THE PORT
CAMAS–WASHOUGAL

PRELIMINARY AGENDA FOR REGULAR MEETING **February 19, 2025**

I. EXECUTIVE SESSION **11:00 AM**

One matter relating to a personnel evaluation- **RCW 42.30.110(1)(c)**
No decisions will be made.

II. OPEN SESSION **12:00 PM**

Pledge of Allegiance

PUBLIC COMMENT: ITEMS ON THE AGENDA

Speakers are asked to keep their comments to less than 3 minutes. Please feel free to submit comments in writing to the Chief Executive Officer.

City of Camas/City of Washougal Updates

CONSENT ITEMS

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

A. Approval of Minutes of the Regular Meeting on February 5, 2025.
B. Approval of Checks
C. Holiday, Sick, Annual, & Bereavement Leave Policy Revision

NEW BUSINESS/DISCUSSION ITEMS

D. Immelman Rate Increase Phase I and II- Director of Business & Real Estate Derek Jaeger
E. CEO Certification of Surplus Sale- Director of Finance Krista Cagle
F. Lease Termination- Building 9- Director of Business & Real Estate Derek Jaeger
G. Lease- Building 9- Columbia Marine & Rail- Director of Business & Real Estate Derek Jaeger

PUBLIC COMMENT

Speakers are asked to keep their comments to less than 3 minutes. Please feel free to submit comments in writing to the Chief Executive Officer.

ACTION ITEMS

H. Lease Termination- Building 9
I. Lease-Building 9- Columbia Marine & Rail

STAFF REPORTS & COMMENTS

COMMISSIONER REPORTS & DISCUSSION

ADJOURN

Regular business and meetings that may be attended by members of the Commission:

Date	**Meeting**
February 20, 2025	Economic Forecast Meeting

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

Join the meeting on the Conference Call Line: (253) 215-8782

Meeting ID: 827 7508 8438

Passcode: 433796 or via this video link:

https://us06web.zoom.us/j/82903936339?pwd=U01pdWY1V0tES3dMZWFkNjJNbUNVZz09#success

MINUTES OF THE REGULAR COMMISSION MEETING

PORT OF CAMAS-WASHOUGAL

February 5, 2025

By: Mackenzey Thomason, Administrative Assistant

A Regular Meeting of the Commissioners of the Port of Camas-Washougal was held in person and virtually on Wednesday, February 5, 2025, at 12 p.m. A workshop was held prior to the regular meeting at 11 am to discuss the Port's Strategic Plan and project overview. The workshop ended at 12 pm when the regular meeting began.

PRESENT: Commissioner Cassi Marshall Commissioner Larry Keister, Commissioner John Spencer, Chief Executive Officer Trang Lam, Director of Finance Krista Cagle, Director of Business & Real Estate Derek Jaeger, HR Manager Jen West, Attorney Carolyn Lake, Administrative Assistant Mackenzey Thomason, and members of the press and public. The public has access through a designated Zoom conference call line or video link.

At 12:00 p.m. following the Pledge of Allegiance, Commissioner Marshall called to open the Regular Session public meeting to order. The meeting is being recorded, and the chat function has been disabled.

PUBLIC COMMENT #1 (Items on the Agenda):
No comments.

City of Washougal-
City Council Member Ernie Suggs:
Suggs stated he was looking forward to the waterfront project moving along. Suggs stated the City of Washougal had received a grant to put in a sidewalk from 39th street to Evergreen. Suggs stated the city will be going up to Olympia in the coming days.

CONSENT ITEMS
Minutes & Checks
Minutes from the Regular Meeting on January 15, 2025, electronic payments and the issuance of general fund checks 10045-10073 and printed checks 50185-50186 in the total amount of $247,023.73 were presented for approval. After a brief discussion, a motion was made by Commissioner Keister and seconded by Commissioner Spencer, and the consent items were carried unanimously.

NEW BUSINESS/DISCUSSION ITEMS:
Holiday, Sick, Annual, & Bereavement Leave Policy- HR Manager Jen West:
West explained that Cagle attended a finance meeting and found out that the Port's Holiday, Sick, Annual & Bereavement Leave policy needed to be changed to become IRS compliant. West stated by revising this part of the policy employees and the Port will avoid paying payroll taxes on vacation and sick leave not cashed out but banked. West explained that the vacation buyback amount increased from up to 20 hours (correction from the 24 hours that were referred to in this meeting) to up to 40 hours. Vacation leave minimum in the leave bank increased from 80 hours to 100 hours to request cash out. West also explained that a revision to the vacation policy was added

to state that employees cannot use vacation or sick time without it being earned and available in their bank.

Lease Termination Building 9- Director of Business & Real Estate Derek Jaeger:
Jaeger explained Intech has been a long-term tenant of the Port. Jaeger stated Intech has had highs and lows but recently has fallen behind on their payments due to theft within the company. Jaeger stated when a payment becomes late, the company incurs a seven percent late fee. Jaeger explained that due to the company not being able to catch up on payment, they are now behind about $24,000. Jaeger explained with their upcoming lease expiration on February 28th and with the potential closing of the business, Intech will not be able to pay the total amount due. Jaeger added Intech has a deposit amount on file of about $10,000 which makes their total due to the Port, about $14,000. Jaeger explained the Port will allow Intech to occupy the space for another month to remove their items before it gets leased by another tenant. Jaeger explained rather than seeking arbitration, which would cost the Port a significant amount, the parties involved sought a solution to terminate and remove all items within a set date. If Intech complies with all Port requirements, they are requesting the Port to waive a portion of the late fees.

Lease- Building 9 Columbia Marine & Rail- Director of Business & Real Estate Derek Jaeger:
Jaeger explained Columbia Marine & Rail is currently the subtenant for Intech in Building 9. Jaeger explained the company has 17 employees and has always made their payments on time. Jaeger stated they will start leasing the full building on April 1st. Jaeger stated the deposit to start the lease will be $11,185, with the Port providing a reduction to the deposit amount due to tenant improvements. Jaeger explained the company had spent a little over three thousand dollars of their own money for lightning improvements.

PUBLIC COMMENT #2:
No comments.

STAFF REPORTS & COMMENTS
CEO Trang Lam:
Lam stated January was a busy month and February will continue to be busy. Lam stated last week she had attended the first Recreational and Conservation Funding Board (RCO) at the state level. Lam stated she had heard about the economic impact constraints on the state's budget. Lam stated the RCO programming can provide grants to Port districts. Lam stated she had attended Port Day on the Hill in Olympia and she thanked the commissioners and staff that had attended with her. Lam stated it was great to witness the three Ports working together. Lam also mentioned she will attend the upcoming Community Chest meeting along with the Parkersville meeting to speak about the Rose Arbor.

Director of Finance Krista Cagle:
Cagle stated staff had completed the training on the new accounting software and the Port is now in the testing phase. Cagle stated March 3rd should be the go live date.

Director of Business & Real Estate Derek Jaeger:

Jaeger stated he attended Port Day on the Hill, and it was great to see the three Port's come together. Jaeger stated he went to 54-40's new space by Safeway and said it was great. Jaeger stated he is to have conversations with American Cruise Lines next month.

Environmental Project Manager Jennifer Taylor:
Taylor stated the necessary lighting for the Black Pearl is complete and the project can now be closed out. Taylor stated the Grove Field solar project is complete and the Port just needs the proper paperwork to officially close it out. Taylor stated the slurry seal projects will be out to bid soon.

COMMISSIONER REPORTS & DISCUSSION
Commissioner Keister:
Keister stated Port Day in Olympia was a success. Keister stated there were positive feelings about moving projects along. Keister stated there was talk about the Camas Slough Bridge. Keister stated the bridge project has support from representatives Stuebe and Waters and Senator Paul Harris. Keister stated the wording for the request has changed to also highlight that the request is focused on the economic impact when the bridge is not available for use. Keister stated he plans on speaking to David Scott from the City of Washougal before the Cities' trip up to Olympia.

Commissioner Spencer:
Spencer stated Port Day was great. Spencer stated he is excited the 20th district is now in Clark County. Spencer stated he enjoyed speaking with Taylor regarding the Airport.

Commissioner Marshall:
Marshall stated she attended a Camas subcommittee meeting regarding climate and resiliency. Marshall stated emergency preparedness was spoken about she was thankful of how ahead of the curve the Port is. Marshall stated she, Lam and Taylor had met with PUD and spoke about opportunities to partner and be creative. Marshall stated she will continue to meet with them quarterly.

The meeting was Adjourned at 12:32 pm.

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POLICIES & PROCEDURES MANUAL

Section:	LEAVE & HOLIDAYS	Revision Date:	
Subject:	HOLIDAY, SICK, ANNUAL & BEREAVEMENT LEAVE	Adoption Date:	01/02/1997

PREVIOUS REVISIONS: 02/07/2024, 06/01/2022, 07/24/2000, 08/19/2019, 12/21/2009, 01/02/1997

PURPOSE: A RESOLUTION of the Port of Camas-Washougal to establish Holiday Leave, Sick Leave, Annual Leave, and Bereavement Leave Policy of the port district permanent full-time employees.

WHEREAS, the Port of Camas-Washougal is a Port district organized and existing under RCW Title 53, and is a Municipal Corporation of the State of Washington.

WHEREAS, to RCW 53.08.170, the Board of Port Commissioners has the authority to establish the benefits for employees of the Port, subject to those conditions as the Port Commission may provide by resolution.

WHEREAS, the Board of Commissioners of the Port of Camas-Washougal deem it advisable to replace the Vacation Policy adopted on July 24, 2000, the Sick Leave Policy adopted on January 2, 1997, and the Holiday Schedule adopted on June 01, 2022.

WHEREAS, permanent full-time employees are employees employed for forty (40) hours per week, and 260 days per year by the Port of Camas-Washougal.

WHEREFORE, NOW, THE BOARD OF COMMISSIONERS OF THE PORT OF CAMAS-WASHOUGAL RESOLVE AS FOLLOWS:

HOLIDAY LEAVE

Permanent full-time employees shall be authorized to take the following twelve (12) paid holidays per year. If a paid holiday falls on a Saturday, the Friday before shall be the designated holiday, and when it falls on a Sunday, the Monday after shall be the designated holiday.

1.	New Year's Day	2.	Labor Day
3.	Martin Luther King Jr. Day	4.	Veteran's Day
5.	President's Day	6.	Thanksgiving Day
7.	Memorial Day	8.	Day after Thanksgiving
9.	Juneteenth Day	10.	Christmas Eve
11.	Independence Day	12.	Christmas Day

Floating Holiday Leave:

Each permanent full-time employee is entitled to three (3) additional floating holidays per year, to be used upon the day of the employee's choice. Floating holidays (defined as eight hours) are used during the calendar year. Floating holidays are not considered part of separation pay if they have not been used at the time of termination and do not carry over from year to year.

*Floating holiday hours are pro-rated in the employee's first year of service based on the employee's hire date.

Employees Required to Work on Holidays:

Any covered employee normally eligible for holiday pay who must work on a day designated as a holiday is paid at two times the employee's hourly rate of pay for the hours worked. In addition, they will also receive an additional day off. Full-time employees receive eight (8) hours, and part-time employees receive prorated hours.

ANNUAL LEAVE

Annual leave for permanent full-time employees accrues from the date of hire and is prorated from the date of hire to the end of the first month.

Vacation is provided at the rate of 8 hours per month and is accounted for at the current rate of pay. This liability is recorded on the books of the Port, and is adjusted monthly, to reflect the unpaid cost of vacation earned but not yet taken.

Vacation leave is not available for use until earned and posted to the employee's accrued vacation leave following the end of the current pay period.

Vacation earned and payable cannot exceed 360-hours (45 days). There is one exception, noted below, where a six-month grace period is allowed at the anniversary date, when bonus vacation earned and awarded may raise the number of hours earned to more than 360-hours.

Employees are eligible for a vacation ~~"buy back" of accrued vacation time~~ cash-out once a year. To receive a cash-out, an employee must irrevocably elect the cash-out by December 31st of the year BEFORE the cash-out payment. The cash-out is limited to the amount of leave earned by the employee in the year of the payment. Not to include Bonus vacation. ~~The employee may notify the payroll department to "buy back" the vacation time during the month of October.~~ Up to 40 ~~20~~ hours may be requested for cash-out ~~"buy back~~." The employee must maintain a minimum of 100 ~~80~~ hours of vacation at the time of the cash-out ~~buy back~~ request. ~~The buy back will occur during the last November pay cycle.~~ To request a vacation leave cash-out, please complete the vacation cash-out form. You can obtain this form by contacting the payroll department.

Bonus vacation is awarded to permanent full-time employees on their anniversary date of hire, beginning after 1 year of employment, as follows:

Anniversary Date in Years	Bonus Hours
2 and 3	16
4 and 5	24
6 and 7	32
8 and 9	40
10 and 11	48
12 and 13	56
14 and 15	64
16 and 17	72
18 and 19	80
20 and thereafter	96

PREVIOUS REVISIONS: 02/07/2024, 06/01/2022, 07/24/2000, 08/19/2019, 12/21/2009, 01/02/1997

Bonus vacation days, which are based on length of service, are awarded on the anniversary date each year. For accounting purposes, this means that all bonus days become earned, and therefore a liability payable to the employee, on this date. For long-term employees, this event can cause the employee to suddenly exceed the 360-hour maximum allowed. To simplify the process of managing vacation planning and accounting for both the Port and the employee, the employee shall have six months from the date on which bonus hours are awarded to reduce their account to less than the 360-hour limitation.

Upon termination of employment or at retirement, all earned vacation will be paid at the employee's current rate of pay. Upon the death of an employee, the heir(s) will be paid all unearned vacation at the employee's current rate of pay.

SICK LEAVE

Permanent full-time employees shall accrue one day per month sick leave, with a maximum accrual to 120 days.

Sick leave is not available for use until earned and posted to the employee's accrued sick leave following the end of the current pay period.

Port employees during the course of employment may ~~sell~~ cash-out accrued sick leave over 90 days to the Port for additional compensation, at the rate of 4 days sick leave per 1 day compensation, for a maximum allowable cash-out each year of 12 days sick leave. To receive a cash-out, an employee must irrevocably elect the cash-out by December 31st of the year BEFORE the cash-out payment. The cash-out is limited to the amount of sick leave earned by the employee in the year of the payment. To request a sick leave cash-out, please complete the sick leave cash-out form. You can obtain this form by contacting the payroll department.

Upon termination of employment, all unused days will be forfeited, except in the case of death and retirement, where all unused sick leave may be exchanged for compensation at the rate of 2 sick days for 1 day of compensation.

BEREAVEMENT LEAVE

Employees who wish to take time off due to the death of an immediate family member should notify their Supervisor or Human Resources Dept. immediately. A maximum of three (3) working days of bereavement leave shall be allowed when there is a death in the employee's immediate family.

Recognizing the need for family support, a maximum of two (2) days of funeral or memorial service leave may be granted at the discretion of the Chief Executive Officer to attend the funeral or memorial service of aunts, uncles, nieces, or nephews. Note: Employees may attend a fellow employee's funeral or memorial service with pay.

An additional two (2) days may be added to the foregoing maximum allowed leave but must be taken from sick leave and/or vacation leave or be taken as unpaid leave.

The Port defines "immediate family" as the employee's spouse, children, parents, siblings, grandparents, and grandchildren; and parent in-laws, sister and brother-in-laws, and grandchildren in-laws. Special consideration will also be given to any other person whose association with the employee was similar to any of the above relationships.

POLICIES & PROCEDURES MANUAL

Section:	LEAVE & HOLIDAYS	Revision Date:	
Subject:	HOLIDAY, SICK, ANNUAL & BEREAVEMENT LEAVE	Adoption Date:	01/02/1997

Port of Camas-Washougal Staff Report

ITEM TITLE: Immelman Rate Increase Phase I and II

COMMISSION MEETING DATE: February 19, 2025

DEPARTMENT: Business Development

SUBMITTED BY: Derek Jaeger

STAFF RECOMMENDATION:

Approval

SUMMARY:

Pursuant to Article 3, Section 3.03 of the 2015 Amended and Restated Lease Agreement between the Port of Camas-Washougal and Immelman Hangars at Grove Field, LLC, both parties were required to meet and re-establish the Annual Basic Rent for Phases I and II at Grove Field for the next 5 year period. In accordance with the negotiations and mutual agreement, the newly established Annual Basic Rent increased to $.26/sf.

Pursuant to Lease parties are required to re-establish a new Annual Basic Rent every 5 years.

BUDGET IMPACT:

Annual rent for the term between March 1, 2025 – February 28, 2030 is $13,603.20 per year.

STRATEGIC PLAN or OTHER PLANS:

SUSTAINABILITY IMPLICATIONS:

DIVERSITY, EQUITY & INCLUSION IMPLICATIONS:

2/7/25

TO: PORT OF CAMAS-WASHOUGAL COMMISSION

FROM: DEREK JAEGER

SUBJECT **Immelman Rate Increase Phase I and II**

Dear Port of Camas-Washougal Commission:

Pursuant to Article 3, section 3.03 of the 2015 Amended and Restated Lease between the Port of Camas-Washougal and lmmelman Hangars at Grove Field, LLC, both parties are required to meet and re-establish rent for phases 1 and 2 at Grove Field.

Guidance provided under section 3.03 states "Annual Basic Rent amount for any five (5) year period shall not be increased by more than twenty-five percent (25%) over the Annual Basic Rent for the preceding five (5) year period".

Both parties met and agreed upon rate increase from the previous annual rate of $10,987.20 to the new rate of $13,603.20.

Although the previous Commission approved the lease and the rate increase falls within the 25% guidance, it does not provide a defined rate or fixed percentage as expressly required. Therefore, approval is sought for the defined rate increase to $.26/sf. ($.26 x 52,320 sf = $13,603.20)

As negotiated and agreed upon, the new effective rate is as follows:

Rent for March 1, 2025 – February 28, 2026	$13,603.20 per year
Rent for March 1, 2026 – February 28, 2027	$13,603.20 per year
Rent for March 1, 2027 – February 29, 2028	$13,603.20 per year
Rent for March 1, 2028 – February 28, 2029	$13,603.20 per year
Rent for March 1, 2029 – February 28, 2030	$13,603.20 per year

Please let me know if you have any questions.

Regards,

~~~~~~~~~~

Derek Jaeger
Director of Business Development and Real Estate
Port of Camas-Washougal
~~~~~~~~~~

February 13, 2025

Scott Price
Immelman Hangars at Grove Field, LLC
3439 NW Sierra Drive
Camas, WA 98607

Dear Scott,

Please be advised that, pursuant to Article 3, Section 3.03 of the 2015 Amended and Restated Lease Agreement between the Port of Camas-Washougal and lmmelman Hangars at Grove Field, LLC, both parties met and re-established the Annual Basic Rent for Phases I and II at Grove Field. In accordance with the negotiations and mutual agreement, the newly established Annual Basic Rent of $.26 a square foot ($.26 x 52,320 sf = $13,603.20) is as follows:

Rent for March 1, 2025 – February 28, 2026	$13,603.20 per year
Rent for March 1, 2026 – February 28, 2027	$13,603.20 per year
Rent for March 1, 2027 – February 29, 2028	$13,603.20 per year
Rent for March 1, 2028 – February 28, 2029	$13,603.20 per year
Rent for March 1, 2029 – February 28, 2030	$13,603.20 per year

In addition to the rental amounts specified above, Lessee shall pay Lessor with each annual payment the Washington State Leasehold Tax, which is currently 12.84% of the annual rental payment.

The Annual Basic Rent change shall become effective March 1, 2025, and is due and payable in full no later than the fifteenth (15th) day of March of each calendar year and shall be considered delinquent if not received by the Port by the thirty-first (31st) day of March.

Thank you in advance for your continuing patronage.
Sincerely,

Derek Jaeger
Director Business Development

I hereby agree with the effective Annual Basic Rent change between the Port of Camas-Washougal and lmmelman Hangars at Grove Field, LLC for the leased premises of Phases I and II as described in Exhibit A and B of the lease and as specified above.

Signature: _____ **Date** _____

Signature: **Trang Lam, Port of Camas-Washougal** _____ **Date** _____

Port of Camas-Washougal Staff Report

ITEM TITLE: CEO Certification of Surplus Sale

COMMISSION MEETING DATE: February 19th, 2025

DEPARTMENT: Finance

SUBMITTED BY: Krista Cagle, Director of Finance

STAFF RECOMMENDATION:

Discussion item only

SUMMARY:

The Port has vehicles and equipment no longer needed for Port business and would like to surplus them. The items consist of a 1994 Kubota Tractor, a 2006 Ford F250 XL and a 2011 Ford Econoline Van. The sale will be advertised in The Columbian as well as on the Port's website. The value combined does not exceed the $22,830 thresehold and does not require commission approval.
There will be a public viewing on March 5, 2025 with bids due March 12, 2025.

BUDGET IMPACT:

We did not budget to surplus equipment in 2025, potentially add non-operating revenues of $18,500.

STRATEGIC PLAN or OTHER PLANS:

N/A

SUSTAINABILITY IMPLICATIONS:

N/A

DIVERSITY, EQUITY & INCLUSION IMPLICATIONS:

N/A

TO: **PORT OF CAMAS WASHOUGAL COMMISSION**

FROM: **Trang Lam, Chief Executive Officer**

DATE: **January 31, 2025**

RE: **Certification of Certain Non-Real Port Property as Surplus**

This Memorandum serves as written notice from the Chief Executive Officer to the Port Commission, pursuant to RCW 53.08.090, certifying that certain non-real property consisting of the equipment listed in **Exhibit A** attached hereto and incorporated by reference ("Equipment") is no longer needed for Port district purposes, and the Port Commission may declare the described Equipment to be no longer needed for Port district purposes and may find the Equipment surplus to the Port's needs.

I so certify:

_____

Trang Lam, Port Chief Executive Officer

Date: 2.7.25

EXHIBIT A

SURPLUS EQUIPMENT LIST

EQUIPMENT	ESTIMATED VALUE
1994 KUBOTA TRACTOR L4350 4WD 47 hp 4,030 Hours 3-point hitch non-operational	**$5,000**
2006 FORD F250 XL TRITON V8 83,228 Miles No A/C Has lifter tick	**$5,500**
2011 FORD ECONOLINE VAN E-250 71,292 Miles	**$8,000**
TOTAL:	**$18,500**

RESOLUTION NO. 1-25

A RESOLUTION of the Commission of the Port of Camas-Washougal, Washington, authorizing the Chief Executive Officer to sell surplus Port non-real property of less than $22,830.00 value, and directing the procedures for such sales.

BE IT RESOLVED by the Port Commission of the Port of Camas-Washougal as follows:

Section 1. The Port's Chief Executive Officer is authorized, pursuant to RCW 53.08.090, to sell and convey surplus Port District non-real property having a value of less than Twenty-two Thousand Eight Hundred Thirty and No/100 Dollars ($22,830.00). The Port's Chief Executive Officer shall have this authority for a period of one (1) year from the date of this resolution.

Section 2. Prior to the sale or conveyance of non-real property pursuant to this resolution, the Port's Chief Executive Officer shall compile an itemized list of the property to be sold, together with the value placed on each item by the Chief Executive Officer. The list shall be submitted to the Port Commission, together with the Chief Executive Officer's written certification that the listed non-real property is no longer needed for the Port District purposes, no later than seven (7) days before the sale.

Section 3. The Chief Executive Officer shall determine the methods, terms and conditions of sales made pursuant to this resolution. When less than the full purchase price is paid at the time of purchase, the sale shall comply with the limitations of RCW 53.08.091.

Section 4. Items of non-real property having a value of less than Twenty-two Thousand Eight Hundred Thirty and No/100 Dollars ($22,830.00) may be sold without advertisement and without public competitive bid. The Chief Executive Officer shall notify the Commission in his written certification that he intends to sell non-real property pursuant to this section. The Commissioners, Chief Executive Officer and Port employees may not purchase items sold pursuant to this section.

Section 5. Except as provided above, all sales made pursuant to this resolution shall be by public competitive sale, either through open auction or sealed bids. The sale shall be advertised by the Chief Executive Officer at least fourteen (14) days prior to its occurrence.

Section 6. Non-real property having a value in excess of Twenty-two Thousand Eight Hundred Thirty and No/100 Dollars ($22,830.00) shall not be divided into components of less than $22,830.00 and sold pursuant to this resolution, unless the sale is authorized by the Commission and is by public competitive bid.

ADOPTED at the regular meeting of the Commissioners of the Port of Camas-Washougal on January 2, 2025.

PORT OF CAMAS-WASHOUGAL

By: _____

_____

_____

Commissioners

Port of Camas-Washougal Staff Report

ITEM TITLE: Lease Termination - Building 9 - Intech

COMMISSION MEETING DATE: 2/19/2025

DEPARTMENT: Business Development

SUBMITTED BY: Derek Jaeger

STAFF RECOMMENDATION:

Approval of Lease Termination - Building 9 for Intech

SUMMARY:

Intech has been a long-term tenant since 1996 and has experienced industry downcycles, employee theft(s), and other events causing several delayed and missed payments. The Port has worked with Intech by providing payment plans, waiving late fees, and securing personal property or note of guarantee as collateral for payment. Throughout the tenancy, Intech has been able to reach a zero balance but would fall behind a month or two which would accrue a 7% late fee of the total balance due. Most recently (last 12 months), this would equate to $600 to $1,400 a month in late fees, which Intech was not able to catch up with and led to a total amount in arrears of approximately $24k.

With the upcoming lease expiration date of 2/28 and potential closing of business, Intech will not be able to pay total amount in arears due. They will also need to occupy the space for an additional month. Rather than seek arbitration which would cost the Port significant amount, the parties sought a solution to terminate and remove all items upon a set date. The parties have discussed and agreed to present draft deal points to the Commission for consideration. Staff will discuss that with the Commission at the meeting and will have an Agreement for Commission discussion and approval on Feb. 19, 2025.

BUDGET IMPACT:

If Intech complies with all Port requirements, they are requesting to waive a portion of their balance past due.

STRATEGIC PLAN or OTHER PLANS:

SUSTAINABILITY IMPLICATIONS:

DIVERSITY, EQUITY & INCLUSION IMPLICATIONS:

AGREEMENT REGARDING OCCUPATION AND VACATION OF REAL PROPERTY

This Agreement Regarding Occupation and Vacation of Real Property (the "**Agreement**") is entered into February 19, 2025 ("**Effective Date**") by and between the Port of Camas-Washougal, a Washington municipal corporation ("**Port**") and Intech Enterprises, Inc., a Washington corporation ("**Intech**") (collectively the "**Parties**") relating to the termination of the Lease for the real property located at 3825 Grant Street, Washougal, WA, 98671, Industrial Building No. 9, and adjoining yard area ("**Premises**").

Owner contact information: Derek Jaeger: Derek@portcw.com

Occupant contact information: Tom Cunning, Owner,
3825 S Grant Street
Washougal, WA. 98671
Tomc@intechenterprises.com

Witnesseth: That in consideration of the covenants and agreements herein expressed, other good and valuable consideration, the receipt and sufficiency is hereby acknowledged, under the terms and conditions set forth herein, the Parties agree as follows:

1. **Identification of Lease.** The Port is the owner of the real property identified above. On February 2, 2021, Intech entered into a Lease with the Port (the "Lease") for the premises identified in Section 2 below (the "**Lease**").

2. **Identification of Premises.** The subject Premises is located in Clark County, Washington, as well as the fixtures and improvements placed or erected thereupon by Intech, consisting of machinery, portable buildings and equipment, office space and installation of utilities to serve the office and manufacturing area. These improvements are collectively referred to as the "Premises" unless context indicates otherwise and appear all as depicted in the graphic of the Premises attached as Exhibit A hereto.

3. **Sublease.** Subsequent to the execution of the Lease, Intech subleased all or a portion of the Premises to Columbia Forge aka Columbia Marine and Rail.

4. **Expiration of Lease.** The Lease and or its latest amendment (and consequently Intech's sublease with Columbia Forge) expires on February 28, 2025.

5. **Month to Month Tenancy.** The Port and Intech agree to convert the existing Lease to a Month-to-Month tenancy of the Premises from March 1, 2025 until March 31, 2025 (the "**Move Out Date**") for the reasons and under the terms and conditions set forth in this Agreement. The terms and conditions of the Lease not in conflict with this Agreement shall be effective during the Month-to-Month tenancy.

6. **Rent.** As of the Effective Date of this Agreement, Section 4 of the Lease shall be modified to increase the rent three percent (3%). This increase results in a new base rent of $10,207.09 ("**Adjusted Base Rent**") due to the Port by Intech, plus the leasehold tax, effective March 1, 2025. Intech shall also execute an assignment of the rent funds due from Colombia Forge to Intech through the term of this Agreement and including during any holdover term by Intech. Sublessee Columbia Forge's current sub-lease payment is $5,316.77. Notwithstanding any contribution toward the Adjusted Base Rent payment by sub-lessee Colombia Forge, Intech remains obligated to the Port for the entire amount of the Adjusted Base Rent. Payment shall be made to the Port of Camas-Washougal, and tendered to the Port's business office located at 24 So. "A" Street, Washougal, WA 98671, before the close of business on the Move Out Date and monthly thereafter in the event of any holdover by Intech.

7. **Agreement to Vacate and Late Fee.** Intech covenants and agrees to voluntarily vacate the Premises by March 31, 2025 ("**Move Out Date**"). Intech acknowledges that it has accumulated a balance due of $24,518.80 (under a projected balance due by March 31, 2025) ("**Balance Due**"). The Parties acknowledge that Intech has previously paid the Port a Security Deposit of $10,121.75. This security deposit shall continue to be held by the Port and applied pursuant to the terms and conditions of the Lease and the below terms and conditions:

   A. The security deposit is given to secure Intech's performance of all obligations under the Lease, including without limitation, the payment of rents under Section 4, the use requirements of Section 19 and the utility provisions of Section 7.
   B. The Port shall maintain the security deposit in its general fund with all interest attributable to the Port only.
   C. The Parties acknowledge that Intech will not be able to remove all machinery and/or debris from the Premises by the current Lease expiration date of February 28, 2025. The Parties therefore have agreed to extend the deadline for Intech to clean up the Premises to the Move Out Date. On or before March 31, 2025, Intech shall remove all machinery, items and debris from the Premises as set forth in Section 8 herein below. Satisfactory compliance with this condition of removal shall be determined by the Port in its sole discretion.
   D. If Intech performs Section 7(C) of this Agreement on or before March 31, 2025, and is current in its rent payment and Lease obligations, and if the leased Premises has been returned to the Port in its original and sound condition, free of debris, refuse, contamination and other materials on March 31, 2025, the Port will apply the security deposit funds as a deduction from the Balance Due Total and waive the remaining balance.
   E. Failure to comply with this Agreement shall result in Intech paying the remaining balance due (in current amount of $14,397.05), as well as the Port's costs associated with collection of these dues and removal of the items/debris on the Premises, including but not limited to attorneys' fees and damages.

   Nothing in this Paragraph 7 shall be deemed to waive any provision of the Lease that is intended to survive expiration of the Lease.

8. **Condition of Premises.** Intech agrees to remove all of its personal property from the Premises by the Move Out Date. Per the Parties' former Lease, Intech has determined that all improvements shall remain upon the Premises and shall become the property of the Port. All machinery, fixtures, portable buildings and equipment installed by Intech and which are adapted only for the special use of Intech, shall be considered to be trade fixtures and may be removed at the termination of the Lease by Intech ("**Trade Fixtures**"). A list of the Trade Fixture is attached as **Exhibit B** hereto. Intech shall, at its own expense, repair all damage caused by the removal of Trade Fixtures and shall restore the Premises to its same condition as immediately existed prior to such removal. Intech shall leave behind all tenant improvements and fixtures, and Intech's removal of these items shall constitute default upon this Agreement. Intech agrees to pay any utility balances to current and take whatever further steps are necessary to clear any liens that Intech may have accrued on the Premises, to the items described in this Paragraph, or both by the Move Out Date.

9. **Liability for Personal or Real Property Damage.** Intech will not deliberately or negligently destroy, deface, damage, impair or remove any part of the Premises (including fixtures, facilities and appliances) nor knowingly permit any third parties to do so. Intech will be responsible for any damage caused by its failure to comply with this requirement between the Effective Date and the Move Out Date. So long as Intech remains on the Premises, the Port will not be liable for any injury or damage whatsoever to the person or personal property of Intech or any person or entity in or on the Premises; and Intech hereby expressly and without reservation agrees to indemnify and hold the Port harmless in all such matters.

10. **Occupant Warranties.** Intech expressly warrants that the signatories to this Agreement have actual authority to enter the same and to bind Intech.

11. **Default.** In the event that the Port determines that damage (beyond normal wear and tear) to the Premises has occurred, which was caused by the willful acts, acts of omission, or the gross negligence of Intech after the Effective Date, the Port may charge Intech the actual and incidental costs to repair and restore the Premises to the condition existing as of the Effective Date.

    If Intech does not pay the Port and the Port does not receive any amounts due from Intech under the Lease or this Agreement on or before the Move Out Date Intech shall be required to surrender of the detained Premises immediately, and the Port shall be entitled upon three days' written notice to arrange for orderly removal of Intech's property. In addition to all other amounts due including but not limited to amounts owed under Section 7 herein above, Intech shall be responsible for the costs of the property removal and any storage costs incurred.

12. **Stipulation to Notice.** Intech stipulates that it has received any notice(s), including any Notice of Default, and Notice to Surrender the detained Premises to which it is entitled by the Lease and under Washington law and waives any further notices thereunder. The

Parties stipulate that they are better served to execute and perform this Agreement than engage in prelitigation notice followed by litigation. In the event of an overstay, or continued possession after Default or other default, Intech submits to the jurisdiction and venue of the Clark County Superior Court, state of Washington.

13. **Severability/Unenforceability.** All individual provisions, paragraphs, sentences, clauses, sections and words in this Agreement will be severable and if any one or more such provisions, paragraphs, sentences, clauses, sections or words are determined by any court, administrative body or tribunal having proper jurisdiction, to be in any way unenforceable, or to be in any way violative of or in conflict with any law of any applicable jurisdiction, such determination shall have no effect whatsoever on any of the remaining paragraphs, provisions, clauses, sections or words of this Agreement.

14. **Entire Agreement.** This Agreement is governed by the State of Washington and the Parties irrevocably consent to the jurisdiction of the courts situated in Clark County, Washington, to oversee any disputes arising out of or in connection with this Agreement. This Agreement and the Lease to which it relates, constitutes the entire agreement between the Parties concerning the subject matter contained herein and no modification or addition to it will be binding unless signed by the Parties hereto. The covenants and conditions herein contained will apply to and bind the Parties hereto and their heirs, executors, administrators, legal and personal representatives, successors and assigns. All covenants are to be construed as conditions of this Agreement. Where the context so requires, the singular will include the plural, the plural will include the singular and the use of any gender will include all other genders. The Parties may sign and acknowledge multiple counterparts of this Agreement. Each signed and acknowledged counterpart shall be deemed an original, but all of them together represent one and the same agreement.

[SIGNATURES APPEAR ON NEXT PAGE]

Agreed and Accepted:

By: _____
Port of Camas-Washougal
By its Chief Executive Officer Trang Lam

By: _____ PRES.
Intech Enterprises, Inc, Lessee
By its Owner

STATE OF WASHINGTON)
) ss.
COUNTY OF C L A R K)

On this __ day of _____, 2025, before the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____ , to me known to be the Chief Executive Officer of the Port of Camas-Washougal, a Washington port district, who executed the foregoing instrument and who on oath stated that she was authorized by the Port of Camas-Washougal to execute the foregoing instrument on its behalf and that she executed the same as her free and voluntary act and deed for the uses and purposes mentioned.

_____
NOTARY PUBLIC in and for the
State of Washington, residing at _____
My commission expires _____

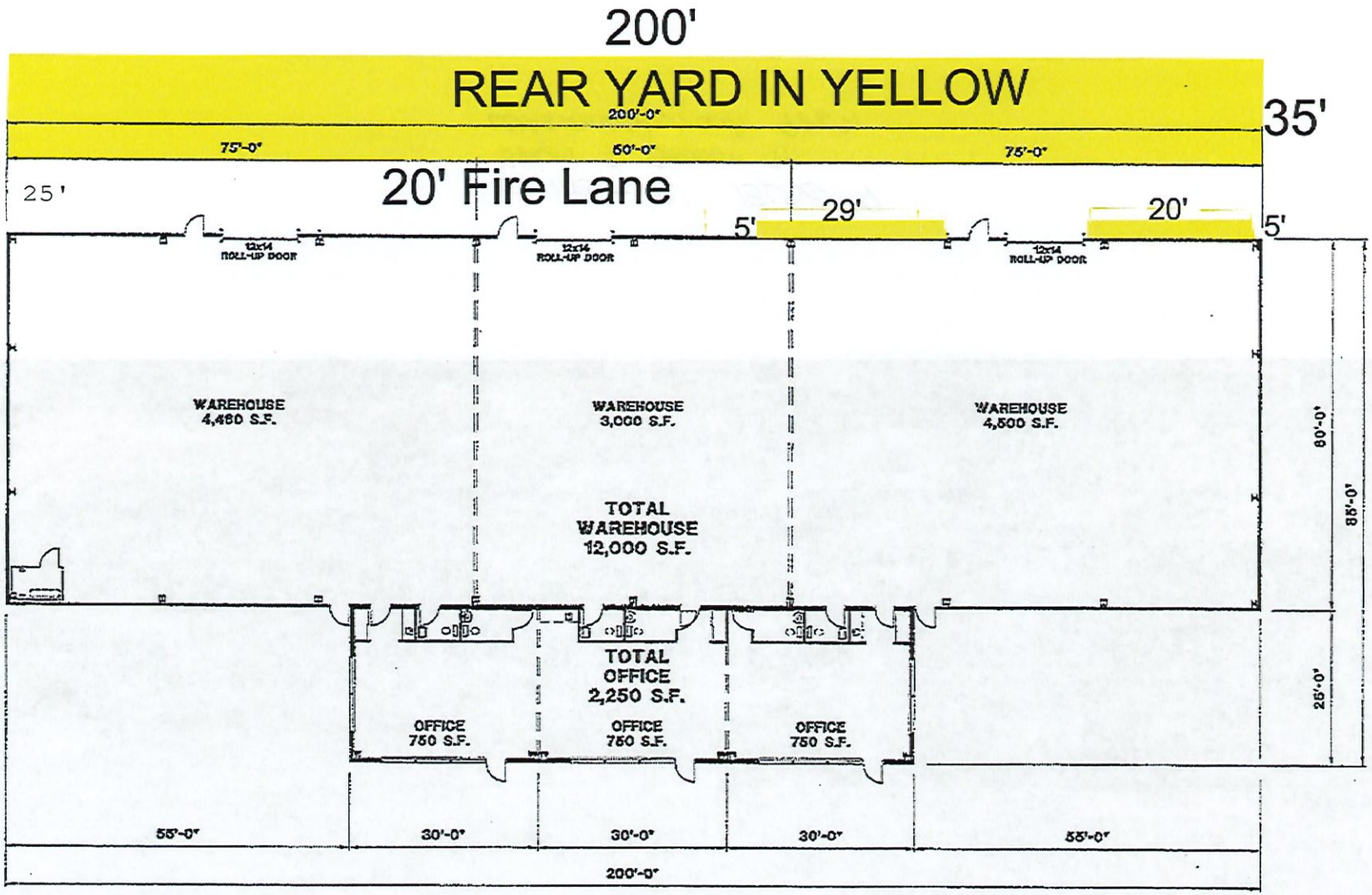
STATE OF WASHINGTON)
) ss.
COUNTY OF C L A R K)

On this 12th day of February, 2025, before the undersigned Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared TOM CUNNING, to me known to be the President of Intech Enterprises, Inc, a Washington corporation, who executed the foregoing instrument and who on oath stated that he/she was authorized by Intech to execute the foregoing instrument on its behalf and that he/she executed the same as his/her free and voluntary act and deed for the uses and purposes mentioned.

NOTARY PUBLIC
STATE OF WASHINGTON
JESSICA WARTA
MY COMMISSION EXPIRES
SEPTEMBER 30, 2028
COMMISSION # 24035324

Jessica Warta
NOTARY PUBLIC in and for the
State of Washington, residing at CLARK COUNTY
My commission expires 09-30-2028

Exhibit A



WILSON ASSOCIATES
ARCHITECTS & PLANNERS A.I.A.
404 E 15th ST. #5 VANCOUVER WA 98663
(360) 696-4722

EXHIBIT 'A'

0 10 20

PORT OF CAMAS/WASHOUGAL
BUILDING #9
3825 J. GRANT
WASHOUGAL, WA
98671

EXHIBIT 'A' BLDG 9
3825 S. GRANT ST.
WASHOUGAL, WA 98671

EXHIBIT B

Item List:

1. Industrial equipment and all items in shelving

2. All items on racking, equipment, and debris on ground

3. Containers (3), equipment, debris, on ground






Port of Camas-Washougal Staff Report

ITEM TITLE: Lease - Building 9 - Columbia Marine and Rail

COMMISSION MEETING DATE: 2/19/2025

DEPARTMENT: Business Development

SUBMITTED BY: Derek Jaeger

STAFF RECOMMENDATION:

Approval

SUMMARY:

Columbia Marine and Rail will become the primary tenant and have InTech as a sub-tenant to allow additional time for Intech to transition and complete existing projects.
Lease: approximately 14,250 sf. Term 3 year term with one (1) additional two (2) year option. Effective start date is April 1, 2025, pending delay of existing primary tenants movement into a smaller section of warehouse and removal of items stored in the yard.
Monthly rent: $11,850.00 (Combined $/sf $.083), plus Leasehold tax and has annual increases of 3%. Deposit: $11,185.87 (which is last months rent $14,185.87 - $3,000 for T1 for energy efficient lighting improvement)

Columbia Marine and Rail has been a proven sub-tenant for over 5+ years, who has a history of on-time payments. Columbia Marine and Rail forges, upsets and machines custom products of carbon, alloy and stainless steel for the US Government and other entities. They currently employee approximately 17 employees.

BUDGET IMPACT:

YR1: $11,850.00/month + LHT ($0.83/SF)
YR 2: $12,205.50/month + LHT ($0.86/SF)
YR 3: $12,571.67/month + LHT ($0.88/SF)
OPTION:
YR 4: $12,948.81/month + LHT ($0.91/SF)
YR 5: $13,337,28/month + LHT ($0.94/SF)

STRATEGIC PLAN or OTHER PLANS:

SUSTAINABILITY IMPLICATIONS:

In December 2024, Columbia Marine and Rail completed an energy-efficient lighting upgrade in the warehouse with Clark PUD. Additionally, Columbia Marine and Rail plans to relocate all outdoor materials indoors to mitigate stormwater runoff and enhance visual appeal of the industrial park.

DIVERSITY, EQUITY & INCLUSION IMPLICATIONS:

LEASE
BUILDING 9

THIS LEASE is made and entered into this day by and between the PORT OF CAMAS-WASHOUGAL, a municipal corporation organized and existing under the laws of the state of Washington, hereinafter called "Lessor", and Columbia Marine and Rail, LLC a Washington limited liability corporation authorized to engage in business and engaging in business in the State of Washington, hereinafter called "Lessee" ("Lease").

W I T N E S S E T H:

Section 1. **PREMISES LEASED:** For and in consideration of the payment by Lessee of the rentals hereinafter specified, and performance by Lessee of the covenants and obligations hereinafter provided to be kept and performed by Lessee, Lessor does hereby lease, demise and let unto Lessee, Lessor's Industrial Building No. 9, (approximately 14,250 sf), and adjoining yard area, located at 3825 S Grant St, Washougal, Clark County, Washington 98671, as shown in Exhibit "A" attached hereto and incorporated by this reference (hereinafter called the "Premises"). Lessee shall, in addition, have a right-of-way in common with others over and across private roads and streets giving access to the leased Premises, which right-of-way shall terminate in the event such private roads and streets are dedicated to the public.

Section 2. **TERM:** The term of this Lease shall commence on April 1, 2025 or as soon thereafter as Premises are available for occupancy ("Commencement Date") and shall terminate on March 31, 2028.

The term of this Lease may be extended for one (1) additional period of two (2) years upon the following conditions. Each such extension shall be subject to the mutual agreement of Lessor and Lessee, each in its sole and absolute discretion. Lessee shall give Lessor written notice one hundred eighty (180) days prior to the expiration of the then current term regarding

Rent for April 1, 2025 – March 31, 2026:	$11,850.00 per month
Rent for April 1, 2026 – March 31, 2027:	$12,205.50 per month
Rent for April 1, 2027 – March 31, 2028:	$12,571.67 per month

1st Extension Period:

Rent for April 1, 2028 – March 31, 2029:	$12,948.81 per month
Rent for April 1, 2029 – March 31, 2030:	$13,337.28 per month

In addition to the rental amounts specified above, Lessee shall pay to Lessor with each monthly rental payment the Washington State Leasehold Tax on the leased Premises, which tax is currently 12.84% of the monthly rental payment. Rental payments are payable in advance on the 1st day of each month during the term of this Lease.

Lessee agrees to pay a late charge, in an amount equal to 7% of the monthly rental payment then due with any rental or leasehold tax payment which is not received in full by Lessor by the tenth day of the month.

Section 5. **PREPAID RENT AND SECURITY DEPOSIT:** Upon execution of this Lease, and in lieu of a lease bond otherwise required pursuant to RCW 53.08.085, Lessee shall deposit with Lessor the first month's base rent and leasehold excise tax in the amount of $13,371.54 plus $11,185.87 towards a total security deposit. The Security Deposit shall be held by Lessor upon the following terms and conditions:

A. The Security Deposit is given to secure Lessee's performance of all obligations under this Lease, including without limitation, the payment of rent under Section 4, the use requirements of Section 10, and the utility provisions of Section 7.

B. Lessor shall maintain the security deposit as part of its general funds and not in a separate account for this deposit, with all interest attributable to the Lessor only.

C. Upon the expiration or sooner termination of this Lease, Lessee shall only be entitled to return of said Security Deposit if all conditions of this Lease have been complied with,

charge paid by Lessor, provided that Lessee shall have the right to contest any such tax or assessment at its own expense.

Section 8. **LIENS:** Lessee shall keep the Premises free and clear of all liens, including mechanic's, materialmen's, or other liens for work or labor done, and liens for services, materials, appliances and power performed, contributed, furnished or used or to be used in or about the Premises, or in connection with any operations of Lessee, or any alteration, improvement, repair, or addition which Lessee may make, permit, or cause to be made or any work or construction by, for, or permitted by Lessee on or about the Premises. Lessor shall not be responsible for liens caused by Lessee's activities on the Premises.

Nothing in this Lease shall be deemed or construed in any way as constituting the consent or request of Lessor, express or implied, by inference or otherwise, to any contractor, subcontractor, laborer, or materialman, for the performance of any labor or the furnishing of any materials for any specific improvement, alteration to, or repair of the Premises or any part thereof, nor as giving Lessee any right, power, or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any lien against the Premises or any part thereof.

In the event that any lien, charge, or order for the payment of money described as the responsibility of Lessee in this section is filed against Lessor or any portion of the Premises, Lessee shall, at its own cost and expense, cause the same to be discharged of record or bonded within sixty (60) days after notice from Lessor to Lessee, in the manner provided in Section 26, of the filing thereof; and Lessee shall indemnify and save harmless Lessor against and from all costs, liabilities, suits, penalties, claims, and demands, including reasonable counsel fees, resulting therefrom.

purposes without Lessor's prior written consent.

B. To use the adjoining front yard area for employee and guest parking, and to use the adjoining rear yard area for shipping and receiving of equipment and other goods in the course of Lessee's business, and temporary short-term staging of goods and equipment in connection with such shipping and receiving operations. Except as expressly permitted in this section, no equipment or other goods shall be stored in the rear yard area beyond the time reasonably necessary for a shipping or receiving operation. Except as expressly permitted in this section, Lessee shall not use any yard area for overnight parking, or storage of any vehicles, campers, boats, or trailers, or containers, sheds, or drums, or any other storage of any other thing whatsoever. Lessee shall at all times keep all yard areas area in good, clean, neat, orderly, and safe condition, free of any debris, and free of any material deemed objectionable by Lessor.

C. Not to use or occupy the Premises, or permit the Premises to be used or occupied, for other than legal purposes, or in a manner which shall violate any certificate of occupancy in force relating to any building or improvement hereafter erected thereon;

D. To conform to and abide by all lawful rules, laws and regulations in connection with the use of said Premises and the operation of Lessee's business thereon, and not to permit said Premises to be used in violation of any lawful rule, law, regulation or other authority; and

E. Not to commit or permit any waste of the leased Premises nor commit or permit the maintenance or commission of any nuisance on the Premises.

F. Lessee will actively employ approximately 15 personnel in support of business operations of Premises.

determination exists as to any proposed Tenant Improvement made during the course of this Lease, then at the expiration or other termination of this Lease, all such improvements for which shall remain upon the Premises, shall upon Lessor's determination, as determined in its sole and absolute discretion be either (1) removed and all damage caused to the Premises by the removal be repaired by Lessee at its sole cost and expense, or (2) become the property of Lessor, provided that if such improvement must be removed from the Premises, the Lessor will provide the Lessee with at least sixty (60) days' notice of such requirement.

All machinery, fixtures, portable buildings and equipment installed by Lessee and which are adapted only for the special use of Lessee, shall be considered to be trade fixtures and may be removed at the termination of this Lease by Lessee. Lessee shall at its own expense repair all damage caused by the removal of trade fixtures, and shall restore the Premises to its same condition as immediately prior to such removal.

Section 13. **REPAIR AND MAINTENANCE:** Lessor shall maintain the roof, outer walls, structural members, exterior plumbing, and landscaping on the Premises at its own expense. Lessee shall be responsible for the cost of any repairs made pursuant to this paragraph which are caused by the intentional or negligent acts of its employees, agents or licensees. Lessee shall complete all repairs within 90 days by a Lessor approved contractor or utilize Lessor maintenance staff at the Lessor contract rate. Lessee agrees to reimburse Lessor for said repairs immediately upon demand.

Lessor shall have no liability to Lessee for incidental damages or property damage suffered by Lessee as a result of its failure to maintain or repair those portions of the Premises described above, its only obligation being to maintain or repair such portions of the Premises. Lessee agrees to promptly notify Lessor of the need for exterior or structural repairs upon

intentional misconduct of Lessor or its agents, or employees, Lessor shall not be responsible for or liable for, and Lessee, notwithstanding that joint or concurrent liability may be imposed upon Lessor by a statute or court decision, hereby waives all claims against Lessor for any damage or injury to any person or to any property on or about the Premises subject to this Lease, including liability for costs, attorney's fees and reasonable expenses arising out of said claims.

Lessee covenants and agrees to reimburse Lessor for all costs or expenses of repair or replacement of any of Lessor's property damaged or destroyed as a result of Lessee's use or occupation of the Premises or use of Port property or facilities. Lessee further covenants and agrees to carry liability insurance protecting itself and Lessor from all liability arising out of this Section 14. The provisions of this section shall survive the expiration or earlier termination of this Lease

Section 15. **INSURANCE:**

A. Lessee shall procure at its sole cost and expense and keep in effect from the date of this Lease and at all times until the end of the term either Comprehensive General Liability insurance or Commercial General Liability insurance applying to the use and occupancy of the Premises and the business operated by Lessee (or any other occupant) on the Premises and providing coverage against all Lessee's liabilities pursuant to this Lease. Such coverage shall have a minimum combined single limit of liability of at least One Million Dollars ($1,000,000.00) and such limit shall be increased from time to time to such amount as may be mutually acceptable to Lessor and Lessee in their reasonable judgment. All such policies shall be written to apply to all bodily injury, property damage, personal injury and other covered loss, however occasioned, occurring during the policy term; shall be endorsed to provide that such coverage shall be primary; and that any insurance maintained by Lessor shall be excess insurance

Section 16. **HAZARDOUS SUBSTANCES- LESSEE'S OBLIGATIONS:** Lessee shall not, without Lessor's prior written consent, keep on or about the leased Premises, for use, disposal, treatment, generation, storage or sale, any substances designated as, or containing components designated as hazardous, dangerous, toxic or harmful (collectively referred to as "hazardous substances"), and/or which are subject to regulation by any federal, state or local law, regulation, statute or ordinance. With respect to any hazardous substances, Lessee shall:

A. Comply promptly, timely, and completely with all governmental requirements for reporting, keeping and submitting manifests, and obtaining and keeping current identification numbers;

B. Submit to Lessor true and correct copies of all reports, manifests and identification numbers at the same time as they are required to be and/or submitted to the appropriate governmental authorities;

C. Within five (5) days of Lessor's request, submit written reports to Lessor regarding Lessee's use, storage, treatment, transportation, generation, disposal or sale of hazardous substances and provide evidence satisfactory to Lessor of Lessee's compliance with the applicable governmental regulation;

D. Allow Lessor or Lessor's agents or representatives to come on the leased Premises during regular business hours, and after hours with three (3) hours advance notice to Lessee, except in an emergency, in which immediate case access shall be allowed to check Lessee's compliance with all applicable governmental regulations regarding hazardous substances;

E. Comply with minimum levels, standards or other performance standards or requirements which may be set forth or established for certain hazardous substances (if minimum

B. To recover any and all damage associated with the default, including, but not limited to cleanup costs and charges, civil and criminal penalties and fees, loss of business and sales by Lessor and other lessees of the leased Premises, and any and all damages and claims asserted by third parties and Lessor's attorneys' fees and costs.

The provisions of this section shall survive the expiration or earlier termination of this Lease

Section 17. **ASSIGNMENT/SUBLETTING:** Lessee shall not assign this lease nor sublet the whole or any part of the Premises without the prior written consent of Lessor, in its sole and absolute discretion. Any such assignment or sublease shall not relieve Lessee from the responsibility of paying the rentals accruing under this lease or from keeping and performing all other obligations herein imposed upon and assumed by it. It is understood and agreed that any consent by Lessor to any assignment or subletting by Lessee shall not be considered or construed to be a consent to any subsequent assignment or subletting nor as a waiver of the right of Lessor to refuse to consent to any subsequent assignment or subletting.

Section 18. **QUIET ENJOYMENT:**

A. Lessee, upon paying the rent and all other sums and charges to be paid by it as herein provided, and observing and keeping all covenants, warranties, agreements, and provisions of this Lease on its part to be kept, shall quietly have and enjoy the Premises during the Lease term, subject to the provisions herein, without hindrance by Lessor.

B. Lessor warrants that it has fee simple title to the Premises and the power and authority to execute this Lease and to carry out and perform all covenants to be performed by it hereunder.

Section 19. **ACCESS:** Lessor or Lessor's employees and designees shall have the right

D. Any execution or attachment shall be issued against Lessee or any of Lessee's property, whereby the Premises or any buildings or improvements thereon shall be taken or occupied or attempted to be taken or occupied by someone other than Lessee, except as may herein be permitted, and such adjudication, appointment, assignment, petition, execution, or attachment shall not be set aside, vacated, discharged, or bonded within ninety (90) days after the issuance of the same, then a default hereunder shall be deemed to have occurred so that the provisions of Section 21 hereof shall become effective and Lessor shall have the rights and remedies provided therein. Notwithstanding anything to the contrary hereinabove contained, upon the occurrence of a default pursuant to this Section 21, if the rent due and payable hereunder shall continue to be paid and the other covenants, provisions and agreements of this lease on Lessee's part to be kept and performed shall continue to be kept and performed, no event of default shall have been deemed to have occurred and the provisions of Section 21 hereof shall not become effective.

Section 22. **DEFAULT:**

A. In the event any one or more of the following events shall have occurred and shall not have been remedied as hereinafter provided:

1. The occurrence of any event set forth in Section 24 hereof, without the curing of same within thirty (30) days after receipt by Lessee of notice in writing from Lessor; or

2. The filing of a petition by or against Lessee for adjudication as a bankrupt, or for reorganization or agreement, or for any similar relief, under the Bankruptcy Code as now or hereafter amended; or

3. Lessee's failure to pay any installment of rent when the same shall be due and payable and the continuance of such failure for a period of three (3) business days after

same within a period of time which, under all prevailing circumstances, shall be reasonable. No default under Paragraph A4 of this Section 22 shall be deemed to continue if and so long as Lessee shall be proceeding to cure the same in good faith.

C. In the event that any default of Lessee shall be cured in any manner hereinabove provided, such default shall be deemed never to have occurred and Lessee's right hereunder shall continue unaffected by such default.

D. Upon any termination of the Lease term pursuant to Paragraph A of this Section 22, or at any time thereafter, Lessor may, in addition to and without prejudice to any other rights and remedies Lessor shall have at law or in equity, re-enter the Premises and recover possession thereof and dispossess any or all occupants of the Premises in the manner prescribed by statute relating to summary proceedings, or similar statutes; but Lessee in such case shall remain liable to Lessor as provided herein.

E. In case of any such default, re-entry, termination and/or disposition by summary proceedings:

1. The rent shall become due thereupon and be paid up to the time of such re-entry, termination and/or disposition;

2. Lessor may re-let the Premises or any part thereof, either in the name of Lessor or otherwise, for a term which may, at Lessor's option, be less than or exceed the period which would otherwise have constituted the balance of the term of this Lease and may grant concessions or free rent, but such re-letting shall not be construed as an acceptance of a surrender of the leasehold interest; and

3. Lessee or the representatives of Lessee shall also pay Lessor as liquidated damages for the failure of Lessee to observe and perform Lessee's covenants herein

shall, at its own cost and expense, promptly observe and comply with all present and future laws, ordinances, requirements, orders, directives, rules and regulations of the federal, state, county, town, and city governments and of all other governmental authorities affecting the Premises or appurtenances thereto or any part thereof whether the same are in force at the commencement of the Lease term or may in the future be passed, enacted, or directed, and Lessee shall pay all costs, expenses, liabilities, losses, damages, fines, penalties, claims, and demands, including reasonable counsel fees, that may in any manner arise out of or be imposed because of the failure of Lessee to comply with the covenants of this Section 24.

Section 25. **NOTICE OF LITIGATION AND COUNSEL FEES:**

A. Within ten (10) days of Lessee having knowledge of any litigation or other proceeding that shall be commenced against Lessee or against the Premises to secure or recover possession thereof or that may affect the interests of Lessor in the Premises, Lessee shall give written notice thereof to Lessor.

B. In the event any party shall bring suit to compel performance of or to recover for any breach of any covenant, agreement or condition of this Lease, the prevailing party in said action shall be entitled to recover from the other party costs and reasonable attorney's fees.

C. Notwithstanding anything to the contrary hereinabove contained, in the event that Lessor is made a party to litigation against the Lessee, relating to the Premises, or against the Premises commenced by a third party, wherein Lessor is not at fault, Lessee shall pay, upon demand, all of Lessor's counsel fees and costs.

Section 26. **NOTICES:** Every notice, consent or other communication authorized or required by this Lease shall be deemed to be sufficient if in writing, and sent postage prepaid by registered or certified mail, return receipt requested, directed to the other party at the address

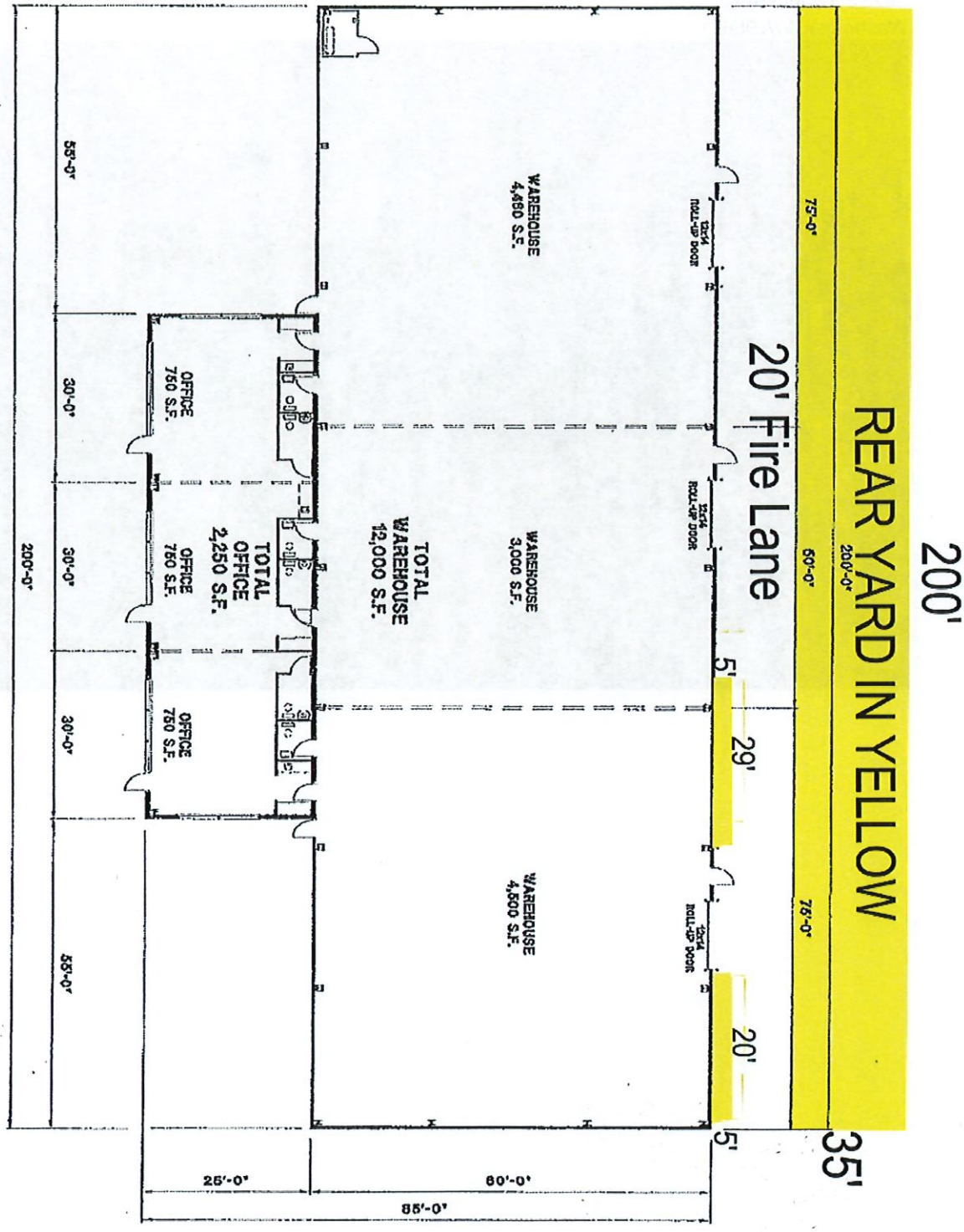
of either Lessor or Lessee herein, their respective successors in interest shall, during the term of this ownership of their respective estates herein, be deemed to be Lessor or Lessee, as the case may be.

Section 31. **SUCCESSORS:** All of the terms, conditions, covenants and agreements of this Lease shall extend to and be binding upon Lessor, Lessee, and their respective heirs, personal representatives, successors and assigns, and upon any person coming into ownership or possession of any interest in the Premises by operation of law, or otherwise, and shall be construed as covenants running with the land.

Section 32. **ENTIRE AGREEMENT:** This Lease constitutes and shall be construed as the entire agreement of the parties. No oral statement shall have any force or effect. This Lease shall not be modified or canceled except by writing subscribed by Lessor and Lessee.

SIGNATURES ARE ON NEXT PAGE

Exhibit A


200'
REAR YARD IN YELLOW
35'
20' Fire Lane
5'
29'
20'
5'
200'-0"
75'-0"
50'-0"
75'-0"
12x14 ROLL-UP DOOR
12x14 ROLL-UP DOOR
12x14 ROLL-UP DOOR
WAREHOUSE 4,480 S.F.
WAREHOUSE 3,000 S.F.
WAREHOUSE 4,500 S.F.
TOTAL WAREHOUSE 12,000 S.F.
TOTAL OFFICE 2,250 S.F.
OFFICE 750 S.F.
OFFICE 750 S.F.
OFFICE 750 S.F.
55'-0"
30'-0"
30'-0"
30'-0"
55'-0"
200'-0"
25'-0"
60'-0"
85'-0"