

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

To participate and make public comments remotely, please call in at: 1-877-309-2073, Access Code: 637-418-717
Or, join on-line at the following link: <https://meet.goto.com/637418717>

AGENDA

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

November 22, 2022
2:00 p.m.

- I. CALL TO ORDER**
- II. ANNOUNCEMENTS AND ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. PUBLIC COMMENT** *(Please state your name for the public record)*
- V. CONSENT AGENDA**
 - A. Approval of Direct Deposit and ePayments Dated November 16, 2022
 - B. Approval of Warrant Register Dated November 22, 2022
 - C. Approval of Regular Commission Meeting Minutes November 8, 2022
 - D. Authorization for CEO to Execute Letter to Greenbrier Rail Services
 - E. Approval to Amend Contract with Express Employment Professionals; Resolution 2022-39
- VI. NEW BUSINESS**
 - A. Chief Executive Officer Annual Performance Review; Resolution 2022-40
(NICK/CAROLYN/KEN)
- VII. REPORTS, COMMENTS AND DISCUSSION ITEMS**
 - A. Commission meetings (formal and informal meetings with groups or individuals)
 - B. Non-Scheduled Items
(LISA/BRIDGETTE/TANA/NICK/AMBER/TIM/CAROLYN/KEN/TOM/SKIP)
- VIII. PUBLIC COMMENT** *(Please state your name for the public record)*
- IX. ADJOURNMENT**

PLEASE SILENCE ALL NOISE MAKING DEVICES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

DRAFT

NOVEMBER 8, 2022 MINUTES

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

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

ANNOUNCEMENTS AND ROLL CALL

The following were present:

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

Staff Members: Tim Arntzen, Chief Executive Officer (via telephone)
Tana Bader Inglima, Deputy Chief Executive Officer (via telephone)
Larry Peterson, Director of Planning (via telephone)
Amber Hanchette, Director of Real Estate and Operations (via telephone)
Nick Kooiker, Chief Finance Officer (via telephone)
Lisa Schumacher, Special Projects Coordinator
Bridgette Scott, Executive Assistant (via telephone)

PLEDGE OF ALLEGIANCE

Commissioner Novakovich led the Pledge of Allegiance.

APPROVAL OF THE AGENDA

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

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

- A. Approval of Direct Deposit and E-Payments Dated November 2, 2022**
Direct Deposit and E-Payments totaling \$120,101.53
- B. Approval of Warrant Register Dated November 8, 2022**
Expense Fund Voucher Number 104257 through 104288 for a grand total of \$129,666.08
- C. Approval of Regular Commission Meeting Minutes October 25, 2022**
- D. Approval to Surplus Property; Resolution 2022-31**
- E. Approval to Amend Port Commission Rules of Policy and Procedure; Resolution 2022-35**
- F. Approval of CEO's Goals and Objectives; Resolution 2022-36**

PORT OF KENNEWICK REGULAR COMMISSION MEETING

NOVEMBER 8, 2022 MINUTES

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

Commissioner Novakovich recessed the Regular Meeting at 2:04 p.m. and declared an Open Public Hearing for discussion regarding 2023-2024 Budget and the 2023 Levy Certification.

PUBLIC HEARINGS

A. 2023-2024 Budget Adoption: Resolution 2022-32

Mr. Kooiker presented Resolution 2022-32, adoption of the 2023-2024 Budget.

PUBLIC COMMENTS

No comments were made.

MOTION: Commissioner Hohenberg moved to approve Resolution 2022-32 adopting the Port of Kennewick's 2023 and 2024 Budget as presented; and the board further ratifies and approves all action by Port officers and employees in furtherance hereof; Commissioner Moak seconded.

Discussion:

Commissioner Hohenberg stated this is his first time going through the budget process and the Commission has been provided a lot of information since July and he has had some discussions with Mr. Arntzen since June. Commissioner Hohenberg appreciates the process and staff's time in answering questions. Commissioner Hohenberg feels the Port is on the right path forward, over the next two-year budget cycle. He thanked staff for all the great work and insuring that the Commission had full understanding and vetting before we got to this point.

Commissioner Moak stated the Commission has discussed the budget very thoroughly and indicated that the budget is a living document. This is a two-year budget, and the Commission has opportunities throughout, as circumstances change, as the economy changes, management's concerns with inflation and what that will do to our budget, and whether our inflation works or doesn't work over the next two years will change a lot of things or could potentially change a lot of things with the budget. We know that we have to be flexible, but it does give us a good base to start our year and we have a lot of things that we want to do with that budget and he hopes we can accomplish those projects in the next two years.

Commissioner Novakovich agrees with Commissioners Hohenberg and Moak and stated Mr. Kooiker and his team did a great job, and the process went smoothly. Commissioner Novakovich liked the way Mr. Kooiker led the Commission through the process, which was presented several times and answered questions so that we were able to arrive at this today. Thank you, Mr. Kooiker and team, for doing a wonderful job.

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

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B. Levy Certification; Resolution 2022-33

C. Increase in Tax Capacity; Resolution 2022-34

Mr. Kooiker presented Resolution 2022-33 certifying the Port's Levy Certification, which allows the Port to collect taxes in 2023 and Resolution 2022-34 allows the Port to take the 1% statutory increase.

PUBLIC COMMENTS

No comments were made.

MOTION: *Commissioner Hohenberg moved to approve Resolution 2022-33, certifying the Port of Kennewick's tax levy for 2023 collections and Resolution 2022-34 increasing the Port of Kennewick's tax levy capacity in 2023; Commissioner Moak seconded.*

Discussion:

Commissioner Hohenberg reaffirmed that as things continue to build out and the levy rate continues to go down, all of us that are fortunate enough to live in the Port district, we get real value out of our tax dollars and we see that throughout the district, not just what some of the big projects we have going on in Kennewick right now, but throughout Richland, West Richland, and Benton City. Commissioner Hohenberg is happy to support both of these Resolutions.

Commissioner Moak stated there is substantial need in the Port of Kennewick for these revenues and for the 1%. Very clearly, we can't deal with the economic development that we want to do totally with the dollars we have available; and as Commissioner Hohenberg mentioned, how little we are getting off our tax levy, which is our major source of revenue for the Port. Other ports have a lot of other leased property and other earned income outside of the property tax levy. We are heavily dependent on the property tax, and he thinks there is substantial need for the 1% increase in the levy. Commissioner Moak appreciates the work Mr. Kooiker has done in preparing all of the documents.

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

Commissioner Novakovich closed the Public Hearing at 2:15 p.m. regarding the 2023-2024 Budget and 2023 Levy Certification and reconvened the Regular Commission Meeting.

NEW BUSINESS

A. Bid Award: Columbia Gardens Public Restroom (Double J Excavation)

Ms. Hanchette presented Resolution 2022-37, approving a contract with Double J Excavation for the construction of the public restroom facility in Columbia Gardens.

Commission and staff discussion commenced regarding location and design of the public restroom facility.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

NOVEMBER 8, 2022 MINUTES

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MOTION: Commissioner Hohenberg moved to approve Resolution 2022-37, approving a contract with Double J Excavating for construction of a public restroom facility in Columbia Gardens and further authorize the Chief Executive Officer to execute all documents and agreements; and that all action by port officers and employees in furtherance hereof is ratified and approved; Commissioner Moak seconded.

PUBLIC COMMENT

No comments were made.

Discussion:

Commissioner Hohenberg applauded staff and stated this is going to be a great addition for the food vendors, wineries, and patrons that visit Columbia Gardens. Commissioner Hohenberg couldn't be more excited that we are finally to this point, and he thinks one of the challenges for any elected official, is everybody wants projects done yesterday, instead of having go through processes. Commissioner Hohenberg is glad to see that we are at this point and thanked everyone involved.

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

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. DPZ Update

Mr. Peterson shared DPZ Co Design's fall newsletter, which featured Vista Field. Mr. Peterson pointed out that Vista Field was placed above the King of England's project in Wales.

B. Greenbrier Surety Bond Options

Ms. Hanchette stated Greenbrier, a Port tenant, recently requested permission to construct a tent structure. The project helps Greenbrier grow their workforce and repair more rail cars. The ground lease requires a surety bond for any improvements or additions valued over \$15,000. Taud Hume, the Port's legal counsel for real estate and planning items, will address the specifics of the surety bond.

Mr. Hume outlined the aspects of his memo regarding surety bonds (Exhibit A) and Greenbrier has requested to limit the value of the bond to \$1,250,000 instead of the required \$2,500,000.

Commissioner Moak asked for a staff recommendation regarding the limit of the surety bond.

Mr. Arntzen, Ms. Hanchette, and Mr. Hume will meet with Greenbrier to reach a tentative agreement on the amount and then come back to the Commission at the next meeting. Mr. Arntzen proposed reducing the bond, but not waiving it entirely. Mr. Arntzen would like the attorneys to negotiate the amount and bring it back to the Commission for approval.

Commissioner Hohenberg stated there is risk in everything we do and would like to see staff bring back something that works for both entities.

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Commissioner Novakovich agrees with Mr. Arntzen's comments, and we need to be cognizant of what our mission is and fostering economic development.

C. State Auditor's Office 2020 Financial Review

Mr. Kooiker reported the State Auditor's Office reviewed our 2020 financial statement audit by Clifton Larson Allen and certified and accepted the audit. Mr. Kooiker stated this is the Port's 26th year of clean audits. Additionally, Mr. Kooiker was recently notified that because the Port's revenues have increased, our accountability audit will be yearly instead of every other year.

Commissioner Hohenberg stated this is an exceptional job by staff and it is nice to get a clean report.

Commissioner Moak stated the longevity of clean reports stands well for the finance team and everyone else that is part of the process.

Commissioner Novakovich is very proud of this and stated 26 years of clean audits is quite a record. It goes to show how well the Port is managed and it is a wonderful attribute that contributes to the skills of our staff and the work they do.

D. November 22, 2022 and December 27, 2022 Commission Meetings

Ms. Scott stated in the past, the Commission cancels the last Meetings in November and December; however, this year, staff is proposing a brief Commission Meeting on November 22, 2022, which consists of the Consent Agenda, the CEO Evaluation and any other necessary items. This would give the Port team more time to process end-of-the-year tasks.

Commissioner Novakovich suggested the Commission hold the regular November 22, 2022 Commission Meeting with a very brief agenda that consists of the Consent Agenda and the CEO Evaluation. Additionally, we would cancel the December 27, 2022 Commission Meeting.

It is the Consensus of the Commission to hold the regular Commission Meeting on November 22, 2022 with a very brief agenda and cancel the December 27, 2022 Commission Meeting.

E. Chief Executive Officer Annual Performance Review

Mr. Kooiker reported that the CEO's performance review has been completed and is ready for Commission consideration; however, Ms. Lake is unavailable today and stated it will be presented at the November 22, 2022 Commission Meeting.

F. Continuation of Local Emergency Declaration of Authority

Mr. Arntzen stated on June 1, 2022, the Port began holding hybrid Meetings to meet the newly revised Open Public Meetings Act. Mr. Arntzen stated the Washington state's declaration of emergency has been lifted as of October 31, 2022 and outlined Resolution 2022-38, which refreshes the Declaration of Local Emergency and leaves in place the CEO's current delegation of authority. Under that authority, the CEO would continue to manage local conditions and Port

PORT OF KENNEWICK REGULAR COMMISSION MEETING

NOVEMBER 8, 2022 MINUTES

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Commission meetings would also continue to be held under the hybrid model by which the Port currently operates (Exhibit B).

Commission Hohenberg supports this Resolution and inquired when the federal state of emergency is over, if someone is traveling or unable to attend a physical Meeting, will the Port ensure that staff or Commission is still able to remote in if the need arises.

Mr. Arntzen stated the Port continues to take a cautious approach and will continue to update the Commission and the public on the ever changing mandates.

Commission Moak stated in the updated Commission Rules of Policy and Procedure allows for Commissioners to access a Meeting remotely, irrespective of the emergency mandate.

MOTION: Commissioner Moak moved to approve Resolution 2022-38 which works with and will continue the local emergency declared by the Commission in Resolution 2020-06; Commissioner Hohenberg seconded.

PUBLIC COMMENT

No comments were made.

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

G. Commissioner Meetings (formal and informal meetings with groups or individuals)
Commissioners reported on their respective committee meetings.

H. Non-Scheduled Items

Ms. Bader Inglima shared photos of the new Department of Transportation signage on Highway 395 for Muret Gaston Winery and Gordon Estate Winery and the US Army Corps of Engineer's warranty work on the 1135 Shoreline Restoration project on Clover Island.

Ms. Hanchette gave a wind damage report.

Mr. Arntzen congratulated the Commission on passing the 2023-2024 Budget. Mr. Arntzen stated we started the Budget discussions early and he believes it worked out well.

Mr. Arntzen wanted to personally thank the Commission for their support of him on the Covid protocols and stated it is a hot topic. It is a balancing act in keeping the Commission and staff safe and being accessible to the public.

Commissioner Hohenberg stated there are a lot of good things going on and thanked everyone.

PUBLIC COMMENTS

No comments were made.

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NOVEMBER 8, 2022 MINUTES

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COMMISSION COMMENTS

No comments were made.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned 3:13 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Kenneth Hohenberg, Vice President

Thomas Moak, Secretary

PORT OF KENNEWICK

RESOLUTION 2022-31

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

WHEREAS, the Board of Commissioners of the Port of Kennewick met this 8th day of November, 2022, 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, Washington State Auditor's Office (SAO) updated their best practices for internal controls over small and attractive assets which recommends tracking assets with a value of \$300 or more. Port of Kennewick's prior procedures including tracking all small and attractive assets regardless of value. Due to cost benefit, the Port of Kennewick will follow the SAO guidance and stop tracking assets with a value less than \$300; and

WHEREAS, RCW 53.08.090 provides that the Port Commissioners may authorize the Port Chief Executive Officer to sell and convey property; and

WHEREAS, prior to each such disposition of Port property, the Port Chief Executive Officer 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.

NOW, THEREFORE, BE IT RESOLVED the Port of Kennewick Commissioners authorize the Chief Executive Officer to surplus Port property no longer needed for Port purposes as attached in "Exhibit A" and the small and attractive assets under \$300 value removed from the inventory tracking list are attached in "Exhibit B".

ADOPTED by the Board of Commissioners of Port of Kennewick this 8th day of November 2022.

PORT of KENNEWICK BOARD of COMMISSIONERS

By: DocuSigned by:
Skip Novakovich
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SKIP NOVAKOVICH, President

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

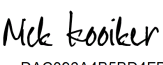
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Thomas Moak
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THOMAS MOAK, Secretary

RESOLUTION 2022-31
“Exhibit A”

Asset	Property Description	Date in Service	Cost	Book Value	Disposal Reason
230	Sprinkler Timer Remote Control	7/9/2018	\$ 460.28	\$ -	Stolen
235	Dual Monitor Arms	3/13/2018	\$ 428.97	\$ -	Broken
262	Utility Trailer - Garbage Pick Up	8/1/2020	\$ 325.79	\$ -	Stolen
266	HP Laptop	12/1/2020	\$ 1,840.71	\$ -	Broken
277	Signs - VFDF A	7/15/1995	\$ 1,225.69	\$ -	Replaced
313	Doors - VFDF A	3/31/1997	\$ 4,774.05	\$ 1,700.79	Replaced
319	Signs - VFDF B	4/30/1997	\$ 396.36	\$ -	Replaced
336	Blinds - VFDF A	8/31/1997	\$ 298.08	\$ -	Replaced
365	Sign for Building - VFDF A	3/10/1998	\$ 4,062.96	\$ 1,540.63	Replaced
428	Frame Overhead Door - VFDF A	8/25/1998	\$ 7,858.38	\$ 3,077.85	Replaced
495	Restroom Improvements - VFDF A	12/15/1998	\$ 593.01	\$ 21.75	Replaced
502	Frame Door - VFDF A	12/29/1998	\$ 1,652.10	\$ 66.18	Replaced
513	Water Heater & Faucet - VFDF A	1/12/1999	\$ 810.00	\$ -	Replaced
550	Storage Room Shelving - VFDF A	7/13/1999	\$ 905.58	\$ -	Replaced
574	Sign - VFDF A	10/12/1999	\$ 117.72	\$ 8.21	Replaced
632	HVAC 5-Ton Condensing Unit - VFDF A	6/27/2000	\$ 2,068.21	\$ 206.79	Replaced
718	HP Designjet 800PS Plotter	2/21/2003	\$ 7,619.99	\$ -	Broken
736	HVAC Lennox HS29 - VFDF A	5/31/2003	\$ 2,409.68	\$ -	Replaced
771	Lennox Air Conditioner - VFDF A	5/6/2004	\$ 2,057.70	\$ -	Replaced
772	Lennox Air Conditioner - VFDF A	10/25/2004	\$ 2,978.25	\$ -	Replaced
800	Furniture - Airport	4/1/2005	\$ 5,834.71	\$ -	Broken
890	Furniture - Airport	3/31/2006	\$ 1,822.69	\$ -	Broken
941	Compressor TXV - Oak Street Building A	12/31/2007	\$ 1,910.95	\$ -	Replaced
1047	Compressor - Oak Street Building A	6/30/2009	\$ 2,109.68	\$ -	Replaced
1064	Asset Replacement Program - Oak Street Building A	8/31/2010	\$ 6,600.00	\$ -	Outdated
1154	Baracuda Network Back up	4/30/2013	\$ 20,589.87	\$ -	Outdated
1173	Optiplex Mini Tower	8/31/2013	\$ 1,167.91	\$ -	Outdated
1213	Server Software Licenses	6/24/2015	\$ 7,853.12	\$ -	Expired License
1215	Cisco Wireless Access & 5 yr Software License	7/14/2015	\$ 2,409.61	\$ -	Expired License
1229	Autocad Software	10/1/2015	\$ 5,062.56	\$ -	Expired License
1232	Microsoft Surface Pro	9/1/2016	\$ 2,126.30	\$ -	Outdated
1233	Microsoft Surface Pro	9/1/2016	\$ 2,118.68	\$ -	Outdated
1253	SQL Server & License for Laserfiche	7/1/2017	\$ 3,921.12	\$ -	Moved to Cloud After Ransomware
1254	Power Monitor - Marina	3/1/2017	\$ 1,598.81	\$ -	Broken
1260	Laserfiche Storage - Hard Drive	12/31/2018	\$ 1,198.90	\$ -	Replaced
1261	Laserfiche 3 year Virus Sophos Software	12/31/2018	\$ 1,699.70	\$ -	Expired License
1266	Blinds - Nick's Office	6/30/2018	\$ 2,267.50	\$ 809.82	Water Damage
1275	Barracuda Server & Email Archive	2/13/2019	\$ 10,864.56	\$ 2,353.99	Moved to Cloud After Ransomware

CFO/Auditor Certification:

DocuSigned by:

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Nick Kooiker

11/2/2022

Date

RESOLUTION 2022-31
“Exhibit B”

Assets Under \$300 Removed Off Attractive Asset Tracking List

*All Below Assets Have a Book Value of \$0

Asset #	Property Description	Date in Service	Cost
5	6ft ladder	4/18/02	\$ 118
16	Key Box - Tel Key	9/15/88	\$ 138
35	4' Fiberglass Step Ladder	10/12/2004	\$ 42
49	Door Closers-Restroom Clover Island	5/15/1979	\$ 127.76
82	Restroom Improvements Clover Island	5/15/1983	\$ 64.18
108	DeWalt Cordless drill combo set	7/8/2011	\$ 270
109	Prim 20-20 game camera	3/30/2012	\$ 159
110	Prim 20-20 game camera	3/30/2012	\$ 159
116	Pro Webcam C910	1/18/2012	\$ 76
126	16" Cutoff Saw	3/6/2012	\$ 76
140	Booster Pac SOR ES2500	1/6/2012	\$ 190
152	Bosch Jig Saw	7/4/1905	Under \$300
153	Stanley Toolbox	1/6/2012	Under \$300
154	6' Ladder	1/6/2012	Under \$300
157	Wheelbarrow (4)	1/6/2012	Under \$300
158	6' Folding Table (2)	1/6/2012	Under \$300
159	Printer Stand	1/6/2012	Under \$300
165	Werner Extension Ladder 16'	1/6/2012	Under \$300
168	Husqvarna Hedge Trimmer	7/2/2013	\$ 244
170	Whistler Inspection Camera	1/23/2013	\$ 107
172	US General Tool Cart	7/1/2013	\$ 141
176	Slide Base Used Chair	6/11/2014	\$ 64
177	Slide Base Used Chair	6/11/2014	\$ 64
178	Slide Base Used Chair	6/11/2014	\$ 64
179	Slide Base Used Chair	6/11/2014	\$ 64
180	Slide Base Used Chair	6/11/2014	\$ 27
181	Slide Base Used Chair	6/11/2014	\$ 27
184	Dewalt Drill Set - 18 volt Cordless Combo s	3/24/2015	\$ 161
187	Dremel Multi-Max Oscillating Tool	3/26/2015	\$ 140
188	Parts Washer	11/26/2013	\$ 141
189	Porter Cable Compressor	10/28/2014	\$ 194
190	HP Printer - Desk Jet 2542	11/18/2014	\$ 75
194	Stainless work island	3/24/2015	\$ 273

RESOLUTION 2022-31
"Exhibit B" Continued

Assets Under \$300 Removed Off Attractive Asset Tracking List

*All Below Assets Have a Book Value of \$0

Asset #	Property Description	Date in Service	Cost
195	Stainless work island	3/24/2015	\$ 273
197	28' Aluminum Extension Ladder	10/11/2016	\$ 292
200	Dremel Grinder 12V	2/18/2016	\$ 108
202	Tester Multimeter	2/29/2016	\$ 113
203	Dewalt 18V Compact Drill	6/7/2016	\$ 151
206	Dremel 120V Saw Kit	5/11/2016	\$ 140
208	Cement Mixer	6/14/2016	\$ 239
209	6" Dual Action Polisher	6/20/2016	\$ 74
210	Booster Pac SOR ES5000	6/7/2016	\$ 173
211	Battery Tender	6/27/2016	\$ 205
213	Game Camera Primos 16MP Pro	9/18/2017	\$ 141
215	Multimeter - T5-600	6/6/2017	\$ 130
216	20" Aluminum Extension Ladder	4/18/2017	\$ 162
221	Bernzomatic Torch Kit	2/7/2019	\$ 98
222	DW Flexvolt 60V Grinder	1/9/2019	\$ 292
223	Dewalt Cordless Drill 4 tool combo	3/1/2019	\$ 270
224	2 gallon sprayer	4/5/2019	\$ 76
225	12' Step Ladder	8/2/2019	\$ 292
227	Bench Grinder 8"	12/28/2018	\$ 206
237	Dual Monitor Arms	6/11/2018	\$ 313
256	LED Task Light	4/1/2020	\$ 310

CFO/Auditor Certification:

DocuSigned by:

Nick Kooiker

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Nick Kooiker

11/2/2022

Date

PORT OF KENNEWICK

RESOLUTION NO. 2022-32

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF PORT OF KENNEWICK ADOPTING THE 2023 & 2024 BUDGET


WHEREAS, the Board of Commissioners of Port of Kennewick met at a regular meeting on October 25, 2022, a quorum of the Commission being present; and


WHEREAS, Port of Kennewick has properly given notice of the public hearing held on October 25, 2022 to consider Port of Kennewick's Budget for the 2023 and 2024 calendar years, pursuant to RCW 84.55.120; and


NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Port of Kennewick after a public hearing, and after duly considering all relevant evidence and testimony presented, has adopted the attached budget for Port of Kennewick for the year 2023 and 2024.

ADOPTED by the Board of Commissioners of Port of Kennewick at its regular meeting on November 8, 2022.

PORT OF KENNEWICK BOARD OF COMMISSIONERS

By: 
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SKIP NOVAKOVICH, President

By: 
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KEN HOHENBERG, Vice President

By: 
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THOMAS MOAK, Secretary



Port of Kennewick

2023/24 PRELIMINARY BUDGET

Fostering Jobs

Building Infrastructure

Enhancing Quality of Life



Mission & Goals

The Port of Kennewick's mission is to provide and support sound economic growth opportunities that create jobs and/or improve the quality of life of the port district citizens.

Economic Development and Job Creation Goals:

- Provide the public with high quality projects and services within a healthy work environment.
- Evaluate economic development opportunities based on results to be derived district-wide versus project-specific or jurisdiction-specific.
- Encourage transparency, open competition and equal project consideration, fostering a reputation for fairness with the local business community.
- Seek to fund projects with available resources.
- Support intergovernmental cooperation by partnering with entities which demonstrate support.

These above goals will be accomplished through the following projects:

- Vista Field Redevelopment
- Kennewick's Historic Waterfront District
 - Columbia Drive Redevelopment
 - Clover Island Miscellaneous Projects
 - Clover Island 1135 Shoreline Restoration

Financial, Operational, and Budget Philosophy:

- The Port is maintaining its goal of a balanced budget.
- The Port is fiscally sound and is ensuring its available resources do not exceed expenditures.
- The Port's budget allows funding for additional staff in order to facilitate budgeted capital projects while promoting fiscal responsibility.
- The Port will continue to report Return on Investment as appropriate and share audited financial reports with the public.

2023/24 PRELIMINARY BUDGET*

Total Revenues	\$ 17,703,661
Total Expenses (less capital and promotional hosting)	\$ 12,903,089
Profit (Loss)	\$ 4,800,571
Capital Expenses	\$ 10,062,025
Promotional Hosting Expenses	\$ 24,125
Beginning Cash on Hand	\$ 9,755,248
Reserve Fund	\$ 2,500,000
Unrestricted Fund Balance	\$ 1,969,670
Ending Cash on Hand	\$ 4,469,670

*The 2023 & 2024 Preliminary Budget PowerPoint Presentation is integral to the Port of Kennewick's preliminary budget document.

*For questions regarding this report, contact the Port's Chief Financial Officer, Nick Kooiker at 509-586-1186

PORT OF KENNEWICK

RESOLUTION NO. 2022-33

A RESOLUTION OF THE BOARD OF COMMISSIONERS FOR THE PORT OF KENNEWICK CERTIFYING THE PORT'S 2023 LEVY

WHEREAS, the Board of Commissioners of the Port of Kennewick met and considered its budget for the calendar year 2023 and 2024 at a regular meeting on October 25, 2022, a quorum of the Commission being present; and

WHEREAS, a legal notice of public hearing on the Preliminary Budget of Port of Kennewick for the calendar year of 2023 and 2024 was published in accordance with RCW 53.35.020, RCW 53.35.045 and RCW 84.52.020; and

WHEREAS, the Port's actual levy amount from 2022 year was \$4,685,767; and

WHEREAS, the population of the Port is more than 10,000; and

WHEREAS, the Board of Commissioners of Port of Kennewick after hearing and after duly considering all relevant evidence and testimony presented, determined that the Port of Kennewick requires a regular levy for the 2023 tax year in the amount of \$5,400,000, which includes an increase in property tax revenue from the previous year, amounts resulting from the addition of new construction, improvements to property, any increase in the value of state-assessed property, and amounts authorized by law as a result of any annexations that have occurred and refunds made, in order to discharge the expected expenses and obligations of the district and in its best interest.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Port of Kennewick substantiate that an increase in the regular property tax levy is hereby authorized for the levy to be collected in 2023 tax year. The dollar amount of the increase over the actual levy amount from the previous year shall be approximately \$50,000, which is a one-percent increase from the previous year. This increase is exclusive of additional revenue resulting from new construction, improvements to property, any increase in the value of state assessed property, any annexations that have occurred and refunds made.

BE IT FURTHER RESOLVED that the Board of Commissioners of the Port of Kennewick hereby direct the Chief Financial Officer/Auditor to certify a copy of this resolution and forward the same to the Clerk of the Board of the County Commissioners in accordance with RCW 84.52.020.

APPROVED and dated by the Commissioners of the Port of Kennewick at a Regular Meeting on November 8, 2022.

PORT of KENNEWICK BOARD of COMMISSIONERS

DocuSigned by:

By:

Skip Novakovich

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SKIP NOVAKOVICH, President

DocuSigned by:

By:

Kenneth Hohenberg

89F77EAC8921416...

KENNETH HOHENBERG, Vice President

DocuSigned by:

By:

Thomas Moak

A35176A2D2CD413...

THOMAS MOAK, Secretary

CERTIFICATION OF TAX LEVY**STATE OF WASHINGTON
County of Benton**

In accordance with RCW 84.52.020, I, **Nick Kooiker**, CFO/Auditor for Port of Kennewick, do hereby certify to the Benton County legislative authority that the Commissioners of said district request that the following levy amounts be collected in 2023 as provided in the district's budget, which was adopted following a public hearing held on November 8, 2022. I hereby request the Board of County Commissioners of Benton County, Washington, to make said regular levy of the Kennewick Port District, as set forth below, and that said regular levy is for operation, maintenance, land acquisition, construction, and the levy is to be distributed as follows:

Expense (General) Fund	\$5,390,000
Administration Refund Fund	\$10,000

<i>Total Regular Levy</i>	<i>\$5,400,000</i>
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<i>Population Certification:</i>	<i>Above 10,000</i>
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If the above certification is more than the Assessor's levy calculations, the Assessor's Office is directed to reduce the Expense (General) Fund amount to the actual Assessor's levy calculation.

CERTIFIED this 8th day of November, 2022.

CERTIFIED BY:

**PORT of KENNEWICK
CFO/AUDITOR**

DocuSigned by:

Nick Kooiker

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Nick Kooiker

PORT OF KENNEWICK

RESOLUTION NO. 2022-34

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK AUTHORIZING AN INCREASE IN TAX LEVY CAPACITY PURSUANT TO RCW 84.55.120 AND WAC 458-19-005

WHEREAS, a public hearing was held by the Board of Commissioners for the Port of Kennewick regarding the 2023 and 2024 budget; and

WHEREAS, pursuant to RCW 84.55.120 and WAC 458-19-005, the rate of inflation (IPD rate) for 2023 is 6.457% and the limit factor for property taxes for 2023 is 101%; and

WHEREAS, the Port of Kennewick's levy amount from the previous year was \$4,685,767; and

WHEREAS, the Port has set its increase in tax levy capacity for the 2023 and 2024 budget at one percent (1%) and finds there is substantial need to set the levy limit at one hundred and one percent (101%); and


WHEREAS, the Board of Commissioners of the Port of Kennewick Taxing District, after hearing and after duly considering all relevant evidence and testimony presented, finds there is a substantial need to set the levy limit at one hundred one percent (101%), in order to discharge the expected expenses and obligations of the district and in its best interest; and


NOW, THEREFORE, BE IT RESOLVED, by the Board of Commissioners of the Port of Kennewick Taxing District that an increase in the regular property tax levy, in addition to the increase resulting from the addition of new construction and improvements to property and any increase in levy value of state assessed property, is hereby authorized for the 2023 levy in the amount of approximately \$50,000 which is a one (1%) percentage increase from the previous year.

ADOPTED by the Board of Commissioners of the Port of Kennewick at a Special Meeting held this 8th day of November 2022; and duly signed by its proper officers in the authentication of its passage on said date.

PORT of KENNEWICK BOARD of COMMISSIONERS

By: 
DocuSigned by:
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SKIP NOVAKOVICH, President

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

By: 
DocuSigned by:
A35176A2D2CD413...
THOMAS MOAK, Secretary

PORT OF KENNEWICK

Resolution No. 2022-35

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

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

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

WHEREAS, the Commission has determined that further updates to Section 6.14 of the Rules of Policy and Procedure are warranted based on the need for greater clarity.

NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby approves amending Section 6.14 of Port Commission Rules of Policy and Procedure as attached.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 8th day of November 2022.

PORT of KENNEWICK BOARD of COMMISSIONERS

By: DocuSigned by:
Skip Novakovich
0E53A30E1C8E442...
SKIP NOVAKOVICH, President

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

By: DocuSigned by:
Thomas Moak
A35176A2D2CD413...
THOMAS MOAK, Secretary

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

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

6.14.2 Speakers shall state their names and ~~addresses~~ city of residence prior to addressing the Commission;

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

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

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

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

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

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

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

PORT OF KENNEWICK

Resolution No. 2022-36

A RESOLUTION OF THE PORT OF KENNEWICK BOARD OF COMMISSIONERS FORMALIZING COMPLETION OF GOALS #1, #2 & #7 OF CEO'S 2021/22 GOALS AND OBJECTIVES

WHEREAS, the Commission approved goals and objectives for the Port CEO, attached as Exhibit "A" and last modified on March 8, 2022; and

WHEREAS, the COVID "back to work" plan was presented to the Commission on May 24, 2022, thus completing Goal #1 of the CEO's 2021/22 Goals and Objectives; and

WHEREAS, a Vista Field Hangar lean renovation analysis was presented to the Commission on July 26, 2022, thus completing Goal #2 of the CEO's 2021/22 Goals and Objectives; and

WHEREAS, a maintenance facility needs and alternatives report was presented to the Commission on July 26, 2022, thus completing Goal #7 of the CEO's 2021/22 Goals and Objectives; and

WHEREAS, the Commission desires to formally accept as complete Goals #1, #2, and #7 of the CEO's 2021/22 Goals and Objectives related to these items.


NOW, THEREFORE, BE IT HEREBY RESOLVED the Board of Commissioners of the Port of Kennewick hereby accepts as complete Goals #1, #2, and #7 of the CEO's 2021/22 Goals and Objectives.

ADOPTED by the Board of Commissioners of the Port of Kennewick this 8th day of November 2022.

PORT of KENNEWICK BOARD of COMMISSIONERS

By: 
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SKIP NOVAKOVICH, *President*

By: 
89F77EAC8921416...
KENNETH HOHENBERG, *Vice President*

By: 
A35176A2D2CD413...
THOMAS MOAK, *Secretary*

Resolution 2022-36
Exhibit "A"

EXHIBIT A		CEO 2021/22 Goals & Objectives (including update on 2019/20 ongoing goals)			
DATE:		November 8, 2022			
GOAL & OBJECTIVE		TACTICAL STEPS	ACTION	STATUS (checkmark = Completed)	COMMENTS
2019/2020 Goals and Objectives Carryover					
	2019/20 GOAL	Sell one parcel or obtain one ground lease (does not include Arts Center Task Force).	Considered complete when presented to Commission.	50% complete	The Port now has lots to sell, and are advertising to sell lots. Have one letter of intent received, but no offers to purchase have been presented to commission.
Vista Field	2				
2021/2022 Goals and Objectives					
	2021/22 GOAL	Prepare "Back to Work" plan for Port staff in relation to the COVID-19 pandemic.	Considered complete when presented to Commission.	100% Complete	Presented to Commission on 5/24/22.
Port Adminstration	1				
	2021/22 GOAL	Develop a Vista Hangar analysis to include lean renovation options (with RCCF partnership funds) and viability/potential for selling on a ground lease.	Considered complete when presented to Commission.	100% Complete	Presented to Commission on 7/26/22.
Vista Field	2				
	2021/22 GOAL	Implement the identified Duffy's Pond tenant-improvements and algae mitigation plan.	Considered complete when presented to Commission.	50% Complete	Standing bar installed on tasting room patios. Food truck plaza fencing was bid (pulled project due to escalating material costs whereby bidders wouldn't hold pricing with material cost tripling). City permits finalized for restroom. Working with Palencia regarding design of demonstration vineyard. All algae mitigation prep work required by Port is complete. Chemical application is dependent upon City schedule.
Kennewick Waterfront	5				
	2021/22 GOAL	Prepare a report which evaluates maintenance facility needs and possible alternatives.	Considered complete when presented to Commission.	100% Complete	Presented to Commission on 7/26/22.
Districtwide	7				

***PORT OF KENNEWICK
Resolution No. 2022-37***

***A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF
KENNEWICK ACCEPTING AND AWARDING A CONSTRUCTION CONTRACT FOR A
PUBLIC RESTROOM IN THE COLUMBIA GARDENS WINE & ARTISAN VILLAGE***

WHEREAS, a request for bids to construct a public restroom facility in the Columbia Gardens Wine & Artisan Village on Columbia Drive was properly advertised with approved plans and specifications being made available to five (5) contractors on the Port's small works roster; and

WHEREAS, the staff and the project architect have certified that the low bidder for the project is Double J Excavating in the amount of \$205,000.00, plus applicable tax, which includes construction of facility and site improvements.

NOW THEREFORE, BE IT RESOLVED that the Port of Kennewick Commission does hereby accept the bid from Double J Excavating Inc. for the construction of a public restroom in the Columbia Gardens Wine & Artisan Village as the low bidder in the amount of \$205,000.00, plus applicable tax, and hereby awards the construction contract to said low bidder.

BE IT HEREBY FURTHER RESOLVED that the Chief Executive Officer (CEO) is authorized to enter into a contract between the Port of Kennewick and Double J Excavating Inc. for \$205,000.00 plus applicable tax for the construction of a public restroom facility in the Columbia Gardens Wine & Artisan Village and that the CEO is further authorized to proceed with all necessary procedures required to complete construction of the project.


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

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 8th day of November, 2022.

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

By: 
0E53A30E1C8E442...
SKIP NOVAKOVICH, President

By: 
89F77EAC8921416...
KENNETH HOHENBERG, Vice President

By: 
A35176A2D2CD413...
THOMAS MOAK, Secretary

PORT OF KENNEWICK

Resolution No. 2022-38

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK EXTENDING THE LOCAL EMERGENCY DECLARATION & RELATED DELEGATION OF AUTHORITY & SETTING A REVIEW DATE

WHEREAS, The Washington State mandate for remote public meetings and restrictions on holding in-person public meetings expired June 1, 2022. Upon expiration of the proclamation, the newly revised Open Public Meetings Act (“OPMA”) law applied.

WHEREAS, pursuant to the current OPMA, RCW 42.30.230, open public meetings must be held at a physical location where the public can attend, unless a local, state, or federal emergency has been declared and the public agency determines it cannot hold an in-person meeting with reasonable safety. While state law encourages agencies to offer a remote attendance option along with its in-person option (see RCW 42.30.030), they are no longer required to do so.

WHEREAS, on October 31, 2022, Washington state’s declaration of emergency lifted. However, local governments can still rely on their own declared state of emergency or a federal emergency declaration (such as the president’s emergency declaration) to hold a fully remote meeting if they state their reasoning why the local or federal emergency prevents them from meeting in person.

Another option for the Port of Kennewick is to refresh the Declaration of Local Emergency, which the Commission first declared in 2020, and to continue to conduct Port Commission meetings under the hybrid model by which the Port currently operates. A physical location is provided for the public attendance, at their option, and Commission and staff attendance is via remote means.

WHEREAS, the Port Commission previously adopted Resolution 2020-06 which documented impacts of COVID 19 world-wide, nationwide and locally. Resolution 2020-06 was a declaration of a local emergency. The current Resolution 2020-06 continues in force until terminated by law or by further Resolution.

WHEREAS, Resolution 2020-06 also delegated to the Port Chief Executive Officer, among other things, the authority to “exercise such emergency powers as may be lawful under applicable laws, regulations, ordinances, or the District’s policies, and necessary, including by way of example and not limitation: general port powers under Title 53, RCW, RCW 53.12.270 (Delegation of powers to managing official), RCW 39.04.280(3) for emergency procurement, and Chapter 39.28 RCW (Emergency Public Works)”.

WHEREAS, although the Washington state Governor’s emergency orders ended October 31, 2022, coronavirus remains a workplace hazard and employers must take precautions to prevent the spread of the virus. Though the Washington state emergency orders are ending, the Benton-Franklin Health District reminds us that throughout the Counties, coronavirus remains a workplace hazard and employers must take precautions to prevent the spread of the virus.

WHEREAS, the Benton-Franklin Health District makes available the rates per 100,000 Population of Cases, Hospitalizations and Deaths due to COVID, and updates this information regularly. For Benton County the present 7-day case rate is 34.5; the 14-day case rate is 70; the 7-Day Hospitalization rate is 6.3 and the 7-Day Death Rate is 0.5.

WHEREAS, the Port has fared well under the current policies. The CEO is aware of no areas where Port business has suffered; and is aware of no citizen complaints due to the current policy. Port efficiency remains high, and in some cases, efficiency has increased pursuant to the remote work policy.

WHEREAS, what does not end on October 31, 2022 are the state Health Emergency Labor Standards Act (HELSA) requirements that remain in effect as long as there is a public health emergency declared by the President of the United States.¹

WHEREAS, the current national presidential emergency declaration remains in effect through March 1, 2023.

WHEREAS, the federal emergency proclamation remains in effect and local emergency factors continue to necessitate this Resolution.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. Proclamation of Emergency. Based on the above factors, the Port of Kennewick Commission reaffirms its Declaration of Local Emergency.
2. Current Delegation CEO Remains Unchanged. The Port of Kennewick Commission leaves in place the CEO's current delegation of authority as contains in Resolution 2020-06. Under that authority, the CEO would continue to manage local conditions and it is anticipated that Port Commission meetings would also continue to be held under the hybrid model by which the Port currently operates. A physical location is provided for the public attendance, at their option, and Commission and staff attendance may be via remote means.
3. Commission Review in February 2023. The Port of Kennewick Commission will review the status of this Local Declaration in February 2023 to coincide with the current expiration date of the existing presidential emergency declaration (March 2023).

ADOPTED by the Board of Commissioners of Port of Kennewick on the 8th day of November, 2022.

By: DocuSigned by:
Skip Novakovich
0E53A30E1C8E442...
SKIP NOVAKOVICH, *President*

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

By: DocuSigned by:
Thomas Moak
A35176A2D2CD413...
THOMAS MOAK, *Secretary*

¹ HELSA requirements include, among other things: Non-health care employers must notify staff and others at the workplace of a potential exposure to COVID-19 within one business day, and Employers are prohibited from discriminating against high-risk employees for seeking accommodations for COVID-19.



Memorandum

To: Port of Kennewick;
Tim Arntzen; Amber Hanchette

From: Taud A. Hume

Re: *Mechanics Liens on Public Property*

Date: November 3, 2022

Question: Can a mechanics lien be filed against Port property?

Short Answer: No, mechanics liens cannot be filed against public property. Additionally, work conducted on behalf of a tenant under a lease on Port property will only expose the tenant's interests (e.g. the improvements themselves and not the real property) to a mechanics lien, which can be foreclosed upon pursuant to RCW 60.04.051.

RCW 60.04.021 provides that "[A]ny person furnishing labor, professional services, materials, or equipment for the improvement of real property shall have a lien upon the improvement for the contract price of labor, professional services, materials, or equipment furnished at the instance of the owner, or the agent or construction agent of the owner." However, attachment of a lien is limited "to the interest of the person who requests the labor or materials, or that person's agent." *Haselwood*, 137 Wash.App. at 882, 155 P.3d 952 (citing *W.T. Watts, Inc. v. Sherrer*, 89 Wash.2d 245, 248, 571 P.2d 203 (1977)). This concept was codified in RCW 60.04.051, which provides "[t]he lot, tract, or parcel of land which is improved is subject to a lien to the extent of the interest of the owner at whose instance, directly or through a common law or construction agent the labor, professional services, equipment, or materials were furnished." The extent of a lien under RCW 60.04.051 is therefore based upon the interest of the person requesting the services and materials.

However, Washington courts have repeatedly held that public property cannot be subject to a mechanic's lien. *Hall & Olswang v. Aetna Cas. & Sur. Co.*, 161 Wash. 38, 47, 296 P. 162 (1931) ("The almost universally accepted rule is that general mechanics' and materialmen's lien

statutes, in the absence of express words therein subjecting public property to such liens, do not subject public property to such liens.”); *Hall & Olswang v. Aetna Cas. & Sur. Co.*, 161 Wash. 38, 47, 296 P. 162, 166 (1931); see *Hewson Constr., Inc. v. Reintree Corp.*, 101 Wash.2d 819, 828–29, 685 P.2d 1062 (1984); *3A Indus., Inc. v. Turner Constr. Co.*, 71 Wash.App. 407, 411, 869 P.2d 65 (1993). In part, this is based upon the general principle that where a person causes improvements to be made upon lands in which he/she holds less than fee simple title, only his/her interest in those lands can be subject to liens for labor performed or materials furnished for construction. *Baker v. Sinclair*, 22 Wash. 462, 61 P. 170 (1900).

But it is also important to note that RCW 60.04.051 provides:

If, for any reason, the title or interest in the land upon which the improvement is situated cannot be subjected to the lien, the court in order to satisfy the lien may order the sale and removal of the improvement from the land which is subject to the lien.

For example, in *Est. of Haselwood v. Bremerton Ice Arena, Inc.*, 166 Wash. 2d 489, 499–500, 210 P.3d 308, 313 (2009) lenders brought an action to foreclose on a deed of trust securing a loan for construction of ice arena on city-owned property. A subcontractor also filed claims alleging that its mechanics' lien was superior to all other claims, and further filed motion to remove its improvements. The Court, in distinguishing the interest in real property held by the tenant, held:

Under the concession agreement between the City and [Tenant], the City retained ownership of the underlying land, while [the Tenant] owned the Arena and any improvements on the land for the duration of the agreement. When the concession agreement terminated, the improvements on the land would revert to the City. [The Tenant] never owned the land underlying the Arena. The most [the Tenant] could own, during the agreement, was the improvements to the land. Under RCW 60.04.051 and the concession agreement, [the subcontractor's] lien could reach only the improvements on the property, not the underlying property.

Similarly, any tenant on Port property only has a tenancy interest in the real property owned by the Port. As such, no materialmen's liens could be created against the Port's property. However, liens could be filed against the improvements themselves and foreclosed upon under Washington law.

AGENDA REPORT

TO: Port Commission

FROM: Tim Arntzen, CEO

CC: Port General Legal Counsel Carolyn Lake

MEETING DATE: November 8, 2022

AGENDA ITEM: Resolution 2022-38; Continuing Local Emergency Declaration.

I. REFERENCE(S): Resolution 2020-06
Resolution 2022-38

II. FISCAL IMPACT: None.

III. DISCUSSION:

The Washington State mandate for remote public meetings and restrictions on holding in-person public meetings expired June 1, 2022. Upon expiration of the proclamation, the newly revised Open Public Meetings Act (“OPMA”) law applied.

Pursuant to the current OPMA, RCW 42.30.230, open public meetings must be held at a physical location where the public can attend, unless a local, state, or federal emergency has been declared and the public agency determines it cannot hold an in-person meeting with reasonable safety. While state law encourages agencies to offer a remote attendance option along with its in-person option (see RCW 42.30.030), they are no longer required to do so.

On October 31, 2022, Washington state’s declaration of emergency lifted. However, local governments can still rely on their own declared state of emergency or a federal emergency declaration (such as the president’s emergency declaration) to hold a fully remote meeting if they detail their reasoning why the local or federal emergency prevents them from meeting in person.

Another option for the Port of Kennewick is refresh the Declaration of Local Emergency, which the Commission first declared in 2020, and to continue to conduct Port Commission meetings under the hybrid model by which the Port currently operates. A physical location is provided for the public attendance, at their option, and Commission and staff may attend via remote means.

The Port Commission previously adopted Resolution 2020-06 which documented impacts of COVID 19 world-wide, nationwide and locally. Importantly, Resolution 2020-06 was a declaration of a local emergency. The current Resolution 2020-06 continues in force until terminated by law or by further Resolution.

That Resolution also delegated to the Port Chief Executive Officer, among other things, the authority to “exercise such emergency powers as may be lawful under applicable laws, regulations, ordinances, or the District’s policies, and necessary, including by way of example and not limitation: general port powers under Title 53, RCW, RCW 53.12.270 (Delegation of

powers to managing official), RCW 39.04.280(3) for emergency procurement, and Chapter 39.28 RCW (Emergency Public Works)”).

Though the Washington state Governor’s emergency orders ended October 31, 2022, coronavirus remains a workplace hazard and employers must take precautions to prevent the spread of the virus. Though the Washington state emergency orders are ending, the Benton-Franklin Health District reminds us that throughout the Counties, coronavirus remains a workplace hazard and employers must take precautions to prevent the spread of the virus.

Further, what does not end on October 31st, 2022 are the state Health Emergency Labor Standards Act (HELSA) requirements that remain in effect as long as there is a public health emergency declared by the President of the United States.¹ The current presidential emergency declaration remains in effect through March 1, 2023

The Benton-Franklin Health District makes available the rates per 100,000 Population of Cases, Hospitalizations and Deaths due to COVID, and updates this information regularly. For Benton County the 7-day case rate is 34.5; the 14-day case rate is 70; the 7-Day Hospitalization rate is 6.3 and the 7-Day Death Rate is 0.5.

The Port has fared well under the current policies. The CEO is aware of no areas where Port business has suffered; and is aware of no citizen complaints due to the current policy. Port efficiency remains high, and in some cases, efficiency has increased pursuant to the remote work policy.

IV. CEO RECOMMENDATION:

The CEO recommends that the Port of Kennewick Commission refresh the Declaration of Local Emergency and leave in place the CEO’s current delegation of authority. Under that authority, the CEO would continue to manage local conditions and Port Commission meetings would also continue to be held under the hybrid model by which the Port currently operates. A physical location is provided for the public attendance, at their option, and Commission and staff attendance is via remote means. This status would remain in place through the fall and winter of 2022-23 and be revisited in February 2023 to coincide with the current expiration date of the existing presidential emergency (March 2023).

V. ACTION REQUESTED OF COMMISSION:

I move approval of Resolution 2022-38 which works with and will continue the local emergency declared by the Commission in Resolution 2020-06.

¹ HELSA requirements include, among other things: Non-health care employers must notify staff and others at the workplace of a potential exposure to COVID-19 within one business day, and Employers are prohibited from discriminating against high-risk employees for seeking accommodations for COVID-19.



AGENDA REPORT

TO: Port Commission

FROM: Amber Hanchette; Director of Real Estate & Operations

MEETING DATE: November 22, 2022

AGENDA ITEM: Twin Tracks – Authorization for CEO to Execute Letter to Greenbrier Rail Services

I. REFERENCE(S):

Meeting Minutes September 27, 2022 – Commission consensus for staff to move forward with Greenbrier Rail's proposal to construct a tent structure at the Twin Tracks Industrial Park

II. DISCUSSION:

The attached letter summarizes the tenant request, lease language, and tenant requirement to secure a surety bond in the amount of \$1.5 million as security to the port against liens on the subject property or the Project improvements.

III. ACTION REQUESTED OF COMMISSION:

Authorization for CEO to execute letter to Greenbrier Rail Services through Consent.



**PORT of
KENNEWICK**

350 CLOVER ISLAND DRIVE, SUITE 200, KENNEWICK WASHINGTON 99336 509-586-1186 WWW.PORTOFKENNEWICK.ORG

November 22, 2022

Mr. Todd Richardson
Greenbrier Rail Services
22819 19 E. Cochran Road
Kennewick, WA 99337

RE: *Greenbrier Construction Request*

Dear Mr. Richardson,

The Port of Kennewick (the "Port") is in receipt of a letter from Greenbrier Rail Services, dated September 14, 2022, requesting permission from the Port "to erect a semi-permanent fabric structure over existing rail track at our facility" described further therein as:

Fabric structure will be approximately 174' wide x 350' long (nominal 60,900 sf) with a maximum height of 45'. Structure will be located over existing track and shown on the attached conceptual layout. The work will also include removal of one (1) existing building and an existing crane structure located in the footprint of the proposed structure as shown on the attached aerial view of the site (a close-up view of the structures to be removed is also attached for your information). Fabric structure will consist of arched steel frames supported by foundations designed for the specific site conditions. Fabric will be installed and attached to the steel frames as shown on the attached isometric view. All plans will be designed by a professional engineer licensed in the State of Washington and submitted to Benton County Building Officials for approval and permitting. On completion, record drawings and inspection reports will be submitted to you for your files.

Appended hereto as Attachment A is the aforementioned letter and corresponding attachments that detail the requested improvements (the "Project").

As you are aware, Section 8 of the 1993 Lease (including all amendments) (the "Lease") between Greenbrier and the Port requires Greenbrier to seek permission in writing from the Port for the construction of any improvements exceeding the value of fifteen thousand dollars (\$15,000.00). Permission to construct the Project has been granted by the Port Commissioners subject to the following terms and conditions:

Mr. Todd Richardson
November 22, 2022
Page 2

1. Greenbrier shall obtain all required permits and comply with all Federal, State and local regulations and requirements relevant to the Project.
2. Greenbrier shall provide permit approval and inspection logs to the Port demonstrating that the improvements were accepted by Benton County and the Washington State Department of Labor & Industry.
3. Greenbrier shall provide final as-built drawings and site plans along with 3+ photos of the finished Project for Port files.
4. Greenbrier shall obtain permission from the Port for the construction of any improvements falling outside of the scope of the Project generally described in Attachment A.
5. Removal of any improvements related to the Project at the conclusion of the Term of the Lease shall proceed subject to Section 8 of the Lease.
6. Pursuant to Section 8 of the Lease, Greenbrier shall secure a performance bond in the amount of one million five hundred thousand dollars (\$1,500,000.00), which shall secure the Port against liens on the subject property or the Project improvements.
7. Greenbrier shall comply with all other requirements of the Lease.

We look forward to watching your business continue to thrive and are excited to see how this new Project will continue to provide an economic boost to our local community. Should you have any further questions regarding the Port's approval of your request, please do not hesitate to contact me.

Sincerely,

Tim Arntzen
Port of Kennewick
Chief Executive Officer

PORT OF KENNEWICK REGULAR COMMISSION MEETING

SEPTEMBER 27, 2022 MINUTES

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

PRESENTATIONS

A. Horse Heaven Hills Wind Farm

Commissioner Novakovich introduced Margaret Hue.

Ms. Hue presented information on the proposed 24-mile wind farm on Horse Heaven Hills.

NEW BUSINESS

A. Greenbrier Lease

Ms. Hanchette stated Greenbrier Rail, a Port tenant located at the Twin Tracks industrial park, submitted a proposal to build a thermal membrane tent on their leased property. Ms. Hanchette presented the proposal and inquired if the Commission would like staff to move forward with Greenbrier Rail's request.

It is the Consensus of the Commission for staff to move forward with Greenbrier Rail's proposal to construct a tent structure at the Twin Tracks Industrial Park.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. CEO Evaluation Update

Mr. Kooiker and the CEO Evaluation Committee met this morning and anticipate bringing a draft for Commission approval in November, to meet the December 15th deadline.

B. 1135 Update

Ms. Bader Inglima stated TDX, the original contractor for the 1135 restoration project has begun staging on the island in preparation of additional work due to the erosion from the wet spring. Ms. Bader Inglima anticipates the work will be completed by the end of October and stated the Port plans to hold a celebration in the spring.

Commissioner Novakovich stated for the record, Ms. Bader Inglima has been working on this project since 2008 and thanked her for her perseverance.

C. Oak Street Purchase and Sale Agreement Update

Ms. Hanchette reported the Port received a letter of intent to purchase the property located at 1526 East 3rd Avenue.

D. Vista Field Update

Ms. Hanchette has been giving site tours of Vista Field to realtors, bankers, builders and community members. Ms. Hanchette and Mr. Peterson have been engaging in community outreach to educate the public on new urbanism and the mixed-use zoning.

ATTACHMENT A
(Project documents)

PROPOSED FABRIC STRUCTURE
INSTALLATION PROJECT

GREENBRIER (GBX) RAIL SERVICES





September 14, 2022

Amber Hanchette
Director | Real Estate & Operations
Port of Kennewick

Re: Proposed Fabric Structure Installation Project
Greenbrier Rail Services
Finley, Washington

Ms. Hanchette:

Greenbrier Rail Services (GRS), an industry leader in the manufacture and repair of railcars, is currently leasing property located at 228919 Cochran RD Finley, Washington from the Port of Kennewick. Per the terms of the lease, we would like to request your permission to erect a semi-permanent fabric structure over existing rail track at our facility.

Fabric structure will be approximately 174' wide x 350' long (nominal 60,900 sf) with a maximum height of 45'. Structure will be located over existing track and shown on the attached conceptual layout. The work will also include removal of one (1) existing building and an existing crane structure located in the footprint of the proposed structure as shown on the attached aerial view of the site (a close-up view of the structures to be removed is also attached for your information). Fabric structure will consist of arched steel frames supported by foundations designed for the specific site conditions. Fabric will be installed and attached to the steel frames as shown on the attached isometric view. All plans will be designed by a professional engineer licensed in the State of Washington and submitted to Benton County Building Officials for approval and permitting. On completion, record drawings and inspection reports will be submitted to you for your files.

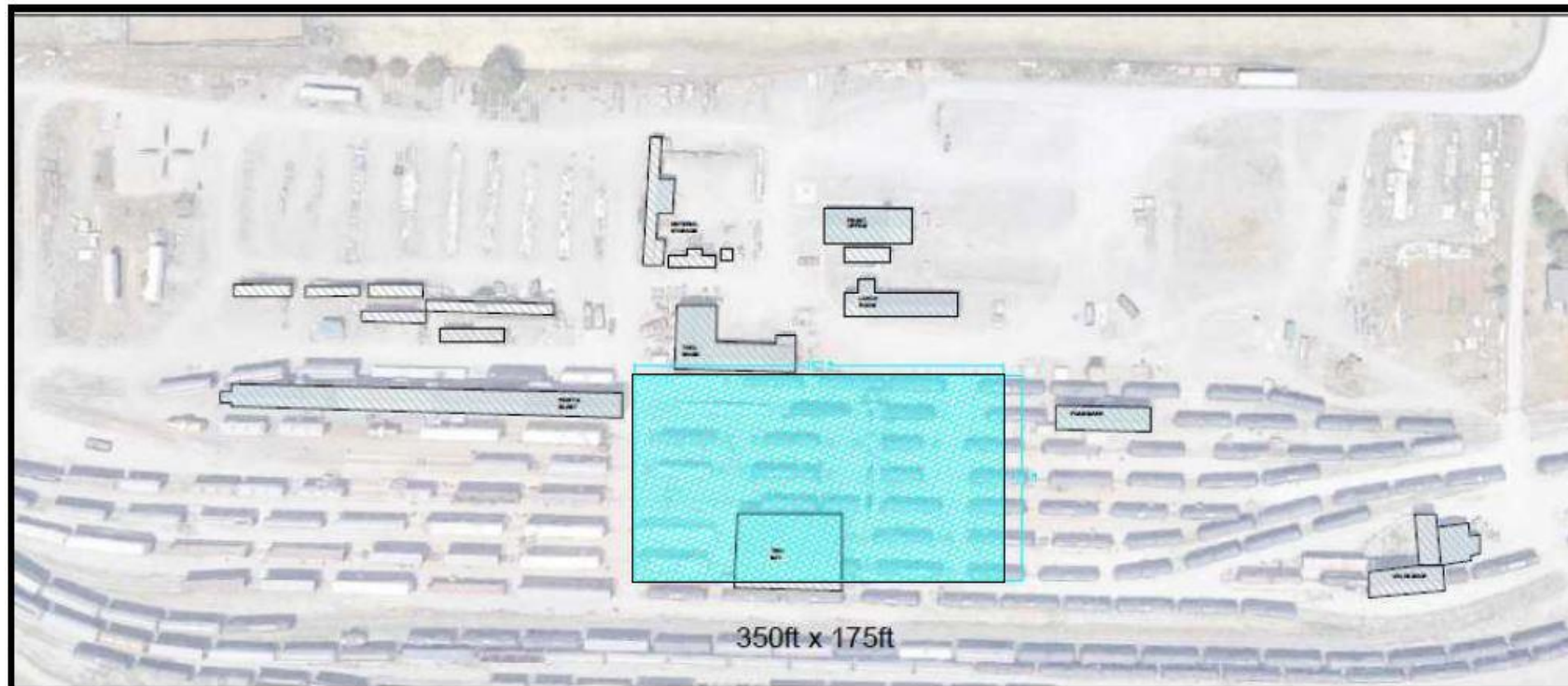
Our Construction Manager for this work is RFW Construction Group. Please contact me or our Construction Manager representative Ray Lowrance (ph: 731-445-5630, email: rlowrance@rfwgroup.com) for additional information or with any questions. We are available to meet or conference with you to discuss the project in detail.

We appreciate your consideration and look forward with your permission to move forward.

Sincerely,
Greenbrier Rail Services

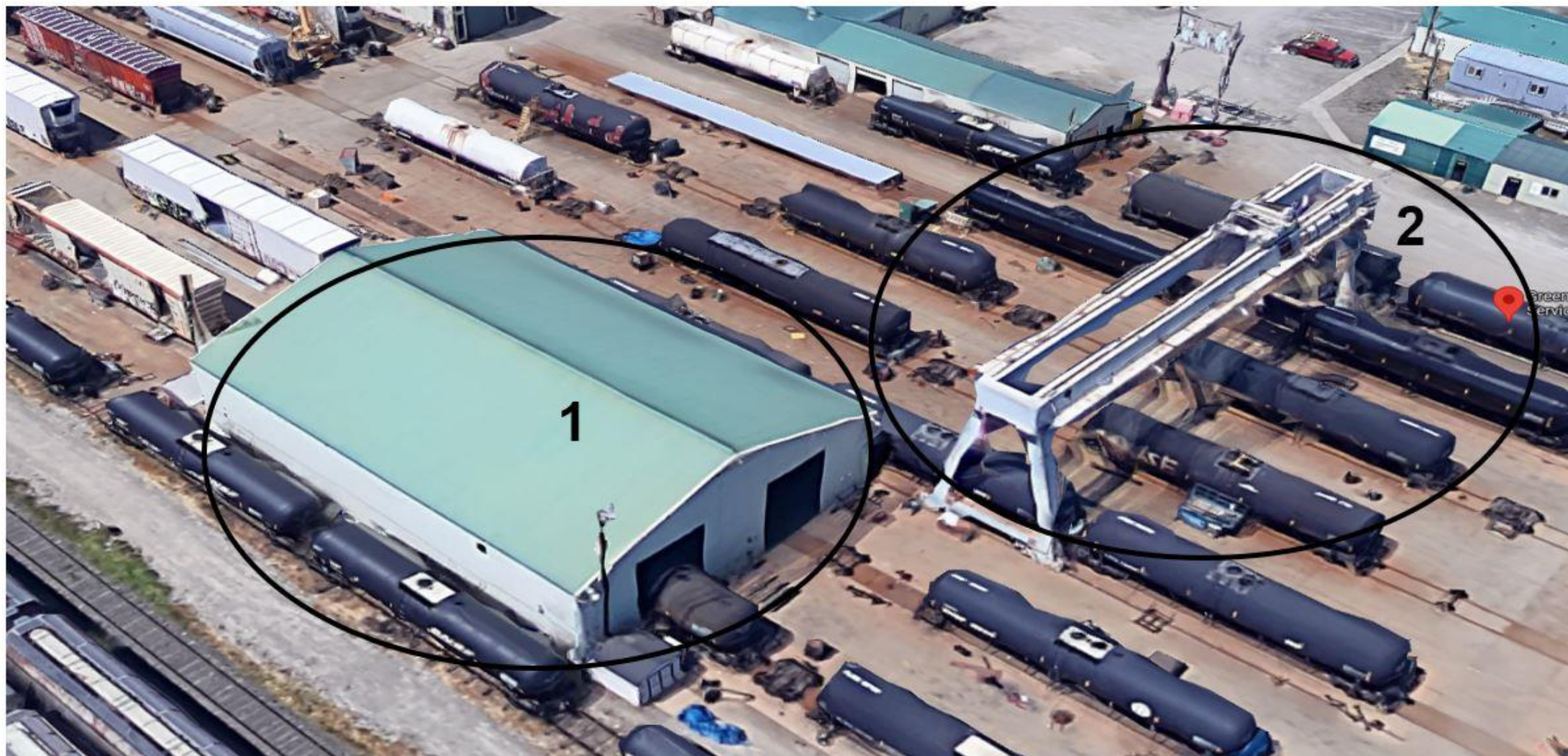
Todd Richardson
Finley Plant Manager

Finley Tent Project

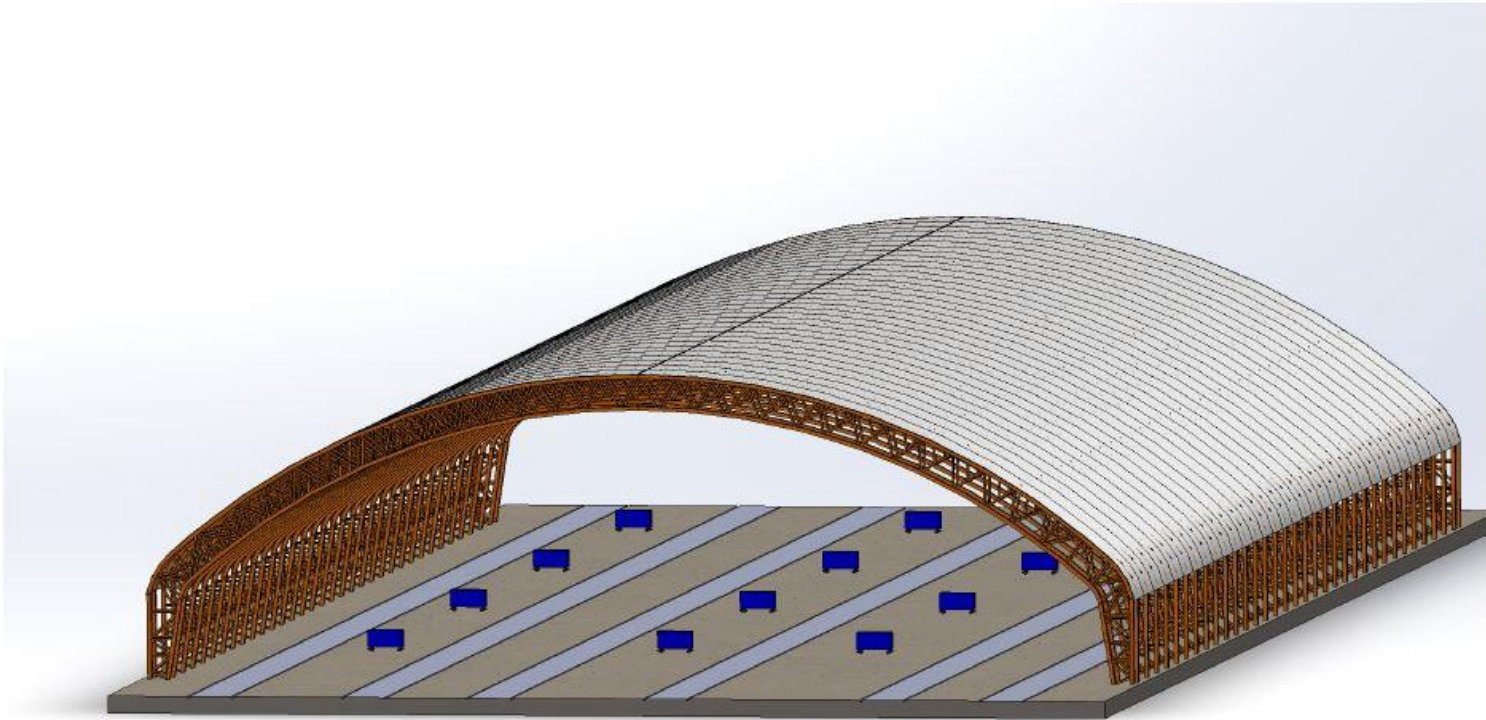




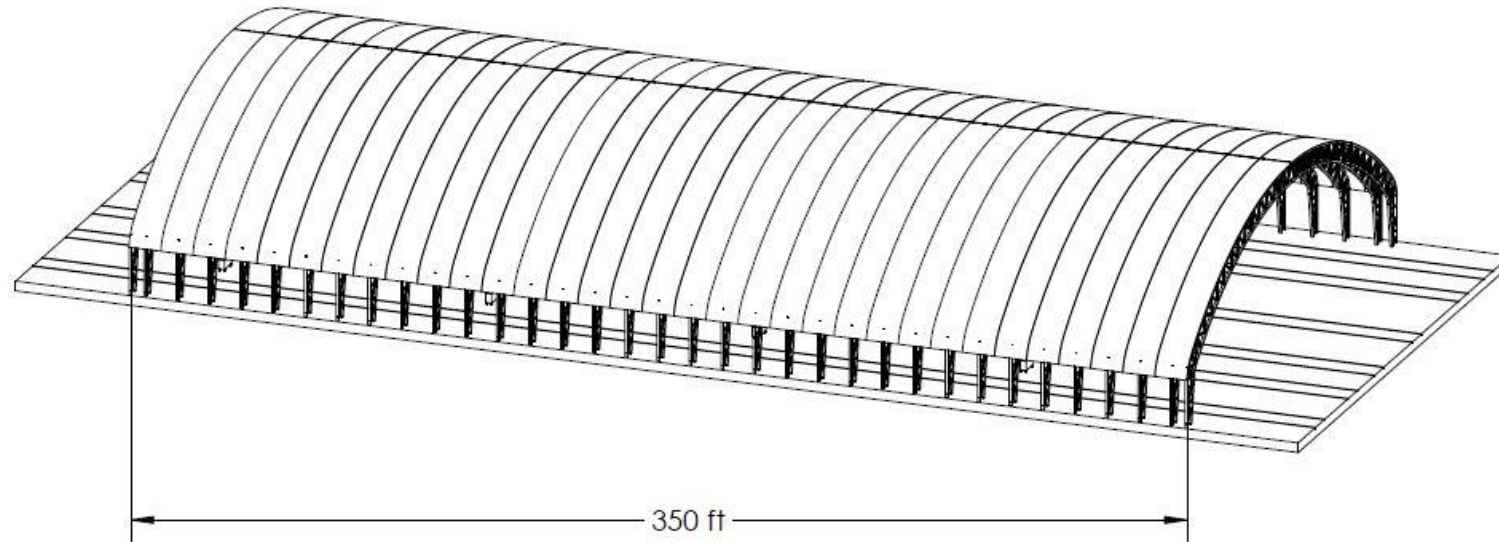
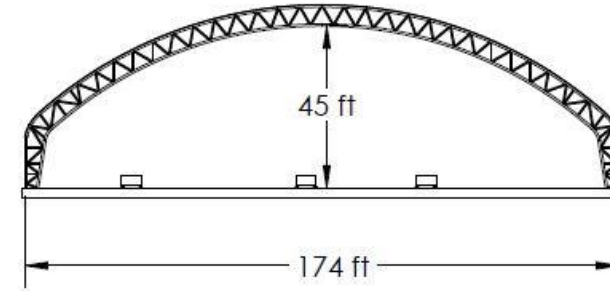
Measure distance
Click on the map to add to your path
Total area: 5,546.19 m² (59,698.70 ft²)
Total distance: 308.13 m (1,010.91 ft)



Finley Tent



<div>Dimensions in inches for tolerances not specified use the following table: FRAC 1/32 X .1 XX .01 XXX .001 XXXX .0005 ANG .5</div>		DWG. NO.	Shelter ASM	ASM Supplier	Big Top	Project	Finley Tent	Date	Friday, September 9, 2022 11:29:33 AM	
		View	3D Design	Contractor	RFW	General Mgr	Juan Maciel	Revision	A	
		Location	Finley, WA	Design Approval	Jeremy Dark	Plant Mgr.	Russell Richardson	Projection		Additional Notes
		Client	Finley Repair Shop	Designer	Jesus S. / Jesus L.	Page	1 OF 3			



Dimensions in inches
for tolerances not
specified use the
following table:

FRAC	1/32
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IN	1/8
IN	1/4
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AGENDA REPORT

TO: Port Commission

FROM: Amber Hanchette, Director of Real Estate & Operations

MEETING DATE: November 22, 2022

AGENDA ITEM: Temporary Workers

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

II. FISCAL IMPACT: \$75,000.00

III. DISCUSSION:

In mid-March 2020, the coronavirus pandemic forced the Washington State Department of Corrections to recall all local offsite work crews back to the Coyote Ridge facility in Connell, Washington. As the pandemic continued throughout 2021 and 2022, work crew attendance was sporadic and made workflow planning very challenging.

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

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

Amending the original 2022 Express Employment Professionals contract and adding an additional \$75,000, which will be used for temporary laborers working 4-8 hours per day on general maintenance and project tasks, will assist the Port in maintaining our properties.

IV. ACTION REQUESTED OF COMMISSION:

Approval of Resolution 2022-39.

PORT OF KENNEWICK

RESOLUTION No. 2022-09

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

WHEREAS, in mid-March 2020 the coronavirus pandemic forced the Washington State Department of Corrections to recall all local offsite work crews back to the Coyote Ridge facility in Connell, Washington leaving a significant deficit in labor within port operations; and


WHEREAS, the Washington State Department of Corrections work crew continues to maintain a significantly reduced and intermittent schedule which may continue into 2022; and


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

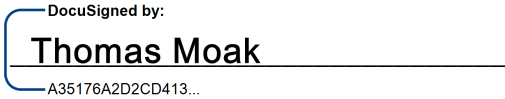
NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby authorize the Port's Chief Executive Officer to execute a service agreement with Express Employment Professionals for \$100,000.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 8th day of February 2022.

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

By: 
0E53A30E1C8E442...
SKIP NOVAKOVICH, *President*

By: 
89F77EAC8921416...
KENNETH HOHENBERG, *Vice President*

By: 
A35176A2D2CD413...
THOMAS MOAK, *Secretary*

PORT OF KENNEWICK

RESOLUTION No. 2022-39

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

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

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

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

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby authorize the Port's Chief Executive Officer to execute an amendment to the service agreement with Express Employment Professionals for \$75,000.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 22nd day of November 2022.

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

By: _____

SKIP NOVAKOVICH, *President*

By: _____

KENNETH HOHENBERG, *Vice President*

By: _____

THOMAS MOAK, *Secretary*

AGENDA REPORT

TO: Port Commission

FROM: The CEO Evaluation Committee
Port Commissioner Kenneth Hohenberg,
Port Chief Financial Officer Nick Kooiker and
Port General Legal Counsel Carolyn Lake

MEETING DATE: November 22, 2022

AGENDA ITEM: 2022 CEO Performance Evaluation; Resolution 2022-40

- I. REFERENCE(S):** Resolution 2022-19, adopted July 12, 2022.
Proposed Resolution 2022-40 and its Attachment 1, consisting of
the CEO Evaluation Committee's Report and Recommendation
- II. FISCAL IMPACT:** Contractual adjustment to CEO's compensation package per CEO's
Employment Agreement.

III. DISCUSSION:

The Port Commission oversees the annual evaluation of the Port's Chief Executive Officer's ("CEO") performance pursuant to the CEO's Employment Agreement, and pursuant to Resolution 2022-19, by which the Commission authorized a CEO Evaluation Committee. The CEO Evaluation Committee consists of Port Commissioner Ken Hohenberg, Port Chief Financial Officer Nick Kooiker and Port General Legal Counsel Carolyn Lake.

As directed by the Port Commission through its adoption of Resolution 2022-19, the CEO Committee met on multiple occasions to undertake the CEO evaluation, using the evaluation procedure, as described in Resolution 2022-19, Exhibit A.

The CEO Evaluation Committee shared its written recommendation with the CEO as Resolution 2022-19 directs and has shared its written recommendation with the full Commission, copy attached to proposed Resolution 2022-40, as **Attachment 1**.

The CEO Evaluation Committee also is charged with offering a recommendation for salary adjustment in accordance with the CEO employment agreement.

IV. COMMITTEE RECOMMENDATION:

The CEO Evaluation Committee recommends to the Commission for approval in accordance with the CEO contract, a CEO performance rating of "Exceptional" for 2022.

The Committee recommends for the CEO a one-time salary adjustment of +9%, based on the unusually high inflation and upward cost of living increases currently at play. Future CEO evaluations, including 2024, should revert back to the range contained in the CEO contract

unless exceptional circumstances exist at that time as well, as determined by the CEO Evaluation Committee and as may be approved by the full Commission at that time.

V. ACTION REQUESTED OF COMMISSION:

First Motion, Performance Appraisal Rating:

☐ *I move approval of Resolution 2022-40 regarding the CEO's 2022 Annual Performance Review and adopting the CEO Evaluation Committee's Performance Appraisal Rating recommendation attached as Attachment "A" and that the Commission hereby deems the CEO's performance for 2022 as: "exceptional".*

-OR-

☐ *I move approval of Resolution 2022-40 regarding the CEO's 2022 Annual Performance Review and to modify the recommended CEO's performance evaluation, such that the Commission hereby deems the CEO's performance for 2022 as: ☐ "satisfactory", ☐ "above satisfactory".*

Second Motion, CEO Salary Adjustment:

I move that that the Commission, in its approval of Resolution 2022-40, in accordance with the CEO's contract, and with consideration the CEO Evaluation Committee's recommendation, adopt a CEO salary adjustment for 2023 of:

☐ *a one-time salary adjustment of +9%, based on the rationales and for the time limits as stated in the CEO Evaluation Committee's recommendation.*

-OR-

☐ *Other:_____.*

PORT OF KENNEWICK

RESOLUTION No. 2022-19

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

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

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

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

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

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

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

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


RESOLUTION No. 2022-19

Page 2

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

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

By: 
0E53A30E1C8E442...
SKIP NOVAKOVICH, President

By: 
89F77EAC8921416...
KENNETH HOHENBERG, Vice President

By: Disapprove

THOMAS MOAK, Secretary

Resolution 2022-19
Attachment 1

THIRD AMENDMENT TO EMPLOYMENT AGREEMENT

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

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

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

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

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

Employer Responsibility:

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

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

Resolution 2022-19
Attachment 1

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

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

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

EMPLOYER:

EMPLOYEE:


PORT OF KENNEWICK

A Washington state public port district

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

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

Resolution 2022-19
Attachment 2

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

15. CEO EVALUATION

15.1 CEO Evaluation Committee

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

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

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

1. CEO EVALUATION PROCESS

1.1 CEO Evaluation Committee

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

1.2 CEO Annual Evaluation Process

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

Performance Appraisal Ratings:

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

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

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

1.3 CEO Goals and Objectives

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

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

1.4 Performance Issues Process

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

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

ANNUAL PERFORMANCE EVALUATION

CEO Evaluation Committee Evaluations of the CEO’s Performance

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

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

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

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

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

Additional Evaluator Comments:

Tim Arntzen
Date

PORT OF KENNEWICK

Resolution No. 2022-40

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK APPROVING THE
PORT CHIEF EXECUTIVE OFFICER'S
2022 PERFORMANCE EVALUATION**

WHEREAS, the Port Commission oversees the annual evaluation of the Port's Chief Executive Officer's ("CEO") performance pursuant to the CEO's Employment Agreement, and pursuant to Resolution 2022-19, by which the Commission authorized a CEO Evaluation Committee.

WHEREAS, the CEO Evaluation Committee consists of Port Commissioner Ken Hohenberg, Port Chief Financial Officer Nick Kooiker and Port General Legal Counsel Carolyn Lake.

WHEREAS, as directed by the Port Commission through its adoption of Resolution 2022-19, the CEO Committee met on multiple occasions to undertake the CEO evaluation, using the evaluation procedure, as described in Resolution 2022-19, Exhibit A.

WHEREAS, the CEO Evaluation Committee also is charged with offering a recommendation for salary adjustment in accordance with the CEO employment agreement.

WHEREAS, the CEO Evaluation Committee has shared its written recommendation with the CEO as Resolution 2022-19 directs and has shared its written recommendation with the full Commission, with a copy attached hereto as **Attachment 1**.

NOW, THEREFORE, BE IT HEREBY RESOLVED AS FOLLOWS:

1. **Performance Evaluation.** The Port of Kennewick Board of Commissioners has reviewed the CEO Evaluation Committee's recommendation attached as Attachment "A" and hereby
☐ approves ☐ modifies the CEO's performance evaluation as recommended.
2. **Performance Appraisal Rating.** The Port of Kennewick Board of Commissioners, in accordance with the CEO's contract, and with consideration of the CEO Evaluation Committee's recommendation hereby deems the CEO's performance for 2022 as:
☐ "exceptional", ☐ "satisfactory", or ☐ "above satisfactory".
3. **CEO Salary Adjustment.** The Port of Kennewick Board of Commissioners, in accordance with the CEO's contract, and with consideration the CEO Evaluation Committee's recommendation, adopts a CEO salary adjustment for 2023 as follows:
☐ a one-time salary adjustment of +9%, based on the rationales and for the time limits as stated in the CEO Evaluation Committee's recommendation.
☐ Other: _____.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 22nd day of November, 2022.

By: _____

SKIP NOVAKOVICH
President

By: _____

KENNETH HOHENBERG
Vice President

By: _____

THOMAS MOAK
Secretary

Attachment 1 to Proposed Resolution 2022-40

2022 CEO ANNUAL PERFORMANCE REVIEW CEO Evaluation Committee's Recommendation to Commission

IMPORTANT DUTIES/EXPECTATIONS	PERFORMANCE APPRAISAL		COMMISSIONER COMMENTS
	Met	Not Met	
<p>I. <u>Vision and Purpose</u></p> <p>A. Assists the Commission in defining its shared vision. Communicates that direction to the organization.</p> <p>B. Collaborates with the Commission to advance the Port's vision and purpose.</p> <p>C. Advocates the vision by strategic resource allocation toward attainment.</p>	X		<p>The CEO has steered the Port back to be mission-focused and achieving the best return for taxpayer dollars. Some examples include:</p> <ul style="list-style-type: none"> Resolving the Governance Audit in a time and cost-efficient manner. Overseeing an economical review and update of Commission Rules of Policy and Procedures Preparing and sharing Port Priorities Briefing Memo for Commission discussion Simplified and revised the art fund policy via Resolution 2022-24
<p>II. <u>Strategic Agility</u></p> <p>Is proactive; anticipates future trends, benefits and consequences; has broad knowledge and perspective; can objectively state possibilities and probabilities.</p>	X		<p>The CEO successfully undertook the following pro-active initiatives:</p> <ul style="list-style-type: none"> Modified workplace protocols to address COVID 19 in a manner that preserved Port staff productivity and morale. Led public meeting protocols to operate remotely to accommodate pandemic restrictions while also maintaining transparency between Commission and the public.
<p>III. <u>Operating Plans/Financial Plans</u></p> <p>A. Develops, maintains and implements strategic plans and operational goals that effectively brings the Port's vision to fruition.</p> <p>B. Administers the Port's financial affairs consistent with state law and adopted policies, budget and financial guidelines.</p>	X		<p>The CEO in partnership with Commission and Staff effectively keeps the Port's focus in alignment with Port's adopted Policies and Budget- no easy task.</p> <p>Completed the Laserfiche contract routing process, as well as a paperless review and digital document filing system to reduce costs and increase efficiency of the records management process</p>

Attachment 1 to Proposed Resolution 2022-40

	Met	Not Met	
<p>IV. <u>Integrity</u> Sets the tone for the Port by exemplifying consistent values and high ethical awareness, honesty, and fairness.</p>	X		<p>The CEO operates with transparency, both internally with Staff and Commission and externally with the public.</p> <p>With CEO leadership, Port achieved clean Performance Audit results in 2019 and 2020.</p>
<p>V. <u>Political and Institutional Sensitivity</u></p> <p>A. Maneuvers through complex political and institutional situations effectively; anticipates potentially negative reactions, recommends and plans a course of action; views politics as a necessary part of organizational and public sector life and works to be effective within that reality. Unless otherwise not practical, obtains Commission concurrence prior to publicly stating position.</p> <p>B. Develops solutions to complex issues that challenge the Port's ability to recognize its vision and purpose. Demonstrates sensitivity to resource availability when developing solutions.</p>	X		<p>Proactively puts out sparks before they become fires.</p> <p>Researched and worked to understand implications to Clover Island, waterfront masterplan, and historic downtown redevelopment; and to receive greater community feedback related to Clover Island Inn purchase/lease options for the Fortify "micro" housing proposal. Advised Commission regarding that proposal—a process which took seven months and a tremendous amount of staff time and energy that went into shepherding that proposal to resolution; including reaffirming Clover Island land lease policy Resolution 2022-05.</p> <p>Coordinated public hearing and redistricting process using independent consultant to evaluate and propose Revised Commission District boundaries—legally required adjustments successfully completed with no complaints filed Resolution 2022-22.</p> <p>Managed property security /health/safety issues and police and agency incident reports regarding squatters, car crashes into lighthouse wall/streetlights, dock damage, boat sinking, oil/gas spills in marina, vandalism, graffiti, and restroom and other property damage.</p> <p>Managed transfer of Vista Field streets to city; established legal lots of record at Vista Field and recorded parcels with County; and recording of the Vista Field Covenants Conditions and Restrictions with Benton County.</p>

Attachment 1 to Proposed Resolution 2022-40

<p>C. Leads the Port in building effective relationships with tenants, customers and community.</p>			<p>Worked with USACE on 1135 construction project for shoreline restoration and managed that project for the protection and benefit of the Port and its investment partners-- transitioned that project from A&E design to construction, to current mitigation of erosion of soil and plants.</p> <p>CEO has worked to sustain and strengthen significant partners:</p> <ul style="list-style-type: none"> o US Army Corps of Engineers: 1135 Project; toured Clover Island project (also discussed Duffy's Pond and port's adjacent land interests) with USACE Senior Policy Official and Walla Walla District Chief of Plan Formulation Section. o Washington State Recreation office: Toured with RCO ALEA grant manager and provided quarterly reports regarding Clover Island 1135 project. o City of Kennewick: Engaged in multiple and ongoing conversations with City of Kennewick manager regarding MOU for future RCCF funding/partnership projects. Resolved Deschutes Driveway/access via interlocal agreement with city and property owners Resolution 2021-22. Concluded Washington Street improvement ILA. Renewed Columbia Gardens "vibrancy" marketing arrangement with city; and recognized City investments at Vista Field and Columbia Gardens gala events. o Benton County: Recognized County's RCCF investments at Vista Field and Columbia Gardens gala events; managed RCCF grant for Clover Island and applied for RCCF for hangar project funds. o City of Richland: Coordinated Interlocal Agreement and financial support for City of Richland's Center Parkway Extension Project with ribbon cutting on 9/28/22. o Kennewick Police Department: Met with Chief Guerrero regarding port projects/KPD support in ensuring safety of
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Attachment 1 to Proposed Resolution 2022-40

			<p>port properties; discussed KPD support for Vista Field hangar project.</p> <ul style="list-style-type: none"> o TRIDEC: Coordinated with TRIDEC to strengthen involvement with Port marketing and promotion for Vista Field during RECON. o CTUIR: Met with Executive Director, Don Sampson and Chairwoman, Kat Brigham of the CTUIR regarding the port's projects and plans.
	Met	Not Met	
<p>VI. <u>Knowledge/ Decision Quality</u></p> <p>A. Knows how successful public ports work; knowledgeable in current and possible future practices, trends and information affecting port management, the port industry and our Port; knows the competition; is aware of how strategies and tactics work in the marketplace.</p> <p>B. Makes good decisions based on analysis, wisdom, experience and judgment; most solutions and suggestions turn out to be correct when judged over time.</p>	X		<p>Leads Port in strategic manner; knows what the Port is and is not.</p> <p>Managed marina at 100% capacity during peak season, coordinated fifteen boat haul-outs (average of three per month May through September); contracted for algae treatment.</p> <p>Researched and shared report investigating options for new maintenance facility location or lease including a Maintenance Facility Report by Energy Northwest</p> <p>Researched and provided port with option to state-mandated Long-term Care Act deductions.</p> <p>Transitioned IT services to new provider/upgraded technology to protect port systems.</p>
<p>VII. <u>Leadership/Management</u></p> <p>A. Demonstrates an entrepreneurial spirit by identifying ways to generate revenue, investment capital and maximizes the financial potential of existing port assets.</p>	X		<p>CEO managed expanded contract with Vibrancy Consultant for Columbia Gardens to work with food trucks and wineries which enabled coordination with Visit Tri-Cities to highlight the wine village during the TBEX travel blogger exchange, coordination of bus tours from the paddlewheel ships docking in Richland; and coordination of four "Summer Saturday Markets" generating substantial exposure and visitation for the wine & artisan village.</p>

Attachment 1 to Proposed Resolution 2022-40

<p>B. Rallies support behind the vision and strategic plan; can inspire and motivate staff and community.</p> <p>C. Creates an environment where employees at all levels contribute their knowledge, skills, abilities and ideas in a way that maximizes their potential. Employee potential is not limited by divisional walls or job title. Appropriately delegates to others. Is a good judge of talent; hires the best people available inside or outside the organization.</p> <p>D. Creates a climate in which people want to do and can do their best; can motivate team or project members; empowers others; invites input and shares ownership and visibility. Makes each person feel his/her work is important.</p>		<p>Successfully negotiated Bruker lease amendment for VFDF building; protecting port interests while respecting the evolving needs of a long-standing tenant via Resolution 2021-21; resolved lease termination with Resolution 2022-12.</p> <p>Presented Port of Kennewick projects and plans to Tri-City Area Regional Chamber of Commerce during their Annual State of the Ports luncheon; and gave a port/city partnership presentation to Kennewick City Council.</p> <p>Recognized Don Britain as 2021 Friend of the Port.</p> <p>Oversight and management of marketing and promotions for the port and port projects including launching the VistaField.com website, television, print, digital and social ads for both Vista Field and Columbia Gardens parcels; prepared eight new artistic renderings to help people understand the Vista Field vision; developed marketing materials to promote The Willows, Cable Greens, and Oak Street sites for sale; and port summer newsletter distributed.</p> <p>CEO actively involves all of Staff in providing input on annual Budget development; allowing all to have ownership in the final product.</p> <p>Implemented the Vista Field Team, where Staff members wear multiple hats, gaining broad operational growth and experience.</p> <p>Evokes Staff loyalty to the Port, Managed the port as a highly productive, successful, fiscally-sound organization, including leadership of a team of 13 employees whose average employment is 12.4 years with the Port.</p>
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Attachment 1 to Proposed Resolution 2022-40

	Met	Not Met	
<p>VIII. <u>Initiative/Courage/Adaptability</u></p> <p>A. Self-starting ability. Promptly takes hold and follows through with minimum direction.</p> <p>B. Willingness to state opinions and reasons without concern about the popularity of the views. Forthrightness in dealing with Commission, customers, suppliers, and others in the organization.</p> <p>C. Ability to adjust to changing conditions or unusual assignments. Flexibility in undertaking a variety of assignments, acceptance of decisions which go counter to own opinion.</p>	X		<p>Completed Vista Hangar Analysis and budget for the Hanger Renovation Project. This mission originally had an unacceptable price tag. The CEO was able to present a lean budget to accomplish the Project on lean budget; and submitted an application for RCCF funds to support this Vista Field Southern Gateway and Hangar Renovation project.</p> <p>Managed successful resolution to the Kiwanis playground project proposed for Columbia Gardens; and oversaw conceptual design for Wayfinding Signage at Columbia Gardens, assisted with presentation to Commissioners.</p> <p>Identified funds/adjusted budget and moved that signage project through A&E design to prepare that project for bid in October.</p> <p>Managed process of releasing Cave B from their lease, marketed that space, and worked to secure Muret-Gaston as new tenant for Columbia Gardens.</p>
<p>IX. <u>Loyalty</u></p> <p>Understanding and accepting of goals and policies of the organization. Willingness to support organization and management.</p>	X		<p>Leads with a 360-degree strategic vision, to anticipate issues and formulate a positive path forward.</p> <p>Supports the success of the Commission by providing the required information and allowing the appropriate time frame for decision making.</p> <p>On critical issues, provides the Commission multiple sessions for introduction, discussion and or planning sessions before seeking Commission action. One example of this is the 2023-2024 Budget.</p>

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			<p>Regularly communicates commission direction and goals to management and staff so all elements of the Port stay aligned.</p> <p>Even when facing contentious decisions, remains loyal and committed to carry out the mission of the Port.</p> <p>Evokes staff loyalty to the Port and promotes a culture of positive teamwork.</p> <p>Manages contentious matters using visionary thought processes and creative solutions. One example is the budget for the Hanger Renovation Project, described above.</p>
	Met	Not Met	
<p>X. <u>Communications</u></p> <p>Effectiveness of exchanging significant information throughout all levels of the organization; with clients, vendors, and the public.</p>	X		<p>Provides excellent opportunities for regular communication with individual commissioners.</p> <p>Diligent in responding to requests for information from commissioners, staff and community.</p> <p>Keeps Port commissioners informed of relevant community issues and prepared to respond.</p> <p>Values transparency and executes significant public outreach.</p>

Additional Committee Comments:

The year 2022 was a very successful one for the Port of Kennewick, under the leadership of CEO Arntzen. In summary, the CEO has steered the Port back to be mission-focused and to achieving the best return for taxpayer dollars. The CEO in partnership with Commission and staff effectively keeps the Port's focus in alignment with Port's adopted Policies and Budget- no easy task. CEO Tim Arntzen leads with a 360-degree strategic vision, to anticipate issues and formulate a positive path forward. He manages contentious matters using visionary thought processes and creative solutions. CEO Tim Arntzen operates with transparency, both internally with Staff and Commission and externally with the public.

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Therefore, based on all the above reasons, the CEO Evaluation Committee recommends to the Commission for approval a performance rating of “Exceptional” in accordance with the CEO contract.

In addition, the Committee recommends a one-time salary adjustment of +9%, based on the unusually high inflation and cost of living increase we currently are experiencing. Future CEO evaluations, including 2024, should revert back to the terms of the CEO contract unless exceptional circumstances exist at that time as well, as determined by the CEO Evaluation Committee at that time.

From: [Nick Kooiker](#)
To: [Bridgette Scott](#)
Subject: FW: My Comments re: Performance Review.
Date: Friday, November 4, 2022 1:01:11 PM

From: Tim Arntzen <ta@portofkennewick.org>
Sent: Tuesday, October 25, 2022 8:39 AM
To: Nick Kooiker <nick@portofkennewick.org>
Subject: My Comments re: Performance Review.

Tim Arntzen's Comments Related to CEO Performance Review.

10/25/22

What a difference a year makes.

The commission went back to the future; in other words, re-instituted the former method to evaluate the CEO – the committee process. The committee, in my opinion, captured the essence of what I have been working on over the last year. The process seemed straightforward and, in my opinion, produced fair results. In short, the port had a prosperous year. I believe the committee saw this and accurately documented it via the review process.

I appreciate that the committee understood that I do not accomplish things on my own. It's a team sport, and my supporting teammates contribute immensely to any success that is attributed to me. The sound decisions of the commission also factor in greatly to a successful year.

I am humbled and honored to work for this commission. I am thankful for the opportunity to be associated with the port as an institution for the last 20 years.

I see challenges ahead. I see magnificent opportunities ahead. Working as a team, all of us will accomplish things that bring great value to our community.