

Resolution No. 2005-13

Resolution of the Port of Olympia Commission Authorizing Proprietary-Type User Charges For Port Goods & Services

Whereas, The Port Commission has adopted Resolution 99-22 "Omnibus User Fees" which sets forth the rate and fee structure for the Port of Olympia; and

Whereas, the Port Commission has been advised by its General Legal Counsel that the price level for these user charges should be re-adopted formally before December, 2005 to clarify that they are in effect at this time; and

Whereas, the Port in 1999 conducted a series of public meetings and private meetings with its tenants and others to gather information about market rates charged throughout the area for all of its areas of business operations including: Marina, Boatworks, Airport, Marine Terminal, Land Rental, and other Business Operations; and

Whereas, the Port of Olympia is required by the laws of the State of Washington to charge and receive fair market value for the use of public property, and it is unlawful to make a gift of the use of public lands for private use; and

Whereas, the Port sets the price level for these charges by various means, including resolution by the Port Commission and administrative action by the Chief Executive Officer of the Port in order to achieve the required fair market value rate of return; and

Whereas, in compliance with Resolution 99-22, the Port's Chief Executive Officer and Auditor have completed and prepared the Executive Order attached hereto setting forth the current rates and fees all in accordance with Resolution 99-22; and

Whereas, the Port changes these price levels from time to time as required by changes in the market conditions of its various business units, to keep charges at a lawful market rate.

Whereas, the Port has investigated all fees and charges for use of Port property, and reports its findings as follows:

The Port Commission hereby finds that the proprietary-type user charges for Port goods and services are not "taxes and fees" as defined in State Law.

The Port Commission hereby further finds that, based on advice of its General Legal Counsel, it is prudent to set out its proprietary type user charges in the form of a resolution adopted before the end of the year 2005.

The Port Commission hereby further finds that, based on public meetings and private meetings with its tenants and others, it should adjust certain proprietary type user charges to reflect the current market price levels for these goods and services.

The Port Commission hereby further finds that those proprietary type user charges that have historically been set by Commission Resolution shall continue to be set by Commission Resolution. Those proprietary type user charges include: Marina and guest dock charges, Boatworks charges, Airport hangar charges, Port Plaza Rental charges, and the Property lease rate and surety formulae.

The Port Commission hereby further finds that those proprietary type user charges that have been historically set by the Chief Executive Officer of the Port shall continue to be set by the Chief Executive Officer of the Port. Those fees include, but are not limited to: Tent rental charge, Equipment rental charges (by hour or other means) in all business units, Marine Terminal Tariff charges, Marine Terminal contract rates, Airport fuel flowage rate, Airport landing charge formula, Airport apron charge, and any other proprietary type user charges not specifically set by the Port Commission in this resolution.

The Port Commission hereby further finds that price levels change from time to time based on general economic factors and the increase in land values in Thurston County. Over the past twenty year period, the rate of price increase in the relevant market has exceeded the rate of increase in the general consumer price index for the United States by approximately three percent (3%). The Port Commission finds that the rate of

increase in the market is linked to the increase in land values as well as the increase in consumer price levels.

The Port Commission hereby further finds that, based on the advice of its General Legal Counsel, it is prudent to set an adjustment factor for future periods in order to ensure that the Port can continue to receive a fair market rate of return on its public property within the relevant economic market.

The Port Commission hereby further finds that, in order to receive a fair market value rate of return, the adjustment factor for all proprietary type user fees other than Labor Rates, Maintenance and Other Services, shall be equal to the Consumer Price Index for the United States (as published by the United States Department of Labor for all urban consumers) plus 3 percentage points per year, however, the annual increase of these charges shall not exceed 7.5% per year. For all Labor Rates, Maintenance and Other Services, the adjustment factor shall be equal to the actual increase in wages, benefits, and personnel related charges or CPI plus 3%, whichever is higher.

The Port Commission hereby finds that the Chief Executive Officer of the Port shall have the power to waive completely or lower, but not raise, the adjustment factor for any one particular or for all proprietary type user charges in any year to the amount necessary to meet the price levels in the relevant market and to ensure a fair market value rate of return on Port property.

The Port Commission hereby further finds that the adjustment in the price level for its proprietary type user charges shall be effective in the first monthly period after the end of each calendar year beginning with the end of the year 2005 and continuing until this Resolution is superseded by a subsequent Resolution.

The Port Commission hereby further finds the charges shown on the *Schedule of Proprietary Type User Charges*, attached hereto (as an attachment to the Executive Order of November 28, 2005) and incorporated herein by reference, to be the actual charges for Port provided goods and services either already in effect or to become effective upon adoption of this Resolution.

Now, therefore it is

Resolved by the Port of Olympia Commission as follows:

1. The rates and charges set forth in the Executive Order of November 28, 2005, which is attached hereto, including automatic periodic adjustments of the rates as provided herein, are the rates and charges for use of Port property and services unless modified consistent with the requirements of this Resolution or Washington law.
2. For lease agreements with terms longer than one year, automatic adjustments shall be made on the anniversary date of the agreement. For lease agreements with month-to-month terms or with terms shorter than one year, as well as all other proprietary user charges and for published tariffs, automatic adjustments shall be made on January 1 of each year.
 - A. All proprietary type user fees and lease fees and rates shall be automatically adjusted each year to reflect inflationary and market increases which have occurred since the previous rate adjustment as partially measured by the Consumer Price Index for All Urban Consumers (or successor index or reasonable substitute if no successor index is readily available). Inflationary and market cost adjustments for all proprietary charges, except those based on labor rates, shall be calculated as the average annual change in the index plus three percentage points, however, in no event shall the automatic adjustment exceed an increase of seven and one-half percent (7.5%) in any one year. All adjustments shall be rounded to the nearest 5 cents for ease of administration, unless otherwise specified in Appendix A. For all Port rates and charges based on Labor rates, the rates shown in Appendix A shall be increased by the actual increase in wages, benefits and other personnel assessments, or CPI plus three percentage points (as described above), whichever is higher. Any automatic adjustment may be reduced or waived by the Chief Executive Officer of the Port if such adjustment would result in a market imbalance or would otherwise be detrimental to the interests of the Port.
 - B. The new rates and user charges schedule shall be published by the Port Auditor on the Fourth Monday of November each year, and shall be effective for the first term

beginning after the close of each calendar year. In most cases, the new charges will be effective beginning in the month of January in the subsequent year.

- C. For all Port property lease charges, the lease shall contain a periodic revision clause to assure the Port continues to receive a fair market value return over the term of the lease. Where no specific written provision is included in the lease, the requirements of Section 2A shall apply.
 - D. This annual increase shall apply to such charges whether initially set by the Port Commission or by the Chief Executive Officer of the Port without any further action being taken by the Port Commission or by the Chief Executive Officer of the Port.
 - E. If the Chief Executive Officer waives any portion of the automatic annual adjustment increase in a given year, the rate will automatically increase the following year as if the full annual market adjustment had occurred for all previous years beginning with the end of the year 2005.
- 3. If proprietary type user fees, including labor fees or rates, or lease fees or rates are determined to be invalid for any reason, or are not included in Appendix A of this resolution, or are otherwise unavailable, then, consistent with the Port's constitutional requirement to not extend credit and to receive a reasonable rate of return on its services and property, the invalidated or unavailable rate or rates shall be a 15% annual rate of return on the Fair Market Value as determined by an MAI appraiser.
 - 4. If any provision of this resolution is found to be invalid for any reason or void by any operation of law, then the remaining parts shall be and remain in effect unless superseded by a subsequent resolution.

This resolution shall become effective immediately upon its adoption.

Adopted by the Port of Olympia Commission at a regular meeting thereof held this 28th day of November, 2005.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary

**Executive Order Setting Rates and Fees for
Proprietary-Type User Charges
For Port Goods & Services in 2006
Pursuant to Commission Resolution 99-22
(Attachment to Resolution 2005-13)**

The Port Commission has instructed the Port to set rates and fees based upon 2005 fee levels, increased by the rate of inflation plus 3%.

The Port Commission has given the Chief Executive of the Port the responsibility to determine whether any reduction in the increase so determined is warranted to meet market conditions.

In Resolution 99-22, the Port Commission stated:

“For all Port rates and charges based on a dollar sum the rates shown in Appendix A shall be increased by the percentage change in the Consumer Price Index for All Urban Consumers published by the United States Department of Labor plus three percentage points, or ten per cent, whichever is less, each year. The percentage change shall be calculated for the period October 1 to October 1 each year.

“Such adjustments may be reduced by the Chief Executive Officer of the Port in order to meet the market prices in the relevant economic market.

“The new rates and user charges schedule shall be published by the Port Auditor on the Third Monday of November each year, and shall be effective for the first term beginning after the close of each calendar year. In most cases, the new charges will be effective beginning in the month of January in the subsequent year....

“...This annual increase shall apply to such charges whether set by the Port Commission or by the Chief Executive Officer of the Port without any further action being taken by the Port Commission or by the Chief Executive Officer of the Port.”

The Port Auditor has certified to the Chief Executive Officer of the Port that the appropriate inflation measure for the year indicated is 4.3%. Therefore, the base rate adjustment for 2006 is equal to 7.3%.

Pursuant to the authority to reduce adjustments delegated above, the Chief Executive Officer of the Port finds as follows:

1. The Marina line of business has considerable local market competition. This market is currently undergoing stress because of several macroeconomic factors. The Port's Marina would probably suffer a loss of business volume if the full 7.3% price increase were imposed.
2. The Boatworks facility has limited competition. The Boatworks is operating at a high percentage of its capacity. The Port's Boatworks would probably not suffer a loss of business volume if the full 7.3% price increase were imposed.
3. The Airport hangar and other space rental business and its fuel flowage and landing fee business has limited local market competition. This market is not experiencing a great deal of stress as indicated by low vacancy rates at the Airport.
4. The Property land leasing business has considerable local competition in the form of land sales for development purposes. The Property building rental line of business has considerable local competition.
5. The Marine Terminal business is not primarily conducted using tariff rates. However, the tariff is widely published and is in direct competition with other tariffs of other Puget Sound Marine Terminals. Presently, the tariff rates at Olympia are in line with those at other comparable ports.
6. The Port's other lines of business did not generate revenue sufficient to base a factual conclusion about business volume effects of rate increases in 2005.

Based on the Findings above, the Chief Executive Officer of the Port has determined that the base 7.3% increase shall be maintained in full, reduced, or entirely deferred to future years, as shown on the chart on the next page. The unused increase shall, to the extent allowable by law, be carried forward and may be imposed using a compound factor as if it had been imposed in its entirety in 2006 or thereafter. THE DETAILED "SCHEDULE OF PROPRIETARY TYPE USER CHARGES," SHALL BE THE ACTUAL RATE CHARGED, AND THE CHART ON THE NEXT PAGE IS INTENDED TO BE A SUMMARY ONLY.

The following chart summarizes the decision of the Chief Executive Officer of the Port regarding rate increases and deferrals for 2006:

| <u>Business Unit & Fee</u> | <u>Base Increase This Year</u> | <u>2006 Increase</u> | <u>Deferred This Year</u> | <u>Deferred from Prior Years</u> | <u>Total Deferral Carried Forward to 2007</u> |
|--|---|----------------------|---------------------------|----------------------------------|---|
| Marina Permanent Moorage | | | | | |
| Up to 32 ft. vessel | 7.3% | .078% | 6.5% | 11.1% | 17.6% |
| 32 - 39 ft. vessel | 7.3% | 3.14% | 4.2% | 11.1% | 15.3% |
| 40 - 49 ft. vessel | 7.3% | 3.66% | 3.6% | 11.1% | 14.7% |
| 50 - 59 ft. vessel | 7.3% | 3.44% | 3.9% | 11.1% | 15.0% |
| Over 59 ft. vessel | 7.3% | 2.72% | 4.6% | 11.1% | 15.7% |
| Marina Other | 7.3% | 0% | 7.3% | 27.6% | 34.9% |
| Marina Guest Moorage | | | | | |
| Up to 20 ft. vessel | 7.3% | 0% | 7.3% | 15.1% | 22.4% |
| Per ft. Charge in Excess of 20 ft. | 7.3% | 0% | 7.3% | 15.1% | 22.4% |
| Boat Launch | 7.3% | 0% | 5.5% | 27.6% | 27.6% |
| | | | | | |
| Boatworks Haul-out & Launch | | | | | |
| Up to 32 ft. vessel | 7.3% | 2.5% | 4.8% | 22.1% | 26.9% |
| 32 - 39 ft. vessel | 7.3% | 2.3% | 5.0% | 22.1% | 27.1% |
| 40 - 49 ft. vessel | 7.3% | 2.1% | 5.2% | 22.1% | 27.3% |
| 50 - 59 ft. vessel | 7.3% | 2.5% | 4.8% | 22.1% | 26.9% |
| Over 59 ft. vessel | 7.3% | 2.4% | 4.9% | 22.1% | 27.0% |
| Boatworks - Other | 7.3% | 0% | 7.3% | 22.1% | 29.4% |
| | | | | | |
| Port Plaza | 7.3% | 0% | 7.3% | 9.9% | 17.2% |
| | | | | | |
| Airport | | | | | |
| Airport Hangar | 7.3% | 5.7% | 1.6% | 3.5% | 5.1% |
| Airport Landing | 7.3% | 0% | 7.3% | 17.2% | 24.5% |
| Airport Apron Fees | 7.3% | 5.7% | 1.6% | 27.6% | 29.2% |
| Airport - Other | 7.3% | 0% | 7.3% | 27.6% | 34.9% |
| | | | | | |
| Property: | | | | | |
| Property Lease | Property Lease & Rental fees are negotiated in various leases. Each year, the Port separately adopts a recovery formula based on fair market value. | | | | |
| Property Rental | | | | | |
| | | | | | |
| Marine Terminal | | | | | |
| Marine Terminal Tariff | The Marine Terminal Tariff Rates are separately negotiated periodically. Most Marine Terminal rates are negotiated in leases and other contracts. | | | | |
| Other | | | | | |
| Foreign Trade Zone | 7.3% | 0% | 7.3% | 27.6% | 34.9% |
| EDC Fees | 7.3% | 0% | 7.3% | 27.6% | 34.9% |
| Port Event Fees | 7.3% | 0% | 7.3% | 0% | 7.3% |
| Governmental Fees | 7.3% | 0% | 7.3% | 27.6% | 34.9% |

Schedule of Proprietary Type User Charges
Effective 1/1/2006

Marina Charges

Lengths shown in Appendix A are the boat length or the slip size whichever is longer.
 "Long-Term" Moorage - amounts include leasehold excise tax

| | |
|---|---|
| Base Rate | \$6.30 per foot per month |
| Rate for 32-36 Ft. Slip | \$6.75 per foot per month |
| Rate for 40-49 Ft. Slip | \$7.10 per foot per month |
| Rate for 50 Ft. Slip | \$7.40 per foot per month |
| Rate for over 50 Ft. Slip | \$7.65 per foot per month |
| Prepaid Discount | None |
| Liveaboard Charge & Limits | \$50.00 per vessel per month \$24.00 per vessel per month if the boat is equipped with an approved system for waste disposal |
| Utilities Charges | As metered or allocated, <i>not subject to leasehold excise tax</i> \$3.50 monthly fee plus actual usage for metered slips \$15.00 flat monthly fee for non-red slips, <i>leasehold excise tax does not apply</i> |
| Guest Moorage | |
| Rate | \$10.00 per day for all vessels up to 20 ft. in length \$0.50 per foot in excess of 20 ft. per day |
| Extended Guest Moorage | None |
| Plaza Moorage | |
| Rate | \$7.00 per day for all vessels up to 20 ft. in length \$0.30 per foot in excess of 20 ft. per day |
| Launch Ramp Charge | |
| Rate - General Public (recreational) | \$5.00 per launch, haul is free |
| Rate - Annual (recreational) | \$50.00 unlimited launches for one year |
| Rate - Commercial Operator | \$25.00 per launch, haul is free (unless required to use the Boatworks facility by the Port) |
| Dry Storage | |
| Rate | \$45.00 per month per vessel or space, <i>leasehold excise tax included</i> |
| Parking | |
| Rate | \$3.00 per day for non-marina tenants |
| Labor, Maintenance & Other Service | |
| Rate | \$50.00 per labor-hour |
| Other Charges | |
| Delinquency, Sale & Impound Fee | \$75 plus actual costs incurred by the Port |
| Tent rental charge | \$75 per tent per three day period |

Boatworks Charges

| | |
|-----------------------------|----------------------------------|
| Haulout & Launch | |
| Up to 32 ft. vessel | \$6.05 per ft. per haul & launch |
| 32 - 39 ft. vessel | \$6.65 per ft. per haul & launch |
| 40 - 49 ft. vessel | \$7.25 per ft. per haul & launch |
| 50 - 59 ft. vessel | \$8.10 per ft. per haul & launch |
| over 59 ft. vessel | \$8.65 per ft. per haul & launch |

Above includes hauling, blocking & launching. No laytime charge on the day of haulout. Includes electricity, compressed air, on-site parking, garbage & recycling services while in the yard.

| | |
|----------------------------------|-------------------------------|
| One-Way Haul & Launch | <i>(Minimum \$100 charge)</i> |
| Up to 32 ft. vessel | \$4.00 per ft. per haul |
| 32 - 39 ft. vessel | \$4.50 per ft. per haul |
| 40 - 49 ft. vessel | \$5.10 per ft. per haul |
| 50 - 59 ft. vessel | \$5.90 per ft. per haul |
| over 60 ft. vessel | \$6.50 per ft. per haul |

Above includes up to two hours in the slings.

Additional Time in Slings \$150.00 per hour or part thereof

Pressure Wash Bottom

Rate \$2.00 per foot
 Additional Charge \$50.00 per hour for time spent removing excessive growth or for special bottom preparation

Hazardous Waste Fee

Rate \$25.00 per vessel per time in the yard

Laytime

First Seven Days \$0.75 per foot per day
 Additional Days \$1.00 per foot per day

Long Term Storage

Vessels hauled over 30 ft \$6.25 per foot per month
 Above on an as-available basis only

Mast Storage

Daily Rate \$3.00 per day
 Monthly Rate \$50.00 per month

Labor Rates

General Labor \$50.00 per hour
 Forklift \$75.00 per hour, ½ hour minimum
 Crane/Travelift \$150.00 per hour, ½ hour minimum
 Delinquency Fee & Impound Fee \$75.00 plus actual costs incurred by the Port

Port Plaza Rental Charges

Labor, Maintenance & Other Services \$50.00 per labor-hour

Airport Charges

“Long-Term” Space Rental - amounts include leasehold excise tax

| | |
|-------------------------------|----------------------------------|
| T-Hangars 40 x 42 ft. | \$200.35 per hangar per month |
| T-Hangars 44 x 40 ft. | \$290.00 per hangar per month |
| Executive Hangars 60 x 46 ft. | \$497.20 per hangar per month |
| Open Hangar | \$156.05 per hangar per month |
| Tie - Downs, Small | \$39.30 per tie - down per month |
| Tie - Downs, Large | \$63.75 per tie - down per month |
| G-Storage | \$145.00 per space per month |
| E-7 Hangar | \$588.45 per hangar per month |

Fuel Flowage

Rate \$0.07 per gallon *Applies only to authorized fuel sellers while on airport*

Landing Fees

Aircraft 12,500 lbs & greater \$1.00 per 1,000 pounds maximum certificated landing weight
 \$12.50 minimum

Apron Fees - Commercial Aviation/Itinerant

| <u>Gross Weight</u> | <u>Daily</u> | <u>Monthly</u> |
|-----------------------|--------------|----------------|
| 0 to 12,000 lbs. | \$3.15 | \$ 35.25 |
| 12,001 to 26,000 lbs. | \$4.75 | \$ 50.65 |
| 26,001 to 54,000 lbs. | \$6.85 | \$ 73.20 |

| | | |
|------------------------|--------|----------|
| 54,001 to 117,000 lbs. | \$9.50 | \$101.30 |
|------------------------|--------|----------|

Key Deposit
Rate \$20 (refundable when key returned)

Hangar Waiting List
Rate \$100 (applicable towards deposit)

Marine Terminal Charges

Rate See Port of Olympia Marine Terminal Tariff as published and in effect on the 31st of December, 2005 or as subsequently amended

Other Rates As negotiated with terminal customers

Property Lease Charges

Rents (for districts as defined in the Port's Comprehensive Plan)

| | |
|--|---|
| Ground Rent - Airport | 9.5% x 60% x Fair Market Value of Property per year |
| Ground Rent - New Market | 9.5% x 60% x Fair Market Value of Property per year |
| Ground Rent - New Market <i>Special District</i> | 9.5% x 75% x Fair Market Value of Property per year |
| Ground Rent - Harbor Property | 9.5% x 70% x Fair Market Value of Property per year |
| Ground Rent - Market District | 9.5% x 85% x Fair Market Value of Property per year |

Space Rent Determined by MAI appraiser based on FMV, not less than \$250 per month. Non-profit up to 18,000 SF at 19% below FMV, Whse. #2 only.

Short-Term Ground Rent Not less than \$250 per month, value calculated same as Ground Rent above

Percentage Rents For retail tenants, as agreed

User Charges

Fuel Flowage Fee - Harbor \$0.05 per gallon (Annual adjustment: round to the nearest 1/2 ¢)

Surety Requirements

| | |
|-----------------------------|--------------------|
| Ground lease over one year | One year's rent |
| Month-to-month ground lease | Three month's rent |
| Space lease month-to-month | Three month's rent |
| Space lease over one year | Six month's rent |
| Public agency as lessee | None |

Option Payments 10% of initial ground rent determined as above

Service & Other Charges

| | |
|---------------------|---|
| CAM Charge | 15% of charges |
| Pro-Rata Charges | 100% of eligible utility-type charges as allocated |
| Late charges | 18% per annum or 2% over prime rate, whichever is more |
| Holding Over | Four times rent in lease |
| Lease reinstatement | \$50.00 for leases restored after default |
| Insurance Premiums | 100% of allocated premiums as negotiated, plus 100% of any increase in the Port's direct insurance costs Caused by tenant's activities on leased property |

Fees and Taxes 100% of all fees and taxes imposed by another Jurisdiction

Audit Costs 100% of cost of auditing tenant's books as required by Lease

Tenant Improvements 100% of cost of all Tenant improvements paid for by Port, plus 12% ROI, depending on the term of the lease

Maintenance & Costs 100% of actual costs incurred by the Port plus 18% per Annum interest

Payments by Port 100% of all money paid on tenant's behalf, plus 18%

| | |
|------------------|---|
| Interest Charges | per annum interest For late payments and any other money owed the Port by a tenant- 18% per annum or 2% over prime rate, whichever is more |
|------------------|---|

Foreign Trade Zone Charges

Application Fees

| | |
|-----------------------------|------------|
| Minor Boundary Modification | \$2,500.00 |
| Major Boundary Modification | \$5,000.00 |
| Manufacturing/Processing | \$2,500.00 |
| Sub-Zones | \$5,000.00 |

| | |
|-----------------------|------------|
| Activation Fee | \$2,500.00 |
|-----------------------|------------|

| | |
|-------------------------|------------|
| Deactivation Fee | \$2,500.00 |
|-------------------------|------------|

Annual Administration Fee

| | |
|----------------------|------------|
| General Purpose Site | \$2,500.00 |
| Sub-Zone | \$5,000.00 |

Port of Olympia Economic Development Corporation Fees

| | |
|---|----------|
| Application for Industrial Revenue Bond | \$750.00 |
|---|----------|

| | |
|------------------|---|
| On Bond Issuance | ¼ of 1% of the principal amount of the bond issue |
|------------------|---|

Port Event - Type Fees

| | |
|--------------------------------------|--------------------------------|
| Boat for sale on land - private | \$15.00 |
| Boat for sale on land - commercial | \$50.00 |
| Booth on Land - private | \$15.00 |
| Booth on Land - commercial | \$50.00 |
| Boat for sale on water | \$50.00 |
| Entry Fee for Chowder Challenge | \$75.00 per restaurant |
| Mug Charge | \$5.00 per chowder mug w/token |
| Tasting Charge | \$5.00 per chowder token only |
| Commercial vendor Boatswap event fee | \$75 per event registration |

Governmental Fees & Charges

| | |
|------------------------------|--|
| Copies | |
| Tapes | 10 cents per page |
| Comprehensive Plan Documents | 100% of actual tape cost |
| Other Documents | \$25.00 each |
| | 100% of copying cost rounded to the nearest whole dollar |

Adopted and Approved by:

Executive Director of the Port of Olympia on November 23, 2005