1ST READING VERSION

RESOLUTION NO. 3736

4A Resolutionof the Port of Seattle Commission establishing a Priority Hire5Policy Directive; and amending the Policy Directive related to6practices for construction labor for projects located on Port7property adopted by Resolution No. 3725.

WHEREAS, the construction industry is forecasted to experience consistent growth in the King County region over the next decade; and

WHEREAS, numerous studies show a widening gap between the demand for 13 construction labor and the supply of skilled trade workers in the regional labor market 14 for King County public agencies. The Regional Public Owners Group estimates there will 15 be over sixty-seven billion dollars in public construction projects by 2042 with over 16 17 seventy million labor hours needed to fulfill this demand for projects. It is projected that between 2018 and 2023 there will be a shortage of over 4100 skilled workers. Regional 18 19 labor supply is forecasted to underserve demand by an average of 9 to 10 percent during 2018-2042; and 20

WHEREAS, the Port of Seattle has some of the largest investments in infrastructure
 projects in the region. In 2017, the Port of Seattle is projected to spend approximately
 \$180 million on construction projects and estimates continual growth in future years.
 The Port's capital investment dollars create the equivalent work hours of 10.89 jobs per
 one million dollars spent, providing enough total hours to equal approximately 950 full
 time jobs in Washington state in 2016; and

WHEREAS, most recent data for 2016 indicates that over 80 percent of the construction
 workforce in King County are Caucasian males, while 19 percent are women and people
 of color. Representation of women and people of color is higher among new entrants to
 the labor force through Apprenticeships and accredited certificates of completion, such as
 those received for completing a Pre-Apprenticeship program. However, according to the
 analysis, women and people of color also have lower rates of Apprenticeship completion
 than do their Caucasian male counterparts; and

WHEREAS, the Port of Seattle is committed to ensuring equity in the construction projects
 workforce where disparities exist between underrepresented workers' availability to work
 and their opportunity to be hired and establish a career in the construction trades; and

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41 WHEREAS, the Port of Seattle is a leader in workforce development and has found 42 construction job training programs, including Apprentice and Pre-Apprenticeship 43 programs, to be an effective way to prepare individuals for entry into construction jobs, 44 and to ensure women, people of color, and otherwise disadvantaged individuals, can 45 acquire the necessary job skills and be prepared to successfully pursue construction 46 careers; and

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48 WHEREAS, the Port of Seattle was the first to adopt Apprenticeship Utilization Goals 49 over three decades ago and is committed to achieving its Apprenticeship hiring goals set 50 in Port policy and addressing the disproportionately low involvement by people of color 51 and women in the construction labor force. Apprentice Utilization Goals for Port 52 construction projects is 15 percent, of which includes a goal of 10 percent women and 53 15 percent people of color. In 2016, Apprenticeship Utilization rates were 17 percent, of 54 which 18 percent were women and 28 percent were people of color; and

56 WHEREAS, on October 25, 2016, the Port of Seattle adopted Resolution No. 3725 that 57 established the Port of Seattle Construction Labor Policy Directive that states that the 58 Port shall establish appropriate apprentice and locality hiring goals and appropriate 59 aspirational women and minority apprentice hiring goals; and

61 WHEREAS, the Port of Seattle supports the City of Seattle and King County findings that 62 King County has geographic areas of economic distress as evidenced by poverty 63 indicators; including poverty levels, concentrated unemployment, and gaps in educational 64 attainment. The Port of Seattle seeks to act effectively and expeditiously to encourage 65 solutions toward economic growth and job creation in areas of the County that are 66 economically distressed as evidenced by comparatively high levels of poverty, 67 unemployment rates and education attainment; and

69 WHEREAS, Priority Hire enhances community partnerships focused on inclusion and 70 access to opportunities and services; expands opportunities for disadvantaged 71 populations to advance equity and social justice; and ensures that Port construction 72 projects are planned and implemented in a way that improves equity in local 73 communities; and

WHEREAS, the Port believes that establishing a Priority Hire policy ensures better access
 to training programs and well-paying construction jobs for local workers, particularly
 those from Economically Distressed Areas, as well as increases the diversity of the
 workforce on Port construction projects; and

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80 WHEREAS, in 2017, the Port of Seattle convened community stakeholder meetings and 81 received input from contractors, labor union representatives, community advocates, 82 small contracting and supplier businesses, training providers, City of Seattle and King 83 County policy experts about the challenges and opportunities of a Priority Hire program. 84 The Port of Seattle intends to use the information received from these meetings as a 85 guide for implementing the priority hire program and developing a regional agreement 86 for use on public works projects; and

- 88 WHEREAS, Priority Hire focuses on workforce participation by Apprentices and journey-89 level construction workers and is therefore directly connected to the Port's existing 90 Apprenticeship program; and
- 92 WHEREAS, the Port is committed to creating an acceptable worksite on public works 93 projects that is inclusive and focuses on anti-discrimination and anti-harassment 94 behaviors and procedures; and
- 96 WHEREAS, over the last two years, the Port of Seattle has participated as member of 97 the Regional Public Owners Group with the City of Seattle, King County, Sound Transit, 98 the City of Tacoma and the Washington State Department of Transportation, focused on 99 public agencies working together as regional partners; and
- 101WHEREAS, the purpose of the Regional Public Owners Group is to better understand the102workforce demand-supply gap for regional public infrastructure projects; enhance103access opportunities and increase the diversity of Pre-Apprentices, Apprentices and104journey-level workers entering into the trades workforce; support retention programs105for current trades workers, especially women and people of color; and improve106performance data and systems of reporting for monitoring regional goals and initiatives;107and
- 109 **NOW, THEREFORE, BE IT RESOLVED** by the Port Commission of the Port of Seattle as 110 follows:
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- 112 **SECTION 1.** Resolution No. 3725 is amended as follows:
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A. In Section 1.D. strike "and locality" and in Section 1 insert new language: "E. For contracts under a PLA with projected construction labor costs at or above \$5 million, the Port shall establish Priority Hire goals."

118	B. In Section II.C.2. strike "locality hiring and" and in Section II insert new language: "D. For				
119	contracts under a PLA with projected construction labor costs at or above \$5 million, the Port				
120	shall establish Priority Hire goals."				
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122	C. In Section III.B.2. strike "locality hiring and" and Section III.B. insert new language: "3.				
123	For contracts under a PLA with projected construction labor costs at or above \$5 million, the				
124	Port shall establish Priority Hire goals."				
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126	SECTION 2. Establish the Priority Hire Policy Directive as shown in Exhibit A.				
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129	ADOPTED by the Port Commission of the Port of Seattle at a duly noticed meeting				
130	thereof, held this day of, 2017, and duly authenticated in open session by the				
131	signatures of the Commisisoners voting in favor thereof and the seal of the Commission				
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139	Port Commission				

EXHIBIT A 140 141 SECTION 1.1 Purpose 142 To provide good family wage jobs to qualified construction workers from Economically Distressed 143 144 Areas of King County by increasing access to Port of Seattle Covered Projects. This leads to 145 economic growth and job creation in areas of King County that are experiencing economic distress. In addition, it will provide jobs to those historically underrepresented in the construction 146 147 industry, such as women and people of color. 148 To develop a Priority Hire program implemented through a Project Labor Agreement (PLA) and to 149 foster closer cooperation with the Regional Public Owners Group to ensure uniform application of 150 151 Priority Hire terms and Contractor and Union compliance with Priority Hire requirements. This supports the Port of Seattle's continued efforts on workforce development. 152 153 **SECTION 1.2 Definitions** 154 155 156 When used in this Policy Directive, the following words and phrases shall have the meanings given below unless the context in which they are included clearly indicates otherwise: 157 158 "Apprentice" means a person who has signed a written apprenticeship agreement with and 159 160 enrolled in an active state-registered apprenticeship training program approved by the Washington state Apprenticeship and Training Council. 161 162 "City" means City of Seattle. 163 164 165 "Construction labor costs" means the labor cost component of the estimated construction budget for the project to be paid to contractors at the time of bid or, if absent a bid, at the time of the 166 167 contract award. 168 169 "Contractor" means any person, firm, partnership, owner operator, limited liability company, 170 corporation, joint venture, proprietorship, trust, association or other legal entity that employs individuals to perform work on covered projects, including general contractors, subcontractors of 171 all tiers, and both union and non-union entities. 172 173 "Core Employee" means an employee of an open-shop contractor that meets the core employee 174 175 criteria established under a PLA. 176 177 "Covered Project" means a Port of Seattle construction project under a PLA with construction 178 labor costs at or above \$5 million. 179

"Dispatch" means the process by which a union refers workers for employment to contractors under the authority of a collective bargaining agreement. The process typically mandates the distribution of work via a "first in, first out" priority but can be legally adjusted via special agreements to allow for out of order dispatching and priority worker hiring.

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"Economically Distressed Area" means a geographic area defined by zip code in King County and found to have high population concentrations: 1) Living at or below 200 percent of the federal poverty level, 2) Unemployed, 3) Those over 25 years of age without a college degree, compared to other zip codes. King County zip codes with a high density per acre of at least two out of the three criteria will be identified as Economically Distressed Areas. These zip codes are updated and published by King County's Finance and Business Operations Division.

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"Jobs Coordinator" means either one of the following: a Port of Seattle employee, an employee
that is considered a shared resource between government agencies, or a third party entity that
facilitates the hiring of Priority Workers in collaboration with Contractors and Union Dispatch.

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"Journey-level" means an individual who has sufficient skills and knowledge of an occupation, either through a formal apprentice training program or through practical on-the-job work experience, to be recognized by a state or federal registration agency and/or an industry as being qualified to perform the work of the occupation. Practical experience must be equal to or greater than the term of apprenticeship.

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202 "Labor hours" means hours performed on covered projects by workers who are subject to203 prevailing wages.

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"Open-shop contractor" means a contractor that is not a signatory to a collective bargaining
agreement with a union representing the trade(s) of the contractor's workers, also known as nonunion contractors.

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209 "Pre-apprentice" means a student enrolled in a construction pre-apprentice training program210 recognized by the Washington State Apprenticeship and Training Council.

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"Priority Hire Program" means a program on Port of Seattle major construction contracts that
focuses on recruitment, training and employment of workers who reside in Economically
Distressed Areas as defined by King County.

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"Priority Worker(s)" means an individual prioritized for recruitment, training, and employment
 opportunities because the individual is a resident in an Economically Distressed Area.

219 "Project Labor Agreement" means an agreement authorized under the National Labor Relations Act (NRLA), 29 U.S.C., which provides a means for aligning interests of public owners such as the 220 221 Port with those of construction labor unions.

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"Regional Public Owners Group" means the group including the City of Seattle, King County, 223 Sound Transit, the City of Tacoma and the Washington state Department of Transportation, 224 225 focused on public agencies working together as regional partners to better understand the 226 workforce demand-supply gap for regional public infrastructure projects; to enhance access 227 opportunities and to increase the diversity of pre-apprentices, apprentices and journey-level 228 workers entering into the trades workforce; to support retention programs for current trades workers, especially women and people of color; and to improve performance data and systems of 229 230 reporting for monitoring regional goals and initiatives.

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232 "Union" means a representative labor organization whose members collectively bargain with 233 employers to set the wages and working conditions in their respective trade or covered scope of 234 work.

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236 <u>SECTION 1.3</u> Scope and Applicability

238 A. This Policy Directive pertains to Covered Project(s) for the remainder of this Policy Directive. 239

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241 SECTION 1.4 Responsibilities

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A. The Executive Director (1) will assign a designee (referred to as "Designee" for the 243 244 remainder of the Policy Directive) and subsequent designated office to implement and administer this Policy Directive, and (2) may, through the Designee, develop and adopt rules consistent with 245 246 the requirements of this Policy Directive.

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248 B. The Designee, with the Executive Director's written concurrence, may reduce or waive requirements or goals of this Policy Directive when impractical for a Covered Project for one or 249 250 more of the following reasons: when work is required due to an emergency, when work is subject 251 to limitations of a sole source, when requirements or goals would be inconsistent with an 252 agreement with a public agency, when requirements or goals are inconsistent with federal 253 funding or other funding sources, when the project is in a remote location, when superseded by 254 safety or other legal requirements, when other conditions arise such as the goals become 255 impractical, or absent an executed PLA.

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257 C. The Designee shall enforce the requirements in this Policy Directive and may use 258 actions as deemed appropriate.

D. In lieu of establishing a priority hire advisory committee to operate in an advisory role to the Port of Seattle for implementation and effectiveness of this Policy Directive, the Designee shall participate in the previously established Regional Public Owners Group and may, under a Memorandum of Understanding (MOU) with one or more other government entities with Priority Hire programs, establish and participate in a regional priority hire advisory committee.

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- 266 <u>SECTION 1.5</u> Policy
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A. For Covered Projects that are not found impractical under Section 2.4 B, the Designee shall establish in the bid documents the: (1) required percentage of labor hours to be performed by Priority Workers, and (2) aspirational goal percentage of labor hours to be performed by Priority Workers. Contractors and Dispatch under a PLA shall seek to first hire and dispatch Priority Workers so as to meet or exceed the required and aspirational goal percentages.

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The Designee shall establish the percentages separately for apprentices and for journey-level workers.

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B. For each Covered Project, the Designee shall establish the greatest practicable required percentage of labor hours to be performed by Priority Workers by using past utilization percentages on similar construction projects from the most recent project previous calendar year, and shall establish the percentage for the following year based on past performance. The Designee shall adjust these required percentages annually.

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C. In order to achieve the intended impact in Economically Distressed Areas, the Designee shall set project-specific requirements and an aspirational goal percentage of no less than 20 percent for all labor hours performed annually by Priority Workers on the total of Covered Projects for the year. Annual percentage rates will be measured January 1 – December 31 of each applicable year.

D. In order to meet the percentage of labor hours to be performed by Priority Workers, the Designee shall require Contractors and Dispatch under a PLA to seek to employ a Priority Worker who is a resident of an Economically Distressed Area in King County, and then workers from any other Economically Distressed Areas as needed to meet the percentage labor hours to be performed by Priority Workers. The specific process by which Contractors, Dispatch and the Port of Seattle Job Coordinator(s) will collaborate in order to facilitate the hiring of Priority Workers shall be established by the Designee.

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E. For Covered Projects, the Designee shall ensure the availability of a Jobs Coordinator(s) to perform the following functions: maintain a database of pre-qualified Priority Workers for referral to work on a Covered Project; network with various work source centers, community, non-profit and faith-based organizations to facilitate the identification of priority workers; and facilitate referral and coordination around training and employment of Priority Workers between Contractors, Unions and training programs. In addition, the Designee shall explore development of a third party to manage regional Priority Hire efforts.

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F. Per Resolution 3725, as amended, contracts \$1 million in value or greater requires Apprenticeship Utilization goals. The goal is no less than 15 percent of all contract labor hours are to be performed by Apprentices.

i. For individual projects, the Designee will determine the Apprenticeship Utilization
 goal and may consider such factors as project size, project duration, labor hours
 anticipated for the project, skills required, the likely crafts required for the project,
 historic utilization rates and Apprentice availability.

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- ii. The Designee shall establish aspirational percentage goals for Apprentices who are
 women and people of color using similar factors. Contractors may be allowed to
 offer utilization below the aspirational percentage goals by substituting other efforts
 to meet the intent of building a trained construction workforce for a portion of the
 utilization percentages for women and people of color.
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G. When determining whether the percentage of priority hiring requirements has been achieved, the Designee shall exclude from the calculation labor hours performed by residents of states other than the state of Washington. The Designee shall track labor hours performed by residents of states other than the state of Washington and shall review this percentage annually with the previously established Regional Public Owners Group and any future regional priority hire advisory committee that may be established under a MOU with one or more other government entities with Priority Hire programs.

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H. Per Resolution 3725, as amended, the Designee shall support the inclusion of Priority Hire provisions in the PLA standard language to be approved by the Commission Projects and Procurement Committee. In furthering Resolution 3725, as amended, Port staff will seek a MOU with regional partners to develop a framework to achieve operational efficiencies through uniform Priority Hire requirements and by sharing priority hire resources and data and advancing workforce development efforts.

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I. The Port shall explore ways priority hire can be implemented on Port constructionprojects outside a Covered Project, where applicable.

338 <u>SECTION 1.6</u> Program Evaluation

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A. The Designee shall establish benchmarks and metrics to evaluate the program, such as project costs; completion times, workplace safety; utilization rates and graduation rates of Priority Workers, women and people of color from pre-apprentice and apprentice training programs; and changes in the percentage of dollars paid to Women and Minority Business Enterprises (WMBE) contractors working on Covered Projects.

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B. The Designee shall report findings to the Commission and Executive Director annually. In order to facilitate the timely delivery of information for reporting to the Commission and to better serve the public, it is in the interest of the Port of Seattle to prepare a single annual report each year by April 30 titled Apprenticeship and Priority Hire Annual Report.

350 The report shall include, but not be limited to the following:

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- i. The number and kinds of construction projects and contracts on which Apprenticeship and priority hire requirements were established;
- 354 ii. The percentage of labor hours actually worked by Apprentices and Priority Workers on
 ach such project and the total number of labor hours on each project;
- 356 iii. The number of Apprentices and Priority Workers by contractor broken down by trade
 and craft category, the wages paid by category of work or trade, the number and
 percentage of women and people of color utilized as Apprentices and Priority Workers
 and the degree of compliance with the percentage requirements and aspirational
 goals to be established under this Policy Directive;
- 361iv.The number of Apprentices and Priority Workers per Port dollar spent on the362program;
- v. A description of problems encountered in the implementation of the program;
- vi. A description of barriers encountered by participating Apprentices and Priority
 Workers and steps taken to resolve those problems and to ensure their continued
 participation in the program;
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C. The Commission, Executive Director, and Designee will review program results annually to determine if the program should be expanded or amended by increasing or decreasing requirements and aspirational goals.

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- 372 <u>SECTION 1.7</u> Fiscal Implications

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This Policy Directive has fiscal implications as funding and staffing requirements will be needed for the implementation of the Priority Hire program.

A Full-Time Employee (FTE) for Priority Hire in Capital Development has been included in the proposed 2018 Budget.

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Attachment A: New Budget Request Form must be submitted on an annual basis should additional resources be required.

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- 383 <u>SECTION 1.8</u> Research Findings
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Based on studies commissioned by the City of Seattle and King County and their implementation of priority hire programs, and numerous public discussions, the Port Commission finds that it is in the Port's and the public's best interest to increase the supply of qualified construction workers, particularly those historically underrepresented in the construction industry, including those who live in Economically Distressed Areas in King County and also within that group, women and people of color.

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- 392 Attachment B: Research findings of fact and declarations of intent
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- 394 <u>SECTION 2</u>

- 396 This Policy Directive shall be labeled and codified as appropriate, together with subsequent Policy
- 397 Directives, and shall be made readily available for use by Port staff and members of the public as
- a government document of the Port of Seattle.

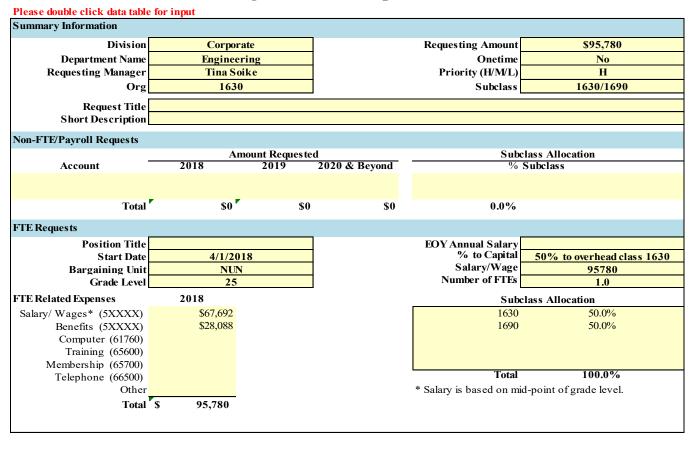
ATTACHMENT A



2018 Budget Request SummaryDept:EngineeringOrg:1630

		Amount	# of	One-Time		
Item	Short Description	Requested	FTE's	(Y/N)	(H/M/L)	Approved
1	CLG Priority Hire - 1630	\$95,780	1.0	N	Н	
	Total	\$95,780	1.0			\$ -

2018 Budget/Initiative Request Form



411	Budg	et Request Justification Write-up
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413	1)	Request Description/Background - Provide Full Description and or Background.
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418	2)	Justification - Why is this request needed? Include any regulations or other references
419		and benefits to the Port.
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424	3)	Alternatives - What would the impact be of not approving this request? How could it be
425		done differently?
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429 ATTACHMENT B

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The Commission makes the following research findings of fact and declarations of intent:

A. In January 2015, following the positive results of a pilot program on the Elliott Bay Seawall project, the City of Seattle adopted Ordinance No. 124690, an Ordinance relating to establishing a Priority Hire policy to ensure better access to training programs and well-paying construction jobs for local workers, as well as to increase the diversity of the workforce on City projects.

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B. The City implemented the Priority Hire Ordinance through a Community Workforce Agreement (CWA) between the City and the building trade labor unions, and that agreement requires that prime contractors on City public works construction projects of \$5 million or more, must ensure that a certain percent of project labor hours are performed by workers living in Economically Distressed Areas of Seattle and King County.

445 C. In May 2016, the King County Executive directed county agencies to implement a 446 priority hire pilot program that prioritized economically disadvantaged local workers for 447 inclusion on large King County capital construction projects. King County is considering a 448 permanent Priority Hire program implemented through a CWA; and 449

D. Based on studies commissioned by the City of Seattle and King County and their implementation of Priority Hire programs, and numerous public discussions, the Port Commission finds that it is in the Port's and the public's best interest to increase the supply of qualified construction workers, particularly those historically underrepresented in the construction industry, including women, racial minorities, and those who live in Economically Distressed Areas of Seattle and King County.

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E. King County completed a study in January 2016 documenting a widening gap between the demand for construction labor and the supply of skilled trade workers in the regional labor market for King County and other public entities. The gap reinforces the urgent need for developing a strategy to address the current and projected workforce shortages. The study also used economic data involving poverty levels, employment and educational attainment to determine Economically Distressed Areas, which are identified by zip code.

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F. King County completed The Construction Workforce Analysis in December 2016 and found that the county may reasonably anticipate a reduced surplus of qualified labor and possible labor shortages in certain construction trades by 2020. That is the result of a projected shortfall forecast between demand and supply of four thousand six hundred thirty workers by 2020. The county is concerned that these labor shortages will increase reliance on out-of-state construction workers and that the demand for new construction workers may increase construction costs on
the county's public works projects unless the county supports efforts to increase the supply of
trained apprentices and journey level workers for local public works projects.

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The analysis also found that 81 percent of the construction workforce in King County in 2016 were white males, while 19 percent were people of color and women. Representation of women and people of color is higher among new entrants to the labor force through Apprenticeships and accredited certificates of completion, such as those received for completing a Pre-Apprenticeship program. However, according to the analysis, women and people of color also have lower rates of Apprenticeship completion than do their white male counterparts.

G. The City of Seattle commissioned the Construction Industry Labor Market 480 481 Assessment, which found that women, irrespective of race, are underrepresented in the 482 construction industry. Between 2009 and 2013, 10 percent fewer women finished their apprentice training program than males. The assessment also found that between 2009 and 483 484 2013, 14 percent fewer racial minority apprentices finished their apprentice training program 485 than white apprentices. In addition, it also found that underrepresented workers face barriers to completing apprentice training. Between 2009 and 2013, 65 percent of the racial minorities 486 487 exiting Apprenticeships did not complete the programs compared to 51 percent of the white apprentices who failed to complete the program. During that same time period, 65 percent of 488 all women, irrespective of race, failed to complete their programs compared to 55 percent of all 489 490 men.

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H. The City of Seattle has found that Priority Hire effectively and successfully increases diversity on City construction projects. The share of labor hours between November 2013 and April 2017 saw an increase of 233 percent in rate of hours performed by workers living in Seattle's economically distressed zones. In addition, it saw an over 300 percent increase in rate of hours performed by apprentice women and 200 percent increase in rate of hours performed by African Americans.

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I. A PLA with targeted priority hiring requirements is an effective tool to manage public
 works projects that reduces the risk of project delays, reduces labor disruptions and labor
 shortages, and improves job-site safety. In addition, it is also an effective tool to create local jobs,
 enhance workforce diversity and improve overall working conditions.