

ENCROACHMENT AGREEMENT

This Agreement, made this 1st day of August, 2017, by and between Port of Tillamook Bay, a Municipal Corporation, hereinafter called "Port", and Hampton Lumber Co., hereinafter called "Licensee";

Address: Hampton Lumber Co.
9600 SW Barnes Rd. Suite 200
Portland, OR 97225

Witnesseth:

Port hereby permits Licensee (subject to the provisions herein) to occupy, use, and maintain property of Port at or near Railroad Mile Post 774.7 in or near the City of Banks, Washington County, State of Oregon for the sole purpose of parking, loading and storage (see Exhibit A, B & C) 82,767 square feet.

1. The permission herein granted is subject to all licenses; leases, easements, encumbrances and claims of title affecting said property of Port.
2. Commencing with the beginning of the term of this agreement, Licensee shall pay to Port the sum of Forty One Thousand Three Hundred Eighty Three Dollars and 50/100 (\$41,383.50) per annum, payable annually in advance with a 3% cpi each July. Additional, one-time fees, for lease preparation and inspection, if required, will be assessed with initial payment. See current Use of Property Fee Schedule attached for those fees. Said payment is subject to change upon approval of the Port's Board of Commissioners. Nothing contained herein shall be deemed as modifying or amending in any way the provisions of Section 8 hereof.
3. Licensee, at Licensee's expense, shall maintain said encroachment in a good and safe condition acceptable to Port. Licensee shall keep said encroachment free and clear of all rubbish, debris and any other materials.

Licensee shall not perform any work of construction or repair on said encroachment (except emergency repairs) unless Port is given five (5) days' advance notice thereof and the approval of Port for such work is obtained in writing. Licensee agrees to reimburse Port for all cost and expense incurred by Port in connection with the construction, maintenance and removal of any improvements made on said property.

4. Licensee shall not obstruct or interfere, or allow any other party to place any vehicle, material, or other property on said encroachment so as to obstruct or interfere, with the passage of Port's trains.

5. Licensee shall pay for all materials joined or affixed to said property, and for all labor performed upon said property, at Licensee's instance or request, and Licensee shall not permit or suffer any mechanics' liens or materialmen's liens of any kind or nature to be enforced against the property of Port for any such work done or materials joined or affixed thereto. Licensee is solely responsible for researching and obtaining any permits that may be required.

6. Licensee shall, to the extent allowed by law, and subject to the limitations imposed by law, hereby release and agree to indemnify and save Port harmless from and against all liability, claims, costs and expenses for loss of or damage to the property of either party hereto or of third persons, and for injuries to or deaths of Licensee or the agents, employees or invitees of Licensee or third persons or the employees of Port caused by or arising out of the presence upon, construction, reconstruction, maintenance, or use of said encroachment.

The word "Port" as used in this section shall be construed to include, in addition to Port, the successors, assigns and affiliated companies of Port, and any other Port company that may be lawfully operating upon and over the tracks crossing said roadway, and the officers and employees thereof.

Licensee, upon request, will provide Port with certified copies of insurance in form and amounts satisfactory to Port insuring the liability of Licensee under this agreement.

7. In case Port shall successfully bring suit to compel performance of, or to recover for breach of, any covenant for condition hereunder, Licensee shall pay to Port reasonable attorney fees in addition to the amount of judgement and costs.

8. This agreement may be terminated by either party hereto by giving thirty (30) days' notice to that effect to the other party. If licensee makes default in respect to any covenant or condition on Licensee's part hereunder, Port may forthwith terminate this agreement by notice to Licensee.

Upon termination of this agreement the permission herein granted shall cease and determine, and Licensee, at Licensee's expense, shall remove any and all improvements, stored materials, or other personal property from said encroachment, leaving Port's property and track area in a neat, safe and clean condition, failing in which Port may perform such work at expense of Licensee.

9. This agreement shall not be assigned in whole or in part without the prior written consent of Port.

HAMPTON LUMBER CO.

PORT OF TILLAMOOK BAY

By: _____
Attn: George Bonner

By: _____
Michele Bradley
General Manager

Date: _____

Date: _____