

RESOLUTION NO. 2009-23

A RESOLUTION PROVIDING FOR JULY 1 TO BE THE CPI ADJUSTMENT DATE FOR LEASES AND LICENSES; DIRECTING STAFF TO OFFER AMENDMENTS TO LEASES AND LICENSES TO SET THE ADJUSTMENT DATE; PROVIDING FOR THE BOARD PRESIDENT OR HIS DESIGNEE TO SIGN SUCH AMENDMENTS; PROVIDING FOR JULY 1 AS THE CPI ADJUSTMENT DATE FOR NEW AGREEMENTS OR AMENDMENTS TO CURRENT ONES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Port of St. Helens leases district-owned property for rent; and

WHEREAS, to adjust for inflation, the leases generally include language, which adjusts rental rates according to the change in the local Consumer Price Index (CPI); and

WHEREAS, these adjustments are generally automatic, and occur at different times throughout the year, depending on the terms of each lease; and

WHEREAS, staff manages the amounts owed under the leases and sends friendly reminders to tenants regarding rent adjustments; and

WHEREAS, staff has found that managing the amounts owed under the leases and informing tenants about adjustments have been inefficient because each lease sets a different date for CPI adjustments; and

WHEREAS, the Commission agrees with staff's findings; and

WHEREAS, the Commission finds that a sensible solution to this issue is to offer current tenants an amendment to their leases, which sets a single date for CPI adjustment, and to require that new leases, or future amendments to current ones, set forth the same date for the CPI adjustment; now, therefore,

BE IT RESOLVED by the Board of Commissioners of the Port of St. Helens as follows:

Section 1. Intent and Definition. The Commission is desirous to set Consumer Price Index (CPI) adjustments on July 1, rather than on different dates, for all tenants. "Lease" herein shall refer to leases and licenses, which have automatic CPI rent adjustments.

Section 2. Amend Leases. Staff is directed to draft a standardized amendment to Port leases to set the anniversary date for the CPI adjustment (1) to July 1, 2010, for those leases with annual adjustments, and (2) for all others, to the July 1 following the next anniversary date set forth in the individual lease.

Section 3. Offer Letters. In order to entice tenants to enter into these amendments, the amendment offer letter to the tenants shall explain that the adjustment date change will save them money. The CPI adjustment will be delayed under the amendment in order to standardize the CPI adjustment date to July. For leases whose monthly rent is set at ten thousand dollars (\$10,000) and over, the maximum benefit those lessees may receive to negotiate an amendment is a one-time incentive of no more than one percent (1%) of their monthly rent. All amendment

offers shall be good for thirty (30) days upon receipt. The amendment offers shall not affect any market rate adjustment or other adjustment terms.

Section 4. Effect. For purposes of determining all adjusted rent after the effective date of this resolution, and notwithstanding any rent discrepancies due to CPI adjustments before the date of the next CPI adjustments as set forth herein, staff shall take the rent currently being charged to the tenant and apply the CPI adjustment to that rent on the July date, or other date as set forth in the lease, and then adjust accordingly every year, or multiple years, thereafter, as required in the individual lease.

Section 5. Approval. The Commission authorizes the President, or his designee, to execute the amendments set forth herein.

Section 6. New Leases. No new lease or license, or amendment to a current lease or license, shall be approved unless the lease or license marks July 1 as the CPI adjustment anniversary date.

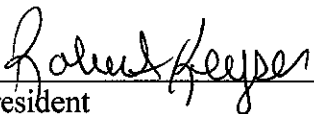
Section 7. Automatic Adjustment Only. This resolution does not apply to licenses which are adjusted regularly by vote of the Commission, such as, for example, moorage and hangar licenses.

Section 8. Effective Date. This resolution shall be effective on the date set forth, below.

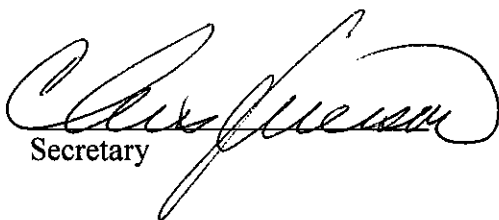
PASSED AND ADOPTED this 8th day of July, 2009, by the following vote:

AYES: 5 NAYS: 0

Port of St. Helens

By: 
President

Attested By:


Secretary