

PORT OF BREMERTON
BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING

A G E N D A

December 12, 2023
10:00 AM

Bill Mahan Conference Room
Port Administration Offices
Bremerton Nat'l Airport Terminal Bldg
8850 SW State Hwy 3, Bremerton

The Port of Bremerton Board of Commissioners have resumed in-person meetings but are maintaining the option for the public to participate remotely as well. The public is invited to view and/or participate in the hybrid meeting by attending in person or through one of the following options:

- To stream online only (via BKAT feed, with no interaction possible):
<https://bremerton.vod.castus.tv/vod/?live=ch1&nav=live>
- To join the online Zoom meeting: <https://us02web.zoom.us/j/3359030010>
- For audio only; dial 1.253.215.8782; Meeting ID: 335 903 0010

Call to Order

Pledge of Allegiance

Approval of Agenda

Consent Items

All matters listed under Consent Items have been distributed to each member of the Commission for reading and study, are considered to be routine, and will be enacted by one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items by request.

- A. Minutes of the regular business meeting of November 28, 2023.
- B. Payment of checks #902063 and #902064 through #902067 and #902068 through #902071 and #E01767 through #E01768 and #E01769 through #E01775 and #902072 and #902073 through #902079 from the General Fund for \$124,606.61.
Payment of checks #85459 through #85495 and #E01776 through #E01790 from the General Fund for \$112,801.12.
- C. Sixth Amendment to Chief Executive Officer Employment Agreement

Information Items

1. Bremerton Pilots Association Scholarship Update - Doug Haughton, President
2. Government Relations Update - Desimone Consulting Group (DCG)

Citizen Comments: *Open to the public for comment. Speakers are asked to keep their comments to less than 3 minutes. Please feel free to submit further comments in writing to the Clerk of the Board (gingerw@portofbremerton.org).*

Action Items

1. Environmental Protection Agency (EPA) Brownfields Multipurpose Grant Agreement
2. Washington State Department of Transportation (WSDOT) Shore Power Electrification Grant Agreement

Staff Reports

Commission Reports / New Business

Executive Session *(if necessary)*

Adjournment

Regular business and other meetings that may be attended by members of the Board

<u><i>Date</i></u>	<u><i>Time</i></u>	<u><i>Meeting</i></u>
<i>12/12</i>	<i>10:00 am</i>	<i>*Commission Regular Business Meeting - Hybrid</i>
<i>12/14</i>	<i>2:15 pm</i>	<i>Kitsap Regional Coordinating Council (KRCC) Executive Committee</i>
<i>12/15</i>	<i>10:00 am</i>	<i>Peninsula Regional Transportation Planning Organization (PRTPO) Board</i>
<i>12/25</i>		<i>Christmas Day – Port offices closed</i>
<i>12/26</i>	<i>6:00 pm</i>	<i>*Commission Regular Business Meeting – Hybrid - CANCELLED</i>
<i>01/01/2024</i>		<i>New Years Day – Port offices closed</i>
<i>01/09/2024</i>	<i>10:00 am</i>	<i>*Commission Regular Business Meeting - Hybrid</i>

Meetings are subject to change or cancellation

**Denotes events in which two (2) or more Commissioners may attend*

PORT OF BREMERTON
BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING

MINUTES

November 28, 2023
6:00 PM

Bill Mahan Conference Room
Port Administration Offices
Bremerton Nat'l Airport Terminal Bldg
8850 SW State Hwy 3, Bremerton
Remote Option via Zoom

Commissioners and Staff Present

Commissioners

Axel Strakeljahn
Gary Anderson
Cary Bozeman

Staff Members

Jim Rothlin
Arne Bakker
Jeremiah Wiley
James Weaver
James Goodman
Monroe Whitman IV
Ginger Waye
Stephanie Frame
Anne Montgomery, Atty

Call to Order

President Strakeljahn called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

Approval of Agenda

It was moved by BOZEMAN, seconded by ANDERSON to:

Approve the Agenda as presented.

MOTION CARRIES, 3-0

Consent Items

- A. Minutes of the regular business meeting and executive session of November 14, 2023.
- B. Payment of checks #902042 through #902043 and #902048 through #902049 and #E01746 and #902050 and #902051 through #902056 and #902057 and #902058 through #902061 and #85428 through #85450 and #E01747 through #E01764 and #902062 and #85451 through #85458 and #E01765 through #E01766 from the General Fund for \$275,851.48.

It was moved by BOZEMAN, seconded by ANDERSON to:

Approve the Consent Items as presented.

MOTION CARRIES, 3-0

Citizen Comments

Sunny Saunders, Sunny Jack Events LLC

- Thanked the Port for their sponsorship of Bridge Blast this past year and provided detail on next year's expanded Bridge Blast, Taste of Kitsap, Night Markets, and Blackberry Festival. It was noted that these events on the Bremerton Boardwalk highly support the Bremerton Marina because guest moorage is at full occupancy during those weekends and they also cater to the cruise ships. Ms. Saunders responded to questions and comments from the Board.

Action Items

1. Final Budget for Calendar Year 2024

Presented by Jeremiah Wiley, Chief Financial Officer

1.1 Budget Presentation

CFO Wiley provided a PowerPoint outlining the Port's 2024 budget goals and timeline. Noting there were no changes from the preliminary budget, he highlighted capital projects and the budget summary.

1.2 Public Hearing

President Strakeljahn opened the public hearing at 6:33 p.m. No public comments were received, and the public hearing was closed at 6:34 p.m.

1.3 Action Items

- a. Resolution 2023-07 providing for a regular property tax levy and all allowable levies for calendar year 2024.

It was moved by STRAKELJAHN, seconded by ANDERSON to:

Approve Resolution 2023-07 providing for no tax increase in the general tax levy.

MOTION CARRIES, 3-0

- b. Resolution 2023-08 providing a limit factor for the regular levy for the 2024 calendar year to determine future years' levies and to enable the Port to bank excess levy capacity.

It was moved by STRAKELJAHN, seconded by BOZEMAN to:

Approve Resolution 2023-08 providing a limit factor for the regular levy for the 2024 calendar year to determine future years' levies and to enable the Port to bank excess levy capacity.

MOTION CARRIES, 3-0

- c. Resolution 2023-09 adopting the final budget for calendar year 2024.

It was moved by BOZEMAN, seconded by ANDERSON to:

Approve Resolution 2023-09 approving and adopting the Final 2024 Budget.

MOTION CARRIES, 3-0

- d. Resolution 2023-10 filing the final budget and submitting request for tax levies for calendar year 2024 with the Clerk of the Board of County Commissioners.

It was moved by ANDERSON, seconded by BOZEMAN to:

Approve Resolution 2023-10 filing the final 2024 budget documents and submitting request for tax levies in the amounts indicated with the Clerk of the Board of County Commissioners and the Kitsap County Assessor's Office.

MOTION CARRIES, 3-0

2. Amendment #2 to Lease Agreement with Morris Restaurant Management, LLC
Presented by Arne Bakker, Chief Operations Officer

Following presentation and after questions were addressed;

It was moved by BOZEMAN, seconded by ANDERSON to:

Approve Lease Amendment #2 between Morris Restaurant Management, LLC and the Port of Bremerton as presented.

MOTION CARRIES, 3-0

Staff Reports

Jim Rothlin, Chief Executive Officer

- In keeping with tradition, plans are to cancel the second meeting of December. If any priorities arise needing commission action, the meeting can be rescheduled or a special meeting called. The Board concurred with canceling the regular business meeting scheduled for December 26, 2023.
- Will be presenting to Leadership Kitsap at their Economics Day on December 1.
- Chimes and Lights is being held in Port Orchard on December 2; he discussed the changes to the event this year due to the City's construction projects.

Commission Reports / New Business

Commissioner Anderson

- Will be attending the following upcoming meetings:
 - Washington Public Ports Association (WPPA) annual conference
 - Kitsap Economic Development Alliance (KEDA) 4th quarter board meeting

Commissioner Strakeljahn

- Noted the Port's annual food drive just concluded with over 6,000 pounds of food being delivered to local food banks.
- Will be attending the Central Puget Sound Economic Development District (CPSEDD) meeting via Zoom this week as Puget Sound Regional Council (PSRC) offices are in the process of moving to a new location.

Commissioner Bozeman

- Was honored to speak at two separate events honoring Lary Coppola who recently passed away.
- Bremerton School District has an upcoming levy and bond issue. He questioned whether the Port would be allowed to endorse the levy. Port Attorney Anne Montgomery stated during her time at the Port, it has not endorsed a ballot issue.

Executive Session - None

Adjournment

There being no further business before the Board, the meeting was adjourned at 6:53 p.m.

Submitted,

Jim Rothlin
Chief Executive Officer
December 7, 2023

Approved,

Cary Bozeman
Commission Secretary
December 12, 2023

PORT OF BREMERTON **AGENDA SUMMARY**

Agenda Item No: Action Item #1
Subject: Authorization for EPA Brownfields Grant Agreement
Exhibits: EPA Brownfields Multipurpose Grant Agreement
Prepared By: James Weaver, Director of Marine Facilities
Meeting Date: December 12, 2023

Summary:

In June 2023, the Port of Bremerton was awarded a federal Environmental Protection Agency (EPA) Brownfields Multipurpose grant in the amount of \$800,000.00 for the Bay Street Properties Soils Remediation project. The Environmental Protection Agency has been in the process of finalizing the award contract for obligation and disbursement of the Brownfields Multipurpose grant funds.

Fiscal Impact:

The EPA Brownfields Multipurpose grant agreement is in the amount of \$800,000.00 for the Bay Street Properties Soils Remediation project.

Strategic Purpose:

Goal 6. Develop and fund a 20-year asset replacement/major maintenance schedule.

Recommendation:

Authorize the CEO to sign the EPA Brownfields Multipurpose grant agreement in the amount of \$800,000.00 for the Bay Street Properties Soils Remediation project.

Motion for Consideration:

Move to authorize the CEO to sign the Environmental Protection Agency (EPA) Brownfields Multipurpose grant agreement in the amount of \$800,000.00 for the Bay Street Properties Soils Remediation project.

**EPA REGION 10
FY2023 BROWNFIELDS MULTIPURPOSE COOPERATIVE AGREEMENT
WORKPLAN**

FOR

PORT OF BREMERTON

Period of Performance (5 years): *October 1, 2023 – September 30, 2028*

Date of Final Workplan: *December 5, 2023*

Submitted by

James Weaver

Marine Facilities Director

Port of Bremerton

8850 SW Highway 3, Bremerton, WA 98312

James Weaver

360-813-0829

jamesw@portofbremerton.org

www.portofbremerton.org

EPA Cooperative Agreement Number

FY2023 WORKPLAN FOR BROWNFIELDS MULTIPURPOSE COOPERATIVE AGREEMENT
TABLE OF CONTENTS

- 1 INTRODUCTION.....4**
 - 1.1 Project Description, Goals and Objectives..... 4
 - 1.2 Organizational Structure and Responsibilities..... 5
 - 1.3 Project Outputs and Outcomes 7
- 2 PROJECT TASK DESCRIPTIONS 8**
 - 2.1 TASK 1 – PROJECT MANAGEMENT AND REPORTING 9
 - 2.1.1 Project Management9
 - 2.1.2 Project Reporting – Periodic9
 - 2.1.3 Staff Training/Travel.....9
 - 2.1.4 Contractor Procurement.....9
 - 2.1.5 Final Performance Report10
 - 2.2 TASK 2 – PUBLIC INVOLVEMENT 10
 - 2.2.1 Estimated submittal or completion dates **Error! Bookmark not defined.**
 - 2.2.2 Public Outreach and Involvement.....10
 - 2.2.3 Public Notice and Comment11
 - 2.2.4 Project Updates and Other Public Information12
 - 2.3 TASK 3 – SITE INVENTORY AND/OR CHARACTERIZATION 12
 - 2.3.1 Site Inventory **Error! Bookmark not defined.**
 - 2.3.2 Candidate Site Identification.....12
 - 2.3.3 Site Characterization – Phase 1 Assessment13
 - 2.3.4 Site Characterization – Phase 2 Assessment13
 - 2.3.5 ESA and NHPA requirements13
 - 2.3.6 Quality Assurance Project Plan (QAPP) and Health and Safety Plan13
 - 2.3.7 Integrating Sustainability14
 - 2.4 TASK 4 – Area Wide Planning..... 14
 - 2.4.1 Analysis of Conditions of Project Area/High Priority Sites..... **Error! Bookmark not defined.**
 - 2.4.2 Site Reuse Planning..... **Error! Bookmark not defined.**
 - 2.4.3 Development of Draft Area Wide Plan **Error! Bookmark not defined.**
 - 2.4.4 Finalizing Area Wide Plan and Public Involvement..... **Error! Bookmark not defined.**
 - 2.5 TASK 5 - CLEANUP PLANNING **Error! Bookmark not defined.**
 - 2.5.1 Analysis of Brownfields Cleanup Alternatives15
 - 2.5.2 Endangered Species Act (ESA) and National Historic Preservation Act (NHPA) Requirements
Error! Bookmark not defined.
 - 2.5.3 Quality Assurance Project Plan (QAPP) and Health and Safety Plan (HSP) ... **Error! Bookmark not defined.**
 - 2.5.4 Final Cleanup Plan **Error! Bookmark not defined.**
 - 2.5.5 Cleanup (Remedial) Design **Error! Bookmark not defined.**
 - 2.6 TASK 6 - CLEANUP PERFORMANCE AND COMPLETION 15
 - 2.6.1 Cleanup Activities.....15
 - 2.6.2 Confirmation sampling.....16
 - 2.6.3 Final Cleanup Report.....16

- 3 SCHEDULE AND DELIVERABLES 16**
- 4 BUDGET 18**
 - 4.1 Budget Table 18
 - 4.2 Budget Narrative **Error! Bookmark not defined.**
 - 4.2.1 EXAMPLE Budget Narrative by Task.....**Error! Bookmark not defined.**
 - 4.2.2 EXAMPLE Budget Narrative by Budget Category.....**Error! Bookmark not defined.**

1 INTRODUCTION

1.1 Project Description, Goals and Objectives

The 4th oldest port in the State of Washington and the largest port in Kitsap County, the Port of Bremerton (PoB) is submitting this multipurpose grant to address sites within its district including properties in the waterfront community of the City of Port Orchard (Pop. 15,979). Located on the Kitsap Peninsula, within the Puget Sound, Kitsap County (pop. 274,314) is approximately 15 miles west of Seattle, across the Puget Sound. The first white settler communities were established in the early-1800s along the shorelines of Sinclair Inlet, a large inlet of the Puget Sound that bisects the area. Both Port Orchard (county seat) and the City of Bremerton were established across from each other on the Sinclair Inlet. In 1892, the Puget Sound Naval Shipyard and later Naval Base Kitsap were established on the City of Bremerton waterfront. The global warfare of World Wars 1 and 2 placed high demands on military operations and the regions shorelines were bustling as work flooded into the Puget Sound Naval Shipyard and surrounding associated industry. Following the end of WW2, the region went from one that struggled to keep up with the high-demands of military operations, to an area with miles of abandoned commercial, industrial and business districts along its shorelines, many with legacy petroleum contamination. The Navy began relocating operations to other shorelines in the 1970s, resulting in a significant amount of work departing Port Orchard and Bremerton. Many local jobs were transferred to other areas and residents relocated.

*The **Target Area** for this application is the downtown Port Orchard waterfront (northern portion of Census Tract 922), opposite the remaining shipbuilding yards and naval facilities of Bremerton. Downtown Port Orchard is an older district that has been stagnating for decades; however, its waterfront location presents a huge opportunity for redevelopment. There is currently a lack of public amenities and outdoor space/connectivity along the waterfront. The Port Orchard waterfront history is that of a service industry supporting the larger population and shipyards of Bremerton and includes a disproportionate number of former auto repair, gas station, and dry cleaner sites. The Target Area has at least 12 sites with confirmed releases of petroleum products on a stretch of waterfront less than one mile in length, eight of which still require cleanup (WA Dept. of Ecology's [Ecology] database). Visual surveys of the Target Area show there are at least 8 additional sites with current or past petroleum storage activities (e.g., gas stations, truck depots, auto repair), and at least 15 with potential for hazardous substance impacts (e.g., blacksmiths, paint shops, printers, mills, and manufacturers), many of which may be directly impacting the Puget Sound aquatic environment. Ecology lists 94 contaminated sites in Port Orchard, with 487 countywide. Port Orchard makes up only 5% of the Kitsap County population, but has over 19% of the County's cleanup sites.*

*A former gas station/ metal fabrication site, the former Kitsap bank, and a former gas station/bulk storage site are the **three Priority Sites** selected within the Target area of Port Orchard waterfront. These sites were selected due to their location proximate to the Sound, property access, and their potential for/planned redevelopment projects. The sites are within 0.7 miles of each other along Bay Street, which parallels the Sinclair Inlet shoreline. Schools, residences, parks, medical centers, and businesses occupy the space between. Subsurface conditions have not been fully characterized at any of the sites to date.*

*The 0.85-acre former gas station and metal fabrication site (**525 Bay Street**) is located on the waterfront,*

adjacent to a public marina and less than 0.3 miles from three parks. The existing building was built in the 1940s on unknown fill materials and operated as a gasoline sales and automotive service station until the mid-1980s, at which time it was used for sheet metal fabrication. Four USTs remain on the site; confirmed releases to soil and groundwater have occurred, associated with the use of petroleum products. Petroleum contamination in soil and groundwater has been confirmed, potentially flowing directly into the Puget Sound. Additional characterization is required. The PoB purchased the site in 2021 and intends to remediate using grant funds and potentially redevelop for yet to be determined end use. **The PoB obtained a \$130,000 grant from the Department of Commerce to assist with Interim Action Planning on the Site in 2023.**

The 1.3-acre former Kitsap Bank site (**619 Bay Street**) is located on the waterfront and was historically part of Sinclair Inlet but was built up with fill material from an unknown origin in the early 1900s. The site was first constructed as a commercial creamery. By the 1940s, a Standard Oil Company wharf and oil gauge and a lumber and building material storage building were constructed on the site. The previous buildings were razed and Kitsap Bank constructed a new building on the site in the 1970s. The City of Port Orchard purchased the site in 2021 for the future Community Events Center, which would include a library, outdoor space, and community meeting space. The site has not been assessed but the historic use of petroleum products and building debris may have impacted soil, sediment, and groundwater with petroleum products and volatile organic compounds (VOCs) adjacent to and in Sinclair Inlet. Sediment contamination creates a pathway for marine life to be impacted, which in turn also negatively affects those harvesting and consuming marine life.

The 0.81-acre former gas station and bulk oil storage site (**620 Bay Street**) is on the opposite (south) side of Bay Street from the Puget Sound (approximately 100 feet from the waterfront). This site operated as a fueling station and automotive service shop from the 1920s until 1992. The site also operated as a bulk fuel storage facility between approximately 1940 and 1950. The site is currently a vacant parking lot. The site is listed in Ecology's leaking UST database with confirmed releases to soil and groundwater; limited cleanup previously occurred, but additional characterization and cleanup is required. Planned reuse is for mixed use residential and commercial, with partial use reserved for a neighborhood park/civic square.

Additional sites may be added later based on community feedback and developer interest in the Target Area.

1.2 Organizational Structure and Responsibilities

The PoB is led by a board of commissioners and CEO Jim Rothlin, with a staff of 35 employees. The grant project will be managed by PoB Marine Facilities Director James Weaver (the Project Director) with assistance from PoB contract administrators and accountants, as well as City of Port Orchard Community Development Director Nick Bond. Additional City of Port Orchard staff will also assist the PoB project team as needed. Mr. Weaver will lead all grant activities and oversee the procurement of contractor(s) to supplement the PoB's expertise and capacity.

Mr. Weaver has the expertise, qualifications, and experience that will result in successful administration of the grant. He has 25 years of public experience in administering municipal and local government public projects and grants. Mr. Weaver's educational background includes a master's in architecture and a bachelor's degree in finance. Prior to managing capital projects for the PoB, Mr. Weaver administered

multimillion dollar capital projects and grants in the cities of San Diego, Bainbridge Island, and Port Orchard. Mr. Weaver brings expertise from previous jurisdictions in the capacity of Community Development Director, and previous experience as a public official responsible for project management and oversight for projects and grants for similar City public projects.

Mr. Bond will help coordinate the grant. Mr. Bond has been Port Orchard's Community Development Director for 20 years and has experience in urban planning, project management, transportation planning, and public policy. He was previously a City Planner for the Town of Eatonville for 8 years. Together, Messrs. Weaver and Bond will lead the project team to ensure successful project implementation and timely completion of the required reporting, ACRES database updates, and financial documents.

The PoB will competitively procure consultant(s) with a track record of success on EPA brownfield assessment and cleanup projects in compliance with 2 Code of Federal Regulations (CFR) Part 200 and 2 CFR Part 1500. The PoB has robust internal policies and practices governing fair and competitive procurement of services. The PoB routinely conducts competitive procurements for contractors including engineering and consulting services and can readily procure any additional expertise and resources needed for the project.

Specific PoB responsibilities include the following.

- 1. Comply with all administrative and programmatic terms and conditions of the cooperative agreement made with EPA including Federal Cross Cutter requirements (National Historic Preservation Act and Endangered Species Act);*
- 2. Maintain detailed financial records and submit financial reports to EPA as required;*
- 3. Prepare and submit timely financial drawdown requests to EPA with accurate draws against hazardous substances and petroleum funding based upon a documented methodology for both site-specific costs and non-site specific costs;*
- 4. Prepare and submit quarterly progress reports, the final technical report, and other technical reports including all deliverables;*
- 5. Maintain list of sites assessed and track funding (hazardous substances and petroleum) expended by site to be reported in ACRES, and quarterly and final progress reports;*
- 6. Complete timely on-line ACRES database reporting to track all properties assessed under the cooperative agreement;*
- 7. Expend funds only on eligible activities;*
- 8. Comply with requirements of CERCLA § 104(k) and applicable federal and state laws when conducting assessment activities;*
- 9. Comply with competitive procurement requirements of 2 CFR Part 200.317-326 (State and Local Governments);*
- 10. Ensure that contractors comply with cooperative agreement terms and conditions;*
- 11. Carefully manage grant funds to control cost overruns and coordinate with EPA Project Manager if budget revisions are necessary; and*
- 12. Ensure that the final report adequately addresses the achievement of agreed-upon outputs/outcomes, and/or provide a satisfactory explanation for falling short in final report.*

Under the cooperative agreement, EPA will be substantially involved in the project. The EPA Brownfield Project Manager (BPM) is Sarah Frederick. Ms. Frederick’s responsibilities include but are not limited to:

1. Providing technical assistance and performing an advisory role on behalf of the EPA Brownfield Program to support successful completion of the project;
2. Program monitoring and evaluation;
3. Reviewing and approving quality assurance project plans/sampling and analysis plans, Phase I and II Environmental Site Assessments; Cleanup/Reuse Plans, Analysis of Brownfields Cleanup Alternatives, Area Wide Plans, and other technical documents;
4. Ensuring grantee compliance with Federal Cross Cutter requirements including the National Historic Preservation Act and Endangered Species Act.
5. Providing technical assistance on site eligibility (i.e., what sites are eligible for brownfields funding) and approving site eligibility determinations;
6. Providing technical assistance on subgrantee eligibility;
7. Approval of the substantive terms and conditions of assessment subawards;
8. Approval of the substantive terms and conditions included in professional services contracts;
9. Monitoring and evaluation of the grantee’s fulfillment of all performance and ACRES reporting, record keeping, and other program requirements including compliance with all programmatic terms and conditions; and
10. If the final report does not adequately address the achievement of outputs/outcomes, then the BPM will seek further explanation from the PoB and require appropriate action.

The Washington Department of Ecology will provide review of documents and oversight. The exact oversight mechanism is yet to be determined and will vary by site (e.g., none, Agreed Order, Voluntary Cleanup Program). We do not anticipate having Ecology review all technical documents, but in instances where regulatory concurrence and/or site closure is desired, the PoB will submit documents to the Ecology for review. The Ecology brownfield project manager most likely to review documents is Ms. Arianne Fernandez. Contact Information: Contact information for the PoB project director, EPA PM, and Ecology PM likely to review reports are provided below.

Personnel Name & Title	Agency	Contact Info
James Weaver Director of Marine Facilities	PoB	jamesw@portofbremerton.org (360) 813-0829
Sarah Frederick Brownfield Project Manager	EPA	(206) 553-1601 Frederick.Sarah@epa.gov
Arianne Fernandez Brownfields Toxicologist	Washington Ecology	(360) 704-0173 AFER461@ECY.WA.GOV

1.3 Project Outputs and Outcomes

The PoB's goals for its brownfield program are to encourage the redevelopment and reuse of contaminated, blighted or functionally obsolete properties within the Target Area. The following outputs will be tracked and documented:

- number of quarterly progress reports, other required reports to fulfill grant requirements;
- number of monthly project team meetings
- number of ACRES updates
- number of Brownfield conferences or regional workshops attended;
- number of brownfield sites identified and prioritized;
- number of Property Eligibility Determinations (PEDs) completed:
- number of Phase I Environmental Site Assessments (ESAs) performed;
- number of Phase II ESAs/Hazardous Materials Assessments performed;
- number of Remedial Action Plans/Remediation Workplans (RAP/RWP)/Feasibility Studies/or Analysis of Brownfield Cleanup Alternatives (ABCAs) completed;
- number of Remediations completed;
- number of Community Outreach activities undertaken (e.g. community education/stakeholder meetings);
- number of Community Outreach materials updated or developed (e.g. public involvement plan developed, webpage content updates, press releases, fact sheets)
- number of Quality Assurance Project Plans (QAPPs) and Sampling and Analysis Plans (SAPs); and,
- number of reuse plans (e.g. infrastructure evaluations, market viability evaluations)

The PoB will document, track and evaluate the following outcomes during the term of the multipurpose grant for brownfield sites on which funding is utilized:

- number of sites and total acres of land assessed;
- amount of private investment leveraged from grant-funded projects;
- amount of public funding leveraged from grant-funded projects;
- acres remediated;
- acres of property redeveloped;
- number of jobs created or retained on property assessed, remediated, and/or redeveloped;
- increased taxable value of property assessed, remediated, and/or redeveloped.

Progress toward these outcomes will be documented in quarterly reports submitted to the EPA and in the Assessment, Cleanup and Redevelopment Exchange System (ACRES). Quarterly Reports will be submitted to the EPA Brownfields Project Manager within 30 days following the end of each quarter: January 31, April 30, July 31 and October 31.

2 PROJECT TASK DESCRIPTIONS

The following subsections describe each task and sub-task that will be performed as part of this project and the type of funding that will be used for each task or sub-task.

2.1 TASK 1 – GRANT MANAGEMENT

Project Management

The CA's administration will be the responsibility of the PoB's Project Director and may include support from the QEP. Quarterly meetings will be held by the project team to discuss potential sites, progress of ongoing projects, and redevelopment updates. A dedicated file for all necessary cooperative agreement records and files will be kept digitally by the Project Director. The PoB will contact the EPA Brownfields Project Manager for assistance in determining eligible programmatic costs versus ineligible administrative costs.

Project Reporting – Periodic

The PoB, with assistance from the QEP, will submit Quarterly Progress Reports within 30 days of the end of each federal fiscal quarter ending December, March, June, and September (due by January 30, April 30, July 30, and October 30). Disadvantaged Business Enterprises (DBE/MBE/WBE) Reports will be submitted by the PoB by October 30th of each year. The PoB will submit property specific information reflecting site specific activities within 30 days after the end of the Federal fiscal quarter in which the event occurred. The reports will be submitted electronically unless another arrangement is discussed and approved by the EPA. Property profiles will be completed and updated quarterly in the Assessment, Cleanup and Redevelopment Exchange System (ACRES) for each property where CA funds are expended. The PoB also will prepare annual financial status reports on the program progress for the EPA.

Staff Training/Travel

Staff training and travel costs associated with attendance at national brownfields conferences and other brownfields educational opportunities by one representative of PoB project staff during the five years of the project funding cycle are included in the project budget. The locations for travel have not been determined at this time. Local travel will be reimbursed at agency rates, not to exceed federal reimbursement rates.

Contractor Procurement

The PoB will issue a Request for Qualifications (RFQ) to solicit qualifications from local QEPs. Once the RFQ is issued, the PoB will review and evaluate the submissions in accordance with [2 CFR Part 200](#) Uniform Administrative Requirements for Grants and Cooperative Agreements for Federal Awards and EPA specific Regulations for Grants and Agreements at [2 CFR Part 1500](#). The PoB will enter into a professional service agreement(s) with the respondent determined most qualified to serve as QEP for the project. As part of the project implementation, the PoB will retain documentation of the procurement process. Costs associated with this task will be minimal, as PoB personnel will provide in-kind, labor resources and supplies to accomplish this task prior to execution of the CA.

PoB will conduct contractor procurement process for Qualified Environmental Professional (QEP) in compliance with Federal procurement requirements at 2 CFR Part 200 and 2 CFR Part 1500 in the fourth quarter of Federal Fiscal Year 2023 before the cooperative agreement period of performance begins. This work will be conducted at the PoB's expense and not be charged to this cooperative agreement award either directly or indirectly.

Activities	Deliverables	To Be Completed By:
Prepare and advertise RFQ.	RFQ	Novmeber 14, 2023
Receive statements of qualifications (SOQs) from potential QEPs.	List of all proposals received	December 15, 2023
Review and evaluate submitted SOQs and select QEP.	Notice of selected environmental contractor	January 2, 2024

Final Performance Report

A final performance report will be prepared by the QEP and submitted to the EPA Project Manager for review and approval. The PoB will submit the report electronically to the EPA Brownfields Project Manager within 120 calendar days after the expiration or termination of the cooperative agreement. The report will contain the same information as the Quarterly Progress Reports but will cover the entire project period and may include before and after photos of the assessment of sites that have been redeveloped. In addition, the Final Performance Report will specifically address lessons learned by the PoB and QEP in implementing the brownfields project successes achieved. A summary fact sheet of the project will also be included in the final performance report.

2.2 TASK 2 – COMMUNITY ENGAGEMENT

The following subsections describe how the PoB will perform public involvement activities, consistent with the grant proposal (original competitive application) and the Cooperative Agreement Terms and Conditions, to ensure that community concerns are considered in project planning and execution. The public will be kept informed of project progress and results and given the opportunity to be involved with the grant project.

Community Outreach and Involvement

Following completion of the work plan, the PoB will announce the award and the availability of the Work Plan to the community through a press release and by posting a notice on the PoB’s website. The PoB may establish social media pages (e.g., a Facebook page, LinkedIn group, and/or Twitter handle) for the grant, which will allow the community to interact with the project team during the entire project. The PoB will include instructions on how to reach these internet forums in the initial press release and will involve the City. Hard copies of the draft Work Plan will be made available at Port Orchard City Hall, the PoB’s Port Orchard Marina, and local public libraries for access by those without computer access.

Project partners and their specific roles are included in the table below:

Partner Name	Point of Contact	Specific Role in Project
City of Port Orchard Community Development	Nick Bond (360) 874-5533	Assist with management of overall grant project. Assist with the identification of sites, bringing developers, distribution of project information, redevelopment visioning and grant funds awareness outreach. Manage progress of DSAP and BSRP.
Suquamish Indian Tribe	Sarah van Gelder (360) 394-7184	Provide consultation with respect to development and enforcement of environmental law and regulations. Provide outreach to the community on eliminating sources of contamination to local bodies of water and associated ecosystems.

Kitsap Economic Development Association	Joe Morrison (360) 377-9599	Assist with the identification of sites, bringing developers, distribution of project information, and grant funds awareness outreach.
Downtown Port Orchard Merchant Association	Coreen Hadock pobsainfo@gmail.com	Assist with the identification of sites in the community, distribution of project information, and grant funds awareness outreach. Partner in development of community spaces on priority sites.
Housing Kitsap	Heather Blough (360) 536-6100	Provide reuse visioning and outreach/potential development of priority sites with affordable housing. Assist with site selection and re-use planning/visioning; assist with public engagement through website/social media. Provide outreach to homeless population.
Washington Department of Ecology	Ali Furmall (509) 655-0538	Determine site eligibility for petroleum sites; provide technical assistance as needed for assessment, cleanup planning, and remediation activities.
Puget Soundkeeper Alliance	Sean Dixon (206) 297-7002	Provide input on sites; educate community on protecting the area and the impact of contamination on the environment; assist with grant funds awareness outreach.
Kitsap Regional Library	Kathleen Wilson (360) 447-5441	Assist with researching site histories and identifying sites; host community meetings and provide meeting space; post news of grant award and draft Work Plan.
South Kitsap Chamber of Commerce	Matt Murphy (360) 876-3505	Host community forums and assist with marketing, communication, site identification, site prioritization, and outreach to residents and businesses in the community.
Kitsap Transit	Steffani Lillie (360) 373-2877	Manage a coordinated and sustainable transportation network to serve all community members. Provide sustainable, green travel option to view project sites.
Kitsap Public Health District	John Kiess, BS, RS (360) 728-2235	Provide health/hazard data; assist with public engagement through social media; educate the community on brownfield site hazards to the public and the environment.

During various phases of the grant program, the types of community involvement will differ; although the same methods and groups discussed above (plus other groups representing the affected communities geographically proximate to targeted sites) will be involved. Project partners will be invited to attend the kickoff meeting and provide input (and marketing of the availability of funds) throughout the progression of the project.

Post award, the PoB will hold a kickoff stakeholder meeting to discuss ensuring transparency and open communication regarding project progress, and obtaining community input. The PoB and its partners will build on the extensive public engagement process used to develop the 2022 Housing Action Plan and DSAP. Virtual attendance will be allowed. Additionally, the PoB will host a public kickoff event upon award as well as at least 3 additional public events during the grant term. The PoB will widely publicize engagement sessions (in-person or online). Throughout the project the PoB will update the community using fact sheets (posted in the library and other community gathering locations), press releases, and social media. The PoB will solicit input using tools such as polling at public events and interactive poster sessions, workshops, and charrettes. The PoB will also present project information and provide opportunities for input at ongoing local meetings of project partners (see above). Community input from meetings, surveys, and other communications will be gathered and tracked in an outreach spreadsheet or database saved in the project file and will be referenced and incorporated during preparation of cleanup and reuse plans. Community input received and PoB responses will be summarized in the quarterly progress reports to EPA. All comments will be addressed on an individual basis, and staff will respond to each.

Public Notice and Comment

The PoB will publish notice of availability of draft ABCAs (or equivalent) and/or proposed cleanup plans for a public comment period (typically 30 days), and will summarize any significant comments received and how they are addressed in the Final Cleanup Plan. The PoB will also prepare and distribute a plain language “fact sheet” to the affected community by posting in

public locations described below as part of the Public Notice.

Project Updates and Other Public Information

Updates will be provided at public meetings and the project team will attend community organization meetings to discuss projects results. At project close, the PoB will hold a final public meeting to discuss the project outcomes. The PoB will prepare a plain language “fact sheet” and post it on social media, in the public libraries, and in Port Orchard City Hall and the PoB’s Port Orchard Marina office at the beginning of the grant project. A second fact sheet will be posted after the grant project is complete. Additional fact sheets may be prepared if there are new developments or delays.

When cleanup and/or redevelopment planning is initiated for a site/property, the PoB will implement more intensive involvement activities, including explanations of plans and solicitation of feedback on those plans. The intensive “information out, feedback in” process will continue throughout the cleanup and redevelopment decision-making process. Prior to cleanup planning activities such as preparation of an ABCA (or equivalent), the PoB will publish a notice of availability of the draft ABCA and the proposed cleanup plan for a 30-day public comment period. A summary of comments received and response to the comments will be included in the final cleanup plan for each site and may be incorporated in the remediation, if applicable.

Brownfields Inventory

Other additional sites may be added based on community input and development plans. The PoB is working to evaluate community priorities for other sites in the Target Area and to engage stakeholders/community partners in identifying brownfield opportunities that will support other near-term revitalization projects. This will be ongoing throughout the grant project.

2.3 TASK 3 – SITE ASSESSMENT

The following subsections describe the steps the PoB will take to develop a brownfield inventory and/or conduct Phase I and Phase II environmental site assessments

Candidate Site Identification and Eligibility Determination

The PoB will choose site selection criteria that address specific community needs, Justice40 principles, and align with the DSAP and BSRP goals. Priority Sites take precedence over other non-priority sites. Point values will be assigned to the criteria, and sites will be scored. Criteria will also include the site’s potential to: 1) attract redevelopment, 2) enhance existing communities, 3) promote equitable housing options, 4) promote public and/or environmental health, 5) address environmental justice concerns (e.g., location in an underserved community), 6) align redevelopment with planning efforts, and 7) leverage redevelopment resources. Known property owner willingness to provide access will also be one of the site selection criteria, to ensure assessing and planning for redevelopment of brownfields occurs within the project timeframe. As part of the ongoing site selection process, the PoB will continually survey project partners, local developers, real estate brokers, and other stakeholders for potential sites, and conduct desktop studies and windshield surveys to verify existing site conditions. The PoB will develop an access agreement letter outlining the purposes of proposed assessments, and establishing guidelines

including notification periods, minimizing interference with operations, restoring property impacted by the assessment, and other relevant

Eligibility determinations will be completed by the City and QEP and submitted to EPA for each site prior to completing assessment work on brownfield sites.

Site Characterization – Phase 1 Assessment

The QEP will complete Phase I Environmental Site Assessments (ESAs). The PoB will ensure that a “Phase I” site characterization and assessment carried out using grant funds will be performed in accordance with EPA’s standard for all appropriate inquiries. The PoB will utilize the practices in ASTM standard E1527-21 “Standard Practices for Environmental Site Assessment: Phase I Environmental Site Assessment Process,” or EPA’s All Appropriate Inquiries Final Rule “All Appropriate Inquiries Rule: Reporting Requirements Checklist for Assessment Grant Recipients”, (Publication Number: EPA 560-R-11-030). This does not preclude the use of grant funds for additional site characterization and assessment activities that may be necessary to characterize the environmental impacts at the site or to comply with applicable State standards.

All Appropriate Inquiries (AAI) final reports submitted to EPA Brownfields Project Managers as deliverables using grant funds will be accompanied by a completed [“AAI Rule: Reporting Requirements Checklist for Assessment Grant Recipients.”](#)

Site Characterization – Phase 2 Assessment

The QEP will perform additional assessments (Phase II Environmental Site Assessments or site investigation activities and hazardous materials surveys) on EPA-approved sites with grant funds. If health threats are identified during Phase II ESAs, WA Dept. of Ecology and the Kitsap Public Health District will be notified and health monitoring may be completed.

ESA and NHPA requirements

EPA has certain requirements under the Endangered Species Act and National Historic Preservation Act (NHPA) in addition to other Federal Crosscutters, which EPA must meet before giving approval to the PoB to proceed with field work under the cooperative agreement. The PoB will assist EPA in conducting this requirement by conducting the following:

- Providing the location of the property being assessed;*
- identifying any threatened or endangered species or habitat that may be adversely affected by the project;*
- identifying any cultural resources that may be adversely affected by the project;*
- conferring with State Historic Preservation officer regarding cultural resource affects, if any;*
- and consulting with Tribes regarding cultural resource affects, if any.*

Quality Assurance Project Plan (QAPP) and Health and Safety Plan

A draft overarching/master programmatic Quality Assurance Project Plan (QAPP), supplemented with Site-Specific Sampling and Analysis Plans (SSSAPs) for each Phase II assessment, will be prepared by the QEP. The draft QAPP and SSSAPs will be submitted to the EPA Project Manager for review at least 60 days prior to any work involving direct measurements or data generation, environmental modeling, compilation of data from literature, existing reports, studies or electronic media, and data supporting the design, construction and operation of environmental technology. No work will be started on such activities until the EPA Project Manager and the EPA Quality Assurance Manager have approved the QAPP and SSSAPs. As needed, PoB project staff and the QEP will participate calls to obtain guidance on items that need to be included in the QAPP to make it approvable.

A Health and Safety Plan (HASP) will also be completed by the QEP for each site prior to field work and will be provided to the EPA Project Manager.

Integrating Sustainability

The PoB will integrate sustainable practices into the grant project as feasible. Green building practices such as the use of bioswales, solar panels, and the pursuit of LEED certifications are encouraged during all redevelopment, regardless of location. There are many ways to reduce the environmental footprint of site work including:

- *Utilize fuel efficient vehicles*
- *Reduce miles traveled while conducting site work*
- *Purchase or lease more sustainable equipment, supplies, and services*
- *Implement sustainable materials management practices (reduce, reuse, recycle)*
- *Consider efficiencies to traditional travel or consider alternatives*
- *Consider other practices that directly reduce water, materials, climate, energy, or air impacts*

2.4 TASK 4 – CLEANUP/REUSE PLANNING

The following subsections describe the steps the PoB will take to plan the cleanup and/or reuse of sites.

Area-Wide Reuse planning will be minimal due the previous work completed by the City of Port Orchard in the 2022 Bay Street Redevelopment Plan and 2021 Downtown Subarea Plan. Site-specific reuse planning could occur based on community input and site prioritization needs. Proposed activities include: charrettes to gather site-specific inputs; market analysis to identify the prospects for mixed-use development on the 525 Bay Street Priority Site; infrastructure and utility surveys to determine capacity of existing utilities at Priority Sites; and Feasibility Study (FS)/Analysis of Brownfield Cleanup Alternatives (ABCA) and Remediation Work Plans (RWP) prior to remediation activities on the 525 Bay Street Priority Site.

Meeting with local, county, and/or state units of government officials may also occur to discuss the proposed cleanup and to assist with planning for the successful redevelopment of brownfield sites. At a minimum, a RWP will be prepared for the 525 Bay Street Site. However, EPA funding will not be used. The PoB has acquired a grant from the WA Dept of Commerce to cover remediation planning.

ABCAs/RWPs

The PoB and QEP will submit ABCAs/RWPs that summarize the following information: site description and contamination (i.e., exposure pathways, contaminant sources, types and levels of contamination, etc.); cleanup standards; and applicable laws. The ABCA/RWP will also discuss alternatives considered (at least two, evaluated in terms of effectiveness, implementability, and cost) and the proposed cleanup plan. This document will go out for public comment 30 days prior to beginning cleanup. The City and QEP will submit the ABCA/RWP for review by the Ecology project manager prior to making the document available for public comment to ensure that cleanup plans will ultimately be acceptable to the State.

The evaluation of alternatives will also consider the resilience of the remedial options in light of reasonably foreseeable changing climate conditions (e.g., increased frequency and intensity of flooding and/or extreme weather events, etc.). The alternatives may additionally consider the degree to which they reduce greenhouse gas discharges, reduce energy use or employ alternative energy sources, reduce volume of wastewater generated/disposed, reduce volume of materials taken to landfills, and recycle and re-use materials generated during the cleanup process to the maximum extent practicable. The evaluation will include an analysis of reasonable alternatives including no action. The PoB and QEP will utilize the EPA [ABCA checklist](#) to help guide cleanup planning.

EPA has created a checklist, [How to Address Changing Climate Concerns in an Analysis of Brownfield Cleanup Alternatives \(ABCA\)](#), to assist grant recipients with addressing resiliency, at https://www.epa.gov/sites/production/files/2015-09/documents/epa_oblr_climate_adaptation_checklist.pdf.

Final Cleanup Plan

After the Public Notice and comment period on the ABCA/RWP, the PoB and the QEP will document any significant comments received and how they were/are being responded to (such as a change in the cleanup plan, if there is such a change) and the final cleanup plan to be implemented with grant funds. The Final Cleanup Plan will include the cleanup standards to be achieved and any institutional, land use or engineering controls that will be required as part of the cleanup. This document should be submitted to the Ecology project manager for concurrence that the Cleanup Plan can be expected to meet Washington cleanup requirements.

2.5 TASK 5 - REMEDIATION

The PoB-owned 525 Bay Street Priority Site will be remediated using EPA multipurpose grant funds. Major expenses associated with the remediation will include 1) soil, waste (e.g., underground storage tanks), and/or water removal and disposal; 2) soil cleanup confirmation sampling; 3) site restoration, and 4) reporting.

Remediation Activities

The objective of this task, led by the QEP and subcontractors, is to remove contamination in soil exceeding MTCA Method A/B screening levels at the 525 Bay Street Priority Site. Additionally,

USTs that may contain source material will be removed. Soil, the USTs, and encountered debris, and any required water from dewatering activities or decontamination of equipment will be disposed of off-site at a licensed disposal facility permitted to accept the waste. The cleanup will be completed in accordance with the RWP, which will be prepared/approved by Ecology prior to implementing the cleanup. This remediation is likely to occur in summer 2024 or summer 2025, pending PoB demolition of the on-site building using private funds.

Confirmation sampling

The objective of this task, led by the QEP, is to understand concentrations of remaining contamination. Once the project-wide QAPP is approved and remediation activities are completed, confirmation sampling will be completed. Confirmation sampling will provide an understanding of what remains beyond the edge of the remedial excavation(s). The number of confirmation samples will depend on the final excavation size, which has not yet been determined. This task will be completed following final excavation.

Site Restoration

The objective of this task, led by the QEP and subcontractors, is to restore the Site by backfilling the excavation. Clean backfill material will be used to fill the excavation(s) and will be brought to within several inches of the ground surface. The uppermost most several inches will consist of either gravel or asphalt, yet to be determined. This task will be completed following completion of confirmation sampling.

Final Cleanup Report

After the cleanup is performed and the Site restored, the PoB and QEP will prepare a report documenting the cleanup actions that occurred. The report will indicate if additional cleanup is required, what institutional, land use or engineering controls (if required) are in place, and what next steps, if any, exist prior to Site closure. Once complete, the reports will be submitted to Ecology for review and approval.

3 SCHEDULE AND DELIVERABLES

A schedule of all key milestones, activities, and accomplishments anticipated over the length of the cooperative agreement is provided below. This is based on 5 year period of performance from October 1, 2023 to September 30, 2028.

DUE DATE	ITEM	Send to:			
		EPA PO	STATE	EPA GRANTS	EPA FINANCE
July - Sept 2023	Solicitation for hiring QEP	X			
August 2023	Potential attendance at EPA Brownfields Conference in Detroit, MI.				
Month 1	Property Profile Form entered in ACRES or submitted to PO	X			

DUE DATE	ITEM	Send to:			
		EPA PO	STATE	EPA GRANTS	EPA FINANCE
Month 2	Community Involvement Plan as applicable	X			
Month 2	Fact sheet - project starting	X			
Month 3	Community Meeting – Kick off	X	X		
Month 5	Inventory developed & Site Selection Criteria set	X			
Month 6	Top sites selected	X	X		
Ongoing - At least 30 days before assessment is scheduled to begin	Site eligibility requested & confirmed (for petroleum include State)	X	X		
Before fieldwork begins	<ul style="list-style-type: none"> Quality Assurance Project Plan (QAPP)/Sampling & Analysis Plan (SAP) Health and Safety Plan 	X			
Before field work begins	Endangered Species Act (ESA) & National Historic Preservation Act (NHPA) Letters	X			
Ongoing	Planning & Site Work Activities (Assessments and/or Cleanups) Begin				
Ongoing	Phase I and II Reports submitted AAI Checklists required w/ Phase I	X	X		
Ongoing	Reuse Planning Documents submitted	X	X		
Ongoing	Cleanup Planning Documents submitted	X	X		
Ongoing	Remediation Activities (field)				
Ongoing	Remediation Completion Reports submitted	X	X		

DUE DATE	ITEM	Send to:			
		EPA PO	STATE	EPA GRANTS	EPA FINANCE
Each Federal Fiscal Quarter - Oct-Dec; Jan-Mar; Apr-Jun; Jul-Sept	Quarterly Progress Reports (QPRs) Due Jan 30, Apr 30, July 30, Oct 30	X			
Annually	DBE Report (MBE/WBE) (DBE = Disadvantaged Business Enterprises) Reports must be submitted annually by October 30th of each year. For forms & more information, visit: https://www.epa.gov/resources-small-businesses	X (copy)		X	
As Needed	Requests for Reimbursement – see Administrative Terms & Conditions				X
Month 60	Fact Sheet - Assessment results	X	X (copy)		
Annually & at End of Agreement (90 days after end of reporting period)	Final Federal Financial Report (FFR) (SF425) & Final Drawdown Reports must be submitted annually within 90 days after end of reporting period (120 days after end of project period for closeout). For forms & more information, visit: https://www.epa.gov/grants/epa-grantee-forms	X (copy)		X (copy)	X
Months 60-62	Closeout: Final Performance Report with Summary Fact Sheet, Photos, and Lessons Learned	X			

4 BUDGET

4.1 Budget Table

The grant budget is further explained in the following subsections.

Budget Categories	Multipurpose Grant Project Tasks					
(all direct costs)	<i>Task 1</i> Grant Management	<i>Task 2</i> Community Engagement	<i>Task 3</i> Site Assessment (PHI & PHII ESAs)	<i>Task 4</i> Cleanup/Reuse Planning	<i>Task 5</i> Remediation	Total Budget
Personnel	\$5,000	\$10,000				\$15,000
Travel	\$4,700					\$4,700
Contractual	\$5,000	\$5,000	\$120,000	\$40,000	\$570,000	\$740,000
Other (Conference Fees)	\$300					\$300
Other (State Oversight)				\$5,000	\$10,000	\$15,000
Other (PSCs)		\$15,000		\$10,000		\$25,000
Total Dir. Costs¹	\$15,000	\$30,000	\$120,000	\$55,000	\$580,000	\$800,000

Note: ¹No fringe benefits, administrative, or indirect costs will be associated with the grant project tasks; all indirect costs will be in-kind.

4.2 Budget Narrative

The subsections below provide the Budget Narrative in two different ways:

- 1) Budget Narrative by Workplan Task, and
- 2) Budget Narrative by Budget Category listed in the Budget Table (i.e. personnel, travel, etc.)

4.2.1 Budget Narrative by Task

The total EPA funded budget for this project is \$800,000. Project activities performed in whole or part with EPA cooperative agreement funds will comply with all applicable state laws and cross-cutting federal requirements. The WA Dept of Commerce has also granted the PoB \$130,000 to assist with remediation planning for the 525 Bay Street Priority Site. These costs are not EPA funds and therefore are not included in the budget breakdown below. All are associated with Task 4..

Task 1 – Grant Management - \$15,000 Total

1. **Personnel costs:** \$5,000 (50 hrs at \$100/hr) towards project coordination, performing those activities necessary to manage the Project in accordance with the Work Plan and meet all required statutes, circulars, and terms and conditions, including establishment and maintenance of necessary Cooperative Agreement records and files. Additional personnel costs will be provided in-kind.
2. **Travel costs:** \$4,700 for James Weaver, Port Marine Facilities Director to attend 2 national brownfield conferences (one each conference: airfare [\$1,050], 4 nights hotel [\$200/night, \$800 total], 5 days per diem [\$70/day, \$350 total], \$2,500 total x 2 conferences). Costs are estimates as locations are yet to be determined for future national brownfield conferences.

3. **Contractual costs:** \$5,000 (40 hrs @ \$125/hr) for grant reporting (e.g., quarterly and annual reports).
4. **Other costs:** \$300 for conference fees

Task 2 – Community Engagement: \$30,000 Total

- **Personnel costs:** \$10,000 (100 hrs at \$100/hr) community meetings, public outreach, development of materials/preparation, identifying sites, site visits with developers/stakeholders, meetings. Additional personnel costs will be provided in-kind (e.g., hours spent and costs for printing materials for meetings).
- **Contractual costs:** \$5,000 (40 hrs @ \$125/hr) for time spent conducting community outreach and stakeholder meetings and assisting with inventory maintenance.
- **PSC Costs:** \$15,000. This includes 1) \$10,000 in stipends to cover for time, loss of wages (as attendees may need to skip work), and other costs associated with meeting attendance including transportation, and 2) \$5,000 (50 hrs @ \$100/hr) for a dedicated child care provider for residents attending community meetings which are usually after-hours. The PoB will obtain prior approval from EPA before paying out PSCs and will track disbursements.

Task 3 – Site Assessments: \$120,000 Total (all Contractual)

- **QAPP Preparation:**\$5,000 for time preparing 1 project-wide QAPP.
- **Phase I ESAs:** \$15,000 for completing up to 3 Phase I ESAs at an average cost of \$5,000/each.
- **SAPS:** \$10,000 for completing up to 3 SAPs at an average cost of \$3,333.33/each.
- **Phase II ESAs:** \$90,000 for completing up to 3 Phase II ESAs at an average cost of \$30,000/each.

These are averaged costs used for budgeting, based on past experience. State oversight costs will vary by project. If the state becomes involved in the site assessment process, a portion of the cost may be paid using grant funds, depending on the situation. This will be addressed on a site by site basis.

Task 4 – Cleanup/Redevelopment Planning: \$55,000 Total.

The WA Dept of Commerce has also granted the PoB \$130,000 to assist with remediation planning for the 525 Bay Street Priority Site. That budget is not included below since it is not EPA funds.

- **Contractual costs:** \$40,000 for cleanup planning by QEP (\$20,000; e.g., FS/ABCAs, cleanup action plans) and reuse planning consultants (\$20,000; e.g., proformas, infrastructure evaluations).
- **State oversight costs (VCP review):** \$5,000 for regulatory review/approval of cleanup work plans.
- **PSC costs:** \$10,000 to cover community member costs to participate in visioning sessions, surveys, and charrettes who may be unable to afford to participate otherwise.

State oversight (e.g., Ecology) costs of \$5,000 for review of plans are included. If no cleanup or reuse planning is required during the project period, the allocated budget will be distributed to other tasks as appropriate.

The WA Dept of Commerce has also granted the PoB \$130,000 to assist with remediation planning for the 525 Bay Street Priority Site. These costs are not EPA funds and therefore are not included in the Task 4 budget.

Task 5 – Remediation: \$580,000 Total

- **Contractual costs:** \$570,000 to complete and manage all aspects of site cleanup, including local and state permits (\$15,000); health and safety documentation (\$5,000); project management and coordination (\$20,000); mobilization of equipment (\$10,000); soil, waste (e.g., underground storage tanks), and/or water removal and transportation (\$370,000); landfill disposal costs (\$65,000); soil cleanup confirmation sampling (\$20,000); soil backfill replacement (\$40,000); dust and erosion controls/air monitoring (\$5,000); temporary site fencing (\$5,000), and reporting (\$15,000). These are general estimates at this time.
- **State oversight costs (VCP review):** \$10,000 for regulatory oversight/review/approval of remediation and issuance of no further action required status on remediation activities.

4.2.2 Budget Narrative by Budget Category

I. Personnel

Position/Title	Marine Facilities Director
Annual Salary (est.)	\$150,000
Percent of Time Assigned to Project	10%
Task Description	Budget
Task 1 – Grant Management	\$5,000
Task 2– Community Engagement	\$10,000
Task 3 – Site Assessments	\$0
Task 4 – Cleanup and Reuse Planning	\$0
Task 5 - Remediation	\$0
Total Personnel	\$15,000

City personnel costs above \$15,000 total or exceeding allotted dollar amounts by task/grant will be provided in-kind.

II. Travel

Task Description	Budget
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Task 1 – Grant Management	\$4,700
Task 2– Community Engagement	\$0
Task 3 – Site Assessments	\$0
Task 4 – Cleanup and Reuse Planning	\$0
Task 5 - Remediation	\$0
Total Travel	\$4,700

Travel costs above \$4,700 total or exceeding allotted dollar amounts by task/grant will be provided in-kind.

III. Other

For additional narrative to support Other costs, please see Section 4.2.1 Combined Budget Narrative by Task.

Task Description	Budget
Task 1 – Grant Management	\$300
Task 2– Community Engagement	\$15,000
Task 3 – Site Assessments	\$0
Task 4 – Cleanup and Reuse Planning	\$15,000
Task 5 - Remediation	\$10,000
Total Other	\$40,300

Costs above \$40,300 total or exceeding allotted dollar amounts by task/grant will be provided in-kind by the City.

IV. Contractual

For additional narrative to support contractual costs, please see Section 4.2.1 Combined Budget Narrative by Task.

Task Description	Budget
Task 1 – Grant Management	\$5,000
Task 2– Community Engagement	\$5,000
Task 3 – Site Assessments	\$120,000
Task 4 – Cleanup and Reuse Planning	\$40,000
Task 5 - Remediation	\$570,000
Total Contractual	\$740,000

Total Cooperative Agreement Budget \$800,000

Also: WA Department of Commerce Remediation Planning Budget \$130,000

PORT OF BREMERTON

AGENDA SUMMARY

Agenda Item No: Action Item #2
Subject: Authorization for WSDOT Grant Agreement
Exhibits: WSDOT Grant Agreement for POM Breakwater
Prepared By: James Weaver, Director of Marine Facilities
Meeting Date: December 12, 2023

Summary:

In June 2023, the Port of Bremerton was awarded a Washington Department of Transportation (WSDOT) grant for shore power electrification in the amount of \$1,980,835 for the Port Orchard Marina Breakwater Replacement project.

Port staff have been working closely with WSDOT staff to prepare documentation and materials required for the Port to be provided a contractual agreement for the disbursement of the grant funds.

Fiscal Impact:

The engineers estimate of the breakwater replacement project, including construction, is a total of \$15,710,000. The Washington Department of Transportation grant agreement is for \$1,980,835, to be used for electric and shore power component of the Port Orchard Marina Breakwater Replacement project.

Strategic Purpose:

Goal 6. Develop and fund a 20-year asset replacement/major maintenance schedule.

Recommendation:

Authorize the CEO to sign the Washington Department of Transportation Grant Agreement in the amount of \$1,980,835 for the Port Orchard Marina Breakwater Replacement project.

Motion for Consideration:

Move to authorize the CEO to sign the Washington Department of Transportation Grant Agreement in the amount of \$1,980,835 for the Port Orchard Marina Breakwater Replacement project.



<p>AGREEMENT</p> <p>MAXIMUM AMOUNT AUTHORIZED</p> <p>\$1,980,000</p>	<p>ORGANIZATION</p> <p>Port of Bremerton 8850 SW Highway 3 Bremerton, WA 98312</p>
<p>AGREEMENT NUMBER</p>	<p>DESCRIPTION OF WORK</p> <p>Breakwater Shore power for electric ferry fleet.</p>

This AGREEMENT is between the WASHINGTON STATE DEPARTMENT OF TRANSPORTATION hereinafter referred to as the “STATE”, and the Port of Bremerton, hereinafter referred to as the “GRANTEE,” collectively referred to as the “PARTIES” and individually the “PARTY.”

WHEREAS, in Engrossed Substitute House Bill 1125, Chapter 472, Laws of 2023 (pv), Section 309 (14) the Washington State Legislature appropriated \$2,000,000 (Two Million Dollars) from the carbon emissions reduction account created in RCW 70A.65.240 for a breakwater shore power for electric ferry fleet project (the “PROJECT”), as listed in the LEAP Transportation Document 2023-2;

WHEREAS, in chapters 47.06A, and 47.66 and 47.76 RCW the Washington State Legislature has determined that multimodal transportation programs and projects and freight mobility projects are of significant interest to the STATE, and permits the STATE to provide funding for multimodal transportation programs and projects and freight mobility projects;

WHEREAS, in chapter 70A.02 RCW (Environmental Justice) the Washington State Legislature has declared it a matter of public interest that environmental health disparities for overburdened communities and vulnerable populations be prevented and addressed in the funding and administration of ongoing and new environmental programs;

WHEREAS, in chapter 70A.65 RCW (Greenhouse Gas Emissions – Capital and Investment Program, also known as the Washington Climate Commitment Act), the Washington State Legislature has expressed the serious challenges inherent to climate change and the importance of acting to reduce its impacts upon people and the environment, including acting to advance environmental equity and to cap greenhouse gas emissions; and

NOW THEREFORE, pursuant to the above recitals that are incorporated herein as if fully set forth below and in consideration of the terms, conditions, covenants, and performances contained in this AGREEMENT, or attached hereto and by this reference made a part of this AGREEMENT, IT IS MUTUALLY AGREED AS FOLLOWS:

SECTION 1 SCOPE OF WORK

1.1 EXHIBIT A, which is attached hereto and by this reference made a part of this AGREEMENT, defines the Scope of Work for the PROJECT.

1.2 The GRANTEE shall furnish all personnel, facilities, equipment, and other materials and services (except as otherwise specified herein) necessary to perform the PROJECT as set forth in EXHIBIT A.

1.3 All work performed under this AGREEMENT shall comply with applicable provisions of federal, state and local laws and regulations.

SECTION 2 PAYMENTS TO GRANTEE

2.1 The STATE agrees to grant to the GRANTEE monies to accomplish the PROJECT detailed in EXHIBIT A.

2.2 Prior to initiating any work for performance hereunder, the GRANTEE shall provide the STATE with the proposed schedule for each item of work to be performed. The schedule shall be arranged in such a manner as to form a basis for comparison with progress billings for work performed. In the event of a change in the method or time for performance of any work, the GRANTEE shall update the schedule, subject to the STATE's approval, to reflect the changed circumstances.

2.3 The STATE agrees to reimburse the GRANTEE up to a maximum amount of \$1,980,000 (One Million Nine Hundred Eighty Thousand Dollars) for the actual direct and related indirect costs expensed by the GRANTEE in the course of completing the PROJECT required under this AGREEMENT. The MAXIMUM AMOUNT AUTHORIZED excludes the STATE's costs of \$20,000 (Twenty Thousand Dollars) to administer this AGREEMENT.

2.4 It is understood that the actual PROJECT costs under this AGREEMENT are based on preliminary estimates and that if unforeseen circumstances cause the PROJECT costs to exceed the PROJECT estimate, the GRANTEE shall complete the PROJECT and assume the entire cost overrun without any increase of the STATE's maximum funding commitment made herein.

2.5 Any costs expensed by the GRANTEE prior to the execution of this AGREEMENT will be borne by the GRANTEE and will not be eligible for reimbursement from the STATE.

2.6 The GRANTEE shall comply with all provisions of the most recent version of 48 CFR Part 31 (Contract Cost Principles and Procedures) or as subsequently amended, regarding accounting conventions.

2.7 The GRANTEE shall submit quarterly invoices detailing work completed and a PROJECT status report. PROJECT status reports shall include: an account of significant progress made during the reporting period; a description of any technical and/or cost problem(s) encountered or anticipated that will affect completion of the PROJECT within the time and fiscal constraints as set forth in this AGREEMENT, together with recommended solutions or corrective action plans; an outline of work and activities planned for the next reporting period; updated milestone schedule dates; and the state of completion of items in the Scope of Work relative to expenditures of the relevant budget elements. The STATE shall make periodic payments to the GRANTEE for costs expensed under this AGREEMENT. When requesting payment, the GRANTEE shall identify: (1) the total amount of costs to date; and (2) the remaining balance of dollars from the MAXIMUM AMOUNT AUTHORIZED. Supporting documentation for all costs being invoiced, including timecard records, itemized invoices, and itemized receipts, shall be submitted with the invoice each quarter. Failure to provide supporting documentation will render the cost ineligible for reimbursement. Payment by the STATE shall not relieve the GRANTEE of any obligation to make good any defective work or material upon PROJECT completion.

2.8 At the time the final PROJECT invoice is submitted, the GRANTEE shall provide the STATE with a written statement confirming it is in compliance with the terms of the AGREEMENT. The STATE will provide an example of this written statement upon request.

2.9 The GRANTEE shall receive reimbursement for the actual cost of items identified in EXHIBIT A, less net salvage value of any material being replaced in carrying out the PROJECT construction. Labor, materials, and/or other PROJECT costs supplied by the GRANTEE will only be reimbursed at actual cost without markup to the STATE or profit.

2.10 Any materials salvaged under this PROJECT will be stockpiled, inventoried, and sold with the proceeds credited to the PROJECT. Documentation shall include the amount of materials salvaged, the amount actually sold, and amount received which will be credited back to the PROJECT on the final submitted invoice.

2.11 Reimbursement for GRANTEE rented or leased equipment, if any, will be based on actual cost as supported by original receipts. Reimbursement for GRANTEE-owned equipment shall be based on rates per 23 CFR § 140.910(a) (Equipment).

2.12 Reimbursement for overhead costs will not be allowed unless specified in this AGREEMENT.

2.13 Reimbursement for travel, subsistence, and lodging expenses will not be eligible under this AGREEMENT unless specifically preapproved in writing by the STATE. If preapproved, the GRANTEE shall comply with the rules and regulations regarding travel costs that are contained in EXHIBIT B, attached hereto and by this reference made a part of this AGREEMENT. Billing for non-salary cost, directly identifiable with the PROJECT, if any, shall be an itemized listing of the charges supported by copies of the original bills, invoices, expense accounts, and miscellaneous supporting data submitted by the GRANTEE with each invoice. All above charges must be essential to the work conducted under this AGREEMENT. Crew travel time between normal workstation and jobsites will not be considered travel under this restriction.

2.14 Per chapter 39.12 RCW, no payment can be made without the approved Intent to Pay Prevailing Wage being submitted to the STATE prior to payment. The online access address for the Prevailing Wage for Public Works Contracts is contained in EXHIBIT C, attached hereto and by this reference made a part of this AGREEMENT.

2.15 Most of Washington state is covered under the Industrial Fire Precautions Levels (IFPL) system which, by law, is managed by the Department of Natural Resources (DNR). In some cases, jurisdiction is transferred to the United States Forest Service or to the local fire authority. It is the GRANTEE's responsibility to be familiar with the IFPL requirements and to verify whether or not IFPL applies. The online access address for Industrial Fire Precautions Levels is contained in EXHIBIT C, attached hereto and by this reference made a part of this AGREEMENT.

2.16 If the STATE, at its sole discretion, determines that the PROJECT is not progressing in a satisfactory manner, the STATE may refuse monies for reimbursement to the GRANTEE for parts or all of the work performed to date.

2.17 If the PROJECT is not completed by June 30, 2025, the GRANTEE and STATE agree that the entire expense for the completion of the PROJECT will be borne solely by the GRANTEE. The GRANTEE shall then also be automatically in default and will be obligated to reimburse the STATE for the full amount of funds already paid to the GRANTEE. Any required repayment shall be due within thirty (30) calendar days after receipt of an invoice from the STATE.

2.18 Per chapter 43.88 RCW, any invoices for work performed between July 1 and June 30 of any given year must be submitted to the STATE no later than July 6th (or the first business day after the July 4th holiday) of the same calendar year. If the GRANTEE is unable to provide an invoice for such work by this date, an estimate of all remaining payable costs owed by the STATE for work performed by the GRANTEE prior to July 1 must be submitted to the STATE no later than July 19th of the same year in order for the STATE to accrue the amount necessary for payment. The GRANTEE will thereafter submit any remaining invoices to the STATE for such work as soon as possible. Failure to comply with these requirements may result in delayed payment. The STATE shall not be required to pay to the GRANTEE late payment fees, interest, or incidental costs expensed by the GRANTEE or any other costs related to a delayed payment if the GRANTEE fails to comply with the invoice requirements of this Section.

2.19 The payment by the STATE for any work completed shall not relieve the GRANTEE of any obligation to make good any defective work or material.

2.20 It is agreed that any STATE payment, pursuant to any GRANTEE payment request, will not constitute agreement as to the appropriateness of any item, and that required adjustments, if any, will be made at the time of STATE's final payment. In the event that the STATE and/or their representatives

conducts an audit, and that audit indicates an overpayment of moneys granted to the GRANTEE, the GRANTEE agrees to refund the overpayment to the STATE within thirty (30) calendar days after being billed therefore. Termination of this AGREEMENT will not alter the GRANTEE's obligation to return any funds due to the STATE as a result of later refunds, corrections, or other transactions. Nor will termination of this AGREEMENT alter the STATE's right to disallow costs and recover funds on the basis of a later audit or other review.

SECTION 3 TERM

3.1 This AGREEMENT shall become effective upon the date the last PARTY signs the AGREEMENT. The AGREEMENT shall continue in full force for the useful life of the equipment and materials installed with STATE funds. The PARTIES expect the useful life for the Scope of Work to be ten (10) years. Accordingly, this AGREEMENT shall continue in full force and effect for ten (10) years after the physical completion of the work to be performed for this PROJECT unless terminated sooner in accordance with SECTION 18 of this AGREEMENT.

3.2 Notwithstanding SECTION 33, the STATE, at its sole discretion, reserves the right to unilaterally amend the term of this AGREEMENT with respect to the duration of the reporting requirements described in SECTION 10 of this Agreement only, based on guidance from the Washington State Department of Ecology.

SECTION 4 CONTINGENT INTEREST

4.1 The GRANTEE agrees that the STATE shall retain a Contingent Interest in the PROJECT's capital improvements and the equipment purchased with the funds from this AGREEMENT as described in EXHIBIT A, which binds the GRANTEE, and its successor(s), to continue and maintain the PROJECT in an operating condition that is viable for use in port infrastructure.

4.2 The STATE shall maintain its Contingent Interest for ten (10) years following the PROJECT's completion. During this time the GRANTEE shall not (a) use the port infrastructure, property or equipment purchased with funds from this AGREEMENT as collateral, (b) remove elements of the port infrastructure or equipment purchased with funds from this AGREEMENT for salvage, or (c) use the PROJECT capital improvements or equipment in any manner subordinating the STATE's Contingent Interest without obtaining prior written approval from the STATE. The STATE's Contingent Interest specified under this provision shall apply to any person or persons, company or companies, to include but not limited to any parent or subsidiary company or corporation of GRANTEE, that may have an interest in the PROJECT.

4.3 The requirement that the PROJECT capital improvements and equipment be maintained for port operations shall also be required of all subsequent purchasers, persons, or entities acquiring all, or a material portion of, the port facility for which the PROJECT is constructed. The GRANTEE shall be obligated to include in any contract of sale or other dispositional agreement for all, or any portion of, the PROJECT provisions sufficient to perpetuate the STATE's Contingent Interest to the PROJECT capital improvements and equipment upon the consummation of any such conveyance. The GRANTEE further agrees that, as a precondition to the GRANTEE's execution of any agreement to transfer ownership of all, or a material or equipment portion of, the PROJECT to a subsequent purchaser, assignee, or grantee, the STATE shall retain the right to review and, if necessary, reject, any such agreement that does not contain guarantees sufficient to protect the STATE's Contingent Interest.

4.4 The GRANTEE shall make appropriate entries upon its financial statements and its books and records disclosing the STATE's Contingent Interest under this Section 4.

4.5 Should the GRANTEE or its successor(s) fail to continue and maintain the PROJECT for the Contingent Interest term as provided in this Section 4, the STATE may pursue compensation, including, but not limited to, the following methods: (a) issuing a lien against the assets that were improved under

the PROJECT; and (b) requiring the GRANTEE to pay back funds for the remaining benefits period. The STATE may conduct periodic PROJECT reviews to ensure that maintenance is occurring in accordance with its Contingent Interest.

SECTION 5 EMPLOYMENT AND INSPECTION OF WORK

5.1 The GRANTEE shall employ all persons or contractors necessary to perform the PROJECT work and agrees to be responsible for the management, control, operation, construction, maintenance, and repairs that are essential to this PROJECT. The STATE may place an Engineer, Project Manager, and/or other inspection personnel on the work site during the term of this AGREEMENT to monitor progress of the PROJECT and/or to monitor adherence to the required provisions of this AGREEMENT. The GRANTEE shall make the site accessible to STATE inspection personnel. This may include providing transportation to remote, inaccessible work sites, at the expense of the GRANTEE.

5.2 The STATE will inspect progress at the work site, as it deems appropriate.

5.3 Upon completion of the PROJECT, a joint inspection shall be made by the authorized representatives of each of the PARTIES to determine that the work has been completed within the terms of this AGREEMENT.

SECTION 6 USE AND MAINTENANCE OF PROJECT CAPITAL IMPROVEMENTS AND OTHER EQUIPMENT PURCHASED WITH FUNDS FROM THIS AGREEMENT

6.1 The GRANTEE agrees that PROJECT property, equipment, and supplies shall be used solely for the PROJECT activity for the duration of its useful life. Should the GRANTEE unreasonably delay or fail to use PROJECT property, equipment, or supplies during its useful life, the GRANTEE understands that the STATE may require the return of the entire amount of STATE assistance expended on that property, equipment, or supplies.

6.2 The GRANTEE shall give timely notice and receive prior written approval from the STATE for any proposal to use PROJECT property, equipment or supplies in a manner substantially different than set forth in this AGREEMENT.

6.3 The GRANTEE shall make all necessary repairs and reasonably maintain the capital improvements and equipment purchased with the funds from this AGREEMENT so long as the STATE retains rights as specified in SECTION 4 - CONTINGENT INTEREST. The costs of service, materials, and repairs in connection with the use and operation of the PROJECT shall be at the GRANTEE's expense.

6.4 Throughout the Contingent Interest term defined in SECTION 4 of this AGREEMENT, the GRANTEE shall maintain and keep the purchased PROJECT equipment identified in EXHIBIT A in good order, condition and repair, ordinary wear and tear excepted, utilizing the same standard of care as it does with similar equipment owned or leased by the GRANTEE. Purchased equipment identified in EXHIBIT A shall be maintained to all Original Equipment Manufacturer ("OEM") specifications and maintenance instruction, all applicable regulations and laws.

SECTION 7 LOSS OR DAMAGE TO THE PROJECT EQUIPMENT

7.1 The GRANTEE, at its own expense, shall cover any loss, theft, damage, or destruction of the purchased PROJECT equipment throughout the Contingent Interest term defined in SECTION 4 of this AGREEMENT. If the GRANTEE does not replace or repair any PROJECT equipment that has been lost, stolen, damaged, or destroyed within sixty (60) calendar days of such, the GRANTEE shall then be automatically in default and will be obligated to reimburse the STATE for the full amount of funds already paid to the GRANTEE.

SECTION 8 MAINTENANCE OF RECORDS AND AUDIT REQUIREMENTS

8.1 During the progress of the work, and for a period of not less than six (6) years from the date of final payment by the STATE to the GRANTEE, records and accounts of the GRANTEE are to be kept intact and available for inspection and audit by representatives of the STATE. Termination of this AGREEMENT does not alter the GRANTEE's requirements under this Section 8.

8.2 Copies of the records shall be furnished to the STATE upon request and shall be maintained in accordance with accepted job cost accounting procedures as established in 48 CFR Part 31 (Contract Cost Principles and Procedures). All costs must be supported by actual invoices and canceled checks. The GRANTEE agrees to comply with the audit requirements contained herein, and to impose the same requirement on any consultant, contractor, or subcontractor who may perform work funded by this AGREEMENT.

8.3 The records to be maintained by the GRANTEE shall include, but are not limited to, the following:

8.3.1 Records that identify the sources and applications of funds for this AGREEMENT and contain information pertaining to outlays;

8.3.2 Supporting source documents;

8.3.3 All documentation underlying the preparation of the financial reports;

8.3.4 Any other records which are required following notification of an amendment to State of Washington or federal regulations which takes effect during the period in which costs are allowable; and

8.3.5 Any other records necessary to disclose fully the amount and disposition of the funds provided to the GRANTEE under this AGREEMENT and charged to the PROJECT, supported by documents evidencing in detail the nature and propriety of the charges, the total cost of each undertaking for which the assistance was given or used, the amount of the costs of the undertaking supplied by other sources, and other books, records, and documents needed for a full and complete verification of the GRANTEE's responsibilities and all payments and charges under this AGREEMENT.

8.4 In the event that any litigation, claim or audit is initiated prior to the expiration of said six (6) year period, the records shall be retained until such litigation, claim, or audit involving the records is complete.

SECTION 9 QUALITY ASSESSMENTS

9.1 The GRANTEE's project management of the PROJECT may be subject to periodic assessments by the STATE for quality assurance purposes. If requested, the GRANTEE shall provide the necessary staffing to attend assessment interviews, accommodate STATE personnel during field visits, and make available for the STATE to review, requested examples of documentation that supports its quality management activities.

SECTION 10 REPORTING REQUIREMENTS AND DATA COLLECTION

10.1 GRANTEE shall submit data and reports to the STATE as set forth in EXHIBIT D.

SECTION 11 FINAL REPORT AND FINAL INSPECTION

11.1 Within ninety (90) days following the completion of the PROJECT and submission of the final billing for the PROJECT, a final report and/or final inspection shall be submitted to the Director of Rail, Freight and Ports containing the following information:

11.1.1 Non-Capital Projects

11.1.1.1 A description of the PROJECT or program.

11.1.1.2 A summary of actual costs of the PROJECT or program.

11.1.1.3 An evaluation of the PROJECT or program. This should address aspects such as transportation, environmental, and/or other benefits to the public.

11.1.2 Capital Projects

11.1.2.1 A final inspection is required by the STATE for acceptance.

SECTION 12 LEGAL RELATIONS

12.1 No liability shall attach to the GRANTEE or the STATE by reason of entering into this AGREEMENT except as expressly provided herein.

SECTION 13 INSURANCE

13.1 The GRANTEE shall obtain and keep in force during the terms of this AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to Title 48 RCW.

A. Worker's compensation and employer's liability insurance as required by the STATE.

B. Commercial general liability insurance with minimum limits of three million dollars (\$3,000,000.00) per occurrence and five million dollars (\$5,000,000.00) in the aggregate for each policy period.

C. Business auto liability insurance providing coverage for any "Auto" (Symbol 1) used in an amount not less than a three million dollar (\$3,000,000.00) combined single limit for each occurrence.

D. Professional Liability, with limits no less than two million dollars (\$2,000,000.00) per occurrence or claim, and a two-million-dollar (\$2,000,000.00) policy aggregate.

E. Contractors' Pollution Legal Liability with limits no less than three million dollars (\$3,000,000.00) per occurrence or claim, and a three-million-dollar (\$3,000,000.00) policy aggregate.

F. Builder's Risk insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.

Excepting the Worker's Compensation Insurance, the STATE, its officers, employees, and agents will be named on all policies of GRANTEE and any consultant and/or contractor as an additional insured (the "AIs"), with no restrictions or limitations concerning products and completed operations coverage. This coverage shall be primary coverage and non-contributory and any coverage maintained by the AIs shall be excess over, and shall not contribute with, the additional insured coverage required hereunder. The GRANTEE's and the consultant's and/or contractor's insurer shall waive any and all rights of subrogation against the AIs. The GRANTEE shall furnish the STATE with verification of insurance and endorsements required by this AGREEMENT. The STATE reserves the right to require complete, certified copies of all required insurance policies at any time.

If the GRANTEE maintains broader coverage and/or higher limits than the minimums shown above, the STATE requires and shall be entitled to the broader coverage and/or the higher limits maintained by the GRANTEE. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the STATE.

All insurance shall be obtained from an insurance company authorized to do business in the state of Washington. The GRANTEE shall submit a verification of insurance as outlined above within fourteen (14) days of the execution of this AGREEMENT to:

Seattle-Alliant Insurance Services, Inc.

401 Union Street, 31st Floor

Seattle, WA 98101

206-204-9138

vholaday@alliant.com

No cancellation of the foregoing policies shall be effective without thirty (30) days prior notice to the STATE.

13.2 The GRANTEE is allowed to self-insure with the prior written consent of the STATE. If granted by the STATE, any self-insured retention or other financial responsibility for claims shall be covered directly by GRANTEE in lieu of insurance. Any and all liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by GRANTEE's insurance will be covered as if GRANTEE elected not to include a deductible, self-insured retention or other financial responsibility for claims. Prior to commencing services, GRANTEE shall furnish to the STATE an acceptable certificate(s) of insurance from an authorized company representative evidencing the required coverage(s), endorsements, and amendments.

SECTION 14 LAWS TO BE OBSERVED

14.1 General Compliance. The GRANTEE shall comply with all applicable federal, state, and local laws, rules, regulations, and orders pertaining to the PROJECT, and to the extent applicable, 48 CFR Part 31 (Contract Cost Principles and Procedures) and 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards). If any action or inaction by the GRANTEE results in a fine, penalty, cost, or charge being imposed or assessed on or against the GRANTEE and/or the STATE, the GRANTEE shall assume and bear any such fine, penalty, cost, or charges. In the event the STATE, for any reason, is required to pay the same, the GRANTEE, upon demand, shall promptly reimburse, indemnify, and hold harmless the STATE for or on account of such fine, penalty, cost, or charge and shall also pay all expenses and attorney's fees expensed in defending any action that may be brought against the STATE on account thereof. The GRANTEE shall, in the event of any such action and upon notice thereof from the STATE, defend any such action(s) free of cost, charge, and expense to the STATE.

14.2 Permits and Compliance with land use and environmental laws. The GRANTEE shall be responsible for obtaining all necessary permits from federal, state, and local agencies of government and compliance with land use and environmental regulations pertaining to the performance of work under this AGREEMENT.

14.3 Compliance with Social Laws. During the term of the AGREEMENT, the GRANTEE and its contractors, subcontractors, and lessees shall comply with all applicable state and federal workmen's compensation, employer's liability and safety and other similar laws applicable to the GRANTEE.

14.4 Equal Employment Opportunity. In connection with the execution of this AGREEMENT, the GRANTEE or its Contractor shall not discriminate against any employee or applicant for employment because of race, creed, marital status, age, color, sex or national origin, or disability, except for a bona fide occupational qualification.

14.5 The GRANTEE agrees to comply with all applicable state and federal laws, rules, and regulations pertaining to nondiscrimination and agrees to require the same of all subcontractors providing services or

performing any work using funds provided under this AGREEMENT.

14.6 The GRANTEE agrees to comply with chapter 53.58 RCW regarding the purchase of zero and near zero emissions cargo handling equipment.

SECTION 15 REINVESTMENT OF ENVIRONMENTAL CREDITS EARNINGS

15.1 To the extent GRANTEE receives any monies from the sale or disposition of energy credits, decarbonization credits, environmental credits, or any other monies through its participation in a like program, GRANTEE agrees to reinvest those monies into services and projects consistent with the state of Washington's carbon emissions reduction account (chapter 70A.65.240 RCW). GRANTEE's obligation to reinvest these monies under this Section 15 shall be in an amount no less than the proportion of the STATE's funding of this AGREEMENT.

SECTION 16 REPRESENTATIONS, WARRANTIES, AND COVENANTS

16.1 The following representations and warranties by the PARTIES hereto shall be considered conditions precedent to the effectiveness of this AGREEMENT.

16.2 The GRANTEE represents and warrants the following:

16.2.1 That it is a municipal corporation duly organized, validly existing and in good standing under the laws of the state of Washington;

16.2.2 That the monies the GRANTEE will derive through this AGREEMENT will be used solely for the PROJECT as defined in this AGREEMENT;

16.2.3 That it has the full power and authority to enter into this AGREEMENT, and to carry out the obligations, which it has hereby undertaken;

16.2.4 That all corporate and other proceedings required to be taken by or on the part of the GRANTEE to authorize its entrance into this AGREEMENT, have been or will be duly taken;

16.2.5 That execution of this AGREEMENT and the performance of the improvement hereunder will not violate any statute, rule, regulation, order, writ, injunction or decree of any Court, administrative agency or government body;

16.2.6 That the GRANTEE has not employed or retained any company or person to solicit or secure this AGREEMENT, and that it has not paid or agreed to pay any company or person, any fee, commission percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this AGREEMENT. For breach or violation of this warranty, the STATE shall have the right to terminate this AGREEMENT without liability;

16.2.7 That the GRANTEE shall not engage on a full, part-time, or other basis, during the period of the AGREEMENT, any professional or technical personnel, to work on this AGREEMENT, who are, or have been, at any time during the period of the AGREEMENT in the employ of the STATE without written consent of the employer of such person; and

16.2.8 That the GRANTEE shall not extend any loan, gratuity, or gift of money in any form whatsoever to any employee, agent, or officer of the STATE nor will the GRANTEE rent or purchase any equipment or materials from any employee or officer of the STATE.

SECTION 17 FORCE MAJEURE

17.1 It is further understood and agreed that neither the GRANTEE nor the STATE, as the applicable case may be, shall be required to keep this AGREEMENT in effect during any period(s) it is prevented from doing so by governmental action, war, strikes, riots, terrorism, pandemic, or civil commotion, or if the port facilities or any portion thereof is made unserviceable by Acts of God including, but not limited

to, floods, high water, or other damage by the elements.

SECTION 18 TERMINATION

18.1 Convenience – The STATE may terminate this AGREEMENT in whole, or in part, upon thirty (30) calendar days written notice whenever:

18.1.1 The requisite funding becomes unavailable through failure of appropriation or otherwise; and/or

18.1.2 The STATE determines that such termination is in the best interests of the STATE.

18.2 If the STATE exercises its rights under Section 18.1, the STATE shall reimburse GRANTEE for any expenses and costs eligible hereunder prior to receipt of such notice of termination.

18.3 Fault – Should either the STATE or the GRANTEE substantially fail to perform their obligations under this AGREEMENT, and continue in such default for a period of sixty (60) calendar days, the PARTY not in default shall have the right at its option, after first giving thirty (30) calendar days written notice thereof by certified mail to the PARTY in default, to terminate this AGREEMENT. Should either the STATE or GRANTEE fail to exercise any right or remedy during the sixty (60) calendar days in which the other PARTY is in default, such failure shall not subsequently be deemed a waiver of, or preclude the exercise of that or any other right or remedy hereunder. The termination of this AGREEMENT shall not impair any other rights of the terminating PARTY under this AGREEMENT or any rights of action against the defaulting PARTY for the recovery of damages. For purposes of this provision, a substantial failure to perform on the part of the GRANTEE shall be deemed to include, but shall not be limited to, any action of the GRANTEE that jeopardizes its ability to perform pursuant to this AGREEMENT.

18.4 Default – In the event that either PARTY commits a material breach of its obligations under this AGREEMENT and fails to cure that breach within sixty (60) days after receiving written notice thereof, the other PARTY may terminate this AGREEMENT immediately upon written notice to the PARTY in breach.

18.5 After receipt of a notice of termination, and except as otherwise directed by the STATE, the GRANTEE shall:

18.5.1 Stop work under the AGREEMENT on the date, and to the extent specified, in the notice;

18.5.2 Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the AGREEMENT that is not terminated;

18.5.3 Assign to the STATE, in the manner, at the times, and to the extent directed by the STATE, all of the rights, title, and interest of the GRANTEE under the orders and subcontracts so terminated, in which case the STATE has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;

18.5.4 Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the STATE to the extent the STATE may require, which approval or ratification shall be final for all the purposes of this clause;

18.5.5 Complete performance of such part of the work as shall not have been terminated by the STATE; and, if applicable:

18.5.6 Transfer title to the STATE and deliver in the manner, at the times, and to the extent directed by the STATE any property which, if the contract had been completed, would have been required to be furnished to the STATE; and

18.5.7 Take such action as may be necessary, or as the STATE may direct, for the protection and preservation of the property related to this AGREEMENT, which is in the possession of the GRANTEE and in which the STATE has or may acquire an interest.

SECTION 19 INDEMNIFICATION

19.1 The GRANTEE shall indemnify and hold the STATE and all its officers and employees harmless from, and shall process and defend at its own expense all claims, demands, or suits at law or equity arising out of this AGREEMENT caused by the performance or failure to perform by the GRANTEE, its agents, employees and/or its subcontractors of any and all duties prescribed by, or incidental to its performance under, this AGREEMENT; provided that nothing herein shall require the GRANTEE to indemnify or hold the STATE harmless against claims, demands, or suits based solely upon the negligent conduct of the STATE, its officers or employees; and provided further that if the claims, demands, or suit is caused by or results from the concurrent negligence of (a) the GRANTEE's agents or employees and (b) the STATE's agents or employees, and involves those actions covered by RCW 4.24.115, this indemnity provision with respect to claims or suits based upon such negligence shall be valid and enforceable only to the extent of the GRANTEE's negligence or the negligence of the GRANTEE's agents or employees.

19.2 The GRANTEE agrees that its obligations under this Section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of its employees or agents while performing construction and/or maintenance for the PROJECT. For this purpose, the GRANTEE, by mutual negotiation, hereby waives with respect to the STATE only, any immunity that would otherwise be available to it against such claims under the Industrial Insurance provisions chapter 51.12 RCW.

19.3 This indemnification and waiver shall survive the termination of this AGREEMENT for all claims, demands, or suits at law or equity arising out of this AGREEMENT during its term.

SECTION 20 ASSIGNMENT AND SUCCESSION

20.1 The GRANTEE shall not assign or in any manner transfer either in whole or in part this AGREEMENT or any right or privilege granted to it hereunder, nor permit any person or persons, company or companies, to include but not limited to any parent or subsidiary company or corporation of GRANTEE, to share in any such rights or privileges without the prior written consent of the STATE except as otherwise herein provided. Nothing in this AGREEMENT shall be construed to permit any other port authority or any other person, corporation, or association, directly or indirectly, to possess any right or privilege herein.

SECTION 21 INDEPENDENT CAPACITY

21.1 The employees or agents of each PARTY who are engaged in the performance of this AGREEMENT shall continue to be employees or agents of that PARTY and shall not be considered for any purpose to be employees or agents of the other PARTY.

SECTION 22 NOTICES

22.1 Any notice, request, consent, demand, report, statement or submission which is required or permitted to be given pursuant to this AGREEMENT shall be in writing and shall be delivered personally to the respective PARTY set forth below, or if mailed, sent by certified United States mail, postage prepaid and return receipt required, to the respective PARTIES at the addresses set forth below, or to such other addresses as the PARTIES may from time to time advise by written notice to the other PARTY. The date of personal delivery or of execution of the return receipt in the case of delivery by certified U.S. mail, of any such notice, demand, request, or submission shall be presumed to be the date of delivery.

NOTICES IN THE CASE OF THE GRANTEE:

Name: Jim Rothlin
Title: Chief Executive Officer
Port of Bremerton
8850 SW Highway 3
Bremerton, WA, 98312

22.2 Should the above Registered Agent become unavailable, the GRANTEE consents to allowing the legal notices to be sent to the Secretary of State of the State of Washington.

NOTICES IN THE CASE OF THE STATE:

Director
WSDOT Rail, Freight, and Ports Division
310 Maple Park Avenue SE, Room 3D3
Olympia, WA 98501-2348

SECTION 23 INTERPRETATION

23.1 This AGREEMENT shall be construed liberally so as to secure to each PARTY hereto all of the rights, privileges, and benefits herein provided or manifestly intended. This AGREEMENT, and each and every provision hereof, is for the exclusive benefit of the PARTIES hereto and not for the benefit of any third party. Nothing herein contained shall be taken as creating or increasing any right of a third party to recover by way of damages or otherwise against the PARTIES hereto.

23.2 If any covenant or provision, or part thereof, of this AGREEMENT shall be adjudged void, such adjudication shall not affect the validity or obligation of performance of any other covenant or provision, or part thereof, which in itself is valid, if such remainder conforms to the terms and requirements of applicable law and the intent of this AGREEMENT. No controversy concerning any covenant or provision shall delay the performance of any other provisions except as herein allowed.

23.3 All remedies provided in the AGREEMENT are distinct and cumulative to any other right or remedy under this document or afforded by law or equity, and may be exercised independently, concurrently, or successively therewith.

23.4 Any forbearance of the PARTIES in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of, or preclude the exercise of that or any other right or remedy hereunder.

23.5 Each PARTY hereby agrees to immediately notify the other PARTY of any change in law, conditions, or any other event which may significantly affect the TERM of this AGREEMENT or the PARTY's ability to perform the PROJECT in accordance with the provisions of this AGREEMENT.

SECTION 24 SUBCONTRACTING

24.1 It is understood that the GRANTEE may choose to subcontract all or portions of the work. GRANTEE shall award all contracts for construction, purchase of goods, equipment, services, and professional architectural and engineering services through a competitive process, if required by state law. GRANTEE is required to follow procurement procedures that ensure legal, fair, and open competition.

24.2 No contract between the GRANTEE and its contractors and/or their subcontractors and/or material suppliers shall create any obligation or liability of the STATE with regard to this AGREEMENT without the STATE's specific written consent to such obligation or liability notwithstanding any concurrence with, or approval of, the award, solicitation, execution, or performance of any contract or subcontract. The GRANTEE hereby agrees to include the provisions of this AGREEMENT in all contracts entered into by the GRANTEE for the employment of any individuals, procurement of any materials, or the performance

of any work to be accomplished under this AGREEMENT. There shall be provisions for a further flow down of such requirements to each sub-tier contractor as required.

24.3 GRANTEE is encouraged to solicit and recruit, to the extent possible, certified minority-owned (MBE) and women-owned (WBE) businesses in purchases and contracts initiated under this Agreement. Contract awards or rejections cannot be made based on MWBE participation; however, the GRANTEE is encouraged to take the following actions, when possible, in any procurement under this Agreement:

24.3.1 Include qualified minority and women's businesses on solicitation lists whenever they are potential sources of goods or services.

24.3.2 Divide the total requirements, when economically feasible, into smaller tasks or quantities, to permit maximum participation by qualified minority and women's businesses.

24.3.3 Establish delivery schedules, where work requirements permit which will encourage participation of qualified minority and women's businesses.

24.3.4 Use the services and assistance of the Washington State Office of Minority and Women's Business Enterprises (OMWBE) (866-208-1064) and the Office of Minority Business Enterprises of the U.S. Department of Commerce, as appropriate.

SECTION 25 SAFETY AND LIABILITIES

25.1 Safety. The GRANTEE shall do all things necessary and proper for the safe operation of the PROJECT and shall comply with all regulations prescribed by law or any public authority with respect thereto for the safety of the public or otherwise.

25.2 Personal Liability of Public Officers. No officer or employee of the STATE shall be personally liable for any act, or failure to act, in connection with this AGREEMENT, it being understood that in such matters they are acting solely as agents of the STATE.

25.3 Responsibility for Damage. The STATE, Transportation Commission, Secretary of Transportation, and all officers and employees of the STATE including, but not limited to, those of the Department of Transportation shall not be responsible in any manner for: any loss or damage to the work or any part thereof; any loss of material or damage to any of the materials or other things used or employed in the performance of the work; any injury to or death of any persons, either workers or the public, or damage to the public for any cause due to the intentional acts or negligence of the GRANTEE or its workers, or anyone employed by it.

SECTION 26 AMERICANS WITH DISABILITIES ACT

26.1 The GRANTEE agrees to utilize funds provided under this AGREEMENT in a manner consistent with the requirements of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. § 12101 et seq.).

SECTION 27 NO WAIVER OF STATE'S RIGHTS

27.1 The STATE shall not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefore from showing the true amount and character of the work performed and materials furnished, or from showing that any such measurement, estimate, or certificate is untrue or incorrectly made, or that the work or materials do not conform in fact to the AGREEMENT. Neither the granting of an extension of time, nor acceptance of and/or payment for, the whole or any part of the work by the STATE shall bar the STATE from seeking recovery of damages or any money wrongfully or erroneously paid to the GRANTEE. A waiver of any breach of contract shall not be held to be a waiver of any other or subsequent breach.

SECTION 28 VENUE

28.1 In the event that either PARTY deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the PARTIES hereto agree that any such action shall be initiated in the Superior Court of the State of Washington, situated in Thurston County. The PARTIES also agree that each PARTY shall be responsible for its own attorney's fees and other legal costs.

SECTION 29 DISPUTES RESOLUTION

29.1 In the event that a dispute arises under this AGREEMENT, which cannot be resolved between the PARTIES, the dispute shall be settled in the following manner:

29.1.1 Designated representatives from each PARTY agree to meet in good faith to resolve the dispute to the mutual satisfaction of both PARTIES. If after thirty (30) days a resolution is not reached, then;

29.1.2 Each PARTY to this AGREEMENT shall appoint a member to a dispute board. The members so appointed shall jointly appoint a third member who is not employed by or affiliated in any way with the two PARTIES to this AGREEMENT. The dispute board shall evaluate the facts, contract terms, and applicable statutes and rules and make a determination of the dispute. The PARTIES agree to each be responsible for its own costs and further agree to equally share the cost of the third member of the dispute board.

29.1.3 The GRANTEE and STATE agree that they shall have no right to seek relief in a court of law until and unless the Dispute Resolution process has been exhausted.

29.2 The following individuals are the Designated Representatives for the purpose of resolving disputes that arise under this AGREEMENT:

Port of Bremerton
Jim Rothlin
Chief Executive Officer
8850 SW Highway 3
Bremerton, WA 98312
jimr@portofbremerton.org
(360) 674-2381

WSDOT Rail, Freight, and Ports Division
Assistant Capital Programs Manager
310 Maple Park Ave. SE, Room 3D3
Olympia, Wash. 98501-2348
rail@wsdot.wa.gov
360-705-7900

29.3 In the event the Designated Representatives are unable to resolve the dispute within ten (10) business days, the following individuals, or their designee, shall confer and resolve the dispute:

Port of Bremerton
Arne Bakker
Chief Operations Officer
8850 SW Highway 3
Bremerton, WA 98312
arneb@portofbremerton.org
(360) 674-2381

WSDOT Rail, Freight, and Ports Division
Operations and Capital Program Manager
310 Maple Park Ave. SE, Room 3D3
Olympia, Wash. 98501-2348
rail@wsdot.wa.gov
360-705-7900

SECTION 30 NOTIFICATION OF THIRD-PARTY CONTRACT DISPUTES OR BREACHES

30.1 The GRANTEE agrees to notify the STATE of any current or prospective major dispute, breach, or litigation pertaining to any third-party contract. If the GRANTEE seeks to name the STATE as a party to litigation for any reason, the GRANTEE agrees first to inform the STATE before doing so. This proviso applies to any type of litigation whatsoever, in any forum.

SECTION 31 COMPLETE AGREEMENT

31.1 This document and referenced attachments contain all of the covenants, stipulations and provisions agreed upon by the PARTIES. No agents, or representative of either PARTY has authority to make, and the PARTIES shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein.

SECTION 32 EXECUTION OF ACCEPTANCE

32.1 The PARTIES adopt all statements, representations, warranties, covenants, and EXHIBITS to this AGREEMENT.

SECTION 33 AMENDMENT

33.1 Either PARTY may request changes in these provisions. Such changes that are mutually agreed upon shall be incorporated as written amendments to this AGREEMENT. No variation or alteration of the terms of this AGREEMENT shall be valid unless made in writing and signed by authorized representatives of the PARTIES hereto prior to beginning or continuing any work to be covered by the amendment.

SECTION 34 SEVERABILITY

34.1 If any provision of this AGREEMENT is held invalid, all remaining provisions of this AGREEMENT shall continue in full force and effect to the extent not inconsistent with such holding.

SECTION 35 ORDER OF PRECEDENCE

35.1 In the event of inconsistency in this AGREEMENT, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) applicable federal and state statutes and regulations; (b) the AGREEMENT; (c) Scope of Work; and (d) Any provisions or terms incorporated herein by reference.

SECTION 36 COUNTERPARTS

36.1 This AGREEMENT may be executed in two counterparts, each of which shall be deemed to be an original having identical legal effect.

36.2 IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT as of the date signed last by the PARTIES below.

STATE OF WASHINGTON
Department of Transportation

By: _____

Jason Biggs, PE
Director
WSDOT Rail, Freight, and Ports Division

Date: _____

PORT OF BREMERTON

By: _____

Jim Rothlin, CEO
Port of Bremerton

Date: _____

Approved as to form:

By: _____

James Nelson, Assistant Attorney General
State of Washington

Date: _____

Any modification, change or revision to this AGREEMENT requires the further approval as to form by the Office of the Attorney General.