



AGENDA  
Regular Commission Meeting  
Port of Portland Headquarters  
7200 N.E. Airport Way, 8<sup>th</sup> Floor  
February 13, 2019  
9:30 a.m.

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**Minutes**

Approval of Minutes: Regular Commission Meeting – January 9, 2019

**Executive Director**

Approval of Executive Director's Report – January 2019

**Public Comments**

**Consent Item**

1. 2019 PORT OF PORTLAND TRANSPORTATION IMPROVEMENT PLAN *PHIL HEALY*  
  
Requests approval of the Port of Portland's Transportation Improvement Plan.

**Action Items**

2. PUBLIC HEARING AND ENACTMENT OF ORDINANCE NO. 467-B TO ISSUE UP TO \$300 MILLION OF PORTLAND INTERNATIONAL AIRPORT REVENUE BONDS, SERIES TWENTY-FIVE *LISA FEDELI*  
  
Requests approval of Port of Portland Ordinance No. 467-B.
3. ENACTMENT OF ORDINANCE NO. 461-B, THE MASTER CUSTOMER FACILITY CHARGE BOND ORDINANCE, AND ORDINANCE NO. 466-B TO ISSUE UP TO \$200 MILLION OF PORTLAND INTERNATIONAL AIRPORT CUSTOMER FACILITY CHARGE REVENUE BONDS, SERIES 2019 *LISA FEDELI*  
  
Requests approval of Port of Portland Ordinance Nos. 461-B and 466-B.
4. PUBLIC IMPROVEMENT CONTRACT – TAXIWAY K REHABILITATION – PORTLAND INTERNATIONAL AIRPORT *CHRIS EDWARDS*  
  
Requests approval to award a public improvement contract to Tapani, Inc., for the Taxiway K Rehabilitation project at Portland International Airport.

5. PUBLIC IMPROVEMENT CONTRACT – TERMINAL RESTROOM MODERNIZATION – PORTLAND INTERNATIONAL AIRPORT *ROBIN MCCAFFREY*  
Requests approval to award a public improvement contract to JR Merit, Inc., for the Terminal Restroom Modernization project at Portland International Airport.
  
6. PUBLIC IMPROVEMENT CONTRACT AMENDMENT – TERMINAL BALANCING CONCOURSE E EXTENSION – PORTLAND INTERNATIONAL AIRPORT *DAN GILKISON*  
Requests approval of an amendment to the previously approved public improvement contract with Skanska Building USA for the Terminal Balancing and Concourse E Extension project.

**2019 PORT OF PORTLAND TRANSPORTATION IMPROVEMENT PLAN**

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February 13, 2019

Presented by: Phil Healy  
Senior Transportation Planner**REQUESTED COMMISSION ACTION**

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

**BACKGROUND**

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

The Port's industrial lands initiative, our efforts to retain and grow service, and portions of our federal and state strategy link back to the Port's transportation plan. It is our blueprint to ensure that we are strategic about investing in the system to meet our customers' market access needs, and for the region to remain attractive for business expansion and job growth.

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

For these reasons and others, it is prudent to review our transportation needs with the Commission annually. In addition, federal and state regulations require that all transportation funding requests include public review of project lists and funding strategies. Regulations further require inclusion of projects in regional transportation plans to be considered for air quality assessment and funding. To meet state and federal public process requirements

## 2019 PORT OF PORTLAND TRANSPORTATION IMPROVEMENT PLAN

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established in 1991, the Commission must formally authorize submission of the PTIP to Metro and the Oregon Department of Transportation when there are changes to projects or funding priorities. Project funding priorities are reconsidered annually when PTIP projects and costs are updated.

This year's PTIP is a compilation of 72 marine, aviation, road, rail, transit and waterway improvements that address Port facility property access and freight mobility needs. Some of the projects in the PTIP are primarily the Port's responsibility; others are critical for Port customers' market access on systems owned and operated by others. The projects on systems owned and operated by other governments or private rail carriers are primarily the responsibility of those entities, but due to competing priorities and capital constraints, they require some amount of Port focus and/or financial participation to create the impetus for the responsible entity to pursue the project.

The projects identified in the PTIP were developed with full opportunity for public review and input. The PTIP was placed on the Port's website and notice of the PTIP's public hearing was published. A public hearing was held as part of the PTIP discussion at the January 9, 2019 Commission meeting. Port staff intends to work with Metro, state and local transportation planners to include the projects in the PTIP in the local Transportation System Plans, the Regional Transportation Plan, and funding programs at various levels of government.

### **EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

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

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

PUBLIC HEARING AND ENACTMENT OF ORDINANCE NO. 467-B TO ISSUE UP TO \$300 MILLION OF PORTLAND INTERNATIONAL AIRPORT REVENUE BONDS, SERIES TWENTY-FIVE

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February 13, 2019

Presented by: Lisa Fedeli  
Director, Capital Finance & Debt  
Management

**REQUESTED COMMISSION ACTION**

This agenda item requests approval of Port of Portland (Port) Ordinance No. 467-B to authorize the sale of up to \$300 million aggregate principal amount of Portland International Airport (PDX) Revenue Bonds, Series Twenty-Five, in one or more series, to fund capital projects in the Port's Airline and Port Cost Centers. Ordinance No. 467-B also authorizes the issuance of bonds to fund the Subordinate Lien Bonds (SLB) Reserve Account, capitalize interest, pay costs of issuance and repay debt incurred under outstanding Commercial Paper (CP) notes.

**BACKGROUND**

As the PDXNext capital program progresses, large projects such as the Parking Additions and Consolidated Rental Car Facility (PACR) and Terminal Core Redevelopment (TCORE) will be funded with long-term bonds. The Series Twenty-Five Bonds will fund the full design and construction of the public parking portion of the PACR project (not the rental car portion), the TCORE project through 100% design, the Taxiway K Rehabilitation project, the CCTV and Wi-Fi Improvements project, and other, smaller terminal and airfield refurbishment projects.

The Series Twenty-Five Bonds will be repaid from both the Airline and Port Cost Centers. Capital projects in the Airline Cost Center are funded by a combination of the airlines' rates and charges, grants, bonds and passenger facility charges. Capital projects in the Port Cost Center are funded primarily by revenues generated by the Port's public parking, rental car (excluding Customer Facility Charges), and ground transportation operations at PDX, and in the case of the PACR project, bonds.

The Port plans to use proceeds of the Series Twenty-Five Bonds to fund a deposit to the SLB Reserve Account, as required by the Port's master General Airport Revenue Bond Ordinances No. 155 and 323. Ordinance No. 467-B authorizes the Port to obtain a surety bond for the SLB Reserve Account. The Port will evaluate whether doing so would be beneficial at the time the Series Twenty-Five Bonds are sold.

To date, short-term CP notes have been issued to fund the PACR and TCORE projects with the expectation that the CP notes would eventually be refinanced with long-term bonds. In December 2018, the Port decided to fund up to \$40 million of the public parking portion of PACR with revenues available in the Port Cost Center and, as a result, repaid the outstanding CP notes for that portion of the project. The Port will use a portion of the proceeds of the Series Twenty-Five Bonds to repay the then-outstanding CP notes for the TCORE project.

PUBLIC HEARING AND ENACTMENT OF ORDINANCE NO. 467-B TO ISSUE UP TO \$300 MILLION OF PORTLAND INTERNATIONAL AIRPORT REVENUE BONDS, SERIES TWENTY-FIVE

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After issuing the Series Twenty-Five Bonds, the Port will continue to use CP note proceeds as an interim funding source for projects being designed and constructed (but not completed) over the next two years. This enables the Port to delay the issuance of long-term bond debt until later in those projects, which reduces the amount of interest that would otherwise be included in the bond issuance amount. Projects the Port anticipates funding this way include the redevelopment of PDX Concourse B and the beginning of other TCore construction, as well as the TCore-funded upper floors of the PACR Rental Car Center building.

The Port is evaluating whether to use CP note proceeds to pay capitalized interest on some of the Series Twenty-Five Bonds after their issuance, rather than including all capitalized interest in the bond issuance amount. Utilizing CP in this manner helps to further reduce the long-term cost of capitalizing interest on the bonds. The Port expects to repay any CP notes that are issued after the Series Twenty-Five Bond issuance with the proceeds of the next series of long-term bonds.

### **ORDINANCE TERMS**

The Series Twenty-Five Bonds will be 30-year bonds that bear interest at fixed rates with the final maturity no later than July 1, 2049.

The Port will seek a credit rating for the Series Twenty-Five Bonds from the Standard & Poor's rating agency. The Port is currently rated "AA-" by Standard & Poor's on the airport revenue bonds, which is among the highest underlying ratings for airport revenue bonds. The Port will evaluate whether it would be beneficial to obtain a second rating from an additional rating agency prior to the sale of the Series Twenty-Five Bonds.

Staff expects to price the Series Twenty-Five Bonds in April or May 2019 and close the transaction before the end of the Port's fiscal year.

Section 3 of Ordinance No. 467-B delegates authority to take actions and sign the documents that are required to sell and provide for the issuance and delivery of the Series Twenty-Five Bonds, in one or more series, to the Executive Director or the Chief Financial Officer of the Port and the designee of the Executive Director. Such actions may include, among other actions described in the ordinance, the following:

- Prepare, approve, authorize the distribution of, deem final, execute and deliver the disclosure documents for the Series Twenty-Five Bonds.
- Establish the final series designations, principal amounts, maturities, interest rates or methods of determining interest rates, sale prices, optional and/or mandatory redemption provisions, notice provisions, payment terms and dates, record dates and other terms for the Series Twenty-Five Bonds of each series.

PUBLIC HEARING AND ENACTMENT OF ORDINANCE NO. 467-B TO ISSUE UP TO \$300 MILLION OF PORTLAND INTERNATIONAL AIRPORT REVENUE BONDS, SERIES TWENTY-FIVE

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- Undertake to provide continuing disclosure in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.
- Determine whether to purchase, establish the terms of and obtain one or more credit facilities (a credit enhancement device given as security) for the Series Twenty-Five Bonds.
- Determine whether to purchase and obtain reserve sureties, deposit cash and investments in the SLB Reserve Account, and take any other action necessary to satisfy the SLB Reserve Requirement.
- Prepare, execute and deliver one or more certificates, bond declarations and supplemental actions specifying the terms under which the Series Twenty-Five Bonds are issued, the form of the Series Twenty-Five Bonds and the administrative provisions that apply to the Series Twenty-Five Bonds.
- Execute and deliver any other documents and take any other action in connection with the Series Twenty-Five Bonds advantageous to the Port.

### **PARTICIPANTS**

In addition to the Port, the primary firms involved in the Series Twenty-Five Bond transaction are:

- PFM Financial Advisors LLC is the municipal advisor to the Port.
- Orrick, Herrington & Sutcliffe LLP is bond counsel and disclosure counsel to the Port.
- The underwriting bank will be J.P. Morgan Securities LLC as senior manager; Morgan Stanley & Co. LLC will act as co-manager.
- U.S. Bank National Association will be the trustee, registrar and paying agent.
- Landrum & Brown, Incorporated, is the airport consultant.
- Standard & Poor's is expected to provide the rating on the Series Twenty-Five Bonds. If it is deemed beneficial to secure a second rating, the Port will select the other rating agency as part of that decision.
- Moss Adams LLP is the auditor of the Port.

### **EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That Port of Portland Ordinance No. 467-B, in the form presented to the Commission, be read by title only; and

PUBLIC HEARING AND ENACTMENT OF ORDINANCE NO. 467-B TO ISSUE UP TO \$300 MILLION OF PORTLAND INTERNATIONAL AIRPORT REVENUE BONDS, SERIES TWENTY-FIVE

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BE IT FURTHER RESOLVED, That a public hearing be held prior to enacting Ordinance No. 467-B, in accordance with Section 147(f) of the Internal Revenue Code of 1986, as amended; and

BE IT FURTHER RESOLVED, That proposed Port of Portland Ordinance No. 467-B, in the form presented to the Commission, be enacted by a roll call vote; 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.



**ORDINANCE NO. 467-B**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE IN ONE OR MORE SERIES OF NOT MORE THAN \$300,000,000 AGGREGATE PRINCIPAL AMOUNT OF PORTLAND INTERNATIONAL AIRPORT REVENUE BONDS TO PAY OR REIMBURSE THE PORT FOR THE PAYMENT OF THE COSTS OF CONSTRUCTING, RENOVATING, ACQUIRING, EQUIPPING AND INSTALLING IMPROVEMENTS AT THE PORTLAND INTERNATIONAL AIRPORT, TO PAY PRINCIPAL AND INTEREST DUE WITH RESPECT TO COMMERCIAL PAPER NOTES PREVIOUSLY ISSUED BY THE PORT TO FINANCE SUCH IMPROVEMENTS, TO PAY COSTS OF ISSUING THE BONDS, INCLUDING INTEREST TO ACCRUE ON ALL OR A PORTION OF THE BONDS, AND TO FUND CERTAIN RESERVES; AND FOR ANY OTHER LAWFUL PURPOSE OF THE PORT; AUTHORIZING AMENDMENTS TO THE PORT'S AIRPORT REVENUE BOND ORDINANCE NO. 155, AS AMENDED, AND AIRPORT REVENUE BOND ORDINANCE NO. 323, AS AMENDED; AUTHORIZING AND PROVIDING FOR RELATED MATTERS AND DOCUMENTS.**

WHEREAS, the Board of Commissioners of The Port of Portland (the "Board") has determined and does hereby determine that it will be advantageous to The Port of Portland (the "Port") to authorize the issuance by the Port of its Portland International Airport Revenue Bonds, Series Twenty-Five, in one or more series (collectively, the "Series Twenty-Five Bonds"): (i) to pay or reimburse the Port for the payment of costs of constructing, renovating, acquiring, equipping and installing improvements at the Portland International Airport, (ii) to pay the principal and interest due with respect to commercial paper notes previously issued by the Port, the proceeds of which financed such improvements, (iii) to pay costs of issuing the Series Twenty-Five Bonds, including interest to accrue on all or a portion of the Series Twenty-Five Bonds, (iv) to fund certain reserves, if necessary, and (v) for any other lawful purposes of the Port;

WHEREAS, the Port has declared its intention to reimburse itself with proceeds of the Series Twenty-Five Bonds for expenditures of Port funds to pay costs of constructing, renovating, acquiring, equipping and installing improvements at the Portland International Airport; and

WHEREAS, the Series Twenty-Five Bonds will be issued pursuant to Section 10 of Ordinance No. 323, enacted October 9, 1985, as amended and restated thereafter and as hereafter amended, restated and supplemented ("Ordinance No. 323"), on a parity with the Port's currently outstanding airport revenue bonds (the "SLBs");

NOW THEREFORE, BE IT ENACTED BY THE PORT OF PORTLAND:

**Section 1. Terms Defined in Ordinance No. 155 and Ordinance No. 323.**

1.1 As used in this Ordinance No. 467-B (the "Ordinance"), the following terms shall have the meanings defined for such terms in Ordinance No. 155, enacted November 10, 1971, as amended and restated thereafter and hereafter amended, restated and supplemented ("Ordinance No. 155") and in Ordinance No. 323, as follows:

<b>Term:</b>	<b>Defined in Ordinance No.</b>
Airport Fund	155

Airport	155
Credit Facility	323
General Account	155
Investment Securities	155
Net Revenues	155
Port	155
Rebate Account	323
SLB Fund	323
SLB Principal and Interest Account	323
SLB Reserve Account	323
SLB Reserve Fund Requirement	323

1.2 In addition to the terms defined as provided in Section 1.1 of this Ordinance, the following terms shall have the following meanings:

“Additional SLBs” means the bonds and other obligations that qualify as “Additional Subordinate Lien Bonds,” as that term is defined in Ordinance No. 323.

“Code” means the United States Internal Revenue Code of 1986, as amended from time to time, and the applicable rulings and regulations of the United States Treasury Department.

“DTC” means The Depository Trust Company, New York, New York or any successor serving as securities depository under this Ordinance.

“Executive Director” means the Executive Director or the Chief Financial Officer of the Port and any designee of the Executive Director as provided in Section 3.

“Outstanding” refers to any Series Twenty-Five Bonds that have been issued and delivered under this Ordinance except:

(a) Series Twenty-Five Bonds that have been canceled by the Trustee because of payment or redemption or that have been surrendered to the Trustee for cancellation; or

(b) Series Twenty-Five Bonds that are no longer deemed outstanding because of the application of Section 17 of Ordinance No. 323.

“Owner” means a registered owner of a Series Twenty-Five Bond, as shown on the registration books maintained by the Trustee.

“Rule” means United States Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12).

“Series Twenty-Five Bonds” means the SLBs of each series authorized by Section 2.1 of this Ordinance.

“SLBs” means bonds and other obligations that qualify as “Subordinate Lien Bonds” as that term is defined in Ordinance No. 323.

“SLB Construction Account” means the Subordinate Lien Revenue Bond Construction Account in the Construction Fund created under Section 8 of Ordinance No. 323.

“Trustee” means the “Subordinate Lien Bond Trustee” as defined in Ordinance No. 323.

## **Section 2. Authorization and Security for Bonds.**

2.1 Pursuant to the provisions of Ordinance No. 155 and Ordinance No. 323, the Board hereby authorizes the Port to sell and issue in one or more series up to \$300,000,000 aggregate principal amount of Portland International Airport Revenue Bonds: (i) to pay or reimburse the Port for the payment of costs of constructing, renovating, acquiring, equipping and installing improvements at the Portland International Airport, (ii) to pay the principal and interest due with respect to commercial paper notes previously issued by the Port, the proceeds of which financed such improvements, (iii) to pay costs of issuing the Series Twenty-Five Bonds, including interest to accrue on all or a portion of the Series Twenty-Five Bonds, (iv) to fund certain reserves, if necessary, and (v) for any other lawful purposes of the Port. The Series Twenty-Five Bonds authorized by this Section 2.1 shall be issued as fixed-rate bonds, and may be issued in one or more series.

2.2 The Series Twenty-Five Bonds shall be issued pursuant to Section 10 of Ordinance No. 323 and shall be payable solely from the Net Revenues of the Airport that are available for deposit in the General Account and from moneys in the SLB Fund and SLB Construction Account as provided in Section 4 of Ordinance No. 323 and in the documents authorized by Section 3.7 of this Ordinance.

2.3 The Board also authorizes the Port to obtain one or more Credit Facilities, if necessary and desirable, to secure all or a portion of the Series Twenty-Five Bonds, to enter into one or more reimbursement agreements with the provider or providers of such Credit Facilities, if necessary and desirable, and to enter into the agreements and other documents referred to in Section 3.

## **Section 3. Delegation.**

The Executive Director is hereby authorized, 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 Twenty-Five Bonds, to:

3.1 Sell and provide for the issuance of the Series Twenty-Five Bonds in one or more series.

3.2 Participate in the preparation of, approve, authorize the distribution of, and deem final, and execute and deliver the disclosure documents for the Series Twenty-Five Bonds.

3.3 Establish the final series designations, principal amounts, maturities, interest rates or methods of determining interest rates, sale prices, optional and/or mandatory redemption provisions, notice provisions, payment terms and dates, record dates and other terms for the Series Twenty-Five Bonds of each series; provide for the Series Twenty-Five Bonds to be held by or through the facilities of DTC; select one or more underwriters, negotiate terms of the sale of the

Series Twenty-Five Bonds with those underwriters and enter into one or more bond purchase agreements with those underwriters.

3.4 Undertake to provide continuing disclosure in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission; provided that any such undertaking shall provide that if the Port fails to comply with the continuing disclosure undertaking, the Owners and the beneficial owners shall have only the remedies specified in such continuing disclosure undertaking and that failure by the Port to comply with the continuing disclosure undertaking shall not constitute a default on any SLBs or an event of default under this Ordinance, Ordinance No. 155 or Ordinance No. 323.

3.5 Determine whether to purchase, and establish the terms of and obtain, one or more Credit Facilities for the Series Twenty-Five Bonds and enter into agreements with providers of those Credit Facilities to repay any amounts paid under the Credit Facilities (plus fees and other costs of such providers) from the Net Revenues of the Airport in accordance with Ordinance No. 323.

3.6 Determine whether to purchase, and obtain, reserve sureties, deposit cash and investments in the SLB Reserve Account, substitute sureties for cash then on deposit in the SLB Reserve Account or substitute cash for sureties then credited to the SLB Reserve Account and take any other action necessary to satisfy the SLB Reserve Requirement.

3.7 Prepare, execute and deliver one or more certificates, bond purchase agreements, bond declarations and supplemental actions specifying the terms under which the Series Twenty-Five Bonds are issued, the form of the Series Twenty-Five Bonds and the administrative provisions that apply to the Series Twenty-Five Bonds. These documents may contain additional covenants and terms for the benefit of the owners of the Series Twenty-Five Bonds, providers of Credit Facilities for the Series Twenty-Five Bonds, if any, and providers of any reserve sureties.

3.8 Except in the case of any Series Twenty-Five Bonds, the interest on which the Port intends to be includable in gross income for federal income tax purposes, enter into covenants by the Port to maintain the excludability of interest on the Series Twenty-Five Bonds from gross income under the Code.

3.9 Determine whether to provide, and provide that a portion of the Series Twenty-Five Bonds bear interest that is includable in gross income for federal income tax purposes.

3.10 Obtain any necessary consents from the providers of the Port's existing interest rate swaps, surety bond reserve policies and/or Credit Facilities.

3.11 Execute and deliver amendments to the Port's existing interest rate swaps to facilitate the issuance of the Series Twenty-Five Bonds, or replace or terminate the existing interest rate swaps.

3.12 Create special accounts and subaccounts within the SLB Fund that is held under Ordinance No. 323, as amended, for the Series Twenty-Five Bonds and provide for deposits and withdrawals of amounts in those subaccounts.

3.13 Provide for the application and investment of proceeds of the Series Twenty-Five Bonds, including the payment of interest to accrue on a portion of the Series Twenty-Five Bonds as specified by the Executive Director.

3.14 Execute and deliver any other documents and take any other action in connection with the Series Twenty-Five Bonds which the Executive Director finds will be advantageous to the Port.

#### **Section 4. Amendments to Ordinance No. 323 and to Ordinance 155.**

4.1 The Port may amend and restate Ordinance No. 323 and Ordinance No. 155 to delete the final paragraph of Section 9 of Ordinance No. 323 and to remove all other references in those ordinances to “Excess Principal.”

4.2 As the Port has done in the ordinances authorizing all currently outstanding series of SLBs, the Port hereby provides and clarifies that the Port may amend Ordinance No. 155 and Ordinance No. 323 without the consent of the Owners of the Series Twenty-Five Bonds for any of the purposes listed in this Section 4.

(a) To amend the definition of “Airport” to add any facilities operated by the Port whether or not such facilities are related to aviation.

(b) To provide that the Airport Fund (other than the SLB Fund) may be invested in any securities that are legal investments for the Port under the laws of the State of Oregon.

(c) To provide that the SLB Fund may be invested only in Investment Securities, and to define Investment Securities to include those securities that are then typically permitted for the investment of debt service and the reserve funds of revenue bonds that have credit ratings similar to the credit ratings then in effect for the SLBs.

(d) To permit the Port’s obligations under derivative products (including interest rate swaps, collars, hedges, caps and similar transactions) to be treated as SLBs and to make other changes which are desirable in order to permit use of derivative products in connection with SLBs.

(e) To permit obligations that are subordinate to the SLBs to be issued for any lawful Port purpose.

(f) To provide that balloon obligations will be treated as if they were refinanced with long-term obligations for purposes of calculating the SLB Debt Service Requirement and making certain deposits to the SLB Fund.

(g) To provide that any “put” or other right of Owners to require the purchase of SLBs shall not be treated as a maturity or mandatory redemption and may be ignored when calculating the SLB Debt Service Requirement and the amounts to be deposited to the SLB Fund, but only if bond insurance, a line or letter of credit, a standby bond purchase agreement or other liquidity or credit enhancement is in effect which is expected to pay for the purchase of the SLBs when the Owners exercise that right, if the SLBs are not remarketed or refunded.

(h) To provide that certain amounts in the SLB Serial Principal Account and the SLB Term Bond Principal Account may be used for redemption or purchase for cancellation of SLBs.

(i) To reduce the SLB Reserve Fund Requirement to an amount equal to the maximum amount of proceeds of tax-exempt bonds which the Code permits to be deposited in a reserve account without yield restriction, and to specify either that separate reserve accounts will be held for each series of SLBs, or that a single reserve account will secure all series of SLBs.

(j) To modify the requirements for funding the Rebate Account or to eliminate the Rebate Account.

(k) To combine Ordinance No. 155 and Ordinance No. 323, to delete outdated provisions, to delete provisions that interfere with the business operations of the Port but that do not provide substantial security for owners of SLBs, to clarify and simplify the remaining provisions, to substitute modern, more flexible provisions, and to restate those amended ordinances as a single ordinance.

4.3 As the Port has done previously in the ordinances authorizing the Port's Airport Revenue Bonds, Series Nineteen, Series Twenty, Series Twenty-One, Series Twenty-Two, Series Twenty-Three and Series Twenty-Four, in addition to the amendments provided in Sections 4.1 and 4.2, the Port may amend Ordinance No. 155 and Ordinance No. 323 without the consent of the Owners of the Series Twenty-Five Bonds for any of the purposes listed in this Section 4.3.

(a) To amend the definition of "SLB Debt Service Requirement" so that for purposes of calculating compliance with the Port's rate covenants, the amount of principal and/or interest on SLBs and/or the amount of Scheduled Swap Obligations paid or to be paid from moneys not then included in the definition of "Revenues" or "Net Revenues" shall be disregarded and not included in any calculation of "SLB Debt Service Requirement."

(b) To amend Ordinance No. 323 to provide that for purposes of determining compliance with Section 10 of Ordinance No. 323, the amount of passenger facility charges, customer facility charges, state and federal grants or other payments and/or other moneys that are not then included in the definition of "Revenues" or "Net Revenues" but that are committed irrevocably to the payment of debt service on SLBs and to the payment of Scheduled Swap Obligations or that are held by the Trustee for the sole purpose of paying debt service on SLBs and paying Scheduled Swap Obligations may be disregarded and not included in the calculation of SLB Debt Service Requirement for the period in which such amounts are irrevocably committed or are held by the Trustee.

(c) To permit all or a portion of the Remaining Balance, as hereinafter defined, to be taken into account as "Revenues" when determining compliance by the Port with its rate covenants. For this purpose, "Remaining Balance" means for any fiscal year the amount of unencumbered funds on deposit or anticipated to be on deposit on the first day of such fiscal year in the General Account (after all deposits and payments required to be made by Section 7 of Ordinance 323 have been made) as of the last day of the immediately preceding fiscal year.

(d) To permit the application of proceeds received from the sale of SLBs or of Junior Lien Obligations to make termination payments incurred in connection with terminating swap agreements or other derivative products.

**Section 5. Formal Matters.**

5.1 The power granted in Section 4 to amend Ordinance No. 155 and Ordinance No. 323 supplements and clarifies, and does not limit, the power of the Port to amend Ordinance No. 155 under its Section 20 and Ordinance No. 323 under its Section 12.

5.2 The Executive Director may determine that the providers of Credit Facilities for the Series Twenty-Five Bonds, if any, shall be treated as Owners of the Series Twenty-Five Bonds secured by those Credit Facilities for purposes of consenting to amendments to Ordinance No. 155, Ordinance No. 323 and the documents relating to the Series Twenty-Five Bonds.

5.3 Provisions of the documents that are executed pursuant to Section 3 shall have the same effect as if those provisions were included in this Ordinance.

5.4 The Port may restate Ordinance No. 323 and Ordinance No. 155 to include the amendments contained in this Ordinance and may combine Ordinance No. 155 and Ordinance No. 323 without the consent of any Owner or beneficial owner, Credit Facility provider or swap provider.

5.5 A concise summary of this Ordinance, including the location within the Port where a complete copy of this Ordinance may be obtained without charge, shall be published within five (5) days after passage in a newspaper of general circulation within the boundaries of the Port.

5.6 Capitalized terms that are used but not defined in this Ordinance shall have the meanings defined for such terms in Ordinance No. 155 or Ordinance No. 323.

PASSED AND ENACTED by the Board of Commissioners of The Port of Portland at a meeting held on February 13, 2019, and signed by its President.

THE PORT OF PORTLAND

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Commission President

Approved as to Form for The Port of Portland:

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Orrick, Herrington & Sutcliffe LLP  
Bond Counsel to The Port of Portland



ENACTMENT OF ORDINANCE NO. 461-B, THE MASTER CUSTOMER FACILITY CHARGE BOND ORDINANCE, AND ORDINANCE NO. 466-B TO ISSUE UP TO \$200 MILLION OF PORTLAND INTERNATIONAL AIRPORT CUSTOMER FACILITY CHARGE REVENUE BONDS, SERIES 2019

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February 13, 2019

Presented by: Lisa Fedeli  
Director, Capital Finance & Debt  
Management

**REQUESTED COMMISSION ACTION**

This agenda item requests approval of Port of Portland (Port) Ordinance No. 461-B, the Master Customer Facility Charge (CFC) Bond Ordinance, and the approval of Ordinance 466-B, to authorize the sale of up to \$200 million aggregate principal amount of Portland International Airport (PDX) CFC Revenue Bonds, Series 2019, in one or more series, to fund rental car facilities and related projects. Ordinance No. 466-B also authorizes the issuance of bonds to fund the CFC Bonds Reserve Account and Rolling Coverage Account, capitalize interest, pay costs of issuance and repay debt incurred under outstanding Commercial Paper (CP) notes.

**BACKGROUND**

In December 2013, the Port Commission approved the enactment of Ordinance No. 448, which established a CFC on rental car transactions to fund projects for rental car-related facilities, and related programs and expenses. The Port began collecting a CFC from rental car concessionaires on January 15, 2014. Since its inception, the CFC rate has been six dollars per day for a maximum of four days. Under Ordinance No. 448, the Port may change the rate from time to time. To date, revenues collected under the CFC program have paid for the design and construction of the new rental car Quick Turn-Around Facility at PDX, which opened in early 2018, and program expenses on a pay-as-you-go basis.

With the enactment of Ordinance No. 455-B on September 10, 2014, the Port's master General Airport Revenue Bond Ordinances No. 155 and 323 were amended and restated to exclude CFC revenues from the "Revenues" which are pledged towards repayment of the Port's Subordinate Lien Bonds.

The objective of implementing a CFC at PDX was to fund rental car-related facilities and keep those operations close to the terminal. Doing so optimizes the customer experience for rental customers and facilitates Port planning objectives. The largest component of the Port's program to fulfill that objective is designing and constructing the rental car portion of the Parking Additions and Consolidated Rental Car Facility (PACR) project (not the public parking portion), which will be funded with bonds backed by CFC revenues. In order to secure the legal opinion from the Port's Bond Counsel, which was necessary for the Port to sell CFC-backed bonds, the Port sought and received, in August 2017, judicial validation of Ordinance No. 448 and any CFC-backed bonds that the Port may issue.

ENACTMENT OF ORDINANCE NO. 461-B, THE MASTER CUSTOMER FACILITY CHARGE BOND ORDINANCE, AND ORDINANCE NO. 466-B TO ISSUE UP TO \$200 MILLION OF PORTLAND INTERNATIONAL AIRPORT CUSTOMER FACILITY CHARGE REVENUE BONDS, SERIES 2019

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The Port has issued short-term CP notes to fund costs incurred to date on the design of the rental car portion of the PACR project. Proceeds of the Series 2019 CFC Bonds will repay all CP notes outstanding for this portion of the project.

**ORDINANCE NO. 461-B, THE MASTER CFC BOND ORDINANCE**

This is the first time the Port is pledging CFC revenues to the repayment of bonds. As such, a new Master CFC Bond Ordinance, Ordinance No. 461-B, must be enacted to pledge the CFC revenue, establish necessary funds and accounts, and provide bondholder protections. Ordinance No. 461-B establishes the Interest, Principal and Reserve funds and accounts to be held by the trustee. It also creates the following funds and accounts to be held by the Port, to which deposits are made after the payment of certain administrative costs and debt service on the Series 2019 CFC Bonds:

- The Renewal and Replacement Fund, which provides money for the costs of renewals, modifications, repairs and replacements of CFC-funded projects under the Rental Car Concession Lease and Operating Agreements (RAC Leases) approved by Commission in November 2018.
- The Major Maintenance Fund, which provides money for the costs of major unexpected maintenance expenses pursuant to the RAC Leases.
- The CFC Rolling Coverage Account, which will be funded when the bonds close at an amount equal to 25% of the maximum annual debt service on the CFC bonds, to be used annually towards the calculation of the rate covenant established under this Ordinance.
- The CFC Surplus Account, which can be used for any lawful purpose consistent with Ordinance No. 448. The CFC Surplus Account is the last fund and account created under this Ordinance and will hold all CFC revenues not required to be deposited into one of the funds and accounts described above.

**ORDINANCE NO. 466-B**

Ordinance No. 466-B allows for the issuance of the first series of CFC-backed bonds under the Master CFC Bond Ordinance (Ordinance No. 461-B), to fund certain projects as summarized above.

The Port will use a portion of the proceeds of the Series 2019 CFC Bonds to fund the CFC Reserve Account, as required by Ordinance No. 461-B. Ordinance 466-B authorizes the Port to obtain a surety bond for the Series 2019 CFC Reserve Account. The Port will evaluate whether doing so would be beneficial at the time the Series 2019 CFC Bonds are sold.

ENACTMENT OF ORDINANCE NO. 461-B, THE MASTER CUSTOMER FACILITY CHARGE BOND ORDINANCE, AND ORDINANCE NO. 466-B TO ISSUE UP TO \$200 MILLION OF PORTLAND INTERNATIONAL AIRPORT CUSTOMER FACILITY CHARGE REVENUE BONDS, SERIES 2019

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Ordinance No. 466-B also pledges any receipts of Contingent Fee payments from the rental car concessionaires, as such fees are established under the RAC Leases, in the event the Port determines that CFC revenue will be insufficient to make payments required on the Series 2019 CFC Bonds and to meet the rate covenant requirement established under Ordinance No. 461-B.

The Port is evaluating whether to fund the Rolling Coverage Account with the proceeds of the Series 2019 CFC Bonds or to use CFC cash-on-hand.

The Series 2019 CFC Bonds will bear interest at fixed rates with the final maturity not to exceed 30 years after the issuance of the bonds.

The Port will seek a credit rating for the Series 2019 CFC Bonds from the Standard & Poor's rating agency, which currently rates the Port's Subordinate Lien Bonds and Passenger Facility Charge Bonds. The Port is planning to obtain a second rating from either Fitch Ratings or Moody's Investor Services before the sale of the Series 2019 CFC Bonds.

Staff expects to price the Series 2019 CFC Bonds in April or May 2019 and close the transaction before the end of the Port's fiscal year.

Section 4 of Ordinance No. 466-B delegates authority to take actions and sign the documents that are required to sell and provide for the issuance of the Series 2019 CFC Bonds to the Executive Director or the Chief Financial Officer of the Port and the designee of the Executive Director. Such actions may include, among other actions described in the ordinance, the following:

- Prepare, approve, authorize the distribution of, deem final, execute and deliver the disclosure documents for the Series 2019 CFC Bonds.
- Establish the final series designations, principal amounts, maturities, interest rates or methods of determining interest rates, sale prices, optional and/or mandatory redemption provisions, notice provisions, payment terms and dates, record dates and other terms for the Series 2019 CFC Bonds of each series.
- Undertake to provide continuing disclosure in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.
- Determine whether to purchase, establish the terms of and obtain, one or more credit facilities (a credit enhancement device given as security) for the Series 2019 CFC Bonds.
- Determine whether to purchase and obtain Reserve Fund credit enhancements, deposit cash and investments in any Reserve Account established for the Series 2019 CFC Bonds, substitute sureties for cash then on deposit in such CFC Reserve Account or

ENACTMENT OF ORDINANCE NO. 461-B, THE MASTER CUSTOMER FACILITY CHARGE BOND ORDINANCE, AND ORDINANCE NO. 466-B TO ISSUE UP TO \$200 MILLION OF PORTLAND INTERNATIONAL AIRPORT CUSTOMER FACILITY CHARGE REVENUE BONDS, SERIES 2019

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substitute cash for sureties then credited to such CFC Reserve Account, and take any other action necessary to satisfy the ordinance's Series 2019 CFC Reserve Account requirement.

- Prepare, execute and deliver one or more certificates, bond purchase agreements, bond declarations and supplemental actions specifying the terms under which the Series 2019 CFC Bonds are issued, the form of the Series 2019 CFC Bonds and the administrative provisions that apply to the Series 2019 CFC Bonds.
- Execute and deliver any other documents and take any other action in connection with the Series 2019 CFC Bonds advantageous to the Port.

### **PARTICIPANTS**

In addition to the Port, the primary firms involved in the Series 2019 CFC Bonds transaction are:

- PFM Financial Advisors LLC is the municipal advisor to the Port.
- Orrick, Herrington & Sutcliffe LLP is bond counsel and disclosure counsel to the Port.
- The underwriting bank will be Citigroup Global Markets, Inc., as senior manager; Goldman Sachs & Co. will act as co-manager.
- U.S. Bank National Association will be the trustee, registrar and paying agent.
- Landrum & Brown, Incorporated, is the airport consultant.
- Standard & Poor's is expected to provide the rating on the Series 2019 CFC Bonds. If it is deemed beneficial to secure a second rating, the Port will select the other rating agency as part of that decision.
- Moss Adams LLP is the auditor of the Port.

### **EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted relating to Ordinance No. 461-B:

BE IT RESOLVED, That Port of Portland Ordinance No. 461-B, in the form presented to the Commission, be read by title only; and

BE IT FURTHER RESOLVED, That proposed Port of Portland Ordinance No. 461-B, in the form presented to the Commission, be enacted by a roll call vote; 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.

ENACTMENT OF ORDINANCE NO. 461-B, THE MASTER CUSTOMER FACILITY CHARGE  
BOND ORDINANCE, AND ORDINANCE NO. 466-B TO ISSUE UP TO \$200 MILLION OF  
PORTLAND INTERNATIONAL AIRPORT CUSTOMER FACILITY CHARGE REVENUE  
BONDS, SERIES 2019

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The Executive Director recommends that the following resolutions be adopted relating to Ordinance No. 466-B:

BE IT RESOLVED, That Port of Portland Ordinance No. 466-B, in the form presented to the Commission, be read by title only; and

BE IT FURTHER RESOLVED, That proposed Port of Portland Ordinance No. 466-B, in the form presented to the Commission, be enacted by a roll call vote; 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.

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**ORDINANCE NO. 461-B**  
**(Master CFC Bond Ordinance)**

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**THE PORT OF PORTLAND**

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**Enacted: February 13, 2019**

**Effective: March 15, 2019**

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**PORTLAND INTERNATIONAL AIRPORT  
CUSTOMER FACILITY CHARGE REVENUE BONDS**

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# ORDINANCE NO. 461-B

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**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF PORTLAND INTERNATIONAL AIRPORT CUSTOMER FACILITY CHARGE REVENUE BONDS IN ONE OR MORE SERIES, TO FINANCE AND REFINANCE COSTS OF RENTAL CAR FACILITIES AND OTHER RELATED PROJECTS AT PORTLAND INTERNATIONAL AIRPORT, TO FUND RESERVES FOR THE BONDS, THE RENTAL CAR FACILITIES AND THE OTHER RELATED PROJECTS, TO CAPITALIZE ALL OR A PORTION OF THE INTEREST ON THE BONDS DURING CONSTRUCTION, TO PAY FOR COSTS OF ISSUING THE BONDS AND FOR OTHER LAWFUL PURPOSES OF THE PORT; PRESCRIBING THE LIMITATIONS AND THE TERMS, CONDITIONS, SECURITY, AND FORM OF THE BONDS; AND PROVIDING FOR AND DETERMINING VARIOUS MATTERS IN CONNECTION WITH THE AUTHORIZATION, ISSUANCE, SECURITY, SALE, PAYMENT AND DELIVERY OF THE BONDS.**

WHEREAS, the Board of Commissioners (the “Board”) of The Port of Portland (the “Port”) enacted Ordinance No. 448 on December 11, 2013 (the “CFC Ordinance”) under which the Port authorized the imposition of customer facility charges on rental car customers for the use of certain facilities at Portland International Airport; and

WHEREAS, under Section 4 of the CFC Ordinance, the Port may assign and pledge or otherwise commit such customer facility charges to repay debt service on bonds issued or other financing used to fund rental car facilities and related projects, to fund and replenish reserves therefor, and to pay costs associated therewith; and

WHEREAS, the Board has determined that it will be advantageous to the Port to issue, from time to time, the Port’s Portland International Airport Customer Facility Charge Revenue Bonds in one or more series to provide funds: to finance and refinance costs of rental car facilities and related projects at Portland International Airport; to fund debt service and other reserves; to capitalize all or a portion of the interest on bonds during construction of the rental car facilities and any related projects; to pay the costs of issuing bonds; and for other lawful purposes of the Port; and

WHEREAS, the principal of and interest on the bonds described herein and all of the other payments provided for herein will be secured by and payable solely from the Trust Estate and other moneys pledged therefor;

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

**ARTICLE I.  
DEFINITIONS**

Section 1.01. Definitions. In addition to words and terms elsewhere defined herein, the following words and terms as used in this Ordinance shall have the following meanings unless some other meaning is plainly intended.

“Accrued Aggregate Debt Service Requirement” means, as of any date of calculation and for such period or periods referenced herein, an amount equal to the sum of the amounts of accrued and unpaid Debt Service Requirement with respect to all Series of Bonds then Outstanding for the period in question, calculating the accrued Debt Service Requirement separately with respect to each such Series, provided, however, interest on Bonds which has been fixed to maturity, shall be deemed to accrue annually on the basis of a year containing twelve 30-day months.

“Additional Bonds” means Bonds, other than the initial Series of Bonds issued hereunder, authenticated and delivered under and pursuant to the provisions of Sections 2.07 and 2.08 hereof.

“Airport” means the Portland International Airport and any additions, extensions and improvements.

“Airport Consultant” means an independent airport consultant or engineer or architect or firm of airport consultants or engineers or architects of favorable repute and having national recognition or experience in relation to the operation and maintenance of civil airports and other civil aviation facilities (including rental car facilities), the recommending of schedules of rentals and other charges for the use of the services and facilities of civil airports and other civil aviation facilities (including rental car facilities) and the estimating of revenues to be derived from the operation of civil airports and other civil aviation facilities (including rental car facilities), as may be employed by the Port from time to time to perform the duties of the Airport Consultant set forth in this Ordinance.

“Beneficial Owner” means any person which has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

“Board” means the Board of Commissioners of the Port, or any successor thereto as provided by law.

“Bond Insurer” means any bond insurance company or companies issuing a policy or policies which insure the payment of the principal of and interest on any Bonds.

“Bond Obligation” means, as of the date of computation, the sum of: (i) the principal amount of all Bonds then Outstanding paying interest at least annually, and (ii) if Capital Appreciation Bonds are issued pursuant to a Supplemental Ordinance, the Compounded Amount of such Capital Appreciation Bonds as provided in such Supplemental Ordinance.

“Bond Register” means books kept by the Trustee, as Bond Registrar, for the registration and transfer of the Bonds.

“Bond Registrar” means the Trustee, as keeper of the Bond Register.

“Bond Year” means (i) the annual period beginning with and including July 1 of each year and ending with and including the next June 30; provided that when such term is used to describe the period during which deposits are to be made to amortize the principal and interest on the Bonds maturing or becoming subject to mandatory redemption, the principal and interest maturing or becoming subject to redemption on July 1 of any year shall be deemed to mature or become subject to redemption on the last day of the preceding Bond Year or (ii) any other annual period specified in writing by the Port to the Trustee.

“Bonds” means, except where the context refers to particular Bonds, all Bonds issued and Outstanding under this Ordinance, including the initial Series of Bonds issued hereunder and any Additional Bonds authenticated and delivered pursuant to Sections 2.07 and 2.08 hereof. Bonds includes both Senior Bonds and Subordinate Bonds.

“Book-Entry Bond” means a Bond issued to, and (except as otherwise provided in Section 2.04 hereof) restricted to being registered in the name of, a Securities Depository for the Participants in such Securities Depository or Beneficial Owners.

“Book-Entry System” means the system of registration and beneficial ownership contemplated in Section 2.04 hereof.

“Business Day” means, except as otherwise provided in a Supplemental Ordinance with respect to a Series of Bonds issued hereunder, any day except Saturday, Sunday or any day on which banking institutions located in the states of New York or Oregon are required or authorized to close or on which the New York Stock Exchange is closed.

“Capital Appreciation Bonds” means any Bonds issued hereunder as to which interest is compounded periodically on each of the applicable periodic dates designated for compounding and payable in an amount equal to the then current Compounded Amount only at the maturity, earlier redemption or other payment date therefor, all as so designated by the Supplemental Ordinance relating to the issuance thereof, and which may be either Serial Bonds or Term Bonds. In the case of Capital Appreciation Bonds that are convertible to Bonds with interest payable prior to maturity or prior to redemption of such Bonds, such Bonds shall be considered Capital Appreciation Bonds only during the period of time prior to such conversion.

“Cede” means Cede & Co., as nominee of DTC.

“CFC Administrative Costs” means the costs and expenses of imposing, collecting and utilizing CFCs, including without limitation, costs related to studies, consultants, plans and specifications, trustees and attorneys, provided, however, CFC Administrative Costs shall not include the costs of operating and maintaining CFC Projects or debt service on Bonds.

“CFC Ordinance” means Ordinance No. 448 enacted by the Board on December 11, 2013, as amended, supplemented, restated or replaced from time to time.

“CFC Projects” means, collectively, the design, construction, equipping and installation of the ConRAC and facilities ancillary thereto, including any expansions, additions, extensions and/or improvements to such facilities, and any other projects directly or indirectly related to or affecting rental car operations at the Airport or benefiting the Concessionaires or their customers, as determined by the Port including, without limitation, a quick turnaround facility, and storage and service facilities for rental car maintenance.

“CFC Revenue Fund” means the fund created by that name pursuant to Section 5.02 hereof.

“CFC Rolling Coverage Account” means the account created by that name in the CFC Surplus and Rolling Coverage Fund pursuant to Section 5.02 hereof.

“CFC Surplus Account” means the account created by that name in the CFC Surplus and Rolling Coverage Fund pursuant to Section 5.02 hereof.

“CFC Surplus and Rolling Coverage Fund” means the fund created by that name pursuant to Section 5.02 hereof.

“CFCs” means the funds received by the Port pursuant to the Port’s imposition of “customer facility charges” under the CFC Ordinance.

“Compounded Amounts” means the principal amount of the Capital Appreciation Bonds plus the amount of interest that has accreted on such Bonds, compounded semiannually, to the date of calculation, determined by reference to accretion tables contained in each such Bond or offering circular with respect thereto. The Compounded Amounts for such Bonds as of any date not stated in such tables shall be calculated by adding to the Compounded Amount for such Bonds as of the date stated in such tables immediately preceding the date of computation a portion of the difference between the Compounded Amount for such preceding date and the Compounded Amount for such Bonds as of the date shown on such tables immediately succeeding the date of calculation, apportioned on the assumption that interest accretes during any period in equal daily amounts on the basis of a year of twelve 30-day months.

“Concessionaire” means each rental car or car sharing entity that, at the time, is a signatory to a Concessionaire Agreement.

“Concessionaire Agreement” means each Rental Car Concession Lease and Operating Agreement between the Port and a Concessionaire that, among other things, entitle the applicable Concessionaire to exclusive or common premises at the ConRAC pursuant to the terms thereof, as the same may be re-named, re-executed, modified, amended or replaced from time to time.

“ConRAC” means a consolidated rental car facility located at the Airport, including all associated repairs and improvements to the main terminal associated therewith and all associated structures, roadways, commercial curbs, facilities, utilities, and other infrastructure improvements related thereto including, without limitation, (i) customer service area; (ii) the exclusive premises for the Concessionaires; (iii) a ready/return area; (iv) a dedicated roadway for rental vehicle use; (v) storage/service facilities; and (v) common concessionaire areas and common public areas, in each case together with any other ancillary facilities and any expansions, additions, extensions and/or improvements thereto.

“Construction Fund” means the fund created by that name pursuant to Section 4.01 hereof.

“Consulting Engineers” means an engineer or firm of engineers of favorable repute and having national recognition and experience in the design and construction of civil airports and other civil aviation facilities (including rental car facilities similar to the ConRAC) who at the time is employed by the Port to perform and carry out the duties imposed on said Consulting Engineers by this Ordinance.

“Contingent Fee Payments” means the contingent fee payments, if any, received by the Port from Concessionaires pursuant to Section 8.5 (or Section 7.5 in the case of the Concessionaire Agreement with Sixt Rent A Car, LLC) of their respective Concessionaire Agreements (or any successor provisions thereof).

“Credit Facility” means, with respect to the Bonds of a Series or a maturity within a Series, an insurance policy, letter of credit, surety bond or any other similar obligation acquired or secured by the Port, under which the Credit Provider is unconditionally obligated to pay when due, the principal of and interest on such Bonds as the same become due, directly or after the Port has defaulted in the payment thereof. The term “Credit Facility” shall not include any secondary market facilities to which the Port shall not have expressly consented.

“Credit Provider” means a person or entity that is designated in a Supplemental Ordinance as a Credit Provider with respect to a Series of Bonds or portion thereof issued hereunder, and that provides a Credit Facility to secure the principal of and interest on such Bonds.

“Debt Service Requirement” means for a given Bond Year the sum of (after subtracting any principal or interest that is payable in such Bond Year from proceeds of one or more Series of Bonds):

(i) The amount required to pay the interest coming due on Bonds during that Bond Year, including the accreted interest component of the Compounded Amount of Capital Appreciation Bonds maturing during that Bond Year;

(ii) The amount required to pay the principal of Serial Bonds maturing in that Bond Year, the principal amount of Capital Appreciation Bonds maturing in that Bond Year and the principal of Term Bonds maturing in that Bond Year that are not included in the Sinking Fund Installments for such Term Bonds; and

(iii) The Sinking Fund Installments for all Series of Term Bonds for that Bond Year.

The calculation of the Debt Service Requirement hereunder shall be subject to the following rules:

(1) Interest and Principal Installments for such Series shall be calculated on the assumption that no Bonds of such Series Outstanding at the date of calculation will cease to be Outstanding except by reason of the payment of each Principal Installment on the due date thereof.

(2) Tender option features of any Option Bond shall be ignored for purposes of this calculation.

(3) If the calculation of the Reserve Requirement for any separate account in the Senior Debt Service Reserve Fund or the Subordinate Debt Service Reserve Fund, respectively, created for a specific Series of Bonds takes into account the Debt Service Requirement, then, for purposes of such calculation, the Debt Service Requirement shall be calculated only with respect to the Bonds of the Series secured thereby.

(4) With respect to Bonds which are Variable Rate Bonds:

(A) the interest rate on such Bonds for any period prior to the date of calculation shall be the actual interest borne by such Bonds through the date of calculation; and

(B) for any forward looking period after the date of calculation, if interest on such Variable Rate Bonds is determined based on an index plus a stated spread, the interest rate on such Bonds shall be assumed to be the average of such designated index for the twelve (12) full months preceding the date of calculation, plus the stated spread, and for all other Variable Rate Bonds: (1) if the interest on such Variable Rate Bonds was intended at the time of issuance to be excluded from the gross income of the Holders thereof for federal tax purposes, the interest rate on such Bonds shall be assumed to be the average of the SIFMA Municipal Swap Index for the twelve (12) full months preceding the date of calculation, plus one quarter of one percent (0.25%) per annum, or (2) if the interest on such Variable Rate Bonds is expected at the time of issuance to be included in the gross income of the Holders thereof for federal tax purposes, the interest rate on such Bonds shall be assumed to be the LIBOR Swap Rate on the date of calculation, plus one quarter of one percent (0.25%) per annum.

(5) If the Port has entered into a Qualified Hedge Agreement with respect to Derivative Bonds, the interest on such Bonds (but only during the related Derivative Period) shall be calculated by adding (x) the amount of interest payable by the Port on such Derivative Bonds pursuant to its terms (applying, as appropriate, the assumptions for Variable Rate Bonds set forth above) and (y) the Qualified Hedge Payments payable by the Port under the related Qualified Hedge Agreement(s), based on the notional amount thereof and the interest rate assumptions stated therein (applying, as appropriate, the assumptions for Variable Rate Bonds set forth above to any variable rate payable by the Port under such Qualified Hedge Agreement(s), whether or not such variable rate is calculated based on the SIFMA Municipal Swap Index or LIBOR Index), and subtracting (z) the Qualified Hedge Receipts payable by the counterparty(ies) under the related Qualified Hedge Agreement(s), using the same notional amount and the interest rate assumptions stated therein (applying, as appropriate, the assumptions for Variable Rate Bonds set forth above to any variable rate payable by such counterparty(ies) under the related Qualified Hedge Agreement(s), whether or not such variable rate is calculated based on the SIFMA Municipal Swap Index or LIBOR Index); provided, however, that (A) Derivative Non-Scheduled Payments and Derivative Non-Scheduled Receipts due or

that may become due under any Qualified Hedge Agreement(s) shall not be taken into account and (B) from and after the expiration or termination of a Qualified Hedge Agreement relating to Derivative Bonds, the amount of interest payable on such Derivative Bonds shall be the interest calculated pursuant to the terms of such Derivative Bonds as if such Qualified Hedge Agreement had not been executed.

(6) For purposes of calculating the Debt Service Requirement with respect to Designated Maturity Bonds for use in connection with the Additional Bond tests under Sections 2.07 and 2.08 hereof, the unamortized principal coming due on any date that exceeds twenty-five percent (25%) of the original principal amount of such Designated Maturity Bonds and which the Port reasonably anticipates it will refinance on maturity, as reflected in the Annual Budget and/or a certificate of the Executive Director, shall not be included, and in lieu thereof there shall be included in the Debt Service Requirement for the Bond Year in which such amount becomes due and in each subsequent Bond Year during a period not to exceed thirty (30) years from the original issue date of such Designated Maturity Bonds, only the principal amount thereof the Port certifies that it reasonably anticipates to become due in each such Bond Year, taking into account any such anticipated refinancing of such Designated Maturity Bonds.

(7) Payments arising from any redemption other than from Sinking Fund Installments shall be ignored.

“Derivative Bond” means one or more Bonds of a Series for which the Port shall have entered into a Qualified Hedge Agreement, as identified in a Supplemental Ordinance with respect to such Bonds or pursuant to a certificate of the Executive Director filed with the Trustee.

“Derivative Non-Scheduled Payments” means (without duplication) payments due from the Port (other than Qualified Hedge Payments) under a Qualified Hedge Agreement, including without limitation (i) any termination payments (whether as a result of optional, elective, early or mandatory termination), (ii) any periodic payments not based on notional amounts or indices to keep such Qualified Hedge Agreement in effect, and (iii) any payments in respect of fees, costs, indemnities, interest or expenses with respect to such Qualified Hedge Agreement.

“Derivative Non-Scheduled Receipts” means (without duplication) payments due to the Port (other than Qualified Hedge Receipts) under a Qualified Hedge Agreement, including without limitation, (i) any termination payments (whether as a result of optional, elective, early or mandatory termination), (ii) any periodic payments not based on notional amounts or indices to keep a Qualified Hedge Agreement in effect, and (iii) any payments in respect of fees, costs, indemnities, interest or expenses with respect to such Qualified Hedge Agreement.

“Derivative Period” means the period during which a Qualified Hedge Agreement is in effect with respect to related Derivative Bonds.

“Designated Maturity Bonds” means all of the Bonds of a Series so designated by the Port by the Supplemental Ordinance enacted in connection with the issuance thereof, more than twenty-five percent (25%) of the original principal amount of which matures in a single Bond Year and for which no mandatory debt service redemption requirements have been established.



“DTC” means The Depository Trust Company, New York, New York or any substitute Securities Depository appointed pursuant to Section 2.04 hereof.

“DTC Participant” or “Participant” means one of the entities which is a member of the Securities Depository and deposits securities, directly or indirectly, in the Book-Entry System.

“Electronic Means” means the following communication methods: e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

“EMMA” means the Electronic Municipal Market Access system provided by the Municipal Securities Rulemaking Board, any successor thereto, or such other nationally recognized electronic data distribution service for governmental issuers approved by the Securities Exchange Commission for dissemination of such electronic data.

“Escrow Obligations” shall include direct obligations of the United States of America and any of the following:

- (i) Cash;
- (ii) U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series - - “SLGs”);
- (iii) Direct obligations of the Treasury which have been stripped by the Treasury itself;
- (iv) Resolution Funding Corp. (REFCORP) Strips. Only the interest component of REFCORP strips which have been stripped by request to the Federal Reserve Bank of New York in book-entry form are acceptable;
- (v) Pre-refunded municipal bonds rated “Aaa” by Moody’s and “AAA” by S&P. If however, the issue is only rated by S&P (i.e., there is no Moody’s rating), then the pre-refunded bonds must have been pre-refunded with cash, direct U.S. or U.S. guaranteed obligations, or AAA rated pre-refunded municipals to satisfy this condition; or
- (vi) Obligations issued by the following agencies, but only to the extent they are backed by the full faith and credit of the U.S.:
  - (a) U.S. Export-Import Bank (Eximbank)  
Direct obligations or fully guaranteed certificates of beneficial ownership.
  - (b) Farmers Home Administration (FmHA)  
Certificates of beneficial ownership.
  - (c) Federal Financing Bank

(d) General Services Administration

Participation certificates.

(e) U.S. Maritime Administration

Guaranteed Title XI financing.

(f) U.S. Department of Housing and Urban Development (HUD)

Project Notes

New Communities Debentures – U.S. government guaranteed debentures

U.S. Public Housing Notes and Bonds – U.S. government guaranteed public housing notes and bonds.

“Executive Director” means the Executive Director of the Port, the Chief Financial Officer of the Port or such other person as may be designated from time to time by Ordinance of the Board or by a certificate of the Executive Director.

“Fiscal Year” for the purposes of this Ordinance means the period beginning with and including July 1 of each year and ending with and including the next June 30.

“Fitch” means Fitch Ratings, its successors and their assigns, and, if Fitch shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Fitch” shall be deemed to refer to any other Rating Agency designated by the Port by notice to the Trustee.

“Holder” or “Bondholder”, or any similar term means any person who shall be the registered owner of any Outstanding Bond or Bonds as reflected on the registration books maintained by the Trustee as Bond Registrar hereunder.

“Interest Payment Date” means January 1 and July 1 of each year, or such other dates specified as such in the Supplemental Ordinance pertaining to each Series of Bonds issued hereunder.

“Kroll” means Kroll Bond Rating Agency, Inc. or its successors and assigns, and, if Kroll shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Kroll” shall be deemed to refer to any other Rating Agency designated by the Port by notice to the Trustee.

“LIBOR Index” means “USD-LIBOR-BBA” as such term is defined in the 2006 ISDA Definitions, as amended, published by the International Swaps and Derivatives Association, Inc. with a designated maturity of one (1) month. If the Port determines that (i) the LIBOR Index is no longer published or available, (ii) the LIBOR Index is no longer widely accepted in the municipal bond market, or (iii) the use of the LIBOR Index has been restricted pursuant to the administrator of the LIBOR Index, or by an applicable regulatory supervisor or authority, then the

Port may, acting in good faith and in a commercially reasonable manner, select an alternative source or methodology for the LIBOR Index for purposes of determining the Debt Service Requirement under this Ordinance, which alternative will be selected after giving consideration to any replacement rates or other fallbacks published, recommended or accepted by any relevant industry group.

“LIBOR Swap Rate” means, the fixed rate, determined by the Port as of the date of calculation, that would be paid by a party to an interest rate swap agreement to receive payments based upon the LIBOR Index assuming (i) a maturity date on such swap agreement equal to the maturity date of the related Variable Rate Bonds, (ii) the notional amount of such swap agreement amortizes in the same manner and on the same timing as the scheduled amortization of the principal amount of such related Variable Rate Bonds and (iii) the payment dates under the interest rate swap agreement match or are substantially similar to the payment dates of such related Variable Rate Bonds.

“Liquidity Facility” means a letter of credit, standby bond purchase agreement, line of credit, loan guaranty or similar agreement, provided by a Liquidity Provider to provide liquidity support to pay the tender price of Option Bonds of any Series or subseries tendered for purchase in accordance with the provisions of any Supplemental Ordinance authorizing the issuance of Option Bonds.

“Liquidity Provider” means the provider of a Liquidity Facility, and its successors and permitted assigns.

“Major Maintenance Fund” means the fund created by that name pursuant to Section 5.02 hereof.

“Major Maintenance Fund Requirement” means five million dollars (\$5,000,000) or such greater amount as may be determined by the Port from time to time in its sole discretion.

“Maximum Debt Service Requirement” means, as of any particular date of calculation, the highest Debt Service Requirement for any remaining Bond Year, except that with respect to any Bonds for which Sinking Fund Installments have been established, the amount of principal coming due on the final maturity date with respect to such Bonds shall be reduced by the aggregate principal amount, or Compounded Amounts as the case may be, of such Bonds that are to be redeemed from Sinking Fund Installments to be made in prior Bond Years.

“Moody’s” means Moody’s Investor Services, Inc. and its successors and their assigns, and, if Moody’s shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other Rating Agency designated by the Port by notice to the Trustee.

“Municipal Advisor” means a nationally recognized financial advisory or consulting firm as duly registered as a municipal advisor with the Municipal Securities Rulemaking Board and other applicable federal regulatory agencies, that routinely provides services to or on behalf of an issuer with respect to the issuance of municipal securities, including advice with respect to the structure, timing, terms and other similar matters concerning such issues, as may be employed by

the Port from time to time to perform the duties of the Municipal Advisor set forth in this Ordinance.

“Option Bonds” means Bonds which by their terms may be tendered by and at the option of the Holder thereof for payment or purchase by or on behalf of the Port prior to the stated maturity thereof, or the maturities of which may be extended by and at the option of the Holder thereof.

“Outstanding,” “Bonds Outstanding” or “Outstanding Bonds,” means as of any date, Bonds theretofore or thereupon being authenticated and delivered under this Ordinance except:

(i) Bonds cancelled (or, in the case of Book-Entry Bonds, to the extent otherwise provided in Section 2.04 hereof, portions thereof deemed to have been cancelled) by the Trustee after purchase in the open market or because of payment at or redemption prior to maturity;

(ii) Bonds (or portions of Bonds) the payment or redemption of which Escrow Obligations, equal to the principal amount or redemption price thereof, as the case may be, together with interest to the date of maturity or redemption date, shall be held in trust under this Ordinance and irrevocably set aside for such payment or redemption (whether at or prior to the maturity or redemption date) in accordance with the provisions of Article XII hereof, provided that if such Bonds (or portions of Bonds) are to be redeemed, notice of such redemption shall have been given or provision satisfactory to the Trustee shall have been made for the giving of such notice as provided in Article III hereof or the applicable Supplemental Ordinance or waiver of such notice satisfactory in form to the Trustee shall have been filed with the Trustee;

(iii) Bonds which are deemed paid pursuant to Section 3.06 hereof or in lieu of which other Bonds have been authenticated under Section 2.09 of this Ordinance;

(iv) Bonds deemed to have been paid as provided in Article XII hereof; and

(v) Bonds (or, in the case of Book-Entry Bonds, to the extent otherwise provided in Section 2.04 hereof, portions thereof) deemed to have been purchased pursuant to the provisions of any Supplemental Ordinance in lieu of which other Bonds have been authenticated and delivered as provided in such Supplemental Ordinance.

“Paying Agent” means the Trustee and any other banks or trust companies designated by the Port to serve as Paying Agent hereunder that have agreed to arrange for the timely payment of the principal of, interest on and premiums, if any, with respect to the Bonds to the registered owners thereof.

“Period of Review” shall have the meaning ascribed to that term in Section 2.07(e) hereof.

“Permitted Investments” means any investments which are legal for the Port under the laws of the State of Oregon, provided that such investments are those typically permitted for the investment of debt service and reserve funds of revenue bonds which have credit ratings similar to the credit ratings then in effect for the Bonds.

“Port” means The Port of Portland, an Oregon port district and political subdivision of the State, as now or hereafter constituted, or the corporation, authority, board, body, commission, department or officer succeeding to the principal functions of the Port or to whom the powers vested in the Port shall be given by law.

“Principal Installment” means, for any principal payment date of any Series of Bonds, (i) the principal amount of the Serial Bonds of such Series scheduled to become due on such principal payment date, and (ii) the principal amount (determined as provided in Section 5.05(b)) hereof of any Sinking Fund Installments due on such principal payment date established for Term Bonds of such Series.

“Qualified Hedge Agreement” means any agreement evidenced by any form of master agreement published by the International Swaps and Derivatives Association, Inc., including any schedule thereto, any credit support annex thereto, and any confirmation(s), entered into by the Port with respect to the Bonds or a portion thereof issued hereunder such as an interest rate swap, collar, cap, or other functionally similar agreement, between the Port and a counterparty whose long-term unsecured debt at the time of entering into such agreement is rated, or whose obligations are guaranteed by an entity whose long-term unsecured debt at the time of entering into such agreement is rated in one of the two (2) highest rating categories (without regard to gradations) by at least two (2) Rating Agencies, which agreement requires that if such counterparty or guarantor, as the case may be, does not maintain a rating in one of the three (3) highest rating categories (without regard to gradations) from at least two (2) Rating Agencies, one of the following shall occur (a) such counterparty shall provide a new guarantor, or some form of credit facility from any entity, whose long-term unsecured debt is then rated in one of the three (3) highest rating categories (without regard to gradations), or (b) such counterparty shall be obligated to post collateral for the benefit and protection of the Port under the terms of a credit support annex or comparable agreement; provided that the Qualified Hedge Receipts to be paid by the counterparty to the Port thereunder have been pledged to the payment of the Bonds.

“Qualified Hedge Payments” means the net payment obligations of the Port arising under a Qualified Hedge Agreement under which the Port has expressly granted a lien on the Trust Estate securing such obligations on a parity with the lien thereon granted to Bondholders of the Series of Bonds related to such Qualified Hedge Agreement, which net payments are calculated on the basis of interest on a notional amount which may correspond with the principal amount of the Series of Bonds related to such Qualified Hedge Agreement or a particular maturity thereof, based upon a fixed or a variable rate index or formula. Qualified Hedge Payments include only regularly scheduled payments under a Qualified Hedge Agreement determined by reference to interest on a notional amount and shall not include any other payments under such agreement (for example, any termination payment, fee for extension, indemnification obligations or other Derivative Non-Scheduled Payments payable to the counterparty).

“Qualified Hedge Receipts” means the net payment obligations of the counterparty to the Port arising under a Qualified Hedge Agreement which are calculated on the basis of interest on a notional amount which may correspond with the principal amount of certain Bonds issued hereunder, or a particular Series or maturity thereof, based upon a fixed or variable rate index or formula. Qualified Hedge Receipts include only regularly scheduled payments under a Qualified Hedge Agreement determined by reference to interest on a notional amount and shall not include

any other payments under such agreement (for example, any termination payment, fee for extension, indemnification obligations or other Derivative Non-Scheduled Receipts payable to the Port).

“Rate Covenant” means the Port’s covenant contained in Section 5.01 hereof to fix, revise, maintain and collect CFCs and Contingent Fee Payments in the manner described therein.

“Rating Agency” means any person now or hereafter created meeting the criteria established by the United States Securities and Exchange Commission as a “nationally recognized statistical rating organization.”

“Reimbursement Obligations” means obligations issued by the Port to Credit Providers or Liquidity Providers pursuant to Section 2.10 hereof in connection with the execution of any Credit Facility or Liquidity Facility, to evidence the Port’s obligations to repay advances or loans made thereunder.

“Renewal and Replacement Fund” means the fund created by that name pursuant to Section 5.02 hereof.

“Renewal and Replacement Fund Requirement” means six million dollars (\$6,000,000) or such greater amount as may be determined by the Port from time to time in its sole discretion.

“Reserve Account” means the account or accounts in the Senior Debt Service Reserve Fund or the Subordinate Debt Service Reserve Fund, as applicable, created with respect to one or more Series of Bonds pursuant to Section 5.02 hereof and the Supplemental Ordinance pertaining to such Bonds.

“Reserve Requirement” means, as of the date of each applicable calculation, with respect to any Series of Bonds, the amount specified in the Supplemental Ordinance enacted in connection with the issuance of such Bonds. If, pursuant to any such Supplemental Ordinance, the Port is authorized to fund the initial designated amount, or deficiencies therein, over time, the Reserve Requirement for any period shall include only the incremental portion of the deposit requirement for that Series of Bonds as specified in the Supplemental Ordinance authorizing the issuance of such Bonds. For the avoidance of doubt, the Port may designate in a Supplemental Ordinance that a Series of Bonds issued hereunder and thereunder shall not be secured by any Reserve Account. The Reserve Requirement for any such Series of Bonds shall be zero.

“Reserve Fund Credit Enhancement” means an irrevocable letter of credit, insurance policy, surety bond or other credit enhancement issued to satisfy, in whole or in part, the Port’s deposit requirements under Section 5.05(c) of this Ordinance with respect to the Senior Debt Service Reserve Fund and under Section 5.05(f) of this Ordinance with respect to the Subordinate Debt Service Reserve Fund, and issued by a financial institution, whose claims paying ability at the time such credit enhancement is issued is rated by at least one Rating Agency and that such rating is at least in the “AA” category, if rated by S&P, Fitch or Kroll or the “Aa” category, if rated by Moody’s, or the equivalent rating if rated by another Rating Agency (without regard to sub-rating designations).

“S&P” means the S&P Global Ratings its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other Rating Agency designated by the Port by notice to the Trustee.

“Securities Depository” means, initially, DTC, and its successors and assigns.

“Senior Bonds” means any Series of bonds or other obligations designated as “Senior Bonds” in the Supplemental Ordinance enacted with respect to such Series of Bonds or other obligations.

“Senior Bonds Interest Account” means the account created by that name in the Senior Debt Service Fund pursuant to Section 5.02 hereof.

“Senior Bonds Principal and Redemption Account” means the account created by that name in the Senior Debt Service Fund pursuant to Section 5.02 hereof.

“Senior Bonds Qualified Hedge Payment Account” means the account created by that name in the Senior Debt Service Fund pursuant to Section 5.02 hereof.

“Senior Debt Service Fund” means the fund created by that name pursuant to Section 5.02 hereof and all accounts therein established from time to time pursuant to this Ordinance or a Supplemental Ordinance.

“Senior Debt Service Reserve Fund” means the fund created by that name pursuant to Section 5.02 hereof and, unless the context otherwise requires, all accounts therein as may be established from time to time pursuant to Supplemental Ordinances.

“Serial Bonds” means the Bonds of an issue of Bonds, or any part of an issue of Bonds, maturing in annual installments (or more frequent installments as provided for in a Supplemental Ordinance) and the principal of which is payable from moneys deposited in the Senior Bonds Principal and Redemption Account or the Subordinate Bonds Principal and Redemption Account, as applicable.

“Series” means all of the Bonds authenticated and delivered on original issuance and identified pursuant to this Ordinance or pursuant to the Supplemental Ordinance authorizing such Bonds as a separate Series of Bonds, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to Article II hereof, regardless of variations in maturity, interest rate, Sinking Fund Installments, or other provisions.

“SIFMA Municipal Swap Index” means the “USD-SIFMA Municipal Swap Index” as such term is defined in the 2006 ISDA Definitions, as amended, published by the International Swaps and Derivatives Association, Inc., or if such index is no longer published, any successor index that the Trustee, in consultation with the Port, deems substantially equivalent thereto.

“Sinking Fund Installment” means with respect to Term Bond maturities (including the final maturity thereof), the mandatory redemption amounts specified in the Supplemental

Ordinance with respect to the Bonds of such Series for each applicable payment date prior to and on the maturity thereof.

“State” means the State of Oregon.

“Subordinate Bonds” means any Series of bonds or other obligations designated as “Subordinate Bonds” in the Supplemental Ordinance enacted with respect to such Series of bonds or other obligations.

“Subordinate Bonds Interest Account” means the account created by that name in the Subordinate Debt Service Fund pursuant to Section 5.02 hereof.

“Subordinate Bonds Principal and Redemption Account” means the account created by that name in the Subordinate Debt Service Fund pursuant to Section 5.02 hereof.

“Subordinate Bonds Qualified Hedge Payment Account” means the account created by that name in the Subordinate Debt Service Fund pursuant to Section 5.02 hereof.

“Subordinate Debt Service Fund” means the fund created by that name pursuant to Section 5.02 hereof, unless the context otherwise requires, all accounts therein as may be established from time to time pursuant to Supplemental Ordinances..

“Subordinate Debt Service Reserve Fund” means the fund created by that name pursuant to Section 5.02 hereof and, unless the context otherwise requires, all accounts therein as may be established from time to time pursuant to Supplemental Ordinances.

“Substantial Completion” means the date on which substantial completion of the ConRAC shall be deemed to have occurred pursuant to Section 11.7 of the Concessionaire Agreement (or Section 10.7 in the case of the Concessionaire Agreement with Sixt Rent A Car, LLC).

“Supplemental Action” means a certificate of the Executive Director, which may be executed from time to time in his or her discretion, including in connection with the issuance of Bonds.

“Supplemental Ordinance” means an ordinance supplemental hereto, that is enacted by the Board in accordance with the terms hereof, in connection with the issuance of any series of Bonds or otherwise.

“Term Bonds” means the Bonds of an issue of Bonds, or any part of an issue of Bonds maturing on one principal maturity date and the principal of which is payable from Sinking Fund Installments deposited in each year to the Senior Bonds Principal and Redemption Account or the Subordinate Bonds Principal and Redemption Account, as applicable, for the payment of such principal on or prior to maturity.

“Trust Estate” means, collectively, the revenues, cash flows and other amounts pledged by the Port under Section 7.01(i) through (iv) hereof, and to the extent pledged pursuant to a Supplemental Ordinance, any other legally available revenues of the Port expressly pledged by the Port to secure the Bonds issued hereunder.



“Trustee” means U.S. Bank National Association, a national banking association, which is authorized under the laws of the State to exercise corporate trust powers, and its successors in interest, or any other successor Trustee appointed pursuant to Article IX hereof.

“Variable Rate Bond” means any Bond not bearing interest throughout its term at a specified rate or specified rates determined at the time of issuance of the Series of Bonds of which such Bond is one.

Section 1.02. Interpretation; Determinations and Computations. Words of the masculine gender include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words “Bond,” “Holder,” and “person” shall include the plural as well as the singular number, and the word “person” shall include corporations and associations, including public bodies, as well as natural persons. When the provisions of this Ordinance require a determination or computation with respect to (i) the character of any asset or liability or item of revenue or expense, or (ii) the recording or timing of the receipt of any revenue, including without limitation, the receipt of CFCs and Contingent Fee Payments, or the recording or timing of the payment of any expense, such determination or computation shall be done in accordance with generally accepted accounting principles in the United States applicable to the Port.

## **ARTICLE II. FORM, EXECUTION, AUTHENTICATION, DELIVERY AND REGISTRATION OF BONDS**

Section 2.01. Form of Bonds. No bonds may be issued under the provisions of this Ordinance except in accordance with the provisions of this Article.

The definitive Bonds are issuable initially as fully registered Bonds in denominations of Five Thousand Dollars (\$5,000) (or such other minimum denominations specified in the Supplemental Ordinance with respect to a specific Series of Bonds) or any multiple thereof approved by the Port. The definitive Bonds shall be substantially in the forms set forth in the applicable Supplemental Ordinance, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to the rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

Section 2.02. General Bond Terms. The Bonds shall be dated, shall bear interest from their date until payment and shall mature on such dates, subject to the right of prior redemption, as hereinafter provided.

The Bonds shall be executed by the duly qualified and authorized President of the Board, either manually or with a facsimile signature and attested by the manual or facsimile signature of a Secretary or Assistant Secretary of the Port or other authorized officer of the Port.

In the event that any officer whose signature appears on the Bonds ceases to hold office before the delivery of the Bonds, his or her signature shall nevertheless be valid and sufficient for all purposes, and also any Bond may bear the signature of, or may be signed by, such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

Both the principal of and interest on the Bonds shall be payable in lawful money of the United States of America on their respective dates of payment. The principal of all registered Bonds shall be payable at the principal office of the Trustee, and payment of the interest on each registered Bond shall be made on each interest payment date to the person appearing on the registration books of the Trustee hereinafter provided for as the registered owner thereof, by check or draft mailed to such registered owner at his or her address as it appears on such registration books. The provisions of this paragraph may be modified or amended as to any Series of Bonds by any Supplemental Ordinance enacted in connection with the issuance of such Series of Bonds, and in the event of a conflict between the provisions hereof and such Supplemental Ordinance, the provisions of the Supplemental Ordinance shall control.

Section 2.03. Authentication. Only the Bonds that shall have endorsed thereon a certificate of authentication, duly executed by the Trustee, shall be entitled to any right or benefit under this Ordinance. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Ordinance. The Trustee's certificate of authentication on any Bond shall be deemed to have been duly executed if manually signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time.

Section 2.04. Book-Entry System. Except as otherwise provided in a Supplemental Ordinance, all Bonds (referred to in this Section as "Book-Entry Bonds") shall be issued in the name of the Securities Depository or its nominee, as registered owner of the Bonds, and held in the custody of the Securities Depository.

(a) Except as provided in subsections (b) and (c) of this Section, the registered Holder of all Book-Entry Bonds shall be, and the Book-Entry Bonds shall be registered in the name of, Cede & Co., as nominee of DTC. Payment of interest for any Book-Entry Bond, as applicable, shall be made in accordance with the provisions of this Ordinance to the account of Cede & Co., on the Interest Payment Date for the Book-Entry Bonds at the address indicated for Cede & Co. in the registration books of the Port kept by the Bond Registrar.

(b) Book-Entry Bonds shall be initially issued in the form of a separate single fully registered bond in the amount of each separate stated maturity of the Book-Entry Bonds. Upon initial issuance, the ownership of each such Book-Entry Bond shall be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee of DTC. Without limiting the immediately preceding sentence, the Port, the Trustee, the Bond Registrar and any Paying Agent shall have no responsibility or obligation with respect to (i) the accuracy of the records of DTC, Cede & Co. or any DTC Participant with respect to any beneficial ownership interest in the Book-Entry Bonds, (ii) the delivery to any DTC Participant, Beneficial Owner or other person, other than DTC, of any notice with respect to the Book-Entry Bonds, including any notice of redemption, or (iii) the payment to any DTC Participant, Beneficial Owner or other person, other than DTC, of any amount with respect to the principal or redemption price of, or interest on, any of the Book-Entry Bonds. The Port, the Trustee, the Bond Registrar and any Paying Agent may treat DTC as, and deem DTC to be, the absolute Holder of each Book-Entry Bond for all purposes whatsoever, including (but not limited to) (a) payment of the principal or

redemption price of, and interest on, each such Book-Entry Bond, (b) giving notices of redemption and other matters with respect to such Book-Entry Bonds and (c) registering transfers with respect to such Book-Entry Bonds. The Paying Agent shall pay the principal or redemption price of, and interest on, all Book-Entry Bonds only to or upon the order of DTC, and all such payments shall be valid and effective to satisfy fully and discharge the Port's obligations with respect to such principal or redemption price and interest, to the extent of the sums so paid. Except as provided in Section 2.04(e) hereof, no person other than DTC shall receive a Book-Entry Bond evidencing the obligation of the Port to make payments of principal or redemption price of, and interest on, any such Book-Entry Bond pursuant to this Ordinance. Upon delivery by DTC to the Bond Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., and subject to the transfer provisions of this Ordinance, the word "Cede & Co." in this Ordinance shall refer to such new nominee of DTC.

Except as provided in Section 2.04(e) hereof, and notwithstanding any other provisions of this Ordinance to the contrary, the Book-Entry Bonds may be registered, in whole but not in part, only in the name of the DTC or a nominee of DTC or to any successor securities depository appointed pursuant to this Section 2.04 or any nominee thereof.

(c) DTC may determine to discontinue providing its services with respect to the Book-Entry Bonds at any time by giving written notice to the Port, the Trustee, the Bond Registrar and the Paying Agent, which notice shall certify that DTC has discharged its responsibilities with respect to the Book-Entry Bonds under applicable law.

(d) The Port, in its sole discretion and without the consent of any other person, and upon compliance with any agreements between the Port and DTC, may request termination of the services of DTC with respect to the Book-Entry Bonds if the Port determines that: (i) DTC is unable to discharge its responsibilities with respect to the Book-Entry Bonds; or (ii) a continuation of the requirement that all of the Outstanding Book-Entry Bonds be registered in the registration books kept by the Bond Registrar in the name of Cede & Co., as nominee of DTC, is not in the best interest of the Beneficial Owner of the Book-Entry Bonds. Current DTC rules provide that upon receipt of such a request, DTC will take the following actions: (i) DTC will issue an "Important Notice" notifying its Participants of the receipt of a withdrawal request from the Port reminding Participants that they may utilize DTC's withdrawal procedures if they wish to withdraw their securities from DTC; and (ii) DTC will process withdrawal requests submitted by Participants in the ordinary course of business, but will not effectuate withdrawals based upon a request from the Port. The Port shall, by written notice to the Bond Registrar, terminate the services of DTC with respect to the Book-Entry Bonds upon receipt by the Port, the Trustee, the Bond Registrar and the Paying Agent of written notice from DTC to the effect that DTC has received written notice from DTC Participants having interests, as shown in the records of DTC, in an aggregate principal amount of not less than fifty percent (50%) of the aggregate principal amount of the Outstanding Book-Entry Bonds to the effect that: (i) DTC is unable to discharge its responsibilities with respect to the Book-Entry Bonds; or (ii) a continuation of the requirement that all of the Outstanding Book-Entry Bonds be registered in the registration books kept by Bond Registrar, in the name of Cede & Co., as nominee of DTC, is not in the best interests of the Beneficial Owner of the Book-Entry Bonds.

(e) Upon the termination of the services of DTC with respect to the Book-Entry Bonds pursuant to subsection (d), or upon the discontinuance or termination of the services of DTC with respect to the Book-Entry Bonds pursuant to subsection (c) or subsection (d), the Port may within ninety (90) days thereafter appoint a substitute Securities Depository which, in the opinion of the Port, is willing and able to undertake the functions of DTC hereunder upon reasonable and customary terms. If no such successor can be found within such period, the Book-Entry Bonds shall no longer be restricted to being registered in the registration books kept by the Bond Registrar, in the name of Cede & Co., as nominee of DTC. In such event the Port shall execute and the Bond Registrar shall authenticate Book-Entry Bond certificates as requested by DTC of like principal amount, maturity and Series, in authorized denominations and the Bond Registrar shall deliver such certificates at its corporate trust office to the Beneficial Owners identified in writing by the Securities Depository in replacement of such Beneficial Owners' beneficial interests in the Book-Entry Bonds.

(f) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Book-Entry Bond is registered in the name of Cede & Co., as nominee of DTC, all payments with respect to the principal or redemption price of, and interest on, such Book-Entry Bond and all notices with respect to such Book-Entry Bond shall be made and given, respectively, to DTC as the registered Holder of such Bonds.

(g) In connection with any notice or other communication to be provided to Holders of Book-Entry Bonds registered in the name of Cede & Co. pursuant to this Ordinance by the Port, the Trustee or the Bond Registrar with respect to any consent or other action to be taken by such Holders, the Port shall establish a record date for such consent or other action by such Holders and give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

NONE OF THE PORT, THE TRUSTEE, THE BOND REGISTRAR OR ANY PAYING AGENT WILL HAVE ANY RESPONSIBILITY OR OBLIGATIONS TO THE DTC PARTICIPANTS OR THE BENEFICIAL OWNERS WITH RESPECT TO (1) THE ACCURACY OF ANY RECORDS MAINTAINED BY DTC OR ANY DTC PARTICIPANT; (2) THE PAYMENT BY DTC OR ANY DTC PARTICIPANT OF ANY AMOUNT DUE TO ANY BENEFICIAL OWNER IN RESPECT OF THE PRINCIPAL AMOUNT, SINKING FUND INSTALLMENT FOR, REDEMPTION PRICE OF OR INTEREST ON THE BOOK-ENTRY BONDS; (3) THE DELIVERY BY DTC OR ANY DTC PARTICIPANT OF ANY NOTICE TO ANY BENEFICIAL OWNER WHICH IS REQUIRED OR PERMITTED UNDER THE TERMS OF THIS ORDINANCE TO BE GIVEN TO BONDHOLDERS; (4) THE SELECTION OF THE BENEFICIAL OWNERS TO RECEIVE PAYMENT IN THE EVENT OF ANY PARTIAL REDEMPTION OF THE BOOK-ENTRY BONDS; OR (5) ANY CONSENT GIVEN OR OTHER ACTION TAKEN BY CEDE & CO., AS THE NOMINEE OF DTC, AS REGISTERED OWNER.

SO LONG AS CEDE & CO. IS THE REGISTERED OWNER OF THE BOOK-ENTRY BONDS, AS NOMINEE OF DTC, REFERENCES HEREIN TO THE BONDHOLDERS OR REGISTERED HOLDERS OF THE BOOK-ENTRY BONDS SHALL MEAN CEDE & CO. AND SHALL NOT MEAN THE BENEFICIAL OWNERS OF THE BOOK-ENTRY BONDS.

Section 2.05. Registration and Transfer. The Port shall cause books for the registration and for the transfer of Bonds as provided in this Ordinance to be kept by the Trustee as Bond Registrar. Any Bond may be transferred only upon the books kept for the registration and transfer of Bonds, upon surrender thereof to the Bond Registrar together with an assignment, duly executed by the registered owner or his or her attorney in such form as shall be satisfactory to the Bond Registrar. Upon the transfer of any such registered Bond the Port shall thereupon execute in the name of the transferee and the Trustee shall authenticate and deliver a new registered Bond or Bonds, of the same maturity and bearing interest at the same rate, of any denomination or denominations authorized by this Ordinance in an aggregate principal amount equal to the principal amount of such registered Bond, or the unredeemed portion thereof, of the same maturity and bearing interest at the same rate.

In all cases in which Bonds shall be transferred hereunder, the Port shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. All Bonds surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee. Except as otherwise provided in this Ordinance, the Port or the Trustee may make a charge for every such exchange or transfer of Bonds sufficient to reimburse them for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, and in addition the Port or the Trustee may charge a sum sufficient to reimburse them for any expenses incurred in connection with the issuance of each new Bond delivered upon such exchange or transfer, and such charge or charges shall be paid before any such new Bond shall be delivered. Neither the Port nor the Trustee shall be required to make any such exchange or transfer of Bonds during the ten (10) days next preceding an interest payment date on the Bonds or, in the case of any proposed redemption of Bonds, after such Bond or any portion thereof has been selected for redemption.

Section 2.06. Registered Owners. The person in whose name a Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of any such Bond and the interest on any such registered Bond shall be made only to or upon the order of the registered owner thereof or his or her legal representative, but such registration may be changed as hereinabove provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon to the extent of the sum or sums so paid. The Port, the Trustee, the Bond Registrar and the Paying Agent may deem and treat the registered owner of any Bond, as the absolute owner of such Bond for all purposes hereof, whether such Bond shall be overdue or not, for the purpose of receiving payment thereof and for all other purposes whatsoever and neither the Port, the Trustee, the Bond Registrar nor the Paying Agent shall be affected by any notice to the contrary.

Section 2.07. Additional Bonds. To the extent necessary to provide funds to pay the cost of constructing or acquiring CFC Projects, or to refund obligations heretofore or hereafter issued by the Port, Additional Bonds (which term, for the avoidance of doubt, shall not include the initial Series of Bonds issued hereunder) may be issued under and secured by this Ordinance, at one time or from time to time, in addition to the Bonds issued under the provisions of Section 2.08 hereof. Such Additional Bonds shall be dated, shall bear interest at such rate or rates, and shall mature in such years and amounts, all as shall be hereafter determined by a Supplemental Ordinance enacted by the Board in connection with the issuance of such Additional Bonds.

Such Additional Bonds shall be executed substantially in the form and manner herein set forth, with such changes as may be necessary or appropriate to conform to the provisions of the Supplemental Ordinance authorizing the issuance of such Additional Bonds, and deposited with the Trustee for authentication, but before such Additional Bonds shall be authenticated and delivered by the Trustee, there shall be filed with the Trustee the following:

(a) (i) A certified copy of a Supplemental Ordinance enacted by the Board, authorizing the issuance of such Additional Bonds and (ii) a Supplemental Action setting forth the terms of such Additional Bonds to the extent such terms are not set forth in the Supplemental Ordinance, including whether such Additional Bonds are designated as Senior Bonds or Subordinate Bonds;

(b) Certificates, to be executed respectively by the Trustee and the Port with respect to the funds and accounts held by each, stating that all payments into the Senior Debt Service Fund and the Subordinate Debt Service Fund created hereunder have been made in full, as required by this Ordinance to the date of delivery of such Additional Bonds, that all accounts described in Sections 5.05(a) through (f) hereof are current, that there are no deficiencies in the amounts required to be on deposit therein, that, to their knowledge, no default exists hereunder, and that all conditions precedent to the delivery of such Additional Bonds have been fulfilled;

(c) With respect to the issuance or incurrence of Senior Bonds, either of the following:

(i) A certificate of the Executive Director to the effect that the CFCs and Contingent Fee Payments for the last completed Fiscal Year preceding the date of issuance of such Additional Bonds for which audited statements are available were not less than the sum of: (i) one hundred percent (100%) of the amounts required (A) to be deposited into the Senior Debt Service Reserve Fund in such Fiscal Year as contemplated by Section 5.05(c) hereof and (B) to pay the CFC Administrative Costs in such Fiscal Year but only to the extent CFC Administrative Costs in such Fiscal Year were greater than amounts on deposit in the CFC Surplus Account on the first day of such Fiscal Year; *plus* (ii) one hundred twenty-five percent (125%) of the Maximum Debt Service Requirement in any succeeding Fiscal Year for all Senior Bonds then Outstanding (including the Additional Bonds proposed to be issued but excluding those Outstanding Bonds, if any, to be defeased or refunded by the issuance of such Additional Bonds); or

(ii) A statement of the Airport Consultant that in its opinion the CFCs and Contingent Fee Payments expected to be collected by the Port during the Fiscal Year in which such Additional Bonds are issued and for each Fiscal Year thereafter through the Period of Review referred to below, taking into account, among other factors, anticipated increases in CFC fees and charges, shall not be less than the sum of (i) one hundred percent (100%) of the amounts required (A) to be deposited into the Senior Debt Service Reserve Fund in each such Fiscal Year as contemplated in Section 5.05(c) hereof, and (B) to pay the CFC Administrative Costs in each such Fiscal Year but only to the extent CFC Administrative Costs in each such Fiscal Year are expected to be greater than amounts on deposit in the CFC Surplus Account on the first day of each such Fiscal Year, as estimated by the Airport Consultant; plus (ii) one hundred twenty-five percent (125%) of the amounts

required to be deposited into the Senior Debt Service Fund in each such corresponding Fiscal Year during the Period of Review for all Senior Bonds Outstanding (including the Additional Bonds proposed to be issued but excluding those Outstanding Bonds, if any, to be defeased or refunded by the issuance of such Additional Bonds).

(d) With respect to the issuance or incurrence of Subordinate Bonds, either of the following:

(i) A certificate of the Executive Director to the effect that the CFCs and Contingent Fee Payments for the last completed Fiscal Year preceding the date of issuance of such Additional Bonds for which audited statements are available were not less than the sum of: (i) one hundred percent (100%) of the amounts required (A) to be deposited into the Senior Debt Service Reserve Fund and the Subordinate Debt Service Reserve Fund in such Fiscal Year as contemplated by Sections 5.05(c) and (f) hereof, and (B) to pay the CFC Administrative Costs in such Fiscal Year but only to the extent CFC Administrative Costs in such Fiscal Year were greater than amounts on deposit in the CFC Surplus Account on the first day of such Fiscal Year; *plus* (ii) one hundred percent (100%) of the Maximum Debt Service Requirement in any succeeding Fiscal Year for all Senior Bonds and Subordinate Bonds then Outstanding (including the Additional Bonds proposed to be issued but excluding those Outstanding Bonds, if any, to be defeased or refunded by the issuance of such Additional Bonds); or

(ii) A statement of the Airport Consultant that in its opinion the CFCs and Contingent Fee Payments expected to be collected by the Port during the Fiscal Year in which such Additional Bonds are issued and for each Fiscal Year thereafter through the Period of Review referred to below, taking into account, among other factors, anticipated increases in CFC fees and charges, shall not be less than the sum of (i) one hundred percent (100%) of the amounts required (A) to be deposited into the Senior Debt Service Reserve Fund and the Subordinate Debt Service Reserve Fund in each such Fiscal Year as contemplated in Sections 5.05(c) and (f) hereof, and (B) to pay the CFC Administrative Costs in each such Fiscal Year but only to the extent CFC Administrative Costs in each such Fiscal Year are expected to be greater than amounts on deposit in the CFC Surplus Account on the first day of each such Fiscal Year, as estimated by the Airport Consultant; plus (ii) one hundred percent (100%) of the amounts required to be deposited into the Senior Debt Service Fund and the Subordinate Debt Service Fund in each such corresponding Fiscal Year during the Period of Review for all Senior Bonds and Subordinate Bonds Outstanding (including the Additional Bonds proposed to be issued but excluding those Outstanding Bonds, if any, to be defeased or refunded by the issuance of such Additional Bonds).

(e) For purposes of this Ordinance, the “Period of Review” shall be that period beginning on the first day of the Bond Year in which such Additional Bonds are issued and ending on the last day of the Bond Year during which the later of the following events shall occur: (i) the fifth anniversary of the date of issuance of such Additional Bonds or (ii) the third anniversary of the date on which interest on such Additional Bonds is not expected to be payable from the proceeds of such Additional Bonds.

In determining compliance with the requirements set forth in subsections (c) and (d) above, the following rules will apply:

(i) The Airport Consultant may assume (a) that the rate of the levy of CFCs in effect on the date of issuance of such Additional Bonds will be in effect for the entire forecast period, or (b) a higher rate to the extent the Port reasonably anticipates an increase in the rate of the levy of CFCs during the forecast period;

(ii) In making its forecast, the Airport Consultant may take into account projected rental transactions days based in part on its projection of the growth in passengers at the Airport for the Period of Review, as reflected in an accompanying financial analysis provided in connection with the issuance of such Additional Bonds; and

(iii) The Airport Consultant, in making its forecast, may assume that each of the Concessionaires will pay its respective share of any Contingent Fee Payments as required pursuant to its respective Concessionaire Agreement.

Additional Bonds that are Senior Bonds shall be on a parity and rank equally with all other Senior Bonds issued under this Ordinance as to lien on and source and security for payment from the Trust Estate and all funds, accounts and other moneys pledged therefor, as more particularly described in Section 7.01 hereof (except that Additional Bonds that are Senior Bonds for which a special account in the Senior Debt Service Reserve Fund is established at the time of issuance thereof shall look solely to the Reserve Fund Credit Enhancement with respect to such Additional Bonds or to the cash, if any, deposited into such special account in the Senior Debt Service Reserve Fund established solely for the benefit of such Additional Bonds) and in all other respects, and upon the issuance of any such Additional Bonds all payments into the Senior Debt Service Fund and the separate accounts therein, and the Senior Debt Service Reserve Fund (but only to the extent that a cash deposit to the Senior Debt Service Reserve Fund with respect to such Additional Bonds is required by Section 5.05(c) hereof) shall be increased as necessary over the amounts required by this Ordinance to be deposited therein for any other Senior Bonds then Outstanding and secured by this Ordinance, and all of the provisions of this Ordinance, except as to details inconsistent therewith, shall apply to and be for the benefit and security and protection of the Holders of such Additional Bonds as fully and to the same extent as for the Holders of any other Senior Bonds then Outstanding and secured by this Ordinance.

Additional Bonds that are Subordinate Bonds shall be on a parity and rank equally with all other Subordinate Bonds issued under this Ordinance as to lien on and source and security for payment from the Trust Estate and all funds, accounts and other moneys pledged therefor, as more particularly described in Section 7.01 hereof (except that Additional Bonds that are Subordinate Bonds for which a special account in the Subordinate Debt Service Reserve Fund is established at the time of issuance thereof shall look solely to the Reserve Fund Credit Enhancement with respect to such Additional Bonds or to the cash, if any, deposited into such special account in the Subordinate Debt Service Reserve Fund established solely for the benefit of such Additional Bonds) and in all other respects, and upon the issuance of any such Additional Bonds all payments into the Subordinate Debt Service Fund and the separate accounts therein, and the Subordinate Debt Service Reserve Fund (but only to the extent that a cash deposit to the Subordinate Debt Service Reserve Fund with respect to such Additional Bonds is required by Section 5.05(f) hereof)



shall be increased as necessary over the amounts required by this Ordinance to be deposited therein for any other Subordinate Bonds then Outstanding and secured by this Ordinance, and all of the provisions of this Ordinance, except as to details inconsistent therewith, shall apply to and be for the benefit and security and protection of the Holders of such Additional Bonds as fully and to the same extent as for the Holders of any other Subordinate Bonds then Outstanding and secured by this Ordinance.

The proceeds (excluding accrued interest and any amounts of capitalized interest which the Port shall deem necessary or advisable for said Additional Bonds, which shall be deposited in the Senior Bonds Interest Account in the Senior Debt Service Fund or the Subordinate Bonds Interest Account in the Subordinate Debt Service Fund, as applicable) of all Additional Bonds issued under the provisions of this Section for CFC Projects shall be deposited at the direction of the Port and used for any lawful purpose consistent with the CFC Ordinance.

Section 2.08. Completion Bonds and Refunding Bonds.

(a) The Port may issue Additional Bonds that are Senior Bonds hereunder without complying with the requirements of Section 2.07(c) hereof:

(i) to complete projects specifically authorized and theretofore funded with Bonds issued as Senior Bonds under this Ordinance, provided that the aggregate principal amount of such completion Senior Bonds does not exceed fifteen percent (15%) of the aggregate principal amount of the Senior Bonds or portions of Senior Bonds issued to fund such projects, and

(ii) to refund any Senior Bond or Bonds Outstanding hereunder, provided that prior to the issuance of refunding Bonds under this Section 2.08, the Municipal Advisor or another qualified independent consultant must deliver to the Trustee a statement stating (i) that, in each Bond Year, the debt service with respect to the refunding Senior Bonds will be equal to or less than the debt service with respect to the Senior Bonds to be refunded, or (ii) that the Maximum Debt Service Requirement with respect to all Senior Bonds Outstanding after the issuance of the refunding Senior Bonds (excluding the Senior Bonds to be refunded and including the refunding Senior Bonds) will be equal to or less than the Maximum Debt Service Requirement on all Senior Bonds Outstanding prior to the issuance of the refunding Senior Bonds. For purposes of the foregoing, if the Outstanding Senior Bonds or the proposed refunding Senior Bonds, or both, include Variable Rate Bonds, the assumed interest rate thereon for purposes of the foregoing calculations shall be determined in accordance with the procedures set forth in the definition of Debt Service Requirement herein, determined on or as of the date of calculation.

(b) The Port may issue Additional Bonds that are Subordinate Bonds hereunder without complying with the requirements of Section 2.07(d) hereof:

(i) to complete projects specifically authorized and theretofore funded with Bonds issued as Subordinate Bonds under this Ordinance, provided that the aggregate principal amount of such completion Subordinate Bonds does not exceed fifteen percent

(15%) of the aggregate principal amount of the Subordinate Bonds or portions of Subordinate Bonds issued to fund such projects, and

(ii) to refund any Subordinate Bond or Bonds Outstanding hereunder, provided that prior to the issuance of refunding Bonds under this Section 2.08, the Municipal Advisor or another qualified independent consultant must deliver to the Trustee a statement stating (i) that, in each Bond Year, the debt service with respect to the refunding Subordinate Bonds will be equal to or less than the debt service with respect to the Subordinate Bonds to be refunded, or (ii) that the Maximum Debt Service Requirement with respect to all Senior Bonds and Subordinate Bonds Outstanding after the issuance of the refunding Subordinate Bonds (excluding the Subordinate Bonds to be refunded and including the refunding Subordinate Bonds) will be equal to or less than the Maximum Debt Service Requirement on all Senior Bonds and Subordinate Bonds Outstanding prior to the issuance of the refunding Subordinate Bonds. For purposes of the foregoing, if the Outstanding Subordinate Bonds or the proposed refunding Subordinate Bonds, or both, include Variable Rate Bonds, the assumed interest rate thereon for purposes of the foregoing calculations shall be determined in accordance with the procedures set forth in the definition of Debt Service Requirement herein, determined on or as of the date of calculation.

Section 2.09. Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bonds shall become mutilated or be improperly cancelled, or be destroyed, stolen or lost, the Port may, in its discretion, enact an ordinance and thereby authorize the issuance and delivery of a new Bond of like tenor as the Bond so mutilated, improperly cancelled, destroyed, stolen or lost, in exchange and substitution for such mutilated or improperly cancelled Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, upon the holder furnishing the Port and the Trustee proof of his or her ownership thereof and proof of such mutilation, improper cancellation, destruction, theft or loss satisfactory to the Port and the Trustee, upon his or her giving to the Port and the Trustee an indemnity bond in such amount as they may require, and upon his or her compliance with such other reasonable regulations and conditions as they prescribe and paying such expenses as they may incur. All Bonds so surrendered shall be cancelled by the Trustee and held for the account of the Port. If any Bond shall have matured or be about to mature, instead of issuing a substitute Bond, the Port may cause the same to be paid upon being indemnified as aforesaid, and if such Bond be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the Port, whether or not the lost, stolen or destroyed Bonds be at any time found by anyone. Such duplicate Bonds shall in all respects be identical with those replaced except that they shall bear in their face the following additional clause:

“This Bond is issued to replace a lost, stolen, cancelled or destroyed Bond.”

Such duplicate Bonds shall be signed by the same officers who signed the original Bonds, provided, however, that in the event the officers who executed the original Bonds no longer hold office, then the new Bonds shall be signed by the officers then in office. Such duplicate Bonds shall be entitled to equal proportionate benefits and rights as to lien and source and security for payment from the Trust Estate and the other security as provided herein, with all other Bonds

issued hereunder, the obligations of the Port upon the new Bonds being identical with its obligations upon the original Bonds and the rights of the holder being the same as those conferred by the original Bonds.

Section 2.10. Reimbursement Obligations.

(a) One or more issues of Reimbursement Obligations may be issued concurrently with the issuance of the Bonds of a Series authorized pursuant to the provisions of this Article II for which a Credit Facility or Liquidity Facility, or both, is being provided with respect to such Bonds (or a maturity or maturities) by a third party. Such Reimbursement Obligations shall be issued for the purpose of evidencing the Port's obligation to repay any advances or loans made to, or on behalf of, the Port in connection with such Credit Facility or Liquidity Facility; provided, however, that the stated maximum principal amount of any such issue of Reimbursement Obligations shall not exceed the aggregate principal amount of the Bonds with respect to which such Credit Facility or Liquidity Facility is being provided, plus such number of days' interest thereon as the Port shall determine prior to the issuance thereof computed at the maximum interest rate applicable thereto.

(b) Except as otherwise provided in a Supplemental Ordinance authorizing an issue of Reimbursement Obligations, for the purposes of (i) receiving payment of a Reimbursement Obligation, whether at maturity or upon redemption or (ii) computing the principal amount of Bonds held by the Holder of a Reimbursement Obligation in giving to the Port any notice, consent, request, or demand pursuant to this Ordinance for any purpose whatsoever, the principal amount of a Reimbursement Obligation shall be deemed to be the actual principal amount that the Port shall owe thereon, which shall equal the aggregate of the amounts advanced to, or on behalf of, the Port in connection with the Bonds of the Series or portions thereof for which such Reimbursement Obligation has been issued to evidence the Port's obligation to repay any advances or loans made in respect of any Credit Facility or Liquidity Facility provided for such Bonds, less any prior repayments thereof.

Section 2.11. Qualified Hedge Agreements.

(a) The Port may, to the extent permitted by law, enter into one or more Qualified Hedge Agreements concurrently with or at any time after the issuance of the Bonds hereunder.

(b) Unless the counterparty to any Qualified Hedge Agreement shall agree that regularly scheduled payments with respect thereto shall be subordinate to payments on the Bonds or shall be unsecured, (i) the Port shall by Supplemental Ordinance prior to the effective date of such Qualified Hedge Agreement cause the Qualified Hedge Receipts thereunder to be pledged as part of the Trust Estate and (ii) Qualified Hedge Payments under such Qualified Hedge Agreement shall be on parity with interest payments on the Bonds, all in the manner and to the extent specified in Section 5.05(a). Unless otherwise specified in a Supplemental Ordinance, Qualified Hedge Payments under any Qualified Hedge Agreement shall only be paid in the manner and to the extent specified in Section 5.05(a) hereof. Neither Qualified Hedge Payments nor other payments due under any Qualified Hedge Agreement shall be secured by funds on deposit in the Renewal and Replacement Fund, the Major Maintenance Fund, the Construction Fund, the CFC Rolling

Coverage Account, the Senior Debt Service Reserve Fund and any Reserve Accounts therein, the Subordinate Debt Service Reserve Fund and any Reserve Accounts therein or, unless otherwise specified by the Port in a Supplemental Ordinance, the CFC Surplus Account.

Section 2.12. Initial Series of Bonds. The terms of the Bonds initially issued under the provisions of this Ordinance and the conditions to the issuance thereof shall be determined by a Supplemental Ordinance enacted by the Board prior to the sale of such Bonds, and shall not be subject to the provisions of Sections 2.07 and 2.08 of this Ordinance.

### **ARTICLE III. REDEMPTION OF BONDS**

Section 3.01. Privilege of Redemption. The Bonds initially issued under the provisions of this Ordinance may have such provisions for redemption prior to maturity and at such price or prices as the Port shall hereafter determine by a Supplemental Ordinance enacted prior to the sale of such Bonds.

Any Additional Bonds hereafter issued pursuant to Sections 2.07 or 2.08 hereof may be redeemable prior to their stated dates of maturity at such price or prices and under such terms and conditions as shall be provided in the Supplemental Ordinance or the proceedings which authorize the issuance of such Additional Bonds.

If less than all of the Outstanding Bonds shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be in such order and priority as may be specified in the Supplemental Ordinance applicable to the applicable Series of Bonds or, if not so specified, in the inverse order of maturities and by lot within maturities if less than a full maturity to be selected by lot by the Trustee in such manner as the Trustee, in its discretion may determine; provided, that the portion of any registered Bond to be redeemed shall be in the principal amount of Five Thousand Dollars (\$5,000) or some multiple thereof, and that, in selecting Bonds for redemption, the Trustee shall treat each registered Bond as representing that number of Bonds which is obtained by dividing the principal amount of such registered Bond by Five Thousand Dollars (\$5,000).

Section 3.02. Notice of Redemption. Except as otherwise provided in a Supplemental Ordinance with respect to a particular Series of Bonds, a notice of any such redemption, either in whole or in part, shall be delivered by the Trustee at least twenty (20) days before the redemption date (a) with the Paying Agent, and (b) by Electronic Means to all registered owners of Bonds or portions of Bonds to be redeemed at their addresses as they appear on the registration books hereinabove provided for; but failure so to deliver any such notice shall not affect the validity of the proceedings for such redemption. Each such notice shall set forth the date fixed for redemption, the redemption price to be paid and, if less than all of the Bonds then Outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed and, in the case of registered Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. In case any registered Bond is to be redeemed in part only, the notice of redemption which relates to such Bond shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds in a principal amount equal to the unredeemed portion of such Bond will be issued.

Any notice provided pursuant to the provisions of this Section may state that the redemption contemplated therein is conditioned upon the occurrence of one or more events or circumstances described therein prior to the stated redemption date and that the Port will not be obligated to redeem such Bonds unless all such events and circumstances described therein have occurred. If such conditions shall not have been met said notice shall be of no force and effect and the Port shall not be required to redeem such Bonds. Such failure to redeem Bonds shall not constitute an Event of Default.

Section 3.03. Effect of Notice of Redemption. Notice having been provided in the manner and under the conditions hereinabove provided, the Bonds or portions of Bonds so called for redemption shall, on the redemption date designated in such notice, become and be due and payable at the redemption price provided for redemption of such Bonds or portions of Bonds on such date. On the date so designated for redemption, notice having been provided and moneys for payment of the redemption price being held in separate accounts by the Trustee or by the Paying Agent in trust for the Holders of the Bonds or portions thereof to be redeemed, all as provided in this Ordinance, interest on the Bonds or portions of Bonds so called for redemption shall cease to accrue, such Bonds and portions of Bonds shall cease to be entitled to any lien, benefit or security under this Ordinance, and the Holders or registered owners of such Bonds or portions of Bonds shall have no rights in respect thereof except to receive payment of the redemption price thereof and, to the extent provided in Section 3.04 hereof, to receive Bonds for any unredeemed portions of registered Bonds.

Section 3.04. Redemption in Part. In case part but not all of an Outstanding registered Bond shall be selected for redemption, the registered owners thereof shall present and surrender such Bond to the Trustee for payment of the principal amount thereof so called for redemption, and the Port shall execute and the Trustee shall authenticate and deliver to or upon the order of such registered owner, without charge therefor, Bonds representing the unredeemed balance of the principal amount of the registered Bond so surrendered.

Section 3.05. Cancellation of Bonds. Bonds so presented and surrendered shall be cancelled by the Trustee upon the surrender thereof.

Section 3.06. Redeemed Bonds Not Outstanding; Conditional Notice. Bonds and portions of Bonds which have been duly called for redemption under the provisions of this Article III, or with respect to which irrevocable instructions to call for redemption at the earliest redemption date have been given to the Trustee, in form satisfactory to it, and for the payment of the redemption price of which and accrued interest to the date fixed for redemption moneys shall be held in separate accounts by the Trustee or the Paying Agent, in trust for the Holders of the Bonds or portions thereof to be redeemed, as provided in this Ordinance, shall not be deemed to be Outstanding under the provisions of this Ordinance.

If a conditional notice of redemption has been given pursuant to Section 3.02 hereof, the Bonds to which such notice pertains shall be deemed Outstanding until the conditions to such redemption have been satisfied and the notice becomes irrevocable.

Section 3.07. Redemption of Bonds. The provisions for redemption of Bonds contained in this Article III may be modified or amended with respect to any Series of Bonds issued

hereunder by any Supplemental Ordinance enacted in connection with the issuance of such Series of Bonds and, as to such Series, the provisions contained in such Supplemental Ordinance shall control and supersede the provisions contained in this Article III.

**ARTICLE IV.  
CUSTODY AND APPLICATION OF PROCEEDS OF BONDS**

Section 4.01. Establishment of Construction Fund. The Port of Portland CFC Construction Fund (the “Construction Fund”) is hereby created and established. The Construction Fund shall be held by the Port and applied in accordance with the terms of this Ordinance and any Supplemental Ordinance. The Port may create and maintain one or more accounts within the Construction Fund at its discretion.

The moneys in the Construction Fund shall be held by the Port in trust and shall be applied to the payment of the cost of the CFC Projects, and pending such application, shall be subject to a lien and charge in favor of the Holders of the Bonds.

Section 4.02. Description of CFC Project Costs. For the purpose of this Ordinance, the cost of any CFC Project to be financed with the proceeds of a Series of Bonds may include, without intending thereby to limit or restrict or to extend any proper definition of such cost under the provisions of law, the following:

(a) Obligations incurred for labor and materials and to contractors, builders and materialmen in connection with the construction and acquisition of said CFC Project for machinery and equipment, and for the restoration or relocation of property damaged or destroyed in connection with such construction or acquisition;

(b) The cost of acquiring by purchase, if such purchase shall be deemed expedient, and the amount of any award or final judgment in or any settlement or compromise of any proceeding to acquire by condemnation, such lands, property rights, rights-of-way, franchises, easements and other interest as may be deemed necessary or convenient and authorized for the construction and acquisition of said CFC Project, options and partial payments thereon, and the amount of any damages incident to or consequent upon the construction and acquisition of said CFC Project;

(c) The fees and expenses of the Trustee and municipal or governmental charges, if any, lawfully levied or assessed upon said CFC Project or any property acquired therefor, and premiums on insurance, if any, in connection with said CFC Project;

(d) The expenses necessary or incident to determining the design and construction of the CFC Project and fees and expenses for making studies, surveys, appraisals and estimates of cost and of revenues and other estimates and for preparing plans and specifications and supervising construction, as well as for the performance of all other duties set forth herein in relation to the construction and acquisition of said CFC Project, or the issuance of Bonds therefor;

(e) Legal, engineering and Airport Consultant fees and expenses, financing charges, cost of audits during the construction of said CFC Project and of preparing and issuing the Bonds, and all other items of expense not elsewhere in this Section specified incident to the

construction, acquisition and equipment of said CFC Project, the financing thereof, the placing of the same in operation, and the cost of acquisition of lands, property rights, rights-of-way, franchises, easements, servitudes, and interests therein.

Section 4.03. Completion; Disposition of Excess Proceeds. When the construction and acquisition of a CFC Project shall have been completed, as determined by the Port in its sole discretion, the balance of any bond proceeds in the Construction Fund not reserved by the Port for the payment of any remaining part of the cost of said CFC Project may be applied to any lawful purpose consistent with the CFC Ordinance at the discretion of the Port.

## **ARTICLE V. REVENUES AND FUNDS**

Section 5.01. Rate Covenant. The Port will, to the extent permitted by law, fix, revise from time to time when necessary, impose and collect CFCs and Contingent Fee Payments in each Fiscal Year that will be sufficient to pay, in accordance with the provisions of this Ordinance the greater of:

(a) One hundred percent (100%) of the amounts required to (i) pay the CFC Administrative Costs in such Fiscal Year but only to the extent CFC Administrative Costs in such Fiscal Year were greater than amounts on deposit in the CFC Surplus Account on the first day of such Fiscal Year, and (ii) be deposited into the Senior Debt Service Fund, the Senior Debt Service Reserve Fund, the Subordinate Debt Service Fund, the Subordinate Debt Service Reserve Fund, the Renewal and Replacement Fund and the Major Maintenance Fund in such Fiscal Year as contemplated in Sections 5.05(a) through (h) hereof; or

(b) The sum of:

(i) One hundred percent (100%) of the amounts required (A) to pay the CFC Administrative Costs in such Fiscal Year but only to the extent CFC Administrative Costs in such Fiscal Year were greater than amounts on deposit in the CFC Surplus Account on the first day of such Fiscal Year, and (B) to be deposited into the Senior Debt Service Reserve Fund and the Subordinate Debt Service Reserve Fund, in such Fiscal Year as contemplated in Sections 5.05(c) and (f) hereof; plus

(ii) One hundred fifty percent (150%) of the Debt Service Requirement with respect to Senior Bonds for such Fiscal Year; plus

(iii) One hundred percent (100%) of the Debt Service Requirement with respect to the Subordinate Bonds for such Fiscal Year.

For purposes of determining compliance with the Rate Covenant set forth above (1) unless the Port elects otherwise in writing to the Trustee, amounts in the CFC Rolling Coverage Account at the end of any Fiscal Year up to an amount equal to twenty-five percent (25%) of the Maximum Debt Service Requirement on Senior Bonds shall be added to CFCs and Contingent Fee Payments in such Fiscal Year, (2) if the Port pays debt service on Senior Bonds in a Fiscal Year from any source of funds other than the CFCs and Contingent Fee Payments collected in such Fiscal Year, including from amounts on deposit in the CFC Surplus Account, the amount of such payment or

payments shall be subtracted from the Debt Service Requirement for such Fiscal Year, (3) if the Port is not required to deposit amounts into a particular fund referenced in Sections 5.01(a) or (b) above but nevertheless voluntarily deposits amounts into such fund, such deposit will not be considered “required” and the Port need not show coverage with respect to such deposited amounts, and (4) all income earned in a Fiscal Year from the investment of money in the funds and accounts held by the Port under this Ordinance shall be added to CFCs and Contingent Fee Payments in such Fiscal Year, provided the provisions of this Ordinance allow such income to be used to pay debt service on the Senior Bonds and/or the Subordinate Bonds.

Section 5.02. Creation of Funds and Accounts. The following special funds and accounts are hereby created and designated as follows: (i) the CFC Revenue Fund (herein referred to as the “CFC Revenue Fund”) to be held and administered by the Port; (ii) the Senior Debt Service Fund (herein referred to as the “Senior Debt Service Fund”), and three separate accounts therein to be known as the Senior Bonds Interest Account, the Senior Bonds Principal and Redemption Account and the Senior Bonds Qualified Hedge Payment Account, each to be held and administered by the Trustee; (iii) the Senior Debt Service Reserve Fund (herein referred to as the “Senior Debt Service Reserve Fund”) and separate accounts therein for any series of Senior Bonds to be created at the direction of the Port, each to be held and administered by the Trustee; (iv) the Subordinate Debt Service Fund (herein referred to as the “Subordinate Debt Service Fund”), and three separate accounts therein to be known as the Subordinate Bonds Interest Account, the Subordinate Bonds Principal and Redemption Account and the Subordinate Bonds Qualified Hedge Payment Account, each to be held and administered by the Trustee; (v) the Subordinate Debt Service Reserve Fund (herein referred to as the “Subordinate Debt Service Reserve Fund”) and separate accounts therein for any series of Subordinate Bonds to be created at the direction of the Port, each to be held and administered by the Trustee; (vi) the Renewal and Replacement Fund (herein referred to as the “Renewal and Replacement Fund”) to be held and administered by the Port; (vii) the Major Maintenance Fund (herein referred to as the “Major Maintenance Fund”) to be held and administered by the Port; and (viii) the CFC Surplus and Rolling Coverage Fund (herein referred to as the “CFC Surplus and Rolling Coverage Fund”) to be held and administered by the Port, and two separate accounts therein to be known as the CFC Rolling Coverage Account and the CFC Surplus Account, both to be held and administered by the Port. The funds and accounts created pursuant to this Section 5.02 shall be pledged to the payment of the Bonds as provided in Section 7.01 hereof.

Section 5.03. Deposit of CFCs. On and after the issuance of the initial Series of Bonds under this Ordinance, all CFCs shall be deposited by the Port in the CFC Revenue Fund upon receipt, except as otherwise expressly provided herein.

Section 5.04. Disposition of Amounts in CFC Revenue Fund Before Substantial Completion. Before Substantial Completion, the moneys in the CFC Revenue Fund, after payment of CFC Administrative Costs, shall be disbursed and applied by the Port, first, to satisfy the deposit requirements in the amounts and manner contemplated in Sections 5.05(a) through (f) hereof and, second, to pay cost overruns or shortfalls in the cost of constructing the CFC Projects to the extent the Port anticipates deficiencies in the funds set aside for such purpose in the Construction Fund. Prior to Substantial Completion, moneys in the CFC Revenue Fund not needed for the purposes described in the preceding sentence shall be deposited in the CFC Surplus Account.



Section 5.05. Disposition of Amounts in the CFC Revenue Fund After Substantial Completion. After Substantial Completion, the moneys in the CFC Revenue Fund, after payment of CFC Administrative Costs, shall be disbursed and applied by the Port on or before the first day of each month or on or before the last day of each Fiscal Year, as applicable, only in the following manner and order of priority:

(a) Senior Bonds Interest Account and Senior Bonds Qualified Hedge Payment Account. On or before the first day of each month, the Port shall transfer moneys from the CFC Revenue Fund, in the amounts set forth in the following sentence, to the Trustee, who shall deposit such amounts into the Senior Bonds Interest Account and the Senior Bonds Qualified Hedge Payment Account, as applicable. The Port shall transfer sufficient amounts from the CFC Revenue Fund, which, together with amounts on deposit in the Senior Bonds Interest Account and the Senior Bonds Qualified Hedge Payment Account, as applicable, are necessary to make the amounts on deposit in (i) the Senior Bonds Interest Account equal to the interest component of the Accrued Aggregate Debt Service Requirement for such month with respect to the Senior Bonds, and (ii) the Senior Bonds Qualified Hedge Payment Account equal to any net Qualified Hedge Payment then due or to become due within such month; *provided, however*, that such deposits into the Senior Bonds Interest Account shall not be required to be made to the extent sufficient moneys are then on deposit in the Senior Bonds Interest Account either from the proceeds of said Senior Bonds or from any other source.

The moneys in the Senior Bonds Interest Account shall be used only for the payment of the interest on the Senior Bonds, both Serial Bonds and Term Bonds, and the Trustee shall transfer to the Paying Agent the necessary moneys to pay all such interest becoming due on each interest payment date not later than such interest payment date. The moneys in the Senior Bonds Qualified Hedge Payment Account shall be used only for the payment of Qualified Hedge Payments, and the Trustee shall transfer to the counterparty under the respective Qualified Hedge Agreement the necessary moneys to pay such Qualified Hedge Payment on the next respective payment date.

A separate subaccount shall be set up and maintained in the Senior Bonds Interest Account for each Series of Senior Bonds.

(b) Senior Bonds Principal and Redemption Account. On or before the first day of each month, and after making the deposits provided for in subsection (a) above, the Port shall transfer moneys from the CFC Revenue Fund, in the amounts set forth in the following sentence, to the Trustee, who shall deposit such amounts into the Senior Bonds Principal and Redemption Account. The Port shall transfer sufficient amounts from the CFC Revenue Fund, which, together with amounts on deposit in the Senior Bonds Principal and Redemption Account, are necessary to make the amounts on deposit in the Senior Bonds Principal and Redemption Account equal to (i) the principal component of Serial Bonds of the Accrued Aggregate Debt Service Requirement for such month with respect to the Senior Bonds issued as Serial Bonds, and (ii) the Sinking Fund Installment portion of the Accrued Aggregate Debt Service Requirement for such month with respect to Senior Bonds issued as Term Bonds.

The moneys in the Senior Bonds Principal and Redemption Account shall be used only for the payment of the principal of the Senior Bonds issued as Serial Bonds or the mandatory

redemption amounts of the Senior Bonds issued as Term Bonds, and the Trustee shall transfer to the Paying Agent the necessary moneys to pay all such principal and/or mandatory redemption amounts becoming due on said Serial Bonds and Term Bonds on each principal maturity date or redemption date prior to such principal maturity date or redemption date.

A separate subaccount shall be set up and maintained in the Senior Bonds Principal and Redemption Account for each Series of Senior Bonds.

The Trustee shall, at the written direction of the Port, endeavor to purchase Senior Bonds issued as Term Bonds and then Outstanding, on the most advantageous terms at a price not exceeding the price at which such Term Bonds may be redeemed on the next ensuing redemption date, either by purchase in the open market or by posting or publishing an appropriate notice at least once at least fourteen (14) days prior to the receipt of tenders on EMMA or in a newspaper or financial journal published in the City of New York, New York, calling for tenders of Term Bonds for purchase by the Trustee. The Trustee shall pay the interest accrued on such Term Bonds so tendered and purchased to the date of delivery thereof from the Senior Bonds Interest Account, and the purchase price from the separate account in the Senior Bonds Principal and Redemption Account for such issue but no such purchase shall be made by the Trustee within the period of forty-five (45) days next preceding any interest payment date.

Alternative Method of Satisfying Sinking Fund Installment.

The Port may satisfy its obligations under this Section 5.05(b) with respect to the Sinking Fund Installments, on or before the forty-fifth (45<sup>th</sup>) day next preceding each principal payment date on which the Senior Bonds issued as Term Bonds are to be retired pursuant to the Sinking Fund Installments, by delivering to the Trustee for cancellation, Term Bonds that are Senior Bonds of the Series and maturity required to be redeemed on such principal payment date in any aggregate principal amount desired. Upon such delivery, the Port will receive a credit against the amounts required to be deposited into the Senior Bonds Interest Account and the Senior Bonds Principal and Redemption Account on account of such Term Bonds in an amount equal to one hundred percent (100%) of the principal amount thereof so purchased and cancelled and the interest accruing thereon to the next succeeding Interest Payment Date.

(c) Senior Debt Service Reserve Fund. On or before the first day of each month, and after making the deposits provided for in subsections (a) and (b) above, the Port shall transfer moneys from the CFC Revenue Fund, in the amounts set forth in the following sentence, to the Trustee, who shall deposit such amounts into the Senior Debt Service Reserve Fund, and pro rata into each separate Reserve Account created therein. The Port shall transfer sufficient amounts from the CFC Revenue Fund, which, together with amounts available under any applicable Reserve Fund Credit Enhancement and amounts currently on deposit in the Senior Debt Service Reserve Fund and each Reserve Account, are necessary to make the amounts on deposit therein equal to the applicable aggregate Reserve Requirement; provided, however, that:

(i) to the extent the deficiency arises in any month from a withdrawal from the Senior Debt Service Reserve Fund and/or any applicable Reserve Account therein to satisfy deposit shortfalls required under subsections (a) and/or (b) above (the deficiency arising from a withdrawal in each such month a “*Senior Reserve Deficiency Amount*”), the

monthly deposit requirements pursuant to this subsection (c) will be one twelfth (1/12th) of the Senior Reserve Deficiency Amount until the aggregate Reserve Requirement has been replenished; and

(ii) if Senior Reserve Deficiency Amounts accrue in successive or subsequent months, based on subsequent withdrawals to cure shortfalls under subsections (a) and/or (b) above, the monthly deposit requirements shall be the sum of one twelfth (1/12th) of each respective monthly Senior Reserve Deficiency Amount that remains unreplenished.

No further deposits shall be required to be made into the Senior Debt Service Reserve Fund or into any separate Reserve Account therein as long as the amounts then on deposit therein are equal to the Reserve Requirement for the Senior Debt Service Reserve Fund or, with respect to the Senior Bonds secured by a separate Reserve Account, for the respective Series of Senior Bonds then Outstanding and secured thereby.

The moneys in the Senior Debt Service Reserve Fund shall be used only for the payment of the interest on all Senior Bonds, including both Serial Bonds and Term Bonds, the principal of Serial Bonds and the required deposits into the Senior Bonds Principal and Redemption Account for Term Bonds as the same mature or become due, whenever the moneys in the Senior Bonds Interest Account and Senior Bonds Principal and Redemption Account are insufficient therefor. The Senior Debt Service Reserve Fund shall serve as a common reserve fund for all Senior Bonds for which a separate Reserve Account has not been established. If separate Reserve Accounts in the Senior Debt Service Reserve Fund have been established for a Series of Senior Bonds, deficiencies in the Senior Bonds Interest Account and Senior Bonds Principal and Redemption Account with respect to such Senior Bonds shall be payable solely from the funds deposited in each respective special Reserve Account created with respect to such Series of Senior Bonds, or from the respective Reserve Fund Credit Enhancement acquired with respect thereto, and not from other funds deposited in the Senior Debt Service Reserve Fund. Funds on deposit in the Senior Debt Service Reserve Fund or the separate Reserve Accounts therein established for a Series of Senior Bonds in excess of the respective Reserve Requirement, may be withdrawn at the Port's request and deposited as directed by the Port. All deficiencies in said Senior Debt Service Reserve Fund, including each Reserve Account created thereunder, shall be restored, to the extent required pursuant to the foregoing, from the first available moneys in the CFC Revenue Fund after making all prior required deposits into the Senior Bonds Interest Account and the Senior Bonds Principal and Redemption Account.

Upon the issuance of a Series of Senior Bonds, or at any time in replacement of moneys then on deposit in the Senior Debt Service Reserve Fund or a separate Reserve Account, in lieu of making a cash deposit to the Senior Debt Service Reserve Fund or a separate Reserve Account therein, or in substitution therefor, the Port may deliver to the Trustee a Reserve Fund Credit Enhancement in an amount which, together with moneys, securities or other Reserve Fund Credit Enhancements on deposit in or credited to the Senior Debt Service Reserve Fund or any Reserve Account therein, as applicable, equals or exceeds the Reserve Requirement for the Senior Debt Service Reserve Fund or a separate Reserve Account therein, as applicable, provided that:

(A) All such Reserve Fund Credit Enhancements (i) will name the Trustee as beneficiary or insured, (ii) will have a term of not less than the maturity of such Senior Bonds for which such Reserve Fund Credit Enhancement was issued, or if issued to replace cash proceeds then existing in the Senior Debt Service Reserve Fund or a specific Reserve Account thereunder, the final maturity of the last maturing Senior Bond then Outstanding (provided, however, that the provisions of this clause (ii) will not apply if such Reserve Fund Credit Enhancement is a Letter of Credit which, by its terms may be drawn upon at least fifteen (15) days prior to the stated expiration date thereof if a substitute Letter of Credit, or an extension thereof, with a new term of not less than one year has not theretofore been obtained and credited to the Senior Debt Service Reserve Fund or such Reserve Account) and (iii) will provide by its terms that it may be drawn upon to make up any deficiencies in the Senior Bonds Interest Account or the Senior Bonds Principal and Redemption Account on the due date of any interest or principal payment or mandatory sinking fund redemption with respect to such Senior Bonds with respect to which such Reserve Fund Credit Enhancement was issued.

(B) Any excess funds on deposit in the Senior Debt Service Reserve Fund or Reserve Account, as applicable, after a Reserve Fund Credit Enhancement has been provided shall be deposited into the Senior Bonds Interest Account and/or the Senior Bonds Principal and Redemption Account and used to pay debt service on or redeem Senior Bonds from which such funds were derived or for any other lawful purpose.

(C) The obligation to reimburse the issuer of a Reserve Fund Credit Enhancement for any fees, expenses, claims or draws thereon shall be subordinated to the payment of debt service on the Senior Bonds and, subject to the provisions in the following sentence, replenishment of the Senior Debt Service Reserve Fund or applicable Reserve Account. Notwithstanding the provisions of the prior sentence, such issuer's right to reimbursement for claims or draws shall be on a parity with the cash replenishment of the Senior Debt Service Reserve Fund and the Reserve Accounts therein, provided that the Reserve Fund Credit Enhancement shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of such issuer to reimbursement will be subordinated to cash replenishment of the Senior Debt Service Reserve Fund and the Reserve Accounts therein, to an amount equal to the difference between the full original amount available under the Reserve Fund Credit Enhancement and the amount then available for further draws or claims. If (a) the issuer of the Reserve Fund Credit Enhancement becomes insolvent or (b) the issuer of the Reserve Fund Credit Enhancement defaults in its payment obligations thereunder or (c) if any two Rating Agencies then maintaining a rating on the issuer of the Reserve Fund Credit Enhancement withdraw or suspend their ratings on such issuer, or if any two such Rating Agencies drop the rating of such issuer's claims-paying ability below "AA-", if S&P, Fitch or Kroll or "Aa3", if Moody's (or the equivalent rating, if rated by

another Rating Agency), the obligation to reimburse the issuer of the Reserve Fund Credit Enhancement shall be subordinated to the cash replenishment of the Senior Debt Service Reserve Fund and the Reserve Accounts therein until the requisite ratings have been re-established.

(D) If the Port chooses to provide or substitute a Reserve Fund Credit Enhancement in lieu of a cash-funded Senior Debt Service Reserve Fund or Reserve Account, any amounts owed by the Port to the issuer of such Reserve Fund Credit Enhancement as a result of a draw thereon or a claim thereunder, as appropriate, shall be included in determining amounts required to be deposited to the credit of the Senior Debt Service Reserve Fund or the applicable Reserve Account and in any other calculation of debt service requirements required to be made pursuant to this Ordinance for any purpose, including Sections 2.07 and 5.01 hereof.

(d) Subordinate Bonds Interest Account and Subordinate Bonds Qualified Hedge Payment Account. On or before the first day of each month, and after making the deposits provided for in subsections (a) through (c), inclusive, above, the Port shall transfer moneys from the CFC Revenue Fund, in the amounts set forth in the following sentence, to the Trustee, who shall deposit such amounts into the Subordinate Bonds Interest Account and the Subordinate Bonds Qualified Hedge Payment Account, as applicable. The Port shall transfer sufficient amounts from the CFC Revenue Fund, which, together with amounts on deposit in the Subordinate Bonds Interest Account and the Subordinate Bonds Qualified Hedge Payment Account, as applicable, are necessary to make the amounts on deposit in (i) the Subordinate Bonds Interest Account equal to the interest component of the Accrued Aggregate Debt Service Requirement for such month with respect to the Subordinate Bonds, and (ii) the Subordinate Bonds Qualified Hedge Payment Account equal to any net Qualified Hedge Payment then due or to become due within such month; *provided, however*, that such deposits into the Subordinate Bonds Interest Account shall not be required to be made to the extent sufficient moneys are then on deposit in the Subordinate Bonds Interest Account either from the proceeds of said Subordinate Bonds or from any other source.

The moneys in the Subordinate Bonds Interest Account shall be used only for the payment of the interest on the Subordinate Bonds, both Serial Bonds and Term Bonds, and the Trustee shall transfer to the Paying Agent the necessary moneys to pay all such interest becoming due on each interest payment date not later than such interest payment date. The moneys in the Subordinate Bonds Qualified Hedge Payment Account shall be used only for the payment of Qualified Hedge Payments, and the Trustee shall transfer to the counterparty under the respective Qualified Hedge Agreement the necessary moneys to pay such Qualified Hedge Payment on the next respective payment date.

A separate subaccount shall be set up and maintained in the Subordinate Bonds Interest Account for each Series of Subordinate Bonds.

(e) Subordinate Bonds Principal and Redemption Account. On or before the first day of each month, and after making the deposits provided for in subsections (a) through (d), inclusive, above, the Port shall transfer moneys from the CFC Revenue Fund, in the amounts set

forth in the following sentence, to the Trustee, who shall deposit such amounts into the Subordinate Bonds Principal and Redemption Account. The Port shall transfer sufficient amounts from the CFC Revenue Fund, which, together with amounts on deposit in the Subordinate Bonds Principal and Redemption Account, are necessary to make the amounts on deposit in the Subordinate Bonds Principal and Redemption Account equal to (i) the principal component of Serial Bonds of the Accrued Aggregate Debt Service Requirement for such month with respect to the Subordinate Bonds issued as Serial Bonds, and (ii) the Sinking Fund Installment portion of the Accrued Aggregate Debt Service Requirement for such month with respect to Subordinate Bonds issued as Term Bonds.

The moneys in the Subordinate Bonds Principal and Redemption Account shall be used only for the payment of the principal of the Subordinate Bonds issued as Serial Bonds or the mandatory redemption amounts of the Subordinate Bonds issued as Term Bonds, and the Trustee shall transfer to the Paying Agent the necessary moneys to pay all such principal and/or mandatory redemption amounts becoming due on said Serial Bonds and Term Bonds on each principal maturity date or redemption date prior to such principal maturity date or redemption date.

A separate subaccount shall be set up and maintained in the Subordinate Bonds Principal and Redemption Account for each Series of Subordinate Bonds.

The Trustee shall, at the written direction of the Port, endeavor to purchase Subordinate Bonds issued as Term Bonds and then Outstanding, on the most advantageous terms at a price not exceeding the price at which such Term Bonds may be redeemed on the next ensuing redemption date, either by purchase in the open market or by posting or publishing an appropriate notice at least once at least fourteen (14) days prior to the receipt of tenders on EMMA or in a newspaper or financial journal published in the City of New York, New York, calling for tenders of Term Bonds for purchase by the Trustee. The Trustee shall pay the interest accrued on such Term Bonds so tendered and purchased to the date of delivery thereof from the Subordinate Bonds Interest Account, and the purchase price from the separate account in the Subordinate Bonds Principal and Redemption Account for such issue but no such purchase shall be made by the Trustee within the period of forty-five (45) days next preceding any interest payment date.

Alternative Method of Satisfying Sinking Fund Installment.

The Port may satisfy its obligations under this Section 5.05(e) with respect to the Sinking Fund Installments, on or before the forty-fifth (45<sup>th</sup>) day next preceding each principal payment date on which the Subordinate Bonds issued as Term Bonds are to be redeemed pursuant to the Sinking Fund Installments, by delivering to the Trustee for cancellation, Term Bonds that are Subordinate Bonds of the Series and maturity required to be redeemed on such principal payment date in any aggregate principal amount desired. Upon such delivery, the Port will receive a credit against the amounts required to be deposited into the Subordinate Bonds Interest Account and the Subordinate Bonds Principal and Redemption Account on account of such Term Bonds in an amount equal to one hundred percent (100%) of the principal amount thereof so purchased and cancelled and the interest accruing thereon to the next succeeding Interest Payment Date.

(f) *Subordinate Debt Service Reserve Fund.* On or before the first day of each month, and after making the deposits provided for in subsections (a) through (e), inclusive, above,

the Port shall transfer moneys from the CFC Revenue Fund, in the amounts set forth in the following sentence, to the Trustee, who shall deposit such amounts into the Subordinate Debt Service Reserve Fund, and pro rata into each separate Reserve Account created therein. The Port shall transfer sufficient amounts from the CFC Revenue Fund, which, together with amounts available under any applicable Reserve Fund Credit Enhancement and amounts currently on deposit in the Subordinate Debt Service Reserve Fund and each Reserve Account, are necessary to make the amounts on deposit therein equal to the applicable aggregate Reserve Requirement; provided, however, that:

(i) to the extent the deficiency arises in any month from a withdrawal from the Subordinate Debt Service Reserve Fund and/or any applicable Reserve Account therein to satisfy deposit shortfalls required under subsections (d) and/or (e) above (the deficiency arising from a withdrawal in each such month a “*Subordinate Reserve Deficiency Amount*”), the monthly deposit requirements pursuant to this subsection (f) will be one twelfth (1/12th) of the Subordinate Reserve Deficiency Amount until the aggregate Reserve Requirement has been replenished; and

(ii) if Subordinate Reserve Deficiency Amounts accrue in successive or subsequent months, based on subsequent withdrawals to cure shortfalls under subsections (d) and/or (e) above, the monthly deposit requirements shall be the sum of one twelfth (1/12th) of each respective monthly Subordinate Reserve Deficiency Amount that remains un-replenished.

No further deposits shall be required to be made into the Subordinate Debt Service Reserve Fund or into any separate Reserve Account therein as long as the amounts then on deposit therein are equal to the Reserve Requirement for the Subordinate Debt Service Reserve Fund or, with respect to Subordinate Bonds secured by a separate Reserve Account, for the respective Series of Subordinate Bonds then Outstanding and secured thereby.

The moneys in the Subordinate Debt Service Reserve Fund shall be used only for the payment of the interest on all Subordinate Bonds, including both Serial Bonds and Term Bonds, the principal of Serial Bonds and the required deposits into the Subordinate Bonds Principal and Redemption Account for Term Bonds as the same mature or become due, whenever the moneys in the Subordinate Bonds Interest Account and Subordinate Bonds Principal and Redemption Account are insufficient therefor. The Subordinate Debt Service Reserve Fund shall serve as a common reserve fund for all Subordinate Bonds for which a separate Reserve Account has not been established. If separate Reserve Accounts in the Subordinate Debt Service Reserve Fund have been established for a Series of Subordinate Bonds, deficiencies in the Subordinate Bonds Interest Account and Subordinate Bonds Principal and Redemption Account with respect to such Subordinate Bonds shall be payable solely from the funds deposited in each respective special Reserve Account created with respect to such Series of Subordinate Bonds, or from the respective Reserve Fund Credit Enhancement acquired with respect thereto, and not from other funds deposited in the Subordinate Debt Service Reserve Fund. Funds on deposit in the Subordinate Debt Service Reserve Fund or the separate Reserve Accounts therein established for a Series of Subordinate Bonds in excess of the respective Reserve Requirement, may be withdrawn at the Port’s request and deposited as directed by the Port. All deficiencies in said Subordinate Debt Service Reserve Fund, including each Reserve Account created thereunder, shall be restored, to

the extent required pursuant to the foregoing, from the first available moneys in the CFC Revenue Fund after making all prior required deposits into the Subordinate Bonds Interest Account and the Subordinate Bonds Principal and Redemption Account.

Upon the issuance of a Series of Subordinate Bonds, or at any time in replacement of moneys then on deposit in the Subordinate Debt Service Reserve Fund or a separate Reserve Account, in lieu of making a cash deposit to the Subordinate Debt Service Reserve Fund or a separate Reserve Account therein, or in substitution therefor, the Port may deliver to the Trustee a Reserve Fund Credit Enhancement in an amount which, together with moneys, securities or other Reserve Fund Credit Enhancements on deposit in or credited to the Subordinate Debt Service Reserve Fund or any Reserve Account therein, as applicable, equals or exceeds the Reserve Requirement for the Subordinate Debt Service Reserve Fund or a separate Reserve Account therein, as applicable, provided that:

(A) All such Reserve Fund Credit Enhancements (i) will name the Trustee as beneficiary or insured, (ii) will have a term of not less than the maturity of such Subordinate Bonds for which such Reserve Fund Credit Enhancement was issued, or if issued to replace cash proceeds then existing in the Subordinate Debt Service Reserve Fund or a specific Reserve Account thereunder, the final maturity of the last maturing Subordinate Bond then Outstanding (provided, however, that the provisions of this clause (ii) will not apply if such Reserve Fund Credit Enhancement is a Letter of Credit which, by its terms may be drawn upon at least fifteen (15) days prior to the stated expiration date thereof if a substitute Letter of Credit, or an extension thereof, with a new term of not less than one year has not theretofore been obtained and credited to the Subordinate Debt Service Reserve Fund or such Reserve Account) and (iii) will provide by its terms that it may be drawn upon to make up any deficiencies in the Subordinate Bonds Interest Account or the Subordinate Bonds Principal and Redemption Account on the due date of any interest or principal payment or mandatory sinking fund redemption with respect to such Subordinate Bonds with respect to which such Reserve Fund Credit Enhancement was issued.

(B) Any excess funds on deposit in the Subordinate Debt Service Reserve Fund or Reserve Account, as applicable, after a Reserve Fund Credit Enhancement has been provided shall be deposited into the Subordinate Bonds Interest Account and/or the Subordinate Bonds Principal and Redemption Account and used to pay debt service on or redeem Subordinate Bonds from which such funds were derived or for any other lawful purpose.

(C) The obligation to reimburse the issuer of a Reserve Fund Credit Enhancement for any fees, expenses, claims or draws thereon shall be subordinated to the payment of debt service on the Subordinate Bonds and, subject to the provisions in the following sentence, replenishment of the Subordinate Debt Service Reserve Fund or applicable Reserve Account. Notwithstanding the provisions of the prior sentence, such issuer's right to reimbursement for claims or draws shall be on a parity with the cash replenishment of the Subordinate Debt Service Reserve Fund and the Reserve Accounts therein, provided that the Reserve



Fund Credit Enhancement shall provide for a revolving feature under which the amount available thereunder will be reinstated to the extent of any reimbursement of draws or claims paid. If the revolving feature is suspended or terminated for any reason, the right of such issuer to reimbursement will be subordinated to cash replenishment of the Subordinate Debt Service Reserve Fund and the Reserve Accounts therein, to an amount equal to the difference between the full original amount available under the Reserve Fund Credit Enhancement and the amount then available for further draws or claims. If (a) the issuer of the Reserve Fund Credit Enhancement becomes insolvent or (b) the issuer of the Reserve Fund Credit Enhancement defaults in its payment obligations thereunder or (c) if any two Rating Agencies then maintaining a rating on the issuer of the Reserve Fund Credit Enhancement withdraw or suspend their ratings on such issuer, or if any two such Rating Agencies drop the rating of such issuer's claims-paying ability below "AA-", if S&P, Fitch or Kroll or "Aa3", if Moody's (or the equivalent rating, if rated by another Rating Agency), the obligation to reimburse the issuer of the Reserve Fund Credit Enhancement shall be subordinated to the cash replenishment of the Subordinate Debt Service Reserve Fund and the Reserve Accounts therein until the requisite ratings have been re-established.

(D) If the Port chooses to provide or substitute a Reserve Fund Credit Enhancement in lieu of a cash-funded Subordinate Debt Service Reserve Fund or Reserve Account, any amounts owed by the Port to the issuer of such Reserve Fund Credit Enhancement as a result of a draw thereon or a claim thereunder, as appropriate, shall be included in determining amounts required to be deposited to the credit of the Subordinate Debt Service Reserve Fund or the applicable Reserve Account and in any other calculation of debt service requirements required to be made pursuant to this Ordinance for any purpose, including Sections 2.07 and 5.01 hereof.

(g) Renewal and Replacement Fund. On or before the last day of each Fiscal Year, and after making the deposits provided for in subsections (a) through (f), inclusive, above, the Port shall transfer \$600,000 from the CFC Revenue Fund to the Renewal and Replacement Fund; provided, however, no such transfer shall be required if the amount on deposit therein equals at least the Renewal and Replacement Fund Requirement.

The moneys in the Renewal and Replacement Fund shall be used only for the payment of costs of renewals, modifications, repairs and replacements of the CFC Projects as determined in the Port's sole discretion. Any moneys in said Fund that the Port determines, in its sole discretion, are in excess of the amounts required to be on deposit therein, may be transferred to and deposited in the CFC Surplus Account.

(h) Major Maintenance Fund. On or before the last day of each Fiscal Year, and after making the deposits provided for in subsections (a) through (g), inclusive, above, the Port shall transfer \$1,000,000 from the CFC Revenue Fund to the Major Maintenance Fund; provided, however, no such transfer shall be required if the amount on deposit therein equals at least the Major Maintenance Fund Requirement.

The moneys in the Major Maintenance Fund shall be used only for the payment of costs of major unexpected maintenance expenses of the CFC Projects as determined in the Port's sole discretion. Any moneys in said Fund that the Port determines, in its sole discretion, are in excess of the amounts required to be on deposit therein, may be transferred to and deposited in the CFC Surplus Account.

(i) CFC Surplus and Rolling Coverage Fund. On or before the last day of each Fiscal Year, and after making the deposits provided for in subsections (a) through (h), inclusive, above, including all deficiencies for prior required deposits and payments, the Port shall withdraw all moneys then remaining in the CFC Revenue Fund and deposit the same into the CFC Surplus Account. The Port may use amounts in the CFC Surplus Account for any lawful purposes consistent with the CFC Ordinance.

Upon the issuance of the initial Series of Bonds, the Port shall deposit into the CFC Rolling Coverage Account an amount equal to twenty-five percent (25%) of the Maximum Debt Service Requirement on Senior Bonds from any lawful source of funds. Amounts in the CFC Rolling Coverage Account may be used for the payment of debt service on Senior Bonds and for no other purposes, but only if the Port determines in its sole discretion that an event of default under Section 8.01(a) or (b) hereof will result without such payment. Any moneys in said Account that the Port determines, in its sole discretion, are in excess of an amount equal to twenty-five percent (25%) of the Maximum Debt Service Requirement on Senior Bonds, may be transferred to and deposited in the CFC Surplus Account. The Port may, but shall not be required to, make additional deposits into the CFC Rolling Coverage Account subsequent to the initial deposit described above.

(j) In the event any of the deposits or payments required under subsections (a) to (h), inclusive, above, are not made when due, then such deficiencies shall be added to the deposits or payments to be made on the next deposit or payment date.

(k) By Supplemental Ordinance, the Port may specify that payment of Reimbursement Obligations and Derivative Non-Scheduled Payments shall be secured by and payable from amounts remaining in the Subordinate Bond Principal and Redemption Account after payment of all amounts owing under Section 5.05(e) hereof or from amounts in the CFC Surplus Account.

(l) The Port may elect to make final payments on Bonds from any fund or account established hereunder so long as no Bonds remain Outstanding after such payment.

Section 5.06. Subordinate Indebtedness Covenant. The Port covenants that any obligations or indebtedness issued by it other than in accordance with the terms hereof, and payable from and secured by the Trust Estate and the other security described in Section 7.01 hereof, shall contain an express statement that such obligations are junior and subordinated in all respects to the Senior Bonds and the Subordinate Bonds issued hereunder as to lien on, source of and security for payment from, the Trust Estate and the other security described in Section 7.01 hereof.

Section 5.07. Funds Held in Trust. Subject to the terms and conditions set forth in this Ordinance, moneys to the credit of the Senior Bonds Interest Account, the Senior Bonds Principal

and Redemption Account, the Subordinate Bonds Interest Account and the Subordinate Bonds Principal and Redemption Account shall be held in trust and disbursed by the Trustee for (a) the payment of interest on all Senior Bonds and Subordinate Bonds, as applicable, issued hereunder as such interest falls due, and (b) the payment of principal of all applicable Serial Bonds as such principal falls due and for the making of all required payments into the Senior Bonds Principal and Redemption Account or the Subordinate Bonds Principal and Redemption Account for applicable Term Bonds as the same become due, and such moneys are hereby pledged to and charged with the payments mentioned in this Section in the manner hereinbefore provided.

Section 5.08. Unclaimed Funds. All moneys which the Trustee shall have withdrawn from the Senior Debt Service Fund or the Subordinate Debt Service Fund or shall have received from any other source and set aside, or deposited with the Paying Agent, for the purpose of paying any of the applicable Bonds, either at the maturity thereof or upon call for redemption, together with interest and premiums, if any, thereon, shall be held in trust for the respective Holders of such Bonds and invested in accordance with Section 6.02 hereof until applied in accordance with this Section. Any moneys which shall be so set aside or deposited by the Trustee and which shall remain unclaimed by the Holders of such Bonds for the period of five (5) years after the date on which such Bonds shall have become payable (or such shorter or longer period of time as may be specified under State law), together with interest earnings thereon, shall be paid to the Port, and thereafter the Holders of such Bonds shall look only to the Port for payment, and then only to the extent of the amounts so received without any interest thereon, and the Trustee and the Paying Agent shall have no responsibility with respect to such moneys.

Section 5.09. Cancellation Certificates. All Bonds paid, redeemed or purchased, either at or before maturity, shall be delivered to the Trustee when such payment, redemption or purchase is made and such Bonds shall thereupon be cancelled.

## **ARTICLE VI. DEPOSITORIES OF MONEYS, SECURITY FOR DEPOSITS, AND INVESTMENTS OF FUNDS**

Section 6.01. Depositaries. All amounts held under this Ordinance in the Senior Debt Service Fund, the Senior Debt Service Reserve Fund, the Subordinate Debt Service Fund and the Subordinate Debt Service Reserve Fund shall be deposited with the Trustee, to the extent herein required, or with one or more other banks or trust companies designated by the Port (each such depository, including the Trustee, being herein referred to as a “Depository”). All moneys deposited under the provisions of this Ordinance with the Trustee or any other Depository shall be held in trust and applied only in accordance with the provisions of this Ordinance, and shall not be subject to lien or attachment by any creditor of the Port. All moneys deposited with each Depository, including the Trustee, shall be credited to the particular Fund or Account to which such moneys belong.

Section 6.02. Investment of Certain Funds; Valuation; Disposition of Investment Income. Moneys on deposit with the Trustee to the credit of the Senior Debt Service Fund, the Senior Debt Service Reserve Fund, the Subordinate Debt Service Fund and the Subordinate Debt Service Reserve Fund shall be invested and reinvested in Permitted Investments. Such investments or reinvestments shall mature not later than the respective dates, as estimated by the Port, when the

moneys held for the credit of said Funds or Accounts will be needed for the purposes of such Funds or Accounts, except that the moneys in the Senior Debt Service Reserve Fund and the Subordinate Debt Service Reserve Funds may be invested and reinvested for a period of not exceeding fifteen years from the date of the making of such investments or reinvestments.

The Port will direct the Trustee in writing with respect to the investment and reinvestment of amounts held in the funds and accounts held by the Trustee hereunder. Amounts held by the Port hereunder shall be invested in Permitted Investments at the Port's discretion. The Trustee shall be entitled to assume, absent receipt by the Trustee of written notice to the contrary, that any investment which qualified as "Permitted Investments" at the time of purchase continues to qualify as "Permitted Investments" thereafter.

The Port acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Port the right to receive brokerage confirmations of securities transactions as they occur, the Port specifically waives receipt of such confirmations to the extent permitted by law. The Trustee will furnish the Port with periodic account statements as provided herein which shall include detail for all investment transactions made by the Trustee hereunder.

Obligations purchased as an investment of moneys in any Fund or Account shall be deemed at all times to be a part of such Fund or Account, and shall at all times, for the purposes of this Ordinance, be valued at the cost thereof at the time of purchase, without regard to fluctuation in market value. The Trustee or the Port, as the case may be, shall sell at the best price obtainable any obligations so purchased whenever it shall be necessary so to do in order to provide moneys to meet any payment or transfer from such Funds or Accounts. Neither the Trustee nor the Port shall be liable or responsible for any loss resulting from any such investments or reinvestments.

All income derived from the investment of moneys in the Senior Debt Service Fund, the Senior Debt Service Reserve Fund, the Subordinate Debt Service Fund and the Subordinate Debt Service Reserve Fund shall be retained in such funds or accounts. Income derived from the investment of moneys in all other funds and accounts established hereunder shall be credited or transferred to the CFC Revenue Fund.

## **ARTICLE VII. PARTICULAR COVENANTS**

Section 7.01. Pledge and Security Interest Granted to the Bondholders; Payment of Bonds.

(a) *Pledge and Security Interest.* For and in consideration of the premises and the mutual covenants herein contained, of the acceptance by the Trustee of the trusts hereby created, and of the purchase and acceptance of the Bonds by the Bondholders thereof from time to time, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, in order to secure the payment of the principal, and premium, if any, of and interest on the Bonds which are at any time Outstanding, and the performance and observance by the Port of all the covenants and conditions expressed or implied herein and contained in the Bonds, effective when the initial Bonds are issued, the Port does hereby grant, bargain, sell,

convey, assign, pledge, transfer and set over to the Trustee, its successors in trust and their assigns, without recourse, all of the following:

(i) the CFCs;

(ii) with respect to the Senior Bonds, all moneys, investments and proceeds of Senior Bonds on deposit in the Construction Fund, the CFC Revenue Fund, the Senior Debt Service Fund (including the Senior Bonds Interest Account, the Senior Bonds Principal and Redemption Account and the Senior Bonds Qualified Hedge Payment Account), the Senior Debt Service Reserve Fund and any Reserve Account established thereunder (provided that the applicable Series of Senior Bonds is secured by the Senior Debt Service Reserve Fund or any separate Reserve Account as provided in a Supplemental Ordinance), the Subordinate Debt Service Fund (except for any proceeds of Subordinate Bonds or earnings on such proceeds that are on deposit in the Subordinate Debt Service Fund), any Subordinate Debt Service Reserve Fund (except for any proceeds of Subordinate Bonds or earnings on such proceeds that are on deposit in any Subordinate Debt Service Reserve Fund), the Renewal and Replacement Fund, the Major Maintenance Fund and the CFC Surplus and Rolling Coverage Fund (including the CFC Rolling Coverage Account and the CFC Surplus Account) and interest and investment earnings thereon, subject to the provisions of Section 5.08 hereof regarding moneys for the benefit of the holders of a particular Series of Senior Bonds,

(iii) with respect to the Subordinate Bonds, subject to the prior lien granted to the Owners of the Senior Bonds, all moneys, investments and proceeds of Subordinate Bonds on deposit in the Construction Fund, the CFC Revenue Fund, the Subordinate Debt Service Fund (including the Subordinate Bonds Interest Account, the Subordinate Bonds Principal and Redemption Account and the Subordinate Bonds Qualified Hedge Payment Account), any Subordinate Debt Service Reserve Fund and any Reserve Account established thereunder (provided that the applicable Series of Subordinate Bonds is secured by the Subordinate Debt Service Reserve Fund or any separate Reserve Account as provided in a Supplemental Ordinance), the Renewal and Replacement Fund, the Major Maintenance Fund and the CFC Surplus Account and interest and investment earnings thereon, subject to the provisions of Section 5.08 hereof regarding moneys for the benefit of the holders of a particular Series of Subordinate Bonds, and

(iv) all other moneys, revenues, investments and rights granted, pledged or assigned by the Port to the Trustee hereunder, under a Supplemental Ordinance or under any other Ordinance, instrument or agreement of the Port.

(b) Payment of Bonds. The Port covenants that it will promptly pay the principal of and the interest on every Bond issued under the provisions of this Ordinance at the places, on the dates and in the manner provided herein and in said Bonds and any premium required for the retirement of said Bonds by purchase or redemption, according to the true intent and meaning thereof. The principal of, and interest and premium, if any, on the Bonds are payable solely from the Trust Estate in the manner, in the order of priority and to the extent provided in this Ordinance.

The Bonds shall not in any manner or to any extent constitute general obligations of the Port or the State, or of any political subdivision of the State.

Section 7.02. Covenants with Respect to CFCs and Contingent Fee Payments. The Port covenants that so long as Bonds are outstanding hereunder, it will not take any action or omit to take any action with respect to the CFCs or the Contingent Fee Payments if such action or omission would jeopardize the validity or enforceability of the imposition of CFCs or the Contingent Fee Payments, as the case may be, or impede the Port's ability to impose and collect CFCs or Contingent Fee Payments in the amounts contemplated hereby, in the Concessionaire Agreements and the CFC Ordinance. The Port covenants to exercise its rights under the Concessionaire Agreements with respect to Security Deposits (as such term is defined in the Concessionaire Agreement), if necessary, in connection with its levy, imposition and collection of Contingent Fee Payments.

Section 7.03. Construction of CFC Projects. The Port covenants that upon the receipt of the proceeds of the initial Series of Bonds issued hereunder, and any Additional Bonds issued under the provisions of Section 2.07 or Section 2.08 (with respect to Completion Bonds) of this Ordinance, it will to the full extent of its legal powers, proceed to acquire and construct the CFC Projects for which such Bonds were issued, substantially in accordance with the plans and specifications therefor, and in conformity with law and all requirements of all governmental agencies having jurisdiction over such CFC Projects, and that it will complete such acquisition and construction with all expedition practicable.

Section 7.04. Liens. The Port covenants that it will not create or suffer to be created any lien or charge upon the Trust Estate except the lien and charge created hereunder in favor of the Bonds secured hereby and the lien and charge thereon in favor of Reimbursement Obligations and Qualified Hedge Payments.

Section 7.05. CFC Ordinance. The Port hereby covenants that so long as any of the Bonds remain Outstanding, it will levy and collect CFCs pursuant to the CFC Ordinance.

Section 7.06. Operation and Maintenance of the ConRAC. As long as any Bonds remain Outstanding, and for so long as the ConRAC is being used as Rental Car Facilities (as such term is defined in the CFC Ordinance), the Port shall exercise its rights under the Concessionaire Agreements to require the Concessionaires to operate and maintain the ConRAC in good condition for the purposes for which it was constructed, reasonable wear and tear excepted, all as determined by the Port in its reasonable discretion.

Section 7.07. Insurance. The Port will carry, or require the Concessionaires to carry, insurance with generally recognized responsible insurers for risks, accidents or casualties with respect to the ConRAC at least to the extent that similar insurance is usually carried by airport operators operating properties similar to the ConRAC, provided, however, the Port may self-insure against such risks, accidents or casualties in its reasonable discretion, and provided further, the Port will be deemed to be in compliance with this Section 7.07 so long as it is in compliance with its obligations with respect to insurance set forth in the Concessionaire Agreements.

**ARTICLE VIII.  
EVENTS OF DEFAULT; REMEDIES**

Section 8.01. Events of Default. Each of the following events is hereby declared an “event of default”:

(a) payment of the principal and premium, if any, of or for any of the Senior Bonds shall not be made when the same shall become due and payable, either at maturity or on required payment dates by proceedings for redemption or otherwise; or

(b) payment of any installment of interest on Senior Bonds shall not be made when the same shall become due and payable on the required payment dates; or

(c) payments or transfers by the Port required by Section 5.05 hereof shall not be made within thirty (30) days after the same shall be required; or

(d) an admission of insolvency by the Port or a filing by the Port of a petition under Chapter 9 of the United States Bankruptcy Code; or

(e) the Port shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Senior Bonds or in this Ordinance, and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the Port by the Trustee at the direction of the Holders of not less than ten percent (10%) in principal amount of the Senior Bonds then Outstanding, provided, however, if such default cannot with due diligence and dispatch be wholly cured within 30 days but can be wholly cured, the failure of the Port to remedy such default within such 30-day period shall not constitute a default hereunder if the Port shall immediately upon receipt of such notice commence with due diligence and dispatch the curing of such default and, having so commenced the curing of such default, shall thereafter prosecute and complete the same with due diligence and dispatch.

AS LONG AS ANY SENIOR BONDS REMAIN OUTSTANDING, NO EVENT OF DEFAULT SHALL EXIST OR MAY BE DECLARED WITH RESPECT TO ANY SUBORDINATE BONDS.

Section 8.02. Remedies. Upon the happening and continuance of any event of default specified in Section 8.01 hereof, then and in every such case the Trustee may proceed, and upon the written request of the Holders of not less than twenty-five percent (25%) in principal amount of the Senior Bonds then Outstanding hereunder, and furnished with reasonable indemnity in accordance with Section 9.02 hereof, shall proceed, subject to the provisions of Section 9.02 hereof, to protect and enforce its right and the rights of the Senior Bondholders under the laws of the State, or under this Ordinance by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board, body or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights. Such remedy shall include the right to the appointment of a receiver for the Trust Estate, which receiver shall be under the duty of collecting and distributing the Trust Estate pursuant to the

provisions and requirements of this Ordinance to the extent permitted by law. Additionally, the rights and remedies which the Trustee may or shall exercise include, but are not limited to, all or any of the following; provided, however, that no Bond issued hereunder may be declared due and payable before its scheduled maturity or mandatory redemption date:

(a) The right in its own name by any action, writ, or other proceeding to enforce all rights of the Bondholders, including the right to require the Port to perform its duties under this Ordinance;

(b) The right to bring an action upon all or any part of the Bonds or claims appurtenant thereto; or

(c) The right, by action, to enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders.

In the enforcement of any remedy under this Ordinance the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then or during any default becoming, and at any time remaining due from the Port for principal, premium, interest or otherwise under any of the provisions of this Ordinance or of the Bonds and unpaid, with interest on overdue payments at the rate or rates of interest specified in such Bond together with any and all costs and expenses of collection and of all proceedings hereunder and under such Bonds without prejudice to any other right or remedy of the Trustee or of the Bondholders, and to recover and enforce judgment or decree against the Port, but solely as provided herein and in such Bonds, for any portion of such amounts remaining unpaid, with interest, costs and expenses, and to collect (but solely from moneys in the Senior Debt Service Fund or the Subordinate Debt Service Fund, as applicable, and any other moneys available for such purpose) in any manner provided by law, the moneys adjudged or decreed to be payable.

**Section 8.03. Application of Funds After Default.**

(a) If at any time the moneys in the Senior Debt Service Fund shall not be sufficient to pay the principal of or the interest on the applicable Senior Bonds and the applicable Qualified Hedge Payments as the same become due and payable, such moneys, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article or otherwise, shall be applied as follows:

(i) Unless the principal of all the Senior Bonds shall have become due and payable, all such moneys shall be applied (1) to the payment of all installments of interest and Qualified Hedge Payments then due, in the order of the maturity of the installments of such interest and Qualified Hedge Payments, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Senior Bonds or the Qualified Hedge Payments, and (2) to the payment of all installments or principal then due in the order of the maturity of such installments of principal.

(ii) If the principal of all the Senior Bonds shall have become due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Senior Bonds, without preference or priority of principal over



interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Senior Bond over any other Senior Bond, or any Qualified Hedge Payment over any payment due with respect to the Senior Bonds, ratably, according to the amounts due, respectively, for principal, interest and Qualified Hedge Payments, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Senior Bonds.

(b) If at any time the moneys in the Subordinate Debt Service Fund shall not be sufficient to pay the principal of or the interest on the applicable Subordinate Bonds and the applicable Qualified Hedge Payments as the same become due and payable, such moneys, together with any moneys then available or thereafter becoming available for such purpose, whether through the exercise of the remedies provided for in this Article or otherwise, after payment in full of all amounts owing with respect to any Senior Bonds, shall be applied as follows:

(i) Unless the principal of all the Subordinate Bonds shall have become due and payable, all such moneys shall be applied (1) to the payment of all installments of interest and Qualified Hedge Payments then due, in the order of the maturity of the installments of such interest and Qualified Hedge Payments, to the persons entitled thereto, without any discrimination or preference except as to any difference in the respective rates of interest specified in the Subordinate Bonds or the Qualified Hedge Payments, and (2) to the payment of all installments or principal then due in the order of the maturity of such installments of principal.

(ii) If the principal of all the Subordinate Bonds shall have become due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Subordinate Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Subordinate Bond over any other Subordinate Bond, or any Qualified Hedge Payment over any payment due with respect to the Subordinate Bonds, ratably, according to the amounts due, respectively, for principal, interest and Qualified Hedge Payments, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Subordinate Bonds.

The provisions of this Section are in all respects subject to the provisions of Section 8.02 hereof.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by the Trustee at such times, and from time to time, as the Trustee in its sole discretion shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future; the deposit of any of such moneys with any of the Paying Agent, or otherwise setting aside such moneys, in trust for the proper purpose shall constitute proper application by the Trustee; and the Trustee shall incur no liability whatsoever to the Port to any Bondholder or to any other person for any delay in applying any such moneys, so long as the Trustee acts with reasonable diligence, having due regard to the circumstances and ultimately applies the same in accordance with such provisions of this Ordinance as may be applicable at the

time of application by the Trustee. Whenever the Trustee shall exercise such discretion in applying such moneys, it shall fix the date (which shall be an interest payment date unless the Trustee shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such date shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the fixing of any such date, and shall not be required to make payment to the holder of any Bond unless such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 8.04. Discontinuance of Proceedings. In case any proceeding taken by the Trustee on account of any default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee, then and in every such case the Port, the Trustee and the Bondholders shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of the Trustee shall continue as though no such proceeding had been taken.

Section 8.05. Holder's Control of Proceeding. Anything in this Ordinance to the contrary notwithstanding, the Holders of a majority in principal amount of the Senior Bonds then Outstanding hereunder shall have the right, subject to the provisions of Section 9.02 hereof, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law or the provisions of this Ordinance, and that the Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to Bondholders not parties to such direction.

Section 8.06. Restriction on Bondholder's Action. No holder of any of the Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust hereunder or for any other remedy hereunder unless such holder previously shall have given to the Trustee written notice of the event of default on account of which such suit, action or proceeding is to be taken, and unless the Holders of not less than twenty-five percent (25%) in principal amount of the Senior Bonds then Outstanding shall have made written request of the Trustee after the right to exercise such powers or right of action, as the case may be, shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceeding in its or their name, and unless, also, there shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, and the Trustee shall have refused or neglected to comply with such request within a reasonable time; and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the enactment of the powers and trusts of this Ordinance or for any other remedy hereunder. It is understood and intended that no Holder of the Bonds hereby secured shall have any right in any manner whatever by his or her or their action to affect, disturb or prejudice the security of this Ordinance, or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the benefit of all Holders of the Outstanding Bonds.

Section 8.07. Proceedings by Trustee. All rights of action under this Ordinance or under any of the Bonds secured hereby, enforceable by the Trustee, may be enforced by it without the possession of any of the Bonds or the production thereof on the trial or other proceeding relative thereto, and any such suit, action or proceeding instituted by the Trustee shall be brought in its name for the benefit of all the Holders of such Bonds subject to the provisions of this Ordinance.

Section 8.08. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Trustee or to the Holders of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or equity or by statute.

Section 8.09. Waivers and Delays in Enforcement. No delay or omission of the Trustee or of any holder of the Bonds to exercise any right or power accruing, upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Ordinance to the Trustee and the Holders of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient; provided, however, no such power or remedy may be exercised in the case of a default where such particular default has later been cured with or without the exercise of such power or remedy.

The Trustee may, and upon written request of the Holders of not less than a majority in principal amount of the Senior Bonds then Outstanding shall, waive any default which shall have been remedied before the entry of any judgment or decree in any suit, action or proceeding instituted by it under the provisions of this Ordinance or before the completion of the enforcement of any other remedy under this Ordinance, but no such waiver shall extend to or affect any other existing or any subsequent default or defaults or impair any rights or remedies consequent thereon.

Section 8.10. Notice of Default to Holders. The Trustee shall mail or deliver to all Bondholders who shall have filed their names and addresses with the Trustee for such purpose, written notice of the occurrence of any event of default set forth in clauses (a) or (b) of Section 8.01 hereof within thirty (30) days after any such event of default shall have occurred. The Trustee shall not, however, be subject to any liability to any Bondholder by reason of its failure to mail or deliver any such notice.

## **ARTICLE IX. CONCERNING THE TRUSTEE**

Section 9.01. Duties of Trustee. The Trustee shall accept and agree to the trusts imposed upon it by this Ordinance, but only upon the terms and conditions set forth in this Article and subject to the provisions of this Ordinance. All funds created under this Ordinance to be held by the Trustee shall be administered as trust funds as herein provided.

Section 9.02. Trustee's Duties as to Proceedings. The Trustee shall be under no obligation to institute any suit, or to take any remedial proceeding under this Ordinance, or to enter any appearance or in any way defend in any suit in which it may be made defendant, or to take any steps in the execution of the trust hereby created or in the enforcement of any rights and powers hereunder, until it shall be indemnified to its satisfaction against any and all costs and expenses,

outlays and counsel fees and other reasonable disbursements, and against all liability; the Trustee may, nevertheless, begin suit, or appear in and defend suit, or do anything else in its judgment reasonably proper to be done by it as such Trustee, without indemnity, and in any such case the Port shall reimburse the Trustee from the Trust Estate for all costs and expenses, outlays and counsel fees and other reasonable disbursements properly incurred in connection therewith.

Section 9.03. Trustee's Duties as to Insurance; Validity. The Trustee shall be under no obligation, to effect or maintain insurance or to renew any policies of insurance or to inquire as to the sufficiency of any policies of insurance carried by the Port, or to report, or make or file claim or proof of loss for, any loss or damage insured against or which may occur, or to keep itself informed or advised as to the payment of any taxes or assessment, or to require any such payment to be made. The Trustee shall have no responsibility in respect of the validity or sufficiency of this Ordinance or the due execution or acknowledgment thereof, or in respect of the validity of the Bonds or the due execution or issuance thereof.

Section 9.04. Responsibilities as to Collections, Deposits and Application of Funds. The Trustee shall not be liable or responsible because of the failure of the Port or any of its employees or agents to make any collections or deposits or to perform any act herein required of them or because of the loss of any moneys arising through the insolvency or the act or default or omission of any other Depository or paying agent other than itself in which such moneys shall have been deposited under the provisions of this Ordinance. The Trustee shall not be responsible for the application of any of the proceeds of the Bonds or any other moneys deposited with it and paid out, withdrawn or transferred in accordance with the provisions of this Ordinance. The immunities and exemptions from liability of the Trustee hereunder shall extend to its directors, officers, employees and agents.

Section 9.05. Compensation. Subject to the provisions of any contract between the Port and the Trustee, the Port shall pay to the Trustee reasonable compensation for all services performed by it hereunder and also all of its reasonable expenses, charges and other disbursements and those of its attorneys, agents and employees incurred in and about the administration and execution of the trusts hereby created and the performance of its powers and duties hereunder, and, from the Trust Estate only, shall indemnify and save the Trustee harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder and which are not due to its own negligence or default. If the Port shall fail to make any payment required by this Section, the Trustee may make such payment from any moneys in its possession under the provisions of this Ordinance and shall be entitled to a preference therefor over any of the Bonds Outstanding hereunder. Under no circumstances shall the Trustee be required to expend any of its own funds for any purpose for which funds are to be disbursed under this Ordinance.

Section 9.06. Reliance. In case at any time it shall be necessary or desirable for the Trustee to make an investigation respecting any fact preparatory to taking or not taking any action or doing or not doing anything as such Trustee and in any case in which this Ordinance provides for permitting or taking any action, the Trustee may rely upon any certificate required or permitted to be filed with it under the provisions of this Ordinance, and any such certificate shall be evidence of such fact to protect the Trustee in any action that it may or may not take or in respect of anything it may or may not do, in good faith, by reason of the supposed existence of such fact. Except as otherwise provided in this Ordinance, any request, notice or other instrument from the Port to the

Trustee shall be deemed to have been signed by the proper party or parties if signed by the Executive Director of the Port or his or her designee and the Trustee may accept a certificate signed by said Executive Director or his or her designee as to any action taken by the Port.

Section 9.07. Notice of Events. Except as otherwise provided in this Ordinance, the Trustee shall not be obligated to take notice or be deemed to have notice of any event of default hereunder except as to the funds held by it or other defaults actually known to it unless specifically notified in writing of such event of default by a holder or Holders of said Bonds.

Section 9.08. Trustee as Bondholder. The bank or trust company acting as Trustee under this Ordinance, and their respective directors, officers, employees or agents, may in good faith buy, sell, own, hold and deal in any of the Bonds issued under and secured by this Ordinance and may join in any action which any Bondholder may be entitled to take with like effect as if such bank or trust company were not the Trustee under this Ordinance.

Section 9.09. Actions in Good Faith. The Trustee shall be protected and shall incur no liability in acting or proceeding, or in not acting or not proceeding, in good faith, reasonably and in accordance with the terms of this Ordinance, upon any ordinance, resolution, order, notice, request, consent, waiver, certificate, statement, affidavit, requisition, bond or other paper or document which it shall in good faith reasonably believe to be genuine and to have been adopted or signed by the proper board or person, or to have been prepared and furnished pursuant to any of the provisions of this Ordinance, or upon the written opinion of any attorney, engineer or accountant believed by the Trustee to be qualified in relation to the subject matter. The Trustee shall not be bound to recognize any person as a holder of any Bond or to take any action at his or her request unless proof of ownership of such Bond satisfactory to the Trustee has been exhibited to or deposited with the Trustee.

The Trustee shall exercise such of the rights and powers vested in it by this Ordinance, and use the same degree of care and skill in their exercise as a prudent person would exercise under the circumstances in the conduct of his or her own affairs.

Section 9.10. Resignation. The Trustee may resign and thereby become discharged from the trusts hereby created, by notice in writing to be given to the Port and to any Bondholder who has filed his or her name and address with the Trustee for such purpose and posted on EMMA, not less than sixty (60) days before such resignation is to take effect, but such resignation shall take effect immediately upon the appointment of a new Trustee hereunder, if such Trustee shall be appointed before the time limited by such notice and shall then accept the trusts hereof.

Section 9.11. Removal. The Trustee may be removed by the Port at any time and a successor Trustee may be appointed hereunder by the Port.

Section 9.12. Vacancies; Successor Trustee. If at any time hereafter the Trustee shall resign, be removed, be dissolved or otherwise become incapable of acting, or the bank or trust company acting as Trustee shall be taken over by any governmental official, agency, department or board, the position of Trustee shall thereupon become vacant. If at any time moneys on deposit with the Trustee shall not be secured as required in Section 6.01 of this Ordinance, a vacancy in the position of Trustee may be declared by a certificate of the Executive Director or his or her

designee. If the position of Trustee shall become vacant for any of the foregoing reasons or for any other reason, the Port shall appoint a Trustee to fill such vacancy.

If no appointment of a successor Trustee shall be made pursuant to the foregoing provisions of this Article, the holder of any Bond Outstanding hereunder or any retiring Trustee may apply to any court of competent jurisdiction, at the cost of the Port, to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

Any Trustee hereafter appointed shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and having a combined capital and surplus aggregating not less than seventy-five million dollars (\$75,000,000).

Section 9.13. Acceptance by Successor of Duties. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Port an instrument in writing accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, shall become fully vested with all the rights, immunities, powers and trusts, and subject to all the duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of its successor or of the Port, and upon payment of the compensation, expenses, charges and other disbursements of such predecessor which are payable pursuant to the provisions of Section 9.05 of this Article, execute and deliver an instrument transferring to such successor Trustee all the rights, immunities, powers and trusts of such predecessor hereunder; and every predecessor Trustee shall deliver all property and moneys held by it hereunder to its successor. Should any instrument in writing from the Port be required by any successor Trustee for more fully and certainly vesting in such Trustee the rights, immunities, powers and trusts hereby vested or intended to be vested in the predecessor Trustee, any such instrument in writing shall and will, on request, be executed, acknowledged and delivered by the Port.

Notwithstanding any of the foregoing provisions of this Article, any bank or trust company having power to perform the duties and execute the trusts of this Ordinance and otherwise qualified to act as Trustee hereunder with or into which the bank or trust company acting as Trustee may be merged or consolidated, or to which the assets and business of such bank or trust company may be sold, shall be deemed the successor of the Trustee.

**ARTICLE X.**  
**EXECUTION OF INSTRUMENTS OF BONDHOLDERS**  
**AND PROOF OF OWNERSHIP OF BONDS**

Section 10.01. Evidence of Signatures of Bondholders and Ownership of Bonds. Any request, direction, consent or other instrument in writing required or permitted by this Ordinance to be signed or executed by Bondholders may be in any number of concurrent instruments of similar tenor and may be signed or executed by such Bondholders in person or by agent appointed by an instrument in writing. Proof of the execution of any such instrument and of the ownership of Bonds shall be sufficient for any purpose of this Ordinance, and shall be conclusive in favor of

the Trustee with regard to any action taken by it under such instrument, if made in the following manner:

(a) The fact and date of the execution by any person of any such instrument may be proved by the verification of any officer in any jurisdiction who, by the laws thereof, has power to take affidavits within such jurisdiction, to the effect that such instrument was subscribed and sworn to before him, or by an affidavit of a witness to such execution.

(b) The fact of the holding of Bonds hereunder by any Bondholder and the number of such Bonds and the date of his or her holding the same (unless such Bonds be registered) may be proved by the affidavit of the person claiming to be such holder, if such affidavit shall be deemed by the Trustee to be satisfactory, or by a certificate executed by any trust company, bank, banker or any other depository, wherever situated, if such certificate shall be deemed by the Trustee to be satisfactory, showing that at the date therein mentioned such person had on deposit with such trust company, bank, banker or other depository the Bonds described in such certificate. The Trustee may conclusively assume that such ownership continues until written notice to the contrary is served upon the Trustee. The ownership of Bonds registered as to principal or as to principal and interest shall be proved by the registration books kept by the Trustee under the provisions of this Ordinance.

None of the provisions contained in this Article, however, shall be construed as limiting the Trustee to such proof, it being intended that the Trustee may accept any other evidence of the matters herein stated which to it may seem sufficient. Any request or consent of the holder of any Bond shall bind every future holder of the same Bond in respect of anything done by the Trustee in pursuance of such request or consent.

## **ARTICLE XI. SUPPLEMENTAL ORDINANCES**

Section 11.01. Supplements Not Requiring Bondholder Consent. The Port may, from time to time and at any time, enact such Supplemental Ordinances as shall not be inconsistent with the terms and provisions of this Ordinance (which Supplemental Ordinances shall thereafter form a part hereof):

(a) To provide for the issuance of Additional Bonds pursuant to Sections 2.07 and 2.08 hereof; or

(b) To cure any ambiguity or formal defect or omission in this Ordinance or in any Supplemental Ordinance; or

(c) To grant to or confer upon the Trustee for the benefit of the Bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Bondholders or the Trustee;

(d) To provide for the issuance of Subordinate Bonds, including without limitation, to provide covenants and agreements of the Port with respect to Subordinate Bonds; or

(e) To make any other changes or modifications to or to otherwise amend this Ordinance in any manner that does not, in the reasonable judgment of the Port, materially adversely affect the interests or rights of any of the Holders of the Bonds issued pursuant to the terms hereof and then Outstanding.

No such amendment shall affect the payment of debt service on the Bonds when due unless the Bond Insurer, if any, shall have first consented to such amendments.

Section 11.02. Modifications Requiring Bondholder Consent. Subject to the terms and provisions contained in this Section and not otherwise, the Holders of not less than a majority in aggregate principal amount of the Senior Bonds then Outstanding, shall have the right, from time to time, anything contained in this Ordinance to the contrary notwithstanding, to consent to and approve the enactment by the Port of such Supplemental Ordinances as shall be deemed necessary or desirable by the Port for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Ordinance or in any Supplemental Ordinance; provided, however, that nothing herein contained shall permit, or be construed as permitting (a) an extension of the maturity of principal of or the interest on any Bond issued hereunder, or (b) a reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon, or (c) the creation of a lien upon or pledge of the Trust Estate ranking prior to the lien or pledge created by this Ordinance for the Senior Bonds, or (d) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Ordinance. Nothing herein contained, however, shall be construed as making necessary the approval by Bondholders of the enactment of any Supplemental Ordinance as authorized in Section 11.01 hereof.

If at any time the Port shall propose to enact any Supplemental Ordinance for any of the purposes of this Section, the Trustee shall cause notice of the proposed enactment of such Supplemental Ordinance to be posted on EMMA and delivered by Electronic Means to all registered owners of Senior Bonds then Outstanding, at their addresses as they appear on the registration books and to all other Senior Bondholders who shall have filed their names and addresses with the Trustee for such purpose. Such notice shall briefly set forth the nature of the proposed Supplemental Ordinance and shall state that a copy thereof is on file at the office of the Trustee for inspection by all Senior Bondholders. The Trustee shall not, however, be subject to any liability to any Senior Bondholder by reason of its failure to deliver the notice required in this Section, and any such failure shall not affect the validity of such Supplemental Ordinance when consented to and approved as provided in this Section.

Holders of Bonds issued pursuant to Supplemental Ordinances containing amendments and providing that the Holders of such Bonds, by acceptance thereof, consent to and approve the terms thereof, shall be deemed to have consented to such amendments for all purposes hereof.

If the Holders of not less than a majority of the Senior Bond Obligation Outstanding at the time of the enactment of such Supplemental Ordinances shall have consented to and approved the execution thereof as herein provided, no holder of any Bonds shall have any right to object to the enactment of such Supplemental Ordinance or to object to any of the terms and provisions contained therein or in the operation thereof, or in any manner to question the propriety of the



execution thereof, or to enjoin or restrain the Trustee or the Port from executing the same or from taking any action pursuant to the provisions thereof.

Upon the enactment of any Supplemental Ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Ordinance of the Port, the Trustee and all Holders of Bonds then Outstanding, shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

Section 11.03. Trustee Joinder. The Trustee is authorized to join with the Port in making the further agreements and stipulations which may be contained in the Supplemental Ordinance. Any Supplemental Ordinance enacted in accordance with the provisions of this Article shall thereafter form a part of this Ordinance and all of the terms and conditions contained in any such Supplemental Ordinance as to any provisions authorized to be contained therein shall be and shall be deemed to be part of the terms and conditions of this Ordinance for any and all purposes. In case of the enactment of any Supplemental Ordinance, express reference may be made thereto in the text of any Bonds issued thereafter, if deemed necessary or desirable by the Trustee or the Port.

Section 11.04. Trustee's Reliance on Opinions. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, the opinion of any counsel approved by it, who may be counsel for the Port, as conclusive evidence that any such proposed Supplemental Ordinance does or does not comply with the provisions of this Ordinance.

## **ARTICLE XII. DEFEASANCE**

If, when the Bonds secured hereby shall have become due and payable in accordance with their terms or otherwise as provided in this Ordinance, or shall have been duly called for redemption, or irrevocable instructions to call the Bonds for redemption shall have been given by the Port to the Trustee, the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds then Outstanding shall be paid, or sufficient moneys shall be held by the Trustee or the Paying Agent which, when invested in Escrow Obligations maturing not later than the maturity dates of such principal, interest and redemption premiums, if any, will, together with the income realized on such investments, be sufficient to pay all such principal, interest and redemption premiums, if any, on said Bonds at the maturity thereof or the date upon which such Bonds have been called for redemption prior to maturity, and provisions shall also be made for paying all Qualified Hedge Payments, Reimbursement Obligations and Derivative Non-Scheduled Payments in accordance with their terms and all other sums payable hereunder by the Port, then and in that case the right, title and interest of the Trustee shall thereupon cease, determine and become void, and the Trustee in such case, on demand of the Port, shall release this Ordinance and shall execute such documents to evidence such release as may be reasonably required by the Port, and shall turn over to the Port, or such officer, board or body as may then be entitled by law to receive the same, any surplus in any account in the Debt Service Fund or the Subordinate Debt Service Fund, as applicable, and all balances remaining in any other funds or accounts other than moneys held for redemption or payment of Bonds; otherwise this Ordinance, shall be, continue and remain in full force and effect.

**ARTICLE XIII.  
MISCELLANEOUS PROVISIONS**

Section 13.01. Notices. Any notice, demand, direction, request or other instrument authorized or required by this Ordinance to be given to or filed with the Port or the Trustee shall be deemed to have been sufficiently given or filed for all purposes of this Ordinance if and when sent delivered by Electronic Means or by registered mail, return receipt requested:

*To the Port:* The Port of Portland  
P.O. Box 3529  
Portland, OR 97208-3529  
Attn: Chief Financial Officer  
Telephone: 503-415-6605  
Email: cfo@portofportland.com

*With a copy to Bond Counsel:* Orrick, Herrington & Sutcliffe LLP  
1120 NW Couch Street, Suite 200  
Portland, OR 97209  
Attn: Gregory A. Blonde  
Telephone: 503-943-4823  
Email: gblonde@orrick.com

*To the Trustee:* U.S. Bank National Association  
Global Corporate Trust Services  
555 SW Oak Street, PD-OR-P7TD  
Portland, OR 97204  
Attn: Cheryl Nelson  
Telephone: (503) 464-3758  
Email: cherylk.nelson@usbank.com

All documents received by the Trustee under the provisions of this Ordinance shall be retained in its possession, subject at all reasonable times to the inspection by the Port and any Bondholder, and the agents and representatives thereof.

Section 13.02. Third Party Beneficiaries. Except as herein otherwise expressly provided, nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto and the Holders of the Bonds issued under and secured by this Ordinance, any right, remedy or claim, legal or equitable, under or by reason of this Ordinance or any provision hereof, this Ordinance and all its provisions being intended to be and being for the sole and exclusive benefit of the parties hereto, the Bond Insurers, if any, and the Holders from time to time of the Bonds issued hereunder.

Section 13.03. Severability. In case any one or more of the provisions of this Ordinance or of the Bonds issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions of this Ordinance or of said Bonds, but this Ordinance and said Bonds shall be construed and enforced as if such illegal and invalid provision had not been contained therein. In case any covenant, stipulation, obligation or agreement

contained in the Bonds or in this Ordinance shall for any reason be held to be in violation of law, then such covenant, stipulation, obligation or agreement shall be deemed to be the covenant, stipulation, obligation or agreement of the parties thereto to the extent permitted by law.

Section 13.04. Individuals Not Liable. All covenants, stipulations, obligations and agreements of the Port contained in this Ordinance shall be deemed to be covenants, stipulations, obligations and agreements of the Port. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future commissioner, agent or employee of the Port in his or her individual capacity, and neither the members of the Port nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

Section 13.05. Headings. Any heading preceding the text of the several Articles hereof shall be solely for convenience of reference and shall not constitute a part of this Ordinance, nor shall they affect its meaning, construction or effect.

Section 13.06. Publication and Effectiveness of this Ordinance. A concise summary of this Ordinance, including the location within the Port where a complete copy of this Ordinance may be obtained without charge, shall be published within five days after passage once in a newspaper of general circulation within the Port's boundaries; and this Ordinance shall become effective thirty (30) days after enacted.

[Remainder of this Page Intentionally Left Blank.]

**PASSED AND ENACTED** by the Board of Commissioners of The Port of Portland at a meeting held on February 13, 2019 and signed by its President.

**THE PORT OF PORTLAND**

By: \_\_\_\_\_  
Commission President

Approved as to Form for The Port of  
Portland:

\_\_\_\_\_  
Orrick, Herrington & Sutcliffe LLP  
Bond Counsel

## **ORDINANCE NO. 466-B**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE IN ONE OR MORE SERIES OF NOT MORE THAN \$200,000,000 AGGREGATE PRINCIPAL AMOUNT OF PORTLAND INTERNATIONAL AIRPORT CUSTOMER FACILITY CHARGE REVENUE BONDS TO PAY OR REIMBURSE THE PORT FOR THE PAYMENT OF THE COSTS OF DESIGNING, CONSTRUCTING, EQUIPPING AND INSTALLING CONSOLIDATED RENTAL CAR FACILITIES AND RELATED PROJECTS AT THE PORTLAND INTERNATIONAL AIRPORT, TO PAY PRINCIPAL AND INTEREST DUE WITH RESPECT TO COMMERCIAL PAPER NOTES PREVIOUSLY ISSUED BY THE PORT IN CONNECTION WITH SUCH PROJECTS, TO PAY COSTS OF ISSUING THE BONDS, INCLUDING INTEREST TO ACCRUE ON ALL OR A PORTION OF THE BONDS, TO FUND CERTAIN RESERVES AND FOR ANY OTHER LAWFUL PURPOSES OF THE PORT; SUPPLEMENTING ORDINANCE NO. 323, AS AMENDED; AND AUTHORIZING AND PROVIDING FOR RELATED MATTERS AND DOCUMENTS.**

WHEREAS, the Board of Commissioners of The Port of Portland (the “Board”) has determined and does hereby determine that it will be advantageous to The Port of Portland (the “Port”) to authorize the issuance by the Port of its Portland International Airport Customer Facility Charge Revenue Bonds, Series 2019, in one or more series (collectively, the “Series 2019 CFC Bonds”): (i) to pay or reimburse the Port for the payment of costs of designing, constructing, equipping and installing CFC Projects (as defined in the hereinafter defined Ordinance No. 461-B), (ii) to pay principal and interest due with respect to commercial paper notes previously issued by the Port, the proceeds of which were used to finance CFC Projects, (iii) to pay costs of issuing the Series 2019 CFC Bonds, including interest to accrue on all or a portion of the Series 2019 CFC Bonds during construction, (iv) to fund certain reserves, if necessary, and (v) for any other lawful purposes of the Port;

WHEREAS, the Port has declared its intention to reimburse itself with proceeds of the Series 2019 CFC Bonds for prior expenditures of Port funds to pay costs of designing, constructing, equipping and installing certain of the CFC Projects to be financed with proceeds of the Series 2019 CFC Bonds;

WHEREAS, the Series 2019 CFC Bonds will be issued as Senior Bonds pursuant to Ordinance No. 461-B, enacted by the Board on February 13, 2019, as amended and restated thereafter and as hereafter amended, restated and supplemented (“Ordinance No. 461-B”); and

WHEREAS, in order to further secure the Series 2019 CFC Bonds, the Port has determined to pledge to the Trustee certain available moneys under Ordinance No. 323 enacted by the Board on October 9, 1985, as amended, supplemented, restated or replaced from time to time (“Ordinance No. 323”);

**NOW THEREFORE, BE IT ENACTED BY THE PORT OF PORTLAND:**

**Section 1. Defined Terms.**

1.1 As used in this Ordinance No. 466-B (this “Ordinance”), the following terms shall have the meanings defined for such terms in Ordinance No. 461-B or Ordinance No. 323, as follows:

<b>Term</b>	<b>Defined in Ordinance No.</b>
Beneficial Owner	461-B
Bonds	461-B
CFC Administrative Costs	461-B
CFC Projects	461-B
CFC Revenue Fund	461-B
Contingent Fee Payments	461-B
Credit Facility	461-B
Credit Provider	461-B
Debt Service Requirement	461-B
DTC	461-B
Executive Director	461-B
General Account	323
Holder	461-B
Maximum Debt Service Requirement	461-B
Outstanding	461-B
Reserve Account	461-B
Reserve Fund Credit Enhancement	461-B
Reserve Requirement	461-B
Revenues	323
Senior Bonds	461-B
Senior Debt Service Reserve Fund	461-B
Series	461-B
Supplemental Ordinance	461-B
Trustee	461-B
Trust Estate	461-B

1.2 In addition to the terms defined as provided in Section 1.1 hereof, the following terms shall have the following meanings:

“Remaining Contingent Fee Payments” means amounts remaining in the General Account, if any, after giving effect to the disbursements from the General Account required pursuant to clauses FIRST through FOURTH (inclusive) of Section 7 of Ordinance No. 323, provided, however, in no case will Remaining Contingent Fee Payments exceed the amount of Contingent Fee Payments received by the Port during the applicable period.

“Remaining Contingent Fee Payments Fund” means the fund created by that name pursuant to Section 3.1 hereof.

“Rule 15c2-12” means United States Securities and Exchange Commission Rule 15c2-12 (17 C.F.R. § 240.15c2-12).

“Series 2019 CFC Bonds” means the Bonds of each Series authorized by Section 2.1 hereof.

**Section 2. Authorization and Security for Series 2019 CFC Bonds (Ordinance No. 461-B).** The provisions of this Section 2 shall supplement Ordinance No. 461-B.

2.1 Pursuant to the provisions of Ordinance No. 461-B, the Board hereby authorizes the Port to sell and issue in one or more Series up to \$200,000,000 aggregate principal amount of its Portland International Airport Customer Facility Charge Revenue Bonds: (i) to pay or reimburse the Port for the payment of costs of designing, constructing, equipping and installing CFC Projects, (ii) to pay principal and interest due with respect to commercial paper notes previously issued by the Port, the proceeds of which were used to finance CFC Projects, (iii) to pay costs of issuing the Series 2019 CFC Bonds, including interest to accrue on all or a portion of the Series 2019 CFC Bonds during construction, (iv) to fund certain reserves, if necessary, and (v) for any other lawful purposes of the Port. The Series 2019 CFC Bonds authorized by this Section 2.1 shall be issued as fixed-rate bonds, and may be issued in one or more Series.

2.2 The Series 2019 CFC Bonds shall be issued as Senior Bonds pursuant to Ordinance No. 461-B, shall be the initial Series of Bonds issued under Ordinance No. 461-B and shall be secured by the Trust Estate as described in Ordinance No. 461-B. The Series 2019 CFC Bonds shall be secured by the Senior Debt Service Reserve Fund. The Reserve Requirement for the Series 2019 CFC Bonds shall be, as of the date of each applicable calculation, the lesser of (i) the Maximum Debt Service Requirement for the Series 2019 CFC Bonds, (ii) 125% of the average Debt Service Requirement for the Series 2019 CFC Bonds or (iii) 10% of the aggregate stated principal amount of all Series 2019 CFC Bonds then Outstanding. No Reserve Account within the Senior Debt Service Reserve Fund shall be established in connection with the Series 2019 CFC Bonds.

2.3 Pursuant to Section 7.01(a)(iv) of Ordinance No. 461-B and the provisions of Ordinance No. 323, to further secure the payment of the principal, and premium, if any, of and interest on the Series 2019 CFC Bonds, and the performance and observance by the Port of all the covenants and conditions expressed or implied in Ordinance No. 461-B and this Ordinance and contained in the Series 2019 CFC Bonds, the Port does hereby grant, bargain, sell, convey, assign, pledge, transfer and set over to the Trustee, its successors in trust and their assigns, without recourse, the Remaining Contingent Fee Payments (and earnings thereon) and all Remaining Contingent Fee Payments and other amounts on deposit, from time to time, in the Remaining Contingent Fee Payment Fund, subject to the application of amounts in the CFC Revenue Fund, including without limitation, the payment of CFC Administrative Costs, all as set forth in Ordinance 461-B. For the avoidance of doubt, other than the Remaining Contingent Fee Payments, no other Revenues are available or pledged under Ordinance No. 323 or this Ordinance to the payment of the Series 2019 CFC Bonds.

2.4 The Board also authorizes the Port to obtain one or more Credit Facilities, if necessary and desirable, to secure all or a portion of the Series 2019 CFC Bonds, to enter into one or more reimbursement agreements with the Credit Provider or Providers of such Credit Facilities, if necessary and desirable, and to enter into the agreements and other documents referred to in Section 4.5 hereof.

**Section 3. Establishment of Remaining Contingent Fee Payment Fund and Deposit of Remaining Contingent Fee Payments (Ordinance No. 323).** The provisions of this Section 3 shall supplement Ordinance No. 323.

3.1 Pursuant to Ordinance No. 323, there is hereby created and established a special trust fund to be held and administered by the Port to be known and designated as the “Remaining Contingent Fee Payment Fund.” On or before the first day of each month, the Port shall set aside and pay into the Remaining Contingent Fee Payment Fund the Remaining Contingent Fee Payments, if any, and shall immediately thereafter transfer all amounts in the Remaining Contingent Fee Payment Fund to the CFC Revenue Fund for application in accordance with Ordinance No. 461-B. For the avoidance of doubt, other than the Remaining Contingent Fee Payments, no other Revenues are required to be transferred into the Remaining Contingent Fee Payment Fund.

**Section 4. Delegation.**

The Executive Director is hereby authorized, 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 2019 CFC Bonds, to:

4.1 Sell and provide for the issuance of the Series 2019 CFC Bonds in one or more Series.

4.2 Participate in the preparation of, approve, authorize the distribution of, and deem final, and execute and deliver the disclosure documents for the Series 2019 CFC Bonds.

4.3 Establish the final series designations, principal amounts, maturities, interest rates or methods of determining interest rates, sale prices, optional and/or mandatory redemption provisions, notice provisions, payment terms and dates, record dates and other terms for the Series 2019 CFC Bonds of each Series; provide for the Series 2019 CFC Bonds to be held by or through the facilities of DTC; and select one or more underwriters, negotiate terms of the sale of the Series 2019 CFC Bonds with those underwriters and enter into one or more bond purchase agreements with those underwriters.

4.4 Undertake to provide continuing disclosure in accordance with Rule 15c2-12; provided that any such undertaking shall provide that if the Port fails to comply with the continuing disclosure undertaking, the Holders and Beneficial Owners of the Series 2019 CFC Bonds shall have only the remedies specified in such continuing disclosure undertaking and that failure by the Port to comply with the continuing disclosure undertaking shall not constitute a default on any Bonds or an event of default under this Ordinance or Ordinance No. 461-B.

4.5 Determine whether to purchase, and establish the terms of and obtain, one or more Credit Facilities for the Series 2019 CFC Bonds and enter into agreements with Credit Providers of those Credit Facilities to repay any amounts paid under the Credit Facilities (plus fees and other costs of such Credit Providers) from the Trust Estate in accordance with Ordinance No. 461-B.

4.6 Determine whether to purchase, and obtain, Reserve Fund Credit Enhancements, deposit cash and investments in the Senior Debt Service Reserve Fund, substitute sureties for cash



then on deposit in the Senior Debt Service Reserve Fund or substitute cash for sureties then credited to the Senior Debt Service Reserve Fund, and take any other action necessary to satisfy the Reserve Requirement for the Series 2019 CFC Bonds.

4.7 Prepare, execute and deliver one or more certificates, bond purchase agreements, bond declarations and supplemental actions specifying the terms under which the Series 2019 CFC Bonds are issued, the form of the Series 2019 CFC Bonds and the administrative provisions that apply to the Series 2019 CFC Bonds. These documents may contain additional covenants or terms for the benefit of the Holders of the Series 2019 CFC Bonds, the Credit Providers of Credit Facilities for the Series 2019 CFC Bonds, if any, and providers of any Reserve Fund Credit Enhancements, and any such covenants or terms shall be deemed made pursuant to and incorporated in this Ordinance and Ordinance No. 461-B.

4.8 Create special funds, accounts and subaccounts within the CFC Revenue Fund for the Series 2019 CFC Bonds and provide for deposits and withdrawals of amounts in those funds, accounts and subaccounts.

4.9 Provide for the application and investment of proceeds of the Series 2019 CFC Bonds, including the payment of interest to accrue on a portion of the Series 2019 CFC Bonds as specified by the Executive Director.

4.10 Execute and deliver any other documents and take any other action in connection with the Series 2019 CFC Bonds which the Executive Director finds will be advantageous to the Port.

## **Section 5. Formal Matters.**

5.1 This Ordinance shall be a Supplemental Ordinance under Ordinance No. 461-B and Ordinance No. 323.

5.2 The Executive Director may determine that the Credit Providers of Credit Facilities for the Series 2019 CFC Bonds, if any, shall be treated as Holders of the Series 2019 CFC Bonds secured by those Credit Facilities for purposes of consenting to amendments to Ordinance No. 461-B and the documents relating to the Series 2019 CFC Bonds.

5.3 Provisions of the documents that are executed pursuant to Section 4 hereof shall have the same effect as if those provisions were included in this Ordinance.

5.4 A concise summary of this Ordinance, including the location within the Port where a complete copy of this Ordinance may be obtained without charge, shall be published within five (5) days after passage in a newspaper of general circulation within the boundaries of the Port.

PASSED AND ENACTED by the Board of Commissioners of The Port of Portland at a meeting held on February 13, 2019, and signed by its President.

THE PORT OF PORTLAND

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Commission President

Approved as to Form for The Port of Portland:

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Orrick, Herrington & Sutcliffe LLP  
Bond Counsel to The Port of Portland

**PUBLIC IMPROVEMENT CONTRACT – TAXIWAY K REHABILITATION – PORTLAND INTERNATIONAL AIRPORT**

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February 13, 2019

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

This agenda item requests approval to award a public improvement contract to Tapani, Inc., for the Taxiway K Rehabilitation project at Portland International Airport in the amount of \$15,722,644.75.

**BACKGROUND**

Taxiway K is 11,000 feet long and is a major component of the airfield system on the north side of the airport terminal. It provides vital connections from the terminal to the north airfield environment for commercial users as well as main access points to the Concourse D and E gates.

When developing the project scope, the Port of Portland (Port) analyzed different pavement rehabilitation configurations, using either asphalt, concrete or some combination of the two. A life-cycle cost analysis was performed for each configuration to determine whether full-depth reconstruction, partial rehabilitations, mill and inlay or some combination of each would be the preferred alternative.

The preferred alternative was selected based upon maintenance, longevity, operations, environment and long-term cost savings considerations. The Taxiway K pavement from Taxiway T to west of exit A5 will be an asphalt mill and inlay, whereas from exit A5 to west of exit W will be a full-depth asphalt reconstruction. The ramp located in front of the Concourse E extension connected to Taxiway K will be reconstructed in Portland cement concrete pavement. The project will be designed to meet current Federal Aviation Administration (FAA) standards, which include re-grading the safety area and widening the paved shoulders.

In addition, the north midfield checkpoint, which defines the boundary between the secured and non-secured airfield, needs to be relocated. The midfield checkpoint is required to be fully operational at all times (24 hours a day, 7 days a week) per the Transportation Security Administration (TSA). This facility needs to be relocated further east in order to accommodate the realignment of Taxiway K that allows for larger aircraft to pass parked aircraft for remain overnight parking. This work will be accomplished under the Terminal Balancing (TBAL) project in order to meet the project schedule.



**CONTRACT SCOPE OF WORK**

This contract includes the following key scopes of work:

- Remove existing asphalt pavement
- Reconstruct taxiway in asphalt pavement
- Reconstruct ramp in concrete pavement
- Widen shoulders to 20 feet
- Replace lighting and electrical system
- Replace storm drainage
- Site grading
- Restore pavement markings

**SCHEDULE**

Preliminary design	February 2018 – March 2018
Airport Airline Affairs Committee approval	June 2018
Design	April 2018 – December 2018
<b>Commission approval (award public improvement contract)</b>	<b>February 13, 2019</b>
Construction	April 2019 – October 2019

## **CONTRACT SOLICITATION**

### **Solicitation Results**

The Port procured this public improvement contract utilizing a competitive sealed bidding solicitation under Oregon Revised Statutes, Chapter 279C. The solicitation was advertised on December 20, 2018 and bids were opened on January 22, 2019. Tapani, Inc., submitted the lowest responsive bid.

The bids were as follows:

Tapani, Inc.	\$15,722,644.75
Kodiak Pacific Construction	\$16,941,732.30
Nutter Corporation	\$16,983,399.22
Rotschy, Inc.	\$17,177,824.25
Kerr Contractors Oregon, Inc.	\$17,530,814.00
K&E Excavating, Inc.	\$17,671,856.00
Wildish Standard Paving Co.	\$19,772,924.00
Engineer's Estimate	\$15,409,364.50

### **Small Business Participation**

Because the Port received some federal funding for the project, the Port set a disadvantaged business enterprise (DBE) program participation goal for this contract. Based on an availability analysis, the DBE participation goal was 12 percent of the total amount bid. The lowest responsive bid identified a 12 percent participation level. DBE includes firms certified by Oregon or Washington as socially or economically disadvantaged in accordance with U.S. Department of Transportation regulations.

## **BUDGET**

<b>Public improvement contract (construction)</b>	<b>\$15,723,000</b>
Midfield checkpoint relocation (TBAL)	\$3,443,000
Electrical pre-purchase	\$125,000
Port staff and contracted services (in-house design)	\$3,525,000
Contingency	\$2,282,000
Total budget	\$25,098,000

The contingency, representing 10 percent of the project cost, is considered reasonable given the risk profile for the project and the complexity of the work site.

Approximately 42% of the project costs will be funded by the Airline Cost Center, which is composed primarily of revenues from the Port's commercial airline service business lines.

The Port also expects approximately 58% of the contract costs to be funded by an FAA Airport Improvement Grant.

### **EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a public improvement contract for the Taxiway K Rehabilitation project at Portland International Airport to Tapani, Inc., in accordance with its bid; and

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

**PUBLIC IMPROVEMENT CONTRACT – TERMINAL RESTROOM MODERNIZATION –  
PORTLAND INTERNATIONAL AIRPORT**

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February 13, 2019

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

This agenda item requests approval to award a public improvement contract to JR Merit, Inc. (JR Merit), for the Terminal Restroom Modernization project at Portland International Airport (PDX) in the amount of \$2,993,655.

**BACKGROUND**

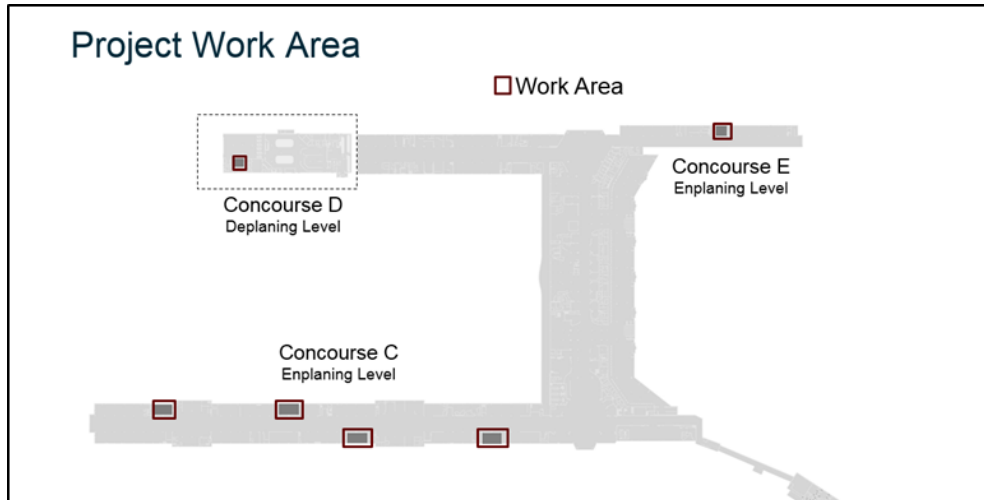
In 2007, the Port of Portland (Port) completed a restroom rehabilitation project that addressed eight sets of public restrooms within the PDX terminal. The current project addresses the remaining public restrooms in need of modernization, excluding those expected to be impacted by other projects, such as the PDXNext Terminal Core Redevelopment.

The six sets of restrooms in the project scope are located on the enplaning level of Concourses C and E and on the deplaning level of Concourse D in the International Arrivals Hall. Installed as original construction during terminal and concourse expansions, these restrooms have seen little improvement other than regular maintenance and janitorial service.

Restroom conditions impact customer experience. The 2018 PDX Customer Satisfaction Survey shows lower than average ratings for PDX restrooms, compared to the rating for PDX Terminal Facilities Overall. Ratings for the restrooms on Concourses C and E, which this project will address, are particularly low.

In addition to upgrading finishes and fixtures, the project will improve accessibility and operational efficiency, such as by relocating janitorial closet accesses where practical. In their current location, janitorial closets are typically accessed through a gender-specific restroom, so that two restrooms are often closed, when only one requires service. The project also includes a terminal-wide restroom user feedback system, currently entering the pilot phase under a separate contracting process.

In consideration of the passenger experience, work for this project will be phased to limit the overlap of restroom closures and to avoid closures during the busiest periods.



### **CONTRACT SCOPE OF WORK**

This project includes the following key scopes of work:

- Demolition down to substructure
- Plumbing adjustments
- Reconstruction including: gypsum board, tile, terrazzo flooring, pan ceiling and new lighting and plumbing fixtures
- Relocation of janitor closet doors

### **SCHEDULE**

Preliminary design	December 2017 – April 2018
Airport Airline Affairs Committee approval	November 2018
Design	April 2018 – November 2018
<b>Commission approval (award public improvement contract)</b>	<b>February 13, 2019</b>
Construction	March 2019 – April 2020



## **CONTRACT SOLICITATION**

### **Solicitation Results**

The Port procured this public improvement contract utilizing a competitive sealed bidding solicitation under Oregon Revised Statutes, Chapter 279C. The solicitation was advertised on November 29, 2018 and bids were opened on January 23, 2019. JR Merit submitted the lowest responsive bid.

The bids were as follows:

JR Merit, Inc.	\$2,993,655.00
Alutiiq, LLC	\$3,471,920.00
Alegis Construction Inc.	\$3,851,564.00
Todd Hess Building Company	\$3,870,000.00
Swinerton Builders	\$3,870,028.00
Q&D Construction	\$4,610,240.51
Engineer's Estimate	\$4,000,000.00

### **Small Business Participation**

Based on an availability analysis, the Port's small business enterprise (SBE) program participation goal for this contract was 15.5 percent of the total amount bid. The lowest responsive bid identified a 17.6 percent participation level. SBE includes firms certified by Oregon or Washington as minority, women, or service disabled veteran-owned, or as an emerging small business.

## **BUDGET**

<b>Public improvement contract (construction)</b>	<b>\$2,994,000</b>
Personal services contract (design)	\$246,000
Port staff and contracted services	\$875,000
Contingency	\$579,000
Total budget	\$4,695,000

The contingency, representing 14 percent of the project cost, is considered reasonable given the risk profile for the project and the complexity of the work site.

The project costs will be funded by the Airline Cost Center, which is composed primarily of revenues from the Port's commercial airline service business lines.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a public improvement contract for the Terminal Restroom Modernization project at Portland International Airport to JR Merit, Inc., in accordance with its bid; and

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

**PUBLIC IMPROVEMENT CONTRACT AMENDMENT – TERMINAL BALANCING  
CONCOURSE E EXTENSION – PORTLAND INTERNATIONAL AIRPORT**

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February 13, 2019

Presented by: Dan Gilkison  
Engineering Project Manager**REQUESTED COMMISSION ACTION**

This agenda item requests approval of an amendment to the previously approved public improvement contract with Skanska Building USA (Skanska) for the Terminal Balancing and Concourse E Extension (TBAL) project in the amount of \$23,665,000. The amendment covers all remaining work associated with completion of the construction of the TBAL project, and will also cover additional related capital improvements at Portland International Airport (PDX) in the TBAL project area.

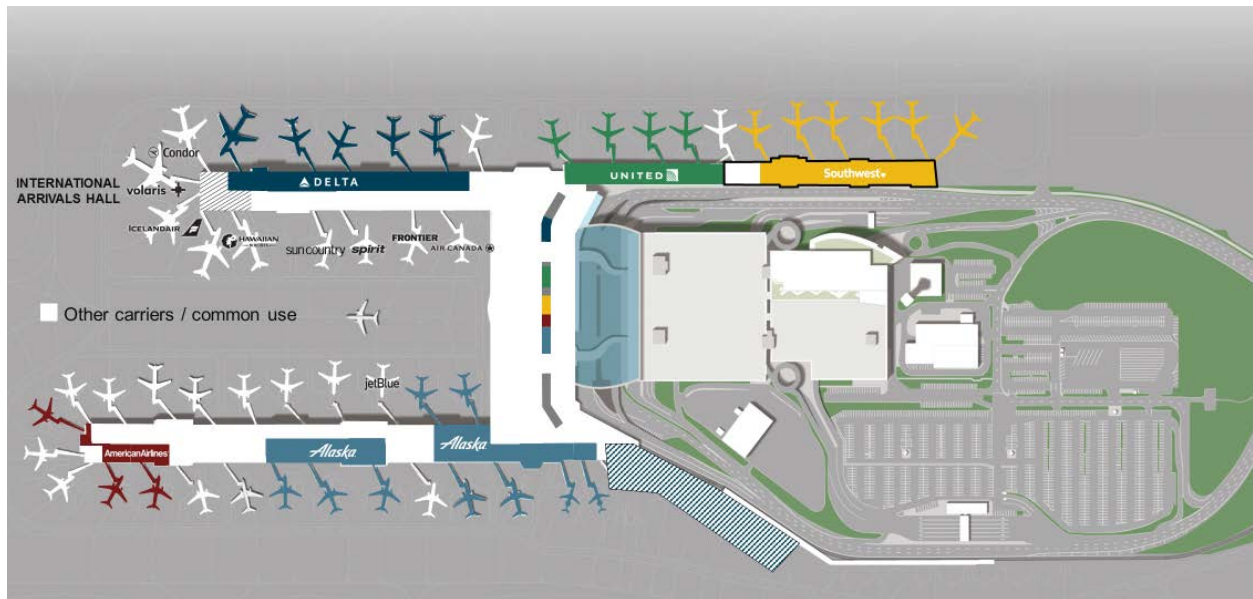
**BACKGROUND**

In late 2013, the Port of Portland (Port) undertook an effort to analyze how to better balance current operations at PDX. Several options were reviewed based on passenger flow, current and future flight schedules and baggage handling operations. After review of flight information and future growth considerations, it was determined that the most efficient effort would involve relocation of Alaska Airlines to the north side of the campus. After two years of collaboration with Alaska, and with consideration of changes in future flight operations, the project was reevaluated, and it was determined that relocation of Southwest Airlines would be a better option. The TBAL project was redefined at this point in spring of 2016. After selecting Hennebery Eddy Architects (HEA) to design version 1 of TBAL, it was determined they would continue with design services for TBAL version 2 (v2). Also, in 2015 a request for proposal (RFP) for Construction Management General Contractor (CM/GC) services was issued, and Skanska was selected.

Together, the Port, HEA and Skanska have collaborated on the design and construction of improvements for TBAL, including the extension of Concourse E, renovations within the ticket lobby, and improvements within existing Concourses C and E and to the baggage handling system.

This item requests an amendment to the current contract with Skanska to reflect procurement of the remainder of materials and services for the Concourse E Extension, the relocation work on Concourses C and E, and the baggage handling improvements necessary for the completion of the TBAL project. The item also requests authorization for funds for additional work within the scope of the TBAL project involving improvements to and the replacement of capital assets within the project area, which will need to be completed prior to opening of the new Concourse E. The scopes covered by the requested amendment are described in more detail in the following section.

## **TERMINAL BALANCING SITE PLAN**



## **CONTRACT AMENDMENT SCOPE OF WORK**

In December 2014, the Port Commission approved an exemption from competitive bidding that allowed the Port to use an RFP process to select a CM/GC for the project. The RFP was advertised in February 2015 and three construction firms responded: Skanska, JE Dunn Construction and Hoffman Construction.

A Port evaluation team reviewed the proposals and determined that Skanska was the most qualified proposer to act as the Port's CM/GC for the project. In May 2015 the Port awarded a preconstruction services contract to Skanska for version 1 (v1) of TBAL. Under the preconstruction services contract, Skanska closely collaborated with the design team throughout the v1 design phase of the project. Skanska also implemented small business participation plans, prepared construction cost estimates, provided value engineering analysis and constructability recommendations, developed phasing plans and schedules, analyzed manpower and materials availability and made recommendations on potential early bid packages.

An initial negotiated contract price (NCP) for the early phase of construction was approved by Commission action in November 2015 for a not-to-exceed amount of \$25,000,000. This was followed by Amendment No.1 in August 2017, which awarded an NCP based on 60% design for the extension of Concourse E in the amount of \$151,280,000. Under the terms of this contract amendment, Skanska will be reimbursed for construction costs based primarily on the cost of competitively-awarded subcontracts.

PUBLIC IMPROVEMENT CONTRACT AMENDMENT – TERMINAL BALANCING  
CONCOURSE E EXTENSION – PORTLAND INTERNATIONAL AIRPORT

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Final design of TBAL (v2) is now complete. Port staff have worked with Skanska to develop the amendment described in this item, which is based on 100% design and reflective of the bids that have been received for 98% of the remaining TBAL project scope. With this item, the Port is seeking Commission approval to amend the CM/GC construction contract with Skanska to reflect the overall final scope and procurement of materials and services for the project.

In addition, this amendment also includes delivery of other enabling work and capital projects that are logically related to TBAL and located within the TBAL project area. These additional scopes include replacement of moving walkways and escalators on existing Concourse E and in the Federal Inspection Station (FIS), and relocation of the north Security Identification Area (SIDA) midfield checkpoint. These work elements are being delivered with this contract as part of TBAL, but will be funded via reimbursement agreements or other project budgets.

Port staff have negotiated with Skanska for an amendment to increase the Guaranteed Maximum Price by \$23,665,000, which if approved, will result in a final Guaranteed Maximum Price of \$201,670,000 for construction of all improvements associated with the TBAL project. This increase will fund both the construction of all existing TBAL scope (including the Concourse E Extension, updates to the ticket lobby, baggage handling and airline operational space buildout and relocation improvements) as well as the additional enabling work described above. The proposed amendment includes a proportional adjustment to Skanska's fixed fee at the rate of 2.6 percent of the contract price, consistent with the original contract, for an updated total of \$5,243,420, and a similar adjustment to the existing incentive at the rate of 0.3 percent, for a total of up to \$605,010, dependent on Skanska's performance.

**NEW CONCOURSE E LAYOUT (INTERIOR) RENDERING**



**NEW CONCOURSE E LAYOUT (EXTERIOR) RENDERING**



Working with the Port’s purchasing and legal departments, Port staff have determined that this amendment is permissible under applicable Port contracting rules and policies with respect to the related capital improvements in the TBAL project area. The amendment is also consistent with the existing contract, which stipulates that the Port may amend the contract to accommodate an additional phase of the TBAL work if performance to date is satisfactory. Commission approval is required to grant the necessary contracting authority based on the dollar amount of the amendment.

**SCHEDULE**

Conceptual Design – v2	April 2016 – June 2016
Commission action (design contract amendment)	October 2016
Schematic and design development	June 2016 – March 2017
Final design	March 2017 – December 2017
Commission action (initial CM/GC contract)	November 2015
Commission Action (HEA construction administration amendment, CM/GC contract amendment for NCP)	August 2017
<b>Commission action (CM/GC contract amendment No. 2)</b>	<b>February 2019</b>
Construction	March 2017 – September 2020
Miscellaneous procurements (furniture, IT and miscellaneous equipment)	October 2019 – December 2019

### **SMALL BUSINESS PARTICIPATION**

As part of the RFP for CM/GC services with Skanska, the contract included negotiating a Workforce Partnership Agreement with building trade partners to assist in meeting Port established goals in the amount of 20 percent Small Business Enterprise (SBE) Subcontractor Utilization goals for project construction costs, with sub-goals of 5 percent for African American-owned firms and 6 percent Latino American-owned firms. Current utilization is tracking at approximately 20% for the Concourse Extension portion of the project, with remaining scope participation pending. Currently sub-goals are tracking at 18% Apprenticeship, 15% Minority and 6% Female apprenticeship goals. These goals will apply to the additional work authorized pursuant to the amendment and progress will continue to be tracked by Port staff.

### **RISKS**

Risk: Decision making – timely decisions and revisiting past direction

Mitigation Strategies:

- Utilize detailed communication plan and format with management and stakeholder groups, including airlines, tenants or other Port and airline stakeholders. Utilize program workbooks as needed to document decisions.
- Establish working focus group meetings to discuss and document key details and decision points throughout construction process.
- Establish and maintain regular communications with management and stakeholders, track recommendations, date decisions as needed, and identify impacts from delays in decisions via decision matrix. Impacts could include scope, schedule, budget, operational or other.

Risk: Delay due to weather

Mitigation Strategies:

- Engage subcontractors to develop phasing and schedules that enable efficient delivery of labor and materials to maintain project schedule.
- Develop strategies or methodologies via pull planning and/or constructability sessions with subcontractors, including prefabrication off-site or at staging areas to reduce potential delay due to overlapping trades and minimize weather-related impacts to installation schedule.

PUBLIC IMPROVEMENT CONTRACT AMENDMENT – TERMINAL BALANCING  
CONCOURSE E EXTENSION – PORTLAND INTERNATIONAL AIRPORT

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**BUDGET**

**Construction Contract Amendment Amount**

	<b>Total Skanska Contract Value</b>	<b>TBAL v2 Portion of Const. Budget</b>
TBAL v1 Public Improvement Contract	\$15,175,000	
v1 Contract capitalized/carried forward to v2		\$8,051,000
Original enabling projects and aviation fuel	\$9,825,000	
Initial TBAL contract value	\$25,000,000	
Public Improvement Contract Amendment No. 1	\$151,280,000	\$151,280,000
Enabling projects Change Orders to date (under Delegated Authority)	\$1,725,000	
<b>Public Improvement Contract Amendment No. 2 (including Enabling projects: CC E Moving Walkway Replacement; SIDA Checkpoint Relocation; FIS Escalator Replacement)</b>	<b>\$23,665,000</b>	<b>\$8,399,000</b>
Overall Construction Contract Amount	\$201,670,000	\$167,730,000

**TBAL v2 Project Budget**

CM/GC Contracts	\$167,730,000
Procurements/Equipment	\$2,000,000
Consultant Design Services (for v2, including CA amendment)	\$26,415,000
Port Staff/Contracted Services	\$7,000,000
Contingency	\$11,855,000
Total Project	\$215,000,000*

\*Project budget amount does not reflect non-capital or sunk costs associated with v1. These costs were addressed through a Universal Amendment to the airline agreement and not included in the new budget breakdown.

The contingency, representing approximately six percent of the project cost, is considered reasonable given the stage of the project, the nature of the work and the risk profile associated with the remaining scope.

The project cost will be funded by Passenger Facility Charges and the Airline Cost Center in accordance with the PDX Airline Agreement.



**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to further amend a previously awarded public improvement contract to Skanska Building USA, for construction of the Terminal Balancing Concourse E Extension project at Portland International Airport, consistent with the terms presented to the Commission; and

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