

PRELIMINARY AGENDA FOR REGULAR MEETING

June 4, 2025

I. EXECUTIVE SESSION

11:00 AM

RCW 42.30.110 (I) (iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency. 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 May 21, 2025.

B. Approval of Checks

NEW BUSINESS/DISCUSSION ITEMS

C. 2026 Rates & Fees: Director of Finance Krista Cagle

D. Contract Award- South 35th Street Pavement Repair: Contract Manager Nichole Chambers

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

E. Contract Award- South 35th Street Pavement Repair

STAFF REPORTS & COMMENTS

COMMISSIONER REPORTS & DISCUSSION

ADJOURN

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

Date

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: 829 0393 6339

Passcode: 154722 or via this video link:

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

**MINUTES OF THE REGULAR COMMISSION MEETING
PORT OF CAMAS-WASHOUGAL
May 21, 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, May 21, 2025, at 12 p.m. An Executive Session was held prior to the Regular Meeting at 11 a.m. to discuss litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency. No decisions were made. The Executive Session was expected to last 60 minutes and ended at 12:00 p.m.

PRESENT: Commissioner Cassi Marshall, Commissioner Larry Keister, Commissioner John Spencer, Chief Executive Officer Trang Lam, Director of Business & Real Estate Derek Jaeger, Director of Facilities Eric Plantenberg, Environmental Project Manager Jennifer Taylor, 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 12:02 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):

None

City Updates:

City of Washougal Council Member Ernie Suggs:

Suggs stated the Waterfront Development project at the Port is moving along, and he is anxious to see it completed. Suggs stated that next Thursday is Family Engagement night at Excelsior High School. Suggs stated there was a great turnout for the Stride event benefiting the Washougal School District.

CONSENT ITEMS

Minutes & Checks

The minutes from the Regular Meeting on May 7, 2025, electronic payments, and the issuance of general fund checks 10222-10235 totaling \$295,557.02 were presented for approval.

Commissioner Keister made a motion, seconded by Commissioner Spencer, and the consent items were carried unanimously.

NEW BUSINESS/DISCUSSION ITEMS

Project Completion- Waterfront Soils Removal: Environmental Project Manager Jennifer Taylor:

Taylor explained that the Waterfront Soils Project was completed by Swofford Excavating. Taylor stated the work was completed in November 2024, and then the paperwork following the completion was approved as of May 7, 2025. Approval will be requested during action items.

RKm Development, Inc.-Master Lease Agreement & Ground Lease: CEO Trang Lam

Lam explained on April 16th, she had brought a letter to the commission regarding allowing RKm, per their request, additional time to work with the Port on proposed amendments of the master lease agreement and ground lease. Lam explained that since approval on April 16th, there has been a slight adjustment to the letter language. Lam explained the Port will give RKm a pause to review until June 18th. Lam stated the new language adjusted the requirement of RKm to provide security assurance of the ability to complete phase one to revised language that RKm provides bi-weekly financial update to the Port. Lam stated RKm is still looking to get the best rate for the project. Approval will be requested during action items.

PUBLIC COMMENT #2:

No comments.

ACTION ITEMS

RKm Development, Inc.-Master Lease Agreement & Ground Lease:

Commissioner Marshall requested formal approval of the RKm Development, Inc.- Master Lease Agreement & Ground Lease presented during the discussion items. Upon motion by Commissioner Keister, seconded by Commissioner Spencer and carried unanimously, the approval of the RKm Development, Inc.- Master Lease Agreement & Ground Lease, effective May 21, 2025.

Project Completion- Waterfront Soils Removal: Environmental Project Manager Jennifer Taylor:

Commissioner Marshall requested formal approval of the Project Completion- Waterfront Soils Removal presented during the discussion items. Upon motion by Commissioner Spencer, seconded by Commissioner Keister, and carried unanimously, the approval of the Project Completion-Waterfront Soils Removal effective May 21, 2025.

STAFF REPORTS & COMMENTS

CEO Trang Lam:

Lam stated that yesterday was the Parkersville annual beautification event. Lam explained they filled a provided trailer and then some. Lam stated Port staff will take care of what's left over. Lam stated the annual Parkersville Day event will take place on June 7th, and the Port has been sharing it on their social media. Lam stated she attended and was on the panel at the Camas Schools "Together for Camas" event last night. Lam stated today she is attending the City of Washougal's Comprehensive Planning subcommittee for climate action. Lam stated they will speak about their draft goals. Lam explained that tomorrow, she will attend the Women Leaders in Maritime event. Lam stated she is speaking with NW Natural regarding geothermal energy.

Director of Business & Real Estate Derek Jaeger:

Jaeger stated that the Port attended the Camas-Washougal Chamber golf tournament event at Orchard Hills golf course on Monday. Jaeger explained that the Port sponsors a hole each year and also brings a tenant along. Jaeger explained Amie Bittle, the Port's Administrative and Events

Coordinator, and Lam tabled hole 17 on the course. Jaeger stated Intech has been served with a notice of default. Jaeger stated that Carolyn Lake, the Port's lawyer, has been involved in the process. Jaeger stated that if they cannot collect their things by the deadline, the Port has plans to remove their things. Jaeger stated he will come to the commission with a new tenant in Bay 103 in Building 20 shortly.

Director of Facilities Eric Plantenberg:

Platenberg stated his team is working on the siding of AP 5, which is to the east of the Airport. Platenberg stated they are also working on paving the second tie-down, which should be completed next week. Platenberg stated Parkersville looked great after the event last night. Platenberg stated he has been meeting with tenants in the Industrial Park. Platenberg added that the City of Washougal is currently cleaning up along the levee where the old barn was located. Platenberg stated that someone fell into the water in the marina last week, and he came to the rescue. Platenberg explained that the person unfortunately broke their femur trying to stop their boat from approaching the dock. Platenberg stated the first responders showed up at the scene quickly.

Environmental Project Manager Jennifer Taylor:

Taylor stated the 35th Street Project is out to bid using the small works roster. Taylor stated that the bids are due at the end of next week. Taylor stated she is hoping for good responses. Taylor stated that Contract Manager Nichole Chambers led the effort for the Port's green team to get involved with We Compost. Taylor explained that the Port will now have a composting hub set up by the pay station by the Marina. Taylor stated that Clark County and the Port will be doing outreach to advertise the bins. Taylor stated she attended a meeting yesterday in Salem, Oregon, regarding dredging. Taylor stated the meeting was put on by the US Corps of Engineers.

COMMISSIONER REPORTS & DISCUSSION

Commissioner Spencer:

Spencer stated Councilor Nohr was working with Cresa to conduct a tour of their facility. Spencer stated the tour should take place on June 16th at 1 pm. Spencer stated he has been speaking with the City of Washougal regarding a community market. Spencer gave his kudos to Jaeger regarding the WBA. Spencer added that Camas Muffler was excited for the development program.

Commissioner Keister:

Keister stated he attended the Together for Camas event last night and complimented Lam. Keister explained Lam brought up a great comment during the event, which was that the Port is the community's connector. Keister stated the Port is a neighborhood within our community, and the Port needs to promote itself as such. Keister stated he attended the WPPA Spring Meeting in Spokane and attended the communications and outreach training. Keister also mentioned the WPPA small business development center.

Commissioner Marshall:

Marshall stated she attended the WPPA Spring meeting. Marshall explained that she attended the finance module. Marshall stated that during the finance module, there was good bond information and practical information on how to use them. Marshall stated she would like to discuss the slides from the WPPA meeting once she receives them. Marshall also stated that there were great Port presentations. Marshall explained that the Port of Port Townsend won an environmental award.

Marshall stated that they constructed a new dock with the help of community volunteers. Marshall explained that the Port of Port Townsend also rebuilt their reef, and there is now an underwater camera attached. Marshall stated that two octopuses now call the reef home. Marshall stated the City of Washougal is excited about the We Compost project. Marshall stated last night that she attended the Washougal School District's strategic plan meeting. Marshall stated that their goals are simplified this time around. Marshall stated that Margaret Rice of the Washougal School District stated there is now a forklift in their parking lot so students can get certified. Marshall stated at the WPPA Spring meeting that she heard that the City of Spokane is working with Ecology regarding groundwater.

The meeting was adjourned at 12:40 pm.

Determination Process for Marina & Airport Lease Rates

Presented by Director of Finance, Krista Cagle



Rates & Fee Determination

Abide by Washington State Constitution, Article VIII, Section 7: No Gifting of public funds

Follow the Strategic Plan-update to include advisory committees

Follow Port's Operating Rates & Operating Budget Policies

Market value

Demand

Rates & Fee Historical Data

Year	Airport Rate Increase	Marina Rate Increase	CPI	Notes
2016	3.00%	3.00%	2.24%	
2017	4.00%	4.00%	3.04%	
2018	4.00%	7.00%	3.59%	Marina - half of slips increased by 4% and half by 10%, increase to catch up to market rates
2019	3.00%	0.00%	2.82%	Marina - removed 1 month free with 9 month lease
2020	4.00%	4.00%	1.74%	Increases to catch up to market rates
2021	0.00%	0.00%	4.17%	No increases due to COVID-19
2022	10.00%	10.00%	7.87%	
2023	6.00%	0.00%	4.37%	Marina - removed 1 month free with 12 month lease
2024	6.50%	5.00%	3.01%	Increases to catch up to market rates
2025	6.00%	6.00%		Increases to catch up to market rates
Average	4.70%	3.90%	3.70%	

Market Value - Airport's

2025 Survey - monthly rates

Grove Field	\$280.25 - \$523.25
Pearson Airfield	\$297.00 - \$491.00
Port of Olympia	\$359.68 - \$892.52
Scappoose Airpark	\$204.00 - \$278.00
Troutdale Airport	\$256.42 - \$415.00
Port of Hood River	\$403.24 - \$450.54
Twin Oaks (Hillsboro)	\$330.00 - \$475.00

Demand - Grove Field

Hangars have maintained an impressive occupancy rate of 98-100% over the past 14 years, achieving a consistent 100% occupancy since early 2018.

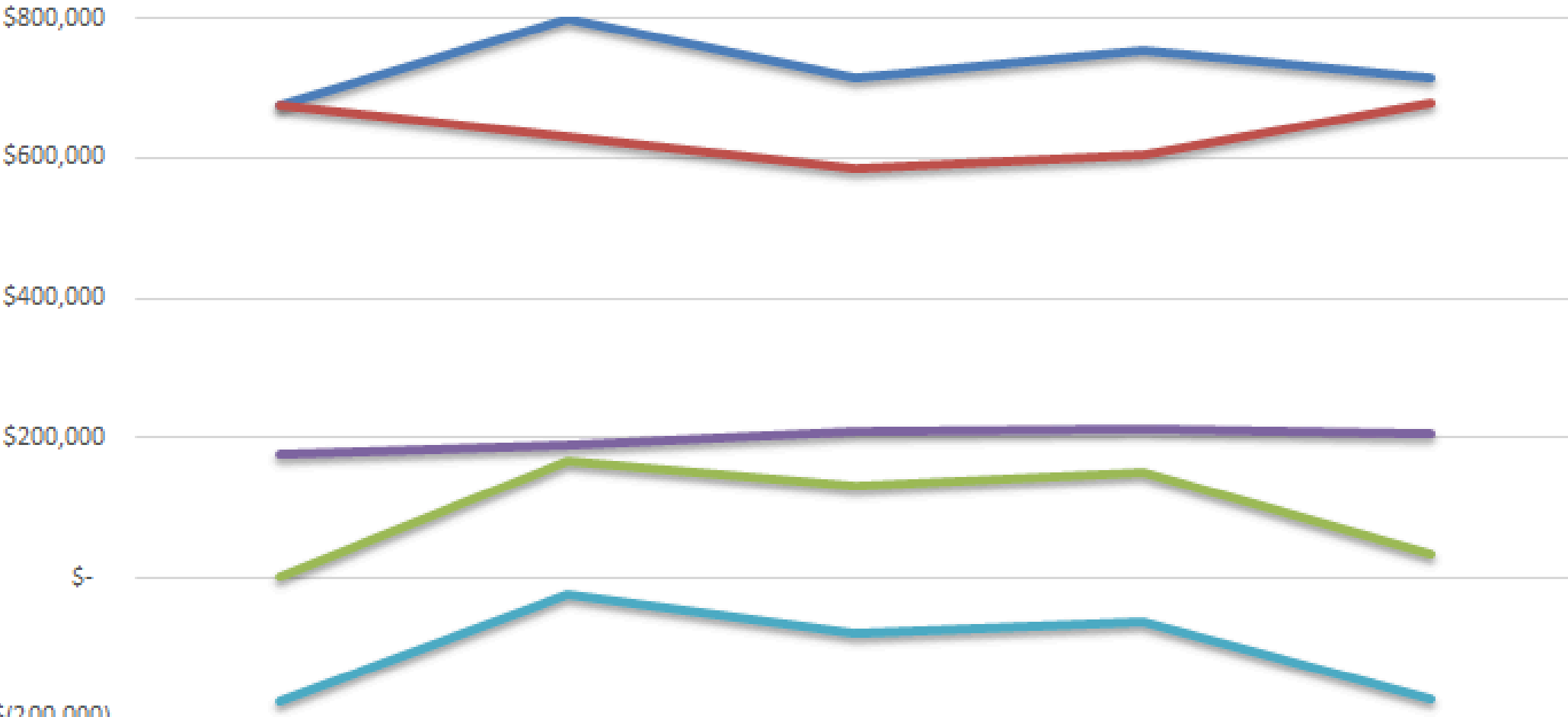
Currently, there are 59 individuals on the waiting list, an increase from 54 at the same time last year and 40 in 2023.

In terms of tie-downs, there are 4 available while 12 are currently leased.

All other surveyed airports also reported full occupancy.

Grove Field Average Net Income based on 5-year historical data \$96,204

Airport Operational Trend



	2021	2022	2023	2024	2025 Budget
Revenues	\$675,916	\$798,932	\$713,460	\$754,596	\$714,526
Expenditures	\$675,700	\$631,477	\$583,789	\$604,804	\$680,639
Net Income	\$217	\$167,456	\$129,671	\$149,792	\$33,887
Depreciation	\$177,670	\$190,871	\$210,353	\$212,964	\$205,984
Difference +/-	\$(177,453)	\$(23,416)	\$(80,682)	\$(63,172)	\$(172,097)

2026 Depreciation:

\$210,504

2026 Accumulated

Depreciation:

\$3,685,577

Based on the average Net Operational Income, it will take approximately 38 years to fully recover the costs associated with the capital improvements completed to date at Grove Field.

Market Value - Marina's

2025 Survey - monthly rates

Uncovered Slips

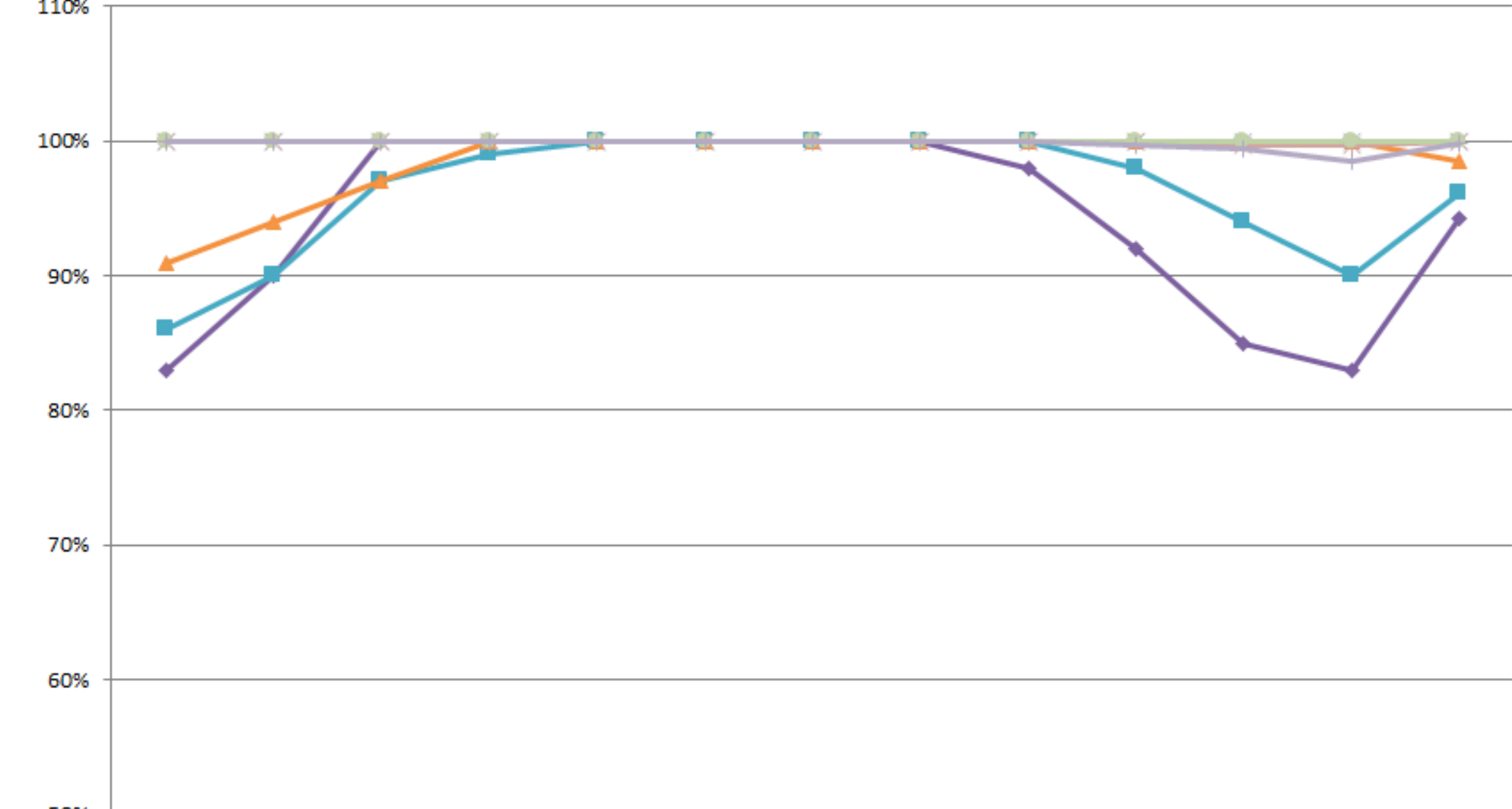
Port of Camas-Washougal	\$114.50 - \$256.50
Steamboat Landing	\$195.00 - \$340.00
Columbia Crossings	\$167.00 - \$424.00
Port of Hood River	\$132.33 - \$242.25

Covered Slips

Port of Camas-Washougal	\$173.25 - \$374.50
Columbia Crossings (25'-40')	\$226.35 - \$436.00
Port of Kalama (24'-40')	\$196.00 - \$322.00

Demand - Parker's Landing Marina

Moorage Slip Occupancy Rates 7 Year Trend



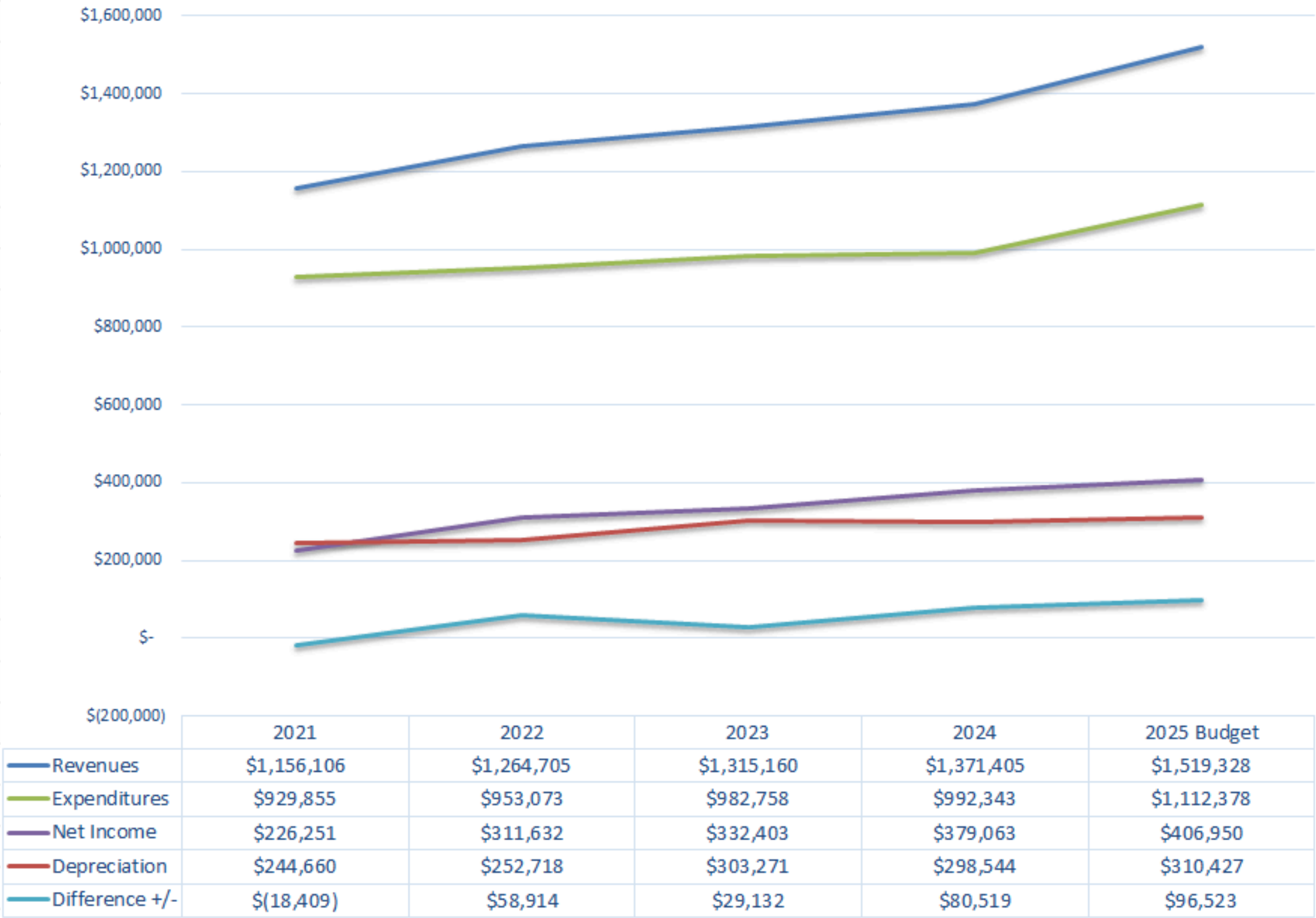
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Avg %
2018	83%	90%	100%	100%	100%	100%	100%	100%	98%	92%	85%	83%	94.25%
2019	86%	90%	97%	99%	100%	100%	100%	100%	100%	98%	94%	90%	96.17%
2020	91%	94%	97%	100%	100%	100%	100%	100%	100%	100%	100%	100%	98.50%
2021	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100.00%
2022	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100.00%
2023	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100.00%
2024	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	99%	98%	99.80%

Currently, there are 40 individuals on the wait list, a decrease from 82 at the same time last year. Notably, the wait list for 25' slips is consistently the longest.



Parker’s Landing Marina Average Net Income based on 5-year trend data \$331,260

Marina Operational Trend



2026 Depreciation:
\$301,540

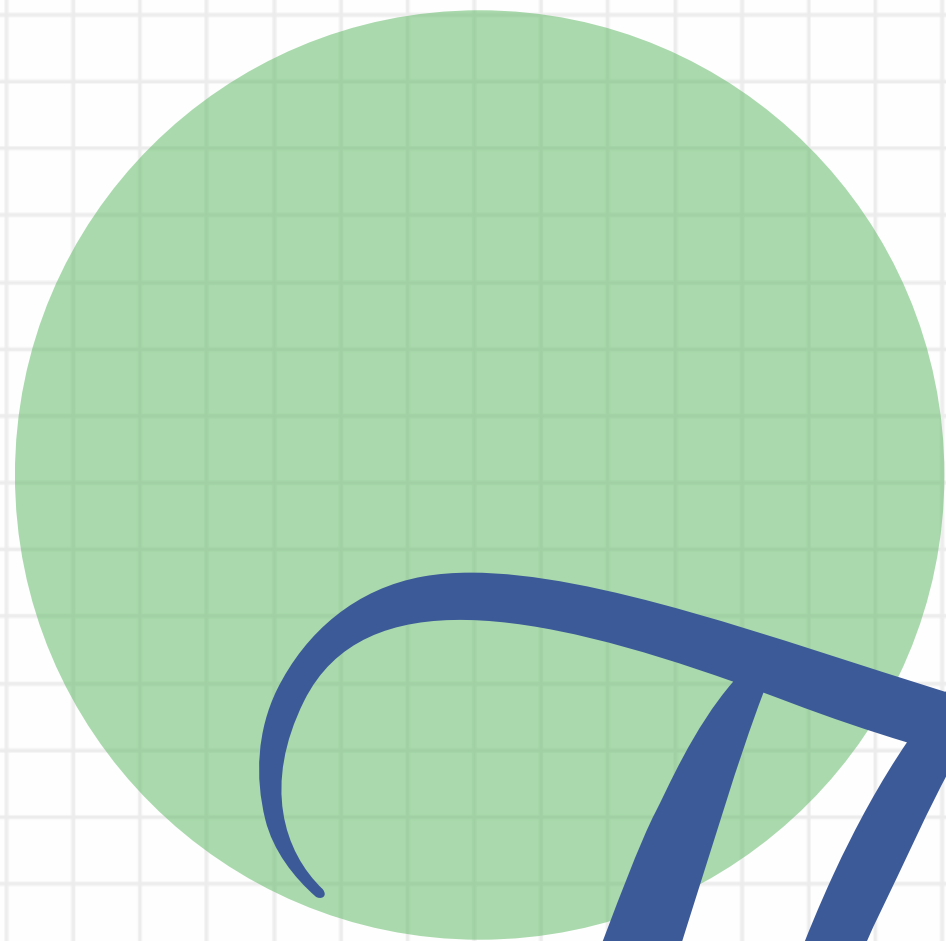
2026 Accumulated
Depreciation:
\$5,745,788

Based on the average Net
Operational Income, it will take
approximately 17 years to fully
recover the costs associated with
the capital improvements
completed to date at Parker’s
Landing Marina.

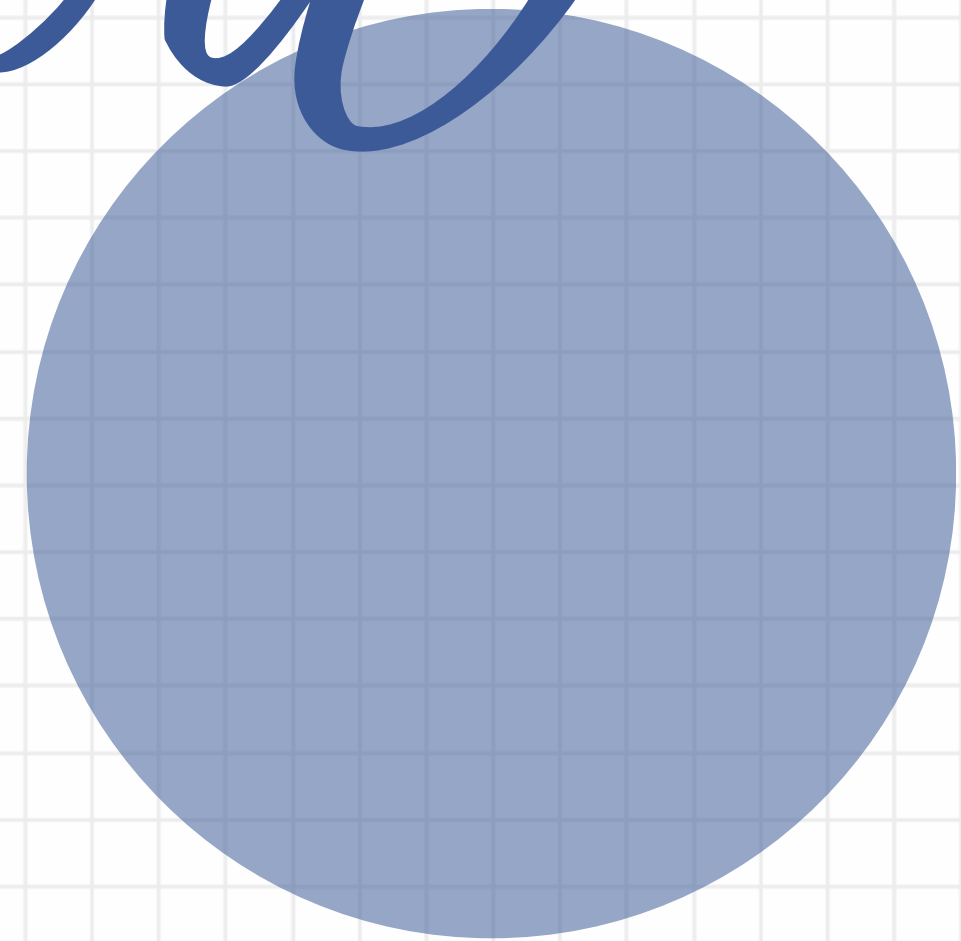
2026 Rates & Fees

No proposed changes

In the fourth quarter of 2025, we will establish advisory groups for both the Marina and Airport to aid in determining rates for 2027. These groups are scheduled to convene from January to May 2026, with the goal of preparing a rate proposal by June 2026.



Thank You





STAFF REPORT

COMMISSION MEETING DATE: June 4, 2025

ITEM TITLE: Contract Award – S 35th Street Pavement Repair

DEPARTMENT: Project Management

SUBMITTED BY: Nichole Chambers & Jennifer Taylor

STAFF RECOMMENDATION: Recommend Approval of Construction Contract Award

SUMMARY:

A recent analysis of the existing pavement condition of S 35th Street showed significant issues including thin pavement and base sections, large potholes, and cracking. This contract provides for the improvement of S 35th Street from S Truman Street to Index Street, including roadway excavation, paving, erosion control and pavement markings. Bids were solicited from the small works roster. Three bids were received on May 29, 2025. Granite Construction Company was the lowest responsible bidder at \$158,374.

BUDGET IMPACT: The project was included in the 2025 Capital budget for \$162,000.

STRATEGIC PLAN or OTHER PLANS: This project aligns with the current strategic plan goal of ensuring Port properties and operations are adequately maintained.

SUSTAINABILITY IMPLICATIONS: These pavement repairs will rehabilitate the roadway surface and improve overall driving and safety conditions.

DIVERSITY, EQUITY & INCLUSION IMPLICATIONS: NA



PUBLIC WORKS CONTRACT AGREEMENT

This contract is made and entered into by and between the Port of Camas-Washougal, hereinafter referred to as the “PORT”, and the below named firm, hereinafter referred to as “CONTRACTOR”.

Name (Contractor): Granite Construction Company

Project Name: S 35th Street Pavement Repair

Port Project Number: SPI-1024

Mailing Address: 16821 SE McGillivray Blvd. Suite #210
Vancouver, WA 98683

Phone: 360-254-0978

WA State UBI Number: 409 023 062

In consideration of the commitments and conditions contained herein, including those set forth in Attachment “A” and any Exhibits hereto, incorporated herein as though fully set forth, the PORT and CONTRACTOR do agree as follows:

SCOPE OF WORK

This contract provides for the improvement of South 35th Street from S Truman Steet to Index Street, including roadway excavation, paving with hot mix asphalt, erosion control, pavement markings and other work, all in accordance with the contract plans, contract provisions and standard specifications.

PERIOD OF PERFORMANCE

The period of performance under this contract will be from June 4, 2025, or date of execution, whichever is later, through September 30, 2025.

TERMINATION

The effective dates of this Agreement are as specified. Anything to the contrary herein notwithstanding, PORT or CONTRACTOR may terminate this agreement 30 days prior written notice to the other party. In the event of termination, all finished and unfinished work prepared by the CONTRACTOR pursuant to this Contract shall be provided to the PORT. In the event the PORT terminates this Contract prior to completion without cause, the CONTRACTOR may complete such analyses and records as may be necessary to place its files in order, and as mutually agreed to by the parties. The CONTRACTOR shall be entitled to receive just and equitable compensation for satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein.

COMPENSATION

1. As full compensation for the performance of its obligations of this Agreement and the services to be provided, the PORT shall pay CONTRACTOR the maximum amount as specified in this Agreement. Such payment shall be the total compensation for all work performed under this Agreement, including but not limited to all labor, materials and supplies, incidental expenses, subcontractor's fees, reimbursable expenses, and equipment expenses.

2. This will be accomplished on a Lump Sum Basis and will not exceed \$158,374.20, which includes WA State sales tax at 8.5%, without prior written approval from the Port.

3. To be eligible for payment, CONTRACTOR shall submit detailed numbered invoices showing description of work items being invoiced, work order number, title of project, total authorized, total current invoice, and balance of authorization. All invoices shall note "Prevailing wages have been paid in accordance with the approved Intent." Invoices shall be sent directly to the attention of Accounts Payable, at 24 South A Street, Washougal, WA 98671. Payment shall be made through the Port's ordinary payment process and shall be considered timely if made within 30 days of receipt of a properly completed invoice.

4. The PORT may withhold payment to the CONTRACTOR for any work not completed to the PORT'S satisfaction, until such time as the CONTRACTOR modifies such work to the satisfaction of the PORT.

5. All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.

6. In the event CONTRACTOR incurs cost in excess of the sum stated above, CONTRACTOR shall pay such excess from its own funds, and the PORT shall not be required to pay any part of such excess, and CONTRACTOR shall have no claim against the PORT on account thereof.

7. Prevailing wages must be paid, rates are published on the WA Department of Labor & Industry (L&I) website at: <https://www.lni.wa.gov/licensing-permits/public-works-projects/prevailing-wage-rates/>. The project will be performed in Clark County. The Port

also has a hard copy of the rates available on request. Per RCW 39.12 Section 5 (2) a copy of certified payroll records shall be filed with the Department of L&I using its online system.

CHANGE ORDERS

A Change Order is a written order signed by the PORT and the CONTRACTOR and issued after execution of the Contract, authorizing a change in the Work and/or adjustment in the date of contract closing. The amount of the Contract and the closing date can be changed only by Change Order. The PORT, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, and the amount of the Contract shall be adjusted accordingly. Any addition or deletion requiring an adjustment to the cost or date of the contract must be approved by both parties by Change Order prior to execution.

PAYMENT & PERFORMANCE BONDS

CONTRACTOR shall, at the time of delivery of this contract, furnish duly executed bonds, upon forms furnished or approved by the PORT, signed by an approved surety or sureties authorized to do business in the State of Washington, in the full amount of the contract price plus change orders, conditioned upon the faithful performance of the contract by the CONTRACTOR within the time prescribed therein. Such bond shall provide that the surety or sureties will agree to protect and indemnify the PORT against any direct or indirect loss that shall be suffered or claimed by reason of any or all of the following:

- A. The failure of the CONTRACTOR or any of the CONTRACTOR'S employees, subcontractors or agents to faithfully perform the said contract, or
- B. The failure of the CONTRACTOR to pay all laborers, mechanics, subcontractors, agents, material men, and all persons who shall supply such CONTRACTOR, subcontractor or agents with provision or supplies for carrying on such work.

At any time and as often as may be deemed necessary, the PORT may require any or all sureties or any surety company to appear and qualify themselves upon the bond. Whenever such surety or sureties are deemed by the PORT to have become insufficient, the PORT may demand in writing that the CONTRACTOR furnish additional surety in an amount not exceeding that originally required as may be deemed necessary considering the work remaining to be done. No further payments will be made on the contract until such additional surety a required is furnished.

RETAINAGE (Check one option)

[] Retainage Held by Port: Contractor specifically acknowledges that five percent (5%) of all payments that would otherwise be payable to Contractor shall be subject to retainage pursuant to the requirements of RCW 60.28.011. Upon completion of the work by Contractor

under the terms of this agreement and upon final acceptance by the Port, the Port will make final payment to Contractor of the balance due. Payment will be made within thirty (30) days of receipt of (1) all approved "Affidavits of Wages Paid" by the Contractor and subcontractors and (2) all certificates of release from the Washington State Department of Labor and Industries, Department of Revenue, and Employment Security to release the retainage.

[] Retainage Held by Port: For projects under \$150,000, IN LIEU OF PROVIDING PAYMENT AND PERFORMANCE BONDS, Contractor specifically acknowledges that ten percent (10%) of all payments that would otherwise be payable to Contractor (authorized under RCW 39.08.010) shall be subject to retainage pursuant to the requirements of RCW 60.28.011.

[] Retainage Bond: IN LIEU OF HAVING RETAINAGE WITHHELD, Contractor shall, at the time of delivery of this contract, furnish a duly executed retainage bond upon such form as is furnished or approved by the Port, signed by an approved surety or sureties authorized to do business in the State of Washington. Such bond shall provide that the surety or sureties will agree to protect and indemnify the Port against any direct or indirect loss that shall be suffered or claimed by reason of the failure of the Contractor to pay all laborers, mechanics, subcontractors, agents, material men, and all persons who shall supply such Contractor, subcontractor or agents with provisions or supplies for carrying on such work.

PORT OF CAMAS-WASHOUGAL

GRANITE CONSTRUCTION COMPANY

BY:

BY:

NAME:

Trang Lam

NAME:

TITLE:

Chief Executive Officer

TITLE:

DATE:

DATE:

Attachment A Standard Terms

1. Representatives

The Port's Project Manager and Contractor's Representative for this Agreement are as specified. Alternate representatives may be appointed by either party with written notice to the other party.

2. Key Personnel

The Contractor's key personnel, as described in Contractor's selection submittals, shall remain assigned for the duration of the Project unless otherwise agreed to by the Port.

3. Contract Administration, Records, and Right to Audit

All communications with the Port will be through the Port's Project Manager. The Project Manager shall provide Contractor with all information and documents pertinent to the services Contractor is to perform.

Until the expiration of six years after the term of this Agreement, Contractor agrees to maintain accurate records of all work done in providing services specified by the Agreement and to deliver such records to the Port upon termination of the Agreement or otherwise as requested by the Port.

Upon the Port's request, Contractor shall make available to the Port all accounts, records, and documents related to the Scope of Work for the Port's inspection, auditing, or evaluation during normal business hours as reasonably needed by the Port to assess performance, compliance, and/or quality assurance under this Agreement.

4. Relationship of Parties

Contractor, is and shall be at all times during the term of this Contract, an independent Contractor, and not an employee of the Port. Nothing contained herein shall be deemed to create a relationship of employer and employee or of principal and agent.

This Agreement shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

5. Conflict of Interest

No officer, employee or agent of the Port who exercises any function or responsibilities in connection with the planning and carrying out of the program to which this Agreement pertains, nor any member of the immediate family of any such officer, employee or agent shall have any personal financial interest, direct or indirect, in this Agreement, either in fact or in appearance. Contractor further covenants that in performance of this Agreement, no person having any such interest shall be employed.

6. Compliance with Laws

Contractor shall, during the term of this Agreement, comply with all local, state, tribal and federal laws and regulations applicable to the project, including building codes, environmental protections, and permitting regulations existing at the time this Agreement was executed and those regarding employee safety, health, the workplace environment, and employment eligibility verifications as required by the Immigration and Naturalization Service.

Contractor certifies that it has, or shall obtain prior to starting work under this Agreement, all licenses, registrations, permits and/or any other authorization required under federal, state, local or tribal law to perform the work as defined in this Agreement. Contractor agrees to indemnify and hold the Port harmless from and against any claims or demands made or brought against the Port and for costs (including, but not limited to attorneys' fees and costs), the Port incurs due to the Contractor's failure to: (1) comply with all applicable laws and regulations, and/or (2) have or maintain the required licenses, registrations, permits and/or other authorizations, as required by this Agreement.

In the event Contractor fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, then Contractor authorizes the Port to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand made to the Port by the governmental body. Any such payments shall be deducted from Contractor's total compensation.

The Port shall furnish Contractor with the information required by the Hazard Communication standard for materials preexisting on the project site. Contractor will ensure that this information is made available to the Contractor's personnel and subcontractors, and incorporated into the contract documents as appropriate.

7. Ownership of Work

The services to be performed by Contractor shall be deemed instruments of service for purposes of the copyright laws of the United States. The Port has ownership rights to the plans, specifications, and other products prepared by the Contractor. Contractor shall not be responsible for changes made in the plans, specifications or other products by anyone other than the Contractor. Contractor shall have free right to retain, copy and use any tangible materials or information produced but only for its own internal purposes. Use of documents or other materials prepared under this Agreement for promotional purposes shall require the Port's prior consent.

8. Standard of Care

Contractor shall perform its work to conform to generally accepted professional standards. Contractor shall be responsible for the professional quality, technical adequacy and accuracy, timely completion and coordination of all plans, designs, drawings and specifications prepared under this Agreement. Contractor shall, without additional compensation, correct or revise any errors or omissions in such work.

9. Disclosure

All information developed by the Contractor and all information made available to the Contractor by the Port, and all analyses or opinions reached by the Contractor shall be confidential and shall not be disclosed by the Contractor without the written consent of the Port.

10. Deliverables

All tangible materials produced as a result of this Agreement shall be prepared as specified by the Port's Project Manager. Delivery of materials produced shall consist both of the tangible materials and one copy of any computer file used in the creation of the tangible product submitted electronically in a PDF format or other format specified by the Port. Deliverable drawings shall be prepared in accordance with the Port's "Contractor Drawing Submittal Procedure" and "Technical Specification Development Procedure". The Port may offset from the Contractor's fee expenses incurred by the Port in correcting drawings or specifications not prepared in accordance with the Port's procedure.

11. Indemnification

Contractor shall indemnify, defend, and hold harmless the Port, its officials, officers, agents, and employees from any and all claims, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Agreement; provided that this provision shall not apply to the extent that damage or injury results from the fault of the Port, or its officers, agents, or employees. The term "fault" as used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may be amended.

Should a court of competent jurisdiction determine that this Agreement is subject to RCW 4.24.115, then, in the event of liability for damages arising out of bodily injuries or damages to property caused by or resulting from the concurrent negligence of the Contractor and the Port, its officers, officials, employees and volunteers, the Contractor's liability hereunder shall be only to the extent of the Contractor's negligence.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Contractor's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. CONTRACTOR RECOGNIZES THAT THIS WAIVER WAS THE SUBJECT OF MUTUAL NEGOTIATION.

The indemnification shall extend to and include attorney's fees and the cost of establishing the right of indemnification hereunder in favor of the Port. This indemnification shall survive the termination of this Agreement.

12. Insurance

Contractor shall obtain and keep in force during the terms of the Agreement, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48.

- a. Worker's Compensation and Employer's Liability insurance as required by the State.
- b. Commercial General Liability insurance in the amount of at least \$1,000,000 per occurrence; \$2,000,000 general aggregate.
- c. Automobile Public Liability Insurance coverage with total liability limits for Bodily Injury Liability and Property Damage Liability in the amount of \$1,000,000 per accident.
- d. All policies shall be issued by a company having an A. M. Best rating of A:VI or better. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled or reduced in coverage or limits except after 45 days prior written notice has been given to the Port. The Port shall be named as an additional insured on all policies on ISO Form CG 20 10 Form B. The certificates of insurance shall specify the project name, project number, and contract number.

- e. The Contractor must furnish the Port with verification of insurance and endorsements prior to any release of funds.
- f. Contractor shall ensure that each subconsultant of every tier obtain at a minimum the same insurance coverage and limits as stated herein for the Contractor. Upon request from the Port, the Contractor shall provide evidence of such insurance.

13. Competitive Specification

If the scope of work includes development of specifications:

Contractor shall provide for the maximum use of materials, equipment, construction methods and products that are readily available through competitive procurement, or through standard or proven production techniques.

Contractor shall not produce a design or specification which would be restrictive or written in a manner as to contain proprietary requirements other than those based on performance, unless such requirements are necessary to demonstrate a specific outcome or to provide for necessary interchangeability of parts and equipment. Contractor shall justify in writing the use of any sole source. Where brand names are identified, they shall be followed by the salient product performance characteristics and the words "or approved equal" so that comparable quality or utility may be determined.

14. Time

Time is of the essence in the performance by the Contractor of the services required by this Agreement. The Contractor shall complete its services within the milestones set forth in the project schedule. At the end of each month the Contractor shall submit a copy of the current schedule and a written narrative description of the work accomplished, identifying scheduled milestones and the status thereof. The Contractor shall also address issues, which may result in completion beyond the established schedule or budget.

If the time allotted for completion of Contractor's services is exceeded through no fault of Contractor, additional time to complete performance may be allowed if written notice of the cost and estimated length of the delay is given to the Port within forty-eight (48) hours of Contractor's learning of the delay. Contractor will provide such additional supporting data as the Port may require in a timely manner. The sole remedy in the event of a delay, whatever its cause, is an extension of time for performance.

The Port may suspend this Agreement, at its sole discretion, upon one week's advance notice to Contractor. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to Contractor's reasonable expenses, and shall be subject to verification. Contractor shall resume performance of services under this Agreement without delay when the suspension period ends.

15. Assignability

Contractor shall not assign any interest in this Agreement and shall not transfer any interest in the Agreement to any party without prior written consent of the Port.

16. Disputes

If a dispute arises relating to this Agreement and cannot be settled through direct discussions, the parties agree to endeavor to settle the dispute through a mediation firm acceptable to both parties, the cost of which shall be divided equally. The Port reserves the right to join any dispute under this Agreement with any other claim in litigation or other dispute resolution forum, and the Contractor agrees to such joinder, so that all disputes related to the project may be consolidated and resolved in one forum. Venue for any litigation shall be the Clark County Superior Court of the state of Washington and the prevailing party shall be entitled to recover its costs and reasonable attorney fees.

17. Non-Discrimination

During the term of this Agreement, the Contractor shall not create barriers to open and fair opportunities to participate in Port contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. During the performance of this Agreement, neither the Contractor nor any party subcontracting under the authority of this Agreement shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Agreement.

The selected Contractor shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination including RCW Chapter 49.60. The Contractor further agrees to comply with all applicable civil rights statutes and implementing regulations.

The Contractor shall cause the foregoing provision to be inserted in all subcontracts for any work covered by this Agreement so that such provisions shall be binding upon such third parties,

18. Safety.

Contractor expressly agrees that it shall be solely responsible for supervising its employees, that it shall comply with all rules, regulations, orders, standards and interpretations promulgated pursuant to the Occupational Safety and Health Act of 1970 [and to the Occupational and Safety Health Act of the State of Washington, including but not limited to training, provision of personal protective equipment, adherence to all appropriate lock out/tag out procedures, and providing all notices, material safety data sheets, labels, etc. required by the right-to-know standard.

19. Governing Law and Venue.

Washington law shall govern the interpretation of this Agreement. Clark County shall be the venue of any mediation, arbitration or litigation arising out of this Agreement.

20. Waiver.

A waiver of failure by either party to enforce any provision of this Agreement shall not be construed as a continuing waiver of such provision(s), nor shall the same constitute a waiver of any other provision of this Agreement.

21. Severability and Survival.

If any term, condition or provision of this Agreement is declared void or unenforceable or limited in its application or effect, such event shall not affect any other provisions hereof and all other provisions shall remain fully enforceable. The provisions of this Agreement, which by their sense and context are reasonably intended to survive completion, expiration of cancellation of this Agreement, shall survive termination of this Agreement.

22. Equal Opportunity to Draft.

The parties have participated and had an equal opportunity to participate in the drafting of this Agreement, and the Exhibits, if any, attached. No ambiguity shall be construed against any party upon a claim that that party drafted the ambiguous language.

23. Captions.

The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof.

24. Concurrent Originals.

This Agreement may be signed in counterpart originals.

25. Entire Agreement.

This Agreement represents the entire and integrated understanding between the Port and Contractor and may be amended only by written instrument signed by both the Port and Contractor. All previous or contemporaneous agreements, representations or promises and conditions relating to the subject matter of this Agreement are superseded hereby.

26. Authority to Enter Into This Agreement

The undersigned Contractor representative, by his/her signature below, represents and warrants that he/she is duly authorized to execute this legally binding Agreement for and on behalf of Contractor and further represents and warrants that he/she acknowledges reading this Agreement, understands it and agrees to be bound by its Terms and Conditions.