



AGENDA
Regular Commission Meeting
Port of Portland Headquarters
7200 N.E. Airport Way, 8th Floor
April 8, 2015
9:30 a.m.

Minutes

Approval of Minutes: Regular Commission Meeting – March 11, 2015

Executive Director

Approval of Executive Director's Report – March 2015

Award Presentation

Annual Compass Award Proclamation

Action Items

1. PORT OF PORTLAND PDX WORKPLACE INITIATIVE – *KRISTEN LEONARD*
PORTLAND INTERNATIONAL AIRPORT
Requests approval of a resolution to adopt the proposed Port of Portland PDX Workplace Initiative.
2. PUBLIC IMPROVEMENT CONTRACT – ECONOMY LOT BUS *CHRIS EDWARDS*
ROUTE REHABILITATION – PORTLAND INTERNATIONAL
AIRPORT
Requests approval to award a public improvement contract to Kodiak Pacific Construction Co. for the Economy Lot Bus Route Rehabilitation project at Portland International Airport.
3. SECOND READING AND ENACTMENT OF PORT OF PORTLAND *MICHAEL HUGGINS*
ORDINANCE NO. 450-R, AMENDING AND RESTATING PORT OF
PORTLAND ORDINANCE NO. 351 (AS AMENDED AND
RESTATED BY PORT OF PORTLAND ORDINANCE NO. 386-R,
AS AMENDED AND RESTATED BY PORT OF PORTLAND
ORDINANCE NO. 397-R, AS AMENDED AND RESTATED BY
PORT OF PORTLAND ORDINANCE NO. 418-R, AS AMENDED
AND RESTATED BY PORT OF PORTLAND NO. 432-R) TO
REGULATE USE OF THE COMMERCIAL ROADWAY TO BEST
SERVE THE NEEDS OF THE TRAVELING PUBLIC AT PORTLAND
INTERNATIONAL AIRPORT
Requests a second reading and enactment of proposed Port of Portland Ordinance No. 450-R.

4. SECOND READING AND ENACTMENT OF PORT OF PORTLAND ORDINANCE NO. 451-R, AMENDING AND RESTATING PORT OF PORTLAND ORDINANCE NO. 349 (AS AMENDED AND RESTATED BY 412-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 439-R) SETTING FORTH A CONCESSION FEE AND RESPONSIBILITIES OF OFF-AIRPORT RENTAL CAR, PARKING LOT, PARK AND FLY AND STAY PARK AND FLY BUSINESSES AT PORTLAND INTERNATIONAL AIRPORT
SCOTT KILGO

Requests a second reading and enactment of proposed Port of Portland Ordinance No. 451-R.
5. WORKFORCE PARTNERSHIP AGREEMENT – TERMINAL BALANCING CONCOURSE E EXTENSION – PORTLAND INTERNATIONAL AIRPORT
*CRAIG JOHNSEN
GREG SPARKS*

Requests approval of the recommendation that the Port of Portland require the Port's construction manager/general contractor on the Portland International Airport Terminal Balancing Concourse E Extension project to negotiate and enter into a Workforce Partnership Agreement binding on all contractors, subcontractors and labor unions for all trades on the project.
6. PERSONAL SERVICES CONTRACT AMENDMENT AND PUBLIC IMPROVEMENT CONTRACT – PHASE 2 – TROUTDALE REYNOLDS INDUSTRIAL PARK
ROBIN MCCAFFREY

Requests approval of two contract actions related to the Phase 2 Grading, Planting and Sundial Road, Graham Road and Swigert Way Improvements at Troutdale Reynolds Industrial Park.

Proposed Budget and Public Hearing

Fiscal Year 2015-2016 Proposed Budget, Economic Overview and Public Hearing

PORT OF PORTLAND PDX WORKPLACE INITIATIVE – PORTLAND INTERNATIONAL AIRPORT

April 8, 2015

Presented by: Kristen Leonard
Public Affairs Director**REQUESTED COMMISSION ACTION**

This agenda item requests approval of a resolution to adopt the proposed Port of Portland (Port) PDX Workplace Initiative (Initiative).

BACKGROUND

At Portland International Airport (PDX), creating a quality customer experience is our primary goal. From roadway to runway we seek to enhance the travel experience by creating a comfortable, efficient and convenient environment for air travelers and visitors. The most important factor in this endeavor is the dedicated people who work at PDX. Our focus is to set the stage for shared success at PDX through applying the principles of social equity to creating and maintaining a quality work environment.

Over the past year, the Port has been analyzing the topic of social equity in a number of ways, seeking to determine the best definition and programs for the organization as a whole and specifically at PDX. Through a collaborative process with stakeholders, the Port has developed an initiative that seeks the application of innovative new approaches to attract and retain the very best airport workers.

PDX WORKPLACE INITIATIVE

The Port has developed a proposed set of new contractual requirements and other elements that are intended to enhance both the business environment and the quality of working conditions for employees of aviation subcontracted service providers (ASPs) and concessions businesses at PDX. This Initiative, addresses the areas of worker benefits, job pathways, labor

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relationships, safety, training, whistleblower protection, transportation, and other workplace-related issues. The ultimate goal of the Initiative is to maintain PDX as a great place to work and do business and to ensure we achieve our mission of safely and efficiently meeting the needs of travelers and visitors.

In formulating this Initiative, the Port consulted a wide range of stakeholders and interests. Drafts of the Initiative were shared with interested stakeholders in January, March and April 2015. Input from that process informed the final recommendation made in this agenda item.

VISION

With this effort, the Port hopes to enhance the worker experience at PDX. We seek to fine tune the balance between what makes PDX exceptional for our customers and what will continue to make PDX a preferred place to work and do business. Our goal is to provide an environment in which businesses at PDX can continue to thrive and employees feel valued, safe and encouraged to seek opportunities for advancement.

GOALS AND OBJECTIVES

The goal of the Initiative is to continue the Port's history of making PDX a great place to work. Our objective is to continue to provide a business and working environment that reflects excellence in safety and security and opportunities for advancement and mutual success.

BUSINESSES AFFECTED

The Initiative applies to the PDX terminal operations of ASPs and concessionaires. ASPs are not the Port's contractors; instead ASPs contract directly with airlines to provide services. However, the Port does maintain operating agreements with ASPs that set forth each ASP's rights and responsibilities when operating at PDX. The Port also enters into lease agreements with its PDX concessionaires. The Port intends to implement the Initiative by contractually binding ASPs and concessionaires to the Initiative's requirements. As discussed below, the new requirements would be included in all PDX terminal ASP operating agreements and concession leases entered into after this Initiative is approved.

ELEMENTS OF THE INITIATIVE

The details of the Initiative are set forth in the attachment. Below is a brief overview of its elements. With respect to the PDX operations of ASPs and concessionaires, the Port will:

- **Worker Benefits.** Monitor and enhance existing rights and benefit programs as well as chart paths to potential new benefits.
- **Job Pathways.** Provide information resources, events and apprentice programs to help current and future employees learn, grow and pursue positions that expand their career prospects. Provide incentives for hiring displaced workers and require large successor ASPs to hire many of a departing large ASP's displaced employees.

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- **Labor Relationships.** Remain neutral regarding union organizing but require that employers have a plan to maintain labor harmony in their PDX operations.
- **Safety, Training and Equipment Standards.** Promote a genuine and lasting interest in safety and health among employers, with actionable requirements and training opportunities.
- **Whistleblower Protections.** Work to ensure that every employee fully understands his or her rights and has a way to safely and confidentially communicate concerns, and work with employers to help ensure compliance.
- **Standardized Permitting/Contracting.** Implement new selection criteria for concessionaires and contract award prerequisites for ASPs to ensure that employers provide the best possible working conditions where employees can thrive and succeed.

STAFF IMPLEMENTATION

The Port Commission's adoption of the Initiative is intended to operate as a directive to the Port as it continues to develop, implement and administer the Initiative.

When awarding applicable future agreements, the Port intends to execute the Initiative in accordance with its requirements. However, the Port recognizes that due to varying economic conditions, differing business models among affected businesses, exigent situations, and other circumstances that are difficult to predict, the Port may not be able to secure every detail of the Initiative in every one of its forthcoming ASP operating agreements and concession leases.

In considering whether any variance from the Initiative may be acceptable under a given circumstance, the Port takes as inherent in this Commission directive that all decisions made in implementing the Initiative must remain consistent with its goals and objectives as stated in this agenda item. In addition, Port staff will be guided by the initial vision of the Initiative, which was to continue to provide an environment in which businesses at PDX can thrive and offer their employees a high level of satisfaction, which helps enhance their overall quality of life.

The Port intends that any material variance from the Initiative as it is implemented in future agreements will be closely considered, on a case-by-case basis, by an appropriate level of Port management, with the presumption that no material variance is acceptable unless absolutely necessary to maintain thriving business operations at PDX

As stated above, the Port will begin work on implementing the Initiative upon its approval. At this time, the Port projects that future ASP operating agreements and concession leases will begin to contain Initiative-driven requirements in 2015.

Port staff expects to report to the Commission periodically on the status of the Initiative, and may make recommendations for refinements to the Initiative as the Port builds expertise in this area.

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COSTS

The Port has incurred some costs developing the PDX Workplace Initiative, and expects additional costs to implement and administer it. Estimates of those costs are not yet refined, but at this time the Port does not project a need to amend the operating budget for the current fiscal year. Future costs will be built into the Port's operating budget.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolution be adopted:

WHEREAS, Airport employees work hard to create a comfortable, efficient and convenient environment for visitors to Portland International Airport; and

WHEREAS, The Port of Portland seeks to generate and make investments in innovative new approaches to attract and retain the very best airport businesses and workers; and

WHEREAS, The implementation of an initiative that is intended to enhance the quality of working conditions for employees of aviation subcontracted service providers and concessions businesses at Portland International Airport is critical to the Port of Portland's strategic interests; therefore

BE IT RESOLVED, That the Commission adopts the attached Port of Portland PDX Workplace Initiative, and directs Port of Portland staff to implement and administer it in accordance with the terms presented to Commission.

DRAFT – PDX Workplace Initiative

April 7, 2015

PDX is considered one of the best airports in America. We are proud of that. Our innovative programs such as local concessions, airport art and music, small business participation, local iconic brands that represent the region, street pricing, light rail access, convenient parking and rental cars, among others, set us apart and give PDX a decidedly Portland feel. Through this Initiative, we strive to fine tune the balance between what makes PDX exceptional for our customers and what will continue to make PDX a preferred place to work and do business. The Port's interest in adopting this Initiative is to maintain an environment at PDX that is safe, convenient and efficient airport for travelers and other visitors, free from service disruptions.

At the Port of Portland we believe that people are our greatest asset. Nowhere is this more evident than at Portland International Airport (PDX). Whether an employee works for the Port of Portland (Port) or one of the many contractors and concessionaires, everyone who works at the airport—from roadway to runway—"owns" the customer experience and works hard every day to create a comfortable, efficient and convenient environment for our visitors.

The Port believes that minimum compensation levels are best set by the state. Because the Port will implement this initiative on a contract-by-contract basis, requirements to increase minimum compensation will lead to uneven treatment. In contrast, an increase in the state minimum wage would ensure even treatment. While the Port is not adopting minimum compensation in this Initiative, the Port will be considering in the succeeding months ways it can further enhance the worker experience, focusing on those workers with the greatest need.

With this Initiative we hope to enhance the worker experience at PDX. Our goals are to remain a great place to do business and a highly desirable workplace, and our objective is to continue to provide an excellent working environment in terms of safety, security and opportunities for advancement and mutual success.

Through collaboration with all of our stakeholders we will seek to generate and make investments in innovative new approaches to attract and retain the very best airport workers and employers. We will continue to provide a work environment that offers a high level of satisfaction and enhances overall quality of life.

Upon adoption of this Initiative by the Port of Portland Commission, staff will draft rules or policies consistent with the Initiative to further clarify its implementation.

Definitions and Descriptions

"Employee-Employer Relationships Plan" refers to a PDX Employer's specific written plan provided to the Port on how the PDX Employer will maintain a positive working relationship with its employees to prevent disruptions of services at PDX. The Employee-Employer Relationships Plan may include any agreement the employer has with its employees, as well as programs the employer uses to maintain a positive relationship with its employees and prevent disruptions of services at PDX, such as compensation plans, benefit offerings, incentive programs, education and training programs, advancement opportunities, employer-employee communications strategies, etc. The employer may respond to the questions on attached Exhibit A, which specifically addresses possible approaches for avoiding poor relationships with its employees.

“Large ASP Employers” in this Initiative refers to PDX Employers who are airline subcontracted service providers with either (a) 50 or more full time equivalent employees (FTE) at PDX, or (b) 250 or more FTE total employees.

“PDX Employee” in this Initiative refers to an employee of a PDX Employer.

“PDX Employer” in this Initiative refers to a PDX terminal concessionaire or certain airline subcontracted service providers as determined by Port staff. PDX Employer does not include (a) companies who have entered into a collective bargaining agreement (CBA) with their employees at PDX and who have clearly evidenced in the CBA that they wish to be exempted either from the Initiative or certain provisions of the Initiative, or (b) other PDX terminal employers such as (i) airlines, (ii) entities airlines own or control, (iii) federal agencies, (iv) the Port of Portland, (v) construction contractors, or (vi) other contractors who do work at PDX only from time to time.

“PDX Labor Pool” refers to a list compiled by the Port of PDX Laid-Off Employees. The purpose of the PDX Labor Pool is to provide a mechanism for assisting retention of PDX Laid-off Employees at PDX. To remain in the PDX Labor Pool, PDX Laid-off Employees must adhere to the reasonable requirements of the Port in terms of providing the Port with information, including but not limited to, current contact and qualifications information, updating such information as requested by the Port, applying for jobs, and attending job fairs. PDX Laid-off Employees may stay in the PDX Labor Pool for six months. PDX Laid-off Employees will be matched with positions for which they are qualified with PDX Employers offering such positions as described herein. The Port may outsource the administration of the PDX Labor Pool to ensure consistent application and objectivity. The Port makes no representations or warranties regarding PDX Laid-off Employees in the PDX Labor Pool; determination of fitness for employment rests solely with the applicable PDX Employer. PDX Employers will be encouraged to provide clear descriptions of the qualifications for each position to aid evaluation of qualified candidates.

“PDX Laid-off Employee” in this Initiative refers to a PDX Employee in good standing with a PDX Employer who is laid off.

“Successor ASP Employer” in this Initiative refers to a Large ASP Employer that (a) replaces a Large ASP Employer at PDX, and (b) provides substantially similar services in the same area of PDX within 30 days of cessation of operations by the departing Large ASP Employer. PDX Employees hired by a Successor ASP Employer as required below may only be terminated for just cause during the first 60 days of employment. Thereafter, their employment will be at will.

Worker Benefits

Integral to ensuring that work at PDX remains desirable is PDX Employees’ access to innovative programs that offset cost and/or encourage career development. Therefore, the Port of Portland will:

1. Create an employer consortium for eligible PDX Employees to extend the Tri-Met annual pass benefit. This action would create a significant benefit, which could be offered to PDX Employers to provide annually to their PDX Employees. This would include the added value of reducing the PDX carbon footprint.
 - Implementation timeline: Estimated 6-12 months
2. Collaborate with PDX Employers and stakeholders to generate and make investments in innovative new approaches to attract and retain the very best airport workers.
 - Implementation timeline: Estimated July 2015 action with program to follow

Job Pathways

To fully achieve the goal of PDX being a workplace of choice, PDX Employees need opportunities for career development. Information resources, events and apprentice programs will help current and future PDX Employees learn, grow, succeed and pursue positions that expand their career prospects. In addition, the airport's workforce and business outreach must extend equal opportunity to all individuals. Small businesses and those owned by minorities and women should see PDX as an opportunity-rich environment to compete for goods and/or services contracts. The Port's robust minority contracting programs will be enhanced and the Port's larger business partners will be encouraged to meet greater levels of minority participation in sub-contracted work.

The ongoing pursuit of advancing workers through any number of job pathways at the airport and diversifying the business owners therein will greatly benefit airport customers and the community. Therefore, the Port of Portland will:

Regarding all PDX Employers

1. Contracts entered into between the Port and all PDX Employers on or after the adoption of this Initiative by the Port of Portland Commission must contain a commitment from the PDX Employer to make a good faith effort to consider hiring each new employee hired on or after September 1, 2015, from the PDX Labor Pool, and only after making such good faith effort may the PDX Employer hire each such new employee from outside the PDX Labor Pool. For purposes of this provision, the "good faith effort" requirement will be met if the PDX Employer (a) hires an individual from the PDX Labor Pool, or (b) interviews not fewer than three individuals from the PDX Labor Pool who are qualified for each such job, unless fewer qualified individuals are available, in which case the PDX Employer will interview all available qualified individuals.

This good faith effort requirement does not apply in the event a PDX Employer is (a) hiring a family member or immediate relative as defined by the U.S. Office of Personnel Management, or (b) transferring an existing employee from another location operated by such PDX Employer. In addition, in the event a PDX Employer is opening its first or a new location at PDX, up to 20 percent of the staff for the first or new location may be transferred from the PDX Employer's other location(s), if any, without meeting the good faith effort requirement above, to ensure business continuity.

In the event a PDX Employer hires a full-time equivalent employee from the PDX Labor Pool and such employee remains employed with the PDX Employer for six months from the date of hire, the Port will pay to the PDX Employer \$1,000, \$500 of which the PDX Employer agrees promptly to pay as a bonus to the PDX Employee hired from the Labor Pool and \$500 of which may be used by the PDX Employer for any purpose. The amount of the payment will be prorated for part time hires.

- Implementation timeline: September 2015
2. Serve as a resource for information about job opportunities within PDX and related fields. Jobs posted could include postings from the concessionaires, airline service providers, and other appropriate listings. This could include an online presence and a physical presence in the PDX Conference Center, with a computer and other printed materials available to all employees.
 - Implementation timeline: May 2015

3. Continue the Port's Mentor/Protégé Program to build working relationships between leaders of mature, established companies and targeted emerging minority-owned and women-owned companies.
 - Implementation timeline: In place
4. Continue to promote and seek to increase opportunities for minority-owned and women-owned small business to serve as contractors at PDX, operate as concessionaires at PDX or provide goods and/or services related to the airport concession program through the Disadvantaged Business Enterprise (DBE) Program and the Airport Concessions Disadvantaged Business Enterprise (ACDBE) Program.
 - Implementation timeline: In place
5. Continue to require that all PDX contracts, concessions and procurement opportunities that are processed through the Port procurement process make good faith efforts to include Disadvantaged, Minority, Women and Emerging Small Businesses in Port related business opportunities. Our FY 2014-15 overall goal for small business participation is 10% of contract dollars awarded directly and as subcontracts.
 - Implementation timeline: In place
6. Continue to require all PDX contractors provide on-the-job training opportunities for approved and registered apprentices on construction projects over \$500,000 with an overall target for registered apprentice participation at 15% of total labor hours.
 - Implementation timeline: In place
7. Implement new electrician apprenticeship program with IBEW.
 - Implementation timeline: Spring - Summer 2015

Regarding Successor ASP Employers of Large ASP Employers

Contracts entered into between the Port and a Successor ASP Employer on or after the adoption of this Initiative by the Port of Portland Commission must contain a commitment from the Successor ASP Employer to hire employees it needs for its operations at PDX from the employees of the Large ASP Employer being replaced that are qualified to fill the jobs offered by the Successor ASP Employer. The Successor ASP Employer must define the qualifications for each job being offered, including, without limitation, specific experience, training and requirements. Only in the event there are insufficient such qualified persons, as determined in good faith by the Successor ASP Employer, may the Successor ASP Employer hire each such new employee from the PDX Labor Pool or outside the PDX Labor Pool. When more than one qualified candidate is available, the Successor ASP Employer may interview any number of the qualified candidates. Displaced employees who are not hired by the Successor ASP Employer may join the PDX Labor Pool.

In the event there is a dispute as to whether or not a particular candidate is qualified for the position offered by the Successor ASP Employer, the matter may be referred to the Port's Director of Human Resources, or the Port may refer this decision to an appropriate outside service provider, for a final determination that shall be binding on all concerned. This binding determination pertains solely to job qualifications and is based solely on information before the decision maker. The Port makes no representations or warranties regarding employees of the Large ASP Employer; determination of fitness for employment, other than qualifications before the decision maker, rests solely with the Successor ASP Employer.

This hiring requirement provision does not apply in the event a Successor ASP Employer is (a) hiring a family member or immediate relative as defined by the U.S. Office of Personnel Management, or (b) transferring up to 20 percent of the needed employees from the Successor ASP Employer's other location(s), if any, to ensure business continuity.

- Implementation timeline: September 2015

Employee-Employer Relationships

The Port of Portland is aware that decisions regarding labor organizing remain with the employees and employer. The unique nature of the work at PDX necessitates an ongoing, disruption-free environment to serve airport customers. The Port will remain neutral regarding union organizing, and we believe early communication and planning between the employer and employees are keys to the success of all parties. Therefore, the Port of Portland will:

1. Require contracts entered into between the Port and PDX Employers on or after the date this Initiative is adopted by the Port of Portland Commission provide that the PDX Employer must submit a specific written plan to the Port on how it will maintain a positive working relationship with its employees. The plan may include any agreement the PDX Employer has with its PDX Employees, as well as programs the PDX Employer uses to maintain a positive relationship with its PDX Employees, such as compensation plans, benefit offerings, incentive programs, education and training programs, advancement opportunities, etc. The PDX Employer may respond to the questions on attached Exhibit A, which specifically addresses possible approaches for avoiding poor relationships with its PDX Employees. As required by applicable public records law, the plan may be made publically available if a public records request is made. Accordingly, you should be aware that the description of your plan will not be confidential. You should not include information you consider proprietary. The contract will allow the Port to take action, up to and including termination of the contract, in the event of the PDX Employer's repeated, serious failures, in the discretion of the Port and as limited by applicable labor, employment and other laws, to adhere to its plan.

- Implementation timeline: September 2015

2. Continue to require project-specific evaluations of whether a Workforce Partnership Agreement or other type of Project Labor Agreement (PLA) (as defined in Port Commission Policy 6.1.15) would be beneficial for construction contracts over \$25,000,000 at PDX, requiring Port management to analyze each evaluation and make a determination on the merits.

- Implementation timeline: In place

3. Remain neutral regarding union organizing, respecting the employee and employers' rights.

- Implementation timeline: In place

4. Consistent with applicable law, Port staff will develop a forum for resolving issues related to PDX Employer contract violations.

- Implementation timeline: tbd

Standardized Permitting/Contracting (Safety, Worker Rights and Recommendations)

The Port of Portland's goal to remain a workplace of choice for all employees at PDX can only be achieved in an environment where employees feel safe to voice their concerns about potential violations without fear of retaliation. The Port will work to ensure that every employee fully understands his or her rights and has a way to safely and confidentially communicate concerns. In addition, the Port will work with employers to help ensure compliance.

Attracting and retaining the very best employees at PDX requires all parties to work closely with clarity of vision and intent. The Port of Portland seeks to work with current and prospective PDX Employers to be innovative. Through new operating contracts and selection criteria the Port will work to ensure its PDX Employers provide the best possible working conditions where PDX Employees can thrive and succeed.

The Port of Portland prioritizes the safety of airport workers and customers above all other goals. While many workers are not employees of the Port, this safety-focused culture must extend to all employers operating at PDX. Our focus in this Initiative is to promote a genuine and lasting interest in safety and health among employers with actionable requirements and training opportunities.

Therefore, the Port of Portland will:

1. Ensure Port contracts contain language requiring contractors to abide by all applicable local, state and federal laws and regulations in operating at PDX. Specifically, revise future Port operating agreements with PDX Employers to require the PDX Employer to comply with (among other applicable laws and regulations) all laws, regulations and policies concerning employer retaliation against individuals who engage in legally-protected reporting conduct and labor activity. Revise future Port operating agreements with PDX Employers to allow the Port, in its reasonable discretion and as limited by applicable health and safety, labor and employment, and other laws, to take action, up to and including termination of the contract, in cases of serious and continuing violations of applicable laws and regulations, after thirty (30) days written notice.
 - Implementation timeline: September 2015
2. Support public health authorities in providing training to avoid potential PDX employee exposure to hazardous or toxic substances or diseases.
 - Implementation timeline: In place
3. Provide information to PDX Employees on whistleblower protection laws. Publish and distribute whistleblower contact numbers for various agencies. Require PDX Employers to submit annual reports on violations of applicable laws.
 - Implementation timeline: September 2015
4. Revise future Port agreements with PDX Employers to require the PDX Employer to submit for the Port's review a written plan detailing the minimum level of working conditions the PDX Employer will maintain for its PDX Employees. The plan may include compensation plans, benefit offerings, incentive programs, education and training programs, advancement opportunities, etc. PDX Employers may use their response to question 1 of attached Exhibit A to meet this plan requirement if they wish. The contract will include termination provisions for serious, repeated failure, in the discretion of the Port discretion and as limited by applicable labor, employment and other laws, to comply with the minimum level plan provided by the PDX Employer. As required by applicable public records law, the plan may be made publically available if a public records request is made. Accordingly, you should be aware that the description of your plan will not be confidential. You should not include information you consider proprietary.

- Implementation timeline: 2015
5. Enhance RFP criteria for evaluating/scoring concessions proposals to include not less than 20 percent of the total score based on items such as an Employee-Employer Relationships Plan, wages and benefits, quality of safety training, and career development programs.
 - Implementation timeline: next PDX Concession RFP
 6. Revise future Port agreement with PDX Employers to encourage employers to consider providing sufficient hours for as many PDX Employees as possible to maintain eligibility for benefits provided by the PDX Employer or required by law.
 - Implementation timeline: next PDX Concession RFP

Limitations on the Initiative

This Initiative is subject to all applicable statutes, laws, regulations and the like. This Initiative is not intended to, and shall not be interpreted to, enact or express any generally applicable policy regarding labor-management relationships or to regulate those relationships in any way. This Initiative is not intended to favor any outcome in PDX Employees' determination regarding union representation. If any provision in this Initiative, or the application of this Initiative to any person or circumstance, is held invalid, that invalidity shall be severable and not affect any other provision or application of this Initiative that can be given effect without the invalid provision.

Exhibit A

Employee-Employer Relationships Plan

In order to ensure safe, efficient operations at PDX, the Port of Portland and the public are interested in each PDX Employer's plan for maintaining a positive relationship with its workforce. Maintaining a positive relationship with workers is important for keeping PDX among the best airports in the United States and for preventing disruptions of services at PDX. A plan for maintaining a positive relationship with workers can take many forms and may be based on myriad approaches. We request that you describe your approach and your plan, responding to the issues below. You may supplement the responses below with any agreement or other plan details you wish to provide. As required by applicable public records law, all agreements and plan details may be made available to the public if a public records request is made. Accordingly, you should be aware that the description of your plan will not be confidential. You should not include information you consider proprietary.

1. What compensation plans, benefit offerings, incentive programs, education and training programs, advancement opportunities, etc. do you offer your employees?
2. Does your company have a collective bargaining agreement with a labor union representing your work force?
3. Please describe your company's approaches to the following issues:
 - a. Maintaining positive relationships with your employees to prevent disruption of services at PDX.
 - b. Communications between employees and management.
 - c. Resolving disputes between employees and management.
4. Please describe any other plans or approaches your company is committed to for purposes of maintaining a positive relationship with you workers to prevent disruption of services at PDX.

DRAFT – PDX Workplace Initiative

April 7, 2015

PDX is considered one of the best airports in America. We are proud of that. Our innovative programs such as local concessions, airport art and music, small business participation, local iconic brands that represent the region, street pricing, light rail access, convenient parking and rental cars, among others, set us apart and give PDX a decidedly Portland feel. Through this Initiative, we strive to fine tune the balance between what makes PDX exceptional for our customers and what will continue to make PDX a preferred place to work and do business. The Port's interest in adopting this Initiative is to maintain an environment at PDX that is safe, convenient and efficient airport for travelers and other visitors, free from service disruptions.

At the Port of Portland we believe that people are our greatest asset. Nowhere is this more evident than at Portland International Airport (PDX). Whether an employee works for the Port of Portland (Port) or one of the many contractors and concessionaires, everyone who works at the airport—from roadway to runway—"owns" the customer experience and works hard every day to create a comfortable, efficient and convenient environment for our visitors.

The Port believes that minimum compensation levels are best set by the state. Because the Port will implement this initiative on a contract-by-contract basis, requirements to increase minimum compensation will lead to uneven treatment. In contrast, an increase in the state minimum wage would ensure even treatment. While the Port is not adopting minimum compensation in this Initiative, the Port will be considering in the succeeding months ways it can further enhance the worker experience, focusing on those workers with the greatest need.

With this Initiative we hope to enhance the worker experience at PDX. Our goals are to remain a great place to do business and a highly desirable workplace, and our objective is to continue to provide an excellent working environment in terms of safety, security and opportunities for advancement and mutual success.

Through collaboration with all of our stakeholders we will seek to generate and make investments in innovative new approaches to attract and retain the very best airport workers and employers. We will continue to provide a work environment that offers a high level of satisfaction and enhances overall quality of life.

Upon adoption of this Initiative by the Port of Portland Commission, staff will draft rules or policies consistent with the Initiative to further clarify its implementation.

JOB PATHWAYS

Retention policy

The Port of Portland will establish the PDX Labor Pool for employees at the airport.

Airline Service Providers

- Successor Employer replacing a Large Employer (>50 FTE equivalent at PDX or 250 total) must hire 80 percent of their employee needs from the qualified candidates of the departing ASP employer for a minimum of 60 days.

Concessions

- Employees may enter the PDX Labor Pool. Concessionaires' hiring from the Pool is optional. Employers must interview three qualified candidates, if available. For every individual hired from the Pool, the employer is given an incentive payment of \$1,000 with \$500 of that going to the employee.

WORKER BENEFITS

Establish a PDX Worker Benefit Work Group

- Work with PDX employers and stakeholders to generate and make investments in innovative new approaches to attract and retain the very best airport workers.

EMPLOYEE-EMPLOYER RELATIONSHIPS

Employee-Employer Relationships

Contracts with the Port at PDX will require the employer to submit a specific written plan on how it will maintain a positive working relationship with its employees.

- The plan may include any agreement the employer has with its employees, as well as programs the employer uses to maintain a positive relationship with its employees, such as compensation plans, benefit offerings, incentive programs, education and training programs, advancement opportunities, etc.
- The plan may be made publically available.
- The contract will allow the Port to take action, up to and including terminating the contract, in the event of the employer's repeated, serious failures, in the discretion of the Port and as limited by applicable law, to adhere to its plan.

**PUBLIC IMPROVEMENT CONTRACT – ECONOMY LOT BUS ROUTE REHABILITATION –
PORTLAND INTERNATIONAL AIRPORT**

April 8, 2015

Presented by: Chris Edwards
Engineering Project Manager**REQUESTED COMMISSION ACTION**

This agenda item requests approval to award a public improvement contract to Kodiak Pacific Construction Co. for the Economy Lot Bus Route Rehabilitation project at Portland International Airport (PDX), in the amount of \$4,173,173.

BACKGROUND

The Economy Lot Rehabilitation project involves the rehabilitation of bus route pavement in the red, blue and east economy parking lots. The economy lots were built through a series of projects starting in the early 1980s, with the initial construction of the blue lot, then the red lot with the final expansion to include the east lot. Since initial construction, there have not been any major rehabilitations to these locations.

The blue, red and east bus route lengths are approximately 2,400 feet, 3,050 feet and 3,000 feet, respectively. In general, the roadway width of the bus route varies between 24 to 27 feet, which equates to a project work area of approximately 300,000 square feet (6.85 acres). The bus routes are extensively used for PDX passenger and employee pick-up with a typical shuttle bus operation through the route every six to eight minutes, 24 hours a day. Much of the pavement along the bus routes has extensive “alligatoring,” or longitudinal and transverse cracking. The pavement structure has reached the end of its useful life and needs to be replaced. Work elements of the project include reconstruction of full-depth pavement and the concrete bus exit pad, installation of electrical loops and conduit and pavement markings.

Bus shelters are a key customer service amenity providing safety and protection for customers while waiting to be picked up by the shuttle buses. The shelters were installed at the time of initial construction of each of the parking lots and show extensive signs of wear; they will be replaced as part of this project. In addition, the Port of Portland (Port) plans to include electric vehicle charging stations to serve customer needs.

The economy lots project was intended to be constructed in 2014; however, during the same time frame, a number of other Port roadway projects were planned to be constructed. Constructing all of the 2014 projects at the same time could have compounded airport traffic congestion. Since the pavement was going to be reconstructed, the Port determined that the best course of action was to postpone the project to 2015.

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SCOPE

- Reconstruct red and blue lot bus route lanes in Portland cement concrete.
- Mill and inlay east lot bus route lanes in asphalt pavement.
- Replace bus shelters and upgrade ramps to meet ADA requirements.
- Place electric vehicle charging stations.
- Place electrical and communications conduit and vaults.
- Adjust utilities.
- Mark pavement.

SCHEDULE

Preliminary Planning	March 2013 – June 2013
Design	July 2013 – January 2015
Commission Approval	April 8, 2015
Construction	May 2015 – October 2015

PROJECT BID RESULTS

The Port procured this public improvement contract utilizing a competitive sealed bidding solicitation under ORS Chapter 279C. The solicitation was advertised on February 11, 2015 and bids were received on March 17, 2015. Kodiak Pacific Construction Co. submitted the lowest responsive bid.

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The bids were as follows:

Kodiak Pacific Construction Co.	\$4,173,173.00
Nutter Corporation	\$4,267,499.22
R&R General Contractors, Inc.	\$4,279,800.00
Goodfellow Bros., Inc.	\$4,420,326.30
K&E Excavating, Inc.	\$4,424,099.42
Kerr Contractors, Inc.	\$4,734,285.00
Engineer's Estimate	\$4,684,036.20

PROJECT RISKS

Risk: Operational Impacts

Mitigation Strategy:

- Phasing plans will be developed to minimize disruptions.
- There will be ongoing coordination with parking systems operations and other affected stakeholders.

Risk: Weather

Mitigation Strategy:

- Contingency plans will be developed for scheduling work.
- Work activities that are not weather-sensitive will be performed during inclement weather.

BUDGET

Contract	\$4,173,173
Design Consultant	\$ 350,510
Port Staff/Contracted Services	\$1,208,790
Contingency	<u>\$ 659,000</u>
Total Project Budget	\$6,391,473

The contingency representing 11.5 percent of the project budget is considered reasonable given the risk profile for the project and the complexity of the work site.

The project cost will be funded by the Port Cost Center.

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EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a public improvement contract for the Economy Lot Bus Route Rehabilitation project to Kodiak Pacific Construction Co., in accordance with its bid; and

BE IT FURTHER RESOLVED, That the Executive Director or his designee is authorized to execute the necessary documents on behalf of the Port of Portland Commission in a form approved by counsel.

SECOND READING AND ENACTMENT OF PORT OF PORTLAND ORDINANCE NO. 450-R, AMENDING AND RESTATING PORT OF PORTLAND ORDINANCE NO. 351 (AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 386-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 397-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 418-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND NO. 432-R) TO REGULATE USE OF THE COMMERCIAL ROADWAY TO BEST SERVE THE NEEDS OF THE TRAVELING PUBLIC AT PORTLAND INTERNATIONAL AIRPORT

April 8, 2015

Presented by: Michael Huggins
Landside Operations Manager

REQUESTED COMMISSION ACTION

This agenda item requests a second reading and enactment of proposed Port of Portland (Port) Ordinance No. 450-R, amending and restating Ordinance No. 351, as amended and restated by Ordinance Nos. 386-R, 397-R, 418-R and 432-R (collectively Ordinance), which pertain to regulation of the use and operation of the commercial roadway at the Portland International Airport (PDX). The Ordinance will:

- Create a category of commercial ground transportation vehicles for transportation network companies (TNCs);
- Create a regulatory network for TNCs to ensure safety and security of PDX customers;
- Create a mechanism for fees to be collected from TNCs to offset use of the Port roadways;
- Create categories for ground transportation to hotels offering parking under the new Port Ordinance 451-R; and
- Make administrative changes for more efficient permitting by the Port Ground Transportation Office.

BACKGROUND

The Ordinance and associated fees were originally adopted in 1990 with only minor subsequent amendments. Staff proposes the current revisions to reflect changes in business operations and airport regulation that have taken place over the past few years.

In part, the Ordinance is being restated to include the emergence of TNCs and other types of commercial transportation vehicles. TNCs are businesses, such as Uber and Lyft, that arrange transportation of passengers for compensation using an online-enabled application or platform. TNCs began operating in the City of Portland (City) late last year until the City took legal action to stop such operations. Since that time, the City implemented a task force to address ways to regulate TNCs and allow them to operate legally within the City. In anticipation of TNCs operating within the City, the Port is updating the Ordinance to allow TNCs to operate at PDX.

SECOND READING AND ENACTMENT OF PORT OF PORTLAND ORDINANCE NO. 450-R,
AMENDING AND RESTATING PORT OF PORTLAND ORDINANCE NO. 351 (AS AMENDED
AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 386-R, AS AMENDED AND
RESTATED BY PORT OF PORTLAND ORDINANCE NO. 397-R, AS AMENDED AND
RESTATED BY PORT OF PORTLAND ORDINANCE NO. 418-R, AS AMENDED AND
RESTATED BY PORT OF PORTLAND NO. 432-R) TO REGULATE USE OF THE COMMERCIAL
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Following the first reading and public hearing, the Port received no public comments.

Public notice of the proposed change has been posted in accordance with statutory requirements.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That Ordinance No. 450-R, amending and restating Ordinance No. 351 as amended and restated by Ordinance Nos. 386-R, 397-R, 418-R and 432-R, pertaining to regulation of the use and operation of the commercial roadway at Portland International Airport, be given a second reading by title only; and

BE IT FURTHER RESOLVED, That proposed Port of Portland Ordinance No. 450-R, in the form presented to the Commission, be enacted by a roll call vote.

ORDINANCE NO. 450-R

AN ORDINANCE AMENDING AND RESTATING PORT OF PORTLAND ORDINANCE NO. 351 (AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 386-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 397-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 418-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 432-R) TO REGULATE USE OF THE COMMERCIAL ROADWAY TO BEST SERVE THE NEEDS OF THE TRAVELING PUBLIC AT PORTLAND INTERNATIONAL AIRPORT.

BE IT ENACTED BY THE PORT OF PORTLAND:

Port of Portland Ordinance No. 450-R, amending and restating Port of Portland Ordinance No. 351 (as amended and restated by Port of Portland Ordinance No. 386-R, as amended and restated by Port of Portland Ordinance No. 397-R, and as amended and restated by Port of Portland Ordinance No. 418-R, as amended and restated by Port of Portland Ordinance No. 432-R) reads as follows.

Section 1. Findings and Purpose

1.1 The Port of Portland, a port district of the State of Oregon, created pursuant to Oregon Revised Statutes, Chapter 778, as amended, finds as follows:

- 1.1.1 That the Port owns and controls a system of airports including that certain airport and air navigation facility located in Multnomah County, State of Oregon, known as the Portland International Airport, which includes the Commercial Roadway, an area used by Commercial Ground Transportation Vehicles for ingress and egress to the Airport terminal loading and unloading area; and
- 1.1.2 ORS 778.025(5) authorizes the Port to operate and maintain airports and collect charges for the use of such facilities; and
- 1.1.3 That the Airport, including the Commercial Roadway, contributes to a strong economic base for the community, assists and encourages world trade opportunities, and is of vital importance to the health, safety, and welfare of the public; and
- 1.1.4 That the Port has required, and will continue to require, substantial expenditure for capital investment, operation, maintenance, and development of the Commercial Roadway to meet the future demand for air travel; and
- 1.1.5 That the unregulated use of the Commercial Roadway poses a threat to the peace, health, economic vitality, and safety of persons utilizing the Airport; and
- 1.1.6 That the unregulated use of the Commercial Roadway results in overcrowding, which has a negative impact on the enforcement of the Commercial Roadway regulations and the quality of services provided to, and the safety of, the traveling public and users of the Commercial Roadway or other designated Airport property; and
- 1.1.7 That the revenues received from users of the Commercial Roadway are vital to the economic well-being of the Airport; and

- 1.1.8 That users of the Commercial Roadway receive economic benefit from the use thereof; and
 - 1.1.9 That it is essential that the Airport remain financially healthy to perform its economic role in the community and to provide the community with cost-effective aviation facilities which include the Commercial Roadway; and
 - 1.1.10 That, in order to generate revenue for purposes of maintaining, operating, and developing the Commercial Roadway for the convenience of the traveling public; preserving existing revenues; protecting the public; preserving order; providing for the public health, safety and welfare; enhancing the welfare of the Port; and governing use of the Airport property, it is necessary to adopt and implement a revised system of fees to be paid by Permitted Businesses and to add certain types of Commercial Ground Transportation Vehicles utilizing the Commercial Roadway or other designated Airport property; and
 - 1.1.11 That the emergence of Transportation Network Companies and other categories of Commercial Transportation Vehicles requires additional regulations in order to allow such use to occur safely on the Airport; and
 - 1.1.12 That Permitted Businesses using the Commercial Roadway should contribute toward the operation, maintenance, and continued development thereof; and
 - 1.1.13 That the fees and regulations adopted herein are reasonable for the affected Permitted Businesses; and
 - 1.1.14 That larger Vehicles make greater demands on available space and, therefore, require capital expenditures for additional space; and
 - 1.1.15 That parking and stopping for other than short durations on the Commercial Roadway causes congestion and deprives others of the ability to use the Commercial Roadway, reducing the benefit to the traveling public; and
 - 1.1.16 That, in order to protect the public, to provide for public safety, to preserve the good order and peace of the Port, and to generate revenue for purposes of maintaining and expanding Airport facilities and preserving existing revenues, it is necessary to designate certain portions of the Airport roadway system for the use of Commercial Ground Transportation Vehicles, and to enact and provide for implementation of reasonable fees, standards, controls, rules, regulations, and procedures for use of the Commercial Roadway.
- 1.2 The purpose of this Ordinance is to enact regulations consistent with the above findings and this Ordinance and the regulations published pursuant thereto shall be liberally construed to effectuate the purposes expressed herein.

Section 2. Definitions

As used in this Ordinance:

- 2.1 "Access Fee" shall mean the fee charged to a Permitted Business each time a Permitted Business' Commercial Ground Transportation Vehicle drives onto the Commercial Roadway or other area on the Airport as designated in the applicable Permit.

- 2.2 "Airport" shall mean Portland International Airport, including, but not necessarily limited to, all facilities and roads located within the geographical boundaries of Port land designated as Portland International Airport, which, for purposes of this Ordinance, shall include, but is not limited to, the Airport terminal building, the Airport parking garages, the Commercial Roadway, all Airport parking lots, all waiting and Airport Hold Lots for Commercial Ground Transportation Vehicles, the airfield, all of Airport Way running from Interstate 205 on the East end and extending West to the Airport terminal building, Cascade Station shopping center and related facilities, Portland International Center and related facilities, and all of the frontage roads and adjacent facilities running parallel to Airport Way.
- 2.3 "Airport Customer" shall mean any person who arrives at, or departs from, the Airport.
- 2.4 "Airport Hold Lot" shall mean that area or areas designated by the Port as the area where a Permittee shall stage its Vehicles while awaiting the arrival of Airport Customers, call-up, or established service time, prior to entering the Commercial Roadway.
- 2.5 "Business" or "Permitted Business" shall mean a person, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization, who desires to transport Airport Customers in a Commercial Ground Transportation Vehicle. A Business that has obtained a Permit to operate on the Commercial Roadway is also referred to in this Ordinance as a "Permitted Business."
- 2.6 "Charter Service" shall mean a Commercial Ground Transportation Vehicle hired for a specific, event-generated occasion and for a specific group of travelers.
- 2.7 "Chauffeured Limousine" shall mean any custom luxury vehicle transporting passengers for hire, as a common carrier, where the driver is uniformed, a partition separates the driver from the passengers, and arrangements for the hire of the Vehicle have been made prior to the Vehicle arriving at the Airport. Chauffeured Limousines are a type of Reservation Only Vehicle.
- 2.8 "City" shall mean the City of Portland, a municipality of the State of Oregon.
- 2.9 "Commercial Ground Transportation Vehicle" or "Vehicle" shall mean any form of transportation vehicle traveling on streets, roads, or highways that is owned by, leased by, used by or at the request of, or procured by or at the request of, a Business, its agents, employees, officers, contractors, or subcontractors for the purpose of transporting Airport Customers and/or luggage to or from the Commercial Roadway or to and from the commuter airline security area or other designated Airport property, whether said transportation is for hire or is provided without charge, provided that a vehicle used solely for the transportation of luggage or other cargo shall not be deemed a Commercial Ground Transportation Vehicle. Commercial Ground Transportation Vehicles shall include Executive Cars, Taxicabs, Reservation Only Vehicles, Scheduled Service Vehicles, Courtesy Vehicles, Charter Services, TNC Vehicle, and any other type of Commercial Ground Transportation Vehicle that picks up and/or drops off Airport Customers on the Commercial Roadway or any other area on the Airport designated by the Port.

- 2.10 "Commercial Roadway" or "Roadway" shall mean that portion of the roadway system or other areas at the Airport designated by the Director, from time to time, as the roadway to be used by those Permitted Businesses operating Commercial Ground Transportation Vehicles.
- 2.11 "Commercial Roadway Fees" shall mean the fees authorized by this Ordinance, or any applicable Port ordinance, to be imposed on Businesses using, or required to make use of, the Commercial Roadway at the Airport.
- 2.12 "Concession Fee" shall mean the fee as described in Ordinance 451-R, as may be amended from time to time, and imposed on Off-Airport Rental Car Businesses, Parking Lot Operators, and Park and Fly Hotels, for the privilege granted to said businesses and operators of accessing Airport Customers.
- 2.13 "Controlled Substance" shall have the meaning given to that term in Oregon Revised Statutes 167.203 and 475.005.
- 2.14 "Courtesy Vehicle" shall mean any vehicle utilized by a hotel, motel, car rental company, parking facility, or other business used to transport Airport Customers to and from the Airport, without direct or indirect charge to the Airport Customer.
- 2.15 "Day Pass Fee" shall mean the fee charged to non-permitted businesses or Permitted Businesses that desire to use an unpermitted Vehicle, that desire access to the Commercial Roadway.
- 2.16 "Director" shall mean the Executive Director of the Port, or the Executive Director's designee, including, without limitation, the Deputy Executive Director, Chief Operating Officer, and/or the General Manager of Airport Operations or any other designee.
- 2.17 "Driver" shall mean any person driving a Commercial Ground Transportation Vehicle or in attendance of a parked Commercial Ground Transportation Vehicle at the Airport, including a "TNC Driver".
- 2.18 "Driver Transfer Fee" shall mean the fee charged to Drivers that obtain a Roadway Access Device from one Permitted Business and transfer to another Permitted Business within a six (6) month period and obtain a new Roadway Access Device.
- 2.19 "Dwell-Time Fee" shall mean the additional fee charged to the account of a Permitted Business when any of its Commercial Ground Transportation Vehicles are parked on the Commercial Roadway for a period of time longer than the time allowed under the Permit.
- 2.20 "Executive Car" shall mean a Vehicle which is at least a full size, luxury sedan featuring amenities which include, but are not limited to, air conditioning, leather or a high quality fabric upholstery, a stereo system, and is not more than five (5) years old, which transports passengers for hire as a common carrier.
- 2.21 "General Manager of Airports Operations" shall mean the manager responsible for the airside, terminal, and landside operations at the Airport for the Port, or his/her designee.
- 2.22 "Grandfathered Hotels" shall mean any person, association, corporation, partnership, joint venture, or any other business arrangement or organization or brand, which prior to

the adoption of this Ordinance 450-R was in a direct lease agreement with the Port or had a lease that had been assigned to the Port prior to January 1, 2015, that allowed for parking of Airport Customers and provided for the Port to share in the revenue from its parking operations.

- 2.23 "Ground Transportation Office" shall mean an office or offices located at the Airport where, including but not limited to, Permits and Roadway Access Devices may be obtained.
- 2.24 "Hearings Officer" shall mean the person designated by the Port to whom an appeal for the revocation or suspension of a Permit is to be addressed or the person authorized to hold a tow appeal hearing and render a decision as described in the Code and Charter of the City 16.30.450E (as amended), Hearing Administration and pursuant to any intergovernmental agreements between the City and the Port with respect to Permits or tow hearings.
- 2.25 "Immediate Suspension Order" shall mean an order issued by the General Manager of Airports Operations which immediately and indefinitely suspends a Permit for certain serious violations of this Ordinance before notice and opportunity to be heard need be given.
- 2.26 "Notice of Suspension or Revocation" shall mean a written notice sent to a Permitted Business by the Director informing the Permitted Business that its Permit will be suspended or revoked due to violations of this Ordinance or Ordinance No. 451-R, as may be amended from time to time.
- 2.27 "Off-Airport Rental Car Business" shall mean such business which is conducted with an Airport Customer through or from a facility which is not directly leased from the Port and does not have a Rental Car Concession Lease and Operating Agreement, a Rental Car Limited Service Kiosk Lease, with the Port, is not considered an On-Airport Rental Car Business, and shall be subject to the Concession Fee on Gross Receipts as provided in this Ordinance.
- 2.28 "On Demand Vehicle" means a Commercial Ground Transportation Vehicle that comes to the Airport to pick up waiting Airport Customers, on demand, and without a prior reservation. This includes, but is not limited to Taxicabs, which are the most common On-Demand Vehicles.
- 2.29 "Oregon Vehicle Code" means the Oregon Revised Statutes Chapters 801 to 826, as it may be amended from time to time.
- 2.30 "Park and Fly Hotel" shall mean any person, association, corporation, partnership, joint venture, or any other business arrangement or organization or brand which operates as a hotel, motel, or other business that offers lodging, whether or not such business is located on or off the Airport, and provides parking to Airport Customers without a requirement that such Airport Customer stay at least one overnight at the hotel, motel, or place of lodging, in order to park its vehicle, whether or not a separate fee is charged for such parking.
- 2.31 "Parking Access Fee" shall mean that fee set by the Director that is charged to Stay, Park, and Fly Hotel operators each time its Commercial Ground Transportation Vehicle enters the Commercial Roadway. The Parking Access Fee may be adjusted by the

Director at any time with thirty (30) calendar days' written notice to all then current affected Ordinance No. 451-R Permit Holders. This fee is in addition to the Commercial Roadway Access Fee and other applicable fees set forth in this Ordinance and Ordinance 451-R that may be amended from time to time.

- 2.32 "Parking Lot Operator" shall mean a person, association, corporation, partnership, joint venture, or any other business arrangement or organization, including a Park and Fly Hotel, also referred to in this Ordinance as "Permittee," that provides parking for vehicles, which utilizes the Airport for the purpose of picking up or delivering Airport Customers and transporting Airport Customers to or from parking lot facilities located off the Airport. Off-Airport Rental Car Businesses that offer parking to Airport Customers are also considered Parking Lot Operators and the Concession Fee shall apply to that portion of its business that offers parking.
- 2.33 "Permit" shall mean the Permit to be issued in accordance with the requirements of this Ordinance, as it may be amended from time to time, which Permit is required to operate a Commercial Ground Transportation Vehicle on the Commercial Roadway.
- 2.34 "Permit Fee" shall mean the fee charged by the Port to process a Permit and to maintain a file for a Permitted Business.
- 2.35 "Permitted Business" or "Permittee" shall mean a person, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization, who desires to transport Airport Customers in a Commercial Ground Transportation Vehicle. A Business that has obtained a Permit to operate on the Airport's Commercial Roadway is also referred to in this Ordinance as a "Permitted Business."
- 2.36 "Portland International Airport Rules" or "Rules" shall mean those rules issued and published by the Director pertaining to, among other things, the use of the Commercial Roadway.
- 2.37 "The Port of Portland" or "Port" shall mean the port district of the State of Oregon that owns and operates the Airport pursuant to Oregon Revised Statutes, Chapter 778.005 through Chapter 778.990, as amended.
- 2.38 "Request for Proposal" shall mean a formal written solicitation by the Port for written proposals to provide certain goods or services.
- 2.39 "Reservation Only Vehicle" shall mean any Commercial Ground Transportation Vehicle transporting Airport Customers for hire, as a common carrier, where the arrangements for the hire of the Reservation Only Vehicle have been made prior to the Reservation Only Vehicle arriving at the Airport. Reservation Only Vehicles include Chauffeured Limousines, but do not include TNC Vehicles.
- 2.40 "Roadway Access Device" shall mean the automated vehicle identification mechanism used to admit Commercial Ground Transportation Vehicles on to the Commercial Roadway.
- 2.41 "Scheduled Service Vehicle" shall mean any Commercial Ground Transportation Vehicle transporting Airport Customers for hire, as a common carrier, that has an

approved and regular published time schedule established for picking up Airport Customers at the Airport.

- 2.42 "Stay, Park, and Fly Hotel" shall mean any person, association, corporation, partnership, joint venture, or any other business arrangement or organization or brand which operates as a hotel, motel, or other business that offers lodging, whether or not such business is located on or off the Airport, that provides parking to Airport Customers, that reside at and/or pay for at least one overnight at the hotel, motel, or place of lodging, whether or not a separate fee is charged for such parking.
- 2.43 "Taxicab" shall mean any motor vehicle which carries passenger for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of an initial fee, distance traveled, waiting time, or any combination thereof, and which is duly permitted by the City under the terms of the City Code, Section 16.40, as may be amended from time to time. Taxicabs do not include TNC Vehicles.
- 2.44 "Transportation Network Company" or "TNC" shall mean a person, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any business arrangement or organization that provides or arranges transportation services for compensation using an online enabled application or platform to connect passengers with drivers using his or her personal Vehicle or other Vehicle assigned to the Driver for use as a TNC Vehicle. A Vehicle that is permitted or operates under another category of Commercial Ground Transportation Vehicle may not be considered operating under a TNC. At no time may a Taxicab that is permitted with the City be operated under a TNC.
- 2.45 "TNC Driver" shall mean an individual who has been approved by a TNC to use a TNC Vehicle to transport passengers whose rides are arranged through the TNC's online-enabled application, at any time the driver is on the Airport by reason of the TNC Driver's relationship with the TNC, regardless of whether the Vehicle is carrying an Airport Customer.
- 2.46 "TNC Vehicle" shall mean any Vehicle, whether or not it is carrying an Airport Customer, that it is operating at the time by reason of its relationship with the TNC
- 2.47 "Vehicle Inspection Document" shall mean a document that is used to record Permittee's Vehicle information and the inspection requirements that must be met for the Vehicle's exterior and interior prior to operating on the Roadway.

Section 3. Permit

- 3.1 No Business shall operate a Commercial Ground Transportation Vehicle at the Airport without having a valid Permit issued by the Director and without agreeing to the terms and conditions of such Permit. The Permit shall contain, at a minimum, the terms and conditions contained in this Ordinance. All Permits are valid in accordance with the Effective Date of the said Permit and will continue thereafter on a month-to-month basis, subject to termination by either party upon thirty (30) days advanced written notice or at the Port's sole discretion. Permittee must maintain a list of permitted Vehicles with the Commercial Ground Transportation Office during the term of the Permit. If Permittee desires to add or delete vehicles from its fleet Permittee will notify the Port and no Vehicle shall operate on the Airport prior to such notification. New Vehicles must meet

the requirements set forth in the Permit and the Portland International Airport Rules. In the event the party seeking the Permit is in violation of any Port Ordinance, Rule or other regulation, or any applicable statute or City code or ordinance or other applicable law or regulation, the Port in its sole discretion may refuse to issue a Permit.

3.2 The Port, at its sole discretion, shall determine which, if any, category a Permitted Business and/or Vehicle shall be permitted under.

3.3 All Permittees must comply with the insurance, specific Vehicle requirements, and any other specific requirements set forth in the Permit and/or the Rules.

3.4 If applicable, Permittee must obtain and present the following to obtain a Permit:

3.4.1 The City Private For Hire Transportation Vehicle Listing, which will include, but not be limited to: the vehicle permit number, vehicle identification number, license number or state temporary permit, service type, year, and Vehicle make and model for each Commercial Ground Transportation Vehicle that the Business intends to operate on the Commercial Roadway;

3.4.2 A copy of the title or vehicle registration for each Commercial Ground Transportation Vehicle that the Business intends to operate on the Commercial Roadway demonstrating that it is owned by the Business or, if the Commercial Ground Transportation Vehicle is being leased, upon request of the Port a copy of the lease and a notarized affidavit from the title holder confirming that the Commercial Ground Transportation Vehicle is being leased by the Business and is in the lawful custody and control of the Business;

3.4.3 Unless exempt, proof of a valid City business license and Driver's Permit. Upon request of the Port, the Business shall provide proof of any other business or motor vehicle permits or licenses, as the Business may be required by law to possess;

3.4.4 Proof of form of business entity: For corporations, a copy of the current Articles of Incorporation and a Certificate of Existence issued by the State of Oregon within thirty (30) days of the date the Permit application is submitted; for a limited liability company, a copy of the Articles of Organization and a copy of the Certificate of Existence, as above described; for a partnership, a copy of the fully executed partnership agreement; for a sole proprietorship, a signed and notarized statement by the owner of the Business stating that the Business is a sole proprietorship; and,

3.4.5 If applicable, a statement by the Business disclosing any contractual arrangements, whether written or verbal, to provide ground transportation for Ordinance No. 451-R operators who provide rental cars and/or parking space to Airport Customers.

3.5 3.3 A Permit will not be issued unless the Non-Refundable Permit Fee and Non-Refundable Per Vehicle Fee and associated forms are submitted to the Ground Transportation Office and all information required under the Permit of the Portland International Airport Rules has been submitted and meets the requirements of this Ordinance. If applicable, upon addition of the new Vehicle(s) or Permit, the Permitted Business shall also be issued one or more Roadway Access Devices, subject to the

requirements of Section 4. Any Business obtaining a Permit must keep the Business street address, mailing address (if different than the street address), telephone number and e-mail address current with the Ground Transportation Office at all times the Permit is in effect.

Section 4. Roadway Access Devices

- 4.1 In addition to the Permit, the Port at its sole discretion, will issue each Permitted Business a non-transferable Roadway Access Device for each Commercial Ground Transportation Vehicle that the Permitted Business intends to operate on the Commercial Roadway, depending upon the assigned operating area. When a new Commercial Ground Transportation Vehicle is obtained and is to be substituted for a Commercial Ground Transportation Vehicle that has already been issued a Roadway Access Device, a new Roadway Access Device must be obtained for the new Commercial Ground Transportation Vehicle, and the Roadway Access Device for the retiring Commercial Ground Transportation Vehicle must be returned immediately to the Ground Transportation Office. Unless otherwise permitted by the Port in its sole discretion, no Commercial Ground Transportation Vehicle may be admitted on to the Commercial Roadway without a valid Roadway Access Device issued specifically for that Commercial Ground Transportation Vehicle.
- 4.2 Before a Roadway Access Device will be issued to a Commercial Ground Transportation Vehicle, that Commercial Ground Transportation Vehicle must be inspected, either by the Port or another party approved by the Port in its sole discretion, for cleanliness and body condition, meeting the requirements as set forth in Section 5.

Section 5. Vehicle Condition/Identification

- 5.1 All Commercial Ground Transportation Vehicles shall be neat and clean, free of body damage, and well painted.
- 5.2 Commercial Ground Transportation Vehicles, except for Chauffeured Limousines and Executive Cars which must comply with City marking requirements, shall be clearly marked to depict the name and telephone number of the Permitted Business operating the Commercial Ground Transportation Vehicle. All marking required herein shall be installed as per the Port's requirements. At the Port's discretion the Commercial Ground Transportation Vehicle must affix the Port decal as directed by the Port. If a Permitted Business does not comply with this provision, access to the Commercial Roadway may be terminated immediately at the Port's sole discretion.

Section 6. Use of Commercial Roadway and Compliance With Laws

All Permitted Businesses operating a Commercial Ground Transportation Vehicle or Vehicles, at the Airport shall load or unload Airport Customers in an area on the Airport designated by the Director. Use of the Commercial Roadway or any of the facilities by an operator of a Commercial Ground Transportation Vehicle shall be deemed acceptance of the Permit for purposes of this Ordinance. All who use the Commercial Roadway must do so in compliance with all laws applicable to use of the Commercial Roadway, including all provisions of this Ordinance.

Section 7. Prohibited Activities and the Portland International Airport Rules

In providing ground transportation services at the Airport all Permittees and Drivers shall abide by all rules and requirements set forth in the Permit and the Portland International Airport Rules that may be amended from time to time.

Section 8. Commercial Roadway Fees and Deposits

8.1 A Permitted Business shall timely pay all "Commercial Roadway Fees," as established by the Director, which fees consist of a Non-Refundable Permit Application Fee, an Access Fee, Per Vehicle Fee, Roadway Access Device Replacement Fee, , Day Pass Fee, Driver Transfer Fee, Dwell-Time Fee, Non-Permitted Vehicle Fee, Parking Access Fee (if applicable), and all other reasonable fees that may be implemented by the Port from time to time, and Security Deposit (all defined below) (collectively "Fees"):

8.1.1 Non-Refundable Permit Fee: Any Business applying for a Permit shall tender to the Port a Non-Refundable Permit Fee in an amount established by the Director. If the Permit is issued this fee is nonrefundable. The amount of the Permit Fee may be adjusted by the Director on or before July 1 of each year. The current Permit Application Fee schedule is available in the Ground Transportation Office.

8.1.2 Access Fee: All Permitted Businesses shall pay an Access Fee as established or adjusted by the Director from time to time, said fee to be for each entry of a Commercial Ground Transportation Vehicle to and from the Commercial Roadway or other designated Airport ground transportation infrastructure. Said Access Fee shall be based on category, as determined by the Port. The Taxicab fee shall be a flat rate fee per entry and/or exit of the Commercial Roadway. The TNC fee shall be a flat fee per entry and exit of the Airport. The Access Fee amount may be adjusted by the Director from time to time, provided the fee for Commercial Ground Transportation Vehicles operating under a contract with the Port (other than by Permit) may be adjusted by the Director only to the extent adjustment is allowed by the terms of the contract. The current Access Fee schedule is available in the Ground Transportation Office.

8.1.3 Non Refundable Per Vehicle Fee: All Permitted Businesses must pay a Non Refundable Per Vehicle Fee, as established by the Director, for each Vehicle permitted for use on the Commercial Roadway. All Vehicles, including replacement Vehicles, are subject to such fee.

8.1.4 Roadway Access Device Replacement Fee: When a Roadway Access Device is lost, stolen or damaged, all Permitted Businesses requesting a replacement must pay a Roadway Access Device Replacement Fee, as established by the Director.

8.1.5 Day Pass Fee: Non-permitted businesses that desire to access the Commercial Roadway with their vehicles, or a Permitted Business that desires to use an unpermitted vehicle to access the Commercial Roadway will pay to the Port a Day Pass Fee, which amount is established by the Director.

- 8.1.6 Driver Transfer Fee: Drivers shall pay a Driver Transfer Fee when transferring from one Permitted Business to another and obtaining a new Roadway Access Device within a six (6) month period.
- 8.1.7 Dwell-Time Fee: A Permitted Business shall pay a Dwell-Time Fee at the rate or rates established from time to time by the Director, as needed, in order to ensure that the Commercial Roadway operates free of congestion. The current Dwell-Time Fee schedule is available in the Ground Transportation Office.
- 8.1.8 Parking Access Fee: Permitted Business' operating as Stay, Park and Fly Hotels shall pay to the Port a Parking Access Fee in addition to its Access Fee.
- 8.1.9 Non-Permitted Vehicle Fee: A Permitted Business that accesses the Commercial Roadway with a vehicle that has not been inspected or issued a Roadway Access Device from the Port shall pay a Non-Permitted Vehicle Fee set by the Director. This fee will be included in the Permitted Business' monthly billing. No change shall occur to the fee without at least thirty (30) calendar days' prior written notice to Permitted Business.
- 8.2 A Permitted Business must also pay the Port a refundable cash security deposit at the time the Permit is issued, in order to help ensure compliance with the Permit. The amount of the security deposit will be set by the Director based on the type of use and anticipated amount of use of the Commercial Roadway.
- 8.3 Any Permitted Business having a direct real property lease with the Port that is a Stay, Park, and Fly Hotel or Park and Fly Hotel, and such lease allows parking and provides the Port with a revenue share of the parking revenue, and such lease was directly with the Port or had been assigned to the Port prior to January 1, 2015, shall be exempt from the payment of the Access Fee and the Dwell-Time Fee only for Courtesy Vehicles operated directly in conjunction with the operations being conducted on the leased property. Said Permitted Businesses will be required to pay the Non-Refundable Permit Fee, Non-Refundable Per Vehicle Fee and the Delinquency Charge due to deactivations due to a violation of the Permit.

Section 9. Port Reservation Of Rights

- 9.1 The Director is authorized to designate any portion of the roadway system at the Airport as being part of the Commercial Roadway, to relocate the Commercial Roadway, or to establish additional Commercial Roadways as may be necessary for the efficient management of ground transportation at the Airport.
- 9.2 The Director is authorized to issue and publish additional rules to implement this Ordinance, and to include additional terms and conditions in the Permit to implement this Ordinance, as is deemed necessary by the Director. This authorization includes the Director's ability to create new categories of Commercial Ground Transportation Vehicles and Permitted Businesses and establish rules and regulations applicable to those Vehicles and Businesses without limiting the effect of this Ordinance. Should this Ordinance conflict with the Portland International Airport Rules, this Ordinance shall prevail, but the Portland International Airport Rules must be applied to the fullest extent that they do not conflict.

- 9.3 The Director is authorized, at any time and from time to time, as the Director deems necessary, to limit the number of Permits and/or Roadway Access Devices issued in order to manage and prevent overcrowding on the Commercial Roadway.
- 9.4 The Director is authorized, in lieu of issuing Permits to all applicants who would otherwise qualify for a Permit, to instead establish a Request for Proposal ("RFP") process for any category of Commercial Ground Transportation Vehicles and to award an exclusive contract, or a limited number of contracts, for that category of Commercial Ground Transportation Vehicle service provider. In the event a contract, or contracts, for a particular category of Commercial Ground Transportation Vehicle service is awarded through an RFP process, the Port reserves the right to terminate any existing Permits in that category, upon giving at least ninety (90) days written notice to the affected Permitted Businesses in that category, in accordance with the notice requirements set forth in the Permits being terminated. Until such time and only in the event of an exclusive contract being awarded for a specific category of Commercial Ground Transportation Vehicle, no Permittee shall have an exclusive right to conduct business described herein.
- 9.5 The Director is authorized to revoke or suspend any Permit and or immediately turn off access to the Commercial Roadway or Airport, for violation of this Ordinance or Ordinance 451-R, as amended, the Permit, Portland International Airport Rules pertaining to the Commercial Roadway, or violations of any law pertaining to operations on the Commercial Roadway.

Section 10. Tri-Met and Medical Exemption

Vehicles owned and operated by Tri County Metropolitan Transportation District of Oregon ("Tri-Met") and those vehicles designated for, and in the process of, transferring patients to and from a local hospital or medical facility for treatment that do not otherwise operate as Commercial Ground Transportation Vehicle ("Medical Transport") shall be exempt from the requirements for payment of roadway fees set forth in this Ordinance. Tri-Met shall not be required to obtain any Permit for operating on the Commercial Roadway and shall be fully exempt from the provisions of this Ordinance.

Section 11. Suspensions and Revocation of Permit

- 11.1 In the event that a Permitted Business or Driver violates any provision of this Ordinance or Ordinance 451-R, as amended, the Permit, Portland International Airport Rules pertaining to the Commercial Roadway, or any law pertaining to operations on the Commercial Roadway, the Port may, in addition to any other rights or remedies allowed by this Ordinance, at law or in equity, suspend or revoke the rights granted pursuant to the Permit as follows:

- 11.1.1 Except as set forth in Section 11.1.2, Section 11.1.3 and Section 11.1.4, suspensions and revocations of a Permit shall be subject to reasonable prior notice and hearing, if requested, in accordance with the procedures set forth in Section 12 and Section 13. Suspensions may be for a specific period of time or the Director may elect to revoke the Permit. The decision whether to suspend or revoke a Permit and the duration of any suspension will depend on the severity of the violation(s) and/or the number of prior violation(s) and/or suspensions. The

Director shall have the authority to issue a Notice of Suspension or a Notice of Revocation. Except for those events allowing immediate suspension, if the Director determines that a Permit should be suspended or revoked, the Permitted Business will receive seven (7) days' notice of the suspension or revocation and within that period may request a hearing, in accordance with the requirements set forth in Section 13. If no hearing is requested within the time frame allowed and in accordance with the requirements for requesting a hearing, as set forth in Section 13, the Permitted Business will be deemed to have waived the hearing right and the suspension or revocation shall immediately take effect. If a hearing is requested, the hearing will be scheduled as soon as practical and the Director shall notify the Permitted Business of the time and place of the hearing not less than seven (7) days before hearing date.

11.1.2 Notwithstanding any other provision herein , the Port may immediately suspend a Permit and/or its related Roadway Access Devices without prior notice or hearing for failure to maintain insurance coverage as required by this Ordinance, or for any violations where the failure to immediately suspend would jeopardize the health, safety or welfare of the public, other Drivers, or Port representatives or employees, or for failure to pay any fee associated with this Ordinance or Ordinance 451-R. after five (5) days' notice, or operating under a certain Permitted Business category that it is not permitted to operate under. Upon finding cause for immediate suspension, the General Manager of Airports Operations shall issue a written Immediate Suspension Order. This Immediate Suspension Order may be via email to the email address of record of the Permitted Business. The Immediate Suspension Order shall state the grounds for the Immediate Suspension Order and inform the Permitted Business that it may contest the Immediate Suspension Order by presenting additional information to the Director and requesting the Director to vacate the Immediate Suspension Order. If such a request is presented to the Director, the Director shall promptly consider the information and either affirm, vacate, or modify the Immediate Suspension Order accordingly and shall issue a confirming Notice of Suspension, a modified Notice of Suspension, or the Director may elect to vacate the Notice of Suspension. If the Immediate Suspension Order is upheld, in whole or in part, the Permitted Business shall be entitled to a hearing, and may request one as provided in Section 13.

11.1.3 Any disciplinary action taken against any Driver or Permitted Business shall be consistent with the Portland International Airport Rules and the Permit.

11.2 Section 11 shall not apply to any Permitted Business operating on the Commercial Roadway who was selected through an RFP process and has entered into a contract with the Port. In that case, unless otherwise stated in the contract, the specific provisions contained in the contract pertaining to breach of the contract, remedies for breach of contract and termination of the contract shall instead apply.

Section 12. Notice of Suspension or Revocation

12.1 The Director shall have the authority to issue a Notice of Suspension. The Notice of Suspension shall set forth:

- 12.1.1 The nature of the violation(s) which is the reason for the suspension or revocation;
 - 12.1.2 The date of the violation(s);
 - 12.1.3 The length of the suspension or notice that the Permit is being revoked;
 - 12.1.4 The date on which the suspension or revocation shall commence;
 - 12.1.5 The date of the Notice of Suspension or Revocation; and
 - 12.1.6 The right to request a hearing.
- 12.2 The Director shall review any report brought to the Director's attention and may conduct additional investigation into such facts as deemed necessary, in order to determine whether there are grounds for issuance of a Notice of Suspension or a Notice of Revocation. Except for and Immediate Suspension Order described above, a suspension or revocation shall commence not earlier than seven (7) days from the issuance of a Notice of Suspension or Revocation or, where a hearing is requested, the day immediately following the date of the decision of the Hearings Officer sustaining the suspension or revocation.
- 12.3 Notice as required by Section 12, or any other notice required by this Ordinance to be given to a Permitted Business or Driver, is sufficient if delivered in person or sent by certified U.S. mail, return receipt requested, to the last address on file in the Ground Transportation Office. Notice shall be deemed issued when the notice is hand-delivered or deposited in the U.S. mail.
- 12.4 Section 12 shall not apply to any Permitted Business operating on the Commercial Roadway who was selected through an RFP process and has entered into a contract with the Port. In that case, unless otherwise stated in the contract, the specific provisions contained in the contract pertaining to notice of suspension or revocation shall instead apply.

Section 13. Hearing Procedure

- 13.1 These hearing procedures shall apply to a Permitted Business receiving a Notice of Suspension or Notice of Revocation. A Permitted Business receiving an Order of Immediate Suspension may also follow this procedure after following the procedure set forth in Section 11.1.2, but such Permit shall remain suspended throughout the hearings procedure.
- 13.2 Any Permitted Business receiving a Notice of Suspension or Revocation may request a hearing before a Hearings Officer in accordance with the Portland International Airport Rules.
- 13.3 If the Permitted Business requests a hearing, a Hearings Officers shall be appointed in accordance with the Portland International Airport Rules to conduct the hearing.
- 13.4 The hearing shall be conducted by the Hearings Officer, shall be recorded by electrical or mechanical recorder or by a qualified reporter, and shall proceed as follows:
- 13.4.1 The Director may appear in person or may be represented by counsel, shall present any relevant evidence which supports the facts constituting grounds for

the suspension or revocation, and may cross examine any witnesses presented by the Permitted Business;

13.4.2 The Permitted Business requesting the hearing may appear in person or may be represented by counsel, may present any relevant evidence which the Permitted Business has relating to the facts constituting grounds for the requested suspension or revocation, and may cross examine any witness presented by the Director;

13.4.3 The evidence at the hearing shall be limited to that which is relevant to the facts constituting grounds for the requested suspension or revocation;

13.4.4 All testimony shall be taken under oath, but both the Director and the Permitted Business requesting the hearing may introduce testimony under oath in the form of sworn statements, if witnesses are unavailable or refuse to appear in person;

13.4.5 The Hearings Officer shall hear the evidence and shall issue findings concerning the facts and shall determine whether to uphold, modify, or vacate the penalty imposed by the Director, relevant to the violation(s) set forth in the Notice of Suspension or Notice of Revocation. The Hearings Officer shall make no findings concerning any substantive issue other than the facts underlying the Notice of Suspension or Notice of Revocation; and

13.4.6 The Hearings Officer shall issue a decision, in writing, stating the Hearings Officer's findings as soon as practical following the hearing.

13.5 The Hearings Officer's decision shall be the final action of the Port. Any appeal of the Hearings Officer's decision by the Director or the Permitted Business shall be by Writ of Review, pursuant to ORS. 34.010 to 34.102.

13.6 Section 13 shall not apply to any Permitted Business operating on the Commercial Roadway who was selected through an RFP process and has entered into a contract with the Port. In that case, unless otherwise stated in the contract, the specific provisions contained in the contract pertaining to breach of the contract, remedies for breach of contract and termination of the contract shall instead apply.

Section 14. Civil Penalties

In addition to other remedies and fees set forth in this Ordinance, Pursuant to ORS 836.210(2), the Port shall be entitled to impose civil penalties for the violations of this Ordinance pertaining to charges and fees imposed by this Ordinance for use of the Commercial Roadway. Such penalty shall be equal to twenty five percent (25%) of the charge or fee involved. Where the Permitted Business is required to pay a fee, charge, or toll to the Port, each calendar day the fee, charge, or toll is past due shall be considered a separate violation.

Section 15. Criminal Sanctions

Any person violating this Ordinance shall, upon conviction, be punished by a fine not to exceed the maximum penalty set forth in ORS 778.990. Where the violation is continuing, each calendar day the violation continues shall be considered a separate violation.

Section 16. Remedies Non-exclusive

All of the rights and remedies set forth herein, as well as all other rights and remedies available at law or in equity for violations of this Ordinance shall be non-exclusive and the Port shall be entitled to pursue one or more of them simultaneously for each violation of this Ordinance.

Section 17. Time Periods

Time periods set forth in this Ordinance shall be based on calendar days, unless otherwise specified. In the event the final day for action falls on a Saturday, Sunday, or legal holiday observed by the Port, then the period shall extend to the next day that the Port is open for business.

Section 18. Savings Clause

In the event any phrase, clause, sentence, paragraph, or paragraphs of this Ordinance is declared invalid for any reason, the remainder of the sentence, paragraph, or paragraphs of this Ordinance shall not be thereby invalidated, but shall remain in full force and effect, all parts being hereby declared separable and independent of all others. In the event that a judgment is entered, and all appeals exhausted, which judgment finds, concludes or declares that this Ordinance is unconstitutional or is otherwise invalid, the Permitted Business shall pay Commercial Roadway Fees established by regulations issued by the Executive Director of the Port of Portland pursuant to this Ordinance.

ADOPTED THIS 8 TH day of APRIL, 2015, being effective thirty (30) days thereafter.

THE PORT OF PORTLAND

By: _____
James C. Carter, Commission President

By: _____
Pam Thompson, Assistant Secretary

APPROVED FOR LEGAL SUFFICIENCY
FOR THE PORT OF PORTLAND:

By: _____
Counsel for The Port of Portland

SECOND READING AND ENACTMENT OF PORT OF PORTLAND ORDINANCE NO. 451-R, AMENDING AND RESTATING PORT OF PORTLAND ORDINANCE NO. 349 (AS AMENDED AND RESTATED BY 412-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE NO. 439-R) SETTING FORTH A CONCESSION FEE AND RESPONSIBILITIES OF OFF-AIRPORT RENTAL CAR, PARKING LOT, PARK AND FLY AND STAY PARK AND FLY BUSINESSES AT PORTLAND INTERNATIONAL AIRPORT

April 8, 2015

Presented by: Scott Kilgo
Airside Leasing Manager

REQUESTED COMMISSION ACTION

This agenda item requests a second reading and enactment of proposed Port of Portland (Port) Ordinance No. 451-R, amending and restating Port Ordinance No. 349, as amended by Ordinance Nos. 412-R and 439-R (Ordinance), setting forth a concession fee and responsibilities of off-airport rental car, parking lot, park and fly, and stay park and fly businesses servicing customers of Portland International Airport (PDX). The Ordinance will:

- Establish two parking programs with an updated fee structure, in which third parties can participate, in meeting the parking needs of PDX customers;
- Standardize the overall parking programs available to operators by category and improve consistency across hotel, rental car and parking lot operators;
- Establish a contractual relationship with all third-party parking operators in the State of Oregon that provide parking services to PDX customers;
- Clarify program requirements to improve consistency in enforcing operator activities;
- Update the definition of Gross Receipts for Off-Airport Rental Car operators to standardize the definition with On-Airport rental car leases; and
- Implement other miscellaneous changes to coordinate with the updated Port Ordinance 450-R.

BACKGROUND

In the last decade, many new hotels have developed within Cascade Station and east of Interstate 205. These third-party parking operators have introduced a significant number of parking operations that are in direct competition with the Port's parking services. Although a certain amount of third-party operated parking is expected and beneficial to PDX to meet the needs of the traveling public, periodically, the Port performs an evaluation to ensure that the Port's overall long-term parking interests are protected.

Prior to 1988, the Port lacked a program to recoup costs through the collection of fees from operators for their use of PDX infrastructure in operation of their airport parking businesses. In 1989, the Port – along with other airports across the country – put in place a program to collect these and other landside operator fees. The initial fees were set at the low end of the range demonstrated at other airports at the time.

SECOND READING AND ENACTMENT OF PORT OF PORTLAND ORDINANCE NO. 451-R,
AMENDING AND RESTATING PORT OF PORTLAND ORDINANCE NO. 349 (AS AMENDED
AND RESTATED BY 412-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND
ORDINANCE NO. 439-R) SETTING FORTH A CONCESSION FEE AND RESPONSIBILITIES
OF OFF-AIRPORT RENTAL CAR, PARKING LOT, PARK AND FLY AND STAY PARK AND FLY
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Around 2005, multiple hotels were developed as part of Cascade Station. At that time there were questions about the level of parking competition the new hotels would introduce with the existing On-Airport hotels and the Port-operated parking program. Cascade Station hotel leases were structured to prohibit parking. In 2006, the On-Airport and Portland International Center hotels were allowed to introduce limited parking services in an effort to bolster their competitive position with the more than 10 new hotels located in Cascade Station and east of Interstate 205.

The hotel courtesy vehicle trip access fees established in 1989 have been raised only three times in more than 20 years. As part of the discussions with parking operators while implementing the 2012 increase, the parking lot operators raised concerns about the impacts to their costs that they viewed as out-of-line with the changes being made to hotels that also provided parking services.

Beginning in 2012, hotels in Cascade Station and developers proposing a new hotel expressed an interest in adding an accessory parking operation to their hotel businesses. In response to this input, the Port established a team to evaluate the situation to explore options to improve and update the overall parking program operated by these third-party operators.

Port staff completed the initial planning effort, but prior to taking further action to implement the recommended program changes, an operator education and outreach effort was completed. Letters have been sent by certified mail to more than 40 operators to notify the operating community of the proposed changes. The letters were followed with personal calls, in-person meetings, and an open public group meeting to review and discuss the proposed changes. Comments regarding the proposed changes were received with an expected mix of support since the changes would impact the cost of the operators at PDX once implemented.

The recommended programs would cover all third-party parking operators in the State of Oregon that provide parking services to PDX passengers. Hotels could choose to participate in one, both or neither of the programs, and non-hotel operators could participate in the park and fly program. Individual operators that choose to participate in the various parking programs would also need to comply with applicable local ordinances and statutes. Hotels that choose to participate in both programs will pay the fees associated with both programs.

Following the first reading and public hearing, the Port received no public comments.

Public notice of the proposed change has been posted in accordance with statutory requirements.

SECOND READING AND ENACTMENT OF PORT OF PORTLAND ORDINANCE NO. 451-R,
AMENDING AND RESTATING PORT OF PORTLAND ORDINANCE NO. 349 (AS AMENDED
AND RESTATED BY 412-R, AS AMENDED AND RESTATED BY PORT OF PORTLAND
ORDINANCE NO. 439-R) SETTING FORTH A CONCESSION FEE AND RESPONSIBILITIES
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EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That Port of Portland Ordinance No. 451-R, amending and restating Ordinance 349 as amended by Ordinance Nos. 412-R and 439-R, setting forth a concession fee and responsibilities of off-airport rental car, parking lot, park and fly, and stay park and fly businesses servicing customers of Portland International Airport, be given a second reading by title only; and

BE IT FURTHER RESOLVED, That proposed Port of Portland Ordinance No. 451-R, in the form presented to the Commission, be enacted by a roll call vote.

ORDINANCE NO. 451-R

AN ORDINANCE AMENDING AND RESTATING PORT OF PORTLAND ORDINANCE NO. 349 (AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE 412-R AND AS AMENDED AND RESTATED BY PORT OF PORTLAND ORDINANCE 439-R) SETTING FORTH A CONCESSION FEE AND RESPONSIBILITIES OF OFF-AIRPORT RENTAL CAR, PARKING LOT, PARK AND FLY HOTEL AND STAY, PARK, AND FLY HOTEL BUSINESSES SERVICING CUSTOMERS OF PORTLAND INTERNATIONAL AIRPORT.

BE IT ENACTED BY THE PORT OF PORTLAND:

Section 1. Findings and Purpose

- 1.1 The Port of Portland a port district of the State of Oregon, created pursuant to Oregon Revised Statutes, Chapter 778, as amended, finds as follows:
 - 1.1.1 The Port owns and operates the Portland International Airport located in Portland, Oregon, including the ingress and egress road known as Airport Way; and
 - 1.1.2 ORS 778.025(5) authorizes the Port to operate and maintain airports and collect charges for the use of such facilities; and
 - 1.1.3 The Airport promotes a strong economic base for the community, assists and encourages world trade opportunities, and is of vital importance to the welfare of the State of Oregon; and the unregulated use of the Airport poses a threat to the peace, health, economic vitality, and safety of persons living in the community, the State of Oregon, and other citizens utilizing the Airport; and
 - 1.1.4 The revenues received from commercial users of the Airport are vital to the economic well-being of the Port; and
 - 1.1.5 Commercial users of the Airport receive substantial economic benefit from their use of the Airport; and
 - 1.1.6 It is essential that the Port remain financially healthy to perform its economic role in the community and to provide the community with cost-effective aviation facilities at the Airport; and
 - 1.1.7 The Port finds that the fees defined herein are reasonable and uniform for the privileges or services affected; and
 - 1.1.8 The Port has publicly advertised for rental car concession leases for full and limited service on-Airport concessions by persons or corporations wishing to operate either full service or limited service rental car concessions on-Airport, which agreements are on file at the administrative offices of the Port and pursuant to which leases were awarded and entered into with various rental car concessionaires on-Airport; and
 - 1.1.9 The aforementioned rental car concession leases have reasonable requirements, charges, and fees for the privilege of operating rental car concessions at the

Airport, based on the property and improvements used, the expenses of Airport operations, the cost of Airport facilities, including Airport debt retirement; and

1.1.10 Off-Airport Rental Car Businesses, Parking Lot Operators, Park and Fly Hotels, and Stay, Park and Fly Hotels desire the privilege of accessing Airport customers and supplying services at the Airport; and

1.1.11 Park and Fly Hotels and Stay, Park, and Fly Hotels are in direct competition with Off-Airport Parking Lot Operators and the Port. As such, in order to provide those businesses equitable access to the Airport and to ensure, the Port receives adequate revenue for maintenance of Airport facilities, it is necessary to recover revenue from the Park and Fly Hotels and Stay, Park, and Fly Hotels that are benefitting from offering parking to Airport Customers.

1.1.12 That, in order to protect the public, to provide for public safety, to preserve the good order and peace of the Port, to raise revenue for purposes of maintaining and expanding Airport facilities, and to apply consistent standards to all rental car operations at the Airport and all parking operations at or off the Airport, it is necessary to provide reasonable standards, controls, rules, regulations, and procedures for Off-Airport Rental Car Businesses, Parking Lot Operators, Park and Fly Hotels, and Stay, Park and Fly Hotels.

1.2 The purpose of this Amended and Restated Ordinance is to enact regulations consistent with the above findings and this Ordinance and the regulations published pursuant thereto shall be liberally construed to effectuate the purposes expressed herein.

Section 2. Definitions

As used in this Ordinance:

2.1 "Airport" shall mean the Portland International Airport, including, but not necessarily limited to, all facilities and roads located within the geographical boundaries of Port land designated as Portland International Airport, which, for purposes of this Ordinance, shall include, but is not limited to, the Airport terminal building, the Airport parking garages, the Commercial Roadway, all Airport parking lots, all waiting and Airport Hold Lots for Commercial Ground Transportation Vehicles, the airfield, all of Airport Way running from Interstate 205 on the East end and extending west to the Airport terminal building, Cascade Station shopping center and related facilities, Portland International Center and related facilities, and all of the frontage roads and adjacent facilities running parallel to Airport Way.

2.2 "Airport Customer" shall mean any person who arrives at, or departs from, the Airport.

2.3 "Airport Hold Lot(s)" shall mean that area or areas designated by the Port as the area where a Permittee shall stage its Vehicles while awaiting the arrival of Airport Customers, call-up, or established service time, prior to entering the Commercial Roadway.

2.4 "Business" or "Permitted Business" shall mean a person, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization, who desires to transport Airport Customers in a

Commercial Ground Transportation Vehicle. A Business that has obtained a Permit to operate on the Commercial Roadway is also referred to in this Ordinance as a "Permitted Business."

- 2.5 "Commercial Ground Transportation Vehicle" or "Vehicle" shall mean any form of transportation vehicle traveling on streets, roads, or highways that is owned by, leased by, used by or at the request of, or procured by or at the request of, a Business, its agents, employees, officers, contractors, or subcontractors for the purpose of transporting Airport Customers and/or luggage to or from the Commercial Roadway or to and from the commuter airline security area or other designated Airport property, whether said transportation is for hire or is provided without charge, provided that a vehicle used solely for the transportation of luggage or other cargo shall not be deemed a Commercial Ground Transportation Vehicle. Commercial Ground Transportation Vehicles shall include Executive Cars, Taxicabs, Reservation Only Vehicles, Scheduled Service Vehicles, Courtesy Vehicles, Charter Services, TNC Vehicles, and any other type of Commercial Ground Transportation Vehicle that picks up and/or drops off Airport Customers on the Commercial Roadway or any other area on the Airport designated by the Port.
- 2.6 "Commercial Roadway" or "Roadway" shall mean that portion of the roadway system or other areas at the Airport designated by the Director, from time to time, as the roadway to be used by those Permitted Businesses operating Commercial Ground Transportation Vehicles.
- 2.7 "Concession Fee" shall mean the fee as described in this Ordinance and imposed on Off-Airport Rental Car Businesses, Parking Lot Operators, and Park and Fly Hotels, for the privilege granted to said businesses and operators of accessing Airport Customers.
- 2.8 "Director" shall mean the Executive Director of the Port, Deputy Executive Director, Chief Operating Officer, and/or the General Manager of Airport Operations or any other designee.
- 2.9 "General Manager of Airports Operations" shall mean the manager responsible for the airside, terminal, and landside operations at the Airport for the Port, or his/her designee.
- 2.10 "Grandfathered Hotels" shall mean any person, association, corporation, partnership, joint venture, or any other business arrangement or organization or brand, which prior to the adoption of this Ordinance 451-R was in a direct lease agreement with the Port or had a lease that had been assigned to the Port prior to January 1, 2015, that allowed for parking of Airport Customers and provided for the Port to share in the revenue from its parking operations.
- 2.11 "Gross Revenues," for the purpose of determining the Concession Fee under this Ordinance, shall mean, unless specifically excluded herein:
- 2.11.1 "Gross Revenues" shall be determined by the total of charges on the face of the customer's receipt, less any charges excluded in the definition of Gross Revenues. Gross Revenues, as the term applies to Off-Airport Rental Car Businesses, shall mean the charges for all services provided by Permittee or any other person or entity in, at and from the Airport, or in offering services to an Airport Customer, for cash, credit or otherwise, without reservation or deduction for uncollected

amounts, credit card fees or changes, or collections costs including, but not limited to: (a) all charges including, but not limited to, time and mileage charges and separately stated fees for rental of vehicles and other related or incidental services or merchandise, and any other items or services, made at or from the Airport or to an Airport Customer, regardless of where the vehicles or services are delivered to or returned; (b) all amounts charged to the customer for insurance offered by Permittee incidental to the rental of such vehicles including but not limited to personal accident insurance; (c) all charges attributable to any vehicle originally rented at the Airport or to an Airport Customer which is exchanged at any other location; (d) all proceeds from the long term lease of vehicles from any location on the Airport; (e) amounts charged to Permittee's customers and which are separately stated on the rental agreement as an optional charge for waiver by Permittee of its right to recover from customer for damage to or loss of the vehicle rented; (f) all amounts charged to Permittee's customers at the commencement or the conclusion of the rental transaction for the cost of furnishing and/or replacing fuel provided by Permittee; (g) all amounts charged by Permittee, as a pass through to its customers of the Concession Fee; (h) total revenue from the retail sale of any vehicles on the Airport except for a Rent-to-Own sale which commences at the Airport in which case only the initial rental and associated fees shall be included in Concession Fee. Excluded from Gross Revenues are: (a) only those sales, excise or Taxes imposed by governmental authority (other than the Port) and collected from customers and then directly paid by Permittee to the governmental authority (other than the Port); (b) any amounts received as insurance proceeds or otherwise; (c) CFCs if applicable; (d) all charges for damage to vehicles or other property of Permittee, or for loss, conversion or abandonment of such vehicles; and (e) all non-revenue rentals to employees of Permittee; (f) all charges for parking of vehicles and transportation to and from the Airport, so long as Permittee is not operating as a Parking Lot Operator, in which case the definition in Section 2.11.2 shall also apply.

- 2.11.2 Gross Revenues, as the term applies to Parking Lot Operators and Park and Fly Hotels, shall mean the charges for all services provided by Permittee or any other person or entity in, at and from the Airport, or in offering services to an Airport Customer, for cash, credit or otherwise, without reservation or deduction for uncollected amounts, credit card fees or changes, or collections costs including, but not limited to: (a) all charges including, but not limited to, charges for parking a vehicle, whether or not such charges are by day, week, month, or other increment of time; (b) trip, time and mileage charges and separately stated fees for transportation to and from the Airport and other related or incidental services or merchandise, and any other items or services, made at or from the Airport, regardless of where the Airport Customer is delivered to and/or returned; (c) amounts charged to Permittee's customers and which are separately stated on the room rental agreement, parking agreement, or other agreement as an optional charge related to parking or transportation to and from the Airport; (d) all amounts charged to Permittee's customers at the commencement or the conclusion of the rental transaction; and (e) all amounts charged by Permittee, as a pass

through to its customers of the Concession Fee. Excluded from Gross Revenues are. (a) only those sales, excise or Taxes imposed by governmental authority (other than the Port) and collected from customers and then directly paid by Permittee to the governmental authority (other than the Port); (b) any amounts received as insurance proceeds or otherwise; (c) all non-revenue rentals to employees of Permittee; and (d) those charges directly attributable to the room rental that has no relationship to parking and/or transportation to and from the Airport.

Corporate or volume discounts or rebates or any other discount that is not stated on the face of the rental, parking, or lodging agreement at the time the rental is returned may not reduce Gross Receipts and cannot be deducted from Gross Receipts. Permittee shall not pass through, unbundle or list any fees (other than a Concession Recovery Fee or Concession Recoupment Fee or CFCs as described below) payable to Port as a separate item on its customer invoices, except with Port's prior written approval. Permittee acknowledges that the Concession Fee under the Permit is for Permittee's privilege to use the Airport facilities and access the Airport market, and are not fees imposed by the Port upon Permittee's customers. The Port does not require, but will not prohibit, a separate statement of the Concession Fee on customer invoices or rental agreements, provided that such separate statement of fees meets all of the following conditions: (a) the Concession Fee pass through must be titled "Concession Recovery Fee" or "Concession Recoupment Fee"; (b) the Concession Recovery Fee or Concession Recoupment Fee must be shown on the customers rental agreement and invoiced with other Permittee charges; (c) the Concession Fee as stated on the invoice and charged to the customer shall be no more than the then current rate set under this Ordinance; (d) Permittee shall neither identify, treat, or refer to the Concession Fee as a tax, nor imply that the Port is requiring the pass through of such fee; (e) if Permittee elects to include the Concession Fee on customers invoices, it will be considered part of Gross Receipts; and (f) Permittee shall comply with all applicable laws, including Federal Trade Commission requirements and the Oregon Unfair Trade Practices Act (ORS 646.605 to 646.656), and any commitment to or contractual obligation by Permittee with the Attorney General of Oregon or any group of State Attorneys General. In the event it is discovered Permittee has charged more than the amount allowed under this Ordinance in Concession Recovery Fee or Concession Recoupment Fee, any amount collected in excess of that amount shall be immediately paid to the Port, along with any applicable delinquency charge or any other fee or fine. If a Permittee is operating multiple types of businesses, the applicable category of Gross Revenues type shall apply to each type of business. A Permittee shall pay a separate Concession Fee for each type of business it is operating.

- 2.12 "On-Airport Rental Car Business" shall mean any person, association, corporation, partnership, joint venture, or any other business arrangement or organization or brand which has entered into Rental Car Concession Lease and Operating Agreement, a Rental Car Limited Service Kiosk Lease, or such other lease or operating agreement with the Port to operate a certain brand, the primary purpose of which is to conduct rental car transactions from or through the leased property. If a certain person, association,

corporation, partnership, joint venture, or any other business arrangement or organization owns multiple brands, only the brand allowed to operate under those certain agreements listed within the section shall be consider On-Airport Rental Car Business.

- 2.13 "Off-Airport Rental Car Business" shall mean such business which is conducted with an Airport Customer through or from a facility which is not directly leased from the Port and does not have a Rental Car Concession Lease and Operating Agreement, a Rental Car Limited Service Kiosk Lease, with the Port, is not considered an On-Airport Rental Car Business, and shall be subject to the Concession Fee on Gross Receipts as provided in this Ordinance. If a business is operating both an Off-Airport Rental Car Business and an On-Airport Rental Car Business, the On-Airport Rental Car Business shall pay fees under its Rental Car Concession Lease and Operating Agreement and the Off-Airport Rental Car Business shall pay fees under this Ordinance.
- 2.14 "Ordinance No. 451-R Permit" shall mean the permit issued under this Ordinance to any Permittee whether or not such permit was obtained under Ordinance No. 451-R or an earlier version thereof.
- 2.15 "Park and Fly Hotel" shall mean any person, association, corporation, partnership, joint venture, or any other business arrangement or organization or brand which operates as a hotel, motel, or other business that offers lodging, whether or not such business is located on or off the Airport, and provides parking to Airport Customers without a requirement that such Airport Customer stay at least one night at the hotel, motel, or place of lodging, in order to park its vehicle, whether or not a separate fee is charged for such parking.
- 2.16 "Parking Access Fee" shall mean that fee set by the Director that is charged to Stay, Park, and Fly Hotel operators each time its Commercial Ground Transportation Vehicle enters the Commercial Roadway. The Parking Access Fee may be adjusted by the Director at any time with thirty (30) calendar days' written notice to all then current affected Ordinance No. 451-R Permit Holders. This fee is in addition to the Commercial Roadway Access Fee and other applicable fees set forth in this Ordinance and Ordinance 450-R that may be amended from time to time.
- 2.17 "Parking Lot Operator" shall mean a person, association, corporation, partnership, joint venture, or any other business arrangement or organization, including a Park and Fly Hotel, also referred to in this Ordinance as "Permittee," that provides parking for vehicles, which utilizes the Airport for the purpose of picking up or delivering Airport Customers and transporting Airport Customers to or from parking lot facilities located off the Airport. Off-Airport Rental Car Businesses that offer parking to Airport Customers are also considered Parking Lot Operators and the Concession Fee shall apply to that portion of its business that offers parking.
- 2.18 "Permitted Business" or "Permittee" shall mean a person, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization, who desires to transport Airport Customers in a Commercial Ground Transportation Vehicle and shall be synonymous with, Off-Airport Rental Car Business, Parking Lot Operator, Park and Fly Hotel, Stay, Park, and Fly Hotel, and Grandfathered Hotel.

- 2.19 "Portland International Airport Rules" or "Rules" shall mean those rules issued and published by the Director pertaining to, among other things, the use of the Commercial Roadway.
- 2.20 "The Port of Portland" or "Port" shall mean the port district of the State of Oregon that owns and operates the Airport pursuant to Oregon Revised Statutes, Chapter 778.005 through Chapter 778.990, as amended.
- 2.21 "Roadway Access Device" shall mean the automated vehicle identification mechanism used to admit Commercial Ground Transportation Vehicles on to the Commercial Roadway.
- 2.22 "Stay, Park, and Fly Hotel" shall mean any person, association, corporation, partnership, joint venture, or any other business arrangement or organization or brand which operates as a hotel, motel, or other business that offers lodging, whether or not such business is located on or off the Airport, that provides parking to Airport Customers, that stay at or pay for at least one night at the hotel, motel, or place of lodging, whether or not a separate fee is charged for such parking.

Section 3. Concession Fee

- 3.1 Any Permittee, as defined by this Ordinance, must obtain an Ordinance No. 451-R Permit from the Director, and declare which type of service it intends to offer. The acceptance of such Permit will indicate agreement to the following minimum terms and conditions:
 - 3.1.1 Concession Fee on Gross Revenues: Permittees (other than Stay, Park and Fly Hotels and Grandfathered Hotels) shall pay to the Port during the applicable term of the Ordinance No. 451-R Permit such percentage of Gross Revenues equal to that required of On-Airport Rental Car Businesses, hereinafter the "Concession Fee," unless the Director sets a different rate. Any change of Concession Fee shall not take effect before ninety (90) days written notice sent to all of the then affected current Ordinance No. 451-R Permit holders, said notice being mailed to the last known address on file with the Port for said Ordinance No. 451-R Permit holders; and further provided that said percentage rate, as it relates to Off-Airport Rental Car Businesses, shall not exceed the percentage rate charged to the On-Airport Rental Car Businesses. The Concession Fee payment shall be due and payable on or before the twentieth (20th) day of each month for the preceding month's Gross Revenues.
 - 3.1.2 Fees for Stay, Park, and Fly Hotel: Unless otherwise provided herein, Stay, Park and Fly Hotels shall not be required to pay any Concession Fee unless it is found that the services offered fall into another category of operators such as a Park and Fly Hotel, at which time, such Stay, Park, and Fly Hotel shall be treated under this Ordinance as a Park and Fly Hotel. Stay, Park and Fly Hotels shall pay a Parking Access Fee each time the Commercial Ground Transportation Vehicle associated with that Stay, Park and Fly Hotel enters the Commercial Roadway regardless whether or not that Commercial Ground Transportation Vehicle contains Airport Customers or any Airport Customers actually using the Stay, Park, and Fly Hotel service. This fee shall be in addition to any other Access Fee or related charge

under any other Port Ordinance or other law or regulation regardless whether or not such law or regulation is implemented by the Port.

3.2 A Permittee shall provide the Port with:

- 3.2.1 Written proof to the Port of all Gross Revenues at the time payment is due on a form approved by the Director and accompanied by a statement certified by a reporting representative of the company attesting to the accuracy of payments due the Port;
- 3.2.2 All insurance requirements set forth under its Permit;
- 3.2.3 All Vehicle requirements set forth under its Permit;
- 3.2.4 The names and job titles of local management personnel, as well as, all business employees engaged in the operation of Commercial Ground Transportation Vehicles to be operated on the Airport.
- 3.2.5 Written proof of all business and motor vehicle permits required by local, state, and federal regulations.
- 3.2.6 Except for Stay, Park and Fly Hotels and Grandfathered Hotels (except where required under its lease agreement or other contract with the Port), authority for the Port to audit all business books, records and accounts during business hours upon demand and to make said records and accounts available in Portland, Oregon, or surrounding vicinity. The Port may use its own staff to perform audits, or may engage an independent certified public accountant to perform the audit. Should any examination, inspection, or audit of the books and records by the Port disclose an understatement of Gross Revenues by the Permittee of two percent (2%) or more, the Permittee shall pay the Port the amount of such underpayment and shall reimburse the Port for all costs incurred in the conduct of such examination, inspection, and audit within thirty (30) calendar days, with interest at the Port's then prevailing Delinquency Charge. In the event that the Port deems it necessary to utilize the services of legal counsel in connection with collecting the reimbursement for such examination, inspection, and audit, then said Permittee shall reimburse the Port for reasonable attorney's fees and litigation expenses as part of the aforementioned costs incurred.
- 3.2.7 Upon Port's request, Permittee shall provide the Port a detailed schedule of fees and or charges Permittee intends to include on customer invoices or rental agreements ("Schedule"). The Schedule must include a specific definition of the fee and/or charge and how it will be determined. The Schedule must be approved by the Port. Permittee may change the Schedule, but Permittee shall notify the Port promptly in writing if it intends to do so. Permittee must obtain the Port's prior written consent before implementing changes to or a new Schedule. Requests for changes to the Schedule must include a complete description of the fee(s) and/or charge(s) proposed to be deleted and/or added and justification for such.
- 3.2.8 Indemnification from any and all claims whatsoever and written proof of insurance for such contractual liability.

- 3.2.9 Agreement to pay interest and delinquency charges at the rate of eighteen percent (18%) per annum ("Delinquency Charge") on any amount not paid when due, which charge shall apply to amounts determined to be due as a result of an audit pursuant to Section 3.2.6 if such amount is not paid within fifteen (15) days after written notice from the Port that such amount is due.
- 3.2.10 All Off-Airport Rental Car Businesses will participate in the Vehicle Emissions Strategy, implemented by the Port. This strategy will provide fleet information that is accurate and timely to facilitate the Port's initial planning and then monitoring emission management targets. Off-Airport Rental Car Business will be required to provide the Port at the Port's request and in a form approved by the Port, what types of vehicles are rented relating to the Airport with enough detail to identify each vehicle's EPA Green Vehicle Score.
- 3.3 The Director is authorized to issue and publish additional rules and regulations to implement this Ordinance and to include additional terms and conditions in the Ordinance No. 451-R Permit form as deemed necessary by the Director. This authorization includes the Director's ability to create new categories of Commercial Ground Transportation Vehicles and Permitted Businesses and establish rules and regulations applicable to those Vehicles and Businesses without limiting the effect of this Ordinance. Should this Ordinance conflict with the Portland International Airport Rules, this Ordinance shall prevail, but the Portland International Airport Rules must be applied to the fullest extent that they do not conflict.

Section 4. Violations

4.1 Hotels without Parking Rights

Any hotel that has a direct lease with the Port, or had a lease that had been assigned to the Port prior to January 1, 2015, or is on the Airport that has a lease agreement that does not allow for parking of Airport Customers, may not operate as a Park and Fly Hotel or Stay, Park, and Fly Hotel under this Ordinance.

4.2 Termination of Access to Roadway

In the event a Permittee violates any term or condition of this Ordinance or of Ordinance No. 451-R Permit granted pursuant to this Ordinance, including, but not limited to, after five (5) days' notice of delinquency, failure to pay any fee associated with this Ordinance or Ordinance 450-R. or immediately if found to be operating under a certain Permittee category it has not been permitted under (i.e., Stay, Park and Fly Hotel offering Park and Fly Hotel services), or is not permitted under this Ordinance but is offering parking to Airport Customers, the Port may immediately, without notice, terminate access to the Commercial Roadway and assess fees retroactively for the unauthorized activity. Termination of access includes turning off Roadway Access Device assigned to the Permittee, until such time Permittee complies with the Ordinance and/or Permit. In addition to this remedy, the Port may exercise any rights or remedies allowed by law or equity, including without limitation civil penalties and/or after reasonable notice and hearing, suspend or terminate the rights granted pursuant to said Ordinance No. 451-R Permit. Where the Permittee is required to provide reports or pay money to the Port, each calendar day that Permittee is delinquent in providing such reports or paying such money shall be deemed a separate violation hereof.

Section 5. General Provisions

- 5.1 If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the United States Bankruptcy Code), is instituted in connection with any controversy arising out of this Ordinance or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review. Whenever this Ordinance requires Permittee to defend the Port, it is agreed that such defense shall be by legal counsel acceptable to the Port.
- 5.2 This Ordinance shall be governed, construed and enforced in accordance with the laws of the State of Oregon. Jurisdiction shall be with Multnomah County Courts or the Federal Court located in Portland, Oregon.
- 5.3 In the event any phrase, clause, sentence, paragraph or paragraphs of this Ordinance is declared invalid for any reason, the remainder of the sentence, paragraph or paragraphs of this Ordinance shall not be thereby invalidated, but shall remain in full force and effect, all parts being hereby declared separable and independent of all others.

ADOPTED this 8th day of April, 2015, being the date of its second reading before the Board of Commissioners of the Port to be effective thirty (30) days thereafter.

THE PORT OF PORTLAND

By: _____
James C. Carter, Commission President

By: _____
Pam Thompson, Assistant Secretary

APPROVED FOR LEGAL SUFFICIENCY
FOR THE PORT OF PORTLAND:

By: _____
Counsel for The Port of Portland

**WORKFORCE PARTNERSHIP AGREEMENT – TERMINAL BALANCING CONCOURSE E
EXTENSION – PORTLAND INTERNATIONAL AIRPORT**

April 8, 2015

Presented by: Craig Johnsen, Manager
Contracts & Procurement
Greg Sparks, Engineering
Project Development Manager

REQUESTED COMMISSION ACTION

This agenda item requests approval of the recommendation that the Port of Portland (Port) require the Port's construction manager/general contractor (CM/GC) on the Portland International Airport (PDX) Terminal Balancing Concourse E Extension project to negotiate and enter into a Workforce Partnership Agreement binding on all contractors, subcontractors and labor unions for all trades on the project.

PROJECT BACKGROUND

This project is intended to alleviate the current imbalance of passengers being served on the south side of the PDX terminal, enhance operating efficiencies and improve customer service by extending Concourse E approximately 210 feet. The imbalance has led to operational inefficiencies for the airlines and Port operations and impacts customer service.

In December 2014, the Port Commission exempted the project public improvement contract from competitive bidding. The Port subsequently advertised a request for proposals to procure a CM/GC for the project. Proposals were received on March 2, 2015, and the Port is in the process of selecting the most qualified proposer for contract award. Subject to successful negotiations, the Port intends to enter into a preconstruction services agreement with the most qualified contractor under the Executive Director's delegated authority. Provided the CM/GC contractor performs satisfactorily under the preconstruction services agreement, the Port intends to award the project public improvement contract to the CM/GC contractor in August or September of this year. Commission approval to award the public improvement contract will be sought when required. Construction is scheduled to start in the fall, with completion in late 2017.

WORKFORCE PARTNERSHIP AGREEMENT

The Port has determined that requiring a Workforce Partnership Agreement (WPA) on this project is in the Port's best interests. Because the Port's WPA would contain some elements of construction industry agreements commonly known as project labor agreements (PLAs), the Port's WPA would be subject to the Port's policies and procedures for PLAs.

Port PLA Policy and Procedure

The Port maintains a Commission Policy that sets forth the Port's decision-making framework for deciding whether to use PLAs on Port public improvement projects. The Port also maintains an Administrative Procedure that facilitates Port compliance with its PLA Use Policy and sets forth minimum requirements for Port PLAs.

WORKFORCE PARTNERSHIP AGREEMENT – TERMINAL BALANCING CONCOURSE E EXTENSION – PORTLAND INTERNATIONAL AIRPORT

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Under the Procedure, if the Port determines that requiring a PLA on a project is consistent with the Policy, the Commission must approve such requirement before it becomes effective. In deciding whether to approve a PLA requirement, the Commission must consider written findings that support the Port's proposal to require a PLA. Before submitting final findings to the Commission, the Port must make the findings available to the public, hold a public hearing to take comments from any interested party on draft findings, and consider the comments before making a final determination to recommend a PLA requirement.

Findings in Support of the Port's Recommendation to Require a WPA; Public Hearing

After evaluation, the Port determined that requiring a form of PLA on this project is in the Port's best interests. Like a PLA, the Port's proposed WPA would contain provisions intended to foster workforce stability. But, the WPA would be unique to the Port, and would be crafted to ensure continued, open competition for all contractors to the maximum extent possible as well as provisions intended to preserve and enhance opportunities for small businesses and members of the construction workforce.

The Port developed draft findings in support of the Port's recommendation to require a WPA. The findings concluded that requiring a WPA on this project will advance the Port's legitimate interests in producing labor-management stability, achieving efficiency, managing construction costs and ensuring legal compliance. The findings also indicated that requiring a WPA on this project will be consistent with the interests embodied in competitive bidding laws. A copy of the findings, which describe the evaluation and the conclusions in detail, is attached as Exhibit A.

To notify the public of the hearing and encourage participation, the Port published a draft of the findings on the Port's website, published an advertisement in a construction trade periodical, and conducted personal outreach to stakeholders in the contracting community. The Port held a public hearing on March 17. A summary of the comments received at the hearing is incorporated into the final findings document, attached. After consideration of the comments received at the public hearing, the Port continues to recommend that a WPA be required on this project.

WPA Features

While the findings describe the key tenets of the proposed WPA in more detail, some of its anticipated features are described below. However, the final parameters of the WPA will be developed by the project contractor with Port oversight. Terms will include:

- Guarantees against strikes, lockouts and similar labor-related disruptions.
- Effective, prompt and mutually binding procedures for resolving labor disputes arising during the term of the WPA.
- Mechanisms to ensure labor-management cooperation on matters of mutual concern.

WORKFORCE PARTNERSHIP AGREEMENT – TERMINAL BALANCING CONCOURSE E
EXTENSION – PORTLAND INTERNATIONAL AIRPORT

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- Provisions encouraging robust small business participation on the project, including hiring procedures allowing contractors to retain core and certain other employees as appropriate, technical assistance funding, and mentoring.
- Increased diversity among small business subcontractors to build experience in airport work among historically underutilized firms.
- Enhanced workforce training and hiring programs with a focus on historically underutilized communities and workforce.

The Commission's approval of this agenda item only allows the Port to require its contractor to use a WPA on this project; it does not require the Port to use a WPA if doing so is ultimately not in the Port's best interests. If the Port's contractor is unable to negotiate a WPA that is consistent with the interests set forth in the Port's PLA Policy and with the terms described in this agenda item, then in the Port's discretion the Port may withdraw the WPA requirement.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

WHEREAS, The Port of Portland recommends that the construction manager/general contractor on the Portland International Airport Terminal Balancing Concourse E Extension project be required to negotiate and enter into a Workforce Partnership Agreement binding on all contractors, subcontractors and labor unions for all trades on the project, provided that such agreement contains terms and conditions substantially in accordance with the terms presented in this agenda item; therefore

BE IT RESOLVED, That the recommendation set forth in the recital immediately above is approved; and

BE IT FURTHER RESOLVED, That the Port of Portland may take such action as is appropriate to obligate its construction manager/general contractor to timely cause a Workforce Partnership Agreement to be implemented on the Portland International Airport Terminal Balancing Concourse E Extension project, in accordance with this agenda item; and

BE IT FURTHER RESOLVED, That the Executive Director or his designee is authorized to execute all documents necessary to effect these resolutions on behalf of the Port of Portland Commission, in a form approved by counsel.



Portland International Airport

Terminal Balancing – Concourse E Extension

PROJECT NO. 101888

**FINDINGS IN SUPPORT OF
RECOMMENDATION TO REQUIRE WORKFORCE PARTNERSHIP AGREEMENT**

APRIL 8, 2015

The Port of Portland (Port) has determined that requiring a Workforce Partnership Agreement (WPA) on this project is in the Port's best interest. Port WPAs are subject to the Port's policies and procedures for project labor agreements (PLAs), described below.

Background

The National Labor Relations Act permits employers in the construction industry to enter into pre-hire collective bargaining agreements binding on all contractors, subcontractors, and labor unions for all trades on a construction project.¹ This type of agreement is commonly referred to as a PLA, but may also be given different titles such as "community workforce agreement," "community benefits agreement" or in this case, a Workforce Partnership Agreement

PLAs supersede conflicting provisions in any existing collective bargaining agreements, establishing uniform terms and conditions of employment for a specific construction project. PLAs typically include provisions to prevent strikes, lockouts, or other work stoppages for the length of the project, and require that all contractors follow union rules on pensions, work conditions and dispute resolution. PLAs may require that certain employees hired for the project are referred through union hiring halls, and that nonunion workers pay union dues or fair share contributions for the length of the project. The specific provisions of a PLA are tailored by the signatory parties to meet the needs of a particular project.

Project Labor Agreement Policy and Procedure -- Port of Portland

The Port maintains a Commission Policy² which sets forth the Port's decision-making framework for deciding whether to use PLAs on Port-controlled public improvement projects. The Port also maintains an Administrative Procedure³ which facilitates Port compliance with its PLA Use Policy and sets forth minimum requirements for Port PLAs.

Under the Port's PLA Use Policy, the Port may only pursue a PLA if Port personnel have first documented their determination that using a PLA on a particular project will advance the Port's legitimate interests in producing labor-management stability, achieving efficiency, managing construction costs, and ensuring legal compliance. In addition, all Port PLAs must be consistent with the interests embodied in applicable competitive bidding laws.

Under the Port's PLA Use Procedure, if the Port determines that requiring a PLA on a project is consistent with the Policy, the Commission must approve such requirement before it becomes effective. In deciding whether to approve a PLA requirement the Commission must consider written findings which support the Port's proposal to require a PLA. Before submitting final findings to Commission, the Port must hold a public hearing to take comments from any interested party on draft findings which have been made available to the public.

¹ 29 U.S.C. § 158(e) and (f).

² Commission Policy No. 6.1.15, *Project Labor Agreement Use*

³ Administrative Procedure No. 6.1.15, *Project Labor Agreement Use*

Project Information

The goal of this project is to provide the infrastructure and make the operational adjustments that will allow the Port to balance terminal usage at Portland International Airport (PDX) between north and south, enhance operating efficiencies, enable carrier growth, and improve the customer experience. The project includes relocating Alaska Airlines and Horizon Air to the north side of the Terminal on Concourse E, and moving United Airlines to the south side.

Construction elements of the project include, but are not limited to, the following:

1. Extension of Concourse E to the east by constructing an addition approximately 210' x 95' to create new, larger, and more efficient passenger ground-load hold rooms; new restrooms and other passenger amenities, concessions, and airline operations shell space; and new and more robust vertical circulation to and from the ground-load hold rooms.
2. Modifications to existing aircraft parking apron including expansion of the concrete apron, revised aircraft parking layout for ground-loaded aircraft, aviation fuel line and fuel hydrant relocations, new covered walkway for ground loading passengers, and additional apron lighting.
3. Modifications required to accommodate airline relocations including ticket counters, ticket offices, conference and break rooms, dispatch, locker rooms, spare parts storage, baggage handling, operations support spaces, passenger hold rooms, airline baggage offices, and maintenance areas.
4. Install a new south curbside conveyor complete with skycap work station and canopy covering.
5. Upgrade and modify existing infrastructure and utilities to meet the needs of this work.
6. Temporary construction as required for phasing and relocation of airline spaces.

Workforce Partnership Agreement -- Recommendation

Port staff have determined that requiring a form of PLA on this project – specifically, a Workforce Partnership Agreement – is consistent with the Port's PLA Use Policy.

As described in more detail below, the Port's WPA would be unique to the Port, and would be crafted to ensure continued, open competition for all contractors to the maximum extent possible. While the Port's WPA would contain some provisions intended to foster workforce stability similar to those described above, the Port's WPA would also include provisions that preserve and enhance opportunities for small businesses and members of the construction workforce.

The Port intends to recommend that its Commission formally approve, in a future regular Commission meeting, the Port's proposal to require a WPA on this project. The Port's findings in support of its proposal follow.

Findings

a. The WPA will advance the Port's legitimate interests. Requiring a WPA on this project will advance the Port's legitimate interests in producing labor-management stability, achieving efficiency, managing construction costs, and ensuring legal compliance. The primary factors the Port considered in reaching this determination follow:

- The size and complexity of the project. The project budget is \$98M with an estimated construction contract of \$60M to \$70M. The work scope includes approximately 45,000 sf of new construction, nearly 100,000 sf of remodel work, and improvements to an existing aircraft parking apron and adjacent taxiway. Virtually all of the work will occur within an active and secure airport environment. Extensive communications and careful

phasing will be required to minimize the inconvenience to the airlines, other tenants, Port operations and the traveling public. The most complex part of the work will be the relocation of the airlines while keeping them fully operational. Safety and security will be paramount.

- The importance of the project and the need to adhere to a certain timeline. This project is driven by the need to improve the efficiency of airport operations and the desire to improve customer service. Currently, with the two largest carriers at PDX (Alaska/Horizon and Southwest Airlines) located on Concourse C, approximately 2/3 of the passenger load at PDX is being served on the south side of the terminal. This situation has resulted in baggage handling system operational inefficiencies, longer lines at the south security checkpoint, and crowded conditions at concourse A. This project will balance the passenger loads by relocating the operations of Alaska/Horizon to the north side of the terminal and moving United Airlines to the south. The timeline of the project is mostly driven by the need to be efficient in order to minimize the cost.
- The risk of labor disruption on the project and the circumstances that are present that may lead to a heightened risk of labor disruption. During construction on this project, most of the collective bargaining agreements (CBAs) covering laborers in applicable trades will expire, necessitating contract renegotiations in some cases. In general, PDX construction projects have experienced a stable labor history over the past 15 years, so the risk of labor disruption due to renegotiation of CBAs among the trades has been low. However, additional circumstances now exist which may lead to a heightened risk of labor disruption.

The need to address the impacts of the recent Affordable Care Act (ACA) introduces uncertainty and complexity into collective bargaining negotiations. Unionized employers will be reassessing employee health benefits and costs, with input from labor unions. The impacts of the ACA on collective bargaining negotiations for the trades on this project are unknown, but could include labor disruption in the event negotiations become contentious. The Port believes the potential impact of this risk is great enough to take steps to actively manage it.

In addition, local labor issues in unrelated occupations have risen in prominence recently. Ongoing labor disputes involving the International Longshore and Warehouse Union (ILWU) continue at marine terminals in the region, including the Port's Terminal 6. Separately, local branches of both the Service Employees International Union (SEIU) and Unite Here! have increasingly urged the Port to take action on behalf of certain service workers at PDX. The Port wishes to take steps to address the possibility that those tensions could impact the trades completing this project, via sympathetic strikes, slowdowns, or similar labor disruptions.

- The impacts of a labor disruption to the Port and its stakeholders, on the operation of the facility, and on the region. A labor disruption could negatively impact the Port, airline operations, and the traveling public. In addition to project delays and increased costs, these impacts could take the form of inefficiencies in operations, working in unfinished spaces, and confusing way-finding and extended portage of bags.
- The costs of a delay should a labor disruption occur. Costs of a delay during construction would largely be the result of idling the design and construction teams and the possibility of extended portage of bags in the ticket lobby. A rough estimate of these costs could be in the range of \$200,000 to \$400,000 per month, depending on what phase the project was in at the time of the disruption.
- The available labor pool relative to the particular skills required to complete the project. As recovery from the recent recession continues, it appears that there is competition for available labor, mostly from the high level of construction activity in the Seattle area.

While labor availability at the time of the proposed construction is unknown, it does not appear to be a very serious concern.

- The value of building experience in developing and managing significant construction projects utilizing a WPA. The Port currently plans to undertake significant construction on Port facilities in the coming few years, including the PDXNext program in the terminal area. Much of the work will be performed as separate construction projects, each representing a significant investment and creating a significant risk of operational disruption. It will be critical to manage the various construction projects smoothly and with as little disruption as possible. While it's currently unknown what market conditions will prevail during these sizeable future projects, there is some possibility that the Port may conclude at that time that requiring one or more WPAs would help ensure successful project delivery. Developing a WPA on this smaller, more manageable project and building experience in managing it is a prudent managerial action intended to create efficiencies during future, significant construction.
- Workforce Diversity and Apprenticeship. The Port has long had a strong interest in cultivating construction workforce diversity and in developing apprenticeship opportunities. This sizeable project represents an opportunity to structure a workforce diversity and apprenticeship development program that is intended to improve upon the positive impacts the Port has historically been able to achieve with its construction projects.

b. The WPA will advance the interests embodied in competitive bidding laws. Requiring a WPA on this project will be consistent with the interests embodied in competitive bidding laws because the Port will specifically require that this WPA be structured and used in a manner that ensures that result. More information on the Port's requirements for this project's WPA is provided in the next section, but in general the Port will require that this WPA:

- Allow impartial and open competition, protecting the integrity of the public contracting process;
- Allow all eligible contractors and subcontractors to compete for project contracts and subcontracts without regard to whether they are otherwise parties to collective bargaining agreements;
- Be consistent with the mission of the Port's Small Business Development Program and facilitate compliance with its requirements, including but not limited to applicable subcontractor participation goals under the Port's Disadvantaged Business Enterprise (DBE) Program or similar programs; and
- Promote efficient use of Port resources.

Workforce Partnership Agreement -- Features

The Port has long worked actively to provide contracting opportunities for small businesses on Port construction projects, including MWESB firms (minorities, women, and emerging small business). As noted above, the Port also is strongly interested in cultivating workforce diversity and in developing apprenticeship opportunities.

The Port believes that any Port-mandated agreement that contains elements of a PLA must be consistent with the Port's small business and workforce goals. To that end the Port proposes to develop, through the public process outlined below, a "Workforce Partnership Agreement" which combines some PLA features with provisions that maintain access to and opportunities on the project for all contractors and workers. Some of the anticipated features of the intended WPA are described below. However, the final parameters of the WPA will be developed by the project contractor with Port oversight. Key terms will include:

- Guarantees against strikes, lockouts, and similar labor-related disruptions.

- Effective, prompt, and mutually binding procedures for resolving labor disputes arising during the term of the WPA.
- Mechanisms to ensure labor-management cooperation on matters of mutual concern.
- Provisions encouraging robust small business participation on the project, including hiring procedures allowing contractors to retain core and certain other employees as appropriate, technical assistance funding, and mentoring.
- Increased diversity among small business subcontractors, to build experience in airport work among historically underutilized firms.
- Enhanced workforce training and hiring programs by implementing workforce retention policies, diversity goals, training policies, and targeting underutilized communities.
- Establish workforce diversity goals with an additional focus on historically underutilized communities and workforce.

Public Hearing

Before submitting these findings to Commission, the Port held a public hearing to take comments on the draft findings. After publishing notice and conducting outreach directly to the contracting community (both union and non-union contractors and organizations, including MWESB firms), the hearing took place at 1:00 p.m. on March 17, 2015, at the Port headquarters offices.

Eight members of the public provided written and/or verbal comments at the hearing. A summary of those comments is attached as the final page of these findings. Full-text copies of comments received in writing are available upon request to craig.johnsen@portofportland.com.

While most of the comments received supported the Port's recommendation to require a WPA on this project, two speakers criticized the use of PLAs in general, especially when required by public agency owners. Still, one of those speakers (Associated Builders and Contractors/ABC) respected the Port's right to require a WPA, and offered suggestions to help the Port ensure that the WPA provides open competition for all contractors to the maximum extent possible. The other anti-PLA speaker, James Posey, did not support the Port's recommendation but did not challenge the Port's right to require a WPA.

Based on the comments received at the hearing, Port staff find no compelling reason to alter their support of this recommendation.

Summary

Port staff find that requiring a WPA on this project is consistent with the Port's PLA Use Policy and recommend that the Commission approve the requirement.

Summary of Comments Received at the March 17, 2015 Public Hearing

The public hearing for the above referenced project was opened at 1:01 p.m. on March 17, 2015 by Craig Johnsen, Manager, Contracts and Procurement. Eight members of the public came forward to provide comments.

Michael Burch, Pacific Northwest Regional Council of Carpenters, supported the Port's intention to require a Workforce Partnership Agreement (WPA) on the referenced project. He would like to see the Port continue using WPAs on future projects.

Laurie Kendall, Associated Builders and Contractors (ABC), stated that PLAs discourage competition from non-union contractors and their workers by requiring that project contracts be awarded only to contractors and subcontractors that agree to recognize unions as the representatives of their employees on that job. She contended that PLAs increase project costs up to 20%. She added that there is no reason to believe that requiring contractors to enter into this WPA will advance the Port's interests in producing labor-management stability, achieving efficiency, managing construction costs, and ensuring legal compliance. She respected the Port's willingness to craft a WPA that uniquely ensures open competition for all contractors to the maximum extent possible, and provided three recommendations to ensure that result:

- The WPA should allow contractors to use their own local and skilled craft professionals without having to hire from union hiring halls;
- the WPA should not require nonunion workers to pay union dues or fees; and
- the WPA should not require contractors to pay into union pension and benefit funds on behalf of nonunion workers on the project unless they do not already provide bona fide pension and benefit programs like health care and individual retirement accounts.

Amy James Neel and Tiffany Thompson, Oregon Tradeswomen, Inc., both supported the Port's efforts to require a WPA and provided five recommendations they considered critical to consider for the project to meet the objectives of the WPA:

- Set strong goals for diversity among journey-level workers (not just apprentices);
- include community-based organizations during planning and oversight committee processes;
- address worksite culture issues around job site environments, such as hazing, bullying, and harassment;
- create a strong implementation plan for workforce diversity; and
- fund outreach, training and career guidance services.

Willy Myers, Columbia Pacific Building Trades Council, supported the Port's efforts and stands by to work with the Port to accomplish their goals.

James Posey, Coalition of Black Men, testified against the Port's use of a WPA. He stated that PLAs prevent minority contractors from participating in projects. He stated that unions have failed miserably to hire minorities and the Port's WPA will raise the bar higher. He asked the Port to revisit the recommendations received under the disparity study conducted several years ago to determine whether the PLA requirement would conflict with those recommendations.

Victoria Lara, Lara Media Services, Inc., and Metropolitan Alliance for Workforce Equity (MAWE), stated she believes agreements like the one the Port is proposing help advance and empower all businesses, unionized and non-unionized. She supports this project and stated that her organization has statistics that prove these types of agreements have benefited both union and non-union families, contractors and employees. She further stated that those who speak negatively about these agreements do not have all the information necessary to understand how much these agreements make an impact, and offered to share with all those findings.

John Gardner, Community Apprentice and Workforce Solutions (CAWS), supported the use of a WPA. He recommended that the Port review two recent City of Portland projects which required Community Benefits Agreements. He strongly urged the Port to follow the approach articulated in the City's template Community Benefits Agreement with respect to participation by both union and non-union small businesses.

There being no further public comments offered, the public hearing was adjourned at 1:35 pm.

Full-text copies of the comments received in writing are available upon request to craig.johnsen@portofportland.com.

**PERSONAL SERVICES CONTRACT AMENDMENT AND PUBLIC IMPROVEMENT
CONTRACT – PHASE 2 – TROUTDALE REYNOLDS INDUSTRIAL PARK**

April 8, 2015

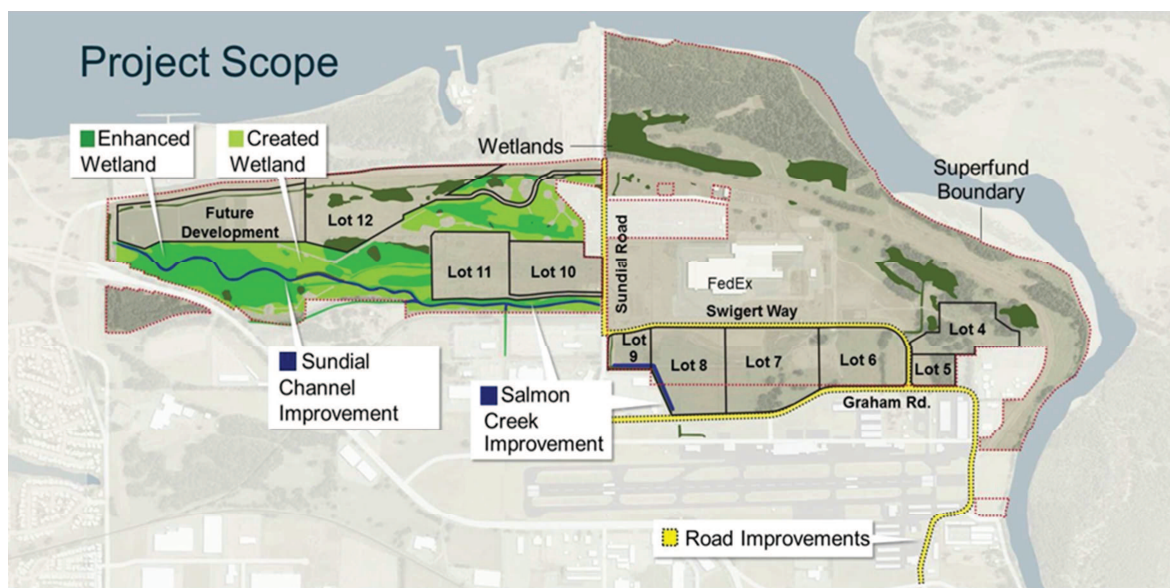
Presented by: Robin McCaffrey
Engineering Project Manager**REQUESTED COMMISSION ACTION**

This agenda item requests approval of two contract actions related to the Phase 2 Grading, Planting and Sundial Road, Graham Road and Swigert Way Improvements at Troutdale Reynolds Industrial Park (TRIP):

- **Design.** Amendment of the existing personal services contract with Cardno, Inc. in the amount of \$583,243 for construction services; and
- **Construction.** Award of a public improvement contract to Goodfellow Bros., Inc. in the amount of \$17,441,434.92 for construction services.

BACKGROUND

The Port of Portland (Port) is developing TRIP on property acquired from Reynolds Metal Company and existing Troutdale Airport property north of Graham Road. TRIP is being developed in three phases. Phase 1 included the creation of three lots (Lots 1-3) within the City of Troutdale. Phase 2 will include 184 acres of industrial land, providing the next opportunity for development at TRIP. The scope of Phase 3 will be determined after Phase 2 development activities.



PERSONAL SERVICES CONTRACT AMENDMENT AND PUBLIC IMPROVEMENT
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SCOPE

The TRIP Phase 2 construction contains the following work elements:

- Rough grade seven industrial lots (Lots 6 through 11 and the Future Development area) and construct associated private utilities for Lots 4 through 11.
- Grade and create wetland mitigation, including planting and stream channelization.
- Construct public and private improvements in City of Troutdale right-of-way.
- Construct public and private improvements in Multnomah County right-of-way.

The City of Troutdale will own all public improvements and utilities in NE Graham Road and NE Swigert Way, as well as the water system in NE Sundial Road. Multnomah County will own all public improvements and utilities in NE Sundial Road that are not owned by the City of Troutdale.

AMENDMENT OF DESIGN CONTRACT

In April 2010, the Port awarded, under the Executive Director's authority, a personal services contract to Moyano Leadership Group (MLG) to provide engineering support for TRIP concept development. Subsequent amendments expanded MLG's scope to include TRIP permit support and the design of Sundial Road. With the Port's consent, MLG later assigned the contract to Cardno, Inc. (Cardno).

In March 2013, the Commission approved a personal services contract with David Evans and Associates (DEA) to design Graham Road and Swigert Way. Both the Cardno and DEA contracts have been amended to provide for additional personal services through the construction proposal and award period.

For administrative efficiency, the Port now wishes to obtain consultant construction support for the remainder of the TRIP Phase 2 construction through a single personal services design contract. In order to do this, the Port wishes to amend the contract with Cardno to include DEA as a subcontractor. Each firm would continue to provide support for its respective portion of the TRIP Phase 2 project.

Original Contract Amount – MLG	\$ 249,967
Amendments to Date – MLG/Cardno	\$ 729,683
This Amendment - Cardno	<u>\$ 583,240</u>
New Personal Services Contract Amount	\$1,562,890

PERSONAL SERVICES CONTRACT AMENDMENT AND PUBLIC IMPROVEMENT
CONTRACT – PHASE 2 – TROUTDALE REYNOLDS INDUSTRIAL PARK

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AWARD OF CONSTRUCTION CONTRACT

In December 2014, the Commission approved an exemption from competitive bidding to allow the Port to use a Request for Proposal (RFP) process to select a construction contractor for the Phase 2 Grading, Planting and Sundial Road, Graham Road and Swigert Way Improvements. The RFP was advertised in December 2014.

Six firms submitted proposals:

- Kerr Contractors Oregon, Inc.
- Northwest Earthmovers, Inc.
- Tapani Underground
- Nutter Corporation
- Goodfellow Bros., Inc.
- Moore Excavation, Inc.

A Port evaluation team that included representatives from Industrial Development, Purchasing and Administrative Services, and Project and Technical Services divisions evaluated proposals using the following criteria:

- Work/Management plan and schedule
- Successful performance on projects with similar conditions
- Cost
- Ability to comply with permit conditions
- Qualifications and experience of project team
- Innovative construction/management methods
- Small business participation

The same Port evaluation team conducted interviews and requested and received additional proposal information. Following review of the additional submitted materials, Goodfellow Bros., Inc. was the highest-ranked proposer based on its overall strength among the evaluation criteria.

The RFP process has allowed the Port to evaluate more than proposed cost, but would result in a conventional construction contract. Proposed costs ultimately ranged from \$17,441,435 to \$20,786,367.

PERSONAL SERVICES CONTRACT AMENDMENT AND PUBLIC IMPROVEMENT
CONTRACT – PHASE 2 – TROUTDALE REYNOLDS INDUSTRIAL PARK

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SCHEDULE

Request for Proposals	November 2014 – March 2015
Commission Action	April 8, 2015
Construction	May 2015 – May 2017

PROJECT RISKS

As noted in December 2014, when the Commission approved an exemption from competitive bidding for TRIP Phase 2 construction, the RFP process was intended to help mitigate project risks, and particularly the majority of the risks described below. The RFP process allowed the Port to consider not just cost, but proposers' experience and ability to perform under conditions similar to those at TRIP.

Risk: Potential spread of contaminants within or beyond the project area and/or violation of terms of the Port's innocent landowner status.

Mitigation Strategies:

- Strong enforcement of contractual requirements regarding compliance with the TRIP property's existing Contaminated Media Management Plan and Property Development Environmental Management Plan.
- Port staff coordination with the Department of Environmental Quality regarding material placement onto TRIP property.
- Initial segregation of material by underlying jurisdictional ownership.

Risk: Lack of adherence to complex environmental and other regulatory constraints.

Mitigation Strategies:

- Active engagement of Port Environmental staff in the mitigation scope of construction work.
- Ongoing construction project team communication regarding permit conditions and translation of any changes to those conditions into the contract documents.

Risks: Weather-dependent construction and limited in-water work windows, permit delays and/or property transaction drivers shift deadlines for portions of the construction scope.

Mitigation Strategy:

- Identify critical path work and potential work timing shifts to minimize delay.

PERSONAL SERVICES CONTRACT AMENDMENT AND PUBLIC IMPROVEMENT
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Risk: Construction over and under two high-pressure gas pipelines.

Mitigation Strategies:

- Enforcement of the contract specifications regarding safety plan submittals.
- Conformance with “Williams Gas Pipeline Developer’s Handbook,” an outline of the pipeline owner’s requirements for construction activities around the lines.

BUDGET

Construction Contract	\$17,441,435
Design and Construction Support Contracts	
MLG/Cardno	\$1,562,890
DEA	\$ 757,831
Subtotal	\$ 2,320,721
Port Staff/Contracted Services	\$ 3,116,800
Contingency	\$ 2,770,000
Total Project	\$25,648,956

The project will receive up to \$14 million in state funds through the Oregon Jobs and Transportation Act of 2009 for public roadway improvements. The City of Troutdale is also contributing \$1 million to improvements to Graham Road. The remaining costs of the project will be funded by the Port General Fund.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to amend the existing personal services contract with Cardno, Inc. for construction administrative support services for the Phase 2 Grading, Planting and Sundial Road, Graham Road and Swigert Way Improvements at Troutdale Reynolds Industrial Park, consistent with the terms presented to the Commission; and

BE IT FURTHER RESOLVED, That approval is given to award a public improvement contract to Goodfellow Bros., Inc. of Oregon for the construction of the Phase 2 Grading, Planting and Sundial Road, Graham Road and Swigert Way Improvements at Troutdale Reynolds Industrial Park, consistent with the terms presented to the Commission; and

BE IT FURTHER RESOLVED, That the Executive Director or his designee is authorized to execute the necessary documents on behalf of the Port of Portland Commission in a form approved by counsel.