

**CITY OF SEATTLE**  
**ORDINANCE** 126423  
COUNCIL BILL 120165

AN ORDINANCE relating to the Department of Finance and Administrative Services; authorizing the Director of the Department of Finance and Administrative Services or the Director’s designee to negotiate and execute a real property lease with the Port of Seattle for vacant land known as the Tsubota Property; and ratifying and confirming certain prior acts.

WHEREAS, The City of Seattle (“City”) has been leasing vacant land from the Port of Seattle (POS) on the site known as the Tsubota Property located in the Interbay Neighborhood for the operation of a Tiny House Village (THV), including the placement of 46 tiny house structures (“tiny homes”) and additional common areas to provide temporary residential housing for up to 80 residents and their pets, where applicable; and

WHEREAS, the Human Services Department (HSD) currently provides operational support of the THV site through a service provider contract with the Low Income Housing Institute (LIHI) and other contracts for services with various human services vendors; and

WHEREAS, the current lease agreement commencing September 29, 2017, for a property site of 17,994 square feet, together with four amendments, between the City and the POS will expire on November 16, 2021; and

WHEREAS, the City and the POS have agreed to a new lease, which will replace and supersede the original lease, for the existing site plus additional area for THV expansion of 17,872 square feet for tiny house structures and 8,444 square feet of common/parking area for a total new leased area of approximately 44,310 square feet for up to 100 residents and their pets where applicable, and for a term of three additional years with an option of a one-year extension; and

1 WHEREAS, the POS is offering the land lease at a nominal cost of \$10 per year; and  
2 WHEREAS, the authority of the Director of the Department of Finance and Administrative  
3 Services (FAS) under Seattle Municipal Code Section 3.127.020 is limited to negotiating  
4 and executing leases, for and on behalf of the City, that do not exceed five years and that  
5 do not encompass more than 18,000 square feet of yard space; NOW, THEREFORE,

6 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

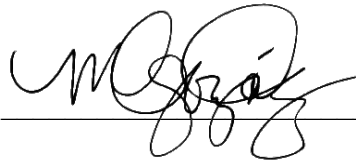
7 Section 1. The Director of the Department of Finance and Administrative Services  
8 (“Director”) or the Director’s designee is authorized to negotiate and execute, for and on behalf  
9 of The City of Seattle (“City”), a new lease with the Port of Seattle, substantially in the form of  
10 Attachment 1 to this ordinance and identified as “FAS POS Lease Agreement,” providing for the  
11 City’s interim and temporary use and occupancy of the Port’s real property known as the  
12 Tsubota Property in Seattle.

13 Section 2. The lease payments contemplated by the terms of any lease agreement or  
14 amendment authorized in Section 1 of this ordinance shall be charged to the appropriate  
15 expenditure allowance in the budget of the Department of Finance and Administrative Services  
16 (FAS) and shall be reimbursed to FAS by the Human Services Department.

17 Section 3. Any act consistent with the authority of this ordinance taken after its passage  
18 and prior to its effective date is ratified and confirmed.

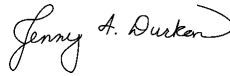
1 Section 4. This ordinance shall take effect and be in force 30 days after its approval by  
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it  
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 13th day of September, 2021,  
5 and signed by me in open session in authentication of its passage this 13th day of  
6 September, 2021.

7 

8 President \_\_\_\_\_ of the City Council

9  Approved /  returned unsigned  vetoed this 13th day of September, 2021.

10 

11 Jenny A. Durkan, Mayor

12 Filed by me this 13th day of September, 2021.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)

16 Attachments:  
17 Attachment 1 – FAS POS Lease Agreement

# LEASE AGREEMENT

Between

PORT OF SEATTLE

And

CITY OF SEATTLE

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# LEASE AGREEMENT

THIS LEASE AGREEMENT (the “Lease”) is made in furtherance of RCW 39.34.010 as of this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by and between the PORT OF SEATTLE, a Washington municipal corporation (the “Port”), and CITY OF SEATTLE, a Washington municipal corporation (the “City”).

For and in consideration of the mutual promises, covenants and conditions hereinafter set forth, the parties agree as follows:

## SECTION 1: LEASED PREMISES

1.1. Premises. The Port hereby leases to the City, and the City hereby leases from the Port, the following described premises (the “Premises”) located at the Port property commonly known as Tsubota Site, a legal description of which is attached hereto as Exhibit A:

Approximately 44,310 square feet of vacant land, all as shown on the attached Exhibit B.

Subject to the rights reserved to the Port in this Lease, the Port and the City agree that the Premises are, and shall be deemed for all purposes to be, 44,310 square feet as set forth above.

1.2. Acceptance of the Premises. The City has examined the Premises and accepts them in their present condition.

1.3. Quiet Enjoyment. So long as the City is not in default under this Lease and subject to the specific provisions, covenants and agreements contained in this Lease, the Port covenants and agrees that the quiet and peaceful possession and enjoyment of the Premises by the City shall not be disturbed or interfered with, by the Port or by any other party claiming rights by or through the Port.

1.4. No Landlord-Tenant Relationship. The City acknowledges and agrees that this Lease does create a landlord-tenant subject to Chapter 59.18 RCW and that the Port is not the owner, lessor, or sublessor of any of the tiny houses or tents placed on the Premises by the City, and the Port is not the representative of the owner, lessor, or sublessor of the tiny houses placed on the Premises by the City.

## SECTION 2: TERM

2.1. Lease Term. This Lease shall be for a term of three (3) years, commencing \_\_\_\_\_, 2021, (the “Commencement Date”) and ending \_\_\_\_\_, 2024. Both parties shall have the right to terminate the Lease at any time upon providing not less than thirty (30) days prior written notice to the other party. Upon its full execution, this lease terminates and supersedes Lease No. 003059 dated September 29, 2017 between the Port and the City.

2.2. Option to Extend. Subject to the Port’s sole consent and if the City is in compliance with the terms and conditions of this Lease, the City may request an extension of the Lease term for one (1) additional one (1) year term. In the event the City wishes to extend the Lease term, the City shall provide the Port with written notice of the City’s extension request no more than ninety (90) days and no less than sixty (60) days prior to the expiration of the Lease term. No later than thirty (30) days after receipt of the City’s notice, the Port, in its sole discretion, will provide the City with written confirmation of the Port’s consent to or denial of the extension. The Port’s failure to provide the City with such written notice within the stated thirty (30) day period shall constitute the Port’s refusal to consent to the extension.

2.3. Possession. If the Port shall be unable for any reason to deliver possession of the Premises, or any portion thereof, at the time of the commencement of the term of this Lease, the Port shall not be liable for any damage caused thereby to the City, nor shall this Lease thereby become void or voidable, nor shall the term specified herein be in any way extended. If the Port shall be unable to deliver possession of the Premises at the commencement of the term of this Lease, the City shall have the option to terminate this Lease by at least thirty (30) days’ written notice, unless the Port shall deliver possession of the Premises prior to the effective date of termination specified in such notice. If the City, with the Port’s consent, takes possession of all

or any part of the Premises prior to the commencement of the term of this Lease, all of the terms and conditions of this Lease shall immediately become applicable.

### SECTION 3: RENT

3.1. Rent. The City agrees to pay as rent (“Rent”) for the Premises the sum of TEN DOLLARS (\$10.00) per year, plus applicable taxes, if any.

The Rent shall be paid to the Port in advance on or before the Rent Commencement Date, without any prior demand.

### SECTION 4: USE OF PREMISES

4.1. Use of Premises. The City shall use the Premises for the operation of Interbay Village (“the Village”) including the placement of a total of up to 76 tiny structure houses (“tiny houses”) and supporting hygiene facilities such as portable toilets, showers and kitchens to provide temporary emergency housing to a total of up to approximately 100 residents and their pets, where applicable, and shall not use the Premises for any other purpose without the written consent of the Port.

#### 4.2. General Standards Regarding Use.

4.2.1. The City shall occupy and use the entire Premises for the purpose set forth in Section 4.1 during the entire term of this Lease.

4.2.2. The City shall not use or occupy 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 Lease; or (iii) constitute a public or private nuisance. For purposes of this Lease, 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 Lease.

4.2.3. Parking of vehicles is not permitted on the portion of the Premises where tiny houses are placed. Notwithstanding the foregoing, the City may designate and use a portion of the Premises along 15<sup>th</sup> Avenue W. as a loading drop-off zone (“Common Area”) for delivery of donations and placement of propane tanks (if allowed per Seattle Fire Department’s relevant codes) and trash pick-up.

4.2.4. Trash dumpsters serving the Premises shall be placed by the tenant in the Common Area accessible via 15<sup>th</sup> Avenue W.

4.2.5. Portable toilets are permitted on the Premises. The City may build and install hygiene / shower facilities as needed on the Premises, as generally depicted on the attached Site Plan.

4.2.6. The Premises shall be cleared of weeds and a layer of gravel spread across the Premises prior to placement and residential occupancy of the tiny houses and other related temporary structures serving and supporting the residents. No digging, grading or modification into the soil on the Premises is permitted unless approved by the Port with Port’s prior written consent.

4.2.7. Repositioning and reconfiguring fences per Port pre-approved site plan on the Premises is permitted.

4.2.8. The following activities are not permitted in or about the Common Area located immediately adjacent and to the east of the Premises and bordered by 15th Avenue West and W. Garfield Street, depicted on attached Exhibit B: overnight parking by non site operating

Personnel and equipment storage. The Common Area may not be used for sleeping, tenting, or camping, whether in a tent or in a vehicle.

4.3. Continuing Compliance. Throughout the term of this Lease, the City shall, at its own cost and expense, promptly and diligently observe and comply with: (i) all Legal Requirements; and (ii) all permits, licenses, franchises and other authorizations required for the City's use of the Premises or any part thereof.

4.4. No Liens. The City will not directly or indirectly create or permit to be created and/or to remain, a Lien upon the Premises. In the event any such Lien(s) have been created by or permitted by the City in violation of this provision, the City shall immediately discharge as of record, by bond or as otherwise allowed by law, any such Lien(s). The City shall also defend (with counsel approved by the Port, if outside counsel used, such approval not to be unreasonably withheld), fully indemnify, and hold entirely free and harmless the Port from any action, suit or proceeding brought on or for the enforcement of such Lien(s). As used in this Section, "Lien" shall mean and refer to any mortgage, lien, security interest, encumbrance, charge on, pledge of, conditional sale or other encumbrance on the Premises.

4.5. Signs. No signs, symbols, canopies or other advertising matter shall be attached to or painted on or within the Premises.

4.6. The Port has an agreement with the Lamar Company LLC ("Lamar") for the two (2) advertising structures and boards located on the Premises. The City shall ensure that Lamar employees, agents, and contractors are provided access to the Premises to change and/or maintain the advertising structures and boards.

#### SECTION 5: UTILITIES

5.1. Utilities. The City will provide all needed utilities to the Premises, including electricity, water, sewerage and drainage (which includes removal and disposal of sewerage, stormwater and surface water), recycling, garbage disposal, specifically including reasonable costs and charges associated with the management of such utility services. The Port shall have no responsibility and janitorial services, specifically including reasonable costs and charges associated with the management of such utility services. The Port shall have no responsibility whatsoever for utilities furnished to the Premises. The City shall be liable for and shall pay to each applicable provider throughout the term of this Lease, all charges for all utility services furnished or attributable to the Premises, including but not limited to, stormwater charges and fees.

#### SECTION 6: IMPROVEMENTS

6.1. No Improvements. The City shall make no improvements to the Premises other than as described herein.

#### SECTION 7: MAINTENANCE

7.1. Maintenance and Repair by the City.

7.1.1. The City shall keep the Premises 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. The City shall also specifically remove all snow and ice from the walkways and sidewalks in front of the Premises.

7.1.2. The City shall keep the stormwater and surface water drainage systems free of any substances that could contaminate stormwater.

7.2. No Maintenance and Repair by Port. The Port shall have no maintenance or repair responsibility for the Premises whatsoever.

#### SECTION 8: TAXES

8.1. Payment of Taxes. The City shall be liable for, and shall pay throughout the term of this Lease, all license fees and all taxes payable for, or on account of, the activities conducted



on the Premises and all taxes on the property of the City on the Premises and any taxes on the Premises, if any. All tax amounts for which the Port is or will be entitled to reimbursement from the City shall be payable by the City to the Port at least fifteen (15) days prior to the due dates of the respective tax amounts involved; provided, that the City shall be entitled to a minimum of ten (10) days' written notice of the amounts payable by it.

8.2. Personal Property Taxes. The City shall pay or cause to be paid, prior to delinquency, any and all taxes and assessments levied upon all personal property placed or installed in and upon the Premises by the City. If any such taxes on the City's personal property are levied against the Port or the Port's property, and if the Port pays the taxes based upon such increased assessment, the City shall, upon demand, repay to the Port the taxes so levied.

## SECTION 9: INSURANCE AND INDEMNITY

### 9.1. Indemnity.

9.1.1. The Port, its officers, employees and agents shall not be liable for any injury (including death) to any persons or for damage to any property regardless of how such injury or damage be caused, sustained or alleged to have been sustained by the City or by others, including but not limited to all persons directly or indirectly employed by the City, or any agents, contractors, subcontractors, licensees or invitees of the City, as a result of any condition (including existing or future defects in the Premises) or occurrence whatsoever related in any way to the City's use or occupancy of the Premises and of areas adjacent thereto.

9.1.2. Except as provided in Section 16, the City shall defend (with counsel approved by the Port, if outside counsel used, which approval shall not be unreasonably withheld), fully indemnify, and hold entirely free and harmless the Port and its Commissioners, officers, agents and employees from any and all loss, damages, expenses, attorneys' fees, consultants' fees, court costs and other costs, as allowed by law, for or from: (a) anything and everything whatsoever arising from the condition of the Premises or out of the occupancy by the City or any sublessee, licensee, invitee or concessionaire of the City; and (b) any accident, injury, death or damage to any party however caused in or about the Premises or upon the sidewalks adjacent to the Premises, whether or not caused by the negligence of the City or any third party; and (c) any fault or negligence by the City or any sublessee, licensee, invitee or concessionaire of the City or of any officer, agent, employee, guest or invitee of any such person; and (d) any failure on the City's part to comply with any of the covenants, terms and conditions contained in this Lease; provided, however, nothing herein shall require the City to indemnify the Port from any accident, injury, death or damage arising out of the sole negligence of the Port or its Commissioners, officers, agents and employees. the City agrees that the foregoing indemnity specifically covers actions brought by its own employees, and thus the City expressly waives its immunity under industrial insurance, Title 51, as necessary to effectuate this indemnity.

9.1.3. Notwithstanding anything to the contrary in Section 9.1.2, in the event of the concurrent negligence of the City, any of its officers, employees, agents, contractors or licensees on the one hand and the negligence of the Port, its agents, employees or contractors on the other hand, which concurrent negligence results in injury or damage to persons or property of any nature and howsoever caused, and relates to the construction, alteration, repair, addition to, subtraction from, improvement to or maintenance of the Premises such that RCW 4.24.115 is applicable, the City's obligation to indemnify the Port as set forth in this Section shall be limited to the extent of the City's negligence and that of any of the City's officers, agents, employees, contractors or licensees, including the City's proportional share of costs, court costs, attorneys' fees, consultants' fees and expenses incurred in connection with any claim, action or proceeding brought with respect to such injury or damage.

9.1.4. THE CITY AND PORT AGREE AND ACKNOWLEDGE THAT THIS PROVISION IS THE PRODUCT OF MUTUAL NEGOTIATION. The City's obligations under this Section shall survive the expiration or earlier termination of this Lease.

9.2. Insurance. The City of Seattle maintains a fully funded self-insurance program (see Exhibit C: City of Seattle Self-Insurance Documentation), approved by the State of Washington, for the protection and handling of the City's liabilities including injuries to persons and damage to property. The Port acknowledges, agrees and understands that the City is self-

funded for all of its liability exposures. The City agrees, at its own expense, to maintain, through its self-funded program, coverage for all of its liability exposures for this Lease, which shall be solvent to fund an equivalent Commercial General Liability insurance policy with limits of \$ 2 Million occurrence. The City agrees to provide the Port with at least 30 days prior written notice of any material change in the City's self-funded program and will provide the Port with an annual letter of self-insurance as adequate proof of coverage. The Port further acknowledges, agrees and understands that the City does not generally purchase Commercial General Liability insurance and is a self-insured governmental entity; therefore, the City does not have the ability to add the Port as an additional insured. Should the City elect to cease self-insuring its liability exposures and purchase Commercial General Liability insurance, to the amount of \$2 Million per occurrence, the City agrees to add the Port as an additional insured and provide appropriate documentation.

## SECTION 10: ASSIGNMENT AND SUBLEASE

10.1. Prohibition. The City shall not, in whole or in part, assign, sublet, license or any part of the Premises. The prohibition against assigning, subleasing or licensing contained in this Section 10 shall be construed to include a prohibition against any assignment, subleasing or licensing by operation of law.

10.2. Service Provider Agreement. Both Parties agree in advance that the City shall permit Low Income Housing Institute ("LIHI") or a service provider ("Service Provider") of similar competency, as selected by the City to operate and maintain the facilities as described in Section 4.1. The City shall require the Service Provider to sign a Project Services Agreement ("Service Provider Agreement") and the City shall provide the Port thirty (30) days written notice of intent to change Service Provider prior to signing any Service Provider Agreement with any Service Provider. The City shall share with the Port the signed Service Provider Agreement upon the Port's request and shall provide reports describing the services provided on this site. Notwithstanding the foregoing, the City acknowledges and agrees that the Service Provider Agreement does not constitute a subtenant or assignee relationship under the Lease and, as between the Port and the City, the City shall remain the sole responsible party as tenant under the Lease. The City shall provide performance reports on services provided on this site periodically or upon Port's request.

## SECTION 11: DEFAULT

11.1. Defaults. Time is of the essence of this Lease. The occurrence of any one or more of the following events constitutes a default of this Lease by the City with or without notice from the Port:

11.1.1. The failure by the City to make any payment of Rent, or any other payment required by this Lease, when due.

11.1.2. The failure by the City to observe or perform any covenant, condition, or agreement to be observed or performed by the City in this Lease.

11.1.3. The failure by the City to enforce Service Provider's obligations under the Service Provider including, but not limited to, those obligations of Service Provider related to security, resident code of conduct, and other standards appropriate for maintaining the health, welfare and safety of the residents and invitees to the Property.

11.2. Remedies.

11.2.1. Whenever any default continues unremedied in whole or in part for thirty (30) days after written notice is provided by the Port to the City (or for ten (10) days after written notice in the case of default for failure to pay any Rent, or other required payment when due), this Lease and all of the City's rights under it will automatically terminate if the written notice of default so provides. Upon lease termination, the Port may reenter the Premises using such force as may be necessary and remove all persons and property from the Premises. The Port will be entitled to recover from the City all unpaid Rent or other payments and damages incurred because of the City's default ("Termination Damages") from the date such Termination Damages are incurred by the Port until paid.

11.2.2. If upon any reentry permitted under this Lease, there remains any personal property upon the Premises, the Port, in its sole discretion, may remove and store the personal property for the account and at the expense of the City. In the event the Port chooses to remove and store such property, it shall take reasonable steps to notify the City of the Port's action. All risks associated with removal and storage shall be on the City. the City shall reimburse the Port for all expenses incurred in connection with removal and storage as a condition to regaining possession of the personal property. The Port has the right to sell any property which has been stored for a period of 30 days or more, unless the City has tendered reimbursement to the Port for all expenses incurred in removal and storage. The proceeds of sale will be applied first to the costs of sale (including reasonable attorney's fees), second to the payment of storage charges, and third to the payment of any other amounts which may then be due and owing from the City to the Port. The balance of sale proceeds, if any, will then be paid to the City.

11.3. Remedies Cumulative. All rights, options and remedies of the Port contained in this Lease shall be construed and held to be distinct, separate and cumulative, and no one of them shall be exclusive of the other, and the Port shall have the right to pursue any one or all of such remedies or any other remedy or relief which may be provided by law or in equity, whether or not stated in this Lease.

## SECTION 12: TERMINATION OTHER THAN FOR DEFAULT

### 12.1. Condemnation.

12.1.1. Total Taking. In the case of a taking by eminent domain of either all of the Premises or such portion of either the Premises of which the Premises are a part as shall, in the Port's sole judgment, be required for reasonable use of the Premises, this Lease shall terminate as of the date of such taking. If the City is not in default under any of the provisions of this Lease on said date, any Rent prepaid by the City shall, to the extent allocable to any period subsequent to the effective date of the termination, be promptly refunded to the City.

12.1.2. Partial Taking. In the case of a taking of a portion of the Premises which are not, in the Port's sole judgement, required for reasonable use of the Premises, this Lease shall continue in full force and effect.

12.1.3. Damages. The Port reserves all right to the entire damage award or payment for taking by eminent domain, and the City waives all claim whatsoever against the Port and/or the authority exercising eminent domain for damages for termination of its leasehold or for interference with its business. The Port and the City further agree that all decisions regarding how the eminent domain proceeding should be handled shall be made in the sole discretion of the Port (specifically including any response to a motion for order adjudicating public use and necessity or any request for immediate possession), and the City shall take no actions or steps which interfere with the Port's ability to control the handling of the eminent domain proceeding. Notwithstanding the foregoing, nothing in this Section shall be considered to be a waiver or assignment by the City of any right to relocation assistance payments or relocation advisory services which may be available in connection with the eminent domain proceeding.

12.1.4. Eminent Domain. The term "eminent domain" as used in this Section 12.1 shall include taking or damaging of property by, through or under any governmental or quasi-governmental authority and the purchase or acquisition in lieu thereof.

12.2. Court Decree. In the event that any court having jurisdiction in the matter shall render a decision which has become final and which will prevent the performance by the Port of any of its obligations under this Lease, then either party hereto may terminate this Lease by written notice, and all rights and obligations hereunder (with the exception of any undischarged rights and obligations that accrued prior to the effective date of termination) shall thereupon terminate. The City is not entitled to any compensation at termination for the bargain value of the leasehold.

## SECTION 13: ACCESS

13.1. Access to Premises. The Port shall have the right to show the Premises at all reasonable times with prior notice to the City to any prospective purchasers, tenants or

mortgagees of the same. The Port may enter upon the Premises, or any part thereof, for the purpose of ascertaining the condition of the Premises or whether the City is observing and performing the obligations assumed by it under this Lease, all without hindrance or molestation from the City. The above-mentioned rights of entry shall be exercisable upon request made on reasonable advance notice to the City (except that no notice shall be required in the event of an emergency) or an authorized employee of the City at the Premises, which notice may be given orally.

#### SECTION 14: NONWAIVER; RIGHT TO PERFORM

14.1. No Waiver of Breach. The failure of the Port to insist in any one or more instances, upon a strict performance of any of the covenants of this Lease, or to exercise any option herein contained, shall not be construed as a waiver of or relinquishment for the future of the performance of such covenant, or the right to exercise such option, but the same shall continue and remain in full force and effect. The receipt by the Port of the Rent or fees, with knowledge of the breach of any covenant hereof, shall not be deemed a waiver of such breach, and no waiver by the Port of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Port. The consent or approval of the Port to or of any act by the City requiring the Port's consent or approval shall not be deemed to waive or render unnecessary the Port's consent or approval to or of any subsequent similar acts by the City.

#### SECTION 15: SURRENDER AND HOLDING OVER

15.1. Surrender. At the expiration or sooner termination of this Lease, the City shall promptly: (i) surrender possession of the Premises to the Port in the same condition in which received, reasonable wear and tear excepted; and (ii) deliver to the Port all keys that it may have to any and all parts of the Premises. Notwithstanding the foregoing, the City may leave in place the layer of gravel it spread across the Premises and other items such as utility connections at the Port's discretion. If the Premises are not surrendered as provided in this Section, the City shall indemnify and hold the Port harmless against loss or liability resulting from the delay by the City in so surrendering the Premises, including, without limitation, any claims made by any succeeding occupant founded on such delay.

15.2. Holding Over. If the City, with the consent of the Port, holds over after the expiration or sooner termination of this Lease, the resulting tenancy will, unless otherwise mutually agreed, be for an indefinite period of time on a month-to-month basis and the City will continue to be bound by all of the provisions of this Lease.

#### SECTION 16: ENVIRONMENTAL STANDARDS

16.1. Definitions. "Law or Regulation" as used herein shall mean any environmentally related local, state or federal law, regulation, ordinance or order (including without limitation any final order of any court of competent jurisdiction), now or hereafter in effect. "Hazardous Substances" as used herein shall mean any substance or material defined or designated as a hazardous waste, toxic substance, or other pollutant or contaminant, by any Law or Regulation.

16.2. Hazardous Substances. the City shall not allow the presence in or about the Premises of any Hazardous Substance in any manner that could be a detriment to the Premises or in violation of any Law or Regulation. the City shall not allow any Hazardous Substances to migrate off the Premises, or the release of any Hazardous Substances into adjacent surface waters, soils, underground waters or air. the City shall provide the Port with the City's USEPA Waste Generator Number, and with copies of all Material Safety Data Sheets (MSDS), Generator Annual Dangerous Waste Reports, environmentally related regulatory permits or approvals (including revisions or renewals) and any correspondence the City receives from, or provides to, any governmental unit or agency in connection with the City's handling of Hazardous Substances or the presence, or possible presence, of any Hazardous Substance on the Premises.

16.3. Violation of Environmental Law. If the City, or the Premises, is in violation of any Law or Regulation concerning the presence or use of Hazardous Substances or the handling or storing of hazardous wastes, the City shall promptly take such action as is necessary to mitigate and correct the violation. If the City does not act in a prudent and prompt manner, the Port reserves the right, but not the obligation, to come onto the Premises, to act in place of the City (the City hereby appoints the Port as its agent for such purposes) and to take such action as

the Port deems necessary to ensure compliance or to mitigate the violation. If the Port has a reasonable belief that the City is in violation of any Law or Regulation, or that the City's actions or inactions present a threat of violation or a threat of damage to the Premises, the Port reserves the right to enter onto the Premises and take such corrective or mitigating action as the Port deems necessary. All costs and expenses incurred by the Port in connection with any such actions shall become immediately due and payable by the City upon presentation of an invoice therefor.

16.4. Inspection; Test Results. The Port shall have access to the Premises to conduct an annual environmental inspection. In addition, the City shall permit the Port access to the Premises at any time upon reasonable notice for the purpose of conducting environmental testing at the Port's expense. Except in the event of a suspected emergency threat to human health or the environment, the Port shall provide a minimum 24 hours' notice to the City prior to conducting such testing. The City shall not conduct or permit others to conduct environmental testing on the Premises without first obtaining the Port's written consent. The City shall promptly inform the Port of the existence of any environmental study, evaluation, investigation or results of any environmental testing conducted on the Premises whenever the same becomes known to the City, and the City shall provide copies to the Port.

16.5. Removal of Hazardous Substances. Prior to vacation of the Premises, in addition to all other requirements under this Lease, the City shall remove any Hazardous Substances placed on the Premises during the term of this Lease or the City's possession of the Premises, and shall demonstrate such removal by written documentation to the Port's reasonable satisfaction.

16.6. Remedies Not Exclusive. No remedy provided herein shall be deemed exclusive. In addition to any remedy provided above, the Port shall be entitled to full reimbursement from the City whenever the Port incurs any costs resulting from the City's use or management of Hazardous Substances on the Premises, including but not limited to, costs of clean-up or other remedial activities, fines or penalties assessed directly against the Port, injuries to third persons or other properties, and loss of revenues resulting from an inability to re-lease or market the property due to its environmental condition (even if such loss of revenue occurs after the expiration or earlier termination of this Lease).

16.7. City's Environmental Indemnity. In addition to all other indemnities provided in this Lease, The City agrees to defend, indemnify and hold the Port free and harmless, as allowed by law, from any and all claims, causes of action, notices of intent to sue, regulatory demands, liabilities, fines, penalties, losses, and expenses, including without limitation cleanup or other remedial costs (and including attorneys' fees, costs and all other reasonable litigation expenses when incurred and whether incurred in defense of actual litigation or in reasonable anticipation of litigation) (collectively, "Environmental Claims"), arising from the existence or discovery of any Hazardous Substance on the Premises, or the migration of any Hazardous Substance from the Premises to other properties or Into the surrounding environment, whether (i) made, commenced or incurred during the term of this Lease, or (ii) made, commenced or incurred after the expiration or termination of this Lease if arising out of events caused by the City's use of the Premises occurring during the term of this Lease.

16.8. Stormwater Management. The City acknowledges that the Premises are subject to the requirements of the City of Seattle ("City") ordinance regarding stormwater drainage, source control, Citywide Best Management Practices and other applicable City requirements, as well as the federal Clean Water Act and Washington State Department of Ecology ("Ecology") stormwater regulations and permits. The City will comply with all applicable City, state, federal stormwater regulatory requirements, including the preparation of and compliance with state Ecology's Phase I Municipal Permit or the Industrial General Stormwater Permit, if applicable. It shall be the City's sole responsibility to determine which requirements and permit(s) are applicable, if any regulatory authority (including but not limited to Ecology) or citizen cites the Port or alleges the Port has violated a requirement, ordinance, permit, or regulation, the City will fully defend and indemnify the Port, as allowed by law, for any damages, penalties, or other assessments made against the Port for the violations. The City will pay the Port's reasonable attorneys' fees in connection with such claims, notices, citations, and/or enforcement actions.

16.9. Notwithstanding anything to the contrary in this Section 16 or otherwise in this Agreement, in no event shall the City be required to mitigate, remove, correct, remediate or

otherwise take responsibility for or be obligated to indemnify, defend, or hold the Port harmless from any Environmental Claims arising out of (i) any Hazardous Substances present on, in, under, about, or migrating from or to the Premises as of the date of this Agreement or (ii) Hazardous Substances migrating to the Premises after the date of this Agreement unless such Hazardous Substances were released by the City; or (iii) any Hazardous Substance release, present on, in, under, about, or migrating from or to the Premises due to the Port's or other third party's action or inaction wholly unrelated to the City's use of the Premises.

#### SECTION 17: MISCELLANEOUS

17.1. Notice. All notices hereunder shall be in writing and shall be delivered personally, by certified or registered mail, or by recognized overnight courier addressed as follows:

*To Lessor:*

Port of Seattle  
Attn: Lease Administration  
2711 Alaskan Way  
Seattle, WA 98121

For payments only, the following mailing address should be used:

Port of Seattle  
P. O. Box 24507  
Seattle, WA 98124-0507

*To the City:*

Division Director, FAS Real Estate Services  
PO BOX 94689  
Seattle, WA 98124

With a copy to:

City Attorney's Office  
701 5th Avenue  
Suite 2050  
Seattle, WA 98104-7097

or to such other respective addresses as either party hereto may hereafter from time to time designate in writing. Notices shall be deemed delivered: (i) when personally delivered; (ii) on the third day after mailing when sent by certified or registered mail and the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing; or (iii) on the first business day after deposit with a recognized overnight courier if deposited in time to permit overnight delivery by such courier as determined by its posted cutoff times for receipt of items for overnight delivery to the recipient.

Payments may be made in the manner provided for notice or may be delivered by regular mail (postage prepaid); provided, payments made by regular mail (postage prepaid) shall be deemed delivered when actually received by the Port.

17.2. Consent. Whenever the Port's prior consent or approval is required by this Lease, the same shall not be unreasonably delayed but may, unless otherwise specifically provided by this Lease, be granted or denied in the Port's sole and absolute discretion.

17.3. Relationship to the Port and the City. Nothing contained herein shall be deemed or construed as creating the relationship of principal and agent, partnership, or joint venture partners, and no provision contained in this Lease nor any acts of the City and the Port shall be deemed to create any relationship other than that of the City and the Port.

17.4. Time. Time is of the essence of each and every one of the City's and the Port's obligations, responsibilities, and covenants under this Lease.

17.5. Recording. The City shall not record this Lease or any memorandum thereof.

17.6. Nondiscrimination – Services.

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

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

17.7. Nondiscrimination – Employment. The City covenants and agrees that in all matters pertaining to the performance of this Lease, the City shall at all times conduct its business in a manner which assures fair, equal and nondiscriminatory treatment of all persons without respect to race, sex, age, color, creed or national origin and, in particular:

17.7.1. The City will maintain open hiring and employment practices and will welcome applications for employment in all positions from qualified individuals who are members of racial or other minorities, and

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

17.8. Captions. The captions in this Lease are for convenience only and do not in any way limit or amplify the provisions of this Lease.

17.9. Governing Law; Venue. This Lease shall be construed under the laws of Washington. Exclusive jurisdiction and venue for any action relating hereto shall be in the state or federal courts located in King County, Washington.

17.10. Attorneys' Fees. In the event that either party shall be required to bring any action to enforce any of the provisions of this Lease, or shall be required to defend any action brought by the other party with respect to this Lease, and in the further event that one party shall substantially prevail in such action, the losing party shall, in addition to all other reasonable payments required therein, pay all of the prevailing party's actual reasonable costs in connection with such action, including such sums as the court or courts may adjudge reasonable as attorneys' fees in the trial court and in any appellate courts.

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

17.12. Survival of Indemnities. All indemnities provided in this Lease shall survive the expiration or any earlier termination of this Lease. In any litigation or proceeding within the scope of any indemnity provided in this Lease, the City shall, at the Port's option, defend the Port at the City's expense by counsel satisfactory to the Port, if outside counsel used, which approval not to be unreasonably withheld by the Port. .

17.13. Entire Agreement; Amendments. This Lease, together with any and all exhibits attached hereto, shall constitute the whole agreement between the parties. There are no terms, obligations, covenants or conditions other than those contained herein. No modification or amendment of this agreement shall be valid or effective unless evidenced by an agreement in

writing signed by both parties. Effective upon full execution of this Lease, this Lease terminates and supersedes Lease No. 003059 dated September 29, 2017 between the parties.

17.14. Exhibits. Exhibits A B, and C are attached to this Lease after the signatures and by this reference incorporated herein.

SECTION 18: SIGNATURES

IN WITNESS WHEREOF the parties hereto have signed this Lease as of the day and year first above written.

PORT OF SEATTLE

CITY OF SEATTLE.  
Finance and Administrative Services

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

SECTION 19: ACKNOWLEDGMENTS

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of the PORT OF SEATTLE, the municipal corporation that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)  
Notary Public, in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission expires: \_\_\_\_\_

STATE OF WASHINGTON )  
 ) ss  
COUNTY OF KING )

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally appeared \_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_\_, the individual/entity that executed the within and foregoing instrument as the City, and acknowledged said instrument to be the free and voluntary act and deed of said individual/entity, for the uses and purposes therein mentioned, and on oath stated that s/he was authorized to execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)  
Notary Public, in and for the State of Washington,  
residing at \_\_\_\_\_  
My Commission expires: \_\_\_\_\_



EXHIBIT A

- LEGAL DESCRIPTION -

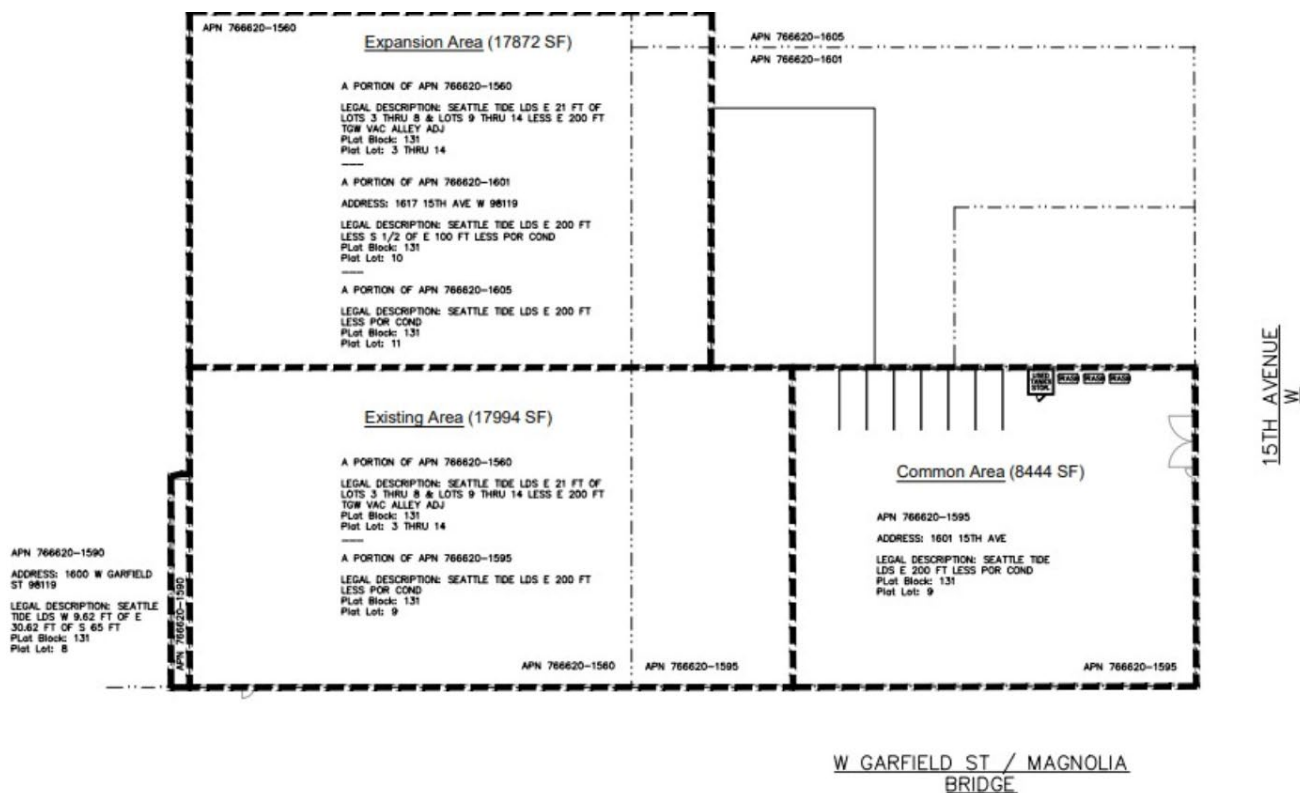
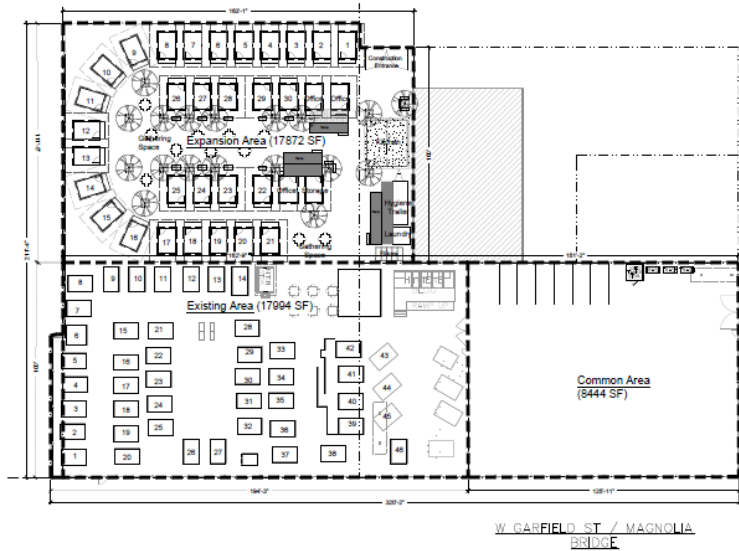


EXHIBIT B

– PREMISES AND SITE PLAN –

Approximately 44,310 sf of Lease Area on Port's Tsubota Site on 15<sup>th</sup> Ave West



- Existing Village Includes**
- 46 Tiny Houses
  - 4 Offices
  - 1 Storage Unit
  - 1 Kitchen
  - 1 Hygiene Facility (ADA bathroom, Shower, Laundry)
- Proposed Village Includes**
- 30 Tiny Houses
  - 3 Offices
  - 1 Storage Unit
  - 1 Kitchen Space
  - 1 Hygiene Facility (ADA bathroom, Shower)
  - 1 Laundry Room
- Total Tiny Homes: 76**

**Environmental Works**  
COMMUNITY DESIGN CENTER  
402 15th Avenue West  
Seattle, WA 98104-3112  
206.468.4142  
www.ewcwa.org

**Tiny House Village**  
Safe Harbor  
1500 15th Ave W  
Seattle, WA 98119

**Overall Site Plan**

**LEGEND**

- Property Line
- Chain Link Fence
- Tree in Planter Box
- Picnic Table
- Bench
- Parking Stall (8 Total)
- Trash and Used Tank Storage

Scale: 1" = 20'-0"  
(22" x 34" sheet)

Date	July 1, 2021
Drawn by	CHM
Checked by	MM
Project No.	21028

L1.0

Exhibit C: City of Seattle Self-Insurance Documentation



Seattle  
Finance &  
Administrative Services

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June 1, 2021

TO WHOM IT MAY CONCERN

RE: City of Seattle Self-Insurance Program

This is to verify the City of Seattle's Liability Insurance Programs for General Liability, Automobile Liability and Worker's Compensation. The City maintains a \$10 million per occurrence primary self-insured layer and purchases several layers of excess liability insurance.

The City of Seattle's primary self-insured retention program is administered in-house and approved by the State of Washington. In the event of an incident that occurred because of the City's negligence or for which the City was found responsible, indemnification would be addressed under this program. Provisions of the Seattle Municipal Code would be followed, with subrogation as may be appropriate.

If the above described self-insurance program is cancelled or materially reduced, the City will provide not less than ten (10) days notice.

Please contact me at 206-386-0071 or [Travis.Steichen@Seattle.gov](mailto:Travis.Steichen@Seattle.gov) if you need additional information.

Sincerely,

*Travis Steichen*

Travis Steichen, ARM  
Senior Risk Manager / City of Seattle

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City Finance Division | Glen Lee, City Finance Director  
200 Fifth Ave. 43rd Floor | P.O. Box 34660 | Seattle, WA 98124-4660 | 206-233-0031 | [seattle.gov/finance](http://seattle.gov/finance)