

Board of Commissioners

Dirk Rohne – Chairman
 Robert Stevens – Vice-Chair
 Frank Spence – Secretary
 James Campbell – Treasurer
 Scott McClaine – Assistant Secretary/Treasurer

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 Astoria, OR 97103
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Regular Session

April 4, 2023 @ 4:00 PM
 10 Pier 1, Suite 209, Astoria, OR*

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting by calling the Port of Astoria at (503) 741-3300.

*This meeting will also be accessible via Zoom. Please see page 2 for login instructions.

Agenda

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. COMMISSION REPORTS
5. CHANGES/ADDITIONS TO THE AGENDA
6. PUBLIC COMMENT – for items on the agenda, when not covered by a public hearing
 This is an opportunity to speak to the Commission for 3 minutes regarding any item on the agenda.
7. CONSENT CALENDAR:
 - a. Meeting Minutes –
 - Regular Meeting Minutes 03/7/2023 3
 - b. Financials – February 2023..... 8
 - c. Event Calendar – April 2023..... 14
8. ADVISORY:
 - a. First Reading, ORDINANCE AMENDING ORDINANCE 97-01 AND ENACTING REGULATIONS AND PENALTIES FOR CERTAIN AIRPORT ACTIVITIES..... 15
9. ACTION:
 - a. Request for Expenditure #0143 Pier 1 Generator 40
 - b. Tripartite Development Agreement Addendum 91
 - c. Executive Director Evaluation Template..... 114
10. PUBLIC COMMENT – for non-agenda items
 This is an opportunity to speak to the Commission for 3 minutes regarding Port concerns not on the agenda.
11. EXECUTIVE DIRECTOR COMMENTS
12. UPCOMING MEETING DATES:
 - a. Workshop Session – April 18, 2023 at 4:00 PM
 - b. Regular Session –May 2, 2023 at 4:00 PM
 - c. Budget Committee Meeting – May 10, 2023 at 12:00 PM
13. ADJOURN

Please Note:

Agenda packets are available online at: <https://www.portofastoria.com/CommissionMeetings/AgendaMinutes.aspx>

Please allow time for the normal posting procedure for agendas and meeting packets.

Board of Commissioners
HOW TO JOIN THE ZOOM MEETING:

Online: Direct link: <https://us02web.zoom.us/j/86905881635?pwd=amhtTTBFcE9NUElxNy9hYTFPQTlzQT09>
Or go to [Zoom.us/join](https://zoom.us/join) and enter Meeting ID: 869 0588 1635, Passcode: 422

Dial In: (669) 900-6833, Meeting ID: 869 0588 1635, Passcode: 422

This meeting is accessible to persons with disabilities or persons who wish to attend but do not have computer access or cell phone access. If you require special accommodations, please contact the Port of Astoria at least 48 hours prior to the meeting by calling [\(503\) 741-3300](tel:5037413300) or via email at admin@portofastoria.com.

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**MEETING MINUTES
MARCH 7, 2023**

**PORT OF ASTORIA
REGULAR SESSION
PIER ONE BUILDING
#10 PIER 1, SUITE 209
ASTORIA, OR 97103**

Call to Order:

Chairman Rohne called the Regular Session to order at 4:00 PM.

Roll Call:

Commissioners Present: Dirk Rohne; Robert Stevens; Frank Spence; Jim Campbell; and Scott McClaine.

Staff Present: Executive Director Will Isom; Deputy Director Matt McGrath; Finance, HR, and Business Services Manager Melanie Howard; and Executive Assistant/Administrative Coordinator Stacy Bandy.

Port Counsel: Eileen Eakins was not present at this session.

Pledge of Allegiance

Commission Reports:

Commissioner Stevens reported on the following:

- Noticed a historical article in *The Astorian* regarding cargo. Fifty years ago, they loaded product onto smaller vessels to take to Portland; without access to rail or container rigs, this may be the initiative to look into.
- Port staff are entertaining the possibility of cargo operations on Pier 1. It would be worthwhile to allow the cargo operators to make a presentation to the Commission.

Commissioner Campbell had nothing to report.

Commissioner McClaine reported on the following:

- Will not be running for re-election this May.
- Attended a meeting with several community leaders to discuss a survey for cruise ship passengers to see how much people are spending in town. Downtown businesses have funded \$4,000 in grant-matching funds for this effort.

Commissioner Spence reported on the following:

- Clatsop Cruise Host Volunteer Coordinator, Sue Howard, is holding a meeting with all businesses and agencies who work with cruise passengers. All Port Commissioners are welcome to attend.
- Would like to add a capital projects list discussion to the next workshop meeting or the one after.

Commissioner Rohne reported on the following:

- Invited George Dunkel to attend the next Workshop Commission Meeting. The Commission can discuss the Executive Director evaluation process.
- Attended the Fisher Poets gathering last weekend. The event was well attended, with folks traveling from across the nation as well as Great Britain.

Changes/Additions to the Agenda:

There were no changes or additions to the agenda.

Public Comment for items on the agenda:

There were no requests for public comment.

Consent Calendar:

The Consent Calendar consisted of the following:

- Meeting Minutes – 01/17/2023 Workshop Meeting Minutes and 02/07/2023 Regular Meeting Minutes
- Financials – January 2023
- Event Calendar – March 2023

Commissioner Spence requests to pull out each item separately from the Consent Calendar.

Spence notes that for the January 17th Workshop Session meeting minutes, there is no roll call vote for the Request for Expenditure #0136 Pier 1 Gangway. Spence requests that the minutes be amended to include a roll call vote.

Commissioner Spence moved to approve the meeting minutes of the 01/17/2023 Workshop Session as amended and the 02/07/2023 Regular Session as presented. Commissioner Stevens seconded. The motion carried unanimously 5-0 amongst the Commissioners present.

Regarding the January 2023 Financials, Spence refers to the note on page 16 of the packet and inquires why Commissioner Campbell put a hold on the check for Topper Industries, Inc. Campbell explains that he did not vote for purchasing a new gangway and does not agree with the expenditure. Executive Director Isom explains that as Treasurer, Campbell usually meets with the accounts payable specialist and signs each check. After Isom was notified that there was a check that Campbell would not sign, Isom contacted the Commission Chair, Commissioner Rohne, to discuss the situation. The Assistant Treasurer, Commissioner McClaine, was then contacted to sign the check.

Spence refers to the March event calendar and notes that the City of Astoria has changed their meetings to begin at 6 pm and not 7 pm. Spence adds that the ColPac meeting on March 9th will not be at Clatsop Community College, but at the Judge Boyington building at the corner of Commercial and 9th St.

Commissioner Spence moved to approve the January Financials as presented and the March Consent Calendar as amended. Commissioner Stevens seconded. The motion carried 4-0, with Commissioner Campbell abstaining from the vote.

Action Items:**8a. Approval of Maul Foster Work Orders**

Executive Director Isom gives a brief history of this action item. Last year, once the consent judgment was in place with the Department of Environmental Quality (DEQ) for AOC4, the Commission approved the first Maul Foster task order. Since that time, there have been three additional task orders. In the future, Isom will be working with Eakins and Erik Bakkum with Maul Foster to develop an overarching framework and budget for the project moving forward.

Erik Bakkum, the Principal Engineer with Maul Foster, gives a presentation to the Commission regarding Maul Foster's progress.

Presentation highlights include:

- The initial work order that was approved by the Commission was for the design and remedial action work plan. These documents were required in order for DEQ to agree to a

path forward regarding design and investigation specifics in support of the record of decision and the consent judgment.

- The work orders included in today's packet represent that effort and the approval of the remedial design work plan.
- Work order number three is for a vapor assessment which is a requirement of the record of decision that indoor samples be taken within some of the existing port structures. The vapor assessment is required to verify that the breathing air conditions are acceptable and to help determine whether or not the building requires a vapor mitigation system to be installed or if there are other institutional controls needed. No additional vapor sampling is planned unless there is a significant unforeseen event.
- Work order number four is for sediment sampling. Bakkum explains that during the settlement negotiations, Maul Foster was directed to take additional samples by the Port's attorney to inform the settlement process and to look and see if there are additional impacts beyond the scope of the existing seep. It was also identified by DEQ, during the review of the remedial design work plan, that they would require that additional samples be collected. Work order four includes sampling, laboratory analysis, and reporting. The sampling results will inform the extent of the remedial design.
- Work order two is the 50% remedial design preparation. The two primary tasks are to extend project management to include meetings with Port staff and DEQ and the development of the 50% remedial design. The process will include taking the feasibility study concept and developing the engineering analysis to support carrying out the final design as well as any project alternatives.

Rohne thanks Bakkum for his presentation. For the full discussion please see meeting audio.

Commissioner Spence moved to approve Maul Foster Task Orders 2, 3, and 4. Commissioner McClaine seconded. The roll call vote occurred as follows:

Commissioner McClaine: Yes.

Commissioner Spence: Yes.

Commissioner Stevens: Yes.

Commissioner Campbell: Yes.

Commissioner Rohne: Yes.

The motion carried 5-0 amongst the Commissioners present.

8b. Approval of Cintas Contract

Executive Director Isom explains that the Port has had a long-standing relationship with Cintas. They provide coveralls and towels to various departments across the Port. Since the agreement is technically 60 months it crosses the 12-month threshold of Isom's authority, though the contract can be terminated at any time with a 90-day notice.

Commissioner McClaine moved to approve the contract with Cintas. Commissioner Spence seconded. The motion carried 5-0 amongst the Commissioners present.

8c. Washington DC Trip

Executive Director Isom refers to the information provided about the Pacific Northwest Waterways Association's (PNWA) 2023 Mission to Washington, on page 38 of the packet. Isom discusses his comments made after his annual review and explains that looking at the Port in terms of phases, the next phase for the Port is for outreach to advocate for the port, seeking funding for the various projects that are in critical need. This is an opportunity to be a part of a larger group that will be meeting with legislators in Washington, DC. Isom refers to the PNWA schedule on page 40 of the packet, and notes that on Wednesday morning, the PNWA group will be in front of the Northwest Senate delegation; congressionally directed spending will be a topic of conversation. The chance to attend this event and join this group is a good opportunity for the Port and will give us the best

chance to secure federal dollars in the future.

- Commissioner Spence comments that he supports this trip wholeheartedly. There is no substitute for face-to-face meetings and developing relationships with our congressional delegation in Washington, DC.
- Commissioner Rohne is in agreement; the significance of Pier 2 cannot be understated.

Commissioner Spence moved to approve the trip to Washington, DC for the Executive Director and the Deputy Director. Commissioner Campbell seconded. The motion carried 5-0 amongst the Commissioners present.

Public Comment for items not on the agenda:

There were no requests for public comment.

Executive Director Comments:

- Met with the director of Business Oregon, Sophorn Cheang, yesterday. Cheang was well informed concerning Port needs; Isom thanks regional Business Oregon representative Melanie Olson for doing an excellent job informing Cheang. The group discussed Pier 2 and toured the property. It is impactful to walk out there and see the state of the infrastructure. Isom thanks Business Oregon for the relationship we've had with them over the last several years and for the support they gave the Port through the pandemic.
- The Federal Maritime Commission (FMA) has decided recently that certain ports do not qualify under antitrust immunity in Oregon and Washington. There are eight ports in Washington that would be affected and three ports in Oregon. State action doctrine can institute legislation that would supersede federal laws. The state of Washington has already passed a bill to address this issue; local state representative Javadi has co-sponsored Senate bill 814 with bipartisan support. Terminal and Customer Support Manager, Susan Transue, will be attending the hearing on the bill this coming Thursday.
- The Department of Forestry will have a meeting tomorrow in Corvallis concerning the Habitat Conservation Plan (HCP). Comments are limited to 15 individuals, and the HCP is not on the agenda for the meeting. Local representatives will be in attendance, including County Commissioner Courtney Bangs, Executive Director of Clatsop Economic Development Resources (CEDR) Kevin Leahy, Executive Director of the Astoria Warrenton Chamber of Commerce David Reid, and Senator Suzanne Webber staffer Katy Pritchard.
- Met with Mark Popkin and Dave Koller of Popkin Real Estate last week. The group discussed a formal agreement based on the proposal submitted. Popkin is moving forward with a market analysis on identified Port properties.

Upcoming Meeting Dates:

- Finance Committee Meeting – March 15, 2023 at 12:00 PM
- Workshop Session – March 21, 2023 at 4:00 PM
- Regular Session – April 4, 2023 at 4:00 PM

Adjourned:

Chairman Rohne adjourned the meeting at 4:48 PM.

APPROVED:

ATTEST:

Dirk Rohne, Board Chairman
Board of Commissioners

Frank R. Spence, Secretary
Board of Commissioners

Respectfully submitted by:
Stacy Bandy
Executive Assistant – Administrative Coordinator

April 4, 2023
Date Approved by Commission

DRAFT



FEBRUARY 2023 FINANCIALS NARRATIVE

For July 2022 through February 2023, the Port is showing an operating gain of \$476,599. This operating gain is trailing prior-year profits by \$166,249 and is \$617,535 below budget projections. Operating revenue YTD is at 89% and operating expenses are at 99% of seasonally trended budget. Non-operating income is at 99% and non-operating expenses are 73% of budget. Total net loss YTD is \$190,579, which is \$319,925 behind budget expectations.

The budget and prior-year deficits for dockage are \$(255,765) and \$(390,783), respectively. For the year-to-date budget, \$254,132 had been included for estimated Harbor Fee income; the total FY23 budgeted amount for Harbor Fee income is \$380,000, none of which is expected to be collected. Looking at the prior-year differences, for July 2021 through February of 2022 the Port had billed for \$258,900 of Harbor Fee income.

Lease and rental income was \$282,535 less than budgeted, primarily as a result of a partial deferment of the Bornstein warehouse loan; the decrease in income will be offset by a decrease to debt service.

Gross Marina revenues were at 94% of budget with Boatyard gross revenues at 114% of budget. Net profits from marina and airport fuel sales were up \$71,905 from the prior year.

Personnel services came in \$89,003 under budget while materials and services were \$46,048 over budget.

Looking at non-operating totals, debt service expense is \$751,375 below budget, as a result of a new debt deferment agreement with Business Oregon. Capital spending in February was primarily for a new cruise ship gangway, the airport master plan update, and HVAC repairs at the 422 Gateway building.

Fuel Sales Summary:

| Marina Fuel | Unleaded Sales \$ | Unleaded Sales Gal | Unleaded COGS | Unleaded Profit | Diesel Sales \$ | Diesel Sales Gal | Diesel COGS | Diesel Profit |
|----------------|-------------------|--------------------|---------------|-----------------|-----------------|------------------|-------------|---------------|
| Jul - Feb 2023 | \$ 443,293 | 64,334 | \$ 314,491 | \$ 128,802 | \$ 211,815 | 34,087 | \$ 142,079 | \$ 69,736 |
| Jul - Feb 2022 | \$ 400,920 | 73,337 | \$ 263,983 | \$ 136,937 | \$ 188,856 | 47,442 | \$ 124,083 | \$ 64,773 |
| Airport Fuel | Jet A Sales \$ | Jet A Sales Gal | Jet A COGS | Jet A Profit | 100LL Sales \$ | 100LL Sales Gal | 100LL COGS | 100LL Profit |
| Jul - Feb 2023 | \$ 595,951 | 100,594 | \$ 420,345 | \$ 175,606 | \$ 105,751 | 15,009 | \$ 81,502 | \$ 24,249 |
| Jul - Feb 2022 | \$ 335,113 | 79,800 | \$ 222,431 | \$ 112,682 | \$ 60,367 | 11,146 | \$ 48,271 | \$ 12,096 |

Port of Astoria
Profit & Loss Actual vs. Budget
February 2023

| | Actuals Jul 2022 - Feb 2023 | Actuals Jul 2021 - Feb 2022 | Budget Jul 2022 - Feb 2023 | Budget Variance Through Feb | % of Budget Through Feb | Full '22-'23 Budget |
|--|-----------------------------------|-----------------------------------|----------------------------------|-----------------------------------|----------------------------|------------------------|
| <u>Operating Revenues</u> | | | | | | |
| Dockage & Vessel Service | 399,214 | 789,997 | 654,979 | -255,765 | 61% | 1,226,657 |
| Lease & Rental Income | 1,765,261 | 1,418,178 | 2,047,796 | -282,535 | 86% | 3,118,224 |
| Rebilled Expenses | 1,105,695 | 924,166 | 1,102,840 | 2,855 | 100% | 1,713,380 |
| Boat Haulout | 427,783 | 367,405 | 374,754 | 53,029 | 114% | 665,527 |
| Marina Revenues | 379,792 | 397,893 | 404,741 | -24,949 | 94% | 680,780 |
| Fuel Sales | 1,356,810 | 985,256 | 1,447,637 | -90,827 | 94% | 1,882,280 |
| Ticket Revenues | 2,195 | 4,960 | 7,417 | -5,222 | 30% | 9,540 |
| Other Income | 40,160 | 78,857 | 97,235 | -57,074 | 41% | 148,266 |
| Total Operating Revenues | 5,476,909 | 4,966,712 | 6,137,399 | -660,490 | 89% | 9,444,654 |
| <u>Operating Expenses</u> | | | | | | |
| Personnel Services | 1,792,487 | 1,691,164 | 1,881,490 | -89,003 | 95% | 2,820,490 |
| Materials and Services | 3,207,823 | 2,632,700 | 3,161,775 | 46,048 | 101% | 4,481,686 |
| Total Operating Expenses | 5,000,310 | 4,323,865 | 5,043,265 | -42,955 | 99% | 7,302,176 |
| | | | | | | |
| Income from Operations | 476,599 | 642,847 | 1,094,133 | -617,535 | 44% | 2,142,478 |
| <u>Non-Operating Revenues</u> | | | | | | |
| Property Tax Revenues-Genl Fund | 873,885 | 813,226 | 833,656 | 40,229 | 105% | 890,248 |
| Timber Tax Revenues | 111,957 | 41,827 | 111,957 | 0 | 100% | 198,811 |
| Other County Revenues | 177 | 36,084 | 38,126 | -37,949 | 0% | 39,500 |
| Grants* | 340,396 | 2,023,293 | 340,396 | 0 | 100% | 1,940,763 |
| Interest Income | 2,679 | 1,199 | 12,453 | -9,774 | 22% | 18,303 |
| Total Non-Operating Revenues | 1,329,094 | 2,916,841 | 1,336,588 | -7,494 | 99% | 3,087,625 |
| <u>Total Non-Operating Expenses</u> | | | | | | |
| Capital Outlay* | 1,701,296 | 3,259,258 | 1,701,296 | 0 | 100% | 3,959,368 |
| Interest Expense | 91,265 | 42,618 | 321,707 | -230,442 | 28% | 474,936 |
| Principal Expense | 203,711 | 66,126 | 724,643 | -520,932 | 28% | 1,135,728 |
| Total Non-Operating Expenses | 1,996,271 | 3,368,002 | 2,747,646 | -751,375 | 73% | 5,570,032 |
| | | | | | | |
| Net Income (Loss) | -190,579 | 191,687 | -316,925 | 126,346 | 60% | -339,929 |

*Capital Outlay/Grants year-to-date budget set to match Revenue/Expense, not seasonally adjusted.

Port of Astoria

Balance Sheet as of February 2023

February 28, 2023

ASSETS

Current Assets

Cash & Cash Equivalents

| | |
|--------------------------|-----------|
| Cash Funds | 745 |
| Operating Account #1442 | 892,473 |
| Payroll Account #5344 | 32,500 |
| Bornstein MMA #0004 | 63,330 |
| Money Market #1259 | 262,585 |
| Total Lewis & Clark Bank | 1,250,888 |

Total Cash & Cash Equivalents 1,251,633

Accounts Receivable 300,142

Other Current Assets 2,840,029

Total Current Assets 4,391,805

Fixed Assets 35,732,702

Other Assets

Long-term Receivables 18,014,398

TOTAL ASSETS 58,138,905

LIABILITIES & EQUITY

Liabilities

Current Liabilities

Accounts Payable 457,432

Other Current Liabilities 15,879,407

Total Current Liabilities 16,336,839

Long Term Liabilities

Accrued Vacation Payable 142,253

Accrued Sick Leave 158,204

Notes Payable 13,785,573

Net Pension Liability 829,427

Lease Liability 725,809

OPEB Liability 85,017

Pollution Remediation AOC 4 Liability 2,966,175

Less Current Portion LT Debt -963,782

Total Long Term Liabilities 17,728,678

Total Liabilities 34,065,516

Equity

Retained Earnings 24,263,967

Net Income -190,579

Total Equity 24,073,389

TOTAL LIABILITIES & EQUITY 58,138,905



Capital Projects
February 2023
Budget to Actual

| DEPARTMENT AND PROJECT | | | CAPITAL PROJECTS & GRANTS As Budgeted | | | CAPITAL PROJECTS & GRANTS Actual Spending To-Date | | | REMAINDER & PRIORITY | |
|------------------------|-------------|--|--|-----------------------|---------------------|--|------------------------------------|--|---|---------------------------------------|
| Department | Acctg Ref # | Description | Adopted Capital Expenditure | Adopted Grant Funding | Adopted POA Expense | Expenses through 02/28/2023 | Grants Received through 02/28/2023 | Expenses through 02/28/2023 NET OF GRANTS | Budgetary Estimate of Remaining POA Expense | Priority (1-10) 9=Comp 10=Remvd |
| WFW | 21 | P2 West PS&E Documents; CM/GC work to 100% Design | 250,000 | - | 250,000 | 2,333 | - | 2,333 | 247,667 | 1 |
| Airport | 03 | Airport Master Plan | 389,253 | 361,163 | 28,090 | 327,312 | 318,216 | 9,096 | 18,995 | 2 |
| WFE - Marinas | 16 | West Marina Dredging | 496,250 | - | 496,250 | 373,771 | - | 373,771 | 122,479 | 2 |
| Administration | 01 | 2022-23 IT Upgrades | 30,000 | - | 30,000 | 20,499 | - | 20,499 | 9,501 | 3 |
| Airport | 04 | Backfill and Site Prep Behind Overbay | 30,000 | - | 30,000 | 2,678 | - | 2,678 | 27,322 | 3 |
| WFW | 27 | Security Upgrades: Trident equipment; Pier 1 Generator; Pier 1 Booth; Cyber Security | 200,000 | 150,000 | 50,000 | 4,034 | 3,771 | 263 | 49,737 | 3 |
| Airport | 07 | Hangar Maintenance | 50,000 | - | 50,000 | - | - | - | 50,000 | 4 |
| WFW | 23 | Pier 2 East - Repairs based on ODOT reports | 50,000 | - | 50,000 | 1,762 | - | 1,762 | 48,238 | 4 |
| Airport | 13 | Vegetation Management | 30,000 | - | 30,000 | 41,047 | - | 41,047 | (11,047) | 4 |
| WFW - Boatyard | 28 | Boatyard Electrical Upgrades | 10,000 | - | 10,000 | 21,270 | - | 21,270 | (11,270) | 5 |
| WFW - Boatyard | 30 | Boatyard Upgrades | 650,000 | 455,000 | 195,000 | 136 | - | 136 | 194,864 | 5 |
| WFW | 19 | Fire suppression/system upgrades - Pier 2 | 20,000 | - | 20,000 | - | - | - | 20,000 | 5 |
| Airport | 08 | Industrial Park | 250,000 | 225,000 | 25,000 | 525 | - | 525 | 24,475 | 5 |
| WFW | 24 | Repave Gateway Avenue / Restripe | 110,000 | 110,000 | - | - | - | - | - | 5 |
| WFW | 26 | Replace Cruise Ship Gangway Decking | 15,000 | - | 15,000 | - | - | - | 15,000 | 5 |
| Airport | 09 | Terminal Building Upgrades | 150,000 | 142,500 | 7,500 | 8,272 | - | 8,272 | (772) | 5 |
| Airport | 11 | Tide Gate Feasibility Study | 99,600 | 99,600 | - | 2,894 | - | 2,894 | (2,894) | 5 |
| Airport | 05 | Backfill and Site Prep Behind Recology | 55,000 | - | 55,000 | 22,659 | - | 22,659 | 32,341 | 8 |
| WFE | 14 | Maintenance - Flatbed Truck | 13,500 | - | 13,500 | - | - | - | 13,500 | 8 |
| WFW | 20 | Maintenance - Flatbed Truck | 31,500 | - | 31,500 | - | - | - | 31,500 | 8 |
| Airport | 12 | Utility Trailer | 7,500 | - | 7,500 | - | - | - | 7,500 | 8 |
| WFE - Marinas | 15 | East Mooring Basin Causeway Design & Repairs | 500,000 | 350,000 | 150,000 | - | - | - | 150,000 | 8 |
| Airport | 10 | T-Hangar Fencing | 50,000 | 37,500 | 12,500 | 38,089 | 28,567 | 9,522 | 2,978 | 9 |
| Airport | 06 | Gator Utility Vehicle | 15,000 | - | 15,000 | 19,599 | - | 19,599 | (4,599) | 9 |
| WFE - Marinas | 17 | West Marina Piling Replacement (25) | 133,500 | - | 133,500 | 188,676 | - | 188,676 | (55,176) | 9 |
| WFW | 18 | Fender Pile Replacement (25) Pier 1 West, Pier 2 East, Pier 2 West | 221,875 | - | 221,875 | 195,019 | - | 195,019 | 26,856 | 9 |
| WFW - Boatyard | 29 | Boatyard Stands | 16,390 | - | 16,390 | 14,587 | - | 14,587 | 1,803 | 9 |
| Airport | 02 | Airport Generator | 20,000 | 10,000 | 10,000 | 6,195 | 832 | 5,363 | 4,637 | 9 |
| WFW | 22 | Pier 1 Face Chip Seal | 15,000 | - | 15,000 | 13,760 | - | 13,760 | 1,240 | 9 |
| WFW | 25 | Repave Pier 2 Entrance to Gateway | 50,000 | - | 50,000 | 41,500 | - | 41,500 | 8,500 | 9 |
| | | Misc | | | | 354,680 | - | 354,680 | (354,680) | |
| TOTALS | | | 3,959,368 | 1,940,763 | 2,018,605 | 1,701,296 | 351,386 | 1,349,910 | 668,695 | |

Port of Astoria
Vouchers Paid -- Operating Acct

| Type | Date | Num | Name | Memo | Credit |
|-------------------------------------|------------|-------|--|--|------------|
| 102-00 - Cash | | | | | |
| 102-02 - CCB Operating #1442 | | | | | |
| Bill Pmt -Check | 03/06/2023 | 82088 | A-1 Ready Mix | | 730.00 |
| Bill Pmt -Check | 03/06/2023 | 82089 | A Coastal Lock & Key, LLC | | 9.00 |
| Bill Pmt -Check | 03/06/2023 | 82090 | ABA Company | | 12,880.00 |
| Bill Pmt -Check | 03/06/2023 | 82091 | AT&T | Acct # 019 295 1870 001 | 24.28 |
| Bill Pmt -Check | 03/06/2023 | 82092 | Builders First Source | Acct # 825101 | 1,057.09 |
| Bill Pmt -Check | 03/06/2023 | 82093 | Business Oregon | Acct # 1230000433 Loan # W04002 | 187,000.00 |
| Bill Pmt -Check | 03/06/2023 | 82094 | Card Service Center | | 9,577.41 |
| Bill Pmt -Check | 03/06/2023 | 82095 | CenturyLink | Acct # 497163267 | 102.90 |
| Bill Pmt -Check | 03/06/2023 | 82096 | Charter Business - 0229 | 8787 14 680 0000229 | 2,112.93 |
| Bill Pmt -Check | 03/06/2023 | 82097 | Charter Business - 5587 | Acct # 8787 14 002 0105587 | 39.99 |
| Bill Pmt -Check | 03/06/2023 | 82098 | Charter Business - 5595 | Acct # 8787 14 002 0105595 | 189.97 |
| Bill Pmt -Check | 03/06/2023 | 82099 | Cintas Corporation | 10829 | 404.30 |
| Bill Pmt -Check | 03/06/2023 | 82100 | City Lumber | Cust # 7259 | 436.78 |
| Bill Pmt -Check | 03/06/2023 | 82101 | City of Astoria - Bldg Division | PERMIT # 119-20-000193-STR | 50.00 |
| Bill Pmt -Check | 03/06/2023 | 82102 | CityServiceValcon | Acct # AST0770 | 36,695.17 |
| Bill Pmt -Check | 03/06/2023 | 82103 | Cummins Sales & Service | 254600 | 2,147.55 |
| Bill Pmt -Check | 03/06/2023 | 82104 | Del's OK Point S Tire | POR101 | 726.00 |
| Bill Pmt -Check | 03/06/2023 | 82105 | DEQ | Recology WOW Dredge and Fill Certification Applicat... | 4,565.60 |
| Bill Pmt -Check | 03/06/2023 | 82106 | DSL | Acct # APP0020582 (ML9609) | 39,975.69 |
| Bill Pmt -Check | 03/06/2023 | 82107 | DSL | Acct # APP0020585 (ML6136) | 5,907.69 |
| Bill Pmt -Check | 03/06/2023 | 82108 | DSL | Acct ID: APP0064323 | 957.00 |
| Bill Pmt -Check | 03/06/2023 | 82109 | Earthworx Excavation, LLC | | 4,596.25 |
| Bill Pmt -Check | 03/06/2023 | 82110 | Eastern Pacific Fabrication LLC | | 3,845.00 |
| Bill Pmt -Check | 03/06/2023 | 82111 | Equipment Rental Services | Cust # 205559 | 1,332.50 |
| Bill Pmt -Check | 03/06/2023 | 82112 | French's Gutters & Sheet Metal, Inc. | | 1,308.47 |
| Bill Pmt -Check | 03/06/2023 | 82113 | Haglund Kelley LLP | | 927.00 |
| Bill Pmt -Check | 03/06/2023 | 82114 | Hauer's Lawn Care & Equip | | 449.35 |
| Bill Pmt -Check | 03/06/2023 | 82115 | ICOM America Inc. | | 1,231.30 |
| Bill Pmt -Check | 03/06/2023 | 82116 | iFocus Consulting, Inc. | 50% Downpayment | 1,975.00 |
| Bill Pmt -Check | 03/06/2023 | 82117 | Industrial Tire Service | Cust # 4512 | 3,176.84 |
| Bill Pmt -Check | 03/06/2023 | 82118 | Kiwi Glass, Inc. | | 4,450.00 |
| Bill Pmt -Check | 03/06/2023 | 82119 | Lawson Products | Cust # 10075026 | 196.59 |
| Bill Pmt -Check | 03/06/2023 | 82120 | Matthew McGrath (A/P) | Reimbursement - Feb 2023 | 466.25 |
| Bill Pmt -Check | 03/06/2023 | 82121 | McCall Tire Center, Inc. | Cust # A21-01162 | 27.98 |
| Bill Pmt -Check | 03/06/2023 | 82122 | Melanie Howard (A/P) | | 92.14 |
| Bill Pmt -Check | 03/06/2023 | 82123 | North Coast Truck Parts | | 9.50 |
| Bill Pmt -Check | 03/06/2023 | 82124 | Northwest Local Government Legal Advi... | Feb 2023 | 1,925.00 |
| Bill Pmt -Check | 03/06/2023 | 82125 | NW Natural | | 2,229.71 |
| Bill Pmt -Check | 03/06/2023 | 82126 | Office Express | | 3,353.68 |
| Bill Pmt -Check | 03/06/2023 | 82127 | Orkin Pest Control | 28012851 | 122.99 |
| Bill Pmt -Check | 03/06/2023 | 82128 | P & L Johnson Mechanical, Inc. | | 165.00 |
| Bill Pmt -Check | 03/06/2023 | 82129 | Pacific Power | | 10,222.90 |
| Bill Pmt -Check | 03/06/2023 | 82130 | PacificSource Administrators | Employer ID: P00431 | 669.91 |
| Bill Pmt -Check | 03/06/2023 | 82131 | PERS Health | VOID: JA - Group: 10013822 Subscriber: T62752933 | |
| Bill Pmt -Check | 03/06/2023 | 82132 | PetroCard, Inc. | 01-0004280 | 866.45 |
| Bill Pmt -Check | 03/06/2023 | 82133 | Platt Electric Supply (Rexel) | Acct #135946 | 118.78 |
| Bill Pmt -Check | 03/06/2023 | 82134 | Recology Western Oregon | | 3,183.06 |
| Bill Pmt -Check | 03/06/2023 | 82135 | S. Bruce Conner | December 2022 | 2,100.00 |
| Bill Pmt -Check | 03/06/2023 | 82136 | Shane Jensen - Grant Writer | Grant Writing - Jan 2023 | 11,822.54 |
| Bill Pmt -Check | 03/06/2023 | 82137 | Sierra Springs | 928320221793628 | 195.38 |
| Bill Pmt -Check | 03/06/2023 | 82138 | Sign One | | 372.00 |
| Bill Pmt -Check | 03/06/2023 | 82139 | Special Districts Health Premiums | Cust # 03-0016324 | 48,942.30 |
| Bill Pmt -Check | 03/06/2023 | 82140 | Stacy Bandy (A/P) | Reimb for purchases & mileage driven | 202.82 |
| Bill Pmt -Check | 03/06/2023 | 82141 | Standard Insurance Co. | Policy # 00 158620 0001 | 1,935.06 |
| Bill Pmt -Check | 03/06/2023 | 82142 | Staples Advantage | | 45.11 |
| Bill Pmt -Check | 03/06/2023 | 82143 | The North Coast Oregonian | | 80.00 |
| Bill Pmt -Check | 03/06/2023 | 82144 | Verizon Wireless #7705-1 | 270297705-00001 | 600.72 |
| Bill Pmt -Check | 03/06/2023 | 82145 | Walter E. Nelson Co. | Cust # 1629 | 1,387.31 |
| Bill Pmt -Check | 03/06/2023 | 82146 | Wells Electrical Contracting, Inc. | | 6,131.24 |

Total 102-02 - CCB Operating #1442

426,345.48

Total 102-00 - Cash

426,345.48

TOTAL

426,345.48

3-7-23 OK
JTP

ok
W

Port of Astoria
Vouchers Paid -- Operating Acct

| Type | Date | Num | Name | Memo | Credit |
|-------------------------------------|------------|-------|---|---|-------------------|
| 102-00 - Cash | | | | | |
| 102-02 - CCB Operating #1442 | | | | | |
| Bill Pmt -Check | 03/17/2023 | 82147 | Advanced Remediation Technologies, Inc. | | 1,120.00 |
| Bill Pmt -Check | 03/17/2023 | 82148 | America's Phone Guys | | 581.75 |
| Bill Pmt -Check | 03/17/2023 | 82149 | Bergerson Construction, Inc | Job #21107 | 19,184.75 |
| Bill Pmt -Check | 03/17/2023 | 82150 | Blue Line Courier, LLC | | 250.00 |
| Bill Pmt -Check | 03/17/2023 | 82151 | Business Credit Reports, Inc. | Cust # 559359 | 112.00 |
| Bill Pmt -Check | 03/17/2023 | 82152 | Campbell Environmental | | 2,330.00 |
| Bill Pmt -Check | 03/17/2023 | 82153 | Charter Business - 0590 | 8787 14 001 0420590 | 39.99 |
| Bill Pmt -Check | 03/17/2023 | 82154 | City of Warrenton | | 3,998.44 |
| Bill Pmt -Check | 03/17/2023 | 82155 | CityServiceValcon | Acct # AST0770 | 33,671.58 |
| Bill Pmt -Check | 03/17/2023 | 82156 | Earthworx Excavation, LLC | Inv#1276 | 760.00 |
| Bill Pmt -Check | 03/17/2023 | 82157 | Englund Marine (Boatyard) | | 285.20 |
| Bill Pmt -Check | 03/17/2023 | 82158 | Englund Marine (Marina) | | 111.51 |
| Bill Pmt -Check | 03/17/2023 | 82159 | Englund Marine (MX) | | 219.04 |
| Bill Pmt -Check | 03/17/2023 | 82160 | Equipment Rental Services | Cust # 205559 | 523.00 |
| Bill Pmt -Check | 03/17/2023 | 82161 | Haglund Kelley LLP | | 2,587.50 |
| Bill Pmt -Check | 03/17/2023 | 82162 | Harold Culver (Retiree) | | 277.38 |
| Bill Pmt -Check | 03/17/2023 | 82163 | Home Depot | 6035 3225 3191 4798 | 363.15 |
| Bill Pmt -Check | 03/17/2023 | 82164 | iFocus Consulting, Inc. | | 4,825.00 |
| Bill Pmt -Check | 03/17/2023 | 82165 | Jackson and Son Oil | Acct # 63045 | 16,187.23 |
| Bill Pmt -Check | 03/17/2023 | 82166 | Jordan Ramis PC | Client ID 43046 | 47.50 |
| Bill Pmt -Check | 03/17/2023 | 82167 | Kiwi Glass, Inc. | | 2,670.00 |
| Bill Pmt -Check | 03/17/2023 | 82168 | Landside Resources, Inc. | February 2023 | 1,200.00 |
| Bill Pmt -Check | 03/17/2023 | 82169 | Lawson Products | | 350.57 |
| Bill Pmt -Check | 03/17/2023 | 82170 | Maul Foster & Alongi, Inc. | | 30,208.85 |
| Bill Pmt -Check | 03/17/2023 | 82171 | P & L Johnson Mechanical, Inc. | | 29,557.73 |
| Bill Pmt -Check | 03/17/2023 | 82172 | Pacific Power | | 5,415.52 |
| Bill Pmt -Check | 03/17/2023 | 82173 | PERS Health | AS - Group: 10013822 Subscriber: H80550901 | 277.38 |
| Bill Pmt -Check | 03/17/2023 | 82174 | PetroCard, Inc. | 01-0004280 | 664.84 |
| Bill Pmt -Check | 03/17/2023 | 82175 | Platt Electric Supply (Rexel) | Acct #135946 | 136.08 |
| Bill Pmt -Check | 03/17/2023 | 82176 | Pro-Fresh LLC | FBO OFFICE | 411.25 |
| Bill Pmt -Check | 03/17/2023 | 82177 | Quadient (postage) | X3391 | 238.00 |
| Bill Pmt -Check | 03/17/2023 | 82178 | Shred-It | Cust # 16971101 | 60.00 |
| Bill Pmt -Check | 03/17/2023 | 82179 | Solutions YES, LLC | Acct # PO03 | 102.65 |
| Bill Pmt -Check | 03/17/2023 | 82180 | Special Districts Association of Oregon | 2023 SDAO Annual Conference registration for Frank... | 95.00 |
| Bill Pmt -Check | 03/17/2023 | 82181 | Special Districts Insurance Services | Cust ID: 01-16324 Policy # 38P16324-194 | 117.00 |
| Bill Pmt -Check | 03/17/2023 | 82182 | Special Touch Janitorial, Inc. | March 2023 | 3,918.75 |
| Bill Pmt -Check | 03/17/2023 | 82183 | Sweet Septic and Portable Service | | 260.00 |
| Bill Pmt -Check | 03/17/2023 | 82184 | Topper Industries, Inc. | Job # 8185 | 25,447.20 |
| Bill Pmt -Check | 03/17/2023 | 82185 | VenTek International | Cust # PORTASTORIA | 380.00 |
| Bill Pmt -Check | 03/17/2023 | 82186 | Wadsworth Electric | | 4,567.79 |
| Bill Pmt -Check | 03/17/2023 | 82187 | Walter E. Nelson Co. | Cust # 1629 | 453.14 |
| Bill Pmt -Check | 03/17/2023 | 82188 | Wells Electrical Contracting, Inc. | | 3,740.00 |
| Bill Pmt -Check | 03/17/2023 | 82189 | Winning Solutions, Inc. | | 1,750.00 |
| Total 102-02 - CCB Operating #1442 | | | | | 199,496.77 |
| Total 102-00 - Cash | | | | | 199,496.77 |
| TOTAL | | | | | 199,496.77 |

270 3-20-2023
 OK
 Susan Inausue

April 2023

| April 2023 | | | | | | | May 2023 | | | | | | |
|------------|----|----|----|----|----|----|----------|----|----|----|----|----|----|
| Su | Mo | Tu | We | Th | Fr | Sa | Su | Mo | Tu | We | Th | Fr | Sa |
| 2 | 3 | 4 | 5 | 6 | 7 | 8 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| 9 | 10 | 11 | 12 | 13 | 14 | 15 | 14 | 15 | 16 | 17 | 18 | 19 | 20 |
| 16 | 17 | 18 | 19 | 20 | 21 | 22 | 21 | 22 | 23 | 24 | 25 | 26 | 27 |
| 23 | 24 | 25 | 26 | 27 | 28 | 29 | 28 | 29 | 30 | 31 | | | |
| 30 | | | | | | | | | | | | | |

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|--------|------------------------------------|--|------------------------------------|----------|--------|----------|
| Mar 26 | 27 | 28 | 29 | 30 | 31 | Apr 1 |
| 2 | 3 6PM Astoria City Council Mtg | 4 4PM Regular Session 6PM CB City Council Mtg | 5 7PM Gearhart City Council Mtg | 6 | 7 | 8 |
| 9 | 10 6PM Seaside City Council Mtg | 11 6PM CB City Council Work Mtg 6PM Warrenton City Council Mtg | 12 5PM Clatsop Cnty Commission | 13 | 14 | 15 |
| 16 | 17 6PM Astoria City Council Mtg | 18 4PM Regular Workshop Session | 19 | 20 | 21 | 22 |
| 23 | 24 6PM Seaside City Council Mtg | 25 6PM Warrenton City Council Mtg 7:30AM AWACC Breakfast Mtg | 26 5PM Clatsop Cnty Commission | 27 | 28 | 29 |
| 30 | May 1 | 2 | 3 | 4 | 5 | 6 |



Port of Astoria
COMMISSION MEETING

| | | |
|---|-------------------------------------|----------------------------------|
| <u>BRIEFING DATE/TIME:</u> | April 4, 2023 | |
| <u>DEPARTMENT:</u> | Operations | |
| <u>STAFF CONTACT:</u> | Matt McGrath | |
| <u>TOPIC:</u> | Updated Airport Ordinance | |
| <u>PURPOSE:</u> | <input checked="" type="checkbox"/> | Information only |
| <i>Check all that apply</i> | <input checked="" type="checkbox"/> | Decision needed |
| | <input type="checkbox"/> | Follow up from previous briefing |
| <u>BACKGROUND & OVERVIEW OF SURROUNDING ISSUES:</u> | | |
| <p>The current ordinance governing operations at the Astoria Regional Airport (Ordinance 97-01) is due for an update. The updates within the new ordinance include, but are not limited to the following:</p> <ul style="list-style-type: none"> • FAA Administrative Order references • Environmental compliance language • Language to include electric aircraft and electric “fuel” • Fuel Transportation Vehicle permits, requirements and penalties • Fuel Flowage Fee policies and penalties | | |
| <u>DOCUMENTS ATTACHED:</u> | | |
| <p>Ordinance 97-01 Revised Ordinance 2023-01 (redline) Revised Ordinance 2023-01 (final)</p> | | |
| <u>SUMMARY & FINANCIAL IMPACT:</u> | | |
| <p>The revised ordinance is cleaner and more clearly addresses and streamlines Port policies related to use of a fuel transportation vehicle (FTV). The direct financial impact of the Ordinance on Astoria Regional Airport revenues is negligible.</p> | | |
| <u>NEXT STEPS/TIMEFRAME:</u> <i>Based on the Commission’s recommendation, describe the next steps required in order to bring this item to conclusion. Include the time frame for each step.</i> | | |
| <p>First reading: April 4, 2023 Second reading: April 18, 2023 Adoption: May 18, 2023 (30 days after second reading and adoption)</p> | | |



COMMISSION MEETING

STAFF RECOMMENDATION:

Review the revised ordinance over the next two weeks; provide suggested revisions to staff for inclusion in the April 18, 2023 Commission Packet.

**ORDINANCE NO. 97-01
OF THE PORT OF ASTORIA**

**AN ORDINANCE REGARDING FEES, FUEL FLOWAGE FEES
AND REGULATING OPERATION OF AIRCRAFT AND
VEHICLES AT AIRPORT**

BE IT ENACTED BY THE PORT OF ASTORIA:

1. FINDINGS AND PURPOSE

1.1 Findings

The Port of Astoria finds that:

1.1.1 The Port owns and operates the Regional Astoria Airport ("Airport") which is used for the taking off, landing, operation and storage of aircraft, and the conduct of businesses supporting aviation activities; and

1.1.2 The Airport promotes a strong economic base for the county, assists and encourages trade opportunities and is of vital importance to the health, safety, and welfare of the Port district; and

1.1.3 It is essential that the Airport attain financial self-sufficiency to perform its transportation role in the county and to provide the county with cost effective aviation facilities; and

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

1.1.5 The Port incurs and will continue to incur substantial expenditure for capital investment, operation, maintenance, and development of the facilities at the Airport; and

1.1.6 The Federal Aviation Administration (FAA) has directed airports to ensure that rates, fees, rentals, landing fees, and other service charges imposed on aeronautical users of airports for aeronautical uses are of fair market value; and

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

1.1.8 ORS 777.210(6) authorizes the Port to operate and maintain airports and collect charges for the use of such facilities, and ORS 836.210 further authorizes the Port to provide by regulation for charges, fees, and tolls for the use of the Airport and civil penalties for the violations of such regulations; and

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

1.2 Purpose

The purpose of this Ordinance is to enact Tie-Down, Hangar, Transient, and Fuel Flowage Fees and to establish safety requirements for aircraft and vehicles consistent with the above findings, and this Ordinance shall be liberally construed to effectuate this purpose.

2. DEFINITIONS

As used in this Ordinance:

2.1 "Airport" "Airport" shall mean that certain airport located in Clatsop County, Oregon, known as the Regional Astoria Airport, including all facilities and roads located at or on such airport.

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

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

2.4 "Fee" "Fee" shall mean the Transient Fee, Tie-Down, Hangar, and Fuel Flowage Fees authorized by this Ordinance.

2.5 "Fuel" "Fuel" shall mean any aviation gasoline IOOLL and Jet A or any other inflammable or combustible gas or liquid useable as fuel for the operation of aircraft.

2.6 "Fuel Flowage Fee" "Fuel Flowage Fee" shall mean the Fuel Flowage Fee authorized in Section 3.1 of this Ordinance.

2.7 “Fuel Operator” “Fuel Operator” shall mean any person who is authorized by the Port to operate any system or device used to store or dispense fuel at the Airport, including but not limited to a fuel storage tank, fuel transportation vehicle, or similar system or device.

2.8 “Fuel Transportation Vehicle” “Fuel Transportation Vehicle” shall mean any form of transportation that is used in and capable of transporting fuel, including fuel for airplanes running on automobile gasoline, on Airport roads, parking areas, ramp areas, taxiways, runways, or elsewhere on the Airport.

2.9 “Government Aircraft” “Government Aircraft” shall mean any aircraft owned or operated by the United States government or any of its agencies.

2.10 “Permit” “Permit” shall mean the Permit required pursuant to this Ordinance..

2.11 “Permittee” “Permittee” shall mean any person required by this Ordinance to have a Permit for operation of a Fuel Transportation Vehicle at the Airport.

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

2.13 “Mobile Storage Tank Use Agreement” “Mobile Storage Tank Use Agreement” shall mean an agreement in force between the Port and a person which expressly authorizes the person to operate a Fuel Transportation Vehicle at the Airport in accordance with prescribed terms and conditions.

3. FUEL FLOWAGE FEES

3.1 Fees Required.

Every Fuel Operator shall pay a fuel flowage fee (“Fuel Flowage Fee”) on all fuel transported onto the Airport. The Fuel Flowage Fee shall be assessed at the time fuel is transported onto the Airport by a Fuel Operator. The Fuel Flowage Fee shall be an amount payable on each gallon or similar measuring unit established by the Executive Director for each category of fuel, and may be adjusted.

3.2 Collection

Fuel Flowage Fees shall be collected by the Port in accordance with procedures established by the Executive Director. Unless the Executive Director has established other payment procedures, or credit arrangements satisfactory to the Executive Director have been made in advance, all Fuel Flowage Fees shall be paid by a Fuel Operator no later than 20 days after the end of the

calendar month in which fuel is transported onto the Airport. A delinquency charge in an amount established by the Executive Director shall be imposed on all Fuel Flowage Fees not paid when due. All Fuel Operators shall promptly provide the Port reports containing information specified by the Port which is necessary to calculate the Fuel Flowage Fee.

4. TIE-DOWN FEES

“Tie-Down Fees” shall be established by resolution of the Commission, and may be adjusted. The Port Executive Director or his designee is authorized to execute month to month Tie-Down contracts with aircraft owners wanting Tie-Down space for their aircraft. Aircraft leased back to a designated FBO are required to pay Tie-Down Fees.

5. HANGAR FEES

“Hangar Fees” shall be established by resolution of the Commission and may be adjusted. The Port Executive Director, or his designee, is authorized to execute month-to-month hangar contracts with aircraft owners wanting hangar space for their aircraft.

6. TRANSIENT FEES

“Transient Fees” shall be established by resolution of the Commission and may be adjusted. Such resolution may provide for reduced rates for groups, military, or other special use circumstances.

7. OPERATION OF AIRCRAFT

Aircraft operators shall abide by all federal, state, and FAA regulations, and all rules established by the Port. Operators shall direct their prop wash away from hangar areas. No fueling of aircraft shall take place in or between hangars. Fueling is allowed only in the aircraft tie-down area or designated fueling area.

8. AUTOMOBILE OPERATION

Excluding authorized commercial, agricultural, or emergency vehicles, driving is forbidden on Airport ramps and runways except for hangar and tie-down use as follows:

- (a) Entrance to hangars shall be only through the hangar entrance;

- (b) Authorized ramp driving is allowed only through the main gate to the hangars; and
- (c) Ramp speed shall not exceed 25 MPH.
- (d) Entrance to the tie-down area is through the gate located between Lektro and Astoria Flight Center.
- (e) Entrance to tie-down area is only for loading, unloading or minor aircraft maintenance.
- (f) Aircraft have right of way at all times.

9. FUEL TRANSPORTATION VEHICLES

Fuel Transportation Vehicles shall be licensed by the Port to operate on Airport premises. No person shall operate a Fuel Transportation Vehicle at the Airport without a license or written permission of the Port.

10. PENALTIES

10.1 Civil Sanctions

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

10.2 Criminal Sanctions

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

11. SEVERABILITY

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

12. CONFORMANCE OF STATE & FEDERAL LAW

This ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the federal government, FAA, State of Oregon, or its agencies, or any ordinance, rule, or regulation of the Port of Astoria

13. INCONSISTENT PROVISIONS

This ordinance shall supersede, control and repeal any inconsistent provision of any Port ordinance as amended or any other regulations made by the Port of Astoria.

14. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions of this ordinance.

15. EFFECTIVE DATE

The effective date of this Ordinance shall be October 16, 1997.

ADOPTED THIS 16 day of September, 1997, being the date of its second reading before the Board of Commissioners of the Port of Astoria.

VICE [Signature]
President
[Signature]
Secretary

APPROVED AS TO LEGAL SUFFICIENCY:

[Signature]
Counsel for Port of Astoria

PORT OF ASTORIA

ORDINANCE 2023- ____

AN ORDINANCE AMENDING ORDINANCE 97-01 AND ENACTING REGULATIONS AND PENALTIES FOR CERTAIN AIRPORT ACTIVITIES

WHEREAS, pursuant to Oregon Revised Statutes (“ORS”) 777.210(6), the Port of Astoria (“Port”) operates and maintains the Astoria Regional Airport (“Airport”) and is authorized to collect charges for use of such facilities; and

WHEREAS, pursuant to ORS 836.210(6) the Port may adopt regulations establishing charges, fees and tolls for the use of the Airport, and enact civil penalties for violation of such regulations; and

WHEREAS, pursuant to ORS 777.190, the Port may adopt ordinances for policing or regulating of Port property and appoint peace officers to enforce the same; and

WHEREAS, the Port desires to amend Ordinance No. 97-01, “Regarding Fees, Fuel Flowage Fees, and Regulating Operation of Aircraft and Vehicles at Airport,” to establish or amend specific procedures for activities conducted at the Airport; establish or amend applicable fees; enact related rules and regulations; and enact penalties for violation of the same;

NOW, THEREFORE, the Port’s Board of Commissioners hereby ordains as follows:

1. Purposes. The general purposes of this ordinance are to: (1) establish regulations regarding certain activities at the Airport; (2) establish or clarify standardized procedures relating to such activities; (3) protect and preserve the health and safety of staff and the general public using or providing services at the Airport; and (4) effectuate the Port’s authority in ORS 777.258 to promote the maritime shipping, aviation and commercial interests of the Port.
2. Amendment of Ordinance 97-01. To further the Purposes herein described, Port of Astoria Ordinance No. 97-01 is hereby amended as follows:

1. FINDINGS AND PURPOSE

1.1 Findings

The Port of Astoria finds that:

1.1.1 The Port owns and operates the Astoria Regional Airport (“Airport”) which is used for the taking off, landing, operation and storage of aircraft, and the conduct of businesses supporting aviation activities; and

1 - ORDINANCE ESTABLISHING PROCEDURES, REGULATIONS, AND PENALTIES AT AIRPORT AND AMENDING ORDINANC

1.1.2 The Airport promotes a strong economic base for the county, assists and encourages trade opportunities and is of vital importance to the health, safety, and welfare of the Port district; and

1.1.3 It is essential that the Airport attain financial self-sufficiency to perform its transportation role in the county and to provide the county with cost effective aviation facilities; and

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

1.1.5 The Port incurs and will continue to incur substantial expenditure for capital investment, operation, maintenance, and development of the facilities at the Airport; and

1.1.6 ~~The~~ In accordance with U.S. Department of Transportation, Federal Aviation Administration (“FAA”) Order 5190.6B, Change 1 (effective date November 22, 2021, or as may be amended from time to time), the Federal Aviation Administration (FAA) has directed airports to ensure that rates, fees, rentals, landing fees, and other service charges imposed on aeronautical users of airports for aeronautical uses are of fair market value; and

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

1.1.8 ORS 777.210(6) authorizes the Port to operate and maintain airports and collect charges for the use of such facilities, and ORS 836.210 further authorizes the Port to provide by regulation for charges, fees, and tolls for the use of the Airport and civil penalties for the violations of such regulations; and

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

1.2 Purpose

The purpose of this Ordinance is to enact ~~Tie Down, Hangar, Transient, and Fuel Flowage Fees~~ airport fees and to establish safety requirements for aircraft and vehicles and to ensure compliance with environmental regulations consistent with the above findings, and this Ordinance shall be liberally construed to effectuate this purpose.

2 - ORDINANCE ESTABLISHING PROCEDURES, REGULATIONS, AND PENALTIES AT AIRPORT AND AMENDING ORDINANC

2. DEFINITIONS

As used in this Ordinance:

2.1 ~~“Airport”~~ “Airport” shall mean that certain airport located in Clatsop County, Oregon, known as the ~~Astoria Regional Airport~~ Regional Astoria Airport, including all facilities and roads located at or on such airport.

2.2 ~~“Aircraft”~~ “Aircraft” shall mean every contrivance invented, used, or designed to navigate, or fly in, the air.

2.3 ~~“Executive Director”~~ “Executive Director” shall mean the Port’s Executive Director or ~~his~~ designee.

2.4 ~~“Fee”~~ “Fee” shall mean ~~the Transient Fee, Tie Down, Hangar, and Fuel Flowage Fees~~ any Fee authorized by Section 6 of this Ordinance.

2.5 ~~“Fuel”~~ “Fuel” shall mean any aviation gasoline ~~100/100LL~~ and Jet A or any other inflammable or combustible gas or liquid useable as fuel for the operation of aircraft. For electric propulsion of aircraft, “Fuel” shall also mean the process of battery charging for aircraft propulsion.

2.6 ~~“Fuel Flowage Fee”~~ “Fuel Flowage Fee” shall mean the Fuel Flowage Fee authorized in Section 3.1 of this Ordinance.

2.7 ~~“Fuel Operator”~~ “Fuel Operator” shall mean any person who is authorized by the Port to operate any system or device used to store or dispense fuel at the Airport, including but not limited to a fuel storage tank, fuel transportation vehicle, or similar system or device.

2.8 ~~“Fuel Transportation Vehicle”~~ “Fuel Transportation Vehicle” shall mean any form of transportation that is used in and capable of transporting fuel, including fuel for airplanes running on automobile gasoline, on Airport roads, parking areas, ramp areas, taxiways, runways, or elsewhere on the Airport.

2.9 ~~“Government Aircraft”~~ “Government Aircraft” shall mean any aircraft owned or operated by the United States government or any of its agencies, including but not limited to the U.S. Coast Guard, Army, Navy, Marine Corps, and Air Force; and any state National Guard unit.

2.10 ~~“Peace Officer”~~ “Peace Officer” shall include the Clatsop County Sheriff; the Oregon State Police; the City of ~~Warrenton~~ Astoria Police; an authorized security officer for the Port; the Port’s Executive Director; or the Port’s Deputy Director.

2.11 ~~“Permit”~~ “Permit” shall mean ~~the a~~ Permit required pursuant to this Ordinance.

2.12 ~~“Permittee”~~ “Permittee” shall mean any person required by this Ordinance to have a Permit for operation of a Fuel Transportation Vehicle at the Airport.

3 - ORDINANCE ESTABLISHING PROCEDURES, REGULATIONS, AND PENALTIES AT AIRPORT AND AMENDING ORDINANC

~~2.1213~~ **“Person”**— “Person” shall mean an individual, sole proprietorship, association, corporation, partnership, limited liability company, joint venture, or any other business arrangement or organization.

~~2.13~~ **“Mobile Storage Tank Use Agreement”** “Mobile Storage Tank Use Agreement” shall mean an agreement in force between the Port and a person which expressly authorizes the person to operate a Fuel Transportation Vehicle at the Airport in accordance with prescribed terms and conditions.

3. **FUEL FLOWAGE-TRANSPORTATION VEHICLES**

3.1 **Permit Required.**

Any Fuel Transportation Vehicle shall require a Permit to operate on Airport Premises. Operating a Fuel Transportation Vehicle on any Port property without a properly authorized Permit shall be a violation of this Ordinance. Failure to comply with any term or condition of a Permit shall be deemed a separate violation for which a separate penalty may be imposed.

~~Fees Required~~ **3.2 Fuel Purchase; Fuel Flowage Fee.**

Every Fuel Operator shall ~~pay purchase fuel from the Port at the per-gallon rate fixed by the Port for all fuel purchasers, or pay a Fuel Flowage Fee (“Fuel Flowage Fee”)~~ on all fuel transported onto the Airport. The Fuel Flowage Fee shall be assessed at the time fuel is transported onto the Airport by a Fuel Operator. The Fuel Flowage Fee shall be an amount payable on each gallon or similar measuring unit established by the Executive Director for each category of fuel, and may be adjusted by the Executive Director.

3.23 Collection.

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

3.4 Penalties.

Failure to timely pay fees assessed under this Section shall be grounds for immediate suspension of a Permit, and assessment of penalties as provided in Section 9 of this Ordinance.

4. TIE-DOWN FEES

“Tie-Down Fees” shall be established, and may be adjusted, by resolution of the Commission, ~~and may be adjusted~~. The Port Executive Director or ~~his~~ designee is authorized to execute month-~~to-~~month Tie-Down ~~contracts~~ License Agreements with aircraft owners wanting ~~Tie-Down-down~~ space for their aircraft. Aircraft leased back to a designated FBO are required to pay Tie-Down Fees.

5. HANGAR FEES

Terms of Hangar Agreements, including fees ~~“Hangar Fees”~~ shall be ~~approved~~ established, and may be adjusted, by resolution of the Commission, ~~and may be adjusted~~. The Port Executive Director, or ~~his~~ designee, is authorized to execute month-to-month ~~hangar contracts~~ Hangar License Agreements with aircraft owners wanting hangar space for their aircraft.

6. TRANSIENT FEES

“Transient Fees” shall be established, and may be adjusted, by resolution of the Commission ~~and may be adjusted~~. Such resolution may provide for reduced rates for groups, ~~military~~ Government Aircraft, or other special use circumstances. Transient Fees include any of the following:

Call-Out Fee

Landing Fee

Overnight Tie-down Fee

Monthly Tie-down Fee

Ramp/Facility Fee

Overnight Vehicle Parking Fee

Monthly Vehicle Parking Fee

Fuel Flowage Fee

Catering Fee

Transient Hangar Use Fee

7. OPERATION OF AIRCRAFT

Aircraft operators shall abide by all federal, state, and FAA regulations, and all rules established by the Port. Operators shall direct their prop wash away from hangar areas. No fueling of aircraft shall take place in or between hangars. Fueling is allowed only in the aircraft tie-down area or designated fueling area.

8. AUTOMOBILE OPERATION

5 - ORDINANCE ESTABLISHING PROCEDURES, REGULATIONS, AND PENALTIES AT AIRPORT AND AMENDING ORDINANC

Excluding authorized commercial, agricultural, or emergency vehicles, driving is forbidden on Airport ramps and runways except for hangar and tie-down use as follows:

- a) ~~Access~~Entrance to hangars shall be only through the hangar security gate~~entrance~~.
- b) Authorized ramp driving is allowed only through the main gate to the hangars ~~and~~
- c) Ramp speed shall not exceed ~~25~~15 MPH.
- d) Entrance to the tie-down area is through the gate located between Life Flight Network and the airport terminal building~~Letro and Astoria Flight Center~~.
- e) Entrance to tie-down area is only for loading, unloading or minor aircraft maintenance.
- f) Any aircraft under power shall have the right of way over any non-aircraft vehicle or pedestrian~~Aircraft have right of way at all times~~.
- g) Any non-aircraft vehicle operating inside the security fence shall engage its emergency flashers or utilize a yellow rotating beacon on its roof.

9. FUEL TRANSPORTATION VEHICLES

~~Fuel Transportation Vehicles shall be licensed by the Port to operate on Airport premises. No person shall operate a Fuel Transportation Vehicle at the Airport without a license or written permission of the Port.~~

109. PENALTIES ENFORCEMENT

9.1 Penalties. Pursuant to ORS 777.990, any Person violating this Ordinance commits a Class A misdemeanor. Maximum fines shall be as follows:

9.1.1 For an individual:

- A. First offense: \$100 per violation
- B. Subsequent offenses: \$500 per violation

9.1.2 For a corporation:

- A. First offense: \$1,000 per violation
- B. Subsequent offenses: \$3,000 per violation

9.1.3 A separate penalty may be assessed for each day or portion thereof that the violation continues.

9.1.4 Penalties assessed under this Section shall be separate from, and in addition to, any penalties or other remedies available under state or local law or described in a lease or other agreement.

9.2 Enforcement Authority. The provisions of this Ordinance may be enforced by any Peace Officer.

9.3 Enforcement Procedure. This Ordinance shall be enforced as follows:

9.3.1 Notice of Violation. Any Peace Officer may issue a written Notice of Violation by hand-delivery or by certified mail addressed to the Fuel Operator. The Notice shall describe the nature of the violation; cite to the specific regulation being violated; and the maximum penalty for the violation. Except when the Peace Officer determines in his or her sole discretion that emergency conditions require immediate abatement of the violation, the Notice of Violation shall provide a minimum of twenty-four (24) hours for the violation to be remedied.

9.3.2 Penalty Assessed. If the violation is not fully remedied within the time stated in the Notice of Violation, the Peace Officer shall issue a Notice of Penalty in the amount described in Section 5 of this Ordinance.

9.3.3 Suspension of Permit. The Fuel Operator's Permit shall be deemed suspended until any and all violations are remedied and all applicable penalties have been paid in full. Continuing to operate a Fuel Transportation Vehicle while a Permit is suspended shall be a separate violation of this Ordinance and shall be grounds for an additional penalty.

9.4 Additional Remedy. The remedies in this Ordinance are intended to be in addition to, and not to supersede, applicable provisions in state or federal law or administrative rules. Nothing in this Ordinance shall be interpreted to preclude the Port from exercising its right to remedy a violation of this Ordinance by any other means permitted by law.

10.1 Civil Sanctions

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

~~covenant or condition which by its terms is to survive, shall survive the suspension or termination of the Permit and shall remain fully enforceable thereafter.~~

~~10.2 — Criminal Sanctions~~

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

~~11. SEVERABILITY~~

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

~~12. CONFORMANCE OF STATE & FEDERAL LAW~~

This ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the federal government, FAA, State of Oregon, or its agencies, or any ordinance, rule, or regulation of the Port of Astoria

~~13. INCONSISTENT PROVISIONS~~

This ordinance shall supersede, control and repeal any inconsistent provision of any Port ordinance as amended or any other regulations made by the Port of Astoria.

~~14. SEPARABILITY~~

~~If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions of this ordinance.~~

- 3. Effect Of Adoption. Upon its adoption, this Ordinance shall supersede and revoke in full Ordinance 97-01.
- 4. Publication. The Board shall cause this Ordinance to be published for the period and in the manner required by ORS 198.530 to 198.560 and a certified copy of the signed Ordinance shall be filed in the records of the Port and with the Clatsop County Clerk.
- 5. Effective Date. This Ordinance shall be effective thirty (30) days after its adoption.

FIRST READING: _____

SECOND READING: _____

ADOPTED THIS _____ day of _____, 2023, by the following vote:

AYES:

NAYS:

8 - ORDINANCE ESTABLISHING PROCEDURES, REGULATIONS, AND PENALTIES AT AIRPORT AND AMENDING ORDINANC

ABSENT:

Signed: _____
Commission Chair

Attest: _____
Secretary

DRAFT

9 - ORDINANCE ESTABLISHING PROCEDURES, REGULATIONS, AND PENALTIES AT AIRPORT AND AMENDING ORDINANC

PORT OF ASTORIA

ORDINANCE 2023-_____

AN ORDINANCE AMENDING ORDINANCE 97-01 AND ENACTING REGULATIONS AND PENALTIES FOR CERTAIN AIRPORT ACTIVITIES

WHEREAS, pursuant to Oregon Revised Statutes (“ORS”) 777.210(6), the Port of Astoria (“Port”) operates and maintains the Astoria Regional Airport (“Airport”) and is authorized to collect charges for use of such facilities; and

WHEREAS, pursuant to ORS 836.210(6) the Port may adopt regulations establishing charges, fees and tolls for the use of the Airport, and enact civil penalties for violation of such regulations; and

WHEREAS, pursuant to ORS 777.190, the Port may adopt ordinances for policing or regulating of Port property and appoint peace officers to enforce the same; and

WHEREAS, the Port desires to amend Ordinance No. 97-01, “Regarding Fees, Fuel Flowage Fees, and Regulating Operation of Aircraft and Vehicles at Airport,” to establish or amend specific procedures for activities conducted at the Airport; establish or amend applicable fees; enact related rules and regulations; and enact penalties for violation of the same;

NOW, THEREFORE, the Port’s Board of Commissioners hereby ordains as follows:

1. Purposes. The general purposes of this ordinance are to: (1) establish regulations regarding certain activities at the Airport; (2) establish or clarify standardized procedures relating to such activities; (3) protect and preserve the health and safety of staff and the general public using or providing services at the Airport; and (4) effectuate the Port’s authority in ORS 777.258 to promote the maritime shipping, aviation and commercial interests of the Port.
2. Amendment of Ordinance 97-01. To further the Purposes herein described, Port of Astoria Ordinance No. 97-01 is hereby amended as follows:

1. FINDINGS AND PURPOSE

1.1 Findings

The Port of Astoria finds that:

- 1.1.1 The Port owns and operates the Astoria Regional Airport ("Airport") which is used for the taking off, landing, operation and storage of aircraft, and the conduct of businesses supporting aviation activities; and

1.1.2 The Airport promotes a strong economic base for the county, assists and encourages trade opportunities and is of vital importance to the health, safety, and welfare of the Port district; and

1.1.3 It is essential that the Airport attain financial self-sufficiency to perform its transportation role in the county and to provide the county with cost effective aviation facilities; and

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

1.1.5 The Port incurs and will continue to incur substantial expenditure for capital investment, operation, maintenance, and development of the facilities at the Airport; and

1.1.6 In accordance with U.S. Department of Transportation, Federal Aviation Administration (“FAA”) Order 5190.6B, Change 1 (effective date November 22, 2021, or as may be amended from time to time), the FAA has directed airports to ensure that rates, fees, rentals, landing fees, and other service charges imposed on aeronautical users of airports for aeronautical uses are of fair market value; and

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

1.1.8 ORS 777.210(6) authorizes the Port to operate and maintain airports and collect charges for the use of such facilities, and ORS 836.210 further authorizes the Port to provide by regulation for charges, fees, and tolls for the use of the Airport and civil penalties for the violations of such regulations; and

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

1.2 Purpose

The purpose of this Ordinance is to enact airport fees and to establish safety requirements for aircraft and vehicles and to ensure compliance with environmental regulations consistent with the above findings, and this Ordinance shall be liberally construed to effectuate this purpose.

2. DEFINITIONS

As used in this Ordinance:

2.1 Airport. “Airport” shall mean that certain airport located in Clatsop County, Oregon, known as the Astoria Regional Airport, including all facilities and roads located at or on such airport.

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

2.3 Executive Director. “Executive Director” shall mean the Port’s Executive Director or designee.

2.4 “Fee” “Fee” shall mean any Fee authorized by Section 6 of this Ordinance.

2.5 Fuel. “Fuel” shall mean any aviation gasoline 100LL and Jet A or any other inflammable or combustible gas or liquid useable as fuel for the operation of aircraft. For electric propulsion of aircraft, “Fuel” shall also mean the process of battery charging for aircraft propulsion.

2.6 Fuel Flowage Fee. “Fuel Flowage Fee” shall mean the Fuel Flowage Fee authorized in Section 3.1 of this Ordinance.

2.7 Fuel Operator. “Fuel Operator” shall mean any person who is authorized by the Port to operate any system or device used to store or dispense fuel at the Airport, including but not limited to a fuel storage tank, fuel transportation vehicle, or similar system or device.

2.8 Fuel Transportation Vehicle. “Fuel Transportation Vehicle” shall mean any form of transportation that is used in and capable of transporting fuel, including fuel for airplanes running on automobile gasoline, on Airport roads, parking areas, ramp areas, taxiways, runways, or elsewhere on the Airport.

2.9 Government Aircraft. “Government Aircraft” shall mean any aircraft owned or operated by the United States government or any of its agencies, including but not limited to the U.S. Coast Guard, Army, Navy, Marine Corps, and Air Force; and any state National Guard unit.

2.10 “Peace Officer” shall include the Clatsop County Sheriff; the Oregon State Police; the City of Warrenton Police; an authorized security officer for the Port; the Port’s Executive Director; or the Port’s Deputy Director.

2.11 Permit. “Permit” shall mean a Permit required pursuant to this Ordinance.

2.12 Permittee. “Permittee” shall mean any person required by this Ordinance to have a Permit for operation of a Fuel Transportation Vehicle at the Airport.

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

3. FUEL TRANSPORTATION VEHICLES

3.1 Permit Required.

Any Fuel Transportation Vehicle shall require a Permit to operate on Airport Premises. Operating a Fuel Transportation Vehicle on any Port property without a properly authorized Permit shall be a violation of this Ordinance. Failure to comply with any term or condition of a Permit shall be deemed a separate violation for which a separate penalty may be imposed.

3.2 Fuel Purchase; Fuel Flowage Fee.

Every Fuel Operator shall purchase fuel from the Port at the per-gallon rate fixed by the Port for all fuel purchasers, or pay a Fuel Flowage Fee on all fuel transported onto the Airport. The Fuel Flowage Fee shall be assessed at the time fuel is transported onto the Airport by a Fuel Operator. The Fuel Flowage Fee shall be an amount payable on each gallon or similar measuring unit established by the Executive Director for each category of fuel, and may be adjusted by the Executive Director.

3.3 Collection.

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

3.4 Penalties.

Failure to timely pay fees assessed under this Section shall be grounds for immediate suspension of a Permit, and assessment of penalties as provided in Section 9 of this Ordinance.

4. TIE-DOWN FEES

“Tie-Down Fees” shall be established, and may be adjusted, by resolution of the Commission. The Port Executive Director or designee is authorized to execute month-to-month Tie-Down License Agreements with aircraft owners wanting tie-down space for

their aircraft. Aircraft leased back to a designated FBO are required to pay Tie-Down Fees.

5. HANGAR FEES

Terms of Hangar Agreements, including fees, shall be approved by resolution of the Commission. The Port Executive Director, or designee, is authorized to execute month-to-month Hangar License Agreements with aircraft owners wanting hangar space for their aircraft.

6. TRANSIENT FEES

“Transient Fees” shall be established, and may be adjusted, by resolution of the Commission. Such resolution may provide for reduced rates for groups, Government Aircraft, or other special use circumstances. Transient Fees include any of the following:

Call-Out Fee

Landing Fee

Overnight Tie-down Fee

Monthly Tie-down Fee

Ramp/Facility Fee

Overnight Vehicle Parking Fee

Monthly Vehicle Parking Fee

Catering Fee

Transient Hangar Use Fee

7. OPERATION OF AIRCRAFT

Aircraft operators shall abide by all federal, state, and FAA regulations, and all rules established by the Port. Operators shall direct their prop wash away from hangar areas. No fueling of aircraft shall take place in or between hangars. Fueling is allowed only in the aircraft tie-down area or designated fueling area.

8. AUTOMOBILE OPERATION

Excluding authorized commercial, agricultural, or emergency vehicles, driving is forbidden on Airport ramps and runways except for hangar and tie-down use as follows:

- a) Access to hangars shall be only through the hangar security gate.
- b) Authorized ramp driving is allowed only through the main gate to the hangars.
- c) Ramp speed shall not exceed 15 MPH.

- d) Entrance to the tie-down area is through the gate located between Life Flight Network and the airport terminal building.
- e) Entrance to tie-down area is only for loading, unloading or minor aircraft maintenance.
- f) Any aircraft under power shall have the right of way over any non-aircraft vehicle or pedestrian.
- g) Any non-aircraft vehicle operating inside the security fence shall engage its emergency flashers or utilize a yellow rotating beacon on its roof.

9. ENFORCEMENT

9.1 Penalties. Pursuant to ORS 777.990, any Person violating this Ordinance commits a Class A misdemeanor. Maximum fines shall be as follows:

9.1.1 For an individual:

- A. First offense: \$100 per violation
- B. Subsequent offenses: \$500 per violation

9.1.2 For a corporation:

- A. First offense: \$1,000 per violation
- B. Subsequent offenses: \$3,000 per violation

9.1.3 A separate penalty may be assessed for each day or portion thereof that the violation continues.

9.1.4 Penalties assessed under this Section shall be separate from, and in addition to, any penalties or other remedies available under state or local law or described in a lease or other agreement.

9.2 Enforcement Authority. The provisions of this Ordinance may be enforced by any Peace Officer.

9.3 Enforcement Procedure. This Ordinance shall be enforced as follows:

9.3.1 Notice of Violation. Any Peace Officer may issue a written Notice of Violation by hand-delivery or by certified mail addressed to the Fuel Operator. The Notice shall describe the nature of the violation; cite to the specific regulation being violated; and the maximum penalty for the violation. Except when the Peace Officer determines in his or her sole discretion that emergency conditions require immediate

abatement of the violation, the Notice of Violation shall provide a minimum of twenty-four (24) hours for the violation to be remedied.

9.3.2 Penalty Assessed. If the violation is not fully remedied within the time stated in the Notice of Violation, the Peace Officer shall issue a Notice of Penalty in the amount described in Section 5 of this Ordinance.

9.3.3 Suspension of Permit. The Fuel Operator's Permit shall be deemed suspended until any and all violations are remedied and all applicable penalties have been paid in full. Continuing to operate a Fuel Transportation Vehicle while a Permit is suspended shall be a separate violation of this Ordinance and shall be grounds for an additional penalty.

9.4 Additional Remedy. The remedies in this Ordinance are intended to be in addition to, and not to supersede, applicable provisions in state or federal law or administrative rules. Nothing in this Ordinance shall be interpreted to preclude the Port from exercising its right to remedy a violation of this Ordinance by any other means permitted by law.

10. SEVERABILITY

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

11. CONFORMANCE OF STATE & FEDERAL LAW

This ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the federal government, FAA, State of Oregon, or its agencies, or any ordinance, rule, or regulation of the Port of Astoria

12. INCONSISTENT PROVISIONS

This ordinance shall supersede, control and repeal any inconsistent provision of any Port ordinance as amended or any other regulations made by the Port of Astoria.

3. Effect Of Adoption. Upon its adoption, this Ordinance shall supersede and revoke in full Ordinance 97-01.
4. Publication. The Board shall cause this Ordinance to be published for the period and in the manner required by ORS 198.530 to 198.560 and a certified copy of the signed Ordinance shall be filed in the records of the Port and with the Clatsop County Clerk.
5. Effective Date. This Ordinance shall be effective thirty (30) days after its adoption.

FIRST READING: _____

SECOND READING: _____

ADOPTED THIS _____ day of _____, 2023, by the following vote:

AYES:

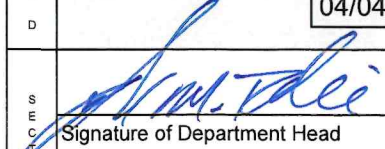
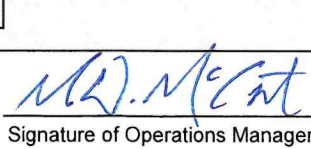


NAYS:

ABSENT:

Signed: _____
Commission Chair

Attest: _____
Secretary

REQUEST FOR EXPENDITURE

| | | | | |
|--|---|--|--|------------------------|
| SECTION A | Date: | 03/28/23 | Department: | Maintenance |
| | Staff Contact: | Joe Tadei | Vendor (if determined): | Peterson Power Systems |
| | Description of Product or Service being requested: | Purchase of Back Up Generator | | |
| | Purpose of Product or Service being requested: | provide back up power to 10 Pier One during power outage; purchase is partially funded by the 2022 Port Security Grant | | |
| | Cost Estimate: | 75,000.00 | | |
| SECTION B | 1. Does this expenditure exist within the current budget? (Original Budget Amount) | | | |
| | <input type="checkbox"/> No (Skip to Section C-2) | | / <input checked="" type="checkbox"/> Yes (Proceed) \$200,000 | |
| | 2. Does this expenditure exceed \$5,000? | | | |
| <input type="checkbox"/> No (Skip to Section D) | | / <input checked="" type="checkbox"/> Yes (Proceed to Section C-1) | | |
| 3. Will services be performed on Port of Astoria property? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes | | | | |
| SECTION C | 1. | | | |
| | Account # for Budgeted Item (ex: XXX-XX) | | TOTAL NET OF GRANTS | |
| | | | 710-00 | |
| | FY 2022-2023 Budget for this Account | | \$ 3,959,368 \$ 2,018,605 | |
| | Amount Spent Year-to-Date for this Account | | \$ 1,730,743 \$ 1,309,496 | |
| | Amount Available to Spend for this Account | | \$ 2,228,625 \$ 629,109 | |
| | Does this Request for Expenditure require Commission Approval (>=\$25,000)? <input checked="" type="checkbox"/> Yes / <input type="checkbox"/> No | | | |
| | 2. If Not included in the current budget or the current budget for this account # has been spent: | | | |
| | Does this Request for Expenditure require Commission Approval (>=\$5,000)? <input type="checkbox"/> Yes / <input type="checkbox"/> No | | | |
| | Account # to deduct funds from to reallocate & accommodate this expenditure (ex: XXX-XX) | | TOTAL NET OF GRANTS | |
| FY 2022-2023 Budget for the Account being reduced | | \$ \$ | | |
| Amount Spent Year-to-Date for this Account | | \$ \$ | | |
| Amount Available to Spend for this Account | | \$ \$ | | |
| SECTION D | 3. If Commission approval is required, please specify date Request for Expenditure will be submitted to Commission for approval. | | | |
| | (Specify date of Commission meeting when item is scheduled to be heard/approved) | | | |
| 04/04/2023 | | | | |
| SECTION E |  | |  | |
| | Signature of Department Head | | Signature of Operations Manager | |
| | Date 3-29-2023 | | Date 3-29-23 | |
| |  | |  | |
| Signature of Finance Manager | | Signature of Executive Director | | |
| Date 3-30-23 | | Date 3-30-23 | | |
| (required if cost is unbudgeted, or > \$5,000 budgeted) | | | | |

(over for Quotation Analysis)

Project: PSGP 2022 - 10 Pier One Generator

Project Manager: Joe Tadei

Quotes obtained by: Joe Tadei

Procurement Method: Small procurement Intermediate procurement Request for Bid
 Sole source Emergency Request for Proposal

Solicitation Method: Verbal quotes (informal) Requests for written quotes (informal) Public solicitation (formal)

| Vendor | Amount | Description | Availability | Specific expertise | Other information |
|------------------------------|------------------------|---|--------------------|---|---|
| Peterson Power Systems, Inc. | \$75,000 | C4.4 GC/100kw outdoor packaged standby diesel generator set | 4-6 weeks | specialized vendor; serves western Oregon | |
| Cummins Inc. | \$71,288.46 | C100D6C Diesel Genset, 60 Hz, 100kw | 48-50 weeks | located in Portland, OR | does not include outdoor sound enclosure & remote annunciator (\$972) |
| Pacific Power Group | \$81,064.00 | 100kWe/60Hz/Stand by/208-600V | 50-55 weeks | located in Ridgefield, WA | |
| Blue Star Power Systems Inc. | \$41,900* plus freight | 100kWe/60 Hz/JD 100 Diesel Generator | estimated May 2023 | located in Pocatello, ID | *not a complete package; Transfer switch (major item) and other more minor items not included |

Vendor selection & justification: (REQUIRED)
 The primary reason that Peterson was selected is because they offered the best combination of price and availability. Although the Cummins quote was about \$2,700 less, delivery of the Cummins generator was almost one year out. Further, Cummins did not offer onsite training.

Date: March 22, 2023

Thank you for the opportunity to propose new Caterpillar power equipment from Peterson Power Systems. Selecting Caterpillar equipment assures you of durable, reliable, and high quality products. Choosing Peterson assures you detailed customer service throughout the purchase, start up, and ownership process.

I am pleased to quote as follows:

| Item | Qty | Description | Unit Price | Ext. Price |
|------|-----|--|-------------|-------------|
| 1 | 1 | C4.4 GC / 100kW Outdoor packaged standby diesel generator set 208/120 volts, three phase, 60hz, 1800 rpm, including: UL2200 IBC Seismic Certification EPA Certified for Stationary Emergency Use GCCP 1.2 Control Panel NFPA 110 Local Alarm Panel Circuit Breakers 1 x 400 amps 100% Rated Main Breaker, LSI with shunt trip and aux contacts PMG Excitation Jacket Water Heater Anti-condensation alternator winding space heater, unit mounted Muffler and Flex DC Charging Alternator Starting Motor AC Battery Charger Starting Batteries w/ Rack Seismic Vibration Isolators 2 Year Standard Manufacturers Warranty Package Genset Test Operation and Maintenance Manuals Freight: FOB Jobsite Off loading, crane, rigging and installation by others Fuel provided by others | \$75,000.00 | \$75,000.00 |
| 2 | 1 | Cat outdoor enclosure – Sound Attenuated, Weather Protected Sound Level 2 Rated at 77dBA @23' | - | Included |
| 3 | 1 | Base Tank – UL 142 type 203 gallons, 24 hours run time at 100% load, 5 gal spill containment w/ overfill protection Includes Extended Vents - Shipped loose, installed by others | - | Included |

Date: March 22, 2023

| | | | | |
|---|---|---|---|--------------------|
| 4 | 1 | Automatic Transfer Switch 1,200 Amp, 3 pole, NEMA 3R Open Transition - Service Entrance Rated | - | Included |
| 5 | 1 | Start Up, Testing, and Commissioning Services Genset start-up, testing and commissioning services ATS startup combined with generator startup, separate dedicated trips are charged at an additional hourly charge. Performed during regular business hours Standard start up includes: fuel alarm setup, interconnect wiring verification 2 hour, 1.0 PF Load Bank Test w/50' cable standard length Fuel not included | - | Included |
| 6 | 1 | Training 2 hours on site session w/ owner's representatives during regular business hours | - | Included |
| BASE BID – Subtotal F.O.B jobsite less sales tax | | | | \$75,000.00 |

Pricing based on Q2, 2023 Delivery. Add 1% escalation per month for later delivery estimate.

Quote Valid for 14 days - Quote subject to price increase after 14 days

Optional Adders & Deducts

| Item | Qty | Description | Unit Price | Ext Price |
|------|-----|--|------------|----------------|
| 1 | 1 | Adder For: Upgrading ATS enclosure from Nema 3R to Nema 3RX | \$8,500.00 | \$8,500.00 |
| 1 | 1 | Extended Service Coverage , Platinum Level, 5 years, 2500 hours | Included | Free of Charge |
| 2 | 1 | <p>Customer Value Agreement (CVA)</p> <p>An Annual Service includes a full inspection of each unit and a full service, which includes; the replacement of engine oil, oil filters, and fuel filters.</p> <p>* Qouted for normal working hours (Mon-Fri 7am to 3:30pm)</p> <p>* Access to equipment is on ground level within 50 ft. of Service Truck.</p> <p>* Services are quoted for One Technician, 1mW and below.</p> <p>* Travel is included within 30 miles radius of Peterson Shop or dispatch location, including minimum fuel surcharge.</p> <p>* Annual Servies to include Peterson PM Checklist found on CAT Inspect App.</p> <p>*Includes pricing for Oil Sample in Annual Service pricing.</p> <p>Important Note: Additional charges will apply for generator sets and engines located more than 50 ft from Peterson service truck or located on floors above or below the service truck. Additional charges will apply to a location more than 30 miles from a Peterson Power facility.</p> <p>**Less Sales Tax**</p> | | \$793.00 |

Date: March 22, 2023**Notes (N), Deviations (D), Exceptions (E):**

(N) Fuel not included

(N) Coordinated breakers are not provided at time of quoting - Upcharges could apply if required

Dimensions: Estimated L x W x H of generator, enclosure and fuel tank assembly

| Length | Width | Height |
|--------|-------|--------|
| 128" | 45" | 66" |

Weight: Estimated pounds of assembled generator, enclosure and fuel tank

Approx. 4,800 lbs

Equipment Available: Estimated weeks after submittal approval

4 - 6 weeks

Submittal Availability: Estimated 4 - 6 weeks**Freight: FOB Jobsite.** Off loading, crane, rigging, and installation by others**Credit:** Order subject to approval. Ten percent (10%) down with order, twenty five percent (25%) due at submittal approval, and sixty five percent (65%) due at delivery of equipment. Payment due net 30 days from date of invoice.**Standard Exclusions (unless expressly provided for in writing in the quote):**

- All off engine piping, hangers, flanges, gasket, bolts, insulation, other materials and labor to install.
- Items noted are "shipped loose" for contractor installation including any required interconnecting piping or to customer connections.
- Permits: Any and all permit applications or costs including but not limited to local City, County, State and AQMD. Peterson Power will provide information as requested for use with permit application but assumes no responsibility or obligation to apply for or obtain subject permits. Peterson Power has provided equipment that to the best of our knowledge complies with all local, state and federal requirements.
- Testing: Any and all associated testing, inspection, equipment, and certifications requested or required to be performed by a third party including circuit breaker coordination, system commissioning or building load testing. Not limited to NETA testing, infrared scanning, harmonic content or other 3 party agency testing of switchgear, switchboards, protective relays, circuit breakers, arc flash studies and reactive load testing.
- Additional items that may be required by local utility for interconnection and parallel operation.
- Electrical, Mechanical, Civil, and Structural professional engineering and design services. Peterson is not responsible for systems design or engineering and does not guarantee system performance standards. Peterson will provide documentation and assistance to others responsible for engineering, design and performance.
- Engineering services other than supply of Peterson Power Systems standard drawings, equipment cut-sheets and controls per quoted scope of supply.
- Startup and Commissioning service charges other than as noted in the quoted scope of supply. Additional field or shop labor including travel costs to/from the jobsite will be quoted and charged separately at time of requested services.
- Balance of plant equipment, controls, and monitoring except as quoted.
- All fuel system piping and equipment not limited to: supply, return, venting, vent extensions, flame arrestors, coolers, valves, pumps, filters, storage tank and senders external to the generator set package. All fuel for testing and initial fill and on site fuel tank pressure testing.
- Intake and exhaust louvers, air dampers, sheet metal ducting, flex adapters, sound baffles, all off engine piping, connectors, labor, and coolant for remote cooling systems.
- All off engine wiring, field terminations of wiring, lugs and connectors.
- Mounting bolts and anchors.
- Environmental Protection Agency (EPA), local air quality district or Authority Having Jurisdiction (AHJ), including acoustical.
- All protective relay settings, breaker settings, PLC programing and all other device programming.
- Site specific labeling, exhaust back pressure, vibration analysis and airflow restriction.
- Any bonds, payment, or performance bond or other type of bond.
- Any application sales tax, permits, fees, or licenses.
- All items listed above are excluded and will only be supplied by Peterson Power Systems if agreed upon, in writing, by sales representative for Peterson.

Date: March 22, 2023

Quote Term, Scope:

The Quote is valid for 14 days. The price is firm provided drawings are approved and returned within 14 days after submission and ship date is not extended beyond published lead times. Any delays may result in escalation charges. Inclusion of dates or delivery times in this Quote or any purchase order connected with a Quote are for reference purposes only. Please collaborate closely with Peterson as you make commitments to your customers to assure we can meet your budget and delivery requirements. A Sales Order for Equipment is accepted on hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received. The Quote is limited to plans and specifications section set forth in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation, or fuel, unless otherwise stated. This Quote / Proposal is subject to the Standard Commercial Terms and Conditions on the attached to this Quote/Proposal.

SPECIAL NOTE ON COMMODITIES COSTS

Due to the increasing cost of commodities, (steel and copper) Peterson is making the following changes to our terms effectively immediately. Quote validity is 14 days.

Inclusion of dates or delivery times in this Quote or any purchase order connected with a Quote are for reference purposes only. Please collaborate closely with Peterson as you make commitments to your customers to assure we can meet your budget and delivery requirements.

Be assured that Peterson is working diligently to manage costs and lead times. Our entire staff is focused on managing our way thru these volatile times. Your sales rep or project manager is the best source for accurate up to the minute information.

Thank you for considering Peterson Power Systems. Please contact me with any questions regarding this proposal. I am available to discuss design and planning concerns with you.

Sincerely,

Scott Posey
PPSI Sales Rep
(503) 718-8650

Accepted By:

Signature

Date

Printed Name

Company Name

Purchase Order #

Date: March 22, 2023

Standard Commercial Terms and Conditions

- 1 **Conditions.** These Terms and Conditions (collectively, "Terms") together with the Quote, Sales Order and/or Credit Application on the front side, are hereinafter referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified in this Agreement and Peterson Power Systems, Inc. ("Peterson") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the equipment ("Equipment") identified in this Agreement.
- 2 **Quote Term, Scope:** The Quote is valid for 14 days. The price is firm provided drawings are approved and returned within 14 days after submission and ship date is not extended beyond published lead times. Any delays may result in escalation charges. A Sales Order for Equipment is accepted on hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received. The Quote is limited to plans and specifications section set forth in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation, fuel, or permits unless otherwise stated.
- 3 **Order and Delivery of Equipment.** Any and all references to dates or delivery are for planning and scheduling purposes only. No guaranty is stated or implied, retention and or back charges are expressly excluded. All orders for equipment are subject to credit approval, which is subject to final acceptance by Company in its sole discretion. Peterson will exercise commercially reasonable efforts to meet any performance dates set forth in the Agreement, but Customer understands and agrees that any such dates are estimates only and failure by Peterson to deliver any equipment by such date shall not be deemed a breach of the sales agreement. Company will have no liability for any loss associated with the delay in the delivery of equipment, additionally, Peterson will not be deemed in breach of its obligations under this Agreement or otherwise liable to Customer or any third party for any costs, charges, losses sustained or incurred by Customer or applicable third party for any delay in the delivery or equipment arising out of, caused by or in any way related or connected with any circumstances beyond Peterson's control, including, but not limited to delays caused by acts or omissions to acts by Customer or its Agents (defined below), acts of God, acts of war or terrorism, fire or other casualty, storms or adverse weather, strikes, labor shortages or disturbances, shortages of materials, manufacturer delays, theft or vandalism, transport and handling accidents, or revisions to laws, regulations or governmental requirements. As used herein, the term "Agents" means principals, employees, contractors, subcontractors, consultants, agents, representatives and any persons within the direction or control of Customer or acting on behalf of or for the benefit of Customer.
- 4 **Customer's Obligations.** Customer shall comply with Applicable Law (defined below) in connection with its use, handling, maintenance, storage and operation of the machinery and equipment and shall cause its Agents to comply with all such Applicable Law. As used herein "Applicable Law" means all applicable federal, state and local laws pertaining to its covenants and obligations under the Agreement and its performance of the same, together with these Terms and all rules, regulations, standards, procedures and protocols pertaining or related to the equipment and each and all of them, subject to the Agreement, as stated or endorsed by Company or the manufacturer of such applicable equipment. Customer shall cooperate with Peterson in all matters relating to the sale and delivery by Peterson of the equipment. The representations and warranties of Customer under this Agreement, including, but not limited to, the foregoing, shall survive any expiration or termination of this Agreement.
- 5 **Cancellation; Charges.** If Customer cancels all or a portion of this Agreement after its release to Peterson, written cancellation notice is required.

| Calendar Days | Cancellation Schedule | Cancellation Charge |
|---------------|-----------------------|---------------------|
| From | To | Percent of Order |
| Order | 15 ARO | 5 |
| 16 ARO | 30 ARO | 10 |
| 31 ARO | 60 ARO | 20 |
| 61 ARO | 91 before RTS | 70 |
| 90 before RTS | On/after RTS | 90 |

ARO – After receipt of order, RTS – Ready to ship

- 6 **Pricing:** Unless expressly provided in writing on a quote, pricing for future orders is subject to change without notice. Unless otherwise stated pricing and risk of loss for purchased equipment is FOB Peterson's site. If purchased equipment is shipped FOB factory, pricing and risk of loss is the responsibility of the customer and any claims for shortages, damages, or delays must be made by Customer direct to the carrier.

Date: March 22, 2023

- 7 **Taxes:** Customer will promptly pay to Peterson any taxes that Peterson is required to collect with respect to the purchase of the equipment or any amounts payable by Customer under the Agreement, including, but not limited to, value added, personal property, sales, use, excise and similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity (collectively, "Taxes"). For any Taxes on which Customer claims exemption, Customer must provide Peterson with properly completed exemption certificates and any documentation needed to validate the exemption. If Customer refuses or fails to provide an appropriate exemption certificate and supporting documentation, as determined by Peterson, Customer will remain liable for all such Taxes. Customer will indemnify, defend and hold harmless Peterson for any and all claim, loss or liability related to Taxes for the equipment. To the extent any taxing authority audits Peterson and assess any taxes related to this purchase, the Customer shall provide proper documentation to support that such taxes have been paid, and will be responsible for any unpaid assessments, interest, penalties, withholdings, defense cost and/or reimbursement to Peterson of defense cost.
- 8 **Freight:** Freight costs indicated in the Agreement/Quote are estimated and subject to change. Any delivery, shipping, installation or performance dates indicated in this Agreement/Quote are estimated and not guaranteed. Peterson shall use best efforts to meet estimated dates, but shall not be liable for any delay in delivery, shipping, installation or performance, however occasioned.
- 9 **Title, Risk of Loss:** Title and risk of loss for the Equipment shall pass to Customer with delivery made in accordance with the delivery terms set forth above.
- 10 **Inspection and Acceptance:** Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Peterson within five (5) days from date of delivery after which time Equipment shall be deemed accepted. Peterson shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's satisfaction. Customer may reject the Equipment (but shall protect the Equipment until returned to Peterson) or allow Peterson another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.
- 11 **Payment Terms, Credit, Retainage:** For Customers with an open credit account with Peterson, payments terms are 10% with order, 25% due at submittal approval, and 65% at delivery of material unless otherwise stated in the proposal. Payment due Net 30 from the date of invoice. For Customers who do not have an open credit account with Peterson, progress payments with full payment in advance may be required. Peterson may, in its sole discretion, at any time: (a) revoke credit; (b) modify terms and conditions of credit; (c) require payment in advance; and/or (d) withhold equipment until receipt of full payment then owing by Customer to Peterson, whether such outstanding obligation of Customer is for the equipment described on the reverse side or otherwise. If payment is not received when due, in an addition to any rights Peterson has under the law and charges that Peterson may levy against Customer under statute (including attorney fees and costs of collection), Peterson may charge customer eighteen percent (18%) interest annually, or the maximum amount allowed by law, on late payments. Payment shall be due in advance if Customer does not have approved credit. Retainage is not acceptable nor binding, unless accepted and confirmed in writing by Peterson prior to shipment.
- 12 **Invoice, Fees and Expenses:** Failure to notify Peterson in writing of any dispute regarding an invoice within thirty (30) days of receipt thereof will be deemed a waiver by Customer of Customer's right to dispute such invoice. Customer's obligation to pay amounts invoiced is and will be absolute and unconditional and shall not be subject to any delay, reduction, set-off, defense or counter-claim.
- 13 **Bonds:** Cost for any required bid bond, payment and performance bond, or any other type of bond will be reimbursed to Peterson by Customer.
- 14 **Permits, Fees, & Licenses:** Cost for any permits, fees, and licenses are the responsibility of the customer and if paid for by Peterson, will be reimbursed to Peterson by Customer.
- 15 **Temporary Storage of Equipment Purchase:** Whereas Customer has purchased the equipment listed in this agreement from Peterson, and Customer has requested that Peterson provide storage for the equipment until such time as Peterson has the equipment delivered to their site, Customer will pay Peterson a monthly storage fee, and Exhibit A will be applicable and incorporated in these Terms.

Date: March 22, 2023

- 16 **Training, Startup Services, Installation:** Startup services, load bank testing, commissioning, and owner training are not provided, unless otherwise stated in the quote. Site startup services require customer's account be current and will be performed during regular Peterson business hours, Monday through Friday. Additional charges may be added for work requested to be done outside normal business hours, on weekends or holidays. One visit for startup is allowed unless specified otherwise in the quote. A minimum of two weeks prior notice is required to schedule site startup and subject to availability of startup technicians and prior commitments of equipment. A signed site check sheet confirming system readiness is required, including and not limited to; wire termination, fuel lines connected, fuel tank full, and exhaust system complete. Peterson personnel may perform an installation audit prior to startup being completed to assure system readiness for startup. Any issues identified by the installation audit may be corrected at the customer's expense prior to startup. Portable load banks for site test (if offered in the Quote) are equipped with only 50 feet of cable. Additional lengths may be arranged at an extra cost. Installation of equipment is performed by others and not included unless otherwise stated in the quote.
- 17 **Warranties:**
- (a) **Equipment.** For new equipment purchased by Customer from Peterson, Customer understands and acknowledges that (i) Peterson is not the manufacturer of the equipment or any parts thereof; (ii) Peterson does not and will not have any liability or responsibility to Customer or any third party with respect to any warranty for the Goods, except that Peterson will pass through to Customer the manufacturer's warranty to the extent permitted by the terms of such warranty; and (iii) any claims Customer or its Agents may have with respect to the manufacturer's warranty shall be made solely against the manufacturer. Notwithstanding anything contained to the contrary in this Agreement, including this [Section 17\(a\)](#), Peterson makes no representation or warranty as to the equipment, its condition, purpose or use, or as to any manufacturer's warranty for such Goods.
- (b) **Extended Protection or Coverage.** Customer acknowledges that Customer may have the option of purchasing an equipment protection plan or extended services coverage (each, an "Extended Protection Plan") and Customer agrees that if an Extended Protection Plan is available and purchased by Customer at the time of sale, the Extended Protection Plan will be subject to the terms, conditions and exclusions contained in such applicable Extended Protection Plan.
- (c) **Disclaimer of Warranties.** Except as may be expressly described in the Agreement and these terms, company makes no warranty of any nature, scope or kind whatsoever hereunder. Peterson disclaims any warranty, express or implied, including, but not limited to, any (i) warranty of merchantability; (ii) warranty of fitness for a particular purpose; (iii) warranty of title; or (iv) warranty against infringement of intellectual property rights of a third party, whether express or implied by law, course of dealing, course of performance, usage of trade or otherwise. Peterson is neither a manufacturer of the goods or any parts thereof nor an agent of a manufacturer of such goods. Although Peterson may administer warranties issued by a manufacturer, Customer acknowledges and agrees that: (1) any express warranties by such manufacturer are not the responsibility of Peterson; (2) such manufacturer's warranty may contain limitations; and (3) Customer may incur certain repair, transportation or other charges by Peterson which are not covered by such manufacturer's warranty. Any warranty by Peterson shall be null and void and have no legal effect if Customer has failed to pay for the equipment at issue. Except for any express warranties contained hereunder, no other representation or warranty of any kind or nature will be binding on or obligate Peterson.
- 18 **Limitation on Warranties:** Peterson expressly disclaims all warranties, either express or implied, including any implied warranty of merchantability and warranty for fitness or a particular purpose, to the extent permitted by law. The warranties set forth herein are the sole warranties made by Peterson. Some states do not allow limitation on warranties, so these limitations may not apply to you. The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to application guidelines; (b) normal wear and tear; (c) improper and/or unauthorized installation; (d) negligence, accidents or misuse; (e) lack of maintenance or unauthorized repair; (f) noncompliance with any Peterson published guideline or policy; (g) use of improper or contaminated fuels, coolant or lubricants; (h) improper storage before and after commissioning; (i) owners delay in making Equipment available after notification of potential equipment problem; (j) replacement parts and accessories not authorized by Peterson; (k) owner or operator abuse or neglect such as: operation without adequate coolant or lubricants; over fueling; over speeding; lack of maintenance to lubricating, cooling or air intake systems; late servicing and maintenance; improper storage; starting, warm-up, run-in or shutdown practices, or (l) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

Date: March 22, 2023

19 **Limitation of Liability:**

(a) IN NO EVENT SHALL PETERSON, ANY PETERSON ENTITIES, AFFILIATES OR ITS PRINCIPALS, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, REPRESENTATIVES, AGENTS OR SUCCESSORS OR ASSIGNS (collectively, "Company Party") BE LIABLE TO CUSTOMER, ITS AGENTS OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST REVENUE, LOST BUSINESS, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, HOWEVER ARISING WHETHER OR NOT THAT PARTY WAS AWARE OF THE POSSIBILITY OF THOSE DAMAGES AND DESPITE THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY STATED IN THIS AGREEMENT.

(b) EXCEPT FOR DAMAGES FOR PERSONAL INJURY, INCLUDING DEATH AND PROPERTY DAMAGE RESULTING FROM THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN CONNECTION WITH THE SALE OR DELIVERY BY PETERSON OF THE GOODS, OF ANY EMPLOYEES, CONTRACTORS, REPRESENTATIVES OR AGENTS OF PETERSON OR ANY COMPANY ENTITY OR THE PRINCIPALS, OFFICERS, DIRECTORS, EMPLOYEES, CONTRACTORS, REPRESENTATIVES OR AGENTS OF COMPANY OR ANY COMPANY ENTITIES, IN NO EVENT WILL THE AGGREGATE LIABILITY OF PETERSON OR ANY PETERSON PARTY ARISING OUT OF THIS CSA EXCEED THE LESSER OF THE AMOUNT CUSTOMER HAS ACTUALLY PAID TO COMPANY UNDER THIS AGREEMENT FOR THE PREVIOUS TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE SUBJECT CLAIM OR TEN MILLION DOLLARS \$10,000,000.

(c) THE PARTIES AGREE THAT THIS SECTION 19 REPRESENTS A REASONABLE ALLOCATION OF RISK.

(d) THE PROVISIONS OF THIS SECTION 19 SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT.

20 **Indemnification:** Neither Peterson nor any Peterson Party will be responsible for any loss or injury resulting from the condition of the Goods sold, including, but not limited to, any defects in the equipment or from the subsequent use of the equipment. Customer expressly agrees as a condition of the purchase and sale of the equipment that Customer will indemnify, defend and hold harmless Peterson and any applicable Peterson Party from and against any and all claims that may hereafter at any time be asserted by any subsequent owner or user of the items sold hereunder or asserted by any agent, contractor, employee, heirs, or successor or assigns of such owner or user or by any third party arising from the condition of the equipment, including but not limited to, any purported defect in the equipment or parts thereof, or by reason of the use of the equipment. Customer agrees to assume all responsibility in connection with the equipment upon delivery thereof to Customer or to a common carrier.

Customer shall indemnify and hold harmless Peterson and the Peterson Party from and against any and all losses, expenses, demands, and claims made against Peterson by Customer, its Agents, any subsequent owner or user of the equipment or any persons claiming under or through such persons because of injury or illness (including death), actual or alleged, whether caused by the sole negligence of Customer, its Agents, such subsequent owner or user or person claiming under or through such persons (the "Customer Parties"), the concurrent negligence of Peterson with Customer, or any Customer Parties arising from, resulting from, or in any way connected with the operation, maintenance, possession, use, transportation, or disposition of the equipment. Customer agrees to defend any suit action or cause of action brought against Peterson or the Peterson Party based on any such alleged injury, illness, or damage and to pay all damages, costs and expenses including reasonable attorney's fees in connection therewith or resulting therefrom.

21 **Force Majeure:** Peterson shall not be liable, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement to the extent such failure or delay is caused by or results from acts or circumstances beyond Peterson's reasonable control including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, pandemic/epidemic, Bankruptcy, lock-outs, strikes or other labor disputes (whether or not relating to either Party's workforce), restraints or delays affecting carriers, and inability or delay in obtaining supplies of adequate or suitable materials, telecommunication breakdown or power outage.

22 **Privacy Statement:** Customer consents to the collection, use, retention and disclosure of information by Peterson and/or a Peterson Party in accordance with Peterson's Privacy Statement, which is posted on Peterson's website (as such statement may be revised from time to time), and agrees that such information may be accessed by Peterson or a Peterson Party and their partners and manufacturers with a legitimate business reason to access it, as well as third parties who may process such information on their behalf.

23 **Entire Agreement:** This Agreement and the exhibits and attachments hereto, represent and constitute the entire agreement between the parties, may only be amended in writing signed by both parties, and supersede all prior agreements and understandings with respect to the matters covered by this Agreement.

24 **Binding Effect:** This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties hereto.

Date: March 22, 2023

- 25 **Severability:** If any provision of this Agreement is found unenforceable or invalid, the remainder of the Agreement will remain in full force and effect and it and any related provisions will be interpreted to best accomplish the unenforceable provision's essential purpose.
- 26 **Counterparts:** This Agreement may be executed in any number of counterparts, including facsimile, PDF and other electronic copy, each of which when taken together shall constitute one instrument. No counterpart shall be effective until each Party has executed at least one counterpart.
- 27 **Assignment:** Neither Party may assign, convey or transfer this Agreement, or any portion thereof, without the prior written consent of the other party, which consent shall not be unreasonably withheld, conditioned or delayed, except that Peterson may assign this Agreement or any portion thereof without the prior consent of Purchaser to a person or entity controlling, controlled by or affiliated with Peterson or its parent company.
- 28 **No Waiver:** A waiver of any term, right or condition of this Agreement by a party must be in writing to be effective and will in no way be construed as a waiver of any later breach of that provision. No express waiver of any term, right or condition of this Agreement shall operate as a waiver of any other term, right or condition.
- 29 **Relationship of the Parties:** No employment, agency, joint venture, or similar arrangement is created or intended between Customer and Peterson.
- 30 **Construction:** Words used herein, regardless of the number or gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context requires. The provisions of this Agreement and the documents and instruments referred to herein, have been examined by the parties and no implication shall be drawn nor made against any party hereto by virtue of drafting this Agreement. The term "including" used herein shall mean "including, but not limited to". The subject headings of the sections and subsections of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of the provisions herein. Each Party acknowledges that they have read this Agreement, have had an opportunity to review with an attorney of their respective choice, and have agreed to all of its terms, including these Terms. Each Party agrees that the rule of construction that a contract be construed against the drafter shall not be applied in interpreting this Agreement and that in the event of any ambiguity in any provisions of this Agreement, including any Exhibits or attachments or agreed upon Change Orders hereto and whether or not placed of record, such ambiguity shall not be construed for or against any Party hereto on the basis of such Party did or did not author the same.
- 31 **No Third Party Beneficiaries:** Unless otherwise expressly provided, no provisions of this Agreement are intended or will be construed to confer upon or give to any person or entity other than Customer and Peterson any rights, remedies or other benefits under or by reason of this Agreement.
- 32 **Attorneys' Fees, Enforcement Costs and Expenses:** If any claim or action is brought by either party hereunder against the other party regarding the subject matter hereof, the prevailing party shall be entitled to recover from the non-prevailing party, in addition to any other relief granted, reasonable attorneys' fees and the expense of litigation.
- 33 **Governing Law, Venue:**
 - (a) This Agreement and any attachments or documents related thereto shall be governed, construed and enforced in accordance with (i) the laws of the State of California, excluding conflict of law rules, for all sales made or accepted by Peterson at its offices within such state, (ii) with the laws of the State of Oregon, excluding conflict of law rules, for all sales made or accepted by Peterson at its office within such state, and (iii) with the laws of the State of Washington, excluding conflict of law rules, for all sales made or accepted by Peterson at its office within such state. For agreements made or accepted by Peterson in the State of California, each party hereby irrevocably submits to the personal and exclusive jurisdiction of the state courts of Alameda County, California and the United States District Court for the Northern District of California, for the purposes of any action, proceeding, suit or claim arising out of this Agreement. For agreements made or accepted by Peterson in the State of Oregon, each party hereby irrevocably submits to the personal and exclusive jurisdiction of the state courts of Multnomah County, Oregon and the United States District Court for the District of Portland in Portland, Oregon. For agreements made or accepted by Company in the State of Washington, each party hereby irrevocably submits to the personal and exclusive jurisdiction of the state courts of Cowlitz County, Oregon and the United States District Court for the Western District of Washington in Seattle, Washington.
 - (b) Each party irrevocably and unconditionally waives any objection to the laying of venue as described herein.
- 34 **Survival:** Notwithstanding anything contained herein to the contrary, Sections 7, 17(c), 19, 20, 21, 22, 30, 32, 33, and 34 will survive any termination or expiration of this Agreement.

March 24, 2023

To

Prepared by

Mark Wahlberg
 503.307.7529
 mark.wahlberg@cummins.com

We are pleased to provide you this quotation based on your inquiry.

| Item | Description | Qty |
|------|--|-----|
| 1 | C100D6C Diesel Genset, 60Hz, 100kW U.S. EPA, Stationary Emergency Application C100D6C, Diesel Genset, 60Hz, 100kW Duty Rating - Standby Power (ESP) Emission Certification, EPA, Tier 3, NSPS CI Stationary Emergency Listing - UL 2200 NFPA 110 Type 10 Level 1 Capable IBC Seismic Certification Exciter/Reg - Torque Match Voltage - 120/208, 3 Phase, Wye, 4 Wire Alternator - 60Hz, 12L, 208/120V, 120C, 40C Ambient Alternator Heater, 120 Volt AC Aluminum Sound Attenuated Level 1 Enclosure, with Exhaust System Enclosure Color - Green, Aluminum Enclosure - Wind Load 180 MPH, ASCE7 - 10 Skidbase - Housing Ready Fuel Tank - Regional, Dual Wall, Sub Base, 24 Hour Minimum Fuel Water Separator Low Fuel Level Switch, 40% Mechanical Fuel Gauge 5 Gallon Lockable Spill Containment Fuel Fill Box Fuel Tank Vent Extension Kit, 12ft External Vents, 1 Normal, 2 Emergency Switch - Fuel Tank, Rupture Basin Control Mounting - Left Facing PowerCommand 1.1 Controller Gauge - Oil Pressure Stop Switch - Emergency Control Display Language - English Load Connection - Single Circuit Breaker, Location A, 200A - 600A, 3P, LSI, 600 Volts AC, 80%, UL Engine Governor - Electronic, Isochronous Engine Starter - 12 Volt DC Motor Engine Air Cleaner - Normal Duty Battery Charging Alternator Battery Charger - 6 Amp, Regulated Engine Cooling - Radiator, High Ambient Air Temperature, Ship Fitted Shutdown - Low Coolant Level Extension - Coolant Drain Engine Coolant - 50% Antifreeze, 50% Water Mixture Coolant Heater Engine Oil Genset Warranty - 2 Years Base Literature - English Packing - Skid, Poly Bag Larger Battery Rack Extension - Oil Drain Ship Loose - Vent Kit A | 1 |
| 2 | Fuel Tank, Extension Kit-1 Normal, 2 Emergency, 12ft | 1 |

| | | |
|---|--|---|
| 3 | Battery-Wet, 12V, Group 34, 850CCA | 2 |
| 4 | Pilla E-Stop Station with Clear Protective Cover | 1 |
| 5 | Flatbed Delivery | 1 |
| 6 | ASCO 1200A SER ATS, 208V, 3--Ph. 3P, Nema 3R | 1 |
| 7 | No-Spec Startup Service and System Testing | 1 |

TOTAL: \$ 71,288.46

OPTIONS:

Level 2 Sound Enclosure.....please add \$702.00
 Remote Annunciator.....please add \$270.00

Quote value does not include any tax.

EXCEPTIONS AND CLARIFICATIONS:

The basis of this quote is configured around email request, no specs or one-line provided.
 This is a basic configuration, the contractor to confirm the equipment BOM will meet the project requirements.

NOTES:

Quote is valid for 30 days.

LEAD TIME:

Current Factory Lead Time: 48-50 weeks after submittal approval
Submittal Lead Time: 2 weeks after receipt of purchase order



Please feel free to contact me if you require any additional information; or if you have any further questions or concerns that I may be of assistance with.

Thank you for choosing Cummins.

Submitted by:

Mark Wahlberg, Territory Manager, Power Generation, Pacific Region
mark.wahlberg@cummins.com
503.307.7529

SUBMITTALS. An order for the equipment covered by this quotation will be accepted on a hold for release basis. Your order will not be released and scheduled for production until written approval to proceed is received in our office. Such submittal approval shall constitute acceptance of the terms and conditions of this quotation unless the parties otherwise agree in writing.

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ATTACHED TO THIS QUOTATION, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN. BY ACCEPTING THIS QUOTATION, CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD AND ACCEPTED.

Authorized Signature

Date

Company Name

Printed Name & Title

Purchase Order No

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TERMS AND CONDITIONS FOR SALE OF POWER GENERATION EQUIPMENT

These Terms and Conditions for Sale of Power Generation Equipment, together with the Quote, Sales Order, and/or Credit Application on the front side or attached hereto, are hereinafter referred to as this "Agreement" and shall constitute the entire agreement between the customer identified in the quote ("Customer") and Cummins Inc. ("Cummins") and supersede any previous representation, statements, agreements or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of Customer's purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of any amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, the Terms and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site will be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

SCOPE

Cummins shall supply power generation equipment and any related parts, materials and/or services expressly identified in this Agreement (collectively, "Equipment"). No additional services, parts or materials are included in this Agreement unless agreed upon by the parties in writing. A Sales Order for Equipment is accepted on hold for release basis. The Sales Order will not be released and scheduled for production until written approval to proceed is received. A Quote is limited to plans and specifications section set forth in the Quote. No other sections shall apply. Additional requirements for administrative items may require additional costs. The Quote does not include off unit wiring, off unit plumbing, offloading, rigging, installation, exhaust insulation or fuel, unless otherwise stated.

SHIPPING; DELIVERY; DELAYS

Unless otherwise agreed in writing by the parties, Equipment shall be delivered FOB origin, freight prepaid to first destination. For consumer and mobile products, freight will be charged to Customer. Unless otherwise agreed to in writing by the parties, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. Cummins may deliver in installments. A reasonable storage fee, as determined by Cummins, may be assessed if delivery of the Equipment is delayed, deferred, or refused by Customer. Offloading, handling, and placement of Equipment and crane services are the responsibility of Customer and not included unless otherwise stated. All shipments are made within normal business hours, Monday through Friday. Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order and will be in effect after engineering drawings have been approved for production. Cummins shall use best efforts to meet estimated dates, but shall not be liable to customer or any third party for any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of Customer or any unforeseen event, circumstance, or condition beyond Cummins' reasonable control including, but not limited to, acts of God, actions by any government authority, civil strife, fires, floods, windstorms, explosions, riots, natural disasters, embargos, wars, strikes or other labor disturbances, civil commotion, terrorism, sabotage, late delivery by Cummins' suppliers, fuel or other energy shortages, or an inability to obtain necessary labor, materials, supplies, equipment or manufacturing facilities.

AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

PAYMENT TERMS; CREDIT; RETAINAGE

Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Equipment. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay Cummins' costs and expenses (including reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Retainage is not acceptable nor binding, unless required by statute or accepted and confirmed in writing by Cummins prior to shipment.

TAXES; EXEMPTIONS

Unless otherwise stated, the Quote excludes all applicable local, state and federal sales and/or use taxes, permits and licensing. Customer must provide a valid resale or exemption certificate prior to shipment of Equipment or applicable taxes will be added to the invoice.

TITLE; RISK OF LOSS

Unless otherwise agreed in writing by the parties, title and risk of loss for the Equipment shall pass to Customer upon delivery of the Equipment by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

INSPECTION AND ACCEPTANCE

Customer shall inspect the Equipment upon delivery, before offloading, for damage, defects, and shortage. Any and all claims which could have been discovered by such inspection shall be deemed absolutely and unconditionally waived unless noted by Customer on the bill of lading. Where Equipment is alleged to be non-conforming or defective, written notice of defect must be given to Cummins within three (3) days from date of delivery after which time Equipment shall be deemed accepted. Cummins shall have a commercially reasonable period of time in which to correct such non-conformity or defect. If non-conformity or defect is not eliminated to Customer's satisfaction, Customer may reject the Equipment (but shall protect the Equipment until returned to Cummins) or allow Cummins another opportunity to undertake corrective action. In the event startup of the Equipment is included in the services, acceptance shall be deemed to have occurred upon successful startup.

LIEN; SECURITY AGREEMENT

Customer agrees that Cummins retains all statutory lien rights. To secure payment, Customer grants Cummins a Purchase Money Security Interest in the Equipment. If any portion of the balance is due to be paid following delivery, Customer agrees to execute and deliver such security agreement, financing statements, deed of trust and such other documents as Cummins may request from time to time in order to permit Cummins to obtain and maintain a perfected security interest in the Equipment; or in the alternative, Customer grants Cummins a power of attorney to execute and file all financing statements and other documents needed to perfect this security interest. Cummins may record this Agreement, bearing Customer's signature, or copy of this Agreement in lieu of a UCC-1, provided that it shall not constitute an admission by Cummins of the applicability or non-applicability of the UCC nor shall the failure to file this form or a UCC-1 in any way affect, alter, or invalidate any term, provision, obligation or liability under this Agreement. The security interest shall be superseded if Customer and Cummins enter into a separate security agreement for the Equipment. Prior to full payment of the balance due, Equipment will be kept at Customer's location noted in this Agreement, will not be moved without prior notice to Cummins, and is subject to inspection by Cummins at all reasonable times.

CANCELLATION; CHARGES

Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. If Customer seeks to cancel all or a portion of an order placed pursuant to this Agreement, and Cummins accepts such cancellation in whole or in part, Customer shall be assessed cancellation charges as follows: (i) 10% of total order price if cancellation is received in Cummins' office after Cummins has provided submittals and prior to releasing equipment to be manufactured; (ii) 25% of total order price if cancellation is received in Cummins' office after receipt of submittal release to order, receipt of a purchase order for a generator already on order with the factory, or is asked to make any hardware changes to the equipment already on order with the factory; (iii) 50% of total order price if cancellation is received in Cummins' office 60 or fewer days before the scheduled shipping date on the order; or (iv) 100% of total order price if cancellation is received in Cummins' office after the equipment has shipped from the manufacturing plant.

MANUALS

Unless otherwise stated, electronic submittals and electronic operation and maintenance manuals will be provided, and print copies may be available upon Customer's request at an additional cost.

TRAINING; START UP SERVICES; INSTALLATION

Startup services, load bank testing, and owner training are not provided unless otherwise stated. Site startup will be subject to the account being current and will be performed during regular Cummins business hours, Monday to Friday. Additional charges may be added for work requested to be done outside standard business hours, on weekends, or holidays. One visit is allowed unless specified otherwise in the Quote. A minimum of two-week prior notice is required to schedule site startups and will be subject to prior commitments and equipment and travel availability. A signed site check sheet confirming readiness will be required, and Cummins personnel may perform an installation audit prior to the startup being completed. Any issues identified by the installation audit shall be corrected at the Customer's expense prior to the start-up. Portable load banks for site test (if offered in the Quote) are equipped with only 100 feet of cable. Additional lengths may be arranged at an extra cost. Cummins is not responsible for any labor or materials charged by others associated with start-up and installation of Equipment, unless previously agreed upon in writing. Supply of fuel for start-up and/or testing, fill-up of tank after start up, or change of oil is not included unless specified in the Quote. All installation/execution work at the site including, but not limited to: civil, mechanical, electrical, supply of wall thimbles, exhaust extension pipe, elbows, hangers, expansion joints, insulation and cladding materials, fuel/oil/cooling system piping, air ducts, and louvers/dampers is not included unless specified in the Quote. When an enclosure or sub-base fuel tank (or both) are supplied, the openings provided for power cable and fuel piping entries, commonly referred to as "stub-ups", must be sealed at the site by others before commissioning. All applications, inspections and/or approvals by authorities are to be arranged by Customer.

MANUFACTURER'S WARRANTY

Equipment purchased hereunder is accompanied by an express written manufacturer's warranty ("Warranty") and, except as expressly provided in this Agreement, is the only warranty offered on the

Equipment. A copy of the Warranty is available upon request. While this Agreement and the Warranty are intended to be read and applied in conjunction, where this Agreement and the Warranty conflict, the terms of the Warranty shall prevail.

WARRANTY PROCEDURE

Prior to the expiration of the Warranty, Customer must give notice of a warrantable failure to Cummins and deliver the defective Equipment to a Cummins location or other location authorized and designated by Cummins to make the repairs during regular business hours. Cummins shall not be liable for towing charges, maintenance items such as oil filters, belts, hoses, etc., communication expenses, meals, lodging, and incidental expenses incurred by Customer or employees of Customer, "downtime" expenses, overtime expenses, cargo damages and any business costs and losses of revenue resulting from a warrantable failure.

LIMITATIONS ON WARRANTIES THE REMEDIES PROVIDED IN THE WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

The limited warranty does not cover Equipment failures resulting from: (a) inappropriate use relative to designated power rating; (b) inappropriate use relative to application guidelines; (c) inappropriate use of an EPA-SE application generator set relative to EPA's standards; (d) normal wear and tear; (e) improper and/or unauthorized installation; (f) negligence, accidents, or misuse; (g) lack of maintenance or unauthorized or improper repair; (h) noncompliance with any Cummins published guideline or policy; (i) use of improper or contaminated fuels, coolants, or lubricants; (j) improper storage before and after commissioning; (k) owner's delay in making Equipment available after notification of potential Equipment problem; (l) replacement parts and accessories not authorized by Cummins; (m) use of battle short mode; (n) owner or operator abuse or neglect such as: operation without adequate coolant, fuel, or lubricants; over fueling; over speeding; lack of maintenance to lubricating, fueling, cooling, or air intake systems; late servicing and maintenance; improper storage, starting, warm-up, running, or shutdown practices, or for progressive damage resulting from a defective shutdown or warning device; or (o) damage to parts, fixtures, housings, attachments and accessory items that are not part of the generating set.

INDEMNITY

Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Equipment supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

LIMITATION OF LIABILITY NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF EQUIPMENT UNDER THIS AGREEMENT OR THE USE OR PERFORMANCE OF EQUIPMENT SUPPLIED UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF EQUIPMENT SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY UNDER THE WARRANTY IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

DEFAULT; REMEDIES

Customer shall be in breach and default if: (a) any of the payments or amounts due under this Agreement are not paid; (b) Customer fails to comply, perform, or makes any misrepresentation relating to any of the Customer's obligations or covenants under this Agreement; or (c) prior to full payment of the balance due, Customer ceases to do business, becomes insolvent, makes an assignment for the benefit of its creditors, appoints a receiver, commences an action for dissolution or liquidation, or becomes subject to bankruptcy proceedings, or the Equipment is attached, levied upon, seized under legal process, is subjected to a lien or encumbrance, or transferred by operation of law or otherwise to anyone other than Cummins. Upon the occurrence of any event of Customer's default, Cummins, at its sole option and without notice, shall have the right to exercise concurrently or separately any one or all of the following remedies, which shall be cumulative and not alternative: (a) to declare all sums due, and to become due, under this Agreement immediately due and payable; (b) to commence legal proceedings, including collection actions and specific performance proceedings, to enforce performance by Customer of any and all provisions of this Agreement, and to be awarded damages or injunctive relief for the Customer's breach; (c) to require the Customer to deliver the Equipment to Cummins' branch specified on the face of this Agreement; (d) to exercise one or more of the rights and remedies available to a secured party under applicable law; and (e) to enter, without notice or liability or legal process, onto any premises where the Equipment may be located, using force permitted by law, and there to disconnect, remove and repossess the Equipment, the Customer having waived further right to possession after default. A waiver of any event of default by Cummins shall not be a waiver as to any other or subsequent default.

CUSTOMER REPRESENTATIONS; RELIANCE

Customer is responsible for obtaining, at its cost, permits, import licenses, and other consents in relation to the Equipment, and if requested by Cummins, Customer shall make these permits, licenses, and consents available to Cummins prior to shipment. Customer represents that it is familiar with the Equipment and understands operating instructions and agrees to perform routine maintenance services. Until the balance is paid in full, Customer shall care for the Equipment properly, maintain it in good operating condition, repair and appearance; and Customer shall use it safely and within its rated capacity and only for purpose it was designed. Even if Customer's purchase of Equipment from Cummins under this Agreement is based, in whole or in part, on specifications, technical information, drawings, or written or verbal advice of any type from third parties, Customer has sole responsibility for the accuracy, correctness and completeness of such specifications, technical information, drawings, or advice. Cummins make no warranties or representations respecting the accuracy, correctness and completeness of any specifications, technical information, drawings, advice or other information provided by Cummins. Cummins makes no warranties or representations respecting the suitability, fitness for intended use, compatibility, integration or installation of any Equipment supplied under this Agreement. Customer has sole responsibility for intended use, for installation and design and performance where it is part of a power, propulsion, or other system. Limitation of warranties and remedies and all disclaimers apply to all such technical information, drawings, or advice. Customer acknowledges and agrees by accepting delivery of the Equipment that the Equipment purchased is of the size, design, capacity and manufacture selected by the Customer, and that Customer has relied solely on its own judgment in selecting the Equipment.

CONFIDENTIALITY

Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

GOVERNING LAW AND JURISDICTION

This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

INSURANCE

Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.

ASSIGNMENT

This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

INTELLECTUAL PROPERTY

Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a license or any other rights to use any of the intellectual property rights of Cummins.

PRICING

To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

MISCELLANEOUS

Cummins shall be an independent contractor under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in this Agreement. No amendment of this Agreement shall be valid unless it is in writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Equipment pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement. In the event of a conflict in the terms of this Agreement with any Customer terms or conditions or agreement (whether referenced in an order submitted by Customer as the terms that govern the purchase of the Equipment or otherwise) or any terms set forth in any other documentation of Customer with respect to the Equipment, the terms of this Agreement shall govern. Cummins may incur additional charges which will be passed on to the Customer, as applicable.

COMPLIANCE

Customer shall comply with all laws applicable to its activities under this Agreement, including, without limitation, any and all applicable federal, state, and local anti-bribery, environmental, health, and safety laws and regulations then in effect. Customer acknowledges that the Equipment, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Equipment or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable all laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall act as the importer of record with respect to the Equipment and shall not resell, export, re-export, distribute, transfer, or dispose of the Equipment or related technology, directly or indirectly, without first obtaining all necessary written permits, consents, and authorizations and completing such formalities as may be required under such laws, rules, and regulations. In addition, Cummins has in place policies not to distribute its products for use in certain countries based on applicable laws and regulations including but not limited to UN, U.S., UK, and European Union regulations. Customer undertakes to perform its obligations under this Agreement with due regard to these policies. Strict compliance with this provision and all laws of the territory pertaining to the importation, distribution, sales, promotion and marketing of the Equipment is a material consideration for Cummins entering into this Agreement with Customer and continuing this Agreement for its term. Customer represents and warrants that it has not and shall not, directly or through any intermediary, pay, give, promise to give or offer to give anything of value to a government official or representative, a political party official, a candidate for political office, an officer or employee of a public international organization or any other person, individual or entity at the suggestion, request or direction or for the benefit of any of the above-described persons and entities for the purposes of inducing such person to use his influence to assist Cummins in obtaining or retaining business or to benefit Cummins or any other person in any way, and will not otherwise breach any applicable laws relating to anti-bribery. Any failure by Customer to comply with these provisions will constitute a default giving Cummins the right to immediate termination of this Agreement and/or the right to elect not to recognize the warranties associated with the Equipment. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.

Check if this Agreement pertains to government work or facilities

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COVID 19 SUPPLEMENTAL STATEMENT

AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

INTERNATIONAL BUILDING CODE (IBC) CERTIFICATION

The products in this quotation identified as meeting the requirements of the 2009 IBC have been certified by their respective manufactures via a combination of analytical testing and shaker table testing. Not all products have been shaker table tested.

OFFICE OF STATEWIDE HEALTH PLANNING AND DEVELOPMENT (OSHDP)

OSHDP seismic requirements are continuing to evolve. Please contact Cummins for the most current requirements for meeting OSHDP applications.

SELECTIVE COORDINATION FOR NATIONAL ELECTRIC CODE (NEC) ARTICLE 700 AND 701 LOADS

Cummins generators are equipped with the manufacturer's recommended circuit breaker. Information regarding this device can be supplied upon request. This quotation is not valid if any changes to this circuit breaker(s) is required to coordinate with other devices in the electrical distribution system. If changes are required, the customer must provide a copy of the coordination study listing the manufacturers part number of the disconnect device to be supplied with the generator and a revised quotation will be issued.

TRANSFER SWITCH WITHSTAND AND CLOSE RATINGS

Transfer switch(es), if included in this quotation, require a withstand and closing rating (WCR) capable of meeting the available upstream fault current (kAIC). The WCR may be based on a specific breaker rating or a time-based rating, and it is the responsibility of a qualified facility designer or engineer to verify compatibility. In the event that the proposed transfer switch(es) are not compatible, the transfer switch(es) will need to be re-quoted to ensure compatibility. A full listing of the WCR can be provided upon request and will be included as part of the submittal package.

CUMMINS STANDARD EXCLUSIONS

Exhaust System

All off-engine piping, hangers, flanges, gaskets, bolts, insulation, other materials and labor to install.

Fuel System

All fuel piping and materials not limited to; supply, return, venting, valves, coolers, filters, pumps, fittings, primary fuel regulator, storage tank & senders, external to genset package. All fuel for testing and initial fill. Fuel tank vent extensions and flame arrestors unless specifically listed in the Bill of Materials.

Cooling System

Intake louvers, exhaust louvers, air dampers, sheet metal ducting, flex adapters, sound attenuators/baffles. All off engine piping, flexible connections, labor and coolant for remote cooling systems.

Electrical

All off-engine wiring, field terminations of wiring, and lugs other than those detailed in our submittal. Mounting bolts and anchors. Vibration isolators (if included) may be shipped loose for installation at the jobsite by others. Seismic engineering calculations.

Electrical Testing

Not limited to International Electrical Testing Association (NETA), infrared scanning, harmonic content or other independent agency testing of switchgear, switchboards, protective relays, circuit breaker, electrical coordination studies, arc flash studies and reactive load site testing.

Environmental Testing

Environmental Protection Agency (EPA), local air quality district or other Authority Having Jurisdiction (AHJ), including acoustical.

Programming

All protective relay settings, breaker settings, PLC programming or other user configurable device programming.

Documentation

Electronic submittals and operation and maintenance manuals will be provided. Printed copies are available upon request, additional charges may apply.

Miscellaneous

Site specific labeling. Exhaust backpressure, airflow restriction or vibration analysis

Design

Cummins is not responsible for system design or engineering and does not guarantee system performance standards. Cummins will supply documentation and reasonable assistance to others responsible for system engineering, design and performance.

Taxes and Permit

Any applicable sales tax, permits, fees, licenses.

Bonds

Any bid bond, payment or performance bond or other type of bond.

All items listed above are excluded and will only be supplied by Cummins if agreed upon, in writing, by a sales representative for Cummins.

TO: PORT OF ASTORIA
 Attn:
 Phone:
 Email:
 Project: Port of Astoria

Date: 3/17/2023 2:14 PM
 From: David McCallum
 Phone: 360-524-5917
 Email: DMCCALLUM@PacificPowerGroup.com
 Quote #: 36988

mtu a Rolls-Royce solution Generator Set is rated at: **100 kW 208 Volt 3 ph**

| | | | |
|---|--|--|--|
| Engine | | Genset Digital Controller | |
| <input checked="" type="checkbox"/> Unit mounted radiator | <input checked="" type="checkbox"/> Lube oil & antifreeze | <input checked="" type="checkbox"/> Overcurrent protection | <input type="checkbox"/> Analog meters |
| <input checked="" type="checkbox"/> Battery | <input checked="" type="checkbox"/> Engine block heater 120 volt | <input checked="" type="checkbox"/> Auxiliary contacts | <input type="checkbox"/> Load shed provisions |
| <input checked="" type="checkbox"/> Battery charger | <input checked="" type="checkbox"/> Alarms | <input checked="" type="checkbox"/> Remote annunciator | <input type="checkbox"/> FCC remote |
| Fuel System | | <input type="checkbox"/> RS 485 | <input type="checkbox"/> Ethernet |
| <input type="checkbox"/> Nat gas | <input type="checkbox"/> LP gas | <input type="checkbox"/> LP liquid | <input type="checkbox"/> Modbus comm |
| <input type="checkbox"/> Diesel | <input type="checkbox"/> Auto change NG/LP gas | Indoor/Outdoor Application | |
| <input checked="" type="checkbox"/> Sub-base tank 240 gal | <input checked="" type="checkbox"/> UL 142 | <input checked="" type="checkbox"/> Outdoor enclosure, dBA: 75 @ 23 feet | |
| <input type="checkbox"/> Free standing tank gal | <input type="checkbox"/> UL 2085 | Silencer: <input type="checkbox"/> External <input checked="" type="checkbox"/> Internal | |
| <input type="checkbox"/> Remote fuel fill station | <input type="checkbox"/> Tank pumps & controls | <input type="checkbox"/> Indoor: Silencer & flexible exhaust connector | |
| Circuit Breaker | | Miscellaneous | |
| <input checked="" type="checkbox"/> Breaker 1 | <u>400</u> Amps | <input type="checkbox"/> 100% rated | <input checked="" type="checkbox"/> UL 2200 |
| <input type="checkbox"/> GFI | <input type="checkbox"/> Shunt trip | <input type="checkbox"/> Aux contacts | <input type="checkbox"/> Spare parts |
| <input type="checkbox"/> Breaker 2 | _____ Amps | <input type="checkbox"/> 100% rated | <input type="checkbox"/> O&M manuals |
| <input type="checkbox"/> GFI | <input type="checkbox"/> Shunt trip | <input type="checkbox"/> Aux contacts | <input checked="" type="checkbox"/> Training |
| <input type="checkbox"/> Breaker 3 | _____ Amps | <input type="checkbox"/> 100% rated | <input type="checkbox"/> Alternator heater |
| <input type="checkbox"/> GFI | <input type="checkbox"/> Shunt trip | <input type="checkbox"/> Aux contacts | <input checked="" type="checkbox"/> Integral vibration isolation |
| Additional Genset Items: | | <input type="checkbox"/> Loose spring isolators | |
| | | <input checked="" type="checkbox"/> Warranty 2/3000 years/ hours | |
| | | <input checked="" type="checkbox"/> Jobsite start up with load bank | |
| | | <input type="checkbox"/> Preventative maintenance | |

| | | | |
|--|-------------------|----------------|--|
| Automatic Transfer Switch | | | |
| Qty: <u>1</u> | Poles: <u>3</u> | NEMA: <u>1</u> | <input checked="" type="checkbox"/> Standard open transition |
| Volts: <u>208</u> | Amps: <u>1200</u> | | <input type="checkbox"/> In-phase monitor |
| WCR nominal amps with coordinated breaker | | | <input type="checkbox"/> Delayed transition |
| WCR nominal amps .05 sec time based | | | <input checked="" type="checkbox"/> Exerciser |
| WCR nominal amps with current limiting fuse | | | <input type="checkbox"/> Closed transition |
| | | | <input checked="" type="checkbox"/> Auxiliary contacts |
| | | | <input type="checkbox"/> Service entrance rated |
| | | | <input type="checkbox"/> Power meter |
| | | | <input type="checkbox"/> Bypass isolation switch |

| | | | |
|--------------------------------|--|--|--|
| Additional ATS options: | | | |
| Quick connects: | <input type="checkbox"/> Camlock panel _____ Amp | <input type="checkbox"/> Temp gen camlocks | <input type="checkbox"/> Load bank camlock |
| | <input type="checkbox"/> Manual transfer switch | | |

Clarifications:
 Generator and ATS quoted per specification sections: **Quote is based on our telephone conversation of 3-16-2023**

Quote is for equipment only. Site work, permits, mechanical & electrical installation are by others.

Due to current market volatility and supply chain constraints, PPG is presently unable to unconditionally guarantee the pricing or lead times given in this quote. Price and estimated lead time are made based on currently available information at the time of the quotation. PPG reserves the right to adjust prices and delivery without notice. Price and delivery will be confirmed upon request of customer or at the time of order acceptance by PPG.

Note: Mechanical and electrical installation, off-engine piping, exhaust insulation, ducting, mounting hardware, fuel, required permits and independent testing are not included unless specifically listed. Results of coordination studies (by others) may affect our scope and pricing.

Quoted Price: \$81,064.00

Taxes not included. FOB: Job site, unloading by others. **Current lead time 50-55 weeks after submittal approval and release for production.**

Terms: Net 30 OAC subject to standard PPG credit terms and conditions of sale. **Quote is only valid for 30 days.**

This transaction is governed by and subject to the Terms of Agreement and Conditions of Sale and Service (the "Terms and Conditions") of Pacific Power Group Company ("Seller") that are in effect as of the date of this quote. The Terms and Conditions are available online at www.pacificpowergroup.com/terms and they are incorporated in full by this reference and made part of this transaction. Customer acknowledges that Customer has read the Terms and Conditions. By purchasing goods and/or services from Seller, Customer agrees to be bound by the Terms and Conditions that are set forth on the Seller's website; Customer's payment for and acceptance of the products and/or services described in this quote will confirm Customer's acceptance of the Terms and Conditions. Upon Customer's request, Seller will provide Customer with a hard copy of the Terms and Conditions. This quote is valid for 30 days unless otherwise stated. Unless otherwise noted, services are to be completed during normal business hours. -- 59



Diesel Generator Set

mtu 4R0113 DS100

100 kWe/60 Hz/Standby/208 - 600V

Reference **mtu 4R0113 DS100 (90 kWe)** for Prime Power for Stationary Emergency Rating Technical Data

System ratings

| Voltage (L-L) | 240V † | 240V † | 208V † | 240V † | 480V † | 600V |
|----------------------|-------------------------|--------------|--------------|---------------|--------------|--------------|
| Phase | 1 | 1 | 3 | 3 | 3 | 3 |
| PF | 1 | 1 | 0.8 | 0.8 | 0.8 | 0.8 |
| Hz | 60 | 60 | 60 | 60 | 60 | 60 |
| kW | 100 | 100 | 100 | 100 | 100 | 100 |
| kVA | 100 | 100 | 125 | 125 | 125 | 125 |
| Amps | 417 | 417 | 347 | 301 | 150 | 120 |
| skVA@30% voltage dip | 136 | 311 | 258 | 258 | 344 | 270 |
| Generator model | 431CSL6204 | 363CSL1617 | 362CSL1606 | 362CSL1606 | 362CSL1606 | 362PSL1636 |
| Temp rise | 130 °C/40 °C | 130 °C/40 °C | 130 °C/40 °C | 130 °C/40 °C | 130 °C/40 °C | 130 °C/40 °C |
| Connection | 12 LEAD DOUBLE DELTA | 4 LEAD | 12 LEAD WYE | 12 LEAD DELTA | 12 LEAD WYE | 4 LEAD WYE |

† UL 2200 offered

Certifications and standards

- Emissions
 - EPA Tier 3 certified
 - South Coast Air Quality Management District (SCAQMD)
- Generator set is designed and manufactured in facilities certified to standards ISO 9001:2008 and ISO 14001:2004
- UL 2200 - optional (refer to *System ratings* for availability)
- CSA - optional
 - CSA C22.2 No. 100
 - CSA C22.2 No. 14
- Performance Assurance Certification (PAC)
 - Generator set tested to ISO 8528-5 for transient response
 - Verified product design, quality and performance integrity
 - All engine systems are prototype and factory tested
- Power rating
 - Accepts rated load in one step per NFPA 110

Standard features*

- Single source supplier
- Global product support
- Two (2) Year/3,000 Hour Basic Limited Warranty
- 4045HF285 diesel engine
 - 4.5 liter displacement
 - 4-cycle
- Engine-generator resilient mounted
- Complete range of accessories
- Cooling system
 - Integral set-mounted
 - Engine-driven fan
- Generator
 - Brushless, rotating field generator
 - 2/3 pitch windings
 - 300% short circuit capability with optional Permanent Magnet Generator (PMG)
- Digital control panel(s)
 - UL recognized, CSA certified, NFPA 110
 - Complete system metering
 - LCD display

Standard equipment*

Engine

- Air cleaner
- Oil pump
- Oil drain extension and shut-off valve
- Full flow oil filter
- Fuel filter with water separator
- Jacket water pump
- Thermostat
- Blower fan and fan drive
- Radiator - unit mounted
- Electric starting motor - 12V
- Governor - electronic isochronous
- Base - formed steel
- SAE flywheel and bell housing
- Charging alternator - 12V
- Battery box and cables
- Flexible fuel connectors
- Flexible exhaust connection
- EPA certified engine

Generator

- NEMA MG1, IEEE, and ANSI standards compliance for temperature rise and motor starting
- Self-ventilated and drip-proof
- Superior voltage waveform
- Solid state, volts-per-hertz regulator
- $\pm 1\%$ voltage regulation no load to full load
- Brushless alternator with brushless pilot exciter
- 4 pole, rotating field
- 130 °C maximum standby temperature rise
- 1-bearing, sealed
- Flexible coupling
- Full amortisseur windings
- 125% rotor balancing
- 3-phase voltage sensing
- 100% of rated load - one step
- 5% maximum total harmonic distortion

Digital control panel(s)

- Digital metering
- Engine parameters
- Generator protection functions
- Engine protection
- SAE J1939 Engine ECU Communications
- Windows®-based software
- Multilingual capability
- Communications to remote annunciator
- Programmable input and output contacts
- UL recognized, CSA certified, CE approved
- Event recording
- IP 54 front panel rating with integrated gasket
- NFPA 110 compatible

* Represents standard product only. Consult the factory/*mtu* Distributor for additional configurations.

Application data

Engine

| | |
|------------------------------------|-------------|
| Manufacturer | John Deere |
| Model | 4045HF285 |
| Type | 4-cycle |
| Arrangement | 4-inline |
| Displacement: L (in ³) | 4.5 (275) |
| Bore: cm (in) | 10.6 (4.19) |
| Stroke: cm (in) | 12.7 (5) |
| Compression ratio | 19:1 |
| Rated rpm | 1,800 |
| Engine governor | JDEC |
| Maximum power: kWm (bhp) | 118 (158) |
| Steady state frequency band | ± 0.25% |
| Air cleaner | dry |

Liquid capacity

| | |
|---------------------------------------|------------|
| Total oil system: L (gal) | 12 (3.2) |
| Engine jacket water capacity: L (gal) | 12.5 (3.3) |
| System coolant capacity: L (gal) | 20.1 (5.3) |

Electrical

| | |
|--|-----|
| Electric volts DC | 12 |
| Cold cranking amps under -17.8 °C (0 °F) | 925 |
| Batteries: group size | 31 |
| Batteries: quantity | 1 |

Fuel system

| | |
|--------------------------------|-------------------|
| Fuel supply connection size | -6 JIC 37° female |
| Fuel return connection size | -6 JIC 37° female |
| Maximum fuel lift: m (ft) | 2 (6.7) |
| Recommended fuel | diesel #2 |
| Total fuel flow: L/hr (gal/hr) | 74.6 (19.7) |

Fuel consumption

| | |
|--|------------|
| At 100% of power rating: L/hr (gal/hr) | 31 (8.2) |
| At 75% of power rating: L/hr (gal/hr) | 25 (6.6) |
| At 50% of power rating: L/hr (gal/hr) | 17.8 (4.7) |

Cooling - radiator system

| | |
|---|--------------|
| Ambient capacity of radiator: °C (°F) | 50 (122) |
| Maximum restriction of cooling air: intake and discharge side of radiator: kPa (in. H ₂ O) | 0.12 (0.5) |
| Water pump capacity: L/min (gpm) | 180 (48) |
| Heat rejection to coolant: kW (BTUM) | 62 (3,544) |
| Heat rejection to air to air: kW (BTUM) | 19.8 (1,127) |
| Heat radiated to ambient: kW (BTUM) | 16.2 (919) |
| Fan power: kW (hp) | 6.5 (8.7) |

Air requirements

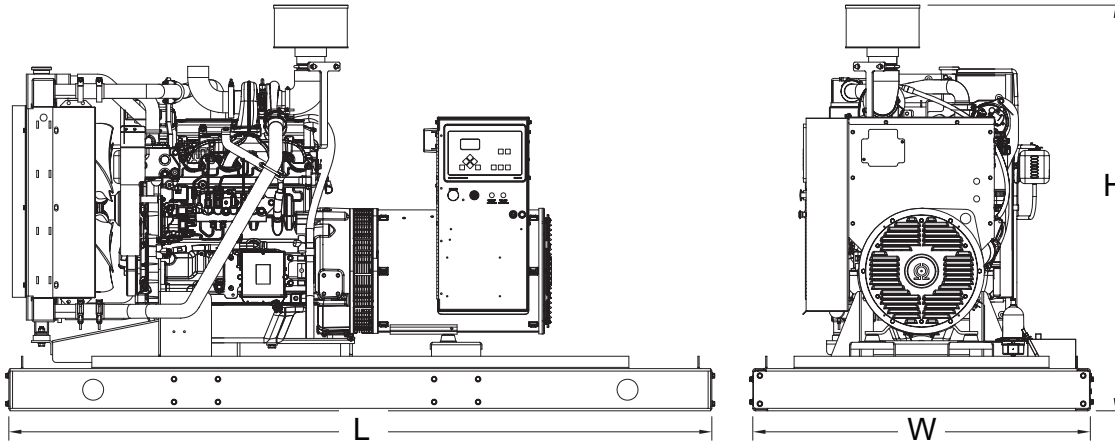
| | |
|---|-------------|
| Aspirating: *m ³ /min (SCFM) | 8.2 (288) |
| Air flow required for radiator cooled unit: *m ³ /min (SCFM) | 187 (6,587) |
| Remote cooled applications; air flow required for dissipation of radiated generator set heat for a maximum of 25 °F rise: *m ³ /min (SCFM) | 59 (2,074) |

* Air density = 1.184 kg/m³ (0.0739 lbm/ft³)

Exhaust system

| | |
|--|-------------|
| Gas temperature (stack): °C (°F) | 580 (1,076) |
| Gas volume at stack temperature: m ³ /min (CFM) | 22.8 (805) |
| Maximum allowable back pressure at outlet of engine, before piping: kPa (in. H ₂ O) | 7.5 (30) |

Weights and dimensions



Drawing above for illustration purposes only, based on standard open power 480 volt generator set. Lengths may vary with other voltages. Do not use for installation design. See website for unit specific template drawings.

| System | Dimensions (L x W x H) | Weight |
|-----------------------|---|---------------------------------|
| Open Power Unit (OPU) | 2,540 x 1,219 x 1,473 mm (100 x 48 x 58 in) | 1,196-1,839 kg (2,637-4,054 lb) |

Weights and dimensions are based on open power units and are estimates only. Consult the factory for accurate weights and dimensions for your specific generator set.

Sound data

| Unit type | Standby full load |
|----------------------|-------------------|
| Level 0 (OPU): dB(A) | 83.6 |

Sound data is provided at 7 m (23 ft). Generator set tested in accordance with ISO 8528-10 and with infinite exhaust.

Emissions data

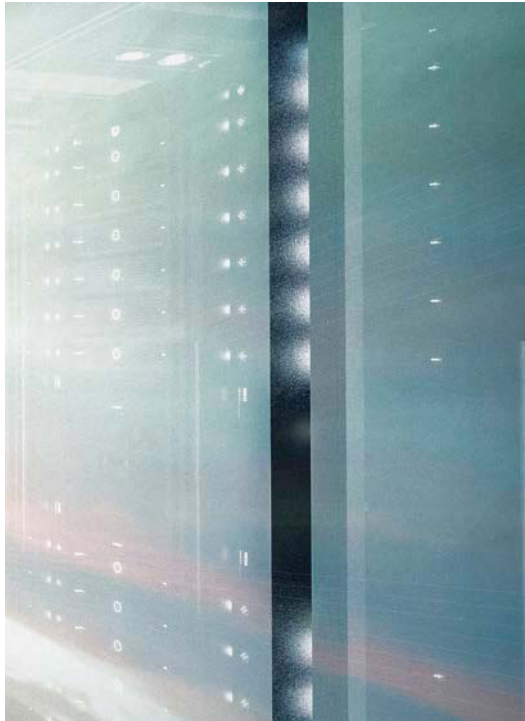
| NO _x + NMHC | CO | PM |
|------------------------|------|------|
| 3.97 | 0.72 | 0.08 |

All units are in g/hp-hr and shown at 100% load (not comparable to EPA weighted cycle values). Emission levels of the engine may vary with ambient temperature, barometric pressure, humidity, fuel type and quality, installation parameters, measuring instrumentation, etc. The data was obtained in compliance with US EPA regulations. The weighted cycle value (not shown) from each engine is guaranteed to be within the US EPA standards. 5-mode emission data per 40 CFR 89 or 40 CFR 1039 (as applicable) is available upon request.

Rating definitions and conditions

- Standby ratings apply to installations served by a reliable utility source. The standby rating is applicable to varying loads for the duration of a power outage. No overload capability for this rating. Ratings are in accordance with ISO 3046-1, BS 5514, and AS 2789. Average loadfactor: ≤ 85%.
- Nominal ratings at standard conditions: 25 °C and 300 meters (77 °F and 1,000 feet).
- Deration factor:
 - Consult your local **mtu** Distributor for altitude derations.
 - Consult your local **mtu** Distributor for temperature derations.

ASCO SERIES 300 Power Transfer Switches





24-hour protection, no matter when trouble strikes

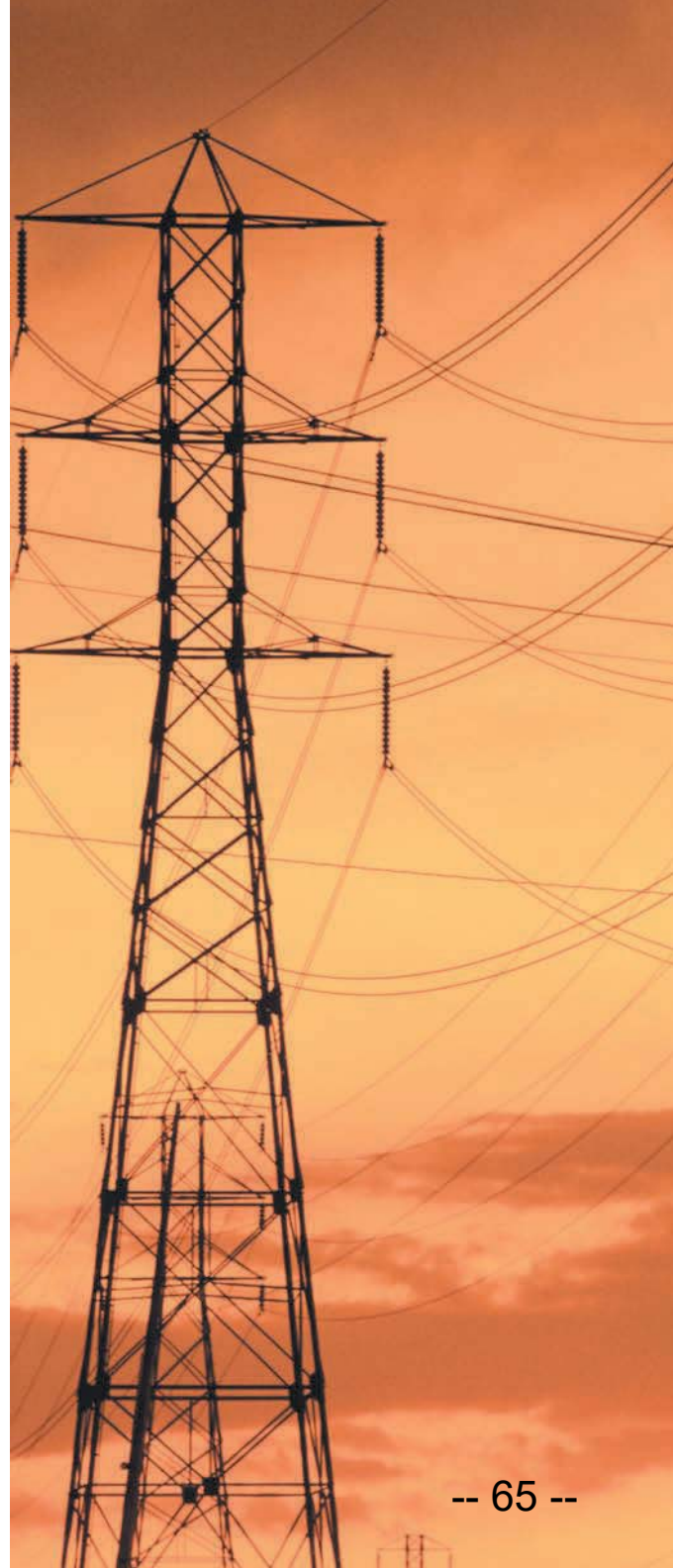
ASCO SERIES 300 Power Transfer Switches for Power Outage Protection

Where would you be without a constant flow of electrical power? We often take for granted that power will always be around when we need it.

In reality, power failures are common, and when the power goes out, your business suffers. Power failures are unpredictable. They can occur at any time and for any number of reasons — a bolt of lightning, a power surge, a blackout, an accident or even equipment failure. They come without warning and often at the most inconvenient times.

It's for this reason that many businesses and other entities have invested in emergency power backup systems. Typically, the system consists of an engine generator and an automatic transfer switch (ATS) that transfers the load from the utility to the generator.

An ATS with built-in control logic monitors your normal power supply and senses interruptions and unacceptable abnormalities. When the utility power fails, the ATS automatically starts the engine generator and transfers the load after the generator has reached proper voltage and frequency. This happens in a matter of seconds after the power failure occurs. When the utility power has been restored, the ATS will automatically switch the load back and, after a time delay, shut down the engine generator. With an ATS, you are protected 24 hours a day, seven days a week.





TYPICAL APPLICATIONS

TELECOM

In the telecommunication industry, providing a high level of service and dependability is crucial. Lost power means an interruption in service for your customers and lost business for your company. For instance, with cell sites scattered across a wide geographical region and in many remote areas, the chances of an interruption in power are increased, making an ATS valuable resource at each location.

To maintain dependable service, each cell site must be monitored 24 hours a day. This can be very difficult without some type of remote monitoring and testing capability. The SERIES 300 Transfer Switch, combined with ASCO's monitoring and control management system, is a cost-effective, packaged solution that can achieve both of these challenging objectives without a major investment at each cell site. With ASCO's connectivity solutions, you can remotely monitor and control numerous sites from around the corner or across the world.

AGRICULTURE

Maintaining electrical power is vital to an agriculture operation. If the flow of power is interrupted, your operation will be at risk unless the backup generator is quickly activated. A prolonged power outage can affect numerous aspects of the operation, from housing and feeding livestock to processing and producing the end product.

With an ASCO SERIES 300 Transfer Switch, power will automatically be transferred over to your backup generator, eliminating the need to manually switch from utility to generator. When power is restored, the ASCO SERIES 300 Transfer Switch will, after an adjustable time delay to allow for utility stabilization, automatically switch the load back to the utility service.

COMMERCIAL/RETAIL, LIGHT INDUSTRIAL

The retail industry is very competitive. An electrical power failure can have a dramatic impact on a retailer's bottom line. If power is interrupted during peak shopping times, the effect can be extremely damaging to present and future business.

A power interruption will not only suspend shopping, it can also create safety problems, result in lost transaction data, lost account information and possible damage to data collection equipment. In addition, retailers who rely on controlled climates to protect valuable inventory could suffer even greater losses, especially if the power failure occurs at a time when no one is available to rectify the situation. To avoid any of these power outage problems, simply install a backup generator with an ASCO SERIES 300 Transfer Switch, and your power outage concerns will be a thing of the past.

MUNICIPAL

The ASCO SERIES 300 Transfer Switch can be a critical component of a municipal government's emergency power backup system. Residents of townships, cities and counties rely on police, fire, ambulance/first aid and other critical public sector services.

An interruption in power can affect the ability of emergency services to effectively respond to the needs of the community. When time is a critical factor, such as when responding to a fire alarm or an emergency call, an ASCO SERIES 300 Transfer Switch can be a lifesaver, by automatically switching to power from the backup generator. While not all municipal services are a matter of life and death, they are always expected to be there.

SERIES 300 POWER TRANSFER SWITCHES

MAXIMUM RELIABILITY & EXCELLENT VALUE

With a SERIES 300 Transfer Switch, you get a product backed by ASCO Power Technologies, the industry leader responsible for virtually every major technological advance in the Transfer Switch industry.

The ASCO SERIES 300 was designed for one purpose—to automatically transfer critical loads in the event of a power outage. Each and every standard component was designed by ASCO engineers for this purpose.

The SERIES 300 incorporates the Group G controller with enhanced capabilities for dependable operation in any environment. A user-friendly control interface with a 128x64 graphical LCD display and intuitive symbols allow for ease of operation while visual LED indicators display the transfer switch status. Operating parameters and feature settings can be adjusted without opening the enclosure door.

The rugged construction and proven performance of the ASCO SERIES 300 assure the user of many years of complete reliability. The SERIES 300 is even designed to handle the extraordinary demands placed on the switch when switching stalled motors and high inrush loads.

ASCO's SERIES 300 modular, compact design makes it easy to install, inspect and maintain. All parts are accessible from the front so switch contacts can be easily inspected.

FEATURES

- The SERIES 300 is listed to UL 1008 standard for total system loads for automatic transfer switches.
- Meets NFPA 110 for Emergency and Standby Power Systems and the National Electrical Code (NEC) Articles 700, 701 and 702.

UL 1008 WITHSTAND AND CLOSE-ON RATINGS FOR ASCO SERIES 300 GROUP G PRODUCTS^{1,2}

(RMS Symmetrical Amperes)

| FRAME | SWITCH RATINGS (AMPERES) | CURRENT LIMITING FUSES | | | | SPECIFIC BREAKER | | |
|-------|---|------------------------|-----------|-----------|--------------|-------------------|-------------------|-------------------|
| | | TRANSFER SWITCHES | 480V MAX. | 600V MAX. | MAX. SIZE, A | CLASS | 240V MAX. | 480V MAX. |
| D | 30 | 100kA | - | 60 | J | 22kA | 22kA | 10kA |
| D | 70-104 | 35kA | 35kA | 200 | RK1 | 42kA | 22kA | 10kA |
| | | 200kA | 35kA | 200 | J | | | |
| D | 150 | 35kA | 35kA | 200 | RK1 | 65kA | 25kA | 10kA |
| | | 200kA | 35kA | 200 | J | | | |
| D | 200 | 200kA | - | 200 | J | 65kA | 25kA | 10kA |
| D | 230 | 100kA | - | 300 | J | 65kA | 25kA | 10kA |
| J | 150 ⁴ , 200 ⁴ , 230 ⁴ , 206, 400 | 200kA | 200kA | 600 | J | 50kA | 50kA | 42kA |
| J | 600 | 200kA | 200kA | 800 | L | 50kA | 50kA | 42kA |
| H | 800-1200 | 200kA | 200kA | 1600 | L | 65kA ³ | 65kA | 65kA |
| G | 1600-2000 ³ | 200kA | 200kA | 2500 | L | 85kA | 85kA ³ | 85kA ³ |
| G | 2600-3000 | 200kA | 200kA | 4000 | L | 100kA | 100kA | 100kA |

Notes:
 1. All WCR values indicated are tested in accordance with the requirements of UL 1008, 7th Edition. See ASCO Pub. 1128 for more WCR information.
 2. Application requirements may permit higher WCR for certain switch sizes.
 3. Front connected only.
 4. J150, 200, 230 Amperes available in 3ADTS and 3NDTS only.



Fig. 1: ASCO Power Transfer Switch rated 200 Amps

- Restriction of Hazardous Substances (RoHS) compliant controller.
- 30 through 3000 amperes in a compact design.
- Switch operating temperature range of 0 to +40° C.
- Available to 600 VAC, single or three phase.
- True double-throw operation: The single solenoid design is inherently inter-locked and prevents connections to both sources at the same time.
- No danger of the SERIES 300 ATS transferring loads to a dead source because the unique ASCO single-solenoid operator derives power to operate from the source to which the load is being transferred.
- Easy-to-navigate 128x64 graphical LCD display with keypad provides LED indicators for switch position, source availability, not in auto mode, and alert condition.
- Integrated multilingual user interface for configuration and monitoring.
- Delayed transition operation is now available (Dual Operator Configuration).
- Non-automatic operation can be selected using the key pad without opening enclosure door.
- Relay expansion module with extra relays for accessory outputs (optional).
- Includes soft keys for test function and time delay bypass as standard features.
- Emergency source failure alert indication.
- Historical event log (optional).
- Statistical ATS system monitoring information.
- Diagnostic functions.
- Password protection to prevent unauthorized tampering of settings.
- Adjustable time-delay feature prevents switch from being activated due to momentary utility power outages and generator dips.
- Auxiliary contacts to indicate position of main contacts. Two (2) for normal and two (2) emergency position
- Supplied with solid neutral termination.
- Optional switched neutral pole available.
- Field modification accessory kits available.
- Available for immediate delivery.

SERIES 300 POWER TRANSFER SWITCHES

DESIGNED TO FIT ANYWHERE

The ASCO SERIES 300 product line represents the most compact design of automatic power transfer switches in the industry. With space in electrical closets being at a premium, the use of wall- or floor-mounted ASCO Power Transfer Switches assure designers optimum utilization of space.

All transfer switches through 2000 amperes are designed to be completely front accessible. This permits the enclosures to be installed flush against the wall and still allow installation of all power cabling and connections from the front of the switch. Cable entrance plates are also standard on the 1600 and 2000 amperes units to install optional side-mounted pull boxes for additional cable bending space.



Fig. 2: ASCO Power Transfer Switch rated 200 Amps



Fig. 3: ASCO Power Transfer Switch rated 400 Amps



Fig. 4: ASCO Power Transfer Switch rated 600 Amps



Fig. 5: ASCO Power Transfer Switch rated 1000 Amps



Fig. 6: ASCO Power Transfer Switch rated 2000 Amps shown in Type 3R enclosure



Fig. 7: ASCO Power Transfer Switch rated 3000 Amps

SERIES 300 GROUP G CONTROLLER

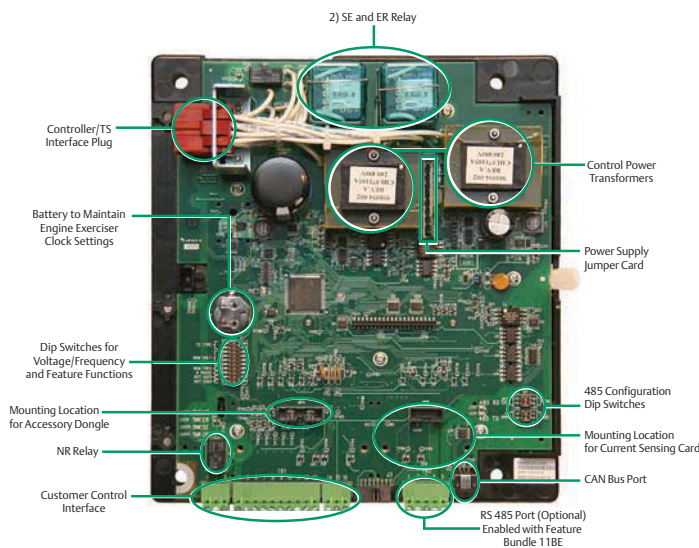


Fig. 8: ASCO SERIES 300 Group G Controller

CONTROL AND DISPLAY PANEL

- Easy-to-navigate 128x64 graphical LCD display with keypad provides LED indicators for switch position, source availability, not in auto mode, and alert condition. It also includes test and time delay bypass soft keys.

VOLTAGE, FREQUENCY & CURRENT SENSING

- 3-phase under and over voltage settings on normal and single phase sensing on emergency source.
- Under and over frequency settings on normal and emergency.
- True RMS voltage sensing with +/-1% accuracy.
- Frequency sensing accuracy is +/- 0.1Hz.
- Voltage and frequency parameters adjustable in 1% increments.
- Selecting settings: single or threephase voltage sensing on normal, and single phase sensing on emergency; 50 or 60Hz. 3-phase voltage unbalance on normal.
- Load current sensing card (optional).

The SERIES 300 incorporates the group “G” controller with enhanced capabilities for dependable operation in any environment.

TIME DELAYS

- Engine start time delay – delays engine starting signal to override momentary normal source outages, adjustable from 0 to 6 seconds (Feature 1C).
- Emergency source stabilization time delay to ignore momentary transients during initial generator set loading, adjustable from 0 to 4 seconds (Feature 1F).
- Re-transfer to normal time delay with two settings (Feature 3A).
 - Power failure mode – 0 to 60 minutes
 - Test mode – 0 to 10 hours
- Unloaded running time delay for engine cooldown, adjustable from 0 to 60 minutes (Feature 2E).
- Pre- and post-signal time delay for selective load disconnect with a programmable bypass on source failures, adjustable from 0 to 5 minutes (specify ASCO optional accessory 31Z).
- Optional fully programmable engine exerciser with seven independent routines to exercise the engine generator, with or without loads, on a daily, weekly, bi-weekly or monthly basis (specify ASCO optional accessory feature bundle 11BE).
- Delayed transition load disconnect time delay, adjustable from 0 to 5 minutes (3ADTS/3NDTS configuration only).

STANDARD SELECTABLE FEATURES

- Inphase monitor to transfer motor loads, without any intentional off time, to prevent inrush currents from exceeding normal starting levels.
- Engine exerciser to automatically test backup generator each week, with or without load 20 minutes not adjustable.
- Commit to transfer.
- Selective load disconnect circuit to provide a pre-transfer and/or post-transfer signal when transferring from emergency to normal and/or normal to emergency.
- Re-transfer to normal through soft keys on user interface permits selection of “manual” or “automatic” operation.
- 60Hz or 50Hz selectable switch. Three-/single- phase selectable switch.

REMOTE CONTROL FEATURES

- External inputs for connecting:
- Remote test switch.
- Remote contact for test or peak shaving applications. If emergency source fails, switch will automatically transfer back to normal source if acceptable.
- Inhibit transfer to emergency.
- Remote time delay bypass switch emergency to normal.

SERIES 300 GROUP G OFFERS SOPHISTICATED FUNCTIONALITY

The new Group G controller offers an intuitive, easy-to-navigate 128*64 graphical LCD display with soft keypad and provides six (6) LED indicators.

- Switch Position (green for normal, red for emergency LED)
- Source Availability (green for normal, red for emergency LED)
- “Not In Auto” (amber LED)
- Common Alarm (amber LED)

The ASCO group “G” controller is self-contained with an integrated display (no other components are required for efficient operation).

The controller allows for open or delayed transition transfer operation (both automatic, and non-automatic configurations).

An integrated multilingual user interface for configuration and monitoring (this design approach allows greater application flexibility).

Multiple source-sensing capabilities of voltage, frequency (under frequency sensing on normal and emergency sources), and optional current card, single and three phase (does not require an external metering device).

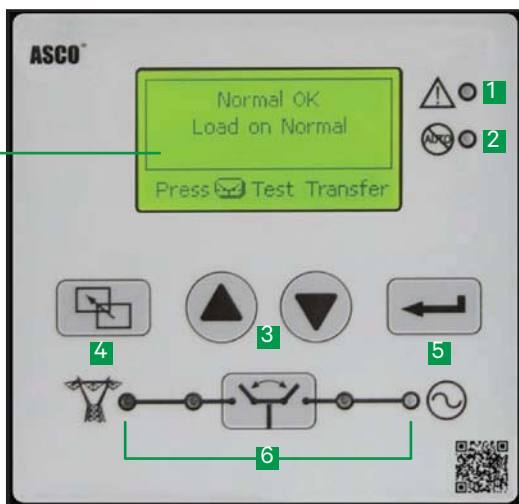


Fig. 9: Door-Mounted Control & Display Panel

- 1 Common Alarm
- 2 Not In Auto Indicator
- 3 Scroll, Up/Down Arrows
- 4 Escape Key
- 5 Enter Key
- 6 LED Source Availability and Switch Position Indicators Transfer / Time Delay Override control push-button

Control Status

Normal OK
Load on Normal

Press Test Transfer

Source Status

| Normal | | Emergency | |
|----------------|------|----------------|------|
| V _n | 207V | V _e | 207V |
| V _b | 206V | V _a | 207V |
| V _a | 207V | V _a | 207V |
| 60.0Hz | | 60.0Hz | |

Alarm Status

No Active Alarms

Controller Information

Serial Number
000000000000
Software Version
894063x581 12/05/14
Thu 12/11/14 15:08:54

**Main Menu/
Settings**

Enter Password
* * * *

**Settings/
Engine Exerciser**

Engine Exerciser

Present Time 09:08:16

Program No. 1

Enable

With Load

**Settings/General/
Communications**

RS485 Port

Baud Rate 9600

Device Addr 1

Protocol AscobusII

Emulate Grp1

**Settings/General/Common
Alarms**

Common Alarms

Loss E when on E

E Accept Fail

**Main Menu/
Event Logging**

« Event Log »

Event 1 of 248
Engine Stop

05/07/13 10:23:44.0

**Main Menu/
Statistics**

« Statistics »

TS Total Transfers
82

TS Transfer Time
5.0 Sec

**Main Menu/
Factory/Diagnostics**

« Discrete Inputs »

| | | | | | |
|-----|---|-----|---|-----|---|
| CNN | 1 | F5 | 1 | F30 | 1 |
| CNE | 0 | F17 | 1 | TST | 1 |
| CEN | 0 | F34 | 1 | | |
| CEE | 0 | F6 | 1 | | |

**Main Menu/
About**

« About »

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SERIES 300 ATS OPTIONAL ACCESSORIES

ACCESSORY 1UP

UPS back up power to allow controller to run with LCD display for 30 seconds without AC power.

ACCESSORY 11BE FEATURE BUNDLE

A fully programmable engine exerciser with seven independent routines to exercise the engine generator with or without loads, on a daily, weekly, bi-weekly or monthly basis. Engine exerciser setting can be displayed and changed from the user interface keypad.

Event Log display shows the event number, time and date of event, event type, and event reason (if applicable).

A maximum of 300 events can be stored. RS 485 Communications Port Enabled Common Alarm Output Contact

ACCESSORY 18RX

Relay expansion module (REX) provides for some commonly used accessory relays, includes one form C contact for source availability of normal (18G), and one form C contact for availability of emergency (18B) (contact rating 5 amperes @ 30Vdc or @125 VAC resistive). Additional output relay is provided, the default is to indicate a common alarm. (See operator's manual for configurable options.)

ACCESSORY 23GA¹ (SINGLE PHASE) AND 23GB (THREE PHASE)

Load current metering card measures either single or three phase load current.

Note 1: This feature is not available with a Power Meter Option (135L).

ACCESSORY 44A

Strip Heater with thermostat for extremely cold areas to prevent condensation and freezing of this condensation. External 120 volt power source required.

ACCESSORY 44G

Strip Heater with thermostat, wired to load terminals: 208-240, 360-380, 460-480, 550-600 volts. Contains wiring harnesses for all transfer switch sizes.

ACCESSORY 72EE

Connectivity Module enabling remote monitoring and control capabilities includes accessory 11BE featured bundle (pages 12-14).

FIELD CONVERSION KITS FOR SERIES 300 TRANSFER SWITCHES

| KIT NO. | DESCRIPTION |
|-------------|--|
| 935147 | Feature Bundle Includes Engine Exerciser/Event Log/RS 485/Common Alarm Output Contact (Acc. 11BE) Dongle |
| 935148 | REX Module with Source Availability Contacts (Acc. 18RX) |
| 935149 | UPS to allow controller to run for 30 seconds minimum without AC Power (Acc. 1UP) |
| 935150 | 1/3 Phase load current sensing card only (Acc. 23GA/GB) |
| K613127-001 | Strip Heater (125 watt) 120 volt (Acc. 44A) |
| K613127-002 | Strip Heater (125 watt) 208-480 volt (Acc. 44G) |
| 948551 | Quad-Ethernet Module (Acc. 72EE) |
| K609027 | Cable Pull Box (1600-2000 amperes) |

ACCESSORY 73

Surge Suppressor (TVSS) Rated 65kA.

ACCESSORY 62W

Audible alarm with silencing feature to signal each time switch transfers to emergency (may require oversize enclosure depending on accessory combination for "D" frame only).

ACCESSORY 37B

6' Extension harness for units shipped open type to accommodate customer mounting of controls and switch.

ACCESSORY 37C

9' Extension harness for units shipped open type to accommodate customer mounting of controls and switch.

ACCESSORY 135L²

Power Meter on load side (includes shorting block and CTs)Note 2: This feature is not available with Load Current Metering Option (23GA or 23GB).

ACCESSORY 30A³

Shedding circuit initiated by opening of a customer-supplied contact.

ACCESSORY 30B*³

Load-shedding circuit initiated by removal of customer-supplied voltage. (*Specify Voltage)

ACCESSORY 30AA³

Load-shedding circuit initiated by opening of a customer-supplied contact.

ACCESSORY 30BA*³

Load-shedding circuit initiated by removal of customer-supplied voltage. (*Specify Voltage)

Note 3: Accessory 30A and 30B* are only available for 3ATS only; accessory 30AA and 30BA* are only available for 3ADTS.



Fig. 10: Strip Heater Kit (Accessory 44G)



Fig. 11: Relay Expansion Module (Accessory 18RX)



Fig. 12: Load Current Card (Accessory 23GA/GB)

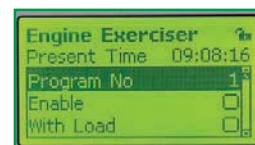


Fig. 13: Programmable Engine Exerciser



Fig. 14: Accessory 1UP UPS Backup Power

SERIES 300 POWER TRANSFER SWITCHES

SERIES 300 NON-AUTOMATIC TRANSFER SWITCHING (3NTS)

ASCO non-automatic transfer switches are generally used in applications in which operating personnel are available and the load is not an emergency type requiring automatic transfer of power. They can also be arranged for remote control via ASCO's connectivity products.



**Fig. 15: ASCO 3NTS 400 Amps
Type 1 Enclosure**

3NTS FEATURES

- ASCO Non-Automatic Transfer Switches are manually initiated via soft keys on the user interface panel.
- Sizes range from 30 through 3000 amperes.
- Group G controller provides for addition of optional accessories.
- Controller prevents inadvertent operation under low voltage condition.
- Source acceptability lights inform operator if sources are available to accept load.
- Source inphase monitor to transfer motor loads between live sources.
- Two auxiliary contacts closed when transfer switch is connected to normal and two closed on emergency standard feature 14AA/14BA.



**Fig. 16: ASCO 3ADTS/3NDTS 400 Amps
Type 1 Enclosure**

SERIES 300 DELAYED TRANSITION TRANSFER SWITCHING (3ADTS/3NDTS)

ASCO Delayed Transition Transfer Switches are designed to provide transfer of loads between power sources with a timed load disconnect position for an adjustable period of time.

3ADTS/3NDTS FEATURES

- Sizes from 150 through 3000 amperes.
- Reliable field proven dual solenoid operating mechanisms.
- Mechanical interlocks to prevent direct connection of both sources.
- Adjustable time delay for load disconnect (0 to 5 minutes).
- Available in manual operation configuration (3NDTS).
- Available with optional load shed feature for (3ADTS).

SERIES 300 TRANSFER SWITCH ORDERING INFORMATION

To order an ASCO SERIES 300 Power Transfer Switch, complete the following catalog number:

| J | + | 03ATS | + | A | + | 3 | + | 0600 | + | N | + | GX | + | C |
|--|---|-------|----------------------|---|---------------------|--|---------------------------------|------|-------------------------------|--|---|----|---|---|
| Frame | Transition Type | | Neutral Code | | Phase Poles | Amperes | Voltage Code | | Group Code | Enclosure | | | | |
| Open Transition D = 30A - 230A | Automatic 03ATS Open Transition | | A = Solid Neutral | | 2 | 0030 ¹ | A ³ = 115 | | G0 No Optional Accessories | O = Open Type (zero) | | | | |
| | | | B = Switched Neutral | | 3 | 0070 ¹ 0104 ¹ | B ³ = 120 C = 208 | | | C = Type 1 Enclosure | | | | |
| Open/Delayed Transition J = 150A - 600A H = 800A - 1200A G = 1600A - 3000A | 3ADTS Delayed Transition | | | | | 0150 ^{1,5} | D = 220 | | GX Optional Accessories | F = Type 3R ¹ Enclosure | | | | |
| | Non Automatic 03NTS Open Transition | | | | | 0200 ^{1,3,4} | E = 230 | | | G = Type 4 ¹ Enclosure | | | | |
| | 3NDTS Delayed Transition | | | | | 0230 ^{1,3,4} | F = 240 | | | H = Type 4X ¹ Enclosure (304 Stainless Steel) | | | | |
| | | | | | | 0260 ^{1,4} | H = 380 | | | L = Type 12 ¹ Enclosure | | | | |
| | | | | | | 0400 ^{1,4} | J = 400 | | | M = Type 3R ³ Secure Double Door Enclosure | | | | |
| | | | | | | 0600 ^{1,4} | K = 415 | | | N = Type 4 Secure Double Door Enclosure | | | | |
| | | | | | | 0800 ⁴ | L = 440 | | | Q = Type 12 Secure Double Door Enclosure | | | | |
| | | | | | | 1000 ⁴ | M = 460 | | | R = Type 3RX ^{7,8} Secure Double Door Enclosure (304 Stainless Steel) | | | | |
| | | | | | | 1200 ^{4,5} | N = 480 | | | | | | | |
| | | | | | | 1600 ^{4,5} | P = 550 | | | | | | | |
| | | | | | 2000 ^{4,5} | Q = 575 | | | | | | | | |
| | | | | | 2600 ^{4,5} | R = 600 | | | | | | | | |
| | | | | | 3000 ^{4,5} | | | | | | | | | |

- Notes:**
- Switch sizes 30-600 amperes supplied in non-secure enclosures as standard.
 - 115-120 volt available for 30-400 amperes only. For other voltages contact ASCO.
 - 200 and 230 amperes rated switches for use with copper cable only.
 - Switch sizes 800-3000 amperes, and 150-400 amperes 3ADTS/3NDTS provided in secure type outdoor enclosures when required.
 - Use Type 3R secure for 1200, 2000, 2600, and 3000.
 - Type 304 stainless steel is standard. Suitable for indoor or outdoor use where there may be caustic or alkali chemicals in use. To provide an improved reduction in corrosion of salt and some chemicals, optional type 316 stainless steel is recommended. This is the preferred choice for marine environments.
 - Available on switches rated 1200, 2000, 2600, and 3000 amperes.
 - When temperatures below 32°F can be experienced, special precautions should be taken, such as the inclusion of strip heaters, to prevent condensation and freezing of this condensation. This is particularly important when environmental (Type 3R, 4) are ordered for installation outdoors.
 - Type 3R enclosures are not suitable for installations subject to wind blown rain or snow. Use type 4 enclosures where available or install supplemental shelter protection around the 3R enclosure.

SERIES 300 EXTERNAL POWER CONNECTIONS

Size UL-Listed Solderless Screw-Type Terminals

| SWITCH RATING (AMPERES) | RANGES OF AL-CU WIRE SIZES (UNLESS SPECIFIED COPPER ONLY) |
|--------------------------------------|---|
| 30-230 ² ATS and NTS only | One #14 to 4/0 AWG |
| 150*, 260, 400 | Two 1/0 AWG to 250 MCM or One #4 AWG to 600 MCM |
| 600 | Two 2/0 AWG to 600 MCM |
| 800, 1000, 1200 | Four 1/0 to 600 MCM |
| 1600, 2000 | Six 1/0 to 600 MCM |
| 2600, 3000 | Twelve 1/0 to 750 MCM |

- Notes:**
- All SERIES 300 switches are furnished with a solid neutral plate (unless switched neutral configuration is specified) and terminal lugs.
 - 200 and 230 amperes rated switches for use with copper cable only. Refer to paragraph 310.15 of the NEC for additional information.
 - Use wire rated 75°C minimum for all power connections.
- * 150 for DTS only

EXTENDED WARRANTIES FOR SERIES 300 TRANSFER SWITCHES (3ATS/3NTS/3ADTS/3NDTS)

| DESCRIPTION |
|-------------------------------------|
| 1 Year Extension (Total of 3 Years) |
| 2 Year Extension (Total of 4 Years) |
| 3 Year Extension (Total of 5 Years) |

- Notes:**
- Standard warranty is (24) months, 2 years from date of shipment, extended warranty is in addition to the two years, for a total of, 3, 4, or 5 years.
 - Refer to Publication 3223 for warranty terms and conditions.

SERIES 300 Transfer Switch Dimensions and Shipping Weights

UL TYPE 1 ENCLOSURE^{1,2,3,4}

| SWITCH RATING AMPS | PHASE POLES | NEUTRAL CODE | DIMENSIONS, IN. (MM) | | | APPROX. SHIPPING WEIGHT LB. (KG) |
|---|-------------|--------------|----------------------|-----------|-----------|----------------------------------|
| | | | WIDTH | HEIGHT | DEPTH | |
| 30 ³ , 70 ³ , 104 ³ 150 ³ , 200 ³ | 2 | A | 18 (457) | 31 (787) | 13 (330) | 69 (32) |
| | 2 | B | 18 (457) | 31 (787) | 13 (330) | 72 (33) |
| | 3 | A | 18 (457) | 31 (787) | 13 (330) | 72 (33) |
| | 3 | B | 18 (457) | 31 (787) | 13 (330) | 75 (34) |
| 230 | 2 | A | 18 (457) | 48 (1219) | 13 (330) | 117 (53) |
| | 2 | B | 18 (457) | 48 (1219) | 13 (330) | 125 (57) |
| | 3 | A | 18 (457) | 48 (1219) | 13 (330) | 125 (57) |
| | 3 | B | 18 (457) | 48 (1219) | 13 (330) | 133 (61) |
| 260, 400 | 2 | A | 24 (610) | 56 (1422) | 14 (356) | 250 (113) |
| | 2 | B | 24 (610) | 56 (1422) | 14 (356) | 260 (118) |
| | 3 | A | 24 (610) | 56 (1422) | 14 (356) | 260 (118) |
| | 3 | B | 24 (610) | 56 (1422) | 14 (356) | 270 (123) |
| 150, 200, 230 SERIES 3ADTS/3NTS only | 2 | A | 24 (610) | 56 (1422) | 14 (356) | 250 (113) |
| | 2 | B | 24 (610) | 56 (1422) | 14 (356) | 260 (118) |
| | 3 | A | 24 (610) | 56 (1422) | 14 (356) | 260 (118) |
| | 3 | B | 24 (610) | 56 (1422) | 14 (356) | 270 (123) |
| 600 | 2 | A | 24 (610) | 63 (1600) | 17 (432) | 300 (137) |
| | 2 | B | 24 (610) | 63 (1600) | 17 (432) | 320 (146) |
| | 3 | A | 24 (610) | 63 (1600) | 17 (432) | 320 (146) |
| | 3 | B | 24 (610) | 63 (1600) | 17 (432) | 320 (151) |
| 800, 1000 | 2 | A | 34 (864) | 72 (1829) | 20 (508) | 431 (196) |
| | 2 | B | 34 (864) | 72 (1829) | 20 (508) | 460 (209) |
| | 3 | A | 34 (864) | 72 (1829) | 20 (508) | 460 (209) |
| | 3 | B | 34 (864) | 72 (1829) | 20 (508) | 489 (222) |
| 1200 | 2 | A | 38 (965) | 87 (2210) | 23 (584) | 581 (264) |
| | 2 | B | 38 (965) | 87 (2210) | 23 (584) | 611 (277) |
| | 3 | A | 38 (965) | 87 (2210) | 23 (584) | 611 (277) |
| | 3 | B | 38 (965) | 87 (2210) | 23 (584) | 639 (290) |
| 1600, 2000 | 3 | A | 38 (965) | 87 (2210) | 23 (584) | 1160 (525) |
| | 3 | B | 38 (965) | 87 (2210) | 23 (584) | 1160 (525) |
| 2600, 3000 | 3 | A | 38 (965) | 91 (2311) | 72 (1829) | 1430 (649) |
| | 3 | B | 38 (965) | 91 (2311) | 72 (1829) | 1495 (679) |

Notes:

- Unit is designed for top cable entry of emergency and load, and bottom entry of normal. A cable pull box is also available for all top or bottom cable access when required (optional accessory kit #K609027). Not required for type 3R, 4X and 12 enclosures where available.
- Enclosures for 2600, 3000 amperes are free-standing with removable top, sides and back.
- Dimensions for 30-200 amperes when furnished with accessory 135L power meter, 18"W - 41"H - 13"D
- Dimensional data is approximate and subject to change. Certified dimensions available upon request.

UL TYPE 3R, 4 OR 12 ENCLOSURE^{1,2,3,4}

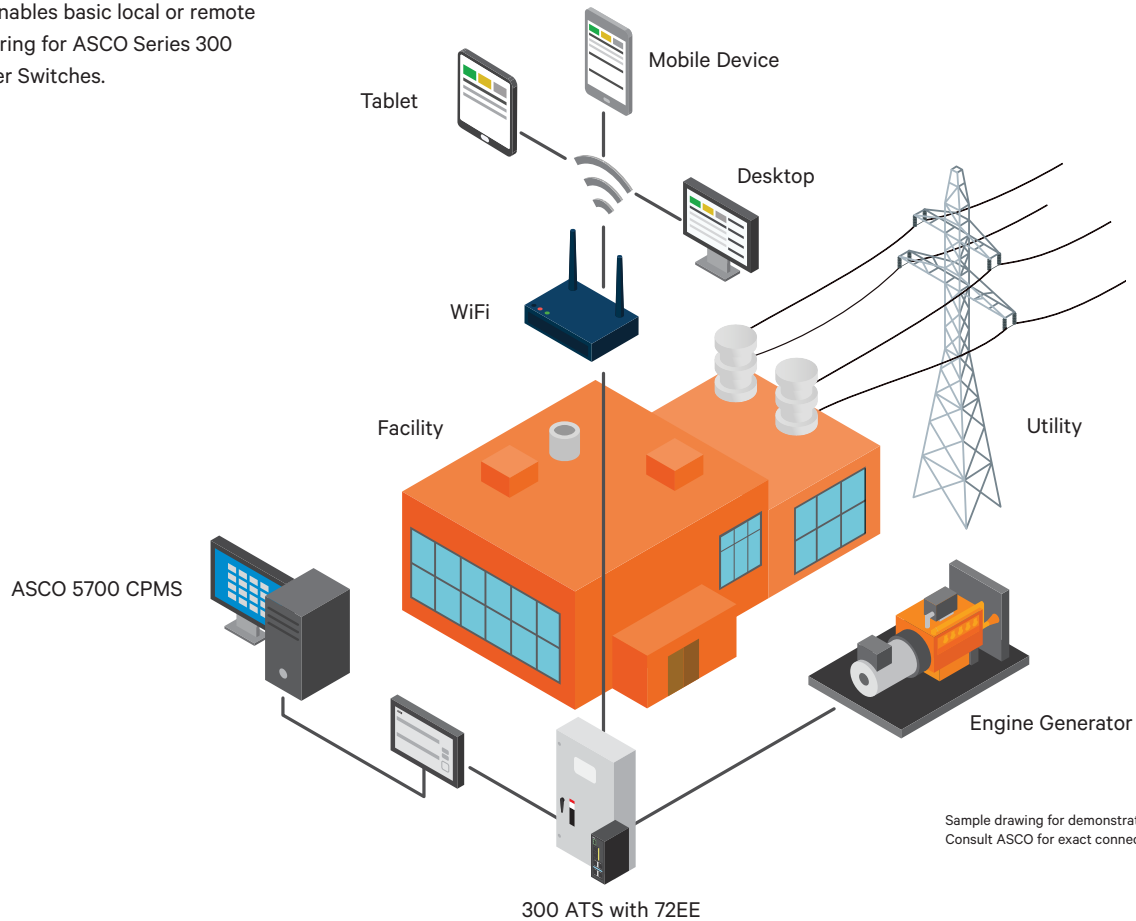
| SWITCH RATING AMPS | PHASE POLES | NEUTRAL CODE | DIMENSIONS, IN. (MM) | | | APPROX. SHIPPING WEIGHT LB. (KG) |
|---|-------------|---------------------|----------------------|-------------|--------------|----------------------------------|
| | | | WIDTH | HEIGHT | DEPTH | |
| 30 ² , 70 ² , 104 ² 150 ² , 200 ² (Non-Secure Enclosure) | 2 | A | 17.5 (445) | 35 (886) | 11.625 (295) | 84 (38) |
| | 2 | B | 17.5 (445) | 35 (886) | 11.625 (295) | 87 (40) |
| | 3 | A | 17.5 (445) | 35 (886) | 11.625 (295) | 87 (40) |
| | 3 | B | 17.5 (445) | 35 (886) | 11.625 (295) | 90 (41) |
| 230 (Non-Secure Enclosure) | 2 | A | 18 (458) | 50.5 (1284) | 14.33 (364) | 90 (41) |
| | 2 | B ³ or C | 18 (458) | 50.5 (1284) | 14.33 (364) | 132 (60) |
| | 3 | A | 18 (458) | 50.5 (1284) | 14.33 (364) | 140 (63) |
| | 3 | B ³ or C | 18 (458) | 50.5 (1284) | 14.33 (364) | 148 (67) |
| 260, 400 | 2 | A | 24 (610) | 63 (1600) | 18.2 (462) | 320 (146) |
| | 2 | B | 24 (610) | 63 (1600) | 18.2 (462) | 340 (155) |
| | 3 | A | 24 (610) | 63 (1600) | 18.2 (462) | 340 (155) |
| | 3 | B | 24 (610) | 63 (1600) | 18.2 (462) | 350 (160) |
| 150, 200, 230 SERIES 3ADTS/3NTS only (Non-Secure Enclosure) | 2 | A | 24 (610) | 63 (1600) | 18.2 (462) | 320 (146) |
| | 2 | B | 24 (610) | 63 (1600) | 18.2 (462) | 340 (155) |
| | 3 | A | 24 (610) | 63 (1600) | 18.2 (462) | 340 (155) |
| | 3 | B | 24 (610) | 63 (1600) | 18.2 (462) | 350 (160) |
| 600 (Non-Secure Enclosure) | 2 | A | 24 (610) | 63 (1600) | 18.2 (462) | 320 (146) |
| | 2 | B | 24 (610) | 63 (1600) | 18.2 (462) | 340 (155) |
| | 3 | A | 24 (610) | 63 (1600) | 18.2 (462) | 340 (155) |
| | 3 | B | 24 (610) | 63 (1600) | 18.2 (462) | 350 (160) |
| 800, 1000 | 2 | A | 34 (859) | 72 (1821) | 20 (506) | 519 (236) |
| | 2 | B | 34 (859) | 72 (1821) | 20 (506) | 543 (246) |
| | 3 | A | 34 (859) | 72 (1821) | 20 (506) | 543 (246) |
| | 3 | B | 34 (859) | 72 (1821) | 20 (506) | 565 (257) |
| 1200 (Secure Enclosure) | 2 | A | 41 (1037) | 95.5 (2415) | 33.5 (848) | 1131 (513) |
| | 2 | B | 41 (1037) | 95.5 (2415) | 33.5 (848) | 1160 (526) |
| | 3 | A | 41 (1037) | 95.5 (2415) | 33.5 (848) | 1160 (526) |
| | 3 | B | 41 (1037) | 95.5 (2415) | 33.5 (848) | 1189 (539) |
| 1600, 2000 (Secure Enclosure) | 3 | A | 42.5 (1074) | 95.5 (2529) | 47 (1189) | 1705 (775) |
| | 3 | B | 42.5 (1074) | 95.5 (2529) | 47 (1189) | 1830 (832) |
| 2600, 3000 (Secure Enclosure) | 3 | A | 41 (1037) | 95.5 (2529) | 74 (1872) | 2150 (976) |
| | 3 | B | 41 (1037) | 95.5 (2529) | 74 (1872) | 2230 (1012) |

Notes:

- When climate conditions at installation site present condensation risk, special precautions should be taken, such as the inclusion of space heaters, to prevent interior condensation and freezing of this condensation.
- Dimensions for 30-200 amperes when furnished with a power meter 18"W - 48"H - 13"D
- 30-1000 amperes switches are available in secure type enclosures, contact ASCO for details.
- Dimensional data is approximate and subject to change. Certified dimensions available upon request.

SERIES 300 72EE MONITORING AND CONTROL

72EE enables basic local or remote monitoring for ASCO Series 300 Transfer Switches.



72EE FEATURES

CONTROL FEATURES

- ATS Transfer/Re-transfer
- ATS Timer Bypass
- Generator Start
- Generator Test

MONITORING FEATURES

- ATS and Generator Stats
- Alarms
- Voltage and Frequency
- Statistics and Activity
- Email Notifications
- Event Log (300 Events)
- Optional Monitoring Features
 - Energy Consumption, Acc 135L Required
 - Power Demand, Acc 135L Required

CONNECTIVITY FEATURES

- Modbus TCP/IP (over Ethernet or Serial) SNMP Protocol
- AES 128 Bit Encryption
- Four Port Ethernet Switch

72EE ALSO ENABLES ENHANCED POWERQUEST CPMS FUNCTIONALITY

- 5310 Series Single Channel Annunciator
- 5350 Series Eight Channel Annunciator
- 5700 Critical Power Management Systems
- 5705 8-Device Annunciator

SERIES 300 72EE MONITORING SCREENS

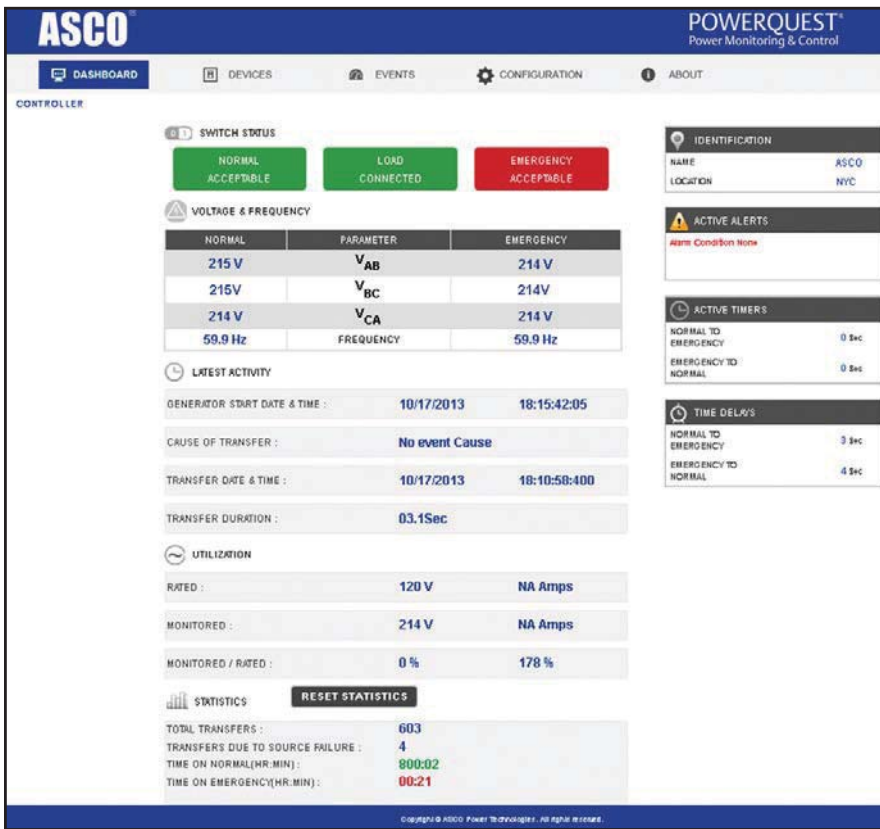


Fig. 17: 72EE Home Page Dashboard



Fig. 18: Power Metering Screen



Fig. 19: Events Screen



Fig. 20: Configuration

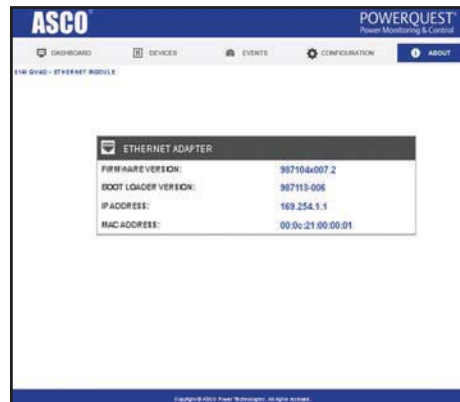


Fig. 21: About

Content-rich monitoring screens enable real-time information for power metering, event logs, voltages, time delays and alerts. The 72EE also allows for remote switch transfer.

SERIES 300 72EE CONNECTIVITY MODULE

The ASCO 72EE Connectivity Module offers remote monitoring for SERIES 300 ATSs and 5210 Power Meter. For the ATS, the optional accessory 72EE provides remote ATS and generator control, monitoring and connectivity features via integrated web page dashboards. Once connected to an Ethernet, WiFi or cellular connection, the dashboards can easily be pulled up by any mobile or desktop device on the network by multiple users.

CONTROL

The control capabilities allows remote transfer and retransfer of the ATS while allowing you to view time delays and bypass functions. The generators can also be called to start and stop for emergency situations as well as for testing and maintenance. Running the generator periodically ensures that the battery is charged for power anomalies and increases reliability. Generator pick-up and drop-out set points are also viewable for comprehensive understanding of control events.

MONITORING

Monitor transfer switch and generator health, system state, metering and review calculated transfer statistics and activity. Active control timer information allows the operator to anticipate an automated control action such as generator start or ATS transfer. The device can also interface with an email server to keep users up-to-date on alarms and critical power events with alerts. In addition the 72EE can interface to an optional 5210 Power Meter, (stand-alone or with the ATS Acc. 135L) for enhanced monitoring features such as power metering, demand and energy usage.

CONNECTIVITY

Connect and extract ATS and metering data using industry-standard open protocols such as Modbus and SNMP. An integrated four-port Ethernet switch maximizes connectivity options and flexibility. Embedded password protection will only allow access to appropriate users while utilizing AES 128-bit encryption for enhanced data security per National Institute of Standards and Technology (NIST).



Fig. 22: Accessory 72EE

ADDITIONAL OPTIONAL POWERQUEST COMPONENTS

5160
Connectivity
Module



ASCO 5160 Remote Connectivity Unit (RCU) provides 10 Ethernet and Dual-Fiber Optic connections in a NEMA 3R enclosure.

5210, 5220
Power
Manager



ASCO 5210 (Left) and 5220 (Right) Power Meters measure, displays and provides single- or 3-phase Energy and Power information

ASCO 5221
Power Manager
Unit



ASCO 5221 Power Manager Unit (PMU) enables power measurement, discrete inputs for status and output relays for control of generators, breakers and other power equipment via 5700 Series CPMS solutions.

5310, 5350
Annunciators



ASCO 5310 (Left) and 5350 (Right) ATS Remote Annunciators provide distributed monitoring of transfer switch position and source availability as well as transfer test and re-transfer control.

5710,
5750, 5790
Display
Terminals



5700 Critical Power Management Systems (5790 Shown) provide various levels of monitoring, control and management capability of power equipment. It seamlessly monitors ASCO transfer switches as well as generators, breakers, parallel buses, panel boards and other power equipment via a 5221 PMU. It consists of servers and touch-screen interfaces.



FULFILL YOUR NEED

Drill down for a closer look - Each transfer switch, generator, breaker and any other power equipment has its own dedicated screens.



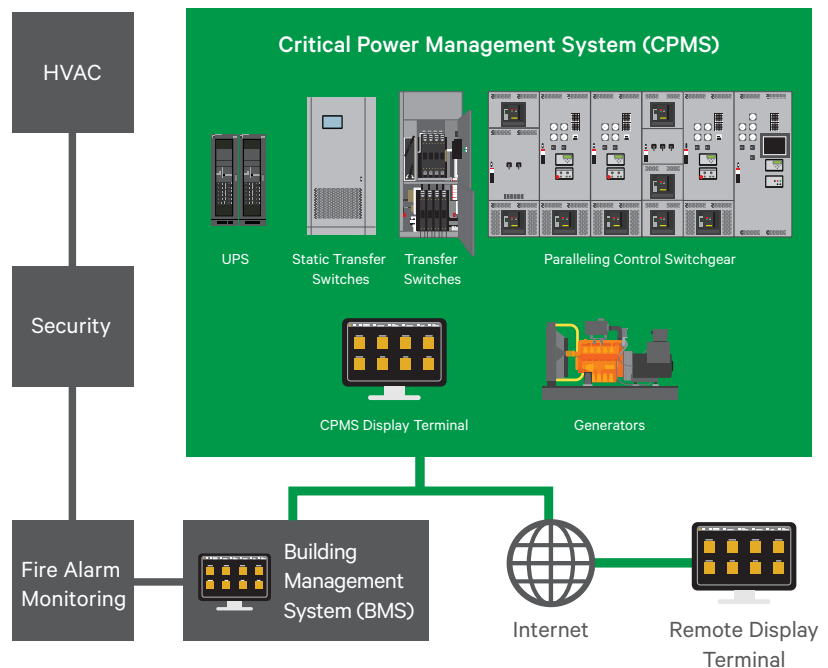
ASCO POWERQUEST® POWER MONITORING AND CONTROL SYSTEMS

The PowerQuest® family is the most comprehensive communication, monitoring and control solution ever offered by ASCO Power Technologies. It empowers you. It provides the ability to test, manage loads, optimize the bus bar, remotely monitor and be aware of the status of your facility's utility source and on-site power. It provides reports for events, tests, energy use or settings, and gets data directly from generators and transfer switches.

Whether users require standard monitoring and control or a comprehensive Critical Power Management System, PowerQuest can satisfy your needs.

Hardware. Software. Installation and testing. Service. And upgrades and technology refreshes. A truly complete solution for all your communication, monitoring and control needs.

This web-enabled management system is based on open protocols. As communications among equipment improve, so does the performance of critical power systems.



PowerQuest provides monitoring, alarming and control of Critical Power Management Systems, which comprise transfer switches, paralleling control switchgear, gensets, circuit breakers, UPSs, load banks, distribution and other gear. It also integrates with building management systems.

BE EMPOWERED POWERQUEST CAN ENABLE YOU TO:

- Monitor and control power transfer switches, paralleling control switchgear, gensets, breakers, UPS, bus bars and other equipment.
- Monitor normal and emergency voltages and frequency and their settings.
- Know transfer switch position and source availability.
- Transfer and re-transfer loads for system testing.
- View and adjust transfer switch time-delay settings.
- Receive automatic alerts or selected system alarms on system operation via email or pager.
- View transfer switch event log and know the transfer switch test schedule.
- Generate reports for alarms, energy consumption, settings, historical logs and code-mandated tests.

*For more PowerQuest product information see publication 3245

ASCO Power Technologies - Global Headquarters

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ASCO. Innovative Solutions.

Terms and Conditions of Sales and Service

(Revised October 2022)

1. Agreement.

(a) Unless otherwise agreed in a written document signed by an authorized representative of Pacific Power Group, LLC ("PPG"), these Terms and Conditions of Sales and Service ("Terms") govern the purchase of goods (including, but not limited to, new and used equipment, trucks, attachments, components, technology and parts) ("Goods") and services ("Services") from PPG by any individual or entity ("Customer"). PPG hereby rejects the terms of any purchase order or other document submitted by Customer, unless the document is signed by an authorized representative of PPG. Acceptance of a Customer's purchase order is expressly made conditional upon Customer's assent to these Terms.

(b) These Terms are subject to change by PPG without prior written notice at any time, in PPG's sole discretion. The latest version of these Terms will be posted on the PPG website: <https://www.pacificpowergroup.com/terms>, and you should review these Terms before purchasing any Goods or Services. Your continued purchase of Goods and/or Services after a posted change in these Terms will constitute your acceptance of and agreement to such changes.

2. Order and Delivery of Goods or Services. All orders for Goods and/or Services are subject to credit approval and final acceptance by PPG in its sole discretion. Customer shall have no right to cancel purchase orders for Goods once a purchase order is issued to PPG. Approval of any parts return is at PPG's sole discretion. Customer acknowledges that estimated delivery dates for Goods and/or Services are estimates only; actual delivery dates depend on a variety of factors, including, but not limited to, the production schedules of manufacturers. PPG will use commercially reasonable efforts to meet estimated delivery dates and shall keep Customer advised of the status of its delivery, but PPG shall have no liability for any loss associated with delay in the delivery of Goods and/or Services.

3. Claims and Acceptance. Customer shall inspect the Goods at the place of delivery promptly upon arrival. Claims respecting the condition of Goods, compliance with specifications, or any other matter affecting Goods shipped or Services provided to Customer, must be made promptly and in no event later than twenty (20) calendar days after receipt of the Goods by Customer or the furnishing of the Services by PPG. Failure of Customer to make a claim within such 20-day period shall be deemed an unqualified acceptance of the Goods or Services by Customer and waiver of any claims, including but not limited to breach of warranty. Customer shall set aside, protect and hold such Goods (without charge to PPG) without further processing until PPG has an opportunity to inspect and advise of the disposition, if any, to be made of such Goods. In no event shall any goods be returned, reworked, or scrapped by Customer without the express written authorization of PPG. Repair or replacement of

defective goods, or repayment of the purchase price, will be made only upon the return of the defective goods, which shall not be returned until PPG has consented thereto and has delivered to Customer written shipping instructions.

4. Pricing. Unless otherwise set forth on a written quote issued by PPG ("Quote") or other written agreement the price for Goods shall be PPG's list price for such Goods on the date such Goods are delivered to Customer. PPG reserves the right to adjust quoted pricing based upon any previously undisclosed or revised contract/project requirements. Unless otherwise set forth on a Quote, the labor rates for Services shall be PPG's standard labor rates for the applicable type of Service (field rates, shop rates, mine rates or specialty rates, as applicable) in effect at the time the Services are performed. Pricing for future orders is subject to change without notice. Price does not include registration, license, permits or insurance of any kind. Customer will promptly pay to PPG any taxes that PPG is required to collect with respect to the purchase of Goods and Services, including, but not limited to, value added, personal property, sales, use and similar taxes ("Taxes"). For any Taxes from which Customer claims exemption, Customer shall provide PPG with properly completed exemption certificates and any documentation needed to validate the exemption prior to the purchase of the applicable Goods and Services. If Customer fails to provide an appropriate exemption certificate and supporting documentation, as determined by PPG in its sole discretion, Customer will remain liable for all such Taxes and will indemnify PPG for any liability related to the same. Pricing and risk of loss for purchased Goods is EXW PPG's site (Incoterms 2020), unless purchased Goods are shipped to Customer directly from the manufacturer, in which case pricing and risk of loss is EXW the manufacturer's factory (Incoterms 2020). Any claims for shortages, damages, or delays must be made by Customer direct to the carrier.
5. Payment Terms. For Customers who do not have an open credit account with PPG, payment is due upon order of Goods or scheduling of Services. For Customers with an open credit account with PPG, payments are due on terms as indicated on the invoice. PPG may, in its sole discretion, at any time: (a) revoke credit; (b) modify terms and conditions of credit; (c) require payment in advance; and/or (d) withhold Goods and/or Services until receipt of payment; (e) cancel the unshipped balance of any order, and Customer shall not have any cause of action or be entitled to any offset, counterclaim, or recoupment against PPG by reason of such an action. Customer unconditionally and irrevocably waives any rights of set-off, recoupment, or counterclaim with respect to amounts owing to PPG unless specifically agreed to in advance by PPG in writing. Customer agrees to pay a late charge of 1.50% per month (18.0% per year), or the maximum amount allowed by law, whichever is less, on all past due balances. In addition to any other right of set-off or recoupment PPG has under applicable law, Customer agrees that, with respect to any amounts due from Customer or Customer's affiliates to PPG or PPG's affiliates, PPG and its affiliates may set-off such amounts against any amounts owing to Customer or Customer's affiliates. If Customer requests customization of the

Goods, Customer agrees to pay all parts and labor costs PPG incurs in customizing the Goods, regardless of whether Customer completes the purchase of the customized Goods. Customer must pick up the Goods from PPG's facility within 48 hours after notification from PPG of completion of the Goods and, if it fails to do so, Customer will be liable for reasonable storage fees at a per day rate from the date of completion of the Goods until Customer takes possession of the Goods. Subject to applicable state law, PPG may (but shall have no obligation to) sell Customer's Goods if such Goods remain in PPG's possession after 30 days after notification from PPG of completion of the Goods. PPG may apply the proceeds of such sale to the unpaid balance owing by Customer, plus PPG's reasonable attorneys' fees, costs, and other expenses.

When products arrive prior to Customer's ability to take delivery, a Bill and Hold agreement will be produced and signed by the Customer to hold product at PPG premises, transfer title to the Customer, and allow for invoicing and payment of the product.

6. Warranties.

- (a) New Goods. If Customer is purchasing new Goods from PPG, Customer acknowledges and agrees that (i) PPG is not the manufacturer of the Goods; (ii) if the Goods include a manufacturer's warranty, PPG will assign to Customer the manufacturer's warranty to the extent, if any, permitted by the terms of such warranty; and (iii) the manufacturer's warranty will be subject to all conditions, limitations, and exclusions set forth therein. PPG disclaims, and Customer waives solely against PPG, all warranties with respect to new Goods, whether express or implied, including, but not limited to, implied warranties of merchantability, non-infringement, and fitness for a particular purpose. Customer shall look solely to the manufacturer's warranty for any claim of defect with any part.
- (b) Services. If Customer is purchasing Services from PPG, PPG warrants that its Services will be completed in a good and workmanlike manner, with such service warranty extending for a period of 90 days from completion of the original Services. If PPG performs a repair pursuant to its service warranty, the warranty period remains 90 days from the initial completion of the Services (for the absence of doubt, the 90 days service warranty period does not begin anew with the repair). If the replacement parts used by PPG in connection with the provision of Services include a manufacturer's warranty, PPG will pass such warranty through to Customer to the extent permitted by the terms of the manufacturer's warranty. PPG's service warranty will be voided in the event of any of the following: Customer is in default of any payment obligation, misuse or abuse of Goods by Customer, subsequent repairs performed by Customer or vendors other than PPG, use beyond ordinary wear and tear, failure to maintain and operate Goods in accordance with the maintenance and operations manual of the manufacturer (including, but not limited to, use of fluids that do not meet the manufacturer's standards or failure to maintain fluid levels

recommended by the manufacturer) or damage due to theft, vandalism, or casualty.

- (c) **LIMITED WARRANTY.** PPG makes no warranty, express or implied, with respect to any Goods or Services other than the foregoing warranties. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY AND ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE) FOR ANY GOODS OR SERVICES. To the maximum extent permitted by law, all such warranties are hereby disclaimed by PPG and waived by Customer.
7. **Limitation on Customer's Remedies.** CUSTOMER'S SOLE REMEDY WITH RESPECT TO ANY CLAIM ARISING OUT OF ANY ORDER OR PPG'S PERFORMANCE IN CONNECTION THEREWITH INCLUDING, WITHOUT LIMITATION, ANY CLAIM ARISING OUT OF ANY DEFECT OR ALLEGED DEFECT IN ANY GOODS OR SERVICES FURNISHED BY PPG, SHALL BE EXCLUSIVELY (AT PPG'S SOLE OPTION) THE RIGHT OF REPAIR OR REPLACEMENT OF SUCH GOODS OR SERVICES, OR REPAYMENT OF THE PURCHASE PRICE THEREFOR. WITHOUT LIMITING THE FOREGOING, IN NO EVENT SHALL PPG BE LIABLE, WHETHER BASED IN CONTRACT, WARRANTY, INDEMNITY, TORT, STRICT LIABILITY OR ANY OTHER THEORY OF LAW OR EQUITY, FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF USE OF PROPERTY OR EQUIPMENT, DOWNTIME, LOSS OF THIRD PARTY CONTRACTS OR LOST PRODUCTION, REGARDLESS OF WHETHER CUSTOMER WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. In addition, PPG's maximum aggregate liability (whether in contract, warranty, indemnity, tort, strict liability or any other theory of law or equity) for damages or loss, howsoever arising or caused, shall in no event exceed the amount Customer paid to PPG for the Goods or Services to which the liability relates. The parties recognize that the pricing associated with Goods and Services reflects this allocation of risk and is the basis of the bargain between the parties. The foregoing limitations shall be valid and enforceable, notwithstanding any alleged failure of essential purpose of the limited remedies set forth herein.
8. **Indemnification.** Customer assumes all liability (including, without limitation, liability for injury to person or property, economic loss, or business interruption) for all claims arising from the sale or use of the goods sold by PPG. Customer will indemnify, defend, protect, and hold harmless PPG, at all times from and after the date hereof, from and against all claims, damages, actions, suits, proceedings, demands, assessments, adjustments, costs, and expenses (specifically including reasonable attorneys' fees and expenses of investigation) incurred by PPG as a result of or arising from (a) any Goods and Services sold by Seller to Customer, (b) any use of the Goods and Services sold hereunder by Buyer or any third party, (c) any nonfulfillment of any covenant or agreement on

the part of Customer under these Terms and any other agreement between Customer and PPG, including, without limitation, any breach of the representations and warranties made by Customer in favor of PPG, and (d) any claim made by a third party, or the commencement of any action or proceeding by a third party, that would give rise to PPG's right of indemnification under these Terms.

9. Liability Limitation. In no event shall PPG be liable, whether based in contract, warranty, indemnity, tort, strict liability or any other theory of law or equity, for any special, incidental, indirect, punitive, exemplary or consequential damages, including, but not limited to, lost profits, loss of use of property or equipment, downtime, loss of third party contracts or lost production, regardless of whether or not Customer was advised of the possibility of such damages. In addition, PPG's maximum aggregate liability (whether in contract, warranty, indemnity, tort, strict liability or any other theory of law or equity) for damages or loss, howsoever arising or caused, shall in no event exceed the amount Customer paid to PPG for the Goods or Services to which the liability relates. Customer agrees that the pricing for the Goods and Services reflects this allocation of risk and is the basis of the bargain between the parties. The foregoing limitations shall be valid and enforceable, notwithstanding any alleged failure of essential purpose of the limited remedies set forth herein. Any and all claims alleged by Customer arising out of or relating to the Goods and/or Services will be barred unless a legal proceeding is commenced within one (1) year from completion of the Services or delivery of the Goods to Customer.
10. Technical Assistance. Unless otherwise expressly agree in writing: (a) any technical advice provided by PPG to Customer with respect to the use and selection of Goods or Services shall be without charge; (b) PPG assumes no obligation or liability for any such advice or for any resulting claims for damages or any other relief; and (c) Customer assumes sole responsibility for selection and specifications of the Goods and/or Services appropriate for Customer's needs.
11. Choice of Law. These Terms shall be governed by and construed in accordance with the laws of the State of Washington without giving effect to conflict of law provisions. The applicability of the UN Convention on Contracts for the International Sale of Goods is expressly waived by PPG and Customer and will not apply to these Terms or any other agreement between PPG and Customer. The parties agree that exclusive jurisdiction and venue for any proceeding at law or in equity will be in the State or Federal courts located in Multnomah County, Oregon.
12. General Provisions.
 - (a) Customer may not assign Customer's rights or obligations hereunder without PPG's prior written consent, which consent will not be unreasonably withheld. Any such attempted assignment will be void.
 - (b) If any provision in these Terms is found to be invalid, unlawful or unenforceable, the remaining provisions in these Terms shall remain in full force and effect.
 - (c) Waiver by PPG of any breach of any of these Terms shall not be construed as a waiver of any

other breach, and the failure of PPG to exercise any right arising from any breach by Customer shall not be deemed to be a waiver of such right.

- (d) No employment, agency, joint venture, or similar arrangement is created or intended between Customer and PPG.
 - (e) PPG retains ownership of all records relating to Goods and Services provided to Customer ("Records") and may disclose the Records pursuant to a court order or in the event disclosure of the Records becomes part of PPG's defense in a legal matter.
 - (f) Customer warrants that the invoiced Goods and/or Services will be used for commercial or agricultural purposes and are not for personal, family, or household use.
 - (g) These Terms have been reviewed and negotiated by Customer and PPG with the benefit of or the opportunity to seek the assistance of legal counsel and shall not be construed against any party by presumption or rule of construction.
 - (h) These Terms may not be amended, modified, or changed other than by an instrument in writing signed by the party against whom enforcement of any such amendment, modification, or change is sought.
13. Delays and Force Majeure. PPG shall not be in default or otherwise responsible for any delay in performance or delay in delivery caused by circumstances beyond its control, including, but not limited to, an act of God, fires, floods, wars, government actions, accidents, labor troubles, labor shortages, unavailability of materials, unavailability of equipment, or unavailability of transportation. PPG may, without liability to Customer or any third party, suspend its performance when PPG's performance is delayed or prevented by weather conditions, fires, floods, accidents, riots, acts of God, war, government interference, embargo, strikes, labor disputes, shortage of labor, fuel, power, materials or supplies, transportation delays, or any other cause or causes (whether or not similar in nature to any of those hereinabove specified) beyond Seller's reasonable control. If such conditions continue for ninety (90) consecutive days, PPG may terminate its performance to Customer.
14. Attorneys' Fees and Costs. If PPG retains an attorney to collect payments due from Customer, or to otherwise enforce these Terms and any other agreement between PPG and Customer, Customer agrees to pay, in addition to all other amounts due to PPG, PPG's reasonable attorneys' fees, costs, and expenses. If PPG refers Customer's account to a collection agency, Customer agrees to pay all such attorneys' fees, costs and expenses that are incurred by the collection agency.
15. Entire Agreement. These Terms and any sales agreement, credit application, invoice, price quotation, and/or other PPG document that incorporates these Terms, constitute the sole and entire agreement between Customer and PPG with respect to any order or sale of Goods or Services to Customer, superseding completely any prior or contemporaneous oral or written communications.
16. Use of Images. Images of equipment used in PPG's print, online or other material may show the Customer's name, logo, or other company information due to their installation on the product. This

does not constitute PPG's promotion of Customer's company or services, nor does it constitute Customer's promotion of PPG's product.

17. **Export Control.** Client further acknowledges and agrees that the Goods and Services purchased under this Agreement may be subject to restrictions and controls imposed by the United States Export Administration Act and the regulations thereunder. Client agrees to comply with all applicable export and re-export control laws and regulations, including the Export Administration Regulations ("EAR") maintained by the U.S. Department of Commerce, trade and economic sanctions maintained by the Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations ("ITAR") maintained by the Department of State. Specifically, Client covenants that it shall not, directly or indirectly, sell, export, re-export, transfer, divert, or otherwise dispose of any Goods and Services received under this Agreement to any destination, entity, or person prohibited by the laws or regulations of the United States, without obtaining prior authorization from the competent government authorities as required by those laws and regulations.
18. **Equal Employment Opportunity (EEO)** Parties shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, and for inquiring about, discussing, or disclosing compensation. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or veteran status.

BLUE STAR

Power Systems Inc.

Diesel Product Line

208-600 Volt

JD100-01

60 Hz / 1800 RPM

100 kWe

Standby / Prime

Ratings

| | 240V | 208V | 240V | 480V | 600V |
|------------------------|-----------------|--------------|---------------|--------------|--------------|
| Phase | 1 | 3 | 3 | 3 | 3 |
| PF | 1.0 | 0.8 | 0.8 | 0.8 | 0.8 |
| Hz | 60 | 60 | 60 | 60 | 60 |
| Generator Model | 363PSL3133 | 362CSL1606 | 362CSL1606 | 362CSL1606 | 362PSL1636 |
| Connection | 12 LEAD ZIG-ZAG | 12 LEAD WYE | 12 LEAD DELTA | 12 LEAD WYE | 4 LEAD WYE |
| kWe | 100 | 100 | 100 | 100 | 100 |
| AMPS | 417 | 347 | 301 | 151 | 120 |
| Temp Rise | 130°C / 27°C | 130°C / 27°C | 130°C / 27°C | 130°C / 27°C | 130°C / 27°C |

Standard Equipment

- | | | |
|---|--|--|
| <p>Engine</p> <ul style="list-style-type: none"> ▶ Radiator Cooled Unit Mounted (50°C) ▶ Blower Fan & Fan Drive ▶ Starter & Alternator ▶ Oil Pump & Filter ▶ Oil Drain Extension w/Valve ▶ Governor - Electronic Isochronous ▶ 12V Battery System & Cables ▶ Air Cleaner (Dry Single Stage) ▶ Flexible Fuel Connector ▶ EPA Certified Tier 3 <p>Listing Certifications</p> <ul style="list-style-type: none"> ▶ UL 2200 Listed ▶ cUL Listed ▶ CSA Certified ▶ Seismic Certified to IBC 2018 ▶ NFPA 110 Compliant | <p>Generator</p> <ul style="list-style-type: none"> ▶ Brushless Single Bearing ▶ Automatic Voltage Regulator ▶ ± 1% Voltage Regulation ▶ 4 Pole, Rotating Field ▶ 130°C Standby Temperature Rise ▶ 100% of Rated Load - One Step ▶ 5% Maximum Harmonic Content ▶ NEMA MG 1, IEEE and ANSI Standards Compliance for Temperature Rise | <p>Additional</p> <ul style="list-style-type: none"> ▶ Single Source Supplier ▶ Microprocessor Based Digital Control ▶ Interface Connection Box ▶ Control Panel Mounted in NEMA 12 Enclosure ▶ Base - Formed Steel ▶ Main Line Circuit Breaker Mounted & Wired ▶ Critical Grade Silencer Mounted ▶ Battery Charger 12V 6 Amp ▶ Jacket Water Heater -20°F 1500W 120V w/Isolation Valves ▶ Vibration Isolation Mounts ▶ Radiator Duct Flange (OPU Only) ▶ 2YR / 2000HR Standby Warranty ▶ Standard Colors - White / Gray |
|---|--|--|

Application Data

| Engine | | | |
|-----------------------|--------------------|--------------------------------------|---------------------------|
| Manufacturer: | John Deere | Displacement - Cu. In. (lit): | 275 (4.50) |
| Model: | 4045HF285 | Bore - in. (cm) x Stroke - in. (cm): | 4.19 (10.6) x 5.00 (12.7) |
| Type: | 4-Cycle | Compression Ratio: | 19.0:1 |
| Aspiration: | Turbo Charged, CAC | Rated RPM: | 1800 |
| Cylinder Arrangement: | 4 Cylinder Inline | Max HP Stby (kWm): | 158 (118) |

| Exhaust System | Standby |
|---|-------------|
| Gas Temp. (Stack): °F (°C) | 1,076 (580) |
| Gas Volume at Stack Temp: CFM (m³/min) | 805 (22.8) |
| Maximum Allowable Exhaust Restriction: in. H ₂ O (kPa) | 30.0 (7.50) |

| Cooling System | |
|---|--------------|
| Ambient Capacity of Radiator: °F (°C) | 122 (50.0) |
| Maximum Allowable Static Pressure on Rad. Exhaust: in. H ₂ O (kPa) | 0.50 (0.12) |
| Water Pump Flow Rate: GPM (lit/min) | 48.0 (182) |
| Heat Rejection to Coolant: BTUM (kW) | 3,544 (62.0) |
| Heat Rejection to CAC: BTUM (kW) | 1,127 (19.8) |
| Heat Radiated to Ambient: BTUM (kW) | 1,281 (22.4) |

| Air Requirements | |
|---|--|
| Aspirating: CFM (m³/min) | 288 (8.15) |
| Air Flow Required for Rad. Cooled Unit: CFM (m³/min) | 6,640 (188) |
| Air Flow Required for Heat Exchanger/Rem. Rad. CFM (m³/min) | Consult Factory For Remote Cooled Applications |

| Fuel Consumption | |
|--|-------------|
| At 100% of Power Rating: gal/hr (lit/hr) | 8.21 (31.1) |
| At 75% of Power Rating: gal/hr (lit/hr) | 6.56 (24.8) |
| At 50% of Power Rating: gal/hr (lit/hr) | 4.69 (17.8) |

| Fluids Capacity | |
|---|-------------|
| Total Oil System: gal (lit) | 3.43 (13.0) |
| Engine Jacket Water Capacity: gal (lit) | 2.24 (8.50) |
| System Coolant Capacity: gal (lit) | 5.40 (20.4) |

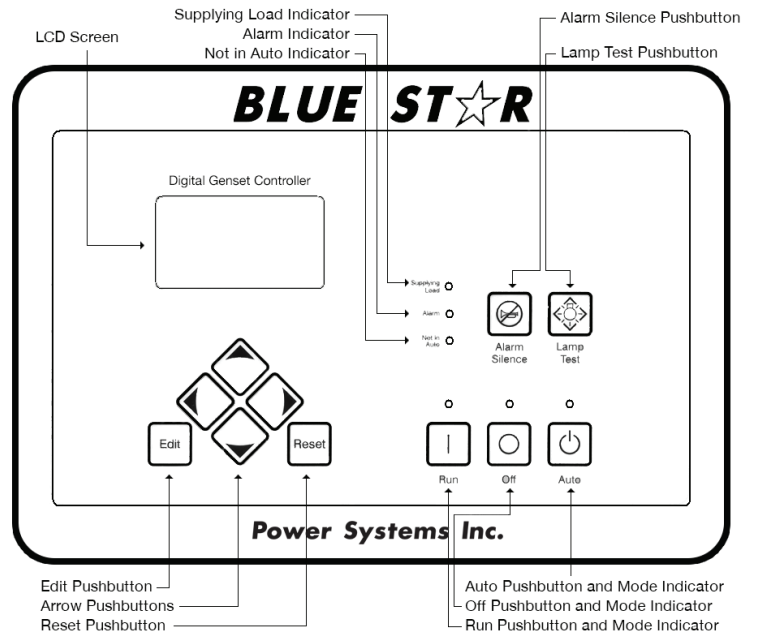
Deration Factors

Rated Power is available up to 10,000 ft (3,048 m) at ambient temperatures to 122°F (50°C) standby and prime. Consult factory for site conditions above these parameters.

DGC-2020 Control Panel

Standard Features

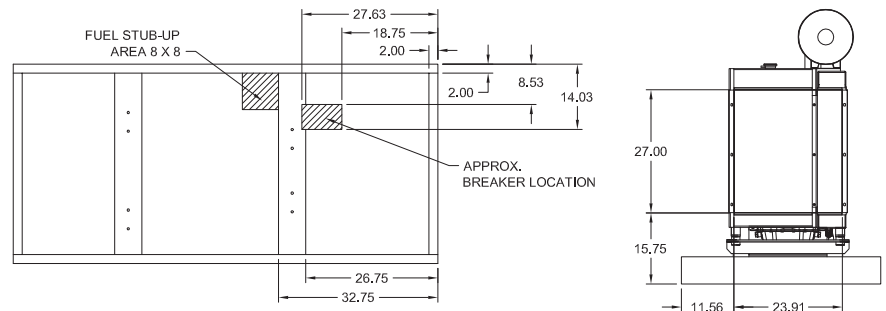
- ▶ Digital Metering
- ▶ Engine Parameters
- ▶ Generator Protection Functions
- ▶ Engine Protection
- ▶ CAN Bus (J1939) ECU Communications
- ▶ Windows-Based Software
- ▶ Multilingual Capability
- ▶ Remote Communications to RDP-110 Remote Annunciator
- ▶ 16 Programmable Contact Inputs
- ▶ 15 Contact Outputs
- ▶ RS485 Communicator Interface
- ▶ UL Recognized, CSA Certified, CE Approved
- ▶ Event Recording
- ▶ IP 54 Front Panel Rating with Integrated Gasket
- ▶ NFPA 110 Level 1 Compatible



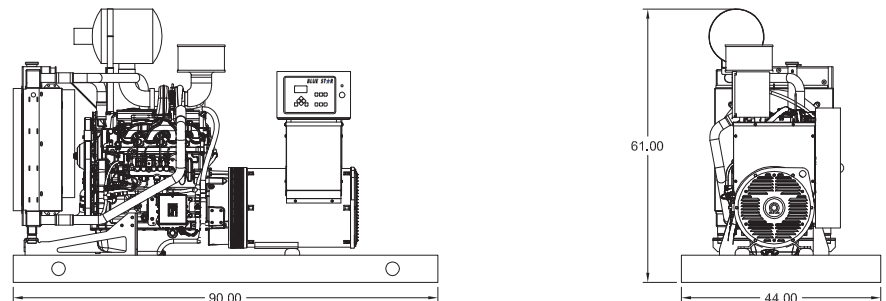
Weights / Dimensions / Sound Data

| | L x W x H | Weight lbs |
|----------------|------------------|------------|
| OPU | 90 x 44 x 61 in | 2,550 |
| Level 1 | 102 x 44 x 66 in | 3,150 |
| Level 2 | 102 x 44 x 66 in | 3,200 |
| Level 3 | 132 x 44 x 66 in | 3,375 |

Please allow 6-12 inches for height of exhaust stack.

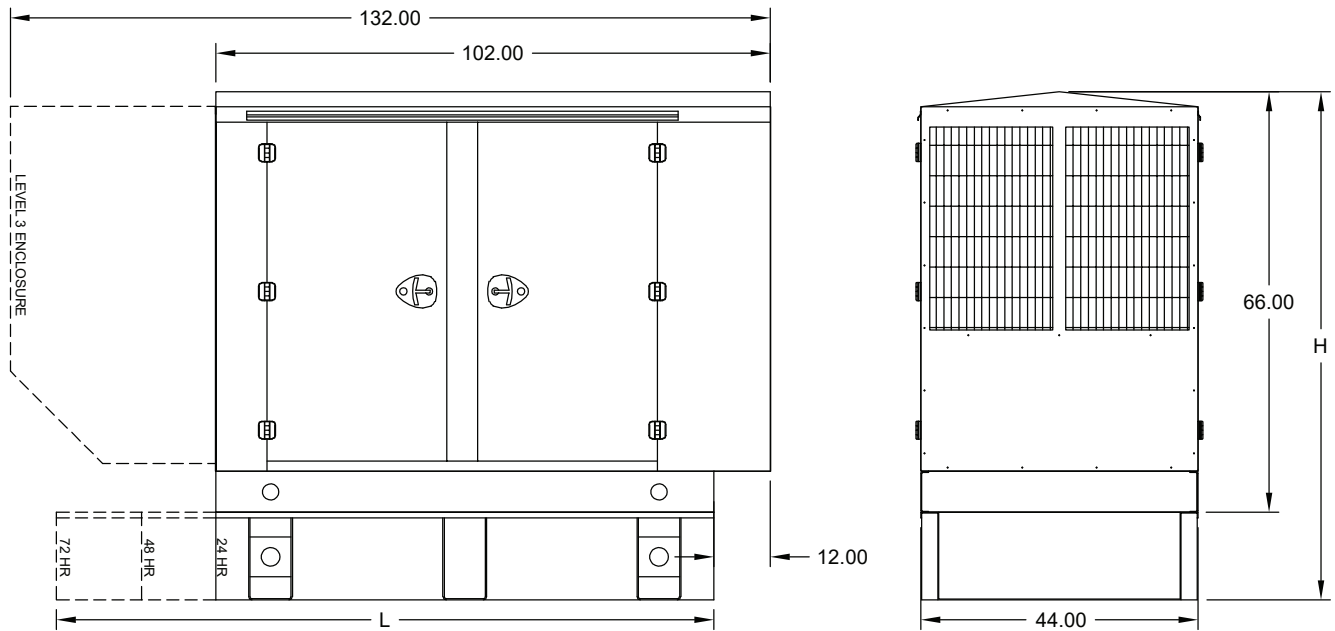


| | No Load | Full Load |
|----------------|---------|-----------|
| OPU | 78 dBA | 82 dBA |
| Level 1 | 75 dBA | 78 dBA |
| Level 2 | 72 dBA | 74 dBA |
| Level 3 | 66 dBA | 68 dBA |



Drawings based on standard open power 480 volt standby generator. Lengths may vary with other voltages. Subject to change without notice. Sound data as measured at 23 feet (7 meters) in accordance with ISO 8528-10 at standby rating.

Enclosures & Fuel Tanks



All enclosure models are 200 MPH wind rating certified in accordance with IBC2018 and ASCE/SEI 7-16 standards.

Level 2 & 3 enclosures include sound attenuation foam.

Level 3 enclosure includes frontal sound & exhaust hood.

*Enclosure height does not include exhaust stack.

| | 24 Hour 250 Gallon | 48 Hour 500 Gallon | 72 Hour 750 Gallon |
|----------|-----------------------|-----------------------|-----------------------|
| L | 90.00 | 120.00 | 174.00 |
| H | 94.00 | 102.00 | 102.00 |

All specification sheet dimensions are represented in inches.

All enclosures and fuel tanks are based on the standard standby unit configuration. Any deviation can change dimensions.

Materials and specifications subject to change without notice.

American Owned



American Made

Distributed By: Critical Power Systems
4140 W. Grange Ave
Post Falls, ID 83854
(855) 968-0176

Price: 41,900.00 +
shipping
ATS not included

Blue Star Power Systems, Inc.

2250 Carlson Drive

North Mankato, Minnesota 56003

Phone + 1 507 345 1776

bluestarps.com

quote.bluestarps.com

sales@bluestarps.com



Port of Astoria
COMMISSION MEETING

| | | |
|---|--|----------------------------------|
| <u>BRIEFING DATE/TIME:</u> | April 4, 2023 | |
| <u>DEPARTMENT:</u> | Operations | |
| <u>STAFF CONTACT:</u> | Matt McGrath | |
| <u>TOPIC:</u> | Addendum to the Non-Statutory Development Agreement between the City of Warrenton, the Port of Astoria, and The Scoular Company. | |
| <u>PURPOSE:</u> | <input checked="" type="checkbox"/> | Information only |
| <i>Check all that apply</i> | <input checked="" type="checkbox"/> | Decision needed |
| | | Follow up from previous briefing |
| <u>BACKGROUND & OVERVIEW OF SURROUNDING ISSUES:</u> | | |
| <p>The development agreement between the City of Warrenton, the Port of Astoria, and The Scoular Company was approved effective December 10, 2020. The updates within the agreement amendment number one include, but are not limited to the following:</p> <ul style="list-style-type: none"> • The term “Developer” will now be defined as SDYB Opco, LLC. • The System Development Charges (SDCs) for water will be reduced from 200 Equivalent Dwelling Units (EDUs) to 8 EDUs. Sewer SDCs will remain at 200 EDUs. | | |
| <u>DOCUMENTS ATTACHED:</u> | | |
| <p>Non-Statutory Development Agreement between the City of Warrenton, the Port of Astoria, and The Scoular Company. Assignment of and Amendment to the Non-Statutory Development Agreement between the City of Warrenton, the Port of Astoria, and The Scoular Company. Non-Statutory Development Agreement Amendment Number One between the City of Warrenton, the Port of Astoria, and The Scoular Company.</p> | | |
| <u>SUMMARY & FINANCIAL IMPACT:</u> | | |
| There is no financial impact for the Port. | | |
| <u>NEXT STEPS/TIMEFRAME:</u> <i>Based on the Commission’s recommendation, describe the next steps required in order to bring this item to conclusion. Include the time frame for each step.</i> | | |
| No next steps required. | | |
| <u>STAFF RECOMMENDATION:</u> | | |
| Review the development agreement amendment and approve. | | |

NON-STATUTORY DEVELOPMENT AGREEMENT

Between

The City of Warrenton, Oregon,

The Port of Astoria, Oregon,

and

The Scoular Company

This Non-Statutory Development Agreement (the "Agreement") is made and entered into this 10TH day of December, 2020 by and between the CITY OF WARRENTON, a municipal corporation of the State of Oregon (the "City"), the PORT OF ASTORIA, a port district organized under ORS Chapter 777 (the "Port") and THE SCOULAR COMPANY, a Nebraska corporation operating in Oregon and duly registered with the Oregon Secretary of State as a foreign business corporation (the "Developer"). This Agreement is entered into by the City under the City's home rule authority and, as between the City and Port, under authority conferred by ORS Chapter 190. This Agreement is entered into by the Port under authority conferred by ORS Chapter 777 and, as applicable, ORS Chapter 190. This Agreement does not constitute a statutory development agreement under ORS Chapter 94.504-94.528. The City, Port and Developer may be referred to jointly in this Agreement as the "Parties" and individually as a "Party."

RECITALS

A. WHEREAS, the City, Port and Developer mutually desire to enter into the Agreement as provided herein; and

B. WHEREAS, Developer has submitted a land use application (the "Application") proposing the development of a 14,400 square foot fishmeal processing plant within a 1.46-acre parcel at the Port's Airport Industrial Park (the "Facility"); and

C. WHEREAS, the City has concerns with the volume of wastewater that the proposed Facility will discharge into the City's wastewater treatment system (the "Wastewater System"), including the City's wastewater treatment plant (the "Treatment Plant") as a component of the Wastewater System, given the available capacity of the Wastewater System; and

D. WHEREAS, the City's Wastewater System receives roughly four to six million gallons of excess sewerage annually due to sewer infrastructure failures within properties held by the Port and U.S. Coast Guard ("USCG") at the Astoria Regional Airport ("Airport"); and

E. WHEREAS, the Port has been aware of these Inflow & Infiltration ("I&I") issues since at least 2005, as indicated by the Intergovernmental Agreement ("IGA") entered into between the Port and the City and dated 10/17/2005; and

F. WHEREAS, the City is currently coordinating efforts with the Port to address the aforementioned I&I issues, which the parties hereby acknowledge necessarily requires addressing

before the City has adequate capacity to accommodate connection of the proposed Facility to the Wastewater System; and

G. WHEREAS, the Port tasked AM Engineering with preparing an I&I study dated September 10, 2020, which concluded that both the USCG and the Port contribute to the aforementioned I&I issues; and

H. WHEREAS, the Port has obligated itself to the City to resolve its I&I issues in a timely manner while the USCG will take three to four years to resolve its I&I issues; and

I. WHEREAS, the City cannot accommodate the proposed Facility until I&I issues are satisfactorily resolved, and Developer is dependent on both the City and the Port to effectively develop and open the proposed Facility; and

K. WHEREAS, the City, Port and Developer mutually desire to work together in good faith to accommodate the proposed Facility.

NOW, THEREFORE, the City, Port and Developer agree as follows:

AGREEMENT

In consideration of the mutual promises and performance obligations of each Party set out in this Agreement, the City, Port and Developer hereby agree to the following terms and conditions and respective obligations:

1. Developer Obligations.

A. Monthly Sewer Rate. For the initial year of operations of the Facility, Developer agrees to pay a monthly wastewater rate (“Wastewater Rate”) initially equivalent to 200 Equivalent Dwelling Units (“EDUs”). After request of Developer, the Wastewater Rate may thereafter be adjusted by a written agreement of the parties, to a new rate equivalent to the mutually agreed-upon monthly EDUs. The agreed upon EDUs will be based on the actual water discharged from the operations at the Facility and the discharge standards in Table 1 – WASTEWATER STANDARDS and Table 2 – DISCHARGE LIMITS will be updated to reflect the actual standards for such water discharge. In the event the parties are not able to agree to the new Wastewater Rate, the initial Wastewater Rate established by this Agreement shall continue to apply. The Wastewater Rate shall be charged each calendar month following both (i) the effective date of this Agreement; and (ii) the date of substantial completion of the Facility and connection of the Facility to the Wastewater System, including months when Developer produces less than the referenced EDUs of wastewater, and including months when Developer sends no wastewater to the Wastewater System. The City shall increase or decrease the Wastewater Rate when either the quantity of wastewater exceeds or is less than any of the volumetric standards provided in the following Table 1, or the quality of water falls below or exceeds any of the qualitative standards provided in the following Table 1:

TABLE 1 – WASTEWATER STANDARDS

Scoular Facility Discharge Standards

| Parameter | Value | Units |
|---------------------------------|--------------|--------------|
| Flow | 20,000 | Gpd |
| BOD ₅ | 519 | mg/L |
| BOD ₅ | 87 | ppd |
| Ammonia, NH ₃ -N* | 30 | mg/L |
| TSS* | 200 | mg/L |
| TSS* | 34 | ppd |
| FOG | 0 | ppd |

Notes:

BOD₅ = Biological Oxygen Demand
 TSS = Total Suspended Solids
 FOG = Fats, Oils, and Grease
 gpd = gallons per day
 mg/L = milligrams per liter
 ppd = pounds per day
 Values denoted with an (*) are assumed maximums not provided directly by Developer.

B. SDCs. If Developer elects to proceed with the Facility and applies for a building permit with the City, Developer agrees to pay a Water and Sewer System Development Charge (“SDC”) equivalent to 200 EDU’s. The SDC fee will be increased in the event that either the quantity of wastewater exceeds any of the volumetric standards provided in Table 1, above, or the quality of water raises above any of the qualitative standards provided in Table 1. The fee increase will be based on the equivalent EDU associated with the increased quantity or quality.

C. Wastewater Discharge Limits. Developer agrees to the following wastewater discharge limits provided in Table 2, below. The wastewater discharge limits provided below will be adjusted after the initial year of operation.

TABLE 2 – DISCHARGE LIMITS

Scoular Facility Discharge Standards

| Parameter | Value | Units |
|---|--------------|--------------|
| Flow ^(a) | 20,000 | gpd |
| BOD ₅ ^(b) | 519 | mg/L |
| Ammonia, NH ₃ -N ^(b) | 30 | mg/L |
| TSS ^(b) | 250 | mg/L |
| FOG ^(b) | 100 | mg/L |

Notes

- (a) Limits are daily maximums. pH must be greater than 6 and less than 9.
 (b) Limits are based on the maximum composite sample. Samples would be collected twice monthly.

BOD = Biological Oxygen Demand

TSS = Total Suspended Solids

FOG = Fats, Oils, and Grease

gpd = gallons per day

mg/L = milligrams per liter

ppd = pounds per day

In the event that any of the wastewater discharge limits in Table 2 are exceeded, Developer agrees to pay Extra-Strength Charges as provided in Section 1.J, below.

D. Flow Meter/Totalizer. Developer shall install a flowmeter (magnetic flow meter) (the “Flowmeter”) on the discharge side of the onsite private wastewater pump station installed at Developer’s sole cost and expense. The Flowmeter shall be connected to a Mission-managed¹ SCADA system that is connected to the City’s Mission system, so as to provide the City real-time access to wastewater flows entering the Wastewater System from the Facility. The Flowmeter shall be calibrated annually by the Developer and a calibration certificate from a duly licensed calibration specialist shall be provide to the City.

E. Sampling. Developer shall provide a sample port on the discharge side of the equalization tank described in Section 1.G, below. Developer shall obtain grab samples twice per month for analysis. pH testing will be completed by Developer on a daily basis. Developer shall provide a Sigma or Hach brand refrigerated composite sampler to the equalization tank for sample collection. The City will be provided access for confirmation sampling, at the discretion of the City Engineer, at a time of the City’s choice with no less than 1-hour notice to Developer. Confirmation samples acquired by the City are required in the event that any exceedance is reported and will be charged to Developer at a rate of \$350 per sample.

F. Analysis and Reporting. Developer shall provide grab samples no less than twice per calendar month for analytical testing at an accredited facility, approved by the City in its sole discretion, for the parameters listed in Table 2. Developer shall submit an analytical report and flow records to the City electronically on a monthly basis in Microsoft Excel format. Analytical reports shall be submitted in PDF format. Collection of data shall be required only when the Facility is in operation. Developer shall provide at least 24-hour notice in accordance with Section 7.A before operations at the proposed Facility are started or halted.

¹ <https://www.123mc.com/en/homepage/>

G. Equalization. Developer shall provide a minimum of 10,000-gallon equalization with mixing (above-ground tank or as part of the onsite private wastewater pump station) so that flow can be metered at a constant rate and peak flows from the facility can be discharged during off-peak hours according to the Treatment Plant's diurnal flow curve.

H. Screening. Developer shall provide screening as proposed in Exhibit 1 with a Hycor wedge wire screen to recycle solids to the process. Developer shall screen ahead of the equalization tank to minimize tank flushing events. The Developer shall provide additional screening under either of the following conditions: a) tote washing is implemented or b) the TSS limit in Table 2, above, is exceeded for the average of the prior calendar month's sample results.

I. Sumps. Sumps within the facility connected directly to the onsite equalization tank or pump station shall be equipped by Developer with basket strainers sized with maximum 0.25-inch diameter perforations. The strainers shall be manually cleaned after washdown events.

J. Extra-Strength Charges. Extra-strength charges will be imposed for exceeding limitations based on the equations below. These equations are based on concentration limits defined in Table 2, above, and volume of flows between samples taken. The wastewater discharge limits provided in Table 2 and the below equations will be adjusted after the initial year of operation. Extra strength charges will be assessed monthly with standard billing to the facility for water consumption. Rates in the following equations will escalate at 2% annually or at the annual rate of inflation expressed as a percentage tied to the U.S. Bureau of Labor Statistics (Seattle Region) Consumer Price Index (CPI) whichever is greater.

$$\text{Flow Charge (\$)} = (\text{Daily Flow in gallons} - 20,000 \text{ gpd}) \times (0.50 \text{ \$/gallon})$$

$$\text{BOD Charge (\$)} = (\text{Avg. BOD in mg/L} - 519 \text{ mg/L}) \times (10 \text{ \$/lb}) \times (\text{Total Volume since last sample in gallons}) \times (3.785 \text{ liter/gallon}) \times (1/453,592 \text{ lb/mg})$$

$$\text{Ammonia Charge (\$)} = (\text{Avg. Ammonia in mg/L} - 30 \text{ mg/L}) \times (10 \text{ \$/lb}) \times (\text{Total Volume since last sample in gallons}) \times (3.785 \text{ liter/gallon}) \times (1/453,592 \text{ lb/mg})$$

$$\text{TSS Charge (\$)} = (\text{Avg. TSS in mg/L} - 250 \text{ mg/L}) \times (10 \text{ \$/lb}) \times (\text{Total Volume since last sample in gallons}) \times (3.785 \text{ liter/gallon}) \times (1/453,592 \text{ lb/mg})$$

$$\text{FOG Charge (\$)} = (\text{Avg. FOG in mg/L} - 100 \text{ mg/L}) \times (10 \text{ \$/lb}) \times (\text{Total Volume since last sample in gallons}) \times (3.785 \text{ liter/gallon}) \times (1/453,592 \text{ lb/mg})$$

$$\text{pH Charge (\$)} = \$500 \text{ for each day of exceedance}$$

K. Maximum Discharge Limits. City has the right to halt discharges from the Facility and immediately revoke permission to discharge to the public sewer system for the following reasons:

- i. Effluent discharged from the facility exceeds 1.25 times the value in Table 2 for any single parameter;
- ii. Effluent discharged from the facility exceeds the value in Table 2 for any single parameter twice in any 3 month period.
- iii. Heavy rainfall events that cause surcharging of the City’s Wastewater System downstream of the Development;
- iv. Forecasted rainfall events that exceed 2.7” in 24-hours.; or
- v. Forecasted rainfall events that exceed 3.8” in 48-hours;

provided, however, that the City will not halt discharges from the Facility in the event the Developer and City have previously agreed in writing to the hauling of the discharge wastewater from the Facility, at no cost to the City, for proper disposal, which disposal shall not be into the City’s public sewer system. The City and Developer will work in good faith to reach agreement on such hauling arrangement for the discharge of excess wastewater from the Facility.

L. Industrial Pretreatment Program. The City may be required to have an industrial pretreatment program in place at some point in the future. Developer hereby agrees to be part of such program and pay Developer’s equitable fees, as determined by the City, necessary to develop and operate such program. The requirement of an industrial pretreatment program will necessitate amending this Agreement, and accordingly Developer agrees to negotiate any such amendment in good faith with the City and the Port, and acknowledges that any such requirement will most likely require substantial changes to this Agreement.

2. Port Obligations.

A. Pressure System. The Port shall undertake to install a combined pressure sanitary system (“Pressure System”) in accordance with the timelines provided in Section 2.C below and subject to approval by the City, for existing Port tenants and all future tenants on Airport property.

B. Pressure System Project Manager. The Port has hired AM Engineering (“Project Manager”) to design, bid, and oversee the construction of the system. The Port shall consult with the City before replacing its Project Manager.

C. Timelines. The Port hereby obligates itself to solicit bids for the Pressure System project construction work, receive bids by no later than January 15, 2021, and award the contract no later than February 1, 2021. The Project Engineer’s estimate of the time required for completion of the Pressure System project is 45 days and includes the following tentative timeline:

Tentative Schedule:

| | |
|-------------|---|
| October 6 | Port Commission approves Agreement |
| October 7 | Warrenton Commission approves Agreement |
| October 8 | Port executes contract with AM Engineering |
| November 6 | Pressure System design is complete and ready for review |
| December 15 | Out to bid |
| January 15 | Port Receives bids |
| February 1 | Port awards Pressure System contract |
| March 1 | Construction commences on Pressure System |
| April 15 | Complete construction of Pressure System |
| May 14 | Pressure System Contract closeout |

Work shall commence on the Pressure System no later than March 1, 2021 and is estimated to complete by April 15, 2021.

3. City Obligations.

A. Non-Statutory Agreement. The City hereby confirms that it can approve and execute this Agreement pursuant to its home rule charter and not pursuant to ORS 94.504-94.528, and does further confirm that this Agreement does not constitute or concern the adoption, amendment, or application of the Statewide Planning Goals, the City comprehensive plan, or a City land use regulation.

B. Authority. The Parties agree that each Party has the authority to adopt this Agreement outside of ORS Chapter 94 and the adoption of this Agreement is not, nor does it establish, a Local Improvement District.

C. Authorizations. In consideration of the Port’s performance under the terms of this Agreement, and in consideration of Developer’s performance under the terms of this Agreement, if all other aspects of Developer’s plans and Application satisfy City building and land use requirements, and all other applicable requirements, and all other necessary authorizations and permits are secured by Developer, the City will issue Developer a

conditional building permit entitling Developer to construct the Facility in accordance with the approved plans and any terms and conditions imposed as part of the authorizations and permits issued to Developer. If the Facility construction passes all inspections, the Port's Pressure System is constructed consistent with the terms of this Agreement or the Port and Developer have agreed to an appropriate wastewater disposal solution described in Section 1.K. above, and the Developer is in compliance with all applicable terms of this Agreement, the City will authorize Developer to occupy and use the premises consistent with the authorizations and permits secured by Developer.

4. Compliance with all Local and State Laws.

In carrying out this Agreement, the Developer shall follow and comply with all applicable local and state laws, including any requirement that state law may place on the Developer to pay prevailing wages for construction of the improvements required by this Agreement, if applicable.

5. Assignability of Agreement.

This Agreement shall not be assigned by the Developer, in whole or in part, absent the written approval of the City in its sole and absolute discretion. The terms and conditions contained in this Agreement shall, subject to the provisions of this section, apply to and bind the heirs, successors, personal representatives, and assigns of the Parties hereto.

6. Remedies.

A. Each Party shall have all available remedies at law or in equity to recover damages and compel the performance of the other Party pursuant to this Agreement. The rights and remedies afforded under this Agreement are not exclusive and shall be in addition to and cumulative with any and all rights otherwise available at law or in equity. The exercise by either Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different time, of any other such remedy for the same default or breach or of any of its remedies for any other default or breach by the other Party, including, without limitation, the right to compel specific performance.

B. Developer hereby releases the City, its officers, employees, agents and contractors from any and all liability for the extent of public improvements required under the terms of this Agreement.

7. Miscellaneous Provisions.

A. Notice. Any notice or communication required to be delivered to one Party under this Agreement by the other Party shall be in writing and shall be dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by either personal delivery or nationally-recognized overnight courier (such as UPS or FedEx) or by facsimile transmission, and:

- a.** In the case of a notice or communication to the Developer, addressed as follows:

The Scoular Company
2027 Dodge Street
Omaha, NE 68102

Attn: Tom Wortmann

With copies to:

The Scoular Company
2027 Dodge Street
Omaha, NE 68102
Attn: General Counsel

- b.** In the case of a notice or communication to City, addressed as follows:

Collin Stelzig, Public Works Director
City of Warrenton
P.O. Box 250
Warrenton, OR 97146

With a copy to: Linda Engbretson, City Manager
City of Warrenton
P.O. Box 250
Warrenton, OR 97146

And a copy to: Spencer Parsons, City Attorney
Beery, Elsner & Hammond, LLP
1750 S. Harbor Way, Suite 380
Portland, Oregon 97201

- c.** In the case of a notice or communication to the Port, addressed as follows:

Will Isom, Executive Director
422 Gateway Avenue, Suite 100
Astoria, OR 97103

With a copy to: Eileen Eakins, Port Attorney
Northwest Local Government Legal Advisors, LLC
5285 Meadows Road, Suite 400
Lake Oswego, OR 97035

or addressed in such other way in respect to a Party as that Party may, from time to time designate in writing dispatched as provided in this section. Otherwise, this Agreement permits the Parties to deliver informal or “day-to-day” communications via all normal and customary means, including electronic and telephonic communications.

B. Headings. Any titles of the sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

C. Counterparts. In the event this Agreement is executed in two (2) or more counterparts, each counterpart shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

D. Waivers. No waiver made by either Party with respect to the performance, or manner or time thereof, of any obligation of the other Party or any condition inuring to its benefit under this Agreement shall be considered a waiver of any other rights of the Party making the waiver. No waiver by the City or Developers of any provision of this Agreement or any breach thereof shall be of any force or effect unless in writing; and no such waiver shall be construed to be a continuing waiver. .

E. Time of the Essence. Time is of the essence under this Agreement.

F. Choice of Law. This Agreement shall be interpreted under the laws of the State of Oregon.

G. Calculation of Time. All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday in the State of Oregon, the period shall be extended to include the next day which is not a Saturday, Sunday, or such a holiday.

H. Construction. In construing this Agreement, singular pronouns shall be taken to mean and include the plural.

I. Severability. If any clause, sentence or any other portion of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.

J. Place of Enforcement. Any action or suit to enforce or construe any provision of this Agreement by any Party shall be brought in the Circuit Court of the State of Oregon for Clatsop County, or the United States District Court for the District of Oregon.

K. Good Faith and Reasonableness. The Parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of a Party being given "sole discretion" or being allowed to make a decision in its "sole judgment."

L. Condition of City Obligations. Any City obligations pursuant to this Agreement which require the expenditure of funds are contingent upon future appropriations by the City as part of the local budget process. Nothing in this Agreement implies an obligation on the City to appropriate any such monies.

M. Cooperation in the Event of Legal Challenge. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties agree to cooperate in defending such action.

N. Enforced Delay, Extension of Times of Performance. In addition to the specific provisions of this Agreement, performance by any Party shall not be in default where delay or default is due to war; insurrection, strikes, riots, floods, drought, earthquakes, fires, casualties, acts of God, governmental restrictions imposed or mandated by governmental entities other than the City, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance which is not within reasonable control of the Party to be excused.

O. Other Necessary Acts. Each Party shall execute and deliver to the other all such further instruments and documents and take such additional acts (which, in the case of the City, shall require adopting necessary ordinances and resolutions) as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other Parties the full and complete enjoyment of rights and privileges hereunder.

P. Entire Agreement. This Agreement constitutes the entire agreement between the Parties as to the subject matter covered by this Agreement.

Q. Interpretation of Agreement. This Agreement is the result of arm's length negotiations between the Parties and shall not be construed against any Party by reason of its preparation of this Agreement.

R. Capacity to Execute; Mutual Representations. The Parties each warrant and represent to the other that this Agreement constitutes a legal, valid, and binding obligation of that Party. Without limiting the generality of the foregoing, each Party represents that its governing authority has authorized the execution, delivery, and performance of this Agreement by it. The individuals executing this Agreement warrant that they have full authority to execute this Agreement on behalf of the entity for whom they purport to be acting. Each Party represents to the other that neither the execution and delivery of this Agreement, nor performance of the obligations under this Agreement will conflict with, result in a breach of, or constitute a default under, any other agreement to which it is a party or by which it is bound.

S. Amendment or Modification. No amendment, change, or modification of this Agreement shall be valid unless in writing and signed by all Parties.

T. Relationship. Nothing herein shall be construed to create an agency relationship or a partnership or joint venture between the Parties.

U. Effective Date. This Agreement shall take effect upon execution and approval by all Parties.

V. Term of Agreement. This Agreement shall be effective until it is fully implemented. This term shall be tolled in the event of an appeal of any land use decision or Limited Land Use decision for the Facility until a final appellate judgment is entered.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

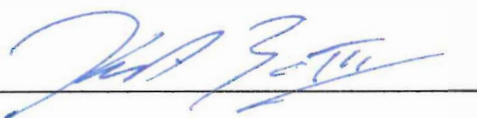
THE SCOULAR COMPANY,
a Nebraska corporation

By: 

Printed Name: Thomas C. WERTSMANN

Title: MANAGING Director, Corporate Development

CITY OF WARRENTON, OREGON

By: 

Printed Name: Henry Bilensifer

Title: Mayor

PORT OF ASTORIA, OREGON

By: 

Printed Name: DIRK ROHNE

Title: CHAIRMAN

**DEVELOPMENT AGREEMENT
EXHIBITS**

Exhibit 1 Response from Scoular to a June 12, 2020 Request for Information



**Request for Information
June 12, 2020**

To: Scoular Company
From: City of Warrenton, Kennedy/Jenks
Subject: Application for Industrial Discharge Agreement
A

The following are compiled items to be addressed by Scoular/Port of Astoria so that the City can determine impacts to the Publicly Owned Treatment Works.

1. List potential ranges for the following at the point of discharge to the public sanitary sewer system:
 - A. Flow – confirm 20,000 gallons per day maximum flow rate between April to October. **Confirmed.**
 - B. BOD – Confirm 519 ppm (mg/L) is the maximum BOD concentration discharged. **Confirmed.**
 - C. TSS – Provide min, max and average concentration in ppm. **The effluent discharge should be minimal in terms of TSS as the waste heat evaporator is in effect a distillation process and the available suspended solids are captured and returned to the product stream.**
 - D. pH – Provide min, max and average pH. **pH minimum should be 6, maximum of 8, and average of 7.**
 - E. NH₃-N (Ammonia-N) – Provide min, max and average concentration in ppm. **Ammonia concentration is a function of the raw material quality. It can be treated to conform with the limitations required by the city of Warrenton.**
 - F. Nitrate/Nitrite – Provide min, max and average concentration in ppm. **The primary stream of wastewater will be free of nitrate, phosphorus fats oils, greases, and metals.**
 - G. Phosphorus – Provide min, max and average concentration in ppm. **The primary stream of wastewater will be free of nitrate, phosphorus fats oils, greases, and metals.**
 - H. FOG (Fats, oils and grease) – Fish Oil - Provide min, max and average concentration in ppm. **The primary stream of wastewater will be free of nitrate, phosphorus fats oils, greases, and metals.**
 - I. Metals – Total recoverable metal analysis by EPA methods. **The primary stream of wastewater will be free of nitrate, phosphorus fats oils, greases, and metals.**
2. Provide literature or effluent data from operating fish meal plants supporting the ranges provided in question 1. **Most fish meal plants operating in the United States are operating under an NPDES permit, of which most of**

which are in Alaska and the Gulf of Mexico. As the nature of the wastewater characteristics is very much dependent of the species of fish processed and the overall freshness of the raw material. We are not aware of a good representative example that duplicates the extensive measures that we are proposing to preserve the raw material quality.

3. List any proposed pretreatment equipment to be used at the facility (settling tanks, screens, filters or other technologies used to pretreat the waste stream). Include make, model or version of specific equipment. **All of the effluent discharge will be screened using a Hycor type wedge wire screen to remove any solids prior to entry into the EQ tank if required.**
4. Provide a conceptual plan view of the plant property showing generally where equipment will be located. Show the point of discharge to the sanitary sewer. **See the attached civil draft plan for equipment location, private sewer pump station, sheet C2. Note in the top right corner refers to the connection/discharge location at the 12th Place public pump station.**
5. Estimate the size of an equalization tank needed to discharge at a constant flow rate to the sanitary sewer on a 24-hour basis. Assume tank will be mixed or predict how often tank will be flushed. **10,000 gallons. Monthly maintenance schedule of the tank during processing season and quarterly thereafter.**
6. Describe how the effluent from the proposed equalization tank would be metered and sampled prior to entering the sanitary sewer. **Flow meters would be installed to monitor the water flow and report as needed. Grab samples of the EQ tank prior to the point of discharge to the lift station could be provided as necessary**
7. Describe how fish oil is stored, processed and how it is transferred or disposed of. **Fish oil is one of the primary products produced by this facility. Fish oil is removed from the product stream early in the process. It is captured prior to the stickwater evaporation process and is stored in stainless steel tank with containment berms inside the building and will be shipped in totes or bulk tanker shipments to customers depending on market demand.**
8. Describe how major pieces of the process equipment (listed below) are operated or maintained, provided approximate gallons of washdown water and frequency of maintenance (i.e. daily, weekly, monthly or annually). We assume that evaporator condensate is the source of the washdown water required if any.

- A. Fish Cooker
- B. Screw Press
- C. Decanter
- D. Drier
- E. Conveyors
- F. Process Tanks
- G. Dry Storage Area / Factory Processing Floor

The processing equipment is operated to the greatest extent possible in a dry environment. The only equipment that requires regular cleaning is the cooker and centrifuges, which are cleaned in a CIP loop with a solution of caustic soda and occasionally direct steam as needed. This solution is returned to the collection tank. Periodically the tank is drained, and the solids are collected and sent to a landfill for disposal. The press is essentially self-cleaning as is the dryer. When the process is complete, the dryer is run until there is no residual material left inside. As this is a continuous process anti-bacterial sanitization is required after any extended period of shut down. These are usually topical agents of low volume and concentration. Screw conveyors are typically run until empty and require sanitizing during extended periods of downtime.

Process tanks are cleaned as needed typically this is done on a seasonal basis. The dry storage area again is dry and for the purposes of preventing free water activity and bacteriological activity is maintained without access to running water.

9. Assuming material becomes available, does Scoular intend to extend the operation beyond April to October time frame in the near future and how would that impact potential ranges for the parameters listed in item 1. **The economies of scale make this plant operationally viable during the whiting season when adequate supplies of raw material are available, between June and October, as such we do not expect much If any operation in other months.**
10. Will facility be built for future expansion and/or increase in fishmeal production. **The facility is oversized from an equipment standpoint, our contingency considers the potential upside in facility output. Also, as indicated in previous communication we feel there is in an opportunity to use process water for internal uses such as irrigation of the biofilter, boiler feed water make-up, tote washing, landscape maintenance and other general uses.**

11. What type of testing or monitoring would Scoular expect to perform and what data would be available without having to do additional compliance monitoring. **The normal testing regimes performed by a facility of this type are TVN on the incoming raw material. Moisture tests oil content and testing that would give indications of what the quality of the raw material is the overall recoverable solids and oil this information is very informative for plant operations as well as the nature of the wastewater effluent.**

**ASSIGNMENT OF AND AMENDMENT
TO THE NON-STATUTORY DEVELOPMENT AGREEMENT**

This **AMENDMENT** (“**Assignment Amendment**”), effective on March __, 2023 (the “**Assignment Effective Date**”), is made to the **NON-STATUTORY DEVELOPMENT AGREEMENT** (“**Agreement**”) by and between the **CITY OF WARRENTON**, a municipal corporation of the State of Oregon (the “**City**”), the **PORT OF ASTORIA**, a port district organized under ORS Chapter 777 (the “**Port**”) and **THE SCOULAR COMPANY**, a Nebraska corporation operating in Oregon and duly registered with the Oregon Secretary of State as a foreign business corporation (the “**Developer**”).

Recitals

Whereas, the City, the Port, and the Developer entered into the Agreement effective December 10, 2020 (the “**Agreement Effective Date**”), which was subsequently amended by Non-Statutory Development Agreement Amendment Number One; and

Whereas, subsequent to the Agreement Effective Date, Developer and its operating partners formed SDYB Opco, LLC, a Delaware limited liability company operating in Oregon and duly registered with the Oregon Secretary of State as a foreign business corporation (“**SDYB**”); and

Whereas, SDYB was formed to own, operate, and manage the Facility (as defined by the Agreement); and

Whereas, the Parties desire to assign all of Developer’s rights, interests, responsibilities, and obligations arising under or related to the Agreement to SDYB.

Therefore, the parties agree to the following:

1. The Parties agree to and acknowledge that all of Developer’s rights, interests, responsibilities, and obligations arising under or related to the Agreement shall be assigned to SDYB, effective immediately upon the Assignment Effective Date.
2. The Parties agree to and acknowledge that, as of the Assignment Effective Date, The Scouler Company shall have no rights, interests, responsibilities, and obligations arising under or related to the Agreement.
3. The Agreement shall be amended as follows:

The term “Developer” shall now be defined as: “SDYB Opco, LLC, a Delaware limited liability company operating in Oregon and duly registered with the Oregon Secretary of State as a foreign business corporation.”

4. Except as set forth in this Assignment Amendment, the Agreement, as previously amended, is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this Assignment Amendment and the Agreement, as previously amended, the terms of this Amendment will prevail.

[Signature Page to Follow]

THE SCOULAR COMPANY

By: Joseph Andrus

Title: Senior Vice President

Name: Joseph Andrus

Date: March 20, 2023

SDYB OPCO, LLC

By: Joseph Andrus

Title: Senior Vice President

Name: Joseph Andrus

Date: March 20, 2023

CITY OF WARRENTON

By: [Signature]

Title: Mayor

Name: Henry A. Balensifer III

Date: 3/14/2023

PORT OF ASTORIA

By: _____

Title: _____

Name: _____

Date: _____

NON-STATUTORY DEVELOPMENT AGREEMENT

AMENDMENT NUMBER ONE

Between

The City of Warrenton, Oregon

The Port of Astoria, Oregon

and

The Scoular Company

This Non-Statutory Development Agreement Amendment Number One (the “Amendment”) is made and entered into as of the date of last signature below by and between the CITY OF WARRENTON, a municipal corporation of the State of Oregon (the “City”), the PORT OF ASTORIA, a port district organized under ORS Chapter 777 (the “Port”) and THE SCOLAR COMPANY, a Nebraska corporation operating in Oregon and duly registered with the Oregon Secretary of State as a foreign business corporation (the “Developer”) and amends that certain Non-Statutory Development Agreement executed as of December 10, 2020 (the “Agreement”) between the Parties. This Amendment is entered into by the Parties under the same authorities as stated in the Agreement. Capitalized terms used but not defined herein have the meanings set forth in the Agreement.

RECITALS

A. WHEREAS, the Parties executed the Agreement to work together in good faith to accommodate the proposed Facility; and

B. WHEREAS, as of the date hereof, the Parties recognize that Developer has not paid Two Hundred and Forty-Six Thousand, Five Hundred and Fifty-Five Dollars (\$246,555.00) in wastewater SDCs (based on 200 EDUs) as required by Section 1.B. of the Agreement, and such amounts remain due and owing; and

C. WHEREAS, upon further review, the Parties have determined that, while 200 EDUs remains an appropriate amount for wastewater (sewer) SDCs, 200 EDUs is not an appropriate amount for potable water SDCs, and the Parties mutually understand, agree, and recognize the prior agreement of 200 EDUs for water SDCs should be reduced to 8 EDUs based on the two-inch water meter install, totaling Eleven Thousand, Two Hundred and Eighty-Five Dollars (\$11,285); and

D. WHEREAS, the Parties recognize and agree that Developer has paid the dollar sum stated in Recital C as of the date hereof; and

E. WHEREAS, the Parties mutually desire to amend the Agreement to reflect these changes, as provided herein.

NOW, THEREFORE, the City, Port and Developer agree as follows:

1. Section 1.B. of the Agreement is hereby deleted in its entirety and replaced with the following:

SDCs. Developer agrees to pay System Development Charges (SDCs) for Water equivalent to eight (8) EDUs and Sewer SDCs equivalent to 200 EDUs. The Sewer SDC fee will be increased in the event that either the quantity of wastewater exceeds any of the volumetric standards provided in Table 1, above, or the quality of water raises above any of the qualitative standards provided in Table 1. The fee increase will be based on the equivalent EDU associated with the increased quantity or quality. The Water SDC fee will be increased in the event a larger water meter is installed at any point in the future and will be based on the difference between the then-current SDC fee for the new meter size and the amounts already paid.

2. All other terms of the Agreement shall remain in full force and effect.

[Remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the undersigned have executed this Amendment as of the day and year first above written.

THE SCOULAR COMPANY,
a Nebraska corporation

By: Joseph Andrus

Printed Name: Joseph Andrus

Title: Senior Vice President

CITY OF WARRENTON, OREGON

By: Henry A. Belenisher III

Printed Name: Henry A. Belenisher III

Title: Mayor

PORT OF ASTORIA, OREGON

By: _____

Printed Name: _____

Title: _____

**Port of Astoria Executive Director
Performance Evaluation
November 2023**

Date of evaluation: _____

Rating Scale Definitions (1 - 5)

- Unsatisfactory (1) The employee’s work performance is inadequate and definitely inferior to the standards of performance required for the job. Performance at this level cannot be allowed to continue.

- Improvement Needed..... (2) The employee’s work performance does not consistently meet the needed standards for the position. Serious effort is needed to improve performance.

- Meets Job Standards (3) The employee’s work performance consistently meets the standards of the position.

- Exceeds Job Standards .. (4) The employee’s work performance is frequently or consistently above the standards of the position but has not achieved an overall level of outstanding performance.

- Outstanding (5) The employee’s work performance is consistently excellent when compared to the standards of the job.

- No Observation (N/O) The employee’s work performance was not observed.

I. PERFORMANCE EVALUATION AND ACHIEVEMENTS

| A. | <u>Board of Commissioners Relationships</u> | 1 | 2 | 3 | 4 | 5 | N/O |
|----|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1. | Effectively implements policies and programs approved by the board of commissioners. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | Reporting to the board of commissioners is timely, clear, concise, and thorough. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | Fosters a positive working relationship with commissioners | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. | Effectively aids the board of commissioners in establishing long range goals. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. | Keeps the board of commissioners informed of current plans, and activities of administration and new developments in technology, legislation, governmental practices and regulations, etc. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. | Provides the board of commissioners with a clear report of anticipated issues, opportunities, and risks that could come before the board. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments:

| B. | <u>Public Relations</u> | 1 | 2 | 3 | 4 | 5 | N/O |
|----|--|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1. | Projects a positive public image..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | Courteous to the Board/Customers. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | Maintains effective relations with media. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. | Effectively manages public relations | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments:

| C. | <u>Effective Leadership of Staff</u> | 1 | 2 | 3 | 4 | 5 | N/O |
|----|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1. | Delegates appropriate responsibilities. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | Maintains a quality and committed staff with low turnover. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | Training and education provided..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments:

| D. | <u>Fiscal Management</u> | 1 | 2 | 3 | 4 | 5 | N/O |
|----|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1. | Prepares realistic annual budget. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | Controls expenditures in accordance with approved budget. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | Keeps board of commissioners informed about revenues and expenditures, actual and projected. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. | Ensures that the budget addresses the board of commissioner's goals and objectives. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments:

| E. | <u>Communication</u> | 1 | 2 | 3 | 4 | 5 | N/O |
|----|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1. | Oral communication is clear, concise, and articulate.... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | Written communications are clear, concise, accurate, and timely | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments:

| F. | <u>Personal Traits</u> | 1 | 2 | 3 | 4 | 5 | N/O |
|----|---------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1. | Initiative. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | Judgment. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | Fairness and Impartiality. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. | Creativity. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. | Time Management. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments:

| G. | <u>Intergovernmental Affairs</u> | 1 | 2 | 3 | 4 | 5 | N/O |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|
| 1. | Maintains effective communication with local, regional, state, and federal government agencies. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 2. | Financial resources (grants) from other agencies are pursued. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. | Contributes to good government through regular participation in local, regional, and state committees and organizations | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. | Lobbies effectively with city, county, state legislators and federal, state agencies regarding Port programs and projects..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments:

II. ACHIEVEMENTS RELATIVE TO OBJECTIVES FOR THIS EVALUATION PERIOD

This section will measure the effectiveness of the Future Goals and Objectives (Sec. IV) from last year. These goals were based upon discussions during March/April 2023.

Goal 1: Manage engineering/design work and pursue funding opportunities to rebuild Pier 2

Goal 2: Make progress in expanding economic outlook and job creation through development/expansion projects on piers, waterfront properties and airport.

Goal 3: Executive Director is a champion for the Port in all aspects and continues to build public trust and stakeholder support for the organization.

Comments:

III. SUMMARY RATING

| | 1 | 2 | 3 | 4 | 5 | N/O |
|---|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Overall Performance Rating - considering the results obtained against established performance standards as well as overall job performance, the following rating is provided: | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Comments:

IV. FUTURE GOALS AND OBJECTIVES

Prioritize top five goals for the upcoming year for the Executive Director.

| Priority | Goal |
|----------|------|
| | |
| | |
| | |
| | |
| | |

This Performance Evaluation Survey was completed by

(Name of Commissioner)