



PORT OF BROOKINGS HARBOR
BOARD OF COMMISSIONERS SPECIAL MEETING
BEST WESTERN BEACHFRONT INN
CONFERENCE ROOM
16011 BOAT BASIN ROAD
BROOKINGS, OR 97415

Tuesday, March 21, 7:00PM

Agenda:

- 1. Call to Order and Roll Call**
- 2. Approval of Agenda**
- 3. Approval of Minutes**
 - a. Special Meeting – Tuesday, February 7, 2017
 - b. Special Meeting – Tuesday, February 14, 2017
 - c. Regular Meeting – Tuesday, February 21, 2017
 - d. Special Meeting – Tuesday, February 27, 2017
- 4. Financial Report**
 - a. Supplement Budget Hearing - Action
 - b. Appoint Budget Committee - Action
 - c. Draft Audit Report - Action
- 5. Old Business**
 - a. No Old Business
- 6. New Business**
 - a. PFMC Representative Regarding Salmon Season
 - b. CBN Lease Amendment - Action
 - c. Hallmark Lease - Action
 - d. Bandon Pacific Lease - Action
 - e. Zola's Lease - Action
 - f. J. Sloane Lease - Action
 - g. Vendors at the RV Park - Action
 - h. Sport C & D Dock Conditions & Plan - Action
 - i. Resolution 471: Moorage License Agreement - Action
 - j. Resolution 472: Moorage Rate Increase - Action
 - k. Resolution 473: Liveaboard Agreement & Policy - Action
 - l. Resolution 474: Commissioners Rules & Policy
 - m. SDIS Board Practices Assessment - Action
 - n. Surplus Equipment - Action
- 7. Public Comments** – Limited to a maximum of three minutes per person. A “Public Comment Request”, located near the entrance, must be completed and turned into the Chairman prior to the beginning of the meeting.
- 8. Commissioners Report**
- 9. Adjournment**

Approval of Minutes

Subject: Approval of Minutes

About:

Special Meeting – Tuesday, February 7, 2017

Special Meeting – Tuesday, February 14, 2017

Regular Meeting – Tuesday, February 21, 2017

Special Meeting – Tuesday, February 27, 2017

Port of Brookings Harbor Board of Commissioners
Special Meeting Minutes
Tuesday, February 7, 2017, 5:00 p.m.
Port Office: 16340 Lower Harbor Rd Brookings OR 97415

1. CALL TO ORDER AND ROLL CALL

Chairman Davis called the meeting to order at 5:00pm.

Commissioners present: Chairman Roy Davis, Vice Chairman Sue Gold, Treasure Tim Patterson, Roger Thompson & Sharon Hartung.

Staff present: Port Manager Gary Dehlinger and Administration Assistant Danielle Shepard

2. DISCUSSION ITEMS

- A. **“Declaring a Local Emergency” due to storms impacting the Port between Jan 10, 2017 through Jan 21, 2017:** Mr. Dehlinger received an email from Oregon Emergency Management District. They requested to have a damage assessment done roughly between Jan 10, 2017 and Jan 21, 2017. This is the first step, there is no guarantee we will receive money, but the Board must agree that the Port is in an emergency status. This than will be presented to Curry County Commissioners for their approval or denial. The County than sends it to the State, which the Governor would then decide to accept or deny Resolution 465. Extensive dialogue followed on a solution resulting in:

Vice Chair Gold made a motion to approve Resolution 465, Declaring a Local Emergency. Second by Comm. Hartung. Voting Yes: Unanimous

3. ADJOURNMENT

The meeting was unanimously adjourned at 5:23 p.m.

Port of Brookings Harbor Board of Commissioners
Special Meeting Minutes
Tuesday, February 14, 2017, 5:00 p.m.
Port Office: 16340 Lower Harbor Rd, Brookings OR, 97415

1. CALL TO ORDER AND ROLL CALL

Chairman Davis called the meeting to order at 4:58pm.

Commissioners present: Chairman Roy Davis, Vice Chairman Sue Gold, Roger Thompson & Sharon Hartung. Treasure Tim Patterson was absent.

Staff present: Port Manager Gary Dehlinger and Administration Assistant Danielle Shepard

2. APPROVAL OF AGENDA

Vice Chairman Gold made the motion to approve the Agenda as written. Seconded by Comm. Thompson. Voting Yes: Unanimous.

3. APPROVAL OF MINUTES

A. Special Meeting – Tuesday, January 2, 2017

Comm. Thompson made the motion to approve the minutes as written. Seconded by Vice Chair Gold. Voting Yes: Unanimous

B. Special Meeting – Tuesday, January 10, 2017

Vice Chair Gold made the motion to approve the minutes as written. Seconded by Comm. Hartung. Voting Yes: Unanimous

C. Regular Meeting – Tuesday, January 17, 2017

Vice Chair Gold made the motion to approve the minutes as written. Seconded by Comm. Hartung. Voting Yes: Unanimous

4. DISCUSSION ITEMS

- A. Port Financial Balance Sheet:** Mr. Dehlinger started off by asking Janelle from the City of Brookings to give the Board her opinion and experience with using the program Caselle. The City pays roughly 15,000 a year, receive multiple benefits, upgrades, easy to use, great technical support system, and they enjoy using the program.

Mr. Dehlinger than explained his financial balance sheet to the Board. Mr. Dehlinger went over the current revenue center with each Commissioners personally, and showed them his proposed revenue for next year. This would be a guide line for next year's budget.

Vice Chair Gold made a motion to direct Mr. Dehlinger to pursue his proposed projected budget for fiscal year 2017 – 2018. Second by Comm. Hartung. Voting Yes: Unanimous

- B. Ice House / Cold Storage Proposals:** Mr. Dehlinger informed the Board that we have received only one proposal for the Ice House & Cold Storage, and that was from Mike Manning from BC Fisheries. The Board is not expected to make a decision right now, but would like to have an decision at the February 21st Regular Meeting. Comm. Hartung did ask what would happen to the money that was given to the Port for the Ice House/Cold Storage. She was informed it would go to the principle of our loan payment.

The Board did want Mr. Dehlinger to look into what it would cost to lease a standalone ice plant. Mr. Dehlinger let the Board know the Port would have to enter a 24-month lease, at most an 84-month lease. With an 84-month lease the Port would have to sell at least 3,200 tons of ice a year to break even. With a 24-month lease we would have to produce 5,000 tons of ice. Right now, the Port produces between 1500-2000 tons.

- C. Sale of Port Property to get out of Debt:** Mr. Dehlinger let the Board know that there is no action needed, but wanted to see if the Board had any other questions or comments regarding this topic. The Board discussed selling land that the Port won't be seeing anymore, like the traded Snazuk land, Busch parking lot, or the land to Harbor Sanitation.

Vice Chair Gold made a motion to sell property traded with Snazuk, to direct Gary into getting price and pursue to sell the property traded with the Snazuk's. Second by Hartung. Voting Yes: Unanimous

Chairman Davis made a motion to pursue the sale of property in the corner of the boat yard to Harbor Sanitary. Second by Comm. Thompson Voting yes: 3 - 1

- D. Port Hoist:** Mr. Dehlinger informed the Board that this subject has not changed. The condition of the Commercial Dock has created us to give up our public hoist to Bandon Pacific, and now we no longer have a hoist. There is nothing more the Board can do at this time.
- E. Review Retail Lease Renewals for Approval:** Mr. Dehlinger gave the Board a list of 16 leases that need to be updated, and a list of the current lease rates. Staff has found that some of these leases were out dated by many years, rates are all over the place, and some have not even been charged property tax. The Port owns \$5,000 in back dated property tax. Mr. Dehlinger asked the Board to establish rates for ground or building leasing, and to put these rates into effect at the next fiscal year. The Board agreed that when leases come due than the new rates will come into effect. The Board agreed that with the Busch land and Port Side if they do not want to pay the CPI increase than they can buy the land. Extensive dialog followed resulting in:

Vice Chair Gold made the motion to approve the proposed rates as follows: bare property - \$.9 per sq. ft., warehouse shop - \$.50 per sq. ft., warehouse storage - \$.40 per sq. ft., commercial docks \$.63 per sq. ft., surfaced concrete - \$.50 per sq. ft., surface asphalt - \$.30 per sq. ft. and commercial retail - \$1.05 per sq. ft. Second by Comm. Thompson. Voting Yes: Unanimous.

- F. South Coast Knight Security, LLC Contract:** Mr. Dehlinger let the Board know that Knight Security is doing a good job and right now we currently do not have a contract with them. They will continue doing security for \$1,000.00 a month.

Comm. Thompson made a motion to approve the contact as is for \$1,000 a month. Second by Vice Chair Gold. Voting Yes: Unanimous.

- G. OSMB Boat Launch Ramps Grant:** OSMB would like to go through and replace the docks and replace the concrete ramps at the launch ramp, we would have to pay 25% of the work.

Comm. Thompson made a motion to approve option one stating: replace the dock ramps and use the current piling and concrete abutments ASAP and then later replace the concrete slope. Second by Vice Chair Gold. Voting Yes: Unanimous.

- H. Event Update – Bacon Festival (Cancelled):** Mr. Dehlinger just wanted to let the Board know that the Bacon Festival had cancelled their event.
- I. Port Day at the Capital March 2, 2017:** Mr. Dehlinger informed the Board that there will be a Port Day, March 2, in Salem. Comm. Thompson is going up and we are trying to schedule meeting with Senators to support our Senate Bill 646. There will also be a IFA Quarterly Meeting that day, please let me know if any other Commissioners would like to go.
- J. Purchasing Policy:** Mr. Dehlinger presented a procurement form for any purchase that would cost over \$5,000.

Vice Chair Gold made a motion to approve the new purchasing form. Second by Comm. Hartung. Voting Yes: Unanimous.

5. PUBLIC COMMENTS

Dan Fraser stated that he just had some concerns regarding which pieces of land are being sold, but has a better idea from this meeting. Also, has a concern that if/when BC fisheries takes over the ice plant, BC will limit who receives ice.

Angie Christian asked if the Port want someone else to set prices for our fisherman? and will it run our fisherman out of our Port.

The Board informed both parties that Mr. Manning does not have those intentions.

6. ADJOURNMENT

The meeting was unanimously adjourned at 6:36 p.m.

Port of Brookings Harbor Board of Commissioners
Regular Meeting Minutes
Tuesday, February 21, 2017, 7:00 p.m.
Best Western Conference Room: 16011 Boat Basin Rd, Brookings OR, 97415

1. CALL TO ORDER AND ROLL CALL

Chairman Davis called the meeting to order at 7:00pm.

Commissioners present: Chairman Roy Davis, Vice Chairman Sue Gold, Treasure Tim Patterson, Roger Thompson & Sharon Hartung.

Staff present: Port Manager Gary Dehlinger and Administration Assistant Danielle Shepard

2. APPROVAL OF AGENDA

Chairman Davis made the motion to add an item to the agenda as follows: New Business – A: Snazuk Lease Transfer. Seconded by Vice Chair Gold. Voting Yes: Unanimous.

Vice Chair Gold made a motion to add an item to the agenda as follows: Managers Report – A: Evaluation of Docks. Second by Comm. Thompson. Voting Yes: Unanimous.

3. APPROVAL OF MINUTES

A. Special Meeting – Tuesday, January 2, 2017 - Voted Yes; Unanimous

Minutes were approved at February 14, 2017 Special Meeting.

B. Special Meeting – Tuesday, January 10, 2017 - Voted Yes; Unanimous

Minutes were approved at February 14, 2017 Special Meeting.

C. Regular Meeting – Tuesday, January 17, 2017 - Voted Yes; Unanimous

Minutes were approved at February 14, 2017 Special Meeting.

4. MANAGERS FINANCIAL REPORT

- a. Evaluation of Docks:** Mr. Dehlinger informed the Board that Sport Docks, C – H, have been losing pilings, and the docks are breaking. Engineering designs show C dock to have 24 pilings and only 7 are left standing. Within the last year, we have removed (2) pilings, due to them coming up out of the ground. Per specs, the pilings are to be into the ground 20 ft. deep, we are finding them 4 ft. deep. Plus, the pilings are supposed to be 60 ft. long, and ours are only 35 ft. D dock is supposed to have 17 pilings, there are only 7 left. We have closed E dock and are planning on removing the dock completely so there is no damage done to other boats. Currently we have FEMA that will help us with funds, but not anytime soon. In-water work period is between Oct and Feb, unless there is an emergency. FEMA will pay half; the other half is coming from Hazard Mitigation Grant Program. We have submitted for the grant but have not received approval. The total project is roughly \$1 million, FEMA and the grant would cover \$750,000, the other \$250,000 is provided by the Port.

Mr. Dehlinger continued with his Managers report. RV park storm debris has been cleaned and placed into dry camping area, received verbal approve to burn the driftwood, need to pick up burn permit. Our insurance carrier looked at the laundry mat building, and will no longer insure the building. I suggest demoing the laundry mat. Fuel dock is back open, placed break away valves on the fuel lines, ramp down to the fuel dock remains closed. FEMA will be here Feb 28, requested by the Curry County to cover multiple storm damages.

Comm. Thompson asked what is our prognosis on doing anything for slip rental, if we can't get the money or we aren't in the in-water work period? Mr. Dehlinger stated we have no place to put them, I assume we would have to refund money. I'm not sure what else we can do.

Comm. Patterson asked if the laundry mat will be going back? If so talk to Kelly about STC. Mr. Dehlinger stated that it is his plan to put a laundry mat back, even if it's a small one.

Chairman Davis wanted to make sure that the public understood what Mr. Dehlinger is telling them regarding the docks and allowed public comments:

Jan Barbas asked if it would be possible for the public to get a tour of the Port or attend the FEMA meeting. Mr. Dehlinger stated that he is more than willing to give a tour.

Richard Contestabile asked who was responsible for the initial construction and driving the pilings? He was informed that it was Russ Crabtree and Crew at that time, all in house.

Wendy asked about the tsunami funds for the docks, why aren't the docks fixed? She was informed that the FEMA money was spent on far south end of the basin, that was effected by the tsunami.

Dan Fraser asked about what commercial docks would get fixed, if we did receive funds. Mr. Dehlinger informed him that would be the commercial receiving docks i.e. Pac Choice, and Bornstein docks.

Vice Chair Gold made a motion to approve the Mangers Report. Second by Comm. Hartung. Voting yes; unanimous.

5. OLD BUSINESS

No old business to discuss.

6. NEW BUSINESS

- a. **Snazuk Lease Transfer:** This is regarding the sale of Snazuk property including; their grounds, motel, restaurant, and the parking lot of the restaurant. They are not selling Port property, they are selling their business. Mr. Dehlinger asked the Board to approve consignment of the transfer the name to Pacific Boat Basin LLC.

Vice Chair Gold made a motion to direct Mr. Dehlinger to set up the lease transfer. Second by Comm. Thompson. Voting Yes; Unanimous

7. DISCUSSION ITEMS

- a. **Port Financial Balance Sheet - Review Proposals for New Accounting Software:** Mr. Dehlinger went over the (2) software programs that we are considering instead of using QuickBooks for fund accounting. Both programs are very similar but one is cheaper yearly but costs more upfront. Personally, I would go with the one that is cheaper yearly. Chairman Davis let the Board know that when they were in Salem at the IFA meeting, they told us that if we do the research and present them with a program, they would consider to help us get the program. Mr. Dehlinger informed the Board that this is not eliminating the audit but it will be helping our auditor. We are still waiting on our final audit draft, and she has been working on that for 5 months. With one of these programs it would cut her time.

Chairman Gold made a motion to move forward on the Accella program. Second by Comm. Thompson. Voting Yes: 4-1. Motion Passes

- b. **South Coast Knight Security, LLC Contract - Voted Yes: Unanimous:** *was approved at February 14, 2017 Special Meeting*
- c. **OSMB Boat Launch Ramps Grant - Voted Yes; Unanimous - Option 1:** *was approved at February 14, 2017 Special Meeting*
- d. **Event Update - Bacon Festival (Cancelled):** was cancelled by organizer, due to not wanting to interfere with the Saturday Market.
- e. **Port Day at the Capital March 2, 2017:** Mr. Dehlinger informed the Board that we are going up to Salem to get support for Senate Bill 646, and attend Oregon Ports Quarterly Meeting.
- f. **Purchasing Policy - Voted Yes; Unanimous:** *was approved at February 14, 2017 Special Meeting.*
- g. **Standard Lease Rates - Voted Yes; Unanimous:** *was approved at February 14, 2017 Special Meeting.*

8. ACTION ITEMS

- a. **Ice House / Cold Storage Proposal:** Mr. Dehlinger reminded the Board of their last meeting, that he had spoken with (3) different individuals regarding the ice house/cold storage and only received one proposal, from BC Fisheries. Mr. Dehlinger requested that the Board vote on the proposal for the ice house / cold storage. Comm. Thompson believes that the \$1,000 for the ice house is a "slap in the face". Believes the Board hasn't received enough information, and had a concern toward the fisherman not being able to receive ice. Comm. Thompson would like to see the Port run and operate the ice house, or a new ice house. Chairman Davis asked where are we going to find the \$140,000 to fix the ice house cold storage system? Comm. Thompson wanted to put the lease on hold until there are more bids, "I would rather see the building sit there with no ice and no nothing until we figure out where we need to go". Vice Chair Gold asked how much the ground lease would be? Mr. Dehlinger informed her that the ice house would be about \$2,500 a month and cold storage would be around \$4,500, combined \$7,000. Than you will save about \$8,000 on electric, bringing it to a total of \$15,000 a month. Comm. Patterson had concern with not having ice

for the commercial fleet by April 1, the opening of the season. Unsure the Port should give the concession of ice away for 30 years without strings attached. Would like to buy an ice plant, roughly \$400 - \$500,000, and we would receive the money from IFA. Mr. Dehlinger had to remind the Board that right now our docks are falling apart, so we won't have a Port but we can sell you ice, that doesn't make too much sense to me.

John Brazil, if you are going to sell it to a private business owner and you lease the property and you get a certain amount of income for that, so that's a savings, so you have more income and less expense. Would you be able to negotiate a loading fee or quantity fee, so that the Port would gain additional revenue when ice is being produce? The Board informed him that they just can't see that happening, there is more concern that the boats don't have to leave the Port to get ice.

Wendy, informed the Board of the history of the Ice House and why they had to sell it to the Port, and her concern regarding selling it to a private business.

Jan Barbas, shared with the Board what stipulations there should be on the lease and what the Board could do.

Dan Fraser, I know that you must upgrade items in the ice house but aren't some of the items grandfathered in? Mr. Dehlinger informed him that OSHA doesn't care about grandfathered items, they want everything up to code. If there is a Freon leak, we would don't have an emergency response team that is close, and we would have to evacuate the town. It's not just the Port that would be effected the public would be effected to.

Unknown, BC fisheries is in business to make a profit, correct. They would buy the ice house and sell ice to make a profit. So why would he cut his throat by cutting the rest of the fisherman off? He wouldn't.

Chairman Davis reminded the Board that we did approve Mr. Dehlinger's proposal, and that proposal didn't have an ice plant and cold storage.

Vice Chair Gold made a motion to approve the sale of the ice house/cold storage. Second by Comm. Hartung. Voting Yes: 3-2. Motion passes.

- b. **Sale of Port Property:** Mr. Dehlinger is looking for the Board to give direction on the sale of Port Property. Comm. Thompson asked who owns the sliver of land besides Port Side Suits. Mr. Dehlinger informed him that that is Port property. Mr. Dehlinger stated that we are supposed to be getting a proposal on the green building. Sale of Chetco seafood land a building, when lease is finished this will become building becomes the Ports issue.

Dan Fraser want to bring it to the Board attention to make sure that the land given to the Port by Mr. McVay can be sold. That way you are not breaking any laws.

Chairman Davis informed the Board and the Public that this would only to be pursuing the sell. Everything will still have to come back to the Board for the Sale of the property.

Recorder ended.

9. PUBLIC COMMENTS

No public comments.

10. COMMISSIONERS REPORT

Commissioner Sharon Hartung: No Audio, Recorder ended.

Commissioner Roger Thompson: No Audio, Recorder ended.

Chairman Roy Davis: No Audio, Recorder ended.

Vice Chair Sue Gold: No Audio, Recorder ended.

Treasure Tim Patterson: No Audio, Recorder ended.

11. ADJOURNMENT

The meeting was unanimously adjourned at 6:45 p.m.

Port of Brookings Harbor Board of Commissioners
Special Meeting Minutes
Tuesday, February 27, 2017, 5:00 p.m.
Port Office: 16340 Lower Harbor Rd, Brookings OR, 97415

1. CALL TO ORDER AND ROLL CALL

Chairman Davis called the meeting to order at 5:00 p.m.

Commissioners present: Chairman Roy Davis, Treasure Tim Patterson, Roger Thompson & Sharon Hartung. Vice Chairman Sue Gold was tardy.

Staff present: Port Manager Gary Dehlinger and Administration Assistant Danielle Shepard

2. APPROVAL OF AGENDA

Chairman Davis wanted to change the agenda items as follows: Action Item - H: Purchase and Sale agreement, Action Item I: Budget Calendar 2017-18, Action Item J: Resolution 470.

Comm. Thompson made the motion to approve the Agenda as amended. Seconded by Vice Chair Gold. Voting Yes: Unanimous.

3. ACTION ITEMS

a. Resolution 464 – Appropriate Funds for Purchase of New Port Truck:

Comm. Thompson made the motion to approve Resolution 464 as written. Seconded by Vice Chair Gold. Voting Yes: Unanimous.

b. Resolution 466 – Adopting Public Records Policy:

Vice Chair Gold made the motion to approve Resolution 466 written. Seconded by Comm. Hartung. Voting Yes: Unanimous.

c. Resolution 467 – Adopting Volunteer Application:

Comm. Thompson asked to remove Social Security Number from the volunteer form, agreed by the Board.

Vice Chair Gold made the motion to approve Resolution 467 as amended. Seconded by Comm. Thompson. Voting Yes: Unanimous.

d. Resolution 468 – Adopting New Lease Rates:

Comm. Thompson made the motion to approve Resolution 468 as written. Seconded by Vice Chair Gold. Voting Yes: Unanimous.

e. Resolution 469 – Adopting Best Management Practices:

Vice Chair Gold made the motion to approve Resolution 469 as written. Seconded by Comm. Hartung. Voting Yes: Unanimous.

f. BC Fisheries Cold Storage Lease:

Comm. Thompson asked why the lease states 30 years. Mr. Dehlinger informed him that Mr. Manning requested that to match his current lease. Vice Chair Gold asked how much will we save by just leasing this. Mr. Dehlinger and Chairman Davis did some numbers and the Port would save \$180,000 a year in electric alone by selling both businesses but keeping the land.

Vice Chair Gold made the motion to approve the BC Fisheries Cold Storage Lease as written. Seconded by Comm. Hartung. Voting Yes: 4-1. Motion Passed

g. BC Fisheries Ice House Lease:

Comm. Thompson asked where did we advertise for the lease of the ice house. Mr. Dehlinger stated: our website, the Curry Pilot, talked with all Commercial Businesses, and a local fisherman but we only received BC's proposal. Comm. Thompson had some concern regarding the sale price of the ice house. The public had some concern about him selling to the commercial fleet.

Comm. Patterson made the motion to approve the BC Fisheries Ice House Lease with the following changes: 2-year lease with a renewal, then a 3-year lease with renewal, and then 5-year lease renewals from there until 30 years. Seconded by Comm. Thompson. Voting Yes: 2-3. Motion does not carry.

Comm. Thompson asked about the insurance clause in the lease. Mr. Dehlinger stated that everything is still the same.

Chairman Gold made a motion to approve BC Fisheries Ice House Lease as written. Second by Comm. Hartung. Voting Yes: 3-2. Motion Passed.

h. Purchase and Sale Agreement: Chairman Davis informed the Board that this needs to be in two separate votes, per our lawyer Mr. Coffee, which has reviewed these agreements.

Chairman Gold made a motion to approve the assets purchase and sale agreement of the ice house facility as written. Second by Comm. Hartung. Voting Yes: 3-2. Motion Passed.

Comm. Patterson asked about the IFA situation. Mr. Dehlinger informed him that we still owe IFA we are only selling him the business.

Comm. Thompson made a motion to approve the assets purchase and sale agreement of the cold storage facility as written. Second by Chairman Gold. Voting Yes: Unanimous.

i. Budget Calendar 2017-18:

Comm. Thompson made the motion to approve the Budget Calendar 2017-18 as written. Seconded by Comm. Hartung. Voting Yes: Unanimous.

j. Resolution 470 Adopting Boat Yard Work Plan and Rules:

Comm. Thompson made the motion to approve Resolution 470 as written. Seconded by Vice Chair Gold. Voting Yes: Unanimous.

4. PUBLIC COMMENTS

Jan Barbas asked for the Board to consider putting the meeting packets on the website. The Board agreed and asked Mr. Dehlinger to start publishing the meeting packets on the website.

5. ADJOURNMENT

The meeting was unanimously adjourned at 5:47 p.m.

Old Business

Subject: Old Business

About:

No old business items.

Financial Report

Subject: Financial Report

About:

Supplement Budget Hearing - Action

Appoint Budget Committee - Action

Draft Audit Report - Action

Port of Brookings Harbor

Balance Sheet

As of February 28, 2017

	Feb 28, 17
ASSETS	
Current Assets	
Checking/Savings	
1001 Checking/Savings	
1002 - General Funds Ckg 3634	35,101.07
1005 - Capital Projects Fund 8018	2,500.00
1007 - USDA BOND MM 9529	10,027.34
1008 - Debt Service Fund MM 8627	
IFA LOAN SAVINGS	2,500.00
1008 - Debt Service Fund MM 8627 - Other	10.57
Total 1008 - Debt Service Fund MM 8627	2,510.57
Total 1001 Checking/Savings	50,138.98
1012 - Cash on Hand/Petty Cash	
1014 - SAFE/ONSITE DRAWER	300.00
1015 - Fuel Dock Cash Drawer	200.00
1018 - RV Park Cash Drawer	400.00
1022 - Office/Danielle	100.00
1023 - Office/Skylar	100.00
Total 1012 - Cash on Hand/Petty Cash	1,100.00
Total Checking/Savings	51,238.98
Accounts Receivable	
1200 - Accounts Receivable Account	67,297.04
Total Accounts Receivable	67,297.04
Other Current Assets	
1210 - A/R-Auditor Adjustment Account	14,926.01
1305 - FUEL Inventory	12,089.04
1310 - Prepaid Insurance	14,081.00
1499 - Undeposited Funds	3,264.36
Total Other Current Assets	44,360.41
Total Current Assets	162,896.43
Fixed Assets	
1600 - Fixed Asset	
1605 - Construction in Progress	1,325,296.75
1610 - Land	2,537,448.00
1620 - Buildings & Docks	17,537,959.68
1630 - Equipment	
1632 - 50 BFMII Travelift Mobile Boat	324,200.00
1635 - Ford F250 Truck	25,871.00
1630 - Equipment - Other	1,246,981.99
Total 1630 - Equipment	1,597,052.99
Total 1600 - Fixed Asset	22,997,757.42
1690 - Allowance for depreciation	-6,387,634.00
Total Fixed Assets	16,610,123.42
TOTAL ASSETS	16,773,019.85
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
2000 - General Fund Accts Payable	67,886.69
2002 - Capital Projects Accts Payable	12,344.98
Total Accounts Payable	80,231.67
Credit Cards	
2005 - RCU VISA ACCT	1,831.98
Total Credit Cards	1,831.98
Other Current Liabilities	
2010 - ACCRUED BENEFITS	15,607.78
2015 - DEFERRED REVENUE	14,926.01
2020 - Security Deposits C/R	10,586.53
2022 - Key Deposit	280.00
2100 - Payroll Liabilities	

Port of Brookings Harbor Balance Sheet As of February 28, 2017

	Feb 28, 17
Fringe Benefits	
2102 - Dental Insurance/Dependents	29.70
2104 - Medical Ins./Dependents	432.96
Total Fringe Benefits	462.66
Total 2100 - Payroll Liabilities	462.66
2150 - Current Portion of LT Debt	1,158,799.00
Total Other Current Liabilities	1,200,661.98
Total Current Liabilities	1,282,725.63
Long Term Liabilities	
2200 - Notes Payable	
Revenue Bonds Payable	
2280 - USDA #97-02	1,287,801.78
Total Revenue Bonds Payable	1,287,801.78
2205 - 50 BFMII Travelift Mobile Boat	310,864.40
2235 - Land Purchase-Kyle Aubin	17,208.00
2250 - OEDD/Restructure Prin Pmts	
IFA/OBDD LOANS	
2256 - IFA/OBDD #520139/Boardwalk	98,629.80
2257 - IFA/OBDD #525172/RV Park Improv	157,362.31
2258 - IFA/OBDD #525176/Green Bldg	343,373.48
2259 - IFA/OBDD #525181/EurekaFishery	226,952.60
Total IFA/OBDD LOANS	826,318.19
IFA/SPWF LOANS	
2261 - IFA/SPWF L02009/Cold Storage	935,157.80
2263 - IFA/SPWF L96003/RV Park Beach	146,598.87
2264 - IFA/SPWF L98004/Dock Improv	272,520.45
2265 - L02001/Marine Fueling Dock	236,831.68
2266 - X03004/Eureka Fishery Invoice	247,843.29
2267 - L16010/Comm Rec Dock Reno	1,008,290.00
Total IFA/SPWF LOANS	2,847,242.09
Total 2250 - OEDD/Restructure Prin Pmts	3,673,560.28
Total 2200 - Notes Payable	5,289,434.46
2206 - INTEREST PAYABLE RESTRICTED	43,657.00
2207 - Accrued interest payable	2,605,943.00
2290 - Less current portion	-1,158,799.00
Total Long Term Liabilities	6,780,235.46
Total Liabilities	8,062,961.09
Equity	
2900 - Port Equity Account	6,777,177.65
3900 - RETAINED EARNINGS	385,563.63
Net Income	1,547,317.48
Total Equity	8,710,058.76
TOTAL LIABILITIES & EQUITY	16,773,019.85

Port of Brookings Harbor
General Fund Profit & Loss
July 2016 through February 2017

	DREDGING	BEACHFRONT RV PARK	BOATYARD	COLD STORAGE	COMMERCIAL RETAIL	FUEL DOCK	ICE HOUSE	MARINA MOORAGE	OFFICE/ADMIN*	PORT PROPERTY EVENTS	SPECIAL EVENTS	Port Vehicles	TOTAL
Ordinary Income/Expense													
Income													
4100 - OFFICE/ADMINISTRATION								42,056.72	1,914.11				43,970.83
4200 - COMMERCIAL RETAIL					264,586.45								264,586.45
4300 - MOORAGE								321,450.90					321,450.90
4400 - RV PARK		380,540.99											380,540.99
4500 - FUEL SALES						309,001.33							309,001.33
4550 - SPECIAL EVENT											33,491.00		33,491.00
4600 - BOATYARD			27,458.88										27,458.88
4700 - ICE HOUSE							88,065.00						88,065.00
4800 - COLD STORAGE				19,221.59						2,400.00			19,221.59
4900 - PORT PROP, EVENTS													2,400.00
Total Income		380,540.99	27,458.88	19,221.59	264,586.45	309,001.33	88,065.00	363,507.62	1,914.11	2,400.00	33,491.00		1,490,186.97
Gross Profit		380,540.99	27,458.88	19,221.59	264,586.45	309,001.33	88,065.00	363,507.62	1,914.11	2,400.00	33,491.00		1,490,186.97
Expense													
5000 - PERSONAL SERVICES		37,336.65	4,710.83	1,113.44	12,228.79	5,659.20	15,472.65	51,115.00	224,197.31		2,300.47		354,134.34
6000 - MATERIALS & SERVICES		109,726.80	7,569.61	9,051.88	86,426.58	278,038.98	115,242.84	193,080.83	195,127.25		45,773.36	14,985.73	1,055,023.86
Total Expense		147,063.45	12,280.44	10,165.32	98,655.37	283,698.18	130,715.49	244,195.83	419,324.56		48,073.83	14,985.73	1,409,158.20
Net Ordinary Income		233,477.54	15,178.44	9,056.27	165,931.06	25,303.15	(42,650.49)	119,311.79	(417,410.45)	2,400.00	(14,582.83)	(14,985.73)	81,028.77
Other Income/Expense													
Other Income													
7000 - PROPERTY TAX													
7100 - Interest Income									201,189.29				201,189.29
7120 - RESTITUTIONS & SETTLEMENTS									(2,182.44)				(2,182.44)
7140 - COOS CURRY CO-OP PATRONAGE									513.21				513.21
Total Other Income									6,700.72				6,700.72
Other Expense									206,220.78				206,215.02
74001 - DREDGING EXPENSE	5,233.57												5,233.57
8300 - CAPITAL OUTLAYS			4,068.24					6,756.22					10,824.46
Total Other Expense	5,233.57		4,068.24					6,756.22					16,058.03
Net Other Income			(4,068.24)					(6,756.22)	206,220.78				190,162.75
Net Income	(5,233.57)	233,477.54	11,110.20	9,056.27	165,931.06	25,303.15	(42,650.49)	112,555.57	(211,189.67)	2,400.00	(14,582.83)	(14,985.73)	271,191.52
Additional Expenses & Liabilities													
Loan Payments		29,388.99	37,272.00	50,893.33	38,992.00	14,034.45		118,884.43					289,465.20
REVISED NET INCOME		204,088.55	(26,161.80)	(41,837.06)	126,939.08	11,268.70	(42,650.49)	(6,328.86)	(211,189.67)	2,400.00	(14,582.83)	(14,985.73)	(18,273.68)
(Incl. Loans)	(5,233.57)												
Depreciation		13,618.67	44,874.00	31,989.33	85,815.33	6,666.67	7,788.67	117,826.67	23,959.33				332,538.67
REVISED NET INCOME		190,469.89	(71,035.80)	(73,826.40)	41,123.75	4,602.03	(50,439.16)	(124,155.52)	(235,149.00)	2,400.00	(14,582.83)	(14,985.73)	(350,812.35)
(Incl. Loans & Depr.)	(5,233.57)												
Accrued IFA Interest		437,211.00						267,817.00					2,606,418.00
(Due at end of Loan Term)													

*Office/Admin - Added unclassified income

Port of Brookings Harbor
Profit & Loss
 July 2016 through February 2017

	Jul '16 - Feb 17
Ordinary Income/Expense	
Income	
4100 · MARINA/ADMINISTRATION	
4110 · Returned Check Charges	130.00
4120 · Finance Charges/Income	3,172.32
4125 · Administrative Fees	17.80
4130 · Boat Launch	14,693.30
4135 · Storage	27,465.45
4100 · MARINA/ADMINISTRATION - Other	21.50
Total 4100 · MARINA/ADMINISTRATION	45,500.37
4200 · COMMERCIAL RETAIL	
4210 · Commercial Retail Lease	261,519.41
4212 · CR/ Water	96.00
4215 · Property Tax	2,971.04
Total 4200 · COMMERCIAL RETAIL	264,586.45
4300 · MOORAGE	
4310 · Commercial Slip Rent	165,810.00
4320 · Recreational Slip Rent	115,719.24
4325 · Transient	10,467.00
4330 · Liveaboard	2,620.75
4335 · Dock Box	744.00
4340 · Moorage Electric	23,930.51
4350 · Other Fees	629.86
Total 4300 · MOORAGE	319,921.36
4400 · RV PARK	
4410 · Space Rental	360,505.99
4430 · Mini Mart	7,943.86
4440 · Laundry & Showers	11,097.89
4450 · Wood Sales	90.00
4460 · Dump Charges	65.00
4470 · Misc Purchases & Sales	838.25
Total 4400 · RV PARK	380,540.99
4500 · FUEL SALES	309,001.33
4550 · SPECIAL EVENT	
4551 · Registration	13,190.00
4554 · Sponsors	3,685.00
4555 · Vendors	9,785.00
4557 · Dinner Tickets	1,380.00
4558 · Misc Food and Beverage Sales	331.00
4559 · Raffle	242.00
4561 · Apparel Sales	4,578.00
4562 · Event Space Rental	300.00
Total 4550 · SPECIAL EVENT	33,491.00
4600 · BOATYARD	
4625 · Emergency Response & Repair	120.00
4630 · Other Services & Sales	11,350.06
4635 · Travel Lift Haul Out	2,782.00
4640 · Labor	3,317.50
4655 · Yard Days	9,889.32
Total 4600 · BOATYARD	27,458.88
4700 · ICE HOUSE	88,065.00
4800 · COLD STORAGE	19,221.59
4900 · PORT PROPERTY EVENTS	
4910 · Grounds Use Fee	2,400.00
Total 4900 · PORT PROPERTY EVENTS	2,400.00

Port of Brookings Harbor
Profit & Loss
 July 2016 through February 2017

	Jul '16 - Feb 17
Total Income	1,490,186.97
Gross Profit	1,490,186.97
Expense	
5000 · II PERSONAL SERVICES/PAYROLL	
5010 · WAGES & SALARIES	
5012 · Salary - Port Manager	
5018 · Wages/Office Staff	109,847.19
5020 · Wages/Operations Staff	81,877.10
5024 · Wages/RV Park	29,803.38
Total 5010 · WAGES & SALARIES	221,527.67
5030 · OVERTIME PAY	23,051.44
5040 · EMPLOYEE COSTS & BENEFITS	
5050 · Paid Time Off	24,510.39
5055 · Disability Bank	3,716.88
5060 · Paid Holidays	7,956.00
5070 · Payroll Taxes	27,368.03
5078 · Non Tax Mileage Reimbursement	2,838.10
5079 · Personal Vehicle Allowance	2,077.50
5090 · Retirement	17,840.51
Total 5040 · EMPLOYEE COSTS & BENEFITS	86,307.41
5075 · Workers Compensation	-88.90
5080 · Health Care and Dental	35,712.21
6560 · Payroll Expenses/Fees	2,724.82
Total 5000 · II PERSONAL SERVICES/PAYROLL	369,234.65
6000 · I MATERIALS & SERVICES	
5500 · FUEL purchased for resale	262,427.82
5540 · MINI-MART (Cost of Goods)	7,665.88
6001 · ADVERTISING & NOTIFICATIONS	
6002 · Marketing & Advertising	6,581.74
6004 · Legal Notices	1,347.57
6001 · ADVERTISING & NOTIFICATIONS - Other	901.25
Total 6001 · ADVERTISING & NOTIFICATIONS	8,830.56
6100 · REPAIRS & MAINTENANCE	
6110 · Maintenance & Repairs	119,997.92
6115 · Services & Supplies	62,642.57
6120 · Landscaping & Beautification	12,146.34
6125 · Tools-Under \$5,000	1,959.00
6130 · Janitorial Services	17,670.00
6135 · Security Contract	5,244.00
Total 6100 · REPAIRS & MAINTENANCE	219,659.83
6200 · UTILITIES	
6210 · Telecommunications	10,848.11
6220 · Electric	135,068.40
6230 · Water	14,356.34
6240 · Sanitary	32,817.30
6250 · Waste Management	91,892.57
6260 · Cable TV	4,013.83
6270 · Propane Gas	473.16
Total 6200 · UTILITIES	289,469.71
6300 · OFFICE EXPENSE	
6315 · Office Services & Supplies	7,864.95
6320 · Leased Equipment(Incl'g copier)	13,398.61
6330 · Dues, Subs & Pubs	12,169.16
6345 · Postage	1,952.28

Port of Brookings Harbor

Profit & Loss

July 2016 through February 2017

	Jul '16 - Feb 17
6348 · Computers & Software Purchases	4,385.09
6300 · OFFICE EXPENSE - Other	6.00
Total 6300 · OFFICE EXPENSE	39,776.09
6350 · BANK SERVICE & FINANCE FEES	
6335 · Merchant Services Fees	17,118.43
6360 · Bank Service Charge/Fees	293.45
6365 · Finance Charge/Late Fee	1,807.18
Total 6350 · BANK SERVICE & FINANCE FEES	19,219.06
6400 · TRAVEL & ENTERTAINMENT	
6415 · Lodging	867.70
6420 · Meals & Other	1,416.70
6425 · Mileage Reimbursement	55.52
Total 6400 · TRAVEL & ENTERTAINMENT	2,339.92
6500 · PERMITS, LICENSES, TAXES & MISC	
6510 · Conferences/Education/Meetings	2,017.00
6525 · Lodging Taxes	7,050.99
6545 · Taxes-Property	4,706.83
6570 · Donations & Contributions	
6575 · Permits & Licenses	685.00
6585 · Harbor RFPD Service	15,000.00
6500 · PERMITS, LICENSES, TAXES & MISC - Other	1,211.50
Total 6500 · PERMITS, LICENSES, TAXES & MISC	30,671.32
6550 · SPECIAL EVENTS	
6551 · Food Expenses	3,049.62
6552 · Clothing	3,694.65
6553 · Entertainment	175.00
6554 · Prizes	10,325.06
6555 · Professional Planning	3,800.00
6557 · Supplies & Services	2,277.22
6558 · Advertising	2,631.80
6559 · Permits/Insurance/Fees	
Total 6550 · SPECIAL EVENTS	25,953.35
6600 · BAD DEBT	2,807.95
6650 · Cash over/short	
6800 · INSURANCE; PROP & CAS, BOND	64,214.04
6900 · PROFESSIONAL FEES	
6910 · Accounting	5,100.00
6920 · Audit	9,382.41
6924 · Management Consulting	37,723.96
6925 · Consultants	4,440.00
6935 · Legal	7,950.35
6945 · IT Support/Services	2,405.88
Total 6900 · PROFESSIONAL FEES	67,002.60
Total 6000 · MATERIALS & SERVICES	1,040,038.13
Total Expense	1,409,272.78
Net Ordinary Income	80,914.19
Other Income/Expense	
Other Income	
7000 · PROPERTY TAX	
7010 · Previously Levied Tax	4,789.58
7020 · Current Tax Levy	196,399.71
Total 7000 · PROPERTY TAX	201,189.29

Port of Brookings Harbor
Profit & Loss
 July 2016 through February 2017

	Jul '16 - Feb 17
7100 - Interest Income	-2,173.69
7120 - RESTITUTIONS & SETTLEMENTS	
7125 - State of OR; Claim #L15955101	112,000.00
7120 - RESTITUTIONS & SETTLEMENTS - Other	513.21
Total 7120 - RESTITUTIONS & SETTLEMENTS	112,513.21
7140 - COOS CURRY CO-OP PATRONAGE	6,700.72
7200 - GRANT REVENUES	
7240 - MAP Grant	4,785.00
7280 - Dock Repair-L16010 interim loan	266,053.00
7290 - ODOT GRANT REVENUE (L12001)	1,162,051.00
Total 7200 - GRANT REVENUES	1,432,889.00
7300 - FEMA REVENUE	
7311 - PW 29 - Ice House Dredging	224,723.84
Total 7300 - FEMA REVENUE	224,723.84
Total Other Income	1,975,842.37
Other Expense	
74001 - DREDGING EXPENSE	5,233.57
8100 - FEMA EXPENSES	
8120 - PW 29-Ice House Dredging	134,966.94
8125 - FEMA/OEM Fuel Dock Repairs	5,557.00
Total 8100 - FEMA EXPENSES	140,523.94
8200 - GRANT EXPENSES	
8230 - Dock Repair L16010 interim loan	266,053.00
8240 - Sport Basin; Piling Repair	6,724.98
Total 8200 - GRANT EXPENSES	272,777.98
8300 - CAPITAL OUTLAYS; GENERAL FUND	
8310 - Capital Improvements	10,824.46
Total 8300 - CAPITAL OUTLAYS; GENERAL FUND	10,824.46
8400 - DEBT SERVICE FUND INTEREST	
8430 - Paid Interest	
8431 - Bank Fees	235.78
8432 - IFA	1,373.10
8442 - Umpqua Bank Loan Interest	113.17
8443 - 50 BFMII Travelift Interest	5,300.40
Total 8430 - Paid Interest	7,022.45
Total 8400 - DEBT SERVICE FUND INTEREST	7,022.45
8600 - Revenue Bond Fund	
8642 - Revenue Bond Interest	67,520.08
Total 8600 - Revenue Bond Fund	67,520.08
Total Other Expense	503,902.48
Net Other Income	1,471,939.89
Net Income	1,552,854.08

Capital Projects Fund
Profit & Loss
July 2016 through February 2017

	FEMA/OEM Fuel Dock Project	PW-29 Dredging Ice House	FEMA - Other	Total FEMA	Dock Renovation L16010	MAP GRANT	Total GRANTS	Sport Basin;Replace Dock Piles	Total CAPITAL PROJECT FUND
	(FEMA)	(FEMA)	(FEMA)	(CAPITAL PROJECT FUND)	(GRANTS)	(GRANTS)	(CAPITAL PROJECT FUND)	(CAPITAL PROJECT FUND)	Total CAPITAL PROJECT FUND
Ordinary Income/Expense									
5000 - II PERSONAL SERVICES/PAYROLL									
Total Expense		14,488.16		14,488.16				612.15	15,100.31
Net Ordinary Income		14,488.16		14,488.16				612.15	15,100.31
Other Income/Expense		-14,488.16		-14,488.16				-612.15	-15,100.31
Other Income									
7120 - RESTITUTIONS & SETTLEMENTS									
7200 - GRANT REVENUES		112,000.00		112,000.00					112,000.00
7300 - FEMA REVENUE			1,162,051.00	1,162,051.00	266,053.00	4,785.00	270,838.00		1,432,889.00
Total Other Income		224,723.84		224,723.84					224,723.84
Other Expense		336,723.84	1,162,051.00	1,498,774.84	266,053.00	4,785.00	270,838.00		1,769,612.84
8100 - FEMA EXPENSES	5,557.00	134,966.94		140,523.94					140,523.94
8200 - GRANT EXPENSES					266,053.00		266,053.00	6,724.98	272,777.98
Total Other Expense	5,557.00	134,966.94		140,523.94	266,053.00		266,053.00	6,724.98	413,301.92
Net Other Income	-5,557.00	201,756.90	1,162,051.00	1,358,250.90		4,785.00	4,785.00	-6,724.98	1,356,310.92
Net Income	-5,557.00	187,288.74	1,162,051.00	1,343,782.74		4,785.00	4,785.00	-7,337.13	1,341,210.61

*ODOT Grant Revenue L12001 (funds of \$1,162,051.00 used to satisfy debt to IFA)

Port of Brookings Harbor
REVENUE BOND FUND Profit & Loss
July 2016 through February 2017

Jul '16 - Feb 17	
Ordinary Income/Expense	
Expense	
6000 · I MATERIALS & SERVICES	
6350 · BANK SERVICE & FINANCE FEES	
6366 · Note payable interest expense	67,520.08
Total 6350 · BANK SERVICE & FINANCE FEES	67,520.08
Total 6000 · I MATERIALS & SERVICES	67,520.08
	<u>67,520.08</u>
Net Ordinary Income	
Other Income/Expense	
7100 · Interest Income	3.94
	<u>3.94</u>
Net Other Income	3.94
	<u>3.94</u>
Net Income	<u><u>-67,516.14</u></u>

Debt Service Fund
Profit & Loss
July 2016 through February 2017

	Travelift	DEBT SERVICE FUND -		Total DEBT	
		Umpqua Loan	Other	SERVICE FUND	TOTAL
	(DEBT SERVICE FUND)	(DEBT SERVICE FUND)	(DEBT SERVICE FUND)	SERVICE FUND	TOTAL
Ordinary Income/Expense					
6000 - I MATERIALS & SERVICES	5,300.40	348.95		5,649.35	5,649.35
Total Expense	5,300.40	348.95		5,649.35	5,649.35
Net Ordinary Income	-5,300.40	-348.95		-5,649.35	-5,649.35
Other Income/Expense					
Other Income					
7100 - Interest Income			4.81	4.81	4.81
Total Other Income			4.81	4.81	4.81
Net Other Income			4.81	4.81	4.81
Net Income	-5,300.40	-348.95	4.81	-5,644.54	-5,644.54

Financial Report Item A

Subject: Supplement Budget Hearing

NOTICE OF SUPPLEMENTAL BUDGET HEARING

- For supplemental budgets proposing a change in any fund's expenditures by more than 10 percent.

A public hearing on a proposed supplemental budget for Port of Brookings Harbor
for the current fiscal year will be held at Beachfront Best Western 16011 Boat Basin Road Brookings, Oregon 97415

The hearing will take place on Tuesday, March 21, 2017 at 7:00pm.

The purpose of the hearing is to discuss the supplemental budget with interested persons.

A copy of the supplemental budget document may be inspected or obtained on or after March 9, 2017 12:00 PM
at Port of Brookings Harbor 16340 Lower Harbor Road Brookings, OR 97415 and March 21, 2017 12:00 PM

SUMMARY OF PROPOSED BUDGET CHANGES

AMOUNTS SHOWN ARE REVISED TOTALS IN THOSE FUNDS BEING MODIFIED

FUND: Capital Projects Fund

Resource	Amount	Requirement	Amount
1 FEMA PW29 Ice House Dredging	500,000	1 FEMA PW29 Ice House Dredging	500,000
2		2	
Revised Total Fund Resources	500,000	Revised Total Fund Requirements	500,000

Comments:

Dredging performed by the Ice House caused by sinkhole on Hwy 101.

150-504-073-8 (Rev. 12-13)

**RESERVE FUND
RESOURCES AND REQUIREMENTS**

Capital Projects Fund
(Fund)
Port of Brookings Harbor

	Historical Data			DESCRIPTION RESOURCES AND REQUIREMENTS	Budget for Next Year 2016-17		
	Actual Second Preceding Year 13/14	First Preceding Year 14/15	Adopted Budget This Year 15/16		Proposed By Budget Officer	Approved By Budget Committee	Adopted By Governing Body
				RESOURCES			
1				1. Cash on hand* (cash basis) or			
2		107,953	23,406	2. Working Capital (accrual basis)	23,406	23,406	23,406
3				3. Previously levied taxes estimated to be received			
4				4. Earnings from temporary investments			
5				5. Transferred from other funds			
7	132,631	100,983		7. 8074 FEMA Revenues			
9	26,213	211,640	322,600	9. 8050 Grant Revenues	1,566,982	1,566,982	1,566,982
10				10. 7311 FEMA PW29 Ice House Dredging	500,000		
11				11			
12				12			
13	158,844	420,576	346,006	13 Total Resources, except taxes to be levied	2,090,388	1,590,388	1,590,388
14				14 Taxes estimated to be received			
15				15 Taxes collected in year levied			
16	158,844	420,576	346,006	16 TOTAL RESOURCES	2,090,388	1,590,388	1,590,388
				REQUIREMENTS			
17	46,138			17 Capital Outlay			
18	3,563	181,377		18 6700 FEMA Expenses			
19	51,393	215,793	322,600	19 6730 Grant Expenses	1,566,982	1,566,982	1,566,982
20				20. 8120 FEMA PW29 Ice House Dredging	500,000		
21				21			
22				22			
23				23			
24				24			
25				25			
26				26			
27	107,953	23,406		27 Ending balance (prior years)			
28			23,406	28 RESERVED FOR FUTURE EXPENDITURE	23,406	23,406	23,406
29	209,047	420,576	346,006	29 TOTAL REQUIREMENTS	2,090,388	1,590,388	1,590,388

Financial Report Item B

Subject: Appoint Budget Committee

About: Notice was placed into the Curry Pilot for applicants starting: February 25 and has ran on March 1, March 4, March 8, March 11, and will run again March 15.

Requests will be accepted until March 20, 2017 at 5:00 pm

Received four applications:

John Brazil

Richard Contestabile

Thomas Beene

Angi Christian

Financial Report Item C

Subject: FY 15-16 Draft Audit Report

About: Requires approval, must be submitted to the State by the end of the month.

DRAFT

**PORT OF BROOKINGS HARBOR
OREGON**

AUDIT REPORT

JUNE 30, 2016

DRAFT

DRAFT

Prepared By
SIGNE GRIMSTAD
Certified Public Accountant
530 NW 3rd, Suite E
PO Box 1930
Newport, Oregon 97365

PORT OF BROOKINGS HARBOR, OREGON

BOARD OF COMMISSIONERS

Chairman	Roy Davis Brookings, OR 97415
Vice-Chair	Sue Gold Brookings, OR 97415
Secretary/Treasurer	Mike Manning Brookings, OR 97415
Commissioner	Tim Patterson Brookings, OR 97415
Commissioner	Roger Thompson

ADMINISTRATION

Port Director	Ted Fitzgerald Resigned June 30, 2016
Interim Port Director	Don Mann
Legal Counsel	Jim Coffey Stebbins & Coffey

REGISTERED AGENT

Ted Fitzgerald
PO Box 848
Brookings, OR 97415

PORT OF BROOKINGS HARBOR, OREGON

TABLE OF CONTENTS

INTRODUCTORY SECTION

Title Page
List of Officers
Table of Contents

Page

FINANCIAL SECTION

Independent Auditor's Report	1-2
Management's Discussion and Analysis	I-V
Basic Financial Statements	
Statement of Net Position	3
Statement of Revenues, Expenses and Changes in Fund Net Position	4
Statement of Cash Flows	5
Notes to Financial Statements	6-16

SUPPLEMENTAL SECTION

Description of Budgetary Funds	17
Schedule of Revenues, Expenditures and Changes in Fund Balance - Budget and Actual	
<i>General Fund</i>	18
<i>Debt Service Fund</i>	19
<i>Revenue Bond Fund</i>	20
<i>Capital Projects Fund</i>	21
Reconciliation of Revenues and Expenditures (Budgetary Basis) to the Statement of Revenues, Expenses and Changes in Net Position	22

COMPLIANCE SECTION

Independent Auditor's Report Required by Oregon State Regulations	23-24
Independent Auditor's Report on Internal Control Over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards	25-26
Schedule of Findings and Questioned Costs/Port Response	27

January 16, 2017

INDEPENDENT AUDITOR'S REPORT

Board of Commissioners
Port of Brookings Harbor
Brookings, OR 97415

Report on the Financial Statements

I have audited the accompanying financial statements of the business-type activities of Port of Brookings Harbor (Port), as of and for the year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise the Port's basic financial statements as listed in the table of contents.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that I plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, I express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the business-type activities of the Port of Brookings Harbor as of June 30, 2016, and the respective changes in financial position and, cash flows thereof for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Other Matters

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussions and analysis, listed in the table of contents, be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. I have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to my inquiries, the basic financial statements, and other knowledge I obtained during my audit of the basic financial statements. I do not express an opinion or provide any assurance on the information because the limited procedures do not provide me with sufficient evidence to express an opinion or provide any assurance.

Other Information

My audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the Port's basic financial statements. The budget schedules and the reconciliation schedule to net position are presented for purposes of additional analysis and are not a required part of the basic financial statements.

The budget schedules and reconciliation schedule to net position are the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In my opinion, the budget schedules and reconciliation schedule to net position are fairly stated, in all material respects, in relation to the basic financial statements as a whole.

Other Reporting Required by Government Auditing Standards

In accordance with Government Auditing Standards, I have also issued my report dated January 16, 2017, on my consideration of the Port's internal control over financial reporting and on my tests of its compliance with certain provisions of laws, regulations, contracts, and grants agreements and other matters. The purpose of that report is to describe the scope of my testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Port's internal control over financial reporting and compliance.

Other Reporting Required by Oregon State Regulations

In accordance with the Minimum Standards Audit of Oregon Municipal Corporations, I have issued my report dated January 16, 2017 on my consideration of the Port's compliance with certain laws and regulations, including the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules. The purpose of that report is to describe the scope of my compliance testing and not to provide an opinion on compliance.

SIGNE GRIMSTAD
Certified Public Accountant

PORT OF BROOKINGS
Management Discussion and Analysis
Fiscal Year 2015-2016

This discussion and analysis of the Port of Brookings Harbor financial performance provides an overview of the financial activities for the fiscal year ended June 30, 2016. Please read it in conjunction with the Port financial statements, which follow this section.

Overview of Financial Statements

This discussion and analysis is intended to serve as an introduction to the Port's basic financial statements. This audit report consists of three parts – management's discussion and analysis (this section), the basic financial statements (including notes), and other supplementary information. This report is prepared in conformity with accounting principles generally accepted in the United States of America, and also by the Governmental Accounting Standards Board (GASB). The basic financial statements are prepared on the accrual basis, similar to a business, whereby revenues are recognized when earned and expenses are recognized when incurred, regardless of when cash is received or paid. The basic financial statements consist of a statement of net position that includes the Port's assets, liabilities, and net position at year end; statements of revenues, expenses, and changes in net position, which include all revenues, expenses and grants received for construction for the year; and a statement of cash flows, which present the sources and uses of cash for the year. The financial statements also include notes that explain some of the information in the financial statements and provide more detailed data. Following the financial statements is a section of other supplementary information which further explains and supports the information in the financial statements. The Port's operating revenue includes moorage and launch, ice house and storage fees, rental and RV fees. Operating expenses are those costs directly related to providing these services.

Even though management considers the activities related to the operation of the Port as those of a unitary nature, the accounts of the Port are organized and operated on the basis of funds and are reported as such. A fund is an independent fiscal and accounting entity with a self-balancing set of accounts. Fund accounting segregates funds according to their intended purpose and is used to aid management in demonstrating compliance with finance-related legal and contractual provisions. The minimum number of funds is maintained consistent with legal and managerial requirements.

The Port is considered to be a single enterprise similar to a commercial entity for financial reporting purposes. Accordingly, the financial statements are maintained on the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded at the time the liabilities are incurred.

The Port maintains the following budgetary funds:

- General Fund - The General Fund is used to account for all administrative, operating, and marketing costs of the Port. Revenues consist of general property tax levies, grants, and charges for services. Expenditures are for maintenance and general administration.
- Debt Service Fund - This fund accounts for expenditures relating to debt service.
- Revenue Bond Fund - This fund's purpose is for servicing the revenue bond.
- Capital Projects Fund - This fund accounts for grant receipts and expenditures relating to major capital improvements.

Financial Highlights

- ❖ Total assets of the Port was \$16,571,201. This includes capital assets of \$16,259,548 (net of accumulated depreciation), and current assets of \$311,653 at June 30, 2016.
- ❖ The assets of the Port exceeded its liabilities at the close of the most recent fiscal year by \$7,162,734 (net position). Of this amount, \$(270,904) unrestricted net position is used to meet the Port's ongoing obligations. Restricted \$52,473 is for debt service and capital projects.
- ❖ Total liabilities was \$9,408,467, down \$339,288 from last year.
- ❖ The Port's net position decreased by \$218,004 from June 30, 2015.
- ❖ Total operating loss for the fiscal year 2015-2016 was \$218,004, compared to a profit of \$175,193 the prior year.
- ❖ Total operating expenses for the fiscal year 2015-2016 were \$2,757,595, down from last year by \$186,216.

The fiscal year ending June 30, 2016 marked the close out of all FEMA-funded work related to damage from the March 11, 2011 tsunami. While these monies are funneled through the Port's accounts, the Port does not monetarily benefit by any of these funds unless the monies are paid for work done by Port personnel.

In the last eight years, the Port has gone through debt restructuring, completed the capital asset inventory and booking to go from a qualified to an unqualified opinion in its audits, and then was impacted by the tsunami in 2011, subsequently recovering from the damage.

The Port's largest liability is the repayment of debt, representing approximately 94% of total liabilities. The remaining 6% of liability consists almost entirely of payables on trade accounts, salaries, benefits and accrued expenses.

The statement of net position compares the net position at the end of the fiscal year 15-16 with the prior year. Net position is the difference between the assets of the Port and its liabilities. Changes in net position can be an indicator of the financial health of an enterprise and over time can show deterioration or improvement in financial health.

Statement of Net Position

	<u>June 30, 2016</u>	<u>June 30, 2015</u>	<u>Variance</u>
Current and other assets	\$ 311,653	\$ 736,111	\$ (424,458)
Capital assets	<u>16,259,548</u>	<u>15,713,806</u>	<u>545,742</u>
Total assets	<u>16,571,201</u>	<u>16,449,917</u>	<u>121,284</u>
Current liabilities	2,894,592	1,258,862	1,635,730
Long-term liabilities	<u>6,513,875</u>	<u>7,810,317</u>	<u>(1,296,442)</u>
Total liabilities	<u>9,408,467</u>	<u>9,069,179</u>	<u>(339,288)</u>
Net investment in capital assets	7,381,165	7,493,933	(112,768)
Restricted	52,473	160,508	(108,035)
Unrestricted	<u>(270,904)</u>	<u>(273,703)</u>	<u>2,799</u>
Total net position	<u>\$ 7,162,734</u>	<u>\$ 7,380,738</u>	<u>\$ (218,004)</u>

Statement of Revenue, Expenses and Changes in Net Position

	<u>2016</u>	<u>2015</u>	<u>Variance</u>
Operating Revenues	\$ 2,877,869	\$ 3,066,260	\$ (188,391)
Non-Operating Revenues			
Property Taxes	192,859	218,954	(26,095)
Grants	206,572	575,860	(369,288)
Interest Income	<u>345</u>	<u>163</u>	<u>182</u>
Total Revenues	<u>3,277,645</u>	<u>3,861,237</u>	<u>(583,592)</u>
Operating Expenses	2,757,599	2,943,815	186,216
Depreciation	488,848	470,507	(18,341)
Non-Operating Expense	<u>249,202</u>	<u>271,722</u>	<u>22,520</u>
Total Expenses	<u>3,495,649</u>	<u>3,686,044</u>	<u>190,395</u>
Changes in Net Position	(218,004)	175,193	<u>\$ 393,197</u>
Net Position - Beginning	<u>7,380,738</u>	<u>7,205,545</u>	
Net Position - Ending	<u>\$ 7,162,734</u>	<u>\$ 7,380,738</u>	

GENERAL FUND BUDGETARY HIGHLIGHTS

A review of the Port's General Operating Fund indicates actual revenues exceeded budgeted projections largely due to loan proceeds and total expenses exceeded budget due to capital outlay.

CAPITAL ASSETS

The following table lists the Port's capital assets and their values, net of depreciation, as of June 30:

	2016	Restated 2015
Land and improvements	\$ 2,537,448	\$ 2,522,147
Construction in progress	1,325,297	833,630
Buildings and docks	11,918,842	11,806,511
Equipment	<u>477,961</u>	<u>551,518</u>
Total	<u>\$16,259,548</u>	<u>\$15,713,806</u>

As shown in the table above, the Port's net capital assets increased by \$545,742 during the current year.

Current year activity includes a land exchange, completion of the parking lot and RV Park upgrades.

For further information relating to the Port's capital assets, see Note 6 of the Notes to the Financial Statements.

Debt Administration:

In the 2015-2016 fiscal year the Port made all of its debt service payments to the State of Oregon. The State of Oregon suspended the necessity of debt service payments in 2011-2012 while the major tsunami repairs were on-going. All other loans and obligations are maintained current throughout the year.

Economic Outlook:

During the 2015-2016 fiscal year the Port maintained its level of service to the patrons of the Port while completing renovations to Port boat launch and parking lot.

Rental revenues are as Port facilities are re-let. Port management and the Commission meet regularly to explore additional ways of providing improved and alternate income streams.

Port management is in negotiations with the Oregon Economic and Community Development/Oregon Business Development Department Infrastructure Finance Authority (IFA) regarding the excessive debt load that the Port has been saddled with since prior to 2008.

The Port of Brookings Harbor realizes the importance of maintaining the lands in public ownership. Funds for maintenance and future staffing requirements may come from joint ventures with the private sector(s). The Port would provide land on a leased basis and the private sector would provide cash, construction, and management expertise.

The Port staff will continue to seek grants from any and all sources to fund deferred maintenance needs and upgrades where needed. The Port will continue its efforts in obtaining funding for dredging. The Port also continues to seek alternative use arrangements for the partially completed commercial/retail building.

Requests for Information:

This financial report is designed to provide a general overview of the Port's finances to all interested parties. Questions concerning any of the information provided in this report, or requests for additional information, should be addressed to the Port of Brookings Harbor, PO Box 848, Brookings, Or 97415. The Secretary of State website maintains a copy of all Port audited financial reports.

PORT OF BROOKINGS HARBOR, OREGON

STATEMENT OF NET POSITION as of June 30, 2016

ASSETS

Current Assets

Cash and cash equivalents	\$ 23,023
Cash and cash equivalents - restricted	52,476
Accounts receivable	191,077
Note receivable	20,249
Prepaid expenses	14,081
Inventory	<u>10,747</u>
Total current assets	<u>311,653</u>

Capital Assets

Land	2,537,448
Buildings and equipment (net of depreciation)	<u>13,722,100</u>
Total capital assets	<u>16,259,548</u>
Total assets	<u>16,571,201</u>

LIABILITIES AND NET POSITION

Current Liabilities

Accounts payable	489,546
Payroll and payroll tax liabilities	502
Accrued benefits	15,608
Unearned revenue	24,429
Accrued interest payable, payable from restricted	43,657
Current portion of long-term debt, payable from restricted	<u>2,320,850</u>
Total current liabilities	<u>2,894,592</u>

Long-term Liabilities

Accrued interest payable	2,605,943
Long-term debt	<u>3,907,932</u>
Total long-term liabilities, payable from restricted assets	<u>6,513,875</u>
Total liabilities	<u>9,408,467</u>

Net Position

Net investment in capital assets	7,381,165
Restricted	
Debt service	19,070
Capital projects	33,403
Unrestricted	<u>(270,904)</u>
Total net position	<u>\$ 7,162,734</u>

See accompanying notes to financial statements.

PORT OF BROOKINGS HARBOR. OREGON

**STATEMENT OF REVENUES, EXPENSES AND CHANGES IN
FUND NET POSITION for the Year Ended June 30, 2016**

OPERATING REVENUES

Moorages and fees	\$ 587,204
Rental and leases	1,094,176
Fuel sales	586,616
Cold storage	228,722
Repair facility	55,628
Dredging	130,051
Miscellaneous	<u>195,472</u>

Total operating revenues 2,877,869

OPERATING EXPENSES

Cost of services	2,757,599
Depreciation	<u>488,848</u>

Total operating expenses 3,246,447

Total Operating Income (Loss) (368,578)

NONOPERATING REVENUE (EXPENSES)

Property taxes	192,859
Grants	206,572
Interest income	345
Interest expense	<u>(249,202)</u>

Total nonoperating revenue (expense) 150,574

Change in Net Position (218,004)

NET POSITION - Beginning of year 7,380,738

NET POSITION - End of year \$ 7,162,734

See accompanying notes to financial statements.

PORT OF BROOKINGS HARBOR, OREGON

STATEMENT OF CASH FLOWS for the Year Ended June 30, 2016

CASH FLOWS FROM OPERATING ACTIVITIES

Cash receipts from customers	\$ 2,806,095
Cash payments for goods and services	(2,108,190)
Cash payments for employees and benefits	(854,579)
Net cash provided (used) by operating activities	<u>(156,674)</u>

CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES

Taxes collected	<u>215,752</u>
Net cash provided (used) by noncapital financing activities	<u>215,752</u>

CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES

Acquisition and construction of capital assets	(1,016,587)
Grants	461,420
Loan proceeds	842,881
Principal paid on debt	(376,727)
Interest paid on debt	(74,847)
Net cash provided (used) by capital and related financing activities	<u>(163,860)</u>

CASH FLOWS FROM INVESTING ACTIVITIES

Interest income	<u>345</u>
Net cash provided (used) by investing activities	<u>345</u>

Net increase (decrease) in cash and cash equivalents (104,437)

Cash and cash equivalents - Beginning of year (restricted \$160,508) 179,936

Cash and cash equivalents - End of year (restricted \$52,476) \$ 75,499

**RECONCILIATION OF OPERATING INCOME TO NET CASH PROVIDED
(USED) BY OPERATING ACTIVITIES**

Operating income (loss)	\$ (368,578)
Adjustments to reconcile operating income (loss) to net cash provided by operating activities	
Depreciation	488,848
(Increase) decrease in operating assets	
Accounts receivable	(26,469)
Inventory	8,763
Prepaid expenses	59,986
Increase (decrease) in operating liabilities	
Accounts payable	(264,633)
Accrued payroll liabilities	(9,286)
Unearned revenue	(45,305)
Net cash provided (used) by operating activities	<u>\$ (156,674)</u>

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS as of June 30, 2016

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

The financial statements of Port of Brookings Harbor (Port) have been prepared in conformity with generally accepted accounting principles (GAAP) as applied to governmental units. The Governmental Accounting Standards Board (GASB) is the accepted standards-setting body for establishing governmental accounting and financial reporting standards.

The more significant of the Port's accounting policies are described below.

Reporting Entity

The Port, organized under the laws pertaining to port districts in the State of Oregon, was incorporated in 1956 to provide port services and facilities to recreational and commercial users on the southern Oregon coast. A five member Board of Commissioners oversees management in its operations.

There are various other governmental agencies and special service entities which provide services within the Port's boundaries. However, the Port is not financially accountable for any of these entities and accordingly, their financial information is not included in these financial statements.

Basis of Accounting

The Port is considered to be a single enterprise similar to a commercial entity for financial reporting purposes. Accordingly, these financial statements are maintained on the flow of economic resources measurement focus using the accrual basis of accounting utilizing accounting principles applicable to commercial enterprises. Under the accrual basis of accounting, revenues are recognized when earned and expenses are recognized when liabilities are incurred.

Interfund Transactions - Budget

Transactions that constitute reimbursements to a fund for expenses initially made from it that are properly applicable to another fund are recorded as expenses in the reimbursing fund and as reductions of expenses in the fund that is reimbursed.

All other interfund transactions are reported as transfers. Nonrecurring or nonroutine permanent transfers of equity are reported as residual equity transfers. All other interfund transfers are reported as operating transfers.

Transactions between funds that are representative of lending/borrowing arrangements outstanding at the end of the fiscal year are referred to as either "interfund receivables/payables" (i.e., the current portion of interfund loans) or "advances to/from other funds" (i.e., the non-current portion of interfund loans). All other outstanding balances between funds are reported as "due to/from other funds."

Deposits and Investments

The Port's cash and cash equivalents are considered to be cash on hand, demand deposits and short-term investments with original maturities of three months or less from the date of acquisition. For purposes of the statement of cash flows, all highly liquid investments with a maturity of three months or less when purchased are considered to be cash equivalents.

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS
as of June 30, 2016

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued

Deposits and Investments

The Port's investment policies are governed by Oregon statutes. The statutes authorize the Port to invest primarily in general obligations of the U.S. Government and its agencies, certain bonded obligations of Oregon municipalities, bank repurchase agreements, bankers' acceptances, high-grade commercial paper and the State Treasurer's Local Government Investment Pool (LGIP). The Port has not adopted policies that would further limit its deposit and investment choices. See Note 3.

Receivables

Accounts Receivable

Uncollected receivables are deemed to be substantially collectible or recoverable through liens; therefore, no allowance for uncollectible accounts has been established.

Property Tax Receivable

Property taxes are levied and become a lien on all taxable property as of July 1. Taxes are levied on November 15 with collection dates: November 15, February 15, and May 15. Discounts are allowed if the amount due is received by November 15. Taxes unpaid and outstanding on May 16 are considered delinquent.

Inventory

Inventory is valued at lower of cost or fair value, using the first-in/first-out (FIFO) method. The cost of inventory is expensed when consumed.

Prepaid Items

Payments made to vendors for services that will benefit periods beyond June 30 are recorded as prepaid items.

Restricted Assets

Resources set aside for repayment of debt obligations are classified as restricted assets on the statement of net position as their use is limited by applicable covenants. Restricted resources are expended first to fund appropriations for which those restrictions are to be utilized.

Capital Assets

Capital assets are stated at cost. Donated assets are recorded at their estimated fair value at the date of donation. Replacements, which improve or extend the lives of property, are capitalized. Maintenance, repairs and equipment replacements of a routine nature are charged to expenditures as incurred and are not capitalized. The Port has a capitalization policy of \$5,000 for assets with a life longer than one year.

Capital assets constructed with tax-exempt borrowing may include capitalized interest as part of the cost of capital assets. All interest expense less any interest earned on investments acquired with the proceeds of the borrowing are capitalized from the date of the borrowing until the assets are ready for their intended use.

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS
as of June 30, 2016

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES - Continued

Capital Assets

Assets subject to depreciation are depreciated over their estimated useful lives on the straight-line basis as follows:

Docks, ramps and buildings	40 years
Equipment and furniture	5 - 10 years

Compensated Absences

Accumulated vacation leave is recorded when earned. Vacation pay is computed using employee pay rates in effect at the time the vacation is used. Sick leave pay is recorded when leave is taken since it does not vest when earned.

Operating Revenues, Non-Operating Revenues and Operating Expenses

The Port has defined operating revenues to include all service charges and other applicable charges for services directly attributable to providing Port facilities. Operating expenses are defined as those expenses directly related to providing the services reflected within operating revenues including depreciation and amortization. Non-operating revenues are revenues of the Port not directly attributable to the services provided. This includes property taxes, investment interest, capital contributions, gain (loss) on sale of capital assets and non-operating revenue.

When both restricted and unrestricted resources are available for use, it is the Port's policy to use restricted resources to the limits of the policies and statutes governing them first, then unrestricted resources as they are needed.

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

Adoption of New GASB Pronouncements

During the current year, the Port implemented the following GASB pronouncement:

GASB Statement No. 72, *Fair Value Measurement and Application*, issued in February of 2015, this statement establishes accounting and financial reporting standards for fair value measurements, the level of fair value hierarchy, and valuation techniques. This statement is effective for fiscal year ending June 30, 2016.

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS
as of June 30, 2016

NOTE 2 - STEWARDSHIP, COMPLIANCE AND ACCOUNTABILITY

Budget Law and Practice

The Port legally adopts an annual budget for each individual fund prior to July 1 through passage of a resolution in accordance with the legal requirements set forth in the Oregon Local Budget Law. The resolution authorizes fund appropriations at the following control levels: personal services, materials and services, capital outlay, debt service, interfund transactions, operating contingency, and all other requirement levels. Appropriations lapse at the end of the fiscal year.

Unexpected additional resources may be added to the original budget through the use of a supplemental budget and appropriation resolution. The supplemental budget, greater than 10% of the fund's original budget, requires hearings before the public, publications in newspapers, and approval by the Board. Original and supplemental budgets may be modified by the use of appropriation transfers between the levels of control. Such transfers require approval by the Board.

Over Expenditures

The General Fund over expended in Capital Outlay \$765,598. Debt service overexpended by \$13,674, however \$13,000 was unanticipated disbursement based on a sale of property. The budget violation applies to the \$674.

Deficit Fund Balance

At year end, the General Fund has a deficit balance of \$270,904. When the funds are combined for business-type presentation, there is a deficit balance for unrestricted funds in the enterprise presentation.

NOTE 3 - DEPOSITS AND INVESTMENTS

Cash, cash equivalents and investments as of June 30 are classified in the accompanying Statement of Net Position as follows:

	<u>Balance</u>	<u>Restricted</u>	<u>Unrestricted</u>
Cash and cash equivalents	<u>\$ 75,499</u>	<u>\$ 52,476</u>	<u>\$ 23,023</u>

Cash, cash equivalents and investments as of June 30 consist of the following:

	<u>Balance</u>
Cash on hand	<u>\$ 1,092</u>
Deposits with financial institutions	<u>74,407</u>
Total cash and investments	<u>\$ 75,499</u>

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS
as of June 30, 2016

NOTE 3 - DEPOSITS AND INVESTMENTS - Continued

Deposits

At the end of the fiscal year, the Port's total deposits with financial institutions have a bank value of \$203,250.

Custodial Credit Risk

As required by Oregon Revised Statutes, deposits in excess of federal depository insurance were held at qualified depositories for public funds. All qualified depositories for public funds are included in the multiple financial institution collateral pool that is maintained by and in the name of the Office of the State Treasurer. As a result, the Port has no exposure to custodial credit risk for deposits with financial institutions.

NOTE 4 - RECEIVABLES

Receivables at year end consist of the following:

	<u>Balance</u>
Accounts receivable	\$ 191,077
Note receivable	<u>20,249</u>
Total receivables	<u>\$ 211,326</u>

Uncollected receivables are deemed to be substantially collectible or recoverable through liens; therefore, no allowance for uncollectible has been established.

Note Receivable

Note receivable for the sale of Bells and Whistle's personal property, payable in monthly installments of \$1,009 including interest at 5%. The notes is secured by personal property.

NOTE 5 - INTERFUND TRANSFERS

Transfers

Operating transfers are for servicing debt. The following is a breakdown of these transfers:

	<u>Source</u>	<u>Use</u>
General Fund	\$ 310,136	\$ 0
Debt Service Fund	0	180,016
Revenue Bond Fund	<u>0</u>	<u>130,120</u>
Total	<u>\$ 310,136</u>	<u>\$ 310,136</u>

The purpose of inter-fund transfers is to service debt.

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS
as of June 30, 2016

NOTE 6 - CAPITAL ASSETS

Capital asset activity for the year ended June 30 was as follows:

	<u>7/01</u> <u>Balance</u>	<u>Increase</u>	<u>Decrease</u>	<u>6/30</u> <u>Balance</u>
Capital assets not being depreciated				
Land and improvements	\$ 2,522,147	\$ 39,523	\$ (24,222)	\$ 2,537,448
Construction in progress	<u>833,630</u>	<u>1,000,297</u>	<u>(508,630)</u>	<u>1,325,297</u>
Total non-depreciable	<u>3,355,777</u>	<u>1,039,820</u>	<u>(532,852)</u>	<u>3,862,745</u>
Capital assets being depreciated				
Buildings and dock	17,010,338	527,622	0	17,537,960
Equipment	<u>1,246,478</u>	<u>0</u>	<u>0</u>	<u>1,246,478</u>
Total depreciable at historical cost	<u>18,256,816</u>	<u>527,622</u>	<u>0</u>	<u>18,784,438</u>
Accumulated depreciation				
Buildings and dock	(5,203,827)	(415,290)	0	(5,619,117)
Equipment	<u>(694,960)</u>	<u>(73,558)</u>	<u>0</u>	<u>(768,517)</u>
Total accumulated depreciation	<u>(5,898,787)</u>	<u>(488,848)</u>	<u>0</u>	<u>(6,387,634)</u>
Total depreciable, net	<u>12,358,029</u>	<u>\$ 38,774</u>	<u>\$ 0</u>	<u>12,396,804</u>
Capital assets, net	<u>\$15,713,806</u>			<u>\$16,259,548</u>

Current year depreciation is \$488,849.

Disclosure

Idle Asset - Green Building

In Construction in Progress is the asset called Green Building. The building consists of around 14,000 sq. feet of a building shell that has not been completed since 2000 due to lack of funds. Its basis was written down in a prior year to estimated carrying value of \$325,000. In adopting GASB No. 72, the Port used the cost approach (Level 2). This approach supports the amount that would be needed to replace the asset at its present service capacity. Fair value is believed to be higher and the Port is actively marketing the building.

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS as of June 30, 2016

NOTE 7 - LONG TERM DEBT

The Port's long-term debt includes a revenue bond, eleven obligations to the State of Oregon, and two notes payable. Below is a summary of the obligations by category:

Revenue Bond

Port of Brookings Harbor, Oregon Installment Revenue Bond No. 1, Series 2000, was issued on November 6, 2000. Annual payments of \$130,120, consisting of principal and 5% interest, are due on November 6 of each year. The bond was issued for the purpose of providing a portion of the cost of construction and improvements to the boat basin. Repayments are from the unobligated net revenues of the Port.

6/30 Balance
<u>\$ 1,350,402</u>

Total Revenue Bond

Revenue bond debt service requirements to maturity:

Fiscal Year Ending	Principal	Interest	Total Future Requirements
2017	\$ 62,618	\$ 67,502	\$ 130,120
2018	65,749	64,371	130,120
2019	69,037	61,083	130,120
2020	72,489	57,632	130,121
2021	76,113	54,007	130,120
2022-26	441,602	209,001	650,603
2027-31	<u>562,794</u>	<u>86,995</u>	<u>649,789</u>
Totals	<u>\$1,350,402</u>	<u>\$ 600,592</u>	<u>\$ 1,950,993</u>

Oregon Business Development Dept. Infrastructure Financing Authority (IFA)

	6/30 Balance
IFA #040-172, payable in quarterly installments, including interest of 5%, until paid in the 2022 fiscal year, secured by land.	\$ 167,625
IFA #040-139, payable in quarterly installments of \$7,085, including interest of 5%, until paid in the 2017 fiscal year, secured by land and revenues from the commercial/retail project.	110,010
IFA Special Public Works Fund L96003, payable in quarterly installments, including interest of 6%, until paid in the 2021 fiscal year, unsecured loan for beach erosion repairs.	169,399
IFA Special Public Works Fund L98004, payable in quarterly installments, including interest of 6%, until paid in the 2023 fiscal year, unsecured for dock improvements.	297,295
IFA Special Public Works Fund L02001, payable in quarterly installments, including interest of 5.35%, until paid in the 2026 fiscal year, unsecured loan for a marine fueling station.	252,620

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS
as of June 30, 2016

NOTE 7 - LONG TERM DEBT - Continued

Notes Payable - Oregon Business Development Dept. Infrastructure Financing Authority (IFA)

	<u>6/30 Balance</u>
IFA #040-176, payable in quarterly installments, including interest of 7%, until paid in the 2024 fiscal year, secured by land.	361,446
IFA Special Public Works Fund L02009, payable in quarterly installments, including interest of 5%, until paid in the 2027 fiscal year, secured by port improvements.	992,413
IFA #040-181, payable in quarterly installments, including interest of 4.88%, until paid in the 2024 fiscal year, secured by port improvements.	238,692
IFA Special Public Works Fund X03004, payable in quarterly installments, including interest of 4.88%, until paid in the 2022 fiscal year, secured by port improvements.	261,898
IFA Interim Financing Loan L12001. Draw downs up to \$1,405,232, no interest. Current year draw downs were \$9,951. See Payment Modifications - Grant Agreement.	1,162,051
IFA Interim Financing Loan L16010. Draw downs up to \$1,562,157, no interest. Current year draw downs were \$833,290. See grant agreement.	<u>833,290</u>
Total IFA Obligation	<u>\$ 4,846,738</u>

Payment Modifications - Prior

In January of 2010, a restructured agreement was signed with Oregon Business Development Department Infrastructure Finance Authority (IFA); specifying considerations of the Port's cash flows, intended to repay all loan principal, minimize the cost of recovery and minimize the negative impact to the Port's revenue producing assets. The agreement was to commence January 2010 with the payoff of loan #94-05 for \$117,000 and loan #040-095 for \$71,000 by June 30, 2010. The Port was then committed to making level quarterly installment payments of \$62,500 beginning September 2010 through March 2030. Loan repayment order was based on the earliest maturity first. Interest was to accrue quarterly according to each notes current interest rate. Any interest not satisfied in the current period would be deferred, non-compounding, until satisfied. Any interest not satisfied at the maturity of each note may be forgiven, at the discretion of IFA Director.

The Port was current on its obligation until March of 2011, when the Port sustained substantial damage from a tsunami. On April 6, Governor John Kitzhaber suspended the Port's debt payments to Infrastructure Finance Authority until revenue generating facilities were restored.

Grant Agreement

Interim Loan L12001

During the 2011-12 year, the Port signed an interim loan (No. L12001) to be able to continue the ongoing repairs from the tsunami and be able to match FEMA monies at 25%.

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS
as of June 30, 2016

NOTE 7 - LONG TERM DEBT - Continued

Payment Modifications - Current Year

Grant Agreement

Interim Loan L12001

In February of 2012, the Port entered into a grant agreement with the State of Oregon acting by and through its Department of Transportation to receive Multimodal Transportation funds for reimbursing Interim Financing Loan No. L12001. The Port shall provide proof of its loan draw down up to \$1,405,232 and will be reimbursed a lump sum grant amount not to exceed \$1,405,232. The terms of this Agreement was effective March of 2015 and terminates five years from the date of execution. Draw down in the current year was \$9,591 totaling \$1,162,051. On July 17 the obligation was paid off per the grant agreement.

Interim Loan L16010

In the current fiscal year the Port signed an interim loan (No. L16010) to be able to continue the repair and improvement of the docks. The interim loan with the State of Oregon is not to exceed \$1,562,157 and will be reimbursed in a lump sum grant amount not to exceed \$1,562,157.

IFA Business

State of Oregon debt service requirements to maturity:

Fiscal Year Ending	Principal	Interest	Total Future Requirements
2017	\$ 2,243,510	\$ 1,831	\$ 2,245,341
2018	248,169	1,831	250,000
2019	248,169	1,831	250,000
2020	248,169	1,831	250,000
2021	250,169	1,831	252,000
2022-26	1,029,486	1,140	1,030,626
2027-31	579,066	0	579,066
Totals	<u>\$ 4,846,738</u>	<u>\$ 10,295</u>	<u>\$ 4,857,033</u>

Interest

Presently the Port is making quarterly payments of \$62,042 to service IFA's seven obligations. In approximately eleven years after the last payment satisfying the principal balance due, interest payments will begin.

Notes Payable

6/30
Balance

In October of 2011, the Port refinanced with Umpqua Bank to payoff a line of credit. The loan was for \$250,000 at a fixed rate of .75%, payable in monthly installments of \$4,814.98 including interest. Final payment is in October 2016. The loan is secured by real estate.

\$ 13,858

In March of 2016, the Port purchased a building on Port property for \$18,000. Monthly payments of \$672 commenced in March with no interest. The seller entered into a Port lease for \$600 per month, therefore the Port's obligation of \$600 will be exchanged for monthly rent, netting a monthly cash obligation of \$72 on the loan. Payoff of the loan is in 2037.

17,784

Total notes payable

\$ 31,642

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS
as of June 30, 2016

NOTE 7 - LONG TERM DEBT - Continued

Notes Payable

Notes payable and service requirements to maturity:

<u>Fiscal Year</u> <u>Ending</u>	<u>Principal</u>	<u>Interest</u>	<u>Total Future</u> <u>Requirements</u>
2017	\$ 14,722	\$ 1,379	\$ 16,101
2018	864	0	864
2019	864	0	864
2020	864	0	864
2021	864	0	864
2022-26	4,320	0	4,320
2027-31	4,320	0	4,320
2032-36	4,320	0	4,320
2037	504	0	504
Total	<u>\$ 31,642</u>	<u>\$ 1,379</u>	<u>\$ 33,021</u>

Changes in Long-Term Debt

During the year ended June 30, the following changes occurred in long term liabilities:

	<u>7/1</u> <u>Balance</u>	<u>Additions</u>	<u>Adjustments</u> <u>& Reductions</u>	<u>6/30</u> <u>Balance</u>	<u>Due in</u> <u>One Year</u>
Revenue Bond, Series 2000	\$1,410,021	\$ 0	\$ 59,619	\$1,350,402	\$ 62,618
IFA	4,265,484	842,881	261,627	4,846,738	2,243,510
Notes payable	69,123	18,000	55,481	31,642	14,722
Totals	<u>\$5,744,628</u>	<u>\$ 860,881</u>	<u>\$ 376,727</u>	<u>\$6,228,782</u>	<u>\$2,320,850</u>

Interest expense for the year was \$249,202. No interest was capitalized.

NOTE 8 - LEASES

Port as Lessor

The Port, as a lessor leases certain properties with a total approximate net capitalized cost of \$1,036,324 and annual depreciation expense of approximately \$15,293 under long-term noncancelable operating leases.

The minimum future lease payments to be received under non-cancelable leases are as follows:

<u>Year Ending</u> <u>June 30,</u>	<u>Balance</u>
2017	\$ 199,785
2018	176,470
2019	117,581
2020	56,350
2021	38,180
Thereafter	455,555
Total	<u>\$1,043,921</u>

Amounts for future lease extensions are not included as they are cancelable.

PORT OF BROOKINGS HARBOR, OREGON

NOTES TO FINANCIAL STATEMENTS
as of June 30, 2016

NOTE 9 - UNEARNED REVENUE

At year end the deferred revenue consisted of the following:

	<u>Balance</u>
Prepaid/credits	\$ 14,927
Security/cleaning deposits	<u>9,502</u>
Total	<u>\$ 24,429</u>

NOTE 10 - MISCELLANEOUS REVENUE

Miscellaneous revenue for the year consists of the following:

	<u>Balance</u>
Special events	\$ 83,956
Coffee shop	1,851
Sale of assets	29,825
Other various	<u>79,840</u>
Total	<u>\$ 195,472</u>

NOTE 11 - OTHER INFORMATION

Risk Management

The Port is exposed to various risks of loss related to theft of, damage to and destruction of assets; torts; errors and omissions; injuries to employees; and natural disasters. The Port purchases commercial insurance for such risks. Settled claims resulting from these risks have not exceeded commercial insurance coverage in any of the past three fiscal years.

Evaluation of Subsequent Events

Servicing Debt

In September the Port paid off in full its obligation to Umpqua Bank for \$13,858. As of January 16, 2017, it is late on its \$62,500 fourth quarter payment to IFA.

General

The Port has evaluated subsequent events through January 16, 2017, the date which the financial statements were available to be issued.

**PORT OF BROOKINGS HARBOR
OREGON**

SUPPLEMENTAL SECTION

PORT OF BROOKINGS HARBOR, OREGON

DESCRIPTION OF BUDGETARY FUNDS

Pursuant to the provisions of Oregon Revised Statute, an individual schedule of revenues, expenditures, and changes in fund balances requires budget and actual be displayed for each fund where legally adopted budgets are required.

Budgetary Comparison schedules include the following funds:

The Port uses the following budgetary funds to account for its activities:

General Fund

The fund is used to account for the financial resources that are not accounted for in any other fund. Principal sources of revenue are from moorage, lease income and property taxes. Primary expenditures are for maintenance and general administration.

Debt Service Fund

The fund is used to account for principal and interest paid on the Port's debt other than the revenue bond obligation.

Revenue Bond Fund

The fund is used to account for principal and interest payments on the revenue bond.

Capital Projects Fund

The fund is used to account for expenditures on major construction and improvement. Principal sources of revenue are grants and loans.

PORT OF BROOKINGS HARBOR, OREGON

**SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND
BALANCE - BUDGET AND ACTUAL for the Year Ended June 30, 2016**

GENERAL FUND

	<u>Original and Final Budget</u>	<u>Actual</u>	<u>Variance</u>
REVENUES			
Property taxes	\$ 178,700	\$ 192,859	\$ 14,159
RV Park	465,000	613,160	148,160
Moorage and launch	610,000	587,204	(22,796)
Repair facility	225,000	55,628	(169,372)
Dredging	0	130,051	130,051
Asset sale	0	14,951	14,951
Ice house	155,000	188,866	33,866
Landing tariff	45,000	0	(45,000)
Rentals	455,000	481,016	26,016
Cold storage	30,000	39,856	9,856
Miscellaneous	88,760	180,866	92,106
Grants	0	189,597	189,597
Fuel sales	1,000,000	586,616	(413,384)
Loan proceeds	0	860,881	860,881
Total revenues	<u>3,252,460</u>	<u>4,121,551</u>	<u>869,091</u>
EXPENDITURES			
Personnel services	947,028	845,293	101,735
Materials and services	1,995,000	1,912,306	82,694
Capital outlay	250,000	1,015,598	(765,598)
Contingency	182,765	0	182,765
Total expenditures	<u>3,374,793</u>	<u>3,773,197</u>	<u>(398,404)</u>
Excess (def) of revenues over expenditures	(122,333)	348,354	470,687
OTHER FINANCING SOURCES (USES)			
Transfers to other funds	<u>(450,912)</u>	<u>(310,136)</u>	<u>140,776</u>
Excess (def) of revenues over expenditures and transfers	(573,245)	38,218	611,463
FUND BALANCE - Beginning of year (Budget)	<u>255,245</u>	<u>(309,122)</u>	<u>(564,367)</u>
FUND BALANCE - End of year (Budget)	<u>\$ (318,000)</u>	<u>(270,904)</u>	<u>\$ 47,096</u>
GAAP ADJUSTMENTS - Reconciled to June 30, 2015		7,493,932	
Capital asset activity			
Additions		1,039,820	
Disposals		(24,222)	
Transfers in		18,992	
Depreciation		(488,848)	
Long-term debt activity			
Principal payments		376,727	
Loan proceeds		(860,881)	
Interest accrued		<u>(174,355)</u>	
FUND BALANCE - End of year (GAAP)		<u>\$ 7,110,261</u>	

PORT OF BROOKINGS HARBOR, OREGON

**SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND
BALANCE - BUDGET AND ACTUAL for the Year Ended June 30, 2016**

DEBT SERVICE FUND

	<u>Original and Final Budget</u>	<u>Actual</u>	<u>Variance</u>
REVENUES	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
EXPENDITURES			
Principal payments	297,213	317,108	(19,895)
Interest payments	<u>10,567</u>	<u>4,346</u>	<u>6,221</u>
Total expenditures	<u>307,780</u>	<u>321,454</u>	<u>(13,674)</u>
Excess (def) of revenues over expenditures	(307,780)	(321,454)	(13,674)
OTHER FINANCING SOURCES (USES)			
Transfers from other funds	<u>307,780</u>	<u>180,016</u>	<u>127,764</u>
Excess (def) of revenues over expenditures and transfers	0	(141,438)	(141,438)
FUND BALANCE - Beg of year (Budget)	<u>0</u>	<u>147,496</u>	<u>147,496</u>
FUND BALANCE - End of year (Budget)	<u>\$ 0</u>	<u>\$ 6,058</u>	<u>\$ 6,058</u>

PORT OF BROOKINGS HARBOR, OREGON

**SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND
BALANCE - BUDGET AND ACTUAL for the Year Ended June 30, 2016**

REVENUE BOND FUND

	<u>Original and Final Budget</u>	<u>Actual</u>	<u>Variance</u>
REVENUES	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
EXPENDITURES			
Bond principal	54,092	59,619	(5,527)
Bond interest	<u>76,028</u>	<u>70,501</u>	<u>5,527</u>
Total expenditures	<u>130,120</u>	<u>130,120</u>	<u>0</u>
Excess (def) of revenues over expenditures	(130,120)	(130,120)	0
OTHER FINANCING SOURCES (USES)			
Transfers from General Fund	<u>143,132</u>	<u>130,120</u>	<u>(13,012)</u>
Excess (def) of revenues over expenditures and transfers	13,012	0	(13,012)
Unappropriated ending fund balance	(13,012)	0	13,012
FUND BALANCE - Beginning of year (Budget)	<u>0</u>	<u>13,012</u>	<u>13,012</u>
FUND BALANCE - End of year (Budget)	<u>\$ 0</u>	<u>\$ 13,012</u>	<u>\$ 13,012</u>

PORT OF BROOKINGS HARBOR, OREGON

**SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND
BALANCE - BUDGET AND ACTUAL for the Year Ended June 30, 2016**

CAPITAL PROJECTS FUND

	<u>Original and Final Budget</u>	<u>Actual</u>	<u>Variance</u>
REVENUES			
Grants	<u>\$ 322,600</u>	<u>\$ 16,975</u>	<u>\$ (305,625)</u>
Total revenues	<u>322,600</u>	<u>16,975</u>	<u>305,625</u>
EXPENDITURES			
Capital outlay	<u>322,600</u>	<u>18,992</u>	<u>303,608</u>
Excess (def) of revenues over expenditures	<u>0</u>	<u>(2,017)</u>	<u>(2,017)</u>
FUND BALANCE - Beginning of year (Budget)	<u>0</u>	<u>35,420</u>	<u>35,420</u>
FUND BALANCE - End of year (Budget)	<u>\$ 0</u>	<u>33,403</u>	<u>\$ 33,403</u>
GAAP ADJUSTMENTS			
Additions		18,992	
Transfers out		<u>(18,992)</u>	
FUND BALANCE - End of year (GAAP)		<u>\$ 33,403</u>	

PORT OF BROOKINGS HARBOR, OREGON

**RECONCILIATION OF REVENUES AND EXPENDITURES (BUDGETARY
BASIS) TO THE STATEMENT OF REVENUES, EXPENSES AND
CHANGES IN NET POSITION for the Year Ended June 30, 2016**

	<u>Total Revenues</u>	<u>Total Expenditures</u>	<u>Net</u>
Budgetary Basis			
General Fund	\$ 4,121,551	\$ 4,083,333	\$ 38,218
Debt Service Fund	180,016	321,454	(141,438)
Revenue Bond Fund	130,120	130,120	0
Capital Projects Fund	<u>16,975</u>	<u>18,992</u>	<u>(2,017)</u>
 Total budgetary basis	 <u>\$ 4,448,662</u>	 <u>\$ 4,553,899</u>	 <u>(105,237)</u>
 Add (Deduct) Items to Reconcile to Net Income on a Financial Reporting Basis			
Capital asset activity			
Additions			1,058,812
Disposals			(24,222)
Depreciation			(488,848)
Long-term debt activity			
Principle payments			376,727
Loan proceeds			(860,881)
Interest accrued			<u>(174,355)</u>
 Change in net position			 (218,004)
 NET POSITION - Beginning of year			 <u>7,380,738</u>
 NET POSITION - End of year			 <u>\$ 7,162,734</u>

64

**PORT OF BROOKINGS HARBOR
OREGON**

COMPLIANCE SECTION

January 16, 2017

**Independent Auditor's Report
Required by Oregon State Regulations**

Board of Commissioners
Port of Brookings Harbor
Brookings, Oregon

I have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the business-type activities of Port of Brookings Harbor, as of and for the year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise Port of Brookings Harbor's basic financial statements, and have issued my report thereon dated January 16, 2017.

Compliance

As part of obtaining reasonable assurance about whether the Port of Brookings Harbor financial statements are free of material misstatement, I performed tests of its compliance with certain provisions of laws, regulations, contracts, and grants, including the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules 162-10-000 through 162-10-330 of the Minimum Standards for Audits of Oregon Municipal Corporations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of my audit, and accordingly, I do not express such an opinion.

I performed procedures to the extent I considered necessary to address the required comments and disclosures which included, but were not limited to the following:

- Accounting records and related internal control structure.
- Deposit of public funds with financial institutions (ORS Chapter 295).
- Indebtedness limitations, restrictions and repayment.
- Budgets legally required (ORS Chapter 294).
- Insurance and fidelity bonds in force or required by law.
- Programs funded from outside sources.
- Authorized investment of surplus funds (ORS Chapter 294).
- Public contracts and purchasing (ORS Chapters 279A, 279B, 279C).

In connection with my testing nothing came to my attention that caused me to believe the Port of Brookings Harbor was not in substantial compliance with certain provisions of laws, regulations, contracts, and grants, including the provisions of Oregon Revised Statutes as specified in Oregon Administrative Rules 162-10-000 through 162-10-330 of the Minimum Standards for Audits of Oregon Municipal Corporations except for the following:

Budget

The General Fund over expended in Capital Outlay by \$765,598 and Debt Service over expended by \$13,674. On the Debt Service, \$13,000 was an unanticipated disbursement from the sale of property, therefore the budget violation is to the \$674 only.

Year 2016-17

The notice for the second budget hearing was published three days before the hearing rather than the required five days.

Internal Control Over Financial Reporting

In planning and performing my audit of the financial statements, I considered Port of Brookings Harbor's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing my opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Port of Brookings Harbor's internal control. Accordingly, I do not express an opinion on the effectiveness of the Port of Brookings Harbor's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

My consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or, significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. I did identify a certain deficiency in internal control, described in the accompanying schedule of findings and questioned costs that I consider to be a material weakness. 2016-1

The Port's response to the findings identified in my audit is described in the accompanying schedule of findings and questioned costs/Port response. I did not audit the Port's response and, accordingly, I express no opinion on it.

Purpose of This Report

This report is intended solely for the information and use by the board of commissioners and management of the Port of Brookings Harbor, Oregon and the Oregon Secretary of State and is not intended to be and should not be used by anyone other than these parties.

SIGNE GRIMSTAD

Certified Public Accountant

January 16, 2017

**Independent Auditor's Report on Internal Control Over Financial
Reporting and on Compliance and Other Matters Based on an
Audit of Financial Statements Performed in Accordance
with Government Auditing Standards**

Board of Commissioners
Port of Brookings Harbor
Brookings, Oregon

I have audited, in accordance with the auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, the financial statements of the business-type activities of Port of Brookings Harbor, as of and for the year ended June 30, 2016, and the related notes to the financial statements, which collectively comprise Port of Brookings Harbor's basic financial statements, and have issued my report thereon dated January 16, 2017.

Internal Control Over Financial Reporting

In planning and performing my audit of the financial statements, I considered Port of Brookings Harbor's internal control over financial reporting (internal control) to determine the audit procedures that are appropriate in the circumstances for the purpose of expressing my opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of Port of Brookings Harbor's internal control. Accordingly, I do not express an opinion on the effectiveness of Port of Brookings Harbor's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

My consideration of internal control was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and therefore, material weaknesses or significant deficiencies may exist that were not identified. I did identify a deficiency in internal control, described in the accompanying schedule of findings and questioned costs that I consider to be material weaknesses. 2016-1

The Port's response to the findings identified in my audit is described in the accompanying schedule of findings and questioned costs/Port response. I did not audit the Port's response and, accordingly, I express no opinion on it.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Port's financial statements are free from material misstatement, I performed tests of its compliance with certain provisions of laws, regulations, contracts and grants agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of my audit, and accordingly, I do not express such an opinion. The results of my tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Purpose of This Report

The purpose of this report is solely to describe the scope of my testing of internal control and compliance and the results of that testing, and not to provide an opinion on the effectiveness of the Port's internal control or on compliance. This report is an integral part of an audit performed in accordance with *Government Auditing Standards* in considering the Port's internal control and compliance. Accordingly, this communications is not suitable for any other purpose.

SIGNE GRIMSTAD

Certified Public Accountant

PORT OF BROOKINGS HARBOR, OREGON
SCHEDULE OF FINDINGS AND PORT RESPONSE
for the Year Ended June 30, 2016

FINDINGS - FINANCIAL STATEMENT AUDIT - June 30, 2015

2014-1 General Ledger - Material Weakness

Criteria: The general ledger should be setup to reflect self-balancing funds.

Condition: The Port maintains a single general ledger combining four funds, making it difficult to separate individual self-balancing funds.

Cause: The accounts for all the funds are combined in the trial balance.

Effect: Because of the present chart of accounts, there is a risk of individual funds being out of balance.

Recommendation: The Port should expand its chart of accounts to reflect self-balancing funds.

Response: The Port understands the importance of self-balancing funds and the risk of misstatement. The Port is in agreement and was working on improving its chart of accounts. Presently, the Board has taken its bookkeeping to an independent accounting firm.

2015-1 General Ledger

Finding same as 2014.

Response: An independent accounting firm is working on the chart of accounts.

2016-1 General Ledger

Finding same as 2015.

Response: The Port is presently setting up four QuickBook funds to record transactions in self-balancing accounts.

66

New Business Item A

Subject: PFMC Representative Regarding Salmon Season

About: Richard Heap with PFMC to discuss the upcoming salmon season.

New Business Item B

Subject: CBN Lease Amendment - Action

About: Corrected CNB lease.

AMENDED AND RESTATED LEASE

This Amended and Restated Lease (this "Lease") is made and entered into at Brookings, Oregon this 21st day of March, 2017 by and between the Port of Brookings Harbor (the Landlord) and Barbara Ciaramella, dba: Brookings-Harbor Visitor & Tour Center, Jewels by the Sea Real Estate, Grotto Snack Bar and Member of CBN Enterprises, LLC. (the Tenant).

Landlord hereby leases to Tenant approximately 800 square-feet of commercial retail space, located at 16358 Lower Harbor Road, Brookings, Oregon containing 800 square feet for "the building" @ \$1.05 per square foot (\$840.00 per month); (see Exhibit A), for a maximum combined term of 36 months commencing December 1st, 2016, and continuing through November 30, 2019 at a total Base Rental of \$840.00 (Eight Hundred Forty and 00/00 Dollars) per month, payable in advance on the first day of each month commencing April 1, 2017. Landlord grants to Tenant the option to renegotiate a new agreement of said retail space, the terms and conditions of which to be negotiated on or before October 31, 2019, provided 1) Tenant is not in default; 2) Landlord does not need the space for its own use; 3) Landlord is otherwise satisfied with Tenant's use of retail space in the previous agreement.

Tenant shall notify the Landlord in writing ninety (90) days prior to expiration of this lease of tenant's desire to enter into negotiations for a new agreement. Failure to provide such notice is a default and Landlord may deny the opportunity to negotiate a new agreement and retake possession of the Building with or without process of law.

Landlord and Tenant covenant and agree as follows:

- 1) **Rent Payment.** Tenant shall pay the base rent of \$840.00 per month for the leased Building and any additional rent provided herein subject only to a deduction or offset as authorized by Landlord. The Base rent shall be increased or decreased annually, on each anniversary of the lease commencement date for the second and each subsequent year of this lease in the same percentage of increase or decrease as the Consumer Price Index – all items – Western Urban Index for the previous twelve months. Base rent shall include all prior percentage increases. In no event shall the Base rent be decreased to less than \$840.00 per month for any more than four (4.5) months of the term of this lease. The maximum deduction for rent during the initial term of this lease shall not be in excess of \$3,850.00. Rent for any partial month during the lease term shall be prorated to reflect the number of days during the month that Tenant occupies the Building.

Additional rent means any other sums payable by Tenant to Landlord under this lease. At the end of the Lease agreement, a new Base Rent will be established. Rent not paid when due shall bear an automatic \$35.00 late fee each month if not paid by the 10th of the month due.

- 2) **Lease Consideration/Security Deposit.** Upon execution of the lease, Tenant shall pay a security deposit in the amount of \$840.00. Landlord may apply the security deposit to pay the cost of performing any obligation which Tenant fails to perform within the time required by the terms of this lease, but such application by Landlord shall not be the exclusive remedy for any Tenant default. If the security deposit is applied by the Landlord as provided herein, Tenant shall on demand pay the sum necessary to replenish the security deposit to its original amount. To the extent not applied by Landlord to cure defaults by Tenant, the security deposit shall be returned to Tenant upon termination of lease, or, by mutual agreement between Landlord and Tenant, applied against the rent payable for the last month of the term.

- 3) **Use.** Tenant shall use the Building as office and meeting space to conduct the business affairs associated with the above listed business enterprises, specifically a real estate office, a visitor center, a tour and travel center, a snack bar with a hot dog cart, a gift shop and recreational rental equipment and advertising business, and for no other purpose without Landlord's written consent. In connection with its use, Tenant shall at its expense promptly comply with all applicable laws, ordinances, rules and regulations of any public authority and not annoy, obstruct or interfere with the rights of other tenants of the Building. Tenant, or its licensees, employees, or invitees, shall not create, maintain or permit any nuisance or allow any objectionable fumes, noise, or vibrations to be emitted from the Building. Tenant shall not conduct any activities that will increase Landlord's insurance rates for any portion of the Building or that will in any manner degrade or damage the reputation of the Building.

3a. **Non-Compete.** Landlord agrees during the term of this lease, not to allow a third party to establish a visitor or tour center in the current Boardwalk Retail Center of the Landlord's property which would directly compete with the Tenant's Visitor Tour Center business in this lease. This covenant not to compete may be waived by Tenant in writing on a case by case basis.

- 4) **Equipment.** Tenant shall install in leased Building *equipment customary and necessary for use in the businesses described in paragraph 3 herein*, and shall not overload the floors or electrical circuits of the Building or Building or alter the plumbing or wiring of the Building or Building, except as reasonably necessary to install additional telephone and electrical lines. Landlord must approve in advance the location and manner of installing any electrical, heat generating or communication equipment or exceptionally heavy articles. Any additional air conditioning required because of heat

generating equipment or special lighting installed by Tenant shall be installed and operated at Tenant's expense.

- 5) **Sign.** Tenant shall obtain prior approval from Landlord before posting signs, awnings, antennas, or other apparatus shall be painted on or attached to the building or anything placed on any glass or woodwork of the Building or positioned as to be visible from the outside the Building without Landlord's written approval as to design, size, location, and color. All signs installed by Tenant shall comply with Landlord's standards for signs, and all applicable codes and signs and sign hardware shall be removed upon termination of this lease with the sign location restored to its formal state unless Landlord elects to retain all or any portion thereof.
- 6) **Utilities and Services.** *Landlord shall furnish all utilities up to the exterior of the Building.* Tenant will maintain regular business hours Monday through Sunday, except holidays. Janitorial service for the common areas will be provided in accordance with the regular schedule for this Building, which schedule and service may change from time to time, but which shall be no less than once per month. Tenant shall comply with all government laws or regulations regarding the use or reduction of use of utilities on the Building. Interruption, limitation, curtailment, or rationing of services or utilities shall not be deemed an eviction or disturbance of Tenant's use and possession of the Building, render Landlord liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this lease, but Landlord shall take all reasonable steps to correct any interruption in service. Electrical service furnished will be 110 volts unless different service already exists in the Building. Tenant will pay all his own utility bills, including, but not limited to water bills, electrical bills, sewer bills and trash.

7) **Maintenance and Repair.**

- a. With the sole exception of Landlord's obligations as specified in subparagraph (b) below, Tenant is at all times during the term of this lease, and at Tenant's sole cost and expense, obligated to keep the interior of the Building and every part thereof in good condition and repair; ordinary wear and tear and damage to the Building by earthquake, act of God, or the elements excepted. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate, or paint the Building or any part thereof, except as hereinafter listed. Landlord shall have the right to erect scaffolding and other apparatus necessary for the purpose of making repairs, and Landlord shall have no liability for interference with Tenant's use because of repairs and installations. Tenant shall have no claim against Landlord for any interruption or reduction of services or interference with Tenant's occupancy, and no

such interruption or reduction shall be construed as a constructive or otherwise eviction of Tenant. Repair of damage caused by negligent or intentional acts or breach by this lease by Tenant, its employees or invitees shall be at Tenant's expense.

b. Landlord's Obligations. The following shall be the responsibility of Landlord:

- (1) Repairs and maintenance of the roof and gutters, exterior walls (including painting), bearing walls, structural members, floor slabs, and foundation.
- (2) Repair of sidewalks, driveways, curbs, parking areas, and areas used in common by Tenant and Landlord or Tenants of other portions of the same building.
- (3) Repair and maintenance of existing exterior water, sewage, gas and electrical services up the point of entry to the leased Building.
- (4) Repair of a failure of the heating system other than ordinary maintenance.

c. Tenant's Obligations. The following shall be the responsibility of Tenant:

- (1) Except for defects in installation, for the whole lease term, repair of interior walls, ceilings, doors, windows, and related hardware, light fixtures, switches, and wiring and plumbing from the point of entry to the Building.
- (2) Any repairs necessitated by the negligence of Tenant, its agents, employees, and invitees, except as provided in Section 13 dealing with waiver of subrogation, but including repairs that would otherwise be the responsibility of Landlord under Section 8.b.
- (3) Any repairs or alterations required under Tenant's obligation to comply with laws and regulations of any public authority.
- (4) All other repairs to the Building which Landlord is not required to make under Section 8.b.
- (5) If Tenant fails to perform Tenant's obligations under this paragraph 8.c or under any other paragraph of this Lease, Landlord may enter upon the Building after ten (10) days' prior written notice to Lessee (except in case of emergency, in which no notice shall be required), perform such obligations on Tenant's behalf and put the Building in good order, condition and repair, and the cost thereof together with

interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Landlord together with Tenant's next Base Rent installment. If Tenant fails to pay the additional rent charged as provided herein, Landlord may pay the additional rent due out of the security deposit.

- (6) On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Building to Landlord in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Any damage or deterioration of the Building shall not be deemed ordinary wear and tear if the same could have been prevented by good maintenance practices. Tenant shall repair any damage to the Building otherwise stated in this Lease. Tenant shall leave the air lines, power panels, electrical distribution systems, lighting fixtures, space heaters, air conditioning, plumbing and fencing on the Building in good operating condition.

d. **Tenant's Repairs.** Tenant may make the improvements to the leased premises as listed in Exhibit A; Section A 1. And 2., attached hereto and incorporated herein by this reference, upon commencement of this lease. Tenant shall employ only licensed contractors to make said improvements. Tenant shall be entitled to reductions in rent for the actual cost of such repairs based on the billings to Tenant by the contractors hired for the improvements and repairs. All such billings shall be provided to Landlord by Tenant and all reductions in rent authorized by Landlord shall be in writing and approved by both parties. The credit toward any rent reduction shall be dollar for dollar from the approved billings of the contractors providing the work for Tenant. In no event shall Tenant be entitled to rent reduction in excess of \$3850.00.

- 8) **Alterations.** Except as provided in Paragraph 7 d., above, Tenant shall not make any alterations, additions, or improvements to the Building, change the color of the interior, or install any wall or floor covering without landlord's prior written consent, which consent shall not be unreasonably withheld. Any such additions, alterations, or improvements, except for removable machinery and unattached movable trade fixtures, and approved additions shall at once become part of the realty and belong to the Landlord. Landlord may at its option require that tenant remove any alterations and restore the Building to the original condition upon termination of this lease. Landlord shall have the right to approve the contractor used by Tenant for any work in the Building, and to post notices of non-responsibility in connection with any work being performed by Tenant in the Building.

- 9) **Indemnity.** Tenant shall not allow any liens to attach to the Building or Tenant's interest in the Building as a result of its activities. In the event that a materialman, mechanic's, or other lien is filed, or a claim of lien is made for

work claimed to have been done for Tenant, Landlord will have the option in his sole discretion of requiring Tenant to post a Surety Bond within ten (10) days at Tenant's expense or to pay and discharge the lien, and Tenant agrees to reimburse Landlord promptly upon demand. These Landlord remedies are not exclusive as Landlord has other remedies as provided by law including requiring Tenant to pay for Landlord's attorney fees and costs relating to any such lien. Tenant hereby waives all claims against Landlord for damage to any property or injury, illness, or death of any person in, upon, or about the Building and/or the Building arising at any time and from any cause whatsoever than solely by reason of the negligence or willful act of Landlord, its officers, employees, or agents. Tenant shall hold Landlord harmless from and defend Landlord against any and all claims or liability for damage to any property or injury, illness, or death of any person (a) occurring in or on the Building or any part thereof arising at any time and from any cause whatsoever other than solely by reason of the negligence or willful act of Landlord, its officers, employees, or agents; or (b) occurring in, on, or about any part of the Building other than the Building when such damage, injury, illness, or death shall be caused in whole or in part by the act, neglect, omission, or fault of Tenant, its agents, servants, employees, invitees, or licensees (including, without limitation, when such damage, injury, illness, or death shall have been caused in part by Landlord, its officers, employees, or agents.) Landlord shall have no liability to Tenant because of loss or damage caused by the acts or omissions of other tenants of the Building, or by third parties. The provisions of this paragraph shall survive the termination of this lease with respect to any damage, injury, illness, or death occurring prior to such termination.

10. Insurance. Tenant shall carry liability insurance and fire insurance with limits of not less than Two Million Dollars (\$2,000,000) combined single limit bodily injury and property damage, for injury or death of persons and damage to or loss or destruction of property. Such insurance shall be endorsed to name the Port of Brookings Harbor (Landlord) and Landlord's agent, if any, as an additional insured and additional loss payee and shall contain a "severability of interests" provision. Such insurance shall cover the liability insured under this Lease. All coverage shall be on an occurrence basis and not on a claim made basis. All policies required by this section shall be endorsed to provide a waiver of subrogation in favor of the Port of Brookings Harbor.

Tenant shall furnish a certificate evidencing such insurance which shall state that the coverage shall not be cancelled or materially changed without fourteen (14) days advance notice to Landlord and Landlord's agent, if any, and a renewal certificate shall be furnished at lease fourteen (14) days prior to expiration of any policy. Tenant shall be responsible to

Landlord, and shall reimburse and hold Landlord harmless for any bodily injury, fire, or property damage not covered by insurance.

10.1 Tenant shall furnish certificates of insurance to Port's General Manager, P.O. Box 848, Brookings, Oregon 97415 certifying the existence of such insurance. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits or not renewed without fourteen (14) days advance written notice to the Landlord and Landlord's agent, if any, and a renewal certificate shall be furnished at least 14 days prior to the expiration of any policy.

10.2 The insurance required herein shall be primary and without right of contribution from other insurance that may be in effect and without subordination. Any other insurance carried by the Landlord is excess. The insurance policies must be underwritten by a company licensed in the state of Oregon, and carry a minimum Best's rating of "A-VI or better. Tenant shall furnish the Landlord with certificates of insurance showing compliance with these insurance provisions no later than five (5) days prior to commencement of this Lease. Tenant shall be responsible for any deductible amounts payable under all policies of insurance.

10.3 Landlord reserves the right to review, investigate and reject insurance companies proposed to be sued by Tenant if they are determined inadequate to provide necessary coverage's as herein specified. All insurance required by this Agreement to be purchased and maintained by Tenant shall be obtained from an insurance company licensed or authorized in the State of Oregon to issue the insurance policies for the limits and coverage's required herein.

10.4 If Tenant's policies lapse or are canceled at any time during the term of this Contract, Landlord shall have the right to immediately terminate Tenant's lease until such insurance requirements have been fully satisfied by Tenant. Tenant shall be responsible to Landlord, and shall reimburse and hold Landlord harmless for any bodily injury, fire or property damage not covered by Tenant's insurance.

11. Exemption of Landlord from Liability. Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invites, customers, or any other person in or about the Building or the Port, nor shall Landlord be liable for injury to the person of Tenant, Tenant's employees, agents or contractors, whether such damage or injury is caused by or results from

fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, sprinklers, wires, appliances, plumbing, air conditioning or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising upon the Building or upon other portions of the Port, or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant. Landlord shall not be liable for any damages arising from any act or neglect of any other Tenant, occupant or user of the Port, nor from the failure of Landlord to enforce the provisions of any other lease of the Port.

12. Major Damage. Major damage means damage by fire or other casualty to the Building or Building that causes the Building or any substantial portion of the Building to be unusable, or which will cost more than twenty-five percent (25%) of the pre-damage value of the Building to repair, or which is not covered by insurance. In case of major damage, Landlord or Tenant may elect to terminate this lease by notice in writing to the other party within thirty (30) days after such date. If this lease is not terminated following major damage, or if damage occurs that is not major damage, Landlord shall promptly restore the Building to the condition existing just prior to the damage, with the exception of damage to Tenant improvements. Restoration of any Tenant improvements or alterations installed by Tenant, and in costs thereof, shall be the responsibility of the Tenant. Rent shall be reduced from the date of damage until the date restoration work being performed by the Landlord is substantially complete, with the reduction to be in proportion to the area of the Building not useable by Tenant.

13. Waiver of Subrogation. Tenant shall be responsible for insuring its personal property and trade fixtures located on the Building and any alterations or Tenant improvements it has made to the Building. Neither Landlord nor Tenant shall be liable to the other for any loss or damage caused by water damage, sprinkler leakage, or any of the risks that are or could be covered by a standard all risk insurance policy with an extended coverage endorsement, or for any business interruption, and there shall be no subrogated claims by one party's insurance carrier against the other party arising out of any such loss.

14. Eminent Domain. If a condemning authority takes title by eminent domain or by agreement in lieu thereof to the entire Building or a portion sufficient to render the Building unsuitable for Tenant's use, then either party may elect to terminate this lease effective on the date that possession is taken by the condemning authority; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Building taken shall be of such extent and nature as to substantially handicap, impede, or impair Tenant's use of the balance of

the Building. Rent shall be reduced for the remainder of the term in an amount proportionate to the reduction in area of the Building caused by the taking. All condemnation proceeds shall belong to Landlord, and Tenant shall have no claims against Landlord or the condemnation award because of the taking.

- 15. Assignment and Subletting of the Building.** This lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and assigns, provided that Tenant shall not assign its interest under this lease or sublet all or any portion of the Building without first obtaining Landlord's consent in writing, which consent shall not be unreasonably withheld. This provision shall apply to all transfers by operation of law including but not limited to mergers and changes in control of Tenant. No assignment shall relieve Tenant of its obligation to pay rent or perform other obligations required by this lease and no consent to one assignment or subletting shall be a consent to any further assignment or subletting. Landlord shall not unreasonably withhold its consent to any assignment, or to subletting provided the subrental rate or effective rental paid by the assignee is not less than the current scheduled rental rate of the Building for comparable space and the proposed Tenant has been approved by Landlord in writing. A new base rent may be established for the remainder of the lease at the sole option of the Landlord. If Tenant proposes a subletting or assignment to which Landlord is required to consent under this paragraph, Landlord shall have the option of terminating this lease and dealing directly with the proposed sub-tenant or assignee, or any third party. If an assignment or subletting is permitted, any cash profit, or the net value of any other consideration received by Tenant as a result of such transaction shall be paid to Landlord promptly following its receipt by Tenant. Tenant shall pay any costs incurred by Landlord in connection with a request for assignment or subletting, including reasonable attorney fees.
- 16. Parking.** Landlord reserves the right to reassign the 2 parking spaces provided to Tenant at anytime during the period of this lease with thirty (30) days written notice to Tenant and Tenant's consent, which shall not be unreasonably withheld. Landlord shall provide, in the Landlord's East Parking lot adjacent to Lower Harbor Road, two tour bus parking spaces and mark the spaces "tour bus only" for the benefit of the Landlord and Tenant.
- 17. Default.** Any of the following shall constitute a default by Tenant under this lease:
- a. Tenant's failure to pay rent or any other charge under this lease within ten (10) days after its due, or failure to comply with any other term or condition within twenty (20) days following written notice from Landlord specifying the noncompliance. If such noncompliance cannot be cured within the 20-

day period, this provision shall be satisfied if Tenant commences correction within such period and thereafter proceeds in good faith and with reasonable diligence to effect compliance as soon as possible. Time is of the essence of this lease.

- b. Tenant's insolvency, business failure or assignment for the benefit of its creditors. Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer, or the appointment of a receiver for Tenant's property.
- c. Assignment or subletting by Tenant in violation of Paragraph 16 above.
- d. Vacation or abandonment of Building without the written consent of Landlord.
- e. If this Lease is levied upon under any attachment or execution and such attachment or execution is not vacated within ten (10) days.

18. Remedies for Default. In case of default as described above Landlord shall have the right to the following remedies which are intended to be cumulative and in addition to any other remedies provided under applicable law.

- a. Landlord may terminate the lease and reenter and retake possession of the Building, and remove any persons or property by legal action or by self help with the use of reasonable force and without liability for damages. Following such retaking of possession, efforts by Landlord to re-let the Building shall be sufficient if Landlord follows its usual procedures for finding tenants for the space at rates not less than the current rates for other comparable space in the Building. If Landlord has other vacant space in the Building, prospective tenants may be placed in such other space without prejudice to Landlord's claim to damages to loss of rentals from Tenant.
- b. Landlord may recover all damages caused by Tenant's default which shall include an amount equal to rentals lost because of the default, lease commissions paid for this lease, all attorney fees and costs, and the unamortized cost of any Tenant improvements installed by Landlord to meet Tenant's special requirements. Landlord may sue periodically to recover damages as they occur throughout the lease term, and no action for accrued damages shall bar a later action for damages subsequently accruing. Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease. Such damages shall be measured by the difference between the rent under this lease and the reasonable rental value of the Building for the

remainder of the term, discounted to the time of judgment at the prevailing interest rate on judgment.

- c. Landlord may make any payment or perform any obligation which Tenant has failed to perform, in which case Landlord shall be entitled to recover from Tenant upon all demand all amounts so expended plus interest from the date of the expenditure at the rate of one and one-half percent (1.5%) per month. Any such payment or performance by Landlord shall not waive Tenant's default.

19. Regulations. Landlord shall have the right (but shall not be obligated) to make, revise, and enforce regulations or policies consistent with this lease for the purpose of promoting safety, order, economy, cleanliness, and good service to all Tenants of the Building. All such regulations and policies shall be complied with as if part of this lease.

20. Access. With reasonable notice, of not less than 24 hours, to Tenant, Landlord shall have the right to enter upon the Building at any time by passkey or otherwise to determine Tenant's compliance with this lease, to perform necessary services, maintenance and repairs to the Building or the Building, or to show the Building to any prospective tenant or purchasers. Except in case of emergency such entry shall be at such times and in such manner as to minimize interference with the reasonable business use of the Building by Tenant.

21. Furniture and Bulky Articles. Tenant shall move furniture and bulky articles in and out of the Building only at times approved by Landlord following at least twenty-four (24) hours written notice to Landlord of the intended move. Landlord will not unreasonably withhold its consent under this paragraph.

22. Notices. Notices to the parties relating to the lease shall be in writing, effective when delivered, or if mailed, effective on the second day following mailing, postage prepaid, to the address for the party stated in this lease or to such other address as either party may specify by notice to the other. Notice to Tenant may always be delivered to the Building. Rent shall be payable to Landlord at the same address and in the same manner, but shall be considered paid only when received.

23. Subordination. This lease shall be subject and subordinate to any mortgages, deeds of trust, or land sale contracts (hereafter collectively referred to as encumbrances) now existing against the Building. At Landlord's option this lease shall be subject and subordinate to any future encumbrance hereafter placed against the Building (including the underlying land) or any modifications of existing encumbrances, and Tenant shall

execute such documents as may reasonably be requested by Landlord or the beholder of the encumbrance to evidence this subordination.

24. Transfer of Building. If the Building is sold or otherwise transferred by Landlord or any successor, Tenant shall attorn to the purchaser or transferee and recognize it as the Landlord under this lease, and, provided the purchaser assumes all obligations hereunder, the transferor shall have no further liability hereunder.

25. Estoppel. Either party will within twenty (20) days after notice from the other execute, acknowledge and deliver to the other party a certificate whether or not this lease has been modified and is in full force and effect, whether there are any modifications or alleged breaches by the other party; the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent; and any other facts that may be reasonably requested. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate. If requested by the holder of any encumbrance or any ground lessor, Tenant will agree to give such holder or lessor notice of and an opportunity to cure any default by Landlord under this lease. Unresolved good faith disputes between Landlord and Tenant shall be resolved pursuant to mandatory binding arbitration as provided herein.

26. Attorney's Fees. In any litigation or arbitration arising out of this lease, the prevailing party shall be entitled to recover attorney fees at trial, arbitration, on any appeal, or in any other proceeding.

27. Quiet Enjoyment. Landlord warrants that so long as Tenant complies with all terms of this lease, it shall be entitled to peaceable and undisturbed possession of the Building free from any eviction or disturbance by Landlord. Landlord shall have no liability to Tenant for loss or damages arising out of the acts of other tenants of the Building or third parties, nor any liability for any reason which exceeds the value of its interest in the Building.

28. Complete Agreement. This lease and the attached Addenda and floor plan, if any, constitute the entire agreement of the parties and supersede all prior written and oral agreements and representations. Neither Landlord nor Tenant is relying on any representations other than those expressly set forth herein. Any modification to this Lease agreement must be in writing and signed by both parties.

29. Nonwaiver. Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice of the party's right to require

strict performance of the same provision in the future or of any other provision.

30. Real Property Taxes.

- a. **Payment of Taxes.** Tenant shall pay the real property tax, as defined in paragraph 31.c, applicable to Tenant's portion of the Port as represented by the Lease.
- b. **Additional Improvements.** Tenant shall be responsible for paying Tenant's share of any increase in real property tax specified in the Tax Assessor's records and work sheets as being caused by additional improvements placed upon the Port by other Tenants or by Landlord for the exclusive enjoyment of such other Tenants.
- c. **Definition of "Real Property Tax".** As used herein, the term "real property tax" shall include 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.

32. Severability. The invalidity of any provision of this Lease as determined by arbitration or by a court of competent jurisdiction, shall in no way affect the validity of any other provisions herein.

33. Time of Essence. Time is of the essence with respect to the obligations to be performed under this Lease.

34. Security Measurers. Tenant hereby acknowledges that Landlord shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the tenant, Building or the Port. Tenant assumes all responsibility for the protection of Tenant, its agents, and invitees and the property of Tenant from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option from providing security protection for the Port or any part thereof.

35. This Lease is not subject to any implied warranties, but is leased "as is".

36. Arbitration.

36.1 Any controversy or claim arising out of or relating to this lease, including, without limitation, the making, performance or interpretation of this lease, shall be settled by arbitration in Curry County, Oregon, and any Judgment on the arbitration award may be entered in any court having Jurisdiction over the subject matter of the controversy.

36.2 Any party asserting a claim arising out of or relating to this lease may make a written demand for arbitration. In this event, the parties shall agree to submit their controversy to binding arbitration before a single arbitrator. The arbitrator shall be an attorney licensed to practice law in the State of Oregon. If the parties cannot agree within 30 days to the selection of a single arbitrator after the election to arbitrate, either party may request that the selection of an arbitrator be made by a Judge of the Circuit Court of the State of Oregon for Coos County. The dispute shall be heard by the arbitrator selected within 90 days thereafter, unless the parties agree otherwise.

36.3 The parties will pay their own costs of arbitration, and each will be obligated for one-half of the arbitrator's fee. In the event of arbitration under the provisions of this Lease, the prevailing party shall be awarded reasonable attorney fees and related costs.

36.4 If arbitration is commenced, the parties agree to permit discovery proceedings of the type provided by the Oregon Rules of Civil Procedure both in advance of, and during recess of, the arbitration hearings. ORS 183.450(1) through (4), where applicable, shall control the admission of evidence at the hearing in any arbitration conducted hereunder, provided however no error by the arbitrator in application of the statute shall be grounds as such for vacating the arbitrator's award. Each party shall be entitled to present evidence and argument to the arbitrator. The arbitrator shall give written notice to the parties stating the arbitration determination and shall furnish to each party a signed copy of such determination and Judgment so the award may be entered in any court having Jurisdiction over the parties. The parties agree that all facts and other information relating to any arbitration arising under this contract shall be kept confidential to the fullest extent permitted by law.

36.5 The parties agree that the arbitrator shall have no Jurisdiction to render an award and/or Judgment for punitive damages. The parties agree that the decision of the arbitrator shall be final and binding on the parties and a Judgment may be entered on the arbitrator's award. Unless otherwise inconsistent herewith, the provisions of ORS Chapter 36 shall apply to any arbitration hereunder. The duty to arbitrate shall survive the cancellation or termination of this contract.

36.6 Service of process in connection therewith shall be made by certified mail. In any judicial proceeding to enforce this agreement to arbitrate, the only issues to be determined shall be the existence of the agreement to arbitrate and the

failure of one Party to comply with that agreement, and those issues shall be determined summarily by the court without a jury. All other issues shall be decided by the arbitrator, whose decision thereon shall be final and binding. There may be no appeal of an order compelling arbitration except as part of an appeal concerning confirmation of the decision of the arbitrator.

36.7 Neither Party shall institute any legal proceeding against the other to enforce any right hereunder or for breach hereof, except that either Party may institute litigation (i) to enforce its rights of arbitration hereunder (ii) to confirm and have judgment entered upon any arbitration award issued hereunder, and (iii) to stay the running of any statute of limitation or prevent any other occurrence (including, without limitation, the passage of time) which would constitute laches, estoppel, waiver or any other such legal consequence that suit is necessary to avoid, provided, however, that neither Party shall pursue litigation under item (iii) beyond such action as is necessary to prevent prejudice to its cause of action pending ultimate resolution by arbitration under this Section 36.

36.8 If any dispute between the Parties arises from or in connection with any claim of litigation initiated by any third party (either as claimant, plaintiff, counterclaimant, or defendant/third Party plaintiff), then, unless the Parties agree otherwise, the resolution of that dispute under the arbitration provisions of this Section may at the option of either Party be deferred until the resolution of that third-party claim or litigation, provided, however that in the event of any such dispute in connection with a claim or litigation so initiated by a third party, either Party may at any time initiate arbitration under this Section 36 to determine prospective liability between the Parties upon facts which are stipulated, admitted solely for the purpose of arbitrating prospective liability, or not reasonably in dispute. The issue of whether any fact is "reasonably in dispute" under the preceding sentence shall be subject to mandatory arbitration hereunder upon the demand of either Party. In the event Landlord is made a party to such claim or litigation so initiated by a third party, Owner shall select its own counsel and have complete control over all claim or litigation decisions concerning its participation in that claim or litigation, regardless of whether Owner is required to, or in fact does, initiate a crossclaim, counterclaim, or third-party claim under Subclause (iii) of Subsection 36.7 above, and regardless of Tenant's indemnity obligations under Section 9 above.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this lease as of the day and year first written above.

LANDLORD:

Port of Brookings Harbor

By:

Name: Roy Davis

Title: Board Chair

Page 15 – AMENDED AND
RESTATED LEASE

Tenant Initial _____
Date _____

POBH Initial _____
Date _____

DRAFT

TENANT:

By:

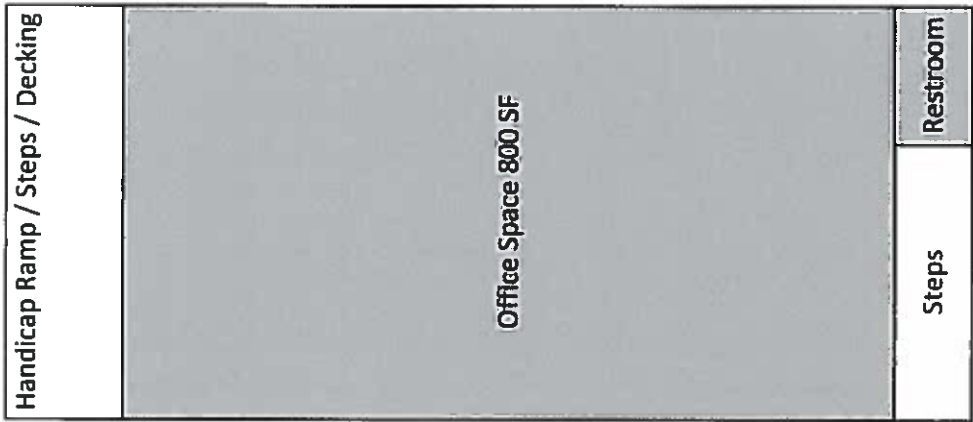
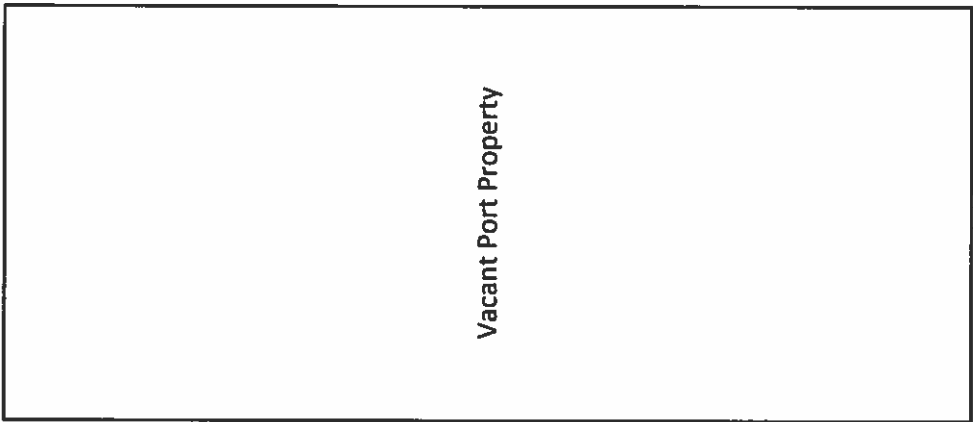
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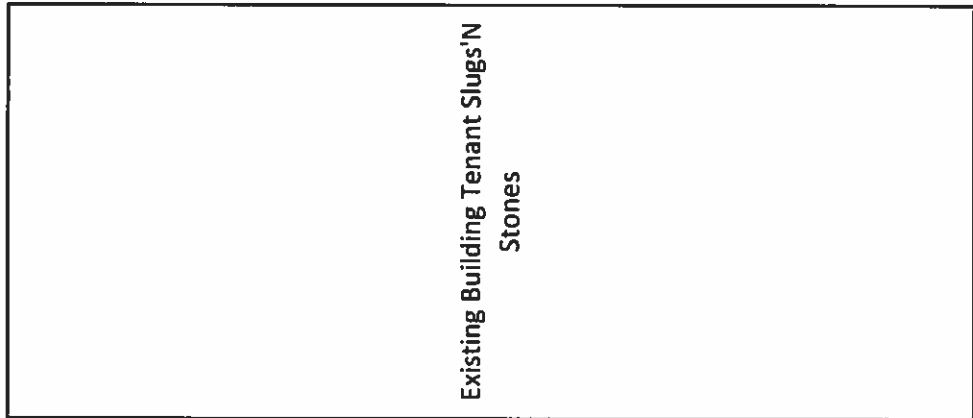
Address:_____

Phone No._____

Brookings-Harbor Visitor and Tour Center,
Jewels by the Sea Real Estate, Grotto Snack Bar
and Member of CBN Enterprises, LLC



Total Lease Space 800 SF



DRAFT

New Business Item C

Subject: Hallmark Lease - Action

About: Updated Hallmark lease to be current. Don Mann worked on the lease last year and Hallmark agreed with the terms recently, back dated lease to match work area and lease dates.

COMMERCIAL DOCK LEASE AGREEMENT

This lease is made and entered into at Brookings, Oregon this 1st day of April 2016, by and between the **Port of Brookings Harbor** (the Landlord) and **Hallmark Fisheries** (the Tenant).

1. Leased Premises. Landlord hereby leases to Tenant the following described properties located in the Port of Brookings Harbor on the terms and conditions stated below:

a. A receiving dock with two hoists and work area legally described in Exhibit "A", attached hereto and incorporated herein by this reference (the "Leased Premises"). A map of the Dock Premises and work area is identified as Exhibit "B" "Exhibit Map", also attached hereto and incorporated herein by this reference.

b. A work area located adjacent to the Dock Premises, consisting of approximately 13,808 square feet of property, which is further described in Exhibit "B" attached hereto and incorporated herein by this reference (the "Work Area").

c. The Dock Premises and the Work Area shall be referred to collectively herein as the "Leased Premises".

2. Lease Term.

- a. The initial term of the lease for the Dock Premises shall commence on the **1st day of April 2016**, and shall continue through the **31st day of March, 2021**. The Base Rental of the lease of the Dock Premises shall be the sum of **FIVE THOUSAND EIGHT HUNDRED SIXTY DOLLARS AND .97 CENTS (\$5,860.97) (U.S.) per month**, (9,429 sq. ft. at .6215 cents per sq. ft.) payable in advance on the first day of each month.
- b. The initial term of the lease for the Work Area shall commence on the **1st day of April, 2016** and shall continue through the **31st day of March, 2021**. The Base Rental of the lease for the Work Area shall be the sum of **EIGHT THOUSAND SIX HUNDRED NINETY-NINE DOLLARS AND .04 CENTS (\$8,699.04) (U.S.) ANNUALLY**, (13,808 sq. ft. at \$0.63 cents per sq. ft.) payable yearly in advance on the 1st day of April and every 1st day of April thereafter.
- c. Upon termination of the initial term of this lease, Landlord grants to Tenant the option to renew this lease in whole or in part of the Leased Premises, for one (1) additional five (5) year term at terms and conditions to be negotiated, provided Tenant a) is not in default of this lease at the time the option is exercised and b) Landlord does not need the ground for its own use and c) Landlord is otherwise satisfied with Tenant's use of the leased premises during the initial term. The parties agree to negotiate in good faith with respect to the renewal terms and conditions on terms at

least as favorable as those offered to any other tenant of Landlord at the time.

d. Tenant shall notify the Landlord in writing ninety (90) days prior to expiration of the lease of tenant's intent to exercise all or any portion of Tenant's option to extend the lease. Failure to provide such notice is a default and a material breach of the lease and Landlord may terminate the lease on the expiration date and retake possession of the Leased Premises with or without process of law.

3. Base Rent Payment. Tenant shall pay the base rent for the Leased Premises and any additional rent provided herein without deduction or offset, except as set forth herein. Base rent shall increase annually, on each anniversary of the lease commencement beginning on the second and continuing each subsequent year in the same percentage of increase as the Consumer Price Index – all items – Western Urban Index increased for the previous twelve (12) months. Base rent shall include all prior percentage increases. In no case shall the minimum base rent be less than the initial base rent for this lease. Rent for any partial month during the lease term shall be prorated to reflect the number of days during the month that Tenant occupies the Leased Premises. Additional rent means any other sums payable by Tenant to Landlord under this lease. At the end of the lease, a new Base Rent will be established. Rent not paid when due shall bear an automatic \$35.00 late fee each month if not paid by the 10th of the month due.

3.1 Additional Variable Rent

a. This lease is subject to an additional variable rent amount based in ex-vessel deliveries over the leased premises if such a surcharge should be adopted by Port of Brookings Harbor during the term of this lease. It is understood by all parties that such charges shall not exceed 1% of the gross value of delivered price at dock unload, for purposes of this section no product unloaded over the dock shall be deemed to be valued at more than \$1.00 per pound, and such charges, if assessed, shall apply equally to all commercial unloading operations conducted at the Port of Brookings Harbor.

4. Security Deposit. Upon execution of the lease, Tenant's prior security deposit of \$5,751.69 is carried over from previous lease term. Landlord may apply the security deposit to pay the cost of performing any obligation which Tenant fails to perform within the time required by this lease, but such application by Landlord shall not be the exclusive remedy for Tenant's default. If the security deposit is applied by the Landlord, Tenant shall on demand pay the sum necessary to replenish the security deposit to its original amount. To the extent not applied by Landlord to cure defaults by Tenant, the security deposit shall be returned to Tenant upon termination of this lease, or, by mutual agreement between Landlord and Tenant, applied against the rent payable for the last month of the term.

5. Use. Tenant shall use the Leased Premises to off load fish, crab and other product from commercial boats, and for no other purpose without Landlord's written consent. Tenant is entitled to the exclusive use of the hoist owned by Landlord. Tenant shall use the work area of the Leased Premises for the storage of trailers, totes, tanks and crab pots, and for general storage, and for no other purpose without Landlord's written consent. In connection with its use of the

Leased Premises, Tenant shall at its expense promptly comply with all applicable laws, ordinances, rules and regulations of any public authority, including those of the Port of Brookings Harbor, and not unreasonably annoy, obstruct or interfere with the rights of other tenants of the Port of Brookings Harbor, wherever located. Tenant shall not create or maintain any nuisance or any objectionable fumes, noise, or vibrations while using the Leased Premises.

6. Equipment. Tenant shall install in the Leased Premises only such equipment as is customary for the intended *use* and shall not overload the dock or electrical circuits of the Leased Premises or alter the plumbing or wiring of the Leased Premises, without the written consent of Landlord. Landlord must approve, in advance, the location and manner of installing any electrical, heat generating or communication equipment or exceptionally heavy articles. Any equipment installed by Tenant shall remain Tenant's property and shall be installed and operated at Tenant's expense. Cranes or boom trucks not owned by Tenant are prohibited from operating on the Leased Premises unless authorized by the Landlord.

7. Sign. No signs, awnings, antennas, or other apparatus shall be positioned as to be visible from outside the Leased Premises without Landlord's written approval as to design, size, location, and color. All signs installed by Tenant shall comply with Landlord's standards for signs, and all applicable codes and signs and sign hardware shall be removed upon termination of this lease with the sign location restored to its formal state unless Landlord elects to retain all or any portion thereof.

8. Utilities and Services. Landlord shall furnish all utilities up to the Leased Premises and Tenant shall be directly responsible for any and all electrical charges or fees for electrical service, and shall make arrangements to be billed directly from the local electric co-op (Coos-Curry Electric Cooperative, Inc.). Tenant shall make the necessary arrangements to have a meter installed in the name of Tenant for billing purposes. Tenant shall comply with all government laws or regulations regarding the use or reduction of use of utilities on the Leased Premises. Unless caused by Landlord's negligence or intentional act, interruption, limitation, curtailment, or rationing of services or utilities shall not be deemed an eviction or disturbance of Tenant's use and possession of the Leased Premises, render Landlord liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this lease, and Landlord shall take all reasonable steps to correct any interruption in service.

9. Maintenance and Repair - Tenant

a. Tenant is at all times during the term of this lease, and at Tenant's sole cost and expense, obligated to keep the entire of the Leased Premises and every part thereof in good condition and repair; ordinary wear and tear and damage to the Leased Premises by earthquake, act of God, or the elements. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate, or paint the Leased Premises or any part thereof. Landlord shall have the right to erect scaffolding and other apparatus necessary for the purpose of making repairs, and Landlord shall have no liability for interference with Tenant's use because of repairs and installations. Tenant shall have no claim against Landlord for any interruption or reduction of services or interference with Tenant's occupancy, and no such interruption or reduction shall be construed as a constructive or otherwise eviction of Tenant.

Repair of damage caused by negligent or intentional acts or breach by this lease by Tenant, its employees or invitees shall be at Tenant's expense.

b. Tenant shall maintain the Leased Premises, including the hoists and dock structures, in the condition existing at time of leasing, normal wear and tear excepted. Landlord may inspect repairs, and may declare a default if the Leased Premises are not deemed in good repair after written notice of thirty (30) days for the dock and ten (10) days for the hoist itself.

c. Tenant shall be responsible for controlling and preventing any equipment usage of the dock area from vehicles or equipment which exceed 80,000 lbs GVW, by their invitees or other persons utilizing the facility in connection with the permitted usage described herein. Tenant shall be responsible for damages and/or repairs to the Leased Premises which result from overload of the dock, hoist or storage facility by the invitees of Tenant or persons utilizing the structure in connection with Tenant's business.

d. Tenant shall be responsible for any repairs necessitated by the negligence of Tenant, its agents, employees, and invitees, except as provided in Section 13 dealing with waiver of subrogation, but including repairs that would otherwise be the responsibility of Landlord under Section 11.

e. Tenant is responsible for all other repairs to the Leased Premises which Landlord is not required to make under Section 11.

f. If Tenant fails to perform Tenant's obligations under this Section 10 or under any other Section of this lease, Landlord may enter upon the affected portion of the Leased Premises after ten (10) days' prior written notice to Tenant (except in case of emergency, in which no notice shall be required), perform such obligations on Tenant's behalf and put the Leased Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Landlord together with Tenant's next Base Rent installment.

g. On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Leased Premises to Landlord in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Any damage or deterioration of the Leased Premises shall not be deemed ordinary wear and tear if the same could have been prevented by commercially reasonable maintenance practices. Tenant shall leave the air lines, power panels, electrical distribution systems, lighting fixtures, space heaters, air conditioning, plumbing and fencing which were on the Leased Premises prior to the commencement of the lease, in good operating condition.

10. Maintenance and Repair - Landlord's Obligations. The following shall be the responsibility of Landlord:

- a. Provide adequate means of ingress and egress to the Leased Premises.
- b. Provide access to a water supply and electricity.

c. Repair and maintenance of existing exterior water, sewage, and electrical services up the point of entry to the Leased Premises.

d. Repair and maintain any structural element with respect to the Leased Premises.

11. Alterations. Tenant shall not make any alterations, additions, or improvements to the Leased Premises without Landlord's prior written consent. Any such additions, alterations, or improvements, except for removable machinery and trade fixtures, and approved additions shall at once become part of the realty and belong to the Landlord. Landlord may at its option require that Tenant remove any alterations and restore the Leased Premises to the original condition upon termination of this lease. Landlord shall have the right to approve the contractor used by Tenant for any work in the Leased Premises, and to post notices of non-responsibility in connection with any work being performed by Tenant in the Leased Premises.

12. Indemnity.

a. Tenant shall not allow any liens to attach to the Leased Premises or Tenant's interest in the Leased Premises as a result of its activities. In the event that a materialman, mechanic's, or other lien is filed, or a claim of lien is made for work claimed to have been done for Tenant, Landlord will have the option in its sole discretion to require Tenant to post a Surety Bond within ten (10) days at Tenant's expense or to pay and discharge the lien, and Tenant agrees to reimburse Landlord promptly upon demand. These Landlord remedies are not exclusive as Landlord has other remedies as provided by law including requiring Tenant to pay for Landlord's attorney fees and costs relating to any such lien. Except as otherwise stated herein, Tenant hereby waives all claims against Landlord for damage to any property or injury, illness, or death of any person in, upon, or about the Leased Premises arising at any time and from any cause whatsoever other than by reason of the negligence or willful act of Landlord, its officers, employees, invitees, licensees or agents. Tenant shall defend, indemnify and hold Landlord harmless from any and all claims or liability for damage to any property or injury, illness, or death of any person (a) occurring in or on the Leased Premises or any part thereof arising at any time and from any cause whatsoever other than by reason of the negligence or willful act of Landlord, its officers, employees, invitees, licensees or agents; or (b) occurring in, on, or about any part of the Leased Premises when such damage, injury, illness, or death shall be caused by the act, negligence, omission, or fault of Tenant, its agents, servants, employees, invitees, or licensees. Except as otherwise stated herein, Landlord shall have no liability to Tenant because of loss or damage caused by the acts or omissions of other tenants of Landlord, or by third parties. The provisions of this paragraph shall survive the termination of this lease with respect to any damage, injury, illness, or death occurring prior to such termination.

13. Insurance. Tenant shall carry liability insurance and fire insurance with limits of not less than Two Million Dollars (\$2,000,000) combined single limit bodily injury and property damage, which insurance shall have an endorsement naming Landlord and Landlord's agent, if any, as additional insured and additional loss payee and covering the liability insured under

Paragraph 15 of this Lease. Tenant shall furnish a certificate evidencing such insurance which shall state, if possible, that the coverage shall not be cancelled or materially changed without ten (10) days advance notice to Landlord and Landlord's agent, if any, and a renewal certificate shall be furnished at lease ten (10) days prior to expiration of any policy. Tenant shall be responsible to Landlord, and shall reimburse and hold Landlord harmless for any bodily injury, fire, or property damage not covered by insurance.

14. Exemption of Landlord from Liability

Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invites, customers, or any other person in or about the Leased Premises or the Port, nor shall Tenant be liable for injury to the person of Tenant, Tenant's employees, agents or contractors, whether such damage or injury is caused by or results from fire, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, wires or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising upon the Leased Premises or upon other portions of the Port, or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant. Except as otherwise stated herein, Landlord shall not be liable for any damages arising from any act or neglect of any other tenant, occupant or user of the Port, nor from the failure of Landlord to enforce the provisions of any other lease of the Port.

15. Major Damage. Major damage means damage by fire or other casualty to the Leased Premises that causes the Leased Premises or any substantial portion of the Leased Premises to be unusable, or which will cost more than twenty-five percent (25%) of the pre-damage value of the Leased Premises to repair, or which is not covered by insurance. In case of major damage, Landlord or Tenant may elect to terminate this lease by notice in writing to the other party within thirty (30) days after such date. If this lease is not terminated following major damage, or if damage occurs that is not major damage, Landlord shall promptly restore the Leased Premises to the condition existing just prior to the damage, with the exception of damage to Tenant improvements. Restoration of any Tenant improvements or alterations installed by Tenant, and the costs thereof, shall be the responsibility of the Tenant. Rent shall be reduced from the date of damage until the date restoration work being performed by the Landlord is substantially complete, with the reduction to be in proportion to the area of the Leased Premises not useable by Tenant.

16. Waiver of Subrogation. Tenant shall be responsible for insuring its personal property and trade fixtures located on the Leased Premises and any alterations or Tenant improvements it has made to the Leased Premises. Neither Landlord nor Tenant shall be liable to the other for any loss or damage caused by any of the risks that are or could be covered by a standard all risk insurance policy with the extended coverage endorsement, or for any business interruption, and there shall be no subrogated claims by one party's insurance carrier against the other party arising out of any loss.

17. Eminent Domain. If a condemning authority takes title by eminent domain or by agreement in lieu thereof to the entire Leased Premises or a portion sufficient to render the

Leased Premises unsuitable for Tenant's use, then either party may elect to terminate this lease effective on the date that possession is taken by the condemning authority; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Leased Premises taken shall be of such extent and nature as to substantially handicap, impede, or impair Tenant's use of the balance of the Leased Premises for the purpose intended. Rent shall be reduced for the remainder of the term in an amount proportionate to the reduction in area of the Leased Premises caused by the taking. All condemnation proceeds shall belong to Landlord, and Tenant shall have no claims against Landlord or the condemnation award because of the taking.

18. Assignment and Subletting. This lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and assigns, provided that Tenant shall not assign its interest under this lease or sublet all or any portion of the Leased Premises without first obtaining Landlord's consent in writing. This provision shall apply to all transfers by operation of law including but not limited to mergers and changes in control of Tenant. No assignment shall relieve Tenant of its obligation to pay rent or perform other obligations required by this lease and no consent to one assignment or subletting shall be consent to any further assignment or subletting. Landlord shall not unreasonably withhold or delay its consent to any assignment, or to subletting, accepting that the proposed Tenant has been approved by Landlord in writing. A new base rent may be established for the remainder of the lease at the sole option of the Landlord

19. Default.

a. Any of the following shall constitute a default by Tenant under this lease:

1. Tenant's failure to pay rent or any other charge under this lease within ten (10) days after its due, or failure to comply with any other term or condition within twenty (20) days following written notice from Landlord specifying the noncompliance. If such noncompliance cannot be cured within the 20-day period, this provision shall be satisfied if Tenant commences correction within such period and thereafter proceeds in good faith and with reasonable diligence to effect compliance as soon as possible. Time is of the essence of this lease.

2. Tenant's insolvency, business failure or assignment for the benefit of its creditors. Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer, or the appointment of a receiver for Tenant's property.

3. Assignment or subletting by Tenant in violation of Section 19 above.

4. Vacation or abandonment of the Leased Premises for more than three (3) months without the written consent of Landlord.

5. If this Lease is levied upon under any attachment or execution and such attachment or execution is not vacated within ten (10) days.

20. Remedies for Default. In case of default as described in Section 19 above, Landlord shall have the right to the following remedies which are intended to be cumulative and in addition to any other remedies provided under applicable law.

a. Landlord may terminate the lease and reenter and retake possession of the Leased Premises, and remove any persons or property by legal action or by self help with the use of reasonable force and without liability for damages. Following such retaking of possession, efforts by Landlord to relet the Leased Premises shall be sufficient if Landlord follows its usual procedures for finding tenants for the Leased Premises at rates not less than the current rates for other comparable space on Port property. If Landlord has other vacant space available, prospective tenants may be placed in such other space without prejudice to Landlord's claim to damages to loss of rentals from Tenant.

b. Landlord may recover all damages caused by Tenant's default which shall include an amount equal to rentals lost because of the default, all attorney fees and costs. Landlord may sue periodically to recover damages as they occur throughout the lease term, and no action for accrued damages shall bar a later action for damages subsequently accruing. Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease. Such damages shall be measured by the difference between the rent under this lease and the reasonable rental value of the Leased Premises for the remainder of the term, discounted to the time of judgment at the prevailing interest rate on judgments.

c. Landlord may make any payment or perform any obligation which Tenant has failed to perform, in which case Landlord shall be entitled to recover from Tenant upon all demand all amounts so expended plus interest from the date of the expenditure at the rate of one and one-half percent (1.5%) per month. Any such payment or performance by Landlord shall not waive Tenant's default.

21. Regulations. Landlord shall have the right (but shall not be obligated) to make, revise, and enforce commercially reasonable regulations or policies consistent with this lease for the purpose of promoting safety, order, economy, cleanliness, and good service to all tenants of the Landlord, provided that if Landlord passes a regulation or policy that interferes with Tenant's quiet enjoyment or unreasonably interferes with Tenant's use of the Leased Premises, then Tenant may terminate this lease. All such regulations and policies shall be complied with as if part of this lease.

22. Access. During times other than normal business hours Tenant's officers and employees or those having business with Tenant may be required to identify themselves or show passes in order to gain access to the Leased Premises. In such event, Landlord shall have no liability for permitting or refusing to permit access to anyone. With reasonable notice to Tenant, Landlord shall have the right to enter upon the Leased Premises at any time by passkey or otherwise to determine Tenant's compliance with this lease, to perform necessary services,

maintenance and repairs to the Leased Premises, or to show the Leased Premises to any prospective tenant or purchasers. Except in case of emergency such entry shall be with at least 24 hours prior notice and at such times and in such manner as to minimize interference with the reasonable business use of the Leased Premises by Tenant.

Landlord reserves to itself a right of access over the subject real property, and a right of access over the dock attached hereto. Landlord further reserves to itself a non-exclusive license to use the hoist at the north end of the dock only. Landlord may from time to time operate its own heavy equipment, such as, but not limited to, a forklift or crane, upon the leased premises as the need arises.

23. Notices. Notices to the parties relating to the lease shall be in writing, effective when delivered, or if mailed, effective on the second day following mailing, postage prepaid, to the address for the party stated in this lease or to such other address as either party may specify by notice to the other. Notice to Tenant may always be delivered to the Leased Premises. Rent shall be payable to Landlord at the same address and in the same manner, but shall be considered paid only when received.

24. Subordination. This lease shall be subject and subordinate to any mortgages, deeds of trust, or land sale contracts (hereafter collectively referred to as encumbrances) now existing against the Leased Premises. At Landlord's option this lease shall be subject and subordinate to any future encumbrance hereafter placed against the Leased Premises (including the underlying land) or any modifications of existing encumbrances, and Tenant shall execute such documents as may reasonably be requested by Landlord or the holder of the encumbrance to evidence this subordination.

25. Transfer of Premises. If the Leased Premises is sold or otherwise transferred by Landlord or any successor, Tenant shall attorn to the purchaser or transferee and recognize it as the Landlord under this lease, and, provided the purchaser assumes all obligations hereunder, the transferor shall have no further liability hereunder.

26. Estoppel. Either party will within twenty (20) days after notice from the other execute, acknowledge and deliver to the other party a certificate whether or not this lease has been modified and is in full force and effect, whether there are any modifications or alleged breaches by the other party; the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent; and any other facts that may be reasonably requested. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate. If requested by the holder of any encumbrance or any ground lessor, Tenant will agree to give such holder or lessor notice of and an opportunity to cure any default by Landlord under this lease. Unresolved good faith disputes between Landlord and Tenant shall be resolved pursuant to mandatory binding arbitration.

27. Attorney's Fees. In any litigation or arbitration arising out of this lease, the prevailing party shall be entitled to recover attorney fees, costs and expert witness fees, if any, at trial, on any appeal, or in any other proceeding.

28. Quiet Enjoyment. Landlord warrants that so long as Tenant complies with all material terms of this lease, it shall be entitled to peaceable and undisturbed possession of the Leased Premises free from any eviction or disturbance by Landlord. Landlord shall have no liability to Tenant for loss or damages arising out of the acts of other tenants of the Leased Premises or third parties, nor any liability for any reason which exceeds the value of its interest in the Leased Premises. Notwithstanding the above, Landlord reserves to itself a right of access over and across the dock leased herein, provided that such access does not unreasonably interfere with Tenant's use of the Leased Premises.

29. Complete Lease. This lease and the attached Exhibits, constitute the entire agreement of the parties and supersede all prior written and oral agreements and representations. Neither Landlord nor Tenant is relying on any representations other than those expressly set forth herein. Any modification to this lease must be in writing and signed by both parties.

30. Nonwaiver. Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice of the party's right to require strict performance of the same provision in the future or of any other provision.

31. Real Property Taxes.

a. Payment of Taxes. Tenant shall pay the real property tax, if any, as defined in paragraph 31.c. below applicable to Tenant's portion of the Port as represented by the lease.

b. Additional Improvements. Tenant shall be responsible for paying Tenant's share of any increase in real property tax specified in the Tax Assessor's records and work sheets as being caused by additional improvements placed upon the Leased Premises.

c. Definition of "Real Property Tax". As used herein, the term "real property tax" shall include 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.

32. Severability. The invalidity of any provision of this lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provisions herein.

33. Time of Essence. Time is of the essence with respect to the obligations to be performed under this Lease.

34. Security Measures. Each party acknowledges that they shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the other party or their property. Each party assumes all responsibility for the protection of itself, its agents and invitees and its property from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option from providing security protection for the Port or any part thereof.

35. "As-is". This lease is not subject to any implied warranties, but is leased "as is".

36. Intentionally Omitted

37. Arbitration. Any controversy or claim arising out of or relating to this lease, including without limitation, the making, performance, or interpretation of this lease shall be settled by arbitration. If the Landlord or Tenant disagree whether either is legally entitled to recover damages under this lease, then either Landlord or Tenant may make a written demand for arbitration. The parties agree to submit their controversy to binding arbitration before a single arbitrator. The arbitrator shall be an attorney licensed to practice law in the State of Oregon. The party seeking arbitration shall give written notice to that effect to the other and shall, in that notice, select an arbitrator. Within 15 days thereafter, the other party shall by written notice either agree to the arbitrator selected or suggest another person to act as arbitrator. If the parties cannot agree within 30 days to the selection of a single arbitrator after the election to arbitrate, either party may request that the selection of an arbitrator be made by a judge of the Circuit Court for Curry County, Oregon. Landlord and Tenant will pay their own costs of arbitration, and, unless costs are awarded by the arbitrator to the prevailing party, each is obligated to pay one half of the arbitrator's fee.

Unless otherwise agreed the arbitration shall be conducted in Curry County, Oregon. If arbitration is commenced, the parties agree to permit discovery proceedings of the type provided for by the Oregon Rules of Civil Procedure both in advance of and during recess of the arbitration proceedings. ORS 183.450 (1) through (4), where applicable, shall control the admission of evidence at the hearing in any arbitration conducted hereunder, provided however no error by the arbitrator in application of the statute shall be grounds as such for vacating the arbitrator's award. Each party shall be entitled to present evidence and argument to the arbitrator. The arbitrator shall give written notice to the parties stating the arbitration determination and shall furnish to each party a signed copy of such determination and judgment so the award may be entered in any court having jurisdiction over the parties.

If arbitration is commenced, this contract shall be governed by and construed in accordance with the laws of the State of Oregon. The parties agree that the arbitrator shall have no jurisdiction to render an award or judgment for punitive damages. The parties agree that the decision of the arbitrator shall be final and binding on the parties and a judgment may be entered on the arbitrator's award. The parties agree that all facts and other information relating to any arbitration arising under this contract shall be kept confidential to the fullest extent permitted by law. Unless otherwise inconsistent herewith, the provisions of ORS Chapter 36 shall apply to any arbitration hereunder. In the event of arbitration under the provisions of this lease, the prevailing party shall be awarded reasonable attorney fees and related costs, disbursements and expert witness fees as provided for in this contract.

The duty to arbitrate shall survive the cancellation or termination of this lease.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this lease as of the day and year first written above.

PORT OF BROOKINGS-HARBOR,
Landlord

HALLMARK FISHERIES,
Tenant

By: _____

By: _____

Name: Roy Davis

Name: _____

Title: Chairman

Title: _____

Mailing Address:

Phone _____

Hallmark Lease Area

EXHIBIT A

A parcel of land lying in the Northeast Quarter of Section 8, Township 41 South, Range 13 West, Willamette Meridian, Curry County, Oregon, more particularly described as follows:

Dock Area

BEGINNING at Point "A", said point being North 09°03'40" West, a distance of 1,731.04 feet from a 2 ½" brass cap in asphalt set at the Northwest corner of D.L.C. 40, and also being the inside rail at the Northwest corner of a concrete boat dock;
thence along the inside rail of said concrete boat dock, thence South 28°52'57" East, a distance of 157.46 feet;
thence North 61°44'25" East, a distance of 55.77 feet to Point "B";
thence North 28°56'52" West, a distance of 125.67 feet;
thence North 70°16'33" East, a distance of 26.64 feet;
thence North 18°18'04" West, a distance of 20.44 feet;
thence South 71°01'52" West, a distance of 24.45 feet;
thence North 31°56'02" West, a distance of 11.98 feet;
thence South 61°28'28" West, a distance of 60.96 feet, to the POINT OF BEGINNING

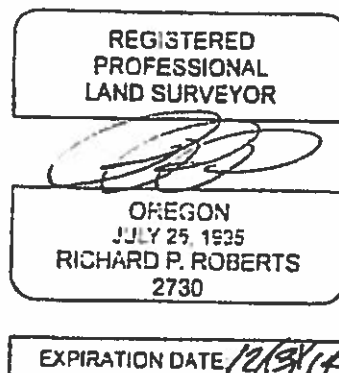
Work Area #1

BEGINNING at Point "B" described above;
thence North 28°56'52" West, a distance of 125.67 feet;
thence North 70°16'33" East, a distance of 26.64 feet;
thence North 88°47'22" East, a distance of 53.24 feet;
thence South 29°16'07" East, a distance of 163.16 feet;
thence South 61°01'30" West, a distance of 68.43 feet;
thence North 28°54'05" West, a distance of 66.48 feet;
thence South 61°53'27" West, a distance of 5.95 feet, to the POINT OF BEGINNING.

Work Area #2

BEGINNING at Point "A" described above;
thence North 29°06'47" West, a distance of 13.65 feet;
thence North 68°06'10" East, a distance of 73.37 feet;
thence South 36°07'02" East, a distance of 19.61 feet;
thence South 71°01'52" West, a distance of 13.86 feet;
thence North 31°56'02" West, a distance of 11.98 feet;
thence South 61°28'28" West, a distance of 60.96 feet,

Bearings for the above description are Oregon State Plane – South Zone and are based on a line between control monuments #1 and #2 as indicated on County Survey #41-1623 prepared by OBEC Consulting Engineers, to bear North 27°44'56" West a distance of 639.37 feet.



FOUND MAGNAIL-WASHER
STAMPED "OBEC CONTROL"
CONTROL PT #2 PER
COUNTY SURVEY #41-1623

LOCATED IN
NE 1/4, SECTION 8,
T41S, R13W, WILLAMETTE MERIDIAN,
CURRY COUNTY, OREGON

EXHIBIT MAP

HALLMARK DOCK AREA

LINE	BEARING	DISTANCE
L1	S 28°52'57" E	157.46'
L2	N 61°44'25" E	55.77'
L3	N 28°56'52" W	125.67'
L4	N 70°16'33" E	26.64'
L5	N 18°18'04" W	20.44'
L6	S 71°01'52" W	24.45'
L7	N 31°56'02" W	11.98'
L8	S 61°28'28" W	60.96'
L9	N 88°47'22" E	53.24'
L10	S 29°16'07" E	163.16'
L11	S 61°01'30" W	68.43'
L12	N 28°54'05" W	66.48'
L13	S 61°53'27" W	5.95'
L14	N 29°06'47" W	13.65'
L15	N 68°06'10" E	73.37'
L16	S 36°07'02" E	19.61'
L17	S 71°01'52" W	13.86'

(OREGON STATE PLANE-SO ZONE)
(N 27°44'56" W 839.37' CS#41-1623
N 27°44'56" W 669.37'
BASIS OF BEARINGS

FOUND 5/8" IRON REBAR
W/ RPC "OBEC CONTROL"
CONTROL PT #1 PER
COUNTY SURVEY #41-1623

WORK AREA #2
857 SQ. FT.

BOAT

PT. "A"

DOCK
9,429 SQ. FT.

WORK AREA #1
12,951 SQ. FT.

BASIN

PT. "B"

FOUND 2 1/2" BRASS CAP
IN ASPHALT MARKED
"NW COR DLC 40 1980"

REGISTERED
PROFESSIONAL
LAND SURVEYOR

[Signature]

OREGON
JULY 25, 1995
RICHARD P. ROBERTS
2730

EXPIRES 12/31/12

PREPARED FOR: PORT OF BROOKINGS-HARBOR

SURVEY DATE: MARCH 8, 2013

JOB #: 13-005

Roberts & Associates

LAND SURVEYING INC.

611 SPRUCE STREET
P.O. Box 1599
Brookings, OR 97415

Ph: 541-469-0162
Fax: 541-469-5456

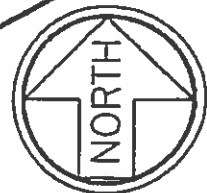


EXHIBIT "B"

1000

New Business Item D

Subject: Bandon Pacific Lease - Action

About: Updated Bandon Pacific's lease to be current. Never had a signed lease. Current lease agreement was completed by Don Mann and agreed by Bandon Pacific.

DRAFT

LEASE

This lease is made and entered into at Brookings, Oregon this 1st day of November 2016, by and between the **Port of Brookings Harbor** (the Landlord) and **Bandon Pacific, Inc.** (the Tenant).

1. Leased Premises. Landlord hereby leases to Tenant the following described properties located in the Port of Brookings Harbor on the terms and conditions stated below:

- a. A dock area and work area .
- b. The dock area and work area consists of approximately 10,426 square feet of property, which is further described in Exhibit "A", attached hereto and incorporated herein by this reference.
- c. The Dock Area and the Work Area shall be referred to collectively herein as the "Leased Premises".

2. Lease Term.

- a. The initial term of the lease for the Leased Premises shall commence on the **1st day of November , 2016** , and shall continue through the **31st day of October, 2021**. The Base Rent of the lease of the Leased Premises shall be the sum of **TWO THOUSAND SIX HUNDRED SIX DOLLARS AND .50 CENTS (\$2606.50) per month**, (10,426 S.F @ .25/S.F) payable in advance on the first day of each month commencing on the 1st day of November , 2016 .
- b. Upon the termination of the initial term of this lease, Landlord grants to Tenant the option to renew this lease in whole or in part the Leased Premises, for one (1) additional five (5) year term at terms and conditions to be negotiated, provided Tenant is not in default of this lease at the time the option is exercised. . The parties agree to negotiate in good faith with respect to the renewal terms and conditions on terms at least as favorable as those offered to any other tenant of Landlord at the time.
- c. Tenant shall notify the Landlord in writing ninety (90) days prior to expiration of the lease of tenant's intent to exercise all or any portion of Tenant's option to extend the lease. Failure to provide such notice is a default and a material breach of the lease and Landlord may terminate the lease on the expiration date and retake possession of the Leased Premises with or without process of law.

3. Base Rent Payment. Tenant shall pay the base rent for the Leased Premises and any additional rent provided herein without deduction or offset, except as set forth herein. Base rent shall increase annually, on each anniversary of the lease commencement beginning on the second and continuing each subsequent year in the same percentage of increase as the Consumer Price Index – all items – Western Urban Index increased for the previous twelve (12) months. Base rent shall include all prior percentage increases. In no case shall the minimum base rent be less than the initial base rent for this lease. Rent for

any partial month during the lease term shall be prorated to reflect the number of days during the month that Tenant occupies the Leased Premises. Additional rent means any other sums payable by Tenant to Landlord under this lease. At the end of the lease, a new Base Rent will be established. Rent not paid when due shall bear an automatic \$35.00 late fee each month if not paid by the 10th of the month due.

4. Security Deposit. Upon execution of the lease, Tenant's prior security deposit of \$1,853.18 is carried over from the previous lease term. Landlord may apply the security deposit to pay the cost of performing any obligation which Tenant fails to perform within the time required by this lease, but such application by Landlord shall not be the exclusive remedy for Tenant's default. If the security deposit is applied by the Landlord, Tenant shall on demand pay the sum necessary to replenish the security deposit to its original amount. To the extent not applied by Landlord to cure defaults by Tenant, the security deposit shall be returned to Tenant upon termination of this lease, or, by mutual agreement between Landlord and Tenant, applied against the rent payable for the last month of the term.

5. Use. Tenant shall use the Leased Premises to off load fish, crab and other product from commercial boats, and for no other purpose without Landlord's written consent. Tenant is entitled to the use of the public hoist owned by Landlord, at no additional charge, located adjacent and south of the leased premises. Tenant shall use the Work Area for the storage of trailers, totes, tanks and crab pots, and for general storage, and for no other purpose without Landlord's written consent. In connection with its use of the Leased Premises, Tenant shall at its expense promptly comply with all applicable laws, ordinances, rules and regulations of any public authority, including those of the Port of Brookings Harbor, and not unreasonably annoy, obstruct or interfere with the rights of other tenants of the Port of Brookings Harbor, wherever located. Tenant shall not create or maintain any nuisance or any objectionable fumes, noise, or vibrations while using the Leased Premises.

6. Equipment. Tenant shall install in the Leased Premises only such equipment as is customary for the intended use and shall not overload the dock or electrical circuits of the Leased Premises or alter the plumbing or wiring of the Leased Premises, without the written consent of Landlord. Landlord must approve, in advance, the location and manner of installing any electrical, heat generating or communication equipment or exceptionally heavy articles. Any equipment installed by Tenant shall remain Tenant's property and shall be installed and operated at Tenant's expense. Mobil equipment, not owned by Tenant is prohibited from operating on the Leased Premises unless authorized by the Landlord.

7. Sign. No signs, awnings, antennas, or other apparatus shall be positioned as to be visible from outside the Leased Premises without Landlord's written approval as to design, size, location, and color. All signs installed by Tenant shall comply with Landlord's standards for signs, and all applicable codes and signs and sign hardware shall be removed upon termination of this lease with the sign location restored to its formal state unless Landlord elects to retain all or any portion thereof.

8. Utilities and Services. Landlord shall furnish all utilities up to the Leased Premises and Tenant shall be directly responsible for any and all electrical charges or fees

for electrical service, and shall make arrangements to be billed directly from the local electric co-op (Coos-Curry Electric Cooperative, Inc.). Tenant shall make the necessary arrangements to have a meter installed in the name of Tenant for billing purposes. Tenant shall comply with all government laws or regulations regarding the use or reduction of use of utilities on the Leased Premises. Unless caused by Landlord's negligence or intentional act, interruption, limitation, curtailment, or rationing of services or utilities shall not be deemed an eviction or disturbance of Tenant's use and possession of the Leased Premises, render Landlord liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this lease, and Landlord shall take all reasonable steps to correct any interruption in service.

9. Maintenance and Repair - Tenant

a. Tenant is at all times during the term of this lease, and at Tenant's sole cost and expense, obligated to keep the entire of the Leased Premises and every part thereof in good condition and repair; ordinary wear and tear and damage to the Leased Premises by earthquake, act of God, or the elements excepted. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate, or paint the Leased Premises or any part thereof, except as set forth in Section 10. Landlord shall have the right to erect scaffolding and other apparatus necessary for the purpose of making repairs, and Landlord shall have no liability for interference with Tenant's use because of repairs and installations. Tenant shall have no claim against Landlord for any interruption or reduction of services or interference with Tenant's occupancy, and no such interruption or reduction shall be construed as a constructive or otherwise eviction of Tenant. Repair of damage caused by negligent or intentional acts or breach by this lease by Tenant, its employees or invitees shall be at Tenant's expense.

b. Tenant shall maintain the Leased Premises, , in the condition existing at time of leasing, normal wear and tear excepted. Landlord may inspect repairs, and may declare a default if the Leased Premises are not deemed in good repair after written notice of thirty (30) days.

c. Tenant shall be responsible for damages and/or repairs to the Leased Premises which result from overload of the dock or work area by the invitees of Tenant or persons utilizing the structure in connection with Tenant's business.

d. Tenant shall be responsible for any repairs necessitated by the negligence of Tenant, its agents, employees, and invitees, except as provided in Section 16 dealing with waiver of subrogation, but including repairs that would otherwise be the responsibility of Landlord under Section 10.

e. Tenant is responsible for all other repairs to the Leased Premises which Landlord is not required to make under Section 10 .

f. If Tenant fails to perform Tenant's obligations under this Section 9 or under any other Section of this lease, Landlord may enter upon the affected portion of the

Leased Premises after ten (10) days' prior written notice to Tenant (except in case of emergency, in which no notice shall be required), perform such obligations on Tenant's behalf and put the Leased Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Landlord together with Tenant's next Base Rent installment.

g. On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Leased Premises to Landlord in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Any damage or deterioration of the Leased Premises shall not be deemed ordinary wear and tear if the same could have been prevented by commercially reasonable maintenance practices. Tenant shall leave the air lines, power panels, electrical distribution systems, lighting fixtures, space heaters, air conditioning, plumbing and fencing which were on the Leased Premises prior to the commencement of the lease, in good operating condition.

10. Maintenance and Repair - Landlord's Obligations. The following shall be the responsibility of Landlord:

- a. Provide adequate means of ingress and egress to the Leased Premises.
- b. Provide access to a water supply and electricity.
- c. Repair and maintenance of existing exterior water, sewage, and electrical services up the point of entry to the Leased Premises.
- d. Repair and maintain any structural element with respect to the Leased Premises.

Should Landlord fail or refuse to timely perform any required maintenance and/or repairs, as set forth in this Section 10, then Tenant may perform such obligations itself and withhold any associated costs from amounts otherwise payable to Landlord.

11. Alterations. Tenant shall not make any alterations, additions, or improvements to the Leased Premises without Landlord's prior written consent. Any such additions, alterations, or improvements, except for removable machinery and trade fixtures, and approved additions shall at once become part of the realty and belong to the Landlord. Landlord may at its option require that Tenant remove any alterations and restore the Leased Premises to the original condition upon termination of this lease. Landlord shall have the right to approve the contractor used by Tenant for any work in the Leased Premises, and to post notices of non-responsibility in connection with any work being performed by Tenant in the Leased Premises.

12. Indemnity.

a. Tenant shall not allow any liens to attach to the Leased Premises or Tenant's interest in the Leased Premises as a result of its activities. In the event that a

materialman, mechanic's, or other lien is filed, or a claim of lien is made for work claimed to have been done for Tenant, Landlord will have the option in its sole discretion to require Tenant to post a Surety Bond within ten (10) days at Tenant's expense or to pay and discharge the lien, and Tenant agrees to reimburse Landlord promptly upon demand. These Landlord remedies are not exclusive as Landlord has other remedies as provided by law including requiring Tenant to pay for Landlord's attorney fees and costs relating to any such lien. Except as otherwise stated herein, Tenant hereby waives all claims against Landlord for damage to any property or injury, illness, or death of any person in, upon, or about the Leased Premises arising at any time and from any cause whatsoever other than by reason of the negligence or willful act of Landlord, its officers, employees, invitees, licensees or agents. Tenant shall defend, indemnify and hold Landlord harmless from any and all claims or liability for damage to any property or injury, illness, or death of any person (a) occurring in or on the Leased Premises or any part thereof arising at any time and from any cause whatsoever other than by reason of the negligence or willful act of Landlord, its officers, employees, invitees, licensees or agents; or (b) occurring in, on, or about any part of the Leased Premises when such damage, injury, illness, or death shall be caused by the act, negligence, omission, or fault of Tenant, its agents, servants, employees, invitees, or licensees. Except as otherwise stated herein, Landlord shall have no liability to Tenant because of loss or damage caused by the acts or omissions of other tenants of Landlord, or by third parties. The provisions of this paragraph shall survive the termination of this lease with respect to any damage, injury, illness, or death occurring prior to such termination.

13. Insurance. Tenant shall carry liability insurance and fire insurance with limits of not less than Two Million Dollars (\$2,000,000) combined single limit bodily injury and property damage, which insurance shall have an endorsement naming Landlord and Landlord's agent, if any, as additional insured and additional loss payee and covering the liability insured under Paragraph 15 of this Lease. Tenant shall furnish a certificate evidencing such insurance which shall state, if possible, that the coverage shall not be cancelled or materially changed without ten (10) days advance notice to Landlord and Landlord's agent, if any, and a renewal certificate shall be furnished at lease ten (10) days prior to expiration of any policy. Tenant shall be responsible to Landlord, and shall reimburse and hold Landlord harmless for any bodily injury, fire, or property damage not covered by insurance.

14. Exemption of Landlord from Liability

Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invites, customers, or any other person in or about the Leased Premises or the Port, nor shall Tenant be liable for injury to the person of Tenant, Tenant's employees, agents or contractors, whether such damage or injury is caused by or results from fire, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, wires or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising upon the Leased Premises or upon other portions of the Port, or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant. Except as otherwise stated herein, Landlord shall not be liable for any damages arising from any act

or neglect of any other tenant, occupant or user of the Port, nor from the failure of Landlord to enforce the provisions of any other lease of the Port.

15. Major Damage. Major damage means damage by fire or other casualty to the Leased Premises that causes the Leased Premises or any substantial portion of the Leased Premises to be unusable, or which will cost more than twenty-five percent (25%) of the pre-damage value of the Leased Premises to repair, or which is not covered by insurance. In case of major damage, Landlord or Tenant may elect to terminate this lease by notice in writing to the other party within thirty (30) days after such date. If this lease is not terminated following major damage, or if damage occurs that is not major damage, Landlord shall promptly restore the Leased Premises to the condition existing just prior to the damage, with the exception of damage to Tenant improvements. Restoration of any Tenant improvements or alterations installed by Tenant, and the costs thereof, shall be the responsibility of the Tenant. Rent shall be reduced from the date of damage until the date restoration work being performed by the Landlord is substantially complete, with the reduction to be in proportion to the area of the Leased Premises not useable by Tenant.

16. Waiver of Subrogation. Tenant shall be responsible for insuring its personal property and trade fixtures located on the Leased Premises and any alterations or Tenant improvements it has made to the Leased Premises. Neither Landlord nor Tenant shall be liable to the other for any loss or damage caused by any of the risks that are or could be covered by a standard all risk insurance policy with the extended coverage endorsement, or for any business interruption, and there shall be no subrogated claims by one party's insurance carrier against the other party arising out of any loss.

17. Eminent Domain. If a condemning authority takes title by eminent domain or by agreement in lieu thereof to the entire Leased Premises or a portion sufficient to render the Leased Premises unsuitable for Tenant's use, then either party may elect to terminate this lease effective on the date that possession is taken by the condemning authority; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Leased Premises taken shall be of such extent and nature as to substantially handicap, impede, or impair Tenant's use of the balance of the Leased Premises for the purpose intended. Rent shall be reduced for the remainder of the term in an amount proportionate to the reduction in area of the Leased Premises caused by the taking. All condemnation proceeds shall belong to Landlord, and Tenant shall have no claims against Landlord or the condemnation award because of the taking.

18. Assignment and Subletting. This lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and assigns, provided that Tenant shall not assign its interest under this lease or sublet all or any portion of the Leased Premises without first obtaining Landlord's consent in writing. This provision shall apply to all transfers by operation of law including but not limited to mergers and changes in control of Tenant. No assignment shall relieve Tenant of its obligation to pay rent or perform other obligations required by this lease and no consent to one assignment or subletting shall be consent to any further assignment or subletting. Landlord shall not unreasonably withhold or delay its consent to any assignment, or to subletting provided the subrental rate or effective rental paid

by the assignee is not less than the current scheduled rental rate of the Leased Premises for comparable space and the proposed Tenant has been approved by Landlord in writing. A new base rent may be established for the remainder of the lease at the sole option of the Landlord. If Tenant proposes a subletting or assignment to which Landlord is required to consent under this paragraph, Landlord shall have the option of terminating this lease and dealing directly with the proposed sub-tenant or assignee, or any third party. If an assignment or subletting is permitted, any cash profit, or the net value of any other consideration received by tenant as a result of such transaction shall be paid to Landlord promptly following its receipt by Tenant. Tenant shall pay any costs incurred by Landlord in connection with a request for assignment or subletting, including reasonable attorney fees.

19. Default.

a. Any of the following shall constitute a default by Tenant under this lease:

1. Tenant's failure to pay rent or any other charge under this lease within ten (10) days after its due, or failure to comply with any other term or condition within twenty (20) days following written notice from Landlord specifying the noncompliance. If such noncompliance cannot be cured within the 20-day period, this provision shall be satisfied if Tenant commences correction within such period and thereafter proceeds in good faith and with reasonable diligence to effect compliance as soon as possible. Time is of the essence of this lease.

2. Tenant's insolvency, business failure or assignment for the benefit of its creditors. Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer, or the appointment of a receiver for Tenant's property.

3. Assignment or subletting by Tenant in violation of Section 18 above.

4. Vacation or abandonment of the Leased Premises for more than three (3) months without the written consent of Landlord.

5. If this Lease is levied upon under any attachment or execution and such attachment or execution is not vacated within ten (10) days.

20. Remedies for Default. In case of default as described in Section 19 above, Landlord shall have the right to the following remedies which are intended to be cumulative and in addition to any other remedies provided under applicable law.

a. Landlord may terminate the lease and reenter and retake possession of the Leased Premises, and remove any persons or property by legal action or by self help with the use of reasonable force and without liability for damages. Following such retaking of possession, efforts by Landlord to relet the Leased Premises shall be sufficient if Landlord follows its usual procedures for finding tenants for the Leased Premises at rates not less than the current rates for other comparable space on Port property. If Landlord has other vacant space available, prospective tenants may be placed in such other space without prejudice to Landlord's claim to damages to loss of rentals from Tenant.

b. Landlord may recover all damages caused by Tenant's default which shall include an amount equal to rentals lost because of the default, all attorney fees and costs. Landlord may sue periodically to recover damages as they occur throughout the lease term, and no action for accrued damages shall bar a later action for damages subsequently accruing. Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease. Such damages shall be measured by the difference between the rent under this lease and the reasonable rental value of the Leased Premises for the remainder of the term, discounted to the time of judgment at the prevailing interest rate on judgments.

c. Landlord may make any payment or perform any obligation which Tenant has failed to perform, in which case Landlord shall be entitled to recover from Tenant upon all demand all amounts so expended plus interest from the date of the expenditure at the rate of one and one-half percent (1.5%) per month. Any such payment or performance by Landlord shall not waive Tenant's default.

21. Regulations. Landlord shall have the right (but shall not be obligated) to make, revise, and enforce commercially reasonable regulations or policies consistent with this lease for the purpose of promoting safety, order, economy, cleanliness, and good service to all tenants of the Landlord, provided that if Landlord passes a regulation or policy that interferes with Tenant's quiet enjoyment or unreasonably interferes with Tenant's use of the Leased Premises, then Tenant may terminate this lease. All such regulations and policies shall be complied with as if part of this lease.

22. Access. During times other than normal business hours Tenant's officers and employees or those having business with Tenant may be required to identify themselves or show passes in order to gain access to the Leased Premises. In such event, Landlord shall have no liability for permitting or refusing to permit access to anyone. With reasonable notice to Tenant, Landlord shall have the right to enter upon the Leased Premises at any time by passkey or otherwise to determine Tenant's compliance with this lease, to perform necessary services, maintenance and repairs to the Leased Premises, or to show the Leased Premises to any prospective tenant or purchasers. Except in case of emergency such entry shall be with at least 24 hours prior notice and at such times and in such manner as to minimize interference with the reasonable business use of the Leased Premises by Tenant.

23. Notices. Notices to the parties relating to the lease shall be in writing, effective when delivered, or if mailed, effective on the second day following mailing, postage prepaid,

to the address for the party stated in this lease or to such other address as either party may specify by notice to the other. Rent shall be payable to Landlord at the same address and in the same manner, but shall be considered paid only when received.

Notices to Tenant shall initially be provided to:

Bandon Pacific, Inc.
63501 Boat Basin Road
Charleston, OR 97420

With copy to:

Pacific Seafood Group
Attn: Legal & Strategic Affairs
16797 SE 130th Ave.
Clackamas, OR 97015

24. Subordination. This lease shall be subject and subordinate to any mortgages, deeds of trust, or land sale contracts (hereafter collectively referred to as encumbrances) now existing against the Leased Premises. At Landlord's option this lease shall be subject and subordinate to any future encumbrance hereafter placed against the Leased Premises (including the underlying land) or any modifications of existing encumbrances, and Tenant shall execute such documents as may reasonably be requested by Landlord or the beholder of the encumbrance to evidence this subordination.

25. Transfer of Premises. If the Leased Premises is sold or otherwise transferred by Landlord or any successor, Tenant shall attorn to the purchaser or transferee and recognize it as the Landlord under this lease, and, provided the purchaser assumes all obligations hereunder, the transferor shall have no further liability hereunder.

26. Estoppel. Either party will within twenty (20) days after notice from the other execute, acknowledge and deliver to the other party a certificate whether or not this lease has been modified and is in full force and effect, whether there are any modifications or alleged breaches by the other party; the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent; and any other facts that may be reasonably requested. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate. If requested by the holder of any encumbrance or any ground lessor, Tenant will agree to give such holder or lessor notice of and an opportunity to cure any default by Landlord under this lease. Unresolved good faith disputes between Landlord and Tenant shall be resolved pursuant to mandatory binding arbitration.

27. Attorney's Fees. In any litigation or arbitration arising out of this lease, the prevailing party shall be entitled to recover attorney fees, costs and expert witness fees, if any, at trial, on any appeal, or in any other proceeding.

28. Quiet Enjoyment. Landlord warrants that so long as Tenant complies with all material terms of this lease, it shall be entitled to peaceable and undisturbed possession of the Leased Premises free from any eviction or disturbance by Landlord. Landlord shall have no liability to Tenant for loss or damages arising out of the acts of other tenants of the Leased Premises or third parties, nor any liability for any reason which exceeds the value of its interest in the Leased Premises. Notwithstanding the above, Landlord reserves to itself a right of access over and across the dock leased herein, provided that such access does not unreasonably interfere with Tenant's use of the Leased Premises.

29. Complete Lease. This lease and the attached Exhibits, constitute the entire agreement of the parties and supersede all prior written and oral agreements and representations. Neither Landlord nor Tenant is relying on any representations other than those expressly set forth herein. Any modification to this lease must be in writing and signed by both parties.

30. Nonwaiver. Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice of the party's right to require strict performance of the same provision in the future or of any other provision.

31. Real Property Taxes.

a. Payment of Taxes. Tenant shall pay the real property tax, if any, as defined in paragraph 31.c. applicable to Tenant's portion of the Port as represented by the lease.

b. Additional Improvements. Tenant shall be responsible for paying Tenant's share of any increase in real property tax specified in the Tax Assessor's records and work sheets as being caused by additional improvements placed upon the Port by other Tenants or by Landlord for the exclusive enjoyment of such other Tenants.

c. Definition of "Real Property Tax". As used herein, the term "real property tax" shall include 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.

32. Severability. The invalidity of any provision of this lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provisions herein.

33. Time of Essence. Time is of the essence with respect to the obligations to be performed under this Lease.

34. Security Measures. Each party acknowledges that they shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the other party or their property,. Each party assumes all responsibility for the protection of itself, its agents and invitees and its property from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option from providing security protection for the Port or any part thereof.

35. "As-is". This lease is not subject to any implied warranties, but is leased "as is".

36. Intentionally Omitted

37. Arbitration. Any controversy or claim arising out of or relating to this lease, including without limitation, the making, performance, or interpretation of this lease shall be settled by arbitration. If the Landlord or Tenant disagree whether either is legally entitled to recover damages under this lease, then either Landlord or Tenant may make a written demand for arbitration. The parties agree to submit their controversy to binding arbitration before a single arbitrator. The arbitrator shall be an attorney licensed to practice law in the State of Oregon. The party seeking arbitration shall give written notice to that effect to the other and shall, in that notice, select an arbitrator. Within 15 days thereafter, the other party shall by written notice either agree to the arbitrator selected or suggest another person to act as arbitrator. If the parties cannot agree within 30 days to the selection of a single arbitrator after the election to arbitrate, either party may request that the selection of an arbitrator be made by a judge of the Circuit Court for Curry County, Oregon. Landlord and Tenant will pay their own costs of arbitration, and, unless costs are awarded by the arbitrator to the prevailing party, each is obligated to pay one half of the arbitrator's fee.

Unless otherwise agreed the arbitration shall be conducted in Curry County, Oregon. If arbitration is commenced, the parties agree to permit discovery proceedings of the type provided for by the Oregon Rules of Civil Procedure both in advance of and during recess of the arbitration proceedings. ORS 183.450 (1) through (4), where applicable, shall control the admission of evidence at the hearing in any arbitration conducted hereunder, provided however no error by the arbitrator in application of the statute shall be grounds as such for vacating the arbitrator's award. Each party shall be entitled to present evidence and argument to the arbitrator. The arbitrator shall give written notice to the parties stating the arbitration determination and shall furnish to each party a signed copy of such determination and judgment so the award may be entered in any court having jurisdiction over the parties.

If arbitration is commenced, this contract shall be governed by and construed in accordance with the laws of the State of Oregon. The parties agree that the arbitrator shall have no jurisdiction to render an award or judgment for punitive damages. The parties agree that the decision of the arbitrator shall be final and binding on the parties and a judgment may be entered on the arbitrator's award. The parties agree that all facts and other information relating to any arbitration arising under this contract shall be kept confidential to the fullest extent permitted by law. Unless otherwise inconsistent herewith, the provisions of ORS Chapter 36 shall apply to any arbitration hereunder. In the event of arbitration under the provisions of this lease, the prevailing party shall be awarded reasonable attorney fees and

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related costs, disbursements and expert witness fees as provider for in this contract.

The duty to arbitrate shall survive the cancellation or termination of this lease.

IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this lease as of the day and year first written above.

PORT OF BROOKINGS-HARBOR,
Landlord

By: _____

Name: Roy Davis

Title: Chairman

BANDON PACIFIC, INC. ,
Tenant

By: 

Name: David Wright

Title: General Manager

Mailing Address:

P. O. Box 5583

Charleston, OR 97420

Phone (541) 888-9626

New Business Item E

Subject: Zola's Lease - Action

About: Updating Zola's lease to be current. Includes outside building for storage.

COMMERCIAL LEASE AGREEMENT

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This lease is made and entered into at Brookings, Oregon this 1st day of April 2017, by and between the **Port of Brookings Harbor** (the Landlord) and **Eian Savas** (the Tenant) dba Zola's Pizzeria.

1. **Leased Premises.** Landlord hereby leases to Tenant the following described properties located in the Port of Brookings Harbor on the terms and conditions stated below:
 - a. A retail building, outside storage for detached building area and outdoor seating and stage, as shown in Exhibit "A" and "B", attached hereto and incorporated herein by this reference (the "Leased Premises").
2. **Lease Term and Base Rental.**
 - a. Landlord hereby leases to Tenant approximately 2,156 square-feet of ground and building, (the Leased Premises, as shown in Exhibit A & B), located at 16362 Lower Harbor Road, Brookings, Oregon. The Leased Premises contains Nine Hundred Ninety-Nine (971) square feet of retail building, outdoor storage for detached buildings consisting of Three Hundred Twenty-Four (324) square feet and outdoor seating & stage consisting of Eight Hundred Sixty-One (861) square feet. The Base Rental for the Leased Premises shall be as follows:
 1. The rental rate for the retail building shall be \$1.24 per month for a total of One Thousand Two Hundred Four and 04/100 Dollars per month (\$1,204.04);
 2. The rental rate for the outdoor storage for detached buildings shall be \$0.30 per month for a total of Ninety-Seven and 20/100 Dollars per month (\$97.20).
 3. The rental rate for the outdoor seating and stage shall be \$0.30 per month for a total of Two Hundred Fifty-Eight and 30/100 Dollars per month (\$258.30).

The initial term of this lease shall be for a term of three (3) years commencing April 1, 2017 and continuing through March 31, 2020.

The total Base Rental for the Leased Premises shall be One Thousand Five Hundred Fifty-Nine and 54/100 Dollars (\$1,559.54)

per month, as calculated above, payable on the first day of each month commencing April 1, 2017.

- b. Upon termination of the initial term of this lease, Landlord grants to Tenant the option to renew this lease in whole or in part of the Leased Premises, for one (1) additional three (3) year term at terms and conditions to be negotiated, provided Tenant a) is not in default of this lease at the time the option is exercised and b) Landlord does not need the ground for its own use and c) Landlord is otherwise satisfied with Tenant's use of the leased premises during the initial term. The parties agree to negotiate in good faith with respect to the renewal terms and conditions on terms at least as favorable as those offered to any other tenant of Landlord at the time.
- c. Tenant shall notify the Landlord in writing ninety (90) days prior to expiration of the lease of tenant's intent to exercise all or any portion of Tenant's option to extend the lease. Failure to provide such notice is a default and a material breach of the lease and Landlord may terminate the lease on the expiration date and retake possession of the Leased Premises with or without process of law.

3. **Base Rent Payment.** Tenant shall pay the base rent for the leased Premises and any additional rent provided herein without deduction or offset. The Base rent shall increase annually, on each anniversary of the lease commencement for the second and each subsequent year, according to the Consumer Price Index for All Urban Consumers (CPI-U). The Base Rent increase shall be for the total amount of the Base Rent due. Base rent shall include all prior percentage increases.

Rent for any partial month during the lease term shall be prorated to reflect the number of days during the month that Tenant occupies the Premises.

Additional rent means any other sums payable by Tenant to Landlord under this lease. At the end of the Lease agreement, a new Base Rent will be established. Should any rent or other payment required of Tenant by this lease not be paid within 10 days after it is due, a late charge of 1.5% per month (18% per annum) will be assessed. In the event, suit or action is instituted to collect any amount owed on this account, the undersigned applicant agrees to pay any reasonable attorney fees, collection agency fees and any other costs associated with such action. A \$50.00 fee will be assessed on any Returned payment.

4. **Lease Consideration/Security Deposit.** Upon execution of the lease, Tenant base rent is due the first day of the month of the lease term for which rent is payable. Tenant is required to pay a security deposit in the sum of \$1,312.56. Landlord may apply the security deposit to pay the cost of performing any obligation which Tenant fails to perform within the time required by this lease, but such application by Landlord shall not be the exclusive remedy for Tenant's default. If the security deposit is applied by the Landlord, Tenant shall on demand pay the sum necessary to replenish the security deposit to its original amount. To the extent not applied by Landlord to cure defaults by Tenant, the security deposit shall be returned to Tenant upon termination of this lease, or, by mutual agreement between Landlord and Tenant, applied against the rent payable for the last month of the term.

5. **Use.** Tenant shall use the Leased Premises for restaurant purposes and for no other purpose without Landlord's written consent. In connection with its use of the Leased Premises, Tenant shall at its expense promptly comply with all applicable laws, ordinances, rules and regulations of any public authority, including those of the Port of Brookings Harbor, and not unreasonably annoy, obstruct or interfere with the rights of other tenants of the Port of Brookings Harbor, wherever located. Tenant shall not create or maintain any nuisance or any objectionable fumes, noise, or vibrations while using the Leased Premises.

6. **Equipment.** Tenant shall install in the Leased Premises only such equipment as is customary for the intended *use* and shall not overload the floors or electrical circuits of the Leased Premises or alter the plumbing or wiring of the Leased Premises, without the written consent of Landlord. Landlord must approve, in advance, the location and manner of installing any electrical, heat generating or communication equipment or exceptionally heavy articles. Any equipment installed by Tenant shall remain Tenant's property and shall be installed and operated at Tenant's expense. Any air conditioning required because of heat generating equipment or special lighting installed by Tenant shall be installed and operated at Tenant's expense.

7. **Sign.** No signs, awnings, antennas, or other apparatus shall be positioned as to be visible from outside the Leased Premises without Tenant obtaining Landlord's prior written approval as to design, size, location, and color. All signs installed by Tenant shall comply with Landlord's standards for signs, and all applicable codes and signs and sign hardware shall be removed upon termination of this lease with the sign location restored to its formal state unless Landlord elects to retain all or any portion thereof.

8. Utilities and Services. Landlord shall furnish all utilities up to the Leased Premises and Tenant shall be directly responsible for any and all electrical charges or fees for electrical service, and shall make arrangements to be billed directly from the local electric co-op (Coos-Curry Electric Cooperative, Inc.). Tenant shall make the necessary arrangements to have a meter installed in the name of Tenant for billing purposes. Tenant shall comply with all government laws or regulations regarding the use or reduction of use of utilities on the Leased Premises. Unless caused by Landlord's negligence or intentional act, interruption, limitation, curtailment, or rationing of services or utilities shall not be deemed an eviction or disturbance of Tenant's use and possession of the Leased Premises, render Landlord liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this lease, and Landlord shall take all reasonable steps to correct any interruption in service.

9. Maintenance and Repair - Tenant

- a. Tenant is at all times during the term of this lease, and at Tenant's sole cost and expense, obligated to keep the entire of the Leased Premises and every part thereof in good condition and repair; ordinary wear and tear and damage to the Leased Premises by earthquake, act of God, or the elements. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate, or paint the Leased Premises or any part thereof. Landlord shall have the right to erect scaffolding and other apparatus necessary for the purpose of making repairs, and Landlord shall have no liability for interference with Tenant's use because of repairs and installations. Tenant shall have no claim against Landlord for any interruption or reduction of services or interference with Tenant's occupancy, and no such interruption or reduction shall be construed as a constructive or otherwise eviction of Tenant. Repair of damage caused by negligent or intentional acts or breach by this lease by Tenant, its employees or invitees shall be at Tenant's expense.
- b. Tenant shall be responsible for any repairs necessitated by the negligence of Tenant, its agents, employees, and invitees, except repairs that would otherwise be the responsibility of Landlord under Section 10 or Section 15.
- c. Tenant is responsible for all other repairs to the Leased Premises which Landlord is not required to make under Section 10 or Section 15.

- d. If Tenant fails to perform Tenant's obligations under this Section 9 or under any other Section of this lease, Landlord may enter upon the affected portion of the Leased Premises after ten (10) days' prior written notice to Tenant (except in case of emergency, in which no notice shall be required), perform such obligations on Tenant's behalf and put the Leased Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Landlord together with Tenant's next Base Rent installment.
- e. On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Leased Premises to Landlord in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Any damage or deterioration of the Leased Premises shall not be deemed ordinary wear and tear if the same could have been prevented by commercially reasonable maintenance practices. Tenant shall leave the air-lines, power panels, electrical distribution systems, lighting fixtures, space heaters, air conditioning, plumbing and fencing which were on the Leased Premises prior to the commencement of the lease, in good operating condition.

10. Maintenance and Repair - Landlord's Obligations. The following shall be the responsibility of Landlord:

- a. Provide adequate means of ingress and egress to the Leased Premises.
- b. Provide access to a water supply and electricity.
- c. Repair and maintenance of existing exterior water, sewage, and electrical services up the point of entry to the Leased Premises.
- d. Repair and maintain any structural element, that does not meet the definition of Major Damage as provided in Section 15, with respect to the Leased Premises.

11. Alterations. Tenant shall not make any alterations, additions, or improvements to the Leased Premises without Landlord's prior written consent. Any such additions, alterations, or improvements, except for removable machinery and trade fixtures, and approved additions shall at once become part of the realty and belong to the Landlord. Landlord may at its option require that Tenant remove any alterations and restore the Leased Premises to the original condition upon termination of this lease. Landlord shall have the right to approve the contractor used by

Tenant for any work in the Leased Premises, and to post notices of non-responsibility in connection with any work being performed by Tenant in the Leased Premises. Any approved tenant improvement costs to building structure or Port infrastructure within the Lease Premises may be credited up to 50% of the base lease rate.

- 12. Indemnity.** Tenant shall not allow any liens to attach to the Leased Premises or Tenant's interest in the Leased Premises as a result of its activities. In the event that a materialman, mechanic's, or other lien is filed, or a claim of lien is made for work claimed to have been done for Tenant, Landlord will have the option in its sole discretion to require Tenant to post a Surety Bond within ten (10) days at Tenant's expense or to pay and discharge the lien, and Tenant agrees to reimburse Landlord promptly upon demand. These Landlord remedies are not exclusive as Landlord has other remedies as provided by law including requiring Tenant to pay for Landlord's attorney fees and costs relating to any such lien.

Except as otherwise stated herein, Tenant hereby waives all claims against Landlord for damage to any property or injury, illness, or death of any person in, upon, or about the Leased Premises arising at any time and from any cause whatsoever other than by reason of the willful act of Landlord, its officers, employees, invitees, licensees or agents. Tenant shall defend, indemnify and hold Landlord harmless from any and all claims or liability for damage to any property or injury, illness, or death of any person (a) occurring in or on the Leased Premises or any part thereof arising at any time and from any cause whatsoever other than by reason of the willful act of Landlord, its officers, employees, invitees, licensees or agents; or (b) occurring in, on, or about any part of the Leased Premises when such damage, injury, illness, or death shall be caused by the act, negligence, omission, or fault of Tenant, its agents, servants, employees, invitees, or licensees. Except as otherwise stated herein, Landlord shall have no liability to Tenant because of loss or damage caused by the acts or omissions of other tenants of Landlord, or by third parties. The provisions of this paragraph shall survive the termination of this lease with respect to any damage, injury, illness, or death occurring prior to such termination.

- 13. Insurance.** Tenant shall carry liability insurance and fire insurance with limits of not less than Two Million Dollars (\$2,000,000) combined single limit bodily injury and property damage, for injury or death of persons and damage to or loss or destruction of property. Such insurance shall be endorsed to name the Port of Brookings Harbor (Landlord) and Landlord's agent, if any, as an additional insured and additional loss payee and shall contain a "severability of interests" provision. Such insurance shall cover the liability insured under this Lease. All coverage

shall be on an occurrence basis and not on a claim made basis. All policies required by this section shall be endorsed to provide a waiver of subrogation in favor of the Port of Brookings Harbor.

Tenant shall furnish a certificate evidencing such insurance which shall state that the coverage shall not be cancelled or materially changed without fourteen (14) days advance notice to Landlord and Landlord's agent, if any, and a renewal certificate shall be furnished at lease fourteen (14) days prior to expiration of any policy. Tenant shall be responsible to Landlord, and shall reimburse and hold Landlord harmless for any bodily injury, fire, or property damage not covered by insurance.

- 13.1** Tenant shall furnish certificates of insurance to Port's General Manager, P.O. Box 848, Brookings, Oregon 97415 certifying the existence of such insurance. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits or not renewed without fourteen (14) days advance written notice to the Landlord and Landlord's agent, if any, and a renewal certificate shall be furnished at least 14 days prior to the expiration of any policy.
- 13.2** The insurance required herein shall be primary and without right of contribution from other insurance that may be in effect and without subordination. Any other insurance carried by the Landlord is excess. The insurance policies must be underwritten by a company licensed in the state of Oregon, and carry a minimum Best's rating of "A-VI or better. Tenant shall furnish the Landlord with certificates of insurance showing compliance with these insurance provisions no later than five (5) days prior to commencement of this Lease. Tenant shall be responsible for any deductible amounts payable under all policies of insurance.
- 13.3** Landlord reserves the right to review, investigate and reject insurance companies proposed to be sued by Tenant if they are determined inadequate to provide necessary coverage's as herein specified. All insurance required by this Agreement to be purchased and maintained by Tenant shall be obtained from an insurance company licensed or authorized in the State of Oregon to issue the insurance policies for the limits and coverage's required herein.
- 13.4** If Tenant's policies lapse or are canceled at any time during the term of this Contract, Landlord shall have the right to immediately terminate Tenant's lease until such insurance requirements have been fully satisfied by Tenant. Tenant shall be responsible to Landlord, and shall reimburse and hold Landlord harmless for any bodily injury, fire or property damage not covered by Tenant's insurance.

14. Exemption of Landlord from Liability

Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invites, customers, or any other person in or about the Leased Premises or the Port, nor shall Landlord be liable for injury to the person of Tenant, Tenant's employees, agents or contractors, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, wires or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising upon the Leased Premises or upon other portions of the Port, or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant. Landlord shall not be liable for any damages arising from any act or neglect of any other tenant, occupant or user of the Port, nor from the failure of Landlord to enforce the provisions of any other lease of the Port.

15. **Major Damage.** Major damage means damage by fire or other casualty to the Leased Premises that causes the Leased Premises or any substantial portion of the Leased Premises to be unusable, or which will cost more than twenty-five percent (25%) of the pre-damage value of the Leased Premises to repair, or which is not covered by insurance. In case of major damage, Landlord or Tenant may elect to terminate this lease by notice in writing to the other party within thirty (30) days after such date. If this lease is not terminated following major damage, or if damage occurs that is not major damage, Landlord shall promptly restore the Leased Premises to the condition existing just prior to the damage, with the exception of damage to Tenant improvements. Restoration of any Tenant improvements or alterations installed by Tenant, and the costs thereof, shall be the responsibility of the Tenant. Rent shall be reduced from the date of damage until the date restoration work being performed by the Landlord is substantially complete, with the reduction to be in proportion to the area of the Leased Premises not useable by Tenant.
16. **Waiver of Subrogation.** Tenant shall be responsible for insuring its personal property and trade fixtures located on the Leased Premises and any alterations or Tenant improvements it has made to the Leased Premises. Neither Landlord nor Tenant shall be liable to the other for any loss or damage caused by any of the risks that are or could be covered by a standard all risk insurance policy with the extended coverage endorsement, or for any business interruption, and there shall be no subrogated claims by one party's insurance carrier against the other party arising out of any loss.

17. **Eminent Domain.** If a condemning authority takes title by eminent domain or by agreement in lieu thereof to the entire Leased Premises or a portion sufficient to render the Leased Premises unsuitable for Tenant's use, then either party may elect to terminate this lease effective on the date that possession is taken by the condemning authority; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Leased Premises taken shall be of such extent and nature as to substantially handicap, impede, or impair Tenant's use of the balance of the Leased Premises for the purpose intended. Rent shall be reduced for the remainder of the term in an amount proportionate to the reduction in area of the Leased Premises caused by the taking. All condemnation proceeds shall belong to Landlord, and Tenant shall have no claims against Landlord or the condemnation award because of the taking.
18. **Assignment and Subletting.** This lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and assigns, provided that Tenant shall not assign its interest under this lease or sublet all or any portion of the Leased Premises without first obtaining Landlord's consent in writing. This provision shall apply to all transfers by operation of law including but not limited to mergers and changes in control of Tenant. No assignment shall relieve Tenant of its obligation to pay rent or perform other obligations required by this lease and no consent to one assignment or subletting shall be consent to any further assignment or subletting. Landlord shall not unreasonably withhold or delay its consent to any assignment, or to subletting, accepting that the proposed Tenant has been approved by Landlord in writing.

A new base rent may be established for the remainder of the lease at the sole option of the Landlord. If Tenant proposes a subletting or assignment to which Landlord is required to consent under this paragraph, Landlord shall have the option of terminating this lease and dealing directly with the proposed sub-tenant or assignee, or any third party. If an assignment or subletting is permitted, any cash profit, or the net value of any other consideration received by Tenant as a result of such transaction shall be paid to Landlord promptly following its receipt by Tenant. Tenant shall pay any costs incurred by Landlord in connection with a request for assignment or subletting, including reasonable attorney fees.

19. **Default.**

- a. Any of the following shall constitute a default by Tenant under this lease:

1. Tenant's failure to pay rent or any other charge under this lease within ten (10) days after its due, or failure to comply with any other term or condition within twenty (20) days following written notice from Landlord specifying the noncompliance. If such noncompliance cannot be cured within the 20-day period, this provision shall be satisfied if Tenant commences correction within such period and thereafter proceeds in good faith and with reasonable diligence to effect compliance as soon as possible. Time is of the essence of this lease.
 2. Tenant's insolvency, business failure or assignment for the benefit of its creditors. Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer, or the appointment of a receiver for Tenant's property.
 3. Assignment or subletting by Tenant in violation of Section 18 above.
 4. Vacation or abandonment of the Leased Premises for more than three (3) months without the written consent of Landlord.
 5. If this Lease is levied upon under any attachment or execution and such attachment or execution is not vacated within ten (10) days.
20. **Remedies for Default.** In case of default as described in Section 19 above, Landlord shall have the right to the following remedies which are intended to be cumulative and in addition to any other remedies provided under applicable law.
- a. Landlord may terminate the lease and reenter and retake possession of the Leased Premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages. Following such retaking of possession, efforts by Landlord to relet the Leased Premises shall be sufficient if Landlord follows its usual procedures for finding tenants for the Leased Premises at rates not less than the current rates for other comparable space on Port property. If Landlord has other vacant space available, prospective tenants may be placed in such other space without prejudice to Landlord's claim to damages to loss of rentals from Tenant.

- b. Landlord may recover all damages caused by Tenant's default which shall include an amount equal to rentals lost because of the default, all attorney fees and costs. Landlord may sue periodically to recover damages as they occur throughout the lease term, and no action for accrued damages shall bar a later action for damages subsequently accruing. Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease. Such damages shall be measured by the difference between the rent under this lease and the reasonable rental value of the Leased Premises for the remainder of the term, discounted to the time of judgment at the prevailing interest rate on judgments.
 - c. Landlord may make any payment or perform any obligation which Tenant has failed to perform, in which case Landlord shall be entitled to recover from Tenant upon all demand all amounts so expended plus interest from the date of the expenditure at the rate of one and one-half percent (1.5%) per month. Any such payment or performance by Landlord shall not waive Tenant's default.
21. **Regulations.** Landlord shall have the right (but shall not be obligated) to make, revise, and enforce commercially reasonable regulations or policies consistent with this lease for the purpose of promoting safety, order, economy, cleanliness, and good service to all tenants of the Landlord, provided that if Landlord passes a regulation or policy that interferes with Tenant's quiet enjoyment or unreasonably interferes with Tenant's use of the Leased Premises, then Tenant may terminate this lease. All such regulations and policies shall be complied with as if part of this lease.
22. **Access.** During times, other than normal business hours Tenant's officers and employees or those having business with Tenant may be required to identify themselves or show passes in order to gain access to the Leased Premises. In such event, Landlord shall have no liability for permitting or refusing to permit access to anyone. With reasonable notice to Tenant, Landlord shall have the right to enter upon the Leased Premises at any time by passkey or otherwise to determine Tenant's compliance with this lease, to perform necessary services, maintenance and repairs to the Leased Premises, or to show the Leased Premises to any prospective tenant or purchasers. Except in case of emergency such entry shall be with at least 24 hours prior notice and at such times and in such manner as to minimize interference with the reasonable business use of the Leased Premises by Tenant.

23. **Notices.** Notices to the parties relating to the lease shall be in writing, effective when delivered, or if mailed, effective on the second day following mailing, postage prepaid, to the address for the party stated in this lease or to such other address as either party may specify by notice to the other. Notice to Tenant may always be delivered to the Leased Premises. Rent shall be payable to Landlord at the same address and in the same manner, but shall be considered paid only when received.
24. **Subordination.** This lease shall be subject and subordinate to any mortgages, deeds of trust, or land sale contracts (hereafter collectively referred to as encumbrances) now existing against the Leased Premises. At Landlord's option this lease shall be subject and subordinate to any future encumbrance hereafter placed against the Leased Premises (including the underlying land) or any modifications of existing encumbrances, and Tenant shall execute such documents as may reasonably be requested by Landlord or the beholder of the encumbrance to evidence this subordination.
25. **Transfer of Premises.** If the Leased Premises is sold or otherwise transferred by Landlord or any successor, Tenant shall attorn to the purchaser or transferee and recognize it as the Landlord under this lease, and, provided the purchaser assumes all obligations hereunder, the transferor shall have no further liability hereunder.
26. **Estoppel.** Either party will within twenty (20) days after notice from the other execute, acknowledge and deliver to the other party a certificate whether or not this lease has been modified and is in full force and effect, whether there are any modifications or alleged breaches by the other party; the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent; and any other facts that may be reasonably requested. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate. If requested by the holder of any encumbrance or any ground lessor, Tenant will agree to give such holder or lessor notice of and an opportunity to cure any default by Landlord under this lease. Unresolved good faith disputes between Landlord and Tenant shall be resolved pursuant to mandatory binding arbitration as provided herein.
27. **Attorney's Fees.** In the event, any action, suit, arbitration or other proceeding shall be instituted by either party to this Lease to enforce any provision of this Lease or any matter arising therefrom or to interpret any provision of this Lease, including any proceeding to compel arbitration, the prevailing party shall be entitled to recover from the other a reasonable attorney fee to be determined by the Court or Arbitrator(s). In

addition to recovery of a reasonable attorney fee, the prevailing party shall be entitled to recover from the other costs and disbursements, including all costs of Arbitration and the Arbitrator(s) fees, and expert witness fees, as fixed by the Court or tribunal in which the case is heard.

In the event, any such action, suit, arbitration or other proceeding is appealed to any higher court or courts, the prevailing party shall recover from the other a reasonable attorney fee for prosecuting or defending such appeal or appeals, in addition to the reasonable attorney fees in the lower court, or courts, or arbitration proceeding, such fee to be determined by the appellate court or lower court or arbitrator, as the appellate court may determine. In addition to recovery of a reasonable attorney fee on appeal, the prevailing party shall be entitled to recover from the other costs and disbursements and expert witness fees as fixed by the appellate court. All costs and disbursements which may be awarded pursuant to this paragraph shall bear interest at the maximum legal rate from the date they are incurred until the date they are paid by the losing party.

28. **Quiet Enjoyment.** Landlord warrants that so long as Tenant complies with all material terms of this lease, it shall be entitled to peaceable and undisturbed possession of the Leased Premises free from any eviction or disturbance by Landlord. Landlord shall have no liability to Tenant for loss or damages arising out of the acts of other tenants of Port property or third parties, nor any liability for any reason which exceeds the value of its interest in the Leased Premises.
29. **Complete Agreement.** This lease and the attached Exhibits constitute the entire agreement of the parties and supersede all prior written and oral agreements and representations. Neither Landlord nor Tenant is relying on any representations other than those expressly set forth herein. Any modification to this lease must be in writing and signed by both parties.
30. **Nonwaiver.** Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice of the party's right to require strict performance of the same provision in the future or of any other provision.
31. **Real Property Taxes.**
 - a. **Payment of Taxes.** Tenant shall pay the real property tax, if any, as defined in paragraph 31.c. below applicable to Tenant's portion of the Port as represented by the lease.

- b. **Additional Improvements.** Tenant shall be responsible for paying Tenant's share of any increase in real property tax specified in the Tax Assessor's records and work sheets as being caused by additional improvements placed upon the Leased Premises by Tenant or by Landlord for the use by Tenant.
 - c. **Definition of "Real Property Tax".** As used herein, the term "real property tax" shall include 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.
- 32. **Severability.** The invalidity of any provision of this lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provisions herein.
- 33. **Time of Essence.** Time is of the essence with respect to the obligations to be performed under this Lease.
- 34. **Security Measures.** Each party acknowledges that they shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the other party or their property. Each party assumes all responsibility for the protection of itself, its agents and invitees and its property from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option from providing security protection for the Port or any part thereof.
- 35. **"As-is".** This lease is not subject to any implied warranties, but is leased "as is".
- 36. **Parking.** Landlord reserves the right to reassign parking spaces provided to Tenant at any time during the period of this lease with thirty (30) days written notice to Tenant and Tenant's consent, which shall not be unreasonably withheld.
- 37. **Arbitration.**
 - 37.1 Any controversy or claim arising out of or relating to this lease, including, without limitation, the making, performance or interpretation of this lease, shall be settled by arbitration in Curry County, Oregon, and any Judgment

on the arbitration award may be entered in any court having Jurisdiction over the subject matter of the controversy.

- 37.2** Any party asserting a claim arising out of or relating to this lease may make a written demand for arbitration. In this event, the parties shall agree to submit their controversy to binding arbitration before a single arbitrator. The arbitrator shall be an attorney licensed to practice law in the State of Oregon. If the parties cannot agree within 30 days to the selection of a single arbitrator after the election to arbitrate, either party may request that the selection of an arbitrator be made by a Judge of the Circuit Court of the State of Oregon for Curry County. The dispute shall be heard by the arbitrator selected within 90 days thereafter, unless the parties agree otherwise.
- 37.3** The parties will pay their own costs of arbitration, and each will be obligated for one-half of the arbitrator's fee. In the event of arbitration under the provisions of this Lease, the prevailing party shall be awarded reasonable attorney fees and related costs.
- 37.4** If arbitration is commenced, the parties agree to permit discovery proceedings of the type provided by the Oregon Rules of Civil Procedure both in advance of, and during recess of, the arbitration hearings. ORS 183.450(1) through (4), where applicable, shall control the admission of evidence at the hearing in any arbitration conducted hereunder, provided however no error by the arbitrator in application of the statute shall be grounds as such for vacating the arbitrator's award. Each party shall be entitled to present evidence and argument to the arbitrator. The arbitrator shall give written notice to the parties stating the arbitration determination and shall furnish to each party a signed copy of such determination and Judgment so the award may be entered in any court having Jurisdiction over the parties. The parties agree that all facts and other information relating to any arbitration arising under this contract shall be kept confidential to the fullest extent permitted by law.
- 37.5** The parties agree that the arbitrator shall have no Jurisdiction to render an award and/or Judgment for punitive damages. The parties agree that the decision of the arbitrator shall be final and binding on the parties and a Judgment may be entered on the arbitrator's award. Unless otherwise inconsistent herewith, the provisions of ORS Chapter 36 shall apply to any arbitration hereunder. The duty to arbitrate shall survive the cancellation or termination of this contract.
- 37.6** Service of process in connection therewith shall be made by certified mail. In any judicial proceeding to enforce this agreement to arbitrate, the only issues to be determined shall be the existence of the agreement to arbitrate and the failure of one Party to comply with that agreement, and those issues shall be determined summarily by the court without a jury.

All other issues shall be decided by the arbitrator, whose decision thereon shall be final and binding. There may be no appeal of an order compelling arbitration except as part of an appeal concerning confirmation of the decision of the arbitrator.

- 37.7** Neither Party shall institute any legal proceeding against the other to enforce any right hereunder or for breach hereof, except that either Party may institute litigation (i) to enforce its rights of arbitration hereunder (ii) to confirm and have judgment entered upon any arbitration award issued hereunder, and (iii) to stay the running of any statute of limitation or prevent any other occurrence (including, without limitation, the passage of time) which would constitute laches, estoppel, waiver or any other such legal consequence that suit is necessary to avoid, provided, however, that neither Party shall pursue litigation under item (iii) beyond such action as is necessary to prevent prejudice to its cause of action pending ultimate resolution by arbitration under this Section 37.
- 37.8** If any dispute between the Parties arises from or in connection with any claim of litigation initiated by any third party (either as claimant, plaintiff, counterclaimant, or defendant/third Party plaintiff), then, unless the Parties agree otherwise, the resolution of that dispute under the arbitration provisions of this Section may at the option of either Party be deferred until the resolution of that third-party claim or litigation, provided, however that in the event of any such dispute in connection with a claim or litigation so initiated by a third party, either Party may at any time initiate arbitration under this Section 37 to determine prospective liability between the Parties upon facts which are stipulated, admitted solely for the purpose of arbitrating prospective liability, or not reasonably in dispute. The issue of whether any fact is "reasonably in dispute" under the preceding sentence shall be subject to mandatory arbitration hereunder upon the demand of either Party. In the event Landlord is made a party to such claim or litigation so initiated by a third party, Owner shall select its own counsel and have complete control over all claim or litigation decisions concerning its participation in that claim or litigation, regardless of whether Owner is required to, or in fact does, initiate a crossclaim, counterclaim, or third-party claim under Subclause (iii) of Subsection above, and regardless of Tenant's indemnity obligations under Section 9 above.

The duty to arbitrate shall survive the cancellation or termination of this lease.

DRAFT

IN WITNESS, WHEREOF, the duly authorized representatives of the parties have executed this lease as of the day and year first written above.

PORT OF BROOKINGS-HARBOR,
Landlord

ZOLA'S PIZZERIA,
Tenant

By: _____

By: _____

Name: Roy Davis

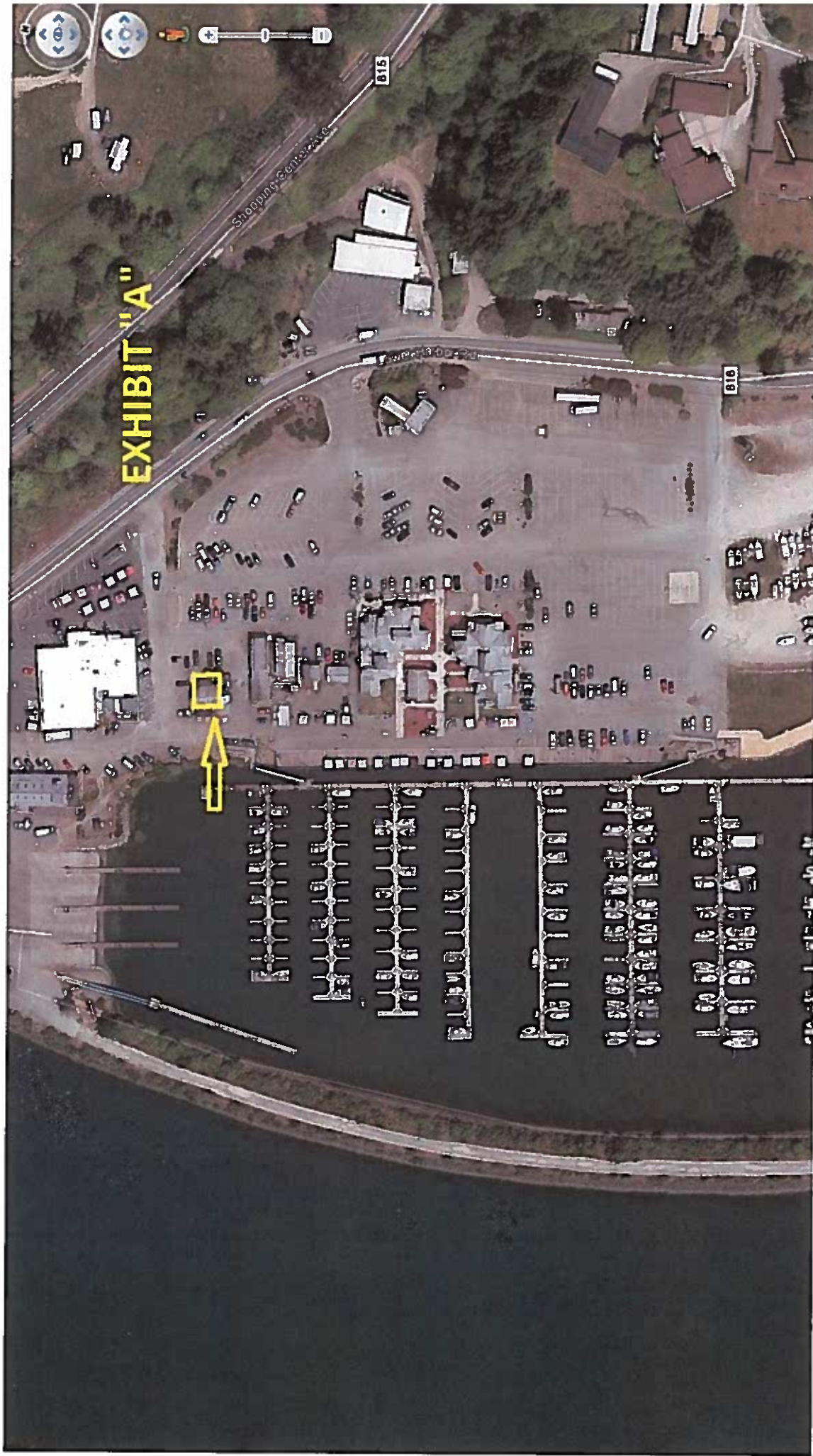
Name: _____

Title: Chairman

Title: _____

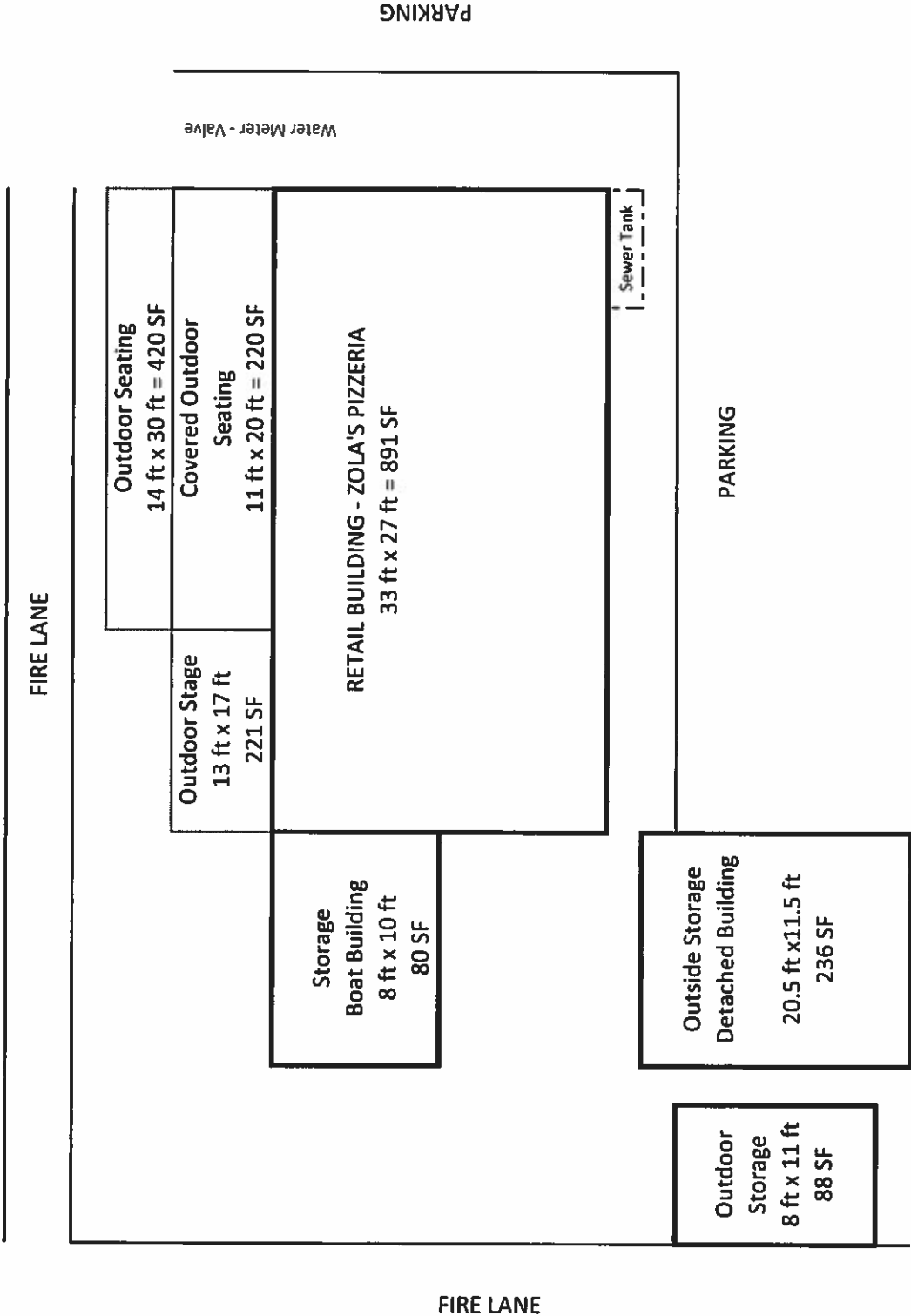
Mailing Address:

Phone _____



DRAFT

16362 Lower Harbor Road



Retail Building = 971 SF
Outdoor Seating and Stage = 861 SF
Outdoor Storage = 324 SF

DRAFT



Zola's Strategic Plan

Eian and Monica Savas



Agenda

- Boat and Shed removal
- Decreasing visibility to our outside “back of house” area
- New Building Space
- Refrigerated Container for Cold Storage
- Creating Designated Patio Space
- Summarize



Who are we?

We opened our doors in 2009 with 6 part-time employees.

We currently operate with:

- 20 employees

- 12 of those are full-time

- 3 Managers and 2 supervisors

By June we will hire 10-15 more employees bringing our total to 30-35.

- Learning environment for continued growth

- Community involvement

- Passion for providing an environment for people to bring their families, as well as a place for people to want to work



Current Struggles

- **Boat Leaks**
 - Tough to maintain cleanliness
 - Difficult to control temperature
 - Decreases our storage capacity
 - Delivery minimums create challenges to ordering when unable to store large amounts of product
- **View of the propane tanks and outdoor "back of house"**
 - Limited space for employees to break during shift on property
- **Current Walk-in**
 - Old
 - Difficult to maintain temperature without increased usage of cooling unit
 - Unable to keep up with our increasing demand
- **Patio Space**
 - Difficult to show separation from seating and driving
 - Visually not appealing
 - Picnic Tables
 - Separation of customers and Parking lot/Drive around space
 - Creative parking outside of designated spaces
- **Difficult time adding dessert options**
- **Increased Sandwich Sales**
 - As our sales increase, our options are limited for space. This is a daily struggle that becomes more demanding when we have large catered events that require set up time and planning.
- **Off-site storage with Refrigeration and supplies**



Project Vision

- To Creatively Create space within our property to increase our productivity while providing the opportunity to create more jobs.



Budgetary Costs

- Labor 2K
- Walk-in Cooler 15K
- Building 10K
- Electrician – TBD
- Plumber – TBD
- Misc-



Phase 1

- Remove Boat from property
 - All current items stored in boat will be moved to the new building.
- Install entry door
- Remove small shed from property
- Increase the size of the current fence from 4' 5" to 7'

All work completed by a licensed contractor

Boat



Small Storage Shed





Fence

Currently at 4' 5" - Would like to increase it to 7'





Phase 2

- Install refrigerated container (20'x10') in the location of where the boat and small shed were located.

- Estimated time to install is 24-48 hours
 - Deliver and set up
 - Complete electrical work

Refrigerated Container





Phase 3

- Decrease size of current stage and change location
 - This will allow sound to be projected toward the highway
- Build a 3' fence to enclose our patio.
 - Will create space between the driving area and the sitting area
 - Increased visibility to designated parking area
 - Allow a more comfortable environment for our customer

- Estimated time to install is 24-48 hours

Patio Designation





The New Building

- What has been completed?
 - Met with the Fire Chief to discuss plans and address any concerns
 - Leveled and placed on support frame
 - Skirting installed
 - Staircase installed to entry door
 - Beginning stages of moving supplies over
- What is next?
 - Paint building to match current building
 - Electrical
 - Plumbing
- Current Plan
 - Increased storage space
 - Refrigeration units for cold items placed
 - Copy machine added for paperwork
 - Move home office to the new building
- Future Plan
 - Create more space for our sandwich set up as this item increases in demand
 - Create space to offer soups in the winter
 - This will allow us to Store and prepare this new menu item
 - Create space to offer desserts
 - This will allow us the space to store product and prepare a new menu item

New Building





Summary

We need to continue to grow with our business in order to be successful.
We are creative with the space we currently have.

We are passionate about our culture to develop individuals to be successful.

This increased space will create more jobs and allow us to be more productive.

New Business Item F

Subject: J. Sloane Lease - Action

About: Updating J. Sloane lease to be current. Owner of J. Sloane, Tabitha, would like to speak.

J SLOANE HAIR STUDIO

TO: Port of Brookings Harbor Co

RE: Excess Lease Charge for J Sloane Hair Studio

FROM: Tabitha Wilson, Lessee

March 13, 2017

Dear Board:

I am respectfully requesting information on why I am being charged more for my lease than the tenants adjacent to my salon.

\$1.316 / SF	New lease agreement
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\$1.05 / SF	Adjacent neighbors
-------------	--------------------

25.33%	Extra charge
--------	--------------

According to my records, over the past 4 years I've paid \$50,979 in rent.

25.33% = \$12,913 Excess payment over 4 year

As I have expressed to Gary, I have always enjoyed owning a business at the port and being part of the family. However, I am very saddened that had I not stumbled on to this error, it would have continued on. Please understand how discouraged I feel right now.

Best regards,


Tabitha Wilson

COMMERCIAL LEASE AGREEMENT

DRAFT

This lease is made and entered into at Brookings, Oregon this 1st day of April 2017, by and between the **Port of Brookings Harbor** (the Landlord) and **Tabitha Wilson** (the Tenant) dba J Sloane Hair Studio LLC.

1. **Leased Premises.** Landlord hereby leases to Tenant the following described properties located in the Port of Brookings Harbor on the terms and conditions stated below:

- a. A commercial retail space, as shown in Exhibit "A" and "B", attached hereto and incorporated herein by this reference (the "Leased Premises").

2. **Lease Term and Base Rental.**

- a. Landlord hereby leases to Tenant approximately 835 square-feet of commercial retail space, (the Leased Premises, as shown in Exhibit A & B), located at 16340 Suite 105, Lower Harbor Road, Brookings, Oregon. The Leased Premises contains Eight Hundred Thirty-Five (835) square feet of retail commercial space. The Base Rental for the Leased Premises shall be as follows:

1. The rental rate for the retail commercial space shall be \$1.25 per month for a total of One Thousand Forty-Three and 75/100 Dollars per month (\$1,043.75);

The initial term of this lease shall be for a term of three (3) years commencing April 1, 2017 and continuing through March 31, 2020.

The total Base Rental for the Leased Premises shall be One Thousand Forty-Three and 75/100 Dollars (\$1,043.75) per month, as calculated above, payable on the first day of each month commencing April 1, 2017.

- b. Upon termination of the initial term of this lease, Landlord grants to Tenant the option to renew this lease in whole or in part of the Leased Premises, for one (1) additional three (3) year term at terms and conditions to be negotiated, provided Tenant a) is not in default of this lease at the time the option is exercised and b) Landlord does not need the ground for its own use and c) Landlord is otherwise satisfied with Tenant's

use of the leased premises during the initial term. The parties agree to negotiate in good faith with respect to the renewal terms and conditions on terms at least as favorable as those offered to any other tenant of Landlord at the time.

- c. Tenant shall notify the Landlord in writing ninety (90) days prior to expiration of the lease of tenant's intent to exercise all or any portion of Tenant's option to extend the lease. Failure to provide such notice is a default and a material breach of the lease and Landlord may terminate the lease on the expiration date and retake possession of the Leased Premises with or without process of law.

- 3. **Base Rent Payment.** Tenant shall pay the base rent for the leased Premises and any additional rent provided herein without deduction or offset. The Base rent shall increase annually, on each anniversary of the lease commencement for the second and each subsequent year, according to the Consumer Price Index for All Urban Consumers (CPI-U). The Base Rent increase shall be for the total amount of the Base Rent due. Base rent shall include all prior percentage increases.

Rent for any partial month during the lease term shall be prorated to reflect the number of days during the month that Tenant occupies the Premises.

Additional rent means any other sums payable by Tenant to Landlord under this lease. At the end of the Lease agreement, a new Base Rent will be established. Should any rent or other payment required of Tenant by this lease not be paid within 10 days after it is due, a late charge of 1.5% per month (18% per annum) will be assessed. In the event, suit or action is instituted to collect any amount owed on this account, the undersigned applicant agrees to pay any reasonable attorney fees, collection agency fees and any other costs associated with such action. A \$50.00 fee will be assessed on any Returned payment.

- 4. **Lease Consideration/Security Deposit.** Upon execution of the lease, Tenant base rent is due the first day of the month of the lease term for which rent is payable. Tenant is required to pay a security deposit in the sum of \$1,043.75. Landlord may apply the security deposit to pay the cost of performing any obligation which Tenant fails to perform within the time required by this lease, but such application by Landlord shall not be the exclusive remedy for Tenant's default. If the security deposit is applied by the Landlord, Tenant shall on demand pay the sum necessary to replenish the

security deposit to its original amount. To the extent not applied by Landlord to cure defaults by Tenant, the security deposit shall be returned to Tenant upon termination of this lease, or, by mutual agreement between Landlord and Tenant, applied against the rent payable for the last month of the term.

5. **Use.** Tenant shall use the Leased Premises for hair and nail salon and for no other purpose without Landlord's written consent. In connection with its use of the Leased Premises, Tenant shall at its expense promptly comply with all applicable laws, ordinances, rules and regulations of any public authority, including those of the Port of Brookings Harbor, and not unreasonably annoy, obstruct or interfere with the rights of other tenants of the Port of Brookings Harbor, wherever located. Tenant shall not create or maintain any nuisance or any objectionable fumes, noise, or vibrations while using the Leased Premises.
6. **Equipment.** Tenant shall install in the Leased Premises only such equipment as is customary for the intended *use* and shall not overload the floors or electrical circuits of the Leased Premises or alter the plumbing or wiring of the Leased Premises, without the written consent of Landlord. Landlord must approve, in advance, the location and manner of installing any electrical, heat generating or communication equipment or exceptionally heavy articles. Any equipment installed by Tenant shall remain Tenant's property and shall be installed and operated at Tenant's expense. Any air conditioning required because of heat generating equipment or special lighting installed by Tenant shall be installed and operated at Tenant's expense.
7. **Sign.** No signs, awnings, antennas, or other apparatus shall be positioned as to be visible from outside the Leased Premises without Tenant obtaining Landlord's prior written approval as to design, size, location, and color. All signs installed by Tenant shall comply with Landlord's standards for signs, and all applicable codes and signs and sign hardware shall be removed upon termination of this lease with the sign location restored to its formal state unless Landlord elects to retain all or any portion thereof.
8. **Utilities and Services.** Landlord shall furnish all utilities up to the Leased Premises and Tenant shall be directly responsible for any and all electrical charges or fees for electrical service, and shall make arrangements to be billed directly from the local electric co-op (Coos-Curry Electric Cooperative, Inc.). Tenant shall make the necessary arrangements to have a meter installed in the name of Tenant for billing purposes. Tenant shall comply with all

government laws or regulations regarding the use or reduction of use of utilities on the Leased Premises. Unless caused by Landlord's negligence or intentional act, interruption, limitation, curtailment, or rationing of services or utilities shall not be deemed an eviction or disturbance of Tenant's use and possession of the Leased Premises, render Landlord liable to Tenant for damages, or relieve Tenant from performance of Tenant's obligations under this lease, and Landlord shall take all reasonable steps to correct any interruption in service.

9. Maintenance and Repair - Tenant

- a. Tenant is at all times during the term of this lease, and at Tenant's sole cost and expense, obligated to keep the entire of the Leased Premises and every part thereof in good condition and repair; ordinary wear and tear and damage to the Leased Premises by earthquake, act of God, or the elements. Landlord has no obligation and has made no promise to alter, remodel, improve, repair, decorate, or paint the Leased Premises or any part thereof. Landlord shall have the right to erect scaffolding and other apparatus necessary for the purpose of making repairs, and Landlord shall have no liability for interference with Tenant's use because of repairs and installations. Tenant shall have no claim against Landlord for any interruption or reduction of services or interference with Tenant's occupancy, and no such interruption or reduction shall be construed as a constructive or otherwise eviction of Tenant. Repair of damage caused by negligent or intentional acts or breach by this lease by Tenant, its employees or invitees shall be at Tenant's expense.
- b. Tenant shall be responsible for any repairs necessitated by the negligence of Tenant, its agents, employees, and invitees, except repairs that would otherwise be the responsibility of Landlord under Section 10 or Section 15.
- c. Tenant is responsible for all other repairs to the Leased Premises which Landlord is not required to make under Section 10 or Section 15.
- d. If Tenant fails to perform Tenant's obligations under this Section 9 or under any other Section of this lease, Landlord may enter upon the affected portion of the Leased Premises after ten (10) days' prior written notice to Tenant (except in case of emergency, in which no notice shall be required),

perform such obligations on Tenant's behalf and put the Leased Premises in good order, condition and repair, and the cost thereof together with interest thereon at the maximum rate then allowable by law shall be due and payable as additional rent to Landlord together with Tenant's next Base Rent installment.

- e. On the last day of the term hereof, or on any sooner termination, Tenant shall surrender the Leased Premises to Landlord in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Any damage or deterioration of the Leased Premises shall not be deemed ordinary wear and tear if the same could have been prevented by commercially reasonable maintenance practices. Tenant shall leave the air-lines, power panels, electrical distribution systems, lighting fixtures, space heaters, air conditioning, plumbing and fencing which were on the Leased Premises prior to the commencement of the lease, in good operating condition.

10. Maintenance and Repair - Landlord's Obligations. The following shall be the responsibility of Landlord:

- a. Provide adequate means of ingress and egress to the Leased Premises.
- b. Provide access to a water supply and electricity.
- c. Repair and maintenance of existing exterior water, sewage, and electrical services up the point of entry to the Leased Premises.
- d. Repair and maintain any structural element, that does not meet the definition of Major Damage as provided in Section 15, with respect to the Leased Premises.

11. Alterations. Tenant shall not make any alterations, additions, or improvements to the Leased Premises without Landlord's prior written consent. Any such additions, alterations, or improvements, except for removable machinery and trade fixtures, and approved additions shall at once become part of the realty and belong to the Landlord. Landlord may at its option require that Tenant remove any alterations and restore the Leased Premises to the original condition upon termination of this lease. Landlord shall have the right to approve the contractor used by Tenant for any work in the Leased Premises, and to post notices of non-responsibility in

connection with any work being performed by Tenant in the Leased Premises. Any approved tenant improvement costs to building structure or Port infrastructure within the Lease Premises may be credited up to 50% of the base lease rate.

- 12. Indemnity.** Tenant shall not allow any liens to attach to the Leased Premises or Tenant's interest in the Leased Premises as a result of its activities. In the event that a materialman, mechanic's, or other lien is filed, or a claim of lien is made for work claimed to have been done for Tenant, Landlord will have the option in its sole discretion to require Tenant to post a Surety Bond within ten (10) days at Tenant's expense or to pay and discharge the lien, and Tenant agrees to reimburse Landlord promptly upon demand. These Landlord remedies are not exclusive as Landlord has other remedies as provided by law including requiring Tenant to pay for Landlord's attorney fees and costs relating to any such lien.

Except as otherwise stated herein, Tenant hereby waives all claims against Landlord for damage to any property or injury, illness, or death of any person in, upon, or about the Leased Premises arising at any time and from any cause whatsoever other than by reason of the willful act of Landlord, its officers, employees, invitees, licensees or agents. Tenant shall defend, indemnify and hold Landlord harmless from any and all claims or liability for damage to any property or injury, illness, or death of any person (a) occurring in or on the Leased Premises or any part thereof arising at any time and from any cause whatsoever other than by reason of the willful act of Landlord, its officers, employees, invitees, licensees or agents; or (b) occurring in, on, or about any part of the Leased Premises when such damage, injury, illness, or death shall be caused by the act, negligence, omission, or fault of Tenant, its agents, servants, employees, invitees, or licensees. Except as otherwise stated herein, Landlord shall have no liability to Tenant because of loss or damage caused by the acts or omissions of other tenants of Landlord, or by third parties. The provisions of this paragraph shall survive the termination of this lease with respect to any damage, injury, illness, or death occurring prior to such termination.

- 13. Insurance.** Tenant shall carry liability insurance and fire insurance with limits of not less than Two Million Dollars (\$2,000,000) combined single limit bodily injury and property damage, for injury or death of persons and damage to or loss or destruction of property. Such insurance shall be endorsed to name the Port of Brookings Harbor (Landlord) and Landlord's agent, if any, as an additional insured and additional loss payee and shall contain a

“severability of interests” provision. Such insurance shall cover the liability insured under this Lease. All coverage shall be on an occurrence basis and not on a claim made basis. All policies required by this section shall be endorsed to provide a waiver of subrogation in favor of the Port of Brookings Harbor.

Tenant shall furnish a certificate evidencing such insurance which shall state that the coverage shall not be cancelled or materially changed without fourteen (14) days advance notice to Landlord and Landlord’s agent, if any, and a renewal certificate shall be furnished at least fourteen (14) days prior to expiration of any policy. Tenant shall be responsible to Landlord, and shall reimburse and hold Landlord harmless for any bodily injury, fire, or property damage not covered by insurance.

- 13.1** Tenant shall furnish certificates of insurance to Port’s General Manager, P.O. Box 848, Brookings, Oregon 97415 certifying the existence of such insurance. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in coverage or limits or not renewed without fourteen (14) days advance written notice to the Landlord and Landlord’s agent, if any, and a renewal certificate shall be furnished at least 14 days prior to the expiration of any policy.
- 13.2** The insurance required herein shall be primary and without right of contribution from other insurance that may be in effect and without subordination. Any other insurance carried by the Landlord is excess. The insurance policies must be underwritten by a company licensed in the state of Oregon, and carry a minimum Best’s rating of “A-VI or better. Tenant shall furnish the Landlord with certificates of insurance showing compliance with these insurance provisions no later than five (5) days prior to commencement of this Lease. Tenant shall be responsible for any deductible amounts payable under all policies of insurance.
- 13.3** Landlord reserves the right to review, investigate and reject insurance companies proposed to be sued by Tenant if they are determined inadequate to provide necessary coverage’s as herein specified. All insurance required by this Agreement to be purchased and maintained by Tenant shall be obtained from an insurance company licensed or authorized in the State of Oregon to issue the insurance policies for the limits and coverage’s required herein.
- 13.4** If Tenant’s policies lapse or are canceled at any time during the term of this Contract, Landlord shall have the right to immediately terminate Tenant’s lease until such insurance requirements have

been fully satisfied by Tenant. Tenant shall be responsible to Landlord, and shall reimburse and hold Landlord harmless for any bodily injury, fire or property damage not covered by Tenant's insurance.

14. Exemption of Landlord from Liability

Tenant hereby agrees that Landlord shall not be liable for injury to Tenant's business or any loss of income therefrom or for damage to the goods, wares, merchandise or other property of Tenant, Tenant's employees, invites, customers, or any other person in or about the Leased Premises or the Port, nor shall Landlord be liable for injury to the person of Tenant, Tenant's employees, agents or contractors, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, wires or lighting fixtures, or from any other cause, whether said damage or injury results from conditions arising upon the Leased Premises or upon other portions of the Port, or from other sources or places and regardless of whether the cause of such damage or injury or the means of repairing the same is inaccessible to Tenant. Landlord shall not be liable for any damages arising from any act or neglect of any other tenant, occupant or user of the Port, nor from the failure of Landlord to enforce the provisions of any other lease of the Port.

- 15. Major Damage.** Major damage means damage by fire or other casualty to the Leased Premises that causes the Leased Premises or any substantial portion of the Leased Premises to be unusable, or which will cost more than twenty-five percent (25%) of the pre-damage value of the Leased Premises to repair, or which is not covered by insurance. In case of major damage, Landlord or Tenant may elect to terminate this lease by notice in writing to the other party within thirty (30) days after such date. If this lease is not terminated following major damage, or if damage occurs that is not major damage, Landlord shall promptly restore the Leased Premises to the condition existing just prior to the damage, with the exception of damage to Tenant improvements. Restoration of any Tenant improvements or alterations installed by Tenant, and the costs thereof, shall be the responsibility of the Tenant. Rent shall be reduced from the date of damage until the date restoration work being performed by the Landlord is substantially complete, with the reduction to be in proportion to the area of the Leased Premises not useable by Tenant.

- 16. Waiver of Subrogation.** Tenant shall be responsible for insuring its personal property and trade fixtures located on the Leased

Premises and any alterations or Tenant improvements it has made to the Leased Premises. Neither Landlord nor Tenant shall be liable to the other for any loss or damage caused by any of the risks that are or could be covered by a standard all risk insurance policy with the extended coverage endorsement, or for any business interruption, and there shall be no subrogated claims by one party's insurance carrier against the other party arising out of any loss.

17. **Eminent Domain.** If a condemning authority takes title by eminent domain or by agreement in lieu thereof to the entire Leased Premises or a portion sufficient to render the Leased Premises unsuitable for Tenant's use, then either party may elect to terminate this lease effective on the date that possession is taken by the condemning authority; provided, however, that a condition to the exercise by Tenant of such right to terminate shall be that the portion of the Leased Premises taken shall be of such extent and nature as to substantially handicap, impede, or impair Tenant's use of the balance of the Leased Premises for the purpose intended. Rent shall be reduced for the remainder of the term in an amount proportionate to the reduction in area of the Leased Premises caused by the taking. All condemnation proceeds shall belong to Landlord, and Tenant shall have no claims against Landlord or the condemnation award because of the taking.
18. **Assignment and Subletting.** This lease shall bind and inure to the benefit of the parties, their respective heirs, successors, and assigns, provided that Tenant shall not assign its interest under this lease or sublet all or any portion of the Leased Premises without first obtaining Landlord's consent in writing. This provision shall apply to all transfers by operation of law including but not limited to mergers and changes in control of Tenant. No assignment shall relieve Tenant of its obligation to pay rent or perform other obligations required by this lease and no consent to one assignment or subletting shall be consent to any further assignment or subletting. Landlord shall not unreasonably withhold or delay its consent to any assignment, or to subletting, accepting that the proposed Tenant has been approved by Landlord in writing.

A new base rent may be established for the remainder of the lease at the sole option of the Landlord. If Tenant proposes a subletting or assignment to which Landlord is required to consent under this paragraph, Landlord shall have the option of terminating this lease and dealing directly with the proposed sub-tenant or assignee, or any third party. If an assignment or subletting is permitted, any cash profit, or the net value of any other consideration received by Tenant as a result of such transaction shall be paid to Landlord

promptly following its receipt by Tenant. Tenant shall pay any costs incurred by Landlord in connection with a request for assignment or subletting, including reasonable attorney fees.

19. Default.

a. Any of the following shall constitute a default by Tenant under this lease:

1. Tenant's failure to pay rent or any other charge under this lease within ten (10) days after its due, or failure to comply with any other term or condition within twenty (20) days following written notice from Landlord specifying the noncompliance. If such noncompliance cannot be cured within the 20-day period, this provision shall be satisfied if Tenant commences correction within such period and thereafter proceeds in good faith and with reasonable diligence to effect compliance as soon as possible. Time is of the essence of this lease.
2. Tenant's insolvency, business failure or assignment for the benefit of its creditors. Tenant's commencement of proceedings under any provision of any bankruptcy or insolvency law or failure to obtain dismissal of any petition filed against it under such laws within the time required to answer, or the appointment of a receiver for Tenant's property.
3. Assignment or subletting by Tenant in violation of Section 18 above.
4. Vacation or abandonment of the Leased Premises for more than three (3) months without the written consent of Landlord.
5. If this Lease is levied upon under any attachment or execution and such attachment or execution is not vacated within ten (10) days.

20. Remedies for Default. In case of default as described in Section 19 above, Landlord shall have the right to the following remedies which are intended to be cumulative and in addition to any other remedies provided under applicable law.

- a. Landlord may terminate the lease and reenter and retake possession of the Leased Premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages. Following such retaking of possession, efforts by Landlord to relet the Leased Premises shall be sufficient if Landlord follows its usual procedures for finding tenants for the Leased Premises at rates not less than the current rates for other comparable space on Port property. If Landlord has other vacant space available, prospective tenants may be placed in such other space without prejudice to Landlord's claim to damages to loss of rentals from Tenant.
 - b. Landlord may recover all damages caused by Tenant's default which shall include an amount equal to rentals lost because of the default, all attorney fees and costs. Landlord may sue periodically to recover damages as they occur throughout the lease term, and no action for accrued damages shall bar a later action for damages subsequently accruing. Landlord may elect in any one action to recover accrued damages plus damages attributable to the remaining term of the lease. Such damages shall be measured by the difference between the rent under this lease and the reasonable rental value of the Leased Premises for the remainder of the term, discounted to the time of judgment at the prevailing interest rate on judgments.
 - c. Landlord may make any payment or perform any obligation which Tenant has failed to perform, in which case Landlord shall be entitled to recover from Tenant upon all demand all amounts so expended plus interest from the date of the expenditure at the rate of one and one-half percent (1.5%) per month. Any such payment or performance by Landlord shall not waive Tenant's default.
- 21. Regulations.** Landlord shall have the right (but shall not be obligated) to make, revise, and enforce commercially reasonable regulations or policies consistent with this lease for the purpose of promoting safety, order, economy, cleanliness, and good service to all tenants of the Landlord, provided that if Landlord passes a regulation or policy that interferes with Tenant's quiet enjoyment or unreasonably interferes with Tenant's use of the Leased Premises, then Tenant may terminate this lease. All such regulations and policies shall be complied with as if part of this lease.

22. **Access.** During times, other than normal business hours Tenant's officers and employees or those having business with Tenant may be required to identify themselves or show passes in order to gain access to the Leased Premises. In such event, Landlord shall have no liability for permitting or refusing to permit access to anyone. With reasonable notice to Tenant, Landlord shall have the right to enter upon the Leased Premises at any time by passkey or otherwise to determine Tenant's compliance with this lease, to perform necessary services, maintenance and repairs to the Leased Premises, or to show the Leased Premises to any prospective tenant or purchasers. Except in case of emergency such entry shall be with at least 24 hours prior notice and at such times and in such manner as to minimize interference with the reasonable business use of the Leased Premises by Tenant.
23. **Notices.** Notices to the parties relating to the lease shall be in writing, effective when delivered, or if mailed, effective on the second day following mailing, postage prepaid, to the address for the party stated in this lease or to such other address as either party may specify by notice to the other. Notice to Tenant may always be delivered to the Leased Premises. Rent shall be payable to Landlord at the same address and in the same manner, but shall be considered paid only when received.
24. **Subordination.** This lease shall be subject and subordinate to any mortgages, deeds of trust, or land sale contracts (hereafter collectively referred to as encumbrances) now existing against the Leased Premises. At Landlord's option this lease shall be subject and subordinate to any future encumbrance hereafter placed against the Leased Premises (including the underlying land) or any modifications of existing encumbrances, and Tenant shall execute such documents as may reasonably be requested by Landlord or the beholder of the encumbrance to evidence this subordination.
25. **Transfer of Premises.** If the Leased Premises is sold or otherwise transferred by Landlord or any successor, Tenant shall attorn to the purchaser or transferee and recognize it as the Landlord under this lease, and, provided the purchaser assumes all obligations hereunder, the transferor shall have no further liability hereunder.
26. **Estoppel.** Either party will within twenty (20) days after notice from the other execute, acknowledge and deliver to the other party a certificate whether or not this lease has been modified and is in full force and effect, whether there are any modifications or alleged breaches by the other party; the dates to which rent has been paid in advance, and the amount of any security deposit or prepaid rent;

and any other facts that may be reasonably requested. Failure to deliver the certificate within the specified time shall be conclusive upon the party of whom the certificate was requested that the lease is in full force and effect and has not been modified except as may be represented by the party requesting the certificate. If requested by the holder of any encumbrance or any ground lessor, Tenant will agree to give such holder or lessor notice of and an opportunity to cure any default by Landlord under this lease. Unresolved good faith disputes between Landlord and Tenant shall be resolved pursuant to mandatory binding arbitration as provided herein.

27. **Attorney's Fees.** In the event, any action, suit, arbitration or other proceeding shall be instituted by either party to this Lease to enforce any provision of this Lease or any matter arising therefrom or to interpret any provision of this Lease, including any proceeding to compel arbitration, the prevailing party shall be entitled to recover from the other a reasonable attorney fee to be determined by the Court or Arbitrator(s). In addition to recovery of a reasonable attorney fee, the prevailing party shall be entitled to recover from the other costs and disbursements, including all costs of Arbitration and the Arbitrator(s) fees, and expert witness fees, as fixed by the Court or tribunal in which the case is heard.

In the event, any such action, suit, arbitration or other proceeding is appealed to any higher court or courts, the prevailing party shall recover from the other a reasonable attorney fee for prosecuting or defending such appeal or appeals, in addition to the reasonable attorney fees in the lower court, or courts, or arbitration proceeding, such fee to be determined by the appellate court or lower court or arbitrator, as the appellate court may determine. In addition to recovery of a reasonable attorney fee on appeal, the prevailing party shall be entitled to recover from the other costs and disbursements and expert witness fees as fixed by the appellate court. All costs and disbursements which may be awarded pursuant to this paragraph shall bear interest at the maximum legal rate from the date they are incurred until the date they are paid by the losing party.

28. **Quiet Enjoyment.** Landlord warrants that so long as Tenant complies with all material terms of this lease, it shall be entitled to peaceable and undisturbed possession of the Leased Premises free from any eviction or disturbance by Landlord. Landlord shall have no liability to Tenant for loss or damages arising out of the acts of other tenants of Port property or third parties, nor any liability for any reason which exceeds the value of its interest in the Leased Premises.

29. **Complete Agreement.** This lease and the attached Exhibits constitute the entire agreement of the parties and supersede all prior written and oral agreements and representations. Neither Landlord nor Tenant is relying on any representations other than those expressly set forth herein. Any modification to this lease must be in writing and signed by both parties.
30. **Nonwaiver.** Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice of the party's right to require strict performance of the same provision in the future or of any other provision.
31. **Real Property Taxes.**
- a. **Payment of Taxes.** Tenant shall pay the real property tax, if any, as defined in paragraph 31.c. below applicable to Tenant's portion of the Port as represented by the lease.
 - b. **Additional Improvements.** Tenant shall be responsible for paying Tenant's share of any increase in real property tax specified in the Tax Assessor's records and work sheets as being caused by additional improvements placed upon the Leased Premises by Tenant or by Landlord for the use by Tenant.
 - c. **Definition of "Real Property Tax".** As used herein, the term "real property tax" shall include 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.
32. **Severability.** The invalidity of any provision of this lease as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provisions herein.
33. **Time of Essence.** Time is of the essence with respect to the obligations to be performed under this Lease.

34. **Security Measures.** Each party acknowledges that they shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the other party or their property. Each party assumes all responsibility for the protection of itself, its agents and invitees and its property from acts of third parties. Nothing herein contained shall prevent Landlord, at Landlord's sole option from providing security protection for the Port or any part thereof.
35. **"As-is".** This lease is not subject to any implied warranties, but is leased "as is".
36. **Parking.** Landlord reserves the right to reassign parking spaces provided to Tenant at any time during the period of this lease with thirty (30) days written notice to Tenant and Tenant's consent, which shall not be unreasonably withheld.
37. **Arbitration.**
- 37.1 Any controversy or claim arising out of or relating to this lease, including, without limitation, the making, performance or interpretation of this lease, shall be settled by arbitration in Curry County, Oregon, and any Judgment on the arbitration award may be entered in any court having Jurisdiction over the subject matter of the controversy.
- 37.2 Any party asserting a claim arising out of or relating to this lease may make a written demand for arbitration. In this event, the parties shall agree to submit their controversy to binding arbitration before a single arbitrator. The arbitrator shall be an attorney licensed to practice law in the State of Oregon. If the parties cannot agree within 30 days to the selection of a single arbitrator after the election to arbitrate, either party may request that the selection of an arbitrator be made by a Judge of the Circuit Court of the State of Oregon for Curry County. The dispute shall be heard by the arbitrator selected within 90 days thereafter, unless the parties agree otherwise.
- 37.3 The parties will pay their own costs of arbitration, and each will be obligated for one-half of the arbitrator's fee. In the event of arbitration under the provisions of this Lease, the prevailing party shall be awarded reasonable attorney fees and related costs.
- 37.4 If arbitration is commenced, the parties agree to permit discovery proceedings of the type provided by the Oregon Rules of Civil Procedure both in advance of, and during recess of, the arbitration hearings. ORS 183.450(1) through (4), where applicable, shall control the admission of evidence at the hearing in any arbitration

conducted hereunder, provided however no error by the arbitrator in application of the statute shall be grounds as such for vacating the arbitrator's award. Each party shall be entitled to present evidence and argument to the arbitrator. The arbitrator shall give written notice to the parties stating the arbitration determination and shall furnish to each party a signed copy of such determination and Judgment so the award may be entered in any court having Jurisdiction over the parties. The parties agree that all facts and other information relating to any arbitration arising under this contract shall be kept confidential to the fullest extent permitted by law.

- 37.5** The parties agree that the arbitrator shall have no Jurisdiction to render an award and/or Judgment for punitive damages. The parties agree that the decision of the arbitrator shall be final and binding on the parties and a Judgment may be entered on the arbitrator's award. Unless otherwise inconsistent herewith, the provisions of ORS Chapter 36 shall apply to any arbitration hereunder. The duty to arbitrate shall survive the cancellation or termination of this contract.
- 37.6** Service of process in connection therewith shall be made by certified mail. In any judicial proceeding to enforce this agreement to arbitrate, the only issues to be determined shall be the existence of the agreement to arbitrate and the failure of one Party to comply with that agreement, and those issues shall be determined summarily by the court without a jury. All other issues shall be decided by the arbitrator, whose decision thereon shall be final and binding. There may be no appeal of an order compelling arbitration except as part of an appeal concerning confirmation of the decision of the arbitrator.
- 37.7** Neither Party shall institute any legal proceeding against the other to enforce any right hereunder or for breach hereof, except that either Party may institute litigation (i) to enforce its rights of arbitration hereunder (ii) to confirm and have judgment entered upon any arbitration award issued hereunder, and (iii) to stay the running of any statute of limitation or prevent any other occurrence (including, without limitation, the passage of time) which would constitute laches, estoppel, waiver or any other such legal consequence that suit is necessary to avoid, provided, however, that neither Party shall pursue litigation under item (iii) beyond such action as is necessary to prevent prejudice to its cause of action pending ultimate resolution by arbitration under this Section 37.
- 37.8** If any dispute between the Parties arises from or in connection with any claim of litigation initiated by any third party (either as claimant, plaintiff, counterclaimant, or defendant/third Party plaintiff), then, unless the Parties agree otherwise, the resolution of that dispute under the arbitration provisions of this Section may at the option of

either Party be deferred until the resolution of that third-party claim or litigation, provided, however that in the event of any such dispute in connection with a claim or litigation so initiated by a third party, either Party may at any time initiate arbitration under this Section 37 to determine prospective liability between the Parties upon facts which are stipulated, admitted solely for the purpose of arbitrating prospective liability, or not reasonably in dispute. The issue of whether any fact is "reasonably in dispute" under the preceding sentence shall be subject to mandatory arbitration hereunder upon the demand of either Party. In the event Landlord is made a party to such claim or litigation so initiated by a third party, Owner shall select its own counsel and have complete control over all claim or litigation decisions concerning its participation in that claim or litigation, regardless of whether Owner is required to, or in fact does, initiate a crossclaim, counterclaim, or third-party claim under Subclause (iii) of Subsection above, and regardless of Tenant's indemnity obligations under Section 9 above.

The duty to arbitrate shall survive the cancellation or termination of this lease.

IN WITNESS, WHEREOF, the duly authorized representatives of the parties have executed this lease as of the day and year first written above.

PORT OF BROOKINGS-HARBOR,
Landlord

J Sloane Hair Studio LLC,
Tenant

By: _____

By: _____

Name: Roy Davis

Name: _____

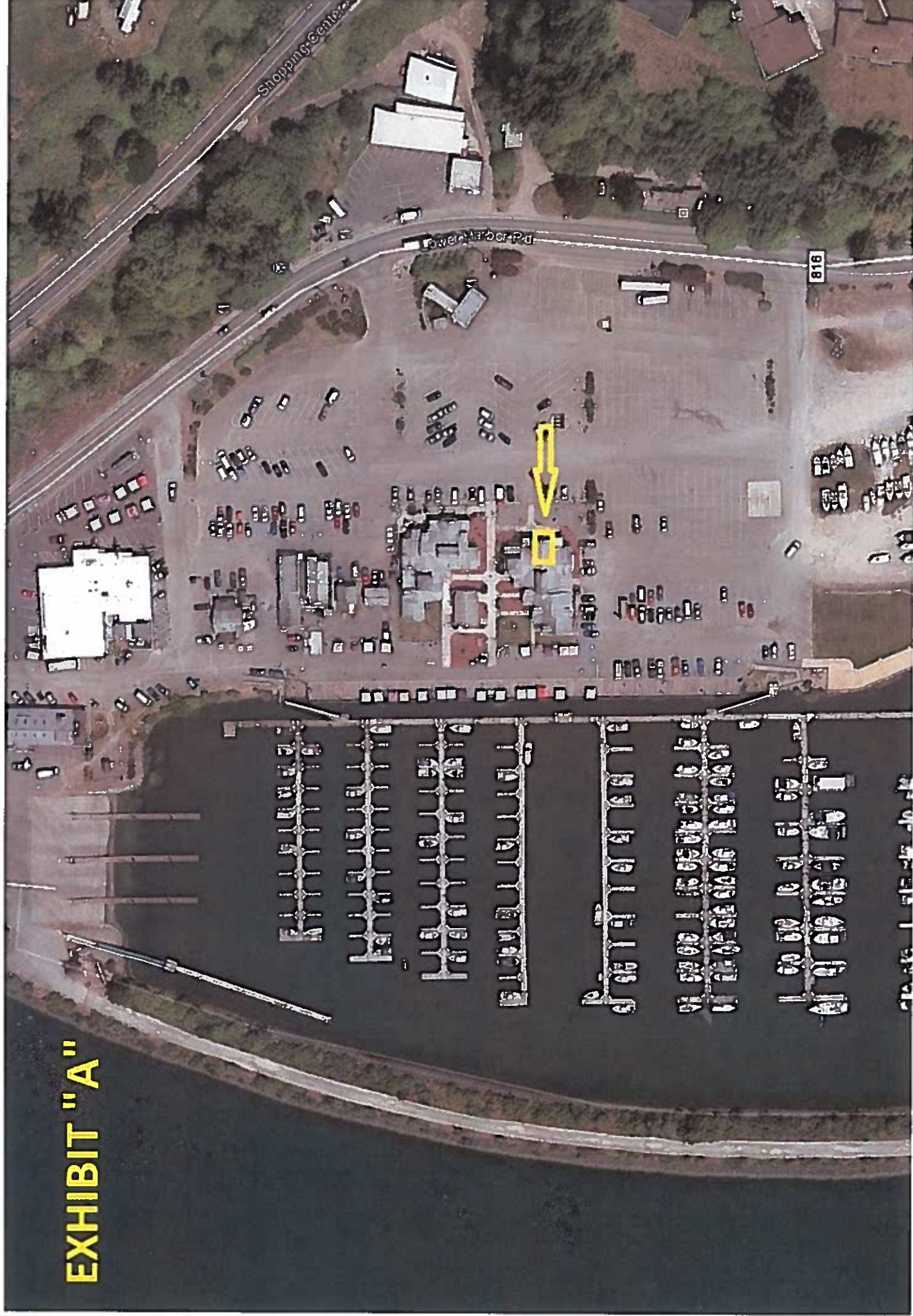
Title: Chairman

Title: _____

Mailing Address:

Phone _____

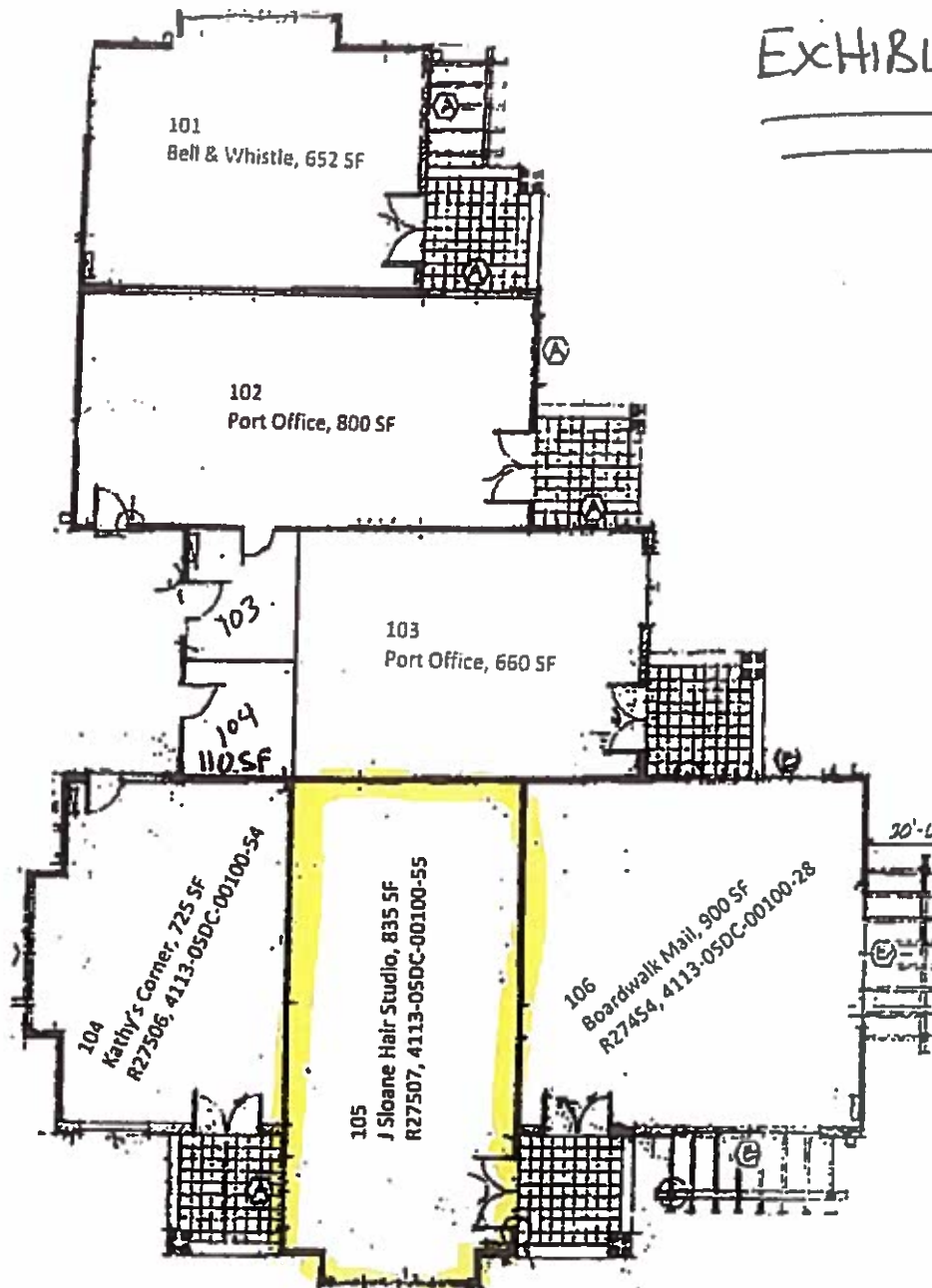
EXHIBIT "A"



DRAFT

EXHIBIT "B"

DRAFT



Building 1
16340 Lower Harbor Road

New Business Item G

Subject: Vendors at the RV Park - Action

About: We have received a request from a Mr. Miller, he would like to operate a hot dog/BBQ cart located down at the RV park area. Does the Board want vendors in the RV Park? If so, policy will need to be established.

New Business Item H

Subject: Sport C & D Dock Conditions & Plans - Action

About: We have started to slowly move moorage holders over onto F dock. We have run out of space for any boat over 24 ft.

Option 1: Close the docks completely. Remove current moorage holders from the basin, and refund or credit accounts.

Loss: C Dock – \$41,673.00, D Dock – \$32,959.00 = Total: \$74,632

Option 2: Keep portion of the docks and move the remaining moorage holders to available slips. When other available slips are full, then remove remaining holders and refund or credit account.

Closing C Dock after Space 13/14 would have a loss of: \$24,333.00

-OR-

Closing C dock after space 19/20 would have a loss of: \$17,643.00, but would require labor and possibly materials to tighten up the dock.

Closing D dock after side tie space 20 would have a loss of: \$5,060.00

Closing D dock after space 31 would have a loss of: \$6,247.00

Total: \$11,307.00

C Dock \$24,333

D Dock \$11,307

Total: \$35,640

C Dock \$17,643

D Dock \$11,307

Total: \$28,950



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- *Engineers/Scientists, LLC (a BioScape Technologies Affiliate)*

3/07/17

Mr. Gary Dehlinger

Port Manager

Port of Brookings

Brookings, OR

On 2/28/17 Gary Dehlinger, Port of Brookings Manager, requested that EMC (Jack Akin, MS, PE, EMC-Engineers/Scientists) inspect and certify the safety of Docks B through H, Sport Basin (North Basin) for public and employee access and use.

EMC had already reviewed these docks and rendered an opinion based on available data, past studies and EMC study, and presented conclusions and recommendations in a 12/07/16 report entitled Engineer Recommendation and Proposed Dock Reconfiguration (attached).

Within that report past and more recent engineering studies, as well as the original design drawings specifying the dock construction, were cited. The determinations made by West Consultants (2000), OBEC (2011) and EMC (2016) were obtained by a review of the available information provided by the hydraulic data, tidal datum, tidal ranges values, Army Corp of Engineers and WEST Consultants Surge Study, the geotechnical data, design vessel characteristics, the NAVFAC Unified Facilities Criteria, the wind loading on design vessels, the wave loading on both the dock and design vessels, the service load and extreme loading design and recommended design criteria/strength of existing floating dock piling.

The following conclusions were thereby drawn:

- Point of fixity (see attached "Typical Pile Profile") is about – 19.7' (8.7' below mudline), and calculated pile tip recommended to be – 37' MLLW (26' below mudline, minimum, or about two feet into firmer soils);
- 12" piles are inadequate (safety factor of 1.0) against severe tsunami events, but, when following recommended length and driven depths procedure, are adequate (however, note that this determination was made assuming the piles were properly installed);
- Proper pile installation protocol appears to have not been followed. Piles that have toppled were measured to about 30' long. Taking into account these piles are in water with mean high tides of + 6.3, and up to +10.7' MLLW, with an average mudline of -11', with a height above high tide of about 8', these toppled piles could not have been driven much more than four feet. It appears that the original installer of these piles followed a procedure that included cutting some or all of the 60' pile stock in half, and driving them to a depth of about four feet below the mudline.





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- EMC has also noted that delivered sediments and eroded nearby sidebanks are occurring as a direct result of a storm drain near the connecting main dock between Docks D and E. Accumulated sediment elevate the basin floor in that area and rack that dock section during ebbing tides. The racking produces stress and strain on the entire rigid system, most notably Docks D & E.

The (attached) sketches and annotated aerialphotos present the recommended pile replacements in the Sport Basin. The initial 11 piles, recommended prior to discovery of the more widespread issue, are presented in a hand-annotated sketch. Two aerials, one encircled by blue type, and one by red, present the two FEMA mitigation proposals for two separate FEMA program sources whereby the provision of funding is requested. These three represent the recommended pile replacement in total.

Unfortunately, recent pile failures provide evidence that this improper pile installation practice is far more widespread than previously understood, and that an emergency condition exists at the Port. **The safe use of Docks B through H, Port of Brookings Sport (North) Basin therefore cannot be certified.**

This opinion is produced by EMC-Engineers/Scientists, LLC (EMC), and has been constructed in adherence to good and generally accepted engineering practice. Conditions in the field may change (discovery) some elements of the proposed designs. EMC is qualified to design and manage this project, and carries adequate (\$2,000,000) errors & omissions insurance.

Sincerely

Jack (John) Akin, MS, PE, IC, HMS, CAI
EMC-Engineers/Scientists, LLC





EMC

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Mr. Don Mann
Mr. Gary Dehlinger
Port of Brookings
Brookings, OR

12/07/16

FEMA 4258-DR-OR; Project No. SP0055
Port of Brookings Harbor – Basin 1 Piling Repair Replacement

PORT OF BROOKINGS REVISED PROPOSAL

The Port of Brookings (POB) produced a revised proposal in response to recent pipe pile failure events, and put forth the conversion of mooring perpendicular to incoming wave direction along D Dock to parallel mooring, the extension of slips on Dock E, the conversion of the south side of the smaller Dock F from parallel to perpendicular mooring, and the separation between Docks D and E of the rigid connection along the main dock that connects and anchors Docks A – H.

EMC's ASSESSMENT AND RECOMMENDATIONS

POB requested that EMC review the above-described proposal and to render an opinion based on available data, past studies and EMC study. The above proposal revisions put forth by the Port are adequate responses to the conclusions and recommendations presented on Pages 2 and 3 of this report. If 12" diameter, ½"t steel pipe piles are to be used, it is recommended that the configuration presented by POB be anchored by the installation of a pipe pile at the end of each finger at Docks B, C, D, E, F, G and H, (the first two fingers on either side of these Docks can unsupported) and one pile next to the docks between the fingers at every other space. The pile tips should be driven to – 37' MLLW (26' below mudline, minimum, or about two feet into firmer soils). The south side of Dock F along the perpendicularly loaded the south side of Dock F should be reinforced with at least six fairly evenly spaced piles. Coat all piles.

The removal of a section of main dock between Docks D and E, though not the only possible remedy to the present dock racking, seems the simplest and least expensive.

PREVIOUSLY PROPOSED SCOPE OF WORK

In order to repair the dock-supporting piles located in the North (Sport) Basin that were damaged during the winter storms period of December 6-23, 2015, the Port of Brookings Harbor requested FEMA assistance. The project was put forth, as a result of initial FEMA field inspection, to remove selected loose piles in Basin 1.





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These identified loose steel piles (11 (eleven) 12" diameter, 30' - 35' long) are recommended to be replaced by 11 (eleven) 60-foot-long, 12" dia., 1/2" t steel piles. Completed pile lengths will be to 30' below mudline. The rationale for this installation depth is described below in the Section entitled "Summary of Design and Data". The proposal was submitted in a 10/20/16 Joint Permit Application (JPA). The rationale for installation depth is described within that JPA.

The information provided within that Summary is specific to the Sport Basin (North Basin), and the sources are cited therein. Data, vessel characteristics, loadings, etc., in support of the proposed mitigation, were enlisted and described, both in the JPA, and within the more detailed August, 2016 **PROPOSED SCOPE OF WORK AND BUDGETS (SOW)**, submitted to FEMA by the Port. It was further pointed out that the damage experienced from the December 2015 storms should not be viewed as damage to piles, but damage to dock systems, with piles viewed as part of that system. It was shown in the above-cited JPA and SOW that these will not be repaired by the replacement of the proposed 11 piles, because the piles will not be able to bear the load of other faulty piles in these dock systems. Therefore, mitigation of an additional 30 piles was recommended as a minimal remedy.

NEW INFORMATION

Since the August SOW and October JPA were submitted, the failure of other piles has occurred, indicating that the inadequate pile placement in the North Basin is more widespread than originally understood.

PAST & PRESENT STUDY AND CONCLUSIONS SHOULD BE NOTED

It is important, in our opinion, that it be noticed that the determinations made by West Consultants (2000), OBEC (2011) and EMC (2016) were obtained by a review of the available information provided by the hydraulic data, tidal datum, tidal ranges values, Army Corp of Engineers and WEST Consultants Surge Study, the geotechnical data, design vessel characteristics, the NAVFAC Unified Facilities Criteria, the wind loading on design vessels, the wave loading on both the dock and design vessels, the service load and extreme loading design and recommended design criteria/strength of existing floating dock piling.

Thus these have collectively drawn the following conclusions and have produced the following recommendations (the items listed below do not include all, but only those determined by EMC directly germane to the recommendations put forth in this 12/07/16 Report):





EMC

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GP Office: 1867 Williams Hwy., Suite 216, Grants Pass, OR, 97537

Jville Office: 450 Conestoga Dr., Jacksonville, OR, 97530

Ph: 541-474-9434, Ext. 1 * Fax 541-727-5488

emc@emcengineersscientists.com; bioscapetechnologies@charter.net

<http://www.emcengineersscientists.com>

- *Engineers/Scientists, LLC (a BioScape Technologies Affiliate)*

- Point of fixity is about - 19.7' (8.7' below mudline), and calculated pile tip recommended to be - 37' MLLW (26' below mudline, minimum, or about two feet into firmer soils);
- 12" piles are inadequate (safety factor of 1.0) against severe tsunami events, but, when following recommended length and driven depths procedure, are adequate (however, note that this determination was made assuming the piles were properly installed);
- Piles as presently configured in the Sport Basin must each bear 67% of the total lateral loadings for each dock, when properly installed;
- Proper pile installation protocol appears to have not been followed. Piles that have toppled were measured to about 30' long;
- Taking into account these piles are in water with mean high tides of + 6.3, and up to +10.7' MLLW, with an average mudline of -11', with a height above high tide of about 8', these toppled piles could not have been driven much more than four feet.
- It has been noted that the "looseness" of these 11 piles is typical of most of the piles inspected by Gary Dehlinger, Port Project Manager, so it appears that the original installer of these piles followed a procedure that included cutting some or all of the 60' pile stock in half, and driving them to a depth of about four feet below the mudline. Recent pile failures provide evidence that this improper pile installation practice is far more widespread than previously feared, and that an emergency condition exists at the Port.
- Docks D and E allow parallel mooring of boats, which greatly increases the projected area of vessels and these docks exposed to both wind and hydraulic loading. These docks are not adequately supported, with a lower (less than 1.0) factor of safety (unacceptable).
- Finally, the Port has noted that delivered sediments and eroded nearby sidebanks are occurring as a direct result of a storm drain near the connecting main dock between Docks D and E. Accumulated sediment elevate the basin floor in that area and rack that dock section during ebbing tides. The racking produces stress and strain on the entire rigid system, most notably Docks D & E.

This opinion is produced by EMC-Engineers/Scientists, LLC (EMC), and has been constructed in adherence to good and generally accepted engineering practice. Conditions in the field may change (discovery) some elements of the proposed designs. EMC is qualified to design and manage this project, and carries adequate (\$2,000,000) errors & omissions insurance.

Sincerely

Jack (John) Akin, MS, PE, IC, HMS, CAI
EMC-Engineers/Scientists, LLC



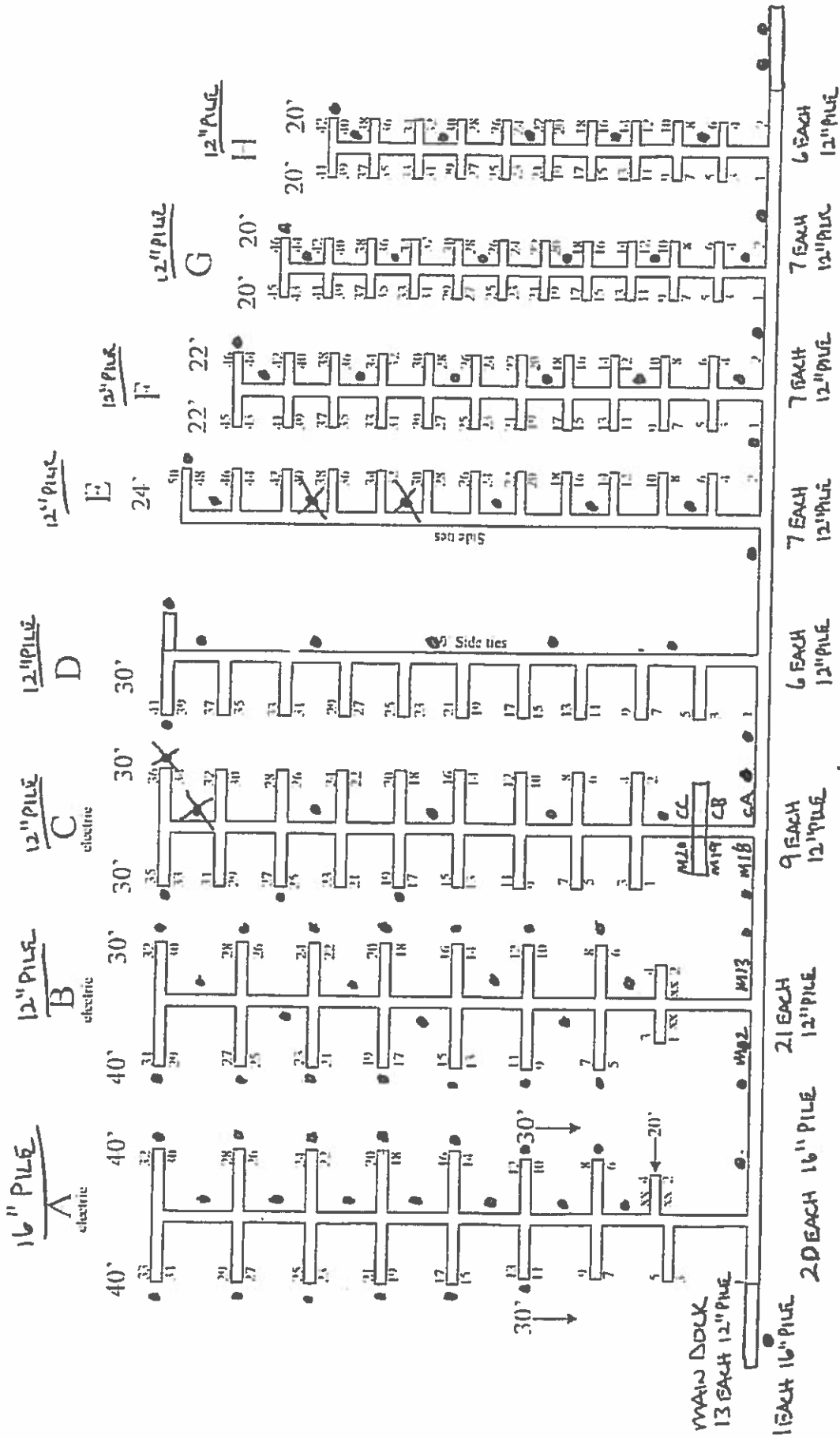
1800

PORT OF BROOKINGS HARBOR BASIN I, SPORT

TOTAL 16" PILE
21 EACH

EXISTING

TOTAL 12" PILE
76 EACH



EXISTING

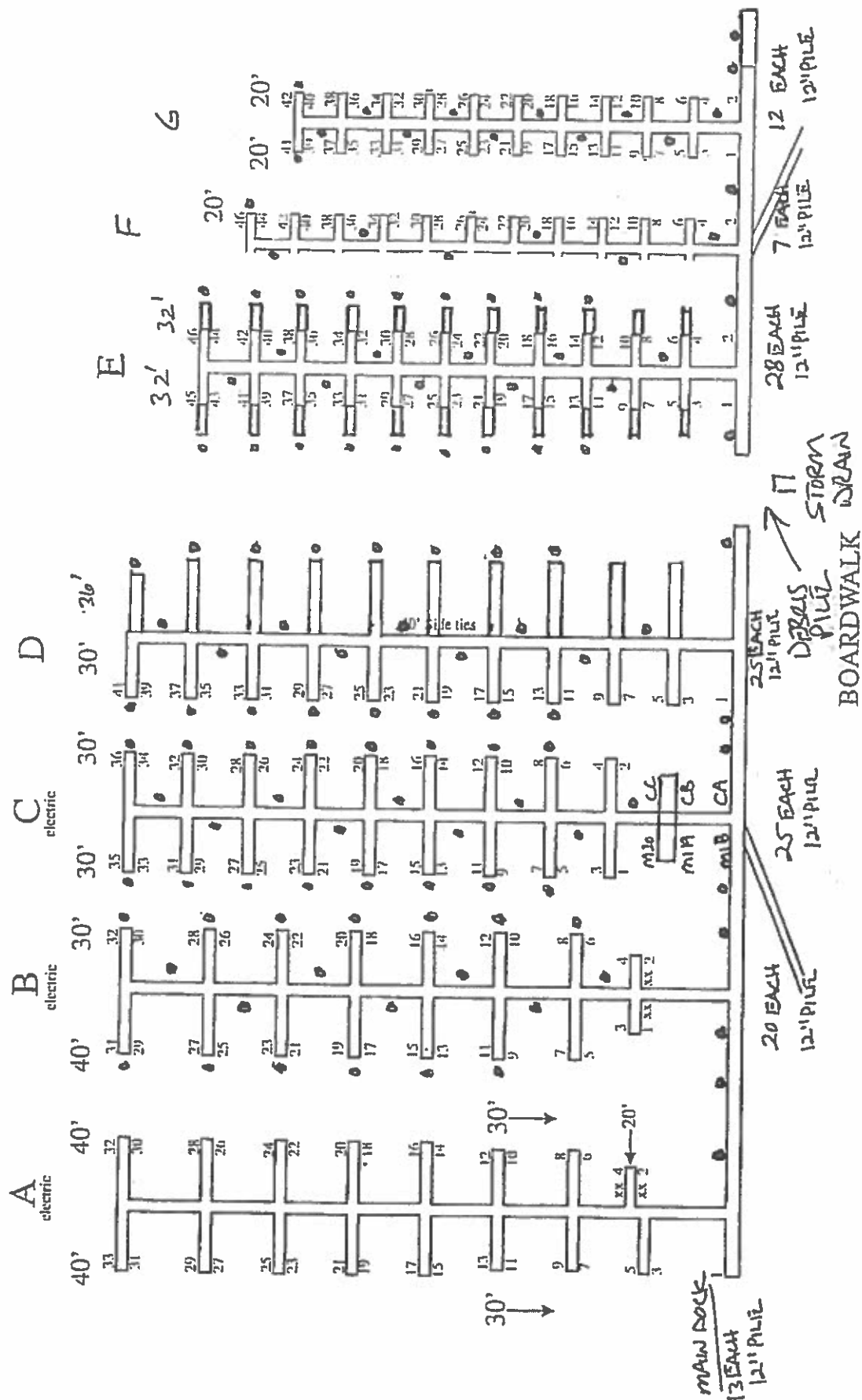
LOST 2 EACH

LOST 2 EACH

PORT OF BROOKINGS HARBOR BASIN I, SPORT

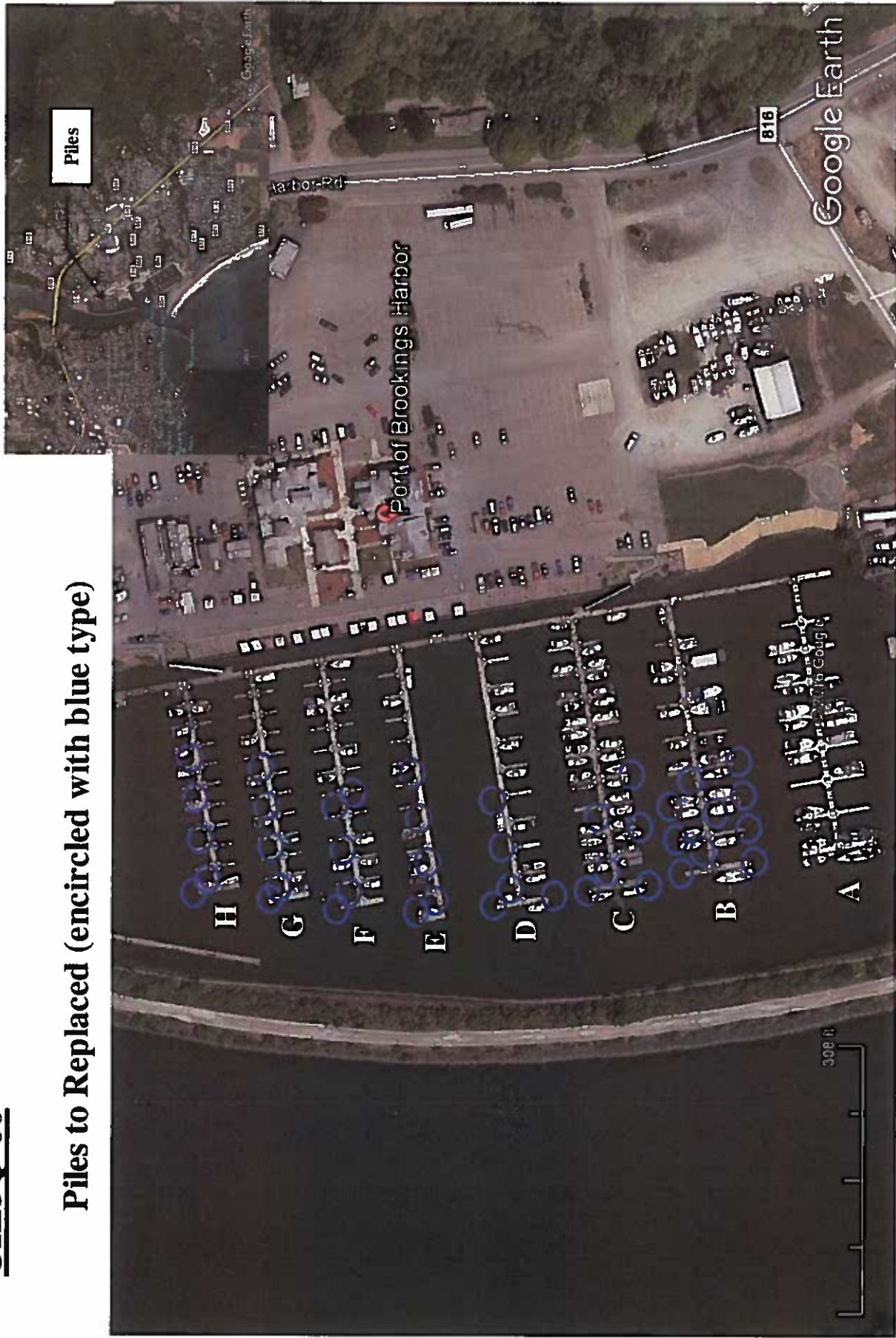
TOTAL 12" PILE
130 EACH

PROPOSED CONCEPTUAL



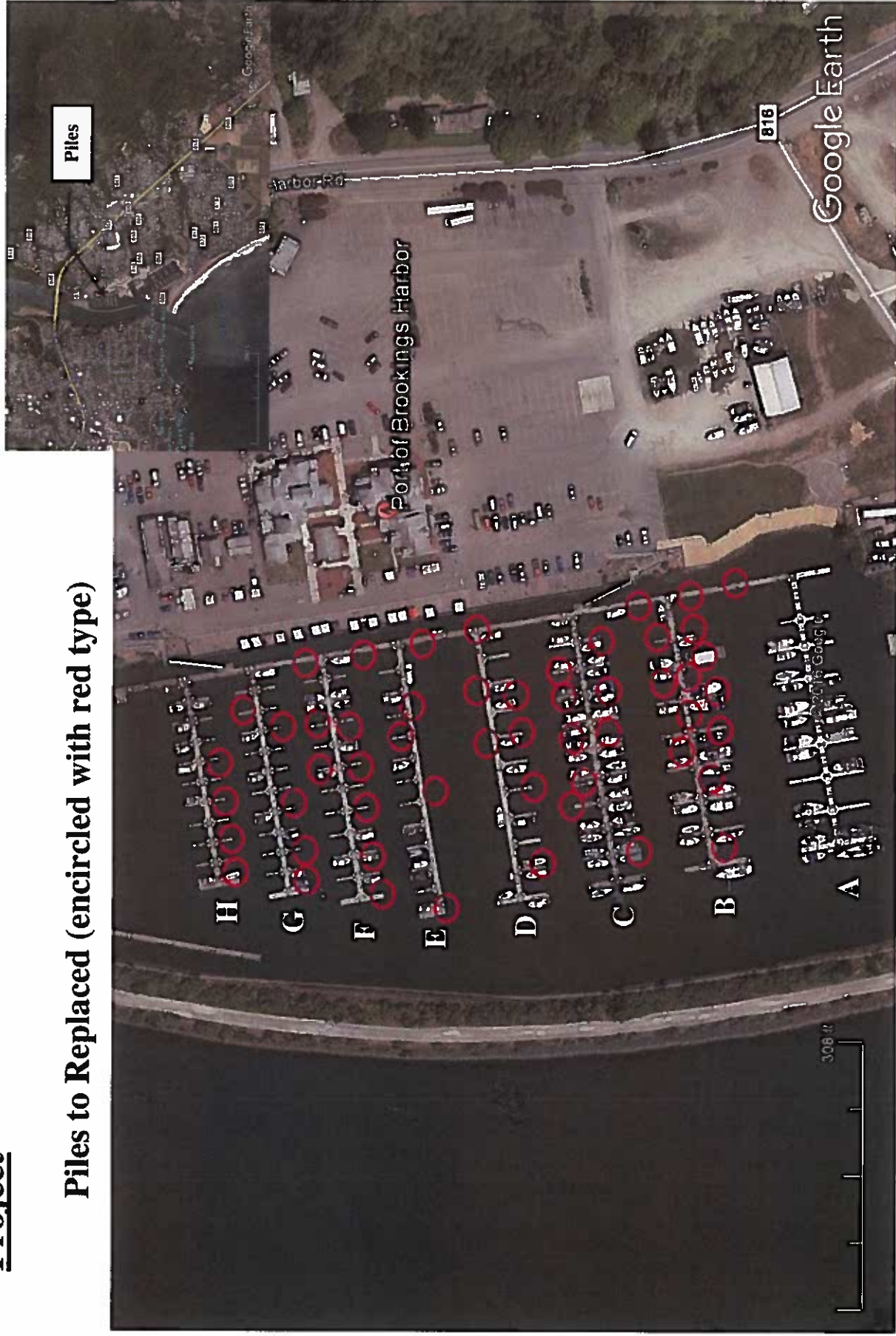
Pile Removal-Installation, Vicinity & Location Maps-PA ID No 015-UIZ5Q-00

Piles to Replaced (encircled with blue type)

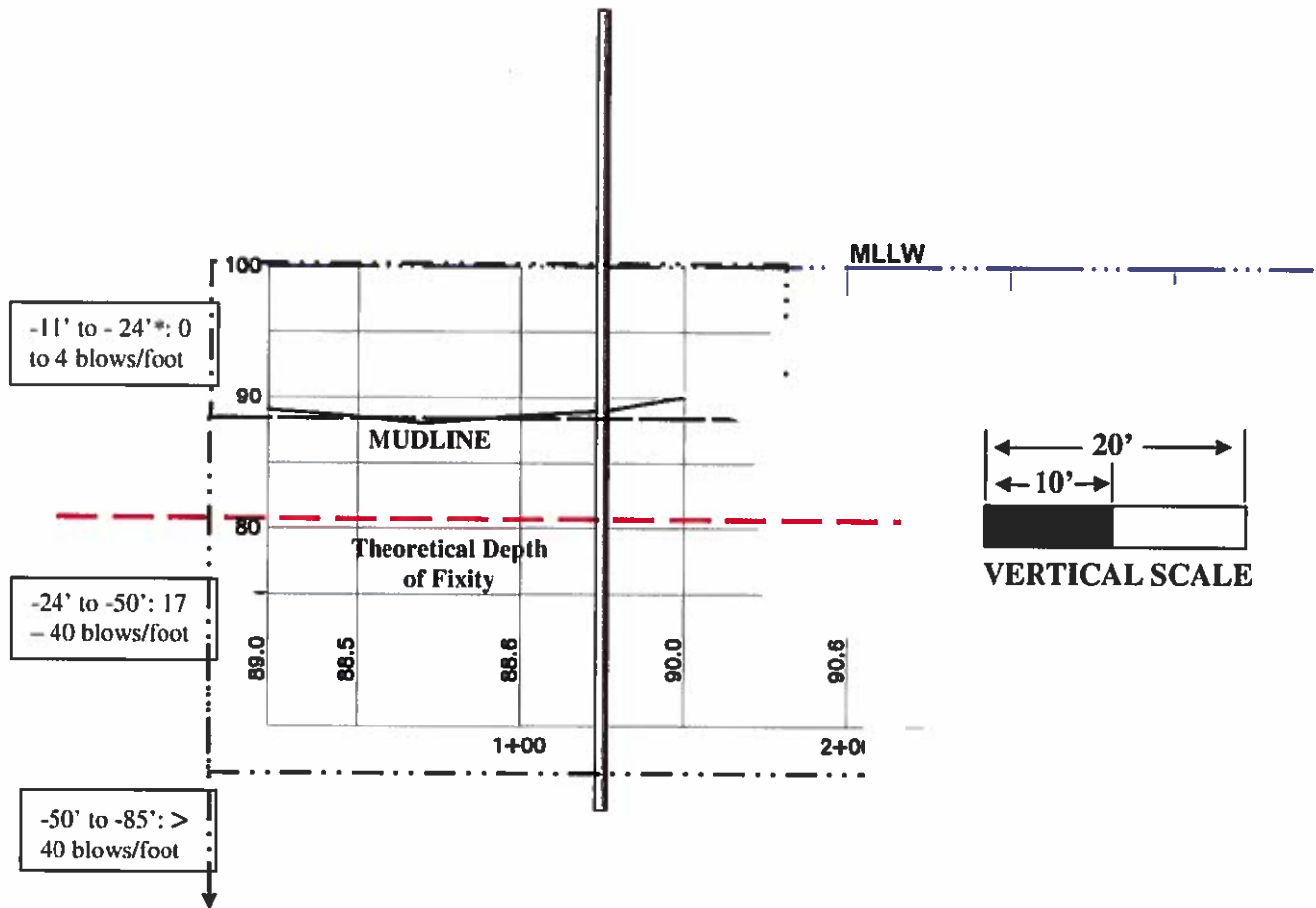


Pile Removal-Installation, Vicinity & Location Maps-Proposed HMGP Project

Piles to Replaced (encircled with red type)



TYPICAL PILE PROFILE



* Note: Preliminary Soil Conditions depths measured from an averaged 11' above MLLW.

New Business Item I

Subject: Resolution 471: Moorage License Agreement - Action

About:

Staff has revised the current moorage agreement to facilitate better information on the form as well as providing information to the customers. Attached is the proposed Moorage Agreement.

Staff recommends;

Not to accept payments over the phone because moorage holders are not signing current moorage license agreements. Per Port Ordinance we must have a completed use agreement to moor a vessel in our harbor.

Current

Port of Brookings-Harbor

P.O. Box 848 - Brookings, OR 97415

Phone: 541-469-2218 Fax: 541-469-0672

Moorage License Agreement

Slip No. _____

Boat Owner: _____

Address: _____

City: _____ St: _____ Zip: _____

Telephone: (_____) _____ - _____

Email: _____

Insurance Information:

Insurance Co.: _____

Policy #: _____

Exp. Date: _____

In Case of Emergency & you cannot reach me

Please Notify:

Name _____

Telephone: (_____) _____ - _____

Boat Information:

Boat Name _____

Reg / Doc #: _____

OAL: _____ Beam: _____ Draft: _____

Year: _____ Make: _____

Model: _____

USCG Auxiliary #: _____

Port of Brookings- Harbor Representative: _____

Date _____

Moorage License Term & Type:

From _____ To _____

Type: Annual _____ Semi Annual _____

Monthly _____ Weekly _____ Daily _____ Transient _____

Other _____

Trailer Storage: Yes _____ No _____

License #: _____ Tag: _____

Gear Storage: Yes _____ No _____

Fee: _____

THIS MOORAGE LICENSE AGREEMENT IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH ON THE BACK SIDE OF THIS APPLICATION AND TO ANY ORDINANCES, PRESENTLY IN EFFECT OR THAT BECOME IN EFFECT IN THE FUTURE

ALL FEES ARE PAYABLE IN ADVANCE OR UPON PRESENTATION LATE CHARGES OF 1 ½% PER MONTH WILL BE ASSESSED

THE PORT OF BROOKINGS-HARBOR ASSUMES NO RESPONSIBILITY FOR THE VESSEL, ITS EQUIPMENT OR FOR INJURY TO THE OWNER, EMPLOYEES, GUESTS OR AGENTS.

AGREED:

Owner/Operator: _____

Please initial:

_____ I agree to comply with Port Ordinance & Port Rules and Regulations.

_____ I would like to receive a copy of the Port Ordinances &/or a copy of my Moorage Agreement.

_____ I declined a copy of the Port Ordinance or a copy of my Moorage agreement.

Current

Moorage License Agreement General Terms and Conditions

Moorage or Storage Space: The Port of Brookings-Harbor ("Port") grants to the designated Owner/Operator ("Licensee") a license for moorage of the designated vessel in the moorage space identified on the front of this Agreement and/or for the use of certain lots identified herein for the purpose of boat, trailer or gear storage. The Port reserves the right in its sole discretion and without notice to reassign any vessel or the stored material to an alternate site of the Port's choosing, permanently or temporarily, to accommodate emergency situations, repairs or administrative needs.

Fees & Charges: FEES ARE BASED ON SIZE OF SLIP OR LENGTH OF BOAT, WHICH IS THE GREATER. Fees for moorage and yard storage are due and payable in advance for the entire term of this Agreement and is NON-REFUNDABLE. Payment plans may be arranged in advance and in writing under certain circumstances. In addition to items covers specifically in this Agreement, Licensee agrees to pay whatever other fees or charges for additional services provided by the Port. The Port shall have right to recover any and all costs associated with the collection of any sums hereunder, whether or not suit is filed, or incurred in the salvage, termination, removal or sale of the vessel or personal property pursuant to this Agreement or any applicable Port ordinance. All rentals which are thirty (30) days past due shall accrue a late payment charge of \$1.00 or 1.5% (18.0% APR), whichever is greater.

Utilities: The Port does not guarantee the functionality, continuity or characteristics of the electricity or water provided by the Port. All risk associated with electricity supply, including risk to any of the vessel's electrical components or circuitry is entirely at Licensee's risk. Licensee is responsible for all utility charges incurred during the term of moorage, whether the vessel is physically in the assigned slip or not.

Rules and Regulations: Licensee agrees to comply at all times with any and all rules and regulations promulgated by any federal, state, local or this Port. Further, Licensee agrees to abide by special requests made in the interests of public or vessel safety by the Harbor Master or his designee. It is 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 rules and regulations are available from the Port office.

Insurance: Licensee agrees to provide a marine/watercraft insurance policy with general liability limits of at least \$500,000. The Port of Brookings Harbor shall be named as additional insured. A copy of said insurance shall be provided to the Port. Failure to provide or keep in force such insurance shall be construed as a default of this Agreement and the Port will exercise its right to terminate.

Vessel Access: Licensee grants the Port free access at all times to the vessel for purpose of inspection for compliance with this Agreement or with Port ordinances, movement of the vessel, fighting fire or other casualty, or at the discretion of the Port, the prevention of any casualty or potential hazard. The Port assumes no responsibility for any damage that may occur arising from the assertion of this right.

Waiver of Responsibility: The obligation of the Port under this Agreement is limited to furnishing that portion of dock or land space reasonably necessary for vessel moorage or placement of Licensee's personal property. 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 himself, his family, his 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 family, his employees or invitees.

Acceptance of Premises: Licensee acknowledges he has inspected the premises for use under this Agreement and accepts them in their present "AS-IS" condition. Licensee agrees to keep the assigned premises neat, clean, free of hazardous or flammable materials and to preserve the assigned space in as good condition and repair as is now or may be put hereafter by the Port.

Condition of Vessel: Licensee shall keep the vessel in seaworthy condition and fully operable at all times while in the water and shall secure and otherwise attend to the needs of the vessel. Failure to do so may result in the vessel being deemed a hazardous vessel in accordance with Port ordinance and removed at Licensee's risk and expense. Licensee understands that this action is taken to protect the Port and does not imply any responsibility for storage on the part of the Port.

Assignment, Transfer and Sub-Lease: This license is not assignable, transferable to any other party. Licensee may replace vessel with another of like size but must notify the Port immediately of the vessels particulars. Licensee may change operators but must notify the Port within 5 days with

the particulars of the new operator, including name, address and telephone. Licensee must notify the Port within 10 days of the sale of the vessel and the vessel must be removed or the new owner must make application for a new license which may or may not be granted by the Port, at the Port's sole discretion.

Moorage Renewal and Termination: Vessels or personal property remaining on the Port's premises after the expiration of this license shall be deemed abandoned and subject to removal or sale by the Port. Port may, upon 30 days written notice cancel long term moorage licenses for repeated violations of Port ordinances, rules or regulations.

Port's Rights Upon Non-payment or Abandonment: Any vessel or personal property deemed to be abandoned for any of the reasons stated herein is subject to seizure by the Port. A vessel or personal property shall be deemed abandoned thirty (30) days from the due date of payment or the failure to renew and prepay the license. Port may chain, lock or remove the vessel or the personal property from its assigned location on the Port premises at its sole discretion and refuse access by Licensee to such property until all accounts are paid in full including the Port's costs of seizure, including attorney fees and other costs of collection. The Port shall not be responsible for any loss or damage to the vessel or personal property so seized during the entire time said vessel or personal property remains in the Port's possession. At any time following the date of seizure the Port's, in its sole discretion, may offer for sale to the highest bidder, upon public notice in accordance with the Port's ordinance, the vessel or property so seized.

Change of Address: Licensee is responsible to notify the Port of any change of mail or email address or change of telephone number. All billings will be deemed delivered when mailed to the address of record supplied by Licensee.

Non-waiver and Jurisdiction: The failure of the Port to enforce all or any part of this Agreement shall not constitute a waiver of any rights, including that which may have failed to enforce, the Port may have under this Agreement and it. This Agreement shall be construed under the laws of the State of Oregon.

"Lessee" further agrees::

- No moorage will be allowed unless designated by the Port Manager or his representative. The right is reserved to refuse moorage if in the best interest of the "PORT".
- Departure from or cancellation of moorage or repair or storage yard space will not be recognized unless the "PORT" office is notified by the owner or operator and a record is made of same.
- Yearly moorage rates are described as paid in advance for one full year.
- All moorage rates will be paid according to overall length of "VESSEL" or length of finger dock, whichever is greater.
- Yearly moorage rates not renewed by full payment within thirty (30) days of due date become delinquent and automatically revert to the monthly rate charge.
- All rentals which are thirty (30) days past due shall accrue a late payment charge of \$1.00 or 1.5% (18.0% APR), which ever is greater.
- All rates and charges of any "PORT" facilities or services are considered on a NO REFUND basis.
- Personal subleasing of any "PORT" facilities is prohibited.
- 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.
- The storage is a matter of license to use space rather than a bailment. "LESSEE" agrees to hold "PORT" harmless from any responsibility for preservation, security, or protection of items stored within the storage facility.
- No fabrication or repair of hull, wheelhouse cabin or deck gear.
- No sandblasting, welding or fiber glassing.
- No exterior painting of hull, cabin, deck gear or trailers.
- No storage of hazardous materials or chemicals.
- All items to be stored must be kept on board "VESSEL".
- No storage of miscellaneous gear will be allowed on the ground around "VESSEL". (Exception) Sailboat masts not attached to "VESSEL" may be stored adjacent to "VESSEL".
- No electrical service is available in storage yard without prior arrangements made with Harbormaster or Port Manager. Additional fees will be charged for this service.
- Moorage holder further agrees that before over the water "VESSEL" maintenance and repairs take place at the Port of Brookings Harbor, the "PORT" will be immediately contacted to ensure conformity with the State of Oregon Best Management Practices.



MOORAGE LICENSE APPLICATION

Slip No.: _____ Permit No.: _____

INSURANCE INFORMATION:

Insurance Co.: _____

Policy #: _____

Exp. Date: _____

BILL TO: ☐Owner ☐Operator

BOAT OWNER:

Name: _____

Address: _____

City: _____ St: _____ Zip: _____

Telephone: (_____) _____ - _____

Cell Phone: (_____) _____ - _____

Email: _____

BOAT INFORMATION:

Boat Name: _____

Reg / Doc #: _____

Length Overall: _____ Beam: _____ Draft: _____

Year: _____ Make: _____

Home Port: _____

BOAT OPERATOR:

Name: _____

Address: _____

City: _____ St: _____ Zip: _____

Telephone: (_____) _____ - _____

Email: _____

Check all that apply: ☐Sail ☐Inboard ☐Outboard

☐Gas ☐Diesel ☐Port-a-potty ☐Type I MSD

☐Type II MSD ☐Type III MSD ☐Other/None

☐Recreational ☐Commercial ☐Charter

Driver's License Verification: ☐Yes ☐No

Boaters License Verification: ☐Yes ☐No

MOORAGE LICENSE TERM & TYPE:

From _____ To _____

Type: ☐Recreational ☐Commercial ☐Annual

☐Semi Annual ☐Monthly ☐Weekly ☐Daily

☐Transient Other: _____

Fee*: _____

IN CASE OF EMERGENCY PLEASE NOTIFY:

(When Owner/operator is away and cannot be reached)

Name: _____

Telephone: (_____) _____ - _____

THIS MOORAGE LICENSE APPLICATION IS SUBJECT TO THE TERMS AND CONDITIONS SET FORTH ON THE MOORAGE LICENSE AGREEMENT AND TO THE PORT OF BROOKINGS HARBOR ORDINANCES, PRESENTLY IN EFFECT OR THAT BECOME IN EFFECT IN THE FUTURE. THE PORT OF BROOKINGS HARBOR ASSUMES NO RESPONSIBILITY FOR THE VESSEL, ITS EQUIPMENT OR FOR INJURY TO THE OWNER, EMPLOYEES, GUESTS OR AGENTS.

Permission to "liveaboard" must be specifically authorized in writing by the Port of Brookings Harbor by separate agreement.

*Moorage charges are payable in advance. Moorage agreement automatically reverts to a monthly rate if not paid in full within 30 days. Past due accounts will be assessed a late charge of 1.5% per month (18% per annum). In the event, suit or auction is instituted to collect any amount owed on this account, the undersigned applicant agrees to pay any reasonable attorney fees, collection agency fees and any other costs associated with such action. A \$50.00 fee will be assessed on any Return Payment.

Owner/Operator:

Port of Brookings Harbor Representative:

_____ by the Board of Commissioners

Date

Resolution No.

PORT OF BROOKINGS HARBOR MARINA BEST MANAGEMENT PRACTICES

ENGINES AND BILGES

- Use absorbent bilge pads or socks to soak up oil and fuel.
- Recycle and/or dispose of petroleum products properly.
- Dispose of used oil filters properly and make sure they are thoroughly drained.
- Do NOT discharge bilge water if there is a sheen to it.
- Do NOT dispose of any fuels or used oil in the marina's dumpsters.
- Contact the Port Office for the nearest oil recycling locations.
- Fueling of boats inside marina slips is prohibited.

PAINTING AND VARNISHING

- It is prohibited to do any in-water hull scraping or any process that occurs underwater which removes paint from the boat hull.
- Limit the amount of open solvents or paints on dock to one gallon or less.
- Always mix paints and epoxy over tarp.
- Always use a drip pan and/or drop cloth (tarp) when painting.
- Spray painting is not allowed within the marina.
- Do NOT dispose of paints or solvents in the marina's dumpster.

SURFACE PREPARATION

- Use biodegradable, non-toxic, phosphate free cleaners and/or soaps.
- Liberally use tarps to capture all scrapings, debris and drips or use a vacuum sander.
- Stretch tarps between the side of the boat and the dock when working over the water.

SEWAGE

- Untreated sewage should never be discharged directly overboard.
- Store sewage in holding tanks and dispose of properly at pump-out stations.
- Ensure Marina Sanitation Devices (MSD's) Type I and II systems are working properly and discharge the treated waste only when your boat is underway (in coastal waters and rivers navigable from the ocean). DO NOT DISCHARGE ANY MSD while moored in the marina or at any time on inland lakes and reservoirs.
- Type III MSD's are NOT treatment systems; they are only holding tanks and are always required to use pump-out stations.
- Use shore-side facilities as often as possible.

SOLID WASTE DISPOSAL

- Pets must remain on a leash at all times and immediately pick up after your pet and dispose of the waste in a garbage receptacle.
- Harvested fish must be cleaned using the designated fish cleaning stations. All solid fish waste must be disposed of into garbage receptacles as it is illegal to dispose of fish carcasses in Oregon waterways.
- Dispose of all garbage in the proper shore-side receptacles.
- Recycle all plastics, newspapers, cardboard and aluminum in appropriate receptacles.

*No open burning is allowed in the marina from petroleum-containing waste or garbage that would generate black smoke or noxious fumes.

*For Safety reasons, unattended storage items are not allowed on marina docks.

**ALL HAZARDOUS WASTE MUST BE DISPOSED OF PROPERLY. CONTACT THE PORT OFFICE
FOR MORE INFORMATIONS AT: (541) 469-2218**

Thank you for helping us to protect the environment and keep a clean and enjoyable facility!

_____ by the Board of Commissioners

Date

Resolution No.

Moorage License Agreement

General Terms and Conditions

1. **MOORAGE OR STORAGE SPACE:** The Port of Brookings-Harbor ("Port") grants to the designated Owner/Operator ("Licensee") a license for moorage of the designated vessel in the moorage space identified on the front of this Agreement and/or for the use of certain lots identified herein for the purpose of boat, trailer or gear storage. The Port reserves the right in its sole discretion and without notice to reassign any vessel or the stored material to an alternate site of the Port's choosing, permanently or temporarily, to accommodate emergency situations, repairs or administrative needs.
2. **FEES & CHARGES: FEES ARE BASED ON SIZE OF SLIP OR LENGTH OF BOAT, WHICH IS THE GREATER.** Fees for moorage and yard storage are due and payable in advance for the entire term of this Agreement and is **NON-REFUNDABLE**. Payment plans may be arranged in advance and in writing under certain circumstances. In addition to items covers specifically in this Agreement, Licensee agrees to pay whatever other fees or charges for additional services provided by the Port. The Port shall have right to recover any and all costs associated with the collection of any sums hereunder, whether or not suit is filed, or incurred in the salvage, termination, removal or sale of the vessel or personal property pursuant to this Agreement or any applicable Port ordinance. All rentals which are thirty (30) days past due shall accrue a late payment charge of \$1.00 or 1.5% (18.0% APR), whichever is greater.
3. **UTILITIES:** The Port does not guarantee the functionality, continuity or characteristics of the electricity or water provided by the Port. All risk associated with electricity supply, including risk to any of the vessel's electrical components or circuitry is entirely at Licensee's risk. Licensee is responsible for all utility charges incurred during the term of moorage, whether the vessel is physically in the assigned slip or not.
4. **RULES AND REGULATIONS:** Licensee agrees to comply at all times with any and all rules and regulations promulgated by any federal, state, local or this Port. Further, Licensee agrees to abide by special requests made in the interests of public or vessel safety by the Harbor Master or his designee. It is 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 rules and regulations are available from the Port office.
5. **INSURANCE:** Licensee agrees to provide a marine/watercraft insurance policy with general liability limits of at least \$500,000. The Port of Brookings Harbor shall be named as additional insured. A copy of said insurance shall be provided to the Port. Failure to provide or keep in force such insurance shall be construed as a default of this Agreement and the Port will exercise its right to terminate.
6. **VESSEL ACCESS:** Licensee grants the Port free access at all times to the vessel for purpose of inspection for compliance with this Agreement or with Port ordinances, movement of the vessel, fighting fire or other casualty, or at the discretion of the Port, the prevention of any casualty or potential hazard. The Port assumes no responsibility for any damage that may occur arising from the assertion of this right.
7. **WAIVER OF RESPONSIBILITY:** The obligation of the Port under this Agreement is limited to furnishing that portion of dock or land space reasonably necessary for vessel moorage or placement of Licensee's personal property. 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 himself, his family, his 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 family, his employees or invitees.
8. **ACCEPTANCE OF PREMISES:** Licensee acknowledges he has inspected the premises for use under this Agreement and accepts them in their present "AS-IS" condition. Licensee agrees to keep the assigned premises neat, clean, free of hazardous or flammable materials and to preserve the assigned space in as good condition and repair as is now or may be put hereafter by the Port.
9. **CONDITION OF VESSEL:** Licensee shall keep the vessel in seaworthy condition and fully operable at all times while in the water and shall secure and otherwise attend to the needs of the vessel. Failure to do so may result in the vessel being deemed a hazardous vessel in accordance with Port ordinance and removed at Licensees risk and expense. Licensee understands that this action is taken to protect the Port and does not imply any responsibility for storage on the part of the Port.
10. **ASSIGNMENT, TRANSFER AND SUB-LEASE:** This license is not assignable, transferable to any other party. Licensee may replace vessel with another of like size but must notify the Port immediately of the vessels particulars. Licensee may change operators but must notify the Port within 5 days with the particulars of the new operator, including name, address and telephone. Licensee must notify the Port within 10 days of the sale of the vessel and the vessel must be removed or the new owner must make application for a new license which may or may not be granted by the Port, at the Ports sole discretion.
11. **MOORAGE RENEWAL AND TERMINATION:** Vessels or personal property remaining on the Port's premises after the expiration of this license shall be deemed abandoned and subject to removal or sale by the Port. Port may, upon 30 days written notice cancel long

_____ by the Board of Commissioners
 Date
 Resolution No.

term moorage licenses for repeated violations of Port ordinances, rules or regulations.

12. PORT'S RIGHTS UPON NON-PAYMENT OR

ABANDONMENT: Any vessel or personal property deemed to be abandoned for any of the reasons stated herein is subject to seizure by the Port. A vessel or personal property shall be deemed abandoned thirty (30) days from the due date of payment or the failure to renew and prepay the license. Port may chain, lock or remove the vessel or the personal property from its assigned location on the Port premises at its sole discretion and refuse access by Licensee to such property until all accounts are paid in full including the Ports costs of seizure, including attorney fees and other costs of collection. The Port shall not be responsible for any loss or damage to the vessel or personal property so seized during the entire time said vessel or personal property remains in the Port's possession. At any time following the date of seizure the Port's, in its sole discretion, may offer for sale to the highest bidder, upon public notice in accordance with the Port's ordinance, the vessel or property so seized.

13. CHANGE OF ADDRESS: Licensee is responsible to notify the Port of any change of mail or email address or change of telephone number. All billings will be deemed delivered when mailed to the address of record supplied by Licensee.

14. NON-WAIVER AND JURISDICTION: The failure of the Port to enforce all or any part of this Agreement shall not constitute a waiver of any rights, including that which may have failed to enforce, the Port may have under this Agreement and it. This Agreement shall be construed under the laws of the State of Oregon.

15. "LESSEE" FURTHER AGREES:

- No moorage will be allowed unless designated by the Port Manager or his representative. The right is reserved to refuse moorage if in the best interest of the "PORT".
- Departure from or cancellation of moorage or repair or storage yard space will not be recognized unless the

"PORT" office is notified by the owner or operator and a record is made of same.

- Yearly moorage rates are described as paid in advance for one full year.
- All moorage rates will be paid according to overall length of "VESSEL" or length of finger dock, whichever is greater.
- Yearly moorage rates not renewed by full payment within thirty (30) days of due date become delinquent and automatically revert to the monthly rate charge.
- All rentals which are thirty (30) days past due shall accrue a late payment charge of \$1.00 or 1.5% (18.0% APR), whichever is greater.
- All rates and charges of any "PORT" facilities or services are considered on a NO REFUND basis.
- Personal subleasing of any "PORT" facilities is prohibited.
- 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.
- The storage is a matter of license to use space rather than a bailment. "LESSEE" agrees to hold "PORT" harmless from any responsibility for preservation, security, or protection of items stored within the storage facility.
- No fabrication or repair of hull, wheelhouse cabin or deck gear.
- No sandblasting, welding or fiber glassing.
- No exterior painting of hull, cabin, deck gear or trailers.
- No storage of hazardous materials or chemicals.
- All items to be stored must be kept on board "VESSEL".
- No storage of miscellaneous gear will be allowed on the ground around "VESSEL". (Exception) Sailboat masts not attached to "VESSEL" may be stored adjacent to "VESSEL".
- No electrical service is available in storage yard without prior arrangements made with Harbormaster or Port Manager. Additional fees will be charged for this service.
- Moorage holder further agrees that before over the water "VESSEL" maintenance and repairs take place at the Port of Brookings Harbor, the "PORT" will be immediately contacted to ensure conformity with the State of Oregon Best Management Practices.

I AGREE TO THE TERMS AND CONDITIONS OF THIS DOCUMENT.

Owner/Operator:

Port of Brookings Harbor Representative:

_____ by the Board of Commissioners

Date

Resolution No.

New Business Item J

Subject: Resolution 472: Moorage Rate Increase - ~~Action~~ *NEED MORE INFO +
DIRECTION FROM BOARD*

About: The last moorage rate increase was July 1, 2013.

Proposed: Increase moorage rates by 5% for 5 years to meet Port obligations in maintaining current dock facilities.

Basin 1
Sport Moorage Rates

Current

Effective: July 1, 2013

Docks: A, B, C, D, E, F, G, H

Utilities: Metered electricity will be charged monthly.

Fees are calculated based upon the length of the slip or the overall length of the vessel, whichever is the greater.

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Semi Annual</u>	<u>Yearly</u>
20	\$ 12.00	\$ 72.00	\$ 216.00	\$ 451.00	\$ 745.00
22	\$ 13.00	\$ 78.00	\$ 234.00	\$ 493.00	\$ 820.00
24	\$ 14.00	\$ 84.00	\$ 252.00	\$ 540.00	\$ 895.00
30	\$ 19.00	\$ 114.00	\$ 342.00	\$ 672.00	\$ 1,115.00
40	\$ 22.00	\$ 132.00	\$ 396.00		\$ 1,490.00
41	\$ 23.00	\$ 138.00	\$ 414.00		\$ 1,525.00
42	\$ 23.00	\$ 138.00	\$ 414.00		\$ 1,560.00
43	\$ 23.00	\$ 138.00	\$ 414.00		\$ 1,600.00
44	\$ 23.00	\$ 138.00	\$ 414.00		\$ 1,640.00
45	\$ 23.00	\$ 138.00	\$ 414.00		\$ 1,675.00

Weekly: Daily times 6

Monthly: Weekly times 3 (rounded)

Yearly: Length Times \$37.21 (Round to closest \$5.00)

Charter fee: \$50.00 per passenger times maximum load plus yearly moorage

NO LIVEBOARDS!!!!

PORT OF BROOKINGS HARBOR

16340 Lower Harbor Rd Suite 103
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Brookings, OR 97415

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WEBSITE www.portofbrookingsharbor.com

193

Basin 2
Commercial Moorage Rates

Current

Effective: July 1, 2013

Docks: N, O, P, Q

Utilities: Metered electricity will be charged monthly.

Fees are calculated based upon the length of the slip or the overall length of the vessel, whichever is the greater.

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Yearly</u>
24	\$ 15.00	\$ 90.00	\$ 270.00	\$ 775.00
25	\$ 15.00	\$ 90.00	\$ 270.00	\$ 810.00
26	\$ 15.00	\$ 90.00	\$ 270.00	\$ 845.00
27	\$ 15.00	\$ 90.00	\$ 270.00	\$ 875.00
28	\$ 15.00	\$ 90.00	\$ 270.00	\$ 905.00
29	\$ 15.00	\$ 90.00	\$ 270.00	\$ 940.00
30	\$ 20.00	\$ 120.00	\$ 360.00	\$ 975.00
31	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,005.00
32	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,035.00
33	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,070.00
34	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,100.00
35	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,135.00
36	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,165.00
37	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,200.00
38	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,230.00
39	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,265.00
40	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,300.00

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Basin 2 Commercial Moorage Rates

Current

Docks: N, O, P, Q

Effective: July 1, 2013

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Yearly</u>
41	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,330.00
42	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,360.00
43	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,395.00
44	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,425.00
45	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,455.00
46	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,490.00
47	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,525.00
48	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,555.00
49	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,585.00
50	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,620.00
51	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,650.00
52	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,685.00
53	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,715.00
54	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,750.00
55	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,780.00
56	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,815.00
57	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,845.00
58	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,780.00
59	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,910.00
60-69	\$ 32.00	\$ 192.00	\$ 576.00	Calculate

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195

Basin 2
Commercial Moorage Rates

Current

Docks: N, O, P, Q

Effective: July 1, 2013

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Yearly</u>
70-79	\$ 35.00	\$ 210.00	\$ 630.00	Calculate
80-89	\$ 37.00	\$ 222.00	\$ 666.00	Calculate
90-99	\$ 39.00	\$ 234.00	\$ 702.00	Calculate
100 plus	\$ 42.00	\$ 252.00	\$ 756.00	Calculate

Weekly = Daily times 6

Monthly = Weekly times 3

Yearly = Length times \$32.40 (rounded tp nearest \$5.00)

Charter Fee.. \$50.00/passenger times maximum load plus yearly moorage

NO LIVEBOARDS!!!!

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196

Basin 2
Sport Commercial Moorage Rates

Current

Effective: July 1, 2013

Docks: C, D, E, F, G, H, I, J

Utilities: Metered electricity will be charged monthly.

Fees are calculated based upon the length of the slip or the overall length of the vessel, whichever is the greater.

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Yearly</u>
24	\$ 15.00	\$ 90.00	\$ 270.00	\$ 1,000.00
25	\$ 15.00	\$ 90.00	\$ 270.00	\$ 1,040.00
26	\$ 15.00	\$ 90.00	\$ 270.00	\$ 1,085.00
27	\$ 15.00	\$ 90.00	\$ 270.00	\$ 1,125.00
28	\$ 15.00	\$ 90.00	\$ 270.00	\$ 1,165.00
29	\$ 15.00	\$ 90.00	\$ 270.00	\$ 1,210.00
30	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,250.00
31	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,290.00
32	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,335.00
33	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,375.00
34	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,415.00
35	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,460.00
36	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,500.00
37	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,540.00
38	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,585.00
39	\$ 20.00	\$ 120.00	\$ 360.00	\$ 1,625.00
40	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,665.00

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Basin 2

Sport Commercial Moorage Rates

Current

Docks: C, D, E, F, G, H, I, J

Effective: July 1, 2013

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Yearly</u>
41	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,710.00
42	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,750.00
43	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,790.00
44	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,835.00
45	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,875.00
46	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,915.00
47	\$ 24.00	\$ 144.00	\$ 432.00	\$ 1,960.00
48	\$ 24.00	\$ 144.00	\$ 432.00	\$ 2,000.00
49	\$ 24.00	\$ 144.00	\$ 432.00	\$ 2,040.00
50	\$ 28.00	\$ 168.00	\$ 504.00	\$ 2,085.00
51	\$ 28.00	\$ 168.00	\$ 504.00	\$ 2,125.00
52	\$ 28.00	\$ 168.00	\$ 504.00	\$ 2,165.00
53	\$ 28.00	\$ 168.00	\$ 504.00	\$ 2,210.00
54	\$ 28.00	\$ 168.00	\$ 504.00	\$ 2,250.00
55	\$ 28.00	\$ 168.00	\$ 504.00	\$ 2,290.00
56	\$ 28.00	\$ 168.00	\$ 504.00	\$ 2,335.00
57	\$ 28.00	\$ 168.00	\$ 504.00	\$ 2,375.00
58	\$ 28.00	\$ 168.00	\$ 504.00	\$ 2,415.00
59	\$ 28.00	\$ 168.00	\$ 504.00	\$ 1,910.00
60-69	\$ 32.00	\$ 192.00	\$ 576.00	Calculate

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Basin 2
Sport Commercial Moorage Rates

Docks: C, D, E, F, G, H, I, J

Current

Effective: July 1, 2013

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Yearly</u>
70-79	\$ 35.00	\$ 210.00	\$ 630.00	Calculate
80-89	\$ 37.00	\$ 222.00	\$ 666.00	Calculate
90-99	\$ 39.00	\$ 234.00	\$ 702.00	Calculate
100 plus	\$ 42.00	\$ 252.00	\$ 756.00	Calculate

Weekly = Daily times 6

Monthly = Weekly times 3

Yearly = Length times \$32.40 (rounded tp nearest \$5.00)

Charter Fee.. \$50.00/passenger times maximum load plus yearly moorage

NO LIVEBOARDS!!!!

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199

Basin 1 Sport Moorage Rates

Proposed

Docks: A, B, C, D, E, F, G

Utilities: Metered electricity will be charged monthly.

Fees are calculated based upon the length of the slip or the overall length of the vessel, whichever is the greater.

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Semi Annual</u>	<u>Yearly</u>
20	\$ 12.60	\$ 75.60	\$ 227.00	\$ 470.00	\$ 782.00
22	\$ 13.65	\$ 81.90	\$ 246.00	\$ 516.00	\$ 860.00
24	\$ 14.70	\$ 88.20	\$ 265.00	\$ 563.00	\$ 938.00
30	\$ 19.95	\$ 119.70	\$ 360.00	\$ 704.00	\$ 1,172.00
40	\$ 23.10	\$ 138.60	\$ 416.00	\$ 938.00	\$ 1,563.00
41	\$ 24.15	\$ 144.90	\$ 435.00	\$ 962.00	\$ 1,602.00
42	\$ 24.15	\$ 144.90	\$ 435.00	\$ 985.00	\$ 1,641.00
43	\$ 24.15	\$ 144.90	\$ 435.00	\$ 1,008.00	\$ 1,680.00
44	\$ 24.15	\$ 144.90	\$ 435.00	\$ 1,032.00	\$ 1,719.00
45	\$ 24.15	\$ 144.90	\$ 435.00	\$ 1,055.00	\$ 1,758.00

Weekly: Daily x 6

Monthly: Weekly x 3 (Rounded to the nearest dollar)

Semi-Annual: Yearly x 60% (Rounded to the nearest dollar)

Yearly: Length x \$39.07 (Round to nearest dollar)

Charter Fee: \$50.00 per passenger x maximum load + yearly moorage

Live-aboards: \$40.00 each month + yearly moorage

Launch Fees: \$5.00 a day, \$105 yearly, \$75 between July 1 & September 30,
\$45 between October 1 & December 31

_____ by the Board of Commissioners

Date

Resolution No:

201

Basin 2 Commercial Moorage Rates

Proposed

Docks: N, O, P, Q

Utilities: Metered electricity will be charged monthly.

Fees are calculated based upon the length of the slip or the overall length of the vessel, whichever is the greater.

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Yearly</u>
24	\$ 15.75	\$ 94.50	\$ 284.00	\$ 817.00
25	\$ 15.75	\$ 94.50	\$ 284.00	\$ 851.00
26	\$ 15.75	\$ 94.50	\$ 284.00	\$ 885.00
27	\$ 15.75	\$ 94.50	\$ 284.00	\$ 919.00
28	\$ 15.75	\$ 94.50	\$ 284.00	\$ 953.00
29	\$ 15.75	\$ 94.50	\$ 284.00	\$ 987.00
30	\$ 21.00	\$ 126.00	\$ 378.00	\$1,021.00
31	\$ 21.00	\$ 126.00	\$ 378.00	\$1,055.00
32	\$ 21.00	\$ 126.00	\$ 378.00	\$1,089.00
33	\$ 21.00	\$ 126.00	\$ 378.00	\$1,123.00
34	\$ 21.00	\$ 126.00	\$ 378.00	\$1,157.00
35	\$ 21.00	\$ 126.00	\$ 378.00	\$1,191.00
36	\$ 21.00	\$ 126.00	\$ 378.00	\$1,225.00
37	\$ 21.00	\$ 126.00	\$ 378.00	\$1,259.00
38	\$ 21.00	\$ 126.00	\$ 378.00	\$1,293.00
39	\$ 21.00	\$ 126.00	\$ 378.00	\$1,327.00
40	\$ 25.20	\$ 151.20	\$ 454.00	\$1,361.00

_____ by the Board of Commissioners

Date

Resolution No:

202

Basin 2 Commercial Moorage Rates

Proposed

Docks: N, O, P, Q

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Yearly</u>
41	\$ 25.20	\$ 151.20	\$ 454.00	\$1,395.00
42	\$ 25.20	\$ 151.20	\$ 454.00	\$1,429.00
43	\$ 25.20	\$ 151.20	\$ 454.00	\$1,463.00
44	\$ 25.20	\$ 151.20	\$ 454.00	\$1,497.00
45	\$ 25.20	\$ 151.20	\$ 454.00	\$1,531.00
46	\$ 25.20	\$ 151.20	\$ 454.00	\$1,565.00
47	\$ 25.20	\$ 151.20	\$ 454.00	\$1,599.00
48	\$ 25.20	\$ 151.20	\$ 454.00	\$1,633.00
49	\$ 25.20	\$ 151.20	\$ 454.00	\$1,667.00
50	\$ 29.40	\$ 176.40	\$ 530.00	\$1,701.00
51	\$ 29.40	\$ 176.40	\$ 530.00	\$1,735.00
52	\$ 29.40	\$ 176.40	\$ 530.00	\$1,769.00
53	\$ 29.40	\$ 176.40	\$ 530.00	\$1,803.00
54	\$ 29.40	\$ 176.40	\$ 530.00	\$1,837.00
55	\$ 29.40	\$ 176.40	\$ 530.00	\$1,872.00
56	\$ 29.40	\$ 176.40	\$ 530.00	\$1,906.00
57	\$ 29.40	\$ 176.40	\$ 530.00	\$1,940.00
58	\$ 29.40	\$ 176.40	\$ 530.00	\$1,974.00
59	\$ 29.40	\$ 176.40	\$ 530.00	\$2,008.00
60-69	\$ 33.60	\$ 201.60	\$ 605.00	Calculate

_____ by the Board of Commissioners

Date

Resolution No:

203

Basin 2 Commercial Moorage Rates

Docks: N, O, P, Q

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Yearly</u>
70-79	\$ 36.75	\$ 220.50	\$ 662.00	Calculate
80-89	\$ 38.85	\$ 233.10	\$ 700.00	Calculate
90-99	\$ 40.95	\$ 245.70	\$ 737.00	Calculate
100 plus	\$ 44.10	\$ 264.60	\$ 794.00	Calculate

Weekly: Daily x 6

Monthly: Weekly x 3 (Rounded to the nearest dollar)

Yearly: Length x \$34.02 (Round to nearest dollar)

Must have proof of Commercial Fishing License

Charter fee: \$50.00 per passenger x maximum load + yearly moorage

Live-aboards: \$40.00 each month + yearly moorage

Launch Fees: \$5.00 a day, \$105 yearly, \$75 between July 1 & September 30,
\$45 between October 1 & December 31

Selling Fish off Vessel: \$100.00, Requires a Permit with the Port Office

_____ by the Board of Commissioners

Date

Resolution No:

Basin 2
Sport Commercial Moorage Rates

Proposed

Docks: C, D, E, F, G, H, I, J

Utilities: Metered electricity will be charged monthly.

**Fees are calculated based upon the length of the slip or the
overall length of the vessel, whichever is the greater.**

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Semi-Annual</u>	<u>Yearly</u>
24	\$ 15.75	\$ 94.50	\$ 284.00	\$ 630.00	\$ 1,049.00
25	\$ 15.75	\$ 94.50	\$ 284.00	\$ 656.00	\$ 1,092.00
26	\$ 15.75	\$ 94.50	\$ 284.00	\$ 682.00	\$ 1,136.00
27	\$ 15.75	\$ 94.50	\$ 284.00	\$ 708.00	\$ 1,180.00
28	\$ 15.75	\$ 94.50	\$ 284.00	\$ 734.00	\$ 1,223.00
29	\$ 15.75	\$ 94.50	\$ 284.00	\$ 761.00	\$ 1,267.00
30	\$ 21.00	\$ 126.00	\$ 378.00	\$ 787.00	\$ 1,311.00
31	\$ 21.00	\$ 126.00	\$ 378.00	\$ 813.00	\$ 1,354.00
32	\$ 21.00	\$ 126.00	\$ 378.00	\$ 839.00	\$ 1,398.00
33	\$ 21.00	\$ 126.00	\$ 378.00	\$ 866.00	\$ 1,442.00
34	\$ 21.00	\$ 126.00	\$ 378.00	\$ 892.00	\$ 1,486.00
35	\$ 21.00	\$ 126.00	\$ 378.00	\$ 918.00	\$ 1,529.00
36	\$ 21.00	\$ 126.00	\$ 378.00	\$ 944.00	\$ 1,573.00
37	\$ 21.00	\$ 126.00	\$ 378.00	\$ 971.00	\$ 1,617.00
38	\$ 21.00	\$ 126.00	\$ 378.00	\$ 996.00	\$ 1,660.00
39	\$ 21.00	\$ 126.00	\$ 378.00	\$ 1,023.00	\$ 1,704.00
40	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,049.00	\$ 1,748.00

_____ by the Board of Commissioners

Date

Resolution No:

205

Basin 2 Sport Commercial Moorage Rates

Proposed

Docks: C, D, E, F, G, H, I, J

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Semi-Annual</u>	<u>Yearly</u>
41	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,075.00	\$ 1,791.00
42	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,101.00	\$ 1,835.00
43	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,128.00	\$ 1,879.00
44	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,154.00	\$ 1,922.00
45	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,180.00	\$ 1,966.00
46	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,206.00	\$ 2,010.00
47	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,232.00	\$ 2,053.00
48	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,259.00	\$ 2,097.00
49	\$ 25.20	\$ 151.20	\$ 454.00	\$ 1,285.00	\$ 2,141.00
50	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,311.00	\$ 2,184.00
51	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,337.00	\$ 2,228.00
52	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,364.00	\$ 2,272.00
53	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,389.00	\$ 2,315.00
54	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,416.00	\$ 2,359.00
55	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,442.00	\$ 2,403.00
56	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,468.00	\$ 2,446.00
57	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,494.00	\$ 2,490.00
58	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,521.00	\$ 2,534.00
59	\$ 29.40	\$ 176.40	\$ 530.00	\$ 1,547.00	\$ 2,578.00

60-69 by the Board of Commissioners \$ 33.60 \$ 201.60 \$ 605.00 Calculate Calculate

Date
Resolution No:

2016

Basin 2 Sport Commercial Moorage Rates

Docks: C, D, E, F, G, H, I, J

<u>Boat Length</u>	<u>Daily</u>	<u>Weekly</u>	<u>Monthly</u>	<u>Semi-Annual</u>	<u>Yearly</u>
70-79	\$ 36.75	\$ 220.50	\$ 662.00	Calculate	Calculate
80-89	\$ 38.85	\$ 233.10	\$ 700.00	Calculate	Calculate
90-99	\$ 40.95	\$ 245.70	\$ 737.00	Calculate	Calculate
100 plus	\$ 44.10	\$ 264.60	\$ 794.00	Calculate	Calculate

Weekly: Daily x 6

Monthly: Weekly x 3 (Rounded to the nearest dollar)

Semi-Annual: Yearly x 60% (Rounded to the nearest dollar)

Yearly: Length x \$43.68 (Round to nearest dollar)

Charter fee: \$50.00 per passenger x maximum load + yearly moorage

Live-aboards: \$40.00 each month + yearly moorage

Launch Fees: \$5.00 a day, \$105 yearly, \$75 between July 1 & September 30,
\$45 between October 1 & December 31

_____ by the Board of Commissioners

Date

Resolution No:

New Business Item K

Subject: Resolution 473: Liveaboard Agreement & Policy - Action

About: Port does not currently have a approved live-aboard policy in place.



LIVEABOARD REGISTRATION AND AUTHORIZATION

Slip No.: _____ Moorage License Terms: _____ to _____
(Term of Authorization for Liveaboard Use)

Name of Moorage Licensee: _____ ☐ Owner
☐ Operator

Boat Name: _____ Doc/Registration No.: _____

Names of all persons who will be living aboard this vessel, also noting the relationship to the vessel owner:

Name: _____	Mailing Address: _____
Relationship: _____	Phone Number: _____
Name: _____	Mailing Address: _____
Relationship: _____	Phone Number: _____

License of vehicle that will be parked on Port property: _____ Permit #: _____

License #: _____ Year/Make/Model: _____ Color: _____

Select the type of marine sanitation devices that is used aboard your vessel:

☐ Port-a-potty ☐ Type I MSD ☐ Type II MSD ☐ Type III MSD ☐ Other: _____

MSD tank capacity: _____ Holding tank capacity: _____

Complete and sign registration on reverse side. Not valid for liveaboard authority until signed by the Port Manager.

PORT OF BROOKINGS HARBOR
LIVEABOARD REGISTRATION AND AUTHORIZATION

According to the Clean Water Act, vessels are prohibited from discharging any sewage, whether treated by an MSD or not, into freshwater rivers. Sewage discharges have potentially wide-ranging impacts on all aquatic environments. The discharge of holding tanks within the marina is prohibited at all times. Vessel pump out stations are located at the Fuel Station and Sport Transient Dock.

Liveaboards will be given a Discharge Monitoring Report to use during the term of their Agreement. It is the Liveaboards responsibility to report the vessel pump out activity to the Port Office by the first of every month. A complete Discharge Monitoring Report needs to be submitted at the end of liveaboard term in order for renewal to be considered. Failure to comply with submitting the Discharge Monitoring Report will result in the termination of this agreement.

In Consideration of the attached rules and regulations, and in accordance with the Port of Brookings Harbor Ordinances and Policies, I agree as follows:

- I will not rent or sub-license my boat. Only the persons named on this agreement will reside aboard this vessel.
- My vessel will remain capable of leaving the marina under its own power.
- I understand that the Port of Brookings Harbor does not guarantee the provision or condition of water, electricity, or other services.
- Discharge of any waste to the waters of the marina is prohibited. All liveaboard must comply with all laws, regulations and policies governing waste management.
- I understand that this registration is for a use authorization under my agreement to moor the vessel. Liveaboard authority terminates immediately upon termination of the moorage license agreement.
- I understand that this document is an authorization for the vessel used for temporary residential purposes only and not a floating home, or an agreement for floating home rental space.
- I understand and agree that the Port may terminate authorization to liveaboard at any time and that failure to comply with all port rules and regulations may result in termination of the liveaboard authorization and moorage license agreement.

Living aboard does not create residential tenancy and is not permitted without liveaboard authorization signed by the Port Manager.

Liveaboard Signature: _____

Date: _____

Print Name: _____

Liveaboard Signature: _____

Date: _____

Print Name: _____

Port Manager Authorization: _____

Date: _____

_____ by the Board of Commissioners

Date

Resolution No.

LIVEABOARD POLICY

PURPOSE:

Provide direction for implementation of Ordinance and State and Federal regulations when administering Live Aboard use of Port of Brookings Harbor moorage facilities.

DEFINITIONS:

Live Aboard (Live Aboard Licensee – Hereafter referred to as a “LAL”) for the purpose of this policy shall be defined as any moorage customer who maintains a boat or vessel as their dwelling, for 10 or more days in any 30 day period.

Dwelling shall mean a boat or vessel that has sleeping, cooking and/or plumbing fixtures used for human occupancy and is used for temporary residential purpose.

Live Aboard is defined in the Port Ordinance as any person sleeping overnight, preparing food, or any other activity normally connected with temporary or permanent lodging. The use of the term ‘live-aboard’ in this policy is meant to be consistent with the definition in the Port Ordinance.

POLICY:

The Port of Brookings Harbor shall permit a limited number of people the privileged of living aboard their vessels in the Port of Brookings Harbor operated marinas as a use subordinate to their moorage license agreements. The Port of Brookings Harbor may limit the number of vessels that have LAL’s within its marinas to a number which can be reasonably sustained by the marina facilities and which do not conflict with its berthing objectives.

The Port of Brookings Harbor marinas were designed for berthing commercial and recreational boats, not as a living facility. The Port of Brookings Harbor therefore allows LAL’s as an exception to the first objective for the marinas, and it is considered a privilege. The Port reserves the right to deny, suspend or cancel this privilege at will, if in the opinion of the Port Manager, LAL’s interfere with the primary objectives of the marina, individually or in the marina as a whole.

Any illegal activities committed by LAL’s and/or their guests may cause Liveaboard privileges to be revoked.

The Port may regularly inspect and document the use of vessels with LAL’s to verify compliance with all policies.

LAL use is restricted to full service docks.

LAL’s are required to have a LIVEABOARD REGISTRATION AND AUTHORIZATION on file in the Port Office. This authorization shall be kept current and run concurrently with the moorage license. Liveaboard authorizations are subordinate to and terminate upon the termination of the moorage license. Liveaboard authorizations terminate sale of the vessel.

If a new boat is purchased that replaces the boat registered under the liveaboard agreement, a new liveaboard authorization must be obtained. No subleasing of liveaboard authorizations is allowed. Failure to register for liveaboard use may result in termination of moorage license.

The Port Manager may limit the number of registered LAL’s on any one vessel. Only legal owners and identified family members residing with them, or operators or crew members designated by the legal owners, may register to liveaboard vessels. All persons authorized to liveaboard must be identified by name and relationship to vessel owner. No minor may be a registered liveaboard without his/her parent/guardian being a registered liveaboard on the same vessel.

Pets are allowed on vessels with LAL’s on a limited basis, with pre-approval from the Port Manager. All pet waste must be bagged and disposed of properly. Pets must be controlled by their owner and follow applicable City and State laws. Dogs must be on a leash when on Port Property.

As a condition of living aboard in the Port of Brookings Harbor, Lal's must report promptly to the Port staff any safety concerns or violations of Port of Brookings Harbor policies or other problems they may observe in the marina.

LAL's shall not engage in behavior that creates a nuisance, disturbs the peace or interferes with Port staff operations and the normal operations of commercial and recreation moorage in the marinas. LAL's are responsible for the behavior of their guests in the marina.

Quiet hours are 2200-0700 (10:00 pm – 7:00 am) on a daily basis. However, LAL's must understand that commercial fishing operations may take place at any hour of the day or night.

All boats, vessels and watercraft must be kept seaworthy at all times as defined by the moorage license and Port of Brookings Harbor policy, and must meet all Federal, State, and local laws, including but not limited to laws pertaining to: watercraft operations, navigation, licensing, vessel safety, and sanitation equipment.

A boat or vessel that is being used only to live aboard, and not maintained in operation order such that it is capable of being used as transportation on the water, is not eligible for moorage and must be made seaworthy within 30 days or it will be required to leave the Port.

All LAL's must understand and acknowledge that their vessel is a boat, not a "floating home" as defined by ORS 830.700 and the provisions of ORS 90.505 et. Seq. regarding "floating home" rentals space does not apply to liveaboard boats and vessels.

LAL's must establish an address other than the Port of Brookings Harbor Office or marinas at which to receive their mail. Permanent residential use of the marinas is prohibited. LAL's without a current permanent residence using Port of Brookings Harbor marinas for temporary residential purposes must designate their previous address as their permanent residence.

The vessel owner shall be responsible for and pay for all liveaboard fees for those registered and living aboard their vessel. These fees are subject to change and may be established by the Port of Brookings Harbor Board of Commissioners. The Port may require information on liveaboard applicant's credit, finances, or conduct. The Port will not treat this information as a public record and the Port will not release this information without the written consent of the applicant.

LAL's may use the public parking areas in common with other marina users. Liveaboard permit holders are subject to the same allocation of overnight automobile parking permit as other moorage licensees. While on Port property, vehicles must be legally registered, licensed, insured, include current applicable permits and be in running condition. Vehicle maintenance is prohibited in the designated overnight parking area.

The Port does not guarantee the continuity or characteristics of electrical service, or the quality or supply of water service. LAL's accept Port premises as-is and the Port is not obligated to install additional utilities or facilities to accommodate LAL's. The Port is not responsible for damages due to failure of services. LALs shall not affix or install any equipment to or on Port property without consent of the Port manager. Use of Port property and electrical and water service is at the Lal's own risk.

With the exception of loading and unloading, Lal's shall not leave items stored on Port docks. Access steps are allowed.

All LAL's must comply with all applicable Federal, State, and Local regulations pertaining to the discharge of wastes in Oregon marinas. LAL's must adhere to any applicable best management practices adopted (such as the Clean marina guidelines recognized by the Oregon Marine Board) or established by the Port of Brookings Harbor for vessel maintenance and repair, hazardous materials and waste, and sanitary waste. Pump out station(s) are available and should be used on a regular basis.

DISHCHARGE MONITORING REPORT
FOR PORT OF BROOKINGS HARBOR LIVE-ABOARDS

Per the Clean Water Act, vessels are prohibited from discharging any sewage, whether treated by an MSD or not, into freshwater rivers. Sewage discharges have potentially wide ranging impacts on all aquatic environments. Vessel pump out stations are located at the Fuel Dock and Sport Transient dock.

The Discharge of Holding Tanks Within the Marina Is Prohibited at All Times.

Liveaboards must use this Discharge Monitoring Report. You must report your vessel pump out activity to the Port Office by the first of every month. Failure to comply with submitting the Discharge Monitoring Report will result in the termination of your Liveaboard Agreement.

Slip No: _____

Vessel Name: _____

Term: ☐ Monthly ☐ Yearly

From _____ To _____

Owner Name: _____

Phone Number: _____

Date/Time	Gallons Discharged	Date/Time	Gallons Discharged

By signing below, I certify that the above information is correct.

Liveaboard Signature: _____

Date: _____

Port of Brookings Staff: _____

Date: _____

Approved by the Board of Commissioners

Date

Resolution No. 473

New Business Item L

Subject: Resolution 474: Commissioners Rules & Policy

About: updating Commissioner Rules, Regulations, Duties, and Responsibilities.

PORT
OF
BROOKINGS HARBOR
COMMISSION

RULES, REGULATIONS,
DUTIES, AND
RESPONSIBILITIES

Adopted by the
PORT OF BROOKINGS HARBOR
BOARD OF COMMISSIONERS

DATE
Resolution No:

TABLE OF CONTENTS

	Page
Introduction	3
Port of Brookings Harbor Commission Rules & Regulations.	4
Board of Commissioners Rules of Conduct.	5 - 6
Compensation & Expenses	7
Financial Disclosure.	7
Bonding	7
Commission Liabilities	8
Discretionary Immunity	9
Conflicts of Interest.	10
Code of Ethics.	11
Harassment	12 - 13
Port of Brookings Harbor Commission Duties	14 - 19
Port of Brookings Harbor Commission Responsibilities.	21 - 23

Introduction

The power and authority given a special service district, except as otherwise provided, shall be exercised by a board of directors. Each type of special district has its own statutes and requirements for board members. Some districts refer to board members as commissioners or directors. For the purpose of consistency throughout this material, district governing officials will be referred to as commissioners. Most districts require that commissioners either reside in the district that they represent for a specified period of time, or at least own property within the boundary of the district. The number of commissioners also varies as does the length of their terms.

District commissioners are public officials who must act in the best interests of the public and are accountable to the public through federal, state, and local laws. Governance is a heavy responsibility which must not be taken lightly. Public laws concerning district elections, public records and meetings, investment, and budgeting can be time consuming and often frustrating to understand. Commissioners can become objects of public scrutiny and criticism if affairs of their districts are not managed properly.

Acting as a commissioner can be a rewarding experience which brings a sense of pride in the knowledge that local services depend on the efficient and dependable operation of district services. Well informed commissioners should pay close attention to the needs of the population their districts serve and be aware of their many and important responsibilities.

A well formulated commission policy manual can assist commissioners in understanding their responsibilities and can also assist in orienting new commissioners.

Port of Brookings Harbor Commission Rules & Regulations

RULES AND REGULATIONS

1. The Port of Brookings Harbor Board of Commissioners shall operate directly under the general provisions for port districts and special districts established by the State of Oregon, and the following general operating procedures.
2. The rules and regulations are intended to provide a general understanding and a uniformity in the practices and procedures for the operation of the Port of Brookings Harbor District.
3. These rules and regulations express the judgement and will of the Port of Brookings Harbor Board of Commissioners and are binding on all members.
4. In the event that any part or parts of these rules and regulations are found to be in conflict with the law, then only such part or parts so found shall be null and void and the remainder thereof shall remain in full force and effect.

AMENDMENT OR SUSPENSION OF RULES

1. The rules and regulations of the Port of Brookings Harbor Board of Commissioners may be amended or suspended by a majority of the Commissioners at any Commission meeting, provided that each Commissioner shall have been notified in writing of the proposed amendment or notice of the proposed suspension at least forty-eight (48) hours in advance of the meeting.
2. Where a new regulation replaces or amends an existing regulation, the Commission shall repeal the older one by direct action.
3. The Port Manager may, in case of emergency, suspend any part of these rules and regulations which may be in conflict with handling an emergency; provided, however, that the Port Manager shall report the fact of, and the reason for, such suspension at the next meeting of the Commission; and provided further that the suspension shall expire at the time of said report unless continued in effect by the Commission.
4. All previous policies not consistent with the articles of this policy document are hereby declared null and void. In any instance of conflict, this document will supersede past actions. Nothing herein is intended to over-ride the provisions of Federal, State, or local laws, and such laws take precedence in the event of conflict.

Board of Commissioners Rules of Conduct

The Board of Commissioners of the Port of Brookings Harbor is committed to providing excellence in legislative leadership that results in the provision of the highest quality of services to its residents. To assist in the government of the behavior between and among members of the Board of Commissioners, the following rules shall be observed:

- I. We, as a Board of Commissioners, value confirming the dignity of each individual Commissioner. We also recognize the importance of respecting the style, values, and opinions of one another. We encourage responsiveness and attentive listening in our communication.
2. We, as a Board of Commissioners, shall place the needs of the residents first.
3. We, as the Board of Commissioners, recognize that our primary responsibility is the formulation and evaluation of policy. Routine matters concerning the operational aspects of the District are to be delegated to professional staff members of the District.
4. We, as a Board of Commissioners, shall commit ourselves to emphasizing the positive, avoiding double talk, hidden agendas, gossip, talking behind people's backs, and other negative forms of interaction.
5. We, as a Board of Commissioners, commit ourselves to focusing on issues and not personalities. We will encourage the presentation of others' opinions. We will avoid cliques and voting blocks based on personalities rather than issues. We will make decisions only after all available findings of fact have been presented and discussed.
6. We, as a Board of Commissioners, when responding to citizen requests and concerns, shall be courteous, responding to individuals in a positive manner and routing their concerns and interests through appropriate channels.
7. We, as a Board of Commissioners, should avoid public "minority" opinion discussions except during Commission meetings where other Commission members may have the opportunity to observe all facets of the issue.
8. We, as a Board of Commissioners, commit to supporting Commission action. The role of the Commissioner is not to place barriers once a decision has been made by the Commission and is ready to be implemented. We acknowledge the right of individuals to disagree with ideas, without being disagreeable. Different points of view are healthy in contributing to the decision-making process.
9. We, as a Board of Commissioners, shall practice the following procedures in: 1) seeking clarification on informational items; 2) handling complaints; 3) handling items related to safety; 4) presenting items for discussion at Commission meetings and in other forums; and 5) seeking clarification for policy-related concerns.
 - a. Informational Items: Commissioners may directly approach professional staff members to obtain information needed to supplement, upgrade, or enhance their knowledge to improve legislative decision-making.

- b. Handling Complaints from Residents of the District: Complaints made to members of the Board of Commissioners should be directly referred to the Port Manager of the District, who will channel the complaint to the proper department for solution, and shall discuss the complaint at a regular meeting only after failure of administrative remedies or solutions.
 - c. Safety: Concerns for safety or hazards should be reported to the Port Manager or to the front desk at the Port office. Emergency situations should be dealt with immediately by seeking appropriate assistance.
 - d. Agenda Items: Commissioners wishing to have items placed on the Commission meeting agenda or at other Commission functions should present these to the Port Manager and/or the Commission Chair.
 - e. Policy-related Concerns: Policy-related questions, especially related to personnel, legal action, land acquisition and development, finances, and programming should be directed to the Port Manager and/or to a Commissioner when advisable.
- 10. We, as a Board of Commissioners, recognize the work of the District as a team effort. All individuals shall work together in a collaborative process, assisting each other and the Chair, in conducting the affairs of the District.
 - 11. We, as a Board of Commissioners, shall each operate as part of the whole, issues will be brought to the attention of the Commission as a whole, rather than to individual members selectively.
 - 12. We, as a Board of Commissioners, recognize that the Port Manager has been delegated executive responsibility and authority for properly discharging the required professional duties within limits of established Commission policy and applicable laws, and are encouraged to work with the Port manager, at our convenience, to discuss current issues, concerns and District projects.
 - 13. We, as a Board of Commissioners, are responsible for monitoring the District's progress in attaining its goals and objectives, while pursuing its mission.
 - 14. We, as a Board of Commissioners, when approached by professional staff members concerning policy within the District, shall direct inquiries to their supervisor. The chain of command should be followed.
 - 15. We, as a Board of Commissioners, shall be prepared by reviewing District materials and will engage in a program of development directed toward improving our legislative decision-making capabilities.

Compensation & Expenses

(Provided for informational purposes)

A district commissioner may not receive over \$50 per day or a portion thereof as compensation for services performed as a member of the governing body. Such compensation shall not be deemed lucrative. The governing body may provide for reimbursement of a member for actual and reasonable traveling and other expenses necessarily incurred by a member in performing official duties. (ORS 298.190)

Public officials in Oregon are prohibited from using their office in order to obtain financial gain for themselves, their relatives, or business with which they or any member of their household is associated. Commissioners devote a great deal of energy and time to the community. They must view their position as one of service and representation, not as an avenue toward financial gain.

Financial Disclosure

(Provided for informational purposes)

Officers of special districts are not required to file financial records with a district unless the district is a metropolitan service district. However, a district may enact a resolution requiring its officials to disclose their financial records.

Bonding

The Port of Brookings Harbor District shall require bond or irrevocable letter of credit of any member of the commission or any officer or employee of the district who is charged with possession and control of district funds and properties. The amount of the bond shall be fixed by the commission of the district. The premium shall be paid from the district funds. The letter of credit shall be issued by a commercial bank.

Under certain conditions, the amount of the bond can affect the frequency of a financial audit as required by the State of Oregon.

Commissioner Liabilities

(Provided for informational purposes)

Governments are no longer governed by the principal of sovereign immunity, which in the past protected them from liability. This size of claims against governing bodies in the State of Oregon is limited by the Oregon Tort Claims Act. The act sets a limit of \$500,000 for each claim filed against a governing body. To protect themselves from liability, the Port of Brookings Harbor District provides Errors and Omissions Liability coverage.

District boards and their members can be held liable if a claim filed against the district meets any of the four following tests:

1. Violation of Duties: The violation must be clearly outside the scope of the districts' duties and responsibilities.
2. Cause and Effect: The Commission or the decisions of its members must be the cause of the injury. If the decision was not the substantial reason behind the injury, then the Commission cannot be held liable.
3. Breach of Duty: The District Commission must use reasonable care to prevent an injury if the potential for an injury is foreseeable. For example, liability can be found if an unsafe work area, that the Commission was informed of and failed to take any action against, was the cause of an accident. The court will follow the Prudent Person Rule when deciding if the District liable: "Would a reasonable person have known that if they failed to do something, an injury would occur?"
4. Injury of Damage: There must be injury or damage caused to the plaintiff in order for the District to be held liable for a tort. Potential injury or damage is not a substantial enough reason to sue the District.

Discretionary Immunity

(Provided for informational purposes)

Source: *Special Districts Legal Counsel*
Bollinger, Hampton & Tarlow
Risk Management Review, January 1991

Under Oregon law, public bodies and their officers, employees and agents are immune from liability for "any claim based upon the performance of or the failure to exercise or perform a discretionary function or duty, whether or not the discretion is abused". (ORS 30.265)

A discretionary (immune) act is an act in which a policy decision is made, while a ministerial (non-immune) act is an act which implements a policy decision which has already been made. In the real world, the distinction is often vague.

Not every exercise of judgement constitutes an exercise of "discretion". In deciding whether an act was the result of a delegation of responsibility for policy choices to a certain level of operations (discretionary), as distinguished from routine decisions which every employee must make in every action he or she takes (ministerial). For example, if an officer or committee had to decide whether to take one action versus another because of financial constraints, a discretionary action is usually present because a policy decision regarding financial priorities will have been made.

Similarly, the decision to choose one plan of a roadway over another plan is probably a discretionary act; most acts done in routine maintenance of a road would be ministerial.

Establishing that an act was discretionary allows a court to dismiss an action against the public body before trial. It is, therefore, well worth some planning to create a record which will help to prove the discretionary nature of acts of your district.

First, all decisions which actually are policy decisions should be made by the person or committee which has the duty and/or right to make such decisions. Do not allow policy to be made at an inappropriate level. Second, all decisions made should be documented and a synopsis of the discussions regarding the decision should be kept. Carefully written minutes of a meeting may be sufficient to accomplish this documentation.

If a claim is filed against your district, be aware of the discretionary immunity defense and provide a documentation of related decisions and actions to your attorney as soon as possible.

Conflicts of Interest

(Provided for informational purposes)

A conflict of interest can arise anytime a public official takes any action or makes any decision or recommendation, which can be perceived as giving benefit or detriment to the official or the official's relative, or a business with which the official or the official's relative is associated, unless the benefit is a result of the following:

1. The commissioner is required to be a member of a certain business, organization, or occupation required as a prerequisite to holding the office or position on the commission.
2. The commissioner is part of a class which consists of all inhabitants of the state or a smaller class which is composed of large industry, occupational or other group, including one of which or in which the Commissioner, or the Commissioner's relative or business with the Commissioner or the Commissioner's relative is associated, is a member or is engaged. The Commission may, by rule, limit the minimum size of or otherwise establish criteria for or identify the smaller classes that qualify under this exception.

If a conflict of interest does arise, the official **must** announce publicly the nature of the potential conflict of interest before taking any action thereon in the capacity of a public official. (ORS 244.120). Announcements regarding the conflict of interest must be made each time that it arises. If the issue is disclosed at several different commission meetings, then the conflict of interest must be disclosed each time.

Simply declining to vote on a matter where a potential conflict of interest arises is not adequate. The conflict must be publicly declared and announced. The decision of whether or not to participate in the discussion of the matter resides with the commission. Failure to announce a conflict of interest is against the law and can result in civil penalties.

The Oregon Ethics laws define "relative" to mean the spouse of the public official, any children of the public official or the public official's spouse, and brothers, sisters, or parents of the public official or the public official's spouse.

The Oregon Ethics laws also defines "business with which the person is associated" to mean any business of which the person or the person's relative is a director, officer, owner, or employee, or agent or any corporation in which the person or the person's relative owns or has owned stock worth \$1 ,000 or more at any point in the preceding calendar year.

Code of Ethics

(Provided for informational purposes)

All public officials in Oregon should be aware of and follow the State of Oregon's Code of Ethics: (ORS 244.040)

The following actions are prohibited regardless of whether potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:

1. No public official shall attempt to use or use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or any relative of the public official, or for any business with which the public official or a relative of the public official is associated.
2. No public official or candidate for the office or a relative of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of \$100 from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.
3. No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgement would be influenced thereby.
4. No public official shall attempt to further or further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.
5. No person shall offer during any calendar year any gifts with an aggregate value in excess of \$100 to any public official or candidate therefor or a relative of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate if elected would have any official position or over which the official exercises or the candidate if elected would exercise any authority.
6. No person shall attempt to represent or represent a client for a fee before the governing body of a district of which the person is a member. This does not apply to the person's employer, business partner or other associates.

Harassment

The Port of Brookings Harbor District strongly disapproves of, and does not tolerate, harassment of any kind. Commissioners, as well as employees, must avoid offensive and inappropriate behavior and are also

responsible for assuring that the workplace of the Port of Brookings Harbor District is free from harassment at all times.

1. It is the policy of the Port that harassment on the basis of an employee's race, creed, color, national origin, age, sex, marital status, religious affiliation, or the presence of a physical, sensory, or mental disability, will not be permitted. Prohibited harassment includes comments, slurs, jokes, innuendos, cartoons, pranks, physical harassment, or any similar activities which are derogatory on the basis of the employee's protected class membership of which are promoted by the employee's protected class membership. Harassment also includes any negative actions toward an employee based upon that employee's participation in activities identified with, or promoting the interests of a protected group. Sexual harassment, whether on- or off-duty includes unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature. In addition, all such sexual conduct, whether welcome or not, is absolutely prohibited while an employee or volunteer is on duty. No personnel decisions shall be based upon an employee's response to such harassment. The Port regards duty-related harassment as a serious transgression and reason for discipline or discharge.
2. Employees have the right to be free from such harassment, either from co-workers, supervisors or commissioners while on or off the job. Harassment is prohibited by state and federal anti-discrimination laws where:
 - a. Submission to such conduct is either explicitly or implicitly a term or condition of employment or volunteer status;
 - b. Submission to or rejection of such conduct by an individual is used as the basis for decisions relating to the individual's employment or volunteer status, or
 - c. Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

REPORTING HARASSMENT

1. Should an issue of harassment be raised, all related matters will be kept confidential to the extent possible throughout the investigation, counseling and disciplinary stages. Any employee receiving notice of harassment shall notify the Port Manager, in writing, who will then direct an investigation and insure that the charge is resolved appropriately.
2. Any employee who feels harassed under this policy or is aware of the harassment of another employee is urged to report this to an immediate supervisor, or the Port Manager. The report may be formal or informal. A formal report shall include a written statement. If the individual believes he or she is being harassed by the Port Manager, is uncomfortable in discussing the matter with the Port Manager, or if the Port Manager is unavailable, the person involved shall notify the chair of the Port Commission. No complainant shall be retaliated against in any way for complaining of harassment.

INVESTIGATION OF COMPLAINTS

1. When the Port Manager or chair of the Port Commission is notified of alleged harassment, he or she will notify Port's legal counsel and will promptly investigate the complaint. The first pre-investigation step shall be to

inquire of all persons reporting as to whether the record now includes all allegations of harassment. The investigation will include interviews with the directly-involved parties, and where necessary, any other parties who may have observed the alleged harassment or who may be similarly situated with the complaining party (such as co-workers who may be able to testify to their experience with the person who is accused of the harassment).

2. The investigator shall cause the person accused of harassment to be advised of the allegations, and afford him or her an opportunity to reply to the allegations orally or in writing. The accused person shall also be advised that any retaliatory conduct by him or her shall be subject to disciplinary action regardless of the truthfulness of the allegations of harassment. The results of the investigation shall be reduced to writing. A finding shall be made that there is or is not reasonable cause for disciplinary action. Nothing in this section shall limit the authority of the Port to modify its policies or practices to correct any appearance of sexual harassment without finding reasonable cause for disciplinary action or taking any disciplinary action. The report will also include any recommendations to remedy any harm which was suffered if the evidence shows that the person alleged to have been affected by sexual harassment was injured or harmed.
3. A report which finds reasonable cause for disciplinary action will be maintained in the personnel file of any employee subject to discipline. The employee may place in the employee's personnel file a statement of rebuttal or correction. For the purpose of this section, a former employee may also present such statement.
4. Where a complaint cannot be substantiated, a general warning shall be made to all employees and volunteers regarding the possible ramifications of a substantiated harassment complaint and all employees and volunteers will be asked to review the sexual harassment policy.

Port of Brookings Harbor Commission Duties

DUTIES OF THE DISTRICT COMMISSION

Recognizing the legal definition of its duties, the Board of Commissioners, in providing adequate and suitable maritime and marine-related services for the citizens of the Port of Brookings Harbor District shall consider its major responsibilities to be:

1. To select and employ a professionally trained and experienced Port Manager to administer the District.
2. To interpret the needs and desires of the constituents of the Port of Brookings Harbor.
3. To provide for the preparation and subsequent adoption of an annual budget.
4. To approve preliminary and final project plans and specifications, as well as acquisition and disposal of Port property,
5. To provide District facilities, equipment and supplies for implementing the District's programs, operations and maintenance.
6. To formulate and approve Ordinances and Resolutions for the Port.
7. To determine questions of policy.
8. To consider and act upon recommendations of the Port Manager in all matters of policy, salary schedules or other personnel matters of significance.
9. To require reports by the Port Manager concerning the conditions, efficiency and needs of the Port of Brookings Harbor District.
10. To inform the public concerning the progress and needs of the District and to solicit and consider public opinion as it effects the programs and services provided by the District.
11. To implement all actions required by law.

ORGANIZATION OF THE DISTRICT COMMISSION

1. The Commission shall consist of five members elected from within the Port District as provided for in ORS-777.135.
2. At the first Commission meeting in July of each year, there shall be elected a President, 1st Vice President, 2ⁿ Vice President, Secretary, and Treasurer. Each officer so elected shall take office immediately and shall serve until the first Commission meeting of the following year, or until his/her successor is elected and qualified to serve.

It is acceptable for any person to fill the same office for consecutive years. A member shall be eligible for more than two consecutive terms as president. New members of the Commission shall begin at Treasurer. If there is more than one new member of the Commission at any time, the new members shall be designated to such offices as the Commission shall determine.

3. If the President should resign or for any reason be unable to fulfill his/her obligation during his/her term of office, the 1st Vice President shall automatically fill the position of President. In the event any other office becomes vacant, the position found vacant shall be filled at the next regular meeting of

the Board of Commissioners by nomination and vote of the remaining Commissioners. The member so elected shall hold that term of office only until July 1 next succeeding the next regular election held in this state.

4. The duties of the President shall be to preside at all meetings/work sessions of the Commission, to all documents which require a formal signature of the Commission, to create standing and special committees, and to appoint Commissioners to those standing and special committees. Commission concurrence will be requested on the creation of committees and the appointment to those committees. The President shall have a vote on all issues before the Commission and shall be called upon for the final individual vote on roll-call votes.
5. The 1st Vice President shall preside in the absence of the President and shall perform such other duties as may be assigned by the President. In the absence of the President and 1st Vice President, the 2nd Vice President shall perform the duties of the President.
6. A recording secretary who shall not be a member of the Board of Commissioners shall be hired to take the minutes of all Commission meetings and all informal minutes when requested by the President to do so.

MEETINGS OF THE DISTRICT COMMISSION

1. The Commission shall establish a yearly calendar of regular monthly meeting dates and times at the first meeting of each new fiscal year. Regular meeting dates may be changed upon the majority vote of the Commission. Commission members shall attend all meetings faithfully except in cases of illness or when the absence has been approved by the President prior to such meeting(s).
2. Special meetings may be called by the President at any time or by any three members of the Commission. Notice thereof shall be given to every member not less than two (2) days in advance, if possible, unless such notice be waived by the members. No business shall be transacted at any special meeting which does not come within the purpose or purposes set forth in the call for the meeting, unless all the members of the Commission are present and agree to the consideration of the additional items.
3. All meetings of the Commission shall be subject to the State of Oregon Public Meetings statutes. (ORS 192.620).
4. A quorum shall consist of a majority of the Commission. If the scheduled meeting time arrives and a recognized quorum is not assembled, the meeting may be officially cancelled after a fifteen (15) minute waiting period.
5. At an appropriate time during each public meeting, the members of the general public in attendance at the meeting shall be offered an opportunity for comment, or to bring issues before the Commission that may otherwise not have been included on the agenda. (Limited to five minutes per individual unless arrangements are made with the Commission President in advance).

Additionally, Commissioners may present topics or issues to the Commission that may not have been included on the agenda during that portion of the meeting set aside for New Business. In either

instance, official action will be initiated only upon unanimous vote of the Commission to place the issue on the agenda for action at that time.

6. The order of business at a regular meeting of the Commission shall be:

- I. Call to Order
- II. Introductions
- III. Minutes
- IV. Financial Review & Payment of Bills
- V. Old Business
- VI. New Business
- VII. Hearings from Citizens
- VIII. Correspondence
- IX. Adjournment

7. Listed below is the procedure which allows for any orderly discussion of each issue:

- a. Staff report and recommendation
- b. Motion and second (if appropriate)
- c. Comments or questions of individual commissioners
- d. Public comment in support (if appropriate)
- e. Public comment in opposition (if appropriate)
- f. Additional comments of individual commissioners
- g. Action

8. The pamphlet titled *Parliamentary Procedure Made Easier*, Oregon State University Extension Service, Extension Circular 947, reprinted January 1982, (a simplified version of Robert's Rules of Order, shall be observed except as otherwise specified by these rules and regulations.

MINUTES OF MEETINGS

1. The official minutes of the Commission meetings, signed by the President and Secretary, shall be kept in accordance with the provisions of ORS 192.650 and shall be made available to citizens desiring to examine them, subject to the State of Oregon Public Records statutes and Administrative Policy.
2. Copies of the minutes shall be prepared as soon as practical after each meeting and shall be distributed to all Commissioners.

COMMITTEES

1. Special committees may be created by the President, with concurrence by the Commission. Committee members will be appointed by the President, with concurrence by the Commission. Whenever desirable, the Commission will function as a committee of the whole. Other committee members may

be selected from the public when deemed desirable. The President will set time lines for each committee.

2. The functions of a committee shall be those designated by title. It shall be the responsibility of a committee to study topics referred to it and to make recommendations to the Commission for final action.
3. Special committees (ad hoc) may be created by the Commission for special assignments. When so created, such committees shall be appointed by the President and shall terminate upon completion of their assignments, or they may be terminated by a majority vote of the Commission attending any regularly scheduled meeting.
4. The Port Manager shall be eligible to attend any meetings of any standing or special committee except when his/her employment is under consideration.
5. Standing committees may be created by the President, with concurrence by the Commission. Committee members will be appointed by the President, with concurrence by the Commission.
6. All special and standing committee meetings will be subject to the State of Oregon Public Meetings and Public Records statutes.

AUTHORITY OF MEMBERS

1. The Commission shall not be bound in any way by any statements or action on the part of any individual Commissioner or employee, except when such statement or action is predicated on previous action taken or policy adopted by the Commission.
2. All business must be conducted at legal meetings. If a proposition or complaint comes to a Commissioner, he/she should be courteous, but should not commit the Commission. Routine matters should be referred to the Port Manager. Matters of policy should come before the Commission.
3. All District business brought to the attention of an individual Commission shall be handled in the following manner:
 - Be courteous to the constituent and determine whether the stated business shall be referred to the Port Manager or to the Commission.
 - Direct the constituent to either call the Port Manager or to appear at the next Commission meeting and discuss the matter with the entire Commission.
 - No District business decision is ever made by an individual Commissioner outside the official Commission meeting.

TRAINING, EDUCATION, AND CONFERENCES

1. It is the policy of the Port of Brookings Harbor to encourage Commission development and excellence of performance by reimbursing expenses incurred for tuition, travel, and lodging as a result of training,

educational courses, participation with professional organizations, and attendance at state, regional, and national conferences associated with the interests of the District.

2. The Administrative Assistant is responsible for registration and lodging arrangements for Commissioners attending state, regional, and national conferences. Commissioners will make their own travel arrangements. Expense reporting forms will be forwarded to each Commissioner attending a conference.
3. When a Commissioner requests to attend a training or educational course, and that request is approved by the Board of Commissioners, the Administrative Assistant is responsible for the registration of the Commissioner.
4. Upon returning from conferences, seminars, workshops, etc., each Commissioner will either prepare a report or make a verbal report during the next Commission meeting detailing what was learned at the session(s) that will be of benefit to the District. Materials may be turned in to the Administrative Assistant to be included in the library at the Administrative office so that other Commissioners and staff may have access to them.
5. Commissioners are responsible for paying their own tuition for an educational course when requests are approved by the Board of Commissioners. Upon completion, of that course, the Commissioner will submit a request for reimbursement to the Administrative Assistant. The Administrative Assistant will fill out an authorization for payment, obtain the Port Manager's signature, and route the authorization to date services for processing. Copies of the authorization for payment will be forwarded to the Board of Commissioners.

LEGAL COUNSEL

1. An attorney shall be selected by the Commission. The Port Manager and the President of the Commission may request any legal advice that may be needed in handling or in dealing with matters pertaining to the welfare of the Port of Brookings Harbor District. Individual Commissioners should direct requests through the Port Manager and/or the President. The adequacy and cost/benefit of Port Legal Counsel shall be reviewed every three years or less if circumstances so dictate.

AUDITOR

1. An auditor shall be selected and appointed by the Commission and retained on a yearly retainer fee. The auditor must be a Certified Public Accountant and a member of the State Board of Accountancy roster authorized to conduct municipal audits. The Port Manager and the President of the Commission may request advice on any financial matters pertaining to the financial welfare of the Port of Brookings Harbor District. Individual Commissioners should direct requests through the Port Manager and/or the President. The adequacy and cost/benefit of the Port Auditor shall be reviewed every three years or less if circumstances so dictate.

INSURANCE AGENT(S) OF RECORD

1. An Insurance Agent(s) of Record shall be selected and appointed by the Commission. The Port Manager and the President of the Commission may request advice that may be needed in handling

or in dealing with insurance matters pertaining to the welfare of the Port of Brookings Harbor District. Individual Commissioners should direct requests through the Port Manager and/or the President. Request for proposals for Insurance Agent of Record shall be solicited every three years.

BANKING SERVICES

1. Request for Proposals for Banking Services shall be solicited every three years. The Port Manager and the President of the Commission may request advice that may be needed for decisions regarding the finances of the Port of Brookings Harbor District. Individual Commissioners should direct requests through the Port Manager and/or the President.

Port of Brookings Harbor Commission Responsibilities

1. Communications

Develop regular channels of communication with commissioners and the staff.

Schedule regular meetings between the commission president and the Port Manager, the commission president and other commissioners.

Encourage participation of staff members on appropriate committees.

Develop procedures for bringing staff opinions and recommendations to the commission, as well as commission opinions and decisions to the staff.

Invite clients, other local governments, and groups to commission or committee meetings or other types of commission sponsored assemblies to explore and develop approaches to common concerns.

Recognize that information obtained at commission meetings may be non-public and confidential, making disclosure a breach of trust.

Make use of educational sessions, workshops and seminars to further understanding of issues.

Respect the opinion of other members and accept the principle of majority rule in commission decisions.

2. Financial

Approve the annual budget.

Monitor district finances and the budget, settling policy or taking action to ensure the fiscal integrity of the organization.

3. Policies. Objectives. and Plans

Approve the annual strategic plan or plan of operations.

Approve policies for the organization.

A commissioner's basic function is policy making not administrative.

Develop and approve long-range plan of growth and development for the organization.

Approve specific important projects.

Approve any significant departure from established plans or policy.

Receive and pass on committee or other planning body recommendations.

Ensure that program objectives are assigned to the proper planning or implementing subgroups.

Where applicable, bring other local governments or community groups into the planning and decision-making process.

Approve contracts binding the organization.

Approve major changes in the district's organization or structure.

Approve commission plans of action.

Pass district resolutions.

4. Management

Select the district president and other officers.

Hire the Port Manager.

Define the duties and responsibilities for the president, Port Manager, officers, and major committee chairpersons.

Select legal counsel and consultants for the commission.

Authorize officers or commission agents to enter into contracts or to sign other written instruments and to take financial actions.

Approve the plan, form and amount of management compensation, that is, salaries, bonuses, vacation, travel, and so on.

Evaluate the performance of the Port Manager.

Approve the form and amount of reimbursement for commissioners.

Approve programs for management development.

Provide advice and consultation to management on matters within the purview of the commissioner's responsibilities.

Recognize that the Port Manager should have full administrative authority for properly discharging the duties of managing the operation within the limits of the established commission policy.

Give the Port Manager the respect and consideration due dedicated people in their community service role.

5. Employee Relations

Approve any employee benefit plans.

Insist that personnel complaints go through a proper chain of command. If not resolved, only then should the commission get involved.

Approve contracts with and between any unions involved with the organization.

Do not allow personnel problems other than problems with the Port Manager to be brought into commission considerations.

6. Control

Identify types of information needed by the commission to analyze effectively the district's directions and achievement. Create a process for collecting and analyzing information.

Participate in regular physical visits to district assets.

Realize that the citizens within the boundaries of the district are the true "owners" of the district.

Review and assess the organization's performance against objectives, resources, plans, policies, and services rendered,

Analyze major "shortfalls" in achievement.

Identify obstacles, sense changing needs, propose new directions or goals.

Insure that the district is in compliance with all federal, state, and local laws.

7. Board of Commissioners

Motivate commissioners to accept positions of leadership and responsibility.

Appoint, change; or abolish committees of the commission.

Appoint, compensate outside auditors and legal counsel.

Approve contracts for professional services required by and for the commission.

Don not make commitments on any matter that should come before the commission as a whole.

Recognize that an individual commissioner has no legal status to act for the entire commission.

Realize that if a quorum of the commission meets, then the meeting is considered a public meeting and must comply with all the requirements of the Oregon Public Meetings Laws.

Discussions on matters of overall policy outside of regular commission meetings can violate the open meetings law.

8. Public Accountability

Encourage members of the public to attend open meetings.

Establish a place on meeting agendas for comments and presentations by members of the public.

Keep the public informed on all district matters.

Make decisions based on the wishes and needs of the public.

Spend the district's money with prudence and trust.

Place the needs of the public above the ambitions of the commission or the district.

New Business Item M

Subject: SDIS Board Practices Assessment - Action

About: Does the Board wish to have an assessment done?



HOW DOES YOUR DISTRICT BOARD MEASURE UP?

Your district board has been entrusted with a vital public responsibility – to effectively manage the many risks that are involved with the operation of your special district.

Dedicated board members have reasons to be concerned about how well they are performing as risk managers.

SDIS shares those concerns and provides programs and consulting services designed to help member districts monitor and improve their risk management capabilities. The Board Practices Assessment (BPA) is a new consulting tool we are offering to show district boards how they rate in six key areas of risk management.

The BPA reveals how a board performs in such areas as communications, customer relations, personnel, operations, etc. Results of the BPA underscore the significant link between a board's performance and their district's risk management experience. Simply put, good board practices lead to sound risk management.



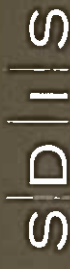
Special District Board Practices Assessment

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DISTRICT RATING



SPECIAL DISTRICTS
INSURANCE SERVICES

Special District Board Practices Assessment

Helping members effectively manage risks involved with the operation of special districts

BOARD PRACTICES ASSESSMENT

Frequently Asked Questions

- Q: What is the purpose of the Board Practices Assessment (BPA)?**
- A:** The BPA provides a format for a facilitated discussion among board members about their governance practices and how well they “measure up”. By assessing its strengths and weaknesses in key performance areas, the board can discover ways to improve the district’s outcomes.
- Q: What does the BPA cover?**
- A:** The BPA assesses board practices in six key performance areas that often determine whether the district will successfully achieve its outcomes. The practices involve regulatory, fiscal, customer service, personnel, and general management responsibilities that are necessary components of being a special district board.
- Q: Why does the BPA require a facilitated discussion?**
- A:** Individual board members often have different perspectives and levels of expertise. A facilitated discussion draws on the insight and knowledge of all members for a consensus-based understanding and analysis of their board’s governance practices.
- Q: SDIS has a Best Practices checklist; why offer another tool?**
- A:** SDIS uses the checklist to encourage and document compliance with industry-wide

best practices. Compliance is assessed on the basis of simple yes/no responses that are often provided by a board representative who may not be as well-informed or insightful as the full board. The BPA is designed to reflect a consensus of the views and expertise of all board members to produce a more comprehensive assessment.

- Q: Our district seems to be functioning pretty well; how would we benefit from using the BPA?**
- A:** Boards generally believe they are functioning pretty well and in fact, they probably are. But how do they know? What do they use as indicators of “functioning well” and are those the right indicators? Sometimes it takes a serious setback to prompt a board to improve its practices, after the damage has been done. The BPA offers the advantage of foresight by enabling a board to identify weaknesses in its governance practices that can be corrected before they lead to failure.

- Q: After our board completes the BPA, then what?**
- A:** With a consensus-based assessment, a board is well-positioned to determine the actions needed to fortify strengths and correct weaknesses in its practices. The actions may be relatively easy to implement, such as adopting a new policy or training for new skills. Or the actions may be more involved – for example, restructuring the organization or improving the budgeting process. In either case, actions implemented will be based on relevant information and thoughtful analysis as a result of completing the BPA.

SDIS is offering the BPA to member districts as an option for earning insurance contribution discounts and including it in their eight hours of free consulting time. District boards that complete the BPA will be awarded a 2% discount credit the following year on their SDIS property/casualty contributions.

To schedule the BPA for your board or for more information, contact Consulting Services Administrator George Dunkel at 503-906-7241 (office), 503-369-2050 (cell), or gdunkel@sdao.com.

Districts That Have Completed the BPA

Bend Metro Park & Recreation District
Black Butte Ranch Service District
Charleston Sanitary District
Crook County Fire and Rescue
Fairview RFPD
Gaston RFPD
Helix RFPD
Jackson County Fire District 3
Klamath 9-1-1 Communications District
Lakeside Water District
Nestucca RFPD
Netarts Water District
Oak Lodge Water District
Polk SWCD
Port of Newport
Port of St. Helens
Port of Tillamook Bay
Port of Umpqua
Rogue Valley Sewer Services
Seal Rock RFPD
Sherman County Health District
Silver Falls Library District
Springfield Utility Board
Sunset Empire Transportation District
Tualatin Valley Water District
West Umatilla Mosquito Control District

New Business Item N

Subject: Surplus Equipment - Action

About: Additional items added to existing list to be auctioned off. Port is looking at auctioning off equipment and materials in May 2017. Request Board Approval.

Port Surplus Equipment 2017

3/16/2017

#	Equip #	Description	Model	Serial No.	License No.	Year	Approved by Board as Surplus
1	1101	Chevy 3/4 Ton Truck	Chevy 2500 Cheyenne 4x4	1GCGK24F1VE130057	E251452	1996	1/10/2017
2	1103	Ford Ranger XL	Ford Ranger XL	1FTCR10A1STA55396	E241494	1995	1/10/2017
3	1104	Dodge Ram Van	Dodge Ram Van	287JB21Y41K519258	E218618	2000	9/20/2016
4	1105	Chevy 1 Ton Truck	Chevy Scottsdale	1GCHK34FONE183004	E252732	1992	9/20/2016
5	1106	Chevy 1/2 Ton Truck		1GCGK24K7KE101607	NN12252	1989	9/20/2016
6	1107	Ford F-150 Truck	F-150 1/2 ton truck	1FTDF15Y8MPB25992	E241483	1991	1/10/2017
7	1202	International Truck	International Truck		13936		9/20/2016
8	3703	Hyster Propane Forklift	2 ton				9/20/2016
9	3704	Hyster Forklift	10 ton				9/20/2016
10	3706	Port Survey Boat					9/20/2016
11	4601	Truck Crane	Link-Belt 35 Ton Truck Crane	Hull ID. SAMAA0098L989 8H5458		1988	1/10/2017
12	4604	Travel Lift Crane	(trade-in for new lift)	1591679		1985	9/20/2016
13	Lot 01	Boat Parts Grey Tote					
14	Lot 02	Boat Parts Blue Tote					
15	Lot 03	Boat Parts on the ground in front of trailer					
16	Lot 04	Two pallets of Boat Parts back of trailer					
17	Lot 05	Box Van and with Misc materials inside					
18	Lot 06	Trolling Poles					
19	Lot 07	Trolling Poles					
20	Lot 08	Trolling Poles					
21	Lot 09	Shrimp Webbing					
22	Lot 10	Scaffolding					
23	Lot 11	4" Gasket Joint Pipe and SIDR Pipe					
24	Lot 12	Truck Enigne and Frame			13936		
25	Lot 13	Jet Floats					
26	Lot 14	Boat Parts					
27	Lot 15	Boat Parts					
28	Lot 16	Boat Parts					
29	Lot 17	Boat Parts					
30	Lot 18	Electrical Boxes					
31	Lot 19	Boat Parts in Tote					
32	Lot 20	Boat Parts in Tote					

Port Surplus Equipment 2017

3/16/2017

#	Equip #	Description	Model	Serial No.	License No.	Year	Approved by Board as Surplus
33	Lot 21	Boat Canopy					
34	Lot 22	Outdoor Heater					
35	Lot 23	Safe					
36	Lot 24	300 Gallon Tank					
37	Lot 25	Drill Press					
38	Lot 26	Band Saw					
39	Lot 27	Boat Motor and Parts					
40	Lot 28	Boat Motor and Parts					
41	Lot 29	Boat Golf Cart					
42	Lot 30	BBQ 2-Each					
43	Lot 31	Slim Ell Buckets					
44	Lot 32	Snake Machine					
45	Lot 33	Event Misc Supplies and Materials					
46		P&H Crane	P&H 15 Ton RT Crane	32607		Not Avail	9/20/2016
47		Grove Crane	RT 48	33A		1991	9/20/2016
48		Vessel	Chantel C				1/10/2017
49		Vessel	No Yo				1/10/2017
50		Vessel	OR646ADS Searay				1/10/2017
51		Vessel	OR541YP Sailboat				1/10/2017
52		Vessel	Stella				1/10/2017
53		Vessel	Gypsy Lee				1/10/2017
54		Box Trailer			U378379		
55		20' Moran skid mount trialer					
56		Harbor Fire Boat and Trailer			OR542XM		
57		Helm Station # 1					
58		Helm Station # 2					
59		18" Blower Socks 2-Each					
60		Xerox Copier					
61		8'x20' Freezer Container					
62		Pile Driver Head					
63		Vessel	Reality				

LOT 1

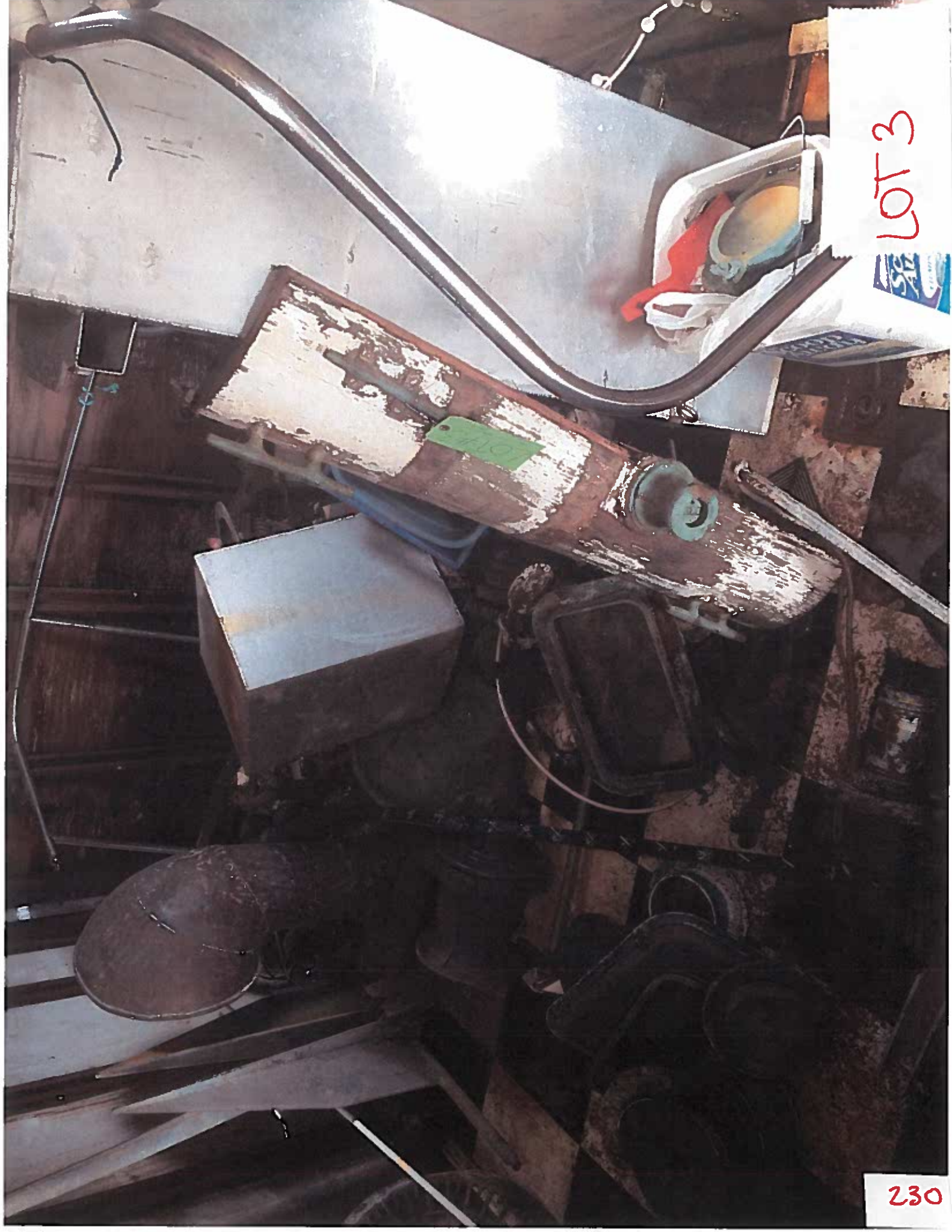
LOT #1

LOT 2

LOT #2

Electronic Ignition
PROPANE STOVE

229



LOT 3

LOT 4



231



L107

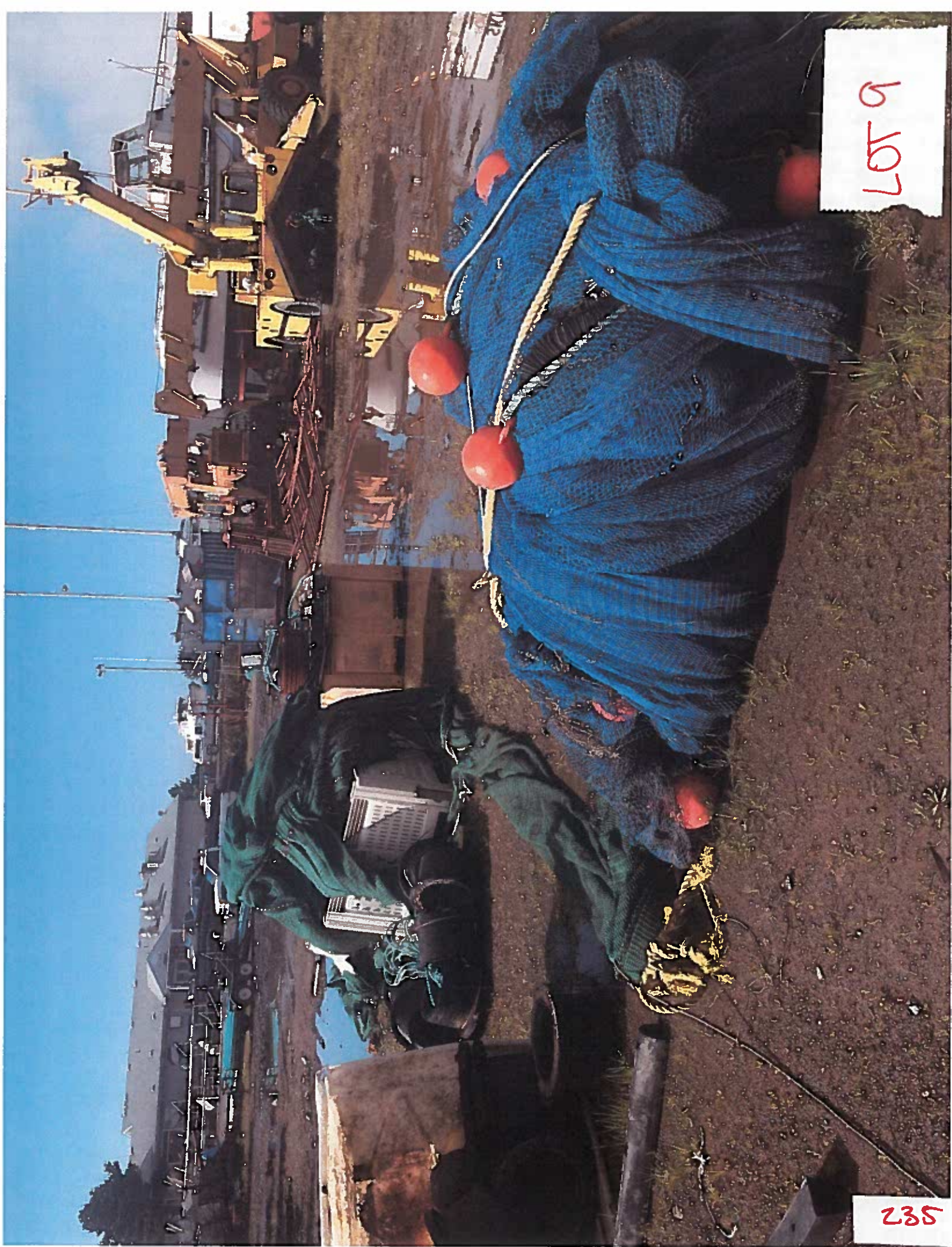
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Q107



6 107

235



LOT 10

236







Lot 12

238

LOT B



239

01107

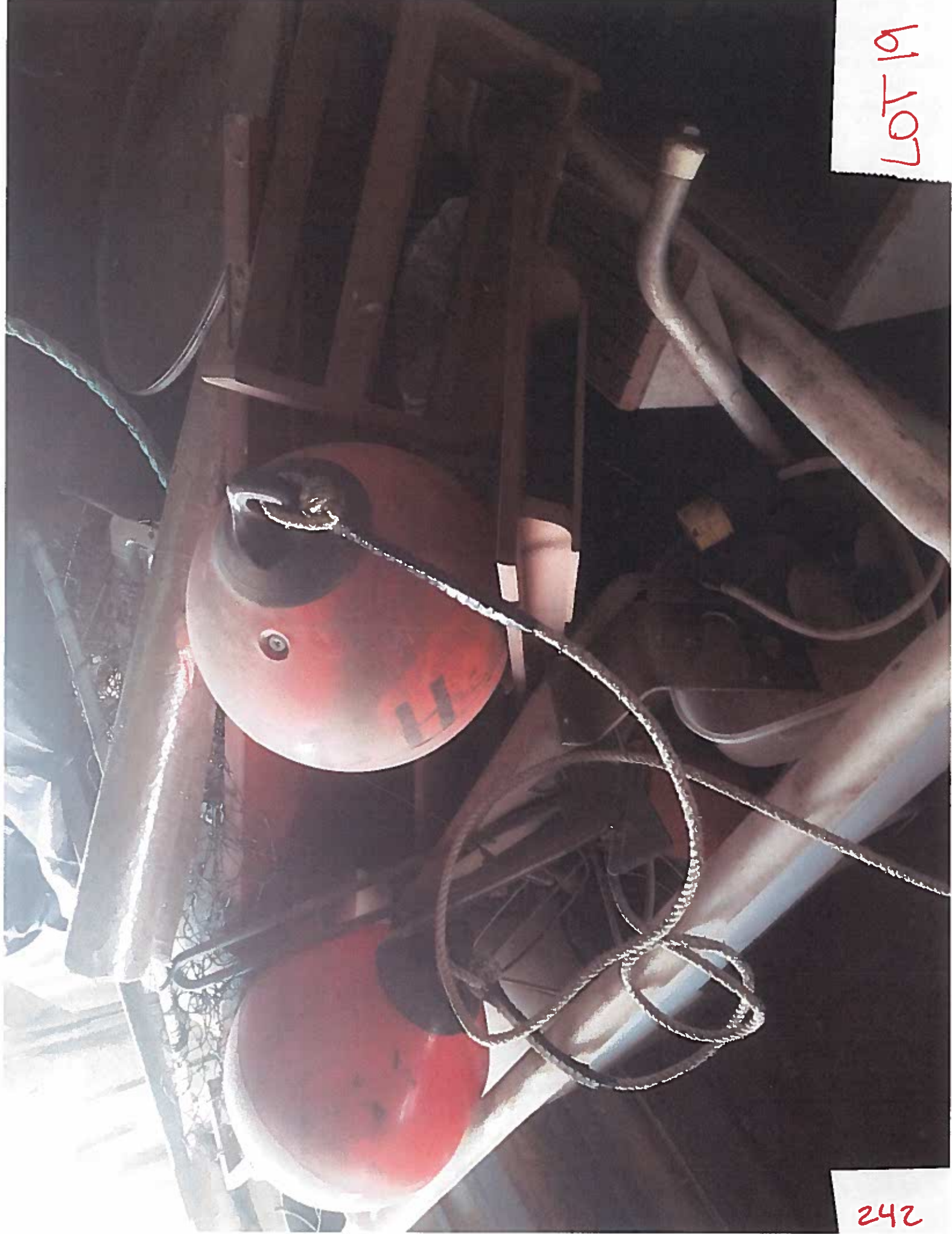
01107 #10

240

81107

241

61-107



242

LOT 20



243

LOT 22

244

LOT 24

245

LOT 25



246

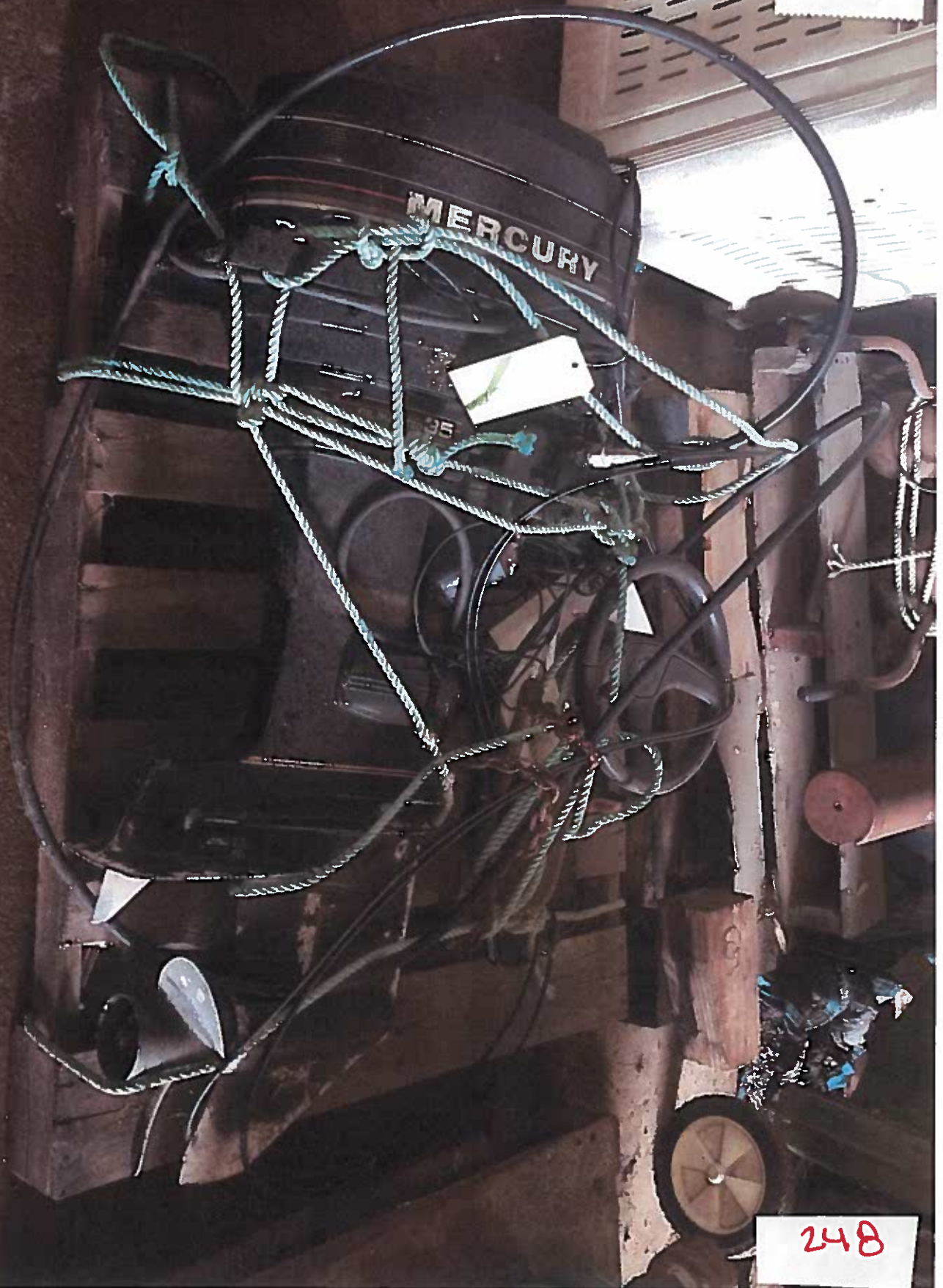
LOT 27

247

LOT 27



Lot 28



248

LOT 29

ALUMINUM
CUSTOM ALUMINUM BOATS MEDCORP
OREGON
Since 1978
Quality Standard

249

LOT 30

LOT 30

052

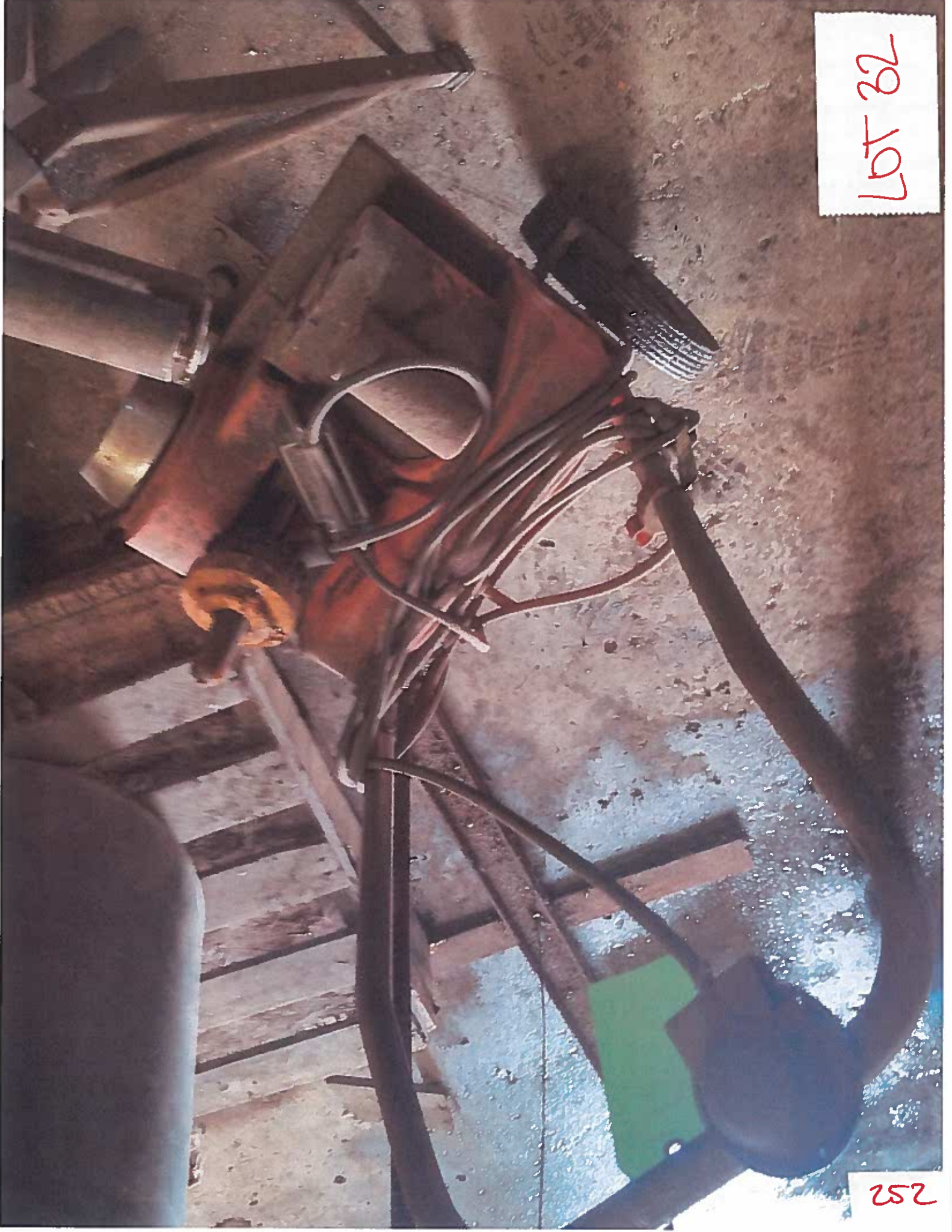
Lot 31

Lot 31

152



LOT 32



252

Box
Trailer

253

Harbor
Fire
Boat

OR 542 XM



254



Harbor Fire
Boat - Trailer

helm #1



256



Helm #2



Blower
socks

258

Blower
socks

259

xerox
copier

2600

Pile Head
Driver



261