



PORT COMMISSION MEETING

OCTOBER 11, 2023, 8:30 A.M.
100 E STREET
COLUMBIA CITY, OR 97018

The Port Commission Meeting will be in person. In accordance with state law, the meeting will be accessible via telephone or Zoom. Members of the public may attend the meeting electronically by:

<https://us02web.zoom.us/j/88312054794>

Call-In (253) 215-8782 Meeting ID: 883 1205 4794 Passcode: 030050

I. CALL MEETING TO ORDER (President, Robert Keyser)

- A. Flag Salute**
- B. Roll Call**

II. ADDITIONS TO AGENDA

III. CONSENT AGENDA (The Board has agreed to implement a Consent Agenda. Implementation of the Consent Agenda means that all items marked with an asterisk (*) are adopted by a single motion unless a Member of the Board requests that such item be removed from the Consent Agenda and voted upon separately. Generally, Consent Agenda items are routine in nature and enable the Board to focus on other matters on the Agenda.)

- A.* Approval of Minutes; September 13, 2023, pg 3**
- B.* Financial Reports; September 2023, pg 10**
- C.* Approval of September Check Register (A) and electronic payments in the amount of \$ 452,798.36, pg 12**

IV. COMMENTS FROM VISITORS

(Limited to 2 min. per person unless prior authorization is obtained)

V. OLD BUSINESS

- | | |
|--|---------------------------------|
| A. Seely Agricultural Lease Update | Warren & Caryn Seely |
| B. Marina Update | Miriam House |
| C. Airport Update | Amy Bynum |
| No pending Through the Fence (TTF) applications | |
| D. Lignetics/Neighbors Update, pg 18 | Sean Clark |
| E. Strategic Business Plan Open Houses, pg 20 | Gina Sisco |
| North County: October 18, 2023, 4:00 pm (Rainier Senior Center) | |
| South County: October 18, 2023, 6:30 pm (Meriwether Place, St. Helens) | |

VI. NEW BUSINESS

- A. Oregon Public Ports & Legislative Update** **Mark Landauer**
- B. Resolution 2023-26, pg 21** **Amy Bynum**
APPOINTING BETSY JOHNSON TO THE AIRPORT ADVISORY COMMITTEE
- C. Resolution 2023-27, pg 25** **Lacey Tolles**
APPROVING AN OREGON STATE MARINE BOARD GRANT OF \$407,912 WITH PORT MATCH OF \$407,912 FOR UPLAND CONSTRUCTION AT SCAPPOOSE BAY MARINA
- D. Resolution 2023-28, pg 44** **Lacey Tolles**
APPROVING AN OREGON STATE MARINE BOARD GRANT OF \$485,000 WITH PORT MATCH OF \$1,455,000 FOR DREDGING AT SCAPPOOSE BAY MARINA

VII. EXECUTIVE DIRECTOR'S REPORT

VIII. COMMISSIONER REPORTS

IX. EXECUTIVE SESSION

The Board will hold an Executive Session to deliberate with persons designated to negotiate real property transactions under ORS 192.660(2)(e).

X. ADJOURNMENT

Pursuant to ORS 192.640 (1) the Port of Columbia County Commission reserves the right to consider and discuss, in either Open Session or Executive Session, additional subjects which may arise after the agenda is published.

Next Regularly Scheduled Meetings

October 25th at 6:00 p.m. Commission Work Session
with Strategic Business Plan Consultants

November 8th at 8:30 a.m. Commission Mtg.

Upcoming Events

Strategic Business Plan Open Houses:

October 18th at 4:00 p.m., **Rainier Senior Center**,
48 W. 7th St., Rainier

October 18th at 6:30 p.m., **Meriwether Place**, 1070
Columbia Blvd., St. Helens

October 30th at 11:30 a.m. Agricultural Comm. Mtg.

November 7th at 5:30 p.m. Marina Advisory Mtg.

November 27th at 5:00 p.m. Airport Advisory Mtg

Agenda times and order of items listed are estimated and are subject to change without notice. This facility is ADA-accessible. If you need special accommodation, please contact the Port office at (503) 397-2888 or TTY (800) 735-1232, at least 48 hours before the meeting.



COMMISSION MEETING MINUTES SEPTEMBER 13, 2023 100 E. STREET COLUMBIA CITY, OREGON 97018

The Port of Columbia County held a Board meeting at 8:30 a.m. on Wednesday, September 13, 2023, at the Port office and via Zoom video conferencing with the following present:

Commissioners

Robert Keyser	President
Chip Bubl	Secretary
Nick Sorber	Treasurer
Brian Fawcett	Vice President
Nancy Ward	2nd Vice President

Guests

Dan Luckett	Columbia Pacific Bio-Refinery
Steve Nelson	Lignetics
Kevin Murray	Lignetics
Betsy Johnson	Transwestern Aviation
Chris Iverson	Former Port Commissioner
Alta Lynch	Zoom
Dan Serres	Zoom
Doug Bean	Zoom
Henry Schulte	Zoom
Andrew Niemi	Zoom

Staff

Sean Clark	Executive Director
Amy Bynum	Real Estate & Bus. Dev. Mgr.
Robert Salisbury	Port General Counsel
Bob Gadotti (Zoom)	Executive Finance Mgr. (Ret.)
Miriam House	Operations Mgr.
Gina Sisco	External Affairs Mgr.
Elliot Levin	N. County Terminal Mgr.
Elizabeth Millager	Operations Coordinator
Lacey Tolles	Data Res. & Projects Spec.
Sydell Cotton (Zoom)	Assistant Finance Mgr.
Brittany Scott	Finance Assistant
Susan Tolleshaug (Zoom)	Administrative Asst.
Christa Burns	Administrative Asst. II

President Robert Keyser called the Port of Columbia County Commission Meeting to order at 8:30 a.m. All Commissioners were present.

Additions To Agenda

Robert Keyser asked the Commission if there were any additions to the agenda. There were no additions. The Airport Update was moved before the Dredging Project update.

Consent Agenda

Robert Keyser motioned to approve the consent agenda. Brian Fawcett moved; Chip Bubl seconded a motion to adopt the consent agenda items A, B & C: August 9, 2023 Minutes, Financial Reports for August 2023, and August 2023 Check Register (A) in the total amount of \$502,341.70. The motion carried unanimously.

Comments From the Public

Guest speakers will address agenda items at the time the topic is presented. Mr. Keyser asked if anyone would like to address any items not on the agenda and there were none. There were no public comments.

Old Business

Columbia Pacific Bio-Refinery (CPBR) Quarterly Update

Dan Luckett, General Manager, presented a Quarterly Update on the following: Operations, Safety & Environmental, On-site Inspections, Permits Status, Beaver Dock Berths, and CPBR Expansion Projects. CPBR has been involved with renewable diesel since 2021 and currently has 24 employees involved in ethanol transloading operations, 17 of which are union represented. As of September 8, 2023, 11,430 cars of renewable diesel have been received and offloaded, 94 trains of renewable diesel received, and 52 vessels of renewable diesel loaded and shipped. CPBR has 4,454 days (about 12 years) without a lost time injury. They are currently at MARSEC Level 1 and have had no reportable spills or incidents for the Quarter. Their annual U.S. Coast Guard inspection and ODEQ ACDP (Air Contaminant Discharge Permits) 5-Year on-site inspection were both passed with no exceptions. CPBR has also completed 247 inspections on site. 100% of unit trains received on site (477 to date) have been properly marked, and 100% of their 50,915 rail cars are inspected prior to release back to the railroads. CPBR has all federal, state, and local permits in place for current operations. Berths 1 and 2 on Beaver Dock are both being utilized, and they are working with the Port and other interested parties to develop an ongoing maintenance plan. CPBR continues to develop renewable fuels expansion projects per evolving business opportunities. Mr. Luckett said they fully appreciate the ongoing support shown by the Port to CPBR and asked if there were any questions. Robert Keyser inquired whether they continue to maintain permitting for ethanol production and Mr. Luckett replied that they do. They have also applied for a renewable diesel permit through the Department of Environmental Quality (DEQ). Brian Fawcett asked if they are currently loading just articulated tug barges (ATBs) and Mr. Luckett responded no. They typically load medium range tank ships (MRs). The ATBs they are loading now are vessels shipped by the client to the Portland market. The Commission thanked Mr. Luckett.

Airport Update

Amy Bynum, Deputy Executive Director for the Port, informed the Commission that the Port has not received any Airport Use Permit applications or requests, and nothing is pending. Ms. Bynum met with a consultant and aviation industry expert, Aron Faegre, and she also reached out to EcoNW to discuss a possible personal services contract with them to revise the Scappoose Airport Policies & Rules, Airport Fee Schedule, and Minimum Standards resolutions. Ms. Bynum wants to ensure our standards align with current Federal Aviation Administration (FAA) & Oregon Department of Aviation (ODAV) rules. For the generator project, The Port has received a 100% finalized invitation to bid document from Century West, which will be posted for public bid later this month. The Airport Advisory Committee will meet on Sept 25, 2023, at 5:00 P.M. Lacey Tolles will be covering for Amy Bynum at the airport during Ms. Bynum's parental leave. Ms. Bynum opened the discussion to questions or comments. Nick Sorber would like to address the hangars directly across from Transwestern Aviation on the next agenda. Mr. Sorber stated the Port needs to look at demolishing and rebuilding or replacing the hangars to avoid dilapidation. He is open to suggestions and thinks this would be a lower-budget project. Nancy Ward asked how soon we can expect the work with Mr. Faegre to be completed and Ms. Bynum responded that the Port is hopeful it can be completed by the end of the year. The documents needing revision are not particularly large and the existing framework can be built upon. Robert Salisbury, Port General Counsel, mentioned looking at comparable airports run by other ports such as Astoria, Hillsboro, Troutdale, and Aurora. He suggested the Port seek input from our Fixed Based Operator (FBO), Transwestern Aviation. Robert Keyser agreed that rebuilding the hangars sounds great, but he said it should be two separate projects. Mr. Sorber emphasized that it needs to be addressed soon. Ms. Bynum asked the Commission about getting demolition quotes for the next Commission meeting. Ms. Bynum updated the Commission on the status of the Invitation To Bid documents for the Emergency Generator project through the ODAV grant. The project is not complicated but

has a lot of stipulations in terms of having someone with expertise who can work at an airport. In the past, the Port had a provision that mentioned local preference. Mr. Salisbury advised that local preferences are more complicated than state preferences but are reflected in our rules and favored by the Commission. Ms. Bynum stated that the Port has listed local preferences in similar contracts. Mr. Sorber inquired whether the Port is reaching out to local companies. Ms. Bynum explained that the Port is trying a new online platform bidding system similar to a social media post that will proliferate out to more bidders and there is nothing that would prevent the Port from using a local business. Mr. Sorber would prefer to hire someone local. Mr. Fawcett said keeping money in the local community is good in general. Ms. Ward agreed.

Dredging Project Update

Miriam House, Port Operations Manager presented the Commission with good news on the dredging project sampling plan, which has been approved by the Portland Sediment Evaluation Team (PSET) and is almost complete except for two areas of the dredge zone near the kayak area where the fingers go toward the shoreline. That area could not be reached by large boat due to shallow, muddy water. A smaller boat is needed to have those samples collected and then sent out for analysis. Sean Clark noted we will not hit the window for dredging this year.

Marina Improvement Project Update

Miriam House also reported that the upland phase is moving along on time and as mentioned during the last Commission meeting on August 9, 2023, there was a cost reduction of \$160,000. The Port has just received a permit from the Department of State Lands for the in-water work. Other permits for stormwater, county floodplain, water quality certification, and biological assessment are in review but are still within our timeline.

Lacey Tolles, Data Research and Projects Specialist gave the Commission two updates on projects at the Scappoose Bay Marina. The Marina Advisory Committee met last week, and Branden Staehely from Columbia River PUD (CRPUD) was in attendance. Ms. Tolles did not attend but informed the Commission that the advisory committee gave their stamp of approval to move forward on the Electric Vehicle Charging Stations. Mr. Staehely will send the Port an easement document, and Ms. House, Ms. Tolles and Mr. Staehely will discuss the size and location. The Port will be submitting a competitive grant proposal on Friday September 15, 2023 for an American Disabilities Act (ADA)-approved paddle craft launch at the marina requesting \$165,000. The Travel Oregon Grant will give up to \$100,000 without requiring a match. Ms. Tolles asked if there were any questions. Nick Sorber asked if there is a way to dredge the smaller inlet area and how problematic it would be for the permit. Ms. House brought it up with the engineers and it is in review and being considered. Mr. Clark replied that for this permit it would be problematic because the area is shallow and has a lot of cubic yardage, but the Port can apply next time. Nancy Ward mentioned the low water level and asked if there are problems in any other areas. Ms. House responded there have been no reported problems and the regular marina users are accustomed to the dropping water levels. Ms. Ward asked if the removal of broken piles could be included in this project, and Ms. House responded not at this juncture due to the permit process. Ms. Ward stated the project seems practical.

Lignetics/Neighbors Update

Port Executive Director, Sean Clark provided an update on Lignetics Group and the Columbia City Neighbors. Mr. Clark included in the Executive Director's report the neighbors' key points from the August 21, 2023 meeting held between Lignetics, the Port and the local community. Also included is Lignetics' response letter outlining what they have done and what they continue to do to address the neighborhood's concerns. Some of the local citizens also met on September 12, 2023 at the Columbia City Community Center for a neighborhood meeting. The Port did not receive an invitation to attend. Mr. Clark will reach out to local community member Jan

Schollenberger to follow up. Mr. Clark then welcomed Steve Nelson, Plant Manager, and Kevin Murray, Operations Director, from Lignetics. Mr. Nelson informed the Commission that the main capital projects have been approved by the Lignetics board, including three equipment upgrades. These include a scrubber replacement, cyclone replacement and transformer upgrade. In addition, they have rerouted their sprinkler system and Mr. Murray has secured a mist blaster system like those used in mining operations to keep dust down. They have already tested one, and there are four more on the way. Mr. Nelson stated they have made good gains over the last several weeks and intend to take care of the bigger issues as well. Ms. Ward asked if they had noticed a difference, to which Mr. Nelson replied with the dust pile, yes. This is due to keeping the dust pile smaller and rerouting the sprinkler for better coverage. The sprinkler heads are now permanently mounted on the back wall, rather than being portable and moved around on pallets. The mist blaster-style system works but is in a small area which is why they have more of those coming. It atomizes the water differently to grab onto the sawdust during the chipping process. Brian Fawcett asked if there is a way to measure these improvements and stated it would be nice to have some concrete information to show results. Chip Bubl asked how they got the numbers in the Department of Environmental Quality (DEQ) report, and whether the numbers are accurate regarding their emissions. Mr. Nelson replied that it is based on the amount of material they are processing. Mr. Bubl is concerned that, based on the numbers, Lignetics is significantly over the DEQ limit in several categories and, as the lessor, the Port has an obligation that Lignetics will be operating at those limits and wants to know how they will get there. Mr. Murray stated that the old scrubbing system is being replaced, and the numbers are based on the performance of the scrubber. Mr. Bubl said the rain washes a lot of it away in seven months of the year, but that does not help with the other five months. He also mentioned potential health issues stating as the lessor the Port has some potential liability, and this needs to be done very quickly. Mr. Nelson said Lignetics is going through a permit review with DEQ, and they will follow up on the review of the new system as well. Mr. Bubl asked if the public could comment on that, and whether it is open now. Mr. Nelson responded yes there is a public comment period, and it will be open at the end of the year around December, after Lignetics' permit application is reviewed. Mr. Bubl asked who in Lignetics is working on that, and Mr. Nelson responded Eric Laurance, Lignetics Health & Safety Director. Ms. Ward would like to know the process when those numbers go in to DEQ. Mr. Nelson stated he is not familiar with the process and said Mr. Laurance is the expert on that. Ms. Ward discussed the history of the situation, DEQ's expectations, and how Lignetics and DEQ together process the numbers that are submitted. Mr. Nelson said DEQ came out and participated in the neighborhood meetings with Lignetics last year. Mr. Bubl then inquired whether DEQ had any concerns, and Mr. Nelson responded they were meeting their permit requirements at that time. Mr. Clark pointed out that it is based on the total at the top of the table in that category. Mr. Fawcett asked if the DEQ report was in the packet and Mr. Clark informed him it is on the DEQ website. Mr. Salisbury added, in terms of the lease, there is a 'compliance with all laws' section, and an environmental section that allows us the ability to conduct a special audit for environmental purposes that we might want to consider and monitor. Ms. Ward said we should be relying on DEQ, but we need to do it ourselves if we cannot rely on DEQ to enforce their own rules. Mr. Keyser stated he understands Lignetics is doing its due diligence, and the renewal of the permit is an optimal time for the Port to work together with Lignetics and DEQ to ensure safety and treat the neighbors well. Lignetics needs to find a plan on how to operate that way, and the Port will work with them on the lease terms if necessary. The goal is to keep local jobs and keep the neighborhood healthy, and now is the ideal time with the lease renewal. Mr. Keyser asked that Lignetics keep the Port well-informed on the DEQ process and be prepared to be a public commenter. He added it is the Port's intent to make sure Lignetics can do its job safely and comply with the lease. Brian Fawcett asked about the timeline on the scrubber and cyclone projects. Mr. Murray replied that they have assigned a project engineer, and looking at the overall timeline there is a design element that must dovetail into the DEQ process, and then fabrication. So, his

best guess is sometime in the third Quarter of next year (2024). Lignetics will do everything they can to expedite it and will also provide the Port with a timeline. Mr. Fawcett encouraged Lignetics to put together a process to measure the difference when these projects are implemented, because right now it seems subjective. Mr. Fawcett is interested in what the scrubber improvement, specifically, is going to change. Mr. Keyser is interested to know if DEQ will approve of this new scrubber system and what their expectations will be. Mr. Nelson responded that any discharge from the site must be approved by DEQ. Mr. Keyser said that if DEQ says the scrubber is going to perform, that means a lot to the conditions of the lease. Mr. Bubl asked how outputs are being measured if they are using a model rather than actual measurements, and how they check to see if that model makes sense. Mr. Nelson responded that it is up to DEQ to decide. Mr. Murray asked for a copy of the DEQ report so he can provide more background on it. Mr. Fawcett also asked for a copy and Mr. Clark informed them he would include it in his Executive Director's report.

Scheduling Portland General Electric (PGE) Meeting on Port Westward Use Agreements with PGE, NEXT, and CPBR

Elliot Levin, North County Terminal Manager presented a PowerPoint presentation on Port Westward Use Agreements. The parties to these agreements are NEXT Renewable Fuels, PGE, CPBR, and the Port of Columbia County. For the past few years, the Port has been working to add NEXT to the Port Westward Use Agreements and to create or update the necessary easements. Recent progress has been made between NEXT and CPBR, but PGE has not been as responsive with their comments on the draft agreements. The Port proposed an all-party meeting to address this and move things forward. Last week, PGE confirmed their availability to meet on October 17 and 18, 2023. Decision makers from PGE, NEXT, and CPBR are expected to attend. Mr. Levin displayed aerial pictures of the sites at Port Westward, highlighting the NEXT project site, Port Westward 1 & 2, the tank farms, and various current and future infrastructure on the site. He then explained the two categories of agreements: Easements and Use Agreements. Easements include construction access, utility easements, pipeline/primary access, and emergency access. Use Agreements allocate available capacity between the users, include provisions for allocating maintenance costs, and provide rules governing the various operation and maintenance committees. These Use Agreements include Dock Use, Rail Lead, Water Intake, Water Discharge, and the Hermo Road Extension. Mr. Levin informed the Commission that while these are long and complicated agreements, the Port is hopeful the upcoming meeting will complete some of the agreements and move the others forward.

New Business

Ordinance 2023-02 (Second Reading)

AMENDING PORT PUBLIC CONTRACTING RULES REGARDING PERSONAL SERVICES CONTRACTS

Mr. Salisbury presented Ordinance 2023-02 for a Second Reading to amend Port public contracting rules regarding personal services contracts. He noted there was already a robust discussion about this topic at the 1st reading on August 9, 2023. The essential main points for personal services contracts are they deal with experts and specialists like accountants, attorneys, engineers, and architects; and the legislature has given local governments broad discretion to adopt their own rules. The Executive Director will notify the Commission in advance anytime spending exceeds \$50,000 and the Executive Director will also notify the Commission in a public meeting of any spending over \$50,000 on personal services contracts. Brian Fawcett moved; Nick Sorber seconded a motion to approve Ordinance 2023-02. Motion carried unanimously 5-0.

Resolution 2023-23**APPOINTING CLAYTON EVELAND TO THE AIRPORT ADVISORY COMMITTEE**

Amy Bynum presented the Resolution.

Brian Fawcett moved; Nick Sorber seconded a motion to adopt Resolution 2023-23, appointing Clayton Eveland to the Airport Advisory Committee. Motion carried unanimously 5-0.

Resolution 2023-24**ALLOWING AIRPORT USE PERMITS TO BE ISSUED FOR 30 YEARS**

Amy Bynum presented the Resolution, indicating that Port staff have received feedback from prospective Airport Use Permit applicants that the 15-year period imposed in the current Resolution 2005-003 is too short and does not match current financial circumstances. The resolution extends the term length from 15 to 30 years and guarantees to applicants that the length of the term would not be a burden to gaining funding. Betsy Johnson spoke in support of the Resolution, recognizing the Port's decisiveness in making this important change as it will be an incentive for more investment at the airport. Ms. Johnson also thanked the Port for honoring Diane Dillard in a Celebration of Life on September 30, 2023, at Scappoose Airport. Ms. Johnson acknowledged the Port's community partnership and helpfulness in making the celebration in honor of Ms. Dillard come together so rapidly.

Brian Fawcett moved; Nick Sorber seconded a motion to adopt Resolution 2023-24, extending Airport Use Permits including Through the Fence (TTF) from fifteen to thirty years. Motion carried unanimously 5-0.

Resolution 2023-25**APPROVING A FIRST AMENDMENT TO THE STELLA-JONES LEASE AT MULTNOMAH INDUSTRIAL PARK**

Amy Bynum presented the Resolution.

Nick Sorber moved; Chip Bubl seconded a motion to adopt Resolution 2023-25, approving a First Amendment to the Stella-Jones Lease at Multnomah Industrial Park altering their depiction but not the square footage of the Leasehold. Motion carried unanimously 5-0.

Executive Director's Report

Provided and read by Sean Clark. The Report is on file at the Port Office.

Commissioner Reports

Chip Bubl said he spent some time reading the DEQ reports. Robert Keyser replied he hopes we can track and be on the same page with DEQ going forward. Mr. Bubl agreed and stated that Lignetics' explanation as to how those numbers were arrived at and how those numbers are being monitored by DEQ was interesting.

Brian Fawcett virtually attended the Scappoose Bay Marine Park Advisory Committee meeting and continues to be impressed by the Port staff's preparation for that meeting. He also stated the committee members are very engaged, prepared, and thoughtful. There are a lot of good discussions with good outcomes. He is happy with how that committee is operating.

Nick Sorber said the aerial pictures of Port Westward were great. He enjoyed being out at the airport recently and getting to know the area and hopes the Port can move forward on the projects there.

Nancy Ward appreciated Port staff getting the Agenda Packet out early. She also said it was nice to see former Commissioner Chris Iverson in the audience and thanked him for attending. She took a tour with Mike Dennis of Oregon Aero and said it was fascinating and worthwhile. Ms. Ward

appreciates the way the community has been working with Lignetics. She also had a meeting with Andrew Niemi from the Agriculture Committee, and they are moving in the direction of working with meat processing. Mr. Niemi works with meat processors in Washington and has a lot of information to provide. She emphasized his gratifying commitment and partnership with the Port.

Robert Keyser agreed the community of Columbia City and Lignetics have been communicating respectfully and working well together. He welcomed the community to come to the Port anytime and be on our Agenda, but hopefully the Lignetics process will work to make further improvements. Mr. Keyser said he was also stunned at the loss of both Diane Dillard and the former Mayor of Clatskanie, Diane Pohl.

Executive Session

The Board held an Executive Session to deliberate with persons designated to negotiate real property transactions under ORS 192.660(2)(e), and to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed under ORS 192.660(2)(h).

**THERE BEING NO FURTHER BUSINESS BEFORE THE COMMISSION THE MEETING
ADJOURNED AT 11:29 A.M.**

President

October 11, 2023

Date Adopted by Commission

Secretary



Finance Update September 2023

STAFF REPORT

DATE: October 11, 2023
TO: Commission Board
FROM: Guy Glenn
Executive Finance Manager
RE: Finance Update as of September 30, 2023

Discussion:

This agenda item is a preliminary report of the Port's current financials as of September 30, 2023.

Cash and Investments: \$10,165,098.

YTD Revenues Collected: \$1,784,706, which is 21.8% of the annual budget of \$8,169,368.

YTD Expenses: \$1,160,700, which is 7.1% of the annual budget of \$16,263,413. The annual expense budget includes \$3,062,743 of contingency that will not be utilized.

September 2023 checks and electronic payments issued totaled \$452,798.36.

September Highlights

2022-2023 Audit in process - to be completed in October. Continued transitioning and training with Bob Gadotti. Bank of the West conversion to BMO. Admin/Finance staff check-ins; onboarding new maintenance employee. IT and HR administrative coordination. SDAO risk management meeting. Preparing for PWW O&M budget process. Will be attending Oregon Economic Development Association and Oregon Government Financial Officers Association conferences in October.

Income Statement							
For the period ending							
September 30, 2023							
			Current Actual	Yr To Date Actual	Annual Budget	% Remaining	Prior YTD Actual
Resources							
Property Taxes			411	1,156	10,000	88.4%	1,398
Licenses and Permits			45,378	137,243	607,905	77.4%	140,191
Rents and Reimbursements			358,077	1,212,346	5,539,770	78.1%	1,163,062
Terminal Services			61,057	219,720	718,925	69.4%	73,361
Bayport RVPark			11,325	35,771	161,757	77.9%	39,554
Parking Fees			5,961	15,848	35,191	55.0%	15,498
Launch Fees			8,470	17,780	59,264	70.0%	14,216
Other Marina Fees			135	800	6,556	87.8%	1,101
Grants			-	22,250	400,000	94.4%	7,035
Loan Proceeds			-	-	400,000	100.0%	-
Interest Earnings			36,927	105,975	200,000	47.0%	32,347
InterGovernmental Income			-	-	-	0.0%	-
Contributions			-	-	-	0.0%	-
Miscellaneous Income			4,436	15,818	30,000	47.3%	5,405
						0.0%	
Total Resources			532,177	1,784,706	8,169,368	78.2%	1,493,168
						0.0%	
						0.0%	
Requirements						0.0%	
						0.0%	
Personnel Services			161,122	555,513	2,824,265	80.3%	463,174
Materials and Services			151,543	433,859	2,295,741	81.1%	294,164
Capital Outlay			79,227	144,526	7,295,000	98.0%	121,960
Debt Service			26,801	26,801	785,664	96.6%	53,602
Contingency			-	-	3,062,743	100.0%	-
						0.0%	
Total Requirements			418,694	1,160,700	16,263,413	92.9%	932,900
						0.0%	
Ending Fund Balance			113,483	624,007	-	0.0%	560,268

**Port of Columbia County
Vendor Check Register Report - A**

Check Number	Vendor ID	Vendor Name	Check Date	Document Amount	Voided
44268	BUBL001	Chip Bubl	9/7/2023	\$150.00	No
44269	FAWC001	Brian Fawcett	9/7/2023	\$150.00	No
44270	KEYS001	Robert Keyser	9/7/2023	\$150.00	No
44271	SORB001	Nick Sorber	9/7/2023	\$150.00	No
44272	VOYA001	Voya - State of Oregon	9/7/2023	\$3,915.00	No
44273	WARD001	Nancy Ward	9/7/2023	\$150.00	No
44274	BMO0001	BMO Financial Group	9/7/2023	\$7,654.85	No
44275	BREC001	Breckenridge Storefronts & Entrances	9/7/2023	\$30.00	No
44276	BYNU001	Amy Bynum	9/7/2023	\$515.39	No
44277	CARQ001	General Parts Distribution	9/7/2023	\$61.43	No
44278	CINT001	Cintas First Aid & Safety	9/7/2023	\$628.38	No
44279	CINT002	Cintas Corporation No 3	9/7/2023	\$39.09	No
44280	CITY001	City of Columbia City	9/7/2023	\$267.19	No
44281	CITY005	City of Clatskanie	9/7/2023	\$82.01	No
44282	CLAT002	Clatskanie PUD	9/7/2023	\$553.25	No
44283	COMC001	Comcast	9/7/2023	\$90.63	No
44284	CONN001	Connecta Satellite Solutions LLC	9/7/2023	\$89.56	No
44285	DONS001	Dons Rental	9/7/2023	\$184.00	No
44286	FAWC001	Brian Fawcett	9/7/2023	\$55.02	No
44287	FINE001	Encore Business Solutions	9/7/2023	\$450.00	No
44288	FPRE001	F. Preston	9/7/2023	\$2,800.00	No
44289	HUDS002	Hudson Portable Toilet Service	9/7/2023	\$265.00	No
44290	LOOPN001	LoopNet	9/7/2023	\$738.00	No
44291	METR002	MetroWatch	9/7/2023	\$2,596.25	No
44292	MYSY001	My System Shield LLC	9/7/2023	\$2,350.00	No
44293	OREI001	O'Reilly Auto Enterprises LLC	9/7/2023	\$328.71	No
44294	PACI005	Pacific Office Automation	9/7/2023	\$357.00	No
44295	PAUL001	Paulson Printing	9/7/2023	\$716.00	No
44296	QUIL001	Staples Inc dba	9/7/2023	\$179.92	No
44297	RAIL001	Railroad Management	9/7/2023	\$344.67	No
44298	SDIS001	SDIS	9/7/2023	\$876.24	No
44299	SOLU001	Solutions Yes, LLC	9/7/2023	\$51.78	No
44300	SUNS001	Sunset Auto Parts	9/7/2023	\$144.06	No
44301	SUPP002	SupplyWorks	9/7/2023	\$6.36	No
44302	WAST002	Waste Management of OR, Inc.	9/7/2023	\$33.45	No
44303	WILC001	Wilson Oil Inc dba	9/7/2023	\$1,021.83	No
44304	ZIPL001	Ziply Fiber	9/7/2023	\$120.86	No
44305	AMBI001	Ambient IT Solutions	9/14/2023	\$1,307.00	No
44306	ATTM001	AT&T Mobility	9/14/2023	\$1,130.39	No
44307	CENT001	CenturyLink	9/14/2023	\$235.80	No

44308	CITY003	City of St. Helens	9/14/2023	\$1,941.00	No
44309	CSAP001	CSA Planning Ltd.	9/14/2023	\$28,480.48	No
44310	DAHL001	VASA Hldgs LLC dba	9/14/2023	\$488.36	No
44311	HUDS001	Hudson Garbage Service	9/14/2023	\$1,012.60	No
44312	HUDS002	Hudson Portable Toilet Service	9/14/2023	\$402.00	No
44313	PNWA001	Pacific Northwest Waterways Association	9/14/2023	\$450.00	No
44314	STEL001	Richard Stellner	9/14/2023	\$2,996.41	No
44315	SUNS002	watkins Tractor & Supply dba	9/14/2023	\$530.00	No
44316	TVW0001	TVW	9/14/2023	\$884.75	No
44317	WARD001	Nancy Ward	9/14/2023	\$89.08	No
44318	BUSI001	Business Oregon	9/21/2023	\$2,967.36	No
44319	HELL001	Rob Heller	9/21/2023	\$227.40	No
44320	MACK001	Mackenzie	9/21/2023	\$723.65	No
44321	METR002	MetroWatch	9/21/2023	\$4,030.00	No
44322	SCAP002	Scappoose Sand and Gravel	9/21/2023	\$75.76	No
44323	SHER001	Sherwin-Williams	9/21/2023	\$28.78	No
44324	ACEH001	Ace Hardware - St Helens	9/21/2023	\$486.47	No
44325	ACEH002	Ace Hardware - Scappoose	9/21/2023	\$41.34	No
44326	AMBI001	Ambient IT Solutions	9/21/2023	\$962.50	No
44327	BUSI001	Business Oregon	9/21/2023	\$23,833.59	No
44328	CABL001	Cable Huston	9/21/2023	\$8,732.00	No
44329	CENT001	CenturyLink	9/21/2023	\$98.55	No
44330	CHAR001	Charter Communications	9/21/2023	\$217.04	No
44331	CINT002	Cintas Corporation No 3	9/21/2023	\$117.27	No
44332	COLU026	Columbia County Transfer Station	9/21/2023	\$37.90	No
44333	FINE001	Encore Business Solutions	9/21/2023	\$506.25	No
44334	KIWA001	Kiwanis Club of St. Helens	9/21/2023	\$135.00	No
44335	KOLD001	Culligan	9/21/2023	\$40.85	No
44336	NWNA001	NW Natural Gas Company dba	9/21/2023	\$80.98	No
44337	QUIL001	Staples Inc dba	9/21/2023	\$99.94	No
44338	SHRE001	Shred Northwest, Inc	9/21/2023	\$120.00	No
44339	SIER001	Sierra Springs	9/21/2023	\$42.16	No
44340	TCMS	Trotter & Morton	9/21/2023	\$646.00	No
44341	VOYA001	Voya - State of Oregon	9/21/2023	\$3,915.00	No
44342	WILC001	Wilson Oil Inc dba	9/21/2023	\$585.30	No
44343	CENT002	Century West Engineering	9/28/2023	\$55,704.46	No
44344	BLUE001	Blue Heron Septic and Drain Service	9/28/2023	\$4,500.00	No
44345	CENT003	CenturyLink	9/28/2023	\$53.66	No
44346	CINT002	Cintas Corporation No 3	9/28/2023	\$39.09	No
44347	CITY002	City of Scappoose	9/28/2023	\$2,363.36	No
44348	CITY003	City of St. Helens	9/28/2023	\$35,231.48	No
44349	CLAT002	Clatskanie PUD	9/28/2023	\$28.00	No
44350	COLU008	Columbia River PUD	9/28/2023	\$3,453.99	No

44351	COLU011	Columbia County Dept.of Community Justice Adult Divis	9/28/2023	\$1,500.00	No
44352	COMC001	Comcast	9/28/2023	\$2,370.48	No
44353	FERG001	Ferguson US Holdings, Inc dba	9/28/2023	\$488.92	No
44354	KERN001	Kern & Thompson LLC	9/28/2023	\$4,000.00	No
44355	MYSY001	My System Shield LLC	9/28/2023	\$1,088.62	No
44356	NORW001	Norwest Engineering, Inc	9/28/2023	\$1,615.00	No
44357	NWNA001	NW Natural Gas Company dba	9/28/2023	\$33.22	No
44358	OREG004	Oregon Department of State Lands	9/28/2023	\$957.00	No
44359	OREG017	Oregon Government Finance Officers Association	9/28/2023	\$525.00	No
44360	PORT002	Portland General Electric	9/28/2023	\$6,888.34	No
44361	QUIL001	Staples Inc dba	9/28/2023	\$8.99	No
44362	SCAP002	Scappoose Sand and Gravel	9/28/2023	\$307.58	No
44363	STAN002	The Standard	9/28/2023	\$2,081.84	No
44364	SUPP002	SupplyWorks	9/28/2023	\$246.02	No
44365	WILC001	Wilson Oil Inc dba	9/28/2023	\$223.82	No
44366	WSPU001	WSP USA Inc	9/28/2023	\$21,551.49	No
99			SubTotal	\$262,255.25	

Electronic Withdrawals

WD5618		ADP Payroll Fees	9/1/2023	\$177.33	No
WD5630	ADP001	ADP PAYROLL	9/8/2023	\$65,286.71	No
WD5632		CARDINAL SERVICE	9/8/2023	\$1,821.60	No
WD5645		ADP Payroll Fees	9/15/2023	\$161.35	No
WD5657		PERS	9/12/2023	\$20,685.12	No
WD5658	ADP001	ADP PAYROLL	9/21/2023	\$64,168.22	No
WD5663		REGENCE	9/25/2023	\$36,024.21	No
WD5669		PERS	9/27/2023	\$194.07	No
WD5670		CARDINAL SERVICES	9/27/2023	\$2,024.50	

SubTotal \$190,543.11

Total \$452,798.36

Sent to P/O
copy

REVIEWED BY:

۲

Date of Request 09.09.2023

PASTED

SPC

RECEIVED
SEP 11 2023

600-6705-01-011

August 2023

copy to p/r

PORT OF COLUMBIA COUNTY
Request for Reimbursement and Commissioner Stipend

REVIEWED BY:

It is the policy of the Port of Columbia County to reimburse commissioners for legitimate expenses made or costs incurred by commissioners in the course of conducting Port business. All requests for reimbursement must include receipts or other adequate documentation. Vehicle reimbursement may be made for the use of a personal vehicle for official business only.

Commissioner Ward

Date of Request 09.09.2023

Date	Description	Meeting Stipend	Expense or Mileage Reimbursement				Total
			Miles Driven	2023 Rate	Mileage	Meals and Other	
08.06.2023	Agenda Packet Review & Mtg Prep	\$ 50.00		0.6550			
08.08.2023	Scappoose EDC @ City Council	\$ 50.00	6	0.6550	\$ 3.93		\$ 3.93
08.09.2023	Board Meeting	\$ 50.00	26	0.6550	\$ 17.03		\$ 17.03
08.11.2023	Shaver/Women in marine Industry	\$ 50.00	32	0.6550	\$ 20.96		\$ 20.96
08.17.2023	PNWA Monthly Online Meeting	\$ 50.00		0.6550	\$ -		\$ -
08.21.2023	Lignetics/Neighbors Meeting	\$ 50.00		0.6550	\$ -		\$ -
August	Misc phone calls	\$ 50.00		0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
				0.6550	\$ -		\$ -
TOTAL REQUESTED REIMBURSEMENT		\$ 350.00		\$ 41.92	\$ -		\$ 41.92

5 PC

I certify that the expenses sought to be reimbursed were incurred in the course of official PORT business and were paid by me from my own funds. I affirm the accuracy of this information.

600-6705-01-011

Nancy Ward
Signature

POSTED

RECEIVED
SEP 11 2023

BY:



**LIGNETICS
GROUP**

EXPANDING SUSTAINABLE POSSIBILITIES

11101 W. 120th Ave., Suite 200
Broomfield, CO 80021

Date: September 29, 2023

To: Jan Schollenberger

Re: Lignetics Operations in Columbia City

Cc: Kim Karber, interim Columbia City Administrator
Sean Clark, Executive Director, Port of Columbia City

This is a follow up note to the meeting that was held on September 14, 2023 in Columbia City, OR. In that meeting, I committed to providing a high-level project update on the projects that we discussed that we believe will provide a much-improved operating system at the plant that will be beneficial to the residents of Columbia City. In that meeting, we discussed replacing / upgrading our wet scrubber and cyclone that is an integral part of our drying system. Also, we discussed upgrading our current hammermill to allow for the elimination of the dried furnish screener which has potential for dust production.

As mentioned in the meeting, Lignetics has assigned Tanager Karchenes as the project manager to oversee the implementation of these projects. Tanager is an experienced project manager who is currently overseeing a similar project in Wisconsin. Tanager has developed the 2 project schedules below. As you will note, a critical element of the schedule is the permitting process which affects all of these projects. Unfortunately, the timing of this element is not entirely within our control, therefore, there is some risk (and potential opportunity) to the overall project schedule.

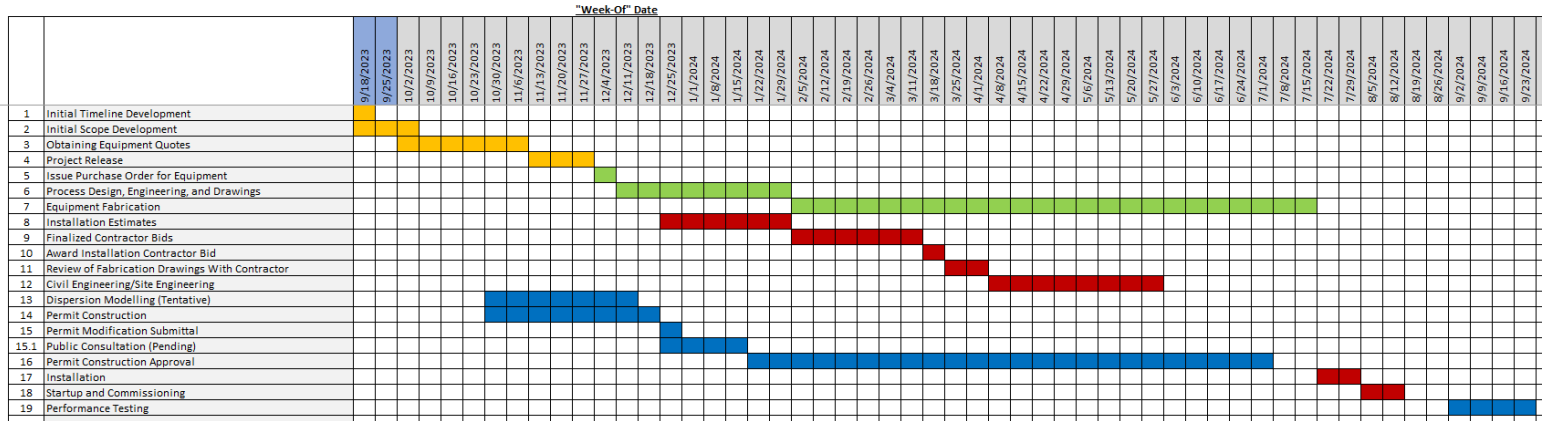
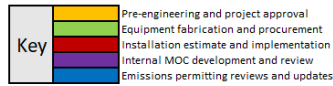
Again, Lignetics is grateful for the opportunity to engage the community on these very important matters and is looking forward to the positive impact its capital investments will provide in the coming year. As always, Lignetics welcomes the opportunity to engage with the community and will continue to provide updates as the projects proceed.

Thank you,

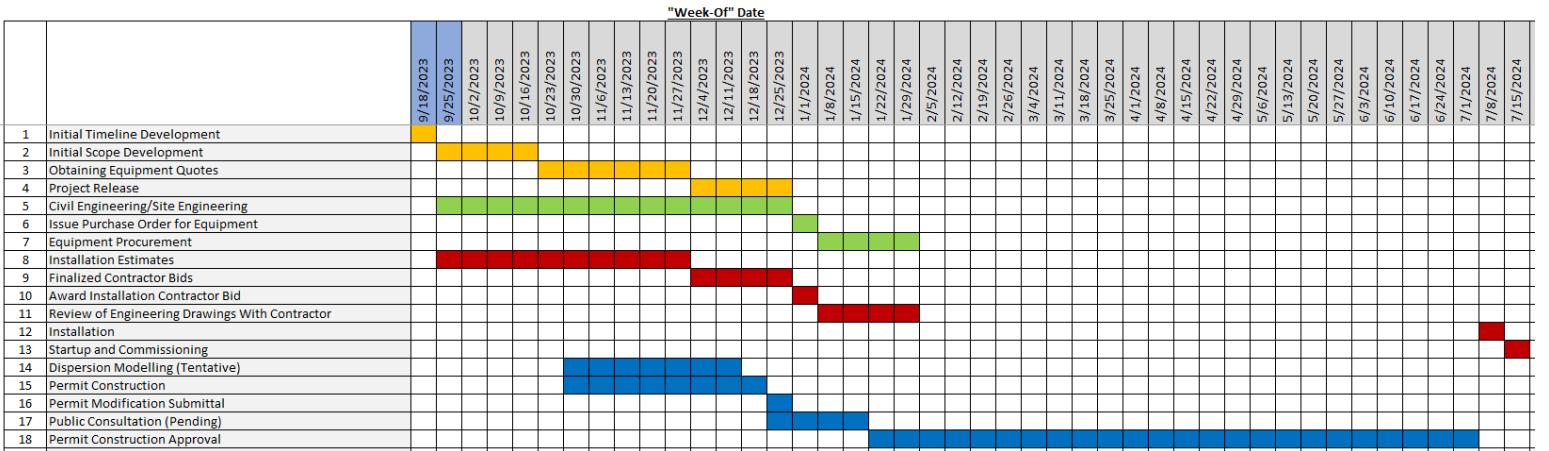
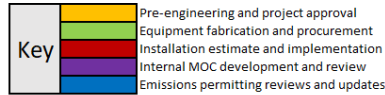
Mike Sale

VP of Operations

Estimated Timeline:
10865 - Columbia City - Cyclone and Scrubber Replacement



Estimated Timeline:
XXXXX - Columbia City - Hammermill





Strategic Business Plan Update **COMMUNITY OPEN HOUSES**

The Port of Columbia County is updating its Strategic Business Plan to guide development at the Port over the next 5 to 10 years.

Join us as we share information and seek community input to guide the planning process.

NORTH COUNTY OPEN HOUSE

Wednesday, October 18, 2023

4:00 PM-5:30 PM

Rainier Senior Center
48 W 7th St, Rainier, OR

SOUTH COUNTY OPEN HOUSE

Wednesday, October 18, 2023

6:30 PM-8:00 PM

Meriwether Place
1070 Columbia Blvd., St. Helens, OR



Unable to attend? Provide your input via the online survey available at www.surveymonkey.com/r/6KJHZ3B



This project is funded in part by the Business Oregon Infrastructure Finance Authority through the Port Planning and Marketing Fund.



Resolution 2023-26 STAFF REPORT

Scappoose Airport Advisory Committee Appointment of Betsy Johnson

DATE: October 11, 2023

TO: Board of Port Commissioners

FROM: Amy Bynum, Deputy Executive Director

RE: Appointment of Betsy Johnson to Scappoose Airport Advisory Committee

Discussion

The Port of Columbia County maintains a volunteer advisory committee for the Scappoose Airport. Advisory committees have authority to recommend actions to the Port but may not obligate the Port in any way. Advisory committees have no legal authority and therefore, all their responsibilities are assigned at the discretion of the Executive Director, his designee or by the Port Commission.

The Committee currently has two vacancies. Betsy Johnson submitted an application which was reviewed at the most recent advisory committee meeting on September 25th, 2023. After a discussion of Ms. Johnson's interest and background, which includes many years of aviation industry expertise, the airport committee unanimously voted to recommend Ms. Johnson to join the advisory board.

After appointment by the Port Commission, Scappoose Airport Advisory Committee members serve for three years. If approved, Ms. Johnson's term will be up for renewal in October 2026.

Recommendation

Adoption of Resolution 2023-26 appointing Betsy Johnson to the Scappoose Airport Advisory Committee.

RESOLUTION NO. 2023-26

A RESOLUTION TO APPOINT BETSY JOHNSON TO THE SCAPPOOSE AIRPORT ADVISORY COMMITTEE

WHEREAS, the Port of Columbia County maintains a volunteer Advisory Committee for matters related to the Scappoose Airport and there are currently two openings on the Committee for new members; and

WHEREAS, Advisory Committees may recommend actions to the Port Commission. All responsibilities of Advisory Committees are assigned at the discretion of the Executive Director or his designee or the Port Commission; and

WHEREAS, Betsy Johnson applied and the application was reviewed by the members of the Advisory Committee at their most recent meeting; and

WHEREAS, the Committee and Port Staff recommend that Betsy Johnson be appointed by the Port Commission to fill one of the open positions for a term of three years; now, therefore,

BE IT RESOLVED by the Board of Commissioners of the Port of Columbia County as follows:

Betsy Johnson is hereby appointed to the Scappoose Airport Advisory Committee.

PASSED AND ADOPTED this 11th day of October 2023 by the following vote:

AYES: _____ **NAYS:** _____

ABSTAIN: _____

PORT OF COLUMBIA COUNTY

By: _____
President

Attested By:

Secretary



P.O. Box 190
Columbia City, OR 97018
(503) 397-2888

Scappoose Airport Advisory Committee
APPLICATION FORM

Date: 8/28/23

ELIZABETH (Betsy) JOHNSON
Full Name

503-543-4200
Day Telephone Number

P.O. Box 2 / SCAPPOOSE, OR. 97056
Address (Applicant must be a resident of the Port District)

503-313-3160
Home/Evening Telephone Number

SCAPPOOSE OR. 97056-
City State Zip Code

betsy @ betsyjohnson.com
E-Mail Address

Are you 18 years of age or older?
Y N

Please state the reason you wish to serve on the Scappoose Airport Advisory Committee:

I started a business at the airport in 1977 (commercial helicopter) and employed 50+ people. My husband is the current FBO. Over the years, we have invested thousands of dollars in the airport, acted as advocates for and stewards of the airport + vicinity, recruited businesses, passed legislation on behalf of aviation (and esp. Scappoose). The future of this airport is bright. I want to have a more formal role in the development of Scappoose.

Please list any business, volunteer, or governmental experience:

- Former Port of Columbia Co (formerly Port of St. Helens) commission member and chair.
- 22 years in the Oregon legislature (chair of Ways + Means)
- Board of Director CBT (Columbia Economic Team)
- Endless community organizations, fundraising, committees, task forces
- Founder (with others) of OMIC
- Aeronautics Administrator for the State of Oregon (5 yrs.) Aviation lobbyist (1 session)

Please list any special skills useful to this position:

writes + speaks well. Fearless advocate. Vast industry (aviation) expertise + contacts.

Please describe your time availability:

Open-ended (within limits)

Please describe your vision of the future for the Scappoose Airport:

- Safe operations. Plentiful services.
- Open for business (ie "business friendly"). Job and wealth creation for the region.
- Good rapport between "on field" businesses and Port staff
- A desirable place for business recruitment + retention.

Please describe how you would contribute to your vision described above:

By and large, the same stuff I've been doing for the last 46 years!

Please provide any additional material or information pertinent to the Advisory Committee position:

Feel free to attach a resume or other information that might be useful in making our decision.

The Port of Columbia County is an equal employment opportunity employer and does not discriminate on the basis of sex, age, race and color, religion, marital status, national origin, handicap or veteran status.

Interviews are given on a competitive basis, using job-related factors, after a written application has been received and reviewed. Because of the large number of applications that may be received, not everyone who applies for the position will be interviewed.


I certify that I have answered truthfully and have not knowingly withheld any information relative to my application. I understand that any misrepresentation of this application will result in my being eliminated from further consideration.

I authorize the employers, supervisors, and references listed above to give Port of Columbia County representatives any and all information regarding my previous employment and any pertinent information they may have regarding me.

I release the Port of Columbia County and previous employers, supervisors, or references from liability of any damage that may result from furnishing information to the Port of Columbia County.

I agree to a criminal background check.

In consideration of my application, I agree to conform to the instructions, rules and policies of the Port of Columbia County.


Signature

8/28/23
Date



Resolution 2023-27 STAFF REPORT

Scappoose Bay Marina Oregon State Marine Board Grant for Upland Construction

DATE: October 11, 2023

TO: Port Commission

FROM: Lacey Tolles, Data Resource & Projects Specialist

RE: **OSMB Grant of \$407,912 with Port match of \$407,912**
Scappoose Bay Marina Upland Construction

Discussion

Scappoose Bay Marina has experienced tremendous growth in popularity over the past several years. The facility's original design cannot support the increasing demands and resulting congestion from motorized and non-motorized users. With the award of a 2021 Oregon State Marine Board (OSMB) grant for design, engineering, and permitting, the Port created a conceptual design that included upland and in-water improvements.

After completion of design and engineering, the Port pursued additional grant funding from OSMB in March 2023. The Port was awarded \$407,912 contingent upon a 50% Port match of \$407,912 to complete the upland construction phase by June 2025.

The cost estimate for the upland improvement phase is \$815,824.

This OSMB grant is comprised of \$107,912 in Boating Facility Grant funds and \$300,000 in Waterway Access Grant funds.

Recommendation

Approval of Resolution No. 2023-27, authorizing acceptance of OSMB Facility Grant offer #1723 of \$407,912 and approval of a \$407,912 Port cash match for upland construction at Scappoose Bay Marina.

RESOLUTION NO. 2023-27

A RESOLUTION APPROVING AN OREGON STATE MARINE BOARD GRANT FOR UPLAND CONSTRUCTION COSTS AT THE SCAPPOOSE BAY MARINA

WHEREAS, the Scappoose Bay Marina is not adequately meeting the demands of its recreational users with its current configuration, requiring improvements, separation of different user groups and structural changes; and

WHEREAS, the Oregon State Marine Board (OSMB) provides funding for such improvement projects through its Boating Facility and Waterway Access Grants; and

WHEREAS, the Port was successfully awarded funding of \$407,912 from OSMB with a required 50% cash match by the Port of \$407,912 for a total of \$815,824 towards upland construction costs; and

WHEREAS, Port Staff find the grant conditions and requirements acceptable and recommends acceptance of the attached Grant Agreement; Now, therefore,

BE IT RESOLVED by the Board of Commissioners of the Port of Columbia County:

The Board approves the Oregon State Marine Board Facility Grant offer #1723 for \$407,912, and the associated \$407,912 Port match, and authorizes the Executive Director or his designee to sign the attached Grant Agreement.

PASSED AND ADOPTED this 11th day of October 2023, by the following vote:

AYES: _____

NAYS: _____

PORT OF COLUMBIA COUNTY

ABSTAIN: _____

By: _____
President

Attested By:

Secretary

BOATING FACILITY GRANT INTERGOVERNMENTAL AGREEMENT

Agreement No. 1723

This Agreement is between the State of Oregon acting by and through its State Marine Board (“OSMB”) and Port of Columbia County (“Recipient”), each a “Party” and, together, the “Parties”.

SECTION 1: AUTHORITY

This Agreement is authorized by ORS 190.110. OSMB is authorized to provide grants for boating facility projects under ORS 830.150 and OSMB has sufficient facility grant funds available within its current biennial budget and has authorized expenditure on the Recipient’s Project as defined below, and the Recipient agrees to comply with Boating Facility Grant Program rules in OAR 250-014 and other OSMB adopted policies and procedures.

SECTION 2: PURPOSE

The purpose of this Agreement is to set forth the obligations of both Parties in the development of recreational boating facilities at *Scappoose Bay Marina to renovate a portion of the single car parking area, sidewalks, landscaping and staging areas add air fill station*, hereinafter called the “Project,” as described in the Recipient’s Facility Grant Application *FG#1723* and Staff Report to OSMB. With this reference, the Facility Grant Application and Staff Report are made part of this Agreement. If a conflict exists between the Facility Grant Application, Staff Report and this Agreement, the Agreement will govern.

SECTION 3: EFFECTIVE DATE AND DURATION

- 3.1 Term.** This Agreement is effective on the date of the last signature and terminates on the date 20 years after the date of Project completion or the date of final payment issuance, whichever is later, unless terminated earlier in accordance with Section 16.
- 3.2 Project Completion.** The Project shall be completed, and final billing for the Project shall be submitted to OSMB, on or before June 30, 2025. Unless approved in writing, OSMB shall not be obligated to disburse any payments after this date.

SECTION 4: AUTHORIZED REPRESENTATIVES

- 4.1** OSMB’s Authorized Representative is:
Janine Belleque, Boating Facilities Program Manager & Tribal Liaison
PO Box 14145, Salem OR 97309
435 Commercial Street NE Suite #400, Salem Oregon
(503) 877-7580 Office, Janine.Belleque@boat.oregon.gov
- 4.2** Recipient’s Authorized Representative is:
Miriam House, Operations Manager
PO Box 190, Columbia City, OR 97018
(503) 397-2888, house@portofcolumbiacounty.org
- 4.3** A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 5: RESPONSIBILITIES OF EACH PARTY

5.1 Responsibilities of Recipient:

- 5.1.1 Project Timeline.** The Recipient is responsible for maintaining the project timeline for all dates and activities outlined as the Recipient's responsibility as identified in Attachment "A".
- 5.1.2 Matching Cash Funds.** The Recipient shall contribute the total sum of \$407,912.00 in cash as described in the Staff Report.
- 5.1.3 Matching Non-cash Resources.** The Recipient shall contribute the total sum of \$0.00 administrative match and \$0.00 force account labor, materials and/or equipment. These are non-reimbursable items.
- 5.1.4 Construction.** The Recipient shall award and monitor the contractor's performance under the construction contract or construction consultant contract in such a manner as to ensure compliance with Project plans and specifications. The Recipient must notify OSMB immediately of any proposed change in Project design, cost modifications, proposed change orders or modification of scope. The Recipient shall be responsible for all costs associated with unauthorized changes or modifications unless otherwise specifically agreed to in writing by OSMB.

5.1.5 Commercial and Other Uses.

- a. For purposes of this Section 5, Commercial Use means any activity on or affecting the Project that was not described in the Facility Grant Application or Staff Report, or not approved pursuant to OSMB Policy 93-06 or 93-02, where the Recipient:
 - has financial profit as a goal,
 - charges any fees or receives any benefit to provide services, supplies or goods, or
 - allows third parties to charge any fees or receive any benefit to provide services, supplies or goods.
- b. Commercial Use is prohibited.
- c. Recipient must have the capability to make an ordinance, rule, or other regulation to the effect that the Projects are for the benefit of recreational boaters, including, but not limited to prohibiting single cars from parking in boat trailer parking spots. If, in the sole discretion of OSMB, the use by non-recreational boaters such as swimmers, fishermen, divers, crabbers' impact recreational boating uses or diminishes the useful life of the Project, then the Recipient must establish and enforce its ordinance, rule, or other regulation.
- d. If Project funded a pumpout or dump station in a marina or short-term tie-up dock, the Recipient must include language in its moorage agreement requiring use of the pumpout and/or dump station if a boat has a holding tank or marine toilet.
- e. Recipient must restrict use of the Project to only boats that comply with ORS 830.770 and 830.775.

- 5.1.6 Project Sign.** The Recipient shall post in a conspicuous location at the site a sign identifying OSMB's participation in the Project. The sign will be maintained during the term of the Agreement.
- 5.1.7 Publications and Advertising.** The Recipient shall include the following statement if publishing any report, news release or publication regarding the project: *"Partial funding was provided by the Oregon State Marine Board Boating Facility Grant Program, investing fees and taxes paid by motorized boaters for boating facility improvements and Waterway Access Grant Program, investing Waterway Access Permit fees for nonmotorized boats 10-feet and longer.*
- 5.1.8 Public Access to Project.** During the term of this Agreement the Recipient shall allow open and unencumbered public access to the Project to all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence.
- 5.1.9 User Fees.** Recipient shall notify and request written approval from OSMB of any user fees charged to recreational boaters for the use of the improvements described herein throughout the term of this Agreement. Fees charged shall be reasonable and are subject to review and approval by OSMB. If user fees are charged for the use of the completed Project, the Recipient shall maintain sufficient records and accounting procedures that demonstrate all of the gross income from the fees is used to defray direct operational costs (for example, maintenance and repair costs) for the Project. User fees may affect Maintenance Assistance Grant, as described in OAR 250-014-0300 thru 250-014-0305 eligibility on publicly owned and operated Projects.
- 5.1.10 Maintenance.** The Recipient shall at all times be responsible for the maintenance and operation of the Project and related facilities during the term of the Agreement. This does not restrict the Recipient's ability to subcontract for the performance of maintenance and operation services. Such subcontractors would be subject to Section 5.1.13, Indemnification by Subcontractors.
- 5.1.11 Payments.** Recipient agrees to:
- a. Make payment promptly as due to all contractors, subcontractors, vendors or any other persons supplying labor or materials for the Project;
 - b. All employers, including Recipient that employ subject workers as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for exemption under ORS 656.126(2). Recipient shall require and ensure that each of its subcontractors complies with these requirements (unless inapplicable as a matter of federal law); and
 - c. Not permit any lien or claim to be filed or prosecuted against OSMB, due to any construction or maintenance activities at the Project.
- 5.1.12 Alternative Dispute Resolution.** The Parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.

5.1.13 Indemnification by Subcontractors. The Recipient shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003, if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.

5.1.14 Boating Facility Operation. The Parties have entered into other grant agreement(s) 1300, 1326, 1460, 1501, 1553, 1679 which provide for the Recipient to operate boating facilities, including but not limited to, restrooms, boat trailer parking, docks, boat ramp, short-term tie-up, and pumpout and dump station. The Recipient shall continue to operate those boating facilities for the duration of this Agreement, even if the terms of the other grant agreement(s) have expired.

5.2 Responsibility of OSMB:

5.2.1 OSMB shall pay Recipient as described in Sections 6 and 7.

SECTION 6: CONDITIONS TO DISBURSEMENT

6.1 Conditions Precedent to Any Reimbursement. OSMB shall not be obligated to disburse any of the grant funds to reimburse the Recipient for Project costs hereunder unless OSMB has received from the Recipient:

- a. Prior to Project solicitation or construction, the final architectural and engineering plans, specifications, and cost estimate(s), statement of work, request for proposals or other documentation for the Project, documents must be in form and substance satisfactory to OSMB;
- b. Prior to Project construction a copy of all required, federal, state and local permits or approvals for the Project; and
- c. A copy of the contractor's, vendor's, supplier's bid pricing, unless the Recipient is completing the Project; and
- d. Reimbursement Requests must be submitted on the approved OSMB Boating Facility Grant Reimbursement form along with all supporting documentation. Reimbursements shall be prorated between the Parties based on the percentage of their respective cash contributions as set forth in Section 5 and Section 7.

6.2 Conditions Precedent to Partial Progress Payment(s). OSMB shall not be obligated to make partial progress reimbursement payment(s) hereunder until supporting documentation of the percentage of Project completion has been received, reviewed and approved by OSMB. In no event shall OSMB disburse more than ninety percent (90%) of the amount indicated in Section 7.1. as progress payments.

6.3 Conditions Precedent to Final Payment. OSMB shall not be obligated to make final payment hereunder until the following have been completed or supplied:

- a. Supporting documentation in form and content determined by OSMB, has been received reviewed and approved by OSMB; and
- b. Recipient provides a minimum of three photographs detailing the completed work. One photo must be of the installed sign crediting OSMB with funding the Project; and
- c. Inspection and approval of the Project by OSMB.

SECTION 7: COMPENSATION AND PAYMENT TERMS

- 7.1 Grant Funds.** Upon approval by its governing body, OSMB shall provide grant funds in the amount of *\$107,912.00 Boating Facility Grant* funds and *\$300,000.00 Waterway Access Grant* funds to the Recipient to fund the Project. OSMB shall not provide to the Recipient, and the Recipient shall not use any funds described in this section for administrative or for accounting costs whether or not related to this Agreement.
- 7.2 Payments.** After the Recipient awards the contract for the Project, and activities commence, OSMB shall, upon receipt of the Recipient's request for reimbursement and appropriate documentation all in form and substance satisfactory to OSMB, disburse funds to the Recipient in accordance with Section 6 "CONDITIONS TO DISBURSEMENT".
- 7.3 Overpayment.** In the event that the aggregate amount of OSMB's interim progress payments to the Recipient exceeds the allowable reimbursable costs of the Recipient for the Project, the Recipient agrees to refund to OSMB the amount paid in excess of such allowable expenses within thirty (30) days of final billing by the Recipient or the Project Completion Date, whichever is earlier.
- 7.4 Disallowed Costs.** The Recipient agrees that payment(s) made by OSMB under this Agreement shall be subject to offset or reduction for any amounts previously paid hereunder that are found by OSMB not to constitute allowable costs under this Agreement based on the results of an audit examination. If such disallowed amount exceeds the payment(s), the Recipient shall pay OSMB the amount of such excess within 30 days after written notice of disallowed costs is provided by OSMB.
- 7.5 Cost Savings.** Any cost savings realized on the Project shall be prorated between the Parties based on the percentage of their respective cash contributions as set forth in Section 7.1."GRANT FUNDS" and Section 5.1 "RESPONSIBILITIES OF RECIPIENT."

SECTION 8: REPRESENTATIONS AND WARRANTIES

Recipient represents and warrants to OSMB that:

- 8.1** Recipient is a port, duly organized and validly existing. Recipient has the power and authority to enter into and perform this Agreement;
- 8.2** The making and performance by Recipient of this Agreement (a) have been duly authorized by Recipient, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is party or by which Recipient may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement, other

than those that have already been obtained;

- 8.3** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient enforceable in accordance with its terms;
- 8.4** Recipient has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Recipient will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 8.5** Recipient shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by Recipient.

SECTION 9: GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between OSMB or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 10: OWNERSHIP OF WORK PRODUCT

- 10.1** As used in this Section 10 and elsewhere in this Agreement, the following terms have the meanings set forth below:

- 10.1.1 Project Ownership.** OSMB acknowledges and agrees that the Project is the exclusive property of the Recipient. OSMB is neither responsible nor liable in any manner for the construction, operation, or maintenance of the Project.

SECTION 11: NO DUPLICATE PAYMENT

The Recipient shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon, including, but not limited to, the Oregon Department of Fish and Wildlife, or the United States of America or any other party.

SECTION 12: CONTRIBUTION

- 12.1** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and

deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified Party. Each Party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third-Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 12 with respect to the Third-Party Claim.

- 12.2** With respect to a Third Party Claim for which OSMB is jointly liable with Recipient (or would be if joined in the Third Party Claim), OSMB shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of OSMB on the one hand and of Recipient on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of OSMB on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. OSMB's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- 12.3** With respect to a Third Party Claim for which Recipient is jointly liable with OSMB (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by OSMB in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of OSMB on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of OSMB on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

SECTION 13: REMEDIES

- 13.1** In the event Recipient is in default under Section 16.3, OSMB may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that Recipient has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Recipient to perform, at Recipient's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 (in addition to the remedies provided in Section 7.3) of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and OSMB may pursue any

remedy or remedies singly, collectively, successively or in any order whatsoever.

- 13.2** In the event OSMB is in default under Section 16.3 and whether or not Recipient elects to exercise its right to terminate this Agreement under Section 16, or in the event OSMB terminates this Agreement under Sections 16.1, 16.2, or 16.3, Recipient's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by OSMB, for work completed and accepted by OSMB within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims OSMB has against Recipient, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by OSMB, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that OSMB has against Recipient. In no event will OSMB be liable to Recipient for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Recipient exceed the amount due to Recipient under this Section 13.2, Recipient shall promptly pay any excess to OSMB.

SECTION 14: RECOVERY OF OVERPAYMENTS

In addition to the remedies provided in Section 7.4, if payments to Recipient under this Agreement, or any other agreement between OSMB and Recipient, exceed the amount to which Recipient is entitled, OSMB may, after notifying Recipient in writing, withhold from payments due Recipient under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

SECTION 15: LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 12, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

SECTION 16: TERMINATION

- 16.1 Termination for Convenience.** The Recipient may terminate this Agreement at any time upon thirty (30) days prior written notice to OSMB; provided, however, that the Recipient shall, within thirty (30) days of such termination, reimburse OSMB for all funds contributed by OSMB to the Project; provided further that until the Recipient has fully reimbursed OSMB for such funds, the Recipient shall comply with the terms hereof. Delinquent payments shall bear interest at the rate of nine percent (0.9%) per annum, as authorized by ORS82.010 or, if such rate shall exceed the maximum rate allowed by law, then as such maximum rate, and shall be payable on demand. After ninety (90) days OSMB will turn any delinquent debt over to the Department of Revenue for collection per ORS293.231.
- 16.2 Termination Because of Non-Appropriation or Project Ineligibility.** OSMB, as provided in Section 27 "FORCE MAJEURE," may modify or terminate this Agreement and at any time upon 30 days prior written notice to the Recipient, may modify or terminate this Agreement if:

- a. OSMB fails to receive funding or allotments, appropriations, limitations, or other expenditure authority at levels sufficient to pay for the allowable costs of the Project to be funded hereunder or should any state law, regulation or guideline be modified, changed or interpreted in such a way that the Project, or any portion of the Project, is no longer eligible for facility grant funds as described in ORS 830.150.
- b. In the event insufficient funds are appropriated for the payments under this Agreement and the Recipient has no other lawfully available funds, then the Recipient may terminate this Agreement at the end of its current fiscal year, with no further liability to OSMB. The Recipient shall deliver written notice to OSMB of such termination no later than 30 days from the determination by the Recipient of the event of non-appropriation. OSMB shall pay for all authorized Project costs expended up to the date of written notice of termination.

16.3 Termination for Default. OSMB, at any time upon 30 days prior written notice of default to the Recipient, may modify or terminate this Agreement if:

- a. The design, permitting, or construction of the Project is not pursued with due diligence; or
- b. The Recipient's fee simple title to or other interest in the construction sites or Project is not sufficient, legal and valid; or
- c. The construction of the Project is not permissible under federal, state, or local law; or
- d. The Recipient, does not abide by the nondiscrimination and affirmative action provisions of this Agreement; or
- e. The Recipient, without the prior written approval of OSMB, uses the funds provided by OSMB hereunder to build any project other than the Project described in the final architectural and engineering drawings approved by OSMB; or
- f. The construction is not completed in a good and workmanlike manner or fails to comply with any required permits; or
- g. During the term of this Agreement, the Recipient fails to perform any obligation or requirement of this Agreement, including, but not limited to, exceeding the length of stay at a short term tie-up dock, allowing non-recreational boating use such as crabbing, fishing, swimming, diving or other activities to impact a recreational boaters ability to use the Project or coveys the Project or the Project property or any part thereof or converts the use of the Project or the Project property to a use that precludes free and unencumbered recreational public boating access.
- h. The Recipient defaults under any other agreement between the Parties.

16.4 Rights and Remedies. The Recipient shall, within 30 days of its receipt of a notice of default, cure the default or, if the default cannot be cured within 30 days reimburse OSMB for all funds contributed by OSMB to the Project. Further, OSMB shall have any and all rights and remedies available at law or in equity.

SECTION 17: NONAPPROPRIATION

OSMB's obligation to pay any amounts and otherwise perform its duties under this Agreement is conditioned upon OSMB receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OSMB, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of OSMB.

SECTION 18: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented, or otherwise amended, except by written agreement of the Parties.

SECTION 19: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 19. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

SECTION 20: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 9, 10, 12, 14, 15 and 20 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 21: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 22: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 23: COMPLIANCE WITH LAW

- 23.1 Compliance with Law Generally.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Recipient and the Agreement. **Oregon False Claims Act.** Recipient acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Recipient pertaining to this Agreement,

including the procurement process relating to this Agreement that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Agreement, Recipient certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it may make, or causes to be made that pertains to this Agreement. In addition to other penalties that may be applicable, Recipient further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Recipient. Recipient understands and agrees that any remedy that may be available under the Oregon False Claims Act is in addition to any other remedy available to the State or OSMB under this Contract or any other provision of law.

23.2 Tax Compliance. As set forth on Exhibit B, Recipient has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state. Recipient shall, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes: (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, to Recipient's property, operations, receipts, or income, or to Recipient's performance of or compensation for any work performed by Recipient; (iii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, or to goods, services, or property, whether tangible or intangible, provided by Recipient; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this subsection 23.2 constitutes a material breach of this Agreement. Further, any failure to comply with Recipient's certifications set forth in Exhibit B also shall constitute a material breach of this Agreement. Any failure to comply shall entitle OSMB to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

23.2.1 Termination of this Agreement, in whole or in part;

23.2.2 Offsetting against any amount owed to Recipient, and withholding of amounts otherwise due and owing to Recipient, in an amount equal to State's setoff right, without penalty; and

23.2.3 Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. OSMB may recover any and all damages suffered as the result of Recipient's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services and applications.

In addition, this Agreement will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing the Recipient's compensation under this Agreement or (ii) exercising a right of setoff against Recipient's compensation under this Agreement for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

These remedies are cumulative to the extent the remedies are not inconsistent, and OSMB

may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

SECTION 24: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

SECTION 25: PERSONS NOT TO BENEFIT

No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Oregon Legislative Assembly, elected official of the State of Oregon, or official, agent, or employee of the State of Oregon, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the State of Oregon shall be admitted to any share or part of this Agreement or derive any financial benefit that may arise therefrom.

SECTION 26: INTENDED BENEFICIARIES

OSMB and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 27: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. OSMB may terminate this Agreement upon written notice to Recipient after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 28: ASSIGNMENT AND SUCCESSORS IN INTEREST

Recipient may not assign or transfer its interest in this Agreement without the prior written consent of OSMB and any attempt by Recipient to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. OSMB's consent to Recipient's assignment or transfer of its interest in this Agreement will not relieve Recipient of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 29: SUBCONTRACTS

Recipient shall not, without OSMB's prior written consent, enter into any subcontracts for any of the work required of Recipient under this Agreement. OSMB's consent to any subcontract will not relieve Recipient of any of its duties or obligations under this Agreement.

SECTION 30: TIME IS OF THE ESSENCE

Time is of the essence in Recipient's performance of its obligations under this Agreement.

SECTION 31: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 32: RECORDS MAINTENANCE AND ACCESS

Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that OSMB and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, Recipient shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

SECTION 33: HEADINGS

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 34: ADDITIONAL REQUIREMENTS

Recipient shall comply with the additional requirements set forth in Exhibit C, attached hereto and incorporated herein by this reference.

SECTION 35: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, the Facility Grant Application, Recipient Staff Report, attached Exhibit A (the Project Timeline), Exhibit B (Certificate of Tax Compliance), and Exhibit C (Additional Requirements).

SECTION 36: ATTORNEY FEES

In the event that either party to this Agreement shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Agreement each party shall be wholly responsible for its own expenses which it may incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in

connection with any nonjudicial action.

SECTION 37: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON acting by and through its State Marine Board.

Larry Warren, Director

Date

Port of Columbia County

Signature

Date

Name:

Title:

Approved for Legal Sufficiency in accordance with ORS 291.047

Approval Authorized by Letter
Steven Marlowe, Assistant Attorney General

August 2, 2017
Date

EXHIBIT A

PROJECT TIMELINE

Responsibility	Date	Description
Recipient	October 2023	Final Design and Engineering
OSMB	Ongoing	Provide assistance to Recipient throughout process
Recipient	October 2023	RFP/Bid selection for construction contractor
Recipient	March-June 2024	Construction
Recipient	September-October 2024	Alternate construction window.
Recipient	June 2025	Receive consultant invoices, issue payment, and request final reimbursement from OSMB.
OSMB	June 2025	Issue final reimbursement, close the grant and term of the grant begins.

EXHIBIT B

CERTIFICATION OF TAX COMPLIANCE

The individual signing on behalf of Recipient hereby certifies and swears under penalty of perjury to the best of the individual's knowledge that:

1. The number shown on this form is Recipient's correct taxpayer identification;

Federal Tax Number 93-6012258

Oregon Tax Number 005140901-1

Organizational DUNS 046401423

2. Recipient is not subject to backup withholding because:

(i) Recipient is exempt from backup withholding,

(ii) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends, or

(iii) the IRS has notified Recipient that Recipient is no longer subject to backup withholding.

3. S/he is authorized to act on behalf of Recipient; s/he has authority and knowledge regarding Recipient's payment of taxes,

4. For a period of no fewer than six calendar years preceding the Effective Date of this Contract, Recipient faithfully has complied with:

(i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;

(ii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, to Recipient's property, operations, receipts, or income, or to Recipient's performance of or compensation for any work performed by Recipient;

(iii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, or to goods, services, or property, whether tangible or intangible, provided by Recipient; and

(iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Recipient Signature _____ Date _____

EXHIBIT C

ADDITIONAL REQUIREMENTS

1. The Recipient will post advanced notice a minimum of two weeks prior to facility closure or partial closure during removal and installation of the docks on site. Additionally, the Recipient will complete outreach to users through resources such as local media, social media, websites, ODFW District, and angling and boating organizations.
2. OSMB will post notice of facility closure on website, online boating map and through social media.



RESOLUTION 2023-28 STAFF REPORT

Scappoose Bay Marina – Oregon State Marine Board Grant for Dredging

DATE: October 11, 2023
TO: Port Commissioner
FROM: Lacey Tolles, Data Resource & Project Specialist
RE: **OSMB Grant of \$485,000 with Port match of \$1,455,000**
Scappoose Bay Marina Dredging

Discussion

Over the last year, the Port has worked with Lower Columbia Engineering (LCE) to execute the initial elements of the Marina dredging project. This includes a survey and analysis plan which will define the desired area, depths, sediment volume, and associated costs. While awaiting approval of the sediment analysis plan, the Port has been working to extend its dredging permit.

The Port applied for grant funding from the Oregon State Marine Board (OSMB) and was successfully awarded funds in July 2023. The Port was awarded \$485,000 in Boating Facility Grant funds, combined with a Port match of \$1,455,000, for a project total of \$1,940,000.

OSMB approved dredging 77,000 cubic yards within an area of Scappoose Bay to increase depths for boaters and improve marine navigation.

Recommendation

Approval of Resolution No. 2023-28, authorizing acceptance of OSMB Boating Facility Grant offer #1722 of \$485,000 and approval of the associated \$1,455,000 as a Port match for dredging costs at Scappoose Bay Marina.

RESOLUTION NO. 2023-28

A RESOLUTION APPROVING AN OREGON STATE MARINE BOARD GRANT FOR MAINTENANCE DREDGING COSTS AT THE SCAPPOOSE BAY MARINA

WHEREAS, the Scappoose Bay Marina needs maintenance dredging of the water area and channel entrance; and

WHEREAS, the Oregon State Marine Board (OSMB) provides funding for such dredging through its Boating Facility and Waterway Access Grants; and

WHEREAS, the Port was successfully awarded funding of \$485,000 from OSMB with a required cash match by the Port of \$1,455,000 for a total cost of \$1,940,000; and

WHEREAS, Port Staff find the grant conditions and requirements acceptable and recommend acceptance of the attached Grant Agreement; Now, therefore,

BE IT RESOLVED by the Board of Commissioners of the Port of Columbia County as follows:

The Board approves the Oregon State Marine Board Facility Grant offer #1722 for \$485,000, and the associated \$1,455,000 Port match, and authorizes the Executive Director or his designee to sign the attached Grant Agreement.

PASSED AND ADOPTED this 11th day of October 2023 by the following vote:

AYES: _____ **NAYS:** _____

ABSTAIN: _____

PORT OF COLUMBIA COUNTY

Attested By:

By: _____
President

Secretary

BOATING FACILITY GRANT INTERGOVERNMENTAL AGREEMENT

Agreement No. 1722

This Agreement is between the State of Oregon acting by and through its State Marine Board (“OSMB”) and Port of Columbia County (“Recipient”), each a “Party” and, together, the “Parties”.

SECTION 1: AUTHORITY

This Agreement is authorized by ORS 190.110. OSMB is authorized to provide grants for boating facility projects under ORS 830.150 and OSMB has sufficient facility grant funds available within its current biennial budget and has authorized expenditure on the Recipient’s Project as defined below, and the Recipient agrees to comply with Boating Facility Grant Program rules in OAR 250-014 and other OSMB adopted policies and procedures.

SECTION 2: PURPOSE

The purpose of this Agreement is to set forth the obligations of both Parties in the development of recreational boating facilities at *Scappoose Bay Marina for dredging*, hereinafter called the “Project,” as described in the Recipient’s Facility Grant Application *FG#1722* and Staff Report to OSMB. With this reference, the Facility Grant Application and Staff Report are made part of this Agreement. If a conflict exists between the Facility Grant Application, Staff Report and this Agreement, the Agreement will govern.

SECTION 3: EFFECTIVE DATE AND DURATION

- 3.1 Term.** This Agreement is effective on the date of the last signature and terminates on the date 20 years after the date of Project completion or the date of final payment issuance, whichever is later, unless terminated earlier in accordance with Section 16.
- 3.2 Project Completion.** The Project shall be completed, and final billing for the Project shall be submitted to OSMB, on or before June 30, 2025. Unless approved in writing, OSMB shall not be obligated to disburse any payments after this date.

SECTION 4: AUTHORIZED REPRESENTATIVES

- 4.1** OSMB’s Authorized Representative is:

Janine Belleque, Boating Facilities Program Manager & Tribal Liaison
PO Box 14145, Salem OR 97309
435 Commercial Street NE Suite #400, Salem Oregon
(503) 877-7580 Office, Janine.Belleque@boat.oregon.gov

- 4.2** Recipient’s Authorized Representative is:

Miriam House, Operations Manager
PO Box 190, Columbia City, OR 97018
(503) 397-2888, house@portofcolumbiacounty.org

- 4.3** A Party may designate a new Authorized Representative by written notice to the other Party.

SECTION 5: RESPONSIBILITIES OF EACH PARTY

5.1 Responsibilities of Recipient:

- 5.1.1 Project Timeline.** The Recipient is responsible for maintaining the project timeline for all dates and activities outlined as the Recipient's responsibility as identified in Attachment "A".
- 5.1.2 Matching Cash Funds.** The Recipient shall contribute the total sum of \$1,455,000.00 in cash as described in the Staff Report.
- 5.1.3 Matching Non-cash Resources.** The Recipient shall contribute the total sum of \$0.00 administrative match and \$0.00 force account labor, materials and/or equipment. These are non-reimbursable items.
- 5.1.4 Construction.** The Recipient shall award and monitor the contractor's performance under the construction contract or construction consultant contract in such a manner as to insure compliance with Project plans and specifications. The Recipient must notify OSMB immediately of any proposed change in Project design, cost modifications, proposed change orders or modification of scope. The Recipient shall be responsible for all costs associated with unauthorized changes or modifications unless otherwise specifically agreed to in writing by OSMB.

5.1.5 Commercial and Other Uses.

- a. For purposes of this Section 5, Commercial Use means any activity on or affecting the Project that was not described in the Facility Grant Application or Staff Report, or not approved pursuant to OSMB Policy 93-06 or 93-02, where the Recipient:
 - has financial profit as a goal,
 - charges any fees or receives any benefit to provide services, supplies or goods, or
 - allows third parties to charge any fees or receive any benefit to provide services, supplies or goods.
- b. Commercial Use is prohibited.
- c. Recipient must have the capability to make an ordinance, rule, or other regulation to the effect that the Projects are for the benefit of recreational boaters, including, but not limited to prohibiting single cars from parking in boat trailer parking spots. If, in the sole discretion of OSMB, the use by non-recreational boaters such as swimmers, fishermen, divers, crabbers' impact recreational boating uses or diminishes the useful life of the Project, then the Recipient must establish and enforce its ordinance, rule, or other regulation.
- d. If Project funded a pumpout or dump station in a marina or short-term tie-up dock, the Recipient must include language in its moorage agreement requiring use of the pumpout and/or dump station if a boat has a holding tank or marine toilet.
- e. Recipient must restrict use of the Project to only boats that comply with ORS 830.770 and 830.775.

- 5.1.6 Project Sign.** The Recipient shall post in a conspicuous location at the site a sign identifying OSMB's participation in the Project. The sign will be maintained during the term of the Agreement.
- 5.1.7 Publications and Advertising.** The Recipient shall include the following statement if publishing any report, news release or publication regarding the project: *"Partial funding was provided by the Oregon State Marine Board Boating Facility Grant Program, investing fees and taxes paid by motorized boaters for boating facility improvements."*
- 5.1.8 Public Access to Project.** During the term of this Agreement the Recipient shall allow open and unencumbered public access to the Project to all persons without regard to race, color, religious or political beliefs, sex, national origin, or place of primary residence.
- 5.1.9 User Fees.** Recipient shall notify and request written approval from OSMB of any user fees charged to recreational boaters for the use of the improvements described herein throughout the term of this Agreement. Fees charged shall be reasonable and are subject to review and approval by OSMB. If user fees are charged for the use of the completed Project, the Recipient shall maintain sufficient records and accounting procedures that demonstrate all of the gross income from the fees is used to defray direct operational costs (for example, maintenance and repair costs) for the Project. User fees may affect Maintenance Assistance Grant, as described in OAR 250-014-0300 thru 250-014-0305 eligibility on publicly owned and operated Projects.
- 5.1.10 Maintenance.** The Recipient shall at all times be responsible for the maintenance and operation of the Project and related facilities during the term of the Agreement. This does not restrict the Recipient's ability to subcontract for the performance of maintenance and operation services. Such subcontractors would be subject to Section 5.1.13, Indemnification by Subcontractors.
- 5.1.11 Payments.** Recipient agrees to:
- a. Make payment promptly as due to all contractors, subcontractors, vendors or any other persons supplying labor or materials for the Project;
 - b. All employers, including Recipient that employ subject workers as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for exemption under ORS 656.126(2). Recipient shall require and ensure that each of its subcontractors complies with these requirements (unless inapplicable as a matter of federal law); and
 - c. Not permit any lien or claim to be filed or prosecuted against OSMB, due to any construction or maintenance activities at the Project.
- 5.1.12 Alternative Dispute Resolution.** The Parties should attempt in good faith to resolve any dispute arising out of this agreement. This may be done at any management level, including at a level higher than persons directly responsible for administration of the agreement. In addition, the Parties may agree to utilize a jointly selected mediator or arbitrator (for non-binding arbitration) to resolve the dispute short of litigation.
- 5.1.13 Indemnification by Subcontractors.** The Recipient shall take all reasonable steps to cause its contractor(s) that are not units of local government as defined in ORS 190.003,

if any, to indemnify, defend, save and hold harmless the State of Oregon and its officers, employees and agents ("Indemnatee") from and against any and all claims, actions, liabilities, damages, losses, or expenses (including attorneys' fees) arising from a tort (as now or hereafter defined in ORS 30.260) caused, or alleged to be caused, in whole or in part, by the negligent or willful acts or omissions of Recipient's contractor or any of the officers, agents, employees or subcontractors of the contractor ("Claims"). It is the specific intention of the Parties that the Indemnatee shall, in all instances, except for Claims arising solely from the negligent or willful acts or omissions of the Indemnatee, be indemnified by the contractor from and against any and all Claims.

5.1.14 Boating Facility Operation. The Parties have entered into other grant agreement(s) 1300, 1326, 1460, 1501, 1553 and 1679 which provide for the Recipient to operate boating facilities, including but not limited to, [restrooms, boat trailer parking, docks, boat ramps]. The Recipient shall continue to operate those boating facilities for the duration of this Agreement, even if the terms of the other grant agreement(s) have expired.

5.2 Responsibility of OSMB:

5.2.1 OSMB shall pay Recipient as described in Sections 6 and 7.

SECTION 6: CONDITIONS TO DISBURSEMENT

6.1 Conditions Precedent to Any Reimbursement. OSMB shall not be obligated to disburse any of the grant funds to reimburse the Recipient for Project costs hereunder unless OSMB has received from the Recipient:

- a. Prior to Project solicitation or construction, the final architectural and engineering plans, specifications, and cost estimate(s), statement of work, request for proposals or other documentation for the Project, documents must be in form and substance satisfactory to OSMB;
- b. Prior to Project construction a copy of all required, federal, state and local permits or approvals for the Project; and
- c. A copy of the contractor's, vendor's, supplier's bid pricing, unless the Recipient is completing the Project; and
- d. Reimbursement Requests must be submitted on the approved OSMB Boating Facility Grant Reimbursement form along with all supporting documentation. Reimbursements shall be prorated between the Parties based on the percentage of their respective cash contributions as set forth in Section 5 and Section 7.

6.2 Conditions Precedent to Partial Progress Payment(s). OSMB shall not be obligated to make partial progress reimbursement payment(s) hereunder until supporting documentation of the percentage of Project completion has been received, reviewed and approved by OSMB. In no event shall OSMB disburse more than ninety percent (90%) of the amount indicated in Section 7.1. as progress payments.

6.3 Conditions Precedent to Final Payment. OSMB shall not be obligated to make final payment hereunder until the following have been completed or supplied:

- a. Supporting documentation in form and content determined by OSMB,

- has been received reviewed and approved by OSMB; and
- b. Recipient provides a minimum of three photographs detailing the completed work. One photo must be of the installed sign crediting OSMB with funding the Project; and
- c. Inspection and approval of the Project by OSMB.

SECTION 7: COMPENSATION AND PAYMENT TERMS

- 7.1 Grant Funds.** Upon approval by its governing body, OSMB shall provide grant funds in the amount of *\$485,000.00 Boating Facility Grant* funds to the Recipient to fund the Project. OSMB shall not provide to the Recipient, and the Recipient shall not use any funds described in this section for administrative or for accounting costs whether or not related to this Agreement.
- 7.2 Payments.** After the Recipient awards the contract for the Project, and activities commence, OSMB shall, upon receipt of the Recipient's request for reimbursement and appropriate documentation all in form and substance satisfactory to OSMB, disburse funds to the Recipient in accordance with Section 6 "CONDITIONS TO DISBURSEMENT".
- 7.3 Overpayment.** In the event that the aggregate amount of OSMB's interim progress payments to the Recipient exceeds the allowable reimbursable costs of the Recipient for the Project, the Recipient agrees to refund to OSMB the amount paid in excess of such allowable expenses within thirty (30) days of final billing by the Recipient or the Project Completion Date, whichever is earlier.
- 7.4 Disallowed Costs.** The Recipient agrees that payment(s) made by OSMB under this Agreement shall be subject to offset or reduction for any amounts previously paid hereunder that are found by OSMB not to constitute allowable costs under this Agreement based on the results of an audit examination. If such disallowed amount exceeds the payment(s), the Recipient shall pay OSMB the amount of such excess within 30 days after written notice of disallowed costs is provided by OSMB.
- 7.5 Cost Savings.** Any cost savings realized on the Project shall be prorated between the Parties based on the percentage of their respective cash contributions as set forth in Section 7.1."GRANT FUNDS" and Section 5.1 "RESPONSIBILITIES OF RECIPIENT."

SECTION 8: REPRESENTATIONS AND WARRANTIES

Recipient represents and warrants to OSMB that:

- 8.1** Recipient is a port, duly organized and validly existing. Recipient has the power and authority to enter into and perform this Agreement;
- 8.2** The making and performance by Recipient of this Agreement (a) have been duly authorized by Recipient, (b) do not and will not violate any provision of any applicable law, rule, regulation, or order of any court, regulatory commission, board, or other administrative agency or any provision of Recipient's charter or other organizational document and (c) do not and will not result in the breach of, or constitute a default or require any consent under any other agreement or instrument to which Recipient is party or by which Recipient may be bound or affected. No authorization, consent, license, approval of, or filing or registration with or notification to any governmental body or regulatory or supervisory authority is required for the execution, delivery or performance by Recipient of this Agreement, other than those that have already been obtained;

- 8.3** This Agreement has been duly executed and delivered by Recipient and constitutes a legal, valid and binding obligation of Recipient enforceable in accordance with its terms;
- 8.4** Recipient has the skill and knowledge possessed by well-informed members of the industry, trade or profession most closely involved in providing the services under this Agreement, and Recipient will apply that skill and knowledge with care and diligence to perform its obligations under this Agreement in a professional manner and in accordance with the highest standards prevalent in the related industry, trade or profession; and
- 8.5** Recipient shall, at all times during the term of this Agreement, be qualified, professionally competent, and duly licensed to perform its obligations under this Agreement.

The representations and warranties set forth in this section are in addition to, and not in lieu of, any other representations or warranties provided by Recipient.

SECTION 9: GOVERNING LAW, CONSENT TO JURISDICTION

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively "Claim") between OSMB or any other agency or department of the State of Oregon, or both, and Recipient that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or from the jurisdiction of any court. RECIPIENT, BY EXECUTION OF THIS AGREEMENT, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS.

SECTION 10: OWNERSHIP OF WORK PRODUCT

- 10.1** As used in this Section 10 and elsewhere in this Agreement, the following terms have the meanings set forth below:

- 10.1.1 Project Ownership.** OSMB acknowledges and agrees that the Project is the exclusive property of the Recipient. OSMB is neither responsible nor liable in any manner for the construction, operation, or maintenance of the Project.

SECTION 11: NO DUPLICATE PAYMENT

The Recipient shall not be compensated for, or receive any other form of duplicate, overlapping or multiple payments for the same work performed under this Agreement from any agency of the State of Oregon, including, but not limited to, the Oregon Department of Fish and Wildlife, or the United States of America or any other party.

SECTION 12: CONTRIBUTION

- 12.1** If any third party makes any claim or brings any action, suit or proceeding alleging a tort as now or hereafter defined in ORS 30.260 (a "Third Party Claim") against a Party (the "Notified Party") with respect to which the other Party (the "Other Party") may have liability, the Notified Party shall promptly notify the Other Party in writing of the Third Party Claim and deliver to the Other Party, along with the written notice, a copy of the claim, process and all legal pleadings with respect to the Third Party Claim that have been received by the Notified

Party. Each Party is entitled to participate in the defense of a Third-Party Claim, and to defend a Third-Party Claim with counsel of its own choosing. Receipt by the Other Party of the notice and copies required in this Section and a meaningful opportunity for the Other Party to participate in the investigation, defense and settlement of the Third-Party Claim with counsel of its own choosing are conditions precedent to the Other Party's contribution obligation under this Section 12 with respect to the Third-Party Claim.

- 12.2** With respect to a Third Party Claim for which OSMB is jointly liable with Recipient (or would be if joined in the Third Party Claim), OSMB shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by Recipient in such proportion as is appropriate to reflect the relative fault of OSMB on the one hand and of Recipient on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of OSMB on the one hand and of Recipient on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. OSMB's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if the State had sole liability in the proceeding.
- 12.3** With respect to a Third Party Claim for which Recipient is jointly liable with OSMB (or would be if joined in the Third Party Claim), Recipient shall contribute to the amount of expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred and paid or payable by OSMB in such proportion as is appropriate to reflect the relative fault of Recipient on the one hand and of OSMB on the other hand in connection with the events that resulted in such expenses, judgments, fines or settlement amounts, as well as any other relevant equitable considerations. The relative fault of Recipient on the one hand and of OSMB on the other hand shall be determined by reference to, among other things, the Parties' relative intent, knowledge, access to information and opportunity to correct or prevent the circumstances resulting in such expenses, judgments, fines or settlement amounts. Recipient's contribution amount in any instance is capped to the same extent it would have been capped under Oregon law if it had sole liability in the proceeding.

SECTION 13: REMEDIES

- 13.1** In the event Recipient is in default under Section 16.3, OSMB may, at its option, pursue any or all of the remedies available to it under this Agreement and at law or in equity, including, but not limited to: (a) termination of this Agreement under Section 16, (b) reducing or withholding payment for work or Work Product that Recipient has failed to deliver within any scheduled completion dates or has performed inadequately or defectively, (c) requiring Recipient to perform, at Recipient's expense, additional work necessary to satisfy its performance obligations or meet performance standards under this Agreement, (d) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief, or (e) exercise of its right of recovery of overpayments under Section 14 (in addition to the remedies provided in Section 7.3) of this Agreement or setoff, or both. These remedies are cumulative to the extent the remedies are not inconsistent, and OSMB may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

13.2 In the event OSMB is in default under Section 16.3 and whether or not Recipient elects to exercise its right to terminate this Agreement under Section 16, or in the event OSMB terminates this Agreement under Sections 16.1, 16.2, or 16.3, Recipient's sole monetary remedy will be (a) for work compensable at a stated rate, a claim for unpaid invoices for work completed and accepted by OSMB, for work completed and accepted by OSMB within any limits set forth in this Agreement but not yet invoiced, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less any claims OSMB has against Recipient, and (b) for deliverable-based work, a claim for the sum designated for completing the deliverable multiplied by the percentage of work completed on the deliverable and accepted by OSMB, for authorized expenses incurred, and for interest within the limits of ORS 293.462, less previous amounts paid for the deliverable and any claims that OSMB has against Recipient. In no event will OSMB be liable to Recipient for any expenses related to termination of this Agreement or for anticipated profits. If previous amounts paid to Recipient exceed the amount due to Recipient under this Section 13.2, Recipient shall promptly pay any excess to OSMB.

SECTION 14: RECOVERY OF OVERPAYMENTS

In addition to the remedies provided in Section 7.4, if payments to Recipient under this Agreement, or any other agreement between OSMB and Recipient, exceed the amount to which Recipient is entitled, OSMB may, after notifying Recipient in writing, withhold from payments due Recipient under this Agreement, such amounts, over such periods of times, as are necessary to recover the amount of the overpayment.

SECTION 15: LIMITATION OF LIABILITY

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO SECTION 12, NEITHER PARTY WILL BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER THE LIABILITY CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, PRODUCT LIABILITY OR OTHERWISE. NEITHER PARTY WILL BE LIABLE FOR ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS AGREEMENT IN ACCORDANCE WITH ITS TERMS.

SECTION 16: TERMINATION

16.1 Termination for Convenience. The Recipient may terminate this Agreement at any time upon thirty (30) days prior written notice to OSMB; provided, however, that the Recipient shall, within thirty (30) days of such termination, reimburse OSMB for all funds contributed by OSMB to the Project; provided further that until the Recipient has fully reimbursed OSMB for such funds, the Recipient shall comply with the terms hereof. Delinquent payments shall bear interest at the rate of nine percent (0.9%) per annum, as authorized by ORS82.010 or, if such rate shall exceed the maximum rate allowed by law, then as such maximum rate, and shall be payable on demand. After ninety (90) days OSMB will turn any delinquent debt over to the Department of Revenue for collection per ORS293.231.

16.2 Termination Because of Non-Appropriation or Project Ineligibility. OSMB, as provided in Section 27 "FORCE MAJEURE," may modify or terminate this Agreement and at any time upon 30 days prior written notice to the Recipient, may modify or terminate this Agreement if:

- a. OSMB fails to receive funding or allotments, appropriations, limitations, or other expenditure authority at levels sufficient to pay for the

allowable costs of the Project to be funded hereunder or should any state law, regulation or guideline be modified, changed or interpreted in such a way that the Project, or any portion of the Project, is no longer eligible for facility grant funds as described in ORS 830.150.

- b. In the event insufficient funds are appropriated for the payments under this Agreement and the Recipient has no other lawfully available funds, then the Recipient may terminate this Agreement at the end of its current fiscal year, with no further liability to OSMB. The Recipient shall deliver written notice to OSMB of such termination no later than 30 days from the determination by the Recipient of the event of non-appropriation. OSMB shall pay for all authorized Project costs expended up to the date of written notice of termination.

16.3 Termination for Default. OSMB, at any time upon 30 days prior written notice of default to the Recipient, may modify or terminate this Agreement if:

- a. The design, permitting, or construction of the Project is not pursued with due diligence; or
- b. The Recipient's fee simple title to or other interest in the construction sites or Project is not sufficient, legal and valid; or
- c. The construction of the Project is not permissible under federal, state, or local law; or
- d. The Recipient, does not abide by the nondiscrimination and affirmative action provisions of this Agreement; or
- e. The Recipient, without the prior written approval of OSMB, uses the funds provided by OSMB hereunder to build any project other than the Project described in the final architectural and engineering drawings approved by OSMB; or
- f. The construction is not completed in a good and workmanlike manner or fails to comply with any required permits; or
- g. During the term of this Agreement, the Recipient fails to perform any obligation or requirement of this Agreement, including, but not limited to, exceeding the length of stay at a short term tie-up dock, allowing non-recreational boating use such as crabbing, fishing, swimming, diving or other activities to impact a recreational boaters ability to use the Project or coveys the Project or the Project property or any part thereof or converts the use of the Project or the Project property to a use that precludes free and unencumbered recreational public boating access.
- h. The Recipient defaults under any other agreement between the Parties.

16.4 Rights and Remedies. The Recipient shall, within 30 days of its receipt of a notice of default, cure the default or, if the default cannot be cured within 30 days reimburse OSMB for all funds contributed by OSMB to the Project. Further, OSMB shall have any and all rights and remedies available at law or in equity.

SECTION 17: NONAPPROPRIATION

OSMB's obligation to pay any amounts and otherwise perform its duties under this Agreement

is conditioned upon OSMB receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow OSMB, in the exercise of its reasonable administrative discretion, to meet its obligations under this Agreement. Nothing in this Agreement may be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law limiting the activities, liabilities or monetary obligations of OSMB.

SECTION 18: AMENDMENTS

The terms of this Agreement may not be altered, modified, supplemented, or otherwise amended, except by written agreement of the Parties.

SECTION 19: NOTICE

Except as otherwise expressly provided in this Agreement, any notices to be given relating to this Agreement must be given in writing by facsimile, email, personal delivery, or postage prepaid mail, to a Party's Authorized Representative at the physical address, fax number or email address set forth in this Agreement, or to such other addresses as either Party may indicate pursuant to this Section 19. Any notice so addressed and mailed becomes effective five (5) days after mailing. Any notice given by personal delivery becomes effective when actually delivered. Any notice given by email becomes effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system. Any notice given by facsimile becomes effective upon electronic confirmation of successful transmission to the designated fax number.

SECTION 20: SURVIVAL

All rights and obligations of the Parties under this Agreement will cease upon termination of this Agreement, other than the rights and obligations arising under Sections 9, 10, 12, 14, 15 and 20 hereof and those rights and obligations that by their express terms survive termination of this Agreement; provided, however, that termination of this Agreement will not prejudice any rights or obligations accrued to the Parties under this Agreement prior to termination.

SECTION 21: SEVERABILITY

The Parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

SECTION 22: COUNTERPARTS

This Agreement may be executed in several counterparts, all of which when taken together shall constitute one agreement, notwithstanding that all Parties are not signatories to the same counterpart. Each copy of the Agreement so executed constitutes an original.

SECTION 23: COMPLIANCE WITH LAW

- 23.1 Compliance with Law Generally.** Recipient shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to Recipient and the Agreement. **Oregon False Claims Act.** Recipient acknowledges the Oregon False Claims Act, ORS 180.750 to 180.785, applies to any action by Recipient pertaining to this Agreement, including the procurement process relating to this Agreement that constitutes a "claim" (as defined by ORS 180.750(1)). By its execution of this Agreement, Recipient certifies the truthfulness, completeness, and accuracy of any statement or claim it has made, it makes, it

may make, or causes to be made that pertains to this Agreement. In addition to other penalties that may be applicable, Recipient further acknowledges that if it makes, or causes to be made, a false claim or performs a prohibited act under the Oregon False Claims Act, the Oregon Attorney General may enforce the liabilities and penalties provided by the Oregon False Claims Act against Recipient. Recipient understands and agrees that any remedy that may be available under the Oregon False Claims Act is in addition to any other remedy available to the State or OSMB under this Contract or any other provision of law.

23.2 Tax Compliance. As set forth on Exhibit B, Recipient has complied with the tax laws of this state and the applicable tax laws of any political subdivision of this state. Recipient shall, throughout the duration of this Agreement and any extensions, comply with all tax laws of this state and all applicable tax laws of any political subdivision of this state. For the purposes of this Section, "tax laws" includes: (i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318; (ii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, to Recipient's property, operations, receipts, or income, or to Recipient's performance of or compensation for any work performed by Recipient; (iii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, or to goods, services, or property, whether tangible or intangible, provided by Recipient; and (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Any failure to comply with the provisions of this subsection 23.2 constitutes a material breach of this Agreement. Further, any failure to comply with Recipient's certifications set forth in Exhibit B also shall constitute a material breach of this Agreement. Any failure to comply shall entitle OSMB to terminate this Agreement, to pursue and recover any and all damages that arise from the breach and the termination of this Agreement, and to pursue any or all of the remedies available under this Agreement, at law, or in equity, including but not limited to:

23.2.1 Termination of this Agreement, in whole or in part;

23.2.2 Offsetting against any amount owed to Recipient, and withholding of amounts otherwise due and owing to Recipient, in an amount equal to State's setoff right, without penalty; and

23.2.3 Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. OSMB may recover any and all damages suffered as the result of Recipient's breach of this Agreement, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement Services and applications.

In addition, this Agreement will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing the Recipient's compensation under this Agreement or (ii) exercising a right of setoff against Recipient's compensation under this Agreement for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

These remedies are cumulative to the extent the remedies are not inconsistent, and OSMB may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

SECTION 24: INDEPENDENT CONTRACTORS

The Parties agree and acknowledge that their relationship is that of independent contracting parties and that Recipient is not an officer, employee, or agent of the State of Oregon as those terms are used in ORS 30.265 or otherwise.

SECTION 25: PERSONS NOT TO BENEFIT

No member of or delegate to Congress, resident commissioner, officer, agent or employee of the United States of America, member of the Oregon Legislative Assembly, elected official of the State of Oregon, or official, agent, or employee of the State of Oregon, or elected member, officer, agent, or employee of any political subdivision, municipality or municipal corporation of the State of Oregon shall be admitted to any share or part of this Agreement or derive any financial benefit that may arise therefrom.

SECTION 26: INTENDED BENEFICIARIES

OSMB and Recipient are the only parties to this Agreement and are the only parties entitled to enforce its terms. Nothing in this Agreement provides, is intended to provide, or may be construed to provide any direct or indirect benefit or right to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of this Agreement.

SECTION 27: FORCE MAJEURE

Neither Party is responsible for any failure to perform or any delay in performance of any obligations under this Agreement caused by fire, civil unrest, labor unrest, natural causes, or war, which is beyond that Party's reasonable control. Each Party shall, however, make all reasonable efforts to remove or eliminate such cause of failure to perform or delay in performance and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Agreement. OSMB may terminate this Agreement upon written notice to Recipient after reasonably determining that the failure or delay will likely prevent successful performance of this Agreement.

SECTION 28: ASSIGNMENT AND SUCCESSIONS IN INTEREST

Recipient may not assign or transfer its interest in this Agreement without the prior written consent of OSMB and any attempt by Recipient to assign or transfer its interest in this Agreement without such consent will be void and of no force or effect. OSMB's consent to Recipient's assignment or transfer of its interest in this Agreement will not relieve Recipient of any of its duties or obligations under this Agreement. The provisions of this Agreement will be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

SECTION 29: SUBCONTRACTS

Recipient shall not, without OSMB's prior written consent, enter into any subcontracts for any of the work required of Recipient under this Agreement. OSMB's consent to any subcontract will not relieve Recipient of any of its duties or obligations under this Agreement.

SECTION 30: TIME IS OF THE ESSENCE

Time is of the essence in Recipient's performance of its obligations under this Agreement.

SECTION 31: MERGER, WAIVER

This Agreement and all exhibits and attachments, if any, constitute the entire agreement between the Parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver or consent under this Agreement binds either Party unless in writing and signed by both Parties. Such waiver or consent, if made, is effective only in the specific instance and for the specific purpose given. EACH PARTY, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT IT HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

SECTION 32: RECORDS MAINTENANCE AND ACCESS

Recipient shall maintain all financial records relating to this Agreement in accordance with generally accepted accounting principles. In addition, Recipient shall maintain any other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement in such a manner as to clearly document Recipient's performance. All financial records, other records, books, documents, papers, plans, records of shipments and payments and writings of Recipient, whether in paper, electronic or other form, that are pertinent to this Agreement, are collectively referred to as "Records." Recipient acknowledges and agrees that OSMB and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives will have access to all Records to perform examinations and audits and make excerpts and transcripts. Recipient shall retain and keep accessible all Records for a minimum of six (6) years, or such longer period as may be required by applicable law, following termination of this Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this Agreement, whichever date is later. Subject to foregoing minimum records retention requirement, Recipient shall maintain Records in accordance with the records retention schedules set forth in OAR Chapter 166.

SECTION 33: HEADINGS

The headings and captions to sections of this Agreement have been inserted for identification and reference purposes only and may not be used to construe the meaning or to interpret this Agreement.

SECTION 34: ADDITIONAL REQUIREMENTS

Recipient shall comply with the additional requirements set forth in Exhibit C, attached hereto and incorporated herein by this reference.

SECTION 35: AGREEMENT DOCUMENTS

This Agreement consists of the following documents, which are listed in descending order of precedence: this Agreement less all exhibits, the Facility Grant Application, Recipient Staff Report, attached Exhibit A (the Project Timeline), Exhibit B (Certificate of Tax Compliance), and Exhibit C (Additional Requirements).

SECTION 36: ATTORNEY FEES

In the event that either party to this Agreement shall take any action, judicial or otherwise, to enforce or interpret any of the terms of this Agreement each party shall be wholly responsible for its own expenses which it may incur in taking such action, including costs and attorney fees, whether incurred in a suit or action or appeal from a judgment or decree therein or in connection with any nonjudicial action.

SECTION 37: SIGNATURES

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates set forth below.

STATE OF OREGON acting by and through its State Marine Board.

Larry Warren, Director

Date

Port of Columbia County

Signature

Date

Name:

Title:

Approved for Legal Sufficiency in accordance with ORS 291.047

Approval Authorized by Letter
Steven Marlowe, Assistant Attorney General

August 2, 2017
Date

EXHIBIT A

PROJECT TIMELINE

Responsibility	Date	Description
Recipient	June -September 2023	Permit modification approvals, complete dredge plan
OSMB	Ongoing	Provide assistance to Recipient throughout process
Recipient	September-October 2023	Contract with dredge company, complete plans.
Recipient	October-November 2023	Complete Dredge work
Recipient	October 2024	Alternate Dredge work completion, if permit modification approval is delayed.
Recipient	June 2025	Receive consultant invoices, issue payment and request final reimbursement from OSMB.
OSMB	June 2025	Issue final reimbursement, close the grant and term of the grant begins.

EXHIBIT B

CERTIFICATION OF TAX COMPLIANCE

The individual signing on behalf of Recipient hereby certifies and swears under penalty of perjury to the best of the individual's knowledge that:

1. The number shown on this form is Recipient's correct taxpayer identification;

Federal Tax Number 93-6012258

Oregon Tax Number 005140901-1

Organizational DUNS046401423

2. Recipient is not subject to backup withholding because:

(i) Recipient is exempt from backup withholding,

(ii) Recipient has not been notified by the IRS that Recipient is subject to backup withholding as a result of a failure to report all interest or dividends, or

(iii) the IRS has notified Recipient that Recipient is no longer subject to backup withholding.

3. S/he is authorized to act on behalf of Recipient; s/he has authority and knowledge regarding Recipient's payment of taxes,

4. For a period of no fewer than six calendar years preceding the Effective Date of this Contract, Recipient faithfully has complied with:

(i) All tax laws of this state, including but not limited to ORS 305.620 and ORS chapters 316, 317, and 318;

(ii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, to Recipient's property, operations, receipts, or income, or to Recipient's performance of or compensation for any work performed by Recipient;

(iii) Any tax provisions imposed by a political subdivision of this state that applied to Recipient, or to goods, services, or property, whether tangible or intangible, provided by Recipient; and

(iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Recipient Signature _____ Date _____

EXHIBIT C

ADDITIONAL REQUIREMENTS

1. The Recipient will post advanced notice a minimum of two weeks prior to facility closure or partial closure during removal and installation of the docks on site. Additionally, the Recipient will complete outreach to users through resources such as local media, social media, websites, ODFW District, and angling and boating organizations.
2. OSMB will post notice of facility closure on website, online boating map and through social media.