



AGENDA  
Regular Commission Meeting  
Port of Portland Headquarters  
7200 N.E. Airport Way, 8<sup>th</sup> Floor  
September 14, 2011  
9:30 a.m.

---

**Minutes**

Approval of Minutes: Regular Commission Meeting – August 10, 2011

**Executive Director**

Approval of Executive Director's Report – August 2011

**Action Items**

1. EXTENSION OF THE WEST HAYDEN ISLAND INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND *SUSIE LAHSENE*

Requests approval of a third amendment to an Intergovernmental Agreement with the City of Portland for planning services to complete a West Hayden Island plan district and annexation proposal.
2. PUBLIC HEARING AND ENACTMENT OF PORT ORDINANCE NO. 442-B TO ISSUE UP TO \$100,000,000 OF PORTLAND INTERNATIONAL AIRPORT PASSENGER FACILITY CHARGE REVENUE BONDS SERIES 2011A *VINCE GRANATO*

Requests approval of Port Ordinance No. 442-B to authorize the sale of Portland International Airport Passenger Facility Charge Revenue Bonds, Series 2011A.
3. FIRST READING AND PUBLIC HEARING OF PORT ORDINANCE NO. 439-R PERTAINING TO REGULATION OF OFF-AIRPORT RENTAL CAR AND PARKING LOT BUSINESSES SERVICING PORTLAND INTERNATIONAL AIRPORT *SCOTT KILGO*

Requests a first reading and public hearing on proposed Port Ordinance No. 439-R, the amendment and restatement of Ordinance No. 349-R, as amended by Ordinance No. 412-R, which pertains to regulation of off-airport rental car and parking lot businesses serving Portland International Airport passengers.

4. FIRST READING AND PUBLIC HEARING OF PORT ORDINANCE NO. 432-R PERTAINING TO REGULATION OF THE COMMERCIAL ROADWAY AT PORTLAND INTERNATIONAL AIRPORT *MICHAEL HUGGINS*

Requests a first reading and public hearing on proposed Port Ordinance No. 432-R, the amendment and restatement of Ordinance No. 418-R, as amended by Ordinance Nos. 351, 386-R and 418-R, which pertains to regulation of use and operation of the Commercial Roadway at Portland International Airport.

5. PROFESSIONAL SERVICES CONTRACT – RUNWAY 2/20 AND TAXIWAY C – HILLSBORO AIRPORT *JIM MCGINNIS  
STEVE NAGY*

Requests approval to award a Professional Services contract to Mead & Hunt, Inc., for the design of Runway 2/20 and Taxiway C rehabilitation and associated infrastructure at Hillsboro Airport.

6. CONSTRUCTION CONTRACT – 2011-2012 MAINTENANCE DREDGING – TERMINAL 6 *MARCEL HERMANS*

Requests approval to award a construction contract to Marine Industrial Construction, LLC, for maintenance dredging at Terminal 6 during 2011-2012.

**EXTENSION OF THE WEST HAYDEN ISLAND INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND**

---

September 14, 2011

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

This agenda item requests approval of a third amendment to an Intergovernmental Agreement (IGA) with the City of Portland for planning services to complete a West Hayden Island plan district and annexation proposal. The amendment increases payment to the City for reimbursement of planning costs in an amount not to exceed \$190,000 and extends the IGA through July 2012.

**BACKGROUND**

West Hayden Island (WHI) is located along the south shore of the Columbia River, just north of Terminal 6 and west of the BNSF railroad tracks. The approximately 825 acres includes vacant land, wildlife habitat, a dredge material handling facility, a City of Portland sewer outfall, and Bonneville Power Administration and Portland General Electric right-of-way and electric transmission lines. In-water areas immediately adjacent to WHI are used for barge mooring and log raft storage.

Metro brought West Hayden Island into the urban growth boundary in 1983 for the express purpose of satisfying a regional need for marine industrial facilities. In 1994, the Port of Portland (Port) purchased WHI to meet a future marine need due to its proximity to the Columbia River shipping channel, class 1 mainline and Interstate 5. While the property is within the urban growth boundary, it is not within the City of Portland city limits. Required urban services for future development dictate the need to annex the property into the City of Portland for the provision of urban services. As part of the annexation process, the City assigns zoning and future development conditions through a plan district.

In Metro's 2040 Growth Concept Plan (1995), the northern portion of WHI was designated industrial and the southern portion designated as open space. In the 2004 Metro Title 4 decision, all of WHI was designated as Regionally Significant Industrial land and reflected in the updated 2040 growth concept. In 2005, Metro also identified WHI as a high-value riparian area and habitat of concern. In consideration of the high urban development value also on the site, WHI received a designation of moderate habitat conservation area in Metro's Title 13 process. Metro Title 13, Nature in Neighborhoods, code section 3.07.1330(B)(4)(a) states the City shall develop a district plan in cooperation with the Port of Portland.

In the summer of 2007, the City began preparation of the Hayden Island Plan (land east of BNSF railroad tracks). The Hayden Island Plan was scheduled to coincide with the work on improvements planned for the I-5 corridor across Hayden Island, known as the Columbia River Crossing. Given

EXTENSION OF THE WEST HAYDEN ISLAND INTERGOVERNMENTAL AGREEMENT WITH  
THE CITY OF PORTLAND

September 14, 2011

Page 2

the timing of the Hayden Island Plan and the Columbia Crossing, the City and the Port agreed to work collaboratively on future planning for the western portion of Hayden Island.

On May 29, 2009, the City and Port entered into an IGA to prepare a long-term vision for WHI. The Port agreed to pay the City \$440,000 for consultant and planning services through July 2010. The City initiated a process to consider annexation of WHI into the City of Portland and zoning in a manner compatible with Metro's 2040 Growth Concept Plan, Metro Titles 4, 11 and 13, and pertinent city, state and federal policies and regulations contingent upon the work contained in the IGA. The Mayor's office appointed a Community Working Group (CWG) of 16 stakeholders and provided the group a charge: To determine how the uses of marine industrial, habitat and recreation might be reconciled and if a mix of uses was possible on WHI to recommend a preferred concept plan outlining the location and geography of the uses as the basis of development conditions and annexation.

Technical consultant work was completed in early July and the CWG reported their advice to City council on July 29, 2010. City Council unanimously approved Resolution No. 36805 directing Bureau of Planning and Sustainability staff to develop a legislative proposal for annexation of West Hayden Island to the City with the intent to protect at least 500 acres as open space, and identify no more than 300 acres for future deep water marine terminal development.

As result of the resolution, the City and the Port amended and extended the terms of the agreement and work plan for a second time through the end of 2011 to address additional studies requested by City Council in Resolution 36805. The work program items include development of a legislative proposal for annexation of West Hayden Island to the City with at least 500 acres for open space and no more than 300 for deep draft marine terminal including a plan district, with zoning and map amendments as well as the following additional studies to inform the proposal: rail analysis, port operational efficiencies, harbor marine land supply, transportation and bridge analysis; Port of Portland and Port of Vancouver coordination, natural resource inventory, costs and benefits, land management options and recreational analysis.

The City appointed the West Hayden Island Advisory Committee to develop the Request for Proposals (RFP) for the studies and to select the most qualified contractors to meet the objectives defined by City Council. Due to the increased time to select advisory committee members and additional requirements imposed on the contractors by the committee, the cost for the consultant and staff work increased. The City and Port propose to share in the additional cost of the work which is \$440,000. The city will provide \$250,000, leaving the Port's share at \$190,000. Therefore, a third amendment adding \$190,000 to the City of Portland IGA and extending the life of the agreement to July 2012 is requested.

EXTENSION OF THE WEST HAYDEN ISLAND INTERGOVERNMENTAL AGREEMENT WITH  
THE CITY OF PORTLAND

September 14, 2011

Page 3

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That the Intergovernmental Agreement with the City of Portland be amended to provide additional funding of up to \$190,000 and extended to July 30, 2012, for planning services for West Hayden Island, including the development of a plan district and legislative proposal for annexation and adoption of City Comprehensive Plan and zoning designations; and

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

PUBLIC HEARING AND ENACTMENT OF PORT ORDINANCE NO. 442-B TO ISSUE UP TO \$100,000,000 OF PORTLAND INTERNATIONAL AIRPORT PASSENGER FACILITY CHARGE REVENUE BONDS SERIES 2011A

---

September 14, 2011

Presented by: Vince Granato  
CFO, Director, Financial &  
Administrative Services

**EXECUTIVE SUMMARY**

This agenda item requests approval of Port of Portland (Port) Ordinance No. 442-B (the Ordinance) to authorize the sale of up to \$100,000,000 of Portland International Airport Passenger Facility Charge Revenue Bonds, Series 2011A (the Bonds), to fund costs of capital projects in the Airline Cost Center, to reimburse the Port for project costs incurred to date by prepaying the line of credit with Wells Fargo Bank (the Line of Credit), to fund the Passenger Facility Charge (PFC) First Lien Reserve Account and to pay costs of issuance.

**BACKGROUND**

All PFC Revenue Bonds are issued under the structure of Ordinance No. 395-B (the PFC Master Ordinance) enacted by the Commission in June 1999. Provisions of each individual issue of PFC bonds are set forth in a series ordinance such as the one being presented today.

The plan of finance presented to Commission when the sale of the PDX Series 20 revenue Bonds were authorized in September 2010 anticipated the need to enter into a Line of Credit to provide interim funding for the costs of the South Runway and Deicing projects. When the Commission approved the \$100 million Line of Credit in October 2010, the plan was to ultimately pay the Line of Credit down with a future issue of PFC revenue bonds.

**The Transaction and Plan of Finance**

The Line of Credit is being used to cover costs of the Deicing and South Runway projects until long-term financing is secured. The current estimate is that by the time the Bonds are closed, the total draw on the Line of Credit will be approximately \$53.7 million. Remaining project costs to be paid from bond proceeds are estimated at \$27.8 million. The not-to-exceed amount of \$100,000,000 in the Ordinance is the maximum amount of principal that would be issued to fund projects and associated financing costs under the latest PFC application. The current estimate of the principal amount of bonds to be issued is \$81 million. As a practical matter, it is preferable to have a higher authorized amount in the bond ordinance to handle unanticipated changes to the financing between the time the Ordinance is approved and the Bonds are closed. A portion of the proceeds will also be used to fund the PFC First Lien Reserve Account and to pay costs of issuance. The Bonds will be issued as First Lien PFC bonds, will bear interest at fixed rates and will have a maximum maturity of 20 years.

PUBLIC HEARING AND ENACTMENT OF PORT ORDINANCE NO. 442-B TO ISSUE UP TO \$100,000,000 OF PORTLAND INTERNATIONAL AIRPORT PASSENGER FACILITY CHARGE REVENUE BONDS SERIES 2011A

September 14, 2011

Page 2

Prior to the sale of the Bonds, the Port intends to use PFC cash on hand to partially redeem about \$6 million of the outstanding (and higher coupon) PFC Revenue Bonds Series 1999B (the 1999B Bonds). Between the date of issuing the Bonds and fiscal year end 2013, management intends to use PFC annual collections for the early redemption of an additional \$30.4 million of 1999B Bonds. The combination of the early redemptions and the addition of the annual debt service of the Bonds are anticipated to provide annual debt service coverage ratios sufficient to maintain the credit rating that has been in place on the outstanding PFC bonds.

With approval of this agenda item, the financing team will proceed on a schedule to have the credit rating on the Bonds secured by mid-October; the Bonds will be priced after the Ordinance becomes effective in October and closing early in November.

Delegation of Authority

Ordinance No. 442-B delegates authority to the Executive Director or the Director of Financial and Administrative Services/Chief Financial Officer of the Port and the designee of the Executive Director (each of whom is referred to in this ordinance as "Executive Director") to take the following actions:

- Establish the denominations, series designations, final principal amount and maturity schedules for the Bonds within limits set by the Ordinance.
- Establish the dates on which interest shall be paid.
- Establish and revise optional, conditional and mandatory redemption and purchase provisions for the Bonds.
- Establish all other terms of the Bonds in accordance with the limitations of this Series ordinance and the Master Ordinance.
- Establish and make such covenants or agreements or changes or amendments hereto as permitted by law and as necessary to obtain satisfactory ratings for the Bonds.
- Enter into an agreement with the Trustee which provides for, among other things, the payment of Trustee fees.
- Execute and deliver a supplemental action certificate specifying the actions taken by the Executive Director and to execute and deliver any other certificates, documents or agreements which the Executive Director determines are desirable to issue, sell, deliver, manage or administer the Bonds in accordance with the Ordinance.

PUBLIC HEARING AND ENACTMENT OF PORT ORDINANCE NO. 442-B TO ISSUE UP TO \$100,000,000 OF PORTLAND INTERNATIONAL AIRPORT PASSENGER FACILITY CHARGE REVENUE BONDS SERIES 2011A

September 14, 2011

Page 3

Participants in the Transaction

In addition to the Port, the primary firms involved in the transaction are:

- Bank of America Merrill Lynch and Goldman Sachs will be the investment bankers.
- Wells Fargo Bank, National Association, will be the Trustee.
- Orrick, Herrington & Sutcliffe LLP is bond counsel to the Port.
- Ricondo & Associates, Inc., is the Airport Consultant.
- Standard & Poor's is expected to provide the rating on the Bonds.
- Seattle-Northwest Securities Corporation is the financial advisor to the Port.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends as follows:

1. That Port Ordinance No. 442-B, in the form presented to the Port of Portland Commission, be read by title only; and
2. That a public hearing be held prior to adopting Port Ordinance No. 442-B in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended; and
3. That the proposed Port Ordinance No. 442-B, in the form presented to the Port of Portland Commission, be enacted by a roll call vote.

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



---

---

**ORDINANCE NO. 442-B**  
**(PFC SUPPLEMENTAL SERIES**  
**ORDINANCE)**

---

**THE PORT OF PORTLAND**

---

Enacted: September 14, 2011  
Effective: October 14, 2011

*Relating to The*  
*Issuance of*  
*Not to Exceed*  
*\$100,000,000*  
*The Port of Portland*  
*Portland International Airport*  
*Passenger Facility Charge Revenue Bonds*  
*Series 2011A (Non-AMT)*

## TABLE OF CONTENTS

	<b>Page</b>
Section 1. Definitions.....	2
Section 2. Authorization of Series 2011A PFC Bonds .....	4
Section 3. Bond Details.....	4
Section 4. Redemption and Purchase.....	5
Section 5. Place and Medium of Payment .....	5
Section 6. Registration.....	6
Section 7. Use of Excess.....	8
Section 8. Disposition of the Proceeds of Sale of Series 2011A PFC Bonds.....	9
Section 9. Tax Covenants .....	10
Section 10. Lost, Stolen, Mutilated or Destroyed Series 2011A PFC Bonds.....	11
Section 11. Form of Series 2011A PFC Bonds and Registration Certificate .....	11
Section 12. Sale of Series 2011A PFC Bonds and Supplemental Action.....	11
Section 13. Amendment of PFC Master Ordinance.....	11
Section 14. Supplemental Action.....	12
Section 15. Severability .....	13
Section 16. Publication of Ordinance .....	13

---

---

## ORDINANCE NO. 442-B

---

**AN ORDINANCE AUTHORIZING THE SALE AND ISSUANCE OF PORTLAND INTERNATIONAL AIRPORT PASSENGER FACILITY CHARGE REVENUE BONDS, SERIES 2011A OF THE PORT IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$100,000,000 FOR THE PURPOSE OF FINANCING AND REFINANCING PART OF THE COSTS OF APPROVED CAPITAL IMPROVEMENTS TO THE PORT'S AIRPORT FACILITIES; FIXING OR PROVIDING FOR THE DATE, FORMS, TERMS AND MATURITIES FOR SUCH BONDS; AUTHORIZING THE SALE OF SUCH BONDS; DELEGATING TO THE EXECUTIVE DIRECTOR, DIRECTOR OF FINANCIAL & ADMINISTRATIVE SERVICES AND CHIEF FINANCIAL OFFICER OR THEIR DESIGNEE BY SUPPLEMENTAL ACTION THE ESTABLISHMENT OF INTEREST RATE, PAYMENT, REDEMPTION AND OTHER TERMS; AND PROVIDING FOR AND DETERMINING VARIOUS MATTERS IN CONNECTION WITH THE AUTHORIZATION, RATINGS, ISSUANCE, SALE, SECURITY, PAYMENT OR DELIVERY OF THE BONDS AND ANY RECORD OF DECISION; AUTHORIZING AN AMENDMENT TO ORDINANCE NO. 395-B.**

WHEREAS, The Port of Portland (the "Port"), a port district and political subdivision of the State of Oregon (the "State"), owns and operates Portland International Airport (the "Airport"); and

WHEREAS, the Airport is in need of capital expansion and improvement; and

WHEREAS, pursuant to Ordinance No. 155, enacted November 10, 1971, as amended, restated and supplemented, and Ordinance No. 323, enacted October 9, 1985, as amended, restated and supplemented (together, the "Airport Revenue Bond Ordinances"), the Port entered into a JLO Non-Revolving Credit Facility, dated November 24, 2010 (the "Line of Credit") with Wells Fargo Bank, National Association in an amount not to exceed \$100,000,000.

WHEREAS, Ordinance No. 395-B, enacted June 10, 1999, as amended and supplemented (the "PFC Master Ordinance"), authorizes the Port to issue passenger facility charge revenue bonds for any purpose of the Port for which passenger facility charges ("PFCs") may be used (defined as "First Lien PFC Bonds" in the PFC Master Ordinance), payable from PFC Revenue (as defined in the PFC Master Ordinance) on a parity with the outstanding PFC Bonds; and

WHEREAS, the Port desires to issue, in one or more series, up to \$100,000,000 in aggregate principal amount of Portland International Airport Passenger Facilities Charge Revenue Bonds, Series 2011A (Non-AMT) (the "Series 2011A PFC Bonds") (a) to pay all or a portion of the costs of capital improvements to the Airport (defined with further particularity in the PFC Master Ordinance as "Costs of Approved PFC Projects") and (b) to repay draws on the Line of Credit, pursuant to this Series Ordinance (as such term is defined in the PFC Master Ordinance); and

WHEREAS, it is necessary that the date, form, terms and maturities of the Series 2011A PFC Bonds constituting First Lien PFC Bonds under the PFC Master Ordinance be fixed or provided for as provided in this Series Ordinance; and

WHEREAS, it is deemed necessary and desirable that the Series 2011A PFC Bonds be sold pursuant to negotiated sale as herein provided, and if it is deemed necessary and desirable, the Series 2011A PFC Bonds may be additionally secured by one or more Credit Facilities (as such term is defined in the PFC Master Ordinance); NOW THEREFORE,

BE IT ENACTED BY THE PORT OF PORTLAND, AS FOLLOWS:

Section 1. Definitions. Unless otherwise defined herein, the terms used in this Series Ordinance, including the preamble hereto, which are defined in the PFC Master Ordinance shall have the meanings set forth in the PFC Master Ordinance. In addition, the following terms shall have the following meanings in this Series Ordinance:

"Board" means the Board of Commissioners of the Port.

"Bond Purchase Contract" means each Bond Purchase Contract between the Port and an Underwriter, or among the Port and the Underwriters, relating to the sale of Series 2011A PFC Bonds.

"Bond Register" means the books or records maintained by the Registrar containing the name and mailing address of the owner of each Series 2011A PFC Bond or nominee of such owner and the principal amount and number of Series 2011A PFC Bonds held by each owner or nominee.

"Costs of Issuance Account-2011A" means the subaccount of the PFC Fund by that name maintained by the Port for the purpose of holding certain proceeds of the Series 2011A PFC Bonds.

“DTC” means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, as depository for the Series 2011A PFC Bonds pursuant to Section 6 hereof.

“Executive Director” means the Executive Director of the Port or the Director of Financial & Administrative Services and Chief Financial Officer of the Port and each designee of the Executive Director as provided in Section 11.

“Letter of Representations” means the blanket issuer letter of representations from the Port to DTC, dated June 1, 1995.

“Owner” means the person named as the registered owner of a Series 2011A PFC Bond in the Bond Register.

“Paying Agent” means the Trustee acting in its capacity as Paying Agent. The term “Paying Agent” shall include any successor to the Trustee.

“PFC Master Ordinance” means Ordinance No. 395-B of the Port, as the same may be amended from time to time in accordance with its terms.

“Project Account-2011A” means the subaccount of the PFC Fund by that name maintained by the Port for the purpose of holding certain proceeds of the Series 2011A PFC Bonds.

“Registrar” means the Trustee acting in its capacity as Registrar, and for the purposes of registering and authenticating the Series 2011A PFC Bonds, maintaining the Bond Register and effecting transfer of ownership of the Series 2011A PFC Bonds. The term “Registrar” shall include any successor to the Trustee.

“SEC” means the Securities and Exchange Commission.

“Series Default” has the meaning given such term in Section 14 of the PFC Master Ordinance.

“Series 2011A PFC Bonds” means The Port of Portland, Oregon, Portland International Airport Passenger Facility Charge Revenue Bonds, Series 2011A, authorized to be issued in one or more series by Section 2 of this Series Ordinance.

“Supplemental Action” means any Supplemental Action executed and delivered pursuant to Section 13 hereof by the Executive Director.

“Trustee” means the Trustee appointed pursuant to the PFC Master Ordinance.

“Underwriters” mean, collectively, Goldman, Sachs & Co. and Merrill Lynch, Pierce, Fenner & Smith Incorporated.

*Rules of Interpretation.* In this Series Ordinance, unless the context otherwise requires:

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

(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 limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several Sections of this Series Ordinance, 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 Series Ordinance, nor shall they affect its meaning, construction or effect;

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

(f) Whenever any consent or direction is required to be given by the Port, such consent or direction shall be deemed given when given by the Executive Director or his or her designee, respectively, and all references herein to the Executive Director shall be deemed to include references to his or her designee, as the case may be.

Section 2. Authorization of Series 2011A PFC Bonds. The Port shall issue, in one or more subseries, the Series 2011A PFC Bonds in the aggregate principal amount of not to exceed \$100,000,000 for the purpose of providing funds necessary (i) to pay all or a portion of Costs of Approved PFC Projects, (ii) to repay draws on the Line of Credit, (iii) to fund a portion of the First Lien Reserve Account Requirement, (iv) if, desirable, to capitalize a portion of the interest on the Series 2011A PFC Bonds and (v) to pay all costs incidental to the foregoing and to the issuance of the Series 2011A PFC Bonds, including without limitation, costs associated with obtaining one or more Credit Facilities, if necessary and desirable. The Series 2011A PFC Bonds shall be initially issued as fixed rate obligations, as shall be further described in the Supplemental Action.

Section 3. Bond Details.

(a) *Series 2011A PFC Bonds.* The Series 2011A PFC Bonds shall be designated as “The Port of Portland, Oregon, Portland International Airport Passenger Facility Charge Revenue Bonds, Series 2011A,” may be issued in one or more series with separate series designations, shall be registered as to both principal and interest and shall be numbered

separately in the manner and with any additional designation as the Registrar deems necessary for purposes of identification, shall be dated as provided in the Supplemental Action, shall be in the denominations specified in the Supplemental Action, and shall bear interest from the date as provided in the Supplemental Action. The Series 2011A PFC Bonds shall mature no later than July 1, 2036.

(b) *Series 2011A PFC Bonds a Special Fund Obligation.* The Series 2011A PFC Bonds are not general obligations of the Port, and no tax revenues of the Port may be used to pay the principal of, premium, if any, and interest on the Series 2011A PFC Bonds. The Series 2011A PFC Bonds shall be obligations only of the First Lien Bond Account and the First Lien Reserve Account and shall be payable and secured as provided herein and in the PFC Master Ordinance, provided that pursuant to Section 14, the Executive Director may designate the payment obligations with respect to any Credit Facilities for the Series 2011A PFC Bonds as Junior Lien Obligations (as such term is defined in Ordinance No. 323 of the Port). The Series 2011A PFC Bonds do not constitute an indebtedness of the Port within the meaning of the constitutional and statutory provisions and limitations of the State of Oregon.

Section 4. Redemption and Purchase.

(a) *Redemption and Purchase.* The Series 2011A PFC Bonds shall be subject to optional and mandatory redemption and optional and mandatory purchase as provided in the Supplemental Action.

(b) *Purchase of Series 2011A PFC Bonds.* The Port reserves the right to purchase any of the Series 2011A PFC Bonds offered to the Port at any price deemed reasonable to the Executive Director.

Section 5. Place and Medium of Payment. The Port hereby appoints the Trustee as the Paying Agent for the Series 2011A PFC Bonds. The principal of, premium, if any, and interest on the Series 2011A PFC Bonds shall be payable in lawful money of the United States of America. Interest on the Series 2011A PFC Bonds shall be calculated in the manner described in the Supplemental Action. For so long as all Series 2011A PFC Bonds are held by DTC, such payments shall be made as provided in the operational arrangements of DTC as referred to in the Letter of Representations.

In the event that the Series 2011A PFC Bonds are no longer in fully immobilized form, interest on the Series 2011A PFC Bonds shall be paid by check or draft mailed (or by wire transfer, without transfer fee, to the Owner of such Series 2011A PFC Bonds in aggregate principal amount of \$1,000,000 or more who so requests) to the Owners of the Series 2011A PFC Bonds at the addresses for such Owners appearing on the Bond Register on the 15th day of the month preceding the interest payment date. Principal of and premium, if any, on the Series 2011A PFC Bonds shall be payable upon presentation and surrender of such Series 2011A PFC Bonds by the Owners at the office of the Registrar designated for such presentation and surrender.

If any Series 2011A PFC Bond shall be duly presented for payment and funds have not been duly provided by the Port on such applicable date, then interest shall continue to accrue thereafter on the unpaid principal thereof at the rate stated on such Series 2011A PFC Bond until such Series 2011A PFC Bond is paid.

Section 6.     Registration.

(a)     *Registrar/Bond Register.* The Port hereby appoints the Trustee as the Registrar for the Series 2011A PFC Bonds. The Port shall cause the Bond Register to be maintained by the Registrar. So long as any Series 2011A PFC Bonds remain Outstanding, the Registrar shall make all necessary provisions to permit the exchange and registration of transfer of Series 2011A PFC Bonds at its designated corporate trust office. The Registrar may be removed at any time at the option of the Port upon prior notice to the Registrar, the FAA and DTC, and a successor Registrar appointed by the Port. No resignation or removal of the Registrar shall be effective until a successor shall have been appointed and until the successor Registrar shall have accepted the duties of the Registrar hereunder and under the Master PFC Ordinance. The Registrar is authorized, on behalf of the Port, to authenticate and deliver Series 2011A PFC Bonds transferred or exchanged in accordance with the provisions of such Series 2011A PFC Bonds and this Series Ordinance and to carry out all of the Registrar's powers and duties under this Series Ordinance. The Registrar shall be responsible for its representations contained in the Certificate of Authentication on the Series 2011A PFC Bonds.

(b)     *Registered Ownership.* The Port and the Registrar, each in its discretion, may deem and treat the Owner of each Series 2011A PFC Bond as the absolute owner thereof for all purposes (except as otherwise expressly provided in this Series Ordinance or in the Supplemental Action), and neither the Port nor the Registrar shall be affected by any notice to the contrary. Payment of any such Series 2011A PFC Bond shall be made only as described in Section 5 hereof, but such Series 2011A PFC Bond may be transferred as herein provided. All such payments made as described in Section 5 shall be valid and shall satisfy and discharge the liability of the Port upon such Series 2011A PFC Bond to the extent of the amount or amounts so paid.

(c)     *DTC Acceptance/Letter of Representations.* To induce DTC to accept the Series 2011A PFC Bonds as eligible for deposit at DTC, the Port has executed and delivered to DTC the Letter of Representations.

Neither the Port nor the Registrar will have any responsibility or obligation to DTC participants or the persons for whom they act as nominees (or any successor depository) with respect to the Series 2011A PFC Bonds in respect of the accuracy of any records maintained by DTC (or any successor depository) or any DTC participant, the payment by DTC (or any successor depository) or any DTC participant of any amount in respect of the principal or interest on Series 2011A PFC Bonds, any notice which is permitted or required to be given to Owners under this Series Ordinance (except such notices as shall be required to be given by the Port to the Registrar or to DTC (or any successor depository)), or any consent given or other



action taken by DTC (or any successor depository) as the Owner. For so long as any Series 2011A PFC Bonds are held by DTC hereunder, DTC or its successor depository (or their respective nominees) shall be deemed to be the Owner for all purposes hereunder, and all references herein to the Owners shall mean DTC or its successor depository (or their respective nominees) and shall not mean the owners of any beneficial interest in such Series 2011A PFC Bonds.

(d) *Use of Depository.*

(i) The Series 2011A PFC Bonds shall be registered initially in the name of “Cede & Co.”, as nominee of DTC, with one Series 2011A PFC Bond maturing on each of the maturity dates (for each subseries, if any) of the Series 2011A PFC Bonds in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such immobilized Series 2011A PFC Bonds, or any portions thereof, may not thereafter be transferred except (A) to any successor of DTC or its nominee, provided that any such successor shall be qualified under any applicable laws to provide the service proposed to be provided by it; (B) to any substitute depository appointed by the Board or the Executive Director pursuant to subsection (ii) below or such substitute depository’s successor; or (C) to any person as provided in subsection (iv) below.

(ii) Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository or a determination by the Board or the Executive Director to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the Board or the Executive Director may hereafter appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

(iii) In the case of any transfer pursuant to clause (A) or (B) of subsection (i) above, the Registrar shall, upon receipt of all Outstanding Series 2011A PFC Bonds, together with a written request of the Board or the Executive Director, issue a single new Series 2011A PFC Bond for each maturity (of each subseries, if any) of the Series 2011A PFC Bonds then Outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the Executive Director.

(iv) In the event that (A) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (B) the Board or the Executive Director determines that it is in the best interest of the beneficial owners of the Series 2011A PFC Bonds that such owners be able to obtain such bonds in the form of Series 2011A PFC Bond certificates, the ownership of such Series 2011A PFC Bonds may then be transferred to any person or entity as herein provided, and shall no longer be held in fully immobilized form. The Board or the Executive Director shall deliver a written request to the Registrar, together with a supply of definitive Series 2011A PFC Bonds, to issue Series 2011A PFC Bonds as herein provided in any authorized denomination. Upon

receipt by the Registrar of all then Outstanding Series 2011A PFC Bonds together with a written request of the Board or the Executive Director to the Registrar, new Series 2011A PFC Bonds shall be issued in the appropriate denominations (and subseries, if any) and registered in the names of such persons as are requested in such written request.

(e) *Registration of Transfer of Ownership or Exchange; Change in Denominations.* The transfer of any Series 2011A PFC Bond may be registered and Series 2011A PFC Bonds may be exchanged, but no transfer of any such Series 2011A PFC Bond shall be valid unless such Series 2011A PFC Bond is surrendered to the Registrar with the assignment form appearing on such Series 2011A PFC Bond duly executed by the Owner or such Owner's duly authorized agent in a manner satisfactory to the Registrar. Upon such surrender, the Registrar shall cancel the surrendered Series 2011A PFC Bond and shall authenticate and deliver, without charge to the Owner or transferee therefor, a new Series 2011A PFC Bond (or Series 2011A PFC Bonds at the option of the new Owner) of the same date, maturity and interest rate (and subseries, if any) and for the same aggregate principal amount in any authorized denomination, naming as Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Series 2011A PFC Bond, in exchange for such surrendered and canceled Series 2011A PFC Bond. Any Series 2011A PFC Bond may be surrendered to the Registrar and exchanged, without charge, for an equal aggregate principal amount of Series 2011A PFC Bonds of the same date, maturity and interest rate (and subseries, if any), in any authorized denomination or denominations. The Registrar shall not be obligated to register the transfer or to exchange any Series 2011A PFC Bond after notice of the redemption of such Series 2011A PFC Bond has been given.

(f) *Registrar's Ownership of Series 2011A PFC Bonds.* The Registrar may become the Owner of any Series 2011A PFC Bond with the same rights it would have if it were not the Registrar, and to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as member of, or in any other capacity with respect to, any committee formed to protect the right of the Owners of Series 2011A PFC Bonds.

(g) *Registration Covenant.* The Port covenants that, until all Series 2011A PFC Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Series 2011A PFC Bond that complies with the provisions of Section 149 of the Code.

Section 7. Use of Excess. Amounts in the First Lien Bond Account not needed to pay the interest or principal and interest next coming due on any Outstanding First Lien PFC Bonds may be used to purchase or redeem and retire First Lien PFC Bonds within the limitations provided in Section 2 of the PFC Master Ordinance. Amounts in the First Lien Bond Account shall be used to pay principal of, interest on and premium, if any, on First Lien PFC Bonds, whether at maturity or redemption or purchase in advance of maturity of such First Lien PFC Bonds. As provided in the PFC Master Ordinance, the Monthly Debt Service Deposit shall be adjusted from time to time, so as to ensure compliance with requirement of the Code and avoid excessive accumulations in the First Lien Bond Account.

Amounts on hand in the First Lien Reserve Account in excess of the First Lien Reserve Account Requirement shall be transferred to the First Lien Bond Account.

Section 8. Disposition of the Proceeds of Sale of Series 2011A PFC Bonds.

(a) *Series 2011A PFC Bonds.* The proceeds of the Series 2011A PFC Bonds shall be applied as follows:

(i) A sum specified by the Executive Director prior to closing and delivery of the Series 2011A PFC Bonds shall be deposited in the Project Account-2011A to be used and disbursed to pay Costs of Approved PFC Projects as described in the Master PFC Ordinance and to repay draws on the Line of Credit;

(ii) A sum specified by the Executive Director prior to the closing and delivery of the Series 2011A PFC Bonds shall be deposited in the First Lien Reserve Account in satisfaction of a portion of the First Lien Reserve Account Requirement unless the Port deposits in lieu thereof Qualified Insurance; and

(iii) The remainder of the proceeds of the Series 2011A PFC Bonds shall be paid into the Costs of Issuance Account-2011A (hereinafter authorized to be created).

(b) *Project Account-2011A.* The Port hereby creates a special subaccount of the Port, designated as “The Port of Portland Project Account, 2011A” (the “Project Account-2011A”). The amount on deposit in the Project Account-2011A shall be utilized to (i) repay draws on the Line of Credit, (ii) pay Costs of Approved PFC Projects, including without limitation, to reimburse the Port for payment of Costs of Approved PFC Projects paid by the Port prior to the issuance of the Series 2011A PFC Bonds and (iii) if desirable, pay capitalized interest on the Series 2011A PFC Bonds, to the extent designated by the Port.

All or part of the proceeds of the Series 2011A PFC Bonds may be temporarily invested in or with such institutions or in such obligations as may now or hereafter be permitted to port districts of the State of Oregon by law which will mature prior to the date on which such money shall be needed provided, however, such proceeds shall not be invested in the obligations of any municipality with a credit rating lower than that of the Port. Interest earnings on the Project Account-2011A shall be retained in Project Account-2011A until completion of the Approved PFC Projects identified by the Port or a determination as hereafter provided that money should be transferred to the First Lien Bond Account.

Upon the completion of each Approved PFC Project, the Port shall file a certificate with the FAA in accordance with the PFC Authority, verifying that such Approved PFC Project is complete and that the proceeds of the Series 2011A PFC Bonds have been used in accordance with the PFC Master Ordinance, this Series Ordinance, PFC Regulations, PFC Authority and the PFC Act to pay Costs of such Approved PFC Projects or to pay costs of other Approved PFC Projects and all remaining proceeds, if any, of the Series 2011A PFC Bonds allocable to such

Approved PFC Projects have been transferred to the First Lien Bond Account to be used to pay debt service on the Series 2011A PFC Bonds or to pay costs of other Approved PFC Projects.

In the event that it shall not be possible or practicable to accomplish all of the Approved PFC Projects specified by the Port, the Port may apply the proceeds of the Series 2011A PFC Bonds to pay the costs of such portion thereof or such other Approved PFC Projects as the Board shall determine to be in the best interests of the Port, subject to the limitations of Section 9 of this Series Ordinance and any limitations imposed by the PFC Master Ordinance.

Any part of the proceeds of the Series 2011A PFC Bonds remaining in the Project Account-2011A after all costs referred to in this section have been paid may be used to acquire, construct and equip other Approved PFC Projects subject to the limitations of Section 9 hereof and Section 8 of the PFC Master Ordinance or may be transferred to the First Lien Bond Account for the uses and purposes therein provided. All or a portion of the amounts then on deposit in the Project Account-2011A shall be transferred to the First Lien Bond Account if and to the extent directed by the FAA following a FAA Notice.

(c) *Costs of Issuance Account-2011A.* The Port hereby creates a special subaccount of the Port, designated as “The Port of Portland Costs of Issuance Account, 2011” (the “Costs of Issuance Account-2011A”). The amount on deposit in the Costs of Issuance Account-2011A shall be utilized to pay costs incurred in connection with the issuance and sale of the Series 2011A PFC Bonds, to the extent designated by the Port.

All or part of the proceeds of the Series 2011A PFC Bonds may be temporarily invested in or with such institutions or in such obligations as may now or hereafter be permitted to port districts of the State of Oregon by law which will mature prior to the date on which such money shall be needed provided, however, such proceeds shall not be invested in the obligations of any municipality with a credit rating lower than that of the Port. Interest earnings on the Costs of Issuance Account-2011A shall be retained in Costs of Issuance Account-2011A.

Any part of the proceeds of the Series 2011A PFC Bonds remaining in the Costs of Issuance Account-2011A after June 30, 2012 shall be transferred to the First Lien Bond Account for the uses and purposes therein provided.

Section 9. Tax Covenants. The Port covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exemption from federal income taxation of the interest on the Series 2011A PFC Bonds 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 2011A PFC Bonds.

Without limiting the generality of the foregoing, the Port covenants that it will not take any action or fail to take any action with respect to the proceeds of sale of the Series 2011A PFC Bonds or any other funds of the Port which may be deemed to be gross proceeds of the Series 2011A PFC Bonds pursuant to Section 148 of the Code and the regulations promulgated

thereunder that will cause the Series 2011A PFC Bonds to be “arbitrage bonds” within the meaning of such term as used in Section 148 of the Code.

The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Series 2011A PFC Bonds. To that end, the provisions of this section may be modified or eliminated without any requirement for formal amendment thereof (and without the consent of the Trustee, the FAA or any Owner) upon receipt of an opinion of the Port’s Bond Counsel that such modification or elimination will not adversely affect the tax exemption of interest on any Series 2011A PFC Bonds.

Section 10. Lost, Stolen, Mutilated or Destroyed Series 2011A PFC Bonds. In case any Series 2011A PFC Bond or Series 2011A PFC Bonds shall be lost, stolen, mutilated or destroyed, the Registrar may execute and deliver a new Series 2011A PFC Bond or Series 2011A PFC Bonds of like date, number and tenor to the Owner thereof upon the owner’s paying the expenses and charges of the Port in connection therewith and upon his/her filing with the Port evidence satisfactory to the Port that such Series 2011A PFC Bond was actually lost, stolen, mutilated or destroyed (including the presentation of a mutilated Series 2011A PFC Bond) and of his/her ownership thereof, and upon furnishing the Port with indemnity satisfactory to the Port.

Section 11. Form of Series 2011A PFC Bonds and Registration Certificate. The Series 2011A PFC Bonds shall be in the form attached as an Exhibit to the Supplemental Action.

Section 12. Sale of Series 2011A PFC Bonds and Supplemental Action. The Series 2011A PFC Bonds shall be sold by negotiated sale to the Underwriters under the terms of one or more Bond Purchase Contracts. Upon the adoption of this Series Ordinance, the Executive Director or the Director of Financial & Administrative Services and Chief Financial Officer of the Port (each of whom is referred to in this Series Ordinance as an “Executive Director”) are each hereby authorized and directed, on behalf of the Port and without further action by the Board and the Board hereby ratifies actions heretofore taken by the Executive Director in connection with the Series 2011A PFC Bonds, to undertake all action necessary for the prompt execution and delivery of the Series 2011A PFC Bonds to the Underwriters and further to execute and deliver all closing certificates and documents desirable to effect the closing and delivery of the Series 2011A PFC Bonds in accordance with the terms of each Bond Purchase Contract and to effect the prepayment of the Line of Credit.

The Executive Director is authorized to ratify and to approve, on behalf of the Port, the Official Statement (and any Preliminary Official Statement) relating to the issuance and sale of the Series 2011A PFC Bonds and the distribution of such Official Statement (and any Preliminary Official Statement) with such changes, if any, as may be deemed by him or her to be appropriate.

Section 13. Amendment of PFC Master Ordinance. The Board hereby authorizes the PFC Master Ordinance to be amended pursuant to Section 12 thereof to update certain outdated section references to portions of the Oregon Revised Statutes. In such connection, the

Supplemental Action executed and delivered pursuant to Section 13 hereof may set forth such amendments to applicable portions of the PFC Master Ordinance, all as may be necessary or desirable in the judgment of the Executive Director executing the same. Such amendments shall become effective only upon the Port obtaining the consent of the issuers of all Credit Facilities with respect to First Lien PFC Bonds, all as required by Section 12 of the PFC Master Ordinance.

Section 14. Supplemental Action. The Executive Director of the Port is hereby authorized from time to time in his or her discretion, on behalf of the Port, to:

(a) establish the denominations, series designations, final principal amount (subject to the limitation in Section 2 of this Series Ordinance) and the maturity schedules for the Series 2011A PFC Bonds provided the final maturity date of the Series 2011A PFC Bonds shall not be later than July 1, 2036.

(b) establish the dates on which interest shall be paid, and the rates or methods of determining the rates of interest which the Series 2011A PFC Bonds shall bear;

(c) establish and revise optional and mandatory redemption and purchase provisions for the Series 2011A PFC Bonds;

(d) establish all other terms of the Series 2011A PFC Bonds, in accordance with the limitations of this Series Ordinance and the PFC Master Ordinance;

(e) establish and make such covenants or agreements or changes or amendments hereto permitted by law and as necessary to obtain satisfactory ratings for the Series 2011A PFC Bonds;

(f) obtain debt service reserve insurance or a surety bond in lieu of funding all or any portion of the First Lien Reserve Account Requirement attributable to the Series 2011A PFC Bonds, and enter into, execute and deliver any agreements with the insurer or provider of the surety which the Executive Director determines are desirable to obtain the insurance or surety bond and make any changes required to this Series Ordinance necessary in connection with such reserve insurance or surety bond;

(g) obtain one or more Credit Facilities for the Series 2011A PFC Bonds, or enter into, execute and deliver any agreement with providers thereof which the Executive Director determines are desirable in connection therewith;

(h) enter into an agreement with the Trustee which provides for, among other things, the payment of Trustee's fees;

(i) take actions necessary to change the interest rate mode of all or a portion of the Series 2011A PFC Bonds, and execute and deliver any certificates, documents or

agreements which the Executive Director determines are desirable in connection therewith, all in accordance with this Series Ordinance;

(j) execute and deliver a continuing disclosure undertaking, if desirable, for the Series 2011A PFC Bonds;

(k) take actions necessary to designate the payment obligations with respect to any Credit Facilities for the Series 2011A PFC Bonds as Junior Lien Obligations (as such term is defined in Ordinance No. 323 of the Port);

(l) execute and deliver a supplemental action certificate specifying the actions taken by the Executive Director pursuant to this Section 13, and execute and deliver any other certificates, documents or agreements which the Executive Director determines are desirable to issue, sell, deliver, manage or administer the Series 2011A PFC Bonds in accordance with this Series Ordinance; and

(m) execute and deliver any other certificates, documents or agreements which the Executive Director determines are desirable in accordance with this Series Ordinance or for the prepayment of the Line of Credit.

Section 15. Severability. If any one or more of the covenants or agreements provided in this Series Ordinance 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 Series Ordinance and shall in no way affect the validity of the other provisions of this Series Ordinance or of any First Lien PFC Bonds.

Section 16. Publication of Ordinance. A concise summary of this Series Ordinance, including the location within the Port where a complete copy of this Series Ordinance may be obtained without charge, shall be published within five days after passage in a newspaper of general circulation within the Port.

[SIGNATURE PAGE FOLLOWS]

PASSED AND ENACTED by the Board of Commissioners of The Port of Portland at a meeting held on September 14, 2011, and signed by its President.

THE PORT OF PORTLAND

---

Judi Johansen  
Commission President

Approved as to Form:  
ORRICK, HERRINGTON & SUTCLIFFE LLP

---

By: Douglas E. Goe, Bond Counsel



FIRST READING AND PUBLIC HEARING OF PORT ORDINANCE NO. 439-R PERTAINING TO REGULATION OF OFF-AIRPORT RENTAL CAR AND PARKING LOT BUSINESSES SERVICING PORTLAND INTERNATIONAL AIRPORT

---

September 14, 2011

Presented by: Scott Kilgo  
Concession Development  
Senior Manager

**EXECUTIVE SUMMARY**

This agenda item requests a first reading and public hearing on proposed Port of Portland (Port) Ordinance No. 439-R, the amendment and restatement of Ordinance No. 349-R, as amended by Ordinance No. 412-R, which pertains to regulation of off-airport rental car and parking lot businesses serving Portland International Airport passengers.

**BACKGROUND**

The airport rental car and parking lot ordinance and associated fees were originally adopted in 1989 with subsequent amendments. Staff proposes the current revisions to reflect changes in business operations and airport regulation particularly since the recent on-airport rental car invitation to bid process.

The proposed revisions simplify the off-airport rental car permit process by making the ordinance provisions consistent with the new on-airport rental car concession leases. Additionally, those businesses that provide off-airport parking only as an accessory to a primary business are specifically defined. Furthermore, these Accessory Parking Lot Operators are not required to report revenues or pay any concession fees to the Port until such time as gross parking revenues reach \$80,000.

Specific changes to the provisions of Ordinance No. 349-R, as amended by Ordinance No. 412-R, are detailed in the attached Section-by-Section Analysis.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That Port of Portland Ordinance No. 439-R, amending and restating Ordinance No. 349-R as amended by Ordinance No. 412, be given a first reading by title only; and

BE IT FURTHER RESOLVED, That a public hearing be held concerning proposed Port of Portland Ordinance No. 439-R.

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

The Port recently publicly advertised for rental car concession leases for full and limited service on-airport concessions. This ordinance governs off-airport rental car concessions and off-airport parking and is being revised in order to be consistent with the terms of the new rental car concession leases. Additionally, the Port is revising the ordinance to separate out those businesses charging for off-airport parking as a primary business from those offering merely as an accessory business as it is not the Port's intent to collect concession fees on accessory parking businesses. Ordinance No. 439-R, which amends and restates Ordinance No. 349, as amended by Ordinance No. 412-R, reflects these changes.

**Section-By-Section Analysis:**

**Section 1: Findings and Purpose.** This Section sets forth the current findings and purpose for the ordinance and revisions thereto. This includes separating out accessory parking businesses from primary.

**Section 2: Definitions.** Numerous definitions have been expanded upon or added to be consistent with rental car concession leases and Portland International Airport Rules. New definitions include Accessory Parking Lot Operators, Concession Fee (which replaces privilege fee), and major revisions to Gross Revenues to make it consistent with the rental car concession lease terms.

**Section 3.1.1: Concession Fee.** This Section is revised to bring terms of operating an off-airport rental car business, or off-airport parking lot business, to be consistent with the rental car concession lease terms. This includes changing the Privilege Fee to a Concession Fee and setting such fee to be equal with the percentage in the on-airport rental car concession leases.

**Section 3.1.2: Fees for Accessory Parking Lot Operators.** This is a new section. This Section sets forth a reporting threshold of Eighty Thousand Dollars (\$80,000.00) in gross parking revenue before off-airport parking lot operators must report to the Port if such parking business is accessory to another business (e.g., hotel). It also reserves the right for the Port to charge such operators a Concession Fee if it meets or exceeds this threshold.

**Section 3.2.1 through 3.2.6:** Minor housekeeping changes are made along with clarifying changes to the Port's authority to audit permittees.

**Section 3.2.7:** This is a new section. This Section requires permittees to provide the Port with a schedule of fees and charges it intends to charge airport customers upon the Port's request.

**Section 3.2.8 through 3.2.9.** Minor housekeeping changes are made.

**Section 3.2.10:** Requires all off-airport rental car businesses to participate in the Port's Vehicle Emissions Strategy. This is a requirement under the on-airport rental car concession agreements.

**Section 3.3:** Minor housekeeping changes are made.

**Section 4:   Violations.** Minor housekeeping changes are made.

**Section 5:   General Provisions.** This is a new section. Sets forth rights to collect attorney fees and costs in the event of an action brought under this ordinance and sets the venue for any legal action in Multnomah County.

## **ORDINANCE NO. 439-R**

AN ORDINANCE AMENDING AND RESTATING ORDINANCE NO. 349 (as amended by Ordinance 412-R) SETTING FORTH A CONCESSION FEE AND RESPONSIBILITIES OF OFF-AIRPORT RENTAL CAR, PARKING LOT, AND ACCESSORY PARKING LOT BUSINESSES SERVICING CUSTOMERS OF PORTLAND INTERNATIONAL AIRPORT.

BE IT ENACTED BY THE PORT OF PORTLAND:

### **Section 1. Findings and Purpose**

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

1.1.1 The Port owns and operates the Portland International Airport located in Portland, Oregon ("Airport"), including the ingress and egress road known as Airport Way; and

1.1.2 The Airport promotes a strong economic base for the community, assists and encourages world trade opportunities, and is of vital importance to the welfare of the State of Oregon; and

1.1.3 The unregulated use of the Airport poses a threat to the peace, health, economic vitality, and safety of persons living in the community, the state of Oregon, and other citizens utilizing the Airport; and

1.1.4 The revenues received from commercial users of the Airport are vital to the economic well being of the Port; and

1.1.5 Commercial users of the Airport receive substantial economic benefit from their use of the Airport; and

1.1.6 It is essential that the Port remain financially healthy to perform its economic role in the community and to provide the community with cost-effective aviation facilities at the Airport; and

1.1.7 The Port finds that the concession fee defined herein is reasonable and uniform for the privileges or services affected; and

1.1.8 The Port has publicly advertised for rental car concession leases for full and limited service on-Airport concessions by persons or corporations wishing to operate either full service or limited service rental car concessions on-Airport, which agreements are on file at the administrative offices of the Port and pursuant to which leases were awarded and entered into with various rental car concessionaires on-Airport; and

1.1.9 The aforementioned rental car concession leases have reasonable requirements, charges, and fees for the privilege of operating rental car concessions at the Airport, based on the property and improvements used, the expenses of Airport operations, the cost of Airport facilities, including Airport debt retirement; and

1.1.10 There has been a change in the nature of the rental car concessions on-Airport since the adoption of Port Ordinance No. 349 (as amended by Ordinance 412-R) pursuant to the construction of the Airport's long term parking garage and the development of new leases for both limited and full service rental car concessions on-Airport; and

1.1.11 Off-Airport Rental Car Businesses, Parking Lot Operators, and Accessory Parking Lot Operators not having leases with the Port that allow operating on the Airport may, nevertheless, desire the privilege of accessing Airport customers and supplying services at the Airport; and

1.1.12 The Port does not intend to collect Concession Fees from those businesses offering parking as merely an additional service to its customers and not as a primary business;

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

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

## **Section 2. Definitions**

As used in this Ordinance:

2.1 "Accessory Parking Lot Operator" shall mean a person, association, corporation, partnership, joint venture, or any other business with a primary business other than providing parking for vehicles, and does not offer parking as a separate service not in conjunction with another related business, also referred to in this Ordinance as "Permittee," which utilizes the Airport for the purpose of picking up or delivering Airport Customers and transporting Airport Customers to or from parking lot facilities located off the Airport.

2.2 "Airport" shall mean the area of Portland International Airport with the boundaries as shown and outlined on **Exhibit A** attached hereto and incorporated herein by this reference.

2.3 "Airport Customer" shall mean any person who arrives at, or departs from, the Airport, and is transported to or from an Off-Airport Rental Car Business, Parking Lot, or Accessory Parking Lot Operator's location via a Ground Transportation Vehicle for the purpose of entering into a car rental or parking lot space agreement.

2.4 "Concession Fee" shall mean the fee as described in this Ordinance and imposed on Off-Airport Rental Car Businesses, Parking Lot Operators, and if applicable, Accessory Parking Lot Operators, for the privilege granted to said businesses and operators of accessing Airport Customers.

2.5 "Director" shall mean the Director of Aviation of the Port.

2.6 "Executive Director" shall mean the Executive Director of the Port.

2.7 "Gross Revenues," for the purpose of determining the Concession Fee under this Ordinance, shall mean, unless specifically excluded herein:

"Gross Revenues" shall be determined by the total of charges on the face of the customer's receipt, less any charges excluded in the definition of Gross Revenues. Gross Revenues shall mean the charges for all services provided by Permittee or

any other person or entity in, at and from the Airport for cash, credit or otherwise, without reservation or deduction for uncollected amounts, credit card fees or changes, or collections costs including, but not limited to: (a) all charges including, but not limited to, time and mileage charges and separately stated fees for rental of vehicles and other related or incidental services or merchandise, and any other items or services, made at or from the Airport, regardless of where the vehicles or services are delivered to or returned; (b) all amounts charged to the customer for insurance offered by Permittee incidental to the rental of such vehicles including but not limited to personal accident insurance; (c) all charges attributable to any vehicle originally rented at the Airport which is exchanged at any other location; (d) all amounts charged to Permittee's customers and which are separately stated on the rental agreement as an optional charge for waiver by Permittee of its right to recover from customer for damage to or loss of the vehicle rented; (e) all amounts charged to Permittee's customers at the commencement or the conclusion of the rental transaction for the cost of furnishing and/or replacing fuel provided by Permittee; (f) all amounts charged by Permittee, as a pass through to its customers of percentage rent; and (g) only those sales, excise or Taxes imposed by governmental authority (other than the Port) and collected from customers and then directly paid by Permittee to the governmental authority (other than the Port); (h) CFCs if applicable; and (i) all charges for parking of vehicles and transportation to and from the Airport. Corporate or volume discounts or rebates or any other discount that is not stated on the face of the rental agreement at the time the rental is returned may not reduce Gross Receipts and cannot be deducted from Gross Receipts. Permittee shall not pass through, unbundle or list any fees (other than a Concession Recovery Fee or Concession Recoupment Fee or CFCs as described below) payable to Port as a separate item on its customer invoices, except with Port's prior written approval. Permittee acknowledges that the Concession Fee under the Permit is for Permittee's privilege to use the Airport facilities and access the Airport market, and are not fees imposed by the Port upon Permittee's customers. The Port does not require, but will not prohibit, a separate statement of the Concession Fee on customer invoices or rental agreements, provided that such separate statement of fees meets all of the following conditions: (a) the Concession Fee pass through must be titled "Concession Recovery Fee" or "Concession Recoupment Fee"; (b) the Concession Recovery Fee or Concession Recoupment Fee must be shown on the customer rental car agreement and invoiced with other Permittee charges; (c) the Concession Fee as stated on the invoice and charged to the customer shall be no more than the then current rate set under this Ordinance; (d) Permittee shall neither identify, treat, or refer to the Concession Fee as a tax, nor imply that the Port is requiring the pass through of such fee; (e) if Permittee elects to include the Percentage Rent on customers invoices, it will be considered part of Gross Receipts; and (f) Permittee shall comply with all applicable laws, including Federal Trade Commission requirements and the Oregon Unfair Trade Practices Act (ORS 646.605 to 646.656), and any commitment to or contractual obligation by Permittee with the Attorney General of Oregon or any group of State Attorneys General. In the

event it is discovered Permittee has charged more than the amount allowed under this Ordinance in Concession Recovery Fee or Concession Recoupment Fee, any amount collected in excess of that amount shall be immediately paid to the Port, along with any applicable delinquency charge or any other fee or fine.

2.8 "Ground Transportation Vehicle" shall mean any form of transportation traveling on streets, roads, or highways that is owned by, leased by, used by or at the request of, or procured by or at the request of, an Off-Airport Rental Car Business, Parking Lot Operator, or Accessory Parking Lot Operator, their agents, employees, officers, contractors, or subcontractors for the purpose of transporting Airport Customers, whether said transportation is for hire or provided without charge.

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

2.10 "Off-Airport Rental Car Business" shall mean such business which is conducted with an Airport Customer through or from a facility which is not leased from the Port and does not have a Rental Car Concession Lease and Operating Agreement, a Rental Car Limited Service Kiosk Lease, with the Port, is not considered an On-Airport Rental Car Business, and shall be subject to the Concession Fee on Gross Receipts as provided in this Ordinance.

2.11 "Parking Lot Operator" shall mean a person, association, corporation, partnership, joint venture, or any other business arrangement or organization, also referred to in this Ordinance as "Permittee," with a primary business of providing parking for vehicles, which utilizes the Airport for the purpose of picking up or delivering Airport Customers and transporting Airport Customers to or from parking lot facilities located off the Airport.

2.12 "Permittee" shall mean, and be synonymous with, Off-Airport Rental Car Business, Parking Lot Operator and Accessory Parking Lot Operator.

### **Section 3. Concession Fee**

3.1 Any Permittee, as defined by this Ordinance, must obtain a permit from the Director, hereinafter the "Ordinance No. 439-R Permit", the acceptance of such permit will indicate agreement to the following minimum terms and conditions:

3.1.1 Concession Fee on Gross Revenues: Permittees (other than Accessory Parking Lot Operators) shall pay to the Port during the applicable term of the Ordinance No. 439-R Permit such percentage of Gross Revenues equal to that required of On-Airport Rental Car Businesses, hereinafter the "Concession Fee," unless the Executive Director sets a different rate. Any change of Concession Fee shall not take effect before ninety (90) days written notice sent to all of the then current Ordinance No. 439-R Permit holders, said notice being mailed to the last known address on file with the Port for said Ordinance No. 439-R Permit holders; and further provided that said percentage rate, as it relates to Off-Airport Rental Car

Businesses, shall not exceed the percentage rate charged to the on-Airport and Limited Service Rental Car Businesses. The Concession Fee payment shall be due and payable on or before the twentieth (20th) day of each month for the preceding month's Gross Revenues.

3.1.2 Fees for Accessory Parking Lot Operators: Unless otherwise provided herein, Accessory Parking Lot Operators shall not be required to pay any Concession Fee to the Port. In the event an Accessory Parking Lot Operator exceeds EIGHTY THOUSAND DOLLARS (\$80,000.00) in Gross Revenues in parking operations ("Reporting Threshold") in a single calendar year, it must immediately notify the Port. After meeting this Reporting Threshold, Accessory Parking Lot Operator shall pay the Concession Fee on all parking revenues.

3.2 A Permittee shall provide the Port with:

3.2.1 Written proof of commercial general liability insurance, including automobile liability covering owned, hired, and non-owned vehicles in the amount of at least TWO MILLION DOLLARS (\$2,000,000), or such other amount as may be required pursuant to the Ordinance No. 439-R Permit on not less than sixty (60) days advance notice, combined single limit, for each occurrence for bodily injury, death, or property damage occurring by reason of Permittee's operations on the Airport. The policy or policies providing said coverage shall include premises, operations, independent contractors, personal injury (deleting any exclusion relating to employees), products, and contractual liability including, but not limited to, the liability assumed by Permittee under the hold harmless provisions of the Ordinance No. 439-R Permit.

3.2.2 The make, model, color, identification number, and motor vehicle registration number of all vehicles to be operated on-Airport property.

3.2.3 The names and job titles of local management personnel, as well as, all business employees engaged in the operation of vehicles to be operated on-Airport property.

3.2.4 Written proof of all business and motor vehicle permits required by local, state, and federal regulations.

3.2.5 Written proof to the Port of all Gross Revenues at the time payment is due on a form approved by the Director and accompanied by a statement certified by an officer of the company attesting to the accuracy of payments due the Port. If Permittee is an Accessory Parking Lot Operator that has not reached the Reporting Threshold, it shall provide written proof to the Port of all Gross Revenues within ninety (90) days of the Port's request.

3.2.6 Authority for the Port to audit all business books, records and accounts during business hours upon demand and to make said records and accounts available in Portland, Oregon, or surrounding vicinity. The Port may use its own staff to perform audits, or may engage an independent certified public accountant to perform the audit. Should any examination, inspection, or audit of the books and records by the Port disclose an understatement of Gross Revenues by the Permittee of two percent (2%) or more, the Permittee shall pay the Port the amount of such underpayment and shall reimburse the Port for all costs incurred in the conduct of such examination, inspection, and audit within thirty (30) calendar days, with interest at the Port's then prevailing Delinquency Charge. In the event that the Port deems it necessary to utilize the services of legal counsel in connection with collecting the reimbursement for such



examination, inspection, and audit, then said Permittee shall reimburse the Port for reasonable attorney's fees and litigation expenses as part of the aforementioned costs incurred.

3.2.7 Upon Port's request, Permittee shall provide the Port a detailed schedule of fees and or charges Permittee intends to include on customer invoices or rental agreements ("Schedule"). The Schedule must include a specific definition of the fee and/or charge and how it will be determined. The Schedule must be approved by the Port. Permittee may change the Schedule, but Permittee shall notify the Port promptly in writing if it intends to do so. Permittee must obtain the Port's prior written consent before implementing changes or a new Schedule. Requests for changes to the Schedule must include a complete description of the fee(s) and/or charge(s) proposed to be deleted and/or added and justification for such.

3.2.8 Indemnification from any and all claims whatsoever and written proof of insurance for such contractual liability.

3.2.9 Agreement to pay interest and delinquency charges at the rate of eighteen percent (18%) per annum ("Delinquency Charge") on any amount not paid when due, which charge shall apply to amounts determined to be due as a result of an audit pursuant to Section 3.2.6 herein if such amount is not paid within fifteen (15) days after written notice from the Port that such amount is due.

3.2.10 All Off-Airport Rental Car Businesses will participate in the Vehicle Emissions Strategy, implemented by the Port. This strategy will provide fleet information that is accurate and timely to facilitate the Port's initial planning and then monitoring emission management targets. Off-Airport Rental Car Business will be required to provide the Port at the Port's request and in a form approved by the Port, what types of vehicles are rented relating to the Airport with enough detail to identify each vehicle's EPA Green Vehicle Score.

3.3 The Director is authorized to issue and publish additional rules and regulations to implement this Ordinance and to include additional terms and conditions in the Ordinance No. 439-R Permit form as deemed necessary by the Director.

#### **Section 4. Violations**

4.1 Civil Sanctions: In the event a Permittee violates any term or condition of this Ordinance or of the Ordinance No. 439-R Permit granted pursuant to this Ordinance, the Port may exercise any rights or remedies allowed by law or equity, including without limitation civil penalties and/or after reasonable notice and hearing, suspend or terminate the rights granted pursuant to said Ordinance No. 439-R Permit. Where the Permittee is required to provide reports or pay money to the Port, each calendar day that Permittee is delinquent in providing such reports or paying such money shall be deemed a separate violation hereof.

#### **Section 5. General Provisions:**

5.1 If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the United States Bankruptcy Code), is instituted in connection with any controversy arising out of this Ordinance or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court at trial or on any appeal or review, in addition to all other amounts provided by law. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review. Whenever this

Ordinance requires Permittee to defend the Port, it is agreed that such defense shall be by legal counsel acceptable to the Port.

5.2 This Ordinance shall be governed, construed and enforced in accordance with the laws of the State of Oregon. Jurisdiction shall be with Multnomah County Courts or the Federal Court located in Portland, Oregon.

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

ADOPTED THIS 12th day of October, 2011, being the date of its second reading before the Board of Commissioners of the Port of Portland to be effective thirty (30) days hereafter.

THE PORT OF PORTLAND

By: \_\_\_\_\_  
Judi Johansen, Commission President

By: \_\_\_\_\_  
Pam Thompson, Assistant Secretary

APPROVED AS TO LEGAL  
SUFFICIENCY FOR THE PORT

By: \_\_\_\_\_  
Counsel for the Port of Portland

FIRST READING AND PUBLIC HEARING OF PORT ORDINANCE NO. 432-R PERTAINING TO REGULATION OF COMMERCIAL ROADWAY AT PORTLAND INTERNATIONAL AIRPORT

---

September 14, 2011

Presented by: Michael Huggins  
Landside Operations Manager

**EXECUTIVE SUMMARY**

This agenda item requests a first reading and public hearing on proposed Port of Portland (Port) Ordinance No. 432-R, the amendment and restatement of Ordinance No. 418-R, as amended by Ordinance Nos. 351, 386-R and 418-R, which pertains to regulation of use and operation of the Commercial Roadway at Portland International Airport.

**BACKGROUND**

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

To reflect changes in business practices, the term of the permit issued under this ordinance is changed from two years to month-to-month. The change allows flexibility in permitting and has been the general practice of the Port for the last several years. Revisions are also made to make the ordinance consistent with the current enforcement and hearings procedures. The credit for those fees paid under the off-airport rental car ordinance towards commercial roadway fees is deleted from the ordinance in order to simplify the process and avoid ambiguity and confusion.

Specific changes to the provisions of Ordinance No. 418-R, as amended by Ordinance Nos. 351, 386-R and 418-R, are detailed in the attached Section-by-Section Analysis.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That Port of Portland Ordinance No. 432-R, amending and restating Ordinance No. 418-R as amended by Ordinance Nos. 351, 386-R and 418-R, be given a first reading by title only; and

BE IT FURTHER RESOLVED, That a public hearing be held concerning proposed Port of Portland Ordinance No. 432-R.

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

The Port of Portland Ground Transportation Office ("GTO") issues permits to users of the Commercial Roadway. The current ordinance requires permits to be valid for two years; however, the GTO actually re-permits every two years. Thus those applicants coming in during the two year terms enter into shorter permits terms. The changes to this ordinance allow permits to be issued on a month to month basis which reflects the GTO's current practice.

**Section-By-Section Analysis:**

- Section 1: Findings and Purpose.** [This section has been moved above the Definition section to be consistent with other ordinances.] This Section sets forth the current findings and purpose for the ordinance and revisions thereto. There are no substantive changes to this Section but merely housekeeping.
- Section 2: Definitions.** Numerous definitions have been expanded upon or added to reflect current operations, including the addition of "General Manager of Airport Operations" and "Permittee" and a replacement of "Hearings Officer." All other changes are merely housekeeping.
- Section 3: Permit.** This Section is revised to reflect the current practice of issuing month to month permits and setting forth biennial permitting. Permits were effective for a period of two years; however, this did not coincide with the GTO's practice of biennial permitting. Other revisions include bringing permitting practices such as mechanical inspections in line with the City of Portland requirements. There are also several clarifying non-substantive changes.
- Section 4: Roadway Access Devices.** There are no substantive revisions to this Section, merely housekeeping.
- Section 5: Vehicle Condition/Identification.** Minor housekeeping changes are made.
- Section 6: Use of Commercial Roadway and Compliance with Laws.** There are no revisions to this Section.
- Section 7: Prohibited Activities.** Minor housekeeping changes are made.
- Section 8: Commercial Roadway Fees and Deposits.** This Section clarifies the fees required for permitting to bring in line with current practice. This Section also deletes the credit given to those permittees under the off-airport rental car and off-airport parking ordinance for fees paid under that ordinance.
- Section 9: Port Reservation of Rights.** Minor housekeeping changes are made.

- Section 10: Tri-Met Exemption.** There are no revisions to this Section.
- Section 11: Suspensions and Revocation of Permit.** Revisions reflect the current enforcement practices and are made consistent with Portland International Airport Rules. The revisions provide drivers and companies with more opportunities for correcting violations prior to suspension or revocation of permits.
- Section 12: Notice of Suspension or Revocation.** Minor housekeeping revisions are made.
- Section 13: Hearing Procedure.** Revisions are made to reflect current practice. Appointment of Hearing's Officer and hearing's procedures to be in accordance with the Portland International Airport Rules.
- Section 14: Civil Penalties.** No revisions are made to this Section.
- Section 15: Criminal Sanctions.** No revisions are made to this Section.
- Section 16: Remedies Non-exclusive.** No revisions are made to this Section.
- Section 17: Time Periods.** No revisions are made to this Section.
- Section 18: Effective Date.** Date is revised to reflect effective date of this ordinance.
- Section 19: Savings Clause.** Minor housekeeping changes made.

## **ORDINANCE NO. 432-R**

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

WHEREAS following the recent rental car solicitation process, the Port determined that as those rental car companies using the commercial roadway have the same impact as others, such companies should pay revenue equal to others using the commercial roadway, and as such, should not be granted credit for payment under other ordinances; and

WHEREAS under Port Ordinance 418-R, permits were effective for a two (2) year period as the Port has a general two (2) year re-permitting process; however, as new permits are issued during that two (2) year period it is necessary to allow permits to run for a shorter period than two (2) years;

WHEREAS, the Port wishes to eliminate the credit for the rental car and parking privilege fee towards the Commercial Roadway fees and allow shorter permit terms by amending and restating the Commercial Roadway Ordinance to eliminate such credit and term requirement:

**BE IT ENACTED BY THE PORT OF PORTLAND:**

Port of Portland Ordinance No. 418-R (as amended by Port of Portland Ordinance No. 351, Port of Portland Ordinance No. 386-R and Port of Portland Ordinance No. 397-R) is amended and restated in its entirety to read as follows:

#### **Section 6. Findings and Purpose**

6.1 The Port of Portland finds as follows:

6.1.1 That the Port owns and controls a system of airports including that certain airport and air navigation facility located in Multnomah County, State of Oregon, known as the Portland International Airport, which includes the Commercial Roadway, an area used by Commercial Ground Transportation Vehicles for ingress and egress to the Airport terminal loading and unloading area; and

6.1.2 That the Airport, including the Commercial Roadway owned and operated by the Port, contributes to a strong economic base for the community, assists and encourages world trade opportunities, and is of vital importance to the health, safety, and welfare of the public; and

6.1.3 That the Port of Portland has required, and will continue to require, substantial expenditure for capital investment, operation, maintenance, and development of the Commercial Roadway to meet the future demand for air travel; and

6.1.4 That the unregulated use of the Commercial Roadway poses a threat to the peace, health, economic vitality, and safety of persons utilizing the Airport; and

6.1.5 That the unregulated use of the Commercial Roadway results in overcrowding, which has a negative impact on the enforcement of the Commercial Roadway regulations and the quality of services provided to the traveling public; and

6.1.6 That the revenues received from users of the Commercial Roadway are vital to the economic well-being of the Airport; and

6.1.7 That users of the Commercial Roadway receive economic benefit from the use thereof; and

6.1.8 That it is essential that the Airport remain financially healthy to perform its economic role in the community and to provide the community with cost-effective aviation facilities which include the Commercial Roadway; and

6.1.9 That, in order to generate revenue for purposes of maintaining, operating, and developing the Commercial Roadway for the convenience of the traveling public; preserving existing revenues; protecting the public; preserving order; providing for the public health, safety and welfare; enhancing the welfare of the Port; and governing use of the Airport property, it is necessary to adopt and implement a revised system of fees to be paid by Permitted Businesses utilizing the Commercial Roadway; and

6.1.10 That Permitted Businesses using the Commercial Roadway should contribute toward the operation, maintenance, and continued development thereof; and

6.1.11 That the fees and regulations adopted herein are reasonable for the affected Permitted Businesses; and

6.1.12 That larger vehicles make greater demands on available space and, therefore, require capital expenditures for additional space; and

6.1.13 That parking and stopping for other than short durations on the Commercial Roadway causes congestion and deprives others of the ability to use the Commercial Roadway, reducing the benefit to the traveling public; and

6.1.14 That, in order to protect the public, to provide for public safety, to preserve the good order and peace of the Port, and to generate revenue for purposes of maintaining and expanding Airport facilities and preserving existing revenues, it is necessary to designate certain portions of the Airport roadway system for the use of Commercial Ground Transportation Vehicles, and to enact and provide for implementation of reasonable fees, standards, controls, rules, regulations, and procedures for use of the Commercial Roadway.

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

## **Section 7. Definitions**

As used in this Ordinance:

7.1 "Access Fee" shall mean the fee charged to a Permitted Business each time a Permitted Business' Commercial Ground Transportation Vehicle drives onto the Commercial Roadway.

7.2 "Airport" shall mean Portland International Airport, including all facilities and roads located within the geographical boundaries of Port of Portland land designated as Portland International Airport, which, for purposes of this Ordinance, shall include, but is not limited to, the Airport terminal building, the Airport parking garage, the Commercial Roadway, all Airport parking lots, all waiting and hold areas for Commercial Ground Transportation Vehicles, the airfield, all of Airport Way running from Interstate 205 on the East end and extending West to the Airport terminal building, and all of the frontage roads and adjacent facilities running parallel to Airport Way.

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

7.4 "Business" shall mean a person, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization, who desires to transport Airport Customers in a Commercial Ground Transportation Vehicle. A Business that has obtained a Permit to operate on the Airport's Commercial Roadway is also referred to in this Ordinance as a "Permitted Business."

7.5 "Charter Service" shall mean a Ground Transportation Vehicle hired for a specific, event-generated occasion and for a specific group of travelers.

7.6 "Chauffeured Limousine" shall mean any custom luxury vehicle transporting passengers for hire, as a common carrier, where the driver is uniformed, a partition separates the driver from the passengers, and arrangements for the hire of the vehicle have been made prior to the vehicle arriving at the Airport. Chauffeured Limousines are a type of Reservation Only Vehicle.

7.7 "Commercial Ground Transportation Vehicle" or "Vehicle" shall mean any form of transportation vehicle traveling on streets, roads, or highways that is owned by, leased by, used by or at the request of, or procured by or at the request of, a Business, its agents, employees, officers, contractors, or subcontractors for the purpose of transporting Airport Customers and/or luggage to or from the Commercial Roadway or to and from the commuter airline security area, whether said transportation is for hire or is provided without charge, provided that a vehicle used solely for the transportation of luggage or other cargo shall not be deemed a Commercial Ground Transportation Vehicle.

7.8 "Commercial Roadway" shall mean that portion of the roadway system or other areas at the Airport designated by the Director, from time to time, as the roadway to be used by those Permitted Businesses operating Commercial Ground Transportation Vehicles.

7.9 "Commercial Roadway Fees" shall mean the fees authorized by this Ordinance to be imposed on Businesses using, or required to make use of, the Commercial Roadway at the Airport.

7.10 "Controlled Substance" shall have the meaning given to that term in Oregon Revised Statutes 167.203 and 475.005.

7.11 "Courtesy Vehicle" shall mean any vehicle utilized by a hotel, motel, car rental company, parking facility, or other business used to transport that business' customers to and from the Airport, without direct or indirect charge to the customer.



7.12 "Director" shall mean the Director of Aviation of the Port of Portland, or the Director's designee.

7.13 "Driver" shall mean any person driving a Commercial Ground Transportation Vehicle or in attendance of a parked Commercial Ground Transportation Vehicle at the Airport.

7.14 "Dwell-Time Fee" shall mean the additional fee charged to the account of a Permitted Business when any of its Commercial Ground Transportation Vehicles are parked on the Commercial Roadway for a period of time longer than the time allowed under the Permit.

7.15 "Executive Director" or "Director" shall mean the Executive Director of the Port of Portland, or the Executive Director's designee, including, without limitation, the Director of Aviation.

7.16 "Executive Car" shall mean an On Demand Vehicle which is at least a full size, luxury sedan featuring amenities which include, but are not limited to, air conditioning, leather or a high quality fabric upholstery, a stereo system, and is not more than five (5) years old, which transports passengers for hire as a common carrier.

7.17 "General Manager of Airports Operations" shall mean the manager responsible for the airside and landside operations at the Airport for the Port of Portland, or his/her designee.

7.18 "Ground Transportation Office" shall mean an office or offices located at the Airport where, including but not limited to, Permits and Roadway Access Devices may be obtained.

7.19 "Ground Transportation Services or Vehicle" shall include Executive Cars, Taxicabs, Reservation Only Vehicles, Scheduled Service Vehicles, Courtesy Vehicles, Charter Services, and any other type of Commercial Ground Transportation Vehicle that picks up passengers on the Commercial Roadway.

7.20 "Hearings Officer" shall mean the person designated by the Port to whom an appeal for the revocation or suspension of a Ground Transportation Permit is to be addressed or the person authorized to hold a tow appeal hearing and render a decision as described in the Code and Charter of the City of Portland 16.30.450E (as amended), Hearing Administration and pursuant to any intergovernmental agreements between the City of Portland and the Port with respect to Ground Transportation Permits or tow hearings.

7.21 "Immediate Suspension Order" shall mean an order issued by the General Manager of Airports Operations which immediately and indefinitely suspends a Permit for certain serious violations of this Ordinance before notice and opportunity to be heard need be given.

7.22 "Notice of Suspension or Revocation" shall mean a written notice sent to a Permitted Business by the Director informing the Permitted Business that its Permit will be suspended or revoked due to violations of this Ordinance.

7.23 "On Demand Vehicle" means Commercial Ground Transportation Vehicles that come to the Airport to pick up waiting Airport Customers, on demand, and without a prior reservation. Taxicabs are the most common On-Demand Vehicles.

7.24 "Oregon Vehicle Code" means the Oregon Revised Statutes Chapters 801 to 826, as it may be amended from time to time.

7.25 "Permit" shall mean the Permit to be issued in accordance with the requirements of this Ordinance, as it may be amended from time to time, which Permit is required to operate a Commercial Ground Transportation Vehicle on the Commercial Roadway.

7.26 "Permit Fee" shall mean the fee charged by the Port to process a Permit and to maintain a file for a Permitted Business.

7.27 "Permittee" shall mean Ground Transportation Vehicle or Off-Airport Rental Car Business, or any other business that picks up passengers on the Commercial Roadway.

7.28 "Port International Airport" shall mean those rules and regulations issued and published by the Director pertaining to, among other things, the use of the Commercial Roadway.

7.29 "The Port of Portland" or "Port" shall mean the port district of the State of Oregon that owns and operates the Airport pursuant to Oregon Revised Statutes, Chapter 778.005 through Chapter 778.990, as amended.

7.30 "Request for Proposal" shall mean a formal written solicitation by the Port for written proposals to provide certain goods or services.

7.31 "Reservation Only Vehicle" shall mean any Commercial Ground Transportation Vehicle transporting Airport Customers for hire, as a common carrier, where the arrangements for the hire of the Reservation Only Vehicle have been made prior to the Reservation Only Vehicle arriving at the Airport. Reservation Only Vehicles include Chauffeured Limousines.

7.32 "Roadway Access Device" shall mean the automated vehicle identification mechanism used to admit Commercial Ground Transportation Vehicles on to the Commercial Roadway.

7.33 "Scheduled Service Vehicle" shall mean any Commercial Ground Transportation Vehicle transporting Airport Customers for hire, as a common carrier, that has a regular published time schedule established for picking up Airport Customers at the Airport.

7.34 "Taxicab" shall mean any motor vehicle which carries passenger for hire where the destination and route traveled may be controlled by a passenger and the fare is calculated on the basis of an initial fee, distance traveled, waiting time, or any combination thereof, and which is duly permitted by the City of Portland under the terms of the City of Portland City Code, Section 16.40.

## **Section 8. Permit**

8.1 No Business shall operate a Commercial Ground Transportation Vehicle at the Airport without having a valid Permit issued by the Director and without agreeing to the terms and conditions of such Permit. The Permit shall contain, at a minimum, the terms and conditions contained in this Ordinance. All Permits are valid in accordance with the Effective Date of the said Permit and will continue thereafter on a month-to-month basis, subject to termination by either party upon thirty (30) days advanced written notice or at the Port's sole discretion. Biennial re-permitting will occur, and Permittee must provide the Ground Transportation Office with a list of vehicles currently permitted with the Port. Permits issued with a Commencement Date after the biennial permitting will have a month-to-month term and terminate either with thirty (30) days written notice to the other party or at the next re-permitting period. If Permittee desires to add or delete vehicles from its fleet, Permittee will notify the Port during the re-

permitting process. New vehicles must be accompanied by requirements set forth in Section 3.2 and subject to Port reservation of rights, as set forth in Sections 9 and 11, all applicable provisions of law, the Permit and Port Rules and Regulations, Permits already in effect as of the Effective Date of this Ordinance shall be valid for a period of two (2) years from the Effective Date of this Ordinance, but any inconsistency between those Permits and this Ordinance shall be resolved in favor of this Ordinance.

8.2 To change or add a new vehicle under the Permit either at the permitting, re-permitting or during the Permit term, a Business must fully and accurately note the additional vehicle(s) on the Commercial Ground Transportation Vehicles form and submit it to the Port, along with the Per Vehicle Fee, and all of the following:

8.2.1 A completed insurance certificate, prepared by the insurer or insurance broker of the Business, certifying that the Business has broad form commercial general liability insurance insuring against any liability in any way related to a Permitted Business' operations on the Commercial Roadway, and business automobile liability insurance covering owned, hired, and non-owned vehicles operated by the Permitted Business. The policies providing such coverage shall include premises, operations, independent contractors, personal injury (deleting any exclusions relating to employees), products and contractual liability including, but not limited to, any indemnification obligations assumed by the Permitted Business to the Port pursuant to the Permit entered into by them. Minimum insurance coverage amounts shall be set by the Director, and may be amended from time to time. A schedule of current minimum insurance coverage amounts is available in the Commercial Ground Transportation Office. All such insurance policies shall name the Port as an additional insured. The Permitted Business must have a current, complete and accurate insurance certificate on file with the Port at all times. Insurance must be provided by a company licensed to write insurance in the State of Oregon. The Port must be notified, in writing, at least ten (10) days in advance of any cancellation of coverage, reduction in coverage, or other significant coverage change. The Permitted Business will be responsible for failure of its insurance carrier to notify the Port and will be in violation of this Ordinance if such notification is not timely provided to the Port. The Permitted Business must also file with the Port a signed policy endorsement, showing that the Port is named as an additional insured on all required insurance policies;

8.2.2 The City of Portland Private For Hire Transportation Vehicle Replacement Form, which will include, but not be limited to: the vehicle decal number, year, make, model, license number, state, vehicle identification number, gross vehicle weight, color and service type for each Commercial Ground Transportation Vehicle that the Business intends to operate on the Commercial Roadway;

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

8.2.4 Documentation showing all maintenance performed on the vehicle some time during the three (3) months immediately prior to the date that the Permit application is submitted.

8.2.5 The current contact person, street address, mailing address (if different than street address), telephone and fax number for the Business;

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

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

8.2.8 If applicable, a statement by the Business disclosing any contractual arrangements, whether written or verbal, to provide ground transportation for rental car or parking lot companies who provide rental cars and/or parking space to Airport Customers.

3.3 A Permit will not be issued unless the Non-Refundable Permit Fee and Non-Refundable Per Vehicle Fee is and associated forms are submitted to the Ground Transportation Office and all of the above-mentioned information has been submitted and meets the requirements of this Ordinance. Upon addition of the new Vehicle(s) or Permit, the Permitted Business shall also be issued one or more Roadway Access Devices, subject to the requirements of Section 4. Any Business obtaining a Permit must keep the Business street address, mailing address (if different than the street address), and telephone number current with the Ground Transportation Office at all times the Permit is in effect.

## **Section 9. Roadway Access Devices**

9.1 In addition to the Permit, each Permitted Business must obtain a non-transferable Roadway Access Device for each Commercial Ground Transportation Vehicle that the Permitted Business intends to operate on the Commercial Roadway. When a new Commercial Ground Transportation Vehicle is obtained and is to be substituted for a Commercial Ground Transportation Vehicle that has already been issued a Roadway Access Device, a new Roadway Access Device must be obtained for the new Commercial Ground Transportation Vehicle, and the Roadway Access Device for the retiring Commercial Ground Transportation Vehicle must be turned back in to the Ground Transportation Office. Unless otherwise permitted by the Port in its sole discretion, no Commercial Ground Transportation Vehicle may be admitted on to the Commercial Roadway without a valid Roadway Access Device issued specifically for that Commercial Ground Transportation Vehicle.

9.2 Before a Roadway Access Device will be issued to a Commercial Ground Transportation Vehicle, that Commercial Ground Transportation Vehicle must be inspected for cleanliness and body condition, meeting the requirements as set forth in Section 5.

## **Section 10. Vehicle Condition/Identification**

10.1 All Commercial Ground Transportation Vehicles shall be neat and clean, free of body damage, and well painted.

10.2 Commercial Ground Transportation Vehicles, except for Chauffeured Limousines and Executive Cars which must comply with City of Portland marking requirements, shall be clearly marked to show the name and telephone number of the company operating the Commercial Ground Transportation Vehicle. All marking required herein shall be painted professionally, neatly, and plainly on both the driver's door and the front passenger door, or otherwise attached by permanent or magnetic decal, approved, in writing, by the Director, to the same locations. With the exception of seasonal and out-of-state Charter Services Permits, once approved by the Port, the Commercial Ground Transportation Vehicle must have the Port decal affixed to the front window. If permittee does not comply with this provision, access to the Commercial Roadway may be terminated immediately at the Port's sole discretion.

10.3 Any Commercial Ground Transportation Vehicle not meeting cleanliness requirements while operating on the Commercial Roadway will be given a twenty-four (24) hour warning and will be required to clean the Commercial Ground Transportation Vehicle within the following twenty-four (24) hours or the Roadway Access Device may be deactivated by the Port until the Commercial Ground Transportation Vehicle has been properly cleaned to the Port's satisfaction. Any Ground Transportation Vehicle operating on the Commercial Roadway with body damage that is not a safety hazard will be issued a written warning requiring that the body damage be repaired within thirty (30) days or the Roadway Access Device will be deactivated until the body damage is repaired to the Port's satisfaction. A Permitted Business may request an extension of time for repair from the Director, if good cause for an extension can be shown. Any Commercial Ground Transportation Vehicle that appears unsafe to be used for transportation of passengers will be required to leave the Commercial Roadway immediately and its Roadway Access Device will be deactivated until the unsafe condition has been repaired.

### **Section 11. Use of Commercial Roadway and Compliance With Laws**

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

### **Section 12. Prohibited Activities**

In providing ground transportation services at the Airport:

12.1 No Driver or Permitted Business shall, at any time while at the Airport, by words, gesture or otherwise interfere with any Airport Customer's choice of Ground Transportation Services, or interfere with any other Driver with whom any Airport Customer is negotiating for ground transportation services. No Driver shall solicit, persuade, or urge, or attempt to solicit, persuade or urge any Airport Customer to hire any Commercial Ground Transportation Vehicle or dissuade any Airport Customer from using any other Commercial Ground Transportation Vehicle. Drivers shall not attempt to pick up those Airport Customers already waiting for another Commercial Ground Transportation Vehicle. No Driver or Permitted Business shall provide or offer any payment to any skycap, Port representative or employee, starter, or any other person at the Airport in return for the referral of passengers or preferential treatment.

Drivers may offer their services to Airport Customers if the Driver is approached by the Airport Customer.

12.2 Unless the Permitted Business' Permit expressly provides otherwise due to the nature of the service being provided by the Permitted Business, no Driver waiting on the Commercial Roadway shall leave the Commercial Ground Transportation Vehicle unattended, except in the event of an emergency or when Port authorized. Drivers not waiting inside the vehicle may stand outside the vehicle, immediately adjacent to the vehicle door or rear panel, on the driver's side of the vehicle only.

12.3 No Driver shall become involved in any verbal or physical altercation at the Airport. This prohibition shall include the use of profane or threatening language or gesture directed at, or in front of, any passengers, other drivers, or Port representatives or employees.

12.4 No Driver shall possess, consume or be under the influence of alcohol or a Controlled Substance while on duty at the Airport.

12.5 No Driver or Permitted Business shall operate a Commercial Ground Transportation Vehicle on the Commercial Roadway that has nonfunctioning headlight(s), taillight(s), a cracked windshield, or otherwise is in violation of the Oregon Vehicle Code, particularly the vehicle equipment requirements of ORS Chapters 815 and 816.

12.6 No Driver or Permitted Business shall operate out of the Airport parking garage or any other area that is not specifically designated as being part of the Commercial Roadway, unless the Permitted Business has been given written permission to do so by the Port, which permission must be conspicuously displayed in the vehicle any time the Driver is operating anywhere other than on the Commercial Roadway.

12.7 No Driver or Permitted Business shall use the Roadway Access Device assigned to a particular Commercial Ground Transportation Vehicle to admit any other vehicle to the Commercial Roadway. Any Roadway Access Device found on or in any vehicle or being used to admit any vehicle other than the Commercial Ground Transportation Vehicle that it was assigned to will be immediately deactivated.

12.8 No Driver or Permitted Business shall conduct any illegal activity on the Airport or Commercial Roadway.

12.9 No Driver or Permitted Business shall remove or deface any roadway signs or other Airport property

12.10 No Permitted Business shall give the Port inaccurate, incomplete or deceptive information in order to obtain a Permit or Roadway Access Device. Discovery by the Port of any such inaccurate, incomplete or deceptive information shall be grounds for revocation of the Permit.

12.11 A Permitted Business shall be held fully accountable for the actions of its Drivers. Any violation of this Ordinance by a Permitted Business' Driver shall be deemed a violation by the Permitted Business and shall subject the Permit to suspension or revocation, in accordance with Section 11 of this Ordinance.

### **Section 13. Commercial Roadway Fees and Deposits**

13.1 A Permitted Business shall timely pay all "Commercial Roadway Fees," as established by the Executive Director, which fees consist of a Non-Refundable Permit Application Fee, an Access Fee, Per Vehicle Fee, Roadway Access Device Replacement Fee, Non-Refundable Permit Renewal Fee, Dwell-Time Fee and Security Deposit (all defined below) (collectively "Fees"):

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

13.1.2 Access Fee: All Permitted Businesses shall pay an Access Fee as established by the Director from time to time, said fee to be for each entry of a Commercial Ground Transportation Vehicle to and from the Commercial Roadway or other designated Airport ground transportation infrastructure. Said Access Fee, except in the cases of (1) Taxicabs and (2) Commercial Ground Transportation Vehicles operating under contracts awarded by the Port (other than by Permits), shall be based on category, as determined by the Port. The Taxicab fee shall be a flat rate fee per entry and/or exit of the Commercial Roadway. The fee for Ground Transportation Vehicles operating under a contract with the Port (other than by Permit) shall be that fee established by the contract. The Access Fee amount may be adjusted by the Director from time to time, provided the fee for Commercial Ground Transportation Vehicles operating under a contract with the Port (other than by Permit) may be adjusted by the Director only to the extent adjustment is allowed by the terms of the contract. The current Access Fee schedule is available in the Ground Transportation Office and on Exhibit D of this Permit.

13.1.3 Non Refundable Per Vehicle Fee: All Permitted Businesses must pay a Non Refundable Per Vehicle Fee, as established by the Director, for each Vehicle permitted for use on the Commercial Roadway, and as more particularly described on Exhibit A of the Permit Pursuant To Ordinance 418-R. All Vehicles, including replacement Vehicles, are subject to such fee.

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

13.1.5 On a biennial basis and upon Re-Permitting, all Permitted Businesses will be required to pay the Non-Refundable Permit Renewal Fee, as established by the Director and required by Section 3.1 of the Permit Pursuant To Ordinance 418-R.

13.1.6 Dwell-Time Fee: A Permitted Business shall pay a Dwell-Time Fee at the rate or rates established from time to time by the Director, as needed, in order to ensure that the Commercial Roadway operates free of congestion. The current Dwell-Time Fee schedule is available in the Ground Transportation Office.

13.2 A Permitted Business must also pay the Port a refundable cash security deposit at the time the Permit is issued, in order to help ensure compliance with the Permit. The amount of the security deposit will be set by the Director based on the type of use and anticipated amount of use of the Commercial Roadway.

13.3 Any Permitted Business having a direct real property lease with the Port shall be exempt from the payment of the Access Fee and the Dwell-Time Fee only for Courtesy Vehicles operated directly in conjunction with the operations being conducted on the leased property. Said Permitted Businesses will be required to pay the Non-Refundable Permit Fee, Non-Refundable Per Vehicle Fee and the Delinquency Charge due to deactivations due to a violation of the Permit.

#### **Section 14. Port Reservation Of Rights**

14.1 The Director is authorized to designate any portion of the roadway system at the Airport as being part of the Commercial Roadway, to relocate the Commercial Roadway, or to establish additional Commercial Roadways as may be necessary for the efficient management of ground transportation at the Airport.

14.2 The Director is authorized to issue and publish additional Port Rules to implement this Ordinance, and to include additional terms and conditions in the Permit to implement this Ordinance, as is deemed necessary by the Director. Should this Ordinance conflict with the Port Rules, this Ordinance shall prevail, but the Port Rules must be applied to the fullest extent that they do not conflict.

14.3 The Director is authorized, at any time and from time to time, as the Director deems necessary, to limit the number of Permits and/or Roadway Access Devices issued in order to manage and prevent overcrowding on the Commercial Roadway.

14.4 The Director is authorized, in lieu of issuing Permits to all applicants who would otherwise qualify for a Permit, to instead establish a Request for Proposal ("RFP") process for any category of Ground Transportation Services and to award an exclusive contract, or a limited number of contracts, for that category of Commercial Ground Transportation Vehicle service provider. In the event a contract, or contracts, for a particular category of Commercial Ground Transportation Vehicle service is awarded through an RFP process, the Port reserves the right to terminate any existing Permits in that category, upon giving at least ninety (90) days written notice to the affected Permitted Businesses in that category, in accordance with the notice requirements set forth in the Permits being terminated.

14.5 The Director is authorized to revoke or suspend any Permit for violation of this Ordinance, the Permit, Port Rules pertaining to the Commercial Roadway, or violations of law pertaining to operations on the Commercial Roadway.

#### **Section 15. Tri-Met Exemption**

Tri County Metropolitan Transportation District of Oregon ("Tri-Met") shall be exempt from the provisions of this Ordinance.

#### **Section 16. Suspensions and Revocation of Permit**

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

16.1.1 Except as set forth in Sections 11.1.2, 11.1.3, and 11.1.4, suspensions and revocations of a Permit shall be subject to reasonable prior notice and hearing, if requested, in



accordance with the procedures set forth in Sections 12 and 13 of this Ordinance. Suspensions may be for a specific period of time or the Director may elect to revoke the Permit. The decision whether to suspend or revoke a Permit and the duration of any suspension will depend on the severity of the violation(s) and/or the number of prior violation(s) and/or suspensions. The Director shall have the authority to issue a Notice of Suspension or a Notice of Revocation. If the Director determines that a Permit should be suspended or revoked, the Permitted Business will receive seven (7) days notice of the suspension or revocation and within that period may request a hearing, in accordance with the requirements set forth in Section 13. If no hearing is requested within the time frame allowed and in accordance with the requirements for requesting a hearing, as set forth in Section 13, the Permitted Business will be deemed to have waived the hearing right and the suspension or revocation shall immediately take effect. If a hearing is requested, the hearing will be scheduled as soon as practical and the Director shall notify the Permitted Business of the time and place of the hearing not less than seven (7) days before hearing date.

16.1.2 The Port may immediately suspend a Permit and/or its related Roadway Access Devices without prior notice or hearing for failure to maintain insurance coverage as required by this Ordinance, or for any violations where the failure to immediately suspend would jeopardize the health, safety or welfare of the public, other Drivers, or Port representatives or employees. Upon finding cause for immediate suspension, the General Manager of Airports Operations shall issue a written Immediate Suspension Order. The Immediate Suspension Order shall state the grounds for the Immediate Suspension Order and inform the Permitted Business that it may contest the Immediate Suspension Order by presenting additional information to the Director and requesting the Director to vacate the Immediate Suspension Order. If such a request is presented to the Director, the Director shall promptly consider the information and either affirm, vacate, or modify the Immediate Suspension Order accordingly and shall issue a confirming Notice of Suspension, a modified Notice of Suspension, or the Director may elect to vacate the Notice of Suspension. If the Immediate Suspension Order is upheld, in whole or in part, the Permitted Business shall be entitled to a hearing, and may request one as provided in Section 13.

16.1.3 Any Driver who receives citations for three (3) violations of this Ordinance and the citations are upheld by the court or bail is forfeited due to failure to appear, shall be automatically suspended from driving on the Commercial Roadway for a period of seven (7) days from the date of the third (3rd) conviction or bail forfeiture, without further notice or hearing. Any Driver who receives citations for four (4) to six (6) violations of this Ordinance, and for each citation that is upheld by the court or bail is forfeited due to failure to appear, shall be automatically suspended from driving on the Commercial Roadway for a period of thirty (30) days from the date of the fourth (4th), fifth (5), and sixth (6th) conviction or bail forfeiture, without further notice or hearing. Any Driver who receives citations for seven (7) violations of this Ordinance, and the citations are upheld by the court or bail is forfeited due to failure to appear, shall be automatically suspended from driving on the Commercial Roadway for a period of ninety (90) days from the date of the seventh (7th) conviction or bail forfeiture, without further notice or hearing. Any Driver who receives citations for eight (8) or more violations of this Ordinance, and the citations are upheld by the court or bail is forfeited due to failure to appear, shall be automatically terminated from driving on the Commercial Roadway from the date of the eighth (8th) conviction or bail forfeiture, without further notice or hearing for a period to be determined in the Director's sole discretion.

16.1.4 Any Permitted Business operating a Commercial Ground Transportation Vehicle fleet who receives, or whose Drivers, in total, receive ten (10) or more citations for violations of this Ordinance within any three (3) month period that are upheld by the court or where bail is forfeited due to failure to appear, shall automatically have its Permit suspended for a period of thirty (30) days from the date of the tenth (10th) conviction or bail forfeiture, without further notice or a hearing. Any Permitted Business operating a Commercial Ground Transportation Vehicle fleet which is suspended three (3) times within a twelve (12) month period for violations of this Ordinance, shall automatically have its Permit revoked for a period to be determined by the Director in its sole discretion. The Director, in his or her sole discretion, may consider a lesser sanction of suspension if extraordinary circumstances are present. Such presentation shall be made by certified letter, addressed to the Director within seven (7) days of the Notice of Revocation. Nothing contained herein shall be construed to limit the Port's ability to impose suspensions or revocation of the Permit for fewer citations, as provided in Section 11.1.1.

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

#### **Section 17. Notice of Suspension or Revocation**

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

17.1.1 The nature of the violation(s) which is the reason for the suspension or revocation;

17.1.2 The date of the violation(s);

17.1.3 The length of the suspension or notice that the Permit is being revoked;

17.1.4 The date on which the suspension or revocation shall commence;

17.1.5 The date of the Notice of Suspension or Revocation; and

17.1.6 The right to request a hearing.

17.2 The Director shall review any report brought to the Director's attention and may conduct additional investigation into such facts as deemed necessary, in order to determine whether there are grounds for issuance of a Notice of Suspension or a Notice of Revocation. A suspension or revocation shall commence not earlier than seven (7) days from the issuance of a Notice of Suspension or Revocation or, where a hearing is requested, the day immediately following the date of the decision of the Hearing Officer sustaining the suspension or revocation.

17.3 Notice as required by this Section 12, or any other notice required by this Ordinance to be given to a Permitted Business or Driver, is sufficient if delivered in person or sent by certified U.S. mail, return receipt requested, to the last address on file in the Ground Transportation Office. Notice shall be deemed issued when the notice is hand-delivered or deposited in the U.S. mail.

17.4 This Section 12 shall not apply to any Permitted Business operating on the Commercial Roadway who was selected through an RFP process and has entered into a contract with the Port. In that case, unless otherwise stated in the contract, the specific provisions contained in the contract pertaining to notice of suspension or revocation shall instead apply.

## **Section 18. Hearing Procedure**

18.1 These hearing procedures shall apply to a Permitted Business receiving a Notice of Suspension or Notice of Revocation. A Permitted Business receiving an Order of Immediate Suspension may also follow this procedure after following the procedure set forth in Section 11.1.2, but such Permit shall remain suspended throughout the hearings procedure.

18.2 Any Permitted Business receiving a Notice of Suspension or Revocation may request a hearing before a Hearings Officer in accordance with the Portland International Airport Rules.

18.3 If the Permitted Business requests a hearing, a Hearing Officers shall be appointed in accordance with the Portland International Airport Rules to conduct the hearing.

18.4 The hearing shall be conducted by the Hearings Officer, shall be recorded by electrical or mechanical recorder or by a qualified reporter, and shall proceed as follows:

18.4.1 The Director may appear in person or may be represented by counsel, shall present any relevant evidence which supports the facts constituting grounds for the suspension or revocation, and may cross examine any witnesses presented by the Permitted Business;

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

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

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

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

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

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

18.6 This Section 13 shall not apply to any Permitted Business operating on the Commercial Roadway who was selected through an RFP process and has entered into a contract

with the Port. In that case, unless otherwise stated in the contract, the specific provisions contained in the contract pertaining to breach of the contract, remedies for breach of contract and termination of the contract shall instead apply.

#### **Section 19. Civil Penalties**

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

#### **Section 20. Criminal Sanctions**

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

#### **Section 21. Remedies Non-exclusive**

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

#### **Section 22. Time Periods**

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

#### **Section 23. Effective Date**

This Ordinance shall be effective November 12, 2011.

#### **Section 24. Savings Clause**

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

ADOPTED THIS 12th day of October, 2011, being the date of its second reading before the Board of Commissioners of the Port of Portland to be effective thirty (30) days hereafter.

THE PORT OF PORTLAND

By: \_\_\_\_\_  
Judi Johansen, Commission President

By: \_\_\_\_\_  
Pam Thompson, Assistant Secretary

APPROVED AS TO LEGAL SUFFICIENCY  
FOR THE PORT:

By: \_\_\_\_\_  
Counsel for Port of Portland

**PROFESSIONAL SERVICES CONTRACT – RUNWAY 2/20 and TAXIWAY C – HILLSBORO AIRPORT**

---

September 14, 2011

Presented by: Jim McGinnis  
Engineering Project Manager  
Steve Nagy  
Project Sponsor

**EXECUTIVE SUMMARY**

This agenda item requests approval to award a Professional Services contract to Mead & Hunt, Inc., for the design of rehabilitation work on existing Runway 2/20, existing Taxiway C and associated existing infrastructure at Hillsboro Airport (HIO).

**BACKGROUND**

This project will relocate the thresholds of the existing Runway 2/20 and rehabilitate the runway and Taxiway C parallel to Runway 2/20. The relocation of the thresholds is to meet the Federal Aviation Administration (FAA) Runway Visibility Zone requirements.

The scope of the services for this contract is to design the rehabilitation of a 75-foot-wide, 4,049-foot-long runway and a 35-foot-wide parallel taxiway adjacent existing Runway 2/20 including:

- Asphalt pavement design
- Grading and drainage design
- Navigational aid installation and relocation
- Signing and striping
- Airfield lights, guidance signs, power and communication ducts

The design and construction of the runway is programmed to be partially funded by \$10.7 million in FAA Capital Improvement funding in 2012 and \$5.1 million in 2013. In order to satisfy the FAA funding schedule, the design and bid documents are scheduled to be completed next spring to receive bids for construction by June 2012.

Requests for Proposals were solicited on June 15, 2011, and proposals were received from Mead & Hunt, Inc., W & H Pacific, Burns & McDonnell and Century West on July 8, 2011. Proposals were evaluated by Port of Portland staff on the following criteria:

- Proposer's qualifications and experience
- Project approach
- Project team
- Project management
- Small business participation

Staff recommends award of this contract to Mead & Hunt, Inc., based on the firm's experience, previous experience at Hillsboro Airport, qualifications of key personnel and a clear understanding of the requirements and methods needed to accomplish the work. The FAA requires a third party estimate for the design services that serves as the basis for the negotiation of the fee for the selected contractor. Staff has negotiated a "not to exceed" fee of \$1,043,812 for the design services. This fee is within the competitive range of the third party estimate and the fee estimates submitted by the other firms. It is anticipated the contract will be amended for the construction support services concurrent with the award of the construction contract. Mead & Hunt, Inc., will be compensated for actual services based on the hourly rates established in the contract.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a Professional Services contract to Mead & Hunt, Inc., for the design of the existing Runway 2/20 and Taxiway C at Hillsboro Airport, consistent with the terms presented to the Commission, and contingent upon concurrence to award from the Federal Aviation Administration; and

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

**CONSTRUCTION CONTRACT – 2011-2012 MAINTENANCE DREDGING – TERMINAL 6**

---

September 14, 2011

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

This agenda item requests approval to award a construction contract to Marine Industrial Construction, LLC, in the amount of \$1,155,837, for maintenance dredging at Terminal 6 during 2011-2012.

**BACKGROUND**

The Port of Portland's (Port) Terminal 6 consists of the container terminal, operated by ICTSI Oregon, Inc., as well as two separate auto import facilities where Hyundai and Honda cars are imported. In 2010, more than 180,000 containers were handled at Terminal 6 and more than 260,000 automobiles were imported.

Maintenance dredging is the responsibility of the Port under its respective leases for the container terminal and auto import facilities, and is performed on an as-needed basis. Sediments gradually build up over time in the berthing area. When sediment accumulation reaches a level where it would impede vessel draft requirements, the sediments are removed through dredging.

The previous dredging project at Terminal 6 was conducted during the 2007-2008 in-water work window when Berths 604 and 605 were deepened while maintenance dredging was performed at Berth 603.

In this year's project, the berthing areas will be restored to the following depths:

- 36 feet for the auto docks Berth 601 and 607
- 40 feet for Berth 603
- 43 feet for the west end of Berth 604
- 45 feet for Berth 605 and the east end of Berth 604

Based on recent hydrographic surveys, the volume of sediments to be removed is estimated to be 33,000 cubic yards. The contractor will be responsible for the dredging as well as the transportation and placement of the dredged material at the Port's placement site on West Hayden Island.

This work is subject to a number of permits and regulatory approvals including the Corps of Engineers, Rivers and Harbors and Clean Water Act permit, Section 10 permit, the Oregon Department of State Lands removal and fill permit as well as the Department of Environmental Quality's Beneficial Use Determination. Issuance of these permits is coordinated with other



agencies including the Environmental Protection Agency and the National Marine Fisheries Service. All but two of the required regulatory approvals have been received.

The dredging work will need to be performed during the November 1 through February 28 in-water work window. The contractor will schedule the dredging operations within this work window in such a way that it will minimize operational impacts to regular vessel operations at Terminal 6.

Bids for the project were received on August 25, 2011, as follows:

Marine Industrial Construction, LLC	\$1,155,837.00
American Construction Company, Inc.	\$1,676,255.00
Engineer's Estimate	\$1,296,494.50

The contract amount is within the project budget. The project is funded from the General Fund.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a construction contract for Terminal 6 Berths 601, 603-605, and 607 maintenance dredging to Marine Industrial Construction, LLC, in accordance with its bid; and

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