



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

CALL TO ORDER

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

The following were present:

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

Staff Members: Tim Arntzen, Executive Director
Tana Bader Inglima, Director of Governmental Relations and Marketing
Tammy Fine, Director of Finance/Auditor
Amber Hanchette, Director of Real Estate and Operations
Larry Peterson, Director of Planning and Development
Bridgette Scott, Executive Assistant
Lucinda Luke, Port Counsel
Lisa Schumacher, Special Projects Coordinator

PLEDGE OF ALLEGIANCE

Mr. Mark Showalter led the Pledge of Allegiance.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

The consent agenda consisted of the following:

- A. Approval of Direct Deposit and E-Payments Dated December 17, 2014*
Direct Deposit totaling \$42,930.07.
- B. Approval of Warrant Registers Dated December 23, 2014*
Expense Fund Voucher Numbers 36393 through 36451 for a grand total of \$189,256.17.
- C. Approval of Direct Deposit and E-Payments Dated December 31, 2014*
Direct Deposit totaling \$51,775.83.
- D. Approval of Warrant Registers Dated December 31, 2014*
Expense Fund Voucher Numbers 36452 through 36481 for a grand total of \$67,249.35.
- E. Approval of Warrant Registers Dated January 13, 2015*
Expense Fund Voucher Numbers 36482 through 36516 for a grand total of \$203,059.69.
- F. Approval of Special Commission Meeting Minutes dated December 16, 2014*
- G. Approval to Sell and Convey Surplus Property (John Deer Loader); Resolution 2015-01*

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



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

NEW BUSINESS

A. West Richland Urban Growth Area Update, City of West Richland Planning and Economic Development Manager Nicole Stickney

Mr. Peterson reported the sixty day appeal process for the West Richland Urban Growth Area (UGA) Amendment request has expired. The next step will be for the Commission to consider a resolution to annex the property outlined in the UGA. Once the property is annexed, staff will continue working on the list of items identified in the 2015-2016 Work Plan to prepare the property for development. Mr. Peterson introduced Ms. Stickney, City of West Richland Planning and Economic Development Manager.

Ms. Stickney stated West Richland previously went through annexation process in 2007. Washington State has a variety of methods for annexation and West Richland will be utilizing the direct petition method which is not subject to referendum by voters. The petition will be sent to the Benton County Assessor, who will determine the sufficiency of the petition. The City would complete a State Environmental Policy Act (SEPA) checklist, and make a threshold determination for the West Richland Planning Commission, who would then hold an open record public hearing and make a recommendation for zoning. Once that phase is complete, the City Council would consider the Planning Commission's recommendation and if approved, a resolution for annexation would be passed and a notice of intent would be sent to Benton County. The zoning could be subject to review by the Boundary Review Board if any party requested further review. Otherwise, once the City passed the ordinance with the zoning designation, the zoning would be automatic. The other potential issue would be the statement on the petition, which would state, "subject to zoning within the City of West Richland and an assumption of the proportionate amount of city indebtedness," which means the homeowner would assume the tax rate for the area.

Ms. Stickney expressed the city is very appreciative of the port and indicated the collaboration and outreach throughout this process was very successful.

Ms. Stickney explained the annexation process should not take more than a few months. The city will need to establish a timetable for the public notice and confirm all requirements are satisfied. Ms. Stickney stated the ground work has been laid and the city would like to keep the momentum going to get the zoning and annexation approved quickly. The City of West Richland has been cognizant in reporting the benefits to the community and have been compliant with Growth Management Act.

Mr. Novakovich stated the West Richland UGA is an excellent example of collaboration of two partners working together to complete a project for the benefit of our community. Mr. Novakovich thanked Ms. Stickney for all of her work on the UGA.

Mr. Moak asked what could trigger the Boundary Review Board's involvement.

Ms. Stickney stated once the city submits the notice of intent to Benton County, and it is distributed, if anyone has an issue with the zoning, then a public hearing is set up by the Boundary Review Board.



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

The Commission thanked Ms. Stickney for the update. Mr. Barnes reiterated that there is additional site work to be completed to prepare the property for development as identified in the 2015-2016 Work Plan.

B. Approval of One-Year Lease with KLS Air Express, dba Freight Solution Providers (FSP)

Ms. Hanchette reported that KLS Air Express, doing business as Freight Solution Providers, would like to enter into a one-year lease for the Oak Street Development Building-A, Suite A-120. KLS Air Express, a logistics company, has been in business since 1989 and employs 130 people, company-wide. This will be a new location for KLS/FSP and a new business to the Tri-Cities; with two full-time employees to start. KLS/FSP was specifically looking for warehousing with a dock, for product distribution to Amazon's Data Center in Hermiston, Oregon. Ms. Hanchette stated, with the lease to KLS Air Express/FSP, Oak Street Development Building A will be 100% occupied.

PUBLIC COMMENT

No comments were made.

MOTION: *Commissioner Novakovich moved for approval of Resolution 2015-02 approving a one (1) year lease with KLS Air Express, Inc. doing business as Freight Solution Providers and Authorizing the Executive Director to execute the contract; Commissioner Moak seconded.*

Discussion:

Mr. Moak inquired if there were any deviations from the standard lease.

Ms. Hanchette stated there weren't any deviations from the lease and no tenant improvements requested.

Mr. Novakovich thanked Ms. Hanchette and stated this is an excellent opportunity for the region.

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

C. Approval of Three-Year Lease with NulytIQ LLC

Ms. Hanchette reported NulytIQ LLC is a software and services company seeking a three-year lease in the Clover Island Yacht Club building. This location will consolidate local team members into one space and allow their operations to grow from five current full-time employees to a projection of ten full-time employees by the end of 2015. Mr. McKay has worked with port districts previously and thought the Clover Island Yacht Club Building was a perfect space for their group. NulytIQ LLC is asking for a one time space modification up to \$10,000, for their specific server needs (mini-split). By leasing this space, NulytIQ LLC is keeping professional wage jobs in Tri-Cities with the potential of adding more.

NulytIQ LLC would share the kitchen/pantry with the current tenants and the hallways and bathrooms which are common areas will be removed from both leases, saving each tenant



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

money. Ms. Hanchette addressed the concerns regarding timing and compatibility and the Yacht Club was given the option to first right of refusal regarding the space.

Mr. Novakovich stated he has heard concerns from the current tenant and asked if NulytIQ LLC is being offered anything above and beyond the standard lease agreement.

Ms. Hanchette verified the beginning lease amount for NulytIQ LLC is identical to that of the current tenant beginning lease amount.

Mr. Novakovich confirmed that the current tenant pays for 50% of the kitchen space.

Ms. Hanchette indicated the current tenants only pay for 50% of the kitchen space.

Mr. Novakovich confirmed that NulytIQ LLC will need to purchase their own appliances and the current tenants are not expected to share. Also, Mr. Novakovich inquired if the conference room space will be shared as well.

Ms. Hanchette confirmed that NulytIQ LLC is aware they will need to purchase their own appliances. Furthermore, 100% of the conference space will be utilized by the current tenant, which was agreed on previously.

Mr. Novakovich asked if the current tenant has inquired about leasing the office space or if they have a first right of refusal in their current lease.

Ms. Hanchette stated the current tenant does not have a first right of refusal and in six years, they have not indicated their desire to lease the additional space. Ms. Hanchette further stated, she has had conversations with the current tenant about incorporating a studio space within their current office space.

Mr. Novakovich inquired if the port has other properties available if the current tenant outgrows their office space.

Ms. Hanchette indicated there is availability at Oak Street.

Mr. Novakovich thanked Ms. Hanchette for addressing the current tenants concerns. He believes this is a wonderful opportunity to keep jobs in the Tri-Cities and to lease a space that has been vacant for six years; he appreciates Ms. Hanchette's effort.

Mr. Moak asked what would happen if NulytIQ LLC continues to expand and outgrows the current space.

Ms. Hanchette stated if NulytIQ expanded within the three years, we would bring the issue back to the Commission.

Mr. Arntzen stated, if we have a success story of a business growing faster than anticipated and



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

do not have space to accommodate the business, we have come back to the Commission to discuss all parameters. The Commission has the ability to show discretion regarding lease terms.

Mr. Moak inquired if the port has let a tenant out of their lease due to expansion.

Mr. Arntzen believes we have done so in the past and have been flexible landlords in the past.

Ms. Bader Inglima stated the Commission's investments on Clover Island are getting attention, and if businesses are interested in growing, there are other opportunities on the Island for eventual development.

Mr. Moak inquired if there are any deviations from the standard lease.

Ms. Hanchette stated it is the standard lease, with a one-time tenant modification. It has been reviewed by finance for fair market value and has been reviewed by port legal counsel as well.

Mr. Moak inquired how the \$10,000 tenant improvement would be determined.

Ms. Hanchette stated the tenant would identify the needs for improvement, then staff would identify the scope, and manage the process from start to finish, to comply with prevailing wage law.

Ms. Fine stated the improvements would not be tenant specific, but an improvement for future tenants.

Mr. Arntzen stated each lease may look a bit different based on negotiations; however, he believes that the lease is very similar to the current tenant's lease.

Mr. Moak asked if the current tenant will incur an additional expense for the conference room.

Ms. Hanchette stated it is a trade-off since they will not incur costs for the common areas. The current tenant, at their request, did not have a desire to share the conference room area.

Mr. Barnes inquired why the lease would begin on April 1, 2015.

Ms. Hanchette indicated they need to order office furniture and prepare the space.

Mr. Barnes inquired how long the current tenant has been leasing their office space.

Ms. Hanchette stated they have been leasing the current space for 3 ½ years, with a rate increase according to their lease.

PUBLIC COMMENT

No comments were made.



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

MOTION: *Commissioner Novakovich moved for approval of Resolution 2015-03 approving a three (3) year lease with NulytIQ LLC and authorizing the Executive Director to execute the contract; Commissioner Moak seconded.*

Discussion:

Mr. Barnes stated the Commission is sensitive regarding the concerns raised by the current tenant, but it has been noticed that the space has been available and advertised for lease and there has not been a written proposal by the current tenant to lease the space.

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

REPORTS COMMENTS AND DISCUSSION ITEMS

A. Commission Procedures Review

Mr. Arntzen stated the document, "Knowing the Waters," by Frank Chmelik, an attorney who advises the Washington State Public Port Association (WPPA), lists a few beginning of the year housekeeping issues for the Commission. Ms. Scott will review the list with the Commission for any changes.

Ms. Scott stated the first item is setting the time and place for Commission Meetings for the next year. The time and date is designated in our Commission Rules of Policy and Procedure, Section 6.3 and is located on our website and advertised in our newsletter. Ms. Scott inquired if the Commission desired to make changes regarding the time of the meeting.

Mr. Moak suggested changing the starting meeting time to 1:30 p.m. as there are times the meetings run past 5:00 p.m.

Mr. Arntzen stated there are no impediments from a staff perspective.

Mr. Novakovich stated the Port has set precedence on the meeting day and time and does not see any advantage to changing the time or day.

Mr. Barnes opened for public comment regarding meeting dates and times, holidays, etc.

PUBLIC COMMENT

No comments were made.

Mr. Barnes sees very little difference in the time.

Ms. Scott verified the meeting time will stay at 2:00 p.m. The second item, appointing the officers of the Commission, was addressed during the November 18, 2014 meeting. The Commission appointed officers for the local organizations as well.

Ms. Scott verified the port has met the requirement of affirming the port auditor and port attorney. Ms. Scott stated that Ms. Fine was appointed the Port Auditor on October 26, 2004. Ms. Scott



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

reported the Port Commission Rules of Policy and Procedure states the Executive Director has the authorization to hire or terminate the port attorney.

Mr. Arntzen encouraged the Board to voice their opinion if they have a desire to change an item.

Mr. Moak stated Mr. Chmelik indicates the port attorney is hired by the Port Commission, however, our Port rules state the Executive Director hires the port attorney. Mr. Moak inquired what the statutory authority is.

Mr. Arntzen believes we have discussed this in the past and stated ports have the option to do it either way. When we were researching the policies and procedures, the law had not been defined either way. Our policy reflects the desire of the Commission at the time the policies were created, where the Executive Director hires the attorney.

Ms. Luke explained the Port Policies and Procedures were developed by Foster Pepper, who researched the issue and believes Foster Pepper followed the statutes.

Ms. Fine worked with Mr. Steve DiJulio on the Port Policies and Procedures and stated we were unable to find any law regarding the port attorney. The only law specific that pertains to ports is the appointment of the Port Auditor.

Mr. Arntzen stated the appointment of the auditor is more important because of the direct access the auditor has to the Commission for financial reporting. With the port attorney, Mr. Arntzen does not believe it is as critical, because the attorney represents the agency and the people performing roles within the agency. Mr. Arntzen discussed the issue with Mr. DiJulio and the rule can stand as is. Mr. Arntzen reiterated it was a reflection of the Commission at the time, and was consistent with the executive director's delegation of authority.

Mr. Novakovich inquired if hiring a port auditor and port attorney in the current executive director's delegations of authority.

Mr. Arntzen stated there are several Port policy documents and each item is separately referenced. Mr. Arntzen reported that Ms. Luke and Ms. Fine are revising current policies, and will look at the Port Commission Rules of Policy and Procedure which were adopted in 2011.

Ms. Scott stated item four addresses revisions to the Commission's resolution governing the transaction of its business. Ms. Scott stated the general conduct of business is addressed in the Port Commission Rules of Policy and Procedure, in sections 6.11 and 8.2.

Ms. Fine stated she will be reviewing the Delegation of Authority and the Port Commission Rules of Policy and Procedure as well.

Ms. Scott stated item five, consider any revisions to the Port's Delegation of Powers Resolution, is currently being reviewed and updated.



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

Mr. Arntzen stated the Delegation of Authority is currently being revised and needs a few minor changes, such as dollar amount revisions. Mr. Arntzen asked the Commission review the Delegation of Authority as well for any revisions they see necessary.

Ms. Scott stated item six addresses authorizing the executive director to sell port district property of \$10,000 or less in value. Ms. Scott stated this would be a duplication of our process already in place. Currently, the Port creates a list for surplus property and brings forth a resolution and list for the Board's consideration. Once the resolution and list are approved, the Port disposes the property.

Ms. Fine indicated the State Auditor prefers to see surplus property addressed in resolution form with an attached list.

Ms. Scott stated item seven states for the commission to consider setting goals for the year. Ms. Scott believes the budget, work plan and Executive Director's goals would satisfy this issue.

Mr. Barnes and Mr. Novakovich agree that those would be the Commission goals.

Mr. Moak stated the work plan sets the goals for the year although they are primarily project oriented as opposed to internal set goals.

Ms. Fine stated some items were addressed in Mr. Arntzen's goals or have already been established by the Commission, such as the budget philosophy, goals and objectives.

Mr. Arntzen indicated this was a great opportunity to work through the checklist and see what we are doing and what we may need to do in the future. Mr. Arntzen suggested the checklist should be used as a living document and asked the Commissioners to consider adding a section for goals in the work plan.

B. January 27, 2015 Commission Meeting

Ms. Scott reported that Mr. Moak will be traveling to Sacramento, California for the 2015 Unified Wine and Grape Symposium (Wine Expo), January 25-30, 2015. Ms. Scott inquired if the Commission would like to hold the Regular Commission Meeting scheduled for January 27, 2015 in his absence.

By consensus, the Commission approved Mr. Moak's travel to Sacramento. Furthermore, the Commission will hold the regularly scheduled Commission Meeting on January 27, 2015.

Mr. Moak stated State laws allow meeting attendance via telephone and suggested the Board consider adding this to the Port Commission Rules of Policy and Procedure.

Mr. Arntzen stated Section 6.8 in the Port Commission Rules of Policy and Procedure prohibits attendance by telephone or media.



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

Mr. Arntzen has attended the Wine Expo several times and stated it is one of the largest in the U.S. Ms. Bader Inglima and Ms. Hanchette, along with Ms. Walsh and Ms. Estes-Cross from the City of Kennewick will be attending the wine expo as well. The Port will be sharing a booth with Mr. Gary Black, and will be displaying the model of Columbia Drive and other marketing material. Mr. Moak will have the opportunity to spend time in booth as well as spend time researching what others are doing. Mr. Arntzen stated Mr. Moak and staff will also have the opportunity to spend some time in Napa, a community that has been reinvented to attract visitors traveling through wine country.

C. *Invitation to Schedule Special Commission Meeting at the REACH*

Ms. Scott reported that Lisa Toomey, Director of the REACH Museum, has reached out to staff and offered an opportunity to schedule a Special Commission Meeting at the REACH museum. Ms. Scott asked the Commission for their thoughts on scheduling an off-site meeting.

Mr. Moak inquired if the REACH Museum has the amenities needed for a meeting and if they are open to an afternoon or evening meeting.

Mr. Arntzen reported that Ms. Scott will review the facilities with Ms. Toomey and discuss the availability of an evening meeting and provide the Board with an update at a later meeting.

D. *Tri-Cities Legislative Council Trip, February 12-13, 2015*

Mr. Arntzen informed the Commission that the Tri-Cities Legislative Council Trip, is February 12-13. The Commission is unable to attend the Tri-Cities Legislative Council this year.

E. *Clover Island Artwork Update*

Ms. Hanchette reported the artwork installation of *The Anchor* and *Mother of Reinvention Two* is complete. Ms. Hanchette stated the preliminary work and details were finalized by Ms. Bader Inglima, Ms. Barb Carter of C2 Resources and Mr. Gary Hall of Hall Engineering. Ms. Hanchette indicated *The Anchor* was sourced locally, while the *Mother of Reinvention Two* was created by artist Ivan McClain. The *Mother of Reinvention Two* is an interactive piece that has the ability to move and has already been featured in social media.

Ms. Bader Inglima stated the social media coverage is a testament to the investment made by the Commission and people are excited about the artwork and are taking ownership of it. Much like Cable Bridge and the lighthouse, our artwork is becoming an ambassador for Clover Island and our community.

Mr. Moak stated these are impressive pieces of artwork and reiterated the investment on Clover Island. Mr. Moak would like to see more promotion of the artwork on the webpage and is encouraged by the social media coverage promoting our art.

F. *Columbia Drive Update*

Ms. Hanchette stated the Columbia Drive demolition is underway and has been documented thoroughly by the media outlets and social media. In three days, the major buildings came down: the 421 building, the pawn shop, labor ready and the house at cable greens.



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

G. City of Kennewick Partnership Discussion regarding Vista Field Planning Issues

Mr. Arntzen reported that he and Mr. Barnes met with Mayor Young and Ms. Mosley, from the City of Kennewick, regarding Vista Field and the connectivity issue that was addressed during the community Charrette. Mr. Arntzen stated it was a great opportunity to come together and converse primarily on the connectivity issue.

Mr. Barnes was pleased to meet with Mayor Young, Ms. Mosley and Mr. Arntzen to discuss the best ways to move forward with the Vista Field Redevelopment. In 2013, the Kennewick Public Facilities District (KPFd) attempted to gain voter approval for the expansion of the Three Rivers Convention Center, however, it was not approved. The main topic of discussion was how both entities can work together and Mayor Young made it clear that he is very supportive of the Port's efforts to redevelop Vista Field. Mr. Barnes conveyed to Mayor Young, on behalf of the Commission, that the Port is very interested in collaboration, cooperation, corridors, and connectivity in regards to the Convention Center and Vista Field. Mr. Barnes indicated it may be difficult to have a fully integrated master plan; however, he would like to see the specific concerns DPZ has identified, addressed. Mr. Barnes stated the meeting was very successful and the City and Port would like the professionals to meet and address these issues.

Mr. Arntzen stated he has met with Mr. Peterson and Mr. Mehaffy of DPZ and updated them on the meeting with the city. The port has asked Mr. Mehaffy to meet with architect, Rustin Hall from ALSC, to see if there is a potential solution and compromise for both master plans. Mr. Arntzen underscored both architects should recognize and be faithful to the community comments that manifested during the Charrette. Mr. Arntzen hopes the architects discover some interesting variables for consideration.

Mr. Peterson stated the areas located around Vista Field are primarily owned by public agencies: Benton County, Kennewick Irrigation District, Kennewick Public Facilities District, Trios Hospital, Kennewick School District, Port of Kennewick and City of Kennewick. With all of these public entities, there are different budgets, different priorities, and different missions to consider. However, each entity is responsible to the taxpayers.

Mr. Barnes stated if the port is going to redevelop Vista Field for the community, the master planning begins with the corridors and connectivity. It is of the utmost importance that the public entities work together and the port needs to reach out to the City of Kennewick and the KPFd and see if our design professionals can collaborate, to get to the desired end point.

Mr. Moak stated our project can only succeed if the Convention Center and KPFd properties succeed. Mr. Moak indicated the port needs to look at the overall principals of what we are trying to accomplish and collaborate with all our partners, to create a successful redevelopment for the community. Connectivity is very important, and having our professionals work together to create different scenarios is crucial. Mr. Moak stated, as key staff and elected officials work together and discuss these issues, it is important to continue being open and transparent and engage the public. Mr. Moak reiterated, the success of the redevelopment depends on all of the public entities working together.



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

Mr. Novakovich agrees with Mr. Moak, every entity needs to benefit from the redevelopment, but the question is how the port accomplishes that. Right now, this is a community project, not a port project, and we need to create that community vision. Mr. Novakovich stated connectivity to Vista Field is critical, and we must find a way to make it work, and if we need to compromise, we need to be cognizant that the community's long term benefit will be realized. Mr. Novakovich further stated, as the Port of Kennewick Commissioners, we were elected to take care of the public's ownership of Vista Field.

Mr. Barnes concurs with Mr. Moak, Mr. Novakovich and Mr. Peterson's statements. The redevelopment is a community project and we need to work with our partners to solve the street access and connectivity issues.

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

Commissioners reported on their respective committee meetings.

I. Non-Scheduled Items

1. Mr. Moak commented that Millie Elmgren, widow of former Port Commissioner Ray Elmgren, passed away last week. Ms. and Mrs. Elmgren were very involved in the community in the 1970's and 1980's. Mr. Barnes offered the Elmgren's were generous people who were very community minded, and she will be missed.
2. Mr. Novakovich stated he would like to reinstate the West Richland Economic Development Committee meetings.
3. Mr. Novakovich spoke in favor of the *Tri-City Herald's* article regarding Vista Field and the community desires. Furthermore, Mr. Novakovich stated, our partnerships with the City of Kennewick and West Richland are very beneficial to our community.
4. Mr. Novakovich inquired about a WPPA Educational scholarship information he received. Mr. Arntzen reported that the WPPA offers an annual educational scholarship, but will review the scholarship and provide further details at a future meeting.
5. Mr. Novakovich stated we need to be conscientious of staff time and the amount of big projects on their plate and although we would like to help on other community projects, we do not have the staff time to undertake new projects.
6. Ms. Bader Inglima updated the Commission on the 1135 project, and currently, the Corps of Engineers are in the process of public scoping, which provides a formal opportunity for the community to provide input or make comments regarding the project. The Corps sent out a media release, and formal letters went out to local government agencies, the public, and stakeholders. Ms. Bader Inglima updated Senator Murray's office on the 1135 project and appreciates that their office is monitoring our project. At the end of 2014, Water Resources Development Act (WORDA) passed the federal level, which provides funds for Corps projects. WORDA increased the 1135 cap to \$10,000,000, however, since the Port is in phase one, it does not impact us. However, with this change, Mr. Arntzen will need to sign a new contract, after review by Ms. Luke.

The Corps initial project estimate has not varied much and the Washington D.C. office has budgeted a line item for phase two, which is very critical, because it places the port in the queue for priority phase two funding. The Walla Walla office has been working very hard to move this project forward and Ms. Bader Inglima anticipates the port will receive a tentative



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

draft by summer.

7. 2015 Real Ag Show. Mr. Arntzen will discuss the pros/cons of participation with the Executive Directors from the Port of Pasco and Port of Benton and will discuss the findings at a future meeting.
8. Mr. Arntzen appreciated the *Tri City Herald* editorial on Vista Field, which led to a request for a map of the area. Mr. Arntzen will respond to inquiries made regarding Vista Field, and will be very cognizant about not endorsing any project, but only explaining the port's viewpoint. Mr. Arntzen stated the arts community has come together on the Performing Arts Center and the idea is gaining momentum around the community. Mr. Arntzen informed the Commission that he will be meeting with Mr. Wiley from the Arts Center Task Force later this month. Mr. Arntzen asked the Commission for direction regarding the parameters of discussion for Vista Field. The Commission directed Mr. Arntzen to speak to all interested parties.
9. Mr. Arntzen stated the Vista Vision Task Force (V. V. T. F.) will be receiving the master plan soon, and inquired if the Commission would like to create a list of items for V. V. T. F. to review, or if they would like Mr. Peterson to address items that will be covered in the master plan.

Mr. Barnes stated the December 16, 2014 meeting minutes, page 9 addressed the following items:

- Overall connectivity: Port, City and KPPD properties;
- Undergrounding of utilities versus overhead: economic and community perception;
- Performing Arts Center, site selection;
- Overall financing.

Mr. Barnes believes the V. V. T. F. can begin processing the four items, and in the interim staff can compose a list for Commission review.

Mr. Arntzen has received additional information since the December 16, 2014 meeting, which should be considered and asked if the Commission would like to authorize him to bring additional items to the V. V. T. F.

Mr. Novakovich stated, during Mr. Cummins presentation, he declared "that the more information our partners and community have, the more educated we become." Mr. Novakovich would like to include "educate our partners, in a non-threatening manner" as one of the V. V. T. F. goals.

Mr. Arntzen will incorporate additional items and bring before the Commission at the February 10, 2015 meeting.

Mr. Peterson stated the Master Plan should be completed by month's end, which will allow time to create a list of items for discussion for the February V. V. T. F. meeting.

Mr. Novakovich commented that Mr. Arntzen is excellent at communicating the thoughts and policies of the Commission and that is an intrinsic part of his job. Mr. Novakovich



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

would like Mr. Arntzen to continue educating the public of who the port is, what the port does, and why the port does it.

Mr. Arntzen appreciated Mr. Novakovich's comments, however, he is concerned about addressing the Performing Arts Center, which was developed during the Charrette. Mr. Arntzen believes there may be pertinent role for each public entity regarding the Performing Arts Center, but believes the port needs to garner more information.

Mr. Moak stated it was the port's consultant who crafted the idea of a Performing Arts Center; however, the port has not seen or processed the DPZ master plan to make a definitive statement either way.

Mr. Barnes stated he is supportive of Mr. Arntzen conversing with anyone regarding port business and stated there are going to be times when conversations are uncomfortable. Vista Field is a very large and unique project, and there are going to be numerous discussions, which is part of the process. Mr. Barnes appreciates Mr. Arntzen's efforts and how he is doing his best in addressing challenging issues.

Mr. Novakovich stated, the Commission was elected to make the tough decisions and we need to support staff when they are following Commission direction. Mr. Arntzen thanked the Commission for their support.

Mr. Peterson stated the reason why we hired DPZ is that they have the experience in projects of this magnitude and they are accustomed to uncomfortable conversations.

PUBLIC COMMENTS

Chuck Eaton, 2309 Davison Avenue, Richland. Mr. Eaton thanked Mr. Peterson and the Port for attending the joint Arts Center Task Force and the Arts Foundation of the Mid-Columbia meeting on December 16, 2014. Mr. Peterson's contribution was very helpful in presenting the Charrette planning process and ideas. Mr. Eaton reported they surveyed the group during the joint meeting and he has shared the summary with Mr. Arntzen. The next step will be to reach out to organizations who were unable to attend the joint meeting and educate them on the facts. The arts community will continue to discuss a Performing Arts Center that will include all of the arts. Mr. Eaton thanked the Port for the opportunity and will keep the Commission apprised of future meetings and public feedback.

Mr. Arntzen appreciated Mr. Eaton's feedback and stated he will share Mr. Eaton's email (individually) with the Commission.

Ed Frost, 609 West Albany Avenue, Kennewick. Mr. Frost would like to reinforce the Commission's comments regarding Mr. Arntzen having the ability to openly communicate with everyone. Furthermore, Mr. Frost expressed his frustration about the lack of conversation about the connectivity issue and the KPFD Master Plan at the Charrette. He believes if it had been addressed at the Charrette, DPZ would have been able to come up with a creative solution. Mr. Frost would like the Commission and Mr. Arntzen to continue discussing the issues.



REGULAR COMMISSION MEETING

PORT OF KENNEWICK

JANUARY 13, 2015 MINUTES

No further comments.

COMMISSIONER COMMENTS

No further comments were made.

Mr. Barnes anticipates the Executive Session will last approximately 30 minutes, for Real Estate (site selection), per RCW 42.30.110(1)(b) and Real Estate (minimum price), per RCW 42.30.110(1)(c) with no action anticipated. Mr. Barnes asked the public to notify Port staff if they will return after the executive session.

Mr. Barnes recessed the Regular Commission Meeting at 4:48 p.m. for approximately 7 minutes.

EXECUTIVE SESSION

- A. Real Estate (site selection), per RCW 42.30.110(1)(b)
- B. Real Estate (minimum price), per RCW 42.30.110(1)(c)

Mr. Barnes convened the meeting into Executive Session at 4:55 p.m. for approximately 30 minutes.

Ms. Bader Inglima exited chambers at 5:25 p.m. and extended session for 10 minutes.

Mr. Barnes adjourned the Executive Session at 5:35 p.m.

Mr. Barnes reconvened the meeting into General Session at 5:35 p.m.

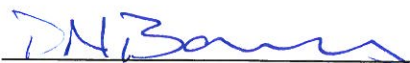
ADJOURNMENT

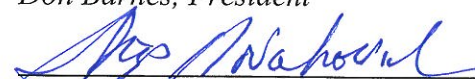
With no further business to bring before the Board; the meeting was adjourned at 5:37 p.m.


APPROVED:

PORT of KENNEWICK

BOARD of COMMISSIONERS


Don Barnes, President


Skip Novakovich, Vice President


Thomas Moak, Secretary

PORT OF KENNEWICK

RESOLUTION 2015-01

***A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE
PORT OF KENNEWICK AUTHORIZING THE PORT EXECUTIVE DIRECTOR
TO SELL AND CONVEY SURPLUS PROPERTY***

WHEREAS, the Board of Commissioners of the Port of Kennewick met this 13th day of January, 2015, a quorum of the Commissioners being present; and

WHEREAS, from time to time it is necessary to surplus items no longer needed for Port District purposes; and

WHEREAS, RCW 53.08.090 authorizes that the Port Commissioners may sell and convey property no longer needed for Port District purposes; and

WHEREAS, prior to each disposition of Port property, the Port Executive Director is directed to present to the Commission an itemized list of the property and to make written certification that the listed property is no longer needed for Port District purposes; and

NOW, THEREFORE, BE IT RESOLVED by the Port of Kennewick Commissioners to authorize the Port Executive Director to surplus Port property no longer needed for Port purposes as attached in "Exhibit A"; and

ADOPTED by the Board of Commissioners of Port of Kennewick this 13th day of January 2015.

***PORT OF KENNEWICK
BOARD OF COMMISSIONERS***

By:


DON BARNES

By:


SKIP NOVAKOVICH

By:


TOM MOAK

RESOLUTION 2015-01
“EXHIBIT A”

Asset	Disposition	Property Description	Date In Service	Cost
783	Obsolete	John Deer Loader Model 544D	12/9/04	36,659.55

PORT OF KENNEWICK

Resolution No. 2015-02

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK APPROVING
A ONE YEAR LEASE AGREEMENT WITH KLS AIR EXPRESS INC DBA FREIGHT
SOLUTION PROVIDERS***

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

WHEREAS, a one (1) year lease with KLS Air Express dba Freight Solution Providers effective January 12, 2015, has been negotiated by Port staff; and

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

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


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

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby approve a one (1) year lease with KLS Air Express Inc dba Freight Solution Providers as presented and authorizes the Port's Executive Director to execute all documents and agreements on behalf of the Port to complete the transaction as specified above.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 13th day of January, 2015.

**PORT of KENNEWICK
BOARD of COMMISSIONERS**


By:

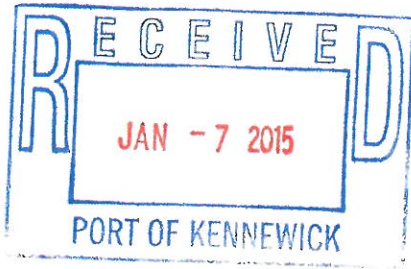

DON BARNES, *President*

By:


SKIP NOVAKOVICH, *Vice President*

By:


THOMAS MOAK, *Secretary*



COMMERCIAL PROPERTY LEASE AGREEMENT

BETWEEN
PORT OF KENNEWICK,
LANDLORD

AND

KLS AIR EXPRESS INC
dba FREIGHT SOLUTION PROVIDERS,
TENANT

OAK STREET INDUSTRIAL PARK

TABLE OF CONTENTS

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

19.3 Holding Over	14
Article 20 Notices	14
Article 21 Liens and Encumbrances	15
Article 22 Landlord's Termination Right	15
Article 23 Default	15
23.1 Default	15
23.2 Remedies.....	16
23.3 Interest	17
Article 24 Attorneys' Fees And Costs	17
Article 25 Miscellaneous	18

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

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

BASIC LEASE PROVISIONS

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

- A. Lease Date: JANUARY 12, 2015.
- B. Landlord: Port of Kennewick,
a Washington municipal corporation
- C. Tenant: KLS AIR EXPRESS INC dba FREIGHT SOLUTION
PROVIDERS
- D. Premises: The Premises shall mean the real property located at 1426 E. 3rd
Ave Suite 120, Kennewick, WA 99336, as described on Exhibit
"A" attached hereto and incorporated herein by reference, and
any improvements located thereon.
- E. Permitted Use: Check all that apply:
- F. Light manufacturing;
 X Wholesale receiving/shipping;
 Administrative offices
 Other: (Describe) _____

- G. Term: Commencing on the Lease Commencement Date and
terminating on the Expiration Date.
- H. Lease Commencement Date: The date which is the earlier of (a) JANUARY 12, 2015, and
(b) the date Tenant begins using the Premises for any reason.
- I. Expiration Date: JANUARY 31, 2016
- J. Price Per Square Foot: \$.40 per square foot.
- K. Total Square Feet Leased: 5,585 square feet.

- L. Base Monthly Rent (not including LET): \$ 2,234.00 per month.
- M. Leasehold Tax (LET): Current Washington State Leasehold Tax shall be added to Base Rent. Current effective rate is 12.84%.
- N. **Total Monthly Rent** (includes LET): **\$ 2,520.85 per month.**
- O. Amount Collected: \$ 1,626.40 January 2015 Prorate Rent (20 days @ \$81.32/day)
\$ 2,520.85 February 2015 Rent
\$ 2,520.85 Deposit
\$ 6,668.10 Amount Due Prior to Occupying Space
- P. Monthly Utilities: See Article 7 of Lease.
- Q. Rent Due Date: The Lease Commencement Date and the first day of each month thereafter.
- R. Financial Security: Check all that apply:
☒ \$ 2,520.85 deposit;
☐ Corporate surety bond;
☒ Personal Guaranty as set forth in Exhibit B;
☐ Other financial security: (Describe) _____

- S. Landlord's Address for Notices and Rent Payments:

Port of Kennewick
350 Clover Island Drive, Suite 200
Kennewick, WA 99336
- T. Tenant's Address for Notices:

KLS AIR EXPRESS INC
2851 Gold Tailings Court
Rancho Cordova, CA 95670
- S. Exhibits: Exhibit "A" Legal Description of Premises
Exhibit "B" Personal Guaranty Form

ARTICLE 1 PREMISES

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

ARTICLE 2 USE OF PREMISES

Tenant shall occupy and use the Premises for such uses as described in the Basic Lease provisions above. Tenant may not use the Premises for any other business purpose except as may be authorized in writing by Landlord at Landlord's sole discretion. No smoking shall be allowed within any portion of the Premises and within twenty-five (25) feet of all entryways.

ARTICLE 3 TERM

The Term hereof shall commence on the Lease Commencement Date defined in the Basic Lease Provisions and shall terminate on the Expiration Date defined in the Basic Lease Provisions, unless earlier terminated.

ARTICLE 4 RENT

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

(a) Late Fee.

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

(b) Interest.

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

(c) Non-Sufficient Funds (NSF).

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

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

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

ARTICLE 5 FINANCIAL SECURITY

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

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

Upon any default by Tenant of its obligations under this Lease, Landlord may collect on the Bond to offset the Tenant's liability to Landlord. Collection on the Bond shall not relieve Tenant of liability, shall not limit any of Landlord's other remedies, and shall not reinstate or cure the default or prevent termination of the Lease because of the default.

ARTICLE 6 TAXES & ASSESSMENTS

6.1 Property Taxes.

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

6.2 Personal Property Taxes

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

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

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

ARTICLE 7
UTILITIES

Tenant acknowledges that Landlord shall have no obligation to provide any utilities or services to the Premises. Tenant shall be solely responsible for the payment of all assessments, charges and/or fees pertaining to the Premises, including, but not limited to, water assessments, charges for public utilities, license and permit fees which may, during the Lease Term, be assessed, levied, charged, confirmed or imposed i) on the Premises or any part thereof, ii) on improvements now or hereafter comprising a part thereof, and iii) on the use or occupancy of the Premises. Tenant shall pay all such assessments, charges and/or fees when due.

Electricity Meters Assigned to Tenant: 251775

Water Meters Assigned to Tenant: 74521136

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

ARTICLE 8
INSURANCE

8.1 Insurance

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

(a) Commercial General Liability Insurance

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

(b) Statutory Workers' Compensation

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

(c) Automobile Liability Insurance

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

(d) Property Insurance

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

8.2 Requirements

The foregoing insurance requirements shall be placed with an insurance company or companies admitted to do business in the State of Washington and shall have an A.M. Best's rating of A-/ or better. Tenant shall furnish Landlord with a copy of the certificate of such policies before the Commencement Date of this Lease and, upon request by Landlord, shall provide proof satisfactory to Landlord that all such policies are in full force and effect. Tenant's liability insurance policies shall list Landlord as an additional insured and Tenant's property insurance policies shall reflect Landlord as a loss-payee as its interests may appear, and all of Tenant's insurance policies shall be primary and non-contributing with any insurance carried by Landlord. Such policies shall not be cancelable or materially altered without forty-five (45) days' prior written notice to Landlord. In addition, the policies shall provide for ten (10) days' written notice to Landlord in the event of cancellation for non-payment of premium. Tenant's failure to deliver the policies or certificates to Landlord as required above shall constitute an event of default pursuant to Article 24 hereof.

8.3 Mutual Waiver of Subrogation

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

8.4 Destruction or Condemnation.

8.4.1 Damage and Repair. If the Premises are partially damaged but not rendered untenable, by fire or other insured casualty, then Landlord shall diligently restore the Premises and this Lease shall not terminate. The Premises shall not be deemed untenable if less than twenty-five percent

(25%) of the Premises are damaged. Landlord shall have no obligation to restore the Premises if insurance proceeds are not available to pay the entire cost of such restoration. If insurance proceeds are available to Landlord but are not sufficient to pay the entire cost of restoring the Premises, then Landlord may elect to terminate this Lease and keep the insurance proceeds, by notifying Tenant within sixty (60) days of the date of such casualty.

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

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

8.4.2 If the Premises are made untenable by eminent domain, or conveyed under a threat of condemnation, this Lease shall automatically terminate as of the earlier of the date title vests in the condemning authority or the condemning authority first has possession of the Premises and all Rents and other payments shall be paid to that date. In case of taking of a part of the Premises that does not render the Premises untenable, then this Lease shall continue in full force and effect and the base monthly rental shall be equitably reduced based on the proportion by which the floor area of any structures is reduced, such reduction in Rent to be effective as of the earlier of the date the condemning authority first has possession of such portion or title vests in the condemning authority. Landlord shall be entitled to the entire award from the condemning authority attributable to the value of the Premises and Tenant shall make no claim for the value of its leasehold. Tenant shall be permitted to make a separate claim against the condemning authority for moving expenses or damages resulting from interruption in its business, provided that in no event shall Tenant's claim reduce Landlord's award.

ARTICLE 9

ACCEPTANCE AND CARE OF PREMISES

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

Tenant in connection with performing the obligations set forth herein. Tenant expressly waives the right to make repairs at Landlord's expense under any law, statute or ordinance now or hereafter in effect.

ARTICLE 10 ALTERATIONS AND IMPROVEMENTS

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

ARTICLE 11 ACCIDENTS AND INDEMNIFICATION

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

Tenant hereby expressly waives claims against Landlord, and Landlord shall not be responsible or liable at any time, for any loss or damage to Tenant's personal property or to Tenant's business, including any loss or damage to either the person or property of Tenant that may be occasioned by or through the acts or omissions of persons occupying adjacent, connecting, or adjoining property, unless and only to the extent due to Landlord's gross negligence or intentional misconduct, and in no event shall Landlord be liable for Tenant's consequential damages. Tenant shall use and enjoy the Premises and improvements at its own risk, and hereby releases Landlord, to the full extent permitted by law and except as expressly provided above, from all claims of every kind resulting in loss of life, personal or bodily injury, or property damage.

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

ARTICLE 12

COMPLIANCE WITH LAWS

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

ARTICLE 13

MAINTENANCE

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

13.1 Janitorial: Tenant will provide janitorial service inside the Premises, restrooms and window washing on inside of windows.

13.2 Landscaping and Common Area Sweeping: Landlord, at its cost, will provide landscaping care and common area repairs, maintenance, and sweeping outside the building.

13.3 Other Maintenance and Repairs: Landlord will maintain exterior of building, roof, foundation, and electrical, heating and plumbing, in a good state of repair. Tenant shall pay the reasonable cost of repairs of all damage caused by Tenant, its agents, servants, employees, or invitees within Ten (10) days of receipt of an invoice stating the repairs performed and the cost thereof. All light bulbs and fixtures are guaranteed by Landlord for sixty (60) days after Lease Commencement Date. After this sixty-day period, Tenant shall replace light bulbs in Tenant's leased office space; Landlord will replace warehouse light bulbs in multi-tenant locations.

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

ARTICLE 14

LANDLORD'S ACCESS

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

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

ARTICLE 15

SIGNS AND ADVERTISING

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

ARTICLE 16
WASTE AND UNLAWFUL USE

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

ARTICLE 17
SUCCESSORS

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

ARTICLE 18
HAZARDOUS MATERIALS

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

ARTICLE 19
ASSIGNMENT AND SUBLETTING

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

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

ARTICLE 20

SURRENDER OF POSSESSION

20.1 Surrender

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

20.2 Removal of Property

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

20.3 Holding Over

If Tenant fails to surrender the Premises at the expiration or earlier termination of this Lease, occupancy of the Premises after the termination or expiration shall be that of a tenancy at sufferance. Tenant's occupancy of the Premises during the holdover shall be subject to all the terms and provisions of this Lease and Tenant shall pay an amount due on the first of each month of the holdover period, without reduction for partial months during the holdover, equal to 150% of the greater of: (1) the monthly Total Monthly Rent (including Leasehold Tax), and any other charge due, for the monthly period immediately preceding the holdover; or (2) the fair market value for gross monthly rental for the Premises as reasonably determined by Landlord. No holdover by Tenant or payment by Tenant after the expiration or early termination of this Lease shall be construed to extend the Term or prevent Landlord from immediate recovery of possession of the Premises by summary proceedings or otherwise. In addition to the payment of the amounts provided above, if Landlord is unable to deliver possession of the Premises to a new tenant, or to perform improvements for a new tenant, as a result of Tenant's holdover, Tenant shall be liable to Landlord for all damages, including, without limitation, consequential damages, that Landlord suffers from Tenant's holdover. Nothing herein shall be construed as Landlord's consent to such holding over. During the holdover Tenant shall remain responsible for payment of all utilities, taxes, and other assessments, charges and/or fees due under this Lease.

ARTICLE 21

NOTICES

All notices, requests and demands to be made hereunder shall be in writing at the address set forth in the Basic Lease Provisions, as applicable, by any of the following means: (a) personal service (including service by recognized overnight delivery/courier service, such as UPS or FEDEX); or (b) registered or certified first class mail, return receipt requested. Such addresses may be changed by written notice to the other party given in the same manner provided above. Any notice, request, or

demand sent pursuant to clause (a) of this Article 21 shall be deemed received upon such personal delivery or service (or the date of refusal, if personal service or delivery is refused), and if sent pursuant to clause (b), shall be deemed received three (3) days following deposit in the mails.

ARTICLE 22

LIENS AND ENCUMBRANCES

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

ARTICLE 23

LANDLORD'S TERMINATION RIGHT

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

In the event of the insolvency or bankruptcy of the Tenant, Landlord may, at Landlord's option, immediately take full possession of the premises to the exclusion of all persons. Exercising such option shall not alleviate Tenant's obligations under this Lease and Landlord shall have the right to seek all remedies set forth in this Lease.

ARTICLE 24

DEFAULT AND REMEDIES

24.1 Default

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

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

24.2 Remedies.

(a) Re-entry and Termination

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

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

(b) Express Termination Required

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

(c) Damages

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

1. The worth at the time of award of any unpaid Rent, Leasehold Tax, and other assessments, charges and/or fees which had been earned at the time of such termination; plus
2. The worth at the time of award of the amount by which the unpaid Rent, Leasehold Tax, and other charges which would have been earned after termination until the time of award exceeds the amount of such loss Tenant proves could have been reasonably avoided; plus
3. The worth at the time of award of the amount by which the unpaid Rent, Leasehold Tax, and other assessments, charges and/or fees due for the balance of

the Lease Term after the time of award exceeds the amount of such loss that Tenant proves could be reasonably avoided; plus

4. Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to any costs or expenses incurred by Landlord in (i) retaking possession of the Premises, including reasonable attorneys' fees, (ii) maintaining or preserving the Premises after the occurrence of an Event of Default, (iii) preparing the Premises for reletting to a new tenant, including repairs or alterations to the Premises for such reletting, (iv) leasing commissions, and (v) any other costs necessary or appropriate to relet the Premises; plus
5. At Landlord's election, such other amounts in addition to or in lieu of the foregoing as may be permitted by the laws of Washington State.

(d) Definitions

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

(e) No Waiver

The waiver by Landlord of any breach of any term, covenant or condition herein contained in this Lease shall not be deemed to be a waiver of such term, covenant or condition of any subsequent breach of the same or any other term, covenant or condition of this Lease. The subsequent acceptance of Rent, Leasehold Tax, and other charges due hereunder shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular amount so accepted regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such amount. No covenant, term, or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver shall be in writing and signed by Landlord.

24.3 Interest

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

ARTICLE 25
ATTORNEYS' FEES AND COSTS

If either party hereto shall file any action or bring any proceeding against the other party arising out of this Lease or for the declaration of any rights hereunder, the prevailing party therein shall be entitled to recover from the other party all costs and expenses, including reasonable attorneys' fees,

incurred by the prevailing party as determined by the court. If either party ("secondary party") without its fault is made a party to litigation instituted by or against the other party (the "primary party"), the primary party shall pay to the secondary party all costs and expenses, including reasonable attorneys' fees, incurred by the secondary party in connection therewith.

ARTICLE 26 MISCELLANEOUS

26.1 Miscellaneous Provisions

The following miscellaneous provisions shall apply to this Lease:

- (a) Time is of the essence hereof.
- (b) If any portion of this Lease shall be deemed void, illegal or unenforceable, the balance of this Lease shall not be affected thereby.
- (c) This Lease shall be interpreted according to the laws of the State of Washington. The parties agree that the Superior Court of the State of Washington for Benton County shall have sole jurisdiction over any question, claim, loss or injury arising hereunder.
- (d) Tenant acknowledges that, except as expressly set forth in this Lease, that neither Landlord nor any other person has made any representation or warranty with respect to the Premises.
- (e) This Lease shall be binding upon the heirs, executors, administrators, successors, and assigns of both parties hereto, except as otherwise provided for herein;
- (f) Landlord does not by this Lease, in any way or for any purpose, become a partner or joint venturer of Tenant in the conduct of its business or otherwise.
- (g) The paragraph and section headings hereof are for convenience only and shall not be used to expand or interpret the meaning of any part of this Lease.
- (h) Landlord shall be excused for the period of any delay in the performance of any obligations hereunder when prevented from so doing by cause or causes beyond Landlord's control, including labor disputes, civil commotion, war, governmental regulations or controls, fire or other casualty, inability to obtain any material or service, or acts of God.
- (i) This Lease and the Exhibits, Riders, and/or Addenda, if any, attached hereto, constitute the entire agreement between the parties. This Lease covers in full each and every agreement of every kind or nature whatsoever between the parties hereto concerning this Lease and all preliminary negotiations, inducements, representations, and agreements of whatsoever kind or nature are merged herein, and there are not oral agreements or implied covenants. Both parties represent they have had the opportunity to seek legal counsel prior to signing this Lease. All Exhibits, Riders, or Addenda mentioned in this Lease are incorporated herein by reference. No subsequent amendment to this Lease shall be binding upon Landlord or Tenant unless reduced to writing and signed by both parties. The captions and section numbers appearing herein are inserted only as a matter of convenience and are not intended to define, limit, construe, or describe the scope or intent of any section.

Tenant and Landlord hereby represent and warrant that they have not employed any broker with regard to this Lease and that they have no knowledge of any broker being instrumental in bringing about

this Lease transaction. Each party shall indemnify the other against any expense as a result of any claim for brokerage or other commissions made by any broker, finder, or agent, whether or not meritorious, employed by them or claiming by, through or under them. Tenant acknowledges that Landlord shall not be liable for any representations of Landlord's leasing agent or other agents of Landlord regarding this Lease transaction except for the representations and covenants of Landlord expressly set forth in this Lease.

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

LANDLORD:

PORT OF KENNEWICK,
a Washington municipal corporation

By: _____
Name: Tim Arntzen
Its: Executive Director

TENANT:

**KLS AIR EXPRESS INC dba FREIGHT
SOLUTION PROVIDERS**

By: _____
Name: LieLanie Steers
Its: President

CFO:

Tammy Fine
Tammy Fine

ACKNOWLEDGMENT

State of California

County of SACRAMENTO

On 1-6-15 before me, REBECCA A BENSON NOTARY PUBLIC
(insert name and title of the officer)

personally appeared LIELOU STEERBS,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rebecca A Benson (Seal)



STATE OF WASHINGTON

COUNTY OF _____

ss.

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

Dated this _____ day of _____, 201__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

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

My appointment expires _____

STATE/Commonwealth OF _____

COUNTY OF _____

ss.

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

Dated this _____ day of _____, 201__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

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

My appointment expires _____

EXHIBIT "B"

PERSONAL GUARANTY TO THE PORT OF KENNEWICK

TO GUARANTEE PERFORMANCE OF LEASE

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, as personal guarantor, is firmly bound unto the Port of Kennewick, a municipal corporation, in the sum of all monthly rent, plus leasehold tax, and any other assessments, charges and/or fees due as per Lease Agreement dated January 12, 2015.

The conditions of this obligation are as follows:

WHEREAS, LieLani Steers & Kenneth Steers entered into a lease with the PORT OF KENNEWICK for land as described in Exhibit "A", located in Benton County, Washington, which Lease provides for the payment of monthly rent, leasehold tax, and other assessments, charges and/or fees; and

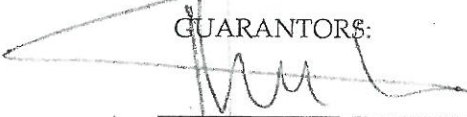
WHEREAS, the laws of the State of Washington require a bond to the Port District in accordance with the terms of RCW 53.08.085, for a minimum of one year's rent; and

WHEREAS, this guaranty incorporates the Lease hereinabove referred to;

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

DATED this 6 day of January, 2015.

GUARANTORS:


Name: LieLani Steers


Name: Kenneth Steers

PORT OF KENNEWICK

Resolution No. 2015-03

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK APPROVING A THREE YEAR LEASE AGREEMENT WITH NULYTIQ LLC

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

WHEREAS, a three (3) year lease with NulytIQ LLC effective April 1, 2015, has been negotiated by Port staff; and

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

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

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

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby approve a three (3) year lease with NulytIQ LLC as presented and authorizes the Port's Executive Director to execute all documents and agreements on behalf of the Port to complete the transaction as specified above.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 13th day of January, 2015.

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

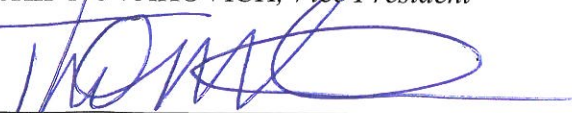
By:


DON BARNES, *President*

By:


SKIP NOVAKOVICH, *Vice President*

By:


THOMAS MOAK, *Secretary*

COMMERCIAL PROPERTY LEASE AGREEMENT

BETWEEN
PORT OF KENNEWICK,
LANDLORD

AND

NulytIQ LLC,
TENANT

CLOVER ISLAND

WEST MARINA PROFESSIONAL BUILDING

TABLE OF CONTENTS

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

19.3 Holding Over	15
Article 20 Notices	16
Article 21 Liens and Encumbrances	16
Article 22 Landlord's Termination Right	16
Article 23 Default	17
23.1 Default	17
23.2 Remedies.....	17
23.3 Interest	19
Article 24 Attorneys' Fees And Costs	19
Article 25 Miscellaneous	19

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

A. Lease Date: April 1, 2015.

B. Landlord: Port of Kennewick,
a Washington municipal corporation

C. Tenant: NulytIQ LLC

D. Premises: The Premises shall mean the real property located at 104 Clover Island Drive Suite 202, Kennewick, WA 99336, as described on Exhibit "A" attached hereto and incorporated herein by reference, and any improvements located thereon.

E. Permitted Use: Check all that apply:

F. Light manufacturing;
 Wholesale receiving/shipping;
 X Administrative offices
 Other: (Describe)_____

G. Term: Commencing on the Lease Commencement Date and terminating on the Expiration Date.

H. Lease Commencement Date: April 1, 2015

I. Expiration Date: March 31, 2018.

J. Annual Price Per Square Foot: \$11.50 PSF (April 1, 2015 – March 31, 2016)
\$12.00 PSF (April 1, 2016 – March 31, 2017)
\$12.50 PSF (April 1, 2017 – March 31, 2018)

K.

L. Total Square Feet Leased: 2,759 (office = 2,660 sq ft, 50% kitchen = 99 sq ft)

M. Base Monthly Rent Calculation: YEAR 1	\$.96 PSF	2,759	\$2,648.64
YEAR 2	\$1.00 PSF	2,759	\$2,759.00
YEAR 3	\$1.04 PSF	2,759	\$2,869.36

N. Base Monthly Rent (not including LET): \$ 2,648.64 (April 1, 2015 – March 31, 2016)
\$ 2,759.00 (April 1, 2016 – March 31, 2017)
\$ 2,869.36 (April 1, 2017 – March 31, 2018)

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

P. **Total Monthly Rent** (includes LET): **\$ 2,988.73 (April 1, 2015 – March 31, 2016)**
\$ 3,113.26 (April 1, 2016 – March 31, 2017)
\$ 3,237.79 (April 1, 2017 – March 31, 2018)

Q. Monthly Utilities: See Article 7 of Lease.

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

S. Financial Security: Check all that apply:

☒ \$ 2,648.64 deposit;

☐ Corporate surety bond;

☒ Personal Guaranty as set forth in Exhibit B;

☐ Other financial security: (Describe) _____

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

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

U. Tenant's Address for Notices:

S. Exhibits: Exhibit "A" Legal Description of Premises
 Exhibit "B" Personal Guaranty Form

ARTICLE 1

PREMISES

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

ARTICLE 2

USE OF PREMISES

Tenant shall occupy and use the Premises for such uses as described in the Basic Lease provisions above. Tenant may not use the Premises for any other business purpose except as may be authorized in writing by Landlord at Landlord's sole discretion. No smoking shall be allowed within any portion of the Premises and within twenty-five (25) feet of all entryways.

Landlord shall give Tenant and its authorized representatives, the nonexclusive and reasonable right to use the Common Areas in Tenant's ordinary course of business, provided however, that such use is consistent with the purposes of the Common Areas. The term "Common Areas" means areas and facilities outside the Premises that are provided for the general use and convenience of Tenant and of other Tenants and their respective authorized representatives, guests, and invitees. Common Areas include, without limitation, landscaped areas, public lobbies and hallways, sidewalks, loading areas, parking areas, service corridors and restrooms. Tenant shall not store any items or objects in Common Areas except as authorized in writing by Landlord.

ARTICLE 3

TERM

The Term hereof shall commence on the Lease Commencement Date defined in the Basic Lease Provisions and shall terminate on the Expiration Date defined in the Basic Lease Provisions, unless earlier terminated.

ARTICLE 4

RENT

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

(a) Late Fee.

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

(b) Interest.

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

(c) Non-Sufficient Funds (NSF).

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

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

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

ARTICLE 5

FINANCIAL SECURITY

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

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

Upon any default by Tenant of its obligations under this Lease, Landlord may collect on the Bond to offset the Tenant's liability to Landlord. Collection on the Bond shall not relieve Tenant of liability, shall not limit any of Landlord's other remedies, and shall not reinstate or cure the default or prevent termination of the Lease because of the default.

ARTICLE 6

TAXES & ASSESSMENTS

6.1 Property Taxes.

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

6.2 Personal Property Taxes

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

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

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

ARTICLE 7 UTILITIES

Tenant shall be solely responsible to Landlord for the payment of all assessments, charges and/or fees pertaining to the Premises, including but not limited to, water assessments, charges for public utilities, license and permit fees which may, during the Lease Term, be assessed, levied, charged, confirmed or imposed i) on the Premises or any part thereof, ii) on improvements now or hereafter comprising a part thereof, and iii) on the use or occupancy of the Premises. Tenant shall pay all such assessments, charges and/or fees to Landlord when due.

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

Electricity Meters Assigned to Tenant: 232413

Water Meters Assigned to Tenant: NONE

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

ARTICLE 8 INSURANCE

8.1 Insurance

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

(a) Commercial General Liability Insurance

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

(b) Statutory Workers' Compensation

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

(c) Automobile Liability Insurance

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

(d) Property Insurance

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

8.2 Requirements

The foregoing insurance requirements shall be placed with an insurance company or companies admitted to do business in the State of Washington and shall have an A.M. Best's rating of A- or better. Tenant shall furnish Landlord with a copy of the certificate of such policies before the Commencement Date of this Lease and, upon request by Landlord, shall provide proof satisfactory to Landlord that all such policies are in full force and effect. Tenant's liability insurance policies shall list Landlord as an additional insured and Tenant's property insurance policies shall reflect Landlord as a loss-payee as its interests may appear, and all of Tenant's insurance policies shall be primary and non-contributing with any insurance carried by Landlord. Such policies shall not be cancelable or materially altered without forty-five (45) days' prior written notice to Landlord. In addition, the policies shall provide for ten (10) days' written notice to Landlord in the event of cancellation for non-payment of premium. Tenant's failure to deliver the policies or certificates to Landlord as required above shall constitute an event of default pursuant to Article 24 hereof.

8.3 Mutual Waiver of Subrogation

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

8.4 Destruction or Condemnation.

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

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

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

8.4.2 If the Premises are made untenable by eminent domain, or conveyed under a threat of condemnation, this Lease shall automatically terminate as of the earlier of the date title vests in the condemning authority or the condemning authority first has possession of the Premises and all Rents and other payments shall be paid to that date. In case of taking of a part of the Premises that does not render the Premises untenable, then this Lease shall continue in full force and effect and the base monthly rental shall be equitably reduced based on the proportion by which the floor area of any structures is reduced, such reduction in Rent to be effective as of the earlier of the date the condemning authority first has possession of such portion or title vests in the condemning authority. Landlord shall be entitled to the entire award from the condemning authority attributable to the value of the Premises and Tenant shall make no claim for the value of its leasehold. Tenant shall be permitted to make a separate

claim against the condemning authority for moving expenses or damages resulting from interruption in its business, provided that in no event shall Tenant's claim reduce Landlord's award.

ARTICLE 9

ACCEPTANCE AND CARE OF PREMISES

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

ARTICLE 10

ALTERATIONS AND IMPROVEMENTS

Landlord agrees to make one-time modifications to Tenant leased space that are considered reusable and to the benefit of future tenants in an amount not to exceed [Ten Thousand dollars & no/100] (\$ 10,000.00).

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

ARTICLE 11

ACCIDENTS AND INDEMNIFICATION

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

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

provided above, from all claims of every kind resulting in loss of life, personal or bodily injury, or property damage.

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

ARTICLE 12 **COMPLIANCE WITH LAWS**

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

ARTICLE 13 **MAINTENANCE**

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

13.1 Janitorial: Tenant will provide janitorial service inside the Premises and window washing on inside of windows. Landlord will provide janitorial service for common area restrooms, entry, hallways and exterior window washing. Tenant shall keep shared kitchen in neat and tidy condition with all personal items washed and stored, sinks cleaned after use, floors and tables free of garbage and debris.

13.2 Landscaping and Common Area Sweeping: Landlord, at its cost, will provide landscaping care and common area repairs, maintenance, and sweeping outside the building.

13.3 Other Maintenance and Repairs: Landlord will maintain exterior of building, roof, foundation, and electrical, heating and plumbing, in a good state of repair. Tenant shall pay the reasonable cost of repairs of all damage caused by Tenant, its agents, servants, employees, or invitees within Ten (10) days of receipt of an invoice stating the repairs performed and the cost thereof. All light bulbs and fixtures are guaranteed by Landlord for sixty (60) days after Lease Commencement Date. After this sixty-day period, Tenant shall replace light bulbs in Tenant's leased office space; Landlord will replace warehouse light bulbs in multi-tenant locations.

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

ARTICLE 14
LANDLORD'S ACCESS

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

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

ARTICLE 15
SIGNS AND ADVERTISING

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

ARTICLE 16
WASTE AND UNLAWFUL USE

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

ARTICLE 17
SUCCESSORS

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

ARTICLE 18
HAZARDOUS MATERIALS

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

ARTICLE 19 ASSIGNMENT AND SUBLETTING

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

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

ARTICLE 20 SURRENDER OF POSSESSION

20.1 Surrender

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

20.2 Removal of Property

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

20.3 Holding Over

If Tenant fails to surrender the Premises at the expiration or earlier termination of this Lease, occupancy of the Premises after the termination or expiration shall be that of a tenancy at sufferance. Tenant’s occupancy of the Premises during the holdover shall be subject to all the terms and provisions of this Lease and Tenant shall pay an amount due on the first of each month of the holdover period, without reduction for partial months during the holdover, equal to 150% of the greater of: (1) the monthly Total Monthly Rent (including Leasehold Tax), and any other charge due, for the monthly period immediately preceding the holdover; or (2) the fair market value for gross monthly rental for the Premises as reasonably determined by Landlord. No holdover by Tenant or payment by Tenant after the expiration or early termination of this Lease shall be construed to extend the Term or prevent Landlord

from immediate recovery of possession of the Premises by summary proceedings or otherwise. In addition to the payment of the amounts provided above, if Landlord is unable to deliver possession of the Premises to a new tenant, or to perform improvements for a new tenant, as a result of Tenant's holdover, Tenant shall be liable to Landlord for all damages, including, without limitation, consequential damages, that Landlord suffers from Tenant's holdover. Nothing herein shall be construed as Landlord's consent to such holding over. During the holdover Tenant shall remain responsible for payment of all utilities, taxes, and other assessments, charges and/or fees due under this Lease.

ARTICLE 21

NOTICES

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

ARTICLE 22

LIENS AND ENCUMBRANCES

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

ARTICLE 23

LANDLORD'S TERMINATION RIGHT

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

In the event of the insolvency or bankruptcy of the Tenant, Landlord may, at Landlord's option, immediately take full possession of the premises to the exclusion of all persons. Exercising such option shall not alleviate Tenant's obligations under this Lease and Landlord shall have the right to seek all remedies set forth in this Lease.

ARTICLE 24 DEFAULT AND REMEDIES

24.1 Default

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

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

24.2 Remedies.

(a) Re-entry and Termination

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

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

(b) Express Termination Required

If Landlord re-enters the Premises under the provisions of this Article, Landlord shall not be deemed to have terminated this Lease, or the liability of Tenant to pay any Rent, Leasehold Tax, or other assessments, charges and/or fees thereafter accruing, or to have terminated Tenant’s liability for damages under any of the provisions of this Lease, by any such re-entry or by any action, in unlawful detainer or otherwise, to obtain possession of the Premises, unless Landlord shall have notified Tenant in writing that Landlord had elected to terminate this Lease. Tenant further covenants that the service by Landlord of any notice pursuant to the unlawful detainer statutes of Washington State and surrender of possession pursuant to such notice shall not (unless Landlord elects to the contrary at the time of or at any time subsequent to the serving of such notices and such election is evidenced by a written notice to Tenant) be deemed to be a termination of this Lease.

(c) Damages

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

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

(d) Definitions

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

(e) No Waiver

The waiver by Landlord of any breach of any term, covenant or condition herein contained in this Lease shall not be deemed to be a waiver of such term, covenant or condition of any subsequent breach of the same or any other term, covenant or condition of this Lease. The subsequent acceptance of Rent, Leasehold Tax, and other charges due hereunder shall not be deemed to be a waiver of any preceding breach by Tenant of any term, covenant or condition of this Lease, other than the failure of Tenant to pay the particular amount so accepted regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such amount. No

covenant, term, or condition of this Lease shall be deemed to have been waived by Landlord unless such waiver shall be in writing and signed by Landlord.

24.3 Interest

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

ARTICLE 25 ATTORNEYS' FEES AND COSTS

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

ARTICLE 26 MISCELLANEOUS

26.1 Miscellaneous Provisions

The following miscellaneous provisions shall apply to this Lease:

- (a) Time is of the essence hereof.
- (b) If any portion of this Lease shall be deemed void, illegal or unenforceable, the balance of this Lease shall not be affected thereby.
- (c) This Lease shall be interpreted according to the laws of the State of Washington. The parties agree that the Superior Court of the State of Washington for Benton County shall have sole jurisdiction over any question, claim, loss or injury arising hereunder.
- (d) Tenant acknowledges that, except as expressly set forth in this Lease, that neither Landlord nor any other person has made any representation or warranty with respect to the Premises.
- (e) This Lease shall be binding upon the heirs, executors, administrators, successors, and assigns of both parties hereto, except as otherwise provided for herein;
- (f) Landlord does not by this Lease, in any way or for any purpose, become a partner or joint venturer of Tenant in the conduct of its business or otherwise.
- (g) The paragraph and section headings hereof are for convenience only and shall not be used to expand or interpret the meaning of any part of this Lease.

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

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

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

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

LANDLORD:

PORT OF KENNEWICK,
a Washington municipal corporation

By: _____
Name: Tim Arntzen
Its: Executive Director

TENANT:

NULYTIQ LLC

By: _____
Name: David McKay
Its: President

STATE OF WASHINGTON

ss.

COUNTY OF _____

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

Dated this _____ day of _____, 201__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

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

My appointment expires _____

STATE/Commonwealth OF

ss.

COUNTY OF _____

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

Dated this _____ day of _____, 201__.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)

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

My appointment expires _____

EXHIBIT "A"
LEGAL DESCRIPTION

PTN: 831903000040000

BEGINNING AT THE SOUTHEAST CORNER OF LOT 14, PLAT OF CLOVER ISLAND THENCE SOUTH 84°18'00" EAST A DISTANCE OF 18.6 FEET MORE OR LESS, THENCE SOUTH 05°42'00" WEST A DISTANCE OF 23.4 FEET MORE OR LESS TO

COMMONLY KNOWN AS 104 CLOVER ISLAND DRIVE, KENNEWICK



EXHIBIT "B"

EXHIBIT - 1 -

PERSONAL GUARANTY TO THE PORT OF KENNEWICK

TO GUARANTEE PERFORMANCE OF LEASE

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

The conditions of this obligation are as follows:

WHEREAS, _____ entered into a lease with the PORT OF KENNEWICK for land as described in Exhibit "A", located in Benton County, Washington, which Lease provides for the payment of monthly rent, leasehold tax, and other assessments, charges and/or fees; and

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

WHEREAS, this guaranty incorporates the Lease hereinabove referred to;

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

DATED this ____ day of _____, 201__.

GUARANTORS:

Name: Michael Gurney

Name: Ed Diehl