

**PORT OF HOOD RIVER  
REAL ESTATE TRANSACTION POLICY**  
Adopted April 15, 2008

The Port of Hood River ("Port" or "Commission") has real estate holdings that are important strategic assets for the Port District and the region. To carry out its mission and achieve community objectives, the Port engages in acquisition, disposition and leasing of real property on a regular basis. This Real Estate Transaction Policy ("Transaction Policy") is intended to guide the Port's efforts in these activities.

The Port shall carry out the following consistent with its Strategic Plan and mission:

- Purchase, lease, develop and sell real property, and manage a portfolio of real estate assets, that supports employment growth and economic development;
- Maintain a portfolio of real estate assets sufficient to actively market and recruit new business to the Port District and for existing businesses to expand;
- Realize a return on investment that balances both financial and public policy objectives; and
- Capture revenues sufficient to cover the costs associated with property management, operations and development whenever possible.

**I. GENERAL POLICIES**

All real estate transactions shall conform to applicable federal, state, and local laws, Port ordinances and policies, the Port's Strategic Plan, existing bond, grant or loan covenants, area development plans or other plans as adopted by the Commission.

The Port shall generally seek to pursue development opportunities which are uneconomic for the private sector to carry out but which are consistent with the Port's economic development mission and capabilities and public policy objectives.

In determining land values, lease rates, tenant allowances and other property valuation issues, the Port will consider market comparables, and when available, appraisals, and shall generally attempt to be competitive with local market conditions in structuring its real estate transactions. However, if the Commission determines that a specific transaction enhances the opportunity to accomplish significant public policy goals consistent with its Strategic Plan, it may deviate from market comparable terms and conditions.

The Port will not subordinate its interest in real property except in exceptional circumstances. The Port will typically not encumber its property other than to finance a Port project, to achieve a Port goal, or as a participant in a Local Improvement District or other improvement process of benefit to the property.

All real property sales and leases shall be approved by the Port Commission. Authority to execute renewal options when the original lease was approved by the Commission is delegated to the Executive Director.

All leases and property sale documents will be reviewed and approved by the Port's legal counsel before Port execution.

## **II. TYPES OF AGREEMENTS**

The Port may utilize a variety of real estate agreements to carry out its economic development mission. The specific type of agreement to be used in any individual transaction will be determined by the Port Commission after recommendation by the Executive Director. These include:

### **A. Disposition and Development Agreements:**

The Port will usually sell properties that are of significant size, prominently located or capable of achieving significant public objectives, only after execution of a Disposition and Development Agreement (DDA). Such a DDA will typically include identification of the development team, description of the project to be completed, cost estimate, financing approach, development timeline, public objectives and other information as may be determined. A DDA must be approved by the Port Commission.

### **B. Options**

Requests by outside parties for options to lease or purchase Port property will be considered on a case-by-case basis. Criteria to be used to evaluate options will include, but not be limited to determining whether: (1) the option will be in the Port's best interest; (2) the party requesting the option has the financial capability to complete the transaction; (3) there is a high degree of assurance that the transaction is consistent with the Port's economic development mission; and (4) the public interest would be better served by marketing the property more generally to the public. The Commission must approve any option to lease or sell Port property.

The Executive Director may execute an option for the Port to purchase property. However, at minimum, the option must state that the purchase is contingent upon Commission approval and subject to completion and review of an appraisal. In most cases the Executive Director should consult with the Commission before executing an option.

### **C. Letters of Intent**

Letters of Intent to purchase, sell, or lease real property may be entered into by the Executive Director, but such Letters of Intent shall explicitly state that the transaction is non-binding and contingent upon approval of the Commission. The Executive Director will typically inform the Commission and obtain direction prior to proceeding with such an action although in some unusual instances this prior consultation may not be possible.

## **III. BROKER COORDINATION**

The Port will usually hold a variety of properties within its real estate portfolio. At any time the Port may initiate efforts to sell specific properties in order to achieve defined economic development objectives. At other times, the Port may receive unsolicited interest to buy or lease its property.

In both circumstances the Port welcomes the involvement and assistance of real estate professionals to help achieve community goals and the Port's mission.

## **A. Unsolicited Offers to Buy or Lease Port Property**

The Port may describe properties on its website and carry out other efforts to advertise the availability of properties for sale or lease. Brokers may contact the Port to inquire about specific properties or to determine generally if properties are available to purchase or lease. In these instances, the Port will usually represent itself in the transaction but may pay real estate commissions to real estate brokers licensed in the State of Oregon whose actions are the procuring cause ("Procuring Cause") of the sale or lease of the Port's real property.

The Port will recognize a real estate broker as the Procuring Cause only after the Executive Director has determined that (1) the purchaser or lessee signs an acknowledgment that the broker is their agent, not the agent of the Port; (2) the Port Commission approves the real estate transaction and associated commission; (3) the Port issues a letter to the real estate broker stating that the Port intends to pay the broker a commission, which may include conditions; and (4) the real estate broker agrees in writing to the terms of the Port's letter.

In the event of a conflict among brokers arising with respect to the right to a commission, the Port will expect the brokers to resolve the issue. If the dispute is not promptly resolved to the Port's satisfaction, the Port may pay a reduced commission or no commission to any of the brokers involved in the dispute, in the Port's discretion.

At the Port's discretion no more than one-half the commission may be payable if the broker has signed an agreement entitling the broker to receive a finder's fee or commission from the lessee or purchaser.

No representation by a real estate broker to their client shall be binding on the Port.

## **B. Listing Agreements to Sell or Lease Port Property**

In some instances, the Port will seek to retain a real estate broker to represent the Port to sell or lease property. This approach will usually be considered for multiple or high profile properties that are being marketed or for complex transactions when additional real estate expertise is sought.

When seeking broker representation, the Port will usually carry out a public solicitation similar to that used for personal services contracts. The solicitation process will seek proposals from real estate brokers that describe the firm's background, qualifications, staffing, proposed fee and approach to the assignment among other factors. Port staff will manage the solicitation and make a recommendation to the Commission. Following Commission approval the Port will negotiate an Exclusive Sales Agreement with the selected broker. The Commission may designate a second broker to negotiate with, if negotiations with the selected broker are not concluded in a satisfactory manner.

# **IV. SALES COMMISSIONS**

## **A. Unsolicited Offers**

Commissions to brokers bringing unsolicited offers to the Port or responding to information about available Port properties shall usually be calculated as follows:

### **1. Land and/or Building**

Six percent (6%) of the first \$500,000 of gross sales price, plus Five Percent (5%) of the portion of the sales price from \$500,000 to \$1 million and Four

Percent (4%) of the sales price in excess of \$1 million for cash sales.  
Commissions for cash sales will be payable at closing after transfer of deed.

## **2. Leases**

For net leases, Six percent (6%) of the anticipated rental amount payable to the Port for the term of the lease if five years or less, plus two percent (2%) of the anticipated rent for the balance of the term, up to ten years. For gross leases, five percent (5%) of the anticipated rental amount payable to the Port for the term of the lease if five years or less, plus two percent (2%) of the anticipated rent for the balance of the term, up to ten years.

One-half of the commission shall be paid after Commission approval and upon mutual execution of the lease and one-half shall be paid upon occupancy of the premises by the Lessee.

Commissions on options to extend leases, renewal of expired leases, or an expansion of lease terms will be negotiated and defined in the lease.

## **3. Purchase Options**

Purchase Options will be infrequently used by the Port. If they are used, a commission may not be applicable. If the Port determines that a commission is warranted, 6% of the option consideration paid for the future right to purchase Port property may be payable after Commission approval and mutual execution of the option agreement. A commission based on the schedule listed above in Section IV.A.1 will be paid if an option is exercised within the time period defined by the Option Agreement. The total commission paid, including the commission on the initial transaction plus the commission on the option, shall not exceed the commission schedule defined in Section IV.A.1 above.

## **B. Listing Agreements**

When the Port has taken steps to select a broker to market Port properties for sale or lease it will generally enter into an Exclusive Sales Agreement and follow the commission schedule listed above in Section IV.A. Depending on the property being listed and anticipated tasks, different rates may be negotiated.

## **V. LIMITATIONS**

These policies are not an obligation of the Port enforceable by a real estate broker or other person. These policies are Port guidelines the Port may use in determining whether to pay a real estate commission, and commission amounts. The Port of Hood River reserves the right to follow, not follow, withdraw or amend these policies at any time as may be required in its sole discretion.