

# Authorization for Defense & Indemnity

September 26, 2019



# Action Requested



Request authorization for defense and indemnification to be provided to the then Chief Executive Officer of the Port of Tacoma and the then current members of the Commission in Cause No. 16-2-10303-6, *State of Washington v. Economic Development Board for Tacoma-Pierce County, Tacoma-Pierce County Chamber, John Wolfe, in his official capacity as Chief Executive Officer for the Port of Tacoma, Connie Bacon, Don Johnson, Dick Marzano, Don Meyer and Clare Petrich, in their official capacities as Commissioners for the Port of Tacoma*, and/or any companion state court action.

# RCW 53.08.208



Whenever any action, claim, or proceeding is instituted against any person who is or was an officer, employee, or agent of a port district established under this title arising out of the performance or failure of performance of duties for, or employment with any such district, the commission of the district may grant a request by such person that the attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the district's funds:

# RCW 53.08.208



PROVIDED, That costs of defense and/or judgment or settlement against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his or her employment with or duties for the district.



# Financial Summary



- The Port maintains Public Officials Legal Liability insurance as an element of its casualty insurance program.
- The coverage is subject to a self-insured retention.
- The action requested of the Commission will not increase the Port's cost of defense.

# Requested Actions



Find in Cause No. 16-2-10303-6, *State of Washington v. Economic Development Board for Tacoma-Pierce County, et al.*, and/or any companion state court action, in which the then Chief Executive Officer and the then Port of Tacoma Commissioners were named as parties, that the Chief Executive Officer and the Commission members were acting in good faith and within the scope and course of their employment by, or activities on behalf of, the Port of Tacoma and approve the representation, defense and indemnification of the then Chief Executive Officer and the then Commission members by the Port in this litigation, subject to and consistent with the terms of RCW 53.08.208.