

**INTERLOCAL AGREEMENT  
BETWEEN THE PORT OF TACOMA AND THE NORTHWEST SEAPORT ALLIANCE  
REGARDING USE OF PROPERTIES AT 4215 SR 509 N FRONTAGE ROAD; 2302  
ROSS WAY; and 1701 PORT OF TACOMA ROAD**

This Interlocal Agreement (“Agreement”) is entered into this \_\_\_\_ day of 2023, by and between the Port of Tacoma (“Port”), a public port district organized under the laws of the State of Washington, and The Northwest Seaport Alliance (“NWSA”), a Washington Port Public Development Authority pursuant to RCW 53.57 (individually, “Party” or collectively, the “Parties”), as authorized by RCW 39.34 (the Interlocal Cooperation Act) and the Port Joint Powers authority RCW 53.08.240.

**RECITALS**

WHEREAS, the Port owns the properties which are the subject of this Agreement;  
and

WHEREAS, The Port, as one of the two Managing Members of NWSA, shares equally with the Port of Seattle in all NWSA expenses and distributable income; and

WHEREAS, any non-licensed property provided by the Port to the NWSA for its use must be at a rate which fully compensates the Port for replacement rental income due to the NWSA’s use of Port property; and

WHEREAS, the Port owns and manages the non-licensed properties located at 2302 Ross Way and 1701 Port of Tacoma Road in the City of Tacoma (together referred to herein as the “Tacoma Premises”), and the NWSA seeks to utilize the Tacoma Premises in support of NWSA auto business, which could include leasing the Tacoma Premises to one or more NWSA auto business customers a “Permitted Use”); and

WHEREAS, the property located at 4215 SR 509 N Frontage Road in the City of Tacoma is a Licensed Property operated, managed, and used by the NWSA (together referred to herein as the “NWSA Premises”), which the Port is currently using pursuant to a short term Access Agreement to provide Additional Temporary Preferential Use Area to the Port’s customer, WWL Vehicle Services, Americas, Inc. (“WWL” or “Customer”) for activities related to receipt, delivery, and temporary storage of finished vehicles and other marine cargoes of the Port’s customer permitted under NWSA’s applicable Tariff (also, an additional “Permitted Use”); and

WHEREAS, the Port seeks to utilize the NWSA Premises to provide Additional Temporary Preferential Use Area to the Port’s Customer in support of Port auto business on a longer-term basis; and

WHEREAS, the Port supports the NWSA's use of the Tacoma Premises for NWSA auto business; and

WHEREAS, the NWSA supports the Port of Tacoma's use of the NWSA Premises for Port auto business; and

WHEREAS, the Parties wish to memorialize the compensation to be paid by NWSA to the Port for NWSA's use of the Tacoma Premises and by the Port to NWSA for the NWSA Premises.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the mutual promises, benefits, and obligations hereinafter set forth, the Parties agree as follows:

- 1. Tacoma Premises.** Effective on or before January 1, 2024 (the "Occupancy Date"), NWSA will have the use of approximately 4.00 acres located at 2302 Ross Way and approximately 8.88 acres located at 1701 Port of Tacoma Way, both properties in Tacoma, Pierce County, Washington, as generally depicted on Exhibits A and B (the "Tacoma Premises"). The Parties understand that the Tacoma Premises are not available for occupancy as of the Effective Date due to recent demolition of buildings on site and/or current tenant occupancy. The Port will make all reasonable efforts to make one or both properties in the Tacoma Premises available before January 1, 2024. NWSA's right to use the Tacoma Premises includes the right to conduct all activities related to the receipt, delivery and temporary storage of finished vehicles, including the right to access, construct, modify, and maintain the Tacoma Premises or otherwise assign its rights under this Agreement in furtherance of the Permitted Use described above. NWSA's right to use the Tacoma Premises for any other purpose besides the Permitted Use is subject to agreement by the Port, which agreement shall not unreasonably be withheld or delayed.
- 2. NWSA Premises.** Effective September 7, 2023, the Port will have the use of approximately 12.11 acres located at 4215 SR 509 N Frontage Road Tacoma, located in Pierce County, Washington, as depicted on Exhibit C (the "NWSA Premises"). The Port's right to use the NWSA Premises includes the right to access, construct, modify, and maintain the NWSA Premises or otherwise assign its rights under this Agreement in furtherance of the Permitted Use described above. The Port's right to use the NWSA Premises for any other purpose besides the Permitted Use is subject to agreement by the NWSA, which agreement shall not unreasonably be withheld or delayed.
- 3. Term of Agreement.** This Agreement shall take effect on the Effective Date and terminate on December 31, 2028 unless earlier terminated by mutual agreement of the Parties.

- 4. Compensation to Port.** On the Occupancy Date, and on the first of each month for the remaining term thereafter, NWSA shall pay to the Port a monthly sum equal to \$189,200 (“NWSA Use Fee”) which amounts to \$14,000 per acre per month for the approximately 4 acres at 2302 Ross Way and \$15,000 per acre per month for the approximately 8.88 acres at 1701 Port of Tacoma Road. This NWSA Use Fee shall be pro rated for any partial month of occupancy at the Tacoma Premises. The NWSA Use Fee is intended to fully compensate the Port for lost rental income that would otherwise be paid by a tenant at the Tacoma Premises and for NWSA’s use of the Tacoma Premises, and is charged at a rate that is twice the usual rate for the Tacoma Premises given the structure of the NWSA is such that the Port and the Port of Seattle equally share in NWSA costs and distributable income.
- 5. Compensation to NWSA.** On September 7, 2023, and on the first of each month for the remaining term thereafter, the Port shall pay to the NWSA a monthly sum equal to \$90,825 (“Port Use Fee”) which amounts to \$7500 per acre per month for approximately 12.11 acres at 4215 SR 509 N Frontage Road. The Port Use Fee is intended to compensate the NWSA for lost rental income that would otherwise be paid by a tenant at the Premises and for the Port’s use of the Premises.
- 6. Preparation of Sites and Improvements for Auto Handling.**

  - A. The Port shall be responsible for initial site preparations of the Port Premises to ensure that the Port Premises are in basic good working order to include: cleaning; ensuring that lighting is working properly; repair or installation of fencing (as applicable); and repair of basic surface conditions. The Port’s obligations under this Section 6 shall cease once the NWSA takes possession of the Port Premises.
  - B. The NWSA shall be responsible for initial site preparations of the NWSA Premises to ensure that the NWSA Premises are in basic good working order to include: cleaning; ensuring that lighting is working properly; repair or installation of fencing (as applicable); and repair of basic surface conditions. The NWSA’s obligations under this Section 6 shall cease once the Port takes possession of the NWSA Premises.
  - C. Any additional improvements at either the Port Premises or the NWSA Premises which are necessary for handling auto business, such as cabling, striping, yard improvements, placement of Ecology blocks, or other auto customer requirements shall be the responsibility of the Party granted access to the respective premises under this Agreement, e.g., the NWSA shall pay for such improvements at the Port Premises, and the Port shall pay for such improvements at the NWSA Premises.

- 7. Capital Improvements and Maintenance.** Each Party will be responsible for any future capital improvements, repairs and/or maintenance on the respective premises for which that Party is granted use under this Agreement. Any and all modifications, upgrades, maintenance and repair of the Tacoma Premises shall be the responsibility of NWSA. Any and all modifications, upgrades, maintenance and repair of the NWSA Premises shall be the responsibility of the Port. Each Party shall obtain prior written approval from the other Party, not unreasonably withheld, for any modifications and/or capital improvements to the respective premises. For tenant improvements by either a NWSA or Port customer at any property subject to this Agreement, the customer shall be required to follow the Port's Tenant Improvement Process.
- 8. Utilities.** Other than stormwater, there are no other current utilities serving the Port or NWSA Premises. Each Party shall be liable for, and shall pay during the term of this Lease, all charges for all utility services furnished to the respective premises for which they are granted use under this Agreement, including, but not limited to, light, heat, electricity, gas, water, sewerage, storm sewer, storm water, wastewater, janitorial services, and garbage disposal. If the respective premises are part of a building or are part of any larger premises to which any utility services are furnished on a consolidated or joint basis, the party granted use under this Agreement shall pay the Party granting use under this Agreement's pro rata share of the cost of any such utility services. The pro rata share of any such services may be computed on any reasonable basis, and separate metering or other exact segregation of cost shall not be required. All charges for utility installation shall be paid by the Party being granted use of the respective premises under this Agreement. Each Party shall be responsible for the stormwater utility fees associated with the Premises it has been granted use of under this Agreement. In addition to the stormwater, the Party that has been granted use of respective premises under this Agreement shall be responsible for the ongoing maintenance, cost, and repair of any issues pertaining to stormwater drainage resulting from such use.
- 9. Miscellaneous**
- A. Third Party Beneficiaries.** This Agreement does not create any rights, claims, or benefits inuring to any person that is not a party hereto, and it does not create or establish any third-party beneficiary hereto.
- B. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties, and their legal representatives, successors, and permitted assigns.
- C. Severability.** If any provision of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

The Parties agree to use good faith efforts to replace such invalid or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the purposes of such invalid or unenforceable provision. If the Parties cannot reach a mutually agreeable and enforceable replacement for such invalid, illegal, or unenforceable provision, the balance of the Agreement shall be interpreted as if such provision were so excluded so as reasonably to effectuate the intent of the Parties.

**D. Notices.** Unless otherwise specified herein, all notices, consents, approvals, reports, designations, requests, waivers, elections, and other communications authorized or required to be given pursuant to this Agreement shall be in writing and shall be given or made (and shall be deemed to have been duly given or made upon receipt) by personal hand-delivery, by facsimile transmission, by electronic mail, by mailing the same in a sealed envelope, certified first-class mail, postage prepaid, return receipt requested, or by air courier guaranteeing overnight delivery, sent to the addresses on Schedule 3 of the NWSA Charter (as such may be updated by notice from time to time).

**E. Usage Generally; Interpretation.**

1. The captions and headings of this Agreement are for convenience of reference only and shall not affect the interpretation of this Agreement.
2. Any statute or law defined or referred to herein means such statute or law as from time to time amended, modified, or supplemented, including by succession of comparable successor statutes.

**F. Entire Agreement.** This Agreement embodies the entire agreement of the Parties and supersedes all prior agreements and understandings between the Parties with respect to the subject matter herein.

**G. Counterparts.** This Agreement may be executed in any number of counterparts, including by electronic transmission or facsimile, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**H. Amendments.** The terms and provisions of this Agreement may only be modified or amended at any time and from time to time by mutual agreement of the Parties.

**I. Further Assurances.** Each Party shall execute and deliver any additional documents and instruments and perform any additional acts that the Parties determine to be necessary or appropriate to effectuate and perform the

provisions of this Agreement.

- J. Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Washington, without regard to the conflicts of law principles thereof. Generally, in the event of a conflict, the following sources of authority shall prevail in descending order of supremacy: (i) Washington state law and regulation, including the Port Joint Powers statute (RCW 53.08.240), the Port Development Authority, Chapter 53.57 RCW; and this Agreement; (ii) any policies of the NWSA; and (iii) any policies of the Port.
- K. Costs, Fees and Expenses.** Each Party shall bear any legal and other costs, fees and expenses incurred by such Party in connection with the negotiation and preparation of this Agreement and the transactions contemplated hereby.
- L. Waivers.** No waiver of any breach of any of the terms of this Agreement shall be effective unless such waiver is made expressly in writing and executed and delivered by the Party against whom such waiver is claimed. No waiver of any breach shall be deemed to be a further or continuing waiver of such breach or a waiver of any other or subsequent breach. Except as otherwise expressly provided herein, no failure on the part of any Party to exercise, and no delay in exercising, any right, power, or remedy hereunder, or otherwise available in respect hereof at law or in equity, shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power, or remedy by such Party preclude any other or further exercise thereof, or the exercise of any other right, power, or remedy.
- M. Ratification.** Acts taken in conformity with this Agreement prior to its execution are hereby ratified and affirmed.
- N. Execution and Filing of Agreement.** Upon execution by both Parties, each such signed original shall constitute a binding Agreement upon both Parties. In accordance with RCW 39.34.040, a copy of this Agreement shall be recorded in the Office of the Pierce and King County Auditors or posted by both Parties on their respective websites. This Agreement will not take effect until it has been successfully recorded or posted in either location.
- O. Assignment.** Other than the NWSA's right to lease, sublease, license, permit occupancy or otherwise assign its rights in furtherance of the Permitted Use as described in Section 1 above, neither Party to this Agreement shall have the right to convey, assign, apportion or otherwise transfer any and all of its rights, obligations, conditions, and interests under this Agreement, without the prior written approval of the other.
- P. Independent Municipal Governments.** The Parties hereto are

independent governmental entities, and nothing herein shall be construed to limit the independent government powers, authority or discretion of the governing bodies of each Party.

- Q. Legal Obligations.** This Agreement does not relieve either Party of any obligation or responsibility imposed upon it by law.
- R. Timely Performance.** The requirements of this Agreement shall be carried out in a timely manner according to a schedule negotiated by and satisfactory to the Parties.
- S. Records and Audit.** During the term of this Agreement, and for a period not less than six (6) years from the date of termination, records and accounts pertaining to the work of this Agreement and accounting therefore shall be kept by each Party and shall be available for inspection and audit by representatives of either Party and any other entity with legal entitlement to review said records. If any litigation, claim, or audit is commenced, the records and accounts along with supporting documentation shall be retained until all litigation, claims, or audit finding has been resolved, even though such litigation, claim, or audit continues past the six-year (6) retention period. This provision is in addition to and is not intended to supplant, alter or amend records retention requirements established by applicable state and federal laws.
- T. Limits of Financial Obligations/Property Ownership.** Except as provided above, each Party shall finance its own conduct of responsibilities under this Agreement. No ownership of property will transfer as a result of this Agreement.
- U. Effective Date & Termination.** This Agreement shall be effective upon signature by both Parties and a copy being recorded with the respective County Auditors or posted on both Parties' web sites as authorized by RCW.39.34.040 ("Effective Date") and shall continue indefinitely unless terminated in accordance with Section 2 of this Agreement.
- V. Indemnification and Hold Harmless.**
  - 1. The NWSA releases the Port from, and shall defend, indemnify, and hold the Port and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of the NWSA and/or its agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the NWSA's performance of its obligations under this Agreement, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the Port or its

agents, employees, and/or officers.

2. The NWSA shall defend, indemnify, and hold the Port and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of any third parties and/or their agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the NWSA's performance of its obligations under this Agreement, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the Port or its agents, employees, and/or officers.
3. The Port releases the NWSA from, and shall defend, indemnify, and hold the NWSA and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of the NWSA and/or its agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the Port's performance of its obligations under this Agreement, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the NWSA or its agents, employees, and/or officers.
4. The Port shall defend, indemnify, and hold the NWSA and its agents, employees, and/or officers harmless from and against all claims, demands, suits at law or equity, actions, penalties, losses, damages, or costs, of whatsoever kind or nature, made by or on behalf of any third parties and/or their agents, employees, officers, contractors and/or subcontractors, arising out of or in any way related to the Port's performance of its obligations under this Agreement, unless and except to the extent the same be caused in whole or in part by the negligence or willful conduct of the NWSA or its agents, employees, and/or officers.
5. Each Party specifically assumes liability for actions brought by its own employees against the other Party and for that purpose each Party specifically waives, as respects the other parties only, any immunity under the Worker's Compensation Act, RCW Title 51.
6. The Parties recognize that this waiver was the subject of mutual negotiation. In the event any Party incurs attorney's fees, costs or other legal expenses to enforce the provisions of this Agreement against the other Party, all such fees, costs and expenses shall be recoverable by the substantially prevailing Party.
7. No liability shall attach to any of the Parties by reason of entering into



this Agreement except as expressly provided herein.

8. The provisions of this Section V.(a)-(h) shall survive any termination or expiration of this Agreement.

[SIGNATURE PAGES FOLLOW]

**PORT OF TACOMA**

By: 

Eric Johnson  
Its: Executive Director


Date: Sep 8, 2023

Approved as to form:

  
[Heather L. Burgess \(Sep 11, 2023 07:25 PDT\)](#)

By: Heather L. Burgess  
General Counsel, Port of Tacoma


**THE NORTHWEST SEAPORT ALLIANCE**

By:   
[John Wolfe \(Sep 8, 2023 09:06 PDT\)](#)

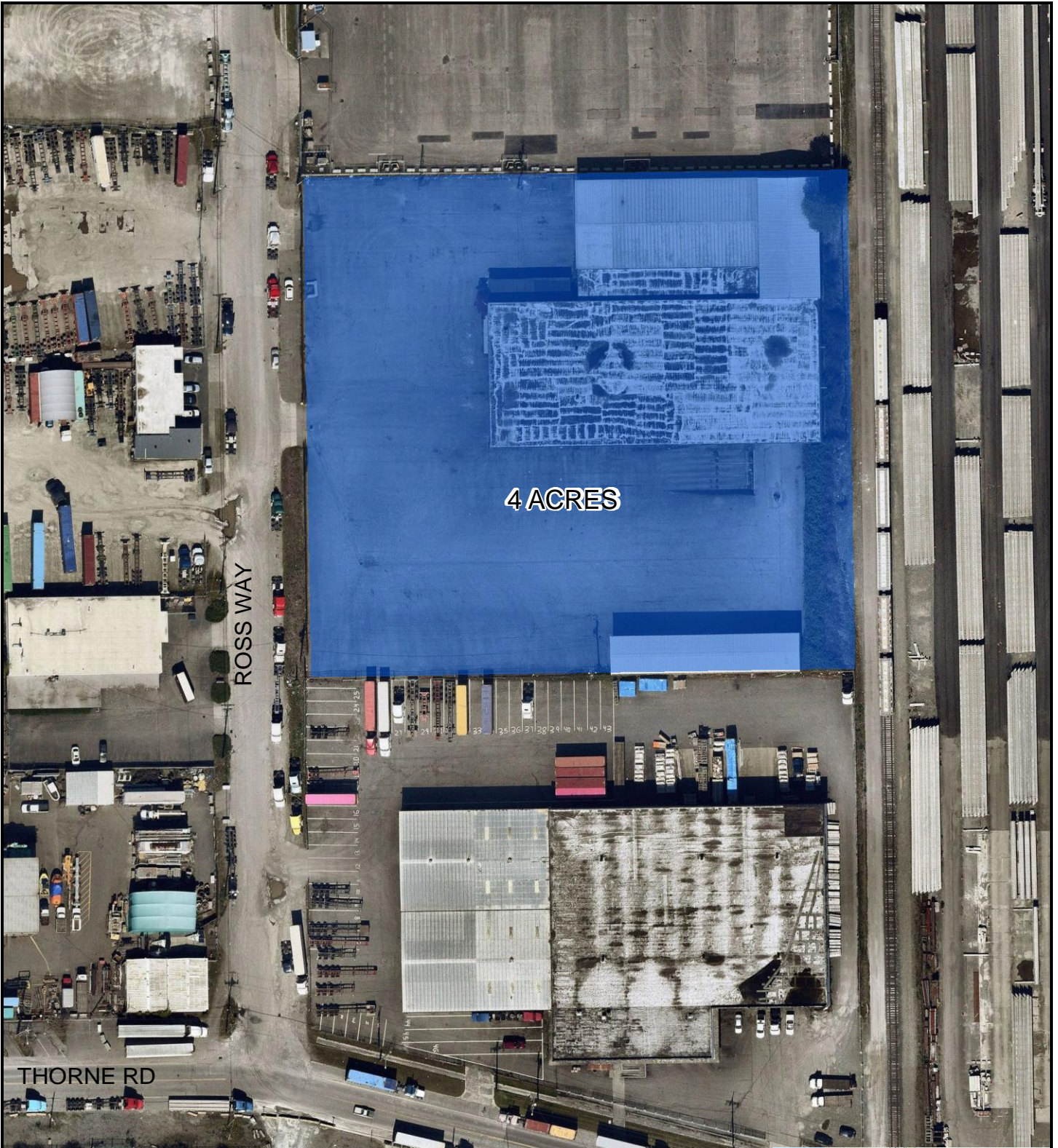
John Wolfe  
Its: Chief Executive Officer

Date: Sep 8, 2023


Approved as to form:

  
[Dana Henderson \(Sep 8, 2023 18:18 PDT\)](#)

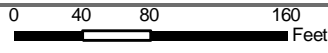
By: Dana Henderson  
General Counsel, NWSA



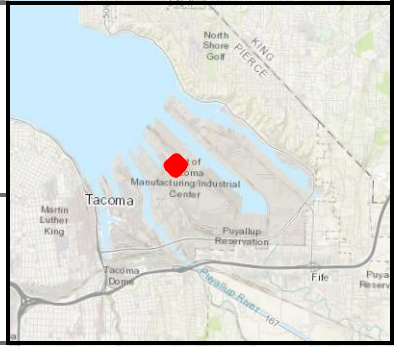
**EXHIBIT A**  
**TACOMA PREMISES**  
**WWL VEHICLE SERVICES**  
**AMERICAS, INC**  
**2302 ROSS WAY TACOMA, WA**  
**98421 PORT PARCEL: 126**

 **YARD = 4 ACRES**

**SHEET: 1 OF 1**  
**PURPOSE: LEASE EXHIBIT**  
**DATE: 8/15/2023**  
**AUTHOR: Brian Archer**

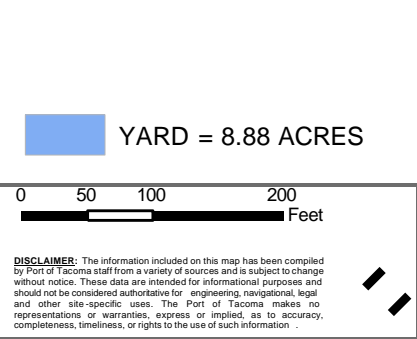


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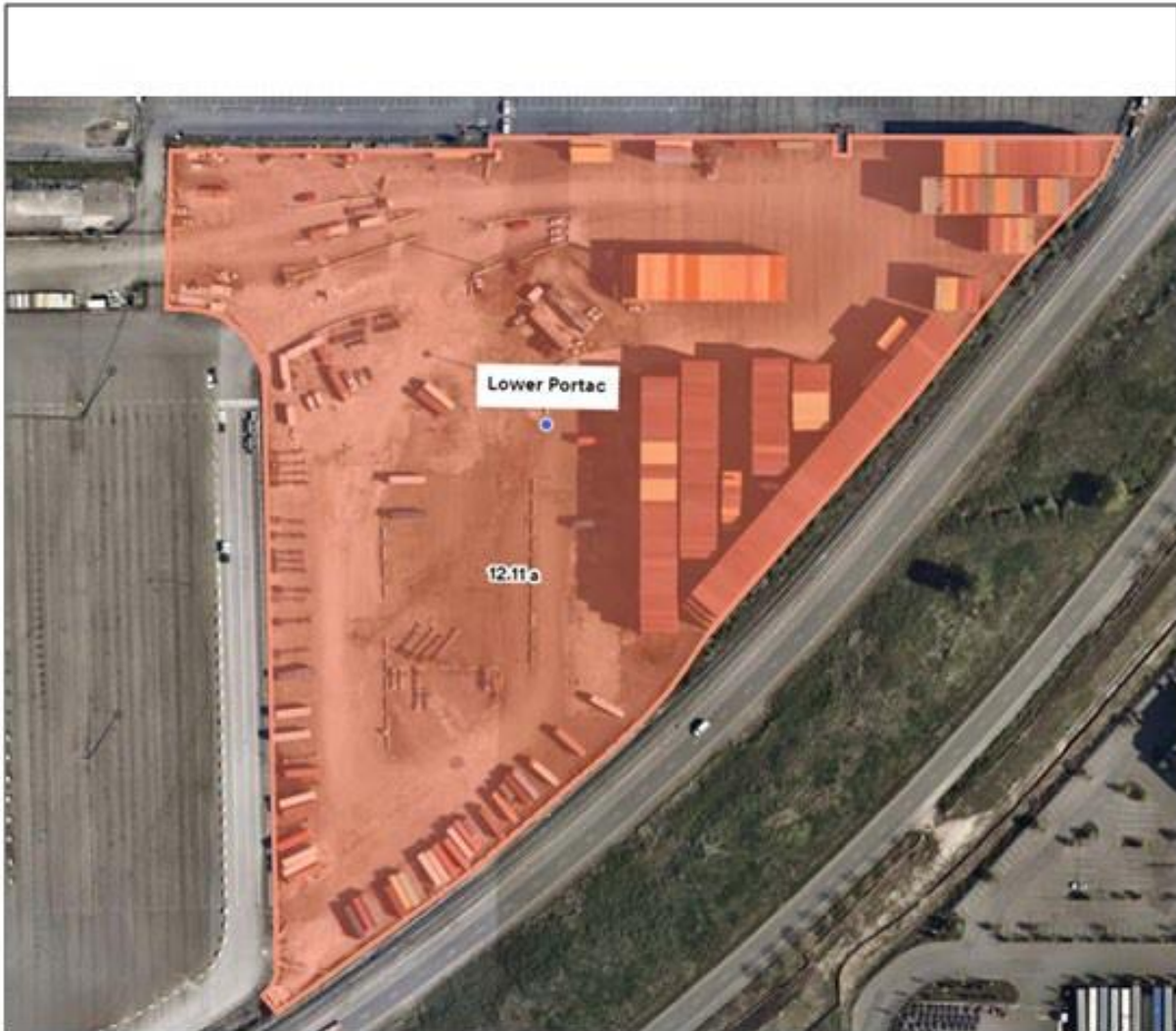
**EXHIBIT B**  
**TACOMA PREMISES**  
**WWL VEHICLE SERVICES**  
**AMERICAS, INC**  
**1701 PORT OF TACOMA RD**  
**TACOMA, WA 98421 PORT**  
**PARCEL: 125**  
**SHEET: 1 OF 1**  
**PURPOSE: LEASE EXHIBIT**  
**DATE: 8/15/2023**  
**AUTHOR: Brian Archer**



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**EXHIBIT C - NWSA PREMISES**



**EXHIBIT A**

WWL VEHICLE SERVICES  
 AMERICAS, INC.  
 4215 SR 509 RD  
 TACOMA, WA 99421  
 PORT PARCEL: 15

SHEET: 1 OF 1  
 PURPOSE: LEASE EXHIBIT  
 DATE: 8/1/2023

AUTHOR: Andre Elmaleh

MAPSOURCE SOURCE: IMRMAP APRIL 2022



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