



PORT OF HOOD RIVER COMMISSION

AGENDA

Tuesday, June 7, 2022

Port Conference Room

1000 E. Port Marina Drive, Hood River

1. Call to Order
 - a. Modifications, Additions to Agenda
 - b. Open Public Hearing on Approved Budget for Fiscal Year 2022-2023**
 - c. Public Comment (5 minutes per person per subject; 30-minute limit)

2. Consent Agenda
 - a. Approve Minutes from the May 17, 2022 Regular Session (*Patty Rosas, Page 3*)
 - b. Approve Amendment No. 3 to Contract with Fred Kowell for Financial Services (*Michael McElwee, Page 7*)
 - c. Approve Through the Fence Agreement with Russel Read at the Airport (*Greg Hagbery, Page 13*)
 - d. Approve Addendum No. 2 to Lease with Real Carbon in the Big 7 Building (*Greg Hagbery, Page 21*)

3. Informational Reports
 - a. Bridge Replacement Project Update (*Kevin Greenwood, Page 25*)

4. Presentations & Discussion Items (*None*)

5. Executive Director Report (*Michael McElwee, Page 31*)

6. Commissioner, Committee Reports
 - a. Airport Advisory Committee (Streich, Gehring)
 - b. Bi-State Working Group (Fox, Chapman)

- 7. Close Public Hearing on Approved Budget for Fiscal Year 2022-2023**

8. Action Items
 - a. Approve Contract with Wiss, Janey, Elstner Associates, Inc. for Bridge Wire Ropes Inspection Services Not to Exceed \$30,602 (*John Mann, Page 35*)
 - b. Authorize Selection of Interim Executive Director (*Ben Sheppard, Page 49*)

8. Commission Call

9. Confirmation of Commission Directives to Staff

10. Executive Session under ORS 192.660(2)(e) real estate negotiations; ORS 192.335(9)(a) to consider the employment of an officer, employee, or staff member; and 192.660(2)(f) to consider information or records that are exempt by law from public inspection.

11. Possible Action

12. 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 May 17, 2022 Regular Session
Via Remote Video Conference
5:00 p.m.**

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

**5:00 p.m.
Regular Session**

PRESENT: Commissioners: Ben Sheppard, Kristi Chapman, Mike Fox, and Heather Gehring. Legal Counsel: Anna Cavaleri. From Staff: Michael McElwee, Kevin Greenwood, Greg Hagbery, Daryl Stafford, Genevieve Scholl, John Mann, and Patty Rosas. Guests: Michael Shannon

ABSENT: Hoby Streich, Jerry Jaques

MEDIA: None

1. CALL TO ORDER: Vice President Kristi Chapman called the meeting to order at 4:57 p.m.

a. Modifications or additions to the agenda:

- 1) Staff recommends no Executive Session today.
- 2) Additional Action Item 7(c) that relates to the Lot #900 Memorandum of Understanding (MOU).

b. Public Comment: None

2. CONSENT AGENDA:

- a. Approve Minutes from May 3, 2022, Budget Committee Meeting and Regular Session
- b. Approve Amendment No. 1 to Contract with Bell Design for Engineering Services Related to East Portway Storm Sewer System Project
- c. Approve Accounts Payable to Jaques Sharp in the Amount of \$13,800

Motion: Approve consent agenda.

Move: Mike Fox

Second: Ben Sheppard

Discussion: None

Vote: Unanimous

MOTION CARRIED

3. INFORMATION REPORTS: None

4. PRESENTATION & DISCUSSION ITEMS: None

5. EXECUTIVE DIRECTOR REPORT: Michael McElwee, Executive Director, provided a written report and asked whether the Commission had any questions.

6. COMMISSIONER, COMMITTEE REPORTS:

- a. Commissioner Chapman reported that Michael McElwee provided an excellent presentation of the history of the Port's involvement with Urban Renewal. Urban Renewal will review all the information and continue the discussion on whether to keep the Waterfront open.

7. ACTION ITEMS:

- a. **Authorize Notice of Intent to Award and Negotiations with HNTB Corporation for Project Management Services Related to Replacement of the Hood River Interstate Bridge.** Commissioner Fox commented that the evaluation is complete and there was consensus to make the Award to HNTB Corporation (HTNB). Commissioner Fox added that HNTB was well qualified

and had a strong presence. There was also consensus from the Bi-State Working Group (BSWG) to bring forward the recommendation to the Board to make the Award to HNTB.

Motion: Authorize Notice of Intent to Award and Negotiations with HNTB Corporation for Project Management Services Related to Replacement of the Hood River Interstate Bridge.

Move: Mike Fox

Second: Ben Sheppard

Discussion: None

Vote: Unanimous

MOTION CARRIED

- b. **Authorize Application for \$195 million U.S. DOT Multimodal Projects Discretionary Grant for Replacement of the Hood River Interstate Bridge.** Commissioner Fox noted that there is an opportunity to apply for funding through Multimodal Projects Discretionary Grant (MPDG). The request is for \$195 million. The application is due May 23.

Motion: Authorize Application for \$195 million U.S. DOT Multimodal Projects Discretionary Grant for Replacement of the Hood River Interstate Bridge.

Move: Mike Fox

Second: Ben Sheppard

Discussion: None

Vote: Unanimous

MOTION CARRIED

- c. **Authorize the Memorandum of Understanding between the Port of Hood River and Project^ for the development of Lot #900, subject to General Counsel review and Executive Director approval.**

Motion: Authorize the Memorandum of Understanding between the Port of Hood River and Project^ for the Development of Lot #900, subject to General Counsel review and Executive Director approval.

Move: Ben Sheppard

Second: Mike Fox

Discussion: None

Vote: Unanimous

MOTION CARRIED

8. COMMISSION CALL:

- a. Commissioner Fox introduced Michael Shannon, head of the HNTB team, and notified him that the Port has authorized the Intent to Award and negotiations with HNTB. Shannon gave thanks to the Commission and is looking forward to getting the project started.

9. CONFIRMATION OF COMMISSION DIRECTIVES TO STAFF: None

10. EXECUTIVE SESSION: This item has been deferred to the next Commission meeting.

11. POSSIBLE ACTION: None

12. ADJOURN:

Motion: Adjourn the meeting
Vote: Unanimous
MOTION CARRIED

The meeting adjourned at 5:15 p.m.

Respectfully submitted,

Patty Rosas

ATTEST:

Mike Fox, Secretary

Ben Sheppard, President (In absence of Secretary)

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Commission Memo



Prepared by: Michael McElwee
Date: June 7, 2022
Re: Fred Kowell Consulting Contract –
Amendment No. 3

This extension of the current contract with the Port's retired CFO is needed due to additional work required for the Port of Cascade Locks fee reconciliation and the interim audit work due at the end of June. The prior extension was related to the budget work necessary to bring the FY 2022-23 budget to the adopted phase.

Kowell believes this extension should provide enough capacity to transition the new CFO when he/she becomes available for training and weekly/monthly tasks and projects as needed. This extension is based upon the specific knowledge he brings to the Port such that the time to complete a task/project will be more efficient.

RECOMMENDATION: Approve Amendment No. 3 to contract with Fred Kowell for an additional \$16,000 for a total of \$72,000, subject to legal counsel review.

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**Personal Services Contract
For Services – Amendment 3
Amended for an additional \$16,000 for a total contract amount of \$72,000**

1. This Contract is entered into between the Port of Hood River ("Port") and **Fred Kowell** ("Contractor"). Contractor agrees to perform the Scope of Work described in attached Exhibit A to Port's satisfaction for a maximum consideration not to exceed **\$72,000**. Port shall pay Contractor in accordance with the schedule and/or requirements in attached Exhibit A.
2. This Contract is an amended amount and shall be in effect from the date at which every party has signed this Contract through the date at which funds are exhausted. Either Contractor or Port may terminate this Contract in the event of a breach of the Contract by the other. Port may terminate this Contract for any reason by giving 30 days written notice to Contractor at Contractor's address listed below. If Port terminates this Contract, Contractor shall only receive compensation for work done and expenses paid by Contractor prior to the Contract termination date.
3. All work products of the Contract, which result from this Contract, are the exclusive property of Port. Port shall have access to all books, documents, papers and records of Contractor which relate to this Contract for purpose of making audit, examination, excerpts, and transcripts for a period of three years after final payment.
4. Contractor will apply that skill and knowledge with care and diligence to perform the work in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession. Contractor will, at all times during the term of the Contract, be qualified, professionally competent, and duly licensed to perform the work.
5. Contractor certifies that Contractor is an Independent Contractor as defined in ORS 670.600 and shall be entitled to no compensation other than that stated above.
6. Contractor shall indemnify, defend, save, and hold harmless Port, its Commissioners, officers, agents, and employees from all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of Contractor or its subcontractors, agents or employees under this Contract. Contractor shall carry insurance as described in Exhibit B.
7. This Contract may be executed in any number of counterparts, and any single counterpart or set of counterparts signed, in either case, by all parties hereto shall constitute a full and original instrument, but all of which shall together constitute one and the same instrument.
8. This Contract shall be governed by the laws of the State of Oregon and any litigation involving any question arising under this Contract must be brought in the Circuit Court in Hood River County, Oregon. If any provision of this Contract is found to be illegal or unenforceable, this Contract shall remain in full force and effect and the provision shall be stricken.
9. Contractor shall adhere to all applicable federal, state, and local laws and regulations, including those governing its relationship with its employees.
10. This Contract contains the entire agreement between Contractor and Port and supersedes all prior written or oral discussions or agreements. Any modification to this Contract shall be reduced to writing and signed by the Contractor and Port. Contractor shall not assign this Contract or subcontract its work under this Contract without the prior written approval of Port.
11. The person signing below on behalf of Contractor warrants they have authority to sign for and bind Contractor.

Fred Kowell
752 NE Royal Court
PORTLAND OR 97232
(503) 308-2672

Date

Michael S. McElwee
Executive Director
1000 E. Port Marina Drive
Hood River OR 97031

Date

**Personal Services Contract
Exhibit A**

I. SCOPE OF WORK:

All accounting, budgetary, tolling, and financial requests that are approved by Port management which relates directly to the Port's financial systems, financial planning, budget development, accounting, investments, debt, tolling and contract information and development. In addition, information related to known computer software applications including the BreezeBy, Great Plains (Microsoft Dynamic Solutions) and agreed upon applications that the Port would like assistance on.

This Personal Services Contract supersedes any other prior contract.

II. DELIVERABLES AND TIMEFRAME:

The deliverable(s) covered under this Contract shall be: Respond within a 48-hour period or less based upon the severity and risk related to the issue at hand. Tolling and financial issues discussed above may need immediate attention versus being project oriented, thus, the timeframe for the deliverable(s) shall be: **as requested by Port of Hood River management.**

III. CONSIDERATION:

Hourly rates under this Contract shall be \$ 195/hr.

Port shall reimburse Contractor for reasonable expenses associated with the travel, and an ancillary costs associated to be on site based upon time constraints.

IV. BILLING AND PAYMENT PROCEDURE:

The Contractor shall submit to the Port for payment an itemized invoice in a form and in sufficient detail to determine the work performed for the amount requested. The invoice shall contain at a minimum:

- Invoice date
- Project or task title
- Record of hours worked and a brief description of activities
- Billing rate applied
- Description of reimbursable items

Invoices may be submitted monthly, or at such other interval as is specified below:

The Port shall process payment in its normal course and manner for Accounts Payable, net 30 days.

**Personal Services Contract
Exhibit B**

INSURANCE

During the term of this Contract, Contractor shall maintain in force at its own expense, each insurance noted below:

1. Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. (Required of contractors with one or more employees, unless exempt order ORS 656.027.)

_____ Required and attached OR ___x___ Contractor is exempt

Certified by Contractor: _____
Signature/Title

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2. Commercial General Liability insurance on an occurrence basis with a limit of not less than \$1,000,000 each occurrence for bodily injury and property damage and \$2,000,000 general aggregate. The Liability Insurance coverage shall provide contractual liability. The coverage shall name the Port of Hood River and each of its Commissioners, officers, agents, and employees as Additional Insured with respect to the Contractor's services to be provided under the Contract.

_____ Required and attached Waived by Executive Director ___X_____

3. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

_____ Required and attached Waived by Executive Director ___X_____

4. Professional Liability insurance with a \$1,000,000 per claim and \$1,000,000 in the aggregate for malpractice or errors and omissions coverage against liability for personal injury, death or damage of property, including loss of use thereof, arising from the firm's acts, errors or omissions in any way related to this Contract.

_____ Required and attached Waived by Executive Director ___X_____

5. On All Types of Insurance. There shall be no cancellation or intent not to renew the insurance coverages without 30-days written notice from the Contractor or its insurer(s) to the Port, except 10 days for premium non-payment.

6. Certificate of Insurance. As evidence of the insurance coverage required by this Contract, the Contractor shall furnish acceptable insurance certificates to the Port at the time Contractor returns the signed Contract. The General Liability certificate shall provide that the Port, its Commissioners, officers, agents, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract. Endorsement CG 20 10 11 85 or its equivalent must be attached to the Certificate. The Certificate shall provide that the insurance shall not terminate or be canceled without 30 days written notice first being given to the Port. Insuring companies or entities are subject to Port acceptance. If requested, complete copies of the insurance policy shall be provided to the Port. The Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

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Commission Memo



Prepared by: Greg Hagbery
Date: June 7, 2022
Re: Through the Fence Agreement - Airport

Attached is a Through the Fence Airport Access Agreement with Russel Read and Judith Frey, for their property located at 1658 Orchard Road. This residence had a previous Through the Fence Agreement that is set to expire. The Agreement defines allowed use of access and costs. The Agreement has a five-year renewal term, just as previous agreements.

If approved, staff will execute the Agreement once payment and insurance requirements are verified.

RECOMMENDATION: Approve Through the Fence Airport Access Agreement with Russel Read and Judith Frey for the property located at 1658 Orchard Road in Hood River.

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Residential Through the Fence Agreement

This Airport Access Agreement ("Agreement") is made and entered into this ___ day of _____, 2022, by and between the PORT OF HOOD RIVER, a State of Oregon municipal corporation ("Owner" or "Port"), and Russel Philip Read and Judith Oriole Frey, individuals ("User"), who own property located at:

*1658 Orchard Road
Hood River, OR 97031 ("Property")*

This Agreement incorporates and is based upon the following representations and understandings:

WHEREAS, Port is the owner and operator of the Ken Jernstedt Airfield, located in the County of Hood River, State of Oregon ("Airport"), with the power to grant rights and privileges with respect to the Airport, pursuant to the provisions of ORS 777.210 (6) and ORS 777.258, among other federal, state, and local laws, rules and regulations; and

WHEREAS, User owns real property immediately adjacent to the physical property of the Airport; and

WHEREAS, User seeks the right to taxi aircraft from User's Property "through-the-fence" to the Airport property and to its runway and taxiway system; and

WHEREAS, the parties desire to enter into this Agreement to comply with the FAA Modernization and Reform Act of 2012 (P.L. 112-95) section 136 that permits general aviation airport sponsors to enter into residential through-the-fence agreements with property owners or associations representing property owners provided these agreements comply with certain conditions set forth in this Agreement;

Now, therefore, and in consideration of the mutual terms and conditions hereinafter set forth, the Owner and User hereby agree to the following:

ARTICLE I – PROPERTY WITH RIGHT OF ACCESS

Legal description and tax lot number of property with right of access:
02N10E11A-lot 1300.

ARTICLE II – TERM OF AGREEMENT

The term of this Agreement shall commence on the date of this Agreement entered above and shall continue through and including May 31, 2027. The Port may choose to extend this Agreement or enter into a similar agreement prior to the Agreement expiration date, in the Port's sole discretion. This Agreement is non-transferable. This Agreement does not run with the User's land. Any change of ownership of the Property with right of access will void this Agreement.

ARTICLE III – PROHIBITIONS

1. No Commercial Aeronautical Uses: User shall not engage in, nor permit any other person or

entity to engage in, any temporary or permanent commercial aeronautical activity on User's Property. This prohibition includes but is not limited to any activity or service for compensation, exchange, trading, buying, selling or hire or any other revenue production activity whether or not a profit is derived, which makes possible, or is required for the operation of an aircraft, or contributes to or is required for, the safety of such operations.

2. Sale of Aviation Fuels Prohibited: User shall not sell, nor permit any other person or entity to sell aviation fuels on User's Property.
3. Prohibitions and Restrictions on Access: User is specifically prohibited from granting or selling any access to/egress from the Airport through User's Property to any other parties. This restriction also includes User taking reasonable precautions acceptable to Owner to prevent the accidental access to the Airport by vehicles, pedestrians, pets, etc.

ARTICLE IV – ACCESS REQUIREMENTS

User agrees to:

1. Possess a current pilot license during the term of this Agreement, a copy of which must be provided to the Port at the outset of this Agreement and when requested.
2. User's aircraft must have a valid FAA "N" number. That number must be provided to the Port at the outset of this Agreement and when requested.
 - a. N726TB Socata TB21
 - b. N278SE
3. User shall provide the Port with a Certificate of Insurance for Airport Premises Liability with the following coverage provided: minimum limits of \$1,000,000 CSL (combined single limit). The policy shall be issued in the name of User and name the Port of Hood River as Additional Insured, with the right to receive at least 30 days prior written notice of insurance cancellation and notice of renewal. Failure to provide or keep in force such insurance shall be a default and is cause for termination of the Agreement.

ARTICLE V-ACCESS FEE TO OWNER

User agrees to pay an access fee to Owner as described below:

1. Owner's Basis for Access Fee: User's access fee is based on the monthly tie-down rate charged to Airport tenants using the Airport south apron area. User's access fee is subject to annual adjustments by Owner when Airport tie down fees are changed.
2. User's Access Fee: Based upon the current Airport tie down rate User's current access fee payable to Owner is \$35.00/month or \$420.00/year. User's access fee may be paid in advance on the 1st of each month, or in advance annually for the succeeding twelve months, or at the end of the term if less than twelve months remains payable through the remainder of the term. User's access fee will be increased by Owner based on annual fee adjustments made to Airport tie down rates throughout the term of this Agreement. Owner will notify User of increases in User's access fee when Airport tie down rates change.
3. Payment: All payments required to be made by User under this Agreement shall be made payable to the Port of Hood River, and shall be delivered or mailed to the address below:

Port of Hood River
1000 E. Port Marina Drive
Hood River, OR 97031

4. Penalty for Late Payment: Owner will assess a late penalty of \$25 for every day User fails to

remit payment after the payment due date described above.

ARTICLE VI - CONSTRUCTION AND MAINTENANCE OF PRIVATE-USE INFRASTRUCTURE

It is understood and agreed that User shall construct and install all private-use infrastructure, required and acceptable to Owner, or if in Owner's discretion Owner chooses to construct or install any private use infrastructure for User's access to the Airport, Owner shall notify User and upon Owner's completion of such construction or installation User shall promptly reimburse Owner for all Owner's costs. All required private-use infrastructure such as taxiway, fence, sign(s), taxiway lights, gates, security controls, etc., shall be listed and depicted in an Exhibit to this Agreement, and be coordinated and scheduled by the Port in cooperation with User. Accordingly, User covenants and agrees as follows:

1. Construction and Maintenance: All construction on Owner's property or User's property must be approved by Owner 90 days prior to the commencement of construction. During the term of this Agreement User shall also be solely responsible for all maintenance of said private-use infrastructure at User's cost and shall at all times maintain it in good repair.
2. Construction Costs: Notwithstanding anything herein contained to the contrary, User expressly agrees to pay any and all costs associated with private-use infrastructure (taxiway, fence, signs, taxiway lights, electrical power, gates, security controls, etc.) required by Owner. These costs are in addition to the access fees described above.

ARTICLE VII – AGREEMENT IS SUBORDINATE TO GRANT ASSURANCES, AGREEMENTS WITH UNITED STATES, AND FEDERAL OBLIGATIONS.

This Agreement shall be nonexclusive and shall at all times be subordinate to the provisions of any existing or future agreements between Owner and the United States Government, or to any order issued by the United States Government, or to any grant assurances affecting Owner or the Airport, or to any Airport or Owner Federal obligations.

User agrees to abide by Owner's Airport rules and regulations in effect as of the date of this Agreement and as may be adopted or amended from time to time. When entering onto the Airport User will use a radio to confirm current Airport activities, use 360 degree visual observation, and make a radio announcement before entering the Airport area to proceed with flight run-up procedures.

User for himself, his heirs, personal representatives, successors in interest, and assigns as part of the consideration hereof, does hereby covenant and agree that in the event facilities are constructed, maintained, or otherwise operated on the Property or Airport for a purpose for which a DOT program or activity is extended or for another purpose involving the provision of similar services or benefits, User shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 29 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

User for himself, his heirs, personal representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that User shall use the premises in compliance

with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted Programs of the Department of Transportation, and as said Regulations may be amended.

ARTICLE VIII - TERMINATION OF AGREEMENT

1. Events of Default by User: Owner, at its option, may declare this Agreement terminated in its entirety if User breaches any condition of this Agreement, including upon the happening of any one or more of the following events, and may exercise all rights related to the termination of this Agreement:
 - a. The User access fees described in Article V, or any part thereof, are unpaid for 30 days, or
 - b. If User shall file a voluntary petition in bankruptcy, or make a general assignment for the benefit of creditors, or if User is adjudicated as bankrupt, or User otherwise assigns or attempts to assign User's interest herein without the prior written consent of Owner; or
 - c. If User shall use or permit the use of the User's premises at any time for any purpose which is not authorized by this Agreement, or if User shall use or permit the use thereof in violation of any law, rule or regulation, (including DOT or Airport rules and regulations), to which the User has agreed to conform.
 - d. User fails to comply with any term or condition of this Agreement.

2. Notice of Default: If User shall default in the performance of any provision of this Agreement (except the payment of fees), then Owner shall send to User a written notice of default, specifying the nature of the default, and User shall, within thirty (30) days after the date of the notice, cure and remedy the default, and this Agreement shall then continue as before.
 - a. If User shall fail to timely cure and remedy such default, Owner shall have the right to declare, by written notice to User, that User is in default, and to use all remedies available to Owner under this Agreement. However, if by its nature, such default cannot be cured within such thirty (30) day period, such termination shall not be effective if User commences to correct such default within said thirty (30) days and corrects the same as promptly as reasonably practicable.
 - b. Termination of this Agreement for non-payment of fees to Owner by User shall not become effective until after the expiration of fifteen (15) days after written notice thereof by Owner to User and User fails to pay all moneys owed, fully within said period.

ARTICLE VIII – NOTICES

Notice/Addresses: All notices, requests, or other communications, required or permitted to be given hereunder shall be in writing and delivered by via certified or registered mail, addressed to the appropriate party at its address as follows:

Port of Hood River
1000 E. Port Marina Drive
Hood River, OR 97031

Signatures on next page.

IN WITNESS WHEREOF, the parties have executed this Agreement.

User: Russel P. Read and Judith O. Frey Owner: Port of Hood River

By: _____
Russel P. Read

By: _____
Michael McElwee
Executive Director

By: _____
Judith O. Frey

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Commission Memo



Prepared by: Greg Hagbery
Date: June 7, 2022
Re: Real Carbon Inc. - Lease Addendum No.2

Real Carbon Inc. has been a tenant of the Port since 2011 and has been in the Big 7 Building since 2015. They lease R&D space for their work in the aviation technology industry. Real Carbon has informed the Port that they wish to exercise a lease extension for a six (6) month period, terminating November 30, 2022, to allow time for them to move their business to Camas, Washington.

RECOMMENDATION: Approve Addendum No. 2 to Lease with Real Carbon, Inc. at Suite 101 of the Big 7 Building.

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ADDENDUM NO.2 TO LEASE

Whereas, the Port of Hood River (“Lessor”) and Real Carbon Inc, (“Lessee”) entered into a lease of Suite 101 in the Big 7 Building (“Building”) located at 616 Industrial Street, Hood River, Oregon (“Leased Premises”), effective January 1, 2021 (“Lease”); and,

Whereas, Lessee Addendum No. 1 extended the lease through June 30, 2022; and

Whereas, Lessee has requested a lease extension through November 30, 2022 to coordinate relocation of business to Camas, Washington;

Therefore, now, Lessor and Lessee agree as follows:

1. The Lease term shall be renewed and the Lease shall remain in effect through November 30, 2022.
2. Lessee shall have the option to terminate this extension at any time with 30-day notice to Lessor.

Except as modified by Addendum No.1, and this Addendum No. 2 to Lease, all terms and conditions of the Lease as shall remain in full force and effect.

DATED THIS _____ DAY OF _____ 2022.

By: _____
Michael S. McElwee, Port of Hood River, Executive Director

By: _____
Michael Graham, Real Carbon Inc.,

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Hood River – White Salmon

BRIDGE REPLACEMENT PROJECT

Project Director Report

June 7, 2022

The following summarizes Bridge Replacement Project activities from May 15-June 2, 2022:

PROJECT MANAGEMENT CONTRACT PROCESS

- *Negotiations are currently underway.*
- *Still looking at July 12 action item from Commission.*
- *Commissioner Fox, Project Director Kevin Greenwood and Property Manager Greg Hagbery are involved in negotiations along with the Port's technical advising firm, Arup Engineering. Bill Ohle, outside counsel, has also been involved.*

GRANT FUNDING UPDATES

- *The Port has submitted its first reimbursement invoice to WSDOT and ODOT. A copy of the quarterly tracking document is included in the packet.*
- *Staff and WSP continues to work with FHWA to finalize the BUILD 2020 grant agreement.*
- *Staff met with WSDOT planning staff to identify yearly use of \$75M starting in FY23-25 biennium.*

GOVERNANCE/BRIDGE AUTHORITY PROGRESS

- *Steve Siegel, staff and Commissioner Benton are working through elements of the Commission Formation Agreements. Benton agreed to serve on the sub-committee to begin crafting the document required for all six local governments to adopt. CFAs are still scheduled for a late 2022 adoption.*

WSDOT CRITICAL RURAL FREIGHT CORRIDOR

- *In 2017, Klickitat County and the SWRTC successfully advocated for the Hood River Bridge to be identified on the WSDOT CRF System.*
- *This is a five-year designation and needs to be re-authorized every five years.*
- *Effective marketing designation for grant applications*

NEPA/TRIBAL PROGRESS

- *Monthly update included in packet.*

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BRIDGE REPLACEMENT PROJECT UPDATE

JUNE 2022 UPDATE

The Hood River-White Salmon Interstate Bridge is a vital transportation link connecting Hood River, Oregon with the communities of White Salmon and Bingen in Washington. Since 2003, the Port of Hood River (Port) has been working to advance the replacement of this bridge that was originally constructed in 1924. Currently, the Port is advancing the design of the replacement bridge, completing environmental review and positioning the project for future funding and construction. A Bi-State Working Group (BSWG) consisting of Mayors and County Commissioners from both Hood River and Klickitat Counties monitors the project and advises the Port on bridge replacement activities.

Current Project Activities:

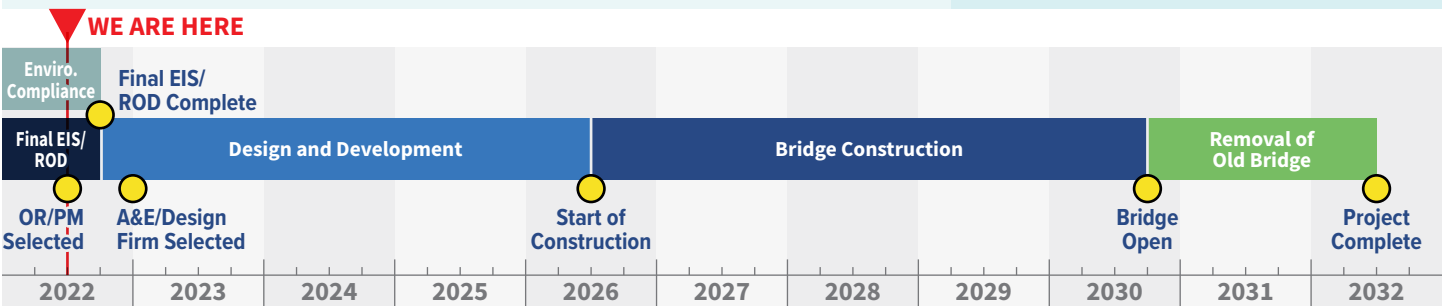
- **Work continues on tasks necessary to finalize the National Environmental Policy Act review. Current activities include:**
 - Reaching agreement on tribal compensatory agreements for impacts to treaty fishing activities during construction.
 - Completion of the Endangered Species Act consultation with NOAA Fisheries.
 - Finalizing Section 106 process including meeting with consulting parties and completion of the mitigation agreement for impacts to the historic bridge.
- Owners Representative/Project Management procurement nearing completion. Contract negotiations with the selected firm are underway. Project Management contract will represent the Port/Bi-State Working Group for the duration of the replacement project. This is a key contract for providing technical expertise and staff resources to the region as contracts for engineering and construction are pursued and managed.
- Negotiations with FHWA on the BUILD grant agreement continue.
- Project team has completed a highly-competitive federal Multimodal Project Discretionary Grant (MPDG) grant application for \$195M to fund a portion of the bridge construction costs.
- The BSWG is planning an advocacy trip to Washington D.C. in July.



How would bridge replacement benefit the Columbia River Gorge communities?

The Hood River Bridge provides a critical connection for residents and visitors to the Columbia River Gorge National Scenic Area. One of only three bridges spanning the Columbia in this region, the bridge is a critical rural freight network facility for agriculture, forestry, heavy industry and high-tech companies with freight originating throughout the northwest. The existing bridge is nearing the end of its serviceable life and is obsolete for modern vehicles with height, width, and weight restrictions and is also a navigational hazard for marine freight vessels. The bridge has no sidewalks or bicycle lanes for non-motorized travel and would likely not withstand a large earthquake.

If project funding is secured, the new bridge would provide a safe and reliable way for everyone to cross or navigate the Columbia River—by car, truck, bus, bicycle, on foot, or on the water. A new bridge would support a thriving economy and livable communities.



To learn more about the project, please visit us at:
www.portofhoodriver.com/bridge

PROJECT CONTACT

Kevin Greenwood, Project Director
 ☎ 541-436-0797
 @ kgreenwood@portofhoodriver.com

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PROJECT TOTALS BY FUNDER (2022 Q1)

		FHWA	ODOT			WSDOT			OTHER	TOTAL
		80%	OTHER	OTHER	TOTAL	20%	OTHER	TOTAL	TOTAL	
PERSONAL SERVICES										
	Wage Rate			\$ 14,546.76	\$ 14,546.76		\$ 9,751.02	\$ 9,751.02	\$ 24,297.78	
	Insurance			\$ 2,667.90	\$ 2,667.90		\$ 2,667.90	\$ 2,667.90	\$ 5,335.80	
	Taxes, etc.			\$ 2,378.85	\$ 2,378.85	\$ -	\$ 2,378.85	\$ 2,378.85	\$ 4,757.70	
	SUBTOTAL	\$ -	\$ -	\$ 19,593.51	\$ 19,593.51	\$ -	\$ 14,797.77	\$ 14,797.77	\$ 34,391.28	
MATERIALS & SERVICES										
	<i>Administrative</i>				\$ -		\$ -	\$ -		
	Advertising/Notices/Print		\$ -	\$ -	\$ -		\$ 4,482.92	\$ 4,482.92	\$ 4,482.92	
	Computer/IT		\$ -	\$ -	\$ -		\$ 85.99	\$ 85.99	\$ 85.99	
	Office Supplies		\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	
	Phone/Internet		\$ -	\$ -	\$ -		\$ 130.15	\$ 130.15	\$ 130.15	
	Training		\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	
	<i>Subtotal</i>				\$ -		\$ 4,699.06	\$ 4,699.06	\$ 4,699.06	
	<i>Travel and Reimbursements</i>									
	Housing			\$ 210.24	\$ 210.24				\$ 210.24	
	Mileage			\$ 245.70	\$ 245.70				\$ 245.70	
	Other				\$ -				\$ -	
	<i>Subtotal</i>			\$ 455.94	\$ 455.94				\$ 455.94	
	<i>Legal</i>									
	Contract Counsel			\$ -	\$ -		\$ 2,475.00	\$ 2,475.00	\$ 2,475.00	
	Outside Counsel			\$ 17,497.72	\$ 17,497.72		\$ -	\$ -	\$ 17,497.72	
	<i>Subtotal</i>			\$ 17,497.72	\$ 17,497.72		\$ 2,475.00	\$ 2,475.00	\$ 19,972.72	
	<i>Contracted Project Advisors</i>									
	Enviro/Sec 106/Treaty (WSP)			\$ 24,226.65	\$ 24,226.65		\$ 14,407.47	\$ 14,407.47	\$ 38,634.12	
	Financial Advising (Siegel)			\$ -	\$ -		\$ -	\$ -	\$ -	
	Governance Advising (Siegel)			\$ 9,476.25	\$ 9,476.25		\$ 25,293.75	\$ 25,293.75	\$ 34,770.00	
	Tribal Assistance			\$ -	\$ -		\$ -	\$ -	\$ -	
	Project Management (RBMC)			\$ -	\$ -		\$ -	\$ -	\$ -	
	AE/Design			\$ -	\$ -		\$ -	\$ -	\$ -	
	Geotechnical			\$ -	\$ -		\$ -	\$ -	\$ -	
	Public Involvement			\$ -	\$ -		\$ -	\$ -	\$ -	
	Traffic & Revenue			\$ -	\$ -		\$ -	\$ -	\$ -	
	P3 Consulting			\$ -	\$ -		\$ 810.00	\$ 810.00	\$ 810.00	
	Project Delivery Support			\$ -	\$ -		\$ -	\$ -	\$ -	
	Other			\$ -	\$ -		\$ -	\$ -	\$ -	
	Other			\$ -	\$ -		\$ -	\$ -	\$ -	
	<i>Subtotal</i>			\$ 33,702.90	\$ 33,702.90		\$ 40,511.22	\$ 40,511.22	\$ 74,214.12	
	<i>Project Services</i>									
	Graphic Design				\$ -		\$ -	\$ -	\$ -	
	DOT/Agency Review				\$ -		\$ -	\$ -	\$ -	
	Other				\$ -		\$ -	\$ -	\$ -	
	<i>Subtotal</i>				\$ -		\$ -	\$ -	\$ -	
	Other				\$ -		\$ -	\$ -	\$ -	
	SUBTOTAL	\$ -	\$ -	\$ 51,656.56	\$ 51,656.56	\$ -	\$ 95,370.56	\$ 47,685.28	\$ 99,341.84	
CONTINGENCY										
	Contingency	\$ -			\$ -	\$ -		\$ -	\$ -	
	SUBTOTAL	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
	REIMBURSE TOTAL	\$ -	\$ -	\$ 71,250.07	\$ 71,250.07	\$ -	\$ 110,168.33	\$ 62,483.05	\$ 133,733.12	
	BEGIN BALANCE	\$ 5,000,000.00			\$ 5,000,000.00			\$ 5,000,000.00	\$ 15,000,000.00	
	REMAINING BAL	\$ 5,000,000.00			\$ 4,928,749.93			\$ 4,937,516.95	\$ 14,866,266.88	

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Administration

- The June 7 meeting will include time for the required public hearing on the Approved FY 22/23 Budget. The Commission will then direct any final changes prior to adoption at the June 21 meeting.
- The solicitation period for the Chief Financial Officer position closed Friday, June 3. There were a total of six applicants. Erick Jensen of Jensen Strategies will do screening interviews and recommend a short list. I will conduct in-person interviews and then recommend candidates for subsequent staff interviews for approval by Commissioners Sheppard and Chapman.
- Fred has a limited number but important work tasks for the Port. He will finish the FY 23 Budget through adoption, complete filing with the State, prepare the FY 21/22 budget transfer, complete the interim audit, and conduct the annual POCL reconciliation. In addition, Fred will transfer Cash/AP/AR/Breeze-by reporting responsibilities to finance staff and train project staff on grant reporting (FAA, State & Federal).
- I will be attending the Pacific Northwest Waterways Association Summer Conference in Spokane June 21, 22 and 23 to give a presentation and participate in meetings of the Executive Committee and Board of Directors. With my coming retirement, PNWA Executive Director has asked if any Commissioners are interested in participating. If you have questions, or are interested, please let me know.
- I will be making presentations to the Hood River Rotary Club on June 30 and Eyeopener Lions Club on June 28. Staff at the Columbia River Gorge Commission have asked Kevin and I to participate in their Board meeting on June 14 to recognize my retirement and hear an update on bridge replacement efforts.
- Genevieve and I met with Senator Jeff Merkely's Chief of Staff Mike Zamore and field representative Dan Mahr on June 1. Mr. Zamore's brief visit was part of a larger tour of the senate district and presented a good opportunity to familiarize him with Port priority projects and express our thanks for the Senator's advocacy and support in the past.

Recreation/Marina

- We have had a good response to the advertisement for the summer employees. All the Event Site positions have been filled. The Facilities Dept. is still seeking their final hire for the summer.

- All restrooms will be open to the public on June 15, 2022. Currently all are open with the exception of Marina Point bathroom. The Event Site booth opened May 27, prior to the Memorial day Weekend.
- Signs have gone up at the entrance to The Hook and Jensen West Parking lot for “No RVs, Trailers or Vehicles over 22 feet.” This was a recommendation from the Waterfront Committee & the CGW2 for safety concerns and to help alleviate congestion.
- The Youth Gorge Jr. Sailing Program starts up on June 13th and will be offering kids camps and lessons throughout the Summer. Wet Planet started their kids kayak program at Nichols Basin last weekend and they will be running camps though August.
- CGW2’s first gear swap of the season that is held on the south end of Lot #1 was rescheduled from Memorial Day weekend due to the rain to Sunday June 5th. The proceeds from the swap is used to support their Gorge Groms kids windsurfing and SUP program at The Hook.

Development/Property

- Elaine Howard has prepared a draft scope of work to carry out a financial analysis of options that would continue but significantly reduce the size of the Waterfront Urban Renewal District. Commissioner Chapman has reviewed the draft and I have shared it with City staff. The City has scheduled me to give a presentation to the Urban Renewal Advisory Committee (URAC) on June 16. The matter is also on the agenda for consideration at the July 11 Hood River Urban Renewal Agency Board meeting.
- Best Defense, our private night-time security firm, has informed us they will not be providing security after their contract expires the end of June. The company is going in a different direction and private security is not part of their business model. We will need to identify a new security firm for overnight waterfront security and surveillance.
- Wy’east Labs will be moving out of suites 100 & 200 of the Timber Incubator Building at the end of June. Staff is working with CG Operations, an industrial hemp processor, to fill both spaces beginning in July.
- The City of Hood River is scheduled to hold a pre-application conference with Hacker Architects (of team Project^) on June 15, to discuss the Lot #900 proposal.
- Our \$2.9 million EDA grant application was unsuccessful. Wes Cochrane, EDA Grants Administrator, was very complimentary of our application, but stated that in his eight-state West Coast region there were 140 applications, \$400 million in funding requests, and \$59 million in grant funds available. This outcome certainly means that construction of N. 1st St. is not possible with out URA funding and likely some other sources.

Airport

- The delivery date for the new AV Gas tank is now scheduled for June 24.
- We are continuing to wait for costs associated with the DEQ Cost Recovery Agreement for review of the UST decommissioning project.
- The AAC called for a meeting on June 16th, specifically to review new committee membership applications. The goal of this meeting is to develop a list of characteristics and qualities that would best serve the committee in its advisory role and the airport at large. All six applications received by the Port and the list of AAC recommended qualities will be provided to the Commission at the next regular meeting on June 21, where the Commission should select three candidates to become new AAC members.

Bridge/Transportation

- New signage stating the lower speed limit on the Bridge was installed on May 27. See photo. The new speed limit generated a significant amount of public comment on social media.
- The Bridge Approach Rehabilitation Project is now scheduled to occur over three days June 10, 11 and 12. The official public notice has been issued, with media coverage in the Columbia Gorge News, Gorge radio stations, and KATU news in Portland. As the Commission is aware, significant public comment has been received already due to local high school graduations that weekend. The rain date schedule is June 24, 25, 26. Variable message signage notification at the bridge approaches began Friday, the ODOT and WSDOT VMS signs will display alerts beginning Monday, and the contractor will place VMS signs at eight other locations in the Gorge.
- HDR engineer Mark Libby has prepared draft plans for the lateral bracing retrofit of the south approach ramp. Staff reviewed the plans and specification with Mark on June 1. This is the work that has to be completed to keep the bridge's current weight rating and a pre-condition to increasing the weight limit.
- A semi-truck impacted the guard rail on Saturday, May 21 requiring some damaged rail to be replaced. All driver information was obtained and a claim has been submitted through Columbia River Insurance.
- Genevieve and Marcela are working to hire a new part-time toll collector to cover mostly weekend shifts at least through the summer. So far, they have received 23 applications.



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Commission Memo



Prepared by: John Mann
Date: June 7, 2022
Re: Wire Rope Inspection

In April of 2021, Wiss, Janney, Elstner Associates, Inc. (“WJE”) performed a wire rope inspection of the Bridge lift span haul ropes. During this inspection a damaged wire was discovered. WJE’s recommendation at the time was to monitor and re-inspect in six months to a year to get a baseline of the ropes health, and to replace the ropes within two years.

Port staff had a phone conference with WJE representatives on June 2. WJE engineer Robert Tosolt provided the summary below of the conversation and recommendations in a follow up email:

“As you are aware, the conclusion from last year’s report was that the ropes should be replaced within 2 years, and that interim inspections be performed to evaluate the ropes for any worsening change until such time as they are replaced. The proposed rope inspection scheduled for June 23 and 24 is intended to meet the interim inspection goal of documenting rope condition and determining if there are any changed conditions which could impact the integrity of the structure and/or the safety of the traveling public prior to the ropes being replaced. Therefore, you should proceed with your present plan to initiate the bid process for the new ropes based on the design plan set you have in hand. The inspection findings can be used to assess any emerging conditions which could impact the timeliness of replacement as well as to assess the ability to accommodate any fabrication delays due to market conditions.”

The work performed during the inspection will have little impact on bridge traffic and will be completed with the bridge fully operational.

RECOMMENDATION: Approve Contract with Wiss, Janney, Elstner, Associates, Inc. for bridge wire ropes inspection services not to exceed \$30,602.

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PERSONAL SERVICES CONTRACT

This Agreement is between the Port of Hood River, an Oregon Municipal Corporation, (hereinafter referred to as "**Port**"), and Wiss, Janney, Elstner Associates, Inc., (hereinafter referred to as "**Consultant**").

In consideration of the mutual covenants set forth in this Agreement, Port authorizes Consultant and Consultant agrees to carry out and complete services as described below:

1. **PROJECT:** Work shall be performed by Consultant in connection with a project generally described as: Lift Span Wire Rope Inspection.
2. **SCOPE OF SERVICES:** The Consultant shall be responsible for the performance of all services as set forth in the scope of services attached hereto and incorporated herein as **Exhibit 'A' and Exhibit 'A-2'** (the "Services") and to the extent described in this Agreement and shall perform Services using the degree of skill and knowledge customarily employed by professionals performing similar services in the community. The Consultant shall be responsible for providing, at the Consultant's cost and expense, all management, supervision, materials, administrative support, supplies, and equipment necessary to perform the Services as described herein, all in accordance with this Agreement.
3. **TERM OF AGREEMENT:** The term of this Agreement shall begin on the date this contract is fully executed and shall terminate on December 1, 2022 or when the Services have been completely performed to the Port's satisfaction, whichever first occurs, or otherwise by mutual written agreement of the parties or by the exercise of the termination provisions specified herein.
4. **ADDITIONAL SERVICES:** The Port may request that the Consultant provide the Port with certain services not identified in Exhibit A ("Additional Services"). Additional Services shall not be performed by the Consultant unless written approval is received from the Port. Upon receipt of the written request, the Port and the Consultant shall negotiate the scope of the relevant Additional Services and price, which shall be subject to the mutual written agreement of the Consultant and the Port. If the Consultant performs any Additional Services prior to or without receiving a written request from the Port, the Consultant shall not be entitled to any compensation for such Additional Services. Authorization shall be issued by individual work orders or by amendment to this contract that is signed by the Executive Director of the Port.
5. **TIME OF THE ESSENCE:** The Services of the Consultant shall be undertaken and completed in such a manner and in such a sequence as to assure their expeditious completion in light of the purpose of this Agreement. It is agreed that time is of the essence in the performance.
6. **COMPENSATION:** The Port shall pay fees to the Consultant for Services performed under the terms of this Agreement an amount not to exceed **\$30,602.00** ("Compensation"), unless otherwise approved by the Port. The Port will also reimburse Consultant for reasonable direct expenses incurred by the Consultant ("Reimbursable Expenses"). Consultant will obtain written approval from Port prior to expenditure of any individual Reimbursable expense that exceeds \$500.00. Consultant will not exceed \$2,500.00 in total Reimbursable Expenses without Port approval. See **Exhibit 'B'** attached.

Consultant shall submit monthly invoices computed on the basis of percentage of work completed and detailing the services provide to date. Invoices shall include a detailed description of work performed and include evidence of any reimbursable expenses in a form acceptable to the Port. Port shall make payments in a timely manner, within twenty-five (25) days of receipt of invoice.

If Port does not pay within twenty-five (25) days of receipt of invoice acceptable to Port, the invoice shall incur a service charge of 1.5% per month on the unpaid monthly balance. Consultant reserves the right to withhold services or cancel this Agreement if Port's account is more than sixty (60) days delinquent.

7. **STATUS OF CONSULTANT AND RELATIONSHIP TO PORT:** The Consultant is an independent contractor and nothing contained herein shall be construed as constituting any relationship with the Port other than that as owner and independent contractor, nor shall it be construed as creating any relationship whatsoever between the Port and any of the Consultant's employees. Neither the Consultant nor any of the Consultant's employees are nor shall they be deemed employees of the Port. The Consultant is not and shall not act as an agent of the Port. All employees who assist the Consultant in the performance of the Services shall at all times be under the Consultant's exclusive direction and control. The Consultant shall pay all wages, salaries and other amounts due the Consultant's employees in connection with the performance of the Services and shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax, income tax withholding, unemployment compensation, worker's compensation, employee benefits and similar matters. Further, the Consultant has sole authority and responsibility to employ, discharge and otherwise control the Consultant's employees. The Consultant has sole authority and responsibility as principal for the Consultant's agents, employees, sub-consultants and all others the Consultant hires to perform or assist in performing the Services. The Port's only interest is in the results to be achieved.
8. **REPRESENTATIONS:** The Consultant represents and covenants that:
- a. The Consultant has the required authority, ability, skills and capacity to, and shall, perform the services in a manner consistent with this Agreement. Further, any employees and sub-consultants of the Consultant employed in performing the Services shall have the skill, experience and licenses required to perform the Services assigned to them.
 - b. To the extent the Consultant deems necessary, in accordance with prudent practices, the Consultant has inspected the sites and all of the surrounding locations whereupon the Consultant may be called to perform the Consultant's obligations under this Agreement, and is familiar with requirements of the Services and accepts them for such performance.
 - c. The Consultant has knowledge of all of the legal requirements and business practices in the State of Oregon that must be followed in performing the Services and the Services shall be performed in conformity with such requirements and practices.
 - d. The Consultant is validly organized and exists in good standing under the laws of the State of Oregon, and has all the requisite powers to carry on the Consultant's business as now conducted or proposed to be conducted and the Consultant is duly qualified, registered or licensed to do business in good standing in the State of Oregon.
 - e. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not (a) require any further consent or approval of the board of directors or any shareholders of the Consultant or any other person which has not been obtained or (b) result in a breach of default under the certificate of incorporation or by-laws of the Consultant or any indenture or loan or credit agreement or other material agreement or instrument to which the Consultant is a party or by which the Consultant's properties and

assets may be bound or affected. All such consents and approvals are in full force and effect.

9. CONSULTANT'S INSURANCE:

Consultant shall keep and maintain the following insurance for the duration of the contract period:

- a. Commercial General Liability insurance on an occurrence basis with a limit of not less than \$1,000,000 each occurrence for bodily injury and property damage and \$2,000,000 general aggregate. The Liability Insurance coverage shall provide contractual liability. The coverage shall name the Port of Hood River and each of its Commissioners, officers, agents, and employees as Additional Insured with respect to Contract.
- b. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.
- c. Professional Liability insurance with a \$1,000,000 per claim and \$1,000,000 in the aggregate for malpractice or errors and omissions coverage against liability for personal injury, death or damage of property, including loss of use thereof, arising from the firm's acts, errors or omissions in any way related to this Contract.
- d. Prior to commencing any work under this Agreement, the Consultant shall provide the Port with a certificate or certificates evidencing the insurance required by this section, as well as the amounts of coverage for the respective types of coverage. If the Consultant sub-contracts any portion(s) of the Services, said sub-consultant(s) shall be required to furnish certificates evidencing statutory worker's compensation insurance, comprehensive general liability insurance and professional liability insurance coverage in amounts satisfactory to the Port and the Consultant. If the coverage under this paragraph expires during the term of this Agreement, the Consultant shall provide replacement certificate(s) evidencing the continuation of required policies.
- e. Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. (Required of contractors with one or more employees, unless exempt under ORS 656.027.)

As evidence of the insurance coverage required by this Contract, the Contractor shall furnish acceptable insurance certificates to the Port at the time Contractor returns the signed Contract. The Commercial General Liability certificate shall provide that the Port, its Commissioners, officers, agents, and employees are Additional Insured but only with respect to the Contractor's services to be provided under this Contract. Endorsement CG 20 10 11 85 or its equivalent must be attached to the Certificate. The Certificate shall provide that the insurance shall not terminate or be canceled without 30 days written notice first being given to the Port. Insuring companies or entities are subject to Port acceptance. If requires, complete copies of the insurance policy shall be provided to the Port. The contractor shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

If any policy obtained by the Consultant is a claims-made policy, the following conditions shall apply: the policy shall provide the Consultant has the right to purchase, upon cancellation or

termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. The Consultant agrees to purchase this extended insurance coverage and to keep it in effect during the reporting period. If the policy is a claims-made policy, the retroactive date of any renewal of such policy shall be not later than the date this Agreement is signed by the parties hereto. If the Consultant purchases a subsequent claims-made policy in place of the prior policy, the retroactive date of such subsequent policy shall be no later than the date this Agreement is signed by the parties hereto.

10. **INDEMNIFICATION:** Consultant shall indemnify and hold harmless Port its commissioners, employees, and agents, from losses, claims, liabilities, injuries, damages, and expenses, including legal fees, that are allowed by law, and that arise from and/or related to the Consultant's or its sub-consultant's negligent performance of the professional services set forth in this Agreement, except to the extent any errors, omission or inconsistencies in information provided by the Port to Consultant is material to Consultant's or sub-consultants performance and could not be discovered or corrected by the consultant or sub-consultant based upon the level of care and skill ordinarily exercised by professionals in the same discipline practicing in the same or similar locality under the same or similar circumstances. The obligations of the indemnifications extended by the Consultant to the Port shall survive the termination or expiration of this Agreement.
11. **CONFIDENTIALITY:** During the performance of the Agreement and for all time subsequent to completion of the Services under this Agreement, the Consultant agrees not to use or disclose to anyone, except as required by the performance of this Agreement or by law, or as otherwise authorized by the Port, any and all information given to the Consultant by the Port or developed by the Consultant as a result of the performance of this Agreement. The Consultant agrees that if the Port so requests, the Consultant will execute a confidentiality agreement in a form acceptable to the Port, and will require any employee or sub-consultant performing work under this Agreement or receiving any information deemed confidential by the Port to execute such a confidentiality agreement.
12. **ASSIGNMENT:** Neither party shall assign this Agreement or parts hereof or its duties hereunder, but not including work products produced by the Consultant, without the express written consent of the other party. In the event of dissolution, consolidation or termination of the Port, the parties agree that the Port may assign to a successor entity any rights, obligations and functions it may have remaining under this Agreement.
13. **SUBCONSULTANTS:**
 - a. **General.** The Consultant is solely and fully responsible to the Port for the performance of the Services under this Agreement. Use of any sub-consultant by the Consultant shall be pre-approved by the Port. The Consultant agrees that each and every agreement of the Consultant with any sub-consultants to perform Services under this Agreement shall be terminable without penalty.
 - b. **Sub-Consultant Commitments:** All of the Consultant's subcontracts in connection with the performance of the Services shall be in writing and include the following provisions:
 - i. The subcontract/contract is immediately terminable without cause, and cost for such termination activities shall be determined according to the terms of this Agreement.
 - ii. The sub-consultant shall carry insurance in forms and amounts satisfactory to the Port in its sole discretion, as provided by this Agreement

iii. All warranties (express or implied) shall inure to the benefit of the Port and its successors and assigns.

The Consultant shall provide the Port with a copy of each subcontract executed with the performance of the Services within seven (7) days of each subcontract's execution.

Sub-consultants who assist the Consultant in the performance of the Services shall at all times be under the Consultant's exclusive direction and control and shall be sub-consultants of the Consultant and not consultants of the Port. The Consultant shall pay or cause each sub-consultant to pay all wages, salaries and other amounts due to the Consultant's sub-consultants in performance of the duties set forth in this Agreement and shall be responsible for any and all reports and obligations respecting such sub-consultants. All sub-consultants shall have the skill and experience and any license or permits required to perform the Services assigned to them.

14. TERMINATION NOT-FOR-CAUSE: In addition to any other rights provided herein, the Port shall have the right, at any time and in its sole discretion, to terminate, not for cause, in whole or in part, this Agreement and further performance of the Services by delivery to the Consultant of written notice of termination specifying the extent of termination and the effective date of termination.

- a. Obligations of Consultant. After receipt of a notice of termination, and unless otherwise directed by the Port, the Consultant shall immediately proceed as follows:
 - i. Stop work on the Services as specified in the notice of termination;
 - ii. Terminate all agreements with sub-consultants to the extent they relate to the Services terminated;
 - iii. Submit to the Port detailed information relating to each and every sub-consultant of the Consultant under this Agreement. This information will include sufficient detail so the Port can immediately contact each such sub-consultant to determine the role or function of each in regard to the performance of the Services and if the Port so elects, the Port may engage any sub-consultant for substantially the same terms as have been contracted by the Consultant;
 - iv. Complete performance in accordance with this Agreement of all of the services not terminated; and
 - v. Take any action that may be necessary, or that the Port may direct, for the protection and preservation of the property related to this Agreement that is in the possession of the Consultant and in which the Port has or may acquire an interest.

- b. Termination Settlement. After termination, the Consultant shall submit a final termination settlement proposal to the Port in a form and with a certification prescribed by the Port. The Consultant shall submit the proposal promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the Port upon written request by the Consultant within such thirty-day period. If the Consultant fails to submit the proposal within the time allowed the Port's payment obligations under this Agreement shall be deemed satisfied and no further payment by the Port to the Consultant shall be made.

- c. Payment Upon Termination. As a result of termination without cause the Port shall pay the Consultant in accordance with the terms of this Agreement for the Services performed up to the termination and unpaid at termination.

- d. Port's Claims and Costs Deductible Upon Termination. In arriving at the amount due the Consultant under this paragraph there shall be deducted any claim which the Port has against the Consultant under this Agreement.
- e. Partial Termination. If the termination is partial the Port shall make an appropriate adjustment of the price of the Services not terminated. Any request by the Consultant for further adjustment of prices shall be submitted in writing within thirty (30) days from the effective date of notice of partial termination or shall be deemed forever waived.

15. **FORCE MAJEURE:** Neither party to this Agreement shall be liable to the other party for delays in or failure to perform services caused by circumstances beyond its reasonable control, including but not limited to acts of God, acts of governmental authorities, strikes, riots, civil unrest, war, lockouts extraordinary weather conditions or other natural catastrophe, or any other cause beyond the reasonable contemplation of either party. For delays resulting from unanticipated material actions or inactions of Port or third parties, Consultant shall be given an appropriate time extension and shall be compensated for all costs of labor, equipment, and other direct costs Consultant reasonably and necessarily incurs. Delays of more than ninety (90) calendar days shall, at the option of either party, make this contract subject to termination.
16. **RECORD KEEPING:** The Consultant shall maintain all records and documents relating to Services performed under this Agreement for three (3) years after the termination or expiration of this Agreement. This includes all books and other evidence bearing on the Consultants time based and reimbursable costs and expenses under this Agreement. The Consultant shall make these records and documents available to the Port, at the Port's office, at all reasonable times, without any charge. If accepted by the Port, photographs, microphotographs or other authentic reproductions may be maintained instead of original records and documents.
17. **WORK PRODUCT:** All work product of the Consultant prepared pursuant to this Agreement, including but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall upon payment of all amounts rightfully owed by the Port to the Consultant herein remain the property of the Port under all circumstances, whether or not the services are complete. When requested by the Port, all work products shall be delivered to the Port in PDF or full-size, hard copy form. Work products shall be provided to the Port at the time of completion of any of the discrete tasks specified in the Services. Consultant shall maintain copies on file of any such work product involved in the Services for three (3) years, shall make them available for the Port's use, and shall provide such copies to the Port upon request at commercial printing or reproduction rates.

Subject to the provisions of the Oregon Public Records Law (the "Law"), all construction documents, including, but not limited to, electronic documents prepared under this Agreement are for use only with this project, and may not be used for any other construction related purpose, or dissemination to any contractor or construction related entity without written approval of the Consultant.

18. **CONSULTANT TRADE SECRETS AND OPEN RECORDS REQUESTS:**
- a. Public Records. The Consultant acknowledges and agrees that all documents in the Port's possession, including documents submitted by the Consultant, are subject to the provisions of the Law, and the Consultant acknowledges that the Port shall abide by the Law, including honoring all proper public records requests. The Consultant shall be responsible for all Consultants' costs incurred in connection with any legal determination

regarding the Law, including any determination made by a court pursuant to the Law. The Consultant is advised to contact legal counsel concerning such acts in application of the Law to the Consultant.

- b. Confidential or Proprietary Materials. If the Consultant deems any document(s) which the Consultant submits to the Port to be confidential, proprietary or otherwise protected from disclosure under the Law, then the Consultant shall appropriately label such document(s), and submit such document(s) to the Port together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. The request will either be approved or denied by the Port in the Port's discretion. The Port will make a good faith effort to accommodate a reasonable confidentiality request if in the Port's opinion the Port determines the request complies with the Law.
- c. Stakeholder. In the event of litigation concerning disclosure of any document(s) submitted by consultant to the Port, the Port's sole involvement will be as stakeholder retaining the document(s) until otherwise ordered by the court and the Consultant shall be fully responsible for otherwise prosecuting or defending any actions concerning the document(s) at its sole expense and risk.

19. **DESIGNATION OF REPRESENTATIVES:** The Port hereby designates Michael McElwee, Executive Director and the Consultant hereby designates Paul Bandlow Principle as the persons who are authorized to represent the parties with regard to administration of this Agreement, subject to limitations, which may be agreed to by the parties.
20. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the parties hereto relating to the Services and sets forth the rights, duties, and obligations of each party to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be amended except by a writing executed by both the Consultant and the Port and approved by the Port Commission.
21. **INTERPRETATION:** In this Agreement the singular includes the plural and the plural includes the singular; statutes or regulations are to be construed as including all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to; references to "writing" include printing, typing, lithography, computer software and other means of reproducing word in a tangible visible form; references to articles, sections (or subdivisions of sections), exhibits, annexes, appendices or schedules shall be construed to be in this Agreement unless otherwise indicated; references to agreements, exhibits, annexes, appendices hereto and other contractual instruments shall, unless otherwise indicated, be deemed to include all subsequent amendments and other modifications to such instruments, but only to the extent such amendments and other modifications are not prohibited by this Agreement; words not otherwise defined which have well-known technical or industry meanings, unless the context otherwise requires, are used in accordance with such recognized meanings; and references to persons include their respective permitted successors and assigns, and, in the case of governmental persons, persons succeeding to their respective functions and capacities.
22. **BINDING AGREEMENT:** This agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto.

23. **NO WAIVER:** No waiver of any provisions of this Agreement shall be deemed to constitute a waiver of any other provision of the Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.
24. **LIMITATION ON DELEGATION:** The parties hereto acknowledge and agree that certain powers, rights and duties conferred on or held by the Port are inherently governmental in nature and may not be delegated by contract to the Consultant. Nothing in this Agreement shall be construed as an unlawful delegation of the non-delegable functions and powers of the Port, and the Consultant shall have no obligation to perform any non-delegable function.
25. **LEGAL COUNSEL:** The parties hereto agree they have full and adequate opportunity to consult with legal counsel and that each has had such counsel as it deems appropriate.
26. **OBSERVE ALL LAWS:** The Consultant shall keep fully informed regarding and materially comply with all federal, state and local laws, ordinances and regulations and all orders and decrees of bodies or tribunals having jurisdiction or authority which may affect those engaged or employed in the performance of this Agreement.
27. **CONTROLLING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, and any disputes hereunder shall be tried in the courts of the State of Oregon.
28. **MEDIATION/ARBITRATION:** Excepting injunctive relief, any dispute, controversy or claim arising out of, in connection with, or relating to, this Agreement or any breach or alleged breach of this Agreement, shall, upon request of any party involved, be submitted to mediation in Hood River County, Oregon. If a settlement cannot be reached through mediation, the parties agree that the dispute will be submitted to and be settled by arbitration in Hood River County, Oregon. Such arbitration shall be in accordance with Uniform Arbitration Act (UAA) as in effect, and as hereinafter amended. Any award rendered shall be final and conclusive upon the parties, and a judgment on such award may be entered in the highest court of the forum, state or federal, having jurisdiction. The expenses of the arbitration shall be borne equally by the parties to the arbitration, provided that each party shall pay for and bear the cost of their respective own experts, evidence and counsel's fees. The parties to either mediation or arbitration recognize that mediation sessions are settlement negotiations and that settlement negotiations are inadmissible in any litigation or arbitration of their dispute, to the extent allowed by law. The parties will not subpoena or otherwise require the mediator to testify or produce records, notes, or work product in any future proceeding beyond mediation. In addition, the parties agree that all information obtained in either the mediation or arbitration process is strictly confidential and further agree that the party not otherwise having such information available to them other than through the mediation or arbitration process shall hold all such information in confidence.
29. **FURTHER ASSURANCES:** Each party shall execute and deliver, at the request of the other party, any further documents or instruments, and shall perform any further acts that may be reasonably required to fully effect the transaction intended by this Agreement.
30. **LIMITATION ON LIABILITY:** IN NO EVENT SHALL CONSULTANT BE LIABLE FOR INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, LOSS OF USE, OR OTHER ECONOMIC LOSS FOR EVENTS BEYOND THE CONSULTANTS CONTROL; **PROVIDED, HOWEVER, THAT THIS LIMITATION SHALL IN NO WAY DIMINISH CONSULTANTS PROFESSIONAL**

**LIABILITY INSURANCE COVERAGES OR DEFENSE OBLIGATIONS OTHERWISE AVAILABLE TO
CONSULTANT UNDER ANY CONSULTANT PROFESSIONAL LIABILITY POLICY.**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, this ____ day of _____,
20__.

CONSULTANT: Wiss, Janney, Elstner Associates, Inc. PORT OF HOOD RIVER

Paul Bandlow
Principle, PE
Contact; (215)-534-5133
PBandlow@wje.com

Michael S. McElwee
Executive Director

Authorized Signature;

Signature;

Date _____

Date _____

Exhibit A

Hood River Interstate Bridge follow up rope inspection

Scope

- We have budgeted two days on site
- We have assumed we will spend one day on each counterweight and use the boswain's chair to evaluate the ropes during span operation similar to the work we performed last year. This is the only means by which we can access the broken wire that we had identified, and it will give a good overall condition assessment of all ropes to see if anything has changed.
- We will also measure and document the zinc cone position/slippage at the counterweight sockets, which was a second area of concern that had been identified.
- We will provide a letter report to document conditions and summarize our findings.

Exhibit A-2

Engineering Services Proposal

Hood River Lift Bridge Rope Inspection and Assessment May 2022

<u>Labor Classification</u>	<u>Hours</u>	<u>Rate (\$/hr.)</u>	<u>Cost (\$)</u>
Principal	36	280.00	10,080
Associate Principal	52	235.00	12,220
Senior Associate	0	210.00	-
Associate II	20	170.00	3,400
Associate I	0	150.00	-
Sub total (direct labor)			<u>25,700</u>

<u>Reimbursable Expenses</u>	<u>Units</u>	<u>Cost/Unit (\$)</u>	
Airfare	2	1050	2,100
Airline Baggage Fees	2	220	440
Rental Car	4	105	420
Lodging Per Diem	6	182	1,092
M&IE (GSA - Chicago)	6	74	444
Private Vehicle Mileage (office to airport, 2 vehic	143	0.575	82
Tolls	0	0	-
Parking	8	28	224
Gages	0	125	-
Miscellaneous Expenses (disposable supplies)	2	50	<u>100</u>
Sub total (reimbursable expenses)			4,902

Grand total	30,602
T&M Not to Exceed	

**Personal Services Contract
Exhibit B**

INSURANCE

Consultants, please send this to your insurance agent immediately.

During the term of this Contract, Consultant shall maintain in force at its own expense, each insurance noted below:

1. Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. (Required of Consultants with one or more employees, unless exempt order ORS 656.027.)

Required and attached OR Consultant is exempt

Certified by Consultant: _____
Signature/Title

-
2. Commercial General Liability insurance on an occurrence basis with a limit of not less than \$1,000,000 each occurrence for bodily injury and property damage and \$2,000,000 general aggregate. The Liability Insurance coverage shall provide contractual liability. The coverage shall name the Port of Hood River and each of its Commissioners, officers, agents, and employees as Additional Insured with respect to the Consultant's services to be provided under the Contract.

Required and attached Waived by Finance Manager _____

3. Automobile Liability insurance with a combined single limit of not less than \$1,000,000 each occurrence for bodily injury and property damage, including coverage for owned, hired, or non-owned vehicles, as applicable.

Required and attached Waived by Finance Manager _____

4. Professional Liability insurance with a \$1,000,000 per claim and \$1,000,000 in the aggregate for malpractice or errors and omissions coverage against liability for personal injury, death or damage of property, including loss of use thereof, arising from the firm's acts, errors or omissions in any way related to this Contract.

Required and attached Waived by Finance Manager _____

5. **Certificate of Insurance.** As evidence of the insurance coverage required by this Contract, the Consultant shall furnish acceptable insurance certificates to the Port at the time Consultant returns the signed Contract.

The General Liability certificate shall provide that the Port, its Commissioners, officers, agents, and employees are Additional Insured but only with respect to the Consultant's services to be provided under this Contract.

Endorsement CG 20 10 11 85 or its equivalent must be attached to the Certificate. The Certificate must contain a standard 30 day notice of cancellation clause which guarantees notification in writing to the Certificate Holder (Port of Hood River). Insuring companies or entities are subject to Port acceptance. If requested, complete copies of the insurance policy shall be provided to the Port. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

Commission Memo



Prepared by: President Ben Sheppard
Vice-President Kristi Chapman
Date: June 7, 2022
Re: Interim Executive Director

Executive Director (ED) Michael McElwee will retire on Friday, July 8. With Commission approval, a recruitment process to identify a new ED will commence soon, a process expected to take 3-4 months. From July 9 through the date a new ED begins work, an individual needs to be named to serve as the Port's Interim Executive Director.

The Port's Personnel Committee, comprised of Commissioners Sheppard and Chapman, has considered options for the Interim ED position and spoken with several individuals. At this meeting the Personnel Committee intends to make a recommendation and seek Commission approval to appoint an Interim Executive Director. Assuming the Commission reaches an agreement, contract negotiations will occur with the Interim Executive Director candidate and final Commission approval of an Interim Executive Director contract will be sought at the June 21st Commission meeting.

RECOMMENDATION: Discussion.

POSSIBLE ACTION: Designate NAMED INDIVIDUAL to serve as Interim Executive Director from July 9, 2022, until hiring of a new Executive Director, under terms of an employment contract to be negotiated.

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