

## Resolution 2017-01-PT



A RESOLUTION amending and superseding Resolution No. 2015-05 and all prior Resolutions dealing with the Master Policy directive on the administrative authority for the Chief Executive Officer (CEO).

WHEREAS, pursuant to provisions of [RCW 53.12.270](#), the Port Commission is authorized to delegate to the managing official of a port district such administrative powers and duties as it may deem proper for the efficient and proper management of port district operations, and

WHEREAS, the Port Commission now wishes to provide an updated master policy directive on administrative authority of the CEO and to repeal all prior resolutions dealing with the same subject matter.

NOW, THEREFORE, BE IT RESOLVED BY THE PORT OF TACOMA COMMISSION:

That the amended Master Policy directive of the Port of Tacoma Commission, as set forth in Exhibit "A" attached to this resolution and by this reference incorporated herein, is adopted for the purpose of establishing the administrative authority of the CEO. Policy

That inasmuch as state law requires that this authority be renewed from time to time, the Port Commission is authorized to accomplish the same by motion provided, however, in the event this authority is amended in any fashion or repealed, such amendment or repeal must be by resolution or motion passed by the Commission.

That the CEO is directed to inform the Commission annually of this resolution, for the purpose of renewing the delegated authority contained herein, or to allow any Commissioner to then request that reconsideration of this resolution be placed on the agenda of the next regular meeting.

That upon adoption this resolution supersedes Resolution 89-18 and Master Policy Resolution 2015-05, provided however, any actions approved under Master Policy 2015-05 or prior Master Policy resolutions remain in effect.

ADOPTED by a majority of the members of the Port of Tacoma Commission at a special meeting held on the 17<sup>th</sup> Day of January, 2017, a majority of the members being present and voting on this resolution and signed by its President and attested by its Secretary under the official seal of said Commission in authentication of its passage this **17<sup>th</sup> day of January 2017**.

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Richard P. Marzano, President  
Port of Tacoma Commission

# Exhibit A

ATTEST:

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Clare Petrich, Secretary  
Port of Tacoma Commission

# Exhibit A

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## I. OVERVIEW OF THE ADMINISTRATIVE AUTHORITY TO THE CEO

The following policy is adopted by the Commission of the Port of Tacoma for the purpose of establishing the administrative authority of the Chief Executive Officer (CEO), who is responsible for normal Port operations. The statutory provision for the delegated authority in this Resolution is [RCW 53.12.270](#) and this Resolution is expressly subject to provisions governing port district operations. The phrase “Normal Port Operations,” as used herein, means the regular day-to-day business transactions involving personnel, materials, facilities, real and personal property, money and other assets. Unless specifically noted, delegated authorization amounts are exclusive of applicable local, state and federal taxes.

### A. Roles and Responsibilities of the CEO

- (1) The CEO derives authority from the Port Commission acting as the governing body, and is responsible for carrying out Port Commission policies. The Commission delegations to the CEO are given with the assurance that authorization of expenditures will be managed within the authorized operating budget.
- (2) Serves as the primary spokesperson for management.
- (3) Retain professional staff, and delegate to appropriate staff such administrative authority or reporting requirement as is necessary and advisable for the efficient exercise of such authority.
- (4) Interact with and supports the Northwest Seaport Alliance as necessary to enhance operations for both entities.
- (5) To implement such delegations, the CEO will promulgate policies and procedures that create administrative, monetary and contractual delegations and other documents as may be appropriate to include Commission Agenda action item Memos identifying financial, economic, and environmental impacts.
- (6) Subject to the limitations identified in this resolution, the CEO shall be responsible for:
  - (a) *Operation, maintenance, administration, and use of the Port’s terminals, facilities, and other properties;*
  - (b) *Development of industrial districts;*
  - (c) *Implementation of construction work, alterations and improvements to the Port’s terminals, facilities, and other properties;*
  - (d) *Administration of day-to-day “Normal Port Operations,” which include personnel, financial and accounting, legal and all other administrative matters;*
  - (e) *Execution of contracts and other documents related to Normal Port Operation that are related to or pursuant to a project or matter approved by the Commission, or otherwise authorized in this Resolution;*
  - (f) *Applications for permits associated with Port facilities or projects;*

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- (g) Application for and acceptance of grants or other funds from federal, state, and local governments, consistent with actions described in this Resolution; and
- (h) In the absence of the CEO, the Deputy Chief Executive Officer, or designee ~~Chief Operating Officer (COO)~~ has the full delegation of the CEO.

## II. DEFINITIONS

### A. Alliance

Refers to (i) the joint management of marine cargo operations by the Port of Tacoma (POT) and Port of Seattle (POS) pursuant to interim joint operating and management agreement, created by POS and POT and the Interlocal agreement with delegated powers exercised pursuant to the port joint powers statute (RCW 53.08.240) which expressly permits joint management, operation and investment outside of a port's district, and pursuant to RCW 39.34.030, the Interlocal Cooperation Act, expected to be effective from August 1, 2015 and (ii) the PDA effective on August 4, 2015.

### B. Annual Capital Investment Plan

Means the five-year projection of capital and major expense projects and associated expenditures which is developed and maintained as a planning tool for Port capital investment and which is reviewed by the Commission annually as part of the five-year plan of finance and budget review process, or as subsequently amended by the Commission during the budget year.

### C. Approval

A recommendation to move work forward for analysis and development of data and documents to support potential authorization. Approval does not denote authority to expend funds (see "Authorization" below).

### D. Authorization

Authorizes spending, entering agreements, administrative actions, and real estate actions, and other items as outlined in this resolution. Authorization is given by the Commission to the CEO per the Delegation of Authority Master Policy. Authorization implies an action item in public session if the required level is beyond CEO delegation level per the Delegation of Authority Master Policy.

### E. Chief Executive Officer (CEO)

The person hired by the Port of Tacoma Commission to manage and oversee day-to-day operations of the Port of Tacoma.

### F. Claim

"Claim" means the assertion of any position, right or responsibility by or against the Port, excluding "uncollectible accounts" and any claims asserted by or against the Port that have or may reasonably become the subject of litigation.

### ~~G. Energy and Natural Resources Tenants~~

~~Tenants that propose land use that:~~

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- ~~(1) Stores, processes, or manufactures, with the intent to distribute, fossil fuels including oil, petroleum based fuels, natural gas, and coal on more than 10 acres of Port land; or~~
- ~~(2) Uses more than 1 million gallons per day of water; or~~
- ~~(3) Stationary sources that emit more than 10 thousand metric tons per year of greenhouse gases (carbon dioxide equivalent), or emits more than 10 metric tons per year of any individually listed hazardous air pollutants (HAPS), or emits more than 25 metric tons per year of any combined listed hazardous air pollutants; or 100 metric tons per year of any other regulated air pollutants; or~~
- ~~(4) Uses more than 26 Mega Watts (MW) of electricity.~~

### H. Emergency

Unforeseen circumstances beyond the control of the Port that either present a real, immediate threat to the proper performance of essential functions; or may result in a material loss or damage to property, bodily injury, or loss of life if immediate action is not taken. (See RCWs 39.04.020, 39.04.280 and 53.19.010(04). Emergencies allow for the waiver of state procurement requirements.

### I. Goods and Services

Means natural resources; equipment; materials; supplies (or other finished goods or products), utilities and utilities-related services (including services provided by public agencies), maintenance, security, and other miscellaneous services.

### J. Indefinite Delivery, Indefinite Quantity Contract

Indefinite delivery, indefinite quantity contracts (“IDIQ”) provide for an indefinite quantity of services for a fixed time. They are used when the precise quantities of supplies or services required during the contract period cannot be determined.

### K. Interlocal Agreement

A binding agreement between the Port and other local governmental agencies that allows for the provision of services or facilities between those agencies. Interlocal Agreements shall comply with the requirements of RCW 39.34. Other Inter-Governmental Agency Agreements which in form substantially comply with RCW 39.34 may be used and require legal counsel review.

### L. Material Scope Change

Work that was not previously included in the project authorization and substantially changes the intent of the project.

### M. Normal Operating Expense

Means the Port budgeted operations and non-operating revenues and expenses reviewed, approved, and authorized by the Commission as part of the budget process, or as subsequently amended by the Commission during the budget year.

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## **N. Normal Port Operations**

Administration of day-to-day Port operations and the regular day-to-day business transactions involving personnel, materials, facilities, real and personal property, money and other assets. ~~which may include personnel administration, task and project assignments, hiring, firing, discipline, and training.~~

## **O. Personal Services**

Personal services are generally professional or technical expertise that are necessary to accomplish a specific study, project, task or other work statement, which may not reasonably be required in connection with a public works project meeting the definition of RCW 39.04.010(4). Personal services do not include purchased services as defined in RCW 53.19.010(8) or professional services procured using the competitive selection requirements in Chapter 39.80 RCW (A&E).

## **P. Project**

For the purposes of this Master Policy, a “Project” creates or modifies a capital asset or creates a cost outside of normal Port operating expenses. A Project may be classified as a capital or expense.

- (1) Public Works Projects – As defined in RCW 39.04.010, public work projects include construction, alteration, repair or improvement other than ordinary maintenance executed at the cost of the Port. Work associated with public work projects includes planning, scoping, engineering, design, permitting, construction and contract solicitation and administration.
- (2) Non Public Works Projects – Generally includes defined work that the CEO has determined will be managed as a Project. Projects do not, however, include regular, recurring or routine work associated with normal Port operations. This category also includes projects by the Information Technology department that may require a major upgrade or replacement of an information or communication hardware or software system.
- (3) Environmental Projects – Include pollution investigations, cleanups, and habitat restoration. Environmental projects may also involve regulatory direction, oversight, and agreements, extended periods of investigation and study prior to construction, and continuing monitoring and maintenance after clean-up and construction. As these projects usually produce no assets, costs are expense rather than capital.

## **Q. Professional Services**

Those services within scope of RCW 39.80.020(5) or professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement which is reasonably required in connection with public work projects.

## **R. Public Work**

Construction, alteration, repair and improvement other than ordinary maintenance meeting the definition of RCW 39.04.010.



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## S. Service Agreements

An agreement, such as an Interlocal agreement between the Port and the Alliance that allows for the provision of services related to normal Port or Alliance operations or projects.

## T. Vessel Service Agreement

An agreement between the Port and vessel steamship lines or their subsidiaries.

### III. POLICY GOVERNING PORT REAL PROPERTY

The CEO is authorized to take all necessary actions in connection with agreements or transactions for real property owned and used by the Port as designated herein. The Commission's delegation of authority to the CEO will extend to all types of transactions and agreements including acquisitions, divestitures, rental agreements, leases, operating agreements, easements, franchises, permits, rights of entry and other user agreements as provided herein. Except where otherwise provided in this Resolution, all real property transactions will be subject to an appropriate written agreement executed by the CEO and authorized by the Port Commission.

#### A. General Provisions for Port Real Property Agreements

- (1) The final terms of the agreement will conform to the Port's Real Estate policies and procedures, and be approved as to form by Port General Legal Counsel.
- (2) The CEO is authorized to enter into operating agreements, including Vessel Service Agreements with a value up to and not exceeding Three Hundred thousand dollars (\$300,000) annually.
- (3) The CEO is authorized to enter into amendments to existing real property agreements previously authorized by Commission that are valued up to and not exceeding \$300,000 annually.
- (4) The CEO is authorized to accept a bond, secure CD, or other rental security for real property agreements in compliance with RCW 53.08.085 and Port policy. Other rental security may be cash or cash equivalent such as Letter of Credit, Lease Bond, or other prior approved rental security instruments, together with necessary certificates of insurance.
- (5) The CEO is authorized to take all necessary actions on behalf of the Port Commission and its officers in connection with lease surety bonds, lease surety, rental insurance, or other insurance coverage required pursuant to any leases of the Port.

#### B. Rental/Leasing Agreements of Port Property (Port as Lessor)

- (1) The CEO is authorized to enter into month-to-month real property rental/ lease agreements. These agreements shall require a minimum security deposit equal to three months rental (plus leasehold tax amounts) to be posted in advance of the occupancy, and to be held by the Port as a rental security for the full duration of a month-to-month occupancy and to insure compliance with the terms of the lease agreement. Adjustments or modifications which decrease the minimum required rental deposit will require Commission authorization.

## Exhibit A

- (2) The CEO is authorized to enter into real property rental/leasing agreements with a term **not to exceed** one year when the associated expenditures of the Port are also less than \$300,000. **Commission authorization is required for real property rental/leasing agreements with a term greater than one year.** The intended use of leased real property must be expressly stated in writing. All leases requiring Commission authorization shall be subject to a first and second reading prior to final authorization.
- (3) ~~Commission authorization is required for real property rental/leasing agreements with a term greater than one year. The intended use of rented/leased real property must be expressly stated in writing.~~
- (4) Rental/lease rates shall be based upon market rates established for the specific use under consideration and the condition of such facility.
- (5) Additional Requirements — Certain Term Leases
  - (a) ~~New term leases of five or more years for energy and natural resource tenants on Port owned for the following new uses shall be subject to a first and second reading prior to Commission Authorization:~~
    - (i) ~~Bulk fossil fuel facilities including oil, petroleum based fuels, natural gas, and coal;~~
    - (ii) ~~Facilities using more than 1 million gallons per day of water;~~
    - (iii) ~~Stationary sources that emits more than 10 thousand metric tons per year of greenhouse gases (carbon dioxide equivalent), or emits more than 10 metric tons per year of any individually listed hazardous air pollutants (HAPS), or emits more than 25 metric tons per year of any combined listed hazardous air pollutants; or 100 metric tons per year of any other regulated air pollutants;~~
    - (iv) ~~Facilities using more than 26 Mega Watts (MW) of electricity; or~~
    - (v) ~~Hazardous waste treatment, storage, or disposal facilities as defined in WAC 173-303-800;~~
  - (b) ~~The second reading shall not commence any sooner than 21 days following the first reading;~~
  - (c) ~~A public study session, with public comment, shall be scheduled between the first and second reading to further describe the project and proposed lease details, including all known lease details such as; timeline, financial impacts, environmental issues, utility requirements, safety issues, and facility operations; and~~
  - (d) ~~Notice of first and second reading as well as the public session shall be broadly disseminated to the public consistent with state law and current Port practices.~~

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- (6) A public briefing of available properties will be provided at least twice annually to include a summary of new leases, properties available, including how available properties are being marketed and those properties that have an expression of interest. ~~Summaries of new rental agreements shall be reported quarterly to the Commission by the CEO.~~
- (7) All real property rental/leasing agreements one year or greater shall require a minimum security deposit equal to twelve months rent (including leasehold tax amounts) to be posted in advance of occupancy, and held by the Port as rental security for the full duration of the term occupancy and to insure compliance with all terms and conditions of the lease agreement and in accordance with RCW 53.08.085. Adjustments or modifications which decrease the minimum required rental deposit will require Commission authorization.

### **C. Agreements for the Port Use of Real Property Owned by Others (Port as Lessee)**

- (1) The CEO is authorized to enter into agreements for the use of real property owned by others if the term of the use is one year or less and the charge to the Port for the use is less than \$300,000 annually.

### **D. Port Grants of Covenants and Easements**

- (1) The CEO is authorized to enter into agreements for easements and covenants up to two years in duration where the impairment does not substantially interfere with the Port's intended use or reasonably future intended use. "Substantially interfere" shall mean when Fair Market value is not reduced more than \$300,000 in any one year. The form of any easement and or covenant shall be approved by the Port General Legal Counsel.
- (2) Easements and covenant agreements beyond two years shall require Commission authorization. Utility easements required to provide service to Port property shall not require Commission authorization.

### **E. Easements for the Port Use of the Property of Others**

- (1) The CEO is authorized to enter into easements for the Port use of the real property owned by others for agreements up to one year and the charge to the Port for the use is less than \$300,000 annually.
- (2) Real property easements, excluding utility easements for Port use that are greater than one year require the authorization of the Commission.

### **F. Acquisitions of Real Property**

- (1) Prior to Port Commission authorizing the acquisition of real property, the CEO will take all necessary steps, including when appropriate and necessary to establish a fair property valuation, the securing of appraisals, and the securing of fee title and such interest in the property as required for the benefit of Port.

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- (a) Port staff shall be required to document and present all known and suspected environmental liabilities associated with the property in question to the Commission as part of the acquisition authorization.*
- (2) Acquisition price of real properties shall in no case exceed the appraised value by ten percent (10%), nor shall the total price paid exceed the estimates provided to the Port Commission in securing its authorization without further specific Commission authorization.

### **G. Sale of Real Property**

- (1) Any sale of real property which is part of the Port's Comprehensive Scheme of Harbor Improvements (CSHI) requires a public hearing and authorization by Commission to first amend the Port's CSHI and to declare the property to be surplus. The Port's Comprehensive Scheme of Harbor Improvements shall be modified only after public notice and hearing pursuant to RCW 53.20.020.
  - (a) Any sale of real property that includes continued Port environmental liabilities/expenditures shall be documented and presented to the Commission as part of the authorization to surplus.*
  - (b) Per RCW 53.25.140 the sale price must not be less than fair market value of the property which shall be determined by an average of at least two independent appraisals performed by licensed real estate brokers or professionally designated real estate appraiser as defined in RCW 74.46.020.*

### **H. Payment of Real Estate Commissions**

- (1) The CEO is authorized to retain licensed real estate brokers for the purpose of marketing for sale and/or lease Port of Tacoma properties.
- (2) Commissions may be paid to licensed real estate brokers that actually initiate bona fide leases for the Port of Tacoma upon satisfactory proof being submitted to the Port Real Estate department that the broker actually initiated and completed the lease transaction for which they claim commission. In addition thereto, the broker shall file with the Port Real Estate department within ten days from broker's appointment as their client's agent for the purpose of aiding in the leasing of the Port property a statement under oath that the broker actually initiated the bona fide transaction together with the name of the broker's client and the date of their first contact with said client. Unless this provision is strictly complied with, the Port will not pay a claimed commission.
- (3) For properties the Port "exclusively lists" with brokers to lease, a maximum commission of five percent (5%) shall be paid of the net rental to the Port for up to five (5) years of the approved lease agreement. For approved leases initiated and completed by licensed brokers in compliance with this Resolution a maximum of three percent (3%) commission shall be paid for properties not exclusively listed for lease with a broker. Net rent shall mean rent net to the Port with Lessee paying taxes, utilities, maintenance and insurance. Costs for Port paid tenant improvements, utilities, and other services specific to the lease will be subtracted

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from the net rent amount for calculations of commissions paid. CEO shall disclose, as part of the Commission approval of the underlying lease, the amount of the commission should that be projected to be paid if over \$300,000.

- (4) Commissions shall not be paid on leases involving existing tenants for new leases, expansions, new space rentals, renewals or options exercised or repayment to the Port for tenant improvements made by the Port on behalf of the Tenant, payments made to the Port from security deposits, or any escalation of the Net Rent.
- (5) Commissions shall be paid as the net rents are collected by the Port.

### IV. POLICIES GOVERNING AUTHORIZATION FOR CONTRACTING AND PROCUREMENT ACTIVITIES

The CEO is authorized to control and direct all necessary activities that require contracting and procurement of goods and services associated with carrying out normal operations of the Port. Contracting and Procurement activities for the Port will be in compliance with applicable laws and regulations. Normal operations generally include the following contracting and procurement activities: Entering into Interlocal Agreements; public and non-public work related projects; utilizing personal and professional services and purchased goods and services. The Port shall endeavor to use a variety of firms (including small business firms) based on the nature of the work and the expertise of the firms.

#### A. Interlocal & Non-Binding Agreements

- (1) Commission authorization is required to approve Interlocal Agreements with other public agencies except that pursuant to this delegation by the Commission the CEO is authorized to enter into all Interlocal Agreements (Service Agreements) between the POT and the Northwest Seaport Alliance and/or the POS and within authorized budget levels.
- (2) The CEO is authorized to enter into non-binding agreements with other governmental agencies and non-governmental entities in situations where the agreement does not create a financial obligation, a binding contractual obligation, or impair any Port owned assets and have been reviewed and approved in writing by Port legal counsel.

#### B. Projects

- (1) The CEO may authorize Projects where the estimated Project cost, inclusive of all costs related to the work, does not exceed \$300,000.
- (2) Commission authorization shall be required for projects where the total estimated project costs will exceed \$300,000.
  - (a) *The CEO may authorize spending up to \$300,000 for project work where the estimated project costs may exceed \$300,000.*
  - (b) *Future Commission authorizations will include project spending previously authorized by the CEO.*

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- (c) *Depending on the overall estimated costs and complexity of the project, the CEO may request Commission authorization at key stages of the project (i.e., design, execution of work, remediation).*
  - (d) *Projects shall not be broken into units or accomplished in phases to avoid Port Commission authorization.*
  - (e) *Where personal, professional or purchased goods and services are part of a Project, authorization of expenditures will be managed as part of the project authorization.*
  - (f) *Public work contracts not part of a Project follow the same authorization process as projects*
  - (g) *Commission authorization will be required if a Material Scope Change occurs in the project.*
- ~~(3) Where personal, professional or purchased goods and services are part of a project, authorization of expenditures will be managed as part of the project authorization.~~
- ~~(a) Public work contracts not part of a project follow the same authorization process as projects.~~
- (4) Projects with an estimated cost that exceeds \$300,000 and have a change in the scope, schedule or budget require the following actions:
- (a) *The Commission will be notified if a project schedule delay has an anticipated financial impact on a customer or other affected stakeholders.*
  - (b) *Commission notification and follow-up Commission authorization is required as soon as it is determined that the project cannot be completed for the previously authorized amount.*
    - (i) *In situations where the public works component of a remediation project determines that additional contamination or unforeseen condition is found which impacts the budget of a project beyond the project authorization, staff shall notify the Commission and continue with the required work.*
    - (ii) ~~Commission authorization will be required if a material scope change occurs in the project. For purposes of this event, material is defined as any change (increase or decrease) that exceeds \$300,000.~~
- (5) Authorization for Alternative Public Works Contracting Procedures. Commission authorization is required to perform public work under procedures alternative to design-bid-build, as defined in RCW 39.10, for design-build and general contractor/construction manager. For such contracts, staff will propose for Commission's approval a sequence of authorization steps.
- (6) IDIQ contracts for Public Works and job order contracts (authorized in RCW 39.10) may be approved by the CEO and all work falling under the IDIQ contract or job order contract is to be authorized per this Delegation of Authority Master Policy as a Project subject to the limits set-forth.

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- (7) The CEO may resolve all claims through the mediation phase of dispute resolution arising from public works contracts. Commission will be notified of potential settlements which may exceed the previously authorized project amount.
- (8) Semi-annual project progress reports shall be provided to the Commission. The report shall include project schedule, current estimate, cost to date, authorized amount, summary of any changes to scope, and any other significant developments with respect to the project.
- (9) Port operations, maintenance, monitoring and stewardship activities, where the costs are normal operating expenses, require only outside services to be authorized.
- (10) On-going operations, maintenance, monitoring and stewardship activities shall be authorized annually.

### C. Professional Services Contracts

- (1) The CEO is authorized to approve Professional Services Contracts associated with normal port operations up to \$300,000 **cumulatively**.
- ~~(2) Where professional service contracts are formally authorized by the Commission, increases in the approved contract amount may be authorized by the CEO for amounts not to exceed Fifty thousand dollars (\$50,000).~~
- (3) IDIQ contracts for professional services may be approved by the CEO and all work falling under the IDIQ contract is to be authorized per **the applicable** ~~the~~ Master Policy Resolution as a Project or contract subject to the limits set-forth.

### D. Personal Services Contract

- (1) The CEO is authorized to approve personal services contracts in the conduct of normal Port operations when the following conditions exist:
  - (a) *The cost of the proposed personal service contract shall not exceed the amount of \$300,000.*
  - (b) *The specific contract or class of contract has been formally waived by resolution of the Commission from competitive solicitation process; or is exempt by RCW 53.19.020 or unrestricted by RCW 53.19.070.*
- ~~(2) Where personal service contracts are formally authorized by the Commission, increases in the approved contract amount may be authorized by the CEO for amounts not to exceed Fifty thousand dollars (\$50,000); provided however that this increase may be subject to the filing requirements contained in 3(a) herein.~~
- ~~(3) (a) When an amendment to a contract, individually or cumulatively, will exceed fifty percent (50%) of the original authorized amount for the agreement, the amendment must be filed with the Commission and made available for public inspection prior to the proposed starting date of services under the amendments per RCW 53.19.060.~~
  - ~~(b) Substantial changes in contract scope or substantial additions to the scope specified in the formal solicitation documents shall be authorized by the~~

## Exhibit A

~~Commission. The Commission shall determine whether the change warrants the work to be awarded as a new contract.~~

- (4) When an amendment to a contract, individually or cumulatively, will exceed fifty percent (50%) of the original authorized amount for the agreement, the amendment must be filed with the commission and made available for public inspection prior to the proposed starting date of services under the amendments per RCW 53.19.060. Substantial changes in contract scope or substantial additions to the scope specified in the formal solicitation documents shall be authorized by the Commission. The Commission shall determine whether the change warrants the work to be awarded as a new contract.
- (5) All personal service contracts will be entered into pursuant to competitive solicitation as required by law, except for:
  - (a) *Emergency contracts in compliance with section 8.k.i. below.*
  - (b) *Sole source contracts; provided however, that sole source service contracts, regardless of the amount, shall be filed with the Commission for three days and made available to the public prior to starting the work per RCW 53.19.040.*
  - (c) *Any other specific contract or classes as exempted by RCW 53.19.070 as it now exists or may be in the future amended, and which currently exempts the following:*
    - (i) *Contracts specifying a fee of less than fifty thousand dollars;*
    - (ii) *Contracts awarded to companies that furnish a service where the tariff is established by the utilities and transportation commission or other public entity;*
    - (iii) *Intergovernmental agreements awarded to any governmental entity, whether federal, state, or local and any department, division, or subdivision thereof;*
    - (iv) *Contracts awarded for services to be performed for a standard fee, when the standard fee is established by the contracting agency or any other governmental entity and a like contract is available to all qualified applicants;*
    - (v) *Contracts for services that are necessary to the conduct of collaborative research if prior approval is granted by the funding source;*
    - (vi) *Contracts for professional services which are entered into under chapter 39.80 RCW;*
    - (vii) *Contracts for the employment of expert witnesses for the purposes of litigation or legal services to supplement the expertise of port staff; and*



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*(viii) Other specific contracts or classes or groups of contracts exempted from the competitive solicitation process by the Commission when the Commission has determined that a competitive solicitation process is not appropriate or cost effective per RCW 53.19.020 and defined in Port Resolution 2008-16.*

### E. Purchased Goods and Services

- (1) The CEO has the responsibility for compliance with statutory procedures, where applicable, in connection with all contracts for the acquisition of utilities, materials, equipment and services. Following competitive bidding, if required, the CEO may authorize purchased goods and services where the following condition(s) have been met:
  - (a) *The total contract or purchase order price does not exceed \$300,000 cumulatively.*
  - ~~(b) *Where the purchase is formally authorized by the Commission, increases may be authorized by the CEO for cumulative amounts not to exceed Fifty thousand dollars (\$50,000) of the original contract value.*~~
- (2) Contracting Authority for Entering Agreements with Utilities and Annual Software Fees and Licenses:
  - (a) *The CEO is authorized to enter into contracts with utility providers in order to establish connections, conduct repair or maintenance and to purchase utility services as needed; and*
  - (b) *The CEO is authorized to enter into contracts with providers for annual software fees and licenses as needed.*

### F. Declaration of Emergency

- (1) The CEO is authorized to make a finding of the existence of an emergency, to authorize spending of Port resources and funds, to waive competitive bidding requirements and to execute any contracts necessary to respond to the emergency in accordance with RCW 39.04.020, 39.04.280, 53.19.010 and 53.19.030.
  - (a) The Commission shall be notified within 24 hours of the declaration of the emergency.
  - (b) If a public works or purchased goods or services contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency shall be filed with the Commission and made public on the Port's website no later than two weeks following the award of the contract.
  - (c) If a personal services contract is awarded without competitive bidding due to an emergency, a written finding of the existence of an emergency shall be filed with the Commission and made public on the Port's website within seven working days following the commencement of a work or execution of the contract, whichever occurs first. Documented justification for emergency contracts shall be provided to the Commission when the contract is filed.

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- (d) As used herein, “filed with the Commission” means any of the following:
  - (i) *Delivery to the Executive Assistant to the Commission for distribution to each Commissioner; or*
  - (ii) *Noting the matter for Consent or Action on the Meeting Agenda for the Commission.*

### V. POLICIES GOVERNING FINANCIAL ACTIVITIES

The CEO and Chief Financial and Administrative Officer (CFAO) are authorized to oversee the financial matters for the Port of Tacoma in accordance with applicable laws and subject to the Commission delegations in this section.

#### A. Management of Port Funds

- (1) The Port Treasurer, who must be appointed by the Commission per RCW 53.36.010, may designate one or more Deputy Treasurer(s) without Commission action. The Treasurer is accountable for all financial transactions executed by Deputy Treasurer(s).
- (2) The Port Treasurer and Deputy Treasurer(s) are authorized to oversee the investment of Port funds in accordance with applicable law relating to the type of investments authorized per RCW 39.59, RCW 43.84.080, and referenced RCW’s within, including sale of such investments and necessary inter-fund transfers.
- (3) The Port Treasurer is authorized to oversee the management of the Port’s cash reserves. Minimum cash reserve has been established as six months direct operating expenses and any reserves required by agreements or associated with maintaining bond covenants.

#### B. Port Expenditures for Travel, Hosting and Memberships

- (1) Travel Expenditures for Employees and Other Authorized Representatives of the Port.
  - (a) *Pursuant to RCW 53.08.176, the CEO is authorized to establish Port policies and procedures to regulate and audit travel expense and reimbursement.*
  - (b) *The CEO is authorized to approve travel and other reimbursable expenses, excluding Commissioners, incurred on behalf of the Port.*
  - (c) *Commission international travel requires prior authorization by the full Commission.*
  - (d) *The Port’s Auditor will be responsible for ensuring the full compliance with applicable statutes, regulations and Port policies and procedures governing expense reimbursement by employees, Port Commissioners and representatives of the Port.*
- (2) Expenditures for Trade Promotion and Promotional Hosting.
  - (a) *The CEO will report proposed expenditures covering industrial development, trade promotion, and promotional hosting as provided in RCW 53.36.120 to*

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*Commission as part of the annual budget adoption. Expenditures proposed for promotional hosting shall be limited as provided in RCW 53.36.130.*

- (b) Port officials and agents holding positions responsible for industrial development and trade promotion, and authorized to host under the Delegation of Authority Policy, are authorized to make expenditures for promotional hosting of all appropriate Port activities subject to all of the provisions of this Resolution.*
  - (c) Commission hosting requires prior authorization by the full Commission.*
- (3) The CEO is authorized to approve membership in port authority, economic development, regional trade, tourism, industrial associations, facility, trade promotions organizations, and professional organizations up to Ten thousand dollars (\$10,000) per organization or individual membership.

### **C. Managing Uncollectible Accounts**

- (1) The CEO is authorized to establish policies and procedures for the write off of any uncollectible accounts.
- (2) Prior to writing off any account receivable the CEO shall be satisfied that every reasonable effort has been made by the Port to accomplish the collection of the account.
- (3) If appropriate, the CEO shall authorize the Port's General Counsel to bring action in courts of law or, if more appropriate in the case of small amounts, to assign the same to collection agencies for the purpose of attempting to finally collect such accounts.
- (4) If after attempting all normal account collection procedures the account is still uncollectible after 180 days or more, the CEO is delegated the authority to provide for the writing off of such account.
- (5) Any account in excess of Fifty thousand dollars (\$50,000) which is deemed to be uncollectible shall be reported to the Port Commission.

### **D. Acceptance of Grant Funding**

- (1) The CEO is authorized to apply for grant funds for the Port.
- (2) The CEO is authorized to accept grants where the grant award obligates the Port to provide a cash match of no more than ~~\$150,000~~ **300,000**.
- (3) In cases where the grant award obligates or has the potential to obligate the Port to provide a cash match greater than ~~\$150,000~~ **300,000**, Commission authorization is required prior to grant acceptance.
- (4) The CEO is authorized to accept and manage any grant funding that is secured for projects that have previously been authorized by the Commission.

### **E. Insurance Programs**

- (1) The CEO shall be authorized to work with the Port's designated insurance broker(s) to negotiate and obtain appropriate policies of insurance to manage the Port's

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property and casualty risks, provide employee benefits, and other coverage appropriately included within a comprehensive insurance program.

### F. Sale of Personal Property

- (1) The CEO is authorized, pursuant to RCW 53.08.090, to sell and convey surplus personal property of the Port of Tacoma subject to the following conditions:
  - (a) *When the net book value of such personal property does not exceed Eighteen thousand ~~three hundred ninety~~ dollars **five hundred sixty-five dollars** (\$18,**565.00**), the CEO will itemize the property to be sold and will certify that such property is no longer needed for Port District purposes and seek Commission authorization.*
  - (b) *Commission authorization is required when the net book value of such personal property exceeds Eighteen thousand ~~three hundred ninety~~ **five hundred sixty-five dollars** (\$18,**565.00**). The CEO will itemize the property to be sold and will certify that such property is no longer needed for Port District purposes and seek Commission authorization.*
  - (c) *Personal property can be disposed of through competitive bids by publicly advertising the sale, contract for a licensed auctioneer to publicly auction property, or consign property to a licensed auction or consignment service for public sale, or convey to another public agency.*
  - (d) *No large block or lot of personal property having a net book value in excess of Eighteen thousand ~~three hundred ninety~~ **five hundred sixty-five dollars** (\$18,**565.00**) will be broken into components of lesser value. These items can be sold individually by public competitive bid after Commission authorization is obtained.*
  - (e) *The sale of surplus personal property to Port officials or employees will be restricted to public auctions, or consignment for bid, where the process is managed by a third party vendor and all interested parties have equal opportunity in the bidding process.*

### G. Annual Budgeting Activities

- (1) The CEO will annually develop a budget for the Port.
  - (a) *Commission approval shall be required, per RCW 53.35 for the next year's operating budget.*
  - (b) ***With the adaption of the next year's operation budget, the Commission also approves the on-going operations, maintenance, monitoring and stewardship activities and authorizes spending of the same.** Commission shall review and confirm the five year Plan of Finance and Capital Improvement Plan in conjunction with the statutory budget approval.*

### H. Payment of Statutory Expenditures

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- (1) The CEO is authorized to approve statutory expenditures incurred during normal business operations. Types of expenditures include election expenses, excise, payroll and leasehold taxes, and State Auditor's audit(s).

### VI. POLICIES GOVERNING LEGAL ACTIVITIES

The CEO shall be responsible for the Port policies and procedures necessary to oversee all legal services and litigation, in which the Port has an interest, direct or indirect, **provided however, the CEO shall first seek Commission approval prior to the Port initiating litigation as a party plaintiff.** For purposes of this section, "litigation" shall mean the assertion of any position, right or responsibility by or against the Port which may reasonably lead to or has been filed in any court of general jurisdiction, be it state or federal, or any quasi-judicial or administrative forum.

#### A. Retaining Independent Counsel/Experts/Investigators

- (1) The CEO may engage legal representation for the Port and such experts, investigators and/or independent counsel as may be necessary to the orderly preparation of potential and/or actual litigation in which the Port has a direct or indirect interest, without limitations otherwise prescribed in section IV of this Resolution.

#### B. Settlement of Claims

- (1) The CEO is delegated to oversee Port policies and procedures for adjusting the final settlement of all claims either against or on behalf of the Port. For purposes of this document, "Claim" shall mean the assertion of any position, right or responsibility by or against the Port, excluding "uncollectible accounts" and any claims asserted by or against the Port which have or may reasonably become the subject of litigation.
- (2) Any claim arising from normal Port operations and not exceeding One hundred fifty thousand dollars (\$150,000) for a single claim may be adjusted and settled by the CEO without prior review with the Commission. Claims arising from Public Works Contracts shall be settled per Section IV.B.7.
- (3) The Port's General Counsel shall be consulted prior to settlement of any claim in excess of Fifty thousand dollars (\$50,000).
- (4) Claims exceeding ~~Fifty~~ **one hundred fifty** thousand dollars (\$150,000) shall be reported to the Commission upon receipt.
- (5) Nothing herein contained shall preclude administrative approval of settlements made by the Port's insurers of claims by or against the Port, where such settlement is payable by such insurer.

#### C. Settlement of Litigation

- (1) The CEO is authorized to oversee any matter which is the subject of litigation, including reaching settlement, without prior Commission review under the following conditions:

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- (a) The amount in controversy as stated in the pleadings or as reasonably estimated by Port General Legal Counsel does not exceed One hundred fifty thousand dollars (\$150,000); and*
  - (b) The Port's General Counsel concurs with the proposed settlement terms.*
- (2) Settlement of litigation matters with a potential claim by or against the Port greater than One hundred fifty thousand dollars (\$150,000) require Commission authorization.

### D. State and Federal Environmental Remediation Agreements

- (1) State and Federal environmental remediation agreements (Agreements) can include: Consent decrees, agreed orders, administrative orders issued by Ecology, orders on consent and voluntary cleanup program agreements but typically do not include MTCA grant applications, potential liable party notices or other general governmental notifications or project management documentation. These Agreements may involve advanced work; examples include research, soil and groundwater sampling and legal review which will inform the scope of work and schedule in the Agreement.
- (2) The CEO may authorize new remediation agreements if the estimated project costs, excluding any grant or other recovery funding but including any advanced work to implement the terms of the agreement **and past remediation expenditures**, ~~are~~ **is** less than Three hundred thousand dollars (\$300,000).
  - (a) An estimate or range of estimated costs for the overall future environmental remediation associated with the agreement and future anticipated agreements will be reviewed at the time of the request for authorization.*
- (3) Commission authorization is required for remediation agreements where the estimated project costs to implement the terms of the agreement, excluding any grant or other recovery funding but including any advanced work **and past remediation expenditures**, exceed Three hundred thousand dollars (\$300,000).
  - (a) An estimate or range of estimated costs for the overall future environmental remediation associated with the agreement and future anticipated agreements will be reviewed at the time of the request for authorization.*
- (4) Project spending associated with remediation agreements shall be subject to the requirements set forth in Section IV. B.2.