

PORT OF BREMERTON
BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING

A G E N D A

October 15, 2024
10:00 AM

Bill Mahan Conference Room
Port Administration Offices
Bremerton Nat'l Airport Terminal Bldg
8850 SW State Hwy 3, Bremerton

The Port of Bremerton Board of Commissioners have resumed in-person meetings but are maintaining the option for the public to participate remotely as well. The public is invited to view and/or participate in the hybrid meeting by attending in person or through one of the following options:

- To stream online only (via BKAT feed, with no interaction possible):
<https://bremerton.vod.castus.tv/vod/?live=ch1&nav=live>
- To join the online Zoom meeting: <https://us02web.zoom.us/j/3359030010>
- For audio only; dial 1.253.215.8782; Meeting ID: 335 903 0010

Call to Order

Pledge of Allegiance

Approval of Agenda

Consent Items

All matters listed under Consent Items have been distributed to each member of the Commission for reading and study, are considered to be routine, and will be enacted by one motion of the Commission with no separate discussion. If separate discussion is desired, that item may be removed from the Consent Items and placed under Action Items by request.

- A. Minutes of the regular business meeting of September 24, 2024.
- B. Payment of checks #902471 through #902472 and #E02276 and #902473 and #902474 and #86165 through #86207 and #E02277 through #E02284 and #902475 and #902476 through #902479 and #902480 through #902483 and #902484 and #902485 through #902486 and #902487 and #86208 through #86221 and #E02285 through #E02295 and #902491 from the General Fund for \$426,745.39. Void Checks #84529 and #85004 and #85019.
- C. Excuse Commissioner Axel Strakeljahn's absence due to personal travel.

Information Items

1. Stormwater Environmental Update – Phil Struck, Struck Environmental

Work Study Session

1. First Preliminary Budget

Citizen Comments: *Open to the public for comment. Speakers are asked to keep their comments to less than 3 minutes. Please feel free to submit further comments in writing to the Clerk of the Board (gingerw@portofbremerton.org).*

Action Items

1. Second Amendment to Lease Agreement with American Towers, LLC
2. Final Acceptance for OVIP 7 (Quinault Building) Roof Overlay Project with Signature Roof Services, LLC

Staff Reports

Commission Reports / New Business

Executive Session (if necessary)

Adjournment

Regular business and other meetings that may be attended by members of the Board

<u>Date</u>	<u>Time</u>	<u>Meeting</u>
10/15	10:00 am	*Commission Regular Business Meeting – Hybrid
10/17	11:00 am	Kitsap Regional Coordinating Council (KRCC) Executive Committee
10/17	3:00 pm	KRCC TransPOL
10/18	10:00 am	Peninsula Regional Transportation Planning Organization (PRTPO) Board Retreat
10/22	6:00 pm	CANCELLED *Commission Regular Business Meeting – Hybrid
10/24	10:00 am	Puget Sound Regional Council (PSRC) Executive Board
10/24	2:00 pm	*Kitsap Economic Development Alliance (KEDA) Fall Forum
10/28	6:00 pm	Kitsap All Ports
11/05	12:30 pm	KRCC Executive Board
11/06	1:00 pm	Central Puget Sound Economic Development District (CPSEDD) Executive Committee
11/12	10:00 am	*Commission Regular Business Meeting – Hybrid

Meetings are subject to change or cancellation

**Denotes events in which two (2) or more Commissioners may attend*

PORT OF BREMERTON
BOARD OF COMMISSIONERS
REGULAR BUSINESS MEETING

MINUTES

September 24, 2024
6:00 PM

Bill Mahan Conference Room
Port Administration Offices
Bremerton Nat'l Airport Terminal Bldg
8850 SW State Hwy 3, Bremerton
Remote Option via Zoom

Commissioners and Staff Present

Commissioners

Gary Anderson
Cary Bozeman
Axel Strakeljahn

Staff Members

Jim Rothlin
Aaron Schielke
James Weaver
James Goodman

Cole Barnes
Ginger Waye
Stephanie Frame
Anne Montgomery, Atty (Remote)

Call to Order

President Anderson called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance.

Approval of Agenda

It was moved by STRAKELJAHN, seconded by BOZEMAN to:

Approve the Agenda as presented.

MOTION CARRIES, 3-0

Consent Items

- A. Minutes of the regular business meeting of August 27, 2024.
- B. Payment of checks #902432 through #902433 and #902434 and #902435 and #902436 and #86113 through #86130 and #E02218 through #E02237 and #902437 through #902440 and #902441 through #902444 and #86131 through #86137 and #E02238 through #E02242 from the General Fund for \$267,461.70. VOID Check #E02215.

Payment of checks #902445 through #902447 and #902448 and #902449 through #902450 and #86138 through #86151 and #E02243 through #E02256 and #902451 through #902458 and #86152 through #86164 and #E02257 through #E02275 and

#902460 through #902470 from the General Fund for \$392,432.23. VOIDED Checks #86106 and 86149.

It was moved by BOZEMAN, seconded by STRAKELJAHN to:

Approve the Consent Items as presented.

MOTION CARRIES, 3-0

Information Items

1. Sunny Jack Events Update – Sunny Saunders

CEO Rothlin introduced Ms. Saunders who, aided by PowerPoint, provided an overview of all SJE events with specific detail on the following:

- Bremerton Bridge Blast
- Taste of Kitsap
- Bremerton Night Market
- Blackberry Festival (only event not fully “owned” by SJE). She noted that Bremerton Marina guest moorage was sold out during the festival.
- 2025 Strategic Planning
- 2024 Key Achievements

Ms. Saunders responded to questions and comments from the Board and CEO throughout the presentation.

Citizen Comments - None

Action Items

1. Final Acceptance for Airport Fire Station Building Roof & Exterior Remodel Project #02-23-20017-C with Ponce Excavation Construction & Consulting (PECC).
Presented by James Goodman, Director of Facilities & Property Development

Following presentation and after questions were addressed:

It was moved by BOZEMAN, seconded by STRAKELJAHN to:

Accept a \$6,000 donation from Ed Hall for the Port’s use in the exterior renovation of the airport fire station / BACE building.

MOTION CARRIES, 3-0

It was moved by BOZEMAN, seconded by ANDERSON to:

Accept as final the Airport Fire Station Exterior Renovations and Roof Replacement Project with PECC in the amount of \$75,415.70.

MOTION CARRIES, 3-0

2. Washington State Recreation and Conservation Office (RCO) Grant Authorization for Evergreen Boat Ramp.
Presented by James Weaver, Director of Marine Facilities

Following presentation and after questions were addressed and it was confirmed this is in partnership with the City of Bremerton which will perform the repairs and provide the required matching funds:

It was moved by BOZEMAN, seconded by STRAKELJAHN to:

Approve Resolution 2024-04 authorizing the submittal of a grant application for Evergreen Boat Ramp repairs and for Jim Rothlin, Chief Executive Officer, to act as the authorized representative/agent on behalf of the Port and to legally bind the Port with respect to the above Project for which we seek grant funding assistance managed through the Recreation and Conservation Office.

MOTION CARRIES, 3-0

3. Lease Amendment #1 with Wallitner Aviation & Restoration, LLC.
Presented by Cole Barnes, Airport Manager

Following presentation and after questions were addressed:

It was moved by BOZEMAN, seconded by STRAKELJAHN to:

Approve Lease Amendment #1 with Wallitner Aviation & Restoration LLC.

MOTION CARRIES, 3-0

Staff Reports

Cole Barnes, Airport Manager

- Provided a follow-on update to the Bremerton Airshow discussing the volunteer debrief and parking.

Jim Rothlin, Chief Executive Officer, reported on the following:

- Progress of the airport feasibility study which is currently focusing on the community communication piece.
- Recent annual meeting with Port tenant SAFE Boats Int'l which is now 100% employee owned.

Commission Reports / New Business

Commissioner Anderson

- Reported on recent Kitsap Economic Development Alliance (KEDA) meeting during which there was an interesting, volatile discussion on permitting processes throughout all jurisdictions in the County.

Executive Session - None

Adjournment

There being no further business before the Board, the meeting was adjourned at 7:05 p.m.

Submitted,

Approved,

Jim Rothlin
Chief Executive Officer
October 10, 2024

Cary Bozeman
Commission Vice-President
October 15, 2024

Draft

PORT OF BREMERTON
AGENDA SUMMARY

Agenda Item No: Action Item #1
Subject: Lease Amendment 2 with American Towers LLC
Exhibits: The Second Amendment to Lease Agreement
Prepared By: Arne Bakker, COO
Meeting Date: October 15, 2024

Summary:

American Towers, LLC., has requested to extend their lease option period for six (6) terms of five (5) years each. American Towers has leased property from the Port of Bremerton for the use of a cell tower which currently houses equipment for T-Mobile and Verizon. To retain these providers, American Towers has requested an extension of their lease options. This land lease is for a 360 square foot piece of property.

Currently, the lease with American Towers is set to expire in 2044. With this option extension, the lease will continue through November 2074.

Fiscal Impact:

One-time payment: \$20,000
Lease rate: \$1,117.12 per month
Increase: 10% every 5 years, commencing 2029

Strategic Purpose:

This action conforms with the Port's strategic plan in Goal 4: to expand the Port's line of business through routine assessment of new and expanded business opportunities.

Recommendation:

Staff recommends the approval of the second amendment to lease agreement with American Towers, LLC., as presented and to authorize CEO to execute amendment.

Motion for Consideration:

Move to approve Lease Amendment 2 with American Towers, LLC, as presented and authorize the CEO to execute the amendment.

THE SECOND AMENDMENT TO LEASE AGREEMENT

This Second Amendment to Lease Agreement (this "**Amendment**") is made effective as of the latter signature date hereof (the "**Effective Date**") by and between **Port of Bremerton**, a Washington municipal corporation ("**Landlord**") and **American Towers LLC**, a Delaware limited liability company ("**Tenant**") (Landlord and Tenant being collectively referred to herein as the "**Parties**").

RECITALS

WHEREAS, Landlord owns the real property described on **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"); and

WHEREAS, Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Lease Agreement dated May 27, 2014 ("**Original Lease**"), as amended by that certain Lease Agreement Addendum also dated May 27, 2014 ("**Addendum**") (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises are also described on **Exhibit A**; and

WHEREAS, Landlord and Tenant desire to amend the terms of the Lease to extend the term thereof and to otherwise modify the Lease as expressly provided herein.

NOW THEREFORE, in consideration of the foregoing recitals and the mutual covenants set forth herein and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. **One-Time Payment.** Tenant shall pay to Landlord a one-time payment in the amount of **Twenty Thousand and No/100 Dollars (\$20,000.00)**, payable within thirty (30) days of the Effective Date and subject to the following conditions precedent: (a) Tenant's receipt of this Amendment executed by Landlord, on or before November 22, 2024; (b) Tenant's confirmation that Landlord's statements as further set forth in this Amendment are true, accurate, and complete, including verification of Landlord's ownership; (c) Tenant's receipt of any documents and other items reasonably requested by Tenant in order to effectuate the transaction and payment contemplated herein; and (d) receipt by Tenant of an original Memorandum (as defined herein) executed by Landlord.
2. **Lease Term Extended.** Notwithstanding anything to the contrary contained in the Lease or this Amendment, the Parties agree the Lease originally commenced on October 30, 2014, and, without giving effect to the terms of this Amendment but assuming the exercise by Tenant of all remaining renewal options contained in the Lease (each an "**Existing Renewal Term**" and, collectively, the "**Existing Renewal Terms**"), the Lease is otherwise scheduled to expire on October 29, 2044. In addition to any Existing Renewal Term(s), the Lease is hereby amended to provide Tenant with the option to extend the Lease for each of **Six (6)** additional **Five (5)** year renewal terms (each a "**New Renewal Term**" and, collectively, the "**New Renewal Terms**"). Notwithstanding anything to the contrary contained in the Lease, (a) all Existing Renewal Terms and New Renewal Terms shall automatically renew unless Tenant notifies Landlord that Tenant elects not to renew the Lease, as amended herein, at least sixty (60) days prior to the commencement of the next Renewal Term (as defined below). References in this Amendment to "**Renewal Term**" shall refer, collectively, to the Existing Renewal Term(s) and the New Renewal Term(s). The Landlord hereby agrees to execute and return to Tenant an original Memorandum of Lease in the form and of the substance attached hereto as **Exhibit B** and by this reference made a part hereof (the "**Memorandum**") executed by Landlord, together with any applicable forms needed to record the Memorandum, which forms shall be supplied by Tenant to Landlord.

3. **Rent and Escalation.** The Parties hereby acknowledge and agree that that rent payable from Tenant to Landlord under the Lease is currently **One Thousand One Hundred Seventeen and 12/100 Dollars (\$1,117.12)** per month (the "**Rent**"). Commencing on October 30, 2029, and on the beginning of each Renewal Term thereafter, Rent due under the Lease, as amended herein, shall increase by an amount equal to **Ten Percent (10%)** of the then current Rent. In the event of any overpayment of Rent prior to or after the Effective Date, Tenant shall have the right to deduct from any future Rent payments an amount equal to the overpayment amount. Notwithstanding anything to the contrary contained in the Lease, all Rent and any other payments expressly required to be paid by Tenant to Landlord under the Lease and this Amendment shall be paid to **Port of Bremerton WA**. The escalations in this Section shall be the only escalations to the Rent and any/all rental escalations otherwise contained in the Lease are hereby null and void and are of no further force and effect.
4. **Landlord and Tenant Acknowledgments.** Except as modified herein, the Lease and all provisions contained therein remain in full force and effect and are hereby ratified and affirmed. In the event there is a conflict between the Lease and this Amendment, this Amendment shall control. The Parties hereby agree that to the best of their knowledge no defaults exist under the Lease. To the extent Tenant needed consent and/or approval from Landlord for any of Tenant's activities at and uses of the site prior to the Effective Date, Landlord's execution of this Amendment is and shall be considered consent to and approval of all such activities and uses. Upon request by Tenant and at Tenant's sole cost and expense but without additional consideration owed to Landlord, Landlord hereby agrees to promptly execute and return to Tenant building permits, zoning applications and other forms and documents, including a memorandum of lease, as required for the use of the Leased Premises by Tenant and/or Tenant's customers, licensees, and sublessees. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.
5. **Limited Right of First Refusal.** The Parties acknowledge and agree that Section 15 of the Original Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the obligations of the Parties with respect to Tenant's right of first refusal shall be controlled by this Section of this Amendment. Notwithstanding anything to the contrary contained herein, this paragraph shall not apply to any fee simple sale of the Parent Parcel from Landlord to any prospective purchaser that is not a person or entity directly or indirectly engaged in the business of owning, acquiring, operating, managing, investing in or leasing wireless telecommunications infrastructure (any such person or entity, a "**Third Party Competitor**"). If Landlord receives an offer or desires to offer to: (i) sell or convey any interest (including, but not limited to, leaseholds or easements) in any real property of which the Leased Premises is a part to a Third Party Competitor or (ii) assign all or any portion of Landlord's interest in the Lease, as modified by this Amendment, to a Third Party Competitor (any such offer, the "**Offer**"), Tenant shall have the right of first refusal to purchase the real property or other interest being offered by Landlord in connection with the Offer on the same terms and conditions. If Tenant elects, in its sole and absolute discretion, to exercise its right of first refusal as provided herein, Tenant must provide Landlord with notice of its election not later than thirty (30) days after Tenant receives written notice from Landlord of the Offer. If Tenant elects not to exercise Tenant's right of first refusal with respect to an Offer as provided herein, Landlord may complete the transaction contemplated in the Offer with the Third Party Competitor on the stated terms and price but with the express condition that such sale is made subject to the terms of the Lease, as modified by this Amendment. Landlord hereby acknowledges and agrees that any sale or conveyance by Landlord in violation of this Section is and shall be deemed to be null and void and of no force and effect. The terms, provisions, and conditions of this Section shall survive the execution and delivery of this Amendment.
6. **Notices.** The Parties acknowledge and agree that Section 22 of the Original Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the notice address and requirements of the Lease, as modified by this Amendment, shall be controlled by this Section of this

Amendment. All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 8850 SW State HWY 3, Bremerton, WA 98312; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the Parties, by thirty (30) days prior written notice to the others in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.

7. **Counterparts.** This Amendment may be executed in several counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument, even though all Parties are not signatories to the original or the same counterpart. Furthermore, the Parties may execute and deliver this Amendment by electronic means such as .pdf or similar format. Each of the Parties agrees that the delivery of the Amendment by electronic means will have the same force and effect as delivery of original signatures and that each of the Parties may use such electronic signatures as evidence of the execution and delivery of the Amendment by all Parties to the same extent as an original signature.
8. **Governing Law.** The Parties acknowledge and agree that Section 25(h) of the Original Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date and notwithstanding anything to the contrary contained in the Lease and in this Amendment, the Lease and this Amendment shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.
9. **Waiver.** The Parties acknowledge and agree that Section 19(c) of the Original Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date and notwithstanding anything to the contrary contained herein or in the Lease, in no event shall Landlord or Tenant be liable to the other for, and Landlord and Tenant hereby waive, to the fullest extent permitted under applicable law, the right to recover incidental, consequential (including, without limitation, lost profits, loss of use or loss of business opportunity), punitive, exemplary and similar damages.
10. **Insurance.** The Parties acknowledge and agree that Section 18 of the Original Lease and Section 18 of the Addendum are hereby deleted in their entirety and are of no further force and effect. Tenant shall at all times during the term(s) hereof and at Tenant's sole cost and expense maintain in effect Worker's Compensation insurance with statutory limits and General Liability ("**CGL**") insurance to cover bodily injury and property damage, adequate to protect Landlord against liability for bodily injury or death of any person in connection with the use, operation and condition of the Leased Premises, in an amount not less than Two Million and No/100 Dollars (\$2,000,000.00) of combined single limit bodily injury and property damage coverage with not less than Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate. These limits can be met using the general liability policy limits and umbrella/excess limits. Such policy shall cover the Leased Premises and include Landlord as an additional insured by way of a policy endorsement at least as broad as ISO Form CG 20 10. The defense and indemnification of the Landlord as an "additional insured" will not be affected by any act or omission by Tenant which might otherwise result in a forfeiture of said insurance. For claims related to or arising from this Lease, Tenant's coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 04 13 with respect to Landlord and its elected officials, employees or agents. Each required insurance policy shall provide that coverage shall not be materially changed, amended or canceled with respect to Landlord except upon thirty (30) days' prior written notice from the insurance company or Tenant's insurance broker to Landlord. Tenant grants Landlord and its elected officials, employees, and agents a waiver of any right to subrogation which any

insurer of Tenant may acquire against Landlord by virtue of the payment of any loss under such insurance. Tenant shall obtain any endorsement(s) that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether Landlord has received such an endorsement from the insurer. The CGL policy shall contain a separation of insureds provision such that the policy applies separately to each insured that is subject of a claim or suit. The CGL policy shall not contain a cross-claim, cross-suit, or other exclusion that eliminates coverage by one insured against another. Tenant shall provide certificates of insurance, policy declarations, and endorsement pages to Landlord evidencing insurance compliant with this paragraph. Receipt of such documents by Landlord does not constitute approval by Landlord of the terms of such policy.

11. **Removal.** The Parties acknowledge and agree that Section 6(e) of the Original Lease and Section 6(e) of the Addendum are hereby deleted in their entirety and are of no further force and effect. Within 120 days of the expiration or termination of the Lease, Tenant shall remove all of its communications equipment and other personal property from the Leased Premises, including the removal of any foundation to six (6) inches below grade, but not including underground utilities, if any, and restore the Leased Premises to its original condition, reasonable wear and tear excepted and casualty damage excepted. Landlord agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of Tenant shall remain the personal property of Tenant and Tenant shall have the right to remove the same at any time during the term, whether or not said items are considered fixtures and attachments to real property under applicable laws. If such time for removal causes Tenant to remain on the Leased Premises after the termination or expiration of the Lease, Tenant shall pay rent at the then existing monthly rate or on the existing monthly pro-rata basis if based upon a longer payment term, until such time as the removal of the building, antenna structure, fixtures and all personal property are completed and all of Tenant's insurance and indemnification obligations shall remain in full force and effect until such time as Tenant has completed all removal activities and fully vacated the Leased Premises in accordance with the Lease, as amended.
12. **Tenant's Securitization Rights; Estoppel.** The Parties acknowledge and agree that Section 16(d) of the Original Lease is hereby deleted in its entirety and is of no further force and effect. From and after the Effective Date the obligations of the Parties with respect to Tenant's securitization rights shall be controlled by this Section of this Amendment. Landlord hereby consents to the granting by Tenant of one or more leasehold mortgages, collateral assignments, liens, and/or other security interests (collectively, a "**Security Interest**") in Tenant's interest in the Lease, as amended, but excluding Tenant's interest in the deposit defined in Section 25(c) of the Addendum, and all of Tenant's property and fixtures attached to and lying within the Leased Premises and further consents to the exercise by Tenant's mortgagee ("**Tenant's Mortgagee**") of its rights to exercise its remedies, including without limitation foreclosure, with respect to any such Security Interest. Landlord shall recognize the holder of any such Security Interest of which Landlord is given prior written notice (any such holder, a "**Holder**") as "Tenant" hereunder in the event a Holder succeeds to the interest of Tenant hereunder by the exercise of such remedies. Landlord further agrees to execute a written estoppel certificate within thirty (30) days of written request of the same by Tenant or Holder.
13. **Taxes.** The Parties acknowledge and agree that Section 12 of the Original Lease and Section 12(b) of the Addendum are hereby deleted in their entirety and are of no further force and effect. From and after the Effective Date the obligations of the Parties with respect to taxes shall be controlled by this Section of this Amendment. During the term of the Lease, as modified by this Amendment, Tenant shall pay when due all leasehold excise, real property, personal property, and other taxes, fees, and assessments that are directly attributable to Tenant's improvements on the Leased Premises (the "**Applicable Taxes**") directly to the local taxing authority to the extent that the Applicable Taxes are billed directly to Tenant. Tenant hereby agrees to reimburse Landlord for any Applicable Taxes billed directly to Landlord (which shall not include

any taxes or other assessments attributable to periods prior to the Effective Date). Landlord must furnish written documentation (the substance and form of which shall be reasonably satisfactory to Tenant) of any Applicable Taxes along with proof of payment of the same by Landlord. Landlord shall submit requests for reimbursement in writing to: *American Tower Corporation, Attn.: Landlord Relations, 10 Presidential Way, Woburn, MA 01801* unless otherwise directed by Tenant from time to time. Subject to the requirements set forth in this Section, Tenant shall make such reimbursement payment within forty-five (45) days of receipt of a written reimbursement request from Landlord. Anything to the contrary notwithstanding, Landlord is only eligible for reimbursement if Landlord requests reimbursement within one (1) year after the date such taxes became due. Additionally, Landlord shall not be entitled to reimbursement for any costs associated with an increase in the value of Landlord's real property calculated based on any monetary consideration paid from Tenant to Landlord. If Landlord fails to pay when due any real property, personal property, and other taxes, fees, and assessments affecting the Parent Parcel, Tenant shall have the right, but not the obligation, to pay such taxes on Landlord's behalf and: (i) deduct the full amount of any such taxes paid by Tenant on Landlord's behalf from any future payments required to be made by Tenant to Landlord hereunder; (ii) demand reimbursement from Landlord, which reimbursement payment Landlord shall make within forty-five (45) days of such demand by Tenant; and/or (iii) collect from Landlord any such tax payments made by Tenant on Landlord's behalf by any lawful means.

14. **Conflict/Capitalized Terms.** The Parties hereby acknowledge and agree that in the event of a conflict between the terms and provisions of this Amendment and those contained in the Lease, the terms and provisions of this Amendment shall control. Except as otherwise defined or expressly provided in this Amendment, all capitalized terms used in this Amendment shall have the meanings or definitions ascribed to them in the Lease. To the extent of any inconsistency in or conflict between the meaning, definition, or usage of any capitalized terms in this Amendment and the meaning, definition, or usage of any such capitalized terms or similar or analogous terms in the Lease, the meaning, definition, or usage of any such capitalized terms in this Amendment shall control.
15. **Termination.** The Parties acknowledge and agree that Section 11(d) of the Original Lease is hereby deleted in its entirety and is of no further force and effect. In the event of termination by Tenant or Landlord pursuant to any provision contained in Paragraph 11 of the Original Lease or Section 2 herein, Tenant shall be relieved of all further liability hereunder, except to the extent that Tenant has not paid any Rent payable prior to such termination.
16. **Indemnification.** The Parties acknowledge and agree that Sections 14(a)(i) and 14(b)(i) of the Original Lease are hereby deleted in their entirety and are of no further force and effect.

FOR PURPOSES OF THE INDEMNIFICATION PROVISION CONTAINED IN SECTION 14(A)(II) OF THE ORIGINAL LEASE ONLY, AND ONLY TO THE EXTENT OF CLAIMS AGAINST TENANT BY LANDLORD UNDER SUCH INDEMNIFICATION PROVISION, TENANT SPECIFICALLY WAIVES ANY IMMUNITY IT MAY BE GRANTED UNDER THE WASHINGTON STATE INDUSTRIAL INSURANCE ACT, TITLE 51 RCW. THE INDEMNIFICATION OBLIGATION UNDER THIS LEASE, AS AMENDED HEREIN, SHALL NOT BE LIMITED IN ANY WAY BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE TO OR FOR ANY THIRD PARTY UNDER WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS, OR OTHER EMPLOYEE BENEFIT ACTS.

The foregoing provision was specifically negotiated and agreed upon by the Parties hereto.

Landlord's Initials _____ Tenant's Initials _____

17. **Casualty Loss Waiver.** Landlord and its commissioners, employees, insurance carriers, and insurance policies shall not be responsible to Tenant for any loss, damage, or impairment to Tenant's property, whether real, personal or mixed, occasioned by reason of any fire, storm or other occurrence or event whatsoever ("**Casualty**"). It shall be Tenant's sole responsibility to provide its own protection against Casualty, regardless of whether such Casualty is occasioned by the acts or omissions of Tenant, a third party, or act of nature; provided, in all events, Landlord shall be responsible for any Casualty if and to the extent that the Casualty relates to or arises as the result of the negligence, gross negligence, or willful misconduct of Landlord or any of Landlord's employees, agents, contractors, and/or invitees. Tenant hereby releases and discharges Landlord and its commissioners, employees, insurance carriers, and insurance policies from any Casualty except to the extent specified herein.

18. **Confidentiality.** The Parties acknowledge and agree that Section 20 of the Original Lease is hereby deleted in its entirety and is of no further force and effect.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

LANDLORD:

Port of Bremerton,
a Washington municipal corporation

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____
Title: _____
Date: _____

State/Commonwealth of _____

County of _____

On this ____ day of _____, 202____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT:

American Towers LLC,
a Delaware limited liability company

Signature: _____

Print Name: _____

Title: _____

Date: _____

EXHIBIT A

This Exhibit A may be replaced at Tenant's option as described below.

PARENT PARCEL

Tenant shall have the right to replace this description with a description obtained from Landlord's deed (or deeds) that include the land area encompassed by the Lease and Tenant's improvements thereon.

The Parent Parcel consists of the entire legal taxable lot owned by Landlord as described in a deed (or deeds) to Landlord of which the Leased Premises is a part thereof with such Parent Parcel being described below.

PARCEL I:

THAT PORTION OF THE NORTHEAST AND SOUTHEAST QUARTERS OF SECTION 11, TOWNSHIP 23 NORTH, RANGE 1 WEST, W.M., IN KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 11, SAID CORNER BEING MARKED ON THE GROUND BY A CONCRETE FILLED SECTION OF RED TILE WITH COPPER NAIL FOR CENTER POINT; THENCE ALONG THE EAST WEST CENTERLINE OF SAID SECTION 11, SOUTH 87°56'12" EAST 2,792.23 FEET TO THE CENTER OF SAID SECTION 11, WHICH BEARS SOUTH 2°17'26" EAST 2,731.51 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 11; THENCE SOUTH 87°56'12" EAST 1,222.98 FEET TO AN INTERSECTION WITH THE CENTERLINE OF IMPERIAL WAY; THENCE ALONG SAID CENTERLINE SOUTH 46°02'06" WEST 247.33 FEET; THENCE NORTH 43°57'52" WEST 50.00 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY MARGIN OF SAID IMPERIAL WAY; THENCE NORTH 43°57'52" WEST 245.00 FEET; THENCE CONTINUING NORTH 43°57'52" WEST 78.31 FEET; THENCE NORTH 46°02'08" EAST 0.68 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 45°22'55" EAST 60.00 FEET; THENCE NORTH 44°37'05" WEST 60.00 FEET; THENCE SOUTH 45°22'55" WEST 60.00 FEET; THENCE SOUTH 44°37'05" EAST 60.00 FEET TO THE TRUE POINT OF BEGINNING.

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AN EASEMENT FOR ACCESS AND UTILITY DESCRIBED AS FOLLOWS:

A TRACT OF LAND LOCATED IN THAT PORTION OF THE NORTHEAST AND SOUTHEAST QUARTERS OF SECTION 11, TOWNSHIP 23 NORTH, RANGE 1 WEST, W.M., IN KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

SAID TRACT BEING A 20 FOOT WIDE STRIP OF LAND LYING 10 FEET OF BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 11; SAID CORNER BEING MARKED ON THE GROUND BY A CONCRETE FILLED SECTION OF RED TILE WITH COPPER NAIL FOR CENTER POINT; THENCE ALONG THE EAST WEST CENTERLINE OF SAID SECTION 11, SOUTH 87°56'12" EAST 2,792.23 FEET TO THE CENTER OF SAID SECTION 11, WHICH BEARS SOUTH 2°17'26" EAST, 2,731.51 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 11; THENCE SOUTH 87°56'12" EAST 1,222.98 FEET TO AN INTERSECTION WITH THE CENTERLINE OF IMPERIAL WAY; THENCE ALONG SAID CENTERLINE SOUTH 46°02'06" WEST 247.33 FEET; THENCE NORTH 43°57'52" WEST 50.00 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY MARGIN OF SAID IMPERIAL WAY; THENCE NORTH 43°57'52" WEST 245.00 FEET; THENCE CONTINUING NORTH 43°57'52" WEST 78.31 FEET; THENCE NORTH 46°02'06" EAST 0.68 FEET; THENCE NORTH 44°37'05" WEST 30.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 45°22'55" WEST 51.46 FEET TO A POINT HEREINAFTER KNOWN AS POINT 'A'; THENCE SOUTH 44°04'45" EAST 366.28 FEET TO THE NORTHWESTERLY MARGIN OF SAID IMPERIAL WAY AND THE TERMINUS OF THIS CENTERLINE DESCRIPTION; TOGETHER WITH A 20 FOOT WIDE TRACT OF LAND LYING 10 FEET OF BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE: BEGINNING AT AFOREMENTIONED POINT 'A'; THENCE NORTH 44°04'45" WEST 35.00 FEET TO THE TERMINUS OF THIS CENTERLINE DESCRIPTION; SIDELINES TO BE LENGTHENED AND SHORTENED TO INTERSECT EACH OTHER AND TO TERMINATE ON THE NORTHWESTERLY MARGIN OF SAID IMPERIAL WAY.

EXHIBIT A (CONTINUED)
LEASED PREMISES

Tenant shall have the right to replace this description with a description obtained from the Lease or from a description obtained from an as-built survey conducted by Tenant.

The Leased Premises consists of that portion of the Parent Parcel as defined in the Lease which shall include access and utilities easements. The square footage of the Leased Premises shall be the greater of: (i) the land area conveyed to Tenant in the Lease; (ii) Tenant's (and Tenant's customers) existing improvements on the Parent Parcel; or (iii) the legal description or depiction below (if any).

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CONTAINING 3,600 SQUARE FEET, MORE OR LESS.

EXHIBIT A (CONTINUED)
ACCESS AND UTILITIES

The access and utility easements include all easements of record as well that portion of the Parent Parcel currently utilized by Tenant (and Tenant's customers) for ingress, egress, and utility purposes from the Leased Premises to and from a public right of way including but not limited to:

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TOGETHER WITH A 20 FOOT WIDE TRACT OF LAND LYING 10 FEET OF BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE:

BEGINNING AT AFOREMENTIONED POINT 'A'; THENCE NORTH 44°04'45" WEST 35.00 FEET TO THE TERMINUS OF THIS CENTERLINE DESCRIPTION.

SIDELINES TO BE LENGTHENED AND SHORTENED TO INTERSECT EACH OTHER AND TO TERMINATE ON THE NORTHWESTERLY MARGIN OF SAID IMPERIAL WAY.

Together with:

A TRACT OF LAND LOCATED IN THAT PORTION OF THE NORTHEAST AND SOUTHEAST QUARTERS OF SECTION 11, TOWNSHIP 23 NORTH, RANGE 1 WEST, W.M., IN KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

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CONTAINING 884 SQUARE FEET, MORE OR LESS.

EXHIBIT B

FORM OF MEMORANDUM OF LEASE

Prepared by and Return to:

American Tower
10 Presidential Way
Woburn, MA 01801
Attn.: Land Management/Nathan Maxwell Whitaker, Esq.
ATC Site No.: 281356
ATC Site Name: SUNNY SLOPE WA
Assessor's Parcel No(s): 112301-3-001-1000

Prior Recorded Lease Reference:

Document No.: 201501020069
State of Washington
County of Kitsap

MEMORANDUM OF LEASE

This Memorandum of Lease (the "**Memorandum**") is entered into as of the latter signature date hereof, by and between **Port of Bremerton**, a Washington municipal corporation, ("**Landlord**") and **American Towers LLC**, a Delaware limited liability company ("**Tenant**").

NOTICE is hereby given of the Lease (as defined and described below) for the purpose of recording and giving notice of the existence of said Lease. To the extent that notice of such Lease has previously been recorded, then this Memorandum shall constitute an amendment of any such prior recorded notice(s).

1. **Parent Parcel and Lease.** Landlord is the owner of certain real property being described in **Exhibit A** attached hereto and by this reference made a part hereof (the "**Parent Parcel**"). Landlord (or its predecessor-in-interest) and Tenant (or its predecessor-in-interest) entered into that certain Lease Agreement dated May 27, 2014 (as the same may have been amended from time to time, collectively, the "**Lease**"), pursuant to which the Tenant leases a portion of the Parent Parcel and is the beneficiary of certain easements for access and public utilities, all as more particularly described in the Lease (such portion of the Parent Parcel so leased along with such portion of the Parent Parcel so affected, collectively, the "**Leased Premises**"), which Leased Premises is also described on **Exhibit A**.
2. **Expiration Date.** Subject to the terms, provisions, and conditions of the Lease, and assuming the exercise by Tenant of all renewal options contained in the Lease, the final expiration date of the Lease would be October 29, 2074. Notwithstanding the foregoing, in no event shall Tenant be required to exercise any option to renew the term of the Lease.
3. **Leased Premises Description.** Tenant shall have the right, exercisable by Tenant at any time during the original or renewal terms of the Lease, to cause an as-built survey of the Leased Premises to be prepared and, thereafter, to replace, in whole or in part, the description(s) of the Leased Premises set forth on **Exhibit A** with a legal description or legal descriptions based upon such as-built survey. Upon Tenant's request, Landlord shall execute and deliver any documents reasonably necessary to effectuate such replacement, including, without limitation, amendments to this Memorandum and to the Lease.
4. **Right of First Refusal.** There is a right of first refusal in the Lease.
5. **Effect/Miscellaneous.** This Memorandum is not a complete summary of the terms, provisions and conditions contained in the Lease. In the event of a conflict between this Memorandum and the Lease, the Lease shall control. Landlord hereby grants the right to Tenant to complete and execute on behalf of

Landlord any government or transfer tax forms necessary for the recording of this Memorandum. This right shall terminate upon recording of this Memorandum.

6. **Notices.** All notices must be in writing and shall be valid upon receipt when delivered by hand, by nationally recognized courier service, or by First Class United States Mail, certified, return receipt requested to the addresses set forth herein: to Landlord at: 8850 SW State HWY 3, Bremerton, WA 98312; to Tenant at: Attn.: Land Management 10 Presidential Way, Woburn, MA 01801, with copy to: Attn.: Legal Dept., 116 Huntington Avenue, Boston, MA 02116. Any of the parties hereto, by thirty (30) days prior written notice to the other in the manner provided herein, may designate one or more different notice addresses from those set forth above. Refusal to accept delivery of any notice or the inability to deliver any notice because of a changed address for which no notice was given as required herein, shall be deemed to be receipt of any such notice.
7. **Counterparts.** This Memorandum may be executed in multiple counterparts, each of which when so executed and delivered, shall be deemed an original and all of which, when taken together, shall constitute one and the same instrument.
8. **Governing Law.** This Memorandum shall be governed by and construed in all respects in accordance with the laws of the State or Commonwealth in which the Leased Premises is situated, without regard to the conflicts of laws provisions of such State or Commonwealth.

[SIGNATURES COMMENCE ON FOLLOWING PAGE]

IN WITNESS WHEREOF, Landlord and Tenant have each executed this Memorandum as of the day and year set forth below.

LANDLORD

2 WITNESSES

Port of Bremerton,
a Washington municipal corporation

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

On this ____ day of _____, 202____, before me, the undersigned Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

LANDLORD

2 WITNESSES

Port of Bremerton,
a Washington municipal corporation

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

State/Commonwealth of _____

County of _____

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WITNESS my hand and official seal.

Notary Public
Print Name: _____
My commission expires: _____

[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

TENANT

WITNESS

American Towers LLC,
a Delaware limited liability company

Signature: _____
Print Name: _____
Title: _____
Date: _____

Signature: _____
Print Name: _____

Signature: _____
Print Name: _____

WITNESS AND ACKNOWLEDGEMENT

Commonwealth of Massachusetts

County of Middlesex

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Print Name: _____
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[SEAL]

EXHIBIT A

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PARENT PARCEL

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Together with:

A TRACT OF LAND LOCATED IN THAT PORTION OF THE NORTHEAST AND SOUTHEAST QUARTERS OF SECTION 11, TOWNSHIP 23 NORTH, RANGE 1 WEST, W.M., IN KITSAP COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 11, SAID CORNER BEING MARKED ON THE GROUND BY A CONCRETE FILLED SECTION OF RED TILE WITH COPPER NAIL FOR CENTER POINT; THENCE ALONG THE EAST WEST CENTERLINE OF SAID SECTION 11, SOUTH 87°56'12" EAST 2,792.23 FEET TO THE CENTER OF SAID SECTION 11, WHICH BEARS SOUTH 2°17'26" EAST, 2,731.51 FEET FROM THE NORTH QUARTER CORNER OF SAID SECTION 11; THENCE SOUTH 87°56'12" EAST 1,222.98 FEET TO AN INTERSECTION WITH THE CENTERLINE OF IMPERIAL WAY; THENCE ALONG SAID CENTERLINE SOUTH 46°02'08" WEST 247.33 FEET; THENCE NORTH 43°57'52" WEST 50.00 FEET TO THE NORTHWESTERLY RIGHT-OF-WAY MARGIN OF SAID IMPERIAL WAY, THENCE NORTH 43°57'52" WEST 245.00 FEET; THENCE CONTINUING NORTH 43°57'52" WEST 78.31 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 45°22'55" EAST 10.00 FEET; THENCE SOUTH 43°57'52" EAST 78.41 FEET TO A POINT ON THE SOUTHEAST LINE OF THE PARCEL BOUNDARY PER TITLE COMMITMENT E-249188; THENCE SOUTH 46°02'08" WEST 20.00 FEET; THENCE NORTH 43°57'52" WEST 10.00 FEET; THENCE NORTH 46°02'08" EAST 10.00 FEET TO A POINT ON THE SOUTHWEST LINE OF SAID PARCEL BOUNDARY; THENCE NORTH 43°57'52" WEST 68.30 FEET TO THE TRUE POINT OF BEGINNING;

CONTAINING 884 SQUARE FEET, MORE OR LESS.

PORT OF BREMERTON
AGENDA SUMMARY

Agenda Item No: Action Item #2
Subject: Final Acceptance of Roof Replacement of OVIP#7 (Quinault Building)
Port Project 04-24-40014-C with Signature Roof Service, LLC
Exhibits: None
Prepared By: James Goodman, Director of Facilities and Property Development
Meeting Date: October 15, 2024

Summary:

On May 14, 2024, the Port Commission awarded the bid to install a roof overlay system and internal heating units in 5626 Imperial Way (OVIP 7 – Quinault building) to Signature Roof Services. Signature Roofing began the project on June 3 and completed it on September 9. The project had a delay in receiving the correct heating units from the suppliers due to supply chain issues. Additionally, a single change order (\$4,423) was approved to incorporate a recommended fresh air intake system into the heating units. The upgrade will better ensure heating unit longevity due to the tenant’s type of work within the building.

Port staff completed a final inspection with Signature Roofing. The Port finds the work to be satisfactory and within the terms and scope of the contract.

Cost:

Base Bid (Re-Roof System \$170,625)
Alternate #1 (New Internal Heating Unit Installed \$58,695)
Change order #1 (Fresh air intake \$4,423)
Total \$233,743

Fiscal Impact:

Signature Roofing Project Total Cost	\$233,743
Capital Budget - OVIP 7 Roof and Gutters	\$150,000
Capital Budget - Site, Utilities, Building Improvements	\$83,743
Remaining Balance - OVIP 7 Roof & Gutters	\$ 0
Remaining Balance - Site, Utilities, Building Improvements	\$192,398

Strategic Purpose:

Goal 6. Develop and fund a 20-year asset replacement/major maintenance schedule.

Goal 7. Continue to improve the Port's environmental performance and minimize its ecological footprint.

Recommendation:

Staff recommend accepting as final the roofing overlay system and heater replacement project at 5626 Imperial Way (OVIP 7) with Signature Roof Service LLC, in the amount of \$233,743. Port staff will release retainage once all applicable documentation is received.

Motion for Consideration:

Move to accept as final the roofing overlay system and heater replacement project at 5626 Imperial Way (OVIP 7) with Signature Roof Service LLC, in the amount of \$233,743.