord under the terms and provisions of this Lease which shall not be paid when due shall bear interest at the interest rate provided herein from the date the same becomes due and payable by the terms and provisions of this Lease until paid, unless otherwise specifically provided in this Lease. The interest rate which shall apply shall be the lesser of (i) twelve percent (12%) per annum (1% per month), or (ii) the highest rate allowed by applicable law.

ARTICLE 25 ATTORNEYS' FEES AND COSTS

If the Tenant requests an amendment to this Lease Agreement or other revision to the Landlord's standardized terms or forms, Tenant agrees that it shall pay the Landlord for all costs and legal fees incurred by the Landlord as the result of such request.

If either party hereto shall file any action or bring any proceeding against the other party arising out of this Lease or for the declaration of any rights hereunder, the prevailing party therein shall be entitled to recover from the other party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party as determined by the court. If either party ("**secondary party**") without its fault is made a party to litigation instituted by or against the other party (the "**primary party**"), the primary party shall pay to the secondary party all costs and expenses, including reasonable attorneys' fees, incurred by the secondary party in connection therewith.

ARTICLE 26 MISCELLANEOUS

26.1 Miscellaneous Provisions

The following miscellaneous provisions shall apply to this Lease:

- (a) Time is of the essence hereof.
- (b) If any portion of this Lease shall be deemed void, illegal or unenforceable, the balance of this Lease shall not be affected thereby.
- (c) This Lease shall be interpreted according to the laws of the State of Washington. The parties agree that the Superior Court of the State of Washington for Benton County shall have sole jurisdiction over any question, claim, loss or injury arising hereunder.
- (d) Tenant acknowledges that, except as expressly set forth in this Lease, that neither Landlord nor any other person has made any representation or warranty with respect to the Premises.
- (e) This Lease shall be binding upon the heirs, executors, administrators, successors, and assigns of both parties hereto, except as otherwise provided for herein;

(f) Landlord does not by this Lease, in any way or for any purpose, become a partner or joint venturer of Tenant in the conduct of its business or otherwise.

(g) The paragraph and section headings hereof are for convenience only and shall not be used to expand or interpret the meaning of any part of this Lease.

(h) Landlord shall be excused for the period of any delay in the performance of any obligations hereunder when prevented from so doing by cause or causes beyond Landlord's control, including labor disputes, civil commotion, war, governmental regulations or controls, fire or other casualty, inability to obtain any material or service, or acts of God.

(i) This Lease and the Exhibits, Riders, and/or Addenda, if any, attached hereto, constitute the entire agreement between the parties. This Lease covers in full each and every agreement of every kind or nature whatsoever between the parties hereto concerning this Lease and all preliminary negotiations, inducements, representations, and agreements of whatsoever kind or nature are merged herein, and there are not oral agreements or implied covenants. Both parties represent they have had the opportunity to seek legal counsel prior to signing this Lease. All Exhibits, Riders, or Addenda mentioned in this Lease are incorporated herein by reference. No subsequent amendment to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by both parties. The captions and section numbers appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe, or describe the scope or intent of any section.

Tenant and Landlord hereby represent and warrant that they have not employed any broker with regard to this Lease and that they have no knowledge of any broker being instrumental in bringing about this Lease transaction. Each party shall indemnify the other against any expense as a result of any claim for brokerage or other commissions made by any broker, finder, or agent, whether or not meritorious, employed by them or claiming by, through or under them. Tenant acknowledges that Landlord shall not be liable for any representations of Landlord's leasing agent or other agents of Landlord regarding this Lease transaction except for the representations and covenants of Landlord expressly set forth in this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

PORT OF KENNEWICK:

ICE HARBOR BREWING COMPANY

By: _____

Tim Arntzen

Title: Chief Executive Officer

By: _____

Title: William R. Jaquish, President

By: _____

Title: Michael J. Hall, Vice President

Reviewed:

Approved as to form:

By: _____

Title: Nick Kooiker, Port CFO

By: _____

Title: Lucinda Luke, Port Legal Counsel

STATE OF WASHINGTON

ss.

COUNTY OF BENTON

I certify that I know or have satisfactory evidence that WILLIAM R. JAQUISH is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the PRESIDENT of ICE HARBOR BREWING, a Washington corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 201__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the State of Washington, residing at _____

My appointment expires _____

STATE OF WASHINGTON

ss.

COUNTY OF BENTON

I certify that I know or have satisfactory evidence that MICHAEL J. HALL is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the VICE PRESIDENT of ICE HARBOR BREWING, a Washington corporation, to be the free and voluntary act of such municipal corporation for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 201__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the State of Washington, residing at _____

My appointment expires _____

STATE OF WASHINGTON

ss.

COUNTY OF BENTON

I certify that I know or have satisfactory evidence that Tim Arntzen is the person who appeared before me, and said person acknowledged that said person signed this instrument, on oath stated that said person was authorized to execute the instrument and acknowledged it as the Chief Executive Officer of Port of Kennewick, a municipal corporation, to be the free and voluntary act of such entity for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 201__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

Notary public in and for the State of Washington, residing at ____

My appointment expires _____

EXHIBIT "A"

LEGAL DESCRIPTION

Section 31, Township 9, Range 30, THE PORTION OF SECTION 31, TOWNSHIP 9, RANGE 30 DEFINED AS FOLLOWS: LOT 6 (CATFISH ISLAND). TAX LOTS 446C, 446B, 446D, BEING PORTIONS OF GOVERNMENT LOT 2.

PTN: 1-3190-300-0001-000

COMMONLY KNOWN AS

350 Clover Island Drive Suite 100, Kennewick, WA 99336

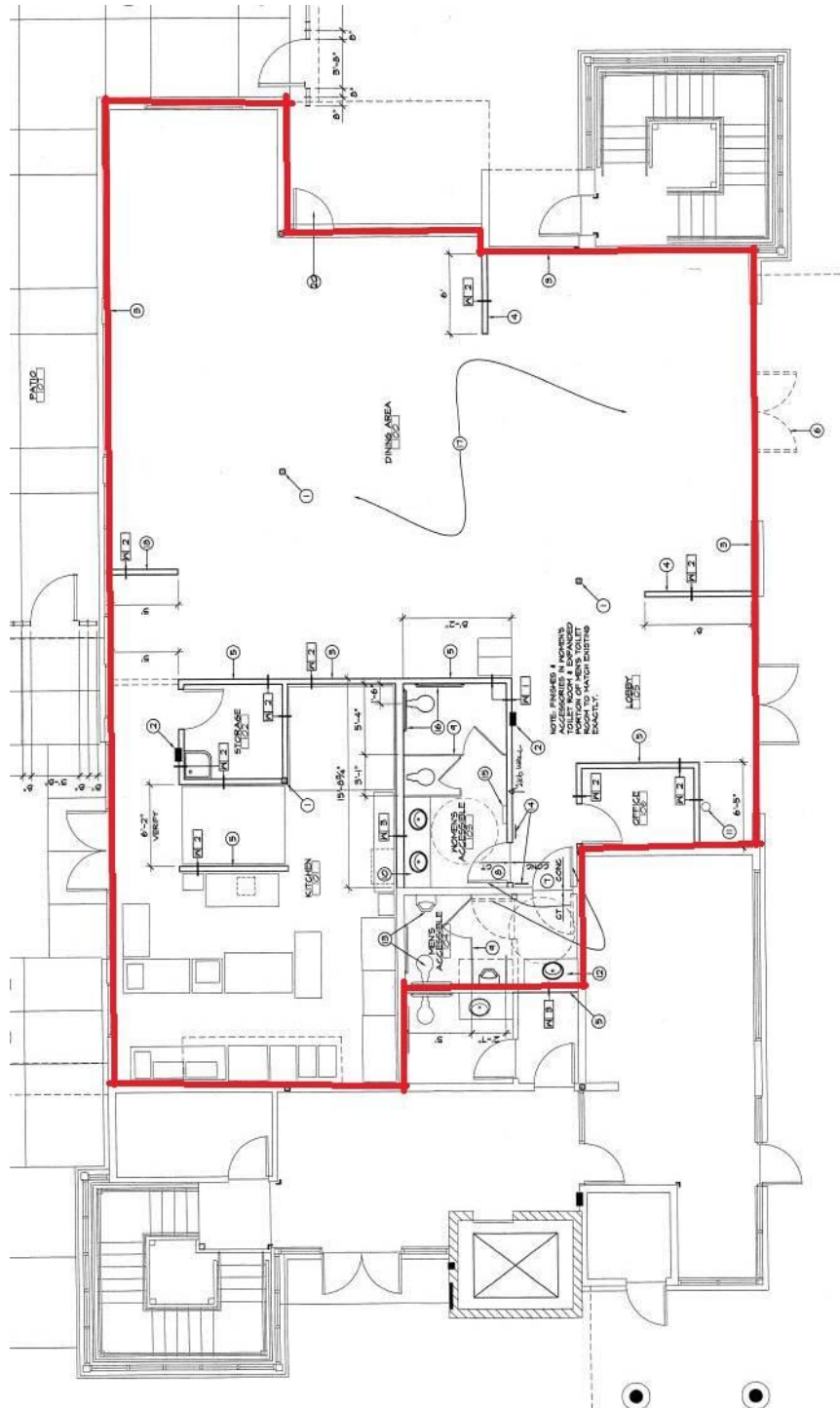


EXHIBIT "B"

PERSONAL GUARANTY TO THE PORT OF KENNEWICK

TO GUARANTEE PERFORMANCE OF LEASE

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, as personal guarantor, is firmly bound unto the Port of Kennewick, a municipal corporation, in the sum of all monthly rent, plus leasehold tax, and any other assessments, charges and/or fees due as per Lease Agreement dated _____.

The conditions of this obligation are as follows:

WHEREAS, William R. Jaquish and Michael J. Hall entered into a lease with the PORT OF KENNEWICK for commercial use as described in Exhibit "A", located in Benton County, Washington, which Lease provides for the payment of monthly rent, leasehold tax, and other assessments, charges and/or fees; and

WHEREAS, the laws of the State of Washington require a bond to the Port District in accordance with the terms of RCW 53.08.085, for a minimum of one year's rent; and

WHEREAS, this guaranty incorporates the Lease hereinabove referred to;

NOW THEREFORE, the undersigned agrees that in place of such bond called for under RCW 53.08.085, he/she/they agree to be personally liable and guarantee the payment of all sums due from him/her/them to the Port of Kennewick.

DATED this ____ day of _____, 201__.

GUARANTORS:

Name: William R. Jaquish

Name: Michael J. Hall

**Ice Harbor/Clover Island Lease
Exhibit "C"
Outdoor Seating Area**

