

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.

To participate and make public comments remotely, please call in at: 1-877-309-2073, Access Code: 821-793-149

Or, join on-line at the following link: <https://meet.goto.com/821793149>

AGENDA

*Port of Kennewick
Regular Commission Business Meeting
Port of Kennewick Commission Chambers (via GoToMeeting)
350 Clover Island Drive, Suite 200, Kennewick Washington*

June 13, 2023 at 2:00 p.m.

- I. CALL TO ORDER**
- II. ANNOUNCEMENTS AND ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- V. CONSENT AGENDA**
 - A. Approval of Direct Deposit and ePayments June 1, 2023
 - B. Approval of Warrant Register Dated June 13, 2023
 - C. Approval of Regular Commission Meeting Minutes May 23, 2023
 - D. Amendment of Commission Policies; Resolution 2023-12
 - E. Approval to Amend Contract with Express Employment Professionals; Resolution 2023-13
- VI. ACTION ITEMS**
 - A. Interlocal Agreement with Benton City; Resolution 2023-14 (**TIM**)
 - B. Use of Opportunity Fund for Cable Bridge Lighting & CTUIR Advertising; Resolution 2023-15 (**TIM/NICK**)
- VII. REPORTS, COMMENTS AND DISCUSSION ITEMS**
 - A. City of Kennewick MOU (**TIM**)
 - B. Kennewick Waterfront
 - 1. Clover Island Stage (**TIM**)
 - 2. Float Fire Pump (**MICHAEL**)
 - 3. Columbia Gardens Wine Village Wayfinding Signage (**AMBER**)
 - 4. Summer Saturdays Night Market (**DAVID**)
 - C. Vista Field Update (**AMBER**)
 - D. 2023-2024 Budget Update (**NICK**)
 - E. Hybrid Commission Meeting Update (**BRIDGETTE**)
 - F. Commission Meetings (formal and informal meetings with groups or individuals)
 - G. Non-Scheduled Items
(**LISA/BRIDGETTE/TANA/NICK/LARRY/AMBER/MICHAEL/CAROLYN/TIM/KEN/TOM/SKIP**)
- VIII. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- IX. ADJOURNMENT**

PLEASE SILENCE ALL NOISE MAKING DEVICES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

DRAFT

MAY 23, 2023 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)
Tana Bader Inglima, Deputy Chief Executive Officer (via telephone)
Larry Peterson, Director of Planning (via telephone)
Amber Hanchette, Director of Real Estate (via telephone)
Nick Kooiker, Chief Finance Officer (via telephone)
Lisa Schumacher, Special Project Coordinator
Bridgette Scott, Executive Assistant (via telephone)
Carolyn Lake, Port Counsel (via telephone)

PLEDGE OF ALLEGIANCE

Marie Mosley, City of Kennewick City Manager led the Pledge of Allegiance.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

A. *Approval of Direct Deposit and E-Payments Dated May 17, 2023*

Direct Deposit and E-Payments totaling \$82,707.93

B. *Approval of Warrant Register Dated May 23, 2023*

Expense Fund Voucher Number 104845 through 104879 for a grand total of \$235,070.46

C. *Approval of Regular Commission Meeting Minutes May 9, 2023*

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

MAY 23, 2023 MINUTES

DRAFT

PRESENTATION

A. *Memorandum of Understanding, Marie Mosley*

Mr. Arntzen and Ms. Mosley outlined potential joint projects with the City of Kennewick for the Memorandum of Understanding:

- Vista Field Parking Structure Feasibility;
- Vista Field Development – Grandridge Boulevard Extension;
- Remediation of Duffy's Pond.

Commission and staff discussion ensued regarding each potential project.

Mr. Arntzen and Ms. Mosley will be meeting with the City of Kennewick City Council to discuss the Memorandum of Understanding (MOU). Mr. Arntzen requested approval to move forward with the MOU and stated he will bring forth any changes requested by the City Council.

MOTION: *Commissioner Hohenberg moved to approve Resolution 2023-10, approving the Memorandum of Understanding between Port of Kennewick and City of Kennewick; and hereby ratify and approve all action by port officers and employees in furtherance hereof; and authorize the Port Chief Executive Officer to execute the MOU and take all action necessary in furtherance hereof; Commissioner Moak seconded.*

PUBLIC COMMENT

No comments were made.

Discussion:

Commissioner Novakovich stated this is a long time coming and Peter Batchelor, who did the UDAT project in Kennewick, would have loved this. Commissioner Novakovich is very happy that Ms. Mosley from the City is excited about the MOU, and he thinks it demonstrates what we can do through partnerships. Commissioner Novakovich stated together we are better, and this is a perfect example. Together with the City, the Port of Kennewick can do some amazing things, especially as it relates to Duffy's Pond and what we want to do in this area. Commissioner Novakovich is fully in favor of this and thinks it is a great opportunity for the Port to move forward with something we have looked at for a long time.

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

ACTION ITEMS

A. *Use of Opportunity Fund for Benton City*

Mr. Arntzen presented the potential areas of assistance for Benton City:

- Update parks and recreation plan to include Subarea;
- Update zoning map to include Subarea;
- Train staff to implement new design standards for the City and Subarea;
- Development and recruitment materials illustrating subarea vision and concepts.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 23, 2023 MINUTES

DRAFT

Mr. Arntzen stated the Port could assist Benton City with the opportunity fund and suggested funding everything on the list, should the Commission desire.

Commissioner Hohenberg stated Benton City is a great gateway to the Tri-Cities and supports funding in the amount of \$40,000.

Commissioner Moak requested clarification that the exhibits and attachments were labeled correctly and if this is on a reimbursement basis.

Mr. Arntzen will work with Benton City staff and stated the Port will not expend more than \$40,000 and monitor the progress.

Commissioner Novakovich suggested revising the language to “approval of funding of not to exceed \$40,000 for projects set forth on Attachments B” rather than A and inquired if that is acceptable. Commissioner Novakovich inquired of Ms. Lake if the Resolution should read not to exceed or up to \$40,000.

Ms. Lake stated the language should read “not to exceed.”

MOTION: *Commissioner Novakovich moved to approve Resolution 2023-11, approving funding of not to exceed \$40,000 for Benton City for the projects as set forth on Attachment B and further move 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; Commissioner Hohenberg seconded.*

PUBLIC COMMENT

No comments were made.

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

B. WA State Health Care Authority (HCA) PEBB Agreement

Mr. Kooiker presented the Washington State Health Care Agreement outlining the Public Employment Benefit Board to provide the Port’s health insurance. Under the Delegation of Authority, Mr. Kooiker and Mr. Arntzen manage the Port’s benefits; however, the Agreement is considered an Interlocal Agreement, and they do not have authority to sign without Commission approval. Mr. Kooiker requested Commission consensus to sign the Agreement with the Washington State HCA.

It is the consensus of the Commission for Mr. Kooiker to sign the PEBB Employer Group Interlocal Agreement with Washington State Health Care Authority.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 23, 2023 MINUTES

DRAFT

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. *Kennewick Waterfront*

1. *Columbia Gardens Wine & Artisan Village Update*

Ms. Hanchette updated the Commission on the Wayfinding Signage project and stated several of the signs have been installed. Ms. Hanchette reported that Swampy's BBQ had its groundbreaking yesterday and believes they will begin construction after Memorial Day.

2. *Clover Island Shoreline/1135 Update*

Mr. Arntzen offered comments on the Clover Island Shoreline 1135 event and stated that it was a successful turnout and almost all our partners were represented.

Ms. Bader Inglima presented before and after photos of the shoreline project and thanked the Commission for their continued investment and the partnerships that we have created over the years.

B. *Washington Public Ports Association (WPPA) Creative Partnership Award*

Commissioner Moak stated the Port of Kennewick was honored with the WPPA Creative Partnership Award for the Clover Island Shoreline/1135 Restoration Project. The Port partnered with the US Army Corps of Engineers, Washington State RCO, Benton County, the City of Kennewick and the Confederated Tribes of the Umatilla to make this project come to fruition.

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

Commissioners reported on their respective committee meetings.

D. *Non-Scheduled Items*

Ms. Scott updated the Commission on moving to fully hybrid Commission Meetings. In April, Mr. Arntzen presented the hybrid plan with the hope to put the plan into action in June, dependent on making necessary audio and visual adjustments to the Commission Chamber. Although we have made significant improvements in our meeting room, we do not have professionally installed cameras yet and have been using a webcam to view the meeting room. Shortly after the Commission approved the plan, Ms. Schumacher and Ms. Scott began meeting with vendors to plan the installation of three cameras in the meeting room. To date, we have received one quote and Ms. Scott has reached out to the remaining vendors to prompt them to submit a quote. They will continue to do their best to shepherd this project forward, but wanted to inform the Commission that we will not have the cameras in place prior to the June 13, 2023 Commission Meeting. Ms. Scott will update the Commission on June 13, 2023 with an estimated completion date for the project.

Commissioner Novakovich confirmed that the Port will not have an in-person meeting on June 13, 2023.

Ms. Scott stated not with professionally installed cameras and that the meeting room continues to be open to the public during the Commission Meetings.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

MAY 23, 2023 MINUTES

DRAFT

Commissioner Hohenberg stated would rather wait until everything is in place and is fine with waiting until July. Commissioner Hohenberg believes if the Port is going to have hybrid meetings, our equipment should be fully in place, rather than face audio visual challenges.

Ms. Scott will do her best to get this in place and has reached out to our vendors for a response. In order to have a competitive process, we need more than one quote. Ms. Scott will push this project, but it depends on vendor responses and the lead time for equipment and installation.

Commissioner Novakovich agrees with Commissioner Hohenberg and believes we should wait until it is done properly.

Mr. Kooiker filed our 2022 Annual Financial Report with State Auditor's Office as required and stated these will be audited in conjunction with our performance audit in the fall of this year.

Mr. Arntzen stated he will be making an in-person presentation to the City of Kennewick City Council Workshop tonight, to discuss the MOU.

Mr. Arntzen thanked Commissioner Moak for interfacing with a few consultants at the WPPA meeting and Mr. Arntzen will follow up on those leads.

Commissioner Novakovich attended a WPPA communications committee meeting and discussed how the public does not know what ports do and suggested an open house to explain the role of a port. Commissioner Novakovich spoke to a Port of Benton representative about possibly hosting a joint open house with the Port of Benton, Kennewick and Pasco.

PUBLIC COMMENTS

Ms. Scott read a comment from Linda Lehman, Benton City Mayor:

"I want to thank the Port Commissioners and executive director for supporting Benton City. We really do appreciate your help and interest in the I82 Development. Looking forward to discussing this further and thank you very much."

No further comments were made.

COMMISSION COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 3:14 p.m.

**PORT OF KENNEWICK
REGULAR COMMISSION MEETING**

MAY 23, 2023 MINUTES

DRAFT

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Kenneth Hohenberg, Vice President

Thomas Moak, Secretary

PORT OF KENNEWICK

RESOLUTION No. 2023-10

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK
APPROVING A MEMORANDUM OF UNDERSTANDING
BETWEEN THE PORT OF KENNEWICK AND
THE CITY OF KENNEWICK***

WHEREAS, the Port and the City of Kennewick (City) have a long history of collaboration on projects of community benefit; and

WHEREAS, staff from the Port and the City propose commission approval of a Memorandum Of Understanding (MOU) which outlines projects of community importance.

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves the MOU as attached hereto.

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 execute the MOU and take all action necessary in furtherance hereof.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 23rd day of May, 2023.

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

By: DocuSigned by:
Skip Novakovich
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SKIP NOVAKOVICH, President

By: DocuSigned by:
Kenneth Hohenberg
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KENNETH HOHENBERG, Vice President

By: DocuSigned by:
Thomas Moak
A35176A2D2CD413...

THOMAS MOAK, Secretary

**MEMORANDUM OF UNDERSTANDING
REGARDING
POTENTIAL JOINT PROJECTS OF COMMUNITY IMPORTANCE
BETWEEN THE PORT OF KENNEWICK AND THE CITY OF KENNEWICK**

I. PARTIES

This Memorandum of Understanding (MOU) is entered into as of _____, 2023, between the PORT OF KENNEWICK, a Washington municipal corporation (“Port”), and the CITY OF KENNEWICK, a Washington municipal corporation, (“City”) referred to collectively as the “Parties”. The Parties agree as follows:

II. RECITALS

- 2.1 Economic Development Authority.** The Port and the City are authorized, including under Chapters 39.33 and 39.34 of the Revised Code of Washington, to contract with each other and other public agencies to operate, administer and carry out their programs and public projects effectively and efficiently.
- 2.2 Location of Facility in Project Area.** The Port owns various parcels of real property within the City which it is developing to the benefit of the public and both Parties.
- 2.3 Opportunity for Collaborative Development.** The Parties recognize that successful economic development of the Property benefits the economic and social welfare of the City and the surrounding area. The Parties seek to memorialize their understanding related to potential joint development activities.
- 2.4 Port Action.** In October 2022, the Port applied to Benton County for Rural County Capital Funding (RCCF) from its account, in the sum of \$3,400,000. This funding, if awarded, shall be utilized for Vista Hangar repurposing as set forth in the application attached hereto as “Exhibit A.”

III. OBLIGATIONS OF THE PARTIES

- 3.1 Obligations.** The Parties shall consult related to the following future projects:
- A. **Parking Structure.** The Parties shall examine the necessity of a parking structure to serve the Vista Field development, the City’s Entertainment District and Benton County facilities. The Parties shall jointly select and contract with a consultant to examine the need and feasibility of a parking structure serving the immediate area. Costs shall not exceed \$40,000 and shall be split evenly between the parties. The parties shall use best efforts to ensure that the consultant’s report is finalized on or before June 1, 2024. It is the intent of the Parties to present the contents of the report to each Party’s elected body in a timely manner. The parking feasibility study in no way commits either party to building a parking structure, rather it provides information to both parties for future planning efforts.

- B. **Vista Field Development.** The Port is negotiating with a private party developer to build a large-scale residential development on a portion of the site, with a construction cost estimated to exceed \$10,000,000 (the Development). The Development will require the Port to complete Grandridge Boulevard as approximately shown on Exhibit “B” (the Grandridge Extension). If the Port signs a purchase and sale agreement with the developer for the Development on or before December 31, 2023, then the City will contribute one-half of the project costs, including architecture and engineering costs, of the Grandridge Extension, up to \$800,000. The Port shall design, bid, and award the project for construction of the Grandridge Extension and shall invoice the City upon completion of the project.

When the sale of this parcel closes, the City will pursue an amendment to the development agreement with the Port to carve out the Grandridge Extension and contribute one-half the construction costs up to \$800,000. The City portion of the funding would come from the City’s Rural County Capital Funds (RCCF) allocation. The parties agree to work jointly on securing RCCF for up to \$800,000 to be paid by the City through collaborating on and supporting the application.

- C. **Remediation of Duffy’s Pond.** The Parties recognize the necessity of treating the Clover Island boat basin and Duffy’s Pond with algicides to prevent the accumulation of noxious aquatic weeds and algae. Each Party’s respective staff shall collaborate to produce, on or before July 1, 2023, a brief written plan which will provide for the treatment of the boat basin and the pond. The plan will account for the City’s downstream potable water plant intake as well as consider time of year limitations associated with City’s potable water demands as it relates to the application of algicide. The plan shall provide for effective implementation action for both areas, commencing with the 2023 season and extending through the 2028 application season.
- D. In addition to the work described above, the Parties will also consult with the US Army Corps of Engineers to explore options for deepening Duffy’s Pond. Said deepening would permit the use of aeration equipment which provides for long-term algae control in the pond.
- E. The parties agree to communicate and cooperate toward the completion of Duffy’s Pond Trail including design, environmental permitting and construction.

IV. ADMINISTRATION

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

- A. Establishing policies for implementing this MOU;

- B. Providing periodic progress reports;
 - C. Monitoring progress of the Parties and other agencies in the fulfillment of their respective responsibilities; and
 - D. Follow applicable City and Port bid and prevailing wage law policies and procedures when awarding bids for this project.
- 4.2 **Document Review.** The Parties shall cooperate by sharing all relevant information, including planning, financial and environmental documents, to the extent allowed by law.
- 4.3 **Expenses and Financial Contingency.** Except as otherwise provided, the obligations of each Party shall be performed at the sole expense of said Party.

V. GENERAL

- 5.1 **Amendment.** This MOU shall not be altered or varied except in writing signed by each Party.
- 5.2 **Governing Law.** Each of the Parties has independent authority to contract; and, this MOU is pursuant to that authority and shall be governed by, construed and enforced in accordance with the substantive laws of the State of Washington.
- 5.3 **Venue.** The venue for any action arising out of this MOU shall be the Superior Court for Benton County.
- 5.4 **Non-Waiver.** Nothing in this MOU and no actions taken pursuant to this MOU shall constitute a waiver or surrender of any rights, remedies, claims or causes of action a Party may have against the other Party or others under any provision of this MOU or any provision of law.
- 5.5 **MOU Term.** The term of MOU shall continue until each Party's obligations hereunder have been fully performed, or December 31, 2026, whichever occurs first.
- 5.6 **Inspection of Records and Filing.** The records and documents with respect to all matters covered by this MOU shall be subject to inspection by the Parties during the term of this MOU and for three years after its termination. This MOU shall be filed or listed pursuant to RCW 39.34.040.
- 5.7 **No Separate Legal Entity.** It is not the intention that a separate legal entity be established to conduct the cooperative undertaking nor is the joint acquisition, holding or disposing of real or personal property anticipated.
- 5.8 **Severability.** In the event any term or condition of this MOU or application thereof to any person, entity or circumstance is held invalid, such invalidity shall not affect any other terms, conditions or applications of this MOU which can be given effect without

the invalid term, condition, or application. To this end, the terms and conditions of this MOU are declared severable.

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

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

5.11 Assignment. Neither Party may assign its obligations under this MOU.

VI. EXECUTION AND APPROVAL

- 6.1 Warranty of Authority.** Each Party to this MOU warrants that it has the authority to enter into this MOU.
- 6.2 Execution.** The person executing for a respective Party has been duly authorized to and does execute the MOU on behalf of that respective Party.

PORT OF KENNEWICK

Date: _____

By: _____

TIM ARNTZEN, Chief Executive Officer

Approved as to Form:

CAROLYN LAKE
Attorney for Port of Kennewick

CITY OF KENNEWICK

Date: _____

By: _____

MARIE E. MOSLEY, City Manager

Approved as to Form:

LISA BEATON, City Attorney

BENTON COUNTY
RURAL COUNTY CAPITAL FUND
PROJECT APPLICATION FORM

This form is available in a digital format for ease of completion and submittal.

Organization: Port of Kennewick

Contact: Tim Arntzen

Telephone: 509-586-1186 | 509-585-4238

Email: TA@portofkennewick.org

Address: 350 N. Clover Island Drive #200, Kennewick, WA 99336

Project Title: Vista Field Southern Gateway & Hangar Transformation

Project Category:

<input type="checkbox"/> Transportation (Roads & Bridges)	<input type="checkbox"/> Energy Generation
<input checked="" type="checkbox"/> Domestic Water Facilities	<input type="checkbox"/> Transmission & Conveyance
<input checked="" type="checkbox"/> Industrial Water Facilities	<input type="checkbox"/> Earth Stabilization
<input checked="" type="checkbox"/> Sanitation & Sewer	<input type="checkbox"/> Telecommunications
<input checked="" type="checkbox"/> Buildings & Structures	<input checked="" type="checkbox"/> Port Facilities

☒ Other: in-fill, urban renewal, education, site safety, tourism, recreation

Project Description: Please describe the project briefly, but with the essential details. Include location (attach vicinity map), describe how the project will be managed, and list any partnerships or other forms of leveraged monetary, logistical, administrative, or other support.

The Vista Field Southern Gateway & Hangar Transformation Project site is located at the intersection of Deschutes Avenue and Crosswind Boulevard in Kennewick, Washington [see vicinity photo and site map in Attachment D].

The Port of Kennewick owns the 103-acre parcel of land that was the former Vista Field Airport. That property sits in the heart of our region's commercial center, and the Port is asking Benton County to provide Rural County Capital Funds to continue transformation of that site by enhancing the southern entry and creating vibrant public-use facilities from two former hangar buildings located adjacent the fountain and commercial plaza.

The Vista Field Southern Gateway & Hangar Transformation project consists of deconstructing two former, empty hangar buildings, installing low dividing walls, adding restrooms, storage, strategic weather and wind reduction, large industrial overhead fans, water, sewer, storm, electrical, parking, sidewalks, lighting, landscaping, mobilization, earthwork, grading, compaction, appurtenances, and infrastructure necessary to prepare those two hangars and the surrounding site for expanded public use.

The project will also construct a sheltered band stand and courtyard between the two former hangars that will create a series of seamless public spaces that can be used individually or combined to help activate the adjacent commercial “pop up” plaza. The space will artistically re-use the site’s metal carrier decking and will share the story of Vista Field’s ties to World War II Naval history—thus creating a visitor attraction and fostering increased tourism spending.

And finally, the southern entryway will be enhanced with landscaping, additional parking, and wayfinding signage.

The Southern Gateway transformation will take place with design starting winter 2023 through construction completion spring 2024 and will be readied as one of the first and most visible projects—helping showcase industrial chic architecture and setting the tone for private development as the surrounding twenty-one parcels are sold and developed for mixed commercial, retail and residential living.

The Port will produce drawings, plans, and cost estimates; and will bid, monitor, and administer construction of the public improvements.

Following completion of infrastructure improvements the Port will work in partnership with Benton County to hold a celebratory ribbon cutting event recognizing the County’s investment and partnership in further developing Vista Field.

The project will expand local employment opportunities, grow the retail industry, and increase tourism spending for the region. The project will help import visitor dollars and serve as a catalyst to transform the Vista Field neighborhood into a family-friendly mix of restaurants, retail, residential, public, and artisan spaces. Given its prime location within Vista Field, the project will create a unique tourism destination that will serve and sustain the greater Benton/Franklin Counties region.

Is the Project named in the Benton County Overall Economic Development Plan? Yes ☒ No

Project Schedule & Budget

Estimated proposed project schedule, expenditures, and sources of funds.

Project Budget: \$3,410,000 **Contingency?:**

Project Funding Sources:	Proponent's Own Funds:	<p>\$425,000 in land value</p> <p>\$110,000 in-kind port staffing costs and expenditures to administer this project.</p>
	Other Leveraging Sources:	<p>Previous investments include: \$6 Million Port of Kennewick in Vista Field phase one infrastructure (includes \$1M from City of Kennewick invested at Clover Island so port could expend and additional \$1M at Vista Field) AND \$500,000 Benton County RCCF invested in Vista Field phase one infrastructure.</p> <p>The Port already spent \$117,000 on conceptual design & administrative expenses to research, evaluate, and prepare for this Southern Gateway Transformation Project.</p> <p>And the Port is working on an MOA whereby the City of Kennewick would commit RCCF allocations toward future Vista Field infrastructure upon the Port completing this Southern Gateway & Hangar Transformation project.</p>
	Benton County RCCF:	\$3.3 million (Port of Kennewick RCCF allocation as of September 2022)

Project Budget & Schedule Detail:

PROJECT PHASES	START DATE	FINISH DATE	RCCF FUNDS REQUESTED	OTHER FUNDS IN-HAND / SOUGHT	SOURCE(S) OF OTHER FUNDS
Vista Field Southern Gateway & Hangars Project			\$3,300,000		
Design	winter 2023				
Bid Process	spring 2023				
Construction	summer 2023 thru spring 2024				
Project Management	winter 2023 thru Spring 2024			\$110,000	Port property tax revenues
SUB-TOTALS			\$3,300,000	\$ 110,000	
TOTAL PROJECT COST			\$3,410,000		

Rural County Capital Fund assistance is on a reimbursable basis. The proponent must be able to cash-flow work on the project either in whole or in phases. The proponent shall invoice the County not more than once per month for those expenses eligible for Rural County Capital Fund assistance to the extent that such costs are directly attributable and properly allocable to the project.

Project Anticipated Benefits

What are the anticipated outcomes of this project with respect to the criteria identified below? Please answer concisely in narrative form, supported with defensible estimates and projections. This is not a competitive application. The intent is to demonstrate that the project meets with the “economic development purposes” intended by the Legislature in its development of RCW 82.14.370 and our local economic development goals, not to weigh the merits of multiple projects against each other.

Jobs

- **Estimated *new* jobs to be created? What mix/types of new jobs?**
- **Estimated retention of *existing* jobs?**

Projections indicate at full build-out Vista Field redevelopment could mean ***as many as 3,380 jobs*** [*projections by consultant team DPZ and ECONorthwest*].

While the existing restaurants and businesses in the surrounding area and those related jobs, will most certainly benefit from this project; overall, we anticipate that the number of existing jobs *retained* by this project will be low since those existed in a land-extensive condition due to the 103-acre former airport.

However, this project alone will create an initial 50+ construction jobs with services required in survey, demolition, excavation, laborers, carpenters, masons, concrete, plumbers, electricians, landscapers, and sign makers.

In addition, there will be an increase in tourism and visitors drawn to Vista Field, as well as ongoing employment and business support from commercial use of the plaza and future residential as it develops.

Indeed, this redevelopment project offers a higher and better use of land and buildings located within the very heart of the region’s commercial center and it will spur vitality, business options, and job growth for both Vista Field AND the surrounding neighborhoods given that a number of businesses are already investing and building nearby--with specific examples cited in the “*Incidental & Other Benefits*” section below (and referenced in Attachment C).

Diversification

- **Would the project help to expand the palette of Tri-Cities business and industry? How would it help to develop new sectors to better balance the local and regional economy, making it less anchored in, reliant upon, and responsive to traditional economic sectors?**

Redevelopment of Vista Field is following a community-driven master plan which addresses deficiencies identified by TRIDEC / Tri-Cities Regional Chamber of Commerce / Visit Tri-Cities studies. In addition, Vista Field is the very first urban-mixed-use zoning development in the area and there is nothing like it within a several-hours’ drive. As such, the improvements proposed in this Southern Gateway & Hangar Transformation project will bolster the region’s burgeoning tourism industry and provide additional amenities for current and future residents. Additionally, this project is about expanding local amenities that help support job recruitment

efforts for existing and new businesses looking to open shop in Benton County.

Additional, flexible event space located adjacent to the Three Rivers Convention Center can help strengthen the number and type of businesses that support local viticulture, agritourism, meeting and convention sectors; allowing the community to further capture market share in these targeted industries, and further diversify from the region's dependence upon traditional agriculture and Hanford.

By offering placemaking in the form of a central gathering space, wayfinding, and landscaping, the project will further attract private sector investment and support a variety of living spaces across the site—from affordable and multi-unit; to live-work, and single-family; apartments and condos; to courtyard duplexes, and multi-generational living spaces—interspersed with commercial development, the goal is to create an entirely new, urban destination for the region.

Tax Revenue Generation

- **Estimate and discuss tax revenue generation from expanded business or trade (sales, property, business & occupation taxes, etc.).**

Projections indicate at full build-out Vista Field redevelopment could mean as much as \$575 million in private sector investment, \$63.75 million in new infrastructure and \$510 million in new (taxable) buildings—meaning new revenues for roads, utilities, police, fire, hospital, libraries, schools, parks and other services—without increasing taxes or costs to existing taxpayers [*initial 2013 projections by consultant team DPZ and ECONorthwest increased by 25% to account for current economic conditions*].

Sustainability

- **Does the project utilize existing abandoned, derelict, or otherwise underutilized land, buildings, or other infrastructure?**
- **What are the long-term prospects for success of the project's intended beneficiaries?**
- **What is the project's impact on resource consumption?**
- **Discuss other potential environmental impacts.**

This project will help push in-fill development forward and is a perfect example of economic and environmental sustainability. No raw land will be consumed; access to the project site utilizes existing infrastructure on previously impacted land; and abandoned, empty hangar buildings will be repurposed into vibrant public event spaces to support food trucks, pop up retail, markets, events and entrepreneurial ventures that attract people and create initial activity and tourism for the overall site.

In addition, the Kennewick Police Department's Chief of Police Chris Guerrero has indicated his support of this development project and his intent to have patrol officers utilize the public space as a mobile "mini-station" whereby patrol cars could park while officers utilize the restrooms and public spaces for their breaks and completing paperwork—while simultaneously demonstrating a visible presence for public safety and minimizing unwanted activity.

Incidental & Other Benefits

- **Does the project have a likelihood to incubate or spin-off other businesses into the future that may not be intended or foreseen now?**
- **Will the project support additional prestige, cultural, recreational, tourism, or other experiential opportunities aside from the intended direct economic benefits?**

The project will continue to foster investment within Vista Field itself and is anticipated that additional in-fill investment in the surrounding neighborhoods will also occur. In fact, since the redevelopment of Vista Field was announced and the master plan completed, the energy and excitement of a regional town center has attracted significant private-sector investment to the property surrounding Vista Field. From the \$20 million state-of-the-art Miramar Clinic at the eastern end of Vista Field; to the \$4 million Chuck E. Cheese restaurant; to the new \$5 million Food Truck Hub on Skagit Avenue (next to Chuck E. Cheese); to the 7-Kitchen 1Derful Food Park outdoor mall that is currently under construction on Skagit Avenue—these are just some of the recent investments attracted to the surrounding neighborhood as the vision of Vista Field as a regional town center unfolds.

According to Owner John Corbin, Chuck E. Cheese's chose their new location because they wanted to be part of the redevelopment of Vista Field, the former airport being redeveloped as a town center mixed-use development. Nearby Lawrence Scott Park and its extensive sports field was another lure. *Tri-City Herald, September 18, 2018*

Redeveloping the hangars will offer opportunities for sheltered farmers' markets, craft fairs, weddings, quinceaneras, art shows, musical and theater productions, and entrepreneurial ventures. That space will support a city-centered lifestyle and offer a location for residents of the urban town center to gather and recreate.

Indeed, transformation of those hangar buildings was identified as a unique and prestigious part of the Vista Field Master Plan as it frames the gateway for the southern entrance to Vista Field and phase one of the site development.

Activating those hangars as commercial event space will help attract adjacent business, foster micro-entrepreneurs, and ensure that area becomes a central gathering place as envisioned for the walkable, bikeable, pedestrian-friendly and transit-oriented city-center.

This placemaking project will creatively re-use the site's metal carrier decking and will share the story of Vista Field's ties to World War II Naval history--thus fostering both community education and tourism visitation/spending by leveraging interest in history and cross-promotion with the Pasco Aviation Museum.

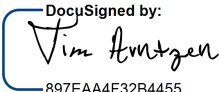
In addition, the Port is working with City of Kennewick on a Memorandum of Agreement that would formalize a commitment by City to provide allocations of their RCCF funding to support future infrastructure at Vista Field upon the Port repurposing the Hangar B and Hangar C into a tourism and event focused civic space.

Submitted by:

Agency: Port of Kennewick

Exhibit A - Rural County Capital Funding Application

Date: 9/9/2022 _____

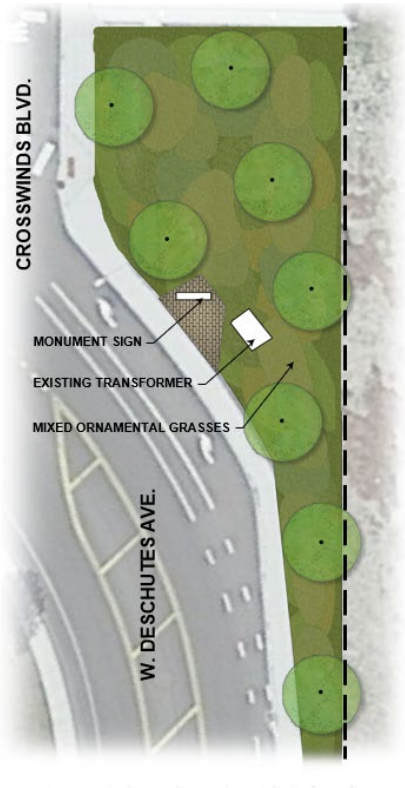
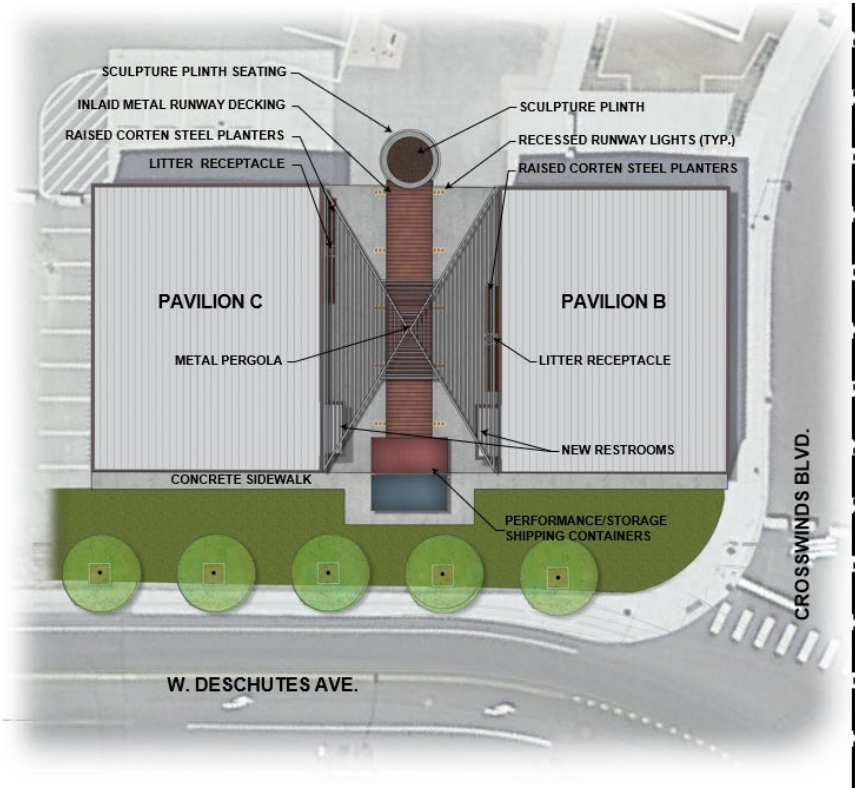
By:  _____
897EAA4F32B4455...

Title: Chief Executive Officer _____

Submit to: Benton County Commissioners Office
% Sustainable Development Manager
7122 West Okanogan Place
Kennewick, Washington 99336
commissioners@co.benton.wa.us

Attachment A – Vicinity Photos, Site Map & Project Location





Attachment B –Conceptual Project Renderings

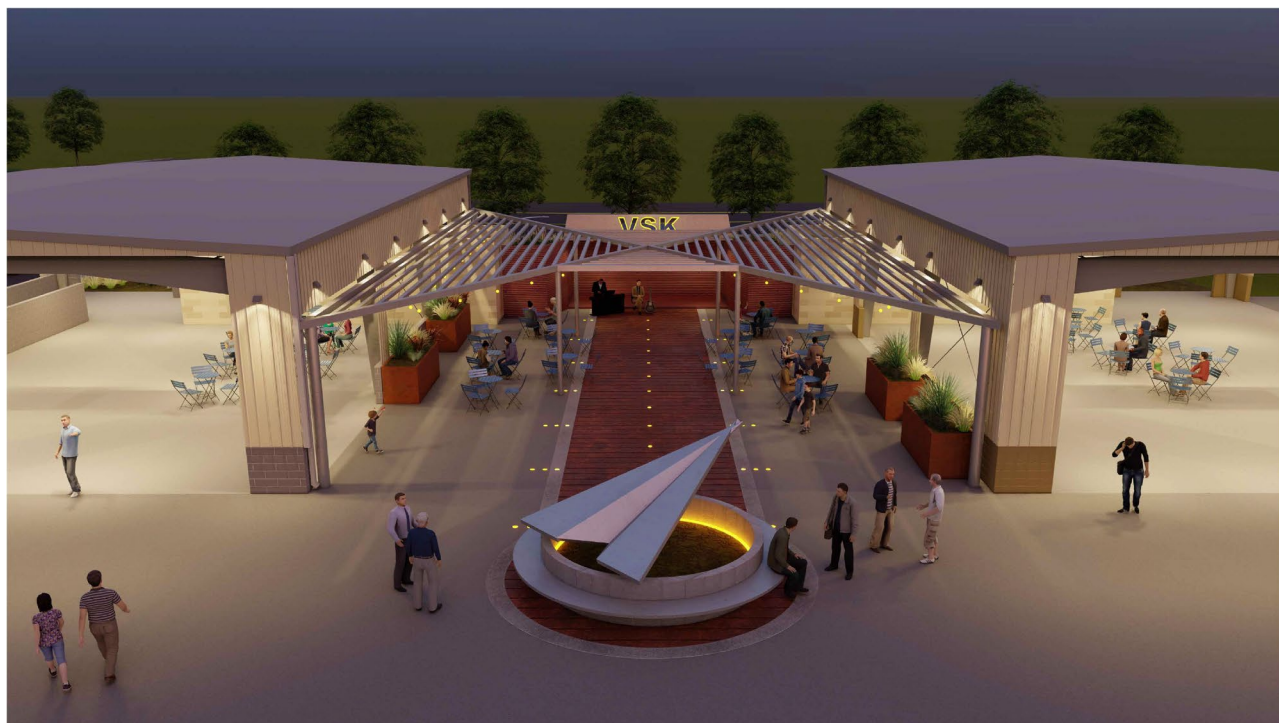




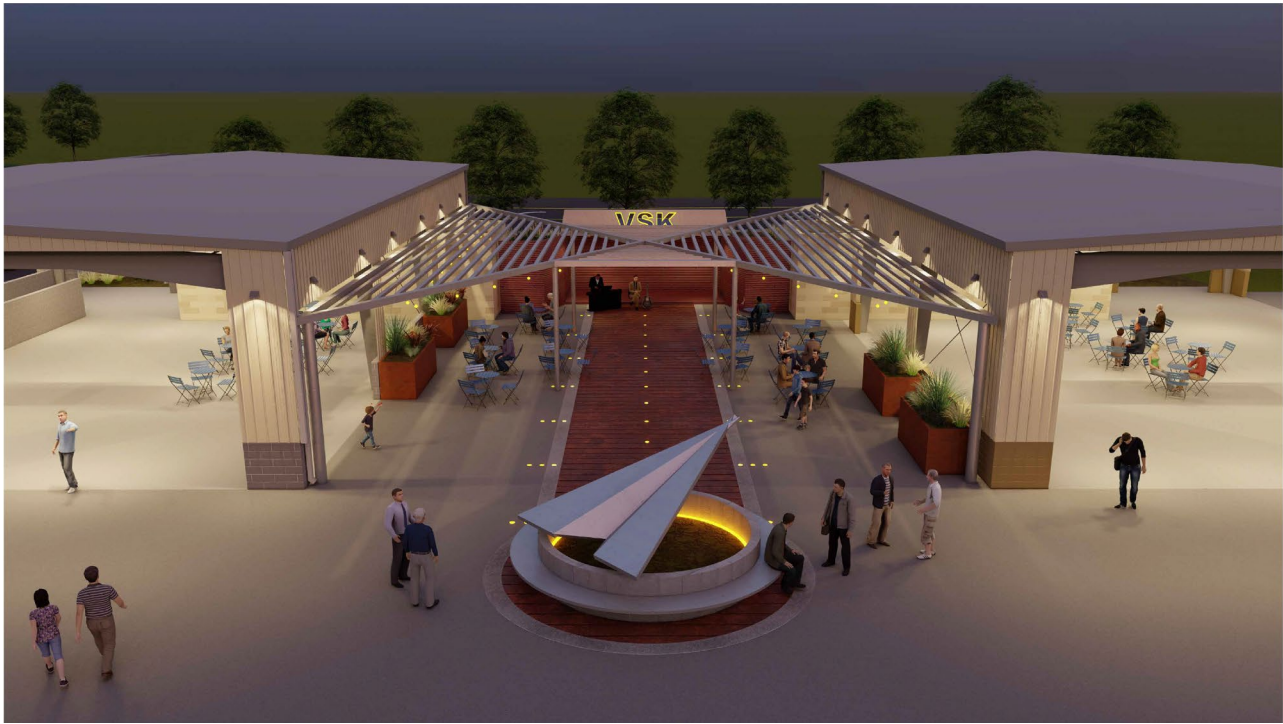


Exhibit A - Rural County Capital Funding Application









Attachment C –Project-Related News and Editorials

Tri-Cities Area Journal of Business, Tri-City Herald, The Spokesman-Review



The Miramar Clinic in Kennewick will respect the Italian stylings of the Vista Field redevelopment plan. The Yakima Valley Farm Workers Clinic broke ground on the \$20 million project in January. It's expected to open in 2021. Courtesy The Neenan Co.

\$20 million clinic shows what's possible at Vista Field

Tri-City Herald

They spent \$4 million to upgrade in Kennewick. Now Chuck E. Cheese's has a new home

BY WENDY CULVERWELL

UPDATED SEPTEMBER 18, 2018 5:57 PM



THE SPOKESMAN-REVIEW

Spokane, Washington Est. May 19, 1883

The Tri-Cities are among the fastest growing parts of Washington, according to 2020 Census data. Here's how they're dealing with explosive growth

Aug. 21, 2022 | Updated Sun., Aug. 21, 2022 at 4:24 p.m.

Developers in the area are trying to be creative about how they move forward. One example in Kennewick is Vista Field.

The development will be built on an old airport strip but will become a walkable, urban space – the first of its kind in the region, said Larry Peterson, director of planning and development at the Port of Kennewick.

The hope is that it will become a new regional town center that focuses less on cars and single-family zoning and more on mixed use, Peterson said.

The site has green spaces, waterways and walking paths throughout.

"The intent is building an interesting place," Peterson said. "It's more about how much stuff we can get on a piece of property versus sprawling."

The Port of Kennewick began receiving proposals for the first 20 acres of land in early July.

The site won't accommodate all of the people moving into the area, Peterson said.

It won't necessarily change the game, but the goal is to add some housing stock while at the same time build a community that's never been seen before in the area.

More development on one piece of land is a trend that is coming, Peterson said. It makes economic sense, and Vista Field can be a local example that people can point to for that type of development.

"We aren't going to solve the housing crisis," Peterson said. "What we are hoping is some ideas can be decanted from this."

Summer's Hub

Building Tri-Cities advertising | August 2022



Chris Corbin together with Kathleen and Jon Corbin have completed Summer's Hub, a dining destination that can accommodate up to 28 food trucks in the heart of Kennewick.

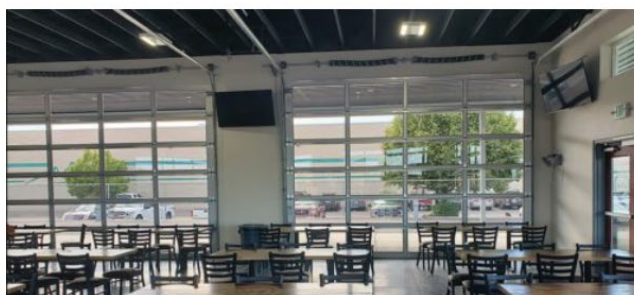
The 7,000-square-foot, one-story building at 6481 W. Skagit Ave., near Chuck E. Cheese, offers indoor and outdoor seating as well as an outdoor stage for live performances.

The 150-spot parking lot can be converted into a market during the summer months. Brady's Brats and Burgers is a tenant.

The \$5 million project, including land, is designed as a family-friendly destination.

The rent is \$1,200 per month for a one-year lease.

The project wrapped up on Aug. 1.



New food park to bring innovative dining to Tri-Cities. There will be Korean BBQ and more

BY CORY MCCOY

UPDATED MAY 24, 2022 11:24 AM

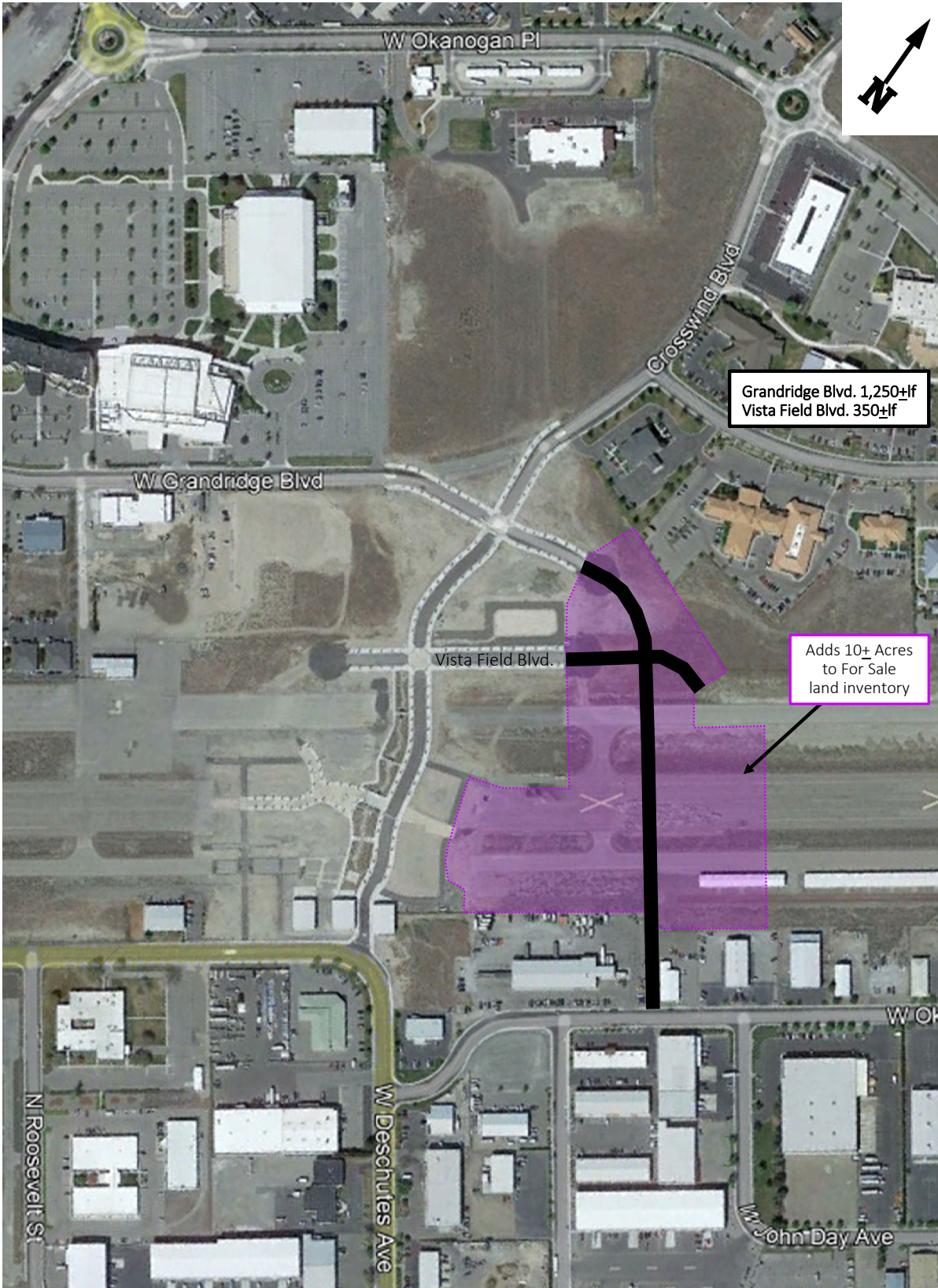


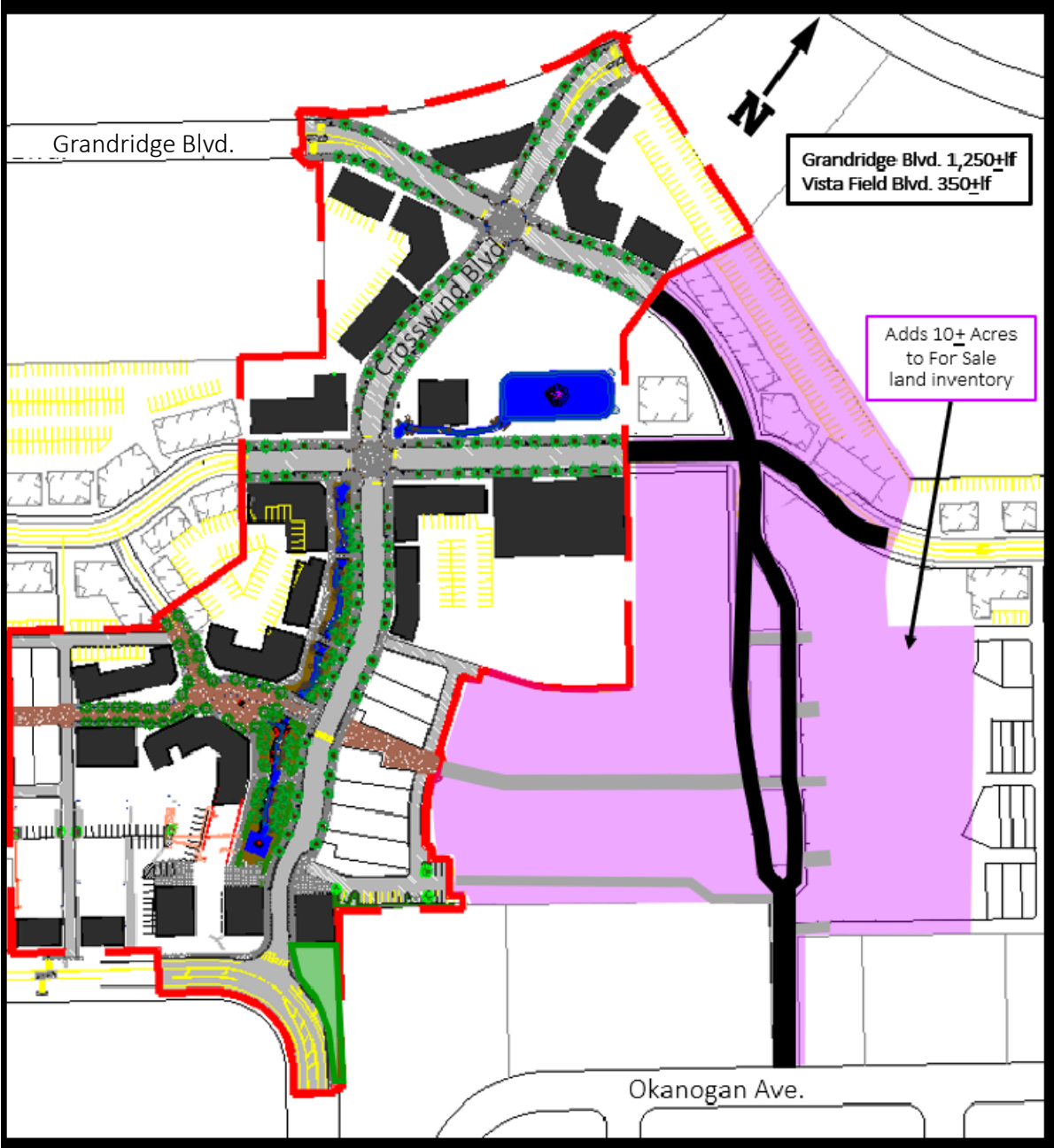
Tri-City Herald



1Derful Food Park owner Joo Seok Baek wants to bring a new way to dine to the Tri-Cities. His food park is designed with outdoor dining in mind.

[illegible]





PORT OF KENNEWICK

RESOLUTION No. 2023-11

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK
APPROVING BENTON CITY FUNDING ASSISTANCE***

WHEREAS, the Port has allocated \$125,000 via its Opportunity Fund, as part of the commission's approved budget for projects of community importance that arise after the adoption of the approved two-year budget; and

WHEREAS, Benton City has proposed several projects of importance that also benefit the port and its regional economic development objectives; and

WHEREAS, those projects are as set forth on "Attachment B" hereto, which projects total approximately \$40,000 which could be funded from the Opportunity Fund; and


WHEREAS, staff recommends Commission approval of funding not to exceed \$40,000 from the Opportunity Fund. A spreadsheet related to the Opportunity Fund is attached as "Attachment A".

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves allocation of funds not to exceed \$40,000 for Benton City projects as set forth in "Attachment B".

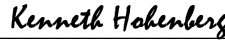
BE IT FURTHER RESOLVED the Commissioners hereby ratify and approve all action by port officers and employees in furtherance hereof.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 23rd day of May, 2023.

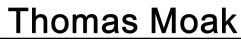
***PORT of KENNEWICK
BOARD of COMMISSIONERS***

By: 
0E53A30E1C8E442...

SKIP NOVAKOVICH, President

By: 
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KENNETH HOHENBERG, Vice President

By: 
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THOMAS MOAK, Secretary

Opportunity Fund

	2023-2024 Budget:	\$ 125,000.00		
Project	Vendor	Encumbrance	Spent To Date	Balance
Benton City Funding Assistance		\$ 40,000.00	\$ -	\$ 40,000.00
Cable Bridge Lighting Project		\$ 25,000.00	\$ -	\$ 25,000.00
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
	TOTAL	\$ 65,000.00	\$ -	\$ 65,000.00
	Remaining Budget	\$ 60,000.00		

Areas of Potential Assistance from Port of Kennewick

- Update Parks and Recreation Plan to Include Subarea 8-10K**
- Update zoning map to include Subarea 3 - 5K**
- Train Staff to implement new design standards for City and Subarea. (Two different sets of design standards) 6-10K**
- Development of recruitment materials illustrating Subarea vision and concepts 10-15K**



AGENDA REPORT

TO: Port Commission

FROM: Carolyn Lake and Tim Arntzen

MEETING DATE: June 13, 2023

AGENDA ITEM: Proposed Update to the Commission's Rules of Policy and Procedures,
RE: Section Regarding consent Agenda Commission Review & Discussion of Draft
Updates-Action Requested.

I. REFERENCE(S): Proposed Adoption of Resolution 2023-12, approving a change to the Commission Rules of Policy and Procedure at Section 7.6 to address public comment for Consent Agenda items.

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

Resolution No. 2022-23 -Updated Various Sections

III. FISCAL IMPACT: \$0

IV. DISCUSSION:

The Commission authorized the Port CEO to oversee an update to the Commission Rules of Policy & Procedure ("Rules") to clarify the public comment opportunity for Consent Agenda items, for Commission consideration.

The Rules were initially adopted in 2011 to establish a formal policy and procedures document to address the specific roles, expectations of conduct, knowledge, disclosures, prohibitions,

legal requirements, and accountability of the elected officials who are responsible for the current operation and future direction of the Port of Kennewick.

The Rules have been updated five previous times and for the purposes described above in Section II.

The Commission strives for transparency and provides for public input on matters for which the Commission takes final action. Items placed on the Commission's Consent Agenda are routine and non-controversial. The Commission provides an opportunity for general public comment immediately preceding the Commission taking final public action on the Consent Agenda.

At its May 9, 2023, public meeting, the Commission determined that an update to the Rules of Policy and Procedure is warranted to clarify the public comment opportunity for Consent Agenda items. The proposed change is as follows:

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. Because these matters are routine and are considered after the first public comment, no additional public comment is needed. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items, with opportunity for public comment or tabled for consideration at a future meeting upon a motion passed by the Commission during a Commission Meeting and prior to the vote to approve the consent agenda.

The proposed Resolution and redlined and clean versions of the updated Rules which carry of the change are attached.

IV. ACTION REQUESTED OF COMMISSION:

MOTION: I move approval of Resolution 2023-12 which approves a change to the Commission Rules of Policy and Procedure at Section 7.6 to address public comment for Consent Agenda items.

PORT OF KENNEWICK, WASHINGTON

PORT COMMISSION

RULES OF POLICY AND PROCEDURE

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

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

Resolution No. 2022-23 -Updated Various Sections

Resolution No. 2023-Revised Section 7.6 to clarify public commnt opportunities for Consent Agenda Items.

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[WILL BE UPDATED IN FINAL DRAFT]

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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 rules for governance, management and operation of the Port.

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.

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 Monitor, and not less than annually, evaluate the Chief Executive Officer'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 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; ;

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;

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;

2.3.15 On an bi-annual basis, affirm agreement to comply with these Rules and acknowledge and accept the consequences of failure to do so; and Take such other actions as may be required by law.

2.4 Port Financial Goals.

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

2.4.1 Work toward funding all operating expenses from revenues from Port operations;

2.4.2 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 Pursue fewer projects while selecting projects with the greatest return to the Port and to taxpayers; and

2.4.5 2.4.4 Pursue projects with development partners who demonstrate support (e.g. matching funds, political/citizen/taxpayer support, leveraged investment, enthusiasm/goodwill). Produce and maintain a balanced budget.

2.4.6 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;

2.4.7 Promoting fiscal responsibility among departments.

2.4.8 Focusing on long-term financial planning.

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

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

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

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 at the first public meeting 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 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 Public Disclosure Commission.

3.6 Conduct as Commissioner. Commissioners shall adhere to these Rules 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, Chapter 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 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. 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 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 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 employer 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 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 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 entity.

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 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, 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.

4.2.3 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.

4.2.4 Commissioner 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.

4.3 The Commission shall facilitate that all information sought to be 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. Complaints against staff (other than the Chief Executive Officer) shall be resolved by the Chief Executive Officer, according to applicable law and the Port's Policies and Procedures manual. Complaints against the Chief Executive Officer shall be resolved by the Port Commission according to applicable contract, Delegation of Authority and these Commission Rules of Policies and Procedures. 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 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, counsel and concurrence of Port General Legal Counsel or special legal counsel ("Port General Legal Counsel"), the Chief Executive Officer shall determine whether sufficient evidence exists to proceed with an investigation. If the Chief Executive Officer determines that insufficient evidence exists and Port General Legal 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 shall recuse himself from the process and delegate all further steps to Port Counsel, and/or an investigator retained for such purpose by Port General Legal Counsel ("Investigator"). Port

Counsel 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 Counsel 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 General Legal Counsel 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 General Legal Counsel 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 General Legal Counsel 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 General Legal Counsel finds the complaint substantiated, Port General Legal Counsel shall prepare a report to Chief Executive Officer 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. The Complainant and Respondent(s) shall be notified in writing of the determination and recommended action; or, of the dismissal.

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 is against one Commissioner, following receipt of the Port General Legal Counsel’s determination and recommended action, the remaining Commissioners who are not a party to the complaint shall promptly hear, consider and vote upon the recommended action. If the complaint is made by one or more of the Commissioners against one or more Commissioner, the determination and recommended action of Port General Legal 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 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.

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 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 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, a special election of officers may be held at any regularly scheduled Port Commission meeting.

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 Commission meetings;

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 Rules and the most current edition of Robert's 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 to be considered at such special meeting. Commissioners shall not discuss, consider or take final action on any subject not appearing on the special meeting agenda. .

The Port Administrative Assistant shall carry out the required published and posted notice required for 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.

6.7 Proceedings in the Absence of a Quorum. 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 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.

6.7.1 In the absence of a quorum any business transacted is null and void.

6.7.2 Even in the absence of a quorum, the Commission may move to 1) fix the time to adjourn 2) adjourn, 3) recess the meeting, and/or 4) take measures to obtain a quorum. A motion that absent members be contacted during a recess would represent a measure to obtain a quorum.

6.7.3 The prohibition against transacting business in the absence of a quorum can not be waived even by unanimous consent. If there is important business that should not be delayed until the next regular meeting, the Commission should fix the time for an adjourned meeting and then adjourn.

6.7.4 If there is no quorum at the beginning of the meeting, the President may

wait a reasonable amount of time for a quorum to assemble. If a quorum cannot be obtained, the president calls the meeting to order, announces the absence of a quorum, and may take action as described in Section 6.7.2 herein above.

6.7.5 If the President notices the absence of a quorum, it is the President's duty to declare the fact before taking any further action.

6.8 Recording Proceedings. The Port Administrative Assistant shall maintain a 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.

6.9 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.

6.10 Remote /Electronic Meetings. 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 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.

6.10.1 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.

6.10.2 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.

6.10.3. 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.

6.10.4. 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.

6.10.5 Telephonic and Electronic meeting participation shall be limited to instances where a member, alternate, or staff member is unable to participate in person due to

adverse weather conditions, illness, unavoidable conflicts, inability to travel to the meeting location, or other similar situations.

6.10.6 Commission and staff members who are unable to be present in person at any meeting shall have the right to participate by telephonic or other internet service, subject to any limitations established in these Rules to govern such participation.

6.10.7. These electronic meetings of the Commission shall be subject to all rules adopted by the Commission to govern them, which may include reasonable limitations on, and requirements for Commission members' participation. Any such rules adopted by the Commission shall supersede any conflicting rules in parliamentary authority but may not otherwise conflict with or alter any rule or decision of the Commission.

6.11 Commissioner Attendance at Meetings. Commissioners shall inform the President or 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 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 Chief Executive Officer shall attend all meetings of the Commission, unless excused. At the discretion of the Chief Executive Officer, other staff members shall attend. The 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 will introduce each agenda item, stating whether action will be taken on the item, whether the item is introduced for discussion only or whether other results are anticipated.

6.13.3 Port staff will briefly discuss the agenda item.

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 for action. Any Commissioner 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 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. 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.

6.14.1 Speakers attending in person shall move to the lectern and shall comment only after being recognized by the Presiding Officer. 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 may overrule impertinent, redundant or disruptive comments; Applause or other interruptions are discouraged;

6.14.8 All remarks should be directed to the Presiding Officer; 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 the Commission, Chief Executive Officer and others that may be authorized. 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, the anticipated time when the session will be concluded, and whether action 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 shall

announce that the executive session is being extended to a time certain. The purpose for the Executive Session shall be noted in the meeting minutes.

6.16 Commission Discussion. All Commission discussion shall be guided by the most current version of Robert's Rules of Order to guide meeting procedures in the absence of a governing Commission Bylaw or state law. The Port General Legal Counsel 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.

7.2 Agenda Preparation. The 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 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.

7.3 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.

7.4 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 Chief Executive Officer explains the necessity and receives a majority vote of the Commission at a public meeting.

7.5 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. Because these matters are routine and are considered after the first public comment, no additional public comment is needed. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items with opportunity for public comment or tabled for consideration at a future meeting upon a motion passed by the Commission during a Commission Meeting and prior to the vote to approve the consent agenda.

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 the most current version of Robert's Rules of Order, 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 evaluation of the Chief Executive Officer.

8.7 Limit supervision and direction of the Chief Executive Officer or Port staff, solely to the 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. 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.

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 Chief Executive Officer and staff must refuse such requests that require, upon evaluation by the Chief Executive Officer, 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. 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. If an individual Commissioner is dissatisfied with the response from the 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, 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. . The Chief Executive Officer and Port staff execute and administer the Commission's policies. The Port of Kennewick has a Commission-Chief Executive Officer form of governance. The 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 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 through the budget process; based upon that authorization, the Chief Executive Officer is responsible for hiring all personnel.

13.2 Commissioner's Role. [See also, Section 2.] The 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.

No Commissioner shall direct the 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, unless otherwise determined by the Chief Executive Officer. Commissioners needing staff assistance shall work through the Chief Executive Officer.

13.3 Chief Executive Officer's Role.

13.3.1 The Chief Executive Officer is the chief administrative officer of the Port. The 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 Chief Executive Officer is the information liaison between Commission and Port staff. Requests for information from Commissioners are to be directed to the 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 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 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 Chief Executive Officer that will assist them in their policy-making role. The 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 Chief Executive Officer shall have an open-door policy which allows individual Commissioners and the public to meet with the 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 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 Chief Executive Officer or appropriate supervisor. This direction follows the policy guidance from the Port Commission to the Chief Executive Officer through the Delegation Policy. Port staff will, acting through the Chief Executive, 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, the request is not of such magnitude (in terms of workload, resources, or policy) that it should instead be assigned to the 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 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

Reviews and approves budget

Represents public interest

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

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 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 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;

14.2.5 Establish budgetary and procurement controls over expenditures;

14.2.6 Produce and maintain a balanced budget;

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;

14.2.8 • 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

14.2.21 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 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 Chief Executive Officer consistent with state laws and regulations. The 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 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 Chief Executive Officer shall inform the Commission.

15. EVALUATING THE CHIEF EXECUTIVE OFFICER'S PERFORMANCE

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 General Legal Counsel, 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"**.

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 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 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 Chief Executive Officer or designee for all administrative matters, including hiring, performance evaluations, salary administration, employee benefits, and terminations. The 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 GENERAL LEGAL COUNSEL RELATIONSHIP

17.1 Port General Legal Counsel Role. The Chief Executive Officer is responsible for hiring and terminating the Port’s General Legal Counsel. The 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 General Legal Counsel is the legal advisor to the Port, the Commission, its committees, commissions and boards, the Chief Executive Officer, 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 General Legal Counsel does not represent individual members of Commission, but rather the Port Commission as a whole. The Port General Legal Counsel reports to the Chief Executive Officer. The Chief Executive Officer is responsible for evaluating the Port’s General Legal Counsel’s performance.

17.2 Port General Legal Counsel’s Responsibilities.

The general legal responsibilities of the Port General Legal Counsel 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, 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 General Legal Counsel shall provide assistance to individual Commissioners in complying with applicable statutes and laws only when such advice does not conflict with the Port's General Legal Counsel'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.

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.

17.2.10 Other matters as designated by the Chief Executive Officer.

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, the Port shall provide to an Official or Employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such Official or Employee 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 Official or Employee resulting from any conduct, act or omission of such Official or Employee performed or omitted were or in good faith purported to be within the scope of his or her service or employment as a Port Official or Employee. 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 Official or Employee.

18.3.2 The legal representation shall be provided by the office of the Port's General Legal Counsel and may include the Chief Executive Officer engaging the services of outside legal counsel, with Port General Legal Counsel oversight. If any provision of an applicable policy of insurance provides legal counsel for the employee or official, the Port General Legal 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 under Section 18.3.2, the Port shall pay the reasonable costs of defense; provided, that in no event shall payment exceed the hourly rates established by the Port's contract with general legal counsel selected by the Port.

18.3.4 The determination whether the Official or Employee was acting in or in good faith purported to be within the scope of his or her official duties shall be made by the Commission in consultation with the Port General Legal Counsel and/or outside legal counsel, if retained. This determination shall be 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. 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 Chief Executive Officer in writing. If the Employee or Official involved is the Chief Executive Officer, the determination shall be made by the Commission in consultation with the Port General 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 Chief Executive Officer shall be notified by the Port General 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 Employee's Fifth Amendment right against self-incrimination. Any determination made under this Section shall not be subject to appeal or reconsideration.

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 which is outside the scope of an Official's or Employee's service or employment with the Port; and/or,

18.4.3 Any lawsuit brought against an Official or Employee by or on behalf of the Port;

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 Official 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 from whatever source for defense, loss or damage; excluding deductible or exclusion(s) of the applicable insurance policy. The Port shall have the right to require an Employee to fully utilize insurance coverages prior to requesting payment under this Chapter.

18.7 Determination of Exclusion. 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 Port payment of defense costs under this chapter shall be determined by the Commission. The Chief Executive Officer and Port general legal counsel shall prepare a recommendation to the Commission. 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 Commissioner 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.

18.8 Representation and Payment of Claims – Conditions. The payments authorized 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 Official or Employee involved shall, as soon as practicable, give the Employee's department director and, if applicable, the Port General Legal Counsel and the Chief Executive Officer written notice thereof. The notice shall identify the Official or Employee involved, all information known to the Official or Employee 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 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 General Legal Counsel and shall cooperate with the Port General Legal Counsel, or if the 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

General Legal Counsel, and in which an adverse decision against the Official, the 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 Employee 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 Employee has left the employ of the Port, no fee or compensation shall be provided.

18.8.4 Such Official or Employee 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 Official or Employee 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 Official or the Employee.

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 Official or Employee is undertaken by the Port, whether by the Port General Legal 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 Official or Employee or a settlement is made, the Port shall pay 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. The process for payment of punitive damages is discretionary 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 Chief Executive Officer and the Port General Legal Counsel and/or outside legal counsel.

18.10 Failure to Comply With Conditions. In the event that any Official or 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.

18.11 Reimbursement of Incurred Expenses.

18.11.1 If the Commission determines pursuant to the Port's investigation under Section 18.3, that an Official or Employee 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, and a court of competent jurisdiction later determines that such Officer or Employee was acting within the scope of his or her official duties, , then the Port shall pay any non-punitive judgment, and reasonable legal counsel's fees incurred in defending against the claim, less any applicable insurance coverages.

18.11.2 If the Port determines that a claim arose against a Port Official or Employee who was acting within or in good faith the scope of their employment and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the

Commission shall have the option of requiring reimbursement by the Official or Employee for defense fees, costs and expenses.

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 Officials or 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 Employee's or 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.

18.13 Pending Claims. The provisions of this chapter shall apply retroactively to any pending claims or lawsuits against any Official or 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.

18.14 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 Employee or 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 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.

18.16 Punitive Damages. When the Port has paid for claim defense fees costs and expense for an Employee or Official pursuant to this chapter and a punitive judgment is rendered, the Employee or Official may request the Commission that the Port pay the punitive damages. Upon such a request, the Commission shall receive a report and recommendation from the Chief Executive Officer and the Port General Legal Counsel shall transmit a report and recommendation for Commission consideration. If the requesting Official or Employee is the Chief Executive Officer or a Commission member, the Commission may in the alternative request a report and recommendation from outside legal counsel. The Commission's decision on whether to pay the punitive damages award shall be based on the best interests of the Port and whether justice will be served. The Commission's determination is final and not subject to reconsideration or appeal. . The Chief Executive Officer shall communicate the Commission's determination to said Employee or Official. Thereafter, the Port finance director shall prepare the payment of Commission-approved punitive damages.

18.17 Application to Recall Proceedings.

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 General Legal Counsel or attorney appointed by the Chief Executive Officer. The expenses paid by the Port may include costs of an appeal of the superior court's ruling on the sufficiency of the recall charge.

18.17.2 Although in the case of *In Recall of Olsen*, 154 Wn.2d 606 (2005), the Supreme Court ruled that a Commission'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 RCW 42.23.030, and, as a result, a Commissioner may vote on that Commissioner's request for defense fees and costs, 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 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.

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
11. the port auditor.

PORT OF KENNEWICK

Resolution No. 2023-12

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK ADOPTING UPDATED PORT COMMISSION RULES OF POLICY AND PROCEDURE

WHEREAS, the Port of Kennewick Commission adopted Resolution 2011-05 on February 22, 2011 establishing a formal policy and procedures document to address the specific roles, expectations of conduct, knowledge, disclosures, prohibitions, legal requirements, and accountability of the elected officials who are responsible for the current operation and future direction of the Port of Kennewick; and

WHEREAS, the Commission approved several updates to the Rules of Policy and Procedure via Resolution No. 2016-01, Resolution No. 2017-16, Resolution No. 2019-24, Resolution No. 2022-19, and Resolution 2022-23; and

WHEREAS, the Commission strives for transparency and provides for public input on all matters for which the Commission takes final action; and

WHEREAS, items placed on the Commission's Consent Agenda are routine and non-controversial;

WHEREAS, the Commission provides an opportunity for general public comment immediately preceding the Commission taking final public action on the Consent Agenda; and

WHEREAS, the Commission has determined that an update to the Rules of Policy and Procedure is warranted to clarify the public comment opportunity for Consent Agenda items.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby adopts the attached, revised Port Commission Rules of Policy and Procedure, which shall remain in effect until further revised.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 13th day of June, 2023.

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

By: _____

SKIP NOVAKOVICH, President

By: _____

KENNETH HOHENBERG, Vice President

By: _____

THOMAS MOAK, Secretary

PORT OF KENNEWICK, WASHINGTON

PORT COMMISSION

RULES OF POLICY AND PROCEDURE

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

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

Resolution No. 2022-23 -Updated Various Sections

Resolution No. 2023-Revised Section 7.6 to clarify public comment opportunities for Consent Agenda Items.

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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 rules for governance, management and operation of the Port.

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.

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 Monitor, and not less than annually, evaluate the Chief Executive Officer'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 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; ;

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;

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;

2.3.15 On an bi-annual basis, affirm agreement to comply with these Rules and acknowledge and accept the consequences of failure to do so; and Take such other actions as may be required by law.

2.4 Port Financial Goals.

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

2.4.1 Work toward funding all operating expenses from revenues from Port operations;

2.4.2 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 Pursue fewer projects while selecting projects with the greatest return to the Port and to taxpayers; and

2.4.5 2.4.4 Pursue projects with development partners who demonstrate support (e.g. matching funds, political/citizen/taxpayer support, leveraged investment, enthusiasm/goodwill). Produce and maintain a balanced budget.

2.4.6 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;

2.4.7 Promoting fiscal responsibility among departments.

2.4.8 Focusing on long-term financial planning.

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

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

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

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 at the first public meeting 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 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 Public Disclosure Commission.

3.6 Conduct as Commissioner. Commissioners shall adhere to these Rules 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, Chapter 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 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. 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 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 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 employer 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 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 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 entity.

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 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, 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.

4.2.3 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.

4.2.4 Commissioner 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.

4.3 The Commission shall facilitate that all information sought to be 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. Complaints against staff (other than the Chief Executive Officer) shall be resolved by the Chief Executive Officer, according to applicable law and the Port's Policies and Procedures manual. Complaints against the Chief Executive Officer shall be resolved by the Port Commission according to applicable contract, Delegation of Authority and these Commission Rules of Policies and Procedures. 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 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, counsel and concurrence of Port General Legal Counsel or special legal counsel ("Port General Legal Counsel"), the Chief Executive Officer shall determine whether sufficient evidence exists to proceed with an investigation. If the Chief Executive Officer determines that insufficient evidence exists and Port General Legal 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 shall recuse himself from the process and delegate all further steps to Port Counsel, and/or an investigator retained for such purpose by Port General Legal Counsel ("Investigator"). Port

Counsel 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 Counsel 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 General Legal Counsel 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 General Legal Counsel 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 General Legal Counsel 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 General Legal Counsel finds the complaint substantiated, Port General Legal Counsel shall prepare a report to Chief Executive Officer 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. The Complainant and Respondent(s) shall be notified in writing of the determination and recommended action; or, of the dismissal.

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 is against one Commissioner, following receipt of the Port General Legal Counsel’s determination and recommended action, the remaining Commissioners who are not a party to the complaint shall promptly hear, consider and vote upon the recommended action. If the complaint is made by one or more of the Commissioners against one or more Commissioner, the determination and recommended action of Port General Legal 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 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.

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 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 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, a special election of officers may be held at any regularly scheduled Port Commission meeting.

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 Commission meetings;

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 Rules and the most current edition of Robert's 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 to be considered at such special meeting. Commissioners shall not discuss, consider or take final action on any subject not appearing on the special meeting agenda. .

The Port Administrative Assistant shall carry out the required published and posted notice required for 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.

6.7 Proceedings in the Absence of a Quorum. 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 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.

6.7.1 In the absence of a quorum any business transacted is null and void.

6.7.2 Even in the absence of a quorum, the Commission may move to 1) fix the time to adjourn 2) adjourn, 3) recess the meeting, and/or 4) take measures to obtain a quorum. A motion that absent members be contacted during a recess would represent a measure to obtain a quorum.

6.7.3 The prohibition against transacting business in the absence of a quorum can not be waived even by unanimous consent. If there is important business that should not be delayed until the next regular meeting, the Commission should fix the time for an adjourned meeting and then adjourn.

6.7.4 If there is no quorum at the beginning of the meeting, the President may

wait a reasonable amount of time for a quorum to assemble. If a quorum cannot be obtained, the president calls the meeting to order, announces the absence of a quorum, and may take action as described in Section 6.7.2 herein above.

6.7.5 If the President notices the absence of a quorum, it is the President's duty to declare the fact before taking any further action.

6.8 Recording Proceedings. The Port Administrative Assistant shall maintain a 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.

6.9 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.

6.10 Remote /Electronic Meetings. 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 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.

6.10.1 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.

6.10.2 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.

6.10.3. 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.

6.10.4. 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.

6.10.5 Telephonic and Electronic meeting participation shall be limited to instances where a member, alternate, or staff member is unable to participate in person due to

adverse weather conditions, illness, unavoidable conflicts, inability to travel to the meeting location, or other similar situations.

6.10.6 Commission and staff members who are unable to be present in person at any meeting shall have the right to participate by telephonic or other internet service, subject to any limitations established in these Rules to govern such participation.

6.10.7. These electronic meetings of the Commission shall be subject to all rules adopted by the Commission to govern them, which may include reasonable limitations on, and requirements for Commission members' participation. Any such rules adopted by the Commission shall supersede any conflicting rules in parliamentary authority but may not otherwise conflict with or alter any rule or decision of the Commission.

6.11 Commissioner Attendance at Meetings. Commissioners shall inform the President or 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 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 Chief Executive Officer shall attend all meetings of the Commission, unless excused. At the discretion of the Chief Executive Officer, other staff members shall attend. The 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 will introduce each agenda item, stating whether action will be taken on the item, whether the item is introduced for discussion only or whether other results are anticipated.

6.13.3 Port staff will briefly discuss the agenda item.

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 for action. Any Commissioner 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 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. 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.

6.14.1 Speakers attending in person shall move to the lectern and shall comment only after being recognized by the Presiding Officer. 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 may overrule impertinent, redundant or disruptive comments; Applause or other interruptions are discouraged;

6.14.8 All remarks should be directed to the Presiding Officer; 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 the Commission, Chief Executive Officer and others that may be authorized. 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, the anticipated time when the session will be concluded, and whether action 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 shall

announce that the executive session is being extended to a time certain. The purpose for the Executive Session shall be noted in the meeting minutes.

6.16 Commission Discussion. All Commission discussion shall be guided by the most current version of Robert's Rules of Order to guide meeting procedures in the absence of a governing Commission Bylaw or state law. The Port General Legal Counsel 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.

7.2 Agenda Preparation. The 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 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.

7.3 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.

7.4 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 Chief Executive Officer explains the necessity and receives a majority vote of the Commission at a public meeting.

7.5 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. Because these matters are routine and are considered after the first public comment, no additional public comment is needed. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items with opportunity for public comment or tabled for consideration at a future meeting upon a motion passed by the Commission during a Commission Meeting and prior to the vote to approve the consent agenda.

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 the most current version of Robert's Rules of Order, 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 evaluation of the Chief Executive Officer.

8.7 Limit supervision and direction of the Chief Executive Officer or Port staff, solely to the 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. 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.

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 Chief Executive Officer and staff must refuse such requests that require, upon evaluation by the Chief Executive Officer, 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. 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. If an individual Commissioner is dissatisfied with the response from the 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, 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. . The Chief Executive Officer and Port staff execute and administer the Commission's policies. The Port of Kennewick has a Commission-Chief Executive Officer form of governance. The 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 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 through the budget process; based upon that authorization, the Chief Executive Officer is responsible for hiring all personnel.

13.2 Commissioner's Role. [See also, Section 2.] The 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.

No Commissioner shall direct the 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, unless otherwise determined by the Chief Executive Officer. Commissioners needing staff assistance shall work through the Chief Executive Officer.

13.3 Chief Executive Officer's Role.

13.3.1 The Chief Executive Officer is the chief administrative officer of the Port. The 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 Chief Executive Officer is the information liaison between Commission and Port staff. Requests for information from Commissioners are to be directed to the 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 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 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 Chief Executive Officer that will assist them in their policy-making role. The 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 Chief Executive Officer shall have an open-door policy which allows individual Commissioners and the public to meet with the 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 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 Chief Executive Officer or appropriate supervisor. This direction follows the policy guidance from the Port Commission to the Chief Executive Officer through the Delegation Policy. Port staff will, acting through the Chief Executive , 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 , the request is not of such magnitude (in terms of workload, resources, or policy) that it should instead be assigned to the 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 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
 Reviews and approves budget
 Represents public interest

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
 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 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 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;

14.2.5 Establish budgetary and procurement controls over expenditures;

14.2.6 Produce and maintain a balanced budget;

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;

14.2.8 • 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

14.2.21 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 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 Chief Executive Officer consistent with state laws and regulations. The 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 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 Chief Executive Officer shall inform the Commission.

15. EVALUATING THE CHIEF EXECUTIVE OFFICER'S PERFORMANCE

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 General Legal Counsel, 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"**.

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 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 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 Chief Executive Officer or designee for all administrative matters, including hiring, performance evaluations, salary administration, employee benefits, and terminations. The 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 GENERAL LEGAL COUNSEL RELATIONSHIP

17.1 Port General Legal Counsel Role. The Chief Executive Officer is responsible for hiring and terminating the Port’s General Legal Counsel. The 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 General Legal Counsel is the legal advisor to the Port, the Commission, its committees, commissions and boards, the Chief Executive Officer, 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 General Legal Counsel does not represent individual members of Commission, but rather the Port Commission as a whole. The Port General Legal Counsel reports to the Chief Executive Officer. The Chief Executive Officer is responsible for evaluating the Port’s General Legal Counsel’s performance.

17.2 Port General Legal Counsel’s Responsibilities.

The general legal responsibilities of the Port General Legal Counsel 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, 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 General Legal Counsel shall provide assistance to individual Commissioners in complying with applicable statutes and laws only when such advice does not conflict with the Port's General Legal Counsel'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.

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.

17.2.10 Other matters as designated by the Chief Executive Officer.

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, the Port shall provide to an Official or Employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such Official or Employee 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 Official or Employee resulting from any conduct, act or omission of such Official or Employee performed or omitted were or in good faith purported to be within the scope of his or her service or employment as a Port Official or Employee. 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 Official or Employee.

18.3.2 The legal representation shall be provided by the office of the Port's General Legal Counsel and may include the Chief Executive Officer engaging the services of outside legal counsel, with Port General Legal Counsel oversight. If any provision of an applicable policy of insurance provides legal counsel for the employee or official, the Port General Legal 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 under Section 18.3.2, the Port shall pay the reasonable costs of defense; provided, that in no event shall payment exceed the hourly rates established by the Port's contract with general legal counsel selected by the Port.

18.3.4 The determination whether the Official or Employee was acting in or in good faith purported to be within the scope of his or her official duties shall be made by the Commission in consultation with the Port General Legal Counsel and/or outside legal counsel, if retained. This determination shall be 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. 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 Chief Executive Officer in writing. If the Employee or Official involved is the Chief Executive Officer, the determination shall be made by the Commission in consultation with the Port General 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 Chief Executive Officer shall be notified by the Port General 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 Employee's Fifth Amendment right against self-incrimination. Any determination made under this Section shall not be subject to appeal or reconsideration.

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 which is outside the scope of an Official's or Employee's service or employment with the Port; and/or,

18.4.3 Any lawsuit brought against an Official or Employee by or on behalf of the Port;

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 Official 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 from whatever source for defense, loss or damage; excluding deductible or exclusion(s) of the applicable insurance policy. The Port shall have the right to require an Employee to fully utilize insurance coverages prior to requesting payment under this Chapter.

18.7 Determination of Exclusion. 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 Port payment of defense costs under this chapter shall be determined by the Commission. The Chief Executive Officer and Port general legal counsel shall prepare a recommendation to the Commission. 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 Commissioner 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.

18.8 Representation and Payment of Claims – Conditions. The payments authorized 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 Official or Employee involved shall, as soon as practicable, give the Employee's department director and, if applicable, the Port General Legal Counsel and the Chief Executive Officer written notice thereof. The notice shall identify the Official or Employee involved, all information known to the Official or Employee 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 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 General Legal Counsel and shall cooperate with the Port General Legal Counsel, or if the 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

General Legal Counsel, and in which an adverse decision against the Official, the 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 Employee 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 Employee has left the employ of the Port, no fee or compensation shall be provided.

18.8.4 Such Official or Employee 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 Official or Employee 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 Official or the Employee.

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 Official or Employee is undertaken by the Port, whether by the Port General Legal 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 Official or Employee or a settlement is made, the Port shall pay 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. The process for payment of punitive damages is discretionary 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 Chief Executive Officer and the Port General Legal Counsel and/or outside legal counsel.

18.10 Failure to Comply With Conditions. In the event that any Official or 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.

18.11 Reimbursement of Incurred Expenses.

18.11.1 If the Commission determines pursuant to the Port's investigation under Section 18.3, that an Official or Employee 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, and a court of competent jurisdiction later determines that such Officer or Employee was acting within the scope of his or her official duties, , then the Port shall pay any non-punitive judgment, and reasonable legal counsel's fees incurred in defending against the claim, less any applicable insurance coverages.

18.11.2 If the Port determines that a claim arose against a Port Official or Employee who was acting within or in good faith the scope of their employment and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the

Commission shall have the option of requiring reimbursement by the Official or Employee for defense fees, costs and expenses.

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 Officials or 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 Employee's or 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.

18.13 Pending Claims. The provisions of this chapter shall apply retroactively to any pending claims or lawsuits against any Official or 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.

18.14 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 Employee or 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 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.

18.16 Punitive Damages. When the Port has paid for claim defense fees costs and expense for an Employee or Official pursuant to this chapter and a punitive judgment is rendered, the Employee or Official may request the Commission that the Port pay the punitive damages. Upon such a request, the Commission shall receive a report and recommendation from the Chief Executive Officer and the Port General Legal Counsel shall transmit a report and recommendation for Commission consideration. If the requesting Official or Employee is the Chief Executive Officer or a Commission member, the Commission may in the alternative request a report and recommendation from outside legal counsel. The Commission's decision on whether to pay the punitive damages award shall be based on the best interests of the Port and whether justice will be served. The Commission's determination is final and not subject to reconsideration or appeal. . The Chief Executive Officer shall communicate the Commission's determination to said Employee or Official. Thereafter, the Port finance director shall prepare the payment of Commission-approved punitive damages.

18.17 Application to Recall Proceedings.

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 General Legal Counsel or attorney appointed by the Chief Executive Officer. The expenses paid by the Port may include costs of an appeal of the superior court's ruling on the sufficiency of the recall charge.

18.17.2 Although in the case of *In Recall of Olsen*, 154 Wn.2d 606 (2005), the Supreme Court ruled that a Commission'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 RCW 42.23.030, and, as a result, a Commissioner may vote on that Commissioner's request for defense fees and costs, 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 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.

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
11. the port auditor.



AGENDA REPORT

TO: Port Commission

FROM: Mike Boehnke, Director of Operations

MEETING DATE: June 13, 2023

AGENDA ITEM: Temporary Workers

I. REFERENCE(S): Resolution 2022-09
Resolution 2022-39
Resolution 2023-13

II. FISCAL IMPACT: \$50,000.00

III. DISCUSSION:

For many years, the port has contracted with the Washington State Department of Corrections to provide two supervised work crews of 6-8 inmates as supplemental labor to port maintenance and operations. Some of their tasks have included pulling weeds, mowing, picking up garbage, painting, fence building, cleaning off graffiti, cleaning docks, digging, sweeping and various small projects as assigned. The absence of these work crew services has created a significant labor deficit in port operations.

The Port has been utilizing temporary labor since 2020 to make up for a reduced and intermittent schedule from the Washington State Department of Corrections work crew which will continue into 2023.

This will amend the original 2022 Express Employment Professionals contract and add an additional \$50,000, which will be used for temporary laborers working 4-8 hours per day on general maintenance and project tasks, will assist the Port in maintaining our properties.

IV. ACTION REQUESTED OF COMMISSION:

Approval of Resolution 2023-13.

PORT OF KENNEWICK

RESOLUTION No. 2023-13

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK AUTHORIZING
AN AMENDMENT TO THE CONTRACT WITH
EXPRESS EMPLOYMENT PROFESSIONALS***

WHEREAS, Express Employment Professionals has been a reliable source for temporary workers to perform maintenance duties at various port properties; and

WHEREAS, the Port Commission authorized a contract with Express Employment Professionals on February 8, 2022 in the amount of \$100,000; and

WHEREAS, the Port Commission authorized a contract amendment with Express Employment Professionals on November 22, 2022 in the amount of \$75,000; and

WHEREAS, the Port needs to amend the contract to add additional funding to maintain properties at the desired levels.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby authorize the Port's Chief Executive Officer to execute an amendment to the service agreement with Express Employment Professionals for \$50,000.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 13th day of June 2023.

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

By: _____

SKIP NOVAKOVICH, *President*

By: _____

KENNETH HOHENBERG, *Vice President*

By: _____

THOMAS MOAK, *Secretary*



AGENDA REPORT

TO: Port Commission

FROM: Tim Arntzen

MEETING DATE: June 13, 2023

AGENDA ITEM: Resolution 2023-14; Interlocal agreement with Benton City

- I. REFERENCE(S):** 2023-11; Approval of funds from Opportunity Fund
2023-14; Interlocal Agreement with Benton City
- II. FINANCIAL IMPACT:** Not to exceed \$40,000 from Opportunity Fund
- III. DISCUSSION:** On May 23, 2023, the Commission approved Resolution 2023-11, allocating funding for Benton City economic development projects in an amount not to exceed \$40,000. This interlocal agreement formalizes the contribution from the Port of Kennewick, giving us legal authority to disburse payment.
- IV. STAFF RECOMMENDATION:**
Approve the resolution authorizing CEO to sign interlocal agreement.
- V. ACTION REQUESTED OF COMMISSION:**

***Motion:** I move approval of Resolution 2023-14, authorizing the Port's Chief Executive Officer to sign an interlocal agreement with Benton City, relating to the Port's contribution for regional economic development projects.*

PORT OF KENNEWICK

RESOLUTION No. 2023-11

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK
APPROVING BENTON CITY FUNDING ASSISTANCE***

WHEREAS, the Port has allocated \$125,000 via its Opportunity Fund, as part of the commission's approved budget for projects of community importance that arise after the adoption of the approved two-year budget; and

WHEREAS, Benton City has proposed several projects of importance that also benefit the port and its regional economic development objectives; and

WHEREAS, those projects are as set forth on "Attachment B" hereto, which projects total approximately \$40,000 which could be funded from the Opportunity Fund; and


WHEREAS, staff recommends Commission approval of funding not to exceed \$40,000 from the Opportunity Fund. A spreadsheet related to the Opportunity Fund is attached as "Attachment A".

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves allocation of funds not to exceed \$40,000 for Benton City projects as set forth in "Attachment B".

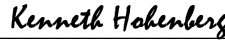
BE IT FURTHER RESOLVED the Commissioners hereby ratify and approve all action by port officers and employees in furtherance hereof.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 23rd day of May, 2023.

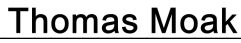
***PORT of KENNEWICK
BOARD of COMMISSIONERS***

By: 
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SKIP NOVAKOVICH, President

By: 
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KENNETH HOHENBERG, Vice President

By: 
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THOMAS MOAK, Secretary

Opportunity Fund

	2023-2024 Budget:	\$ 125,000.00		
Project	Vendor	Encumbrance	Spent To Date	Balance
Benton City Funding Assistance		\$ 40,000.00	\$ -	\$ 40,000.00
Cable Bridge Lighting Project		\$ 25,000.00	\$ -	\$ 25,000.00
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
		\$ -	\$ -	\$ -
	TOTAL	\$ 65,000.00	\$ -	\$ 65,000.00
	Remaining Budget	\$ 60,000.00		

Areas of Potential Assistance from Port of Kennewick

- Update Parks and Recreation Plan to Include Subarea 8-10K**
- Update zoning map to include Subarea 3 - 5K**
- Train Staff to implement new design standards for City and Subarea. (Two different sets of design standards) 6-10K**
- Development of recruitment materials illustrating Subarea vision and concepts 10-15K**

PORT OF KENNEWICK

RESOLUTION No. 2023-14

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK AUTHORIZING CEO TO SIGN AN INTERLOCAL AGREEMENT WITH THE CITY OF BENTON CITY REGARDING SUBAREA ECONOMIC DEVELOPMENT PROJECTS

WHEREAS, the Port of Kennewick and City of Benton City are authorized to contract with each other (under RCW 39) in order to effectively and efficiently operate, administer and carry out their programs and public projects; and

WHEREAS, the City of Benton City approves the Interlocal Agreement whereby they would pay the amount not to exceed \$40,000 from its budget to update portions of the Subarea plan; and

WHEREAS, the City will provide proof of completion of the task(s) named in the updated Subarea development plans to the Port upon completion; and

WHEREAS, the Port shall reimburse the City for the cost of the updates not to exceed \$40,000, upon receipt of an invoice from the City; and

WHEREAS, the Port and City recognize that successful economic development within the City benefits the economic and social welfare of the City and the surrounding area; and will enhance the development of the project area into a destination, permitting the Parties to attract private sector investment.

NOW, THEREFORE; BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves the attached Interlocal Agreement between Port of Kennewick and City of Benton City; and authorizes the Port's Chief Executive Officer to execute the Agreement and instructs the CEO to take all action necessary to implement such Agreement.

ADOPTED by the Board of Commissioners of the Port of Kennewick this 13th day of June, 2023.

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

By: _____

SKIP NOVAKOVICH, President

By: _____

KENNETH HOHENBERG, Vice President

By: _____

THOMAS MOAK, Secretary

INTERLOCAL COOPERATIVE AGREEMENT

REGARDING

CITY OF BENTON CITY ECONOMIC DEVELOPMENT PROJECTS

I. PARTIES

THIS INTERLOCAL COOPERATIVE AGREEMENT is entered into this _____ day of _____, 2023, between the PORT OF KENNEWICK, a Washington municipal corporation hereafter referred to as "**Port**", and the CITY OF BENTON CITY, a Washington municipal corporation, hereafter referred to as "**City**" referred to collectively as the "**Parties**". The Parties agree as follows:

II. RECITALS

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

2.2 Project Area. The City has developed the I-82 Subarea development plan with the assistance of a professional A&E contractor.

2.3 Opportunity for Collaborative Development. The Parties recognize that successful economic development within the City benefits the economic and social welfare of the City and the surrounding area. Participation in the Project will continue to enhance the development of the project area into a destination, permitting the Parties to attract private sector investment.

III. OBLIGATIONS OF THE PARTIES

3.1 General Obligations.

A. The City agrees to spend up to \$40,000 from its budget to pay the following:

1. Update parks and recreation plan to include Subarea;
2. Update zoning map to include Subarea;
3. Train staff to implement new design standards for City and Subarea (two different sets of design standards);
4. Development of recruitment materials illustrating Subarea vision and concepts.

The City shall provide a copy of the updated Subarea documents to the Port upon completion.

- B. The Port shall reimburse the City for the cost of economic development planning projects in an amount not to exceed \$40,000. The City shall provide an invoice to the Port, including any support for the payment to the vendor in order to substantiate expenses.

IV. ADMINISTRATION

4.1 Responsibilities. This Agreement shall be administered by the Mayor or his/her designee and the Port Chief Executive Officer or his/her designee. Working in partnership and on behalf of their respective agencies these individuals shall be responsible as follows:

- (a) The City shall monitor progress of the Project and monitor the fulfillment of the Parties' responsibilities under this Agreement; and
- (b) The City will provide the Port with a quarterly report outlining the status of the Project, including a spreadsheet detailing all costs to be reimbursed; and
- (c) The City will utilize the uniform requirements of Chapter 39.80 RCW when awarding contracts pursuant to this agreement; and
- (d) Each Party shall follow their respective applicable City and Port bid and prevailing wage law policies and procedures when awarding bids for this Project.

4.2 Document Review. The Parties shall cooperate by sharing all relevant information related to the Project.

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

V. GENERAL

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

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

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

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

5.5 Agreement Term. The term of Agreement shall commence on its execution by both Parties and end upon the completion of the Subarea economic development projects and reimbursement to City by Port of all outstanding payable invoices related thereto. ("Agreement Term").

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

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

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

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

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

VI. EXECUTION AND APPROVAL

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

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

PORT OF KENNEWICK

Date: _____

Tim Arntzen, Chief Executive Officer

Approved as to form

Reviewed

Carolyn Lake, Port Counsel/Date

Nick Kooiker, Chief Financial Officer/Date

CITY OF BENTON

Date: _____

By: _____

Linda Lehman, City Mayor

Approved as to form:

City Attorney/Date



AGENDA REPORT

TO: Port Commission

FROM: Tim Arntzen

MEETING DATE: June 13, 2023

AGENDA ITEM: Funding Assistance for Cable Bridge Lighting and Tamástslikt Cultural Institute Event Advertising

I. REFERENCE(S): Resolution 2023-15

II. FINANCIAL IMPACT: Two Projects totaling \$40,000.

III. DISCUSSION: Two projects of regional significance have recently been presented to staff for funding consideration. As part of the commission's official budget, an Opportunity Fund was established for use for projects of community importance which arise after the adoption of the approved two-year budget. The port allocated \$125,000 of initial funding. At the commission meeting of May 23, 2023, the commission allocated \$40,000 for Benton City planning projects. Thus, currently, \$85,000 remains in the Opportunity Fund. Allocation of Opportunity Funding is a policy decision. The two most recent requests are as follows:

(1) Cable Bridge Lighting Assistance. A community-based group with widespread support has proposed the installation of newer, modern lighting on the Cable Bridge. This endeavor would benefit the port and its regional economic development objectives. The community-based group requests port financial assistance of \$25,000.

(2) Tamástslikt Funding Assistance. The CTUIR's Tamástslikt cultural center is celebrating 25 years via a regional celebratory event. The port has a long-standing and mutually beneficial partnership with the tribe and the institute and has a long history of advertising and collaborating with the tribe on celebratory events. Staff recommends port financial assistance of \$15,000 for the 25th Anniversary event.

Staff recommends commission funding approval for both requests.

IV. ACTION REQUESTED OF COMMISSION:

Motion: I move approval of \$25,000 for the Cable Bridge lighting project; and \$15,000 for an advertising partnership with the CTUIR; and that funding for each request be provided from the Port's Opportunity Fund. I further move to 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.

PORT OF KENNEWICK

RESOLUTION No. 2023-15

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK
APPROVING FUNDING ASSISTANCE***

WHEREAS, the Port has established a \$125,000 Opportunity Fund, as part of the approved budget for projects of community importance which arise after the adoption of the budget; and

WHEREAS, several projects of community and regional importance have arisen, which projects also benefit the port and its economic development objectives; and

WHEREAS, those projects are: (1) \$25,000 for Cable Bridge lighting; and (2) \$15,000 for advertising in partnership with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR); and

WHEREAS, staff recommends approval of \$40,000 for the projects referenced above with funding provided from the Port's Opportunity Fund.

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby approves funding of \$25,000 for Cable Bridge lighting; and \$15,000 for advertising in partnership with the CTUIR, with funding provided by the Opportunity Fund.

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 ____ day of _____ 2023.

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

By: _____

SKIP NOVAKOVICH, President

By: _____

KENNETH HOHENBERG, Vice President

By: _____

THOMAS MOAK, Secretary

Memorandum

To: Port Commission
From: Tim Arntzen, POK CEO
Date: June 13, 2023
Re: City of Kennewick MOU

Background:

The commission directed me to work with the Kennewick city manager to formulate a plan addressing projects of mutual benefit. The city manager and I worked for many months on a memorandum of understanding (MOU) which provided for joint pursuit of several projects of community importance: a Vista Field parking garage analysis; the extension of Grandridge Blvd. for economic development and job creation; and the remediation of Duffy's Pond. Funding sources were envisioned to include Benton County pass-through funds.

On May 23, 2023, I presented the MOU to the port commission. The commission unanimously approved the document and instructed me to forward it to the city council for consideration. On the evening of that same date, Commissioner Hohenberg and I presented the MOU to the city council in a workshop setting. The council raised a host of questions, most of which centered on the benefit to the city in partnering with the port for construction of Grandridge. The council also seemed to question the value of a port partnership for any Vista Field improvements.

Subsequent to the workshop meeting, council members posed a bevy of questions about the Grandridge extension and Vista Field assistance, routed through the city manager, with instructions that I provide answers to the council's questions. Working with staff, I provided detailed answers which were forwarded for council consideration at its regular meeting of June 6, 2023 (when the MOU was to be considered by the council for an up or down vote).

During the June 6, 2023 council meeting, numerous additional questions were generated by council member(s) related to the Grandridge extension. There seemed to be an implication that the port had not been forthcoming in its responses to the first set of questions posed by council; and that the port's responses to the first set of questions "raised more questions than answers"...

Following a lengthy discussion, the council voted to not approve the MOU as presented.

Rather, the council undertook an unusual step of unilaterally modifying the MOU, striking the provision addressing the Grandridge extension partnership. It then “approved” the provisions which addressed only the parking garage study and pond remediation work. The council also summoned port staff to appear at an additional workshop, where staff would sit for additional questioning.

Analysis and Recommended Action:

Pursuant to accepted principles of contracts (the MOU is a contract), the city’s unilateral modification of the MOU has the effect of a rejection of the MOU. Thus, the MOU approved by the port commission is of no force and effect. The city’s “unilateral modification” removed the core feature of the MOU, a feature which was of substantial public benefit, and which would help launch successful development of the Vista Field site as envisioned in the community-driven master plan.

The remaining portions of the “unilaterally modified” MOU, i.e., the parking study and pond remediation, do not justify port acceptance of a modified MOU. And port staff sitting for additional council interrogation is of questionable value. For example, if the city does not understand the value of the port/city economic development partnership, it is highly unlikely that staff will convince it of that value during the second round of questioning.

I recommend that:

1. The port commission acknowledge that the city council unanimously voted down the MOU. This could be accomplished by commission discussion at the June 13, 2023 commission meeting. This acknowledgement could be recorded by commission “consensus” and reflected in the meeting minutes; and
2. The commission authorize a letter to the city manager indicating that the port commission thanks the city council for its consideration, but declines the city council’s modified MOU.

I would be happy to discuss with the commission which elements of the original MOU the port may wish to implement on its own.

I welcome commission discussion and direction.

June 5, 2023

To: Marie Mosley, City Manager

From: Tim Arntzen, Port CEO

RE: Vista Field Questions/Information for Consideration

Wanting to rid itself of an ongoing tax burden and drain on city coffers, City of Kennewick sold Vista Field to the Port of Kennewick to operate as a general aviation airfield. After a number of years, and a mounting drain on taxpayer resources with very little airport activity, the port evaluated options to either expand or close the airfield. Community planning determined there was a desire to find a higher and better use for that 103-acre site. The port then closed the airport and began working with the city to transform that site into a regional town center.

Port Investments to Date:

Port of Kennewick has spent \$10 million on closure, planning, and infrastructure construction. All of which was necessary to prepare Vista Field for private-sector land sales. Those expenditures include: Infrastructure & Water Feature (\$7,621,465); Master Planning & EIS (\$1,272,433); Closure (\$865,473).

In addition, the Port paid an additional \$233k towards the city's off-site water system improvements benefiting the entire Vista Field/Three Rivers Entertainment District area. That project involved upsizing water lines in Colorado Street & Young Street from an undersized 8-inch line to the necessary 12-inch size. Those improvements addressed decades-long system deficiencies which negatively impacted fire protection potential for the Convention Center, Coliseum, Target, Lowes, and Columbia Center Mall and ensured capacity to serve a portion of the anticipated Vista Field Redevelopment project need.

The Port also upsized the waterline in Crosswind Boulevard from the typical 8-inch to the more costly 12-inch line--not because the Vista Field Redevelopment project needed it--but to help the city build a more robust water system overall.

And while the port will receive revenues from Vista Field land sales, the port is also required to provide estimated \$2.7+ million in funding (2017 estimate) to improve the city's off-site intersections as called for in the city/port Development Agreement. And although Vista Field has yet to generate a single "trip" the port has agreed to accelerate payment of its share of the Deschutes/Columbia Center Boulevard intersection improvements. The port is spending that money now because we recognize the importance of partnering with the city when they've identified a need, and we understand the opportunity to leverage grant funding for early intervention.

Market Value of Lots in Total and Per Square Foot:

Vista Field Phase one created 21 lots that are currently for sale. At market price those lots are worth approximately \$3.2 million. However, that amount is based off a pre-Covid

appraisal and, as anyone familiar with real estate understands, the real answer to “what are those lots worth,” is whatever someone is willing to pay for them.

Also, the port, as master developer, is constructing the parking lots. Given Vista Field’s “urban mixed use” design, buyers have the distinct advantage of relying on shared common-area parking and *don’t have to construct parking on their individual lots*.

The 21 lots at Vista Field are priced between \$20.69 per sf and \$26.31 per sf.. And while that is a bit higher than other areas around the city--Vista Field sales are structured that way because the buyer is only paying for the land required for their building. *Common area parking lots will eventually be managed through covenants which means a buyer does not have to bear the entire cost of maintaining a parking lot.*

And people may wonder why the port has spent \$10 million when it will only receive \$3 million from phase-one land sales. The answer is, that is what ports do. We are an economic entity tasked with helping create opportunities for improved economic conditions, businesses, and jobs. The port has front-loaded critical infrastructure to incentivize initial development and get that property onto the tax rolls as that land does not currently generate property taxes.

Once sold to the private sector, with higher value buildings constructed onsite, the 103-acres at Vista Field becomes six or seven times more valuable. And higher value property and buildings translate into increased revenues for city coffers and increased funds for services such as police and fire, and hospital and libraries--all of which gain more revenues without increasing tax rates.

Other Improvements Planned:

Why is the port asking for the city’s assistance? As stated above, the port isn’t going to make millions of dollars off this project. We are a small governmental entity with a very modest budget. We have already front-loaded transition of that site with significant infrastructure investments. And the port has additional improvements planned which far exceed the \$3 million from phase-one land sales, including parking lots, city-required traffic mitigation at off-site intersections, Daybreak Commons, and the next phase of infrastructure, parking lots and maintenance.

Yet now, we have been presented with an opportunity to secure a private developer who is willing to make a sizeable investment at Vista Field--just as the City and Port has envisioned. However, the developer’s preferred site requires that Grandridge Boulevard be extended sooner than originally planned at an *estimated cost of \$1.5 million*.

Sale and development of the project in question would also trigger completion of the centrally located public space known as Daybreak Commons at an estimated \$1.8 million. Also, joint-use parking areas to serve phase-one lots currently for sale are already currently in design, but are un-funded an *estimated to cost \$950,000*.

Port’s Plans for Land Sale Proceeds:

The general plan is that Vista Field dollars are Vista Field dollars and additional funds

from the larger Port district would continue to be funneled towards the project the Port Commission has consistently identified as their #1 priority for the last 10-years.

Land sale proceeds would be returned to the project whether that be the next phase of infrastructure, off-site intersection improvements and/or shouldering the burden of the neighborhood association costs to maintain the common area improvements (unique open spaces open to all but *not* maintained by the city).

Thus, enabling a significant private-sector investment will benefit the entire site, it will create new jobs, and it will generate revenues for the city in terms of sales taxes on initial construction and property tax revenues long term. The port, however, is a small governmental entity with a very modest budget. We had not anticipated extending that roadway just yet.

I am confident the city remembers that just two years ago, the port invested \$500,000 in the city's Washington Street improvement project. The port and city have a proven history of collaboration of partnering for mutual benefit. And so, just as we have supported the city with projects when they were in need--we are here now, asking the city for their support in extending a roadway that will help stimulate immediate investment and likely attract other private-sector interest to Vista Field.

And who really benefits when the city invests in a port project? It is the public at large, not the port. The Port is essentially a "non-profit" with all its proceeds going back into projects that benefit the public. Instead of ROI (return-on-investment) the port looks at RTC (return-to-community). For example, the Vista Field water feature; Clover Island Lighthouse and shoreline improvements; and Columbia Drive revitalization efforts.

Not only does the port care about building amenities which our community members can use, often free or at little cost. We also care about the number of jobs that can be created from our efforts and those of our jurisdictional partners when they choose to help us. As Ronald Reagan said, "A rising tide raises all boats." So, I ask that you do not view this as "what does the city get?", or "what does the port get?" It should be viewed as what do our constituents get. As we've said, an investment in Vista Field is an investment in amenities the public can use; local businesses they can patronize; additional housing options; additional jobs to support our growing economy; and additional tax revenue for the city.

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Memorandum

To: Port Commission
From: Tim Arntzen, POK CEO
Date: June 13, 2023
Re: Clover Island Stage Update

The commission directed that I formulate a plan for construction or acquisition of a performing arts stage on Clover Island. The Clover Island Inn has a substantial history of working with the port to facilitate concerts on the island. Much work has been completed with respect to acquisition of a stage and this memo details actions taken and future action, most of which will require policy decisions from the commission. Upon discussion and further commission direction, it is anticipated that staff can move forward toward completion of the commission's directive, *in that a firm and unequivocal port commitment to the acquisition and implementation of a stage would be instituted.*

By way of brief background, the commission established a budget of \$500,000 for Clover Island improvements. It could be assumed that much of the funding would be earmarked for the stage and accessories. Engineering estimates determined that construction of a "bricks and mortar" stage would likely exceed budget. Therefore, discussions pivoted to the possibility of a "portable" stage. Not only do most performers routinely perform on "portable" stages, but the Inn owners, acting as concert promoters, *prefer a portable stage.* Because this type of stage is considered an asset purchase, the port would simply identify various types of portables, do some comparison shopping, and proceed to purchase the identified stage as it would with, say, an automobile purchase. The preferred stage with accessories; and engineering for site work, is likely to be within budget.

In conjunction with the stage transaction, the port is considering a *lease extension* with the hotel group. The extension process would address a financial contribution by the hotel group towards the stage purchase. Under consideration is a contribution of 25% of the stage purchase price on a reimbursement basis, amortized over the first 10 years of the new lease term. The lease would commemorate the ownership group's commitment to property upgrades including work done on the fourth floor. There would also be an arrangement whereby the ownership group would commit to operating and maintaining the stage in conformity with industry standards.

I welcome commission discussion and direction.



Columbia Gardens

Wayfinding Signage



HISTORIC
WATERFRONT
DISTRICT



RECREATION ↑

ART ↔

FOOD ↻

WINE ↻



HISTORIC
WATERFRONT
DISTRICT



RECREATION



ART



FOOD



WINE







HISTORIC
WATERFRONT
DISTRICT

WINERIES



FOOD TRUCK
PLAZA



RECREATION



CLOVER
ISLAND



SUMMER SATURDAYS NIGHT MARKET JUNE 10, 2023



David Phongsa

Introduction

This is the second year of our event at Columbia Gardens Wine & Artisan Village showcasing many unique & diverse local pop-up vendors . Blending food, culture, music, drinks, and much more.

This is a free event and open to all ages. We aim to unite and empower the community by serving as a platform for showcasing local talent including performers, chefs, and entrepreneurs.





SPECIAL EVENTS ADVERTISING GRANT

Canvas bags sourced using local vendor for printing. Bags were tie dyed & given to all four wineries. Each winery added coupons inside the bag.



Customers were incentivized to visit the wineries to receive a free bag with a purchase from the winery.



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SOCIAL MEDIA

- Facebook Reach: 2,000
- Post Engagement: 6,655
- New Page Likes: 58
- New Page Followers: 139



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6/10/2023

EVENT PHOTOS





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Summary

- Over 500+ visitors
- Increased awareness
- Great business for existing tenants
- New partners
- Community Focused
- Vibrancy



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THANK YOU

David Phongsa

david@portofkennewick.org

Marketing & Capital Projects Coordinator

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90 Day Right to Negotiate

Does the proposed project work on the parcel?

Does the proposed project meet the use envisioned for the parcel/site?

Has the proposed project been reviewed by the Town Architect?

Do you like the proposed project?



Purchase & Sale Terms

- Price
- Legal Description
- Obligation to construct
 - Covenants
- Design Standards
- Contingencies:
 - Due Diligence
 - Financing
- Closing