



Thursday, August 10, 2023, at 5:00 pm
Location: Port of Arlington, 100 Port Island Rd, Arlington, OR

Join Zoom Meeting
<https://us02web.zoom.us/j/9537854875>
Meeting ID: 953 785 4875
+16699006833,,85648511236# US (San Jose)
+12532158782,,85648511236# US (Tacoma)

Regular Commission Meeting Agenda
Thursday, August 10, 2023

1. **Call Meeting to Order**
2. **Public Comment on Non-Agenda Items**
3. **Consent Agenda:**
 - a. Approve Regular Meeting Minutes for July 13, 2023
 - b. Approve July 2023 Accounts Payable and Financials
4. **Director Report**
 - A. Strategic Business Plan – Final Adoption
 - B. Willow Creek Technical Assistance Planning Grant
 - C. Other Projects/Properties Update
5. **President Report**
6. **Commissioner Reports**
7. **Executive Session, ORS 192.660(2)(e):** To conduct deliberations with the persons designated by governing body to negotiate real property transactions.
8. **Decision or deliberations on Real Estate Transactions** (*Placeholder*).
9. **Upcoming Meetings –**
Board Training – Wed, Sept 13, 2023 from 9 am – 2 pm at Port of Morrow.
Commission Meeting – Thurs, Sept 14, 2023 at 5 pm at Port of Arlington.
10. **Adjourn Meeting**

Port of Arlington Environmental Sentry Corp Meeting

August 10, 2023 immediately following Port Meeting

1. Call Meeting to Order
2. Former Condon Grade School Remediation – Brownfield Application Process
 - A. Master Services Agreement with Maul, Foster and Alongi
 - B. Work Order Tasks 1 & 2 by Maul, Foster and Alongi
3. Adjourn

Regular Commission Meeting
July 13, 2023, MINUTES
5:00PM
Port Office, 100 Island Park Rd., Arlington, OR

1. **The Port of Arlington Commission meeting was called to order at 5:01 pm by President Shannon.**

2. **Present**

President Leah Shannon and Vice President Ron Wilson; Commissioners: Kathryn Greiner, Gibb Wilkins, and Kip Krebs; Port Director, Jed Crowther and Administrative Assistant, Kayla Rayburn

3. **Absent**

4. **Audience**

Pat Shannon (arrived 5:03pm)

5. **Public Comment**

none

6. **Additions to the Agenda**

Added 17: Lease issues.

7. **Appointment to Fill Board Vacancy**

Crowther advised there was one letter of interest that the Port of Arlington received regarding the Port of Arlington Board Vacancy, and that was from Kip Krebs.

Motion: Wilson moved, and Wilkins seconded to appoint Kip Krebs to the open Port of Arlington Board position. Motion carried.

7.1. **Oath of Office**

Ruben swore both Kip Krebs and Gibb Wilkins into office.

7.1.1. **Kip Krebs**

7.1.2. **Gibb Wilkins**

8. **Consent Agenda**

8.1. **Approve Regular Meeting Minutes for June 8, 2023**

8.2. **Approve June 2023 Accounts Payable and Financials**

Motion: Greiner moved, and Wilkins seconded to approve the Regular Meeting Minutes for June 8, 2023, and June 2023 Accounts Payables/Financials. Motion carried.

9. **Annual Designations & Appointments**

The commissioners were satisfied with how all the designations currently are, and no changes were proposed.

9.1. **Monthly Meeting-Date, Time, and Place** (Second Thursday at 5pm) (Primarily Port of Arlington; Condon City Hall in March, June, and October)

9.2. **Newspaper of Record** (Times-Journal)

9.3. **Attorney of Record** (VanKoten & Cleaveland)

9.4. **Depository of Record** (Bank of Eastern Oregon)

9.5. Budget Officer for 2023-2024 Fiscal Year (Kayla Rayburn)

Motion: Wilson moved, and Krebs seconded that all designation and appointments stay as is, shown in 9.1-9.5. Motion carried.

9.6. Port Commission- Election of Officers (President, Vice President, Secretary) Current: President Leah Shannon, Vice President Ron Wilson, Secretary Kathryn Greiner

Motion: Wilkins moved, and Krebs seconded to nominate Leah Shannon as President, Ron Wilson as Vice President, and Kathryn Greiner as Secretary. Motion carried.

10. Directors Report

10.1. Maintenance Equipment

Crowther had an equipment quote for a John Deere X380 Select Series mower from RDO Agriculture Equipment Co. for \$4,890.18.

Motion: Wilkins moved, and Krebs seconded to approve Crowther to purchase the John Deere X380 Select Series mower from RDO Agriculture Equipment Co. in the amount of \$4,890.18. Motion carried.

10.2. Grants-Willow Creek Technical Assistance Planning Grant, \$50,000 Award

Crowther advised Port of Arlington was awarded the \$50,000 grant from Business Oregon for the Willow Creek property.

10.3. Strategic Business Plan-Final Draft pending

Cori Mikkalo sent in the Strategic Business Plan for a review by Business Oregon before it was submitted for approval.

10.4. Property & Projects Updates

Crowther handed out a spreadsheet laying out all the projects the Port is currently working on or planning to start, and what phase each project was in, and next steps needed for each project.

11. Presidents Report

Not much to report, went to the city council meeting last night where they talked about tiny homes. Suggesting places that they could be located. They want a very specific regulation for them if they are to be allowed in city limits, because they would require their own zoning.

12. Commissioner Reports

12.1. Ron Wilson:

He would like to see fireworks sign up year-round stating "they are not permitted".

12.2. Kathryn Greiner:

Greiner wanted to discuss compensation/cost of living for Jed's wages. Propose a raise for Jed on top of his current salary and do not include the additional fuel allowance. She is proposing a 6.5% Salary increase starting July 1, 2023.

Motion: Greiner moved, and Wilson seconded to increase Jed Crowthers base salary by 6.5%for the 2023/2024 fiscal year. Motion carried.

Request about items out of the Condon grade school. There was a consensus that the public could take mementos left over in the school created by former students.

12.3. Gibb Wilkins:

The city of Condon just signed the contract with world development initiatives and are going to reach out to other entities to sign as well. Contractors in Condon are very interested in

knowing when it goes up for sale or construction starts, so they can put in a bid. The city continues to mow and take care of the grounds.

12.4. Kip Krebs:

Did a tour of the grade school and wanted the bleachers for the basketball court in Arlington and leave them there if the city of Arlington approved. He advised the court is now painted, and there is lots of interest in the tournament. He also wanted the port to be involved in parades, at least one in the north end and one in the south a year. This will help promote what the port is involved in and support the county.

13. Executive Session ORS 129.660(2)(e):

To conduct deliberations with the persons designated by governing body to negotiate real property transactions.

14. President Shannon Opened Executive Session ORS 129.660(2)(e) at 6:08 pm

15. President Shannon Adjourned Executive Session at 6:48pm

16. Decision or deliberations of Real Estate Transactions

There is no action needed from the Executive session.

17. Lease issues

Crowther advised David Richter, owner of Rivers Edge BBQ and Grill, is struggling and behind in rent. President Shannon declared a conflict of interest, and stated the conflict is they are a previous owner of the business, and the current owner is still paying them for the business. There was lengthy discussion regarding the tenant, and multiple suggestions proposed.

Motion: Wilkins moved, and Greiner seconded to reduce the rent to \$750, while keeping utilities (\$250) and taxes (\$500) the same for 3 months (July, August, and September), and paying the full amount of June \$2750. The topic will be revisited at the September meeting and reevaluated depending on if David is caught up. Motion carried.

18. Upcoming Meetings

18.1. Eastern Oregon Economic Summit August 3-4, 2023, La Grande, OR.

18.2. Commission Meeting Thursday, August 10, 2023, at 5:00pm at the Port of Arlington.

19. Adjourn Meeting

President Shannon adjourned The Regular Commissions meeting at 7:15pm.

President Leah Shannon

Vice President Ron Wilson



DIRECTOR REPORT

August 1, 2023

4A. Strategic Business Plan – Final Adoption

The Port has successfully completed all work and final preparation of our Strategic Business Plan. To our understanding, it contains all elements as required by Business Oregon, coupled with key follow-up and review. We give utmost appreciation to Cori Mikkalo, Fair Winds Consulting, LLC for leading an excellent public outreach effort, by conducting surveys, interviews, and workshops. Her amazing ability to guide the Port Board and participants throughout the process is outstanding. Above all, we value her genuine, homegrown community connection and zeal for Gilliam County. Kudos to the Board for selecting key projects and priorities to chart our future – a great team effort. The Port Strategic Business Plan will serve well to chart goals, align priorities, and track progress.

Recommended Motion: Move to adopt the Port of Arlington Strategic Business Plan 2023.

4B. Willow Creek Technical Assistance Planning Grant

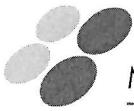
Business Oregon awarded \$50,000 Planning Grant to the Port for Willow Creek, noted previously. Since then, the corresponding grant agreement contract documents were received.

Recommended Motion: Move to approve Contract No. 21-23-715-J with Business Oregon for the Willow Creek Planning Grant in the amount of \$50,000 and authorize Jed Crowther to sign associated documents.

4C. Other Projects/Properties Update

The Port is pursuing other projects listed below. Further information may be available by Aug 10 for board discussion and action:

- Proctor Plat
Plat Layout concepts are being developed with Anderson-Perry.
- Marina Walkway Paving
Awaiting construction bid.
- Dock Repairs
Dock condition concerns, upcoming outreach to Marine Board and qualified contractors.
- Quarry Lease
Interested potential Lessees.
- Former Condon Grade School (by Port of Arlington Environmental Sentry Corp)
Maul, Foster and Alongi Master Services Agreement and Task Order(s).



MASTER AGREEMENT FOR PROFESSIONAL ENVIRONMENTAL SERVICES

This Agreement is entered into as of August 7, 2023, by and between Port of Arlington Environmental Sentry Corp. (CLIENT) and Maul Foster & Alongi, Inc. (MFA).

ARTICLE 1—SERVICES TO BE PERFORMED

During the term of this Agreement, and subject to the conditions herein set forth, whenever it is mutually determined as desirable or necessary, CLIENT may call upon MFA to perform specific professional services. In each instance a separate Work Order will be prepared, each being separately subject to the terms and conditions of this Agreement. Said Work Order will define (1) Scope of Services to be performed (“Services”), (2) Proposed Schedule of Services, and (3) Estimated Cost of Services. Such Work Order will be mutually agreed upon by CLIENT and MFA, subject to the terms and conditions of the Agreement, and will be executed by an authorized representative of each party. Unless otherwise specified in such Work Order, CLIENT will provide MFA with, and MFA will be entitled to rely upon, all documents, maps, criteria, design and construction standards, and all other information in CLIENT’s possession relating to CLIENT’s requirements for the project or services.

A Work Order may set forth more specific terms and conditions, in addition to those set forth in this Agreement. If a conflict exists between the Work Order and this Agreement, then this Agreement will govern and control.

ARTICLE 2—COMPENSATION

As full compensation for performance of the Services, CLIENT shall pay MFA a fee on the terms set forth in the Work Order (the “Fee”). Other than those permits already obtained by MFA, CLIENT agrees to obtain all necessary permits, inspections, and public agency approvals required for the Services. Any taxes or fees, enacted by local, state, or federal government subsequent to the date of this contract, and based on gross receipts or revenues will be added to amounts due under this Agreement, in accordance with any such fees or taxes.

ARTICLE 3—BILLING AND PAYMENT

Invoices will be submitted monthly and shall be due and payable upon receipt. Payment shall be made to Maul Foster & Alongi, Inc., and delivered to:

Maul Foster & Alongi, Inc.
109 East 13th Street
Vancouver, WA 98660

Except as otherwise agreed in writing, CLIENT agrees that there shall be no retention or holdback of the Fee for the Services. Interest at the rate of one and one-half percent (1.5%) per month, but not exceeding the maximum rate allowable by law, shall be payable on any amounts that are due but unpaid within thirty (30) days from receipt of invoice, payment to be applied first to accrued late payment charges and then to the principal unpaid amount. MFA may, at its option, withhold performance of the Services and/or delivery of reports and any other data pending payment by CLIENT.

ARTICLE 4—INDEPENDENT CONTRACTOR STATUS; LEGAL RELATIONSHIP

The parties intend that MFA, in performing Services specified in this Agreement, shall act as an independent contractor and shall have control of its work and the manner in which it is performed. MFA shall be free to contract for similar services to be performed for other individuals or entities while it is under contract with CLIENT.

The parties further intend that nothing in this Agreement shall be construed or interpreted as requiring MFA to assume the status of an owner, operator, generator, person who arranges for disposal, transporter or storer, as those terms, or any other similar terms, are used in any federal, state, or local statute, regulation, order, or ordinance governing the treatment, storage, handling, and disposal of any toxic or hazardous substance or waste.

ARTICLE 5—PROFESSIONAL RESPONSIBILITY

MFA shall perform the Services specified in this Agreement consistent with the level of care and skill ordinarily exercised by other professional consultants under similar circumstances at the same time the Services are performed; subject, however, to any express limitations established by the CLIENT as to the degree of care and amount of time and expense to be incurred and any other limitations contained in this Agreement. No other representation, warranty, or guaranty, express or implied, is included in or intended by this Agreement or any other of MFA's services, proposals, agreements, or reports contemplated by this Agreement.

ARTICLE 6—LIMITATION OF LIABILITY

CLIENT agrees to limit the liability of MFA, its officers, directors, shareholders, affiliates, employees, agents, and representatives (the "MFA Parties") to CLIENT for all claims and legal proceedings of any type arising out of or relating to the performance of Services under this Agreement (including, but not limited to, MFA's breach of the Agreement, its professional negligence, errors and omissions and other acts) to the greater of \$100,000 or the amount of MFA's Fee under the applicable Work Order. Failure of CLIENT to give written notice to MFA of any claim of negligent act, error, or omission within one (1) year of performance shall constitute a waiver of such claim by CLIENT. In no event shall MFA be liable for any direct, indirect, special, incidental, exemplary, or consequential loss or damages sustained from any cause or arising out of any legal theory, whether contract, negligence, strict tort liability, or otherwise. MFA is solely responsible for performance of this contract, and no affiliated company, director, officer, employee, or agent shall have any legal responsibility hereunder.

ARTICLE 7—INDEMNIFICATION

Subject to the limitation of liability above, MFA shall indemnify and hold CLIENT harmless from the proportionate share of any claim, suit, liability, damage, injury, cost, or expense, including attorney's fees, or other loss (hereafter collectively called "Loss") arising out of (a) MFA Parties' breach of this Agreement or (b) MFA's willful misconduct or negligence in connection with the performance of the Services under this Agreement.

CLIENT agrees to indemnify and hold harmless MFA Parties from any Loss arising out of (a) CLIENT's breach of the Agreement, or (b) CLIENT's willful misconduct or negligence in connection with performance of the Agreement. To the extent a portion of such Loss is caused by MFA's negligence, CLIENT shall indemnify and hold MFA harmless from the remaining proportional share of the Loss resulting from the acts or negligence of CLIENT.

ARTICLE 8—TERM OF AGREEMENT; TERMINATION

This Agreement will be for an initial term commencing on the date hereof and ending at the end of the calendar year in which the Agreement was fully executed and will thereafter automatically renew for successive periods of one (1) year each, unless terminated by either party by not less than thirty (30) days prior written notice to the other party. If any Services agreed to be performed hereunder are terminated, CLIENT will pay company for Services performed to the date MFA receives notice of termination and shall further pay for any costs reasonably incurred by MFA in connection with terminating Services, including, but not limited to, the costs of completing analysis, records and reports necessary to document job status at the time of termination and costs associated with termination of subcontractor contracts.

The obligations of the parties to indemnify and the limitations on liability set forth in this Agreement shall survive the expiration or termination of this Agreement.

ARTICLE 9—TIME OF PERFORMANCE/FORCE MAJEURE

MFA makes no warranties regarding the time of completion of Services and shall not be in default of performance under this Agreement where such performance is prevented, suspended, or delayed by any cause beyond MFA's control, including but not limited to, war, terrorism, pestilence, act of God, mechanical malfunction, unavailability of energy, unavailability of materials, pandemic, cyberattack, accident, fire, explosion, public protest, or governmental actions or legislation.

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

ARTICLE 10—SUSPENSION OF SERVICES

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

All suspensions will extend the contract completion date for specified services commensurately, and MFA will be paid for services performed to the suspension date plus suspension charges. Suspension charges are defined as those charges relating to costs incurred which are directly attributable to suspension of services, including, but not limited to, personnel rescheduling, equipment rescheduling, and/or reassignment adjustments.

ARTICLE 11—CHANGED CONDITIONS

If, during the course of the performance of the Services under this Agreement, conditions or circumstances develop or are discovered which were not contemplated by MFA at the commencement of this Agreement, and which materially affect MFA's ability to perform the Services or which would materially increase the costs to MFA of performing the Services, then MFA shall notify the CLIENT in writing of the newly discovered conditions or circumstances, and CLIENT and MFA shall renegotiate in good faith the terms and conditions of this Agreement. If amended terms and conditions cannot be agreed upon within thirty

(30) days after the mailing of such notice, MFA may terminate the Agreement and be compensated as set forth in the section of this Agreement entitled TERM OF AGREEMENT; TERMINATION.

ARTICLE 12—INSURANCE

MFA agrees to use its best efforts to maintain Professional Liability, Commercial General Liability, Automobile Liability, statutory Worker’s Compensation, and Employers’ Liability insurance coverage during the period of performance of services hereunder in the following minimum amounts:

LIMITS OF LIABILITY

A.	Worker’s Compensation Employer’s Liability	Statutory \$1,000,000
B.	Commercial General Liability (including Contractual Liability) Bodily Injury Property Damage	\$1,000,000 each occurrence and aggregate
C.	Comprehensive Automobile Liability (Owned, Hired, and Non-owned Vehicles) Bodily Injury Property Damage	\$1,000,000 combined single limits for each accident
D.	Professional Liability:	\$1,000,000 each claim and aggregate

At CLIENT’s request, insurance certificates will be provided by MFA to evidence such coverages.

ARTICLE 13—HAZARDOUS OR UNSAFE CONDITIONS

CLIENT has fully informed MFA of the type, quantity, and location of any hazardous, toxic, or dangerous materials or unsafe or unhealthy conditions which CLIENT knows or has reason to suspect exists at all real property where the Services are to be performed (the “Project Site”). CLIENT shall immediately inform MFA when it becomes aware of any new information as to the foregoing which may affect the project, such as information to constitute a CHANGED CONDITION subject to the provisions of Article 11 of this Agreement.

MFA shall not be responsible for the health and safety of any persons other than the MFA Parties, nor shall have any responsibility for the operations, procedures, or practices of persons or entities other than the MFA Parties.

ARTICLE 14—SUBSURFACE OBSTRUCTIONS

CLIENT shall provide to MFA plans which designate the location of all subsurface structures, such as pipes, tanks, cables, and utilities within the property lines of the Project Site. CLIENT shall be responsible for any damage inadvertently caused by MFA to any subsurface structure not so designated. CLIENT warrants the accuracy of any information supplied by it to MFA and understands and agrees that MFA is entitled to and may rely upon the accuracy of any and all information supplied by CLIENT without independently verifying its accuracy. MFA may assist CLIENT in obtaining locator services to help CLIENT in identifying subsurface obstructions, but CLIENT agrees to indemnify and hold MFA harmless against any Loss arising out of or connected with CLIENT’s inaccurate identification of underground obstructions.

ARTICLE 15—REPORTING AND DISPOSAL

CLIENT shall be solely responsible for notifying all appropriate federal, state, regional, local, or other governmental agencies of the existence of any hazardous, toxic, or dangerous materials on or in the Project Site or discovered during the performance of this Agreement. MFA may, in its sole discretion, agree to notify such agencies on behalf of CLIENT, as CLIENT's agent. However, no agreement by MFA to make such notification on behalf of CLIENT shall be construed to be an agreement to make such notification on any preceding or subsequent occasions.

CLIENT shall be solely responsible for arranging and paying the costs to lawfully store, treat, recycle, dispose of, or otherwise handle, hazardous or toxic substances or wastes, including, but not limited to, used or unused samples, drill cuttings, water from well development and/or testing left on-site by MFA in connection with performing Services under this Agreement. MFA may, in its sole discretion, agree to make such arrangements on behalf of CLIENT, as CLIENT's agent. However, no agreement by MFA to make such arrangements of behalf of CLIENT shall be construed to be an agreement to make such arrangements on any preceding or subsequent occasions.

ARTICLE 16—SAMPLES, DRILL CUTTINGS AND WELL WATER

MFA shall not be obligated to preserve soil, rock, water, and other samples obtained from the Project Site as MFA deems necessary for longer than ninety (90) days. CLIENT agrees to receive any such unused sample material for its sole, lawful storage, treatment, or disposal at any time after expiration of the ninety (90) day term.

ARTICLE 17—RIGHT OF ENTRY AND UNAVOIDABLE DAMAGES

CLIENT agrees to grant or arrange for right of entry when deemed necessary by MFA to perform the Services at the Project Site, whether or not the Project Site is owned by CLIENT. CLIENT recognizes that the use of investigative equipment and practices may unavoidably alter conditions or affect the environment at the Project Site. While MFA will take all reasonable precautions to minimize damage to the Project Site, the cost of repairing any such damage shall be borne by CLIENT, and it is understood that the correction of such damage is not part of the Services or the Fee contemplated by this Agreement.

ARTICLE 18—SUBCONTRACTORS

MFA may, in its sole discretion, subcontract for the services of others without obtaining CLIENT's consent where MFA deems it necessary or desirable to have others perform certain services. If MFA, in its sole discretion, deems it necessary or desirable to obtain Client's advance concurrence as to any proposed subcontract, MFA may make a written request to CLIENT to review the qualifications and suggested scope of work to be performed by such proposed subcontractor and CLIENT shall either grant or deny such concurrence within a reasonable time after receipt of such request.

ARTICLE 19—OWNERSHIP AND REUSE OF DOCUMENTS

All documents furnished by MFA pursuant to this Agreement are instruments of MFA's services. MFA shall retain all ownership and property interests therein, including all common law, statutory, and other reserved rights, including copyrights. Such documents are not intended or represented to be suitable for reuse by CLIENT or others. Any such reuse without specific written verification and adaptation by MFA for the specific purpose intended will be at the reuser's sole risk and without liability or legal exposure to MFA. To the fullest extent permitted by law, CLIENT agrees to indemnify and hold harmless MFA Parties from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the CLIENT's use of MFA's

documents under this section. Any transfer of electronic data hereunder is solely for CLIENT's convenience "as is" without warranty as to contents and is not the project deliverable unless specifically agreed to the contrary. MFA disclaims all warranties express or implied with regard to any electronic data provided hereunder, including any warranties of merchantability or fitness for a particular purpose. The provisions of this section shall survive the expiration or termination of this Agreement.

ARTICLE 20—NO THIRD-PARTY BENEFICIARIES

There are no third-party beneficiaries of this Agreement, and no third party shall be entitled to rely upon any work performed or reports prepared by MFA hereunder for any purpose whatsoever. CLIENT shall indemnify and hold MFA Parties harmless against any liability to any third party for any Loss arising out of or relating to the reliance by any such third party on any work performed or reports issued by MFA hereunder. The provisions of this section shall survive the expiration or termination of this Agreement.

ARTICLE 21—DESIGNS AND DISCOVERIES

In the course of providing Services to CLIENT, MFA may utilize or develop designs, ideas, discoveries, inventions, or improvements of these (collectively "Ideas"), made by the MFA Parties. CLIENT agrees that MFA's utilization or development of such Ideas does not grant CLIENT any right in the form or ownership or license to such Ideas. All Ideas utilized or developed while providing CLIENT Services shall be deemed to be property of MFA.

ARTICLE 22—LAWS AND REGULATIONS

Both parties will be entitled to regard all applicable laws, rules, regulations, and orders issued by any federal, state, regional, or local regulatory body as valid and may act in accordance therewith until such time as the same may be modified or superseded by such regulatory body or invalidated by final judgment in a court of competent jurisdiction, unless prior to such final judicial determination, the effectiveness of such law, rule, or regulation has been stayed by an appropriate judicial or administrative body having jurisdiction.

In the event there are changes in existing laws, codes, regulations, orders or ordinances, or the interpretation thereof, following the performance of professional services, CLIENT agrees to defend, indemnify, and hold MFA harmless from any and all claims, including claims for fines or penalties imposed, resulting from or alleged to have resulted from noncompliance with or nonincorporation of such changes in professional services prior to the effectiveness of such changes.

ARTICLE 23—ASSIGNMENT

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

ARTICLE 24—DISPUTE RESOLUTION

Any claim, controversy, dispute, or disagreement between the parties arising out of or relating to this Agreement, including but not limited to those arising out of or relating to any Work Order Authorization and including those based on or arising from any statute, constitution, regulation, ordinance, rule, or any alleged tort (collectively "Dispute"), shall be resolved in accordance with the following dispute resolution procedure:

1. CLIENT and MFA agree that discussing and reaching an agreement is often the most cost-effective and beneficial method to resolve a dispute. In the event that any Dispute arises between them, the parties agree to hold a meet-and-confer session between one or more principals of each party with authority to settle the dispute.

2. If the parties cannot reach a mutually acceptable resolution, they shall proceed to non-binding mediation using a mutually agreed upon mediator, with each party being responsible for one-half of the mediator's fee. Mediation is an express condition precedent to binding arbitration, as provided below.
3. Unless successfully resolved as provided above, the parties agree that any Dispute shall be resolved by binding arbitration with the then-effective arbitration rules of Arbitration Services of Portland, Inc., and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

ARTICLE 25—ATTORNEYS' FEES AND COSTS

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

If MFA is requested to respond to any mandatory orders for the production of documents or witnesses on CLIENT's behalf regarding work performed by MFA, CLIENT agrees to pay all costs and expenses incurred by MFA not reimbursed by others in responding to such order, including attorney's fees, staff time at current billing rates, and reproduction expenses.

ARTICLE 26—GOVERNING LAW AND VENUE

This Agreement shall be subject to, interpreted, and enforced according to the laws of the State from which MFA's services are procured. The parties submit to jurisdiction in Clark County, Washington, and agree that the venue for any and all disputes arising out of or related to this Agreement shall be in Clark County, Washington. Each party further agrees that, in any litigation or arbitration arising out of or related to this Agreement, the party and the party's officers, employees, and agents shall appear, at that party's expense, for deposition in Clark County, Washington.

ARTICLE 27—SEVERABILITY

Any provision of this Agreement held in violation of any law will be deemed stricken and all remaining provisions shall continue valid and binding upon the parties. The parties will attempt in good faith to replace any invalid or unenforceable provision(s) of this Agreement with provisions which are valid and enforceable and which come as close as possible to expressing the intention of the original provisions.

ARTICLE 28—AUTHORITY OF SIGNERS

The person signing this Agreement on behalf of Contractor or Subcontractor warrant and represent that they have full and complete authority to bind Contractor or Subcontractor, as applicable, to all terms and conditions of this Agreement.

ARTICLE 29—COUNTERPARTS; ELECTRONIC SIGNATURE

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one instrument. Facsimile, email transmission or other means of electronic transmission of any signed original document shall be the same as delivery of an original.

ARTICLE 30—ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between CLIENT and MFA. It supersedes any and all prior written or oral agreements, negotiations, or proposals, or contemporaneous communications with

respect to the subject matter hereof, and has not been induced by any representations, statements, or agreements other than those herein expressed. No amendment to this Agreement hereafter made between the parties will be binding on either party unless reduced to writing and signed by authorized representatives of both parties.

The parties hereto have read this Agreement and accept all of its terms and conditions subject to those modifications, if any, which are typed or handwritten on the Agreement or attached and incorporated herein and which have been initialed by all contracting parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives.

Port of Arlington Environmental Sentry Corp.
Client

Maul Foster & Alongi, Inc.

Signature: _____

Signature _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____