

PORT OF HOOD RIVER COMMISSION
Tuesday, August 20, 2013
Marina Center Boardroom
5:00 p.m.

Regular Session Agenda

1. Call to Order
 - a. Modifications, Additions to Agenda
 - b. Next Door Inc. Presentation
 2. Public Comment (5 minutes per person per subject; 30 minute limit)
 3. Consent Agenda
 - Approve Minutes of August 6, 2013 Regular Session Meeting and August 14, 2013 Lot 1 Special Meeting
 4. Reports, Presentations and Discussion Items
 - Waterfront Recreation Emergency Access Points
 - Transponder Policy
 - Strategic Plan Schedule
 5. Director's Report
 - Schedule
 - Staff & Administration
 - Waterfront Recreation
 - Waterfront Development
 - Airport
 - Bridge/Transportation
 6. Commissioner, Committee Reports
 - Urban Renewal Agency – Shortt/Streich
 - Marina Ad-hoc Committee – Davies
 - Airport Advisory Committee – Steve Burdick
 7. Action Items
 - a. Authorize Contract with Hood River Construction Company for Hearts of Gold Tenant Improvements in the Marina Park Offices Building in the Amount of \$63,749
 - b. Authorize Amendment No. 2 to the Purchase and Sale Agreement with Naito Development
 - c. Approve Quitclaim Deed with NBW-Hood River, LLC
 8. Commission Call
-
9. Executive Session under ORS 192.660(2)(e) Real Property
 10. Adjourn

If you have a disability that requires any special materials, services, or assistance, please contact us at 541-386-1645 so we may arrange for appropriate accommodations.

*The chair reserves the opportunity to change the order of the items if unforeseen circumstances arise. The Commission welcomes public comment on issues not on the agenda during the public comment period. With the exception of factual questions, the Commission does not immediately discuss issues raised during public comment. The Commission will either refer concerns raised during public comment to the Executive Director for a response or will request that the issue be placed on a future meeting agenda. People distributing copies of materials as part of their testimony should bring **10 copies**. Written comment on issues of concern may be submitted to the Port Office at any time.*

**Port of Hood River Commission
Meeting Minutes of August 6, 2013 Regular Session
Marina Center Boardroom
5:00 PM**

THESE MINUTES ARE NOT OFFICIAL until approved by the Port Commission at the next regular meeting.

Present: Commissioners Jon Davies, Fred Duckwall, Rich McBride and Hoby Streich; Attorney Jerry Jaques; from staff, Michael McElwee, Steve Burdick, Fred Kowell, Mellissa Halseth and Liz Whitmore

Absent: Brian Shortt

Media: Kirby Neumann-Rae, Hood River News

1. CALL TO ORDER: President Rich McBride called the meeting to order at 5:01 p.m.

a. Modifications, Additions to Agenda: Add a presentation before Public Comment.

b. Presentation: Michael McElwee, Executive Director presented Alison Danko, an intern from Whitman College, a bouquet of flowers to acknowledge her hard work and commitment in assisting with the preparation of the Port's Economic Impact Analysis.

2. PUBLIC COMMENT: Bob Francis thanked the Port for a great working relationship while he served as City Manager for the City of Hood River.

3. CONSENT AGENDA:

- o Approve Minutes of July 16, 2013 Regular Session Meeting and Minutes of July 17, 2013 Lot 1 Special Meeting
- o Approve Committee Assignments
- o Authorize Payment of \$15,069.50 for Frontage Road Bicycle/Pedestrian Pathway Engineering Fees to ODOT
- o Approve Change Order No. 3 to the Contract with LaLonde Electric in the amount of \$4,782.28 for a Total Contract Amount of \$473,972.18
- o Approve Contract Amendment with MKE Electrical Engineers for Additional Electrical Engineering Services for Marina Electrical Upgrade Not to Exceed \$2,340
- o Approve Accounts Payable to Tonkin Wilsonville Nissan in the Amount of \$23,466 and to ServPro in the Amount of \$16,355.52 for a Total of \$39,821.52

Motion: Move to approve Consent Agenda

Move: Duckwall

Second: Streich

Vote: **Aye:** Davies, Duckwall, McBride and Streich

Absent: Shortt

MOTION CARRIED

4. REPORTS, PRESENTATIONS AND DISCUSSION ITEMS:

- Tobacco/Smoke Free Policy for Port Properties - Belinda Ballah, Tobacco Prevention Coordinator, Hood River County Commission on Children and Families presented a policy for the Port to consider that would create a tobacco/smoke free environment on all Port properties. Ballah explained that grant funds were available for design and production of signage and the Port would be responsible for installation costs. Staff will bring back a policy for Commission approval at a later date after Legal Counsel has reviewed as well as Special Districts Association of Oregon.
- Bridge Engineers Update - David McCurry, HNTB gave an update on the bridge Work Plan that included a list of prioritized bridge projects and issues. Potential engineering costs were approximately \$190,000. There is concern about weight enforcement due to the increased truck traffic on the bridge as a result of weight restrictions on the Bridge of the Gods Bridge. Staff will contact the State Weigh Master for assistance with enforcing weight limits. McCurry also talked

about the bridge deck welding evaluation. Staff is expected to be certified to make the proper welds. After a period of time they will evaluate to determine how long the welds will last.

- Airport Business Plan – Steve Burdick, Development Manager explained that the Airport Advisory Committee is in the early stages of assisting staff to prepare an airport business plan. The first step is to provide the context of the mission, vision and values which will be discussed at the August 19 committee meeting. The plan will also include costs for budgeting and FAA match dollars. The plan is anticipated to be complete in spring 2014. Staff will provide updates.

- Hearts of Gold Update - Steve Burdick gave an update on the proposed tenant improvements in the Marina Park Office Building. Staff worked with the architect and tenant to determine whether the scope of improvements could be modified that that the costs would be within the Port and tenant budget. Revised plans and specifications were distributed on August 5 and responses are due back August 15. The results will be brought back to the August 20 meeting for possible approval.

5. DIRECTOR'S REPORT: McElwee highlighted the following areas:

- Schedule –Consensus was to have one Commission meeting in September on the 10th.
- Staff/Administration – Steve Burdick has submitted his resignation to seek retirement. He will work through September. McElwee has been appointed Chair of the OPPA board for the next two-years. McElwee provided his draft work plan with and emphasis on the Strategic Plan, Lot 1 Planning and Administrative changes. McElwee requested the Commission provide and thoughts or suggestions.
- Waterfront Recreation – The Event Site hosts and nighttime maintenance staff have had some difficulty rousting people from the Event Site for closing. McElwee praised the performance of Facilities staff, particularly Scott.
- Waterfront Development – Hood River Juice has begun building their new production building and has requested permission to park trucks on the Burger King property near Riverside Avenue. McElwee authorized a License Agreement for a 90-day period.

6. Commissioner, Committee Reports:

- Special Districts Board Training – Commissioners McBride and Streich attended the board training on July 31. They suggest that all Commissioners attend training regularly. Streich commented that he took from the training that it was a good idea that Commissioners use Port Devices. Also there was an example of being ADA compliant by adding a 2-way camera on the first floor of a building as a way of communicating with handicapped individuals as opposed to installing elevators for multiple floor buildings.
- Urban Renewal Agency – The July 22 meeting was to have an informal meeting with the merchants affected by the State Street project.
- Jensen Paint Colors – McBride suggested that the building should blend to the new buildings in the area that were developed by Key Development. There will be a mockup demonstration to show the board at a later date.

7. ACTION ITEMS:

a) Authorize Contract with Hennebery Eddy Architects for Conceptual Design Services at Jensen Building Breezeway Not to Exceed \$5,400: At Spring Planning there was a discussion of potential concepts for redesigning the passageway between the two story Jensen Building and the one story Breezeway Building. This contract would allow Hennebery Eddy Architects to advance this idea to a visual design concept.

Motion: Move to Authorize Contract with Hennebery Eddy Architects for Conceptual Design Services at Jensen Building Breezeway Not to Exceed \$5,400

Move: Duckwall

Second: Davies

Vote: **Aye:** Davies, Duckwall, McBride and Streich
Absent: Shortt

MOTION CARRIED

b) Authorize Contract with Carlson Testing for Welding Certification for Two Port Employees to Perform Appropriate Test Welds on the Bridge Deck Not to Exceed \$1,500: HNTB has proposed that it is necessary to repair weld the bridge deck. Training the Port employees to perform the appropriate welds will be done by a local welding contractor. Staff proposes that testing and certifying the Port employees be done by Carlson Testing.

Motion: Move to Authorize Contract with Carlson Testing for Welding Certification for Two Port Employees to Perform Appropriate Test Welds on the Bridge Deck Not to Exceed \$1,500

Move: Davies

Second: Duckwall

Vote: **Aye:** Davies, Duckwall, McBride and Streich
Absent: Shortt

MOTION CARRIED

c) Authorize Contract with Bulldog Welding for Welding Training and Test Welding Not to Exceed \$15,000: HNTB has proposed that it is necessary to repair weld the bridge deck. The welding contractor will train two Port employees/welders to properly perform the appropriate welds. Then the contractor's employees will work with the Port employees/welders to make the appropriate welds in designated test areas on the bridge.

Motion: Move to Authorize Contract with Bulldog Welding for Welding Training and Test Welding Not to Exceed \$15,000

Move: Duckwall

Second: Streich

Vote: **Aye:** Duckwall, McBride and Streich
Abstained: Davies
Absent: Shortt

MOTION CARRIED

8. COMMISSION CALL: Davies commented that the Event Site is a gem this time of year and encouraged everyone to use it. McBride was at the Event Site over the weekend and heard many suggestions for improving the site but also many compliments for how it flows.

9. EXECUTIVE SESSION: Regular Session was recessed at 7:04 p.m. and the Commission was called into Executive Session under ORS 192.660(2)(e) Real Property. The Commission was called back into Regular Session at 8:11 p.m. The following was an action as a result of Executive Session.

Motion: Move to Approve a Memorandum of Understanding with Hood River Juice Company

Move: Davies

Second: Duckwall

Vote: **Aye:** Davies, Duckwall, McBride and Streich
Absent: Shortt

MOTION CARRIED

10. ADJOURN: President McBride adjourned the meeting at 8:11 p.m.

Respectfully submitted,

Mellissa Halseth

ATTEST:

Rich McBride, President, Port Commission

Hoby Streich, Secretary, Port Commission

**Minutes of August 14, 2013 Port of Hood River Commission Special Meeting
Marina Center Commission Room
12:00 p.m.**

THESE MINUTES ARE NOT OFFICIAL until approved by the Port Commission at the next regular meeting.

Present: Commissioners Rich McBride, and Hoby Streich; from staff, Michael McElwee, Steve Burdick, and Laurie Borton. Invited stakeholders Steve Gates, Chuck Gehling, Pepi Gerald, John Hart, Heather Staten, Greg Stiegel, and Brett VandenHeuvel.

Absent: Commissioners Jon Davies, Fred Duckwall, and Brian Shortt

Media: None

Public: Sign-in Sheet Attached

A quorum of the Port of Hood River Commissioners was not present. The purpose of the meeting was to conduct a Work Session regarding future development ideas on Lot 1 on the waterfront with invited stakeholders representing the recreational and environmental segments of the community. Work Sessions do not result in any action being taken by the Commission.

At 12:05 p.m. President Rich McBride welcomed panel members and guests. McBride stated the February 2013 conceptual plan for Lot 1 development was a pencil sketch and the series of stakeholder Work Sessions was intended to solicit input to modify assumptions. He did state, however, that due to current zoning restrictions Lot 1 was not a blank slate. Self introductions were made and McBride then deferred to Executive Director Michael McElwee who summarized that with the development of the Waterfront Business Park and Waterfront Park the momentum is now moving eastward. McElwee reiterated the primary objective was to have discussions with various community segments on their perspectives and he also commented that build out will be impacted by the Oregon Department of Transportation's IAMP (interchange area management plan) and the existing zoning, more or less, will remain. McElwee then turned to the panel for questions and comments.

The discussions focused primarily on green space and water access. Points summarized from the panel discussions included:

- The waterfront is a gem but more green space is needed. Public access drives clean water and more vibrant business. The Commission was asked to consider if parking lots and buildings on Lot 1 was the right direction? Thoughtful planning and design for near-term development that will provide for the needs of future generations will be important (a city buying back property to create green space was cited as an example). There was also the suggestion of razing the Jensen Building in the future and creating green space connecting the Event Site to the Waterfront Park.
- Should build-out of Lot 1's interior be denser to allow for more green space? When asked if a parking structure had been considered, McElwee and McBride responded it would be a financial challenge and the cost of \$27,000 per space has been estimated. The panel was then asked if recreational parking can continue to be accommodated for a three or four month season. McElwee said

that strategies will continue to be explored to determine a balance between recreational access, parking, and retail sustainability.

- Providing retail/restaurant space may be viewed by current downtown businesses as unhealthy competition. The shoulder season is already difficult for downtown business and having a 'satellite' location makes sense for some but not all.
- Continued vehicular access to the water for launching should be considered for business growth to continue. Currently there is limited parking for vehicles, including vehicles with trailers and RVs and this does not appear to be accommodated in the conceptual plan. It was also noted that the number and location of restrooms do not appear on the plan.
- Growth of current concessionaires is curtailed currently by space allotments and the question of how the Commission would continue to be supportive was asked. There was no consensus on the use of Lot 1 for concessionaire space but it was acknowledged that there was no easy, straight-forward answer.
- The Basin is a valuable natural resource for fish and wildlife along with recreational use. In 2010 a multi-agency technical advisory committee participated in discussions related to the Nichols Basin and Delta. The Watershed Group is available to develop and evaluate restoration proposals as a part of the Lot 1 development and could potentially help raise funds needed to implement work if the project is supported by their membership.

The following comments are in response to Commissioner Streich's request for input regarding the conceptual plan zones:

- Zone A: Move buildings on the east and have 2-story buildings on the zone's west side.
- Zone B: Will commercial/industrial buildings compete with downtown? Parking in this zone was one suggestion. It was also questioned if a business is located in this zone, does it mean they automatically have a concession agreement with the Port?
- Zone C: It appears to be artificially small and should be bigger. If the space is widened it would be more pleasant for businesses and bring more people to the area; however, traffic and parking would be problematic. Decisions should not be short-sighted-- consider a 100-year vision. Spread and/or leverage uses in the Nichols Basin between the north to south boundaries.
- The view corridor from the intersection at 2nd & Oak Street should be preserved.

When asked how the public would weigh in on this process, McElwee said this series of work sessions, the geotechnical work that is now underway, retaining the services of a landscape architect, and the formation of a stakeholder steering group will help define

policy and infrastructure issues (such as development by the Port or private sector, and sale or lease of property). A recommendation came from the group to start the public process while people are actually engaged in use of the sites otherwise there was concern the Port may be "married" to the current conceptual plan. It was also suggested that photos of the sites are taken to create overlays of the use variations.

President McBride thanked the panelists for their time and comments and concluded by saying evolution of the Port and properties will continue.

No action was taken as a result of the Special Meeting Work Session and the meeting was adjourned at 1.32 p.m.

Respectfully Submitted:

Laurie Borton

ATTEST:

Rich McBride, President, Port Commission

Hoby Streich, Secretary, Port Commission

Commission Memo

To: Commissioners
From: Liz Whitmore
Date: August 20, 2013
Re: Emergency Access Points

In an effort to communicate more accurately emergency access points along the waterfront, a signage system has been developed by Chief Devon Wells in partnership with the Port. Nine access point areas have been identified from the Hook to the Hood River Inn, with a total of (20) signs to be located on Port property. Each signage area will have a number assigned to it which will aid 911 callers and dispatch to determine the correct location. Please see attached for designated sign locations and a sample sign design. Signs will be 12x18 with black letters on an orange background and the cost for signage on Port property is \$800 to provide and install.

The goal of this program is to improve communication between the public, 911 dispatch, and Hood River fire to identify areas along the waterfront correctly and provide efficient emergency response.

RECOMMENDATION: For discussion.

Potential Sign Locations for Emergency Access Point Program

1. **The Hook**
 - a. Entrance at cul-de-sac
 - b. Changing station on west end of Hook

2. **Waterfront Park** (City of HR to install)
 - a. Restrooms
 - b. Beach access areas (one facing each direction)
 - c. East path entrance to park
 - d. West path entrance to park/stage area (future)

3. **Event Site**
 - a. At pay booth
 - b. By caution sign at beach – east end
 - c. Restrooms

4. **Nichols Basin/Slackwater Beach**
 - a. Entrance off N. 1st Street
 - b. Sign by shore

5. **The Spit**
 - a. Booth at entrance to Spit access road
 - b. Changing station
 - c. Channel marker (requires USCG approval?/future)

6. **Marina Swim Beach**
 - a. West rock jetty on yellow warning sign
 - b. Main sign at beach (by life jackets)
 - c. Restrooms
 - d. East end of breakwater

7. **Marina Park/Green**
 - a. Southeast corner of Marina Green at fence
 - b. Fence around electrical equipment in middle of Marina Green
 - c. Picnic shelter
 - d. Restrooms

8. **Boat Launch**
 - a. Top of boat launch ramp at bulletin board
 - b. Restrooms

9. **Hood River Inn Beach** (Hood River Inn to install)
 - a. West floating dock
 - b. East swim beach

EMERGENCY ACCESS POINT

1

THE HOOK

In Case of Emergency

DIAL 911

Tell Dispatcher the above
Emergency Access Point Number

Commission Memo

To: Commissioners
From: Fred Kowell
Date: August 20, 2013
Re: Change in Transponder Pricing

When the electronic tolling system was put in place in 2007 there was an emphasis to attract customers towards its benefit and use. There were several enticements to attract a customer from the use of tickets or cash to the electronic tolling system, BreezeBy. One was the bonus dollars provided to a customer if a minimum \$20 purchase occurred. This would mean 10 more trips could be achieved if a customer used BreezeBy than paying cash. The other enticement was to provide the first three (3) transponders at no cost to the customer (or the first six transponders at no cost for business customers). This approach was helpful in kick-starting the BreezeBy system into having customers switch to its use.

Over the last year, several things have changed with regard to transponders. Staff is seeing a greater number of customers bypassing the payment of a fourth transponder by putting a family member down as a new BreezeBy customer thereby receiving the next set of three free transponders. The current system doesn't flag or validate that another customer is at the same address or have the same last name, such that it becomes difficult to audit this manner of bypassing payment of a fourth transponder.

The manufacturer of our transponder is now coming out with a transferrable unit which can be hung in a window, in a pouch or used with suction cups to adhere to the vehicle window. The current transponder has a sticky back that affixes to the windshield and becomes difficult to remove, thus making it non-transferrable. These new transponders will cost around \$27-\$29 each. The current transponder costs around \$14 if you include handling and shipping. We currently charge our customers \$15 for additional transponders.

I bring this forward for several reasons. I have depicted below the amount of transponder inventory that have been written off over the years. You can see the write-off amount is getting larger over time due to customers bypassing our current policy of free transponders.

Transponder Write-Offs

FY 2012-13 \$23,608

FY 2011-12 \$12,334

FY 2010-11 \$11,063

As I contemplated this discussion, I wanted to know how we have fared over the last 24 months in attracting our existing customers to BreezeBy. I didn't want to impact the transition to BreezeBy negatively, by making it difficult for new customers to sign up. So I wanted to know the impact that BreezeBy has as a payment option. I have attached a schedule that depicts payment type by vehicle crossing. As you can see, the cash paying customer is moving towards either tickets or BreezeBy.

If a new policy is decided it might be best to institute it at the beginning of a calendar year.

RECOMMENDATION: For discussion.

PORT OF HOOD RIVER
Schedule of Payment Type by Vehicle
For Fiscal Years 2012-13 and 2011-12

	Cash/Checks		Tickets		ETC		FY 2012-13			FY 2011-12		
	FY 2012-13	FY 2011-12	FY 2012-13	FY 2011-12	FY 2012-13	FY 2011-12	Percent of Total			Percent of Total		
							Cash	Tickets	ETC	Cash	Tickets	ETC
June	127,109	124,707	53,410	53,125	145,081	141,758	39%	16%	45%	39%	17%	44%
May	117,580	121,987	56,399	53,581	148,141	144,912	37%	18%	46%	38%	17%	45%
April	103,396	107,061	54,034	50,771	140,477	134,012	35%	18%	47%	37%	17%	46%
March	104,405	97,838	54,522	51,656	138,543	132,728	35%	18%	47%	35%	18%	47%
February	86,067	88,667	47,143	45,560	123,841	122,035	33%	18%	48%	35%	18%	48%
January	81,674	82,099	48,048	37,963	126,091	111,412	32%	19%	49%	35%	16%	48%
December	89,556	111,916	46,541	35,003	125,586	122,141	34%	18%	48%	42%	13%	45%
November	96,046	117,101	48,474	33,802	130,088	118,691	35%	18%	47%	43%	13%	44%
October	112,325	139,587	53,729	38,562	147,068	131,410	36%	17%	47%	45%	12%	42%
September	130,465	152,500	52,243	38,134	139,848	127,250	40%	16%	43%	48%	12%	40%
August	149,675	173,481	56,666	41,641	152,858	135,079	42%	16%	43%	50%	12%	39%
July	150,601	178,403	55,474	43,642	148,704	135,068	42%	16%	42%	50%	12%	38%

Commission Memo

To: Commissioners
From: Michael McElwee
Date: August 20, 2013
Re: Strategic Business Plan

The attached schedule, outline and list of key documents are intended for review and discussion at the Commission meeting. The intent is to reach general agreement of the process for completing the Strategic Business Plan this year.

RECOMMENDATION: For discussion.

Port of Hood River
Strategic Business Plan

Schedule

Prepared: August 20, 2013

<i>Meetings/Tasks</i>	<i>Date</i>	<i>Comments</i>
AUGUST		
Final Draft Outline	August 16	
Commission Meeting	August 20	<i>Overview of Process & Schedule</i>
Update on Port Web Site	August 23	<i>Overview, Q&A, Input form</i>
SEPTEMBER		
E-mail to Port's data base	September 10	<i>Overview, Schedule, Input Method</i>
Meeting Advertisement (HR News)	September 19	<i>"</i>
Public Meeting #1	September 25	<i>@ Port Offices</i>
OCTOBER		
Commission Work Session	October 1	<i>Part of Regular Meeting</i>
Joint POHR/POCL Meeting	October 9	<i>@ Cascade Locks. General Discussion.</i>
Commission Work Session	October 15	<i>Part of Regular Meeting</i>
Issue Newsletter	October 18	<i>Re-cap of Process, Mtg. #2 Notice</i>
Meeting Advertisement	October 17	<i>HR News Ad and Press Release</i>
Public Meeting #2	October 23	<i>@ Mt. Hood Town Hall</i>
Prepare Final Draft	October 30	
NOVEMBER		
Fall Planning Work Session	November 5	<i>Primary focus on SBP</i>
Commission Meeting	November 19	<i>Board Discussion</i>
DECEMBER		
Commission Meeting	November 19	<i>Final Board Discussion</i>
Commission Meeting	December 17	<i>Approval</i>

PORT OF HOOD RIVER
STRATEGIC BUSINESS PLAN

Outline

August 20, 2013

- I. Summary**
 - A. Port at a Glance
 - B. Purpose of Plan
 - C. Plan Formation and Organization

- II. Vision, Mission and Values**
 - A. Vision
 - B. Mission
 - C. Values and Guiding Principles

- III. Port Description**
 - A. Brief History
 - B. Overview of Organization
 - C. Financial Overview
 - D. Facilities Summary
 - E. Economic Impact Summary
 - F. Local Trends
 - G. Situational Analysis

- V. STRATEGIC PLAN ELEMENTS**
 - A. Management Plan**
 - 1. Governance
 - 2. Policies
 - 3. Board Training
 - 4. Staff Development
 - 5. Public Outreach
 - 6. Legislative Advocacy
 - B. Financial Plan**
 - 1. 1.Capital Expenditures
 - 2. Cash Flow Management
 - 3. Expenditure Control & Authority
 - 4. Strategic Assets
 - 5. Debt Management

C. Facilities Plan *Note: All sections below will include goals strategies, standards, key management actions and a 10-yr. capital plan*

1. Transportation
 - a. Bridge
 - b. Roads & Parking
2. Development
 - a. Waterfront Business Park
 - b. Lot #1 Business Park
 - c. Odell Business Park
 - d. Marina Commercial Area
 - e. Property Management
 - f. Industrial Property
3. Recreation
 - a. Hood River Marina
 - b. Recreational Sites
4. Ken Jernstedt Airfield
5. Economic Development and Marketing
 - a. Business Retention
 - b. Workforce Training and Recruitment
 - c. Business Recruitment
 - d. Regional Coordination
6. Environment

IV. PLAN IMPLEMENTATION

- A. Project Evaluation Criteria
- B. Key Projects List
- C. Plan Implementation and Update

Appendices

- A. Summary Statement w/District Map
- B. Public Outreach Process
- C. Port History
- D. Port Assets
- E. Economic Impact Assessment
- F. Financial Condition
- G. Market Context
- H. Policy Context

Port of Hood River
Key Management Documents
August 20, 2013

	<i>Approved</i>	<i>Update</i>
I. Strategic Business Plan	3/06	12/13
II. Governance Manual	6/12	12/13
III. Policies		
a. Financial	6/04	5/13
b. Personnel	8/04	
c. Real Estate	3/13	
d. Donation	6/10	
e. Petty Cash	2/13	
f. Lost & Found	6/10	
IV. Ordinances		
a. Ordinance 22 (Waterfront)	5/03	3/14
b. Ordinance 23 (Airport)	4/11	
V. Other		
a. Toll Booth Manual	6/13	
b. LCRB Rules	6/05	5/14

Executive Director's Report

August 20, 2013

Staff & Administrative

- I plan to attend the "CEO Lunch" sponsored by the GTA is being held at the offices of Custom Interface on August 21.
- My final work plan is attached.
- Laurie is contacting Commissioners to determine the level of interest in a tour of the Hood River Juice Company and Turtle Island facilities.
- Port email addresses have been assigned for all Commissioners. Confirmation that all Commissioners are using their Port emails would be appreciated.
- The attached memo from Laurie provides an update on the progress being made on office filing.

Recreation

- The new Marina electrical system was tested August 13th and turned on the 15th. Tenants began plugging into the new system over the weekend. Demolition of the old cables and fixtures will begin on August 19. There is still no indication from NMFS or the Corps regarding permit requirements for the Boathouse Dock.
- For clarification, the naming of the Marina's South Basin Dock for Commissioner Davies was "official" only for the time period of the Commission meeting on July 23. It is once again called the South Basin Dock.
- A draft of the Waterfront Site Assessment is being prepared for discussion at the September 10 meeting.

Development

- The PocketFuel tenant improvements are essentially complete with the exception of the programming of the HVAC system. There are equipment components in the west roof top unit that, although the system was shut down and never used, are broken. As soon as the new components arrive, TraneOregon will complete the work and then perform the annual service on both roof top units. Griffin Construction has minor issues to finish.
- The Pfriem expansion project is behind schedule because 1) building permit requests have exceeded the City/Clair Company capability to respond more quickly than the standard turnaround time, and 2) the delivery dates on specified materials and equipment has exceeded the anticipated delivery dates. Completion is now anticipated in early September.
- Staff is seeking quotes to carry out repairs and fix leaks on the roof of the Maritime Building. Our intent is to obtain Commission approval and carry out the work before the fall rains begin.
- The Economic Impact Analysis is proceeding on schedule. Terry Moore of EcoNorthwest will present his draft report on September 10.

- The attached article in "The Oregonian" highlighted the new ownership of Dakine and their expected future role in Hood River.
-

Airport

- The runway shift project is complete except for remaining minor punch list items. A large pile of asphalt grindings/chunks remains on site and Port staff and K&E are discussing whether it is most beneficial to both parties to 1) have K&E remove it per contract; 2) leave it in place for future fill requirements; or 3) use it, to the extent practical, for topping on the Hook and Spit roadways.
 - The next Airport Advisory Committee meeting is scheduled for August 19.
-

Bridge/Transportation

- President McBride and I met with Port of Cascade Locks President Jess Groves and Paul Koch last week. There was agreement that a joint meeting of the two port commissions would be beneficial. Paul is forwarding weekly traffic data for the Bridge of the Gods that highlights the significant decrease in truck traffic. In early September we will have traffic data for the Hood River Bridge and determine the relative increase in truck traffic here.
- The bridge test welding contracts have been executed with Bulldog Welding and Carlson Testing. The training for Port staff on the specific welds is tentatively scheduled for the week of August 26.
- ODOT has now issued their Notice to Proceed for the Frontage Road bicycle/pedestrian path. Preliminary engineering work is now underway.

**EXECUTIVE DIRECTOR
WORK PLAN
FY 13/14**

FINAL: 08/20/13

I. FINANCIAL MANAGEMENT

Goal: Ensure that financial resources continue to be deployed effectively, with a high degree of foresight and in anticipation of future Port needs.

<u>Action:</u>	Expected Completion	Date Complete
1. Complete analysis describing economic impacts of the Port.	09/15/13	
2. Recommend new financial software.	02/01/14	
3. Update Financial Policies Manual.	12/01/13	

II. REAL ESTATE DEVELOPMENT & PLANNING

Goal: Create significant, positive momentum toward development of the Port's Waterfront properties consistent with community objectives.

<u>Action:</u>	Expected Completion Date	Date Complete
1. Prepare leasing plan for the Expo Building for Commission consideration.	03/15/ 14	
2. Lot #1 Tasks:		
• Complete Stakeholder Panels	09/18/13	
• Traffic Evaluation	10/01/13	
• Site Assessment	10/01/13	
• Update Concept Plan	04/01/14	
• Prepare Draft Policies	02/15/14	
• Submit Subdivision Plan Application	08/01/14	
• Design Development Plans for Pedestrian Bike Path on lower level	02/15/14	
3. Complete evaluation of the maintenance needs of Port properties and determine optimum staffing.	04/01/14	
4. Update facility assessment of Port buildings.	04/01/14	
5. Prepare final DDA with Waterfront Industrial Business for Commission consideration.	12/20/13	

III. WATERFRONT RECREATION

Goal: Maintain and enhance the waterfront as a prime recreation area to support economic development objectives and Strategic Plan goals.

<u>Action:</u>	Expected Completion Date	Date Complete or Expected
1. Complete Comprehensive Waterfront Access Plan.	10/01/13	
2. Update Ordinance 22 covering Waterfront activities.	11/15/13	
3. Complete Marina Electrical Project.	09/25/13	
4. Prepare a/e drawings, cost estimate and financing approach to replace Boathouse Docks.	10/01/13	
5. Prepare final Boathouse lease for Board consideration.	09/15/13	
6. Complete construction drawings for bike/ped. path near Marina Green.	02/15/14	

IV. TRANSPORTATION/AIRPORT

Goal: Complete significant transportation improvements to enhance development objectives.

<u>Action:</u>	Expected Completion Date	Date Complete or Expected
1. Complete A/E for Auxiliary Brace and Washington approach ramp.	03/01/14	
2. Complete Deck Repairs.	05/10/14	
3. Develop a Business Plan for the Airport including including maintenance standards and lease rates.	10/01/13	

V. ECONOMIC DEVELOPMENT

Goal: Ensure that the Port's role in regional economic development activities is clearly defined. Confirm that the objectives are identified and adequate resources are in place to be successful.

<u>Action Description:</u>	Expected Completion Date	Date Complete
1. Update the work plan and budget to modify the Port's economic development efforts in conjunction with the strategic plan update.	04/15/14	

VI. COMMUNICATIONS & COMMUNITY RELATIONS

Goal: Increase the understanding and awareness of the Port's activities; identify opportunities for successful partnerships with key public agencies and private business; and participate in the life of the Hood River area community.

<u>Action Description:</u>	Expected Completion Date	Date Completed
1. Continue implementation of the Port's adopted Communications Plan.	Ongoing	

VII. GOVERNANCE & BOARD COMMUNICATIONS

Goal: Evaluate the Board's governance and communications policies and provide recommendations for improvements.

<u>Action Description:</u>	Expected Completion Date	Date Complete
1. Update the Port's Strategic Plan for Commission consideration.	10/30/13	
2. Update LCRB Rules & Port contracting practices.	03/01/14	

VII. PERSONNEL MANAGEMENT

Goal: Ensure that appropriate personnel policies are in place.

<u>Action Description:</u>	Expected Completion Date	Date Complete
1. Update staff job descriptions.	04/20/14	
2. Complete hiring process for Development Manager.	11/15/13	
3. Evaluate organization of Facilities Department.	04/15/14	

VII. MAJOR NEW OR UNPLANNED INITIATIVES

The following section allows for projects that are not planned but may be added to the Work Plan based on Commission direction.

<u>Action Description:</u>	Expected Completion Date	Date Complete or Expected
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Commission Memo

To: Commissioners
From: Laurie Borton
Date: August 20, 2013
Re: Records Retention

The Port of Hood River has a Records Retention Policy that is contained within the Financial Administrative Policies & Procedures. A revision to this Policy section will be brought to the Board for review at a later date. To bring you up to date thus far, I have been working with Jean Hadley on the tasks of 1) catching the filing up to date, 2) purging files that are no longer required to be kept, and 3) reorganizing files according to the County and Special District General Records Retention Schedule found in Oregon Administrative Rules, Chapter 166-150, which is the basis for our decisions on retaining or purging files.

In the past six months, 276 Records Destruction Request forms have been approved; three file cabinets have been emptied; and fourteen 64-gallon bins of paper have been securely shredded using the services of Gorge Security Shred, a local company.

Momentum on the records retention project has slowed down a bit, but I would estimate that current filing is 98% complete. In the task of reorganizing filing cabinets, files are reviewed for retention periods, and this project is approximately 65% complete.

Another aspect of the records retention program is determining whether or not it makes sense for Port documents to be housed in Baker City but retrievable at any time through an electronic records management program in partnership with the Oregon State Archives Department and Chaves Consulting, who is the state's contracted IT services and data center partner. The Port's IT consultant, Jack Lerner, is assisting with program details but more work needs to be done. We do know, however, that the licensing cost with State Archives is currently \$37/user/month and this monthly fee should drop as the state adds more agencies and more users.

I will continue to keep the Commission informed as work continues on records retention and the potential partnership with the State Archives Division that will require Commission approval of an Intergovernmental Agreement.

RECOMMENDATION: For Information.



OregonLive.com

Everything Oregon

Hood River-based Dakine aims to regain its culture under new ownership

dakine.JPG

Dakine employees Erik Hauge (from left), director of merchandising and design, Chico Bukovansky, national sales manager, and Roger Roediger, operations manager, wavered but ultimately opted to stay at the company in recent years despite bumpy times under former owner Billabong. *(Allan Brettman/The Oregonian)*

Allan Brettman, The Oregonian By **Allan Brettman, The Oregonian**

Email the author | Follow on Twitter

on August 10, 2013 at 8:00 AM, updated August 12, 2013 at 6:51 PM

HOOD RIVER -- This Columbia River Gorge town, a globally known destination for windsurfing and kiteboarding and a quick drive from the ski slopes and snowboard runs of Mount Hood, loves its adventure sports. So having alternative-sport brand **Dakine**, with its focus on surfing, skiing and boarding of various kinds, headquartered here was always a natural fit.

Even so, townspeople and employees have been unusually blunt recently about the past five years at Dakine, after Australian surf wear company Billabong International Ltd. bought the company in 2008.

"It was a complete disaster," said Dale Cook, a sailmaker with Sailworks Inc. in town.

Billabong bought Dakine for about \$100 million in 2008, just before the recession hit full force and the stock market crashed. Dakine's workforce was subsequently trimmed from 80 workers to today's 50 through two rounds of layoffs.

Billabong, it turns out, had bigger problems to worry about than Dakine. News stories this year about Billabong, as it searched for investors and a means to avoid bankruptcy, routinely mentioned that the publicly held company's stock had plunged as much as 98 percent in two years.

But the corporate winds, like those out on the water below Hood River, are changing. Billabong announced this summer that it had sold Dakine to Altamont Capital Partners of Palo Alto, Calif., for \$70 million.

And the top two current remaining executives at Dakine say there are better days on the horizon -- soon.

On Friday, in a Dakine conference room overlooking the Columbia River, Roger Roediger and Chico Bukovansky wore T-shirts, shorts and flip-flops to talk about the company's future. Roediger, operations manager, has worked for Dakine since 1997; Bukovansky, the national sales manager, was a Dakine-sponsored windsurfer starting in 1988 and has worked for the company since 1994. Both readily admit they

Action-sports brands

The Portland area is home to other action-sports brands in addition to Dakine, including:

Bonfire Snowboarding LLC

Location: 1111 N.E. Flanders St., Suite 205, Portland

Products: Apparel and snowboards

Founded: 1989, in Salem; moved to Portland around 1992

Ownership: Amer Sports of Finland, which also owns former Bonfire-owner Salomon USA

Hood River-based Dakine aims to regain its culture under new ownership

considered leaving the company at different points during Billabong's ownership, as some of the friends did.

Bukovansky said he always was opposed to the sale to Billabong, not on principle but because the two companies dealt with different markets.

"We had such a good thing going," he said. "Billabong is primarily a surf clothing brand, and that's different from the business we run. We're snow and mountain driven. It's a different style of business.

"They never understood that Dakine is unique. You can't just plug it into their mold of clothing business."

Roediger said Altamont's leadership has assured Dakine executives that the company is staying in Hood River. Not only that, but the employment could double in the next 12 months. Some positions, especially in finance and logistics, need to be filled immediately because so many functions were scrapped at Dakine to be shared with Billabong, Roediger said.

Some former Dakine employees still living in Hood River have expressed an interest in returning under the new ownership. That could happen, Roediger said.

Though sales in recent years have been flat, at about \$100 million worldwide this year, Roediger said he and others are encouraged in just three weeks of dealing with Altamont that performance will improve along with resources.

Altamont has appointed Leslie Lane to become Dakine's chief executive. From 2003 to 2010, Lane was vice president and general manager for Nike Running; from 2010 to 2011, he was vice president and managing director of the Nike Foundation, according to his LinkedIn profile. Lane, with an MBA from the Harvard Business School and a chemistry degree from the University of Oxford, joined Altamont in 2011 as an operating partner. He could not be reached for an interview.

"Our new owners -- our new boss -- are working on an agenda of what he wants to company to look like," Roediger said. "He's taking all the (intelligence) now. He really wants to understand the culture that made Dakine great. He wants to rebuild it in a structure that's going to allow us to double in size. That's going to take some resources we don't have now."

Earlier this summer Dakine moved from an older downtown-area warehouse (next door to Full Sail Brewing) to 30,000 square feet in a new building a short walk from a windsurfing launch on the Columbia River. The five-year lease has a five-year option.

Though the new offices are nice, Roediger said he hopes to return to some of the old ways.

Grenade

Location: 5200 S.W. Macadam Ave., Portland

Products: Gloves and apparel

Founded: 2006; moved from California to Portland

Ownership: Joseph Condorelli and Danny Kass

Betty Rides Inc.

Location: 1834 S.E. 58th Ave., Portland

Products: Girls apparel and accessories

Founded: 1993

Ownership: Janet Freeman

Homeschool Snowboard LLC

Location: 2127 N. Albina St., Studio 401, Portland

Products: Outerwear and apparel

Ownership: Daniel Clancey

Airblaster

Location: 19 N.W. Fifth Ave., Portland

Products: Outerwear, street wear, accessories

Nike Snowboarding

Location: Washington County

Products: Skate footwear, apparel, snowboard boots

Ownership: Public, Nike. Web:

"Everybody had a sense of a cause," he said. "We were a small company in a small town, taking on the big guys. The management had your back. If you had an idea, you could bring it to the table and you could talk about it."

"It's fair to say a lot of people lost that spirit of working for a cause and started working for a paycheck. That's one of the key points to bring back: morale, culture ... having a cause again."

That's a tune Hood River residents are happy to hear Dakine executives humming. In a town of 7,200 residents, the fate of a company as big as Dakine is a pretty big deal.

Lori Duffy, the head buyer for downtown Hood River retailer Doug's Sports, said Dakine employees for more than 25 years have been visible, active members of the community.

"They're out there," Duffy said. "A lot of their employees are in the community, being active, promoting the brand, whether it's on the hill skiing or mountain biking. They're really involved."

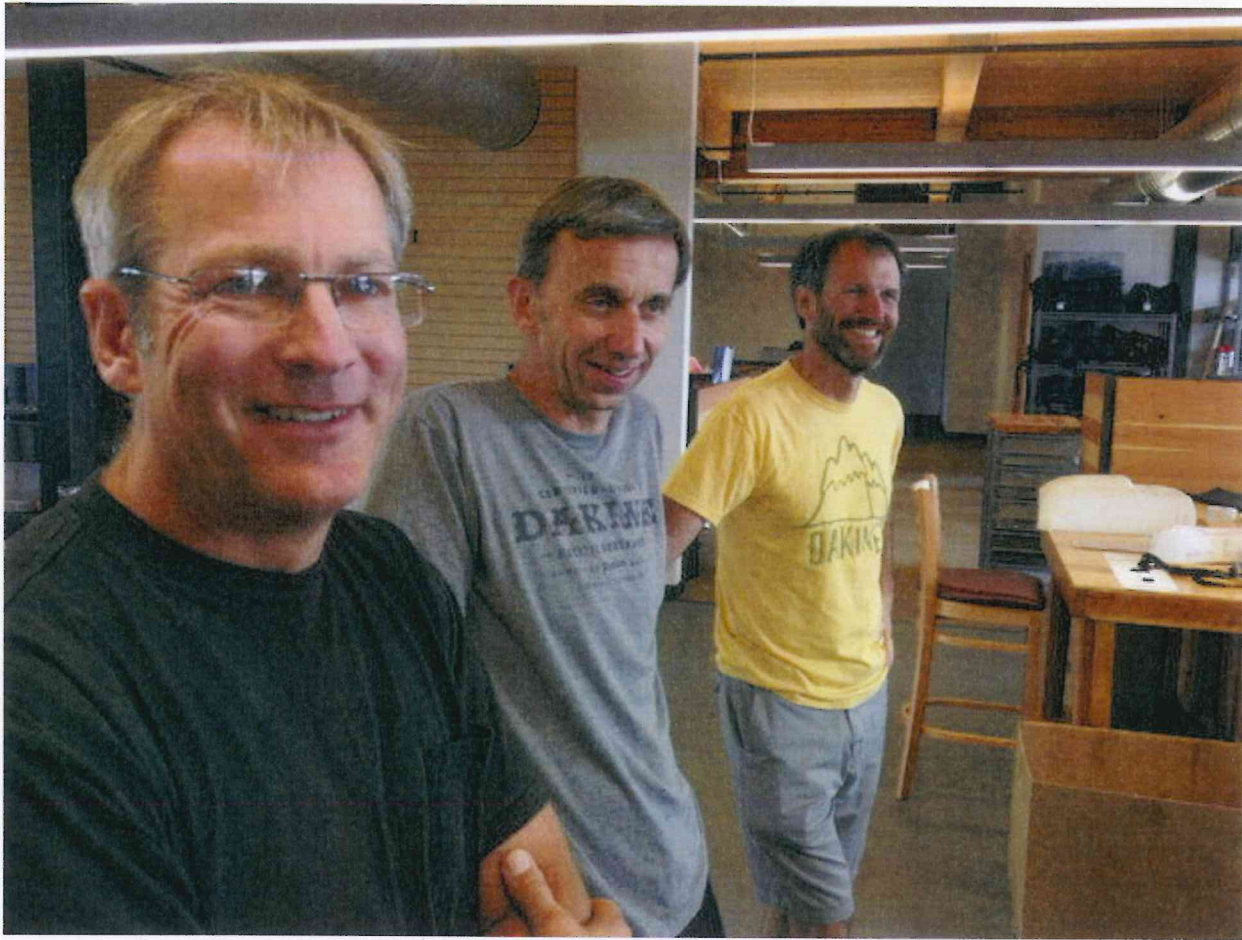
School volunteers raising money for projects, Duffy said, often call Dakine as well as its employees.

"In a lot of ways Dakine is kind of the local hometown kid who's done well," said Mike Glover, executive director for the Hood River County Chamber of Commerce. "They've kind of helped define Hood River in a way."

--Allan Brettman

Beyond Dakine Â

Other outdoor gear brands in or near Hood River include hat brand Pistil, windsurf sailmaker Sailworks, ProMotion wetsuits, PocketFuel foods, and Chinook Sailing products. Hood River County's unemployment rate of 7 percent is lower than the 8.8 state average and 8.2 national average.



Dakine employees Erik Hauge (from left), director of merchandising and design, Chico Bukovansky, national sales manager, and Roger roediger, operations manager, wavered but ultimately opted to stay at the company in recent years despite bumpy times under former owner Billabong.

Commission Calendar

September 2013

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
1	2 Labor Day (Office Closed) Event Site Booth-last day	3	4	5	6	7
8	9 URA Mtg-Shortt, Streich 6pm City Hall	10 Comm Mtg 5pm	11	12	13	14
15	16 KHR Radio 8am	17 Marina Ad Hoc 8am	18 Lot 1 Forum #4 (final) Noon to 1:30pm Note: this date may change	19	20	21
22	23	24	25 Strategic Business Plan: Public Mtg-Commission Rm (for discussion)	26	27	28
29	30					

EVENTS:

Jensen West Lot: CGWA Swap Meet, Sep. 1
 Marina Basin: Cross Channel Swim, Sep. 2
 Cruise ships fall schedule begins this month

August 2013

S	M	T	W	Th	F	Sa
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

October 2013

S	M	T	W	Th	F	Sa
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Vacations:

Laurie: Sep. 13-20



Port of
Hood River

Providing for the region's economic future.

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August 16, 2013

Mr. Gary Lile
Electrical Inspector
MCCOG
1113 Kelly Avenue
The Dalles OR 97058

Gary,

The Port is anxious to complete the electrical upgrades in the Hood River Marina. The last major project is replacement of the electrical service to the existing boathouses.

Currently we are waiting for in-water work permits to replace the boathouse docks. We expect those permits to be obtained sometime this fall. In the interim, our contractor, LaLonde Electric has installed a temporary junction box from the new service line to the boathouses. This will be replaced when we have new docks installed.

In the unlikely event that we are unable to obtain permits or the Commission decides not to proceed with the project within one year we agree to replace the temporary junction box with new distribution panels or take whatever alternative measures you recommend.

Respectfully,

Michael S. McElwee
Executive Director

cc: Port of Hood River Commissioners
LaLonde Electric

Commission Memo

To: Commissioners

From: Steve Burdick

Date: August 20, 2013

Re: Tenant Improvements Contract for Suite 201 of the Marina Park Office Building

On May 24, 2013, the Port executed a lease agreement with Hearts of Gold for Suite 201 of the Marina Park Office Building. The lease provided for improvements including significant lighting reconfiguration, interior office walls, a kitchenette, HVAC improvements, carpeting, drywall patching and painting. The Port's intended share of these improvements including design and permits was set at \$50,000 and Hearts of Gold obligated to a maximum of \$10,000.

An initial solicitation for proposals resulted in quotes substantially in excess of the combined budget. The Port Commissioners directed staff to work with the tenant, architect and contractor to determine whether the budget could be reduced to an acceptable level.

Staff did confer with these parties and, as a result, substantially reduced lighting and electrical requirements, eliminated plumbing to the kitchenette, eliminated a ceiling fan in the large skylight, substituted an off-the-shelf Ikea cabinet for a custom built kitchenette cabinet, reduced HVAC requirements to relocating supply vents, retained rather than replaced "sweating" exterior windows, replaced relighted office doors with wood office doors, replaced contractor drywall patching and painting with Port staff patching and painting.

Proposals were re-solicited. Only one bid was received. The previous sole bidder did not re-submit. The recent bid was from Hood River Construction Co. in the amount of \$63,749 including permit fees. Given the design contract of \$7,500, the total project cost now stands at an estimated \$71,249 or approximately \$11,249 higher than the combined commitments of the Port and Hearts of Gold.

The architect has indicated that their additional services will not cause their fees to exceed their original contract amount. The City of Hood River building department has indicated that, because of the reduced scope, there are likely to be some small reduction in permit fees. Hood River Construction Co. has indicated informally that there are some small reductions still achievable related

to cove base height and the kitchenette door. However, these potential savings will all be relatively small.

Hearts of Gold has offered to obligate to an additional \$3,500 (\$13,500 total), if the Port will obligate to an additional \$7,750 (\$57,750 total).

Staff recommends proceeding with this project by accepting the Hood River Construction proposal in the amount of \$63,749.

RECOMMENDATION: Authorize a contract with Hood River Construction Co. for tenant improvements in Suite 201 in the Marina Park Office Building in an amount not to exceed \$63,749 including permit fees.

Commission Memo

To: Commissioners
From: Michael McElwee
Date: August 20, 2013
Re: Amendment No. 2 to PSA with NBW Hood River, LLC

A Purchase and Sale Agreement (PSA) was approved with NBW Hood River, LLC (NBW) on May 29, 2013. Amendment No. 2 (attached) would clarify the specific land that is being acquired and release the contingency related to the public access and utility easement over NBW's new road that provides access to the Spit. General Counsel Jerry Jaques has reviewed and approved this amendment.

RECOMMENDATION: Authorize Amendment No. 2 to the Purchase & Sale Agreement with NBW Hood River, LLC.

SECOND AMENDMENT TO PURCHASE AGREEMENT

THIS SECOND AMENDMENT TO PURCHASE AGREEMENT (this "**Amendment**"), dated as of _____, 2013, is entered into by and between **Port of Hood River**, an Oregon municipal corporation ("**Seller**"), and **NBW Hood River LLC**, an Oregon limited liability company ("**Buyer**").

A. Seller and Buyer have entered into that certain Purchase and Sale Agreement and Receipt for Earnest Money dated October 19, 2012 and amended by First Amendment to Purchase Agreement dated May 29, 2013 (as amended the "**Purchase Agreement**") pertaining to certain real property located in Hood River Oregon and more particularly described in the Purchase Agreement (the "**Property**"). All capitalized terms used herein that are not defined shall have the meaning ascribed to them in the Purchase Agreement.

B. Buyer and Seller desire to further amend the Purchase Agreement on the terms herein set forth.

NOW THEREFORE, in consideration of the expenses incurred by Buyer to date and the mutual undertakings of the parties hereto, it is hereby agreed as follows:

1. Tract 1. Tract 1 is shown on Exhibit A to the original Purchase Agreement. The western end of Tract 1 is a triangle shape. The triangular portion of Tract 1 is part of a larger tax parcel of property, and is labeled Tract 1a on **Exhibit A**, attached hereto and incorporated by reference. The parties agree that Tract 1 will include the additional area included in Tract 1a to the extent the same is owned by Seller. The purchase price for Tract 1 will remain unchanged at \$10,000.00.

2. Seller's Contingencies. Seller approves the form the public access and utility easement over the Buyer Road in the form attached as **Exhibit B**, and incorporated herein by reference. Seller approves the City's approval of Buyer's Road, as set forth in the Findings of Fact and Conclusions of Law and Final Order in the LUBA Remand No. 2012-050 for a Site Plan for construction and operation of a 45,000 sf 4-story 88 room hotel, a 20,000 sf 2-story office building, and parking lot, adjacent to the Nichols Boat Basin on land zoned C-2 (the "**Final Order**") and Seller's road vacation approval as set forth in City of Hood River Ordinance No. 2007. Copies of the Final Order and Ordinance No. 2007 are attached hereto as **Exhibit C** and **D** and incorporated herein by reference. Accordingly Seller's condition precedent set forth in paragraph 2 b of Addendum A to the Purchase Agreement is satisfied, provided Buyer complies with the conditions required in the City's approvals within the time allowed, at Buyer's expense.

3. Conflicts with Purchase Agreement. In the event that any specific provision in this Amendment conflicts with the Purchase Agreement in any manner, the terms and conditions of this Amendment shall control for all purposes. Except as specifically set forth herein, the Purchase Agreement is unmodified and is hereby ratified and remains in full force and effect.

4. Counterparts; Facsimile Signatures. This Amendment may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which, when taken together, shall constitute one and the same instrument, with the same effect as if all of the parties to this Amendment had executed the same counterpart. Facsimile signatures shall operate as originals for all purposes under this Amendment.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the date first above written.

Buyer: NBW HOOD RIVER LLC

Seller: PORT OF HOOD RIVER

By: W. Robert Naito

Title: Member

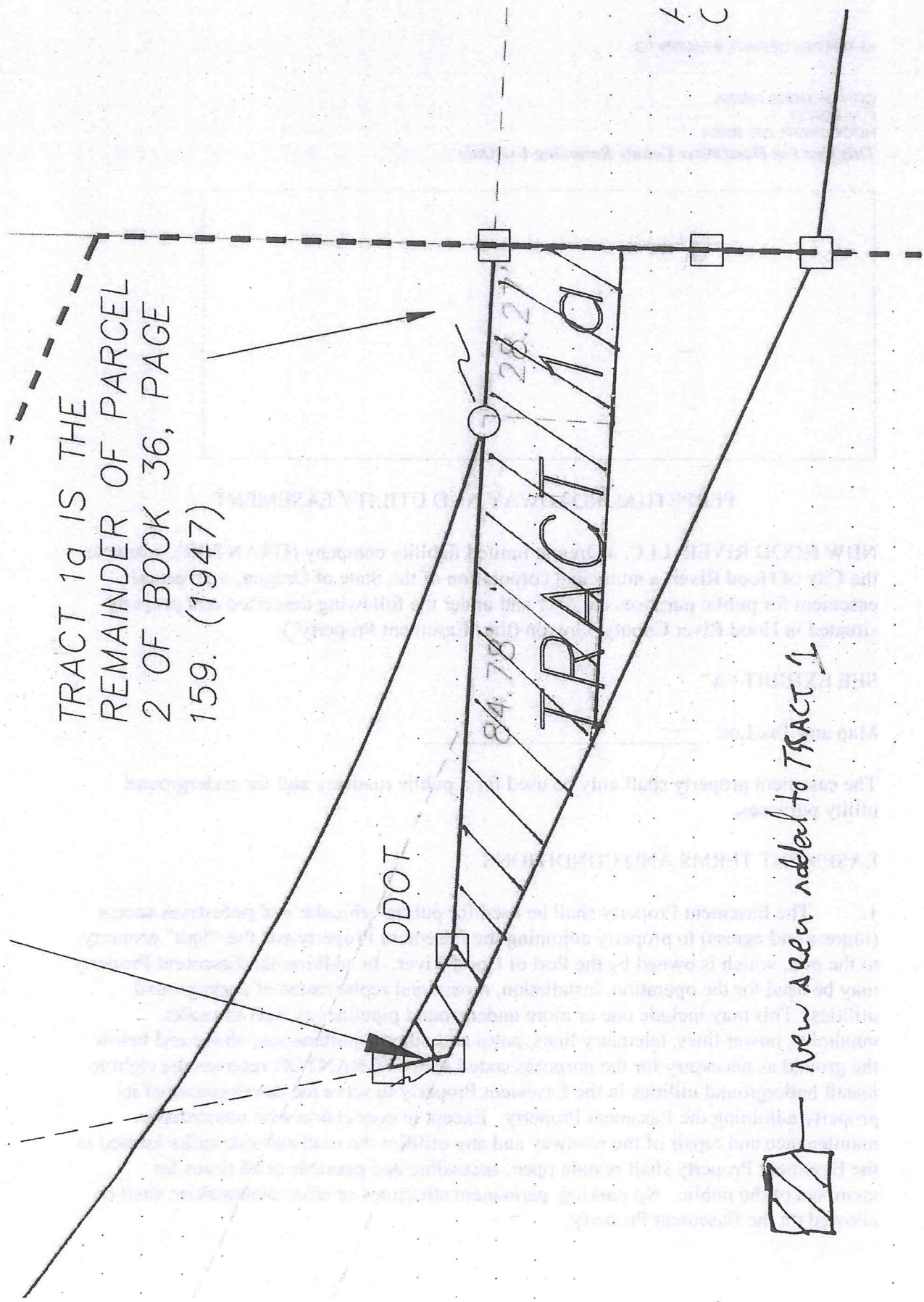
Execution Date: _____

By: Michael McElwee

Title: Executive Director

Execution Date: _____

EXHIBIT A



TRACT 1a IS THE
REMAINDER OF PARCEL
2 OF BOOK 36, PAGE
159. (1947)

ODOT

84.78'

28.27'

TRACT 1a

Legend: [Hatched Square] New Area added to TRACT 1

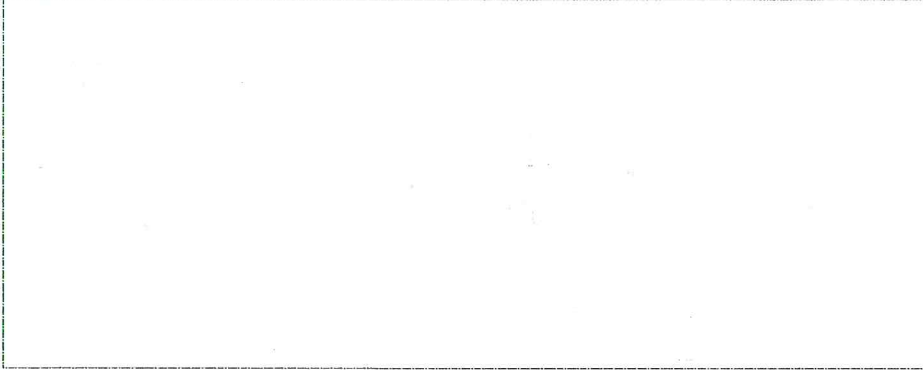
A C

EXHIBIT B

AFTER RECORDING, RETURN TO:

CITY OF HOOD RIVER
P.O. BOX 27
HOOD RIVER, OR 97031

This Box For Hood River County Recording Use Only



PERPETUAL ROADWAY AND UTILITY EASEMENT

NBW HOOD RIVER, LLC, a Oregon limited liability company (GRANTOR), grants to the City of Hood River, a municipal corporation of the State of Oregon, a perpetual easement for public purposes on, over and under the following described real property situated in Hood River County, Oregon (the "Easement Property"):

SEE EXHIBIT "A"

Map and Tax Lot: _____

The easement property shall only be used for a public roadway and for underground utility purposes.

EASEMENT TERMS AND CONDITIONS

1. The Easement Property shall be used for public vehicular and pedestrian access (ingress and egress) to property adjoining the Easement Property and the "Spit" property to the east, which is owned by the Port of Hood River. In addition the Easement Property may be used for the operation, installation, repair, and replacement of underground utilities. This may include one or more underground pipelines as well as vaults, manholes, power lines, telemetry lines, poles and other appurtenances above and below the ground as necessary for the purposes stated above. GRANTOR reserves the right to install underground utilities in the Easement Property to serve the development of its property adjoining the Easement Property. Except in connection with construction maintenance and repair of the roadway and any utilities the road and sidewalks located in the Easement Property shall remain open, accessible and passable at all times for members of the public. No parking, permanent structures or other obstructions shall be allowed on the Easement Property.

EXHIBIT B

2. In connection with its development of GRANTOR's property adjacent to the Easement Property, GRANTOR shall construct, maintain, and repair a 26 feet wide private road and sidewalks (5 – 8 feet wide) in the Easement Property. The road and sidewalks are shown on Exhibit B. The road and sidewalks will be constructed in accordance with the City of Hood River's construction standards for similar improvements.
3. The City of Hood River, its employees, agents, contractors, and invitees shall have access to and the right to enter the Easement Property at any time for the purposes of the easement. If entry will disturb the surface of the Easement Property and excluding cases of emergency, the City of Hood River shall attempt to provide at least seventy-two (72) hours notice to the GRANTOR before entering the Easement Property.
4. In the event the City needs to cut into the pavement or concrete surface in the easement to perform utility work allowed by this easement, the surface of the Easement Property shall be restored by the City of Hood River within a reasonable time after completion of construction, maintenance, repair or reconstruction to a condition equal to the condition of the Easement Property prior to the work. The City of Hood River shall not restore uses inconsistent with Paragraph 1 of this easement. GRANTOR shall thereafter maintain the surface of the Easement Property.
5. GRANTOR shall not place or allow to remain on or in the easement property trees of any size, shrubs or bushes over four feet in height, permanent structures, decorative garden or yard structures or statues unless transportable by one person, walls, irrigations systems controls or piping, or stored piles of any materials. Property line or decorative fencing, subject to land use and building permit requirements, are permitted but shall be removed by the City of Hood River as necessary for the purposes of this easement with GRANTOR responsible for reinstallation. Grass, bark mulch, normal annual plantings and similar items are permitted and shall be restored by the City if disturbed in exercise of the easement privileges.
6. Unless having received the prior written consent of the City of Hood River, GRANTOR shall not use or allow the Easement Property to be used in any manner not permitted by paragraphs 1 and 2, including but not limited to making grade changes in excess of one (1) foot in elevation. GRANTOR shall protect the City of Hood River's facilities in such manner as reasonably specified in the written consent. GRANTOR shall notify the City of Hood River at least seventy-two (72) hours prior to the commencement of any construction work within the easement property specifying the details of the work.
7. Within the easement property, GRANTOR shall not store, use, manufacture, dispose of nor allow migration onto the easement property any materials that are hazardous or constitute a public health hazard as defined by law.
8. GRANTOR warrants that 1) GRANTOR has marketable title to the Easement Property, 2) the City of Hood River may peaceably enjoy the rights and benefits of this

EXHIBIT B

easement, 3) there are no other interests in the property which conflict with the City's intended use of this easement, 4) the Easement Property is free of encumbrances except those of which GRANTOR has notified the City of Hood River, and 5) GRANTOR has the unrestricted right to grant this easement without additional consent or permission.

9. This easement shall bind and inure to the benefit of the immediate parties and their respective heirs, executors, administrators, successors, and assigns.

10. To the extent allowed by law, the City of Hood River shall indemnify, hold harmless and defend GRANTOR from all claims arising out of the City of Hood River's use of the Easement Property. To the extent allowed by law, GRANTOR shall indemnify, hold harmless and defend the City of Hood River and its employees, agents, contractors and invitees from all claims arising out of Grantors' use of the Easement Property.

GRANTOR

State of Oregon; County of Hood River

This instrument was acknowledged before me on _____
by _____
as _____ of _____.

Notary Public for Oregon
My Commission Expires: _____

ACCEPTED BY THE CITY OF HOOD RIVER

City Manager

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

HATTENHAUER
TO
CITY OF HOOD RIVER

July 30, 2013

LEGAL DESCRIPTION
for
Public Access and Utility Easement

A 31 foot wide strip of land lying in a portion of that tract of land described in Document No. 98-4487 Deed Records of Hood River County, in the East 1/2 of the Nathaniel Coe, D.L.C. in Section 25, Township 3 North, Range 10 East, Willamette Meridian, City of Hood River, Hood River County, Oregon. Being more particularly described as follows.

A strip of land 31.00 feet in width lying 18.00 feet to the right and 13.00 feet to the left of the following described centerline.

Commencing at the Southeast corner of said tract of land; thence along South line of said tract of land, North 88°58'14" West 70.36 feet; thence leaving said South line on a 180.00 foot radius curve to the right, a radial line to which bears North 46°56'40" East, through a central angle of 04°16'35", a distance of 13.43 feet (the long chord of which bears North 40°55'03" West 13.43 feet); thence on an 80.00 foot radius compound curve to the right through a central angle of 31°26'47" a distance of 43.91 feet (the long chord of which bears North 23°03'22" West 43.36 feet); thence North 07°19'58" West 32.40 feet; thence on an 80.00 foot radius curve to the left through a central angle of 24°08'31" a distance of 33.71 feet (the long chord of which bears North 19°24'14" West 33.46 feet) to the intersection with the North line of said tract of land and terminus point of this description, said terminus point bears North 88°58'14" West 23.85 feet from the interior Northeast corner of said tract of land.

The sidelines of the above described strip shall be extended or truncated such that they intersect the South line of said tract of land at the true point beginning and intersect the North line of said tract of land at the terminus point.

Contains 3,848 square feet (0.088 acre).

<13703.DESC.005sa>

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 12, 1992
BENJAMIN D. BESEDA
50300

Expires 07/12/15

EXHIBIT "A"

N.E.W HOOD RIVER, LLC.
TO
CITY OF HOOD RIVER

July 30, 2013

LEGAL DESCRIPTION
for
Public Access and Utility Easement

A 31 foot wide strip of land lying in a portion of that tract of land described in Document No. 2013- ____, Deed Records of Hood River County, in the East 1/2 of the Nathaniel Coe, D.L.C. in Section 25, Township 3 North, Range 10 East, Willamette Meridian, City of Hood River, Hood River County, Oregon. Being more particularly described as follows.

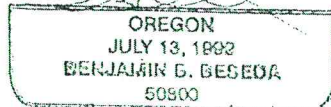
A strip of land 31.00 feet in width lying 18.00 feet to the right and 13.00 feet to the left of the following described centerline.

Commencing at the Southeast corner of said tract of land; thence along the Southeasterly line of said tract of land, South 37°23'06" West 42.21 feet to the true point of beginning of this description; thence leaving said Southeasterly line on a 180.00 foot radius curve to the right, a radial line to which bears North 28°49'49" East, through a central angle of 18°06'51" a distance of 56.91 feet (the long chord of which bears North 52°06'46" West 56.67 feet) to the terminus point of this description, said terminus point bears North 88°58'14" West 70.36 feet from said Northeast corner.

The sidelines of the above described strip shall be extended or truncated such that they intersect the Southeasterly line of said tract of land at the true point beginning and intersect the North line said tract at the terminus point.

Contains 1,669 square feet (0.038 acre).

<13703.DESC.006sa>



EXPIRES: 12/31/13

EXHIBIT "A"

N.B.W HOOD RIVER, LLC.
TO
CITY OF HOOD RIVER

July 30, 2013

LEGAL DESCRIPTION
for
Public Access and Utility Easement

A 31 foot wide strip of land being portion of that tract of land described in Document No. 2007-02145, Deed Records of Hood River County, in the East 1/2 of the Nathaniel Coe, D.L.C. and in the Southeast 1/4 of Section 25, Township 3 North, Range 10 East, Willamette Meridian, City of Hood River, Hood River County, Oregon. Being more particularly described as follows.

A strip of land 31.00 feet in width lying 18.00 feet to the right and 13.00 feet to the left of the following described centerline.

Commencing at the Southeast corner of said tract of land, said point being a 3/4" iron pipe as shown on County Survey 2005-058; thence along the East line of said tract of land, North 01°32'01" East 184.21 feet to the true point of beginning of this description; thence leaving said East line North 88°33'24" West 366.43 feet; thence on a 213.50 foot radius curve to the right through a central angle of 23°48'04" a distance of 88.69 feet (the long chord of which bears North 76°39'22" West 88.05 feet); thence North 64°45'20" West 93.39 feet; thence on a 180.00 foot radius curve to the right through a angle of 03°35'09" a distance of 11.27 feet (the long chord of which bears North 62°57'46" West 11.26 feet) to the intersection with the Westerly line of said tract of land and terminus point, said terminus point bears North 37°23'06" East 85.09 feet from the Southwest corner of said tract of land.

Contains 17,304 square feet (0.397acre).

<13703.DESC.007sa>

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 13, 1999
BENJAMIN B. DESEDA
50800

Expires 12/31/15

EXHIBIT "A"

Public Access and Utility Easement

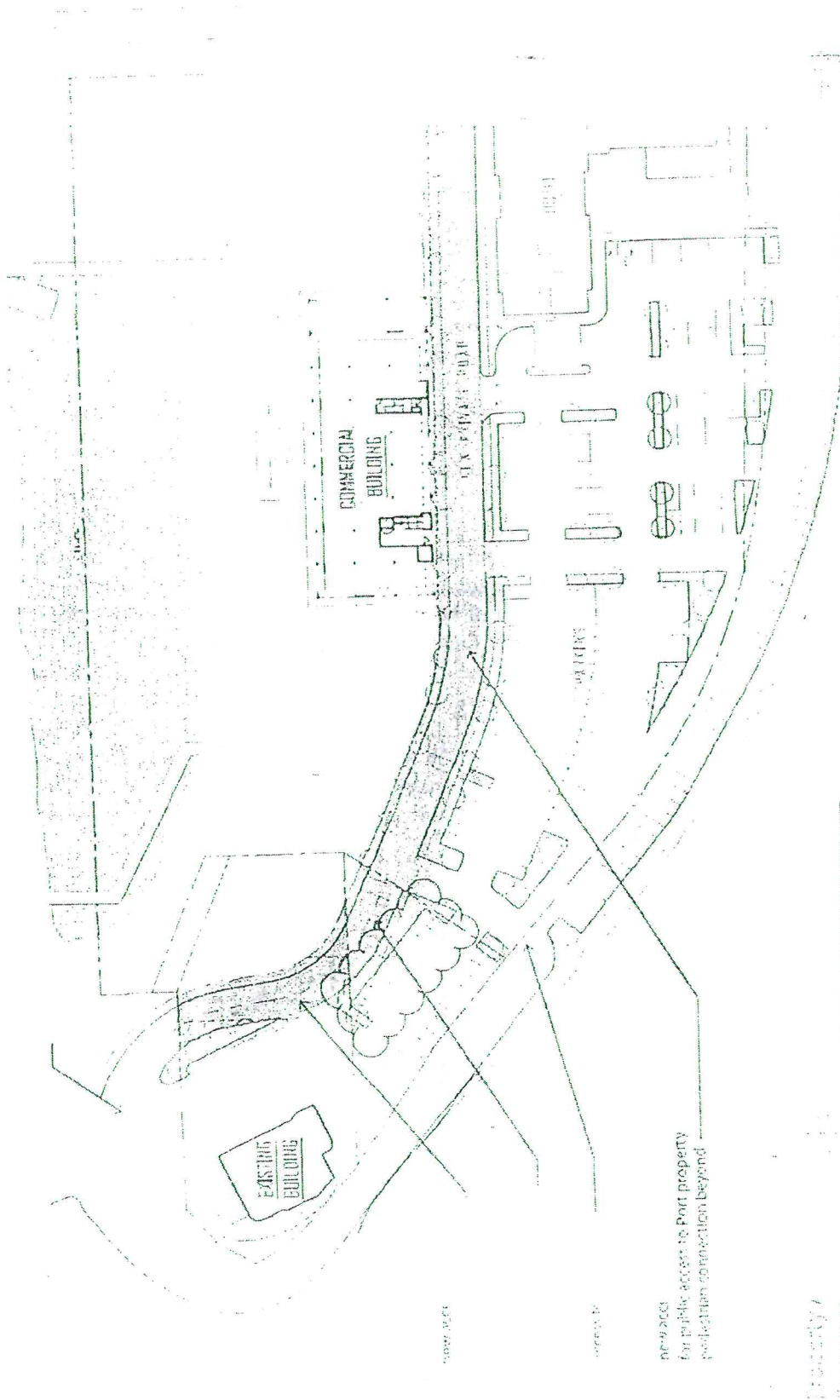


EXHIBIT C

ORDINANCE NO. 2007

An Ordinance vacating approximately 6,875 square feet of right-of-way located between I-84 and the Nichols Boatworks

WHEREAS, the City currently holds an easement for an access road that it obtained from the Port of Hood River on October 11, 1966 (Deed of Road Dedication), which varies from 20 to 30 feet in width and is located between (north of) I-84 and the Nichols Boatworks on the Columbia River; and

WHEREAS, NBW Northwest LLC and the Port of Hood River filed a petition with the City as joint applicants to vacate a 6,875 square foot portion of the access road (the "vacation area"), which the Port of Hood River would then convey to NBW Northwest LLC to be used in conjunction with a site plan and conditional use permit application that NBW Northwest LLC currently has pending before the City Council to construct a hotel, commercial office building and a parking lot; and

WHEREAS, on March 11, 2013 the City Council voted to allow the vacation application to proceed; and

WHEREAS, the Planning Commission conducted a public hearing on the street vacation request on April 1, 2013 and recommended that the City Council approve the proposal as requested; and

WHEREAS, the City Council convened a public hearing on the street vacation request on April 22, 2013, at which time the Council accepted all form of written and verbal comment on the request and continued the hearing until May 13, 2013; and

WHEREAS, at the May 13th continuance hearing, the City Council considered the application, all of the testimony, evidence and arguments of the party and voted to approve the street vacation request; and

WHEREAS, the Council finds that consents from the owners all real property abutting the vacation area have been filed along with consents from the owners of not less than two-thirds of the property affected by the vacation request as required by ORS 271.080(2) have been filed; and

WHEREAS, the Council finds that the public interest will not be prejudiced by granting the vacation request; and

WHEREAS, it is in the public interest to vacate the right-of-way described on Exhibit A because the vacation area is excess to the City's current or future planned needs for right-of-way, and better public access to The Spit may be obtained by the applicant's dedication of a new public right-of-way for this purpose.

NOW, THEREFORE, the City of Hood River ordains as follows:

EXHIBIT C

1. The public right-of-way described in Exhibit A (the "vacation area") shall be deemed vacated upon fulfillment of the following express conditions:
 - a) The property owner shall construct and dedicate on a form acceptable to the City Attorney public access for ingress, egress and utilities to the area commonly known as The Spit to replace the public access vacated herein (the "replacement public access"). The replacement public access shall be a minimum 31 feet wide and constructed to public street standards, including pavement, curb, gutter, sidewalk and stormwater improvements. The applicant shall be responsible for maintenance and repair of the replacement public access.
 - b) The replacement public access required to be constructed and dedicated by this condition shall be at an elevation above the 100-year floodplain level of 88.2 feet above MSL.
 - c) The Port of Hood River shall provide to the City a survey and legal description of the vacation area for preparation of the vacation map.
 - d) The applicant shall be responsible for paying the City's costs of preparing and recording this ordinance and map.
 - e) The applicant shall provide 9 public parking spaces to replace public parking currently available on the vacation area. These parking spaces shall be within 200 feet of the replacement public access required by this condition.

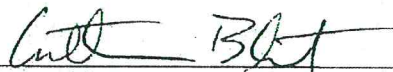
These conditions shall be completed and accepted by the City within three years of the date of this Ordinance. Once the City has verified compliance with these conditions, the City will file for recording with the Hood River County Clerk a certified copy of this ordinance and map vacating the vacation area. If these conditions are not fulfilled within three years, this Ordinance shall not be recorded, and the vacation approved herein shall automatically expire and become null and void.

2. The vacation area shall be subject to all of the assessments of the various taxing districts in which it is situated.

3. In accordance with ORS 271.140, title to the vacation area shall attach to the lands directly bordering it from which the dedication was originally made, which are owned by the Port of Hood River.

Read for the first time on May 28, 2013.

Read for the second time and passed June 10, 2013, to become effective thirty (30) days hence.



Arthur Babitz, Mayor

ATTEST:


Jennifer Gray, City Recorder

EXHIBIT C
Exhibit 'A'
TERRA SURVEYING
P.O. Box 617
Hood River, OR 97031
PHONE & FAX (541) 386-4531
E-Mail: terra@gorge.net

LEGAL DESCRIPTION
FOR THE
PUBLIC DEDICATION VACATION
(DEED DEDICATION #661983)

Page 1 of 2

A portion of a service road dedication described on document #661983 in Hood River County Records, dated October 11th of 1966. Said tract is located within the east half of the Nathaniel Coe DLC #37 and Government Lot 8 all in Section 25, Township 3 North, Range 10 East of the Willamette Meridian in Hood River County and State of Oregon. Said tract is more particularly described as follows:

Commencing at a 5/8" iron rod marked L.S. 60051 monumenting the northeast corner Hood River County Deed #70-0515 to Nichols Boat Works Company; thence South 01°32'31" West along east line of said deed a distance of 440.62 feet to a 3/4" iron pipe monumenting the southeast corner of said deed, the basis of bearing has now been established, said pipe is the point of beginning of tract to be vacated.

Thence North 86°25'45" W along south line a distance of 342.77 feet to a point, said point measures 1.0 foot South 86°24'45" East of a 5/8" iron rod marked L.S. 60051; thence South 03°34'15" West a distance of 20.00 feet to a point; thence South 86°25'45" East a distance of 343.48 feet to a point; thence North 01°32'31" East a distance of 20.04 feet to the point of beginning.

Contains 6,875 Sq. Ft., more or less
March 14, 2013
Emc

REGISTERED
PROFESSIONAL
LAND SURVEYOR

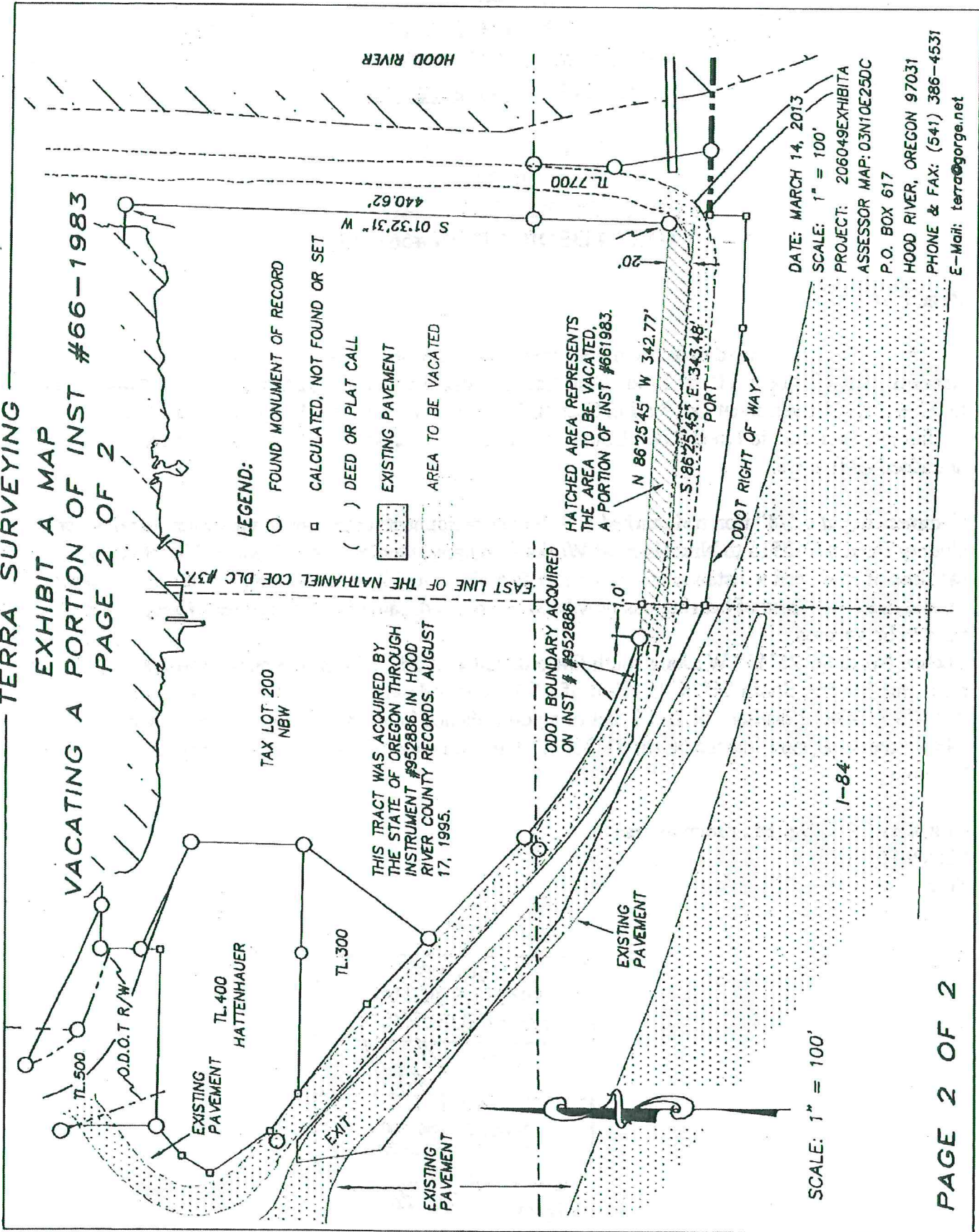
Erik M. Carlson
OREGON
DECEMBER 30, 2005
ERIK M. CARLSON
72306

Expire: Dec 2013

TERRA SURVEYING

EXHIBIT A MAP

VACATING A PORTION OF INST #66-1983
PAGE 2 OF 2



SCALE: 1" = 100'

1-84

EXHIBIT D

2. A gravel pedestrian path was added to the north of the commercial building which is a condition of approval.
3. A portion of the deck and the ramp from the deck to grade located on the north side of the commercial building was removed in order to accommodate the pedestrian path.
4. Following an official determination by DSL of the ordinary high water line (OHWL) at 79.3 feet, the northwest corner of the commercial building was "notched" so that the footings for the building would remain above the OHWL.
5. Infiltration basins were added on the east and west sides of the commercial building as an integral part of the Alternative 2 stormwater management plan.
6. The configuration of the parking lot was modified to accommodate the addition of bioswales which are also part of Alternative 2. The parking lot configuration in A2r also reflects changes required in order to meet one of the parking conditions of approval.

Applicant submitted a revised site plan on April 8. The only change to the site plan from April 1 to April 8 was to move the 100-year flood elevation from 86 feet to 88.2 feet. This change was made in response to an official Base Flood Elevation letter from the USACE that was received on April 4, 2013.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW.

The following are the City Councils findings of fact and conclusions of law regarding the remand hearing of the project:

A. First Assignment of Error. In connection with the first assignment of error, LUBA directed the City to "address the question of whether, based on the text of the cited HRCF Goal 7 provisions, viewed in context, those HRCF Goal 7 provisions are mandatory approval criteria or considerations that the city council is required to address in granting conditional use approval for the disputed proposal. If they are, the city must demonstrate that the proposal is consistent with those HRCF Goal 7 provisions."

The "cited HRCF Goal 7 provisions" are: Policies 1 and 4; Natural Disaster Implementation Strategy 4; and Floodplain "FP" Combining Zone 4. Our finding and conclusions of law on each of the cited Goal 7 provisions are set forth below:

1. HRCF Goal 7 Policy 1.

HRCF Goal 7 Policy 1 provides:

"Floodplains will be maintained as natural drainageways. No permanent structures other than dams and bridges shall be permitted which inhibit flood stream flows or endanger other property."

EXHIBIT D

Findings: Policy 1 is a broad statement providing direction for public decisions concerning Goal 7 - "To protect life and property from natural disasters and hazards." The City adopted (i) Land Use Designation and Standards in the Floodplain "FP" Combining Zone and (ii) Chapter 15.44 of the Hood River Municipal Code - Flood Hazards in response to this policy statement. These two provisions are designed to regulate development in floodplains and we find that they were adopted to address the concerns cited in Policy 1.

We find that the HRCF Goal 7 and the zoning map contemplate two different floodplain areas. The first are floodplains as defined in Policy 4 and HRMC Chapter 15.44. The second are a subset of the Chapter 15.44 floodplains that are located in the "FP" Combining Zone ("FP" Zone"). We find that references to "flood hazard areas" in Goal 7 refer to floodplains within the "FP" Zone. The "FP" Zone includes the Indian Creek and Phelps Creek areas and portions of the Hood River. We find that the concerns in Policy Statement 1 were implemented in the Land Use Designation and Standards in the Floodplain "FP" Combining Zone. For example the second sentence of Policy 1 is set out as a mandatory approval criterion in Floodplain "FP" Combining Zone paragraph 3(d): "No permanent structures or fill materials are permitted which would inhibit the stream flows or endanger other property." Other sections of the Floodplain "FP" Combining Zone limit development so that floodplains will be maintained as natural drainageways. Thus although Policy 1 contains mandatory term such as "Floodplains will be maintained" and "No permanent structures ... shall be permitted" we find that this mandatory language was implemented through the Floodplain "FP" Combining Zone sections of the comprehensive plan. Based upon the above, we find that the text of HRCF Goal 7 Policy 1, in context with other provisions of Goal 7, is not intended to be a mandatory approval criteria or a consideration that the City Council is required to address in granting a condition use permit and site plan approval for the project.

In addition even if Policy 1 was a mandatory approval criterion, we find that, based upon our own knowledge, because the Nichols Basin is an off-channel basin of the Columbia River, it is not an area of flood stream flows that Policy 1 is applicable to.

2. HRCF Goal 7 Policy 4.

HRCF Goal 7 Policy 4 provides:

- “4. In cases where detailed mapping of 100-year floodplains is not complete, the 100-year floodplain will be determined by at least one of the following methods:
 - a. The natural stream bank drop-off to the current floodplain.
 - b. A field inspection.
 - c. HUD Special Flood Hazard area maps.
 - d. Soil information from the Soil Conservation Service.
 - e. Consultation with both the County Sanitarian and the Public Works Director or other applicable agencies.”

EXHIBIT D

Findings: This policy statement sets out the methodology the City would use to determine the 100-year floodplain when detailed mapping is not complete. The text of this policy statement does not contain mandatory approval criteria for granting a conditional use permit or site plan approval for the project. However it may be considered because the detailed mapping of the 100-year flood plain at this site is incomplete.¹ Applicant submitted a letter from the US Army Corp of Engineers ("USACE") dated April 4, 2013 that states the 100-year flood elevation for this site (River Mile 169.4) is 88.2 feet NGVD. The Friends suggest that the USACE is the most knowledgeable entity about the Columbia River water elevations. We agree and find that the USACE is an "other applicable agency" as used in policy 4(c) above and we adopt its determination of the 100-year flood elevation. Accordingly we find that 100-year flood elevation at the project is 88.2 feet NGVD

Based upon the above, we find that the text of HRCP Goal 7 Policy 4, in context with other provisions of Goal 7, is not intended to be a mandatory approval criteria that the City Council is required to address in granting condition use and site plan approval for the project, however we considered its guidance in connection with our determination of the 100-year flood elevation at the project site.

3. HRCP Goal 7 Implementation Strategy 4.

HRCP Goal 7 Implementation Strategy 4 provides:

"No permanent structure shall be erected within a flood hazard area unless the structure or the area meets the criteria set forth in the "FP" overlay zone."

Friends argue that the plain text of Implementation Strategy 4 makes it an applicable approval criterion for this project even though the project is not in the "FP" Zone. In other words if a project is in a floodplain, then whether or not the project is in the "FP" Zone it must still meet the requirements of the "FP" Zone. This interpretation would effectively read the "FP" Zone off the zoning map and give it no effect. We reject this interpretation and instead interpret the term "flood hazard area" to mean an area within the "FP" Zone. This interpretation gives effect to all parts of the comprehensive plan and the zoning map and is consistent with two types of floodplains contemplated in our interpretation of HRCP Goal 7 Policy 1 above.

Based upon the text of HRCP Goal 7 Implementation Strategy 4, read in context with the other provisions of Goal 7, Strategy 4 only applies to properties within the "FP Zone and as such is not intended to be a mandatory approval criteria or a consideration that the City Council is required to address in granting a condition use permit and site plan approval for the project because it is not located in the "FP" Zone.

4. HRCP Goal 7 Floodplain "FP" Combining Zone 4.

HRCP Goal 7 Floodplain "FP" Combining Zone 4 provides:

¹ As pointed out in Mr. Wald's letter the 1984 FEMA Flood Insurance Rate Map (FIRM) designates the Nichols Basin as Zone A, which means that base flood elevation has not been determined for the Nichols Basin.

EXHIBIT D

“Development or occupancy of any of the lands designated “FP” (floodplain) will not be permitted without approval by the Hood River City Planning Commission. Before approval will be considered, proponents of the development will be required to submit a report that addresses, at a minimum, the following:

- a. A description of the proposed use.
- b. The impact on the area.
- c. A diagram of the proposed structure and the relation to the floodplain.
- d. Proposed mitigating measures”.

Findings: Friends again argue that the plain text of HRCP Goal 7 Floodplain “FP” Combining Zone 4 make it a mandatory approval criterion for this project even though the project is not in the “FP” Zone. We reject the Friends interpretation for the same reason we rejected their interpretation of HRCP Goal 7 Interpretation Strategy 4. The Friends interpretation that HRCP Goal 7 Floodplain “FP” Combining Zone 4 is a mandatory approval criterion for development of floodplains outside the “FP” Zone would render the “FP” Zone superfluous.

Based upon the text of HRCP Goal 7 Floodplain “FP” Combining Zone 4, in context with other provisions of Goal 7, it only applies to property within the “FP” Zone and as such is not intended to be a mandatory approval criteria or a consideration that the City Council is required to address in granting conditional use and site plan approval for the project because it is not located in “FP” Zone.

B. Third Assignment of Error (LUBA Record pages 15-20)

LUBA granted petitioners’ assignment of error based upon the City’s denial of their request for an opportunity to respond to the following three items of new evidence submitted between April 16, 2012 and April 24, 2012 (the “2012 New Evidence”):

- a. April 23, 2012 one-page letter from ODF & W,
- b. April 23 2012 e-mail from Polly Wood, plus attachments, and
- c. April 23, 2012 e-mail from Patrick Hiller plus attachment.

The City Council set out the following schedule to comply with LUBA’s decision that petitioners be allowed to respond the 2012 New Evidence:

1. March 22, 2013: Deadline for Applicant to submit any revisions to the application or supporting documentation at 12:00 p.m.
2. April 1, 2013: Deadline for submission of written responses to the new materials submitted by Applicant on March 22nd and the 2012 New Evidence.
4. April 1, 2013: Deadline for release of a written staff report, if any.

EXHIBIT D

5. April 8, 2013: City Council hearing, at which the parties may respond to documents submitted by other parties by the April 1st deadline.

On March 22, 2013 Applicant submitted documents relating to the remand issues, including a revised site plan. On April 1, 2013 the Friends submitted additional evidence responding to the 2012 New Evidence and the materials submitted by Applicant on March 22, 2013. On April 5 and on April 8, 2013, the date of the hearing, Applicant submitted additional evidence responding to the Friends submissions. At the hearing the Friends requested that the record be left open to respond to Applicants' April 5th and April 8th submissions. The City Council agreed to continue the hearing and left the record open until April 18, 2013 at 5:00 p.m. and allowed final rebuttal by Applicant by no later than April 29, 2012. The continued public hearing was set for May 28, 2013.

At the April 8, 2013 hearing the Friends and two individuals, Linda Maddox and Heather Staten, objected to the City limiting testimony to petitioners of record on the LUBA appeal. The City Council decided to allow testimony from anyone present and both Linda Maddox and Heather Staten testified.

On April 18, 2013 additional documents were received by the City from the Friends and Polly Wood and Jeff Hunter on behalf of Hood River Valley Residents Committee ("HRVRC") and by Scott Franke. Both HRVRC and Mr. Franke requested the opportunity to present oral testimony.

The City Council agreed to receive additional testimony at the May 28, 2013 hearing. The City Council Agenda for the May 28, 2013 hearing, which was made public on May 24, 2013, provided that the City Council would take "Public testimony." However prior to the hearing there was some confusion whether the testimony would be limited to only members of the public who did not testify at the April 8th hearing because they had been told by the City staff that only petitioners of the LUBA appeal could testify or that anyone could testify.

At the May 28th hearing the Friends' attorney requested that the record again be left open because there were individuals who did not attend because they were told that they could not testify despite the wording of the agenda. The City Council decided to keep the hearing open until June 10, 2013 and allow public testimony by any person at that hearing.

The hearing was held on June 10, 2013 and the City Council took testimony and written evidence from all participants who requested the opportunity to do so.

Findings: Based upon the foregoing the City has complied with the LUBA opinion in connection with the remand of the decision.

C Fourth Assignment of Error Relating to HRMC 17.16.040(C).

LUBA remanded to the City to make a decision, after the record has been supplemented with additional evidence, whether City remains of the view that the project satisfies the HRMC 17.16.040(C) "no adverse affect" standard and to adopt supplemental findings or conditions it believes are necessary to support that view.

EXHIBIT D

Findings:

HRMC 17.16.040 (C) provides:

“Grading: Any grading, contouring, on-site surface drainage and construction of on-site surface water storage facilities have no adverse effect on neighboring properties, public rights-of-way, or the public storm drainage system.”

1. Grading. The project site was subject to a DEQ supervised remediation of environmental contamination. The project is subject to Easement and Equitable Servitudes (E&ES) deed restrictions that require DEQ approval of certain development activities, including approval of erosion control plan prior to any construction work. Additionally, DEQ required Applicant to obtain a National Pollutant Discharge Elimination System (NPDES) 1200-C permit as a condition of performing any work (including grading) on the site.

Applicant submitted a preliminary erosion and sediment control plan from Tenneson Engineers (the “ESCP”). This plan shows the proposed protections that will be put in place during grading and construction to prevent contaminated soils and sediment from entering the Nichols Basin. Both DEQ and the City will require a final an erosion control plan be submitted and approved prior to commencement of construction.

Friends cite concerns about “mobilizing toxics” and the potential adverse effect on the water quality in the Nichols Basin or on salmon that are present there. However the Friends failed to cite any defects in the ESCP and failed to introduce any evidence showing that the ESCP as engineered will not be effective.

Applicant’s environmental engineer described that it is feasible to manage the environmental contamination that remains on the site during construction to avoid any adverse affects on water quality. (See April 8, 2013 email memorandum from Geosyntec.) Friends argue Geosyntec’s memorandum contains only broad conclusionary statements and does not satisfy the substantial evidence requirement to support satisfaction of the no adverse affect requirements. However the Friends cite no evidence why the conclusions reached by Geosyntec are not reasonable and we reject their argument on this issue.

We find that the foregoing constitutes substantial evidence that it is feasible to implement an ESCP and the requirements of the NPDES permit to prevent contaminated soils and sediment from entering the Nichols Basin during grading and construction and that in this case compliance with the City’s erosion control standards and DEQ requirements will satisfy the no adverse affect requirement of HRC 17.16.040 C with regard to water quality.

2. On-Site Surface Drainage. Applicant has proposed two alternative storm drainage systems, Alternative 1 and Alternative 2. The original grading plan depicts the storm drainage system for Alternative 1 and the revised site plan submitted by Applicant on March 22, 2013 depicts the storm drainage system for Alternative 2. Applicant's engineer provided a written description of the site grading and storm water drainage systems for both alternatives. (See Tenneson’s March 21, 2013 letter and April 5, 2013 memo.)

EXHIBIT D

As described by Applicant's engineer, the Alternative 1 stormwater system will contain all stormwater on site and no stormwater will runoff onto neighboring upland properties, public right of ways or the public stormwater system. Stormwater will be filtered through mechanical filters and only filtered stormwater will drain into the Nichols Basin.

Alternative 2's stormwater system will contain all stormwater on site up to the two-year rain event and no stormwater will runoff onto neighboring upland properties, public right of ways or the public stormwater system. Further in Alternative 2 stormwater will be infiltrated into the ground through infiltration basins that will contain filtering media to filter out pollutants. (See Geosyntec February 27, 2013 memorandums). DEQ has given preliminary approval for the Alternative 2 stormwater system and must approve the final design prior to construction.

Applicant's engineer states that both systems will meet the requirements of the City's Engineering Standards relating to Stormwater (Section 4.5) and the construction and operation of either system is feasible.

The City Engineer, Stoner Bell, PE, and Gary Lindemyer, Construction Inspector, both conclude, based on the engineering information provided by Applicant that both of the alternate storm sewer systems could meet City Engineering Standards for water quality, and either system is feasible from both a construction and maintenance standpoint.

We find that the foregoing constitutes substantial evidence that it is feasible for either Alternative 1 or Alternative 2 to meet the requirements of the City's stormwater engineering standards and in this case the project's on-site surface drainage system's compliance with the City's stormwater engineering standards will satisfy the no adverse affect requirement of IIRC 17.16.040 C with regard to water quality.

3. HRMC 17.14.040(C) does not required compliance with the Clean Water Act. Friends continue to argue that the City is obligated to consider the impact on salmon and other endangered species using the Nichols Basin in evaluating the no adverse affect standard of HRMC 17.14.040(C).² Previously we determined that the City does not administer or enforce state or federal environmental regulations relating to endangered species and water quality:

"It is also important for our analysis and response to this appeal issue to understand that the City has authority to administer and enforce only its adopted regulations and, contrary to Friends assertion, the City does not administer or enforce the DEQ regulations associated with this site, state or federal endangered species regulations or the Clean Water Act." *LUBA Record page 56.*

We also previously interpreted HRMC 17.16.040(C) as follows:

"Contrary to the Friends' suggest[ion], the Council does not interpret [HRMC 17.16.040(C)] as requiring a zero level of impact, sediment or stormwater discharge to Nichols Boat Basin. This provision prohibits "adverse effect on

² As noted below we acknowledge the evidence of the existence of salmon in the Nichols Basin submitted by Friends, however that does not change our analysis.

EXHIBIT D

neighboring properties, public rights-of-way, or the public storm drainage system." It does not prohibit all silt discharge from the site or impose a more stringent water quality standard than required by the City's stormwater standards." *LUBA Record page 26.*

LUBA acknowledged that the City's interpretation of HRMC 17.16.040(C) was entitled to deference:

"It is clear that the city council does not interpret the HRMC 17.16.040(C) "no adverse effect" standard to impose the stringent water quality standard that petitioners would interpret it to impose, and the city council's interpretation in that regard is entitled to deference under *Siporen*." *LUBA Opinion at 26.*

We stand by our earlier interpretation that HRMC 17.16.040(C) does not require the City to analyze the impacts of the project on salmon and other endangered species that may use the Nichols Basin in order to find that the project complies with HRMC 17.16.040(C). Or to say it another way there is no requirement under HRMC 17.16.040(C) that Applicant must demonstrate that grading and stormwater impacts will have no adverse impact on salmon and other endangered species in the Nichols Basin.

Based upon the evidence in the record (both the original record and the remand record) cited above, and our interpretation of HRMC 17.16.040 C, we find that (i) compliance with the City's stormwater and erosion control engineering standards and (ii) compliance with DEQ requirements (as set forth in the ES&E and the NPDES permit) as the same are proposed to be implemented by Applicant (as set forth in the proposed grading plans, stormwater system plans, and preliminary ESCP) are sufficient to ensure that the project will not have any water quality impacts on Nichols Boat Basin that would violate HRMC 17.16.040(C).

D. Floodplains

Both the Applicant and the Friends agree that 100-year floodplain elevation at the project is 88.2 feet NGVD. The City Council also finds that there is substantial evidence to support the finding that the 100-year floodplain elevation at the project is 88.2 feet NGVD. (See April 4, 2013 letter from USACE.) There is also no dispute that portions of the project site are within the 100-year floodplain and we so find.

Friends argue that the City Council should deny the conditional use and site plan approval because the commercial building is within the 100-year floodplain and Applicant has failed to demonstrate satisfaction of approval criteria in HRCP Goal 7 Policy 1; HRCP Goal 7 Implementation Strategy #4, and HRCP Goal 7 Floodplain "FP" Combining Zone 3 and 4. We reject this argument because as cited above in our response to Assignment of Error #1, we find that none of the cited HRCP Goal 7 provisions are mandatory approval criteria or considerations that the City Council is required to address in granting a condition use permit and site plan approval for the project and that the project is not located in the "FP" Zone.

Friends argue that the new evidence regarding the 100-year flood plain elevation being at 88.2 feet instead of 86 feet requires us to reevaluate the entire project. However Friends raised the same arguments about portions of the project being located within the 100-year floodplain in

EXHIBIT D

their LUBA appeal. (“There is little dispute that the project’s commercial building would be located in the 100-year floodplain. (Friend’s Petition For Review LUBA No. 2012-050 p. 11 lines 10-11.) We also find that to the extent Friends current arguments relating to the 100-year floodplain were resolved by LUBA in the appeal or could have been raised in the appeal they cannot be considered in this remand hearing.

Although we reject the Friends’ arguments that provisions of HRCF Goal 7 apply, that does not mean that there is no issues relating to development of the commercial building in the floodplain. Because the commercial building is located within the 100-year floodplain it will need to comply with the requirements of the City’s floodplain ordinance: HRMC 15.44 -- Flood Hazards.

E. Natural Features 17.160.040(A).

Friends argue new evidence support a finding that the project will not protect natural features to maximum extent feasible as required by HRMC 17.16.040 (A). In our prior decision we found that the Nichols Basin is not a “significant natural feature” within the meaning of HRMC 17.16.040(A) and that it was given no protection under Goal 5. We incorporate our earlier finding from the decision and reject the Friends argument.

Furthermore the Friends raised this same argument in the LUBA appeal and LUBA rejected it.

“The city found that its Goal 5 program for this area requires no protection for the Nichols Boat Basin. To the extent petitioners believe more protection is required under HRMC 17.16.040(A), they should have assigned error to and demonstrated error in the above-quoted findings. Petitioners did not do so, and we do not consider HRMC 17.16.040(A) further.”

Finally, the so called new evidence relied upon by the Friends is in fact old evidence that was submitted during the original hearing.³ This old evidence cannot be the basis to challenge the decision on remand. Friends failed to raise this “old evidence” as a basis to deny approval of the project in the original appeal to LUBA and therefore have waived such evidence has grounds to deny the project during this remand.

F. Evidence of salmon in the Nichol’s Basin.

The only new evidence submitted into the record regarding salmon is the picture of a fish caught by Derek Bell and the written opinion of Joe Mullen that the photographed fish is a salmon. As we said before in our original decision: “[W]e take official notice of the likely presence of fish, including state[] and federally listed endangered fish species, in the Nichols Boat Basin.” The presence or lack of endangered species in the Nichol’s Basin does not affect our decision

³ Friends cite the following as new evidence: (1) The ODFW letter, (2) the study entitled “Sublethal Effects of Copper on Coho Salmon: Impacts on Non-Overlapping Receptor Pathways in the Peripheral Olfactory Nervous System,” and (3) the study entitled “A Sensory System at the Interface Between Urban Stormwater Runoff and Salmon Survival.” However all this evidence was submitted during the original hearing. (See Record 65, 215, 235-296.)

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because under our interpretation of HRMC 17.16.040(C) we do not evaluate the effect of this development on salmon and other endangered species.

G. Post April 8, 2013 Rebuttal Evidence.

Applicant submitted the following new evidence at the April 8, 2013 hearing (the "Applicant's New Evidence"):

1. Tenneson Engineering letter dated April 5, 2013;
2. US Army Corp of Engineer's letter dated April 4, 2013
3. Geosyntec email dated April 8, 2013.
4. Revised site plan submitted at the hearing on April 8, 2013.

By letter dated April 8, 2013, the Friends requested the right to respond to the new evidence. City Council granted Friends and other interested parties until April 18, 2013 to respond to Applicant's New Evidence.

Thus only evidence and argument responding to Applicant's New Evidence may be considered by the City Council. The following evidence and argument was received following the April 8, 2013 hearing:

a. Statewide Planning Goal 7. On April 18, 2013, the Friends submitted a letter arguing, for the first time that Statewide Planning Goal 7 is an applicable approval criterion for this application. First, Statewide Planning Goal 7 is not an applicable approval criterion for this conditional use permit and site plan review application because the City has an acknowledged comprehensive plan. Once the City's comprehensive plan and zoning ordinances are acknowledged by the LCDC, the City need not review State Wide Planning Goals to approve an application. *Byrd v. Stringer*, 295 Or 311, 316, 666 P2d 1332 (1983) ("The statewide goals are necessarily met if the county's decision comports with the acknowledged plan and implementing ordinances.") The City's comprehensive plan and implementing ordinances have been acknowledged by LCDC and therefore the City does not (and cannot) apply Statewide Planning Goal 7 as approval criteria for this project.

Second, Friends argue that new site plan submitted on April 8, 2013 triggers the application of Goal 7 because of emergency access issues raised by the fact that the access road is four feet below the 88.2 foot 100-year flood elevation. The only change in the April 8 revised site plan, as compared to the March 22 site plan, was to show the elevation of the 100-year flood at 88.2 feet instead of 86 feet. The elevation of the access road did not change. Even with the 100-year flood at 86 feet, as shown on the March 22 site plan, the access road would be two feet below that line (per the Friends' analysis). Thus this argument does not respond to Applicant's New Evidence and so it was not timely made.

b. HRCF Transportation Planning Goals. On April 18, 2013, Friends submitted a letter arguing, for the first time on remand that the project does not comply with the provisions of HRCF transportation planning goals and HRCF 17.16.040(E) and 17.20.030 relating to a safe

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transportation system due to the fact that the access road is below the 100-year floodplain elevation. First, we have addressed this issue by conditioning this project on building the access road at or above 88.2 feet NGVD, the 100-year flood elevation. Second this argument is also based upon the emergency access issued raised by the access road being below the 88.2 foot NGVD 100-year flood elevation, which could be determined from the March 22, 2013 site plan. The April 8 site plan made no change to the elevation of the access road. Accordingly this argument does not respond to Applicant's New Evidence and so it was not timely made.

c. **EP Zone.** On April 18, 2013, Friends submitted a letter arguing, for the first time on remand that the provisions of the EP combining zone set forth in HRCP Goal 7 apply to this project. First, we find that the project is not in the EP Zone as shown on the City's zoning map⁴ and as such the project does not need to comply with EP Zone requirements. Second this argument is based upon the label "E Zone" that appears on Applicant's original landscaping plan submitted in 2011 and does not appear on the April 8, 2013 site plan. The Friends failed to appeal this issue from the original hearing and as such they have waived it.

H. City decision did not violate Goal 1 of HRCP.

HRCP Goal 1 provides "Maintain a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process." Friends argue that by deferring all floodplain "related evaluations, risks and any potential mitigation to a city staff decision outside the public land use process would violate Goal 1." City Council rejects this argument. The City council has determined that the HRCP Goal 7 provisions cited by Friends are not mandatory approval criteria. This decision was made after three public hearings in which the public was given the right to submit written and oral evidence and argument. Further the City determined, based upon public testimony and evidence submitted by the public and Applicant that commercial building will be located within the 100-year flood plain elevation and as such will need to comply with HRMC Chapter 15.44. The City Council finds that HRMC Chapter 15.44 approval criteria are objective and do not require discretionary land use decisions and that it is appropriate to delegate implementation of those provisions to City staff. Furthermore the City followed its Goal 1 citizen involvement program, which was approved by LCDC when its comprehensive plan was acknowledged, when it adopted HRMC Chapter 15.44. As such the City Council's decision is not inconsistent with HRCP Goal 1.

The City Council recognizes the need to comply with provisions of the National Flood Insurance Program in order to qualify for flood insurance. The City's adoption of Chapter 15.44 was done for this purpose. Our compliance is evidenced by the fact that property owners in the City of Hood River are eligible for flood insurance under the National Flood Insurance Program.

⁴ The current Hood River zoning map does not have any EP zoned land.

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I. US Army Corp of Engineer's flowage easement.

Friends argue, without citing any applicable approval criteria, that the City must consider the impact of the two USACE flowage easements on the site in connection with this conditional use and site plan approval. We find no such requirement in either the HRMC or in the City's zoning ordinances. Therefore we reject the Friends assertion.

J. Compliance with ORS 197.763(b).

Friends argue that the notice of the remand hearing does not meet the requirements of ORS 197.763(3)(b) because it did not contain any indication that the City was applying any criteria from the HRCP. First we do not agree that ORS 197.763(3)(B) applies to this remand proceeding. Second, even if applicable we have found that HRCP Goal 7 provisions raised in the LUBA appeal are not applicable approval criteria for this conditional use permit and site plan approval application and therefore the notice was not defective for failing to include them.

K. Failure to provide grading plan required by HRMC 17.16.030. Friends continue to criticize Applicant's grading plans and the fact that they do not identify the stockpiled temporary fill located on the site. Friends raised the identical alleged error in their appeal of the original decision. (See Friends brief sub-assignment 2(b)(ii) of the 4th assignment of error.) LUBA did not address this sub-assignment of error, presumably because they did not find it had merit. Likewise we find that the argument is without merit and that the preliminary grading plans submitted by Applicant are sufficient for us to render our decision and they meet the requirements of HRMC 17.16.040 (C).

L. Other issues raised by participants.

a. One individual asked to see what the Fire Chief and other first responders thought about emergency access to the site. The Fire Chief responded that he was satisfied with the proposed emergency access to the project. We believe this issue is addressed by our conditioning the access road to be built at or above the 88.2 feet NGVD, the 100-year flood elevation.

b. We received written and oral testimony HRVRC regarding the floodplain management issues and concerns that the City was not using best management practices for floodplain management. While we are sensitive to the concerns expressed regarding floodplain management, we are limited in our decision to applying our existing zoning code and floodplain ordinance, HRMC 15.44. HRVRC also cite "FP" Combining Zone 4(d) as being a mandatory approval criterion; but again because the project is not located within the "FP" Zone this provision does not apply.

c. HRVRC, Friends and other participants raised argued the Applicant has not addressed the project's displacement (fill of portions of the 100-year floodplain on the site and the potential impact on adjacent properties and the project's impact on flood stream flows.

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They cite the Goal 7 provisions discussed above as requiring such analysis. Again we have determined that the cited Goal 7 provisions are not approval criteria or considerations that the city council is required to address in granting conditional use approval for this project.

However we do note that the record contains evidence relating to the extensive federal dam system on the Columbia River watershed that has substantially reduced the risk of flooding on the Columbia River and that the effect on the flood storage capacity of the Bonneville Pool by the fill proposed by this project would be negligible.

d. We also received written comments from Bo Vanderkloot that the applicant has failed to demonstrate compliance with HRMC 17.06.030(2) and (5). First we note that none of the conditional use approval criteria under HRMC 17.06.030 are the subject of this remand hearing. The minor changes in applicant's site plan do not change the project in any material way that would trigger the requirement for a new review of the conditional use permit approval criteria. Furthermore the original appeal to LUBA did not cite as error the City's decision relating to conditional use approval under HRMC 17.06.030 and therefore the issue cannot be raised at this time. Further the change in the 100-year floodplain elevation from 86 feet to 88.2 feet does not affect this conclusion because, as noted earlier, the floodplain issues affecting the project are present even at the 86 feet elevation.

In addition, although not necessary, we also find that the project complies with the requirements of HRMC 17.06.030(2) and (5). We find that the hotel was moved a few feet west to comply with the 75-foot setback from the top of the bank of the Hood River requirement; other changes to the site plan were made to comply with our conditions of approval; and the commercial building was "notched" to ensure it was not located below ordinary high water. Based upon foregoing we find the location size design and operating characteristic of the project did not change in any material way and we find these changes do not affect our earlier decision that the project is reasonably compatible with and will have a minimal adverse impact on the lawful development of abutting properties and the surrounding area. The minor changes in building size and location noted above also does not change our earlier finding that the site is physically capable of accommodating the proposed use, including landscaping and parking. Finally we do not interpret HRMC 17.06.030(2) as requiring the City to review the projects impacts on water quality and salmon.

III. CONCLUSION: Based on the findings of fact and conclusions of law of this report, the proposed commercial buildings and uses are consistent with the Zoning Ordinance and the Comprehensive Plan. Conditions of approval are recommended to ensure compliance with all applicable standards and criteria.

IV. DECISION AND CONDITIONS:

The City Council hereby approves the proposed preliminary Site Plan and Conditional Use Permit for a 45,000 square foot (4 story) 88 room hotel (a dark gray brick), a 20,000 square foot office building (2 story), parking lot, pedestrian access way (PAW) and secondary path proposed adjacent to the Nichols Boat Basin based upon the applicant's proposed plans and supporting documentation, subject to the following conditions of approval. The Council specifically does not consider or approve any elements of the cable

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park to include towers, docks, pylons or paths to the cable equipment that may be illustrated on the plans for this application.

FINAL SITE PLAN:

1. The approval is valid for a period of two years from the date of this decision or the final unappealed decision on any subsequent appeal, whichever is later. The applicant shall submit a final site plan within that 2-year period; otherwise, this preliminary site plan approval shall expire automatically and be null and void. The final site plan shall be consistent with the preliminary site plan and implement, or otherwise comply with, the conditions of approval as set forth in this decision and the following:
 - a. The final site plan will show compliance with the requirements of CO-Reach 4 and Reach HO-R1R as identified in the City's adopted ESEE analysis and as implemented in HRMC 17.22.030 Columbia River Infill Waterfront Area (HRMC) to include a 75-foot setback for all structures from top of bank (along the eastern side of the boat basin and Hood River).
 - b. For hotel only; compliance with HRMC 17.03.050 General Commercial Zone – Commercial buildings between 25,000 and 50,000 square feet:
 1. Buildings shall have an entrance for pedestrians directly from the street to the building interior. This entrance shall be designed to be attractive and functional and shall be open to the public during all business hours. Public sidewalks shall be provided adjacent to a public street along the entire street frontage.
 2. Any wall which is within 30 feet of the street, plaza, or other public open space shall contain at least 20% of the wall area facing the street in display areas, windows, or doorways. Windows must allow views into working areas or lobbies, pedestrian entrances, or display areas. Blank walls within 30 feet of the street are prohibited. Up to 40% of the length of the building perimeter, with the exception of the side facing the street, is exempt from this standard if facing toward loading or service areas.
 3. A building shall be setback not more than 20 feet from a public sidewalk unless the area is used for pedestrian activities such as plazas or outside eating areas. If more than one structure is proposed for a site, at least 25% of the aggregate building frontage shall be within 20 feet of the sidewalk.
 4. One street tree (of different variety) chosen from the street tree list shall be placed along the perimeter of the parcel fronting the street for each 30 feet of frontage for that portion of the development facing the street.

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5. Landscaping shall be designed so that 50% coverage occurs after one year from the date the certificate of occupancy is issued and 90% landscaping coverage occurs after 5 years from the date the certificate of occupancy is issued.

6. Parking areas shall be shaded on the interior and exterior by deciduous trees, buffered from adjacent non-residential uses, and screened from residential uses. The appearance of a "sea of asphalt" shall be avoided.

7. A ratio of one tree for each 7 parking spaces shall be required to create a canopy effect. The trees shall be an appropriate large, canopied shade tree and/or a conifer.

8. Landscaped areas shall be substantially evenly distributed throughout the parking area and parking perimeter.

c. A final landscaping plan to be reviewed and approval by the Planning Director. The landscaping plan shall comply with the following requirements:

1. The landscaping plan shall verify that a minimum of 15% of the site is landscaped.
2. Detailed information about the species, size and location of all proposed landscaping shall be provided on the landscaping plan, and landscaping materials shall comply with the standards of IIRMC 17.17.040.
3. All plant materials shall be chosen to survive in the climate and soils of the proposed site, and to satisfy the functional objectives of landscaping as detailed in HRMC 17.17 including erosion control, screening and provision of shade within a reasonable time.
4. All approved landscaping shall be installed or guaranteed prior to occupancy of the building.
5. The owner shall be responsible for the establishment and maintenance of all landscaping in accordance with the approved landscaping plan.

d. The required Pedestrian Access Way's (PAW) exact location shall be on the final plan. It shall include language addressing the responsibility for construction, maintenance, and landscaping.

PARKING:

a. A minimum of 176 parking spaces, of which 21 will be dedicated to a water use, shall be completed prior to occupancy of the commercial building and hotel. Alternatively, the applicant/property owner can make use of HRMC ch. 17.23 (In-Lieu Parking Fee) to satisfy part of this parking requirement.

b. If the hotel is constructed first, the property owner can request that only the hotel parking be constructed, but only after application and approval of a minor change to this Conditional Use Permit.

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- c. The number of accessible parking spaces shall be in compliance with OSSC, Table 1106.1 or location requirements found in OSSC, Section 1106.6 and shown on the building permit submittal plan.
- d. Prior to issuance of any building permits, an easement(s) shall be recorded to allow shared use of parking on the site benefiting the tenants of both buildings. Signed leases from ODOT, the Port, and any other agency or property owner shall be submitted that guarantee the parking spaces, not on the Naito property, are given in perpetuity.
- e. Prior to occupancy of either building, surfacing approved by the city engineering department shall be installed in the parking area.

PERMITS FROM OTHER AGENCIES:

a. The applicant shall apply for and obtain any permits required by the U.S. Army Corps of Engineers and the Oregon Division of State Lands for this development, including, but not limited to dredge, fill and removal of jurisdictional wetlands, any development proposed below the line of ordinary high water, within the waters of the state and/or waters of the United States. If either agency determines that it lacks jurisdiction or does not otherwise require a permit for this development, the applicant shall provide the City with written confirmation of that determination on agency letter head.

b. If the Army Corps of Engineers permit approves the retail building but moves the building to the south and thereby impacts the location of the street, parking, or pedestrian way, the applicant shall apply for and obtain from the City an amendment to its approved preliminary site plan.

c. The City Building Official is appointed to administer and implement the Flood Hazards chapter (HRMC ch. 15.44). A portion of the retail building might be located in the flood hazard area, in which case, the developer shall apply for and obtain a development permit before construction or development begins within any area of special flood hazard established in HRMC 15.44.030. The permit shall be for all structures, including manufactured, as set forth in HRMC 15.44.010, and for all other development including fill and other activities, also as set forth in HRMC 15.44.010. The floodplain (hazard) study shall be stamped by an Oregon Engineer licensed to complete such studies and shall be included in the application for building permit delineating if any or part of the building is subject to the Flood Hazard requirements.

d. The applicant shall obtain any required permits from the city engineering department and/or ODOT if runoff generated on the site shall be directed to City or ODOT stormwater facilities.

e. The Oregon Department of Environmental Quality requires a National Pollutant Discharge Elimination System (NPDES) 1200-C permit for all projects that disturb one acre or more. Contact the Bend regional DEQ office at 541-388-6146 for permit application forms

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and more information. If DEQ determines that a permit or approval letter is not necessary, the applicant shall provide written confirmation of that determination on agency letter head prior to building permit issuance.

f. The applicant shall apply for and obtain all approvals required by DEQ for the development of this site (including grading and erosion control).

g. Prior to issuance of any building permits, an easement(s) shall be recorded to allow shared use of parking on the site benefiting the tenants of both buildings. The applicant shall provide the City with copies of signed leases from ODOT, the Port, and any other agency or property owner guaranteeing the available and exclusive use of parking spaces not on the Naito property. The leases shall be perpetual, or valid for so long as the site is occupied by the use approved in this decision.

PEDESTRIAN ACCESS WAY:

a. Pursuant to Zone Change #2006-02, the applicant shall provide for an interconnection to the proposed pedestrian access way (PAW) that will connect the waterfront to the downtown. The PAW will be located on the sidewalk adjacent to the private to the following standards:

1. The sidewalk, which will function as the PAW, shall be constructed in accordance with the City standard.
2. Night lighting shall be provided along the PAW.
3. The PAW shall be ADA accessible.
4. Offset seating shall be provided at periodic intervals. Seating areas may be located along and within the PAW and the Columbia River Waterfront Corridor.
5. The PAW shall be landscaped. This should include a variety of trees, shrubbery, and groundcover at least 8 feet wide on the landward side where possible.
6. PAW shall constructed shall be completed prior to issuance of a certificate of occupancy for either building.
7. The PAW can be public or private. If the PAW is private, a recorded easement in a form approved by the City must be provided, and the PAW must be open to the public at all times and shall not be restricted to public access except as allowed by City rules and regulations pursuant to Section 17.21.100 (5) (I). A public PAW shall be dedicated to the public in the same manner as public streets.

b. Prior to occupancy of either building, a waterfront path (not the required PAW, but a Secondary Pedestrian Access path) will be built commencing from the entry walkway and traversing across the waterside of the building as close to the water as possible, and then merging with the Spit road, connecting to the pedestrian bridge over the Hood River and the pedestrian path under I-84. This path will be available for public use at all times and shall be 8 feet wide, durable surface, consistent with Army Corps recommendations and regularly maintained by property owner. However, if the

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Army Corps of Engineers denies the request for the Secondary Pedestrian Access along the water's edge, the deck of the commercial building, when constructed, will be used for the Secondary Pedestrian Access (in addition to the sidewalk in front of the building). When built, the deck shall be signed for public access, shall be 10 feet wide, with 10-foot radii at both entrances and shall be at grade with no steps (ADA accessible), and shall be separated from the outside eating and retail display areas by a different color decking or similar way to differentiate the uses. Regardless of its location, the Secondary Pedestrian Access shall be contained in a public easement, that ensures it is open and accessible to the public at all times in perpetuity.

TRAFFIC IMPROVEMENTS:

- a. Signal does not have to be installed at present time; however the proportionate share will be due prior to issuance of any building permits. The City/ODOT will monitor the queuing for 6 months to include 3 summer months after occupancy of the buildings. If queuing issues arise prior to installation of the signal the City will apply to remove the parking along the west side of 2nd Street between Cascade and Oak as an interim measure. The signal will then be installed using the collected funds in the proportionate share bank and the City will determine if there are funds to establish a Local Improvement District (LID) pursuant to HRMC ch. 13.16 or whether Naito will be required to establish a Reimbursement District (RID) pursuant to HRMC ch.13.17. Once the signal is installed, the parking will be reinstated until such time the signal does not adequately control the queuing on the interchange bridge or ramps. ODOT, in cooperation with the City will continue to monitor through each change.
- b. The internal street running past the commercial building and hotel to The Spit shall be contained within a public easement that ensures public access (ingress, egress and utilities) at all times in perpetuity. All City water, sanitary, and or storm sewer pipes and appurtenances located outside of a dedicated public right of way must be located within a recorded easement on a form provided by the City. All easements must meet the requirements of the City Engineering Standards.
- c. Prior to occupancy of either building, City standard sidewalk providing pedestrian access from the public right of way shall be installed as part of the street improvements.
- d. A looped road with removable bollards providing emergency vehicle access around the hotel shall be installed as part of the street improvements. The surface may be gravel, but it must meet City Fire Department requirements.
- e. The replacement public access required to be constructed and dedicated by this condition shall be at an elevation above the 100-year floodplain level of 88.2 feet above MSL.

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STORM DRAINAGE:

- a. Contouring for on-site surface drainage and/or construction of on-site surface water storage facilities shall take place so that there is no adverse effect on neighboring properties, public rights-of-way, or the public storm drainage system. Graded areas shall be replanted as soon as possible after construction to prevent erosion.
- b. Details of impervious surfacing to be used in the parking area shall be submitted for review and approval by the city engineer.
- c. A Storm Water Management Plan is required as per City Engineering Standards.
- d. The storm sewer system shall remain private.
- e. Copies of all storm water permits, or verification that storm water permits are not required, from other agencies having jurisdiction shall be provided prior to any site work.
- f. Sizing of all pipes must meet the City's Stormwater Utility Capital Facilities Plan (CFP) and City of Hood River Engineering Standards Section 4.5 Stormwater Management criteria.

TRASH, MECHANICAL EQUIPMENT, LIGHTING AND SIGNAGE:

- a. The trash/recycling area shall be screened through the use of vegetation and/or fencing. The applicant shall work with Hood River Garbage (541-386-2272) to ensure the enclosure is of a sufficient size to accommodate adequately-sized storage containers.
- b. Any new mechanical equipment shall be screened from view and an adequate sound buffer shall be provided to meet the noise ordinance (HRMC 8.09).
- c. Prior to issuance of a building permit, details of all exterior lighting shall be submitted for review and approval by the planning director. Any exterior lighting shall be subdued and shall not shine, cause glare, or be unnecessarily bright on surrounding properties. Both interior and exterior lighting shall take into consideration the viewshed and shall be dimmed as much as possible after closing without compromising safety and security.
- d. Prior to installation of any new sign on the site, sign permits shall be obtained in conformance with city standards.

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GENERAL ENGINEERING:

- a. Prior to building permit issuance, an engineered plan for public improvements meeting the submittal requirements of the City of Hood River Engineering Standards shall be provided.
- b. All utilities shall be placed underground including power, phone, cable television and other telecommunications lines.
- c. Design and construction of public facilities shall meet the requirements of the City of Hood River Engineering Standards. A copy of the Engineering Standards is available at the City Public Works office or on line at www.ci.hood-river.or.us.
- d. A pre – submittal meeting is recommended prior to the engineered design of any public facilities.
- e. Prior to any site work a Construction Site Permit shall be required.
- f. All fees, bonds, and insurance shall be provided as per the City of Hood River Engineering Standards.
- g. There is a stockpile of soil on the subject property from the Ryan Juice construction. The soil is slated for removal prior to construction on this site. In any event, if the soil is not removed but engineered for the site, the height of the buildings will not change because “Height” is measured from original ground elevation in accordance with the City Engineering Standards. So the piles of dirt cannot be used to increase the grade on the property.

WATER

- a. City water is available and adequate for the proposed use All piping must be looped, with valves on all legs of system at intersections. Pipe sizes must be consistent with the City’s Water Master Plan.
- b. The City system is available for the proposed use. The system shall be private to the point of connection with the existing City system. The private pressure system must be reviewed and approved by the City Engineer.

SANITARY SEWER:

- a: Sizing of all pipes must meet the City’s Sanitary Sewer Capital Facilities Plan (CFP).

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BUILDING CODE:

- a. Building designs will need to comply with the current version of the Oregon Specialty Codes.
- b. The commercial building indicates Group M and B Occupancies, of Type V-B construction with as much as 12,526 sf on the second floor. Per OSSC, Table 503 the basic allowable building for a Group M or B Occupancy in Type V-B construction is limited to 9,000 sf. Please update your code analysis for this building to include all area increases utilized and show compliance with the provisions of OSSC, Chapter 5.
- c. Building exiting and accessible plumbing features are not indicated on the first floor plan of the proposed commercial building. These items shall be clarified at the time of building permit submittal. OSSC, Section 107.1
- d. Elevators are indicated in each building and shall require separate permits from the State of Oregon.
- e. A geotechnical report shall be required for each building side with design criteria for supporting the proposed buildings. OSSC, Section 1603.0.6
- f. The proposed lateral design of the proposed commercial building is unclear. A structural analysis of the building shall be required at the time of building permit review. OSSC, Section 1603.1
- g. An NFPA 72 compliant fire alarm system shall be required in the proposed hotel to comply with OSSC, Section 907.2.8
- h. An NFPA 14 compliant standpipe system shall be required in the proposed hotel to comply with OSSC, Section 905.3
- i. The proposed buildings shall show compliance with the accessibility requirements found in OSSC, Chapter 11.
- j. The number and location of accessible and Type B units proposed for the hotel is not clear. This information shall be provided at the time of building permit submittal to show compliance with OSSC, Section 1107.6.1.

FIRE CODE:

- a. The following requirements of the Oregon Fire Code (OFC), 2010 edition, shall be met prior to occupancy of the building (the applicable section of the OFC is listed in parentheses).
- b. 105.2.2 Inspection authorized. Before a new operational permit is approved, the fire code official is authorized to inspect the receptacles, vehicles, buildings, devices,

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premises, storage spaces or areas to be used to determine compliance with this code or any operational constraints required.

The inspections described in this section are necessary for the fire code official to determine that the application for an operational permit complies with the code prior to issuing that permit. Operations may not proceed without an operational permit.

General Precautions Against Fire (Chapter 3)

Combustible Waste Material Containers (304) Containers exceeding 5.33 cubic feet (40 gallons) shall be provided with lids. Containers and lids shall be constructed of noncombustible materials or approved combustible materials. Capacity exceeding 1.5 cubic yards dumpsters containers shall not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eaves lines. Exceptions protected by sprinkler system or type I or type II construction

Opening Burning (307) Open burning is prohibited in the City of Hood River. Combustible Waste material, trash and rubbish shall not be burned. Accumulations of such material shall be removed from the site as often as necessary to minimize the hazards.

Miscellaneous Combustible Materials Storage (315) Storage of combustible materials in buildings shall be orderly. Storage shall be separated from heaters or heating devices by distance or shielding so ignition cannot occur. Ceiling clearance shall be maintained 2 feet or more below the ceiling in non-sprinklered areas of building or a minimum of 18 inches below sprinkler head deflectors in sprinklered areas of buildings. Combustible materials shall not be stored in boiler rooms, mechanical rooms or electrical equipment rooms. Attic, under floor and concealed spaces used for storage of combustible materials shall be protected on the storage side as required for 1-hour fire-resistance-rated construction. Openings shall be protected by assemblies that are self-closing and are of noncombustible construction or solid wood core not less than 1.75 inches in thickness. Storage shall be not placed on exposed joints. Outside storage of combustible materials shall not be located within 10 feet of a property line. Combustible material shall not be stored beneath a building or structure. Storage in the open shall not exceed 20 feet in height.

Fire Service Features

Fire Apparatus Access (503.1.1) Fire apparatus roads shall be provided in accordance with Section 503 and 503.2 for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet from fire apparatus access as measured by an approved route around the exterior of the building of facility.

Access Roads (503.2) Fire apparatus access roads shall be maintained free of obstructions at all times. If an access road is required, the minimum clear width shall

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be 20 feet. The surface must be drivable in any weather condition and the grade cannot be greater than 12 percent. A clear height of 13 feet 6 inches shall be maintained at all times. If the access road is 150 feet or longer, an approved turn-around shall be provided. See the Fire Marshal for specific information.

Fire Lane Curbs/Signs (Appendix D 103.6.) Required fire apparatus access lanes (minimum 20') shall be identified by painting the curbs red with white letters stating "No Parking Fire Lane" that are a minimum of 4 inches in height. In lieu of painted curbs, approved signage may be installed at intervals not greater than 25 feet apart. See Fire Marshal for additional information.

Personnel Access (504) An approved access walkway shall be installed leading from the fire access road to the exterior openings.

Premises Identification (505.1) New and existing buildings shall have approved address numbers and/or letters shall be provided in such a position as to be plainly visible and legible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 6 inches high with a minimum width of 0.5 inches on commercial/industrial buildings.

Key Boxes (506) An approved key box shall be installed on the exterior of the building in a location approved by the Fire Marshal. Please contact the Fire Marshal to order the Lock Box.

Water Supply (508) An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction.

Fire Department Access to Equipment (510) Fire protection equipment shall be identified in an approved manner. Rooms containing controls for air-conditioning systems, sprinklers risers and valves, or other fire detection, suppression or control elements shall be identified for the use of the fire department. Approved signs required to identify fire protection equipment and equipment location, shall be constructed of durable materials, permanently installed and readily visible.

Aerial Fire Apparatus Access Roads (Appendix D 105) Buildings or portions of buildings or facilities exceeding 30 feet in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.

Building Services and Systems

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Electrical Equipment, Wiring and Hazards (605) A work space of not less than 30 inches in width, 36 inches in depth and 78 inches in height shall be provided in front of electrical service equipment. Where the electrical service equipment is wider than 30 inches, the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space.

- Exceptions:
1. Where other dimensions are required or allowed by the ICC Electrical Code.
 2. Access openings into attics or under-floor areas which provide a minimum clear opening of 22 inches by 30 inches.

Fire Protection Systems

Fire Protection System Plans (901.2) A fire alarm system in accordance with NFPA 72 shall be provided. Complete plans and specifications for fire alarm systems; fire-extinguishing systems, including automatic sprinklers and wet and dry standpipes; halon systems and other special types of automatic fire-extinguishing systems; basement pipe in lets; and other fire-protection systems and appurtenances thereto shall be submitted to the fire department for review and approval prior to system installation. Plans and specifications for fire alarm systems shall include, but not be limited to, a floor plan; location of all alarm-initiating and alarm-signaling devices; alarm control- and trouble-signaling equipment; annunciation; power connection; battery calculations; conductor type and sizes; voltage drop calculations; and manufacturer, model numbers and listing information for all equipment, devices and materials. **Plans must be stamped by Record of Agent, Engineer, or Architect prior to submitting to Fire Marshal for review.**

Fire Sprinkler Systems (903) An automatic fire sprinkler system shall be installed in accordance to NFPA 13, 2002 edition. **Plans must be stamped by Record of Agent, Engineer, or Architect prior to submitting to Fire Marshal for review.**

Fire Department Connection A Fire Department Connection to the fire sprinkler system shall be installed in a Location approved by the Fire Marshal. This location shall be shown on the Fire Sprinkler System plans. FDC locations shall be free-standing, away from the facility and within 75 feet of a fire hydrant.

Portable Fire Extinguishers (906) Portable fire extinguishers shall be provided in accordance to NFPA 10 and the Fire Marshal.

Fire Alarm Systems (907) An approved manual, automatic or manual and automatic fire alarm shall be provided in accordance with section 907.

Means of Egress

Means of Egress Illumination (1006) Means of egress illumination shall be provided in accordance with the Building Code.

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Exit Signs (1011) Exits and exit access doors shall be marked by an approved exit sign readily visible from and direction of egress travel in accordance to the Building Code.

Means of Egress Plans Floor plans showing the location of all exits and obstructions (IE walls, partitions, desks, etc.) shall be posted in conspicuous places.

Miscellaneous Fire Safety

Fire Safety During Construction (1415). Portable fire extinguishers shall be provided during construction.

Final Fire Inspection. A final fire inspection shall be completed by the Fire Marshal prior to issuance of the Certificate of Occupancy. Periodic inspections will be conducted throughout the building construction phase.

Preplanning Documents. Oregon Fire Code OFC 404

*The Hood River Fire Department develops Pre-Plan Drawings of commercial and multifamily buildings in order to improve our preparedness to respond to emergency situations in such buildings. In order to assist the Fire Department with this program, all new commercial and multifamily buildings built or re-built in the City of Hood River will need to submit one (1) copy of the following construction documents on a CD-ROM (Labeled with **FIRE MARSHAL, Building Name & Address**) in addition to one (1) complete set of drawings.*

This is required at the time of application for a Building Permit.

- A. Floor Plan: (.pdf format)
 1. Footprint of the building including location of.
 - a. Stairwells and access points to stairwells
 - b. Building Lobby
 - c. Elevator Lobby(s)
 - d. Fire Alarm Control Panel/Sprinkler Riser Rooms
 - e. Deferred Construction Submittals
 2. Remote Fire Alarm Annunciator Panels
 - a. Smoke Control Panels
 - b. Standpipe outlets
 3. Site Address/Building Name
 4. Streets fronting property
 5. Parking areas and access roads around building.
 6. Location of fire hydrants,
 7. Any special hazards in building or on site (i.e.: hazardous materials, confined space, etc.)

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- B. Code Summary Floor Plans for each Floor: (.pdf format)**
Clearly label all of the following:
1. Use of each room
 2. OSSC Occupancy classification(s)
 3. Square footage or floor area of each room or area
 4. Occupant load factor used and occupant load for each area and floor
 - a. Complete means of egress, common path of travel, travel distance and diagonal distance
 - b. Type of sprinklers used, show all rated assemblies both vertical and horizontal
 - c. Provide accessible information of site and all parts of the building
 - d. Location of Fire-Rated assemblies and their ratings
 5. Specify model code information, construction type, number of stories and total height (in feet) building square footage/floor, OSSC Occupancy type/floor and building total
- C. Architectural Floor Plans and Roof Plans: (.pdf format)**
1. Specify use of each room/area including shafts, electrical /mechanical rooms and elevators
 2. Roof Plan:
 - a. Show location of new or replaced HVAC, exterior equipment, photo-voltaic arrays, ductwork, vents and screening
 - b. List of equipment and schedule (include weight of equipment)
 - c. Access/egress for roof
 3. Simplified floor plan showing walls, doors, stairs
- D. Exterior Elevation Plans: (.pdf format)**
1. Provide Building heights (floor and roof elevations, grade elevations, view of all sides with exterior design requirements
 2. Exterior stairways, decks and railings
- E. Prior to Final Occupancy sign-offs. Provide the Fire Department an As Built CD-ROM detailing any changes from the initial submission. "Record Documents" shall be detailed in the same format as listed above.**

NOTE: .pdf images shall be formatted so that the image will clearly fit within a 13" x 19" sheet

Summary of Deferred Submittals **

- Remote Fire Alarm Annunciator Panels
- Smoke Control Panels
- Standpipe Locations

** To be provided before issuance of final Fire Department Signoff


This site plan review permit is valid for a period of two (2) years from the written Notice of Decision, or the decision on an appeal, whichever is later. A single one-

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year year extension may be granted by the Director prior to the expiration date if the applicant can demonstrate that circumstance or conditions not known, or foreseeable, at the time of original application warrant an extension of the permit. The extension request must be received by the department no later than 30 days prior to the expiration of the permit.

** To be provided before issuance of final Fire Department Signoff

APPROVED BY THE CITY OF HOOD RIVER CITY COUNCIL this 27 day of June, 2013.



Ed Weathers, President



Cindy Walbridge, Planning Director

Commission Memo

To: Commissioners
From: Michael McElwee
Date: August 20, 2013
Re: Quitclaim Deed with NBW Hood River, LLC

The attached Quitclaim Deed is necessary to resolve use restrictions that may still apply to property previously owned by the Port and are relevant to the proposed NBW Hood River, LLC project at the Nichols Basin. General Counsel Jerry Jaques will provide more background at the meeting.

RECOMMENDATION: Authorize Quitclaim Deed with NBW Hood River, LLC.

AFTER RECORDING RETURN TO:

Jaques, Sharp, Sherrerd, FitzSimons & Ostrye
205 Third Street/P.O. Box 457
Hood River, OR 97031

This space provided for recorder's use.

QUITCLAIM DEED

Port of Hood River, an Oregon municipal corporation, Grantor, releases and quitclaims to **NBW Hood River, LLC**, an Oregon limited liability Company, Grantee, all right, title and interest in and to the real property described as follows:

That tract of land in the City of Hood River, County of Hood River and State of Oregon, lying within the East half of the Nathaniel Coe Donation Land Claim, No. 37, in Section 25, Township 3 North, Range 10 East of the Willamette Meridian, and within Government Lots 7 and 8 of said Section 25, described as follows:

Beginning at the point of intersection of the north line of the Oregon-Washington Railroad and Navigation Company's right-of-way and the centerline of First Street extended Northerly in the City of Hood River, Oregon; and running thence North $0^{\circ}22'30''$ East 574.0 feet along said centerline of the Northerly extension of said First Street to a point 290.52 feet Northerly from the North line of what was the George W. Combs tract of land, which point is the true point of beginning of this description, thence South $89^{\circ}37'30''$ East a distance of 90.0 feet, more or less, to a corner in the West line of that tract of land conveyed to the Port of Hood River by deed recorded July 12, 1955, in Book 55, page 320, Deed Records Hood River County, Oregon; thence North $0^{\circ}22'30''$ East along the West line of said Port of Hood River tract of land a distance of 90.57 feet, more or less, to the North line of that tract of land conveyed to Frank Nichols et al., by deed recorded September 11, 1943, in Book 30, page 260, Deed Records Hood River County, Oregon; thence North $66^{\circ}14'10''$ West 98.06 feet, more or less, along the North line of said Nichols tract of land to the centerline of the Northerly extension of said First Street; thence North $0^{\circ}22'30''$ East 33.52 feet, more or less, along said centerline of the Northerly extension of said First Street to a point therein that is 163.02 feet, measured along said centerline, from the true point of beginning of this description; thence South $89^{\circ}08'28''$ East a distance of 615.0 feet; thence South $0^{\circ}51'32''$ West a distance of 440.62 feet, more or less, to a point in the North right-of-way line of that certain 20-foot road dedicated to the public by deed recorded October 21, 1966, Film No. 661983, Deed Records Hood River County, Oregon; thence North $87^{\circ}05'50''$ West along the North line of said road a

distance of 394.25 feet, more or less, to a corner therein; thence North 66°14'10" West along the North line of said road a distance of 132.02 feet, more or less to a corner therein; thence North 53°16'10" West along the North line of said road a distance of 359.28 feet, more or less, to the South line of that tract of land conveyed to Nichols Boat Works Company by deed recorded January 25, 1955, in Book 54, page 296, Deed Records Hood River County, Oregon; thence South 89°37'30" East a distance of 193.13 feet, more or less, to the true point of beginning of this description.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

The foregoing conveyance includes all of Grantor's right title and interest in the Property arising from that certain agreement recorded as document number 691161 in Records of Hood River County, Oregon.

The true consideration for this conveyance is \$10.00.

(Signatures on following page.)

Dated this _____ day of _____.

Port of Hood River

By: _____
Michael McElwee, Executive Director

State of OREGON)
) ss.
County of Hood River)

This instrument was acknowledged before me on _____, 2013, by
Michael McElwee.

Notary Public – State of Oregon
My Commission Expires: _____