



AGENDA
Regular Commission Meeting
Port of Portland Headquarters
7200 N.E. Airport Way, 8th Floor
March 11, 2015
9:30 a.m.

Minutes

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

Executive Director

Approval of Executive Director's Report – February 2015

General Discussion

PDX Workplace Initiative

Consent Item

1. APPROVAL OF AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON, OFFICE OF THE GOVERNOR, CONCERNING KRISTEN LEONARD *DAN BLAUFUS*

Requests approval to enter into an intergovernmental agreement with the State of Oregon, Office of the Governor.

Action Items

2. PROPERTY SALE – 14.55 ACRES TO FEDERAL EXPRESS GROUND PACKAGE SYSTEM, INC. – TROUTDALE REYNOLDS INDUSTRIAL PARK *JOE MOLLUSKY*

Requests approval to sell approximately 14.55 acres of property in the Troutdale Reynolds Industrial Park to Federal Express Ground Package System, Inc.

3. FIRST READING AND PUBLIC HEARING 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 *MICHAEL HUGGINS*

Requests a first reading and public hearing of Port of Portland Ordinance 450-R.

4. FIRST READING AND PUBLIC HEARING 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 first reading and public hearing of Port of Portland Ordinance 451-R.
5. EQUIPMENT PURCHASE – AUTOMATED PASSPORT CONTROL KIOSKS – PORTLAND INTERNATIONAL AIRPORT *KENDALL AUSTIN*

Requests approval to award a contract for the purchase of Automated Passport Control kiosks to support U.S. Customs clearance in the Federal Inspection Services facility in Portland International Airport.
6. PUBLIC IMPROVEMENT CONTRACT – TAXIWAY E NORTH REHABILITATION – PORTLAND INTERNATIONAL AIRPORT *CHRIS EDWARDS*

Requests approval to award a public improvement contract for the Taxiway E North Rehabilitation project at Portland International Airport.
7. PUBLIC IMPROVEMENT CONTRACT – TERMINAL GREASE SEPARATION PROJECT – PORTLAND INTERNATIONAL AIRPORT *STAN SNYDER*

Requests approval to award a public improvement contract for construction services related to the Terminal Grease Separation project at Portland International Airport.
8. PUBLIC IMPROVEMENT CONTRACT AMENDMENT – CARGO CENTER REVENUE CONTROL SPACE – PORTLAND INTERNATIONAL AIRPORT *ERIC FORSYTH*

Requests approval of an amendment to an existing public improvement contract for improvements to a section of the PDX Cargo Center to provide an operations base for Port of Portland parking revenue control system maintenance staff at Portland International Airport.

APPROVAL OF AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON,
OFFICE OF THE GOVERNOR, CONCERNING KRISTEN LEONARD

March 11, 2015

Presented by: Dan Blaufus
General Counsel

REQUESTED COMMISSION ACTION

This agenda item requests approval for the Port of Portland (Port) to enter into an intergovernmental agreement with the State of Oregon, Office of the Governor. The Port's Director of Public Affairs, Kristen Leonard, has been asked by Governor Brown to assist on a temporary and part-time basis in coordinating the Governor's transition team. The assignment will be for a period of not more than 90 days. Ms. Leonard would continue to fulfill her responsibilities to the Port during this time period. This arrangement is covered by Port Ordinance No. 413 Section 2, which by its terms permits such an arrangement with Commission consent and an intergovernmental agreement. Staff believes this assignment will further the Port's statutory mission.

BACKGROUND

Under its authorizing statutes, ORS 778 and ORS 777, the Port has broad powers to do that which it deems "requisite, necessary or convenient" "to promote the maritime, shipping, aviation, commercial and industrial interests of the Port." The Port routinely interacts with all branches of state, local and federal governments to fulfill its core functions.

In 1994, the Port Commission modified its existing ordinance governing the responsibilities and authority of the Port's Executive Director to provide that:

"the Executive Director may from time to time provide assistance to and take on assignments on behalf of other units of government within the State of Oregon, pursuant to intergovernmental agreement, upon consent of the Commission and for periods not exceeding ninety (90) days." Ordinance No. 413 Section 2.

The current position description for the Director of Public Affairs provides that he or she will advise the Executive Director on strategic issues related to public policy and governmental affairs. In addition, the Director of Public Affairs is to lead the Port's interaction with external public policy processes, including direct involvement with elected officials and stakeholders. The position description reflects the Port's interest in building strong relationships with elected officials and other stakeholders in order to fulfill its broader mission, and is consistent with the assignment of Ms. Leonard to the Governor's transition team.

Although Ordinance 413 explicitly authorizes the Executive Director to take on temporary assignments on behalf of the State of Oregon, the Ordinance also contains within it broad authority for the Executive Director to delegate responsibilities to others "...as is deemed requisite, necessary or convenient in carrying out the work of the Port." In this context, the

APPROVAL OF AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF OREGON,
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provision is not limited to only the Executive Director's personal services and the Executive Director may dedicate Port resources such as the services of its employees to provide such assistance.

Ms. Leonard has been asked to coordinate Governor Brown's transition team on a temporary and part-time basis. The time period specifically authorized by Port Ordinance 413 is 90 days; the duration of the intergovernmental agreement will not exceed 90 days. Mr. Wyatt has asked Ms. Leonard to take on this task, with reasonable administrative support, as requested by the Governor. Ordinance 413 requires Commission consent to this agreement.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to enter into an intergovernmental agreement with the State of Oregon under which Kristen Leonard, Director of Public Affairs, would provide assistance to Governor Brown's transition team on a temporary and part-time basis, 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.

PROPERTY SALE – 14.55 ACRES TO FEDERAL EXPRESS GROUND PACKAGE SYSTEM, INC. – TROUTDALE REYNOLDS INDUSTRIAL PARK

March 11, 2015

Presented by: Joe Mollusky
Real Estate Program Manager

REQUESTED COMMISSION ACTION

This agenda item requests approval to sell approximately 14.55 acres of property (Sale Property), of which 12.81 acres is considered developable, located on NW Sundial Road in Troutdale, designated as Lot 1 in the Troutdale Reynolds Industrial Park (TRIP), to Federal Express Ground Package System, Inc. (FedEx Ground). The sale price for the Sale Property is \$3,082,000.



BACKGROUND

The Port purchased the former Reynolds Metals Company (RMC) Aluminum Plant property from Alcoa in 2007 and established TRIP to be developed in phases for industrial uses. FedEx Ground purchased the 77.93-acre TRIP Lot 2 from the Port in 2008 and constructed Phase I of its approximately 441,000-square-foot state-of-the-art distribution facility. It began operation of its Northwest Regional Hub on the Property in 2010 and extended Load Wing B in 2013. FedEx Ground plans to expand into an approximately 575,000-square-foot facility at full build-out and requires Lot 1, the Sale Property, to accommodate this expansion. The facility expansion includes construction of Load Wing C, expansion of the distribution center, and additional truck/trailer and employee parking. The FedEx Ground Hub expansion will increase processing capacity to 37,000 packages per hour.

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INC. – TROUTDALE REYNOLDS INDUSTRIAL PARK

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The 14.55-acre Sale Property is located adjacent to Lot 2 and is subject to a 1.74-acre slope, drainage and access easement area to the Sandy Drainage Improvement Corporation (SDIC). The SDIC easement area is excluded from the developable area. The sale price of \$3,082,000 is based upon a price of \$5.52 per square foot multiplied by the developable square footage within the Sale Property. Based on other sales at TRIP and in the region, staff believes this negotiated sale price represents fair market value for the lot. FedEx Ground is responsible for the costs of all future improvements to the Property.

The Port of Portland (Port) and FedEx Ground have agreed to provide each other with a limited indemnity for post-closing third-party claims that result from the environmental condition of the property. The Port will indemnify FedEx Ground for environmental claims limited at \$500,000 for a period of 15 years. This sale does not relieve RMC of any environmental and natural resource obligations. The Purchase and Sale Agreement requires the parties to enter into a Continuing Obligations Agreement that details the parties' respective obligations to ensure compliance with an Environmental Protection Agency versus RMC and Alcoa Consent Decree, and an Oregon Department of Environmental Quality Consent Judgment.

To address potential future FedEx Ground expansion, the Port will grant FedEx Ground rights of first opportunity to purchase TRIP Lots 3, 4, 5, 6 and 10 as part of the consideration for the Lot 1 Purchase. In addition, as a condition of closing on the Lot 1 sale, the Port and FedEx Ground will enter into a contingent option for FedEx Ground to purchase TRIP Lot 3 and an option to purchase Lot 10.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to sell approximately 14.55 acres of property, located in the Troutdale Reynolds Industrial Park, to Federal Express Ground Package System, 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.

FIRST READING AND PUBLIC HEARING 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

March 11, 2015

Presented by: Michael Huggins
Landside Operations Manager

REQUESTED COMMISSION ACTION

This agenda item requests a first reading and public hearing on 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.

FIRST READING AND PUBLIC HEARING 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

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Furthermore, revisions to Port Ordinance 439-R, which are being made through new Port Ordinance 451-R, require new commercial ground transportation vehicle categories and other administrative revisions. The specific changes to the provisions of Ordinance No. 351 – as amended and restated by Ordinance Nos. 386-R, 397-R, 418-R and 432-R – are detailed 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 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 first reading by title only; and

BE IT FURTHER RESOLVED, That a public hearing be held concerning proposed Ordinance No. 450-R.

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 Portland 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

ORDINANCE No. 450-R
(Amending and Restating Ordinance No. 351, as amended and restated by Ordinance No. 386-R, Ordinance No. 397-R, Ordinance No. 418-R, and Ordinance No. 432-R)
SECTION-BY-SECTION ANALYSIS

The Port of Portland ("Port") Ground Transportation Office ("GTO") issues permits to users of the Commercial Roadway. Recently there has been an emergence of transportation network companies (those companies that use an online enabled application or platform to arrange transportation of passengers) ("TNCs"), and other types of commercial transportation vehicles. The changes to this ordinance allow permits to be issued to TNCs and other types of transportation providers.

Section-By-Section Analysis:

- Recitals:** The Recitals have been amended to update and reflect the history of the Ordinance. Unnecessary sections have been removed for clarity and consistency with other ordinances.
- Section 1:** **Findings and Purpose.** This Section sets forth the current findings and purpose for the ordinance and revisions thereto. This Section has been updated for consistency with other ordinances, housekeeping changes, and to include TNCs.
- Section 2:** **Definitions.** Numerous definitions have been expanded upon or added reflecting current operations, including but not limited to, the addition of, "Transportation Network Company," "TNC Driver," and "TNC Vehicle," along with the addition of corresponding definitions from new Ordinance 451-R.
- Section 3:** **Permit.** This Section has been substantially shortened to remove information that is duplicated in the Permit and is not necessary in the Ordinance. Other revisions include the removal of a biennial re-permitting process that has been deemed administratively burdensome. Additionally, there are several clarifying non-substantive changes.
- Section 4:** **Roadway Access Devices.** There are no substantive revisions to this Section, merely general housekeeping and a clarification that the requirement for a Roadway Access Device is at the Port's discretion and will depend upon the type of Commercial Ground Transportation Vehicle.
- Section 5:** **Vehicle Condition/Identification.** The Section has been revised to reflect the operation of TNCs at the Airport. Furthermore, a portion of this Section has been deleted to remove information that is duplicated in the Permit and Rules.

- Section 6: Use of Commercial Roadway and Compliance with Laws.** There are no revisions to this Section.
- Section 7: Prohibited Activities and the Portland International Airport Rules.** The Section title has been expanded and the substance of such has been deleted to refer to the Rules for guidance.
- Section 8: Commercial Roadway Fees and Deposits.** Revisions are made to this Section for clarity regarding fees collected by the GTO, including the addition of the Parking Access Fee collected as from certain types of Permittees. Additional revisions reflect the addition of TNCs.
- Section 9: Port Reservation of Rights.** Revisions to this Section allow for the addition of new types of operators as they emerge without necessarily amending the Ordinance. Additional revisions are made to clarify the Port's rights to control access to the Roadway.
- Section 10: Tri-Met Exemption.** Revisions are made to this Section to allow for the transport of patents for medical purposes without fees or permits if such Vehicle is not used for other types of transportation to and from the Airport.
- Section 11: Suspensions and Revocation of Permit.** Revisions reflect the current enforcement practices and are made to clarify the Port's right to immediately suspend Commercial Roadway Access under certain circumstances. Certain paragraphs are deleted and refer to the Rules for guidance.
- Section 12: Notice of Suspension or Revocation.** Minor housekeeping revisions are made to this Section.
- Section 13: Hearing Procedure.** Minor housekeeping revisions are made to this Section.
- Section 14: Civil Penalties.** Minor housekeeping revisions are made to this Section.
- Section 15: Criminal Sanctions.** No revisions are made to this Section.
- Section 16: Remedies Non-exclusive.** Minor grammatical corrections are made to this Section.
- Section 17: Time Periods.** No revisions are made to this Section.
- Section 18: Effective Date.** This Section is deleted as the Effective Date is set below.
- Section 19: Savings Clause.** This Section is renamed Section 18 and minor housekeeping changes made.

FIRST READING AND PUBLIC HEARING 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

March 11, 2015

Presented by: Scott Kilgo
Airside Leasing Manager

REQUESTED COMMISSION ACTION

This agenda item requests a first reading and public hearing on 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.

FIRST READING AND PUBLIC HEARING 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

March 11, 2015

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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.

Specific changes to the provisions of Port Ordinance No. 451-R, amending and restating Ordinance No. 349, as amended and restated by Ordinance Nos. 412-R and 439-R, are detailed in the attached Section-by-Section Analysis.

FIRST READING AND PUBLIC HEARING 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

March 11, 2015

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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 first reading by title only; and

BE IT FURTHER RESOLVED, That a public hearing be held concerning proposed Port of Portland Ordinance No. 451-R.

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

ORDINANCE No. 451-R
(Amending and Restating Ordinance No. 349, as amended and restated by Ordinance
No. 412-R and Ordinance No. 439-R)
SECTION-BY-SECTION ANALYSIS

This Ordinance governs off-airport rental car concessions, off-airport parking, and is being revised in order to address hotels that offer airport parking in addition to lodging services. Ordinance No. 451-R, which amends and restates Ordinance No. 349, as amended and restated by Ordinance No. 412-R and Ordinance No. 439-R, reflects these changes.

Section-By-Section Analysis:

Section 1: Findings and Purpose. This Section sets forth the current findings and purpose for the Ordinance and revisions thereto. This Section is being revised to reflect new concepts of Stay, Park, and Fly and Park and Fly.

Section 2: Definitions. Numerous definitions have been expanded upon or added in order to account for changes in how the Port treats Stay, Park, and Fly and Park and Fly operators. Furthermore, "Accessory Parking" is being deleted as such category will no longer exist. Among other things, new definitions include Grandfathered Hotels, Park and Fly Hotel, Parking Access Fee, and Stay, Park, and Fly Hotel. Additionally, major revisions have been made to Gross Revenues to ensure it is applicable to Parking Lot Operators and Park and Fly Hotels.

Section 3.1.1: Concession Fee. This Section is revised to remove the category of Accessory Parking Lot Operators.

Section 3.1.2: Fees for Stay, Park, and Fly Hotel. This is a new section and replaces Section 3.1.2, "Fees for Accessory Parking Lot Operators" as such category no longer exists. This Section sets forth a Parking Access Fee to be paid by Stay, Park, and Fly Hotels in lieu of a Concession Fee.

Section 3.2.1 through 3.2.3: These Sections have been removed as they are duplicative of provisions within the Permit and Rules.

Section 3.2.1: This Section was formally Section 3.2.5. Accessory Parking Lot Operators are removed and other housekeeping matters are addressed.

Section 3.2.2 through 3.2.3. These Sections reference that insurance and Vehicle requirements shall be set forth in the Permit.

Section 3.2.5: This Section was moved from Section 3.2.4.

Section 3.2.6: This Section removes Stay, Park and Fly Hotels and Grandfathered Hotels from audit requirements.

Section 3.2.7: One grammatical revision is made to this Section.

Section 3.2.8: No revisions are made to this Section.

Section 3.2.9: One grammatical revision is made to this Section.

Section 3.2.10: No revisions are made to this Section.

Section 3.3: This Section is revised to allow the Director to establish new categories of businesses in the event of the emergence of a new type of Commercial Ground Transportation Vehicle.

Section 4: Violations. This Section is revised to address the inclusion of Grandfathered Hotels and to clarify that the Port may deny access to the Roadway in the event of certain violations.

Section 5: General Provisions. No revisions are made to this Section.

EQUIPMENT PURCHASE – AUTOMATED PASSPORT CONTROL KIOSKS – PORTLAND INTERNATIONAL AIRPORT

March 11, 2015

Presented by: Kendall Austin
Terminal Operations Manager**REQUESTED COMMISSION ACTION**

This agenda item requests approval to award a contract to the Vancouver (B.C.) Airport Authority (YVR) for the purchase of Automated Passport Control (APC) kiosks to support U.S. Customs clearance in the Federal Inspection Services (FIS) facility in Portland International Airport (PDX).

BACKGROUND

Over the last two years, Customs and Border Protection (CBP) has introduced a solution that automates the capture of travel documents and the Customs declaration process in lieu of paper processing. A number of vendors have worked with CBP to provide and certify kiosks that facilitate that process, initially for U.S. and Canadian citizens, and subsequently for countries that are part of the Visa Waiver Program.

In conjunction with other FIS facility improvements, the Port of Portland (Port) plans to purchase and install eight APC kiosks. The new APC kiosks will yield improved efficiencies in passenger processing – particularly important as international service expands this spring with two new airlines, in addition to those that are already providing service for international destinations.

SELECTION PROCESS

In November 2014, the Port issued a request for proposals (RFP) to select a company to provide the APC kiosks. Five proposals were received from aviation industry-leading vendors: GCR, IER, Rockwell Collins (ARINC), SITA and YVR. Based on evaluation criteria – including company qualifications, project approach, solution functionality, technical design, customer ease of use and cost/fees – YVR was chosen as the service provider that could best meet the Port's needs, primarily based on product functionality, design and system support.

The project work scope includes primarily the following elements: the purchase and delivery of the kiosks, certification to comply with CBP processes and training for customer support staff and system administrators. Data and power infrastructure will be installed as part of ongoing construction for the related FIS improvements project, working with YVR.

BUDGET

The capital project budget is \$450,000. This includes \$320,000 for the equipment purchase, \$120,000 for installation and staff cost and a \$10,000 contingency. The contract amount includes the purchase cost and the ongoing operational and maintenance costs for the first five years of \$240,000, bringing the contract total to \$560,000. Funding source will be the Airline Cost Center.

EQUIPMENT PURCHASE – AUTOMATED PASSPORT CONTROL KIOSKS – PORTLAND INTERNATIONAL AIRPORT

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PROJECT SCHEDULE

Planning and Design	October – December 2014
Procurement	November 2014 – March 2015
Contract Award	March 2015
Implementation	March – May 2015
Project Close-Out	July 2015



PROJECT RISK

There is no significant project risk other than the challenge in meeting the short implementation timeframe that will be affected by kiosk manufacture, delivery lead-time, as well as the critical coordination required for certification by CBP.

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 to the Vancouver Airport Authority for the purchase of Automated Passport Control kiosks to support Customs clearance in the Federal Inspections Services facility in the Portland International Airport, in accordance with the terms stated in this agenda item; 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.

PUBLIC IMPROVEMENT CONTRACT – TAXIWAY E NORTH REHABILITATION –
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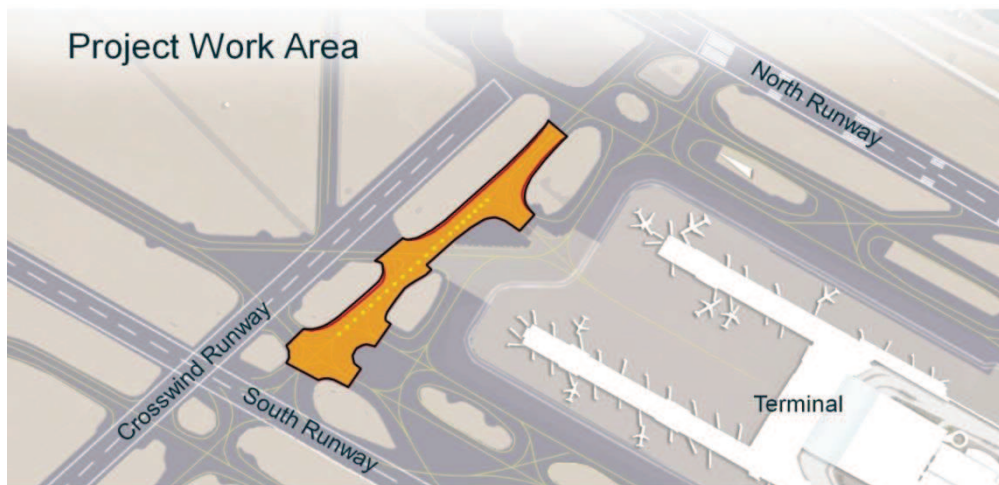
Presented by: Chris Edwards
Engineering Project Manager

REQUESTED COMMISSION ACTION

This agenda item requests approval to award a public improvement contract to K&E Excavating, Inc. to perform the Taxiway E North Rehabilitation project at Portland International Airport (PDX).

BACKGROUND

Taxiway E North is a primary taxiway that is used extensively by FAA Air Traffic Control to simultaneously accommodate both inbound and outbound aircraft between the south and north airfield locations. In late 2013, a geotechnical investigation that included an evaluation of the pavement surface and underlying structure determined that the underlying pavement foundation was inadequate to support the anticipated aircraft traffic. The Port of Portland (Port) engaged a consultant to perform life cycle cost analyses, which compare pavement rehabilitation alternatives for asphalt and concrete over a 40-year life. The analyses identified Portland cement concrete pavement as the most cost effective method for rehabilitation.



PROJECT SCOPE

- Remove existing asphalt pavement;
- Reconstruct taxiway with Portland cement concrete;
- Widen shoulders to 30 feet;

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- Replace lighting and electrical system;
- Replace storm drainage;
- Grade the site; and
- Mark the pavement.

SCHEDULE

Preliminary Planning	July 2013 – December 2013
Airline Approval	January 2014 – February 2014
Design	March 2014 – December 2014
Commission Action	March 11, 2015 (Public Improvement Contract)
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 January 7, 2015 and bids were received on February 10, 2015. K&E Excavating, Inc. submitted the lowest responsive bid. The bids were as follows:

K&E Excavating, Inc.	\$11,682,488.00
Tapani, Inc.	\$11,850,721.00
Kerr Contractors, Inc.	\$11,972,644.00
Goodfellow Brothers, Inc.	\$12,098,304.50
Kodiak Pacific Const.	\$12,130,130.00
Nutter Corporation	\$12,355,847.22
Engineer's Estimate	\$11,002,553.00

PROJECT RISKS

Risk: Operational Impacts

Mitigation Strategy:

- Phasing plans were developed to minimize disruptions.
- There will be ongoing coordination with FAA Air Traffic Control 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	\$11,682,488
Electrical Procurement	\$ 280,000
Port Staff/Contracted Services	\$ 3,000,000
Contingency	<u>\$ 1,190,000</u>
Total Project Budget	\$16,152,488

The contingency representing 8.1 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 Airline Cost Center and the FAA.

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 Taxiway E North Rehabilitation project at Portland International Airport 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.

**PUBLIC IMPROVEMENT CONTRACT – TERMINAL GREASE SEPARATION PROJECT –
PORTLAND INTERNATIONAL AIRPORT**

March 11, 2015

Presented by: Stan Snyder
Engineering Project Manager**REQUESTED COMMISSION ACTION**

This agenda item requests approval to award a public improvement contract to Payne Construction, Inc. in the amount of \$3,753,251 for construction services related to the Terminal Grease Separation project at Portland International Airport (PDX).

BACKGROUND

The Terminal Grease Separation project will address several concerns related to plumbing and waste in the PDX Central Terminal area. It is in the Port of Portland's (Port) interest to address these concerns in a timely manner in order to avoid operational issues and ensure compliance with new code requirements. This project will primarily impact the following two areas:

1. Oregon Market food concessions and restroom waste plumbing: Grease-laden waste in sanitary sewers accumulates over time, restricting flow and reducing discharge capacity. Keeping the pipes open is a significant maintenance issue and grease accumulation at sewage treatment plants reduces their efficiency. In an effort to reduce the amount of grease entering the sanitary system, the 2011 Oregon Plumbing Specialty Code (OPSC) and the City of Portland (COP) ENB-4.26–Fats Oils and Grease (FOG) Removal Program Administrative Rules were revised, starting January 1, 2013, to require that all waste water from food service establishments be routed through a grease interceptor prior to discharging into sanitary waste water collection systems. This change greatly increases the number of fixtures from which waste will need to be directed through a grease-water interceptor.

In order to bring the Central Terminal into compliance with the new code requirement, this project will alter the waste plumbing from the Oregon Market food and beverage concessions. Since the OPSC does not permit restroom waste water to be drained through a grease interceptor, this project will also isolate restroom waste water from FOG waste water. This work will impact four sets of men's and women's restrooms and one unisex restroom.

2. Loading dock and waste collection on the west side of the Terminal building: The project will address plumbing code issues in this area as well, including:
 - Replacing an undersized grease/water separator downstream of the restaurant grease bucket cleaning area with a larger unit to prevent FOG from overflowing directly into the sanitary sewer system.

PUBLIC IMPROVEMENT CONTRACT – TERMINAL GREASE SEPARATION PROJECT –
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- Reconstructing the trash compactor area by installing drains and re-sloping the surface to prevent leachate from discharging directly into the sanitary sewer system.
- Providing a canopy to cover the trash compactors and waste collection area to prevent rainwater from mixing with waste effluent and entering the sanitary sewer system. This canopy will extend from the underside of the existing Concourse Connector.

Loading Dock and Waste Collection Area



This project addresses compliance with the new grease separation regulations in the Central Terminal area only. However, the same new regulations apply to plumbing in the concourses. Code compliance for those areas is being addressed by other projects. Port staff has negotiated an agreement with the City of Portland which establishes a reasonable timeline to bring the Terminal and concourse facilities into compliance with the new rules.

In January 2014, the Commission approved the award of a personal services contract to Carleton Hart Architecture for the project design. The project design was completed in December 2014.

CONTRACT WORK SCOPE

- Modification of existing waste plumbing from Central Terminal food court and restrooms.
- Installation of a vacuum grease waste removal system including accumulators, piping, pumping station and controls.
- Construction of a temporary waste collection area.
- Construction of a new waste collection area including pavement demolition, new sanitary and storm drains and underground piping, regrading and repaving.

- Canopy over new waste collection area.
- New storm sewer manhole.
- New grease water separator.

SCHEDULE

Design	February 2014 – December 2014
Advertised	February 2015
Commission Action	March 2015 (Public Improvement Contract)
Notice to Proceed	April 2015
Construction	April 2015 – April 2016

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 2, 2015 and bids were received on February 19, 2015. Payne Construction, Inc. submitted the lowest responsive bid. The bid results were as follows:

Slayden Construction Group, Inc.*	\$2,799,000
Payne Construction, Inc.	\$3,753,251
James W. Fowler Co.	\$3,778,172
Todd Hess Building Co.	\$3,817,028
Engineer's Estimate	\$4,200,000

* Nonresponsive bid; due to failure to submit statutorily-required subcontractor disclosure; not considered for award.

PROJECT RISK

Risk: Disruption to airport and/or tenant operations.

Mitigation Strategy:

- Devise a detailed plan to minimize the impact to operations. The plan will include developing a clear understanding of facilities and activities to be impacted by the project, a strategy (developed with involvement of stakeholders) to schedule moves and provide temporary facilities as required and a communication plan to keep stakeholders informed of upcoming project activities.

BUDGET

Construction	\$3,800,000
Consultant Design Services	\$710,000
Port Staff & Contracted Services	\$720,000
Contingency	\$520,000
Total Project	<u>\$5,750,000</u>

The contingency, representing 12.5 percent of the value of the remaining work, is considered reasonable given the uncertainties of the remodel work and the risk profile for the project.

The project cost will be funded by 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 public improvement contract to Payne Construction, Inc. for construction of the Terminal Grease Separation project at Portland International Airport, 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.

**PUBLIC IMPROVEMENT CONTRACT AMENDMENT – HOFFMAN CONSTRUCTION
COMPANY OF OREGON – PORTLAND INTERNATIONAL AIRPORT**

March 11, 2015

Presented by: Eric Forsyth
Project Manager**REQUESTED COMMISSION ACTION**

This agenda item requests approval of an amendment to an existing public improvement contract with Hoffman Construction Company of Oregon (Hoffman), in the amount of \$675,000, for improvements to a section of the PDX Cargo Center to provide an operations and maintenance base for Port of Portland (Port) parking revenue control system maintenance staff (revenue control group) at Portland International Airport (PDX).

BACKGROUND

The Port is in the process of a multi-year, multi-project redevelopment effort of the general aviation (GA) ramp at PDX. As part of this redevelopment effort, new tenant leases with the Port are in progress. Terms of the lease agreements include significant modifications to the GA ramp, adjacent buildings and facilities. One of the new leases in progress is targeted to begin on July 1, 2015 and involves the demolition of the North Cargo Complex, which is the current location of the revenue control group. Under the terms of the pending lease, all of the existing tenants will need to vacate the North Cargo Complex, including the revenue control group, by July 1, 2015. The Port will need to move the revenue control group to another facility with minimal interruption to operations. Two vacant spaces in the PDX Cargo Center were selected and design of the improvements to the spaces began in December 2014.

The project scope includes refurbishment of an existing office, test-room build-out, network room construction, remodel of an existing restroom and kitchenette, construction of a “clean-room” work area, build-out of a storage room, network connection to information technology (IT) platforms at the Port’s headquarters building, and eventual connectivity to the new PDX access control system.

Due to the short timeframe between this project’s approval and the date the revenue control group must vacate the premises, the Port was unable to use a conventional design-bid-build approach to perform the work. This agenda item sets forth the Port’s plan to deliver the work within the limited time available, and seeks Commission approval to amend an existing public improvement contract with Hoffman to complete the construction portion of the work.

PROJECT CONTRACTING OVERVIEW**Design – MWA Architects Inc.**

To design the improvements of the new space, the Port issued a task order to MWA Architects, Inc. (MWA) under an existing on-call contract that was originally competitively awarded in August 2014. Design work began in December 2014 and continues to progress rapidly and successfully. No Commission action is necessary for this element of the project.

Construction Services – Hoffman

In order to begin construction by March 2015 and complete construction in time for the Port to meet the requirements of the new lease with the tenant, staff is requesting approval to amend an existing public improvement contract under which Hoffman is currently constructing the PDX Replace Access Control project. This action will ensure that the project can be constructed in time, including the procurement, installation and commissioning of long lead-time items (mainly lighting and HVAC equipment). Hoffman will be compensated under the previously-established compensation structure for this contract, which involves reimbursement for direct costs up to a negotiated maximum construction cost (MCC), a negotiated fixed fee for indirect costs and a variable incentive fee. Staff has negotiated a MCC of \$675,000 for this proposed amendment.

A current summary of previous amendments and commission actions to this contract is described below (* indicates prior amendments approved by Commission):

Original Contract Amount: Replace Access Control Project Phase 1 – Construction Management Services	\$1,933,000	(*Aug. 2014)
Amendments 1 and 2: Material Procurement and Construction Services, Concessions Redevelopment Project Phases 1 and 2	\$3,600,000	(*Nov. 2014)
Amendment 3: Federal Inspection Station Improvements	\$270,000	(Dec. 2014)
Amendment 4: Replace Access Control Project Phase 2 – Construction Services	\$35,069,873	(*Feb. 2015)
Amendment 5 (proposed): PDX Cargo Center Revenue Control Space Project – Construction Services	\$675,000	(Mar. 2015)
Contract Amount	<hr/>	\$41,547,873

Project Location



SCHEDULE

Design	December 2014 – March 2015
Commission Action (Construction)	March 2015
Construction	March 2015 – June 2015
Substantial Completion and Move-In	June 2015

PROJECT RISKS

Risk: Unforeseen problems during the construction phase may delay substantial completion of the project.

Mitigation Strategy:

- Due to schedule restrictions, the number of design deliverables has been reduced. Additional funds represented by these unrealized deliverables will be utilized during construction in order to help solve unforeseen construction problems.
- Develop a moving plan that includes a phasing option where the revenue control group can operate without use of the entire new space, thereby freeing other space potentially under construction.
- Plan for a full-time, on-site inspector to help resolve issues as soon as they arise.

Risk: Due to schedule restrictions, it may be challenging to obtain all the required materials for the project in a timely manner, especially long lead-time items such as lighting, HVAC and IT.

Mitigation Strategy:

- Allow for the use of standard equipment wherever possible.
- Execute the amendment to the Hoffman contract as soon as possible after Commission approval to enable Hoffman to order the long lead-time items in March.
- Engage MWA in collaborative discussions with Hoffman in an effort to introduce efficiency in the equipment selection/procurement process.

BUDGET

Construction – Amendment to Hoffman Contract	\$675,000
Design Services – Task Order to MWA Contract	\$98,089
Port Staff and Contracted Services	\$86,911
Contingency	\$45,000
Total Project	<u>\$905,000</u>

The contingency, representing five percent of the project budget, is considered reasonable given the current stage of the project, the nature of the work and the risk profile for the project.

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

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 public improvement contract with Hoffman Construction Company of Oregon to provide for its construction of PDX Cargo Center Revenue Control Space project at Portland International Airport, in accordance with the terms stated in this agenda item; 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.