

PORT OF SEATTLE COMMISSION

**Motion Amending
the Chief Executive Officer's
Retention Agreement**

February 5, 2013

Statement in Support of Motion

Chief Executive Officer (CEO) Tay Yoshitani accepted an invitation to join the Expeditors International Board of Directors in August 2012. The CEO's Retention Agreement, adopted by the Port of Seattle Commission (the "*Commission*") on March 1, 2011, specifically allows the CEO to join a private sector outside board of directors, "*provided*, that prior to accepting such appointments, the Port's General Counsel determines that the CEO's participation would not create or appear to create a conflict of interest, or is contrary to any other provision of the Port's Code of Ethics for Employees." The General Counsel made such a determination as did attorneys Tim Leyh and Katherine Kennedy who were retained as outside counsel by the Port.

The Commission retained former Chief Justice of the Washington Supreme Court Gerry Alexander as its outside legal counsel in September 2012 to "provide an independent review and analysis of the legal basis for a finding of no actual, potential or apparent conflict of interest." Mr. Alexander presented his review and analysis on October 23, 2012, in open public session and also concluded that "Mr. Yoshitani's service of the Board of Expeditors does not create a real, perceived or appearance of a conflict of interest. Neither does his service on that corporation's Board run afoul of the statutory Code of Ethics for Municipal Officers or any Employee Codes of the Port of Seattle." He also concluded that Mr. Yoshitani complied with the requirements set forth his Retention Agreement.

In his October 23 presentation, Mr. Alexander suggested the Commission might consider requiring that the Commission must give its approval before the CEO may accept a position on an outside private sector board. Both the Commission and Mr. Yoshitani believe this is good advice and wish to proceed with an amendment to the Retention Agreement clarifying the conditions under which Mr. Yoshitani may serve on an outside board of directors in the future.

Motion

The Commission and Mr. Yoshitani agree to amend Section 2 of the Retention Agreement between the Commission and Mr. Yoshitani adopted on March 1, 2011, to read as follows:

Section 2. **Participation as a Member of a Private For-Profit Board of Directors.** During the term of this Agreement, CEO may on his own time (e.g. after close of business or while on Paid Time-Off), participate as a member of a Board of Directors for a private for-profit entity; *provided*, that prior to accepting any such appointment (excepting CEO's current service on the Board of Directors of Expeditors International of Washington, Inc.), the Commissioners approve by affirmative vote the participation and the Port's General Counsel determines that CEO's

participation would not create or appear to create a conflict of interest, or is contrary to any other provision of the Port's Code of Ethics for Employees. This section does not apply to CEO's participation as board member of a private non-profit, public or community organization where the CEO's participation (a) is consistent with and in furtherance of the CEO's Port responsibilities and (b) is in compliance with the Agreement and applicable Port procedures and rules, including the Port's Code of Ethics for Employees.