Port of Astoria

Board of Commissioners

422 Gateway Ave, Suite 100
Astoria, OR 97103
Phone: (503) 741-3300
Fax: (503) 741-3345
www.portofastoria.com

Workshop Session

October 17, 2023 @ 4:00 PM
10 Pier 1, Suite 209

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. CHANGES/ADDITIONS TO THE AGENDA
5. PUBLIC COMMENT:
   This is an opportunity to speak to the Commission for 3 minutes regarding any topic. In person, those wishing to speak must fill out a public comment form. Those participating via Zoom may raise their hands during the public comment period.
6. ACTION:
   a. Clatsop County Anaerobic Biodigester Donation
   b. Executive Director Evaluation Contract – Special Districts Association of Oregon
   c. Bornstein Seafoods – Utilities Lease Amendments 3
   d. RFE #0166 Pier 2 West Engineering Services Contract – PND Engineers 9
   e. RFE #0165 Tide Gate Feasibility Study – Porior Engineering Contract 45
7. COMMISSION COMMENTS
8. EXECUTIVE DIRECTOR COMMENTS
9. UPCOMING MEETING DATES:
   a. Regular Session – November 7, 2023 at 4:00 PM
   b. Workshop Session – November 21, 2023 at 4:00 PM
10. 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.

Port of Astoria

Board of Commissioners

HOW TO JOIN THE ZOOM MEETING:

Online: Direct link: https://us02web.zoom.us/j/86905881635?pwd=amhtTTBFcE9NUElxNy9hYTFPQTIzQT09
Or go to 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 or via email at admin@portofastoria.com.

AMENDMENT TO

COMMERCIAL LEASE AGREEMENT

Date: **July 6, 2023**

Between: **Port of Astoria**
422 Gateway Avenue, Suite 100
Astoria, Oregon 97103
Ph: 503-741-3300 ("Port")

And: **Bornstein Seafoods, Inc.**
65 Pier 2
P.O. Box 188
Bellingham, WA 98227 ("Tenant")

1. **AGREEMENT.** This amends that Commercial Lease Agreement between Port and Tenant dated March 15, 2016. Except as expressly provided herein, all other terms of the Amended Lease Agreement are ratified and affirmed as if fully set forth herein.

2. **AMENDMENTS.** The Amended Lease Agreement is amended as follows:

Section 9 Taxes; Utilities. Section 9.2 "Payment of Utilities Charges" and the addition of Section 9.3 "Utilities Interruption"

9.2 Payment of Utilities Charges. Tenant shall pay prior to delinquency all charges for services and utilities incurred in connection with the use, occupancy, operation, and maintenance of the Premises, including (but not limited to) charges for fuel, water, gas, electricity, sewage disposal, power, refrigeration, air conditioning, telephone and janitorial services, as provided herein. If any utility services are provided by or through the Port, base charges to Tenant shall be billed on a pass-through basis. If the services are not separately metered, the Port shall apportion the charges on an equitable basis, and Tenant shall pay its apportioned share on demand, as additional rent.

Water & Sewer: In addition to base fees and consumption fees for water and sewer, Tenant shall pay within thirty (30 days) of being invoiced a monthly capital improvement surcharge. The capital improvement surcharge shall not exceed 5% of the total amount billed to Tenant for water and sewer.

Electrical: Electrical service to the Premises is controlled by one meter and no apportionment is necessary; Tenant is responsible for 100% of the metered cost, including any Base rates.

9.3 Utilities Interruption. The Port shall in no event be liable for any interruption or failure of utility services on or to the Premises; provided, however, that if such interruption or failure is caused by the negligence or intentional misconduct of the Port and continues for three (3) or more consecutive days after Tenant delivers written notice of such interruption or failure to

the Port, and if Tenant is unable to use the Premises or a portion thereof for its intended purpose as a direct result of the same, then a proportionate share of Rent owing on such affected portion of the Premises shall abate until the utility service is restored.

The parties, by signature below of their respective authorized representatives, hereby acknowledge that the parties have read the Lease as hereby amended, understand it, and agree to be bound by its terms and conditions.

PORT OF ASTORIA:	**TENANT:**
By: _____	By: _____
Name:_____	Name:_____
Title: _____	Title: _____

FIFTH AMENDMENT TO

COMMERCIAL LEASE AGREEMENT

Date: **July 6, 2023**

Between: **Port of Astoria**
422 Gateway Avenue, Suite 100
Astoria, Oregon 97103
Ph: 503-741-3300 ("Port")

And: **Astoria Pacific Seafood Products**
9 Portway
P.O. Box 188
Bellingham, WA 98227 ("Tenant")

1. **AGREEMENT.** This amends that Commercial Lease Agreement between Port and Tenant dated February 11, 2000, as later amended March 20, 2000, March 27, 2000, May 16, 2000, October 26, 2004, and March 1, 2021 ("Amended Lease Agreement"). Except as expressly provided herein, all other terms of the Amended Lease Agreement are ratified and affirmed as if fully set forth herein.

2. **AMENDMENTS.** The Amended Lease Agreement is amended as follows:

Section 14 Taxes and Assessments; Utilities – Section 14(c) "Utilities" and the addition of Section 14 (d) "Utilities Interruption"

14 (c) Payment of Utilities Charges. Tenant shall pay prior to delinquency all charges for services and utilities incurred in connection with the use, occupancy, operation, and maintenance of the Premises, including (but not limited to) charges for fuel, water, gas, electricity, sewage disposal, power, refrigeration, air conditioning, telephone and janitorial services, as provided herein. If any utility services are provided by or through the Port, base charges to Tenant shall be billed on a pass-through basis. If the services are not separately metered, the Port shall apportion the charges on an equitable basis, and Tenant shall pay its apportioned share on demand, as additional rent.

Water & Sewer: In addition to base fees and consumption fees for water and sewer, Tenant shall pay within thirty (30 days) of being invoiced a monthly capital improvement surcharge. The capital improvement surcharge shall not exceed 5% of the total amount billed to Tenant for water and sewer.

Electrical: Electrical service to the Premises is controlled by one meter and no apportionment is necessary; Tenant is responsible for 100% of the metered cost, including any Base rates.

14 (d) Utilities Interruption. The Port shall in no event be liable for any interruption or failure of utility services on or to the Premises; provided, however, that if such interruption or failure is caused by the negligence or intentional misconduct of the Port and continues for

three (3) or more consecutive days after Tenant delivers written notice of such interruption or failure to the Port, and if Tenant is unable to use the Premises or a portion thereof for its intended purpose as a direct result of the same, then a proportionate share of Rent owing on such affected portion of the Premises shall abate until the utility service is restored.

The parties, by signature below of their respective authorized representatives, hereby acknowledge that the parties have read the Lease as hereby amended, understand it, and agree to be bound by its terms and conditions.

PORT OF ASTORIA:	**TENANT:**
By: _____	By: _____
Name:_____	Name:_____
Title: _____	Title: _____

SEVENTH AMENDMENT TO

COMMERCIAL LEASE AGREEMENT

Date: **July 6, 2023**

Between: **Port of Astoria**
422 Gateway Avenue, Suite 100
Astoria, Oregon 97103
Ph: 503-741-3300 ("Port")

And: **Bornstein Seafoods, Inc.**
("Tenant")
P.O. Box 188
Bellingham, WA 98227 ("Tenant")

1. **AGREEMENT.** This amends that Commercial Lease Agreement between Port and Tenant dated March 1, 2005, as later amended December 1, 2005; February 21, 2006; March 16, 2006, February 8, 2021, May 27, 2021, and October 15, 2022 ("Amended Lease Agreement"). Except as expressly provided herein, all other terms of the Amended Lease Agreement are ratified and affirmed as if fully set forth herein.

2. **AMENDMENTS.** The Amended Lease Agreement is amended as follows:

Section 10. Taxes; Utilities. Section 10.2 "Payment of Utilities Charges" and the addition of Section 10.3 "Utilities Interruption"

10.2 Payment of Utilities Charges. Tenant shall pay prior to delinquency all charges for services and utilities incurred in connection with the use, occupancy, operation, and maintenance of the Premises, including (but not limited to) charges for fuel, water, gas, electricity, sewage disposal, power, refrigeration, air conditioning, telephone and janitorial services, as provided herein. If any utility services are provided by or through the Port, base charges to Tenant shall be billed on a pass-through basis. If the services are not separately metered, the Port shall apportion the charges on an equitable basis, and Tenant shall pay its apportioned share on demand, as additional rent.

Water & Sewer: In addition to base fees and consumption fees for water and sewer, Tenant shall pay within thirty (30 days) of being invoiced a monthly capital improvement surcharge. The capital improvement surcharge shall not exceed 5% of the total amount billed to Tenant for water and sewer.

Electrical: Electrical service to the Premises is controlled by one meter and no apportionment is necessary; Tenant is responsible for 100% of the metered cost, including any Base rates.

10.3 Utilities Interruption. The Port shall in no event be liable for any interruption or failure of utility services on or to the Premises; provided, however, that if such interruption or

failure is caused by the negligence or intentional misconduct of the Port and continues for three (3) or more consecutive days after Tenant delivers written notice of such interruption or failure to the Port, and if Tenant is unable to use the Premises or a portion thereof for its intended purpose as a direct result of the same, then a proportionate share of Rent owing on such affected portion of the Premises shall abate until the utility service is restored.

The parties, by signature below of their respective authorized representatives, hereby acknowledge that the parties have read the Lease as hereby amended, understand it, and agree to be bound by its terms and conditions.

PORT OF ASTORIA:	**TENANT:**
By: _____	By: _____
Name:_____	Name:_____
Title: _____	Title: _____

Port of Astoria

REQUEST FOR EXPENDITURE

RE# 0166

SECTION A

Date:	10/11/23	Department:	Waterfront West
Staff Contact:	Matt McGrath	Vendor (if determined):	PND Engineers, Inc.
Description of Product or Service being requested:	Design & Engineering services for the Pier 2 West rehabilitation project		
Purpose of Product or Service being requested:	Pier 2 West is failing and must be rehabilitated; design & engineering is a critical component of the rehabilitation		
Cost Estimate:	$963,000.00 [to be covered by Business OR Grant No.EOF028]		

SECTION B

1. Does this expenditure exist within the current budget? ☐ No (Skip to Section C-2) / ☑ Yes (Proceed) (Original Budget Amount) $ 1,500,000

2. Does this expenditure exceed $5,000? ☐ No (Skip to Section D) / ☑ Yes (Proceed to Section C-1)

3. Will services be performed on Port of Astoria property? ☐ No ☑ Yes

SECTION C

1.

	TOTAL	NET OF GRANTS
Account # for Budgeted Item (ex: XXX-XX)	710-00	
FY 2022-2023 Budget for this Account	$ 3,489,034	$ 1,423,914
Amount Spent Year-to-Date for this Account	$ 196,480	$ 174,716
Amount Available to Spend for this Account	$ 3,292,554	$ 1,249,198

Does this Request for Expediture require Commission Approval (>=$25,000)? ☑ Yes / ☐ No

2.
If Not included in the current budget or the current budget for this account # has been spent:
Does this Request for Expediture require Commission Approval (>=$5,000)? ☐ Yes / ☐ No

	TOTAL	NET OF GRANTS
Account # to deduct funds from to reallocate & accommodate this expenditure (ex: XXX-XX)		
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)

10/17/2023

SECTION E

M. Ellis 10-12-2023
Signature of Department Head — Date

M.W. McGrath 10-12-23
Signature of Deputy Director — Date

Signature of Finance Manager — 10-12-23 Date

Signature of Executive Director — 10-12-23 Date
(required if cost is unbudgeted, or > $5,000 budgeted)

(over for Quotation Analysis)

Port of Astoria
Quotation Analysis

Port of Astoria

Project: Pier 2 West Rehabilitation - Design

Project Manager: Matt McGrath **Quotes obtained by:** Matt McGrath/Shane Jensen

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
PND Engineers, Inc.	See Below				
KPFF Consulting Engineers	See Below				

Vendor selection & justification: (REQUIRED) See attached Selection Analysis & Discussion Document

Pier 2 West Design & Engineering
Procurement Narrative

• With respect to federal procurement rules: As the anticipated cost was above the Simplified Acquisition Threshold (48 CFR § 2.101) of $250,000, formal procurement procedures were necessary. The Port elected to employ a competitive RFP process, in compliance with 2 CFR § 200.320(b)(2).

• With respect to State and Port procurement rules: As the anticipated cost of the contract was in excess of $100,000, and as required by Resolution 2017-07 (Public Contracting Rules and Procedures for the Port of Astoria), the Port followed the procedures for selection of engineers in Oregon Revised Statues (ORS) 279B.060, in accordance with § B(3)(a) of Exhibit A of Resolution 2017-07; ORS 279C.110, in accordance with § B(3)(c) of Exhibit A of Resolution 2017-07; and the applicable Oregon Attorney General's Model Public Contracting Rules ("Model Rules"), as provided in Oregon Administrative Rules (OAR), chapter 137, Division 48.

• Drafting of the Request for Proposals (hereafter, "RFP") was completed in May, 2023. The RFP was advertised on the Port website starting on June 1 and ending on June 30, 2023.

• The following engineering firms were directly solicited by email on May 31, 2023: Stricker Engineering, PND Engineers, Inc., PBS Engineering and Environmental, Smith Monroe Gray Engineers, WSP Engineering, Mott MacDonald, KPFF Consulting Engineers, Reid Middleton, and Appledore Marine Engineering. The deadline for submission was on June 30, 2023.

• Notice of the issuance and availability of the RFP (on the Port website) was advertised in the Daily Journal of Commerce on 6/5, 6/7, 6/9, and 6/12 of 2023. Notice of the issuance and availability of the RFP (on the Port website) was advertised in the Daily Astorian on 6/6, 6/8, 6/13, and 6/15 of 2023.

• As of the submission deadline, the Port had received two proposals: PND Engineers, Inc., and KPFF Consulting Engineers. Both proposals were reviewed and scored in detail by the review committee, which consisted of Matt McGrath (Deputy Director of the Port of Astoria), Greg Morrill (Construction Manager/General Contractor), and Shane Jensen (Grant & Project Consultant). Scoring was based on the criteria outlined in detail within the RFP. Although individual scores varied, all three reviewers scored PND higher than KPFF. Details are provided on the attached Selection Analysis.

Pier 2 West Design & Engineering – Selection Analysis

1. Project History

Project history metrics were scored by the reviewers based on the scoring matrix guidelines. Although the scores varied, all three reviewers gave a higher score to PND as compared to KPFF. Details are outlined on the scoring matrix worksheets.

2. Staff & Qualifications

A. General Observations

Both firms bring extensive experience to the project. The average years of experience of the PND staff is 27.9 years; KPFF, 25.7. The total years of experience for the PND staff is 279; KPFF, 231. If the two PND staff members with the least experience are eliminated from the total calculation (b/c PND brings two more staff members than KPFF), the PND total, at 256, is still greater than KPFF.

PND offers 4 staff members with geotechnical expertise; KPFF offers 1. KPFF offers significant redundancy as to structural engineers; it is not clear why such redundancy is needed. PND offers more variety in their expertise (greater geotechnical experience, architectural engineering and electrical engineering).

B. Specific Staff Metrics

I. Experience of Top Three Staff Members

Because the top three staff members for both firms were very similar in terms of education and experience, both generally scored at or near the maximum points on this metric.

II. Extent of Involvement in Project History projects

Because the top three KPFF staff had greater involvement in the projects put forward in the Project History as compared to PND, the former scored higher on this metric.

3. Project Approach

A. Value Engineering

I. Degree of variation from the existing design, rationale for the variation, and number of hurdles/problems/issues, if any, the variations surmount.

Value engineering provides design modifications that increase the quality, decrease the cost, or both. PND asserts that its OCSP design is, on average, 10-40 percent less costly than a tie-back wall (i.e., the existing design). This is so due to a less complex construction sequence and the reduction or elimination of expensive seismic improvements (and yet still meet seismic code requirements). PND provides corroboration for these claims in, among other sections, the detailed project

descriptions in the Project History section: several projects similar to this one were completed with substantial reductions in [otherwise] mandated seismic improvements. As the expanding cost of seismic improvements was a major reason for soliciting other engineers on this project in the first place, this factor weighs heavily with the Port. PND's approach to the design of Pier 2 West solves three major issues with the existing design: construction sequence & working with tenants during construction, cost, and seismic design. PND provided an extensive discussion of the advantages of the OCSP system as applied to the situation on Pier 2 West specifically, demonstrating specific knowledge of the various factors unique to Pier 2 West.

KPFF did not propose variations from the existing design. Instead, they proposed additional review by an engineer that has not worked on the project to date, cooperation with the CM/GC in seeking value engineering options, and tracking these ideas. This does not constitute 'value engineering' under the meaning provided in the RFP.

II. If variation from the existing design is minimal to non-existent, validity of rationale for so proposing

The KPFF proposal did not vary its approach from the existing design. Alternatives to the existing design was a major purpose of this solicitation. As KPFF provided no alternative, they scored low on this factor. Further, rationale for sticking with the existing design was weak.

PND's design concept varies substantially from the existing design. The rationale for the variations was, as discussed above, substantial and reasonable.

III. Confidence of reviewers in the likelihood that the proposed design will decrease cost, increase quality, increase longevity, and/or maximize utility/function of the new pier

Based on the project history and other sections of the respective Proposals, the Port is reasonably confident that the OCSP design will decrease the cost and increase the quality of the pier relative to the existing design. The OCSP design does not appear to offer any advantage in longevity or utility of the pier over the existing design.

B. Seismic Issues

I. Creative Solutions

PND has extensive experience in the seismic and lateral design of bulkheads and piers across the Oregon coast and across the U.S. They proposed the OCSP system, which appears to have successfully addressed the exact issues for which the Port issued this RFP to begin with: the ability to resist seismic forces and effects for tall

bulkhead applications, and to " . . . resist seismic loads and tolerate displacement larger than traditional steel sheet pile walls since it acts like a mechanically-stabilized earth system." Based on the Port's understanding of the seismic issues as communicated by KPFF over the previous design process of Pier 2 West, such a system is ideal for the Pier 2 West system. Several sections of the PND Proposal directly address this issue and are too extensive to summarize here. In sum, PND directly, comprehensibly, and comprehensively answered the question with a narrative that exhibited substantial confidence in their expertise in identifying and employing the OCSP system as a viable and feasible solution to the challenges on Pier 2 West.

KPFF did not propose a solution that the Port would deem "creative." Their response was not as direct, and included discussion of issues that are ancillary to the question at hand (i.e., regulatory agency responses).

II. Code

Both firms specifically identified the code that would be employed in the design of their proposal for Pier 2 West. However, PND was much more specific and detailed in their response, including five different codes in their discussion as well as a coherent narrative that tied those codes together. In sum, PND directly and comprehensibly answer the question with a narrative that exhibited substantial confidence in their expertise in identifying and employing the proper seismic codes for this project.

KPFF directly answered the question, but without the comprehensiveness and confidence that PND exhibited.

C. Building Permits & City of Astoria Experience

Despite KPFF's relatively short response, the Port is confident that both firms possess the knowledge and experience necessary to navigate the permitting process with the local jurisdiction (city of Astoria) on this project. However, PND brings a dedicated permit staff and provided greater detail with respect to the issue of insufficient city staff. Finally, PND has direct experience in securing the permits from the city of Astoria, while KPFF has no such direct experience with the City.

D. Constructability and Procurement

PND directly addressed the issue of procurement in asserting that the materials needed for their OCSP system are rolled and fabricated in the U.S. and therefore more readily available. KPFF did not address this issue.

It appears that both firms are equally capable of surmounting any constructability issues that may arise. Although a phased approach will be necessary regardless of design

concept, the PND OCSP system naturally lends itself to a phased construction approach that is absent in KPFF's approach.

E. Cost Implications

PND directly addressed the issue of the cost implications of their proposed OCSP system in both narrative and graphic form, providing historical data on the typical percentage cost savings of their system over tied-back seawalls. KPFF did not provide such data; their discussion of this issue was deemed unresponsive.

F. Synthesis

PND's discussion in this section pulled together the various elements of the previous discussion to show how the OCSP system has the potential to partially or wholly solve several problems facing the Port in the rehabilitation of Pier 2 West – phasing, seismic issues, cost, etc. KPFF's discussion here was short and merely made general assertions about its ability to "solve problems" and "brainstorm," but did not provide any discussion by way of specific alternative solutions.

For the reasons discussed above in this section, PND scored higher than KPFF on the Project Approach metric.

4. Design Schedule

PND provided a schedule based on their proposed OCSP design and assumed that all geotechnical assessments and site surveys have been completed. On those assumptions, they proposed a design schedule of approximately one year.

KPFF based their schedule on the existing design, as per the RFP instructions, but did not make the latter assumption, estimating almost 52 months to complete the geotechnical assessments.

Despite this difficulty, the information available in the proposals was used to score both Proposers. Differences are slight, however, and made little difference to the final results.

5. Contract Amount

Bergerson Construction provided an opinion as to the reasonability of the cost of the PND contract. Drawing upon six past projects over the past twelve years, and based on actual costs, Bergerson found that the design & engineering costs for these projects (including construction administration and oversight), as a percentage of construction cost, were in the 12-16% range.

Another resource consulted was the "FEMA Public Assistance Cost Estimating Tool for Engineering and Design Services," published by FEMA in December of 2015. FEMA's data was based on information from the American Society of Civil Engineers Committee on Professional Practice (from 2005). For a 20 million dollar project of average complexity, the basic design and engineering cost should be in the 6.5 to 8% range (of total construction cost). In addition, construction management (review of bids, work site inspection visits, checking and approval of material samples, review of shop drawings and change orders, review of contractor's request for payment, and acting as the client's representative) will be an additional 3%, for a total of 9.5 to 11% of construction cost. However, these percentages do not include special services like geo-exploration that *will be* necessary for this project.

PND Engineers has estimated that for the Pier 2 West rehabilitation project, the total design, construction administration, inspection, and site exploration costs will be 8-10% of total construction costs. Based on the most recent construction cost estimate (KPFF Engineers) of approximately $20.5 million in hard construction costs (which includes the CM/GC fee), the cost of the existing contract, at $963,000 (absent the borehole permit), is about 4.7% of construction costs. This leaves 3.3 to 5.3% remaining for the post-60% design and construction administration costs.

Based on the above considerations, the cost of this contract, at $963,000, appears reasonable.

PND Engineers, Inc. (PND)

Standard Form of Project
For
Professional Engineering Services

This is a **Project** effective as of the date of last signature below ("Effective Date") by and between

CLIENT
("**Client**")

Port of Astoria
422 Gateway Ave, Suite 100
Astoria, OR 97103

Phone: 503-741-3300

E-mail: mmcgrath@portofastoria.com

ENGINEER
("**Engineer**")

PND Engineers, Inc.
3240 Eastlake Ave. East
Seattle, WA 98102

Phone: 206-624-1387
Fax: 206-624-1388
E-mail: rjohnson@pndengineers.com

Engineer agrees to provide the services described in Addendum A, which is expressly incorporated into this **Project**, to **Client** for:

Project Name: Port of Astoria Pier 2 West Rehabilitation ("Project")

PND Project No. 234038

Client and **Engineer** further agree as follows:

1.01 Basic Project
A. **Engineer** shall provide, or cause to be provided, the services set forth in this **Project**, and **Client** shall pay **Engineer** for such Services as set forth in Paragraph 2.01.

2.01 Payment
A. **Engineer** will prepare a monthly invoice in accordance with **Engineer's** standard invoicing practices and submit the invoice to **Client**.

B. Invoices are due and payable within 30 days of receipt. If **Client** fails to make any payment due **Engineer** for services and expenses within 30 days after receipt of **Engineer's** invoice, the amounts due **Engineer** will be increased at the rate of 1 ½ % per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day.

In addition, **Engineer** may, without liability, after giving seven days written notice to **Client**, suspend services under this **Project** until **Engineer** has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.

C. The **Engineer's** compensation is determined by and conditioned on the time to complete **Project** as described in **Addendum A**. Should the time to complete the **Project** be extended beyond the described periods through no fault of the **Engineer**, the total compensation to the **Engineer** shall be appropriately adjusted.

D. Should the time to complete the **Project** be extended beyond the described periods through no fault of the **Client**, the total compensation to the **Engineer** shall not exceed the amounts specified in Addendum A ("Port of Astoria Pier 2 West Rehabilitation Design – Scope and Fee Proposal"). Any inconsistency in fees as between **Addendum A** and **Addendum C** ("Detailed Fee Proposal") shall be resolved in favor of **Addendum A**.

3.01 Additional Services
A. If authorized by **Client** in writing, **Engineer** shall furnish services in addition to those set forth.

B. **Client** agrees to pay **Engineer** an amount equal to the **Engineer's** employees cumulative hours charged to the **Project** by each class of employee times standard hourly rates for each applicable billing class; plus reimbursable expenses and **Engineer's** consultants' charges, if any plus markup. Alternatively, the **Client** and **Engineer** may make additional compensation Projects such as Lump Sum (LS) or Fixed Fee (FF) but only in writing.

4.01 Termination
A. Either party shall have the right to terminate this **Project** in whole or in part at any time and for reasonable cause, by delivery of 15 days' written notice, specifying the extent and effective date thereof. After receipt of such notice from **Client**, **Engineer** shall stop work hereunder to the extent and on the date specified in such notice, terminate all subcontracts and other commitments to the extent they relate to the work terminated, and deliver to the **Client** all completed deliverables in connection with the work terminated.

B. In the event of any termination by **Client** pursuant to this clause, and provided **Engineer** is not in default of a material obligation under the **Project**, **Engineer** shall be paid as follows.

B.1 Time and Material Contracts:
Client shall pay **Engineer** for all time and material costs incurred as of the date of Termination per **Engineer's** Standard Rate Schedule.

B.2 Fixed Fee or Lump Sum Contracts:
Client shall pay **Engineer** the percentage of the Fixed Fee or Lump sum equivalent to the percentage of work completed as of the date of Termination. Except as provided in this clause, any such termination shall not alter or affect the rights or obligations of the parties under this **Project**.

5.01 Controlling Law
A. This **Project** is to be governed by the law of the State of Oregon.

6.01 Successors, Assigns, and Beneficiaries
A. **Client** and **Engineer** each is hereby bound and the partners, successors, and executors of **Client** and **Engineer** (and to the extent permitted by paragraph 6.01.B the assigns of **Client** and **Engineer**) are hereby bound to the other party to this **Project** and to the partners, successors, and executors (and said assigns) of such other party, in respect of all covenants, Projects, and obligations of this **Project**.

B. Neither **Client** nor **Engineer** may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this **Project** without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from

any duty or responsibility under this **Project**.

7.01 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by **Engineer** under this **Project** will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. **Engineer** makes no guarantees or warranties, express or implied, under this **Project** or otherwise, in connection with **Engineer's** services. **Engineer** and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. **Engineer** shall not at any time supervise, direct, or have control over any contractor's work, nor shall **Engineer** have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. **Engineer** neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between **Client** and such contractor.

D. **Engineer** shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except **Engineer's** own employees) at the **Project** site or otherwise furnishing or performing any of construction work; or for any interpretations or clarifications of the construction contract given by **Client** or contractor without consultation and advice of **Engineer**.

E. All design documents prepared or furnished by **Engineer** are instruments of service, and **Engineer** retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the **Project** is completed. The **Client** shall not rely in any way on any document unless it is in printed final form signed and sealed by the **Engineer** or one of the **Engineer's** subconsultants.

F. To the fullest extent permitted by law, **Client** and **Engineer** (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the **Project**, and (2) agree that **Engineer's** total liability to **Client** under this **Project** shall be limited to $50,000 or the total amount of compensation received by **Engineer**, whichever is the larger amount.

The **Client** shall immediately notify **Engineer** of any claim asserted in connection with the **Project** that relates to engineering services.

G. The parties acknowledge that **Engineer's** scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials). If **Engineer** or any other party encounters a Hazardous Environmental Condition, **Engineer** may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the **Project** affected thereby until **Client**: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

H. Changes to the design may be necessary as the work proceeds. The design is expected to change during construction which can result in increased cost to the **Client** for several reasons including:

H.1 Project Betterment – Items that are added to the work to improve the overall Project that were not considered during design.

H.2 Unforeseen Conditions – Items of work added due to unknown conditions often associated with geotechnical variations and as-built conditions that could not be determined.

H.3 Design Additions – Items of work to add elements that are required for a functioning facility.

H.4 Design Revisions- Items of work needed to revise the design, including typographical items, changes due to conflicts or inconsistencies and conflicts or inconsistencies which may become apparent during construction.

The **Client** acknowledges that project betterment, unforeseen conditions and design additions and revisions can occur and that all cost associated with those items are part of the normal course of business

and shall not be charged to the **Engineer**.

Design additions and revisions are expected and should be anticipated. The **Engineer** and **Client** agree to work together to correct these items to minimize cost. Potential for design additions and revisions are related to the type and complexity of work.

I. All documents, including Drawings and Specifications, furnished by **Engineer** pursuant to this **Project** are instruments of **Engineer's** services in respect to the **Project**. They are not intended or represented to be suitable for reuse by **Client** or others on extensions of the **Project** or on any other project. Any reuse without specific written verification or adaptation by **Engineer** will be at **Client's** sole risk without liability or legal exposure to **Engineer**, and **Client** shall indemnify, defend, and hold harmless **Engineer** from all claims, damages, losses and expenses, including attorneys' fees, arising out of or resulting there from. Any such verification or adoption will entitle **Engineer** to further compensation at rates to be agreed upon by **Client** and **Engineer**.

Engineer does not sell or convey any property interest in the design including drawings; **Engineer** only licenses the use for a particular **Project** and purpose for the duration of the **Project**. The **Client** shall not convey, sell or authorize any other party to use the design. The **Client** shall not reuse the design for any other purpose. The **Client** agrees to use reasonable measures to keep the information confidential and avoid any unauthorized reuse or dissemination. For any unauthorized use by the **Client** or breach of this **Project**, the **Client** agrees to pay the **Engineer** reasonable licensing fees and/or damages. **Client** agrees to indemnify, defend and hold **Engineer** harmless from any and all claims arising from or related to unauthorized use of the design.

J. Electronic files may be supplied for convenience. Use of this electronic information is at the risk of the end user, and **Engineer** can not take responsibility for any errors or misuse that may arise out of use of electronic information. AutoCAD files are only an electronic copy of the graphical representations of the plans and actual dimensions and locations as shown on the hard copy plans shall govern and as provided by **Engineer**.

8.01 Indemnification and Mutual Waiver

A. **Engineer**. To the fullest extent permitted by law, **Engineer** shall indemnify and hold harmless **Client**, and **Client's** officers, directors, partners, agents, consultants, and employees from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the **Project**, but only to the extent that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property), and is caused by any negligent act or omission of **Engineer** or **Engineer's** officers, directors, partners, employees, or Consultants.

B. **Client**. To the fullest extent permitted by law, and subject to the obligations and protections of the Oregon Tort Claims Act, ORS 30.260 to 30.300, **Client** shall indemnify and hold harmless **Engineer**, **Engineer's** officers, directors, partners, agents, employees, and consultants from and against any and all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court, arbitration, or other dispute resolution costs) arising out of or relating to the **Project**, but only to the extent that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death or to injury to or destruction of tangible property, and is caused or alleged to be caused by any negligent act or omission of **Client** or **Client's** officers, directors, partners, agents, consultants, or employees, or others retained by or under contract to the **Client** with respect to this **Project** or to the **Project**.

C. **Percentage Share of Negligence.** To the fullest extent permitted by law, and subject to the damage limits in the Oregon Tort Claims Act, a party's total liability to the other party and anyone claiming by, through, or under the other party for any cost, loss, or damages caused in part by the negligence of the party and in part by the negligence of the other party or any other negligent entity or individual, shall not exceed the percentage share that the party's negligence bears to the total negligence of **Client**, **Engineer**, and all other negligent entities and individuals.

D. **Mutual Waiver**. To the fullest extent permitted by law, **Client** and **Engineer** waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the **Project**.

9.01 OPEN CELL™ Licensing

A. In the course of the project, the **Engineer** may utilize the OPEN CELL™ technology relating to soil retaining systems on which the **Engineer** holds

related patent rights. **Engineer** hereby grants to the **Client**, and its contractors, agents, employees, officers, and representatives, an irrevocable license for the construction and use of the design on the project only, upon completion of final design by the **Engineer**. No fee or cost of any sort is or may be charged now or in the future for this license. This license grants the **Client**, and its contractors, agents, employees, officers and representatives, the right to utilize the design (including but not limited to the drawings and specifications) in the future for construction of this structure, and its subsequent use, maintenance, repair, restoration, renovation, and other similar uses.

B. **Engineer** has spent years testing, observing and refining the OPEN CELL™ System and holds this information proprietary. OPEN CELL™ System shall be deemed a "trade secret" subject to confidentiality under Oregon's public records laws.

Disclosure by **Engineer** of OPEN CELL Technology or other information on the **Project** shall be for use on this **Project** only and shall not be divulged to others or used on any other **Project** without **Engineer's** prior written authorization. **Client** shall make these terms binding on all **Project** participants including owners, employees, contractors and anyone else associated with the **Project**. **Client's** obligation to protect **Engineer's** confidentiality pursuant to this paragraph shall be expressly limited to **Engineer's** intellectual property directly associated with the OPEN CELL™ System and shall not extend to the remainder of this Agreement or **Project**.

10.01 Insurance

A. The **Engineer** shall maintain, at **Engineer's** own expense the minimum insurance coverage as outlined below. Upon request by **Client**, a current Certificate of insurance will be provided.

B. Workers' Compensation Insurance: **Engineer** shall provide and maintain, for all employees engaged in work under this contract, Workers' Compensation and Employers Liability Insurance as required by AS 23.30.045, to include:

1. Statutory coverage;
2. Employer's Liability Protection in the amount of $1,000,000.

C. Commercial Comprehensive General Liability Insurance with coverage limits of not less than $1,000,000 per occurrence and $2,000,000 aggregate for bodily injury, personal injury and property damage.

D. Automobile Liability Insurance: Such insurance shall cover all owned, hired and non-owned vehicles and provide coverage not less than $1,000,000 combined single limit per accident for bodily injury and property damage.

E. Professional Liability Insurance with limits of not less than $1,000,000 each claim and $1,000,000 aggregate.

11.01 Dispute Resolution

A. **Client** and **Engineer** agree to negotiate all disputes for a minimum period of thirty days from the date **Client** or **Engineer** provides notice of a dispute. If the dispute is not resolved by negotiation, the parties agree to mediate the disputes in good faith prior to filing of any lawsuit.

12.01 Total Agreement

A. This **Project** together with any expressly incorporated addenda, exhibits, supplements, or appendices constitutes the entire **Project** between **Client** and **Engineer** and supersedes all prior written or oral understandings. This **Project** may only be amended, supplemented, modified, or canceled by a duly executed written instrument. The following documents are expressly incorporated into this **Project**: **Addendum A** ("Port of Astoria Pier 2 West Rehabilitation Design – Scope and Fee Proposal"), Addendum B ("SUPPLEMENT AND AMENDMENT TO THE TERMS AND CONDITIONS OF THE Project"), **Addendum C** ("Detailed Fee Proposal"), Supplement 1 ("FEDERAL STATUTES SUPPLEMENT"), and Supplement 2 ("PND ENGINEERS, INC. SEATTLE STANDARD RATE SCHEDULE EFFECTIVE FEBRUARY 2023").

IN WITNESS WHEREOF, the parties hereto have executed this **Project**, the **Effective Date** of which is the date of last signature below. The parties acknowledge that each party and its counsel have reviewed and approved this Agreement.

Client: Port of Astoria	**Engineer**: PND Engineers, Inc.
Signature: _____	Signature: _____
Print Name: _____	Print Name: _____
Title: _____	Title:_____
Date Signed:_____	Date Signed: _____
Address for giving Notices:	Address for giving Notices or Payments:
Port of Astoria 422 Gateway Ave, Suite 100 Astoria, OR 97103 (503) 741-3300	PND Engineers, Inc. 3240 Eastlake Ave. E. Seattle, WA 98102 (206) 624-1387

PND Engineers, Inc. (PND)
Standard Form of Project
For
Professional Engineering Services

Addendum B

SUPPLEMENT AND AMENDMENT TO THE TERMS AND CONDITIONS OF THE **Project**.

This Addendum B supplements and amends of the terms and conditions of the **Project**, to include the following language:

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, national origin, or for inquiring about, discussing, or disclosing information about 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, protected veteran status or disability. Contractor/subcontractor agrees to comply with all the provisions set forth in 29 CFR Part 471, Appendix A to Subpart A (Executive Order 13496).

In the event of any inconsistency between the **Project** and Addendum B, the terms of Addendum B shall be construed as final and binding.

END OF ADDENDUM B

P N D
ENGINEERS, INC.

September 28, 2023 234038

Mr. Matt McGrath
Deputy Director
Port of Astoria
422 Gateway Ave. Suite 100
Astoria, OR 97103

SUBJECT: Port of Astoria Pier 2 West Rehabilitation Design – Scope and Fee Proposal

Mr. McGrath:

PND Engineers, Inc. (PND), GeoEngineers, Inc. (Geo), Harbor Power Engineers (HPe), and Appledore Marine Engineering (AME) are pleased to present this scope and fee proposal for engineering services for the Port of Astoria's (Port) Pier 2 West project. The following sections outline our team's project understanding, scope, fee basis, proposed schedule, deliverables, and assumptions and exclusions for your consideration.

PROJECT UNDERSTANDING

The Port has identified the need to rehabilitate Pier 2 West. The existing timber pile supported pier has reached the end of its useful design life: vehicle traffic and surface loading are severely restricted. Bornstein Seafoods and DaYang Seafoods are the current commercial tenants on Pier 2 West. The pier will need to be renovated to stabilize the slope, create a resilient structure that allows flexible vehicle access and surface loading, and support new berthing/mooring features for current and future vessels.

The expected length of the pier replacement is approximately 830 feet long and 70 feet wide, though the width varies. Refer to Figure 1 below for a general overview of the project site.

Figure 1. Port of Astoria Pier 2 – (Google Earth Aerial Photo October 2019)

The construction of this project may be phased over multiple years in order to limit disruption to the tenants. The first phase of construction is anticipated to start in 2025, depending on project funding and the receipt of permits. We understand that the Port will be assisted in the project development by Bergerson Construction Incorporated (BCI), serving as the project CM/GC. Additionally, environmental permitting will be performed by Campbell Environmental, LLC (Campbell). We understand that both BCI and Campbell are contracted directly with the Port and will work in parallel with our Design Team.

We will develop the rehabilitation design based on the design alternative 2: a filled steel sheet pile seawall structure based on the alternatives analysis provided by KPFF on August 27, 2021. However, our design team will evaluate the seawall as an OPEN CELL Bulkhead in order to accommodate the seismic, liquefaction, and lateral spreading forces. The OPEN CELL Bulkhead concept is depicted in the plan view in Figure 2 below.

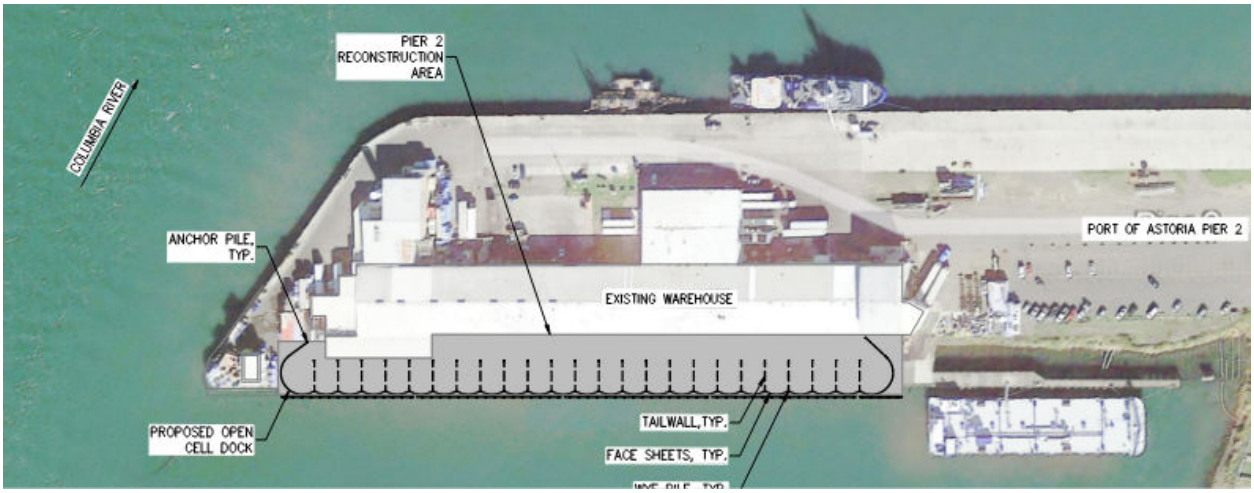


Figure 2. Pier 2 West Plan with OPEN CELL Bulkhead

The engineering work has been divided into tasks. Included in this scope of work are the anticipated schedule, exclusions, assumptions, and fee summary.

1. PROJECT MANAGEMENT

Project management for this Scope of Work (8 months estimated) includes:

1.1 PROJECT COORDINATION

This subtask consists of project management/coordination services between the Port and PND for this Scope of Work, including management of any sub-consultants. PND will schedule engineering work, provide progress reports and regular invoices, and attend meetings.

1.2 MONTHLY PROGRESS REPORT & INVOICING

PND will process and submit team progress reports and invoices on a monthly basis.

1.3 PROJECT MEETINGS

Attend regular project coordination meetings from September 2023 to September 2024. The existing fee schedule is based on 20 remote meetings (to be conducted utilizing MS Teams) and 6 in-person meetings at the Port.

1.4 KAIZEN MEETING

Develop and draft a presentation for the Kaizen meeting to address the preliminary permitting questions raised by the Port and Campbell Environmental.

1.5 PRE-APP MEETING WITH CITY OF ASTORIA

1.6 OTHER MEETINGS:

Additional meetings can be added by amendment as necessary.

Deliverables:

Monthly Progress Invoices

Schedule:

NTP	Day 1
Monthly Progress Invoices	NTP through completion of Design Phase

Budget:

The cost of the above outlined sub-task shall not exceed $48,000.

2. KICK-OFF, SITE EVALUATION, BASIS OF DESIGN, AND ADDITIONAL GEOTECH SITE INVESTIGATION

This task generally consists of reviewing background information, project kick-off, developing data, and adapting the design criteria previously generated by KPFF to a filled OPEN CELL Bulkhead. Sub-tasks under this work task will be the following:

2.1 PROJECT KICKOFF MEETING

The first action will be a project kickoff meeting with the Port, BCI, PND, GeoEngineers, HPe, and other key stakeholders. This meeting will be crucial in formally introducing the entire project team and clearly identifying any unknowns or potential hurdles early in the process. By establishing clear communication channels and developing a clear method to quickly resolve project questions, we can effectively head off any issues that may arise early in the project. Several initial questions will be asked of the Port at this time to help inform the team as we proceed with this initial phase. In particular, we will be interested in learning more about pier condition, the adjacent building condition and improvements, pier operations, vessel types, future proposed usage, and potential site contamination. Additionally, we need to discuss potential funding sources for the project and the conditions of the grant funding that apply to the Design Team specifically, or the design and engineering process generally.

PND's team will meet with the Port to review design tasks, deliverables, future meeting dates, permit and grant implications, team member roles, and desired schedule.

2.2 REVIEW/COLLECT BACKGROUND DATA

Our Team will review the existing information listed below and any other information provided by the Port. At this time, we are in receipt of the follow documents:

- Storm Damage Assessment; Rev 2; 6/13/2018
- Structural Assessment; 12/18/2019
- GRI Scope and Fee; 12/11/2020
- KPFF Alternatives Analysis Proposal; 12/28/2020
- Alternatives Analysis; 04/07/2021
- Seismic and Environmental Memorandum; 06/04/2021
- Design and Alternatives Memorandum (Seismic & Environmental Memorandum) Rev.1; 08/27/2021
- 30% Design Drawings; 11/02/2021
- 30% Design Narrative; 11/19/2021
- 30% Design Drawings; 11/19/2021
- KPFF Cost Estimate; 11/19/2021
- Phase Drawings; 11/19/2021
- Final Design Fee Estimate; 12/13/2021
- Campbell Environment Review and Permitting Assessment; 04/20/2021
- GRI Technical Memorandum; 08/26/2019
- GRI Technical Memorandum; 03/31/2019
- GRI Technical Memorandum; 07/07/2021
- Pier 2 Slip Bathymetry; 03-08-2023

We will review all existing information to determine if there are data gaps or additional information that should be considered for the project. We will also perform a site assessment and document the existing conditions of the structure and stormwater system as it pertains to the pier rehabilitation. In addition to review of the background information, our team will perform stakeholder interviews. The Port's input will be critical in defining the limits of the project and data collection.

Under this task, HPe will review background information on the electrical system and utility providers and work with the Port to confirm the scope of the electrical system design for the remainder of the project.

Additionally, we have tasked AKS Engineering and Forestry to provide a site survey to tie into the site bathymetry. The survey will include a topographic survey, boundary, and utility survey to complete to design of the pier replacement.

2.3 GEOTECHNICAL EXPLORATION

Shortly after kickoff, PND will oversee Geo in the development of a supplement geotechnical investigation and evaluation to complete the geotechnical work developed for the initial design by GRI, Inc.

Geo will review the available information and will complete three bore holes and perform geophysical measurements behind the existing bulkhead.

This supplemental geotechnical exploration will include:

- Utility identification by involving a private locator and complete One Call
- Field investigation including three boreholes (on the upland and east to the existing bulkhead wall) to approximately 100 ft and geophysics survey, including one 2D multi-channel analysis of surface waves (MASW) and microtremor array method (MAM) to obtain the site-specific shear-wave velocity (Vs) profile and one 1D regional MAM to estimate the depth of bedrock with a Vs of 2,500 ft/s.
- Laboratory tests including typical soil index tests and consolidation/compression tests to representative soil samples for each identified soil unit and cyclic direct simple shear tests (CyDSS) on three representative samples to calibrate PM4Silt/PM4Sand soil constitutive models for potential liquifiable/cyclic-softening layers.

The geotechnical evaluation will also include a site-specific seismic hazard analysis (both PSHA and DSHA to incorporate the CSZ Earthquake), develop the earthquake ground motions design criteria and time histories for use in the site response and FLAC analysis (60% design), perform 1D site response analysis to develop site specific design spectra for use in the design of bulkhead per ASCE 61, and geotechnical engineering analyses under static and seismic loading, including slope stability analysis, liquefaction triggering analysis and liquefaction-induced deformation analysis using primarily empirical approaches. We will also perform preliminary ground improvement design analysis to develop the conceptual ground improvement program required and provide rough order magnitude ground improvement design. Our team will also evaluate the properties of the existing piles in the stability of the new bulkhead to avoid removal.

Additionally, a borehole permit can be developed under this task for the offshore borehole to occur in 60% design. This task can be transfer to the Port and Campbell if preferred.

2.4 BASIS OF DESIGN

Our team will develop the basis of design based on feedback from the Port, BCI, Campbell, and key stakeholders using the background information that our Team has reviewed at the outset of the project. This basis of design will be developed in parallel with the geotechnical exploration and will be revised based on the updated geotechnical information as it becomes available. The basis of design will cite available codes and standards used in the development of the pier design - including the codes employed in the seismic analysis and design. We will also incorporate a metocean study to evaluate the wave conditions within the Pier 2 slip with the new pier face.

Our Team will provide a copy to the Port, Campbell, and BCI for feedback. We will document and adjudicate all comments in writing prior to finalizing the Basis of Design Report.

Task 2 Deliverables:

- Summary Report of Background Information
- Basis of Design Report Including Metocean Evaluation

Task 2 Schedule:

Official NTP	September 22, 2023
Kick off Meeting	August 2023

Site Assessment(s)	October 2023
Basis of Design Report	October 30, 2023
Geotechnical Investigation	October 2023

Task 2 Budget:

The cost of Task 2 shall not exceed $186,000.

*Fee is reduced to $171,000 if Port develops the offshore borehole permit for 60% design.

3. REVISED 30% DESIGN

This task consists of developing a revised 30% design using the OPEN CELL System based on the available background documents and may include a draft of the geotechnical information developed under Task 2. Sub-tasks under this work task will be the following:

The Design Team will develop the 30% design for Pier 2 West once we have completed the Basis of Design report. The 30% design will include the initial design of the:

- Sheet pile bulkhead
- Initial geotechnical design (including settlement and liquefaction mitigation)
- Fendering and mooring systems
- Pile cap and pier facing design (including other site desired site features such as shoreside cranes, safety features, etc.
- Site civil, utility, and stormwater design
- Adjacent building shoring design
- Electrical systems including lighting and power (Scope to be determined)
- Corrosion protection design

The 30% design will be reviewed by AME as an independent technical review. Once technical comments are addressed, the design will be submitted to the CM/GC and environmental team for constructability review and cost estimating, as well as permitting compliance feedback. We will incorporate this feedback into the 60% design package. Once we have reviewed and addressed the Port's comments, the project design will be advanced to the point necessary to develop and submit the permit applications to the State and Federal agencies.

Task 3 Deliverable(s):

- Draft Geotechnical Report
- 30% Drawings and Specifications
- Response to comments from Port, ITR, BCI, and Campbell

Task 3 Schedule:

30% Design for Review	January 2024

Task 3 Budget:

The Cost of Task 3 shall be $337,000, with any additional fee to be determined for electrical design based on the scope of the electrical system.

4. CONSTRUCTION PHASING AND PLANNING COORDINATION

The Design Team will work with the Port, BCI, and Campbell to develop a rational and realistic construction phasing plan for the pier rehabilitation based on projected funding, pier operational limitations, tenant needs, construction access and equipment, and permit constraints. The Design Team will provide our extensive expertise in the installation of the OPEN CELL System, ground compaction and improvement, and tailor the phasing to align with the site conditions and contractor equipment available for the site. Our goal in phasing of the pier rehabilitation is to balance demolition and replacement to minimize disruption to the tenant, work within the in-water work windows, and optimize construction efficiency. This will allow for the smoothest transition between phases.

It is anticipated that this task will begin during the 30% design in order to provide key information for the permit submittal. The work on this task may extend beyond 30% design as feedback is received from the agencies on the 30% design construction phasing.

With an established 30% design and construction phasing plan, 30% construction cost estimates can be developed and refined by BCI.

Task 4 Deliverable(s):

- Construction phasing plan, including figures, descriptions, and a temporary pile count.

Task 4 Schedule:

Concurrent with 30% Design

Task 4 Budget:

The cost of Task 5 shall be $44,000, with any additional fee for electrical design based on the scope of the electrical system.

5. 60% DESIGN

The 60% design will not commence until our team receives written notice to proceed from the Port. We understand that this may occur directly after completion of the 30% design, or there may be a pause in the design based on funding and projected timeline for permit approval.

This task consists of advancing the design to a 60% level based on feedback from the 30% design and draft geotechnical report. Sub-tasks under this work task will be the following:

The Design Team will develop the 60% design for Pier 2 West with the completed geotechnical exploration and analysis. The 60% design will include the following intermediate design tasks:

- Sheet pile bulkhead and material take-off
- One supplemental offshore standard penetration test hole to verify the elevation of the soil layers for the refined design (occurs in 60% design in order to allow time to get borehole permit).

- Final geotechnical design (including settlement and liquefaction mitigation)
- Fendering and mooring systems
- Pile cap and pier facing design (including other desired site features, such as shoreside cranes, safety features, etc.)
- Site civil, utility, and stormwater design
- Adjacent building shoring design
- Electrical systems, including lighting and power (Scope to be determined)

The 60% design will be reviewed for a final time by AME as an independent technical review. The 60% design will be submitted to the CM/GC team and environmental team for constructability review and cost estimating as well as permitting compliance based on agency feedback.

Task 5 Deliverable(s):

- Final Geotechnical Report
- 60% Drawings and Specifications
- Response to comments from Port, ITR, BCI, and Campbell

Task 5 Schedule:

60% Design for Review 12 weeks after notice to proceed on this task

Task 5 Budget:

The cost of Task 5 shall be $363,000, with an additional fee for electrical design to be based on the scope of the electrical system.

6. OTHER WORK:

The Design Team will assist the Port with future phases as needed. Future work is expected to include final design, grant funding support, construction administration, construction inspection, quality assurance and project commissioning.

Schedule Summary

Following confirmation of this agreement by the Port, PND agrees to perform the above-described services and to diligently pursue the project and make every reasonable effort to finish all items in a timely manner. Please review the proposed schedules in the above tasks and let us know if there is a need for changes.

Fee Basis Summary

PND will provide these services on a time and expenses basis for a total of $963,000, with the estimated breakdown as shown below. This value does not include electrical engineering design, which we can scope under task 2 to clarify the electrical design needs.

Final amounts may vary between tasks from what is shown below, but they shall remain under the contract total once electrical engineering design is incorporated. Any additional work can be negotiated with the Port using PND's current standard rate schedule included in Attachment B.

1.	Project Management	$48,000
2.	Kick-off, Site Evaluation, Basis of Design, and	
3.	Additional Geotechnical Site Investigation	$186,000*
4.	Revised 30% Design	$337,000
5.	Construction Phase and Planning Coordination	$44,000
6.	60% Design (Pending separate NTP from Port)	$363,000
7.	Other Work (Final Design, Construction Admin, Etc.)	TBD
	Total:	**$978,000***

*Task 2 fee is reduced to $171,000 if Port develops the offshore borehole permit.

A breakdown of fees is included in Attachment A.

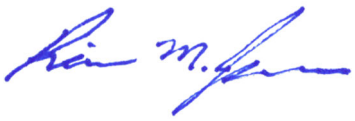
Assumptions and Exclusions

- These fees exclude electrical design beyond the initial task 2. These fees will be developed once the electrical scope is confirmed. In general, electrical engineering design is assumed to be ten percent of the structural and civil design fees.
- Fees exclude final design, construction administration, and construction inspection. Total design fees including site exploration, construction administration, and construction inspection are generally 8 to 10 percent of construction cost.
- The Port and CM/GC will provide feedback on design submittals within 14 calendar days of submittal.
- The geotechnical driller can access the existing pier or adjacent to it.

Thank you for the opportunity to provide this fee proposal. Feel free to let me know if you have any questions on this proposal.

Sincerely,

PND Engineers, Inc. | Seattle Office



Rian M. Johnson, P.E.*, S.E.** Mike Huggins, P.E.*

Vice President Vice President

*P.E. in Oregon and others; **S.E. in Washington State, California and other.

ATTACHMENT A

PROJECT TITLE: Pier 2 West Rehabilitation
CLIENT: Port of Astoria

Addendum C - Detailed Fee Proposal - Pier 2 West Design & Engineering Contract - PND Engineers, Inc. & Port of Astoria

Revised: 9/28/2023

LABOR:

Task No.	Item	Task (Scope of Services)	JC Senior Eng VII $247.50	RJ, CM, MH Senior Eng VI $230.00	C.Fornace CC Senior Eng IV $192.50	MU Senior Eng III $182.50	Senior Eng II $170.00	WT, MT Senior Eng I $160.00	DM Staff Eng IV $142.50	G.Dean CAD Tech VI $142.50	S.Willis Tech IV $165.00	Tech V $142.50	Tech VI $165.00	Total Hours	Labor Cost
1		**Project Management**													
	1	Project Coordination		40	20						8	11		79	$15,937.50
	2	Invoicing, Project Reporting		16								12		28	$5,390.00
	3	Project Meetings(12 video conference)(6 in person meetings)		84										84	$19,320.00
	4	Kaizen Meeting and Prep		10										10	$2,300.00
	5	Pre-App Meeting with City of Astoria		10							8			18	$3,620.00
	6	Other meetings (TBD)													
		Subtotal	**0**	**160**	**20**	**0**	**0**	**0**	**0**	**0**	**16**	**23**	**0**	**219**	**$46,567.50**

EXPENSES:

		Item	Quantity	Per trip	Unit Price	Cost
1	.01	Travel (360 miles/trip each way)(6 meetings)	8	360	0.655	$1,886.40
		TOTAL EXPENSES				**$1,886.40**

SUBCONSULTANTS:

	Quantity	Subtotal	Markup (10%)	Cost
	0		$0.00	$0.00
TOTAL SUBCONSULTANTS				**$0.00**

TASK TOTAL -	**$48,453.90**

PROJECT TITLE: Pier 2 West Rehabilitation Revised: 9/28/2023
CLIENT: Port of Astoria

LABOR:

Task No.	Item	Task (Scope of Services)	JC Senior Eng VII $248	RJ, CM, MH Senior Eng VI $230	C.Fornace CC Senior Eng IV $193	MU Senior Eng III $183	Senior Eng II $170	WT, MT Senior Eng I $160	DM Staff Eng IV $143	G.Dean CAD Tech VI $143	S.Willis Tech IV $165	Tech V $143	Tech VI $165	Total Hours	Labor Cost
2		**Kick-Off, Site Evaluation, Basis of Design, and Additional Site Geotech**													
	1	Project Kick-Off Meeting		16								1		17	$3,822.50
	2	Review/Collect Background Information		12	40				48	24	8	1		133	$22,182.50
	3	Geotechnical Exploration		10	8				8					26	$4,980.00
	4	Develop Basis of Design		10	40	40			40				2	132	$23,330.00
		Subtotal	**0**	**48**	**88**	**40**	**0**	**0**	**96**	**24**	**8**	**2**	**2**	**308**	**$54,315.00**

EXPENSES:

	Item	Quantity	Unit Price	Cost
2 .01	Travel (360 miles/trip each way)(2 trip)	2	360	0.655	$471.60
	TOTAL EXPENSES				**$471.60**

SUBCONSULTANTS:

AKS Survey and Forestry

		Quantity	Subtotal	Markup (10%)	Cost
2 1	Site Survey	1	$15,000.00	$1,500.00	$16,500.00
			$15,000.00		$16,500.00

Harbor Power

		Quantity	Subtotal	Markup (10%)	Cost
2 1	Kick-Off Meeting	1	$500.00	$50.00	$550.00
2 2	Research, Stakeholder Interviews, and Electrical Design Scoping	1	$13,500.00	$1,350.00	$14,850.00
			$14,000.00		$15,400.00

GeoEngineers

		Quantity	Subtotal	Markup (10%)	Cost
2 1	Kick-Off Meeting	1	$500.00	$50.00	$550.00
2 2	Geotechnical Exploration	1	$76,500.00	$7,650.00	$84,150.00
			$77,000.00		$84,700.00

TOTAL SUBCONSULTANTS	**$116,600.00**
TASK TOTAL -	**$171,386.60**

PROJECT TITLE: Pier 2 West Rehabilitation Revised: 9/28/2023
CLIENT: Port of Astoria

LABOR:

Task No.	Item	Task (Scope of Services)	JC Senior Eng VII $248	RJ, CM, MH Senior Eng VI $230	C.Fornace CC Senior Eng IV $193	MU Senior Eng III $183	Senior Eng II $170	WT, MT Senior Eng I $160	DM Staff Eng IV $143	G.Dean CAD Tech VI $143	S.Willis Tech IV $165	Tech V $143	Tech VI $165	Total Hours	Labor Cost
3		**Revised 30% Design**													
	1	OPEN CELL Bulkhead Design	16	80	80				100		8	1		285	$53,472.50
	2	Draft Geotechnical Design	16	16						6		1		39	$8,637.50
	3	Fender and Mooring System Design		4	16			40		24		1		85	$13,962.50
	4	Pile Cap and Pier Facing Design		8	12				40	8				68	$10,990.00
	5	Site civil, utility, and stormwater design		30	32			100		60		1		223	$37,752.50
	6	Building Shoring Design	16	60	80				40	60	16	1		273	$50,192.50
	7	Electrical Design												0	$0.00
	8	Corrosion Projection Design	4	20	16			20	20	2				82	$15,005.00
	9	Coordinate, Review, and Address Review Comments		20	40				40					100	$18,000.00
		Subtotal	**52**	**238**	**276**	**0**	**0**	**160**	**240**	**160**	**24**	**5**	**0**	**1155**	**$208,012.50**

EXPENSES:

		Item	Quantity	Unit Price	Cost
3	.01	Travel (360 miles/trip each way)(0 trips)	0	360	0.655	$0.00
		TOTAL EXPENSES			**$0.00**

SUBCONSULTANTS:

			Quantity	Subtotal	Markup (10%)	Cost
Harbor Power						
3	6	Electrical Systems Design	1		$0.00	$0.00
				$0.00		$0.00
GeoEngineers						
3	2	Geotechnical Seismic Evaluation	1	$55,000.00	$5,500.00	$60,500.00
3	2	Geotechnical Support for Shoring Warehouse	1	$15,000.00	$1,500.00	$16,500.00
3	2	Draft Geotechnical Report without FLAC Modeling	1	$24,000.00	$2,400.00	$26,400.00
				$94,000.00		$103,400.00
Appledore Marine Engineers						
3	9	Independent Technical Review	1	$22,998.00	$2,299.80	$25,297.80
				$22,998.00		$25,297.80
		TOTAL SUBCONSULTANTS				**$128,697.80**

TASK TOTAL - $336,710.30

PROJECT TITLE: Pier 2 West Rehabilitation Revised: 9/28/2023
CLIENT: Port of Astoria

LABOR:

Task No.	Item	Task (Scope of Services)	JC Senior Eng VII $248	RJ, CM, MH Senior Eng VI $230	C.Fornace CC Senior Eng IV $193	MU Senior Eng III $183	Senior Eng II $170	WT, MT Senior Eng I $160	DM Staff Eng IV $143	G.Dean CAD Tech VI $143	S.Willis Tech IV $165	Tech V $143	Tech VI $165	Total Hours	Labor Cost
4		**Construction Phasing and Planning Coordination**													
	1	Develop Initate Phase Plans and Details for Permitting		60	30						40	1		131	$26,317.50
	2	Confirm construction access for design/permitting including site meeting.		30						40	30			100	$17,550.00
		Subtotal	**0**	**90**	**30**	**0**	**0**	**0**	**0**	**40**	**70**	**1**	**0**	**231**	**$43,867.50**

EXPENSES:

		Item	Quantity	Unit Price	Cost
4	1	Travel (360 miles/trip each way)(1 trips)	360	0.655	$235.80
		TOTAL EXPENSES			**$235.80**

SUBCONSULTANTS:

Quantity	Subtotal	Markup (10%)	Cost
0		$0.00	$0.00
	$0.00		$0.00
	TOTAL SUBCONSULTANTS		**$0.00**

TASK TOTAL -	**$44,103.30**

PROJECT TITLE: Pier 2 West Rehabilitation Revised: 9/28/2023
CLIENT: Port of Astoria

LABOR:

Task No.	Item	Task (Scope of Services)	JC Senior Eng VII $248	RJ, CM, MH Senior Eng VI $230	C.Fornace CC Senior Eng IV $193	MU Senior Eng III $183	Senior Eng II $170	WT, MT Senior Eng I $160	DM Staff Eng IV $143	G.Dean CAD Tech VI $143	S.Willis Tech IV $165	Tech V $143	Tech VI $165	Total Hours	Labor Cost
5		**60% Design**													
	1	60% OPEN CELL Bulkhead Design	16	80	80				100		8	1		285	$53,472.50
	2	60% Geotechnical Design	16	16						8		1		41	$8,922.50
	3	Fender and Mooring System Design		4	8			24		16		1		53	$8,722.50
	4	Pile Cap and Pier Facing Design		6	10				30	8				54	$8,720.00
	5	Site civil, utility, and stormwater design		30	32			100		60		1		223	$37,752.50
	6	Building Shoring Design		80	80				40	40	12	1		253	$47,322.50
	7	Electrical Design												0	$0.00
	8	Corrosion Projection Design		6	4			10	20	4				44	$7,170.00
	9	Coordinate, Review, and Address Review Comments		20	40				40					100	$18,000.00
		Subtotal	**32**	**242**	**254**	**0**	**0**	**134**	**230**	**136**	**20**	**5**	**0**	**1053**	**$190,082.50**

EXPENSES:

		Item	Quantity	Unit Price	Cost
5	1	Travel (360 miles/trip each way)(0 trips)	0	360	0.655	$0.00
		TOTAL EXPENSES			**$0.00**

SUBCONSULTANTS:

			Quantity	Subtotal	Markup (10%)	Cost
Harbor Power						
3	6	Electrical Systems Design	1		$0.00	$0.00
				$0.00		$0.00
GeoEngineers						
3	2	Supplemental Offshore SPT and lab testing	1	$35,000.00	$3,500.00	$38,500.00
3	2	Seismic FLAC Analysis	1	$85,000.00	$8,500.00	$93,500.00
3	2	Final Geotech Report	1	$14,000.00	$1,400.00	$15,400.00
				$134,000.00		$147,400.00
Appledore Marine Engineers						
3	9	Independent Technical Review	1	$23,617.00	$2,361.70	$25,978.70
				$23,617.00		$25,978.70
		TOTAL SUBCONSULTANTS				**$173,378.70**

TASK TOTAL - $363,461.20

Task Summary

1	**Project Management**	**$48,453.90**	**$48,000.00**	$48,000.00	5%
2	**Kick-Off, Site Evaluation, BOD, & Geotech Exp.**	**$171,386.60**	**$171,000.00**	$171,000.00	18%
3	**Revised 30% Design**	**$336,710.30**	**$337,000.00**	$337,000.00	35%
4	**Construction Phasing and Planning Coordination**	**$44,103.30**	**$44,000.00**	$44,000.00	5%
5	**60% Design**	**$363,461.20**	**$363,000.00**	$363,000.00	38%
	Project Total	**$964,115.30**	**$963,000.00**	$963,000.00	
2a	**Permit for Offshore Borehole in 60% Design Phase**		**$15,000.00**		

1 Definitions

1.1 Contract

The term “Contract” means the written agreement that expressly incorporates this Supplement into its terms and provisions.

1.2 Other Party

The Party to the Contract that is not the Port of Astoria.

1.3 Subcontractor

For purposes of this Supplement, the term “Subcontractor” means the Other Party.

2 Nondiscrimination

2.1 Equal Employment Opportunity

Subcontractor must comply with the provisions in 41 CFR Part 60-1.4(b)(1) thru (8), relating to the prohibition on discrimination against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

2.2 Section 504 of Rehabilitation Act of 1973, as amended

Subcontractor must comply with the provisions in 29 U.S.C. § 794, relating to the prohibition of discrimination on the basis of handicaps.

2.3 Age Discrimination Act of 1975

Subcontractor must comply with the provisions in 42 U.S.C. Chapter 76, relating to the prohibition of discrimination on the basis of age.

2.4 Title VI of the Civil Rights Act of 1964

Subcontractor must comply with the provisions in 42 U.S.C. § 2000d et seq. (Public Law 88-352), relating to the prohibition on discrimination on the basis of race, color or national origin.

3 Employment

3.1 Davis-Bacon Act

If the cost of Contract is greater than $2,000, Subcontractor must comply with the provisions of the Davis-Bacon Act (40 U.S.C. § 276a – 276a; 40 U.S.C. § 3141 – 3148; as supplemented by 29 CFR Part 5), relating to the requirement to pay wages to laborers and mechanics at a rate not less than the prevailing wages, and other wage and labor matters.

3.2 Work Hours and Safety Standards

If the cost of Contract is greater than $100,000 and involves the employment of mechanics or laborers, Subcontractor must comply with the provisions in 40 U.S.C. § 3701 – 3708, as supplemented by 29 CFR Part 5, relating to work hours and safety standards of laborers and mechanics.

3.3 Copeland Act

Subcontractor must comply with the provisions in the Copeland Act (40 U.S.C. § 276c; 18 U.S.C. § 874), relating to unfair inducement of contractor’s employees into giving up any part of the agreed-to compensation.

3.4 Contract Work Hours And Safety Standards Act

Subcontractor must comply with the provisions in the Contract Work Hours And Safety Standards Act (40 U.S.C. §§327-333; 40 USC § 3701 – 3708), relating to the labor standards for federally-assisted construction sub-agreements.

4 Environmental

4.1 Clean Air Act

Subcontractor must comply with the provisions in the Clean Air Act (42 U.S.C. §§7401 et seq.), relating to the prohibition on federal assistance to activities which do not comply with the state implementation plans for national primary and secondary ambient air quality standards.

4.2 Clean Water Act

Subcontractor must comply with the provisions in the Water Pollution Control Act (33 U.S.C. § 1251-1387), as amended, relating to the prohibition on federal assistance to activities which do not comply with the Act.

4.3 Safe Drinking Water Act of 1974

Subcontractor must comply with the provisions in the Safe Drinking Water Act (Public Law 93-523; 42 U.S.C. Chapter 6A, Subchapter XII), as amended relating to the protection of underground sources of drinking water.

4.4 Endangered Species Act of 1973

Subcontractor must comply with the provisions in the Endangered Species Act of 1973 (Public Law 93-205; 16 USC Chapter 35), as amended, relating to the protection of endangered species.

4.5 Wild & Scenic Rivers Act of 1968

Subcontractor must comply with the provisions in the Wild & Scenic Rivers Act of 1968 (16 USC § 1271 et seq.; 16 USC Chapter28), as amended, relating to protecting components or potential components of the national wild and scenic rivers system.

4.6 Procurement of Recovered Materials

Subcontractor must comply with Section 6002 of the Solid Waste Disposal Act (P.L. 89-272 (1965), codified as amended by the Resource Conservation and Recovery Act (42 U.S.C. § 6962.). The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

4.7 Lead-Based Poisoning Prevention Act

Subcontractor must comply with the requirements the Lead-Based Poisoning Prevention Act (42 USC § 4801 et seq.), relating to the prohibition of lead-based paint in construction or rehabilitation of residence structures, is hereby incorporated by reference into the Contract.

5 False Claims Act

Subcontractor must comply with the requirements of the False Claims Act (31 U.S.C. § 3729- 3733), relating to the prohibition on submission of false or fraudulent claims for payment to the Federal Government.

6 Whistleblower Protections

Subcontractor must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C section 2409, 41 U.S.C. section 4712, and 10 U.S.C. section 2324, 41 U.S.C. sections 4304 and 4310.

7 Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000

Subcontractor must comply with the requirements Section 106(g) of the Trafficking Victims Protection Act (TVPA) of 2000 (22 USC § 7104), which relates to the following: (1) Engaging in severe forms of trafficking in persons during the period of time that the award is in effect (2) Procuring a commercial sex act during the period of time that the award is in effect or (3) Using forced labor in the performance of the award or subawards under the award.

8 Debarment and Suspension

Subcontractors must comply with regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance program.

9 Hotel and Motel Fire Safety Act

Subcontractor must comply with Section 6 of the Hotel and Motel Fire Safety Act of 1990 (15 U.S.C. § 2225a), relating to compliance with the fire prevention and control guidelines contained therein for all conferences, meetings, conventions, or training space funded in whole or in part with federal funds.

10 John S. McCain National Defense Authorization Act

Subcontractor must comply with section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (P. L. 115-232 (2018) and 2 C.F.R. sections 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200), which prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

11 Patents & Intellectual Property Rights

Subcontractor must comply with the Bayh-Dole Act (35 U.S.C. § 200 et seq.), unless otherwise provided by law. Subcontractor must cooperate with the Port in complying with specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. section 401.14. Any conflicting provisions in the Contract are superseded by this subsection.

12 Required Use of U.S. Materials

Subcontractor must comply with the Build America, Buy America Act (BABAA) (Infrastructure Investment and Jobs Act Sections 70901-70927, P.L. 117-58 (2021)), Executive Order 14005 (Ensuring the Future is Made in All of America by All of America's Workers), and the Office of Management and Budget (OMB) Memorandum M-22-11 (Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure).

12.1 Iron and Steel

All iron and steel used in the project must be produced in the United States; this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

12.2 Manufactured Goods

All manufactured products used in the project must be produced in the United States; this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

12.3 Construction Materials

All construction materials must be manufactured in the United States; this means that all manufacturing processes for the construction material occurred in the United States.

12.4 Application

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

13 Other Provisions

Titles and headings of sections of this Supplement are for convenience only and shall not affect the construction of any provision of this Supplement.

ENGINEERS, INC.

PND ENGINEERS, INC.
SEATTLE STANDARD RATE SCHEDULE
EFFECTIVE FEBRUARY 2023

Professional:	Staff Engineer I	$110.00
	Staff Engineer II	$127.50
	Staff Engineer III	$137.50
	Staff Engineer IV	$142.50
	Staff Engineer V	$147.50
	Staff Engineer VI	$165.00
	Senior Engineer I	$160.00
	Senior Engineer II	$170.00
	Senior Engineer III	$182.50
	Senior Engineer IV	$192.50
	Senior Engineer V	$210.00
	Senior Engineer VI	$230.00
	Senior Engineer VII	$247.50
	Environmental Scientist I	$115.00
	Environmental Scientist II	$137.50
	Environmental Scientist III	$155.00
	Environmental Scientist IV	$170.00
	Environmental Scientist V	$187.50
	Environmental Scientist VI	$197.50
Surveyors:	Senior Land Surveyor I	$127.50
	Senior Land Surveyor II	$137.50
	Senior Land Surveyor III	$147.50
Technicians:	Technician I	$65.00
	Technician II	$95.00
	Technician III	$105.00
	Technician IV	$115.00
	Technician V	$142.50
	Technician VI	$165.00
	CAD Designer III	$95.00
	CAD Designer IV	$110.00
	CAD Designer V	$132.50
	CAD Designer VI	$142.50

Port of Astoria

REQUEST FOR EXPENDITURE

RE# 0165

SECTION A

Date:	Oct 11, 2023	Department:	Airport
Staff Contact:	Matt McGrath	Vendor (if determined):	Porior Engineering
Description of Product or Service being requested:	Draft design & engineering documents for replacement of Tide Gate #22 at the east end of Runway 8-26		
Purpose of Product or Service being requested:	Existing tide gate is failing and must be replaced		
Cost Estimate:	$33,731.00 (Cost to be reimbursed under Bus OR Grant # TG2204)		

SECTION B

1. Does this expenditure exist within the current budget? ☐ No (Skip to Section C-2) / ☑ Yes (Proceed) (Original Budget Amount) $ 49,800

2. Does this expenditure exceed $5,000? ☐ No (Skip to Section D) / ☑ Yes (Proceed to Section C-1)

3. Will services be performed on Port of Astoria property? ☐ No ☑ Yes

SECTION C

1.

	TOTAL	NET OF GRANTS
Account # for Budgeted Item (ex: XXX-XX)	710-00	
FY 2022-2023 Budget for this Account	$ 3,489,034	$ 1,423,914
Amount Spent Year-to-Date for this Account	$ 196,480	$ 174,716
Amount Available to Spend for this Account	$ 3,292,554	$ 1,249,198

Does this Request for Expediture require Commission Approval (>=$25,000)? ☑ Yes / ☐ No

2.

If Not included in the current budget or the current budget for this account # has been spent:

Does this Request for Expediture require Commission Approval (>=$5,000)? ☐ Yes / ☐ No

	TOTAL	NET OF GRANTS
Account # to deduct funds from to reallocate & accommodate this expenditure (ex: XXX-XX)		
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)

10/17/2023

SECTION E

		M.D. McGrath	10-12-23
Signature of Department Head	Date	Signature of Deputy Director	Date
[signature]	10-12-23	[signature]	10-12-23
Signature of Finance Manager	Date	Signature of Executive Director (required if cost is unbudgeted, or > $5,000 budgeted)	Date

(over for Quotation Analysis)

Port of Astoria
Quotation Analysis

Port of Astoria

Project: Tide Gate #22 Engineering

Project Manager: Shane Jensen **Quotes obtained by:** Shane Jensen

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
Porior Engineering LLC	$33,731.00				

Vendor selection & justification: (REQUIRED) See attached Selection & Justification Document

Astoria Airport Tide Gate Study – TG2204
Engineer Selection

Four firms were directly solicited for the engineering portion of this project: Waterways Consulting, Inc.; River Design Group; Porior Engineering; and Dyer Partnership Engineers & Planners. These firms' names were obtained from Emilee Cooke at Business Oregon. Solicitation documents were emailed to all four firms on 8.23.23.

Discussion with Aaron at Dyer Partnership on 9.5.23 revealed that although this is the type of work the firm does on a regular basis, their distance from Astoria (4-5 hours) and their limited availability render this firm a less than ideal choice. Aaron advised that the Port inquire into the other firms' availability and follow up with them only if the Port was not able to find any other firm to assist in this endeavor. Consequently, the Dyer Partnership was eliminated from consideration.

Discussion with – and follow up emails from and to – Scott Wright at River Design Group on 8.24.23 and 8.25.23 indicated an interest in the project. However, Scott never responded to a further email to him on 8.25.23 concerning clarification of the project and answers to specific questions he raised in his previous email. The Port left a voicemail with a live person at River Design Group on 9.5.23 asking for a call back from Scott Wright to discuss further and see if he is interested in submitting a bid for the project. As of 10.11.23, there has been no response.

Despite the initial solicitation and the follow-up voicemail on 9.5.23, Waterways Consulting, Inc. never responded.

Porior Engineering is the only responsive bidder.

Based on the Port's discussion with Dyer Partnership, River Design Group, and Porior Engineering, it is evident that the consultants in this field and with this type of expertise are very busy and have very limited availability. It is not surprising, therefore, that only one firm responded.

As per the Public Contracting Rules and Procedures of the Port of Astoria established in Resolution 2017-07 (hereafter, "Port Rules"), as well as the Oregon Attorney General's Model Public Contracting Rules ("Model Rules"), specifically OAR 137-048-0200, the Port of Astoria was not required to solicit competitive bids for the engineering portion of this project.

Under § B(3)(b) of the Port Rules, a contract for architectural, engineering, surveying, and photogrammetry services may be entered into by direct appointment (without competitive bidding) if the cost of such services for the project will not exceed $100,000." The contract at issue here is a contract with an Oregon-licensed engineer and the contract amount falls under this threshold. Therefore, this contract may be entered into by direct appointment.

This is consistent with the Model Rules, which provide as follows:

OAR 137-048-0200

Direct Appointment Procedure

(1) Contracting Agencies may enter into a Contract directly with a Consultant without following the selection procedures set forth elsewhere in these rules if:

(a) Emergency. Contracting Agency finds that an Emergency exists; or

(b) Small Estimated Fee. The Estimated Fee to be paid under the Contract does not exceed $100,000;

A "Consultant" includes engineer, as set forth below:

OAR 137-048-0110

Definitions

In addition to the definitions set forth in ORS 279A.010, 279C.100, and OAR 137-046-0110, the following definitions apply to these division 48 rules:

(1) "Consultant" means an Architect, Engineer, Photogrammetrist, Transportation Planner, Land Surveyor or provider of Related Services. A Consultant includes a business entity that employs Architects, Engineers, Photogrammetrists, Transportation Planners, Land Surveyors or providers of Related Services, or any combination of the foregoing. Provided, however, when a Contracting Agency is entering into a direct Contract under OAR 137-048-0200(1)(c) or (d), the "Consultant" must be an Architect, Engineer, Photogrammetrist, Transportation Planner or Land Surveyor, as required by ORS 279C.115(1).

As the estimated cost of the project was under $100,000, and as the prime consultant is an engineer, the Port was not required under its procurement rules to solicit competitive bids for this contract. However, due to the limited availability of these types of consultants, the Port chose to directly solicit the four firms discussed above. Therefore, the Port has expended all reasonable efforts to conduct a fair procurement process.

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) is made and entered into between the Port of Astoria ("Port") and Porior Engineering LLC ("Engineer") [collectively, “the Parties]. The Agreement shall be effective upon signing by both Parties (“Effective Date”).

In consideration of the Parties’ mutual obligations contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1 Scope of Services

1.1 Services to be Provided.

Port desires to replace Tide Gate #22, located at the east end of Runway 8-26 (“the Project”). Subject to the terms and conditions contained in this Agreement, Engineer will perform engineering services for the Project as defined in Addendum A ("Port of Astoria Tide Gate Replacement Proposal for Engineering Services"), which is attached hereto and incorporated herein by reference (the “Services”), as well as all other necessary or appropriate services customarily provided by engineers in connection with its performance of the Services. Engineer will provide, at Engineer’s cost and expense, all materials, equipment, and supplies necessary or appropriate to perform the Services.

1.2 Standard of Care.

Engineer shall perform the Services to the best of Engineer’s ability, within the Budget defined in Addendum A, and otherwise consistent with the level of care and skill ordinarily exercised by other professional engineers under similar circumstances. No other representation, warranty, or guaranty, express or implied, is included in or intended by this Agreement or any other of Engineer’s services, proposals, agreements, or reports contemplated by this Agreement.

1.3 Other Providers.

Port retains the right to cause or direct other engineers or consultants to provide services in connection with the Project that are the same or similar to the Services provided by Engineer under this Agreement.

Engineer acknowledges that Port has retained a separate consultant to complete all tasks connected with securing necessary permits for the Project (hereafter, "Permit Consultant"). Engineer agrees to work, collaborate, and cooperate with the Permit Consultant during the completion of the Project, including but not limited to providing information, drawings, or any other data requested by the Permit Consultant in connection with the permitting process.

1.4 Time for Performance

Time is of the essence with respect to Engineer's performance of its obligations under this Agreement. Engineer shall employ all necessary resources, consistent with its obligations under this Agreement, to complete the Services in an expeditious and timely manner. Unless otherwise agreed by the Parties, all Services will be completed no later than **May 1, 2024.**

2 Compensation

2.1 Payments

Subject to the terms and conditions contained in this Agreement, Port will pay Engineer an amount not to exceed **$33,731.00**. Payments shall be made monthly in proportion to the Services actually performed and the costs and expenses actually incurred, consistent with the hourly rates and other fees defined on page 6 of Addendum A. Port reserves the right to reject any invoice with insufficient itemization, documentation, or other details necessary, in the sole discretion of Port, to substantiate the invoice. Port must approve or request additional documentation within seven (7) calendar days of receipt of each invoice. Port shall pay the amount due under each Invoice within thirty (30) days after Port has approved the Invoice.

2.2 No Benefits.

Consistent with Engineer's status as an Independent Contractor, Port will not provide any benefits to Engineer and Engineer will be solely responsible for obtaining Engineer's own benefits, including, without limitation, insurance, medical reimbursement, and retirement plans.

2.3 Taxes; Licenses

Port will not withhold any taxes from any payments made to Engineer, and Engineer will be solely responsible for paying any and all taxes of whatever type arising out of or resulting from Engineer's performance of the Services. Engineer will be solely responsible for obtaining all licenses, approvals, and certificates necessary or appropriate to perform the Services.

3 Relationship

3.1 Independent Contractor.

Engineer is an independent contractor and not an employee of Port. Engineer will be free from direction and control over the means and manner of performing the Services, subject only to the right of Port to specify the desired results. This Agreement does not create an agency relationship, partnership, or joint venture between Port and Engineer.

Engineer does not have the authority to bind Port or represent to any person that Engineer is an agent of Port.

4 Representations, Warranties, Covenants

In addition to any other Engineer representation, warranty, and/or covenant made in this Agreement, Engineer represents, warrants, and covenants the Port as follows:

4.1 Authority; Binding Obligation; Conflicts.

Engineer is duly organized, validly existing, and in good standing under applicable Oregon law. Engineer has full power and authority to sign and deliver this Agreement and to perform all Engineer's obligations under this Agreement. This Agreement is the legal, valid, and binding obligation of Engineer, enforceable against Engineer in accordance with its terms. The signing and delivery of this Agreement by Engineer and the performance by Engineer of all Engineer's obligations under this Agreement will not (a) breach any agreement to which Engineer is a party, or give any person the right to accelerate any obligation of Engineer; (b) violate any law, judgment, and/or order to which Engineer is subject; or (c) require the consent, authorization, and/or approval of any person, including, without limitation, any governmental body not a party to this Agreement. By signing below, Engineer certifies that Engineer (and Engineer's principals) are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in and/or performing the Services under this Agreement.

4.2 Insurance

During the term of this Agreement, Engineer will obtain and maintain, in addition to any other insurance required under this Agreement, the following minimum levels of insurance: (a) professional liability insurance for all losses or claims arising out of or related to Engineer's performance of its obligations under this Agreement (including, without limitation, damages as a result of death or injury to any person or destruction or damage to any property) with limits of no less than $1,000,000.00 per occurrence, $2,000,000.00 in the aggregate; (b) comprehensive automobile liability insurance for all owned, non-owned, and hired vehicles (if any) that are or may be used by Engineer in connection with Engineer's performance of the Services with minimum limits required by law; (c) errors and omissions insurance with limits of no less than $1,000,000.00; and (d) workers' compensation insurance in form and amount sufficient to satisfy the requirements of applicable Oregon law. Each liability insurance policy (except errors and omissions insurance) required under this Agreement will be in form and content satisfactory to Port, will list Port and each Port Representative (as defined below) as an additional insureds, and will contain a severability of interest clause; and the workers' compensation insurance will contain a waiver of subrogation in favor of Port. Insurance policies reqiured under this Agreement may not be cancelled without ten (10) days' prior

written notice to Port. Engineer's insurance will be primary and any insurance carried by Port will be excess and noncontributing.

Upon Engineer's execution of this Agreement and at any other time requested by Port, Engineer will furnish Port with appropriate documentation evidencing the insurance coverage (and provisions) and endorsements Engineer is required to obtain under this Agreement. If Engineer fails to maintain insurance as required, Port may terminate this Agreement due to Engineer's default and pursue all rights and remedies provided under this Agreement and/or applicable law.

4.3 Compliance with Laws

Engineer will comply and perform the Services in accordance with all applicable federal, state, and local laws, regulations, restrictions, orders, codes, rules, and/or ordinances related to or concerning, whether directly or indirectly, Engineer, this Agreement, and/or the Services, including, without limitation, all applicable Port ordinances, resolutions, policies, regulations, orders, restrictions, and guidelines, all as now in force and/or which may hereafter be amended, modified, enacted, or promulgated. Without otherwise limiting the generality of the immediately preceding sentence, Engineer will comply with each obligation applicable to Engineer and/or this Agreement under ORS 279B.220, 279B.225, 279B.230, and 279B.235, which statutes are hereby incorporated herein by reference. Prior to the Effective Date, Engineer obtained all licenses, approvals, and/or certificates necessary or appropriate to perform the Services.

4.4 Indemnification

Engineer will indemnify and hold Port and each employee, officer, and representative (individually and collectively, "Port Representative(s)"), harmless from and against all claims, actions, proceedings, damages, liabilities, injuries, losses, and expenses of every kind, whether known or unknown, including, without limitation, attorney fees and costs, resulting from or arising out of the following: (a) damage, injury, and/or death to person or property caused by Engineer's acts and/or omissions (and/or the acts and/or omissions of Engineer's members, managers, directors, officers, shareholders, employees, agents, representatives, Engineers, and/or contractors (individually and collectively, "Engineer Representative(s)"); (b) Engineer's failure to pay any tax arising out of or resulting from the performance of the Services; and/or (c) Engineer's breach and/or failure to perform any Engineer representation, warranty, covenant, and/or obligation contained in this Agreement. Engineer's indemnification obligations provided in this Section 4.4 will survive the termination of this Agreement.

4.5 Assignment of Studies and Reports

Execution of this Agreement by Engineer shall effect an assignment of all studies, reports, data, documents, and/or materials of any kind produced under this Agreement

(individually and collectively, the "Deliverable(s)"). All Deliverables provided to Port will become the property of Port, who may use them without Engineer's permission for any proper purpose relating to the Services, including, without limitation, additions to or completion of the Services. Port agrees that Port's modification and/or reuse of the Deliverables without Engineer's prior approval will be at Port's sole risk. Engineer will defend all suits or claims for infringement of patent, trademark, and/or copyright for which Engineer is responsible (including, without limitation, any claims which may be brought against Port), and Engineer will be liable to Port for all losses arising therefrom, including costs, expenses, and attorney fees.

4.6 Records

Engineer will maintain complete and accurate records concerning all Services performed, the number of hours each person spent to perform the Services, and all documents produced under this Agreement for a period of five (5) years after the termination of this Agreement. Engineer's records concerning the Services will be maintained in accordance with sound accounting practices and in an acceptable cost account system. Engineer agrees to provide Port with access to any books, documents, papers, and/or records of Engineer which are directly pertinent to this Agreement and/or the Services, including, without limitation, Engineer's time and billing records, for the purpose of making audit, examination, excerpts and transcriptions. Engineer agrees to maintain all books, records, and/or reports required under this Agreement for a period of no less than five (5) years after final payment is made and all pending matters are closed. Engineer acknowledges that, unless specifically exempted by law, all records prepared for or retained by Port in relation to the Project or the Services are public records subject to disclosure under Oregon law.

4.7 Confidential Information

During the term of this Agreement, and at all times thereafter, Engineer will maintain all Confidential Information (as defined below) in the strictest confidence and will not directly or indirectly use, communicate, or disclose any Confidential Information to any person, or remove or make reproductions of any Confidential Information, except that Engineer may (a) use Confidential Information to perform the Services to the extent necessary, and (b) communicate or disclose Confidential Information in accordance with a judicial or other governmental order or as required by applicable law, but only if Engineer promptly notifies the Port of the order and complies with any applicable protective or similar order. Engineer will promptly notify the Port of any unauthorized use, communication, or disclosure of any Confidential Information and will assist Port in every way to retrieve any Confidential Information that was used, communicated, or disclosed by Engineer and will exert Engineer's best efforts to mitigate the harm caused by the unauthorized use, communication, or disclosure of any Confidential Information. For purposes of this Agreement, the term "Confidential Information" means all

documentation, information, and/or materials identified by Port as confidential and/or any documentation, information, and/or materials relating to or concerning Port's future plans, business affairs, employment, legal, and litigation matters that need to be protected from improper disclosure, in whatever form (e.g., hard and electronic copies, etc.), that is received or assessed by Engineer; provided, however, the term "Confidential Information" does not include Port's public records which are non-exempt public records under applicable federal, state, and/or local laws.

4.8 Term; Termination

Subject to the terms and conditions contained in this Agreement, (a) this Agreement may be terminated at any time by the mutual written agreement of the Parties, and/or (b) Port may terminate this Agreement for convenience and without cause by giving thirty (30) days' prior written notice of such termination to the Engineer. Upon receipt of the notice of termination, except as explicitly directed by Port, Engineer shall immediately discontinue performing all Services.

4.9 Immediate Termination

Notwithstanding anything contained in this Agreement to the contrary, Port may terminate this Agreement immediately upon notice to Engineer upon the happening of any of the following events: (a) Engineer engages in any form of dishonesty or conduct involving moral turpitude related to Engineer's independent contractor relationship with Port or that otherwise reflects adversely on the reputation or operations of Port; (b) Engineer fails to comply with any applicable law related to Engineer's independent contractor relationship with Port; (c) problems occur in connection with the performance of the Services that cannot be resolved with reasonable effort by the Parties; and/or (d) Engineer breaches and/or otherwise fails to perform any Engineer representation, warranty, covenant, and/or obligation contained in this Agreement. The determination as to whether any of the aforementioned events have occurred will be made by Port in its sole discretion.

4.10 Consequences of Termination

Upon termination of this Agreement, Port will be responsible only for compensating Engineer for Services actually performed. Except as specifically provided herein, Port shall not be responsible for penalties or consequential damages arising from such termination, including but not limited those arising under any agreement between Engineer and any third party. Termination of this Agreement by Port will not constitute a waiver or termination of any rights, claims, and/or causes of action Port may have against Engineer. Within a reasonable period of time after termination of this Agreement [but in no event later than five (5) days after termination], Engineer will deliver to Port all materials and documentation related to or concerning the Services.

4.11 Remedies

If a party breaches and/or otherwise fails to perform any of its obligations under this Agreement, the non-defaulting party may, in addition to any other remedy provided to the non-defaulting party under this Agreement, pursue all remedies available to the non-defaulting party at law or in equity. All available remedies are cumulative and may be exercised singularly or concurrently.

5 Miscellaneous

5.1 Severability

Each provision contained in this Agreement will be treated as a separate and independent provision. The unenforceability of any one provision will in no way impair the enforceability of any other provision contained herein. Any reading of a provision causing unenforceability will yield to a construction permitting enforcement to the maximum extent permitted by applicable law.

5.2 Binding Effect

This Agreement will be binding on the Parties and their respective heirs, personal representatives, successors, and permitted assigns, and will inure to their benefit.

5.3 Entire Agreement; Amendments

This Agreement contains the entire agreement and understanding between the Parties with respect to the subject matter herein described. It contains all the terms and conditions of the Parties' agreement and supersedes any other oral or written negotiations, discussions, representations, or agreements. Engineer has not relied on any promises, statements, representations, or warranties except as set forth expressly in this Agreement. This Agreement may be amended only by a written agreement signed by each party.

5.4 Governing Law; Venue

This Agreement is governed by the laws of the State of Oregon, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing this Agreement. Any action or proceeding arising out of this Agreement will be litigated in courts located in Clatsop County, Oregon. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Clatsop County, Oregon.

5.5 Attachments

Any exhibits, schedules, instruments, documents, and other attachments referenced in this Agreement are part of this Agreement; provided, however, if any exhibit, schedule, instrument, document, and/or other attachment conflicts with this Agreement, the terms

contained in this Agreement will control. The parties will sign other documents and take other actions reasonably necessary to further effect and evidence this Agreement.

5.6 Notices

All notices or other communications required or permitted by this Agreement must be in writing, delivered to the Parties at the addresses set forth below or any other address that a party may designate to the other party. Such notices are considered delivered upon actual receipt if delivered personally, by fax or email transmission (with electronic confirmation of delivery), or by a nationally recognized overnight delivery service, or at the end of the third (3rd) business day after the date of deposit if deposited in the United States mail, postage pre-paid, certified, return receipt requested.

5.7 Waiver

No provision of this Agreement may be modified, waived, or discharged unless such waiver, modification, or discharge is agreed to in writing by the Parties. No waiver of either party at any time of the breach of, or lack of compliance with, any conditions or provisions of this Agreement, will be deemed a waiver of other provisions or conditions hereof.

5.8 Force Majeure

Neither party will hold the other responsible for damages for delays in performance caused by acts of God or other events beyond the control of the other party and which could not have been reasonably foreseen or prevented. If such events occur, the Parties will use their best efforts to overcome all difficulties arising and to resume as soon as reasonably possible performance of Services under this Agreement. Delays due to force majeure will extend the contract completion date for specified services commensurately or will, at the option of either party, make this Agreement subject to termination or to renegotiation.

5.9 Suspension

Port may suspend further performances of Services by Engineer by ten (10) days prior written notice. If payment of invoices by Port is not maintained on a thirty (30) day current basis, Engineer may suspend further performance until such payment is restored to a current basis. Suspension for any reason exceeding thirty (30) days will, at the option of either Party, make this Agreement subject to termination or renegotiation.

5.10 No Third-Party Beneficiaries

This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer

upon any other Person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

5.11 Assignment

Neither party to this Agreement may delegate, assign, or otherwise transfer its rights and interests or duties and obligations under this Agreement without prior written consent of the other party.

5.12 Dispute Resolution

Any dispute regarding the interpretation or enforcement of this Agreement shall be resolved in accordance with the following dispute resolution procedure:

1. Representatives of each of the Parties with the authority to settle the dispute will meet and confer in a good-faith attempt to settle the dispute.

2. If the Parties cannot reach a mutually acceptable resolution, they shall proceed to non-binding mediation using a mutually agreed upon mediator, with each party being responsible for one-half of the mediator's fee. Mediation is an express condition precedent to binding arbitration, as provided below.

3. If good-faith negotiation and mediation do not resolve the dispute, the dispute shall be submitted to binding arbitration according to the then-effective arbitration rules of Arbitration Services of Portland, Inc. Any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

5.13 Attorneys' Fees And Costs

If any action or proceeding is commenced to enforce or interpret any of the terms or conditions of this Agreement or the performance thereof, including the collection of any payments due hereunder, the prevailing party will be entitled to recover all reasonable attorneys' fees, costs, and expenses, including staff time at current billing rates, expert witness fees, court costs, and other claim-related expenses.

IN WITNESS WHEREOF, the Parties have executed this Professional Services Agreement, which shall be effective as of the last date written below.

Engineer:

By: _____ Date: _____

Name
(Printed):_____

Title:_____

Mailing
Address:_____

Phone: _____

Email:_____

Port of Astoria:

By: _____ Date: _____

Name
(Printed):_____

Title:_____

Mailing Address: 422 Gateway Ave, Suite 100, Astoria, OR 97103

Will Isom
Phone: (503) 741-3332; Email: wisom@portofastoria.com

Matt McGrath
Phone: (503) 741-3336; (503) 298-0909; Email: mmcgrath@portofastoria.com

Addendum A to that Professional Services Agreement between the Port of Astoria and Porior Engineering, concerning the Planning component of the replacement of Tide Gate 22 at Astoria Regional Airport

PORT OF ASTORIA TIDEGATE REPLACEMENT PROPOSAL FOR ENGINEERING SERVICES

Porior Engineering

Engineering Proposal – Revised 27 Sept 2023

Donald Porior ,PE, PLS State of Oregon
mrdon@porior.com

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Porior Engineering
Unit 5,
13694 S.W. Hall Blvd.
Tigard, Oregon, 97233
Phone: 541-290-1693

Transmittal Letter

October 11, 2023

To: Shane Jensen JD Grant Consultant, 208-260-1592

Reference: Port of Astoria Request for Proposal –Tide Gate Replacement Engineering Services.

Shane Jensen

Porior Engineering is pleased to present this proposal for Engineering Services to the Port of Astoria.

In preparation of this proposal, members of our team reviewed the support information and inspection report by Nehalem Marine Mfg., a local Tillamook tidegate supplier.

The following Timeline is proposed

1. The first item of work would be the site survey and acquisition of lidar data in an Autocad format.
2. Using that information the fish passage plan would be completed within 30 days for submission to ODFW.
3. Two weeks later the 404 permit will be submitted for review. Draft permit documents would be reviewed by Shane Jensen who will coordinate getting the necessary signatures on all submittals.
4. Several task items are weather dependent such as surveying, field reviews, etc.

This response includes the typical contract submissions, description of tasks, and price offer for proposed work items. On sheet 7 ,we detailed how each work item was developed.

1. Individual with authority to bind the proposal contractually: Donald G. Porior, PE,PLS

2. Date of Proposal: 12 Sept 2023

3. Confirmation of the receipt of the RFP and all the addenda thereto.

We have received the Astoria Tidegate Replacement Project Proposal which is copied in attachment B.

4. Statement that proposal is valid for 60-day period from the due date of the proposal

The proposal is valid for 60 days from date of proposal.

5. Legal Name of Firm: Porior Engineering LLC

6. Address, Telephone number and email address of firm:

Porior Engineering LLC
Unit 5, 13694 S.W. Hall Blvd. Tigard, Oregon, 97233
Phone: 541-290-1693,Email: mrdon@porior.com

The following attachments are included .

Attachment A- Bid by Statewide Land Surveying
Attachment B- RFP Port of Astoria

We are looking forward to working with your team on this project. If you have any additional questions or information, feel free to contact us.

Respectfully Yours
Donald G Porior 541-290-1693

Qualifications

Don Porior

Unit 5,
13694 S.W. Hall Blvd.
Tigard, Oregon, 97233
Phone: 541-290-1693
Email: mrdon@porior.com

Principle: Porior Engineering
4/01 to Present.

As a principal engineer for Porior Engineering, Don Porior coordinates and provides completed designs for stream restoration and fish enhancement projects. Projects have included culverts, bridges, fords, tide gates, stream restoration, flood studies, hydraulic reposts, 404 permits, erosion control permits, water quality structures, and subdivision designs.

As part of the design process, Mr. Porior coordinates surveys, prepares alternatives, review alternatives with the clients and landowners, prepare final plans and specifications and reviews inspections during critical phases of work.

Porior Engineering has been in business since April of 2001, Mr. Porior has devoted full time to this work. Our clients have included The Bureau of Land Management, numerous watershed councils, Ducks Unlimited, Trout Unlimited ,the U. S. Forest Service, The Partnership for the Umpqua Rivers, Ten Mile Lake Association, the Tillamook creamery, and others.

We have working relationships with culvert, bridge, geotextiles, and pre-casting firms in Oregon. Our company has worked to provide the best alternatives for each site to include improvements in many of the products currently on the market.

Coordination work includes making presentations to the respective agencies and occasionally providing training to their staff.

Currently working as Engineer of Record on Tidegate Replacement Contract in Reedsport Oregon for sites on the Lower Smith River Road under contract with the Partnership of the Umpqua Rivers Watershed Association and Three large Wetland Enhancement Projects for the Ten Mile Lake Watershed Association.

Project Approach at Port of Astoria Tidegate Replacement Site

1. Award of Contract and commence Services.
    a. Owner to Contract Site map and set controls to include Bathymetry data. Survey work is proposed using a local Oregon survey company. Surveyor to coordinate lidar maps and construction survey data with airport staff to create autocad topographic maps for design and later construction administration. See Bid Estimate in Attachment A: $9681.00
    b. Porior Engineering will contract for consultant to develop a synthetic tide diagram for use in modeling of tidegate sizing program and submittal with Fish Passage plan to ODFW- Estimate $2000.00.
    c. A geotechnical report is not anticipated for a circular tidegate. If weak soils are encountered, plans will include an optional foundation bedding item.
2. Design to include tidegate alternatives for review by ODFW and owners before submission
    a. Options: tidegate with Mitigator by Newhalem Marine Mfg., float controlled MTR gate, or a simple side mounted tidegate.
3. Prepare and submit a no rise certificate for county planning showing preconstruction and post construction effects.
4. Submittals and reports will be through Shane Jensen <shane@grantwriter.us>
5. ODFW fish passage plan-
    a. Developed from topographic maps, hydrology, backwater analysis, Synthetic Tide data, tidegate alternatives.
    b. Plan to include Hydrology and Stream profiles, tidegate size calculations and water Management Plan.
6. Design Considerations.
    a. Considerations
        i. Review with airport on storm drain outfalls and surface drainage from runways.
        ii. Ponding flows during dike and potential for overtopping events.
        iii. Airport safety concerns.
    b. Includes preliminary plans and specifications.
7. Final Plans and Specifications after permit approvals

a. Construction plans will include RFQ requirements in addition to details on tidegate placement. RFQ will requires a contractor developed dewatering plan, isolation plan, and erosion control plan.

b. All work shall assume Porior Engineering is the Engineer of Record for project unless notified otherwise in accordance with State licensing requirements.

BUDGET ESTIMATE

Astoria Airport Tide Gate – Engineering Services						$125.00	Contract	$100.00	Subtotal by category
Work Item		D, Porior hours	Engineering planner and Designer hours	Travel Hours	Notes and Comments	D, Porior	Survey topographic map and controls	Travel, hour	
1.00	Prework Conference and Project Initiation - Zoom Conference	2	0	0	Prework Conference for contract award and scheduling of work- phone conference, contract review	$ 250.00		$0.00	$ 250.00
2.00	Topographic Survey for Tidegate Structure and adjacent drainage	10	0	8	Site Survey of outlet into channel, locate property corners, map channels in water and on site. Engineering to visit site with surveyors Payment to surveyor will be from owner estimated at $9681. See attached Bid.	$ 1,250.00	$ 9,681.00	$800.00	$ 11,731.00
3.00	Contract out for tidal data by Porior Engineering- Synthethic tide used for modeling for Fish passage plan	3			Estoria Synthethic Tide data	$ 2,375.00	$ -	$0.00	$ 2,375.00
4.00	Preliminary Engineering-Tidegate Replacement -Site One	80	0	0	Preparation of Preliminary Report with alternatives,costs, sizing of tidegate structure, Estimate and plans, review with permitting agencies, prepare quantities for 404 permit, draft fish passage plan .	$ 10,000.00		$0.00	$ 10,000.00
5.00	county no rise certificate	15			Preparation of no rise certificate to County to be submitted to permit preparation consultants for submission to county	$ 1,875.00		$0.00	$ 1,875.00
6.00	Final Plans, Technical Specifications and Cost Estimate after permit reviews-multiple agencies	50	0	0	Preparation of Final Plans, engineering report, specifications and cost estimates for Tidegate Structure. Review by suppliers for accuracy and current costs	$ 6,250.00		$0.00	$ 6,250.00
7.00	Prepare RFQ for Contract submission	10	0			$ 1,250.00		$0.00	$ 1,250.00
subtotal						$ 23,250.00	$ 9,681.00	$ 800.00	$ 33,731.00

ATTACHMENT A- QUOTATION FOR SURVEY WORK

STATEWIDE LAND SURVEYING INC.

Client Name:	Don Porior	**Bid No:**	Q559-2023
Client Contact:	mrdon@porior.com	**Date:**	Monday, September 11, 2023
Project Name:	Topographic Survey	**Prepared By:**	Greg Engelgau Project Manager
Site Location:	Port of Astoria - Astoria Regional Airport	**Expires:**	10/11/2023
Attachments:	SWLS Work Plan	**Status:**	**Confidential**

Port of Astoria - Astoria Regional Airport - Tidegate

Statewide Land Surveying Inc proposes the following professional services.

- Mobilization, round trip.
- Recovery existing Opus Shared Solution Survey Control.
- Establish Primary Project Control points in proposed mapping area.
- Topographic Survey of 3.7 acre area. Area includes in-water collection efforts.
- From existing LIDAR provided by the client via online sources, generate cad drawing and combine surface model of 250 acres area. See SWLS Work Plan attached.

Project deliverables include Cad drawing, PDF file, Cad drawing, LAND XML surface file, and survey point file.

Proposed Project Datum: Nad 83/2011 Epoch 2010.0000 Oregon Coordinate Reference System Columbia River West Zone, International Feet. Elevation datum of North American Vertical Datum of 88 (NAVD88) Geoid18.

NOTE: Resolution of the subject property boundary is not included in this estimate.

Services	Amount
Research/Project Preparation	$220.00
Pre-calculations	
Field Investigation	$5,400.00
Project Briefing *Establish Project Control* *Map Topography/Conditions*	
Calculations/Analysis	$110.00
Analysis of Field Data	
Drafting/Deliverables	$2,640.00
Topographic / Existing Conditions Survey	
PLS Review	$156.00
PLS Review	
Materials	$15.00
Materials utilized with this project	
Topographic / Existing Conditions Survey Total Labor	**$8,541.00**

Aerial Image (Optional)	
High-resolution Ortho-rectified Aerial Image	**NA**

On-Site Utility Locates (If Required)	
Locates Down Under, Inc. (Sub-contractor)	
Locate on-site utilities for mapping	To Be Determined
On-Site Utility Total Labor	**NA**

STATEWIDE LAND SURVEYING INC.

Survey Equipment/Materials				
Equipment/Materials	**Quantity**	**Unit**	**Unit Price**	**Amount**
None	0.00	Per		$0.00
None	0.00	Per		$0.00
None	0.00	Per		$0.00
Total Survey Equipment/Materials	**0.00**			**$0.00**

Reimbursable Expenses				
Per Diem	**Quantity**	**Unit**	**Unit Price**	**Amount**
Survey Team Member 1	3.00	Day	$190.00	$570.00
Survey Team Member 2	3.00	Day	$190.00	$570.00
	0.00	Day	$0.00	$0.00
Survey Truck 1	0.00	Mile	$0.580	$0.00
Survey Truck 2	0.00	Mile	$0.580	$0.00
Total Reimbursable Expenses	**6.00**			**$1,140.00**

Survey Fee Schedule		
Classification	**Unit**	**Rate**
1 person survey crew	Hour	$146.00
2 person survey crew	Hour	$225.00
3 person survey crew	Hour	$256.00
Clerical	Hour	$60.00
Computations	Hour	$110.00
Drafting	Hour	$110.00
Licensed Land Surveyor	Hour	$156.00
Planning	Hour	$110.00
Research	Hour	$110.00

STATEWIDE LAND SURVEYING INC.

Standard Agreement for Professional Services between Statewide Land Surveying, Inc. (SWLS) and Client
Terms and Conditions
1. SWLS assumes that the survey is limited to the project area identified within the Scope of Services **2**. SWLS assumes that the client will provide a continuous right of entry for all areas. **3**. SWLS assumes all services to be performed will be completed in accordance with the current governing agencies requirements as of the time of this proposal. Modifications or revisions required because of new jurisdictional code or design requirements will be completed as a Contract Addendum. **4**. SWLS assumes that reimbursable expenses will be itemized and invoiced separately at cost plus 10% and any additional work will be invoiced as per our Survey Fee Schedule, less any negotiated discounts. **5**. SWLS assumes that during the course of any survey, it may become necessary to enter adjoining ownerships, which could add time, expense, and difficulty to the project. These additional expenses may be charged to the client on a time and materials basis. **6**. SWLS assumes that the client agrees to allow a copy of the map being created under the scope of work to be provided to property owners whose property we enter during the course of this survey (if the property is outside of the urban growth boundary, and the survey is requested in writing) per ORS 672.047 (Oregon only, a copy of this statute may be obtained online at the following address: http://www.oregonlaws.org/ors/672.047). **7**. SWLS assumes that traffic control (i.e.-flaggers/traffic control application/plan), if necessary, shall be provided by the client, or billed at cost plus 10%. **8**. SWLS assumes that all fees will be paid by client and/or owner at the time fees are required. **9**. SWLS assumes that full payment for services will be paid prior to filing or recording of any maps, surveys, plats and/or etc. **10**. SWLS assumes that client (or client's representative[s]) will communicate all existing and potential safety hazards (working tub-grinders, mechanical brush clearing, logging, blasting, etc.) to SWLS prior to starting work, and will coordinate with SWLS regarding such hazards for the duration of the project to ensure that our staff members will not be required to be present during such activities. **11**. SWLS assumes that our staff members (and our sub-consultants) have the right to leave a site at any time due to conditions perceived to be unsafe (working tub-grinders, mechanical brush clearing, logging, blasting, etc.) and that any additional costs associated with exercising this right may require a Contract Addendum. **12**. SWLS will make all reasonable effort to schedule a field crew within 48 hours of receiving a staking request (excluding weekends and holidays). Requests received after 2:00 p.m. will be scheduled 48 hours from the start of the next business day. **13**. If boundary resolution is involved in the scope of services SWLS assumes that there are no conflicts in the deeds, surveys, and/or plats. If a problem arises the client will be notified immediately and the fee will need to be adjusted. **14**. Matters of unwritten property rights are not within the scope of the Standard Agreement, unless stated otherwise.
Contract Addendums
SWLS assumes additional services requested by the client not identified within the above Scope of Services will be completed on a time and materials basis or lump sum in a contract addendum. These services will be listed in detail in the contract addendum and required to be approved by the client prior to commencement of the services.
Sub-Consultant Services
SWLS assumes no sub-consultant services are needed at this time. SWLS assumes any wetland, traffic, arborist, geotechnical, site electrical, site lighting, street illumination, or architectural services will be contracted directly with the owner.
Reimbursable Expenses
Customary reimbursable expenses are the actual expense incurred in direct connection with the project plus 10% (including, but not limited to: copy and reproduction services, travel expenses and express postage). Vehicle mileage is reimbursed at a rate of $0.580 per mile for project related travel in excess of 100 miles.
Due Dates and Past Due Balances
Balances are due within 30 days of the date shown on the invoice. If balance is not paid within 45 days of the date shown on the invoice, the balance is considered "Past Due" and a 18% APR will be applied to the remaining balance until paid in full. If balances are not paid in full within 50-60 days of the date shown on the invoice, SWLS will contact their attorney and/or the balance will be sent to a collection agency.
Attorney Fees
SWLS assumes that if an attorney is required, to collect fees, for arbitration and/or for a court of law, all fees accumulated by SWLS shall be paid by the client.

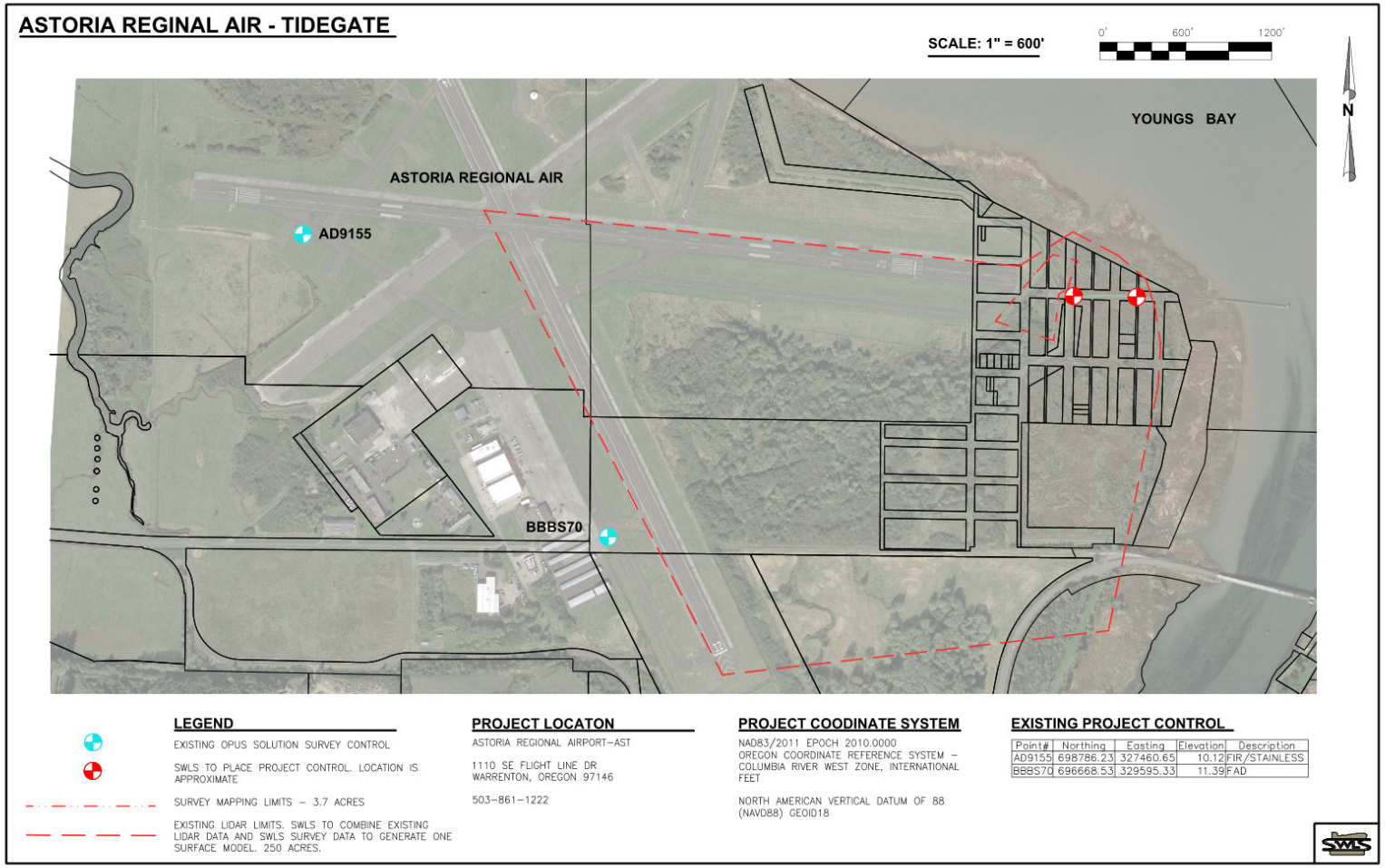
STATEWIDE LAND SURVEYING INC.

Acknowledgement	
Estimated Topographic / Existing Conditions Survey Labor Cost:	$8,541.00
Estimated High-resolution Ortho-rectified Aerial Image (Optional)	NA
Estimated On-Site Utility Locate Fee:	NA
Estimated Survey Equipment/Materials Cost:	$0.00
Estimated Reimbursable Expenses:	$1,140.00
Total Estimated Project Cost*:	**$9,681.00**

*Project stages will be billed as they are completed. Additional rates apply to work not addressed in this estimate. Cancellation fees apply.

This professional service agreement is entered into Monday, September 11, 2023 by and between Statewide Land Surveying, Inc. (SWLS) and Don Porior (Client) for the provisions of professional land services at Port of Astoria - Astoria Regional Airport (location).

Greg Engelgau Project Manager Statewide Land Surveying, Inc.	Don Porior Client / Representative
9/11/2023 Date Signed	Date Signed


ASTORIA REGINAL AIR - TIDEGATE
SCALE: 1" = 600'
0'
600'
1200'
N
YOUNGS BAY
ASTORIA REGIONAL AIR
AD9155
BBBS70
LEGEND
EXISTING OPUS SOLUTION SURVEY CONTROL
SWLS TO PLACE PROJECT CONTROL. LOCATION IS APPROXIMATE
SURVEY MAPPING LIMITS – 3.7 ACRES
EXISTING LIDAR LIMITS. SWLS TO COMBINE EXISTING LIDAR DATA AND SWLS SURVEY DATA TO GENERATE ONE SURFACE MODEL. 250 ACRES.
PROJECT LOCATON
ASTORIA REGIONAL AIRPORT–AST
1110 SE FLIGHT LINE DR
WARRENTON, OREGON 97146
503–861–1222
PROJECT COODINATE SYSTEM
NAD83/2011 EPOCH 2010.0000
OREGON COORDINATE REFERENCE SYSTEM – COLUMBIA RIVER WEST ZONE, INTERNATIONAL FEET
NORTH AMERICAN VERTICAL DATUM OF 88 (NAVD88) GEOID18
EXISTING PROJECT CONTROL
Point# Northing Easting Elevation Description
AD9155 698786.23 327460.65 10.12 FIR/STAINLESS
BBBS70 696668.53 329595.33 11.39 FAD
SWLS

ATTACHMENT B- REQUEST FOR DESIGN CONSULTANT BY PORT OF ASTORIA

I. The Port of Astoria is seeking a Consultant to perform the below-described scope of work for the tide gate located at the end of Runway 8-26 at the Astoria Warrenton Regional Airport (AST). The tide gate is within the Warrenton Levee System and is identified by the city as Tide Gate #22. Tide gate location is indicated on the attached diagram, *which labels the gate as the "South Gate."*

II. The requested scope of work is as follows:

1. Tide Gate Assessment/Inspection

2. Feasibility Analysis, Alternatives Assessment

3. Tide Gate Design & Engineering, to include compliance with relevant portions of OAR 123-046-0060:

A. Design

I. Completion of all technical and engineering design work;

B. Feasibility Documentation

I. Analyses of project feasibility including but not limited to engineering, regulatory, and legal feasibility;

II. Analyses of project alternatives and the recommended option;

III. Estimate of project costs including materials, labor, contingency budget, and other expenses;

IV. Construction timeline; and

V. Operational feasibility analysis including identification of a plan for operation and maintenance of the tide gate drainage system.

4. Collect all necessary data, establish & maintain the requisite agency coordination, and submit all necessary permits (JPA, etc.)

III. The Port is using a very informal solicitation process in order to facilitate faster project completion. *A formal proposal or otherwise presentation-style written response is not necessary.*

Therefore, the Port requests a simple document (or email) that addresses cost, project schedule, and availability for project commencement.