

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this “*Agreement*”) is made and entered into as of April 17, 2026 (the “*Effective Date*”), by and between **Port of Everett**, a Washington port district (the “*Port*”), and **City of Everett**, a Washington municipal corporation (the “*City*”). The Port and the City are referred to herein individually as a “*Party*” and collectively as the “*Parties*.”

RECITALS

A. The Port owns certain real property, which is located in the City of Everett, Snohomish County, Washington, identified by the parcel numbers listed on attached Exhibit A (the “*Port Property*”).

B. The Port, as successor-in-interest as grantor, and the City, as grantee, are parties to that certain Easement Agreement dated July 31, 2019, with Snohomish County Recording No. 201907310975 (the “*Easement Agreement*”). The Easement Agreement provides the City with a non-exclusive easement over a portion of the Port Property that is more fully described in the Easement Agreement (the “*Easement Area*”).

C. The City intends to undertake a major combined sewer and stormwater pipeline project that affects the Easement Area as well as adjacent areas, including portions of West Marine View Drive and the storage facility located north of Norton Terminal. The City has named this project the Port Gardner Storage Facility West Marine View Drive Storm and Combined Sewer Project, which is occurring in connection with the City’s Port Gardner Storage Facility project (both projects together, the “*PGSF Project*”). The PGSF Project includes, among other items, the installation of (2) 48-inch diameter and (1) 24-inch diameter pipelines approximately through the northern 800 feet of the existing easement area.

D. In order to construct the PGSF Project, the City needs a temporary license to access those portions of the Port Property depicted on Exhibit B attached hereto (the “*License Area*”) in connection with construction staging, trucking access, and for minor work related to the construction of the PGSF Project.

AGREEMENT

NOW, THEREFORE, for and in consideration of the terms and conditions of this Agreement and the Recitals described above, which are incorporated herein, as well as the mutual benefits to be derived therefrom, the Parties agree as follows:

1. Grant of Temporary License. Subject to the terms and conditions of this Agreement, the Port hereby grants and conveys to the City a temporary, exclusive license over, across and under the License Area depicted on Exhibit B for the purpose of vehicular access and other ancillary uses related to the City’s construction of the PGSF Project, such as construction staging, storage and parking (the “*License*”). The Parties acknowledge that the License Area consists of three functional sub-areas: (i) a storage sub-area, (ii) a truck transit and staging sub-use area, and (iii) a temporary construction sub-use area (each, a “*Sub-Area*” and collectively, the “*Sub-Areas*”). The temporary construction Sub-Area will involve movement of construction

equipment (including tracked equipment) and other activities that have a high potential for damaging pavement surfaces. For avoidance of doubt, any impacts from the movement of construction equipment and other activities in in the temporary construction Sub-Area shall not be considered normal “wear and tear” and the City will be required to repair and/or replace any damaged pavement surfaces at its sole cost and expense before the end of the Term (or before the City designates the damaged area as Inactive, if that is earlier). Traffic within the remaining Sub-Areas will be limited to rubber-tired vehicles only unless otherwise approved by the Port in writing. Prior to the Commencement Date, the Port and the City shall jointly measure and document the acreage of each Sub-Area, which measurement shall be performed at the City’s sole cost and expense. For clarity, there shall be no excavation, demolition, or ground-disturbing activities conducted within the License Area without the prior consent of the Port, which consent shall be in the Port’s sole and absolute discretion and subject to conditions imposed by the Port in the Port’s sole and absolute discretion. The License shall be for the use and benefit of the City and its representatives, members, officers, employees, contractors, subcontractors, suppliers, and agents (individually, a “*City Party*”, and collectively, the “*City Parties*”). The City specifically acknowledges and agrees that the City’s use of the License is subject to the License Requirements (defined below), which are intended to coordinate the City’s and the Port’s activities in the License Area.

2. Term of Agreement. The term of the License (the “*Term*”) shall begin on the date that is the earlier of (a) thirty (30) days after the City delivers notice to the Port requesting commencement of the Term, which notice shall specify whether one or more Sub-Areas will be designated as Active (as defined below) as of the Commencement Date, or (b) one hundred eighty (180) days after the Effective Date (the “*Commencement Date*”). The Term of the License shall terminate on the earlier of (i) the physical completion of the PGSF Project; (ii) the date that is eighteen (18) months following the Commencement Date; or (iii) March 28, 2028 (the “*Termination Date*”). Notwithstanding the foregoing, the Port shall have the right to terminate the License upon not less than six (6) months written notice to the City in the event the Port needs the License Area for business purposes; provided, that such notice may not be delivered by the Port before the date that is six (6) months after the Commencement Date. (For avoidance of doubt regarding the preceding sentence: the earliest that the License could terminate pursuant to the preceding sentence is the date that is twelve (12) months after the Commencement Date.) The City will have access to each Sub-Area on the date that such Sub-Area is designated Active in accordance with Section 3.

3. License Fee; Reimbursement of Port Costs. During the Term and commencing upon the Commencement Date, the City shall pay the Port a monthly license fee in the amount of \$10,000 per acre of each Sub-Area currently inside the Property’s secure perimeter and \$3,000 per acre outside the Property’s secure perimeter that has been designated as Active (the “*License Fee*”) in accordance with the terms of this Section 3. Notwithstanding the foregoing and for avoidance of doubt, all Sub-Areas shall automatically become designated as Active on the date that is one hundred eighty (180) days after the Effective Date and the License Fee shall be due and payable with respect to all Sub-Areas on such date, regardless of whether the City has sent a notice designating them as such. Further, the City shall reimburse the Port’s reasonable out-of-pocket expenses and costs, including, without limitation, attorneys’ fees and surveying costs, incurred in connection with this Agreement within thirty (30) days of the Port’s written request containing

reasonable documentation of such incurred costs. All License Fees shall be prorated for area (e.g., the License Fee for 2.5 acres inside the secured perimeter would be \$25,000).

(a) Following the Commencement Date, the City may designate a Sub-Area as “*Active*” or “*Inactive*” by delivering not less than thirty (30) days’ prior written notice to the Port; provided, that in order for a Sub-Area to be considered Inactive, (i) the City must have removed all equipment, materials, and security fencing from the applicable Sub-Area, (ii) the City must have restored the applicable Sub-Area to a clean and serviceable condition, reasonable wear and tear excepted, and (iii) the Port shall have inspected and reasonably approved such restoration. For clarity, the License Fee shall not be due with respect to any Sub-Area that is Inactive. Notwithstanding the foregoing, once a Sub-Area is designated Inactive, the City may not designate such Sub-Area as Active without the Port’s prior written approval, which may be withheld in the Port’s sole discretion.

(b) The License Fee (i) shall be due on the first day of each month until the Termination Date (provided the license fee for the month in which the Commencement Date occurs shall be due on the Commencement Date and shall be prorated on a daily basis for the number of days of the month in which the Commencement Date occurs), (ii) shall be delinquent if not paid when due and not thereafter paid within ten (15) days of a written demand for payment, and (iii) shall be prorated on a daily basis for the number of days of the month in which the Term expires or a Sub-Area is designated Inactive, as applicable.

(c) Following the expiration or earlier termination of the Term of the License, if the City shall continue to utilize any portion of the License Area without the Port’s written consent, the City shall pay to the Port a License Fee equal to \$20,000 per acre of Sub-Area that has been designated as Active, and during such holdover period, the City shall continue to be bound by all of the provisions of this Agreement.

4. Use of License. In accordance with the terms and conditions of this Agreement, the Parties agree as follows:

(a) Except for provided for elsewhere herein, the Port shall not be responsible for any obligation, cost, expense, or other amount in connection with this Agreement.

(b) The City shall comply, and shall ensure that the City Parties comply, with the requirements set forth in Exhibit C (collectively, the “*License Requirements*”).

(c) The City shall provide the Port with thirty (30) days’ written notice prior to any City Party first commencing activities within the License Area. The City and the Port shall have weekly coordination meetings, to coordinate on the City’s activities within the License Area.

(d) The Port shall have the right, but not the obligation, to monitor the City Parties’ activities within the License Area; provided that the Port does not interfere with the City’s rights herein, and that the Port’s right to so monitor shall be solely for the Port’s own benefit, at the Port’s sole cost, and the Port shall have no duty to ensure that the City Parties’ activities within the License Area comply with any legal or insurance requirements. The City shall ensure that all contractors and subcontractors performing work within the License Area are licensed and bonded as required by state law. Before any activity commences within the License Area, the City shall

cause any contractor or subcontractor to provide evidence of insurance in the form of an ACORD certificate of insurance and additional insured endorsement(s), which shall name the Port as an additional insured and shall also provide, at the Port's written request, the underlying insurance policy to the Port.

(e) All work by the City Parties shall conform to, and shall be conducted in accordance with, any and all applicable ordinances, laws, rules, and regulations and other requirements of any governmental authorities having jurisdiction over the Port Property, including, without limitation, all permitting, consent and approval requirements of such authorities. Additionally, the Port Property is subject to covenants, agreements, and other encumbrances; and the City shall comply with such covenants, agreements, and encumbrances to the extent the City has notice of them. The City hereby acknowledges that the City has received copies of all documents recorded against the Port Property.

(f) The City shall not permit any lien or claim of preconstruction, construction, mechanics, laborers or materialmen to be filed against the Port Property, or any part thereof, for any work, labor or materials furnished, alleged to have been furnished or to be furnished pursuant to any agreement by the City. Notwithstanding the foregoing, if any lien is so filed against the Port Property, within thirty (30) days after the date of the filing or recording of any such lien, the City shall cause the same to be paid and discharged of record, or, if the City contests the amount allegedly due or the right of the lien or to make its lien claim, the City shall cause a bond for at least one-hundred-twenty-five percent (125%) of the amount of the disputed lien claim to be issued in favor of the Port to protect the Port from any damage resulting from the lien during the entire time of any proceeding in which the City contests the lien. If the City shall fail to obtain a bond or otherwise discharge such lien within such 30-day period then the Port may, after fourteen (14) days' written notice to the City and the City's failure to obtain a bond or other discharge of such lien during such fourteen-day period, do so and shall be entitled to collect from the City all fees, costs, and expenses, including attorneys' fees and costs, reasonably incurred by the Port to discharge such lien.

(g) If, in connection with the use, occupation and enjoyment of the License, the City, or any party acting by, through or under the City, damages or destroys any landscape, hardscape, street, road, sidewalk or other improvements of the Port, the City shall repair or replace such damaged or destroyed improvements at its sole cost and expense before the end of the Term (or before the City designates the damaged area as Inactive, if that is earlier) damage occurred to a condition substantially identical to that existing before any such damage or destruction. This allowance of time does not extend the Term of this Agreement.

5. Breach of Repair Obligations. In the event the City fails to timely repair in accordance with Section 4(g) above, any damages caused by, or under, the City Parties to the License Area, the Port Property, or any improvements or property located thereon, the Port shall have the right, upon thirty (30) days' prior written notice to the City (and except in the event the City shall repair any such damages within any such thirty (30) day period or, in the event more than thirty (30) days shall be required to complete any such repairs, the City shall have commenced such repair within such thirty (30) day period and, then, diligently prosecute the same to completion), to cause the maintenance or repair work specified in such notice to be commenced and completed and, in any such event, the City shall reimburse the Port for undertaking the repair

work for the total documented cost thereof within thirty (30) days after receipt of written notice therefor, which notice shall include written evidence of such incurred costs.

6. Security; Access.

(a) The City shall install temporary fencing and gates as necessary to preserve at all times adequate federal security fencing at the Port Property, including, without limitation, complying with at least the minimum applicable Maritime Security (MARSEC) requirements. The City shall install the foregoing MARSEC compliant security fencing and gates in other areas of the License Area where required along the boundary of the License Area to maintain a secure perimeter, which shall be approved in advance by the Port. The City shall maintain continuous and uninterrupted security for the License Area, in accordance with the Port's existing requirements, including, without limitation, in the event of any damage to or necessary removal of the existing security fencing and gate system. The City shall maintain and modify the fencing as required. Notwithstanding the exclusive nature of the License, the Port shall be entitled to cross the License Area at all times in order to access portions of the Port Property. To facilitate the foregoing, the City shall install gates in the fencing in areas approved in advance by the Port to give the Port continuous access for vehicles and other equipment across the License Area.

(b) A City Party may not access the License Area unless (i) escorted by the Port or its employees or representatives, at the City's expense, (ii) such City Party has a current Transportation Worker Identification Credential issued by the Transportation Security Administration, or (iii) the License Area is separated from the federally secured area by MARSEC fencing.

(c) The City acknowledges that the Port Property serves as a Commercial Strategic Seaport for the Department of Defense and that in the event of a national defense emergency, use of the Port Property, including the License Area, may be restricted and/or terminated. In the event of any national defense emergency that prevents use of the License Use for more than sixty (60) days, either party may terminate this Agreement at any time.

7. General Limitations. This Agreement and the rights and privileges granted hereunder shall be subject to and/or limited as follows:

(a) The City's use of the License shall be limited to the uses set forth in this Agreement, and subject to the conditions set forth in this Agreement, including but not limited to the License Requirements.

(b) The Port makes no warranties of any kind, express or implied, to the City concerning the condition of or title to the License Area. The City hereby accepts the License Area AS IS, WHERE IS, without any warranties, including but not limited to fitness for a particular purpose. Except to the extent of the Port's intentional misconduct, negligence or breach of this Agreement, the City hereby assumes all risk and liability of its use of the License Area and the exercise of its rights under this Agreement. Except to the extent of the Port's intentional misconduct, negligence or breach of this Agreement, the City hereby unconditionally, irrevocably, and forever discharges, waives, and releases the Port from any and all damages, costs, expenses,

liabilities, suits and claims, of any nature whatsoever arising from the grant, condition, or use of the License Area by the City or its invitees, licensees, employees, contractors, or agents.

(c) The City shall not construct, install, or modify any improvements within the License Area, including but not limited to temporary or permanent trafficking areas, without the prior written review and approval of the Port, which approval shall include, without limitation, the Port's review of design, location, and material types. The City shall be solely responsible for obtaining and complying with all required permits, approvals, and other regulatory requirements related to such improvements. Upon termination or expiration of the License, the City shall, at its sole cost, remove any such improvements and restore the License Area to a clean and serviceable condition, reasonable wear and tear excepted (provided impact and damage from construction vehicles and equipment shall not be deemed "wear and tear"), unless the Port, in its sole discretion, elects to accept the improvements in place, excluding temporary fencing and its appurtenances, in which case the City shall execute all documents reasonably required by the Port to transfer ownership of such improvements to the Port AS-IS without additional cost.

8. Indemnification. The City shall and hereby agrees to indemnify, reimburse, defend and hold harmless the Port and its commissioners, representatives, members, affiliates, officers, employees, and agents (collectively, the "**Port Parties**"), from and against all damages, claims, actions, causes of action, losses, demands, costs, fees (including reasonable attorneys' fees), liabilities or proceedings caused to the Port Property (collectively, "**Claims**"), arising from or due to the City Parties': (a) use of the License Area; (b) any breach, violation or non-performance of any covenant or agreement in this Agreement; and/or (c) exercise of the rights and privileges herein granted. This duty to indemnify and defend the Port shall continue and survive after the expiration of the Term. If and to the extent (but only if and only to the extent) this Agreement is subject to Section 4.24.115 of the Revised Code of Washington, it is agreed that where such Claims arise from the concurrent negligence of the Port Parties and the City Parties, the City's obligations of indemnity under this Section 7 shall be effective only to the extent of the negligence of the City and in no event shall the Port Parties be indemnified against the sole negligence of the Port Parties or its agents. SOLELY FOR THE PURPOSE OF EFFECTUATING THE INDEMNIFICATION OBLIGATIONS HEREUNDER, AND NOT FOR THE BENEFIT OF THEIR EMPLOYEES OR ANY THIRD PARTIES, THE CITY SPECIFICALLY AND EXPRESSLY WAIVES ANY IMMUNITY THAT MAY BE GRANTED TO IT UNDER APPLICABLE FEDERAL, STATE OR LOCAL WORKERS COMPENSATION ACTS OR OTHER EMPLOYEE BENEFIT ACTS, INCLUDING WITHOUT LIMITATION THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW. The parties acknowledge that the foregoing waiver has been specifically and mutually negotiated between the parties.

9. Miscellaneous.

(a) Authority. The Port and the City each hereby represents to the other that (i) it has the legal right, power and authority to enter into this Agreement and to perform in accordance with its terms and provisions; (ii) the individual(s) signing this Agreement on its behalf have the authority to bind the party and to enter into this Agreement; and (iii) it has taken all required action(s) to legally authorize the execution, delivery, and performance of this Agreement.

(b) No Waiver; Severability. The failure of any Party to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein shall not be deemed a waiver of any rights or remedies that such Party may have, and shall not be deemed a waiver of any subsequent breach or default in any of the terms, covenants, conditions or agreements contained herein. Invalidation of any one of the covenants or restrictions set forth in this Agreement by judgment or court order shall in no way affect all other provisions, which shall remain in full force and effect.

(c) Counterparts; Successors and Assigns; Recitals and Exhibits; Notices. This Agreement may be executed in counterparts, all of which taken together shall constitute one agreement, binding upon and inuring to the benefit of the Parties hereof and their respective successors and assigns. All recitals and exhibits referred to herein and attached hereto are incorporated herein by this reference.

(d) Reservation; Amendments; Governing Law. This Agreement may not be modified except with the mutual consent of the Parties and then, only by written instrument duly executed by the Parties. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party, and shall be governed by and construed in accordance with the laws of the State of Washington. Notwithstanding anything contained herein to the contrary, this Agreement is without prejudice to the Port's rights and remedies, whether at law, in equity, or otherwise, all of which are expressly reserved without limitation. Further, venue for any issues relating to this Agreement shall be with the Superior Court of Snohomish County, State of Washington.

(e) Attorneys' Fees. If any legal action or other proceeding is brought to enforce this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing Party shall be entitled to recover their reasonable attorneys' fees, and any other fees and costs incurred in the action or proceeding, including appeals, in addition to any other relief to which such Party may be entitled.

(f) No Joint Venture; Construction; No Third Party Rights; Survival. The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership or any similar relationship between the Parties. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party. Except as expressly set forth herein, this Agreement does not otherwise create any rights in any third party. The indemnifications and other provisions of Agreement, which expressly survive the termination of this Agreement, shall survive the termination of this Agreement.

(g) JURY TRIAL WAIVER. THE PARTIES HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN TORT, CONTRACT OR IN ANY CAUSE OF ACTION OF ANY NATURE.

(h) Limitation of Damages. Neither party shall be liable hereunder for indirect, consequential, punitive, or special damages.

(i) Calculation of Time. All reference to number of days in this Agreement shall be calculated based on calendar days.

(j) Exhibits. This Agreement includes the following exhibits, which are attached hereto and made a part hereof as if set forth herein in full:

- A – Parcel Numbers of Port Property
- B – Depiction of License Area
- C – License Requirements

[Signatures on following pages.]

IN WITNESS WHEREOF, the Port and the City have executed this Agreement as of the date first written above.

PORT:

Port of Everett,
a Washington port district

Signed by:
By: Lisa Lefever
Name: Lisa Lefever
Title: CEO/Executive Director

CITY:

City of Everett,
a Washington municipal corporation

Signed by:
By: Cassie Franklin
Name: Cassie Franklin
Title: Mayor

ATTEST

Signed by:
Marista Jorve
Marista Jorve, City Clerk

APPROVED AS TO FORM


DocuSigned by:
 APPROVED AS TO FORM
OFFICE OF THE CITY ATTORNEY
Tim Benedict, Deputy City Attorney

EXHIBIT A

PARCEL NUMBERS OF PORT PROPERTY

29051900300100, 29051900300200, 29051900201000, 29051900200900, 29051900201500;
00437461700200, 00597761803000

;





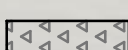

EXHIBIT B

DEPICTION OF LICENSE AREA

See attached.

LEGEND

PORT OF EVERETT
NORTON TERMINAL

- A  Storage Sub-Use area, outside secure perimeter
Approx. 52,700 SF
- B  Truck, Transit and Staging Sub-Use area, outside secure perimeter
Approx. 14,900 SF
- C  Storage Sub-Use area, within secure perimeter
Approx. 20,700 SF
- D  Truck, Transit, and Storage Sub-Use area, within secure perimeter
Approx. 82,300 SF
- E  Temporary Construction Sub-Use area,
Approx. 20,000 SF
- F  Use within Existing City Utility Easement, No license
required, Approx. 51,600 SF

Temp Construction Fence
(not MARSEC-Compliant),
with gates as required

Demo portion of existing
MARSEC-Compliant fence
as required, replace in
kind.

MARSEC-Compliant
Temporary Construction Fence

Install 25' swing gate in temp
fencing for Port access.
Coordinate location with Port

PORT
GARDENER
STORAGE
FACILITY

BNSF ROW

LOWER NORTON AVE

WEST MARINE VIEW DRIVE



EXHIBIT C

LICENSE REQUIREMENTS

1. The City acknowledges that its use of the License Area will impact cargo movement at the Port Property. The Port is being compensated for such impact by the License Fee. However, all of the City's activities in the License Area during the Term shall be coordinated in advance with the Port to the extent reasonably possible. If requested by the Port, the City and the Port shall have weekly meetings to coordinate the foregoing.
2. The City Parties will be allowed to utilize an existing asphalt and gravel road to the License Area through a locked gate at Federal Ave near the entrance to the former warehouse building. The City Parties may only use such road for ingress and egress of vehicles that have rubber-tires to the License area, for access road maintenance, and for barrier and fence installation or removal. Port access to the area adjacent to the former warehouse building shall not be unnecessarily impeded, and the City agrees to coordinate with the Port when Port access to the warehouse area is required.
3. The City, if applicable, shall provide cultural monitoring in order to meet regulatory compliance within the License Area.
4. During use of the License and in an effort to maintain public communications, the City shall coordinate with the Port's Public Communications Director, on all public communications associated with this Agreement.