

Port of Kennewick Commission Chambers will be open to the public during Commission Meetings. However, the Port will continue to use GoToMeeting to provide remote access, and Commissioners and the Port team will attend remotely.

A GoToMeeting has been arranged to enable the public to listen and make public comments remotely.

To participate remotely, please call in at: 1-877-309-2073, Access Code: 272-721-517

Or, join on-line at the following link: <https://meet.goto.com/272721517>

AGENDA

Port of Kennewick

Regular Commission Business Meeting

Port of Kennewick Commission Chambers (or via GoToMeeting)

350 Clover Island Drive, Suite 200, Kennewick Washington

August 9, 2022

2:00 p.m.

I. CALL TO ORDER

II. ANNOUNCEMENTS AND ROLL CALL

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF AGENDA

V. PUBLIC COMMENT *(Please state your name for the public record)*

VI. CONSENT AGENDA

- A. Approval of Direct Deposit and ePayments Dated August 2, 2022
- B. Approval of Warrant Register Dated August 3, 2022
- C. Approval of Warrant Register Dated August 9, 2022
- D. Approval of Regular Commission Meeting Minutes July 26, 2022

VII. REPORTS, COMMENTS AND DISCUSSION ITEMS

- A. Vista Field
 - 1. Design Standards Format Update; Resolution 2022-21 (TIM/AMBER)
 - 2. Rural County Capital Funds (RCCF) (TIM/NICK)
 - 3. Vista Field Hangar Reuse Concept (LARRY)
 - 4. Pocket Neighborhood (TIM)
 - 5. Planes from the Past (TIM)
- B. Redistricting and Scheduling of Public Hearing Update (CAROLYN/LARRY)
- C. Art Policy (TIM/NICK)
- D. Port Commission Rules of Policy and Procedure Update (CAROLYN/TIM)
- E. Commission meetings (formal and informal meetings with groups or individuals)
- F. Non-Scheduled Items
(LISA/BRIDGETTE/TANA/NICK/LARRY/AMBER/CAROLYN/TIM/KEN/TOM/SKIP)

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

IX. ADJOURNMENT

PLEASE SILENCE ALL NOISE MAKING DEVICES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

DRAFT

JULY 26, 2022 MINUTES

Commission Meeting recordings, with agenda items linked to corresponding audio, can be found on the Port's website at: <https://www.portofkennewick.org/commission-meetings-audio/>

Commission President Skip Novakovich called the Regular Commission Meeting to order at 2:00 p.m. via GoToMeeting Teleconference.

ANNOUNCEMENTS AND ROLL CALL

The following were present:

Board Members: Skip Novakovich, President (via telephone)
Kenneth Hohenberg, Vice President (via telephone)
Thomas Moak, Secretary (via telephone)

Staff Members: Tim Arntzen, Chief Executive Officer (via telephone)
Amber Hanchette, Director of Real Estate and Operations (via telephone)
Nick Kooiker, Chief Finance Officer (via telephone)
Larry Peterson, Director of Planning and Development (via telephone)
Lisa Schumacher, Special Projects Coordinator (via telephone)
Bridgette Scott, Executive Assistant
Carolyn Lake, Port Counsel (via telephone)

PLEDGE OF ALLEGIANCE

Ms. Scott led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

- A. Approval of Direct Deposit and E-Payments Dated July 15, 2022**
Direct Deposit and E-Payments totaling \$70,529.86
- B. Approval of Warrant Register Dated July 26, 2022**
Expense Fund Voucher Number 103982 through 104027 for a grand total of \$671,795.35
- C. Approval of Regular Commission Meeting Minutes July 12, 2022**

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

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 26, 2022 MINUTES

DRAFT

PRESENTATION

A. *CEO Employment Agreement Third Amendment and CEO Performance Review Process*

Mr. Arntzen stated Resolution 2022-19 offers administrative clarification of the indemnity clause and provisions in the CEO Employment Agreement and a request to return to the Committee process for the CEO Performance Review. Mr. Arntzen worked with Ann Allen, Port Human Resources Counsel and Carolyn Lake, Port General Counsel to present the revisions to the Commission for review. Mr. Arntzen stated Ms. Allen and Ms. Lake represent the Port as an entity, not him as an individual.

Ms. Allen outlined the items for revision in the CEO Employment Agreement and the CEO Performance Review Process:

- A clause is proposed to be added to ensure that amendments of the Employment Agreement do not result in diminution of the CEO's benefit level;
 - Section 4.9 states that the Employee shall not receive a reduction to benefits provided pursuant to his employment agreement due to the adoption of any subsequent amendment or modification of this agreement:
- RCW 4.96.041 states that whenever an action or proceeding for damages is brought against any officer or employee arising from his actions while performing duties in good faith, that officer or employee may request that the Port authorize the defense of the action or proceeding at the expense of the Port.
 - Section 7 states the Employer shall defend, indemnify, and hold Employee harmless from and against any and all claims, demands, suits, action or proceedings of any kind of nature arising out of the performance by Employee of the Employee's duties and responsibilities as CEO of the Employer.

Commissioner Novakovich stated in the Port Commission Rules of Policy and Procedure, it states "...in excess of the hourly rates established by the Port's contract with the Port legal counsel selected by the Port." Commissioner Novakovich inquired what the Port should do to be consistent.

Ms. Allen stated Ms. Lake provided a draft of Section 18 of the referenced policy and once that is updated, it will be commensurate with the rate.

Ms. Allen outlined the possible revisions to Section 15 of the CEO's Performance Review

- Re-instate the Committee CEO evaluation process previously used by the Commission;
- Revise the annual evaluation form to include definitions of the terms, formatting and now includes general comments for the Commissioner's and CEO.

Commissioner Novakovich states 15.1.3 states the evaluation committee has developed the procedure for evaluating; however, the evaluation committee has not been formed yet.

Ms. Lake stated the wording can be slightly modified to address Commissioner Novakovich's concerns and the language could be revised to say that the Commission directs the CEO Committee to use the following procedure for evaluating the CEO's performance.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 26, 2022 MINUTES

DRAFT

Commissioner Novakovich requested jurisdictional partners be added to political and institutional sensitivity. Lastly, Section 15 Exhibit A, 1.1.2 states the review should be completed annually and 1.1.3 states it should be completed by the first meeting in November. Commissioner Novakovich inquired if the meeting should be specified.

Ms. Allen stated that is a reasonable request and can modify Exhibit A.

Commissioner Hohenberg stated the revisions suggested by Commissioner Novakovich are acceptable.

Commissioner Moak has no comments at this time.

Ms. Lake will modify the documents and asked that the motion include “changes as directed.”

MOTION: Commissioner Hohenberg moved for approval of Resolution 2022-19 with the changes as discussed which appear in the CEO’s Third amendment, as well as in the attachment 2, section 15, 16.1.3 and evaluation chart; and rescinds Resolutions 2019-24, 2017-27 and 2017-16; and hereby ratify and approve all action by port officers and employees in furtherance hereof; Commissioner Novakovich seconded.

PUBLIC COMMENTS

No comments were made.

Discussion:

Commissioner Moak stated for the record, it is Mr. Arntzen’s right to ask for a contract revision, but he believes, no matter how good our attorneys are, they work for Mr. Arntzen, and he believes if contract negotiations are open, the Board should be represented by independent counsel, should be looking at these revisions from an independent look and he does not think we should be amending stuff on the fly, like we are trying to do today. Commissioner Moak thinks the Manager needs to do what he needs to do and he thinks the Board, rather than rubber stamping anything, should be reviewing, should be reviewing with independent counsel and looking to see if there are other areas of the contract that the Board would like to see changed. Commissioner Moak does not approve of the process like we are doing today, no matter how well intentioned it is.

Commissioner Novakovich stated Mr. Arntzen explained that the legal counsel that were presenting today were working for the Port Commission and not for Mr. Arntzen. Secondly, Commissioner Novakovich thinks the two legal counsels that presented today were doing exactly what Commissioner Moak asked for and were going through items and making any changes that we wanted to make to them and everyone had an opportunity to do so.

Commissioner Hohenberg stated for the record, he appreciates the process and he has the opportunity to, well in advance, to review and provide feedback. He does not feel like we are rubber stamping anything and at the end of the day, he will continue to do what is right and he thinks these items clear up a couple things that have been a challenge in past. Commissioner

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 26, 2022 MINUTES

DRAFT

Hohenberg has been rule bound for a long time and likes to follow rules and this will clear it up so that people know what the expectation is, and we continue to move forward. Once again, Commissioner Hohenberg appreciates the way it was presented.

With no further discussion, motion carried. All in favor, 2 Ayes (Commissioners Hohenberg and Novakovich): 1 Nay (Commissioner Moak).

B. Vista Field Hangars, CKJT Architects and Parametrix

Mr. Peterson introduced Melissa McCoy and Terrance Casey from CKJT Architects and Darren Sandeno, Dylan Bailey, and Palmer Sandeno from Parametrix. The team will be presenting renderings for the Vista Field Hangars (*Exhibit A*) which address three items: creating a vibrant and active space, within budget, and being aligned with Rural Capital County Funding (RCCF) goals.

Chantell Pratt Arnold of Pratt Construction is concerned about the wind and wondered if opening both buildings will negate year-round use.

Ms. McCoy stated the wind needs to be analyzed by a structural engineer, which has been preliminarily done. It is feasible and viable and we are using landscaping and the restrooms to provide protection from the south and southwest against wind and sun.

Ms. Pratt does not believe the partial shade structure offers enough coverage given the inclement weather.

Mr. Sandeno stated options have been discussed to provide an additional fabric cover for shade.

Commissioner Moak thanked the team and staff for their work on this and inquired if anyone talked to community art groups about the space needs.

Mr. Peterson stated we have not reached out to the art groups; however, the design was based upon examples seen in other communities that have utilized a cargo container that opens onto a concrete patio; and Clover Island Inn, which uses two truck trailers for a stage. We were looking to include the base elements for a performance space.

Commissioner Moak inquired if the Owner's Association would oversee programming the space.

Mr. Peterson stated the Port has two options: either it will be part of the commercial association's responsibility or the Port's, as the master developer, for the first five years.

Commissioner Hohenberg concurs with Commissioner Moak's comments and views this area as a natural gathering place by the way it is laid out. Commissioner Hohenberg thinks it's an excellent repurposing of the buildings and this project is moving along lot quicker than he envisioned.

Ms. Pratt Arnold inquired if a fence or enclosure could be added for over 21 events.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 26, 2022 MINUTES

DRAFT

Mr. Peterson stated the flexibility of this space is the intent, at this level of design and as use occurs, railings could be added to meet the Washington State Liquor Control Board requirements. Mr. Peterson stated a certain percentage of walls need to be removed for it to no longer be considered a building. Once we start adding heating or cooling, we are subject to the new energy codes.

Commissioner Novakovich inquired what the next step is.

Mr. Peterson inquired if the Commission likes what they see and would they support a future RCCF application for this project.

The Consensus of the Commission is to move forward with the design and bring back additional information on cost estimates and to apply for RCCF funds.

C. Conceptual Work Plan/Draft Budget Update 2023-2024

Mr. Arntzen presented the revised conceptual work plan and draft budget for 2023-2024 and based on Commission comments from the July 12, 2022 Commission Meeting, inquired if the Commission agrees to the following:

- Remove the Vista Field loan repayments;
- Auction all surplus land as approved by Commission resolution on a case-by-case basis;
- Remove West Richland Development Building for possible future funding;
- Remove South Kennewick Industrial Project for possible future funding;
- Add Vista Field Development Building Repair to proposed budget.

It is the Consensus of the Commission to remove the Vista Field loan repayments for the 2023-2024 Budget.

It is the Consensus of the Commission to auction surplus land as approved by Commission resolution on a case-by-case basis.

Mr. Kooiker stated, based upon the increased interest rates, he recommended revisiting the Vista Field loan repayment during the 2025-2026 budget cycle.

Mr. Arntzen confirmed the Commission consensus of the removal of the West Richland Development Building and the South Kennewick Industrial project from the 2023-2024 budget cycle.

Commissioner Hohenberg stated rather than naming a specific jurisdictional project, is there a way to allocate additional funding to the Opportunity Fund. Then our partners could apply for funding for the Commission to consider.

Mr. Kooiker stated the Opportunity Fund for this budget cycle was \$300,000.

Mr. Arntzen confirmed that the Port could add additional funding to the Opportunity Fund, and

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 26, 2022 MINUTES

DRAFT

then our partners could apply for funding for the Commission to consider. And, confirmed removing the West Richland and South Kennewick project from the 2023-2024 budget.

Commissioner Novakovich believes the City of West Richland is looking for a partnership in funding on artwork, but whether that is a line item or through the Opportunity Fund, he does not believe that makes a difference.

Commissioner Moak stated the Opportunity Fund gives an entity the opportunity to apply for funds, but that does not guarantee the project would be funded. Commissioner Moak would like to focus on Vista Field and the Historic Waterfront before the Commission considers other projects. Commissioner Moak believes it is appropriate to revisit the West Richland Development Building and South Kennewick Industrial project for the 2025-2026 budget.

Commissioner Hohenberg agrees with Commissioner Moak's comments and stated we need to move into the new budget cycle, see where we are headed and then determine if we have funding available for other opportunities.

Mr. Arntzen stated we added the Vista Field Building repair to the proposed budget, because there are existing repairs that need to be completed.

Commissioner Moak stated there is a current line item in the 2021-2022 budget and inquired if this is additional repairs or tenant enhancement.

Ms. Hanchette stated currently, we are finishing up the engineering and architecture portion; however, we will not utilize all of the funding by the end of the year, therefore, we are requesting the remaining allocation be placed in the 2023-2024 budget.

Commissioner Novakovich inquired if the Opportunity Budget could be increased to \$500,000 if there are remaining funds left over from this budget.

Mr. Kooiker stated the Port does not use rollover budgeting because it is hard to track and predict. Mr. Kooiker stated the Commission will need to reapprove the funding through the 2023-2024 budget.

Mr. Arntzen is meeting with an engineering firm and the Clover Island Inn to get some cost estimates to fix the parking lot and discuss the potential construction of a stage.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Vista Field*

1. *Development Tours*

Ms. Hanchette has been marketing Vista Field since the grand opening event and is now accepting official proposals. Ms. Hanchette and Mr. Peterson are giving site tours to small groups such as realtors, builders, title companies, and bankers and one on one tours. Ms. Hanchette encouraged following Vista Field on Facebook and Instagram for more information and announcements.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 26, 2022 MINUTES

DRAFT

Ms. Hanchette shared the submission process and the collaborative design process to give the builders and the Port a starting point for proposals. It is a learning process and will tell us what may need to be revised as we work through the first few proposals.

Commission and staff discussion ensued regarding the Vista Field tours.

B. Oak Street

1. Renewal By Anderson Lease

Ms. Hanchette stated Renewal By Andersen has been a good tenant of the Port since 2015 and increased their leased space every few years. A tenant recently vacated and Renewal By Andersen is taking that space and we are consolidating all of the space into one lease. The lease exceeds Mr. Arntzen's Delegation of Authority of \$5,000 a month and requires Commission approval. Therefore, before the Commission is Resolution 2022-20 approving the lease renewal for Renewal By Andersen.

MOTION: *Commissioner Moak moved for approval of Resolution 2022-20, approving a lease renewal with Renewal By Andersen, and further authorize the Chief Executive Officer to execute all documents and agreements and that all action by port officers and employees in furtherance hereof is ratified and approved; Commissioner Hohenberg seconded.*

PUBLIC COMMENTS

No comments were made.

Discussion:

Commissioner Hohenberg thanked Ms. Hanchette and stated Oak Street has been around forever and its nice to know it is still vibrant. It is nice to be able to consolidate the lease for a good tenant.

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

C. Redistricting Update

Mr. Peterson reported that the Port went through redistricting in 2011 and the three districts were even in population at 42,000; however, based upon the 2022 Census, there is an imbalance of 7,600 between Districts 2 and 3. The Port is working with JUB Engineering to come up with a variety of scenarios that follow the law and are easily definable. Mr. Peterson stated the district map will be presented at a Public Hearing, which needs to be held early fall, before final approval by the November deadline.

Ms. Lake stated Mr. Peterson is working to meet the 10-year refresh. The criteria of the redistricting is as follows:

- District has to be as balanced and compact as possible;
- District has to be geographically contiguous;
- The population data cannot be used to favor or disfavor racial group or political parties;
- Preserve existing communities related in mutual interest as possible;

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 26, 2022 MINUTES

DRAFT

Ms. Lake stated the statute stated the Port may publish the draft plan; however the Public Hearing needs to take place within 10 days of publishing the draft plan and no later than at least one week before adopting the plan.

Commissioner Moak inquired if the law allows the projections for growth in the community.

Ms. Lake stated the redistricting is tied to the 2020 Census and cannot look at potential growth.

Commissioner Novakovich asked Mr. Peterson to work with Ms. Scott on the Public Hearing date.

D. Maintenance Facility Progress Report

Ms. Hanchette presented the final draft of Maintenance Facility report prepared by Energy Northwest. The maintenance staff offered valuable input and the report looked at our current conditions. Energy Northwest provided information on what a new facility would cost, which was very expensive and Mr. Arntzen authorized staff to look at value engineering and other alternative options.

Mr. Arntzen stated the Port has several options to consider:

- Hold the course and make some improvements to the existing facilities;
- Build a new facility for \$2,700,000;
- Potentially purchase an existing facility, which meets the needs of the Port district and is in the budget.

Mr. Arntzen requested the Commission receive the report, which demonstrated the need for a new facility. In the interim, the Port team will continue to research the matter and bring back for further consideration.

Commissioner Moak stated at some point, we must move forward, especially if the staff is working in substandard quarters. Commissioner Moak inquired if the Port were to vacate the space at Oak Street, would the space be leasable to a new tenant.

Ms. Hanchette stated two of the spaces in DB-D would be leasable; however, she is not sure the shop is leasable. It would require a lot of work before that could happen.

Commissioner Moak inquired if staff is actively looking at potential properties that might meet our needs.

Ms. Hanchette stated yes and continues to monitor the MLS for a space that would meet our needs.

The Commission is in support of the need for a maintenance facility and exploring options and will look for staff's guidance and recommendations.

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

Commissioners reported on their respective committee meetings.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 26, 2022 MINUTES

DRAFT

F. Non-Scheduled Items

Ms. Scott reported that the Phase 2 Wine Village celebration event has been postponed due to extreme weather.

Ms. Hanchette reported that mud swallows have built nests around the lighthouse and it is illegal to remove them until baby birds fly away. Ms. Hanchette stated staff and a contractor are working on cleaning the plaza and she has reached out to the Department of Fish and Wildlife to see when the nests can be removed. Ms. Hanchette is aware of the situation; however, she cannot do anything at this time.

Ms. Lake stated earlier this year, the Commission authorized Mr. Arntzen to oversee an update to the Commission Rules of Policy and Procedures. The update is intended to be a brush up and refresh of policies that were initially adopted in 2011 and updated in 2016. Ms. Lake stated it is appropriate to review the policies; and as you may recall, Commissioners and key staff were given the opportunity to provide input. Ms. Lake has been reviewing the input and synthesizing it to create a draft for Commission review. Ms. Lake stated the only other category that is required is to incorporate changes in the law, particularly in Open Public Meetings and Public Records. Ms. Lake is happy to receive any clarification or answer questions.

Mr. Arntzen read a statement into the record by Chantell Pratt Arnold, who offered comments related to the hangars:

“Just wanted to comment, I really enjoy seeing movement/progress at Vista Field. I have seen more movement in the last few months, than the previous five years. I am excited to see a plan to reuse the hangars, to create something new for the community. Thank you for all you do for the community.”

Mr. Arntzen was able to attend one of Ms. Hanchette’s tours and he said it was palpable to see the excitement and wonderful ideas being tossed around. Earlier, Commissioner Hohenberg asked a question regarding the collaborative design process, and Mr. Arntzen stated the documents are meant to be living documents and revisable, based on new information. The collaborative design process states that the Commission anticipates changing the document, based on new information and referenced that there would be a prototype process. Mr. Arntzen is working with Ms. Hanchette to be as much like the private sector with recognition of special laws and statutes as a government agency.

Commissioner Novakovich clarified that Chantell Pratt Arnold has taken over Pratt Construction after her uncle’s passing.

Commissioner Hohenberg thanked Mr. Arntzen for the follow up and clarification about the process. He is excited about the progress the Port has made and appreciates Ms. Arnold’s comments back to the Commission. Commissioner Hohenberg hopes the Port continues to move rapidly on this project.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 26, 2022 MINUTES

DRAFT

PUBLIC COMMENTS

No comments were made.

COMMISSION COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 4:12 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Kenneth Hohenberg, Vice President

Thomas Moak, Secretary

PORT OF KENNEWICK

RESOLUTION No. 2022-19

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK REVISING THE CHIEF EXECUTIVE OFFICER (CEO) EMPLOYMENT AGREEMENT AND PERFORMANCE EVALUATION PROCESS

WHEREAS, the Chief Executive Officer's (CEO) current Employment Agreement (CEO Agreement) is in need of amendment to clarify the effect of subsequent benefit amendments; to more clearly delineate terms of indemnification; and to update the current individualized method used to review CEO's performance; and

WHEREAS, revising and amending the CEO Agreement in these areas will provide for greater clarity; and

WHEREAS, re-instituting the former CEO committee performance evaluation process consisting of one Commissioner serving a two-year term, the Chief Financial Officer (CFO), and Port Attorney will promote a more efficient and less complicated review process, and

WHEREAS, returning to the Committee Evaluation Process for CEO performance evaluations is accomplished by revising the Commission Rules of Policy and Procedure, Section 15, which in turn also adopts Exhibit A - the Committee Evaluation Process and Exhibit B, the CEO Annual Evaluation Form; and

WHEREAS, the Port CFO has reviewed the proposed documents and finds them in order.

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners take the following actions:

1. The Port of Kennewick Board of Commissioners hereby approve and adopt the Third Amendment to the CEO Employment Agreement to (a) add a new Section 4.9 to clarify the effect of future amendments, (b) modify Section 7 to address indemnification, and (c) to acknowledge the change in title from "Executive Director" to the current title of "Chief Executive Officer", all as set as set forth in **Attachment 1** – Third Amendment to Employment Agreement.
2. The Port of Kennewick Board of Commissioners hereby revise Commission Rules of Policy and Procedure at Section 15 to reinstate the Committee CEO Evaluation Process, all as set as set forth in **Attachment 2** which incorporates **Exhibit A**- CEO Evaluation Committee Process and **Exhibit B** – CEO Annual Evaluation Form.
3. The Port of Kennewick Board of Commissioners hereby rescind Resolutions 2019-24, 2017-27 and 2017-16 upon adoption of this Resolution; and
4. The Port of Kennewick Board of Commissioners hereby ratify and approve all action by port officers and employees in furtherance hereof.

RESOLUTION No. 2022-19

Page 2

ADOPTED by the Board of Commissioners of Port of Kennewick on the 26th day of July 2022.

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

By: DocuSigned by:
Skip Novakovich
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SKIP NOVAKOVICH, President

By: DocuSigned by:
Kenneth Hohenberg
89F77EAC8921416...
KENNETH HOHENBERG, Vice President

By: Disapprove
THOMAS MOAK, Secretary

THIRD AMENDMENT TO EMPLOYMENT AGREEMENT

This Third Amendment dated July 26, 2022 amends that certain Employment Agreement entered into on November 15, 2013 by and between the PORT OF KENNEWICK, a Washington public port district, (the "Employer" or the "Port"), and TIM ARNTZEN (the "Employee" or "Chief Executive Officer"), as amended March 24, 2017 by the CEO's extension of the Longevity Agreement through December 31, 2020 (via memo); as amended by the First Amendment dated December 12, 2017 as referenced in Resolution 2017-27; as amended by Second Amendment dated November 26, 2019 (without Resolution); as amended by Resolution 2019-24 dated September 24, 2019; and as amended by Resolution 2020-30 dated December 8, 2020 which further extended the Longevity Agreement through December 31, 2025, ("CEO Agreement").

The Port and Chief Executive Officer wish to update and further amend the CEO Agreement as follows:

1. A new Section 4.9 is added to the CEO Agreement as follows:

4.9 It is understood that the Employee shall not receive a reduction to benefits provided pursuant to his employment agreement due to the adoption of any subsequent amendment or modification of this agreement. It is recognized that there may be a reduction in benefits provided pursuant to this Agreement should such reduction be mandated by law.

2. Section 7 of the CEO Agreement is amended to add the additional language underlined below as follows:

Employer Responsibility:

To the maximum extent permitted by law, Employer shall defend, indemnify, and hold Employee harmless from and against any and all claims, demands, suits, action or proceedings of any kind of nature arising out of the performance-by Employee of the Employee's duties and responsibilities as Chief Executive Officer of the Employer.

In addition, whenever an action or proceeding for damages is brought against the Employee, the Employer shall defend, indemnify, and hold the Employee harmless to the maximum extent permitted by the law for any liability incurred by the Employee in his capacity as an officer or employee of the Port acting in good faith. If the Employee personally incurs direct or indirect costs in order to respond to any such action, suit, proceeding, or claim, the Employer shall promptly reimburse the Employee upon written demand setting out such costs, provided indemnification of attorney's fees shall not exceed the hourly rate of the Port's General Legal Counsel as reflected in that General Legal Counsel's contract with the Port. Further, any amounts paid by

Resolution 2022-19
Attachment 1

the Employee in settlement or as a result of a judgement shall be reimbursed by the Employer unless the Employer shall establish that the Employee did not act in good faith and in the best interests of the Port in carrying out his duties.

To the extent of any conflict between this agreement and any other policy or procedure of the Port, this Agreement shall prevail. The obligations of the Employer to indemnify and hold the Employee harmless shall survive the termination of this Agreement or expiration of the employment relationship. Therefore, the obligation to indemnify the Employee applies whether the individual is currently or was previously employed by the Port of Kennewick at the time facts giving rise to such a matter arose.

3. The CEO Agreement is revised throughout to replace all references to “Executive Director” with the updated title of “Chief Executive Officer”.
4. The following previous amendments to the CEO Agreement are rescinded: (a) First Amendment dated December 12, 2017 as referenced in Resolution 2017-27; (b) Creation of Committee Evaluation Process approved by Resolution 2017-16, Second Amendment dated November 26, 2019, as referenced in Resolution 2019-24; and (c) Reversion of the Committee Evaluation Process approved by Resolution 2019-24.
5. All other provisions except those previous amendments expressly referenced herein and not rescinded and as amended herein remain in full force and effect.

EMPLOYER:

EMPLOYEE:

PORT OF KENNEWICK

A Washington state public port district

By: 
0E53A30E1C8E442...
Skip Novakovich, Commission President

By: 
897EAA4F32B4455...
Tim Arntzen, Chief Executive Officer

Resolution 2022-19
Attachment 2

	PORT OF KENNEWICK	
	Port Commission Rules of Policy and Procedure	
	CHIEF EXECUTIVE OFFICER (CEO) EVALUATION	Section 15.0
	Adopted by the Commission on July 26, 2022 Resolution 2022-19	Replaces Section 15, adopted February 22, 2011 and as amended by Resolution 2016-01, adopted January 12, 2016 and Replaces Resolution 2017-16, adopted October 10, 2017 Replaces Resolution 2017-27, adopted December 12, 2017

15. CEO EVALUATION

15.1 CEO Evaluation Committee

- 15.1.1 The Port Commission shall appoint a CEO Evaluation Committee made up of the Port's Chief Financial Officer, Port Attorney, and one Commissioner to serve a 2-year term. Each member shall be unbiased.
- 15.1.2 The CEO Evaluation Committee will develop the CEO's goals and objectives for Port Commission review and approval. The goals and objectives developed by the Committee shall be specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.
- 15.1.3 The Commission accepts the following procedure for the CEO Evaluation Committee to evaluate the CEO's performance, which is attached hereto as **Exhibit "A"**, and the CEO Evaluation Committee has created the Chief Executive Officer Performance Evaluation Form Revised 2022, which is attached hereto as **Exhibit "B"**.
- 15.1.4 On an annual basis, the CEO Evaluation Committee will conduct CEO's performance evaluation.

- 15.1.5 On an annual basis, the CEO Evaluation Committee will present the results of its evaluation of the CEO's performance to the Port Commission for review and approval. Such results may include, among other things, recommendation for salary adjustment in accordance with CEO's employment agreement.
- 15.1.5 The CEO Evaluation Committee may use assistance from other staff members or consultants as necessary and appropriate.
- 15.1.6 The Port Commission shall address CEO performance issues as they arise by timely referring them to the CEO Evaluation Committee. The CEO Evaluation Committee will develop a procedure for handling performance issues that may arise between annual evaluations. As part of that procedure, any performance related item must be communicated to the CEO in writing within 14 business days following the date any such alleged action or inaction occurred. If the CEO Evaluation Committee fails to notify the CEO of a matter of which the Commission members are aware, the performance related item shall not be relied upon or addressed in a performance review. Prior to issuing such a written notice, the CEO Evaluation Committee shall undertake an appropriate inquiry, which generally will include discussion with the CEO, in accordance with applicable laws, policies and contracts. Once notified, the CEO shall be provided a reasonable period of time to cure the concern or deficiency.

RESOLUTION 2022-19
EXHIBIT “A” TO SECTION 15,
COMMISSION RULES OF PROCEDURES

1. CEO EVALUATION PROCESS

1.1 CEO Evaluation Committee

- 1.1.1 *COMMITTEE AUTHORITY:* Resolution 2022-19 authorized the creation of the CEO Evaluation Committee (Committee). Furthermore, it established the members of the Committee are: Port’s Chief Financial Officer; Port Attorney; and one Commissioner to be appointed by the Commission.
- 1.1.2 *COMMISSION DIRECTION:* The Commission direction for the Committee is as follows:
- Develop a process for evaluating CEO’s performance.
 - Perform the CEO evaluation using the Chief Executive Officer Performance Evaluation Form revised 2022.
 - Develop the CEO’s goals and objectives for Commission review and approval.
 - Present the CEO evaluation to the Commission for review and approval annually. This will include a recommendation for salary adjustment in accordance with CEO’s employment agreement.
 - Use assistance from other staff members or consultants as necessary and appropriate.
 - Develop a process for handling performance issues as they arise between annual evaluations if performance issues are brought forth by the Port Commission.
- 1.1.3 *COMMITTEE MEETINGS:* The Committee will meet at least annually, conducting its first meeting for CEO’s performance review no later than September 15th. The Commission typically will need to approve the CEO’s evaluation at their first meeting in November, so the ideal time to present to Commission is at the second meeting in October. The deadline for final Commission approval is November 15th.
- 1.1.4 *CHANGES TO THIS PROCESS:* Changes to this process must be approved by the majority of the Committee members, and with the consent of the CEO, which consent shall not be unreasonably withheld.

1.2 CEO Annual Evaluation Process

- 1.2.1 The Committee will evaluate the goals & objectives set by the Commission as part of the evaluation process.
- 1.2.2 The Committee will also consider additional work either directed or performed for the Port's benefit that was not included in the initial goals and objectives approved by Commission.
- 1.2.3 The Committee will also consider the overall operational success at the Port (including but not limited to: marina and building occupancy, land sales, property maintenance, contract management, financial oversight, strategic alliances/partnerships, communications, positive publicity, brand reputation, and strategic leadership including personnel management and development).
- 1.2.4 The Committee will include resolved or unresolved performance issues addressed by the Commission in the CEO's evaluation.
- 1.2.5 The Committee will present the CEO evaluation to the CEO and allow the CEO to draft a formal response before the evaluation is presented to the Commission.
- 1.2.6 The Committee will present the evaluation to the Commission as allowed by law.
- 1.2.7 The Committee will provide the Commission a CEO performance recommendation of "unsatisfactory," "satisfactory," "above satisfactory," or "exceptional" in accordance with the CEO Employment Agreement.

Performance Appraisal Ratings:

- Exceptional – The individual is making a significant contribution to the organization. This person constantly accepts responsibilities beyond those of the job held and continuously exceeds expectations regarding completion of work assignments. There are few areas regarding performance of job responsibilities in which he/she could improve.
- Above Satisfactory – The individual is a steady and consistent performer and carries out duties in a fully responsible and effective manner. Meets and occasionally exceeds expectations regarding job responsibilities and completion of work assignments. Even though present performance is acceptable, there may be areas regarding performance of job responsibilities in which the person should improve.

- Satisfactory – The individual generally meets standards or expectations. It is expected that with the appropriate improvement plan, performance will reach a fully satisfactory level within a specified time period.
- Unsatisfactory – The individual generally does not meet standards or expectations. It is expected that with the appropriate improvement plan, performance will reach a satisfactory level within a reasonable specified time period in keeping with part 10 of the CEO's employment agreement and prior to the imposition of any disciplinary action.

1.2.8 The Committee shall maintain confidentiality around its deliberations and evaluation results.

1.3 CEO Goals and Objectives

- 1.3.1 In order to promote creativity & collaboration, the CEO can recommend goals and objectives for the Committee's consideration.
- 1.3.2 The Committee will review the CEO's recommended goals and objectives in order to determine if the goals are specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.
- 1.3.3 The Committee will involve the CEO during the goal setting process in order to allow feedback. In addition, this ensures the goals are specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.
- 1.3.4 The Committee will also consider one goal that is open to allow flexibility (example: Identify and present additional mutually beneficial or ROI partnering opportunities to Commissioners).
- 1.3.5 The CEO and committee will work to the best of their abilities to reach agreement on goals and objectives before presenting to the Commission for approval.
- 1.3.6 The Committee will present the final goals and objectives to the Commission for approval.
- 1.3.7 The Committee, with CEO feedback, may also present to the Commission recommendations on amending the goals and objectives (example: Commission directive change, or goal may be modified due to budget changes).

- 1.3.8 The Committee will perform review of the CEO goals and objectives and present this update to the Commission at least annually for the evaluation process.

1.4 Performance Issues Process

- 1.4.1 The Port Attorney will perform legal review of the performance related item and gather information or documents. Port Attorney may use assistance from other staff members or consultants as deemed appropriate and within the approved budget.
- 1.4.2 The Port Attorney will present to the Committee the performance related items and findings.
- 1.4.3 If the Committee determines the performance related item is a finding that needs Commission discussion, the Committee will add the performance item to the agenda for the Commission to discuss as allowed in executive session, upon consent from the CEO.
- 1.4.4 Performance evaluations shall be made a part of the CEO's personnel file. The CEO has the right to review this file and to make a written request that information and documentation be removed that the CEO believes is inaccurate, incredible, unsubstantiated, or unwarranted. Upon review, the Employer shall remove all information identified by the CEO which is found to be inaccurate, not credible, or unsubstantiated, or where any discipline was not warranted.

**RESOLUTION 2022-19
EXHIBIT “B” TO SECTION 15,
COMMISSION RULES OF PROCEDURES**

ANNUAL PERFORMANCE EVALUATION

CEO Evaluation Committee Evaluations of the CEO’s Performance

IMPORTANT DUTIES & EXPECTATIONS	PERFORMANCE APPRAISAL		COMMENTS/EXAMPLES:
	Met	Not met	Attach pages/documentation as needed
I. Vision and Purpose: A. Assists the Commission in defining its shared vision. Communicates that direction to the organization. B. Collaborates with the Commission to advance the Port’s vision and purpose. C. Advocates the vision by strategic resource allocation toward attainment.			Click or tap here to enter text.
II. Strategic Agility: Is proactive; anticipates future trends, benefits, and consequences; has broad knowledge and perspective; can objectively state possibilities and probabilities.			
III. Operating Plans/Financial Plans: A. Develops, maintains, and implements strategic plans and operational goals that effectively brings the Port’s vision to fruition. B. Administers the Port’s financial affairs consistent with state law and adopted policies, budget, and financial guidelines.			

IV. Integrity: Sets the tone for the Port by exemplifying consistent values and high ethical awareness, honesty, and fairness.			
V. Political and Institutional Sensitivity: A. Maneuvers through complex political and institutional situations effectively; anticipates potentially negative reactions, recommends, and plans a course of action; views politics as a necessary part of organizational and public sector life and works to be effective within that reality. Unless otherwise not practical, obtains Commission concurrence prior to publicly stating position. B. Develops solutions to complex issues that challenge the Port's ability to recognize its vision and purpose. Demonstrates sensitivity to resource availability when developing solutions. C. Leads the Port in building effective relationships with tenants, customers, jurisdictional partners, and community.			
VI. Knowledge/Decision Quality: A. Knows how successful public ports work; knowledgeable in current and possible future practices, trends, and information affecting port management, the port industry, and our Port; knows the competition; is aware of how strategies and tactics			

<p>work in the marketplace.</p> <p>B. Makes good decisions based on analysis, wisdom, experience, and judgment; most solutions and suggestions turn out to be correct when judged over time.</p>			
<p>VII. Leadership/Management:</p> <p>A. Demonstrates an entrepreneurial spirit by identifying ways to generate revenue, investment capital and maximizes the financial potential of existing port assets.</p> <p>B. Rallies support behind the vision and strategic plan; can inspire and motivate staff and community.</p> <p>C. Creates an environment where employees at all levels contribute their knowledge, skills, abilities, and ideas in a way that maximizes their potential. Employee potential is not limited by divisional walls or job title. Appropriately delegates to others. Is a good judge of talent; hires the best people available inside or outside the organization.</p> <p>D. Creates a climate in which people want to do and can do their best; can motivate team or project members; empowers others; invites input and shares ownership and visibility. Makes each person feel his/her work is important.</p>			

VIII. Initiative/ Courage/ Adaptability: A. Self-starting ability. Promptly takes hold and follows through with minimum direction. B. Willingness to state opinions and reasons without concern about the popularity of the views. Forthrightness in dealing with Commission, customers, suppliers, and others in the organization. C. Ability to adjust to changing conditions or unusual assignments. Flexibility in undertaking a variety of assignments, acceptance of decisions which go counter to own opinion.			
IX. Loyalty: Understanding and accepting of goals and policies of the organization. Willingness to support organization and management.			
X. Communications: Effectiveness of exchanging significant information throughout all levels of the organization; with clients, vendors, and the public.			

PERFORMANCE APPRAISAL OVERALL RATING				
The CEO's performance for the year 2022 is found to be:	Exceptional	Above Satisfactory	Satisfactory	Unsatisfactory

Additional Evaluator Comments:

Tim Arntzen
Date

PORT OF KENNEWICK

Resolution No. 2022-20

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK APPROVING
A LEASE AGREEMENT WITH RENEWAL BY ANDERSEN***

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

WHEREAS, a three year lease one year lease for 12,740 square feet of office and industrial warehouse space has been negotiated by Port staff with Renewal By Andersen at the Oak Street Industrial Development Park; 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 RESOLVED that the Board of Commissioners of the Port of Kennewick approves a 42-month lease with Renewal By Andersen 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.


BE IT FURTHER RESOLVED that all action by port officers and employees in furtherance hereof is ratified and approved; and further that the port Chief Executive Officer is authorized to take all action necessary in furtherance hereof.

ADOPTED by the Board of Commissioners of the Port of Kennewick this 26th day of July, 2022.

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

By: 
SKIP NOVAKOVICH, President

By: 
KENNETH HOHENBERG, Vice President

By: 
THOMAS MOAK, Secretary

COMMERCIAL PROPERTY LEASE AGREEMENT

**BETWEEN
PORT OF KENNEWICK,
LANDLORD**

AND

**Renewal by Andersen,
TENANT**

OAK STREET INDUSTRIAL PARK

**1426 E. 3rd Ave, A110, Kennewick
1426 E. 3rd Ave C101, Kennewick
1426 E. 3rd Ave C102, Kennewick
1328 E. 3rd Ave, Bay 5, Kennewick**

TABLE OF CONTENTS

	<u>Page</u>
Article 1 Premises	7
Article 2 Use of Premises	7
Article 3 Term	7
Article 4 Rent	7
Article 5 Financial Security	8
Article 6 Taxes & Assessments	8
6.1 Personal Property Taxes	8
6.2 Additional Taxes/Assessments; Leasehold Excise Tax (LET)	9
Article 7 Utilities	9
Article 8 Insurance	10
8.1 Insurance	10
8.2 Requirements	11
8.3 Waiver of Subrogation	11
8.4 Destruction or Condemnation	11
Article 9 Acceptance and Care of Premises	12
Article 10 Alterations and Improvements	12
Article 11 Accidents and Indemnification	13
Article 12 Compliance with Laws	13
Article 13 Landlord's Access	14
Article 14 Signs and Advertising	14
Article 15 Waste and Unlawful Use	14
Article 16 Successors	14
Article 17 Hazardous Materials	15
Article 18 Assignment and Subletting	15
Article 19 Surrender of Possession	15
19.1 Surrender	15
19.2 Removal of Property	15

19.3 Holding Over 16

Article 20 Notices 16

Article 21 Liens and Encumbrances 16

Article 22 Landlord’s Termination Right 17

Article 23 Default 17

23.1 Default 17

23.2 Remedies..... 17

23.3 Interest 19

Article 24 Attorneys’ Fees And Costs 19

Article 25 Miscellaneous 19

**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: July 1, 2022
- B. Landlord: Port of Kennewick,
a Washington municipal corporation
- C. Tenant: RENEWAL BY ANDERSEN
- D. Premises: The Premises shall mean the real property located at:

1426 E. 3rd Ave C101, Kennewick, WA 99336 (DB-C)
1426 E. 3rd Ave C102, Kennewick, WA 99336 (DB-C)
1426 E. 3rd Ave A110, Kennewick, WA 99336 (DB-A)
1328 E. 3rd Ave Bay 5, Kennewick, WA 99336 (DB-D)

as described on Exhibit "A" attached hereto and incorporated
herein by reference, and any improvements located thereon.
- E. Permitted Use: Check all that apply:

 Light manufacturing;
 X Wholesale receiving/shipping;
 X Administrative offices
 X Other: (Describe)
Remodel Contractor
- F. Term: Commencing on the Lease Commencement Date and terminating
on the Expiration Date.
- G. Lease Commencement Date: The date which is the earlier of (a) July 1, 2022, and (b) the date
Tenant begins using the Premises for any reason.
- H. Expiration Date: December 31, 2025

I. Base Monthly Rent Calculation:**Year 1 (July 1, 2022 – December 31, 2022):**

C101 – warehouse & office	.46 psf	2,950 sf
C102 – warehouse & office	.46 psf	2,915 sf
A110 – warehouse & office	.46 psf	5,675 sf
DB-D Bay 5 – warehouse	.46 psf	1200 sf

Year 2 (January 1, 2023 – December 31, 2023):

C101 – warehouse & office	.47 psf	2,950 sf
C102 – warehouse & office	.47 psf	2,915 sf
A110 – warehouse & office	.47 psf	5,675 sf
DB-D Bay 5 – warehouse	.47 psf	1,200 sf

Year 3 (January 1, 2024 – December 31, 2024):

C101 – warehouse & office	.48 psf	2,950 sf
C102 – warehouse & office	.48 psf	2,915 sf
A110 – warehouse & office	.48 psf	5,675 sf
DB-D Bay 5 – warehouse	.48 psf	1,200 sf

J. Base Monthly Rent (not including LET):**Year 1: (July 1, 2022 – December 31, 2022):**

C101 – warehouse & office	\$1,357.00
C102 – warehouse & office	\$1,340.90
A110 – warehouse & office	\$2,610.50
DB-D Bay 5 – warehouse	<u>\$ 552.00</u>
	\$5,860.40

Year 2: (January 1, 2023 – December 31, 2023):

C101 – warehouse & office	\$1,386.50
C102 – warehouse & office	\$1,370.05
A110 – warehouse & office	\$2,667.25
DB-D Bay 5 – warehouse	<u>\$ 564.00</u>
	\$5,987.80

Year 3 (January 1, 2024 – December 31, 2024):

C101 – warehouse & office	\$1,416.00
C102 – warehouse & office	\$1,399.20
A110 – warehouse & office	\$2,724.00
DB-D Bay 5 – warehouse	<u>\$ 576.00</u>
	\$6,115.20

Utilities Paid Directly to Utility Provider**K. Leasehold Tax (LET):**

Current Washington State Leasehold Tax shall be added to Base Rent. Current effective rate is 12.84%.

L. Total Monthly Rent (includes LET):

Year 1: \$6,612.87

Year 2: \$6,756.63
Year 3: \$6,900.39

- N. Monthly Utilities: See Article 7 of Lease.
- M. Rent Due Date: The Lease Commencement Date and the first day of each month thereafter.
- N. Financial Security: Check all that apply:
- ☒ **increase deposit on file to \$13,800.78;**
- ☐ Corporate surety bond;
- ☒ Personal Guaranty as set forth in Exhibit B;
- ☐ Other financial security: (Describe) _____
- O. Landlord's Address for Notices and Rent Payments:
Port of Kennewick
350 Clover Island Drive, Suite 200
Kennewick, WA 99336
- P. Tenant's Address for Notices:
Renewal by Andersen
7433 5th Ave S.
Seattle, WA 98108
(206) 777-0137
Alex Gonzalez
Alex@RBAWA.com
- S. Exhibits: Exhibit "A" Legal Description of Premises
Exhibit "B" Personal Guaranty Form

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 described in the Basic Lease provisions above. 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.

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.

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 and all other assessment, charges, and fees as provided in this Article 4 and as otherwise set forth in this Lease, 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" and 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 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 and common area 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.

DB-A Suite A110: Electricity Meters Assigned to Tenant:	<u>250802</u>
DB-A Suite A110: Water Meters Assigned to Tenant:	<u>74521135</u>
DB-C Suite C101: Electricity Meters Assigned to Tenant:	<u>250754</u>
DB-C Suite C102: Electricity Meters Assigned to Tenant:	<u>231725</u>
DB-C Suite C101 Water Meters Assigned to Tenant:	<u>75131776</u>
DB-C Suite C102 Water Meters Assigned to Tenant:	<u>32240148</u>
DB-D Bay 5 Electricity Meter Assigned to Tenant:	<u>159412</u>

At Tenant's own expense, tenant may have a maximum of one (1) 30 yard waste disposal container placed in a designated area as allowed by Landlord. Tenant must keep container closed and secured at all times. Debris (including broken glass) shall not be allowed around container or as a result of tenant operations.

Tenant shall be solely responsible to Landlord for the payment of all assessments, charges and/or fees pertaining to the Premises, including but not limited to, water assessments, charges for public utilities, license and permit fees 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 to Landlord when due.

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 untenable 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 untenable, 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.

Upon lease termination notice for C101 or C102, by either party, Tenant shall employ at its own expense a Washington State licensed, bonded and insured contractor to obtain all required permits and to reconstruct all walls where wall penetrations have been constructed by Tenant between warehouses and/or offices. All such work shall be completed within 30 days. Tenant shall be required to return the premises to the same condition as when entered into lease including but not limited to wall construction, paint, materials, and meeting all applicable building and fire codes.

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.

13.2 Landscaping and Common Area Sweeping: Landlord, at its cost, will provide

landscaping care and common area repairs, maintenance, and sweeping outside the building.

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 to replace all light bulbs and light fixture ballasts located in Tenant's leased space. Tenant shall be responsible for the maintenance and repair of all overhead and/or sliding doors located in Tenant's Premises. Landlord shall be responsible for maintenance of lighting in Tenant's shared Premises. Landlord shall be responsible for testing and maintaining interior fire sprinkler systems, smoke detectors, fire extinguishers and alarm systems.

13.4 **HVAC:** HVAC and all mechanical systems 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 attorneys 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 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

By: _____
Title: **Tim Arntzen, Chief Executive Officer**

Reviewed:

By: _____
Title: **Nick Kooiker, Port CFO**

RENEWAL BY ANDERSEN OF TRI-CITIES

By: 
 Kathryn Marriott (Jul 5, 2022 08:35 PDT)
Title: **KATHRYN MARRIOTT**
Its: **PRESIDENT**

Approved as to form:

By: _____
Title: **Taudd Hume, Port Legal Counsel**

WAIVED DUE TO COVID19
OFFICE CLOSURE

STATE OF WASHINGTON

COUNTY OF _____

ss.

I certify that I know or have satisfactory evidence that _____ 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 _____ of Port of Kennewick, a Washington municipal 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

COUNTY OF BENTON

ss.

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 of _____, residing at _____

My appointment expires _____

EXHIBIT "A"
LEGAL DESCRIPTION

PTN: 1006804000002001

Section 6 Township 8 Range 30 Quarter SE; THAT PORTION OF THE NORTHEAST
QUARTER OF THE SOUTHEAST QUARTER OF SECTION 6, TOWNSHIP 8 NORTH, RANGE 30
EAST,
W. M., BENTON COUNTY, WASHINGTON, LYING NORTH

COMMONLY KNOWN AS
1426 E. 3rd Ave Suite A110 (Development Building A)
1426 E. 3rd Ave Suite C101 & C102 (Development Building C)
1328 E. 3rd Ave Bay 5 (Development Building D)
Kennewick, WA 99336

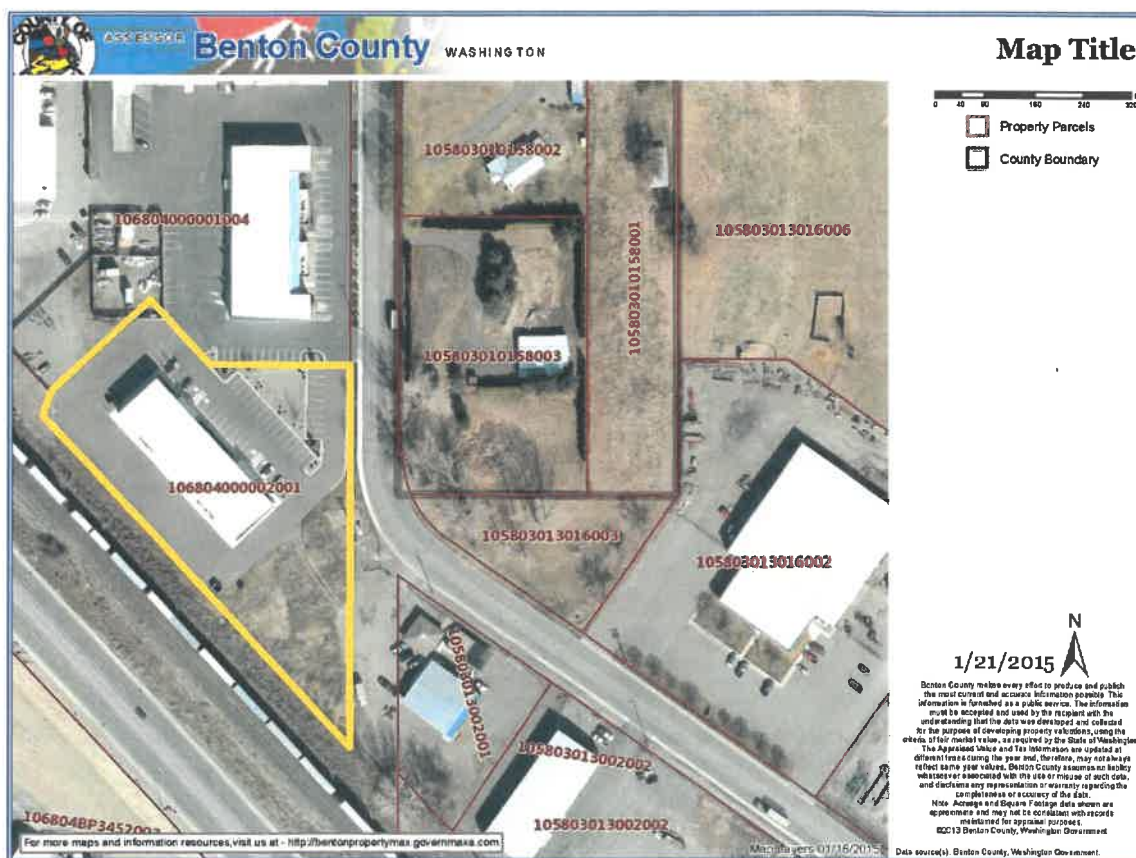


EXHIBIT "B"

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 July 1, 2022.

The conditions of this obligation are as follows:

WHEREAS, Kathryn Marriott entered into a lease with the PORT OF KENNEWICK for land 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 5th day of July, 2022.

GUARANTORS:


Kathryn Marriott (Jul 5, 2022 08:35 PDT)

Name: KATHRYN MARRIOTT

LEASE CANCELLATION AND TERMINATION AGREEMENT

This LEASE CANCELLATION AND TERMINATION AGREEMENT (this “Agreement”) is entered into this _1st__ day of July, 2022 (the “Effective Date”) by and between THE PORT OF KENNEWICK (as “Landlord”), a Washington municipal corporation, and RENEWAL BY ANDERSEN, a Washington corporation (as “Tenant”), who are collectively referred to herein as the “Parties.”

RECITALS

WHEREAS, on or about January 1, 2021, the Parties entered into a 2-year lease (the “Lease”) concerning the use of real property and improvements located at 1426 E. 3rd Ave, C101 & C102, Kennewick, WA 99336 (Development Building C Suite C101 & C102), and further amended the Lease on or about November 1, 2021 to include real property and improvements located at 1328 E. 3rd Ave, Bay 5, Kennewick (Development Building D) (collectively, the “Property”); and

WHEREAS, the Tenant is now desiring to lease additional space from Landlord, and the Parties desire to terminate the Lease, and its amendments, and place the Property and other premise leased by Tenant under one lease agreement, which shall be facilitated by using a separate and subsequent lease agreement; and

NOW THEREFORE, for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference into this Agreement as though set forth at length.
2. Lease Termination. The term of the Lease is modified hereby and shall expire upon the execution by the Parties, and the commencement of, a subsequent lease which incorporates and includes the Property (the “Termination Date”). Upon the execution and commencement of such a lease, the Parties agree that the terms and provisions of this Lease shall terminate.
3. Compliance with Obligations. Tenant shall be responsible for all obligations of Tenant under the Lease through and including the Termination Date, including, without limitation, Tenant’s obligation to pay monthly rent, any applicable additional rent, utility charges and all other amounts and charges owing under the Lease.
4. Mutual Release. By this Agreement, effective on the Termination Date and so long as neither party shall be in default under its obligations hereunder, each party hereto releases the other party hereto from all claims, demands, damages, rights, liabilities, and causes of action of any nature whatsoever, whether at law or equity, known or unknown, suspected or unsuspected, which are related

or in any manner incidental to the Lease or the Premises and which first arise out of transactions and occurrences from and after the Termination Date. Each party waives and relinquishes any right or benefit which it has or may have under applicable law regarding waiver of unknown claims to the full extent that it may lawfully waive such rights and benefits. This Agreement shall be and remain in effect as a full and complete release notwithstanding the discovery or existence of any additional or different facts. Notwithstanding the foregoing to the contrary, this Mutual Release is not intended to release or offset actions by either party for claims arising as a result of (i) a breach of the Lease and occurring on or before the Termination Date, (ii) a breach of this Agreement, or (iii) transactions and occurrences on or before the Termination Date.

5. Consultation With Counsel. In executing this Agreement, each party hereto acknowledges that they have consulted with and received the advice of counsel and that the Parties have executed this Agreement after independent investigation and without fraud, duress, or undue influence.

7. Authority of Tenant. Tenant represents and warrants that (i) it is the owner and holder of the Tenant's interest in the Lease and that it has the power, right and authority to execute this Agreement and to carry out the intent hereof, (ii) the execution and delivery of this Agreement shall not violate any agreement, contract, security agreement, lease or indenture to which Tenant is a party or by which it is bound or requires the consent of any party to any of the foregoing and (iii) the Premises, including all improvements and betterments thereto, are unencumbered, free of any security interests, liens, chattel mortgages, leases, lease purchase agreements or any other security or financing devices and, all such installations have been fully paid for.

8. Attorney Fees. If any party initiates legal proceedings to enforce its rights under this Agreement, the substantially prevailing party shall be entitled to reimbursement of its reasonable attorney fees, costs, expenses and disbursements from the other party.

9. Final and Complete Expression. This Agreement is the final and complete expression of the Parties. This Agreement may not be modified, interpreted, amended, waived or revoked orally, but only by a writing signed by the Parties hereto.

10. Severability. If any provision in this Agreement is deemed invalid, then the remaining provisions thereof will continue in full force and effect and will be construed as if the invalid provision had not been a part of this Agreement.

11. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same document.


[Remainder of page left intentionally blank. Signature page to follow.]

Dated as of the Effective Date first written above.

PORT OF KENNEWICK

RENEWAL BY ANDERSEN OF WASHINGTON

By: _____
Tim Arntzen, Port CEO

By: 
Kathryn Marriott (Jul 5, 2022 08:35 PDT)
Kathryn Marriott, President

Reviewed:

By: _____
Nice Kooiker, Port CFO

Approved as to form:

By: _____
Taud Hume, Port Legal Counsel

WAIVED DUE TO COVID

STATE OF WASHINGTON

ss.

COUNTY OF _____

I certify that I know or have satisfactory evidence that _____ 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 _____ of Port of Kennewick, a Washington municipal 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 _____, 2022.

(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 _____, 2022.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

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

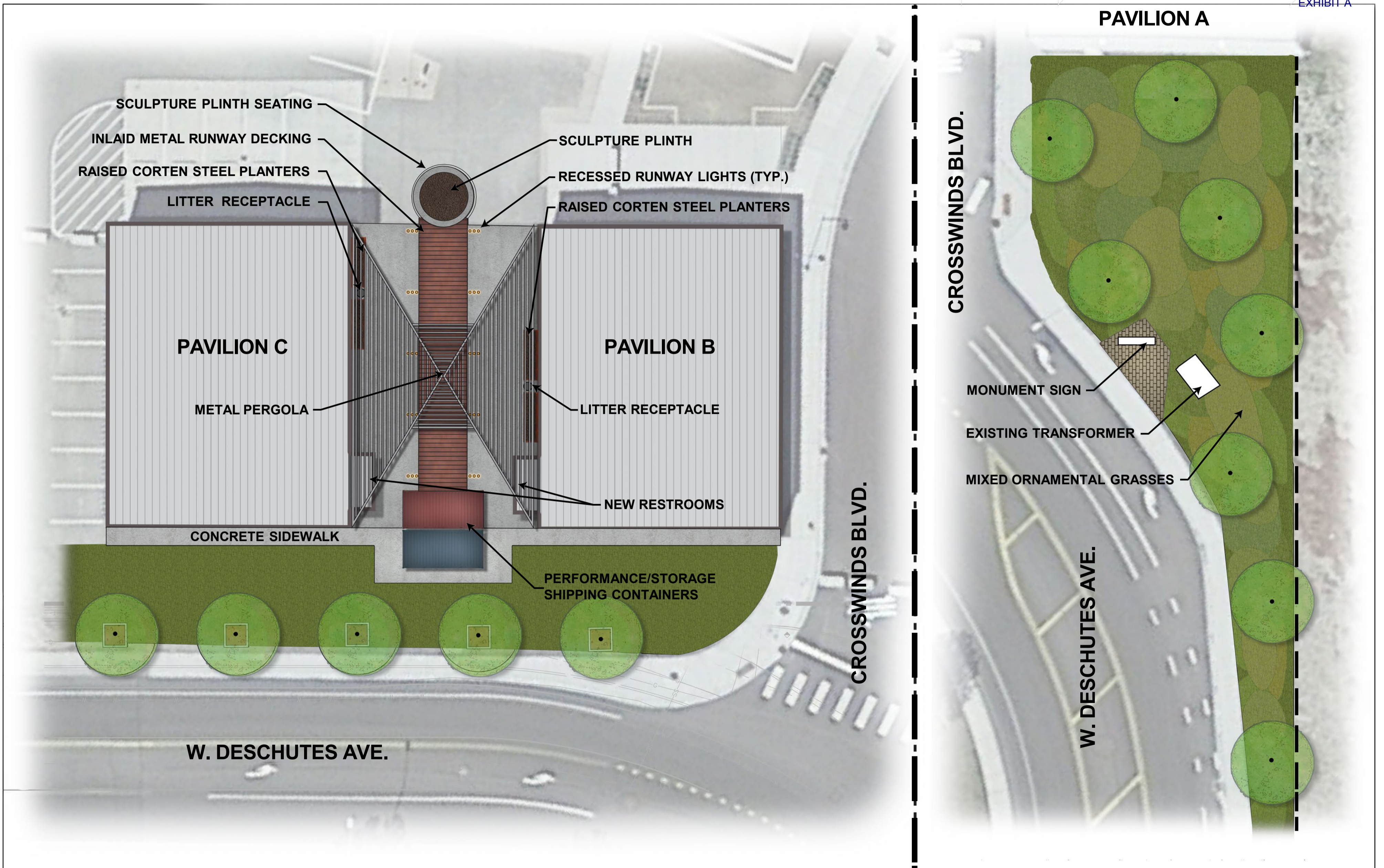
My appointment expires _____

VISTA FIELD HANGARS PUBLIC SPACE CONCEPTUAL DESIGN

7/26/2022

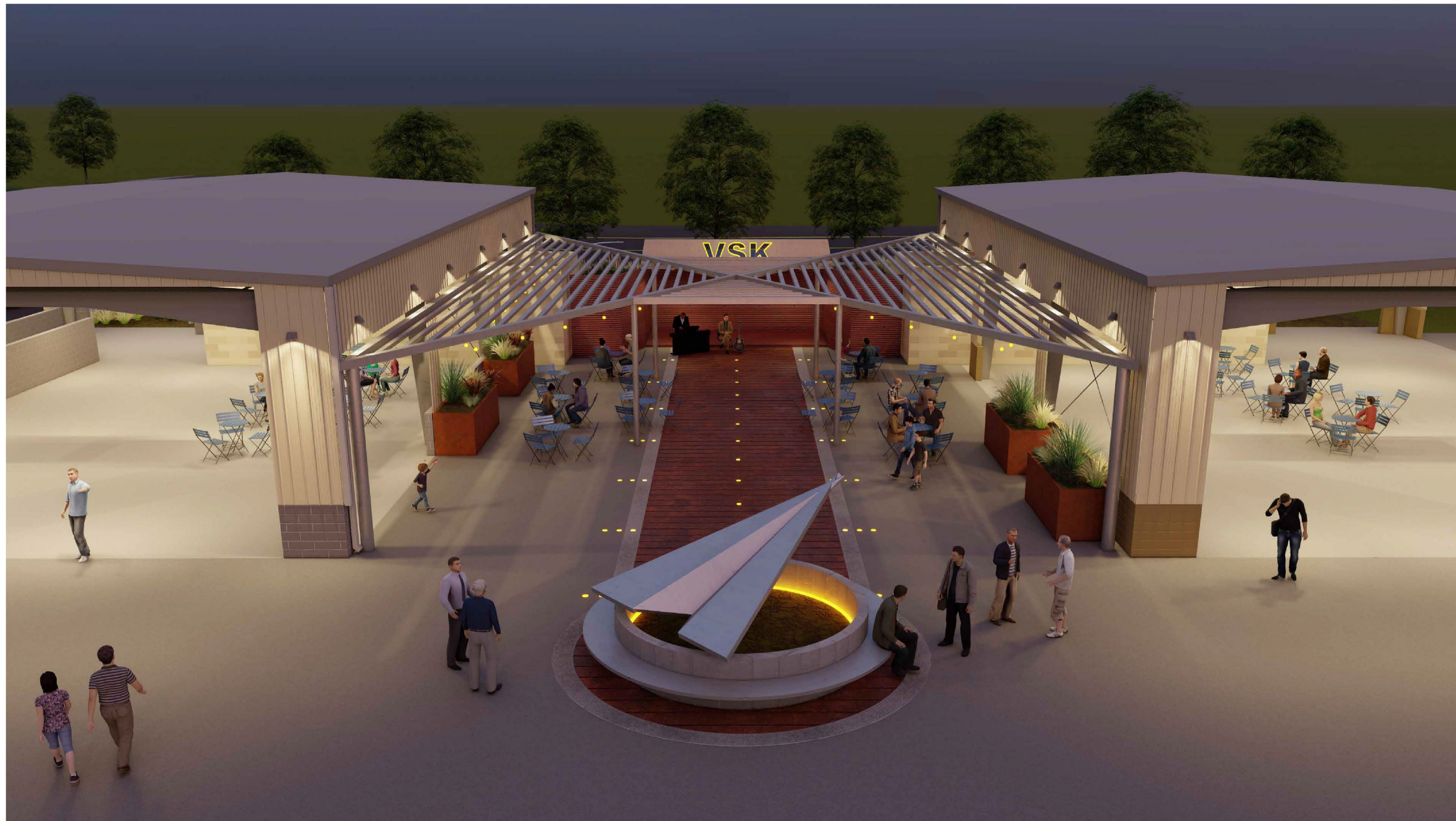












VISTAFIELD

ckjt architects, pllc

128 Vista Way Kennewick WA (509) 783-5444

Parametrix

ENGINEERING. PLANNING. ENVIRONMENTAL SCIENCES





Conceptual Work Plan/Draft Budget 2023- 2024

Start of Process ~ flying at
40,000-feet **30,000 feet**



“Generally speaking, remain on the course charted years ago which focuses nearly all energy on the *Vista Field* and *Kennewick Waterfront redevelopment* projects. The next two years will be spent managing and maintaining those projects to assure they get off the ground.”

CONCEPTUAL WORK PLAN/BUDGET

Initial Thoughts:

- Recognize the amount and magnitude of ongoing work
- Prioritize exemplary finishes to projects in progress
- Recognize projects of district-wide benefit
- Be Transparent, Thoughtful & Judicious in new project selection
- Acknowledge success dependent upon forgoing some projects



Process for Evaluating Future Investment Opportunities

Overview

Consistent with the Port Mission and Goals described above, including the referenced resolution (No. 2014-31) describing Port objectives for budget and financing goals for future Port projects, the Port Commission adopts the following additional policy as part of the 2016 Comprehensive Scheme update. The Port intends to use this process to identify, evaluate, prioritize, and implement its most important future capital projects. The Port Commission recognizes the numerous opportunities regularly proposed for Port consideration must be balanced against available resources, including availability of staff and availability of financial resources. The main components of the Port's Capital Project Prioritization Policy are:

- *Project Identification – Projects will be identified through various sources, including:*
 - The adopted Comprehensive Scheme of Harbor Improvements
 - The adopted biennial budget and work plans
 - Discussions with jurisdictional partners and staff, and the public

- *Project Evaluation* – With the assistance of staff, the Port Commission will prioritize projects based on cost estimate evaluation, cost/benefit analysis, and public demand and other, less easily quantified factors, including jurisdiction priorities, emerging needs and opportunities, supplemental funding for projects partially funded, and public input received.

Organizational Considerations

Review will be conducted to evaluate if the project is consistent with the Port's mission and priorities established in the Comprehensive Scheme and associated documents adopted by reference. Additional considerations would also include:

- Does the project meet an identified need?
- Does the project support Port, community, and/or private-sector economic development objectives?
- Does the project serve multiple user groups?
- Does the project foster or enhance a public/private or public/public partnership?

Fiscal Considerations

Fiscal considerations will also be reviewed as part of determining whether the Port will invest in future opportunities:

- What are the costs of the project, including initial costs, maintenance costs, and lifecycle costs?
 - How were costs calculated and by whom (finance director, Certified Public Accountant, Certified Financial Planner, economic planner, or others)?
- Does the Port have the financial and organizational capacity to undertake and manage the project?
- Can the project leverage public or private resources with other partners and funds to maximize benefits?
- Does the project have a positive ROI?
- Would the project increase the tax base, increase revenues to the Port, contribute to the vitality of the community, and help attract regional and national tourism?

Social/Environmental/Legal Considerations

Social, environmental, and legal considerations will also be reviewed:

- Is the community involved and supportive of this project?
- If the project is not implemented, will a strategic opportunity be lost?
- Is the project appropriate for the proposed site's natural systems, topography, and/or neighboring land uses?
- Are there potential adverse impacts associated with the project?
- Does the project comply with all federal, state, or local government laws or regulations?

Project Design, Planning, and Readiness

Design, planning, and project readiness considerations will also be reviewed:

- Does the site or project require extraordinary or unique purchase cost, architectural/engineering, or other efforts or commitments of financial or staffing resources?
- Is the project ready (e.g., design completed and permits in hand)?
- Is there a reasonably foreseeable user for the project (i.e. "bird in hand")?

Project Evaluation

Initial project screening shall begin with staff providing a brief description of each project. The Port Commission shall then review, evaluate, and rank each project based on the above criteria. High-priority projects shall be incorporated into the draft work plan.

PROPOSED WORK PLAN/BUDGET The Five Pillars

I. CURATE, IMPLEMENT, OPERATE

a) ~~Vista Field Loan Repayments~~

b) Vista Field

c) Wine Village

d) Clover Island

e) Owner's Associations (Vista Field & Columbia Gardens)

PROPOSED WORK PLAN/BUDGET The Five Pillars

II. STREAMLINED SUPPORT & SHARPENING FOCUS

- a) Richland -- \$ for Richland priority project (City designs, permits, bids & builds)
- b) West Richland -- \$ for West Richland priority project (City designs, permits, bids & builds)
- c) Auction ALL surplus land **as approved by Commission resolution**

PROPOSED WORK PLAN/BUDGET The Five Pillars

III. PREPARATION FOR NEXT PHASE IMPROVEMENTS (A/E Work)

- a) Vista Field Infrastructure, Phase II
- b) Vista Field Corporate Hangars Revitalization
- c) Clover Island Stage
- d) Port Maintenance Facility

PROPOSED WORK PLAN/BUDGET The Five Pillars

IV. FUND AND CONSTRUCT

- a) Vista Field Joint-Use Parking Areas (contractual requirement of land sale)
- b) Vista Field Corporate Hangars Revitalization (lean)
- c) Vista Field Landscaping (Deschutes Gateway & Daybreak Commons)
- d) Vista Field Infrastructure, Phase II (creating additional saleable lots) provided City of Kennewick funding partnership
- e) Clover Island Stage/Parking Lot (pending USACE approval and any required stabilization)

PROPOSED WORK PLAN/BUDGET The Five Pillars

V. POSSIBLE FUTURE FUNDING

- a) West Richland: ~~Development Building~~/Amenities
- b) ~~Kennewick: South of Southridge: Industrial Park~~
- c) Vista Field Parking Structure

CONCEPTUAL WORK PLAN/BUDGET

Proposed Budget:

• VF Hangars, Landscaping, Surface Parking	\$4,000,000 RCCF
• Vista Field Infrastructure, Phase II	\$2,000,000 CoK RCCF
• Richland	\$
• West Richland	\$
• Owners' Association(s) Seed Funding	\$
• Port Maintenance Facility	\$
• Clover Island Stage/Parking Lot	\$
• VFDF Building Repair	\$

Questions:

1. Will City of Kennewick fund Vista Field Infrastructure?
2. Can a stage be built without further east end shoreline work?

Proposal Submission Checklist

Offers to purchase Port of Kennewick property will be submitted by the prospective purchaser to Port staff in writing and dated through a Letter of Intent (LOI). A valid offer must be signed upon submission and contain all information set forth below. Non-complying offers will be returned without processing¹.

Additional due diligence may be requested of potential buyer and/or builder. The Port of Kennewick Commission reserves the right to reject any and all proposals at its discretion.

What Should I Include in My Letter of Intent?

- ☐ Identify the full legal name of the offering party and be executed by the offering party or its authorized representative.
- ☐ Identify the party to use and occupy the property, if different from the offering party.
- ☐ Legally describe the property subject to the offer.
- ☐ Indicate the total offer price (not less than Port of Kennewick Commission-approved pricing).
- ☐ Indicate any terms for payment of purchase price.
- ☐ Identify any proposed contingencies.
- ☐ Identify a proposed closing date.
- ☐ Detail the proposed use of the property and timing for any construction or development.
- ☐ Identify the size and type of building to be erected, if applicable.
- ☐ Include rough sketches, design precedents and/or illustrations.
- ☐ Include schematic designs: Specific site design and layout, with setbacks at 1" = 20' scale, preliminary elevations at 1/8" = 1'0" scale, roof forms (building massing).

Buyer Background²

A buyer wishing to build in Vista Field shall provide background information and the proposed development concept for the parcel.

A buyer shall address the following:

- ☐ Financial capability, as evidenced by a letter of credit or other acceptable means, as confirmation of its ability to complete its proposed development, including a description of funding sources for property acquisition and construction of infrastructure and facilities.
- ☐ A list of the buyer's key personnel anticipated to participate in the development, including a summary of their relevant experience.
- ☐ A list of design team members, including the principal or builder, and a licensed architect.
- ☐ Relevant experience with similar development projects, including:
 - a. Project name, location, and description.
 - b. Color images or other graphics depicting the project.
 - c. Total project budget and budget per phase (if applicable).
 - d. Budget funding sources – equity partner, development lender, permanent lender, etc.
 - e. The total duration of project development and details regarding whether the project schedule was met.
 - f. Brief description of the development process.
 - g. Consultants and contractors utilized and the role of each.
 - h. Major tenants (if applicable).
- ☐ A list and a short description of all litigation and/or claims that the buyer (or any entity or individual named in the buyer's proposal) is currently or in the last 10 years was a named party (if any), including a description of how the litigation and/or claim was resolved.
- ☐ A list of past community, charitable and/or civic contributions.
- ☐ A minimum of three references, one of which shall be a financial institution.

Builder Experience²

A builder wishing to construct in Vista Field shall submit a Statement of Qualifications describing the builder's experience and the proposed development concept for the parcel.

In describing its **experience**, the builder shall address the following:

- ☐ Demonstrated experience with municipal planning and permitting processes.
- ☐ Demonstrated experience with "New Urbanism," Smart Growth," "Green Building," or similar development principles (if any).
- ☐ Relevant experience with similar development projects, including:
 - a. Project name, location, and description.
 - b. Color images or other graphics depicting the project.
 - c. Total project budget and budget per phase (if applicable).
 - d. Budget funding sources – equity partner, development lender, permanent lender, etc.
 - e. Total duration of project development and details regarding whether the project schedule was met.
 - f. Brief description of the development process.
 - g. Consultants and contractors utilized and the role of each.
 - h. Major tenants (if applicable).
- ☐ A list and a short description of all litigation and/or claims that the builder (or any entity or individual named in the builder's proposal) is currently or in the last 10 years was a named party (if any), including a description of how the litigation and/or claim was resolved.
- ☐ A minimum of three references, one of which shall be a financial institution.



AGENDA REPORT

TO: Port Commission

FROM: Amber Hanchette, Director of Real Estate & Operations

MEETING DATE: August 9, 2022

AGENDA ITEM: Port of Kennewick Vista Field Design Standards Format Update

I. REFERENCE(S):

Resolution 2022-21
Resolution 2021-23;
Vista Field Design Standards dated June 27, 2022

II. DISCUSSION: Staff has been working with DPZ CoDesign team of Matt Lambert and Heather Wassell to simplify the document format for the Vista Field Design Standards to make it more user friendly for the reader through consolidation of text and expanded illustrations.

At this time the content has not changed from the design standards approved through Resolution 2021-23 just the format. As development progresses adjustments may be made to the Design Standards to reflect changing conditions and new neighborhood areas.

III. ACTION REQUESTED OF COMMISSION:

Commission to approve Vista Field Design Standards format update and allow future adjustments to the document.

MOTION: I move approval of Resolution 2022-21 approving and adopting Vista Field Design Standards format update; and ratify and approve all action by port officers and employees in furtherance hereof; and authorize the port Chief Executive Officer to take all action necessary in furtherance hereof.

PORT OF KENNEWICK

RESOLUTION No. 2022-21

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK APPROVING THE
VISTA FIELD DESIGN STANDARDS FORMAT UPDATE***

WHEREAS, the Vista Field Design Standards document has been updated by DPZ CoDesign in an effort to consolidate text, add illustrations and streamline content for the reader.

WHEREAS, as development progresses at Vista Field adjustments may be made to the Vista Field Design Standards in order to reflect changing conditions and new neighborhood areas.

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves and adopts the Vista Field Design Standards in its updated format as prepared and revised by DPZ CoDesign (Exhibit A).

BE IT FURTHER RESOLVED that the Port of Kennewick Board of Commissioners hereby ratify and approve all action by port officers and employees in furtherance hereof; and authorize the Port Chief Executive Officer to take all action necessary in furtherance hereof.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 9th day of August, 2022.

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

By: _____

SKIP NOVAKOVICH, President

By: _____

KENNETH HOHENBERG, Vice President

By: _____

THOMAS MOAK, Secretary



VISTA FIELD DESIGN STANDARDS

June 27, 2022



Michael Mehaffy, Structura Naturalis
Laurence Qamar, Qamar and Associates
Doris S. Goldstein, Walkable Mixed-Use

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VISTA FIELD DESIGN STANDARDS

Contents

Section 1: Introduction5

Section 2: Definitions9

Section 3: Regulating Plan..... 11

Section 4: Building Types 13

Section 5: Development Regulations31

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VISTA FIELD DESIGN STANDARDS

SECTION 1: INTRODUCTION

1.1 GENERAL

The Vista Field Design Standards produce a visual identity that emerges from the location, climate, and history of its site. The Design Standards guide the implementation of the Vista Field Master Plan.

The goal of the Master Plan and Design Standards is to enable a walkable, connected community. Workplace, retail and entertainment, and housing for a variety of ages and incomes are all in close proximity, with appealing open spaces and gathering places. Buildings designed individually contribute to a harmonious whole and combined with the Vista Field streets create a comfortable and interesting public realm of shared spaces.

The interface between the private properties and the public realm determines the community's physical character. Perceived in the streets and squares, and in views established for public benefit, this harmony in the public realm is the aim of the urban, architecture, and landscape that follow.

Other goals include sustainability and climate resilience, in consideration of the health of natural systems and human well-being. This is reflected in a master plan and building types intended to reduce use of non-renewable resources: a compact, mixed-use pedestrian friendly plan to reduce automobile dependence for daily activities, buildings scaled to allow cross-ventilation, and construction materials and methods specified for longevity in a dry climate.

These Design Standards for the first phase of Vista Field intentionally allow room for exploration and experimentation. With the help of the Town Architect, the first buyers and their architects will design buildings and other improvements that carry out the themes established by the Design Standards. This collaboration will serve as a learning process for the community, further defining what works well with the Master Plan and environment, what creates the community's identity, and what is most beautiful. Future iterations of these Design Standards will integrate that wisdom and expand that knowledge to a larger number of building types than what is available in the first phase.

1.2 LIST OF STANDARDS

The Design Standards for Vista Field consist of four components to be used together to implement the community vision:

Section 2. Definitions: capitalized terms apply wherever used in the Design Standards.

Section 3. Regulating Plan: a map showing the lots, building types, and space in-between.

Section 4. Building Types: graphic design instructions for each building type, corresponding to the Development Regulations. For this first phase, there are a limited number of building types. The illustrations are intended to show possible configurations and to serve as inspiration, with the actual design to be developed by lot owners and their architects in cooperation with the Town Architect.

Section 5. Development Regulations: text that regulates those aspects of buildings which affect the public realm, guiding building placement, facades and elevations, attachments and landscapings, and parking and service areas. Development Regulations also specify the materials and design requirements for walls, roofs, openings, and other building elements, intended to produce visual compatibility among disparate building types, and promote a unique identity for the community. These Standards relate to the vernacular building traditions of the region, thus inheriting a suitable response to the climate.

Together, the Design Standards address the quality and character of buildings, landscape, and public spaces of Vista Field. The relatively high degree of specificity in these Standards will ensure that investments in homes and businesses are supported by the consistent and predictable development undertaken by others. The highest quality of design and construction is desired. Poorly proportioned or executed details are unacceptable.

These standards follow Federal Plain Language guidance. Provisions are activated by terms such as “must”, “is”, “are”, or other direct terminology or sentence structure. Provisions utilize “should” for standards that are recommended and “may” for standards that are optional.

1.3 AUTHORITY

The Design Standards, the role of the Town Architect (TA), and the requirement for design review are all established under the Declaration of Covenants, Conditions and Restrictions for Vista Field, recorded or to be recorded in the public records of Benton County, Washington (the “Declaration”), which is binding upon all purchasers of property within Vista Field. The Declaration requires review and approval of all plans to build any type of improvements within Vista Field, including choice of materials and of any modifications of those plans. The Declaration also allows for enforcement.

For the Vista Field development, the Design Standards take precedence over other typical regulations. In matters of health and safety, the City of Kennewick, State of Washington and national regulations take precedence.

The City of Kennewick, WA Code of Ordinances Mixed-Use Design Standards District that includes standards for street frontage, blocks, site design, and building design, prevails in case of a conflict.

1.4 USES

Vista Field mixes residential and commercial uses within a block and often within a building. The Design Standards anticipate that a well-designed building can have many possible uses, and that uses may evolve over time.

Building types describe in general terms the kinds of uses expected. Variations from these building types are subject to TA approval. The Vista Field Declaration of Covenants, Conditions and Restrictions for Commercial Property (the “Commercial Declaration”) further regulates types and mixtures of commercial uses.

Temporary exterior commercial uses, seating, dining, and displays in shopfront setbacks, where permitted under the Commercial Declaration, are subject to approval of the TA.

1.5 ADMINISTRATION

As further described in Part VII of the Declaration, the Vista Field Town Architect (TA) administers these Standards, and all relevant approvals. Properties and improvements are required to conform to the Vista Field Design Standards unless an exception is granted in writing.

Exceptions to these Standards may be approved by the Town Architect on the basis of architectural merit, site conditions, and other extenuating or unusual circumstance, and as described in the Declaration. Where appropriate, the design intention of the Design Standards and the Regulating Plan may support an exception to these Standards. Each exception is considered unique and does not set a precedent for future exceptions. A specific description of each deviation must be clearly recorded in writing prior to the start of construction.

Design review forms and procedures are available from the Port of Kennewick.

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SECTION 2: DEFINITIONS

Alley: a vehicular way designated to be a secondary means of vehicular access to the rear or side of properties; an alley may connect to a vehicular driveway located to the rear of lots providing access to outbuildings, service areas and parking, and may contain utility easements.

Awning: a fixed or movable shading structure, cantilevered or otherwise entirely supported from a building, used to protect outdoor spaces from sun, rain, and other natural conditions. Awnings are typically used to cover outdoor seating for restaurants and cafes.

Basement: Any story that does not extend above sidewalk elevation by more than 3 ft. Basements do not count as stories when calculating building height.

Block: the aggregate of private lots, passages, and alleys, circumscribed by streets.

Build-to Line: a line on the Regulating Plan at which the building facade is required to be placed.

Building Height: the vertical extent of a building measured in feet or stories.

Building Type: the categorization of a building according to its location on the master plan and its relationship to public space such as the street it faces.

Civic: the term defining organizations dedicated primarily to community benefit through the arts, culture, education, recreation, government, transport, and municipal parking.

Civic Building: a building operated by a civic organization or other community-benefit public use.

Elevation: an exterior wall of a building not facing a frontage. See: facade.

Floor Elevation: the height of a floor level.

Encroachment: any building element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, or into the public frontage.

Exception: a ruling that would permit a practice that is not consistent with a specific provision of this Code, but that is justified by its intent.

Facade: the exterior wall of a building facing a frontage line. See elevation.

Frontage: the area between a building facade and the vehicular lanes, inclusive of its built and planted components. Frontage is divided into private frontage and public frontage which are defined below.

Frontage Line: a lot line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other lot lines. Lots at intersections have multiple frontage lines.

Liner Building: a building which screens parking and services areas from view from public frontages. Liner buildings are usually relatively shallow in depth and shorter than the principal building.

Lot: a parcel of land accommodating a building or buildings of unified design.

Lot Line: the boundary that legally and geometrically demarcates a lot.

Lot Width: the length of the principal frontage line of a lot.

Outbuilding: an accessory building, usually located toward the rear or the front of the same lot as a principal building; connected to or separated from the principal building.

Parking Lot or Area: A designated space for vehicle access and arrival, with or without access to a garage.

Pedestrian Passage: a way providing public pedestrian access.

Porch: An exterior roofed space attached to a building.

Principal Building: the main building on a lot, usually located to face and be entered from a street.

Private Frontage: the private lot area between the frontage line and the principal building facade.

Public: wherever used in these Design Standards, the word “public” refers to areas that are shared with others in the general community but does not mean that the areas are necessarily dedicated to the public nor does it confer any rights in the general public.

Public Frontage: the area between the street pavement and frontage lines, typically consisting of a sidewalk and planting area. In the case of shared space streets and plazas, the public frontage includes the entire space.

Regulating Plan: a map or set of maps that shows building type assignments, build-to lines, civic zones, streets, special districts if any, and special requirements if any, of areas subject to regulation by these guidelines.

Setback: the area of a lot measured from the lot line to a building facade or elevation that is maintained clear of permanent structures, with the exception of encroachments.

Shopfront: a portion of a building facade that is designed for commercial use.

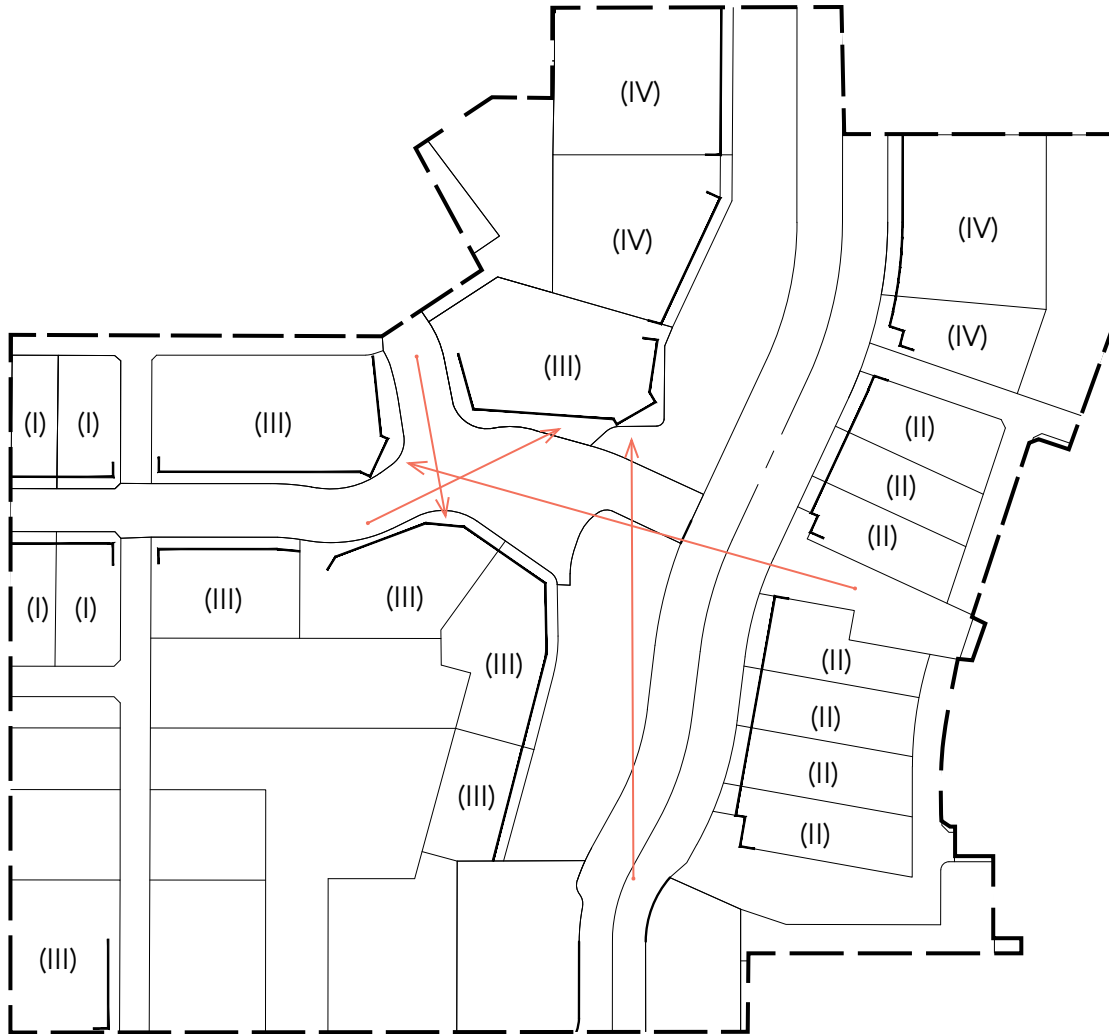
Sidewalk: the paved or graveled section of the public frontage dedicated exclusively to pedestrian activity.

Story: a habitable level within a building, excluding an attic or raised basement.

Streetscreen: a freestanding wall built along the build-to line or coplanar with building facades intended to shield vehicular and service areas from view along sidewalks.

Terminated Vista: a location visible at the end of a street or other public space. Terminated Vistas are often focal points in a community, serving as landmarks or points of interest.

SECTION 3: REGULATING PLAN



Regulating Plan

Vista Field Phase 1

- Phase 1 Boundary
- Build-To-Line
- ← Terminated Vistas
- (I) Type I: Residential
- (II) Type II: Live Work
- (III) Type III: Mixed Use
- (IV) Type IV: Main Street

Scale
0 50 100 200 feet



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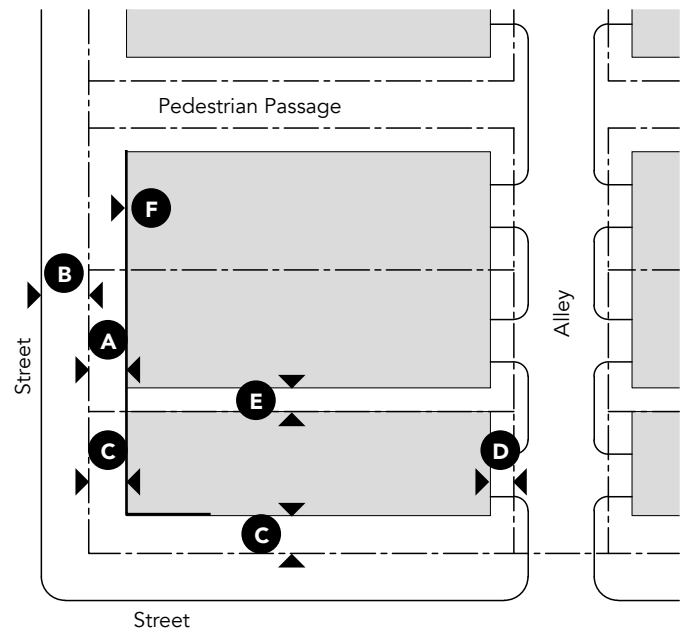
SECTION 4: BUILDING TYPES

Type I. Residential: two stories, single-family houses. Townhouses, cottage courts, and small apartment houses may be included in later phases.

Type II. Live Work: two to three stories, with individual identity, business space at ground level, and residential use behind and above.

- A. Private Frontage
- B. Public Frontage
- C. Front Setback
- D. Rear Setback
- E. Interior Side Setback
- F. Build-To Line

Figure 4.A: Building Types I & II

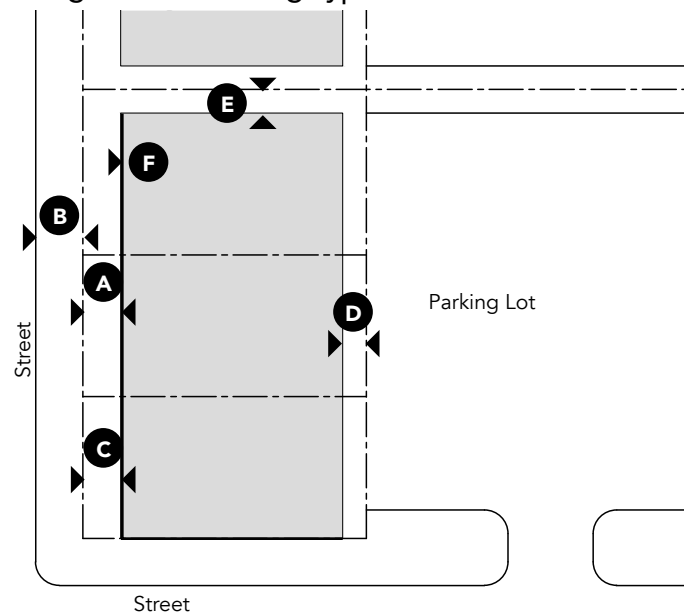


Type III. Mixed Use: two to three stories, with restaurant, retail, and service space below, and commercial or residential uses above.

Type IV. Main Street: one to two stories, welcoming a variety of business and residential uses.

- G. Private Frontage
- H. Public Frontage
- I. Front Setback
- J. Rear Setback
- K. Interior Side Setback
- L. Build-To Line

Figure 4.B: Building Types III & IV



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4.1 BUILDING TYPE I: RESIDENTIAL

Type I Residential allows single family houses, attached (townhome), semi-detached (duplex), and fully stand alone, on a single lot, with alley-accessed parking.

Use:	Residential						
Lot Width:	20 ft. minimum, 100 ft. maximum						
Lot Depth:	50 ft. minimum						
Building Setbacks:	<table> <tr> <td>Front:</td><td>8 ft. max. or as specified in the Regulating Plan, along a minimum of 50% of frontage lines.</td></tr> <tr> <td>Sides:</td><td>0 ft. interior side for attached buildings or 5 ft. minimum where not attached</td></tr> <tr> <td>Rear:</td><td>5 ft. minimum</td></tr> </table>	Front:	8 ft. max. or as specified in the Regulating Plan, along a minimum of 50% of frontage lines.	Sides:	0 ft. interior side for attached buildings or 5 ft. minimum where not attached	Rear:	5 ft. minimum
Front:	8 ft. max. or as specified in the Regulating Plan, along a minimum of 50% of frontage lines.						
Sides:	0 ft. interior side for attached buildings or 5 ft. minimum where not attached						
Rear:	5 ft. minimum						
Building Height:	<p>35 ft. maximum</p> <p>3 stories</p>						
Parking:	Alley access, garage or parking pad						

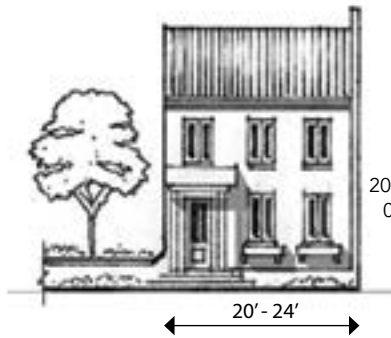
Additional Standards:

- Build-to lines for individual buildings are according to the Regulating Plan.
- Porches, stoops, and lightwells for basement windows may encroach into front and side street setbacks, up to 2 feet from the frontage line. Balconies and bay windows may encroach into the front, side street, and rear setback up to 50%.
- Walls or fences are required as follows:
 1. Required along shared side property lines, between the front and rear setbacks;
 2. Required in alignment with facades enclosing yards; and
 3. Are limited to 6 ft. in height, maximum.
- Facades must include 30% minimum glazing.



4.1 BUILDING TYPE I: RESIDENTIAL

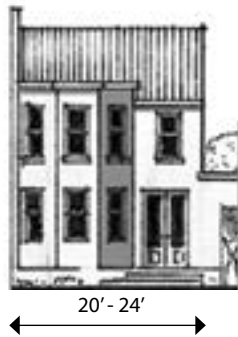
Figure 4.1.A: Illustrative Elevations



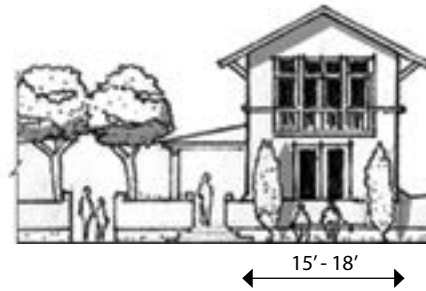
TYPE I
A
20 ft. lot width min.
0 ft. side setback



TYPE I
E
30 ft. lot width min.
0 ft. side setback



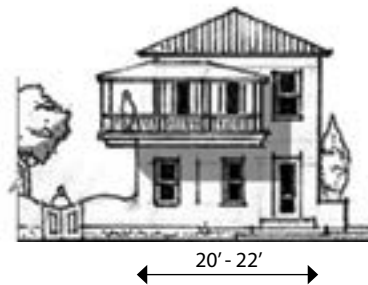
TYPE I
B
20 ft lot width min.
0 ft. side setback



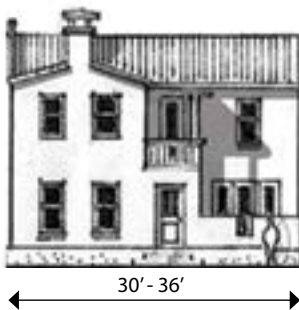
TYPE I
F
35 ft. lot width min.
5 ft. side setback min.
both sides



TYPE I
C
25 ft. lot width min.
0 ft. side setback



TYPE I
G
35 ft. lot width min.
5 ft. side setback min.
both sides



TYPE I
D
30 ft. lot width min.
0 ft. side setback



TYPE I
H
35 ft. lot width min.
5 ft. side setback min.
both sides

4.1 BUILDING TYPE I: RESIDENTIAL

Figure 4.1.B: Illustrative Elevation and Plans



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4.2 BUILDING TYPE II: LIVE-WORK

Type II Live-Work Building allows residential and commercial uses of a small scale on a single lot, with alley-accessed parking. This type serves as a transitional type between commercial and residential uses. It is intended to facilitate small businesses, working at home, and to encourage incubation of new businesses.

Use:	Residential, commercial
Lot Width:	25 ft. minimum, 50 ft. maximum
Lot Depth:	50 ft. minimum
Building Setbacks:	<p>Front: 8 ft. max. or as specified in the Regulating Plan, along a minimum of 50% of frontage lines.</p> <p>Sides: 0 ft. interior side for attached buildings or 5 ft. minimum where not attached</p> <p>Rear: 5 ft. minimum</p>
Building Height:	<p>35 ft. maximum</p> <p>3 stories</p>
Parking:	Alley access, garage or parking pad, or rear access shared parking lot

Additional Standards:

- Build-to lines for individual buildings are according to the Regulating Plan.
- Porches, stoops, and light wells for basement windows may encroach into front and side street setbacks, up to 2 ft. from the frontage line. Balconies and bay windows may encroach into the front, end unit side, and rear setback up to 50%.
- Walls or fences are required as follows:
 1. Required along shared side property lines, between the front and rear setbacks;
 2. Required in alignment with facades enclosing yards; and
 3. Are limited to 6 ft. in height, maximum.
- Facades must include 40% minimum glazing.

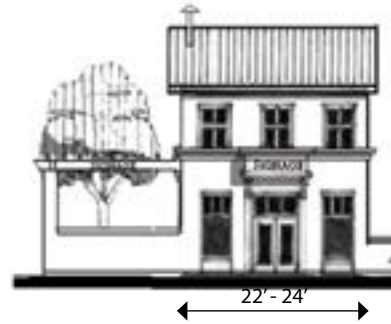


4.2 BUILDING TYPE II: LIVE WORK

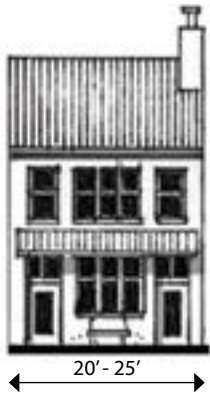
Figure 4.2.A: Illustrative Elevations



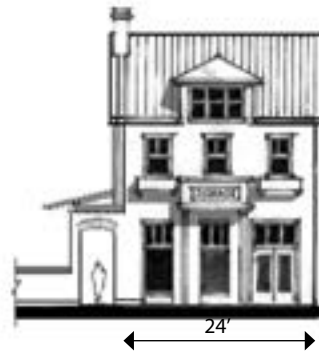
TYPE II
A
30 ft. lot width min.
0 ft. side setback



TYPE II
E
30 ft. lot width min.
0 ft. side setback



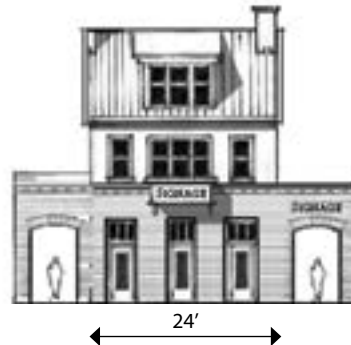
TYPE II
B
25 ft. lot width min.
0 ft. side setback



TYPE II
F
30 ft. lot width min.
0 ft. side setback



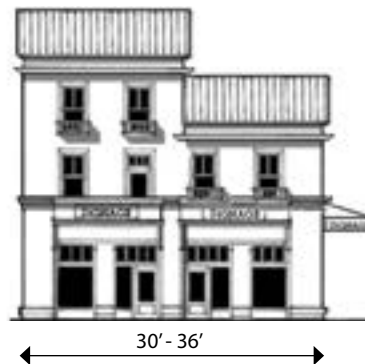
TYPE II
C
25 ft. lot width min.
0 ft. side setback



TYPE II
G
40 ft. lot width min.
0 ft. side setback



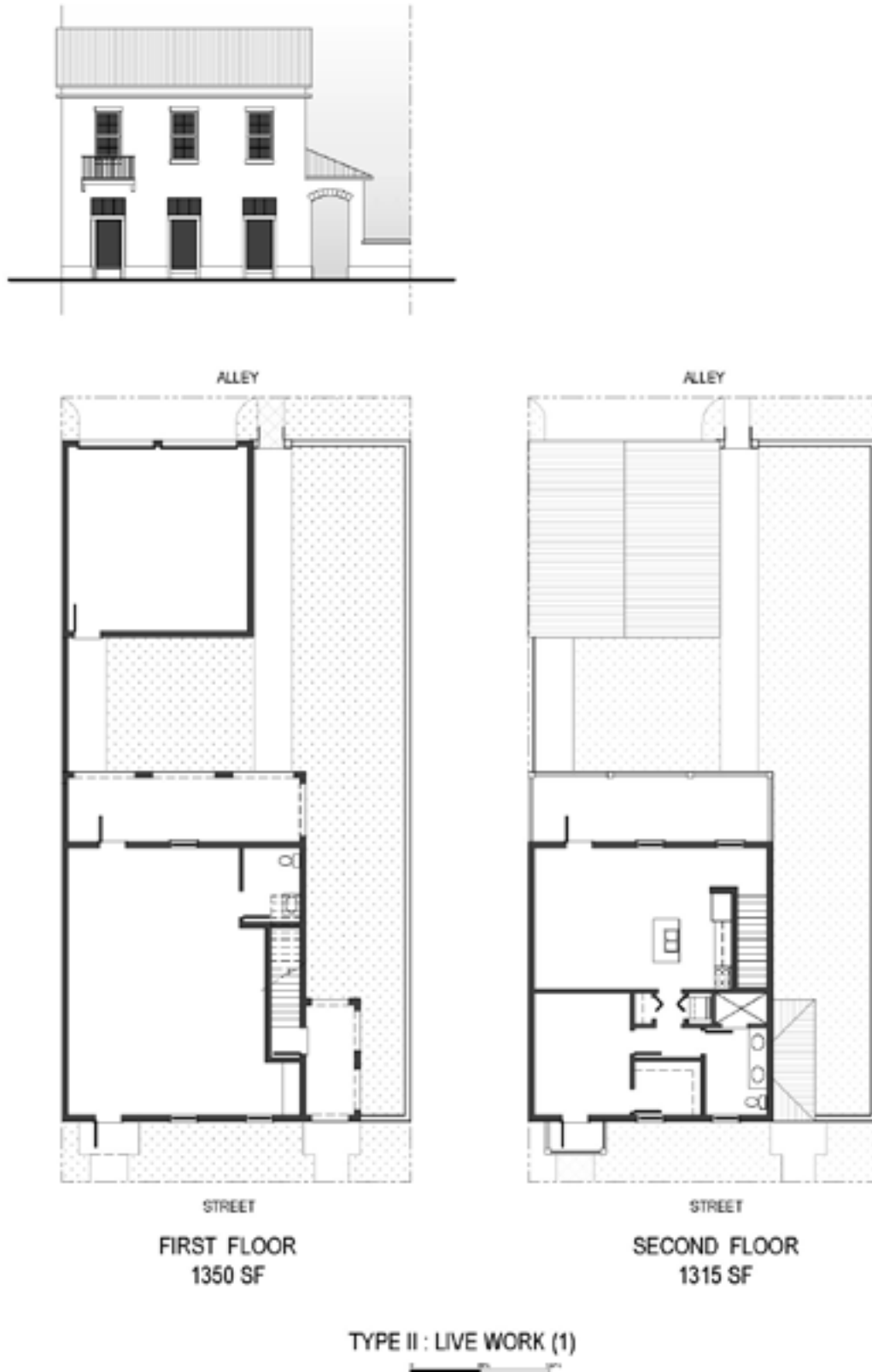
TYPE II
D
30 ft. lot width min.
0 ft. side setback



TYPE II
H
30 ft. lot width min.
0 ft. side setback

4.2 BUILDING TYPE II: LIVE WORK

Figure 4.2.B: Illustrative Elevation and Plans



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4.3 BUILDING TYPE III: MIXED USE

Type III Mixed Use allows a flexible arrangement of commercial and residential uses with alley access or shared lot parking.

Use: Retail, office, services, and residential

Lot Width: 20 ft. minimum, 200 ft. maximum

Lot Depth: 50 ft. minimum

Building Setbacks:

Front:	0 ft. min. and 8 ft. max. or as specified in the Regulating Plan, along a minimum of 70% of frontage lines.
Sides:	0 ft.
Rear:	5 ft. minimum

Building Height:

45 ft. maximum

2 stories minimum and 3 stories maximum

Buildings along Deschutes Avenue may be single-story.

Minimum first floor finished height 14 ft.

Parking: Rear access shared parking lot

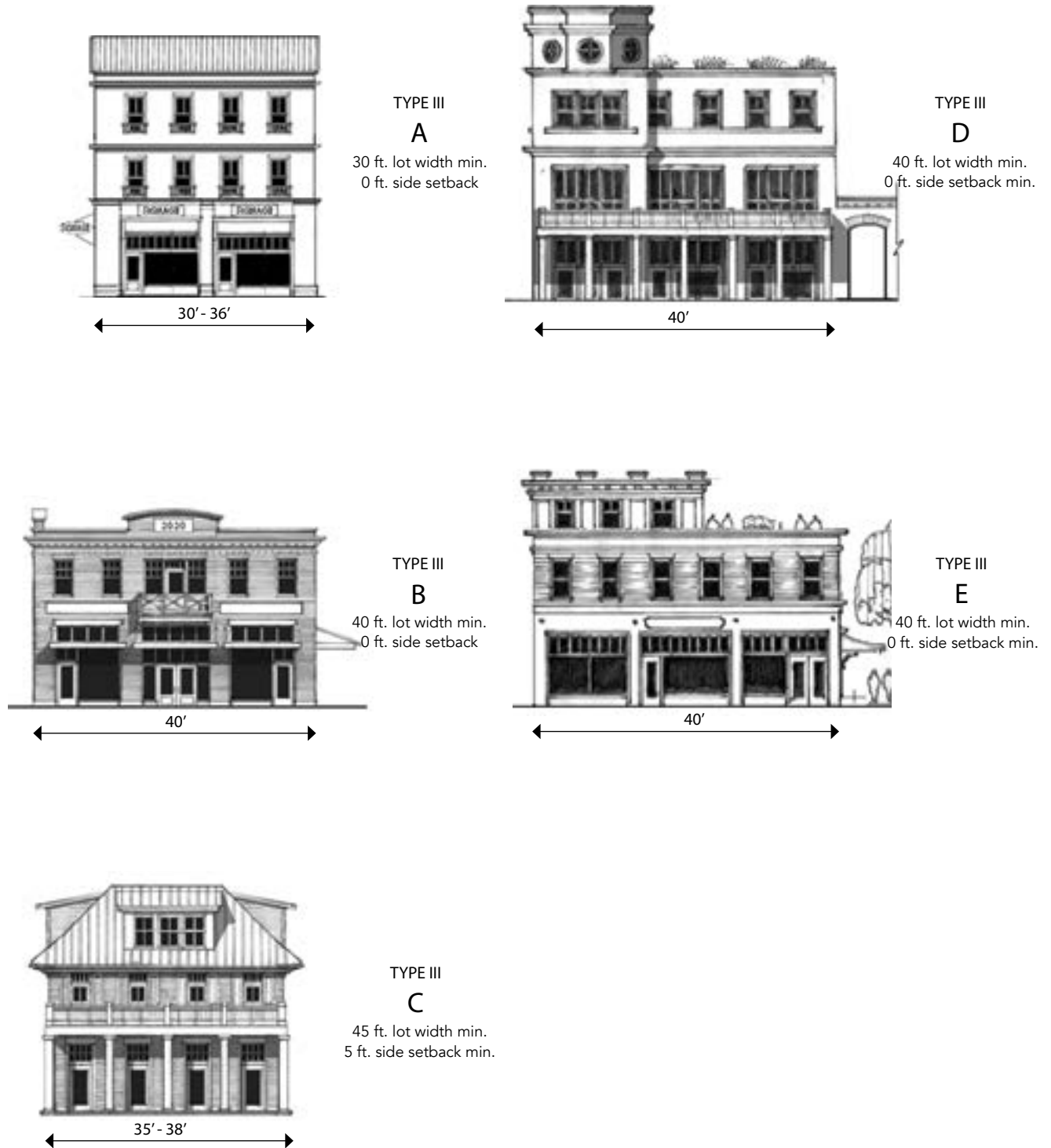
Additional Standards:

- Adjacent to residential Type I, a ground floor residential use with at-grade ADA level entry is acceptable.
- Build-to lines for individual buildings are according to the Regulating Plan.
- Balconies and bay windows may encroach into the front, side, and rear setback up to 50%.
- Retractable awnings and canopies may encroach into setbacks and beyond front property line, by approval of the TA.
- Facades must include 30% minimum glazing at the upper floors. First floor facades must include 60% minimum glazing.



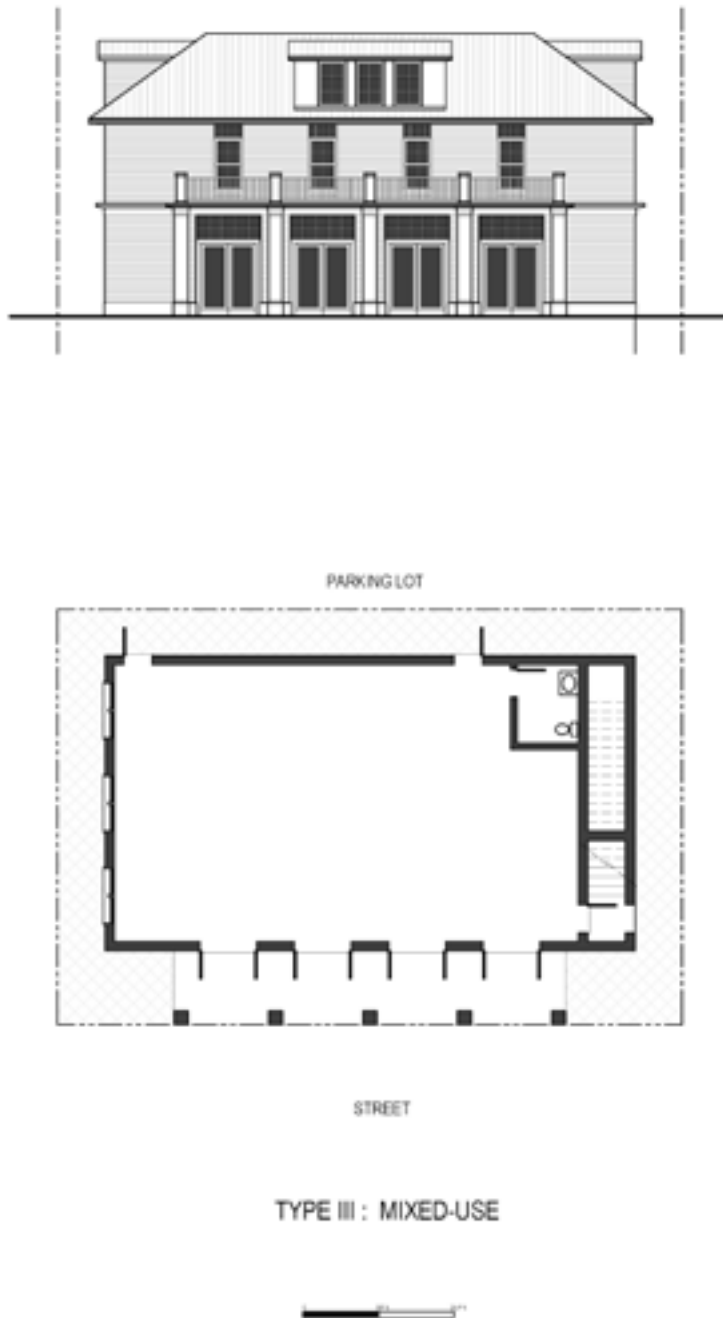
4.3 BUILDING TYPE III: MIXED USE

Figure 4.3.A: Illustrative Elevations



4.3 BUILDING TYPE III: MIXED USE

Figure 4.3.B: Illustrative Elevation and Plan



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4.4 BUILDING TYPE IV: MAIN STREET

Type IV Main Street allows retail use at ground level with or without upper story commercial or residential uses in a single structure, with alley access or shared lot parking.

Use:	First floor retail, office, and services	
	Second floor office, services, and residential	
Lot Width:	20 ft. minimum, 150 ft. maximum	
Lot Depth:	50 ft. minimum	
Building Setbacks:	Front:	0 ft. min. and 8 ft. max. or as specified in the Regulating Plan, along a minimum of 70% of frontage lines.
	Sides:	0 ft.
	Rear:	5 ft. minimum
Building Height:	35 ft. maximum	
	2 stories maximum	
	Minimum first floor finished height 14 ft.	
Parking:	Rear access shared parking lot	

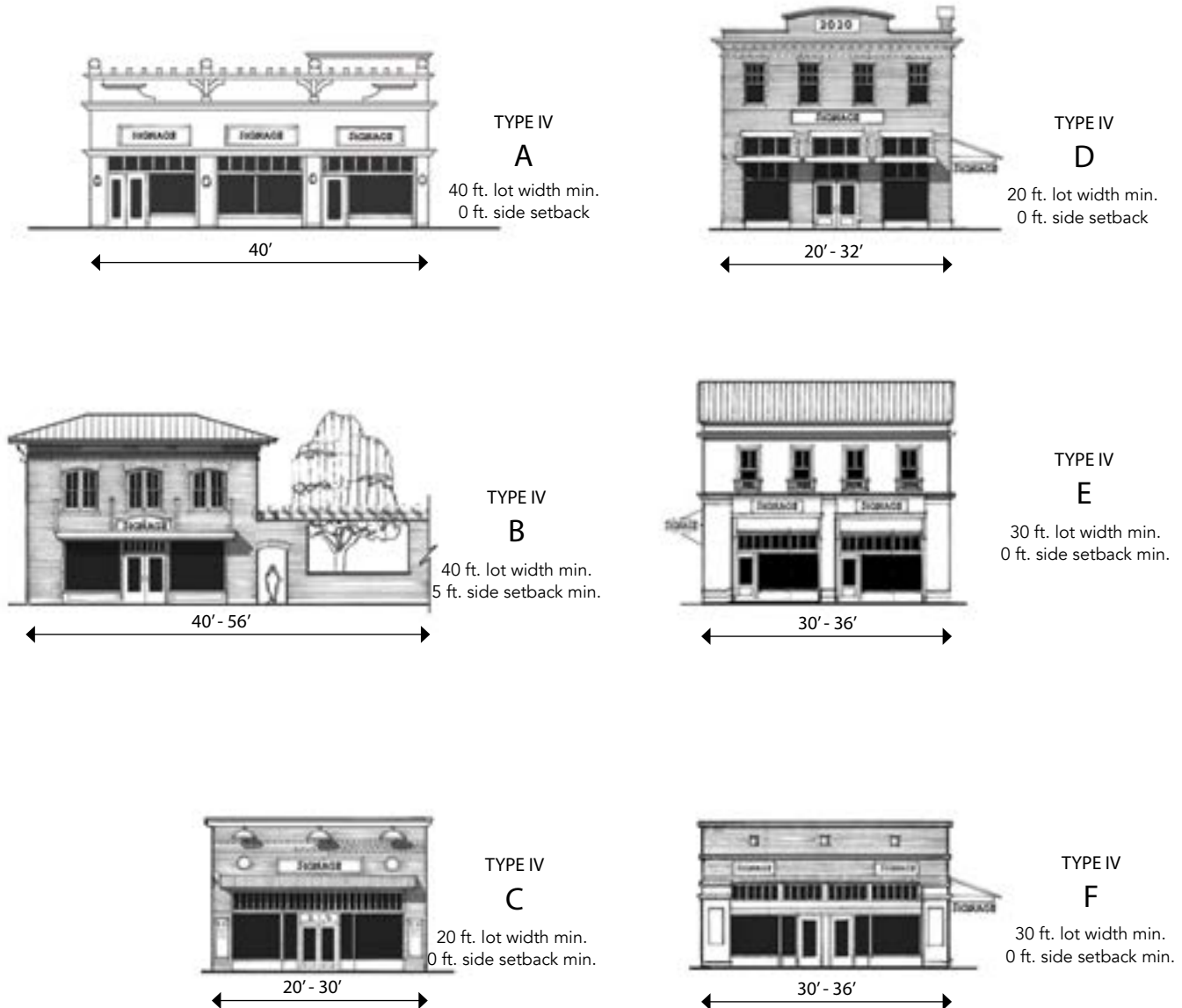
Additional Standards:

- Adjacent to residential Type I, a ground floor residential use with at-grade ADA level entry is acceptable.
- Build-to lines for individual buildings are according to the Regulating Plan.
- Balconies and bay windows may encroach into the front, side, and rear setback up to 50%.
- Retractable awnings and canopies may encroach into setbacks and beyond front property line, by approval of the TA.
- Facades must include 30% minimum glazing at the upper floors. First floor facades must include 60% minimum glazing.



4.4 BUILDING TYPE IV: MAIN STREET

Figure 4.4.A: Illustrative Elevations



4.4 BUILDING TYPE IV: MAIN STREET

Figure 4.4.B: Illustrative Elevation and Plans



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SECTION 5: DEVELOPMENT REGULATIONS

The Development Regulations are organized by these categories:

- 5.1 Design Intent
- 5.2 Accessory Structures
- 5.3 Building Height
- 5.4 Building Massing
- 5.5 Building Placement
- 5.6 Building Materials
- 5.7 Building Walls
- 5.8 Roofs and Eaves
- 5.9 Porches and Other Attachments
- 5.10 Doors, Windows, and Other Openings
- 5.11 Signage and Lighting
- 5.12 Fences, Garden and Retaining Walls, and Pavement
- 5.13 Parking, Service Areas, and Driveways
- 5.14 Landscape

5.1 DESIGN INTENT

- a. The goal of the Development Regulations is to achieve a unique architectural identity for Vista Field through a balance of uniformity and variety. A suitable response to the climate and geography can be learned from the vernacular traditions. Inspiration and lessons can be taken from historical regional buildings, including High Desert, Agrarian Vernacular, Bungalow and Craftsman, Spanish Revival, Neo-Classical and Mission styles. Historical styles when employed should strive to be exemplary of their origins. The use of limited materials, focused on those locally sourced, and a defined color palette provide a background of uniformity for variations in form. Constraints on form seek to produce building design of the highest quality, avoiding clichés and kitsch, in support of the urban and environmental goals and community identity.
- b. All dimensions are considered nominal.
- c. Civic buildings are not regulated under the Design Standards. Civic building designs must be developed in conjunction with the TA.
- d. Materials changes must be along a horizontal line, with the heavier material below the lighter, expressing visual load bearing conditions, even if the material is not load bearing.

5.2 ACCESSORY STRUCTURES

- a. The following outbuildings and landscape constructions may be permitted by approval of the TA:
 - i. Detached garages;
 - ii. Guest houses;
 - iii. Artisan studios and workshops;
 - iv. Garden pavilions, greenhouses, and gazebos;
 - v. Storage sheds;
 - vi. Trellises;
 - vii. Swimming pools, hot tubs, and pool houses;
 - viii. Basketball hoops; and
 - ix. Sports courts.
- b. Swimming pools and hot tubs must maintain a low profile and must be screened from surrounding lots and street views.

5.3 BUILDING HEIGHT

- a. Building Heights are limited as specified in [Section 4: Building Types](#) and as follows:
 - i. The number of stories is determined by counting the highest number of floor levels stacked above each other, with each level being defined by the area between finished floor and finish ceiling above; and
 - ii. Building height is measured from the sidewalk or if there is no sidewalk from the street pavement at the front of the building, at the centerline of the lot width. Building height is measured to the highest point of the roof for flat roofs and to the midpoint between the eaves and the highest point of the roof for pitched roofs.
- b. The following building elements may exceed the maximum building height:
 - i. Chimneys, up to 8 ft. above the roof penetration, or eave;
 - ii. Stairwells accessing flat roofs, up to 12 ft. above the flat roof surface;
 - iii. Trellises on flat roofs, up to 12 ft. above the flat roof surface; and
 - iv. Other portions of a structure up to 215 square ft. in area, up to 12 ft. above the roof surface for flat roofs or the highest point of roof contact for sloped roofs.
- c. Habitable accessory structures are limited to 2 stories in height, and a maximum of 24 ft.
- d. Other structures are limited to 1 story in height, and a maximum of 14 ft.

5.4 BUILDING MASSING

- a. Building massing must be simple and adhere to the following:
 - i. Buildings are limited to 2 gables per facade; and
 - ii. Buildings are limited to 6 exterior corners facing the street, exclusive of attachments.

5.5 BUILDING PLACEMENT

5.5.1 Setbacks

- a. Buildings, attachments, and accessory structures must be placed in relation to their lot lines, setbacks, build-to lines, and frontage lines according to [Section 3: Regulating Plan](#) and [Section 4: Building Types](#). See [Figure 4.1.A](#) and [Figure 4.1.B](#).
- b. Setbacks are measured perpendicular to the property line of the lot. Where property lines are curved, the measure is taken perpendicular to the tangent at the centerline of the lot.
- c. Maximum setbacks may be extended by the TA where in conflict with utilities.
- d. Build-to lines override setbacks. If the [Section 3: Regulating Plan](#) assigns a build-to line, the building facade must be placed at the build-to line, with a tolerance of 2 ft.
- e. Where [Section 4: Building Types](#) includes a percentage related to the build-to line, only that percentage of the length of the build-to line is required to have facades along the build-to line.
- f. Encroachments into setbacks and beyond the build-to line are permitted as specified in [Section 4: Building Types](#), subject to utilities.

5.5.2 Number of Buildings

- a. Each lot must include one habitable, principal building.
- b. Lots may include additional buildings as specified in [Section 4: Building Types](#).

5.5.3 Frontages

- a. Lot lines that coincide with a right-of-way or public space are designated frontage lines.
- b. Buildings must have their principal pedestrian entrances on a frontage line.
- c. Facades must be built along the minimum percentage of frontage lines specified in [Section 4: Building Types](#) and as follows:
 - i. Facades must be in alignment with build-to lines;
 - ii. Facades must be parallel to frontage lines; or
 - iii. Facades must be parallel to the chord of a broken or curved frontage line.
- d. Lots facing two streets are considered as having two frontages. Thus, corner buildings have two fronts and two facades.
- e. Lots with only pedestrian passage access must treat the pedestrian passage as the lot frontage.
- f. The TA may determine that other lot lines or portions thereof be held to frontage line standards where buildings are highly visible from public spaces.

5.5.4 Terminated Vistas

- a. Buildings must be placed on lots with attention to view corridors and terminated vistas specified in [Section 3: Regulating Plan](#).
- b. A building facade that terminates a vista must be designed to recognize its focus and importance as follows:
 - i. A primary building entrance should be located at the vista termination;
 - ii. Style appropriate articulation should express the termination;
 - iii. Rooftop elements such as chimneys, pergola, gables, and articulated parapets should express the termination; and
 - iv. Service doors, blank walls, service areas, and vehicular areas are prohibited at terminated vistas.

Figure 5.5.4 Terminated Vistas



5.5.5 Alleys

- a. Where a lot is provided alley access, vehicular access is restricted to the alley.
- b. Lots with alley access must provide a space for pedestrians to pass from the building to the alley without having to go through the garage. Lots less than 25 ft. in width are exempt from this requirement.
- c. At alley entrances from streets:
 - i. If a building or garage is not built to the minimum rear setback, the alley must be screened from street view by walls or landscape extending along the frontage line to the minimum setback;
 - ii. If the rear property line meets the frontage line at an angle, the building or garage must be aligned with the frontage line.

5.6 BUILDING MATERIALS

5.6.1 General

- a. Materials and architectural details must be consistent between all facades of a building and between buildings where there are multiple buildings on a site.
- b. Materials specified in this document refer to actual building products and not imitations of those products. Materials other than those specified in this document may be approved by the TA.
- c. Where previously approved materials are no longer permitted, the previously approved material may be used only for repairs.

5.6.2 Colors

- a. Colors must be selected from the Benjamin Moore Historic Colors Palette or equivalent with the addition of pure white, and must be approved by the TA.
- b. Residential buildings must be a maximum of 2 colors, including walls, attachments, doors, windows, and trim. Trim is to be 1 color only. Window sashes and entrance doors may be a 3rd color.
- c. Wall colors must be lighter in tone than the trim or attachments and other elements, except where white trim is used.
- d. Awnings are limited to a maximum of 2 colors, subject to approval of the TA.

5.7 BUILDING WALLS

5.7.1 Exterior Walls

- a. Walls may be clad in no more than 2 materials.
- b. Wall materials above foundation walls and piers may be stone, concrete, stucco, tile, brick, metal, cementitious boarding, wood, or composite. Exterior Insulation and Finish Systems (E.I.F.S.) are prohibited.
- c. Metal must be brass, bronze, wrought iron, galvanized, stainless or enameled steel, or marine-grade aluminum, and is only permitted by approval of the TA.
- d. Nails, screws, fasteners, hinges exposed to the elements must be galvanized or stainless steel.

5.7.2 Columns, Posts, and Arches

- a. Columns above foundation walls and piers may be stone, concrete, stucco, tile, brick, metal, cementitious boarding, wood, or composite.
- b. Wood posts must be 6" minimum in width and depth, or only in width if the post is connected to a wall, chamfered at the corners, and with spacing of traditional proportions.
- c. Porch columns must be brought to grade as masonry piers or masonry foundation walls. Openings between piers must be framed and filled with wood or brick lattice. Wood skirts covering piers are prohibited.
- d. Metal columns must be steel. Columns must be round in section and a minimum of 6" in diameter.
- e. Arches are only permitted in masonry or stucco wall surfaces. Keystones must be centered on the arch and have sides radial to the arch.

5.7.3 Foundations and Piers

- a. Foundation and pier materials must be concrete, stone or brick. Block with light coating of stucco for exposed foundation walls may be permitted by approval of the TA.
- b. Concrete must be architectural cast-in-place or board form.
- c. Foundations must appear to carry the weight of the building.
- d. Foundation walls and piers must be exposed a maximum of 8". Where exposed above 8", an architectural finish is required.
- e. Foundation piers of masonry or concrete must conform to the following:
 - i. Piers must be at least 12" in width and 8" in depth; and
 - ii. Exposed crawlspaces are limited to a maximum of 18" above grade.

5.7.4 Siding

- a. Trim such as corner boards, framing for openings and fascia, is to be no less than 1.25" in width.
- b. Shingle siding must conform to the following:
 - i. Shingles must be smooth cut sawn cedar, 4" to 6" exposure, and sealed with oil or stain only;
 - ii. Coarse variety may be permitted by approval of the TA;
 - iii. Shingle panels are prohibited; and
 - iv. Decorative shingles may be permitted by approval of the TA.
- c. Horizontal lap and ship lap siding must conform to the following:
 - i. Smooth face clear redwood or western red cedar, 4" to 6" exposure, and painted or sealed and stained;
 - ii. Composite siding smooth side only, Hardie, Hardie Artisan or Boral, 4" to 6" exposure, painted or prefinished;
 - iii. Siding spacing must butt into corner boards and openings trim; and
 - iv. Siding must not extend in front of trim.
- d. Board and batten siding must conform to the following:
 - i. Permitted materials are clear redwood, western red cedar, or composite panel, smooth face only;
 - ii. Battens must be 2"x3", spaced 16" o.c. maximum, painted or sealed and stained;
 - iii. Siding must be applied by centering a batten on each wall plane;
 - iv. Siding spacing must butt into corner boards and openings trim; and
 - v. Siding must not extend in front of trim.

5.7.5 Brick and Stone

- a. Brick must conform to the following:
 - i. Brick must be laid in a horizontal running bond pattern;
 - ii. Mortar joints are to be no greater than 3/8";
 - iii. Brick must have minimal color variation, and must not be painted; and
 - iv. Facade-only brick must return onto the adjacent side wall 8" to 12".
- b. Stone must conform to the following:
 - i. Stone must be natural rock, sourced from the region;
 - ii. Individual stones must be 8" minimum in height;
 - iii. Stone must be laid dry-stack or mortared;
 - iv. Stone must be uniform in style, ranging from coursed ashlar to uncoursed rubble;
 - v. The finished product must appear to be weight-bearing and not applied; and
 - vi. Facade-only stone must return onto the adjacent side wall 8" to 12".

5.7.6 Accessories

- a. Accessories attached to buildings, such as mailboxes, newspaper boxes, flower boxes, lettering, and numbering, must not be plastic or vinyl.

5.8 ROOFS AND EAVES

5.8.1 Roofing

- a. Pitched Roofs
 - i. Cladding on pitched roofs must be slate, terracotta tile, metal, or asphalt shingles.
 - ii. Metal roof cladding may be pre-finished standing seam, galvalume or zincalume; pre-finished corrugated; or unfinished copper.
 - iii. Asphalt shingles must be multi-ply architectural in 1 color.
- b. Flat Roofs
 - i. Flat roof surfaces may be reflective roofing, wood decked, and concrete with ceramic or terracotta tile.
 - ii. Green (vegetated) roofs may be permitted by approval of the TA.
- c. Flashing must be copper, lead, or anodized aluminum.
- d. Copper roofs, flashing, gutters, and downspouts must be allowed to age naturally, not painted or sealed.
- e. All roof attachments must match the main roof.

5.8.2 Roof Forms

- a. Roof forms must be simple, either symmetrically gabled, hipped, or flat.
- b. Two roof types are allowed for each building, one primary and one secondary type.
- c. Flat roofs must be surrounded by a parapet wall tall enough to conceal any rooftop equipment, and no less than 1 ft. above the roof deck. The parapet may be interrupted by drainage scuppers.
- d. Gabled and hipped roofs must be pitched between 6:12 and 14:12.
- e. Shed roofs are only permitted as secondary roofs and where the ridge is attached to an exterior wall of a building.
- f. Shed roofs must be pitched between 2:12 and 4:12.
- g. Roof slope breaks may be permitted at no more than 25% of overall width of roof and require approval by the TA.

5.8.3 Dormers

- a. Dormers must be habitable.
- b. Dormers must be roofed with a symmetrical gable, hip, or shed.
- c. Dormers must be placed a minimum of 3 ft. from side building walls.

5.8.4 Eaves

- a. Eaves are permitted to cantilever 2 ft. maximum.
- b. Gable end eaves are permitted to cantilever 2.5 ft. maximum.

5.8.5 Soffits

- a. Exposed soffits must have 2x4 or 2x6 rafter tails, infilled with tongue-in-groove or ACX plywood.
- b. Gable end rake rafters and fascia must be 2x8 minimum.
- c. Enclosed soffits must be tongue-in-groove, skip sheathing with a 1/2" gap, or stucco.
- d. Brackets must be composed with 4x6 vertical, 6x6 horizontal, 4x6 strut members.

5.8.6 Skylights

- a. Skylights must be flat in profile.
- b. Skylights must not face streets.

5.8.7 Solar Panels

- a. Solar tiles and panels may be permitted by approval of the TA.
- b. Solar tiles and panels must be integrated into the surface of the roof, and must not expose an independent structure.

5.8.8 Gutters and Downspouts

- a. Gutters must be 1/2 round, J-style, or box style. Only 1 style is permitted on a building.
- b. Gutters and downspouts must be copper, steel, or anodized/natural finish aluminum. Copper-anodized aluminum is prohibited.
- c. Downspouts must be round or square and mounted on a stand-off pin.
- d. Downspouts must be located in composition with the facade, subject to approval of the TA.
- e. Rain chains and barrels are permitted by approval of the TA.
- f. Splash blocks must be provided, in stone, brick, concrete, or gravel.
- g. In the absence of gutters, gravel must be placed at the dripline.

5.8.9 Other Rooftop Attachments

- a. Additional rooftop attachments are subject to approval of the TA.
- b. Vent stacks and other roof applications and protrusions are subject to the following:
 - i. Must be placed on roofs facing away from streets, or on flat roofs. Other locations are subject to approval by the TA; and
 - ii. Must be painted either to match the color of the roof, or flat black. Those made of metal may be left natural.
- c. Antennas must be concealed to the greatest extent consistent with Federal law, and when possible concealed from public view.

5.9 PORCHES AND OTHER ATTACHMENTS

5.9.1 Porches and Stoops

- a. Porches must be a minimum of 7 ft. deep.
- b. Porch openings and openings in covered stoops must be vertical in proportion.
- c. Porch, stoop, and deck floors may be wood or concrete. Brick, stone, and composite decking may be allowed by approval of the TA.
- d. All crawlspaces must be enclosed and screened from public view.
- e. Porches and stoop covers may be made of the following:
 - i. The wall materials;
 - ii. Wood, painted or sealed and stained to match the building wall materials; or
 - iii. Metal finished to match other metal of the building including windows and doors.
- f. Front entrance porch and stoop steps must be stone, brick, or concrete, and must be faced on all exposed sides with stone, brick, or concrete.
- g. Secondary porch and stoop steps may be permitted in wood or composite by approval of the TA.

5.9.2 Balconies

- a. Balconies are permitted to cantilever 3 ft. maximum.
- b. Balconies must be supported with brackets or other architectural support.
- c. Balconies may be made of the following:
 - i. The wall materials;
 - ii. Wood, painted or sealed and stained to match the building wall materials; or
 - iii. Metal finished to match other metal of the building including windows and doors.

5.9.3 Awnings

- a. Awnings must be sloping rectangles with a free-hanging drip edge, without side or bottom soffit panels.
- b. Awnings must be 36 in. wide minimum and 6 ft. minimum in depth. They may extend up to 2 feet from curbs.
- c. Awnings are limited to a maximum 1:3 slope from the building to the edge of awning.
- d. 9 ft. clear height above pedestrian walkways must be maintained.
- e. Awnings must be integral to the overall design of the storefront and must respect vertical column and window spacing.
- f. Awnings must have visible architectural support, such as brackets, integral to the awning design.
- g. Awnings must be made of structural building materials such as metal, wood, glass or concrete. Awnings made of canvas or synthetic woven material resembling canvas may be permitted by approval of the TA.
- h. Awnings must be a solid color to match the wall color, trim color, or a dark accent color.

5.9.4 Railings

- a. Balcony, porch, deck, and stair railings must be wood or metal and are subject to approval of the TA.
- b. Railings must have top and bottom rails. Top rails must be eased for handling comfort and bottom rails must have a vertical section.
- c. Pickets must be centered on the top and bottom rails.

5.9.5 Bay Windows

- a. Bay windows are permitted to cantilever up to 2 ft.
- b. Bay windows must be supported by knee-braces, foundation walls, or other architectural support.
- c. Bay windows may be made of the following:
 - i. The wall materials;
 - ii. Wood, painted or sealed and stained to match the building wall materials; or
 - iii. Metal finished to match other metal of the building including windows and doors.

5.9.6 Pergolas and Trellises

- a. Pergolas and trellises must be made of wood, metal, or vinyl.
- b. Trellis wire must be stainless steel held by 6" stand-offs.

5.9.7 Air Conditioners

- a. Window air-conditioners are prohibited.
- b. Wall air-conditioners facing an Alley or parking lot may be allowed by approval of the TA.

5.9.8 Chimneys

- a. Chimneys must have a foundation at grade.
- b. Chimneys must replicate wood-burning standards for height, dimension, and profile.
- c. Chimney top flues must be metal or tile.
- d. Horizontal flues are permitted by approval of the TA, and must not face a street or other public space frontage.
- e. Metal flues must be painted the color of the roof, flat black, or left natural.

5.9.9 Other Attachments

- a. Flagpoles may be mounted at an angle to porch columns or posts and to building walls, provided they are less than 6 ft. tall.

5.10 DOORS, WINDOWS, AND OTHER OPENINGS

5.10.1 Doors:

- a. Doors facing frontages, streets, and public spaces must be located within wall sections such that wall thickness is perceived from the exterior of the building. Flush mounted doors are prohibited.
- b. Doors facing frontages must be made of:
 - i. Visible boarding;
 - ii. Stiles with glass panels, in half-lite, full-lite, or three-quarter lite configuration;
 - iii. Stiles with recessed panels; or
 - iv. Stiles with raised panels; and
 - v. Door construction must express traditional assembly techniques.
- c. Door lites that are arches, rounds, fans, or ovals are prohibited.
- d. Flush doors with applied trim are prohibited.
- e. Double doors must not exceed 5'-6" in overall width, except where intermediate posts are provided, 4" minimum in width.
- f. Sliding glass doors are not permitted on frontages.
- g. Doors must be made of wood, aluminum-clad wood, glass panel, or steel.

5.10.2 Garage Doors:

- a. Garage doors must be either sectional overhead or hinged carriage doors, and must be configured as an individual door for each parking space.
- b. Garage doors are limited to 8 ft. in height except as approved by the TA.
- c. Garage doors must be made of wood, composite wood, steel, or wood-veneered fiberglass.
- d. Garage doors may have glass or framed panels.

5.10.3 Storefronts:

- a. Storefronts must be designed as a unified composition of doors, windows, bulkheads, transoms, signage, awnings, and lighting, as shown in [Figure 5.10.3 Storefront Components](#).
- b. Storefront entrance doors must be recessed to allow the door to swing out without obstructing pedestrian flow on the sidewalk.
- c. Storefront entrances are encouraged at building corners.
- d. Each tenant space must have an entry door along the building facade. Subject to approval by the TA, an exception may be made where there are multiple tenants sharing a space, provided they are not separated by full interior partition walls.
- e. Folding doors and windows that allow the activity of the business to open adjacent to and onto the public sidewalk are encouraged for restaurants and food services.
- f. Doors and windows into tenant spaces are required along pedestrian passages.
- g. Rear and side doors and windows facing service alleys and parking lots are encouraged, but not required.
- h. Storefronts must have a continuous bulkhead 12" to 36" above the sidewalk.
- i. Storefronts may be made of the following materials:
 - i. Wood;
 - ii. Brick;
 - iii. Composite board;
 - iv. Stone;
 - v. Custom metal work; or
 - vi. Steel frame and clear glass.
- j. Painted surfaces must be white or a dark color glossy painted finish.
- k. Masonry and anodized aluminum storefronts may be permitted by approval of the TA.

Figure 5.10.3 Storefront Components



5.10.4 Windows:

- a. Windows facing frontages, streets, and public spaces must be located within wall sections such that wall thickness is perceived from the exterior of the building. Flush mounted windows are prohibited.
- b. Facade glazing is calculated independently for each story and frontage, determined by dividing the area of the glazing by the wall area of the facade between the finished floor and finished ceiling. Requirements for minimum facade glazing are specified in [Section 4: Building Types](#).
- c. Windows must be shaped as follows:
 - i. Windows must be square or vertical in proportion, such as 1:1.5, golden section, double square, triple square;
 - ii. Transom windows may be horizontal;
 - iii. Windows may be circular, semi-circular, oval, hexagonal, or octagonal in shape, but only one such window may be placed on a Facade; and
 - iv. Windows may be quarter-circular in shape when paired in a gable end.
- d. Windows may be sub-divided into panes that are square or vertical in proportion, with similar proportions throughout the building.
- e. Muntins must be true-divided light, or three-part simulated divided lite, and must match the color of the exterior sash. Snap-on muntins are prohibited.
- f. Windows must be operable and may be single-hung, double-hung, casement, awning, or fixed, except in storefronts.
- g. Two or more windows within the same rough opening on a facade must be separated by a minimum 4" wide post.
- h. Windows facing streets must be at least 2 ft. from the corners of the building, except in Main Street and Mixed-Use Buildings.
- i. Single panes of glass must be a maximum 20 square ft., except in Main Street and Mixed-Use Buildings, and storefronts.
- j. Glass must be clear and free of color. Frosted, etched, tinted or other decorative glass and glass blocks may be permitted by the TA. Reflective or dark glass is prohibited.

5.10.5 Screens

- a. Window screens must be full view screens. Half view screens may be permitted by approval of the TA.
- b. Porch screens must be framed to reflect column spacing proportions.
- c. Screen doors must be full view or three quarter view, and may have a center cross rail finished to match the screen door.
- d. Screens for windows and doors must be made of bronze, aluminum, dark colored fiberglass or black vinyl.
- e. Screen windows and doors must be finished to match the window or door they serve or the trim around it.

5.10.6 Shutters

- a. Shutters, if provided, are subject to the following:
 - i. Shutters must be applied to all of the typical windows on a Facade or Elevation.
 - ii. Shutters must be shaped and sized to the opening they serve.
 - iii. Shutters must be fully functional except with approval of the TA. If fixed, shutters must be mounted as if hinged to the window sash.
- b. Shutters must be made of wood, painted or sealed and stained, or painted metal.
- c. Shutters must match the color of the wall or the building trim.

5.10.7 Security Doors and Windows

- a. Security doors and windows may be permitted by approval of the TA.
- b. At residences, security doors and windows must be designed as decorative window grills and doorway gates.
- c. At storefronts, security doors must be interior links or grills that are completely hidden from view when not in use. Solid metal gates or roll-down shutters are not permitted.

5.11 SIGNAGE AND LIGHTING

5.11.1 General Regulations

- a. All signs are subject to approval by the TA.
- b. Signs must be made of wood, synthetic wood, brass, bronze, copper, wrought iron, ceramic, cast aluminum or thickly enameled steel. Plastic signs or letters, backlit signs, and electronic or video screen signs are prohibited.
- c. Signs are subject to the requirements of [Table 5.11.1 Sign Standards](#).

5.11.2 A-Frame Signs

- a. A-frame signs must be made of wood, synthetic wood or metal, and have a hand-crafted design.

5.11.3 Projecting Signs

- a. Projecting signs may be a representational silhouette in metal.

5.11.4 Window Signs

- a. Window signs for shopfront businesses must be inscribed on the shopfront glass or made of permanently affixed cut-out lettering or hand-painted letters.
- b. Neon signs on the inside of a Main Street or Mixed-Use Building shopfront window may be allowed by approval of the TA.

5.11.5 Wall Signs

- a. Wall signs for a shopfront businesses must be integrated in design with the storefront's details, and may be a contrasting color to the building.
- b. Wall signs may be externally lit subject to the approval of the TA. Internally illuminated wall signs are prohibited.

Figure 5.11.2 Sign Types Illustrated

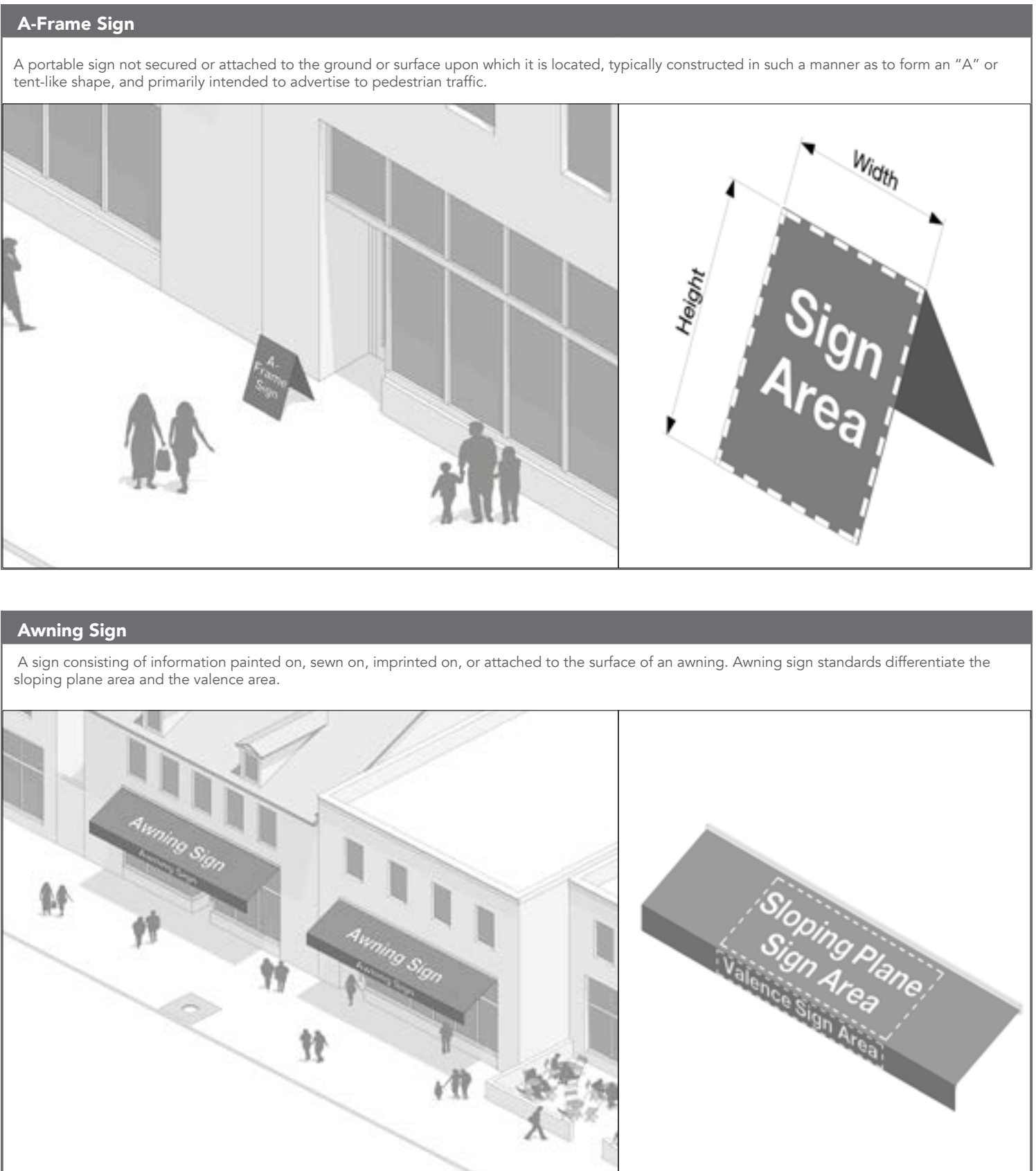


Figure 5.11.2 Sign Types Illustrated

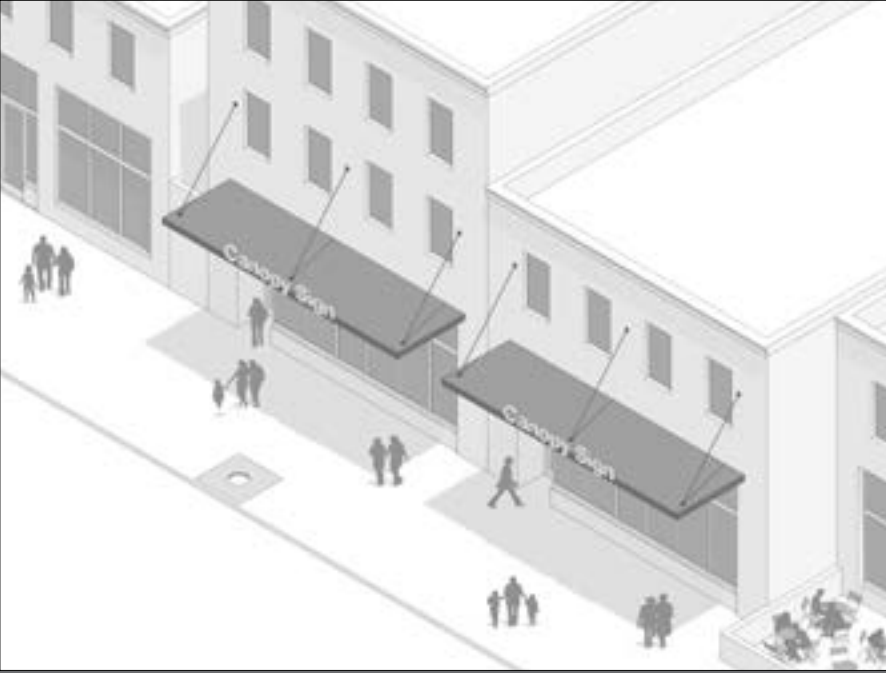
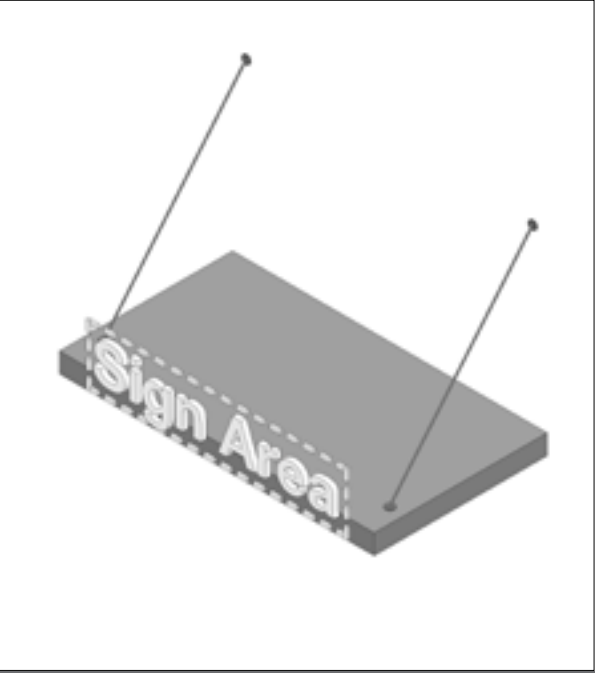


Canopy Sign	
A sign that is part of, or attached to, a canopy. The sign area is a bounding rectangle around the sign copy and graphics.	
	
Corner Sign	
A vertically proportioned sign affixed perpendicularly to the outer corner of a building face. The sign area is the full face of the sign.	
	

Figure 5.11.2 Sign Types Illustrated

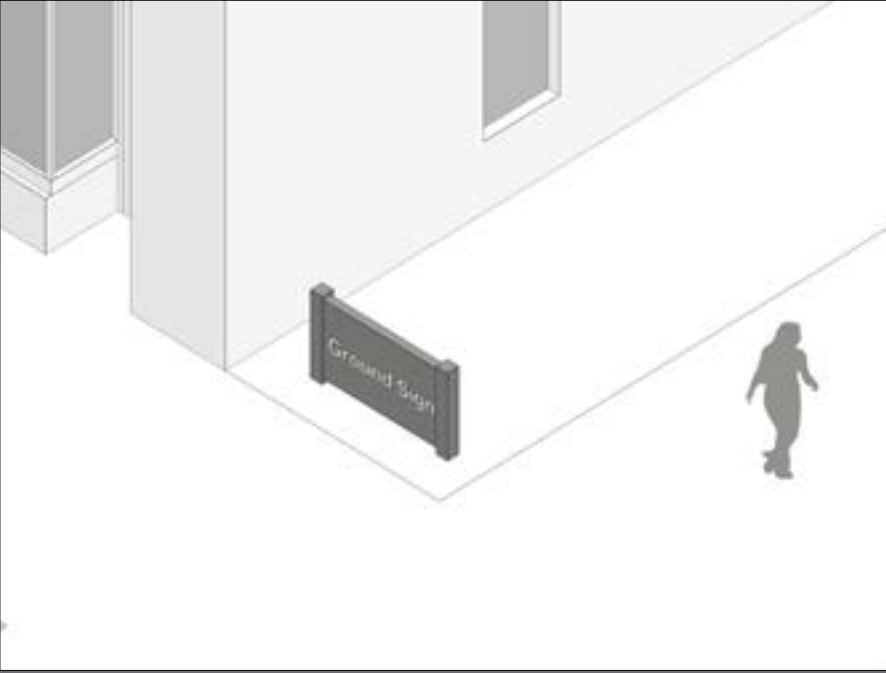
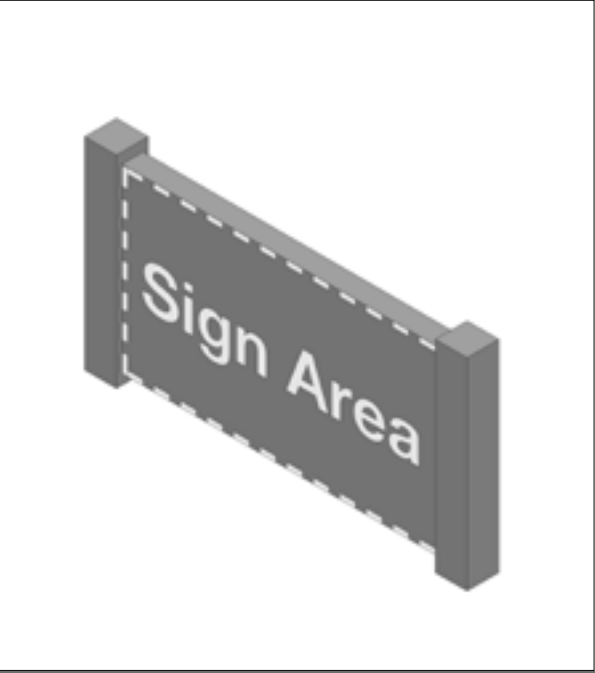
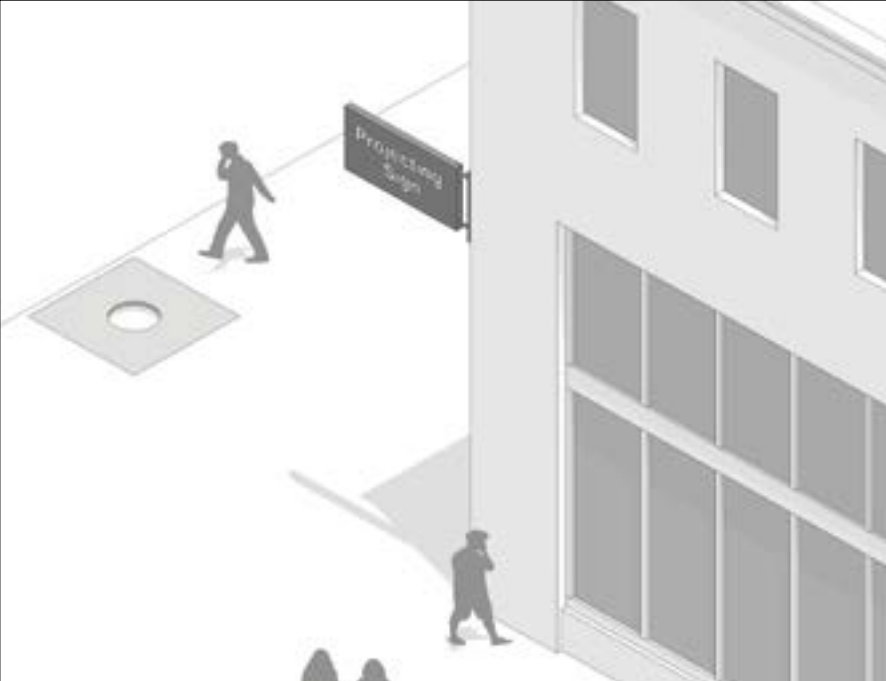

Ground Sign	
A free standing sign supported by uprights or along its bottom, placed on or near ground level, often referred to as a monument sign. The sign area is the full face of the sign.	
	
Projecting Sign	
A sign affixed to a building which projects in such a manner that both sides of the sign are visible. The sign area is the full face of the sign.	
	

Figure 5.11.2 Sign Types Illustrated

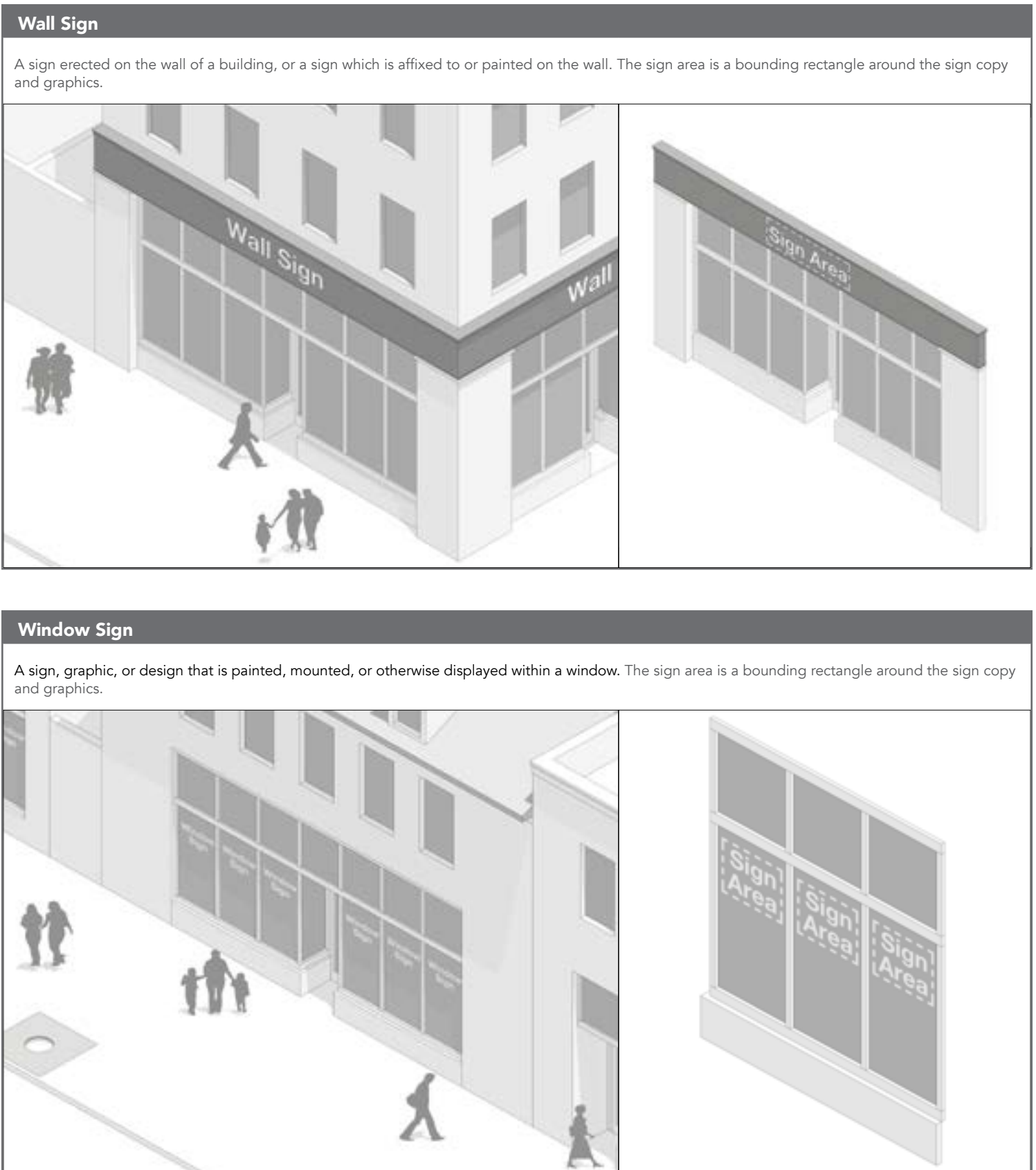


Table 5.11.1 Sign Standards

Sign Type	Building Type				Height (max)	Number (max)	Sign Area (max.)	Copy Height (max.)	Location
	I	II	III	IV					
Permanent Signs									
A-Frame	□	□	■	■	42 in.	1 per ground floor tenant	max. 30 inches wide and 42 inches high	n/a	on sidewalk adjacent to business; may only be displayed during business hours
Awning	□	□	■	■	n/a	1 per awning valence and sloping plane	75% of valence and 25% sloping plane	18 inches	
Business Hours	□	□	■	■	n/a	1 per storefront entry	1 sq. ft.	n/a	may be window or wall-mounted
Canopy	□	□	■	■	n/a	1 per entry	2 sq.ft. per linear ft.	18 inches	
Corner	□	□	■	■	6 ft. above eave or parapet	1 per building at corner street front-ages	40 sq.ft.	n/a	
Ground	■	■	□	□	4 ft.	1 per frontage	2 sq.ft.	n/a	
Postal Numbers	■	■	■	■	6 in.	1 per parcel	n/a	6 in.	principal building facade and on Alley or rear parking entrances
Projecting	■	■	□	□	n/a	1 per frontage	2 sq. ft. per side	8 inches	9 ft. min. height above sidewalk, 15 ft. min. distance between projecting signs
	□	□	■	■	2.5 ft.	1 per ground floor tenant	2.5 sq.ft. per side		
Security	■	■	■	■	n/a	1 per frontage + 1 per service entry	40 sq. in.	n/a	may be window or wall-mounted
Wall	■	■	□	□	n/a	1 per frontage	2 sq. ft.	n/a	
	□	□	■	■	1 ft.	1 per tenant	length of storefront	18 inches	
Window	□	□	■	■	n/a	limited by sign area	25% of glazing	6 inches	
Temporary Signs									
Construction	■	■	■	■	4 ft.	1 per parcel	6 sq.ft.	18 inches	sign only permitted for the duration of construction
For Sale/Rent	■	■	■	■	4 ft.	1 per frontage	40 sq. in.	6 inches	affixed to building or on post, max. 90 days per year

■ Permitted □ Not Permitted

5.11.6 Lighting

- a. Exterior light fixtures must be compatible with the style of the building to which they are attached.
- b. All lighting must have a functional purpose.
- c. Additional decorative lighting for Main Street and Mixed-Use Buildings may be allowed by approval of the TA.
- d. Luminaires are limited as follows:
 - i. All exterior lighting is limited to a maximum color temperature of 3000K; and
 - ii. LED luminaires must include shielding to disperse light, whether built into the luminaire or the fixture.
- e. Lighting should adhere to Dark Sky Friendly standards.
- f. Uplighting, floodlighting, and wall washing lighting are prohibited.
- g. Path and area lighting must have shields to direct light to ground area of use.
- h. Doors facing a street or a public space, and garage doors opening onto an Alley, must have a light fixture with a photocell that lights from dusk to dawn.
- i. For storefronts, Main Street, and Mixed-Use Buildings:
 - i. Signs may be lit by a gooseneck fixture with focus specific to the sign.
 - ii. Interior lighting of storefronts and exterior lighting of signs is recommended throughout nighttime hours (or at a minimum until 11pm) to accentuate storefront displays, illuminate building details, and promote public safety.
 - iii. External lighting of awnings may be permitted by approval of the TA. Backlighting of awnings from under or inside is prohibited.
 - iv. Main Street and Mixed-Use Building service entries must have fixtures with photocells that light from dusk to dawn.
- j. For Residential or Live-Work Buildings:
 - i. Up to 2 exterior light fixtures may face the street, excluding storefront lighting;
 - ii. Other light sources must be concealed from exterior views; and
 - iii. Fixtures must be located to preclude glare.

5.12 FENCES, GARDEN AND RETAINING WALLS, AND PAVEMENT

5.12.1 Fences

- a. Fences must be designed in location and height to coordinate with the design of the adjacent public frontage and neighboring lots.
- b. Fences must be located no closer to the street than the front facade of the building.
- c. For Main Street and Mixed-Use Buildings, fences must be located to screen parking lots from the street.
- d. Fences must provide closure, starting and ending at a building wall or terminal post that is larger than the other fence posts.
- e. Fences must be a maximum 6 ft. in height above grade.
- f. Fences enclosing trashcans and dumpsters must be at minimum as tall as the containers they conceal.
- g. Fences must be made of wood pickets, painted or sealed and stained, or steel, painted wrought iron, or ESP aluminum. Fence gates must be made of the fence material.

5.12.2 Garden Walls

- a. Garden walls must be designed in location and height to coordinate with the design of the adjacent public frontage and neighboring lots.
- b. Garden walls must be located no closer to the street than the front facade of the building.
- c. For Main Street and Mixed-Use Buildings, garden walls must be located to screen parking lots from the street.
- d. Garden walls must provide closure, starting and ending at a building wall or terminal post that is larger than the other fence posts.
- e. Garden walls must be a maximum 6 ft. in height above grade.
- f. Garden walls enclosing trashcans and dumpsters must be at minimum as tall as the containers they conceal.
- g. Garden walls must be minimum 8" wide and capped with overhang of 1/2" to 1 ft. on each side to protect from water intrusion.
- h. Garden walls must be made of architectural finish concrete, segmental block, brick or brick veneer, local stone or local stone veneer, and must be capped.
- i. Garden wall gates must be made of wood, painted or sealed and stained, steel, painted wrought iron, or ESP aluminum.

5.12.3 Trash and Dumpster Enclosures

- a. Trash and dumpster enclosures must be made of concrete, wood sealed and stained or painted, or painted steel, with gates of wood or steel.

5.12.4 Retaining Walls

- a. Retaining walls must be designed in location and height to coordinate with the design of the adjacent sidewalk and neighboring lots.
- b. Retaining walls must be part of building foundations or part of garden terracing.
- c. Retaining walls must be minimum 8" wide and capped with overhang of 1/2" to 1 ft. on each side to protect from water intrusion.
- d. Retaining walls must be made of architectural finish concrete, segmental block, brick or brick veneer, regional stone or regional stone veneer, and must be capped.

5.12.5 Pavement

- a. Garden pavement must be permeable and may be made of, stone, concrete pavers, brick, brick pavers, wood, or gravel with aggregate maximum 1/4".
- b. Gravel in front yards and at frontages must be edged to prevent runover.
- c. All pedestrian pavements must have a non-skid finish.
- d. Driveway and parking lot pavement must be made of asphalt, brick, brick pavers, or concrete. Driveway and parking lot materials are subject to approval by the TA.
- e. Concrete may be patterned but stamped concrete patterns are prohibited.

5.13 PARKING, SERVICE AREAS, AND DRIVEWAYS

5.13.1 Parking

- a. Required off-street parking is subject to the following:
 - i. Off-street parking must be placed according to [Section 4: Building Types](#).
 - ii. Required parking quantities are as per Kennewick, WA Code of Ordinances Off-Street Parking Standards.
 - iii. Parking must be accessed by alley or through a parking lot at the rear of a lot or shared between lots, and may be unsheltered or in a garage or carport.
 - iv. Parking lots must be masked from the frontage by a liner building or street screen.
- b. Shared parking lots must have a minimum of one bicycle rack space for every 20 vehicular parking spaces.

5.13.2 Service Areas

- a. Outdoor equipment location and storage of items outdoors are subject to the following:
 - i. Equipment and items include, but are not limited to, trash cans, electrical, plumbing, mechanical, and communications equipment, tanks, generators, utility meters, clotheslines, satellite dishes, play equipment, hot tubs, permanent grills, and firewood;
 - ii. Equipment and items must not be placed between the facades and frontage lines;
 - iii. Equipment and items must be placed in yard spaces enclosed by fencing or walls;
 - iv. Equipment and items on roofs must be concealed by parapet walls;
 - v. Firewood may be stored on porches, limited to a maximum of 1/4 cord;

- b. Loading docks and service areas in Main Street and Mixed-Use Buildings must be concealed from street and sidewalk views. When alley or rear parking lot access is not available, service areas at a frontage, concealed from public view by a street screen, may be permitted by approval of the TA; and
- c. Trash containers in Main Street and Mixed-Use Buildings must be concealed from street view, located within a permanent enclosure, and accessed from an alley or rear parking lot.

5.13.3 Driveways

- a. Where a driveway crosses a sidewalk, any elevation change or slope must occur within the lot to maintain a sidewalk without uneven slopes.

5.14 LANDSCAPE

5.14.1 General

- a. The goal for the outdoor spaces and landscape improvements of Vista Field is to construct a landscape of plants native to the high desert location of Kennewick, including drought tolerant materials that can provide shade.
- b. Site designs must minimize grading.
- c. Topographic transitions between improvements and existing grades or between lots must appear to be natural slopes or to be garden terraces.
- d. All site drainage and water runoff from impervious surfaces must be retained on the lot that generates it.
- e. Tree planting is considered permanent improvement of the community landscape.
- f. Fenced areas and lawn areas must be located and designed to be functional and geometrically defined for privacy, protection from the wind, and security of children and pets. Lawn areas are restricted to a functional space to minimize irrigation.

5.14.2 Planting and Trees

- a. Garden planting may provide shade for adjacent public frontage, but must not interfere with public frontage landscaping.
- b. Hedges and their location and height must be designed to coordinate with the design of the adjacent public frontage and neighboring lots.
- c. Hedges must be located no closer to the street than the front facade of the building.
- d. At Main Street and Mixed-Use Building lots, hedges must be located to screen parking lots from the street.
- e. At installation, hedge plants must be spaced 18" o.c. and a minimum 24" in height.
- f. Plant species are to be selected from the following plant lists:
 - i. Tree Lists by Mature Heights of the Community Tree List of the Mid-Columbia Community Forestry Council; or
 - ii. Washington Native Plant Society's WNPS Native Plants of Eastern WA brochure.
- g. Removal of trees larger than 4" caliper deciduous and 6" caliper conifer requires approval by the TA.

5.14.3 Irrigation

- a. Landscape irrigation must be an underground or drip irrigation system.
- b. Irrigation systems must have retracting sprinkler heads or must be otherwise visually unobtrusive.

5.14.4 Parking Lot Landscape

- a. Parking lots for Main Street and Mixed-Use Buildings must be planted to provide maximum shading of the pavement.
- b. Continuous tree islands perpendicular to the parking stalls, or tree diamonds with corners intersecting the striping, must be provided at a maximum separation of four parking spaces.
- c. Each parking lot tree must have a minimum of 5 ft. x 5 ft. planting area.

5.14.5 Other Landscape Features

- a. Hot tubs and pools must be recessed in the ground and visually screened with a fence, wall, or hedge.
- b. Woodburning outdoor fireplaces and firepits may be allowed by approval of the TA.
- c. Fireplaces and firepits must be separated from all combustible structures and trees by a minimum distance of 15 feet.



AGENDA REPORT

TO: Port Commission

FROM: Larry Peterson, Director of Planning & Development

MEETING DATE: August 9, 2022

AGENDA ITEMS: Vista Field Hangar Reuse Concept – Design, Cost Estimate & Path Forward

I. REFERENCE(S): Vista Field Corporate Hangar Reuse Concept drawings date July 26, 2022

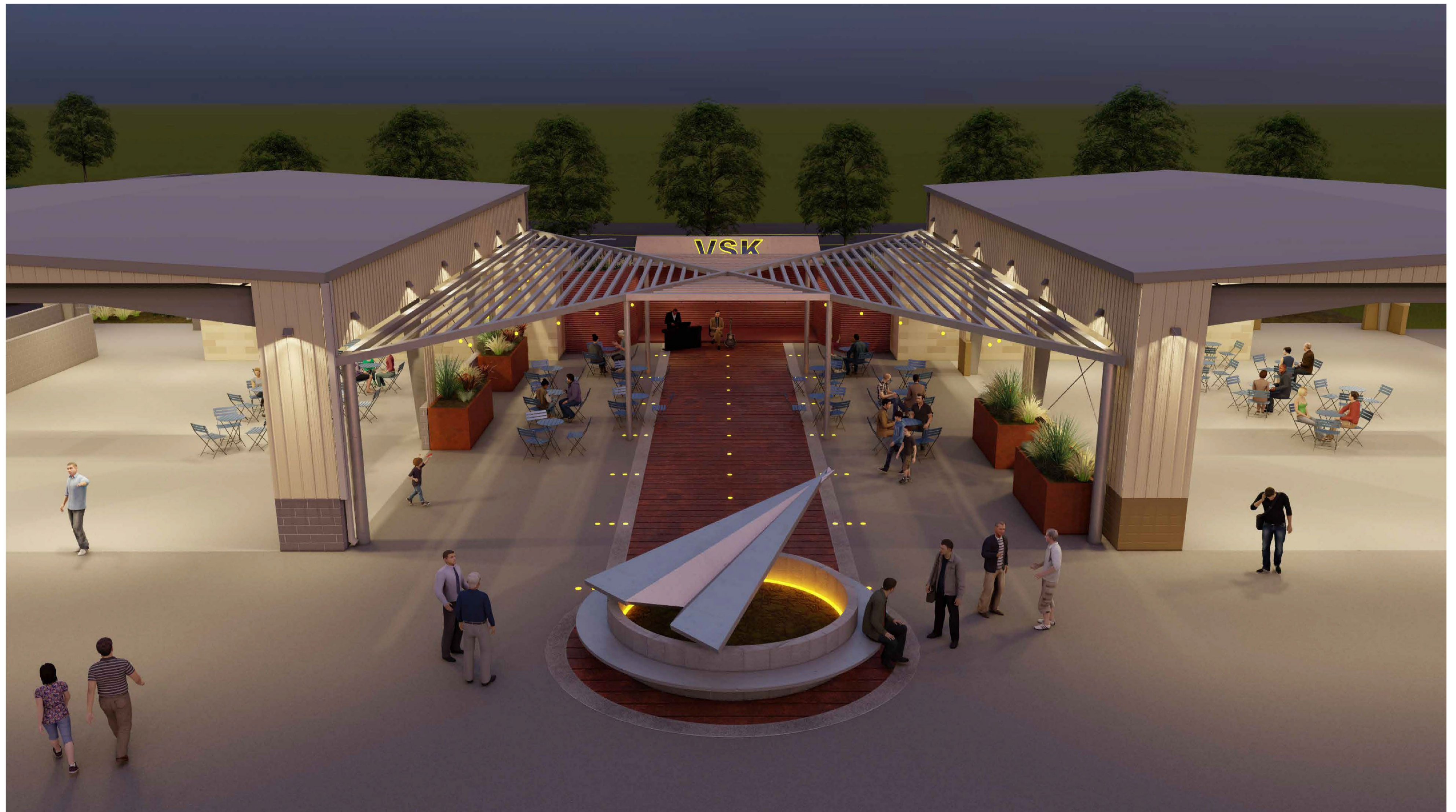
II. FISCAL IMPACT: Officially none at this time; however, moving toward allocation of \$3,250,000 of Benton County Rural County Capital Funds.

III. DISCUSSION: Since the Vista Field master planning Charrette in November 2014 questions and ideas have evolved about what and how the former aircraft hangars on Deschutes Avenue would contribute to the Vista Field redevelopment project. Concepts developed early in this process were found to be challenging to implement and cost prohibitive due to complexities of converting the buildings from storage uses to some more vibrant uses such as retail or restaurants. Concepts were revised in 2019-2020 however the application of the newly adopted Washington State Energy Code added even more requirements such that the estimated costs could not be justified.

In early 2022 staff working with a design team (CJKT Architects & Parametrix) approached the reuse challenge with the two equal goals; “lean” focused and working within the applicable codes. The result was a concept to make the buildings, “not buildings” in the eyes of the applicable codes while creating the most vibrant place possible within the budget constraints. The reuse concept was shared with the Commission and public on July 26, 2022, and was well received. Staff worked with the design team to incorporate/address concerns (wind & security) raised at that meeting.

A master budget cost estimate deemed “reasonable” at this stage of design is \$3,250,000 which includes construction, sales tax, soft costs (design & construction management, permits, fees) and a 15% contingency. The only element shown in the renderings not included in this “base bid” would be a second bathroom building in/under Hangar C, however this element could/would be bid as an alternate. At the July 26th meeting it was incorrectly stated that the next step forward would involve a formal resolution whereas prior RCCF projects retained resolution consideration/approval to the later stage of actually executing a Disbursement Agreement with Benton County.

IV. ACTION REQUESTED OF COMMISSION: *Obtain Commission consensus to proceed with preparation and submittal of a Rural County Capital Fund in the amount of \$3.25M for the Hangar Reuse project in substantial conformance with the design concepts date July 26, 2022.*



VISTAFIELD

ckjt architects, pllc
 128 Vista Way Kennewick WA (509) 783-5444

Parametrix

ENGINEERING. PLANNING. ENVIRONMENTAL SCIENCES



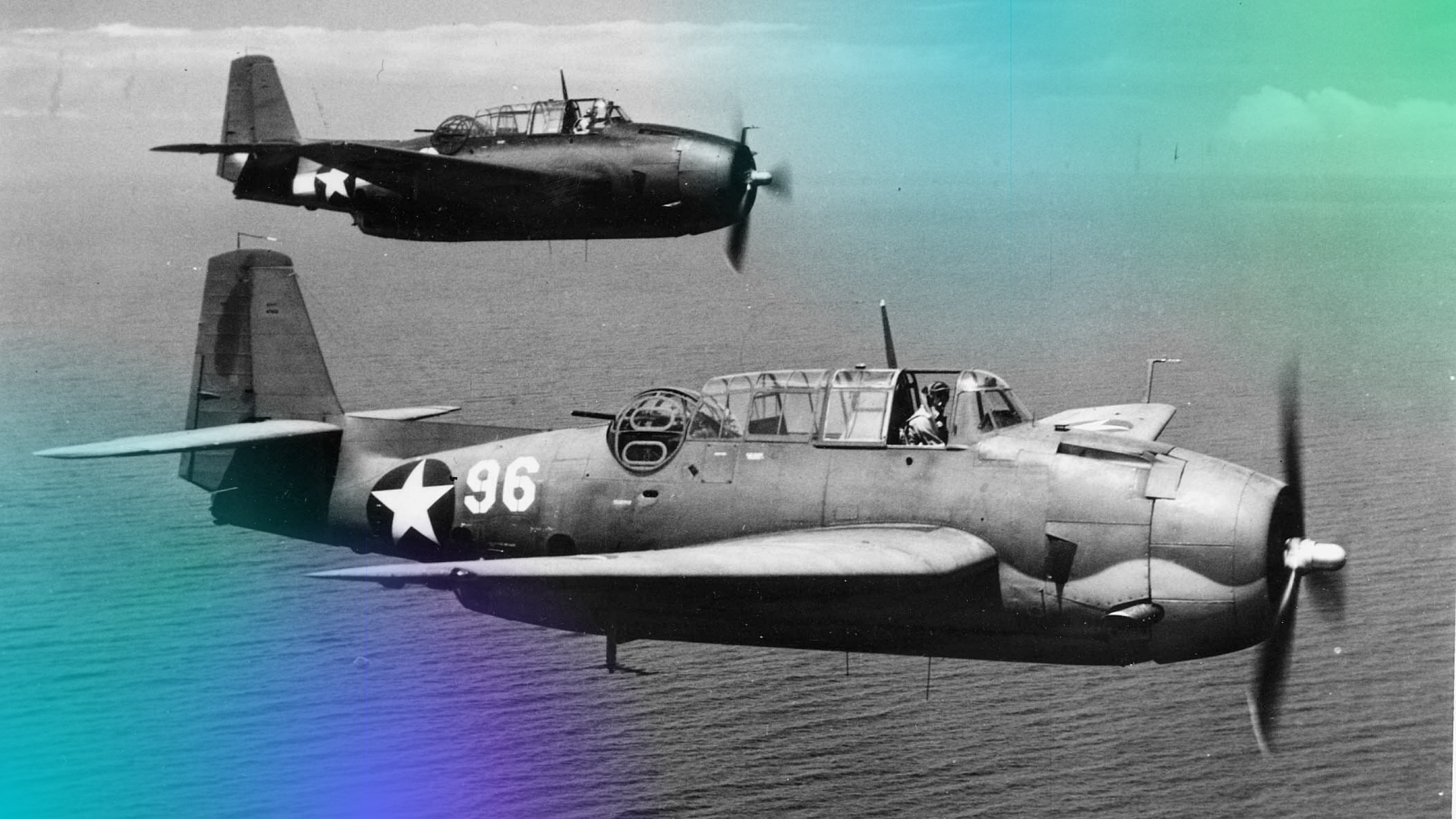




Vista Field

PLANES FROM THE PAST...













Memorandum

To: Port Commission
From: Tim Arntzen, POK CEO
Date: August 9, 2022
Re: Art Policy

In the past Nick and I have indicated that we will be looking for suggestions to share with the Commission related to making the Port more effective and less bureaucratic.

We believe a review of the Art Policy should be discussed.

A number of years ago, the Port wanted to formalize its commitment to art of community importance. As you know, the Port has commissioned a number of impressive art objects. However, having had a number of years practice in implementing the policy, a few concerns have arisen. First, administering the policy has been problematic, as the funding has been based on proceeds from land sales. This is an “up or down” funding source. If we have sales, we have funding. If we don’t, we don’t. Additionally, confusion arises with potential purchasers: they wonder if they are paying more than the land is worth, to fund art. And the internal paperwork is problematic.

As an alternative, perhaps the Commission would consider abolishing the policy and replacing it with a budgetary line item for art. This would provide a known sum for art, would remove any stigma in the eyes of a potential purchaser, and would reduce internal bureaucracy.

Nick and I will be prepared to discuss this in more detail at the August 9, 2022 Commission Meeting. Thank you for this opportunity to present an update to the commission.



AGENDA REPORT

TO: Port Commission

FROM: Carolyn Lake and Tim Arntzen

MEETING DATE: August 9, 2022

AGENDA ITEM: Proposed Updates to the Commission's Rules of Policy and Procedures,
Commission Review & Discussion of Draft Updates-
No Action Currently Requested.

I. REFERENCE(S): None currently –

When final, the updates to the Commission's Rules of Policy and Procedures will be adopted by Commission Resolution.

II. RELATED HISTORY:

Resolution No. 2011-05 Original Commission's Rules of Policy and
Procedures adopted February 22, 2011

Resolution No. 2016-01- Revised and Amended Section 6 – Commission
Meetings

Resolution No. 2017-16- Revised Section 15 - Created CEO Committee
Evaluation Process

Resolution No. 2019-24- Revised Section 15 - Reversion of Committee
Evaluation Process

Resolution No. 2022-19- Revised Section 15 – Revised CEO Evaluation

III. FISCAL IMPACT: \$0

IV. DISCUSSION:

The Commission authorized the Port CEO to oversee an update to the Commission Rules of Policy & Procedure ("Rules") for Commission consideration. The Rules were initially adopted in 2011 and were last updated in 2016 via Resolution 2016-01.

A redlined and a "clean" version of the draft Rules update are provided to Commission. The Index below briefly explains selected draft changes. Port Counsel is also available as an additional resource.

Page - Redlined version	Section	Brief Description
Page 1	1.4	Changes and strengthens purpose from acting as a “guide” to being “Rules” – The reference to “Framework” is discretionary, Rules are mandatory.
	1.5	References these Rules as a binding source of Commission policy
Page 2	2.4	Updates reference to Financial Policies adopted in Resolution 2018-27
Page 3	2.4.4-2.4.10	Updates reference to Financial Policies adopted in Resolution 2018-27
Page 4	3.5	Changes requirement that Commissioners file only the Report number of required PDC Reports
Page 5	3.13.3	Modifies process for Email between Commissioners for greater OPMA compliance and Commission protection
	3.13.5	Adds commitment to meet state law OPMA training requirements
Page 5	3.14.5	Strengthens commitment to PRA compliance
Page 7	5.2	Strengthens commitment to PRA compliance
Page 8	5.3	Modifies Complaint initial determination process to require concurrence of Port Counsel
	5.6-5.8	Updates per Resolution 2019-10 and streamlines wording
Page 9	5.9	Strengthens types of Commission-imposed sanctions
	5.11	Clarifies that misconduct must be found in order to forfeit indemnity and defense
	6.1.1	Adds that Commissioners may serve consecutive terms as Commission Officers
Page 10	6.1.4	Adds the sanction of removal from Board officer position
	6.5	Strengthens/Clarifies OPMA compliance: that no discussion, as well as no action, to be taken at a Special Meeting other than what’s on agenda, and adds reference to posting and publication requirements for a special meeting
Page 10-11	6.7	Adds Adjournment language to comply with 2022 updates to the OPMA
Page 11	6.8	Adds language to comply with 2022 updates to the OPMA, re: posting and access to meeting recordings
	6.10	Adds provisions for Commission to continue remote meetings and complies with 2022 updates to the OPMA
Page 12	6.11	Clarifies wording and that participation by remote means constitutes attendance
	6.13	Clarifies that Commission meetings conducted pursuant to an agenda; word clarifications, and references new public comment requirements per 2022 OPMA
	6.14	Adds more detail regarding steps for OPMA compliance with Executive Session
Page 18	13.3.6	Adds CEO job description elements

Page - Redlined version	Section	Brief Description
Page 20	14.2.5 – 14.2.20	Adds Financial Policies adopted in Resolution 2018-27
Page 22	15	CEO Evaluation Processes – Includes the changes adopted by Resolution 2022-19
Page 23	16.1	Adds reference to other Port Auditor state law compliance requirements
Page 25	18.3.-18.7	Clarifies language throughout Legal Representation and Indemnification procedures
Page 29	18.16	Word clarification and adds that Commission action is final and not subject to reconsideration or appeal.
Page 30	18.17.1-.2	Word clarification re: recall processes and clarifies participation rules for deliberation or vote on indemnification/ defense request ###

IV. ACTION REQUESTED OF COMMISSION: Review and Discuss Only, with Proposed Commission Adoption of Implementing Resolution at the August 23, 2022 Commission Meeting

8.01.22 DRAFT

PORT OF KENNEWICK, WASHINGTON

PORT COMMISSION

**RULES
OF
POLICY AND PROCEDURE**

**ADOPTED AT A REGULAR, OPEN
MEETING OF THE PORT COMMISSION**

FEBRUARY 22, 2011

Section 6 Revised and Adopted January 12, 2016

Draft of 8.01.22

TABLE OF CONTENTS
[WILL BE UPDATED IN FINAL DRAFT]

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	<u>Page</u>
1. Introduction and Purpose.....	1
1.1 Port of Kennewick.....	1
1.2 Other Governing Law.....	1
1.3 Port Managing Official.....	1
1.4 Purpose.....	1
1.5 Reserved Rights.....	1
2. Commission and Commissioners.....	1
2.1 Purpose.....	1
2.2 Governance.....	1
2.3 Actions.....	2
2.4 Port Financial Goals.....	2
3. Commission Code of Conduct.....	23
3.1 Purpose.....	23
3.2 Conflict Avoidance.....	3
3.3 Policy Acknowledged.....	3
3.4 Disclosure.....	3
3.5 Statement of Financial Affairs.....	34
3.6 Conduct as Commissioner.....	34
3.7 Commissioner Knowledge of Policies.....	34
3.8 Representation of Positions.....	34
3.9 Shared Information and Advocacy.....	34
3.10 Representation of Port Position.....	4
3.11 Special Privileges Prohibited.....	4
3.12 Commission-Staff Relations.....	45
3.13 Open Meetings.....	45
3.14 Commission Disclosure of Economic Associations.....	5
4. Full Transparency in Port Actions.....	6
5. Reporting Misconduct.....	67
5.1 General.....	67
5.2 Complaint.....	7
5.3 Initial Determination.....	7
5.4 Investigation.....	7
5.5 Determination and Recommendation.....	78
5.6 Notification of Determination.....	78
5.6.5.7 Hearing and Decision upon Recommended Action.....	8
5.7.5.8 Reconsideration.....	78
5.8.5.9 Sanctions.....	8
5.9 Public Notification.....	98
5.10.....	
5.11 Other Remedies Reserved.....	89

	<u>Page</u>
6. Commission Meetings.....	89
6.1 Officers	89
6.2 Presiding Officer	89
6.3 Presiding Officer Duties	89
6.4 Regular Meeting.....	109
6.5 Special Commission Meetings	910
6.6 Quorum.....	910
6.6.7 Adjournment.....	10
6.6.8 Recording Proceedings	910
6.6.9 Call to Order	109
6.6.10 Participation by Telephone Remote Meetings	109
6.6.11 Commissioner Attendance at Meetings.....	119
6.6.12 Commission Meeting Staffing	1011
6.6.13 Conduct of Business.....	1011
6.6.14 Comment	1011
6.6.15 Executive Sessions	112
6.6.16 Commission Discussion	113
6.6.17 Representation at Commission Meetings.....	113
7. Agenda Planning.....	113
7.1 Placing Item on the Agenda	113
7.2 Agenda Preparation	113
7.3 Agenda Materials	131
7.4 Adding an Item to a Published Agenda	1213
7.5 Agenda Item Order	1213
7.6 Consent Agenda	1214
8. Role of the Commission President.....	1214
9. Role of the Commission Vice-President	1214
10. Role of the Commission Secretary.....	1315
11. Commission Committees.....	1315
11.1 General	1315
11.2 Committee Roles and Responsibilities	1315
12. Commission and Port Action.....	135
13. Port Commission & Staff Roles and Responsibilities	1416
13.1 General Roles.....	1416
13.2 Commissioner's Role.....	1416

13.3 [Chief Executive ~~Director's~~ Officer's](#) Role.....[1516](#)

13.4 Staff Role.....[185](#)

13.5 Summary.....[185](#)

	<u>Page</u>
14. Budget and Procurement Authority	1619
14.1 General	1619
14.2 Financial Policies	1619
14.3 Budgetary Authority.....	1620
14.4 Procurement Authority	1620
15. Evaluating the Chief Executive Director's Officer's Performance.....	1721
15.1 General	17
15.2 15.1	Process
.....	17Chief
Executive Officer Evaluation Committee	21
16. Commission-Auditor Relationship.....	1722
16.1 General	1722
16.2 Hiring and Reporting	1722
17. Commission-Port Attorney Relationship.....	1722
17.1 Port Attorney Role.....	1722
17.2 Port Attorney Responsibilities.....	1822
18. Indemnification and Defense Policy	1823
18.1 Policy Stated	1823
18.2 Definitions	1823
18.3 Legal Representation	1923
18.4 Exclusions.....	2024
18.5 Reserved Rights	2025
18.6 Policy Secondary to Insurance	2025
18.7 Determination of Exclusion	2025
18.8 Representation and Payment of Claims – Conditions.....	2125
18.9 Effect of Compliance With Conditions.....	2126
18.10 Failure to Comply With Conditions	2226
18.11 Reimbursement of Incurred Expenses.....	2226
18.12 Conflict With Provisions of Insurance Policies.....	2227
18.13 Pending Claims	2227
18.14 Modification of Chapter.....	2327
18.15 Bargaining Unit Contracts	2327
18.16 Punitive Damages.....	2327
18.17 Application to Recall Proceedings	2327
19. General Complaint Resolution.....	2428
19.1 Administrative Complaints Made Directly to Individual Commissioners	2428
19.2 Administrative Complaints – “Best Practice”	2428
Attachment: Ten Commandments for Staying Out of Trouble as a Port Commissioner	2528

1. INTRODUCTION AND PURPOSE

1.1 Port of Kennewick. The Port of Kennewick (“Port”) is a Washington port district, with authority to act under law, as they exist and or as they may be amended in the future including but not limited to Titles 14 and 53 RCW. The powers of a port district are exercised through a port commission. The Port Commission of the Port of Kennewick consists of three Port Commissioners.

1.2 Other Governing Law. In addition to enabling legislation, the Port is subject to Washington State laws, including but not limited to the Open Public Meetings Act, chapter 42.30 RCW; the Public Records Act, chapter 42.56 RCW; and, the Code of Ethics for Municipal Officers, chapter 42.23 RCW.

1.3 Port Managing Official. Consistent with its authority under RCW 53.12.270, the Port Commission has delegated to the office of Chief Executive Officer such administrative powers and duties as deemed proper for the efficient and proper management of the Port’s operations. See “Delegation of Authority to Executive Director,” Port Resolution 2009-06 (February 10, 2009 – the “Delegation Policy.”)

1.4 Purpose. It is the purpose of these Rules of Policy and Procedures to provide a framework and rules guide for governance, management and operation of the Port.

Commented [CL1]: Framework is discretionary, Rules are mandatory, so opting for Rules

1.5 Reserved Rights. The adoption and maintenance of these Rules of Policy and Procedure (“Rules”) create no vested rights or entitlements. These Rules may be revised, suspended, amended or repealed by majority vote of the Port Commission when acting pursuant to and in compliance with applicable law and these Rules.

2. COMMISSION AND COMMISSIONERS

2.1 Purpose. The purpose of the Commission is to:

2.1.1 Identify and define the purpose, values and vision of the Port, along with the results the Port is to achieve, and to communicate those items in the form of policy;

2.1.2 Make certain decisions as are designated by law; and

2.1.3 Hire, evaluate, and terminate the Chief Executive Officer ~~Executive Director~~.

2.2 Governance. Commission governance addresses:

2.2.1 Strategic leadership more than administrative detail;

2.2.2 Encouragement of diversity in viewpoints;

2.2.3 Collaborative rather than individual decisions;

2.2.4 Future, rather than past or present, direction;

2.2.5 Proactive, rather than reactive, conduct; and

2.2.6 Full transparency to the public.

2.3 Actions. The Commission will:

2.3.1 Produce and maintain written policies that ensure a high quality of governance and clear roles in decision-making between Commission and staff;

2.3.2 ~~Regularly in Monitor~~, and not less than annually, evaluate the Chief Executive Officer's Executive Director's performance, based on the then-current adopted Commission policies and the Port's Work Plan, using the Evaluation Process and Procedures of Resolution 2022-19;

2.3.3 Adopt, and ~~bi~~-annually review, the Port's Strategic Work Plan;

2.3.4 Adopt the Port's annual budget;

2.3.5 Adopt, regularly review, and modify as necessary the Delegation of Authority to the ~~Chief Executive Officer~~Executive Director;

2.3.6 Set the rates, rules and regulations for services provided by the Port;

2.3.7 Purchase or dispose of real estate or other property to the benefit of Port District taxpayers/citizens;

2.3.8 Establish Port positions on significant governmental legislation;

2.3.9 ~~Reserve to the Chief Executive Officer management and direction of Port Staff, unless undertaken pursuant to the leadership of the Chief Executive Officer;~~

2.3.10 At all times maintain strict moral, ethical and honest conduct;

2.3.11 ~~At all times treat the Chief Executive Officer, staff and public with respect; and~~

2.3.12 Approve the annual budget of the Port and set the amount of the annual tax levy by December 1 of each calendar year, pursuant to RCW 53.35.045;

2.3.13 Reserve to itself if, how, and the degree to which the Port will use the governmental powers of taxation and eminent domain;

2.3.14 Establish financial policies, including capital formation and debt issuance;

2.3.7 ~~On an annual basis, affirm agreement to comply with these Rules and acknowledge and accept the consequences of failure to do so; and~~

~~2.3.8~~

2.3.92.3.15 Take such other actions as may be required by law.

2.4 Port Financial Goals.

As specified in Port Resolution ~~2018-27, 40-41~~, as may from time to time be amended, the Port Commission reiterates the following budgetary goals and acknowledges the importance thereof:

2.4.1 The Port shall work toward funding all operating expenses from revenues from Port operations;

Commented [CL2]: References the proposed CEO evaluation updated process in Resolution 202-19.

Commented [CL3]: Confirm name of Plan - Strategic Work Plan or Work Plan

Commented [CL4]: Note - see 3.6 below - existing language: " and shall conduct themselves with civility and respect at all times with one another, with staff, and with members of the public"

2.4.2 The Port shall fund projects with available resources, not with bonds or loan financing unless otherwise in the best interest of the Port and the communities' long term interest;

2.4.3 The Port shall pursue fewer projects while selecting projects with the greatest return to the Port and to taxpayers; and

~~2.4.4~~—The Port shall pursue projects with development partners who demonstrate support (e.g. matching funds, political/citizen/taxpayer support, leveraged investment, enthusiasm/goodwill).

~~2.4.4 Produce and maintain a balanced budget.~~

~~2.4.5 Provide a fiscally sound approach to finances by ensuring that expenditures and debt repayments do not exceed available resources in current budget and future years impacted;~~

~~2.4.6 Promoting fiscal responsibility among departments.~~

~~2.4.7 Focusing on long-term financial planning.~~

~~2.4.8 Support intergovernmental cooperation by partnering with entities which demonstrate support; (e.g. matching funds; previous successes; political and taxpayer support; and enthusiasm).~~

~~2.4.9 Provide the public with high quality projects and services within a healthy work environment by encouraging efficiency, cooperation, honesty, integrity, and respect; and~~

~~2.4.52.4.10 Adhere to the additional Policies set forth in Chapter 14.2 herein below.~~

Commented [CL5]: 2.4.4 through 2.4.10 are from Reso 2018-27

3. COMMISSION CODE OF CONDUCT

3.1 Purpose. The purpose of these Port of Kennewick Rules is to foster public transparency and public accountability concerning the transaction of Port business and to protect, and promote the efficiency of, the Port by prohibiting incidents and areas of conflict. Commissioners shall conduct themselves in accordance with all laws and applicable policies and further shall comply with the following:

3.2 Conflict Avoidance. Commissioners are strictly prohibited by law from entering into or engaging in any activity identified in chapter 42.23 RCW as a conflict of interest with their official duties as a Port of Kennewick Commissioner and shall further avoid conduct that may present an appearance of a conflict of interest.

3.3 Policy Acknowledged. On an annual basis and in a public forum, each Commissioner shall acknowledge the obligation to disclose any conflicts of interest under chapter 42.23 RCW, ~~and execute a written pledge to do so.~~

3.4 Disclosure. On a case-by-case basis, each Commissioner will disclose to the other Commissioners in a public forum, any remote conflicts of interest under chapter 42.23 RCW. Disclosure will be noted in the Port's official minutes which are public record. As required by RCW 42.23.040, a Commissioner with such remote interest will not participate in any discussion

and/or debate concerning such interest, will not vote on the matter, and will do nothing to influence any other Commissioner concerning their decision on the matter. The foregoing shall also apply to any business owned by a Commissioner's spouse, in the absence of a separate property agreement.

~~3.5—3.5~~ Statement of Financial Affairs. On or before April 15 of each year, or within (14) days of taking oath of office, each Port Commissioner shall file with the Port the number of the Statement of Financial Affairs prepared in satisfaction of the requirements of RCW 42.17.240 -.241 and filed with the a copy of a Public Disclosure Commission. Statement of Financial Affairs prepared in satisfaction of the requirements of RCW 42.17.240—
~~3.6—.241, which shall be available for public inspection at the first regular Commission meeting after the above-referenced dates.~~

3.6 Conduct as Commissioner. Commissioners shall adhere to these Rules ~~of Policy and Procedure~~ as adopted by the Commission, and shall conduct themselves with civility and respect at all times with one another, with staff, and with members of the public. As fiduciaries of the Port, Commissioners shall make decisions on the basis of public policy and shall demonstrate undivided loyalty to the interests of Port and its taxpayers. This loyalty shall supersede any conflicting loyalty to advocacy or special interest groups.

3.7 Commissioner Knowledge of Policies. Commissioners will become familiar with their individual and joint obligations pertaining to the Port's directive on reporting alleged improper governmental action, including actions required of the Commission regarding complaints by Port employees and/or the public of alleged improper governmental actions and/or employee claims of retaliation for reporting alleged improper governmental actions.

3.8 Representation of Positions. Unless authorized by the Commission at an open meeting or as set forth in Port policy or plan (e.g., an approved plan), an individual Commissioner may not represent a position as being the position of the Port, either in private communications or in a public forum.

3.9 Shared Information and Advocacy. Recognizing that differences may exist among the Commissioners and that a collegial approach to issue resolution is preferred, Commissioner shall make available to fellow Commissioners all information related to Port activities. A Commissioner should make clear the foundation upon which an opinion stands; be candid about any philosophical or political preferences; and recognize and make clear the limits of expertise.

3.10 Representation of Port Position. No Commissioner is authorized, without Commission authorization, to represent the Port with special interest groups, Port tenants, suppliers, vendors, consultants, contractors or others that are or seek to do business with the Port. Unless otherwise authorized by the Commission, a Commissioner shall disclose that the Commissioner's position is not that of the Port or of the Commission when participating in discussions, debates, and forums where the sponsoring group(s) or other participants are identified with a particular perspective on an issue and the Commissioner's participation might put into question both the Commissioner's and the Commission's impartiality. Nothing in this Policy prevents an individual Commissioner from stating a position as that of the individual Commissioner, but not that of the Port or of the Commission.

3.11 Special Privileges Prohibited. RCW 42.23.070 prohibits, in part, Commissioners from using public office to secure special privileges or exemptions for a Commissioner or others.

3.11.1 Commissioners must conduct themselves at all times in a manner that leaves no grounds for belief, or even the appearance that information they have gathered on the job has been used for personal gain or for gain of any individual or special interest group, whether such gain is financial or otherwise.

3.11.2 Commissioners shall avoid any association with individuals or groups organized with an attempt to influence Port policy that will benefit themselves or their cause at the exclusion of the Port at large.

3.12 Commission-Staff Relations. Commissioners may not attempt to exercise individual authority over the Port or staff, except as explicitly set forth and authorized in Commission policies, including the Delegation Policy referenced in Section 1.3.

3.13 Open Meetings. In accordance with Chapter 43.20 RCW, Washington state's Open Public Meetings Act, Commissioners shall:

3.13.1 Not meet as a quorum outside of Commission-called public meetings to hold discussions or make decisions, as defined under Open Public Meetings Act, eChapter 42.30 RCW, regarding the business of the Port.

3.13.2 Not meet as a Commission quorum with staff outside of a Commission-called public meeting for the purpose of gathering information.

3.13.3 Understand that the requirements of the Washington Open Public Meetings Act apply to communications via telephone, e-mail, instant messaging or other forms of electronic communications. Any exchange of communication between any two Commissioners may constitute an official meeting of the Commission and be in violation of the Act. Commissioners may request that the Chief Executive Officer or his/her designee send send information to other members of the Commission on an informational basis; however, replies and/or exchanges of Commissioner communications regarding Port business must not occur outside of an official public meeting of the Commission. Any such e-mail sent for informational purposes as described above, by any member of the Commission, shall be sent individually, not as group e-mail. Commissioners will not "reply" or "reply all" to any e-mail received by another member of the Commission.

3.13.4 Respect the confidentiality appropriate to issues, including personnel, real estate transactions, proprietary matters, and attorney-client privileged communications, including those requirements listed under RCW 42.30.110, Executive Sessions, and including any other confidential information gained by reason of the Commissioner's position. See also RCW 42.23.070(4) prohibiting disclosure of confidential Port information; and-

3.13.5 Complete training on Open Public Meeting Act requirements no later than ninety days after taking office. Thereafter, each Commissioner shall maintain Open Public Meeting Act training at no less than every four years while a member of the Commission. Training may be completed remotely with technology including but not limited to internet-based training.

3.14 Commission Disclosure of Economic Associations. RCW 42.23.070 states in part that "[n]o municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or

which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein.” Port contracts made in violation of the law are void; and any Port officer violating the law is liable to the Port for a “penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty.” RCW 42.23.050. The law also prohibits a Commissioner from employment or engaging in any professional activity that may require disclosure of confidential Port information to non-Port interests. RCW 42.23.070. These statutory prohibitions are based on the principle that a Port official may not have divided loyalties. The line between proper and improper conduct may not always be clear, and even unintentional conduct may expose the Port and Port officers and employees to liability. See *City of Raymond v. Runyon*, 93 Wn. App. 127 (1998) (“In spite of well-intentioned attempts to avoid a prohibited conflict of interest,” city commissioner found in violation of law). These Rules ~~attempt to address~~ a Commissioner’s responsibility under law and duty of loyalty to the Port, with other interests. See also, Section 3.2 herein.

3.14.1 Under ~~e~~Chapter 42.23 RCW, no Commissioner may have an economic association (affiliation, involvement, or interest), directly or indirectly, that may conflict with the Commissioner’s official duties as a Port Commissioner. However, Commissioners may engage in other employment or activity only so long as it does not interfere or conflict with their duties as a Commissioner.

3.14.2 In order to avoid inadvertent violation of law, and consistent with the Port’s policy for its officers and employees, on or before April 15 of each year, or within fourteen (14) days of taking office, each Port Commissioner, shall file with the Port a written statement identifying any current or prospective economic relationship, whether direct or indirect, which could be a conflict of interest, a remote interest or give rise to an appearance of a conflict of interest with the Port. In addition, each Port Commissioner shall in the written statement disclose other employment and/or business relationships in order that the Port may confirm that there are no Commissioner conflicts or potential conflicts of interest with current or prospective Port activities. The statement shall include the name of the ~~employing~~ or business, the nature of services rendered, the time commitments, the location of the performance of such services and the amount of compensation (and expense reimbursement) received for such services. This Section 3.14.2 shall also apply to any employment or business of a Commissioner’s spouse, in the absence of a separate property agreement.

3.14.3 ~~Each~~The Commissioner shall declare his or her intention to refrain from deliberations and voting on issues related to the person or entity in such relationship. This requirement may be extended by Commission action to any individual or entity that, in the judgment of the Commission, could represent the potential for or the appearance of a conflict of interest. Even with disclosure, chapter 42.23 RCW may prohibit the Commission from acting ~~where in the face of~~ a conflict of interest ~~exists~~.

3.14.4 A Commissioner shall not receive reimbursement for expenses, per diem, or other Port payment for activities (e.g., travel, meals and other costs) when the Commissioner is engaged in or participating for both the Port and another ~~E~~entity.

3.14.4.3.14.5 ~~Commissioners acknowledge that the Washington State Public Records Act, chapter 42.56 RCW, applies to all records pertaining to the business of the Port.~~

Commissioners shall comply with all mandatory requirements of that law.

4. FULL TRANSPARENCY IN PORT ACTIONS

4.1 Compliance with these Rules is policy shall ensure full, fair, and open discussion of matters of public importance, with opportunity for public participation and media coverage.

4.2 With respect to any quasi-judicial matter before the Commission, or reasonably expected to come before the Commission, ~~it is the policy of the Port Commission that~~ no Commissioner shall:

4.2.1 Have contact with any person, either oral, written, electronic or otherwise communicated, except in an open, public Commission meeting; and

4.2.2 Receive any information or evidence except as a part of the public record at a Commission meeting.

4.3 If a Commissioner is not able to avoid contact with parties outside of an open public Commission meeting or receipt of information from parties outside of an open public Commission meeting, the Commissioner shall disclose at the next public meeting, the full content of the contact made or information received.

4.4 ~~Commissioner A~~ avoidance of communications described above is preferred over relying on the public disclosure remedy because an incomplete or inaccurate conveyance of the contact, even if inadvertent, may bias the outcome and subject the Commission action to challenge.

4.5 ~~The Commission shall facilitate that A~~ all information ~~sought to be any person or entity would like~~ distributed to Commissioners by the public should be first provided to Port staff; staff will then consistently distribute the information to all Commissioners and file the information as appropriate.

5. REPORTING MISCONDUCT

5.1 General. The Port is committed to lawful and ethical behavior in all of its activities and requires its staff and Commissioners to conduct themselves in a manner that complies with all applicable laws, regulations and ~~these Rules is policy~~. Complaints against staff (other than the ~~Chief Executive Officer Executive Director~~) shall be resolved by the Chief Executive Officer Executive Director, according to applicable law and the Port's Policies and Procedures manual. Complaints against the ~~Chief Executive Officer Director~~ shall be resolved by the Port Commission according to applicable contract, Delegation of Authority and ~~these Commission Rules of Port Policies and Procedures, manual~~. Complaints against Commissioners shall be resolved as set forth below.

5.2 Complaint. If any person believes that a Commissioner has engaged in misconduct, the ~~Chief Executive Officer Executive Director~~ shall investigate consistent with Section 5.3 herein and report to the Commission. No employee will be discharged, threatened, or discriminated against in any manner for following up on any complaint or for reporting what they perceive to be misconduct. All complaints must include a description of the alleged misconduct. The proceedings shall be treated confidentially, including the name of the complainant, except to the extent required to complete any investigation or as required pursuant to the Public Records Act, and in the event that an action is taken.

5.3 Initial Determination. Based upon the complaint, and only following investigation and with the advice, ~~and~~ counsel and concurrence of Port general or special legal counsel (“Port Ceounsel”), the ~~Chief Executive Officer Executive Director~~ shall determine whether sufficient evidence exists to proceed with an investigation. If the ~~Chief Executive Officer Executive Director~~ determines that insufficient evidence exists and Port Counsel concurs, the complaint shall be dismissed. Otherwise, the Chief Executive Officer shall proceed as follows.

5.4 Investigation. If an investigation is deemed warranted, the ~~Chief Executive Officer Executive Director~~ shall recuse himself from the process and delegate all further steps to Port Ceounsel, and/or an investigator retained for such purpose by Port Ceounsel (“Investigator”). Port Ceounsel shall inform the party subject of the complaint (“Respondent”) in writing that a complaint has been filed and that an investigation will take place. Port Ceounsel shall provide a copy of the complaint to the Respondent and the Respondent shall have a reasonable time to prepare and submit a response in writing. Port Ceounsel or Investigator may seek additional information regarding the matter from the complainant, the Respondent and/or relevant third parties. In conducting the investigation and evaluating all evidence, the Port’s Ceounsel and or Investigator shall presume that the Respondent acted ethically and shall determine that an act of professional misconduct has occurred only upon a finding of substantial evidence of such misconduct.

5.5 Determination and Recommendation. Port Ceounsel and or Investigator, if one is retained, shall evaluate the complaint and issue a decision within thirty (30) days of receiving all relevant evidence, that the complaint is substantiated or unsubstantiated. If Port Ceounsel finds ~~misconduct and~~ the complaint substantiated, Port Counsel shall prepare a report to ~~Chief Executive Officer Executive Director~~ and the Commission which shall set forth the basis for the decision and a recommended action; otherwise, the complaint shall be dismissed.

5.6 Notification of Determination. ~~Following receipt of the decision and recommendation of Port counsel, the Commissioners shall promptly hear, consider and vote upon the recommended action. The complainant and Respondent shall be notified of the action in writing and shall have the right to be heard before the Commission. The Complainant and Respondent(s) shall be notified in writing of the determination and recommended action; or, of the dismissal.~~

Commented [CL6]: Updated from Resolution 2019-10, and further revised

5.7 Hearing and Decision upon Recommended Action. ~~The Complainant and Respondent(s) shall have the right to be heard before the Commission or, if pending before a Neutral as that term is defined below, to be heard before the Neutral. If the complaint received is against one Commissioner, following receipt of the Port Counsel’s determination and recommended action from Port counsel, the remaining Commissioners who are not a party to the complaint shall promptly hear, consider and vote upon the recommended action. If the complaint received is made by one or more of the Commissioners against one or more Commissioner, the determination and recommended action of Port counsel shall be submitted to a mutually agreeable neutral selected from the panel of neutrals available at the Seattle office of Judicial Arbitration and Mediation Services (“JAMS”) or Judicial Dispute Resolution (“JDR”) (“Neutral”), or other similarly qualified third party Neutral as agreed upon by the Complainant and the Respondents. If the parties cannot agree upon the selection, the Port Counsel presiding judge for Benton County Superior Court shall select a Neutral from the panel available at the Seattle office of JAMS or JDR. The Neutral shall determine the hearing process. The Neutral shall promptly hear, consider and issue a decision regarding the recommended action within 30 days of the hearing.~~

5.8 Reconsideration. A decision (whether by Commission vote or issued by a Neutral) is subject to reconsideration upon written request by Complainant or Respondent(s). The sole ground for reconsideration shall be that the party seeking reconsideration has new, relevant information which was not available for consideration by Port counsel. A party seeking Reconsideration based on new information shall file a written Reconsideration request within fifteen (15) days of the date of the notice of decision. The reconsideration request shall state the reasons in support and include the new information not previously available for Port Counsel consideration and explain why the new information was not previously available. Following review of the entire investigative file, the decision and recommendation of the Port Counsel and the new information, the Commission or, if applicable, the Neutral, shall, within fifteen (15) days of receipt of such new information, hear, consider and render a final decision which may not be further appealed. The parties shall be notified of the final decision, and any action required by the final decision shall be implemented immediately.

~~Reconsideration. A decision is subject to reconsideration upon written request by a respondent. But the sole ground for reconsideration shall be that the Respondent has new, relevant information which was not considered by Port counsel. Reconsideration A respondent having new information to submit to the Commissioners may, within fifteen (15) days of receipt of the written notice of determination, file with the Commission a written request for reconsideration stating the reason and including the new information not considered by the Port counsel. Following review of the entire investigative file, the decision and recommendation of the Port~~

5.9 Sanctions. If a Complaint is upheld, the Commission may invoke Censure and/or reprimand of the Respondent, forfeiture of officer position on the Commission and or removal from may be invoked with respect to Commissioner misconduct, in addition to reassignment of committee assignments and other actions allowed pursuant to state law.

5.10 Public Notification. Unless otherwise determined by the Commission in a particular matter, it shall be standard procedure to publish, in a manner deemed appropriate by the Commission, the fact of any sanction.

5.11 Other Remedies Reserved. Any action taken by the Commission or Neutral shall not prevent other legal action that may be available under law. The Port shall not indemnify or defend any Commissioner found to have committed charged-with misconduct, except as otherwise provided under Section 18.

6. COMMISSION MEETINGS

6.1 Officers. There shall be three Commission officers: a president, a vice president and a secretary.

6.1.1 Terms. The terms of office for each officer shall be two years or until his/her successor is elected. Commissioners may serve consecutive two-year terms

6.1.2 Election. The officers shall be elected at the first regularly scheduled Port Commission meeting in January in even years. Newly elected officers shall take office effective the next regularly scheduled meeting following the election, unless otherwise agreed by the

Commission.

6.1.3 Special Elections. By affirmative vote of 2/3 of the ~~Commission officers~~, a special election of officers may be held at any regularly scheduled Port Commission meeting.

~~6.1.3.6.1.4~~ Removal from Commission Officer Position. By affirmative vote of 2/3 of the Commission, and upon a showing of just cause, a Commissioner may be divested of his or her Commission officer position. "Just Cause" includes but is not limited to a violation of these Commission Rules.

6.2 Presiding Officer. The Presiding Officer at all meetings of the Commission is the President, and in the absence of the President, the Vice President will act in that capacity.

6.3 Presiding Officer Duties. The Presiding Officer shall:

6.3.1 Preserve order and decorum ~~for in the~~ Commission ~~meeting~~ chambers;

6.3.2 Observe and enforce all rules adopted by the Commission;

6.3.3 Decide all questions on order ~~raised~~, in accordance with these ~~R~~rules and ~~Roberts Rules of Order~~, subject to appeal by a Commissioner;

6.3.4 Recognize Commissioners in the order in which they request the floor. Except as otherwise set forth herein, the Presiding Officer, as a Commissioner, shall have only those rights, and shall be governed in all matters and issues by the same rules and restrictions as other Commissioners; and

6.3.5 Have the authority to appoint Commissioners or the public to serve on ad hoc committees, task forces and any advisory boards, with input from fellow Commissioners.

6.4 Regular Meeting. Port meetings are held on the second and fourth Tuesdays of each month in the Commission Chambers, 350 Clover Island Drive, Suite 200, Kennewick, Washington at 2:00 p.m.

6.5 Special Commission Meetings. A special public meeting of the Commission may be called by the President or by any two Commissioners. Any request and subsequent special meeting notices shall state ~~all agenda items the subjects (e.g., agenda items)~~ to be considered at such special meeting. ~~and Commissioners shall not discuss, consider or take final action upon any other subject not appearing on the special meeting agenda. shall be acted upon.~~

The Port Administrative Assistant shall ~~carry out~~ ~~provide the required published and posted~~ notice ~~required for of~~ special Commission meetings pursuant to applicable law.

6.6 Quorum. At all meetings of the Commission, a majority of the Commission (two members) constitutes a quorum for the transaction of business.

~~6.6.7~~ Adjournment. ~~The Commission or less than a quorum may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. If all Commission members are absent from any regular or adjourned regular meeting the Port Administrative Assistant may declare the meeting adjourned to a stated time and~~

Commented [CL7]: Per 2022 updates to OPMA

Commented [CL8R7]: RCW [42.30.090](#)

place. He or she shall cause a written notice of the adjournment to be given in the same manner as provided in RCW 42.30.080 for special meetings, unless such notice is waived as provided for special meetings. Except in the case of remote meetings without a physical location as allowed by law, whenever any meeting is adjourned a copy of the order or notice of adjournment shall be conspicuously posted immediately after the time of the adjournment on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by ordinance, resolution, bylaw, or other rule. ~~but a lesser number may adjourn from day to day or until the time of the next regular meeting.~~

6.76.8 Recording Proceedings. The Port Administrative Assistant shall maintain an ~~recorded~~ account of all ~~open public~~ proceedings of the Commission in accordance with statutory requirements, ~~and all such records shall be available for public inspection. If feasible, the recording of the meetings should be available online for a minimum of six months.~~ Port meeting minutes can be corrected but shall not be revised without a majority affirmative vote of the Commission at a regularly scheduled Commission meeting.

Commented [CL9]: RCW [42.30.035](#)

Commented [CL10R9]: And RCW 42.30.220 - New for 2022

6.86.9 Call to Order. The Presiding Officer shall call each meeting to order. The Presiding Officer will announce the attendance of Commissioners and indicate any Commissioner who is not in attendance.

~~6.9—6.10 Remote Meetings. Participation by Telephone.~~ The Commission ~~notes that it has successfully held remote meetings after March 1, 2020 and believes that remote meetings have value by increasing transparency and s allowing broader public participation and attendance. As allowed by state law, the Commission authorizes continued use of remote meetings, conditioned upon compliance with the requirements of this section. During a remote meeting, Commissioners, the Chief Executive Officer, staff, and the public may appear or attend by phone or by other electronic means that allows real-time verbal communication without being in the same physical location and includes proper accommodation for public participation. Remote meetings may be conducted through the use of Internet or telephonic meeting services that support voting and audio and or visible displays identifying those participating, identifying those seeking recognition to speak, showing (or permitting the retrieval of) text of pending motions, and showing the results of votes. Participation by such means shall constitute presence in a meeting for purposes of establishing a quorum, voting, attendance and for all other purposes. In addition, for a remote meeting, Port must provide an option for the public to listen to the proceedings telephonically or by using a readily available alternative in real-time that does not require any additional cost for participation. Free readily available options include, but are not limited to, broadcast by the Port on a locally available cable television station that is available throughout the Port district or other electronic, internet, or other means of remote access that do not require any additional cost for access to the meeting, or via other electronic means of remote access. The names of those wishing to address the Commission by any means of voice only must be announced and their presence noted in the minutes of the meeting.~~ ~~trongly believes that a Commissioner's first priority shall be to the District's constituents as a whole and that this obligation is best fulfilled by direct, face-to-face participation in public meetings rather than via telephone or other medium. Such policy provides access by the public to the Commission, provides for better understanding by the public of the deliberative process, minimizes miscommunication, ensures that each Commissioner sees all applicable documents and sees all in attendance. Therefore, the Commission, in furtherance of~~

Commented [CL11]: New law as of 2022 RCW 42.30.230(6).

Commented [CL12]: Most of suggested text was added here, some modifications made to conform to OPMA. (See RCW 42/30.040).

~~its long-standing policy of transparency in governance, hereby prohibits the use of attendance at Commission meetings via telephone or other media.~~

6.11 Commissioner Attendance at Meetings. Commissioners shall inform the President or ~~Executive Director~~ Chief Executive Officer if they are unable to attend any Commission meeting, or if they will be late to any meeting. A majority vote is required to excuse any Commissioner's absence. Unless excused, pursuant to RCW 53.12.140 a Commissioner forfeits office by nonattendance at meetings of the Commission for a period of sixty (60) days. The ~~Executive Director~~ Chief Executive Officer shall maintain a record of Commissioner attendance at Commission, and other meetings, to which a Commissioner is assigned or scheduled to attend. Commissioner participation by remote means shall constitute attendance.

6.12 Commission Meeting Staffing. The ~~Executive Director~~ Chief Executive Officer shall attend all meetings of the Commission, unless excused. At the discretion of the Chief Executive Officer ~~Executive Director~~, other staff members shall attend. The ~~Executive Director~~ Chief Executive Officer may make recommendations to the Commission and shall have the right to take part in the discussions of the Commission, but shall have no vote.

6.13 General Conduct of Business.

6.13.1 The Commission meeting shall be conducted pursuant to an agenda, which shall indicate items requiring Commission action.

6.13.2 President ~~as Presiding Officer of the Port Commission~~ will introduce each agenda item, ~~the issue~~, stating whether action will be taken on the ~~item~~ issue, whether the ~~item~~ issue is introduced for discussion only or whether other results are anticipated.

6.13.3 Port staff will briefly discuss the agenda item ~~issue~~.

6.13.4 If a technical report by a consultant or other is to be presented, the presenter will provide a summary of the technical report, generally not to exceed 15 minutes.

6.13.5 At the conclusion of the technical report, staff will return the issue to the ~~Presiding Officer of the Commission~~ for action. ~~A n y~~ The Commissioners may ask staff, any consultants or the public to briefly clarify any matter presented.

6.14 Public Comment. Public comment shall be permitted at Commission meetings ~~only~~ in accordance with these Rules and as required by RCW 42.30.240, as it now exists or as may be amended in the future, ~~established procedures~~. Comments shall be received at the beginning of each meeting, and at the end of each meeting, as identified on the agenda. Either the President or staff may read the following guidelines into the record: The public comment required under this section may be taken orally at a public meeting, or by providing an opportunity for written testimony to be submitted before or at the meeting. When the Port receives written testimony intended for and accepted by the Commission, this testimony must be distributed to the full Commission. The deadline for the submission of written testimony is not less than 24 hours prior to the meeting at which Commission action will be taken. Upon the request of any individual who will have difficulty attending a Commission meeting by reason of disability, limited mobility, or for any other reason that makes physical attendance at a meeting difficult, the Commission shall, when feasible, provide an opportunity for that individual to provide oral comment at the meeting remotely if oral comment from other members of the public will be accepted at the meeting.

Commented [CL13]: New 2022 requirement RCW 42.30.240

6.14.1 Speakers attending in person shall move to the lectern and shall comment only after being recognized by the Presiding Officer. ~~ent; At the conclusion of in-person public comments, the Presiding Officer will request comments from members of the public participating remotely.~~

6.14.2 Speakers shall state their names and addresses prior to addressing the Commission;

6.14.3 The President may allocate available time among individuals wishing to comment. Generally, the time shall be 3 minutes for each speaker;

6.14.4 Groups are encouraged to express their views through a single spokesperson rather than individually;

6.14.5 Speakers shall limit themselves to matters regarding the issue of concern;

6.14.6 Speakers shall not repeat remarks or points of view made by prior speakers;

6.14.7 The ~~—~~ Presiding Officer ~~ent~~ may overrule impertinent, redundant or disruptive comments; Applause or other interruptions disturbances are discouraged;

6.14.8 All remarks should be directed to the Presiding Officer ~~ent~~; and

6.14.9 Individuals should not expect the Commission, staff, consultants, other speakers or any other person, to respond to their comments. Instead, the Commission may direct the matter to staff for comment at a future meeting or for Commission consideration at a future meeting.

6.15 Executive Sessions. Executive Sessions shall be held in accordance with the provisions of the Washington State Open Public Meetings Act. An Executive Session is a Commission meeting that is closed to the public and is attended by except to the Commission, Executive Director Chief Executive Officer and others that may be authorized. ~~The public is restricted from attendance.~~ Executive Sessions may be held during Regular or Special Commission meetings and will be announced by the President. Before convening an Executive Session, the President shall announce the purpose of the session, the specific section of RCW 42.30.110(1) by which the session is authorized, meeting and the anticipated time when the session will be concluded, and whether actin is expected after and as a result of the Executive session. Should the session require more time, the Presiding Officer or his or her designee a publicshall announce announcement shall be made that the executive session is being extended to a time certain. The purpose for the Executive Session shall be noted in the meeting minutes.

Commented [CL14]: RCW 43.20.110

6.16 Commission Discussion. All Commission discussion shall be guided by Robert's Rules of Order Newly Revised (RONR), 11th Edition shall be used to guide meeting procedures in the absence of a governing Commission Bylaw or state law. Robert's Rules of Order, Newly Revised. ~~The~~ The Port Attorney shall assume the additional duty of Parliamentarian.

6.17 Media Representation at Commission Meetings. All public meetings of the Port shall be open to the media, freely subject to recording by radio, television, electronic, and photographic services at any time, provided that such arrangements do not interfere with the

orderly conduct of the meeting, as determined by the Presiding Officer.

7. AGENDA PLANNING

The work of the Commission is accomplished in public meetings and all proceedings of the Commission shall be by motion or resolution, recorded in its minute books, which shall be public records. The agenda of the public meeting identifies in general terms the topics to be considered by the Commission.

7.1 Placing Item on the Agenda. Items may be placed on either the business agenda or on the consent agenda. An item may be placed on the preliminary Commission meeting agenda by any Commissioner or by the Chief Executive Officer ~~Executive Director~~.

7.1.2 Agenda Preparation. The ~~Executive Director~~ Chief Executive Officer shall prepare a preliminary agenda for each Commission meeting. The preliminary agenda shall set forth a brief general description of each item to be considered by the Commission. The ~~Executive Director~~ Chief Executive Officer shall promptly forward the preliminary agenda to the Presiding Officer for review. The Presiding Officer shall have the option to delete any item from the preliminary agenda. The Presiding Officer shall, at the next commission meeting, report any deleted item to the full Commission and the full Commission shall determine whether the item shall be placed on a subsequent agenda.

7.2.3 Agenda Materials. Agenda materials will be available on the Friday prior to the Commission meeting. Agenda materials will be delivered to Commissioners by delivery or electronic means as preferred by each Commissioner. The Chief Executive Officer and his or her staff shall strive to provide to the Commissioners all subjects to be considered at the Commission meeting, including contracts, call for bids, and other items no later than the Friday preceding the Tuesday meeting, if reasonably possible. Each item for which action is requested of the Commission shall have a written explanation and full briefing of all information necessary for the Commission's review, discussion, and action on said business item.

7.3.4 Adding an Item to a Published Agenda. An item may be placed on a regular Commission meeting agenda after the agenda is closed and the notice published, if the Commissioner or ~~Executive Director~~ Chief Executive Officer explains the necessity and receives a majority vote of the Commission at a public meeting.

7.4.5 Agenda Item Order. The Presiding Officer may, with the concurrence of the Commission, address agenda items out of order.

7.6 Consent Agenda. All matters listed under Consent Items have been distributed to each member of the Commission for review, are considered routine, and will be enacted by the motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items or tabled for consideration at a future meeting. Items placed on the consent agenda may be moved to the business agenda upon a motion passed by the Commission during a Commission Meeting and prior to the vote to approve the consent agenda. The moved item will be placed on the business agenda for further discussion.

8. ROLE OF THE COMMISSION PRESIDENT

The President of the Commission shall:

8.1 Ensure that the Commission jointly and consistently adheres to its own rules and policies, and those imposed upon it by the laws of the State of Washington.

8.2 Ensure that deliberation is fair, open and thorough, but also timely, orderly and stays on topic. The President of the Commission shall preside over and facilitate all Commission Meetings in accordance with these governance principles and Roberts Rules of Order Newly Revised (RONR), 11th Edition, as needed.

8.3 Assume responsibility of the Commission that is not specifically assigned to another Commissioner.

8.4 Call Special Meetings of the Commission in the event of a business need as provided for by applicable law.

8.5 Establish ad hoc advisory and standing committees, and appoint members to same.

8.6 Schedule and coordinate the annual ~~process of evaluation of ng~~ the Chief Executive Officer Executive Director.

8.7 Limit Have no authority to superv~~supervision se or administratively and direction of the Executive Director Chief Executive Officer~~ or Port staff, solely to the apart from authority expressly granted by the Commission.

8.8 Be the spokesperson for the Commission in expressing a view held jointly by the Port Commission, unless another spokesperson is named by the full Commission. However, individual Commissioners shall have the right to voice personal opinions differing from decisions taken or under review by the Port Commission as a whole as long as they are stated as such.

9. ROLE OF THE COMMISSION VICE-PRESIDENT

The Vice-President of the Commission shall:

9.1 Perform such duties as are assigned by the President.

9.2 Have all the power and duties of the President in the absence or inability of the President to act.

9.3 Have all the powers and duties of the Secretary in the absence or inability of the Secretary to act, when not acting as the President.

10. ROLE OF THE COMMISSION SECRETARY The Secretary of the Commission shall:

10.1 Attest all contracts, bonds, deeds, leases and other instruments and documents duly authorized by the Commission unless otherwise delegated by the Commission.

10.2 Perform all duties incident to the office of Secretary as may from time to time be

required by law or assigned to such office by motion, rule or resolution of the Commission.

10.3 Have all of the powers and duties of the President in the absence or inability of both the President and the Vice President to act.

10.4 Have the option of delegating the obligations and duties of Secretary to the appropriate Port staff member for implementation.

11. COMMISSION COMMITTEES

11.1 General. ~~The Commission President may establish ad hoc advisory and standing committees.~~ All Commission committees should include designation of members, chair and a charter describing the committee's purpose. All Commission Committees serve in an advisory capacity only. The Commission President will review each committee at least annually to determine whether the committee should continue.

11.2 Committee Roles and Responsibilities.

11.2.1 Committees will assist the Commission by gaining education, considering alternatives and implications, and preparing policy alternatives.

11.2.2 Commission committees or any individual Commissioner may not speak or act for the Commission, except when formally given such authority for specific and time- limited purposes.

11.2.3 Commission committees cannot exercise authority over staff or interfere with the delegation from the Commission to the Chief Executive Officer ~~Director~~.

11.2.4 Participation in committee meetings shall be in compliance with the provisions of the Open Public Meetings Act, when two or more Commissioners are present, or the committee is acting for the Commission. In such event, the committee meeting must be properly noticed as a public meeting.

11.2.5 These policies apply to any group which is formed by action of the Commission President, whether or not it is called a committee.

12. COMMISSION AND PORT ACTION

12.1 Only decisions of the Commission acting as a body are binding upon the Port and Port staff.

12.2 In the case of Commissioners requesting information or assistance without Commission authorization, the ~~Executive Director~~ Chief Executive Officer and staff *must* refuse such requests that require, upon evaluation by the Chief Executive Officer ~~Director~~, a material amount of staff time or funds, are disruptive to the Port, or which may involve a conflict of interest between the Port and the Commissioner requesting the information or assistance.

12.3 Commissioners individually may communicate directly with Port employees or contractors for the purpose of inquiry only. Commissioners shall, on business matters, deal with staff through the Chief Executive Officer ~~Director~~. However, the Commission as a body and the Commissioners individually do not give direction to persons who report directly or indirectly to

the Chief Executive Officer Director. If an individual Commissioner is dissatisfied with the response from the Executive Director Chief Executive Officer or staff, the Commissioner may seek resolution through the Commission as a body.

12.4 The Commission as a body and the Commissioners individually will refrain from evaluating, either formally or informally, the job performance of any Port employee, other than the Chief Executive Officer Director, except when approving compensation and benefits in the course of budget or employment contract considerations.

13. PORT COMMISSION & STAFF ROLES AND RESPONSIBILITIES

13.1 General Roles. The Commission is the Port's governing authority. All authority not expressly delegated to the Chief Executive Officer is reserved to the Commission. The Commission sets Port policies and priorities. -and policy-maker. The Chief Executive Officer Director and Port staff execute implement and administer the Commission's policies. The Port of Kennewick has a Commission-Executive Director Chief Executive Officer form of governance. With this structure, the Port Commission's role is to establish port policies and priorities. The Commission hires an Executive Director to implement those policies and undertake the administration of the organization. The Executive Director Chief Executive Officer is hired by the Port Commission to enforce its directives, to direct the daily operations of Port governance, to prepare and monitor the budget, and to implement the policies and programs initiated by the Port Commission. The Executive Director Chief Executive Officer is responsible to the Port Commission as a board, rather than to individual Commissioners, and directs and coordinates all other employees. The Port Commission authorizes priorities and projects positions through the budget process; based upon that authorization, the Executive Director Chief Executive Officer is responsible for hiring all personnel.

13.2 Commissioner's Role. [See also, Section 2.] The Executive Director Chief Executive Officer is authorized to make recommendations on policy matters to the Commission and the Commission retains the authority to accept, reject, or amend the recommendations. Individual Commissioners may not intervene in staff decision-making, scheduling of work, and executing department priorities. This is necessary to allow staff to execute priorities given by the Executive Director. All Commissioners with concerns affecting the Port of Kennewick should address those concerns with the full Commission or with the Chief Executive Officer Executive Director.

No Commissioner shall direct the Executive Director Chief Executive Officer to initiate any action, prepare any report, or initiate any project or study without the authorization of a majority of the Commission. Commissioner requests for information shall be made to the Chief Executive Officer Director, unless otherwise determined by the Chief Executive Officer Director. Commissioners needing staff assistance shall work through the Chief Executive Executive Officer Director.

13.3 Chief Executive Officer's Director's Role.

13.3.1 The Executive Director Chief Executive Officer is the chief administrative officer of the Port. The Executive Director Chief Executive Officer is directly accountable to the Port Commission for the execution of the Port Commission's policy directives as set forth in the Delegation Policy and for the administration and management of all Port activities and staff.

13.3.2 The ~~Executive Director-Chief Executive Officer~~ is ~~the administrator and manager of all Port activities and staff; and~~ the information liaison between Commission and Port staff. Requests for information from Commissioners are to be directed to the ~~Executive Director-Chief Executive Officer~~ and will be responded to promptly. The information requested will be copied to all members of Commission so that each member may be equally informed. The ~~Executive Director-Chief Executive Officer~~ will provide staff support for Commissioners as appropriate in their official roles.

13.3.3 In addition to regular, comprehensive memoranda written by the ~~Executive Director-Chief Executive Officer~~ directly to the Port Commission concerning aspects of Port operations (exclusive of confidential personnel issues), all Commissioners shall receive copies of correspondence received by the ~~Executive Director-Chief Executive Officer~~ that will assist them in their policy-making role. The ~~Executive Director-Chief Executive Officer~~ also provides other documents to the Commission on a regular basis, such as status reports, executive summaries, and minutes of meetings.

13.3.4 The ~~Executive Director-Chief Executive Officer~~ shall have an open-door policy which allows individual Commissioners and the public to meet with the ~~Executive Director-Chief Executive Officer~~ on an impromptu, one-on-one basis. Such meetings are highly encouraged. No Commissioner, person or special interest group shall abuse the open-door policy.

13.3.5 In addition to the above, the Chief Executive Officer's job description includes the following:

13.3.6 The Chief Executive Officer reports to the Commission, with duties including but not limited to the responsibilities and specific duties described below, together with such other powers and duties as the Commission may specify via adopted work plans and Delegation of Authority. The Chief Executive Officer shall provide the services hereunder in accordance with his independent and professional judgment and in accordance with his own means and mode of performance. There shall be a presumption that the Chief Executive Officer acted on an informed basis, in good faith, and within the scope of his or her employment. The list below is a codification of existing duties, custom and practice.

13.3.7 ~~The Chief Executive Officer should:~~

- ~~Work with the Commission to ensure that the mechanisms for effective governance are in place and that the Commission is alert to its obligations to the Port, employees and the public.~~
- ~~Assist the Commission in fostering ethical, transparent and responsible decision making.~~
- ~~Work with the Commission and senior management to monitor progress on strategic planning and commission policy implementation, and regularly report on progress to the Commission.~~
- ~~Take all reasonable steps to ensure that Commission policy is executed as effectively as possible.~~
- ~~Participate in the development and implementation of strategic initiatives and provide oversight on strategic orientation of the Port.~~
- ~~Ensure the quality, quantity and timeliness of the information that goes to the Commission and ensure that all Commissioners receive the information~~

Commented [CL15]: In the absence of a job description, this provides a codification of existing duties, custom and practice

- required for the proper performance of their duties.
- Take reasonable steps in consultation with the Commission President to ensure that business set out in the agendas of Commission meetings is discussed and brought to resolution, as required, and that sufficient time is allowed during Commission meetings to fully discuss agenda items.
 - In coordination with the Commission, Port Human Resources personnel and Port Counsel, actively participate in the annual Chief Executive Officer performance evaluation which will include a performance discussion with candid input and feedback.
 - Work to ensure that the Port promotes equality and fairness for its staff and contract personnel.
 - Foster ongoing formal and informal communication with and among Commission members.
 - Ensure that Port employees work as a team, efficiently and productively.
 - Foster strong relationships between the Port and key stakeholders in the community.
 - Assist the Commission in the development of the Commission's knowledge and capabilities by playing a central role in orientation of new Commission members and providing continuing education opportunities for the entire Commission.
 - Act as a spokesperson for the Port related to execution of established port policy.

13.4 **Staff Role.** The Commission recognizes the primary functions of staff as 1) executing the policies and actions taken by the Commission as a whole, and 2) keeping the Commission informed. Staff is obligated to take guidance and direction from the ~~Executive Director~~ Chief Executive Officer or appropriate supervisor. This direction follows the policy guidance from the Port Commission to the ~~Executive Director~~ Chief Executive Officer through the Delegation Policy. Port staff will, acting through the ~~Chief Executive~~ Executive Director, make every effort to respond in a timely and professional manner to all individual Commissioner's requests for information or assistance; providing, in the judgment of the Chief Executive Officer ~~Director~~, the request is not of such magnitude (in terms of workload, resources, or policy) that it should instead be assigned to the ~~Executive Director~~ Chief Executive Officer through the direction of the full Port Commission.

13.5 **Summary.** The following is a brief summary from the Washington Public Port Association ("WPPA") Commissioner Resource ~~Guide, and~~ Guide and identifies parallel leadership roles and responsibilities.

Port Commission

Governs:
 Guides
 Directs
 Decides what
 Requests information
 Considers issues
 Creates, reviews and adopts policy
 Reviews and monitors plans
 Monitors progress
 Contracts with personnel
 Approves evaluation criteria, procedures

Executive Director

Administers:
 Operates
 Manages
 Decides how
 Seeks and provides information
 Provides recommendations
 Recommends and carries out policy
 Implements plans
 Reports progress
 Supervises hiring process, practices
 Supervises and evaluates personnel

Reviews and approves budget
Represents public interest

Formulates budget
Acts in the public's interest

14. BUDGET AND PROCUREMENT AUTHORITY

14.1 General. By resolution, the Commission shall set forth the authority of the ~~Executive Director~~ Chief Executive Officer to manage and expend Port funds in accordance with financial policies and budgetary limits. Procurement of goods and services shall take place in accordance with applicable legal requirements in a fair, competitive and inclusive manner to maximize the benefit to the Port's taxpayers/customers.

14.2 Financial Policies. The Commission, by resolution, shall adopt financial policies that provide guidance to the ~~Executive Director~~ Chief Executive Officer in managing the finances of the Port and in developing budgets, financial plans and rates. At a minimum, these policies shall:

14.2.1 Provide for sufficient liquidity relative to the Port's risk profile;

14.2.2 Provide for adequate coverage to meet debt covenants;

14.2.3 Establish criteria for debt and rate – financed capital expenditures;

14.2.4 Require that budgets be developed based on conservative and prudent assumptions consistent with standard industry practice; ~~and~~

14.2.5 Establish budgetary and procurement controls over expenditures;

14.2.6 Produce and maintain a balanced budget;

~~14.2.5~~ 14.2.7 • Provide a fiscally sound approach to finances by ensuring that expenditures and debt repayments do not exceed available resources in current budget and future years impacted;

~~14.2.6~~ 14.2.8 • Provide for financial stability by:

- Funding projects that provide a positive return on investment or which provide important identifiable non-economic benefits to the port district at large;
- Eliminating or transferring to private sector, holdings which provide minimal economic or community benefit;
- Reducing costs and enhancing revenues when feasible while maintaining acceptable service levels;
- Ensure the Port's portfolio includes diversity of revenue streams to offset risk adverse projects;
- Accurately forecasting funding sources;
- Creating successful strategies for capital acquisitions;
- Closely monitoring and accurately reporting all revenues and expenditures;
- Leveraging funds by seeking grants and matching funds from the public and private sectors;
- Accurately and honestly identifying potential financial issues and providing feasible potential solutions;
- Identifying and recommending potential improvements; and

- Learning and sharing ideas for improvement.

14.2.9 Promoting fiscal responsibility among departments;

14.2.10 Focusing on long-term financial planning;

14.2.11 Support intergovernmental cooperation by partnering with entities which demonstrate support; (e.g. matching funds; previous successes; political and taxpayer support; and enthusiasm);

14.2.12 Provide the public with high quality projects and services within a healthy work environment by encouraging efficiency, cooperation, honesty, integrity, and respect;

14.2.13 Evaluate economic development opportunities based on results to be derived districtwide versus project-specific or jurisdiction-specific results;

14.2.14 Acknowledge the Port's limited staff and financial resources;

14.2.15 Establish a project ranking and selection process which focuses on producing a limited number of projects in order to ensure successful and timely implementation;

14.2.16 Encourage open competition and equal project consideration, fostering a reputation for fairness with the local business community;

14.2.17 Seek to fund projects with available resources;

14.2.18 Incur debt only when both the level and rate of growth of public debt is fundamentally sustainable, can be serviced under appropriate circumstances while meeting cost and risk objectives, can withstand economic uncertainties, while identifying in advance any legal or commission-directed restrictions on its use; and

14.2.19 Maintain reserves of \$2.5M in order to ensure financial stability and mitigate any potential financial hardships. If reserve funds are utilized, funds must be replenished during the current or next budget cycle. The reserve fund may be used for the following:

- Debt service;
- Environmental pollution claims against the Port;
- Unemployment Claims;
- Paid Family & Medical Leave Claims; and
- Any other uses deemed necessary by the Commission.

14.2.20 Identify and report the return on investment (ROI) on projects as appropriate; and

14.2.714.2.21 Share with the public port audited financial and operating data through print and online resources.-

14.3 Budgetary Authority. As required by and consistent with law, the Commission, by resolution, shall approve the Port's budget prior to the start of each calendar year. The ~~Executive Director~~ Chief Executive Officer shall manage the Port's operations within the approved budget levels consistent with authority levels set forth in the financial policies.

14.4 Procurement Authority.

14.4.1 The Commission, by resolution, shall establish procurement authorities and guidelines for the ~~Executive Director~~ Chief Executive Officer consistent with state laws and regulations. The ~~Executive Director~~ Chief Executive Officer shall establish procurement controls that provide reasonable assurance that the procurement of goods and services are made for a valid business purpose and within authorized budget levels.

14.4.2 It is Port policy that procurement decisions shall be made free from actual or perceived conflicts of interest consistent with these Rules of Policy and Procedure.

14.4.3 It is Port policy that due diligence and prudent judgment be exercised in the making of procurement decisions, including conducting a risk assessment. If the ~~Executive Director~~ Chief Executive Officer reasonably determines that a procurement activity presents, regardless of the size of the financial commitment, either: (1) a unique and significant operational risk to the Port; or (2) a significant impact to customers, the ~~Executive Director~~ Chief Executive Officer shall inform the Commission.

15. EVALUATING THE ~~CHIEF EXECUTIVE OFFICER'S EXECUTIVE DIRECTOR'S~~ PERFORMANCE

~~15.1 General. The Executive Director's job performance shall be evaluated by comparing the organization's operations and results and the Executive Director's performance to the policies established by the Commission.~~

~~15.2~~

~~15.3 Process.~~

~~15.4~~

~~15.5 The Commission shall evaluate the Executive Director's performance on an annual basis.~~

~~15.6~~

~~15.7 The evaluation will be based on an evaluation of the organization's performance and the Executive Director's personal performance against the evaluation criteria previously established by the Commission and the Executive Director.~~

15.1 Chief Executive Officer Evaluation Committee

15.1.1 The Port Commission shall appoint a Chief Executive Officer Evaluation Committee made up of the Port's Chief Financial Officer, Port Attorney, and one Commissioner to serve a 2-year term. Each member shall be unbiased.

15.1.2 The Chief Executive Officer Evaluation Committee will develop the Chief Executive Officer's goals and objectives for Port Commission review and approval. The goals and objectives developed by the Committee shall be specific, measurable, attainable, realistic, timely and in alignment with the Port's mission, budget, work plan, and comprehensive scheme of development.

15.1.3 The Commission accepts the following procedure for the Chief Executive Officer Evaluation Committee to evaluate the Chief Executive Officer's performance, which is attached hereto as **Exhibit "A"**, and the Chief Executive Officer Evaluation Committee has created the Chief Executive Officer Performance Evaluation Form Revised 2022, which is attached hereto as **Exhibit "B"**.

Commented [CL16]: Updated to include the new Section 15 provisions of Resolution 2022-19 as adopted 7/26/2022.

15.1.4 On an annual basis, the Chief Executive Officer Evaluation Committee will conduct Chief Executive Officer's performance evaluation.

15.1.5 On an annual basis, the Chief Executive Officer Evaluation Committee will present the results of its evaluation of the Chief Executive Officer's performance to the Port Commission for review and approval. Such results may include, among other things, recommendation for salary adjustment in accordance with Chief Executive Officer's employment agreement.

15.1.5 The Chief Executive Officer Evaluation Committee may use assistance from other staff members or consultants as necessary and appropriate.

15.1.6 The Port Commission shall address Chief Executive Officer performance issues as they arise by timely referring them to the Chief Executive Officer Evaluation Committee. The Chief Executive Officer Evaluation Committee will develop a procedure for handling performance issues that may arise between annual evaluations. As part of that procedure, any performance related item must be communicated to the CEO in writing within 14 business days following the date any such alleged action or inaction occurred. If the Chief Executive Officer Evaluation Committee fails to notify the Chief Executive Officer of a matter of which the Commission members are aware, the performance related item shall not be relied upon or addressed in a performance review. Prior to issuing such a written notice, the Chief Executive Officer Evaluation Committee shall undertake an appropriate inquiry, which generally will include discussion with the Chief Executive Officer, in accordance with applicable laws, policies and contracts. Once notified, the Chief Executive Officer shall be provided a reasonable period of time to cure the concern or deficiency.

16. COMMISSION-AUDITOR RELATIONSHIP

16.1 General. The Port Auditor ("Auditor") serves the Port to assist in the Port's compliance with the RCW 53.36.010, RCW 53.36.140, RCW 42.24.080 and the Local Government Accounting Act, RCW 43.09.200 – 43.09.2855.

16.2 Hiring and Reporting.

16.2.1 The ~~Executive Director~~ Chief Executive Officer shall hire the Auditor. The Auditor shall perform those duties specified in RCW 53.36.010, RCW 53.36.140, RCW 42.24.080, RCW 43.09.240, Port Policy and ~~or~~ job description and shall be granted direct access to the Commission as necessary in the performance of these duties.

16.2.2 The Auditor shall report to the Commission through the ~~Executive Director~~ Chief Executive Officer or designee for all administrative matters, including hiring, performance evaluations, salary administration, employee benefits, and terminations. The ~~Executive Director~~ Chief Executive Officer may assign additional duties to the Auditor as long as these duties do not interfere with the Auditor's duties as specified by law.

17. COMMISSION-PORT ATTORNEY RELATIONSHIP

Commented [CL17]: RCW 53.36.010 requires that all port district funds shall be paid to the treasurer and be disbursed by him or her upon warrants signed by a port auditor appointed by the port commission, upon vouchers approved by the commission.

RCW 53.36.140 requires that Port commissions shall adopt, in writing, rules and regulations governing promotional hosting expenditures by port employees or agents and that such rules identify officials and agents authorized to make such expenditures and the approved objectives of such spending. RCW 53.36.140 also requires that all payments and reimbursements be identified and supported on vouchers approved by the port's auditor.

RCW 42.24.080 requires that all claims presented against any political subdivision by officers and employees of that subdivision or by persons furnishing materials, rendering services or performing labor, or for any other contractual purpose, shall be audited, before payment, by an auditing officer and the audit form shall provide for authentication and certification by such auditing officer that the materials have been furnished, the services rendered, the labor performed as described, or that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation political subdivision. No claim shall be paid without such authentication and certification.

17.1 Port Attorney Role. The ~~Executive Director~~ Chief Executive Officer is responsible for hiring and terminating the Port Attorney. The ~~Executive Director~~ Chief Executive Officer shall make provision for and appoint legal counsel for the Port by any reasonable contractual arrangement for such professional services. The Port Attorney is the legal advisor to the Port, the Commission, its committees, commissions and boards, the ~~Chief Executive Officer~~ Executive Director, and all Port officers and employees with respect to any legal question involving an official duty or any legal matter pertaining to the affairs of the Port. It is important to note that the Port Attorney does not represent individual members of Commission, but rather the Port Commission as a whole. The Port Attorney reports to the ~~Chief Executive Officer~~ Executive Director. The ~~Executive Director~~ Chief Executive Officer is responsible for evaluating the Port Attorney's performance.

17.2 Port Attorney Responsibilities.

The general legal responsibilities of the Port Attorney are to:

17.2.1 Provide legal assistance necessary for formulation and implementation of ~~the Commission's~~ legislative policies and projects.

17.2.2 Represent the Port's interest, as determined by the ~~Chief Executive Officer~~ Director, in litigation, administrative hearings, negotiations, and similar proceedings.

17.2.3 Prepare or approve as to form resolutions, contracts, and other legal documents to best reflect and implement the purposes of the Port.

17.2.4 Keep the Port Commission and staff apprised of court rulings and legislation affecting the legal interest of the port.

17.2.5 Shall advise the Commissioners regarding potential conflict of interest issues or ethical matters. Port Attorney shall provide assistance to individual Commissioners in complying with applicable statutes and laws only when such advice does not conflict with the Port Attorney's obligations to the Port or to specific direction of the Commission.

17.2.6 Give advice or opinion when required, ~~and when requested~~ by the Commission or ~~Chief Executive Officer~~ Director.

17.2.7 Inform the Commission of material legal issues impacting the Port or the Commission.

17.2.8 Assist the Commissioners and staff in complying with applicable statutes and laws.

17.2.9 Serve as the parliamentarian at all commission meetings and other port-related meetings as requested by the ~~Chief Executive Officer~~ Director.

17.2.10 Other matters as designated by the ~~Chief Executive Officer~~ Director.

18. INDEMNIFICATION AND DEFENSE POLICY

18.1 Policy Stated. As authorized by RCW 4.96.041, there is hereby created a procedure to provide for indemnification and defense of claims of liability arising from acts or omissions of

officials and employees of the Port, including volunteers, while performed or in good faith purported to have been performed in the scope of their official duties.

18.2 **Definitions.** Unless the context indicates otherwise, the words and phrases used in this chapter shall have the following meaning:

18.2.1 “Employee” means any person who is or has been employed by the Port, including volunteers and appointed members of advisory boards and commissions. “Employee” does not include independent contractors. “Employee” also includes an employee’s spouse when an employee’s marital community is named in any action subject to this policy.

18.2.2 “Official” means any person who is serving or has served as an elected Port Commissioner, and any person who is serving or who has served as an appointed officer of the Port as defined by RCW 42.23.020(2), as written or hereafter amended. “Official” does not include independent contractors performing the duties of appointed positions.

18.3 Legal Representation.

18.3.1 Upon request by the Official or Employee, and upon a finding by the Commission that the acts or omissions of the Official or Employee were or in good faith purported to be within the scope of his or her official duties, ~~t~~The Port shall provide to an ~~e~~Official or ~~E~~Employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such ~~O~~fficial or ~~E~~mployee may have concluded service or employment with the Port, such legal representation as may be reasonably necessary to defend a claim or lawsuit filed against such ~~e~~Official or ~~E~~mployee resulting from any conduct, act or omission of such ~~e~~Official or ~~E~~Employee performed or omitted ~~on behalf of the Port were or in good faith purported to be within the scope of his or her service or employment in his/her capacity as a Port~~ ~~O~~fficial or ~~E~~mployee, ~~which act or omission is within the scope of his/her service or employment with the Port.~~ The provisions of this chapter shall not operate to provide legal representation to defend a claim or lawsuit for any conduct, act, or omission resulting in the termination for cause of any ~~e~~Official or ~~E~~Employee.

18.3.2 The legal representation shall be provided by the office of the Port ~~legal~~ ~~C~~ounsel and may include the ~~Executive Director~~ ~~Chief Executive Officer~~ engaging the services of outside legal counsel, ~~with Port Counsel oversight~~. If any provision of an applicable policy of insurance provides legal counsel for the employee or official, the Port ~~legal e~~Counsel will work with the policy holder for purposes of obtaining legal representation under the existing insurance policy.

18.3.3 In the event that ~~the Port retains~~ outside counsel ~~is retained~~ under Section 18.3.2, the Port shall ~~pay the~~ ~~indemnify the employee or official from the~~ reasonable costs of defense; provided, that in no event shall ~~payment the official or employee be indemnified for legal counsel’s fees in exceed excess of~~ the hourly rates established by the Port’s contract with legal counsel selected by the Port. ~~The official or employee shall be liable for all hourly rates charged in excess of said rate.~~

18.3.4 The determination whether the ~~Official or e~~Official or ~~E~~Employee was acting in ~~or in good faith purported to be good faith~~ within the scope of his or her official duties shall be made by the ~~Commission~~ ~~Executive Director~~ in consultation with the Port ~~legal e~~Counsel and/or outside legal counsel, ~~if retained~~. This determination shall be based on an investigation of the facts and

Commented [CL18]: Changed to Commission to be consistent with RCW 4.96.041(2) and 18.7 herein.

circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. ~~In making the determination, the Commission shall presume that the Official or Employee acted in good faith within the scope of his or her official duties and shall determine that the Employee was not acting in good faith within the scope of his or her official duties only upon a finding or findings supported by substantial evidence.~~ Once the determination is made, the ~~Official or Employee~~ involved shall be notified by the ~~Executive Director-Chief Executive Officer~~ in writing. If the ~~eEmployee or eOfficial~~ involved is the ~~Chief Executive Officer, Executive Director,~~ the determination shall be made by the Commission in consultation with the Port ~~legal-Counsel~~ and/or outside legal counsel based on an investigation of the facts and circumstances surrounding the incident and shall be made as early in the proceedings as is reasonably possible. Once the determination is made, the ~~Executive Director-Chief Executive Officer~~ shall be notified by the Port ~~legal-Counsel~~, in writing. In any claim involving an allegation of criminal conduct, no investigation by the Port will occur prior to a determination of guilt, or prior to a dismissal of the criminal charge with prejudice, so as not to compromise the ~~Official's~~ or ~~eEmployee's~~ Fifth Amendment right against self-incrimination. Any determination made under this Section shall not be subject to appeal ~~-or reconsideration.~~

~~18.3.5—~~

18.4 Exclusions. Except as otherwise determined pursuant to Section 18.3, in no event shall protection be offered under this chapter by the Port to:

18.4.1 Any dishonest, fraudulent, criminal, willful, intentional or malicious act or course of conduct of an ~~Official~~ or an ~~Employee~~;

~~18.4.2—Any act or course of conduct of an official or employee which is not performed on behalf of the Port;~~

~~18.4.3~~18.4.2 Any act or course of conduct which is outside the scope of an ~~eOfficial's~~ or ~~Employee's~~ service or employment with the Port; and/or,

~~18.4.4~~18.4.3 Any lawsuit brought against an ~~Official~~ or ~~eEmployee~~ by or on behalf of the Port;

~~18.4.5~~18.4.4 Any action or omission contrary to or not in furtherance of any adopted Port policy.

18.5 Reserved Rights. Nothing herein shall be construed to waive or impair the right of the Port neither to institute suit or counterclaim against any ~~eOfficial~~ or ~~Employee~~ nor to limit its ability to discipline or terminate an employee.

18.6 Policy Secondary to Insurance. The ~~Port's payment of defense fees and costs and any resulting non-punitive judgement are secondary to any insurance coverages provisions of this chapter shall have no force or effect with respect to any accident, occurrence or circumstance for the which the Port or the official or employee is insured from whatever source for defense, against loss or damage; provided that the provisions of this chapter shall apply in the event the loss or damages fall within the excluding deductible or exclusion(s) of the Port's applicable insurance policy. The provisions of this chapter are intended to be secondary to any contract or policy of insurance whether owned by or otherwise applicable to any official or employee.~~ The Port shall have the right to require an ~~Employee~~ to fully utilize ~~insurance coverages any such policy protection~~ prior to requesting ~~payment the protection afforded by under~~ this Chapter.

Commented [CL19]: Standards were added to aid the Commission in making the determination. The standard is consistent with Section 5.4.

18.7 Determination of Exclusion. ~~The determination w~~Whether an Official or Employee ~~was acting in or in good faith purported to be acting within the scope of an Official's or Employee's service or employment with the Port and thus eligible for shall be afforded a defense by the Port payment of defense costs under the terms of this chapter shall be determined made by the Commission after a determination pursuant to Section 18.3 as to whether the official or employee was acting within the scope of his or her duties. The Executive Director The Chief Executive Officer~~ and Port legal counsel shall prepare a recommendation to the Commission. The ~~decision of the Commission's decision~~ shall be final as a legislative determination and shall be based upon a finding that an official or employee meets or does not meet the criteria of this chapter. Nothing herein shall preclude the Port from undertaking an Official's or Employee's defense under a reservation of rights. The determination as to whether a defense is to be furnished as provided under this chapter to ~~a member or to members of the Commission~~ er or Commissioners shall be made without the vote of the Commissioner(s) named in the claim or lawsuit unless the inclusion of such member or members is required for a quorum; provided, that if a claim or lawsuit affects a quorum or greater number of the members of the Commission, all such affected members shall retain their voting privileges under this Section.

Commented [CL20]: Edit made to highlight that this is a discretionary choice by Commission per RCW 4.96.041

18.8 Representation and Payment of Claims – Conditions. The payments authorized provisions of by this chapter shall apply only when all the following conditions are met:

18.8.1 In the event of any incident or course of conduct potentially giving rise to a claim for damages, or for the commencement of a lawsuit, the ~~e~~Official or Employee involved shall, as soon as practicable, give the ~~e~~Employee's department director and, if applicable, the Port ~~legal e~~Legal Counsel and the ~~Executive Director Chief Executive Officer~~ written notice thereof. The notice shall identify the Official or eEmployee involved, all information known to the ~~e~~Official or eEmployee involved with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the potential claim or lawsuit, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses.

18.8.2 Upon receipt, the ~~e~~Official or Employee shall as soon as practicable deliver any claim, demand, notice or summons or other process relating to any such incident or conduct to the Port ~~legal e~~Legal Counsel and shall cooperate with the Port ~~legal e~~Legal Counsel, or if the ~~Executive Director Chief Executive Officer~~ authorizes or designates another legal counsel to handle the matter, shall cooperate with that legal counsel, and, upon request, shall assist in making settlement of any suit and enforcing any claim for any right of subrogation against any persons or organizations that may be liable to the Port because of any damage or claim of loss arising from said incident or course of conduct, including, but not limited to, rights of recovery for costs and legal counsel's fees arising out of state or federal statute upon a determination that the lawsuit brought was frivolous in nature. Failure to timely deliver any claim, demand, notice or summons to the Port ~~legal e~~Legal Counsel, and in which an adverse decision against the ~~e~~Official, the E-employee or Port results from such failure, shall operate to negate all indemnification and opportunity for defense under this chapter and the Port shall have no obligation to offer a defense to the named Official or Employee.

18.8.3 Such Official or eEmployee shall attend interviews, depositions, hearings and trials and shall assist in securing and giving evidence and obtaining assistance of witnesses all without any additional compensation to the Official or Employee, and, in the event that an eEmployee has left the employ of the Port, no fee or compensation shall be provided.

18.8.4 Such ~~e~~Official or ~~E~~mployee shall not accept nor voluntarily make any payment, assume any obligation, or incur any expense related to said claim or lawsuit, other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss or damage. Nothing herein shall be deemed to preclude any ~~e~~Official or ~~E~~mployee from retaining legal counsel to represent his/her interests relating to such claim or lawsuit; however, all costs and expenses incurred thereby shall be paid by the ~~O~~fficial or the ~~E~~mployee.

18.8.5 Nothing herein shall modify existing procedures or requirements of law for processing and payment of claims against the Port.

18.9 Effect of Compliance With Conditions. If legal representation of an ~~O~~fficial or ~~E~~mployee is undertaken by the Port, whether by the Port ~~legal-c~~Counsel or by legal counsel obtained by the Port or through its insurance coverage, and all of the conditions of representation are met, and a judgment is entered against the ~~O~~fficial or ~~E~~mployee or a settlement is made, the Port shall pay ~~such-the nonpunitive damages portion of the~~ judgment or settlement according to the provisions herein; provided, that the Port may at its discretion appeal as necessary any such judgment. ~~In no event shall this Section be interpreted to provide for payment of an award of punitive damages.~~ The process for payment of punitive damages is discretionary ~~_under this chapter,~~ and is set forth in Section 18.16. The decision to appeal an award of damages will be made by the Commission upon the recommendation of the ~~Executive-Director-Chief Executive Officer~~ and the Port ~~legal-C~~counsel and/or outside legal counsel.

18.10 Failure to Comply With Conditions. In the event that any ~~e~~Official or ~~e~~Employee fails or refuses to comply with any of the conditions set forth in Section 18.8, or elects to provide his/her own representation with respect to any such claim or litigation, then all of the provisions of this chapter shall be inapplicable and shall have no force or effect with respect to any such claim or litigation.

~~18.10~~18.11 Reimbursement of Incurred Expenses.

~~18.10.1~~18.11.1 If the Port's investigation under Section 18.3 ~~If the Commission determines pursuant to the Port's investigation under Section 18.3, that an ~~O~~fficial or ~~E~~mployee was not acting in or in good faith purported to be within the scope of his or her official duties and thus is not eligible for Port payment of legal defense, does not come within the provisions of this chapter and a court of competent jurisdiction later determines that such ~~Officer or Employee~~ was acting within the scope of his or her official duties, claim does come within the provisions of this chapter, then the Port shall pay any non-punitive judgment, excepting punitive damages, rendered against the official or employee and reasonable legal counsel's fees incurred in defending against the claim, less any applicable insurance coverages. if said judgment is not covered by the Port's insurance provisions or by the official's or employee's insurance. The Port shall pay any costs and reasonable legal counsel's fees incurred by the employee or official in obtaining the determination that such claim is covered by the provisions of this chapter; provided, that if a court of competent jurisdiction determines that such claim does not come within the provisions of this chapter, then the official or employee shall pay the Port's costs and reasonable legal counsel's fees incurred in obtaining the determination that such claim is not covered under the provisions of this chapter.~~

~~18.10.2~~18.11.2 If the Port determines that a claim arose against a ~~a claim against a~~ Port ~~e~~Official or ~~E~~mployee ~~who was acting within or inn good faith the scope of their employment does come within the provisions of this chapter~~ and a court of competent jurisdiction later finds

Commented [CL21]: Duplicative of 18.11.2

that such claim does not come within the provisions of this chapter, then the Commission shall have the option of requiring reimbursement by the ~~an~~ Official or ~~an~~ Employee for defense fees, costs and or expenses incurred in obtaining the determination that such claim is not covered by the provisions of this chapter.

~~18.11~~18.12 Conflict With Provisions of Insurance Policies. The indemnification provisions of this chapter do not constitute a policy of insurance and nothing contained in this chapter shall be construed to modify or amend any provisions of any policy of insurance where the Port or any of its current or former ~~an~~ Officials or ~~an~~ Employees thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provisions shall be controlling; provided, however, that nothing contained in this chapter shall be deemed to limit or restrict any ~~an~~ Employee's or ~~an~~ Official's right to full coverage pursuant to this chapter, it being the intent of this chapter to provide the coverage detailed in this chapter only above and beyond insurance policies which may be in effect while not compromising the terms and conditions of such policies by any conflicting provisions contained in this chapter.

~~18.12~~18.13 Pending Claims. The provisions of this chapter shall apply retroactively to any pending claims or lawsuits against any ~~an~~ Official or ~~an~~ Employee at the time of adoption of this ordinance and to any such claims or lawsuits hereinafter filed within an applicable statute of limitations, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

~~18.13~~18.14 Modification of Chapter. The provisions of this chapter shall be subject to amendment, modification and repeal, at the sole discretion of the Commission, provided that unless explicitly set forth, any such amendment, modification or repeal shall apply prospectively only and shall have no effect on the obligation of the Port to indemnify and/or defend against any claim which is based, in whole or in part, upon any action or omission of an ~~an~~ Employee or ~~an~~ Official occurring prior to the effective date of the amendment, modification or repeal.

18.15 Bargaining Unit Contracts. If a union contract under chapter 41.56 RCW covers any of the provisions of this chapter, all ~~an~~ Employees under such contract shall be governed by the provisions thereof, rather than by the provisions of this chapter, and where any conflict exists between the provisions of any such contract and this chapter, such contract shall control.

~~18.14~~18.16 Punitive Damages. When ~~the Port has paid for claim defense fees costs and expense for an~~ Employee or ~~Official of the Port has been represented in a claim and/or litigation by the Port~~ pursuant to this chapter and ~~an~~ punitive judgment is rendered, ~~against such employee or official for punitive damages,~~ the ~~an~~ Employee or ~~an~~ Official may ~~make a request to the Commission that the Port pay the award of the punitive damages on behalf of the official or employee.~~ Upon ~~receiving a request made by or on behalf of a Port employee or official to pay punitive damages, such a request,~~ the Commission shall receive a report and recommendation from the ~~Executive Director-Chief Executive Officer~~ and the Port ~~legal~~ counsel shall transmit a report and recommendation for Commission consideration. ~~—If the requesting Official or Employee is the Executive Director-Chief Executive Officer or a Commission member, the Commission may in the alternative request a report and recommendation from outside legal counsel. from the Port legal counsel or may retain the services of another person or agency to provide a recommendation. Following receipt of the report and any recommendation, the Commission's shall decision on whether to pay the punitive damages award shall be based on determine whether the best interests of the Port and whether justice will be served by payment by the Port of the award for punitive damages. There shall be no appeal from such The Commission's determination is final and not~~

~~subject to reconsideration or appeal. . The Executive Director-Chief Executive Officer shall communicate the Commission's council's determination with respect to the employee's or official's request for payment of punitive damages to said Employee or Official. Thereafter, the Port finance director shall prepare the payment of Commission-approved punitive damages. if the council authorized such payment.~~

~~18.15.18.17~~ Application to Recall Proceedings.

~~18.15.18.17.1~~ Consistent with RCW 4.96.041(3), the necessary expenses of defending a Port Commissioner in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW 29.82.023 shall be paid by the Port if the Commissioner requests such defense and approval is granted by both the Commission and the Port's legal-counsel or attorney appointed by the Executive Director-Chief Executive Officer to review the request. The expenses paid by the Port may include costs ~~of an appeal associated with an appeal of the decision rendered by the of the superior court's ruling on concerning~~ the sufficiency of the recall charge.

~~18.15.218.17.2~~ ~~AsAlthough~~ authorized by the Supreme Court in the case of *In Recall of Olsen*, 154 Wn.2d 606 (2005), the ~~Supreme Court ruled that a Commission's Port's~~ decision to indemnify and pay the costs of a recall defense does not constitute a contract ~~from which a conflict of interest may be found under under~~ RCW 42.23.030, and, as a result, a Commissioner ~~requesting payment of such expenses may vote on that~~ Commissioner's ~~request for defense fees and costseconsideration of the request, the Commissioner(s) subject of the recall shall refrain from participating in such deliberations and vote.~~

19. GENERAL COMPLAINT RESOLUTION

19.1 Administrative Complaints Made Directly to Individual Commissioners. When administrative policy or administrative performance complaints are made directly to individual Commissioners, the Commissioner shall then refer the matter directly to the ~~Executive Director~~ Chief Executive Officer for review and/or action. The individual Commissioner may request to be informed of the action or response made to the complaint.

19.2 Administrative Complaints – “Best Practice”. Although citizen's direct access to elected officials is to be encouraged, Port Commissioners should be cautious in making statements or taking actions that may delay a timely customer service response. The best policy is to put the citizen into direct contact with the ~~Chief Executive Officer~~ Director.

Ten Commandments for Staying out of Trouble as a Port Commissioner

[as presented in the WPPA Commissioner Resource Guide]

1. Thou shalt never spend the public's money in secret.
2. Thou shalt not accept personally more money or benefits than any other fellow commissioner.
3. Thou shalt not require the port staff to do more work than necessary to inform (please) you when they could be occupied in improving the business of the port.
4. Thou shalt not speak as the official spokesperson of the port without knowing officially that you have been so designated by the commission majority.
5. Thou shalt not use the press against your fellow commissioners.

6. Thou shalt not use port property for unofficial business, not even a paper clip. Paper clips are cheap, buy your own. Use your own car too.
7. Thou shalt not argue with, grill, or embarrass port staffers in public. They'll hate you for it and get back at you in a thousand ways without your ever knowing it or leaving a scrap of evidence.
8. Thou shalt not depend on news media to keep the public informed of the activities and purposes of the port. Have your own PR program and carry it out.
9. Thou shalt not align yourself closely with a certain group of port tenants or users. Your motives will always be aligned with that group regardless of the issues. And the group will turn on you if you don't support them every single time.
10. Thou shalt not become involved in hiring anyone but the port manager and the port auditor.

► AWARDS & HONORS



Rep. Matt Boehnke

• The Washington Public Ports Association has announced **Rep. Matt Boehnke**, R-Kennewick, as the winner of the 2022 Cross Award. Each year, the association recognizes

legislators who provide “extraordinary leadership and unparalleled vision” in its efforts to advance the importance and future of public ports for the residents they serve. At the request of the Washington Trucking Association and other partners, Boehnke launched the Legislative Supply Chain Caucus this year which resulted in funding dedicated to improving the truck driver shortage, as well as educating other legislators on how vital effective supply chains are to the economy. In 2021, he championed passage of legislation that established a goal to double manufacturing jobs in Washington over 10 years and advance funding to accelerate regional economic clusters. Boehnke is a ranking minority member on the House Community & Economic Development Committee and sits on both the House Appropriations Committee and House Environment & Energy Committee. He represents Washington’s 8th legislative district, including the ports of Kennewick and Benton.

Kimberly Kierma, a registered nurse