



Working Together to Enhance the Economic Vitality of North Central Washington

Chelan Douglas Regional Port Authority

**Confluence Technology Center
285 Technology Center Way, Wenatchee WA
Methow & Teanaway River Rooms
or
Zoom Virtual Conference Room Option**

**Meeting Agenda
August 22nd, 2023
9:00 am**

I. CALL TO ORDER

**Note: When the Chelan Douglas Regional Port Authority meeting is called to order, the Port of Chelan County and Port of Douglas County meetings are simultaneously called to order.*

II. INTRODUCTIONS

III. CONFLICT OF INTEREST

IV. PUBLIC COMMENT

V. CONSENT AGENDA

- **CDRPA:** Approval of the August 8th, 2023 Meeting Minutes and the July 2023 Commission Calendar.

VI. PRESENTATIONS

- **Dan Frazier – Chelan County PUD – 5th Street Redevelopment**

VII. POCC ACTION ITEMS (Public Comment Opportunity)

- (1) POCC Resolution No. 2023-02 Operating Line of Credit
- (2) Relinquishment of Option to Purchase – Chelan County PUD Property

VIII. CDRPA ACTION ITEMS (Public Comment Opportunity)

- (3) Operating Line of Credit Concurrence
- (4) Cooling Water Agreement – Microsoft
- (5) Engineering Service Agreement – Cooling Water/RH2 Engineers System
- (6) Purchase and Sale Agreement – Lytle Property (Pangborn Airport)
- (7) Purchase and Sale Agreement – Baker Property (Malaga)
- (8) Authorization to Seek Bids – Malaga Vicinity Test Well 1 Pump Test
- (9) City of Entiat – Partners in Economic Development Funding Request

- (10) Streamline Fulfillment – Lease Renewal
- (11) Frito Lay – Lease Renewal

IX. SUGGESTED BREAK: 10 MINUTES (APPROXIMATELY 10:30 AM)

- **Tour of CTC Third Floor**

X. INFORMATIONAL ITEMS (Board may act on any items listed)

- (12) 2023 National Brownfields Training Conference – Recap
- (13) TakeOff North America 2023 Conference - Recap
- (14) Child Care Partnership Grant – Washington Department of Commerce
- (15) Weather Radar Issue

XI. MISCELLANEOUS STAFF REPORTS

- CEO
- Director of Finance & Administration
- Director of Airports
- Director of Economic Development & Capital Projects
- Community Relationship Manager
- Property & Maintenance Manager
- CTC Manager

XII. PUBLIC COMMENT

XIII. REVIEW CALENDAR OF EVENTS

XIV. ITEMS FROM BOARD OF DIRECTORS

- XV. EXECUTIVE SESSION:** An Executive Session may be called during the meeting. The purpose must be announced and is limited by RCW 42.30.110. Examples include: (1) to discuss with legal counsel litigation, potential litigation and/or legal risks (RCW 42.30.110(1)(i)); (2) to consider the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price (RCW 42.30.110(1)(b)); and (3) to consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price (final action selling or leasing public property shall be taken in a meeting open to the public)(RCW 42.30.110(1)(c)); and (4) to evaluate the qualifications of an applicant for public employment or to review the performance of a public employee(RCW 42.30.110(1)(g))

XVI. ADJOURN

PLEASE NOTE: The agenda is tentative only. The Board of Directors may add, delete, or postpone items and may take action on any item not on the agenda (This does not apply during a Special Meeting). The Directors may also move agenda items during the meeting. If you wish to address the Regional Port Authority on a non-agenda or an agenda item, please raise your hand to be recognized by the President. When you have been recognized, give your name and address before your comments. The Board of Directors are committed to maintaining a meeting atmosphere of mutual respect and speakers are encouraged to honor this principal.

The Port Authority office is ADA compliant. Please contact the Administrative Office at 509-884-4700 at least three (3) days in advance if you need any language, hearing or physical accommodation.



**Board of Directors
Chelan Douglas Regional Port Authority
Meeting Minutes
August 8th, 2023
9:00 am**

Present:

Directors:

*Donn Etherington, Director
Jim Huffman, Director
JC Baldwin, Director*

*W. Alan Loeb sack, Director
Mark Spurgeon, Director
Richard DeRock, Director*

Staff:

*Jim Kuntz, Chief Executive Officer
Monica Lough, Director of Finance & Admin
Trent Moyers, Director of Airports
Stacie de Mestre, Dir. of Econ Dev.
Ron Russ, Maint. & Prop. Mngr.*

*Tricia Degnan, CTC Manager
Colby Goodrich, FBO Mngr. (Zoom)
Laura Camarillo-Reyes, Admin. Asst. (Zoom)
Julie Avis, Acct. Specialist (Zoom)
Lorena Amador, Acct. Specialist (Zoom)*

Legal Counsel:

Quentin Batjer, Davis Arneil Law Firm LLP

Guests:

*Mike Mackey
Mark Botello, City of Entiat
Renee Swearingen, Entiat Chamber
Kirk Duncan, SBDC*

*Dave Mitchell, Ardurra
Emily Thornton, Wenatchee World
Jason Taylor, KPQ (Zoom)*

The Chelan Douglas Regional Port Authority Board Meeting was called to order at 9:00 a.m.

Introductions were made.

Conflicts of Interest: None

PUBLIC COMMENTS: An opportunity for public comment was provided. No public comments were received.

CHELAN DOUGLAS REGIONAL PORT AUTHORITY CONSENT AGENDA:

The Chelan Douglas Regional Port Authority Consent Agenda consisting of the July 11th, 2023 Meeting Minutes, CDRPA Resolution 2023-06 Voiding Check No. 11592, May 2023 Commission Calendar, June 2023 Commission Calendar, Approval of the Calendar of Events, and Check Register Pages 2023-29 through 2023-34, including Electronic Transfers was presented.

Motion No.
Moved by:
Seconded by:

08-01-23 CDRPA
JC Baldwin
W. Alan Loeb sack
To approve the Chelan Douglas Regional Port Authority Consent Agenda consisting of Minutes from the July 11th, 2023 Meeting, CDRPA Resolution 2023-06 Voiding Check No. 11592, May 2023 Commission Calendar, June 2023 Commission Calendar, Approval of the Calendar of Events, and Check Register Pages 2023-29 through 2023-34, including Electronic Transfers.

Motion Passed 6-0

PORT OF DOUGLAS COUNTY CONSENT AGENDA:

The Port of Douglas County Consent Agenda consisting of Check Register Page 2023-01 was presented.

Motion No.
Moved by:
Seconded by:

08-02-23 PODC
Jim Huffman
Mark Spurgeon
To approve the Port of Douglas County Consent Agenda consisting of Check Register Page 2023-01.

Motion Passed 3-0

PRESENTATIONS:

Small Business Development Center – Quarterly Report

Kirk Duncan from the Small Business Development Center (SBDC) provided an update on activity during the 2nd quarter of 2023. Commissioners asked various questions.

WPPA Commissioners Seminar Recap

Commissioners Spurgeon, Baldwin and DeRock provided reports on the recently attended WPPA Commissioners Seminar. They all felt it was a very beneficial conference.

POCC ACTION ITEMS:

POCC Resolution No. 2023-02 – Operating Line of Credit

Item will be presented at the August 22, 2023 meeting as the resolution is not in final form.

CHELAN DOUGLAS REGIONAL PORT AUTHORITY ACTION ITEMS:

Operating Line of Credit Concurrence

Item will be presented at the August 22, 2023 meeting as the resolution is not in final form.

City of Entiat – Partners in Economic Development Funding Request

Kuntz introduced the application received from the City of Entiat. Mark Botello presented additional information on the project and future plans for the property. Much discussion ensued by Commissioners who requested that Botello provide additional information on phasing and a breakdown of funding by year.

Property Insurance Renewal

Lough provided a breakdown of premiums for the 2023/24 fiscal year, along with information on costs savings for increasing the property deductible and a ten-year history of claims. Discussion ensued and the following action was taken:

Motion No.
Moved by:
Seconded by:

08-03-23 CDRPA

JC Baldwin
W. Alan Loeb sack

To approve a higher property deductible in the amount of \$25,000 for the upcoming renewal period of September 1, 2023 through August 31, 2024.

Motion passed 6-0

Travel Policy Update

Lough provided a recap of proposed amendments to the Policy and Procedures for Travel and Meals. Discussion ensued and the following action was taken:

Motion No.
Moved by:
Seconded by:

08-04-23 CDRPA

Richard DeRock
JC Baldwin

To approve the proposed amendments to the CDRPA Travel Policy as presented.

Motion passed 6-0

Authorization to Bid – The Trades District

Kuntz provided a high-level introduction of the Trades District project. De Mestre reviewed the project schedule and bid alternates. Discussion ensued and the following action was taken:

Motion No.
Moved by:
Seconded by:

08-05-23 CDRPA

W. Alan Loeb sack
Richard DeRock

To authorize the CEO to solicit bids for the Trades District project.

Motion passed 6-0

At 10:15 a.m. Commissioner Spurgeon called for a 10-minute break.

Chelan Airport – FAA Grant/Apron and Taxiway Pavement Maintenance Project

Kuntz provided additional detail regarding the crack seal and slurry seal on the Chelan Airport Apron and Taxiway. The FAA is funding 90%, WSDOT is funding 5%, and the remaining 5% will be split between the City of Chelan and the Port District at \$15,632 each. Discussion ensued and the following action was taken:

Motion No.
Moved by:
Seconded by:

08-06-23 CDRPA

W. Alan Loeb sack
JC Baldwin

To approve a \$15,632 contribution from the CDRPA to the Chelan Airport for the Apron and Taxiway Pavement Maintenance as approved by the FAA and funded through the WSDOT Aviation division.

Motion passed 6-0

Pangborn Airport – Taxiway A Realignment Revised Budget Request

De Mestre reviewed the various change orders on the Taxiway Realignment Project. The original budget was reviewed, as well as the updated budget and reduced contribution required by the CDRPA. Discussion ensued and the following action was taken:

Motion No.

Moved by:

Seconded by:

08-07-23 CDRPA

W. Alan Loeb sack

Richard DeRock

To approve an additional 5% contingency to the overall project budget, with a not to exceed project cost of \$21,294,180.

Motion passed 6-0

INFORMATIONAL ITEMS:

FAA 5-Year Capital Improvement Plan – Moyers reviewed the proposed Pangborn Airport capital improvement plan by year. The plan was submitted to the FAA by the August 1, 2023 deadline. Projects were discussed by Commissioners.

At 11:15 a.m. Commissioner Spurgeon called for a 10-minute break.

CDRPA Investment Report – Lough reviewed investment activity for 2nd quarter and YTD 2023.

Sports Complex Public Outreach – Update

De Mestre reported that BerryDunn has been in the Wenatchee Valley attending events for outreach and is receiving a significant amount of feedback. A preliminary report has been completed and is included in the board packet.

RiverCom – Update

De Mestre followed up on the Pacific Engineering study which determined the CTC does not meet Risk Category IV requirements. It was noted that the building has no known structural deficiencies, and is likely classified as a Risk Category III building. RiverCom is following up with other leads, although still has interest in Port assistance with building a new emergency response building.

Child Care Partnership – Grant Application

Kuntz provided an overview of the Child Care Grant Program and pointed out that while staff is busy, it is considered an important project to undertake. De Mestre gave more detail of the funds available as well as partners in the community that could play a role in a steering committee for the project. The Board supported submitting a grant application.

2023 CDRPA Board Retreat

Kuntz proposed a date for the retreat, and also reviewed the agenda for past years. After Board discussion, it was determined the retreat would be scheduled for Tuesday, November 7th, 2023 to cover financial updates and planning, and an additional retreat will be scheduled in the spring to focus on Port direction.

Cascade Public Infrastructure Fund – Update

De Mestre provided information on the grant application and presentation to Chelan County, and announced the Port has been notified by the County the full \$244,600 grant request has been awarded to the project.

Central Washington Regional Tech and Innovation Hub – Letter of Commitment

De Mestre reported on a meeting recently attended at Central WA University regarding the potential formation of a Regional Technology and Innovation Hub in Central Washington. After discussion, it was determined the Port would provide a letter of support for the program being led by the University.

MISCELLANEOUS STAFF REPORTS:

Kuntz provided information and updates including:

- Shared the Unified Tax Levy is still in review by the Department of Revenue, with a letter of comment expected by the end of the week.
- Discussed the Port is working with the Chelan County PUD on potentially waiving the option to purchase agreement for the property the YMCA is in negotiations on, or possibly the entire 5th Street campus.
- Reported the Governor will be in the Valley September 14th and would like to tour Diamond Foundry.

Lough provided information and updates including:

- Provided a recap of Revenue Diversion Calculations for Pangborn Airport as included in the board packet.

de Mestre provided information and updates including:

- Provided an update the Taxiway B project commenced last week.

PUBLIC COMMENTS: An opportunity for public comment was provided. No public comments were received.

REVIEW CALENDAR OF EVENTS: Several dates and events were reviewed.

ITEMS FROM BOARD OF DIRECTORS: Board of Directors provided various updates.

EXECUTIVE SESSION:

Executive Session was announced at 12:52 p.m. for a period of ten minutes with no action anticipated at the conclusion of the session. The purpose consisted of RCW 42.30.110(1)(c) to consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price (final action selling or leasing public property shall be taken in a meeting open to the public). Executive Session concluded at 1:02 p.m.

Meeting reconvened in Regular Session and was immediately adjourned at 1:06 p.m. with no action taken.

Signed and dated this 22nd day of August 2023.

CHELAN DOUGLAS REGIONAL PORT AUTHORITY

Mark Spurgeon, Director

Richard DeRock, Director

Donn Etherington, Director

JC Baldwin, Director

Jim Huffman, Director

W. Alan Loeb sack, Director

Chelan Douglas Regional Port Authority

Board of Directors Calendar

July 2023

Date	Meeting	Location	DE	RD	JCB	AL	MS	JH
7/6	Meeting w/ Mayor Fletcher	Cashmere			X			
7/7	Commissioners Meeting - Gering, Allen, Bergren	Chelan City Hall		X				
7/7	Meeting w/ Jim Kuntz	CDRPA					X	
7/7	Festival of Flight Benefit Dance/Dinner	CDRPA			X	X	X*	
7/8	Festival of Flight	Pangborn Airport	X	X			X	
7/10	Audit Entrance Conference	CDRPA	X				X	
7/11	CDRPA Board Meeting	CTC	X	X	X	X	X	X
7/11	Airport Way Utility Meeting	CDRPA		X*			X*	
7/13	CDTC Board Meeting	CTC		X				
7/20	CDRPA Summer BBQ	CDRPA		X	X	X	X	X
7/20	Meeting w/ Sarah Deenik	CDRPA			X*			
7/21	TREAD - Pathways Committee	Wenatchee		X				
7/23	P'squosa Exhibit Opening	Leavenworth Museum			X			
7/24	WPPA Commissioners Seminar	Alderbrook/Union, WA		X	X		X	
7/25	WPPA Commissioners Seminar	Alderbrook/Union, WA		X	X		X	
7/26	WPPA Commissioners Seminar	Alderbrook/Union, WA		X	X		X	
7/27	Secretary State Hobbs Luncheon	Bob's Classic			X			
7/27	Meeting w/ Jim Kuntz	CDRPA					X	
7/27	30 Under 35 Award Ceremony	Wenatchee Convention Center					X*	
7/28	Upper Valley Commissioners Meeting	Big Y Café			X			
*	denotes multiple meetings on same day							

Memo

To: Board of Directors

From: Monica Lough

cc: Jim Kuntz

Date: August 22, 2023

Re: Line of Credit

Per discussion at the last Board meeting, I have been working with legal counsel regarding a Line of Credit (LOC) for the Port Authority. Since the Chelan Douglas Regional Port Authority was formed through an Interlocal Agreement, it does not have the legal capacity to take on debt. We have the option to establish two separate LOC's, with each individual Port District named as debtors. To reduce legal fees, staff time, and have the least impact to debt capacity, the LOC has been set up exclusively through the Port of Chelan County, with the Regional Port Authority managing all transactions.

The note has the capacity for taxable and tax-exempt draws, at different interest rates, depending on the use of funds. As of July 31st, the tax-exempt rate was 6.25%, and the taxable rate was 7.75%.

Staff is requesting approval of the terms of the Line of Credit as provided in the attached Resolution prepared by K&L Gates.

PORT OF CHELAN COUNTY

LIMITED TAX GENERAL OBLIGATION NOTE, 2023 SERIES A (TAX-EXEMPT)
LIMITED TAX GENERAL OBLIGATION NOTE, 2023 SERIES B (TAXABLE)

RESOLUTION NO. 2023-02

A RESOLUTION OF THE PORT COMMISSION OF THE PORT OF CHELAN, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF ONE OR MORE NOTES TO EVIDENCE A REVOLVING LINE OF CREDIT IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$5,000,000; PROVIDING THE DATE, FORMS, TERMS AND MATURITY OF THE NOTES; AUTHORIZING THE DESIGNATED PORT REPRESENTATIVE AUTHORITY TO MANAGE THE REVOLVING LINE OF CREDIT; AND APPROVING THE SALE OF SUCH NOTE TO BANNER BANK.

ADOPTED ON AUGUST 22, 2023

PREPARED BY:

K&L GATES LLP
Seattle, Washington

PORT OF CHELAN COUNTY
RESOLUTION NO. 2023-02
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Exhibit A - Form of Request for Draw
Exhibit B - Commitment Letter of Banner Bank

* This Table of Contents is provided for convenience only and is not a part of this resolution.

RESOLUTION NO. 2023-02

A RESOLUTION OF THE PORT COMMISSION OF THE PORT OF CHELAN COUNTY, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF ONE OR MORE NOTES TO EVIDENCE A REVOLVING LINE OF CREDIT IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$5,000,000; PROVIDING THE DATE, FORMS, TERMS AND MATURITY OF THE NOTES; AUTHORIZING THE DESIGNATED PORT REPRESENTATIVE AUTHORITY TO MANAGE THE REVOLVING LINE OF CREDIT; AND APPROVING THE SALE OF SUCH NOTES TO BANNER BANK.

WHEREAS, Port of Chelan County, Washington (the “Port”), a municipal corporation of the State of Washington, operates cooperatively with the Port of Douglas County under an interlocal agreement, known as the Chelan Douglas Regional Port Authority (“CDRPA”) providing for functional consolidation, operating an airport and other industrial properties, which properties are from time to time in need of improvement and maintenance within and as a part of its comprehensive plan (the “Improvements”); and

WHEREAS, the Port Commission of the Port (the “Commission”) has determined to issue one or more short term notes to finance a portion of the costs of the Improvements and to maintain a revolving line of credit to provide financing for all or portion of additional Improvements; and

WHEREAS, the Port has received the offer of the Bank to provide a revolving line of credit in a commitment letter dated July 31, 2023 (the “Term Sheet”) to be supported by the Notes authorized herein under the terms and conditions set forth in the Term Sheet and this resolution; and

WHEREAS, the Port is authorized by RCW 53.36.030 and Ch. 39.46 RCW to borrow money and issue general obligation notes payable, *inter alia*, from regular tax levies of the Port;

NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION OF THE PORT OF CHELAN COUNTY, WASHINGTON, as follows:

Section 1. Definitions. As used in this resolution, the following words shall have the following meanings, unless a different meaning clearly appears from the context.

Applicable Spread – Tax-Exempt means 2.25%

Applicable Spread-Taxable means .75%.

Bank means Banner Bank, Wenatchee, Washington.

Commission means the Port Commission, as general legislative authority of the Port as the same shall be duly and regularly constituted from time to time.

Designated Port Representative means either the Chief Executive Officer of the CDRPA, also functioning *ex officio* as the Executive Director of the Port or the Director of Finance.

Delivery Date means the date of issuance and delivery of the Notes to the Bank.

Director of Finance means the Director of Finance of CDRPA, also functioning *ex officio* as the Director of Finance of the Port, or any successor to the functions of her office.

Improvements mean capital improvements to Port facilities and as part of the capital budget of the Port.

Interest Rate means (a) with respect to the Series A Note, the Variable Rate minus the Applicable Spread – Tax-Exempt; provided, however, that the minimum Interest Rate with respect to the Series A Note is 5.50%, and (b) with respect to the Series B Note, the Variable Rate minus the Applicable Spread; provided, however, that the minimum Interest Rate with respect to the Series B Note is 7.0%. The Interest Rate shall be adjusted on the effective date of any change in the Variable Rate.

Loan Draw Record means the administrative records kept by the Bank to record the date and dollar amounts of the Draws on each Note and the loan repayments made by the Port.

Maturity Date means the date that is twelve (12) calendar months from the Delivery Date; provided if that date is not a business day in the State of Washington, then the Maturity Date shall be the immediately preceding business day.

Note Fund means the Port of Chelan County Note Redemption Fund, created or maintained in the office of the Director of Finance of the Port pursuant to Section 11 of this resolution.

Note Register means the books or records maintained by the Note Registrar containing the name and mailing address of the owner of the Notes or nominee of such owner and the principal amount outstanding.

Note Registrar means the Director of Finance.

Notes mean the Series A Note and the Series B Note.

Outstanding Principal Balance of each Note means on any particular day the aggregate dollar amount of all Draws that the Port has made under that Note to that day.

Port means Port of Chelan County, Washington, a political subdivision duly organized and existing under and by virtue of the laws of the State of Washington.

Request for Draw or Draws means incremental draws for the Improvements as requested by a Designated Port Representative in the form attached hereto as Exhibit A.

Series A Note means the Port of Chelan County, Washington, Limited Tax General Obligation Note, 2023 Series A (Tax-Exempt), issued pursuant to this resolution.

Series B Note means the Port of Chelan County, Washington, Limited Tax General Obligation Note, 2023 Series B (Taxable), issued pursuant to this resolution.

Term Sheet means the commitment letter or proposal dated July 31, 2023 from the Bank, and included as Exhibit B.

Variable Rate means a rate of interest equal to the Wall Street Journal Prime Rate (Index).

Rules of Interpretation. In this resolution, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this resolution, refer to this resolution as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this resolution;

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and sections of this resolution, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this resolution, nor shall they affect its meaning, construction or effect;

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. **Authorization of Notes.** For the purpose of establishing a line of credit to finance and refinance the Improvements, the Port shall issue its limited tax general obligation notes, in the form of a revolving draw down obligation, in the aggregate initial principal amount collectively of not to exceed \$5,000,000 (the “Notes”). The Notes shall be sold in two series,

with one series bearing interest at a federally tax-exempt rate (the “Series A Note”) and one series bearing interest at a federally taxable rate (the “Series B Note”).

(a) *Note Details.* The Series A Note shall be designated as the “Port of Chelan County, Washington, Limited Tax General Obligation Note, 2023 Series A (Tax-Exempt),” and the Series B Note shall be designated as the “Port of Chelan County, Washington, Limited Tax General Obligation Note, 2023 Series B (Taxable). Each Note shall be dated as of its Delivery Date, shall be issued as a single instrument, in fully registered form in the denomination of not to exceed \$5,000,000, provided that the principal amount due and owing thereunder shall be measured by the total Drawings made, as evidenced by the Loan Draw Record attached to the Notes. The Outstanding Principal Balance of the Notes collectively shall not exceed \$5,000,000. The Notes shall bear interest on unpaid principal from the date of each Draw thereunder at the Interest Rate, payable quarterly on each January 15, April 15, July 15, and October 15, commencing on October 15, 2023, with final payment of all outstanding and unpaid principal and interest due at maturity on the Maturity Date. Interest shall be calculated on an actual number of days elapsed over a year of 360 days basis. Payments made to the Bank shall be applied first to accrued interest and then to principal as of the date actually received by the Bank.

(b) *Draws.* The Notes are intended to be revolving obligations, so that principal amounts repaid may be re-paid and re-borrowed until the maturity of the Notes; provided, however that the aggregate Outstanding Principal Balance may not exceed \$5,000,000. The available principal of the Note shall be disbursed as borrowings from time to time by the Bank upon request from the Port (each such disbursement herein referred to as a “Draw”), as provided in Section 8 of this resolution. Draws shall be recorded on the Loan Draw Record attached to the Note, or in such other form as the Port and the Bank may agree in each party’s reasonable discretion. Interest on each Draw shall accrue from the date of that Draw and shall be computed

on the basis as described above on the principal amount of the Draw outstanding for the actual number of days the principal amount of the Draw is outstanding.

(c) *Delegation to the Designated Port Representative.* The Designated Port Representative is hereby authorized to determine for the Port the amount and the timing of Draws and repayments under the Notes, in accordance with procedures agreed to by the Bank.

(d) *Renewal of the Notes.* The Notes are renewable upon request of the Port and the consent of the Bank, which may be withheld by the Bank in its sole discretion. The Bank has no obligation, implied or explicit, to renew either Note.

Section 3. Prepayment. The Notes may be prepaid in whole or in part at any time without penalty, with prepayments to apply first to interest and then to principal as of the date actually received by the Bank.

Section 4. Registration. The Director of Finance shall act as the Note Registrar. The duties of the Note Registrar hereunder shall be limited to authenticating the Notes and to remitting money to the Bank on the payment dates as provided therein. The Director of Finance may determine at any time that she no longer wishes to act as Note Registrar and thereupon appoint a successor Note Registrar, which may or may not be the fiscal agent of the State of Washington. The Note Registrar is authorized, on behalf of the Port, to authenticate and deliver the Notes and to carry out all of Note Registrar's powers and duties under this resolution.

Principal of and interest on the Notes shall be payable in lawful money of the United States of America. Installments of principal of and interest on the Notes shall be paid by check, wire, or electronic transfer on the date due to the Notes; *provided, however*, the final installment of principal on the Notes shall be payable only upon presentation and surrender of the Notes by the Bank at the principal office of the Note Registrar.

Section 5. Security for the Notes. The Note is a general obligation of the Port. The Port hereby irrevocably covenants and agrees for as long as the Notes are outstanding it will provide for the payment when due of each installment of interest and the principal upon maturity of the Notes. The full faith, credit and resources of the Port are hereby irrevocably pledged for the prompt payment of such principal and interest.

Section 6. Execution and Delivery of Notes. The Notes shall be executed on behalf of the Port by the manual or facsimile signatures of the President and Secretary of its Commission. In case any officer whose signature shall appear on a Note shall cease to be an officer before the delivery of such Note, such signature shall nevertheless be valid and sufficient for all purposes, and such Note may be authenticated and delivered as if such officer had remained in office until such delivery.

The Notes shall not be valid for any purpose unless Certificate of Authentication in the form hereinafter specified in Section 9 has been manually executed by the Note Registrar. Such Certificate of Authentication shall be conclusive evidence that a Note so authenticated has been duly executed, authenticated and delivered hereunder and is entitled to the benefits of this resolution.

Section 7. Sale of the Notes and Authorization to Port Officials .

(a) *Sale and Authorization* The Port hereby ratifies and confirms its acceptance of the Bank's Term Sheet and to issue the Notes on the terms specified therein and in this resolution. The proper officials of the Port are hereby authorized and directed to do all things necessary for the prompt execution and delivery of the Notes and the items required to be delivered to the Bank under the terms of the Term Sheet and for proper use and application of the proceeds of sale thereof.

(b) *Fees.* In accordance with the Term Sheet, the Port will reimburse the Bank for its legal fees incurred in reviewing all documentation relating to the issuance of the Notes, in an amount not to exceed \$3,500.00.

Section 8. Disposition of Drawings Under the Notes. Following the execution and delivery of the Notes, the Designated Port Representative shall notify the Bank in writing each time that a Draw is required to pay costs of the Improvements or costs of issuance of the Notes. The Director of Finance shall maintain records to confirm the use of each Drawing and separate maintain the proceeds of the Series A Note and the Series B Note. The Drawings under the Notes shall be used, together with other moneys on deposit therein and available therefor, for the undertaking of the Improvements and for paying all expenses incidental thereto (including but not limited to costs of issuance of the Notes, engineering, financing, legal or any other incidental costs) and for repaying any advances heretofore or hereafter made on account of such costs or for redeeming the Notes.

Section 9. Form of Notes. The Notes shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. N-1

not to exceed \$5,000,000
(or as much thereof as is
shown on the attached
Loan Draw Record)

STATE OF WASHINGTON

PORT OF CHELAN COUNTY
LIMITED TAX GENERAL OBLIGATION NOTE, 2023 [SERIES A (TAX-
EXEMPT)][SERIES B (TAXABLE)]

INTEREST RATE: Variable Rate, as provided in the Note Resolution

MATURITY DATE: _____, 2024

REGISTERED OWNER: BANNER BANK
501 N. MISSION ST.
WENATCHEE, WA 98801

TAX IDENTIFICATION #: 91-1645638

PRINCIPAL AMOUNT: NOT TO EXCEED FIVE MILLION DOLLARS (or as much thereof as is shown on the Loan Draw Record)

The PORT OF CHELAN COUNTY, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (herein called the “Port”), hereby acknowledges itself to owe and for value received, promises to pay to the Registered Owner identified above, or registered assigns, the Outstanding Principal Balance (as defined in the Note Resolution) of this note, in an amount not to exceed the Principal Amount specified above. The Outstanding Principal Balance on any particular day shall be the aggregate of all funds that the Port has Drawn from the date of this note to that day less the aggregate of all principal payments made by the Port on or before that day.

Draws made upon this note shall bear interest at the Interest Rate as defined in the Note Resolution and shall accrue from the date of each Draw on the principal amount of such Draw is outstanding (calculated on an actual number of days elapsed over a year of 360 days basis) and shall accrue from the date of each Draw on the principal amount of such Draw outstanding. The amount of interest due on this note shall be calculated as provided in the Note Resolution (hereinafter defined). Interest on the Outstanding Principal Balance of this note shall be paid quarterly on each January 15, April 15, July 15, and October 15, commencing on October 15, 2023, with final payment of all outstanding and unpaid principal and interest due at maturity on the Maturity Date. Draws may be made to make interest payments on this note.

The Port may make Draws upon this note at any time pursuant to the Note Resolution. Draws shall be recorded on the Loan Draw Record attached to this note, or in such other form as the Port and the Registered Owner may agree. Simultaneously herewith, the Port is issuing its Limited Tax General Obligation Note, 2023 [Series A (Tax-Exempt)][Series B (Taxable)], together, the “Notes”). The Port may borrow from time to time hereunder; provided that the Outstanding Principal Balance of the Notes may at no time exceed \$5,000,000.

Both principal of and interest on this note are payable in lawful money of the United States of America. Upon the final payment of principal and interest of this Note, the Registered Owner shall present and surrender this note to the Director of Finance of the Port, as “Note Registrar”.

This note is issued pursuant to Resolution No. 2023-02 (the “Note Resolution”) to finance and refinance the costs of improvements to Port facilities. Capitalized terms appearing on this note and not otherwise defined herein shall have the meanings given such terms in the Note Resolution. The covenants of the Port in the Note Resolution are incorporated herein by reference.

The Port reserves the right to prepay principal of this note in advance of the scheduled maturity set forth above, in whole or in part, at any time, with no prepayment penalty.

This note is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and resolutions of the Port, including the Note Resolution. This note is issued pursuant to the Note Resolution for the purpose of stated therein.

This note is not transferable, except to a successor to the business and assets of the Registered Owner, conditioned on such successor assuming all obligations to provide the revolving line of credit evidenced by this note.

[The Port has designated this note as a qualified tax-exempt obligation under Section 265(b) of the Income Tax Code of 1986, as amended.][The Port has taken no action to cause the interest on this note to be exempt from federal income taxation.]

The Port hereby irrevocably covenants that it will levy taxes annually upon all the taxable property in the Port within the levy limits permitted to the Port without a vote of the electors and in amounts sufficient, with other monies legally available therefor, to pay the principal of and interest on this note as the same shall become due. The full faith, credit and resources of the Port are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest. The pledge of tax levies may be discharged prior to maturity of this note by making provision for the payment thereof on the terms and conditions set forth in the Note Resolution.

This note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Note Resolution until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Note Registrar or its duly designated agent.

This note is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and resolutions duly adopted by the Port Commission including the Note Resolution.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this note have happened, been done and performed and that the issuance of this note does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the Port may incur.

IN WITNESS WHEREOF, the Port of Chelan County, Washington, has caused this Note to be executed by the manual or facsimile signatures of the President and Secretary of the Port Commission as of the ___ day of August, 2023.

PORT OF CHELAN COUNTY,
WASHINGTON

By _____/s/_____
President, Port Commission

ATTEST:

_____/s/_____
Secretary, Port Commission

The Note Registrar’s Certificate of Authentication on the Note shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

Date of Authentication: August __, 2023

This note is the note described in the within-mentioned Note Resolution and is the Limited Tax General Obligation Note, 2023 [Series A (Tax-Exempt)][Series B (Taxable)] of the Port of Chelan County), Washington, dated August __, 2023.

DIRECTOR OF FINANCE OF THE PORT
OF CHELAN COUNTY,
Note Registrar

By _____
Director of Finance

The Loan Draw Record shall be substantially in the following form:

PORT OF CHELAN COUNTY, WASHINGTON
LIMITED TAX GENERAL OBLIGATION NOTE, 2023 [SERIES A (TAX-
EXEMPT)][SERIES B (TAXABLE)]

LOAN DRAW RECORD

	Date	Amount	Total
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
[Draw][Repayment]	_____	_____	_____
Repayment	_____	_____	_____

Section 10. Tax Status.

(a) *Series A Note.* The Port covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exclusion from gross income for federal income

tax purposes of the interest on the Series A Note issued on a federally tax-exempt basis and will take or require to be taken such acts as may reasonably be within its ability and as may from time to time be required under applicable law to continue the exclusion from gross income for federal income tax purposes of the interest on the Series A Note issued on a federally tax-exempt basis. The Port hereby designates the Series A Note as a “qualified tax-exempt obligation” under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, for banks, thrift institutions and other financial institutions.

(b) *Series B Note.* The Port has taken no action to cause the interest on the Series B Note to be exempt from federal income taxation.

Section 11. Note Fund. A special fund of the Port known as the “Port of Chelan County Note Redemption Fund” (the “Note Fund”) shall be maintained in the office of the Director of Finance. The Note Fund shall be Drawn upon for the sole purpose of paying the principal of and interest on the Notes.

The Port hereby further irrevocably covenants that, unless the principal of and interest on the Notes are paid from other sources, it will make annual levies of taxes upon all of the property within the Port subject to taxation within and as a part of the tax levy permitted to the Port without a vote of the electors in amounts sufficient to pay such principal and interest as the same shall become due. The full faith, credit and resources of the Port are hereby irrevocably pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest.

Section 12. No Undertaking to Provide Ongoing Disclosure; Information Provided to the Bank. The Port is exempt from the ongoing disclosure requirements of Securities and Exchange Commission Rule 15c2-12 by reason of the exemption set forth in subsection (d)(i) of

that rule with respect to the issuance of securities in authorized denominations of \$100,000 or more.

For as long as the Notes are outstanding, the Port will provide the information currently provided to the Bank.

Section 13. Lost, Stolen or Destroyed Note. In case either Note shall be lost, stolen or destroyed, the Port may execute and the Note Registrar may deliver a new Note of like series, date and tenor to the Bank and upon its filing with the Note Registrar evidence satisfactory to said Note Registrar that the Note was actually lost, stolen or destroyed, and upon furnishing the Note Registrar with indemnity satisfactory to the Note Registrar.

Section 14. Severability. If any one or more of the covenants or agreements provided in this resolution to be performed on the part of the Port shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this resolution and shall in no way affect the validity of the other provisions of this resolution or of the Note.

Section 15. Resolution and Laws a Contract with the Bank. This resolution is adopted under the authority of and in full compliance with the Constitution and laws of the State of Washington. In consideration of the line of credit provided by the Bank, evidenced by the Notes, the provisions of this resolution shall constitute a contract with the Bank, and the obligations of the Port and its Commission under said laws and under this resolution shall be enforceable by any court of competent jurisdiction; and the covenants and agreements herein and in the Notes set forth shall be for the equal benefit of the Bank and any permitted transferee or assignee.

Section 16. Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED AND APPROVED at a meeting of the Commission of the Port of Chelan County, Washington held this 22nd day of August, 2023.

PORT OF CHELAN COUNTY

By _____
President and Commissioner

By _____
Vice President and Commissioner

By _____
Secretary and Commissioner

Exhibit A

Form of Request for Draw

[Date]

Banner Bank
501 N. Mission St.
Wenatchee, WA 98801
(509) 886-8288
Attention: Kevin J. Vitulli, Vice President
Email: kvitulli@bannerbank.com

Ladies and Gentlemen:

The undersigned, **[Insert Name of Undersigned]** the _____ of the Port of Chelan County, Washington, a public body corporate and politic duly organized and existing under the Constitution and laws of the State of Washington (the “Port”), under that Resolution No. ____ (the “Resolution”) hereby gives notice irrevocably, pursuant to Section 8 of the Resolution, of the Draw specified below. Capitalized terms used herein have the meanings set forth in the Resolution.

1. The date of the proposed Draw is _____, 20__ (the “Draw Date”).
2. The principal amount of the proposed Draw is \$ _____.
3. The Draw is to be made from upon the Port’s Limited Tax General Obligation Note, 2023 (Check one)
_____ Series A (Tax-Exempt)
_____ Series B (Taxable)
4. Wire transfer to:
Bank Name: _____
ABA Routing No. _____
Credit to: Port of Chelan County
Account No.: _____
Notify: _____ [person contact]
() ____ - ____
Reference: Port of Chelan County

4. The undersigned, hereby certifies that the following statements are true on the date hereof, and will be true on the Draw Date, before and after giving effect thereto.

(a) the representations of the Port set forth the Resolution (including those incorporated by reference) are true and correct in all material respects on and as of the date hereof, and shall be deemed to have been made on the date hereof;

(b) after giving effect to the proposed Draw, the aggregate principal amount of all outstanding Draws on the Notes will not exceed \$5,000,000.

PORT OF CHELAN COUNTY, WASHINGTON

By: _____

Name: _____

Title: _____

Exhibit B Term Sheet



July 31, 2023

Ms. Monica Lough, Director of Finance & Administration
Chelan Douglas County Regional Port Authority
One Campbell Parkway, Suite A
East Wenatchee, WA 98802-9290

RE: Proposal Letter for \$5,000,000 Revolving Line of Credit

Dear Ms. Lough:

As discussed, we are pleased to offer the Chelan Douglas County Regional Port Authority (“CDRPA”) this financing proposal from Banner Bank (“Bank”) in the form of a \$5,000,000 Revolving Line of Credit (“RLOC”).

This proposal letter does not constitute a commitment by the Bank but provides terms and conditions substantially representing a potential commitment. These terms and conditions are not all-inclusive, but generally describe the Bank’s offer to you.

Borrower: Port of Chelan County (“Port”).

Maximum Amount: \$5,000,000 Revolving Line of Credit.

Term: Twelve (12) months with renewal annually (subject to approval by the Bank).

Purpose and Form: A revolving line of credit to be used in any amount up to the maximum amount and purpose as needed by the Port, but generally to support funding gaps for existing Port projects and potential future projects. The Port may choose either or both Pricing Options as show below.

Pricing Options: Option 1: Tax-Exempt Rate: Wall Street Journal Prime Rate (Index) minus 2.25% (today that rate would be 6.25%). The rate will change with any change in the Index. With a minimum rate of 5.50%.

Option 2: Taxable Rate: Wall Street Journal Prime Rate (Index) minus .75% (today that rate would be 7.75%). The rate will change with any change in the Index. With a minimum rate of 7.0%.

**Repayment/
Maturity:**

Interest shall be due and payable 15 days after the fiscal quarter end. Interest will be calculated on the outstanding balance of the facility based on the actual number of days elapsed over a year of 360 days. Payments will be applied to accrued interest on the date payments are received at the Bank.

Any outstanding principal and interest balance will be due in full at Maturity (12 months). Unless renewed by the Bank and Borrower prior to maturity. Principal may be repaid at any time without penalty.

Fees/Expenses:

The Port is responsible for its Bond counsel fees and other costs of issuance, including the Bank's attorney fees estimated at \$3,500. On this issue, the Bank is represented by attorney Chris R. Graving with the law firm of Stokes Lawrence, P.S. in Seattle, WA. No unused Line of Credit fee shall be due.

Draws:

Draws requested as needed will be available from the date of closing through maturity. Draws generally will be deposited on the same day requested to a specified Banner Bank account. Or if wires or ACH are needed, draws will be processed in the manner that is currently in place for the CDRPA. This RLOC may be viewed in the current Banner Bank online banking profile for draws to be requested.

Security:

The RLOC constitutes a general indebtedness of the Port and is payable from tax revenues of the Port and such other money as is lawfully available and pledged by the Port for the payment of principal and interest on the RLOC. For as long as the RLOC is outstanding, the Port irrevocably pledges that it shall, in the manner provided by law within the constitutional and statutory limitations provided by law without the assent of the voters, include in its annual property tax levy amounts sufficient, together with other money that is lawfully available, to pay principal of and interest on the RLOC as the same become due. The full faith, credit, and resources of the Port are pledged irrevocably for the prompt payment of the principal of and interest on the RLOC and such pledge shall be enforceable in mandamus against the Port. The Port may, subject to applicable laws, apply other money legally available to make payments with respect to the Bond and thereby reduce the amount of future tax levies for such purpose.

Documentation: Bank shall receive a legal opinion from the Port's bond counsel, satisfactory to the Bank, (1) stating that the Port's RLOC indebtedness and all the terms and conditions of applicable RLOC documents and transactions described therein are in full compliance with Washington State and Federal Law, are binding upon and enforceable against the Port and do not violate the Port's formation or constituent documents, or any applicable law; (2) stating that the indebtedness being incurred is a legal and valid obligation of the Port; (3) if applicable, stating the interest income to the Bank is excluded from federal income tax pursuant Section 103 of the Code and the RLOC has been designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended; (4) confirming the authority of the Port to incur the indebtedness and issue the RLOC; and (5) confirming that the Port's resolution authorizing this indebtedness and irrevocably pledging the security for repayment of this indebtedness is valid and authorized.

Financial Info: Bank shall receive financial information as currently required by the Bank, including the CDRPA annual financial statements/reports, audit reports, and audited financial statements, as available.

Other Terms and Conditions: The RLOC shall be subject to the execution and delivery of attorney prepared loan documents and other documents as Bank requires. All required documentation shall be completed to the Bank's satisfaction prior to any draws or advances.

Thank you for the opportunity to partner with the Port on this financing.

Please contact Kevin Vitulli with questions about the Bank's financing proposal and/or with suggestions to make Banner Bank's proposal more responsive to the Port's needs.

Please acknowledge the Port's approval and acceptance of the Bank's proposal by signing the acknowledgment below and returning a copy of this letter by August 7, 2023.

Sincerely,

Kevin J. Vitulli

Kevin J. Vitulli
Vice President
Senior Commercial Relationship Manager
Email: kvitulli@bannerbank.com
Phone: 509-886-8288 (Office)
Phone: 509-670-7224 (Mobile)

ACKNOWLEDGEMENT AND ACCEPTANCE

Please acknowledge the Port's approval and acceptance of this financing proposal by signing and returning a copy of this letter.

By: _____ Date: _____

Title: _____

The contents of this document are confidential and are not to be shared with outside third parties apart from the Port's accountants and attorneys unless required to do so by a public record request pursuant to the Washington Public Records Act.

ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.

CERTIFICATE

I, the undersigned, Secretary of the Port Commission (the “Commission”) of the Port of Chelan County) (the “Port”) and keeper of the records of the Commission, DO HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2023-02 of the Port Commission (the “Resolution”), duly adopted at a meeting thereof held on the 22nd day of August, 2023; and

2. That said meeting was duly convened and held in all respects in accordance with law, due and proper notice of such meeting was given, that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Commission voted in the proper manner for the adoption of the Resolution; that all other requirements and proceedings incident to the proper adoption of the Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of August, 2023.

Secretary, Port Commission

Memo

To: Board of Directors

From: Stacie de Mestre

Date: August 15, 2023

Re: Option to Purchase – Chelan County PUD HQ Property

Please see attached the “Option to Purchase (HQ and Hawley Street Properties)” between the Port of Chelan County and the Public Utility District No. 1 of Chelan County dated February 27, 2019. Please refer to sections 3, 12.3, and 12.4. Dan Frazier will give a presentation at Tuesday’s meeting on the current redevelopment plan and will be asking the Port to waive their option on all or part of the HQ property.

Filed for and return to:

PUD No. 1 of Chelan County
PO Box 1231
Wenatchee WA 98807-1231

The information contained in this boxed section is for recording purposes only pursuant to RCW 36.18 and RCW 65.04, and is not to be relied upon for any other purpose, and shall not affect the intent of or any warranty contained in the document itself.

Grantor(s): Public Utility District No. 1 of Chelan County, a Washington municipal corporation
Grantee(s): Port of Chelan County, a Washington municipal corporation
Reference Number(s) of Documents Assigned or Released: N/A
Abbreviated Legal Description: Part of the NE1/4 NE1/4 Sec 33, Twn 23N, Rng 20, EWM AND Part of the SE1/4 SE1/4 Sec 28 Twn 23N, Rng 20, EWM AND Part Blocks 2 and 3 Suburban Home 2nd Add AND Part of the N1/2 of Sec 3, Twn 22N, Rng 20 EWM, Chelan County, WA, Chelan County, WA
Complete or Additional Legal Description on Exhibits "A" and "B" of Document.
Assessor's Parcel Number(s): 232028430600, 232033110570, 232033110550, 232033110500, 232033110450, 232033110400, 232033110350, 232033110300, 232033110250, 232033783042, 222003860061, 222003860024, 222003860056

**OPTION TO PURCHASE
(HQ and Hawley Street Properties)**

THIS OPTION TO PURCHASE ("Agreement") is made and entered into this date by and between Public Utility District No. 1 of Chelan County, a Washington municipal corporation (the "PUD"), and the Port of Chelan County, a Washington municipal (the "Port"), sometimes collectively referred to as the "Parties" and individually a "Party."

RECITALS

The Parties closed several transactions of even date herewith, including, but not limited to the PUD's purchase of "Horan Property" in the Olds Station area from the Port. This Agreement is part of the consideration for said transactions The Parties are pursuing a three-party interlocal agreement with the City of Wenatchee regarding future planning and redevelopment opportunities at the HQ Property, as defined below.

AGREEMENT

NOW, THEREFORE, in light of the foregoing Recitals, which are incorporated herein as part of the Agreement of the Parties, and the mutual understandings, terms and conditions set forth below, the Parties agree as follows:

1. IDENTIFICATION OF PROPERTY. The PUD owns the following described real property located in Chelan County, Washington (collectively referred to as the "Property"):

"HQ Property": See Exhibit "A" attached hereto and incorporated herein by this reference.

"Hawley Property": See Exhibit "B" attached hereto and incorporated herein by this reference.

2. OPTION TO PURCHASE; COOPERATION. Subject to the terms and conditions set forth below, in the event the PUD decides to surplus the Property, or any portion thereof, within fifteen (15) years of the Effective Date of this Agreement, the PUD hereby grants the Port the exclusive option to purchase the Property, or portions thereof (the "Option"). The Property is an assemblage of legal lots of record. The PUD and the Port will meet and confer in good faith regarding lot configuration, access, and development opportunities associated with the Property, with the goal of addressing issues of common interest prior to the PUD declaring all or any portion of the Property surplus. Notwithstanding the above, nothing herein precludes the PUD's authority, as owner of the Property, to control and use the Property within its sole discretion. In the event PUD does not surplus the Property within fifteen (15) years of the Effective Date of this Agreement, the Option shall terminate.

2.1. Specific Matters Regarding Hawley Property.

Notwithstanding the above, the PUD may convey any portion of the Hawley Property to the City of Wenatchee or the Washington State Department of Transportation for right of way purposes free and clear of the Option to Purchase. In addition, the Parties acknowledge that any portion(s) of the Hawley Property described in Exhibit "B" which lie(s) within the Project Boundary of the Rock Island Hydroelectric Project are specifically excluded from the terms of the Agreement.

3. CONDITION; SURPLUS NOTICE; PORTION OF PROPERTY. If the PUD formally declares all or any portion of the Property surplus to the needs of the PUD, then the PUD shall provide the Port written notice of said decision (the "Surplus Notice"). The Surplus Notice shall describe the Property or portion thereof that has been declared surplus, and if the property described in the Surplus Notice is multiple legal lots, then the legal lots shall be separately identified. The PUD agrees not to surplus property that is not a legal lot of record. The PUD shall provide, simultaneously with the Surplus Notice, all environmental reports, remediation reports, and "no

further actions letters” or similar documents, if any, with regard to the property identified in the Surplus Notice to the Port.

3.1 If Port desires to exercise its Option on any portion of a legal lot, less than the full legal lot, identified in the Surplus notice, the Port shall notify the PUD within sixty (60) days of receipt of the Surplus Notice, and the PUD, in its sole discretion, may evaluate whether or not the partial lot sale is in the best interest of the PUD and either (a) accept the Port’s proposal, or (b) reject the Port’s proposal and continue with the original Surplus notice and process. (“Partial Lot Decision”)

3.2 If the PUD formally declares a portion of the Property surplus to its needs, then this Agreement shall remain in effect as to the portion of the Property not declared surplus and the process set forth in this Agreement shall be repeated for each subsequent action by the PUD to declare all or any portion of the Property surplus until this Agreement terminates.

4. INTENT TO EXERCISE. If the Port desires to exercise the Option, the Port shall have (i) ninety (90) days following receipt of the Surplus Notice or (ii) sixty (60) days following receipt of the Partial Lot Decision if Section 3.1 is invoked, to provide written notice to the PUD whether the Port desires to purchase some or all of the Property identified in the Surplus Notice, as modified by Partial Lot Decision (the “Intent Notice”). If the Port desires to purchase some, but not all, of the Property identified in the Surplus Notice, the Port shall specifically identify which portion of the Property described in the Surplus Notice the Port desires to purchase (including any portion of legal lot(s) identified in the Surplus Notice approved by the PUD pursuant to Section 3.1). Any Property identified in the Surplus Notice that is not also identified in the Intent Notice shall no longer be encumbered by this Agreement. If the Port elects to purchase a portion of any legal lot of record identified in the Surplus Notice and approved in the Partial Lot Decision, the Port shall incur the costs of the boundary line adjustment or other land use planning mechanism necessary to create the property identified by the Port as a legal lot or lots of record prior to closing (the PUD will cooperate in any application necessary to complete the process). It is anticipated that the Port will not commence the process in response to a Partial Lot Decision until after the Feasibility Study Period.

5. PURCHASE PRICE. The purchase price of the Property, or any portion thereof, identified in the Intent Notice shall be based on fair market value as of the date of the Surplus Notice as determined by an independent appraiser agreed upon and retained by the Parties. As part of the appraisal, the fair market value of each legal lot of record shall be identified (any partial lot approved by the PUD pursuant to Section 3.1 shall be appraised as a legal lot of record on the assumption that a boundary adjustment or other land use planning mechanism will be approved). Unless otherwise stated herein, upon the PUD’s receipt of the Intent Notice, the Parties shall retain an appraiser to appraise the property described in the Intent Notice. The Parties shall each pay one-half of the costs of the appraisal. If the Parties are unable to agree upon an appraiser within twenty (20) days following the delivery of the Intent Notice by the Port, then either Party may, upon fifteen (15) days advance written notice to the other Party, petition the Chelan County Superior Court for the appointment of an appraiser, which appointment shall be binding on the Parties. The appraisal shall be binding on the Parties.

5.1 Notwithstanding the above, in the event PUD has a current (within 6 months of the Surplus Notice) independent appraisal on the Property, Port may either agree with the appraisal or it may order its own independent appraisal at its sole cost. In the event the appraisals are different by more than ten percent (10%) the Port may elect to invoke the procedure set forth above in Section 5, in which event the third appraisal shall be binding on the Parties, or accept the PUD's appraisal. In the event the difference is ten percent (10%) or less, the appraisal obtained by the Port shall control.

6. FEASIBILITY STUDY.

6.1 In the event PUD provides Surplus Notice and Port has provided Intent Notice, PUD will provide access to the Property pursuant to the terms of the Temporary Access Agreement substantially in the form attached to Exhibit C as Attachment 3, and incorporated herein by this reference the Critical Energy Infrastructure Information (CEII) and the Bulk Electric Cyber System Information (BCSI) Non-Disclosure Agreement [in the most current form required by law, regulations (including but not limited to, RCW 54, FERC, NERC, WECC) or at the direction of a jurisdictional entity/agency]. The Feasibility Study Period shall expire upon delivery of the Exercise Notice, defined below in Section 8 (the "Feasibility Study Period"), during which the Port shall be allowed to perform an inspection of the Property and a review of the information relating to the Property and satisfy itself with respect to the condition of and other matters related to the Property and its suitability for Port's intended use (the "Feasibility Study").

6.2 The Feasibility Study shall be consistent with the Temporary Access Agreement and Non-Disclosure Agreement to be entered by the Parties (see Section 6.1, above), may include all inspections and studies Port determines are necessary or desirable, after consultation and agreement with the PUD, which agreement shall not be unreasonably withheld. Port and Port's agents, representatives, consultants, architects and engineers will have the right, from time to time, with advance notice to PUD, compliance with PUD's safety and security regulations and rules, and subject to the terms of the Temporary Access Agreement. In the event any portion of the property being acquired by the Port does not have frontage on a public right of way or will not have access to a public right of way through other property being acquired by the Port, or where utility corridors will cross property retained by the PUD, then the PUD and the Port shall discuss and designate access and utility easements during the Feasibility Study Period to be granted to the Port at closing.

7. EXERCISE OF OPTION. The Port shall have ninety (90) days from (i) the determination of the purchase price, or (ii) completion of the boundary line adjustment or other land use planning mechanism, if necessary, whichever is later, to elect to purchase all or a portion of the Property described in the Intent Notice by delivering a written notice to the PUD (the "Exercise Notice"). If the Exercise Notice identifies some, but not all, of the Property identified in the Intent Notice, then the purchase price shall be based on a revised appraisal of the identified portion of the Property identified in the Exercise Notice. The property identified in the Exercise Notice is sometimes referred to as the "Option Property".

8. **AS IS. NO WARRANTY.** PORT ACKNOWLEDGES IT IS FAMILIAR WITH AND HAS INVESTIGATED OR WILL, PRIOR TO CLOSING AS SET OUT HEREIN, INVESTIGATE THE OPTION PROPERTY AND IMPROVEMENTS LOCATED ON THE OPTION PROPERTY. PORT ACKNOWLEDGES AND AGREES THAT IT IS RELYING SOLELY ON ITS INSPECTION AND INVESTIGATION OF THE OPTION PROPERTY AND IMPROVEMENTS, AND ACCEPTS THE OPTION PROPERTY AND IMPROVEMENTS LOCATED ON THE OPTION PROPERTY "AS IS" IN THEIR PRESENT CONDITION WITH NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, EITHER ORAL OR WRITTEN, MADE BY PUD OR ANY EMPLOYEE, AGENT OR REPRESENTATIVE OF PUD WITH RESPECT TO THE CONDITION OF THE OPTION PROPERTY AND IMPROVEMENTS LOCATED ON THE OPTION PROPERTY. PORT WILL HAVE DETERMINED TO ITS SATISFACTION THAT THE OPTION PROPERTY AND THE IMPROVEMENTS LOCATED ON THE OPTION PROPERTY CAN BE USED FOR THE PURPOSES PORT INTENDS. NOTWITHSTANDING THE ABOVE, NOTHING HEREIN SHALL RELIEVE THE PUD OF ANY OBLIGATIONS OR LIABILITIES ARISING UNDER ANY FEDERAL, STATE, OR LOCAL ENVIRONMENTAL LAWS OR REGULATIONS FOR THE CONDITION OF THE OPTION PROPERTY AND IMPROVEMENTS LOCATED ON THE OPTION PROPERTY EXISTING AS OF THE DATE OF CLOSING.

9. **CONVEYANCE; EASEMENTS.** At closing, the PUD shall sign, execute, and deliver a Statutory Warranty Deed for the Property to the Port and/or closing agent, consistent with Section 10, below. The conveyance will be together with any easements agreed upon by the Parties during the Feasibility Study Period.

10. **TITLE; PROPERTY CONDITION.** Title to the Property shall be marketable at closing, subject to all encumbrances, restrictions, reservations, covenants and easements apparent or as matters of record. If Port does not accept title, its sole remedy is termination of the Exercise Notice and PUD may proceed with the surplus of the Property identified in the Surplus Notice, without further obligation to Port under this Option.

11. **CLOSING AND CLOSING COSTS.** Closing shall occur no later than sixty (60) days after delivery of the Exercise Notice. Closing shall occur at a title company located in Wenatchee, Washington, as selected by the PUD. The Port and PUD shall deposit with closing agent all instruments, documents and monies necessary to complete the sale in accordance with this Agreement. The PUD shall pay for the standard owner's title policy insuring the Port's acquisition. Port shall pay for any extended coverage owner's title policy. The Parties shall each pay one-half of the closing and escrow fees. The PUD shall pay real estate excise tax, if required. The conveyance documents shall be prepared by Port's attorney. The costs to prepare the conveyance documents shall be paid by the Port at closing. The Port shall pay the costs to record all documents at closing.

12. **TERMINATION OF AGREEMENT.**

12.1 If all of the Property (or all remaining portions of the Property) is identified in a Surplus Notice and the Port does not timely provide the Intent Notice as set forth in Agreement Section 4 above, or after providing the Intent Notice, the Port does not timely provide the Exercise Notice in Agreement Section 7 above, then this Agreement shall terminate and be of no further

force and effect between the Parties and the PUD may record a Termination of Option with the Chelan County Auditor.

12.2 If a portion of the Property is identified in a Surplus Notice and the Port does not timely provide the Intent Notice as set forth in Agreement Section 4 above, or after providing the Intent Notice, the Port does not timely provide the Exercise Notice in Agreement Section 8 above, then this Agreement shall terminate and be of no further force and effect between the Parties as to the property identified in the Surplus Notice and the PUD may record a Partial Termination of Option with the Chelan County Auditor to that effect.

12.3 If the Intent Notice identifies some, but not all, of the Property described in the Surplus Notice, then this Agreement shall terminate and be of no further force and effect between the Parties as to the portion of the Property described in the Surplus Notice but not identified in the Intent Notice and the PUD may record a Partial Termination of Option with the Chelan County Auditor to that effect. If the Exercise Notice identifies some, but not all of the Property described in the Intent Notice, then this Agreement shall terminate and be of no further force and effect between the Parties as to the portion of the property described in the Intent Notice but not identified in the Exercise Notice and the PUD may record a Partial Termination of Option with the Chelan County Auditor to that effect.

12.4 In the event of Section 12.2 (including the issuance of one or more Surplus Notices, whether or not the Port exercises the Option in response to any prior Surplus Notice), the Parties agree that this Agreement shall survive and continue to apply to the portion of the Property that has not been declared surplus to the PUD's needs.

12.5 Notwithstanding the above provisions of this Section 12, the Option shall terminate fifteen (15) years from the Effective Date of this Agreement and the PUD shall record a Termination of Option with the Chelan County Auditor.

13. CONSIDERATION. This Agreement is entered by the Parties in consideration of the transactions of even date herewith.

14. AUTHORITY. The PUD represents and warrants to the Port that this Agreement has been duly authorized and is binding on the PUD. The Port represents and warrants to the PUD that this Agreement has been duly authorized and is binding on the Port. The closing of any transaction contemplated by this Agreement is authorized by the intergovernmental disposition of property set forth in Section 39.33.010, RCW.

15. NOTICE. Unless otherwise specified herein, any and all notices required or permitted to be given hereunder must be given in writing. Notices shall be deemed given on the date of personal service or on the business day following the date of mailing. Mail shall be by certified mail, return receipt requested sent to the primary office for the Parties. The PUD and the Port shall notify each other of any change of address. To be effective, notices must be personally

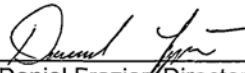
served to the Executive Director for the Port or to the General Manager for the PUD with a copy to PUD General Counsel, or mailed as set forth herein.

16. **AMENDMENT.** No alterations, changes or amendments to this Agreement shall be binding upon either party both Parties have executed a written statement acknowledging such alteration, change or amendment, the signatures have been notarized, and the statement has been recorded with the Chelan County Auditor. The "Effective Date" of this Agreement is the date this Agreement is recorded with the Chelan County Auditor.

PORT OF CHELAN COUNTY

PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY

By: 
James M. Kuntz, Executive Director

By: 
Daniel Frazier, Director of Shared Services, as designee of Steve Wright, General Manager

Date: 2-27-19

Date: 2-27-19

STATE OF WASHINGTON)
)ss.
County of Chelan)

I certify that I know or have satisfactory evidence that James M. Kuntz is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Executive Director of Port of Chelan County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: February 27, 2019.



Deborah Foltz
Deborah Foltz (Printed name)
NOTARY PUBLIC, state of Washington
My appointment expires 9/5/2022

STATE OF WASHINGTON)
)ss.
County of Chelan)

I certify that I know or have satisfactory evidence that Daniel Frazier is the persons who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as Director of Shared Services, as designee of Steve Wright, General Manager of the Public Utility District No. 1 of Chelan County to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: February 27, 2019.



Deborah Foltz
Deborah Foltz (Printed name)
NOTARY PUBLIC, state of Washington
My appointment expires 9/5/2022

EXHIBIT "A"
Legal Description
(HQ PROPERTY)

Parcel A:

Lots 1 and 2, Block 3 Suburban Home Addition to Wenatchee, according to the plat thereof recorded in Volume 1 of plats, page 22, records of Chelan County, Washington.

TOGETHER WITH all that part of the right of way of the Burlington Northern Inc. lying in Section 3, Township 22 North, Range 20 East, Willamette Meridian, in the City of Wenatchee, County of Chelan, State of Washington, described as follows: Begin at the northeasterly corner of Lot 2, Block 3 Suburban Home Addition to Wenatchee according to the recorded plat thereof; thence southeasterly along the east line of said Addition for 473 feet; thence left 90° for 30 feet; thence northerly 474.69 feet more or less to a point on the southerly right of way line of Fifth Street located 70 feet northeasterly from the point of beginning; thence southwesterly along said right of way line 70 feet to the point of beginning.

EXCEPT a parcel of land lying in the Northwest corner of Lot 1, Block 3, of the Suburban Home Addition to Wenatchee, Chelan County, Washington, according to the recorded plat thereof. Said parcel more particularly described as follows: Commencing at the Northwest corner of said Lot 1, also the TRUE POINT OF BEGINNING of this description; thence S 29°16'54" E 20.07 feet along the Westerly line of said Lot 1; thence N 60°43'06" E 2.00 feet; thence Northeasterly, 28.34 feet along the arc of a curve to the right with a radius of 18.00 feet, said arc subtended by a chord which bears N 15°49'28" E 25.50 feet; thence N 29°29'38" W 2.00 feet to the Northerly line of said Lot 1; thence S 60°30'22" W, 20.07 feet along said Northerly line to the True Point of Beginning.

Parcel B:

Lots 1 and 2 Block 2 and Lots 3 and 4, Block 3, Suburban Home Addition to Wenatchee, according to the plat thereof recorded in Volume 1 of plats, page 22, records of Chelan County, Washington.

Parcel C:

Lot 3 and 4, except the West 189.50 feet thereof, Block 2, Suburban Home Addition to Wenatchee, records of Chelan County, Washington, according to the plat thereof recorded in Volume 1 of Plats, at page 22, records of said County, TOGETHER WITH that portion of the North half of lot 2, Block 1, said Suburban Home Addition to Wenatchee being more particularly described as follows: Commencing at the Southeast corner of the North half of said Lot 2; thence N 28°58'58" W 8.75 feet to the Northerly line of a strip of land as described within Deed recorded in Book 60 of Deeds, at page 285, and the True Point of beginning; Thence S 60°58'44" W 107.36 feet along the Northerly line of said Strip of land to the point of intersection with the Southerly extension of the Easterly face of an existing building wall; thence N 28°42'52" W 100.15 feet along said Easterly face and the Southerly and Northerly extension thereof to a point on the Northerly line of said Lot 2; thence N 60°57'49" E 106.90 feet along the North line of said Lot 2 to the Northeasterly corner thereof; thence S 28°58'58" E 100.18 feet along the Easterly line of said Lot 2 to the True Point of beginning.

EXHIBIT "B"
Legal Description
(HAWLEY PROPERTY)

Parcel A:

A parcel of land in the Northeast quarter of the Northeast quarter of Section 33, and in the Southeast quarter of the Southeast quarter of Section 28, all in Township 23 North, Range 20, EWM, Chelan County Washington, described as follows:

BEGINNING at the Northwest corner of the Northeast quarter of the Northeast quarter of Section 33, Township 23 North, Range 20 EWM, and running South on 40 acre subdivision line a distance of 194.96 feet to an intersection with the Easterly right of way line of the Great Northern Railway; thence turning an angle of 28°20' to the left and follow said Easterly right of way line of the Great Northern Railway a distance of 659 feet to a point on the Northerly side of the County road; thence turning an angle of 36°28' left and running along the Northerly side of said County Road a distance of 350 feet; thence turning an angle of 97°5' to left and running 411.8 feet to the edge of the bench lands; thence turning an angle of 73°36' to the left and running 299 feet; thence turning an angle of 19°39' to the right and running 255.5 feet; thence turning an angle of 15°23' to the left and running 468 feet to the 40 acre line between the Southwest quarter of Southeast quarter and the Southeast quarter of Southeast quarter of Section 28, Township 23 North, Range 20 EWM, thence running South on the 40 acre line to point of beginning.

EXCEPT a parcel of land in the Northeast quarter of the Northeast quarter of Section 33, Township 23 North, Range 20 East of the Willamette Meridian, Chelan County, Washington, more particularly described as follows: Commence at the Northeast corner of the SE¼ of the NE¼ of said section, which is marked by a 1-inch iron pipe and run North on the line between Sections 33 and 34, said Township and Range, for 75.6 feet to the center line of county road; thence turning an angle to the left of 65°02' along the center line of said road for 716.6 feet to the true point of beginning of this description; thence turning an angle to the right of 82°54' for 197.2 feet; thence turning an angle to the right of 79°36' for 93.8 feet; thence turning an angle to the left of 34°44' for 155.9 feet; thence turning an angle to the left of 33°20' for 49.7 feet; thence turning an angle to the left of 80°11' for 141.4 feet thence turning an angle to the left of 15°17' for 112.0 feet; thence turning an angle to the right of 10°21' for 214.47 feet; thence turning an angle to the left of 106°24' and run to the center line of the county road above referred to; thence turning an angle to the left of 82°54' and run along the center line of said road to the true point of beginning.

Parcel B:

A parcel of land in the Northeast Quarter of the Northeast Quarter of Section 33, Township 23 North, Range 20, EWM, Chelan County, Washington, more particularly described as follows:

Commence at the Northeast corner of the SE¼ of the NE¼ of said Section, which is marked by a 1-inch iron pipe and run North on the line between Sections 33 and 34, said township and range, for 75.6 feet to the center line of road; thence turning an angle to the left of 65°02' along the

center line of said road for 716.6 feet to the true point of beginning of this description; thence turning an angle to the right of 82°54' for 197.2 feet; thence turning an angle to the right of 79°36' for 93.8 feet; thence turning an angle to the left of 34°44' for 155.9 feet; thence turning an angle to the left of 33°20' for 49.7 feet; thence turning an angle to the left of 80°11' for 141.4 feet; thence turning an angle to the left of 15°17' for 112.0 feet; thence turning an angle to the right of 10°21' for 214.47 feet; thence turning an angle to the left of 106°24' and run to the center line of the road above referred to; thence turning an angle to the left of 82°54' and run along the center line of said road to the true point of beginning.

EXCEPT THE FOLLOWING DESCRIBED TRACT: A parcel of land in the Northeast Quarter of the Northeast Quarter of Section 33, Township 23 North, Range 20 East of the Willamette Meridian, Chelan County, Washington, more particularly described as follows: Commence at the Northeast corner of the SE¼ of the NE¼ of said Section, which is marked by a 1-inch iron pipe and run North on the line between Sections 33 and 34, said Township and Range for 75.6 feet to the center line of road; thence turning an angle to the left of 65°02' along the center line of said road for 736.52 feet to the true point of beginning of this exception; thence turning an angle to the right of 82°54' and run Northerly 210 feet; thence turning an angle to the left of 82°54' and run Westerly 120 feet; thence turning an angle to the left of 97°06' and run Southerly 210 feet to the center line of said road; thence turning an angle to the left of 82°54' and run Easterly along the center line of said road for 120 feet to the true point of beginning reserving from said excepted portion and granting herewith and easement for road purposes over the Easterly 10 feet of said excepted tract. SUBJECT TO the right of way of the above referred to road.

Parcel C:

A parcel of land in the Northeast Quarter of the Northeast Quarter of Section 33, Township 23 North, Range 20 East of the Willamette Meridian, Chelan County, Washington, more particularly described as follows:

Commence at the Northeast corner of the SE¼ of the NE¼ of said Section, which is marked by a 1-inch iron pipe and run North on the line between Sections 33 and 34, said Township and Range for 75.6 feet to the center line of road; thence turning an angle to the left of 65°02' along the center line of said road for 736.52 feet to the true point of beginning of this exception; thence turning an angle to the right of 82°54' and run Northerly 210 feet; thence turning an angle to the left of 82°54' and run Westerly 120 feet; thence turning an angle to the left of 97°06' and run Southerly 210 feet to the center line of said road; thence turning an angle to the left of 82°54' and run Easterly along the center line of said road for 120 feet to the true point of beginning reserving from said excepted portion and granting herewith and easement for road purposes over the Easterly 10 feet of said excepted tract. SUBJECT TO the right of way of the above referred to road.

Parcel D:

A parcel of land in the Southwest quarter of the Southeast quarter of Section 28, Township 23 North, Range 20, EWM, Chelan County, Washington, described as follows:

A tract of land beginning at a stone at the Southeast corner of the Southwest quarter of Southeast quarter Section 28, Township 23 North, Range 20 EWM, Chelan County, Washington, being the Northeast corner of Powell's Addition to Wenatchee, and running West on the South line of Section 28 a distance of 109.2 feet to the Easterly line of the right of way of the Great Northern Railway; thence turning an angle of 61°2' to the right and running 1532.2 feet along said Easterly right of way of the Great Northern Railway; thence turning an angle of 117°30' to the right and running 118.5 feet East along the North line of Southwest quarter of Southeast quarter of Section 28 to the edge of the hill; thence turning an angle of 57°30' to the right and running 433.7 feet to a point; thence turning an angle of 8°46' to the right and running 361.8 feet to a point; thence turning an angle of 19°6' to the right and running 187.6 feet to a point; thence turning an angle of 14°24' to the left and running 132.9 feet to a point; thence turning an angle of 41°5' to the left and running 162.5 feet to a point; thence turning an angle of 19°24' to the right and running 114.1 feet to a point; thence turning an angle of 28°6' right and running 183.2 feet to the stone at the Northeast corner of Powell's Addition and the point of beginning.

Parcel E:

All that part of Lot 1, Block 1, Powell's Addition to Wenatchee, according to the plat thereof recorded in volume 1 of Plats, page 7, records of Chelan County, Washington, lying Easterly of the right of way of the Great Northern Railway Company.

Parcel F:

That portion of the Northeast Quarter of the Northeast Quarter of Section 33, Township 23 North, Range 20, EWM, Chelan County, Washington, described as follows:

Beginning at the Southeast corner of said subdivision, which is marked by a one inch (1") pipe, and run thence North on the East line thereof 75.6 feet to centerline of a county road; thence turn left 65°02' and run along said centerline 498 feet to the Point of Beginning; thence turn right 94°26' and run 377.1 feet; thence turn left 80°11' and run 86 feet; thence turn left 99°49' and run 398.3 feet to centerline of said road; thence turn left 94°26' and run along said centerline for 85 feet to the Point of Beginning; EXCEPTING the 30 foot strip along the Southerly side for county road.

Parcel G:

That part of the Northeast Quarter of the Northeast Quarter of Section 33, Township 23 North, Range 20, EWM, Chelan County, Washington, described as follows:

Commencing at the Southeast corner of said subdivision, which is marked by a one-inch iron pipe and run North on the East line of said subdivision for 75.6 feet to the centerline of the road; thence turn left 65°02' and running along centerline of said road for 716.6 feet to the true point of beginning; thence turn right 82°54' running 197.2 feet; thence turn right 79°36' for 93.8 feet;

thence turn left 34°44' running 155.9 feet; thence turn right 146°40' and run 348.6 feet to the centerline of said road; thence turn right 85°34' minutes and running along said centerline 133.6 feet to the true point of beginning, EXCEPT right of way of the country road along the Southerly 30 feet thereof.

Parcel H:

A parcel of Land in the Northeast Quarter of the Northeast Quarter of Section 33, Township 23 North, Range 20 East of the Willamette Meridian, Chelan County, Washington, described as follows:

Commence at the Northeast corner of the Southeast Quarter of the Northeast Quarter of said Section, which is marked by a one-inch iron pipe, and run thence North on the line between Sections 33 and 34 for 75.6 feet to the centerline of the road; thence turn an angle of 65°02' and run along the centerline of said road 398 feet to the place of beginning; thence turning 94°26' to the right and run 352.1 feet; thence turn 80°11' to the left and run 101.2 feet; thence turn 99°49' to the left and run 377.1 feet to the centerline of said road; thence turn 94°26' to the left and run along said centerline 100 feet to the place of beginning; EXCEPTING THEREFROM the Southerly 30 feet for road purposes.

Parcel I:

A parcel of land in the Northeast quarter of the Northeast quarter of Section 33, Township 23 North, Range 20, EWM, Chelan County, Washington, described as follows:

Commencing at the Southeast corner of said subdivision, which is marked by a 1-inch iron pipe, and run thence North on the East line of said subdivision for 75.6 feet to centerline of the road known as Hawley Street; thence turn left 65°02' and run along the centerline of said road for 388 feet to the True Point of Beginning; thence turn right 94°26' and run 192 feet; thence turn right 85°34' and run Southeasterly on a line parallel with Hawley Street for 95 feet; thence turn left 85°34' and run 130.6 feet; thence run left 74°16' 30.5 feet; thence turn left 5°55' for 76.4 feet; thence turn left 99°49' for 352.1 feet to the centerline of said road; thence turn left 94°26' along the centerline of said road for 10 feet to the True Point of Beginning; EXCEPT right of way for Hawley Street over most Southerly 30 feet thereof.

Parcel J:

A parcel of land in the Northeast quarter of the Northeast quarter of Section 33, Township 23 North, Range 20, EWM, Chelan County, Washington, described as follows:

Commencing at the Northeast corner of the Southeast quarter of the Northeast quarter of Section 33, which is marked by a 1-inch iron pipe, and run North on the line between Sections 33 and 34, said Township and Range, for 75.6 feet to the centerline of the road; thence turning left 65°02' along the centerline of said road for 293 feet to the True Point of Beginning; thence continue along said centerline 95 feet; thence turn right 94°26' and run Northeasterly 192 feet; thence turn right 85°34' and run Southeasterly on a line parallel to Hawley Street 95 feet; thence

turn right 94°26' and run Southwesterly 192 feet to the True Point of Beginning; EXCEPT right of way for Hawley Street over most Southerly 30 feet thereof.

Parcel K:

A parcel of land in the Northeast quarter of the Northeast quarter of Section 33, Township 23 North, Range 20, E.W.M., Chelan County, Washington, described as follows:

Commence at the Northeast corner of the Southeast quarter of the Northeast quarter of said section, which is marked by a 1 inch iron pipe, and run thence North on the line between Sections 33 and 34 for 75.6 feet to the centerline of the road; thence turn an angle to the left of 65°02' and run westerly along said centerline for 188 feet to the Place of Beginning; thence turn an angle of 94°26' right and run 285 feet; thence turn an angle of 74°16' left and run 108.8 feet; thence turn an angle of 105°44' left and run 322.6 feet to the centerline of said road; thence turn an angle of 94°26' left and run along said centerline 105 feet to the Place of Beginning; EXCEPT Hawley Street right of way 30 feet along the South line thereof.

Parcel L:

A parcel of land in the Northeast quarter of the Northeast quarter of Section 33, Township 23 North, Range 20, E.W.M., Chelan County, Washington, described as follows:

Beginning at a point 75.5 feet north of the Northeast corner of the Southeast quarter of the Northeast quarter, Section 33, Township 23 North, Range 20, EWM, which point is marked by stone marked and set in the ground in the center of the road; thence running North 65°5' West (corrected course Mag. Var. North 23 East) 147.8 feet; thence turning an angle to the right of 94°26' and running to an intersection with the section line between Sections 33 and 34, Township 23 North, Range 20, EWM; thence South along Section line between said Sections 33 and 34, to the point of beginning, EXCEPT ROADS.

EXHIBIT C

TO OPTION TO PURCHASE (PUD HQ AND HAWLEY PROPERTIES)

TEMPORARY ACCESS AGREEMENT

THIS TEMPORARY ACCESS AGREEMENT (the "Agreement") is entered into by and between the PUBLIC UTILITY PUD NO. 1 OF CHELAN COUNTY, a Washington municipal corporation ("PUD"), and PORT OF CHELAN COUNTY, a Washington municipal corporation ("Port"), sometimes individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the PUD owns certain real properties located at or near 327 N Wenatchee Avenue and along Hawley Street adjacent to Walla Walla Point Park in the City of Wenatchee, which properties are commonly referred to as the Wenatchee Headquarters ("HQ") and Hawley Street ("Hawley"), and generally depicted in the attached Attachment 1 and Attachment 2 (collectively, the "PUD Property");

WHEREAS, the PUD and Port have entered into an Option to Purchase ("the Option") for acquisition of all or a portion of the PUD Property;

WHEREAS, the Port desires to access the PUD Property, or portions thereof, to conduct surveys and inspections, and perform environmental, geotechnical, archeological, and cultural reviews and assessments, along with any other due diligence actions deemed necessary by the Port (all collectively referenced herein as "due diligence actions"), to facilitate the Port's investigation and review of the PUD Property in anticipation of potential acquisition of PUD Property, subject to the terms and conditions set forth in the Option and herein;

NOW THEREFORE, in light of the foregoing, and the mutual covenants, conditions, duties and obligations set forth below, the Parties agree as follows:

AGREEMENT

1. Incorporation. The Recitals set forth above are hereby incorporated in this Agreement by this reference as binding commitments and representations of the Parties.
2. License. Subject to the terms and conditions of this Agreement, the Option and the Critical Energy Infrastructure Information/Bulk Electric System Cyber System Information Non-Disclosure Agreement ("CEII/BCSI NDA") to be entered by the Parties consistent with Section 2 of the Option, the PUD grants to the Port, including its authorized engineers, surveyors, architects, contractors, agents, employees, and representatives (collectively throughout this Agreement, the "Port's Representatives"), a license or permit to access, inspect, investigate, and use the PUD Property at reasonable times for the purpose of

conducting due diligence actions, to facilitate the Port's feasibility review, inspection, or investigation of the PUD Property in anticipation of the acquisition of the PUD Property. The Port shall not access, inspect, investigate, or use the PUD Property for any other purpose without the PUD's advance written consent. The Port shall be responsible for restoring any areas of the PUD Property disturbed by the Port's access, inspection, investigation, or use to the condition existing prior to the Agreement. The Port shall be liable for any damage to the PUD Property caused by the Port's due diligence actions taken under this Agreement, including costs incurred by the PUD to restore the PUD Property to the condition that existed prior to this Agreement in the event the Port fails to adequately restore the PUD Property as required herein.

3. Noninterference with Existing Rights. The Port's reasonable access, inspection, investigation, and use of the PUD Property for purposes of conducting due diligence actions shall not interfere with the access or use of the PUD Property by the PUD or other tenants and licensees of the PUD. The Port shall be responsible for providing notice to PUD, tenants and licensees (if any) of the dates and times the Port and Port's Representatives intend to access and/or inspect or investigate any leased or licensed spaces on the PUD Property. The notice shall describe the scope of the work, investigation, or inspection to be performed upon the PUD Property by or on behalf of the Port and whether it will result in any physical disturbance to the leased or licensed areas on the PUD Property. Upon request by the Port, and if required by the terms of an applicable lease or license, the PUD shall issue or cause to be issued notices of the Port's intent to enter or inspect the interior of a leased or licensed building or facility on the PUD Property in compliance with the applicable lease or license agreement.

PUD shall provide the names, addresses and contact information for its tenants and licensees that are leasing and/or providing services to the PUD, which currently include the following:

PUD Property	PUD Contractor/Tenant Name	Contact Name/Notice Information
<hr/>		

4. Investigation Costs. Unless otherwise agreed in writing, the Port shall be solely responsible for all costs and fees associated with access, use, and performance of any survey, study, assessment, inspection, or investigation conducted on the PUD Property by the Port, including Port's Representatives. To the extent the Port uses any contractors or subcontractors on or about the PUD Property, the Port shall pay all contractors and subcontractors as due in relation to their work on or about the PUD Property, and provide lien releases to the PUD as applicable. The Port shall indemnify and hold the PUD harmless from all liens, or claims or right to enforce liens, against the PUD Property arising out of any work to be performed, or labor, or materials to be furnished at the request of the PUD.

5. Notice of Disturbance; Restoration. The Port shall provide the PUD with not less than five (5) days advance written notice of an intent to perform any test work, inspection, or investigation that requires tunneling, trenching, excavation, or other digging or earth work using heavy machinery and that may cause significant damage or disturbance to the PUD Property and/or the quiet enjoyment of PUD tenants or licensees. The Port shall ensure that any areas on the PUD Property that are damaged or disturbed while Port testing, inspection, assessment, or investigation work is in process are properly signed, secured and otherwise maintained to prevent damage to persons or property. Except for PUD contributory actions (including those actions of PUD's officers, employees, agents, contractors, engineers, surveyors, architects) the Port shall be fully and completely responsible, at its sole expense, for any and all damage to the PUD Property caused by the Port negligence or that of Port's Representatives, arising from and in any way connected to the Port's access, inspection, investigation, assessment, or use of the PUD Property pursuant to this Agreement. Upon termination or expiration of the Agreement, the Port shall, at its sole cost and expense, restore the PUD Property to the condition existing prior to the Agreement to the satisfaction of the PUD.
6. As-Is; No Warranty. THE PORT ACKNOWLEDGES THAT THE PUD IS PROVIDING ACCESS TO THE PUD OPTION PROPERTY AND IMPROVEMENTS LOCATED ON THE OPTION PROPERTY "AS IS, WHERE IS" IN ITS PRESENT CONDITION, WITH ALL FAULTS, AND WITH NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, EITHER ORAL OR WRITTEN, MADE BY THE PUD OR ANY EMPLOYEE, AGENT OR REPRESENTATIVE OF THE PUD WITH RESPECT TO THE PHYSICAL CONDITION OF THE PUD OPTION PROPERTY AND IMPROVEMENTS LOCATED ON THE OPTION PROPERTY. THE PORT SHALL PERSONALLY INSPECT AND INVESTIGATE THE PUD OPTION PROPERTY AND IMPROVEMENTS LOCATED ON THE PROPERTY TO DETERMINE TO ITS SATISFACTION THAT THE PUD OPTION PROPERTY AND IMPROVEMENTS LOCATED ON THE OPTION PROPERTY CAN BE USED FOR THE PURPOSES THE PORT INTENDS. THE PORT ACKNOWLEDGES AND AGREES THAT NEITHER THE PUD NOR THE PORT'S AGENTS HAVE MADE, NOR DO THEY MAKE, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED.
7. Term. This Agreement shall be valid from the effective date of this Agreement through either (a) written notice delivered to the PUD of the completion of the due diligence actions to the satisfaction of the Port, or (b) or closing on the sale or acquisition of the PUD Property, whichever occurs first, and subject to the terms and conditions set forth in this Agreement.
8. Indemnity. Except for claims resulting from or caused by PUD's actions or inaction, the Port hereby indemnifies and holds the PUD harmless against all claims, demands, causes of action, suits or judgments (including attorney's fees, costs and expenses) for death or injury to any person or for loss of damage to property, related to or associated with Port and Port's Representatives, access, investigation, use, and/or activities on the PUD

Property pursuant to this Agreement. The Port understands and agrees that its duty to indemnify and hold the PUD harmless includes, but is not limited to damages or injuries caused by the negligent or other wrongful conduct of the Port, its engineers, surveyors, architects, contractors, agents, or employees.

9. Insurance. The Port shall secure and maintain in force during the duration of this Agreement, and any and all amendments thereto and extensions thereof, comprehensive general liability insurance or provide evidence of an equivalent self-insurance program, written on an occurrence basis with a minimum coverage of \$1,000,000 per occurrence for death, bodily injury or property damage for any claim asserted within three (3) years of the date of termination or expiration of this Agreement. The comprehensive general liability policy, or self-insurance, shall name the PUD as an additional insured. Certificates of coverage as required herein shall be delivered to the PUD within five (5) days of execution of this Agreement. The Port shall require that Port's Representatives investigating, or working on the PUD Property on behalf of the Port pursuant to this agreement secures and maintains the insurance required herein.
10. Safety. The Port and Port's Representatives shall take all safety precautions necessary for the prevention of accidents, and shall, at a minimum, comply with all laws and regulations with regard to this matter.
11. Drug Free Workplace. The Port and Port's Representatives agree to abide by the Drug Free Workplace Act of 1988. The Port and Port's Representatives shall immediately remove any employee from further work when it is determined that they are not fit for duty. The Port and Port's Representatives further agrees that failure to comply with the aforementioned shall be cause for the PUD to immediately terminate this Agreement without advance notice.
12. Violence in the Workplace. The carrying or possession of firearms or other weapons is prohibited at all times in PUD buildings or on PUD property, including PUD parking lots and in vehicles. The carrying or possession of firearms or other weapons is prohibited on any other PUD location while performing duties for the PUD under this Agreement.

The Port and Port's Representatives shall immediately remove any employee from further work if it is determined that the person is carrying or in possession of firearms or other weapons, as defined in the PUD's Violence in the Workplace Policy, a copy of which is available upon request.

The failure of the Port and Port's Representatives to comply with this section shall be deemed cause for the PUD to immediately terminate this Agreement without advance notice.
13. Security. The Port and Port's Representatives agree to comply with the PUD's Security and Badging Program as may be amended. The PUD will issue badges or provide other

security access as deemed appropriate by the PUD to the Port and Port's Representatives who are authorized to enter PUD facilities. The PUD's Security policy is available to the Port and Port's Representatives upon request.

14. Notices. Any notices to be given hereunder by either Party may be affected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested to the addresses below. Notices may also be delivered by e-mail sent with options showing delivery and requesting confirmation of delivery. Notices delivered personally shall be deemed communicated as of actual receipt, mailed notices shall be deemed communicated as of the effective day of mailing, if prepaid.

To Port: Attn: Executive Director
 238 Olds Station Road, Suite A
 Wenatchee, WA 98801
 Email: _____

To PUD: Attn: Director of Shared Services
 327 N. Wenatchee Ave
 P.O. Box 1231
 Wenatchee, WA 98801
 Email: _____

The Parties shall promptly give notice to the other of any change to the names and/or addresses specified in this paragraph.

15. Attorney's Fees. In the event it is necessary for either Party to utilize the services of an attorney to enforce any of the terms of this Agreement, such enforcing Party shall be entitled to compensation for its reasonable attorneys' fees and costs. In the event of litigation regarding any of the terms of this Agreement, the substantially prevailing Party shall be entitled, in addition to other relief, to such reasonable attorney's fees and costs as determined by the court.
16. No Assignment. The Port is prohibited from assigning this Agreement without the PUD's advance written consent, which the PUD may withhold in its sole and absolute discretion. However, for clarity, use of Port contractors, subcontractors, Representatives, and/or other Port agents, shall not constitute an assignment.
17. Savings Clause. Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and whenever there is any conflict between any provisions of this Agreement and any statute, law, public regulation or ordinance, the latter shall prevail, but in such event, the provisions of this Agreement affected shall be curtailed and limited only to the extent necessary to bring it within legal requirements.

18. Entire Agreement; Amendments. This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior agreements or understandings among the Parties with respect thereto. This Agreement may be amended only by an agreement in writing signed by the Parties.

19. Governing Law; Venue. This Agreement is governed by the laws of the state of Washington. The jurisdiction and venue of any action hereunder shall be in the Superior Court, Chelan County, Washington.

20. Effective Date. The "effective date of this Agreement" shall be the date of last signature set forth below.

21. Counterpart. This Agreement may be executed in any number of counterparts, each of which, without production of the others, will be deemed to be an original.

PORT OF CHELAN COUNTY

PUBLIC UTILITY PUD NO. 1
OF CHELAN COUNTY

By: EXHIBIT

By: EXHIBIT

Name: _____
Executive Director

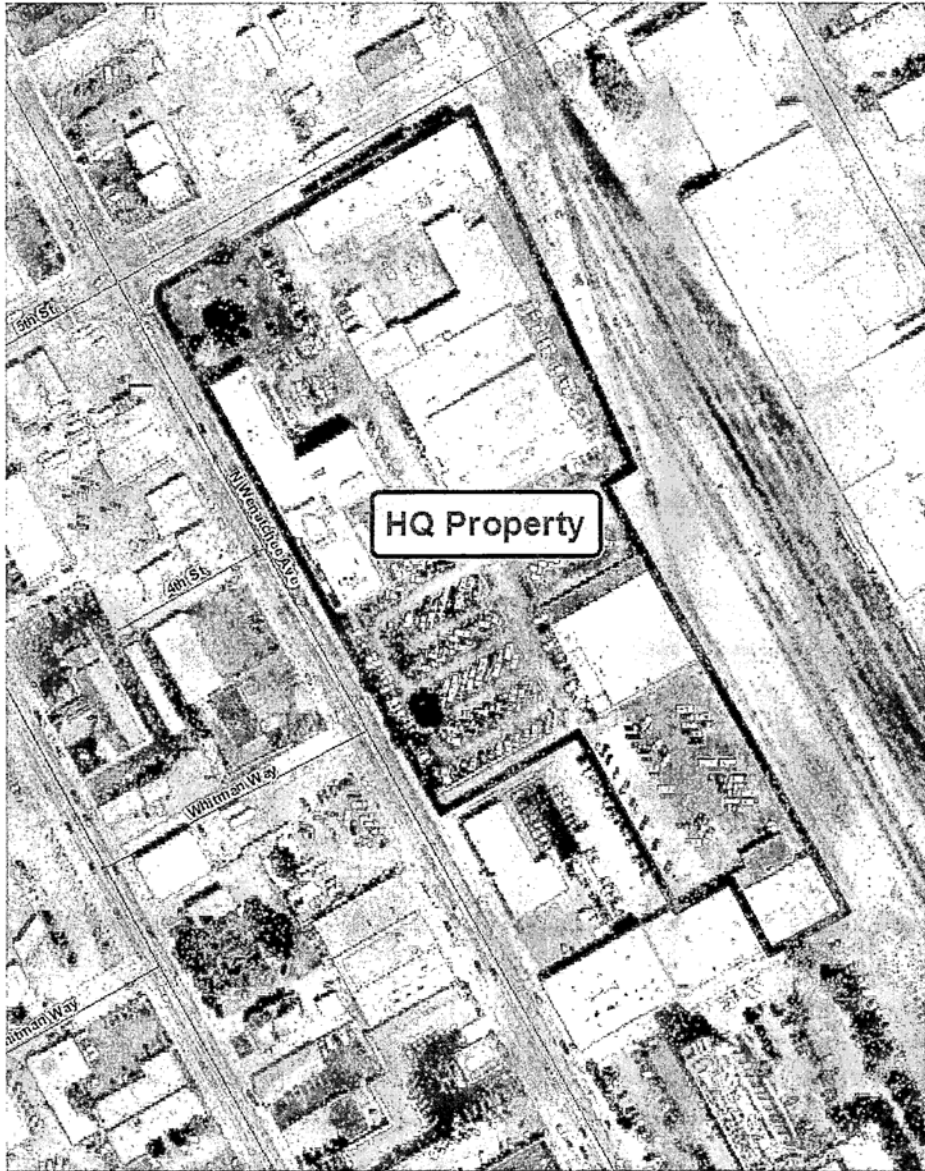
Name: _____
Managing Director of Shared Services

Dated: _____

Dated: _____

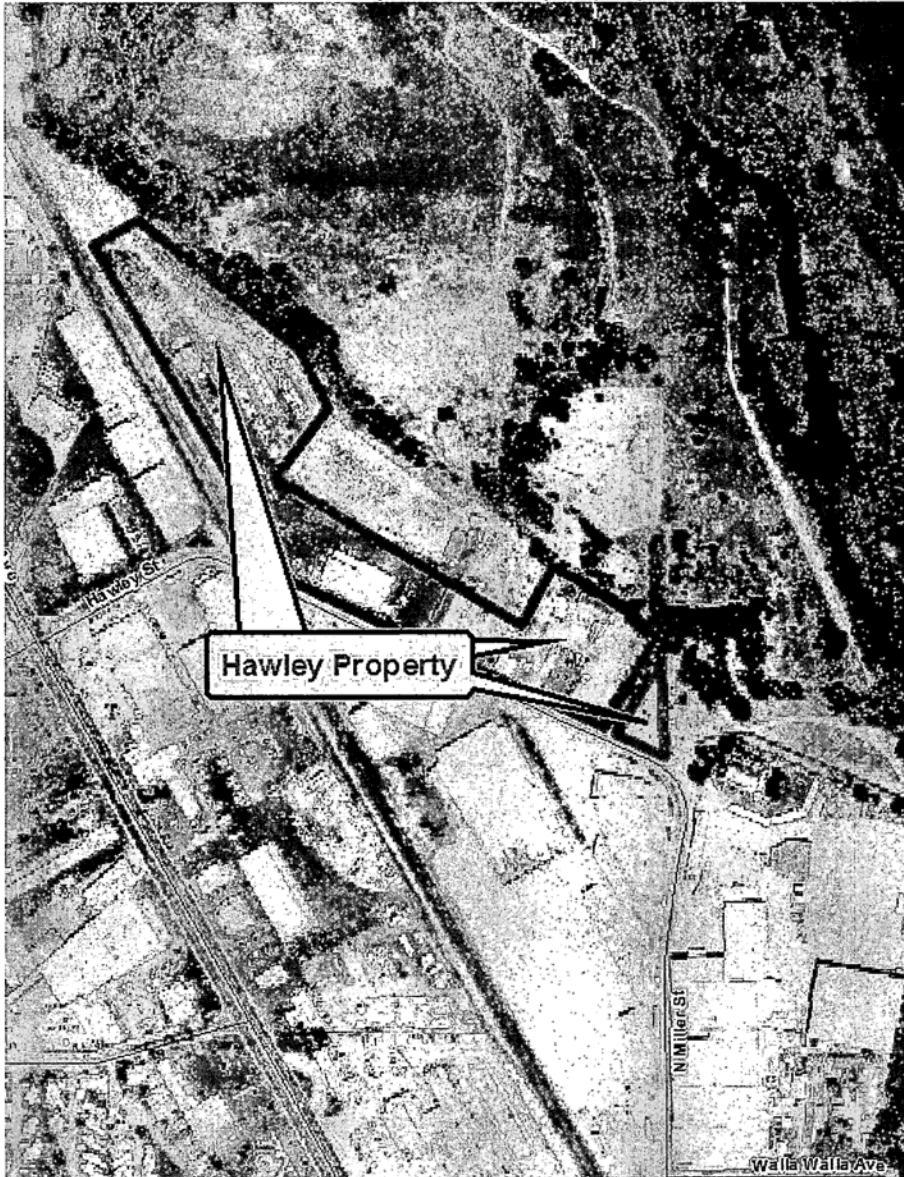
ATTACHMENT "1" TO TEMPORARY ACCESS AGREEMENT

General Depiction of HQ Property



ATTACHMENT "2" TO TEMPORARY ACCESS AGREEMENT

General Depiction of Hawley Property



ATTACHMENT "3" TO TEMPORARY ACCESS AGREEMENT

CRITICAL ENERGY INFRASTRUCTURE INFORMATION/ BULK ELECTRIC SYSTEM CYBER SYSTEM INFORMATION NON-DISCLOSURE AGREEMENT

This CRITICAL ENERGY INFRASTRUCTURE INFORMATION/BULK ELECTRIC CYBER SYSTEM INFORMATION NON-DISCLOSURE AGREEMENT ("Agreement") is entered into this date between PUBLIC UTILITY DISTRICT NO. 1 OF CHELAN COUNTY, ("District"), a Washington municipal corporation, and PORT OF CHELAN COUNTY ("Recipient"). District and Recipient are sometimes hereinafter collectively referred to as the "Parties."

RECITALS

The Critical Energy Infrastructure Information (CEII) and the Bulk Electric Cyber System Information (BCSI) guidelines of the federal government set forth specific policies for the protection of the District's sensitive plans, drawings, records and BCSI. Because of the sensitive nature of CEII and BCSI, Recipient **must execute and deliver this Agreement to the District prior to receipt of or access to CEII and BCSI by Recipient.**

NOW, THEREFORE, the Parties agree as follows:

1. **Incorporation by Reference.** The recitals set forth above are incorporated herein as if fully set forth.
2. **Confidential Information.** The Parties expressly acknowledge and agree that to accomplish the objectives of the project, information of a confidential, proprietary, systems security sensitive, and/or restricted in nature may be disclosed to Recipient by the District. This information may include equipment, capabilities, settings, layouts, diagrams, data information, location, or information designated as BCSI or CEII as defined by the federal government, and any documentation in print or electronic form that is or should be marked "Restricted Distribution under NERC CIP," "CEII Classified Document," or "For Internal Use Only."

For purposes of the Agreement, such information shall be deemed "Confidential Information" and shall include:

- a. In the case of written and/or electronic information, all data, documents, records, and materials marked or otherwise identified as "confidential," "proprietary," "For Internal Use Only," "CEII Classified Document," or "Restricted Distribution under NERC CIP."

- b. In the case of verbal disclosure, information identified at the time of disclosure as confidential and/or restricted and confirmed in writing as such by the District within ten (10) calendar days of the disclosure to Recipient, and
- c. In the case of written, electronic, or verbal disclosure, information that should reasonably have been understood by the Recipient because of other markings (e.g. marked confidential), the circumstances of disclosure, or the nature of the information itself, to be proprietary and confidential to the District.

"Confidential Information" shall not include information that: (1) was known to the Recipient without breach of any contractual, fiduciary or other obligation prior to disclosure by the District; (2) is part of the public domain on the date of disclosure; (3) can be demonstrated to have been independently developed by Recipient without reference to the Confidential Information; or (4) is required to be disclosed by operation of law, or pursuant to order of a governmental agency with jurisdiction.

- 3. **Definitions.** For purposes of this Agreement, the following definitions shall apply.
 - a. The term "District CEII/BCSI Coordinator" refers to the individuals designated as the Critical Energy Infrastructure/BES Cyber System Information Coordinator(s), by the District to make determinations with respect to requests for CEII and BCSI.
 - b. The terms "non-disclosure agreement," "NDA" and "Agreement" mean this agreement by which requesters certify their understanding that access to CEII and/or BCSI is provided by the District pursuant to the terms and restrictions of this Agreement and that such requesters have read the provisions and agree to be bound by them.
- 4. **Non-Disclosure.** Subject to the provisions of this Agreement and unless expressly authorized by the District in writing, the obligations of this Agreement, including without limitation the non-disclosure obligations, shall survive termination of this Agreement, and Recipient shall:
 - a. Hold in confidence and protect the Confidential Information from disclosure to anyone not authorized to receive, view or use said information, which duty shall include taking reasonable precautions, but in no event less than due care, to prevent disclosure, publication, reproduction, or dissemination of the Confidential Information to anyone not authorized to receive or view same. Recipient shall immediately advise the District of any improper disclosure, misappropriation, or misuse of the Confidential Information by any person that may come to Recipient's attention.

- b. Only discuss or disclose CEII and BCSI with the District or another Recipient of the identical CEII and BCSI, who has a need to know and has executed an NDA with the District. A Recipient may check with the District CEII/BCSI Coordinator to determine whether another individual or entity is a Recipient of the identical CEII/BCSI.
 - c. Only use CEII and BCSI when related to and within the scope and objectives of the Project.
 - d. Recipient shall not use any Confidential Information disclosed by the District whether such disclosure is intentional or unintentional, for:
 - i. Its own or any third party's commercial advantage or benefit;
 - ii. For any purpose not expressly contemplated by the Project; and/or
 - iii. In violation of applicable federal or state laws.
 - e. Maintain all CEII and BCSI in a secure place. Access to those materials shall be limited to the Recipient and other specifically authorized recipients of the identical material. Recipients may make copies of CEII and BCSI, but such copies become CEII and BCSI and subject to these same procedures. Recipients may make notes of CEII and BCSI, which shall be treated as CEII and BCSI notes if they contain CEII or BCSI. The company representative of Recipient shall be required to execute an agreement on behalf of all employees, agents, contractors, subcontractors or consultants of Recipient to abide by and be bound by the terms and conditions of this Agreement prior to accessing CEII and BCSI.
 - f. Advise all receiving party officers, agents, employees, representatives, contractors, subcontractors, vendors or consultants with access to the CEII and BCSI of the obligation for protecting the CEII and BCSI provided hereunder and obtain contractors', subcontractor's, vendor's and/or consultants' agreements to be so bound.
 - g. Not take any photos of or make any sketches or drawings of CEII or BCSI materials made available for inspection. Any notes made during inspection must be handled as described in Section 5
5. **Ownership of Confidential Information.** Nothing contained in this Agreement shall be construed as granting or conferring any rights by license, interest, or title or otherwise in any CEII or BCSI disclosed to Recipient. All CEII and BCSI shall remain the property of the District. Recipient is responsible for safeguarding, returning or destroying any copies made of the CEII and/or BCSI.
6. **Breach and Remedies/Indemnity.** The Parties agree that the Confidential Information is a unique and valuable asset of the District, certain Confidential Information must be kept confidential pursuant to NERC Reliability Standards and to ensure bulk electric system

reliability, that the District may be exposed to significant monetary and enforcement penalties or other damages if certain Confidential Information is disclosed, and the District will be irreparably damaged if Recipient breaches the terms of this Agreement. Without limiting the District's rights to damages, including monetary damages, for breach of this Agreement, the Parties further agree that in the event of any breach or threatened breach of this Agreement, the District shall be entitled (in addition to any and all other remedies) to injunctive relief, specific performance and other equitable remedies without proof of monetary damages or the inadequacy of other remedies, and without necessity of posting a bond or other security. Recipient shall indemnify the District against all fines, penalties and assessments and other enforcement damages alleged against the District by a jurisdictional entity arising from or associated with the Recipient's unauthorized release of Confidential Information including, without limitation, penalties imposed against the District by FERC, NERC, WECC or other entity authorized to enforce the NERC Reliability Standards.

7. **Waiver.** Failure by the District to enforce or exercise any provision, right or option contained in this Agreement will not be construed as a present or future waiver of such provision, right or option.
8. **Return of CEII and BCSI.** Recipient shall return all CEII and BCSI to the District's CEII/BCSI Coordinator or destroy all CEII and BCSI within fifteen (15) days of a written request by the District to do so. Within such time, Recipient, if requested to do so, shall also submit to the District an affidavit stating that, to the best of his or her knowledge, all CEII and BCSI has been returned or destroyed and that CEII and BCSI notes have either been returned or destroyed.
9. **No Warranty.** No warranties are made by the District under this Agreement. Any information disclosed under this Agreement is provided "as is." In no event shall the District be liable for any special, incidental or consequential damages of any kind, including lost profits, even if advised of the possibility of such damages, with respect to this Agreement.
10. **No Agency.** This Agreement does not create any agency or partnership, joint venture or other business relationship between the Parties.
11. **Applicable Law.** This Agreement is made under, and shall be construed according to, the laws of the State of Washington. Venue for any action brought pursuant to this Agreement shall be in Chelan County Superior Court, Chelan County, Washington.
12. **Assignment.** This Agreement may not be assigned.
13. **Attorney's Fees.** In the event any legal action becomes necessary to enforce the provisions of the Agreement, the substantially prevailing party shall be entitled to

reasonable attorney's fees and costs in addition to any other relief allowed, regardless of whether the dispute is settled by trial, trial and appeal, arbitration, mediation, negotiation or otherwise, and regardless of whether suit is formally filed.

- 14. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes any prior or contemporaneous oral or written representation between them with regard to the subject matter hereof. This Agreement may not be modified except by a writing signed by both Parties.
- 15. **Corporate Authority: Binding Signatures.** Each of the individuals executing this Agreement on behalf of Recipient, warrant they are an authorized signatory of the entity for which they are signing, and have sufficient corporate authority to execute this Agreement.
- 16. **Facsimile Signatures.** This Agreement may be signed in counterparts, each of which shall be an original, but all of which shall constitute one and the same document. Signatures transmitted by facsimile shall be deemed valid execution of this Agreement, binding on the parties. Recipient may send the executed Agreement to the District at Fax No. 509-661-8113 or by mail to Director Security Division at PO Box 1231, Wenatchee, WA 98807-1231.
- 17. **Effective Date and Term.** This Agreement shall become effective on the date executed by the Recipient, set out below, and shall continue until terminated in writing by the Recipient, which shall require acknowledgement and acceptance by the District of such termination and return to the District by Recipient of all CEII and BCSI (or certification of Destruction of CEII and BCSI by Recipient).
- 18. **Notices.** Unless otherwise noted herein, any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, to the following addresses:

<u>District</u>	<u>Recipient*</u>
PUD No. 1 of Chelan County	Port of Chelan County
Attn: _____	Attn: _____
Director, Security Division	Executive Director
PO Box 1231	Address: 238 Olds Station Road, Suite A
Wenatchee, WA 98807-1231	Wenatchee, WA 98801
Phone: _____	Phone: _____
E-mail: _____	E-mail: _____

*Address provided by Recipient is the address to which the request for certification of destruction of documents will be sent.

- 19. **Continuing Effect.** The Recipient remains bound by these provisions unless the District rescinds the provisions expressly and in writing or a court of competent jurisdiction finds that the information does not qualify as CEII and/or BCSI.
- 20. **Audit.** The District may audit the Recipient's compliance with this Agreement upon advance written notice.
- 21. **Acknowledgment.** By signing below Recipient acknowledges and certifies its understanding that access to CEII and BCSI is provided pursuant to the terms and restrictions of the above provisions, that it has been given a copy of and has read the provisions, and that it agrees to be bound by them. Recipient understands that the contents of the CEII and BCSI, any notes or other memoranda, or any other form of information that copies or discloses CEII and/or BCSI shall not be disclosed to anyone other than another person who has been granted access to these same materials by the District.

PUBLIC UTILITY DISTRICT NO. 1
OF CHELAN COUNTY

RECIPIENT
PORT OF CHELAN COUNTY

By ATTACHMENT

By ATTACHMENT

Title _____

Title _____

Date _____

Date _____

Memo

To: Board of Directors

From:  Jim Kuntz

Date: August 17, 2023

Re: Development and Reimbursement Agreement – Industrial Cooling Water/Microsoft Malaga Project

Please find attached the final Industrial Cooling Water Agreement with Microsoft for your review. This agreement reimburses the Regional Port for its previous purchase of the GBI property, along with funding all needed infrastructure improvements on the property. The Regional Port will buildout the Industrial Cooling Water system over the next few years.

I would like to recognize Peter Fraley for his work on this agreement. Additionally, Morgan Ireland from Microsoft was also helpful in getting this agreement to the finish line.

**DEVELOPMENT AND REIMBURSEMENT AGREEMENT
(INDUSTRIAL COOLING WATER)**

THIS DEVELOPMENT AND REIMBURSEMENT AGREEMENT (INDUSTRIAL COOLING WATER) (the “*Agreement*”) by and between CHELAN DOUGLAS REGIONAL PORT AUTHORITY, a Washington municipal corporation (“*CDRPA*”), and MICROSOFT CORPORATION, a Washington corporation (“*Customer*”) is made and entered into and effective as of the date on which both CDRPA and Customer have executed this Agreement, as evidenced by the dates shown under their respective signatures (the “*Effective Date*”). CDRPA and Customer are sometimes collectively referred to herein as the “*Parties*” or individually as a “*Party*.”

RECITALS

A. Customer is the owner of certain real property located in Chelan County, Washington and known as Assessor’s Parcel Numbers 222135100060, 222135100071, and 22235100072 (collectively, and together with any industrially zoned real property in the Malaga area of Chelan County hereinafter acquired by Customer, the “*Property*”).

B. CDRPA is a municipal corporation pursuant to an Interlocal Agreement between the Port of Chelan County and the Port of Douglas County, each organized pursuant to Title 53 RCW. CDRPA is the principle economic development agency within Chelan and Douglas Counties.

C. The Port of Chelan County has acquired certain real property located in Chelan County, Washington and known as Assessor’s Parcel Numbers 222135225010, 222126595130, 222126595125, 222126595120, 222126595115, 222127595110, 222126595035, and 222126595025 (collectively, the “*GBI Parcel*”). The GBI Parcel is zoned for industrial purposes. CDRPA plans to build an industrial cooling water facility serving industrial property located in and near property owned or recently owned by the CDRPA or the Port of Chelan County in the Malaga area of Chelan County, Washington and CDRPA’s engineer determined the GBI Parcel is the preferred location for such facility. That portion of the GBI Parcel used for the Facility (as defined below) shall hereafter be referred to as the “*Facility Parcel*”.

D. As consideration for the benefits accruing to Customer from the construction of the Facility (as hereinafter defined) on the Facility Parcel, and other consideration the receipt and sufficiency of which are mutually acknowledged by the Parties, CDRPA agrees to construct the Facility and Customer agrees to reimburse CDRPA for CDRPA’s costs in planning, designing, acquiring, constructing, installing and permitting the Facility and the acquisition costs associated with the GBI Parcel, in accordance with the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. **Recitals.** The Recitals set forth above are incorporated herein as binding commitments and representations of the Parties by this reference.

2. **Completion of the Facility.**

a. Subject to the conditions set forth in this Agreement, CDRPA shall construct or cause to be constructed the improvements and projects (collectively, the “**Facility**”) summarized in the RH2 Technical Memorandum for Project File: RPA 20.0026.19.0001 and dated June 30, 2023, as revised on July 15, 2023 and attached as Exhibit A (the “**Tech Memo**”). The most current schedule outlining the dates of the various tasks associated with completion of the Facility is attached as Exhibit B (the “**Schedule**”). The Schedule is a current estimate and projection of the sequence of steps necessary to proceed with the construction of Phase 1 and Phase 2 (which are outlined in the Project Budget and the Schedule). Any task identified in the Schedule may occur sooner than identified in the Schedule, subject to Section 2(b)(iii), below. The sizing, capacity and design of the Facility are based on assumptions and information provided by the Customer and its engineer as noted in and attached to the Tech Memo. The CDRPA assumes no responsibility or liability arising from the assumptions and information provided by the Customer and its engineer being inaccurate, inexact or understated. Customer and its engineer reviewed and approved the description of the Facility set forth in the Tech Memo; provided, however, that, such review was for Customer’s own information and does not constitute its approval of engineering sufficiency or performance.

b. Subject to Section 2(c), CDRPA shall construct, or cause to be constructed, all aspects of the Facility in two (2) phases (each a “**Phase**”) as follows:

(i) Phase 1, as outlined in the Project Budget of the Tech Memo, shall be completed by March 1, 2025 (the “**Phase 1 Completion Deadline**”). Even though certain elements of Phases 1 and 2 are identified in the Schedule to occur later in time, those elements may occur sooner. The Parties agree and understand that Phase 1 includes several components that are necessary for completion of the entire Facility, including property acquisition, permitting, design and engineering of both Phases and the like (e.g please see footnote to Project Budget in Tech Memo, where design and engineering for Phase 2 are included in the indirect costs for Phase 1). The Parties agree that all costs and expenses incurred by the CDRPA associated with the Facility (whether related to Phase 1 or Phase 2) shall be reimbursed by Customer as set forth in this Agreement; subject to Section 2(b)(iii), below, and the Project Cap, defined below in Section 3(g).

ii. Phase 2, as outlined in the Project Budget of the Tech Memo shall be completed by October 31, 2025 (the “**Phase 2 Completion Deadline**” and together with the Phase 1 Completion Deadline, the “**Completion Deadlines**”); provided that Customer has provided the CDRPA written notice to continue proceeding with Phase 2 on or before December 29, 2023 (the “**Phase 2 Notice**”).

iii. If the Customer fails to timely provide the Phase 2 Notice, then (A) all work associated with Phase 2 shall cease, (B) Phase 2 will no longer be a component of the Facility, (C) CDRPA will proceed with completing Phase 1 only, (D) the Customer shall reimburse the CDRPA for all documented reimbursable costs and expenses incurred by CDRPA under this Agreement associated with the Facility, included those related to Phase 2, through December 29, 2023; and (E) the Project Cap (as defined below) shall be reduced by \$7,279,800.

c. The Completion Deadlines set forth in Sections 2(b)(i) and 2(b)(ii) are subject to the following:

i. CDRPA obtaining the necessary permits and approvals associated with the Facility that are necessary to commence construction of the applicable Phase on or before the dates set forth in the Tech Memo. CDRPA will work in good faith and use its best efforts (and will cause its contractors and consultants to use their best efforts) to procure all permits and approvals necessary to construct the Facility consistent with the Schedule. CDRPA will notify Customer in writing within five (5) Business Days of CDRPA or its employees becoming aware of a delay in permit issuance. The Parties agree that the Schedule and the Completion Deadlines set forth in Sections 2(b)(i) and 2(b)(ii) shall be extended and modified as mutually agreed by CDRPA and Customer to reflect the delay arising from, or associated with, any delay in permit issuance.

ii. CDRPA receiving construction bids that do not exceed the estimates included in the Project Costs for the applicable Phase on or before the dates set forth in the Tech Memo and Schedule. The Parties agree that if CDRPA receives bids in excess of the Project Costs, it shall immediately notify Customer of the bid amount CDRPA proposes to accept (the "**Proposed Bid**"), and Customer shall have five (5) Business Days in which to approve or reject the Proposed Bid. If Customer approves the Proposed Bid, the Completion Deadlines set forth in Section 2(b)(i) and 2(b)(ii) shall not be altered, and Customer agrees to amend this Agreement to modify the Project Costs, Budget and Project Cap to align with the Proposed Bid. If Customer rejects the Proposed Bid, CDRPA and Customer will work together to amend this Agreement to include a modification of the Project Costs, Budget, Project Cap, Schedule and Completion Deadlines as mutually agreed upon.

iii. The Completion Deadlines shall be extended on a day-for-day basis for each day of delay caused by Force Majeure, but in no event shall such extensions exceed one hundred eighty (180) days in total. As used herein, "**Force Majeure**" means any events or states of facts caused in whole or in part by war, natural catastrophe, strikes, walkouts or other labor disturbance, order of any government, court or regulatory body having jurisdiction, blockade, embargo, riot, civil disorder, epidemic, pandemic or other public health crisis, litigation or threat of litigation by a third party, or any similar cause beyond CDRPA's reasonable control rendering CDRPA or its contractor not reasonably able to continue to perform the Facility work, including supply chain disruptions or inability to obtain the materials (and when no alternative materials approved by the CDRPA's engineer are available) to meet the Completion Deadline (but excluding financial inability to perform, however caused). If CDRPA determines that a Force Majeure event has occurred, it shall notify Customer within ten (10) Business Days of CDRPA's determination, including an estimate of the delay.

d. Customer shall reimburse CDRPA for all Project Costs (as hereinafter defined) incurred in connection with the Facility subject in all cases to the Project Cap (as hereinafter defined). The "**Project Costs**" shall mean all costs actually incurred by CDRPA (including those incurred before the date of this Agreement) for the development and construction of the Facility, including without limitation: (i) all costs incurred by CDRPA for engineering, architectural, legal (but excluding any legal costs arising out of litigation concerning the Facility,

except as provided in Section 8), planning, project management, construction administration services, consulting, and other professional services; (ii) all costs incurred by CDRPA in acquiring permanent easements, temporary easements, rights of entry and other real property interests, including the acquisition costs of the GBI Parcel; (iii) all costs incurred by CDRPA in applying for and obtaining regulatory permits, licenses and other governmental approvals, and for soil mitigation and remediation as identified in the Tech Memo; (iv) all costs incurred by CDRPA for construction labor, materials, equipment and supplies, including construction contractor payments; and (v) all costs incurred by CDRPA for clerical and administrative services.

e. The construction contracts entered into by CDRPA for the Facility shall (i) be on a fixed price, low bid basis (and not any alternative public procurement procedures permitted by statute) and (ii) comply with public works and prevailing wage laws in Washington State, as applicable.

f. Subject in all cases to the Project Cap, CDRPA's obligations to complete the Facility are conditioned upon reimbursement for the Project Costs by Customer.

3. Disbursement Requests.

a. For convenience of funding, Customer has requested that First American Title Insurance Company (the "**Title Company**") hold and administer the funds deposited by Customer for payment of the Project Costs. Based upon a construction planning budget prepared by CDRPA and approved by the Parties (the "**Project Budget**") which is attached as Exhibit C, Customer has initially deposited funds in the amount of \$8,255,000 for Project Costs (i.e., the Phase I amount set forth in the Project Budget) into such account held by the Title Company (the "**Project Escrow Account**"). Simultaneously with delivery of the Phase 2 Notice, Customer shall deposit additional funds in the amount of \$8,145,000 into the Project Escrow Account (representing the Phase 2 amounts set forth in the Project Budget and the additional funds associated with the Project Cap). If the Phase 2 Notice is not delivered, Customer shall deposit additional funds in the amount of \$865,200 into the Project Escrow Account (representing the balance associated with the modified Project Cap resulting from the removal of Phase 2 from the work to be completed). Funds held in the Project Escrow Account are the sole property of Customer and subject only to its instructions. The Parties hereby acknowledge that the Project Escrow Account will be established for administrative convenience only and CDRPA shall not have any interest in the Project Escrow Account. Nevertheless, whether there are funds in the Project Escrow Account or the amount thereof will not limit Customer's obligations under this Agreement.

b. On a monthly basis, not later than the 20th day of each month, CDRPA shall submit to Customer a "**Disbursement Request**" in the form attached hereto as Exhibit D for review as provided herein.

c. Not later than the twentieth (20th) day of each month until all Facility construction is completed (each a "**Reconciliation Date**"), CDRPA shall provide Customer written report of the following (each, a "**Reconciliation Report**"):

i. The total amount of Project Costs paid by CDRPA for the preceding month (each a "**Reconciliation Period**"), provided, the Parties expressly acknowledge that the first Reconciliation Period shall include the Project Costs incurred by CDRPA prior to the Effective Date in accordance with the Project Budget;

thereto;

- ii. An updated Project Budget, indicating any increase or decrease
- iii. A schedule of values covering the Reconciliation Period;
- iv. Such other information as is reasonably requested by Customer to verify the costs related to each Disbursement Request and the Project Costs expended during such Reconciliation Period; and
- v. The Customer acknowledges and agrees that the first Disbursement Request and the first Reconciliation Report shall include all Project Costs incurred through the date of the first Disbursement Request, which will include Project Costs incurred prior to the Effective Date in accordance with the Project Budget.

d. Customer will review the information and documentation provided to it under Section 3(b) or Section 3(c) within ten (10) business days after its receipt thereof (the “**Review Period**”) to determine if the cost of each Disbursement Request and the Project Costs is within the then-current Project Budget and that the estimated cost to complete the Facility is not out of balance with the remaining Project Budget. If Customer does not complete its review within the Review Period, it will be deemed to have waived its right to conduct such review and/or object with respect to the applicable Reconciliation Period (but not for any future periods). If Customer determines that the costs are not accurately reflected, the Project Budget is out of balance with the estimated cost to complete or if either Party determines there was any error in a previous Disbursement Request, then the Parties will negotiate in good faith to properly add or subtract to such discrepancy from the next Disbursement Request.

e. On the first Business Day following the Review Period, provided that Customer has not objected to the Disbursement Request, Customer shall instruct Title Company to disburse funds from the Project Escrow Account in the amount of the Disbursement Request to CDRPA (or, at CDRPA’s election, directly to any contractors) to pay the Project Costs set forth in the applicable Disbursement Request. The Disbursement Request form includes a deduction for any applicable retainage under CDRPA’s construction contracts and any adjustment as required under Section 3(d). Customer shall instruct the Title Company to release funds to CDRPA for payment of retainage only upon reasonable evidence that the applicable release conditions for the payment of such retainage in such contract or subcontract, as applicable, have been satisfied.

f. Customer shall not be required to make any payment under a Disbursement Request that is inconsistent with the Tech Memo, unless such inconsistency or modification was previously approved by Customer and CDRPA.

g. In the event that the aggregate of the Project Costs exceeds the amount of Sixteen Million Four Hundred Thousand and 00/100 Dollars (\$16,400,000.00) (the “**Project Cap**”), Customer shall not be responsible for any such shortfall and CDRPA shall complete the Facility without reimbursement from the Project Escrow Account or Customer for said shortfall, unless otherwise agreed by the Parties. The Project Cap is higher than the Project Budget to provide for additional Project Costs that CDRPA may incur that are currently not known or are not accounted for in the Project Budget. Any addition to the Project Budget is subject to Customer’s written approval.

h. In no event will Customer be responsible for reimbursement of any costs associated with the construction that exceed the scope of the Facility described in this Agreement and the Tech Memo, unless such modification was previously approved by Customer and CDRPA in writing. Change orders to construction contracts entered by CDRPA that are within the scope of the Facility and Project Cap are expressly permitted without the approval of Customer and are deemed to amend the Project Budget. Any change order amending the scope of the Facility or that will result in the total Project Costs exceeding the Project Cap require the advance approval of the Customer.

i. It is expressly acknowledged and understood that the Facility may ultimately benefit, incidentally or directly, and may ultimately be used to serve, properties other than and in addition to the Property as defined herein. No such benefit or use shall excuse or otherwise reduce Customer's obligation to reimburse CDRPA pursuant to this Agreement.

j. CDRPA and Customer will enter into a separate Customer Service Agreement setting forth the terms and conditions of Customer's use of the Facility. The Parties agree that such Customer Service Agreement shall be fully executed prior to Customer's connection to and utilization of the Facility.

4. **Public Project.** CDRPA shall be responsible for ensuring that all work related to the construction and/or installation of the Facility shall comply with Washington State Public Works bid statutes, as applicable.

5. **Indemnification and Insurance.** Customer will defend, indemnify and hold the CDRPA harmless for and against any and all costs (including reasonable attorneys' fees), claims and damages, of any kind whatsoever, which may be made, incurred by or asserted against the CDRPA or third parties resulting from damage to property or injury to person to the extent caused by the alleged or adjudged negligence or willful misconduct of the Customer arising from the work to be performed by the Customer or its agents. The CDRPA will defend, indemnify and hold the Customer harmless for and against any and all costs (including reasonable attorneys' fees), claims and damages, of any kind whatsoever, which may be made, incurred by or asserted against the Customer resulting from damage to the property or injury to person to the extent caused by the alleged or adjudged negligence or willful misconduct of the CDRPA or its agents arising from the work by the CDRPA or its agents. In addition, the CDRPA will require all contractors and subcontractors to obtain commercially reasonable insurance policies for any work on the Facility and will require that Customer be added as the additional insured under all such insurance policies. A Party's duty to indemnify under this section, including the duty and cost to defend, shall not apply to claims for damages arising under this Agreement resulting from the sole negligence of the other Party, its affiliates, and their respective employees and agents. A Party's duty to indemnify under this section, including the duty and cost to defend resulting from the concurrent negligence of the other Party, shall apply to the extent of negligence of the Indemnifying Party, its agents or employees.

6. **Other Facility Users.** Customer has agreed to fund the Project Costs and if real property that is also serviced by the Facility is sold, transferred, conveyed, developed or leased for industrial, commercial, or other non-residential uses by third parties desiring to utilize the Facility ("***Serviced Property***") Customer may wish to seek recovery of portions of the amounts it funded for the Project Costs. In such event, CDRPA shall notify Customer in writing of such proposed third party use, and Customer shall have thirty (30) days after its receipt of notice in which to reply to CDRPA in writing indicating whether it wishes to seek recovery of portions of the Project Costs.

If Customer notifies CDRPA that it wishes to seek recovery, then Customer and CDRPA shall have an additional thirty (30) days after CDRPA's receipt of Customer's election in which to negotiate in good faith an agreement whereby the new user of a Serviced Property contributes an equitable amount towards the Project Costs (such agreement, the "**Cost Recovery Agreement**"). If Customer fails to notify CDRPA within its initial thirty (30) day notification period, or if the Parties negotiate in good faith and still fail to reach an agreement for the terms of the Cost Recovery Agreement within the specified additional thirty (30) days, then Customer shall forfeit its rights to recovery with respect to such third party. The foregoing shall not apply, however, to (i) any property now owned or hereafter acquired by CDRPA or any constituent part of CDRPA or (ii) any other property now owned or hereafter acquired by Customer. All third-party costs related to the Cost Recovery Agreement and those costs incurred by CDRPA in forming, creating, and administering the Cost Recovery Agreement, shall be the sole responsibility of Customer and are not included in the Project Cap.

7. **Attorneys' Fees; Remedies.**

a. The Parties agree that in the event that an attorney's services are required to litigate any portion of this Agreement, the substantially prevailing party in any litigation shall be reimbursed its reasonable attorneys' fees and costs related to enforcement of the Agreement and collection related thereto, including any appeals therefrom.

b. If CDRPA defaults in its obligation to complete all or any of the Phases comprising the Facility in accordance with this Agreement (the "**Uncompleted Work**"), Customer's remedies for such default shall be limited to (i) specific performance of CDRPA's obligation with respect to the Uncompleted Work; which suit may be brought following a sixty (60) day advance written notice of default to the CDRPA specifying the Uncompleted Work, and diligent steps have not commenced by the CDRPA to complete the Uncompleted Work within said 60 day period; or (ii) on not less than sixty (60) days prior written notice to CDRPA, the right to buy-out the Facility and the Facility Parcel (collectively, the rights in this clause (ii) are called the "**Buyout Rights**").

c. If Customer exercises its Buyout Rights, then (i) CDRPA shall cooperate with Customer, including by assigning plans and specifications for the work and, to the extent assignable, licenses, easements, entry rights and similar agreements that CDRPA owns, controls or has rights thereunder; (ii) all outstanding Project Costs incurred by the CDRPA, together with costs arising from termination of existing construction contracts for the Facility, through the date of closing of the Buyout Rights, shall be paid to CDRPA by the Customer at closing of the Buyout Rights; and (iii) the Parties shall cooperate to process a boundary line adjustment to create the Facility Parcel as one or more legal lots of records. Closing shall take place as soon as reasonably practicable following completion of the boundary line adjustment. The Facility shall be transferred by quitclaim Bill of Sale, and the Facility Parcel shall be transferred by Quitclaim Deed. In the event the Customer exercise the Buyout Rights, Section 7(a) shall not apply to such exercise of remedies.

d. As a material part of the consideration for this Agreement, Customer specifically waives all claims for loss of business, lost profits, consequential damages, special damages, expectation damages, reliance damages and all similar damages and variations thereof.

8. **Binding on Heirs, Successors and Assigns.** All the covenants, agreement terms, and conditions contained in this Agreement shall apply to and be binding upon CDRPA and Customer and their respective heirs, executors, administrators, successors, and assigns.

9. **Savings Clause.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provisions of this Agreement and any statute, law, public regulation, or ordinance, the latter shall prevail, but in such event, the provisions of this Agreement affected shall be curtailed and limited only to the extent necessary to bring it within legal requirements.

10. **Incorporation.** This Agreement represents the entire agreement of the Parties with respect to the matters set forth herein. Unless set forth herein in writing, neither Party shall be bound by any statements or representations made, and each agrees that there are no such statements or representations being relied upon in making this Agreement, except as expressly set forth herein. No alterations, changes, or amendments to this Agreement will be binding upon either Party unless such Party has executed a written statement acknowledging such alteration, change, or amendment.

11. **Governing Law.** This Agreement shall be governed by the law of the State of Washington and venue for any action arising from this Agreement shall be in Chelan County, Washington.

12. **Waiver.** No provision of this Agreement shall be modified unless in writing signed by an authorized representative of the Parties. Waiver by a Party of any provision hereof in any instance shall not constitute a waiver of any other instance.

13. **No Entity Created.** The Parties agree that there is no separate organization or entity created by this Agreement. Nothing herein shall be deemed the creation of a partnership or similar entity between the Parties.

14. **Default and Remedies.** In the event of a default under this Agreement, the non-defaulting Party shall provide the defaulting Party with prompt written notice reasonably detailing the nature of the default, and the defaulting Party shall be allowed thirty (30) days from receipt of notice to cure such default. In the event a default continues beyond thirty (30) days, the non-defaulting Party shall be entitled to specifically enforce the obligations set forth in the Agreement, seek injunctions and other equitable relief. The foregoing remedies shall be in addition to and shall not preclude any other remedy available to the Parties under applicable law or in equity; except however Customer's remedies are limited as set forth in Section 8(b).

15. **Notices.** Any notices shall be effective if personally served upon the other party or if mailed by registered or certified mail, return receipt requested, or if emailed to any email address listed below (if no email address is listed, notices shall not be served by email) to the following addresses:

CDRPA:

Chelan Douglas Regional Port Authority
Attn: Chief Executive Officer
One Campbell Parkway Suite A,
East Wenatchee, WA 98802

With a copy to:

Ogden Murphy Wallace, P.L.L.C.
Attn: Peter A. Fraley, Esq.
One Fifth Street, Suite 200

Wenatchee, WA 98801

Customer:

Microsoft Corporation
CELA – CO+I
One Microsoft Way
Redmond, WA 98052
Attn: Corporate, External & Legal Affairs
Email: mciocela@microsoft.com

With a copy to:

K&L Gates LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
Attn: Charles Royce
Email: Charles.Royce@klgates.com

16. **Interpretation and Authority.** This Agreement has been submitted to the scrutiny of the Parties and their legal counsel, if desired, and it shall be given a fair and reasonable interpretation in accordance with its words, without consideration to or weight given to its being drafted by any Party or its legal counsel. All words used in the singular shall include the plural; the present tense shall include the future tense; and the masculine gender shall include the feminine and neuter genders. Each person that signs below represents and warrants that they have the full authority to sign this Agreement and to bind the entity for which they are signing to the terms and conditions of this Agreement.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have set their hands effective the Effective Date.

CDRPA:

CHELAN DOUGLAS REGIONAL PORT AUTHORITY

Jim Kuntz, Chief Executive Officer

Date: _____

APPROVED AS TO FORM

CDRPA Counsel

[signatures continue on following page]

Customer:

MICROSOFT CORPORATION

By: _____

Name: _____

Title: _____

Date: _____

EXHIBIT A

TECH MEMORANDUM

(attached hereto)

RH2 TECHNICAL MEMORANDUM

Client: Chelan Douglas Regional Port Authority

Project: Malaga Industrial Site Cooling Water Facility/Utility

Project File: RPA 20.0026.19.0001

Composed by: Katrina Olson, EIT

Reviewed by: Adam Neff, LHG, and Eric Smith, PE

Subject: GBI Site Feasibility for Industrial Cooling Water Disposal

Date: June 30, 2023



Signed:
6/15/2022
REV.
7/15/2023



Signed:
6/15/2022
REV.
7/15/2023

Introduction

The Microsoft Corporation (MSFT) has proposed to construct three data center buildings on property it owns near Malaga, Washington (parcel nos. 222135100060, 222135100072, and 222135100071). The Chelan Douglas Regional Port Authority's (Port), owns additional property located west of the MSFT property. MSFT has expressed interest in potentially constructing six total data center buildings.

Since Malaga does not have a public sewer system, one of the considerations for industrial development and the efficient use of available property is disposal of cooling water that generally consists of recycled potable water used by data center cooling systems. In the RH2 Engineering, Inc., (RH2) Preliminary Utility Service Study (Study) [1], several alternatives were evaluated for cooling water disposal, including conveyance to an existing purveyor (i.e. connection into the City of Wenatchee's (City) sewer system and wastewater treatment plant). Connection to the City's sewer system was determined to be infeasible due to the high capital costs. A direct surface water discharge to the Columbia River was also preliminarily explored with the Washington State Department of Ecology

(Ecology), but uncertainties were identified related to the heat load allocation for new discharges to this reach of the Columbia River based on the U.S. Environmental Protection Agency’s Columbia and Lower Snake Rivers Temperature Total Maximum Daily Load (TMDL) [2]. These uncertainties, and the long lead time in potentially procuring a National Pollutant Discharge Elimination System (NPDES) permit for this discharge, made this option infeasible.

The Study recommended some form of disposal of the cooling water at a dedicated disposal site in the Malaga area. The Port owns property referred to herein as the GBI site (Parcel No’s. 222127595110, 222126595115, 222126595120, 222126595125, and 2221659130) (Figure 1 and Exhibit 1). The Port has asked RH2 to evaluate the feasibility of using the GBI site the disposal of cooling water (i.e. recycled, non-contact, potable water used in cooling systems).

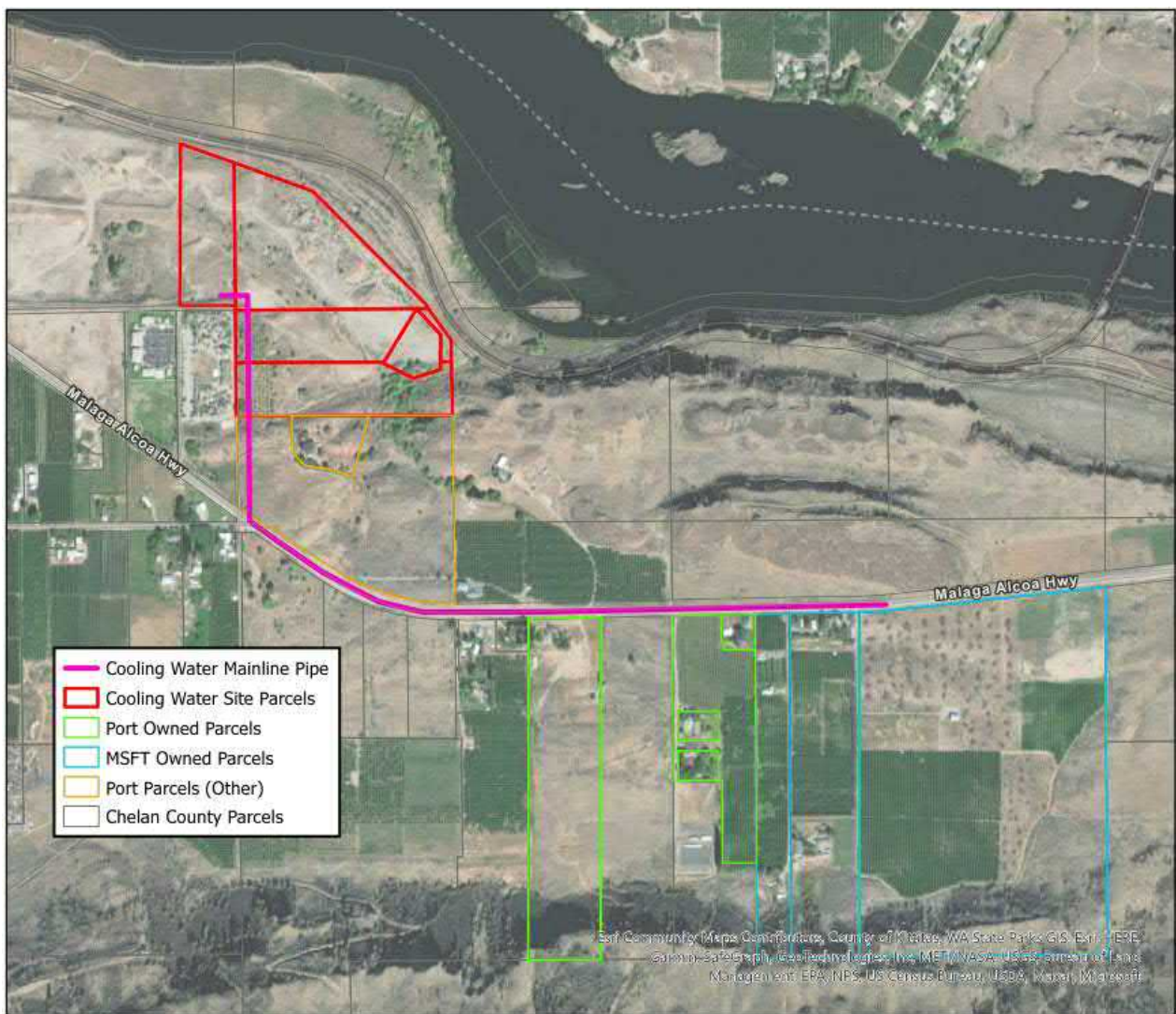


Figure 1 – Vicinity Map

GBI Site Description

The GBI site is located on the right bank of the Columbia River approximately 7 miles downstream from the George Sellar bridge (Highway (Hwy) 285), extending south from the shoreline, across the railroad

tracks, up onto a gently sloping bench, and then extending further south up on to a higher bedrock (basalt) bench near the Malaga Alcoa Highway at approximately 810 feet in elevation above mean sea level. The lower bench area has been heavily altered from previous gravel mining activities, leaving many humps, hills, and depressions. The gravel mining left elevated areas of what is assumed to be native ground surrounding the existing electrical transmission line power poles and guy wires, as well as along a natural gas main that bisects the property from east to west.

The GBI site is currently vacant land, though in the past much of it was used for agricultural and residential purposes. There is a considerable amount of debris scattered across the site, primarily of agricultural origin (stockpiled irrigation materials), defunct irrigation systems, and miscellaneous consumer garbage/debris scattered about.

Historical Uses

The GBI site was originally used for residential and commercial orchard activities from the early 1900s through approximately 1977, when gravel mining activities started. Gravel mining continued on the northern portion of the site. The house was removed prior to 1990 to accommodate additional gravel mining, which continued until approximately 1998. The last orchard was removed in 2013.

Site Geology

The site geology consists of approximately 100 vertical feet of glacial outburst flood related alluvium overlaying a variable topography of basalt bedrock and capped, in some places, by a few feet of loess. The alluvium is comprised of a wide range of materials from units of cobble-sized gravels with very little sand to medium plasticity clay but is primarily coarse sands and gravels up to 1 foot in diameter.

The majority of the gravel mining appears to have concentrated on the gravel layers between the base of the loess and the top of the clay layer, approximately 15 to 20 feet below the estimated original ground surface.

Contaminated Soils

Due to the historic orchard activities, portions of the original topsoil, where they remain, are contaminated with lead and arsenic at levels greater than cleanup levels (Model Toxics Control Act (MTCA) Method A). There were detections of dichlorodiphenyldichloroethylene (DDE) (a derivative of dichlorodiphenyltrichloroethane (DDT)) present on the site but at concentrations generally below application cleanup standards (one sample was above the level for the protection of groundwater). These soils will need to be mitigated or remediated as part of any development disturbances, which may involve consolidation and/or capping of the soils. Additional sampling is necessary to fully quantify the concentrations and extents.

Existing Easements and Land Restrictions

Use of the GBI site is limited by the existing topography, utilities, and easements. The previous gravel mining efforts left a site of highly variable terrain that is not easily graded or leveled as shown in Exhibit 1. This uneven topography is mostly associated with existing utilities that bisect the property: a natural gas main and multiple overhead power transmission lines. A buffer of undisturbed soil remains around the natural gas main, as well as the transmission poles and guy wire anchors. These areas are

intended to remain undisturbed by any improvements to the site.

The easements associated with these utilities also limit the ability to use some of the property. The natural gas easement effectively limits all construction within the easement, although designs for crossing roads and utilities may be allowed if approved by the utility owner. Power transmission easements generally preclude structure construction directly below them but may allow for some level of development (e.g., spray fields).

Other easements likely bisect the property that impact the potential for development, which are currently being investigated and mapped by a local surveyor.

Disposal Feasibility Analysis Criteria

This analysis will evaluate the suitability and feasibility of the GBI site to provide disposal of cooling water including the potential discharge from up to six potential data center buildings.

Cooling Water Quantity

MSFT's design consultant estimated cooling water generation for the purposes of this analysis. The Clear Water Discharge Demand Technical Memo (Memo) (Appendix 1) summarizes the proposed cooling water discharge. Cooling water discharge generally will be a function of ambient outdoor air temperature between May and September. The cooling water discharge from the data centers will occur approximately 420 hours per year. Cooling water discharge is not anticipated during winter months. The quantity and discharge rate of cooling water discharge is summarized as follows:

- Total annual cooling water discharge per building: 819,000 gallons.
- Peak month cooling water discharge per building: 11,175 gallons per day (gpd).
- Peak week cooling water discharge per building: 31,825 gpd.
- Peak day cooling water discharge per building: 42,000 gpd.
- Peak hour cooling water discharge per building: 97 gallons per minute (gpm).

Table 1 shows the expected monthly flow distribution throughout each year.

Table 1
 Monthly Cooling Water Discharge Flow Distribution

Month	Cumulative Flow (gallons/building/month)
January through April	0
May	46,600
June	145,000
July	243,000
August	346,400
September	37,800
October through December	0

Cooling Water Quality

The Memo estimates that potable water used for cooling will be recycled three times before being discharged to the disposal system, thus concentrating any background constituents of the potable water three-fold. It is yet to be determined whether the source water will come from the Malaga Water District (District), the Greater Wenatchee Regional Water System, or a combination of both. Table 2 shows the nitrate and total dissolved solids (TDS) concentrations as reported in each purveyors' Water System Plan [3][4].

Table 2
 Cooling Water Quality Parameters

Source	Nitrates (mg/L)	TDS (mg/L)
District	4.0	250-300
Greater Wenatchee Regional Water System	0.2	110

mg/L = milligrams per liter

The parameters shown in Table 2 may potentially exceed groundwater quality requirements if concentrated by a factor of three and discharged to groundwater. Washington Administrative Code (WAC) 173-200-040 lists the following criteria for water quality standards for groundwaters of the State of Washington [5]:

- Nitrate – 10 mg/L
- TDS – 500 mg/L

Based on the values shown in Table 2 and a concentration of three times, source water from the District would be expected to exceed the water quality standards for nitrate and TDS for groundwater discharge.

Disposal Alternatives

The general options reviewed for disposal of cooling water at the GBI site include infiltration, evaporation, or land application for plant uptake. The feasibility of these options are discussed herein.

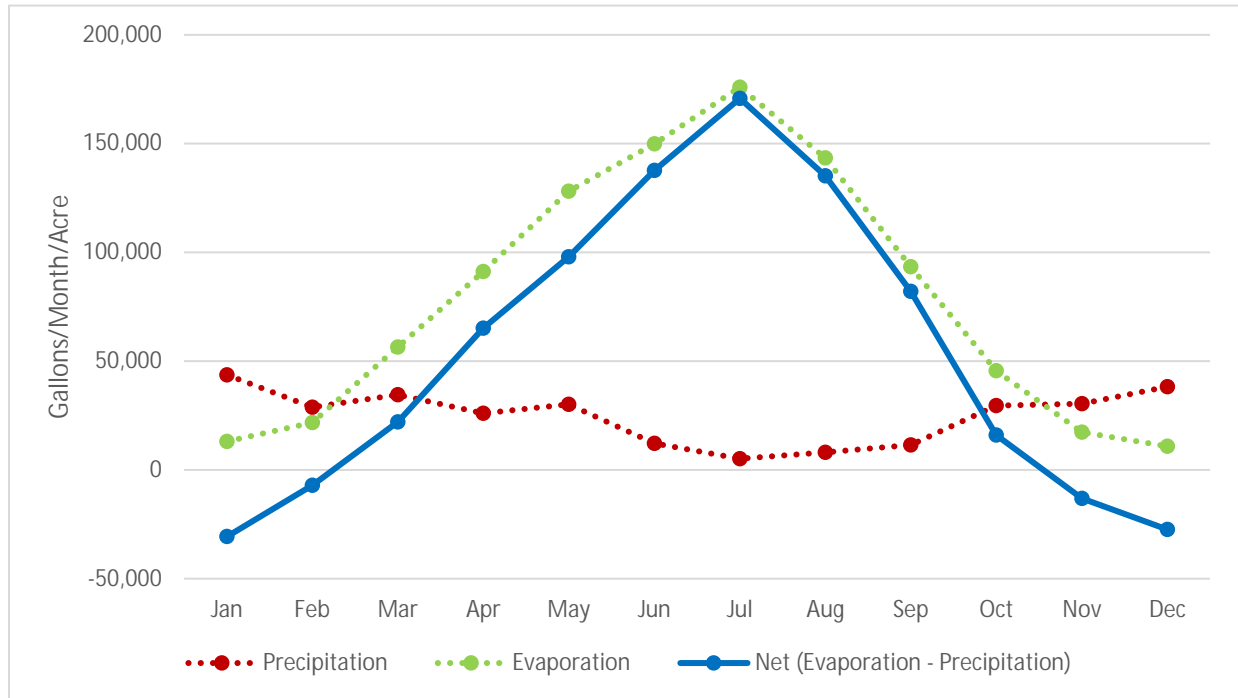
Infiltration

There are various methods of infiltration available for this purpose. Infiltration would consist of a discharge to groundwaters of the State, and the discharge would generally be subject to meeting the groundwater quality standards listed in WAC 173-200-040. As previously noted, water provided by the District and concentrated three times by the data center cooling systems would be expected to exceed groundwater quality standards for nitrate and TDS. Some form of mitigation of the constituents exceeding the groundwater quality standard would likely be necessary if District water is utilized for cooling. Solely relying on infiltration for disposal of cooling water is not recommended at the GBI site.

Evaporation

Evaporation of cooling water via lined basins is another option for disposal, which would not require discharge permitting through Ecology or another agency (although typical construction permits are still necessary). The disposal capacity of evaporation basins was estimated by subtracting effective precipitation data [6] from evaporation rates assuming a 2-foot-deep water body [7] using real climate data from nearby weather stations maintained as part of the Washington State University's (WSU) AgWeatherNet program. Both were adjusted to approximate a 20-year return period (high precipitation, low evaporation). Chart 1 shows the annual evaporation and precipitation per acre of basin. Note that the per acre size measures the water surface area of the basin; therefore, the actual basin footprint would be slightly larger to account for side slopes above the water surface.

Chart 1
Basin Evaporation and Precipitation by Month per Acre of Basin Water Surface



Evaporation exceeds precipitation in March through October. The total annual net evaporation potential is approximately 650,000 gallons per acre (gal/acre), and the net monthly evaporation peaks at around 170,000 gal/acre in July. This distribution aligns well with cooling water use since the most cooling water will be needed during the hottest summer months. Approximately 1.3 acres of basin water surface area would be needed per building to provide complete cooling water disposal via evaporation. Multiple basins would be recommended to provide operational flexibility and redundancy.

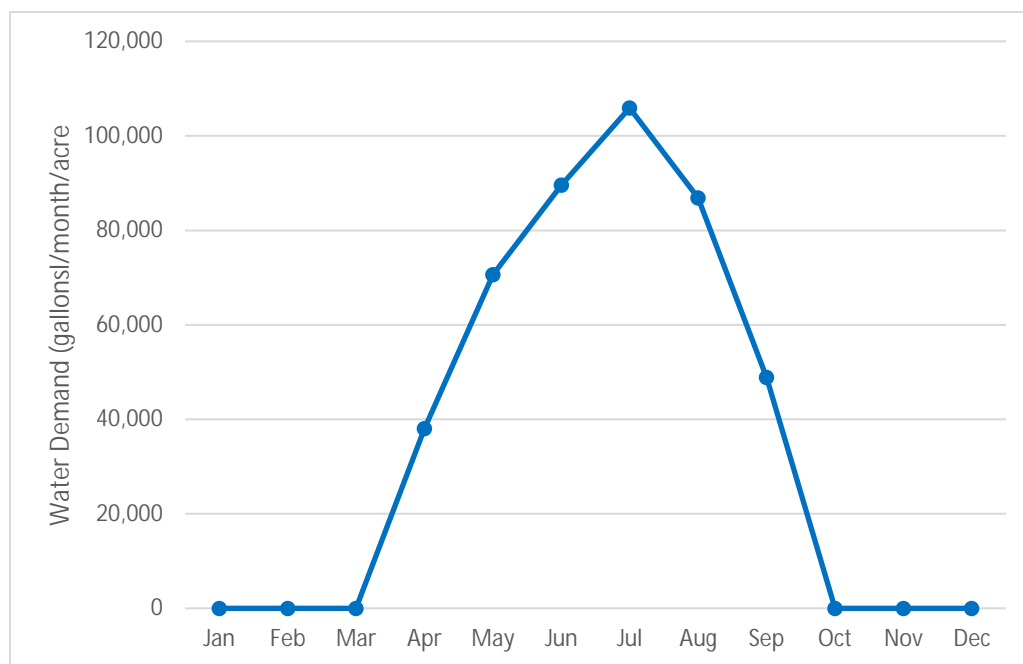
The GBI site is large enough to dispose of cooling water from six data center buildings using lined evaporation basins. However, a minimum of 8 acres of lined basins would be necessary with additional basin volume likely needed to provide redundancy. Due to the topographical nature of the site, configuring such a large volume of basins on the site likely would be difficult and costly, and would not make the most effective use of the space available. Though it is likely feasible, solely relying on lined evaporation basins for cooling water disposal is not recommended for the GBI site.

Land Application

Land application of the cooling water is another option that would rely on evapotranspiration to dispose of the water. Evapotranspiration refers to the combination of evaporation of water from ground surface plus transpiration by plants. For the GBI site, one potential option would be the aerial application of cooling water to designated spray field areas covered by a suitable vegetative cover (e.g. grasses and forbs). For the purposes of estimating evapotranspiration provided by spray fields at the GBI site, a correlation was devised to use the typical irrigation demand of an acre of pasture (as defined by the Washington Irrigation Guide [Natural Resource Conservation Service] and WSU irrigation guidance) for each month throughout the year using WSU's online irrigation calculator [7].

The irrigation demand was increased by 10 percent to account for evaporation losses during application per guidance from Ecology's Determining Irrigation Efficiency and Consumptive Use [8] for impact sprinklers. Adjusting demand down to account for higher precipitation years, the typical demand was extrapolated for a wet year with a 20-year return period based on the relationship between return period and irrigation demand established in the WSU paper Irrigation Requirements for Washington Estimates and Methodology [9]. Then a factor of safety was applied since sprinklers cannot apply irrigation perfectly over the entire area of land; Chart 2 assumes a factor of safety of 1.5, but this factor may be adjusted during design. Chart 2 shows the resultant irrigation demand throughout the year.

Chart 2
Irrigation Demand by Month per Acre of Grass



Irrigation season spans from late March to early October. The total annual irrigation demand is approximately 440,000 gal/acre, and demand peaks at around 105,000 gal/acre per month in July. This distribution aligns well with cooling water use since the most cooling water will be needed during the hottest summer months. This analysis assumes that sufficient equalization volume is provided to equalize the peak cooling water discharge flows throughout the year and to allow application of the cooling water through the irrigation season. Based on this analysis, approximately 1.9 acres of irrigated grass would be needed per building to support cooling water disposal.

The estimated peak month, week, day, and hour process water flow rates far exceed the expected average flow rate, so it would be impractical to size the spray fields to operate without equalizing the peak flows, as shown in Table 3. For example, approximately 50 acres of spray field per building would be needed to dispose of the projected peak hour flow if no equalization is provided. This is because the projected process water flow averaged over an entire year equates to approximately 2,250 gpd per building (gpd/building), whereas peak hour flow equates to approximately 140,000 gpd/building.

Table 3
Required Spray Field Area by Design Scenario

Spray Field Design Flow	Cooling Water Discharge (gpd/building)	Acres of Spray Field Required per Building
Average Annual Flow (with Equalization)	2,250	1.9
Peak Hour Flow (without Equalization)	139,680	49.8

In order to utilize this approach, water should generally be applied below the evapotranspiration rate to preclude water from infiltrating below the root zone. The intent of the spray field design would be to avoid appreciable discharge to groundwater while maximizing disposal via evaporation and plant uptake. The root zone for established grass/pasture is estimated be up to 2 feet deep [9]. Based on on-site monitoring wells, the depth to groundwater is approximately 100 feet below the existing ground, as measured near the southern edge of the railroad tracks, on the GBI Site, within the base of the previously mined gravel areas. Groundwater elevations will likely fluctuate by as much as 10 feet based on seasonal flows within the Columbia River and dam operations at Rock Island Dam.

To keep water within the root zone, the irrigation system will need to cycle applications between fields and cycle on and off throughout the day at rates below the infiltration rates of the surficial soils. Specific infiltration rates will be determined during design. It is anticipated that the irrigation system would use impact sprinklers and an automated control system.

The ideal vegetative cover includes both warm and cool weather grasses (potentially with minor forb component) that do not require significant long-term maintenance (mowing, re-seeding, etc.). Transpiration rates can be increased under higher intensity management such as haying if desired, but the assumptions within this memo are based very minimal to negligible long-term annual maintenance. Short-term maintenance associated with the initial establishment of the crop is estimated to include approximately 2 years of seeding, fertilizing, and mowing. Long-term maintenance may require 1-2 mowings per year.

A grass mixture is a preferred vegetative cover due to its varied growth under a wide range of climate conditions, hot and relatively dry to cool and wet. When faced with non-ideal conditions many perennial grasses have the ability to go dormant then re-activate once conditions improve. For cool season grasses this is typically in July, August, and parts of September; for warm season grasses this is between Oct and May.

Recommended Approach

As previously stated, solely relying on lined evaporation basins is not preferred as the proportional capital cost of constructing lined basins will significantly exceed that of constructing spray fields. However, the difference between the estimated peak day cooling water disposal flow and the average expected flow over the course of the cooling season also makes it impractical solely rely on spray fields without some form of equalization storage.

The recommended approach to disposal consists of equalizing the incoming flow with lined basins (smaller than those necessary for complete evaporation) and discharging to designated spray field areas. As equalization volume is necessary for this approach, the final design should balance the evaporation provided by equalization basins with the necessary amount of spray field area. This approach represents the lowest capital cost option and provides significant flexibility in the configuration and operation of the system. Further, the GBI site provides a substantial amount of area that is likely undesirable for other uses, and conversion of some of these areas to spray fields is practical and provides some beneficial reuse of the water.

Exhibit 1 attached shows the GBI site and the approximated feasible areas for the construction of the proposed facilities. Areas 1 and 2, which were previously heavily mined, will likely be converted for use as spray fields. Area 3 will most likely be used for lined basin and pump station construction, and could provide additional areas for spray fields if needed.

Conveyance and Pumping

Piping will be needed to convey cooling water discharge from the MSFT site to the GBI site. Based on preliminary sizing, an 8-inch-diameter pipe should be sufficient as a mainline pipe for this utility. This pipe will likely be installed within or near the edge of the Malaga Alcoa Highway and needs to be installed in a separate trench a minimum of 10 feet from the potable water. It is anticipated that MSFT will provide its own conveyance from within their site to connect to the mainline pipe.

A pump station will be needed to regulate flow and convey water from the lined basin to the spray fields. The exact configuration of the pump station will be determined during final design in conjunction with the siting of the lined basins and spray fields. It is expected that the pump station will include a small building to house the electrical equipment, pumps, automated valving and other appurtenances for distribution to the spray fields. The pump station should be automatically controlled to allow for remote monitoring and ensure reliability and redundancy in the electrical and mechanical equipment.

Permitting Considerations

Per Ecology's Implementation Guidance for the Ground Water Quality Standards, disposal via a double-lined evaporation basin with a leak detection system would not require a discharge permit since it is not considered a threat to groundwater quality [10]. The land application of cooling water may require an Ecology-issued State Waste Discharge (SWD) Permit; however, the regulatory framework for this disposal system has yet to be determined. An engineering report will need to be provided to Ecology for review and will ultimately guide the determination of the permit framework.

Additionally, the project also will require:

- State Environmental Policy Act checklist.
- Wetland determination/delineation.
- Geologic hazard assessment.
- Building Permit (for pump station).
- Conditional Use Permit (may be required by Chelan County).

- County Franchise Permit
- Cultural Resources Evaluation

Engineer’s Opinion of Probable Construction Costs

An Engineer’s Opinion of Probable Construction Costs (OPCC) for the preferred alternative of equalization/evaporation basins followed by spray field application is summarized in Table 4. The costs are planning-level estimates and have not yet been developed in detail. The indirect portion of the price includes approximately 35 percent for predesign, survey, design, permitting, construction administration and inspection based on projects of similar size and complexity. Prices also include 7-percent annual inflation and a 25-percent contingency. The OPCC for the disposal system described is \$16.4 million.

Table 4
OPCC

Phase 1	Total Cost
Mobilization	\$225,000
Pipe Extension from MSFT to Site	\$1,090,000
Site Preparation	\$530,000
Lined Basins	\$720,000
Site Restoration Allowance	\$150,000
Construction Subtotal	\$2,715,000
Sales Tax (8.3%)	\$230,000
Construction Total (2023)	\$2,950,000
Indirect Costs*	\$1,584,500
Construction Total (2023)	\$4,540,000
Administrative Cost (5%)	\$230,000
Planning Level Contingency (25%)	\$1,140,000
Phase 1 Construction Total + Contingency (2023)	\$5,910,000
Construction Year	2024
Annual Inflation	7%
Estimated Total Inflation	\$420,000
Land Acquisition	\$1,925,000
Estimated Phase 1 Project Total (2024)	\$8,255,000
Phase 2	Total Cost
Mobilization	\$225,000
Spray Field	\$1,750,000
Pump Station Mechanical and Building	\$660,000
Electrical and Controls	\$600,000
Site Restoration Allowance	\$150,000
Construction Subtotal	\$3,385,000

Sales Tax (8.3%)	\$290,000
Construction Total (2023)	\$3,680,000
Indirect Costs**	\$736,000
Construction Total (2023)	\$4,420,000
Administrative Cost (5%)	\$230,000
Planning Level Contingency (25%)	\$1,110,000
Phase 2 Construction Total + Contingency (2023)	\$5,760,000
Construction Year	2025
Annual Inflation	7%
Estimated Total Inflation	\$840,000
Land Acquisition	\$0
Estimated Phase 2 Project Total (2025)	\$6,600,000

Total Project Cap	\$16,400,000
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*Indirect costs include 3% permitting, 15% design (phase 1 and phase 2) and 15% construction engineering, and 2% legal fees

**Indirect costs include 3% permitting, 15% construction engineering, and 2% legal fees

The OPCC assumes that 1.5 acres of evaporation/equalization basins and 9.0 acres of spray fields will be constructed, but this distribution may change during final design. 1.5-acres of basin could support flow from one data center building, meaning the basin could be built to support the first building and ahead of spray field construction.

For the OPCC, the Pipe Extension from MSFT to GBI Site line item includes cost for an 8-inch-diameter pipe installed within right-of-way (ROW) along the Malaga Alcoa Hwy from the MSFT site to the GBI site, bedding, backfill, and a hot mixed asphalt trench patch. Cost for roadway grinding and overlay is not included since it was accounted for in a separate cost estimate for the MSFT site's water system. The Site Preparation cost includes a construction access road. The Lined Basins cost includes clearing and grubbing, earthwork, a double layer high-density polyethylene liner, bedding sand, liner weight tubes, leak detection, air vent pipe, safety ladder, and perimeter fence. It is assumed that excavated soils can be reused as fill on-site and will not need to be hauled away. The Pump Station cost includes a small building, pumps, conveyance from the lined basin, and electrical and control systems. The Spray Field cost includes clearing and grubbing, earthwork, irrigation pipe, sprinklers, control valves, topsoil, and hydroseeding.

Other Considerations

It is anticipated based on the above assumptions and subsequent analysis that there will be areas of the GBI site not needed for the current anticipated cooling water disposal needs. These areas could be reserved for future use but are not considered part of this analysis.

Next Steps

The GBI site appears to provide sufficient space to feasibly dispose of cooling water from up to six data centers by using a combination of lined basins and spray fields. It is recommended that this approach be verbally discussed with Ecology soon to identify any potential concerns. An Engineering Report in accordance with WAC 173-240-130 will need to be submitted to Ecology for official approval. Pending the regulatory framework for this system, a SWD Permit will need to be completed and submitted to Ecology for the issuance of a discharge permit for this system. It is expected that Ecology's review of the Engineering Report and issuance of a temporary discharge permit would take 1 year to complete, with a final discharge permit issued in subsequent years.

References

- [1] RH2 Engineering, Inc. (2022). Preliminary Utility Service Study. Prepared for Chelan Douglas Regional Port Authority.
- [2] U.S. Environmental Protection Agency. (2021). Columbia and Lower Snake Rivers Temperature Total Maximum Daily Load. Retrieved from <https://www.epa.gov/columbiariver/tmdl-temperature-columbia-and-lower-snake-rivers>.
- [3] RH2 Engineering, Inc. (2019). 2019 Water System Plan. Prepared for Malaga Water District.
- [4] RH2 Engineering, Inc. (2019). 2018 Comprehensive Water System Plan. Prepared for City of Wenatchee.
- [5] Washington Administrative Code. (1990). Chapter 173-200, Water Quality Standards for Groundwaters of the State of Washington. Retrieved from <https://app.leg.wa.gov/WAC/default.aspx?cite=173-200&full=true>.
- [6] Washington State University. AgWeatherNet. Retrieved from <https://weather.wsu.edu/?p=93150&desktop>.
- [7] Washington State University. Historic Average Water Needs Estimate. Retrieved from <http://irrigation.wsu.edu/Content/Calculators/Historic/StationCropDOY.php>.
- [8] Washington State Department of Ecology. (2005). Program Guidance: Determining Irrigation Efficiency and Consumptive Use. Retrieved from <https://apps.ecology.wa.gov/publications/summarypages/2011076.html>.
- [9] James, L.G., Erpenbeck, J.M, Bassett, D.L., & Middleton, J.E. (1982). Irrigation Requirements for Washington Estimates and Methodology. Washington State University.
- [10] Washington State Department of Ecology. (2005). Implementation Guidance for the Ground Water Quality Standards. Retrieved from <https://apps.ecology.wa.gov/publications/SummaryPages/9602.html>.

Attachments

Exhibit:

Exhibit 1 - GBI Site Disposal Areas Map

Appendix:

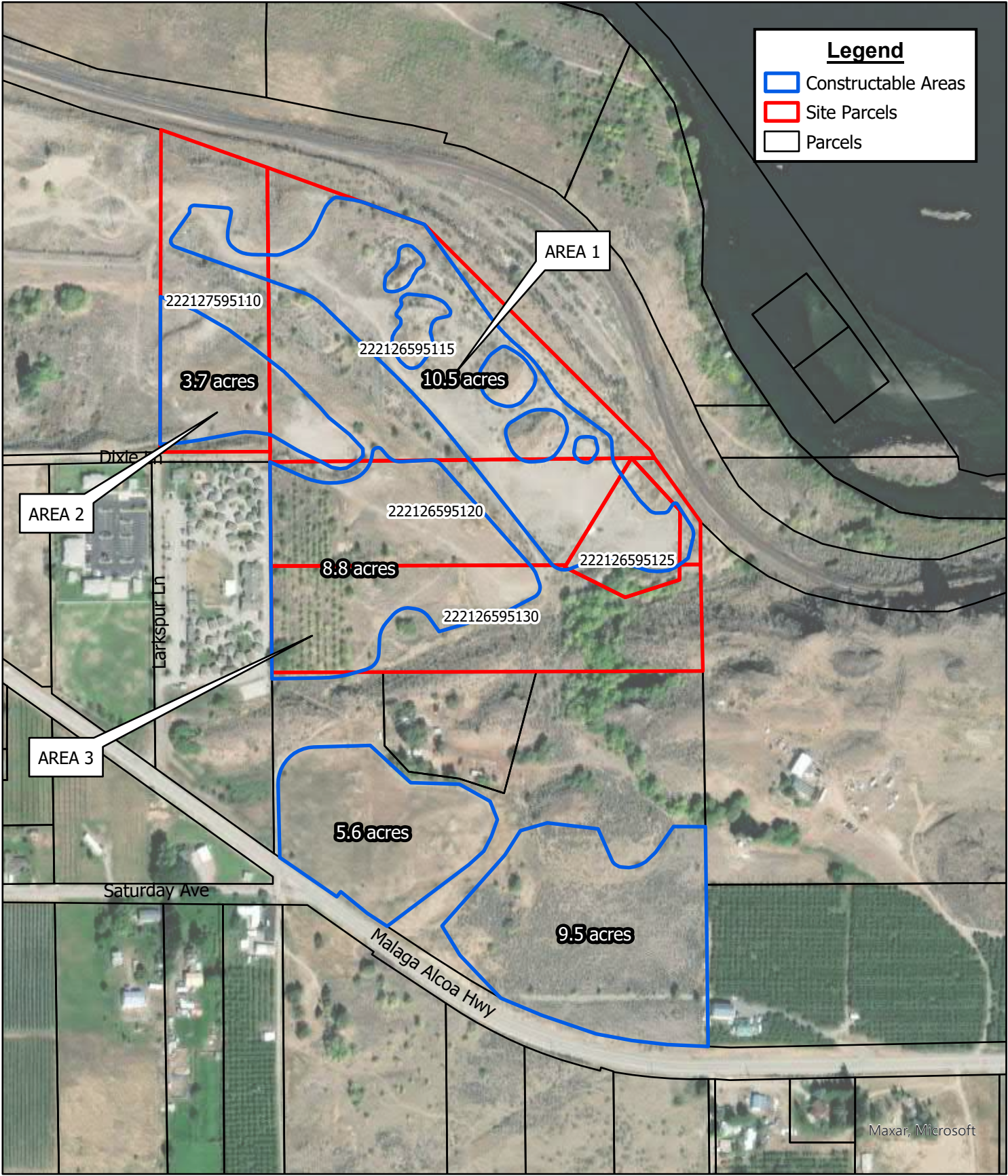
Appendix 1 – Clear Water Discharge Demand Technical Memorandum

Exhibit 1

GBI Site Disposal Areas Map

Legend

- Constructable Areas
- Site Parcels
- Parcels



J:\DATA\RA\20-0026-19\GIS\LOJO COOLING MAPPING.APRX BY: ANEFF PLOT DATE: JUL 17, 2023 COORDINATE SYSTEM: NAD 1983 2011 STATEPLANE WASHINGTON NORTH FIPS 4601 FT US

RH2

NORTH

1 inch : 400 Feet

0 100 200 400 Feet

DRAWING IS FULL SCALE WHEN BAR MEASURES 2"

CHELAN DOUGLAS Regional Port AUTHORITY

Exhibit 1

Constructable Areas

CDRPA

Cooling Water Site

Vicinity Map

ESTIMATED HERE, Garmin, USGS, EPA, NPS

This map is a graphic representation derived from the Chelan Douglas Regional Port Authority (Port) Geographic Information System. It was designed and intended for Port staff use only; it is not guaranteed to survey accuracy. This map is based on the best information available on the date shown on this map.

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Appendix 1

Clear Water Discharge Demand Technical Memorandum



Technical Memo

Client Company	Microsoft	ESD Project #	C220230-011
Client Contact / Phone #	Avery Africa	Date	06/03/22
Author / Phone #	Chad Mendell / 312-456-2387	Date of Visit	
Project Name	Microsoft EAT12 LDO-Energy		
Location	Malaga, Washington (in Chelan County)		

Subject
Clear Water Discharge Demand

Comments																								
<p>Summary: The utility to accept the clear water discharge from the Microsoft EAT12 site in Malaga, Washington should be sized for 6 Data Center Buildings. The current need is for 3 Buildings, but this anticipated to expand to 6 Buildings in the future.</p> <p>Clear Water Discharge will come from the mechanical equipment used to cool the data center spaces within the building.</p> <p>General Statistics:</p> <ul style="list-style-type: none"> • Cycles of Concentration: 3 • Estimated Use Per Year: 420 Hours per Year <p>Clear Water Discharge During the Hottest Month of the Year (August):</p> <ul style="list-style-type: none"> • Discharge Temperature: 83.5 Deg F Average / 83.5 Deg F Max <table border="1"> <thead> <tr> <th></th> <th>1 Building</th> <th>6 Buildings</th> <th>Unit</th> </tr> </thead> <tbody> <tr> <td>Peak Instantaneous Discharge</td> <td>97</td> <td>582</td> <td>GPM</td> </tr> <tr> <td>Peak Hour Discharge</td> <td>97</td> <td>582</td> <td>GPM</td> </tr> <tr> <td>Total Discharge on Peak Day</td> <td>42,000</td> <td>252,000</td> <td>GPD</td> </tr> <tr> <td>Avg Discharge Over Peak 7 Days</td> <td>31,825</td> <td>190,950</td> <td>GPD</td> </tr> <tr> <td>Avg Discharge Over Peak Month</td> <td>11,175</td> <td>67,050</td> <td>GPD</td> </tr> </tbody> </table>		1 Building	6 Buildings	Unit	Peak Instantaneous Discharge	97	582	GPM	Peak Hour Discharge	97	582	GPM	Total Discharge on Peak Day	42,000	252,000	GPD	Avg Discharge Over Peak 7 Days	31,825	190,950	GPD	Avg Discharge Over Peak Month	11,175	67,050	GPD
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Comments			
Clear Water Discharge Per Month:			
	1 Building	6 Buildings	Unit
January	0	0	Gallons
February	0	0	Gallons
March	0	0	Gallons
April	0	0	Gallons
May	46,600	279,603	Gallons
June	144,991	869,947	Gallons
July	242,922	1,457,530	Gallons
August	346,341	2,078,048	Gallons
September	37,784	226,705	Gallons
October	0	0	Gallons
November	0	0	Gallons
December	0	0	Gallons
TOTAL (ANNUAL)	818,639	4,911,384	Gallons

EXHIBIT B

PROJECT SCHEDULE

(attached hereto)

EXHIBIT C

PROJECT BUDGET

Cooling Water Discharge System (Phase 1 and Phase 2)

Phase 1	Total Cost
Mobilization	\$225,000
Pipe Extension from MSFT to Site	\$1,090,000
Site Preparation	\$530,000
Lined Basins	\$720,000
Site Restoration Allowance	\$150,000
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Estimated Phase 1 Project Total (2024)	\$8,255,000

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*Indirect costs include 3% permitting, 15% design (phase 1 and phase 2) and 15% construction engineering, and 2% legal fees

**Indirect costs include 3% permitting, 15% construction engineering, and 2% legal fees

EXHIBIT D

FORM OF DISBURSEMENT REQUEST

Date: _____, 202__

To: Microsoft Corporation
From: Chelan Douglas Regional Port Authority

Re: Disbursement Request No. ___ for the Project Costs (this “Disbursement Request”)

Microsoft Corporation (“Microsoft”) and Chelan Douglas Regional Port Authority (“CDRPA”) are parties to that certain Development and Reimbursement Agreement (Industrial Cooling Water) dated as of [_____, 2023] (the “Agreement”). Capitalized terms used herein and not otherwise defined shall have the meaning given in the Agreement. This Disbursement Request is given pursuant to the Agreement.

1. CDRPA hereby requests disbursement from the Project Escrow Account in the amount of \$_____. This amount represents application of Grant Funds in the amount of \$_____ towards the Project Costs included in this Disbursement Request.
2. The total amount of Grant Funds applied towards the Project Costs to date is \$_____.
3. The proposed date for the requested disbursement is [_____, 202__]¹.
4. The Project Costs expended to date are within the [current Project Budget / updated Project Budget provided as part of the Reconciliation Report].
5. Attached hereto as **Exhibit 1** is the Reconciliation Report with respect to the current [Reconciliation Period]² containing the following information:
 - a. The total amount of Project Costs paid by CDRPA for the Reconciliation Period;
 - b. [An updated Project Budget, indicating any increase or decrease thereto from the prior Project Budget provided]³; and
 - c. A schedule of values covering the Reconciliation Period with respect to the applicable construction contract containing an itemized list of the work, schedule of values of each itemized work, the work completed (in dollars), percentage of the work completed, and the dollar amount required to finish the work.

¹ Insert date that is 10 business days from date of request

² First Reconciliation Period includes the Project Costs incurred by CDRPA prior to the Effective Date of the Agreement in accordance with the Project Budget

³ Or confirmation that no change is required to the previously provided Project Budget

Chelan Douglas County Regional Port Authority

By: _____
Name:
Title:

Exhibit 1 to Disbursement Request

Reconciliation Report

(See attached)

Memo

To: Board of Directors

From: Stacie de Mestre

Date: August 16, 2023

Re: Authorization to Sign – RH2 TA 31 – Malaga Industrial Area Cooling Water Discharge System

Please see attached for Task Authorization 31 from RH2 Engineering for the Malaga Industrial Area Cooling Water Discharge System. This task authorization encompasses the engineering responsibilities agreed to in Phase I of the Industrial Cooling Water Agreement between the CDRPA and Microsoft. Please note, the Phase I budget includes \$1,584,500 for indirect costs – engineering falls into this category. The attached task authorization is not to exceed \$884,088.

Staff is seeking Board approval to sign RH2 Engineer Task Authorization 31 – Malaga Industrial Area Cooling Water Discharge System.

Task Authorization No. 31
Chelan Douglas Regional Port Authority
General Engineering Services
Malaga Industrial Site Cooling Water Discharge System
June 2023

In accordance with our Professional Services Agreement for the General Engineering Services project, dated February 19, 2020, this Task Authorization outlines the Scope of Work for Malaga Industrial Site Cooling Water Discharge System. The work will be performed and invoiced in compliance with the terms and conditions listed in the governing Agreement and any issued Contract Amendments.

Background

The Chelan Douglas Regional Port Authority (Port) has requested RH2 Engineering, Inc., (RH2) provide assistance with designing a cooling water disposal facility to serve a planned industrial facility in the area east of Malaga, Washington, on parcel nos. 222135100060, 222135100072, and 222135100071 (referred to as the EAT12 site). The industrial facility will utilize water purchased from the Malaga Water District for evaporative cooling of industrial server equipment. The water will be recycled through the cooling system multiple times prior to discharging to the disposal facility. This Scope of Work builds upon previous work that identified the process to dispose of the discharge using lined ponds and spray fields. The Port has identified property near the EAT12 site (parcel nos. 222135225010, 222127595110, 222126595115, 222126595120, 222126595125, and 2221659130), referred to herein as the GBI site, which will be used for the disposal system for the EAT12 site.

This Scope of Work outlines RH2's services to design the system to provide conveyance from the EAT12 site to the GBI site and evaporation of the cooling water via lined ponds and spray discharge fields.

A previous State Waste Discharge Permit (SWDP) has been submitted to the Department of Ecology (DOE) for the approach outlined in this scope. It is assumed the SWDP will be approved by DOE as to the concept outlined below.

All deliverables will be in an electronic PDF format unless otherwise noted. Services outlined herein will be provided to the level of effort identified in the Fee Estimate. If additional effort is required or additional services are requested, an amendment to this Task Authorization will be mutually determined by the Port and RH2. This Scope of Work and Fee Estimate excludes support during construction. It is anticipated that services during construction shall be mutually negotiated following completion of project bidding.

Task 1 – Project Management

Objective: Perform project management services, including monthly invoicing, attending planning and progress meetings, and attending a project kick-off meeting.

Approach:

- 1.1 Perform Project Administration: Perform project administration tasks to include monthly invoicing and budget tracking, bi-weekly (every two weeks) planning and progress meetings, and coordination of subconsultants. Meetings will be held virtually.
- 1.2 Attend Project Kick-Off Meeting: Attend a project kick-off and informational meeting with Port staff. Discuss Port goals, facility sizing requirements, and Port's level of service standards. Discuss potential site constraints, such as zoning requirements, sensitive area designations, geologic hazards, and property line setback requirements. Discuss other project stakeholders and their roles and level of involvement in the project.
- 1.3 Develop Data Request and Administration: Develop and maintain a list of data and materials required from the Port.
- 1.4 Maintain Client Communications: Maintain frequent client communications, including phone calls and emails in addition to the progress meetings.
- 1.5 Prepare and Maintain Project Schedule: Prepare project schedule and update as needed.

RH2 Deliverables:

- Attend kick-off and monthly meetings.
- Monthly invoices.
- List of data and materials.
- Phone calls and email communication as needed.
- Project schedule.

Task 2 – Pipe Conveyance Design

Objective: Prepare complete construction contract bidding documents for the proposed cooling water main, including bid-ready front-end documents, technical specifications, plans, standard drawings, and Engineer's opinion of probable construction cost (OPCC).

Approach:

- 2.1 Prepare 60-Percent Design: Prepare preliminary plans and update the OPCC for the proposed cooling water main improvements. This work includes the following:
 - a) Prepare 60-Percent Design: Prepare preliminary design plans to the 60-percent design level with horizontal and vertical alignment detail of the water main for Port review. Develop a preliminary OPCC for the 60-percent design review submittal. Submit plans to the Port and Chelan County Public Works (County) for review. The 60-percent design will include a geotechnical memorandum discussing the potential for rock excavation during

the pipe laying process. The memorandum will be based on previous knowledge in the area, no other subsurface exploration will be completed.

- b) Perform Quality Assurance and Quality Control (QA/QC) Review of 60-Percent Design: Perform internal QA/QC reviews on 60-percent design documents.
- c) Attend 60-Percent Design Review Meetings: Attend 60-percent design meetings with the Port and County (separate meetings anticipated). Prepare meeting minutes if needed.

2.2 Prepare 90-Percent Design: Develop 90-percent plan sheets, technical specifications, and bid documents for the proposed improvements. This work includes the following:

- a) Prepare 90-Percent Design: Incorporate the Port's and County's 60-percent review comments and prepare 90-percent design plans. Prepare construction contract documents to the 90-percent level, including both technical and non-technical construction contract requirements, general conditions, and special requirements. The plans and construction contract documents will include the final configurations for connections, trench, bedding materials, backfill, compaction, and surface restoration, along with other supporting details and requirements for construction, testing, and permitting.
- b) Perform QA/QC Review of 90-Percent Design: Perform internal QA/QC reviews on 90-percent design documents.
- c) Attend 90-Percent Design Review Meeting: Attend 90-percent design review meeting with the Port. Prepare meeting minutes if needed. Submit 90-percent plans to the County.

2.3 Develop Bid-Ready Design: Develop bid-ready plan sheets, technical specifications, bid documents, and OPCC for the proposed improvements. This work includes the following:

- a) Prepare Bid-Ready Plans and Specifications: Incorporate QA/QC and District's 90-percent review comments and prepare plans and specifications for bidding and construction. Prepare final OPCC for the proposed improvements. Submit final plans to the County.

Assumptions:

- *It is anticipated that a pipe will be provided to the EAT12 site. No other work on the EAT12 site will be designed as part of this effort.*
- *No date is warranted or implied for agency response or approval.*
- *Specifications will follow Washington State Department of Transportation format with RH2 Amendments.*

Provided by the Port:

- Attendance at 60- and 90-percent review meetings.
- Review comments on 60- and 90-percent deliverables.

RH2 Deliverables:

- 60-percent design plans.

- OPCC based on 60-percent design.
- 60-percent review meeting minutes.
- 90-percent design plans and construction contract documents (front-end specifications and technical specifications).
- OPCC based on 90-percent design.
- 90-percent review meeting minutes.
- Electronic versions of the complete construction contract bidding documents, including bid-ready front-end documents, technical specifications, plans, standard drawings, and OPCC.
- Two (2) hard copies of the complete construction contract bidding documents.

Task 3 – Site Design

Objective: Prepare complete construction contract bidding documents for the proposed cooling system site work, including bid-ready front-end documents, technical specifications, plans, standard drawings, and OPCC.

Approach:

- 3.1 Perform Geotechnical Analysis: Coordinate with a geotechnical subconsultant to perform a geotechnical analysis. The analysis will consist of soil characterization for use in designing the evaporative disposal system. The subconsultant will also outline mitigation needs (if any) for lead, arsenic, and DDT previously discovered in the soil samples that were completed as part of the Phase 1 Environmental analysis.
- 3.2 Perform Stormwater Engineering and Reporting:
 - a) Develop an on-site stormwater management system to convey, infiltrate, disperse, and retain stormwater runoff on site. This system will include conveyance, runoff treatment, and flow control Best Management Practices (BMPs) as required by the *Stormwater Management Manual for Eastern Washington* (SWMMEW).
 - b) Develop a Stormwater Site Plan conforming to the SWMMEW, including assessment of both temporary and permanent stormwater and drainage impacts.
 - c) Prepare a Stormwater Pollution Prevention Plan (SWPPP) meant to control erosion and prevent sediment and other pollutants from leaving the site during the construction phase of the project.
 - d) Develop an operations and maintenance (O&M) manual for the proposed stormwater facilities and BMPs.
- 3.3 Prepare Site Grading Plan: Prepare an overall site grading plan to support the proposed cooling water discharge system. *The site grading plan will utilize topographic survey information obtained from a previous agreement between the Port and RH2.*

- 3.4 Design Site Access: Prepare plan and profiles for vehicular access from a public road to service the proposed cooling water discharge site where needed. Site access will be provided to the pump house, ponds, and to the spray fields.
- 3.5 Prepare Design for Lined Pond: The design will include sizing of the pond and system components for a lined pond system, alarm, overflow, and maintenance access.
- 3.6 Design Spray Field System:
- a) Prepare pump house design, including the following:
 - (1) Structural calculations for the pump house, including lateral analysis, roof, shell, and foundation. Provide internal QA/QC review of structural calculations. Make recommended updates and additions to calculations per review comments.
 - (2) Provide detailed design of the building foundation, walls, and roof.
 - (3) Provide detailed design of building restroom facility.
 - (4) Design potable water system for a small bathroom facility within the pump house.
 - (5) Design a septic system to support the bathroom.
 - (6) Design off-site conduit routing and conductor sizing for power to the pump house. Prepare and submit an electrical power service application to the Public Utility District No. 1 of Chelan County.
 - (7) Design offsite conduit routing for fiber optic communications to the pump house.
 - b) Prepare mechanical design, including the following:
 - (1) Design the spray field piping and mechanical components, and size piping and spray systems for the evaporation system. Plans will include equipment selection, pipe sizes and materials.
 - c) Prepare electrical, control, and monitoring design, including the following:
 - (1) Develop design of electrical systems for operating appurtenances at the pump house. Work includes designing the lighting system, sizing raceways and conductors, and preparing design details.
 - (2) Develop design of control and monitoring sensors to be installed at the pump house, including construction details.
 - (3) Prepare a one-line diagram and electrical plan, including branch circuit panel detail, and other details typical to this work.
 - (4) Develop criteria and performance requirements for the telemetry system.
 - d) Develop an O&M manual for the proposed spray field facilities.
- 3.7 Prepare Landscape Plans: Prepare landscape plans meeting County Code requirements for the proposed improvements.

3.8 Prepare Bid-Ready Plans and Specifications for the Site Work: Prepare 60-percent plans, technical specifications in Construction Specification Institute (CSI) format, and OPCC and submit to the Port for review. Attend one (1) 60-percent design review meeting with the Port. Develop 90-percent plan sheets, technical specifications, bid documents, and OPCC and submit to the Port. Attend one (1) 90-percent review meeting with the Port. Perform internal QA/QC reviews on 60-percent and 90-percent design documents. Incorporate review comments and prepare bid-ready plans, specifications, and OPCC.

Assumptions:

- *A single pump house facility will be constructed on the GBI property. The building will be concrete masonry unit block with a wood truss roof and metal roofing.*
- *No date is warranted or implied for agency response or approval.*

Provided by the Port:

- Attendance at 60- and 90-percent review meetings.
- Review comments on 60- and 90-percent deliverables.

RH2 Deliverables:

- 60-percent design plans.
- OPCC based on 60-percent design.
- 60-percent review meeting minutes.
- 90-percent design plans and construction contract documents (front-end specifications and technical specifications).
- OPCC based on 90-percent design.
- 90-percent review meeting minutes.
- Electronic versions of the complete construction contract bidding documents, including bid-ready front-end documents, technical specifications, plans, standard drawings, and OPCC.
- Two (2) hard copies of the complete construction contract bidding documents.

Task 4 – Land Use and Construction Permitting

Objective: Assist the Port with preparation of the permits and design review coordination by outside agencies.

Approach:

- 4.1 Attend County Pre-Application Meeting: Prepare County pre-application meeting request and attend pre-application meeting.
- 4.2 Prepare State Environmental Policy Act (SEPA) Checklist: Prepare SEPA checklist for Port review and processing. *The Port will be the lead agency and publish the checklist.*

- 4.3 Perform Cultural Resource Survey: Coordinate with an archaeologist for cultural resource survey of the pond and spray field site, if required.
- 4.4 Assist with Public Involvement: Prepare up to three (3) exhibits to assist with the Port's public involvement efforts. Attend up to one (1) public event as requested. *The Port will take the lead on any public involvement events and media.*
- 4.5 Prepare Critical Areas Permit: Prepare Critical Areas Permit applications for the site work. A wetland delineation will be required as part of the permit application.
- 4.6 Prepare County Conditional Use Permit (CUP): Prepare County CUP exhibits and application based on plans and information generated in other Tasks. Attend CUP public hearing.
- 4.7 Prepare County Building Permit: Prepare County Building Permit applications for the pump house, and prepare supporting documentation as requested by the County. Edit and resubmit one (1) time based on Building Department comments.
- 4.8 Prepare a Construction Stormwater Permit Application: Prepare a Construction Stormwater General Permit application. *Permit will be transferred to the construction contractor after award of contract.*
- 4.9 Prepare County Shoreline Permit: Prepare County Shoreline Permit application for the pump house.
- 4.10 Prepare Washington State Department of Health (DOH) Septic Permit: Prepare DOH Permit application for the pump house septic system.
- 4.11 Prepare Boundary Line Adjustment (BLA) Survey: Prepare BLA survey to establish the area deemed essential to the cooling water discharge area. This work will also include meeting with property owners to identify know pipelines and/or easements that may not be present on title reports. The survey will map all identified easements on the subject property. RH2 will meet with property owners. If an easement can be removed, this work will be completed by the Port's attorney outside of this scope. *The BLA and mapping work will be completed by a subconsultant to RH2.*
- 4.12 Prepare Washington State Department of Ecology (Ecology) Construction Document Review: Prepare Ecology application and submit construction documents for Ecology review.

Assumptions:

- *The Port will be responsible for and take the lead on submitting all permitting documents and paying the associated fees, including processing the SEPA application.*
- *Construction permits normally procured during construction will be applied for by others. These may include street use (or right-of-way), electrical, grading, etc.*
- *No dam safety permit will be required.*
- *State Waste Discharge Permit through Ecology has been completed under a separate agreement.*

Provided by the Port:

- Submittal of permit applications and payment of permit application fees.
- Coordination with the public.

RH2 Deliverables:

- Pre-application meeting request and attendance at meeting.
- SEPA Checklist.
- Cultural resource survey, if needed.
- CUP exhibits and application, including two (2) hard copies.
- Building Permit application and supporting documentation, including two (2) hard copies.
- Construction Stormwater General Permit application.
- County Shoreline Permit application, including two (2) hard copies.
- DOH Septic Permit application, including two (2) hard copies.
- BLA Survey.

Task 5 – Services During Bidding

Objective: Assist the Port during the bidding phase of the two (2) design packages developed in this Scope of Work, which will be bid separately. The first package will be for the pipe conveyance system and the second package will be for the site work.

Approach:

- 5.1 Develop and Distribute Bid-Ready Packages: Develop and submit the bid-ready packages to the online center (i.e., QuestCDN) and coordinate the advertisement for bids with the Port.
- 5.2 Respond to Bidder Questions and Prepare Addenda: Respond to questions from bidders regarding construction plans, technical specifications, or construction contract conditions during the bidding process. Prepare addenda for plan holders if determined necessary by the Port and RH2 during the bidding process.
- 5.3 Assist with Bid Opening and Bidder Evaluation: Review bid proposals, including subcontractors, suppliers, and others proposed by the prime contractor if required by the bidding documents. Develop bid tabulation and provide a letter of recommendation for award.
- 5.4 Create Conformed Documents: Incorporate addenda into plans and specifications to prepare a set of conformed for construction documents.

Assumptions:

- *The cooling water main improvements and site work will each be bid as separate packages at different times. The Approach items listed in Task 5 apply to each separate bid package.*

- *The Port will pay bid advertisement fees directly, and an online plan center (e.g., QuestCDN) will be used to distribute the bid documents.*
- *Up to two (2) addenda per each project may be needed.*
- *Hard copies will not be generated for bidders.*
- *The Port will handle the bid openings and construction contract execution. RH2 will attend the bid openings if requested.*

Provided by Port:

- Publication advertisements and payment of fees.

RH2 Deliverables:

- Electronic versions of the compiled bid documents.
- Assistance with up to two (2) addenda per bid package, as needed.
- Bid tabulation and letter of recommendation for award for each bid package.
- Conformed for construction documents for each bid package.

Schedule:

- Bid package 1 is anticipated to bid in the spring of 2024.
- Bid package 2 is anticipated to bid in the spring of 2025.

Subconsultants

- Aspect Consulting LLC.
- Plateau Archaeological Investigations LLC.
- Northwest GeoDimensions, Inc.

Fee for Services

The fee for services shall be on a time and expense basis and shall not exceed \$884,088 as shown on attached Exhibit A, Fee Estimate without prior written authorization of Chelan Douglas Regional Port Authority.

RH2 Engineering, Inc.

Chelan Douglas Regional Port Authority



Signature

Signature

Paul R. Cross, Executive Vice President

Print Name/Title

Print Name/Title

6/26/2023

Date

Date

EXHIBIT A**Fee Estimate****Task Authorization No. 31****Chelan Douglas Regional Port Authority****General Engineering Services****Malaga Industrial Site Cooling Water Discharge System****Jun-23**

Description	Total Hours	Total Labor	Total Subconsultant	Total Expense	Total Cost
Task 1 Project Management	260	\$ 60,630	\$ -	\$ 4,272	\$ 64,902
Task 2 Pipe Conveyance Design	904	\$ 182,616	\$ -	\$ 23,672	\$ 206,288
Task 3 Site Design	1574	\$ 319,066	\$ 57,500	\$ 39,759	\$ 416,325
Task 4 Land Use and Construction Permitting	510	\$ 105,844	\$ 28,750	\$ 10,772	\$ 145,366
Task 5 Services During Bidding	220	\$ 46,470	\$ -	\$ 4,737	\$ 51,207
PROJECT TOTAL	3468	\$ 714,626	\$ 86,250	\$ 83,212	\$ 884,088

Memo

To: Board of Directors

From:  Jim Kuntz

Date: August 17, 2023

Re: Chris Lytle Property – Purchase and Sale Agreement -
Pangborn Airport

In 2022, the Regional Port was acquiring property in the airport clear zone for the installation of the instrument lighting system. Mr. Lytle at that time owned a 9.52-acre parcel. He created two lots of 4.76 each and sold one lot to the Regional Port so that we could keep the instrument light system on schedule. We paid \$647,736, however this property contained a house and barn.

Mr. Lytle has since reconsidered and will sell the other 4.76 parcel in lieu of condemnation. Per FAA guidelines we conducted an appraisal and review appraisal.

Our record of negotiations are as follows:

MAI Appraisal and Review Appraisal Value -	\$221,000
Mr. Lytle will not sell his property for less than \$60,000 per acre -	\$285,600
Difference -	\$ 64,600

The FAA normally will approve a grant based on the properties fair market value plus 10%. Based on that formula, a 90% FAA grant would be \$218,790. Regional Port out of pocket would be \$66,810.

In my view, anytime you can purchase airport clear zone property it is prudent to do so.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) is made by and between the Chelan Douglas Regional Port Authority, a municipal corporation (“Purchaser”), and Christopher L. Lytle, a married man dealing in his sole and separate estate (“Seller”), sometimes hereinafter individually referred to as a “Party” and collectively as “Parties”.

RECITALS

- A. Purchaser owns and operates Pangborn Memorial Airport (the “Airport”).
- B. Purchaser has installed an instrument lighting system to increase landing approach efficiency and pilot visual guidance in variable weather conditions, all in the interest of the public benefit and safety (the “2022 Project”).
- C. Seller’s real property, consisting of two parcels having a total acreage of 9.52 acres (the “Parcels”) was identified as necessary to and impacted by the 2022 Project. Both Parcels lie within the Runway Protection Zone. Purchaser attempted to acquire both Seller’s Parcels in lieu of condemnation, protracted negotiations ensued and Seller disputed acquisition of both Parcels.
- D. In order to ensure timely completion of the 2022 Project, the Purchaser elected not to proceed with a condemnation action as to both Parcels. Purchaser acquired one parcel in lieu of condemnation to complete the 2022 Project. Seller retained the other parcel consisting of 4.76 acres (the “Retained Parcel”).
- E. The Retained Parcel lies immediately adjacent to the instrument lighting system and within the RPZ.
- F. Ensuring the security of the instrument lighting system and the RPZ is of critical import to the Airport operations, and Purchaser needs and wishes to acquire the Retained Parcel.
- G. Purchaser has re-engaged with Seller regarding the necessity of the Retained Parcel for the Airport’s operations, and securing the RPZ.
- H. Seller has consented to the sale of the Retained Parcel for the Airport’s needs and in lieu of condemnation.

AGREEMENT

1. **Recitals and Exhibits.** The foregoing Recitals and any Exhibits referenced in this Agreement are incorporated herein by this reference.
2. **Purchase and Sale.** Seller hereby agrees to sell and Purchaser hereby agrees to purchase real property situated in the county of Douglas, state of Washington, and legally

described on Exhibit A, attached hereto, having Assessor's Tax Parcel Number 22210840005 (the "Property").

3. Purchase Price and Terms. The total purchase price is TWO HUNDRED EIGHTY-FIVE THOUSAND AND SIX HUNDRED and No/100 Dollars (\$285,600.00 US) for the Property. The purchase price will be payable in cash at Closing.

4. Conveyancing and Possession. At closing, Seller shall sign, execute, and deliver a Statutory Warranty Deed for the Property to Purchaser and/or closing agent, free of encumbrances or defects of title, except as may be accepted or waived by Purchaser as described in Section 5, below. Purchaser shall be entitled to possession at Closing.

5. Title. The Seller shall convey marketable title at Closing.

5.1 The following shall not be considered encumbrances or defects of title, (hereafter "Permitted Exceptions"):

5.1.1 Rights reserved in federal patents or state deeds, and building or use restrictions general to the area;

5.1.2 Existing easements conditions, restrictions, covenants, and matters of record not impacting or inconsistent with Purchaser's intended use; and

5.1.3 General real estate taxes, special assessment, or other levies assessed against the Property not due and payable.

5.2 Within twenty (20) days from the date of the execution of this Agreement, the Seller will obtain a preliminary commitment for title insurance ("Title Commitment") issued by CW Title and Escrow at Purchaser's sole cost and expense. Purchaser shall give written notice to Seller within thirty (30) days of the receipt of the Title Commitment of any defects or encumbrances, other than Permitted Exceptions specified in Section 5.1, in Seller's title to which Purchaser objects (the "Objection"). Seller shall exercise reasonable good faith to attempt to remove matters to which an objection is made. If Seller is unable to cure the defects objected to by Purchaser within twenty (20) days after receipt of the Objection, unless the time is extended in writing, then Purchaser may elect either to waive such defects, or to terminate this Agreement.

5.3 Purchaser shall be entitled, at Purchaser's sole expense, to procure an owner's policy of title insurance for the Property.

6. Seller Representations. Seller represents and warrants to the best of Seller's knowledge:

6.1 That Seller shall maintain the Property in its present condition until Closing;

6.2 That Seller has no knowledge or notice from any governmental agency of any violation of laws relating to the Property;

6.3 That there is no litigation pending against Seller or regarding the Property that might impact the value of or title to the Property or which may affect the intended use of the Property by the Purchaser. That there are no claims made or asserted against the Seller or regarding the Property that might impact the value of or title to the Property or which may affect the intended use of the Property by the Purchaser;

6.4 That there are no financial encumbrances or leases (e.g. liens, judgments, mortgages, deeds of trust) impacting the Property or any personal property thereon, that will not be discharged at Closing by Seller;

6.5 No part of the Property contains fill or has been used as a dump site; and

6.6 Any and all agricultural or other operations on the Property have been conducted in compliance with applicable laws and regulations.

The Parties acknowledge that Seller, or his predecessors in interest, have historically stored and used on the Property pesticides and herbicides that are standard in the tree fruit and agricultural industry.

7. Contingencies. Closing of the transaction set forth in this Agreement is conditioned on the following contingencies:

7.1 Final approval by the Purchaser's Board;

7.2 Purchaser's inspection and acceptance of the condition of the Property. Purchaser's inspection may include, at Purchaser's sole option, an inspection of the Property for hazardous materials, a soil/stability inspection, and an environmental assessment, all as determined by Purchaser.

All inspections under this Section 7.2 will be (a) ordered by Purchaser, (b) performed by an inspector of Purchaser's choice and (c) completed at Purchaser's expense. Seller hereby grants to Purchaser a right of entry for the purpose of performing such inspections. Purchaser agrees to indemnify, defend and hold Seller harmless from any and all activities of Purchaser, or Purchaser's inspection agents in pursuing the inspection authorized herein.

The Purchaser shall have ninety (90) days from the date of mutual execution of this Agreement (the "Inspection Period") to inspect and investigate the Property. The Purchaser shall have the right to enter the Property to conduct inspections and investigation, provided that Purchaser shall be solely responsible for restoring the Property to the condition that existed prior to said entry. The Purchaser shall be responsible for any and all damage caused to the Property arising from or related to said inspection and investigation and agrees to indemnify and hold the Seller harmless in this regard. At any time during the Inspection Period, the Purchaser may provide a written notice of termination to Seller, for any reason. In this event, this Agreement shall be of no further force or effect between the Parties. If the Purchaser does not provide notice of termination to the Seller, the inspection contingency shall

be deemed satisfied.

8. Time for Closing - Responsibilities of Parties. The Closing of this transaction shall occur at CW Title and Escrow (“Escrow Agent”) as soon as reasonably possible upon the satisfaction of all contingencies set forth in Section 7, above, and no later than November 30, 2023. The date of closing or “Closing” shall be construed as the date upon which all appropriate documents are recorded and the proceeds of this sale are available for disbursement to Sellers.

The Purchaser and Seller shall deposit with the closing agent all instruments, documents and monies necessary to complete the sale in accordance with this Agreement. Purchaser shall pay all costs associated with the transfer hereunder, including the costs of recording, title policy premiums, document preparation, escrow fees, and all other closing costs and real estate excise tax, if any. Each Party shall pay the prorated portion of real and personal property taxes, utilities and other assessments based on the date of closing. Seller acknowledges that the Property is not in current use classification.

9. Indemnification. Seller hereby agrees to defend, indemnify and hold the Purchaser harmless from and against any and all claims, assessments, liens, damages, losses and costs, including attorneys’ fees, expenses, or claims of any kind or nature whatsoever arising from or related to the Seller’s use, or ownership of the above-described Property, including the Purchaser’s attorneys’ fees and costs incurred in enforcing this indemnity and hold harmless provision.

10. Brokerage Fees. The Purchaser will not incur any finder’s fees, broker’s fees or commissions, or similar obligations in connection with the Property acquisition. Seller agrees to indemnify and hold the Purchaser, its agents, representatives, and advisors harmless from any claims or any such fees or commissions and all costs and expenses for defending any alleged claim therefor (including costs and attorney’s fees on appeal, if any) arising out of the acts of the Seller, his agents or employees. Purchaser agrees to indemnify and hold the Seller, his agents, representatives, and advisors harmless from any claims or any such fees or commissions and all costs and expenses for defending any alleged claim therefor (including costs and attorney’s fees on appeal, if any) arising out of the acts of the Purchaser, its agents or employees.

11. Default. Time is of the essence of this Agreement. If Seller defaults (that is, fails to perform the acts required of it) in its contractual performance herein, the Purchaser may seek specific performance pursuant to the terms of this Agreement, damages or rescission and return of the Earnest Money, in addition to all other rights and remedies available at law or in equity.

12. Independent Counsel. Seller acknowledges, understands and agrees that Ogden Murphy Wallace, P.L.L.C. represents Purchaser, and Seller has been advised to seek independent counsel for legal advice and review of all documents in this transaction.

13. Risk of Loss. If prior to closing, improvements on the Property shall be destroyed or materially damaged by fire or other casualty, this Agreement, at option of Purchaser, shall become null and void, or the Parties may agree to an adjustment of the purchase price. If Purchaser elects to continue with the purchase, all insurance proceeds, if any, shall be payable to Purchaser.

14. Fixtures, Attachments and Improvements. There are no fixtures, attachments and improvements located on the Property.

15. Modification/Waivers. To be effective and binding upon the Parties hereto, all modifications or waivers of any condition of this Agreement shall be in writing and signed by the Parties.

16. Notices. Notice hereunder shall be in writing and may be mailed or delivered. If mailed, such notices shall be sent postage prepaid, certified or registered mail, return receipt requested, and the date marked on the return receipt by the United States Postal Service shall be deemed to be the date on which the party received the notice. Notices shall be mailed or delivered as follows:

TO PURCHASER: Chelan Douglas Regional Port Authority
One Campbell Parkway, Suite A
East Wenatchee, WA 98802
Attn: James M. Kuntz, Chief Operating Officer

TO SELLER: Christopher Lytle
5690 Rock Island Road
Rock Island, WA 98850

17. Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with Washington law. Any litigation arising out of or in connection with this Agreement shall be conducted in Douglas County, Washington.

18. Successors. This Agreement shall be binding upon and shall inure to the benefit of the respective successors, heirs and assigns of each of the Parties.

19. Encumbrance During Interim. Seller shall not financially encumber the Property prior to Closing, unless the encumbrance is discharged or satisfied at Closing.

20. Survival. All representations and warranties made under this Agreement, and all duties, rights and obligations of the Parties, shall survive closing and shall not merge with the recordation of the Deed.

21. Attorney's Fees. If any suit or proceeding is instituted by any Party, including, but not limited to, filing of suit or requesting an arbitration, mediation or alternative dispute resolution

process (collectively "proceedings"), and appeals and collateral actions relative to such suit or proceedings, the substantially prevailing party as determined by the court or in the proceeding shall be entitled to recover its reasonable attorney's fees and costs and expenses incurred relative to such suit or proceeding from the substantially non-prevailing party, in addition to such other available relief.

22. Counterparts. This Agreement may be executed separately or independently in any number of counterparts and may be delivered by manually signed counterpart or electronically. Each and all of these counterparts shall be deemed to have been executed simultaneously and for all purposes to be one document, binding as such on the Parties. The electronic transmission of any signed original document, and retransmission of any signed electronic transmission, shall be the same as delivery of an original. At the request of either Party, or the Escrow Agent, the Parties will confirm electronically transmitted signatures by signing an original document.

23. General Provisions. Time is of the essence. There are no verbal agreements which modify this Agreement. Any and all subsequent modifications of this Agreement shall be in writing. Purchaser's rights under this Agreement are assignable, without restriction.

24. Effective Date of this Agreement. The "effective date of this Agreement" shall be the date of the last signature set forth below.

DATED: _____

DATED: _____

PURCHASER:

SELLER:

CHELAN DOUGLAS REGIONAL PORT
AUTHORITY

By: _____

James M. Kuntz, Chief Executive
Officer

Christopher L. Lytle

EXHIBIT "A"
Legal Description

The North half of the Southwest quarter of the Northeast quarter of the Southeast quarter of Section 8, Township 22 North, Range 21, E.W.M.,

EXCEPT that portion thereof conveyed to Douglas County, Washington for road purposes by deed recorded under Auditor's File No. 120007;

TOGETHER WITH a portion of the South half of the Southwest quarter of the Northeast quarter of the Southeast quarter of Section 8, Township 22 North, Range 21, East of the Willamette Meridian, records of said county;

The distances of this description are in grid. Multiply by a combined scale factor of 1.000039927 to derive ground distances.

Beginning at the Southwest corner of the Northeast quarter of the Southeast quarter of said Section; thence North 89°24'26" East along the South line of said subdivision line a distance of 30.15 feet to the easterly right of way of North Stark Avenue; thence continuing along said subdivision line, North 89°34'06" West a distance of 503.98 feet to the Northerly right of way of Grant Road; thence North 89°33'52" East along the said right of way a distance of 62.33 feet to the True Point of Beginning; thence continuing along said right of way North 89°33'52" East a distance of 59.84 feet to the Southeast corner of the South half of the Southwest quarter of the Northeast quarter of the Southeast quarter of said Section 8; thence North 00°17'47" West a distance of 330.84 feet to the Northeast corner of the South half of the Southwest quarter of the Northeast quarter of the Southeast quarter of said Section 8; thence South 89°33'44" West along the North line of the South half of the Southwest quarter of the Northeast quarter of the Southeast quarter of said Section 8 a distance of 313.35 feet; thence South 37°48'24" East a distance of 416.28 feet to the True Point of Beginning;

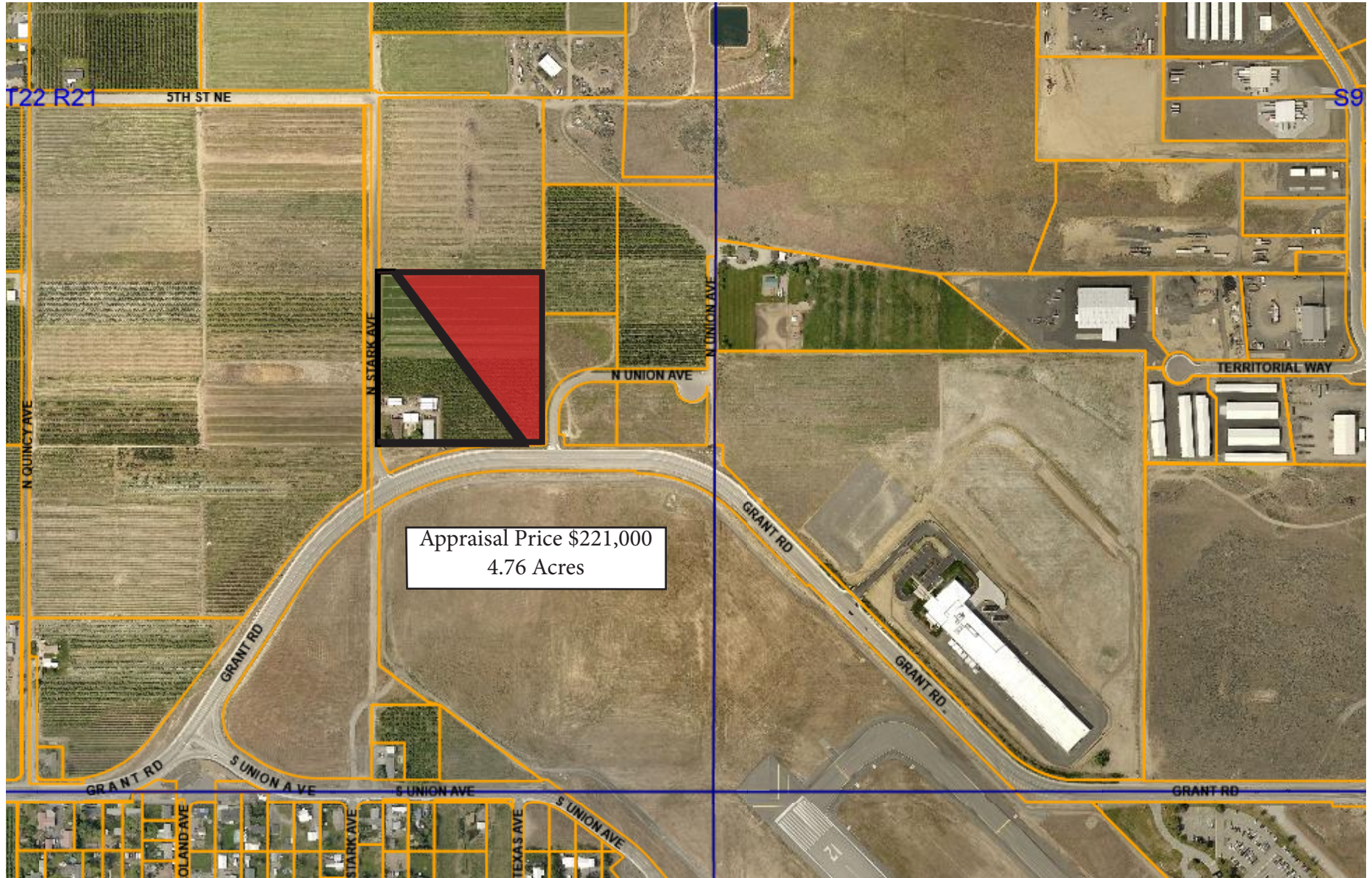
EXCEPT a portion of the North half of the Southwest quarter of the Northeast quarter of the Southeast quarter of Section 8, Township 22 North, Range 21, East of the Willamette Meridian, records of said county;

The distances of this description are in grid. Multiply by a combined scale factor of 1.000039927 to derive ground distances.

Beginning at the Southwest corner of the Northeast quarter of the Southeast quarter of said Section 8; thence North 89°24'26" East along the South line of said subdivision line a distance of 30.15 feet to the easterly right of way of North Stark Avenue; thence North 00°21'26" West along the Easterly right of way of North Stark Avenue a distance of 330.78 feet to the True Point of Beginning; thence continuing along said right of way North 00°21'25" West a distance of 330.76 feet; thence along the North line of the North half of the Southwest quarter of the

Northeast quarter of the Southeast quarter of said Section 8, North 89°33'58" East a distance of 60.12 feet; thence South 37°48'24" East a distance of 416.18 feet to the South line of the North half of the Southwest quarter of the Northeast quarter of the Southeast quarter of said Section 8; thence South 89°33'44" West along the South line of the North half of the Southwest quarter of the Northeast quarter of the Southeast quarter of said Section 8 a distance of 313.19 feet to the True Point of Beginning.

Also known as, Parcel B, Boundary Line Adjustment No. 2021-10 recorded March 12, 2021, under Douglas County Auditor's File No. 3241049, records of Douglas County, Washington.



Memo

To: Board of Directors

From:  Jim Kuntz

Date: August 17, 2023

Re: Baker Property Malaga – Purchase and Sale Agreement

Please find enclosed a draft Purchase and Sale Agreement for the Baker property for your review. The agreement was drafted by Peter Fraley and is consistent with similar agreements completed in the Malaga area.

Will provide additional details at Tuesday's meeting.

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (hereinafter "Agreement"), made this date, is by and between the PORT OF CHELAN COUNTY, a Washington municipal corporation ("Purchaser"), and JOSEPH M. BAKER AND KERI L. BAKER, husband and wife ("Seller"). Individually the Purchaser and Seller may be referred to herein as a "Party" or collectively as the "Parties."

1. Agreement/Property. Seller agrees to sell and Purchaser agrees to purchase Seller's interest in real property located in the county of Chelan, state of Washington and more particularly described as follows (the "Property"):

THE WEST 20 FEET OF THE NORTH 365 FEET AND THE SOUTH 200 FEET OF THE WEST 220 FEET OF THE NORTH 565 FEET OF THE FOLLOWING DESCRIBED TRACT:

THE WEST ONE-THIRD OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 35, TOWNSHIP 22 NORTH, RANGE 21, EAST OF THE WILLAMETTE MERIDIAN.

EXCEPT THAT PORTION THEREOF LYING NORTHERLY OF THE SOUTHERLY RIGHT OF WAY LINE OF THE EXISTING COUNTY ROAD.

ALSO KNOWN AS PARCEL B OF CHELAN COUNTY SHORT PLAT NO. 531, RECORDED MAY 14, 1979 UNDER AUDITOR'S FILE NO. 797671.

Together with all water rights, permits, claims, shares in public or private irrigation districts or companies, rights to water and the like appurtenant to or associated with the above-described property.

The Parties agree that the above legal description will be revised to be consistent with preliminary commitment for title insurance (please see Section 5.2, below).

Assessor's Parcel No. 222135210175.

The Property is commonly known as 5043 Malaga Alcoa Highway, Malaga, Washington 98828.

1.1 Excluded Property. All personal property is excluded from this transaction, including appliances located within the residence on the Property; provided that Seller must remove the personal property prior to end of the lease agreement set forth in Section 10 of this Agreement. In the event any personal property remains on the Property upon the termination of the lease agreement set forth in Section 10, then the title and ownership of said personal property shall automatically vest in the Purchaser for no additional cost, and Seller agrees to sign any and all documents reasonably requested by Purchaser to vest title in the personal property in the Seller at the end of the lease agreement. Seller agrees to indemnify and hold Purchaser harmless from and

against all claims, costs, expenses and damages, of any kind or nature (including reasonable attorney fees and costs), arising from or related to the removal of any improvements from the Property after Closing by Seller, or anyone acting by and through the Seller, including agents, employees, family members, or anyone performing any work related to the removal of the improvements.

2. **Earnest Money.** Purchaser shall pay to CW Title and Escrow earnest money in the amount of Ten Thousand and No/100 Dollars (\$10,000.00), within five (5) business days of the effective date of this Agreement. Earnest money shall be in the form of a check made payable to CW Title and Escrow (Wenatchee office) and credited to the purchase price at Closing, as defined herein. The earnest money is non-refundable, except as set forth in Section 5.2 (Title), Section 9 (Feasibility Contingency) and Section 13 (Default), below.

3. **Purchase Price.** The total purchase price shall be Eight Hundred Thousand and No/100 Dollars (\$800,000.00 US), payable in cash at Closing, as defined herein.

4. **Deed.** At Closing, the Seller shall sign, execute, and deliver a Statutory Warranty Deed for the Property to Purchaser and/or Closing agent, subject to those matters set forth in Section 5, below.

5. **Title.**

5.1 The following shall not be considered encumbrances or defects of title (hereafter "Permitted Exceptions"):

5.1.1 Rights reserved in federal patents or state deeds, and building or use restrictions general to the area;

5.1.2 Existing easements, conditions, restrictions, covenants, and matters of record not impacting Purchaser's intended use of the Property; and

5.1.3 General real estate taxes assessed against the Property not due and payable.

5.2 Seller shall make available to Purchaser a preliminary commitment for title insurance ("Title Commitment") issued by CW Title and Escrow. Purchaser shall give written notice to Seller within thirty (30) calendar days of Purchaser's actual receipt of the Title Commitment (including copies of all special exceptions) of any defects or encumbrances, other than Permitted Exceptions specified in Section 5.1, in Seller's title to which Purchaser objects (the "Objection"). Seller shall exercise reasonable good faith to attempt to remove matters to which an objection is made. If Seller is unable to cure the defects objected to by Purchaser within twenty (20) calendar days after receipt of the Objection, unless the time is extended in writing, then Purchaser may elect, as its exclusive remedy, either to waive such defects, or to terminate this Agreement and receive a refund of the earnest money.

5.3 At Closing, Seller shall provide an "owner's affidavit" or similar document on a form provided by the title company, if requested by Purchaser or the title company to provide the owner's title policy consistent with this Section 5. Seller shall deliver to Purchaser at or within a reasonable period following Closing, a standard owner's policy of title insurance (the "Title Policy") containing no exceptions other than the customary form printed exceptions ("Standard Exceptions"), the exceptions in Section 5.1 (Permitted Exceptions), the exceptions listed in the Title Commitment that Purchaser has accepted pursuant to Section 5.2, if any ("Accepted Exceptions"). Seller shall pay the cost of the Title Policy at Closing.

5.4 If this transaction does not close, and this Agreement is terminated, the Purchaser shall be responsible for the cancellation or other fee associated with the Title Commitment.

6. Representations of Seller. Effective as of the date of this Agreement and as of the date of Closing, Seller represents, and warrants to Purchaser, as follows:

6.1 That Seller is not aware of any material facts adversely affecting the Property which have not been disclosed in writing to the Purchaser.

6.2 There are no underground storage tanks beneath the Property (other than related to the septic system connected to the residence on the Property).

6.3 That Seller shall maintain the Property in its present or better condition until Closing.

6.4 That the Property contains no leased or encumbered personal property or fixtures.

6.5 That Seller owns good and marketable title to the Property. There are no adverse or other parties in possession of the Property, or of any party thereof.

6.6 There are no pending or threatened (in writing, or otherwise) actions, suits, arbitrations, claims, investigations or legal, administrative or other proceedings (a) with respect to or in any manner affecting or involving the title to or condition of the Property, including, but not limited to, any condemnation action, proceeding to impose an assessment district, zoning change proceeding or development moratorium; or (b) to which Seller is or may be a party by reason of Seller's ownership, use, or operation of the Property.

6.7 There are no leases, subleases, rental agreements, licenses or other agreements for the lease or occupancy of any portion of the Property. Seller is not in default under any easements, covenants, conditions, restrictions, declarations or other encumbrances on title to the Property.

6.8 Seller has not received any written notices from any governmental authority with respect to any violation or alleged violation of any law relating to the use, condition or operation of the Property, which violation remains uncured.

6.9 Seller has not used, generated, manufactured, produced, stored, released, discharged or disposed of on, under, above or about the Property or transported to or from the

Property, any Hazardous Material in violation of state and federal laws and regulations nor, has Seller allowed any other person or entity to do so; that no Hazardous Materials have been used, generated, manufactured, produced, stored, released, discharged or disposed of on, under, above or about the Property in violation of Law nor transported to or from the Property in violation of Law by any entity or person or from any source.

6.10 (i) the Property has not been used as a landfill, waste storage or disposal site, nor have any chemicals, petroleum products, or toxic, hazardous or dangerous wastes or substances been released on or under the Property, (ii) nor is the ground water system under the Property contaminated by any such substance, (iii) there are no underground storage tanks located on the Property, (iv) no spill, release, discharge or disposal of hazardous or toxic substances has occurred on the Property, and (v) no petroleum products have been released, discharged, disposed or spilled on the Property.

6.11 There are no material defects to the Property and there are no agreements, restrictions or conditions that would prevent the use of the Property for Purchaser's intended use.

7. Disclosure Statement. Seller shall provide Purchaser a complete and signed disclosure statement as required by Chapter 64.06 RCW within ten (10) calendar days of the effective date of this Agreement for Purchaser's review.

8. Modification/Waivers. To be effective and binding upon the Parties hereto, all modifications or waivers of any condition of this Agreement shall be in writing and signed by the Parties.

9. Feasibility Contingency. Purchaser (its agents, contractors, consultants, agents and business prospects, hereafter "Representatives") shall have one hundred twenty (120) days from the effective date of this Agreement to (a) review the feasibility of purchasing the Property and to conduct whatever inspections and investigations the Purchaser or the Representatives deem appropriate, and (b) complete a rezone of property that is immediately adjacent to the Property to a rural industrial zone. The Purchaser may conduct a "phase 1, environmental assessment", or its equivalent, and Seller agrees to cooperate and provide the necessary information reasonably requested by Purchaser and its consultants to complete said environmental assessment. The Purchaser and the Representatives shall have the right to enter the Property to conduct inspections and investigation, provided that Purchaser shall be solely responsible for restoring the Property to the condition that reasonably existed prior to said entry. The Purchaser shall be responsible for any and all damage caused to the Property arising from or related to said inspection and investigation and agrees to indemnify and hold the Seller harmless in this regard. At any time during the one hundred twenty (120) day feasibility period (as may be extended as set forth in Section 9.1, below), the Purchaser may provide a written notice to Seller waiving the contingencies set forth in this Section 9. The contingencies shall be deemed to have failed if Purchaser does not timely provide the written notice to Seller waiving the contingencies; in which event, this Agreement shall terminate and be of no further force or effect between the Parties, and the earnest money shall be refunded to the Purchaser.

9.1 The Purchaser desires to rezone property that is immediately adjacent to the Property to a rural industrial zone. The Seller agrees to cooperate and support Purchaser's efforts to rezone the adjacent property. If the rezone of the adjacent property has not been completed to the satisfaction of the Purchaser within the one hundred twenty (120) day feasibility period, then Purchaser shall have the right to extend the feasibility period for an additional ninety (90) days by giving written notice of the extension to the Seller prior to the expiration of the one hundred twenty (120) day feasibility period.

10. Post-Closing Possession. Seller will retain possession of the Property after Closing according to the terms and conditions of a lease agreement to be entered by the Parties at Closing. The lease agreement to be entered by the Parties at Closing is substantially set forth in attached Exhibit "A", which is incorporated herein by this reference. The Parties agree that the lease agreement is an accommodation requested by the Seller. In the event there is a change in law prior to closing that would exempt the lease agreement from the standard landlord-tenant laws, then the Parties agree that the lease agreement shall be exempt from said laws.

11. Time for Closing - Responsibilities of Parties – Costs. The Closing of this transaction shall occur at CW Title and Escrow (Wenatchee office) upon the satisfaction of all contingencies, but, in no event, later than sixty (60) days following the Purchaser's waiver of the contingency set forth in Section 9, above. The Purchaser and Seller shall deposit with CW Title and Escrow all instruments, documents and monies necessary to complete the sale in accordance with this Agreement. The Purchaser and Seller agree to each pay one-half of the Closing fee. The Parties shall pay their own attorney's fees. Seller will pay for the cost of the Title Policy and the real estate excise tax. Purchaser shall pay for the preparation of the Statutory Warranty Deed and Excise Tax Affidavit to be prepared by Purchaser's attorney. Each party shall pay the prorated portion of real property taxes and irrigation assessments (based on the irrigation season) for the current year based on the date of Closing. Other items shall be paid according to the practice in Chelan County, Washington. For the purpose of the prorations, Purchaser will be deemed to be in title to the Property beginning at 12:01 a.m. on the closing date.

12. Date of Closing. For purposes of this agreement, the "date of Closing" or "Closing" shall be construed as the date upon which all appropriate documents are recorded and the proceeds of this sale are available for disbursement to Seller.

13. Possession. Seller shall deliver possession to Purchaser on Closing, subject to the lease agreement referenced in Section 10, above.

14. Default. Time is of the essence of this Agreement. If the Seller defaults (that is, fails to perform the acts required of it) in its contractual performance herein, the earnest money, without deduction or off-set, shall be refunded to the Purchaser, and Purchaser may bring suit for equitable relief, including specific performance, and seek damages arising from Seller's Default. If the Purchaser defaults, the earnest money, upon demand, shall be forfeited and paid to Seller as Seller's sole and exclusive remedy.

15. **Independent Counsel.** Seller acknowledges, understands and agrees that Purchaser is represented by Ogden Murphy Wallace, P.L.L.C.

16. **Brokerage Fees.** Parties represent that they have not incurred finder's fees, broker's fees or commissions, or similar obligations in connection with the Property which is the subject of this Agreement. Seller agrees to indemnify and hold the Purchaser, its agents, representatives, and advisors harmless from any claims or any such fees or commissions and all costs and expenses for defending any alleged claim therefor (including costs and attorney's fees on appeal, if any) arising out of the acts of the Seller, its agents or employees. Purchaser agrees to indemnify and hold the Seller, its agents, representatives, and advisors harmless from any claims or any such fees or commissions and all costs and expenses for defending any alleged claim therefor (including costs and attorney's fees on appeal, if any) arising out of the acts of the Purchaser, its agents or employees.

17. **Risk of Loss.** If prior to Closing, improvements on the Property shall be destroyed or materially damaged by fire or other casualty, this Agreement, at option of Purchaser, shall become null and void. If Purchaser elects to continue, all insurance proceeds, if any, shall be payable to Purchaser.

18. **Notices.** Notice hereunder shall be in writing and may be mailed or delivered. If mailed, such notices shall be sent postage prepaid, certified or registered mail, return receipt requested, and the date marked on the return receipt by the United States Postal Service shall be deemed to be the date on which the Party received the notice. Notices shall be mailed or delivered as follows:

TO PURCHASER:	Port of Chelan County One Campbell Parkway, Suite A East Wenatchee, WA 98802 Attn: James M. Kuntz, Executive Director
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TO SELLER:	Joseph and Keri Baker 5043 Malaga Alcoa Highway Malaga, WA 98858
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19. **Governing Law and Venue.** This Agreement shall be governed by and interpreted in accordance with Washington law. Any litigation arising out of or in connection with this Agreement shall be conducted in Chelan County, Washington.

20. **Successors.** This Agreement shall be binding upon and shall inure to the benefit of the respective successors, heirs and assigns of each of the Parties.

21. **Encumbrance During Interim.** Seller may not financially encumber the Property prior to Closing, unless the encumbrance is discharged or satisfied at Closing.

22. **Survival.** Except for Sections 6 and 10, which shall survive Closing as binding representations and warranties of the Seller, the terms and conditions of this Agreement shall not survive Closing and shall merge with the recordation of the Statutory Warranty Deed.

23. **Attorney's Fees.** If any suit or proceeding is instituted by the Seller or the Purchaser arising from or related to this Agreement, including, but not limited to, filing of suit or requesting an arbitration, mediation or alternative dispute resolution process (collectively "proceedings"), and appeals and collateral actions relative to such suit or proceedings, each Party shall be responsible for its own attorney fees and costs incurred.

24. **Counterpart/Facsimile/E-mail.** This Agreement may be executed separately or independently in any number of counterparts and may be delivered by manually signed counterpart, facsimile, e-mail or other electronic means. Each and all of these counterparts shall be deemed to have been executed simultaneously and for all purposes to be one document, binding as such on the parties. The facsimile, e-mail or electronic transmission of any signed original document, and retransmission thereof, shall be the same as delivery of an original. At the request of either party, or the closing agent, the parties will confirm facsimile, e-mail or electronically transmitted signatures by signing an original document.

25. **Corporate Authority; Binding Signatures.** Each of the individuals executing this Agreement on behalf of Purchaser or Seller warrant that they are an authorized signatory of the entity for which they are signing, and have sufficient authority to execute this Agreement.

26. **General Provisions.** Time is of the essence. There are no verbal agreements which modify this Agreement. This Agreement constitutes the full understanding between Seller and Purchaser. Any and all modifications of this Agreement must be in writing and signed by both Parties in order to be binding on the Parties. Purchaser's rights under this Agreement may not be assigned. The "effective date of this Agreement" shall mean the date of the last signature set forth below.

DATED: _____

DATED: 08/15/23

PURCHASER:

SELLER:

PORT OF CHELAN COUNTY

By: _____
James M. Kuntz, Executive Director

Authentisign
Joseph M. Baker

Joseph M. Baker

Authentisign
Keri L. Baker 08/15/23

Keri L. Baker

EXHIBIT "A"
Residential Lease Agreement

RESIDENTIAL LEASE AGREEMENT

THIS RESIDENTIAL LEASE AGREEMENT (the "Agreement" or "Lease") is made and entered into this date by and between the CHELAN DOUGLAS REGIONAL PORT AUTHORITY, a Washington municipal corporation ("Landlord"), and JOSEPH M. BAKER and KERI L. BAKER, husband and wife ("Tenant"). Tenant and Landlord are sometimes referred to herein collectively as the "Parties," or individually as a "Party."

The Parties agree as follows:

1. **Premises.** The Port of Chelan County ("POCC") owns certain real property, located at 5043 Malaga Alcoa Highway, Malaga, Washington (the "Premises"). Landlord hereby leases to Tenant, and Tenant leases from Landlord, upon the terms and conditions included in this Lease, the Premises. The Premises consist of the residence and associated yard areas. Notwithstanding the POCC's ownership of the Premises, the POCC has delegated to the Chelan Douglas Regional Port Authority (identified herein as the Landlord) the authority to negotiate and sign leases, and to otherwise manage the Premises on behalf of the POCC.

2. **Term of Lease.** The term of this Lease shall extend for a period of eleven (11) months ("Term"), which period shall begin on the ____ day of _____, 2023 ("Commencement Date"); provided that either Party may terminate the Lease prior to the end of the Term upon sixty (60) days advance written notice to the other Party. Further, the Tenant may surrender possession and terminate this Agreement at any time during the Term by providing Landlord written notice setting forth the date of termination.

3. **Rent.** Tenant shall occupy the Premises rent free during the Term. In the event Tenant remains in possession of the Premises after the Term, Tenant shall pay Landlord holdover rent in the amount equal to Three Thousand and No/100 Dollars (\$3,000.00 US) per calendar month commencing on the expiration of the Term until the Premises are surrendered or vacated; provided that Landlord may commence any action it deems necessary to obtain possession of the Premises after the expiration of the Term. If the expiration of the Term is a date other than the first day of the month, then the holdover rent due and payable for the first month shall be prorated to reflect the number of days remaining in that month. Holdover rent shall be due and payable in advance on or before the first day of each month.

3.1 **Place of Payment.** Rent shall be mailed or delivered to Landlord at One Campbell Parkway, Suite A, East Wenatchee, WA 98802 or at any other place designated by Landlord.

4. **Possession.** Tenant is entitled to possession of the Premises on the Commencement Date.

EXHIBIT

5. **Services; Utilities.** Tenant shall make all arrangements and pay for the following utilities and services to the Premises: water, electricity, garbage, telephone, internet, cable, and any other utilities and services furnished to the Premises by Tenant. Tenant shall be liable to reimburse Landlord for expenses incurred by Landlord on Tenant's behalf associated with any and all utilities or services to the Premises during any period the Tenant is in possession of the Premises, or during the duration of the Agreement, whichever is longer.

6. **Repairs and Maintenance.** Tenant shall keep the Premises in a neat, clean, and habitable condition. Tenant shall make all normal and necessary repairs and replacements to the Premises including, but not limited to, the piping, plumbing system, water system, window glass, fixtures, and electrical and mechanical systems used in connection with the Premises. Tenant shall be liable for and hereby agrees to reimburse Landlord for the actual costs of any maintenance or repair to the Premises which is necessitated by the negligence or other tortious action of Tenant or Tenant's guests or invitees which shall be due and payable to Landlord upon written demand. Landlord shall have the right, upon advance written notice as required by Section 22 of this Agreement, to inspect the Premises at reasonable times to ensure the Premises are properly cleaned and maintained by the Tenant.

Tenant shall be responsible for maintaining landscaping associated with the Premises. The Tenant shall be solely responsible for any snow or ice removal to provide safe access to the Premises.

Tenant owns and shall be solely responsible for all appliances located in the Premises, including any repair, maintenance or replacement of said appliances.

7. **Alterations and Improvements.** Tenant shall not make any improvements to the Premises without Landlord's advance written consent. Tenant understands and agrees that the costs of these improvements will be borne solely by Tenant and further agrees that improvements, if made, will be considered fixtures and will become incorporated into the Premises.

8. **Hazard Insurance.** Landlord shall maintain insurance on the residence and any improvements that are in existence at the commencement of this Agreement against loss by fire or other hazards during the Term pursuant to an extended policy of hazard insurance. All proceeds or funds arising from any insurance claim shall belong solely to the Landlord.

9. **Taxes and Assessments.** Landlord shall pay all real property taxes and assessments against the Premises by Chelan County or other taxing district during the Term of this Agreement.

10. **Loss or Destruction of Property.** Tenant shall provide Tenant's own insurance for Tenant's personal property. Landlord shall not be responsible for fire, theft or any other damage to Tenant's personal property located on the Premises whether in a dwelling unit, garage, storage area or other areas owned and operated by Landlord outside the leased Premises. In the event the Premises, or any portion thereof, are lost or destroyed by fire or

EXHIBIT

other occurrence at no fault of the Tenant, the Tenant shall have the option to immediately terminate this Agreement or continue this Agreement and continue paying all rent payments required by this Agreement.

11. Surrender of Property. Upon the termination of this Agreement for any reason whatsoever, Tenant shall promptly vacate the Premises, remove Tenant’s personal property from the Premises, and deliver the Premises to Landlord in as good order and repair as said Premises were at the commencement of the Agreement. All improvements, additions to or alterations of the Premises, whether installed by Landlord or by Tenant remaining on the Premises after termination of this Agreement shall become the property of the Landlord.

12. Miscellaneous Restrictions.

12.1 Tenant shall not smoke or vape, or allow smoking or vaping within or near any structure on the Premises, absent the prior written consent of Landlord.

12.2 Tenant shall not act nor allow Tenant’s guests, agents, invitees, licensees, or immediate family to act in a manner that causes discomfort or inconvenience to others.

12.3 Tenant shall not keep animals or pets at the Premises without prior approval of the Landlord (which approval may be withheld).

12.4 Tenant shall not use lighted candles, incense, kerosene lamps, or portable heaters in the Premises, absent prior written consent of the Landlord.

12.5 Tenant shall promptly report to Landlord any and all leaks or damage to the Premises. Any loss, damage, or injury caused to persons or property resulting from Tenant’s failure to promptly report leaks or damage shall be the sole responsibility of Tenant.

13. Assignment and Subletting. Tenant shall not assign this Agreement or sublet any portion of the Premises without the prior written consent of Landlord, which consent may be unreasonably and arbitrarily withheld.

14. Use of Premises. Tenant shall use the Premises for single family residential purposes only. Tenant shall not use the Premises for the purpose of operating a business of any type, and shall not allow any unlawful use of the Premises. Tenant’s immediate family consisting of _____ (4) persons and short-term guests may stay at the Premises. For the purpose of the Lease, “short-term” shall mean persons visiting Tenant who stay overnight or keep personal property at the Premises for five (5) days or less during a consecutive thirty (30) day period. For purposes of the Lease, “Tenant’s immediate family” shall include only the following persons:

Names:	Relation to Tenant:
<u>Jordyn L. Wolfe</u>	<u>Daughter</u>
<u>Brooklynne M. Baker</u>	<u>Daughter</u>
_____	_____

EXHIBIT

15. **Smoke Detector.** Tenant acknowledges, and Landlord certifies that the Premises is equipped with a smoke detector, as required by RCW 43.44.110, and that the smoke detector has been tested, and is operable as of the execution of this Agreement. It is the Tenant's responsibility to maintain the smoke detector, as specified by the manufacturer, including the replacement of batteries, if required. Tenant's failure to properly maintain the smoke detector can result in punishment, including a fine, payable by Tenant, of not more than that \$200.00 pursuant to RCW 43.44.110.

16. **Compliance with Law.** Tenant shall comply with all laws and shall observe all applicable ordinances, laws and regulations pertaining to the Premises. Tenant agrees to maintain the Premises in a neat, sanitary and attractive condition and shall not commit or allow to be committed any waste upon the Premises or allow any public or private nuisance.

17. **Indemnification.** Tenant shall defend and indemnify Landlord and save Landlord harmless from and against any and all claims, demands, liabilities, damages, costs, or expenses, including attorney fees, arising from any act, omission, or negligence of Tenant, or the officers, contractors, licensees, agents, servants, employees, guests, invitees, or visitors of Tenant in or about the Premises, or arising from any accident, injury, or damage, howsoever and by whomsoever caused, to any person or property, occurring in or about the Premises, including any claim, loss or liability which may be caused or contributed to in whole or in part by Landlord's own negligence.

18. **Covenants.** Tenant shall comply with all covenants and other land use restrictions pertaining to the Premises. Tenant hereby represents and warrants that Landlord has provided Tenant with a copy of any applicable covenants.

19. **Tenant's Default.** Tenant shall be in default for any of the following circumstances:

19.1 Failure to pay any monetary obligation hereunder when due;

19.2 Failure to perform or abide by any other term, condition or obligation contained in this Agreement;

19.3 Failure to properly dispose from the Premises all rubbish, garbage, and other organic or flammable waste, in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by Tenant;

19.4 Failure to properly use and operate all electrical, gas, heating, plumbing, and other fixtures and systems associated with the Premises;

19.5 Intentional or negligent destruction or damage to any part of the Premises, or permit any member of his/her family, invitee, licensee, or any person acting under Tenant's control to do so;

19.6 Permitting a nuisance or common waste;

EXHIBIT

19.7 Failure to keep the Premises clean and sanitary;

19.8 Engaging in drug-related activity at or on the Premises or allowing a sub-tenant, sub-lessee, or anyone else to engage in drug-related activity at or on the Premises with the knowledge and consent of Tenant. "Drug-related activity" means activity which constitutes a violation of Chapter 60.41 or 69.42 of the Revised Code of Washington;

19.9 Engaging in gang related activity at or on the Premises or allowing a family member, invitee, licensee, guest, sub-tenant, sub-lessee, or anyone else to engage in gang-related activity at or on the Premises. "Gang related activity" is defined in RCW 59.18.030 to mean or include any activity that occurs within a gang or advances a gang purpose;

19.10 Failure to maintain the smoke detection device in accordance with the manufacturer's recommendations, including the replacement of batteries where required for the proper operation of the smoke detection device, as required by Chapter 48.48 of the Revised Code of Washington; or

19.11 Engaging in activity at the Premises that is: (1) immediately hazardous to the physical safety of other persons on the Premises and entails physical assault upon another person which results in an arrest or entails the unlawful use of a firearm as defined in RCW 9A.04.110 which results in arrest, including threatening another tenant or landlord with a firearm or other deadly weapon as defined by RCW 59.18.352.

20. Landlord's Remedies. In the event Tenant is in default under the terms of this Agreement, Landlord shall be entitled to exercise the following remedies:

20.1 If Tenant is in default for permitting a drug-related activity to occur on the Premises, Landlord shall have the right, upon three (3) days written notice to repossess the Premises, either by summary proceedings (i.e., unlawful detainer), or surrender, all in accordance with applicable law.

20.2 If Tenant is in default for permitting gang related activity to occur on the Premises, Landlord shall have the right, without additional notice, to repossess the Premises, either by summary proceedings (i.e. unlawful detainer), or surrender, all in accordance with applicable law.

20.3 Landlord shall have the right upon ten (10) days written notice to Tenant, specifying the default and if the default is not cured within such ten (10) days, to lawfully reenter possession of the property either by summary proceedings, surrender or otherwise, and dispossess or remove therefrom Tenant, and/or other occupants thereof, and their effects, all in accordance with applicable law.

20.4 Landlord shall have the right to exercise any and all other remedies provided by the Washington State Residential Landlord/Tenant Act (RCW 59.18), including termination of the lease.

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21. **Non-Waiver.** Waiver by Landlord of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, or condition, or of any subsequent breach of the same or of any other term, covenant, or condition herein contained.

22. **Right of Entry.** Except in the case of an emergency, Landlord may enter the Premises for purposes of making inspections, repairs, tests, showing the property, and other lawful reasons, with a minimum of forty-eight (48) hours advance written notice to the Tenant.

23. **AS-IS. NO WARRANTY.** TENANT ACKNOWLEDGES IT IS FAMILIAR WITH THE PROPERTY, HAS INVESTIGATED SAME, AND HAS BEEN PROVIDED WITH ADDITIONAL OPPORTUNITIES TO INVESTIGATE THE PROPERTY PRIOR TO THIS LEASE AGREEMENT. TENANT ACKNOWLEDGES AND AGREES THAT IT IS RELYING SOLELY ON ITS INSPECTION AND INVESTIGATION OF THE PROPERTY, AND ACCEPTS THE PROPERTY "AS IS, WHERE IS" IN ITS PRESENT CONDITION WITH NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, EITHER ORAL OR WRITTEN, MADE BY LANDLORD OR ANY EMPLOYEE, AGENT OR REPRESENTATIVE OF LANDLORD WITH RESPECT TO THE PHYSICAL CONDITION OF THE PROPERTY. TENANT SHALL HAVE DETERMINED TO ITS SATISFACTION UPON EXECUTION OF THE LEASE AGREEMENT THAT THE PROPERTY CAN BE USED FOR THE PURPOSES TENANT INTENDS. TENANT ACKNOWLEDGES AND AGREES THAT NEITHER LANDLORD NOR LANDLORD'S AGENT HAVE MADE, NOR DO THEY MAKE, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED.

24. **Time.** TIME IS OF THE ESSENCE IN THIS AGREEMENT.

25. **Binding on Heirs, Successors and Assigns.** All the covenants, agreement terms and conditions contained in this Agreement shall be binding upon Landlord and Tenant and their respective heirs, executors, administrators, successors, and assigns.

26. **Savings Clause.** Nothing in this Agreement shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provisions of this Agreement and any statute, law, public regulation or ordinance, the latter shall prevail, but in such event, the provisions of this Agreement affected shall be curtailed and limited only to the extent necessary to bring it within legal requirements.

27. **Incorporation.** This Agreement represents the entire Agreement of the Parties. Unless as set forth herein in writing, neither party shall be bound by any statements or representations made, and each agrees that there are no such statements or representations being relied upon in making this Agreement. No alterations, changes or amendments to this Agreement will be binding upon either party unless such party has executed a written statement acknowledging such alterations, change or amendment.

28. **Remedies Accumulative.** The specified remedies to which Landlord and Tenant may resort under the terms of this Agreement are cumulative and are not intended to be exclusive of any other remedies or means of redress to which Landlord and Tenant may be lawfully

EXHIBIT

entitled in case of any breach or threatened breach by Tenant or Landlord, as the case may be, of any provision of this Agreement. In addition to the other remedies provided in this Agreement, Landlord and Tenant shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation, of any of the covenants, conditions, or provisions of this Agreement.

29. Governing Law and Venue. This Agreement shall be governed by the laws of the state of Washington and venue from any action arising from this Agreement shall be Chelan County, Washington.

30. Change in Law. In the event there is a change in any state or federal law, regulation or rule or interpretation thereof, which exempts leases entered into pursuant to a purchase and sale agreement (i.e. purchase with a "lease-back") from the requirements or application of the Residential Landlord/Tenant Act (Chapter 59.18 RCW) as existing or amended, then the terms of this Agreement, which was entered into pursuant to a purchase and sale of the Premises with lease-back to the Tenant, shall be governed by the new or changed laws or regulations.

31. Counterpart and Facsimile Signatures. This Agreement may be signed in counterparts, each of which shall be an original but all of which shall constitute one and the same document. Signatures transmitted by facsimile shall be deemed valid execution of this Agreement, binding on the Parties.

32. Construction. Throughout this Agreement, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine, wherever the context so requires. This Agreement has been submitted to the scrutiny of all the Parties and their counsel, if desired, and it shall be given a fair and reasonable interpretation in accordance with its word, without consideration to or weight being given to its being drafted by any party or its counsel. Paragraph headings are for convenience only and shall not be considered when interpreting this Agreement.

LANDLORD:

TENANT(S):

CHELAN DOUGLAS REGIONAL PORT
AUTHORITY

By: **EXHIBIT**
James M. Kuntz, Chief Executive Officer

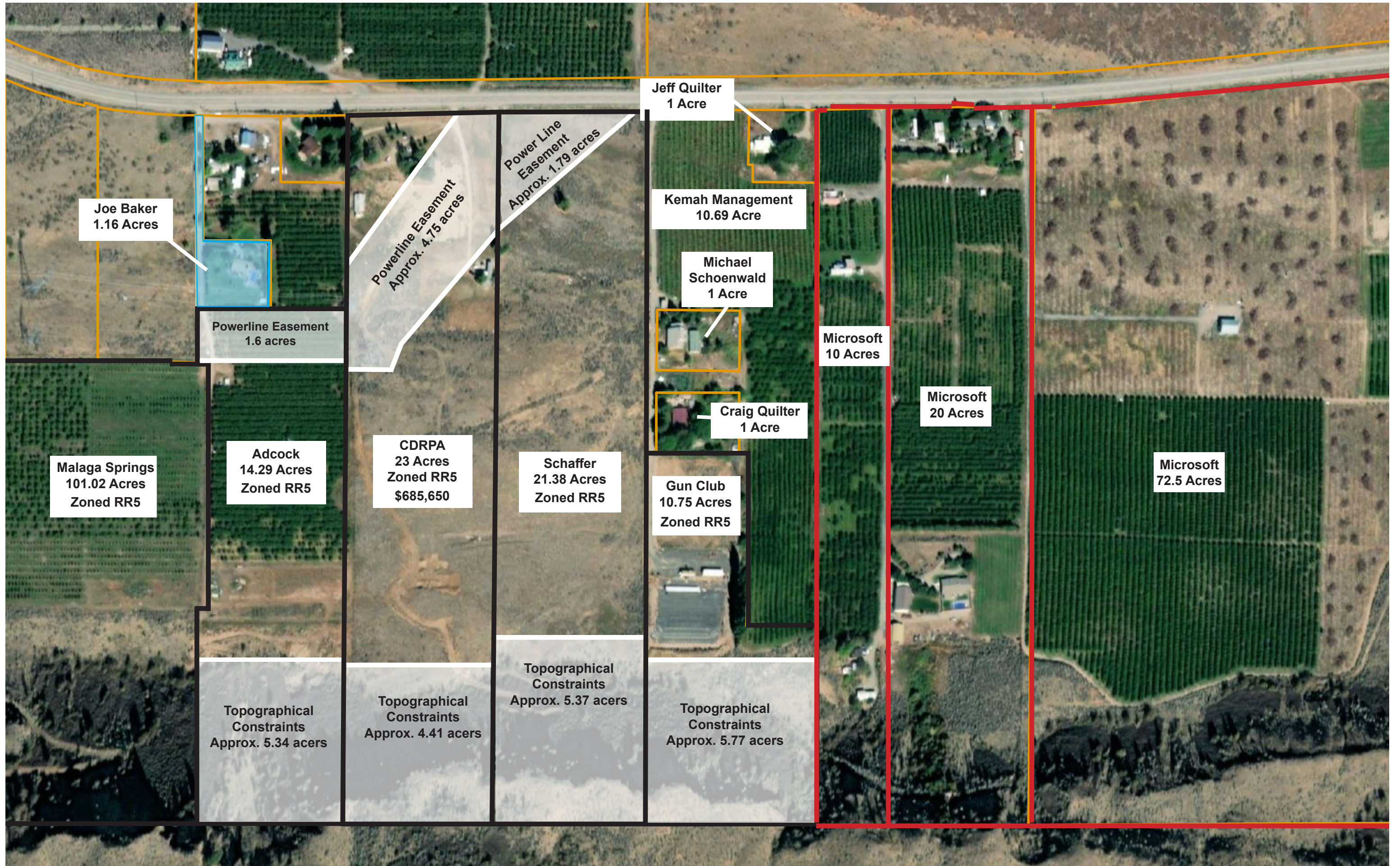
Date: _____

EXHIBIT Authentisign *Joseph M. Baker*
Joseph M. Baker

Date: 08/15/23

EXHIBIT Authentisign *Keri L. Baker*
Keri L. Baker

Date: 08/15/23



Joe Baker
1.16 Acres

Powerline Easement
1.6 acres

Powerline Easement
Approx. 4.75 acres

Power Line
Easement
Approx. 1.79 acres

Jeff Quilter
1 Acre

Kemah Management
10.69 Acre

Michael
Schoenwald
1 Acre

Microsoft
10 Acres

Craig Quilter
1 Acre

Microsoft
20 Acres

Malaga Springs
101.02 Acres
Zoned RR5

Adcock
14.29 Acres
Zoned RR5

CDRPA
23 Acres
Zoned RR5
\$685,650

Schaffer
21.38 Acres
Zoned RR5

Gun Club
10.75 Acres
Zoned RR5

Microsoft
72.5 Acres

Topographical
Constraints
Approx. 5.34 acers

Topographical
Constraints
Approx. 4.41 acers

Topographical
Constraints
Approx. 5.37 acers

Topographical
Constraints
Approx. 5.77 acers