

PORT OF BROOKINGS HARBOR
Regular Commission Meeting
Wednesday, October 20, 2021 • 2:00pm
Teleconference / Meeting Room *(limited capacity)*
16350 Lower Harbor Road Suite 202, Harbor OR, 97415

Teleconference Call-In Number: 1 (253) 215-8782

Meeting ID: 771 205 4017

Passcode: 76242021

(to mute/unmute: * 6)

TENTATIVE AGENDA

1. CALL MEETING TO ORDER

- Pledge of Allegiance
- Roll Call
- Modifications, Additions, and Changes to the Agenda
- Declaration of Potential Conflicts of Interest

2. APPROVAL OF AGENDA

Page

3. APPROVAL OF MEETING MINUTES

- A. Approve Minutes of Regular Commissioner Meeting Tuesday September 21, 2021..... 2
*** Sample motion: Motion to approve meeting minutes items A. ***

4. PUBLIC COMMENTS – (Limited to a maximum of three minutes per person. Please email your comments to portmanager@portofbrookingsharbor.com prior to the meeting. Please wait to be called on before speaking).

5. US FISH AND WILDLIFE SERVICE - POTENTIAL REINTRODUCTION OF SEA OTTERS
Presentation by Michele Zwartjes, US Fish and Wildlife Service..... 6

6. MANAGEMENT REPORTS

- A. Financial Report – September 2021..... 9
B. Harbormaster Report – September 2021..... 29
C. Port Manager Report – September 2021..... 34
Sample motion: Motion to approve management reports for August 2021 as discussed.

7. ACTION ITEMS

- A. Resolution 2021-11 Adopting Public Dock Hoist Rates and Use Agreement..... 46
B. Port Vehicles Procurement Approval..... 50
C. Port Paying Lease Property Tax..... 56
D. FEMA Engineering Services Award..... 58
E. RV Park Improvements Contract Approval..... 100

8. INFORMATION ITEMS

- A. DEQ Tier II Requirements..... 165
B. Feature Film Production on Port Property..... 173
C. Tidewinds Sportfishing Request to Change Charter Fees..... 175

9. COMMISSIONER COMMENTS

10. NEXT REGULAR MEETING DATE – Wednesday, November 17, 2021 at 2:00pm

11. ADJOURNMENT

A request for an interpreter for the hearing impaired, for those who want to participate but do not have access to a telephone, or for other accommodations for persons with disabilities should be made at least 48 hours in advance of the meeting to Port of Brookings Harbor Office at 541-469-2218.

**DRAFT MINUTES
REGULAR MEETING OF THE BOARD OF COMMISSIONERS
PORT OF BROOKINGS HARBOR DISTRICT**

Tuesday, September 21, 2021

This is not an exact transcript. The audio of the session is available on the Port's website.

The Port of Brookings Harbor District met in regular session on the above date at 6:00pm. Open session at the Port Conference Room, 16350 Lower Harbor Road Suite 202, Harbor OR, 97415 and also via teleconference.

1. CALL MEETING TO ORDER

Commission Vice-President Joe Speirs called the Regular Meeting of the Port of Brookings Harbor of Commissioners to order at 6:00pm.

- All participants stated the Pledge of Allegiance.
- **Commissioners Present:**
Joseph Speir, Vice-President (Pos. #1); Sharon Hartung Secretary/Treasurer (Pos. #2) via phone; Larry Jonas (Pos. #3); Richard Heap, President (Pos. #4) via phone; and Kenneth Range (Pos. #5).
- **Management and Staff:**
Gary Dehlinger, Port Manager; Travis Webster, Harbormaster; and Martha Rice, Port Legal Counsel via phone.
- There was no modifications, additions, or changes to the agenda.
- There was no declaration of potential conflicts of interest.

2. APPROVAL OF AGENDA – Audio time 4:20

A motion was made by Range and seconded by Jonas to approve the agenda as written. The motion passed 5 – 0.

3. APPROVAL OF MEETING MINUTES – Audio time 4:50

- Draft Minutes of Special Commissioner Meeting Tuesday August 3, 2021 at 10am.
- Draft Minutes of Regular Commissioner Meeting Tuesday August 17, 2021 at 6pm.

A motion was made by Jonas and seconded by Range to approve Minutes of Special Commissioner Meeting Tuesday August 3, 2021 and Minutes for Regular Commissioner Meeting Tuesday August 17, 2021 as written. The motion passed 5 – 0.

4. PUBLIC COMMENTS – Audio time 6:03

There was one public comment submitted through email prior to the meeting from Daniel Fraser. Comment was read for the record.

5. MANAGEMENT REPORTS – Audio time 8:38

- **Financial Report – August 2021.**
Dehlinger reported the end of the month financials for August 2021. End of the month unrestricted cash and equivalents totaled \$591,185. Restricted cash and equivalents totaled \$987,185, with Total Assets (cash) at

\$1,566,563. August profit and loss total revenues from all funds were \$345,549. Total expenses were \$319,882. The net income for August was \$25,667. General Fund program revenues were \$285,742 and expenses were \$308,285.

- Harbormaster Report – August 2021. Audio time 12:00
Webster reported on the harbormaster report. Reviewed the RV Park occupancy, boat launches, telehandler and travel lift operations for the month. Port staff repaired the icehouse catwalk and completed 88 work orders.
- Port Manager Report – August 2021. Audio time 15:11
Dehlinger reported on the Port manager report. Reviewed safety and security reports for the month of August. RV Park Project floodplain and electrical permits were approved. Working on plumbing and demolition permits. Bid opening for the RV Park Project was postponed for one week. FEMA scope of work is getting closer to approval. FEMA decided to combined the two disasters for accounting purposes and the Port is working with Business Oregon for matching amounts.

A motion was made by Range and seconded by Jonas to approve the management reports for August 2021 as discussed. The motion passed 5 – 0.

6. ACTION ITEMS

- A. Resolution 2021-09 Regular Meetings of the Commission – Audio time 24:33
Dehlinger noted this resolution memorializes the Board approval to change the regular meeting date and time last month.

A motion was made by Jonas and seconded by Range to approve resolution to change the regular meeting. The motion passed 5 – 0.

- B. Authorizing Port Manager to Sign Renewal Documents – Audio time 25:56
Dehlinger noted this resolution is to authorize the Port Manager to sign renewal documents.

A motion was made by Range and seconded by Jonas to approve draft Resolution No. 2021-10 Authorizing Port Manager to Sign Renewal Documents. The motion passed 5 – 0.

- C. Contract Approval for New Fire Hydrant – Audio time 27:24
Dehlinger noted the Port placed an RFP for this work to install a new fire hydrant east side of Basin 2 and only received one proposal.

A motion was made by Jonas and seconded by Range to approve draft Public Improvement Contract with McLennan Excavation, Inc. for the installation of a new fire hydrant at Basin 2. The motion passed 5 – 0.

- D. Contract Approval for Port Security – Audio time 30:33
Dehlinger noted the Port placed an RFP for this service and only received one proposal. Proposal came from South Coast Knight Security.

A motion was made by Range and seconded by Heap to approve draft Port Security Services Agreement with South Coast Knight Security, LLC. The motion passed 5 – 0.

- E. Contract Approval for Port Engineering – Audio time 32:45
Dehlinger noted the Port engineering services under \$100,000 annually can be sole-source and recommended to continue with EMC Engineering / Scientists.

A motion was made by Hartung and seconded by Heap to approve draft Professional Services Agreement with EMC Engineers / Scientists, LLC. The motion passed 5 – 0.

- F. Rogue Credit Union Lease Renewal – Audio time 37:11
Dehlinger noted Rogue Credit Union wishes to extend the lease for another 3 years. This renewal includes a waiver of the 90-day notice.

A motion was made by Jonas and seconded by Range to approve Rogue Credit Union draft Commercial Lease Agreement Amendment No. 1. The motion passed 5 – 0.

- G. Boatyard Wash Water System Procurement – Audio time 38:22
Dehlinger and Webster discussed the need for a water treatment system for the boat yard pressure washing operation. Jack Akin/EMC Engineer / Scientists provided a report and recommended a system that would fit the Port's needs.

A motion was made by Jonas and seconded by Range to approve the purchase of new wash water filtering system and to install the new system not-to-exceed \$25,000 for the boat yard. The motion passed 5 – 0.

- H. Port Security Camera Quote – Audio time 46:55
Dehlinger and Webster discussed this phase of proposed cameras was reduced from the previous meeting due to budgetary reasons. SDAO Safety & Security Grant could reimburse up to \$10,000 for the new cameras.

A motion was made by Range and seconded by Heap to approve new security cameras and installation from Oregon Alarm. Approve the Port to purchase various materials to complete the installation not-to-exceed \$35,000. Apply for SDAO Safety & Security Grant and authorize Port Manager to sign documents for the grant. The motion passed 5 – 0.

- I. Zola's on the Water Parking & Traffic Plan – Audio time 57:27
Dehlinger stated this topic been discussed for by the Board for many months. Commissioners further discussed other options for traffic and parking control between the buildings. Commissioners prefer one-way traffic entering from the boat launch parking lot and exiting towards the south. Parking along the private property will be removed but allow for passenger unloading.

A motion was made by Range and seconded by Heap to approve one-way traffic between the buildings from the launch ramp out through the public parking exiting the south side of the private property, repair asphalt, sealcoat and restripe parking along Zola's on the Water. Request private owner to remove concrete blocks on the south side of the property. The motion passed 5 – 0.

- J. Public Dock Hoist Waiver Form – Audio time 1:15:43
Dehlinger noted Pacific Seafood lease will be ending October 31, but they will need a month or two longer to finish relocating the unloading permits. Once the public hoist returns, the Port will need an agreement for users of the public hoist. The proposed form includes \$35 hourly rate. Commissioner Speir requested a poundage fee for product unloads.

A motion was made by Speir and seconded by Range to approve the public dock hoist rate at \$35 per hour and approve the draft public dock hoist waiver form. Approve a \$0.05 fee for the product unloads. Rescind Board approval using any floating docks and ramps for commercial unloading once the public hoist is in operation. Speir made a motion amendment and seconded by Jonas to add the rates to the current rate sheet to be reviewed annually. The motion passed 5 – 0.

- K. Donating Digital Fish Scales – Audio time 1:28:21
Heap noted the fish scales are borrowed out to Curry Anadromous Fisherman and since the Port is not doing the fishing derby anymore, it would be in the best interest to donate them to a nonprofit group.

A motion was made by Heap and seconded by Range to approve donating two digital fish scales and frames to Curry Anadromous Fishermen and allow the Port Manager to sign the release letter. The motion passed 5 – 0.

7. INFORMATION ITEMS

- A. Request For Proposals, FEMA 4432 and Wastewater Treatment Plant Engineering – Audio time 1:30:01
Dehlinger discussed the Request for Proposals for FEMA 4432 and Wastewater Treatment Plant will be separate contracts because of the amount of engineering that will be needed.
- B. Wastewater Treatment Plant Information – Audio time 1:31:26
Jack Akin with EMC Engineers / Scientists provided preliminary information on wastewater treatment plant and answered questions from the commissioners and public.
- C. Roy Davis Memorial Dedication – Audio time 1:57:45
Dehlinger noted the dedication ceremony is scheduled for Saturday October 9 at 10am.

8. COMMISSIONER COMMENTS – Audio time 1:59:20

Commissioner Jonas – Thanked Port staff and the new handicap parking striping and signs looks good.
Commissioner Range – It was a busy summer and staff did an awesome job. Art at the Port had 2,000 ballets returned which means about 10,000 visitors looked at the art. Winning arts will be displayed at the Family Arts Center on October 1st.
Commissioner Hartung – Thanked the staff for all they do.
Commissioner Heap – Thanked Speir for chairing the meeting and being able to attend remotely from Lone Pine.

9. NEXT REGULAR MEETING DATE – New date & time Wednesday, October 20, 2021 at 2:00pm.

10. ADJOURNMENT – Audio time 2:01:28

Having no further business, the meeting adjourned at 8:01pm.

Sharon Hartung, Secretary/Treasurer

Date Signed

An audio recording was made of these proceedings. The recording and the full commission packet are available on the Ports website: www.portofbrookingsharbor.com.



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Newport Field Office
2127 SE Marine Science Drive
Newport, Oregon 97365
Phone: (541) 867-4558 FAX: (541) 867-4551

TS Number: 21-597

Memorandum

TO: Brookings Port Commission
FROM: Field Supervisor, Newport Field Office
DATE: September 30, 2021
SUBJECT: Sea Otter Reintroduction Feasibility Report to Congress

MICHELE
ZWARTJES

Digitally signed by MICHELE
ZWARTJES
Date: 2021.09.30 21:59:50
-07'00'

Recently the U.S. Fish and Wildlife Service (Service) received direction from Congress to report on the feasibility and cost of reintroducing sea otters to the contiguous Pacific coast of the United States. This directive came in the form of language included in the Omnibus Appropriations Bill, signed into law on December 27, 2020. Specifically, our direction read as follows:

Sea Otters.-Sea otters play a critical ecological role in the marine environment as a keystone species that significantly affects the structure and function of the surrounding ecosystem. However, sea otters were effectively eliminated from the Pacific Coast of the United States by hunters and traders during the 1700s and 1800s. The Service is directed to study the feasibility and cost of reestablishing sea otters on the Pacific Coast of the contiguous United States, and to report to the Committees on the results of such a study within one year of enactment of this Act.

Sea otters have been extirpated from Oregon since 1906. They have since recovered throughout much of their historical range through natural expansion as well as several reintroduction efforts, but Oregon remains the only State in the lower 48 without any resident sea otter population.

The sea otter plays an important ecological role in the function and structure of nearshore marine ecosystems as a keystone predator. Kelp forests and seagrass beds could benefit through the restoration of sea otters and thus natural ecosystem function, with consequent benefits for finfish communities and ecosystem services such as carbon sequestration. Sea otters may also have positive effects on wildlife viewing and tourism industries. On the other hand, sea otters are carnivores that feed primarily on shellfish and thus have the potential to come into conflict with commercial and recreational fisheries.

Our report will assess both the biological and socioeconomic feasibility of sea otter reintroduction. The geographic focal area of our study will be the largest remaining gap in the sea otter's historical range, which is the coast of northern California and Oregon.

There is no active proposal to reintroduce sea otters at this time, but we want to make sure you are aware that these discussions are happening. For further information, I have provided a list of Frequently Asked Questions, or you may contact me by email at michele_zwartjes@fws.gov or phone 503-804-2087.

INTERIOR REGION 9 COLUMBIA-PACIFIC NORTHWEST

IDAHO, MONTANA*, OREGON*, WASHINGTON

*PARTIAL

Sea Otter Reintroduction on the Pacific Coast

Questions and Answers

I've started hearing talk in the news lately about possible sea otter reintroductions. What's this all about?

A couple of years ago an Oregon based non-profit organization, the Elakha Alliance, started to discuss the possibility of restoring sea otters to the Oregon coast. Their organization has been working on a study assessing the potential feasibility of reintroducing sea otters in Oregon, which was released for public review in late August 2021.

More recently, the U.S. Fish and Wildlife Service was separately tasked by the U.S. Congress with taking a look at the feasibility and cost of reintroducing sea otters on the Pacific coast of the contiguous United States. This directive stems from language that was included in the Consolidated Appropriations Act for 2021, passed on December 27, 2020. This Congressional directive requires the U.S. Fish and Wildlife Service to present a report back to Congress within one year of enactment, by the end of 2021. The scope of this directive expands beyond the Oregon Coast, to include the coasts of California and Washington as well.

Why would we need to reintroduce sea otters?

Sea otters once inhabited the nearshore marine environment of the entire Pacific rim, from Baja California Mexico to the islands of Japan. This includes the entire Pacific coast, although sea otters were likely not continuously distributed, and indications are that populations were limited to areas of suitable habitat. Hunting of sea otters for the fur trade resulted in the near extinction of the species by the late 1800s/early 1900s. By the time sea otters were protected under the International Fur Seal Treaty in 1911, likely fewer than 2,000 animals remained, most of these in isolated pockets in remote areas of Alaska. The only sea otters that survived on the contiguous Pacific coast of the U.S. were in one small group off the California coast, near Big Sur.

Thanks to conservation efforts, including reintroductions in Southeast Alaska, British Columbia, Washington, and Oregon in the late 1960s and early 1970s, today sea otters have begun to recover in many areas of their historical range. However, the Oregon reintroduction failed for unknown reasons, although sea otters persisted for at least 10 years and even produced pups. In California, range expansion of the southern sea otter has been slow, and range expansion to the north and south of the central California range appears to be limited by shark bite mortality. As a result, sea otters remain absent from northern California across the entire coast of Oregon to central Washington (about 930 mi [1,500 km]) and from Southern California to central Baja California, Mexico (500 mi [800 km]).

Why consider the reintroduction of sea otters?

The Congressional mandate to the U.S. Fish and Wildlife Service points to the sea otter's "critical ecological role in the marine environment as a keystone species that significantly affects the structure and function of the surrounding ecosystem."

The sea otter is considered a classic example of a keystone species because of its role as a predator at the top of multiple "trophic cascades" that result in the creation and maintenance of healthy kelp forests and seagrass beds. A "keystone" species is a species that has an effect on its environment

disproportionate to its abundance—in other words, the presence of only a few individuals can have a big impact.

The sea otter functions as a keystone species in the environment through its role as a top predator in the nearshore marine ecosystem. Sea urchins are a favorite food of the sea otter if they are locally abundant. By preying on sea urchins, a voracious consumer of kelp, sea otters keep urchin populations in check, which allows kelp forests to thrive. Healthy kelp forests in turn support greater species diversity (rockfishes are one example) and are highly efficient at sequestering carbon, which helps reduce ocean warming and acidification.

Bringing back sea otters could result in benefits to ecosystem services and local ecotourism, and also have cultural significance for coastal native peoples. But not everyone may see the potential reintroduction of sea otters in a positive light. Sea otters could have negative impacts on some commercial and recreational shellfish fisheries.

Carefully laying out all of the potential costs and benefits for consideration will be an important component of the U.S. Fish and Wildlife Service's reintroduction assessment and report back to Congress.

When would reintroductions start?

There is no active proposal to reintroduce sea otters to the Pacific coast—it is just a concept that is under consideration and up for discussion. Our report back to Congress will focus on summarizing known information and stakeholder perspectives and identifying key data gaps,.

In the future, should there be a move to formally propose the reintroduction of sea otters, the U.S. Fish and Wildlife Service would initiate a public review process under the National Environmental Policy Act; this process would include opportunities for the public to review and comment prior to any final Record of Decision.

So what's next?

U.S. Fish and Wildlife Service staff are working on developing the key components for a preliminary assessment of the feasibility of reintroduction for our report to Congress following the Guidelines for Reintroductions and Other Conservation Translocations, developed by the IUCN's Species Survival Commission (IUCN is the International Union for the Conservation of Nature, a global organization).

We are currently working to convene discussions and solicit feedback from stakeholder groups, scientists, and the public on the possible reintroduction of sea otters to the Pacific coast to ensure that we are able to capture the full range of viewpoints in our report back to Congress.

Our report will include the consideration of reintroduction feasibility from an ecological standpoint as well as from a socioeconomic perspective. The assessment will be limited to a fact-based report on the feasibility of reintroduction; we will not be making any recommendation as to whether reintroduction should take place.

FINANCIAL SUMMARY REPORT

Date: October 20, 2021

Period: Month End Report of Financial Activities for September 2021

To: Honorable Board President and District Board Members

Issued by: Gary Dehlinger, Port Manager

September 2021 Financial Reports

Overview / Comments

Balance Sheet

End of the month unrestricted cash and equivalents totaled \$561,873. Restricted cash and equivalents totaled \$932,678, with Total Assets (cash) at \$1,476,442.

September Profit & Loss

Total revenues from all funds were \$289,232. Total expenses were \$383,264*. The net income for September was negative \$94,032.

General Fund program revenues were \$285,742 and expenses were \$308,285.

September Revenue Centers		Expenses
Marina**	\$63,553	\$187,406***
Beachfront RV Park	\$63,438	\$21,575
Commercial / Retail	\$47,273	\$18,139
Fuel Dock	\$64,726	\$49,178

**Marina includes Administrative costs.

***Expenses include \$19,131 Capital Outlay purchases for the pressure wash water system, \$19,813 utilities (\$9,676 CTR costs to dispose abandon boats 4Play and Stella), \$19,313 for repairs/services/supplies, \$59,560 payroll, \$49,612 transfers to debt funds & reserve fund, \$7,344 for insurance and \$7,032 for professional fees.

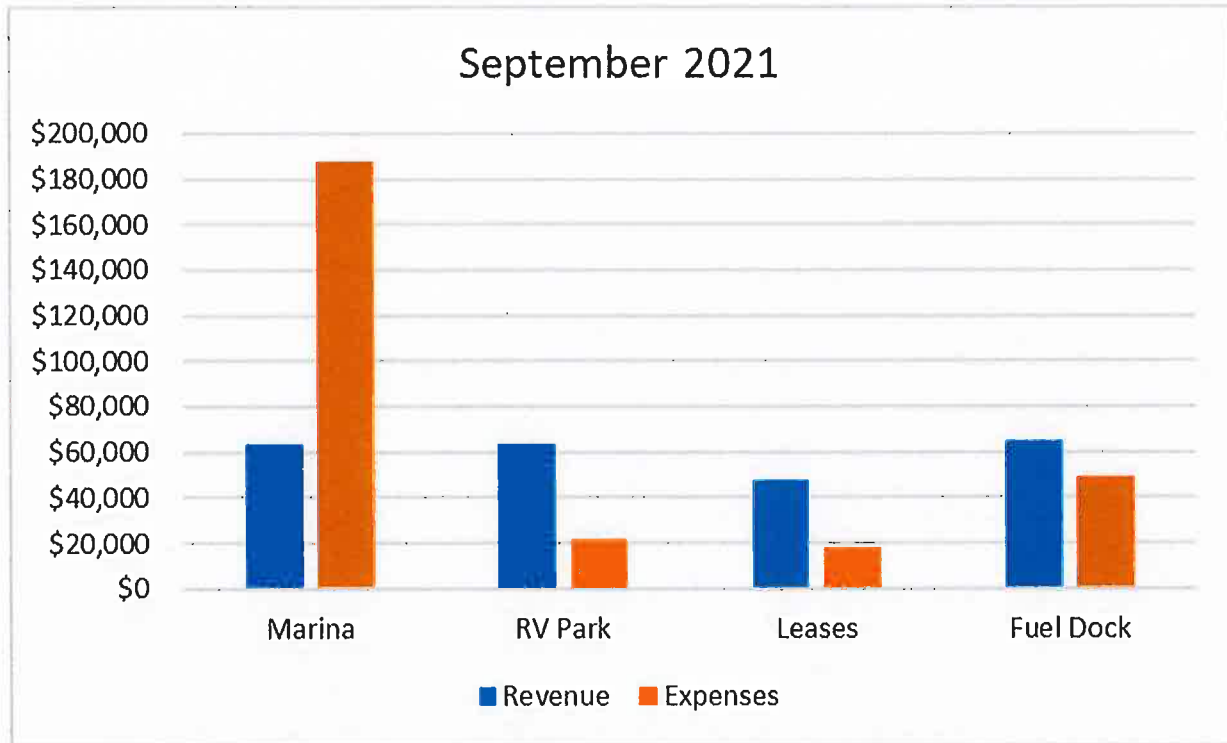
Unusual expenses this month include:

	Amount	Company	Description
1	\$12,210	Hot & Mighty	Cleaning Equipment for the pressure wash water cleaning system at the Boat Yard.
2	\$6,500	Boat Shop & More	20' storage container to house the pressure wash water cleaning system.
3	\$4,789	Stadelman Electric	Repair of electrical service at the Boat Yard warehouse
4	\$4,091	Kendrick Equipment	Annual inspection on Eq# 4605 Travel Lift.
5	\$3,900	The Roofers	Down payment for roof repairs to Blue Fin lease building.
6	\$1,489	Grating Pacific	Cover the storm drain pit next to the office.
7	\$1,480	Aquarius Environmental	Updated new DEQ regulations and Port operation changes in the Stormwater Pollution Control Plan.
8	\$1,178	Boat Shop & More	Rental of excavator to demolish abandon boats in the boat yard (4Play & Stella).
9	\$600	John Portable Welding	Installed new pile hoops on Fuel Dock & Crab Dock.

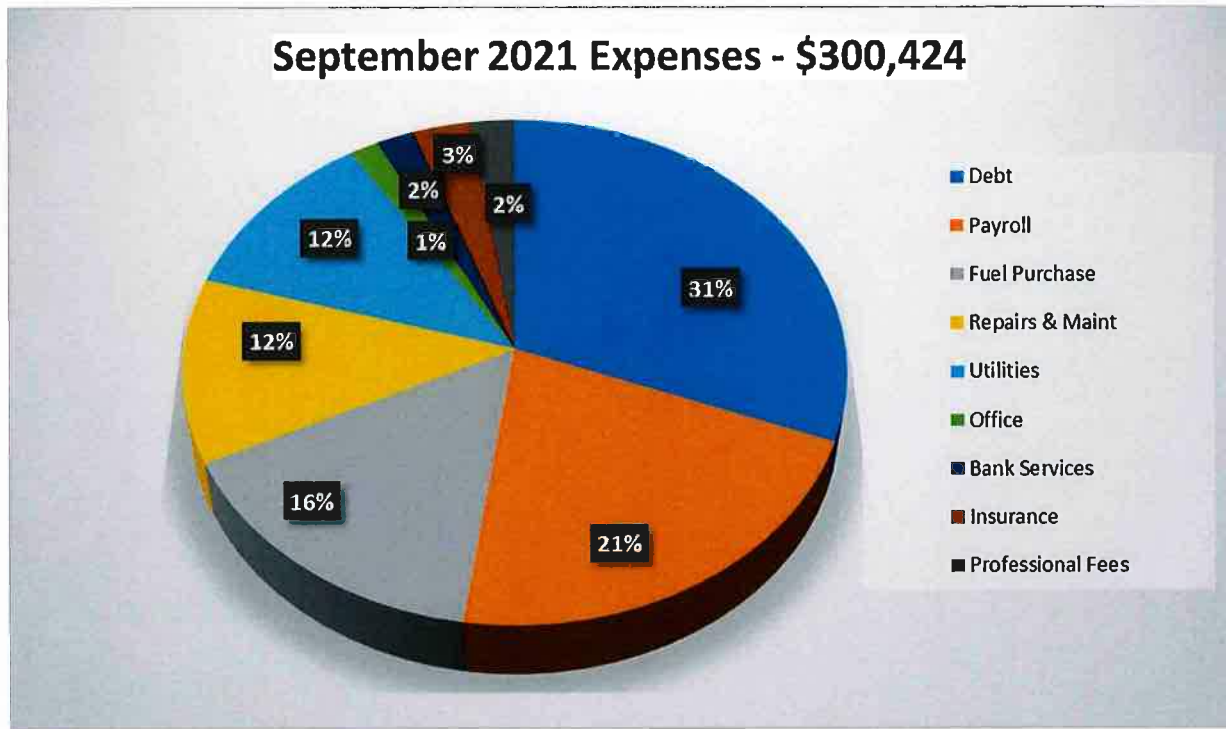
* Depreciation expense is not included in the budget or in our financial reports. If depreciation expense was included in the budget it would be difficult to balance the budget, and depreciation is not a cash expense, required under Generally Accepted Accounting Principles (GAAP), but not Governmental Accounting Standards Board (GASB).

Port paid the 3rd Quarterly payment to Business Oregon for \$86,620. Port is now paying \$77,500 per quarter and during this period sold assets (abandon sailboats) which 80% of the sales go towards paying off the debt that totaled \$9,120. The other 20% is transferred to the Reserve Fund.

\$49,612 was transferred out of the General Fund to Debt, Capital Project and Reserve Funds.



Total revenue and expenses for this month from General Fund operations.



Breakdown of expenses for this month from General Fund. Note: less than 1% not included.

Fiscal Year Profit & Loss vs. Budget Performance (July 1, 2021 thru June 30, 2022)

We have completed three (3) months of the fiscal year July 1 thru September 30; the year is 25% complete.

✓ **Income**

Any number above 25% is ahead of budget.

Total Income 13.8% or **11.2% below budget.**

This is due to FEMA Projects estimated to begin this fiscal year which has not received funding.

General Fund Program Revenue is 28.5% or **3.5% ahead of budget.**

Port's general revenue centers are ahead of budgeted expectations.

✓ **Expenses**

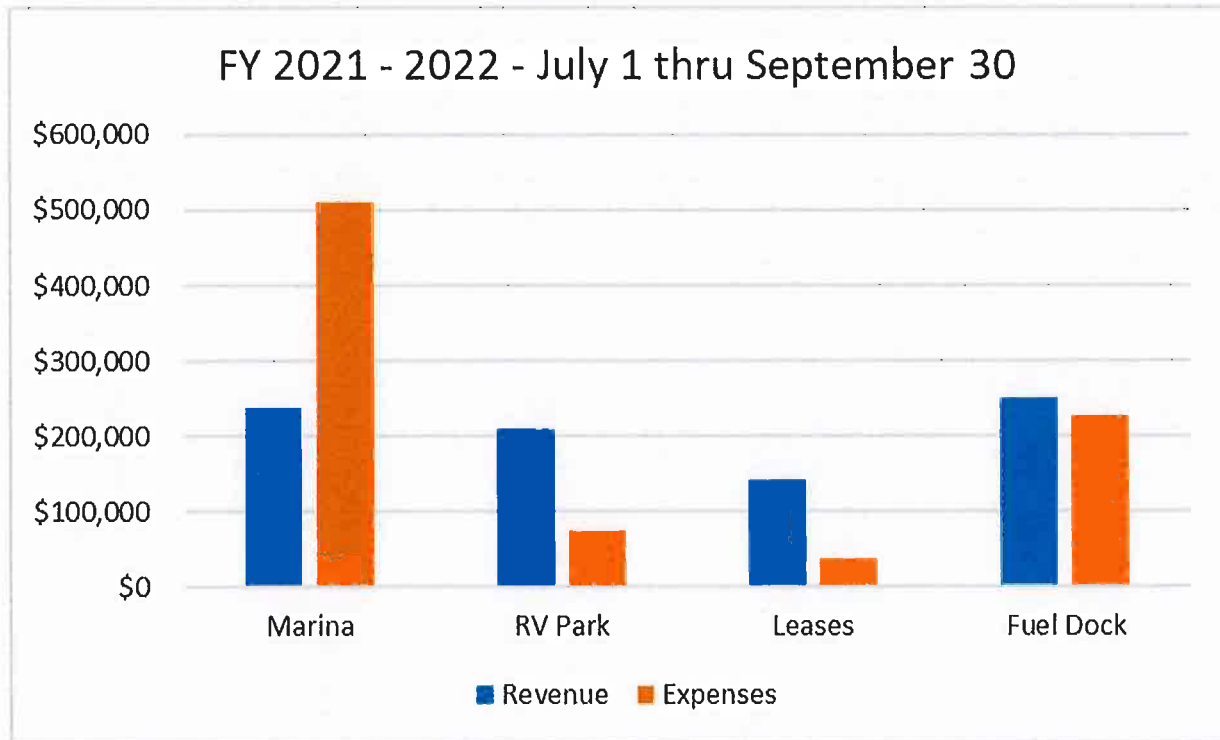
Any number below 25% is ahead of budget.

Total Expense 14% or **11% below budget.**

This is due to FEMA Projects estimated to begin this fiscal year which has not spent funding.

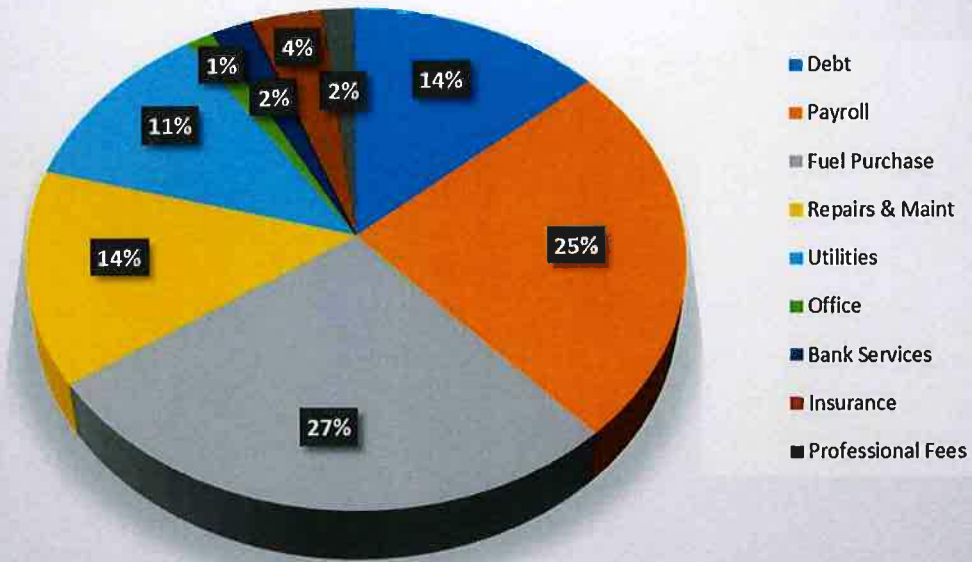
General Fund Expenditure is 24.4% or **0.6% below budget.**

Port is on pace with budgeted expectations.



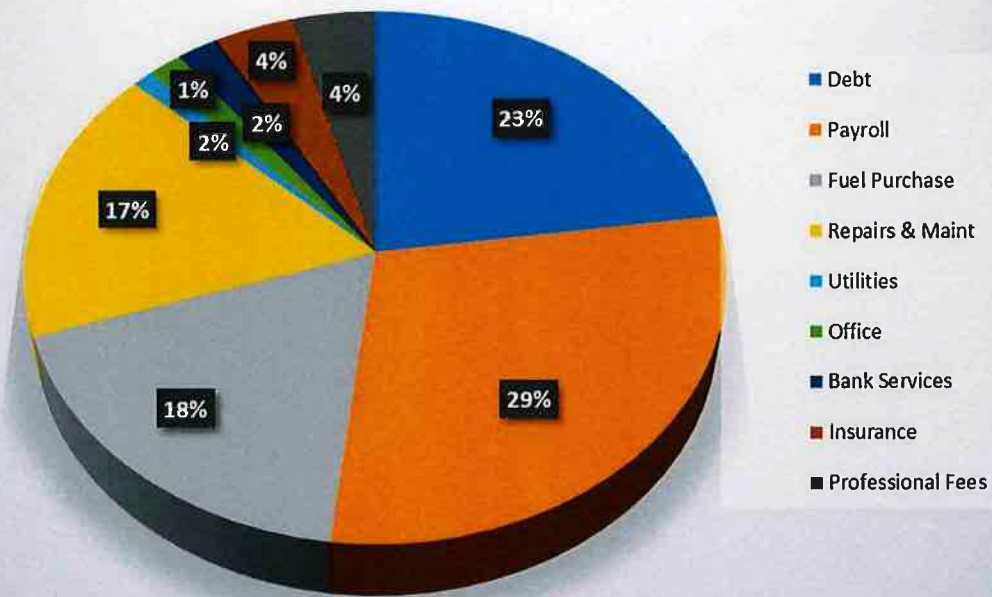
Total revenue and expenses for this fiscal year from General Fund operations.

General Fund FY 2021-22 Expenses - \$773,569



Breakdown of expenses from General Fund. Note: less than 1% not included.

General Fund - Last FY 2020-21 Expenses - \$2,486,784



Note: less than 1% not included.

ATTACHMENTS

- Port Balance Sheet as of September 31, 2021, 2 pages
- Profit & Loss September 2021, 4 pages
- Profit & Loss Budget Performance, July 2021 thru September 2021, 4 pages
- September 2021 Check Register, 3 pages
- Vendor Expense Report for January thru September 2021, 3 pages

Port of Brookings Harbor
Balance Sheet
 As of September 30, 2021

	Sep 30, 21
ASSETS	
Current Assets	
Checking/Savings	
100 · UNRESTRICTED CASH & EQUIVALENTS	
101 · GENERAL FUND CHECKING & LGIP	
10103 · General Funds Ckg Umpqua 3634	111,086.17
10104 · RCU Business Ownership 0687	17.65
10105 · RCU Business Savings 0600	5.00
10106 · General Fund LGIP 6017	423,490.70
10107 · Dredging Fund LGIP 6254	25,084.23
Total 101 · GENERAL FUND CHECKING & LGIP	559,683.75
10101 · Petty Cash	479.05
10102 · COUNTER CASH	
10102.1 · Office/Reception Cash Drawer	400.00
10102.2 · RV Park Cash Drawer	510.00
10102.3 · Fuel Dock Cash Drawer	800.00
Total 10102 · COUNTER CASH	1,710.00
Total 100 · UNRESTRICTED CASH & EQUIVALEN...	561,872.80
110 · RESTRICTED CASH & EQUIVALENTS	
104 · RESTRICTED MONEY MKT & CHECKING	
20104 · USDA BOND Umpqua MM 9529	2,520.41
30104 · Debt Service Umpqua MM 8627	2,515.43
40104 · Capital Projects Umpqua 8018	2,500.00
Total 104 · RESTRICTED MONEY MKT & CHEC...	7,535.84
105 · RESTRICTED LGIP	
20105 · USDA Bond Fund LGIP 6021	132,532.86
30105 · IFA Debt Service Fund LGIP 6020	20,338.35
50105 · Reserve Fund LGIP 6018	195,492.94
70105 · Capital Projects LGIP 6273	
40105.2 · Government Funds	18,100.77
70105.2 · Port Construction Fund	558,677.48
Total 70105 · Capital Projects LGIP 6273	576,778.25
Total 105 · RESTRICTED LGIP	925,142.40
Total 110 · RESTRICTED CASH & EQUIVALENTS	932,678.24
Total Checking/Savings	1,494,551.04
Accounts Receivable	
120 · ACCOUNTS RECEIVABLE	-27,583.90
Total Accounts Receivable	-27,583.90
Other Current Assets	
150 · Undeposited Funds	9,475.28
Total Other Current Assets	9,475.28
Total Current Assets	1,476,442.42
TOTAL ASSETS	1,476,442.42
LIABILITIES & EQUITY	
Liabilities	

Port of Brookings Harbor
Balance Sheet
 As of September 30, 2021

	Sep 30, 21
Current Liabilities	
Accounts Payable	
200 · ACCOUNTS PAYABLE	
60203 · Port Const. Accounts Payable	-3,900.00
Total 200 · ACCOUNTS PAYABLE	-3,900.00
Total Accounts Payable	-3,900.00
Credit Cards	
106 · RCU VISA ACCT	3,373.30
106.1 · RCU Business Ownership 0687	17.65
106.2 · RCU Business Savings 0600	5.00
Total Credit Cards	3,395.95
Other Current Liabilities	
100222 · Payroll Liabilities	
10222 · HealthCare Premium - Dependent	-1,056.74
Total 100222 · Payroll Liabilities	-1,056.74
10226 · Lodging Tax Payable	34,949.59
Total Other Current Liabilities	33,892.85
Total Current Liabilities	33,388.80
Total Liabilities	33,388.80
Equity	
300 · Fund Balance	
301 · Unappropriated Balance	
10301 · General Fund Unappropriated Bal	243,690.35
20301 · Revenue Bond Unappropriate Bal	101,658.23
30301 · Debt Service Unappropriated Bal	94,693.65
40301 · Capital Project Unappropriated	2,500.00
50301 · Reserve Fund Unappropriated Bal	161,269.80
Total 301 · Unappropriated Balance	603,812.03
302 · Appropriated Carryover	
10302 · General Fund Appropriated Carry	-243,690.35
20302 · Revenue Bond Appropriated Carry	-101,658.23
30302 · Debt Service Appropriated Carry	-94,693.65
40302 · Capital Proj Appropriated Carry	-2,500.00
50302 · Reserve Fund Appropriated Carry	-161,269.80
Total 302 · Appropriated Carryover	-603,812.03
Total 300 · Fund Balance	0.00
3900 · RETAINED EARNINGS	1,454,393.83
Net Income	-11,340.21
Total Equity	1,443,053.62
TOTAL LIABILITIES & EQUITY	1,476,442.42

Port of Brookings Harbor
Profit & Loss
 September 2021

	Sep 21
Income	
400 · REVENUES	
401 · GENERAL FUND REVENUES	
10413 · Property Tax Prior	1,222.40
10414 · Interest General Fund	202.68
10417 · Assets Sales	4,320.00
10418 · Miscellaneous	6.00
Total 401 · GENERAL FUND REVENUES	5,751.08
402 · GENERAL FUND PROGRAM REVENUES	
10421 · MARINA	
10421.2 · MOORAGE	
10421.3 · Commercial Slip Rent	17,243.90
10421.4 · Recreational Slip Rent	22,831.08
10421.5 · Transient	1,448.70
10421.6 · Other Moorage	915.00
Total 10421.2 · MOORAGE	42,438.68
10422 · OTHER MARINA REVENUE	3,515.00
10423 · STORAGE	
10423.1 · Gear Storage	3,757.14
10423.2 · Boat Storage	2,837.00
Total 10423 · STORAGE	6,594.14
10424 · ADMINISTRATIVE FEES	455.91
10425 · MARINE SERVICES	
10425.1 · Travelift	3,264.00
10425.3 · Other Sales & Fees	1,295.50
Total 10425 · MARINE SERVICES	4,559.50
10426 · PROPERTY GROUND EVENT USE	430.50
Total 10421 · MARINA	57,993.73
10427 · BEACHFRONT RV PARK	
10427.1 · Space Rental	59,373.38
10427.2 · Other Sales & Fees	4,065.00
Total 10427 · BEACHFRONT RV PARK	63,438.38
10428 · COMMERCIAL RETAIL	
10428.1 · Retail Property	28,833.09
10428.2 · Docks	16,918.92
10428.3 · CPI and Other Fees	1,521.93
Total 10428 · COMMERCIAL RETAIL	47,273.94
10429 · FUEL DOCK	64,725.59
Total 402 · GENERAL FUND PROGRAM REVEN...	233,431.64
420 · USDA REVENUE BOND FUND	
20414 · Interest Revenue Bond Fund	59.74
20419 · Transfer to USDA Bond Fund	10,843.00
Total 420 · USDA REVENUE BOND FUND	10,902.74
430 · DEBT SERVICE FUND REVENUE	
30414 · Interest Debt Service Fund	28.43

Port of Brookings Harbor
Profit & Loss
 September 2021

	Sep 21
30419 · Transfer to Debt Service Fund	31,958.71
Total 430 · DEBT SERVICE FUND REVENUE	31,987.14
450 · RESERVE FUND REVENUE	
50414 · Interest Reserve Fund	88.30
50419 · Transfer to Reserve Fund	2,000.00
Total 450 · RESERVE FUND REVENUE	2,088.30
460 · DEBT SERV. RV PARK IMPROV. FUND	
60419 · Transfer OR FFC 2020 Debt Serv.	4,809.87
Total 460 · DEBT SERV. RV PARK IMPROV. FUND	4,809.87
470 · PORT CONSTRUCTION FUND REVENUE	
70414 · Interest Port Construction Fund	261.14
Total 470 · PORT CONSTRUCTION FUND REVE...	261.14
Total 400 · REVENUES	289,231.91
Total Income	289,231.91
Gross Profit	289,231.91
Expense	
600 · GENERAL FUND EXPENDITURES	
10900 · Operating Transfers Out General	49,611.58
500 · PERSONNEL SERVICES	
10501 · Port Manager	6,528.00
10502 · Port Office Staff	7,761.55
10503 · RV Park Office Staff	4,667.18
10504 · Operations Staff	19,613.75
10505 · Overtime	631.27
10506 · Payroll Taxes/Costs/Benefits	
10506.1 · Paid Holidays	1,504.40
10506.2 · Sick Leave Benefit	143.76
10506.3 · Vacation & Other	3,841.69
10506.4 · Payroll Taxes	4,369.11
10506.5 · SEP Retirement	3,544.52
Total 10506 · Payroll Taxes/Costs/Benefits	13,403.48
10507 · Workers Compensation	3,781.07
10508 · Health Care and Dental	8,008.80
Total 500 · PERSONNEL SERVICES	64,395.10
601 · GENERAL FUND Material & Service	
10601 · ADVERTISING & NOTIFICATIONS	80.10
10602 · REPAIRS & MAINTENANCE	
10602.1 · Maintenance & Repairs	15,266.01
10602.2 · Supplies & Services	20,009.58
Total 10602 · REPAIRS & MAINTENANCE	35,275.59
10603 · FUEL purchased for resale	46,597.68
10605 · UTILITIES	
10605.1 · Electric	8,592.20
10605.2 · RV Park Cable TV	595.06
10605.3 · Sanitary	5,520.89
10605.5 · Telecommunications	1,087.25

Port of Brookings Harbor

Profit & Loss

September 2021

	Sep 21
10605.6 · Waste Removal	17,002.34
10605.7 · Water	1,770.94
Total 10605 · UTILITIES	34,568.68
10606 · OFFICE EXPENSE	4,488.20
10607 · BANK SERVICE & FINANCE FEES	6,105.72
10608 · TRAINING & TRAVEL	45.20
10609 · PERMITS, LICENSES, TAXES & MISC	79.80
10610 · INSURANCE; PROP & CAS, BOND	9,216.36
10611 · PROFESSIONAL FEES	
10611.1 · Accounting/Auditing	500.00
10611.2 · Attorney	1,359.00
10611.3 · Engineering	4,890.77
10611.4 · Other Support/Consultant	283.08
Total 10611 · PROFESSIONAL FEES	7,032.85
Total 601 · GENERAL FUND Material & Service	143,490.18
710 · GENERAL FUND CAPITAL OUTLAY	
10702 · Land Improvements	6,921.96
10704 · Equipment	12,210.00
Total 710 · GENERAL FUND CAPITAL OUTLAY	19,131.96
Total 600 · GENERAL FUND EXPENDITURES	276,628.82
630 · DEBT SERVICE FUND EXPENDITURES	
30802P · IFA PRINCIPAL	
30802.1 · OBDD #520139/Boardwalk Prin	3,793.46
30802.2 · OBDD #525172/RV Park Prin.	3,420.92
30802.3 · OBDD #525176/Green Bldg Prn	6,024.09
30802.4 · OBDD #525181/EurekaFish Prn	3,912.98
30802.5 · SPWF #L02009/Cold Strg Prin	19,084.86
30802.8 · SPWF L02001/MarineFuel Dock Prn	45,698.76
30802.9 · SPWF X03004/Eureka Fishery Prin	4,684.93
Total 30802P · IFA PRINCIPAL	86,620.00
801 · Principal	
30803P · 50 BFMII Travelift Principal	4,117.72
30804P · 2018 Genie Forklift Principal	1,178.89
Total 801 · Principal	5,296.61
810 · Interest Payments	
30813I · 50 BFMII Travelift Interest	541.28
30814I · 2018 Genie Forklift Interest	285.82
Total 810 · Interest Payments	827.10
Total 630 · DEBT SERVICE FUND EXPENDITURES	92,743.71
640 · CAPT. PROJ. EXPENDITURES	
740 · CAPT. PROJ. CAPITAL OUTLAY	
40702 · Land Improvement - Capt Proj	
40702.1 · Engineering/Consultants	1,170.00
40702.2 · Materials & Services	5,740.00
Total 40702 · Land Improvement - Capt Proj	6,910.00

2:11 PM
10/11/21
Cash Basis

Port of Brookings Harbor
Profit & Loss
September 2021

	Sep 21
Total 740 · CAPT. PROJ. CAPITAL OUTLAY	6,910.00
Total 640 · CAPT. PROJ. EXPENDITURES	6,910.00
660 · DEBT SERV. RV PARK EXPENDITURES	
60806P · RV Park Improv. Loan Principal	3,201.45
60815I · RV Park Improv. Loan Interest	1,608.42
Total 660 · DEBT SERV. RV PARK EXPENDITURES	4,809.87
670 · PORT CONST FUND EXPENDITURES	
70100 · PORT CONST. CAPITAL OUTLAY	
70700 · Land Improvement - Port Const.	2,171.44
Total 70100 · PORT CONST. CAPITAL OUTLAY	2,171.44
Total 670 · PORT CONST FUND EXPENDITURES	2,171.44
Total Expense	383,263.84
Net Income	<u><u>-94,031.93</u></u>

Port of Brookings Harbor
Profit & Loss Budget Performance
July through September 2021

	Jul - Sep 21	Budget	% of Budget
Income			
400 · REVENUES			
401 · GENERAL FUND REVENUES			
10411 · Cash Carry Over	0.00	300,000.00	0.0%
10412 · Property Tax Current	0.00	240,000.00	0.0%
10413 · Property Tax Prior	4,615.00	9,000.00	51.3%
10414 · Interest General Fund	638.45	2,000.00	31.9%
10415 · Loans - General Fund	0.00	0.00	0.0%
10417 · Assets Sales	15,720.00	50,000.00	31.4%
10418 · Miscellaneous	13,444.39	31,500.00	42.7%
10420 · Grants & Other Funding - GF	0.00	80,000.00	0.0%
Total 401 · GENERAL FUND REVENUES	34,417.84	712,500.00	4.8%
402 · GENERAL FUND PROGRAM REVENUES			
10421 · MARINA			
10421.2 · MOORAGE			
10421.3 · Commercial Slip Rent	25,737.99		
10421.4 · Recreational Slip Rent	97,099.77		
10421.5 · Transient	4,123.05		
10421.6 · Other Moorage	4,440.00		
10421.2 · MOORAGE - Other	0.00	735,000.00	0.0%
Total 10421.2 · MOORAGE	131,400.81	735,000.00	17.9%
10422 · OTHER MARINA REVENUE	13,362.35		
10423 · STORAGE			
10423.1 · Gear Storage	16,729.23		
10423.2 · Boat Storage	10,438.24		
Total 10423 · STORAGE	27,167.47		
10424 · ADMINISTRATIVE FEES	2,410.97	0.00	100.0%
10425 · MARINE SERVICES			
10425.1 · Travelift	9,102.00	0.00	100.0%
10425.2 · 12 K Telehandler	1,945.40	0.00	100.0%
10425.3 · Other Sales & Fees	13,373.40		
10425 · MARINE SERVICES - Other	0.00	0.00	0.0%
Total 10425 · MARINE SERVICES	24,420.80	0.00	100.0%
10426 · PROPERTY GROUND EVENT USE	3,606.00		
Total 10421 · MARINA	202,368.40	735,000.00	27.5%
10427 · BEACHFRONT RV PARK			
10427.1 · Space Rental	192,645.56	750,000.00	25.7%
10427.2 · Other Sales & Fees	15,821.80	0.00	100.0%
Total 10427 · BEACHFRONT RV PARK	208,467.36	750,000.00	27.8%
10428 · COMMERCIAL RETAIL			
10428.1 · Retail Property	87,409.67	0.00	100.0%
10428.2 · Docks	50,756.76	0.00	100.0%
10428.3 · CPI and Other Fees	4,354.28	0.00	100.0%
10428 · COMMERCIAL RETAIL - Other	0.00	566,280.00	0.0%
Total 10428 · COMMERCIAL RETAIL	142,520.71	566,280.00	25.2%
10429 · FUEL DOCK	249,918.69	770,000.00	32.5%
Total 402 · GENERAL FUND PROGRAM REVENUE...	803,275.16	2,821,280.00	28.5%
420 · USDA REVENUE BOND FUND			
20411 · Cash Carry Over - USDA Revenue	0.00	102,380.00	0.0%
20414 · Interest Revenue Bond Fund	172.35	500.00	34.5%
20419 · Transfer to USDA Bond Fund	32,529.00	130,120.00	25.0%
Total 420 · USDA REVENUE BOND FUND	32,701.35	233,000.00	14.0%
430 · DEBT SERVICE FUND REVENUE			

Port of Brookings Harbor
Profit & Loss Budget Performance
July through September 2021

	Jul - Sep 21	Budget	% of Budget
30411 · Cash Carry Over - Debt Service	0.00	27,420.00	0.0%
30414 · Interest Debt Service Fund	90.27	450.00	20.1%
30419 · Transfer to Debt Service Fund	104,996.13	423,485.00	24.8%
Total 430 · DEBT SERVICE FUND REVENUE	105,086.40	451,355.00	23.3%
440 · CAPITAL PROJECTS FUND REVENUE			
40411 · Cash Carry Over - Capt Proj	0.00	62,500.00	0.0%
40416 · Government Funding			
40416.3 · State Lottery Funding	0.00	0.00	0.0%
40416 · Government Funding - Other	0.00	2,000,000.00	0.0%
Total 40416 · Government Funding	0.00	2,000,000.00	0.0%
40419 · Transfer to Capital Project	0.00	0.00	0.0%
Total 440 · CAPITAL PROJECTS FUND REVENUE	0.00	2,062,500.00	0.0%
450 · RESERVE FUND REVENUE			
50411 · Cash Carry Over - Reserve Fund	0.00	186,575.00	0.0%
50414 · Interest Reserve Fund	274.31	1,200.00	22.9%
50419 · Transfer to Reserve Fund	8,280.00	34,000.00	24.4%
Total 450 · RESERVE FUND REVENUE	8,554.31	221,775.00	3.9%
460 · DEBT SERV. RV PARK IMPROV. FUND			
60411 · Cash Carry Over - OR FFC 2020	0.00	0.00	0.0%
60419 · Transfer OR FFC 2020 Debt Serv.	14,429.61	57,718.00	25.0%
Total 460 · DEBT SERV. RV PARK IMPROV. FUND	14,429.61	57,718.00	25.0%
470 · PORT CONSTRUCTION FUND REVENUE			
70411 · Cash Carry Over - Port Const.	0.00	575,000.00	0.0%
70414 · Interest Port Construction Fund	831.93	2,000.00	41.6%
70419 · Transfers to Port Const. Fund	0.00	100,000.00	0.0%
Total 470 · PORT CONSTRUCTION FUND REVEN...	831.93	677,000.00	0.1%
Total 400 · REVENUES	999,296.60	7,237,128.00	13.8%
Total Income	999,296.60	7,237,128.00	13.8%
Gross Profit	999,296.60	7,237,128.00	13.8%
Expense			
600 · GENERAL FUND EXPENDITURES			
10900 · Operating Transfers Out General	160,234.74	745,323.00	21.5%
500 · PERSONNEL SERVICES			
10501 · Port Manager	19,584.00	88,470.00	22.1%
10502 · Port Office Staff	21,674.19	132,000.00	16.4%
10503 · RV Park Office Staff	13,836.96	54,120.00	25.6%
10504 · Operations Staff	55,870.88	262,460.00	21.3%
10505 · Overtime	2,079.03	7,255.00	28.7%
10506 · Payroll Taxes/Costs/Benefits			
10506.1 · Paid Holidays	2,822.32	0.00	100.0%
10506.2 · Sick Leave Benefit	5,253.55	0.00	100.0%
10506.3 · Vacation & Other	7,366.72	0.00	100.0%
10506.4 · Payroll Taxes	12,886.29	0.00	100.0%
10506.5 · SEP Retirement	10,586.93	0.00	100.0%
10506 · Payroll Taxes/Costs/Benefits - Other	0.00	153,680.00	0.0%
Total 10506 · Payroll Taxes/Costs/Benefits	38,915.81	153,680.00	25.3%
10507 · Workers Compensation	14,548.35	11,810.00	123.2%
10508 · Health Care and Dental	24,026.40	86,500.00	27.8%
Total 500 · PERSONNEL SERVICES	190,535.62	796,295.00	23.9%
601 · GENERAL FUND Material & Service			
10601 · ADVERTISING & NOTIFICATIONS	2,531.03	8,680.00	29.2%
10602 · REPAIRS & MAINTENANCE			

Port of Brookings Harbor
Profit & Loss Budget Performance
 July through September 2021

	Jul - Sep 21	Budget	% of Budget
10602.1 · Maintenance & Repairs	40,388.04	0.00	100.0%
10602.2 · Supplies & Services	65,868.71	0.00	100.0%
10602.3 · Projects	0.00	0.00	0.0%
10602 · REPAIRS & MAINTENANCE - Other	0.00	452,797.00	0.0%
Total 10602 · REPAIRS & MAINTENANCE	106,256.75	452,797.00	23.5%
10603 · FUEL purchased for resale	211,134.43	725,000.00	29.1%
10605 · UTILITIES			
10605.1 · Electric	24,713.32	0.00	100.0%
10605.2 · RV Park Cable TV	1,737.58	0.00	100.0%
10605.3 · Sanitary	15,600.52	0.00	100.0%
10605.5 · Telecommunications	3,044.14	0.00	100.0%
10605.6 · Waste Removal	37,155.85	0.00	100.0%
10605.7 · Water	6,370.78	0.00	100.0%
10605 · UTILITIES - Other	0.00	279,173.00	0.0%
Total 10605 · UTILITIES	88,622.19	279,173.00	31.7%
10606 · OFFICE EXPENSE	10,948.77	52,827.00	20.7%
10607 · BANK SERVICE & FINANCE FEES	17,347.45	40,482.00	42.9%
10608 · TRAINING & TRAVEL	520.96	4,486.00	11.6%
10609 · PERMITS, LICENSES, TAXES & MISC	319.20	13,000.00	2.5%
10610 · INSURANCE; PROP & CAS, BOND	30,038.58	95,292.00	31.5%
10611 · PROFESSIONAL FEES			
10611.1 · Accounting/Auditing	2,000.00	0.00	100.0%
10611.2 · Attorney	5,407.00	0.00	100.0%
10611.3 · Engineering	4,890.77	0.00	100.0%
10611.4 · Other Support/Consultant	1,396.12	0.00	100.0%
10611 · PROFESSIONAL FEES - Other	0.00	95,425.00	0.0%
Total 10611 · PROFESSIONAL FEES	13,693.89	95,425.00	14.4%
Total 601 · GENERAL FUND Material & Service	481,413.25	1,767,162.00	27.2%
710 · GENERAL FUND CAPITAL OUTLAY			
10702 · Land Improvements	6,921.96	15,000.00	46.1%
10703 · Buildings	0.00	50,000.00	0.0%
10704 · Equipment	12,210.00	90,000.00	13.6%
Total 710 · GENERAL FUND CAPITAL OUTLAY	19,131.96	155,000.00	12.3%
920 · OPERATING CONTINGENCY	0.00	20,000.00	0.0%
Total 600 · GENERAL FUND EXPENDITURES	851,315.57	3,483,780.00	24.4%
620 · USDA REVENUE BOND EXPENDITURES			
20801P · USDA Revenue Bond Principal	0.00	79,917.00	0.0%
20810I · USDA Revenue Bond Interest	0.00	50,203.00	0.0%
Total 620 · USDA REVENUE BOND EXPENDITURES	0.00	130,120.00	0.0%
630 · DEBT SERVICE FUND EXPENDITURES			
30802P · IFA PRINCIPAL			
30802.1 · OBDD #520139/Boardwalk Prin	3,793.46	0.00	100.0%
30802.2 · OBDD #525172/RV Park Prin.	3,420.92	0.00	100.0%
30802.3 · OBDD #525176/Green Bldg Prn	6,024.09	0.00	100.0%
30802.4 · OBDD #525181/EurekaFish Prn	3,912.98	0.00	100.0%
30802.5 · SPWF #L02009/Cold Strg Prin	19,084.86	0.00	100.0%
30802.7 · SPWF L98004/Dock Impr Prin	0.00	0.00	0.0%
30802.8 · SPWF L02001/MarineFuel Dock Prn	45,698.76	0.00	100.0%
30802.9 · SPWF X03004/Eureka Fishery Prin	4,684.93	0.00	100.0%
30802P · IFA PRINCIPAL - Other	0.00	350,000.00	0.0%
Total 30802P · IFA PRINCIPAL	86,620.00	350,000.00	24.7%
801 · Principal			
30803P · 50 BFMII Travelift Principal	12,337.01	50,447.00	24.5%

**Port of Brookings Harbor
Profit & Loss Budget Performance
July through September 2021**

	Jul - Sep 21	Budget	% of Budget
30804P · 2018 Genie Forklift Principal	3,528.45	14,469.00	24.4%
Total 801 · Principal	15,865.46	64,916.00	24.4%
810 · Interest Payments			
30813I · 50 BFMII Travelift Interest	1,639.99	5,461.00	30.0%
30814I · 2018 Genie Forklift Interest	865.68	3,108.00	27.9%
Total 810 · Interest Payments	2,505.67	8,569.00	29.2%
Total 630 · DEBT SERVICE FUND EXPENDITURES	104,991.13	423,485.00	24.8%
640 · CAPT. PROJ. EXPENDITURES			
40602 · Materials & Services Capt Proj	0.00	0.00	0.0%
740 · CAPT. PROJ. CAPITAL OUTLAY			
40702 · Land Improvement - Capt Proj			
40702.1 · Engineering/Consultants	9,360.00	0.00	100.0%
40702.2 · Materials & Services	10,470.00	0.00	100.0%
40702 · Land Improvement - Capt Proj - Other	0.00	2,060,000.00	0.0%
Total 40702 · Land Improvement - Capt Proj	19,830.00	2,060,000.00	1.0%
Total 740 · CAPT. PROJ. CAPITAL OUTLAY	19,830.00	2,060,000.00	1.0%
Total 640 · CAPT. PROJ. EXPENDITURES	19,830.00	2,060,000.00	1.0%
660 · DEBT SERV. RV PARK EXPENDITURES			
60806P · RV Park Improv. Loan Principal	9,581.51	38,751.00	24.7%
60815I · RV Park Improv. Loan Interest	4,848.10	18,967.00	25.6%
Total 660 · DEBT SERV. RV PARK EXPENDITURES	14,429.61	57,718.00	25.0%
670 · PORT CONST FUND EXPENDITURES			
70100 · PORT CONST. CAPITAL OUTLAY			
70700 · Land Improvement - Port Const.	13,682.56	677,000.00	2.0%
Total 70100 · PORT CONST. CAPITAL OUTLAY	13,682.56	677,000.00	2.0%
Total 670 · PORT CONST FUND EXPENDITURES	13,682.56	677,000.00	2.0%
700 · CAPITAL OUTLAY	6,387.94		
930 · Fund Balances			
10930 · Unappropriated Balance GF	0.00	50,000.00	0.0%
20930 · Unappropriated Balance-USDA	0.00	102,880.00	0.0%
30930 · Unappropriated Balance Debt	0.00	27,870.00	0.0%
40930 · Unappropriated Balance Capt Pro	0.00	2,500.00	0.0%
50930 · Unappropriated Balance Reserve	0.00	221,775.00	0.0%
Total 930 · Fund Balances	0.00	405,025.00	0.0%
Total Expense	1,010,636.81	7,237,128.00	14.0%
Net Income	-11,340.21	0.00	100.0%

Port of Brookings Harbor

Check Registers

As of September 30, 2021

Type	Num	Date	Name	Memo	Debit	Credit
100 · UNRESTRICTED CASH & EQUIVALENTS						
101 · GENERAL FUND CHECKING & LGIP						
10103 · General Funds Ckg Umpqua 3634						
Transfer		09/28/2021		Funds Transfer- RV Park Change Machine Quarters to Umpqua Bank General Fund	300.00	
Check	debit	09/21/2021		STORE CURRENCY DEPOSITED & SOLD for AUG 2021		0.96
Bill Pmt -Check	DEBIT	09/06/2021	US Bank Equipment Finance	Contract No. 500-0623925-000 Lease for Ricoh Copier		223.20
Bill Pmt -Check	DEBIT	09/01/2021	Tyree Oil, Inc	Account # 56851 Fuel Purchase		7,489.25
Check	DEBIT	09/02/2021	Elavon	AUG 2021 MERCHANT SERVICE FEE ACCT#316 Port Office Terminal		862.64
Check	DEBIT	09/02/2021	Elavon	AUG 2021 MERCHANT SERVICE FEE ACCT#873 Ventek Boat Launch		222.82
Check	DEBIT	09/02/2021	Elavon	AUG 2021 MERCHANT SERVICE FEE ACCT#951 Fuel Dock Terminal		2,043.57
Bill Pmt -Check	DEBIT	09/07/2021	DMV2U/Dept. of Transportation	DMV Record Inquiry Account Debit Confirmation#0-005-536-959		70.00
Check	DEBIT	09/08/2021	Edward Jones	Employer Contribution 09/08/2021 ConfirmationRXSGH-PQ304		140.25
Check	DEBIT	09/08/2021	Edward Jones	Employer Contribution 09/08/2021 ConfirmationRXSGH-PR43F		219.19
Check	DEBIT	09/08/2021	Edward Jones	Employer Contribution 09/08/2021 ConfirmationRXSGH-PR7N		152.05
Check	DEBIT	09/08/2021	Edward Jones	Employer Contribution 09/08/2021 ConfirmationRXSGH-PRC6Q		146.01
Check	DEBIT	09/08/2021	Edward Jones	Employer Contribution 09/08/2021 ConfirmationRXSGH-PRFJ1		145.74
Check	DEBIT	09/08/2021	Edward Jones	Employer Contribution 09/08/2021 ConfirmationRXSGH-PRHKQ		136.84
Check	DEBIT	09/08/2021	Edward Jones	Employer Contribution 09/08/2021 ConfirmationRXSGH-PRKHT		303.68
Check	DEBIT	09/08/2021	TD Ameritrade	Employer Contribution 09/08/2021 ConfirmationRXSGH-PRMP4		182.76
Check	DEBIT	09/08/2021	US Bank Sep- IRA	Employer Contribution 09/08/2021 ConfirmationRXSGH-PRQWQ		340.25
Check	DEBIT	09/03/2021	ADP	Advice of Debit 586965967 Payroll Date: 08/25/2021		140.37
Bill Pmt -Check	DEBIT	09/01/2021	Pitney Bowes Global Lease	LEASE ACCT#0017098499 Mailing machine lease - Quarterly		423.09
Bill Pmt -Check	DEBIT	09/20/2021	Tyree Oil, Inc	Account # 56851 Fuel Purchase for Resale		10,007.40
Check	DEBIT	09/17/2021	ADP	Advice of Debit 5587888030 Payroll Date: 09/08/2021		142.71
Bill Pmt -Check	DEBIT	09/27/2021	Tyree Oil, Inc	Account # 56851 Fuel Purchase for Resale		19,980.95
Bill Pmt -Check	DEBIT	09/14/2021	Paygov	Abstract USCG Vessel Offical #540050		25.00
Bill Pmt -Check	DEBIT	09/30/2021	Tyree Oil, Inc	Account # 56851 Fuel Purchase for Resale		9,120.08
Check	DEBIT	09/22/2021	Edward Jones	Employer Contribution 09/22/2021 ConfirmationRZ3GN-H65LM		136.82
Check	DEBIT	09/22/2021	Edward Jones	Employer Contribution 09/22/2021 ConfirmationRZ3GN-H7JVK		222.76
Check	DEBIT	09/22/2021	Edward Jones	Employer Contribution 09/22/2021 ConfirmationRZ3GN-H7PQF		148.29
Check	DEBIT	09/22/2021	Edward Jones	Employer Contribution 09/22/2021 ConfirmationRZ3GN-H7VMH		148.63
Check	DEBIT	09/22/2021	Edward Jones	Employer Contribution 09/22/2021 ConfirmationRZ3GN-H7ZF6		147.82
Check	DEBIT	09/22/2021	Edward Jones	Employer Contribution 09/22/2021 ConfirmationRZ3GN-H82F1		137.08
Check	DEBIT	09/22/2021	Edward Jones	Employer Contribution 09/22/2021 ConfirmationRZ3GN-H863X		303.68
Check	DEBIT	09/22/2021	TD Ameritrade	Employer Contribution 09/22/2021 ConfirmationRZ3GN-H88ZG		192.42
Check	DEBIT	09/20/2021	US Bank Sep- IRA	Employer Contribution 09/22/2021 ConfirmationRZ3GN-H8D7T		340.25
Bill Pmt -Check	DEBIT	09/20/2021	Chevron Business Card	Account #: 0496007075666 Fuel Purchases for Port Vehicles/Equip. INV#74002579		656.14
Bill Pmt -Check	DEBIT	09/20/2021	Pitney Bowes, Inc.	Power Postage Acct# 8000-9000-0324-9186		300.00
Bill Pmt -Check	DEBIT	09/28/2021	Suburban Propane	09/04/2021- Delivery of 95.6 Gallons of Propane		344.84
General Journal	NSF 09/01	09/01/2021	Helgren, John (Rod)	Bounced Check# 1004		61.00
General Journal	DEBT 09/02	09/02/2021		Transfer to Debt Service Fund for Travelift Payment		4,659.00
General Journal	DEBT 09/02	09/02/2021		Transfer to Debt Service Fund for Fork Lift Payment		1,464.71
General Journal	DEBT 09/02	09/02/2021		Transfer to Debt Serv. RV Park for Umpqua Bank Loan Acct#97748040835 Payment		4,809.87
General Journal	IFA 09/02	09/02/2021		Transfer to IFA Debt Service for 3rd QTR 2021 Pmt		25,835.00
General Journal	RES 09/02	09/02/2021		Transfer to Reserve Fund		2,000.00
General Journal	USDA 09/02	09/02/2021		To transfer to USDA Revenue Bond Fund for November 2021 Payment		10,843.00
General Journal	USDA 09/04	09/01/2021	Helgren, John (Rod)	Bank service charges for bounced check# 1004		12.00
General Journal	PAY 09/08	09/08/2021		Rec 09/08/2021 payroll		16,880.67
General Journal	TAX 09/08	09/08/2021		Rec 09/08/2021 payroll		6,522.92
General Journal	PAY 09/22	09/22/2021		Rec 09/22/2021 payroll		17,609.90
General Journal	TAX 09/22	09/22/2021		Rec 09/22/2021 payroll		6,787.28
General Journal	USCG 09/22	09/22/2021		SEP 2021 LEASE Pmt	923.24	
Bill Pmt -Check	10566	09/02/2021	EMC-Engineers/Scientists, LLC	Engineering Info on Wastwater Treatment Plant for DeFazio Meeting & Staff		2,030.00
Bill Pmt -Check	10567	09/10/2021	Harbor Water District P.U.D.	07/20/2021 - 08/19/2021 SERVICE/WATER BILL		1,770.94
Bill Pmt -Check	10568	09/10/2021	Harbor Sanitary District	AUGUST 2021 Sanitary Bill		5,520.89
Bill Pmt -Check	10569	09/10/2021	Rotary Club of Brookings-Harbor	BINGO Sponsor		250.00

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Port of Brookings Harbor

Check Registers

As of September 30, 2021

Type	Num	Date	Name	Memo	Debit	Credit
Bill Pmt -Check	10570	09/10/2021	Stadelman Electric, Inc.	CHANGE METERING EQUIPMENT at Boat Shop		4,789.26
Check	10571	09/10/2021	Kimberley A Boom	Reimbursement for purchase of 1 La-Z-Boy Arcadian Chair at Staples		199.99
Bill Pmt -Check	10572	09/10/2021	The Roofers, LLC	CCB: 215757 Downpayment for Blue Fin Realty Roofing Project		3,900.00
Bill Pmt -Check	10573	09/10/2021	Aquarius Environmental, LLC	Update Stormwater Pollution Control Plan		1,480.77
Bill Pmt -Check	10574	09/10/2021	Boat Shop & More LLC	08/03/2021 - 08/12/2021 Rental JOHN DEERE 270L Excavator & Semi w/Trailer for vessel demolitions		1,178.00
Bill Pmt -Check	10575	09/10/2021	Country Media, Inc.	CUST# 38747 Curry Coastal Pilot Notices		80.10
Bill Pmt -Check	10576	09/10/2021	Curry Coastal Pilot	1 Year Subscription to Curry Coastal Pilot		78.00
Bill Pmt -Check	10577	09/10/2021	Curry Transfer & Recycling	Account #2040-2434-001 Trash Dumpsters		17,002.34
Bill Pmt -Check	10578	09/10/2021	Gowman Electric, Inc.	CCB: 198999 Electrical Repair		85.00
Bill Pmt -Check	10579	09/10/2021	Harbor Logging Supply, Inc.	Materials & Labor for Piling Hoops at Marina & Sign Posts for Signage Project at Launch Ramp Par...		653.40
Bill Pmt -Check	10580	09/10/2021	John Kellum/John's Portable ...	08/30/2021 Weld on mounts at hoops at Fuel Dock & Public Fishing Pier		600.00
Bill Pmt -Check	10581	09/10/2021	Les Schwab Tire Center	ACCT#24804672 Tire Repair		9.00
Bill Pmt -Check	10582	09/10/2021	Marine Surveyors & Consultants	07/19/2021 INSPECTION/CERTIFICATION July 20, 2020 EQ#4605 50T Marine Travel Lift		640.00
Bill Pmt -Check	10583	09/10/2021	NorthCoast Health Screening	1 - 6-PANEL + ALCOHOL URINE DRUG SCREEN -- PRE-EMPLOYMENT		45.00
Bill Pmt -Check	10584	09/10/2021	Spec Dist Assoc of OR- Health...	Customer #: 03-0016414 - HEALTHCARE PREMIUM		9,422.72
Bill Pmt -Check	10585	09/10/2021	Spec Dist Assoc of OR- Prop ...	Policy#31P16414-203 Customer ID: 01-16414 - SEP 2021 PROPERTY & CASUALTY POLICY		9,216.36
Bill Pmt -Check	10586	09/10/2021	Suburban Propane	08/02/2021 & 08/12/2021 Repair to instant hot water heaters at RV Park		169.95
Bill Pmt -Check	10587	09/10/2021	The Roofers, LLC	VOID: CCB: 215757	0.00	
Bill Pmt -Check	10588	09/10/2021	Thermo Fluids, Inc.	08/23/2021 OILY WATER SERVICE NON PREQ CHARGE PER GAL		181.50
Bill Pmt -Check	10589	09/10/2021	Traffic Safety Supply Co.	Customer ID:C004722 SIGNS placed at various locations		1,574.18
Check	10590	09/17/2021	Seefried, Harlow/F/V Omega	REFUND of Annual Moorage		603.25
Bill Pmt -Check	10591	09/17/2021	BI-MART	Account #931481 Water & Supplies		74.58
Bill Pmt -Check	10592	09/17/2021	Les Schwab Tire Center	ACCT#24804672 Tire Repair		20.00
Bill Pmt -Check	10593	09/17/2021	Mascott Equipment	ROLLER ASSEMBLY FOR REEL		97.80
Check	10594	09/24/2021	Fosmark, Scott	09/22/2021 - REFUND...Due to Slip Repair		1,428.25
Bill Pmt -Check	10595	09/24/2021	BI-MART	Account #931481 Water & Supplies		57.33
Bill Pmt -Check	10596	09/24/2021	Black & Rice LLP	Legal Services		1,359.00
Bill Pmt -Check	10597	09/24/2021	Del-Cur Supply Co-op	Customer No. 38700 Hardware & Other Supplies		1,674.34
Bill Pmt -Check	10598	09/24/2021	EMC-Engineers/Scientists, LLC	13.8 Hours Preliminary Engineering on Wastewater Treatment Plant & 3.7 Hrs Engineering Boatyard P...		1,380.00
Bill Pmt -Check	10599	09/24/2021	Fastenal Industrial Supplies	Customer No.ORBRK0013 Toiletries & Supplies		3,483.56
Bill Pmt -Check	10600	09/24/2021	Freeman Rock, Inc.	1 Yard Concrete and delivery charge		226.25
Bill Pmt -Check	10601	09/24/2021	Gerald W. Burns, CPA	Financial Consultant Agreement		500.00
Bill Pmt -Check	10602	09/24/2021	Quill Corporation	ACCT#1932158 Office Supplies		459.64
Bill Pmt -Check	10603	09/24/2021	SO Backflow Techs	09/17/2021-ANNUAL BACKFLOW		336.00
Bill Pmt -Check	10604	09/24/2021	Spec Dist Assoc of OR- Work...	Cust #02-0016414 Remaining Due from 2020-2021 Worker's Comp. per Audit		3,781.07
Bill Pmt -Check	10605	09/24/2021	Thermo Fluids, Inc.	09/08/2021-Removal of USED OIL FROM GENERATOR		226.50
Bill Pmt -Check	10606	09/24/2021	City of Brookings	Chetco River Gauging Station 10/01/2021 thru 09/30/2022 - Port's share		2,812.50
Bill Pmt -Check	10607	09/24/2021	Kendrick Equipment USA LLC	SEP 2, 2021 ANNUAL INSPECTION OF EQ# 4605 TRAVELIFT 50BFMII		4,091.42
Check	10608	09/24/2021	Rogue Credit Union	Membership #306 Acct#600189521 CC Ending#7681		10,575.15
Bill Pmt -Check	10609	09/24/2021	Boat Shop & More LLC	CAPITAL OUTLAY - 20' One Way Corner Box Container for Wash Water System		6,500.00
Check	10610	09/30/2021	Rogue Credit Union	ACCT #9521 CREDIT CARD#7681 Statement Period ending 08/24/2021 - 09/23/2021		188.14
Bill Pmt -Check	10611	09/30/2021	Gold Beach Lumber Yard, Inc.	Account #776 Hardware Supplies & Materials		1,780.30
Bill Pmt -Check	10612	09/30/2021	BI-MART	Account #931481 Water & Supplies		8.99
Bill Pmt -Check	10613	09/30/2021	Chetco Automotive	PO 2773 Scotch Brite Hand Scrubbing Pads		10.78
Bill Pmt -Check	10614	09/30/2021	Coos-Curry Electric Cooperativ...	ACCT # 67601 Electrical Service		8,592.20
Bill Pmt -Check	10615	09/30/2021	Del-Cur Supply Co-op	Customer No. 38700 Hardware & Other Supplies		934.85
Bill Pmt -Check	10616	09/30/2021	Grating Pacific, LLC	PO #2786 Grip Strut Safety Grating to cover drain culvert pipe at office		1,489.00
Bill Pmt -Check	10617	09/30/2021	Hot And Mighty	CAPITAL OUTLAY - Hot & Mighty Mobile Cleaning Equipment: WR-2020 Wash Water Recycling System		12,210.00
Bill Pmt -Check	10618	09/30/2021	NAPA Auto Part	ACCT#60285 Vehicle/Equip Maint. & Supplies		16.44
Bill Pmt -Check	10619	09/30/2021	Wes' Towing	TOWING SERVICES to remove abandoned vessel: OR61ZTN		90.00
Total 10103 - General Funds Ckg Umpqua 3634					1,223.24	278,967.63
10106 - General Fund LGIP 6017						
Check	DEBIT	09/01/2021	LGIP Fees for AUG 2021			0.30

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Cash Basis

Port of Brookings Harbor

Check Registers

As of September 30, 2021

Type	Num	Date	Name	Memo	Debit	Credit
Total 10106 · General Fund LGIP 6017					0.00	0.30
Total 101 · GENERAL FUND CHECKING & LGIP					1,223.24	278,967.93
10101 · Petty Cash						
Bill Pmt -Check	CASH	09/16/2021	Boat Launch Kiosk	Test for Boat Launch Pay Station - Trans 028694 - CASH		5.00
Total 10101 · Petty Cash					0.00	5.00
Total 100 · UNRESTRICTED CASH & EQUIVALENTS					1,223.24	278,972.93
110 · RESTRICTED CASH & EQUIVALENTS						
104 · RESTRICTED MONEY MKT & CHECKING						
20104 · USDA BOND Umpqua MM 9529						
Total 20104 · USDA BOND Umpqua MM 9529						
30104 · Debt Service Umpqua MM 8627						
Check	DEBIT	09/15/2021	Umpqua Bank/Loan#747041620	Genie Reach Forklift Loan#747041620 Payment #43		1,464.71
Check	DEBIT	09/22/2021	m2 Lease LLC	Customer #107104 Loan#110561 Pmt #59 - 50 BFMII Travelift		4,659.00
General Journal	DEBT 09/02	09/02/2021		Transfer to Debt Service Fund for Travelift Payment	4,659.00	
General Journal	DEBT 09/02	09/02/2021		Transfer to Debt Service Fund for Fork Lift Payment	1,464.71	
Total 30104 · Debt Service Umpqua MM 8627					6,123.71	6,123.71
40104 · Capital Projects Umpqua 8018						
General Journal	USCG 09/22	09/22/2021		SEP 2021 LEASE Pmt		923.24
Total 40104 · Capital Projects Umpqua 8018					0.00	923.24
Total 104 · RESTRICTED MONEY MKT & CHECKING					6,123.71	7,046.95
105 · RESTRICTED LGIP						
20105 · USDA Bond Fund LGIP 6021						
General Journal	USDA 09/02	09/02/2021		To transfer to USDA Revenue Bond Fund for November 2021 Payment	10,843.00	
Total 20105 · USDA Bond Fund LGIP 6021					10,843.00	0.00
30105 · IFA Debt Service Fund LGIP 6020						
Check	DEBIT	09/16/2021	Infrastructure Finance Authority	3rd QTR 2021 - Depositor's Acct #1230000433 - REF#3364352		4,684.93
Check	DEBIT	09/16/2021	Infrastructure Finance Authority	3rd QTR 2021-Depositor's Acct#1230000473 REF#3664355, 56, 57, 58		17,151.45
Check	DEBIT	09/16/2021	Infrastructure Finance Authority	3rd QTR 2021-Depositor's Acct#1230000995 REF#3364353		45,698.76
Check	DEBIT	09/16/2021	Infrastructure Finance Authority	3rd QTR 2021-Depositor's Acct#1230001027 REF#3364354		19,084.86
General Journal	IFA 09/02	09/02/2021		Transfer to IFA Debt Service for 3rd QTR 2021 Pmt	25,835.00	
Total 30105 · IFA Debt Service Fund LGIP 6020					25,835.00	86,620.00
50105 · Reserve Fund LGIP 6018						
General Journal	RES 09/02	09/02/2021		Transfer to Reserve Fund	2,000.00	
Total 50105 · Reserve Fund LGIP 6018					2,000.00	0.00
Total 105 · RESTRICTED LGIP					38,678.00	86,620.00
Total 110 · RESTRICTED CASH & EQUIVALENTS					44,801.71	93,666.95
TOTAL					46,024.95	372,639.88

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Cash Basis

Port of Brookings Harbor
Purchases by Vendor Summary
January through September 2021

	<u>Jan - Sep 21</u>
101 Things To Do	1,320.00
5-R Excavation, LLC	9,293.16
Absolute Golf Carts	650.00
Adobe	104.93
ADP	4,506.36
Alexandre EcoDairy Farms	875.00
AMAZON MKTPLACE	5,280.44
Anchor Lock & Key	2,808.65
Anchorside Printing	78.25
Aquarius Environmental, LLC	1,480.77
Armoilo Display Solutions	273.46
Association of Pacific Ports	1,660.00
Asurion Wireless Insurance	19.00
Best Buy	2,039.95
BJ-MART	769.41
Black & Rice LLP	10,816.00
BOARDWALK MAIL SERVICE	183.21
Boat Launch Kiosk	21.00
Boat Shop & More LLC	10,190.50
BOLI PWR	1,000.00
BoomTech	77.47
Bronze Memorials Inc.	1,582.48
Brookings Harbor Chamber of Commerce	450.00
Brookings Signs & Graphics	117.00
Bullet Rental	2,725.08
C.O. Construction	535.00
CAL/OR Insurance Specialists, Inc.	2,389.50
CED	379.50
CertifiedMailLabels.com	600.00
Chetco Automotive	10.78
CHEVRON	1,279.10
Chevron Business Card	4,159.32
City of Brookings	2,812.50
Coastal Audio & Tint	300.00
Cole-Parmer	156.51
Coos-Curry Electric Cooperative, Inc.	79,296.72
Country Media, Inc.	2,651.57
Crescent ACE Hardware	1,911.38
Crow/Clay & Associates, Inc	11,971.55
Crown Plumbing	10,833.14
Curry Coastal Pilot	78.00
Curry County Business License	102.50
Curry County Clerk	3,772.27
Curry County Community Development	4,695.40
Curry County Sheriff	125.00
Curry County Tax Collector	2,110.05
Curry Equipment	1,594.84
Curry Transfer & Recycling	60,504.95
Da-Tone Rock Products	2,831.95
Del-Cur Supply Co-op	3,883.01
Dish Network	5,165.13
DMV2U/Dept. of Transportation	70.00
Elavon	10,075.46
EMC-Engineers/Scientists, LLC	78,710.00
Engineering Resource Services LLC	1,205.00
Englund Marine Supply	1,142.38
Fastenal Industrial Supplies	17,771.79
Ferguson Enterprises, Inc.	21,605.69

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Cash Basis

Port of Brookings Harbor
Purchases by Vendor Summary
January through September 2021

	<u>Jan - Sep 21</u>
Firefly Reservations	1,493.00
Fluid Manufacturing	874.09
Frank's Heating & Refrigeration	1,667.57
FRED MEYER	241.58
Freeman Rock, Inc.	3,146.87
Gerald W. Burns, CPA	4,500.00
Gold Beach Lumber Yard, Inc.	28,856.36
Gowman Electric, Inc.	15,202.05
Grainger	252.70
Grants Pass Water Lab, Inc.	3,240.00
Grating Pacific, LLC	1,941.00
GSS, Inc.	110.00
Harbor Corner Market LLC	29.18
Harbor Logging Supply, Inc.	9,046.39
Harbor Sanitary District	38,851.98
Harbor Truss and Supply LLC	330.00
Harbor View Windows, Heating & Air	1,500.75
Harbor Water District P.U.D.	16,713.70
Hartwick Automotive	267.92
HD SUPPLY FACILITIES	1,272.72
Heartsmart.com	546.11
Home Depot	3,615.54
Hot And Mighty	12,210.00
In-Motion Graphics and Design, LLC	462.00
Industrial Steel & Supply Co. Inc.	313.00
Interstate Plastics	450.00
Intuit	5,162.02
iSecure Information Security	621.50
JAM Paper & Envelope	198.31
John Kellum/John's Portable Welding	8,512.50
K&K Insurance Group, Inc.	225.00
Kaman Industrial Technologies	3,666.24
Kendrick Equipment USA LLC	5,019.79
Legacy Contracting, Inc.	469,975.59
Les Schwab Tire Center	45.99
M & J Glazebrook Construction	614.75
Marine Surveyors & Consultants	640.00
Mascott Equipment	2,441.18
Mc Court Floor Coverings, Inc	75.00
McLennan Excavation, Inc.	9,990.00
Microsoft	299.97
My Parking Permit	983.30
NAPA Auto Part	649.20
NorthCoast Health Screening	165.00
Northwest Parking Equipment Company	1,335.84
ONLINE Purchases	1,020.20
Orcal Security Consulting LLC	21,960.00
Oregon Alarm	42,690.00
Oregon Building Codes - Coos Bay Office	299.25
Oregon Coast Magazine	675.00
Oregon Department of Agriculture	278.00
Pacific Office Automation	2,122.84
Pacific Rim Copy Center	449.40
Palm Industries, Inc.	2,479.99
Pape Material Handling	5,136.23
Paygov	25.00
Personnel Concepts	48.85
Pitney Bowes Global Lease	1,261.59

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Cash Basis

Port of Brookings Harbor
Purchases by Vendor Summary
 January through September 2021

	<u>Jan - Sep 21</u>
Pitney Bowes, Inc.	1,712.96
Platt	2,220.48
Port of Brookings Harbor	15.00
PPS Store	6,387.94
Pump Pipe & Tank Services, LLC	2,237.92
Quill Corporation	6,946.33
Rentprep Enterprise/Fidelis Screening	758.10
Roberts & Associates Land Surveying, Inc.	2,150.00
Rock Island Design	1,047.05
Rotary Club of Brookings-Harbor	250.00
Sensaphone	299.40
SimpliSafe	134.91
Slice Recovery	3,927.00
SmartSign	132.26
SO Backflow Techs	364.00
Spec Dist Assoc of OR- Healthcare	74,701.20
Spec Dist Assoc of OR- Prop & Cas	82,947.24
Spec Dist Assoc of Or -TRAINING	450.00
Spectrum Business 8752 19 060 0025169	861.98
Spectrum Business 8752 19 060 0226494	856.24
Spectrum Business 8752 19 060 0247029	789.82
Spectrum Business 8752 19 060 0251369	696.73
Stadelman Electric, Inc.	4,892.66
Stericycle	98.05
Strahm's Sealcoat & Striping, Inc.	26,739.00
Suburban Propane	784.79
SUPPLYHOUSE.COM	465.35
Tank Testers, LLC	13,406.50
The Park Catalog	6,162.21
The Roofers, LLC	10,327.84
Thermo Fluids, Inc.	1,706.20
Tidewater Contractors, Inc.	6,938.00
Traffic Safety Supply Co.	7,832.33
Travel Information Council	348.00
Tyree Oil, Inc	378,286.47
U Printing	257.83
Uline	2,418.02
US Bank Equipment Finance	2,008.80
US Postal Service	183.95
US Relay/HD Relay	535.00
Valvoline	342.73
Ventek International	2,070.00
VERIZON WIRELESS	2,920.84
Vonage	2,034.47
Walmart	28.59
Wayfair LLC	285.99
WebReserv	495.00
WEEBLY-CHARGE.COM	1,379.00
Wes' Towing	90.00
ZiPLY Fiber 541-412-7930-102902-5	314.23
ZiPLY Fiber 541-469-5867-121516-5	691.72
Zoom Video Communications Inc.	134.91
TOTAL	<u>1,793,319.19</u>

HARBORMASTER MONTHLY REPORT

Date: October 20, 2021
Period: September 2021
To: Gary Dehlinger, Port Manager
Issued By: Travis Webster, Harbormaster

RV Park

Beachfront RV Park is running great! Staff cleaned off parking stalls and restriped the lines, removed sand build up on park side of concrete blocks, picked up trash and remove rocks from drive isles. Minor bathroom fixes such as running toilets, broken shower heads, and jammed quarters in showers. Other repairs included 1 pedestal replacement, cable TV connectors and leaking water spickets.

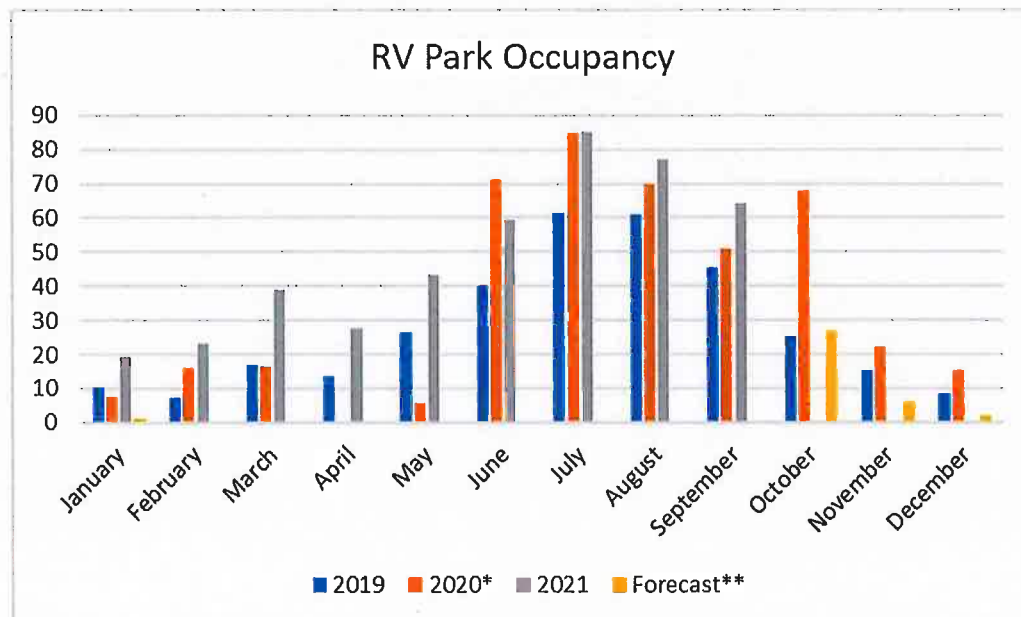
Occupancy Percent by Month & Year

	2019	2020*	2021	Change from 2020	Forecast**
January	10.3	7.5	19	11.5	1
February	7.3	16	23	7	0
March	16.8	16.4	39	22.6	0
April	13.5	0	27.5	27.5	
May	26.4	5.7	43.1	37.4	
June	39.9	71.1	59.5	(11.6)	
July	61.3	84.7	85	0.3	
August	60.8	70	77	7	
September	45.4	51	64	13	
October	25.4	68			27
November	15.2	22			6
December	8.5	15			2

Average 27.5 35.6 48.5

* April & most of May 2020 RV Park was closed due to COVID-19.

** Forecast – Park allows for guests to reserve 6 months in advance.

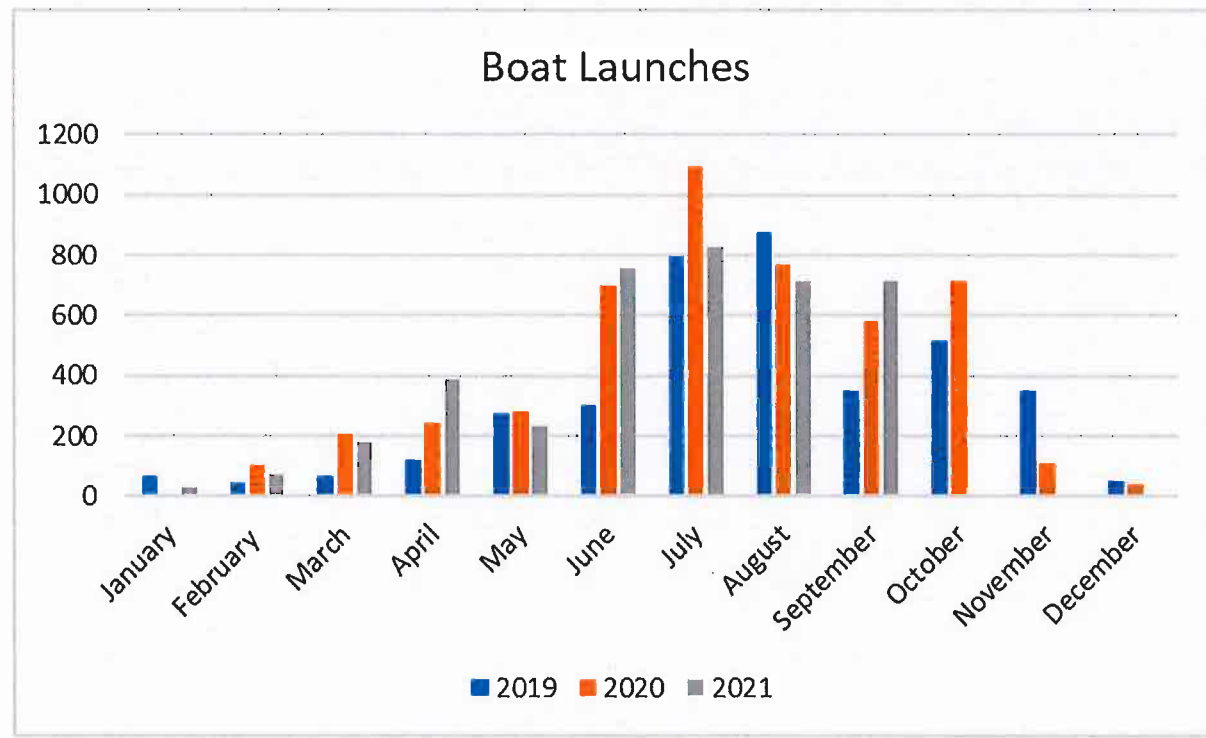


Marina

New accessible parking stalls were made with new signs to identify the locations. Total of 9 accessible parking stalls were made for Basin 2 and Transit dock area. All docks were walked to identify leaking water spickets, ensure docks are tight and vessels were adequately tied up. As summer comes to an end staff will continue to do regular dock walks and inspections to keep the marina running smooth and safe.

Boat Launches Paid through Launch Machine

	2019	2020	2021	Change from 2020
January	66	5	27	22
February	47	102	70	(32)
March	66	204	178	(26)
April	122	244	386	142
May	276	282	233	(49)
June	303	697	759	62
July	794	1095	826	(269)
August	875	768	716	(52)
September	350	583	713	130
October	518	713		
November	352	109		
December	53	40		
Totals	3,822	4,842	3,908	-72



Equipment Services Performed by Port Staff

Telehandler Jobs

	2019	2020	2021
January	4	2	0
February	1	6	3
March	6	4	6
April	7	10	5
May	6	3	7
June	3	0	3
July	1	5	0
August	3	4	1
September	3	3	1
October	10	6	
November	3	9	
December	15	5	
Totals	62	57	26

Travel Lift Haul-Outs

	2019	2020	2021
January	2	1	0
February	2	5	1
March	4	5	6
April	7	5	6
May	13	9	5
June	16	15	12
July	15	14	7
August	8	4	7
September	7	6	8
October	9	8	
November	8	5	
December	5	1	
Totals	96	78	52

Commercial Receiving Dock

Staff has been working with Pacific Seafood to reopen our public hoist. Pacific Seafood has said that they will be off the hoist by end of Oct. They will continue to lease ground for the areas they still have buildings, freezers, and totes.

Commercial Retail Building

Staff completed sewer inspections on all buildings that require pumps. New trash can enclosures were ordered for the boardwalk area. All double check valves at the port have been tested and no repairs are needed at this time. Roofer for Blue Fin Reality has called and will begin work Oct. 1st.

Maintenance Crew

Maintenance completed 88 work orders throughout the port. Staff continues to landscape and clean high traffic areas. Staff made a new trash enclosure for the two dumpsters for marina trash. The outside of Ports fuel tanks was pressure washed and cleaned. Oil water separator was cleaned and inspected, along with pumping all vaults and replacing all filters on tanks as well as pumps. Staff also cleaned up the back of the boat yard to begin making more room for docks that are along the south bank of Basin 2.

WORK ORDER LOG

September 2021

Date	Location	Description of Work	Corrective Action	Date Completed	Completed By
9/1/21	Port Office	Computer Backup is Malfunctioning	Restored and completed	9/1/21	Brent
9/1/21	RV Park, TV shed	Evidence of rats in shed	Placed poison in shed	9/1/21	Brent
9/1/21	Port Property	Truck Trailer has been abandoned	Arranged for removal	9/1/21	Brent
9/1/21	Retail, Blue Fin Building	Pressure wash gutter, paint trim & siding	Completed	9/1/21	Shawn & Sean
9/1/21	Basin 1	Tighten any loose dock bolts	Completed	9/1/21	Shawn & Sean
8/30/21	Port Property	Septic systems inspection	Completed	9/1/21	Brent
9/2/21	Fish Cleaning Station	Dump carcasses	Completed	9/2/21	Brent
9/2/21	RV Park, Site 84	Help electrician switch out electric pedestal	Completed	9/2/21	Shawn
9/1/21	RV Park, Restroom	Broken handtowel dispenser	Replaced	9/2/21	Shawn
9/2/21	Boat Launch	Remove and Reinstall sign	Completed	9/2/21	Shawn
9/2/21	Port Shop	Install forms for concrete trash pad	Completed	9/2/21	Shawn
9/2/21	Kite Field, Restroom	Broken soap dispenser	Replaced	9/2/21	Brent
8/31/21	RV Park	Replace caution tape around laundromat pad	Completed	9/3/21	Trent
9/1/21	RV Park, TV shed	Mice / rats got into grass seed.	Swept seed and placed traps	9/3/21	Trent
9/6/21	Fish Cleaning Station	Dump carcasses	Completed	9/6/21	Brent
9/7/21	RV Park Restroom	Shower head unattached	Reattached	9/7/21	Brent
9/7/21	RV Park Restroom	ADA toilet not shutting off	Changed piston	9/7/21	Brent
9/7/21	Boat Yard	Clean up yard, fill dumpster	Completed	9/7/21	Shawn & Sean
9/7/21	Basin 1, Docks E-F-G	Repair water leaks	Completed	9/7/21	Shawn & Sean
9/7/21	Retail, Blue Fin Building	Tighten railings and fix electrical outlets	Completed	9/7/21	Shawn & Sean
9/7/21	RV Park Restroom	Hang signs	Completed	9/7/21	Shawn
9/7/21	Basin 2, Docks P-Q	Repair water leaks	Completed	9/7/21	Brent
9/8/21	Fuel Dock	Hose reel rollers are broken on fast pump	Replaced rollers	9/8/21	Brent
9/8/21	Boat Launch	Prep and paint sign stand	Completed	9/8/21	Shawn & Sean
9/8/21	RV Park	Move picnic tables	Completed	9/8/21	Shawn & Sean
9/8/21	Port Shop	Poor concrete for new pad	Completed	9/8/21	Shawn, Travis & Brent
9/9/21	Port Shop	Put signs together	Completed	9/9/21	Shawn & Sean
9/9/21	Port Shop	Set blocks for trash bins / move wood	Completed	9/9/21	Shawn, Sean Travis & Brent
9/9/21	Boat Launch	Rehang and Paint sign	Completed	9/9/21	Shawn & Sean
9/11/21	Fuel Dock / Storage Tanks	Replace Diesel Filter, install new unit on tank	Completed	9/9/21	Brent & Pump Pipe Tank
9/10/21	RV Park	Sweep off concrete pads in sites	Completed	9/10/21	Trent
9/9/21	RV Park, Site 78	Cable end needs to be replaced	Completed	9/10/21	Trent
8/31/21	RV Park Perimeter	Clean up trash	Completed	9/10/21	Trent
9/10/21	RV Park	Fill hole by old sewer hook ups	Completed	9/10/21	Trent
9/11/21	Fish Cleaning Station	Dump carcasses	Completed	9/11/21	Brent
9/13/21	Fuel Dock	Pressure wash tanks	Completed	9/13/21	Shawn & Sean
9/13/21	Area	Instasll posts and curb stops	Completed	9/13/21	Shawn & Sean
9/14/21	Transient Dock	Install signs	Completed	9/14/21	Shawn & Sean
9/14/21	Kite Field, Restroom	Cover graffiti	Completed	9/14/21	Shawn
9/16/21	Port - Storm Drains	Replace sandbags	Completed	9/16/21	Shawn & Sean
9/16/21	Fuel Dock	Clean oil & water seperator	Completed	9/16/21	Brent & Travis
9/16/21	Launch Ramp Kiosk	Check to see if a car tag can be printed	Completed	9/16/21	Brent

Date	Location	Description of Work	Corrective Action	Date Completed	Completed By	
9/16/21	Retail, Blue Fin Building	Cover roof	Completed	9/16/21	Shawn	
9/16/21	Retail, Boardwalk	Install doggy pot bag holder	Completed	9/16/21	Shawn	
9/17/21	Basin 2	Tighten any loose dock bolts	Completed	9/17/21	Shawn & Sean	
9/17/21	Basins 1 and 2	Walk docks	Completed	9/17/21	Shawn	
9/17/21	Basin 2 Restroom	Finish stalls for disabled parking	Completed	9/17/21	Shawn, Sean & Travis	
9/17/21	Kite Field Parking Lot	Hang signs & install curb stops	Completed	9/17/21	Shawn & Sean	
9/17/21	Port Office	Clean up trash and recycle metal	Completed	9/17/21	Shawn & Sean	
9/19/21	RV Park, Site 19	Broken water valve	Repaired	9/19/21	Marian & Trent	
9/20/21	Retail, Restroom	Replace old toilet seats	Completed	9/20/21	Brent	
9/20/21	Kite Field Parking Lot	Hang signs, cut curbs, fill holes, paint "no parking" areas	Completed	9/20/21	Shawn & Sean	
9/20/21	Basin 2, N Dock	Replace broken triangle at bottom of gangway	Completed	9/20/21	Marian	
9/20/21	Oil Dump	Prep for oil & bilge pickup	Completed	9/20/21	Brent	
9/20/21	Boat Yard	Empty event van	Completed	9/20/21	Shawn, Sean & Marian	
9/20/21	Boat Yard	Put fuel in travelift and forklift	Completed	9/20/21	Shawn & Sean	
9/21/21	Transient Dock	Repair holes in dock	Completed	9/21/21	Shawn & Sean	
9/21/21	Boat Yard	Replace broken hose on forklift	Completed	9/21/21	Shawn, Sean & Travis	
9/21/21	Boat Yard	Clean up yard, fill dumpster	Completed	9/21/21	Shawn & Sean	
9/21/21	RV Park Restroom	Womens shower, quarter acceptor jammed	Repaired	9/21/21	Brent	
9/22/21	Basin 2, F 3	Install 2 cleats	Completed	9/22/21	Shawn	
9/22/21	Port Shop	Hang gates	Completed	9/22/21	Shawn, Sean Travis & Brent	
9/22/21	Port Property	Mow 0-Turn	Completed	9/22/21	Shawn	
9/23/21	RV Park, Site 41	Replace broken picnic table	Completed	9/24/21	Shawn & Sean	
9/24/21	RV Park, Site 23	Cable is not coming in clear	Completed	9/24/21	Brent	
9/24/21	Boat Yard	Prep boat for haul to CTR	Completed	9/24/21	Brent	
9/25/21	Port Property	Dig ditch in front of Pac Choice for water runoff	Completed	9/24/21	Marian	
9/27/21	Boat Basins 1 and 2	Walk docks	Completed	9/27/21	Shawn & Sean	
9/27/21	Boat Yard	Pump Work Boat x 2	Completed	9/27/21	Shawn & Sean	
9/27/21	Port Shop	Prefab for corner stands	Completed	9/27/21	Shawn & Sean	
9/28/21	Retail Area	Install ground fabric	Completed	9/28/21	Shawn & Sean	
9/28/21	Boat Basin 1	Retrieve piling floating in water	Completed	9/28/21	Shawn & Sean	
9/28/21	Boat Basin Road & Restroom / Parking Lot	Install 4 dilineators	Completed	9/28/21	Shawn & Sean	
9/28/21	Port Property	Hang signs as designated	Completed	9/28/21	Shawn & Sean	
9/29/21	Retail Area	Finish preping island for rock	Completed	9/29/21	Shawn, Sean, Travis & Brent	
9/28/21	Port Shop	Fuel telehandler and fill cans	Completed	9/29/21	Shawn & Sean	
9/29/21	Boat Yard	Finish clean-up	Completed	9/29/21	Shawn & Sean	
9/29/21	Port Shop / Gear Storage	Move pilings	Completed	9/29/21	Shawn & Sean	
9/29/21	Retail Area, Zola's	Create walkways in island	Completed	9/29/21	Shawn & Sean	
9/29/21	Retail Area	Spread rock and prep rest of island	Completed	9/29/21	Shawn & Sean	
8/3/21	RV Park, Site 65	Hose bib is leaking, needs repair	Completed	9/24/21	Trent	
9/27/21	RV Park, Site 85	Cable end needs to be replaced	Completed	9/27/21	Trent	
9/27/21	RV Park, Back Office shed	Organize tools, items, etc	Completed	9/27/21	Trent	
9/9/21	RV Park Office	Clean up yard behind office	Completed	9/17/21	Trent	
9/20/21	RV Park Front Row Parking Area	Clean off signage	Completed	9/20/21	Trent	
9/29/21	Port Property	Dig ditch by BC Fisheries for water runoff	Completed	9/29/21	Shawn, Sean & Travis	
9/29/21	Port Shop	Help Jon fabricate stands	Completed	9/29/21	Shawn	
9/29/21	RV Park, Site 47	110 does not work and will not reset	Fixed by Gowman	9/30/21	Travis	
					Total Work Orders	88

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PORT MANAGER

MONTHLY REPORT

Date: October 20, 2021
Period: September 2021
To: Honorable Board President and District Board Members
Issued By: Gary Dehlinger, Port Manager

Safety

No work-related injuries reported.

Incident Reports during the month included:

- Port staff found and disposed of two needles. One in the boat yard and the other in Basin 2 women's shower stall.
- Commercial fishermen truck was stolen from Basin 2 parking lot.
- There were two attempts to steal bikes from guests staying at the RV Park. Tie-down cables were cut but the bikes were not taken.
- Roy Davis Memorial was vandalized. Someone ripped out the plaque stand, concrete and all. Staff rebuilt the stand which will be substantially stronger.

Security

OrCal Security and POBH recorded 104 security issues. Issues included:

- 50 Vehicles missing or unable to read boat launch ticket.
- 26 Overnight parking tickets.
- 8 No camping warnings.
- 7 Parking violations for vehicles parked in the boat launch parking lot trailer stall.
- 6 Parking violations throughout the port.
- 4 Maintenance reports for various lights out.
- 1 Unhitched trailer in kite field parking lot.
- 1 Unauthorized visitor reported and was not found in retail area and Basin 1.
- 1 Vessel alarm going off in Basin 2.

Port added temporary signage at the boat launch ramp to inform drivers of no public parking. Port also stationed staff during the afternoon hours instructing drivers where the public parking is located.

Since Danielle's return, I have expanded her role to include safety, security, and environmental areas. She will help management oversee and ensure the Port is following state and federal regulations and Port established procedures. There will be continuous training and learning in these fields. Next month Danielle will provide a monthly report on safety, security & environmental.

Port Office

Board members and staff joined the SDAO Board of Directors training. It was a virtual two-day training session.

SDAO Risk Management was onsite to fly a drone over the port for a pre-FEMA project pictures and also survey Port building roofs. But foggy conditions prevented the flying. We toured the Port and reviewed the new State mandated safety policies on Heat Illness and Wildfire Smoke.

Permitting for the RV Park Project was completed. Held a non-mandatory pre-bid meeting at the RV Park with Crow/Clay and one contractor. Questions from the contract created Addendum No. 1 and postponed the bid opening one week to allow contractors to review the addendum.

Attend virtual meeting on Abandon Derelict Vessels (ADV) with OPPA members, Mark Landauer, John Burns and Mike Dunning from Coos Bay, Mike Saindon from Garibaldi, Andrea Klaas from Port of the Dalles and Paula Miranda and Aaron Bertz from Port of Newport. Group strategized what the State should do to help with commercial and recreational derelict boats. Ideas discussed were port sharing information of debtors, combining recreational and commercial boat fees, criminal penalties for dumping boats, insurance requirements and moorage best practices.

DEQ 1200-Z Industrial Stormwater

Monthly inspections were completed as required by our Stormwater Pollution Control Plan (SWPCP).

2019 FEMA Disasters

Port received approval from Oregon Emergency Management for engineering and permitting for DR-4432 and DR-4452. FEMA will be combining both disasters into one account. Business Oregon will need to approve matching amounts for combining two disasters into one contract. Joint Permit Application placed on hold until January 2022 or until a new engineering contract is completed. OEM/FEMA continues to review the Port's "Scope of Work" and construction budget. No further updates to report.

- FEMA DR-4432 February 24, 2019 storm damage to Basin 2 Slopes (2,000 LF) and dredging 8,000 cubic yards.
- FEMA DR-4452 April 6, 2019 storm damage to basins (dredging 30,000 cubic yards).

Attachments

- September Incident Log, 1 page
- September 2021 Security Log, 3 pages
- Board Meeting Recap, 5 pages
- Port Website Site Activity, 1 page

SEPTEMBER 2021
INCIDENT LOG

#	Date	Description of Incident	Location	Corrective Actions
73	9/3/2021	Needle found	Boat Yard	Properly picked up and disposed into hazardous waste container
74	9/15/2021	Stolen Toyota Tacoma Truck	Commercial Basin	Reported to Sheriff
75	9/27/2021	Roy Davis Memorial Vandualized	Concrete boardwalk	Rebuilding plaque stand
76	9/27/2021	Needle found	Women's shower commercial restroom	Properly picked up and disposed into hazardous waste container
77	9/29/2021	Attempt to Steal Bikes	RV Park	

**SEPTEMBER 2021
SECURITY LOG**

#	Date	Reported By	Issue Type	Location	Notes
615	09/01/21	OrCal	Overnight Parking	Retail Parking Lot	CA
616	09/01/21	OrCal	Overnight Parking	Retail Parking Lot	OR
617	09/01/21	OrCal	Overnight Parking	Commercial Basin Lot	OR
618	09/01/21	OrCal	Overnight Parking	Commercial Basin Lot	OR
619	09/01/21	POBH	Unhitched Trailer	Kite Field	
620	09/01/21	OrCal	No Camping	Retail Parking Lot	TX
621	09/01/21	OrCal	Overnight Parking	Kite Field	OR
622	09/01/21	OrCal	Overnight Parking	Kite Field	OR
623	09/01/21	OrCal	Maintenance	Commercial Basin Lot	Outdoor light out on restroom
624	09/01/21	OrCal	Maintenance	Commercial Basin Lot	Street light out
625	09/01/21	OrCal	Maintenance	Commercial Basin Lot	Outdoor light out on restroom
626	09/01/21	OrCal	Overnight Parking	Retail Parking Lot	OR - 2nd Ticket
627	09/01/21	OrCal	Maintenance	Retail Parking Lot	Retail outdoor light out
628	09/01/21	OrCal	Overnight Parking	Retail Parking Lot	OR
629	09/01/21	OrCal	Overnight Parking	Retail Parking Lot	OR
630	09/02/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
631	09/03/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
632	09/06/21	OrCal	No Camping	Kite Field	CA
633	09/07/21	POBH	No Camping	Kite Field	CA
634	09/07/21	POBH	Vehicle in Boat Trailer	Boat Launch Parking Lot	OR
635	09/07/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
636	09/07/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
637	09/07/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
638	09/08/21	OrCal	Overnight Parking	Retail Parking Lot	OR
639	09/08/21	OrCal	Overnight Parking	Retail Parking Lot	OR
640	09/08/21	OrCal	Overnight Parking	Kite Field	OR
641	09/08/21	OrCal	No Camping	Kite Field	CA
642	09/08/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
643	09/08/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
644	09/08/21	POBH	No Camping	Kite Field	CA
645	09/08/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
646	09/08/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
647	09/09/21	OrCal	Overnight Parking	Retail Parking Lot	OR
648	09/09/21	OrCal	No Camping	Kite Field	CA
649	09/09/21	OrCal	Overnight Parking	Retail Parking Lot	CA
650	09/09/21	OrCal	Overnight Parking	Commercial Basin Lot	OR
651	09/09/21	OrCal	Overnight Parking	Retail Parking Lot	OR
652	09/09/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
653	09/09/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
654	09/11/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
655	09/11/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
656	09/11/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
657	09/11/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
658	09/11/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
659	09/11/21	POBH	Ticket Violation	Boat Launch Parking Lot	CA
660	09/11/21	POBH	Vehicle in Boat Trailer	Boat Launch Parking Lot	OR

#	Date	Reported By	Issue Type	Location	Notes
661	09/11/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
662	09/11/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
663	09/11/21	POBH	Vehicle in Boat Trailer	Boat Launch Parking Lot	OR
664	09/12/21	OrCal	Overnight Parking	Commercial Basin Lot	OR
665	09/12/21	OrCal	Overnight Parking	Commercial Basin Lot	OR
666	09/13/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
667	09/13/21	POBH	Vehicle in Boat Trailer	Boat Launch Parking Lot	CA
668	09/14/21	OrCal	Unauthorized Visitor	Retail Courtyard	Unable to locate
669	09/14/21	OrCal	Vessel Alarm	Commercial Basin Lot	Noah's Ark Q-2
670	09/14/21	OrCal	Overnight Parking	Commercial Basin Lot	OR
671	09/14/21	OrCal	Overnight Parking	Commercial Basin Lot	OR
672	09/15/21	OrCal	No Camping	Boat Launch Parking Lot	NV - Alley Cat
673	09/15/21	OrCal	Overnight Parking	Retail Parking Lot	NV - 2nd Ticket
674	09/15/21	OrCal	Overnight Parking	Retail Parking Lot	OR
675	09/15/21	OrCal	Overnight Parking	Retail Parking Lot	OR
676	09/15/21	POBH	Ticket Violation	Boat Launch Parking Lot	NV - 3rd Ticket
677	09/15/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
678	09/15/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
679	09/15/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
680	09/16/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
681	09/16/21	POBH	Vehicle in Boat Trailer	Boat Launch Parking Lot	OR
682	09/16/21	POBH	Ticket Violation	Boat Launch Parking Lot	CA
683	09/16/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
684	09/16/21	POBH	Ticket Violation	Boat Launch Parking Lot	CA
685	09/17/21	POBH	Ticket Violation	Boat Launch Parking Lot	CA
686	09/17/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
687	09/17/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
688	09/17/21	POBH	Ticket Violation	Boat Launch Parking Lot	CA
689	09/17/21	POBH	Parking Violation	Boat Launch Parking Lot	OR
690	09/17/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
691	09/17/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
692	09/17/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR - 4th Ticket
693	09/17/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR - 2nd Ticket
694	09/18/21	POBH	Ticket Violation	Boat Launch Parking Lot	CA
695	09/18/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
696	09/20/21	POBH	Parking Violation	Commercial Basin Lot	OR
697	09/20/21	POBH	Ticket Violation	Boat Launch Parking Lot	CA
698	09/21/21	POBH	Parking Violation	Commercial Basin Lot	OR - 2nd Ticket
699	09/22/21	OrCal	No Camping	Commercial Basin Lot	OR - 2nd Ticket
700	09/22/21	OrCal	Overnight Parking	Commercial Basin Lot	OR
701	09/22/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
702	09/22/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
703	09/22/21	POBH	Parking Violation	Commercial Basin Lot	OR - 3rd Final Ticket
704	09/22/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
705	09/23/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
706	09/24/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR

SEPTEMBER 2021
SECURITY LOG

#	Date	Reported By	Issue Type	Location	Notes
707	09/24/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
708	09/24/21	POBH	Vehicle in Boat Trailer	Boat Launch Parking Lot	OR
709	09/24/21	POBH	Vehicle in Boat Trailer	Boat Launch Parking Lot	OR
710	09/24/21	POBH	Parking Violation	Boat Launch Parking Lot	OR
711	09/24/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
712	09/24/21	POBH	Ticket Violation	Boat Launch Parking Lot	PR
713	09/24/21	POBH	Ticket Violation	Boat Launch Parking Lot	CA
714	09/24/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
715	09/24/21	POBH	Ticket Violation	Boat Launch Parking Lot	OR
716	09/28/21	OrCal	Overnight Parking	Retail Parking Lot	CA
717	09/29/21	OrCal	Overnight Parking	Retail Parking Lot	CA
718	09/29/21	POBH	Parking Violation	Gear Storage	OR - Exp. 2011

2021 Commissioner Meeting Review

#	Meeting Date	Action Item	Information Item	Commission Vote Approve / Fail / Hold	Notes
1	Tuesday, January 12, 2021		Delinquent Accounts		
2			Blue Fin Realty Lease		
3			DEQ Tier 1 Report		
4			FEMA Projects Update / Planning & Permitting, Phase I		
5			Icehouse Pile and Catwalk Repair Cost		
6			Garbage Reception Facilities at Ports Under MARPOL Annex V		
7			Fuel Dock Project		
8			2021 Events at the Port		
9			Keypad Locks on Restroom Facilities		
10			Port Infrastructure Status		
11			Port Holidays 2021 – 2025		
12			Coronavirus Relief Fund		
13			RV Park Project Update		
14			Financial Consultant Contract		
15			Commissioner Meetings Under COVID-19		
16			Sporthaven Beach Equipment Contribution		
17	Tuesday, January 19, 2021	Blue Fin Realty Lease		Approved	
18		Financial Consultant Contract		Approved	
19		Mike Smith Account		Approved	Reduce amount if paid by Jan 26
20		Corey Sample Account		Approved	Reduce amount if paid by Mar 31
21		Port Restroom Facilities		Approved	Install keypads when funds avail.
22	Wednesday, January 27, 2021	Resolution No. 2021-01 Port Signatures on PLA Deeds		Approved	Righetti Property Line Adjustment
23		Fuel Dock Fender Piles		Approved	Add piles at Hallmark & Icehouse
24	Thursday, February 4, 2021	Commissioner Roy Davis		Approved	Position # 3 vacant
25		Commissioner Roy Davis		Approved	Leave Position # 3 vacant
26		Fuel Dock Project		Approved	Eliminated concrete structure
27	Wednesday, February 10, 2021		DEQ Tier 1 Report		
28			FEMA Projects Update / Planning & Permitting, Phase I		
29			Fuel Dock Project		
30			2021 Events at the Port		
31			Coronavirus Relief Fund		
32			Righetti / Port Property Line Adjustment		
33			Business Credit Card		
34			Appoint Budget Officer FY 2021/22		
35			Roy Davis Memorial		
36			RV Park Project		
37	Tuesday, February 16, 2021	Appoint Budget Officer FY 2021/22		Approved	
38		2021 Port Events		Approved	Approved with additional conditions
39		RV Park Project		Hold	Request additional information
40		Business Credit Card		Approved	
41		Roy Davis Memorial		Approved	Start memorial fund
42			Special District Election		
43			RV Park Reservation Program		
44			Blue Fin Realty Lease		

2021 Commissioner Meeting Review

#	Meeting Date	Action Item	Information Item	Commission Vote Approve / Fail / Hold	Notes
45	Friday, February 26, 2021	RV Park Restroom Restoration		Approved	Restore old restroom
46		RV Park Project		Approved	Change Scope of Project
47		Eviction of Seal Cove Realty		Approved	Begin legal process
48			Potholes in Dry Camp		Exit road condition
49	Thursday, March 11, 2021		Hallmark Lease Renewal		
50			Audit Engagement Letter		
51			Budget Committee		
52			Pithitude and Harbor Corner Market Security Gate		
53			Whale's Tail Candy & Gifts Lessor's Consent Agreement		
54			DEQ Stormwater Tier 1 Report		
55			RV Park Exit Road		
56			Fishing Pier Sinkholes		
57			Boardwalk Condition Update		
58			Ocean Acidification, Salmon Study & Ropeless Fishing System		
59			Crow/Clay Associates Contract Amendment No. 4		
60			Business Oregon Commercial Rent Relief Program		
61			Abandon & Derelict Vessels		
62			Sheriff K-9 Training at Port		
63			Port Rates 2021-22		
64			Harbor Sanitary District Agreement		
65			Pacific Seafood		
66			FLOATING OFFSHORE WIND IN OREGON		
67	Tuesday, March 16, 2021	Hallmark Lease Renewal		Approved	
68		Audit Engagement Letter		Approved	
69		Appoint Budget Committee		Approved	
70		Pithitude and Harbor Corner Market Security Gate		Approved	
71		Whale's Tail Candy & Gifts Lessor's Consent Agreement		Approved	
72		Crow/Clay & Associates Contract Amendment No. 4		Approved	
73		Port Rates 2021-22		Approved	
74		Harbor Sanitary District Agreement		Approved	
75			Salmon Season Review		
76	Monday, March 29, 2021	Blue Fin Sign		Approved	
77		Zola's on the Water Construction Plan		Approved	
78			Sinkhole Repair at Fishing Pier		
79			Asphalt Repair at RV Park and Fishing Pier		
80			MARPOL Certificate of Adequacy Form C		
81			Seal Cove Realty Eviction		
82	Tuesday, April 6, 2021	Draft Resolution No. 2021-02 Business Oregon Commercial Rent Relief Program		Approved	
83		Draft Resolution No. 2021-03 Supporting Funding Efforts for a Wastewater Treatment Plant		Approved	
84		Draft Resolution No. 2021-04 Port Rates Fiscal Year 2021-22		Approved	
85		Port Employee SDIS Health Care Plan Application Renewal		Approved	
86			Roy Davis Memorial Fund Update		
87			Regular Commissioner Meeting April 20, 2021		
88			Special Meeting April 13, 2021 at 6pm		

2021 Commissioner Meeting Review

#	Meeting Date	Action Item	Information Item	Commission Vote Approve / Fail / Hold	Notes
89			Special Meeting April 29, 2021 at 2pm		
90	Thursday, April 29, 2021		FEMA Projects Planning & Permitting, Phase I Presentation to Board		
91		Pacific Seafood Consent to Assignment		Hold	Documents not ready
92		Pacific Seafood Restated Lease		Hold	Documents not ready
93		Legacy Contracting Change Order No. 2		Approved	
94		Sporthaven Beach Equipment		Approved	
95		US Relay Contract - Bar Cam		Approved	
96			Roy Davis Memorial		
97			Travel Oregon Competitive Grant		
98			SDAO Call to Action		
99			Salmon Season Review		
100			Umpqua Joe Chapter 1859 Monument		
101			Hungry Clam Proposed Storage Plan		
102			Business Oregon Commercial Rent Relief Program		
103			Seal Cove Realty Eviction		
104			2022 Community Funding - DeFazio Application		
105			Oregon DEQ Regulation Changes		
106			Fred Meyer Container Storage		
107			Public Hoist		
108			Curry County Potholing Storm Drain		
109			Catalyst Seafood Building Expansion		
110	Thursday, May 6, 2021	Pacific Seafood Consent and Restated Lease		Approved	
111		FEMA Projects Planning & Permitting, Phase I		Approved	Scope of Work
112		Collect Northwest Collection		Approved	
113	Tuesday, May 11, 2021	Review and approved FY2021-22 Budget		Approved	Budget Committee
114	Tuesday, May 18, 2021	ODFW Agreement of Confidentiality		Approved	
115		Oregon Life Homes Commercial Lease		Approved	
116		Delinquent Account Write Off		Approved	
117		OSMB IGA - Demo Abandon Boats		Approved	
118		Roy Davis Memorial		Approved	
119		The Roofers Change Order		Approved	
120			Pacific Seafood Receiving Docks		
121			USACE Channel Dredging 2021		
122			Travel Oregon Grant Application Status		
123			Business Oregon Commercial Rent Relief Program		
124			Emergency Response Team		
125	Thursday, June 10, 2021		Supplemental Budget FY 2020-21, Resolution Adopting the Budget		
126			Resolution to Adopt Fiscal Year Budget 2021-22		
127			Beachfront Dry Camping Area		
128			No Parking Zones		
129			E Clampus Vitus Plaques – Monument Placement on Port Property		
130			Hungry Clam Outdoor Storage Alteration		
131			Crow/Clay RV Park Draft Construction Drawings		
132			Joint Permit Applicant – FEMA DR-4432 & DR-4452 Projects		

2021 Commissioner Meeting Review

#	Meeting Date	Action Item	Information Item	Commission Vote Approve / Fail / Hold	Notes
133			FEMA DR-4432 & DR-4452 Scope of Work		
134			Moss in Slips		
135			Brookings-Harbor Chamber of Commerce Membership Renewal		
136			Becky Hannen Payment Relief Request		
137			Transient Dock Electrical Building		
138			USACE Maintenance Dredging FY-22 Budget Request		
139			IT Security Policy		
140			Aboveground Fuel Tank Capacity Change		
141			Repair, Maintenance & Capital Projects Planning		
142			Security Camera Proposal		
143			Crown Plumbing Change Order		
144			Delinquent Account Receivable Write Off		
145			May 2021 Financial Report		
146	Tuesday, June 15, 2021	Supplemental Budget Hearing - FY 2020-21		Approved	
147	Tuesday, June 15, 2021	Budget Hearing - FY 2021-22		Approved	
148	Tuesday, June 15, 2021	Supplemental Budget FY 2020-21, Resolution Adopting the Budget		Approved	
149		Resolution to Adopt Fiscal Year Budget 2021-22		Approved	
150		Beachfront Dry Camping Area		Approved	Install blocks for separation
151		No Parking Zones		Approved	Install signs, paint curbs, etc.
152		E Clampus Vitus Plaques – Monument Placement on Port Property		Approved	Placement along beach walkway
153		Hungry Clam Outdoor Storage Alteration		Approved	
154		Crow/Clay RV Park Draft Construction Drawings		Approved	
155		Brookings-Harbor Chamber of Commerce Membership Renewal		Approved	
156		IT Security Policy		Approved	
157		Aboveground Fuel Tank Capacity Change		Approved	
158		Crown Plumbing Change Order		Approved	
159		Delinquent Account Receivable Write Off		Approved	All accounts going to collections
160	Thursday, July 15, 2021		Best Management Practices Policy Update		
161			Beachfront RV Park Rules & Information Update		
162			Catalyst Seafood Building Addition		
163			Port Security Contract		
164			Boat Launch Parking Lot Signage		
165			Traffic & Parking at Zola's on the Water		
166			Fire Hydrant at Basin 2 Commercial Parking Lot		
167			Joint Permit Application Update		
168			Catalyst Seafood Event		
169			Roy Davis Memorial Bench Location		
170			Delinquent Account Write Off Request		
171			Curry County Land Use Application – RV Park Project		
172			J Sloane Request for Air Conditioning		
173			Accessible Parking Spaces		
174			Blue Fin Lease Building Roof and Rot Repair		
175			SDAO Board of Directors and Management Staff Training		
176			Wastewater Treatment Plant Funding Update		

2021 Commissioner Meeting Review

#	Meeting Date	Action Item	Information Item	Commission Vote Approve / Fail / Hold	Notes
177	Tuesday, July 20, 2021	Resolution 2021-07 Adopting IT Security Policy		Approved	
178		Best Management Practices Policy Update		Approved	
179		Beachfront RV Park Policy Update		Approved	
180		Catalyst Seafood Building Addition		Approved	
181		Authorized Bank Signatures		Approved	
182		Boat Launch Parking Signage		Approved	
183		Traffic & Parking at Zola's on the Water		Hold	
184		Fire Hydrant at Basin 2 Commercial Parking Lot		Approved	
185		Roy Davis Memorial Bench Location		Approved	
186		Delinquent Account Write Off Request		Approved	
187		Curry County Land Use Application – RV Park Project		Approved	
188		Whale's Tail Candy & Gifts/Becky Hannen Collections Settlement Offer		Approved	Board did not accpet offer
189		CBN Visitor Center/Barbara Ciaramella Collections Decision		Approved	Accept payment and continue with collections
190	Tuesday, August 3, 2021	Sea Otter Coalition Letter		Approved	
191	Tuesday, August 17, 2021	Rotary Beach Bingo Cleanup		Approved	
192		Resolution 2021-08 Best Management Practices Policy		Approved	
193		Bounder Fresh Crab Lease Renewal		Approved	
194		Pithitude Lease Renewal		Approved	
195		Aboveground Fuel Tank Pollution Insurance Renewal		Approved	
196		Gear Storage / Boat Storage Relocation		Approved	
197		Heat Illness Prevention Plan		Approved	
198		Congressman DeFazio Visit to the Port		Approved	
199		Regular Meetings of the Commission Change		Approved	
200			Coos Curry Electric Service Repairs		
201			Zola's on the Water Traffic and Parking Plan		
202			Pacific Seafood Housing on Port Property Request		
203			Wastewater Treatment Plant Funding		
204	Tuesday, September 21, 2021	Resolution 2021-09 Regular Meetings of the Commission		Approved	
205		Authorizing Port Manager to Sign Renewal Documents		Approved	Resolution 2021-10
206		Contract Approval for New Fire Hydrant		Approved	McLennan Excavation
207		Contract Approval for Port Security		Approved	South Coast Knight Security
208		Contract Approval for Port Engineering		Approved	EMC Engineering / Scientists
209		Rogue Credit Union Lease Renewal		Approved	
210		Boatyard Wash Water System Procurement		Approved	
211		Port Security Cameras Quote		Approved	
212		Zola's on the Water Parking & Traffic Plan		Approved	One-way traffic and repairs
213		Public Dock Hoist Waiver Form		Approved	\$35 for Eq per hour / \$0.05 per lb. fish
214		Donating Digital Fish Scales		Approved	
215			Request For Proposals, FEMA 4432 and Wastewater Treatment Plant Engineering		
216			Wastewater Treatment Plant Information		EMC provided general info.
217			Roy Davis Memorial Dedication		

Site Activity

Daily



September 14, 2021 - October 13, 2021

Page Views

9,367

+48% from last 30 days



Unique Visits

3,670

+34% from last 30 days



Avg. Pages Per Unique Visit

2.5194

+9% from last 30 days



Top Active Pages this Month

Search

Page Name	Views	vs Previous
/chetco-river-bar-camera.html	3,491	+82.96%
/	557	+49.38%
/beachfront-rv-park.html	102	+33.89%
/fishing.html	100	+37.74%

ACTION ITEM – A

DATE: October 20, 2021
RE: Resolution 2021-11 Adopting Public Dock Hoist Rates and Use Agreement
TO: Honorable Board President and District Board Members
ISSUED BY: Gary Dehlinger, Port Manager

OVERVIEW

- Board approved the public dock hoist rates and use agreement during the September 21, 2021 Regular Commissioner Meeting.
- Rates for the public dock hoist is \$35 per hour unloading or loading equipment and 5 cents per pound for unloading product. These costs are for the dock space and dock hoist only. No other equipment, scales or personnel are included in the rates.
- Pacific Seafood does not need the extra time to relocate, they will be off the dock November 1.
- Dock hoist maximum capacity is 600 pounds.
- This resolution will memorialize the approval.
- Port legal counsel reviewed the resolution and revised Public Dock Hoist Use Agreement and Release form.

DOCUMENTS

- Draft Resolution 2021-11 Adopting Public Dock Hoist Rates and Use Agreement, 3 pages

COMMISSIONERS ACTIONS

- **Recommended Motion:**
Motion to approve draft Resolution No. 2021-11 Adopting Public Dock Hoist Rates and Use Agreement.

**PORT OF BROOKINGS HARBOR
CURRY COUNTY, OREGON**

RESOLUTION NO. 2021-11

**A RESOLUTION OF THE BOARD OF PORT COMMISSIONERS FOR THE PORT OF
BROOKINGS HARBOR ADOPTING PUBLIC DOCK HOIST RATES AND USE
AGREEMENT**

WHEREAS, the Port of Brookings Harbor is a port district, organized and operated under the provisions of ORS Chapter 777, and has the authority to adopt resolutions; and

WHEREAS, a commercial lease for the dock hoist at the steel wall will terminate on October 31, 2021; and

WHEREAS, on November 1, 2021, the public dock hoist new rates will take effect; and

WHEREAS, on September 21, 2021, the Port Commission unanimously approved the Public Dock Hoist Use Agreement & Release form with a \$35.00 per hour rate for unloading or loading equipment and materials and \$0.05 per pound of product.

NOW, THEREFORE, be it resolved by the Board of Commissioners of the Port of Brookings Harbor, Curry County, Oregon as follows:

1. The Port of Brookings Harbor Board of Commissioners approves the use of the public dock hoist after completing a Public Dock Hoist Use Agreement & Release with the Port Office beginning on November 1, 2021.
2. The attached document "Rates FY 2021-22, Section 9, Public Dock Hoist 600-Pound Maximum Capacity" is incorporated herein by reference as Exhibit A.
3. All previous public dock hoist rates and/or resolutions are hereby repealed.

APPROVED AND ADOPTED and made effective the same day by the Board of Port Commissioners of the Port of Brookings Harbor this 20th day of October, 2021.

ATTEST:

Richard Heap, President

Sharon Hartung, Secretary/Treasurer

**PORT OF BROOKINGS HARBOR
RATES
JULY 1, 2021 to JUNE 30, 2022**

EXHIBIT A

Section 9. Public Dock Hoist, 600-Pound Maximum Capacity

Rates effective November 1, 2021. Public Dock Hoist Use Agreement & Release must be completed prior to use. Rates include dock and hoist only. No other equipment, scales or personnel are included in the rates.

A. <u>Equipment / Materials Loading or Offloading (600-Pound Maximum Capacity)</u>		
per hour	\$	35.00
B. <u>Fish / Crustaceans (600-Pound Maximum Capacity)</u>		
per pound	\$	0.05



Port of Brookings Harbor

16330 Lower Harbor Road / PO Box 848
Brookings, Oregon 97415
Phone (541) 469-2218
Fax (541) 359-3999
www.portofbrookingsharbor.com

Board of Commissioners
Richard Heap, President
Joseph Speirs, Vice-President
Sharon Hartung, Secretary/Treasurer
Kenneth Range
Larry Jonas

Public Dock Hoist Use Agreement & Release

USER INFORMATION:

Owner/Operator/Unloader ("Licensee"): _____ Phone: (____) _____ -- _____

Mailing Address: _____

Name of Vessel & Doc/Res Number: _____

GENERAL TERMS AND CONDITIONS:

PORT ORDINANCES: This Agreement is subject to the Port of Brookings Harbor ordinances.

PORT RESPONSIBILITY: The Port of Brookings Harbor ("Port") is responsible for a functioning 600-pound maximum capacity dock hoist.

OWNER/OPERATOR/UNLOADER RESPONSIBILITY: The Owner/Operator/Unloader ("Licensee") is responsible for the use of the dock hoist.

ASSUMPTION OF RISK: Licensee acknowledges full responsibility and agrees to make no claim for any damages whatsoever, but rather assumes the sole risk for himself/herself. For all claims, demand, suits, actions and proceedings against the Port, of every kind of nature, including without limitation, those sounding in contract or tort or for the breach of warranty, the laws of the State of Oregon shall be, without exception or limitation, binding and controlling law, and damages shall not exceed the amount set forth in the Oregon Tort Claims Act. Any and all suits, actions and proceedings, of every kind and nature whatsoever, against the Port shall be filed and maintained exclusively in the Circuit or District Court, as appropriate, of the State of Oregon, for the County of Curry.

ATTORNEY'S FEES: If suit or action is instituted in connection with any controversy arising out of a haul out, the prevailing party shall be entitled to recover in addition to costs such sum as the court may adjudge reasonable as attorney fees.

HOLD HARMLESS: The Port does not accept vessels or personal property for storage and accepts no responsibility or liability for the safe keeping thereof, including, loss of any kind, theft or damage of any kind or cause. Licensee is fully responsible for the care and safety of the vessel, its contents and for himself/herself, his/her family, his/her employees or invitees to the Port's premises and agrees to hold the Port harmless and free from claim for any damages, injury or loss resulting from the acts or failure to act of Licensee, his/her family, his/her employees or invitees. Licensee hereby releases the Port, its officers, directors, Port Manager, employees, and agents from any and all liability of responsibility arising from Licensee's use of the dock hoist. Licensee agrees to indemnify and save harmless the Port, its officers, directors, Port Manager, employees, and agents with respect to any and all claims for damage to property or for injury to any persons that may arise as a result of the use of the dock hoist.

ENVIRONMENTAL LAWS: All applicable provisions of federal, state or local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the work under this Agreement are by reference incorporated herein to the same force and affect as if set forth herein in full.

RULES AND REGULATIONS: Licensee agrees to comply at all times with any and all Rules and Regulations promulgated by any Federal, State, Local government authority or this Port. Further, Licensee agrees to abide by special requests made in the interests of public or vessel safety by Port Manager or his/her designee. It is the Licensee's responsibility to stay abreast of all rules and regulations concerning vessel use and the use of Port facilities. A copy of the Port's Ordinance is available from the Port Office or website.

ACCEPTANCE OF PREMISES: Licensee acknowledges he/she has inspected the premises for use under this Agreement and accepts them in their present "AS-IS" condition. Licensee agrees to keep the premises neat, clean, free of hazardous or flammable materials and to preserve the dock space in as good condition and repair as is now or may be put hereafter by the Port. Clean-up fees will be charged for each man-hour at established rates. Equipment charges and disposal or any material are extra.

SCHEDULING: Port dock hoist will be used during normal Port business hours unless approved by the Port Manager or his/her designee.

PAYMENT: The Licensee agrees to pay in full to the Port of Brookings Harbor the time used in **one-hour increments for equipment use and \$0.05 per pound for fish/crustaceans**. Past due accounts will be assessed a late charge of 1.5% per month (18% per annum). In the event, suit or action is instituted to collect any amount owed on this account, Licensee agrees to pay any reasonable attorney fees, collection agency fees and any other costs associated with such action. Failure to pay for charges or misuse of Port facilities may result in relinquishing all privileges or access to facilities and service of the Port of Brookings Harbor.

BINDING EFFECT: This agreement is binding upon the assignees, heirs, and successors of Licensee.

I AGREE TO THE TERMS AND CONDITIONS ATTACHED TO THIS DOCUMENT:

USER ("Licensee"): _____
Signature _____ Print Name _____ Date _____

FOR PORT USE ONLY:

DATE OF USE: _____ TIME OUT: _____ TIME IN: _____ PORT INITIALS: _____

ACTION ITEM – B

DATE: October 20, 2021
RE: Port Vehicles Procurement Approval
TO: Honorable Board President and District Board Members
ISSUED BY: Gary Dehlinger, Port Manager

OVERVIEW

- Port FY 2021-22 Budget includes \$50,000 for port vehicles.
- Port office staff makes daily business trips to town and performs other Port related duties in their own vehicles.
- The Port Manager and Harbormaster are salaried positions and are on-call 24/7. Both positions should have a Port vehicle assigned to each position.
- Harbormaster current vehicle would be handed down to the Port office staff conducting Port business.
- Port Manager's contract has a vehicle allowance which would be removed if the Port provides the manager a vehicle.
- Port staff is recommending purchasing two 2022 Ford Maverick XL – Supercrew trucks for the Port Manager and Harbormaster positions. Both trucks would be identical with standard equipment.
- Port staff priced out the 2022 Ford Maverick XL – Supercrew truck at \$19,893 plus DMV and tax fees. Ford continues to provide the Port a fleet pricing while other dealerships do not. Other brand trucks in similar size range from \$25,200 to \$29,400.
- 2022 Ford Maverick XL – Supercrew truck is scheduled to be available in January 2022.

DOCUMENTS

- 2022 Ford Maverick XL-Supercrew Truck information, 5 pages

COMMISSIONERS ACTIONS

- **Recommended Motion:**
Motion to approve the purchase of two 2022 Ford Maverick XL – Supercrew trucks at \$19,893 plus DMV and tax fees each for the Port Manager and Harbormaster. Once the trucks arrive, the Port Manager's car allowance would be removed from the contract.

Digitally generated image shown. Actual vehicle may vary. See your dealer for details.



2022 Maverick

XL - SUPERCREW®

PAINT ^{S4}

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CNGP530

VEHICLE ORDER CONFIRMATION

09/23/21 13:04:18

==>

Dealer: F72406

2022 MAVERICK

Page: 1 of 1

Order No: 1111 Priority: M1 Ord FIN: KY708 Order Type: 5B Price Level: 226

Ord Code: 100A Cust/Flt Name: PORT OF BROOK PO Number:

RETAIL

RETAIL

W8E MAVERICK XL FWD \$19995

FUEL CHARGE

.121.0" WB

B4A NET INV FLT OPT NC

YZ OXFORD WH

DEST AND DELIV 1495

9 CLOTH

TOTAL BASE AND OPTIONS 21490

W EBONY

TOTAL 21490

100A EQUIP GRP

THIS IS NOT AN INVOICE

.XL TRIM

993 .2.5L HYBRID NC

445 .AUTO TRANS NC

52H REAR US BINS NC

FLEET SPCL ADJ NC

425 50 STATE EMISS NC

153 FRT LICENSE BKT NC

SP DLR ACCT ADJ

SP FLT ACCT CR

F1=Help

F2=Return to Order

F3/F12=Veh Ord Menu

F4=Submit F5=Add to Library

0999 - PRESS F4 TO SUBMIT

QC04148

Price Quote: \$19,893⁰⁰ + DMV + Tax Fees

~~\$19,893~~ + DMV & Tax

QUOTE #1

SUPERCREW® – XL SERIES STANDARD EQUIPMENT

MECHANICAL

- 2.5L Hybrid (FWD) w/ Auto Stop/Start Technology
- 4-Wheel Disc Anti-Lock Brake System (ABS)
- Automatic Continuously Variable – Transmission
- Electric Parking Brake
- Electronic Brake Boost – Hybrid Only
- Electronic Power-Assist Steering (EPAS)
- Post Impact Braking
- Rotary Gear Shift Dial
- Variable-Assist Power Steering

EXTERIOR

- Black Mesh Grille w/Black Surround
- Box Top and Tailgate Moldings
- Cargo Lamp – Integrated with Center High-mounted Stop Lamp (CHMSL)
- Easy Fuel® Capless Fuel-Filler
- Fuel Tank
 - 17 Gallon – Gas
 - 15 Gallon – Hybrid
- Handles, Black – Door and Tailgate
- Hooks – Pickup Box Tie-Down, six (6)
- Mirrors, Sideview – Manual-folding, Manual Glass with MIC Black Skull Caps
- P758 XL Fender Badge
- Röcker Molding
- Spare Tire Carrier – Rear Under Frame
- Spare Tire (Mini)
- Bumper, Front & Rear – Steel
- Tailgate – Manual Locking
- Tires – P225/65R 17" A/S BSW
- Wheels – 17" Sparkle Silver Steel
- Windshield Wipers – Intermittent Speed

INTERIOR/COMFORT

- 4.2" Productivity Screen in Instrument Cluster
- Dual Vanity Mirrors
- Front Door Storage Bins
- Front Map Lights/Overhead Console
- Front/Rear Cargo Compartment Dome Lamps (Fade-to-off)
- Instrumentation (Door Ajar, Lamps On, Low Fuel & Washer Fluid, Tach, Clock)
- Front/Rear Grab Handles (3) Three
- Manual Air Conditioning, Single Zone
- Power Door Unlock and Lock
- Powerpoint 12V – Front (1), Rear (1)
- Rear Coat Hooks
- Rear Under Seat Storage Bins
- Rear-Window with Fixed Glass
- Seat, Front
 - 6-Way Manual Adjustable Driver w/Lumbar
 - 4-Way Manual Adjustable Passenger w/ Lumbar
 - Bucket Seats
 - Cloth Trim
 - Front Floor Console w/ Armrest & Storage Bin
 - Seat Back Map Pocket, Passenger
- Seat, Rear
 - Full Bench Rear Cloth Folding Seatback
 - Flip-Up Seat Cushion
- Steering Wheel, Black Urethane – Manual Tilt/Telescoping and Manual Locking w/ Audio Controls
- Vinyl Console Lid
- Windows
 - Power Front/Rear Windows
 - 1-Touch Down Driver Window

SAFETY/SECURITY

- Anti-Theft Engine Immobilizer
- Airbags
 - Driver and Passenger Front Airbags
 - Safety Canopy® Side-Curtain Airbags
 - Driver and Passenger Side Airbags
 - Driver Knee Airbag
- Center Rear Seat Shoulder Belt
- Driver & Passenger Height Adjustable Retractable Seatbelts
- Belt-Minder® (Front Safety Belt Reminder)
- Daytime Running Lamps (DRL)
- LATCH (Lower Anchors and Tether Anchors for Children)
- Power Central Locking
- SecurILock® Passive Anti-Theft System
- Smart Occupant Sensing airbags
- Tire Pressure Monitoring System (TPMS)

DRIVER ASSIST TECHNOLOGY

- Auto High-Beam
- Autolamp – Auto On/Off Headlamps
- Pre-Collision Assist with Automatic Emergency Braking (AEB) (Pedestrian Detection, Forward Collision Warning, Dynamic Brake Support)
- Rear View Camera

FUNCTIONAL

- 2 USB Ports (Front) – 1 Type A & 1 Type C
- 8" Center Stack Screen
 - Apple CarPlay™ and Android Auto™
- AM/FM Stereo w/ 6 Speakers
- Battery Saver
- Electronic Stability Control
- Extended Service Interval Monitor
- FordPass Connect™ (4G)
 - 4G LTE Wi-Fi hotspot connects up to 10 devices¹
 - Schedule specific times to remotely start vehicles²
 - Locate parked vehicle²
 - Check vehicle status²

Note: Telematics Solutions (both complimentary and subscription based) are available for Fleet Customers, providing access to manufacturer-grade data including but not limited to vehicle location, speed, idle time, fuel/energy, range, vehicle diagnostics, and maintenance alerts. FordPass Connect™ 4G Wi-Fi Modem, enables telematics services directly from Ford or through authorized third party providers. Learn more at commercialolutions.ford.com or email fcs1@ford.com or by calling 833-FCS-Ford. (833-327-3673).
- Keyed Ignition
- Particulate Air Filter
- Remote Keyless Entry / Panic Button (Key Fob)

¹Wi-Fi hotspot includes wireless data trial that begins upon AT&T activation and expires at the end of 3 months or when 3GB of data is used, whichever comes first, but cannot extend beyond the trial subscription period for remote features. To activate, go to www.att.com/ford

²FordPass Connect (optional on select vehicles), the Ford Pass App., and Complimentary Connected Services are required for remote features (see FordPass Terms for details). Connected Service and features depend on compatible AT&T network availability. Evolving technology/cellular networks/vehicle capability may limit functionality and prevent operation of connected features. Connected services excludes Wi-Fi hotspot.



Preview Order 0916 - W8E - SuperCrew FWD - 4.5' Box : Order Summary Time of Preview: 09/22/2021 11:51:24

Dealership Name : Crater Lake Ford

Sales Code : F72407

Dealer Rep.	NICOLAUS BELL	Type	Retail	Vehicle Line	Maverick	Order Code	0916
Customer Name	X XXXXX	Priority Code	19	Model Year	2022	Price Level	220

DESCRIPTION	MSRP	DESCRIPTION	MSRP
W8E0 MAVERICK XL FWD	\$19995	.AUTO CV TRANSMISSION	\$0
.121.0" WHEELBASE	\$0	REAR UNDERSEAT BINS	\$0
OXFORD WHITE	\$0	CV LOT MANAGEMENT	\$0
CLOTH	\$0	50 STATE EMISSIONS	\$0
EBONY	\$0	FRONT LICENSE PLATE BRACKET'	\$0
EQUIPMENT GROUP 100A	\$0	FUEL CHARGE	\$0
.XL TRIM	\$0	PRICED DORA	\$0
.2.5L HYBRID ENGINE	\$0	DESTINATION & DELIVERY	\$1495
			MSRP
TOTAL BASE AND OPTIONS			\$21490
DISCOUNTS			NA
TOTAL			\$21490

This order has not been submitted to the order bank.

This is not an invoice.

QUOTE #2

2022 Chevrolet Montana Release Date And Price

The following-gen 2022 Chevrolet Montana is going to symbolize a reasonable pickup truck. For this reason, the price will begin at around \$20,000. It would drive with a unibody system, and it will surely competitor the newest Ford Focus-dependent pickup. Ford will even supply its most up-to-date design in Brazil in addition to Key The united states. In Mexico, you can presently obtain the past-age group Montana that is referred to as the "Tornado" product.

The screenshot shows the Toyota website's vehicle selection page. The navigation bar includes 'Español', 'Owners', 'Certified Used Vehicles', 'FAQ', 'Search Q', 'Shopping Tools', 'Find A Dealer', 'Build & Price', and 'Local Specials'. The 'Trucks' category is selected, showing two models:

- 2022 Tacoma**: \$27,655 starting, 18/22 est MPG
- 2022 Tundra**: \$34,025 starting, 13/17 est MPG

The screenshot shows a Google search for 'new trucks for 2021'. The results are displayed in a grid format with handwritten prices:

Vehicle Model	MSRP (from)	Handwritten Price
2021 Ford F150	\$22,290	26,400
2021 Ram 1500	\$22,795	27,190
2021 Toyota Tundra	\$34,125	25,200
2021 Ford Ranger	\$24,820	27,190
2021 Honda Ridgeline	\$26,490	27,190
2021 Jeep Gladiator	\$34,645	27,190
2021 GMC Canyon	\$25,980	27,190
2021 Chevrolet Silverado 1500	\$29,380	29,400
2021 Chevrolet Colorado	\$25,200	29,400
2021 Nissan Frontier	\$27,190	29,400
2021 GMC Sierra 2500HD	\$36,200	29,400
2021 Chevrolet Silverado 3500HD	\$56,500	29,400

55

ACTION ITEM – C

DATE: October 20, 2021
RE: Port Paying Lease Property Tax
TO: Honorable Board President and District Board Members
ISSUED BY: Gary Dehlinger, Port Manager

OVERVIEW

- The Port tenants must pay Curry County property taxes each year per the lease agreements. There are occasions where tenants do not pay the taxes in a timely manner, or the business falters and taxes are not paid at all. In the circumstance when the business does not pay the property tax, the Port is ultimately responsible for the property tax (including all late fees).
- Port standard leases require the tenant to pay all property taxes; **Section 31. Real Property Taxes:**
 - a. **Payment of Taxes.** Tenant must pay all real and personal real property taxes, if any, applicable to Tenant's portion of the use and possession of the Leased Premises.
 - b. **Additional Improvements.** Tenant will be responsible for paying any increase in real property tax specified in the Tax Assessor's records and work sheets caused by additional improvements placed upon the Leased Premises by Tenant or by Landlord for use by Tenant.
 - c. **Definition of "Real Property Tax".** As used herein, the term "real property tax" includes any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond or bonds, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Port or any portion thereof by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, agricultural, sanitary, fire, street, drainage or other improvement district thereof.
- There is no written policy on how to handle the property tax. The current practice, the Port receives the Real Property Tax Statement from Curry County and then forwards the statement to the tenant to be paid. The Port does not have the control of when the statement is paid.
- To limit the potential issues of the past, Port staff is recommending paying the Real Property Tax for each tenant and then invoicing the tenant of the amount paid without any additional charges. If the tenant fails to pay the Port in a timely manner, standard late fees would then be charged.

DOCUMENTS

- Current list of Port tenants and Property Tax Amounts, 1 page

COMMISSIONERS ACTIONS

- **Recommended Motion:**
Motion to approve the Port paying Curry County Real Property Tax and then invoicing the tenant for reimbursement.

Property Tax

Commercial Retail	Property Tax Rate
Blue Fin Realty	642.51
Boardwalk Mail Service	649.75
Boat Shop & More, LLC - Boatyard Warehouse	641.09
Bornstein Seafood	985.94
Busch Marilyn & Robert	43.29
Bounder's Crab Shack	
Catalyst Seafood Co. Inc.	747.28
Hallmark Fisheries	464.80
Hallmark Fisheries - Annual Work Area	
Harbor Corner Market	374.01
J Sloane Hair Studio LLC	470.49
Mountain View Customer Cycles	382.87
Oceanside Suites	269.89
Oregon Life Homes Realtor/Tiffany Berg	369.45
Pacific Fishing LLC	494.40
Pacific Ocean Harvesters	1,031.17
Pacific Seafood Brookings	
Pacific Seafood Brookings - CL00003 BC Fisheries Plant	2,168.61
Pacific Seafood Brookings -CL00003 old dock & hoist	1,013.26
Pacific Seafood Brookings old dock & hoist- Annual Work Area	
Pacific Seafood Brookings Steel Wall - TERMINATING LEASE 10/31/202	1,346.37
Pacific Seafood Brookings Cold Storage	2,633.75
Pacific Seafood Brookings Ice House	674.45
Pacifica Boat Basin, LLC - Restaurant Area	1,887.40
Pacifica Boat Basin, LLC - Beachfront Inn	1,171.59
Pithitude	511.87
Pithitude	511.87
Portside RV Park	173.22
Rogue Credit Union	
Slug'n Stones'n Ice Cream	591.85
South Coast Tours LLC	
Speir, Joe- MISS EMILIE	379.53
Speir, Joe and Roy Davis	320.88
The Bell & Whistle Coffee House, Inc.	556.01
The Hungry Clam	457.58
The Hungry Clam	366.04
Tidewind Charters	724.84
US Coast Guard Lease	
Whales Tail Candy & Gifts	611.15
Zola's on the Water	2,331.38
TOTALS	25,998.59

ACTION ITEM – D

DATE: October 20, 2021
RE: FEMA Engineering Services Award
TO: Honorable Board President and District Board Members
ISSUED BY: Gary Dehlinger, Port Manager

Information not available at time of packet release, but should be available at the meeting.

OVERVIEW

- The Port issued an RFP for Professional Engineering Services for FEMA DR-4432 & DR-4452 on September 27, 2021. Advertised in:
 - Port website.
 - Daily Journal of Commerce (a U.S. newspaper published Monday, Wednesday and Friday in Portland, Oregon. It features business, construction, real estate, legal news and public notices).
 - Curry Coastal Pilot (Local newspaper).
- Port received ___ proposals prior to the deadline on October 18, 2021.
- Three Port employees comprised the Selection Review Committee to evaluate and score the proposals. The proposals are ranked based on the combined scores from Selection Review Committee. Ranking of the proposal are as follows:

Rank	Company	Score
1		
2		
3		
4		
5		

Maximum score possible is 300.

- The award protest period ends October 27, 2021.
- Anticipating Board approval of contract on October 28, 2021.

DOCUMENTS

- RFP Professional Engineering Services for FEMA DR-4432 & DR-4452, 40 pages
- RFP Addendum No. 1, 1 page

COMMISSIONERS ACTIONS

- **Recommended Motion:**
Motion to approve the Professional Engineering Services for FEMA DR-4432 & DR-4452 award to _____, in the amount of not-to-exceed \$250,000.



**REQUEST FOR PROPOSALS
TO PROVIDE SERVICES**

**PROFESSIONAL ENGINEERING SERVICES FOR FEMA DR-
4432 & DR-4452**

DATE:

SEPTEMBER 27, 2021

Port of Brookings Harbor
P.O. Box 848
Brookings, Oregon 97415

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Attachments:

A. Certification Form

B. Sample Professional Services Agreement

Appendices:

Appendix A – Background Information for FEMA Slope Repair and Dredging Project



Port of Brookings Harbor

16330 Lower Harbor Road / PO Box 848
Brookings, Oregon 97415
Phone (541) 469-2218
Fax (541) 359-3999
www.portofbrookingsharbor.com

Board of Commissioners

Richard Heap, President
Joseph Speirs, Vice-President
Sharon Hartung, Secretary/Treasurer
Kenneth Range
Larry Jonas

REQUEST FOR PROPOSALS

PROFESSIONAL ENGINEERING SERVICES FOR FEMA DR-4432 & DR-4452

PROPOSALS DUE BY 2:00 P.M., OCTOBER 18, 2021

The Port of Brookings Harbor (Port) is issuing a Request for Proposals (RFP) from qualified firms or individuals (Proposer) with demonstrated experience in engineering services for a period of three (3) years with an option to extend the contract for one (1) additional year. To be considered, interested parties must submit their Proposals in accordance with the requirements set forth in the RFP.

The RFP will be used to select the Proposer to complete engineering services which generally includes and at the same time are not limited to the following: Design, Surveying, Construction Services, Drafting, Permitting, and Consulting.

Responses to this RFP will be reviewed, scored, and ranked according to the criteria and process defined in this RFP. The Proposer selected for contract negotiations will be the firm selected as the most qualified through the evaluation process.

The Request for Proposals can be downloaded from the Port website at <https://www.portofbrookingsharbor.com> or a printed copy can be obtained at the address listed below, or by contacting Gary Dehlinger, Port Manager at 541-469-2218, Ext 406, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m. For questions or clarifications regarding this RFP contact Gary Dehlinger, Port Manager, at 541-469-2218, Ext 406 or email at portmanager@portofbrookingsharbor.com.

There will be no pre-proposal meeting for this RFP.

Proposals shall be submitted in sealed envelopes and received at the Port of Brookings Harbor Port Office, no later than 2:00 p.m. PST, October 18, 2021, addressed to the attention of Gary Dehlinger, P.O. Box 848, Brookings, Oregon, 97415 or hand-delivered to 16330 Lower Harbor Road, Brookings, Oregon 97415. The outside of the envelope shall plainly identify the Project: "**PROFESSIONAL ENGINEERING SERVICES FOR FEMA 4432 & 4452**" along with the name and address of the Proposer. Faxed or electronic (e-mail) responses will not be accepted. Responses received after the designated closing date and time will not be opened or reviewed.

The Port may reject any response not in compliance with all prescribed solicitation procedures and requirements and other applicable law, and may reject any or all responses in whole or in part when the cancellation or rejection is in the best interest of the Port, and at no cost to the Port.

Dated September 27, 2021

Gary Dehlinger, Port Manager

Publish Dates: Curry Coastal Pilot, October 1 and October 8
Daily Journal of Commerce, October 1 and October 8
Medford Mail Tribune, October 1 and October 8

Section 2 - Introduction and General Information

2.1. Introduction and General Information

The Port District of Brookings Harbor covers an area of 400 square miles reaching from the mouth of the Chetco River to the Oregon-California border, north to the drainage of the Pistol River, and east to the Curry-Josephine County line. The Port District is governed by a five-member commission elected at-large from the district, which has a population of approximately 16,000 people. The five-member Port Commission is responsible for all the activities of the Port and the management of public assets. Commissioners are elected at large from the district residents and serve without compensation for a term of four years. There are three official positions within the Commission: President, Vice President, Treasurer / Secretary. These positions are filled by election, within the Commission.

- The Port of Brookings Harbor has an assessed value of \$15,565,289.
- The assessed valuation of the Port District is \$968,000,000.
- The Port of Brookings Harbor represents over 75 percent of the population base for Curry County.
- The Port of Brookings is the busiest recreational Port on the Oregon Coast with more than 31,000 bar crossings and more than 95,000 recreational users annually.
- The Port has more than 5,000 commercial fishing vessels that visit the Port annually.
- The Port moves more than 20 million pounds of bait, fuel, ice and fish products across its docks annually.
- The Chetco River, on which the Port is located, is the safest bar on the Oregon Coast with more than 280 passable days per year.
- The Port of Brookings Harbor is classified as a Shallow-draft harbor. Shallow-draft harbors are defined as those with 14 feet or less depth.
- Shallow-draft harbors are dependent upon commercial and recreational fishing to maintain port infrastructure.

The Port of Brookings Harbor (Port) is seeking Proposals from qualified firms, teams or individuals, hereafter called Proposers, with demonstrated experience in engineering services for FEMA DR-4432 and DR-4452. The services that need to be completed include:

- FEMA DR-4432 & DR-4452 funding and permitting applications;
- Preliminary designs, assessments and other duties that are elements of sought-for funding;
- Assistance with RFP and contractor selection;
- Drawing specification and review;
- Slope determination and stability assurance;
- Basins surveying and dredging including equipment procurements;
- On-site project management and final inspections; and
- Other work as decided by the Port Manager or Board of Commissioners.

2.2. Issuing Office and Submittal Location

Gary Dehlinger, Port Manager, will issue the RFP and will be the point of contact for questions, concerns and protests concerning this RFP. Gary’s contact information is 541-469-2218 Ext 406 or portmanager@portofbrookingsharbor.com.

Each Proposer must submit one (1) copy of their proposal.

The outside of the sealed envelope should state “Professional Engineering Services for FEMA DR-4432 and 4452” and shall be addressed and submitted to the following location by October 18, 2021, by 2:00 p.m.:

Mail to:

Port of Brookings Harbor
 P.O. Box 848
 Brookings, Oregon 97415

Overnight to:

Port of Brookings Harbor
 16330 Lower Harbor Road
 Brookings, Oregon, 97415

Attn: Gary Dehlinger,
 Port Manager

Attn: Gary Dehlinger,
 Port Manager

All proposals must arrive at the issuing office on or before the listed due date and time. Facsimile or electronically submitted proposals will not be accepted.

2.3. Anticipated RFP Schedule

RFP Process	Date (2021)
RFP Advertised by Port Website	Monday, September 27
RFP Advertised by Newspaper	Friday, October 1 and October 8
Deadline to Submit Changes/Solicitation Protests	Tuesday, October 11
Proposal Due to Port	Monday, October 18 at 2pm
Proposer Interviews (if necessary)	Wednesday, October 13
Notice of Intent to Award	Wednesday, October 20
Award Protest Period Ends	Wednesday, October 27
Board of Commissioners Approval	Thursday, October 28
Commencement of Contract	Thursday, October 28

2.4. Estimated Engineering Service Cost

Proposer will be compensated on an hourly time and materials basis, not to exceed \$250,000.

2.5. Changes to the Solicitation by Port of Brookings Harbor

The Port reserves the right to make changes to the RFP by written addendum, which shall be issued to all prospective Proposers known to the Port to have received the Proposal document.

2.6. Confidentiality

All information submitted by Proposers shall be public record and subject to disclosure pursuant to the Oregon Public Records Act, except such portions of the Proposals for which Proposer requests exception from disclosure consistent with Oregon Law. All requests shall be in writing,

noting specifically which portion of the Proposal the Proposer requests exception from disclosure. Proposer shall not copyright, or cause to be copyrighted, any portion of any said document submitted to the Port as a result of this RFP. Proposer should not mark the entire proposal document "Confidential."

2.7. Cancellation

The Port reserves the right to cancel award of this contract at any time before execution of the contract by both parties if cancellation is deemed to be in the Port's best interest. In no event shall the Port have any liability for the cancellation of award.

2.8. Late Submittals

All Proposals that are not received by the deadline stated in the RFP schedule will be considered late. Delays due to mail and/or delivery handling, including, but not limited to delays within Port's internal distribution systems, do not excuse the Proposer's responsibility for submitting the Proposal to the correct location by the stated deadline.

2.9. Disputes

In case of any doubt or differences of opinions as to the items or service to be furnished hereunder, or the interpretation of the provisions of the RFP, the decision of the Port shall be final and binding upon all parties.

2.10. Proposer's Representation

Proposers, by the act of submitting their Proposals, represent that:

- a) They have read and understand the Proposal Documents and their Proposal is made in accordance therewith;
- b) They have familiarized themselves with the local conditions under which the work will meet their satisfaction;
- c) Their Proposal is based upon the requirements described in the Proposal Documents without exception (unless exceptions are clearly stated in the response).

2.11. Conditions of Submittal

By the act of submitting a response to this Invitation, the Proposer certifies that:

- a) The Proposer and each person signing on behalf of any Proposer certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no elected official, officer, employee, or person, whose salary is payable in whole or in part by the Port, has a direct or indirect financial interest in the Proposal, or in the services to which it relates, or in any of the profits thereof other than as fully described in the Proposer's response to this solicitation.
- b) The Proposer has examined all parts of the Request for Proposal, including all requirements and contract terms and conditions thereof, and, if its Proposal is accepted, the Proposer shall accept the contract documents thereto unless substantive changes are made in same without the approval of the Proposer.

- c) The Proposer, if an individual, is of lawful age; is the only one interested in this Proposal; and that no person, firm, or corporation, other than that named, has any interest in the Proposal, or in the proposed contract.

2.12. Proposer Requests for Additional Information

Requests for information regarding Port services, programs, or personnel, or any other information shall be submitted in writing directly to the Port Manager at the address in the Invitation. All requests for additional information shall be submitted in writing. Answers shall be provided to all Proposers of record on the date that answers are available.

2.13. Complaints and Inequities

Any complaints or perceived inequities related to this RFP or award of work referenced herein shall be in writing in compliance with OAR 137-048-0240 and directed to the Port Manager at the address listed in the RFP and shall be received no later than the date listed in the RFP Schedule. Such submittals will be reviewed upon receipt and will be answered in writing.

2.14. Cost of RFP and Associated Responses

The Port is not liable for any costs incurred by a Proposer in the preparation and/or presentation of a proposal. The Port is not liable for any cost incurred by a Proposer in protesting the Port's selection decision.

2.15. Port to Request Clarification, Additional Research, & Revisions

The Port reserves the right to obtain clarification of any point in a Proposal or to obtain additional information necessary to properly evaluate a particular Proposal. Failure of a Proposer to respond to such a request for additional information or clarification could result in a finding that the Proposer is non-responsive and consequent rejection of the Proposal.

The Port may obtain information from any legal source for clarification of any Proposal or for information on any Proposer. The Port need not inform the Proposer of any intent to perform additional research in this respect or of any information thereby received.

The Port may perform, at its sole option, investigations of the responsible Proposer. Information may include, but shall not necessarily be limited to credit history, recent financial statements, current litigation, bonding capacity and related history, and contacting references. All such documents, if requested by the Port, become part of the public records and may be disclosed accordingly.

The Port reserves the right to request revisions of proposals after the submission of proposals and before award for the purpose of obtaining best offers or best and final offers.

2.16. Rejection of Proposals

The Port reserves the right to reject any or all Proposals received as a result of this request. Proposals may be rejected for one or more of the following reasons, including but not limited to:

- a) Failure of the Proposer to adhere to one or more of the provisions established in this RFP.

- b) Failure of the Proposer to submit a Proposal in the format specified herein.
- c) Failure of the Proposer to submit a Proposal within the time requirements established herein.
- d) Failure of the Proposer to adhere to ethical and professional standards before, during, or following the Proposal process.

The Port may reject any Proposal not in compliance with any of the prescribed public procurement procedures and requirements, and may reject for good cause any or all Proposals upon a finding of the Port that it is in the public interest to do so.

2.17. Modification or Withdrawal of Proposal by Proposer

Proposal may not be modified, withdrawn, or canceled by the Proposer for 60 (sixty) calendar days following the time and date designated for the receipt of Proposals.

Prior to the time and date designated for receipt of Proposals, Proposals submitted early may be modified or withdrawn only by notice to the Port Manager, at the Proposal submittal location, prior to the time designated for receipt of Proposals. Such notice shall be in writing over the signature of the Proposer. All such communications shall be so worded as not to reveal the amount of the original Proposal or any other material contents of the original Proposal.

Withdrawn Proposals may be resubmitted up to the time designated for the receipt of Proposals provided that they are then fully in conformance with these Instructions to Proposers.

2.18. Proposal Ownership

All Proposals submitted become and remain the property of the Port and, as such, are considered public information and subject to public disclosure within the context of the federal Freedom of Information Act and Oregon Revised Statutes (ORS) 192.501 and ORS 192.502, public records exempt from disclosure.

Unless certain pages or specific information are specifically marked "proprietary" and qualify as such within the context of the regulations stated in the preceding paragraph, the Port shall make available to any person requesting information through the Port's processes for disclosure of public records, any and all information submitted as a result of this solicitation without obtaining permission from any Proposer to do so after the Notice of Intent to award has been released.

2.19. Duration of Proposal

Proposal prices, terms and conditions shall be firm for a period of at least ninety (90) days from the deadline for receipt of submittal. The successful proposal shall not be subject to future price escalation or changes of terms if accepted during the ninety (90) day period. Price decreases or changes in terms by others after the acceptance of a proposal will not be considered.

2.20. Intergovernmental Cooperative Agreement

Pursuant to ORS 279A, other public agencies shall have the ability to purchase the awarded goods and services from the awarded Contractor(s) under terms and conditions of the resultant

contract. Any such purchases shall be between the Contractor and the participating public agency and shall not impact the Contractor's obligation to the Port. Any estimated purchase volumes listed herein do not include other public agencies and the Port makes no guarantee as to their participation. Any bidder, by written notification included with their solicitation response, may decline to extend the prices and terms of this solicitation to any and/or all other public agencies.

2.21. Affirmative Action/Nondiscrimination

By submitting a proposal, the Proposer agrees to comply with the Fair Labor Standard Act, Civil Rights Act of 1964, Executive Order 11246, Fair Employment Practices, Equal Employment Opportunity Act, Americans with Disabilities Act, and Oregon Revised Statutes. By submitting a proposal, the Proposer specifically certifies, under penalty of perjury, that the Proposer has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts.

2.22. Performance and Payment Bonds

No performance and payment bonds are required.

2.23. Pre-Proposal Meeting

There will be no pre-proposal meeting for this RFP.

2.24. Meeting with Port Staff

Each proposer may contact Port Manager with questions one (1) week to the proposal due date. The Port Manager would like to limit meetings during this selection process. Port Manager would prefer to address questions via emails. There will be no facility tours provided during the RFP process. If needed, proposer will be limited to a one (1) hour meeting with Port Manager. The meeting with the Port Manager must occur one (1) week prior to the proposal due date.

Section 3 – Scope of Work

3.1. Scope of Work

The Port of Brookings Harbor (Port) is seeking Proposals from qualified firms, teams or individuals, hereafter called Proposers, with demonstrated experience in engineering services for miscellaneous public works facilities.

3.2. Scope of Work Requirements

The scope of work project includes the FEMA Slope Repair and Dredging Project (FEMA DR-4432 & DR-4452) to be completed by end of 2024, and other tasks as determined by the Port Manager or Board of Commissioners.

The Proposer shall provide engineering services generally include and not limited to the following:

- Surveying
- Environmental Assessment
- Confirmation of basin flows and pipe size
- Water Quality Treatment Approach/Facility Evaluation and Design
- Preliminary Design
- Joint Permit Application, DSL and Corps Permitting, Local & County Permitting
- Dredging
- Temporary, Permanent Easement Descriptions
- 100% Design Drawings and Specifications
- Operating & Maintenance Manuals (if any)
- Cost Estimates & Graphics
- Meetings – Board of Commissioner Meetings
- RFP and Contractor Selection
- Construction Inspection and Preparing Conforming to Construction Record Drawings

3.3. Project Management

Each Proposer shall include Project Management as one of the work tasks. The following Project Management description is the minimum project management requirements and may be expanded upon by the Proposer:

The Proposer shall act as a manager of the Proposer's team, including any sub. The Proposer shall manage and coordinate all components of the Project and take a proactive role in keeping all tasks on schedule and budget and ensure timely completion of the Project(s). Proposer shall give prior notice to Port, and obtain acceptance from same, before performing work outside the contract work scope and thereby contract budget amount.

The Proposer shall ensure full coordination with Port staff and be responsive to any email and telephone discussions, in addition to the minimum meetings as listed under various tasks in the scope of work. The Proposer shall be in contact with the Port frequently enough to ensure a timely review of deliverables. The Proposer is expected to work with all stakeholders in a responsible manner.

Submit a summary report of work completed by sub-tasks for the invoice period with each invoice. Indicate each individual's time spent on each sub-task for the invoice period. Alert the Port if any issues or concerns may affect the progress and/or cost of the project.

Section 4 – Proposal and Proposer Requirements

4.1. Submittal of Proposals

In order to be considered for this project, each Proposer must provide one (1) original copy of their proposal. All proposals must arrive at the issuing office on or before the listed due date and time. A corporate officer who has been authorized to make such a commitment must sign the proposals. Proposals shall be sealed in an envelope, with the words “PROFESSIONAL ENGINEERING SERVICES FOR FEMA DR-4432 & DR-4452” clearly written on it. The document shall be addressed and delivered to the issuing office identified in Section 2.2.

4.2. Proposer Requirements

4.2.1. Mandatory Requirements (Pass/Fail).

These requirements will not be scored. Failure to meet any of these qualifications will render your proposal non-responsive.

- a) Introductory Letter. This letter shall:
 - i. Specifically stipulate that the Proposer accepts all terms and conditions contained in the RFP and supporting documents.
 - ii. Name the person(s) authorized to represent the Proposer in any negotiations and the name of the person(s) authorized to sign any contract that may result.
- b) Proof of Licensure. Proposer may not provide engineering services unless the work is done under the full authority and responsible charge of an Oregon Registered Professional Engineer (PE) as defined in ORS 672.002(2). The PE must be currently registered in active status with the Oregon State Board of Examiners for Engineering and Land Surveying, and must supervise and direct the work proposed under the contract. As required by Oregon law, Proposers shall place their official Oregon Registered PE certified seal and signature on all reports, maps, design drawings, and specifications delivered to Port.

Proposer shall submit proof that they and any sub have current, active license to practice engineering in the State of Oregon.

4.2.2. Minimum Criteria

The following minimum criteria will apply:

- a) Proposer shall include sufficient evidence as to the Proposer’s Proposals to perform the work. This information shall disclose and include all pertinent facts as may be appropriate and shall include a description of past performance on projects of similar type, scope and size Proposers.
- b) Proposer shall demonstrate, to the satisfaction of the Selection Review Committee, the ability to provide the services required within the Scope of Work, within the timeline determined, to the Port and shall demonstrate a proven history of providing such services.
- c) Proposer shall not have a record of substandard workmanship. The Port will verify this requirement by communication with the licensing authority, the Proposer’s clients and references, and as many other references as may be deemed appropriate.

4.3. Proposer Representations

The Proposer further agrees to the following:

- a) To examine all specifications and conditions thoroughly.
- b) To provide for appropriate insurance, deposits, and performance bonds if required.
- c) To comply fully with the scope of services as described in Section 3 for the agreed contract.
- d) That any and all registration and certification requirements required for Contractors are met as set forth in the Oregon Revised Statutes.

4.4. Proposer Representative

The selected Proposer shall assign a competent representative acceptable to the Port who will represent the Proposer in providing contracted services to the Port. If the representative is removed by the Proposer, the new representative must be acceptable to the Port.

4.5. Proposal Requirements - Mandatory

4.5.1 Formatting Requirements

Each Proposer shall provide the following:

- a) Proposals must be submitted on letter-sized (8.5" X 11") paper. Font size can be no smaller than 11 pt.
- b) Proposer shall include a cover page with the submitted proposal. The following information shall be on the cover page:
 - i. The RFP Title;
 - ii. The name, title, address, telephone number, fax number, e-mail address of Proposer's primary contact person; and;
 - iii. The date of submission. In addition to the above information, but not in lieu thereof, Proposers may include other information on the cover page.
- c) Proposers must include an Introductory Letter.

The following shall be submitted as appendix items to proposal:

- d) Proof of Licensure.
- e) Resumes, if provided shall be limited to two (2) single-sided pages, or one (1) double-sided page.
- f) The Certification Form.

4.5.2. Proposal Content

- a) **Introductory Letter.** Include the name of the proposing Firm or Individual and its principal business address and phone number. The letter should address the Proposer's willingness and commitment, if selected, to provide the services as outlined in their Scope of Work and a description of why the Proposer believes they should be selected. The letter should be addressed to Gary Dehlinger, Port Manager, and should be signed by an officer of the firm authorized to bind the firm to all comments made in the proposal. Please provide contact telephone, fax number(s), e-mail address(es), and address(es) of your office(s).
- b) **Project Team and Experience.** Identify Principal, Project Manager, and other key staff, and extent of their involvement should your firm be selected to respond to the RFP. Identify staff from key subcontractor(s) mentioned above. Proposer shall include an organizational chart under which the Proposer will provide the requested services to the Port, if selected. Upon completion of the contract, key personnel assigned to the project cannot be changed without written approval of the Port.

Describe individual roles, responsibilities, credentials, and related experience that will allow the Port to evaluate the qualifications of the individuals proposed for the project. Include each individual's percentage of overall time that can be dedicated to the project.

If subcontractors are part of the Proposers team, then include the name and information about the qualifications and experience of any subcontractor(s).

- c) **Proposers Capabilities.** Proposer must describe their capabilities. This section will provide a basis for determining how well the capabilities and resources of the Proposer's Firm relate to this specifically to this project. The Proposer should provide the following:
- i. Describe your firm's areas of expertise, length of time in business, number of employees, and other information that would be helpful in characterizing the firm. Provide the same information for any sub to be utilized on the project.
 - ii. Provide the address of the firm's home office and the address of the office that will manage the project, if applicable.
 - iii. Describe lines of authority and responsibility, your firm's approach to validating project progress against project scope and intent, and the process to respond promptly to problems and any changes to scope of work or project intent. Describe the processes and tools to be used to ensure deliverables are complete, correct, clear, coordinated, constructible, and consistent with project objectives and goals.
 - iv. Describe a minimum of five (5) similar projects performed within the last five (5) years, which best characterize the firm's capabilities to address the tasks listed in the scope of work. Include the name of the proposed team members whom worked on these similar projects. Also include the name, address and phone

number of a person who can be contacted regarding your performance for at least three (3) of the referenced projects.

- v. When submitting projects for which your firm worked in an auxiliary capacity or in a joint venture or partnership, include the name of the lead firm and contact information for the lead firm's Project Manager.
- d) **Cost Proposal.** The Proposer shall submit a cost proposal including the hourly rates of the staff that will be engaged on each project as well as any applicable fees for travel, etc. along with a preliminary budget for the project. The contract will be limited to \$250,000 or less.
- e) **Project Approach and Understanding.** The Proposer's understanding and approach to the project is an important aspect of the RFP process. The Proposer should provide clear and concise understanding of the requested services by describing its scope of work through submission of the FEMA Slope Repair and Dredging Project and clarifying any major issues based upon project information provided in this RFP. More specifically include the following:
- i. Include an outline and description of the project tasks, how they will be accomplished within the specified timeframe, any challenges the Proposer foresees and how those challenges will be addressed.
 - ii. Please provide a description of assumptions regarding Port staff responsibilities as they pertain to this project. Clearly delineate between minimum required tasks and any optional tasks.
 - iii. Provide estimated project timeline showing all major milestones and other relevant information.
 - iv. Furnish a disclosure statement of involvement in any civil or criminal litigation or investigation regarding your business practices during the past five years.
 - v. The project approach should:
 - Prepare a detailed scope of work which meets the Port's goals for this project. For each work tasks provide a detailed narrative description of how the firm proposes to execute the task.
 - Describe the proposed work products that will result from each task or activity.
 - Submit a schedule showing major milestones and all work tasks from the project kick off meeting to the deliverable of the final documents.
 - Describe how Port staff and other Port resources will be utilized during the project and knowledge and skills will be passed on to Port Staff which may allow the Port to analyze future scenarios.

- vi. Optional tasks being recommended by the Proposer shall be clearly separated from the detailed scope of work required to complete the project.

4.5.3. Sample Professional Services Agreement (Attachment A). Review the sample agreement and list any concerns with the sample agreement within the cover letter.

4.5.4. Addenda. All Addenda of this RFP shall be submitted with the Certification Form as part of the Proposal. The Proposer shall acknowledge receipt of each individual Addendum in the in the Certification Form of the proposal. Each Proposer shall ascertain, prior to submitting a Proposal, that the Proposer has received all Addenda issued by the Port.

4.5.5. Certifications. The Proposer shall submit as part of the Proposal the Certification Form. The Certification Form shall be filled out, signed, dated, and included in the Proposal Appendix.

Section 5 – Proposal Selection and Evaluation

5.1. General Information

Each proposal will be judged on its completeness and quality of its content. The Port reserves the right to reject any or all proposals and is not liable for any costs the Proposer incurs while preparing or presenting the proposal. All proposals will become part of the public file, without obligation to the Port. Upon the completion of the evaluation process, the Port intends to negotiate a contract with the Proposer whose proposal is deemed to be most advantageous to the Port.

5.2. Section Review Committee

The Selection Review Committee may be comprised of up to four (4) members of Port Staff. The role of the Selection Review Committee is to evaluate the proposals submitted and make a recommendation of award to the Board of Commissioners. The Port may also seek independent expert advice with no apparent or perceived conflicts of interest to help review proposals. However, any such person that is contacted by the Port for their expert advice shall not, from first being contacted until the RFP process is completed, or otherwise brought to an end, have communications with any Proposers regarding their proposals or the process.

Scoring will be completed covering all areas listed below in the Evaluation Criteria. All scores for each Proposer shall be added together to arrive at an evaluation score for each Proposer. Proposals will then be ranked in descending order by the total Proposal score.

At the Port's option, interviews may be conducted with all or a select few of the Proposers after the Proposals are evaluated. The interview scores will be added to the criteria evaluation scores, and the list re-ordered. Port will enter into contract negotiations with the highest ranked Proposer. If a contract with the highest ranked Proposer cannot be reached, the Port will commence negotiations with the second highest ranked Proposer.

5.3. Interviews

Proposers selected for final evaluation (if necessary) may be required to make an oral presentation of their proposal to the Selection Review Committee. Such presentation shall provide an opportunity for Proposers to clarify their proposal to ensure thorough mutual understanding. The Selection Review Committee may interview the Proposers and ask additional questions related to the proposal and the scope of work. The Port will schedule the time and locations of the interviews, if required, on the dates indicated in the RFP Schedule. Interviews will take place at a 16340 Lower Harbor Road, Suite 202, Brookings, Oregon 97415. Firms invited to the interview will be responsible for making and paying for their own travel arrangements.

5.4. Scoring and Evaluation Criteria

The criteria listed below will be used to evaluate the Proposers to determine the finalists and apparent successful Vendor. **Total possible evaluation points prior to interviews will be 100. If interviews are conducted, an additional 100 points will be added to the proposal core to**

determine final scores. The following criteria and their assigned maximum points will be used to evaluate both the proposals and interviews (if held):

- A. Project Team and Experience: 20 points
- B. Proposer Capabilities: 20 points
- C. Cost Proposal: 20 points
- D. Project Approach and Understanding: 40 points
- E. **Reference Check (no points)**

The Port reserves the right to contact references as part of the decision making process and prior to making a final selection.

5.5. Ranking of Proposals

- A. Proposals may be ranked by the Selection Review Committee based on evaluation of proposals and interviews (if any), with the first-ranked Proposer being that Proposer which is deemed to be the most appropriate and fully able to perform the services, and the second ranked Proposer being the next most appropriate, all in the sole judgment of the Selection Review Committee.
- B. Proposer's scores will be totaled and ranked. Any Proposer's response to this RFP shall be considered de facto permission to the Port to disclose the results, when completed, to selected viewers at the sole discretion of the Port.

Section 6 – Contract Requirements

6.1. Contract Award

The award of a contract is accomplished by executing a written agreement that incorporates the entire RFP, Proposer’s response, clarifications, addenda, and additions. All such materials constitute the contract documents. The Proposer agrees to accept the contract terms of the attached Personal Services Agreement unless Proposer either proposes modifications to the attached agreement in the cover letter or submits another contract form the Proposer wishes to propose as part of their proposal. If a proposer submits another contract form, the contract form shall be included as an appendix to the Proposal.

Requested modifications to the attached Professional Services Agreement or submission of an alternate contract form as part of the proposal must be identified in the cover letter. The proposed modifications will be negotiated with the selected Proposer.

The Port Office is the sole point of contact for the issuance of the contract.

6.2. Requirements

The firm must be covered by Workers’ Compensation Insurance, which will extend to and include work in Oregon. In addition, the firm must also submit documents addressing general liability insurance, automobile and collision insurance, professional liability insurance, and indication that there is no conflict of interest on the part of the Proposer’s submission of a proposal for the services being solicited under this RFP.

6.3. Contract Administrator

Gary Dehlinger shall be the Contract Administrator for the Services to prepare the **Professional Engineering Services for FEMA DR-4432 & DR-4452** requested through this RFP process.

**Attachment A
Certification Form**

Certifications – Non-Collusion

The undersigned Proposer hereby certifies that it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, potential Proposer, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other Proposers or potential Proposers, or to secure through any unlawful act an advantage over other Proposers or the Port. The fees and prices submitted herein have been arrived at in an entirely independent and lawful manner by the Proposer without consultation with other Proposers or potential Proposers or foreknowledge of the prices to be submitted in response to this solicitation by other Proposers or potential Proposers on the part of the Proposer, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

Conflict of Interest

The undersigned Proposer and each person signing on behalf of the Proposer certifies, and in the case of a sole proprietorship, partnership, or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of the Board of Commissioners, officer, employee, or person, whose salary is payable in whole or in part by the Port, has a direct or indirect financial interest in the award of this Proposal, or in the services to which this Proposal relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein. The undersigned hereby submits this Proposal to furnish all work, services systems, materials, and labor as indicated herein and agrees to be bound by the following documents: Request for Proposal, Professional Services Contract, and associated inclusions and references, specifications, Proposal Form, Proposer response, mutually agreed clarifications, appropriately priced change orders, exceptions which are acceptable to the Port, and all other Proposer submittals.

Addendum Number (s) _____ Acknowledged ____ Yes ____ No

Reciprocal Preference Law - Residency

Resident Proposer () Non-Resident Proposer ()

Signature Block

The Proposer hereby certifies that the information contained in these certifications and representations is accurate, complete, and current.

Proposer Name

Telephone Number

Proposer Mailing Address, City, State, Zip

Proposer Facsimile Number

Proposer E-mail Address

Signature

Date

Attachment B
Sample Professional Services Agreement

**Port of Brookings Harbor
Agreement for Professional Services**

This Agreement for Professional Services ("Agreement") is made and entered into this ___ day of _____, 20__ by and between the Port of Brookings Harbor, an Oregon special district, herein referred to as "POBH" and _____ company, herein referred to as "Contractor."

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties agree as follows:

1.0. Effective Date and Duration. This Agreement will become effective upon its execution by the POBH and will expire _____, 20__, unless otherwise terminated or extended.

1.01. Option to extend Contract. POBH will provide an option to extend this contract for one (1) additional year by amendment agreement between parties.

2.0. Scope of Services. Contractor's services under this Agreement consist of the following (the "Work"):

2.01. Services. Contractor will perform the services detailed in Exhibit A, attached hereto and incorporated herein by this reference.

2.02. Schedule. Contractor will perform the Work in accordance with the Project Schedule(s) set forth in Exhibit B, attached here to and incorporated herein by this reference.

2.03. Documents. All documents including Drawings and Specifications prepared or furnished by Contractor (or Contractor's independent professional associates and consultants) pursuant to his Agreement are instruments of service in respect of the Project and Contractor and shall retain an ownership and property interest herein whether or not the Project is completed. POBH may make and retain copies for information and reference in connection with the use and occupancy of the Project by POBH and others. However, such documents are not intended or represented to be suitable for reuse by POBH or others on extension of the Project or any other project. Any reuse, without written verification or adaptation by Contractor for the specific purpose intended, will be at POBH's sole risk and without liability or legal exposure to contractor (or Contractor's independent professional associates or consultants), and POBH shall indemnify and hold harmless Contractor (and Contractor's independent professional associates and consultants) from all claims, damages losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle Contractor to further compensation at rates to be agreed upon by POBH and Contractor.

2.04. Information Provided by Others. POBH shall provide Contractor such information as is available to POBH with respect to the work and Contractor shall be entitled to rely on the accuracy and completeness thereof. POBH recognizes it is not possible for Contractor to insure the accuracy, completeness, and sufficiency of such information if Contractor was not retained to verify the information POBH is providing. Accordingly, POBH agrees, to the fullest extent permitted by law, to indemnify and hold Contractor, its officers, agents and employees harmless from any claim, liability or cost (including reasonable attorney's fees and costs of

defense) for injury or loss arising or allegedly arising from errors, omissions, or inaccuracies in documents or other information provided by POBH to Contractor.

2.05. Opinions of Cost. Since Contractor has no control over the cost of labor, materials, equipment or services furnished by others, or over the construction contractors' methods of determining prices, or over competitive bidding or market conditions, Contractor's opinion of probable Total Project Costs and Construction Costs provided for as part of the Work are to be made on the basis of Contractor's experience and qualifications and represent Contractor's best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but Contractor cannot and does not guarantee that proposals, bids, or actual Total Project of Construction Costs will not vary from opinions of probable cost prepared by Contractor.

3.0. Compensation & Billing.

3.01. Compensation. Contractor will be compensated on a time and materials basis, not to exceed \$250,000 in accordance with **Exhibit C**, attached hereto and incorporated herein by this reference.

3.02. Invoicing. Contractor must submit monthly invoices based on work completed. POBH will pay Contractor within 30 days of receipt of invoice. If there is a dispute as to one or more line items on the invoice, POBH will pay the undisputed portion within 30 days of receipt. The parties will exercise good faith and diligence in the resolution of any disputed invoice amounts and POBH will pay promptly upon resolution of the dispute.

4.0. Licensing and Certification. Contractor is required to maintain, at its own expense, all license and certifications required by the State of Oregon to perform services under this Agreement.

5.0. Status of Contractor as Independent Contractor. Contractor certifies that:

A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and will be deemed to be an independent contractor as defined by ORS 670.600 and not an employee of the POBH, is not entitled to benefits of any kind to which an employee of the POBH is entitled and is solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of the POBH for any purpose, the POBH will be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from the POBH or third party) as a result of said finding and to the full extent of any payments that the POBH is required to make (to Contractor or to a third party) as a result of said finding.

B. The undersigned Contractor hereby represents that no employee of the POBH, or any partnership or corporation in which a POBH employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

- C. If this payment is to be charged against Federal funds, Contractor certifies that he or she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.
- D. Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.
- E. Contractor is not an officer, employee, or agent of the POBH as those terms are used in ORS 30.265.

6.0. Early Termination.

6.01. Mutual Consent. This Agreement may be terminated without cause prior to the expiration of the agreed upon term by mutual written consent of the parties.

6.02. For Cause by POBH. The POBH may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by the POBH, under any of the following conditions:

- A. If due to budgetary considerations, the POBH decides to terminate the Agreement;
- B. If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed;
- C. If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor; or
- D. If Contractor's performance under this Agreement is not to the satisfaction of the POBH, then POBH shall give written notice and 14 days opportunity to cure the deficiency identified. If the deficiency is not cured within that time, then this Agreement may be terminated upon written notice to Contractor.

6.03. No Prejudice. Any such termination of this Agreement under paragraph 6.02 will be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

6.04 Remedies Not Exclusive. The rights and remedies of the POBH provided herein related to defaults (including breach of contract) by Contractor are not exclusive and are in addition to any other rights and remedies provided by law or under this Agreement. If the POBH terminates this Agreement, Contractor will be entitled to receive as full payment for all services rendered and expenses incurred up to the date of termination.

7.0. Access to Records. Contractor will grant the POBH access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts, and transcripts.

8.0. Insurance. Contractor and its subcontractors must maintain insurance acceptable to the POBH in full force and effect throughout the term of this Agreement. The policy or policies of insurance maintained by the Contractor and its subcontractors must provide at least the following limits and coverages:

8.01. Coverages. Contractor and its subcontractors must, at Contractor's or subcontractor's expense, and keep in effect during the term of this Agreement, the following insurance coverage with the following minimum policy limits:

Commercial General Liability	\$1,000,000.00 Each Occurrence Limit BI/PI/PD \$2,000,000.00 General Aggregate
Worker's Compensation	Per Oregon Law (ORS 656.017)
Comprehensive Automobile	\$ 1,000,000.00 Each Occurrence CSL (including coverage for all owned, hired and non-owned vehicles)
Professional Liability / E&O	\$1,000,000.00 Each Occurrence \$2,000,000.00 Aggregate per year

8.02. Additional Insured Provision. The POBH, its elected and appointed officers, agents, and employees must be added as additional insureds with respect to this Agreement. All Liability Insurance policies must be endorsed to show this additional coverage.

8.03. Insurance Carrier Rating. Coverage provided by the Contractor must be underwritten by an insurance company deemed acceptable by the POBH. The POBH reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

8.04. Certificates of Insurance. As evidence of the insurance coverage required by the contract, Contractor must furnish a Certificate of Insurance to the POBH. No contract will be effective until the required certificates have been received and approved by the POBH. The certificate will specify and document all of the required insurance provisions within this Agreement. A renewal certificate must be sent to the POBH 10 days prior to coverage expiration.

8.05. Primary Coverage Clarification. All parties to this Agreement hereby agree that Contractor's coverage will be primary in the event of a loss.

8.06. Notice of Cancellation. Contractor's insurance policies must contain provisions that such policies may not be canceled or their limits of liability reduced without thirty (30) days prior notice to POBH. A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of POBH, in lieu thereof, a certificate in form satisfactory to POBH certifying to the issuance of such insurance shall be forwarded to the POBH Authorized Representative prior to the commencement of work.

8.07. Effect of Insurance. The procuring of such required insurance may not be construed to limit Contractor's liability hereunder. Notwithstanding said insurance, Contractor will be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this Agreement.

9.0. Method and Place of Giving Notice, Submitting Bills and Making Payments. All notices, bills and payments must be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

Port of Brookings Harbor

Attn: Port Manager
PO Box 848
16330 Lower Harbor Rd
Brookings, OR 97415

Contractor Name

Attn: _____
Address

and when so addressed, will be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills and payments will be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

10.0. Compliance with Public Contract Laws. Contractor will observe all applicable state and local laws pertaining to public contracts. ORS Chapter 279 requires every public contract to contain certain provisions. Pursuant to ORS 279, the following provisions are part of this contract, as applicable, including without limitation the following:

10.01. Compliance with Tax Laws. Contractor represents and warrants that Contractor has complied with the tax laws of this state or a political subdivision of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317 and 318. Contractor covenants to continue to comply with the tax laws of this state or a political subdivision of this state during the term of this Agreement. Contractor understands that Contractor's failure to comply with the tax laws of this state or a political subdivision of this state before execution of this Agreement or during the term of this Agreement is a default for which POBH may terminate this Agreement and seek damages and other relief available under the terms of this Agreement or under applicable law.

10.02. Compliance with Payment Provisions. Contractor is required to:

- (a) Make payment promptly, as due, to all persons supplying to Contractor labor or material for the performance of the work provided for in this Agreement.
- (b) Pay all contributions or amounts due the Industrial Accident Fund from the Contractor or subcontractor incurred in the performance of this Agreement.
- (c) Not permit any lien or claim to be filed or prosecuted against the state or a county, school district, municipality, municipal corporation or subdivision thereof, on account of any labor or material furnished.
- (d) Pay to the Department of Revenue all sums withheld from employees under ORS 316.167.

10.03. Compliance with Wage and Hour Laws. ORS 279B.235 is hereby incorporated by reference as though set forth in full. Contractor agrees to abide by ORS 279B.235, as applicable.

10.04. Payment for Medical Care / Workers Compensation. Contractor shall promptly, as due, make payment to any person, copartnership, association or corporation furnishing medical, surgical and hospital care services or other needed care and attention, incident to sickness or injury, to the employees of the contractor, of all sums that the Contractor agrees to pay for the services and all moneys and sums that the Contractor collected or deducted from the wages of employees under any law, contract or agreement for the purpose of providing or paying for the services.

10.05. Other Applicable Laws. Without limiting the foregoing, Contractor expressly agrees to comply with: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. A condition or clause required by law to be in this contract shall be considered included by these references.

11.0. Required Provisions for Federal Grants. Because the services performed hereunder may be funded in whole or in part with FEMA disaster relief funds, the following provisions apply to this Agreement:

11.01. Acknowledgment of Federal Aid. This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the Agreement. Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

11.02. Clean Air Act. Contractor agrees to comply with all applicable standards, orders or regulations passed pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401. Contractor agrees to report each violation to the POBH and understands and agrees that the POBH will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency (FEWMA), and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.

11.03. Federal Water Pollution Control Act. Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 *et seq.* Contractor agrees to report each violation to the POBH and understands and agrees that the POBH will, in turn reports each violation as required to assure notification to the Federal Emergency Manage Agency (FEMA) and the appropriate Environmental Protection Agency Regional Office. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.

11.04. Debarment and Suspension. This Agreement is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, Contractor is required to verify that none of Contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into. This certification is a material representation of fact relied upon by the POBH. If it is later determined that Contractor did not comply with 2 C.F.R. Part

180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to POBH, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

11.05. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352. Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency. The proscribed form of certification is attached hereto as **Exhibit D**.

11.06. Prohibition on Contracting for Covered Telecommunications Equipment or Services.

(a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) *Prohibitions.*

(1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

(2) Unless an exception in paragraph (c) of this clause applies, Contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

(i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

(iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or

(iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that

uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

- (1) This clause does not prohibit Contractor from providing –
 - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
 - (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any use data or packets that such equipment transmits or otherwise handles.
- (2) By necessary implication and regulation, the prohibitions also do not apply to:
 - (i) Covered telecommunications equipment or services that:
 1. Are not used as a substantial or essential component of any system; and
 2. Are not used as critical technology of any system.
 - (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

- (1) In the event Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or Contractor is notified of such by a subcontractor at any tier or by any other source, Contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
- (2) Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

- (e) Subcontracts.* Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

11.07. Domestic Preference for Procurements. As appropriate, and to the extent consistent with law, Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause:

- “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

11.08. Audits. In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, the POBH and Contractor acknowledge and agree that no language in this Agreement is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

11.09. Federal Government Not A Party. The federal government is not a party this Agreement and is not subject to any obligations or liabilities to the POBH, Contractor, or any other party pertaining to any matter resulting from the Agreement.

11.10. False Claims. Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to Contractor’s actions pertaining to this Agreement.

11.11. Subcontracts. If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.

11.12. License and Delivery of Works Subject to Copyright and Data Rights. Contractor grants to POBH, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this Agreement to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the Agreement but not first produced in the performance of this Agreement, Contractor will identify such data and grant to the POBH or acquires on its behalf a license of the same scope as for data first produced in the performance of this Agreement. Data, as used herein, shall include any work subject to copy right under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this Agreement, Contractor will deliver to the POBH data first produced in the performance of this Agreement and data required by the

Agreement but not first produced in the performance of this Agreement in formats acceptably by the POBH.

12.0. Indemnification. Contractor agrees to indemnify, defend and hold harmless the POBH and its officers, agents and employees against all liability, loss and costs arising from actions, suits, claims or demands attributable to the acts or omissions of Contractor, and Contractor's officers, agents and employees, in performance of this Agreement, except as specifically provided otherwise in this Agreement.

13.0. Nonwaiver. The failure of the POBH to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder may not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.

14.0. Assignment. The Contractor must not assign this Agreement, in whole or in part, or any right or obligation hereunder, without the prior written approval of the POBH Board of Commissioners.

15.0. Severability. In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the remainder of this Agreement will remain in full force and effect and will in no way be affected or invalidated thereby.

16.0. Amendment. No consent, modification, or change of terms of this Agreement may bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, will be effective only in specific instances and for the specific purpose given.

17.0. Attorney's Fees. In case suit or action is instituted to enforce the provisions of this Agreement, the parties agree that the prevailing party will be entitled to an award of reasonable attorney's fees and court costs including attorney's fees and court costs on appeal.

18.0. Governing Law. The provisions of this Agreement will be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any questions arising under this Agreement must be brought in the Circuit Court of Curry County or the U. S. District Court in Medford.

19.0. Complete Agreement. This Agreement and the attached exhibits, constitute the entire agreement between the parties. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement.

20.0. Acknowledgment. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date herein above first written.

**PORT OF BROOKINGS HARBOR
BOARD OF COMMISSIONERS**

CONTRACTOR:

By: Richard Heap, Board President

By: _____
Name:
Its:

ATTEST: _____
Sharon Hartung, Secretary/Treasurer

SAMPLE

EXHIBIT – A

SCOPE OF WORK

Scope of Work Requirements

The scope of work project includes the FEMA Slope Repair and Dredging Project (FEMA DR-4432 & DR-4452) to be completed by end of 2024, and other tasks as determined by the Port Manager or Board of Commissioners.

The Proposer shall provide engineering services generally include and not limited to the following:

- Surveying
- Environmental Assessment
- Confirmation of basin flows and pipe size
- Water Quality Treatment Approach/Facility Evaluation and Design
- Preliminary Design
- Joint Permit Application, DSL and Corps Permitting; Local & County Permitting
- Dredging
- Temporary, Permanent Easement Descriptions
- 100% Design Drawings and Specifications
- Operating & Maintenance Manuals (if any)
- Cost Estimates & Graphics
- Meetings – Board of Commissioner Meetings
- RFP and Contractor Selection
- Construction Inspection and Preparing Conforming to Construction Record Drawings

Project Management

Contractor shall include Project Management as one of the work tasks. The following Project Management description is the minimum project management requirements and may be expanded upon by the Contractor:

The Contractor shall act as a manager of the Contractor's team, including any sub. The Contractor shall manage and coordinate all components of the Project and take a proactive role in keeping all tasks on schedule and budget and ensure timely completion of the Project(s). Contractor shall give prior notice to Port, and obtain acceptance from same, before performing work outside the contract work scope and thereby contract budget amount.

The Contractor shall ensure full coordination with Port staff and be responsive to any email and telephone discussions, in addition to the minimum meetings as listed under various tasks in the scope of work. The Contractor shall be in contact with the Port frequently enough to ensure a timely review of deliverables. The Contractor is expected to work with all stakeholders in a responsible manner.

Submit a summary report of work completed by sub-tasks for the invoice period with each invoice. Indicate each individual's time spent on each sub-task for the invoice period. Alert the Port if any issues or concerns may affect the progress and/or cost of the project.

Sample Exhibit B - Project Services and Schedule FEMA DR-4432 and DR-4452

Expected Dates	Sub Project Descriptions
Completed	Completion of all preliminary designs and drawings, presentations, approval and revisions per Port Board and Management and management, and submission to FEMA, with budgets including 406 Mitigation
10/1/2021 to 11/1/2021	Receipt of FEMA budget and scope of work approval
11/1/2021 to 2/1/2022	Bathymetric survey, sediment sampling, characterization and permitting of identified areas as required by USACE prior to dredging
11/1/2021 to 2/1/2022	Submission of Joint Permit Application to USACE/ODSL, and to FEMA
1/1/2021 to 9/1/2022	Purchase of dredge, electric generator and piping
3/1/2021 to 5/1/2022	Completion of construction drawings
5/1/2022 to 7/1/2022	RFP to select project contractor
5/1/2022 to 7/1/2022	Project permitting from local agencies (Curry County & districts)
7/1/2022 to 9/1/2022	Grading and construction of the sediment storage area in the Commercial area
5/1/2022 to 6/1/2022	Receipt of USACE/ODSL approval
10/1/2022 to 3/1/2023	Dredging for the base of the west wall
10/1/2022 to 3/1/2023	Placement of the sediment onto the Kite Field to create a retaining wall for hydraulic dredged sediment
10/1/2022 to 3/1/2023	Wall construction along the west side of Basin 2
10/1/2022 to 3/1/2023	Extension of that wall along the Boat Yard embankment
10/1/2022 to 3/1/2023	Hydraulic dredging of specific areas under docks and other areas in Basin 2 while disposing of the sediment into the RV/Kite Field RV Park area
4/1/2023 to 9/1/2023	Grading of the Kite Field area, the placement of stormwater piping and catch basins into the Kite Field area, the asphalt paving of the parking spaces and road in Kite Field area
4/1/2023 to 9/1/2023	Grading, stormwater system construction and paving of the Boat Yard
10/1/2023 to 3/1/2024	Hydraulic dredging of the Port Basins
4/1/2023 to 9/1/2024	Grading, stormwater system and road construction and paving of the Commercial area
10/1/2024 to 3/1/2025	Hydraulic dredging of the Port Basins (if needed)

**EXHIBIT – C
COMPENSATION**

Contractor’s cost proposal.

SAMPLE

EXHIBIT D

44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or any employee a Member or Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Contractor: _____

Dated: _____

By: _____

Signature

Print Name: _____

Title: _____

Appendix A – Background Information for FEMA Slope Repair and Dredging Projects

FEMA 4432

Harbor - Basins 1 and 2

This damaged facility, Port of Brookings Harbor is being written for Version 0 to provide the Applicant with funding for Architect & Engineering (A&E) Service in order to determine a Method of Repair to restore the facility back to pre-disaster condition.

Work to be Completed

The applicant will utilize contracts for the repairs to harbor Basins 1 and 2 to return the facility back to its pre-disaster design, function and capacity (in-kind) within the existing footprint.

Facility Damage

A. Remove and dispose of 500 Cubic Yard of Sand/Soil/Mud debris from basin 1.

GPS: 42.047097, -124.266318 through 42.044543, -124.264013

B. Remove and dispose of 7,500 Cubic Yard of Sand/Soil/Mud debris from basin 2.

GPS: 42.051155, -124.268378 through 42.050387, -124.268139

Work to be Completed Preliminary Base Cost Total: \$ 628,039.36

Total Version 0 A & E (Architectural and Engineering Cost): \$ 39,600.00

Special Notes:

- a. The actual dredging work of this project, which will be captured in Version 1 (see project note #6 below), is directly associated with the dredging work of Project #110140 of DR4452OR, so the Engineering Services will include the composite design documents for both damages. Note: because the projects are not mutually exclusive (e.g. as the sediment of the first event DR4432 is beneath the sediment of DR4452, it technically cannot be removed until the DR4452 sediment is removed), thus the need for a combined engineering program.
- b. Engineering Services Costs: by combining the engineering efforts, the anticipated total A&E expenditure is \$120,000, as noted in document PR#104046_DR4432_POBH_5-6-20 telecon notes [Dredging Project Versioning].pdf. Due to the significant cost of the large rock excavation scope-of-work in DR4432 [\$270,000 for 3000CY = \$90/CY] compared to the regular pumped-to-settling basins procedure [approx. \$57/CY], the A&E cost distribution will be based on the weighted average of estimated total project cost, where Project#104406 is \$875,000 (Option#1) and Project#110140 is \$1,770,000 (Option#1), the \$120,000 will be allocated to each project as follows:
Project#104406 (DR4432) 33% = approximately \$39,600, and Project#110140 (DR4452) 67% = approximately \$80,400.

Project Notes:

1. This project is written for A&E costs only.

2. Version 0 of this project is to provide the applicant with funding for A&E costs in order to determine and design the required method of repair (plus applicable codes and standards) to address the damages listed in the DDD and restore the facility back to pre-disaster design, function and capacity.
3. FEMA will create a subsequent project version/amendment to approve and capture a required scope of work. Repair work must not be commenced without prior FEMA approval of the repair scope of work. The version approval will require a detail scope proposal, cost estimate, and justification to support the required method of repair.
4. The estimated cost for the A&E services for the permanent work to be completed, is estimated and verified as being reasonable, using the CEF format cost for Section H of the Applicant's Project Management and Design Costs. [refer to documents titled: RE_4432DR-OR (4432DR) Port of Brookings Harbor (015-UIZ5Q-00) [104046] Dredging; ST 104046 Cost Estimate (1).xlsx.
5. If the Applicant's proposed method of repair includes changes to the facility's pre-disaster design or condition, then the Applicant must demonstrate that the proposed repair work is: (1) required to address damage caused by the declared disaster; (2) required to restore the facility's pre-disaster function; and (3) reasonable and consistent with the Applicant's general construction practices (see FEMA Public Assistance Program and Policy Guide (PAPPG) at pp. 19, 84-85).
6. Design/Engineering includes any/all specialty studies needed for the completion of the Plans, Specifications, and Engineering Estimate (H&H, flood plain analysis, or geotechnical studies) and to facilitate formal consultation with all federal environmental agencies (NMFS, USFW, & USACE) and historical preservation agencies (SHPO).
7. For Mitigation to be considered, Design/Engineering for any type of mitigation measures that could potentially apply to the damaged facility must follow FEMA approved guidelines.
8. Should the A&E Study require a geotechnical investigation to determine the appropriate damage repair, the geotechnical investigation would be limited to investigative borings that may be performed within the previously disturbed prism within the public right of way. Should it be determined that a geotechnical investigation would require equipment access and staging off of hard surfaces (e.g. preexisting paved or gravel surfaces) or any ground disturbing activities such as clearing and grubbing, shovel tests, trenching, etc., a scope of work for the proposed ground disturbing activities shall be provided for further review in advance of conducting the work.
9. Version 0 does not include approval for construction of any kind. Prior to going to construction, a subsequent Version 1 for this project will be written and will require a full FEMA review.
10. GPS coordinates: Applicant will confirm in writing that all relevant GPS information provided by Applicant and its consultants, is accurate.

Note: (1) Engineering, design and drawings are at 60% complete. Permitting, design and 100% Drawings with construction management will be needed. (2) 406 Mitigation is being determined by FEMA to strengthen upland erosion from future storm related damages.

FEMA 4452

Work to be Completed

The applicant will utilize contracts for the repairs to harbor Basins 1 and 2 to return the facility back to its pre-disaster design, function and capacity (in-kind) within the existing footprint.

Facility Damage

- A. Remove and dispose of 15,500 Cubic Yard of Sand/Soil/Mud debris from basin 1, area 1.
GPS: 42.047097, -124.266318 through 42.044543, -124.264013
- B. Remove and dispose of 3,000 Cubic Yard of Sand/Soil/Mud debris from basin 1, area 2.
GPS: 42.047097, -124.266318
- C. Remove and dispose of 12,500 Cubic Yard of Sand/Soil/Mud debris from basin 2, area 4.
GPS: 42.051155, -124.268378 through 42.050387, -124.268139

Work to be Completed Preliminary Base Cost Total: \$ 1,352,257.64

Architectural and Engineering Cost Applied to Project: \$ 80,400.00

Special Notes:

- a. The actual dredging work of this project, which will be captured in Version 1 (see project note #6 below), is directly associated with the dredging work of Project #110140 of DR4452OR, so the Engineering Services will include the composite design documents for both damages. Note: because the projects are not mutually exclusive (e.g. as the sediment of the first event DR4432 is beneath the sediment of DR4452, it technically cannot be removed until the DR4452 sediment is removed), thus the need for a combined engineering program.
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Project Notes:

1. This project is written for A&E costs only.
2. Version 0 of this project is to provide the applicant with funding for A&E costs in order to determine and design the required method of repair (plus applicable codes and standards) to address the damages listed in the DDD and restore the facility back to pre-disaster design, function and capacity.
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4. The estimated cost for the A&E services for the permanent work to be completed, is estimated and verified as being reasonable, using the CEF format cost for Section H of the Applicant's Project Management and Design Costs. [refer to documents titled: RE_4432DR-OR (4432DR) Port of Brookings Harbor (015-UIZ5Q-00) [104046] Dredging; ST 110140 Cost Estimate.xlsx].
5. If the Applicant's proposed method of repair includes changes to the facility's pre-disaster design or condition, then the Applicant must demonstrate that the proposed repair work is: (1) required to address damage caused by the declared disaster; (2) required to restore the facility's pre-disaster function; and (3) reasonable and consistent with the Applicant's general construction practices (see FEMA Public Assistance Program and Policy Guide (PAPPG) at pp. 19, 84-85).
6. Design/Engineering includes any/all specialty studies needed for the completion of the Plans, Specifications, and Engineering Estimate (H&H, flood plain analysis, or geotechnical studies) and to facilitate formal consultation with all federal environmental agencies (NMFS, USFW, & USACE) and historical preservation agencies (SHPO).
7. For Mitigation to be considered, Design/Engineering for any type of mitigation measures that could potentially apply to the damaged facility must follow FEMA approved guidelines.
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10. GPS coordinates: Applicant will confirm in writing that all relevant GPS information provided by Applicant and its consultants, is accurate.

Note: (1) Engineering, design and drawings are at 60% complete. Permitting, design and 100% Drawings with construction management will be needed. (2) 406 Mitigation is being determined by FEMA to strengthen upland erosion from future storm related damages.



Port of Brookings Harbor

16330 Lower Harbor Road / PO Box 848
Brookings, Oregon 97415
Phone (541) 469-2218
Fax (541) 359-3999
www.portofbrookingsharbor.com

Board of Commissioners

Richard Heap, President
Joseph Speirs, Vice-President
Sharon Hartung, Secretary/Treasurer
Kenneth Range
Larry Jonas

Project Name: Professional Engineering Services for FEMA DR-4432 & 4452

Addendum No. 1

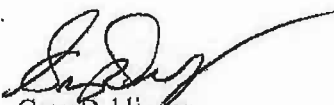
The original RFP dated September 27, 2021, are hereby supplemented by this Addendum No. 1 dated October 11, 2021.

CLARIFICATIONS

1. The \$250,000 limitation in this RFP includes all sediment sampling, lab analyses and characterization, all necessary construction drawing and other CAD work, all land surveying required, all remaining permitting work, regulatory and FEMA correspondence, and all engineering design, both on and offsite.
2. The \$250,000 limitation in this RFP also includes all onsite project management conducted by the proposer, including field inspections, supervision, etc., typically reimbursable by FEMA as part of the construction phase.

Since an additional \$120,000 is presently being requested for reimbursement from FEMA for Item #1, this would mean the RFP limitation provides for \$130,000 in project management work, which would be covering all on site work for 2022, 2023, 2024 and into 2025.

END OF ADDENDUM NO. 1


Gary Dehlinger
Port of Brookings Harbor

ACTION ITEM – E

DATE: October 20, 2021
RE: RV Park Improvements Contract Approval
TO: Honorable Board President and District Board Members
ISSUED BY: Gary Dehlinger, Port Manager

OVERVIEW

- Board of Commissioners approved the award to McLennan Excavation, Inc. at a Special Commission Meeting on October 7, 2021.
- Crow/Clay Associates Inc. did not receive any protests on the bid.
- Crow/Clay Associates Inc. provided the draft contract and Port legal counsel reviewed the contract.

DOCUMENTS

- Draft McLennan Excavation Inc. Contract for the RV Park Improvements Project, 64 pages

COMMISSIONERS ACTIONS

- **Recommended Motion:**
Motion to approve the draft contract to McLennan Excavation Inc. for the Beachfront RV Park Improvements.

AIA® Document A101® – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the 1 day of October in the year Two Thousand Twenty One
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Port of Brookings Harbor
16330 Lower Harbor Road
Brookings OR 97415

and the Contractor:
(Name, legal status, address and other information)

McLennan Excavation Inc.
PO Box 6837
Brookings OR 97415

for the following Project:
(Name, location and detailed description)

Beachfront RV Park Improvements
16024 Boat Basin Road
Improvements to Sites 1 thru 22 and creation of six (6) new sites, 32 thru 38.

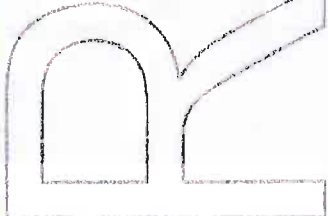
The Architect:
(Name, legal status, address and other information)

Crow/Clay & Associates Inc.
125 West Central Avenue, Suite 400
Coos Bay OR 97420

The Owner and Contractor agree as follows.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.



ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
 - 2 THE WORK OF THIS CONTRACT
 - 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
 - 4 CONTRACT SUM
 - 5 PAYMENTS
 - 6 DISPUTE RESOLUTION
 - 7 TERMINATION OR SUSPENSION
 - 8 MISCELLANEOUS PROVISIONS
 - 9 ENUMERATION OF CONTRACT DOCUMENTS
- EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:
(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

February 21, 2022

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

Not later than sixty eight (68) calendar days from the date of commencement of the Work.

By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
<u>N/A</u>	

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Six Hundred Fifty Seven Thousand Dollars and No Cents (\$ 657,000.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
<u>N/A</u>	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Conditions for Acceptance
<u>N/A</u>		

§ 4.3 Allowances, if any, included in the Contract Sum: *(Identify each allowance.)*

Item	Price
<u>N/A</u>	

§ 4.4 Unit prices, if any: *(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price per Unit (\$0.00)
<u>N/A</u>		

§ 4.5 Liquidated damages, if any: *(Insert terms and conditions for liquidated damages, if any.)*

The Owner will suffer financial loss if the project is not substantially completed on the date set forth in the contract documents. The Contractor shall be liable for and shall pay to the Owner the sum of two hundred dollars (\$200) as fixed, agreed and liquidated damages for each calendar day of delay until the work is substantially completed.

§ 4.6 Other: *(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)*

<u>N/A</u>

ARTICLE 5 PAYMENTS

§ 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

Monthly anniversary date shall be the twenty-fifth (25) of each month. The period of construction work covered by each Application for Payment is the period ending five (5) days prior to the date for each progress payment and starting the day following the end of the preceding period.

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the first day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the thirtieth day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

Five percent (5%) of each Application for Payment.

§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

Insurance

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

N/A

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

Retainage in the amount of two hundred percent (200%) any uncompleted work will not be released until final certificate for payment is approved by Architect.

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

9 % per annum

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

Arbitration pursuant to Section 15.4 of AIA Document A201-2017

Litigation in a court of competent jurisdiction

Other (Specify)

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

Amount due for materials ordered and work completed at date of termination.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

(Name, address, email address, and other information)

Mr. Gary Dehlinger
Port Manager
16330 Lower Harbor Road
Brookings OR 97415
(541) 541-2218, Ext. 406

§ 8.3 The Contractor's representative:

(Name, address, email address, and other information)

Mr. Michael Parke
Job Forman
98109 N. Bank Chetco River Road
Brookings OR 97415
Cell: (541) 254-3102
Office: (541) 412-0106

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 8.7 Other provisions:

Exhibit B

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 ~~AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~

:

(Insert the date of the E203-2013 incorporated into this Agreement.)

- .5 Drawings

Number	Title	Date
CS	Overall Site Plan	August 2021
A1	Vicinity Map, Details	August 2021
A2	Enlarged Demo Site Plan	August 2021
A3	Enlarged Site Plan (Spaces 33-38)	August 2021
A4	Enlarged Site Plan (Spaces 16-22) and Typical Site	August 2021
Existing Topographical Survey	Utility / Slab	July 23, 2020
Existing Topographical Survey	Layout	July 23, 2020
P1.0	Enlarged Site Plan (Spaces 1-8 & 9-15)	September 2020
P1.1	Sheet 1	September 2020
E1.0	Sheet 2	September 2020
E1.1	Demolition Plan	September 2020
	Plumbing Site Plan	
	Demolition Plan	
	Electrical Site Plan	

.6 Specifications

Section	Title	Date	Pages
See attached 'Table of Contents'			

.7 Addenda, if any:

Number	Date	Pages

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below: (Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Specifications	General and Supplementary General Conditions	August 2021	5

.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders,

sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)

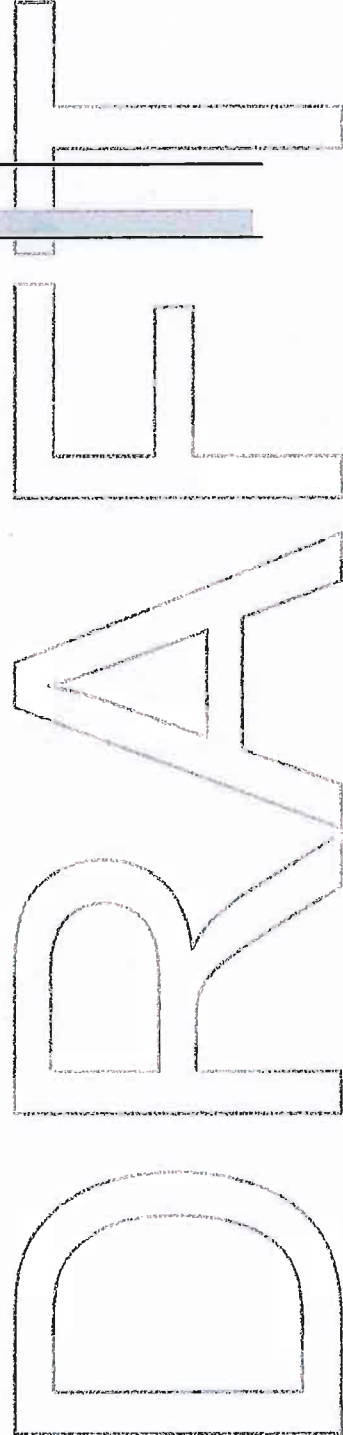


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--	---

DIVISION 4 - MASONRY - NOT USED

DIVISION 5 - METALS - NOT USED

DIVISION 6 - WOOD AND PLASTICS - NOT USED

BEACHFRONT RV PARK IMPROVEMENTS
PORT OF BROOKINGS-HARBOR
16024 BOAT BASIN ROAD

PROJECT NO. 19005

DIVISION 7 - THERMAL AND MOISTURE PROTECTION - NOT USED

DIVISION 8 - DOORS AND WINDOWS - NOT USED

DIVISION 9 - FINISHES - NOT USED

DIVISION 10 - SPECIALTIES - NOT USED

DIVISION 11 - EQUIPMENT - NOT USED

DIVISION 12 - FURNISHINGS - NOT USED

DIVISION 13 - SPECIAL CONSTRUCTION - NOT USED

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END OF SECTION

AIA® Document A101® – 2017 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the day of October in the year Two Thousand Twenty One
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

Beachfront RV Park Improvements
16024 Boat Basin Road
Brookings OR 97415

THE OWNER:
(Name, legal status and address)

Port of Brookings Harbor
16330 Lower Harbor Road
Brookings OR 97415

THE CONTRACTOR:
(Name, legal status and address)

McLennan Excavation Inc.
PO Box 6837
Brookings OR 97415

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A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

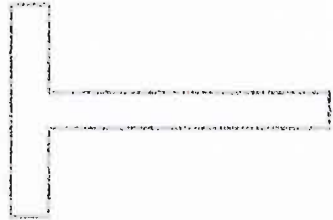
ARTICLE A.1 GENERAL

The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

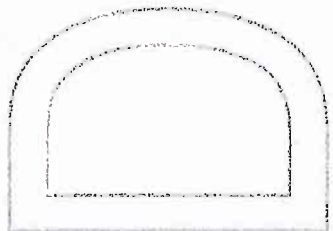
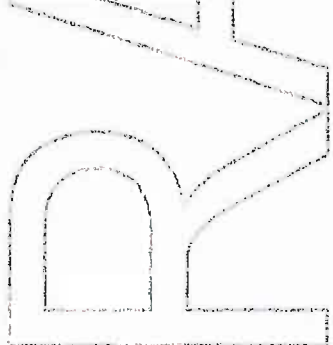
§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.



This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201®–2017, General Conditions of the Contract for Construction. Article 11 of A201®–2017 contains additional insurance provisions.



ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Causes of Loss	Sub-Limit

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Contractor's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage	Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

- § A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.
- § A.2.4.2 Ordinance or Law Insurance, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
- § A.2.4.3 Expediting Cost Insurance, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
- § A.2.4.4 Extra Expense Insurance, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
- § A.2.4.5 Civil Authority Insurance, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
- § A.2.4.6 Ingress/Egress Insurance, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
- § A.2.4.7 Soft Costs Insurance, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

- § A.2.5.1 Cyber Security Insurance for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.

(Indicate applicable limits of coverage or other conditions in the fill point below.)

[] § A.2.5.2 Other Insurance

(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below: (If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than one million (\$ 1,000,000.00) each occurrence, two million (\$ 2,000,000.00) general aggregate, and two million (\$ 2,000,000.00) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than one million (\$ 1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than one million (\$ 1,000,000.00) each accident, one million (\$ 1,000,000.00) each employee, and one million (\$ 1,000,000.00) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than (\$) per claim and (\$) in the aggregate.

§-

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

~~§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than $(\$ \quad)$ per claim and $(\$ \quad)$ in the aggregate.~~

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

§ A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

§ A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than $(\$ \quad)$ per claim and $(\$ \quad)$ in the aggregate, for Work within fifty (50) feet of railroad property.

§ A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than $(\$ \quad)$ per claim and $(\$ \quad)$ in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

§ A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

§ A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

§ A.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage

Limits

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

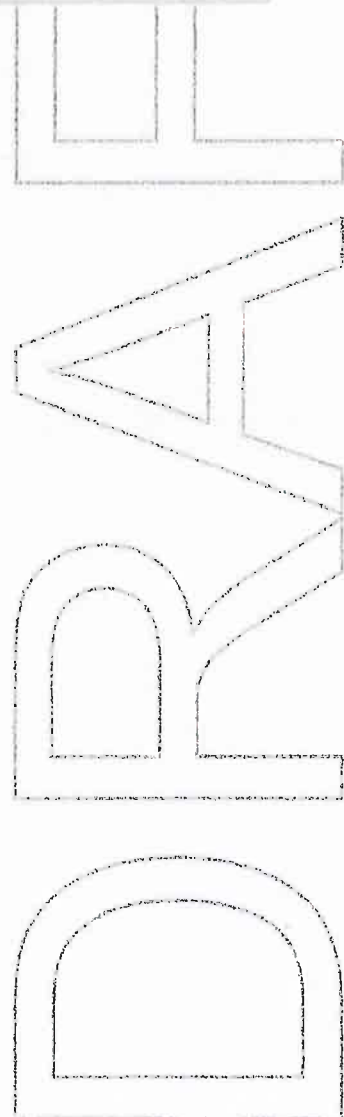
Type	Penal Sum (\$0.00)
Payment Bond	<u>\$657,000.00</u>
Performance Bond	<u>\$657,000.00</u>

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

[Redacted]



AIA Document A101-107 Exhibit B
(incorporated at § 8.7)

B.1. Prevailing Wage. Workers must be paid not less than the specified minimum hourly rate of wage in accordance with ORS 279C.838 and ORS 279C.840. The applicable prevailing wage rates may be accessed via the internet at:

<https://www.oregon.gov/BOLI/WHD/PWR/Pages/index.aspx>. Hard copies of the prevailing wage rates publication may be obtained by contacting the Oregon Bureau of Labor and Industries via telephone at: (971) 673-0839. If this Project is subject to the Davis-Bacon Act and the state prevailing rate of wage is higher than the federal prevailing rate of wage, the Contractor and every subcontractor on the Project must pay at least the state prevailing rate of wage as determined under ORS 279C.815.

The Contractor must have a public works bond filed with the Oregon Construction Contractors Board before starting work on the Project, unless exempt under ORS 279C.836 (4), (7), (8) or (9). The Contractor must pay the applicable prevailing wage rates that are in effect at the time the POBH enters into this Agreement with Contractor.

B.2. Contractor - Payment of Benefits - Hours of Work

A. The Contractor must:

- (1) Make payment promptly, as due, to all persons supplying to such Contractor labor or material for the performance of the work provided for in this Agreement;
- (2) Pay all contributions or amounts due the Industrial Accident Fund under the Worker's Compensation Law from such Contractor or Subcontractor incurred in the performance of this Agreement;
- (3) Pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167; and
- (4) Not permit any lien or claim to be filed or prosecuted against the POBH on account of any labor or material furnished.

B. The Contractor or the Contractor's surety and every subcontractor or the subcontractor's surety must file certified statements with the POBH in writing on a form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the subcontractor has employed upon such public work, and further certifying that no worker employed upon such public work has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the contract, which certificate and statement must be verified by the oath of the Contractor or the Contractor's surety or subcontractor or the subcontractor's surety that the Contractor or subcontractor has read such statement and certificate and knows the contents thereof and that the same is true to the Contractor's or subcontractor's knowledge.

(1) The certified statements must set out accurately and completely the payroll records, including the name and address of each worker, the worker's correct classification, rate of pay, daily and weekly number of hours worked, and the gross wages the worker earned during each week identified in the certified statement.

(2) Each certified statement required herein is to be delivered or mailed by the Contractor or subcontractor to the POBH. A true copy of the certified statements must also be filed at the same time with the Commissioner of the Bureau of Labor and Industries. Certified statements must be submitted as set forth in OS 279C.845.

(3) The POBH will retain 25 percent of any amount earned by Contractor until the certified statements as required by this section have been filed. The POBH must pay Contractor the amount retained under this subsection within 14 days after Contractor files the certified statements as required by this section, regardless of whether a subcontractor has failed to file certified statements as required by this section. The POBH is not required to verify the truth of the contents of certified statements filed by Contractor.

C. The Contractor agrees that if the Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to the Contractor or a subcontractor by any person in connection with this contract as such claim becomes due, the POBH may pay such claim to the person furnishing the labor or services and charge the amount of the payment against funds due or to become due to the Contractor by reason of such contract. Payment of a claim in this manner will not relieve the Contractor or the Contractor's surety from obligation with respect to any unpaid claims.

D. Contractor agrees that no person will be employed for more than ten (10) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, emergency or when public policy absolutely requires it, and in such cases the laborer must be paid at least time and a half pay for all overtime in excess of eight (8) hours in any one day or forty (40) hours in any one week when the workweek is five consecutive days, Monday through Friday, or ten (10) hours in any one day and or forty (40) hours in any one week when the workweek is four consecutive days, Monday through Friday and for all work performed on Saturday and on any legal holiday as specified in ORS 279C.540.

B.3. Drug Testing Program. ORS 279C.505 requires that all public improvement contracts contain a provision requiring contractors to demonstrate that an employee drug-testing program is in place. The Contractor demonstrates that a drug-testing program is in place by signing of this Agreement. The drug testing program will apply to all employees and will be maintained for the duration of the Agreement. Failure to maintain a program constitutes a material breach of contract.

B.4. Contractor's Employee Medical Payments. Contractor agrees to pay promptly as due, to any person, co-partnership, association or corporation furnishing medical, surgical, and hospital care or other needed care and attention incident to sickness or injury to the Contractor's employees, of all sums which the Contractor agreed to pay for such services and all money and sums which the

Contractor collected or deducted from employee wages pursuant to any law, contract or agreement for the purpose of providing or paying for such service.

B.5. Salvage, Composting or Mulching. If this Agreement is for demolition work, Contractor must salvage or recycle construction and demolition debris, if feasible and cost-effective. If this is a contract for lawn and landscape maintenance, Contractor must compost or mulch yard waste material at an approved site, if feasible and cost-effective.

B.6. Adherence to Law.

A. Contractor must adhere to all applicable laws governing its relationship with its employees, including but not limited to laws, rules, regulations, and policies concerning workers' compensation, and minimum and prevailing wage requirements. Specifically, but not by way of limitation, this Agreement is subject to all applicable provisions of ORS 279C.505, 279C.510, 279C. 515, 279C.520, 279C.525, 279C.530, 279C.540, 279C.570, 279C. 580, and 279C.800-279C.870.

B. To the extent applicable, the Contractor represents that it will comply with Executive Order 11246 as amended, Executive Order 11141, Section 503 of the Vocational Rehabilitation Act of 1973 as amended and the Age Discrimination Act of 1975, and all rules and regulations issued pursuant to the Acts.

C. As provided by ORS 279C.525, all applicable provisions of federal, state or local statutes, ordinances and regulations dealing with the prevention of environmental pollution and the preservation of natural resources that affect the work under this Agreement are by reference incorporated herein to the same force and effect as if set forth herein in full. If the Contractor must undertake additional work due to the enactment of new or the amendment of existing statutes, ordinances or regulations occurring after the submission of the successful bid, the POBH must issue a Change Order setting forth the additional work that must be undertaken. The Change Order will not invalidate this Agreement and there will be, in addition to a reasonable extension, if necessary, of the contract time, a reasonable adjustment in the contract price, if necessary, to compensate the Contractor for all costs and expenses incurred, including overhead and profits, as a result of the delay or additional work.

B.7. Hazardous Materials. Contractor must supply POBH with a list of any and all hazardous substances used in performance of this Agreement. That list must identify the location of storage and use of all such hazardous substances and identify the amounts stored and used at each location. Contractor must provide POBH with material safety data sheets for all hazardous substances brought onto POBH property, created on POBH property or delivered to POBH property pursuant to this Agreement. For the purpose of this section, "hazardous substance" means hazardous substance as defined by ORS 453.307(5). Contractor must complete the State Fire Marshall's hazardous substance survey as required by ORS 453.317 and assist the POBH to complete any such survey that it may be required to complete because of substances used in the performance of this Agreement.

B.8. Hazardous Waste. If, as a result of performance of this Agreement, Contractor generates any hazardous wastes, Contractor will be responsible for disposal of any such hazardous wastes in compliance with all applicable federal and state requirements. Contractor must provide the POBH with documentation, including all required manifests, demonstrating proper transportation and disposal of any such hazardous wastes. Contractor agrees to defend, indemnify, and hold harmless the POBH for any disposal or storage of hazardous wastes generated pursuant to this Agreement and any releases or discharges of hazardous materials.

AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

Beachfront RV Park Improvements
16024 Boat Basin Rd

THE OWNER:
(Name, legal status and address)

Port of Brookings Harbor
16330 Lower Harbor Rd
Brookings OR 97415

THE ARCHITECT:
(Name, legal status and address)

Crow/Clay & Associates Inc
125 West Central Ave Suite 400
Coos Bay OR 97420

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- 12 UNCOVERING AND CORRECTION OF WORK
- 13 MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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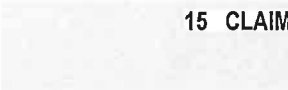
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14 TERMINATION OR SUSPENSION OF THE CONTRACT

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent

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consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

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§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,

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assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

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§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the

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Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

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§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the

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Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations

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and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor,

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prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work,

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promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

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- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will

affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and

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unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

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§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

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§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

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§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

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ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 **Notice of Cancellation or Expiration of Owner's Required Property Insurance.** Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

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§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to

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the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

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§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

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ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance,

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the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the

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Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

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Additions and Deletions Report for **AIA® Document A201® – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:28:15 ET on 10/13/2021.

PAGE 1

Beachfront RV Park Improvements
16024 Boat Basin Rd

...

Port of Brookings Harbor
16330 Lower Harbor Rd
Brookings OR 97415

...

Crow/Clay & Associates Inc
125 West Central Ave Suite 400
Coos Bay OR 97420

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:28:15 ET on 10/13/2021 under Order No. 2114250765 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

INFORMATION ITEM – A

DATE: October 20, 2021
RE: DEQ Tier II Requirements
TO: Honorable Board President and District Board Members
ISSUED BY: Gary Dehlinger, Port Manager

OVERVIEW

- Port received notice that DEQ completed its review of our facilities stormwater monitoring data, and the reports have triggered Tier II corrective actions.
- There are four locations, boat yard, gear storage near Hallmark dock, gear storage near cold storage and gear storage near Pacific Seafood processing plant. It also may include other areas in similar locations. The pollutants include copper and total suspended solids.
- Tier II corrective actions response must be submitted no later than December 31, 2021. If approved, the project must be installed and implemented no later than September 30, 2023.
- The current FEMA Project schedule fits their timeframe but does not leave much room for delays. We believe DEQ would provide a time extension if there are valid reasons for not completing the work in time.
- The company that produced our Stormwater Pollution Control Plan, Aquarius Environmental, is reviewing our Tier II requirements with Jack Akin/EMC Engineering / Scientists and our preliminary FEMA drawings to provide a response for the Tier II corrective actions.

DOCUMENTS

- Email from DEQ dated September 28, 2021, 7 pages

From: JACOBSEN Kathy R * DEQ <kathy.r.jacobsen@deq.state.or.us>
Sent: Tuesday, September 28, 2021 11:54 AM
To: travis@portofbrookingsharbor.com; portmanager@portofbrookingsharbor.com
Cc: JACOBSEN Kathy R * DEQ
Subject: File #126385 Port of Brookings Harbor - Triggered Tier II Requirement

DEQ File #126385
Port of Brookings Harbor, Curry County

After completing a review of this facility's stormwater monitoring data for the monitoring year July 1, 2020 – June 30, 2021, as reported on the submitted Discharge Monitoring Reports to DEQ, I am confirming to you that this facility has triggered Tier 2 corrective actions at the following monitoring location for the following pollutant:

- Monitoring location 103 for total copper
- Monitoring location 202 for total suspended solids
- Monitoring location 302 for total suspended solids and total copper
- Monitoring location 305 for total suspended solids and total copper
- If applicable, must include any other discharges locations that were deemed substantially similar to the locations listed above.

As required per the 1200-Z permit, Schedule A.12, beginning on page 21 of the permit, submit a proposed Tier 2 corrective action response to DEQ for our review no later than **December 31, 2021**. Review the entire Schedule A.12 to review your corrective action response options for a Tier 2 project and all of the applicable requirements.

You must also include this completed Tier 2 checklist with your proposal:
<https://www.oregon.gov/deq/FilterPermitsDocs/stormwater-tier2.pdf>

DEQ will then review your proposal and notify you if it is approved or denied. Once approved, your approved project must be installed and implemented no later than September 30, 2023.

Please confirm receipt of this notification, and contact me with any questions.

Respectfully,
Kathy Jacobsen, Stormwater Specialist
DEQ Western Region
165 E. 7th Avenue, Suite 100
Eugene, OR 97401
541-687-7326

We are in the process of modernizing and upgrading the way we accept, share and process information at DEQ with *Your DEQ Online*: a new centralized hub for communities, businesses and individuals. [Learn more.](#)



Tier 2 Revised Stormwater Pollution Control Plan Checklist Instructions Industrial Stormwater Discharge 1200-Z Permits

Tier 2 Parameters

Only exceedances of the geometric mean from statewide benchmarks are subject to Tier 2 corrective action. Please see the tables below for a list of the statewide parameters and associated benchmarks.

Table 4 from the permit: Statewide Benchmarks

Georegion	pH s.u.	Total Copper mg/L	Total Lead mg/L	Total Zinc mg/L	TSS mg/L	BOD mg/L	Total Phosphorus mg/L	E. coli organism/100 mL
Columbia Slough	5.5-9.0	0.017 ²	0.10 ²	0.24 ²	30	24	0.16	406 ¹
Portland Harbor	5.5-9.0	0.015 ²	0.24 ²	0.24 ²	30			
Cascades	5.5-9.0	0.016	0.018	0.068	100			
Coastal	5.5-9.0	0.017	0.039 ²	0.086	100			
Columbia River Mainstem	6.0-9.0	0.023	0.21	0.35	100			
Eastern	5.5-9.0	0.031	0.077 ²	0.16	100			
Willamette Valley	5.5-9.0	0.015 ²	0.11 ²	0.14 ²	100			
Marine Waters	6.0-9.0	0.025	1.10	0.46	100			

¹Columbia Slough dischargers are only subject to benchmark monitoring, no impairment monitoring

²Applied regional translators

Monitoring point, Parameter and Corresponding Geometric Mean Exceedance

- Please indicate the monitoring point, as identified on the Site Plan in your Stormwater Pollution Control Plan and also on your Discharge Monitoring Report.
- Please indicate the parameter, units and geometric mean associated with each monitoring point exceedance.
- Please note, if you are not sampling all of your stormwater discharge points and your pollution control plan has identified substantially similar effluent based on a site analysis and/or monitoring, then you must install the same treatment on those representative discharge points. Once implemented, you must sample substantially similar discharge points for the parameters that triggered Tier 2.

Projected Reduction of Pollutant Concentration Treated

Please provide the projected percent reduction in concentration for the proposed treatment measure associated with the corresponding geometric mean exceedance. Regardless if a facility is proposing one treatment system to address more than one geometric mean exceedance or multiple treatment measures with the goal of reaching a single benchmark, please list the percent reduction for each parameter. The projected percent reduction should reduce the pollutant discharged to or below the benchmark.

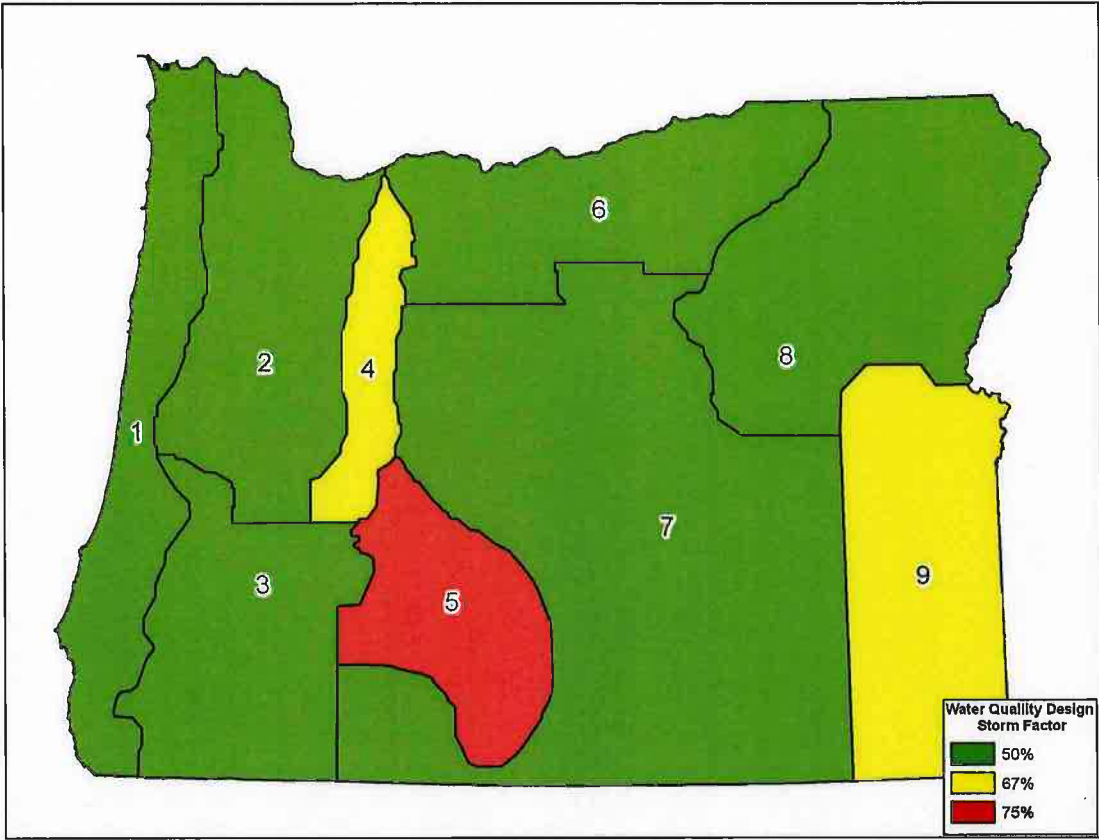
Percent of Design Storm Volume Infiltrated

Please provide the calculated percent of the design storm that will be infiltrated for the drainage basin being addressed, if applicable. Facilities choosing to submit a Tier 2 Mass Reduction Waiver request need to evaluate their site and show how the remaining mass load of pollutants discharged are at or below the mass equivalent of the statewide benchmarks. In addition, provide the information requested in the Tier 2 Waiver table. This calculation may result in discharge above the benchmark values. The revised Stormwater Pollution Control Plan must provide data and analysis to support this mass load analysis determination, including the detailed description of the measure(s).

Design Storm Criteria

Precipitation Data

1. Determine the 2-year, 24-hour rainfall depth for the facility using latitude and longitude; this information can be found here: <http://www.nws.noaa.gov/ohd/hdsc/noaaatlas2.htm>
2. Determine the Water Quality Design Storm amount by locating your facility's zone on the Oregon Department of Transportation's Water Quality Design Storm Factor map, attached below. Multiply the 2-year, 24-hour storm rainfall depth from Step #1 by the appropriate factor (50%, 67%, or 75%). The majority of the state will use 50% of the 2-year, 24-hour rainfall depth. For example, if the 2-year, 24-hour rainfall depth according to NOAA is 3.0 inches, and the facility is in Zone 6 on the map below, $3.0 \times 50\% = 1.5$ inches. The Design Storm amount is 1.5 inches.
3. Design to a minimum storm size of 0.7 inches in 24- hours in order to capture the first flush of industrial pollutants, even if the calculation from Step #2 is fewer than 0.7 inches.
4. Compare the calculated Water Quality Design Storm to the facility's local jurisdiction's water quality design storm and use whichever is more stringent.



More information is available: <https://www.oregon.gov/ODOT/GeoEnvironmental/Pages/Hydraulics-Manual.aspx>

Please simply indicate the page numbers of the stamped plan or waiver for the following items:

Rationale for the Selection of the Measures

The permits require the revised Stormwater Pollution Control Plan include data and analysis to support the selection of each treatment best management practice or infiltration measure.

Schedule for Implementing Measure

Please include the expected implementation schedule for the proposed measures. The permit deadlines include:

- Submit a proposed Tier 2 corrective action response to DEQ or agent no later than December 31 (six months after the end of the full reporting year that triggered Tier 2) unless DEQ or agent approved a later date.
- Complete construction and implement treatment or mass reduction measures no later than Sept 30 (a year and nine months after the Tier 2 proposal corrective action response submittal deadline) unless DEQ or agent approved a later date.

Cost of proposed Tier 2 Response

As part of the rationale in the selection of the measures, the facility must consider cost. In order to meet the implementation schedule, it is highly recommended that all proprietary, capital investment, permitting, operational and maintenance, as well as energy costs are evaluated.

Treatment System Schematic

Please include design and site location information for proposed treatment measures. Registrants are responsible for meeting water quality standards, including assurance that any chemical treatment is nontoxic to aquatic organisms. Any state approved program may be cited, such as Technologies Assessment Protocol - Ecology (TAPE).

Operation and Maintenance Schedule

All Tier 2 responses will require some maintenance overtime to optimize pollutant removal and manage break-through. Break-through happens when media is clogged or no longer treats the stormwater pollutants. Although each facility maintenance schedule will vary based on loading, this is an important component of the revised Stormwater Pollution Control Plan. Schedule A.10.b.vii and Schedule A.10.e outline maintenance and repairs which must be recorded and available for review upon request of DEQ, agents or a local municipality. The revised Plan must include a projected maintenance schedule. DEQ recognizes this may vary once installation is complete. Please ensure any Plan revisions related to operations of control measures are submitted to DEQ or agents within 30 days calendar days after the change.

700 Lloyd Building at 700 NE Multnomah St., Suite #600, Portland, OR 97232		165 East 7th Avenue, Suite 100 Eugene, OR 97401		800 SE Emigrant Avenue, Suite 330 Pendleton, OR 97801	
Clackamas	Benton	Lane	Baker	Hood River	Sherman
Clatsop	Coos	Lincoln	Crook	Jefferson	Umatilla
Columbia	Curry	Linn	Deschutes	Klamath	Union
Multnomah	Douglas	Marion	Gilliam	Lake	Wallowa
Tillamook	Jackson	Polk	Grant	Malheur	Wasco
Washington	Josephine	Yamhill	Harney	Marrow	Wheeler

AGENT OFFICES		
<p>Clean Water Services 2550 SW Hillsboro Highway Hillsboro, OR 97123 <i>Includes Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, North Plains, Sherwood, Tigard, Tualatin, and portions of Washington Co.</i></p>	<p>City of Portland Bureau of Environmental Services Water Pollution Control Laboratory 6543 N. Burlington Ave. Portland, OR 97203-5452</p>	<p>City of Eugene Industrial Source Control 410 River Ave. Eugene, OR 97404</p>



DEQ Industrial Stormwater Permits Tier 2 Revised Stormwater Pollution Control Plan Checklist

Instructions: Complete this form and submit with the revised SWPCP and engineered plan or waiver request.
Fill in the requested information in the highlighted cells and the appropriate page number(s) indicating the location of information in the revised SWPCP.

Facility Name: _____

File No.: _____

Permit Schedule	Requirement					Page #	Comments (for official use only)
A.12.i	Date Revised Plan submitted:						
A.12.f	Monitoring Point	Parameter	Geometric Mean Exceedance	Units	Percent Reduction in Concentration	Percent of Design Storm Infiltrated or Injected	
A.12	Proposed Tier 2 Corrective Action Response						
		Design storm in inches					
A.12.f.iii.1	Rationale for the selection of the measures						
A.12.i.iii	Schedule for implementing these measures						
A.12.f.iii.2	Stamped by PE						
Cost of installation							
Treatment system schematic and operational plan							
Operation and maintenance schedule for treatment measures and/or volume reduction measures proposed							
For DEQ or Agent use only							
A.11	Revised SWPCP complete and acceptable						
Notes: _____ _____ _____ _____							



Information Required for Tier II Waiver Application

If applying for a Tier 2 waiver based on projected volume reduction, please provide the information below *for each drainage area on your site*. If no infiltration is proposed for a particular drainage area, simply fill out the first four (bolded) entries in the Tier 2 Waiver Table. Make additional copies if your site has more than three drainage areas.

Tier 2 Waiver Table

	Drainage area name:		Drainage area name:		Drainage area name:	
	Value	Page number	Value	Page number	Value	Page number
Area of drainage area (ft²)						
Impervious area (ft²)						
Runoff coefficients						
Mass (with units) of pollutant discharged based on geometric mean (no infiltration)						
Infiltration rate (gal/day)						
Pond capacity, if applicable (gal)						
Mass (with units) of pollutant discharged based on geometric mean (with assumed infiltration)						
Mass (with units) of pollutant discharged assuming concentration equal to benchmark (no infiltration)						
Approximate depth to groundwater						

INFORMATION ITEM – B

DATE: October 20, 2021
RE: Feature Film Production on Port Property
TO: Honorable Board President and District Board Members
ISSUED BY: Gary Dehlinger, Port Manager

OVERVIEW

- Port staff was contacted by a film production company that is planning to film at the Port and in Brookings.
- Shane Brook Media plans to film multiple scenes during the day and night at Basin 2 near N & O or P main dock, boardwalk and other areas in the Port. Schedule dates are October 27, 28 & 29.
- Shane Brook Media will provide the Port with insurance naming the Port of Brookings Harbor as insured and a completed event use form.

DOCUMENTS

- Proposed Port Filming Location and Activities, 1 page



SHANEBROOK MEDIA – 4324 ILLINOIS AVE. – FAIR OAKS, CA – 95628 – 323-828-2472 – WWW.SHANEBROOKMEDIA.COM

Proposed Harbor filming locations and activities

Date: October 27, 2021

Location: Transient Dock and or West Dock

Shoot Time: Day/Night

4 Scenes

Scene 1 Description: Vessel returns from the sea. Sheriff boards boat detains Captain.

Scene 2 Description: Actor boards vessel and departs.

Scene 3 Description: Boat returns, actor deboards Vessel.

Scene 4 Boat is at dock. Creature boards boat and murders sleeping captain.

6-10 Person Crew, 2 Actors

6-10 Person crew, 4 actors.

Date: October 28, 2021

Location: Boardwalk

Shoot Time: Night

1 scene

Abby and John walk down boardwalk.

6-10 Person Crew, 2 Actors Location: Transient Dock or West Dock

Date: October 29, 2021

Shoot Time: Day

2 Scenes

Scene Description 1: Generic Shots of the Harbor

Scene Description 2: Vessel Returns from the sea. Sheriff, Deputy and Marine Biologist board the boat.

Several bystanders watch from dock.

6-10 Person Crew, 8 Actors.

INFORMATION ITEM – C

DATE: October 20, 2021
RE: Tidewinds Sportfishing Request to Change Charter Fees
TO: Honorable Board President and District Board Members
ISSUED BY: Gary Dehlinger, Port Manager

OVERVIEW

- Port received a request from Tidewinds Sportfishing to change how the Port charges fees for charter boats.
- Tidewinds request is to charge the charter boats a flat fee or an average passenger usage fee.
- We contacted other Ports in Oregon to find out how they charge, and this is what we have found so far:

Port of Astoria	\$4 above moorage rate*
Port of Garibaldi	
Port of Siuslaw	\$100 / Annually
Salmon Harbor – Winchester Bay	\$250 / Annually
Coos Bay – Port of Charleston	\$200 / Month**
Port of Bandon	
Port of Gold Beach	
Port of Newport	\$382.20 / Annually

*Without office rental space.

**If no moorage or office rental space.

- From the Ports that have responded, we are the only Port in Oregon that charges a per person capacity fee.
- What we have found in our records so far, it appears in 2013 rates that charter fees were charged per person at \$50 each.
- Resolution No. 258 Adopting Charter Moorage Rate Schedules, approved in 1995, established charter moorage rate to be equal to commercial rates.
- Commercial annual moorage rates are approximately 15% lower than recreational rates.

DOCUMENTS

- Tidewinds Sportfishing letter dated September 12, 2021, 1 page

Tidewind Sportfishing
16350 Lower Harbor Rd Ste 201
Brookings, OR 97415
(541)469-0337
scoastsportfishing@yahoo.com
Tidewindsportfishing.com



SEPTEMBER 14, 2021

To The Port of Brookings-Harbor and those whom it concerns,

These last few years have been a struggle for many in the area due to shutdowns and Covid related regulations. We have tried to maintain as much normalcy in our business while also respecting our client's safety and their personal choices. Most years we can meet the regular numbers for our boat's capacity but the last two years we have chose to have less clients on our daily trips to make everyone more comfortable. This has had an impact on our overall productivity for what we could potentially make in a charter season.

Considering these changes, Tidewind Sportfishing is requesting an alteration in the moorage agreement in the details of the charter fees that each boat incurs for the year. We have two different options that we believe are a fair solution.

First, we would like to calculate a yearly average from the total passengers we have for each boat and use that as the capacity number that is used for yearly charter fees that the Port requests for each of our boats. Putting it into averages would give the boat a realistic, "working" number for the charter fees since we are not always at max capacity. Especially since we have tried to bring smaller numbers onto the boat to respect covid guidelines.

The other option would be to adopt Newport's charter license. They have a one-time yearly fee that is a flat rate for each boat. It would not be on a moving scale. This last year's rates for Newport was a \$390 charter license for each charter boat in their port. The benefits of this would take out the hassle of trying to procure a number of clients per boat and keep the process straightforward for both the charters and for the Port Office.

We appreciate being a part of the Port of Brookings Harbor and want to keep making a positive impact on the success of all our fellow businesses. We know that the last two years have been a struggle for everyone, and we want to keep pushing forward. This is a small request in altering the charter fees that are established through the Port, but we believe it is something that is needed and will benefit everyone.

Thank you for your consideration,

Kyle Aubin
Owner/Operator

