

THE NORTHWEST SEAPORT ALLIANCE
MEMORANDUM

MANAGING MEMBERS
ACTION ITEM

Item No.	<u>8D</u>
Date of Meeting	<u>August 3, 2021</u>

DATE: June 25, 2021
TO: Managing Members
FROM: John Wolfe, CEO

Sponsor: Tong Zhu, Chief Commercial & Strategy Officer

Project Managers: Jennifer Maietta, Director, NWSA Real Estate; Melinda Miller, Director, RE Asset Management, Port of Seattle; Erin DeBroux, NWSA Real Estate Manager; and Fred Chou, Capital Program Leader, Port of Seattle

SUBJECT: T-106 Interlocal Agreement Authorization Request and U.S. Customs and Border Protection Facility Renovation Project – Project Delivery and Funding Request

A. ACTIONS REQUESTED

The following requests for authorization are related to providing U.S. Customs and Border Protection facility (office and workspace) at Terminal 106.

1. Interlocal Agreement:

Request Managing Members of The Northwest Seaport Alliance authorization for the Chief Executive Officer or their delegate to enter into an Interlocal Agreement with the Port of Seattle to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.

Jointly, request the Commissioners of the Port of Seattle authorization for the Executive Director or their delegate to enter into an Interlocal Agreement with The Northwest Seaport Alliance to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.

2. CBP Facility Renovation Funding:

Request Managing Member authorization to: (1) approve project authorization in the amount \$6,300,500 for a total authorized amount not to exceed \$6,402,000 to complete all work associated with the T-106 CBP Office and Facility Renovation Project, Master Identification No. 2021-29 NH and the T-106 CBP TI Evaluation project, Master Identification No. U00520; and (2) develop, advertise, and

execute an alternative public works delivery contract using the Design-Build project delivery method.

B. SYNOPSIS

All US ports of entry are generally required by CBP to provide suitable and reasonable office, workspace and parking to CBP. CBP relies on various provisions of Titles 6, 8, and 19 of the United States Code, additionally with particular emphasis on the Cross Border Trade Enhancement Act of 2016 (6 USC § 301) and 36 Op. Atty. Gen 431 (1928) as its basis for requiring ports to provide such office, workspace and parking to CBP. Existing facilities may continue to be operated even though they may not be in compliance with CBP's standards. However, if any significant changes are made to a seaport operation CBP requires updates to existing terminal facilities to meet its standards. CBP exercised this requirement due to the modernization project for Terminal 5. According to CBP, NWSA's request for radiation portal monitors ("RPMs") at Terminal 5 ("T5") constitutes a seaport operation change prompting CBP to request office and workspace meeting current CBP requirements.

The Terminal 106-2W building ("T106") has been identified as a suitable location to perform renovations meeting current CBP requirements. T106 is a Port of Seattle asset and is operated and managed by the Port of Seattle (POS), and an Interlocal Agreement ("ILA") is required to transfer management of the CBP T106 Premises to NWSA.

C. BACKGROUND

CBP staff providing international cargo inspection services, has been officing out of both T106 and Terminal 102 ("T102") since 1998 under an agreement with POS. The T106 facility supports 75 staff and is approximately 19,317 square feet combined office and warehouse space, 31,260 square feet of yard, and 4,720 square feet of parking. The T102 facility, also a Port of Seattle asset, supports 37 staff and is approximately 6,803 square feet of combined office space.

Neither facility meets current CBP requirements for suitable workspace. As a part of the office and workspace improvements, CBP will relocate the staff from T102 and consolidating these offices to T106. The total co-located CBP space will include approximately 23,232 square feet combined office and warehouse space, 31,260 square feet of yard space, and 4,850 square feet of parking area (hereinafter the "Premises"). The T106 Premises improvements are passed their useful life and require substantial upgrades to bring systems, but not limited to, plumbing, fire, etc. to current code compliance. The total estimated cost of the

T106 facility office and workspace renovation is approximately \$6,402,000 (the “Project”).

Additionally, the roof to the 2W building at T106 is at or near the end of its useful life and the NWSA and POS will work jointly to assess and plan for the roof renovation currently estimated to be approximately \$2.5M dollars.

1. Interlocal Agreement:

T106 CBP premises is owned and managed by the POS and is an unlicensed property for the NWSA. As the primary beneficiary of CBP services, the NWSA is responsible to provide adequate office and workspace for CBP with POS contributing its portion. POS currently receives \$1.00 per year rent from CBP from both the current T102 and T106 locations and would continue to receive the same rent for the expanded T106 Premises. Thus, the POS and the NWSA agree to transfer use and management of the CBP premises to the NWSA.

NWSA staff have been working in partnership with POS staff to formulate and confirm an implementation plan to address the following elements concerning CBP’s utilization of T106:

- Compensation for related to the Renovation Project, for use and management of the Premises, and building roof renovation; and
- Responsibilities of POS; and
- Responsibilities of NWSA

Staff have determined that the appropriate vehicle to fully acknowledge all of the elements mentioned above is an Interlocal Agreement (ILA). In reaching mutual agreement to the ILA elements, NWSA and POS considered that, (1) NWSA is the primary beneficiary of CBP services at this facility; (2) A POS-owned asset will receive considerable upgrades including a new roof; and (3) POS should realize rental income at the T102 facility CBP will vacate.

NWSA and POS agreed to a cost allocation method based upon CBP’s anticipated distribution of employees servicing the NWSA and POS respectively and have further agreed to equally share costs attributed to others’ use of the CBP Premises. This resulted in an allocation of 87% for the NWSA and 13% for the POS, and as further detailed in the CBP Seattle Allocation Memo dated June 4, 2021. These cost allocation percentages will be applied to the total cost the Renovation Project and all ongoing operational costs associated with the CBP Premises.

The Parties acknowledge and agree that the roof of the 2W building will require renovation in conjunction with the Project or during the term of this ILA. The Parties shall perform a formal assessment of the roof to determine if there is any potential useful life remaining. Upon this determination, the Parties will mutually agree and establish a roof renovation plan and timeline (the “Roof Renovation Project”) by Addendum to the ILA, but in any case, the roof renovation shall occur not later than 5-years after the Commencement Date unless the current Free Space Agreement is extended to justify the NWSA’s investment in the roof.

POS shall perform the work and pay for the Roof Renovation Project with NWSA reimbursing its pro rata share to POS upon completion of the project. Each Party shall be responsible for its pro-rata share of the total cost of the Roof Renovation Project being NWSA 55% and POS 45%.

The base terms of the ILA are as follows:

- **Premises:** POS to transfer the use and management of 23,232 square feet combined office and warehouse space within the 2W building, 31,260 square feet of yard space, and 4,850 square feet of parking area to the NWSA.
- **Term:** ILA shall be for a term of ten (10) years, plus the construction period. The ten-year term shall commence upon substantial completion of the Project and shall terminate should the Free Space Agreement (further described below) be terminated.
- **Compensation:** In lieu of rent the Parties agree to:
 - Cost Allocations of 87% NWSA and 13% POS of the total Renovation Project costs and for all ongoing operating expenses utilities (water, sewer, stormwater, electric, waste management) repair and maintenance, Port security charges related to the Premises; and
 - Pro-rata shares of 55% NWSA and 45% POS of the roof renovation costs.
- **Roof Renovation:** During the term of the ILA, the roof of the 2W building will require renovation. Following a formal assessment of the roof, NWSA and POS will establish a renovation plan and timeline; however, renovation shall not occur later than 5-years following the ILA commencement date unless the Free Space Agreement is extended to justify NWSA’s investment in the roof. POS and NWSA further agree:
 - POS shall perform the work and pay for the roof renovation.
 - POS and NWSA to each be responsible for its pro-rata share of the total cost of the roof renovation (NWSA 55% / POS 45%).
 - NWSA to reimburse POS its pro-rata share of costs upon substantial completion of the work.

- **Maintenance & Repair:** NWSA responsible for all maintenance and repair to the Premises and shall keep the Premises in good condition and repair at all times. Maintenance and repair costs are subject to the cost allocation percentage split between NWSA and POS.
- **Insurance:** POS to provide property insurance coverage with NWSA listed as designated user and NWSA to maintain general liability insurance coverage in an amount not less than \$2,000,000 per occurrence and name POS as an additional insured.
- **Free Space Agreement:** NWSA shall enter into a Free Space Agreement with CBP for their sole use of the Premises free of charge including NWSA being responsible for all ongoing operating expenses including, but not limited to, utilities, data services, and repair and maintenance.
- **Stormwater:** POS shall be responsible for the cost to repair, maintain, and/or replace the stormwater system unless damage is due to negligence of the NWSA or CBP.

Free Space Agreement

NWSA will enter into a Free Space Agreement with CBP to memorialize the terms of CBP's use of the Premises upon completion of the design phase. The initial draft of this agreement will be completed by CBP and provided to NWSA for review following completion of the renovation project design phase. This agreement is anticipated to closely mirror the Free Space Agreement entered into for the South Harbor CBP facility, a copy of which is included with the memorandum. The primary elements of the agreement will be:

- **Term:** Initial one (1) year term with nine (9) successive automatic renewals of one year each for a total anticipated term of ten (10) years.
- **Premises:** Approximately 23,232 square feet of the 2W building, 31,260 square feet of yard space, and 4,850 square feet of parking area.
- **Rent:** Premises will be provided rent free to CBP.
Operating Expenses: CBP to bear no cost for utilities, data services, repair and maintenance, and/or potentially any other amounts typically associated with a Lessee's responsibility.

2. CBP Facility Renovation:

Installation of RPMs at T5 is necessary for handling international cargo upon completion of Phase 1 construction. The request for installation of RPMs, however, constitutes an operations change that triggered CBP to exercise a Title

19, Code of Federal Regulations requirement for a Port Authority to provide free space, including suitable office and workspace to CBP.

Several options were evaluated to meet CBP's workspace requirements. Construction of a new building and renting from a third party were eliminated as viable options in the early stages of option assessment as both were cost prohibitive. The most cost-effective option was determined to be a renovation of the current T106 space and co-location of T106 and T102 staff with T-102 being vacated for use by POS.

In addition to CBP, two (2) other tenants of the POS lease space on month-to-month terms at T106. Mary's Place leases 3,725 square feet of office space east of CBP for the purpose of receiving and sorting donated items for the benefit of low-income individuals and families, and Low-Income Housing Institute (LIHI) leases 18,000 square feet of warehouse to the west of CBP for the purpose of assembling small homes for the benefit of low-income individuals.

Co-locating T102 and T106 staff is preferable as it eliminates a need to provide two separate spaces meeting CBP's current requirements. T106 was identified as a workable location to combine staff. Thus, to accommodate T102 staff, CBP will assume the space Mary's Place currently utilizes. Low Income Housing Institute will remain in the building as currently located.

The renovated T106 building will support 85 staff. The majority of staff (64.2) will be dedicated to international cargo operations at Terminals 18, 30, and 5 when it reopens, which includes processing vessels, crews, and commodities. As NWSA is the primary benefactor of CBP services, NWSA is acting as lead, in conjunction with POS, to complete the office and workspace upgrades required under federal mandate.

A Tenant Improvement Feasibility Study was completed October 30, 2020 under Master Identification No. U00520 (T-106 CBP TI Evaluation). This study, to which CBP collaborated in development and conceptual design, provides options utilizing the building's shell that meet CBP's space requirements and are considered as "Non-Substantial Alterations" building/tenant improvements by the Seattle Department of Construction and Inspection (SDCI) rather than more robust building upgrades that would trigger seismic and other costlier investments.

After completing the feasibility study, staff conducted two rounds of acquisition planning to determine the most suitable project delivery method for this project.

The Design-Build project delivery method was primarily selected over the traditional Design-Bid-Build process to allow the contractor to work with the designer and the stakeholders early to optimize design and construction and thereby save costs while allow the opportunity to overlapping design and construction to fast-track the project.

This request is to approve funding in full to move forward with the project utilizing Design-Build delivery.

PROJECT DESCRIPTION AND DETAILS

The T106 building was originally built in 1952 as warehouse space and was un-conditioned. An office area was added later within the warehouse functioning as a building-within-a-building. Thus, while this building is not at the end of its useful life, a consolidated CBP facility and the associated improvements are necessary to meet their operational needs, and additional updates are necessary to make it code compliant. A key objective of the building renovation is to utilize the existing internal walls and associated infrastructure to the greatest extent possible while making modifications as required to meet current code standards and accommodate a greater staff number.

This proposed project has been reviewed by SDCI who rendered a determination that the scope of work as outlined in the feasibility study is considered to be Non-Substantial Alteration improvements. This means the project is considered to be a typical tenant improvement, rather than a building upgrade which should correspond with lower construction costs.

Staff conducted two rounds of acquisition planning to determine the most suitable project delivery method for this project. Design-Build, General Contractor/Construction Manager, and Job Order Contracting alternative delivery methods were explored along with the traditional Design-Bid-Build process. The Design-Build project delivery method was selected primarily due to the following:

- Project scope and definition have been well coordinated with CBP and could be defined in performance terms.
- Project's current design level at approximately 10% is conducive to Design-Build, and early engagement by the Design-Build team would help optimize design/construction and save costs.
- Best-value selection with lump-sum price would help protect the overall project budget.
- Allow early engagement by the Design-Build team with CBP, tenants, and other stakeholders on operational logistics such as construction phasing which will help minimize disruptions.

- Single procurement package for the design-construct team and opportunity to fast-track which would in turn save overall project costs.

Project Objectives

The project objective is to modify the existing space to support 85 staff and meet current code requirements. In addition, existing infrastructure will remain in its current location to the extent possible to minimize constructions costs.

Scope of Project

The scope of the project includes design development, permitting, and construction. Major project elements include but are not limited to:

- Architectural and space programming design meeting CBP's space program and minimum security requirements
- Updates to mechanical systems, plumbing systems, fire protection and alarm system, electrical and lighting, telecommunications, intrusion detection and video surveillance systems, access control system and hardware, and building exterior perimeter improvements. Code compliance updates are required for the power distribution system, plumbing, HVAC, restrooms, and reception area.
- Existing infrastructure will be used where possible and replaced if beyond its useful life or if not code compliant
- Assess and incorporate IT and furniture needs

Scope of Work for this Request:

All elements to complete the project are included in this request and are as follows:

- Prepare and issue Request for Qualification and Proposal, select Design-Build team, and execute contracts
- Complete design development and reviews
- Complete environmental documentation and required permitting
- Complete construction and final implementation
- Estimated completion in August 2023

D. FINANCIAL IMPLICATIONS

1. Interlocal Agreement: Financial Impact

NWSA and POS have agreed to cost allocations based upon CBP's anticipated distribution of employees servicing the NWSA and POS respectively and have further agreed to equally share costs attributed to others' use of the CBP Premises resulting in 87% for the NWSA and 13% for POS. These cost allocation percentages will be applied to the total cost of the office and workspace project costs and all ongoing operating costs associated with the CBP Premises.

Following completion of the renovation project with actual costs memorialized in writing, POS will reimburse NWSA 13% of the total renovation project costs.

The cost allocation of the building improvements is estimated to be:

- a. NWSA: \$5,569,740 (87%)
- b. POS: \$832,260 (13%)

The cost allocation of ongoing operating costs for a ten-year term is estimated to be:

- a. NWSA: \$652,932 (87%)
- b. POS: \$97,565 (13%)

2. CBP Roof renovation (ILA): Expected Financial impact

If the roof is replaced within the first five-years after the Commencement Date, the NWSA will pay the Port of Seattle 55% of the cost and amortize the cost over the remaining term of the lease. If the NWSA's use of the 2W building (via the Free Space Agreement or an extension) terminates before the end of the useful life of the roof, the Port of Seattle will reimburse the unamortized portion of NWSA's contribution. If the current roof is not replaced in the first five years, this ILA will be renegotiated based on any extension of the CBP Free Space Agreement.

The cost allocation of the roof renovation in 2021 dollars is estimated to be:

- a. NWSA: \$1,375,000 (55%)
- b. POS: \$1,125,000 (45%)

3. CBP Facility renovation (not including roof): Financial impact

Project Cost Details

	This Request	Total Project Cost	Cost to Date	Remaining Cost
Procurement	\$300,000	\$300,000		\$300,000
Pre-Design		\$101,500	\$101,500	
Design and Construction ¹	\$4,032,500	\$4,032,500		\$4,032,500
Construction Soft Costs ²	\$978,000	\$978,000		\$978,000
Contingency ³	\$990,000	\$990,000		\$990,000
Total	\$6,300,500	\$6,402,000	\$101,500	\$6,300,500

¹ Combined cost for design and construction under Design-Build

² Includes project management, construction management, environmental reviews and permitting, general administration and central procurement office costs

³ Includes design development and construction costs

Source of Funds

The current Capital Investment Plan (CIP) Budget allocates \$6,402,000 for this project.

- Master Identification No. 2021-29 NH (T-106 CBP Office and Facility Renovation) allocates \$6,300,000; and
- Master Identification No. U00520 (T-106 CBP TI Evaluation) allocates \$101,500.

This request estimates cash expenditure at \$6,300,500 with contingencies.

Project costs associated with Master Identification No. 2021-29 NH (T-106 CBP Office and Facility Renovation) will be capitalized and depreciated over an estimated 10-year life beginning in 2023 resulting in the NWSA having annual depreciation expense of approximately \$548,100 (87%) and the Port of Seattle having annual depreciation of approximately \$81,900 (13%).

Project costs associated with Master Identification No. U00520 (T-106 CBP TI Evaluation) have been expensed as incurred.

Ongoing expenses will be split 87%/13% as discussed above.

E. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

1. Interlocal Agreement:

No Action Alternative: The NWSA would not have the authority to manage CBP use of the T106 facility and thus would not be able to move forward with this project.

Recommended Action: Request Managing Members of The Northwest Seaport Alliance authorization for the Chief Executive Officer or their delegate to enter into an Interlocal Agreement with the Port of Seattle to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.

Additionally, request the Commissioners of the Port of Seattle authorization for the Executive Director or their delegate to enter into an Interlocal Agreement with The Northwest Seaport Alliance to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.

2. CBP Facility Renovation:

No Action Alternative: CBP will continue operating under two separate POS leases at two different locations in offices determined by CBP to be below their operational standards. This is not a viable alternative, as the RPMs at T5 are necessary for international container operations to occur and implementation of the RPMs is connected to providing office and workspace to CBP which meets their requirements.

In 2019, POS commissioned a study that investigated three options to determine the most cost-effective solution to provide CBP suitable workspace. Results of the study were presented over a 20-year term utilizing a 6% net present value discount rate and are summarized below. The initial cost for renovating T-106 was estimated to be \$20 million, however, staff worked to reduce the cost for this option by eliminating all non-essential upgrades for a revised cost of \$6.4 million. To provide a direct comparison of the below alternatives, the net present value for renovating T-106 is shown over a 20-year term at a 6% discount rate.

Alternative 2) Lease from 3rd Party: Enter lease for space owned by third party and sublease to CBP.

- This option would still require tenant improvements estimated at \$2.3 million
- Due to high rental rates in close-in Seattle area, this option is not considered to provide cost savings over the course of a ten-year lease.
- Estimated starting rent at \$22.00 - \$24.00/SF/Year
- Net Present cost for 20-year term is estimated at \$9.2 million at a 6% discount rate as used by the consultant.

Alternative 3) Construction of a new building:

- Initial capital expense is estimated at \$38 million
- Delivery of this option is approximately two years
- Net Present Cost for a 20-year term is estimated at \$29.2 million at a 6% discount rate as used by the consultant.

Recommended Action - Office Renovation: Request Managing Member authorization to: (1) approve project authorization in the amount \$6,300,500 for a total authorized amount not to exceed \$6,402,000 to complete all work associated with the T-106 CBP Office and Facility Renovation Project, Master Identification No. 2021-29 NH and the T-106 CBP TI Evaluation project, Master Identification No. U00520; and (2) develop, advertise, and execute an alternative public works delivery contract using the Design-Build project delivery method.

- Terminal 106 will undergo an overall refresh and expansion to accommodate T106 and T102 staff.
- Total Cost for this alternative is approximately \$6.402 million
- Delivery of this option is estimated at August 2023
- Invests in a Port of Seattle-owned asset and will add value to the asset.
- CBP has approved the location and conceptual design
- Net Present cost for a 20-year term is estimated at \$8.7 million at a 6% discount rate.

F. ENVIRONMENTAL IMPACTS/REVIEW

Permitting: Permitting will be evaluated and obtained in design phase.

G. ATTACHMENTS TO THIS REQUEST

- CBP Seattle Facility at T106 Allocations Memorandum
- Free Space Agreement example
- Interlocal Agreement between POS & NWSA for Building 2W at Terminal 106

H. PREVIOUS ACTIONS OR BRIEFINGS

<u>Date</u>	<u>Action</u>	<u>Amount</u>
November 6, 2018	Executive Authorization	\$50,000.00
April 3, 2020	Executive Authorization	\$35,000.00
November 12, 2020	Executive Authorization	\$16,500.00
TOTAL		<u>\$101,500.00</u>



DATE: June 4, 2021

TO: NWSA Managing Members & Port of Seattle Commissioners

From: John Wolfe, CEO

Sponsor: Tong Zhu, Chief Commercial Officer & Strategy Officer, NWSA

Project Lead: Erin DeBroux, Real Estate Manager, NWSA

Jennifer Maietta, Interim Director & Sr. Real Estate Manager, NWSA

Melinda Miller, Director, Portfolio and Asset Management, POS

CC: Don Esterbrook, Deputy CEO

RE: Customs Border Protection (“CBP”) Seattle Office Facility at T106

BACKGROUND

Timely installation of RMPs at T5 is necessary for international container operations to occur. The request for installation of RMPs, however, constitutes an operations change that triggered CBP to exercise a Title 19, Code of Federal Regulations requirement for a Port Authority to provide free space, including suitable office and workspace to CBP.

CBP currently occupies and operates out of two (2) primary North Harbor facilities respectively located at Terminal 106W-2 (“T106”) and Terminal 102 (“T102”). Both facilities are properties of and managed by the Port of Seattle (“POS”). POS has lease agreement(s) with CBP, allowing CBP to office at both of the facilities rent free. Due to the current configuration and footprint, it was determined that T102 is unable to accommodate CBP’s increasing needs and T106 can accommodate the needs with reconfiguration and renovation. Staff have been working in partnership with the POS team toward a viable plan to consolidate the two CBP operations into one at T106.

In furtherance of CBP’s request for updated space, staff reached out to CBP to better understand its staff allocation relative to various segments of customers they service. Allocation highlights are listed below. The renovated Seattle CBP facility at T106 will office 85 CBP and Dept. of Agricultural employees

and will provide a wide range of services to the international trade community including cargo security and examination, agricultural inspections, vessel clearance services and processing of trade-related customs documentation.

Below is a list of key beneficiaries of CBP's services. A detailed breakdown of CBP's staff allocation is attached.

Port of Seattle-related businesses benefitting from CBP services – 1.25 employees

- Terminal 86 Grain Terminal
- Foreign Trade Zones, Port of Seattle as Grantee
- Shilshole Bay Marina
- Pier 90

NWSA-related businesses benefitting from CBP services – 64.2 employees

- International cargo operations at Terminals 18 and 30
 - Services include: Processing of vessels, crews, and commodities

3rd-party international businesses benefitting from CBP services - 4.55 employees

- Vessel boardings at Pier 23, West Seattle Buoy, Glacier NW, ITB, Cadman, Lehigh, JA Jacks, Maxum Dock, Boyer, Waste Management, Western Towboat, Pacific Seafoods, and Lake Union Dry Dock

Centers of Excellence and Expertise (“CEE”) - 15 employees

- The Centers of Excellence were established to increase uniformity of practices across ports of entry and facilitate the timely resolution of trade compliance issues nationwide. Staff in this program, provide support both locally and nationally to sea, land, and air shipments.

FINDINGS

TOTAL PROJECT COSTS: The estimated total capital improvement cost to complete the T106 CBP facility is approximately \$6.4 million. Ongoing operating costs following lease commencement are estimated to be \$750,497 over a ten-year lease term. In addition, the roof will need to be replaced prior to interior renovations with the estimated cost of replacement being \$1.2 million.

COST DISTRIBUTION: Based on the input received from CBP, it is estimated that **76%** of work conducted is related to NWSA, with approximately **5%** of work conducted performed on behalf of 3rd party businesses, **18%** of work conducted performed on behalf of local and national cargo shipments by CEE staff, and approximately **1%** of work conducted performed on behalf of the Port of Seattle.

COST SHARING ALTERNATIVES: Staff considered three alternative approaches for cost-sharing of the of T106 CBP facility:

Alternative 1

- Capital costs and ongoing operating costs: NWSA and Port of Seattle contribute based on the amount of work performed for their respective organizations and split the share attributed to 3rd party private business and CEE staff equally, resulting in a NWSA – 87%, POS - 13% cost share.

Total NWSA Capital Cost Contribution:	\$5,570,610
Estimated NWSA Ongoing Operating Costs Over 10 yr. Term	\$652,932
Total POS Capital Cost Contribution:	\$832,390
Estimated POS Ongoing Operating Costs Over 10 yr. Term	\$97,565

- Roof Replacement: NWSA and POS each pay its pro-rata share. NWSA to pay for the share of the CBP portion of the building, and POS to pay for the share of the building portion remaining under POS management, resulting in a NWSA – 55%, POS – 45%. The NWSA roof contribution would be amortized over the life of the roof; should the ILA terminate prior to the end of the amortization schedule the remaining portion of the unamortized amount would be reimbursed to the NWSA.

Estimated NWSA Roof Contribution:	\$660,000
Estimated POS Roof Contribution:	\$540,000

Alternative 2

- Capital costs and ongoing operating costs: NWSA and Port of Seattle contribute based on the amount of work performed for their respective organizations, and NWSA also absorbs the share attributed to 3rd party private business and CEE staff due to NWSA being the primary benefactor of CBP services at T106, resulting in a NWSA – 99%, POS – 1% cost share.

Total NWSA Capital Cost Contribution:	\$6,338,970
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Estimated NWSA Ongoing Operating Costs Over 10 yr. Term	\$742,992
Total POS Capital Cost Contribution:	\$64,030
Estimated POS Ongoing Operating Costs Over 10 yr. Term	\$7,505

- Roof Replacement: POS pays for the roof replacement in its entirety as this is a traditional Lessor expense.

Estimated NWSA Roof Contribution:	\$0
Estimated POS Roof Contribution:	\$1,200,000

Alternative 3

- Capital costs and ongoing operating costs: Each party pays its own share with NWSA absorbing the cost for CEE staff, resulting in a NWSA – 94%, POS – 1%, Third Party – 5% cost share.

This alternative was expected to prove the most challenging given the limited involvement 3rd party businesses have had in the process, the current economic situation and lack of a current means of collection or enforcement in the event of non-payment.

Total NWSA Capital Cost Contribution:	\$6,018,820
Estimated NWSA Ongoing Operating Costs Over 10 yr. Term	\$705,467
Total POS Capital Cost Contribution:	\$64,030
Estimated POS Ongoing Operating Costs Over 10 yr. Term	\$7,505
Total 3 rd Party Capital Cost Contribution:	\$320,150
Estimated 3 rd Party Ongoing Operating Costs Over 10 yr. Term	\$37,525

- Roof Replacement: NWSA pays for the roof replacement in its entirety as the CBP renovation is the driving factor for replacement, and POS would not have otherwise replaced the roof.

Estimated NWSA Roof Contribution:	\$1,200,000
Estimated POS Roof Contribution:	\$0

DECISION RECOMMENDATION

Full vetting of the above alternatives is needed within the NWSA and POS organizations; however, **Alternative 1** is the current staff recommendation for capital costs, ongoing operating costs, and roof replacement. Discussions with POS have commenced, and staff continue to work in partnership to reach mutual agreement.

Staff will memorialize the cost-sharing agreement between the parties through an ILA. In addition to addressing cost-sharing, the ILA will contemplate transfer of the use and management of the CBP premises at T106 to the NWSA free of charge. The NWSA will subsequently enter into a Free Space Agreement with CBP.

Interlocal agreements with Port of Seattle may be signed by the CEO of the NWSA pursuant Section 8.b.i (NWSA) of the Master Policies on Delegation of Authority; however, Managing Member approval to the ILA will be requested at a public meeting. The Free Space Agreement will require Managing Member approval in accordance with 7.e. of the Master Policies on Delegation on Authority due to the term being greater than one (1) year.

IMPLEMENTATION

Staff has engaged Port of Seattle in discussions regarding Alternative 1. Both the NWSA and POS agree to enter into an Interlocal Agreement memorializing Alternative 1 as the recommended alternative pending Managing Member approval.

CBP Staff Allocations

A detailed breakdown of CBP's staff allocations at the T106 facility is shown below.

Function	POS	NWSA	3rd Party	CEE
Vessel Boarding Officer	0.25		0.75	
Agricultural Specialists	0.5		0.5	
Trade Officer			0.5	
Cargo Security Officers	0.5		1.8	
CEE Employees				15
Administrative			1	
Remaining Officers dedicated to NWSA		64.2		
Total	1.25	64.2	4.55	15
Percentage of staff dedicated to each category	1.47%	75.53%	5.35%	17.65%
3rd Party and CEE allocation split	11.50%	11.50%		
FINAL ALLOCATIONS	13%	87%		

LEASE NO. HSBP-7119-L-IN0454

**Simplified Lease
Modified GSA FORM L201A (October 2016) CBP Nov 2018**

This Lease is made and entered into between

The Northwest Seaport Alliance

(Lessor), whose principal place of business is 1 Sitcum Way, Tacoma, WA 98421 and whose interest in the Property described herein is that of Tenant under a Multi-Tenant Industrial Lease Agreement (Net Lease) dated June 30, 2020 between Harsch Investment Properties, LLC as Landlord ("Owner") and The Northwest Seaport Alliance as Tenant, including all exhibits thereto, as attached as Exhibit A hereto, and as may be hereafter amended (the "Harsch Lease"), and

The United States of America

(Government), acting by and through the designated representative of the U.S. Customs and Border Protection (CBP), upon the terms and conditions set forth herein.

Witnesseth: The parties hereto, for the consideration hereinafter mentioned, covenant and agree as follows:

Lessor hereby leases to the Government at no cost the Premises described herein, being all or a portion of the Property located at

Fife Business Park
4813 Pacific Highway East
Fife, WA 98424

and more fully described in Section 1 and Exhibit A to the Harsch Lease, together with rights to the use of parking and other areas as set forth in the Harsch Lease, to be used and occupied only for CBP Federal Inspection Services activity, to include any associated law enforcement use (e.g., hold room, interview room, weapons storage), office/operational support space, public reception space, warehouse/storage, laboratory space, and vehicle parking.

LEASE TERM

To Have and To Hold the said Premises with their appurtenances for the term beginning on April 13, 2021 and continuing through April 12, 2022 inclusive for a term of one-year. At the expiration of this term the Lease will automatically renew on a year-to-year basis upon the anniversary of the Lease Term Commencement Date each year thereafter for 9 (nine) additional years but not beyond April 12, 2031 unless or until the Government gives at least 120 days' notice in writing of its intent not to renew to the Lessor. But in no event longer than the term of the Harsch Lease, subject to the renewal and termination rights as may be hereinafter set forth.

This Lease is made and entered into subject to and in accordance with the provisions of the Harsch Lease. Lessor leases the Premises to the Government and, with the exception of the Harsch Lease provisions and portions thereof excepted from application to the Government in Exhibit B hereto, the Government will occupy the Premises subject to and in accordance with the provisions of the Harsch Lease to the extent those provisions are consistent with federal law. Lessor will arrange for the Premises to be improved to the Government's specifications. Lessor and the Government will have an opportunity to inspect such improvements and accept the Premises. The Government shall not be required to pay rent, utilities, or any other amounts payable by Tenant (The Northwest Seaport Alliance) under the Harsch Lease, nor shall the Government be required to indemnify, defend and/or hold any party harmless under any circumstances, nor perform any maintenance or repairs required to be performed by Tenant (The Northwest Seaport Alliance) under the Harsch Lease. The Government shall have no right to enforce the Harsch Lease against Landlord under the Harsch Lease. If the Harsch Lease terminates for any reason, then this Lease shall also automatically terminate on the same date. To the extent the terms of any provision of this Lease conflict with the terms of this paragraph, this paragraph will control.

The Government shall not assign, sublet, license, or otherwise transfer or encumber or permit the occupancy or use of this Lease or any part thereof or any interest therein or the Premises without the prior written consent of Lessor, in its sole and absolute discretion.

The signatory to this Lease for the Lessor represents and warrants that he or she is a duly authorized representative of the Lessor, with full power and authority to enter into this Lease and to bind the Lessor with regard to all matters relating to this agreement.

In Witness Whereof, the parties to this Lease evidence their agreement to all terms and conditions set forth herein by their signatures below, to be effective as of the date of delivery of the fully executed Lease to the Lessor.

SIGNATURES ARE ON NEXT PAGE

FOR THE LESSOR:

[Signature]
Name: JOHN WOLFE
Title: CEO
Entity Name: NW SEAFORT ALLIANCE
Date: MAY 5, 2021

FOR THE GOVERNMENT:

[Signature]
Name: Michael Sedgebeer
Lease Contracting Officer
U.S. Customs and Border Protection
Date: 05/24/21

WITNESSED FOR THE LESSOR BY:

[Signature]
Name: LEILANI BERINOBIS
Title: EXECUTIVE ASST.
Date: 5/5/2021

190618Lease(NWSA-CBP)

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SECTION 1 THE PREMISES, RENT, AND OTHER TERMS

1.1 THE PREMISES (SIMPLIFIED) (SEP 2013)

Cargo Facility Inspection Office and Yard Space: 14,400 square feet of Office Space and 5,000 square feet of fenced-in yard space (the Premises) as depicted on the floor plan Exhibit F.

1.2 EXPRESS APPURTENANT RIGHTS (SIMPLIFIED) (JUN 2012)

The Government shall have the non-exclusive right to the use of Appurtenant Areas, and shall have the right to post Rules and Regulations Governing Conduct on Federal Property, Title 41, CFR, Part 102-74, Subpart C, within such areas. The Government will coordinate with Lessor to ensure signage is consistent with Owner's standards. Appurtenant to the Premises and included in the Lease are rights to use the following:

- A. Parking: Parking as described and depicted in Exhibit A and G in addition to the Premises fenced-in yard space. In addition, the Lessor shall provide such additional parking spaces as required by the applicable code of the local government entity having jurisdiction over the Property.
- B. Antennas, Satellite Dishes and Related Transmission Devices: With Owner's prior consent, (1) Space located on the roof of the Building sufficient in size for the installation and placement of telecommunications equipment, (2) the right to access the roof of the Building, and (3) use of all Building areas (e.g., chases, plenums, etc.) necessary for the use, operation, and maintenance of such telecommunications equipment at all times during the term of this Lease.

1.3 RENT AND OTHER CONSIDERATION

- A. The Government shall pay no rent.
- B. In exchange for the Government's agreement to locate inspectional personnel onsite, the Lessor shall provide to the Government the following:
 1. Provide the leasehold interest in the Property described in the paragraph entitled "The Premises";
 2. Bear all costs, expenses and fees to perform the work required for acceptance of the Premises in accordance with this Lease, including all costs for labor, materials, and equipment, professional fees, contractor fees, attorney fees, permit fees, inspection fees, and similar such fees, and all related expenses;
 3. Perform or satisfy all other obligations set forth in this Lease and in its attached exhibits, including, but not limited to, Exhibit E pertaining to information technology services and equipment costs; and,
 4. Provide all services, utilities and maintenance required for the proper operation of the Property, the Building, and the Premises in accordance with the terms of the Lease, including, but not limited to, all inspections, modifications, repairs, replacements and improvements required to be made thereto to meet the requirements of this Lease.
- C. Some of the Government's required services and alterations of the Premises are to be provided by Owner pursuant to the Harsch lease in Exhibit A. To the extent that Owner fails to provide the Government's services and/or alterations of the Premises, Lessor understands and agrees that Lessor shall take prompt action in accordance with the terms of the lease in Exhibit A, including but not limited to Paragraph 16.3, Default by Landlord, to obtain performance to the Government's satisfaction.

1.4 TERMINATION RIGHTS (SIMPLIFIED)

The Government may terminate this Lease, in whole or in part, at any time during the term of this Lease or any renewal period, with 120 days' prior written notice to the Lessor if the operations supported by the Premises are reduced, if the Lessor does not meet its obligations set forth in this Lease, or if the Government exercises its discretion to reduce its operational presence. The effective date of the termination shall be the day following the expiration of the required notice period or the termination date set forth in the notice, whichever is later. In the event that the Harsch Lease terminates for any reason, this Lease shall also terminate, without notice, on the same date as the termination of the Harsch Lease.

1.5 RENEWAL RIGHTS (SIMPLIFIED) (APR 2011)

At the expiration of the initial term of one year, this Lease will automatically renew on a year-to-year basis unless terminated by the Government for up to nine (9) YEARS but not beyond April 12, 2031 or the termination date of the Harsch Lease, all other terms and conditions of this Lease, as same may have been amended, shall remain in force and effect during any renewal term or holdover period. To the extent that Lessor exercises one or more of the four (4) five-year option periods included in the Harsch Lease, this Lease may continue to automatically renew on a year-to-year basis unless terminated by the Government for up to twenty (20) years, but not beyond the termination date of the Harsch Lease.

1.6 DOCUMENTS INCORPORATED IN THE LEASE (SIMPLIFIED) (APR 2015)

The following documents are attached to and made part of the Lease:

DOCUMENT NAME	NO. OF PAGES	EXHIBIT
Multi-Tenant Industrial Lease Agreement (Net Lease) dated June 30, 2020 between Harsch Investment Properties, LLC as Landlord and The Northwest Seaport Alliance as Tenant (the "Harsch Lease")	60	A
CBP Exceptions to the Harsch Lease	5	B
Addendum to System for Award Management (SAM) Representations and Certifications (Acquisitions for Leasehold Interests in Real Property) (GSA Form 3518-SAM)	2	C
Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Acquisitions of Leasehold Interests in Real Property)	4	D
OIT MOAR – Memorandum of Agreement to Reimburse and Cost Sign-Off Sheet (CSO)	9	E
Floorplan	1	F
Parking	2	G

1.7 BUILDING IMPROVEMENTS (MAR 2016)

Before the Government accepts the Space, the Lessor shall complete the following additional Building improvements: NONE other than those provided for in the Harsch Lease.

SECTION 2 GENERAL TERMS, CONDITIONS, AND STANDARDS

2.1 DEFINITIONS AND GENERAL TERMS (OCT 2016)

Unless otherwise specifically noted, all terms and conditions set forth in this Lease shall be interpreted by reference to the following definitions, standards, and formulas:

- A. Appurtenant Areas. Appurtenant Areas are defined as those areas and facilities on the Property that are not located within the Premises, but for which rights are expressly granted under this Lease, or for which rights to use are reasonably necessary or reasonably anticipated with respect to the Government's enjoyment of the Premises and express appurtenant rights. Appurtenant Areas include, but are not limited to, parking areas and space located on the roof of the Building where telecommunications devices may be located.
- B. Intentionally deleted
- C. Building. The building(s) situated on the Property in which the Premises are located shall be referred to as the Building(s).
- D. Intentionally deleted
- E. Intentionally deleted
- F. Contract. "Contract" shall mean this Lease.
- G. Contractor. "Contractor" shall mean Northwest Seaport Alliance.
- H. Days. All references to "day" or "days" in this Lease shall mean calendar days, unless specified otherwise.
- I. FAR. All references to the FAR shall be understood to mean the Federal Acquisition Regulation, codified at 48 CFR Chapter 1.
- J. Intentionally deleted
- K. GSAR. All references to the GSAR shall be understood to mean the GSA supplement to the FAR, codified at 48 CFR Chapter 5.
- L. Commencement Date. The date on which the lease term commences.
- M. Lease Award Date. The Lease Award Date means the date of execution of the Lease by the Lease Contracting Officer (LCO) and the mailing or otherwise furnishing written notification of the executed Lease to the Lessor (and on which the parties' obligations under the Lease begin).
- N. Premises. The Premises are defined as the total Office Area or other type of Space and secured Yard Space, together with all associated common areas, described in Section 1 of this Lease, and delineated by plan in the attached exhibit. General parking and other areas to which the Government has rights under this Lease are not included in the Premises.
- O. Property. The Property is defined as the land and Buildings in which the Premises are located, including all Appurtenant Areas (e.g., parking areas) to which the Government is granted rights.
- P. Intentionally deleted
- Q. Space. The Space shall refer to that part of the Premises to which the Government has exclusive use, such as Office Area and secured Yard Space, or other type of Space. General parking areas to which the Government has rights under this Lease are not included in the Space.
- R. Office Area. For the purposes of this Lease, Space shall be measured in accordance with the standard (Z65.1-2017) provided by American National Standards Institute/Building Owners and Managers Association (ANSI/BOMA) for Office Area, which means "the area where a tenant normally houses personnel and/or furniture, for which a measurement is to be computed." References to ABOA mean ANSI/BOMA Office Area.
- S. Working Days. Working Days shall mean weekdays, excluding Saturdays and Sundays and Federal holidays.

2.2 AUTHORIZED REPRESENTATIVES (OCT 2016)

Signatories to this Lease shall have full authority to bind their respective principals with regard to all matters relating to this Lease. No other persons shall be understood to have any authority to bind their respective principals except to the extent that such authority may be explicitly delegated by notice to the other party, or to the extent that such authority is transferred by succession of interest. The Government shall have the right to substitute its Lease Contracting Officer (LCO) by notice without an express delegation by the prior LCO.

2.3 ALTERATIONS REQUESTED BY THE GOVERNMENT

The Government may request the Lessor to provide alterations at Lessor's expense during the term of the Lease and any renewal periods in the event the Government's inspectional operations require such alterations. Throughout the term of the Lease and all renewal periods, upon request by CBP for alterations that are reasonably tailored to CBP's operational requirements, the Lessor shall make such alterations or shall perform other work at its expense within a reasonable amount of time to ensure that the Premises continues to suit CBP's operational needs and conforms to CBP design standards and site-specific operational requirements. Alterations may be memorialized by issuance of a Lease amendment by the LCO.

2.4 WAIVER OF RESTORATION (OCT 2016)

The Lessor shall have no right to require the Government to restore the Premises upon termination of the Lease, and waives all claims against the Government for waste, damages, or restoration arising from or related to (a) the Government's normal and customary use of the Premises during the term of the Lease (including any extensions thereof), as well as (b) any initial or subsequent alteration to the Premises regardless of whether such alterations are performed by the Lessor or by the Government. At its sole option, the Government may abandon property in the Space following expiration of the Lease, in which case the property will become the property of the Lessor, and the Government will be relieved of any liability in connection therewith. Notwithstanding the above, all data entered and/or stored in any manner on the equipment used or operated by the Government on or in connection with the Property shall belong to the United States and is confidential and protected information. It shall be CBP's responsibility to properly remove said data before possession of any equipment is transferred to the Lessor. In the event data inadvertently remains on any of the equipment upon transfer, Lessor shall keep the information confidential and immediately notify CBP so that CBP can remove the data.

2.5 NOTICES

A. Any notice, consent, or approval to be given under this Lease shall be in writing, and delivered by hand or sent by Express Mail or comparable service, or by a certified or registered mail, postage prepaid and return receipt requested, to the following addresses:

To the Lessor at: 1 Sitcum Way, Tacoma, WA 98421

To CBP at: U.S. Customs and Border Protection, Field Operations Facilities, Program Management Office; ATTN: FOF Lease Contracting Officer; 6650 Telecom Drive, Suite 100, Indianapolis, IN 46278.

Notice shall be deemed served upon receipt.

B. In the event of an emergency, either party may provide notice by telephone to the respective officials designated as follows:

The emergency contact and phone number for the Lessor is: Port of Tacoma Security (253) 383-9472

The emergency contact and phone number for the Owner is: Katie Lee, Harsch Investment Property Manager 253-336-4745 kathryn1@harsch.com

The emergency contact and phone number for CBP is: 24 Hour Seaport Emergency 253-593-6336

2.6 CHANGE OF OWNERSHIP

A. If during the term or any renewal periods of the Lease, the Lease is assigned, or the Lessor changes its legal name, the Lessor and its successor shall comply with the requirements of FAR Subpart 42.12.

B. The Government and the Lessor may execute a Change of Name Agreement if the Lessor is changing only its legal name, and the Government's and the Lessor's respective rights and obligations remain unaffected. A sample form is found at FAR 42.1205.

C. If the Lease is assigned, the Government, the original Lessor (Transferor), and the new assignee (Transferee) shall execute a Novation Agreement providing for the transfer of Transferor's rights and obligations under the Lease to the Transferee. When executed on behalf of the Government, a Novation Agreement will be made part of the Lease via Lease Amendment.

D. In addition to all documents required by FAR 42.1204, the LCO may request additional information (e.g., copy of the deed, bill of sale, certificate of merger, contract, court decree, articles of incorporation, operation agreement, partnership certificate of good standing, etc.) from the Transferor or Transferee to verify the parties' representations regarding the transfer, and to determine whether the transfer of the Lease is in the Government's interest.

E. If the LCO determines that recognizing the Transferee as the Lessor is not in the Government's interest, the Transferor shall remain fully liable to the Government for the Transferee's performance of obligations under the Lease, notwithstanding the transfer.

F. As a condition for being recognized as the Lessor, the Transferee must register in the System for Award Management (SAM) (See FAR 52.232-33), and complete and sign GSA Form 3518-SAM, Addendum to System for Award Management (SAM) Representations and Certifications (Acquisitions of Leasehold Interests in Real Property)(see Exhibit C).

2.7 FIRE AND CASUALTY DAMAGE (SIMPLIFIED LEASE) (SEP 2011)

If the Building in which the Premises are located is totally destroyed or damaged by fire or other casualty, this Lease shall immediately terminate. If the Building in which the Premises are located is only partially destroyed or damaged, so as to render the Premises untenable, or not usable for their intended purpose, the Lessor shall have the option to elect to repair and restore the Premises or terminate the Lease. The Lessor shall be permitted a reasonable amount of time, not to exceed **180 days** from the event of destruction or damage, to repair or restore the Premises, if the Lessor submits to the Government a reasonable schedule for repair of the Premises within **30 days** of the event of destruction or damage. If the Lessor fails to timely submit a reasonable schedule for completing the work, the Government may elect to terminate the Lease effective as of the date of the event of destruction or damage. If the Lessor elects to repair or restore the Premises, but fails to repair or restore the Premises within **180 days** from the event of destruction or damage, or fails to diligently pursue such repairs or restoration so as to render timely completion commercially impracticable, the Government may terminate the Lease effective as of the date of the destruction or damage. Termination of the Lease by either party under this clause shall not give rise to liability for either party. This clause shall not apply if the event of destruction or damage is caused by the Lessor's negligence or willful misconduct. In the event of termination under this clause, should Lessor continue to require inspection services to be performed by the Government at the Property, Lessor agrees to provide the Government with suitable, alternate space at the Property at no cost to the Government.

2.8 DEFAULT BY LESSOR (APR 2012)

- A. The following conditions shall constitute default by the Lessor, and shall give rise to the following rights and remedies for the Government:
- (1) Prior to Acceptance of the Premises. Failure by the Lessor to diligently perform all obligations required for Acceptance of the Space within the times specified, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may terminate the Lease on account of the Lessor's default.
 - (2) After Acceptance of the Premises. Failure by the Lessor to perform any service, to provide any item, or satisfy any requirement of this Lease, without excuse, shall constitute a default by the Lessor. Subject to provision of notice of default to the Lessor, and provision of a reasonable opportunity for the Lessor to cure its default, the Government may seek to enforce the terms of the Lease or terminate the Lease on account of the Lessor's default.
 - (3) Grounds for Termination. The Government may terminate the Lease if:
 - (i) The Lessor's default persists notwithstanding provision of notice and reasonable opportunity to cure by the Government, or
 - (ii) The Lessor fails to take such actions as are necessary to prevent the recurrence of default conditions,
 - (4) Excuse. Failure by the Lessor to timely deliver the Space or perform any service, provide any item, or satisfy any requirement of this Lease shall not be excused if its failure in performance arises from:
 - (i) Circumstances within the Lessor's control;
 - (ii) Circumstances about which the Lessor had actual or constructive knowledge prior to the Lease Award Date that could reasonably be expected to affect the Lessor's capability to perform, regardless of the Government's knowledge of such matters;
 - (iii) Intentionally omitted;
 - (iv) The acts or omissions of the Lessor, its employees, agents or contractors; or
 - (v) The Lessor's inability to obtain sufficient financial resources to perform its obligations.
 - (5) The rights and remedies specified in this clause are in addition to any and all remedies to which the Government may be entitled as a matter of law and under this Lease.

2.9 INTEGRATED AGREEMENT (JUN 2012)

This Lease, upon execution, contains the entire agreement of the parties and no prior written or oral agreement, express or implied, shall be admissible to contradict the provisions of the Lease.

2.10 MUTUALITY OF OBLIGATION (SIMPLIFIED) (APR 2011)

The obligations and covenants of the Lessor, and the Government's obligation to perform such obligations as may be specified herein, are interdependent.

2.11 COMPLIANCE WITH APPLICABLE LAW (JAN 2011)

Lessor shall comply with all Federal, state and local laws applicable to its leasing of the Premises, including, without limitation, laws applicable to the construction, ownership, alteration or operation of all Buildings, structures, and facilities located thereon, and obtain all necessary permits, licenses and similar items at its own expense. The Government will comply with all Federal, state and local laws applicable to and enforceable against it as a tenant under this Lease, provided that nothing in this Lease shall be construed as a waiver of the sovereign immunity of the Government. This Lease shall be governed by Federal law.

2.12 MAINTENANCE OF THE PROPERTY, RIGHT TO INSPECT (SIMPLIFIED) (APR 2015)

The Lessor shall maintain the Premises, including the Building, Building systems, and all equipment, fixtures, and appurtenances furnished by the Lessor under this Lease, in good repair and tenantable condition. The Lessor shall also require (via enforcement of the terms of the Harsch Lease) that the Owner fulfill its maintenance and repair obligations concerning the Property in general under the Harsch Lease. Upon request of the LCO or DTR, the Lessor shall provide written documentation that Building systems have been properly maintained, tested, and are operational within manufacturer's warranted operating standards. The Lessor shall maintain the Premises in a safe and healthful condition according to applicable OSHA standards, including standards governing indoor air quality, existence of mold and other biological hazards, presence of hazardous materials, etc. The Government shall have the right, at any time after the Lease is signed and during the term and renewal periods of the Lease, to inspect all areas of the Premises to which access is necessary for the purpose of determining the Lessor's compliance with this clause.

2.13 CLAUSES INCORPORATED BY REFERENCE (SIMPLIFIED) (OCT 2018)

This Lease incorporates the following clauses by reference, with the same force and effect as if they were given in full text. All citations to the FAR or GSAR are provided for convenience of reference, and shall not be understood as subjecting this Lease to any provision of the FAR or GSAR except to the extent that clauses prescribed by the FAR or GSAR are expressly incorporated into this Lease.

1. FAR 52.204-7, SYSTEM FOR AWARD MANAGEMENT (OCT 2018)
2. FAR 52.204-13, SYSTEM FOR AWARD MANAGEMENT MAINTENANCE (OCT 2018)
3. FAR 52.204-25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2019)
4. FAR 52.222-21, PROHIBITION OF SEGREGATED FACILITIES (APRIL 2015)
5. FAR 52.222-26, EQUAL OPPORTUNITY (SEP 2016)
6. FAR 52.232-33, PAYMENT BY ELECTRONIC FUNDS TRANSFER-SYSTEM FOR AWARD MANAGEMENT (OCT 2018)
6. FAR 52.233-1, DISPUTES (MAY 2014)
7. GSAR 552.204-70 REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (AUG 2019)
8. GSAR 552.215-70, EXAMINATION OF RECORDS BY GSA (JUL 2016)
9. GSAR 552.270-31, PROMPT PAYMENT (JUN 2011)

SECTION 3 CONSTRUCTION STANDARDS AND COMPONENTS

3.1 CBP STANDARDS

The Premises shall be designed, constructed and maintained in accordance with the standards set forth herein and the 2012 Cargo Facility Technical Requirements, Voice/Data Communications Room Requirements, and CBP, Minimum Security Requirements (collectively, these standards are hereinafter referred to as "CBP Standards"). If there is a conflict between/among the CBP Standards, the more stringent shall apply.

3.2 WORK PERFORMANCE (JUN 2012)

All work in performance of this Lease shall be done by skilled workers or mechanics and shall be acceptable to the LCO or designated technical representative (DTR). The LCO or DTR may reject the Lessor's workers 1) if such are unlicensed, unskilled, or otherwise incompetent, or 2) if such have demonstrated a history of either untimely or otherwise unacceptable performance in connection with work carried out in conjunction with either this contract or other government or private contracts.

3.3 BUILDING REQUIREMENTS

A. The Building shall be designed, constructed, and maintained in accordance with the standards set forth herein and completed prior to acceptance of Space. To the extent the Building has already been designed and constructed, Lessor agrees that the Building meets CBP Standards.

B. Base structure and Building enclosure components shall be complete. All common areas accessible by the Government, such as lobbies, fire egress corridors and stairwells, elevators, garages, and service areas, shall be complete. Restrooms shall be complete and operational. All newly installed Building components, including but not limited to, heating, ventilation, and air conditioning (HVAC), electrical, ceilings, sprinklers, etc., shall be furnished, installed, and coordinated with space build out. Circulation corridors are provided as part of the Building only on multi-tenanted floors where the corridor is common to more than one tenant. On single tenant floors, the fire egress corridor(s) necessary to meet code are provided as part of the space.

3.4 RESPONSIBILITY OF THE LESSOR AND LESSOR'S ARCHITECT/ENGINEER (SIMPLIFIED) (JUN 2012)

The Lessor shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished by the Lessor under this Lease. The Lessor shall, correct or revise any errors or deficiencies in its designs, drawings, specifications, or other services. THE LESSOR REMAINS SOLELY RESPONSIBLE FOR DESIGNING, CONSTRUCTING, OPERATING, AND MAINTAINING THE LEASED PREMISES IN FULL ACCORDANCE WITH THE REQUIREMENTS OF THE LEASE. The Government retains the right to review and approve aspects of the Lessor's design. Such review and approval is intended to identify potential design flaws, to minimize costly misdirection of effort, and to assist the Lessor in its effort to monitor whether such design and construction comply with applicable laws and satisfy all Lease requirements.

3.5 QUALITY AND APPEARANCE OF BUILDING (JUN 2012)

The Building in which the Premises are located shall be designed, built and maintained in good condition and in accordance with the Lease requirements. If not new or recent construction, the Building shall have undergone by occupancy, modernization, or adaptive reuse for space with modern conveniences.

3.6 MEANS OF EGRESS (MAY 2015)

A. The Premises and any parking garage areas shall meet or will be upgraded to meet, either the applicable egress requirements in the National Fire Protection Association, Life Safety Code (NFPA 101), or the International Code Council, International Building Code (IBC), each current as of the Lease Award Date, or use an alternative approach or method that achieves an equivalent level of safety deemed acceptable by the Government.

B. The Space shall have unrestricted access to a minimum of two remote exits on each floor of Government occupancy.

C. Interlocking or scissor stairs located on the floor(s) where Space is located shall only count as one exit stair.

D. A fire escape located on the floor(s) where Space is located shall not be counted as an approved exit stair.

E. Doors shall not be locked in the direction of egress unless equipped with special locking hardware in accordance with requirements of NFPA 101 or the IBC.

3.7 AUTOMATIC FIRE SPRINKLER SYSTEM (SEP 2013)

A. Any portion of the Space located below-grade, including parking garage areas, and all areas in a Building referred to as "hazardous areas" (defined in National Fire Protection Association (NFPA) 101) that are located within the entire Building (including non-Government areas) shall be protected by an automatic fire sprinkler system or an equivalent level of safety.

B. For Buildings in which any portion of the Space is on or above the sixth floor, then, at a minimum, the Building up to and including the highest floor of Government occupancy shall be protected by an automatic fire sprinkler system or an equivalent level of safety.

C. For Buildings in which any portion of the Space is on or above the sixth floor, and lease of the Space will result, either individually or in combination with other Government Leases in the Building, in the Government leasing 35,000 or more ANSI/BOMA Office Area SF of Space in the Building, then the entire Building shall be protected throughout by an automatic fire sprinkler system or an equivalent level of safety.

D. Automatic fire sprinkler system(s) shall be installed in accordance with the requirements of NFPA 13, Standard for the Installation of Sprinkler Systems that was in effect on the actual date of installation.

E. Automatic fire sprinkler system(s) shall be maintained in accordance with the requirements of NFPA 25, Standard for the Inspection, Testing, and Maintenance of Water-based Fire Protection Systems (current as of the Lease Award Date).

F. "Equivalent level of safety" means an alternative design or system (which may include automatic fire sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic fire sprinkler systems.

3.8 FIRE ALARM SYSTEM (SEP 2013)

A. A Building-wide fire alarm system shall be installed in the entire Building in which any portion of the Space is located on the 3rd floor or higher.

B. The fire alarm system shall be installed in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code, that was in effect on the actual date of installation.

C. The fire alarm system shall be maintained in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date).

D. The fire alarm system shall transmit all fire alarm signals to the local fire department via any of the following means: directly to the local fire department, to the (911) public communications center, to a central station, to a remote supervising station, or to a proprietary supervising station.

E. If the Building's fire alarm control unit is over 25 years old as of the date of award of this Lease, Lessor shall install a new fire alarm system in accordance with the requirements of NFPA 72, National Fire Alarm and Signaling Code (current as of the Lease Award Date), prior to Government acceptance and occupancy of the Space.

3.9 ELEVATORS (SIMPLIFIED) (OCT 2016) INTENTIONALLY DELETED

3.10 ACCESSIBILITY (FEB 2007)

The Building, leased Space, and areas serving the leased Space shall be accessible to persons with disabilities in accordance with the Architectural Barriers Act Accessibility Standard (ABAAS), Appendices C and D to 36 CFR Part 1191 (ABA Chapters 1 and 2, and Chapters 3 through 10). To the extent the standard referenced in the preceding sentence conflicts with local accessibility requirements, the more stringent shall apply.

3.11 MECHANICAL, ELECTRICAL, PLUMBING: GENERAL (APR 2011)

The Lessor shall provide and operate all Building equipment and systems in accordance with applicable technical publications, manuals, and standard procedures. Mains, lines, and meters for utilities shall be provided by the Lessor. Exposed ducts, piping, and conduits are not permitted in office space.

3.12 ELECTRICAL (SIMPLIFIED) (JUN 2012)

A. The Lessor shall be responsible for meeting the applicable requirements of local codes and ordinances. When codes conflict, the more stringent standard shall apply.

B. All power distribution equipment shall be required to handle the actual specified and projected loads and 10 percent spare load capacity. Fuses and circuit breakers shall be plainly marked or labeled to identify circuits or equipment supplied through them.

C. Convenience outlets shall be installed in accordance with NFPA Standard 70, National Electrical Code, or local code, whichever is more stringent. The Lessor shall provide duplex utility outlets in restrooms, corridors, and dispensing areas.

3.13 PLUMBING (JUN 2012)

The Lessor shall provide plumbing in all required areas.

3.14 HEATING, VENTILATION, AND AIR CONDITIONING – (SIMPLIFIED) (OCT 2016)

Central HVAC systems shall be installed and operational, including, as appropriate, main and branch lines, VAV boxes, dampers, flex ducts, and diffusers, to adequately supply tempered air to all built out areas. Systems shall be designed with sufficient systems capacity to meet all requirements

in this Lease; equipment shall be concealed. Areas having excessive heat gain or heat loss, or affected by solar radiation at different times of the day, shall be independently controlled.

Any ductwork to be reused and/or to remain in place shall be cleaned, tested, and demonstrated to be clean in accordance with the standards set forth by NADCA. The cleaning, testing, and demonstration shall occur immediately prior to Government occupancy to avoid contamination from construction dust and other airborne particulates.

During working hours in periods of heating and cooling, ventilation shall be provided in accordance with the latest edition of the American National Standards Institute, American Society of Heating, Refrigeration and Air-Conditioning Engineers (ANSI/ASHRAE) Standard 62.1, Ventilation for Acceptable Indoor Air Quality.

Heating and air-conditioning air distribution systems (air handling units, VAV boxes, fan coil units, etc.) for the Space shall be equipped with particulate matter air filters that meet the Minimum Efficiency Reporting Value (MERV) specified in the current edition of ANSI/ASHRAE Standard 62.1. Locations that do not meet the EPA National Ambient Air Quality Standards (NAAQS) for particulates (PM 10 or PM 2.5) must be equipped with additional filtration on outdoor air intakes as required in ANSI/ASHRAE Standard 62.1. NAAQS information can be found at [HTTPS://WWW.EPA.GOV/GREEN-BOOK](https://www.epa.gov/green-book).

Restrooms shall be properly exhausted, with a minimum of 10 air changes per hour.

3.15 TELECOMMUNICATIONS: LOCAL EXCHANGE ACCESS (SIMPLIFIED) (JUN 2012)

A. The Government may elect to contract its own telecommunications (voice, data, video, Internet, or other emerging technologies) service in the Space. The Government may contract with one or more parties to have inside wiring (or other transmission medium) and telecommunications equipment installed pursuant to a separate agreement. In the event future upgrades are required, the Lessor shall bear all costs associated with the upgrade. See Exhibit E for Lessor's obligations pertaining to information technology services and equipment costs, including telecommunications costs, in connection with the Government's use of the Premises, which are incorporated by reference.

B. The Lessor shall allow the Government's designated telecommunications providers access to utilize existing Building wiring to connect its services to the Government's Space, or, if existing Building wiring is insufficient, the Lessor shall provide access from the point of entry into the Building to the Government's floor Space, subject to any inherent limitations in the pathway involved.

C. With Owner's prior consent, the Lessor shall allow the Government's designated telecommunications providers to affix telecommunications antennas to roof, parapet, or Building envelope (access from the antennas to the Premises shall be provided) and to affix transmission devices in appropriate common areas so as to allow the use of cellular telephones and emerging technologies.

3.16 DUE DILIGENCE AND NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENTS – LEASE (SEP 2014)

A. Environmental Due Diligence

Lessor must provide the Government with a summary report demonstrating completion of all required response actions prior to Substantial Completion. Any remediation performed by or on behalf of Lessor must be undertaken in strict compliance with all applicable federal, state and local laws and regulations.

B. National Environmental Policy Act

The National Environmental Policy Act regulations provide for analyzing proposed major federal actions to determine if there are ways to mitigate the impact of the proposed actions to avoid, minimize, rectify, reduce, or compensate for environmental impacts associated with such actions. Where the Government has determined that any or all of these mitigation measures should be or must be adopted to lessen the impact of these proposed actions, Lessor must incorporate all mitigation measures identified and adopted by the Government in the design and construction drawings and specifications. All costs and expenses for development of design alternatives, mitigation measures and review submittals for work to be performed under the Lease are the sole responsibility of Lessor.

3.17 AS-BUILT DRAWINGS (SIMPLIFIED) (JUN 2012)

Not later than 60 days after the acceptance of the Space, the Lessor, at Lessor's expense, shall furnish to the Government a complete set of as-built floor plans showing the Space under Lease, as well as corridors, stairways, and core areas. The required file extension is ".PDF." Clean and purged files shall be submitted on CD-ROM. They shall be labeled with Building name, address, list of drawing(s), date of the drawing(s), and Lessor's architect and architect's phone number.

SECTION 4 UTILITIES, SERVICES, AND OBLIGATIONS DURING THE LEASE TERM

4.1 PROVISION OF SERVICES, UTILITIES, MAINTENANCE ACCESS, AND NORMAL HOURS (SIMPLIFIED) (JUN 2012)

The Government's normal hours of operations are Monday through Friday 8:00am – 5:00pm otherwise, on an as needed basis. Lessor shall verify the actual hours of operations with local CBP Officials. Services, maintenance, and utilities shall be provided at no cost to the Government during these hours. The Government shall have access to the Premises and its Appurtenant Areas at all times, including the use, during other than normal hours, of necessary services and utilities such as elevators, restrooms, lights, and electric power. Cleaning shall be performed when CBP personnel is present.

The Lessor is responsible for providing all utilities necessary for Premises and tenant operations. The following services, utilities, and maintenance shall be provided by the Lessor seven (7) days per week, twenty-four (24) hours per day, including Saturday, Sunday and federal holidays. (check all that apply):

- | | | | | |
|------------------------------------------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> HEAT | <input checked="" type="checkbox"/> TRASH REMOVAL | <input type="checkbox"/> ELEVATOR SERVICE | <input checked="" type="checkbox"/> INITIAL & REPLACEMENT LAMPS, TUBES & BALLASTS & STARTERS | <input checked="" type="checkbox"/> OTHER (Specify below) |
| <input checked="" type="checkbox"/> ELECTRICITY | <input checked="" type="checkbox"/> CHILLED DRINKING WATER | <input checked="" type="checkbox"/> WINDOW WASHING | | |
| <input checked="" type="checkbox"/> POWER (Special Equip.) | <input checked="" type="checkbox"/> AIR CONDITIONING | <u>Twice per year all interior and exterior and other glass surfaces, except for daily cleaning of glass entry doors per 4.03.</u> | <input checked="" type="checkbox"/> PAINTING FREQUENCY | <u>See 4.03 below Resilient Floors: twice per year clean per the specifications in main corridors and heavy traffic</u> |
| <input checked="" type="checkbox"/> WATER (Hot & Cold) | <input checked="" type="checkbox"/> RESTROOM SUPPLIES | <input checked="" type="checkbox"/> CARPET CLEANING | Space <u>See 4.08 below</u> | <u>areas and annually in offices and secondary lobbies and corridors.</u> |
| <input type="checkbox"/> SNOW REMOVAL | <input checked="" type="checkbox"/> JANITORIAL SERV. & SUPP. <u>See 4.03 below.</u> | <u>Frequency Annually shampoo carpets in corridors and lobbies & every 2 years shampoo carpets in all offices and other non-public areas. Vacuum daily per 4.03</u> | Public Areas <u>See 4.08 below</u> | |
| <input type="checkbox"/> | | | <input checked="" type="checkbox"/> PEST CONTROL Pest Control: | <u>Control pests as appropriate, using Integrated Pest Management techniques as specified in the GSA Environmental Management Integrated pest Management Technique Guide (E402-1001).</u> |

SECURITY & FIRE MONITORING SERVICES

4.2 HEATING AND AIR CONDITIONING

- A. In all office areas, temperatures shall conform to local commercial equivalent temperature levels and operating practices in order to maximize tenant satisfaction. These temperatures shall be maintained throughout the leased Premises and service areas, regardless of outside temperatures, during the hours of operation specified in the Lease. The Lessor shall perform any necessary systems start-up required to meet the commercially equivalent temperature levels prior to the first hour of each day's operation. At all times, humidity shall be maintained below 60% relative humidity.
- B. During non-working hours, heating temperatures shall be set no higher than 55° Fahrenheit, and air conditioning shall not be provided except as necessary to return Space temperatures to a suitable level for the beginning of working hours. Thermostats shall be secured from manual operation by key or locked cage. A key shall be provided to the Government's designated representative.
- C. Thermal comfort. During all working hours, Lessor shall comply with the latest edition of ASHRAE Standard 55, Thermal Comfort Conditions for Human Occupancy.
- D. The local area network (LAN) Room shall receive cooling at all times (24 hours a day, 365 days a year) for purposes of cooling. The temperature of the room shall be maintained between 68-72 degrees F, with humidity control not to exceed 60% relative humidity regardless of outside temperatures or seasonal changes.
- E. Warehouse or garage areas require heating and ventilation only. Cooling of this Space is not required. Temperature of warehouse or garage areas shall be maintained at a minimum of 50° Fahrenheit.
- F. Secure storage rooms shall maintain 10 percent exhaust to exterior and negative interior air pressure.
- G. The Lessor shall conduct HVAC system balancing after any HVAC system alterations during the term of the Lease and shall make a reasonable attempt to schedule major construction outside of normal hours.
- H. Normal HVAC systems' maintenance shall not disrupt tenant operations.

4.3 JANITORIAL SERVICES (JUN 2012)

The Lessor shall maintain the Premises and shall require (via enforcement of the terms of the Harsch Lease) that all areas of the Property to which the Government has routine access remain in a clean condition and shall provide supplies and equipment for the term of the Lease, and all renewal periods. The following schedule describes the level of services intended. Performance will be based on the LCO's or DTR evaluation of results, not the frequency or method of performance.

- A. Daily. Empty trash receptacles. Sweep entrances, lobbies, and corridors. Spot sweep floors, and spot vacuum carpets. Clean drinking fountains. Sweep and damp mop or scrub restrooms. Clean all restroom fixtures, and replenish restroom supplies. Dispose of all trash and garbage generated in or about the Building. Wash inside and out or steam clean cans used for collection of food remnants from snack bars and vending machines. Dust horizontal surfaces that are readily available and visibly require dusting. Spray buff resilient floors in main corridors, entrances, and lobbies. Remove carpet stains. Clean glass entry doors to the Space.
- B. Three times a week. Sweep or vacuum stairs.
- C. Weekly. Damp mop floors in restrooms.
- D. Every two weeks. Spray buff resilient floors in secondary corridors, entrance, and lobbies. Damp mop and spray buff concrete and resilient floors throughout the inspectional Space, including office Space.
- E. Monthly. Thoroughly dust furniture. Completely vacuum carpets. Sweep storage space. Spot clean all wall surfaces within 70 inches of the floor. Wash all interior and exterior windows and other glass surfaces.
- F. Every two months. Damp wipe restroom wastepaper receptacles, stall partitions, doors, window sills, and frames. Shampoo entrance and elevator carpets.
- G. Three times a year. Dust wall surfaces within 70 inches of the floor, vertical surfaces and under surfaces. Clean metal and marble surfaces in lobbies. Wet mop or scrub garages.
- H. Twice a year. Strip and apply four coats of finish to resilient floors. Strip and refinish main corridors and other heavy traffic areas.
- I. Annually. Vacuum or dust all surfaces in the Building more than 70 inches from the floor, including light fixtures. Strip and refinish floors in offices and secondary lobbies and corridors. Shampoo carpets in corridors and lobbies.
- J. Every two years. Shampoo carpets in all offices and other non-public areas.
- K. As required. Properly maintain plants and lawns. Provide initial supply, installation, and replacement of light bulbs, tubes, ballasts, and starters. Provide and empty exterior ash cans and clean area of any discarded cigarette butts.
- L. Pest control. Control pests as appropriate, using Integrated Pest Management techniques, as specified in the GSA Environmental Management Integrated Pest Management Technique Guide (E402-1001).

4.4 SECURITY MONITORING AND INTRUSION DETECTION SYSTEM (APR 2017)

Lessor agrees to provide and maintain security monitoring for the Premises comprised of interior/exterior CCTV monitoring and an intrusion detection system. Lessor agrees to provide Lessee with access to CCTV feeds and/or recording, locally or remotely, upon request. Lessor shall provide Lessee

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with the access code to arm/disarm the intrusion detection system, and Lessor shall instruct the intrusion detection system monitoring service to directly contact the Lessee with immediate notification in the event any alarm is triggered.

4.5 SELECTION OF CLEANING PRODUCTS (OCT 2016)

The Lessor shall use cleaning products (including general purpose cleaners, floor cleaners, hand soap, etc.) that comply with either the Green Seal standard, the UL/EcoLogo standard, EPA's Safer Choice designation, or a substitute acceptable to the LCO. Hand soap products shall also be USDA Certified BioPreferred.

4.6 SELECTION OF PAPER PRODUCTS (APR 2015)

The Lessor shall select paper and paper products (e.g., restroom tissue and paper towels) conforming to the Green Seal Standard (GS-1), or a substitute acceptable to the LCO.

4.7 CLEANING AND DISINFECTING

The Lessor shall routinely wipe down all solid, high contact surfaces in common and high traffic areas using soap and water, followed by a disinfectant from the EPA-registered list of products. Cleaning staff shall use products in accordance with directions provided by the manufacturer, including the use of personal protective equipment (PPE), if applicable. Disinfection application and products should be chosen so as to not damage interior finishes or furnishings.

"Routinely," for purposes of this section, is defined as no less than once daily. More frequent cleaning and disinfection may be required based on level of use.

Examples of common and high traffic areas include, but are not limited to, handrails, door knobs, key card scan pads, light switches, countertops, table tops, water faucets and handles, elevator buttons, sinks, toilets and control handles, restroom stall handles, toilet paper and other paper dispensers, door handles and push plates, water cooler and drinking fountain controls. Disinfected surfaces should be allowed to air dry.

4.8 MAINTENANCE AND TESTING OF SYSTEMS (SIMPLIFIED) (JUN 2012)

The Lessor is responsible for the total maintenance and repair of the leased Premises, including the site and private access roads. The Lessor's maintenance responsibility includes initial supply and replacement of all supplies, materials, and equipment necessary for such maintenance. Maintenance, testing, and inspection of appropriate equipment and systems shall be done in accordance with current applicable codes, and inspection certificates shall be displayed as appropriate. Copies of all records in this regard shall be forwarded to the Government's designated representative, upon request, at the Lessor's expense.

4.9 MAINTENANCE OF PROVIDED FINISHES

A. Paint. Lessor shall maintain all high performance paint coatings in "like new" condition for the life of the Lease. All painted surfaces, shall be repainted at the Lessor's expense, including the moving and returning of furnishings, any time during the occupancy by the Government if the paint is no longer in "like new" condition. All work shall be done after normal working hours as defined elsewhere in this Lease. In addition to the foregoing requirement,

1. Lessor shall repaint common areas at least every (4) four years.
2. Lessor shall perform cyclical repainting of the Space every (8) eight years of occupancy. This cost, including the moving and returning of furnishings, as well as disassembly and reassembly of systems furniture per manufacturer's warranty, shall be at the Lessor's expense, however the Government is responsible for the secure removal and return of computer and related equipment and any files and documents.

B. Flooring.

1. The Lessor shall repair or replace flooring at any time during the Lease term when:
 - a. Backing or underlayment is exposed;
 - b. There are noticeable variations in surface color or texture;
 - c. It has curls, upturned edges, or other noticeable variations in texture;
 - d. Tiles are loose or broken; or,
 - e. Tears or tripping hazards are present.
2. Notwithstanding the foregoing, the Lessor shall replace all carpet and base covering in the Space every 7 years with a product which meets the requirements in the "Floor Coverings and Perimeters" paragraph in this Lease.
3. Repair or replacement shall include the moving and returning of furnishings, including disassembly and reassembly of systems furniture per manufacturer's warranty, if necessary, at Lessor's expense, however the Government is responsible for the secure removal and return of computer and related equipment and any files and documents. Work shall be performed after the normal hours established elsewhere in this Lease.

4.10 ASBESTOS ABATEMENT (APR 2011)

If asbestos abatement work is to be performed in the Space after occupancy, the Lessor shall submit to the Government the occupant safety plan and a description of the methods of abatement and re-occupancy clearance, in accordance with OSHA, EPA, DOT, state, and local regulations and guidance, at least 4 weeks prior to the abatement work.

4.11 ONSITE LESSOR MANAGEMENT (APR 2011)

The Lessor shall provide a locally designated representative available to promptly respond to deficiencies, and immediately address all emergency situations.

4.12 IDENTITY VERIFICATION OF PERSONNEL (OCT 2016)

A. The Government reserves the right to verify identities of personnel with routine and/or unaccompanied access to the Government's Space, including both pre and post occupancy periods. The Lessor shall comply with the agency personal identity verification procedures below that implement Homeland Security Presidential Directive-12 (HSPD-12), Office of Management and Budget (OMB) guidance M-05-24 and M-11-11, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended. These policies require the Government to conduct background investigations and make HSPD-12 compliant suitability determinations for all persons with routine or unaccompanied access to Government leased Space. By definition, this includes at a minimum each employee of the Lessor, as well as employees of the Lessor's contractors or subcontractors who will provide building operating services requiring routine access to the Government's leased Space for a period greater than 6 months. The Government may also require this information for the Lessor's employees, contractors, or subcontractors who will be engaged to perform alterations or emergency repairs in the Government's Space.

B. Application Process: The background investigation will be done using the Government's prescribed process. The Lessor must provide information on each of their contractor/personnel meeting the above criteria to the Government, whereupon each identified contractor/personnel will be notified with instructions for completing the identity verification application within a given time frame. The application process will include completing supplemental information forms that must be inputted into the identity verification system in order for the application to be considered complete. Additionally, the Lessor must ensure prompt completion of the fingerprint process for their contractor/personnel. Email notifications will be sent with instructions on the steps to be taken to schedule an appointment for fingerprinting at an approved regional location along with instructions on how to complete the background investigation application.

C. The Lessor must ensure the Lease Contracting Officer (or the Lease Contracting Officer's designated representative) has all of the requested documentation timely to ensure the completion of the investigation.

D. Based on the information furnished, the Government will conduct background investigations. The Lease Contracting Officer will advise the Lessor in writing if a person fails the investigation, and, effective immediately, that person will no longer be allowed to work or be assigned to work in the Government's Space.

E. Throughout the life of the Lease, the Lessor shall provide the same data for any new employees, contractors, or subcontractors who will be assigned to the Government's Space in accordance with the above criteria. In the event the Lessor's contractor or subcontractor is subsequently replaced, the new contractor or subcontractor is not required to have persons re-apply who were cleared through this process while associated with the former contractor or subcontractor in accordance with GSA policy. The Lessor shall require each cleared person to re-apply and obtain a new clearance in accordance with GSA policy.

F. The Lessor is accountable for not allowing contractors to start work without the successful completion of the appropriate background investigation as required by GSA policy.

G. Access Card Retrieval/Return: Upon an Entry on Duty notification, the Government will issue a Personal Identity Verification (PIV) credential that is sometimes referred to as a GSA Access card. Lessors are responsible for all PIV credential issued to their contractors/personnel pursuant to this Lease. Lessors are specifically responsible for ensuring that all GSA PIV access cards are returned to the Lease Contracting Officer or their designee whenever their employees or a contractor no longer require access to the Space (such as When no longer needed for contract performance, upon completion of the Contractor employee's employment, and upon contract completion or termination). Additionally, the Lessor must notify the Lease Contracting Officer or their designee whenever a GSA PIV Access card is lost or stolen in which event the Lessor may be responsible for reimbursing the Government for replacement credentials at the current cost per PIV HSPD12 credential. Unreturned PIV Access cards will be considered as lost or stolen cards.

H. The Government reserves the right to conduct additional background checks on Lessor personnel and contractors with routine access to Government leased Space throughout the term of the Lease to determine who may have access to the Premises.

I. The Lessor shall insert this paragraph in all subcontracts when the subcontractor is required to have physical access to a federally controlled facility or access to a federal information system.

J. The above language and identity verification or similar Government identity verification per CBP specifications and requirements.

4.13 SCHEDULE OF PERIODIC SERVICES (JUN 2012)

Within 60 days after occupancy by the Government, the Lessor shall provide the LCO or DTR with a detailed written schedule of all periodic services and maintenance to be performed other than daily, weekly, or monthly.

4.14 LANDSCAPE MAINTENANCE (APR 2011)

Landscape maintenance shall be performed during the growing season at not less than a weekly cycle and shall consist of watering, weeding, mowing, and policing the area to keep it free of debris. Pruning and fertilization shall be done on an as-needed basis. In addition, dead, dying, or damaged plants shall be replaced.

4.15 RECYCLING (SIMPLIFIED) (JUN 2012)

Where state or local law, code, or ordinance requires recycling programs for the Premises, Lessor shall comply with such state and/or local law, code, or ordinance. During the Lease term and all renewal periods, the Lessor agrees, upon request, to provide the Government with additional information concerning recycling programs maintained in the Building and in the Space.

4.16 SAFEGUARDING AND DISSEMINATION OF SENSITIVE BUT UNCLASSIFIED (SBU) BUILDING INFORMATION (SEP 2013)

This paragraph applies to all recipients of SBU Building information, including: bidders, awardees, contractors, subcontractors, Lessors, suppliers, and manufacturers.

A. **MARKING SBU.** Contractor-generated documents that contain Building information must be reviewed by CBP to identify any SBU content, before the original or any copies are disseminated to any other parties. If SBU content is identified, the LCO may direct the contractor, as specified elsewhere in this contract, to imprint or affix SBU document markings to the original documents and all copies, before any dissemination.

B. **AUTHORIZED RECIPIENTS.** Building information considered SBU must be protected with access strictly controlled and limited to those individuals having a need to know such information. Those with a need to know may include Federal, state, and local government entities, and nongovernment entities engaged in the conduct of business on behalf of or with CBP. Nongovernment entities may include architects, engineers, consultants, contractors, subcontractors, suppliers, and others submitting an offer or bid to CBP or performing work under a CBP contract or subcontract. Contractors must provide SBU Building information when needed for the performance of official Federal, state, and local government functions, such as for code compliance reviews and for the issuance of Building permits. Public safety entities such as fire and utility departments may require access to SBU Building information on a need to know basis. This paragraph must not prevent or encumber the dissemination of SBU Building information to public safety entities.

C. **DISSEMINATION OF SBU BUILDING INFORMATION:**

1. **BY ELECTRONIC TRANSMISSION.** Electronic transmission of SBU information outside of the CBP firewall and network must use session (or, alternatively, file) encryption. Sessions (or files) must be encrypted with an approved NIST algorithm, such as Advanced Encryption Standard (AES) or Triple Data Encryption Standard (3DES), in accordance with Federal Information Processing Standards Publication (FIPS PUB) 140-2, Security Requirements for Cryptographic Modules. Encryption tools that meet FIPS 140-2 are referenced on the NIST web page found at the following URL: <http://csrc.nist.gov/groups/STM/cmvp/documents/140-1/1401vend.htm>. All encryption products used to satisfy the FIPS 140-2 requirement should have a validation certificate that can be verified at <http://csrc.nist.gov/groups/STM/cmvp/validation.htm#02>. (Not all vendors of security products that claim conformance with FIPS 140-2 have validation certificates.) Contractors must provide SBU Building information only to authorized representatives of state, Federal, and local government entities and firms currently registered as "active" in the SAM database at <https://www.acquisition.gov> that have a need to know such information. If a subcontractor is not registered in SAM and has a need to possess SBU Building information, the subcontractor shall provide to the contractor its DUNS number or its tax ID number and a copy of its business license.

2. **BY NON-ELECTRONIC FORM OR ON PORTABLE ELECTRONIC DATA STORAGE DEVICES.** Portable electronic data storage devices include but are not limited to CDs, DVDs, and USB drives. Non-electronic forms of SBU Building information include paper documents.

a. **By mail.** Utilize only methods of shipping that provide services for monitoring receipt such as track and confirm, proof of delivery, signature confirmation, or return receipt.

b. **In person.** Contractors must provide SBU Building information only to authorized representatives of state, Federal, and local government entities and firms currently registered as "active" in the SAM database that have a need to know such information.

3. **RECORD KEEPING.** Contractors must maintain a list of the state, Federal, and local government entities and the firms to which SBU is disseminated under sections C1 and C2 of this paragraph. This list must include at a minimum:

- a. The name of the state, Federal, or local government entity or firm to which SBU has been disseminated;
- b. The name of the individual at the entity or firm who is responsible for protecting the SBU Building information, with access strictly controlled and limited to those individuals having a need to know such information;
- c. Contact information for the named individual; and
- d. A description of the SBU Building information provided.

Once work is completed, or for leased Space with the submission of the as built drawings, the contractor must collect all lists maintained in accordance with this paragraph, including those maintained by any subcontractors and suppliers, and submit them to the LCO.

D. **RETAINING SBU DOCUMENTS.** SBU Building information (both electronic and paper formats) must be protected, with access strictly controlled and limited to those individuals having a need to know such information.

E. **DESTROYING SBU BUILDING INFORMATION.** SBU Building information must be destroyed such that the marked information is rendered unreadable and incapable of being restored, or returned to the LCO, when no longer needed, in accordance with guidelines provided for media

4.20 MOLD (SIMPLIFIED) (OCT 2016)

A. Actionable mold is airborne mold of types and concentrations in excess of that found in the local outdoor air or non-problematic control areas elsewhere in the same building.

B. The Lessor shall provide Space to the Government that is free from actionable mold and free from any conditions that reasonably can be anticipated to permit the growth of actionable mold or are indicative of the possibility that actionable mold will be present (indicators).

4.21 OCCUPANT EMERGENCY PLANS (SEP 2013)

The Lessor is required to cooperate, participate and comply with the development and implementation of the Government's Occupant Emergency Plan (OEP) and if necessary, a supplemental Shelter-in Place (SIP) Plan. Periodically, the Government may request that the Lessor assist in reviewing and revising its OEP and SIP. The Plan, among other things, must include an annual emergency evacuation drill, emergency notification procedures for the Lessor's Building engineer or manager, Building security, local emergency personnel, and Government agency personnel.

SECTION 5 ADDITIONAL TERMS AND CONDITIONS

5.1 LIABILITY

A. The Lessor may seek remedy for claims against the Government in accordance with the Federal Tort Claims Act, 28 U.S.C. §§ 2671 *et. seq.*, and other applicable federal and state law. The Lessor shall save harmless and indemnify the Government from any claimed or adjudged liability arising out of the maintenance or condition of the Premises, except to the extent such liability is due to the negligent or wrongful act or omission of a Government employee while acting within the scope of his or her employment.

5.2 AVAILABILITY OF FUNDS

In accordance with 31 U.S.C. § 1341 and 41 U.S.C. § 6301, and other applicable federal laws, CBP's liability under this Lease and every term and condition herein is contingent upon the availability of appropriated funds from which payment for contract purposes can be made. Nothing in this Lease may be considered as implying that Congress will at a later date appropriate funds sufficient to meet deficiencies. Nothing in this Lease may be construed or interpreted to obligate the Government to any current or future expenditure of funds in advance of, or in excess of, the availability of appropriations, nor does this Lease obligate the Government to spend funds for any particular project or purpose, even if funds are available.

5.3 SOVEREIGN IMMUNITY

Nothing in this Lease constitutes or can be construed as a waiver of sovereign immunity.

5.4 NO PRIVATE RIGHT OR BENEFIT CREATED

The parties agree that this Lease is not intended and should not be construed to create any right or benefit, substantive or procedural, enforceable at law by an outside party against either the Lessor or the Government.

EXHIBIT B

Lease No. HSBP-7119-L-IN0454

CBP Exceptions to the Harsch Lease

The following provisions (or portions thereof, where indicated) of the Harsch Lease, attached to Lease No. HSBP-7119-L-IN0454 as Exhibit A, shall not apply to the Government as a subtenant:

- Section 3.4, Delivery of Possession. The following portions shall not apply to the Government:
 - "Tenant acknowledges that Tenant has inspected and accepts the Premises in its present condition, "AS-IS" (WITH ALL FAULTS), except for Tenant Improvements to be constructed by Landlord in the Premises as set forth in Exhibit C ("Tenant Improvements")..."
 - "...Tenant shall be solely responsible for any and all costs that relate or pertain to alterations necessary or appropriate to make the Premises comply with any codes, regulations, laws or ordinances for such Permitted Use or operations."
- Section 3.5, Certificate of Occupancy.
- Section 4, RENT AND PAYMENTS.
- Section 5, SECURITY DEPOSIT.
- Section 6, LATE CHARGE.
- Section 7, UTILITIES.
- Section 8, PERSONAL PROPERTY TAXES.
- Section 9, INSURANCE AND LIABILITY.
- Section 10.3, Condition of Premises.
- Section 10.4, Landlord's Rules and Regulations. The Government shall faithfully observe and comply with the rules and regulations attached to the Harsch Lease as Exhibit D; provided, however, that the Government's obligation to comply with such rules and regulations shall be subject to and limited by applicable federal law. Nothing in Exhibit D shall be construed to require the Government to perform any act or omission in a manner that would constitute a violation of federal law, nor shall anything in Exhibit D be construed as a waiver of any federal sovereign immunity of the Government or the United States. Further, the Government's ability to comply with Exhibit D is limited by and subject to the availability of appropriated funds, and the Government's liability is subject to and limited by the Federal Tort Claims Act, 28 U.S.C.2671 et seq., the Anti-Deficiency Act, 31 U.S.C. 1341, and other applicable law. The foregoing limitations apply in particular, but without limitation, to Rules 14, 18, 19, and 27. The Government shall not be subject to future amendments or additional rules and regulations of Landlord without prior notice to the Government and agreement by the Government, which agreement shall not be unreasonably withheld, conditioned, or delayed.
- Section 10.5(a). The following portions shall not apply to the Government:
 - "...Tenant has had an opportunity to review the Report and accepts the same..."



- "...and provided that Tenant indemnifies Landlord as more particularly described below. Tenant's indemnification shall not be abrogated or diminished in any way as a result of Landlord having granted its consent to the Tenant's use of Hazardous Materials. Upon the expiration or sooner termination of this Lease, Tenant covenants to remove from the Premises and/or the Project, at its sole cost and expense, any and all Hazardous Materials, including any equipment or systems containing Hazardous Materials, which are brought upon, stored, used, generated or released into the environment by Tenant, its agents, employees, contractors or invitees. To the fullest extent permitted by law, Tenant hereby indemnifies Landlord and agrees to hold Landlord, the Premises and the Project free and harmless from and against any and all claims, judgments, damages, penalties, fines, costs, liabilities and losses (including, without limitation, diminution in the value of the Premises or the Project, damages for the loss or restriction on use of rentable space or of any amenity of the Premises, the Common Areas or any other portion of the Project, and reasonable sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees) which arise during or after the Lease Term from the presence of Hazardous Materials brought on, in or about the Premises or any other portion of the Project by Tenant, its agents employees, contractors or invitees. This indemnification by Tenant includes, without limitation, any and all costs incurred in connection with any investigation of site conditions or any clean up, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision because of the presence of such Hazardous Material in, on or about the Premises, the Common Areas or the soil or ground water on or under the Project or any portion thereof...."

The Government's liability related to Hazardous Materials shall be based on applicable federal and state law.

- Section 10.5(e). The phrase "at Tenant's expense" shall not apply to the Government.
- Section 10.5(f). The phrase "at Tenant's sole cost and expense," shall not apply to the Government. In addition, the following sentence shall not apply to the Government: "If the presence of any Hazardous Materials in, on, under or about the Premises or any other portion of the Project caused by Tenant, its agents, employees, contractors or invitees, results in (i) injury to any person, (ii) injury to or any contamination of the Premises or (iii) injury to or contamination of any real or personal property wherever situated, Tenant, at its sole cost and expense, shall promptly take all actions necessary to return the Premises or such other portion of the Project, to the condition existing prior to the introduction of such Hazardous Materials to the Premises and to remedy or repair any such injury or contamination." The Government's liability related to Hazardous Materials shall be based on applicable federal and state law.
- Section 10.5(g).
- Section 11.1, Landlord's Obligations.
- Section 11.2, Tenant's Obligations.
- Section 11.3, Surrender.



**INTERLOCAL AGREEMENT
BETWEEN THE PORT OF SEATTLE & THE NORTHWEST SEAPORT ALLIANCE
REGARDING THE PORT OF SEATTLE'S USE OF A PORTION OF
BUILDING 2W LOCATED ON TERMINAL 106**

This Interlocal Agreement (the "**ILA**") is made this ____ day of _____, 2021, by and between the Port of Seattle, a public port district organized under the laws of the State of Washington ("**POS**") and The Northwest Seaport Alliance, a Washington state port development authority ("**NWSA**"), (cumulatively, "**Parties**"), under the authority of the Washington State Interlocal Cooperation Act, RCW 39.34 and the Port Joint Powers authority (RCW 53.08.240).

RECITALS

WHEREAS, the POS is organized under the laws of Washington State, as codified at Title 53 RCW. POS owns the property which is the subject of this ILA.

WHEREAS, the respective Commissions of the POS and the Port of Tacoma ("**POT**") are the two Managing Members of NWSA, and the NWSA was formed to operate, manage, and use certain real properties owned by each such Port and licensed to the NWSA.

WHEREAS, the United States Customs and Border Patrol ("**CBP**") provides inspection services to all merchandise entering the United States from a foreign country. Thus, CBP's inspection services conducted in Seattle primarily benefit the movement of foreign cargoes entering through the marine cargo terminals licensed to the NWSA by the POS and secondarily to business conducted by the POS and other third-party entities.

WHEREAS, all ports of entry are generally required by CBP to provide suitable and reasonable office, workspace and parking to CBP. CBP relies on various provisions of Titles 6, 8, and 19 of the United States Code, additionally with particular emphasis on the Cross Border Trade Enhancement Act of 2016 (6 USC § 301) and 36 Op. Atty. Gen 431 (1928) as its basis for requiring ports to provide such office, workspace and parking to CBP. Existing facilities may continue to be operated even though they may not be in compliance with CBP's standards. However, if any significant changes are made to a seaport operation CBP requires updates to existing terminal facilities to meet its standards. CBP exercised this requirement due to the modernization project for Terminal 5.

WHEREAS, the NWSA is the primary beneficiary of CBP's services, and is therefore acting as lead, in conjunction with the Port of Seattle, to complete the CBP office and workspace upgrades required at Terminal 106.

WHEREAS, CBP staff providing international maritime inspection services, has been officing out of both Terminal 106 and Terminal 102 since 1998 under an agreement with POS. Terminal 106 is owned and managed by the POS and has not been licensed to the NWSA. POS currently receives \$1.00 per year rent from CBP for both the T102 and T106.

WHEREAS, as a part of the proposed office and workspace improvements, CBP will relocate staff from T102 (6,802 square feet) and consolidate offices at T106, resulting in an expansion of the T106 Premises (from 19,317 square feet to 23,232 square feet of office space) (“CBP Premises”) but in an overall reduction of CBP square footage by 1,628 square feet and freeing up T102 for other uses.

WHEREAS, Terminal 106 generally has not been upgraded since 1998 other than necessary upgrades and/or modifications. The premises do not meet current CBP requirements. Terminal 106 current premises are passed its useful life and require substantial upgrades to bring systems including, but not limited to, plumbing, fire, etc. to current code compliance. The total estimated cost of the T106 facility office and workspace renovation is approximately \$6,402,000. (“Project”).

WHEREAS, the Parties have agreed to cost allocation for the Project based upon CBP’s anticipated distribution of employees servicing the NWSA and POS respectively and have further agreed to equally share costs attributed others’ use of the CBP Premises. This has resulted in an allocation of 87% for the NWSA and 13% for POS (“Cost Allocation”) further defined in “Exhibit C” attached hereto. Cost Allocation percentages will be applied to the total cost of the Project and all on-going operational costs associated with the CBP Premises.

WHEREAS, the roof to the 2W building at T106 is at or near the end of its useful life and the NWSA and POS will work jointly to assess and plan for the roof renovation currently estimated to be approximately \$2.5M dollars.

WHEREAS, POS and the NWSA seek to transfer use and management of the CBP Premises to the NWSA through this Interlocal Agreement, with the expectation that the NWSA will enter into the federally-required Free Space Agreement with CBP.

NOW THEREFORE, in consideration of the premises contained in this ILA, POS and the NWSA agree as follows:

1. Premises. The POS agrees to transfer the use and management of 23,232 square feet of the 2W building, 31,260 square feet of yard space, and 4,850 square feet of parking area (the “Premises”) as shown in Exhibit B at the property commonly known as Terminal 106 to the NWSA, a legal description of which is attached hereto as Exhibit A.

Subject to the rights reserved by the POS in this ILA, the Premises extend to the centerline of party/demising walls and to the exterior faces of any exterior walls and from the structural flooring to ceiling, specifically including any plenum above a drop/suspended ceiling.

2. Term. This ILA shall be for a term of ten (10) years, plus the construction period to construct the office and workspace improvements commencing in accordance with Section 15.T. Upon substantial completion of the Project to be memorialized in writing the ten-year term shall commence (the "Commencement Date") and shall terminate in accordance with Section 15.T.

3. Compensation. In lieu of rent, effective upon the Commencement Date, the following shall occur:

A. Office and Workspace Project Costs. Upon substantial completion of the Project by the NWSA, and upon receipt of final Project costs memorialized in writing, POS shall contribute an amount equal to 13% of the Project total costs. The estimate of the total project costs is \$6,402,000.

B. On-Going Operating Expenses. The NWSA shall enter into a Free Space Agreement with CBP, which shall include NWSA being responsible for 87% and POS 13% of on-going Operating Expenses related to the Premises including, but not limited to, utilities (water, sewer, electric, stormwater) data services, and repair and maintenance ("Operating Expenses") to commence upon the Commence Date.

C. Roof Renovation. The Parties acknowledge and agree that the roof of the 2W building will require renovation in conjunction with the Project or during the term of this ILA. The Parties shall perform a formal assessment of the roof to determine if there is any potential useful life remaining. Upon this determination, the Parties will mutually agree and establish a roof renovation plan and timeline (the "Roof Renovation Project") by Addendum to this ILA, but in any case, the roof renovation shall occur not later than 5-years after the Commencement Date unless the current Free Space Agreement is extended to justify the NWSA's investment in the roof.

POS shall perform the work and pay for the Roof Renovation Project as the 2W building is a POS asset. Each Party shall be responsible for its pro-rata share of the total cost of the Roof Renovation Project. The Parties' pro-rata shares of the Roof Renovation Project are: NWSA 55% and POS 45%. These Roof Renovation Project pro-rata shares were factored as follows: Total building square footage 42,190 square

feet; NWSA 55% (23,232 sf (CBP space) / 42,190 sf = 55%); POS 45% (18,958 sf Warehouse / 42,190 sf = 45%).

Upon completion of the Roof Renovation Project, the NWSA shall reimburse POS for the NWSA's pro-rata share of the Roof Renovation Project costs. For the purposes of reimbursement, NWSA's pro-rata share shall be amortized, and upon termination of this ILA, POS shall reimburse to the NWSA any remaining unamortized cost of the POS roof asset based on the NWSA pro-rata share.

- 4. Use of Premises.** NWSA shall have the right to occupy and use the Premises for the purpose of providing office and workspace for CBP during the entire term of this ILA, with the exception of temporary closures for such periods as may reasonably be necessary for repairs or refurbishing.

NWSA shall not allow or permit the Premises or any part thereof to be used or occupied, in whole or in part, in a manner which would in any way: (i) violate any present or future Legal Requirements; (ii) violate any of the covenants, agreements, provisions and conditions of this ILA; (iii) violate the certificate of occupancy then in force with respect thereto; (iv) constitute a public or private nuisance; (v) impair or interfere with, in POS's reasonable judgment, the character, reputation or appearance of POS; or (vi) occasion discomfort, inconvenience or annoyance to either POS or its adjoining tenants.

For purposes of this ILA, the term "Legal Requirements" shall mean and refer to all laws, statutes and ordinances including building codes and zoning regulations and ordinances and the orders, rules, regulations and requirements of all federal, state, county, city or other local jurisdiction departments, agencies, bureaus, offices and other subdivisions thereof, or any official thereof, or of any other governmental, public or quasi-public authority, which may be applicable to or have jurisdiction over the Premises, or the sidewalks or streets adjacent thereto and all requirements, obligations and conditions of all instruments of record at any time during the term of this ILA.

- 5. Utilities.** NWSA shall be liable for and shall pay throughout the term of this ILA, all charges for all utility services furnished or attributable to the Premises, including, but not limited to, light, heat, electricity, fire alarm monitoring, gas, water, sewerage (which includes removal and disposal of sewerage and surface water), stormwater, recycling, garbage disposal and janitorial services, specifically including reasonable costs and charges associated with the management of such utility services. In the event that 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, NWSA agrees to pay to POS NWSA's pro rata share of the cost of any such utility services. NWSA's pro rata share of any such services may be computed by POS on

any reasonable basis, and separate metering or other exact segregation of cost shall not be required. POS shall provide a minimum of 48 hours prior notification for any utility work affecting the Premises, or as otherwise agreed by the Parties in writing.

- 6. Capital Improvements.** Except for the Project and Roof Renovation Project, for all future improvements, the NWSA shall make no changes, alterations, additions, substitutions or improvements (collectively referred to as "Alterations") to the Premises, unless NWSA shall first deliver to POS plans and specifications for, and obtain POS's prior written approval of, such Alterations. All such Alterations to the Premises shall be paid for according to each Party's Cost Allocation share as defined herein.

Any Alterations to the Premises shall remain with the Premises and become the property of the POS upon vacating without any additional charge except as defined herein. NWSA shall retain ownership of all CBP office and workspace fixtures as allowed under federal mandate. Any such property not removed at the expiration of the term shall, be surplus by the NWSA in coordination with POS, with each receiving its portion of the cost allocations of the surplus funds (NWSA 87%/POS 13%). Upon any removal of such property, NWSA shall promptly repair any and all damage to the Premises caused thereby and reimburse POS for its costs and expenses in removing any such property not removed by NWSA and repairing any such damage not repaired by NWSA; this covenant shall survive the termination of this ILA.

- 7. Maintenance & Repair.** NWSA shall be responsible to keep the Premises, both outside and inside, together with all Alterations, equipment and installations including, but not limited to, the roof structure and membrane covering, exterior walls, foundation and building structure of the Premises in good order, condition and repair at all times. NWSA shall make all repairs and replacements (ordinary as well as extraordinary, foreseen and unforeseen) which may be necessary or required so that at all times the Premises are in good order, condition and repair. Without limiting the generality of the foregoing, NWSA shall keep the glass of all windows and doors on the Premises clean and presentable, shall replace all cracked or broken glass in the Premises, shall keep the mechanical and electrical systems and all drains clean and in a good state of repair, shall protect the sprinkler system and all pipes and drains so that they will not freeze or become clogged and shall not permit or suffer any waste, damages, or disfigurement to or upon the Premises or any part thereof.

NWSA shall also keep the Premises and entryways neat, clean and in sanitary condition, free from infestation of pests and conditions which might result in harborage for, or infestation of pests. As used in this Section, the word "pests," as used herein, shall include without limitation, rodents, insects, and birds in numbers to the extent that a nuisance is created. NWSA shall also specifically

remove all snow and ice from the walkways and sidewalks in front of the Premises.

NWSA shall keep the stormwater and surface water drainage systems free of any substances that could contaminate stormwater. The stormwater drainage system includes catch basins, manholes, trenches, drain lines, and other related infrastructures that convey stormwater directly to other stormwater systems or to surface waters.

Without exception Cost Allocations as specified above and agreed to by the Parties shall apply to this Section 7 herein.

- 8. Common Areas.** Except for those areas designated as the Premises as specified on Exhibit B, POS shall at all times have the exclusive control and management of all parking areas, driveways, sidewalks, entrances, exits, signs, drainage facilities, and other areas, improvements, facilities and/or special services provided by POS for the general use, in common, of tenants of any larger property of which the Premises are a part (“Common Areas and Facilities”). Without creating a duty to do so or limiting POS’s right of control and management, POS specifically reserves the right to: (i) establish, modify from time to time, and enforce reasonable rules and regulations governing the use of the Common Areas and Facilities; (ii) police the Common Areas and Facilities; (iii) change the area, level, location and arrangement of parking and other areas or facilities within Common Areas and Facilities; (iv) provided NWSA (CBP) is not deprived of reasonable access to its Premises, close all or any portion of the Common Areas and Facilities; and (v) do and perform such other acts in and to the Common Areas and Facilities as, in the use of good business judgment, POS shall determine to be advisable with a view to the improvement of the convenience and use thereof by POS and tenants of any larger property of which the Premises are a part.
- 9. Insurance.** The POS will continue to provide property coverage on the Premises and shall list the NWSA as designated user. The NWSA shall maintain at a minimum general liability insurance, such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than Two million dollars (\$2,000,000) per occurrence and list the POS as an additional insured.
- 10. Damage or Destruction.** If the Premises or any buildings or structures of which the Premises are a part are damaged by fire, the elements, earthquake, accident or other casualty (collectively, “Casualty”), NWSA shall give immediate written notice thereof to POS. POS may, except to the extent POS has the right to terminate this ILA under Section 15.T., use reasonable efforts to repair and restore the Premises and/or the buildings or structures of which the Premises are a part to substantially their former condition to the extent permitted by then-applicable Legal Requirements; provided, however, POS shall have no

obligation to repair and restore any Alterations or any of NWSA's or CBP's personal property.

Notwithstanding anything herein to the contrary, if damage by Casualty to the Premises or any buildings or structures of which the Premises are a part results from NWSA's fault, negligence, or breach of the terms of this ILA or CBP's fault or negligence, NWSA shall be liable to POS for the cost and expense of any repair and restoration of the Premises or any buildings or structures of which the Premises are a part.

- 11. Free Space Agreement.** The POS acknowledges and agrees that the NWSA shall enter into a Free Space Agreement with CBP for their sole use of the Premises. Should the Free Space Agreement be terminated, this ILA shall terminate in accordance with Section 15.T.
- 12. Access; Easements.** POS shall also have the right to enter upon the Premises for the purpose of making any necessary repairs and performing any work that may be necessary by reason of NWSA's failure to make any such repairs or perform any such work. The above-mentioned rights of entry shall be exercisable upon request made on reasonable advance notice to NWSA (except that no notice shall be required in the event of an emergency) or by an authorized employee of NWSA, which notice may be given orally.

The Parties recognize that Port facilities are continuously being modified to improve the utilities, services and premises used and provided by POS. POS and its authorized utility service providers are hereby granted a continuous easement or easements that POS believes is necessary within the Premises, without any additional cost to POS for the purposes expressed hereinabove. POS, its authorized utility service providers, and their respective agents, shall have the right to enter the Premises, and to cross over, construct, move, reconstruct, rearrange, alter, maintain, repair and operate the sewer, water, and drainage lines, the electrical service, the roadways (specifically including routes of ingress and egress) and all other services and facilities required by POS for its own use. Provided, however, that POS by virtue of such use, does not substantially deprive NWSA or CBP from its beneficial use or occupancy of the Premises for an unreasonable period of time, not to exceed thirty (30) working days, without consent of NWSA and CBP.

- 13. Surrender of Premises.** At the expiration or sooner termination of this ILA, NWSA shall promptly: (i) surrender possession of the Premises to POS in the same condition in which received (or, if altered, then the Premises shall be returned in such altered condition), reasonable wear and tear excepted, and (ii) deliver to POS all keys that it may have to any and all parts of the Premises. If the Premises are not surrendered as provided in this Section, NWSA shall indemnify and hold POS harmless against loss or liability resulting from the

delay by NWSA in so surrendering the Premises, including, without limitation, any claims made by any succeeding occupant founded on such delay.

- 14. Stormwater.** The NWSA shall be responsible for the stormwater utility fees for the Premises to be paid directly by or charged to the NWSA. In addition to the stormwater, POS shall be responsible for cost to repair, maintain and/or replace the stormwater system, except if due to the negligence of the NWSA and/or by CBP and/or agents, employees, invitees or licensees of either NWSA or CBP, then these costs shall be borne by the NWSA.

15. MISCELLANEOUS

- A. Third Party Beneficiaries.** This ILA does not create any rights, claims, or benefits inuring to any person that is not a party hereto, and it does not create or establish any third-party beneficiary hereto.
- B. Binding Effect.** This ILA shall be binding upon and inure to the benefit of the Parties, and their legal representatives, successors, and permitted assigns.
- C. Severability.** If any provision of this ILA shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The Parties agree to use good faith efforts to replace such invalid or unenforceable provision of this ILA with a valid and enforceable provision that will achieve, to the extent possible, the purposes of such invalid or unenforceable provision. If the Parties cannot reach a mutually agreeable and enforceable replacement for such invalid, illegal, or unenforceable provision, the balance of the ILA shall be interpreted as if such provision were so excluded so as reasonably to effectuate the intent of the Parties.
- D. Notices.** Unless otherwise specified herein, all notices, consents, approvals, reports, designations, requests, waivers, elections, and other communications authorized or required to be given pursuant to this ILA shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by personal hand-delivery, by facsimile transmission, by electronic mail, by mailing the same in a sealed envelope, certified first-class mail, postage prepaid, return receipt requested, or by air courier guaranteeing overnight delivery, sent to the addresses on Schedule 3 of the NWSA Charter (as such may be updated by notice from time to time).
- E. Usage Generally; Interpretation.** The captions and headings of this ILA are for convenience of reference only and shall not affect the interpretation

of this ILA. Any statute or law defined or referred to herein means such statute or law as from time to time amended, modified, or supplemented, including by succession of comparable successor statutes.

- F. Entire Agreement.** This ILA embodies the entire agreement of the Parties and supersedes all prior agreements and understandings between the Parties with respect to the subject matter herein.
- G. Counterparts.** This ILA may be executed in any number of counterparts, including by electronic transmission or facsimile, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
- H. Amendments.** The terms and provisions of this ILA may only be modified or amended at any time and from time to time by mutual agreement of the Parties.
- I. Further Assurances.** Each Party shall execute and deliver any additional documents and instruments and perform any additional acts that the Parties determine to be necessary or appropriate to effectuate and perform the provisions of this ILA.
- J. Governing Law.** This ILA shall be governed and construed in accordance with the laws of the State of Washington, without regard to the conflicts of law principles thereof. Generally, in the event of a conflict, the following sources of authority shall prevail in descending order of supremacy: (i) Washington state law and regulation, including the Port Joint Powers statute (RCW 53.08.240), the Port Development Authority, Chapter 53.57 RCW; and this ILA; (ii) any policies of the NWSA; and (iii) any policies of the POS.
- K. Costs, Fees and Expenses.** Each Party shall bear any legal and other costs, fees and expenses incurred by such party in connection with the negotiation and preparation of this ILA and the transactions contemplated hereby.
- L. Waivers.** No waiver of any breach of any of the terms of this ILA shall be effective unless such waiver is made expressly in writing and executed and delivered by the party against whom such waiver is claimed. No waiver of any breach shall be deemed to be a further or continuing waiver of such breach or a waiver of any other or subsequent breach. Except as otherwise expressly provided herein, no failure on the part of any party to exercise, and no delay in exercising, any right, power, or remedy hereunder, or otherwise available in respect hereof at law or in equity, shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power,

or remedy by such party preclude any other or further exercise thereof, or the exercise of any other right, power, or remedy.

- M. Ratification.** Acts taken in conformity with this ILA prior to its execution are hereby ratified and affirmed.
- N. Assignment.** Other than the Port's right to ILA, sublicense, permit occupancy or otherwise assign its rights in furtherance of the Permitted Use as described in Section 1 above, neither Party to this ILA shall have the right to convey, assign, apportion or otherwise transfer any and all of its rights, obligations, conditions and interests under this ILA, without the prior written approval of the other.
- O. Independent Municipal Governments.** The Parties hereto are independent governmental entities, and nothing herein shall be construed to limit the independent government powers, authority or discretion of the governing bodies of each Party.
- P. Legal Obligations.** This ILA does not relieve either Party of any obligation or responsibility imposed upon it by law.
- Q. Timely Performance.** The requirements of this ILA shall be carried out in a timely manner according to a schedule negotiated by and satisfactory to the Parties.
- R. Records and Audit.** During the term of this ILA, and for a period not less than six (6) years from the date of termination, records and accounts pertaining to the work of this ILA and accounting therefore shall be kept by each Party and shall be available for inspection and audit by representatives of either Party and any other entity with legal entitlement to review said records. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit finding has been resolved, even though such litigation, claim, or audit continues past the six-year (6) retention period. This provision is in addition to and is not intended to supplant, alter or amend records retention requirements established by applicable state and federal laws.
- S. Limits of Financial Obligations/Property Ownership.** Except as provided above, each Party shall finance its own conduct of responsibilities under this ILA. No ownership of property will transfer as a result of this ILA.
- T. Effective Date & Termination.** This ILA shall be effective upon signature by both Parties and a copy being recorded with the respective County Auditors or posted on both Parties' web site as authorized by RCW

39.34.040 and shall continue for a term of 10-years after the Commencement Date or should the Free Space Agreement be terminated, this ILA shall terminate.

U. Indemnification and Hold Harmless.

- a. The NWSA shall defend, indemnify, and hold the POS and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of the NWSA and/or its agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the NWSA's performance of its obligations under this ILA, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the POS or its agents, employees, and/or officers.
- b. The POS shall defend, indemnify, and hold the NWSA and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of any third parties and/or their agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the POS's performance of its obligations under this ILA, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the NWSA or its agents, employees, and/or officers.
- c. Each Party specifically assumes liability for actions brought by its own employees against the other Party and for that purpose each Party specifically waives, as respects the other parties only, any immunity under the Worker's Compensation Act, RCW Title 51.
The Parties recognize that this waiver was the subject of mutual negotiation.
- d. In the event any Party incurs attorney's fees, costs or other legal expenses to enforce the provisions of this ILA against the other Party, all such fees, costs and expenses shall be recoverable by the prevailing Party.
- d. No liability shall attach to any of the Parties by reason of entering into this ILA except as expressly provided herein.
- e. The provisions of this Section U.(a)-(e) shall survive any termination or expiration of this ILA.

[SIGNATURES ON FOLLOWING PAGE]

THE NORTHWEST SEAPORT
ALLIANCE:

By: _____
John Wolfe, CEO

Date: _____

THE PORT OF SEATTLE:

By _____
Stephen Metruck, Executive Director

Date: _____

DRAFT

“EXHIBIT A”

LEGAL DESCRIPTION OF TERMINAL 106

THAT PORTION OF PLAT OF CALHOUN, DENNY & EWING’S REPLAT OF BLOCK 388, SEATTLE TIDE LANDS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 12 OF PLATS, PAGE 92, IN KING COUNTY, WASHINGTON, PORTION OF BLOCKS 378, 379, 384, PLAT OF SEATTLE TIDE LANDS, ACCORDING TO THE OFFICIAL MAPS ON FILE IN THE OFFICE OF THE COMMISSIONER OF PUBLIC LANDS, OLYMPIA, WASHINGTON AND PORTION OF VACATED 6TH AVENUE SOUTH, VACATED 8TH AVENUE SOUTH, VACATED 9TH AVENUE SOUTH, VACATED SOUTH NEVADA STREET AND VACATED SOUTH DAKOTA STREET AND GOVERNMENT LOT 3, ALL SITUATED IN SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 24, RANGE 4 EAST, W.M., KING COUNTY, WASHINGTON, MORE PARTICULAR DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTERLINE INTERSECTION OF VACATED 8TH AVENUE SOUTH AND VACATED SOUTH DAKOTA STREET PROCEED EAST ALONG THE CENTERLINE OF SAID SOUTH DAKOTA STREET, NORTH 90°00’ 00” EAST, 1002.60 FEET TO THE SOUTHEASTERLY EDGE OF A CONCRETE WALL FOOTING;

THENCE THE FOLLOWING FOUR COURSES AND DISTANCES;

NORTH 72°52’08” EAST, 39.93 FEET;

NORTH 56°31’11” EAST, 55.36 FEET;

NORTH 39°39’56” EAST, 56.82 FEET;

NORTH 26°23’23” EAST, 30.73 FEET;

THENCE SOUTH 63°36’37” EAST, 3.50 FEET;

THENCE NORTH 26°23’23” EAST, 42.97 FEET TO THE WEST MARGIN OF EAST MARGINAL WAY SOUTH AS ESTABLISHED BY BEING THE WESTERLY LINE OF THAT CERTAIN PARCEL OF REAL PROPERTY CONVEYED TO THE STATE OF WASHINGTON UNDER KING COUNTY RECORDER FILE NO. 4861150 FOR STATE HIGHWAY NO. 1, RECORDS OF KING COUNTY;

THENCE SOUTH 06°36’17” EAST, ALONG SAID WESTERLY LINE, 151.51 FEET TO THE CENTERLINE OF VACATED SOUTH DAKOTA STREET;

THENCE NORTH 90°00’00” EAST ALONG SAID CENTERLINE, 3.47 FEET TO THE WEST MARGIN OF EAST MARGINAL WAY SOUTH (STATE HIGHWAY NO. 1) AS ESTABLISHED BY CITY OF SEATTLE ORDINANCE NUMBER 32881;

THENCE SOUTH 00°00’00” EAST ALONG SAID WEST MARGIN, 525.00 FEET TO THE NORTH MARGIN OF SOUTH NEVADA STREET;

THENCE SOUTH 90°00’00” WEST ALONG SAID NORTH MARGIN, 1230.00 FEET TO THE WEST MARGIN OF VACATED 8TH AVENUE SOUTH;

THENCE SOUTH 00°00’00” EAST ALONG SAID WEST MARGIN PRODUCED SOUTH, 70.00 FEET TO THE SOUTH MARGIN OF SOUTH NEVADA STREET;

THENCE NORTH 90°00’00” EAST ALONG SAID SOUTH MARGIN, 644.00 FEET TO A

INTERLOCAL AGREEMENT–BUILDING 2W, TERMINAL 106

POINT DISTANT

14.00 FEET EAST OF THE EAST LINE OF BLOCK 384, SEATTLE TIDE LANDS PRODUCED SOUTH;
THENCE SOUTH 00°00'00" EAST PARALLEL WITH SAID WEST MARGIN, 184.00 FEET TO A POINT DISTANT 19.00 FEET SOUTH OF THE NORTH, LINE OF LOT 36, BLOCK 384 PRODUCED EAST;
THENCE SOUTH 90°00'00" WEST PARALLEL WITH SAID NORTH LINE AND AS PRODUCED, 544.00 FEET TO THE EAST MARGIN OF VACATED 8TH AVENUE SOUTH;
THENCE SOUTH 00°00'00" EAST ALONG SAID EAST MARGIN, 691.00 FEET TO THE NORTH MARGIN OF SOUTH OREGON STREET;
THENCE SOUTH 90°00'00" WEST ALONG SAID NORTH MARGIN, 430.77 FEET TO THE EASTERLY LINE OF DUWAMISH WATERWAY AS ESTABLISHED BY THE COMMERCIAL WATERWAY DISTRICT NO. 1 UNDER KING COUNTY SUPERIOR COURT CAUSE NUMBER 82673;
THENCE NORTH 19°35'39" WEST ALONG SAID EASTERLY LINE, 535.75 FEET TO WESTERLY LINE OF LOT 16, CALHOUN, DENNY & EWING'S REPLAT OF BLOCK 388, SEATTLE TIDE LANDS;
THENCE NORTH 08°23'41" EAST ALONG THE EASTERLY LINE OF EAST WATERWAY, 751.50 FEET TO A POINT DISTANT 1.83 FEET SOUTH OF THE NORTH LINE OF LOT 4 OF SAID PLAT, MEASURED AT RIGHT ANGLES THEREFROM;
THENCE EAST PARALLEL WITH THE SAID NORTH LINE, 117.50 FEET;
THENCE NORTH 74°25'42" EAST, 230.33 FEET TO THE NORTH LINE OF LOT 46 OF SAID PLAT;
THENCE NORTH 90°00'00" EAST ALONG SAID NORTH LINE AND AS PRODUCED EAST, 84.35 TO THE CENTERLINE OF VACATED 8TH AVENUE SOUTH;
THENCE NORTH 00°00'00" EAST, 160.00 FEET TO THE POINT OF BEGINNING.

ALL BEARINGS ARE PER PLAT OF SEATTLE TIDE LANDS.

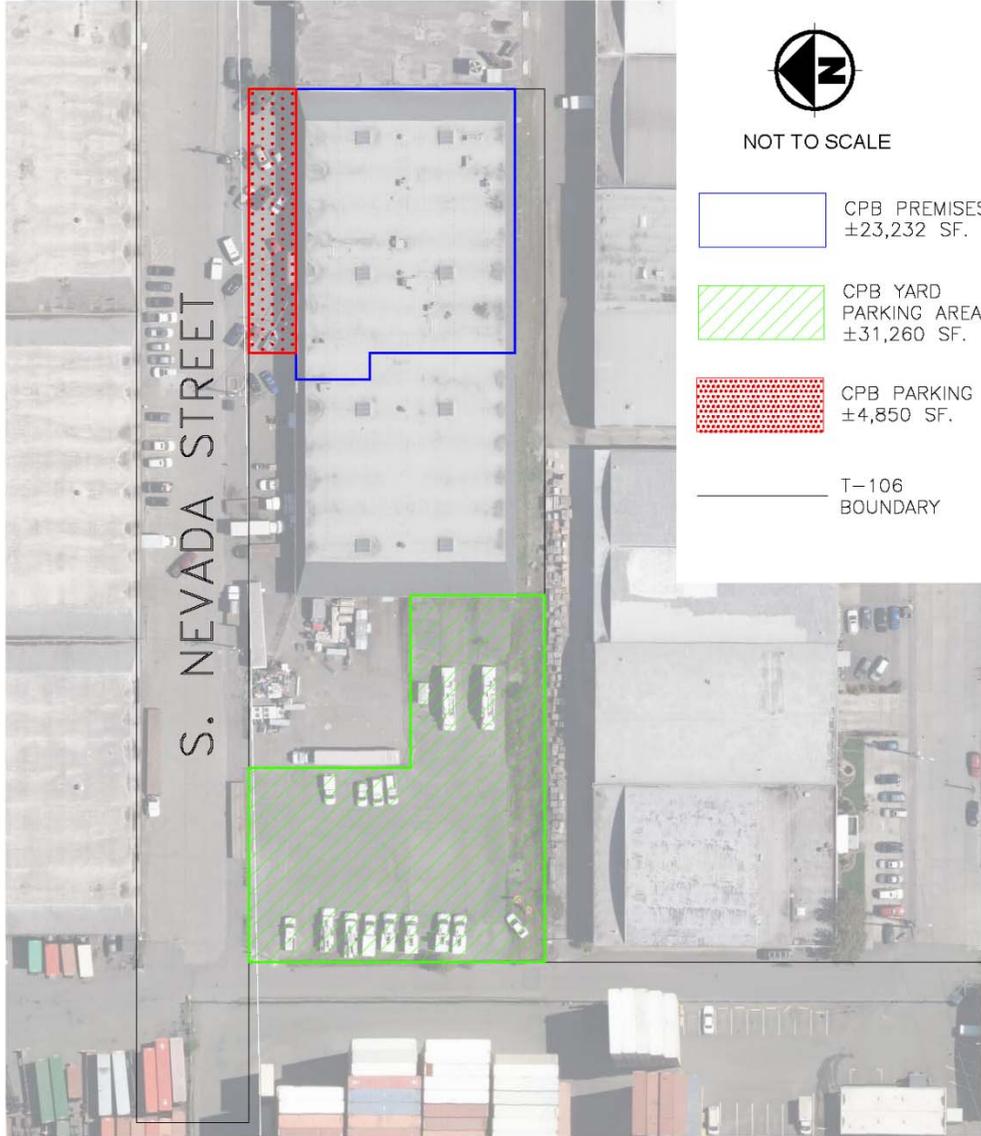
CONTAINING 1,355,730 SQUARE FEET, 31.12 ACRES MORE OR LESS

The Premises is located within the greater Terminal 106 parcel legal description above.

EXHIBIT B"

PREMISES SITE PLAN

PORTION OF SOUTHEAST QUARTER SECTION 18, TOWNSHIP 24 NORTH,
RANGE 04 EAST, W.M., KING COUNTY, WASHINGTON



e:\327 H:\Projects\Seaport\T-106\2000\2021\210712-3 T-106 CPB Site Plan\CAD\210712-3 CPB Site Plan.dwg-07/14/21 8:04am

	TERMINAL 106 DEVELOPMENT LEASE AREA	PORT OF SEATTLE NO. 2000
		DATE 07/14/2021
	EXHIBIT "B"	SHEET NO. 1 OF 1

“EXHIBIT C”

ALLOCATIONS

1. **Cost Allocation.** The Parties agree to allocate office and workspace project costs and all on-going operational costs associated with the CBP Premises based upon CBP’s current staff distribution of work assigned to the Parties and third-party interests. CBP provided staff distributions as follows: 64.2 to NWSA; 1.25 to POS; and 19.55 to third parties (“Cost Allocation”). The third-party staff distribution includes 4.55 for private businesses and 15 for CBP’s Centers of Excellence and Expertise (“CEE”), which provides support locally and nationally to sea, land, and air shipments.

The Parties acknowledge and accept the CBP staff distributions for their respective organizations and agree to split distribution attributed to third-parties equally, resulting in a NWSA 87%, POS 13% cost allocation as detailed in the following table.

TERMINAL 106 CBP STAFF ALLOCATIONS

FUNCTION	POS	NWSA	3rd PARTY	CEE
Vessel Boarding Officer	0.25		0.75	
Agricultural Specialists	0.5		0.5	
Trade Officer			0.5	
Cargo Security Officers	0.5		1.8	
CEE Employees				15
Administrative			1	
Remaining Officers dedicated to NWSA		64.2		
TOTAL	1.25	64.2	4.55	15
Percentage	1.47%	75.53%	5.35%	17.65%
3rd Party and CEE allocation split	11.50%	11.50%		
FINAL ALLOCATIONS	13%	87%		

Commencing after the first full calendar year of this ILA and any partial year thereof, during the month of January, the NWSA will bi-annually confirm with CBP, CBP’s staff distribution of work assigned to the Parties. Any material changes in work distribution by CBP of 3% or greater will require an adjustment to the cost allocation to be factored in the same manner above and agreed upon by the Parties in writing to be effective retroactive to January 1st of that year.

2. **Parking Allocations.** CBP requires a minimum amount of parking for a variety of vehicles related to its operations. The Parties agree and acknowledge to continue to accommodate a minimum of 98 parking stalls inclusive of the parking and yard areas defined on Exhibit B based upon the following description provided by CBP:

CBP MINIMUM PARKING REQUIREMENTS	STALLS
NII Large Scale Trucks (VACIS/RPM/Other)	8
GOV (including 2-trailers)	22
CBP POV	60
Public Parking	8
TOTAL STALLS	98



Item No: 8D
Date of Meeting: August 3, 2021

T-106 Interlocal Agreement Authorization & CBP Facility Renovation Project

Presenters:

Jennifer Maietta, Director, Real Estate (NWSA)
Melinda Miller, Director, RE Asset Management (POS)
Erin DeBroux, Real Estate Manager (NWSA)
Fred Chou, Capital Program Leader (POS)

Actions Requested

(1) Interlocal Agreement (**DUAL ACTION**):

- Request Managing Members of The Northwest Seaport Alliance authorization for the Chief Executive Officer or their delegate to enter into an Interlocal Agreement with the Port of Seattle to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.
- Jointly, request the Commissioners of the Port of Seattle authorization for the Executive Director or their delegate to enter into an Interlocal Agreement with The Northwest Seaport Alliance to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.

Actions Requested

(2) CBP Facility Renovation Funding:

Approve project authorization in the amount \$6,300,500 for a total authorized amount not to exceed \$6,402,000 to complete all work associated with the T-106 CBP Office and Facility Renovation Project, Master Identification No. 2021-29 NH and the T-106 CBP TI Evaluation project, Master Identification No. U00520; and develop, advertise, and execute an alternative public works delivery contract using the Design-Build project delivery method.



Background

T-106 Interlocal Agreement Authorization & CBP Facility Renovation Project

- All ports of entry are generally required by CBP to provide suitable and reasonable office, workspace and parking to CBP according to various provisions of Titles 6, 8 and 19 of the United States Code, additionally with particular emphasis on the Cross Border Trade Enhancement Act of 2016 (6 USC § 301) and 36 Op. Atty. Gen 431 (1928) as its basis for this requirement.
- Existing facilities may continue in their current state until seaport operations change, or new seaport facilities are established
- NWSA's request for RPMs at T-5 constitutes a seaport operations change prompting CBP to request suitable office and workspace meeting current CBP requirements (Title 19, C.F.R.)

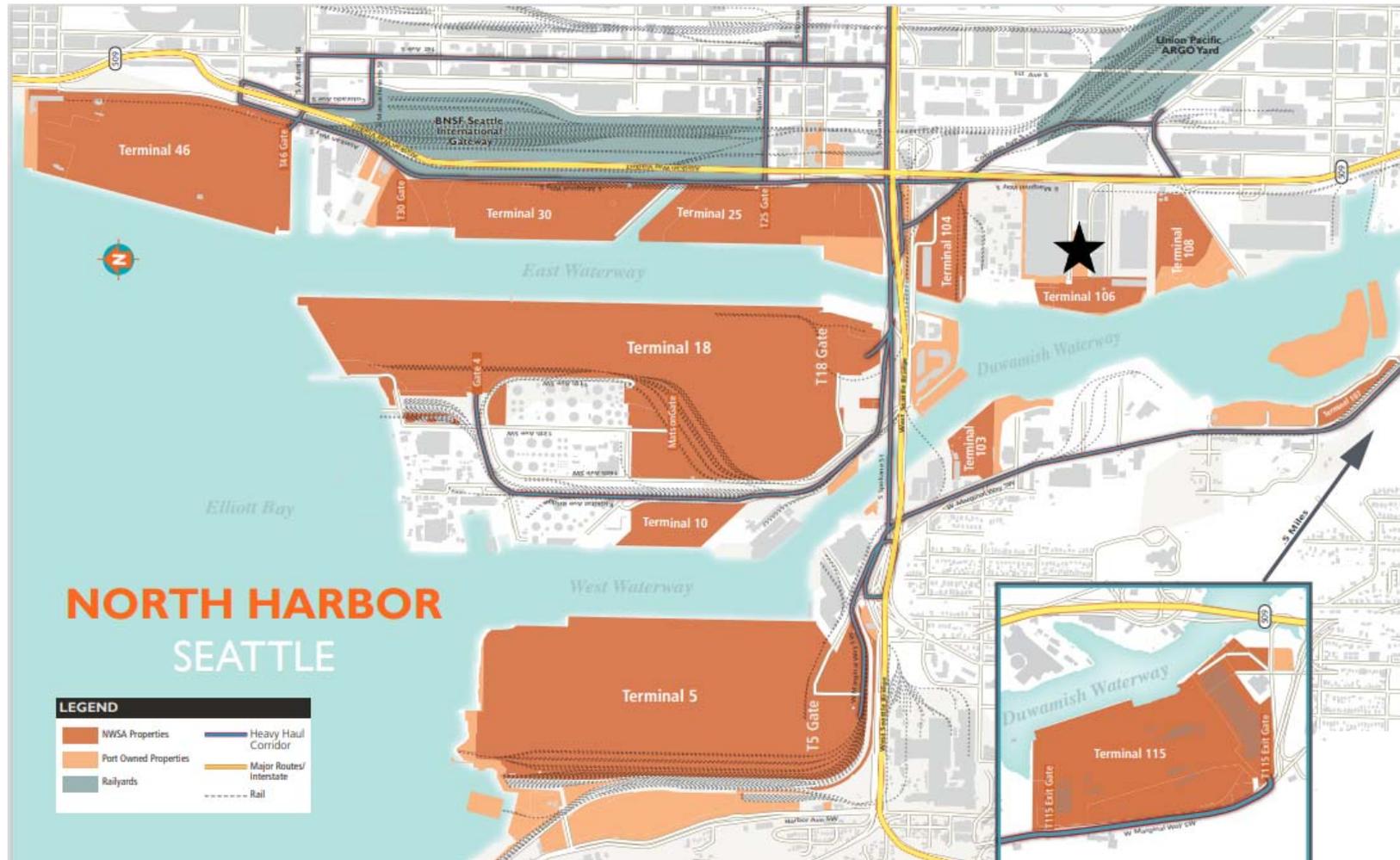
Background

T-106 Interlocal Agreement Authorization & CBP Facility Renovation Project

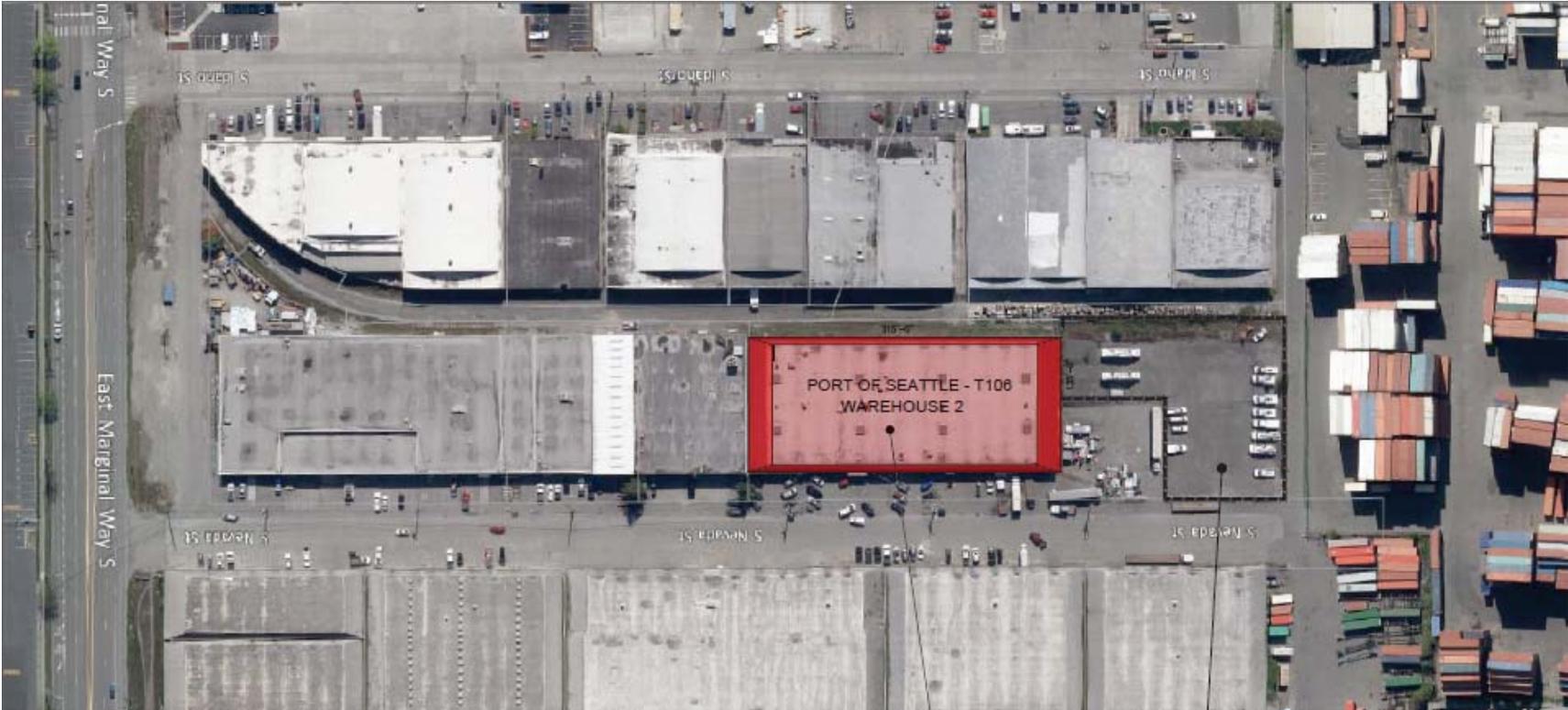
- CBP (non-cruise) currently occupies and operates out of two Port of Seattle facilities: T-106 and T102 and wishes to consolidate its staff to the T-106 premises.
- The T-106 premises improvements are passed their useful life and require substantial upgrades to bring systems, but not limited to, plumbing, fire, etc. to current code compliance.
- Staff reviewed several options to meet CBP's workspace requirements and determined the consolidation of the CBP facilities to T-106 and renovation of the facility is the most cost-effective option.



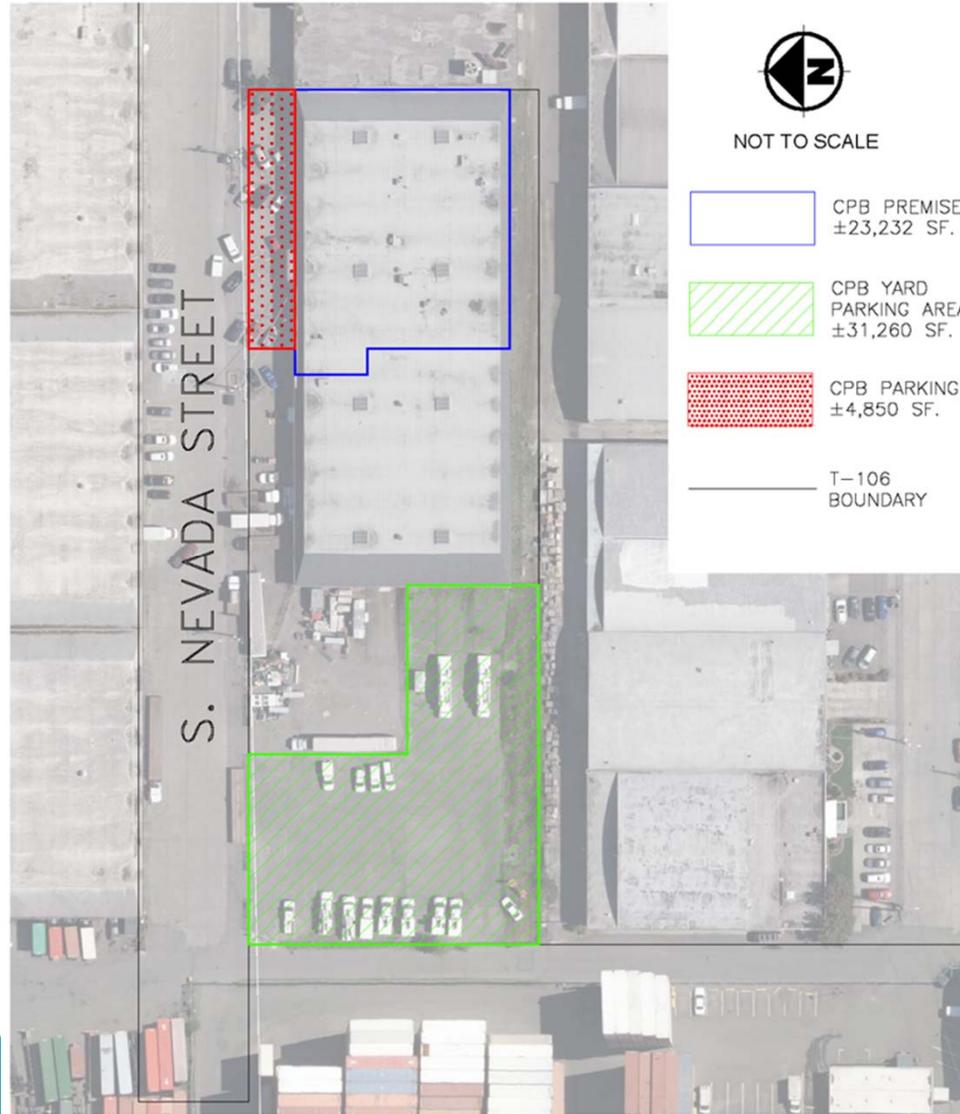
T-106 Location



T-106-2W Building



T-106 Site Plan



Background

1. Interlocal Agreement

- T-106 CBP premises is owned and managed by the POS and is an unlicensed property for the NWSA.
- As the primary beneficiary of CBP services, the NWSA is responsible to provide adequate office and workspace for CBP with POS contributing its portion.
- Thus, the POS and the NWSA agree to transfer use and management of the CBP premises to the NWSA and worked in partnership to address:
 - Compensation related to the CBP Renovation Project, use and management of the Premises, and roof renovation project; and
 - Responsibilities of POS; and
 - Responsibilities of NWSA

Background

Interlocal Agreement

- NWSA and POS agreed to a cost allocation method based upon CBP's anticipated distribution of employees servicing the NWSA and POS, respectively and have further agreed to equally share costs attributed to others' use of the CBP Premises.
- Cost Allocations: NWSA 87% and POS 13% with these allocations will be applied to:
 - Total Renovation Project costs
 - Ongoing operational costs
- The roof to the 2W building at T-106 is at or near the end of its useful life and NWSA and POS will assess and plan for roof renovation.
 - Currently estimated to be approximately \$2.5M
 - Pro-rata basis cost share of NWSA 55% and POS 45%



Key Terms

Interlocal Agreement

Term	Description
Premises:	<ul style="list-style-type: none"> • 23,232 square feet combined office and warehouse space • 31,260 square feet of yard space • 4,850 square feet of parking area
Term:	<ul style="list-style-type: none"> • Ten (10) years, plus the construction period commencing upon substantial completion of the Renovation Project. • Should the Free Space Agreement be terminated, the ILA terminates.
Compensation:	<ul style="list-style-type: none"> • In lieu of Rent the Parties agree to: <ul style="list-style-type: none"> ○ Cost Allocations of 87% NWSA and 13% POS of the total Renovation Project costs and all ongoing operating expenses related to the Premises. ○ Each Parties' Pro-rata share the roof renovation costs.

Key Terms

Interlocal Agreement

Term	Description
Roof Renovation:	<ul style="list-style-type: none"> • During the term of the ILA, the roof of the 2W building will require renovation and perform an assessment of the roof in order to establish a plan and timeline. • Renovation shall occur no later than 5-years following the ILA commencement date unless the Free Space Agreement is extended to justify NWSA's investment in the roof. • POS shall perform the work and pay for the roof renovation. • NWSA to reimburse POS its pro-rata share (55%) of the renovation costs upon substantial completion of the work. • If ILA terminates prior to the end of the useful life of the roof, POS to reimburse NWSA its unamortized portion.
Maintenance & Repair:	<ul style="list-style-type: none"> • NWSA responsible for all maintenance and repair to the Premises with each Party paying their cost allocation.

Key Terms

Interlocal Agreement

Term	Description
Insurance	<ul style="list-style-type: none"> • POS will continue to provide property insurance coverage with NWSA listed as designated user. • NWSA to obtain general liability insurance coverage in an amount not less than \$2,000,000 per occurrence and name POS as an additional insured. • CBP is not required to provide insurance.
Free Space Agreement	<ul style="list-style-type: none"> • NWSA shall enter into a Free Space Agreement with CBP for their sole use of the Premises free of charge including NWSA being responsible for all ongoing operating expenses including, but not limited to, utilities, data services, and repair and maintenance.
Stormwater:	<ul style="list-style-type: none"> • POS shall be responsible for the cost to repair, maintain, and/or replace the stormwater system unless damage is due to negligence of NWSA or CBP.

Free Space Agreement Summary

- NWSA to enter into Free Space Agreement with CBP to be drafted by CBP following completion of project design phase.
- Expected to closely mirror South Harbor agreement, with following primary terms:
 - **Term:** Initial one (1) year term with nine (9) successive automatic renewals of one year each for a total anticipated term of ten (10) years.
 - **Premises:** 23,232 square feet combined office and warehouse space, 31,260 square feet of yard space, and 4,850 square feet of parking area.
 - **Rent:** Premises will be provided rent free to CBP.
 - **Operating Expenses:** CBP to bear no cost for utilities, data services, repair and maintenance, and/or potentially any other amounts typically associated with a Lessee's responsibility.

Financial Summary

Interlocal Agreement

- Cost allocations of building improvements estimated to be:
 - NWSA: \$5,569,740 (87%)
 - POS: \$832,260 (13%)
- Cost allocations of ongoing operating costs for 10-year term estimated to be:
 - NWSA: \$652,932 (87%)
 - POS: \$97,565 (13%)
- Cost allocation of roof replacement in 2021 dollars is estimated to be:
 - NWSA: \$1,375,000 (55%)
 - POS: \$1,125,000 (45%)

Background

2. CBP Office and Facility Renovation Project

- Tenant Improvement Feasibility Study completed 10/30/20
 - Provides options utilizing building's shell that meet CBP's requirements
 - Will office 85 staff with majority dedicated to international cargo operations at T-18, 30, and 5 (once reopened)
 - CBP involved with feasibility development and supports the conceptual design
- Following Feasibility Study, staff conducted two rounds of acquisition planning to determine most suitable project delivery method
- Design-Build delivery selected over traditional Design-Bid-Build process

Background

CBP Office and Facility Renovation Project



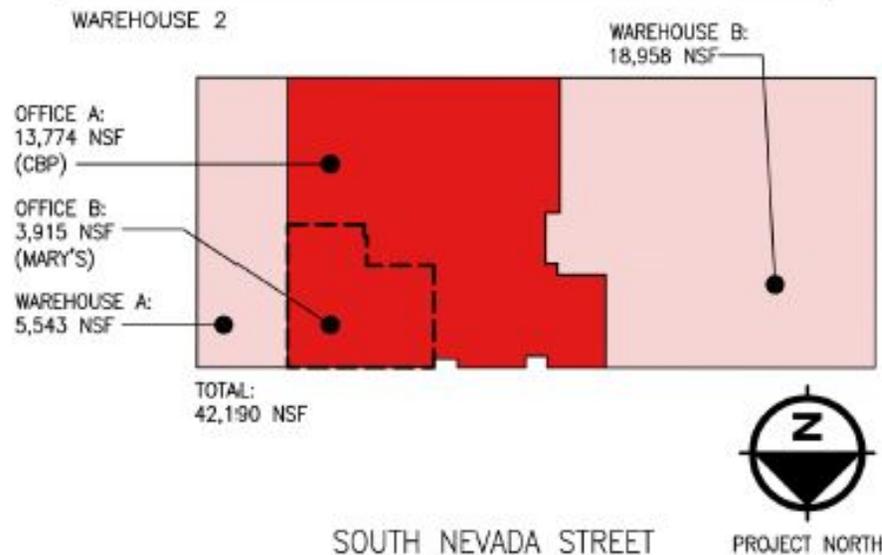
- Built in 1952 as un-conditioned warehouse space
- Office area added later functioning as building-within-a-building
- Some original fixtures and systems remain; some updates in 1980
- Key project objective: Utilize existing internal walls and infrastructure to greatest extent possible
- Modifications required to meet current code standards and accommodate greater staff number

Background

CBP Office and Facility Renovation Project

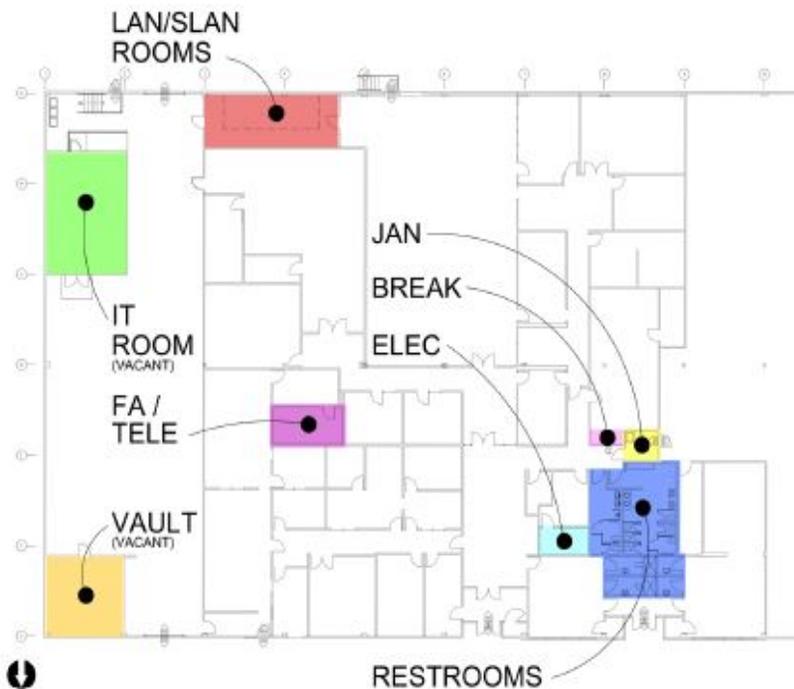
- Project will expand CBP space to include additional 3,915 SF of office for a total Premises of: 23,232 SF of the 2W building, 31,260 SF of yard space, and 4,850 SF of parking area

S.F. DIAGRAM:



Background

CBP Office and Facility Renovation Project



- Updates to:
 - Mechanical & plumbing systems
 - Fire protection & alarm systems
 - Electrical & lighting
 - Telecommunications
 - Intrusion detection, video surveillance systems, & access control systems
 - Building exterior perimeter improvements
 - Assessment of IT & furniture needs
- Existing infrastructure retained where possible

Background

CBP Office and Facility Renovation Project

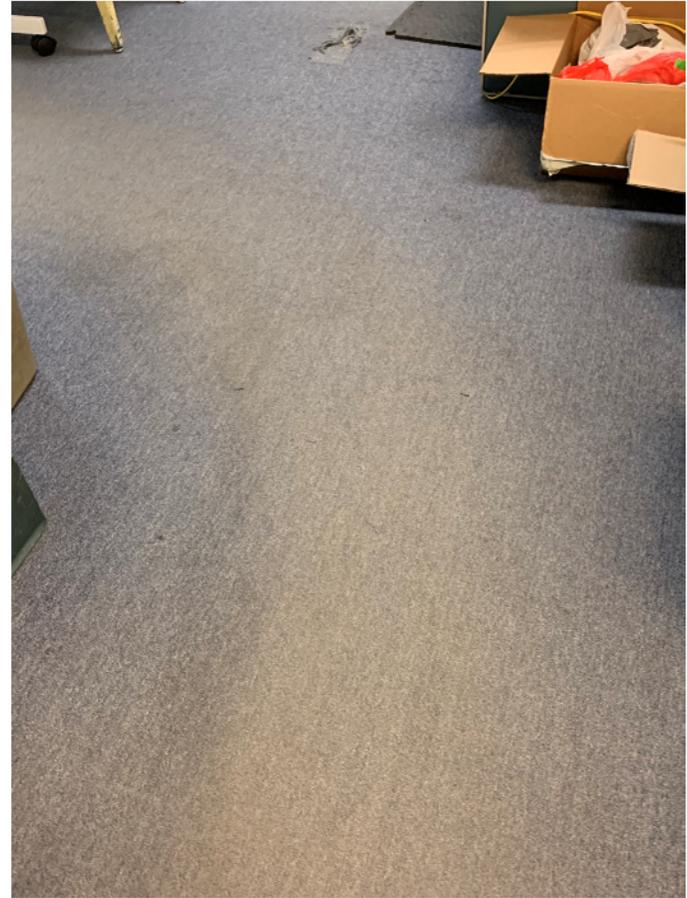
- **Scope of Work for this Request**
 - Prepare and issue Request for Qualifications and Proposal for Design-Build Team, Select Design-Build team and execute contracts
 - Complete design development and reviews
 - Complete environmental documentation and required permitting
 - Complete construction and final implementation
 - Estimated completion in August 2023



CBP Office Today



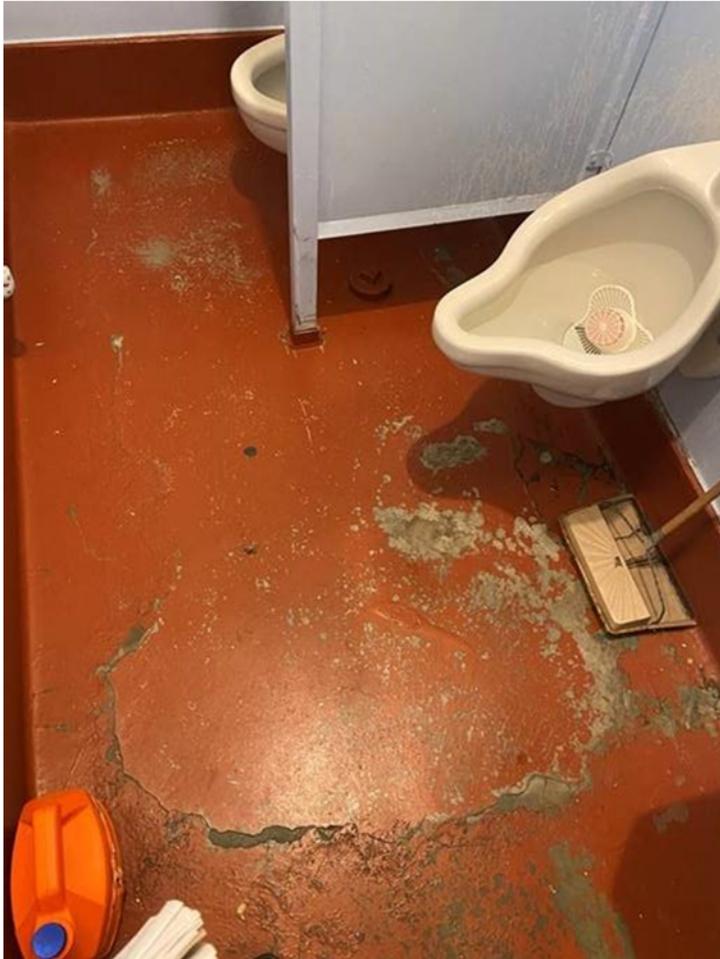
CBP Office Today



CBP Office Today



CBP Office Today



Project Delivery

CBP Office and Facility Renovation Project

- **Project delivery options explored through two acquisition planning meetings:**
 - Design-Bid-Build (Traditional Project Delivery)
 - Design-Build
 - General Contractor/Construction Manager
 - Job Order Contracting
- **Focused on traditional Design-Bid-Build and Design-Build Options; Design-Build selected for implementation**



Why Design-Build

CBP Office and Facility Renovation Project

- Efficiency: One major procurement package for design-construct team
- Project's current design level is approximately 10%
 - Ideal time to leverage early engagement of the Design-Build team to optimize design/construction & save costs
- Allows contractor to work with designer and stakeholders to optimize design and construction
 - Saves costs and allows opportunity to overlap design and construction to fast-track project



Project Schedule

CBP Office and Facility Renovation Project

Activity	Timeframe
NWSA Managing Members Project Funding Approval	August 2021
Design Build RFQ/P Preparation, Advertisement, Evaluation, Section and Award	Q3 2021 – Q1 2022
DB Team Design, Permitting & Construction	Q1 2022 – Q3 2023
Estimated Project Completion	August 2023

Source of Funds

CBP Office and Facility Renovation Project

- This funding request: **\$6,300,500**
- The current CIP budget allocates \$6,402,000 for this project.
- Master Identification No. 2021-29 NH (T-106 CBP Office and Facility Renovation) allocates \$6,300,000
 - Capitalized & depreciated over 10 years beginning 2023
 - NWSA annual depreciation expense: \$548,100 (87%)
 - POS annual depreciation expense: \$81,900 (13%)
- Master Identification No. U00520 (T-106 CBP TI Evaluation) allocates \$101,500; Expensed as incurred



Financial Summary

CBP Office and Facility Renovation Project

Item	Budget Estimate	Cost to Date	Remaining Cost
PROCUREMENT	\$300,000	\$0	\$300,000
PRE-DESIGN	\$101,500	\$101,500	\$0
DESIGN AND CONSTRUCTION	\$4,032,500	\$0	\$4,032,500
CONSTRUCTION SOFT COSTS	\$978,000		\$978,000
CONTINGENCY	\$990,000	\$0	\$990,000
PROJECT TOTAL	\$6,402,000	\$101,500	\$6,300,500



Alternatives Considered

Interlocal Agreement

- **No Action Alternative:** The NWSA would not have the authority to manage CBP use of the T-106 facility and thus would not be able to move forward with this project.
- **Recommended Action:** Request Managing Members of The Northwest Seaport Alliance authorization for the Chief Executive Officer or their delegate to enter into an Interlocal Agreement with the Port of Seattle to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.

Additionally, request the Commissioners of the Port of Seattle authorization for the Executive Director or their delegate to enter into an Interlocal Agreement with The Northwest Seaport Alliance to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.

Alternatives Considered

CBP Facility Renovation Project

- **No Action Alternative:** CBP will continue operating under two separate Port of Seattle leases at two different locations in offices determined by CBP to be below their operational standards. Not a viable alternative as RPMs at T-5 are necessary for international container operations to occur.
- **Alternative 2) Lease from 3rd Party:** Enter lease for space owned by third party and sublease to CBP.
 - This option would still require tenant improvements estimated at \$2.3 million
 - Due to high rental rates in close-in Seattle area, this option is not considered to provide cost savings over the course of a ten-year lease.
 - Net Present Cost for 20-year term is estimated at \$9.2M

Alternatives Considered

CBP Facility Renovation Project

- **Alternative 3) Construction of new building:** Estimated cost \$38M
 - Estimated 2-year delivery
 - Net Present Cost for 20-year term is estimated at \$29.2M
- **Recommended Action - Office Renovation:** Request Managing Member authorization to: (1) approve project authorization in the amount \$6,300,500 for a total authorized amount of \$6,402,000 to complete all work associated with the T-106 CBP Office and Facility Renovation Project, Master Identification No. 2021-29 NH and the T-106 CBP TI Evaluation project, Master Identification No. U00520; and (2) develop, advertise, and execute an alternative public works delivery contract using the Design-Build project delivery method.
 - Cost is approximately \$6.402 million; Estimated delivery August 2023
 - Invests in a Port of Seattle-owned asset
 - CBP has approved the location and conceptual design
 - Net Present Cost for 20-year term is estimated at \$8.7M

Environmental Impacts/Review

CBP Office and Facility Renovation Project

Permitting: Necessary permits will be coordinated with Design-Build Team.

Sustainability: Sustainable requirements will be incorporated in the Design-Build RFQ/P documents.



Action Requested

Interlocal Agreement

(1) Interlocal Agreement (**DUAL ACTION**):

- Request Managing Members of The Northwest Seaport Alliance authorization for the Chief Executive Officer or their delegate to enter into an Interlocal Agreement with the Port of Seattle to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.
- Jointly, request the Commissioners of the Port of Seattle authorization for the Executive Director or their delegate to enter into an Interlocal Agreement with The Northwest Seaport Alliance to transfer use and management of the U.S. Customs and Border Protection premises located at T-106 to The Northwest Seaport Alliance.

Action Requested

CBP Office and Facility Renovation Project

(2) CBP Facility Renovation Funding:

Approve project authorization in the amount \$6,300,500 for a total authorized amount not to exceed \$6,402,000 to complete all work associated with the T-106 CBP Office and Facility Renovation Project, Master Identification No. 2021-29 NH and the T-106 CBP TI Evaluation project, Master Identification No. U00520; and develop, advertise, and execute an alternative public works delivery contract using the Design-Build project delivery method.