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AGENDA

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

August 12, 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 August 1, 2025
 - B. Approval of Warrant Register Dated August 12, 2025
 - C. Approval of Regular Commission Meeting Minutes July 22, 2025
 - D. Approval of Resolution 2025-15 Amending Resolution 2025-07 to Approve Goal #2 of the CEO 2023/24 Goals and Objectives
- VI. PRESENTATION**
 - A. Port of Walla Walla, Executive Director Patrick Reay
- VII. ACTION ITEM**
 - A. Gunderson Rail Services LLC dba Greenbrier Rail Services Tenant Improvement Request – Asphalt Project; Resolution 2025-14
- VIII. REPORTS, COMMENTS AND DISCUSSION ITEMS**
 - A. Vista Field (TIM)
 - B. Kennewick Waterfront
 - 1. National Lighthouse Day – August 7, 2025 (TANA)
 - 2. Event Review (DAVID)
 - C. 2024 SAO Accountability and Financial Audit (NICK)
 - 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)
- IX. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- X. ADJOURNMENT**

PLEASE SILENCE ALL NOISE MAKING DEVICES



PORT OF KENNEWICK REGULAR COMMISSION MEETING

DRAFT

JULY 22, 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 (via telephone)
Thomas Moak, Secretary

Staff Members: Tim Arntzen, Chief Executive Officer
Tana Bader Inglima, Deputy Chief Executive
Larry Peterson, Director of Planning
Amber Hanchette, Director of Real Estate
Michael Boehnke, Director of Operations
Bridgette Scott, Executive Assistant (via telephone)
Lisa Schumacher, Special Projects Coordinator
David Phongsa, Marketing/Capital Projects Coordinator (via telephone)
Carolyn Lake, Port Counsel (via telephone)

Commissioner Novakovich stated we will be removing Action Item A, regarding Gunderson Rail Service, and will discuss the request at a later date.

Ms. Hanchette requested to postpone this item until the next meeting, to clarify a few questions with Gunderson Rail Service.

By Commission consensus, the Agenda is amended and Action Item A has been removed.

PLEDGE OF ALLEGIANCE

Ms. Bader Inglima led the Pledge of Allegiance.

PUBLIC COMMENT

No comments were made.

CONSENT AGENDA

A. Approval of Direct Deposit and E-Payments Dated July 16, 2025

Direct Deposit and E-Payments totaling \$101,228.41

B. Approval of Warrant Register Dated July 22, 2025

Expense Fund Voucher Number 107120 through 107165 for a grand total of \$186,885.52

C. Approval of Regular Commission Meeting Minutes July 8, 2025

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 22, 2025 MINUTES

DRAFT

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

REPORTS, COMMENTS AND DISCUSSION ITEMS

A. Vista Field

Mr. Arntzen provided an update on the Vista Field PFAS issue and highlighted points from a statement drafted by Ogden Murphy Wallace regarding the Supplemental Environmental Investigation included with these minutes as *Exhibit A*.

Commissioner Moak inquired if Landau Associates will be repeating some of the previous work done by the previous contractor.

Mr. Arntzen stated yes, Landau will be taking a few more samples on Lot 31 to make sure they were not outliers or anomalies. Additionally, Landau will take additional samples, to determine if there is any contamination outside of Lot 31.

Commissioner Moak stated it was his understanding that the Port already contracted with Blue Mountain Environmental Consulting for additional sampling at Vista Field.

Mr. Arntzen stated that the contract has been put on hold, as Blue Mountain did the sampling for the owners of Lot 31. The Port felt that it would be best practice to hire another firm to keep the processes separate. Landau has a lot of PFAS experience and will be working exclusively for the Port.

Commissioner Hohenberg stated the statement is dated July 23, 2025, and inquired if the date of the statement should be July 22, 2025.

Mr. Arntzen thanked Commissioner Hohenberg for catching that and stated the date of the statement should be July 22, 2025.

Commissioner Novakovich stated the Port has done a great job assembling a team to investigate the potential issues of PFAS at Vista Field.

Commissioner Novakovich stated Mr. Arntzen signed the contract with Landau Associates Inc. and asked the Commission to ratify his action by consensus.

By Commission consensus, the action by Mr. Arntzen is ratified.

B. Kennewick Waterfront Update

1. KIE Land Exchange Update

Mr. Arntzen gave a brief history of the KIE land exchange and stated the document has been recorded and we are at the implementation stage. Maintenance will work on moving the fence line and KIE will build a new fence across their property.

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 22, 2025 MINUTES

DRAFT

C. Future Agenda Items

Ms. Scott gave a brief update about future topics for the Agenda:

- Erin Erdman, City of Kennewick City Manager Presentation;
- Patrick Reay, Executive Director, Port of Walla Walla Presentation;
- CFO Budget Update;
- Port Maintenance shop update.

D. CEO Report

Mr. Arntzen had nothing to report at this time.

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

Commissioners reported on their respective committee meetings.

F. Non-Scheduled Items

Ms. Bader Inglima stated Port staff are working to update the history section of the Comprehensive Scheme to include the partnership between the Port and CTUIR. Ms. Bader Inglima is meeting with our CTUIR partners tomorrow.

PUBLIC COMMENTS

No comments were made.

COMMISSION COMMENTS

No comments were made.

Commissioner Novakovich stated at this time, the Port Commission will recess to Executive Session as allowed by law, 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 or financial consequence to the agency. No decision will be made in executive session, and no action will be taken at the public portion of the meeting afterwards as a result of the executive session. The executive session will last approximately 25 minutes. Commissioner Novakovich asked the public to notify Port staff if they will return after the executive session so staff can advise if the session concludes early.

Commissioner Novakovich recessed the Regular Commission Meeting at 2:27 p.m. until 2:52 p.m.

Commissioner Novakovich convened the meeting into Executive Session at 2:27 p.m. for approximately 25 minutes.

EXECUTIVE SESSION

RCW 42.30.110 (1)(i)(iii)

Ms. Scott extended the session at 2:52 p.m. for an additional 15 minutes (3:07 p.m.).

PORT OF KENNEWICK REGULAR COMMISSION MEETING

JULY 22, 2025 MINUTES

DRAFT

Ms. Scott extended the session at 3:07 p.m. for an additional 5 minutes (3:12 p.m.).

Commissioner Novakovich adjourned the Executive Session at 3:10 p.m.

Commissioner Novakovich reconvened Regular Commission Meeting at 3:14 p.m.

No decisions or actions were made as a result of the Executive Session.

ADJOURNMENT

With no further business to bring before the Board; the meeting was adjourned at 3:14 p.m.

APPROVED:

**PORT of KENNEWICK
BOARD of COMMISSIONERS**

Skip Novakovich, President

Kenneth Hohenberg, Vice President

Thomas Moak, Secretary

Vista Field
Update on Supplemental Environmental Investigation
Regular Session

July 23, 2025*

*Clerk's Note: Date should be July 22, 2025

1. Background

Blue Mountain Environmental Consultants (Blue Mountain) was retained by Community First Bank, the lender for Lot 31, to conduct soil sampling. The sampling occurred on June 2, 2025, and Blue Mountain provided the Port with the sampling results on June 26, 2025. We understand that Blue Mountain received authorization from the lender to share the report with the Port. The report indicated that a class of hazardous substances referred to as PFAS, specifically PFOA, was detected in three soil samples at levels that exceeded Department of Ecology screening levels.

PFAs (a group of Per- and polyfluoroalkyl chemicals) are a variety of synthetic chemicals that have been used all around the world since the 1950s. Many former airports have found PFAs due to a history of firefighting drills using foam that contains PFAs. Because PFAs don't readily break down in the environment, they have been discovered across the country in air, land, and water. Exposure to PFAs, even at low levels, poses significant human health risks. However, the U.S. Environmental Protection Agency (EPA) did not designate PFAs as hazardous substances under federal law until 2024.

All of the past environmental work performed by the Port to study Vista Field was performed in full compliance with the applicable environmental law and due diligence standards. At the time that the Port's prior work was conducted, PFAs were not listed either in state or federal law as regulated hazardous substances. Last year, that changed.

The Port has not identified any evidence that its operations at Vista Field caused or contributed to PFAs contamination. However, the Port is pro-actively investigating the site to identify the extent of any PFAs contamination, including the potential sources.

2. Port Staff Actions Following Receipt of Sampling Report

Just two weeks ago, the Port retained Ogden Murphy Wallace, P.L.L.C. (OMW) to advise staff on the Port's potential regulatory obligations and liability related to the finding of PFAs within the Vista Field development area. At the suggestion of OMW, the Port also retained Harris & Smith Public Affairs, Inc., a public affairs firm that specializes in environmental matters, to assist staff in efforts to keep the public informed as events unfold. A press release informing the media of the Port's discovery of initial samples results and the Port's

plan to further investigate the matter and conduct additional sampling at Vista Field was issued on July 3, 2025.

3. Retention of Environmental Consultant

OMW advised that the Port retain an environmental consulting firm with experience and recognized expertise in the area of PFAs contamination rather than utilize the services of Blue Mountain because Blue Mountain had a potential conflict of interest as Blue Mountain had already been retained by and performed work for the Lot 31 lender. The Port staff interviewed two environmental consulting firms and selected Landau Associates based upon their knowledge of PFAs, experience with PFAs investigations in the state of Washington, and positive working relationship with Ecology. The Port CEO executed a contract with Landau on July 18, 2025, under which Landau will serve as consulting expert to the Port, potentially serve as an expert witness if needed, and to perform a preliminary PFAs investigation at Vista Field.

4. Preliminary PFAs Investigation at Vista Field

Landau's preliminary investigation at Vista Field will determine whether the PFAs contamination is localized in and around Lot 31 or if it extends into a broader area. The investigation includes sampling shallow soils throughout the property and also includes sampling to confirm and characterize the extent of contamination at Lot 31. Additional samples will also be taken at the two other lots that have started construction (Lots 15 & 18) and the two lots that are completing the closing process.

Landau is currently preparing the work plan for the sampling, which will include sampling procedures specific for PFAs to ensure the resulting data is high-quality. Landau anticipates that the sampling will occur within 3-5 weeks and will arrange to have the laboratory analyses to be expedited.

5. Next Steps

In the event the new sampling indicates that there is PFAs contamination at Vista Field at levels that requires remediation, the Port will work with Landau and the Washington State Department of Ecology to determine whether the soil remediation work can occur under the state's Voluntary Cleanup Program. If not, it may be necessary for the Port to enter into a formal clean up agreement with Ecology. At this time, it is too early to predict the results of the sampling effort.

In addition to the Port's strategy for dealing with the general public and with Ecology, the Port is developing a communication plan for keeping its Vista Field development partners well-informed. The Port will begin this effort with a series of individual stakeholder meetings via Zoom to introduce the stakeholders to the environmental team that is responding to the PFAs discovery and to describe the steps that the Team will be taking to address the matter.

PORT OF KENNEWICK

Resolution No. 2025-15

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK AMENDING RESOLUTION 2025-07 AND
ACCEPTING THE 415 N. ROOSEVELT,
VISTA FIELD DEVELOPMENT FACILITY FAÇADE IMPROVEMENT PROJECT***

WHEREAS, an error was made in Resolution 2025-07 approving “Goal #7” of the CEO’s 2023/24 goals when it should have been “Goal #2”; therefore Resolution 2025-07 should be corrected and amended; and

WHEREAS, G2 Construction provided notification that the exterior renovation of Vista Field Development Buildings A & B located at 415 N. Roosevelt, Kennewick are complete in accordance with the plans and specifications; and

WHEREAS, Meier Architects and the Port of Kennewick staff have inspected the work and certified that it has been constructed in accordance with the plans and specifications; and

WHEREAS, that the Board of Commissioners of the Port of Kennewick hereby accepts the work of G2 Construction as being completed in accordance with the contract documents.

NOW THEREFORE BE IT RESOLVED, that upon completion of all required documentation for the project, the Chief Executive Officer is authorized to proceed with the necessary requirements to finalize the project account.

NOW THEREFORE BE IT FURTHER RESOLVED that the Commissioners hereby amends Resolution 2025-07; and approves and accepts as complete Goal #2 of the CEO’s 2023/24 goals and objectives.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 12th day of August, 2025.

***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: Amber Hanchette, Director of Real Estate

MEETING DATE: August 12, 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
Hold Harmless Agreement
SEPA Application
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..”

To submit a permit application with Benton County, Greenbrier must include a SEPA application (Environmental Checklist) with the property owner (Port of Kennewick) signature. Once the permit is received by Benton County, there will be a review period where the County may require additional information or reports. Greenbrier will be responsible for any costs associated with generating additional information or reports.

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



Total asphalt coverage: ~71,044 sf

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.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 12th day of August, 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



Total asphalt coverage: ~71,044 sf

RETURN RECORDED DOCUMENT TO:

Amber Hanchette
Port of Kennewick
[address]

**TEMPORARY EASEMENT AND
INDEMNIFICATION AGREEMENT
BETWEEN
THE PORT OF KENNEWICK AND
THE CITY OF KENNEWICK**

Grantor: The Port of Kennewick, a Washington public port district

Grantee: GUNDERSON RAIL SERVICES LLC, a Oregon corporation (COMPANY).,
dba, Greenbrier Rail Services Finley LLC

Legal Description: SEE EXHIBIT A.

Tax Parcel Number: 1-2380-400-0007-000

THIS TEMPORARY EASEMENT AND INDEMNIFICATION AGREEMENT

(“**Agreement**”) is made and entered into by and between THE PORT OF KENNEWICK (the “Grantor” or the “Port”), a Washington public port district, and GUNDERSON RAIL SERVICES LLC, a Oregon corporation., authorized to do business in Washington state with principle offices located at 1 CENTERPOINTE DR, SUITE 200, LAKE OSWEGO, OR, 97035-8612, UNITED STATES and dba, Greenbrier Rail Services Finley LLC (“Tenant” or “Grantee”).

WITNESSETH:

WHEREAS, the Port is the owner of a parcel of property legally described in Exhibit A (“Premises”) and entered a 1993 ground lease with Gunderson Rail Services LLC dba Greenbrier Rail Services Finley (“Tenant”) for a maintenance and repair facility for the railcar industry (“Lease”). The legal description of the Premises is shown on **Exhibit A**, which is attached hereto and incorporated herein; and

WHEREAS, subject to the terms and conditions of said Lease, which include that alterations and improvements are at Tenant’s own expense, Tenant requests that the Port approve a paving project for driveway off Cochran Road and associated parking areas on the Premises, (**Exhibit A**), to be undertaken by the Tenant at Tenant sole cost and expense (“Project”);

WHEREAS, the Tenant Grantee’s Project consists of constructing 71,000+ sf of driveway and parking lots, to improve the environmental condition of the Property by reducing dust during Tenant’s operations on the Premises;

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

WHEREAS, the Lease between Port and Tenant contains indemnification of the Port by Tenant 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”; and

WHEREAS, the Port and Tenant want to take all appropriate steps necessary to address the presence of any hazardous substance that may be present in the soils to be excavated as part of the parking lot and driveway paving.

NOW, THEREFORE, in consideration of the premises, the covenants and agreements hereinafter set forth, and in furtherance of the understanding of the parties, it is agreed as follows:

Section 1. Temporary Easement for Construction & Term. The Port Grantor hereby grants and conveys to the Tenant Grantee its respective contractors and laborers, a temporary, nonexclusive easement for purposes necessarily and reasonably related to the Project's construction of 71,000+ sf of driveway and parking lots, and an area of Cochran Road, owned by the County. his Temporary Easement shall be used solely for the purpose described herein and for no other purpose without the prior written consent of the Port, in its sole and absolute discretion. This Temporary Easement is depicted in the diagram or map attached hereto as **Exhibit B** and incorporated herein by this reference as if fully set forth. Said Temporary Easement shall commence on the date of execution of this Agreement and shall terminate on the date that the Project is complete, or twelve (12) months after execution , whichever shall first occur.

Section 2. Temporary Easement Conditions. This Temporary Easement is granted subject to and conditioned upon the following terms, conditions and covenants, which Grantee hereby promises to faithfully and fully observe and perform:

A. COSTS OF PROJECT. Grantee shall bear and promptly pay all costs and expenses of the Project.

B. COMPLIANCE WITH LAWS AND RULES. Grantee shall at all times exercise its rights herein in accordance with the requirements of all applicable statutes, orders, rules and regulations of any public authority having jurisdiction, as such regulations now exist or may hereafter be amended. If the Grantor receives any inspection report, order, fine, request, notice or other

correspondence from any governmental entity associated with or arising from in any way regarding the Project the Grantor shall notify the Grantee in writing within three (3) business days of the same.

C. PERMITS. Prior to undertaking the Project, or any other substantial activity by Grantee on Grantor's property, Grantee shall obtain all necessary permits required by the City, County or any other agency having jurisdiction over such work. The Grantee agrees to keep the Premises and Project area in a secure, clean and safe condition and comply with all permits and regulations pertaining to police, safety, sanitation, environment, stormwater, odor, dust emissions, noise and track-out as currently in effect or as may be hereafter amended or issued. The Grantee further agrees to defend, indemnify and hold harmless the Port, its officers, officials, employees and agents from and against all claims, costs (including but not limited to attorney's fees), fines, penalties, liabilities, including any claim or demand made by the Department of Ecology under MTCA, as well as losses and damages that the Port may incur by reason of any change, claim, litigation or enforcement action relating to any actual or claimed violation of any of the Tenant Grantee's activities associated with or arising out of the Project.

D. COORDINATION OF ACTIVITIES. Grantee shall coordinate the dates of its construction, sampling, and other major activities on Project area with the Port's engineers. Project work shall commence on the date agreed to by the parties.

E. CHANGES AND REPAIR TO GRANTOR'S PROPERTY. Grantee shall promptly pay to Grantor the reasonable cost of any relocation, alteration, restoration and other changes or repairs to the Premises which Grantor shall reasonably deem necessary by reason of the Grantee's activities on Grantor's property leased to Grantee.

F. WORK STANDARDS. All work to be performed by Grantee on the Premises shall be in accordance with the plans and applicable permits submitted to and approved by the County or as may be directed by any agency with jurisdiction and shall be constructed free of

claims or liens. Upon completion of the Project work described herein, Grantee shall remove all construction debris and shall replace any landscaping, property corner monuments, survey references or hubs which were disturbed or destroyed during construction.

G. ACCESS DURING CONSTRUCTION. Grantee shall make provision satisfactory to Grantor for continued access by Grantor along, over and across the temporary easement area during periods in which Grantee is performing its Project activities described herein.

H. RESTRICTION OF GRANTEE'S ACCESS. Notwithstanding that Grantee is granted the right of ingress to and egress from the temporary easement area on Grantor's property, if required, Grantee shall exercise its right of ingress and egress only in such locations Grantor's property as may be reasonable, and in accordance with such reasonable conditions as Grantor may specify.

I. INSPECTORS. The Grantor Port may, but is not required to, send its engineers, inspectors and or agents to the areas of the Project work to oversee all work, to be performed by the Grantee to ensure that Grantee's activities comply with all approved permits and that such activities do not unreasonably jeopardize Grantor's operations or facilities. Grantee and Grantee's contractors shall promptly and fully comply with all Grantor's inspector's orders and directions relevant thereto, including, without limitation, cessation of work, and Grantee's construction contracts shall so provide.

J. GRANTEE'S USE AND ACTIVITIES. Grantee shall exercise its rights under this Agreement so as to minimize, and avoid if reasonably possible, interference with Grantor's use of any of its property. Grantee shall at all times conduct its activities on Grantor's property and those associated with Project work on the Premises so as not to interfere with, obstruct or endanger Grantor's operations or facilities.

K. USE OF THE EASEMENT AREA BY GRANTOR. Nothing herein contained shall prevent or preclude Grantor's undertaking the construction, installation and use of its property, including the temporary easement area that may extend outside the leased Premises' footprint, and Grantor shall not be liable to Grantee, or to Grantee's employees, agents and contractors, for loss or injury resulting from any damage that is directly or indirectly caused by Grantor's use of the temporary easement area or Grantor's facilities on the temporary easement area, excepting the portion of all loss or injury which results from the negligence of Grantor, Grantor's employees, agents or contractors.

L. RELEASE OF TEMPORARY EASEMENT. No termination of the temporary easement shall release the Grantee from any liability or obligation with respect to any matter occurring prior to such termination, nor shall such termination release the Grantee from the remaining provisions of this Agreement.

Section 3. Third Party Rights. The Grantor reserves all rights with respect to its property, the Premises, and the Temporary Easement rights herein, including, without limitation, the right to grant easements, licenses and permits to others subject to the rights granted in this Agreement and the parties' Lease.

Section 4. Indemnification. The Tenant/Grantee shall defend, indemnify and hold the Grantor/Port, its officials, officers, employees and agents harmless from any and all claims, injuries, damages, losses or suits including attorneys' fees, arising out of or resulting from the acts, errors or omissions of the Grantee/City or the presence of hazardous substances, including per- and polyfluoroalkyl substances ("PFAS") found to be located in the Project area as well as the performance of this Agreement, except for injuries and damages caused by the sole negligence of the Grantor/Port, its officers, officials, employees, agents, contractors, and subcontractors.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW

4.24.115, then, in the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Grantee/Tenant and the Grantor/Port, its officers, officials, employees, and agents, contractors, and subcontractors, the Grantee/Tenant's liability, including the duty and cost to defend hereunder, shall be only to the extent of the Grantee/Tenant's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Grantee/Tenant's waiver of immunity under Industrial Insurance (Title 51 RCW), solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties.

The provisions of this Section 4 shall survive the expiration or termination of this Agreement.

Section 5. Insurance. During the course of Grantee's Project activities or other substantial activities on the Premises or Grantor's Property and prior to commencement thereof, Grantee warrants to Grantor that it shall have in place and maintain public liability insurance or self- insurance in amounts sufficient to cover its activities hereunder, for the life of this Agreement. This Agreement includes a waiver of subrogation against all losses sustained by the Grantee/Tenant, its employees, contractors, agents or guests arising from Project work on the Premises or Grantor's property.

Section 6. No Warranties. Grantor does not warrant title to its property and shall not be liable for defects thereto or failure thereof. The Grantor disclaims any warranty or representation that the Premises or Grantor's property are safe or suitable for access by the Grantee or for the work contemplated by this Agreement. The Grantee agrees, represents, and warrants that it is or will become familiar with the Premises or Grantor's property and the operations to be conducted thereon, and will take all reasonable precautions to avoid injury or property damage to the

Grantor, or third parties, employees, representatives or invitees or contractors of any of them.

Section 7. Hazardous Substances. The Tenant shall indemnify, protect, defend and hold harmless the Port, its officers, officials, employees and representatives from and against all claims, suits, actions, demands, costs, damages and losses of any kind, including but not limited to costs of investigation, enforcement actions, litigation, penalties and remedial response, arising out of any Hazardous Material or hazardous substance, including PFAS found as a result of Project activities. For the purpose of this Section 7, the term (i) “Hazardous Materials” shall mean: petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law, including but not limited to per- and polyfluoroalkyl substances, commonly known as PFAS, and (ii) “Environmental Laws” shall mean all federal, state, county, municipal, local and other statutes, laws, ordinances and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

Section 8. Notices. Notices required to be in writing under this Agreement shall be given as follows:

If to the Grantor: Larry Peterson
Director of Planning and Development
Port of Kennewick
350 Clover Island Drive, Suite 200
Kennewick, WA. 99336
(509) 586-1188 (direct)

If to the Grantee: Greenbrier Rail Services Finley LLC
228919 E. Cochran Road
Kennewick, WA 99337
Dennis Faulkner, Plant Manager
dennis.faulkner@gbrx.com
cell: 360-522-3617

Section 9. Successors. This Agreement shall be recorded in the records of the Benton County Auditor and shall inure to the benefit of and be binding upon all owners of after acquired

interests in the Premises if any, until terminated, which shall occur on the date that the Project is complete, or twelve (12) months after execution of this Agreement whichever shall first occur.

Section 10. Assignability. Grantee shall not have the right to assign, apportion or otherwise transfer any of its rights under this Agreement.

Section 11. Disputes. This Agreement shall be construed in accordance with the laws of the State of Washington. Venue and jurisdiction of any disputes as to its terms or enforcement shall be with the Benton County Superior Court or the appropriate federal court district court.

EXECUTED this ____day of August 2025.

GRANTOR:

Port of Kennewick

By _____
Its _____

GRANTEE:

Greenbrier Rail Services Finley LLC

By _____
Plant Manager Approved

as to form:

Carolyn Lake
Port of Kennewick Attorney

STATE OF WASHINGTON)
) ss.
COUNTY OF BENTON)

On this ____ day of _____, 2025, personally appeared before me _____, to me known to be the CEO of the Port of Kennewick, who executed the foregoing instrument on behalf of the Port, and acknowledged said instrument to be the free and voluntary act and deed of the Port for the uses and purposes therein mentioned and on oath stated that he/she was authorized to execute said instrument.

WITNESSED:

NOTARY PUBLIC in and for the
State of Washington, residing at
_____, my commission
Expires _____.

STATE OF WASHINGTON)
) ss.
COUNTY OF BENTON)

On this ____ day of _____, 2025, personally appeared before me _____, to me known to be the ____ of _____ who executed the foregoing instrument on behalf of said corporation, and acknowledged said instrument to be the free and voluntary act and deed of the corporation for the uses and purposes therein mentioned and on oath stated that he/she was authorized to execute said instrument.

WITNESSED:

NOTARY PUBLIC in and for the
State of Washington, residing at
_____, my commission
Expires _____.

EXHIBIT A
[Taken from Tenant Lease]

**DESCRIPTION FOR THE
PORT OF KENNEWICK
COCHRAN ROAD**

**THE SOUTH 700 Feet OF the 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 THERE OF AND SOUTHERLY OF THE NORTH 20 FEET THEREOF.**

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

EXHIBIT B



Total asphalt coverage: ~71,044 sf



SEPA ENVIRONMENTAL CHECKLIST

Application No. _____

APPLICANT INFORMATION

Please check the box indicating primary contact person for this application

☐ **Applicant/Agent:** Camila Peralta Ruiz
Mailing Address: PO Box 6759 City: Kennewick
State: WA ZIP: 99336 Phone: (509) 518-7809 Work: (509) 518-7809
Email Address: office@allserviceasphaltllc.com
Signature: Camila Peralta Ruiz Digitally signed by Camila Peralta Ruiz
Date: 2025.07.28 09:28:44 -07'00' Date: 07/28/2025

☐ **Property Owner(s)** *(if different):* Port of Kennewick
Mailing Address: 350 Clover Island Dr Suite 200 City: Kennewick
State: WA ZIP: 99336 Phone: (509) 586- 1186 Work: (509) 586-1186
Email Address: lpeterson@portofkennewick.org
Signature: _____ Date: _____
Signature: _____ Date: _____

**If there are additional owners please copy this section, sign, and attach to the application*

If the property is owned by a corporation, trust, partnership or LLC please complete the entity signature block below showing that the person signing has the authority to sign on behalf of the company.

ENTITY SIGNATURE BLOCK

Applicant/Legal Owner: _____

Officer name: _____

Title: _____

Signature: _____ Date: _____

THE ABOVE SIGNED OFFICER OF _____ *(name of entity)* WARRANTS AND REPRESENTS THAT ALL NECESSARY LEGAL AND CORPORATE ACTIONS HAVE BEEN DULY UNDERTAKEN TO PERMIT _____ *(name of applicant)* TO SUBMIT THIS APPLICATION AND THAT THE ABOVE SIGNED OFFICER HAS BEEN DULY AUTHORIZED AND INSTRUCTED TO EXECUTE THIS APPLICATION.

BACKGROUND

1. Name of proposed project, if applicable: Greenbrier Parking Lot and Roadway Paving Project

2. Parcel Number: 1 - 2 3 8 0 - 4 0 0 - 0 0 0 7 - 0 0 0

3. Date checklist prepared: July 28, 2025

4. Agency requesting checklist: Benton Country Planning Division

5. Proposed timing or schedule (including phasing, if applicable): August 2025

6. Do you have any plans for future additions, expansion, or further activity related to or connected with this proposal? If yes, explain. n/a

7. List any environmental information you know about that has been prepared, or will be prepared, directly related to this proposal. Stormwater report and drainage plan.

8. Do you know whether applications are pending for governmental approvals of other proposals directly affecting the property covered by your proposal? If yes, explain. n/a

9. List any government approvals or permits that will be needed for your proposal, if known.:

Grading permit

10. Give a brief, complete description of your proposal, including the proposed uses and the size of the project and site. There are several questions later in this checklist that ask you to describe certain aspects of your proposal. You do not need to repeat those answers on this page.

Paving parking lot and roadway into facility, prepping and paving a total of 71,044 sq ft.

11. Location of the proposal. Give sufficient information for a person to understand the precise location of your proposed project, including a street address, if any, and section, township, and range, if known. If a proposal would occur over a range of area, provide the range or boundaries of the site(s). Provide

a legal description, site plan, vicinity map, and topographic map, if reasonably available. While you should submit any plans required by the agency, you are not required to duplicate maps or detailed plans submitted with any permit applications related to this checklist.

228919 E Cochran Rd Kennewick, WA 99337

B. ENVIRONMENTAL ELEMENTS

1. Earth

a. General description of the site (circle one):



Flat



Rolling



Hilly



Steep Slopes



Mountainous

Other : _____

b. What is the steepest slope on the site (approximate percent slope)? _____

N/A

c. What general types of soils are found on the site (for example, clay, sand, gravel, peat, muck)? If you know the classification of agricultural soils, specify them and note any agricultural land of long-term commercial significance and whether the proposal results in removing any of these soils.

N/A

d. Are there surface indications or history of unstable soils in the immediate vicinity? If so, describe.

N/A

e. Describe the purpose, type, total area, and approximate quantities and total affected area of any filling, excavation, and grading proposed. Indicate source of fill. _____

N/A

f. Could erosion occur as a result of clearing, construction, or use? If so, generally describe.

N/A

g. About what percent of the site will be covered with impervious surfaces after project construction (for example, asphalt or buildings)? 100% of the parking lot and roadway into facility will be asphalt.

h. Proposed measures to reduce or control erosion, or other impacts to the earth, if any:

n/a

2. Air

a. What types of emissions to the air would result from the proposal during construction, operation, and maintenance when the project is completed? If any, generally describe and give approximate quantities if known. Exhaust from construction equipment

b. Are there any off-site sources of emissions or odor that may affect your proposal? If so, generally describe. n/a

c. Proposed measures to reduce or control emissions or other impacts to air, if any: n/a

3. Water

a. Surface Water:

1) Is there any surface water body on or in the immediate vicinity of the site (including year-round and seasonal streams, saltwater, lakes, ponds, wetlands)? If yes, describe type and provide names. If appropriate, state what stream or river it flows into. NO

2) Will the project require any work over, in, or adjacent to (within 200 feet) the described waters? If yes, please describe and attach available plans. NO

3) Estimate the amount of fill and dredge material that would be placed in or removed from surface water or wetlands and indicate the area of the site that would be affected. Indicate the source of fill material. N/A

4) Will the proposal require surface water withdrawals or diversions? Give general description, purpose, and approximate quantities if known. NO

5) Does the proposal lie within a 100-year floodplain? If so, note location on the site plan. NO

6) Does the proposal involve any discharges of waste materials to surface waters? If so, describe the type of waste and anticipated volume of discharge. NO

b. Ground Water:

1) Will groundwater be withdrawn from a well for drinking water or other purposes? If so, give a general description of the well, proposed uses and approximate quantities withdrawn from the well. Will water be discharged to groundwater? Give general description, purpose, and approximate quantities if known. N/A

2) Describe waste material that will be discharged into the ground from septic tanks or other sources, if any (for example: Domestic sewage; industrial, containing the following chemicals...; agricultural; etc.). Describe the general size of the system, the number of such systems, the number of houses to be served (if applicable), or the number of animals

or humans the system(s) are expected to serve. N/A

c. Water runoff (including stormwater):

1) Describe the source of runoff (including storm water) and method of collection and disposal, if any (include quantities, if known). Where will this water flow? Will this water flow into other waters? If so, describe. Stormwater from the new impervious surfaces will be directed to the adjacent open fields on the remainder of the 40-acre parcels and the edge of the proposed pavement would be at 395+ feet from parcels not owned by the Port of Kennewick.

2) Could waste materials enter ground or surface waters? If so, generally describe. n/a

3) Does the proposal alter or otherwise affect drainage patterns in the vicinity of the site? If so, describe. n/a

4) Proposed measures to reduce or control surface, ground, and runoff water, and drainage pattern impacts, if any: n/a

4. Plants

a. Check the types of vegetation found on the site:

none Deciduous tree (*alder, maple, aspen, other*)

none Evergreen tree (*fir, cedar, pine, other*)

none Shrubs

none Grass

none Pasture

none Crop or grain

none Orchards, vineyards or other permanent crops

none Wet soil plants (*cattail, buttercup, bullrush, skunk cabbage, other*)

none Water plants (*water lily, eelgrass, milfoil, other*)

none Other types of vegetation

b. What kind and amount of vegetation will be removed or altered? none

c. List threatened and endangered species known to be on or near the site. none

d. Proposed landscaping, use of native plants, or other measures to preserve or enhance vegetation on the site, if any: n/a

e. List all noxious weeds and invasive species known to be on or near the site. none

5. Animals

a. List any birds and other animals which have been observed on or near the site or are known to be on or near the site. Examples include: birds: hawk, heron, eagle, songbirds, other; mammals: deer, bear, elk, beaver, other; fish: bass, salmon, trout, herring, shellfish, other. ____
None, the property has been an active industrial site for 30+ years.

b. List any threatened and endangered species known to be on or near the site. _____
None.

c. Is the site part of a migration route? If so, explain. _____
No

d. Proposed measures to preserve or enhance wildlife, if any: _____
n/a

e. List any invasive animal species known to be on or near the site. _____
None

6. Energy and Natural Resources

a. What kinds of energy (electric, natural gas, oil, wood stove, solar) will be used to meet the completed project's energy needs? Describe whether it will be used for heating, manufacturing, etc. None

b. Would your project affect the potential use of solar energy by adjacent properties? If so, generally describe. No

c. What kinds of energy conservation features are included in the plans of this proposal? List other proposed measures to reduce or control energy impacts, if any: None

7. Environmental Health

a. Are there any environmental health hazards, including exposure to toxic chemicals, risk of fire and explosion, spill, or hazardous waste, that could occur as a result of this proposal? If so, describe.

Diesel fuel and hydraulic fluids will be present in the grading and paving equipment used to complete the project. Best management practices

(BMPs) will be followed during the use and operation of this equipment.

1) Describe any known or possible contamination at the site from present or past uses.
none

2) Describe existing hazardous chemicals/conditions that might affect project development and design. This includes underground hazardous liquid and gas transmission pipelines located within the project area and in the vicinity. _____
none

3) Describe any toxic or hazardous chemicals that might be stored, used, or produced during the project's development or construction, or at any time during the operating life of the project.

Diesel fuel and hydraulic fluids will be present in the grading and paving equipment used to complete the project. Best management practices

(BMPs) will be followed during the use and operation of this equipment.

4) Describe special emergency services that might be required.

None

5) Proposed measures to reduce or control environmental health hazards, if any: ____

None

b. Noise

1) What types of noise exist in the area which may affect your project (for example: traffic, equipment, operation, other)? ____

Equipment

2) What types and levels of noise would be created by or associated with the project on a short-term or a long-term basis (for example: traffic, construction, operation, other)? Indicate what hours noise would come from the site. ____

Short term noise during construction from equipment.

3) Proposed measures to reduce or control noise impacts, if any: ____

None

8. Land and Shoreline Use

a. What is the current use of the site and adjacent properties? Will the proposal affect current land uses on nearby or adjacent properties? If so, describe. The site is a facility for manufacturing transportation services,

specifically rail car repair. Pavement project will enhance the current land use by providing all weather surfaces for employee, delivery, and service vehicles.

Further the pavement will likely have positive impacts on surrounding properties by reducing fugitive dust from the current gravel/dirt access road and parking lot.

b. Has the project site been used as working farmlands or working forest lands? If so, describe. How much agricultural or forest land of long-term commercial significance will be converted to other uses as a result of the proposal, if any? If resource lands have not been designated, how many acres in farmland or forest land tax status will be converted to nonfarm or nonforest use? Land in question has been utilized for rail car repair activities since 1994, possibly longer.

1) Will the proposal affect or be affected by surrounding working farm or forest land normal business operations, such as oversize equipment access, the application of pesticides, tilling, and harvesting? If so, how: No

c. Describe any structures on the site. Office 500sf; (5) Shop buildings 18,600 + sf; 56,700sf work area canopy

d. Will any structures be demolished? If so, what? No

e. What is the current zoning classification of the site? Heavy Industrial

f. What is the current comprehensive plan designation of the site? Rural Industrial

g. If applicable, what is the current shoreline master program designation of the site? n/a

h. Has any part of the site been classified as a critical area by the city or county? If so, specify. No

i. Approximately how many people would reside or work in the completed project? n/a

j. Approximately how many people would the completed project displace? n/a

k. Proposed measures to avoid or reduce displacement impacts, if any: n/a

l. Proposed measures to ensure the proposal is compatible with existing and projected land uses and plans, if any: Paving the current gravel driveway and parking areas reduces potential for fugitive dusts to impact adjacent properties

m. Proposed measures to reduce or control impacts to agricultural and forest lands of long-term commercial significance, if any: Paving the current gravel driveway and parking areas reduces potential for fugitive dusts to impact adjacent properties

9. Housing

a. Approximately how many units would be provided, if any? Indicate whether high, middle, or low income housing. n/a

b. Approximately how many units, if any, would be eliminated? Indicate whether high, middle, or low income housing. n/a

c. Proposed measures to reduce or control housing impacts, if any: n/a

10. Aesthetics

a. What is the tallest height of any proposed structure(s), not including antennas; what is the principal exterior building material(s) proposed? None

b. What views in the immediate vicinity would be altered or obstructed? No

c. Proposed measures to reduce or control aesthetic impacts, if any: n/a

11. Light and Glare

a. What type of light or glare will the proposal produce? What time of day would it mainly occur?
n/a

b. Could light or glare from the finished project be a safety hazard or interfere with views? ____
n/a

c. What existing off-site sources of light or glare may affect your proposal? _____
n/a

d. Proposed measures to reduce or control light and glare impacts, if any: _____
n/a

12. Recreation

a. What designated and informal recreational opportunities are in the immediate vicinity? ____
None

b. Would the proposed project displace any existing recreational uses? If so, describe. ____
n/a

c. Proposed measures to reduce or control impacts on recreation, including recreation opportunities to be provided by the project or applicant, if any: _____
n/a

13. Historic and cultural preservation

a. Are there any buildings, structures, or sites, located on or near the site that are over 45 years old listed in or eligible for listing in national, state, or local preservation registers ? If so, specifically describe.

No

b. Are there any landmarks, features, or other evidence of Indian or historic use or occupation? This may include human burials or old cemeteries. Are there any material evidence, artifacts, or areas of cultural importance on or near the site? Please list any professional studies conducted at the site to identify such resources.

Unknown

c. Describe the methods used to assess the potential impacts to cultural and historic resources on or near the project site. Examples include consultation with tribes and the department of archeology and historic preservation, archaeological surveys, historic maps, GIS data, etc.

n/a

d. Proposed measures to avoid, minimize, or compensate for loss, changes to, and disturbance to resources. Please include plans for the above and any permits that may be required.

Although only surface grading is proposed the project will follow the Port of Kennewick's Inadvertent Discover protocols where any questionable

materials uncovered require ceasing activity and directly contacting the Confederated Tribes of the Umatilla Indian Reservation, and Cultural Resources protection Program office.

14. Transportation

a. Identify public streets and highways serving the site or affected geographic area and describe proposed access to the existing street system. Show on site plans, if any.

East Cochran Road.

b. Is the site or affected geographic area currently served by public transit? If so, generally describe. If not, what is the approximate distance to the nearest transit stop?

No BF Transit route serves the vicinity, however BFT Dial-A-Ride does serve the general area.

c. Will the proposal require any new or improvements to existing roads, streets, pedestrian, bicycle or state transportation facilities, not including driveways? If so, generally describe (indicate whether public or private).

n/a

d. Will the project or proposal use (or occur in the immediate vicinity of) water, rail, or air transportation? If so, generally describe. The project occurs in the general vicinity of BNSF and Union Pacific spur lines, however no impact to those lines will occur due to this project

e. How many vehicular trips per day would be generated by the completed project or proposal? If known, indicate when peak volumes would occur and what percentage of the volume would be trucks (such as commercial and nonpassenger vehicles). What data or transportation models were used to make these estimates?

f. Will the proposal interfere with, affect or be affected by the movement of agricultural and forest products on roads or streets in the area? If so, generally describe.

n/a

g. Proposed measures to reduce or control transportation impacts, if any: _____

n.a

15. Public Services

a. Would the project result in an increased need for public services (for example: fire protection, police protection, public transit, health care, schools, other)? If so, generally describe.

n/a

b. Proposed measures to reduce or control direct impacts on public services, if any.

n/a

16. Utilities

a. Circle utilities currently available at the site:

<input type="checkbox"/>	electricity
<input type="checkbox"/>	telephone

<input type="checkbox"/>	natural
<input type="checkbox"/>	sanitary sewer system

<input type="checkbox"/>	gas
--------------------------	-----

water

<input type="checkbox"/>	refuse service
<input type="checkbox"/>	other : n/a

b. Describe the utilities that are proposed for the project, the utility providing the service, and the general construction activities on the site or in the immediate vicinity which might be needed.
n/a

C. SIGNATURE

The above answers are true and complete to the best of my knowledge. I understand that the lead agency is relying on them to make its decision.

Applicant

Signature: Camila Peralta Ruiz  Digitally signed by Camila Peralta Ruiz
Date: 2025.07.28 10:09:02 -07'00'

Name of Signee Camila Peralta Ruiz

Position and Agency/Organization Administrative Assistant

Date Submitted: July 28, 2025

Legal Owner (if different than applicant)

Signature: _____

Name of Signee Larry Peterson

Position and Agency/Organization Dir, Planning & Development/Port of Kennewick

Date Submitted: _____

D. SUPPLEMENTAL SHEET FOR NONPROJECT ACTIONS

(IT IS NOT REQUIRED to use this sheet for project actions)

- Because these questions are very general, it may be helpful to read them in conjunction with the list of the elements of the environment.
- When answering these questions, be aware of the extent the proposal, or the types of activities likely to result from the proposal, would affect the item at a greater intensity or at a faster rate than if the proposal were not implemented. Respond briefly and in general terms.

1. How would the proposal be likely to increase discharge to water; emissions to air; production, storage, or release of toxic or hazardous substances; or production of noise?

a. Proposed measures to avoid or reduce such increases are: _____

2. How would the proposal be likely to affect plants, animals, fish, or marine life? _____

a. Proposed measures to protect or conserve plants, animals, fish, or marine life are:

3. How would the proposal be likely to deplete energy or natural resources?

a. Proposed measures to protect or conserve energy and natural resources are: _____

4. How would the proposal be likely to use or affect environmentally sensitive areas or areas designated (or eligible or under study) for governmental protection; such as parks, wilderness, wild and scenic rivers, threatened or endangered species habitat, historic or cultural sites, wetlands, floodplains, or prime farmlands?

a. proposed measures to protect such resources or to avoid or reduce impacts are: _____

5. How would the proposal be likely to affect land and shoreline use, including whether it would allow or encourage land or shoreline uses incompatible with existing plans?

a. Proposed measures to avoid or reduce shoreline and land use impacts are: _____

6. How would the proposal be likely to increase demands on transportation or public services and utilities?

a. Proposed measures to reduce or respond to such demand(s) are: _____

7. Identify, if possible, whether the proposal may conflict with local, state, or federal laws or requirements for the protection of the environment.

CONTRACT TO LEASE REAL ESTATE AND FACILITIES

This contract to lease real estate and facilities (CONTRACT) is made and entered into this 16th day of NOVEMBER, 1993 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).

W I T N E S S E T H:

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 employ 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 DECEMBER 1, 1994 then this Contract may be 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.

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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: George J. Jones
George J. Jones, President

By: Paul L. Vick
Paul L. Vick, Vice President

By: Gene L. Spaulding
Gene L. Spaulding, Secretary

PACIFIC RAILCAR CORPORATION

By: Michael A. Crute
President

By: Michael A. Crute
Secretary

STATE OF WASHINGTON)

: ss.

County of Benton)

On this 16th day of November, 1993,
personally appeared before me George J. Jones,
Paul L. Vick and Gene L. Spaulding, 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.

Sue Wath
NOTARY PUBLIC in and for the State of
of Washington, residing at Kennewick
My Commission Expires: 7/5/96

STATE OF WASHINGTON

)

: ss.

County of Benton

)

On this 24th day of November, 1993,
personally appeared before me Michael A. Curtis and
J.R. Walker, to me known to be the President and
Secretary, respectively, of Pacific Railcar Corporation, the
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.

Michael A. Curtis
NOTARY PUBLIC in and for the State of
of Washington, residing at Kennewick
My Commission Expires: 12/12/94

"EXHIBIT A"

L E A S E

THIS LEASE is made and entered into this 9th day of SEPTEMBER, 1993 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);

W I T N E S S E T H:

WHEREAS, the conditions of the Contract to Lease Real Estate and Facilities dated the 11th day of November, 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.

NOW THEREFORE, the Port, acting under and by virtue of the authority granted to it under the laws of the State of Washington and particularly RCW 53.04.010 et seq., leases to the Company, and the Company hires and takes from the Port the Leased Property, for the term of 20 years commencing on the 1st day of MAY, 1995 and ending on the 30th day of APRIL, 2015 (the parties agree to fill in said dates to correspond with the occupancy as described in Section 2.a.) subject to the terms, covenants, conditions and provisions of this Lease.

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. RENT: The Company shall pay as rental for the "Leased Property" as follows:

- a) The amortized amount for the Port's out-of-pocket expense for all expenses related thereto together with interest of eight percent (8%) per annum for a period of twenty (20) years on the principal balance shall be paid in installments of \$ 434.32 per month starting on the 1st day of MAY, 1995 and continuing on the same day of each and every month thereafter until principal and interest are paid in full at the end of the twenty (20) year term of this lease;
- 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 1st 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 D 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 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. WASTE ON LEASED PROPERTY: 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 maintain 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. ASSIGNMENT AND SUBLETTING: 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. EMINENT DOMAIN: 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. RIGHTS ON DEFAULT: 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. BANKRUPTCY: 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. GOVERNMENTAL REGULATIONS: 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. SECURITY FOR RENT: 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. HAZARDOUS SUBSTANCES: 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. MUTUAL ASSISTANCE: 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. INSPECTION OF LEASED PROPERTY: 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. NECESSARY PORT OPERATIONS: 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. PROTECTION OF IMPROVEMENTS AND PROPERTY: 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 estate appraisers, 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 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 arbitrators. In determining the fair market value of the 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. SECURITY FOR PORT: 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. HEADINGS AND RULES OF CONSTRUCTION: 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. NO ORAL CHANGES: 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. SEVERABILITY OF INVALID PROVISIONS: 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. EXECUTION IN COUNTERPARTS: 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: George J. Jones
George J. Jones, President Secretary *SD*

By: Paul L. Vick
Paul L. Vick, Vice President

By: Gene L. Spaulding
Gene L. Spaulding, Secretary Vice President *SD*

PACIFIC RAILCAR CORPORATION

By: Michael R. Smith
President

By: Queller
Secretary

STATE OF WASHINGTON)
: ss.
County of Benton)

On this 9th day of September, 1994,
personally appeared before me Paul Vick,
Gene Spaulding and George Jones, 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.

Steve Wirth
NOTARY PUBLIC in and for the State of
Washington, residing at Kennewick
My Commission Expires: 7/5/96

STATE OF WASHINGTON)
 : ss.
County of Benton)

On this 12 day of September, 1994,
personally appeared before me Mahdel A. Curtis and
D.R. Walker, to me known to be the President
and Secretary, respectively, of Pacific Railcar Corporation,
the 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.

Connie Kile
NOTARY PUBLIC in and for the State of
Washington, residing at Kennewick
My Commission Expires: 3-23-94

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.



INGRESS/EGRESS POINT
PER SECTION 1 OF
LEASE AGREEMENT