

FIRST AMENDMENT TO
GROUND LEASE
Interlocal Agreement

TSD-_____

TACOMA SCHOOL DISTRICT NO. 10

MARITIME 253
South Puget Sound Maritime Skills Center

___/___/2024

**FIRST AMENDMENT TO GROUND LEASE
BY AND BETWEEN**

**PORT OF TACOMA
AND
TACOMA SCHOOL DISTRICT NO. 10**

THIS FIRST AMENDMENT TO GROUND LEASE (“First Amendment” or “Agreement”) is made and entered into this ____ day of _____, 2024, by and between the Port of Tacoma, a public port district organized under the laws of the State of Washington (hereinafter the “Lessor” or “Port”), and Tacoma School District No. 10, a political subdivision of the State of Washington (hereinafter “District” or “Lessee”) (individually, a “Party” and collectively, the “Parties”).

I. RECITALS

A. WHEREAS, the Port, as Lessor, and District, as Lessee, are Parties to a Ground Lease dated May 28, 2024 (the “Ground Lease”) regarding the Premises set forth in Section 1 of the Lease located at 1203 East D Street in Tacoma, Pierce County, Washington, where the Lessee intends to construct a new South Puget Sound Maritime Skills Center (“Maritime 253” or “Skills Center”); and

B. WHEREAS, Lessee and Lessor are each local governmental units authorized under Chapter 39.34 RCW, the Interlocal Cooperation Act, to enter into agreements for joint or cooperative action and under Chapter 39.33 RCW, the Intergovernmental Disposition of Property Act, to enter into leases of real property with each other on such terms as may be mutually agreed upon; and

C. WHEREAS, Section 5.2 of the Ground Lease contemplated that the Parties would enter into a future amendment addressing construction responsibility and payment for certain Capital Site Improvements necessary for the Lessee’s development of the Premises; and

D. WHEREAS, the Parties desire to modify and amend certain terms of the Ground Lease to address the Capital Site Improvements and other provisions.

II. AMENDED AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and benefits herein, the Parties agree to amend the Ground Lease as follows:

1. Section 1 is deleted in its entirety and replaced with the following:

1. Property Leased; Conditions Precedent

1.1 Effective June 7, 2024 (the “Effective Date”) the Lessee hereby leases from the Lessor and the Lessor hereby leases to the Lessee the real property identified in **Exhibit A** for the construction and operation of the Skills Center consisting of an academic

building and attached enclosed outdoor space, together with an additional area not to exceed ten (10) x ten (10) square feet for Lessee's installation of required state-owned public art at a location to be mutually agreed upon by the Parties in conjunction with overall development of the Project (collectively, the "Premises"). In addition, the Lessor will provide Lessee with non-exclusive use of the following planned improvements on adjacent Port property: (1) Maritime Skills Center Parking Area, (2) Future Dock, and (3) Future Beach Access, as generally depicted on the Concept Site Plan at **Exhibit B**. Lessee's use of these additional areas on Port property outside the Premises shall be subject to the terms and conditions of a separate Joint Use Agreement being negotiated by the Parties, which is further described in Section 7 of this Ground Lease.

1.2 Lessee's access to the Premises may be subject to such reasonable restrictions as adopted, in writing, by the Port and the District, which restrictions shall not unreasonably impair either Party's intended use of the Premises.

1.3 The Parties' obligations under this Ground Lease are expressly conditioned upon the following:

(i) Lessee obtaining all necessary approvals for the construction of permanent improvements on the Premises from the City of Tacoma, Pierce County, State of Washington and any other governmental or regulatory authority having jurisdiction; and

(ii) Lessee obtaining adequate federal, state and local funding, in the Lessee's sole discretion, for the construction of the planned improvements on the Premises, and

(iii) Lessor obtaining a crossing right ("Crossing Right") over the portion of the Port property encumbered by an easement reserved for the use and benefit of BNSF (the "Easement Area") pursuant to a Quitclaim Deed dated October 10, 1977, and recorded under Pierce County Recording No. 2771306 (the "BNSF Easement") and the Parties' consent to the terms of a Private Grade Crossing License Agreement or similar instrument associated with the Crossing Right to be negotiated between Lessor and BNSF, in Lessor's sole discretion (the "BNSF License"); and

(iv) the Parties' execution of the Joint Use Agreement referred to herein.

In the event the conditions in 1.3(i)-(iv) are not satisfied by June 1, 2025, either Party may terminate this Ground Lease upon thirty (30) days written notice to the other Party. The June 1, 2025 deadline may be extended or otherwise modified by written agreement of the Parties. In the event of termination of this Ground Lease under this provision, each Party shall bear its own costs associated with the Project incurred through the effective date of termination.

2. Section 5 is deleted in its entirety and replaced with the following:

5. Consideration

5.1 Lessee Cost Share - Capital Site Improvements. In lieu of Lessee paying monthly rent as consideration over the Initial Term of this Ground Lease, the Parties agree that Lessee will share in the Port's cost to construct certain Capital Site Improvements (consisting of utility, parking lots, driveway access, and rail crossing safety improvements) on Port property adjacent to the Premises which are necessary for access to and occupancy of the Skills Center (the "Capital Site Improvements").

5.2 Reimbursement to Port of Lessee Cost Share. Lessee shall reimburse the Port \$5.5 million (Five Million Five Hundred Thousand Dollars) as the Lessee Cost Share for the Capital Site Improvements in full within sixty (60) days of Lessee's receipt of either a temporary or permanent Certificate of Occupancy from the City of Tacoma for the Skills Center building on the **Premises**.

5.3 As referenced in section 7 of the Ground Lease, a separate Joint Use Agreement will include among other items, details for maintenance of the shared amenities. Both parties acknowledge the Port is the owner of these amenities and is primarily responsible for their maintenance.

3. A new Section 5A is added as follows:

5A. Site Improvements. The Port shall construct or cause to have constructed the following Site Improvements necessary to serve the Premises:

(i) **Utilities.** Electricity, water, storm sewer and sanitary sewer to the Premises boundary.

(ii) **Parking Lots/Driveways.** Parking lots and driveway accesses required to serve the Skills Center pursuant to applicable City of Tacoma codes and development standards.

(iii) **BNSF Rail Crossing.** All safety improvements associated with the Crossing Right required by the final BNSF License or any Temporary Agreement for Private Crossing preceding the final BNSF License.

The Port shall complete all Site Improvements required for the Lessee to obtain a temporary Certificate of Occupancy from the City of Tacoma for the Skills Center by no later than May 1, 2026.

4. Section 6.1 is amended as follows:

6.1 Compliance with Crossing Right and/or BNSF License. In addition to the foregoing approval, Lessee acknowledges and agrees that Lessee, at Lessee's sole cost and expense, will be required to conform the plans and specifications for the Skills Center to comply with the terms and conditions of the Crossing Right granted to Lessor pursuant to the BNSF License, together with any Temporary Agreement for Private Crossing and/or Construction and Maintenance Agreement preceding execution of the final BNSF License. In no event shall the Skills Center be designed, developed or constructed in a manner that would violate the rights and obligations of Lessor in connection with the

Crossing Right or under the final BNSF License or any Construction and Maintenance Agreement or Temporary Agreement for Private Crossing.

5. **Savings Clause.** Except to the extent expressly modified by the provisions of this First Amendment, the provisions of the Ground Lease shall remain unchanged and in full force and effect and are hereby affirmed and ratified by Lessor and Lessee.

6. **Filing.** By its signature below, each Party confirms it approves of and is authorized to enter into this Agreement pursuant to RCW 39.34.080. A copy of this Agreement shall be filed with the Pierce County Auditor pursuant to chapter 39.34 RCW. Alternatively, a copy of this Agreement may be listed by subject on the District and Port's website or other electronically retrievable public source.

7. **Revised Exhibit List**

Exhibit D – stricken

8. All Exhibits and Recitals are incorporated into this Ground Lease as if set forth in full in this Ground Lease.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment on the date first written above.

**LESSOR:
PORT OF TACOMA**

By: _____
Eric Johnson
Its: Executive Director

**LESSEE:
TACOMA SCHOOL DISTRICT NO. 10**



By: _____
Johsua J. Garcia
Its: Superintendent



EXHIBIT A

LEASED PREMISES
1208 E D ST
TACOMA, WA 98421
PORT PARCEL: #94

SHEET: 1 OF 1
PURPOSE: LEASE
DATE: 4/17/2024
AUTHOR: Brian Archer

-  Future Port Admin Building
-  Maritime Skills Center Building
-  Leased Premises
= +/- 30,830 SF



0 70 140 280 Feet

DISCLAIMER: The information included on this map has been compiled by Port of Tacoma staff from a variety of sources and is subject to change without notice. These data are intended for informational purposes and should not be considered authoritative for engineering, navigational, legal and other site-specific uses. The Port of Tacoma makes no representations or warranties, express or implied, as to accuracy, completeness, timeliness, or rights to the use of such information.



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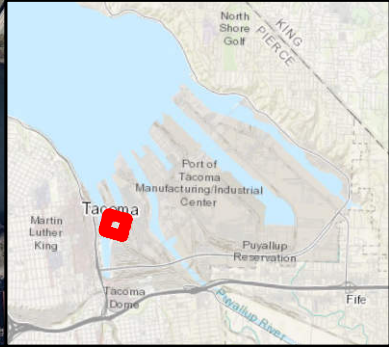


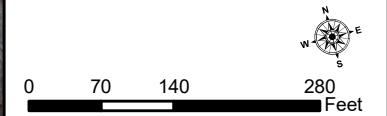


EXHIBIT B

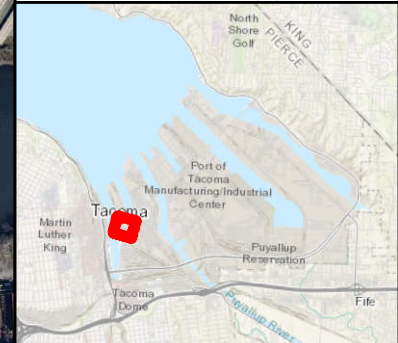
CONCEPT SITE PLAN
 1208 E D ST
 TACOMA, WA 98421
 PORT PARCEL: #94

SHEET: 1 OF 1
PURPOSE: INFORMATION
DATE: 4/17/2024
AUTHOR: Brian Archer

- Port Admin Building
- Maritime Skills Center Building
- Maritime Skills Center Premise
- Port Exclusive Parking
- Joint Use Area
- Future Dock Area



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Term Sheet between the Port of Tacoma and Tacoma School District No. 10 for a Ground Lease Interlocal Agreement for a Maritime Skills Center (Maritime 253)

- Lessee:** Tacoma School District No. 10, a political subdivision of the State of Washington
- Lessor:** Port of Tacoma, a public port district organized under the laws of the State of Washington
- Project Name:** South Puget Sound Maritime Skills Center (Maritime 253)
- Premises Address:** Port Parcel #94. Currently addressed at 1203 East D Street, Tacoma, Washington
- Premises:** Approximately 30,830 square feet of land will be leased for the construction and operation of the Skills Center, consisting of an academic building and attached enclosed outdoor space, with an additional area not to exceed ten (10) x ten (10) square feet for Lessee's installation of required state-owned public art at a location to be mutually agreed upon by the Parties. In addition to the Premises, the Port will provide the Lessee non-exclusive use of the following planned improvements on adjacent Port property: (1) Maritime Skills Center parking areas; (2) future dock and (3) future beach access. Condition of use, shared amenities and maintenance responsibilities for the non-exclusive areas will be covered in a future Joint Use Agreement, which will be a supplemental exhibit to the lease.
- Use of Premises:** For the construction and operation of the Maritime 253 academic building (serving academic, administrative and district purposes).
- Conditions Precedent:** The Parties obligations under the lease are conditioned upon (1) Lessee obtaining all necessary permits and approvals for the construction of permanent improvements on the premises; (2) Lessee obtaining adequate federal, state and local funding; (3) Lessor obtaining a Crossing Right, over and across the BNSF easement on Port property

and the Parties' consent to the terms of a Private Grade Crossing License Agreement, or similar instrument between Lessor and BNSF.

These conditions must be satisfied by June 1, 2025, or either Party may terminate the Ground Lease upon thirty (30) days written notice to the other Party. If the Lease is terminated under this provision, each Party will bear its own costs associated with the Project incurred through the date of termination. The June 1, 2025, deadline may be extended or otherwise modified by written agreement of the Parties.

Consideration:

In lieu of Lessee paying monthly rent as consideration over the initial term of this Ground Lease, the Parties agree that Lessee will share in the Port's cost to construct certain capital site improvements (consisting of utility, parking lots, driveway access, and rail crossing safety improvements) on Port property adjacent to the Premises which are necessary for access to and occupancy of the Skills Center. Lessee shall reimburse the Port \$5.5mil (Five Million five hundred Thousand Dollars) as the Lessee cost share for the capital site improvements in full within sixty (60) days of Lessee's receipt of either a temporary or permanent Certificate of Occupancy permit from the City of Tacoma.

Term:

Initial term of fifty (50) years plus one thirty (30) year extension option; consideration for Extension Term to be determined at time option is exercised, and may, but is not required to be in the form of a one-time payment towards capital improvements or payment of fair market monthly rent determined by appraisal. If fair market rent is chosen, escalation is via CPI.

Security Deposit: None required.

Insurance Requirements:

- Public liability insurance with a minimum coverage of \$2M, payable to any one person for personal injury or death arising out of any one event, \$2M for all such personal injuries or death resulting out of one occurrence arising from use of the Premises. The Lessee and the Port agree to re-evaluate coverage amounts once every year to update both the coverage amounts and types of coverage required to then existing commercially reasonable coverage limits.
- Fire and extended coverage insurance covering all structures, and all improvements made by the Lessee to the Premises and all personal

property of the Lessee within the Premises in the amount of the full replacement value thereof.

- All insurance required under this Ground Lease shall include public liability and property damage coverage for any construction activities conducted by the Lessee on the Premises.
- All insurance required of the Lessee may be provided through private insurers authorized to transact business in the State of Washington and with a company acceptable to the Port, or in the alternative through a State authorized risk pool.

Utilities: Lessee is responsible to pay utilities for their 30,830 square foot building.

Maintenance: Lessor will be responsible for all maintenance pertaining to all parking areas, landscaping around all buildings and shoreline access. Allocation of maintenance costs will be determined within the Joint Use Agreement. The Lessee will be responsible for maintenance of their own building.

Environmental Requirements: The lease is subject to environmental requirements associated with prior and ongoing remediation associated with the Premises incorporated within the terms of the lease. The Port assumes all obligations/responsibility associated with pre-existing contamination.