

# **Port of Grandview**

## **FARM LEASE –Parcel D**

### **PARTIES:**

LESSOR: PORT OF GRANDVIEW, a municipal corporation of the State of Washington, hereafter "Port".

TENANT: \_\_\_\_\_ a Washington \_\_\_\_\_, hereafter "Tenant".

### **AGREEMENTS:**

**1. LEASE.** Port hereby leases to Tenant upon the terms, covenants and conditions contained herein, the real property lying North of Stover Road and East of Puterbaugh Road (hereafter the "Property"). The Property is more particularly described on Attachment 1 to this Lease.

The Property consists of 32.06 acres, more or less, of real property situated North of Stover Road and East of Puterbaugh Road, Yakima County Assessor's Parcel No. 230910-33001.

Any Equipment needed or desired by the Tenant for the Tenant's performance shall be provided by the Tenant at its sole expense. The Equipment shall remain the property of the Tenant and shall be removed from the Property at the termination of the Lease.

The Tenant has inspected the Property and agrees to take the Property in its present condition. The Tenant is relying upon its own inspections of the Property to determine whether to enter into this Lease, and the Tenant is not relying upon any representation made by the Port, its employees or agents, except as specifically set forth in this Lease.

**2. PURPOSE.** The Property is agricultural land which the Tenant will farm, operate and manage on behalf of the parties. The Tenant agrees to comply with all applicable laws, ordinances, regulations and rules related to the use and development of the property.

**3. TERM.** This lease shall run for the 2017, 2018, 2019, 2020 and 2021 crop seasons commencing on the 1<sup>st</sup> day of January, 2017 and terminating on December 31st, 2021. The Port may terminate the Lease as to all or any portion of the Property by giving the Tenant (30) days written notice.

**4. RENT.** The Tenant shall pay to the Port annually, as rent for the use and possession of the agricultural land, a sum of \$\_\_\_\_\_ rent plus leasehold tax :

4.2 The rent for the Property shall be due and payable on or before December 1, each year.

4.3 In addition to the rent, the Tenant shall pay the annual irrigation water assessment for the Property before April 1<sup>st</sup> each year..

4.4 Rent payments shall be made payable to the Port of Grandview at the Port offices at 1313 W. Wine Country Rd. Suite #101, Grandview, Washington, or at such other address as the Port shall direct in writing.

4.5 The Tenant shall pay any Leasehold Excise Tax as required by the Revised Code of Washington Chapter 82.29A, as the statute may be hereafter amended. The Leasehold Tax shall be paid with each installment of rent. The current leasehold tax rate is 12.84%.

4.6 Any rent payment not paid within ten days of the date upon which the Tenant receives notice that a payment is past due shall accrue interest on the unpaid rent at the rate of one percent of the late payment for each month or portion of month by which the payment is delayed.

**5. CONDITION OF PROPERTY.** Except as provided in this Lease, the Tenant shall take the Property in its present condition, without warranties or representations by the Port except as set forth in this Lease.

**6. SECURITY.** Subject to the approval by the Port Commission, the Port will waive the rent bond required by RCW 53.08.085.

**7. TAXES AND ASSESSMENTS.** Tenant shall pay all taxes assessed against the buildings and improvements owned by the Tenant and the other property of Tenant located upon the Property, promptly as the same become due. Tenant shall pay all assessments hereafter levied against the Property, or a portion thereof, during the term of this Lease, including assessments coming due to any special purpose governmental district; provided, however, if the assessment is payable in installments, whether or not interest shall accrue on the unpaid installments, the Tenant may pay the assessments in installments as they become due, provided that the Tenant's obligation to pay the assessments levied during the term of the Lease, even though paid in installments, shall survive the termination or expiration of this Lease.

7.1 Tenant may contest the legal validity or amount of any taxes, assessments or charges which Tenant is responsible for under this Lease, and may institute such proceedings as Tenant considers necessary. If Tenant contests any such tax, assessment or charge, Tenant may withhold or defer payment or pay under protest but shall protect Port and the Property from any lien. Port appoints Tenant as Port's attorney-in-fact for the purpose of making all payments to any taxing authorities and for the purpose of contesting any taxes, assessments or charges.

7.3 In the event the Port minimizes or removes any portion of the Property from the Lease or cancels the Lease within with the lease term, the Port will reimburse the Tenant for the farming costs incurred, for that crop year only, for any portion of the Property which is removed from the Lease. The Port will reimburse the Tenant for actual costs, for that crop year only, which shall be substantiated with paid receipts.

**8. USE.** The Tenant shall use the Property for growing and harvesting crops and uses directly related thereto and for no other uses without the prior written consent of the Port. The Tenant covenants that it will not use the Property in any manner which would violate any applicable covenants, laws, rules, ordinances, and regulations of governmental agencies. No farming shall take place within twenty feet of any road, sidewalk or property line.

**9. MAINTENANCE OF PROPERTY.** Throughout the term of this Lease, Tenant, at its sole cost and expense, shall maintain the Property and all improvements then existing thereon in good condition and repair, subject to reasonable wear and tear, and in accordance with all applicable covenants, laws, rules, ordinances, and regulations of governmental agencies.

9.1 The Tenant shall not make or suffer any waste, damage or destruction to the Property or any part thereof. In the event the Tenant uses any form of animal waste or manure as a soil amendment, the Tenant shall promptly work the manure into the soil to avoid offensive odors or problems with pests, or creating a nuisance for neighboring properties. The Tenant's use of manure, shall comply with all applicable laws and regulations.

9.2 The Tenant shall properly and timely fertilize,, spray, irrigate, control all pests, and in general care for the Property and shall grow, raise, produce, harvest, and market and sell the crop to be grown on the Property each year in a first class husband-like manner and according to the best standards of horticulture prevailing in the area.

9.3 The Tenant shall be available to meet with the Port as often as the Port may request to discuss the horticultural process, horticultural decisions and capital planning for the Property and to inspect and examine the condition of the Property. Any changes to the Property and any capital expenditures must be presented to and agreed upon by the Port prior to implementation.

9.4 The Tenant shall maintain all reports of use of insecticides and other agricultural chemicals required by any governmental agency and shall make all such reports available to the Port upon request.

**10. UTILITIES, GROWING and HARVESTING COSTS.** Tenant shall pay all utilities, expenses and production costs for growing and harvesting the crops from the property, including irrigation and water assessments thereon, except that Port shall pay all real estate taxes. The Tenant shall pay all costs of the day to day maintenance and operation of any equipment and /or fixtures. Tenant shall retain ownership of any equipment or fixtures so provided by tenant under Lease.

**11. CROP OWNERSHIP.** The Tenant shall remain the owner of the crop until the crop is sold. The Tenant grants to the Port a security interest in all of the growing and harvested crops to secure the payment of the sums owed under this Lease.

**12. LABOR.** The Tenant shall pay for labor which is reasonable and necessary to grow or harvest the crops grown on the Property and to care for the Property. The Tenant shall pay all wages and related expenses when due so that no labor lien will attach to the crop and the Tenant shall indemnify and hold the Port harmless from any liability for any labor lien or claims arising from labor on the Property.

**13. ASSIGNMENT AND SUBLETTING.** Tenant shall neither assign nor transfer its interest in this Lease, in whole or in part, to any person or entity, without Port's prior written consent. In the event of an assignment or transfer of this Lease, the Tenant shall continue to be liable for the performance of the terms and conditions of the Lease.

**14. PUBLIC LIABILITY INSURANCE.** Throughout the term, at Tenant's sole cost and expense, Tenant shall keep or cause to be kept in force, for the mutual benefit of Port and Tenant, comprehensive broad form general public liability insurance (including a contractual liability endorsement) against claims and liability for personal injury, death or property damage arising from the use, occupancy, misuse, or condition of the Property and improvements, with limits of coverage in an amount and with deductibles in such amounts as may be reasonably acceptable to the Port. During the Term of the Lease term the insurance policy limit shall be \$1,000,000. The Tenant shall name the Port as an additional insured on the public liability insurance policy, required to be maintained by the terms of this Lease. Port may require Tenant to deliver to Port, in the manner required for notices, a copy or certificate of all insurance policies required by this Lease. Tenant shall include a provision in each of its insurance policies requiring the insurance carrier to give Port at least thirty (30) days prior written notice before such policy terminates. Tenant shall not substantially modify any of the insurance policies required by this Lease without giving at least thirty (30) days prior written notice to Port.

**15. DEFAULT.**

**15.1 EVENTS OF DEFAULT.** Each of the following events shall be a default by Tenant and a breach of this Lease.

15.1.1 The failure or refusal to pay when due any installment of rent or other sum required by this Lease to be paid by Tenant, or the failure to perform as required or conditioned by any other covenant or condition of this Lease.

15.1.2 The appointment of a receiver to take possession of the Property or improvements, or of Tenant's interest in the leasehold estate or of Tenant's operations on the Property for any reason, unless such appointment is dismissed, vacated or otherwise permanently stayed or terminated within sixty days after the appointment.

15.1.3 An assignment by Tenant for the benefit of creditors or the filing of a voluntary or involuntary petition by or against Tenant under any law for the purpose of adjudicating Tenant a bankrupt; or for extending time for payment, adjustment or satisfaction of Tenant's liability; or for reorganization, dissolution, or arrangement on account of or to prevent bankruptcy or insolvency; unless the assignment or proceeding, and all consequent orders, adjudications, custodies, and supervision are dismissed, vacated, or otherwise permanently stayed or terminated within sixty days after the assignment, filing, or other initial event.

15.2 NOTICE. As a precondition to pursuing any remedy for an alleged default by Tenant, Port shall give written notice of default to Tenant, in the manner herein specified for the giving of notices. Each notice of default shall specify the alleged event of default and the intended remedy.

15.3 TENANT'S RIGHT TO CURE. If the alleged default is nonpayment of rent, taxes, or other sums to be paid by Tenant as provided in this Lease, Tenant shall have thirty (30) days after receipt of written notice to cure the default. For the cure of any other default, Tenant shall have thirty days after receipt of written notice to cure the default, provided, however, that if it takes more than thirty (30) days to cure a default, the Tenant shall not be in default if it promptly undertakes a cure and diligently pursues it.

15.4 TIME OF THE ESSENCE. Time is of the essence of this Lease, and for each and every covenant or condition which must be performed hereunder.

**16. PORT'S REMEDIES.** If any default by Tenant continues uncured after receipt of written notice of default and the period to cure as required by this Lease, for the period applicable to the default, the Port has the following remedies in addition to all other rights and remedies provided by law or equity to which Port may resort cumulatively or in the alternative:

16.1 Without terminating this Lease, Port shall be entitled to recover from Tenant any amounts due hereunder, or any damages arising out of the violation or failure of Tenant to perform any covenant, condition or provision of this Lease.

16.2 Port may elect to terminate this Lease and any and all interest and claim of Tenant by virtue of such lease, whether such interest or claim is existing or prospective, and to terminate all interest of Tenant in the Property and any improvements or fixtures thereon (except trade fixtures). In the event this Lease is terminated, all obligations and indebtedness of Tenant to Port arising out of this Lease prior to the date of termination shall survive such termination. In the event of termination by Port, Port shall be entitled to recover immediately as damages the total of the following amounts:

16.2.1 The reasonable costs of re-entry and re-letting, including, but not limited to, any expenses of cleaning, repairing, altering, remodeling, refurbishing, removing, Tenant's property or any other expenses incurred in recovering possession of the Property or re-letting the Property, including, but not limited to, reasonable attorney's fees, court costs, broker's commissions and advertising expense.

16.2.2 The loss of rental on the Property accruing until the date when a new tenant has been or with the exercise of reasonable diligence could have been, obtained.

16.3 Port may re-enter the Property and take possession thereof and remove any persons and property by legal action or by self-help and without liability for damages, and Tenant shall indemnify and hold the Port harmless from any claim or demand arising out of such re-entry and removal of persons and property. Such re-entry by the Port shall not terminate the Lease or release the Tenant from any obligations under the Lease. In the event Port re-enters the Property for the purpose of re-letting, Port may re-let all or some portion of the Property, alone or in conjunction with other properties, for a term longer or shorter than the term of this Lease, upon any reasonable terms and conditions, including the granting of a period of rent-free occupancy or other rental concession, and Port may not be required to re-let to any tenant which Port may reasonably consider objectionable.

16.4 In the event Port re-lets the Property as agent for Tenant, Port shall be entitled to recover immediately as damages the total of the following amounts.

16.4.1 An amount equal to the total rental coming due for the remainder of the term of this Lease, computed based upon the periodic rent provided for herein and without discount or reduction for the purpose of adjusting such amount to present value of anticipated future payments, less any payments thereafter applied against such total rent by virtue of the new lease.

16.4.2 The reasonable costs of re-entry and re-letting, including but not limited to, any expense of cleaning, repairing, altering, remodeling, refurbishing, removing Tenant's property, or any other expenses incurred in recovering possession of the Property or re-letting the Property, including, but not limited to, attorneys' fees, court costs, broker's commissions and advertising expense.

16.5 All payments received by Port from re-letting shall be applied upon indebtedness and damages owing to Port from Tenant, if any, and the balance shall be remitted to Tenant.

**17. WAIVER.** No waiver of any default shall constitute a waiver of any other breach or default, whether of the same or any other covenant or condition. No waiver, benefit, privilege or service voluntarily given or performed by either party shall give the other any contractual right by custom, estoppel, or otherwise. The subsequent acceptance of rent pursuant to this Lease shall not constitute a waiver of any preceding default by Tenant other than default on the payment of that particular rental payment, regardless of Port's knowledge of the preceding breach at the time of accepting rent. Acceptance of rent or other payment after termination shall not constitute a reinstatement, extension or renewal of this Lease, or revocation of any notice or other act by Port.

**18. ATTORNEYS' FEES.** If either party brings any action or proceeding to enforce, protect or establish any right or remedy under this Lease, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs from the non-prevailing party. Arbitration is an action

or proceeding for the purpose of this provision. The "prevailing party" means the party determined by the court or the arbitrator to most nearly have prevailed.

**19. ACCESS BY PORT.** Port, or Port's representatives and agents, shall have access to the Property at reasonable times and upon reasonable notice, for the purpose of inspecting the Property or showing the property to prospective business; provided that Port shall exercise all reasonable efforts not to unreasonably disturb the use and occupancy of the Property by Tenant.

**20. RECORDING OF LEASE.** Neither party to this Lease may record the Lease. In lieu of recording the entire Lease either party may record a memorandum of lease setting forth the legal description of the property, the parties and the term of the Lease, together with any additional information which the party deems to be relevant, and as long as the information in the memorandum is accurate the other party agrees to sign the memorandum of lease.

**21. SECURITY FOR TENANT'S OBLIGATIONS.** In order to secure the prompt, full and complete performance of all of Tenant's obligations under this Lease, including but not limited to, Tenant's obligations to protect and indemnify Port from any liability subject to the lien, if any, of the holder of the first mortgage against the property, Tenant hereby grants to Port a security interest in and assigns to Port all of Tenant's right, title and interest in and to all rents and profits from the Property and improvements thereon as collateral to secure all of Tenant's obligations under this Lease. In the event Tenant defaults in any of its obligations hereunder, Port shall have the right at any time after the period for cure provided in paragraph 15.3, without notice or demand, to collect all rents and profits directly and apply all sums so collected to satisfy Tenant's obligations hereunder, including payment to Port of any sums due from Tenant. The security interest granted in this Section 21 shall be subordinate to any security interest or leasehold mortgage granted to a leasehold mortgagee for security purposes. Such remedy shall be in addition to all other remedies under this Lease.

**22. HAZARDOUS MATERIALS.** Tenant shall not take or store upon the Property any hazardous or toxic materials, as defined by the law of the State of Washington or by federal law, except in strict compliance with all applicable rules, regulations, ordinances and statutes

22.1 Tenant shall not permit any contamination or pollution of the Property. The Tenant shall immediately remove any contaminants or pollutants and shall promptly restore the Property, subject to any condition existing prior to the commencement of this Lease, which shall be the responsibility of the Port.

22.2 Tenant shall defend Port and hold it harmless from any cost, expense, claim or litigation arising from hazardous or toxic materials on the Property or resulting from the contamination or pollution of the Property, caused by the acts or omissions of the Tenant, its subtenants, employees, agents, invitees, or licensees, during the term of this Lease.

22.3 In the event of the termination of this Lease for any reason, the obligation of the Tenant to restore the Property and the obligation to indemnify the Port set forth above, shall survive the termination.

**23. GENERAL CONDITIONS.**

23.1 NOTICES. Any notices required or permitted to be given under the terms of this Lease, or by law, shall be in writing and may be given by personal delivery, or by registered or certified mail, return receipt requested, or by overnight courier, directed to the parties at the following addresses, or such other address as any party may designate in writing prior to the time of the giving of such notice, or in any other manner authorized by law:

Port:  
Port of Grandview  
P.O. Box 392  
Grandview, Washington 98930

Tenant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any notice given shall be effective when actually received, or if given by certified or registered mail, upon the recipient's receipt of a notice from the U. S. Postal Service that the mailed notice is available for pick up.

23.2 NONMERGER. If both Port's and Tenant's estates in the Property or the improvements or both become vested in the same owner, this Lease shall nevertheless not be destroyed by application of the doctrine of merger except by the express election of the owner and the consent of the mortgagee or mortgagees under all mortgages existing upon the Property.

23.3 CAPTIONS AND TABLE OF CONTENTS. The Table of Contents of this Lease and the captions of the various paragraphs are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, content or intent of this Lease or of any part or parts of this Lease.

23.4 EXHIBITS AND ADDENDA. All exhibits and addenda to which reference is made in this Lease are incorporated in the Lease by the respective references to them. References to "this Lease" include matters incorporated by reference.

23.5 SUCCESSORS. Subject to the provisions of this Lease on assignment and subletting, each and all of the covenants and conditions of this Lease shall be binding upon and inure to the benefit of the heirs, successors, executors, administrators, assigns, and personal representatives of the respective parties. The Port agrees that if the Property is sold, assigned, or conveyed, except for any conveyance to the United States, the Port will place a provision in any conveyance making the conveyance subject to the terms and conditions of this Lease. The Port



represents, that if this Lease is recorded, any subsequent conveyance of the Property by the Port will be subject to the terms of this Lease, with the exception of any conveyance to the United States.

23.6 NO UNREASONABLE WITHHOLDING OR DELAY OF CONSENT. Whenever this Lease requires the consent of either party to an action by the other, the party whose consent is requested shall not unreasonably withhold or delay its consent.

23.7 WARRANTY OF AUTHORITY. The persons executing and delivering this Lease on behalf of Port and Tenant each represent and warrant that each of them is duly authorized to do so and that the execution of this Lease is the lawful and voluntary act of the person on whose behalf they purport to act.

23.8 QUIET POSSESSION. The Port agrees that upon compliance with the terms and conditions of this Lease, the Tenant shall at all times have the right to the quiet use and enjoyment of the Property for the term of the Lease and any extensions.

23.9 PARTIAL INVALIDITY. If any provision of this Lease is held to be invalid or unenforceable, all other provisions shall nevertheless continue in full force and effect.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2017.

**PORT OF GRANDVIEW**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**TENANT:**

By: \_\_\_\_\_

Title: \_\_\_\_\_




# ATTACHMENT 1

Yakima County GIS

<http://yakimap.com/servlet/com.esri.esrimap.Esrimap?name=YakGI...>

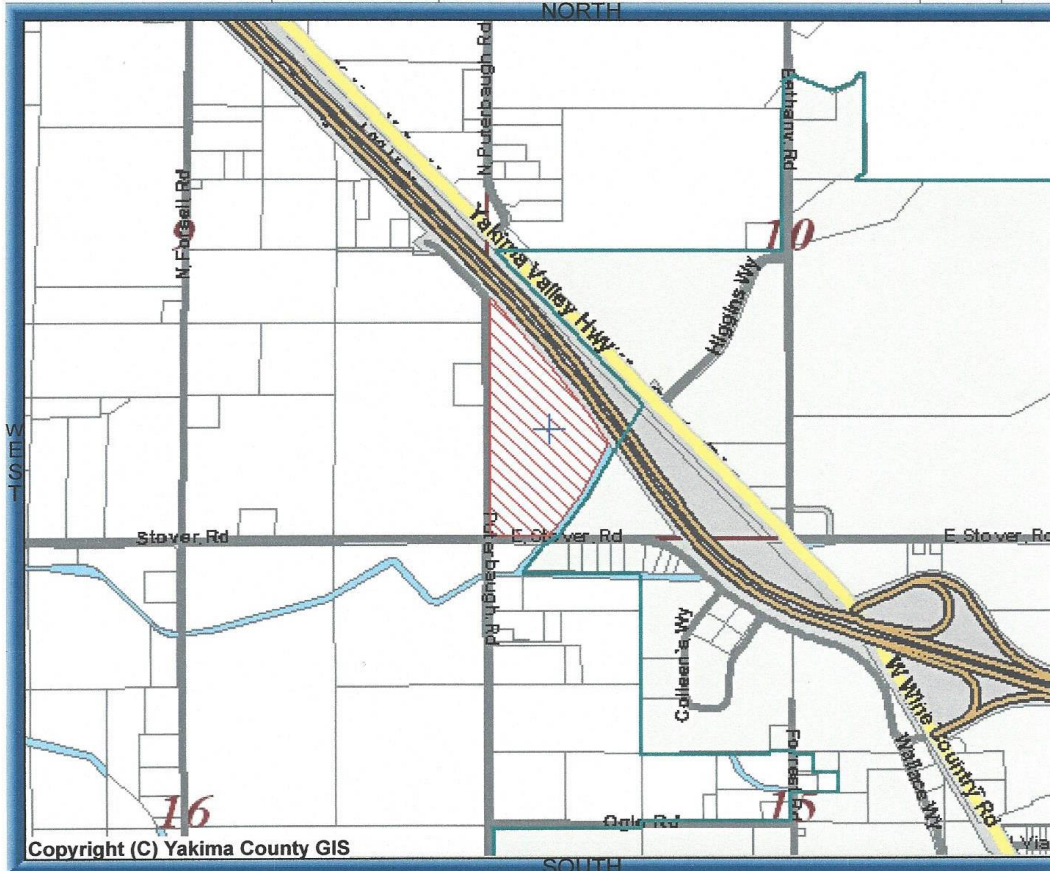
**Yakima County GIS - Washington Land Information Portal**

Yakima County Assessor  
Yakima County GIS  
Yakima County



F

Assessor Planning Real Estate FAQ Help Legend



Easting(ft) | Northing(ft)  
Longitude(E) | Latitude(N)

Click Map to: [Get Information](#)

One Inch = 1600 Feet  
Feet 1000 2000

PROPERTY PHOTOS: 1 | PROPERTY INFORMATION AS OF 12/12/2016 11:01:41