To continue to provide public access to meetings, Port of Kennewick will provide telephonic, video access, and in-person participation options to the public:

To participate by telephone, please call in at: <u>1-866-899-4679</u> _Access Code: 891-734-533 Or, join on-line at the following link: <u>https://meet.goto.com/891734533</u>

AGENDA

Port of Kennewick Regular Commission Business Meeting

Port of Kennewick Commission Chambers and via GoToMeeting 350 Clover Island Drive, Suite 200, Kennewick Washington

July 22, 2025 2:00 p.m.

- I. CALL TO ORDER
- II. ANNOUNCEMENTS AND ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. PUBLIC COMMENT (Please state your name and address for the public record)
- V. CONSENT AGENDA
 - A. Approval of Direct Deposit and ePayments July 15, 2025
 - B. Approval of Warrant Register Dated July 22, 2025
 - C. Approval of Regular Commission Meeting Minutes July 8, 2025
- VI. ACTION ITEM
 - A. Gunderson Rail Services LLC dba Greenbrier Rail Services Tenant Improvement Request Asphalt Project; Resolution 2025-14
- VII. REPORTS, COMMENTS AND DISCUSSION ITEMS
 - A. Vista Field (TIM)
 - B. Kennewick Waterfront
 - 1. KIE Land Exchange Update (TIM)
 - C. Future Agenda Items (BRIDGETTE)
 - D. CEO Report (if needed)
 - E. Commission Meetings (formal and informal meetings with groups or individuals)
 - F. Non-Scheduled Items (LISA/BRIDGETTE/TANA/NICK/AMBER/LARRY/MICHAEL/DAVID/CAROLYN/TIM/KEN/TOM/SKIP)
- VIII. PUBLIC COMMENT (Please state your name and address for the public record)
- IX. EXECUTIVE SESSION, pursuant to RCW 42.30.110 (1)(i)(iii) to discuss:

 One matter related to the legal and financial risk of a proposed action that the agency has identified when public discussion of the legal risks is likely to result in an adverse legal of financial consequence to the agency.
- X. ADJOURNMENT



DRAFT

JULY 8, 2025 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.

ANNOUNCEMENTS AND ROLL CALL

The following were present:

Board Members: Skip Novakovich, President

Kenneth Hohenberg, Vice President Thomas Moak, Secretary (via telephone)

Staff Members: Tim Arntzen, Chief Executive Officer

Tana Bader Inglima, Deputy Chief Executive

Nick Kooiker, Deputy Chief Executive Officer/CFO (via telephone)

Larry Peterson, Director of Planning (via telephone) Amber Hanchette, Director of Real Estate (via telephone)

Michael Boehnke, Director of Operations

Bridgette Scott, Executive Assistant (via telephone) Lisa Schumacher, Special Projects Coordinator

David Phongsa, Marketing/Capital Projects Coordinator

PLEDGE OF ALLEGIANCE

Mr. Phongsa led the Pledge of Allegiance.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

- A. Approval of Direct Deposit and E-Payments Dated July 2, 2025 Direct Deposit and E-Payments totaling \$118,932.46
- **B.** Approval of Warrant Register Dated July 8, 2025
 Expense Fund Voucher Number 107083 through 107119 for a grand total of \$104,066.20
- C. Approval of Regular Commission Meeting Minutes June 10, 2025

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

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PRESENTATION

A. ArtsWA Convening

Mr. Phongsa gave a brief report on the ArtsWA Convening in Tenino, Washington (*Exhibit A*). Mr. Phongsa stated ArtsWA is an organization that helps preserve and foster art programs and grants in Washington.

The Commission thanked Mr. Phongsa for his report.

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. Vista Field

Mr. Arntzen reported the Port recently received some news regarding a private commercial lot under construction at Vista Field. During soil testing required by their lending institution, it was found there PFAS present above limits set by Ecology. PFAS are a variety of synthetic chemicals used since the 1950's and are found in everyday consumer products. Once the Port was alerted to the presence of PFAS, out of an abundance of caution, the Port issued a press release and communicated with the public and stakeholders of the findings (Exhibit B) and our intent to halt port construction of parking and utilities until more about the nature and scope of PFAS is understood.

The Port has hired a team of environmental experts to assist, and Mr. Arntzen stressed that public safety is a priority and as we gain more information, we will share it with the Commission, stakeholders and the public. Staff have reached out to each stakeholder personally and appraised them of the situation. Currently, we do have a lot of information, and it seems many entities are dealing with the same situation because of this new SBA requirement. The Port conducted a Phase 1 Environmental Impact Statement in 2014 and complied with Ecology's standard at that time and even went over and above what was recommended and received a clean report.

Commissioner Hohenberg thanked Mr. Arntzen and staff for the communication and transparency. Additionally, he appreciates that we have assembled a good team to move forward. Commissioner Hohenberg would rather the Port work with good information versus moving forward, when there is not a clear path. The Port is known for doing things right and appreciates the way Mr. Arntzen has led this effort. Commissioner Hohenberg stated at this time, the Port will continue to update the public and stakeholders about what we are doing, and the Commission can continue to support the effort and do things correctly to move forward.

Commissioner Moak concurs with Commissioner Hohenberg's comments and appreciates Mr. Arntzen keeping the Commission well informed about the situation. Commissioner Moak stated the press release stated the Port had stopped work on the parking lots and inquired what has slowed down related to Port efforts at Vista Field.

Mr. Arntzen stated the Port is being overly cautious and is pausing any earthwork. As soon as we get more information, we will know how to proceed.

Commissioner Moak thanked staff for their work and diligence on this matter.

DRAFT

Commissioner Novakovich thanked staff for being as transparent and getting out in front of this.

Mr. Arntzen stated the Port is working with the environmental team to develop a methodology for sampling acceptable to Ecology.

Mr. Arntzen believes the Port has a good team in place: Ms. Lake, the Port Counsel, Mr. Hume, Port Real Estate Counsel, and Richard Du Bey, environmental counsel from Ogden, Murphy Wallace. Mr. Arntzen has been interviewing an environmental firm and needs to make a final decision to move forward. Mr. Arntzen will continue to brief the Commission in open session and work with the stakeholders.

B. Kennewick Waterfront Update

Ms. Bader Inglima updated the Commission on the 1135 Shoreline project (Exhibit C).

The Commission commented on the wonderful transition of the shoreline.

C. CEO Report

Mr. Arntzen reported on the following:

- City of Kennewick and Port staff will meet July 11, 2025;
- Staff is working on the addition of the CTUIR history and partnership update to the Comprehensive Scheme;
- Offered kudos to maintenance staff for working in the field during the hot weather and continue to keep the exposure limited during the heat waves.

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

Commissioners reported on their respective committee meetings.

E. Non-Scheduled Items

Commissioner Novakovich thanked staff for how they are handling Vista Field.

PUBLIC COMMENTS

No comments were made.

COMMISSION COMMENTS

No comments were made.

JULY 8, 2025 MINUTES

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With no further business to bring before the Board; the meeting was adjourned at 3:01 p.m.

| APPROVED: | PORT of KENNEWICK |
|-----------|-----------------------------------|
| | BOARD of COMMISSIONERS |
| | |
| | Skip Novakovich, President |
| | Kenneth Hohenberg, Vice President |
| | Thomas Moak Secretary |

ArtsWA 2025 Convening June 5-6 Tenino, WA









SOCO Creative District Downtown Kennewick



Clover Island & Columbia
Gardens Wine & Artisan Village
are located within the SOCO
Creative District

 SOCO Creative Arts Festival happens every year in September



CREATIVE DISTRICT BOUNDARY

CURRENT DOWNTOWN KENNEWICK MAIN STREET BOUNDARY





ArtSplash Event June 22, 2025 on Clover Island in partnership with SOCO Creative District







ArtsWA Programs



Art in Public Places (AIPP)



AIPP purchases and cares for artworks in state buildings, colleges, universities, and schools throughout Washington. The State Art Collection includes more than 5,000 artworks, located where people study, work, and live.

Acrylicize, Nourish / Enrich / Nurse Log, 2024. Located at University of Washington, Seattle.

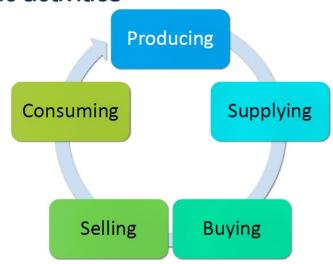
Art in Public Places

Utilize artist roster for Vista
 Field future artwork projects



Building partnerships: Arts, Culture, & Economic Development

Economic activities



Fostering economic resilience

Shared, holistic, locally-based focus areas Keeping talent in the community Combatting brain drain

- Sports = monoculture
- Arts/culture = multiculture

Investment





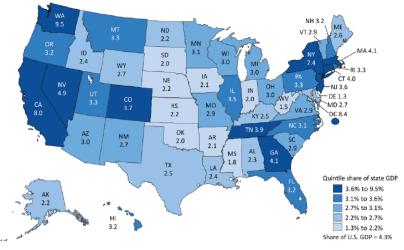
Why people and companies choose a place

- Existing ecosystem
- Affordable cost of doing business
- Cool factor
- Easy access to culture and education



Commerce gets creative: Cultural, Creative, and Commercial value

Washington leads the nation in terms of value-added share of gross domestic product



ource: Arts and Cultural Production Satellite Account, U.S. and States, 2022 | U.S. Bureau of Economic Analysis (BEA), Published March 25, 20

Strategic Priorities



Focused support to underinvested communities



Increased resources at the state and local levels



Pathways to creative skills and careers



Hub development and creative apprenticeships

Building for the Arts Program

Community Capital Facilities > Building for the Arts Program

Building for the Arts was created by the Legislature in 1991 to award grants to performing arts, art museum, and cultural organizations. The program awards grants to performing arts, art museum, and cultural organizations for as much as 33% state match of eligible project costs for acquisition, construction, and/or major renovation of capital facilities.

The state's investment in these local projects provide:

- Temporary construction jobs
- Permanent arts-related jobs
- Improved quality of life for residents

Funding availability

The 2025–2027 Building for the Arts grant application round is now closed.

The 2027-2029 Building for the Arts funding round will open in the spring of 2026.



Tenino: Southwest Washington Regional Agricultural Business & Innovation Park







In Partnership with:

 Port of Olympia & Thurston County





Tenino: Walking tour of Tenino





Tenino: Art inspiration



Metal Banner ProjectFunded by ArtsWA



Airplane Propeller Art

 Made from old chainsaw blades



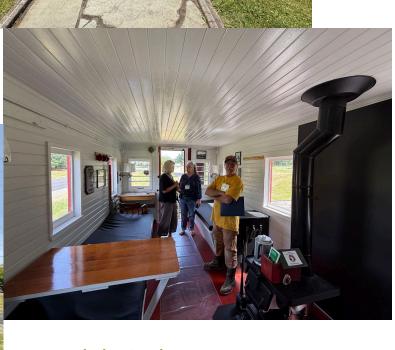
Art Library

 Give & Take art to share



Tenino: Caboose for public use





Model Airplane at Vista Field?



Tenino: Quarry Pool











Tenino: Stone Carvers

Tenino City Hall

 Master Stone Cutter Keith Phillips, Tenino Stone Carvers Guild









Thank You ArtsWA & Tenino





FOR IMMEDIATE RELEASE – July 3, 2025

Media Contact: Tana Bader Inglima, Port Deputy CEO | 509-948-3514

Port of Kennewick Plans Additional Testing of Soil at Vista Field Recent samples detect PFAS – no immediate health concerns

KENNEWICK, Wash. –Soil testing on a private commercial lot under construction at Vista Field found levels of PFAS (per-and polyfluoroalkyl substances), above the limit set by Washington State Department of Ecology. The Port of Kennewick plans to take prompt action in response to this new information to confirm there is no threat to human health of the environment.

PFAS are a variety of synthetic chemicals used around the world since the 1950s. PFAs have been found in everyday consumer items like non-stick cookware, water- and stain-resistant products, grease-resistant food packaging, and industrial uses such as firefighting foam and de-icing chemicals.

The Port received the private-sector PFAS environmental report just last week (on June 26, 2025). However, because the Port takes the health and safety of the community seriously, the Port has hired expert consultants to conduct PFAFS soil testing around the affected parcel and more generally within Vista Field to determine if PFAS concentrations are detected.

The Port conducted a Phase 1 Environmental Assessment at Vista Field in 2014 that included extensive evaluation for all pesticides, insecticides, petroleum products and other chemicals listed by the Washington Department of Ecology as hazardous substances. The Assessment identified no conditions of concern. However, Ecology has since expanded its list of hazardous substances to include PFAS.

The Port has hired Blue Mountain Environmental Consulting to take soil samples at Vista Field in mid-July to evaluate the site for PFAS. The Port has also paused construction of additional parking lots and utilities until the sample testing is completed.

The Port has hired Blue Mountain Environmental Consulting to take soil samples at

(more)

Vista Field in mid-July to evaluate the site for PFAS. The Port has also paused construction of additional parking lots and utilities until the sample testing is completed.

The Port's environmental team hopes that the presence of PFAS in the soil is isolated to a small area, but we won't be sure until the test results are available later this summer. The Port is committed to protecting the health and safety of our community and the Port's environmental team is committed to ensuring the study process is transparent and the public and our investment partners are informed once we better understand the nature and scope of PFAS detection at Vista Field.

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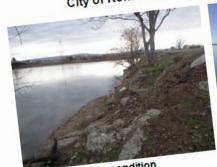




2025 Clover Island Vegetation Monitoring Report

Clover Island Section 1135 Ecosystem Restoration

City of Kennewick, Benton County, Washington





Pre-construction condition



The visit went well. We are all quite impressed with how much growth has occurred. It looks pretty amazing now! The only issues are with the aquatic vegetation and canopy cover right at the water. That is not progressing as we had hoped it would, but it will be re-evaluated in a couple of years. All in all, it looks pretty amazing!

Karen Kelly, USACE Walla Walla



AGENDA REPORT

TO: Port Commission

FROM: Amber Hanchette, Director of Real Estate

MEETING DATE: July 22, 2025

AGENDA ITEM: Gunderson Rail Services LLC dba Greenbrier Rail Services

Tenant Improvement Request – Asphalt Project

Resolution 2025-14

I. REFERENCE(S): Original Lease Contract dated 11/16/1993

Resolution 2025-14

II. DISCUSSION:

Port staff received a request from Greenbrier Rail Services requesting permission to pave the driveway and parking lot at 228919 E. Cochran Rd, Kennewick in the port's Twin Tracks Industrial Park as illustrated in Exhibit A.

According to Dennis Faulkner, Plant Manager,

"Asphalting these surfaces would significantly improve site conditions by:

- Reducing airborne dust, thereby contributing to a healthier and cleaner environment.
- Preventing water accumulation, which can cause erosion, standing water hazards, and long-term structural concerns.
- Enhancing overall accessibility and appearance of the property.

We believe this upgrade would provide lasting value and improved functionality for all who use the facility."

In 1993 Gunderson Rail Services dba Greenbrier Rail Services LLC entered a long-term lease with the Port of Kennewick to construct a maintenance, manufacturing and repair facility for the railcar industry.

Tenant Improvements are subject to:

Lease Section 8. Alterations, Improvements and Additions.

The Company may make necessary alterations, improvements and additions to the Leased property at its own expense. Alterations, improvements and additions costing in excess of \$15,000.00 in any one instance may be made only with prior written consent of the Port, which shall not be unreasonably withheld.

Lease Section 3. Maintenance and Upkeep.

During the term of this Lease and all extensions and renewals thereof, the Company shall, at its own cost and expense, maintain the Leased Property and any alterations and improvements thereto in good operating condition and repair, and shall promptly make all repairs, alteration and changes in, to and about the Leased Property necessary to preserve it in good order and condition.."

III. ACTION REQUESTED OF COMMISSIONERS

Motion:

I move approval of Resolution 2025-14 approving a request by Greenbrier Rail Services to pave a driveway and parking lot at 228919 Cochran Road with tenant incurring all costs for construction, permit and maintenance of such improvements; and that all action by port officers and employees in furtherance hereof is ratified and approved; and further, the Port Chief Executive Officer is authorized to take all action necessary in furtherance hereof.

EXHIBIT A



CONTRACT TO LEASE REAL ESTATE AND FACILITIES

WITNESSETH:

WHEREAS, the Port recognizes its responsibility to carry out economic development activities that will help create job opportunities, increase commerce and business, expand the tax base, stimulate the economy and improve the general economic well-being of the people of the District; and

WHEREAS, Company desires to construct a maintenance, manufacturing and repair facility for the railcar industry which will initially employee approximately forty people (hereinafter called the Plant); and

WHEREAS, the Port intends to purchase land (hereinafter called the Property) and construct approximately 8,000 lineal feet of rail spur to service the Plant (hereinafter called the Improvement); and

WHEREAS, the Port has been notified it can receive a loan from the Community Economic Revitalization Board (CERB) for the construction costs of the Improvement; and

WHEREAS, the Company desires to lease from the Port the Property and Improvement (hereinafter collectively called the Leased Property);

NOW THEREFORE, in consideration of the premises, the facts set forth above and mutual covenants contained herein, the parties hereto agree as follows;

SECTION 1: CONDITIONS PRECEDENT TO LEASE

The Port and the Company agree to enter into a lease of the Leased Property if the following conditions precedent have been met:

BY COMPANY:

- A. Company has been awarded SBA or other financing in sufficient amounts to totally complete the Plant and has presented the documentation thereof to the Port.
- B. Plans and specifications for building the Plant have been completed by Company and approved by the Port.
- C. Company has executed and delivered to the Port appropriate security documents and personal guarantees of its' officers giving Port a lien on Company's assets second only to the SBA financing, and which will move the Port into first position as soon as SBA is paid off.
- D. Company shall deliver to the Port an insurance policy on the life of Michael Curtis in the amount of \$ 350,000 and Company shall pay the premiums thereon during the term of the Lease naming the Port as primary beneficiary. As the balance of the Port's out-of-pocket expenses are reduced by the payment of rent under Section 2 of the Lease, the amount of insurance proceeds payable to the Port, in the event of Michael Curtis death, shall likewise be reduced and the balance shall be paid to such secondary beneficiaries as Company may designate.

BY PORT:

- A. A loan acceptable by the Port has been assured from CERB funds.
- B. Title has been acquired to the Property required by the Port for construction of the Improvement.
- C. Port has obtained plans and specifications and a suitable bid for construction of the Improvement which have been approved by the Port and the Company.

SECTION 2: EXECUTION OF THE LEASE

After completion of all the foregoing, the Company and the Port will execute a Lease substantially the same as attached hereto as Exhibit A and made a part hereof by this reference, provided that the rental and the date of commencement will be endorsed upon the Lease by the parties at the appropriate time as set forth in the Lease.

SECTION 3: AWARD OF BIDS

After completion of all the matters set forth in the foregoing section, the Port and the Company shall award bids respectively for the construction of the Improvement and the Plant.

SECTION 4: RENT UNDER THE LEASE

The rent to be paid under the Lease shall be based on all out-of-pocket costs incurred by the Port for the project including, but not limited to, loans, legal expense, engineering expense, land acquisition expense, construction expense and any other expense necessitated by the project. The rent shall be determined as more fully set forth in the Lease.

SECTION 5: CANCELLATION OF CONTRACT

If the items in Section 1, 2, 3 and 4 are not accomplished by cancelled by either party by written notice delivered to the other party at the address set forth in Section 6 and, in such case, the parties shall not be obligated further under this Contract except that the Company shall thereupon forthwith reimburse the Port for all reasonable out-of-pocket costs and expenses actually incurred by the Port in connection with this project up to the time of the cancellation of this Contract. Such out-of-pocket costs and expenses may include, without being limited to, any legal cost attributable to land acquisition, engineering fees, legal fees and other related expenses. The amount of such costs incurred up to the time of the award of the contract for construction of the Improvement shall not exceed \$ 30,000 without the written approval of the Company. If the Company fails to approve any written requests by the Port to increase such costs within five business days of the Port's request, the Port may elect to stop all work under this Contract and the Company shall reimburse all costs incurred to the time such work stops.

SECTION 6: NOTICES

All written notices to be given to the Port and/or Company under this Contract shall be given by mail or personal delivery to the party entitled thereto at its address set forth below, or at such address as one party may provide to the other party in writing from time to time. Notice shall be deemed to have been received upon the earlier of actual receipt or five business days after deposit in the U.S. Mail, in certified form, postage prepaid or, in the case of personal delivery, upon delivery to the addressee set forth below:

If to the Port:

Port of Kennewick One Clover Island Kennewick, WA 99336 Attn: Manager

If to the Company:

Pacific Railcar Corporation P.O. Box 2785 Yakima, WA 98907 Attn: President

SECTION 7: WAIVER OF NOTICE

Whenever in this Contract the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

SECTION 8: HEADINGS AND RULES OF CONSTRUCTION

The headings or titles of the several sections hereof shall be solely for convenience or reference and shall not affect the meaning, construction or effect of this Contract.

SECTION 9: SEVERABILITY OF INVALID PROVISIONS

In case any one or more of the provisions contained in this Contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Contract, and this Contract shall be construed as if such invalid or illegal or unenforceable provision had never been contained in this Contract. The parties to this Contract declare that they would have entered into this Contract and each and every section, paragraph, clause or phrase of this Contract irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Contract may be held illegal, invalid or unenforceable.

SECTION 10: GOVERNING LAW

This Contract shall be construed and governed in accordance with the laws of the State of Washington. In the event any dispute relating to this Contract is taken to a court of law, venue shall be in Benton County, Washington and the prevailing party shall be entitled to reimbursement of reasonable attorneys fees and costs.

SECTION 11: EXECUTION IN COUNTERPARTS

This Contract may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

| //// |
|------|
| //// |
| //// |
| //// |
| //// |

IN WITNESS WHEREOF, the parties have executed this Contract as of the date and year first above written.

PORT OF KENNEWICK BOARD OF COMMISSIONERS

| | By: lengt Johes, President |
|---|--|
| | By: Mull L. Vick, Vice President |
| 4 | By: Gene L. Spaulding, Secretary |
| | PACIFIC RAILCAR CORPORATION |
| | By: Michael Cineta |
| | By: Secretary |
| STATE OF WASHINGTON) | |
| County of Benton ; ss. | |
| On this personally appeared before and | me George frace, 1993, |
| respectively, of the Port of I that executed the foregoing in | , Vice President and Secretary, Kennewick, the municipal corporation strument, and acknowledged the said |
| corporation, for the uses and oath stated that they are instrument. | nd voluntary act and deed of said purposes therein mentioned, and or authorized to execute the said |
| Witness my hand and and year first above written. | official seal hereto affixed the day |
| | Sue Math |
| NOTAF | RY PUBLIC in and for the State of |

of Washington, residing at Kennewick

My Commission Expires:_

| STATE OF WASHINGTON |) |
|--|--|
| County of Benton | : ss.) |
| corporation that e acknowledged the said and deed of said corp | |
| Witness my land year first above | notary Public in and for the State of of Washington, residing at Kennewick |

"EXHIBIT A"

LEASE

of SIMBLE, 199 by and between the PORT OF KENNEWICK, a municipal corporation organized under the laws of the State of Washington (PORT), and PACIFIC RAILCAR CORPORATION, a Washington corporation (COMPANY);

WITNESSETH:

WHEREAS, the conditions of the Contract to Lease Real Estate and Facilities dated the <u>leth</u> day of <u>Morentee</u> 1993 (hereinafter called the Contract) have been fulfilled to the mutual satisfaction of both parties;

The following are definitions which will apply hereafter:

"Property": The real property on which the rail spur will be constructed described in Exhibit B attached hereto.

"Improvement": The rail spur being constructed on the "Property" in accordance with the plans and specifications that have been adopted by the Port and approved by the Company.

"Leased Property": The "Property", the "Improvements" and all other buildings, structures, installations, landscaping and appurtenances built by the Port or hereafter on the "Property".

"Plant": The maintenance, manufacturing and repair facility constructed and owned by the Company.

Section 1. CONSTRUCTION OF IMPROVEMENT: The Port shall proceed diligently with the construction of the Improvement in accordance with the plans and specifications that have been adopted by the Port and approved by the Company pursuant to Section 1 of the Contract to Lease Real Estate and Facilities, and to which plans and specifications reference is hereby made and incorporated herein by this reference. The Port reserves the right to allow ingress and egress over the rail spur and land in areas as shown on the site plan identified as Exhibit C to this lease and incorporated by reference herein for other businesses which may locate near or adjacent to the rail spur. The Port and Company agree to work cooperatively to locate any rail spur so as not to interfere with any business activities.

Section 2. <u>RENT</u>: The Company shall pay as rental for the "Leased Property" as follows:

- b) \$475,000 with no interest shall be payable in fifteen (15) equal annual installments starting five years from the date of the loan from CERB to the Port and continuing on the same date of each and every year thereafter until the principal amount has been paid in full. Payment shall be made thirty (30) days prior to the date payment is due from the Port to CERB;
- C) Leasehold taxes or other taxes which may be levied by the State of Washington against this project;
- d) Rent shall be \$4,000 per month payable on the 157 day of each month for the forty (40) acre site of that certain 1,400' x 2,600' parcel of land lying contiguous to and south of Cochran Road in Benton County, Washington, known to Lessor and Lessee, starting at a point directly east of and adjacent to the tracks of the Burlington Northern Railroad, together with an access road of 75 feet in width from Cochran Road on the North. Said 75-foot access road to run directly south from Cochran Road on the North to the northeast corner of the property. A more complete legal description of the property shall be obtained and attached to this Agreement. Any costs or

expenses associated with subdividing the property or ascertaining its legal description, including, if necessary, a survey, shall included as out-of-pocket expenses as described in Section 2(a).

Section 3. MAINTENANCE AND UPKEEP: During the term of this Lease and all extensions and renewals hereof, the Company shall, at its own cost and expense, maintain the Leased Property and any alterations and improvements thereto in good operating condition and repair, and shall promptly make all repairs, alterations and changes in, to and about the Leased Property necessary to preserve it in good order and condition, which shall be in quality and class equal to the original work, and the Company shall promptly pay the expense of such repairs, suffer no waste or injury and, at the end of the term of this Lease, deliver up the premises in good and acceptable condition, fair wear and tear excepted. The Port shall have no obligation under this Lease to maintain or repair.

Company shall be responsible for maintaining the rail spur in good operating condition and repair. Company shall adhere to a schedule of maintenance set forth in Exhibit _O_ to this lease and incorporated by reference herein. The Port shall have the right of inspection and approval of any maintenance or repair of the rail spur.

At such time as other companies are allowed by the Port to use the rail spur, an agreement for the prorata sharing of maintenance and upkeep will be negotiated between all parties.

In the event that a dispute arises between the Port and the Company on the sharing arrangement for maintenance, repairs, alterations or changes, such dispute shall be submitted to a board of arbitration consisting of three members, one of whom shall be selected by the Port, one by the Company and a third by the two members so selected. The board of arbitrators shall investigate the dispute submitted to it and shall make the findings of fact and decision in writing. The decision of the majority of arbitrators shall govern. If either party feels aggrieved by the decision of the board of arbitrators, the matter may be taken to a court of competent jurisdiction, the venue of which shall be in Benton County, Washington. The Port and the Company may agree to an alternative method of dispute resolution. Pending resolution Washington. of the dispute, either party may enter upon the Leased Property to perform work it deems necessary to prevent damage to the Leased Property and, if that party prevails with respect to work as a result of such resolution, that party shall be entitled to reimbursement for such work from the date of expenditure to the date of reimbursement.

Section 4. <u>WASTE ON LEASED PROPERTY</u>: The Company shall not permit or suffer any offensive use of or the commission of waste on the Leased Property, shall not remove sand, gravel or kindred substance from the ground and shall not in any manner

substantially change the contour or condition of the Leased Property unless approved in advance in writing by the Port. The Company shall keep the Leased Property in good order and in a clean, sanitary and safe condition and shall at all times maintain all buildings, structures and equipment in a condition satisfactory to the Port.

Section 5. INSURANCE: The Company agrees, during the term of this Lease and all extensions and renewals hereof, to keep all of the insurable property on the Leased Property insured against loss or damage under coverage not less than the standard ISO form or its future editions in an amount equal to not less than one hundred percent of the full replacement value thereof. All such policies of insurance shall provide that any loss thereunder shall be payable to the Port. In addition, the company shall at all times during the term of this Lease and all extensions and renewals hereof procure and comprehensive general liability insurance, with contractual liability endorsement in the form of the current standard ISO liability policy (Commercial General Liability). The liability policy shall have a combined single limit in an amount not less than \$1,000,000. The Port shall be named as an additional named insured in the casualty and liability policy or policies of insurance, or certificates by the insurance companies issuing the same, evidencing that such insurance is in effect, and renewal policies or certificates evidencing the renewal thereof shall be delivered to the Port by the Company not less than twenty days prior to the expiration of such policy or policies. In case of failure by the Company at any time to obtain and maintain such insurance or to renew the same, the Port may obtain and maintain such insurance and shall be entitled to reimbursement from the Company of any premiums paid by the Port thereof on demand.

In addition and supplemental to the insurance provisions here and above stated, the Company shall indemnify and save harmless the Port against all loss, cost or damage, action, causes of action and the like on account of any injury to persons or property or death occurring or arising out of the Company's use and occupancy of the Leased Property and the conduct of its business thereon.

Section 6. <u>ASSIGNMENT AND SUBLETTING</u>: The Company shall neither transfer nor assign this Lease nor sublet the demised premises, or any part thereof, nor grant any interest, privilege or license whatsoever in connection with this Lease without the prior written permission of the Port; provided, however, that no such permission shall be arbitrarily withheld, and in the event of transfer, the Company shall remain responsible for all of the covenants and terms herein.

Section 7. <u>EMINENT DOMAIN</u>: In the event any portion of the Leased Property, or the whole thereof, shall be taken for a public use by the right of eminent domain, all alterations, improvements and additions to and placed on the Leased Property by the Company shall be and immediately become real property,

shall be the property of the Port, and shall be included in any and all condemnation action or actions concerning the Leased Property. In the event of such taking by right of eminent domain the Port will receive all compensation paid for the taking or damaging of the Leased Property, or any part thereof, and shall pay to the Company such amount of the award as is included by way of the value of the permanent alterations, improvements and additions made by the Company taken or damaged in such eminent domain action.

Section 8. ALTERATIONS, IMPROVEMENTS AND ADDITIONS: The Company may make necessary alterations, improvements and additions to the Leased Property at its own expense. Alterations, improvements and additions costing in excess of \$15,000.00 in any one instance may be made only with the prior written consent of the Port, which consent shall not be unreasonably withheld. Provided however, the Company shall obtain a surety bond or other securities satisfactory to the Port covering all liability and expense arising from any mechanics lien at any time filed against the Leased Property for any work, labor, services or materials claimed to have been performed at or furnished to the Leased Property for or on behalf of the Company, or any person holding the Leased Property through the Company. Improvements and additions made to the Leased Property by the Company, after the original construction of the Improvement, may be removed by the Company at the end of the term of this Lease as long as such removal does not damage the Leased Property except for structural improvements and additions to the Port's Improvement which shall become the property of the Port and may not be removed. If, in removing any improvements and additions, the Company renders the Leased Property unsuitable for the use for which it was designed and constructed originally, the Company shall, at its own expense, promptly restore the Leased Property to its original improved condition.

The provisions of this section shall not apply to any Company owned improvement.

Section 9. TAXES AND ASSESSMENTS: The Company shall pay, and hold the Port harmless from all state, federal and local taxes and assessments levied against the Leased Property, the improvements thereon, personal property or the leasehold interest.

Section 10. <u>RIGHTS ON DEFAULT</u>: Time is of the essence with respect to this Lease. In the event the Company fails to promptly make any payment provided for in this Lease at the time and in the manner stated, or to keep and perform any of the other covenants and agreements contained in this Lease, and such failure continues for thirty days after written notice thereof has been given by the Port to the Company in accordance with Section 15, the Port may, at its option, declare this Lease terminated and cancelled. On such termination and cancellation of this Lease all rent theretofore paid by the Company shall be forfeited to the Port, and in addition thereto the Company

shall be liable to the Port for any unpaid rent as herein agreed to be paid under the provisions of Section 2, provided that the Port shall exert its best efforts to locate a new tenant for the Leased Property and thereby mitigate rental damages.

Section 11. <u>BANKRUPTCY</u>: If the Company shall file a petition in bankruptcy, or be adjudicated a bankrupt, or make an assignment for the benefit of creditors, or take advantage of any insolvency act, the Port, apart from any other rights, privileges or actions available to it under this Lease, at law or in equity, may, at its election at any time thereafter, terminate and cancel this Lease by giving written notice of its intention to do so, and then and in that event, this Lease and the terms thereof shall expire and come to an end on the giving of that notice, as if the date was the date originally fixed in this Lease for the expiration hereof.

Section 12. <u>GOVERNMENTAL REGULATIONS</u>: The Company shall promptly execute and comply with all government regulations, ordinances and statutes applicable to or connected with the Leased Property and the Plant.

Section 13. WAIVER OF BREACH: The failure of either party to insist upon a strict performance of any of the terms, covenants and conditions of this Lease shall not be deemed a waiver of any rights or remedies of either such party, and shall not be deemed a waiver of any subsequent breach or default in any of the terms, conditions and covenants contained in this Lease.

Section 14. NOTICES: In every case where, under any of the provisions of this Lease, or in the opinion of either the Port or the Company or otherwise, if it shall or may become necessary or desirable to make, give or serve any declaration, demand or notice of any kind or character or for any purpose whatsoever, the same shall be in writing, and it shall be sufficient to either (1) deliver the same or a copy thereof in person to the Manager of the Port of Kennewick, if given by the Company, or to the President or Secretary of the Company, if given by the Port; or (2) mail the same or a copy thereof by registered or certified mail, return receipt requested postage prepaid, addressed to the other party at such address as may have therefore been designated in writing by such party, by notice served in the manner herein provided, and until some other address shall have been so designated, the address of the Port for the purpose of mailing such notices shall be as follows: Port of Kennewick, One Clover Island, Kennewick, Washington 99336; and the address of the Company shall be Pacific Railcar Company, 6 West Arlington, Yakima, Washington 98902.

Section 15. <u>SECURITY FOR RENT</u>: The provisions of RCW 53.08.085 (a copy of which is attached hereto as Exhibit "E" and herewith incorporated in full by this reference) provides that the Port must have rental secured by rental insurance, bond or other security satisfactory to the Port, which security shall

be on file with the Commission at all times during the term of the Lease. The Port Commission has elected under the provisions of said statute for the Company to execute and deliver to the Port the following form of rental security: a surety bond for three (3) years rental executed by the Company as principal and Michael Curtis, et ux; Joshua Grundy, et ux; Duane Walker, et ux; Jake Shreves, et ux; Rick Thompson, et ux and Shane Thompson, et ux, as sureties individually and as marital communities. Like security shall be furnished by the Company and sureties for any extension or renewal of this Lease.

Section 16. RIGHT TO RENEW: As a part of the consideration for this Lease, the Port grants to the Company the right to renew this Lease for not more than six successive five-year periods, as the Company may wish, except that the total term of this Lease shall not, in any event, exceed fifty years. Notice of the Company's election to exercise the option to renew shall be given in writing to the Port not less than six months before the expiration of the initial term of this Lease, or the expiration of any five-year renewal period. The renewal of the Lease shall be on the same terms and conditions as herein set forth, except that the rent shall be renegotiated for the renewal term. The parties agree to negotiate a fair market rental in good faith and recognize the contributions of the company to the Port.

Section 17. <u>HAZARDOUS SUBSTANCES</u>: It is acknowledged that Company handles, uses, stores, and deals with hazardous substances in its business operations. The Port acknowledges such occurrences but is not responsible for any occurrences involving hazardous substances.

Hazardous substance shall be interpreted broadly to mean any substance or material defined or designated as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar terms by any federal, state or local environmental law, regulation or rule presently in effect or hereafter enacted, and it shall be interpreted to include, but not be limited to, any substance which in being used, or after released into the environment may be a fire danger, or which upon exposure, ingestion, inhalation or assimilation, either directly from the environment or indirectly by ingestion through food chains or otherwise, will or may reasonably be anticipated to cause property damage, sickness, death, disease, behavior abnormalities, cancer or genetic abnormalities. Company shall hold harmless from and indemnify the Port against and from any damage, loss, expenses or liability resulting from any breach of this paragraph including all attorneys fees and costs incurred as a result thereof.

Company's entire operation, including painting and equipment, shall comply with all local, state and federal, environmental, fire protection and all other ordinances, rules and regulations.

Company shall not permit nor suffer any offensive use of Leased Property, nor the commission of waste thereon and shall not in any manner substantially change the premises unless approved in writing by the Port. Company shall keep the premises in good order and in a clean, sanitary and safe condition satisfactory to the Port. All materials, supplies, inventory or other items of any kind or nature stored on the outside of the building shall be maintained in a neat and orderly manner. In the event the Port is not satisfied that the Company is fulfilling the terms and conditions of this paragraph, the Port shall so notify the Company in writing. Thirty (30) days thereafter, if the conditions are not corrected by the Company, the Port may cause the corrections to be made and the Company shall pay the Port for the cost of any and all such corrections.

Company, its subsidiaries, grantees, assigns or successors in interest shall indemnify the Port and hold it harmless for any claim, demand, removal, clean-up, investigation, lab costs, fees of consultants, contractors, lawyers and charges for governmental personnel for any liability which may be incurred for any activity on the part of the Company, its subsidiaries, successors in interest or assigns for any federal, state, county, local or governmental requirement regarding any substances or waste or storage or disposal thereof upon the demised premises including, without limitation to, CERCLA, SARA, RCRA, Underground Storage Tank Facilities Act, Model Toxic Control Act or any additional enactments, regulations amendments or additions thereto.

Section 18. <u>MUTUAL ASSISTANCE</u>: The parties hereto agree to render all reasonable assistance to each other in establishing, maintaining and defending this Lease before any governmental regulatory body or in any civil and/or criminal proceedings.

Section 19. <u>INSPECTION OF LEASED PROPERTY</u>: The right is reserved to the Port, its officers, agents and employees, to enter upon the Leased Property at any time during regular business hours for inspection and for any purpose necessary or convenient in connection with the work of the Port. The use and occupation of the Leased Property shall be subject to such reasonable rules and regulations as prescribed by the Port from time to time.

Section 20. <u>NECESSARY PORT OPERATIONS</u>: The right is reserved to the Port, its officers, agents and employees, to construct or to permit the construction of utilities suitable for communication, electrical distribution or transmission, water supply, sewage disposal and similar purposes on the Leased Property.

Section 21. <u>PROTECTION OF IMPROVEMENTS AND PROPERTY:</u> The Company shall be responsible for any damage, destruction or waste that may be caused to any of the property of the Port, wherever located, by the activities of the Company under this

Lease, and shall exercise due diligence in the protection of all improvements and property of the Port that may be located on the Leased Property, or adjacent thereto, by fire or damage from any and all other causes. The Company solely shall be responsible for damages to any property or injuries to persons that may arise from or be incident to the use and occupation of the Leased Property, and for damages to the property of the Company, or for injuries to the person of the Company's officers, agents, servants or employees, or the person or property of others who may be on the Leased Property at their invitation or the invitation of any one of them, or in any way incident to the Company's business, and the Company shall hold the Port harmless from and indemnify the Port against and from any and all claims.

Section 22. OPTION TO PURCHASE: The Company shall have the option to purchase the Leased Property or the Improvement at any time during the term of this Lease and any extensions or renewals of this Lease for an amount equal to the fair market value of the Leased Property or the Improvement at the time of exercising such option to purchase, which fair market value shall be determined at the time by a qualified real estate appraiser appointed by the Port and agreed to by the Company. If the Port and the Company do not agree on the fair market value of the Leased Property or the Improvement established by the appointed qualified real estate appraiser, then the disagreement shall be submitted to a board of arbitration consisting of three qualified real appraisers, one of whom shall be selected by the Port, one by the Company, and a third by the two members so selected. board of arbitrators shall investigate the disagreement submitted to it, including a review of the determination of the fair market value of the Leased Property made by the previously appointed qualified real estate appraiser, and shall make the findings of fact and decision in writing, within ninety days of the date on which the disagreement submitted to the board of In determining the fair market value of the arbitrators. Leased Property or the Improvement, the decision shall not be based on the Company's investment in or use of, if any, adjoining property, but the Leased Property or Improvement shall be valued in accordance with accepted real estate appraisal practices. The Port and the Company may agree to an alternative method to resolve the disagreement. Notwithstanding the above, the purchase price for the Leased Property or the Improvement shall not be less than the amount of the Port's total investment.

The Company shall exercise its option to purchase the Leased Property or Improvement by giving written notice to the Port sixty days prior to the date on which such option is to be exercised. The Company shall be under no obligation to exercise its option to purchase the Leased Property or Improvement.

In the event that the Port and the Company engage in a sale and purchase pursuant to the terms of this Lease, unless

otherwise specified, the sale and purchase shall occur in accordance with the following terms and conditions:

- (a) The purchase price shall be paid in cash at closing.
- (b) Closing shall occur on a date mutually agreed on by the parties following proper written notice from the Company of its intent to purchase the Leased Property or Improvement and subsequent proper processes by the Port as required by statute when selling property.
- (c) Closing shall occur at a location selected by the Port.
- (d) The Port shall pay for and provide the Company with an owner's standard coverage American Land Title Association ("ALTA") policy of title insurance containing such encumbrances and such other exceptions as are approved by the Company.
- (e) The Company shall pay for real estate excise tax, if any, deed stamps, if any, and closing escrow fee.
- (f) The deed shall contain an easement or other legal means to the Port or its' successors or assigns for ingress and egress over the rail spur to nearby and adjacent properties and which shall provide for the use of the rail spur by the Port or companies that may locate on said properties.

On the Company's purchase of the Leased Property and Improvement, this Lease shall terminate. If the Company elects to purchase the Improvement but not the Property, then this Lease shall continue except that the Lease shall pertain to the Property only and the rent shall be adjusted accordingly.

Notwithstanding any other provision to the contrary, the law governing the authority of the Port to sell and convey property which is applicable to the Leased Property shall control. By way of example, should the laws governing Port Districts at the time of the Company's exercise of the option to purchase the Leased Property or Improvement require that the Leased Property or Improvement be submitted to bid, then the Leased Property or Improvement shall be sold subject to this Lease and State law and further subject to the Company's being allowed to meet the highest bid.

Section 23. <u>SECURITY FOR PORT</u>: Company shall execute and deliver, and at all times keep current, all necessary security documents required by the Port, as set out in Section 1. D., E. and F. of the Contract to Lease Real Estate and Facilities and Section 15 of this Lease, to protect the Port's interest in land and improvements to provide adequate security for the Port's investment for real property purchase and

repayment of the loan of \$475,000 which the Port is indebted to pay to CERB.

Section 24. WAIVER OF NOTICE: Whenever in this Lease the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person entitled to receive such notice and in any case the giving or receipt of such notice shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Section 25. <u>HEADINGS AND RULES OF CONSTRUCTION</u>: The headings or titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Lease. All references herein to sections and other subdivisions are to the corresponding sections or subdivisions of this Lease. The terms "hereby," "herein," "hereof," "hereto," "hereunder" and other terms of similar import refer to this Lease as a whole and not to any particular section or subdivision hereof. Unless the context otherwise indicates, words importing the singular number shall include the plural number and vice versa.

Section 26. <u>NO ORAL CHANGES</u>: Neither this Lease nor any provision hereof may be changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the parties.

Section 27. <u>SEVERABILITY OF INVALID PROVISIONS</u>: In case any one or more of the provisions contained in this Lease shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision of this Lease, and this Lease shall be construed as if such invalid or illegal or unenforceable provision had never been contained in this Lease. The parties to this Lease declare that they would have entered into this Lease and each and every section, paragraph, sentence, clause or phrase of this Lease irrespective of the fact that any one or more sections, paragraphs, sentences, clauses or phrases of this Lease may be held illegal, invalid or unenforceable.

Section 28. GOVERNING LAW: This Lease shall be construed and governed in accordance with the laws of the State of Washington and any action for enforcement hereof and the venue for any action for enforcement hereof by either party shall be in Benton County, Washington. In the event either party takes action or requires legal services or commences any suit or action to enforce any of the terms and conditions of this Lease, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred.

Section 29. <u>EXECUTION IN COUNTERPARTS</u>: This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

IN WITNESS WHEREOF the parties have executed this Lease as of the date and year first above written.

PORT OF KENNEWICK

| BOARD OF COMMISSIONERS |
|--|
| By: Seorge J. Jones, President Score to |
| Paul L. Vick, Vice Resident |
| By: Spaulding, Secretary Uni |
| PACIFIC RAILCAR CORPORATION |
| By: Mclad Clubs |
| By: Secretary |
| STATE OF WASHINGTON) |
| County of Benton) |
| on this 9th day of Seplember, 1994, personally appeared before me tout the forces, to |
| me known to be the President, Vice President and Secretary, respectively, of the Port of Kennewick, the municipal corporation that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that they are authorized to execute the said instrument. |
| Witness my hand and official seal hereto affixed the day and year first above written NOTARY PUBLIC in and for the State of |
| Washington, residing at Kennewick My Commission Expires: 7/5/4 |

My Commission Expires: 3-23-7

STATE OF WASHINGTON

DESCRIPTION FOR THE PORT OF KENNEWICK

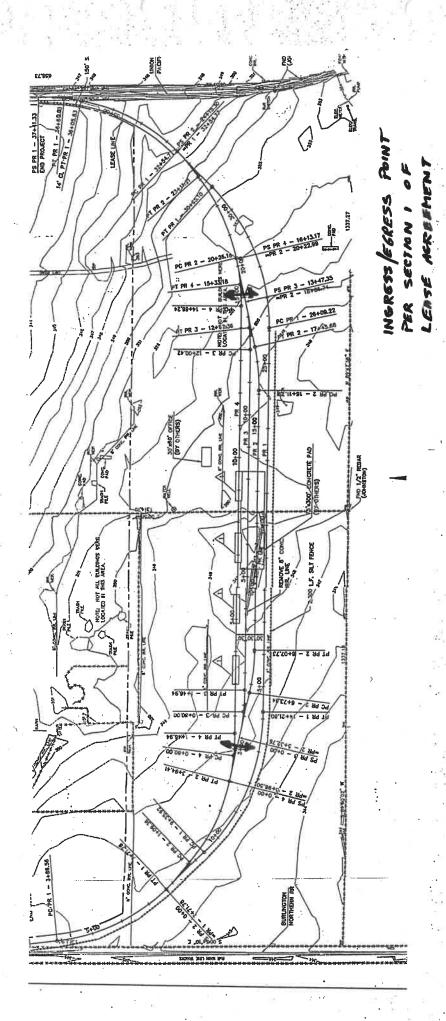
COCHRAN ROAD

THE SOUTH 700 FEET OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTH 700 FEET OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER ALL IN SECTION 23, TOWNSHIP 8 NORTH, RANGE 30 EAST, W.M., BENTON COUNTY, WASHINGTON.

TOGETHER WITH A 60 FOOT WIDE ACCESS AND UTILITY EASEMENT, BEING THE WEST 60 FEET OF THE EAST 110 FEET OF THE SAID NORTHWEST QUARTER OF THE SOUTHEAST QUARTER, LYING NORTHERLY OF THE SOUTH 700 FEET THEREOF AND SOUTHERLY OF THE NORTH 20 FEET THEREOF.

TOGETHER WITH AND SUBJECT TO EASEMENTS, RESERVATIONS, COVENANTS, AND RESTRICTIONS OF RECORD AND IN VIEW.





PORT OF KENNEWICK

Resolution No. 2025-14

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK APPROVING A REQUEST BY GUNDERSON RAIL SERVICES, LLC D/B/A GREENBRIER RAIL SERVICES TO MAKE PAVING IMPROVEMENTS AT THE TWIN TRACKS INDUSTRIAL PARK

WHEREAS, the Port of Kennewick (Port) entered a 1993 ground lease with Gunderson Rail Services LLC dba Greenbrier Rail Services Finley for a maintenance and repair facility for the railcar industry; and

WHEREAS, subject to the terms and conditions of said ground lease including alterations and improvements at tenant's own expense, Greenbrier Rail Services requested the port approve a paving project for driveway off Cochran Road into its facility and associated parking areas (Exhibit A); and

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

WHEREAS, Port staff reviewed the proposed asphalt project and finds the information submitted to be acceptable and in the Port's best interest; and after consideration of the asphalt paving request, the Port Commission has determined that the request as presented is acceptable.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby approve the tenant request to pave driveway and associated parking areas on leased ground in the Twin Tracks Industrial Park at 228919 Cochran Road, Kennewick.

BE IT FURTHER RESOLVED that all action by port officers and employees in furtherance hereof is ratified and approved; and further that the port Chief Executive Officer is authorized to take all action all action necessary in furtherance hereof.

Resolution No. 2025-14 *Page 2*

ADOPTED by the Board of Commissioners of the Port of Kennewick on the <u>22nd</u> day of <u>July</u>, 2025.

| PORT of KENNEWICK BOARD of COMMISSIONERS | |
|--|-----------------------------------|
| By: _ | |
| | SKIP NOVAKOVICH, President |
| By: _ | |
| | KENNETH HOHENBERG, Vice President |
| By: _ | |
| | THOMAS MOAK, Secretary |

Resolution No. 2025-14 EXHIBIT A

