

**PORT OF OLYMPIA GROUND LEASE  
HARBOR PROPERTIES**

**EXHIBIT 27**

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THE FOLLOWING EXHIBITS ARE REFERENCED IN THE LEASE:

EXHIBIT "A-1" - DRAWING OF 24.5 ACRE PARCEL(S)

EXHIBIT "A-2" - DRAWING OF 19.2 ACRE PARCEL(S)

EXHIBIT "A-3" - DRAWING OF INITIAL IMPROVEMENTS BY PORT

EXHIBIT "A3" (SUPPLEMENTAL) - ITEMIZATION AND DESCRIPTION OF PORT  
INITIAL IMPROVEMENTS

EXHIBIT "A-4" - ABILITY TO RELOCATE MAP

EXHIBIT "A-5" - CASCADE POLE EXTRACTION AND MONITORING WELLS

EXHIBIT "B" - TOXIC, DANGEROUS AND HAZARDOUS SUBSTANCES  
STORAGE LICENSE

EXHIBIT "B-1" - DESCRIPTION OF 24.5 ACRE PARCEL(S)

EXHIBIT "B-2" - DESCRIPTION OF 20 ACRE PARCEL(S)

EXHIBIT "B-3" - DESCRIPTION OF RIGHT OF FIRST REFUSAL PARCEL

EXHIBIT "C" - REQUIREMENTS AS TO IMPROVEMENTS

EXHIBIT "D" - TENANTS YARD AND EQUIPMENT LAYOUT

EXHIBIT "D1" - TENANT UTILITY REQUIREMENTS BY IMPROVEMENT

THE FOLLOWING SCHEDULES ARE REFERENCED IN THE LEASE

SCHEDULE 6.1 – KNOWN CONDITIONS/ACCEPTANCE OF PREMISES

SCHEDULE 8.1 – ORDERS

THIS LEASE is made this 22<sup>nd</sup> day of August, 2005, by and between the PORT OF OLYMPIA, a Washington municipal corporation, Lessor, hereinafter referred to as "the Port," and Weyerhaeuser Company, a Washington corporation, hereinafter referred to as "Tenant," on the following terms and conditions:

**THE PARTIES HEREBY AGREE AS FOLLOWS:**

**1. LEASED PREMISES.**

**1.1 General.** The Port hereby leases to Tenant, and Tenant hereby leases from the Port, that certain real property consisting of approximately 24.5 acres of land located in Thurston County, Washington, as generally depicted in Exhibit A-1 hereto, and as described in Exhibit B-1 hereto ("the Premises"). If required by Tenant or any governmental entity other than the Port, Tenant shall apply for, process, obtain, and record such approvals as may be necessary for the division of the Premises from the larger property owned by the Port of which the Premises are a part, whether by binding site plan or otherwise, and Tenant shall bear all costs and expenses thereof. The Port shall be given the opportunity to review and approve all applications and submissions made by Tenant in connection therewith, with the Port's approval not to be unreasonably withheld.

**1.2 Reduction of Premises.** If the volume of Douglas Fir logs exported by Tenant from the Premises through the Port's marine terminal falls below eighty-one million board feet (81 MMbf) in any calendar year, the Port shall have the option to reduce the size of the Premises to approximately 19.2 acres of land, as generally shown in the attached Exhibit A-2 hereto, and as described in Exhibit B-2 hereto. Such reduction of premises shall be effective thirty (30) days after written notice by the Port of the reduction, and shall continue for the remaining term of this Lease, and the term "Premises" shall thereafter refer to such reduced area. However, if such above stated reduction in volume of Douglas Fir logs exported by Tenant is due to a short term (defined as less than one year) condition wholly outside of Tenant's influence or control, including but not limited to an outside influence to the market from such as, acts of God, acts of war, Military action, or other interruption of the export market, then the size of the Premises shall remain at 24.5 acres.

Upon reduction of the Premises pursuant to this Section, the area for staging of logs for loading to vessels will be outside of Tenant's Premises, and pursuant to International Longshore & Warehouse Union Local ("ILWU") #47 jurisdiction, all staging shall be scheduled by the Port and performed by ILWU Local 47 labor.

Any subsequent increase in the Premises following a reduction of the Premises pursuant to this Section 1.2 is subject to Tenant increasing its log export to more than eighty one million board feet per calendar year and subject to Port approval.

**1.3 Right of First Refusal on Additional Premises.** If during the Term of this Lease, including extensions, the Port decides to lease to a third party for marine terminal purposes that certain parcel of real property consisting of approximately 0.7 acres of land together with the improvements located thereon, as generally depicted in Exhibit A-4 hereto, and as described in Exhibit B-3 hereto, then Tenant shall have a right of first refusal with respect to the lease of such parcel under the same terms and conditions of this Lease, which Tenant shall exercise by written notice delivered to the Port within thirty (30) days from Tenant's receipt of written notice from the Port of the Port's intent to lease such parcel, or Tenant's right shall lapse forever.

**2. TERM.**

The term of this Lease shall commence upon mutual execution of this Lease by both parties and shall expire on December 31, 2011, subject to earlier termination pursuant to the provisions of this Lease and applicable law, and subject to extension pursuant to Paragraph 52 below.

3. RENT.

3.1 **Rent.** Tenant agrees to pay as rent for the use and occupancy of the Premises during the term of this Lease, Five Hundred Dollars (\$500.00) per acre per month. Rent shall be payable, without deduction or offser, to the Port in advance on or before the first day of each and every month and at such place as the Port may designate, commencing on the Rent Commencement Date. Rent shall be pro-rated if the Rent Commencement Date is other than the first day of the calendar month.

It is the intention of the parties hereto that the rent specified in the Lease shall be net to the Lessor in each year during the term of the Lease. Accordingly, all costs, expenses and obligations of every kind relating to the leased property (except as otherwise specifically provided in the Lease) which may arise or become due during the term of the Lease shall be paid by Tenant. All such costs, expenses, and obligations and payments coming due hereunder shall be deemed as "additional rent".

3.2. **Rent Commencement Date.** Tenant shall commence to pay rent on the earlier of (a) the first delivery of logs to the Premises, or (b) ninety (90) days after the Port has completed the work described in Improvement # 2, 3, 4, 5, 6, and 8 on Exhibit A3 Supplemental attached hereto.

3.3. **Interest on Late Payment of Rent.** If the Tenant does not pay the rent by the 10<sup>th</sup> of the month, then in addition to the overdue rent, Tenant shall pay interest on the rent payment then due at a rate per annum equal to the greater of eighteen percent (18%) per annum or two (2) percentage points over the composite prime rate of interest set forth in the Wall Street Journal "Money Rates" Column (or its successor) most recently prior to such date. Such interest commences on the date the rent is due and continues until such rent is paid. If the Tenant does not pay the rent when due and interest is incurred each month for three (3) consecutive months, the rent called for herein shall automatically become due and payable quarterly in advance rather than monthly, notwithstanding any other provision in this Lease to the contrary, and regardless of whether or not the interest is paid or collected. The imposition of such interest does not prevent the Port from exercising any other rights and remedies under this Lease.

4. SERVICE FEES.

Tenant shall pay for its operations at the Port of Olympia based on a monthly Service & Facilities/Wharfage fee, payable on the first of each month. The Service & Facilities/Wharfage Fee will be calculated by annual export volumes of Douglas Fir logs loaded to vessel at the Port of Olympia. The fee will be assessed as follows:

Minimum Annual Export Volume (MMBF)	Operating Acres	Annual Rate	Service & Facility / Wharfage Fee <sup>1</sup> (monthly)
0 - 69.9	19.2	\$45,000/acre	\$72,000
0 - 80.999	19.2	\$41,500/acre	\$66,400
0 - 80.999	24.5	\$41,500/acre	\$84,729
81 - 95.999	24.5	\$38,500/acre	\$78,604
96 or greater	24.5	\$35,500/acre	\$72,479

<sup>1</sup> Subject to annual Consumer Price Index adjustment (see below).

During the first year the monthly fee will be assessed at \$72,479 per month. If export volumes decrease below 81 MMbf in a calendar year, the lease area may be reduced at the Port's option and the ILWU labor jurisdiction will change along with the lease line as specified in Paragraph 1.2 of this Lease. If the lease area is reduced and the lease line changes then, in addition to the Service & Facilities fee, a surcharge of \$3.75 per thousand board feet (subject to PMA) will be assessed to Tenant for staging required to move logs from lease line to vessel staging area.

Tenant shall use its best efforts to maintain a minimum annual export volume of seventy million board feet (70 MMbf) of Douglas Fir logs from the Leased Premises through the Port's marine terminal. In the event Tenant fails to meet the minimum annual export volume requirement specified in Paragraph 1.2 of this Lease, Tenant shall provide the Port with a quarterly report detailing its shipping volume quarterly, and a year-end reconciliation of shipping volumes and annual fees as specified in paragraph 4.1 below. The Port shall have the right to audit all Tenant U.S. Export Declarations for Olympia, Washington, and Port Import and Export Reporting Service (PIERS) published by The Journal of Commerce (a trade journal focusing on transportation and logistics published by Commonwealth Business Media, Inc.), or successor publication, and request reconciliation at any time. Port and Tenant shall use U.S. Export Declaration and/or PIERS or successor publication for audit. If the volume of Douglas Fir logs exported by Tenant from the Premises through the Port's marine terminal falls below seventy million board feet (70 MMbf) in any calendar year, the Port shall have the option to terminate this Lease, and upon such termination Tenant shall pay to the Port an amount equal to the payment that would be due under Paragraph 47 below if Tenant had exercised its option to terminate this Lease at such time. Provided, however, that if Tenant can document that lack of water depth at the Port's berths has prevented Tenant's customers' vessels of the size and draft calling at Tenant's operation at the execution of this Lease from docking at the Port during the calendar year at issue, and that solely as a result thereof Tenant was not able to achieve a minimum annual export volume of 70 MMbf for such year, then the Port shall not have the right to terminate this Lease based on the lack of export volume for such year.

The Service & Facilities Fee will be subject to an annual CPI adjustment on the first of January each year. Port shall provide notice to Tenant of the new rental amount every year. Tenant shall receive a credit against the total Service & Facility/Wharfage fee in the amount of \$500 per acre per month.

For purposes of this lease, the phrase "CPI" or "Consumer Price Index" shall mean the Consumer Price Index published by the United States Department of Labor, Bureau of Labor Statistics, All Urban Consumers, All Items, West Region, 1982 - 84 = 100 (the "Index"). Adjustments based upon the Index shall be calculated as follows: The Index which is published for the month nearest the date of this Lease (the "Beginning Index") shall be compared to the Index published for the month nearest the adjustment date ("Extension Index"). If the Extension Index has increased over the Beginning Index, the amount subject to adjustment (i.e., Service & Facilities Fees), shall be multiplied by a fraction, the numerator of which is the Extension Index and the denominator of which is the Beginning Index. If the Index has been changed so that the base year differs from that used for calculating the Beginning Index, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised, such other government index or computation with which it has been replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

**4.1 Reports and Audit.** Tenant agrees to furnish or cause to be furnished to the Port an annual (or per the above provisions, quarterly) statement of shipping volumes within thirty (30) days after the close of each calendar year (or quarter if so required) after the Lease commences. Such statement shall be signed by a responsible employee of Tenant. The receipt by the Port of any statement or any payment of Fees or Rents for any period shall not bind it as to the correctness of the statement or the payment. Within nine (9) months after the receipt of any such statement, the Port shall be entitled to conduct an audit of such shipping volumes either by the Port or by a certified public accountant to be designated by the Port. Such audit shall be limited to the determination of the shipping volumes of



Tenant and conducted following reasonable notice during normal business hours at the location where the relevant records are kept, which may be Tenant's corporate office. If it shall be determined as a result of such audit that there has been a deficiency or overpayment in the payment of Rents or Fees due, then such deficiency or overpayment shall become immediately due and payable. In addition, if Tenant's statement for the pertinent calendar year shall be found to have understated or overstated shipping volumes by more than two percent (2%), and the Port is entitled to any additional fees as a result of said under or overstatement, or if such audit shows that Tenant has failed to maintain the books of account and records required hereunder so that the Port is unable to verify the accuracy of Tenant's statement, then the Tenant shall pay all of the Port's reasonable costs and expenses (including reasonable auditor and attorney fees) which may be incurred by the Port in conducting such audit and collection of such underpayment, if any. Any information gained from such statements or inspection shall be confidential and shall not be disclosed other than to carry out the purposes hereof, except as otherwise required by law. Provided, however, that the Port shall be permitted to divulge the contents of any such statements in connection with any contemplated sales, transfers, encumbrances, financing arrangement or assignments of the Port's interest in all or any portion of the Premises so long as the Port requires the recipient of such information to sign a non-disclosure agreement reasonably acceptable to Tenant. Provided further, that if the Port is requested to divulge such confidential information in connection with a public disclosure request, or any administrative or judicial proceeding in which the Port is involved or in which the Port may be required to divulge such information, or as otherwise required by law, then the Port shall promptly notify Tenant so that Tenant, at its cost, may take appropriate action to protect the confidentiality of such information, if it desires to do so.

**4.2 Additional Charges.** Any additional charges incurred by Tenant for operation of its log yard, not specified under Service & Facilities herein nor identified as contract rates below, shall be based on the charges published in Tariff No. 9 currently in file with the Port or as hereafter amended or replaced. Tenant will be responsible for costs associated with requirements at the Port's Marine Terminal, as mandated by regulatory authorities and relating to Tenant's operations. The following contract rates will apply to Tenant:

Log Vessel Clean-up Fee: This service includes moving bark to Tenant's lease area and watering of the dock area related to Tenant's operations. The contract rate will be \$524.96 /shift, subject to annual labor increase adjustments published by Pacific Maritime Association.

Barge Dockage: Dockage on barges will be discounted at 50% of vessel tariff rate as published in Tariff No. 9 currently on file with the Port or as hereafter amended or replaced.

Daily storage rate at Berth 2: Should Tenant require storage on the dock adjacent to Berth 2 (as shown in the site plan) while a vessel or barge is at berth, a fee of \$6,604.01 per 24 hr. period will be assessed to Tenant. Should Tenant require storage on the dock adjacent to Berth 2 with no vessel operation at Berth 2, a fee of \$1000 per 24 hours period will be assessed to Tenant.

Rental Equipment: Port will have available for rental, at current Port tariff rates, two (2) pieces of log handling equipment with 30-ton lift capacity, available during Tenant's vessel operations, subject to service fees in Port Tariff No. 9. currently on file with the Port and as hereinafter amended or replaced.

**4.3 Access to Berths.** Tenant will have access to Port berths, subject to rules and regulations in Port Tariff No. 9. During the term of this agreement, neither Tenant nor any other Port tenant shall have preferential or exclusive berthing rights to Berth 3. Berth 3 will be subject to the berth reservation process as specified in Tariff No. 9. If Tenant provides notice to the Port that one of its vessels is scheduled for arrival, and Berth 3 is not available and/or the vessel cannot be accommodated and such action results in Tenant not able to achieve shipping volume of 81 MMbf per year, Port and Tenant agree the Premises will be not reduced in size as called for in Section 1.2 of the Lease.

## 5. LEASE SURETY BOND.

Tenant shall, upon execution of this Lease, file with the Port a good and sufficient surety bond in accordance with the requirements of state law. The form and terms of the surety bond and the identity of the surety shall be subject to approval of the Port and the surety shall guaranty the full performance by Tenant of all the terms and conditions of this Lease, including the payment by Tenant of the rents and all other amounts herein provided for the full term hereof. Any acceptable surety instrument having expiration earlier than the full lease term shall be automatically renewable. Any company issuing such a surety instrument must give the Port at least ninety (90) days advance written notice prior to the effective date of cancellation or expiration of such surety instrument. Initially, the required amount of the surety bond shall be equal to the rent payable by Tenant (rent is \$500/acre/mth) for one year plus leasehold excise tax on that amount. These provisions as to lease surety are subject to the continued approval of the Port and to revision and adjustment as may hereafter result from changes in state requirements or as established by the Port Commission.

## 6. ACCEPTANCE OF PREMISES.

Tenant has examined the Premises, and the adjoining real property of which the Premises are a part, and, except as otherwise provided in Schedule 6.1 hereto, accepts the Premises in its present condition. Except as otherwise expressly provided for in Schedule 6.1 to this Lease, Tenant agrees to make any changes in the Premises necessary to conform to federal, state or local law applicable to Tenant's use of the Premises. Except as otherwise provided in this Lease, the Port shall have no obligation to repair, correct, or take any other action with respect to any item identified in Schedule 6.1.

Except for improvements constructed or installed by Tenant, the Port warrants that all improvements on the Premises, including but limited to streets, storm water and sanitary sewer systems, lights, parking lots, driveways, asphalt, and utilities, are in good working order as of the date Tenant is given possession of the Premises, and the Port agrees that, if required by a governmental authority, the Port will correct any non-compliance, breach, or violation associated therewith at its sole expense in a timely and reasonable manner. The Port further warrants that, in the event that it prepares the Premises or any portion thereof for Tenant's use, that upon completion of such work by the Port, the same shall be in good operating condition, shall satisfy Tenant's requirements provided to the Port in writing, and shall comply with all federal, state and local, municipal and governmental laws, ordinances, codes, rules and regulations, including ADA and environmental requirements, which govern the Premises and are in effect at such time. Except as otherwise provided for in this Lease, there are no warranties expressed or implied as to any condition apparent or unknown on the Premises.

Tenant shall only be responsible for management of storm water generated by or resulting from its operations on the Premises (including Tenant's construction or installation of improvements or equipment) commencing from Tenant's possession of the Premises or any part thereof (by moving logs onto the Premises, by commencing construction or installation of its improvements or equipment on the Premises, or otherwise) through the lease term. Prior to the Rent Commencement Date, Tenant in conjunction with the Washington State Department of Ecology shall determine storm water sampling locations that are deemed sufficient by the Washington Department of Ecology for Tenant to access and sample only that storm water as may generated by Tenant's operations on the Premises, and, if necessary, the Port shall construct access points within the storm water system serving the Premises for such sampling locations. Tenant shall not be responsible for the management, treatment, storage, handling of, or any compliance issues associated with storm water generated by or resulting from operations of the Port and/or its current or past tenants, agents, invitees, or contractors, or any sediments located within the storm water system that were caused by or the result of operations of the Port and/or its current or past tenants (other than Weyerhaeuser), agents, invitees, or contractors either before or after the inception of this Lease. Port will participate in a future design for a mutually beneficial storm water system if so required by water quality regulations and will make a reasonable financial contribution to its construction.

Except as otherwise agreed to in this Lease, Tenant shall have absolutely no responsibility, cost or expense whatsoever for any condition which existed on the Premises prior to Tenant's occupancy of the Premises and/or those issues identified in the Level 1 environmental site assessment performed on the property, a copy of which is attached hereto as a part of Schedule 6.1 and incorporated herein by this reference (a "Known Condition"), regardless of whether the Port or the Premises is, was, or will be in non-compliance, breach or violation of any applicable laws or regulations resulting from said conditions, and, if required by a governmental authority, the Port shall rectify any non-compliance, breach or violation associated therewith at its sole expense in a timely and reasonable manner. The Port represents and warrants that, as between the Port and Tenant, the Port is solely responsible for complying with the Agreed Orders and Consent Decree associated with the Cascade Pole area, and, except as otherwise agreed to in this Lease, Tenant shall bear no cost or expense for the installation, repair or maintenance of the containment or monitoring system, or any remediation or monitoring activities associated with or required for the Cascade Pole area.

## 7. POSSESSION.

Tenant shall be entitled to possession of a portion of the Premises for purposes of installing Tenant's maintenance shop and modular buildings, upon the Port's completion of all necessary underground improvements for Tenant's installation of its shop and buildings. Port shall have completed all necessary underground improvements for the installation of tenant's maintenance shop and office building no more than one hundred fifty seven (157) days after Tenant has received all required plans, specifications, and permits for said buildings (including all underground improvements to be completed by the Port), and Tenant has delivered the same to the Port. The underground work shall include, but is not limited to, the footings, utilities, retaining walls, and subsurface compaction as required. Tenant shall also be entitled to possession of a portion of the Premises identified for installation of Tenant's equipment as shown in Exhibit "D" and "D1" upon the Port's delivery of notice of readiness for such installation, which shall be not less than ninety (90) days prior to the estimated occupancy of the entire Premises by Tenant. Port shall have the right on the remainder of the 15.8 acre site to continue operations outside of the portion utilized for installation of Tenant equipment until such time as the ninety (90) day notice period elapses provided such operations do not materially interfere with Tenant's installation of its equipment. If the Port shall be unable for any reason to deliver possession of the Premises or any portion thereof by the time provided by this Lease, the Port shall not be liable for any damage caused thereby to Tenant, nor shall this Lease thereby become void or voidable, nor shall the term specified herein be in any way extended, but in such event Tenant shall not be liable for any rent until such time as the Port can deliver possession of a sufficient portion of the Premises for Tenant to begin operations at the Premises; provided that if Tenant shall take possession of any portion of the premises in the interim, it shall pay the full rent specified herein reduced pro rata for the portion of the premises not available for possession by Tenant; and provided further, that if the Port shall be unable to deliver possession of the Premises by August 1, 2006, Tenant shall have the option to terminate this Lease by giving at least thirty (30) days' written notice of such termination, and this Lease shall terminate unless the Port shall deliver possession of the Premises prior to the effective date of termination specified in such notice. Notwithstanding the foregoing, if the Port's failure to deliver possession of the Premises by August 1, 2006 is due to any delay in Tenant's obtaining or delivering to the Port all required plans, specifications, and permits for any underground improvements to be constructed by the Port for Tenant, then the Port shall be entitled to a reasonable extension of the August 1, 2006 date. If Tenant shall, with the Port's consent, take possession of all or any part of the Premises prior to the commencement of the term of this Lease, all of the terms and conditions of this Lease shall immediately become applicable, with the exception that Tenant shall not be obligated to pay any rental for the period prior to the Rent Commencement Date unless otherwise mutually agreed.

## 8. USE OF PREMISES.

Tenant shall use the Premises only for a log export facility, and shall not use them for any other purpose without the written consent of the Port, which consent may be withheld in the Port's sole discretion. The Port agrees that it will not object to, but publicly support (when asked by any person or entity regarding Tenant in any public forum), Tenant's operations on the Premises twenty-four (24) hours a day seven (7) days a week. The Premises shall be used only for lawful purposes, and only in accordance with applicable laws, rules, ordinances, codes, regulations, and orders. No signs or other advertising matter, symbols, canopies or awnings shall be attached to or painted on or within the Premises, including the windows and doors thereof, without the approval of the Port. At the termination or sooner expiration of this Lease, all such signs, advertising matter, symbols, canopies or awnings attached to or painted by Tenant shall be removed by Tenant at its own expense, and Tenant shall repair any damage or injury to the Premises and correct any unsightly condition caused by such removal. At no time shall the Tenant have the right to remove or otherwise disturb timber, valuable minerals, sand, gravel or water, from the site, which materials belong to the Port and may only be used with consent and appropriate compensation.

The Port represents and warrants that to its knowledge, except as disclosed in Schedule 8.1, there are no orders governing the use of, involving, or otherwise applicable to the Premises in effect as of the date of this Lease. This representation and warranty shall survive the expiration or earlier termination of this Lease.

## 9. IMPROVEMENTS.

### 9.1. Initial Improvements by Port.

The Port represents and warrants that the improvements to be constructed by the Port shall be constructed and engineered in a manner which will allow Tenant to utilize the Premises with the improvements for log handling and storage. The improvements to be constructed by the Port are attached as Exhibit "A3" and "A3 (Supplemental)". Port shall provide Tenant pavement density and other quality control tests as called for in the Washington State Department of Transportation Manual as it pertains to the various phases of the construction of Port improvements. Tenant shall reimburse the Port for all costs incurred by the Port relating to Improvement # 8 on Exhibit A3 (Supplemental).

9.2. **Initial Improvements by Tenant.** Tenant intends to construct or install a maintenance facility and other buildings and equipment in the areas designated in Exhibit "D". The improvements shall be in accordance with applicable laws, and subject to Port approval which will not be unreasonably withheld or delayed.

9.3. **Subsequent Improvements and Alterations by Tenant.** Except as expressly stated in Section 9.2 above, Tenant shall make no alterations or improvements to or on the Premises, or install any fixtures (other than trade fixtures which can be removed without injury to the Premises), without the prior written consent of the Port, which shall not be unreasonably withheld. Any improvements to be made by Tenant on the Premises shall comply with the requirements in Exhibit "C" to this Lease, which by this reference is incorporated herein as if set forth in full. For any improvements to be made by Tenant on the Premises that require any work below the surface of the Premises, the Port shall perform all work below the surface of the Premises and Tenant shall reimburse the Port for the costs incurred by the Port for such work. If a survey is required by a governmental agency other than the Port for any improvement to be made by or for Tenant, then prior to the submission of any plans for such improvements on the leased Premises, Tenant shall furnish a survey of the appropriate leased Premises as prepared by a registered and licensed surveyor, all at Tenant's own expense. Upon installation, Tenant shall provide the Port a copy of the "as-built" drawings including utility installations and site plans detailing the nature of the additions, alterations, or improvements.

## 10. RIGHTS-OF-WAY.

The Port agrees to grant other such right-of-way easements across the property of the Port reasonably available therefor for the installation and maintenance of necessary and adequate services for Tenant's benefit to the Premises of Tenant, including but not limited to petroleum product pipelines, railroad spurs, railways and utility lines. However, Port agrees not to grant such right of way easements across the Premises if such easements would materially interfere with Tenant's operations.

Tenant agrees that it will permit, subject to and upon such reasonable terms as may be established by Tenant, other Port tenants and their invitees to travel across the Premises in a lane of travel to be designated by Tenant for access to and from the Easy Lift located northwesterly of Tenant's Premises. Provided, that Tenant's business activities and operational requirements shall be granted preference over the ability of other Port tenants and their invitees to travel across the Premises to access the Easy Lift.

## 11. RESERVATION OF RIGHTS.

The Port reserves to itself from the premises herein leased rights of way upon, over, across, onto or beneath the above-described lands for pole and wire lines, gas, water and sewage pipes and mains, conduits or any other utilities or industrial or business area facilities of all kinds now existing or to be constructed and maintained by it, either in addition to or in the substitution for those now existing from any point or points and in any direction and also reasonable rights of entry upon the demised premises for the construction, repair, inspection and maintenance of them in efficient use and condition, provided that the Port shall give prior notice to Tenant of such action by the Port, and provided that such action by the Port shall not unreasonably interfere with or interrupt Tenant's operation and shall be at the expense of the Port. The Port is hereby granted such continuous, perpetual easement or easements that the Port believes are necessary within the leased premises for such purposes, which easement or easements may be further granted by the Port to third parties. Port will indemnify, defend and protect Tenant from any and all claims, liabilities, losses, and damages from third party users or grantees of such right-of-ways granted by the Port.

## 12. UTILITIES AND SERVICES.

Tenant shall be liable for and shall pay throughout the term of this lease all charges for all utility services furnished to the Premises, including but not limited to, light, heat, gas, janitorial services, garbage disposal, security, electricity, water, stormwater and sewerage, including any connection fees, and any fire protection, police protection, or emergency health services as furnished by local authorities and as may be the subject of a contract between the Port and such local authorities or as imposed by ordinance or statute. If the Premises are part of a building or part of any larger Premises to which any utility services are furnished on a consolidated or joint basis, Tenant agrees to pay to the Port Tenant's pro-rata share of the cost of any such utility services. Tenant's pro-rata share of any such services may be computed by the Port on any reasonable basis, and separate metering or other exact segregation of cost shall not be required.

## 13. INDEMNIFICATION AND LIABILITY INSURANCE.

Except as otherwise agreed to in this Lease, Tenant agrees to indemnify, defend, and hold and save the Port (including its commissioners, employees and agents) harmless from all liability or expense (including attorneys' fees, costs, and all other expenses of litigation) arising in connection with any item of actual or alleged injury (including death) or damage to the extent caused by any act or omission of Tenant or its employees, agents, contractors, licensees, invitees, subtenants, or assignees, except to the extent caused by the negligence or other wrongful act of the Port. Provided that, to the extent any of the activities covered by this indemnity are construed to be subject to RCW §4.24.115, it is agreed that where such items of actual liability, damages, costs or expenses arise from the concurrent negligence of Tenant and the Port, it is expressly agreed that Tenant's obligations of indemnity under this paragraph shall not

be effective to the extent of Port's negligence or other fault. Tenant's obligations under this paragraph shall survive the expiration or earlier termination of this Lease.

Except as otherwise agreed to in this Lease, Port agrees to indemnify, defend and to hold and save the Tenant (including its employees and agents) harmless from all liability or expense (including attorneys' fees, costs and all other expenses of litigation) arising in connection with any item of actual or alleged injury (including death) or damage to the extent caused by any act or omission of the Port or its employees, agents, or contractors, except to the extent caused by the negligence or other wrongful act of Tenant. Provided that, to the extent any of the activities covered by this indemnity are construed to be subject to RCW §4.24.115, it is agreed that where such items of actual liability, damages, costs or expenses arise from the concurrent negligence of the Port and Tenant, it is expressly agreed that the Port's obligations of indemnity under this paragraph shall not be effective to the extent of Tenant's negligence or other fault. The Port's obligations under this paragraph shall survive the expiration or earlier termination of this Lease.

Tenant shall, at its own expense, provide and maintain commercial general liability insurance with a reputable insurance company, and including, but not limited to Premises and operations; personal injury, contractual liability; independent contractors; broad form property damage; (and Collapse, Explosion and Underground, where required); and such additional types and amounts of liability insurance as the Port may deem reasonably necessary for the types of services or activities offered by Tenant and with the minimum policy limits in the amount of \$1,000,000.00 bodily injury or death each occurrence, and \$500,000.00 property damage each occurrence. The Port shall be named as an additional insured on the policies, which shall provide that such insurance may not be cancelled without the insurance company first having given the Port thirty (30) days' advance written notice of such intent to cancel. At the Port's request, Tenant shall provide a certificate of insurance, as requested by the Port. Tenant shall furnish the Port with evidence of renewal of such policies not less than thirty (30) days prior to their expiration.

Port shall, at its own expense, provide and maintain commercial general liability insurance with a reputable insurance company or companies, and including, but not limited to operations of the Port; personal injury, contractual liability; independent contractors; broad form property damage; (and Collapse, Explosion and Underground, where required) with the minimum policy limits in the amount of \$1,000,000.00 bodily injury or death each occurrence, and \$500,000.00 property damage each occurrence.

The Port and Tenant shall periodically review the coverage afforded by such policies as required in the preceding paragraphs, and shall equally increase the coverage amounts for the Port and Tenant to such increased amounts as may reasonably be required to indemnify the Port and Tenant against liability or expense as provided in the preceding paragraphs. Notwithstanding anything to the contrary, the coverage amounts and the procuring of insurance pursuant to this Paragraph 13 shall not be construed to effect a limitation on, or constitute full performance of, the parties' indemnity, defense, and hold harmless obligations as set forth in this Lease.

#### **14. WAIVER OF SUBROGATION.**

The Port and Tenant hereby mutually release each other from liability and waive all right of recovery against each other for any loss from perils insured against under their respective insurance contracts, including any extended coverage endorsements thereto, provided, that this paragraph shall be inapplicable to the extent it would have the effect of invalidating any insurance coverage of the Port or Tenant. Each party agrees to cause their respective insurance carriers to include in its policies a waiver of subrogation clause or endorsement.

## 15. TAXES.

Tenant shall be liable for, and shall pay, throughout the term of this lease with 30 day notice from the Port, all license fees and taxes covering or relating to the Premises and its use (but only for the term of this lease from and after the Rent Commencement Date), including, without limitation, (a) all real estate taxes assessed and levied against the Premises; (b) all amounts due and payable for general or special assessments against the Premises during the term of this lease (whether assessed prior to or during the term of this lease), including any assessments for LIDs or ULIDs; and (c) all personal property taxes upon Tenant's fixtures, furnishings, equipment and stock in trade, Tenant's leasehold interest under this lease or upon any other personal property situated in or upon the Premises. If any governmental authority at any time levies a tax on rentals payable under this lease or a tax in any form against Lessor because of or measured by income derived from the leasing or rental of the Premises, such tax shall be paid by Tenant; provided, however, that Tenant shall not be liable for the payment of any tax imposed generally on Lessor's gross or net income without regard to the source of such income.

## 16. MAINTENANCE AND REPAIR.

### 16.1 Maintenance and Repair.

Tenant shall, at its own expense, keep the Premises and the buildings, structures, streets (together with the shoulders and ditches) and other improvements on the Premises, in a neat, clean, safe and sanitary condition, and shall maintain and keep the Premises in a manner equal to similar classes of industrial properties in the Thurston County, Washington area, normal wear and tear excepted. Except as otherwise stated herein, Tenant shall be responsible for any and all repairs and maintenance of the portions of the buildings, structures, and improvements located above ground. Except as otherwise provided for in this Lease, Tenant shall have no responsibility to repair or maintain any improvements, structures or utilities located below the surface anywhere on the Premises. Except as otherwise provided for in this Lease, the Port shall be solely responsible for all repairs and maintenance of improvements, structures and utilities located below the surface of the Premises, and for all repairs, maintenance, and improvements to the streets, sidewalks, ditches, or any other improvements or items located outside the leased Premises on Port property. The Port shall maintain and regularly clean out all storm water catch basins serving the Premises, and Tenant shall reimburse the Port for Tenant's pro rata share of said costs.

The Port shall be solely responsible for and shall maintain and repair the paving materials in all areas of the Premises, including but not limited to the Cascade Pole area. Tenant agrees to reimburse the Port for the reasonable costs of maintaining or repairing the paving materials on the Premises located outside the Cascade Pole area within thirty (30) days from receipt of an invoice from the Port. Unless otherwise agreed to in this Lease, the Port shall be solely responsible for the costs it may incur to maintain and repair the paving materials within the Cascade Pole area.

Tenant and Port shall, on a monthly basis during the Lease term, jointly inspect the paving materials on the Premises for wear and tear of the paving material surface. If a negligent or other wrongful act or omission of the Tenant or Tenant's Representatives (as defined in Paragraph 27(d) below) on the Premises causes damage to the paving materials in any area of the Premises, including but not limited to the Cascade Pole area, above and beyond the normal wear and tear associated with the occupancy and use of the Premises as a log storage and sort yard, Tenant will immediately, and in any event within twenty-four (24) hours following discovery of the damage, verbally notify the Port of the damage, and Tenant will pay the reasonable costs incurred by the Port to repair the same within thirty (30) days from receipt of an invoice from the Port.

Tenant shall maintain any undeveloped areas on the Premises in a clean, safe and sanitary, condition free from rubbish and debris. Tenant shall also, at its own expense, at all times keep the Premises free from infestation of pests and conditions which might result in harborage for, or

infestation of pests (pests shall include, without limitation, rodents, insects, and birds in sufficient numbers to the extent that a nuisance is created). In no event shall Tenant be required to employ lethal means to control birds.

Tenant shall pay its pro-rata share for the cost of cleaning bark, mud, and other debris from Port-owned roadways adjacent to or serving the Premises, including their shoulders and ditches, which cost shall be allocated by the Port in accordance with the Port's reasonable determination of responsibility based on the nature and extent of the Port's, the Tenant's, and other Port tenants' use of such roadways, and the cleaning resulting therefrom. If Tenant's use of the roadways adjacent to the Premises results in damage to the roadway in a manner above and beyond normal wear and tear, then Tenant shall be responsible for the reasonable repairs and maintenance of the damaged roadway surface(s).

In the event Tenant fails to maintain the Premises or any improvements thereon, and the Port gives a thirty (30) day written notice to Tenant, and Tenant fails to comply with Tenant's responsibilities under this Section, the Port shall be entitled, but shall not be obligated, to enter the leased Premises and perform such work as may be necessary to restore the leased Premises and improvements to the conditions set forth herein. The cost of such repairs shall be billed to Tenant by the Port and shall be payable upon receipt and subject to the same penalties for late payment as if such payment was additional rent. Tenant shall have no claim as deduction or offset any monies or charges against the rent paid to the Port for maintenance or repairs, unless otherwise stated herein.

#### **16.2. Liens.**

Tenant shall keep the Premises free and clear of any liens and encumbrances arising or growing out of the use and occupancy of the Premises by Tenant. At the Port's request, Tenant shall furnish the Port with written proof of payment of any item which would or might constitute the basis for such a lien on the Premises if not paid. Any dispute under this section shall be subject to arbitration under Paragraph 37.

#### **16.3. Berth Maintenance and Dredging.**

The Port and Tenant acknowledge that the water depth along Berth 3 is currently less than 38' Mean Low Water (MLLW) National Ocean Survey (NOS) datum at ships keel, and Port will provide Tenant a sounding survey of the face of the Port berths. The Port shall use its best efforts to create and maintain a minimum water depth of 38' MLLW at its marine terminal in order to accommodate vessels of the size and draft calling at Tenant's operation at the execution of this Lease. Port hereby represents it has plans for dredging the marine terminal waterway to a depth of 38' MLLW, subject to applicable agency approval and Port funding. Until such dredging occurs, Port will reasonably accommodate Tenant's customers' vessels by repositioning them along the dock face if the scheduled vessel call cannot be accommodated at Berth 3, Tenant shall cooperate with the Port in good faith in the accommodation of its vessels, and Tenant shall not incur additional Service and Facilities and Handling fees and there will be no jurisdictional labor issues in such event. If Tenant can document lack of water depth has prevented Tenant's customers' vessels of the size and draft calling at Tenant's operation at the execution of this Lease from docking at the Port, thereby causing Tenant not to achieve shipping volume of 81 MMbf per year, the Premises will be not reduced in size as called for in Paragraph 1.2 of the Lease.

If the planned dredging does not commence by December 31, 2007, and if Tenant can document that lack of water depth has prevented Tenant's customers' vessels of the size and draft calling at Tenant's operation at the execution of this Lease from docking at the Port, then Tenant and Port agree to cooperate with one another in good faith to explore reconfiguration of Tenant's site and a shift to the use of other Port berths. If the Port and Tenant are not able to identify a mutually agreeable solution, then Tenant



may terminate this Lease, and neither party shall be required to make any payment to the other under Paragraph 4 or Paragraph 47 of this Lease based on such termination.

**17. ALTERATIONS AND IMPROVEMENTS.**

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**18. DISPOSITION OF IMPROVEMENTS.**

a. Within sixty (60) days after the expiration or earlier termination of this Lease, other than pursuant to Paragraph 30 or Paragraph 51 of this Lease, the Tenant shall, at Tenant's expense, promptly and diligently remove, demolish or clear off from the Premises all above-ground improvements and other personal property owned by Tenant, and after such removal or clearance, Tenant shall remove all debris.

b. Provided, however, that the Port may, at its sole discretion, elect to have the buildings remain, in which event title to the same shall automatically pass to the Port, free of any right, title, interest of Tenant therein, or its successors or assigns, without the necessity of executing any further instrument and without any allowance, compensation, or payment by the Port, unless otherwise stated herein. If Port elects to have the buildings remain, Port shall pay to Tenant a mutually agreeable price. In the event Port and Tenant cannot reasonably agree on a value for the building, then Tenant shall have, at its sole discretion, the option to either remove the buildings at Tenant's sole cost and expense or have the buildings remain, in which event title to the same shall automatically pass to the Port, free of any right, title, interest of Tenant therein, or its successors or assigns, without the necessity of executing any further instrument and without any allowance, compensation, or payment by the Port, or the Port requiring their removal. Tenant hereby grants and conveys to the Port all of its right, title and interest in and to such improvements, to be effective for all purposes upon any termination of this Lease. Notwithstanding the foregoing, if the Port does not elect to have Tenant remove the improvements, Tenant agrees to execute, acknowledge and deliver to the Port prior to the expiration of such sixty-day (60) period a proper recordable instrument quit claiming and releasing to the Port to any right, title and interest of Tenant in and to the leased Premises and all improvements thereon, and giving such further assurances of title as may be required by the Port. Tenant shall, upon such lease termination, surrender and deliver the leased Premises and all remaining improvements to the Port, without delay and in good order, condition and repair, ordinary wear and tear excepted, and in a neat and clean condition, excepting only Tenant's or any subtenant's movable trade fixtures, machinery, equipment and personal property. Tenant shall also deliver to the Port all documents necessary or appropriate for the proper operation, maintenance and management of the leased premises and improvements (including but not limited to such documents as operations manuals and maintenance logs and schedules, but excluding any privileged or confidential internal documents of Tenant).

c. Any dispute under this section shall be subject to arbitration under Paragraph 37,  
**ARBITRATION PROCEDURE.**

**19. INSPECTION.**

The Port reserves the right to inspect the Premises after written notice (except where the Port reasonably believes there exists or is about to exist an emergency, in which case no notice is required) at any and all reasonable times throughout the term of this Lease, provided that it shall not interfere unduly with Tenant's operations. The right of inspection reserved to the Port hereunder shall impose no obligation on the Port to make inspections to ascertain the condition of the Premises, and shall impose no liability upon the Port for failure to make such inspections. The Port shall have the right to place and maintain "For Rent" signs in conspicuous places on the Premises for a reasonable period of time prior to the expiration or sooner termination of this Lease.

## 20. RESTORATION AND PROPERTY INSURANCE.

(a) At all times during the term of this Lease, Tenant shall maintain in effect upon the leased Premises and Tenant's improvements thereon, fire and extended coverage property insurance for physical loss and damage excluding earthquake insurance and flood insurance, written by companies authorized to do business in the State of Washington, and rated A+ or better by A. M. Best. Such policy or policies (i) shall be written in the form of replacement cost insurance in an amount not less than 100% of the full replacement cost of the leased Premises and Tenant's improvements thereon, which amount shall be adjusted not less frequently than annually, (ii) shall contain an endorsement waiving any and all rights of subrogation against the Port and (iii) shall provide that notice of cancellation of the policy or any endorsement shall be given to the Port and any other party designated by the Port at least 30 days prior to cancellation. The Port and each other party designated by the Port shall be named as additional insureds and loss payees on all such policies. Tenant shall provide the Port and each other party designated by the Port with certificates of insurance evidencing such coverage and shall provide evidence of renewal at least 30 days prior to the expiration of such policy or policies.

(b) If any building or improvement erected by Tenant on the leased Premises or any part thereof shall be damaged or destroyed by fire or other casualty during the term of this Lease, Tenant may, at its option, at its own cost and expense, repair or restore the same according to the original plans thereof or according to such modified plans as shall be previously approved in writing by the Port. Such work of repair or restoration shall be commenced within sixty (60) days after the damage or loss occurs and shall be completed with due diligence but not longer than one (1) year, if possible, or as soon thereafter as is reasonably possible after such work is commenced, and such work shall be otherwise done in accordance with the requirements of the provisions hereof pertaining to the construction of improvements upon the leased Premises. All insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration, or if Tenant elects not to repair or restore, to the cost of removing, demolishing, or clearing off the building or improvements. If (i) there are not insurance proceeds, or (ii) the same shall be insufficient for said purpose, Tenant shall make up the deficiency out of its own funds. Should Tenant fail or refuse to make the repair, restoration or removal as hereinabove provided, then in such event said failure or refusal shall constitute a default under the covenants and conditions hereof, and all insurance proceeds so collected shall be forthwith paid over to and be retained by the Port on its own account, and the Port may, but shall not be required to, sue and apply the same for and to the repair, restoration or removal of said leased premises or improvements, and the Port may, at its option, terminate this Lease as elsewhere provided herein.

(c) Notwithstanding anything to the contrary contained in the preceding section, if any building erected on said leased Premises shall be damaged by fire or other casualty, and if the cost of repairing or restoring the same shall exceed the insurance payable for such damage, and if such damage shall occur during the term so that the remaining term of this Lease is of insufficient length to allow Tenant to finance such cost in a commercially reasonable manner, the Tenant shall have the option, to be exercised within thirty (30) days after such event, to repair or restore said building as hereinabove provided, or to terminate this Lease by written notice thereof to the Port.

(d) Any dispute under this section shall be subject to arbitration, under Paragraph 37, **ARBITRATION PROCEDURE.**

## 21. DEFAULTS.

Time is of the essence of this Lease, and in the event of the failure of Tenant to pay the rental, interest or other charges provided in this Lease at the time and in the manner herein specified, or to keep any of Tenant's covenants or agreements herein, the Port may elect to terminate this Lease and reenter and take possession of the Premises with or without process of law, provided, however, that Tenant shall be given fifteen (15) days' notice in writing if the default is for the nonpayment of rent or other monetary

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**26. COMPLIANCE WITH PORT REGULATIONS/ALL LAWS.**

Tenant agrees to comply with applicable rules and regulations of the Port, pertaining to Tenant's use or occupancy of the Premises. Tenant further agrees to comply with federal, state and local laws, rules, ordinances, regulations and orders applicable to Tenant's operations on the Premises, including but not limited to those regarding noise and/or vibration. Except as otherwise agreed to in this Lease, Tenant agrees to defend, indemnify, and hold the Port harmless from and against any liability, damage, costs, or fees incurred by the Port (including all direct and indirect costs and professional fees, including engineering and attorneys' fees) due to Tenant's failure to comply with the requirements of this section. Tenant's obligations under this Section shall survive the expiration or earlier termination of this Lease.

The Port represents and warrants that to its knowledge, except as disclosed in Schedule 8.1, there are no orders governing the use of, involving, or otherwise applicable to the Premises in effect as of the date of this Lease. This representation and warranty shall survive the expiration or earlier termination of this Lease.

**27. ENVIRONMENTAL COMPLIANCE/HAZARDOUS SUBSTANCES.**

Tenant shall comply with this Paragraph 27 as it relates to the responsibilities and obligations of Tenant's operations within the Port, and the Port agrees to comply with this Paragraph 27 in regards to the responsibilities and obligations applicable to Port.

(a) As used in this Paragraph 27, the term "Hazardous Substances" means any chemical, substance, material, waste or similar matter defined, classified, listed or designated as harmful, hazardous, extremely hazardous, dangerous, toxic or radioactive, or as a contaminant or pollutant, or other similar term, by, and/or which are subject to regulation under, any federal, state or local environmental statute, regulation or ordinance presently in effect or that may be promulgated in the future, and as they may be amended from time to time.

(b) As used in this Paragraph 27, the term "Other Property" means any real or personal property other than the Premises (including, without limitation, surface or ground water) which becomes contaminated with Hazardous Substances as a result of the release of Hazardous Substances by the operations or activities of the Tenant or Tenant's Representatives (as defined below) on the Premises.

(c) Tenant shall be responsible for applying for and obtaining necessary federal, state and local governmental permits or approvals for the use of the Premises. Tenant shall not commence any activity on the Premises until all permits or approvals required for such activity have been issued, and shall conduct all of its activities on the Premises in compliance with said permits and approvals.

(d) Tenant warrants and agrees that for itself, and its employees, agents, contractors, subcontractors, licensees, invitees, subtenants, or assignees (collectively "Tenant's Representatives"), that Tenant and Tenant's Representatives will comply with all applicable local, state and federal environmental laws, regulations, orders, and ordinances relating to the generation, recycling, treatment, use, storage, handling, transport and disposal of Hazardous Substances on the Premises or in common areas within the Port.

(e) With respect to any Hazardous Substances, Tenant shall:

(i) Comply promptly, timely and completely with applicable governmental requirements for reporting, keeping and submitting manifests and obtaining and keeping current identification numbers;

(ii) Make available for the Port's review and copying during normal business hours, and upon reasonable notice, true and correct copies of all reports, manifests and identification numbers submitted to the appropriate governmental authorities;

(iii) Within twenty (20) business days of a written request from the Port, submit a written report to the Port regarding Tenant's use, storage, treatment, transportation, generation, disposal or sale of Hazardous Substances and provide evidence satisfactory to the Port of Tenant's compliance with the applicable laws, rules and regulations;

(iv) Subject to prior verbal notice (except where the Port reasonably believes that an emergency exists and prior notice is not possible), allow the Port or its agents or representatives to enter the Premises to check Tenant's compliance with applicable laws, rules and regulations regarding Hazardous Substances; and

(v) Comply with applicable rules, requirements or standards established by federal, state or local governmental agencies responsible for or specifically charged with the regulation of Hazardous Substances. Notwithstanding the foregoing, Tenant shall not be responsible for any investigation or remediation activities associated with the use of Hazardous Substances on the Premises unless (a) the Hazardous Substances were brought onto the Premises by and released by Tenant or Tenant's Representatives, or (b) the Hazardous Substances existing on the Property prior to the date of the Lease are exposed or released on or from the Premises by a negligent or other wrongful act or omission of Tenant or Tenant Representatives, and Tenant fails to take reasonable, prudent, and appropriate action to contain the release.

(f) Tenant has not and will not release or waive the liability of any party who may be potentially responsible for the presence or removal of Hazardous Substances on or from the leased premises.

(g) Tenant agrees to notify the Port immediately, and in any event within twenty-four (24) hours, if Tenant becomes aware of (a) any release of a Hazardous Substance on or from the Premises or Other Property; or (b) any lien, action or notice resulting from Tenant's or Tenant's Representatives' non-compliance with applicable laws, regulations, ordinances or orders governing the use of Hazardous Substances on the Premises. At its own cost, Tenant will take all reasonable actions necessary to respond to and remediate Hazardous Substances to the extent that such Hazardous Substances were introduced onto the Premises by Tenant or Tenant's Representatives and released by the negligent or other wrongful acts or omissions of Tenant or Tenant's Representatives. Actions reasonably necessary to respond to and remediate Hazardous Substances may include, by way of example and not by exclusion, the removal (if not a Known Condition listed in Schedule 6.1), containment or other appropriate remedial action, whether or not said activity is required by governmental authorities.

In addition, Tenant at its own cost will take all reasonable actions and use all methods and materials available to Tenant on site necessary to contain (but not remove or remediate other than containment) Hazardous Substances that are brought onto the Premises by a person other than Tenant or Tenant's Representatives and released on the Premises during the term of this Lease, and Tenant will notify the Port immediately and in any event within twenty-four (24) hours of Tenant's discovery of such release.

(h) If Tenant is in non-compliance with any governmental law, order, rule or regulation concerning Hazardous Substances or is otherwise in non-compliance with this Paragraph 27, it shall promptly take such action as is reasonably necessary to mitigate and correct the non-compliance. If Tenant fails to act in a prudent and prompt manner, the Port shall have the right, but not the obligation, to enter the Premises and act in place of the Tenant and to take such action(s) as may be reasonably

necessary to address or mitigate the non-compliant issue. All reasonable costs and expenses incurred by the Port in connection with any such actions shall be payable by the Tenant and shall become immediately due and payable upon presentation of an invoice therefore.

(i) Tenant shall be liable to the Port for, and shall defend, indemnify and hold the Port harmless from and against any and all actual demands, damages, losses, liens, liabilities, penalties, fines, lawsuits and other proceedings and costs and expenses (including reasonable attorneys' fees and costs), incurred by Tenant or the Port as a result of Tenant's failure to comply with this Paragraph 27.

In the event of Tenant's material failure to comply with any of the requirements contained in Subparagraph 27(e)(i) through (v) above, all costs reasonably incurred by the Port to inspect the Premises shall also be payable by Tenant to the Port.

(j) Upon expiration or sooner termination of this Lease, Tenant shall remove from the Premises any soils or other media impacted by Hazardous Substances where such materials were deposited on the Premises by Tenant or Tenant's Representatives. Any failure to complete such removal by the expiration or sooner termination of this Lease shall be deemed a holding over by Tenant subject to the provision of Paragraph 23, **HOLDING OVER**. Tenant shall represent and warrant that, upon termination of the Lease, all Hazardous Substances that Tenant is required to remove from the Premises pursuant to this subparagraph have been removed from the Premises.

(k) Port and Tenant acknowledge that the Premises has been environmentally impacted by prior uses ("Known Conditions"), as outlined in Schedule 6.1, and the parties acknowledge and agree that Tenant, except as otherwise agreed to in this Paragraph 27, shall not be liable for any air, soil, surface water, sediment or groundwater contamination or other environmental impacts arising or resulting from such Known Conditions. Port and Tenant further acknowledge and agree that Tenant shall not be responsible for any investigation or remediation of any Hazardous Substances on the Premises except as otherwise agreed to in this Paragraph 27.

(l) Unless otherwise specifically agreed to in this Paragraph 27, the Port shall undertake any and all preventive, investigatory, or remedial actions (including emergency response, removal, containment, and other environmental responses) required to address Known Conditions. Provided, however, that the foregoing shall not limit the Port's rights with respect to any other persons, including but not limited to rights to contribution.

(m) The representations, warranties and covenants of Tenant and Port set forth in this Paragraph 27, (i) are separate and distinct obligations from Tenant's and Port's other obligations under the Lease, and (ii) shall survive and continue in effect after the termination or expiration of this Lease for any reason.

## **28. STORAGE TANK LICENSES.**

Tenant shall, if required by applicable law, apply for and secure storage tank permits/license or hazardous materials permits/license for all storage tanks on the Premises, whether permanent or mobile, capable of holding more than one hundred ten (110) gallons either in bulk or in separate containers, or for any material identified in Exhibit "B." Tenant shall comply with all the terms and conditions of said license(s). Tenant shall provide the Port with full and complete copies of any reports or other results of inspections within five (5) days after any remedial or other action required as a result of any inspection. Upon request, Tenant shall provide the Port with a certificate of insurance evidencing Tenant's compliance with insurance requirements applicable to storage tanks, if any.

**29. INSPECTIONS AND NOTICE OF CHANGE.**

a. Tenant agrees that inspections may be required by the Port at the Tenant's expense to assure compliance with Paragraphs 27, **HAZARDOUS SUBSTANCES**, and 28, **STORAGE TANK LICENSES**. Such inspections shall be made once every five (5) years or at any time the Port has good cause to believe a problem may exist. Notwithstanding the foregoing, inspections for Known Conditions shall not be at Tenant's expense.

b. The Tenant shall annually identify any materials listed in Exhibit "B" used in the course of its ordinary business.

**30. EMINENT DOMAIN.**

**30.1** If some or all of the Premises are taken through condemnation or the exercise of the power of eminent domain by any public authority vested with such power or in any other manner for any public purpose, including a private purchase, to such an extent as to materially reduce the value or use of the Premises to Tenant, Tenant shall have the option to end this Lease effective as of the date of taking or condemnation (which, at Tenant's option, shall be the first date of the final condemnation judgment or the date possession is taken by the condemning authority), or to require an equitable rent reduction effective as of the date of the taking. If the taking does not materially reduce the value or use of the Premises to Tenant, this Lease shall continue in effect, and the Port shall promptly restore the portion not taken to the extent possible to the condition existing prior to the taking. If, as a result of such restoration, the area of the Premises is reduced, the rent shall be equitably reduced as of the date of the taking. All proceeds from any taking shall be divided between the Port and Tenant in proportion to their relative economic interests as permitted by law. In addition, Tenant shall be entitled to any award separately designated for Tenant's relocation expenses or for damage or taking of Tenant's trade fixtures or other personal property as permitted by law. A voluntary sale or conveyance in lieu of but under the threat of condemnation shall be considered a taking for public purpose.

**30.2** The foregoing notwithstanding, if the Port wishes to use its powers of eminent domain to condemn Tenant's leasehold interest in the Premises, or any portion thereof, the special provisions set forth in Subparagraphs 30.3, 30.4 and 30.5 below, shall apply and Port shall provide Tenant with written notice of the Port's intent to exercise its powers of eminent domain within ten (10) days after the date the Port Commission passes a resolution approving the exercise of the Port's eminent domain powers with respect to this Lease, and the Port also agrees that Tenant shall not be required to vacate the affected portion of the Premises prior to eighteen (18) months after Tenant's receives written notice of the Port Commission Resolution approving the exercise of the Port's eminent domain powers with respect to this Lease.

**30.3** The Port shall only have the right to use its eminent domain power to condemn Tenant's leasehold interest in the Premises for a "public use or purpose" and Tenant shall have all rights and remedies allowed by law to contest the taking, subject to the provisions in Paragraph 30.4 below.

**30.4** If the Port notifies Tenant that it intends to condemn Tenant's leasehold interest in the Premises, or any portion thereof, using its eminent domain power, Tenant

may elect to either challenge the Port's right to do so within ninety (90) days from Tenant's receipt of the Port's notice of intent to exercise eminent domain, or require the Port to purchase Tenant's interest in this Lease for a purchase price equal to the sum of the following:

- 30.4.1. the present value of the difference between the rent and service fees set forth in this Lease and the rental value of the affected portion of the Premises (excluding the rental value of the improvements installed and/or paid for by Tenant) during the unexpired lease term, including all renewal terms;
- 30.4.2. the fair market value of the improvements installed and/or paid for by the Tenant on the affected portion of the Premises, valued in place over their useful life without regard to the term of the Lease and undiscounted by reason of the Lease, and excluding the value of any improvements removed or to be removed by Tenant; and
- 30.4.3. the Tenant's reasonable relocation expenses as described in that version of RCW 8.26.035(1)(a) and (b) in effect at the execution of this Lease, the Port hereby agrees that Tenant shall be entitled to the relocation expenses described in such statute notwithstanding that such statute may not otherwise apply here.

Should Tenant elect to challenge the Port's authority to condemn Tenant's leasehold interest in the Premises pursuant to its right of eminent domain, and a court of competent jurisdiction subsequently determines that the Port possesses the right to condemn said leasehold interest, the Port shall purchase Tenant's interest in this Lease for a purchase price equal to the sum of the elements set forth in Sections 30.4.1 through 30.4.3. If Tenant fails to challenge the Port's authority to condemn Tenant's leasehold interest in the Premises within ninety (90) days from Tenant's receipt of the Port's notice of intent to exercise eminent domain, then Tenant shall be deemed to have waived its right to such challenge.

- 30.5 The foregoing notwithstanding, Tenant shall not be entitled to receive any amount that would result in any duplication of compensation for the same element of loss or damage.

### 31. INSOLVENCY.

If Tenant shall: solicit acceptances of a plan of reorganization to be filed in any subsequent case under the United States Bankruptcy Code, 11 U.S.C. §§ 101-1330, as hereafter amended or any successor statute thereto (the "Bankruptcy Code"); negotiate with one or more creditors for any workout, including, but not limited to, an extension agreement, composition agreement, standoff, standby, or standstill agreement whereby the creditors agree to forebear in any fashion from their rights to collect a debt of Tenant; cease to pay Tenant's debts as they come due; admit in writing the inability to pay its debts as they come due; make an assignment for the benefit of creditors; become a party to any liquidation or dissolution action or proceeding; have appointed (voluntarily or involuntarily), a trustee, custodian, receiver, conservator, or liquidator for Tenant or for a significant portion of Tenant's assets; have entered against it any order by a district court or bankruptcy court of the United States or any of its territories that dismisses a voluntary petition under the Bankruptcy Code because the bankruptcy petition was filed in bad faith; have entered against it an order, judgment, or decree have any of its assets levied against by writ of execution, attachment (including pre-judgment attachment), garnishment, recording of a judgment or any similar process whereby a creditor seeks to obtain a legal right to dispose of particular assets of

Tenant to satisfy to any extent a debt of the Tenant to the creditor; file a voluntary petition under the Bankruptcy Code or have filed against it an involuntary petition under the Bankruptcy Code creating any automatic stay or other injunctive force protecting the assets of Tenant from the immediate collection actions of a creditor (where such involuntary petition is not subsequently dismissed within 60 days in response to pleadings filed by the Tenant by entry of an order of any district court or bankruptcy court of the United States or any of its territories); have appointed voluntarily or involuntarily, a trustee, custodian, or examiner with special powers by any district court or bankruptcy court in the United States or any of its territories; admit in an answer filed in response to an involuntary petition filed under the Bankruptcy Code that Tenant is insolvent because Tenant's assets are exceeded by Tenant's debts or that Tenant is unable to pay Tenant's debts as they come due; then, in the event any of the foregoing shall occur, the Port may, at its option, terminate this Lease.

### **32. PROMOTION OF PORT COMMERCE.**

The purpose of the Port is to encourage the development of commerce within the Port district, and to every reasonable extent possible, increase the movement of passengers and freight through Port facilities. In furtherance of this purpose, Tenant agrees to cooperate with the Port in the promotion of these purposes during the term of this Lease, and wherever reasonably possible, to utilize the Port's facilities in the movement of log export for the region. Nothing in this paragraph shall be construed to obligate Tenant to spend monies in the Port's promotional advertising, but Tenant does agree to supply such public information and data for the Port's promotional and advertising activities.

### **33. ATTORNEY'S FEES AND COSTS.**

Except as otherwise stated in the Lease, should a dispute arise between the parties hereto as to the effect of any provision hereof and said dispute is referred to an attorney, whether for enforcement in court or for decision under arbitration, the losing party shall pay the prevailing party's actual and incurred attorney's fees; costs of court or arbitration, including such fees and costs of any appeal; other legal expenses; and collection costs, except that the amount of such fees, costs or expenses taken separately or in the aggregate, shall not be unreasonable. If such dispute arises and is later settled by the parties, such settlement shall include a specific allocation of disposition of attorney's fees on both sides.

### **34. NONDISCRIMINATION - SERVICES.**

Tenant agrees that it will not discriminate by segregation or otherwise against any person or persons because of race, creed, color or national origin in furnishing, or by refusing to furnish, to such person or persons the use of the facility herein provided, including any and all services, privileges, accommodations and activities provided thereby.

It is agreed that Tenant's noncompliance with the provisions of this clause shall constitute a material breach of this Lease. In the event of such noncompliance, the Port may take appropriate action to enforce compliance, may terminate this Lease, or may pursue such other remedies as may be provided by law.

### **35. NONDISCRIMINATION - EMPLOYMENT.**

Tenant covenants and agrees that in all matters pertaining to the performance of this Lease, Tenant shall at all times conduct its business in a manner which assures fair, equal and nondiscriminatory treatment of all persons without respect to race, creed or national origin, and in particular:

a. Tenant will maintain open hiring and employment practices and will welcome applications for employment in all positions from qualified individuals who are members of racial or other minorities; and



b. Tenant will comply strictly with all requirements of federal, state or local laws or regulations issued pursuant thereto relating to the establishment of nondiscriminatory requirements in the hiring and employment practices, and assuring the service of all patrons or customers without discrimination as to any person's race, creed, color or national origin.

The Port reserves the right to take such action as the appropriate governmental authority may direct to enforce these provisions.

#### **36. APPRAISAL PROCEDURE.**

*Intentionally left blank.*

#### **37. ARBITRATION PROCEDURE.**

In the event of a dispute between the Port and Tenant with respect to any issue specifically mentioned in this Lease as a matter to be decided by arbitration, such dispute shall be determined by arbitration as provided in this paragraph. The Port and Tenant shall each appoint a person as arbitrator who shall have had at least ten (10) years of experience in Thurston, Pierce, or King County, Washington in the subject matter of the dispute. The appointment shall be in writing and given by each party to the other, and the arbitrators so appointed shall consider the subject matter of the dispute, and if agreement can be reached between them, their opinion shall be the opinion of the arbitration. In the event of their failure to agree upon the matter so submitted, they shall appoint a third arbitrator. In the case of the failure of such arbitrators to agree upon the third arbitrator, the same shall be appointed by Judicial Arbitration and Mediation Service (JAMS) from its qualified panel of arbitrators, with similar qualifications. If the Port or Tenant shall fail to so appoint an arbitrator for a period of ten (10) business days after written notice from the other party to make such appointment, then such party will have defaulted its right to make such appointment, and the arbitrator appointed by the nondefaulting party shall determine and resolve the dispute. In the event the three arbitrators are appointed, after being duly sworn to perform their duties with impartiality and fidelity, they shall proceed to determine the question submitted. The decision of the arbitrators shall be rendered within thirty (30) days after their appointment, and such decision shall be in writing, with copies thereof delivered to each of the parties. The award of the arbitrators shall be final, binding, and conclusive on the parties. The fees of the arbitrators and the expenses incident to the proceedings shall be borne equally between the Port and Tenant. The arbitrators shall award to the prevailing party the fees of that party's counsel, expert witnesses, or other witnesses called by the prevailing party.

#### **38. JOINT AND SEVERAL LIABILITY.**

Each and every party who signs this Lease, other than in a representative capacity, as Tenant, shall be jointly and severally liable hereunder.

#### **39. INVALIDITY OF PARTICULAR PROVISIONS.**

If any term or provision of this Lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Lease or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby and shall continue in full force and effect.

#### **40. NOTICES.**

All default and other substantial notices required under the provisions of this Lease may be personally delivered or mailed. If mailed, they shall be sent by certified mail, return receipt requested to the following addresses:

To the Port:  
Port of Olympia  
915 N. Washington St. NE  
Olympia, WA 98501  
Attn: Marine Terminal Director

To the Tenant:  
Weyerhaeuser Company  
Attn: Real Estate Services  
33663 Weyerhaeuser Way S.  
Mail Stop CH1L30  
Federal Way, WA 98003

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices given by personal delivery shall be deemed given upon receipt. Notices sent by mail shall be deemed given when properly mailed, and the postmark affixed by the United States Post Office shall be conclusive evidence of the date of mailing.

**41. WAIVER.**

The acceptance of rental by the Port for any period or periods after a default by Tenant hereunder shall not be deemed a waiver of such default unless the Port shall so intend and shall so advise Tenant in writing. No waiver by the Port of any default hereunder by Tenant shall be construed to be or act as a waiver of any subsequent default by Tenant. After any default shall have been cured by Tenant, it shall not thereafter be used by the Port as a ground for the commencement of any action under the provisions of paragraph 21, **DEFAULTS**.

**42. BINDER.**

This Lease is binding upon the parties hereto, their heirs, personal representatives, successors in interest and assigns.

**43. NO RECORDING.**

Without the prior written consent of the Port, this Lease shall not be placed of record.

**44. COMMISSIONS AND FEES.**

In the absence of any agreement between the parties to the contrary, each party represents and warrants to the other that it has not been represented by, or introduced to the other by, any broker or agent. In the absence of any agreement between the parties to the contrary, each party hereby agrees to indemnify and hold the other harmless from and against any and all fees, commissions, costs, expenses (including attorneys' fees) obligations and causes of actions arising against or incurred by the other party by reason of any claim for a real estate commission or a fee or finder's fee by reason of any contract, agreement or arrangement with, or services rendered at the request of, the indemnifying party.

**45. RIGHT TO AUDIT**

Tenant shall have the right to audit, at its cost and with a firm selected by Tenant, all relevant records and accounts of the Port at any time during the term of this Lease relating to any building operating expenses, real estate taxes, or any other additional rent expenses charged by the Port to Tenant.

#### 46. QUIET POSSESSION

The Port agrees that the Tenant, keeping and performing the covenants herein contained on the part of the Tenant to be kept and performed, shall at all times during the existence of the Lease, renewals, or extensions peaceably and quietly, have, hold and enjoy the leased premises, without suit, trouble or hindrance from the Port, or any person claiming through the Port.

#### 47. TERMINATION OPTION

Upon 90 days written notice to Port, Tenant may terminate this agreement at any time during the primary term provided that there has occurred a fifty percent (50%) decline in export volumes of Douglas Fir logs shipped from the Pacific Northwest to Japan measured from January 1, 2006 (Base Year). The Port and Tenant shall utilize the PIERS and/or other public reports to determine if such a decline has occurred. Provided however, that Tenant shall be obligated to a lease term of no less than one year. Tenant's right to terminate this agreement shall be subject to the following payment by Tenant to the Port:

After Year 1: \$1,800,000

After Year 2: \$1,350,000

After Year 3: \$900,000

After Year 4: \$450,000

#### 48. HOMELAND SECURITY.

Tenant shall be responsible for the cost of satisfying any security requirements related to Tenant's operations at the Premises and at the facilities of the Port.

#### 49. ABILITY TO RELOCATE.

Tenant acknowledges that it may become necessary from time to time to relocate Tenant in areas identified in Exhibit "A4". Tenant agrees to cooperate with Port and relocate some of its operations to other properties as requested by the Port. The specific timing associated with the relocation will be negotiated between both parties. However, Port shall be solely responsible for all reasonable direct expenses of relocating Tenant (excluding any administrative).

#### 50. CASCADE POLE.

Portions of the Premises are located within the slurry wall containment system associated with the Port's environmental remediation of the former Cascade Pole site, and the Port must have access to the groundwater monitoring and extraction wells within this area for site remediation, groundwater monitoring, well repair and maintenance activities. The area within the slurry wall system, and the monitoring and extraction wells are depicted on Exhibit "A5".

The Port reserves the right to access these wells for monitoring, repair and maintenance purposes, on a monthly or "as needed" basis. The Tenant shall maintain clear access route to these wells, solely at the Tenant's expense. Access must be of sufficient size so that a truck with a tommy lift or a forklift will be able to safely maneuver.

The Port shall provide Tenant a minimum of seventy-two (72) hours prior written notice in the event access is needed; provided, however, the Tenant shall use its best efforts to provide the Port with immediate access if emergency well repair or maintenance activities are required.

The structural and engineering specifics for the cap on the Cascade Pole area shall at all times remain the sole responsibility of Port. Tenant shall notify Port if any damage, repair or construction occurs on the site whereby the pavement is or may be disturbed. The parties' obligations with respect to

the maintenance and repair of paving materials within the Cascade Pole area are more particularly described in Paragraph 16.

If during the first year of the term of this Lease Tenant is prevented from installing or using its planned improvements within the former Cascade Pole area of the Premises due to the environmental conditions in that area, or if at any time during the term of this Lease Tenant is prevented from operating within the former Cascade Pole area of the Premises due to the environmental conditions in that area, then the Port and Tenant shall in good faith cooperate and use their best efforts to identify solutions to accommodate Tenant's operations within other areas of the Premises or other available Port property. If the Port and Tenant are not able to identify a mutually agreeable solution, then Tenant may terminate this Lease, and neither party shall be required to make any payment to the other under Paragraph 4 or Paragraph 47 of this Lease based on such termination, and neither party shall have any further liability or obligations to the other under this Lease, other than obligations under Paragraph 18 of this Lease, and other than such obligations as expressly survive the expiration or earlier termination of this Lease.

## 51. LANDLORD DEFAULT.

51.1 In the event Port shall neglect or fail to perform or observe any covenants, provisions, or conditions contained in this Lease on its part to be performed or observed and such failure shall continue for thirty (30) days after receipt of written notice of default from Tenant; and if Port fails to timely remedy a default with respect to repairs which Port is obligated to perform under the Lease, or to commence to timely cure of such default if the default is not curable with said thirty (30) days, and diligently proceed to complete such curing, the Tenant shall have the right to make such repairs and charge the Port for such repairs. The remedies specified herein shall be non-exclusive of each other and in addition to any other remedies available to Tenant at law or in equity.

51.2 If Tenant cannot have access to berths, or to Port-owned roadways providing access to the Premises, and such condition cannot be reasonably cured in a reasonable amount of time, then Tenant may, at its option, terminate this Lease and shall provide written notice of termination to Landlord. Said termination shall be effective on the date set forth in the notice. In the event Tenant exercises this option, Tenant's obligation to pay Rent shall terminate upon the effective date of termination and, if Tenant has occupied the Leased Premises, Tenant shall vacate the Leased Premises on or before the effective date of termination of the Lease.

51.3 If Tenant elects to terminate this Lease pursuant to 51.2 above, the Port agrees to compensate Tenant for the sum of the following costs associated with Tenant's required relocation due to Port's default:

- 51.3.1 the present value of the difference between the rent and service fees set forth in this Lease and the rental value of the affected portion of the Premises (excluding the rental value of the improvements installed and/or paid for by Tenant) during the unexpired lease term, including all renewal terms;
- 51.3.2 the fair market value of the improvements installed and/or paid for by the Tenant on the affected portion of the Premises, valued in place over their useful life without regard to the term of the Lease and undiscounted by reason of the Lease, and excluding the value of any improvements removed or to be removed by Tenant; and
- 51.3.3 the Tenant's reasonable relocation expenses as described in that version of RCW 8.26.035(1)(a) and (b) in effect at the execution of this Lease, the Port hereby agrees that Tenant shall be entitled

to the relocation expenses described in such statute notwithstanding that such statute may not otherwise apply here.

51.4 The foregoing notwithstanding, Tenant shall not be entitled to receive any amount which would result in any duplication of compensation for the same element of loss or damage.

**52. RENEWAL OPTIONS.**

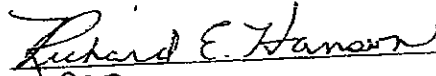
Port grants Tenant the right to three successive (2)-year extension(s) of this Lease on the terms and conditions applicable to the primary term. Tenant's right to such extension(s) shall be exercised in writing and mailed to Port at least one hundred (180) days prior to the expiration of the then current term. Port and Tenant agree that the then current Service Fees as described in Section 4 (as adjusted by CPI) shall be adjusted for the first year of the first extension. Any increase in such Service Fees will be limited to a maximum of ten percent (10%) above the existing Service Fees or any decrease in such Service Fees will be limited to a maximum of ten percent (10%) below the then current Service Fees. Such Service Fee adjustment shall be made equal to the change in the percentage of increase (or decrease) in Port of Olympia Marine Terminal Revenues from the full calendar year prior to the date of this Lease (2004 = \$3,422,973) and the Marine Terminal Revenues for the final full calendar year (2009) of the primary term of this Lease. Service Fees during subsequent years shall be adjusted by the CPI as described in paragraph 4.

**LESSOR:**

PORT OF OLYMPIA, a Washington  
Municipal Corporation.

By:   
Executive Director

**TENANT:**

By:   
Title: CEO

53. RATIFICATION

This Lease shall be subject, as a condition subsequent, to ratification and full execution by the Port of Olympia Commission by August 31, 2005. If this Lease is not fully executed by both parties by August 31, 2005, then the Port and Tenant have no obligations, liabilities, or responsibilities to each other with respect to this Lease.

The undersigned confirms that this Lease was ratified by the Port of Olympia Commission on August 22, 2005

Port of Olympia Commission

By: Robert Van Schoel

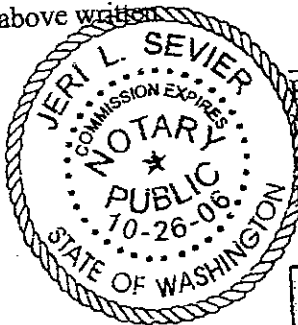
Its: President

Date: 8/22/05

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF THURSTON )

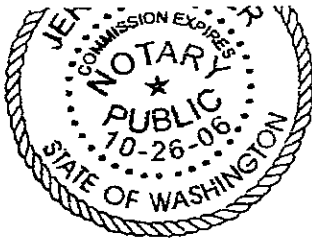
On this 22nd day of August, 2005, personally appeared before me Robert Van Schoel to me known to be the President of the Port of Olympia Commission, the municipal corporation named in the within and foregoing Lease, and acknowledged to me that he signed the same on its behalf, as he is so authorized to do, as his free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written



Jeri Sevier  
Print Name: Jeri Sevier  
NOTARY PUBLIC in and for the State of Washington,  
Residing at Olympia  
My commission expires: 10-26-06

FOR RECORDING PURPOSES, DO NOT WRITE, SIGN, STAMP OR AFFIX NOTARY SEAL WITHIN THE ONE INCH TOP, BOTTOM AND SIDE MARGINS OR AFFIX ANY ATTACHMENTS.



NOTARY PUBLIC in and for the State of Washington,  
residing at Olympia  
My commission expires: 10-26-06

STATE OF WASHINGTON )  
COUNTY OF King ) ss

On this 18 day of August, 2005, personally appeared before me Richard E. Hanson, to me known to be the Vice President of Weyerhaeuser Company, the entity named in the within and foregoing Lease and acknowledged to me that he signed the same on its behalf, as he is so authorized to do, as his free and voluntary act and deed for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year first above written.

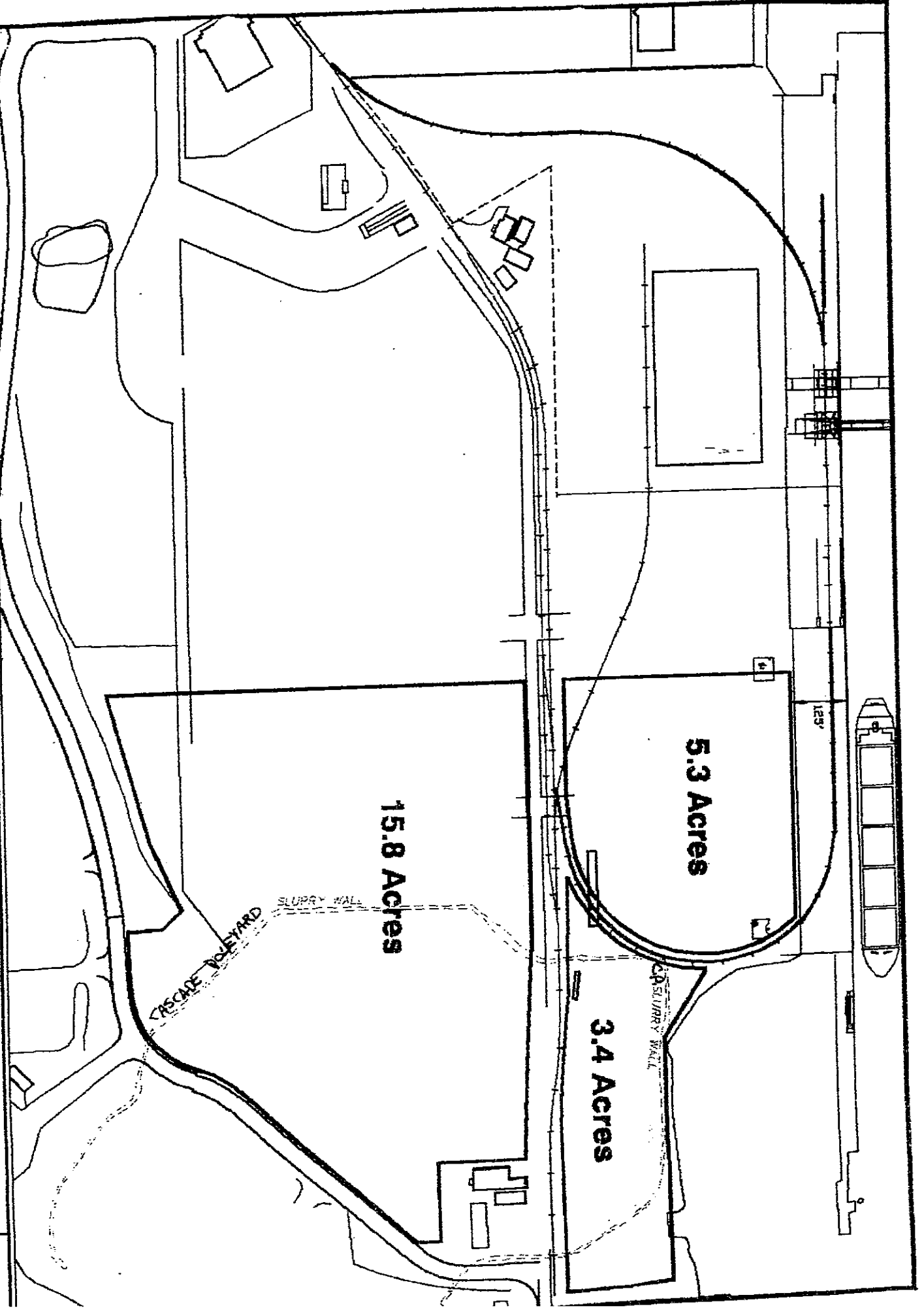


Tonya M. Hebert  
Print Name: TONYA M. HEBERT  
NOTARY PUBLIC in and for the State of Washington,  
residing at OKECH County  
My commission expires: 10/19/06

FOR RECORDING PURPOSES, DO NOT WRITE, SIGN,  
STAMP OR AFFIX NOTARY SEAL WITHIN THE ONE INCH TOP,  
BOTTOM AND SIDE MARGINS OR AFFIX ANY ATTACHMENTS.

LOGYARD PROPOSAL (LP)

24.8 ACRES PERMITTED A-1  
7/20







Port of Olympia

LOGYARD PROPOSAL (LP)

19.2 ACRES - KHIBIT A-2

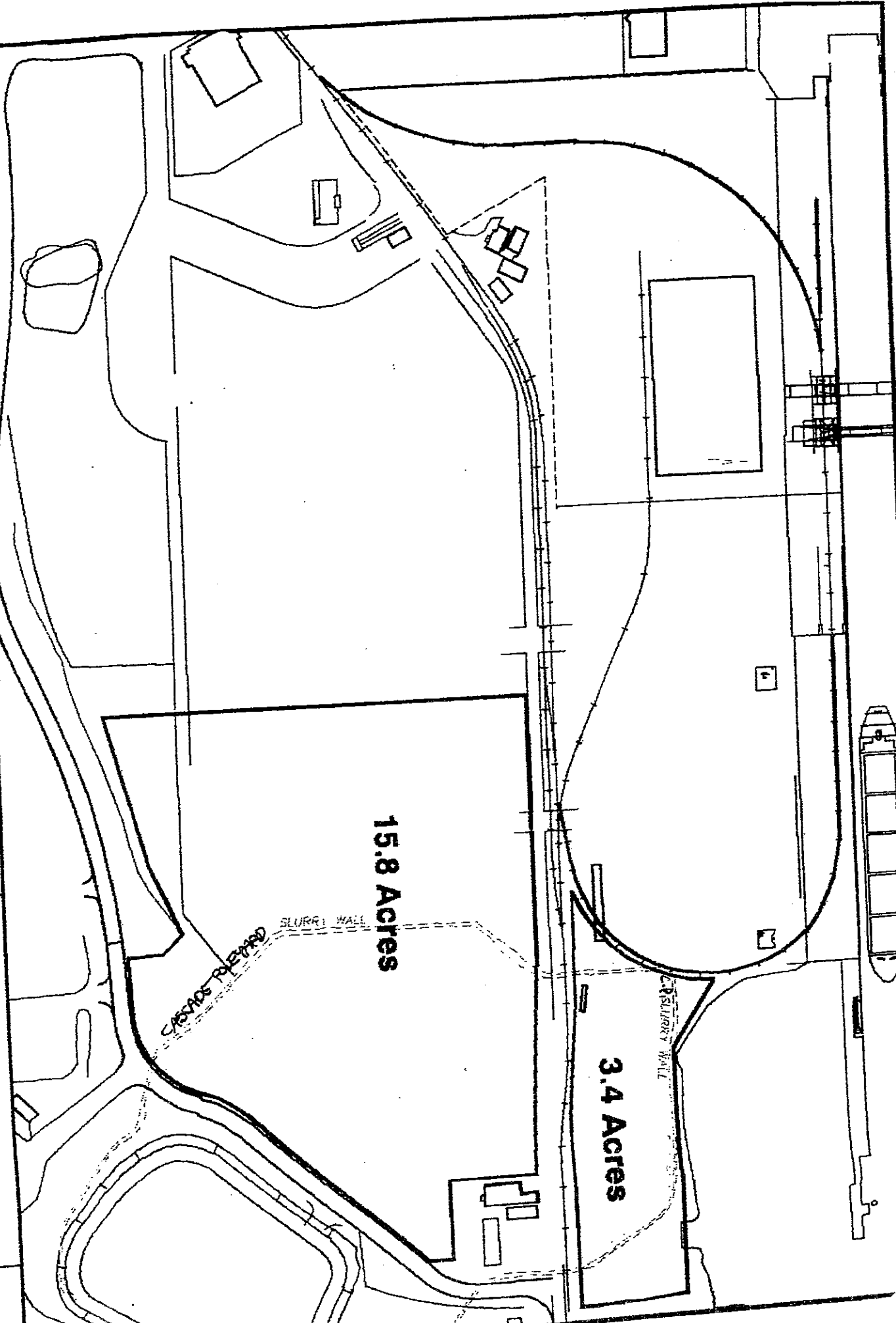
7/25



SCALE IN FEET

125

250



15.8 Acres

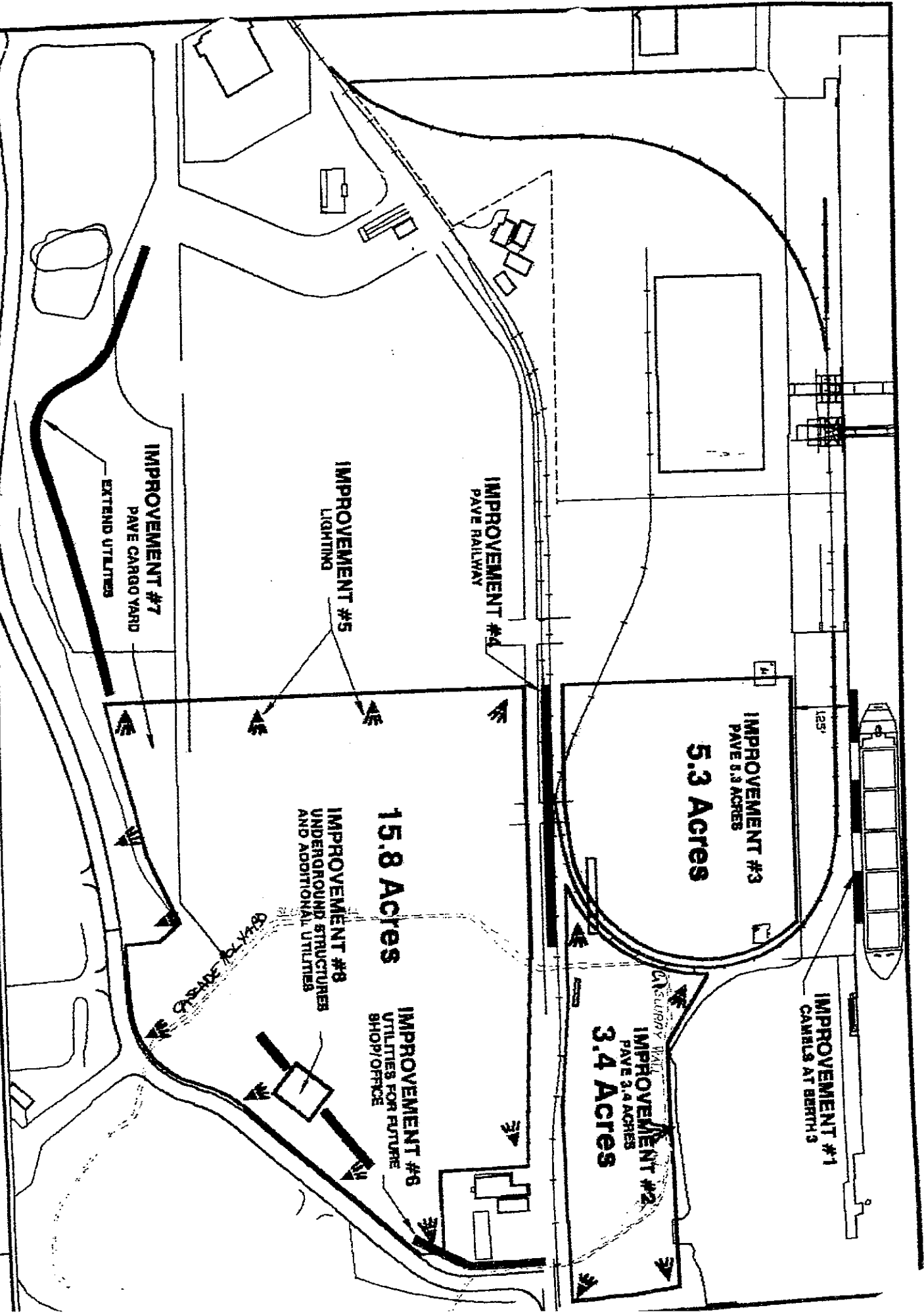
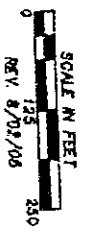
3.4 Acres

CASAPU REEFARD

SLURRY WALL

CASAPU REEFARD

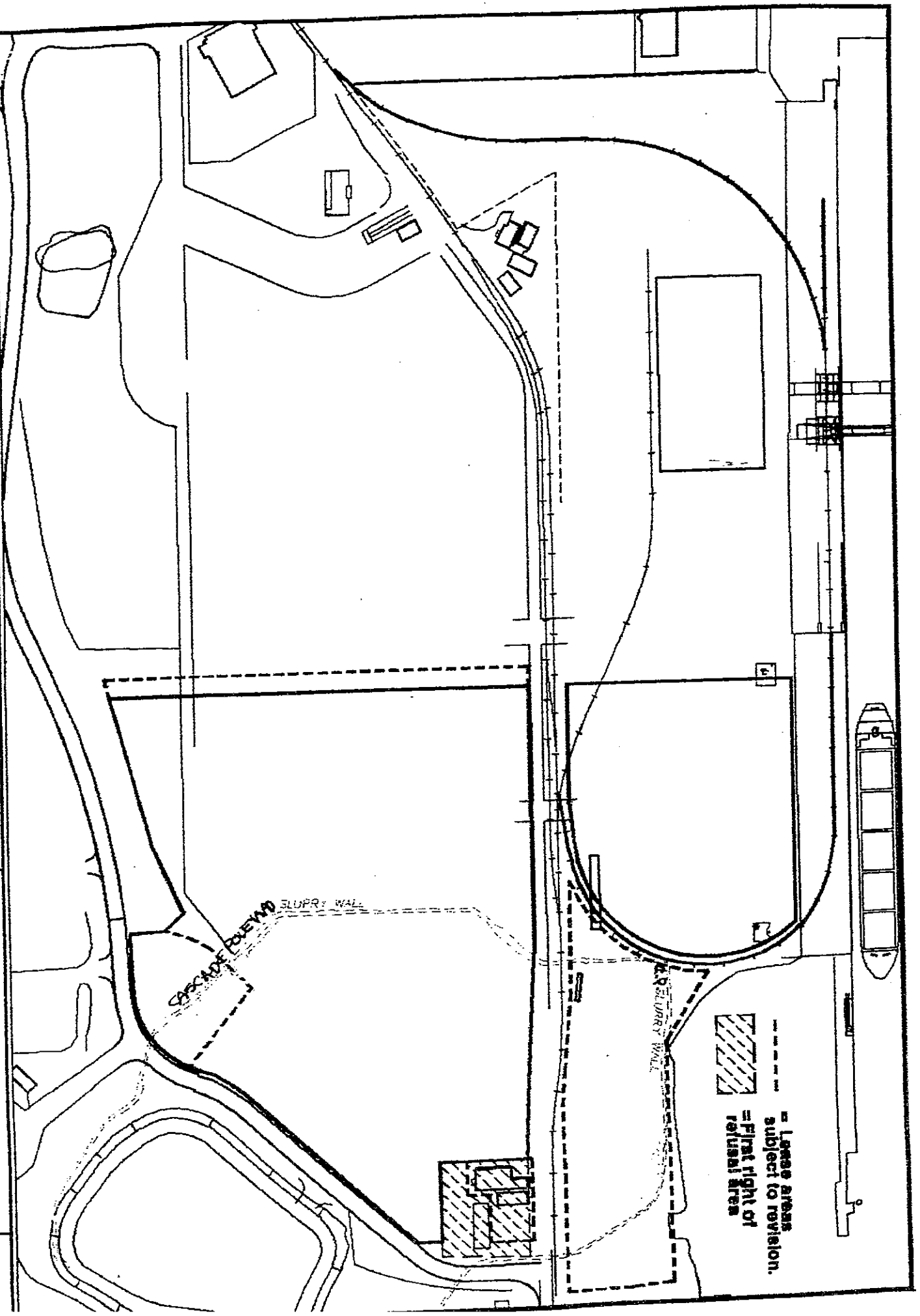
SLURRY WALL





# Port of Olympia

**LOGYARD PROPOSAL (LP)**  
ABILITY TO RELOCATE AND  
FIRST RIGHT OF REFUSAL PARCEL  
EXHIP 1-4



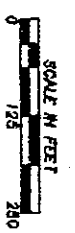
--- Lease areas  
subject to revision.  
▨ First right of  
refusal area

Escaped Access  
Slurry Wall  
Retaining Wall

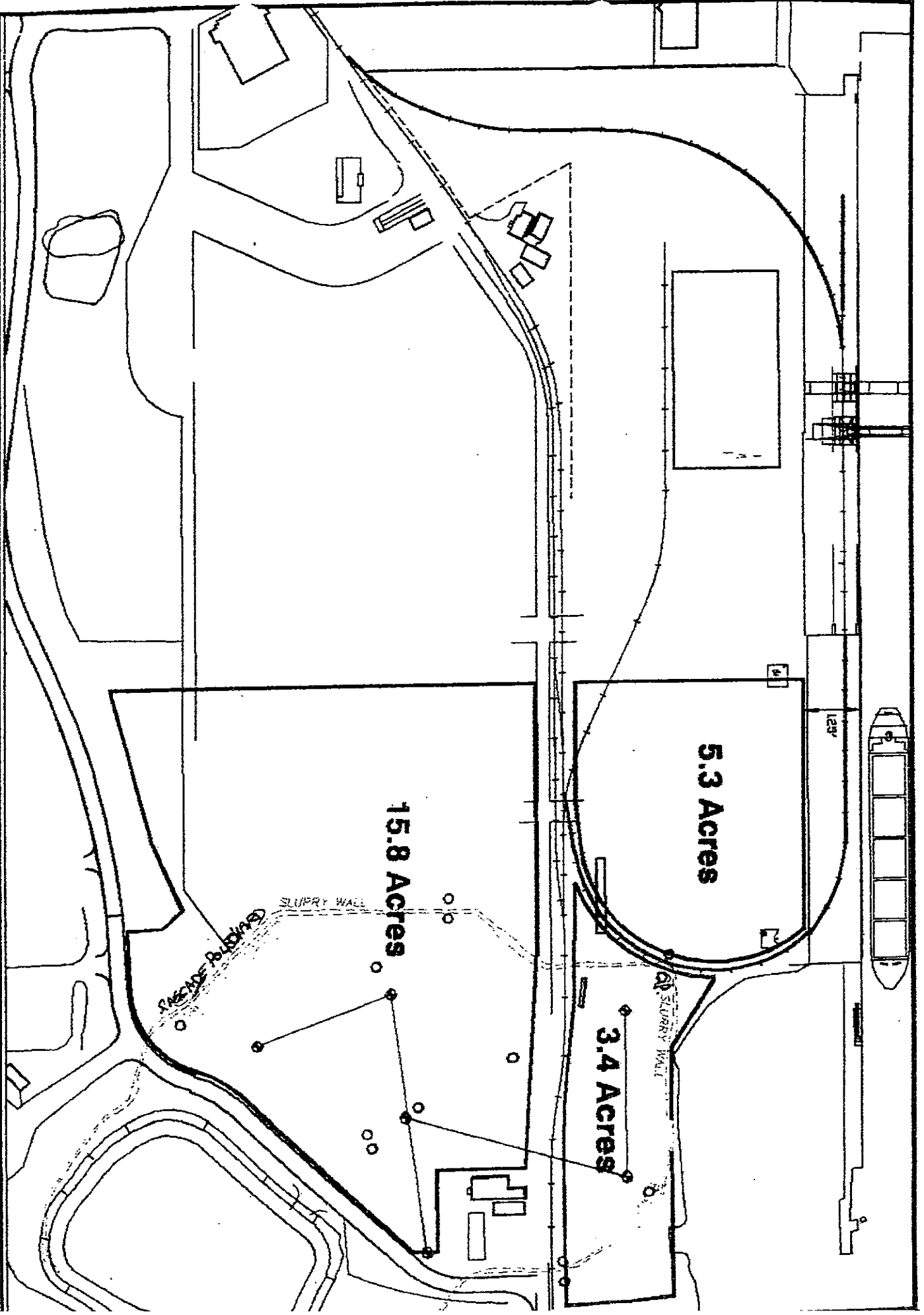


# Port of Olympia

LOGYARD PROPOSAL (LP)  
EXTRACTION AND MONITOR WELLS  
EXHIBIT 5



and 7.71.06.



Approximate Locations of Improvements

Shaded area denotes was used by Weatherman to install and place improvements prior to occupancy.

	Sewer	Electricity	Potable Water	Phone	Internet
Main Office	Yes	Yes	Yes	Yes	Yes
Crew Lunchroom	Yes	Yes	Yes	Yes	Yes
Shop	Yes	Yes	Yes	Yes	Yes
Dispatch/Scaling Office		Yes			
Trailer Loaders		Yes			
Wrapper Racks		Yes			
Dock Sealing		Yes			
Compressor Bldg.		Yes			

D-1

EXHIBIT "B-1"

**LEASED PREMISES (24.5 Acres)**

Those portions of Lot 1 of City of Olympia Large Lot Subdivision #LL 5887, records of Thurston County, Washington, described as follows:

15.8 ACRE PARCEL

Commencing at the intersection of the north line of vacated "C" Avenue with the east line of vacated Franklin Street, thence N 04°05'38" W along said east line 1659.17 feet to the Point of Beginning; thence S 85°54'22" W 702.20 feet; thence N 4°05'38" W 522.73 feet; thence N 01°51'26" W 417.56 feet; thence N 85°54'22" E 172.18 feet; thence N 4°05'38" W 153.50 feet; thence N 85°54'22" E 45.69 feet; thence S 52°22'41" E 446.74 feet; thence along a curve to the left having a radius of 220.30 feet an arc length of 101.20; thence along a curve to the right having a radius of 176.92 feet an arc length of 229.40; thence along a curve to the left having a radius of 1459.00 feet an arc length of 103.17; thence S 82°36'12" W 69.56 feet; thence S 44°15'46" W 52.95 feet; thence S 28°10'39" E 149.42 feet; thence S 18°58'08" E 310.02 feet; thence S 85°54'22" W 126.53 feet to the Point of Beginning. An area of approximately 15.8 acres as shown on Exhibit "A-1".

5.3 ACRE PARCEL

Commencing at the intersection of the north line of vacated "C" Avenue with the east line of vacated Franklin Street, thence N 04°05'38" W along said east line 1659.17 feet; thence S 85°54'22" W 779.57 feet to the Point of Beginning; thence S 85°54'22" W 451.80 feet; thence N 4°01'31" W 491.14 feet to a point on a non tangent curve with radius point bearing S 44°57'34" E 268.27 feet; thence easterly along said curve 584.15 feet; thence S 10°12'02" E 84.04 feet; thence S 04°05'38" E 233.23 feet to the Point of Beginning. An area of approximately 5.3 acres as shown on Exhibit "A-1".

3.4 ACRE PARCEL

Commencing at the intersection of the north line of vacated "C" Avenue with the east line of vacated Franklin Street, thence N 04°05'38" W along said east line 1659.17 feet; thence N 67°07'37" W 871.62 feet to the Point of Beginning; said point on a non tangent curve with radius point bearing S 64°52'58" W 298.27 feet; thence northwesterly along said curve 356.34 feet; thence N 28°32'36" E 157.66 feet; thence N 04°05'38" W 474.33 feet; thence N 79°45'25" E 83.50 feet; thence N 84°13'40" E 130.13 feet; thence S 04°23'28" E 310.86 feet; thence along a curve to the right having a radius of 996.70 feet an arc length of 122.51; thence along a curve to the left having a radius of 4451.34 feet an arc length of 152.35; thence S 03°37'09" E 226.45 feet to the Point of Beginning. An area of approximately 3.4 acres as shown on Exhibit "A-1".

EXHIBIT "B-2

**LEASED PREMISES (19.2 Acres)**

Those portions of Lot 1 of City of Olympia Large Lot Subdivision #LL 5887, records of Thurston County, Washington, described as follows:

15.8 ACRE PARCEL

Commencing at the intersection of the north line of vacated "C" Avenue with the east line of vacated Franklin Street, thence N 04°05'38" W along said east line 1659.17 feet to the Point of Beginning; thence S 85°54'22" W 702.20 feet; thence N 4°05'38" W 522.73 feet; thence N 01°51'26" W 417.56 feet; thence N 85°54'22" E 172.18 feet; thence N 4°05'38" W 153.50 feet; thence N 85°54'22" E 45.69 feet; thence S 52°22'41" E 446.74 feet; thence along a curve to the left having a radius of 220.30 feet an arc length of 101.20; thence along a curve to the right having a radius of 176.92 feet an arc length of 229.40; thence along a curve to the left having a radius of 1459.00 feet an arc length of 103.17; thence S 82°36'12" W 69.56 feet; thence S 44°15'46" W 52.95 feet; thence S 28°10'39" E 149.42 feet; thence S 18°58'08" E 310.02 feet; thence S 85°54'22" W 126.53 feet to the Point of Beginning. An area of approximately 15.8 acres as shown on Exhibit "A-2".

3.4 ACRE PARCEL

Commencing at the intersection of the north line of vacated "C" Avenue with the east line of vacated Franklin Street, thence N 04°05'38" W along said east line 1659.17 feet; thence N 67°07'37" W 871.62 feet to the Point of Beginning; said point on a non tangent curve with radius point bearing S 64°52'58" W 298.27 feet; thence northwesterly along said curve 356.34 feet; thence N 28°32'36" E 157.66 feet; thence N 04°05'38" W 474.33 feet; thence N 79°45'25" E 83.50 feet; thence N 84°13'40" E 130.13 feet; thence S 04°23'28" E 310.86 feet; thence along a curve to the right having a radius of 996.70 feet an arc length of 122.51; thence along a curve to the left having a radius of 4451.34 feet an arc length of 152.35; thence S 03°37'09" E 226.45 feet to the Point of Beginning. An area of approximately 3.4 acres as shown on Exhibit "A-2".

18-July-2005

N 01°51'26" W 417.56 feet to the Point of Beginning, thence N 88°03'43" E 172.30 feet; thence S 4°05'38" E 182.43 feet; thence S 85°54'22" W 172.18 feet to the Point of Beginning. An area of approximately 0.7 acres as shown on Exhibit "A-4".

21-July-2005



EXHIBIT "B-3"

**RIGHT OF FIRST REFUSAL PREMISES (.7 Acres)**

A portion of Lot 1 of City of Olympia Large Lot Subdivision #LL 5887, records of Thurston County, Washington, described as follows:

Commencing at the intersection of the north line of vacated "C" Avenue with the east line of vacated Franklin Street, thence N 04°05'38" W along said east line 1659.17 feet to the Point of Beginning; thence S 85°54'22" W 702.20 feet; thence N 4°05'38" W 522.73 feet; thence

## EXHIBIT "A3" (Supplemental)

### IMPROVEMENTS BY PORT

This exhibit is intended to provide a brief description of the improvements the Port of Olympia will be responsible for constructing in conjunction with a lease between the Port and Weyerhaeuser. A drawing accompanies this description that shows the location and general limits of the improvements.

#### IMPROVEMENT # 1

Camels: Furnish and install approximately 600 lineal feet at Berth 3. These are being provided to move ships tied to Berth 3 several feet off the dock into deeper water.

#### IMPROVEMENT # 2

Pave 3.4 Acre Northern Site: Paving of the 3.4 acre site in the northwest portion of lease parcel will consist of the removal of existing deteriorated pavements and reconstructing new pavement. Pavement design strength will be suitable for movement of log cargo. Improvements will also include constructing modifications to stormwater collection systems and any improvements necessary to provide a paved yard for storage and movement of logs and log hauling equipment.

#### IMPROVEMENT # 3

Pave 5.3 Acre Staging Area: Pave 5.3 acre site west of Berth 3 within the leased area. This work will consist of the removal of existing deteriorated pavements and reconstructing new pavement. Pavement design strength will be suitable for movement of log cargo. Improvements will also include constructing modifications to stormwater collection systems and any improvements necessary to provide a paved yard for storage and movement of logs and log hauling equipment. Removal and relocation of the log debarker will also be included in this improvement.

#### IMPROVEMENT # 4

Paving of Railway East of Staging Area: This work will consist of paving the railway that separates the 5.3 and 3.4 acre yards on the west side of the main railway with the 15.8 acre yard on the east side. Paving will be constructed to allow equipment to move between the east yard and west yard without being impeded by the rail.

#### IMPROVEMENT # 5

Construct Lighting: This work will consist of constructing approximately 17, 60-foot high wooden light poles around the perimeter of the lease site. Lighting brilliance from the lights will be similar to that in the existing Port cargo yards west of Berth 1. Lighting control panels, conductors, raceways, and fixtures are included as part of this improvement.

#### **IMPROVEMENT # 6**

##### **Utilities for Future Shop/Office/Crew Lunchroom at North Side of Lease Site:**

This work will consist of constructing utilities to the west edge of the lease site adjacent to the existing Port Maintenance Shop for tenant's future office/shop/crew lunchroom. Utilities will include: 4-inch sanitary sewer pressure pipe, 8-inch water main with a fire hydrant assembly, optic fiber cables in a 4-inch raceway, 480 volt power terminating at a transformer, 6-inch sleeve for natural gas, 4-inch telephone raceway with cable terminating at a pedestal.

#### **IMPROVEMENT # 7**

**Paved Cargo Yard East of Franklin Street Extended:** This work will consist of paving the unpaved portion of the lease site that lies east of Franklin Street extended. Paving design strengths and standards will match those of the paved cargo yard immediately to the west. Stormwater facilities will be constructed in conjunction with the new paving. Utilities will also be constructed as part of this work to serve a future dispatch/scaling office, log trailer loader, and wrapper racks. Utilities will include: 480 volt power supply from lighting system, 4-inch telephone raceway with cable terminating at a pedestal, and a 4-inch optic fiber raceway with a cable terminating at a vault.

#### **IMPROVEMENT # 8**

**Underground Utilities and Structures:** This work consists of all construction and installation of all underground utilities and all underground structures (including, but not limited to, the foundation for Tenant's shop building, other anchors for other buildings, and all other subsurface work required for Tenant's improvements, equipment, or fixtures (e.g., other buildings, trailer loader, and other equipment)) for the benefit of Tenant other than those included in items 1 through 7 listed above, pursuant to plans and specifications to be provide by Tenant, together with all excavation, backfill, and paving restoration related thereto.

**EXHIBIT "C"**  
**REQUIREMENTS AS TO IMPROVEMENTS**

These conditions relating to improvements in this Exhibit "C" shall control unless the Port and Tenant have otherwise separately agreed to more specific time periods for production and coordination of drawings, financing and commencement of construction. In the event such additional documentation becomes a part of this Lease, then the time periods set forth in such documents shall be logically coordinated, the intent being that the shorter time periods should control the parties' respective performances.

**I. PORT APPROVAL OF TENANT IMPROVEMENTS.**

As used herein, the terms "improvements" or "structures" shall mean and include without limitation all permanent buildings, and all other major structures or improvements of any kind located above the ground level of any site, plus any replacements, additions, repairs or alterations thereto. No improvement shall be constructed or maintained on the leased premises until the Port has first approved the design, density, size, appearance and location thereof. Before commencing any work of improvement or applying for any governmental permit or approval, Tenant shall first deliver to the Port for approval two (2) sets of schematic plans and preliminary specifications, including grading and drainage plans, exterior elevations, floor plans, site plans, and showing in reasonable detail existing topography and proposed type of use, size, land coverage, shape, height, location, material and elevation of each proposed improvement, all proposed ingress and egress to public or private streets or roads, all utilities and service connections, and all proposed landscaping, exterior materials and fences, parking, exterior lighting, signs, cut and fill, finished grade, runoff and concentration points. Nothing in this paragraph shall imply a submission standard higher than that required for a building permit, except as it relates to land use(s), utilities, infrastructure and impact upon adjoining properties and use(s) of adjoining properties.

The Port shall then have twenty (20) days during which to accept and approve or reject such preliminary plans and specifications. Once the preliminary plans and specifications have been approved, but prior to commencing any such work, Tenant shall submit to the Port for approval of final plans and specifications for any proposed improvements in the same manner as provided above.

All plans and specifications for grading or improvements to be submitted to the Port hereunder shall be prepared by a licensed or registered architect or engineer, as the case may be. All grading, piling, footing and foundation work must be conducted under the supervision of an appropriate licensed engineer. At the Port's option, a final certification by a licensed soils engineer or geologist must be filed with the Port upon completion of the grading work. The Port shall not unreasonably withhold its approval of any such plans or specifications.

The Port shall be conclusively deemed to have given its approval unless, within thirty (30) days after all such plans and specifications have been received by the Port, the Port shall give Tenant written notice of each item of which the Port disapproves. Unless so disapproved, the Port shall endorse its approval on at least one set of plans and return the same to Tenant. The Port may disapprove any plans which are not in harmony or conformity with other existing or proposed improvements on or in the vicinity of the leased premises, or with the Port Master Plan or other plans or criteria for the leased premises in the general area in which the leased premises are located, the reasonable discretion as to such adequacy remaining with the Port. Notwithstanding the foregoing, Tenant may, in accordance with the lease, repair, replace, alter or reconstruct any improvement on the leased premises for which plans were previously approved by the Port as provided above, but only if such repair, replacement, alteration or reconstruction is *substantially identical to the improvement previously approved.*

Concerning utility installations, Tenant, at Tenant's sole cost, including any connection fees, assessments or changes, shall be responsible for the installation on the leased premises of all utilities

required by Tenant's use of the premises, assuming such utility services are available to the leased premises. Any contractual arrangements with any municipal supplier with respect to the improvements or utility installation shall not be entered into by Tenant without first obtaining the Port's approval. In the event that such utility services are not readily available at the leased premises, Tenant, at Tenant's sole cost, shall pay for the extension of such utilities to the leased premises.

The Port shall not be liable for any damages in connection with the approval or disapproval of any plans or specifications, any construction or performance by Tenant on the leased premises in connection with the erection of such improvements, any mistake in judgment, negligence or omissions in exercising its rights and responsibilities hereunder, or the enforcement or failure to enforce any provisions contained in the Lease. The Port's approval of plans and specifications shall not constitute the assumption of any responsibility by the Port or its representatives for the accuracy, efficacy or sufficiency thereof, and Tenant shall be solely responsible therefore.

## **2. CERTIFICATES OF COMPLIANCE.**

Tenant shall obtain all necessary permits and shall send copies of same to the Port, as well as copies of Certificates of Completion/Occupancy associated with such permits and pay the cost thereof. Prior to commencement of any such work of improvements, Tenant shall supply to the Port a certificate from a licensed civil engineer or land surveyor verifying that the appropriate subdivision or binding site plan approval has been obtained, and that the proposed improvements will be located on the correct parcel and in accordance with plans previously approved by the Port. The Port may waive such requirement if the Port has already surveyed the proposed premises. Upon completion of any such improvements, Tenant shall supply to the Port a further certification by Tenant's architect (including the landscape architect in the case of improvements consisting of landscaping) that the improvements, as designed by the architect, have been completed in accordance with the plans previously approved by the Port. Final landscaping as approved by the Port shall be completed within sixty (60) days after completion of the structure. Tenant shall also supply to the Port one (1) set of "as-built" grading plans showing all underground installations within sixty (60) days following completion of any substantial improvement within the leased premises. Tenant shall also furnish the Port with a complete set of "as-built" building plans and an itemized statement of the actual construction cost of such improvements, not later than sixty (60) days after completion.

## **3. DILIGENT COMPLETION AND COMPLIANCE.**

After commencement of construction, Tenant shall diligently complete the construction so that the improvements will not remain in a partly finished condition any longer than is reasonably necessary. Tenant shall comply with all applicable governmental laws, ordinances and other requirements or conditions and restrictions which may affect the leased premises, (whether prior to, during or after construction) including, without limitation, the Americans With Disabilities Act, and shall make such corrections, alterations or other improvements which may be necessary to remedy any non-complying condition (subject to the reasonable approval of the Port), all at the sole cost and expense of Tenant.

**EXHIBIT "B"**

***TOXIC, DANGEROUS AND HAZARDOUS SUBSTANCES STORAGE LICENSE***

(License if required by law for any material covered by  
Dangerous Waste Regulations in WAC 173-303  
as amended and 40 CFR Part 116-117 as amended,  
copies are on file in the Port of Olympia offices)

Licensee:

Lease:

Term:

(Not to exceed 5 years.)

Fee:

Insurance:

(The Port must be named insured and entitled notice prior to cancellation.)

Renewable: For life of underlying lease so long as conditions below are met:

1. Facilities approved for installation and use:

2. Preconstruction approvals required:

3. Preoccupancy approvals required:

4. Inspections required:

a.

b. At any time the Port has good reason to believe a problem may exist.

c. At a minimum, all tanks shall be pressure tested at least once every five (5) years to assure no loss of product into the environment (air, soil, surface or ground water).

5. Materials authorized for storage:

a. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. Any additional materials require the consent of the Port.

6. Additional terms:

a. The Port Engineer shall have the right to terminate this license at any time and in his own discretion, if the facilities fail to meet all federal, state or local requirements or otherwise pose a hazard of unlawful contamination or pollution and such failures are not cured within thirty (30) days of written notice or such lesser time as appropriate under emergency circumstances.

b. The licensee agrees to bear all costs of construction, operation, maintenance, inspection or repair of the approved facilities and to keep the same in good operating repair during the term of this license, and the cost of any cleanup or other activities required in the event of a spill, leak or other pollution causing event.

c. The licensee agrees at any time that the approved facilities cease to be subject to a valid license agreement, for any reason, that the licensee shall, at its own cost, remove the facilities and restore the site to its original condition (including removal of all contaminated soils or water).

d. The Port shall have the right to terminate this license upon breach of any term herein or termination of the specified lease. Breach of any term of this license shall constitute a breach of the specified lease.

e. The licensee shall compensate the Port for all costs incurred by reason of any breach of this license.

LICENSEE:

PORT OF OLYMPIA;

\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
License Date: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

SCHEDULE 8.1 – ORDERS

Consent Decree No. 90-2-1183-3  
State of Washington Department of Ecology v. Cascade Pole Company Inc., and the Port of  
Olympia, May 11, 1990.

Amendment No. 1 to Consent Decree No. 90-2-1183-3  
State of Washington Department of Ecology v. Cascade Pole Company Inc., and the Port of  
Olympia, July 24, 1996.

State of Washington Department of Ecology  
Agreed Order No. DE 97TC-S417  
April 24, 1998.

State of Washington Department of Ecology  
Agreed Order No. DE 00TCPSR--753  
April 11, 2000.

State of Washington Department of Ecology  
Amendment No. 1 to Agreed Order No. DE 00TCPSR--753  
July 3, 2004.