

PORT OF SKAGIT LEASING POLICY

I. INTRODUCTION

It is the policy of the Port to recruit businesses that will provide sustainable community 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.

There are three (3) categories of Port tenants as defined below:

A. Aviation Related Tenant:

A Port tenant whose business is dependent on apron access to conduct business.

B. Marine Related Tenant:

A Port tenant whose business is dependent on water access to conduct business.

C. Mainstream Tenant:

A Port tenant who does not need apron or water access to conduct business.

II. STRATEGIES

A. Leasing Land:

The Port recognizes the challenge of determining the market value of land leases on Port – owned land. The Port takes seriously its mission to generate economic commerce, attract new business, and add high valued jobs that will provide economic opportunity for the community. The Port competes with other regional and national governments/entities for these high valued jobs.

The Port's policy is to negotiate land leases that will attract high quality jobs, economic growth, and revenues to the local, county and state governments and other contributions to the surrounding community, based on a sound business, financing and equity plan.

B. Leasing Buildings:

Annually, the Port will evaluate market values of all port-owned buildings to determine a range of lease rates for each marketable building. From within these ranges actual market value leases will be negotiated based on length of term, capital investment, number of jobs, types of jobs (sustainable community wage), community contribution, and substantial development. Incubator, Start Up, Relocation and Targeted incentives will be based on a sound business, financing, and equity plan.

C. Port Constructed Tenant Improvements:

Airport, Bayview Business Park, Marina, 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.

D. Maintenance Costs:

Port – owned buildings. The Port will schedule and coordinate all landscape, storm water, HVAC systems, sprinkler systems, parking lot, and gutter maintenance and bill tenant has part of its common area maintenance fees.

Land leases. The Port will schedule landscape and parking lot maintenance for tenants and bill tenant has part of its common area maintenance fees.

These requirements are consistent with the goal of creating a sense of arrival and a premier destination.

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 accommodate 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.

III. 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. Rental Rates:

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

D. Rent Adjustments:

Require CPI rent adjustments annually using the Consumer Price Index for all U.S. City Average, All Urban Consumers, Region West – Size Class B/C (CPI).

E. Incentives:

Consider incentives to business that generate a significant number of sustainable community jobs, substantial Port development, or used to assist Incubator, Start Up, Relocation, and Targeted programs based on sound business, financing and equity plans.

F. 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.

G. 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.

H. Structural Changes:

Structural changes to buildings require the prior written consent of the Port. State law requires that all improvements be either removed at the cost of the tenant or at the Port's option become the property of the Port upon termination of the lease.

I. 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.

J. 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.

K. 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.

L. 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, community contribution, proposed capital investment, condition of the building, and needs of the Port.

M. 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.

IV. RENT

A. Rent Amount:

Rent rates shall be established as set forth in Section II. 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 U.S. City Average, All Urban Consumers, Region West – Size Class B/C (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 manufacturing business they may appeal the CPI adjustment to the commission.

V. 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, the generation of economic value to the community, 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, licensed inspectors, the generation of economic value to the community, and future needs of the port.

A. 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, the generation of economic value to the community, 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; the 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, licensed inspectors, the generation of economic value to the community, and future needs of the port. The initial lease and option periods will not exceed fifty (50) years.

VI. TERMINATION OF LEASE

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

VII. 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

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

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 (sustainable community wage), production above a certain level, or some 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.

VIII. 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 Port deems necessary.
3. If the Director of Finance recommends approval, then the real estate 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 disclosure or non-disclosure of such documents.

IX. 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.

X. REVIEW OF POLICY

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