

**PORT OF SKAGIT COUNTY
LEASING POLICY**

I. DEFINITIONS

A. Superior Job Producer:

A tenant that generates a significant number of living wage jobs and that would be desired by many communities for those jobs. They are a business that is either not located in Skagit County currently or will move outside of Skagit County if they cannot be accommodated within Skagit County. They are generally looking for a variety of property and/or business incentives to locate or stay in Skagit County.

B. Aviation Related Tenant:

A tenant who needs taxiway access to conduct business.

C. Marine Related Tenant:

A tenant who needs access to marine waters to conduct business.

D. Mainstream Tenant:

A tenant who does not need to locate at the port to conduct business. These are tenants that private enterprise could potentially accommodate in Skagit County.

E. Incubator Tenant:

An existing business moving from the proprietor's home, garage, yard or shed to the business's first leased space.

F. Start-up Tenant:

A new business beginning operations at the Port of Skagit County.

G. Struggling Tenant:

An existing tenant whose business is struggling to survive due to temporary market conditions. The tenant must demonstrate to the Port there is a significant probability that the tenant's business will not survive if the

struggling tenant policy is not implemented and that it will survive if the policy is implemented.

II. GOALS

A. Superior Job Producer:

Locate appropriate (as determined by the commission) superior job producer tenants on port property to stimulate the creation of living wage jobs.

B. Aviation Related Tenants:

Locate tenants on the airfield that need taxiway access.

C. Marine Related Tenants:

Locate tenants on properties with access to marine waters that need access to marine waters.

D. Mainstream Tenants:

Locate enough Mainstream Tenants on port property to provide cash flow for the port to provide incentives for winning desired Superior Job Producer Tenants, Aviation Related Tenants, Marine Related Tenants, Incubator Tenants, and Start-up Tenants without putting undue pressure on Port of Skagit County taxpayers and to maintain and hopefully grow the number of jobs in Skagit County.

E. Incubator Tenants:

Locate transition businesses on port property to help them become stable and established, gain market share, grow revenues and gain employees.

F. Start-up Tenants:

Locate Start-Up Businesses on port property to help them become stable and established, gain market share, grow revenues and gain employees.

G. Struggling Tenants:

Assist established businesses in maintaining market share, revenues and employment levels during temporary downturns in the market place.

III. STRATEGIES

A. Land Rent:

The rate of return for land rents will have a floor of 7.5% and a ceiling of 9.5%. This is our estimate of current market rates. This needs to be revised periodically so that it more closely coincides with the private sector. It also provides port tenants with a more stable and predictable rental rate.

B. Building Rent:

The rental rate for port owned buildings will be the market rate in the community and be established by appraisal or commercial real estate professional. It will consider the condition of the building location of the building, age of the building, and size of the building, all as compared to other similar properties.

C. Port Construct Tenant Improvements:

1. Airport: Construction of new building and hangars at Skagit Regional Airport will be owned by the port unless the tenant qualifies as a Superior Job Producer.
2. Marina, Bayview Business and Industrial Park, and Conway: The port will consider constructing tenant improvements or constructing a building for a qualifying tenant and amortize that cost over the term of the lease or longer under certain circumstances.

D. Maintenance Costs:

For port-owned buildings the port will schedule and coordinate landscape installation and maintenance, drainage, building maintenance responsibilities such as HVAC systems, sprinkler systems and gutter maintenance for tenants. Tenants will be responsible for this work and will pay these costs monthly, based on an annual budget.

E. Capital Improvements:

For port-owned buildings port staff will develop management plans that include maintenance and capital improvement schedules and budgets for each building. The maintenance and capital improvement budgets will be included in the port's overall operating and capital improvement budgets and six-year capital facility plan annually. This will include a replacement

reserve sinking fund for replacement of deteriorating items like roofs, asphalt, building poles, parking lots, landscaping, etc.

F. Response to Prospective Tenant:

It is our intention to provide rapid service to our prospective tenants to approximate the private business sector. Our target is to have an agreed upon letter of intent with a qualified prospective tenant within seven days and a lease ready for execution by the executive director or commission within two (2) weeks.

G. Superior Job Producer:

Recruit businesses that will provide many living wage jobs. Incentives can be used if appropriate. Incentives can include: long-term leases, rent adjustments, and/or port construction of tenant's improvements or any other negotiated incentive approved by the commission.

H. Aviation Related Tenants:

1. Aviation only: Utilize aviation property only for aviation related businesses.
2. Recruitment: Recruit aviation businesses to lots and buildings with taxiway access. Utilize aviation related periodicals, advertising and marketing media / methods.

I. Marine Related Tenants:

1. Marine only: Utilize marine property only for marine related businesses.
2. Recruitment: Recruit marine related businesses to properties and buildings located on marine waters. Utilize marine related periodicals, advertising and marketing media / methods.

J. Mainstream Tenants:

Recruitment: Recruit and lease to mainstream tenants using methods similar to the private sector.

K. Incubator Tenants:

1. Recruitment: Recruit and provide three-year step-in leases to transition businesses.
2. Building Rental Rates: One-third of market value for year one, two-thirds of market value for year two and full market value for year three. Prospective tenants must develop and submit at least a three (3) year business plan demonstrating the viability of the business. The plan will show adequate capitalization and reserves to support the fixture and equipment needs, operational costs, and the payroll demands identified in the business plan. The business plan will be attached as part of the lease.
3. Transition to Mainstream Tenant: At the end of the three-year incubator period the business will be entitled to up to a ten (10) year lease as a Mainstream Tenant if they have met revenue and employment projections included in business plan.
4. Extension of Incubation Period: At the end of the three-year incubator period if the business has not met revenue and employment projections included in business plan the business has opportunity to appeal to the commission for additional time in incubator program. Tenant will be responsible to demonstrate to the commission clear and convincing evidence of temporary market conditions that require additional time in the incubator program to meet business plan goals.

L. Start-Up Tenants:

1. Recruitment: Recruit and provide six year leases with a three-year step-in to new businesses.
2. Building Rental Rates: One-third of market value for year one, two-thirds of market value for year two and full market value for year three. Starting in year four, there will be annual CPI rental adjustments. Prospective tenants must develop and submit at least a six (6) year business plan demonstrating the viability of the business. The plan will show adequate capitalization and reserves to support the fixture and equipment needs, start-up costs, and the payroll demands identified in the business plan. The business plan will be attached as part of the lease.

Longer term leases may be considered by the port at the prospective tenant's request. The prospective tenant must submit a business plan that demonstrates the viability of the business over the term requested.

3. Early Buy-out: The Start-Up Tenant shall be entitled to buy out the lease if they can demonstrate they have outgrown their lease premises. They can buy-out the lease for 25% of the rent due in the remaining lease term. Provided, if they relocate on port property, the port may consider forgiving the buy-out obligation.

M. Struggling Tenants:

1. Assist the Struggling Tenant who develops a viable business recovery plan for the business. The business plan will describe the problems, the solutions, and the steps to be taken to become a viable and stable business enterprise.
2. Port accounting department will review the financial records, ledgers, and other supporting documents of tenant applying for the program to determine whether tenant qualifies as a Struggling Tenant and for an adjusted rent schedule and determine whether appropriate accounting practices are in place to measure the success or failure of the program. Tenant will be responsible to demonstrate how the port's temporary application of the adjusted rent schedule will realize the goals of the recovery business plan.
3. Existing tenants will be eligible to apply for Struggling Tenant status and an adjusted rent schedule with the Port. Any and all determinations made by the Port pursuant to this Struggling Tenant policy are at the Port's sole discretion, final and not appealable in any fashion or in any forum. Final authority for any determinations rests with the Executive Director.
4. The seven (7) year amended rent schedule reflects a rent adjustment of up to 2/3 current rent for the first year and up to 1/3 current rent plus CPI the second year. Starting in year three through year seven, the rent will be current monthly rent plus CPI, plus 1/60th of the difference between the initial and adjusted year one and year two rents. Sixty days prior to the end of the first year of an amended rent schedule, the Port accounting department may re-evaluate tenant's eligibility for Struggling Tenant status and the Port may terminate rent adjustments for second year if Tenant no longer meets the definition of a Struggling Tenant.
5. The tenant shall provide quarterly financial information to the port to confirm the tenant continues to be eligible for the adjusted rent schedule.

IV. BASIC POLICIES

The basic policies of the port commission regarding industrial/commercial land and buildings are as follows:

A. Property Utilization:

Utilize, improve, and develop port properties for lease.

B. Highest and Best Use:

Seek the highest and best use of all port properties, consistent with proper land use planning.

C. Tenant Priorities:

Priority will be to work to attract Superior Job Producer, Aviation Related, Marine Related, Incubator, or Start-Up Tenants before marketing to Mainstream Tenants.

D. Rental Rates:

Conduct ongoing market analysis on port land and buildings to establish and maintain appropriate rental rates.

E. Short-term Leases:

Six-month leases shall pay an additional five percent. Month-to-month leases shall pay an additional ten percent.

F. Rent Adjustments:

Require CPI rent adjustments annually.

G. Incentives:

Consider incentives to Superior Job Producers.

H. Boilerplate Provisions:

Lease conditions vary from tenant to tenant. Good business practice requires certain "boilerplate" provisions, such as indemnity and hold harmless, environmental, the Port's right of entry for inspection, maintenance of the

premises, taxes, fixtures and equipment, liability and casualty insurance, retention of air rights, FAA requirements, condemnation, default, costs and attorney fees, notices, waivers, month-to-month tenancy on termination of lease, and others.

I. Assignment:

It is the policy of the port to prohibit any assignment or sublease by a tenant without the prior written consent of the port. Approval will not be unreasonably withheld.

J. Structural Changes:

Structural changes to buildings require the prior written consent of the port. State law requires that all improvements be either removed or become the property of the port upon termination of the lease.

K. Insurance:

Insurance provisions require the tenant to provide certificates of insurance with the port listed as additional insured and to prohibit cancellation of insurance without prior notice to the port. General liability insurance must be provided for the benefit of the port usually in the amount of \$1,000,000.

L. Rent Security:

The commission considers two months' rent, including leasehold excise tax, as adequate rent security for all leases. Further, tenants who invest their own funds in real property improvements on port land in an amount that equals or exceeds one year's rent, including leasehold tax, shall be considered to have satisfied the rent security requirements.

M. Executive Director Authority:

The executive director has the authority to enter into leases without commission approval for a term of up to and including 10 years. Leases longer than 10 years must receive commission approval.

N. Lease Extension:

At lease extensions rent will be adjusted to the then fair market value. Lease extensions will be determined based on tenant needs, tenant performance, jobs produced, condition of the building and needs of the port.

O. Lease Buy-Out:

Should the port deem it needed for significant community-wide benefit that a lease be terminated prior to the expiration of the lease term, the port will purchase the building for the then current fair market value of the building as determined by appraisal or commercial real estate professional.

V. **RENT**

A. Rent Amount:

Rent rates shall be established as set forth in Section III. STRATEGIES.

B. Rent Adjustments:

The following shall apply to rent adjustments:

1. CPI: Adjustments based on the change in purchasing power of the dollar shall use the Consumer Price Index for all Urban Consumers (Seattle–Tacoma–Bremerton) (CPI), as is issued from time to time by the U.S. Department of Labor, Bureau of Labor Statistics.
2. Month-to-Month Leases: Rates applying to all month-to-month leases shall be adjusted annually on January 1st. This may be done by CPI adjustment, fair market value or other appropriate means of establishing the reasonable rent.
3. Appeal of Rent Adjustment: If a tenant believes a CPI adjustment is 10% or more above market rates or they believe and can demonstrate that the compounding rent increases threaten the viability of its service provider or manufacturing business they may appeal the CPI adjustment to the commission.

C. Land Values:

Annually, the port will obtain individual market values for all land parcels for Skagit Regional Airport, Bayview Business and Industrial Park, and the La Conner Marina.

The port obtained a market evaluation (Dorn, 9/04) for the Skagit Regional Airport/Bayview Business and Industrial Park (BBIP), the La Conner waterfront and non-waterfront properties, the ag/industrial property east of

Higgins Airport Way. Based on the market evaluations, the fair market land values are established as follows:

1. Airport/BBIP
 - With taxiway access \$4.50/SF
 - Without taxiway access – BBIP Light Industrial \$4.00/SF
 - Without taxiway access – Div. 5 and 7 Heavy Industrial \$4.75/SF
 - Agriculture zoned acreage* \$9,000/acre

*when ag/industrial property is being utilized for agricultural purpose (crops and/or grazing) the value shall be established by the “Open Space Current Use Value Farm and Agriculture” report prepared by the Skagit County Assessor’s Office.

2. La Conner Marina land
 - Functional access to water \$7.50/SF
 - Without functional access to water \$6.25/SF

These land values are guidelines that staff will use to determine the value of each individual parcel of property. The Commission recognizes each individual parcel has attributes that warrant a range of different values based on attributes that impact the value both positively and negatively.

D. Building Values (including land):

Annually, the port will evaluate market values of all port-owned buildings (including land) to determine a range of lease rates for each marketable building. Actual leases will be negotiated based on length of term, capital investment, number of jobs, types of jobs (living wage), as well as any substantial development.

VI. TERM

A. Land lease:

1. Initial Term. The initial term may be up to thirty (30) years, and will be determined according to the needs of the tenant, design standards of improvements, useful life of the improvements, and future needs of the port.¹

¹ Useful life of the building needs to be determined in writing by Lessee’s architect, engineer or building designer.

2. Option to extend. The initial term may be extended by two (2) additional ten (10) year periods provided tenant has met maintenance standards outlined in the lease, made upgrades extending the useful life of the building, and the proposed additional term is supported by outside professionals such as structural engineers and/or architects, and future needs of the port.¹

B. Building lease:

1. Initial Term. The initial term may be up to thirty (30) years, and will be determined according to the needs of the tenant, design standards of improvements, useful life of the improvements, and future needs of the port.¹
2. Option to extend. The initial term may be extended by two (2) additional ten (10) year periods provided tenant has met maintenance standards outlined in the lease, made upgrades extending the useful life of the building, and the proposed additional term is supported by outside professionals such as structural engineers and/or architects, and future needs of the port.¹ The initial lease and option periods will not exceed thirty (30) years.

VII. TERMINATION OF LEASE

At the termination of the lease, the port has the right to request the tenant to remove all improvements; including the building. This supports the goals of quality construction, maintenance standards, and minimizes the financial exposure to the port.

VIII. PERFORMANCE REQUIREMENTS

The port recognizes its obligation to ensure development and continued operation of viable industry on its property. One means the port may employ to accomplish this goal is to place performance requirements in its leases. Such requirements are established to ensure that the tenant will develop the property as the tenant has represented to the port. The performance requirements can take various forms depending upon the nature of the development, such as: stated capital investment amounts, employment of a minimum number of persons (from the local labor force when practical), type of jobs (living wage), production above a certain level, or some

¹ Useful life of the building needs to be determined in writing by Lessee's architect, engineer or building designer.

other reasonable measure to ensure a viable activity. Performance requirements are not intended to be established at a maximum level but, rather at a threshold level of viability for operation of the business.

IX. QUALIFICATION OF TENANT

A. Leasing application process:

1. A letter of intent shall be submitted on forms developed by port staff.
2. The director of finance will conduct a financial review. The financial review will be appropriate to the tenant and may include any or all of the following: credit report, Dunn and Bradstreet report, financial statements, tax returns, or such other information the director of finance deems necessary.
3. If the director of finance recommends approval, then the property management department will prepare a lease for the executive director's or commission's approval as appropriate.
4. If the director of finance does not recommend approval, then the prospective tenant has the opportunity to address the commission at a regular port commission meeting and request reconsideration.

B. Open Public Records:

All information provided to the port is subject to the requirements of open public records laws. If a public records request is made, the port will notify the party submitting the records and said party will assume all costs of preventing disclosure of such documents.

X. VARIATION FROM POLICY

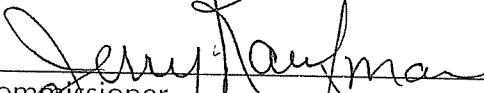
The policy set forth above may be varied from time to time to fit particular instances as is deemed advisable by the commission.

XI. REVIEW OF POLICY


This leasing policy shall be reviewed from time to time as deemed appropriate by the port commission.

ADOPTED by the Port Commission of the Port of Skagit County at a regular meeting thereof held this 18th day of November, 2008.

PORT OF SKAGIT COUNTY



Commissioner



Commissioner

Kevin Ware - Absent
Commissioner