



AGENDA
Regular Commission Meeting
Port of Portland Headquarters
7200 N.E. Airport Way, 8th Floor
February 13, 2013
9:30 a.m.

Minutes

Approval of Minutes: Regular Commission Meeting – January 9, 2013

Executive Director

Approval of Executive Director's Report – January 2013

Consent Items

1. PORT OF PORTLAND FIRE DEPARTMENT CIVIL SERVICE COMMISSION REAPPOINTMENT – PORTLAND INTERNATIONAL AIRPORT *CRAIG CALLICOTTE*

Requests approval to reappoint Rosalie Stamos to a four-year term as a Port of Portland Fire Department Civil Service Commissioner.

2. CONSENT TO ENTERPRISE ZONE EXPANSION APPLICATION BY THE CITY OF BEAVERTON *LISE GLANCY*

Requests consent to an expansion of the Enterprise Zone boundaries by the City of Beaverton.

3. PROPERTY LEASE – 3.49 ACRES TO NORTHWEST CASCADE, INC. – RIVERGATE INDUSTRIAL DISTRICT *TERESA CARR*

Requests approval for a lease of approximately 3.49 acres of improved property located in the Rivergate Industrial District to Northwest Cascade, Inc.

Action Items

4. RENT REBATE AGREEMENT FOR CALENDAR YEAR 2013 – TERMINAL 6 *SEBASTIAN DEGENS*

Requests approval to provide rent relief to ICTSI Oregon, Inc., during Calendar Year 2013 under a Rent Rebate Agreement so that ICTSI can offer pricing to carriers and negotiate continuing service agreements in order to promote the maintenance and expansion of the current level of container activity at Terminal 6.

5. 2013 PORT OF PORTLAND TRANSPORTATION IMPROVEMENT PLAN *SUSIE LAHSENE*
Requests approval of the Port of Portland's Transportation Improvement Plan.
6. FIRST READING AND PUBLIC HEARING – AMENDED AND RESTATED PORT OF PORTLAND ORDINANCE NO. 389-R REGULATING LANDING AND FUEL FLOWAGE FEES ON GENERAL AVIATION AIRPORTS *STEVE NAGY*
Requests a first reading and public hearing on the amendment and restatement of Port of Portland Ordinance 389-R, which pertains to landing and fuel flowage fees and regulates the operation of fuel transportation vehicles on general aviation airports.
7. CONSTRUCTION CONTRACT – TAXIWAY C EAST REHABILITATION AND RUNWAY 10R-28L REPAIR – PORTLAND INTERNATIONAL AIRPORT *CHRIS EDWARDS*
Requests approval to award a construction contract to construct the Taxiway C East Rehabilitation and Runway 10R-28 Repair Project at Portland International Airport.
8. CONTRACT – TERMINAL WATER SYSTEM UPGRADE – PORTLAND INTERNATIONAL AIRPORT *MARCEL HERMANS*
Requests approval to award a contract for the Terminal Water System Upgrade at Portland International Airport.
9. CONTRACT – DRAVO BULK UNLOADER AND CRANES 6376 AND 6377 DEMOLITION AND REMOVAL – TERMINAL 4 AND TERMINAL 6 *MARCEL HERMANS*
Requests approval to award a contract for the Terminal 4 and Terminal 6 Dravo Bulk Unloader and Cranes 6376 and 6377 Demolition and Removal Project.

General Discussion

- Federal Legislative Update *RICK FINN*
- 2013 Oregon State Legislative Session Overview *ANNETTE PRICE*

**PORT OF PORTLAND FIRE DEPARTMENT CIVIL SERVICE COMMISSION
REAPPOINTMENT – PORTLAND INTERNATIONAL AIRPORT**

February 13, 2013

Presented by: Craig Callicotte
Fire Chief**EXECUTIVE SUMMARY**

This agenda item requests approval to reappoint Rosalie Stamos to a four-year term as a Port of Portland (Port) Fire Department Civil Service Commissioner.

BACKGROUND

The Port maintains a civil service system for the Fire Department, in accordance with the requirements of Oregon law. It is administered by a three-member board of Civil Service Commissioners, who serve without pay. The three Commissioners' responsibilities include administering the civil service system in matters relating to recruitment, testing and selection of fire fighters, and hearing matters of discipline or appeals brought before them.

Ms. Stamos' term as Civil Service Commissioner expires on March 11, 2013. At the request of the Port, she has agreed to serve another term. Ms. Stamos is retired from the Port's Human Resources Department, where her work provided her with an extensive background in Airport operations. Ms. Stamos was involved in the hiring process for many current members of the Fire Department.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to reappoint Rosalie Stamos to a four-year term as Port of Portland Fire Department Civil Service Commissioner, in accordance with Port of Portland Ordinance 425; 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.

CONSENT TO ENTERPRISE ZONE EXPANSION APPLICATION BY THE CITY OF BEAVERTON

February 13, 2013

Presented by: Lise Glancy
Manager
Regional Government Relations**EXECUTIVE SUMMARY**

This agenda item requests consent to an expansion of the Enterprise Zone boundaries by the City of Beaverton, located within Port of Portland (Port) boundaries, to provide an additional incentive to encourage existing or new companies to invest and add employees within the zone.

BACKGROUND

Enterprise Zones were enacted by the Oregon Legislature in 1985. In the 2005 legislative session, the statute for the Enterprise Zone program was changed to require the governing bodies of a port district to consent by resolution to Enterprise Zone applications by a city or county within the boundaries of the port. This change was requested to ensure coordination of economic development activities within port districts. Oregon ports play a key role in economic development in the community.

Enterprise Zones offer tax and other incentives to induce additional investment and employment in non-retail businesses in areas meeting certain measures of economic hardship. They have proven to be Oregon's key offering in the pursuit of business growth and expansion. Their effectiveness is due to a typically short-term (three to five years), but immediate, benefit for the business project's cash flow.

Since the statute changed in 2005, the Port Commission routinely receives requests from jurisdictions as they move forward with Enterprise Zone applications and/or boundary changes. At its May 2012 meeting, the Port Commission approved the creation of a Beaverton Enterprise Zone totaling 1.5 square miles. Business Oregon approved this Enterprise Zone on July 1, 2012. At its September 2012 meeting, the Port Commission approved the expansion of the Beaverton Enterprise Zone by 0.07 square miles. Since that time, the City of Beaverton has approved a \$2.8 million investment within that expansion area.

Based on continued positive interest in the Enterprise Zone, the City of Beaverton is seeking the Port Commission's support and consent in favor of expanding the Beaverton Enterprise Zone to include an additional 2.93 square miles. The proposed change would result in an expansion of all of the existing zone areas to include all qualifying industrial and commercial zoned land that support eligible business uses. Zone 1 would add 1.87 square miles, including 0.64 square miles in unincorporated Washington County. For the proposed expansion area within County jurisdiction only, Washington County would be a consenter to the zone. Zone 2 would add 0.35

CONSENT TO ENTERPRISE ZONE EXPANSION APPLICATION BY THE CITY OF
BEAVERTON

February 13, 2013

Page 2

square miles of commercially-zoned land along Beaverton-Hillsdale Highway. Zone 4 would be merged with Zone 3 and called Zone 3, and 0.025 square miles of eligible industrially- and commercially-zoned land adjacent to the merged Zone 3 would be added. A new zone area called Zone Central is proposed consisting of 0.67 square miles in the downtown core zoned commercial.

The primary beneficiaries of Enterprise Zone benefits are manufacturing and other more industrially-oriented facilities serving other businesses. Most commercial and retail-type operations are ineligible. Enterprise Zones provide up to 100 percent property tax abatement on a company's new investment in facilities, equipment and machinery over a three- to five-year period if a job threshold is met (a minimum 110 percent of the average level from the time of the authorization application over the past 12 months). Land or existing machinery or equipment is not tax exempt.

The proposed expansion of the Beaverton Enterprise Zone boundaries would have no loss of current property tax levies to the Port or other taxing jurisdictions. Under the current tax levy, the Port will forgo approximately \$0.0710 per \$1,000 of assessed value until the exemption period ends. We expect the impact on Port property tax revenue to be relatively small (approximately \$1,065 impact over a three-year period if a \$5 million investment is made in the zone). Upon completion of the three- to five-year exemption period, the property will be fully taxed.

The Beaverton City Council will adopt a resolution on this proposed Enterprise Zone expansion on February 19, 2013. The Washington County Board of Commissioners will adopt a resolution in support of the expansion proposed in Zone 1 on February 19, 2013. In order to move the Beaverton Enterprise Zone expansion application forward to the Oregon Business Development Department for approval, the City of Beaverton is required, as the Enterprise Zone sponsor, to have the consent of the Port Commission for this application. The City has requested that the Port provide a resolution consenting to this Enterprise Zone boundary expansion.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That the Port of Portland Commission consents to an application by the City of Beaverton for the expansion of the Beaverton Enterprise Zone located within Port of Portland district boundaries; 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.

PROPERTY LEASE – 3.49 ACRES TO NORTHWEST CASCADE, INC. – RIVERGATE INDUSTRIAL DISTRICT

February 13, 2013

Presented by: Teresa Carr
Business Development Manager**EXECUTIVE SUMMARY**

This agenda item requests approval for a lease of approximately 3.49 acres of improved property, located at 9975 N. Rivergate Boulevard in the Rivergate Industrial District, to Northwest Cascade, Inc., a Washington Corporation. Northwest Cascade plans to use the property for the storage and cleaning of portable restrooms and the storage of temporary fencing and containers.

BACKGROUND

Northwest Cascade was founded in 1967 and is a family of companies that serve construction and environmental needs. They comprise four divisions: Honey Bucket, NCS, Flohawks and Construction.

The lease premises will be used for the Honey Bucket division, which provides portable sanitation services and is one of the largest privately-owned portable restroom businesses in the United States. Honey Bucket currently serves Oregon, Washington, Idaho and Utah.

Key business terms of the lease are outlined as follows:

Term: Ten years, effective March 1, 2013.

Premises: 3.49 acres (152,024 square feet)

Rent: Based on Fair Market Value of improved storage yard space on a triple net basis with lessee paying all utilities, insurance and taxes.

Monthly rent will be \$9,122, based on \$0.06 per square foot, which amounts to annual rent of \$109,457.

Escalations: Two percent annually.

Brokers Commission: A broker's commission will be paid to Kidder Mathews.

PROPERTY LEASE – 3.49 ACRES TO NORTHWEST CASCADE, INC. – RIVERGATE
INDUSTRIAL DISTRICT
February 13, 2013
Page 2

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to enter into a lease with Northwest Cascade, Inc., for 3.49 acres of improved property in the Rivergate Industrial District, 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.

RENT REBATE AGREEMENT FOR CALENDAR YEAR 2013 – TERMINAL 6

February 13, 2013

Presented by: Sebastian Degens
General Manager
Marine & Terminal Business Dev.**EXECUTIVE SUMMARY**

The Port of Portland (Port) is proposing a program for rent relief to ICTSI Oregon, Inc. (ICTSI) during calendar year 2013. Under this program, a Rent Rebate Agreement is proposed in order to facilitate competitive pricing by ICTSI to carriers calling on Terminal 6. This program is designed to help maintain and grow container carrier service levels at Terminal 6.

The sole source of funds for the rebates under the Rent Rebate Agreement will be the Annual Rent payments paid to the Port from ICTSI under the Terminal 6 Lease Agreement. None of the Port's tax revenues will be used to fund the rebate payments and ICTSI expressly disclaims any right to any Port tax revenue to satisfy the Port's rebate obligations under the Rent Rebate Agreement.

The Rent Rebate Agreement will be effective January 1, 2013, and conclude, subject to any earlier termination, December 31, 2013. The Rent Rebate Agreement is between the Port and ICTSI.

BACKGROUND

The Port and ICTSI are parties to a Terminal 6 Lease Agreement (Lease) dated May 12, 2010, pursuant to which the Port leases to ICTSI property and improvements located at the Port's Terminal 6 (Terminal). The Lease provides for Annual Rent to be paid by ICTSI to the Port over the course of the Lease. The Annual Rent is due and payable in advance, on or prior to July 1 of each year.

ICTSI previously advised the Port, and the Port has duly confirmed, that productivity declines at the Terminal have continued since June 2012, which coincides with the start of the current ILWU labor dispute. ICTSI expects such productivity shortfalls to continue throughout 2013. Because of this situation, ICTSI reports that it must incorporate the economic impact of the reduced Terminal productivity into the carriers' rates and charges. Operating costs associated with the productivity declines are a contributing factor in the pricing that ICTSI is now negotiating with carriers that currently serve Terminal 6. Without such increases ICTSI will continue to sustain substantial financial losses that could ultimately affect the viability of the container Terminal.

An independent report commissioned by the Port analyzed the productivity at the Terminal before and after the ILWU dispute arose. That report confirmed that ICTSI's operations have suffered a substantial reduction in productivity since June 2012 when the labor dispute began. The Port participated with ICTSI in a cost-share program, approved by the Commission in

RENT REBATE AGREEMENT FOR CALENDAR YEAR 2013 – TERMINAL 6

February 13, 2013

Page 2

August 2012, in which the losses attributable to the labor situation have been verified by Port staff. In light of the current status of the ILWU dispute, including pending litigation, the Port believes it is unlikely that ICTSI will experience substantially improved productivity in the near term.

In order to assist ICTSI in concluding contract negotiations with carriers on economic terms that will meet the needs of both ICTSI and the carriers, the Port is prepared to rebate a portion of the Annual Rent payments that ICTSI has made (and will make) to the Port. Effectively, the proposed Rent Rebate Agreement will provide ICTSI with reduced 2013 rent costs so that ICTSI can mitigate the financial impacts associated with the productivity declines and offer better pricing to carriers than it otherwise could. The Port's goal in offering the rebate is to maintain the current level of carrier calls and to grow container volumes at the Terminal in order to support those in the region who rely on the Terminal for import and export operations, to protect the investment that the Port has made in the Terminal facilities and the Port's proprietary business interest in the continued container operations at the Terminal, and to defend the Port's contract rights in the work that is the subject of the labor dispute and the Port's collective bargaining agreement with the DCTU/IBEW. Over the course of the year, the rebate program should provide ICTSI the opportunity to attract additional container service which will be advantageous to the Port's regional shippers.

ICTSI will make the regular Annual Rent payment due to the Port on or before July 1, 2013, as called for in the Lease. The Port will make available to ICTSI a rebate of a portion of Annual Rent in the amount of \$308,333 per month (Rebate Payments), for each calendar month during 2013, subject to the terms and conditions set forth in the Rent Rebate Agreement. The total amount of Rebate Payments to ICTSI by the Port will not exceed \$3,700,000 in calendar year 2013. The sole source of funds for the Rebate Payments described will be the Annual Rent payments paid to the Port from ICTSI under the Lease. None of the Port's tax revenues will be used to fund the Rebate Payments.

In order to be eligible for full monthly Rebate Payments, ICTSI must maintain during calendar year 2013 continuous container service and calls by carriers at the Terminal at following minimum service levels ("Continuing Service Requirement"):

- A weekly transpacific call by the CKYH group (Hanjin Shipping Co., Ltd.; COSCO Container Lines Company, Ltd.; Kawasaki Kisen Kaisha, Ltd.; and Yang Ming Marine Transport Corp.) or equivalent service;
- A weekly call by the MedPac service [Hapag-Lloyd (America), Inc. and Hamburg Sud] or equivalent service; and
- A monthly call by Westwood Shipping Lines or equivalent service.

In the event that ICTSI fails to meet the Continuous Service Requirement in any month, then the Port, in its sole discretion, after consideration of the various Port interests promoted by the Rent Rebate, may reduce future Rebate Payments for any months in which the Continuous Service

RENT REBATE AGREEMENT FOR CALENDAR YEAR 2013 – TERMINAL 6

February 13, 2013

Page 3

Requirement is not met. The reduction in the Rebate Payment for any month may not exceed the percentage of service at the Terminal that the lost/reduced carrier group represented of the Terminal's throughput volume in 2012, multiplied by the percentage of Continuous Service Requirement calls by such carrier missed in a given month. [By way of examples, if Service X represented 50% of the Terminal's throughput in 2012, (a) if Service X does not call at the Terminal during a month, the Rebate Payment could be reduced by up to 50% for that month, or (b) if Service X only misses one out of four calls in a month, the Rebate Payment could be reduced by up to 12.5% for that month.] In order to receive the monthly Rebate Payments, ICTSI shall submit invoices to the Port on a monthly basis for each month during the Term of this Agreement, with a certified schedule of all calls made by each of the carrier groups in such month. The first request may include those calendar months of 2013 preceding Commission approval of the Rent Rebate Agreement

In the event that labor productivity at the Terminal substantially improves over a sustained period of time during the Term of the Rent Rebate Agreement, following notice from the Port to ICTSI requesting a meeting, the parties agree to promptly meet to discuss whether the improvement is sufficiently substantial, sustained, and likely to continue such that the Rent Rebate at the current payment level is no longer necessary to accomplish the objectives of the program and a reduction of future Rebate Payments is appropriate. Following such discussion, the Port may, in its sole discretion, equitably reduce the Rebate Payments to reflect the improved productivity and resulting decreased operating costs.

In addition, ICTSI and the Port will work in good faith to develop a Container Marketing Initiative (CMI) by March 1, 2013. The parties intend for the CMI to include strategies for the following marketing activities: joint sales calls, participation in trade shows and conferences, website development, media, market research, advertising, sponsorship/promotions, marketing materials, and other joint marketing activities related to the Terminal.

The proposed Rent Rebate Agreement does not relieve ICTSI of any of its obligations under the Lease.

Subject to any earlier termination, the Rent Rebate Agreement will expire effective December 31, 2013.

To the extent otherwise unrecovered by the Port on its own claims in pending litigation regarding the labor dispute, ICTSI shall reimburse the Port for Rebate Payments made under the Rent Rebate Agreement, from any net damages or settlement funds (after fees and costs) obtained by ICTSI or its assigns from any third party arising out of or related to the ILWU's workplace actions at the Terminal beginning in 2012 (Damage Recovery). In the event that ICTSI is unsuccessful in obtaining a Damage Recovery, ICTSI will have no obligation to the Port to reimburse the Rebate Payments.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

RENT REBATE AGREEMENT FOR CALENDAR YEAR 2013 – TERMINAL 6

February 13, 2013

Page 4

BE IT RESOLVED, That approval is given to enter into a rent rebate program with ICTSI Oregon, Inc., 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.

2013 PORT OF PORTLAND TRANSPORTATION IMPROVEMENT PLAN

February 13, 2013

Presented by: Susie Lahsene
Manager, Transportation and
Land Use Policy**EXECUTIVE SUMMARY**

This agenda item requests approval of the Port of Portland's Transportation Improvement Plan (PTIP). As a port district reliant on elements of the transportation system developed and managed by others, the Port must carefully plan, consider funding initiatives and support projects that will enhance market access for Port customers and businesses in this region and state, consistent with the Port's mission. The Port Commission considers the PTIP annually as the basis for charting the Port's transportation improvement needs and funding requirements.

BACKGROUND

As a result of increased competition for fewer federal and state transportation dollars, increasing congestion, need for global market access and the impact of inflation and fuel efficiency on the purchasing power of local and state gas taxes, the demand for transportation improvements now far exceeds existing funding sources. In order to address business and passenger transportation market access and freight bottlenecks, needed improvements must be included in regional, state and federal transportation planning documents and funding strategies. Since transportation funds are not adequate to meet the region's capital and maintenance needs, the Port must focus on our customers' most critical transportation access needs. We must also look to other governments and the private sector to contribute funding for Port transportation maintenance and major capital investments.

Transportation continues to be both a strategic advantage for this region and a potential vulnerability. We are a small market and good access to markets beyond our region is critical for the businesses that locate here. It is also crucial that businesses that rely on products from others in this region receive the products in a timely manner. That means making strategic investments in all parts of the transportation system to diminish choke points, excessive congestion and poor connections.

The President's Export agenda and our local metropolitan export strategy, the Port's own industrial lands initiative and portions of our federal and state strategy link back to the Port's transportation plan. This transportation plan serves as our blueprint to ensure that the Port is strategic about assessing needs relative to our customers' interests. It is our way of ensuring that our customers have good access to markets and that the region remains attractive for business expansion and job growth.

For these reasons and others, it is prudent for us to review the Port's transportation needs with the Commission annually. In addition, Federal and state regulations require that all transportation funding requests include public review of project lists and funding strategies.

Regulations further require inclusion of projects in regional transportation plans in order to be considered for air quality assessment and funding. To meet state and federal public process requirements established in 1991, the Commission must formally authorize submission of the PTIP to Metro and the Oregon Department of Transportation when there are changes to projects or funding priorities. Project funding priorities are reconsidered annually when PTIP projects and costs are updated. This year's PTIP contains changes to the project list, project costs and funding priorities.

The PTIP is a compilation of 105 road, rail, transit, marine, environmental, aviation and waterway improvements that address Port facility, property access and freight mobility needs. Some of the projects in the PTIP are primarily the Port's responsibility; others are critical for Port customers' market access on systems owned and operated by others. The projects on systems owned and operated by other governments or private rail carriers are primarily the responsibility of those entities but, due to competing priorities and capital constraints, they require some amount of Port focus and/or financial participation to create the impetus for the responsible entity to pursue the project.

Port staff has identified 53 projects that may require some Port resources and/or outside grant funding as well as commitments from the various responsible agencies to move the projects forward. These projects represent the most pressing bottlenecks and capital needs for Port customers. The need for Port funding and the precise amount for each project will be determined at the time commitments must be made and will be subject to funding availability, a specific project business case justification and Commission approval for any amounts in excess of delegated authority.

The projects identified in the PTIP were developed with full opportunity for public review and input. In December 2012, the PTIP was placed on the Port's website and notices of the PTIP's availability were emailed to stakeholders, community organizations and area businesses. A series of presentations were made to business organizations, customers and community interests. A public hearing was held as part of the PTIP discussion at the January 2013 Commission meeting. Port staff intends to work with Metro, state and local transportation planners to include the PTIP projects in the local Transportation System Plans, the Regional Transportation Plan and funding programs at various levels of government.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to submit the Port of Portland's Transportation Improvement Plan to Metro and the Oregon Department of Transportation for inclusion in the Regional Transportation Plan to be eligible for future state, regional, and federal funding; and

BE IT FURTHER RESOLVED, That approval is given to seek federal, state and regional transportation funds for the list of Port Priority Projects identified in the draft Port Transportation Improvement Plan.

FIRST READING AND PUBLIC HEARING – AMENDED AND RESTATED PORT OF PORTLAND ORDINANCE NO. 389-R REGULATING LANDING AND FUEL FLOWAGE FEES ON GENERAL AVIATION AIRPORTS

February 13, 2013

Presented by: Steve Nagy
General Aviation Manager

EXECUTIVE SUMMARY

This agenda item requests a first reading and public hearing on the amendment and restatement of Port of Portland Ordinance 389-R, which pertains to landing and fuel flowage fees and regulates the operation of fuel transportation vehicles on general aviation airports.

BACKGROUND

Staff proposes to amend and restate Ordinance 389-R which was originally adopted in 1997, to update business information and to eliminate reference to the Mulino Airport which the Port no longer owns as well as language that distinguishes Mulino from the other general aviation airports.

The proposed amendment also contains one substantive change. A new “Special Exception” is created at section 3.2.6 to cure a potential ambiguity in the current ordinance and to provide the Executive Director with the authority to change landing fee exemptions in response to airport need. Currently, aircraft that weigh under 10,000 pounds that engage in training flights and maintenance certification flights are not intended to pay and do not pay landing fees. The current ordinance permits the exemption through a subtle definition of “commercial operations”. Staff believes that the express delegation of authority to the Executive Director to designate classes of landings as exempt from landing fees serves both to eliminate confusion and to provide the Port with necessary flexibility in making these determinations in response to airport need. The Executive Director must exercise this exception in accordance with laws that require its uniform and non-discriminatory application.

The revisions to Ordinance No. 389-R are described in detail in the attached Section-by-Section Analysis.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That the Port of Portland Ordinance No. 389-R, as amended, be given a first reading by title only; and

BE IT FURTHER RESOLVED, That a public hearing be held concerning proposed Port of Portland Ordinance No. 389-R.

ORDINANCE No. 389-R
Amending and Restating Ordinance No. 389-R originally adopted on July 1, 1997

SECTION-BY-SECTION ANALYSIS

Amended and Restated Ordinance 389-R reflects housekeeping changes to the business operations of the general aviation airports that have occurred since Ordinance 389-R was first adopted by the Port Commission in 1997. One amendment is introduced to expressly allow the Executive Director to identify classes of flights that may be exempt from landing fees. This change is made in response to an internal audit report that identified a potential ambiguity in the Ordinance. The change serves to ratify the Port's long-standing practice of exempting training and maintenance certification flights from payment of landing fees and provides the Executive Director the authority to institute such exemptions for classes of landings.

Section 1 Findings and Purpose

1.1.1 Eliminates references to Mulino Airport which is no longer owned by the Port.

1.1.6 Eliminates references to Mulino Airport including references that distinguish it from the other airports because Mulino is no longer owned by the Port; updates the stated financial performance of the Port's general aviation airports.

1.1.7 Reflects the current fuel flowage fee methodology and improvement to the stated financial performance of the general aviation airports.

1.1.13 Modifies the language in a non-substantive matter for clarity.

1.1.14 Clarifies that Commercial Aircraft Operators may derive revenues principally but not exclusively from use of the airports for commercial purposes.

Section 2 Definitions

2.1 Eliminates references to Mulino Airport which is no longer owned by the Port.

2.3 Clarifies that Commercial Airport Operators may use the airport for incidental non-commercial purposes.

2.4 Housekeeping change that moves a definition from the text of the Ordinance to the definition section.

2.11 Clarifies a recognized distinction between aircraft providing a direct government use and private aircraft contractors providing services to the government and receiving commercial benefit from the use of the general aviation airport.

2.21 Eliminates the definition of Primary Airports formerly necessary to distinguish between Mulino and the other airports because Mulino is no longer owned by the Port;

Section 3 Landing Fees

3.1 Removes defined term, "Primary Airport."

3.2.1 Removes defined term designation which was moved to the Section 2 Definition Section of the Ordinance.

3.2.2 Removes defined term, "Primary Airport."

3.2.4 Clarifies test flight designation as one made for the purposes of certification.

3.2.5 Housekeeping clarification that landing on a leased are must be an agreed permitted use under the lease.

3.2.6 Gives the Executive Director the authority to exempt certain flights or classes of flights from the payment of a landing fee in accordance with the Ordinance and applicable law.

Section 4 Fuel Flowage Fees

4.1 Expressly states long held protocol that Government Aircraft are not subject to fuel flowage fees.

Section 5 Use of Airports by Fuel Transportation Vehicles

5.1 Housekeeping update that reflects the Port's use of tank agreements rather than permits and acknowledges the application of Minimum Standards and fuel standards to regulatory requirements of general aviation airports.

5.2 Housekeeping change to title made for clarity.

Section 6 Penalties

6.2 Eliminates reference to penalty in effect in 1997 and replaces it with general reference to fine currently in effect.

6.4 Reflects change to effective date from 1997 date of adoption.

AMENDED AND RESTATED
ORDINANCE NO. 389-R
OF THE PORT OF PORTLAND

AN ORDINANCE REGARDING LANDING AND FUEL FLOWAGE FEES
AND REGULATING OPERATION OF FUEL TRANSPORTATION
VEHICLES ON AIRPORTS

BE IT ENACTED BY THE PORT OF PORTLAND:

1. Findings and Purpose

1.1 Findings:

The Port of Portland finds that:

1.1.1 The Port owns and operates a system of airports which includes Portland International Airport, ~~Portland-Hillsboro Airport, Portland-Mulino Airport,~~ and Portland-Troutdale Airport, which are used for the taking off, landing, operation and storage of aircraft, and the conduct of businesses supporting aviation activities; and

1.1.2 The Airports promote a strong economic base for the community, assist and encourage world trade opportunities, and are of vital importance to the health, safety, and welfare of the State of Oregon; and

1.1.3 It is essential that the Airports remain financially self-sufficient to perform their transportation role in the community and to provide the community with cost effective aviation facilities; and

1.1.4 The revenues received from users of the Airports are vital to the economic well-being of the Airports; and

1.1.5 The Port will incur substantial expenditure for capital investment, operation, maintenance, and development of the facilities at the Airports to meet the future demand for airport services to accommodate the air transport of persons and cargo; and

1.1.6 ~~Portland-Hillsboro Airport, Portland-Mulino Airport,~~ and Portland-Troutdale Airport have sustained net losses throughout their respective periods of operation by the Port, ~~andbut recently have never~~ produced revenues sufficient to offset the Port's operating ~~andcosts although not sufficient to offset~~ capital costs for aeronautical assets in use at such airports; and

1.1.7 Fuel flowage fees imposed on the delivery of fuel at the Airports currently paid by certain aviation tenants ~~have not been sufficient~~ contribute to the operating revenues of the airports, which offset the ~~Port's~~ costs of providing airfield assets and services at the Airports; and

1.1.8 As a recipient of financial assistance from the United States Government for development of the Airports, the Port is required, pursuant to 49 USC § 47107, to maintain a schedule of charges for use of facilities and services at the Airports that will make the Airports as self-sustaining as possible under the circumstances existing at the Airport, including volume of traffic and economy of collection; and

1.1.9 Pursuant to 49 USC § 47107, the Port is required to make the Airports available for public use on reasonable conditions and without unjust discrimination; and

1.1.10 The Federal Aviation Administration (FAA) has directed airports to ensure that rates, fees, rentals, landing fees, and other service charges imposed on aeronautical users of the Airports for aeronautical uses are fair and reasonable and, unless otherwise agreed to by the affected aeronautical users, do not exceed the costs of providing airfield assets and services currently in aeronautical use at the Airports; and

1.1.11 The FAA has further directed that airport fees should be established using a consistent methodology for comparable aeronautical users, that fees imposed on a group of aeronautical users should not exceed the costs allocated to that user group, that reasonable distinctions may be made among aeronautical users, and that differing charges may be imposed on categories of aeronautical users based on those distinctions; and

1.1.12 ORS 778.025(5) authorizes the Port to operate and maintain airports and collect charges for the use of such facilities, and ORS 836.210 further authorizes the Port to provide by regulation for charges, fees, and tolls for the use of the Airports and civil penalties for the violations of such regulations; and

1.1.13 In order to ~~raise~~generate revenue for purposes of making the Airports as self-sustaining as possible under the circumstances existing at the Airport and maintaining, operating, and developing the Airports for the ~~convenience~~safe and efficient use of aviation users and the traveling public, and to preserve existing revenues, protect the public, preserve order, provide for the public health, safety and welfare, enhance the welfare of the Port, and govern use of Airport property, it is necessary for the Airport to adopt and implement ~~the~~ fees ~~specified pursuant to the criteria established~~ in this Ordinance to be paid by persons utilizing the Airports for aviation purposes; and

1.1.14 Because Commercial Aircraft Operators derive revenues principally from using the Airports for commercial purposes, it is fair and reasonable that Commercial Aircraft Operators contribute to a greater degree than non-revenue generating users toward the maintenance, operation, and continued development of the Airports and making the Airports self-sustaining, and that such greater contribution by Commercial Aircraft Operators does not unjustly discriminate against this group of Airport users; and

1.1.15 Because large Aircraft make greater demands on runways, taxiways, and other Primary Airport facilities, which demands require greater maintenance, operating, and capital expenditures by the Port to permit such continued use of the Primary Airports by such large Aircraft, a landing fee imposed on operators of such large Aircraft does not unjustly discriminate against this group of Airport users; and

1.1.16 It is customary for airports that charge landing fees to base the fees on landed weight of Aircraft, and to exclude from the landing fee requirement Aircraft below a minimum landed weight; and

1.1.17 The operation of fuel transportation vehicles on the Airports without appropriate environmental and safety precautions poses a threat to the health, economic vitality, and safety of persons living in the community, the State of Oregon, and other citizens utilizing the Airports, and exposes the Port to potential liability for environmental clean up and remediation; and

1.1.18 In order to protect the public, to provide for public safety, and to preserve the good order of the Port, it is necessary to enact and provide for implementation of standards, controls, and procedures for operation of fuel transportation vehicles on the Airports.

1.2 Purpose

The purpose of this Ordinance is to enact landing and fuel flowage fees and to establish environmental and safety requirements for Fuel Transportation Vehicles consistent with the above findings, and this Ordinance shall be liberally construed to effectuate this purpose.

2. DEFINITIONS

As used in this Ordinance:

2.1 "Airports" and "Airport"

"Airports" shall mean, collectively, those certain airports located in Multnomah County, Oregon, known as Portland International Airport and ~~Portland-Troutdale Airport; and~~ in Washington County, Oregon, known as ~~Portland-Hillsboro Airport; and in Clackamas County, Oregon, known as Portland-Muline~~ Airport, including all facilities and roads located at or on such airports. "Airport" shall mean any one of the Airports.

2.2 "Aircraft"

"Aircraft" shall mean every contrivance invented, used, or designed to navigate, or fly in, the air.

2.3 "Commercial Aircraft Operator"

"Commercial Aircraft Operator" shall mean any Person engaged in the carriage in air commerce of Persons or property at the Airport principally for compensation or hire, including but not limited to any Person whose operations are governed by Parts 121 or 135 of the Code of Federal Regulations, Title 14, Chapter I, Subchapter G, promulgated by the United States Federal Aviation Administration, Department of Transportation, ~~as~~ in effect on the effective date of this Ordinance, and as amended, supplemented, and replaced from time to time.

2.4 "Excluded Commercial Aircraft Operator"

"Excluded Commercial Aircraft Operator" shall mean a ~~Person described in Section 3.2.1 of this Ordinance~~ Commercial Aircraft Operator who is required to pay a fee to the Port for such landing pursuant to the terms of an agreement between the Port and the Commercial Aircraft Operator.

2.5 "Executive Director"

"Executive Director" shall mean the Port's Executive Director or his designee.

2.6 "Fee"

"Fee" shall mean the Landing Fee and Fuel Flowage Fee authorized by this Ordinance.

2.7 "Fuel"

"Fuel" shall mean any gasoline and any other inflammable or combustible gas or liquid usable as fuel for the operation of Aircraft.

2.8 "Fuel Flowage Fee"

"Fuel Flowage Fee" shall mean the Fuel Flowage Fee authorized in Section 4.1 of this Ordinance.

2.9 "Fuel Operator"

"Fuel Operator" shall mean any Person who operates any system or device used to store or dispense Fuel at the Airports, including but not limited to a Fuel storage tank, Fuel Transportation Vehicle, or similar system or device.

2.10 "Fuel Transportation Vehicle"

"Fuel Transportation Vehicle" shall mean any form of transportation that is used in and capable of transporting Fuel on Airport roads, parking areas, ramp areas, taxiways, runways, or elsewhere on the Airport.

2.11 "Government Aircraft"

"Government Aircraft" shall mean any Aircraft owned or operated by the United States government or any of its agencies but shall not mean privately owned and operated aircraft that are contracted for the use of the United States government.

2.12 "Landed Weight"

"Landed Weight" shall mean the maximum permissible gross weight which an Aircraft may lawfully have at the time of landing at any airport in the United States as set forth in Federal Aviation Administration specifications for such Aircraft.

2.13 "Landing Fee"

"Landing Fee" shall mean the Landing Fee authorized in Section 3.1 of this Ordinance.

2.14 "Large Aircraft"

"Large Aircraft" shall mean any Aircraft having a Landed Weight that exceeds 10,000 pounds.

2.15 "Large Aircraft Operator"

"Large Aircraft Operator" shall mean a Person operating any Large Aircraft.

2.16 "Mobile Storage Tank Use Agreement"

"Mobile Storage Tank Use Agreement" shall mean an agreement in force between the Port and a Person which expressly authorizes the Person to operate a Fuel Transportation Vehicle on an Airport in accordance with prescribed terms and conditions.

2.17 "Permit"

"Permit" shall mean the Permit required pursuant to Section 5.1.

2.18 "Permittee"

"Permittee" shall mean any Person required by this Ordinance to have a Permit for operation of a Fuel Transportation Vehicle on an Airport.

2.19 "Person"

"Person" shall mean an individual, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization.

2.20 "The Port of Portland" or "Port"

"The Port of Portland" or "Port" shall mean the Port District created by the Oregon Legislature by laws codified in Oregon Revised Statutes, Chapter 778, as amended.

~~2.21 "Primary Airports" and "Primary Airport"~~

~~"Primary Airports" shall mean all Airports except Portland Mulino Airport.~~

~~"Primary Airport" shall mean any one of the Primary Airports.~~

3. LANDING FEES,

3.1 Fees Required

Except as provided in Section 3.2, every Commercial Aircraft Operator and every Large Aircraft Operator shall pay a fee ("Landing Fee") on each landing of an Aircraft at any Primary Airport. The Executive Director shall establish Landing Fee rates for each Airport assessed per 1,000 pounds of Landed Weight; provided that such rates shall be fair and reasonable for the affected Persons and shall not exceed the Port's costs of providing airfield assets and services currently in aeronautical use at the ~~Primary~~ Airports. The Executive Director may adjust Landing Fee rates from time to time consistent with this section.

3.2 Exceptions

No Landing Fee shall be imposed pursuant to Section 3.1 on the following landings:

3.2.1 Excluded Commercial Aircraft Operator

A landing by a Commercial Aircraft Operator who is required to pay a fee to the Port for such landing pursuant to the terms of an agreement between the Port and the Commercial Aircraft Operator ~~(an "Excluded Commercial Aircraft Operator").~~

3.2.2 Emergency or Precautionary Landings

A landing of an Aircraft which departs from a ~~Primary~~ Airport for another destination and is forced to return and land at the same ~~Primary~~ Airport because of meteorological conditions, mechanical or operating causes, or for any similar emergency or precautionary reason.

3.2.3 Government Aircraft

A landing by a Government Aircraft, unless the Landing Fee is permitted by applicable United States law and is imposed pursuant to a written agreement between the Port and the United States government or an agency thereof.

3.2.4 Test Flights

A landing by any Aircraft engaged in a ~~non-revenue~~ flight certification producing test flight approved by the Executive Director that is necessary to meet operational, safety, or Federal Aviation Administration requirements.

3.2.5 Helicopter Landings on Leased Areas

A landing by a Commercial Aircraft Operator or Large Aircraft Operator of a helicopter on an area leased by the Commercial Aircraft Operator or Large Aircraft Operator from the Port pursuant to a lease which permits the landing.

3.2.6 Special Exception

A landing or class of landing by a Commercial Aircraft or Large Aircraft designated as exempt from payment of a Landing Fee by the Executive Director in accordance with this Ordinance and all applicable laws.

3.3 Collection

Landing Fees shall be collected by the Port in accordance with procedures established by the Executive Director. Unless the Executive Director has established other payment procedures, or credit arrangements satisfactory to the Executive Director have been made in advance, every Commercial Aircraft Operator and Large Aircraft Operator shall pay all unpaid Landing Fees before the next takeoff of an Aircraft owned, operated or controlled by the Commercial Aircraft Operator or Large Aircraft Operator. A delinquency charge in an amount established by the Executive Director shall be imposed on all Landing Fees not paid when due. All Commercial Aircraft Operators and Large Aircraft Operators at the Primary Airports shall promptly provide the Port reports on forms provided by the Port containing information necessary to calculate the Landing Fee.

4. FUEL FLOWAGE FEES

4.1 Fees Required

Every Fuel Operator shall pay a fuel flowage fee ("Fuel Flowage Fee") on all Fuel transported onto the Airports; provided that no Fuel Flowage Fee shall be imposed on Fuel which is sold to an Excluded Commercial Aircraft Operator or fuel provided to a Government Aircraft. The Fuel Flowage Fee shall be assessed at the time Fuel is transported onto an Airport by a Fuel Operator, and a credit or other appropriate adjustment shall be given to the Fuel Operator with respect to Fuel which is subsequently sold to an Excluded Commercial Aircraft Operator. The Fuel Flowage Fee shall be an amount payable on each gallon or similar measuring unit established by the Executive Director for each category of Fuel, and may be adjusted by the Executive Director from time to time.

4.2 Collection

Fuel Flowage Fees shall be collected by the Port in accordance with procedures established by the Executive Director. Unless the Executive Director has established other payment procedures, or credit arrangements satisfactory to the Executive Director have been made in advance, all Fuel Flowage Fees shall be paid by a Fuel Operator no later than 20 days after the end of the calendar month in which Fuel is transported onto an Airport. A delinquency charge in an amount established by the Executive Director shall be imposed on all Fuel Flowage Fees not paid when due. All Fuel Operators shall promptly provide the Port reports containing information specified by the Port which is necessary to calculate the Fuel Flowage Fee.

5. USE OF AIRPORTS BY FUEL TRANSPORTATION VEHICLES

5.1 Permit Required

No Person shall operate a Fuel Transportation Vehicle on any portion of an Airport except pursuant to ~~a valid permit ("Permit") issued by an agreement with the Port or pursuant to a Mobile Storage Tank Use Agreement~~ expressly allowing such operation. The ~~Permit agreement~~ shall contain, at a minimum, the terms and conditions contained in this Ordinance applicable Minimum Standards, fueling standards, and such other terms and conditions as the Executive Director deems necessary or appropriate. Use of the Airports or any of the Airport facilities by an operator of a Fuel Transportation Vehicle shall be deemed acceptance of the terms and conditions of the ~~Permit agreement~~.

5.2 ~~Permit~~ Minimum Terms

At a minimum, all Permittees shall be required by the terms of the Permit to:

5.2.1 Insurance

Provide the Port written certificates of insurance evidencing insurance coverage of types and in amounts established by the Executive Director.

5.2.2 Indemnity

Indemnify the Port and its commissioners and employees against any claim of any type whatsoever arising out of the presence of the Permittee or the Permittee's Fuel Transportation Vehicle at the Airport.

5.2.3 Fuel Transportation Vehicle Identification

Provide the Port the make, model, color, license number, identification number, and motor vehicle registration number of all Fuel Transportation Vehicles to be operated on the Airports.

5.2.4 Business Permits

Provide the Port written proof, upon request by the Port, of all business and motor vehicle permits required by local, state, and federal regulations.

5.2.5 Other Standards

Comply with all environmental and safety laws applicable to operation of Fuel Transportation Vehicles at the Airports, and such other standards as the Executive Director deems necessary or appropriate to protect the environment, the Port, and the public health, safety, and welfare from the potential harmful effects of spills and releases from Fuel Transportation Vehicles.

6. PENALTIES

6.1 Civil Sanctions

In the event any Person violates any term or condition of this Ordinance, the Port may exercise any rights or remedies allowed by law or equity, including without limitation, imposition of a civil penalty pursuant to ORS 836.210 of not more than \$500 per violation, and, in the case of a violation of any term or condition of any Permit granted pursuant to this Ordinance, after reasonable notice and hearing, suspension or termination of the rights granted

pursuant to the Permit. In the event that any Permit is so suspended or terminated, any covenant or condition (including, but not limited to, indemnification covenants), set forth in the Permit, the full performance of which is not specifically required prior to the suspension or termination of the Permit, and any covenant or condition which by its terms is to survive, shall survive the suspension or termination of the Permit and shall remain fully enforceable thereafter.

6.2 Criminal Sanctions

Any Person violating this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine ~~of not more than \$250 per violation~~pursuant to Oregon law.

6.3 Severability

In the event any phrase, clause, sentence, paragraph, or paragraphs of this Ordinance is declared invalid for any reason, the remainder of the Ordinance shall not be thereby invalidated, but shall remain in full force and effect, all parts being declared separable and independent of all others.

6.4 Effective Date

The effective date of this Amended and Restated Ordinance shall be ~~July 1,~~
~~1997,~~ 2013.

**AMENDED AND RESTATED
ORDINANCE NO. 389-R
OF THE PORT OF PORTLAND**

**AN ORDINANCE REGARDING LANDING AND FUEL FLOWAGE FEES
AND REGULATING OPERATION OF FUEL TRANSPORTATION
VEHICLES ON AIRPORTS**

BE IT ENACTED BY THE PORT OF PORTLAND:

1. Findings and Purpose

1.1 Findings:

The Port of Portland finds that:

1.1.1 The Port owns and operates a system of airports which includes Portland International Airport, Hillsboro Airport and Troutdale Airport, which are used for the taking off, landing, operation and storage of aircraft, and the conduct of businesses supporting aviation activities; and

1.1.2 The Airports promote a strong economic base for the community, assist and encourage world trade opportunities, and are of vital importance to the health, safety, and welfare of the State of Oregon; and

1.1.3 It is essential that the Airports remain financially self-sufficient to perform their transportation role in the community and to provide the community with cost effective aviation facilities; and

1.1.4 The revenues received from users of the Airports are vital to the economic well-being of the Airports; and

1.1.5 The Port will incur substantial expenditure for capital investment, operation, maintenance, and development of the facilities at the Airports to meet the future demand for airport services to accommodate the air transport of persons and cargo; and

1.1.6 Hillsboro Airport and Troutdale Airport have sustained net losses throughout their respective periods of operation by the Port, but recently have produced revenues sufficient to offset the Port's operating costs although not sufficient to offset capital costs for aeronautical assets in use at such airports; and

1.1.7 Fuel flowage fees imposed on the delivery of fuel at the Airports currently paid by certain aviation tenants contribute to the operating revenues of the airports, which offset the costs of providing airfield assets and services at the Airports; and

1.1.8 As a recipient of financial assistance from the United States Government for development of the Airports, the Port is required, pursuant to 49 USC § 47107, to maintain a schedule of charges for use of facilities and services at the Airports that will make the Airports as self-sustaining as possible under the circumstances existing at the Airport, including volume of traffic and economy of collection; and

1.1.9 Pursuant to 49 USC § 47107, the Port is required to make the Airports available for public use on reasonable conditions and without unjust discrimination; and

1.1.10 The Federal Aviation Administration (FAA) has directed airports to ensure that rates, fees, rentals, landing fees, and other service charges imposed on aeronautical users of the Airports for aeronautical uses are fair and reasonable and, unless otherwise agreed to by the affected aeronautical users, do not exceed the costs of providing airfield assets and services currently in aeronautical use at the Airports; and

1.1.11 The FAA has further directed that airport fees should be established using a consistent methodology for comparable aeronautical users, that fees imposed on a group of aeronautical users should not exceed the costs allocated to that user group, that reasonable distinctions may be made among aeronautical users, and that differing charges may be imposed on categories of aeronautical users based on those distinctions; and

1.1.12 ORS 778.025(5) authorizes the Port to operate and maintain airports and collect charges for the use of such facilities, and ORS 836.210 further authorizes the Port to provide by regulation for charges, fees, and tolls for the use of the Airports and civil penalties for the violations of such regulations; and

1.1.13 In order to generate revenue for purposes of making the Airports as self-sustaining as possible under the circumstances existing at the Airport and maintaining, operating, and developing the Airports for the safe and efficient use of aviation users and the traveling public, and to preserve existing revenues, protect the public, preserve order, provide for the public health, safety and welfare, enhance the welfare of the Port, and govern use of Airport property, it is necessary for the Airport to adopt and implement fees pursuant to the criteria established in this Ordinance to be paid by persons utilizing the Airports for aviation purposes; and

1.1.14 Because Commercial Aircraft Operators derive revenues principally from using the Airports for commercial purposes, it is fair and reasonable that Commercial Aircraft Operators contribute to a greater degree than non-revenue generating users toward the maintenance, operation, and continued development of the Airports and making the Airports self-sustaining, and that such greater contribution by Commercial Aircraft Operators does not unjustly discriminate against this group of Airport users; and

1.1.15 Because large Aircraft make greater demands on runways, taxiways, and other Primary Airport facilities, which demands require greater maintenance, operating, and capital expenditures by the Port to permit such continued use of the Primary Airports by such large Aircraft, a landing fee imposed on operators of such large Aircraft does not unjustly discriminate against this group of Airport users; and

1.1.16 It is customary for airports that charge landing fees to base the fees on landed weight of Aircraft, and to exclude from the landing fee requirement Aircraft below a minimum landed weight; and

1.1.17 The operation of fuel transportation vehicles on the Airports without appropriate environmental and safety precautions poses a threat to the health, economic vitality, and safety of persons living in the community, the State of Oregon, and other citizens utilizing the Airports, and exposes the Port to potential liability for environmental clean up and remediation; and

1.1.18 In order to protect the public, to provide for public safety, and to preserve the good order of the Port, it is necessary to enact and provide for implementation of standards, controls, and procedures for operation of fuel transportation vehicles on the Airports.

1.2 Purpose

The purpose of this Ordinance is to enact landing and fuel flowage fees and to establish environmental and safety requirements for Fuel Transportation Vehicles consistent with the above findings, and this Ordinance shall be liberally construed to effectuate this purpose.

2. DEFINITIONS

As used in this Ordinance:

2.1 "Airports" and "Airport"

"Airports" shall mean, collectively, those certain airports located in Multnomah County, Oregon, known as Portland International Airport and Troutdale Airport, and in Washington County, Oregon, known as Hillsboro Airport, including all facilities and roads located at or on such airports. "Airport" shall mean any one of the Airports.

2.2 "Aircraft"

"Aircraft" shall mean every contrivance invented, used, or designed to navigate, or fly in, the air.

2.3 "Commercial Aircraft Operator"

"Commercial Aircraft Operator" shall mean any Person engaged in the carriage in air commerce of Persons or property at the Airport principally for compensation or hire, including but not limited to any Person whose operations are governed by Parts 121 or 135 of the Code of Federal Regulations, Title 14, Chapter I, Subchapter G, promulgated by the United States Federal Aviation Administration, Department of Transportation, in effect on the effective date of this Ordinance, and as amended, supplemented, and replaced from time to time.

2.4 "Excluded Commercial Aircraft Operator"

"Excluded Commercial Aircraft Operator" shall mean a Commercial Aircraft Operator who is required to pay a fee to the Port for such landing pursuant to the terms of an agreement between the Port and the Commercial Aircraft Operator.

2.5 "Executive Director"

"Executive Director" shall mean the Port's Executive Director or his designee.

2.6 "Fee"

"Fee" shall mean the Landing Fee and Fuel Flowage Fee authorized by this Ordinance.

2.7 "Fuel"

"Fuel" shall mean any gasoline and any other inflammable or combustible gas or liquid usable as fuel for the operation of Aircraft.

2.8 "Fuel Flowage Fee"

"Fuel Flowage Fee" shall mean the Fuel Flowage Fee authorized in Section 4.1 of this Ordinance.

2.9 "Fuel Operator"

"Fuel Operator" shall mean any Person who operates any system or device used to store or dispense Fuel at the Airports, including but not limited to a Fuel storage tank, Fuel Transportation Vehicle, or similar system or device.

2.10 "Fuel Transportation Vehicle"

"Fuel Transportation Vehicle" shall mean any form of transportation that is used in and capable of transporting Fuel on Airport roads, parking areas, ramp areas, taxiways, runways, or elsewhere on the Airport.

2.11 "Government Aircraft"

"Government Aircraft" shall mean any Aircraft owned or operated by the United States government or any of its agencies but shall not mean privately owned and operated aircraft that are contracted for the use of the United States government.

2.12 "Landed Weight"

"Landed Weight" shall mean the maximum permissible gross weight which an Aircraft may lawfully have at the time of landing at any airport in the United States as set forth in Federal Aviation Administration specifications for such Aircraft.

2.13 "Landing Fee"

"Landing Fee" shall mean the Landing Fee authorized in Section 3.1 of this Ordinance.

2.14 "Large Aircraft"

"Large Aircraft" shall mean any Aircraft having a Landed Weight that exceeds 10,000 pounds.

2.15 "Large Aircraft Operator"

"Large Aircraft Operator" shall mean a Person operating any Large Aircraft.

2.16 "Mobile Storage Tank Use Agreement"

"Mobile Storage Tank Use Agreement" shall mean an agreement in force between the Port and a Person which expressly authorizes the Person to operate a Fuel Transportation Vehicle on an Airport in accordance with prescribed terms and conditions.

2.17 "Permit"

"Permit" shall mean the Permit required pursuant to Section 5.1.

2.18 "Permittee"

"Permittee" shall mean any Person required by this Ordinance to have a Permit for operation of a Fuel Transportation Vehicle on an Airport.

2.19 "Person"

"Person" shall mean an individual, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization.

2.20 "The Port of Portland" or "Port"

"The Port of Portland" or "Port" shall mean the Port District created by the Oregon Legislature by laws codified in Oregon Revised Statutes, Chapter 778, as amended.

3. LANDING FEES,

3.1 Fees Required

Except as provided in Section 3.2, every Commercial Aircraft Operator and every Large Aircraft Operator shall pay a fee ("Landing Fee") on each landing of an Aircraft at any Primary Airport. The Executive Director shall establish Landing Fee rates for each Airport assessed per 1,000 pounds of Landed Weight; provided that such rates shall be fair and reasonable for the affected Persons and shall not exceed the Port's costs of providing airfield assets and services currently in aeronautical use at the Airports. The Executive Director may adjust Landing Fee rates from time to time consistent with this section.

3.2 Exceptions

No Landing Fee shall be imposed pursuant to Section 3.1 on the following landings:

3.2.1 Excluded Commercial Aircraft Operator

A landing by a Commercial Aircraft Operator who is required to pay a fee to the Port for such landing pursuant to the terms of an agreement between the Port and the Commercial Aircraft Operator.

3.2.2 Emergency or Precautionary Landings

A landing of an Aircraft which departs from an Airport for another destination and is forced to return and land at the same Airport because of meteorological conditions, mechanical or operating causes, or for any similar emergency or precautionary reason.

3.2.3 Government Aircraft

A landing by a Government Aircraft, unless the Landing Fee is permitted by applicable United States law and is imposed pursuant to a written agreement between the Port and the United States government or an agency thereof.

3.2.4 Test Flights

A landing by any Aircraft engaged in a flight certification producing test flight approved by the Executive Director that is necessary to meet operational, safety, or Federal Aviation Administration requirements.

3.2.5 Helicopter Landings on Leased Areas

A landing by a Commercial Aircraft Operator or Large Aircraft Operator of a helicopter on an area leased by the Commercial Aircraft Operator or Large Aircraft Operator from the Port pursuant to a lease which permits the landing.

3.2.6 Special Exception

A landing or class of landing by a Commercial Aircraft or Large Aircraft designated as exempt from payment of a Landing Fee by the Executive Director in accordance with this Ordinance and all applicable laws.

3.3 Collection

Landing Fees shall be collected by the Port in accordance with procedures established by the Executive Director. Unless the Executive Director has established other payment procedures, or credit arrangements satisfactory to the Executive Director have been made in advance, every Commercial Aircraft Operator and Large Aircraft Operator shall pay all unpaid Landing Fees

before the next takeoff of an Aircraft owned, operated or controlled by the Commercial Aircraft Operator or Large Aircraft Operator. A delinquency charge in an amount established by the Executive Director shall be imposed on all Landing Fees not paid when due. All Commercial Aircraft Operators and Large Aircraft Operators at the Primary Airports shall promptly provide the Port reports on forms provided by the Port containing information necessary to calculate the Landing Fee.

4. FUEL FLOWAGE FEES

4.1 Fees Required

Every Fuel Operator shall pay a fuel flowage fee ("Fuel Flowage Fee") on all Fuel transported onto the Airports; provided that no Fuel Flowage Fee shall be imposed on Fuel which is sold to an Excluded Commercial Aircraft Operator or fuel provided to a Government Aircraft. The Fuel Flowage Fee shall be assessed at the time Fuel is transported onto an Airport by a Fuel Operator, and a credit or other appropriate adjustment shall be given to the Fuel Operator with respect to Fuel which is subsequently sold to an Excluded Commercial Aircraft Operator. The Fuel Flowage Fee shall be an amount payable on each gallon or similar measuring unit established by the Executive Director for each category of Fuel, and may be adjusted by the Executive Director from time to time.

4.2 Collection

Fuel Flowage Fees shall be collected by the Port in accordance with procedures established by the Executive Director. Unless the Executive Director has established other payment procedures, or credit arrangements satisfactory to the Executive Director have been made in advance, all Fuel Flowage Fees shall be paid by a Fuel Operator no later than 20 days after the end of the calendar month in which Fuel is transported onto an Airport. A delinquency charge in an amount established by the Executive Director shall be imposed on all Fuel Flowage Fees not paid when due. All Fuel Operators shall promptly provide the Port reports containing information specified by the Port which is necessary to calculate the Fuel Flowage Fee.

5. USE OF AIRPORTS BY FUEL TRANSPORTATION VEHICLES

5.1 Permit Required

No Person shall operate a Fuel Transportation Vehicle on any portion of an Airport except pursuant to an agreement with the Port expressly allowing such operation. The agreement shall contain, at a minimum, the terms and conditions contained in this Ordinance applicable Minimum Standards, fueling standards, and such other terms and conditions as the Executive Director deems necessary or appropriate. Use of the Airports or any of the Airport facilities by an operator of a Fuel Transportation Vehicle shall be deemed acceptance of the terms and conditions of the agreement.

5.2 Minimum Terms

At a minimum, all Permittees shall be required by the terms of the Permit to:

5.2.1 Insurance

Provide the Port written certificates of insurance evidencing insurance coverage of types and in amounts established by the Executive Director.

5.2.2 Indemnity

Indemnify the Port and its commissioners and employees against any claim of any type whatsoever arising out of the presence of the Permittee or the Permittee's Fuel Transportation Vehicle at the Airport.

5.2.3 Fuel Transportation Vehicle Identification

Provide the Port the make, model, color, license number, identification number, and motor vehicle registration number of all Fuel Transportation Vehicles to be operated on the Airports.

5.2.4 Business Permits

Provide the Port written proof, upon request by the Port, of all business and motor vehicle permits required by local, state, and federal regulations.

5.2.5 Other Standards

Comply with all environmental and safety laws applicable to operation of Fuel Transportation Vehicles at the Airports, and such other standards as the Executive Director deems necessary or appropriate to protect the environment, the Port, and the public health, safety, and welfare from the potential harmful effects of spills and releases from Fuel Transportation Vehicles.

6. PENALTIES

6.1 Civil Sanctions

In the event any Person violates any term or condition of this Ordinance, the Port may exercise any rights or remedies allowed by law or equity, including without limitation, imposition of a civil penalty pursuant to ORS 836.210 of not more than \$500 per violation, and, in the case of a violation of any term or condition of any Permit granted pursuant to this Ordinance, after reasonable notice and hearing, suspension or termination of the rights granted pursuant to the Permit. In the event that any Permit is so suspended or terminated, any covenant or condition (including, but not limited to, indemnification covenants), set forth in the Permit, the full performance of which is not specifically required prior to the suspension or termination of the Permit, and any covenant or condition which by its terms is to survive, shall survive the suspension or termination of the Permit and shall remain fully enforceable thereafter.

6.2 Criminal Sanctions

Any Person violating this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine pursuant to Oregon law.

6.3 Severability

In the event any phrase, clause, sentence, paragraph, or paragraphs of this Ordinance is declared invalid for any reason, the remainder of the Ordinance shall not be thereby invalidated, but shall remain in full force and effect, all parts being declared separable and independent of all others.

6.4 Effective Date

The effective date of this Amended and Restated Ordinance shall be _____, 2013.

CONSTRUCTION CONTRACT – TAXIWAY C EAST REHABILITATION AND RUNWAY 10R-28L REPAIR – PORTLAND INTERNATIONAL AIRPORT

February 13, 2013

Presented by: Chris Edwards
Engineering Project Manager**EXECUTIVE SUMMARY**

This agenda item requests approval to award a construction contract to K & E Excavating, Inc., to construct the Taxiway C East Rehabilitation and Runway 10R-28 (South Runway) Repair Project at Portland International Airport (PDX).

BACKGROUND**Taxiway C**

Taxiway C is an 11,000-foot taxiway that is bisected by Runway 3-21 (crosswind) into west and east segments, which provides access to and from the South Runway for air cargo carriers as well as the Oregon Air National Guard (ORANG). The Port of Portland (Port) separated the Taxiway C Rehabilitation into “West” and “East” phases with construction projects in 2012 and 2013, respectively, in order to take advantage of Federal Aviation Administration (FAA) funding offered in 2012. The Taxiway C West Rehabilitation project was constructed in 2012.

A geotechnical investigation completed in 2011 for Taxiway C East identified that the underlying pavement foundation was inadequate to support the anticipated aircraft traffic. Life cycle cost analyses, which compares pavement rehabilitation alternatives for either asphalt or concrete over a 40-year life, identified Portland cement concrete pavement as the most cost effective method for rehabilitation.

The Taxiway C East Rehabilitation includes: reconstruction of 6,500 feet of existing asphalt pavement with concrete and other improvements to meet FAA design standards, which include re-grading of the safety area and widening the paved shoulders. In addition, other work elements include: centerline and edge lights, storm drainage improvements, electrical infrastructure improvements, hydrant system waterline, sanitary sewer upgrades, signing upgrades and restoring pavement marking.

Runway 10R-28L

On December 7, 2011, an ORANG F-15 experienced a tire blowout on its right main gear while taking off from the South Runway. The pilot aborted the takeoff and brought the aircraft to a stop approximately 5,100 feet down the runway. The tire loss resulted in significant runway damage, consisting of gouges and edge spalls to the concrete pavement. A total of 257 concrete panels were damaged in the incident. Along each panel, the bare wheel gouged the surface of the concrete pavement, and caused concrete spalls as it crossed the transverse concrete joints.

CONSTRUCTION CONTRACT – TAXIWAY C REHABILITATION AND RUNWAY 10R-28L
REPAIR – PORTLAND INTERNATIONAL AIRPORT

February 13, 2013

Page 2

The repair of the ORANG F-15 damage to the south runway will consist of removing and replacing the 257 concrete pavement panels. Work elements include: concrete panel replacement, electrical replacement, concrete grooving, expansion joint seal replacement and pavement markings. The Port and ORANG have entered into a Military Construction Cooperative Agreement under which ORANG will reimburse the Port's costs associated with the runway repair.

Construction Contract Award

The project contract documents and specifications were advertised on December 19, 2012, with bids received on January 23, 2013. The bids were as follows:

K & E Excavating, Inc.	\$19,986,247.00
Nutter Corporation	\$20,624,025.22
Kerr Contractors Oregon, Inc.	\$22,776,720.50
Acme Concrete Paving, Inc.	\$24,249,482.40
Kodiak Pacific Construction Co.	\$23,352,037.00
Coffman Specialties, Inc.	\$24,935,008.00
<i>Engineer's Estimate</i>	\$21,623,540.00

Construction of this project is expected to be complete by October 14, 2013.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a construction contract for the Taxiway C East Rehabilitation and Runway 10R-28L Repair Project to K & E Excavating, Inc., 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.

CONTRACT – TERMINAL WATER SYSTEM UPGRADE – PORTLAND INTERNATIONAL AIRPORT

February 13, 2013

Presented by: Marcel Hermans
Engineering Project Manager**EXECUTIVE SUMMARY**

This agenda item requests approval to award a contract to Triad Mechanical, Inc., for the Terminal Water System Upgrade at Portland International Airport (PDX) in the amount of \$657,882.

BACKGROUND

In 2006 the State of Oregon, Department of Human Services adopted new administrative rules relating to backflow prevention. These rules prescribe requirements for public water supply systems in regards to backflow prevention and the cross connection of such systems. Following those new rules, the City of Portland (City) required the Port of Portland (Port) to implement certain upgrades to the water supply system at PDX.

In February 2010, the Port and the City Water Bureau entered into a Memorandum of Agreement (MOA) regarding the Port's proposed water system upgrades. The MOA confirmed that the Port's proposed upgrades will comply with the new State rules and allowed the Port until the end of 2014 to complete the upgrades. The Port decided to fulfill these requirements by implementing a full separation between the potable water system and the fire suppression water system at PDX.

Per the MOA, the existing connection between the water systems of the terminal area and the outer airfield area will be eliminated. Within the terminal area, the drinking water and fire suppression water systems will be fully separated from each other.

In addition, new backflow prevention devices will be placed at the two main connections between the City's water system and the Port's system on the east side of the Port's headquarters building.

The total work is divided into 10 separate work areas, encompassing areas inside and outside the Terminal Building, in public areas and on the airfield. In order to minimize impacts to airport operations, tenants and the traveling public, the majority of the work will be performed between September 4 and November 15, 2013.

Bids for the project were received on January 31, 2013, as follows:

CONTRACT – TERMINAL WATER SYSTEM UPGRADE – PORTLAND INTERNATIONAL AIRPORT

February 13, 2013

Page 2

Triad Mechanical, Inc.	\$657,882
First Cascade Corporation	\$663,111
R&G Excavating, Inc.	\$747,645
Todd Hess Building Co.	\$754,000
<i>Engineer's Estimate</i>	\$702,000

The contract amount is within the project budget. The project is funded from the Airline Cost Center.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a contract for the Terminal Water System Upgrade at Portland International Airport to Triad Mechanical, Inc., 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.

CONTRACT – DRAVO BULK UNLOADER AND CRANES 6376 AND 6377 DEMOLITION AND REMOVAL – TERMINAL 4 AND TERMINAL 6

February 13, 2013

Presented by: Marcel Hermans
Engineering Project Manager**EXECUTIVE SUMMARY**

This agenda item requests approval to award a contract to Advanced American Construction, Inc., for the Terminal 4 and Terminal 6 Dravo Bulk Unloader and Cranes 6376 and 6377 Demolition and Removal Project in the amount of \$715,000.

BACKGROUND

Terminal 4 is the Port of Portland's (Port) bulk and auto terminal. Berth 411 in Slip 3 at this terminal is part of the Kinder Morgan lease area being used for the export of soda ash and is one of the Port's busiest berths. A derelict Dravo bulk unloader that was previously used for unloading bulk products is located at the east end of this berth. Because this bulk unloader has not been in use since the late 1990s, has no current or future use and is in a deteriorative state of disrepair, the Port has decided to demolish and remove this structure.

Terminal 6 is the Port's container and auto terminal. Berths 603 through 605 are leased to ICTSI, who operates Terminal 6 for import and export of containers and for imports of steel slabs. The terminal started operations as a container terminal in 1974 and was expanded in 1981. The terminal currently hosts nine container cranes, five of which are Panamax-sized container cranes and four are post-Panamax container cranes.

As part of the lease agreement with the Port, ICTSI has expressed their intent to operate the container terminal with seven container cranes, requesting two of the smaller cranes to be removed from the dock. Per the lease agreement with ICTSI the Port is responsible for removing Cranes 6376 and 6377 by the end of 2013.

The Port has issued a Request for Proposal for the demolition and removal of the bulk unloader from Terminal 4 and the two container cranes from Terminal 6. Contractors interested in the work were invited to submit proposals describing their experience and qualifications, their price and their workplan. The work plan portion of the proposal needed to include a description of the plan of approach, the safety plan, environmental protection measures and similar items. Proposals for the work were received from three separate proposers: Advanced American Construction Inc., Marine Industrial Construction LLC and NCM Contracting Group LP. The price range of the received proposals ranged from \$ 715,000 to \$844,967.

A Port evaluation team evaluated the proposals based on criteria including work plan, qualifications and experience, total cost, proposer's safety record and small business participation. The team determined that the proposal received from Advanced American

CONTRACT – DRAVO BULK UNLOADER AND CRANES 6376 AND 6377 DEMOLITION AND
REMOVAL – TERMINAL 4 AND TERMINAL 6
February 13, 2013
Page 2

Construction best meets the criteria of the Request for Proposal. Advanced American Construction appears well qualified and experienced for this work, provided a solid work plan and offered the most competitive price.

The price proposed by Advanced American Construction is \$715,000, which is within the project budget. This price also includes the salvage of Terminal 6 crane parts that can be used as replacement parts for other Port cranes as needed. The project is funded from the General Fund but not with property tax dollars

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a contract for the Terminal 4 and Terminal 6 Dravo Bulk Unloader and Cranes 6376 and 6377 Demolition and Removal Project to Advanced American Construction, Inc., in accordance with its proposal; 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.